

Final Order No. BPR-98-04245 Date 6-29-98

FILED

Dept. of Business and Professional Regulation
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By: Brandi M. Nichols

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION
DIVISION OF FLORIDA LAND SALES, CONDOMINIUMS, AND MOBILE HOMES

IN RE: PETITION FOR DECLARATORY STATEMENT

POLO PARK EAST R.O. ASSOCIATION, INC.

DOCKET NO.: DS98070

Petitioner.

DS 98-019

DECLARATORY STATEMENT

The Department of Business and Professional Regulation, Division of Florida Land Sales, Condominiums, and Mobile Homes (Division) hereby issues this Declaratory Statement pursuant to section 723.006 and 120.565, Florida Statutes.

FINDINGS OF FACT

1. On May 1, 1998, the Division received a petition for a declaratory statement from Eugene L. Temple, President of Polo Park East R.O. Association, Inc. (Petitioner). Petitioner requested a declaratory statement as to the applicability of section 719.606, Florida Statutes, to a mobile home park that was purchased by the homeowners association. Specifically, the inquiry was whether this section requires that all existing leases be voided at the time of conversion.

2. Notice of receipt of the Petition was published in the Florida Administrative Weekly, Volume 24, Number 21, at page 2857, on May 22, 1998.

3. Petitioner is a homeowners association formed in accordance with section 723.075, Florida Statutes, and a mobile home park in accordance with section 723.003(6), Florida Statutes, which purchased the park on April 1, 1996 in accordance with section 723.071, Florida Statutes.

4. The provision in question, Part VI of Chapter 719 Florida Statutes, the Cooperative Act, addresses conversion of existing improvements to cooperatives.

5. Section 723.073, Florida Statutes, provides:

(2) An association that acquires a mobile home park pursuant to s. 723.071 is exempt from . . . part VI of chapter 719.

CONCLUSIONS OF LAW

The Division has jurisdiction to enter this Order pursuant to section 120.565, Florida Statutes.

The legislative intent for enacting chapter 723, Florida Statutes, the Florida Mobile Home Act, is addressed in section 723.004, Florida Statutes:

. . . Once occupancy has commenced [in a mobile home park], unique factors can affect the bargaining position of the parties and can affect the operation of market forces. Because of those unique factors, there exist inherently real and

substantial differences in the relationship which distinguish it from other landlord-tenant relationships.

The purpose of the Florida Mobile Home Act is also addressed in mobile home case law. Because of the cost of moving and setting-up a mobile home in a park, mobile home owners are only in an equal bargaining position with their landlord prior to moving into the park. Steward v. Green, 300 So.2d 889 (Fla. 1974). Therefore, not all regulatory laws that are applied to rental apartments, or any fixed structure that is going to be converted to a cooperative, can be applied to a mobile home park.

Part VI of chapter 719, Florida Statutes, the part which is the subject of this declaratory statement, addresses various rights of current tenants when there is a cooperative conversion. Specifically, Part VI details the time periods for which renters can extend their leases. However, if the conversion is in a mobile home park, the treatment given to current leases must be in accordance with chapter 723, Florida Statutes. Section 723.073(2), Florida Statutes, states that an association that acquires a mobile home park is exempt from Part VI of chapter 719, Florida Statutes.

When a mobile home park is converted, the residents who become members of the cooperative become the "park owner" as defined in section 723.003(7), Florida Statutes. The residents who do not become park owners remain "mobile home owners" as defined in

section 723.003(5), Florida Statutes, and are given the protections of chapter 723, Florida Statutes, including the ability to rely on pre-existing rental agreements or leases.

STATEMENT

In accordance with the foregoing findings of fact and conclusions of law, the Division declares that section 723.073 Florida Statutes, exempts Petitioner from the provisions of part VI of chapter 719, Florida Statutes.

Done this 26th of June, 1998.



Delane Anderson
DELANE ANDERSON,
Deputy Secretary
Department of Business and
Professional Regulation
Division of Florida Land Sales,
Condominiums, and Mobile Homes
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-1030

RIGHT TO APPEAL

THIS DECLARATORY STATEMENT CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY PETITIONER 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 THE AGENCY CLERK FOR THE
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION WITHIN THIRTY
(30) DAYS OF THE RENDITION OF THIS DECLARATORY STATEMENT.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Declaratory Statement was provided by certified mail to, Eugene L. Temple, President, Polo Park East R.O. Association, Inc. 12512 U.S. Highway 27 North, Davenport, Florida 33837, this _____ day of June, 1998.

Kristie Harris, Docket Clerk

Copies furnished to:

Mary Denise O'Brien,
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Jim Norred, Chief
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