

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Initiation of Show Cause) DOCKET NO. 920348-WU
Proceedings Against Bella Vista) ORDER NO. PSC-92-0544-FOF-WU
Community Association, Inc. for) ISSUED: 06/23/92
Operating a Water System in Lake)
County Without a Certificate)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK
J. TERRY DEASON
BETTY EASLEY
LUIS J. LAUREDO

ORDER TO SHOW CAUSE

BY THE COMMISSION:

Bella Vista Community Association, Inc. (Bella Vista or utility) is a for-profit corporation organized under Chapter 607, Florida Statutes. Bella Vista was formed on July 5, 1989, and provides water service to residents in Lake County.

In Docket No. 900860-WU, Bella Vista requested that it be found exempt from Commission regulation pursuant to Section 367.022(7), Florida Statutes, as a nonprofit corporation. By Order No. 24125, issued February 18, 1991, the Commission denied Bella Vista's application for exemption and ordered the utility to file an application for an original certificate by August 18, 1991, in accordance with Section 367.031, Florida Statutes. Section 367.031, Florida Statutes, states that a utility subject to the Commission's jurisdiction must obtain a certificate of authorization to provide water or wastewater service.

The Commission denied the utility's request for exemption for two major reasons. First, the Commission found that the utility is a for-profit corporation organized under Chapter 607, Florida Statutes. As a result, the utility did not qualify for exemption pursuant to Section 367.022(7), Florida Statutes, which states that a nonprofit corporation organized under Chapter 617, Florida Statutes, may be exempt from Commission regulation. Second, Bella Vista did not provide the Commission with a warranty deed or any other evidence of ownership of the land on which its treatment facility is located.

On February 18, 1991, the Commission Staff sent Bella Vista an application package for an original certificate. By letter dated

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March 19, 1992, we informed the utility's general manager that a show cause proceeding may be initiated against Bella Vista for its non-compliance with the Commission's Order and Section 367.031, Florida Statutes. Commission Staff has sent Bella Vista four letters requesting an application. To date, Bella Vista has not filed an application for an original certificate in accordance with Order No. 24125 and Section 367.031, Florida Statutes.

Based on the facts as stated above, we find that Bella Vista shall show cause in writing within 20 days why it should not be fined up to \$5,000 a day for its failure to apply for an original certificate in accordance with Order No. 24125 and Section 367.031, Florida Statutes.

Based on the foregoing, it is therefore,

ORDERED by the Florida Public Service Commission that Bella Vista Community Association, Inc., shall show cause within 20 days, in writing, why it should not be fined up to \$5,000 per day, for its failure to apply for an original certificate in accordance with Order No. 24125 and Section 367.031, Florida Statutes. It is further

ORDERED that Bella Vista Community Association, Inc.'s written response must be received by the Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida, 32399-0870, by the close of business on July 13, 1992. It is further

ORDERED that Bella Vista Community Association, Inc.'s response must contain specific allegations of fact and law. It is further

ORDERED that the opportunity of Bella Vista Community Association, Inc., to file a written response shall constitute its opportunity to be heard prior to final determination of the appropriate fine to be imposed by this Commission, pursuant to Section 367.161, Florida Statutes. It is further

ORDERED that failure to file a timely written response to this Show Cause Order shall constitute an admission of the allegations contained in the body of this Order, and a waiver of any right to a hearing. It is further

ORDERED that in the event that Bella Vista Community Association, Inc. files a written response which raises a genuine issue of a material fact or point of law, and requests a hearing pursuant to Section 120.57, Florida Statutes, further proceedings

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may be scheduled before a final determination on these matters is made.

By ORDER of the Florida Public Service Commission, this 23rd day of June, 1992.



STEVE TRIBBLE, 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.

This order is preliminary, procedural or intermediate in nature. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.037(1), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting, at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on July 13, 1992.

Failure to respond within the time set forth above shall constitute an admission of all facts and a waiver of the right to a hearing pursuant to Rule 25-22.037(3), Florida Administrative Code, and a default pursuant to Rule 25-22.037(4), Florida Administrative Code. Such default shall be effective on the day subsequent to the above date.

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If an adversely affected person fails to respond to this order within the time prescribed above, that party may request judicial review by the Florida Supreme Court in the case of any electric, gas or telephone utility or by the First District Court of Appeal in the case of a water 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 of the effective date of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure.