

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: March 18, 2019
TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk
FROM: Andrew King, Office of the General Counsel *ak*
RE: Docket No. 20190041-WS

Please file the attached materials in the docket file listed above.

Thank you.

Attachment

RECEIVED-FPSC
2019 MAR 18 AM 9:18
CLERK



**Florida Manufactured
Housing Association, Inc.**

**In re: Proposed adoption of Rule 25-30.115, F.A.C.,
Definition of Landlord and Tenant**

**Docket No. 20190041-WS
Filed: March 18, 2019**

The Florida Manufactured Housing Association (FMHA) appreciates the opportunity to provide follow up comments to the March 4, 2019 rulemaking workshop.

FMHA represents factory home builders, home retailers, community owner/operators and affiliated industry businesses in the state of Florida. We are concerned that the proposed definition of "landlord" and "tenant" in the Notice of Development of Rulemaking issued on February 18, 2019 will have an adverse impact on mobile home community owner/operators with subdivision lots that provide private water and wastewater services.

The proposed definition would limit the Section 367.022(5) Florida Statutes, exemption to home owners that lease their lot in a mobile home park but exclude home owners that own their lots. This narrow interpretation of "tenant" is not appropriate for a mobile home subdivision lot owner. A mobile home park is different than an apartment or a condominium. Due to the hybrid nature of a mobile home park, subdivision lot owners are tenants for the purposes of the Florida Mobile Home Act, Chapter 723, Florida Statutes. These community residents made the decision to purchase a home and a lot in a mobile home park, and by doing so they sought out and agreed to a landlord/tenant relationship.

Chapter 723, F.S, confers certain tenant rights to mobile home subdivision owners, including: protections for residing in a managed community with established rules and regulations; receiving a 90-day notice of increases in the lot rental amount, a reduction in services or utilities or a change in rules and regulations; the ability to petition the Department of Business and Professional Regulation to mediate disputes between the mobile home park operator and a subdivision lot owner; representation by a mobile home park homeowners' association and the unencumbered right to sell their home and lot. By all accounts a mobile home park subdivision lot owner is a tenant with protections afforded to them under Chapter 723, F.S.

Page Two

Additionally, FMHA is concerned that the proposed definition will have a disproportionate impact on land lease home owners that currently enjoy the landlord/tenant exemption. If the proposed definition is adopted, not only will the 36 subdivision lots in Palm Tree Acres Mobile Home Park be subject to utility regulation, the other 208 land lease households served by the regulated utility will also be subject to significantly higher costs. It is not fair or equitable for land lease home owners to lose their landlord/tenant exemption because subdivision lot owners, who opted to be in a landlord/tenant relationship when they purchased a home and lot in Palm Tree Acres, later decided to opt out of that relationship.

At the March 4, 2019 workshop, I reported that FMHA attempted to quantify the impact of the proposed definition on the industry. While FMHA was able to identify several mobile home parks in Florida containing fee simple lots, few had private water systems. In fact, FMHA could not identify any PSC-regulated mobile home parks with 50 or fewer subdivision lots served by a private water system. The adoption of the proposed definition will not result in a significant number of new mobile home parks being regulated by the PSC, but the high cost of regulatory compliance will exceed the benefits to the small number of residents that the proposed rule is intended serve.

While the legislature did not define "landlord" and "tenant" when it passed Section 357.002(5), F.S., the legislature clearly defined a mobile home park subdivision lot owner as a tenant in Chapter 723, F.S. Since these subdivision lot owners sought out and purchased a home and a lot in a mobile home park and enjoy the services and amenities available to park residents, including the use of real property, such as common areas, private roads and the parks infrastructure, they should be considered tenants for all purposes, including water and wastewater services.

Thanks again for the opportunity to follow-up with you.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Ayotte". The signature is stylized and written in cursive.

James R. Ayotte
Executive Director