

“PARK TRAILERS” AND CHAPTER 723

Chapter 723, Florida Statutes, applies to “any residential tenancy in which a mobile home is placed upon a rented or leased lot in a mobile home park in which 10 or more lots are offered for rent or lease.” Confusion has arisen regarding the applicability of the statute to park trailers.

In 1993, section 513.014 was amended to provide that Chapter 723, if applicable, must be complied with where mobile home spaces are rented for the placement of RV's. Chapter 513 has always required that when a mobile home park rents spaces for the placement of RV's on the basis of long term leases, the park owner must comply with the laws relating to mobile home parks. The addition of the phrase “including, but not limited to, Chapter 723, if applicable” did not change the existing law but only clarified that *mobile home spaces* rented for the placement of RV's would be governed by chapter 723, if that statute was applicable to that rental situation. As such, the key questions then in determining the applicable governing law become whether the RV at issue is located on a RV or a mobile home space, and whether the RV qualifies as a “mobile home.” Neither Chapter 513 nor Chapter 723 extends protections under Chapter 723 to the owners of RV's located outside of a mobile home park.

The amendment provided no additional benefits to RV owners in that the same protections previously existed under Section 513.014 as enacted in 1984. The earlier statute was not restricted to RV's located in mobile home parks, and even if such was the case, the amendment did not change anything in that the limitation of chapter 723, if applicable, means that section 513.014 only applies to Chapter 723 mobile home parks and those parks were previously included within the ambit of Section 513.014. Thus, since 1984, any RV owner whose home was located within a mobile home park and who had a long-term lease had the same protections as those reconfirmed by the referenced amendment to 513.

Therefore:

(1) Park models in an RV resort (assuming that the RV resort is not a mobile home park as defined in Chapter 723) are not governed by the provisions of Chapter 723 regardless of the length of the term of the rental agreement offered to the RV owners.

(2) Park models in an RV resort are not afforded the protections of Chapter 723 because those protections apply only to RV's located on mobile home spaces within mobile home parks as defined in Chapter 723.

DBPR Issues Declaratory Statement on Association Membership by RV Owners

DBPR has issued a declaratory statement regarding “whether pursuant to section 723.075, Florida Statutes, residents of recreational vehicles, located within the park, are eligible to be members of the homeowners association.

At issue in this matter is that portion of section 723.075(1) which provides that “[t]he association shall have no member or shareholder who is not a bona fide owner of a mobile home located in the park.” In light of this provision and based on a review of the intent section of Chapter 723 (section 723.002) and on the definition of “mobile home” as found in section 723.003(3), and the definition of “mobile home park” set forth in section 723.003(6), the agency stated that:

Section 723.006, Florida Statutes, lists the powers and duties of the Division. The Division does not have authority to require that a mobile home park form a particular type of homeowners association. It follows then that the recreational vehicle residents could be members of the association, although not eligible for chapter 723 protections.

Nonetheless, it was concluded that “[a] homeowners association that has members who do not own a mobile home located in that park, does not comply with section 723.075(1), Florida Statutes.”

As such it is arguable that any homeowners’ association which has a member who is an RV owner (and not a mobile home owner) does not qualify for the rights and privileges afforded such associations under Chapter 723.