Mobile home relocation, eligibility for compensation

Number: AGO 2012-39

Date: November 21, 2012

Subject:
Mobile home relocation, eligibility for compensation

Mr. Terry J. Harmon
General Counsel
Florida Mobile Home Relocation Corporation
123 North Monroe Street
Tallahassee, Florida 32301

RE: MOBILE HOMES – MOBILE HOME RELOCATION – MOBILE HOME PARKS – eligibility of mobile home owner to receive relocation compensation when the mobile home park is no longer subject to regulation by Department of Business and Professional Regulation. ss. 723.002, 723.004, 723.0611, 723.06115, 723.06116, and 723.0612, Fla. Stat.

Dear Mr. Harmon:

On behalf of the Florida Mobile Home Relocation Corporation (FMHRC), you ask the following question:

Does the decision by the Florida Department of Business and Professional Regulation to no longer regulate Hollywood Mobile Estates impact the rights of mobile home owners in the mobile home park to apply for and obtain abandonment and relocation assistance from the Florida Mobile Home Relocation Corporation?

In sum:

A mobile home owner who submits the appropriate application for payment for relocation of a mobile home pursuant to Chapter 723, Florida Statues, and has not received payment otherwise from the mobile home park owner, is entitled to payment if there are sufficient funds in the Florida Mobile Home Relocation Corporation Trust Fund to make such payment.

You state that Hollywood Mobile Estates (Hollywood Estates) is located on land owned by the Seminole Tribe of Florida (Seminole Tribe) and since approximately 1985 has been operated under an agreement with a private corporation as a mobile home park with 10 or more lots regulated by the Florida Department of Business and Professional Regulation (DBPR). In August 2012, the Seminole Tribe notified DBPR that it had cancelled its lease with the private corporation which previously operated Hollywood Estates and that the tribe had assumed control of the mobile home park. The Seminole Tribe further advised DBPR that it was not subject to regulation under Chapter 723, Florida Statutes. You indicate that in mid-September, the Seminole Tribe notified mobile home owners in Hollywood Estates that effective June 30, 2013, the park would be closed and no leases would be renewed.

Your letter further indicates that DBPR has determined that it no longer has jurisdiction over Hollywood Estates. As such, this office does not comment, nor have we been asked to comment, upon whether the Seminole Tribe would be required to reimburse the trust fund for payments made to mobile home owners. This office has been advised that several applications for payment have been received by FMHRC. The materials you have provided, however, indicate that the Seminole Tribe has offered an assistance grant of $3,000.00 for relocation expenses to eligible owners of mobile homes in the park. It may be advisable, therefore, to explore the possibility of working with the Seminole Tribe to disburse the funds it has offered to mobile home owners in the park.

The Florida Mobile Home Act[1] 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."[2] The Legislature recognizes that unique factors are created by the relationship that develops between a mobile home owner and the mobile home park owner once occupancy has commenced and that such factors may affect the parties' bargaining positions and the operation of market forces, *i.e.,* basic property rights of a mobile home owner must be protected while considering the legitimate business interest of the park owner.[3] The act provides:

"This chapter is created for the purpose of regulating the factors unique to the relationship between mobile home owners and mobile home park owners in the circumstances described herein. It recognizes that when such inequalities exist between mobile home owners and mobile home park owners as a result of such unique factors, regulation to protect those parties to the extent that they are affected by the inequalities, while preserving and protecting the rights of both parties, is required."[4]

Section 723.0611, Florida Statutes, creates the Florida Mobile Home Relocation Corporation, which is authorized to adopt a plan of operation to administer the provisions of sections 723.06115, 723.06116, and 723.0612, Florida Statutes.[5] Section 723.06115, Florida Statutes, establishes the Florida Mobile Home Relocation Trust Fund (fund) within DBPR "to be used by the department for the purpose of funding the administration and operations of the Florida Mobile Home Relocation Corporation." The fund is funded by moneys collected by DBPR under section 723.06116, Florida Statutes, from mobile home park owners who change the use of their mobile home parks, a surcharge collected by the department pursuant to section 723.007, Florida Statutes, a surcharge collected by the Department of Highway Safety and Motor Vehicles, and by other appropriated funds. The funds may be used only for the payment of the administrative costs of the corporation and to carry out the purposes and objectives of the corporation "by making payments to mobile home owners under the relocation program."[6]

Pursuant to the mobile home relocation statute, a mobile home park owner subject to the act may evict a mobile home owner, mobile home tenant, a mobile home occupant, or a mobile home only on one or more of several enumerated grounds, one of which is, a change in use of the land from mobile home lot rentals to some other use.[7] Section 723.06116(1), Florida Statutes, provides:

"If a mobile home owner is required to move due to a change in use of the land comprising a mobile home park as set forth in s. 723.061(1)(d), the mobile home park owner shall, upon such change in use, pay to the Florida Mobile Home Relocation Corporation for deposit in the Florida

Mobile Home Relocation Trust fund $2,750 for each single-section mobile home and $3,750 for each multisection mobile home for which a mobile home owner has made application for payment of moving expenses. The mobile home park owner shall make the payments required by this section and by s. 723.0612(7) to the corporation within 30 days after receipt from the corporation of the invoice for payment. Failure to make such payment within the required time period shall result in a late fee being imposed."

The section further states:

"A mobile home park owner is not required to make the payment prescribed in subsection (1), nor is the mobile home owner entitled to compensation under s. 723.0612(1), when:
(a) The mobile home park owner moves a mobile home owner to another space in the mobile home park or to another mobile home park at the park owner's expense;
(b) A mobile home owner is vacating the premises and has informed the mobile home park owner or manager before the change in use notice has been given; or
(c) A mobile home owner abandons the mobile home as set forth in s. 723.0612(7).
(d) The mobile home owner has a pending eviction action for nonpayment of lot rental amount pursuant to s. 723.061(1)(a) which was filed against him or her prior to the mailing date of the notice of change in use of the mobile home park given pursuant to s. 723.061(1)(d)."

You have not indicated that the mobile home owners in Hollywood Estates would be ineligible to receive compensation due to one of the conditions enumerated above. In order to receive payment from the FMHRC, the act requires a mobile home owner to submit an application for payment which contains a copy of the notice of eviction due to change in use and a contract with a moving or towing contractor for the moving expenses for the mobile home.[8] When the Legislature has prescribed the manner in which something is to be accomplished, it generally operates as a prohibition against its being done in any other way.[9]

As a statute designed to protect the public's interest, the provisions in Chapter 723, Florida Statutes, should be liberally construed in favor of the public.[10] Applying a broad construction to protect the interests of the mobile home owners who are being forced to move due to a change in the use of the mobile home park and absent any showing that the affected mobile home owners have failed to meet the requirements of the statute, the mobile home owners in Hollywood Estates would not be disqualified from applying for and receiving relocation benefits provided by the FMHRC under Chapter 723, Florida Statutes. As noted above, if a mobile home owner in Hollywood Estates accepts compensation from the Seminole Tribe for relocation compensation, the home owner would be precluded from receiving compensation from FMHRC.

Accordingly, it is my opinion that a mobile home owner who submits the appropriate application for payment for relocation of a mobile home pursuant to Chapter 723, Florida Statues, and has not received payment otherwise from the mobile home park owner is entitled to payment if there are sufficient funds in the Florida Mobile Home Relocation Corporation Trust Fund to make such payment.

Sincerely,

Pam Bondi

Attorney General

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[1] Section 723.001, Fla. Stat.

[2] Section 723.002(1), Fla. Stat.

[3] Section 723.004(1), Fla. Stat.

[4] *Id.*

[5] Section 723.0611(3), Fla. Stat.

[6] Section 723.06115(2), Fla. Stat.

[7] See s. 723.061(1)(d), Fla. Stat.

[8] Section 723.0612(3), Fla. Stat.

[9] *Alsop v. Pierce*, 19 So. 2d 799, 805-806 (Fla. 1944); *Dobbs v. Sea Isle Hotel*, 56 So. 2d 341, 342 (Fla. 1952); *Thayer v. State*, 335 So. 2d 815, 817 (Fla. 1976).

[10] *See Department of Environmental Regulation v. Goldring*, 477 So. 2d 532, 534 (Fla. 1985) (provisions of statutes enacted in the public interest should be given a liberal construction in favor of the public).