



# Public Service Commission

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

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**DATE:** May 7, 1997  
**TO:** Division of Records and Reporting  
 Division of Legal Services (Crosby)  
**FROM:** Edith Xanders, Division of Water and Wastewater *EX*  
**RE:** Docket No. 941044-WS: Request for exemption for provision of wastewater service  
 by Lemon Bay Breezes Condominium Association, Inc.

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Please place the attached in the above referenced docket file. If you have any questions, please feel free to contact me.

- ACK \_\_\_\_\_
- AFA \_\_\_\_\_
- APP \_\_\_\_\_
- CAF \_\_\_\_\_
- CMU \_\_\_\_\_
- CTR \_\_\_\_\_
- EAG \_\_\_\_\_
- LEG \_\_\_\_\_
- LIN \_\_\_\_\_
- OPC \_\_\_\_\_
- RCH \_\_\_\_\_
- SEC   1
- WAS \_\_\_\_\_
- OTH \_\_\_\_\_

DOCUMENT NUMBER-DATE  
 04663 MAY-95  
 FPSC-RECORDS/REPORTING

*Lemon Bay Breezes Condo Assoc, Inc.  
1401 S. McCall Rd.  
Englewood, FL 34223-4863*

May 3, 1997

Eddie Xanders  
Public Service Commission  
2540 Shumard Blvd.  
Tallahassee, FL 32399

**RECEIVED**  
MAY 07 1997

Florida Public Service Commission  
Division of Water and Wastewater

RE: Lemon Bay Breeze Condominium Association

Dear Edie,

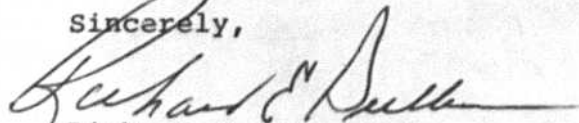
In response to your request, please be advised that LBBCA (Lemon Bay Breezes Condo Association) has entered into a contract dated 4/3/97 with the Whippo Company, Inc. of 2800 Worth Ave., Englewood, FL 34224 for the sole purpose of converting our present sewer plant (owned by the developer John Stenger) to a Lift Station for connection with Englewood Water District sewer line. Work should be completed the week ending May 3, 1997. In addition, we entered into agreement with Giffels-Webster Engineers, Inc. for preparation of the Sewer Plant Abandement Plan dated February 10, 1997.

For your edification, the Developer, Mr. John Stenger, has not to this date turned over ownership from the Developer to the Association. Why the holdup is far beyond my comprehension. Maybe your office can help us in this matter.

I believe you now have enough data to clear the subject of an exempt status for LBBCA. Please advise.

Also enclosed is a copy of my write-up concerning problems at LBBCA. The information was gathered from books/records at the condominium. If the attached is of no use to your office, please return, Thank you.

Sincerely,

  
Richard E. Sullivan  
Director

JULY 31, 1995

RE: PROBLEMS RELATED TO TRANSFER OF ASSOCIATION OWNERSHIP  
OF LEMON BAY BREEZES CONDOMINIUM ASSOCIATION, INC.,  
AND SOLUTION.

IN FOLLOWING UP WITH A TELEPHONE CONVERSATION I HAD WITH  
ALICE CROSBY, WHO IS A PARALEGAL WITH THE PUBLIC SERVICE  
COMMISSION, ON JULY 27, 1995, I WILL ATTEMPT TO EXPLAIN A  
FEW OF THE PROBLEMS WE ARE HAVING RELATING TO THE ABOVE.

TO BEGIN WITH ODYSSEY DEVELOPMENT CORP. WAS THE ORIGINAL  
DEVELOPER OF LEMON BAY BREEZES CONDOMINIUM ASSOCIATION, INC.,  
(LBBCA). IN 1985, THE MORTGAGE ON THE PROPERTY WAS HELD BY  
OHIO FINANCIAL. IN 1988, ODYSSEY DEVELOPMENT CORP. BECAME  
DEFUNCT AND OHIO FINANCIAL TOOK OVER MANAGING LBBCA. IN  
ESSENCE, BECAME THE DEVELOPER FROM 1988 - 1989.

IN 1989, MR. JOHN STENGER AND HIS GROUP, MAINLY LA BAHIA  
INCORPORATED CAME ON THE SCENE AND PURCHASED LBBCA FROM OHIO  
FINANCIAL FOR APPROXIMATELY ONE MILLION DOLLARS. THE FIRST  
AMENDMENT MADE AS OF THE 20th. DAY OF APRIL 1989, BY LA BAHIA  
INCORPORATED, A FLORIDA CORPORATION, MADE THEN THE "DEVELOPER."  
IN ADDITION, IN THE AMENDMENT THEY INCLUDED A PHASE DEVELOPMENT  
FOR PHASES 2 AND 3 WHICH WAS NEVER FILED PROPERLY IN OFFICIAL  
RECORD BOOKS.

ON DECEMBER 3rd., LA BAHIA INCORPORATED SUBMITTED AMENDMENT TO DECLARATION OF CONDOMINIUM OF LEMON BAY BREEZES, SUBMITTING PHASE 2, EXECUTED BY JOHN STENGER, PRESIDENT. ON THIS SUBMISSION OF PHASE 2, THE CONDOMINIUM CONTAINS A TOTAL OF 48 UNITS, NOT 24 AS IT WAS INITIALLY.

ON THE 17th, DAY OF JANUARY 1991, BOCA ARROYO, INC. FILED A CONSENT OF MORTGAGE AS THE OWNER AND HOLDER OF A MORTGAGE ON THE REAL PROPERTY DESCRIBED IN EXHIBIT A TO THE DECLARATION OF CONDOMINIUM OF LBBCA RECORDED IN OFFICIAL RECORD BOOKS. JOHN STENGER EXECUTED SUCH DOCUMENT AS PRESIDENT OF BOCA ARROYO, INC.

LA BAHIA IN 1989 INSTALLED A SECURITY GATE AT THE ENTRANCE TO LBBC AT A COST OF \$11 A MONTH TO ALL UNIT OWNERS. THERE IS NO DOCUMENTS, CONTRACT, OR ANY OTHER LEGAL DOCUMENT FOUND IN OUR FILES TO SUPPORT THE GATE. THE COST OF \$11 CONTINUES TODAY, REPRESENTING \$528 @ MONTH OR \$6,336 A YEAR. THE GATE IS A MAJOR BONE OF CONTENTION BY ALL UNIT OWNERS. WHEN APPROACHED ON THE SUBJECT, JOHN STENGER IGNORES THE QUESTION AND ADVISES THE UNIT OWNERS THAT THEY SHOULD BUY THE GATE. ACCORDING TO THE STATISTICS I HAVE READ IN THE MINUTE BOOKS, LBBCA HAS PAID TO DATE OVER \$19,000 FOR THIS GATE AND DOES NOT INCLUDE MONIES PAID PRIOR TO 1991. REGARDING THE TERM OF THE GATE SITUATION, JOHN STENGER COMMENTED THAT THERE IS NO TERM - IT GOES ON FOREVER.

SECONDLY, IN FEBRUARY 1990, JOHN STENGER HAD INSTALLED A WASHER/DRYER UNIT IN THE ROOM BEHIND THE POOL. MONIES COLLECTED FROM THE WASHER/DRYER WERE TO BE TURNED OVER TO JOHN STENGER UNTIL INITIAL INVESTMENT WAS PAID FOR. THIS COLLECTION OF MONIES TO JOHN STENGER IS STILL GOING ON.

AT THE DECEMBER 15, 1989 BOARD MEETING THE MONTHLY MAINTENANCE FEES WERE RAISED \$16, TO COVER THE SECURITY GATE (\$11) AND THE SPA THAT JOHN STENGER HAD INSTALLED (\$5).

ON FEBRUARY 1990 ANNUAL MEETING HOMEOWNERS DISCUSSED WAIVING AUDIT FOR 1989 - 1990. THE ACCOUNTANT SAID IT WAS IMPOSSIBLE TO AUDIT SINCE SHE HAD NO BEGINNING TOTALS FROM THE TIME OHIO FINANCIAL SERVICE CORP HAD THE PROJECT. ALSO AT THE MEETING HOMEOWNERS ASKED MR. STENGER WHO WAS PAYING FOR IMPROVEMENTS AND THAT IF THE MONEY WAS COMING OUT OF THEIR ACCOUNT THAT IT SHOULD BE DISCUSSED AND DONE WITH APPROVAL.

THE ANNUAL MEETING WHICH IS TO BE HELD FEBRUARY OF EACH YEAR WAS NOT HELD IN 1992.

IN ADDITION, JOHN STENGER WAS ACCUSED IN WRITING BY A UNIT OWNER, WHO AT THIS TIME WAS ALSO A DIRECTOR, OF VOTING BY PROXY AT A BOARD MEETING THAT IMPOSED A SPECIAL ASSESSMENT OF \$250 ON EACH UNIT OWNER. THE UNIT OWNER (AND 3rd. BOARD MEMBER) ACCUSED JOHN STENGER OF FORCING A VOTE THAT HAD NO SECOND. HE FELT THE VOTE SHOULD NOT HAVE BEEN PASSED.

AS YOU CAN READ, THIS SURE HASN'T BEEN A HAPPY GROUP AT LBBC, BUT I BELIEVE THAT IT CAN BE CHANGED.

ITS TIME FOR TRANSFER OF ASSOCIATION CONTROL. WE DISCUSSED THIS MATTER WITH JOHN STENGER. HIS COMMENTS WERE, WHO ARE WE GOING TO TRANSFER THE CONTROL FROM ? LA BAHIA IS NO LONGER IN EXISTANCE AND BOCA ARROYO IS A FINANCIAL COMPANY NOT A DEVELOPER.

OUR RECORDS SHOW THE FOLLOWING NAMES:

1. REAL ESTATE TAXES - LA BAHIA C/O JOHN STENGER 1994.
2. DOCK PERMIT - LA BAHIA INC, C/O LBBC - 2/19/95.
3. POOL PERMIT - LA BAHIA CORP.
4. ASSIGNMENT IN LIEU OF FORCLOSURE - LA BAHIA INC. HAS SOLD ALL REAL PROPERTY TO BOCA ARROYO - SEPTEMBER 8, 1993, FOR THE SUM OF \$10.
5. SEWER PLANT LEASE - JOHN STENGER - PRESIDENT.
6. MONTHLY PAYMENT OF GATE, \$528 - BOCA ARROYO.

WE WANT CONTROL OF LBBCA, INCLUDING THE MASTER ASSOCIATION. AS YOU CAN SEE FROM ABOVE EITHER JOHN STENGER OR BOCA ARROYO IS THE DEVELOPER. ACCORDING TO THE STATUES, 50% OF THE TOTAL UNITS SOLD WERE SOLD TO PEOPLE OTHER THAN JOHN STENGER OR BOCA ARROYO 3 YEARS PRIOR TO DATE.

LEMEN BAY BREEZES CONDO ASSOC., INC.  
1401 S. McCall Rd.  
Englewood, FL 34223-4863

5.

WE BELIEVE THE FIRST STEP IN ACQUIRING CONTROL IS TO MERGE  
THE TWO ASSOCIATIONS INTO ONE. HAVE BOCA ARROYO EXECUTE  
SUCH DOCUMENTS. SECOND, TRANSFER OWNERSHIP TO LBBCA AS  
THE 718.301 STATUTE CALLS FOR IN THE STATE OF FLORIDA  
DEPARTMENT OF BUSINESS & PROFESSIONAL REGULATIONS SPELL OUT.

RICHARD E. SULLIVAN  
DIRECTOR