

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 930307-WS
From Florida Public Service) ORDER NO. PSC-94-0226-FOF-WS
Commission Regulation For) ISSUED: March 2, 1994
Provision of Water and)
Wastewater Service in Orange)
County by Sedgefield Apartments.)
_____)

ORDER INDICATING EXEMPT STATUS OF
SEDFIELD APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

On March 22, 1993, Sedgefield Apartments (Sedgefield) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(8), Florida Statutes. Sedgefield is an apartment complex located at 100 Sedgefield Circle, Winter Park, Florida.

Mr. Robert F. Oulton, H2Oulton Metering Services, Inc. d/b/a Water & Sewer Services of Florida (H2Oulton), filed the application on behalf of Sedgefield. However, on September 7, 1993, Mr. Scott Baad of Schofield management, Inc., owner of Sedgefield, notified this Commission that H2Oulton was not authorized to act on Sedgefield's behalf. He further stated that Sedgefield does not resell water and wastewater service. By letter dated July 28, 1993, Mr. Oulton withdrew the application for a reseller exemption.

Although Sedgefield does not qualify for a reseller exemption, it does qualify for a landlord/tenant exemption. On February 10, 1994, Sedgefield refiled its application in accordance with Section 367.022(5), Florida Statutes, and Rule 25-30.060(3)(e), Florida Administrative Code. Mr. Scott Baad, Vice President, Schofield Management, Inc., and primary contact person, filed the application on behalf of Sedgefield. Mr. Baad's address is 701 West Fletcher Avenue, Suite A, Tampa, Florida 33612.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water

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and wastewater facilities, if they qualify under the appropriate provision of Chapter 367, Florida Statutes. As stated previously, Sedgefield refiled its application for exemption, pursuant to Section 367.022(5), Florida Statutes, and Rule 25-30.060(3)(e), Florida Administrative Code.

Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and there are no specific charges for the utility service. The application indicates that Sedgefield provides water and wastewater service only to its tenants and the service territory is limited to the apartment complex. Also, the water and wastewater service is included as a nonspecific portion of the monthly rent.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Baad acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Sedgefield is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Sedgefield or any successor in interest must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Sedgefield Apartments, 100 Sedgefield Circle, Winter Park, Florida 32792, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Sedgefield Apartments or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate Sedgefield's exempt status. It is further

ORDERED that this Docket is hereby closed.

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By ORDER of the Florida Public Service Commission, this 2nd
day of March, 1994.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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by: Kay Ferguson
Chief, Bureau of Records

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.