

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 920181-SU
from Florida Public Service) ORDER NO. PSC-92-1172-FOF-SU
Commission regulation for) ISSUED: 10/14/92
provision of wastewater)
service in Escambia County by)
Shipwatch Condominium)
Association, Inc.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
SHIPWATCH CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

Shipwatch Condominium Association, Inc. (Shipwatch) is a nonprofit association which provides wastewater service to the residents of Shipwatch Surf and Yacht Club, a condominium located in Escambia County. Water service is provided by Escambia County Utilities Authority.

On February 6, 1992, Shipwatch filed an application for an exemption from this Commission's regulation as a non-profit organization, pursuant to Section 367.022(7), Florida Statutes. In addition Shipwatch filed with its application its Articles of Incorporation and Bylaws.

Section 367.022(7), Florida Statutes provides that "[N]onprofit corporations, associations, or cooperatives" are exempt from 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, 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 exceed

DOCUMENT NUMBER-DATE

12063 OCT 14 1992

REG. RECORDS / DEPARTMENT

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 6, 1992, Shipwatch states that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes, that it will provide service solely to its members who own and control it, that it will provide wastewater service and Holt Maintenance Company will do the billing for such service. The service area is specified as well. Shipwatch provided Articles of Incorporation and Bylaws which show the requirements of membership, that the members' voting rights are one vote per unit of ownership and that control of the corporation passed to the nondeveloper member on September 21, 1985. In addition, Shipwatch submitted a Declaration of Condominium which indicates that Shipwatch owns the utility facilities and the land upon which the facilities are located.

Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Based upon the facts as represented, we find that Shipwatch is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of Shipwatch, a representative of the Association must inform this Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

Further, we find it appropriate that a certified copy of this Order be recorded with the Clerk of the Court for Escambia County. Such recordation will provide constructive notice to the public, as well as specific notice to any potential purchaser, of the exempt status of Shipwatch.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Shipwatch Condominium Association, Inc., located at 16787 Perdido Key Drive, Pensacola, Florida 32507, with Sonya Rutledge as contact person, and with a mailing address of 16787 Perdido Key Drive, Pensacola, Florida 32507, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes. It is further

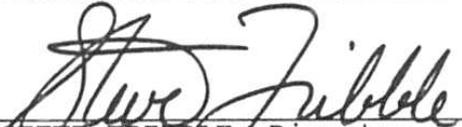
ORDER NO. PSC-92-1172-FOF-SU
DOCKET NO. 920181-SU
PAGE 3

ORDERED that should there be any change in circumstances of Shipwatch Condominium Association, Inc., a representative of Shipwatch Condominium Association, Inc., shall inform this Commission within thirty days of such change. It is further

ORDERED that a certified copy of this Order be recorded with the Clerk of the Court for Escambia County. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission this 14th day of October, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DV

ORDER NO. PSC-92-1172-FOF-SU
DOCKET NO. 920181-SU
PAGE 4

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.