

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 920460-WS
from Florida Public Service) ORDER NO. PSC-92-0640-FOF-WS
Commission regulation as a) ISSUED: 07/13/92
reseller of water and waste-)
water services in Palm Beach)
County by BOCA PLACE APARTMENTS)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
BOCA PLACE ASSOCIATES, LTD.

BY THE COMMISSION:

Boca Place Associates, Ltd. is the owner of Boca Place Apartments (Boca Place). Boca Place provides water and wastewater service to its tenants. Boca Place purchases the water and wastewater service from the City of Boca Raton and resells to its tenants at below the rate charged to Boca Place by the City of Boca Raton.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes. On May 14, 1992, Boca Place Apartments requested recognition of its exempt status for its water and wastewater system under section 367.022(8), Florida Statutes, which provides an exemption for resellers.

The affidavit provided with the application and accompanying materials show that: Boca Place provides water and wastewater service; Boca Place resells the water and wastewater service at a charge which does not exceed the actual purchase price; and Boca Place acknowledges its requirement to comply with Rule 25-30.111, Florida Administrative Code.

Section 367.022(8), Florida Statutes, states that "[a]ny 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. Based on the facts as represented, we find that Boca Place is exempt from our regulation under the terms of section 367.022(8), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Boca Place or any successor in interest, must inform the Commission within 30 days of the change, so we may determine whether exempt status is still appropriate.

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1992 RECORDS (RECORDED)

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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.

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.

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It is, therefore,

ORDERED by the Florida Public Service Commission that, based on the facts as represented, Boca Place Associates, Ltd. as owner of Boca Place Apartments, located at 22148 Boca Place Drive, Boca Raton, Florida 33433 with Charles C. Frey as contact person and a mailing address of 6400 Congress Avenue, Suite 2000, 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 should there be any change in circumstances or method that Boca Place's water and wastewater services are provided, the owner of Boca Place Apartments or any successor in interest, shall inform the Commission within 30 days of the change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 13th day of July, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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