

# TGHOA Attorney Speaks to The Gardens Community

By Mark Witt

TGHOA attorney Harlan Domber spoke to Gardens residents at the annual homeowners meeting February 10 regarding the importance of the relationship of a homeowners association, all residents and management. All residents of The Gardens were invited to attend. Domber laid out information on what has occurred and is occurring at state level and the actions of the Federation of Manufactured Homeowners (FMO) as well as the local group in our area of the Alliance of Park Residents (APR). FMO is a Florida organization of homeowners which represents manufactured home owners and maintains lobbyists in Tallahassee. APR is a local group comprised of TGHOA, Veranda Springs, and other local manufactured home communities. Both organizations are working to put into effect a provision to require the right of first refusal to homeowners when a park is offered for sale. At present there is no such protection.

Domber explained how Florida Statute Title 40, Chapter 723 applies to mobile home owners in mobile home parks of more than ten homes. It addresses the rights of both home owners and park owners. A homeowners' association has the exclusive right to negotiate with the park owner on rental increases, rule changes, and the purchase of the park for the homeowners. Initially, two-thirds of the homeowners must agree in writing to belong to the association. "However," he added, "there is no provision in the statutes to maintain a two-thirds membership." TGHOA remains a viable body so long as it pays its annual fees to the state and remains in good standing with the state requirements.

He went further to explain the importance of everyone in a mobile home park supporting and becoming a member of a homeowners association to maintain solidarity. There is no conflict in handling the political association with management and a separately functioning social organization with separate funds which offers enhancement of homeowners' social life.

As to the judgment issued by the Court awarding attorneys' fees to Mihevic Management in a 2003 lawsuit, Mr. Domber spoke to the law which established the judgment and added that the final award was approximately one-half that sought by Mihevic Management. **MORE IMPORTANT is the fact that the judgment is against TGHOA as a CORPORATION which gives the company separate legal standing from its owners and protects the home owners from being personally liable in the event that the company is sued (a condition known as limited liability).**

Opportunity to buy: (Note that The Gardens is NOT for sale.) Should the opportunity arise, residents should understand and react properly to the opportunity accordance with State Statute 723. There is a short time limit to reply to an offer. Park owners may sell or change usage of the park by notification of change which is followed by eviction of the mobile home owners. Such sales and subsequent usage change followed by eviction have occurred in the Bay area. It should be noted that park owner Edward Mi-

hevic has stipulated in writing his agreement that should The Gardens become available for sale, Gardens homeowners will be afforded the opportunity of first refusal.

The stability of manufactured home parks is evident. Mr. Domber reported that in his experience, there are no homeowner owned parks under threat of foreclosure. Although some manufactured homes are mortgaged, the vast majority are not. The homeowner has a large stake in the park and as a park owner he and she have more say as to how the park is managed. He and she experience the perquisite of lower fees and a lower cost of living. The stability of a manufactured park is far higher than that which real estate has experienced with site-built homes.

Homeowner owned parks in this area such as Terra Siesta have paid off their basic mortgages in 15 years. Terra Siesta owners voted to extend their mortgage equity to add improvements such as the berm facing 301. In addition, the share which is owned by the homeowner has increased from its original price of \$16,000 to double, and in some instances, more than double. You own the share – no one else.

Evaluation: Each year TGHoA evaluates, with professional help, the value of The Gardens and makes an offer to Mihevic Management. It is imperative that residents understand how this works. It is a complicated process in which Mr. Domber has been involved more than once. Rules of the approach are governed by State Statute 723 including the time limits to respond. That is why residents must stay apprised of what is going on.

Financial arrangements for a mortgage are arranged by the company contracted by the homeowner's association. There are no fees by the companies who do the agreements and make arrangements for transfer unless the arrangements are completed and enough subscriptions to buy are agreed to affect the purchase. Money collected is held in escrow and not released to anyone pending acceptance and mortgage arrangements.

From time to time, the TGHoA committee and the firms tasked with making arrangements have secured agreements from banks to finance the mortgage. Domber emphasized that experience shows that 30-40% of homeowners do not subscribe initially. Those individuals are in no way required to buy but continue to rent as they have without prejudice. Experience shows that they continue to pay as renters without the certainty of the unreasonable increases to which they are now subject under for-profit owners.

Those who subscribe to ownership may pay cash or make arrangements with the bank to mortgage their share in the park. Experience shows that in many instances the individual mortgage for the park is paid through savings realized from the reduction of rental and maintenance premiums. It also should be noted that the homeowner who is a resident of Florida no longer pays an annual fee to DMV (your colored sticker) but receives a homeowner's exemption for real property as any real estate owner in Florida and is taxed as a homeowner - not as a business.

Manufactured home owners now pay the Garden's entire real estate taxes through their monthly rent. It is a fixed amount from a past date established by management in the original prospectus. Changes in the prospectus now provide that any increase from that date is the amount you see listed in your rent payments as tax each year. The rental fees are established by management based on factors which are broadly and liberally defined by the state in State Statute 723. There is no control except through litigation (experience goes against that idea) against continually increasing rent. Lawyer Domber reminded us that "Florida does not accept rent control." It is only through the homeowners association that negotiations can be attempted with management.

By law, TGHoA is your representative regardless of membership or non-membership. It is important to have a voice through membership.