

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 920101-WS
from Florida Public Service) ORDER NO. PSC-92-0582-FOF-WS
Commission regulation for) ISSUED: 06/30/92
provision of water and)
wastewater services in Marion)
County by Ocala East Villas,)
INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
OCALA EAST VILLAS, INC.

BY THE COMMISSION:

On February 3, 1992, Ocala East Villas, Inc. (Ocala East) filed an application for exemption from regulation by the Florida Public Service Commission pursuant to Section 367.022(7), Florida Statutes, as a non-profit homeowners' association. Ocala East provides water and wastewater services to Ocala East Villas. The system is located at 6120 N.E. 7th Street, Ocala, Florida, 32671, in Marion County.

Ocala East requested that it be found exempt pursuant to Section 367.022(7), of Chapter 367, Florida Statutes. Under this section, "[N]onprofit corporations, associations, or cooperatives" are exempt from Florida Public Service Commission regulation. In addition, Rule 25-30.060 (g), Florida Administrative Code, states:

For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with the Secretary of State and its bylaws, which documents must clearly show the requirements for membership that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to

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exceed 5 years from the date of incorporation. The applicant must provide proof of ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease....

In its application, dated February 3, 1992, Ocala East states that it is a nonprofit homeowners' association organized pursuant to Chapter 617, Florida Statutes. The applicant stated that it will provide water and wastewater services solely to its members who own and control it, and that it will handle the billing for said services. The applicant provided a copy of a recorded warranty deed to establish proof of ownership of the system and the land upon which it is located.

The application also contained a copy of the Articles of Incorporation as filed with the Secretary of State, along with a copy of the Bylaws which provide the requirements for membership, and the circumstances under which control of the association passes to non-developer members. The applicant states that 100 percent of the lots have been sold to new owners, and control of the association rests with the owners of the 243 lots.

Additionally, Ocala East has acknowledged that it understands the penalties for making false statements in its application pursuant to Section 837.06, Florida Statutes.

Based upon the facts as represented, we find that Ocala East is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of Ocala East, a representative of the exempt entity must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Ocala East Villas, Inc., located at 6120 N.E. 7th Street, Ocala, Florida, 32671, with T. Michael Kuhn as contact person, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes. It is further

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ORDERED that should there be any change in circumstances, a representative of Ocala East Villas, Inc. shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission, this 30th day of June, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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by: Kay Hegan
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.

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.