

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 941188-WS
From Florida Public Service) ORDER NO. PSC-95-0325-FOF-WS
Commission Regulation For) ISSUED: March 9, 1995
Provision of Water and)
Wastewater Service in Pinellas)
County by Lincoln Shores)
Apartments.)
_____)
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ORDER INDICATING EXEMPT STATUS
OF LINCOLN SHORES APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

On November 8, 1994, Lincoln Shores Apartments (Lincoln Shores) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. Lincoln Shores is a 631-unit apartment complex located at 11601 4th Street North, St. Petersburg, Florida. Mr. Bradley C. Miller, General Partner, filed the application on behalf of Lincoln Shores. The primary contact person is Mr. Doug Bess, c/o Water and Sewer Services of Tampa Bay, Inc., 10810 72nd Street North, Largo, Florida 34647.

Due to excessive usage of water by the residents, Lincoln Shores is installing individual meters so that the residents can be charged for the actual amount of water and/or wastewater used. Lincoln Shores intends to purchase water and wastewater service from the City of St. Petersburg (City) and resell these services to the residents at a rate that does not exceed the actual price paid the City for the service.

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 Rules 25-30.060(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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FPSC-RECORDS/REPORTING

As stated previously, Lincoln Shores intends to purchase water and wastewater service from the City of St. Petersburg and resell these services to the residents at a rate that does not exceed the actual price paid to the City for the service. Water and Sewer Services of Tampa Bay, Inc. will read the meters on a monthly basis and bill residents accordingly for Lincoln Shores. No administrative or processing fee will be charged to the residents and there will be no charge for service to common areas.

Lincoln Shores intends to collect a customer deposit for each unit. Although the City collects a deposit in the amount of \$104, Lincoln Shores only intends to collect a deposit of \$30. The deposit, plus interest, will be applied to the resident's final bill.

The service area is limited to the apartment complex located at 11601 4th Street North, St. Petersburg, Florida. Lincoln Shores 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. Miller 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 Lincoln Shores is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. In the event of any change of circumstances or method of operation, the owner of Lincoln Shores or any successors in interest, must inform the 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 upon the facts as represented, Lincoln Shores Apartments, 11601 4th Street North, St. Petersburg, Florida 33716, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Lincoln Shores Apartments or any successors in interest shall inform this Commission within 30 days

of such a change so that we may reevaluate its exempt status. It is further

ORDERED that Docket No. 941188-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 9th day of March, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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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

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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.