

STATE LEGISLATION

A Reminder: You Cannot Choose Residents' Dealers



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It has been well understood that a park owner may not require a resident to employ any particular dealer, broker, contractor, or other vendor in respect to purchase, sales and work. The latest iteration of this reminder is SB 804 (Leno). The author raised various examples of the need for this bill, resulting from reports that some manufactured home community owners were, indeed, requiring that park residents purchase and install mobilehomes only by contract with a particular dealer. This bill therefore expressly prohibits the park owner from requiring that the resident select a particular dealer when the resident chooses to replace the manufactured home.

The Mobilehome Residency Law forbids the community owner from requiring that sales be conducted through a specific dealer; and the law, generally, prohibits certain forms of anti-competitive activity relative to businesses across the state. In specific respect to the Mobilehome Residency Law:

- Civil Code §798.37 provides that the community owner may not require a homeowner or prospective homeowner to purchase, rent, or lease goods or services for landscaping, remodeling, or maintenance from any person, company, or corporation.
- Civil Code §798.71 states that the community owner may not show or list a home for sale without first obtaining the homeowner's written authorization.
- Civil Code §798.71 (e) states that management shall not prohibit the listing or the sale of a home by the homeowner, an heir, joint tenant, or personal representative or agent of any such person other than management.

- Civil Code §798.71 (f) provides that the management may not require a selling homeowner, or heir, joint tenant, or personal representative of an estate to authorize management or any other specified broker, dealer, or person to act as the agent in the sale of the home as a condition of resale or of management's approval of the buyer or prospective homeowner for residency.

SB 804 adds a new subdivision "(d)" to Civil Code §798.71. Notably, the bill states that: "The management shall not require a homeowner, who is replacing a mobilehome or manufactured home on a space in the park, in which he or she resides, to use a specific broker, dealer, or other person as an agent in the purchase of or installation of the replacement home."

This change in the law restates and makes the implicit, explicit. Management cannot require that the resident use a particular dealer in replacement of the mobilehome. Where the community owner's rules and regulations allow for the installation of a used manufactured home, this law clearly implies that the community owner may not require the resident to employ any particular real estate broker. Moreover, it matters not that the particular dealer selected by a homeowner (or an heir, joint tenant, or personal representative or agent of an estate) is an unwise choice by the resident. Park owners may not "blackball" a dealer a resident decides to employ, for reasons such as past misconduct toward the community owner. In addition to violating the Mobilehome Residency Law, a community owner may be committing civil offenses of interference with economic advantage, interference with contract, and unfair business and competitive practices

by squelching an opportunity of a dealer to do business with residents in the park.

Some owners have sought to maintain a list of recommended or qualified dealers (and other contractors, vendors, etc.)

The pitfalls of such a practice should also be obvious. Recommending a dealer or contractor who, in turn, disappoints the homeowner will lead to sore feelings toward the management (“I would not have chosen that contractor if not for your recommendation!”). Or, the resident may suspect the management is “on the take” and stands to gain or profit, or on the other hand, is incompetent

and untrustworthy for recommending a poorly performing or reputed dealer or contractor. A resident’s choice of business entanglement should be for the resident to independently assess and determine. Otherwise, the aftermath of a bad experience will reflect on management, and the goodwill of the resident may be sacrificed.

Where the community owner is concerned that a resident may lack the business expertise or experience to choose wisely, the resident can ask other homeowners with similar work done which was satisfactory. The resident can investigate by checking the Better Business Bureau and State Contractor’s

License Board for contractors, and the Department of Housing and Community Development as to dealers, so as to judge the quality of the credentials proffered by the prospective dealer or contractor.

The change in the law will now allow a violation to be treated as a violation of the Mobilehome Residency Law, and therefore the statutory sanctions contained in Civil Code §798.86 will apply (\$2,000 per violation or actual punitive damages).

The community owner does not have a veto power over any contractor or dealer selected by the resident, and never did. It is now perfectly clear as the letter of the law, that the community owner may not require any particular dealer or contractor upon a resident where the resident seeks to sell or replace the manufactured home. ■

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