S T A T E O F T E N N E S S E E
OFFICE OF THE
ATTORNEY GENERAL
P.O. BOX 20207
NASHVILLE, TENNESSEE 37202

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Opinion No. 01-159

Placement of Double-Wide Trailers in Trailer Parks

QUESTIONS

1. Does Tenn. Code Ann. § 13-24-201 operate to preclude the placement of double-wide trailers in trailer parks by deeming them "residential dwellings"?

2. Does any state statute or regulation prohibit the placement of double-wide trailers in trailer parks?

3. Does the term "manufactured residential dwelling," as that term is used in Tenn. Code Ann. § 13-24-201, apply to both single and double-wide trailers?

4. Does any state statute or regulation prohibit a "manufactured residential dwelling" from being placed in a trailer park?

OPINIONS

1. No, Tenn. Code Ann. § 13-24-201 does not operate to preclude the placement of double-wide trailers in trailer parks.

2. No, this office is aware of no state statute or regulation that would prohibit the placement of double-wide trailers in trailer parks.

3. As used in Tenn. Code Ann. § 13-24-201, the term "manufactured residential dwelling" includes double-wide trailers, provided such dwellings have the same general appearance as site-built homes; however, the term "manufactured residential dwelling" does not include single-wide trailers if such dwellings are constructed as a single self-contained unit and mounted on a single chassis.

4. No, this office is aware of no state statute or regulation that would prohibit a "manufactured residential dwelling" from being placed in a trailer park.

ANALYSIS

Your request addresses the effect of Tenn. Code Ann. § 13-24-201 on the placement of double-wide trailers in trailer parks. Section 13-24-201 provides that, "[n]otwithstanding any provision of the law to the contrary, no power or authority granted by this code to regulate zoning or land use planning shall be used to exclude the placement of a residential dwelling on land designated for residential use solely because the dwelling is partially or completely constructed in a manufacturing facility." Tenn. Code Ann. § 13-24-201(a) (1999). The statute further provides that, as used therein, the term "residential dwelling" does not apply to "factory-manufactured mobile homes constructed as a single self-contained unit and mounted on a single chassis, and as further defined in § 68-126-202(4), (6) and (7)." Tenn. Code Ann. § 13-24-201(b) (1999). In enacting § 13-24-201, the legislature indicated that the statute should have no effect on "any zoning or other regulations whether state or local concerning such factory-manufactured mobile homes." *Id*. The legislature also provided that, in order to qualify for § 13-24-201's protection, "[s]uch manufactured residential dwelling shall have the same general appearance as required for site-built homes." Tenn. Code Ann. § 13-24-202 (1999).

In *Tennessee Manufactured Housing Ass'n v. Metropolitan Government*, 798 S.W.2d 254, 256 (Tenn. Ct. App. 1990), the Court of Appeals observed that the legislature enacted § 13-24-201 "to prevent local zoning ordinances from excluding certain types of manufactured 'residential dwellings' from residential districts." After examining § 13-24-201's reference to "factory-manufactured mobile homes" in light of the statute's legislative history, the court concluded that § 13-24-201 "protects all manufactured residential dwellings, except for motor homes, recreational vehicles, and 'manufactured mobile homes constructed as a single self-contained unit and mounted on a single chassis.'" *Tennessee Manufactured Housing Ass'n*, 798 S.W.2d at 259. The court specifically concluded that § 13-24-201's "protection extends to double-wide manufactured homes." *Id*. at 260.

In accordance with the Court of Appeals holding, the term "manufactured residential dwelling" includes double-wide trailers, provided such dwellings have "the same general appearance as required for site-built homes." *Id*. at 259 (quoting Tenn. Code Ann. § 13-24-202 (1987)). However, the term does not necessarily include single-wide trailers. If a single-wide trailer is "constructed as a single self-contained unit and mounted on a single chassis," then it will not qualify as a "manufactured residential dwelling" entitled to § 13-24-201's protection. Tenn. Code Ann. § 13-24-201(b) (1999).

Although the court concluded that a double-wide manufactured home would qualify as a manufactured residential dwelling entitled to § 13-24-201's protection, such a conclusion has no effect on the placement of a double-wide trailer or any other type of dwelling in a trailer park. Section 13-24-201 merely serves to protect some types of manufactured homes from the effects of exclusionary zoning; the statute does not operate to exclude these manufactured homes from trailer parks or any other residential areas.

This office is aware of no state statutes or regulations that would exclude double-wide trailers or other manufactured homes from trailer parks; however, this office also is unaware of any state statute or regulation that would prohibit the owner or developer of a trailer park from excluding such structures. For example, a trailer park owner or developer could justifiably limit the size of a dwelling to be placed in the trailer park subject to lot size limitations and other factors. *See, e.g.*, Tenn. Att'y Gen. Op. No. 98-116 (June 25, 1998) (opining that, although state statute prohibited local governments from imposing different land use and zoning restrictions upon modular homes than they impose upon site-built homes, "[n]othing in Tennessee law prohibits developers from including in their deeds restrictive covenants of this nature").

PAUL G. SUMMERS
Attorney General and Reporter

MICHAEL E. MOORE
Solicitor General

MARY ELLEN KNACK
Assistant Attorney General

Requested by:

The Honorable Jim Vincent
State Representative, 31st Legislative District
207 War Memorial Building
Nashville, TN 37243-0131