

DK# 951235-WS

EXEMPTION 7
PAGE 1 OF 2

APPLICATION FOR NONPROFIT ASSOCIATION EXEMPTION
SECTION 367.022(7), FLORIDA STATUTES
RULE 25-30.060(3)(g), FLORIDA ADMINISTRATIVE CODE

NAME OF SYSTEM: Palma Sola Shores Condominium Association Inc.

PHYSICAL ADDRESS OF SYSTEM: 2107 Palma Sola Boulevard
Bradenton, FL 34209

MAILING ADDRESS (IF DIFFERENT): SAME

COUNTY: MANATEE COUNTY

PRIMARY CONTACT PERSON:

NAME: Cindy Birkhold

ADDRESS: 1693 MAIN STREET
SARASOTA FL. 34236

PHONE #: 941-745-1822

NAMES OF OWNER(S): PALMA SOLA SHORES Condominium
Association Inc.

NATURE OF APPLICANT'S BUSINESS ORGANIZATION: (CORPORATION, PARTNERSHIP, SOLE PROPRIETOR, ETC.) Corporation

I believe this system to be exempt from the regulation of the Florida Public Service Commission pursuant to Section 367.022(7), Florida Statutes, for the following reasons:

1. The corporation, association, or cooperative is nonprofit.
2. Service will be provided solely to members who own and control it.
3. ^{water and sewer incl. in rent. fees,} The utility services provided are:
Water X (Yes or No) Wastewater X (Yes or No)

For utility service not provided, state how handled:

4. The billing services will be provided by:

DOCUMENT NUMBER - DATE

12098 DEC 4 88

APPLICATION FOR NONPROFIT ASSOCIATION EXEMPTION

5. The service territory is located at: Condo Property
At 2107 Palma Sola Blvd. Bradenton, FL 34209
6. Attached are the articles of incorporation as filed with the Secretary of State and bylaws which 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 exceed 5 years from the date of incorporation.
7. Attached is proof of ownership of the utility facilities and the land upon which the facilities will be located or other proof of the applicant's right to continued use of the land, such as a 99-year lease. The Commission may consider a written easement or other cost effective alternative.

I am aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, S. 775.083, or S. 775.084.

11/28/85
(Date)

X. Ralph C. Schwartz, Treasurer
Applicant's Signature

RALPH C. SCHWARTZ
Applicant's Name (Typed or Printed)

TREAS
Applicant's Title

When you finish filling out the application, the original and four copies of the application, Articles of Incorporation, Bylaws and proof of ownership should be mailed to:

Director, Division of Records and Reporting
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-C-50

Properties recoups the cost of water and utilities service from various apartment complexes and condominium associations on an equal share basis per occupied unit after an allocation of a flat \$200.00 to the Tennis Club served by Fletcher; that Jacksonville Suburban Utilities bills Fletcher directly every three months for total consumption through a master meter located at the entrance to Baymeadows at their approved tariff rates from multiple dwellings; that as to the proposed single-family subdivision, Fletcher proposes to install individual residential meters on each home, although water will go through the master meter; and that if Jacksonville Suburban Utilities does not service the homes, Fletcher will have to read the meters itself and allocate usage to each homeowner at the same rate that Jacksonville Suburban bills Fletcher.

The Public Service Commission issued its declaratory statement on June 2, 1977, finding that the operations of petitioner in providing water and sewer utility service are within the definitions of a utility in Section 367.021, Florida Statutes (1975), and are not exempt under Section 367.022, Florida Statutes (1975). The Commission reasoned as follows:

"Chapter 367, Florida Statutes, is the 'Water and Sewer System Regulatory Law' (Section 367.011(1), F.S.). A 'utility' thereunder, 'means water or sewer utility and, except as provided in Section 367.022, includes every person, lessee, trustee or receiver owning, operating, managing, or controlling a system, or proposing construction of a system, who is providing, or proposes to provide, water or sewer service to the public for compensation.' (Section 367.021(3)).

"Exempt from regulation, insofar as herein relevant, are (5) Landlords providing service to their tenants without specific compensation for the service; (6) Systems designed to serve or serving one hundred persons or less; and (7) Nonprofit corporations, associations, or cooperatives providing services solely to members who own and control such nonprofit corporations, associations or cooperatives." (Section 367.022, F.S.)

"Fletcher Properties is manager and part owner of a development containing approximately 242 occupied condominiums, 828 rental apartments, and recreational facilities. By agreement with Jacksonville Suburban Utilities Corp., water service from Jacksonville Suburban Utilities Corp. (Jacksonville Suburban) is master-metered at the entrance to the Fletcher development. Sewage service is provided on the same basis.

"Fletcher is planning construction of some single-family homes and proposes to individually meter them, the meters to be read, although all water will go through the master-meter. Charges to the single family units will be on the same rate Jacksonville Suburban bills Fletcher.

"It is apparent from the above facts, that the Fletcher operations relating to water and sewer service do not fall within the above listed exemptions from Public Service Commission regulation. This, then, leaves only the question whether or not the 'utility' and 'public' parts of the definition are applicable.

"It is clear that Fletcher is 'providing water and sewer utility service', [sic] and is obtaining compensation therefor.

"The application of the term 'public' has been considered previously. (See Order No. 7416, Docket No. 73359 W). The service must be available to the indefinite public (not tenants). Order No. 4674, Docket No. 60310 P1, 96 PRR 3rd, 107; service must be available to all individuals [sic] in general without discrimination, within a given area, including sub-tenants, tenants and others, with whom Fletcher had no contractual relations.

(*Village of Virginia Gardens v. City of Miami Springs*, 171 So 2d 199 (1965) Fla. (App.); *Lorch v. Real Investment Company*, and cases cited therein, 96 PRR NS 120, 122, Wisconsin (1962).)

"From the facts cited above, it is apparent that the operations of Fletcher Properties, Inc., in providing water and sewer utility service, are within the definitions of a utility in Section 367.021,

PALMA SOLA SHORES CONDOMINIUM ASSOCIATION
2107 PALMA SOLA BOULEVARD
BRADENTON, FLORIDA 34209

METER SIZE 3"

UNITS 102

AVER MONTHLY CONSUMP 790,466

MOBILE HOME PARK SUBDIVISION WATER/SEWER RATE SURVEY

1. Park's Name Palma Sola Shores Condominium Assoc. et al
2. Park's Address
2107 PALMA SOLA Parkway
SPARANTON, FLORIDA 34209
3. How many units within the park? 101
4. Are the lots owned by residents? . Yes No
Other see attached letter: common elements
with home ownership
5. How do you allocate the County's master meter billings to the park residents?
NOT allocated but paid
by Condo Association.
6. NOT Billed
How frequently do you bill water/sewer to the park residents?
Monthly Quarterly Semi Annually Annually
7. Do you charge a flat fee? Yes No N/A
8. Do you charge a seasonal rate? Yes No N/A
9. Does the park have common ground areas? (swimming pool, club house, etc.) Yes X No
10. Are the common ground areas metered? Yes No
only 1 meter for the condo
11. How do you recover the cost of water/sewer used for the common grounds from the park residents?
All costs of the Condo Association are paid through
the Association dues of the voting members. As with
any Condo Association the expense of common
expenses are paid by the Association.
12. How do you recover the cost of maintaining the water distribution/sewer collection system behind the master meter?

A

*How some common costs exact - like many of the multi-story
COOP Building. If that park is not exempt then hundreds
of other Associations paying common expense are also covered.*

13. How do you recover the original cost of constructing the water distribution/sewer collection system? PAE existing
14. Does the park have internal meters? Yes No
15. Do you charge actual consumption based on the internal meter readings? Yes No
16. Is there a minimum water consumption charge? Yes No . If answer is yes, how much? N/A
17. Do you have a graduated rate after the allowed or minimum amount of gallonage has been consumed by the resident? Yes No . If answer is yes, how much?
18. Do you have a conservation/excess rate? Yes No . If answer is yes, how much?
19. What percentage of residents fall into the higher water/sewer rate and how many months of the year ?
20. Is sewer billed based on 85% of water usage, 100% of water usage not applicable.
21. Does sewer cap out or stop billing after an established amount of consumption? Yes No . If answer is yes, what is the established amount of consumption?
22. Are there any charges for New Service Disconnect Reconnects ? If answer is yes to any of the preceding, how much is charged and what is it for?
23. Do you have a recent audit that includes utilities? Yes No
24. Is that audit available? Yes No
25. Please attach a copy of a water/sewer bill to Park Residents. If you answered yes to questions number 17 and 18, include a copy of a billing showing higher consumption and charge.
26. Please attach a water/sewer rate schedule.

27. Is water/sewer included in the maintenance fee? Yes ~~_____~~
No _____. If answer is yes, give a breakdown showing the
water/sewer billing amounts. *Enclosed is copy of our bill.*
28. Does your system have a permit or inspection certificate from
the Manatee County Public Health Unit? Yes _____ No X
29. Do you hold an operation permit from any agency of the State
or Federal Government? Yes _____ No X
30. If the answer to question 29 is yes, what is the name of the
agency? _____
Please also return a copy of the permit.
31. Do you collect sales, excise, franchise or any other taxes on
utilities bills? Yes _____ No X
32. How do you bill the park residents for garbage collection? NO
*This is also paid by the association along with
street, clubhouse, lawn, seawall, and other common
expense.*

I, Cindy Birkhoff LCIA M declare the
Name/Title
above information to be true and accurate to the best of my
knowledge on this the 27th day of June, 1995.

Cindy Birkhoff
Signature

Palma Sola Shores Condominium Association
2107 Palma Sola Boulevard
Bradenton, FL 34209

Lenox E. Bramble
Public Services Director
Public Services Dept.
4410 66th Street
Bradenton, FL 34210

June 22, 1995

Dear Mr. Bramble,

Palma Sola Shores Condominium Association is a condo in which there are 101 residential lots or units each lot being part of the condominium common elements. The common elements include the water and sewer lines. Each unit owners share of the common elements and expenses is equal. To the proportion that his unit bears to all of the units or 1/101 and is liable for his equal share of any voted charge against the condominium property as a whole, including the water bill mailed to Palma Sola Shores Condominium Association.


The water bill is paid by PSSCA as part of the common expenses and includes water supplied to such common elements as the swimming pool and community building. It is budgeted in the monthly maintenance fee, billed to the owners of the condo, as an equal share of the charge against the condo property.

The owners of each individual unit owner is fee simple absolute an undivided proportionate interest in the common elements and the owners-members own and control the non-profit corporation.

Section 367.022, the water and sewer regulatory law of Florida provides "exempt from regulation, insofar as relevant, are (7) non profit corporations, associations or cooperations provided service solely to members who own and control such non-profit corporations, associations or cooperatures.

PSSCA as non-profit corporation providing water solely to members who own and control such non-profit corporations and are thus exempt from the provisions for chapter 367 F.S.A.

Sincerely,


For Palma Sola Shores Condominium Association

c.c. Commissioner Joe McLash
Manatee County Commissioner

Enclosure Section 367.022