

State of Florida

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DIVISION OF WATER &
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(904) 488-8482

ORIGINAL
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Public Service Commission

January 12, 1995

Mr. Robert M.C. Rose, P.A.
Rose, Sundstrom, & Bentley
2548 Blairstone Pines Drive
Tallahassee, Florida 32301

RE: Docket No. 941044-WS; Resolution of Board of Commissioners of Charlotte County declaring Charlotte County subject to provisions of Chapter 367, Florida Statutes - Request for exemption for provision of water and wastewater service by EL JOBEAN WATER ASSOCIATION, INC.

Dear Mr. Rose,

Staff has reviewed your application for a non-profit exemption and determined that in order to comply with Section 367.022(7), Florida Statutes, the following deficiencies must be corrected:

- ACK _____
- AFA _____
- APP _____
- CFE _____
- CMU _____
- CTR _____
- EAG _____
- LEG _____
- LIN _____
- OPC _____
- RDH _____
- SEC 1
- WAS _____
- GTH _____

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 must be provided. Page 1, Number 1, states "The owner of this water system is El Jobean Water Association, Inc." However, Page 2, (7-d) states, "Applicant does not own treatment facilities...." Further explanation is requested regarding this apparant contradiction in the application.
2. Documentation is needed indicating that the Bylaws have been filed with the Clerk of the Court of Charlotte County.
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.....it's 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." Turn over of control was not referenced in the Bylaws. Further explanation is requested

DOCUMENT NUMBER - DATE

00746 JAN 19 95

FPSC-RECORDS/REPORTING

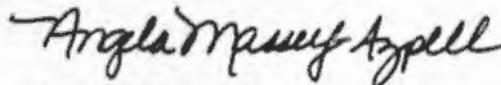
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regarding this subject matter.

4. Exhibit B - Number 3 states, "El Jobean Water Association, Inc. provides water service only." However, Exhibit C - Articles of Incorporation, Article II, (B), states "To construct, maintain, and operate a sewage disposal system for the use and benefit of its members." Does El Jobean own and operate a wastewater treatment facility? How is wastewater service provided? Further explanation is requested regarding this subject matter.
5. Exhibit D - Bylaws - Article V, Section 6 - states, "Termination of membership will not result in forfeiture of the former member's rights and interest in the organization's assets and he will not be precluded from receiving his proportionate share of any subsequent distribution of such assets by the organization." Chapter 617.01401(5), Florida Statutes, reads as follows, "Corporation not for profit" means a corporation no part of the income or profit of which is distributable to its members, directors, or officers." Article V, Section 6, of the Bylaws appears to conflict with this statute. How does El Jobean distribute organization assets to members and former members? Further explanation is requested regarding this subject matter.

It is the intention of the Florida Public Service Commission to expedite requests for exemptions. However, the above deficiencies must be corrected to complete the non-profit exemption pursuant to Section 367.022(7), Florida Statutes. Please submit the original and two copies of the requested information by February 13, 1995, to the 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
Scott Edmonds, Division of Legal Services
Division of Records and Reporting