

State of Florida

Commissioners:
J. TERRY DEASON, CHAIRMAN
SUSAN F. CLARK
JULIA L. JOHNSON
DIANE K. KIESLING
JOE GARCIA



DIVISION OF WATER &
WASTEWATER
CHARLES HILL
DIRECTOR
(904) 488-8482

Public Service Commission

December 15, 1994

Mr. Calvin W. Lustig
15550 Burnt Store Rd. #43
Punta Gorda, Florida 33955

RE: Docket No. 941044-WS; Request for exemption from Florida Public Service Commission regulation for provision of water and wastewater service in Charlotte County by BURNT STORE COLONY R.O. ASSOCIATION.

Dear Mr. Lustig,

Staff has reviewed your application for a non-profit exemption and determined in order to grant Burnt Store Colony an exemption pursuant to Section 367.022(7), Florida Statutes, the following deficiencies must be corrected:

1. A copy of proof of ownership of the utility facilities and the land upon which the facilities are located, such as a warranty deed, a 99-year lease, or a written easement is required. Although you included a copy of the Bill Of Sale, additional proof of land ownership, such as the three types of ownership cited above, is needed.
2. Documentation is needed indicating that the Bylaws have been filed with the Secretary of State.
3. Rule 25-30.060(3)(g), Florida Administrative Code, states, "For an exemption pursuant to Section 367.022(7), Florida Statutes,...The applicant must submit its Articles of Incorporation as filed with the Secretary of State, and its bylaws, which documents must clearly show...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 5 years from the date of incorporation. After reviewing the copies of the Articles and Bylaws, staff did not find any reference regarding turn over of control to the non-developer members. In order to comply with this Rule

ACK _____
 AFA _____
 APP _____
 CAF _____
 CMU _____
 CTR _____
 EAP _____
 IFC _____
 J _____
 K _____
 L _____
 M _____
 N _____
 O _____
 P _____
 Q _____
 R _____
 S _____
 T _____
 U _____
 V _____
 W _____
 X _____
 Y _____
 Z _____

DOCUMENT NUMBER 12637 DEC 19 94
 FPSC-RECORDS/REPORTING

Page Two
December 15, 1994
Mr. Lustig

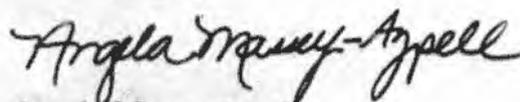
the Articles of Incorporation and the Bylaws must be amended to reference this occurrence.

In addition to the above deficiencies, the following additional information is also requested:

1. The Bylaws must be filed with the Clerk of the Court of Charlotte County, stamped with the official seal, and a copy forwarded to this office.
2. Staff notes in Article II, of the Bylaws, (2.7) references "Master Occupancy Agreement" shall mean that Master Form Occupancy Agreement attached hereto as "Exhibit A"..... A copy of the Master Occupancy Agreement was not attached. Please forward a copy of this agreement.

It is the intention of the Florida Public Service Commission to expedite requests for exemptions. The above deficiencies must be corrected in order to complete the non-profit exemption pursuant to Section 367.022(7), Florida Statutes. Therefore, please submit the original and two copies of the above requested information by January 16, 1995, to Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida, 32399-0850. If you have any additional questions, please do not hesitate to contact me at (904) 488-8482.

Sincerely,



Angela Massey-Azpell
Staff Assistant

cc: Charles H. Hill, Director, Division of Water & Wastewater
Tim Vaccaro, Division of Legal Services
Division of Records and Reporting