

MEMORANDUM

October 28, 1996

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TO: DIVISION OF RECORDS AND REPORTING FPSC-RECORDS/REPORTING
FROM: DIVISION OF LEGAL SERVICES (CROSBY) *[Signature]*
RE: DOCKET NO. 941044-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES - REQUEST FOR EXEMPTION FROM FLORIDA PUBLIC SERVICE COMMISSION REGULATION FOR PROVISION OF WASTEWATER SERVICE IN BY RIVER FOREST VILLAGE, INC.

1547-FDF

Attached is an Order Indicating Exempt Status of River Forest Village, Inc. and Closing Docket to be issued in the above-referenced Docket. (Number of Pages in Order - 3) (Document No. 941044A.ALC)

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Attachment

cc: Division of Water and Wastewater
(Brady)

1/10/96

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 941044-WS
of County Commissioners of) ORDER NO. PSC-96-1347-FOF-WS
Charlotte County Declaring) ISSUED: November 18, 1996
Charlotte County Subject to the)
Provisions of Chapter 367,)
Florida Statutes - Request for)
Exemption from Florida Public)
Service Commission Regulation)
for Provision of Wastewater)
Service by River Forest Village,)
Inc.)

ORDER INDICATING THE EXEMPT STATUS OF
RIVER FOREST VILLAGE, INC.

BY THE COMMISSION:

On December 1, 1994, River Forest Village, Inc. (River Forest) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. River Forest is a 204-unit mobile home community located at 4300 Riverside Drive, Punta Gorda, Florida. Mr. J. Albert Thomas, President, and primary contact person filed the application on behalf of River Forest.

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(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.

After reviewing River Forest's application, it was determined that because it provided service to individuals who were not members of the association, it did not qualify for exemption pursuant to Section 367.022(7), Florida Statutes. River Forest does, however, qualify for exemption pursuant to Section 367.022(5), Florida Statutes. Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and there are no specific charges for the utility service.

On December 14, 1995, River Forest refiled its application requesting recognition of its exempt status pursuant to Section 367.022(5), Florida Statutes. The application indicates that River

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Forest provides wastewater service only to tenants of the mobile home community located at 4300 Riverside Drive, Punta Gorda. Also, the wastewater service is included as a nonspecific portion of the monthly rent. Water service is provided by the City of Punta Gorda.

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. Thomas 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 River Forest is exempt from our regulation pursuant to Section 367.022(5), Florida Statutes. However, the owner of River Forest 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, River Forest Village, Inc., 4300 Riverside Drive, Punta Gorda, Florida 33982, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. It is further

ORDERED that this Docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 18th day of November, 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.