

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption ) DOCKET NO. 921042-WS  
From Florida Public Service ) ORDER NO. PSC-96-0773-FOF-WS  
Commission Regulation For ) ISSUED: June 17, 1996  
Provision of Water and )  
Wastewater Service in St. Lucie )  
County by Savanna Club Property )  
Owners Association. )  
\_\_\_\_\_ )

ORDER INDICATING THE EXEMPT STATUS OF  
SAVANNA CLUB PROPERTY OWNERS ASSOCIATION  
AND CLOSING DOCKET

BY THE COMMISSION:

On October 12, 1992, Savanna Club Property Owners Association (Savanna Club or Association) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes, and Rule 25-30.060(3), Florida Administrative Code, as a corporation providing service solely to its members. Savanna Club is located at 8630 South U.S. 1, Port St. Lucie, St. Lucie County, Florida. Mr. Richard Turan, President, filed the application on behalf of Savanna Club. The primary contact person is Robert D. Cole, Craven Thompson & Associates, Inc., 3563 Northwest 53rd Street, Fort Lauderdale, Florida 33309.

Upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or wastewater systems if they qualify under the appropriate provision of Section 367.022, Florida Statutes. Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives are not subject to regulation by the Commission as a utility, nor subject to the provisions of Chapter 367, Florida Statutes, except as expressly provided.

Savanna Club initially had difficulty in complying with the requirements of Rule 25-30.060(3), Florida Administrative Code, in that control of the Association had not passed from the developer to the members. At the time of the applicant's filing, the rule required, inter alia, that control of the association must pass to non-developer members within five years of incorporation. Since control of Association had not passed to the members, Savanna Club could not comply with Rule 25-30.060, Florida Administrative Code.

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FPSC-RECORDS/REPORTING

Shortly after Savanna Club's filing, revisions to Rule 25-30.060, Florida Administrative Code, were being considered to change the provision requiring control of the association to pass from the developer to the nondeveloper members within five years of incorporation. Rule 25-30.060(3)(g) has been amended to require a nonprofit corporation to provide documentation showing that control of the corporation has passed to nondeveloper members, or the circumstances under which control will pass. The time must not exceed seven years from the date the association is incorporated unless the Commission finds that special circumstances justify a longer time.

By Order No. PSC-96-0134-FOF-WS, issued January 30, 1996, we gave notice of our adoption of the revisions to that rule. We find it appropriate to review Savanna Club's application pursuant to the revised rule. According to the documentation provided, control of the Association has now passed to the non-developer members in compliance with the revised provisions of Rule 25-30.060(3), Florida Administrative Code. Therefore, Savanna Club is in compliance with Section 367.022(7), Florida Statutes, and the provisions of Rule 25-30.060, Florida Administrative Code. Specifically, the application includes a statement that Savanna Club will provide water service solely to members who own and control it. Savanna Club was formed pursuant to Chapter 617, Florida Statutes. Pursuant to Rule 25-30.060(3)(g)(3), Savanna Club has provided its articles of incorporation as filed with the Secretary of State, its bylaws, and a description of the voting rights. Each member of Savanna Club receives one vote.

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, Richard Turan acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

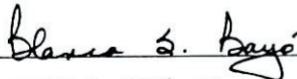
Based on the facts as represented, we find that Savanna Club is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. Accordingly, Savanna Club is not subject to our jurisdiction. However, the owner of Savanna Club or any successors in interest are hereby put on notice that if there is any change in circumstances or method of operation, it should inform this Commission within 30 days of such change so that its non-jurisdictional status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Savanna Club Property Owners Association, 8630 South U.S. 1, Port St. Lucie, Florida 34952, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission, this 17th day of June, 1996.



BLANCA S. BAYÓ, 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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.