



Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

DATE: July 25, 1996
TO: Bobbie Reyes, Division of Legal Services
Division of Records and Reporting
FROM: Pat Brady, Division of Water and Wastewater *pb ABM*
RE: Docket No. 960368-WS, Request for exemption from Florida Public Service Commission regulation for provision of water and wastewater service in Duval County by ARLINGTON EXECUTIVE PARK CONDOMINIUM ASSOCIATION, INC.

On March 25, 1996, an application for exemption from regulation was filed on behalf of Arlington Executive Park Condominium Association, Inc. (AEP or association) pursuant to Section 367.022(7), Florida Statutes. The application was signed by Mr. Clark Vargas as the President of the association and primary contact for the application. The physical location and mailing address for AEP and Mr. Vargas is 8596 Arlington Expressway, Jacksonville, Florida 32211-8071 (904/725-7131). This location is in Duval County.

AEP is commercial condominium association providing water and wastewater service to Arlington Executive Park and offsite properties. AEP's wastewater treatment facility is mandated to be connected to the City of Jacksonville's central system no later than June 29, 1997. To make that connection, AEP has contracted and rebuilt the existing lift station. As soon as AEP can escrow the balance of \$13,000.00, the connection will be put into effect. With the consent of the offsite property owners, AEP devised a uniform method of prorating the capital cost of the connection on a per-building basis. At the time of the filing, three new off-site property owners had not yet honored the agreement.

Section 367.022(7), Florida Statutes, exempts from Commission regulation nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporation, association, or cooperative. In order to qualify for the exemption, AEP served three nonmember property owners with a notice of intent to sever their sewer service by July 1, 1996, at the latest, unless they paid all charges in arrears and became a part of AEP. By letter of July 5, 1996, AEP advised staff that the problem of service to the three non-member properties had been resolved directly and indirectly. One property owner agreed to become an association member. The other two properties were taken over by the Jacksonville Transportation Authority and demolished.

In accordance with Section 367.022(7), Florida Statutes, and Rules 25-30.060(1), (2) and (3)(g), Florida Administrative Code, Mr. Vargas filed a statement that AEP is a non-profit condominium association providing service solely to members who own and control it. The application included a copy of certificate obtained from the Secretary of State

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showing acceptance of AEP's articles of incorporation. In addition, the application contained a statement that developer turnover was completed by 1981. By signing the application, Mr. Vargas has acknowledged that he is aware of the penalty pursuant to Section 837.06, Florida Statutes, for knowingly making false statements in writing with the intent to mislead.

Section 2.08(C)(14) of the Administrative Procedures Manual grants staff the administrative authority to approve requests for determination of exempt status that are clear-cut and without controversy. Staff finds the application is now in compliance with statutory requirements and without apparent controversy. Staff recommends that an administrative order be issued granting Arlington Executive Park Condominium Association, Inc., a nonprofit exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes. Staff also recommends that the order require AEP, or any successor organization, to notify the Commission within 30 days of any change in circumstances or method of operation of its water or wastewater systems so that its exempt status may be reevaluated. Further, staff recommends that the docket be closed.

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