

March - April 2019

# FMOnews

The Official Publication of the Federation of Manufactured Home Owners of Florida, Inc.

*FMO Addresses Today's  
Manufactured  
Homeowner Issues*

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## FMO NEWS

Official publication of the Federation  
of Manufactured Home Owners of Florida, Inc.

### EDITORIAL

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# 21st Century FMO

***Jerry Durham, FMO President***



Greetings Everyone,

In this issue we are attempting to inform you of your options when your community is confronted with an issue that impacts your residents and needs addressing.

Although we often invite you to file a complaint with the Division of Condominiums, Timeshares and Mobile Homes under the DBPR there are other departments and agencies that may assist you in the resolution.

Having a strong HOA that will represent your interests is vital to the success of any action. It all begins there. As is suggested by Director Russ Watson in his article, there are many avenues to pursue depending on your complaint and the Park Owner/Manger's responsiveness. We have suggested some options as well as providing you with the contact information for certain Government agencies. One additional point to be made about DBPR is that you may also file for a "Declaratory Statement" asking the division to interpret a section or definition written in FL Statute 723.

Also in this issue, we have expanded the "Facts from the Field" section to include what you are experiencing in your communities and sharing it with others. We believe this type of exchange will help us gauge how the market is changing and assist us in formulating a plan to address these important issues. Please consider sharing this information with us. You can send to Diane@fmo.org or send directly to me at jerryh.durham@gmail.com.

Lastly, our Growth Plan includes having more direct and instantaneous communication with you. Similar to the way you receive your news today we are attempting to utilize the internet more and maintaining your email address will be an important step in this process. Please provide us with this if you have not done so. I guarantee you this will only be used for our communication with you. Visit our website FMO.org as it is changing quite frequently.

*Jerry*

## **Easy Steps for a FMO Renewal**

**Dear FMO Members,**

**I was informed by some members that they would like to know when their membership was up for renewal.**

**I contacted Beth at FMO and she gave me a step by step how to renew on line.**

- 1. Login to [www.fmo.org](http://www.fmo.org)**
- 2. Use e-mail address listed with your FMO Membership**
- 3. Enter your Password**
- 4. Cursor over Membership towards the top and click on Renewal (at this point it will tell you what your expiration date is.)**
- 5. Pick what year membership you want....1 year or 3 years**
- 6. Enter your Credit Card information and follow the rest of the prompts.**

**If you wish to call in your renewal with your credit card,  
you may call Beth at the FMO Office 727-530-7539.**

**Take care and stay warm.**

***John D. Petrella, President District 3 FMO***

# FMO CONTACTS

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**\*PLEASE SHARE WITH YOUR HOA\***  
**STATE APPROVED CERTIFICATION**  
**TRAINING SEMINARS FOR HOA BOARD MEMBERS**

Seminars will be held throughout the state. At the present time, we have 6 locations confirmed, as indicated below. Additional dates and locations will be published in future FMONews. Choose the location most convenient for you, fill out the registration form below, and mail to the FMO office along with your payment.

**Pre-payment \$25.00 is required before the Seminar. (Non-Refundable)**

Coffee and Donuts will be served. Lunch will not be provided.

**CERTIFICATES WILL NOT BE HANDED OUT UNTIL THE END OF THE SEMINAR**

**Registration begins at 7:30 am and the seminar runs from 8:00 am to 1:00 pm**

Carpooling is recommended

**PLEASE NOTE: PHOTO ID WILL BE REQUIRED AT REGISTRATION**

<b>March 15, 2019</b> Friday	<b>Four Lakes Golf - Winter Haven</b> 990 La Quinta Blvd. Winter Haven, FL 33881	(Pre-register by Mar 8, 2019)
<b>March 19, 2019</b> Tuesday	<b>Fairlane Harbor - Vero Beach</b> 1500 Indian River Blvd., Vero Beach, FL 32960	(Pre-register by Feb 12, 2019)
<b>March 21, 2019</b> Thursday	<b>Island Lakes - Merritt Island</b> 4499 Wood Stork Dr. Merritt Island, FL 32953	(Pre-register by Mar 14, 2019)
<b>March 26, 2019</b> Tuesday	<b>Doral Village - Clearwater</b> 29250 US Highway 19 N, Clearwater, FL 33761	(Pre-register by Mar 19, 2019)
<b>April 1, 2019</b> Monday	<b>Foxwood Farms - Ocala</b> 4705 NW 20th St, Ocala, FL 34482	(Pre-register by Mar 25, 2019)

**If you have any questions, please call the FMO office: 727.530.7539**

Cost to Attend: \$25.00 per person (NON-REFUNDABLE) Pre-Paid before Seminar

**PHOTO ID REQUIRED AT REGISTRATION**

Please complete one form per person.

Please cut the completed registration form and mail with payment to:

**FMO 4020 Portsmouth Road, Largo, FL 33771**

**Registration 7:30 am – 8:00 am | Seminar 8:00 am – 1:00 pm**



Cut Here

**REGISTRATION FORM**

(PLEASE PRINT LEGIBLY)

CITY OF SEMINAR \_\_\_\_\_ DATE OF SEMINAR \_\_\_\_\_  
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 Telephone: \_\_\_\_\_  
 Email: \_\_\_\_\_ Park/HOA: \_\_\_\_\_  
 Payment: Check # \_\_\_\_\_ Amount: **\$25.00 Pre-Paid before Seminar**  
 Credit Card: ☐ MasterCard ☐ Visa ☐ Discover ☐ American Express  
 Card # \_\_\_\_\_ Expires: \_\_\_\_\_  
 Signature: \_\_\_\_\_

# CAPITOL BEAT

## Your News from Tallahassee

By FMO Legislative Counsel Nancy Black Stewart



### HELPFUL INFORMATION

The following information may be helpful to navigate the state bureaucracy to assist with consumer issues. Often there is a need to contact other state agencies besides DBPR. I hope this information is helpful.

Citizens Property Insurance Customer Care .....	888.685.1555
Consumer Services.....	**Please See To Right**
Elder Rights Abuse revention .....	850.414.2180
Elder Community-Based Services .....	850.414.2135
Elder Helpline Information & Referral.....	800.963.5337
Elder Housing and Transportation .....	850.414.2343
Health & Sanitation.....	Your County Health Department
HUD Manufacture Home Dispute Resolution Program...administered by	
FL Bureau of Mobile Home & RV Construction .....	850.617.2808
Insurance Consumer Advocate .....	850.413.2868
Mobile Home Tie-Down Program.....	850.201.8508
Veterans' Benefits & Assistance .....	727.319.7421
Voter Registration.....	Your County Supervisor of Elections

\*\* "The Florida Department of Agriculture and Consumer Services' Division of Consumer Services is the state's clearinghouse for consumer complaints, information and protection. We regulate various businesses, such as motor vehicle repair shops, charitable organizations, pawnbrokers, health studios, sellers of travel, intrastate movers, professional surveyors and mappers, sweepstakes/game promotions and telemarketers. In addition, we protect consumers and businesses from unfair and unsafe business practices across a wide range of market sectors, including gasoline, brake fluid, antifreeze, liquefied petroleum gas, amusement rides, and weighing and measuring devices." [FDACS website, February 2019]

FDACS staffs these numbers: 850-410-3724 and 800-435-7352. A consumer may be referred to an appropriate agency or office. Please refer to the website for further information:  
<https://www.freshfromflorida.com/Divisions-Offices/Consumer-Services>

**EDITOR'S NOTE:** The FMO bills have been filed and numbered in preparation of the 2019 Regular Session.

Senate Bill 1262 is sponsored by Senator Ed Hopper, (Republican - Palm Harbor), and House Bill 1023 is sponsored by Representative Michael Grant, (Republican - Port Charlotte). Committee references are pending in both the House and Senate.

## Summary of HB1023/SB1262; 2019 Proposed Joint Legislation

The proposed legislation amending Chapter 723, Florida Statutes, makes the following changes:

#### Section 1.

- Clarifies that the Division will determine deficiencies in a prospectus for items or things that are in direct violation of the provisions of Chapter 723. This refers to the fact that Prospectus' can only be rejected when they are in violation of 723. A request of FMHA

- Also requires that the park owner may request a receipt from a prospective homeowner that he has received the lot rental agreement.

#### Section 2.

- Clarifies that the factors listed that affect increases in a lot rental amount must be disclosed if they are applicable.

#### Section 3.

- Creates procedures for the park owner and the homeowner for a remedy when a homeowner is failing to maintain his property and home in a manner consistent with the park rules and regulations. This aids in rules enforcement by giving the

offender notice of time, cost and remedy to be addressed before the Park Management will take action to correct the violation. This was a most difficult section to agree on. We all wanted Park owners to enforce the rules. They said the only tool they had was eviction which would not be favored by the courts. We came up with language to encourage the homeowner to clean up the violation or the park owner will have the correction made and change the homeowner. We made sure there was proper notice given by posting, mailing and electronic transmission. The notice must contain the violation, a time for the correction to be made and the amount to be billed if the park owner has to do the work. THE MISUNDERSTANDING HERE IS THAT PARK OWNERS WANT TO DO THIS.

That is not the intent, the intent is for the homeowner to comply.

#### Section 4.

- Requires that when an eviction notice is given to a homeowner due to a change in use of the land, the park owner shall

.....SUMMARY Continued on page 7

## SUMMARY Continued from page 6.....

I also provide a copy of such notice to the Division within 20 days. The Division will provide the notice to the Florida Mobile Home Relocation Corporation. The intent here is that the Relocation Corporation can meet with the residents as soon as possible and explain their rights and the process for relocation funding.

- Requires that an eviction notice to the homeowner will be by U.S. mail. Not certified mail. An FMHA request. When I asked, are they sending that many eviction notices the response was that is what they have to do when lot rents are in arrears. This usually causes the rents to be forwarded. It does not eliminate the formal eviction to take place through the courts.

### Section 5.

- Requires the board of directors of a homeowners' association to notify the park owner by certified mail when new officers or directors are appointed or elected. We recognize they are asking for certified mail but this is one time a year and was not worth a fight.

### Section 6.

- Makes changes to requirements of bylaws of homeowners' associations addressing meetings of park owners and the board or board committees and elections of officers and directors. Closes meetings between the with park owner and the HOA Board or the Statutory committee. These were all requests from various HOA's. Those that have strong HOA's and understand the law may see this as infringement but there are over

1700 communities on leased land and I assure you they experience problems in these areas especially elections.


Creates procedures for elections of board members, ballot preparation, voting rules and number of home owners votes required. We actually felt that who ever showed up or sent their absentee ballot in should be the only votes considered it was FMHA that added there should be at least 20% of members represented. Probably a good idea.

### Section 7.


- Makes changes to provisions relating to retention official records of homeowners' associations (from 7 to 5 years) and requires binding arbitration by the Division in disputes about inspection or photocopying. The IRS only requires 3 years now but the Florida statute of limitations is 5 years so we changed the law from 7 to 5.

### Section 8.


- Requires mandatory binding arbitration with the Division for disputes between a homeowners' association and a mobile home owner relating to recall or elections of officers or directors, and inspections and photocopying of official records. These items are often overlooked by someone reviewing the bill. Actually, these are three instances where we are saving HOA's money by requiring Binding Arbitration rather Litigation in these matters. Ultimately, we want binding arbitration across the board including with Park Owner disputes but that is a larger fight for another day.



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## News from the Field...

### Couple Raise Money For Veterans In Port Charlotte

**Bob Surmur and his wife Tee are members of the community at Emerald Lake in Punta Gorda.**

**Several years ago they started a program in their community to raise money to purchase gift cards for the veterans at the Douglas Jacobson Veteran Home in Port Charlotte. Here is their story in Tee's own words:**

Ever wonder what you can do to show our veterans that you care about them and the sacrifice they gave for us?

That was a question my husband and I asked in 2016.

My name is Tee and my husband is Bob. Bob served in the Navy, my father was in the Army, I had two brothers one Army, one Marine, both served in Vietnam. My one brother passed away due to complications from Agent Orange and the other is struggling with several health issues due to Agent Orange. So we went to the Douglas

Jacobson Veteran Home in Port Charlotte and talked with the activities director, Ann Marie, and asked what would our veterans really want for Christmas. Her reply was they really like to go out to lunch. Some of the 120 residents don't have money in their account some do. Knowing that what little Bob and I could do would not even put a dent in the idea of every resident being able to go out, we decided to ask our community, Emerald Lake, to help us out by

giving \$10.00 a piece. I then in turn would buy restaurant gift cards. In 2016 we were able to raise enough for 75 residents to go out to lunch. It was a little disappointing that we couldn't raise enough but the veterans home was ecstatic. We then made

a new goal for 2017 to get \$1200.00 worth of gift cards so everyone could get a lunch, and we reached that goal. what an awesome feeling presenting all these gift cards to the veterans at their Christmas party. knowing it could be done, we spread out to other communities through fmo meetings. With the money our community raised, plus contacts through the FMO we were able to get \$1420 in gift cards for 2018 plus \$200.00 received after the cutoff date to start 2019 campaign.



When we went to deliver the cards at their Christmas party, a veteran in a wheelchair was talking to us about the fact that he couldn't go out because the nursing home didn't have a wheelchair accessible van. What!!! How I wish this could be what we delivered with our gift cards this year. There are six veterans home in Florida, wouldn't it be nice if we could get enough funds to deliver gift cards to each and every veteran in all six homes! That will be another goal to reach.

If you or your community would like to have more information on how you could help, contact Bob or "T" at 239-599-7730. email address [teetime@frontiernet.net](mailto:teetime@frontiernet.net)

### Yard Sale Was Held To Help Offset Rent Increases

SUN Communities encouraged residents in their Signature Community, Park Place, to participate in a community wide yard sale held Jan 26th. According to bulletins, e-mailed to the community by HOA President Dale Glading, some residents on fixed incomes are depending on this sale to supplement their income and offset their recent rent increase. According to Glading these sales will be held twice a year. Over seventy five homes participated with the HOA paying for the city permits required for each lot. Residents reported several hundred carloads came through the park on that Saturday, shopping for

bargains. There was no prohibition on what could be sold or how it could be displayed on the lot. Such sales are typically prohibited by park prospectuses but with rents becoming an increasingly large percentage of income these restrictions were likely waived or ignored. SUN Communities is the second largest park owner in Florida with 85 FS723 properties. It's unclear if other park owners will follow suit in helping residents cope with soaring lot rents but for these parks this may allow many to stay in a SUN Communities' property who otherwise could no longer afford it.

### More and More Lots go to Non F.S. 723 Rentals

Renting with an option to buy has been around for a while in limited form in some communities. As lot rent levels make sales harder at least one major park owner in Florida has turned to longer term rentals to keep properties producing income. The same corporation appears to also be installing new homes in its parks dedicated to long term rentals. It's unclear if the renters share in the division of pass on charges such as property taxes or pay a share of expenses included in lot rents such as amenities. This is something HOAs in these parks should look at closely.

One thing is clear. Renters are being given equal access to amenities and common areas. This will lead to two distinct

classes of resident in these communities as renters are not covered under FS723 and are not eligible to vote in the HOA. At least one industry insider has told us rentals are the next wave in an effort to maximize profits from these properties. They do not enjoy the protections offered by FS 723 or an HOA; nor are they subject to the same scrutiny in rent levels. This arrangement presents the park owner with an opportunity to immediately price the lot at competitive rates to surrounding rentals such as condos or apartments and well above what it might fetch under FS723. Conceivably park owners could also use this in their rental negotiations by claiming these prices reflect the true market.



# News from the Field continued...

## Check Presented For Recruiting New Members

*John Hisro presented cheque to Marilyn Ivy*

*Marilyn was given the check for getting new FMO members at Embassy MHP at our last meeting in January.*

DISTRICT 2



## DISTRICT 1 BOARD INFORMATION

NAME	POSITION	MH PARK	Address	EMAIL ADDRSS	PHONE
Terry Frazee	President	Dell Lake	11928 Indian Beach, Spicer, MN 56288 (Oct to May) 206 W. Rainbow Ln, Dundee , FL 33838	<a href="mailto:frazee@tds.net">frazee@tds.net</a>	863-604-2330
Cliff Root	Exec VP	Hidden Golf	165 Greenview Dr., Winter Haven, 33991	<a href="mailto:rvdrmcshr@yahoo.com">rvdrmcshr@yahoo.com</a>	(C) 818-554-8542
Bill Schaffer	Treasurer	Tower Wood	454 Towerwood Blvd, Lake Wales 33859	<a href="mailto:bsi8080@yahoo.com">bsi8080@yahoo.com</a>	(C) 812-350-6448
Judy Scott	Secy	Cypress Gdns M/H Est	14A Beck St., WH 33884	<a href="mailto:genjudy0702@gmail.com">genjudy0702@gmail.com</a>	(H) 863-324-7936
Milley Currey	Dir	Lake Hammock Village	163 Glen Este Ct. Haines City 33844	<a href="mailto:momcurrey@hotmail.com">momcurrey@hotmail.com</a>	(C) 315-854-6248
Perry Brokaw	Dir	Ft Meade MHP	1034 2nd St. SE, Ft Meade, FL 33841 17365 Proper Rd, Mount Vernon, Ohio 43050	<a href="mailto:pbrokaw69@aol.com">pbrokaw69@aol.com</a>	(C) 419-525-7359
Ron Rulon	Dir	Woodbrook	5330 River Dr. Sweetwater, NJ 08037 (May1 to Oct 15) 1510 Ariana St. Lot 112, Lakeland, 33803	<a href="mailto:rbrulon@verizon.net">rbrulon@verizon.net</a>	863-683-8944
Tim Thomas	VP Bi-laws	Cypress Lakes	2933 Peavine Trail, Lakeland 33810 42 Dublin Drive, Ballston Spa, NY 12020 (June-Sept)	<a href="mailto:tthoma1@nycap.rr.com">tthoma1@nycap.rr.com</a>	(C) 518-885-4154
Christine Mansell	Advisory Rep	Rollinglen Subd	Jack' Ins Agency, Inc. 4710 New Tampa Hwy Lakeland 33815	<a href="mailto:Christine@jacks-insurance.com">Christine@jacks-insurance.com</a>	863-688-9271, x306
Loretta Vittorio	Section 5 Dir	Cypress Greens	260 Oak Lane, Lake Alfred 33850	<a href="mailto:lvittorio425@gmail.com">lvittorio425@gmail.com</a>	(C) 315-727-0227

## DISTRICT 6 BOARD INFORMATION

*L to R: John Mettner, Norma Woodall, Connie Williard, Bradley Williard*



NAME	POSITION	MH PARK	Address	EMAIL ADDRSS	PHONE
Norma Woodall	President	Oakview Estates	2252 NE Turner Ave Arcadia, FL 34266	<a href="mailto:ngwoodall@gmail.com">ngwoodall@gmail.com</a>	732-259-3955
John Mettner	Exec VP	Silver Oaks	215 White Poplar Sebring, FL 33876	<a href="mailto:randy.mettner@att.net">randy.mettner@att.net</a>	785-806-3187
Connie Williard	Secretary	Oakview Estates	2252 NE Turner Ave Arcadia, FL 34266	<a href="mailto:cwilliard6435@gmail.com">cwilliard6435@gmail.com</a>	717-673-3354
Bradley Williard	Treasurer	Oakview Estates	2252 NE Turner Ave Arcadia, FL 34266	<a href="mailto:bwilliard112@gmail.com">bwilliard112@gmail.com</a>	717-580-2582
Loretta Vittorio	Section 5 Dir	Cypress Greens	260 Oak Lane Lake Alfred, FL 33850	<a href="mailto:lvittorio425@gmail.com">lvittorio425@gmail.com</a>	315-727-0027

# NEW! FMO MEMBERSHIP DRIVE

November 1, 2018 thru April 15, 2019

## PARK REPRESENTATIVE INCENTIVE PROGRAM

For every NEW member (NEVER an FMO Member) that you sign up, you will receive \$5 for a one year paid membership and \$10 for a three-year paid membership.

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If you have experience in the following areas please contact Ms. Jane Clapp, Executive Director at (727) 530-7539 or email her at [Jane@fmo.org](mailto:Jane@fmo.org).



**Needed Expertise:** Public Relations, Newspaper/Publications, Communications, Political Activism, Public Policy, Membership Building, Computer Systems and Networks, Web Based Training and Seminars, Program Writing and Educators.



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**Questions?** Call Membership at 727.530.7539 or email [members@fmo.org](mailto:members@fmo.org)

**Thank You** for joining the only organization fighting for the rights of manufactured / mobile home owners!

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Rev. 10/18





# LEGAL By Lee Jay Colling Esq.



## ASSOCIATE MEMBERS

**Q:** We are a Chapter 723 Homeowner's Association and have the problem of having a significant number of renters in the park who rent a mobile home from the homeowner. We can find nothing about renters in Chapter 723 or our HOA

documents. My question is can renters attend HOA membership and Board meetings?

**A:** First, a "renter" is defined as a person who rents a mobile home from a homeowner in the Park. Chapter 723 does not include treatment of renters and their ability to attend meetings of the HOA. The answer to your question is that your HOA's By-laws should include direction as to whether the renter can or cannot attend HOA meetings. If the Board does not want renters to attend meetings and participate in any way, you need to clearly state this in your By-laws.

It has always been my recommendation that HOAs should include limited participation for renters, allowing them to be associate members, which upon payment of dues, allows them to attendance at membership meetings, serve on committees, etc., with the proviso that they cannot vote.

The advantage of having associate members is that it promotes inclusiveness, enlarges the pool of residents supporting the HOA, and allows everyone to "dance" together.

If your By-laws are silent regarding this subject, then renters would not be entitled to attend meetings. However, either way, it should be clearly stated in your By-laws. If you desire to recognize and allow renters to participate in the HOA activities, I would suggest that the following language be included in your By-laws:

**ASSOCIATE MEMBERS.** All persons renting a mobile home in the Park shall be eligible for associate memberships. Associate members shall pay the same dues as members and shall be entitled to all benefits except that associate members shall have no voting rights and cannot serve on the Board of Directors.

## BUMPED UP TO MARKET RENT

**Q:** I have lived in a Chapter 723 park for four years. We recently purchased another home there as an investment. The owner was a woman who died in the home. The home had a lien on it from Century 21 who held a mortgage on it. This is who I purchased it from they gave us all the proper papers (a copy of the lease and prospectus, and

bill of sale). We went to the office to inform them and was forced to pay for two more background checks and was given a new lease that is marked "Market Rate" no amount and was bumped up \$49.00 to \$815.00 per month. I was under the impression that like my first purchase I would be able to live out the current lease and once it ended my increase would be 2% or CPI. I have read chapter 723 many times but nowhere do I see the death of a tenant. Please let me know if I'm wrong.

**A:** There are too many unknown pertinent facts for me to give an opinion on your issues. However, a review of the following should assist you in determining what information is needed to determine whether you have a claim. It is important that you review Section 723.059, F.S. Section (1) states that a purchaser of a mobile home in the park must first qualify with the requirements of the park rules and regulations "subject to the approval of the park owner and other requirements." Section (2) of 723.059 provides for the "screening of the purchaser to determine whether he or she is qualified to become a tenant in the park. Section (3) states that the purchaser who becomes a resident in accordance with Section 723.059, F.S., has a right to "assume the remainder of the seller's one-year rental agreement," i.e. pay the same amount of rent the seller was paying until the end of the seller's annual term. Section (4) states that a park owner may increase the lot rental amount to be paid upon the expiration of the assumed rental agreement so long as such is disclosed prior to his or her occupancy, and the purchaser is entitled to rely on the terms and conditions of the prospectus, as delivered to the initial recipient. It is also important that you determine whether or not the lease is a lifetime lease or an automatically renewable lease since both of those types of leases are not assumable.

## 55 AND OVER

**Q:** Our Park is designated as 55 & Older yet young children are living in the Park. Is this legal?

**A:** The Fair Housing Act makes it unlawful to refuse to sell or rent a dwelling to any person because of race, color, national origin, sex, handicap, familial status, or religion. However, the law provides that the provision regarding "familial status" does not apply to "housing for older persons".

**Housing for older persons includes housing intended for occupancy by persons 55 years of age or older that meets the requirement of at least 80% of the occupied units are occupied by at least one person who is 55 years of age or older.**

.....LEGAL Continued on page 13



LEGAL Continued from page 12.....

To your question, the remaining 20% may be occupied by persons under 55 years of age, including "some small number of families with children." Thus, as long as your Park has at least 80% of its units occupied by persons 55 and over, it is perfectly legal to have children in the Park.

### CAN PARK MANAGER BE AN HOA MEMBER?

Q: Our Park Manager and his wife own a mobile home in the Park and attend our HOA Board and Membership meetings and pay our HOA dues. This seems like a conflict. Can they legally be members?

A: This is an issue that can be solved by amending your HOA By-laws by adopting the following language:

#### MEMBERSHIP

Section \_\_\_\_\_. MEMBERS. All persons owning mobile homes and leasing lots located in \_\_\_\_\_ Mobile Home Park, \_\_\_\_\_, Florida (the Park) shall be eligible for membership in this Association (Optional) except that the Park Owner

and any person or spouse of a person related to the Park Owner and the Park Management Company, including but not limited to past or present employees, agents, officers, directors, partners or relatives by blood or marriage shall not be eligible to be nominated for membership in the association. These restrictions may be waived by a majority vote of the Board of Directors.

If your Board feels that "not be eligible for membership" is too strong, you should at the least, provide that the Park Owner etc. "shall not be eligible to be nominated for or to serve on the Board of Directors."

### CHAPTER 723 MANAGEMENT CERTIFICATION

Q: What, if any, certification is required for Managers of Manufactured Home Communities? Our Board members are required to attend a certification class. Are there any state requirements for Managers? As a former owner of a condo, I know that condo managers are required to hold a CAM license.

A: There is no certification required for Managers of Chapter 723 Parks. CAM licensure and employment is only required for community association management of communities such as condos and cooperatives, which are authorized to impose a fee that may become a lien on a parcel. CAM requirements do not apply to Chapter 723 communities.

Chapter 468 Part VIII, Florida Statutes, applies to communities requiring CAMs but does not require a Board of Directors to hire a licensed CAM, provided the Board is managing the community without receiving compensation.

A CAM license for mandatory associations such as condos and co-ops (not Chapter 723) is required if an individual receives compensation for management services when the association has more than 10 units and has annual budgets in excess of \$100,000.00.

### HAVE A LEGAL QUESTION?

You can submit a question for FMO's Legal Counsel's consideration in one of the following ways:

Email: [diane@fmo.org](mailto:diane@fmo.org)

Fax: (727) 535-9427

OR Mail to:

FMO Office, 4020 Portsmouth Rd., Largo 33771

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# My HOA needs help – Where can we get it?

A proactive Home Owner's Association (HOA) is often stumped in their search for help in protecting their member's rights. Some HOAs choose to place their faith and the future of their members in creating harmony with management and desire no further assistance. Others, who find the terms and practices of management unacceptable to their membership, seek assistance in resolving member issues. Often they are stymied in their search for help. I will use a hypothetical example to walk you through many options.

The first step is clearly identifying the problem. In some cases, such as an unreasonable rent increase, this is easy. In others, such as arbitrary application of park rules, there may be more to it. Your Board of Directors (BOD) should put the problem they want to solve in the form of a motion at a board meeting. Example:

**I (a director present) make a motion that the board address the problem of early pool closure by management. It is in violation of our prospectus which states all recreational facilities will be open from 9:00 a.m. to 9:00 pm.**

The board votes on the motion and if passed discusses their course of action. Putting this to a vote at the front end insures support for the complaint and places it in the HOA permanent records. It may then be followed up on at subsequent BOD or membership meetings until rectified.

The next step is obvious. The BOD should request a meeting with management to discuss the problem. Insure two or more board members are present and notes taken. A report should be made at the next board meeting. If immediate action is needed an unscheduled meeting can be called but, unless truly urgent, you need to post it properly and give members 48 hours' notice. It is extremely important you maintain transparency and comply with the law. You need the support of members if you are taking your issue outside the park.

The next step, assuming onsite management fails to provide a satisfactory solution, is to contact the park owner. Some owners, including at least one public corporation, provide online contact forms for resident complaints. Have as many affected residents as possible individually log on and file a complaint. There is strength in numbers. If you are unsure how to reach the owner you can use the *"Name and address of*

*person authorized to receive notices and demands on the park owner's behalf"* found in the current prospectus. Normally management will be happy to provide this. Send a registered letter outlining the problem, history to date, and what the HOA sees as an acceptable solution. Allow a reasonable amount of time for a response and if none or an unacceptable response is received, you need to look elsewhere.

The source for assistance most often cited is the Department of Business and Professional Regulation (DBPR). Their Division of Condominiums, Timeshares, and Mobile Homes is tasked with enforcement of Florida Statute Chapter 723 (F.S. 723) which governs land-lease parks. Unfortunately, while the statutes charge them with enforcement they simultaneously limit what they can enforce – even though it may be a violation of the statute. In this example, you might file for a reduction in rent based upon a reduction in services. That is enforceable by DBPR. Most of the recourse found in F.S. 723 is through the civil courts. Even those areas DBPR agrees to look at will end up in non-binding arbitration from which the owner can simply walk away. Binding arbitration, found in other states, has yet to find approval or support in the Florida legislature. This would force park owners to accept the decision of mediators and should be added to F.S. 723. DBPR has a standard complaint form along with instructions. [Links for agencies and resources discussed in this article can be found on the FMO web site.](#)

A less known resource is the state and county Health Departments. In this example, it is the Health Department that regulates pools including size requirements, equipment needed, and day/night operation. Following our example you might contact them & see if the closure resulted from an inspection that found the pool was not properly engineered for night bathing. This would lend credence to your complaint with DBPR. They can also be a resource for issues such as standing water, unwanted pests, unsanitary conditions, or anything creating a health risk. They will send out an inspector if requested.

The local code enforcement agency may have some jurisdiction. This is normally a part of your city or county building department. They can send an inspector out to verify compliance with building codes, conformance to the Americans with Disabilities Act (ADA), and zoning issues. Perhaps it was the

.....HELP Continued on page 15

building department that shut down night use. Maybe you want to know if your pool is ADA compliant. It's possible having an inspector come out will convince management they should fix the problem.

Another little known resource is the Department of Agriculture. In Florida you can file a complaint with their Consumer Resources department. They handle all sorts of complaints for both regulated and unregulated businesses. Many things DBPR cannot enforce, such as Park Owner Obligations, can be addressed by this department. Essentially your lot rent agreement and prospectus is a contract with a business providing services. If they fail to provide them they are violating a business contract. You, as the consumer, have rights under state and federal laws to obtain redress. The recently elected Commissioner of the department, Attorney Nicole Fried, has a history of defending homeowner rights. In our example, I would most certainly lodge a complaint here as you are no longer receiving the services in your contract.

Florida's Attorney General also has an online complaint process. They are more interested in widespread violations of the law but yours may turn out to be one of many covering the same issue and exposing a greater level of violation across the state in multiple parks. Violations that affect many may be solved through class action at the state or federal levels. There is now class action lawsuit against a park owner filed in Federal court under the RICO statutes alleging the mobile homeowner's rights were subverted. This likely started as a complaint to the HOA. Each of these agencies will address a complaint, investigate to determine if their agency has jurisdiction, and provide a response.

The Better Business Bureau has an online complaint process. Any dispute that is not resolved in a reasonable amount of time with the owner should be reported here. A pattern of similar complaints from across the state against one owner may assist if a lawsuit is necessary. This also serves to warn potential customers of situations they may want to avoid.

Federal Agencies may help as well. The ADA has an online complaint form for issues you feel relate to their jurisdiction such as accessibility or discrimination. The Department of Housing and Urban Development (HUD) handles complaints relating to manufactured housing, the Fair Housing Act, 55+ communities, affordable housing, and much more.

The final recourse under Florida law is through the civil courts. You will need to hire an attorney and file a lawsuit. As an HOA it would be wise, even if your bylaws do not make it necessary, to obtain the written support of a majority of affected parties prior to entering into such an arrangement. Management has many tactics available to it to fight these measures. They may try to use residents seeking favor to divide the community and weaken support for the HOA. Other responses may further affect the residents' ability to use facilities, support given to social functions by management, and other negotiations such as lot rent. The sudden application of prospectus rules violations along with threats of eviction against supporters should not surprise you.

You need to be sure the community is behind you and the BOD will be able to fend off those who might benefit through support of management's side. A good subject for another article would be the selection of an attorney but suffice to say you want one with experience in F.S. 723. This process may conclude with little or no expense if a letter from the attorney convinces management you mean business. Should the attorneys for management decide to take it to the courts it may get quite expensive but if you win, costs may be recoverable. F.S. 723.0861 provides "The prevailing party in any action brought to enforce the provisions of this section shall be entitled to reasonable attorney's fees and costs." Make sure any settlement offered completely covers the HOA's expenses in the matter right down to postage spent and copying costs.

HOAs should set as a goal a legal fund sufficient to cover such a suit. HOAs must operate in compliance with F.S. 723 in order to represent their members. The opposing attorneys will try to use this to disqualify your HOA from the suit. Residents seeking favor from management often try to undermine HOA compliance with F.S. 723 by telling the community it is unnecessary or by providing false guidance in the guise of private training sessions to the BOD. This is often overlooked by HOAs solely seeking harmony or simply operating social clubs. Such HOA's will not be able to help their residents if legal action is required regardless of their funding. FMO training can help you operate your HOA so it meets these requirements giving you the right to protect your members.

***Russell S. Watson***  
***Director-at-Large***



## ***Congratulations!***

### **ROBERT TACKETT**

*Robert Tackett and his wife, Anna, have wintered at Cedar Cove MHP in Sarasota for 25 years. They have been married for 71 years and have been blessed with two children, six grandchildren, fifteen great-grandchildren and one great-great grandchild.*

*Robert retired after 32 years of service with the Federal Government in Ohio.*



***If you are or you know an FMO member who is at least 90 years old, please let us know.***

***Special thanks to the family and friends who continue to support this column by sending in photos and articles of their friends, neighbors and relatives.***

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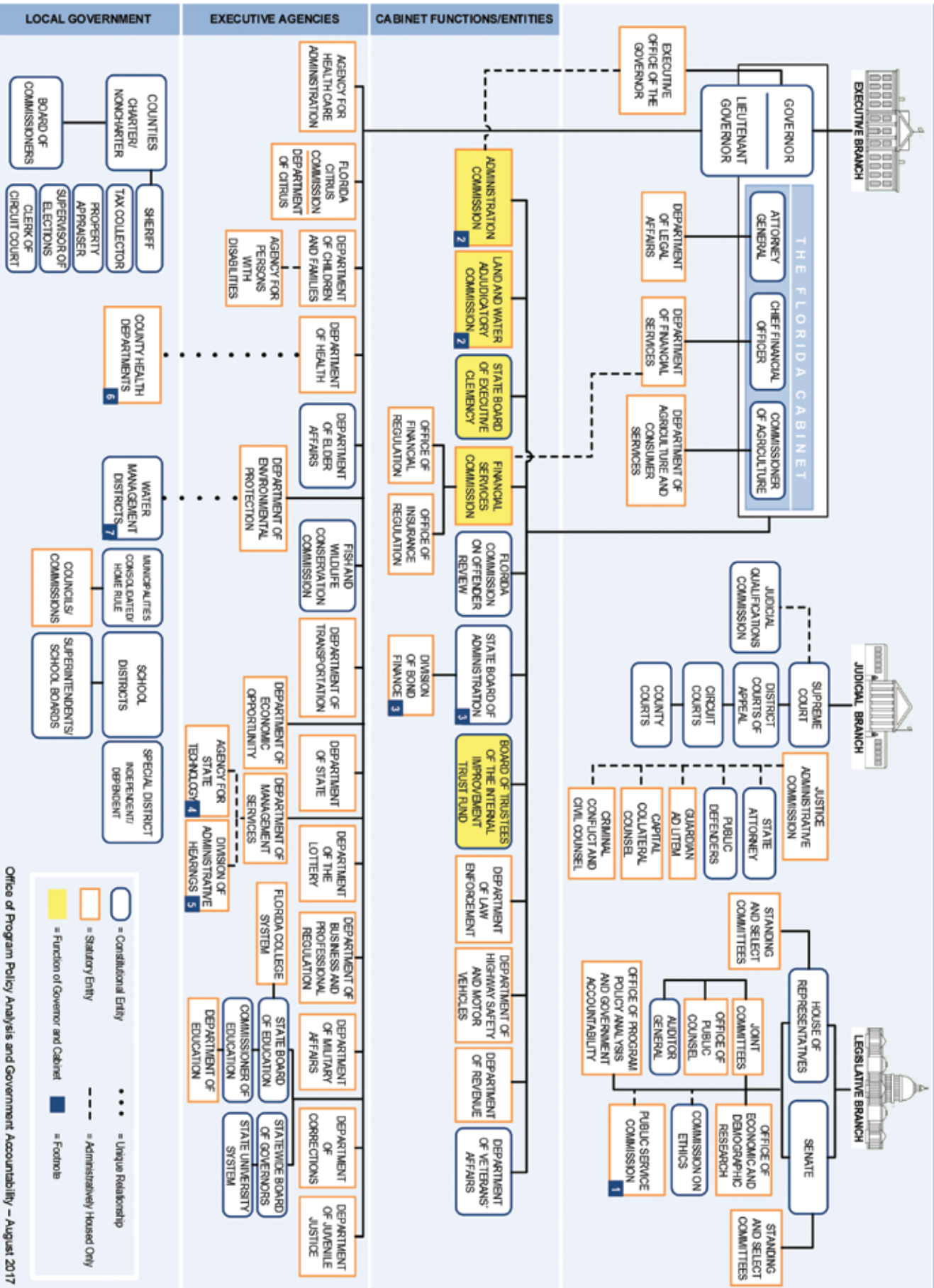
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