

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 920748-WU
from Florida Public Service) ORDER NO. PSC-92-1198-FOF-WU
Commission regulation as a) ISSUED: 10/22/92
reseller of water service in)
Lee County by BAYSIDE ESTATES)
HOMEOWNERS, INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
BAYSIDE ESTATES HOMEOWNERS, INC.

BY THE COMMISSION:

Bayside Estates Homeowners, Inc. (Bayside) is a mobile home park in Lee County, which provides water and wastewater services to its 498 residents. Mr. Jack Ibaugh is the contact person and the mailing address is 17601 San Carlos Boulevard, Fort Myers Beach, FL 33931.

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 July 23, 1992, Bayside requested recognition of its exempt status for its water and wastewater systems under section 367.022(8), Florida Statutes, which provides an exemption for resellers.

The application was filed in accordance with Section 367.022(8), Florida Statutes, and Rules 25-30.060(2) and (3)(h), Florida Administrative Code. Included with the application was a statement from Mr. Ibaugh that: service is provided at a charge that does not exceed the actual purchase price; he is aware of the requirements of Rule 25-30.111, Florida Administrative Code; Bayside provides both water and wastewater service; and the service area will be limited to the mobile home park.

In addition to the application, Mr. Ibaugh provided a statement by Mr. Lewis Roberts, Vice President of Bayside, that Mr. Ibaugh, Park Manager, was authorized to file the application for Bayside. Mr. Ibaugh also provided the following: a list of current rates and charges of Florida Cities Water Company, supplier of water service to Bayside; a list of current rates and charges of Lee County Utilities, supplier of wastewater service to Bayside; a schedule of all proposed rates and charges of Bayside; an explanation of the proposed method of billing customers; and a schedule showing that the amount billed will not exceed the amount paid for water or wastewater service.

DOCUMENT NUMBER-DATE

12401 OCT 22 1992

FOF RECORDS / REPORTS

The applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

Bayside charges each resident for usage based on their meter reading and does not charge a base charge. Bayside reads the meters every four months and only charges for usage exceeding 12,000 gallons. Bayside charges a combined rate of \$4.65 per 1,000 gallons for usage over 12,000 gallons for both water and wastewater service. This rate is based on the usage rate of Florida Cities Water Company, which is \$3.02 per 1,000 gallons and the usage rate of Lee County Utilities, which was \$1.64 per 1,000 gallons when Bayside began billing for service. Although the wastewater rate for Lee County has increased, Bayside has not passed this increase on to the residents. Additionally, although Lee County provides wastewater service to Bayside, Florida Cities bills Bayside for the wastewater service on behalf of the County. These utilities also assess base charges which, as mentioned above, are not passed on to the residents. With regard to the common areas of Bayside Estates Mobile Home Park, these areas are on a separate meter and the mobile home park pays for the usage.

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 Bayside Estates Homeowners Inc. is exempt from our regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. In the event of any change of circumstances or method of operation, Bayside or its successor(s) in interest, shall notify this Commission within 30 days of such change so its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based on the facts as represented, Bayside Estates Homeowners, Inc., located at 17601 San Carlos Boulevard, Fort Myers Beach, Florida 33931, 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 of operation in which that Bayside Estates Homeowners, Inc.'s water and wastewater services are provided, the owner of Bayside Estates Homeowners, Inc. or any successor in interest,

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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 22nd day of October, 1992.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

KAC

by: Kay Flynn
Chief, Bureau of Records

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