

STATE OF FLORIDA
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS AND MOBILE HOMES
725 SOUTH BRONOUGH STREET - THE JOHNS BUILDING
TALLAHASSEE, FLORIDA 32399-1030

DATE 3/2/90
[Signature]

IN RE: PETITION FOR DECLARATORY STATEMENT,
GOLDEN GATE RESIDENTS ASSOCIATION OF PINELLAS PARK, INC., SENATE MANOR HOMEOWNERS ASSOCIATION, INC., AND MIDWAY AM/CAN HOMEOWNERS, INC., co-petitioners.

LEGAL NO. 89L-0020
DOCKET NO. DS88284

DECLARATORY STATEMENT

This Declaratory Statement is rendered by the Director of the Division of Florida Land Sales, Condominiums and Mobile Homes, Department of Business Regulation (hereinafter the "Division"), pursuant to sections 718.501 and 120.565, Florida Statutes.

The Co-Petitioner's, Golden Gate Residents Association of Pinellas Park, Inc., Senate Manor Homeowners Association, Inc., and Midway AM/CAN Homeowners, Inc., (hereinafter the "Co-petitioners") filed a petition for declaratory statement requesting interpretation of certain sections of Chapter 719 and 723, Florida Statutes. The Division makes the following Findings of Fact based on the information submitted by the Co-petitioners:

FINDINGS OF FACT

1. Co-Petitioner, Golden Gate Residents Association of Pinellas Park, Inc. is a corporation authorized to do business and doing business in the state of Florida with its principal

place of business located in the city of Pinellas Park, Pinellas County, Florida. Golden Gate Residents Association of Pinellas Park, Inc. owns and operates Golden Gate Mobile Home Community, a cooperative, licensed for 342 units. Golden Gate Residents Association of Pinellas Park, Inc. purchased Golden Gate Mobile Home Community and subsequently converted the property to cooperative ownership pursuant to Section 719, Florida Statutes.

2. Co-Petitioner, Senate Manor Homeowners Association, Inc., is a corporation authorized to do business and doing business in the State of Florida with its principal place of business located in the city of Port Richey, Pasco County, Florida. Senate Manor Homeowners Association, Inc. owns and operates Senate Manor Mobile Home Park, a cooperative, licensed for 395 units. Senate Manor Homeowners Association, Inc., purchased Senate Manor Mobile Home Park and subsequently converted the property to cooperative ownership pursuant to Section 719, Florida Statutes.

3. Co-Petitioner, Midway AM/CAN Homeowners, Inc., is a corporation authorized to do business and doing business in the State of Florida with its principal place of business located in the city of Largo, Pinellas County, Florida. Midway AM/CAN Homeowners, Inc., owns and operates Midway Trailer Court, a cooperative licensed for 107 units. Midway AM/CAN Homeowners, Inc., purchased Midway Trailer Court and subsequently converted the property to cooperative ownership pursuant to Section 719, Florida Statutes.

4. The Co-petitioners have petitioned the Division for declaratory statements on the following:

(a) Whether Rules 7D-15.01 through 7D-24.008, Florida Administrative Code, inclusive, refer only to condominiums or whether said rules also apply to a mobile home park which is purchased and converted to cooperative ownership by a mobile home park homeowners' association pursuant to Chapters 719 and 723, Florida Statutes; and

(b) Whether a mobile home park homeowners' association which purchases its mobile home park and converts it to cooperative ownership pursuant to Chapter 719, Florida Statutes, is defined as a developer for purposes of Chapter 719, Florida Statutes; and

(c) Whether a mobile home park homeowners' association which purchases its mobile home park and converts it to cooperative ownership pursuant to Chapter 719, Florida Statutes, is considered a developer for purposes of Rule 7D-15.007, Florida Administrative Code; and

(d) Whether a mobile home park which is purchased and converted to cooperative ownership pursuant to Chapter 719, Florida Statutes, is required to submit to the Division a filing pursuant to Rule 7D-17.001(2)(a), Florida Administrative Code; and

(e) Whether a mobile home park homeowners' association which purchases its mobile home park and converts it to cooperative ownership pursuant to Chapter 719, Florida Statutes,

is required to file at a specified point in time a prospectus filing with the Division pursuant to Rules 7D-15.01 - 7D-24.008, Florida Administrative Code, and sections 719.502 - .504, Florida Statutes; and

(f) Whether requiring a mobile home park homeowners' association to file a condominium or cooperative prospectus prior to purchase of the mobile home park by the mobile home park homeowners' association is inconsistent with the purpose and intent of section 723.071, - .079, Florida Statutes, in that while section 723.071, Florida Statutes grants an association forty-five (45) days from date of notification that the park is for sale to execute a contract for purchase of the park, the Division reserves the right to forty-five (45) days time in which to review the prospectus; and

(g) Whether a mobile home park homeowners' association which purchases and converts a mobile home park to "the other type of ownership" pursuant to section 723.077(2), Florida Statutes is required to comply with Chapter 718 or Chapter 719, Florida Statutes; and

(h) Whether under section 723.071, Florida Statutes, a mobile home park homeowners' association which purchases its mobile home park pursuant to Chapter 723, Florida Statutes, and in which residents own their mobile homes as personalty prior to the purchase of the park by the mobile home park association, is considered to be creating a land condominium under section 718.104, Florida Statutes or a land cooperative under section

719.103, Florida Statutes; and

(i) Whether a mobile home park homeowners' association that purchases and converts its mobile home park to cooperative ownership pursuant to Chapter 719, Florida Statutes, which owns land in fee simple, and issues a 99 year lease to each purchaser of a cooperative unit as defined by Chapter 719, Florida Statutes, is considered a leasehold cooperative or a leasehold condominium for purposes of the condominium filing statement; and

(j) Whether a mobile home park homeowners' association which purchased its mobile home park and subsequently converted it to cooperative ownership pursuant to Chapter 719, Florida Statutes, is required to comply with Rule 7D-18.005 Florida Administrative Code, and whether Rule 7D-18.005 determines whether a mobile home park homeowners' association which has purchased its mobile home park and subsequently converted it to a cooperative form of ownership pursuant to Chapter 719, Florida Statutes, is required to follow the format for estimated operating budgets contained in Rule 7D-18.005 and in the years subsequent to approval of the prospectus.

CONCLUSIONS OF LAW

1. The Division has jurisdiction herein pursuant to Section 120.565 and Chapter 719, Florida Statutes.

2. The Co-Petitioners, all mobile home park homeowners' associations which purchased mobile home parks and subsequently converted the properties to cooperative ownership pursuant to

Chapter 719, Florida Statutes, are substantially affected by those statutory provisions cited above which relate to mobile home park cooperatives and have standing to seek declaratory statements regarding those issues which specifically affect the Co-petitioners.

3. Rules 7D-15.01 through 7D-24.008, Florida Administrative Code, inclusive, by their terms apply only to condominiums. Mobile home parks which are converted to cooperative ownership pursuant to Chapter 719, Florida Statutes, are not required to comply with rules 7D-15.01 through 7D-24.008, Florida Administrative Code. As the Co-petitioners are mobile home park homeowners' associations which purchased mobile home parks and subsequently converted them to cooperative ownership pursuant to Chapter 719, Florida Statutes, they have not established standing to petition the Division regarding condominium rules and this portion of the Petition for Declaratory Statement is dismissed.

4. Section 719.103(12), Florida Statutes, provides the following definition of the term developer:

"Developer" means a person who creates a cooperative or who offers cooperative parcels for sale or lease in the ordinary course of business, but does not include the owner or lessee of a unit who has acquired or leased his unit for his own occupancy, nor does it include a condominium association which creates a cooperative by conversion of an existing residential condominium after control of the association has been transferred to the unit owners if, following the conversion, the unit owners will be the same persons."

Pursuant to the foregoing definition, two activities result in the application of the term "developer":

- (a) creation of a cooperative or;
- (b) offering cooperative parcels for sale or lease in the ordinary course of business.

A mobile home park homeowners' association is authorized pursuant to section 723.077 (1), Florida Statutes to negotiate for, acquire and operate a mobile home park on behalf of the mobile home owners. Section 723.077(2), Florida Statutes, provides that the association may convert the park to a cooperative form of ownership. According to the petition, each Co-petitioner purchased its park and subsequently converted it to a cooperative form of ownership. As a result, each Co-petitioner was the creating entity of the cooperative and, therefore each Co-petitioner falls within the definition of the term "developer" which is provided in Section 719.103(12), Florida Statutes.

Rules 7D-15.01 - 7D-24.008, F.A.C., by their terms are condominium rules and do not apply to cooperatives. As the Co-petitioners are mobile home park homeowners' associations which purchased mobile home parks and subsequently converted them to cooperative ownership, they have not established standing to petition the Division regarding condominium rules and this portion of the Petition for Declaratory Statement is dismissed.

5. Rule 7D-15.007, F.A.C., by its terms is a condominium rule and does not apply to cooperatives. As the Co-petitioners

are mobile home park homeowners' associations which purchased mobile home parks and subsequently converted them to cooperative ownership, they have not established standing to petition the Division regarding condominium rules and this portion of the Petition for Declaratory Statement is dismissed.

6. Rule 7D-17.001(2)(a), F.A.C., by its terms is a condominium rule and does not apply to cooperatives. As the Co-petitioners are mobile home park homeowners' associations which purchased mobile home parks and subsequently converted them to cooperative ownership, they have not established standing to petition the Division regarding condominium rules and this portion of the Petition for Declaratory Statement is dismissed.

7. The issue of when a prospectus or offering circular must be filed with the Division does not affect the Co-petitioners. Each Co-petitioner has already prepared and filed with the Division a prospectus or offering circular. No filings involving the Co-petitioners are outstanding. Therefore, this portion of the Petition for Declaratory Statement is dismissed.

8. The issue of whether it is possible to prepare, file and obtain approval of a prospectus prior to the expiration of the forty-five (45) day notice period provided for in section 723.071, Florida Statutes, does not affect the Co-petitioners. Each Co-petitioner has already prepared and filed with the Division a prospectus. No filings involving the Co-petitioners are outstanding. Therefore, this portion of the Petition for Declaratory Statement is dismissed.

9. The Co-petitioners are mobile home park homeowners' associations which purchased mobile home parks and subsequently converted them to cooperative ownership. As such, they are not "the other type of ownership" under section 723.077(2), Florida Statutes, and have no standing to petition the Division for a Declaratory Statement as to whether mobile home parks which are "the other type of ownership" are required to comply with Chapter 718 or Chapter 719, Florida Statutes. Therefore, this portion of the Petition for Declaratory Statement is dismissed.

10. Rule 7D-15.003, F.A.C. by its terms is a condominium rule and does not apply to cooperatives. As the Co-petitioners are mobile home park homeowners' associations which purchased mobile home parks and subsequently converted them to cooperative ownership, they have not established standing to petition the Division regarding condominium rules and this portion of the Petition for Declaratory Statement is dismissed.

11. The Co-petitioners, mobile home park homeowners' associations which purchased mobile home parks and subsequently converted them to cooperative ownership, have not shown standing to petition the Division regarding the condominium filing statement. Therefore, this portion of the Petition for Declaratory Statement is dismissed.

12. Rule 7D-18.005, Florida Administrative Code by its terms is a condominium rule and does not apply to cooperatives. The Co-petitioners, mobile home park homeowners' associations

which purchased mobile home parks and subsequently converted them to cooperative ownership, have not established standing to petition the Division regarding condominium rules. Therefore, this portion of the Petition for Declaratory Statement is dismissed.

WHEREFORE, the Division declares that the Co-petitioners, all mobile home park homeowners' associations which purchased their mobile home parks and subsequently converted them to cooperative ownership, are developers pursuant to the definition provided in Section 719.103(12), Florida Statutes.

Dated this 8th day of March, 1990.



A large, stylized handwritten signature in black ink, appearing to read "James Kearney".

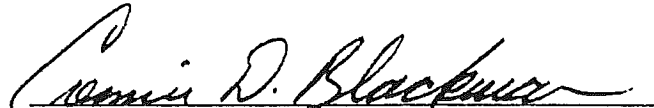
James Kearney, Director
Division of Florida Land Sales,
Condominiums and Mobile Homes
Department of Business Regulation
State of Florida

RIGHT TO APPEAL

THIS DECLARATORY STATEMENT CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY RESPONDENT PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULE 9.110, FLORIDA RULES OF APPELLATE PROCEDURE, BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(d), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH CATHY WOODMAN, CLERK FOR THE DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS AND MOBILE HOMES, WITHIN 30 DAYS OF THE RENDITION OF THIS DECLARATORY STATEMENT.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by Certified U. S. Mail to Jonathan James Damonte, Esquire, Attorney for Co-Petitioners, 7800 - 113th Street North, Suite 206, Seminole, Florida 34642, this 8th day of March, 1990.


Connie Blackman, Docket Clerk