

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 920046-WS
from Florida Public Service)
Commission regulation for)
provision of water and) ORDER NO. PSC-92-0102-FOF-WS
wastewater services in Palm)
Beach County by THE VININGS)
AT BROKEN SOUND LIMITED) ISSUED: 3/25/92
PARTNERSHIP)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
THE VININGS AT BROKEN SOUND LIMITED PARTNERSHIP

BY THE COMMISSION:

On January 13, 1992, The Vinings at Broken Sound Limited Partnership, (Partnership) requested recognition of its exempt status for its water and wastewater systems under Section 367.022(8), Florida Statutes. Section 367.022(8), Florida Statutes, provides that any 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.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if the facilities qualify under the appropriate section of Chapter 367, Florida Statutes.

The Partnership owns and operates the water and wastewater systems which provide service to the San Marco Apartments, a 336 unit apartment complex recently constructed in Boca Raton, Florida. The Partnership purchases the water and wastewater service from the City of Boca Raton and resells it to the San Marco Apartments' residents. The Partnership's service area is limited to the San Marco Apartments in Boca Raton, Florida. The Partnership has filed a current schedule of rates and charges of the City of Boca Raton, and a statement setting forth the reasons why it believes it is exempt from Commission regulation.

The Partnership calculates the residents' water rates by charging each unit a fixed fee for meter reading and water capacity per apartment. A customer commodity fee is added to the fixed fee based upon the gallonage consumed by the individual apartments. The fixed fee and the commodity fee are both equal to or less than

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the amount charged to the Partnership by the City of Boca Raton. The Partnership calculates the residents' wastewater rates by charging the same fixed fees on a pro rata basis as the City of Boca Raton charges to the Partnership. The water and wastewater rates are charged to the residents on a monthly basis, and they do not exceed the amount charged for water and wastewater service by the provider of the service, the City of Boca Raton.

The Partnership acknowledges the reporting obligation under Rule 25-30.111, Florida Administrative Code, which states that any person who resells water and/or wastewater service and claims the exemption provided for in Section 367.022(8), Florida Statutes, shall file a report by March 31 of the following year for which the exemption is claimed. The report shall contain the following:

- 1) a schedule listing, by month, the rates charged for and total revenue received from the water and/or wastewater service sold;
- 2) a schedule listing, by month, the rates charged and total expense incurred for the purchase of the water and/or wastewater service sold;
- 3) a statement listing the source from which the water and/or wastewater service was purchased.

Based upon the information filed by the Partnership which shows that the Partnership resells water and wastewater service to its tenants at the same rate or less than that charged it by the City of Boca Raton, we find that the Partnership is exempt from regulation pursuant to Section 367.022(8), Florida Statutes. However, should there be any change in the system's method of operation or billing procedures, the owner of the Partnership, or any successor in interest, shall inform the Commission within thirty days of such change so that we may determine whether exempt status is still appropriate.

Based on the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, The Vinings at Broken Sound Limited Partnership, with Howard Millhauser as contact person, located at 5555 North Military Trail, Boca Raton, Florida 33431, whose mailing

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address is c/o Trammell Crow Residential, Suite 2000, 6400 Congress Avenue, Boca Raton, Florida 33487, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(8), Florida Statutes. It is further

ORDERED that the Partnership shall comply with the reporting requirements of Rule 25-30.111, Florida Administrative Code. It is further

ORDERED that should there be any change in the method of operation or billing procedure of the Vinings at Broken Sound Limited Partnership in the course of its providing water and/or wastewater services, the owner or any successor in interest shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 25th day of March, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

LK

by: Kay Flynn
Chief, Bureau of Records

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.

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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 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 or sewer 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.