

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 960257-WS
from Florida Public Service) ORDER NO. PSC-96-1060-POF-WS
Commission Regulation for) ISSUED: August 19, 1996
Provision of Water and)
Wastewater Service in Duval)
County by The Oaks at Deerwood)
Apartments.)
_____)

The following Commissioners participated in the disposition of this matter:

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

ORDER INDICATING EXEMPT STATUS OF THE OAKS
AT DEERWOOD APARTMENTS, AND CLOSING DOCKET

BY THE COMMISSION:

On February 29, 1996, The Oaks at Deerwood Apartments (The Oaks) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. The Oaks is a 336-unit apartment complex located at 10100 Baymeadows Road, Jacksonville, Florida. The complex is owned by MBL Life Assurance Company (MBL) and managed by ZOM Residential Services, Inc. (ZOM). Mr. Peter Campfield, Regional Property Manager of ZOM, and primary contact person, filed the application on behalf of The Oaks. Mr. Campfield's address is ZOM Residential Services, Inc., 2269 Lee Road, Winter Park, Florida 32789-1865.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(8), Florida Statutes, and Rule 25-30.060(1), (2) and (3)(h), Florida Administrative Code. Section 367.022(8), Florida Statutes, states, in part, 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.

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FILED IN THE RECORDS

According to the application, service is provided only to the apartment complex located at 10100 Baymeadows Road, Jacksonville, Florida. The Oaks intends to purchase water and wastewater from the City of Jacksonville and resell it to its residents at a rate that does not exceed the actual purchase price. No administrative or processing fees or administrative charges will be charged to the residents and no customer deposits will be collected.

Enviro-Check, Inc. has been retained to read the apartment complex's two master meters on a monthly basis and bill the residents accordingly on The Oaks' behalf. The methodology which The Oaks requested to use to design the rates it proposes to charge the residents is different from the methodology previously approved by the Commission.

The Commission has, in the past, approved rates that have been determined by dividing all costs (fixed and variable) by the number of apartment units, or by dividing fixed costs by the number of apartments and charging for actual usage based on the readings of meters on individual apartments. In the instant docket, individual meters cannot be installed on each apartment because of the way the apartment complex was originally constructed.

The Oaks proposes to charge each apartment a prorated share of the fixed rates and charge for usage based on the ratio of residents to bathrooms. The total consumption charge will be reduced by 5 percent to cover the cost of service to common areas, which will be paid by the Oaks. The remaining 95 percent will be allocated based on the number of residents per bathroom.

According to The Oaks' application, upon receiving a bill from the City, the base water and wastewater charges will be divided evenly between the 336 apartments. The Oaks has two master meters. The total base rate for the two meters for water is \$419.40 ($209.20 \times 2 = 418.40$) and \$331.00 ($\$165.50 \times 2 = \331.00) for wastewater. The base charge for each apartment would be \$1.25 ($\$418.40 \div 336 = \1.25) for water and \$.99 ($\$331.00 \div 336 = \$.99$) for wastewater. The Oaks has 196 one-bathroom apartments and 140 two-bathroom apartments. Lease statistics show that the average number of residents in a one-bathroom apartment is 1.14 persons and the average in a two-bathroom apartment is 1.67 persons. Therefore, the total number of residents in the 336 apartments is 457.

The Oaks submitted a sample bill from the City of Jacksonville for the two master meters. The total bill for the two meters was \$8,311.33, which includes the base rate, usage (218,100 cubic feet) and a public service tax. The City charges \$.58 per 100 cubic feet (ccf) for water and \$2.81 per ccf for wastewater. Only 95 percent

or 207,195 cubic feet (or 2,071.95 ccf) of the total is charged to the residents. Consumption is divided by the number of residents in the apartment complex ($2071.95 \div 457 = 4.53$ ccf per resident).

Following is the bill which a resident would receive from The Oaks:

One-Bathroom Apartment:

Water Base Charge	\$1.25
Water Usage (4.53 ccf x 1.14 persons x \$.58)	3.00
Public Ser. Tax	.43
Wastewater Base Charge	.99
Wastewater Usage (4.53 ccf x 1.14 persons x \$2.81)	<u>14.51</u>
TOTAL BILL	\$20.18

Two-Bathroom Apartment:

Water Base Charge	\$1.25
Water Usage (4.53 ccf x 1.67 persons x \$.58)	4.39
Public Ser. Tax	.56
Wastewater Base Charge	.99
Wastewater Usage (4.53 ccf x 1.14 persons x \$2.81)	<u>21.26</u>
TOTAL BILL	\$28.45

The following shows the amount billed by the City and the amount that The Oaks will collect using its proposed methodology.

196 one-bathroom apartments x \$20.18 =	\$3,955.28
140 two-bathroom apartments x \$28.26 =	\$3,983.00
Total Revenue Collected by The Oaks =	\$7,938.28
Total Billed by the City of Jacksonville =	\$8,311.33

Section 367.022(8), Florida Statutes, does not specify the methodology to be used by resellers to determine rates. It simply states that any person who resells water or wastewater service at a rate or charge that does not exceed the actual purchase price is exempt from Commission regulation. When determining the appropriateness of a methodology proposed by a reseller, the

Commission considers whether or not the method is reasonable and fair to the residents and whether or not the reseller will earn more than is charged by the provider for the service.

The reseller industry faces the unique problem of trying to promote water conservation by apartment tenants, where construction of the complex did not contemplate installation of meters on individual apartments. In these situations, it is appropriate to review rate design operations that attempt to simulate metered usage.

Pursuant to Section 367.022, Florida Statutes, as long as a reseller's methodology does not yield revenues which exceed the actual purchase price, the methodology should be considered reasonable. The Oaks' methodology/rates will not result in revenues which exceed the amount paid to the City of Jacksonville for the service. Therefore, we find that The Oaks' methodology is reasonable.

The Oaks is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.111 and 25-30.262 through 25-30.267, Florida Administrative Code. In addition, 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, Mr. Campfield acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that The Oaks is exempt from our regulation pursuant to Section 367.022(8), Florida Statutes. The Oaks shall file an annual report in accordance with the provisions of Rule 25-30.111, Florida Administrative Code, and Section 367.022(8), Florida Statutes. In addition, the owner of The Oaks or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated.

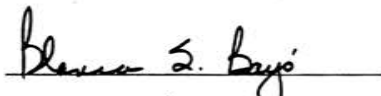
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, The Oaks at Deerwood Apartments, 10100 Baymeadows Road, Jacksonville, Florida 32256, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

ORDERED that The Oaks at Deerwood Apartments shall file annual reports in accordance with the provisions of Section 367.022(8), Florida Statutes, and Rule 25-30.111, Florida Administrative Code. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 19th day of August, 1996.



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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.