

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption as) DOCKET NO. 921281-WS
a non-profit association from) ORDER NO. PSC-93-0308-FOF-WS
Florida Public Service) ISSUED: 02/25/93
Commission regulation for)
provision of water and)
wastewater service in St. Lucie)
County by PRINCESS CONDOMINIUM)
ASSOCIATION, INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
PRINCESS CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

On December 28, 1992, Princess Condominium Association, Inc. (Princess or applicant) filed its request for exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes. Princess is located at 9650 South Ocean Drive, Jensen Beach, Florida 32957, and the applicant currently provides water and wastewater service to 190 residential units and to the common areas of the condominium. Mr. Gus Messineo, Manager, filed the application on behalf of Princess Condominium Association, Inc.

Princess requested that it be found exempt pursuant to Section 367.022(7) of Chapter 367, Florida Statutes. Under this section, "[N]onprofit corporations, associations, or cooperatives" are exempt from Florida Public Service Commission regulation. In addition, Rule 25-30.060 (g) states:

For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with the Secretary of State and its bylaws, which documents must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to

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exceed 5 years from the date of incorporation. The applicant must provide proof of ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease....

In its application the Association states that it is a nonprofit corporation, that it provides water and wastewater service solely to its members who own and control it, and that it provides its own billing for this service. The service area is specified as the Princess Condominium. Proof of ownership of the utility facilities was provided by the applicant in the form of a written assertion in the Amended Declaration of the Princess, A Condominium that "the Condominium owns the fee title described in Exhibit 1 annexed thereto." A staff engineer verified that the legal description for Land Parcel I contained in Exhibit 1 included the treatment plant facilities.

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Gus Messineo acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Based upon the facts as represented, we find that Princess is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of Princess, a representative of the Association must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

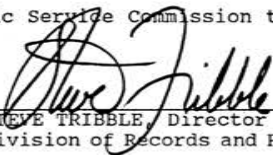
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Princess Condominium Association, Inc., located at 9650 South Ocean Drive, Jensen Beach, Florida 32957, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances of Princess, a representative of Princess Condominium Association, Inc. shall inform the Commission within thirty days of such change so that we may reevaluate the applicant's exempt status. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 25th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.