

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption )	DOCKET NO. 921198-WS
from Florida Public Service )	ORDER NO. PSC-93-0187-POF-WS
Commission regulation for )	ISSUED: 02/08/93
provision of water and )	
wastewater service in )	
Palm Beach County by TOWN )	
COLONY APARTMENTS )	
_____ )	

ORDER INDICATING THE EXEMPT STATUS OF  
TOWN COLONY APARTMENTS

BY THE COMMISSION:

Town Colony Apartments (TC) is a 172-unit apartment complex in Palm Beach County. TC receives water and wastewater services from the City of Boca Raton (City) and resells the service to its tenants. TC is located at 5079 Town Colony Drive, Boca Raton, Florida 33433. The mailing address is 6400 Congress Avenue, Suite 2000, Boca Raton, Florida 33487. Town Colony Associates, Ltd. is the system owner and Bettina Scherer is the contact person. On November 19, 1992, TC filed an application for exemption pursuant to Section 367.022(8), Florida Statutes, which provides an exemption for resellers.

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.

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 an affidavit from the applicant that: service is provided at a charge that does not exceed the actual purchase price; TC is aware of the requirements of Rule 25-30.111, Florida Administrative Code; TC provides both water and wastewater service; and the service area will be limited to the apartment complex.

In addition to the above, the applicant also provided the following: a list of current rates and charges of the City of Boca Raton, the supplier of water and wastewater services to TC; a schedule of all proposed rates and charges of TC; 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

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FPSC-RECORDS/REPORTING

There is a master meter present on each building at the TC apartment complex. The City bills TC on a bimonthly basis and charges TC the following rates: a meter reading fee of \$2.64 per metered building, a base charge of \$11.85 for water service; a base charge of \$12.93 for wastewater service for an apartment containing one bath and \$19.35 for an apartment containing two baths; and \$.35 per 1,000 gallons of water for the first 25,000 gallons used, \$.85 per 1,000 gallons of water for the next 25,000 gallons used, and \$1.10 per 1,000 gallons of water over 50,000 gallons used.

TC bills its tenants on a monthly basis and charges each tenant a pro-rata share of the \$2.64 meter reading fee, which amounts to approximately \$.10 per apartment. TC charges its tenants the same base charges for water and wastewater services as those charged by the City to TC. Although the City charges TC for consumption, these charges are not passed on to the tenants, but are paid for by TC. Therefore, the monthly bill for each tenant is \$12.44 for a unit with one bath and \$15.65 for a unit with two baths. The common areas of TC are on a separate meter and TC pays for the usage. We find that TC is not collecting more than the purchase price of the services provided by the City.

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

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 Town Colony Apartments 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, Town Colony Apartments 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, Town Colony Apartments, 6400 Congress Avenue, Suite 2000, Boca Raton, Florida 33487, is hereby exempt

ORDER NO. PSC-93-0187-FOF-WS  
DOCKET NO. 921198-WS  
PAGE 3

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 Town Colony Apartments' water and wastewater services are provided, the owner of Town Colony 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 8th day of February, 1993.



STEVE TRIBBLE, Director  
Division of Records and Reporting

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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.