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MEMORANDUM

April 30, 1998

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSBY) *[Signature]*

RE: DOCKET NO. 951235-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY DECLARING MANATEE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, F.S. - REQUEST FOR EXEMPTION FROM FLORIDA PUBLIC SERVICE COMMISSION REGULATION FOR PROVISION OF WATER AND WASTEWATER SERVICE BY PALM LAKE ESTATES CONDOMINIUM ASSOCIATION, INC.

98-0629-FOF-WS

Attached is an ORDER INDICATING THE EXEMPT STATUS OF PALM LAKE ESTATES CONDOMINIUM ASSOCIATION, INC. to be issued in the above referenced docket.

(Number of Pages in Order - 4)

ALC/dr

Attachment

cc: Division of Water and Wastewater (Clapp)

I:951235g.alc

*RAR - mailed
5/5/98*

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of the Board of County Commissioners of Manatee County declaring Manatee County subject to the provisions of Chapter 367, F.S. - Request for exemption from Florida Public Service Commission Regulation for provision of water and wastewater service by Palm Lake Estates Condominium Association, Inc.

DOCKET NO. 951235-WS
ORDER NO. PSC-98-0629-FOF-WS
ISSUED: May 1, 1998

ORDER INDICATING EXEMPT STATUS
OF PALM LAKE ESTATES CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

On December 11, 1995, Palm Lake Estates Condominium Association, Inc. (Palm Lake) filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Palm Lake is a condominium community located at 808 53rd Avenue East, Bradenton, Florida. Mr. Harry Graham, President and primary contact person, filed the application on behalf of Palm Lake.

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 367.021(12), Florida Statutes, and Rules 25-30.060(2) and (3)(j), Florida Administrative Code. Section 367.021(12), Florida Statutes, states that a "utility means a water or wastewater 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 wastewater service to the public for compensation."

Upon review of Palm Lake's application, it was determined that Palm Lake does not qualify for recognition as a nonjurisdictional entity pursuant to Section 367.021(12), Florida Statutes. Palm Lake does, however, qualify for exemption pursuant to Section

DOCUMENT NUMBER-DATE

04999 MAY-4 88

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367.022(7), Florida Statutes. On January 29, 1998, Palm Lake refiled its application requesting recognition of its exempt status pursuant to Section 367.022(7), 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 entities are exempt from Commission regulation. Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; providing service solely to the members who own and control it; and whether it provides water service, wastewater service, or both. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the nondeveloper members.

In its application, Palm Lake provided copies of its Articles and Bylaws, which reflect that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes. According to the application, Palm Lake provides water and wastewater service only to its members, and each member has one vote per unit of ownership. Because the Articles and Bylaws did not show when control passed to the members, Palm Lake provided a statement that control of the Association passed to the nondeveloper members on January 12, 1981.

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. Graham 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 Palm Lake is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the owner of Palm Lake 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.

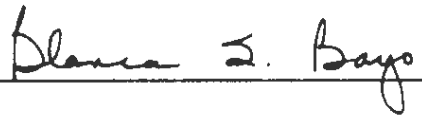
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It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Palm Lake Estates Condominium Association, Inc., 808 53rd Avenue East, Bradenton, Florida 34203, 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 remain open to process additional applications.

By ORDER of the Florida Public Service Commission this 4th day of May, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.

FLORIDA PUBLIC SERVICE COMMISSION - RECORDS AND REPORTING

Regulations for Photocopying and Mailing

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 Number of Originals 5 Copies Per Original 10
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Item Presented

Agenda For (Date) _____ Order No. 100276 In Docket No. 150
 Notice of _____ For (Date) _____ In Docket No. _____
 Other _____

Special Handling Instructions

Distribution/Mailing

Number	Distributed/Mailed To	Number	Distribution/Mailed To
<u>18</u>	<u>Commission Offices</u>	<u>--</u>	_____
<u>1</u>	<u>Docket Mailing List - Mailed</u> <u>com</u>	_____	_____
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Print Shop Verification

Job Number 234 Verified By 10
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