



The Economics of Preserving Mobile Home Parks conference workshop. Panelists, James Ayotte, Florida Manufactured Housing Association Executive Director (at podium); moderator, Florida Housing Coalition President, Jaimie Ross; panelist Janet Riley, Attorney at Law, Broward County Legal Aid. To the left of podium (not pictured) was panelist Dr. James Carras, Carras & Associates, consultant for Town of Davie.

Mobile Home Parks and Florida's Land Use Laws

BY JAIMIE ROSS

Secretary Pelham wowed the crowd of more than seven hundred housing professionals, with his strong, positive comments in support of enforcing the housing element requirements of Florida's comprehensive planning laws. He explained that comprehensive plan amendments to rezone mobile home parks when there is no alternative housing will be found "not in compliance" by the DCA. This is a wholly different course and position from that taken by the previous DCA Secretary at a time when record numbers of mobile home parks were rezoned out of existence.



The current position of the DCA is truly monumental to the cause of preserving mobile home parks for the residents who live there.*
What does

this mean to local governments in Florida? If a local government makes a determination that there is no alternative housing within its jurisdiction for its current mobile home

An analysis of manufactured home communities that closed due to a change in land use in Florida from July 2001- July 2006 reveals that more than 22,000 mobile home sites were lost. The data was compiled from databases kept by the Florida Mobile Home Owners and the Florida Manufactured Housing Association (although based primarily on newspaper articles and personal knowledge, so likely undercounted). Twenty nine of the mobile home parks had more than 200 homesites; 179 of the home sites were less than 200 units. Some of the largest losses were in: Broward County- lost 2,194 mobile home sites; Dade County- lost 1,862 home sites; Lee County- lost 902 home sites; Palm Beach County- lost 1,424 home sites; Pinellas- lost 4,864 home sites; Sarasota- lost 1,561 home sites.

park residents it must not rezone its existing parks. Only if there is alternative housing available within the jurisdiction can a mobile home park rezoning be in compliance with Florida's housing element law, which requires both adequate housing for the existing population and adequate sites for mobile homes.

Why is this so important? Because the statute that ostensibly provides the most protection for mobile home park residents, Section 723.083, Florida Statutes can and is circumvented regularly when mobile home park owners or the prospective buyers of the park hire "relocation experts" to coerce mobile home park residents into leaving the park. The relocation experts offer a small lump sum of money which decreases with each month or week they delay in accepting a few thousand dollars—money that can only keep the residents from homelessness for a short period of time, but which is more than they can reasonably anticipate receiving if they fail to accept. Once the mobile home park is empty, the provisions of Section 723.083 become moot because there are no residents to be displaced—they have already been displaced.

723.083 Governmental action affecting removal of mobile home owners.

No agency of municipal, local, county, or state government shall approve any application for rezoning, or take any other official action, which would result in the removal or relocation of mobile home owners residing in a mobile home park without first determining that adequate mobile home parks or other suitable facilities exist for the relocation of the mobile home owners.

land use principles and in compliance with land use laws—one of those land use laws is the requirement that local government ensure the provision of adequate sites for affordable housing and for mobile homes.

If the local government is to comply with the requirements of the 1985 Growth Management Act, and most specifically with the housing element requirement to ensure adequate sites for mobile homes, and to ensure that its residents are not made homeless from government action, it becomes clear (albeit unconventional or perhaps even startling) that mobile home parks cannot be rezoned when there are no alternative sites for the population currently housed in the mobile home park.

THE LAND USE ISSUE.

The Housing Element requirements of the 1985 Growth Management Act include that every local government have adequate sites for affordable housing and provide for housing all its current residents. Florida provides broad local home rule powers. When faced with a request for a rezoning, the local government must balance the property rights of the land owner with the health, safety and welfare of the community.

Rezoning is a land development regulation that is granted by local government after engaging in this balancing of private property rights and the health, safety, and welfare of the community. Rezoning is not an unfettered right, even when consistent with the comprehensive plan. Rezoning is a quasi-judicial decision that can not be arbitrary or capricious—it is a decision that must be made in accordance with sound

THE FOLLOWING IS THE DEPARTMENT'S POSITION:

Local comprehensive plans are required to make provision for "adequate sites for future housing, including housing for low-income, very low-income, and moderate-income families, mobile homes, and group home facilities and foster care facilities, with supporting infrastructure and public facilities" and "provision for relocation housing." Section 163.3177(6) (f) I.d. and e., Florida Statutes. This statutory requirement is reflected in Chapter 9J-5, Florida Administrative Code. See Rule 9J-5.010, F.A.C.

Therefore, if a local government amends its local comprehensive plan to provide for the conversion of existing mobile home parks to other uses, the local government must submit to the Department data and analysis which demonstrates that after the conversion there will still be adequate sites for mobile homes which will be available to persons displaced by the conversion. Further, if a mobile home park is going to be converted to nonresidential use or to housing for high income persons, the local government must demonstrate that there will still be an adequate supply of housing for low-income, very low-income, and moderate income families in the local jurisdiction. If the local government does not make this demonstration, the Department will find the plan amendment not in compliance.

Department of Community Affairs Secretary, Tom Pelham

What if the mobile home park owner empties the park by failing to renew leases? In this way, the owner can argue that no one is being displaced, that no alternative housing need to be found prior to rezoning. This might get the owner and the local government around the requirements of 723.083, Florida Statutes, but it does not change the comprehensive planning law that requires adequate sites for very low income households and for mobile homes. So long as there is a population in need of mobile home park land to have safe and adequate housing, the park should not be rezoned. 

**Although this is a new position for the DCA, it is completely consistent with the two Attorney General Opinions issued on this subject by Attorney General, Jim Smith in 1986 and Attorney General Charlie Crist in 2005.*