

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 960653-WS
from Florida Public Service) ORDER NO. PSC-96-1317-FOF-WS
Commission Regulation for) ISSUED: October 29, 1996
Provision of Water and)
Wastewater Service in Broward)
County by Consolidated Apartment)
Ventures, L.P. (Banyan Bay)
Apartment Homes).)

ORDER INDICATING EXEMPT STATUS OF CONSOLIDATED APARTMENT
VENTURES, L.P. (BANYAN BAY APARTMENT HOMES)
AND CLOSING DOCKET

BY THE COMMISSION:

On May 24, 1996, Banyan Bay Apartment Homes filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. Banyan Bay Apartment Homes is a 416-unit apartment complex located at 4303 West Atlantic Boulevard, Coconut Creek, Florida. The apartment complex is owned by Consolidated Apartment Ventures, L.P. Mr. Frederic B. Peirce, Regional Manager of Zom Residential Services, Inc., and primary contact person, filed the application on behalf of Banyan Bay Apartment Homes.

After reviewing the application, it was determined that the name, Banyan Bay Apartment Homes, is not registered with the Secretary of State's office as a fictitious name. Although the owner is currently in the process of registering the name with the Secretary of State, it has requested that the exemption be granted to Consolidated Apartment Ventures, L.P. (Consolidated/Banyan Bay) for the apartment complex known as Banyan Bay Apartment Homes.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(8), Florida Statutes, and Rule 25-30.060(1), (2) and (3)(h), Florida Administrative Code. Section 367.022(8), Florida Statutes, states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who complies with certain reporting requirements, is exempt from Commission regulation.

According to the application, Consolidated/Banyan Bay provides service only to the apartment complex located at 4303 West Atlantic

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ESC-RECORDS/REPORTING

Boulevard, Coconut Creek, Florida. Consolidated/Banyan Bay intends to purchase water and wastewater from the City of Margate and resell it to its residents at a rate that does not exceed the actual purchase price. The residents will be charged a prorated share (\$3.41 for water and \$9.81 for wastewater) of the base water rates charged by the City.

Consolidated/Banyan Bay has 19 master meters. The consumption from the 19 meters will be added together to get the total consumption for the 416 apartments each month. Because meters cannot be installed on the individual apartments, Consolidated/Banyan Bay intends to bill for water and wastewater service based on the number of residents per floor plan. Consolidated/Banyan Bay has apartments with four different floor plans: Plan A-1 (116 units); Plan A-2 (124 units); Plant B-1 (40 units); and Plan B-2 (136 units). Lease statistics for Consolidated/Banyan Bay show that the average number of residents in a Plan A-1 unit is 1.14 persons; the average number of residents in a Plan A-2 unit is 1.36 persons; the average number of residents in a Plan B-1 unit is 1.73 persons; and the number of residents in a Plan B-2 unit is 1.72 persons. Using the lease statistics, there is a total of 604 residents in the 416 apartments. Shown below are examples of bills for water and wastewater service for the four plans. The bills assume consumption of 1,977,300 gallons by 604 residents, or 3,000 gallons per resident.

Plan A-1:

| | |
|---|-------------|
| Water Base Charge | \$ 3.41 |
| Water Usage (3,000 gallons per person x 1.14 persons x \$1.14) | 3.90 |
| Utility Tax (8%) | .58 |
| Wastewater Base Charge | <u>9.81</u> |
| TOTAL BILL (Plan A-1) | \$ 17.70 |

Plan A-2:

| | |
|---|-------------|
| Water Base Charge | \$ 3.41 |
| Water Usage (3,000 gallons per person x 1.36 persons x \$1.14) | 4.65 |
| Utility Tax (8%) | .64 |
| Wastewater Base Charge | <u>9.81</u> |
| TOTAL BILL (Plan A-2) | \$ 18.51 |

Plan B-1:

| | |
|---|-------------|
| Water Base Charge | \$ 3.41 |
| Water Usage (3,000 gallons per person x 1.73 persons x \$1.14) | 5.92 |
| Utility Tax (8%) | .75 |
| Wastewater Base Charge | <u>9.81</u> |
| TOTAL BILL (Plan B-1) | \$ 19.89 |

Plan B-2:

| | |
|---|-------------|
| Water Base Charge | \$ 3.41 |
| Water Usage (3,000 gallons per person x 1.72 persons x \$1.14) | 5.88 |
| Utility Tax (8%) | .74 |
| Wastewater Base Charge | <u>9.81</u> |
| TOTAL BILL (Plan B-2) | \$ 19.84 |

The following example shows how much the apartment complex will collect using the proposed methodology and the amount billed by the City.

| | | |
|-----------|-----------------------|------------|
| Plan A-1: | 116 units x \$17.70 = | \$2,053.20 |
| Plan A-2: | 124 units x \$18.51 = | \$2,295.24 |
| Plan B-1: | 40 units x \$19.89 = | \$ 795.60 |
| Plan B-2: | 136 units x \$19.84 = | \$2,698.24 |

| | |
|--|-------------|
| Total Revenue Collected by Consolidated/ Banyan Bay | \$ 7,842.28 |
| Total Billed by City: | \$ 8,047.45 |

As shown above, Consolidated/Banyan Bay's methodology will not cause it to exceed the actual purchase price of the service.

Enviro-Check has been retained to read the master meters on a monthly basis and bill the residents accordingly on behalf of Consolidated/Banyan Bay. Consolidated/Banyan Bay will be responsible for service to common areas and vacant apartments. No administrative or processing fees or miscellaneous charges will be charged to the residents and no customer deposits will be collected.

Consolidated/Banyan Bay is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.111 and 25-30.262 through 25-30.267, Florida Administrative Code. 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. Peirce 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 Consolidated/Banyan Bay is exempt from our regulation pursuant to Section 367.022(8), Florida Statutes. However, the owner of Consolidated/Banyan Bay or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Consolidated Apartment Ventures, L.P., 4303 West Atlantic Boulevard, Coconut Creek, Florida 33066, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes, only for the apartment complex known as Banyan Bay Apartment Homes. It is further

ORDERED that Docket No. 960653-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 29th day of October, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Degan
Chief, Bureau of Records

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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.