

Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

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APR 24 1998

Re: Docket No. 980307-WS

Florida Public Service Commission
Division of Water and Wastewater

RESPONSE TO LETTER
3/30/98 from
Cleveland Ferguson III
Staff Attorney

The undersigned object to issuance of a certificate to Zellwood Station Co-op, Inc. on the following grounds:

1. The Co-op is a non-profit Corporation chartered to operate a cooperative housing association. Ownership of a share in the Co-op is a condition precedent to obtaining and exercising the privilege of a 99 year lease, which is the residence (home) of the undersigned.
2. The fact that the Co-op was operating, or intended to operate, a public utility, and that the home of the undersigned would be subjected to liabilities for the operation of such a business enterprise was concealed at the time of purchase.
3. The Charter does not authorize the operation of a Public Utility Company and such operation is ultra vires. Such operation should be committed to some entity other than a cooperative housing organization.
4. The fact that purchasers of a share in the Co-op were in fact purchasing a share in a Public Utility Company was not revealed. Although, shareholders are liable for losses of the operation by assessment against their homes, they can derive no income or profit, from the share ownership, even if the operation should be profitable according to the provisions of Section 501(C), US Internal Revenue Code.
5. There is no need for the Co-op to have a certificate in that Section 367.022 Florida Statutes, specifically exempts non-profit associations or cooperatives providing service solely to its members, a fact situation easily accomplished by some slight internal reorganization which has been previously suggested to the officers. Certain officers instead state that operation of the utility company is mandated by the St. John Water

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Management district. The Water Management District presumably does have the power to require water meters to measure individual usage and some means of punishment to overusers, but it does not have power to require the Co-op to operate a Public Utility Company. It is the sale of water by the Co-op which results in the loss of the exemption mentioned above, a fact which was, or should have been recognized, by the Organizing Attorneys and the Organizing Officers, and should have and could have been avoided.

6. Neither the shareholders, to the best of undersigned's knowledge, nor the undersigned, have ever been afforded the opportunity vote on the ownership, or manner of operation, of the water and sewer facility at Zellwood Station, and certainly never on the issue of whether to engage in the operation of a Public Utility Company. The facts giving rise to operation of a Utility Company result from the neglect of the officers to recognize the effect of their method of operation and refusal to take any steps to place the operation under the exemption of Section 367.022, Florida Statutes.

Having fully set forth our objections to the issuance of a certificate and recognizing the certain futility of our objections, we elect to stand on the self evident facts which will fully appear as determinations are made in the establishment of the existence of the Co-op as a legal entity entitled to a certificate. Accordingly we will individually present no evidence other than the letters attached hereto and a copy of the Charter. We do join however with others, if any, who are objecting.

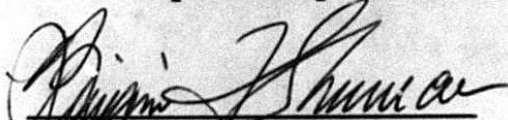
We respectfully request that if the Certificate is granted, that sufficient findings of fact be included in the order to establish the fact as to why the Co-op is a Public Utility under the law, subject to jurisdiction of the Commission, and not exempt; and that the Certificate be definite as to the area in which the Co-op shall exercise the privileges of the Certificate, i.e. that it be limited to serving only members of the Zellwood Station Community Association, which includes the shareholders of the Co-op and the Condominium owners, or their respective lessees, and not any outside customers.

We would further request that no sales of water or other services commence until such time as all homes have water meters installed; and then that monthly meter readings and billings be required such that usage will be known and paid for as it occurs, according to the custom of utility companies generally, rather than periodic lump sum billing for overusage.

We waive notice of any and all other proceedings in this

matter, reserving nonetheless the right to seek such judicial relief as to this and other matters as appropriate.

Respectfully submitted this 21st day of April, 1998.


Benjamin T. Shuman

and


Loretta Shuman
3856 Parway Rd.
Zellwood, FL 32798
Shareholders, Lot 1341

cc: Zellwood Station Co-Op, Inc.
2126 Spillman Drive
Zellwood, FL 32798

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