

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 940842-WU
from Florida Public Service) ORDER NO. PSC-94-1386-FOF-WU
Commission regulation for) ISSUED: November 14, 1994
provision of water service in)
Lee County by FOUNTAIN VIEW RV)
LOT OWNERS ASSOCIATION, INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
FOUNTAIN VIEW RV LOT OWNERS ASSOCIATION, INC.

BY THE COMMISSION:

On August 12, 1994, Fountain View RV Lot Owners Association, Inc. (Fountain View or Association) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code. Fountain View is located at 18961 North Tamiami Trail, North Fort Myers, Florida, 33903. Fountain View's mailing address is 18961 North Tamiami Trail, Box 148, North Fort Myers, Florida, 33903. Mr. William F. Kish, Secretary, authorized Ms. Susan W. Francis, Manager, to file the application on behalf of the Association. Ms. Francis is the primary contact person.

Upon request and sufficient proof, this Commission will issue an order indicating the non-jurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. Fountain View has requested an exemption pursuant to Section 367.022(7), Florida Statutes, which states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Pursuant to Rule 25-30.060(3)(g), Florida Administrative Code, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; that it provides service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the service territory. The applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control passes to the nondeveloper members. The applicant must also provide proof of its ownership of the utility facilities and the land upon which the facilities are located.

DOCUMENT NUMBER-DATE

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FPSC-RECORDS/REPORTING

In its application, Fountain View stated that it is a nonprofit corporation, that it will provide service solely to its members who own and control it, and that it will provide water service for which it will provide its own billing. The service area is limited to the Fountain View RV Resort Subdivision. The Association provided a copy of its Articles of Incorporation as filed with the Secretary of State, and its Bylaws. These documents clearly show the requirements for membership, and that the members' voting rights are one vote per unit of ownership. The Association is currently 100% membership owned and controlled. The Association also provided a recorded warranty deed granting it fee simple title to the lands upon which the facilities are located, and a South Florida Water Management District Water Use Permit issued April 14, 1994, as further proof of ownership of the utility facilities.

Pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Ms. Francis acknowledged that she is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Fountain View is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, a representative of the Association must inform the Commission within thirty days of such change, so that we may reevaluate Fountain View's exempt status.

It is, therefore,

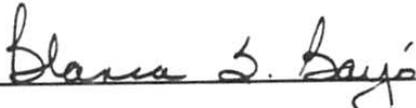
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Fountain View RV Lot Owners Association, Inc., 18961 North Tamiami Trail, Box 148, North Fort Myers, Florida, 33903, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances of or method of operation, a representative of Fountain View RV Lot Owners Association, Inc., or any successors in interest, shall inform the Commission within thirty days of such change so that Fountain View's exempt status may be reevaluated. It is further

ORDERED that this Docket is hereby closed.

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By ORDER of the Florida Public Service Commission, this 14th
day of November, 1994.



BLANCA S. BAYÓ, 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 wastewater 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.