California Mobilehome Park Residency Law:
FREQUENTLY ASKED QUESTIONS

(Courtesy of State Senate Select Committee on Manufactured Homes and Communities)

RENTS, FEES & TAXES

RENT INCREASES

Q. Does state law regulate rent increases in mobilehome parks?

A. Except as noted below, state law does not regulate the amount of a rent increase in a mobilehome park. The state Mobilehome Residency Law does require a park to give residents a 90-day advance written notice of a rent increase. If residents are on a long-term lease, the lease would govern the percentage and frequency of rent increases, with increases not less than every 90 days as required by law. At last count, 102 local jurisdictions (mostly cities) have rent control in some form for mobilehome parks. But if residents sign a long-term lease of more than 1 year in length, state law provides that the lease is exempt from any local rent control ordinance now in existence or enacted in the future. Under Civil Code Sec. 798.17, homeowners living in the park have a right to review the proposed long-term lease and to reject it within 30 days and opt instead for a 12-month lease agreement or month-to-month rental agreement. If rejected, Civil Code Sec. 798.17(c) provides that the park cannot increase the rent above the terms provided for in the rejected long-term lease, for a year after the rejection date. This provision was placed in the law to prevent parks from retaliating by raising the rent if a homeowner will not sign the rent control-exempt lease. By law, a homeowner living in the park is entitled to a 12-month agreement or month-to-month if they ask for it.

Recap:

- 90-day advance written notice of increase.
- If on long-term lease, check language in lease for frequency (not less than every 90 days) and percentage of increase.
- 30 days to reject long-term lease.
- Option of month-to-month or annual rental agreement.
- If lease is rejected, no increase in rent allowed, above terms of lease, for a year.

PASS-THROUGH FEES

Q. Can the park charge separate "Maintenance" or "Pass-through" fees on top of the rent?

A. Yes, if the resident's signed lease or rental agreement provides for assessments or fees for maintenance, among other services. If not among mentioned in the lease, a new fee would have to be for a service actually rendered, such as trash pick-up, and would require a 60-day advance written notice. (Civil Code Sec. 798.32(a) requires a 60-day notice of a fee increase.) If the rental agreement does not include fees for certain maintenance or repairs in the park, the park could not legally charge them

without the 60-day notice, as it would be a breach of the existing rental agreement. However, if residents sign a new lease or rental agreement that includes these fees, they are agreeing to pay the fees. State law does not require a notice requirement for an increase in an already existing fee, although 2006 legislation attempting such regulation was vetoed by the Governor (AB 2374, Umberg). Local jurisdictions with mobilehome park rent control may regulate fees or pass-through costs which parks charge their residents. Some ordinances, for example, distinguish capital improvements from maintenance, allowing pass-through of certain capital improvements (not including maintenance) amortized over a period of time.

Recap:
- 60-day advance written notice of new fee if not mentioned in lease.
- Notice not required for increase in existing fee.

SHORT NOTICE OF RENT INCREASE

Q. Written notice of rent increase dated 90 days prior but received by resident 80 days prior. Is this notice legal?

A. No. The Mobilehome Residency Law (MRL), Civil Code Sec. 798.30 provides for the 90-day written notice of a rent increase before the date of the increase. Civil Code Sec. 798.14 provides that any notice required by the MRL shall either be delivered personally or by U.S. mail, postage prepaid. (Taping the notice to the door is not sufficient.) In this case, actual receipt of the notice 80 days before the increase is not a 90-day notice. If the management wants to increase your rent, they will have to mail or personally deliver a new 90-day notice to you. Despite being challenged, if they bill you for the illegal rent anyway, it may be in your best interest to pay the overcharge under protest and go to small claims court with evidence of the faulty notice to recover the difference, rather than risk an eviction for non-payment.

Recap:
- 90-day written advance notice must be received by residents 90 days before increase.
- Notice must be delivered personally or by U.S. mail.

BACK RENT

Q. Can the park charge me for back-rent that was miscalculated because of the manager's mistake?

A. It depends on the situation. If the park rental agreement or lease stipulates the month rent for the term of the lease, and there is no provision in the lease for a contingency, such as an increase due to management error, then back-rent could not be charged without the park breaching the lease or rental

agreement. However if residents have signed a rental agreement that provides that back-rent may be charged in the event of a management miscalculation or error, then the additional rent could be charged with a 90-day notice.

Recap:
- If not specified in lease or rental agreement, then back-rent not allowable.
- If back-rent allowed under terms of lease or rental agreement, then 90-day advance written notice required.

CLUB HOUSE DEPOSITS

Q. Can the park owner require a deposit or fee for use of clubhouse by the homeowner association?

A. No, but with certain exceptions. The Mobilehome Residency Law (Civil Code Sec. 798.51) provides that a park rental agreement or rule or regulation shall not deny a homeowner or resident the right to hold meetings for a lawful purpose in the clubhouse at reasonable times and in a reasonable manner, when the facility is not otherwise in use. This section also prohibits the park from charging homeowners or residents a cleaning deposit or to require liability insurance in order to use the clubhouse for meetings relating to mobilehome living or for social or educational purposes and to which all homeowners are allowed to attend. However, the park may require a liability insurance binder when alcoholic beverages are served. Although a park could not charge fees for homeowner meetings as described above, if a homeowner reserves the clubhouse for a private function, such as a family party or wedding reception, to which all park residents are not invited, the park could charge a fee or deposit.

Recap:
- No fee for homeowner functons.
- Liability insurance fee may be charged if alcohol is served.
- Fee may be charged for private parties.

SECURITY DEPOSITS

Q. Can the park charge first and last months' rent plus a 2-month security deposit?

A. Normally, when a mobilehome owner is accepted for residency in a mobilehome park and signs a rental agreement, the first month's rent and a 2-month security deposit are required. Security deposits in a park are governed by Mobilehome Residency Law (MRL) (Civil Code Sec. 798.39), which permits the 2-month security deposit. After one full year of satisfactory residency (meaning all rent and fees have been paid during that time), the resident is entitled to request a refund of the 2-month security deposit, or may

request a refund at the time he or she vacates the park and sells the home. Therefore, a last month's rent requirement, in addition to the security deposit permitted to secure rent payments by the MRL, is questionably legal in a mobilehome park.

Recap:
- 2-month security deposit allowed.
- Security deposit refund allowed after one year if all rent and fees have been paid.

DEDUCTING RENT FOR LACK OF PARK UTILITIES

Q. Can I refuse to pay the rent or deduct a certain amount from the rent if water in the park is cut off?

A. No. The Civil Code "repair and deduct" statute (part of conventional landlord-tenant law) does not fit this situation because a resident cannot repair a park-wide water problem themselves. Refusing to pay the rent or paying a reduced rent could lead to the residents' termination of tenancy unless residents are willing to chance an eviction and use the lack of water as a defense in an unlawful detainer action brought against them in court by the park. Instead, residents should file an emergency complaint with the Department of Housing (HCD) or a local enforcement agency if the local agency has jurisdiction over the lack of water in the park. An inspector can then cite the park for failing to provide adequate water and require the park to furnish bottled water and alternative bathing facilities until the water problem is fixed. In the longrun, residents can also sue the park in small claims court for damages for the park's breach of their rental agreement, which under the Mobilehome Residency Law requires the park to maintain the common facilities (which include the utilities) in good working order and condition. Legal damages would be similar to an offset to the rent already paid. Residents may also be able to seek a failure to maintain legal action against the park, depending upon the circumstances.

Recap:
- Resident not allowed to deduct rent.
- If lack of water, alert enforcement agency.

WITHHOLDING RENT WHEN PARK LOSES PERMIT

Q. Can the park evict me for not paying rent even though the park's Permit to Operate has been invalid for a year?

A. It depends. If the Permit to Operate (PTO) is officially suspended by the state Department of Housing (HCD) for more than 30 consecutive days, the park cannot legally collect rent from residents until the permit is re-instated, and residents may withhold rent. Until the PTO is actually suspended by HCD

however, despite the fact that the PTO fee may not been paid to the state in a year, residents who withhold rent from the park may be subject to a notice of termination of tenancy by the management.

Recap:

- If park's PTO is officially suspended by HCD, then resident may withhold rent.

LATE FEES

Q. Can the park charge me a late fee if I missed paying the rent and utility bill by one day?

A. Late fees on rents, utility charges or other pass-through fees are not regulated by the Mobilehome Residency Law (MRL), but the courts in California cases involving late fees generally have upheld residential leases with preset late penalties if they bear a reasonable relationship to the actual damages that could be anticipated or sustained by the landlord for late payment, such as administrative costs relating to accounting for and collecting the late payments. For example, a 3% charge for late payment of rent ($15 on a $500 rent bill) is probably going to be construed as reasonable. Whether $50 is reasonable depends on the outstanding amount of the late rent and utilities owed. To dispute a late fee, a homeowner would have to file an action for damages in small claims court.

Recap:

- If signed lease or rental agreement stipulates late fee, then resident must pay.

MOBILEHOME PROPERTY TAXES

Q. Why do I have to pay taxes on my home in the park in addition to paying the park owner a fee for property taxes?

A. Mobilehome owners, who are park residents, pay for the park's property taxes either through their rent or sometimes through separate pass-through fees for property taxes, or property tax increases, on the park property. Yet mobilehome owners may also pay an individual property tax to the county on their home and accessory structures. Prior to July 1, 1980 most mobilehomes were taxed like vehicles by the state with a vehicle license fee (VLF) in lieu of local property taxes. However, the law was changed in 1979 to subject new mobilehomes and manufactured homes sold on or after July 1, 1980 to local property taxes instead of the VLF. Pre-July 1980 homes remain on the VLF unless the owner voluntarily switches the home to the local property tax system. Tax law does not allow the county assessor to base assessment of taxes on mobilehomes in parks on the value of the park land or space. Hence, the homeowner's property tax on an individual home is a

separate tax from the property tax on the park owner's real estate or park land.

Recap:
- Resident pays park's property tax pass-through fee. Resident may also have to pay county's tax assessment on their home and accessory structures.
- Before July 1, 1980, mobilehomes pay Vehicle License Fee.
- After July 1, 1980, new mobilehomes pay property taxes, separate from tax assessment on park property.

PROPERTY TAXES TOO HIGH

Q. How can I get my taxes reduced?

A. Local property taxes are based on 1% of the assessed value (AV) of the property or home, plus any local bonded debt, such as school bonds. Under the California Constitution (Article VIIIA), the county assessor may increase the AV by 2% a year; however, when a home is sold and ownership is transferred, the assessor may re-assess the property (usually to the higher selling price or value). Therefore, homes that have been resold in recent years in a "good" real estate market have been reassessed at higher values, sometimes significantly higher, than those that have remained under the same ownership for years with the application of the annual 2% formula. With the recent sharp decline in the real estate market, many homes have decreased in value as sales go wanting. Mobilehome owners, like owners of conventional homes, who feel their taxes are too high in the current market, should file an appeal with the county assessment appeals board to see if they can get their AV and thus their taxes reduced. The burden, however, is on the homeowner to produce evidence that his or her home is worth less than the assessor's valuation. This can be done by getting a private appraisal(s) and producing documents showing the reduced or selling prices of similar mobilehomes in the park or similar parks in the community. Information on how to apply and the deadlines for applying may be obtained from your local county assessor's or assessor-tax collector's office.

Recap:
- File appeal with county tax assessor and be prepared to prove value of home is worth less than assessed value.

SECTION 8

Q. Must the park owner accept Section 8 vouchers?

A. Section 8 is a federal program, and federal law does not require landlords to accept Section 8 vouchers. Landlords who accept Section 8 enter into agreements or contracts with the county that administers the program and

must abide by the Section 8 terms for the period of the agreement, which is normally a set number of years. Because of Section 8 restrictions, some landlords have opted out of Section 8 at the end of their agreements. You will have to contact your county housing authority or the county agency that administers Section 8 in your area about the Section 8 status of your particular park.

Recap:
- Park owner does not have to accept Section 8 voucher.

UTILITIES

PARK UTILITY COSTS

Q. I suspect I am being overcharged on utility bills. Where can I get help?

A. Most parks are "master-meter" operators, which own, operate and maintain the electric, gas and water distribution system within the park and bill their residents with the monthly rent statement. Although under the Public Utilities Code master-meter customers are supposed to charge no more than the local serving utility would charge a resident, including passing on any low-income rebates or discounts, such as "CARE," enforcement is somewhat lacking. Residents can call County Weights and Measures (W&M) to have them check the accuracy of their meters and assure they have been correctly calibrated. Some W&M offices are willing to look into billing complaints, such as failure to provide proper billings or post rates, but most only check the accuracy of the meters. Public Utilities Code 739.5 requires the California Public Utilities Commission (CPUC) to take informal complaints from master-meter customers (park residents) and that the names and phone numbers of private billing agents be disclosed by the management in the master-meter billings to individual residents. The CPUC often refers these complaints to the serving utility to work out with the park management. The process can often be lengthy with mixed results. Lastly, if a resident can document errors in his/her billings, or refusal of the park to apply the proper gas or electric rate, or CARE or other discount, the resident can seek damages in small claims court.

Recap:
- Resident must prove overcharges.
- CPUC required to take informal complaints.

SEPARATING CHARGES

Q. Can the park start billing me for sewer, water and garbage, which were previously included in the rent?

A. It depends on your rental agreement. If your rental agreement provides that sewer, water and garbage were included in the rent, the park management can then itemize or charge you separately for these utilities only if they follow the requirements of Civil Code Sec. 798.41, otherwise they may be in breach of the rental agreement. This section requires that they simultaneously deduct the average monthly amount of these utility charges from the rent when they itemize and charge you separately for them. If the management refuses to deduct the charges from the rent, you should then pay the amount under protest and seek redress in the courts. This is the type of issue where it is advantageous to have a homeowners' association help in seeking legal action on behalf of a group of homeowners all facing the same problem. If your rental agreement does not indicate that these charges are included in the rent, then the park owner could charge you for them but only after complying with the 60-day written notice requirement of Civil Code Sec. 798.32.

Recap:

- If lease or rental agreement stipulates separate charges, then resident must pay.
- If not stipulated in lease or rental agreement, then park must give 60-day advance written notice.

PARK CABLE TV OR COMMON ANTENNA SYSTEM FEES

Q. Do I have to pay the cable tv service fee even though I don't use it? Also, can park prohibit satellite dishes?

A. The Mobilehome Residency Law (Civil Code Secs. 798.31 and 798.32) provides that the park can charge a fee for services actually rendered with a 60-day notice if it is not already provided for in the rental agreement. If you have signed a long-term lease agreeing to pay the fee, you may be obligated to continue to pay it until the end of the term of the lease. A 1997 California appellate case, Greening v. Johnson, held that cable TV is not an essential utility and a park cannot charge a resident a fee for such a service not actually used by the resident. Moreover, the Telecommunication Act of 1996 provides that community rules and regulations or local ordinances cannot prohibit the installation of a dish antenna on one's home or property if it is not more than 39 inches in diameter and does not constitute a health and safety problem. Park rules can regulate placement or design of the antenna on the home if reasonable (e.g. rules don't preclude acceptable reception) but cannot ban satellite dishes outright.

Recap:

- If part of signed lease or rental agreement, resident must pay.
- If not part of lease or rental agreement, then park must provide 60-day advance written notice of fee for service actually rendered.
- Cable TV is not an essential utility, therefore park cannot charge non-user.

● Satellite dishes allowable, but with strict guidelines.

WATER CHARGES IN PARK

Q. My water usage is down, but my water bill has increased. How do I find out if I am being overcharged?

A. If the park has metered water, compare past and current bills, checking for accuracy of calculations. If there is an error, contact the management. Parks are supposed to itemize this information on resident's billing as well as post the utility rates in a conspicuous public place in the park. If the park cannot help, call the County Sealer (Weights and Measures) and ask them to check the accuracy of the meter. Check for plumbing leaks under home or in fixtures. If none of these steps resolve the problem, you may file a complaint with the California Public Utilities Commission (CPUC) about rate issues and overcharges but only if the park receives water from a water utility or supplier regulated by the CPUC. If water is CPUC-regulated, resident may only be charged a water rate that the regulated utility would be able to charge residents if they were served directly by the utility. This would include a usage rate and a customer service charge (for meter reading and service). However, the majority of parks are not served by regulated water utilities but by municipalities, water districts, utility districts, or even the park's own water well system, and are not regulated by the CPUC. One exception is that the CPUC may take complaints from residents of parks about service or rates charged by parks using their own water systems or underground wells or, if the park is subject to local mobilehome park rent control, rent control authorities may be able to provide some relief depending upon how the rent ordinance is written or administered. Otherwise, the resident would have to complain to the appropriate governing board of the municipality, water or utility district actually furnishing water to the park or consider filing a civil action in small claims court when bill calculations are obviously incorrect. In a civil action, generally speaking, even for non-CPUC regulated water, the most reasonable rate (though not legally required) would be the same rate that could be charged in a CPUC regulated case – i.e. the same rates that any other residential customer in the jurisdiction would be charged (volumetric rate plus a customer charge) if served by the municipality, water district, or utility directly.

Recap:

- In park with metered water served by regulated water districts: check bill calculations, see manager, call county, or file complaint with CPUC.
- If park without metered water and not served by regulated water district: call local water board.

LEASES & RENTAL AGREEMENTS

LONG-TERM LEASES EXCEMPT FROM RENT CONTROL

Q. Can the park manager force me to sign a long-term lease, causing me to lose rent control protections?

A. Not if you are currently a homeowner residing in the park. If however, you are a buyer of a home in the park and not yet a resident, your right not to sign such a long lease is less clear. Civil Code Sec. 798.17 provides that a rental agreement or lease with a term of more than 12 months (one year) is exempt from any rent control ordinance, and as a result, some park owners try to encourage their residents to sign the longer term leases. You have the right to reject a long-term lease after reviewing it and opt for your rights, under Civil Code Sec. 798.18, to an annual or month-to-month rental agreement. If you elect to have a rental agreement for 12 months or less, the rent charges and conditions shall be the same as those offered in the longer-term lease during the first 12 months (Civil Code Sec. 798.18). Not all long-term leases are bad for homeowners, and some may provide rent stability for years that month-to-month or annual tenancy does not, particularly in localities where rent control will probably never be enacted. Homeowners need to exercise their right to review the pros and cons of the lease, and obtain advice from friends or attorneys, before signing any lease. State law allows residents 30 days for such review, and retaliatory threats from park managers that rents will be raised even higher if the residents don't sign the long-term lease should be documented.

Recap:

- Current homeowners residing in park cannot be forced to sign long-term agreement.
- Buyers, or prospective residents, may not have the option to reject long-term lease.
- Current homeowners may reject long-term lease and choose a month-to-month or annual rental agreement. Charges and conditions must be the same as in long-term lease.
- Residents have 30 days to review and accept or reject long-term lease.

LEASES IN LANGUAGE OTHER THAN ENGLISH

Q. Is the park required to provide lease agreements in the language of the resident if the resident is non-English speaking?

A. Not in most cases. Civil Code Sec. 1632 provides that a person, engaged in a trade or business, who negotiates a contract or lease -- including a rental agreement covering a dwelling, apartment or mobilehome -- in Spanish, Chinese, Tagalog, Vietnamese, or Korean, shall provide the other party, if he or she requests it, with a written copy of the contract or agreement in that

language prior to execution of the document. However, this provision does not apply to contracts or agreements negotiated with the use of an interpreter, or to month-to-month rental agreements. Additionally, most mobilehome parks do not 'negotiate' their leases with homeowners or prospective homeowners, but rather offer the lease on a "take it or leave it" basis.

Recap:

- If the lease agreement is negotiated, then the lessor must provide a copy in the lessee's language. Most mobilehome lease contracts are not negotiated.

TERMINATION OF TENANCY

EVICTION FOR LATE PAYMENT OF RENT

Q. Can the park evict me for late rent even though my rental history shows I eventually pay the full rent?

A. Yes. The Mobilehome Residency Law (MRL) gives homeowners five days from the due date to pay the monthly rent and a 3-day notice thereafter to pay the rent (in 3 days) or be subject to termination of tenancy in 60 days. If a homeowner pays the rent within the 3-day grace period, the 60-day termination of tenancy is voided. However, the homeowner can only pay the rent late three times in a 12-month period. If a homeowner is late a fourth time within any 12-month timeframe, the park can refuse to accept the late rent and proceed with eviction after 60 days. Civil Code Sec. 798.56(e)(1) has a specific boldface warning notice about this "three strikes" provision, which must be included in each previous 3-day notice given by the management to the homeowner.

Recap:

- Resident has five days from due date to pay rent.
- If rent is late, park can give resident 3-day notice to pay or risk eviction in 60 days.
- Resident can be late only three times in 12-month period.

EVICTION FOR RULE VIOLATIONS

Q. Is the park allowed to issue an eviction notice to me and then refuse to talk about it and return my rent check?

A. In a mobilehome park, your tenancy can only be terminated for just cause, meaning they can only terminate you for seven specified reasons in the code, including violation of a park rule or regulation. (Civil Code Secs. 798.55 and 798.56.) The management must give you a 60-day notice, but if you refuse to move after the 60-day period, the park management has to take you to court

in what is known as an unlawful detainer action, similar to other residential tenancies. There you have the opportunity to tell the judge your side of the story. If you are evicted, depending upon the court, you may be required to pay the management's attorney fees, in addition to having to leave the park. Civil Code Sec. 798.56(d) requires management to specify the rule broken and explain the details and give the resident seven days to correct the rule violation. If the resident can prove to the court that the park didn't follow these requirements or allow an opportunity to conform within seven days, the park cannot proceed with termination. If the resident violates the rule more than twice in a 12-month period, on the third violation, the management may proceed with termination whether or not the resident has cured the violation ("3 strikes"). If the management refuses to accept the resident's check for rent, the resident should put the rent money in a trust or escrow account at a bank so the resident can later show good faith to the court in trying to pay the rent. Termination of tenancy (eviction) in a mobilehome park is a vitally important matter because a resident can lose their home, so they should not delay seeking legal help.

Recap:

- Park manager must specify the rule that was broken and explain the details.
- Park must give resident seven days to correct the rule violation.
- If resident violates rule more than twice in 12-month period, park may proceed with eviction whether or not resident corrected the violation.

TERMINATION AT END OF RENTAL AGREEMENT'S TERM

Q. Can the park end my tenancy by refusing to enter into a new rental agreement?

A. No, not if you are a homeowner. Under the Mobilehome Residency Law, homeowners normally rent under a month-to-month or 12-month rental agreement or long-term lease of more than one year. When the term of the rental agreement is up, the management cannot arbitrarily evict the homeowner but must offer a twelve-month or month-to-month agreement if requested by the homeowner. Residents who own their mobilehomes in the park cannot be evicted simply because their lease has expired -- only if they have not paid the rent, or have violated park rules or regulations (see Civil Code Sec. 798.56). However, if the resident is a tenant -- not a homeowner -- who rents the park-owned mobilehome, such a tenancy would be governed by conventional landlord-tenant law. In that case, the park can terminate the tenancy without a reason with a 30-day notice.

Recap:

- Park cannot terminate resident's tenancy simply when lease or rental agreement expires – only when rent has not been paid or rule has been violated.

TENANT RIGHTS IN PARK-OWNED MOBILEHOMES

Q. I am not a homeowner but I rent a mobilehome in the park from the park owners and they want to evict me without a reason. Is the park in violation of the Mobilehome Residency Law?

A. The Mobilehome Residency Law's (MRL) protections only apply to homeowners who own their own homes and rent their spaces, not to tenants who rent park- or management-owned mobilehomes. Certain sections of the MRL do apply specifically to both homeowners and "residents" (Civil Code Sec. 798.51) which gives both the right to meet in the park community or clubhouse during reasonable hours. However, the MRL's "just cause" eviction provisions do not apply to residents who rent park-owned homes. They would be subject to the requirements of conventional landlord-tenant law. In such a case, tenants living in the rental home for less than a year would be entitled to a 30-day notice of termination; those living there more than a year, a 60-day notice.

Recap:

- Tenants living in rental homes are subject to landlord-tenant law, not the Mobilehome Residency Law.
- Tenants in rental homes for less than a year are entitled to 30-day notice of termination.
- Tenants in rental homes for more than a year are entitled to a 60-day notice of termination.

PARK CLOSURE

Q. Do residents have any rights to be compensated for being dislocated when the park closes down?

A. Mobilehome owners do have rights in terms of the 6-months' or one-year notice requirements under the Mobilehome Residency Law, and potential relocation assistance under the Government Code. Civil Code Sec. 798.56 (g) provides that where no city permits are required to close or convert the park to another use, the park must give residents at least a one-year written notice of termination of tenancy. Where local permits are required, which is usually the case, the park must give residents a 15-day written notice that park management will appear before a local board or planning commission to request permits for a change of use. At the same time, in accordance with Civil Code Sec. 798.56(h), the park must make public the impact report requirements (Govt. Code Sec. 65863.7) and only after approval of all permits by the city can the park then give the residents a 6-month notice of termination. Govt. Code Sec. 65863.7 provides that upon the closure or conversion of a mobilehome park to another use the park must render an impact report to the city on the effect the conversion will have on the residents' dislocation and their ability to find alternative housing. The city must then hold a hearing on the impact report and <u>may</u> require the park to

pay the reasonable costs of relocation to displaced residents as a condition for obtaining various permits to convert the park and develop the land for another use. Usually this takes several hearings and a number of months. Actual relocation assistance afforded to residents is determined by the city, usually the planning commission or a delegated committee or agency of the commission. Often local governments will have a mobilehome park conversion ordinance which parallels the requirements of state law and fills in the details of the relocation assistance that may be required by the city, whether it is actual relocation of the mobilehome or a buy-out of the home, and how the mobilehome is to be valued for these purposes. If the park is to be subdivided into individual parcels (where stick-built housing will replace the park) and where a tentative or final map is required, the city may impose even more stringent relocation requirements. (Govt Code Sec. 66427.4.) Local officials are the final arbiters of any relocation assistance to which displaced mobilehome owners may be entitled. Park residents, who are affected by park closure, should therefore establish and maintain contact with local officials, including city council members, city planning commission members, and staff at the city planning or building department.

Recap:

- If no local permits are required for park closure or conversion, then park must give residents at least one year advance written notice.
- If local permits are required for park closure or conversion, then park must proceed with relocation guidelines established by state and local law.

PARK RULES & REGULATIONS

RULES V. THE MOBILEHOME RESIDENCY LAW

Q. Do mobilehome park rules prevail over state law?

A. No. The park rental agreement and the park rules and regulations must be consistent with the Mobilehome Residency Law (MRL) and other laws that apply in parks. For example, a park rental agreement or rule that provides the park may increase the rent with a 30-day notice to a homeowner who owns the mobilehome in the park would be in conflict with Civil Code Sec. 798.30, which provides that such a rent increase requires a 90-day notice. In this case the MRL would prevail over the conflicting park rule.

Recap:

- State laws prevail over park rules.

RULE CHANGES

Q. Is the new park management allowed to change rules on long-time residents or are they "grandfathered in" under the old rules?

A. Existing residents are not exempt from park rule changes. According to the Mobilehome Residency Law (Civil Code Sec. 798.25), the park can change a park rule and regulation as it applies to existing residents, but the park must give residents 6 month's notice of the change, or a 60-day notice if it involves changes in rules relating to the park's recreational facilities, such as the swimming pool or recreational facilities within the clubhouse. The management must also meet and confer with park residents, at their request, upon a 30-day notice about the change in park rules but is not bound to accept residents' suggestions or requests about the rules. There have been several bills over the years in Sacramento to try to change the law giving residents a vote on park rule changes, but these attempts have never been successful.

Recap:

- Existing residents are not exempt from park rule changes.
- 6-month advance written notice of rule change.
- Only 60-day advance written notice if rule change affects recreational facilities.

SELECTIVE ENFORCEMENT OF PARK RULES

Q. Can park manager force rules on some residents and not on others?

A. No. The Mobilehome Home Residency Law (Civil Code Sec. 798.56(d)) provides that the park rules and regulations have to be "reasonable." "Reasonable" often may be subject to court interpretation, but normally rules have to have some rational basis in fact under the circumstances, as well as apply evenly to everyone residing in the park. A rule that applies to only some residents, but not all, is discriminatory and would not stand up in court. Civil Code Sec. 798.23 also requires park owners and their employees to abide by park rules to the same extent as residents have to, except rules regarding age limits or acts of the park owner or park employee undertaken to fulfill park maintenance, management or operational responsibilities (making noise pounding nails, use of trucks for maintenance purposes, etc.). In the case of discriminatory rule enforcement, homeowners, through their homeowners association or advocacy group, should seek a meeting with management (Civil Code Sec. 798.53) or seek legal redress, such as an injunction or possible declaratory relief.

Recap:

- Park management is prohibited from enforcing rules on some residents and not on others.

SENIOR PARK CHANGED TO ALL-AGE

Q. Do residents have a say in the elimination of the retirement lifestyle we were promised when we moved in, and shouldn't the park have facilities for kids if they convert to an all-age park?

A. The federal Fair Housing Amendments Act of 1988 prohibits discrimination against families with children in multiple residential housing but permits such housing, including mobilehome parks, to limit residency to seniors in one of two categories: 1) 55 and older; or 2) 62 and older, if the park meets certain minimum conditions. The major condition is that a minimum of 80% of the units are required to have at least one resident 55 and older. Federal law does not specifically address procedures for changing from a senior-only category to an all-age category, which in rental mobilehome parks under state law or by practice is often the sole decision of park management with a minimum notice. However, parks can lose their "senior" status if, upon a complaint, they fail to meet the statutory conditions, such as the 80% requirement. The law does not require parks or other multiple-residential housing complexes that convert to all-age to install playground or other facilities for children. Advocates of family housing have argued that such a requirement would drive up the cost of housing and discourage landlords from opening up restricted housing to families. Some local governments have imposed conditions on mobilehome park zoning or use permits by requiring parks, that were developed as "senior parks", to be maintained as "senior" unless otherwise approved by the city or county. It is not clear to what extent these local zoning or use permit requirements may conflict with the federal Fair Housing Amendments Act.

Senior residents who have leases that provide that the park is a "retirement" or "senior" park and provide for specific facilities such as a shuffle board court, may, however, have a civil case against the park for breach of contract or diminution of services contracted for in the lease or rental agreement.

Recap:

- Senior park status requires 80% of park units to have at least one resident 55 or older.
- No federal law specifically addresses guidelines for changing from "senior" to "all-age".
- Lease agreements that stipulate "senior" status and provide for specific senior amenities, may be breached if senior-status of park is changed.

ALL-AGE PARK CHANGED BACK TO A SENIOR-ONLY PARK

Q. Is it legal for our all-age park to change back to a senior-only park?

A. This is an issue that has changed over the years. Pursuant to the passage of the Federal Fair Housing Amendments Act in 1988, and the adoption of federal HUD regulations to carry out the Act, it was originally believed that multiple residential communities could not backtrack once they had decided

to open up to an "all-age" status. However, under the Housing for Older Persons Act of 1995 (HOPA), which amended the 1988 Act, regulations established a transition period until May 3, 2000 to provide a mechanism for communities to become housing for older persons if they had abandoned or did not achieve such status before HOPA. Then, on March 6, 2006, HUD adopted a memo to clarify how communities that did not convert to housing for older persons before the 2000 transition period deadline could do so. If vacated spaces fill up with qualifying seniors (55 or older), and the park does not discourage or discriminate against younger people from buying available homes when these vacancies occur, the park can be "built back" to a senior status. However, this is difficult to achieve and few parks, once they become family parks, have been able to go back to a 55-or-older status.

Recap:

- Reverting to senior-only park is allowable, but rarely achievable.

OCCUPANCY STANDARDS

Q. Can the government force park management to limit the number of people living in a mobilehome?

A. The occupancy standard issue is difficult to solve. The issue has arisen at both the federal and state levels. Legislation has been considered but not enacted to create a "2 persons per bedroom plus 1" standard that is presently only a HUD guideline (e.g., if the home had 1 bedroom, the occupancy standard would be 3 persons; if the home had 2 bedrooms, the standard would be 5 persons, etc.). Proponents argue that occupancy standards are necessary to avoid overcrowding and unhealthy living conditions. Opponents contend that, especially in areas where the cost of housing is high, an occupancy standard is nothing but a form of discrimination against persons who can't afford larger homes. Some cities have attempted to legislate occupancy standards, only to have their ordinances challenged in court. Mobilehomes usually have a design standard established by the manufacturer as the recommended occupancy for the size of the home. The park manager could try to establish an occupancy standard in the park rules based upon something reasonable, such as the design standard of each home or the HUD guideline, and some do, but the management would probably be subject to legal challenge, and for that reason most parks don't even try.

Recap:

- HUD standard – 2 persons per bedroom, plus 1 – is only a guideline and not law.

CLUBHOUSE HOURS

Q. Does state law guarantee the park's clubhouse to be open and available at reasonable hours?

A. Yes. In parks that have clubhouses or meeting halls, but if they do, Civil Code Sec. 798.24 requires the common facilities to be open and available at reasonable hours, which are to be posted. Civil Code Sec. 798.51 gives homeowners the right to hold meetings at reasonable hours and in a reasonable manner in the clubhouse -- when it is not otherwise in use -- for any lawful purpose, including homeowner association meetings and meetings with public officials or candidates for public office.

Recap:

- Park must make clubhouse available to residents at reasonable hours for lawful purposes.

PETS

Q. Is it legal for parks to allow some residents to have pets and others not have them?

A. It depends on the terms of the rental or lease contract. Civil Code Sec. 798.33 permits pets in parks with certain limitations, such as one domesticated dog, cat, bird or aquatic animal kept within an aquarium, subject to "reasonable" park rules. However, persons who signed a rental agreement prior to January 1, 2001 with a provision prohibiting pets are bound to that provision until the rental agreement expires or is renewed. Persons moving into a park since January 1, 2000 would be allowed to have pets that conform to the park's rules as to size, height, or weight of the pet, and in some instances breed (e.g. some parks prohibit big dogs, pit bulls and certain breeds with so-called aggressive tendencies).

Recap:

- If current rental agreement, with "no pet" provision, was signed before 1/1/2001, then resident is prohibited from having pet.
- If current rental agreement was signed after 1/1/2001, then resident can have pets that conform to park rules.

PARKING PROBLEMS

Q. Is management allowed to restrict parking, and even have residents' cars towed?

A. Residents or guests who park in fire lanes, or in front of park entrances or fire hydrants, can be towed without notice. Park management cannot have residents' cars towed from their own parking space or driveway unless the vehicle does not conform to the park rules, in which case a 7-day notice is

required pursuant to Civil Code Sec. 798.28.5. However, if a vehicle presents a significant danger to the health and safety of residents, or is parked in another resident's space and that resident requests it be removed, the vehicle could be towed without the 7-day notice. The extensive provisions of Vehicle Code Sec. 22658 apply to both the management's and tow company's procedures in removal of the vehicle.

Recap:
- Management may have cars towed if parked car violates health and safety of residents.
- Management may have cars towed, upon request, if one resident's car is parked in another resident's space.
- 7-day written advance notice is required if parked car does not conform to park rules.
- 7-day notice not required if a resident parks their car in another resident's space and the displaced resident requests the car be towed.

SUBLEASING

Q. Can the park prevent me from subleasing my mobilehome?

A. Yes. Most mobilehome parks have rules that prohibit homeowners from subleasing their mobilehomes, even in hardship cases. This issue has arisen in the state legislature a number of times, but numerous bills over the past 10 years to require park owners to let homeowners sublet have not been successful, except in cases of seniors with health problems who require convalescence and have to leave their home for not more than a year.

Recap:
- Park may prohibit resident from subleasing.

RV'S IN MOBILEHOME PARKS

Q. Is it legal to place RVs and motorhomes on mobilehome spaces?

A. It depends on the circumstances. When mobilehome parks were first constructed, designation as a park would normally have been made as a condition of city or county use permits or zoning requirements. Therefore, the city would have to enforce the conditions of the permit or zoning ordinance. The State Department of Housing's Permit to Operate (PTO) reflects the number of mobilehome spaces and the number of RV lots. In the absence of local permit conditions though, a pre-1982 mobilehome park may allow RV's and mobilehomes to be situated on mobilehome spaces, but only RV's can be situated on RV spaces. In a mobilehome park developed after January 1, 1982, however, state law provides that mobilehome spaces shall not be rented for the accommodation of RVs unless they are in a separate area of the park designated for RVs and apart from the mobilehomes.

Recap:

- Parks developed before 1982: If no local permit or zoning restrictions, then RVs and mobilehomes may occupy mobilehome spaces, but mobilehomes may not occupy RV spaces.
- Parks developed after Jan. 1, 1982: No RVs on mobilehome spaces unless the mobilehome space is in the RV section of the park.

CAREGIVER RESIDENCY IN THE PARK AFTER HOMEOWNER'S DEATH

Q. Can the manager evict me from the park even though I inherited my mother's mobilehome after she died?

A. It depends upon the circumstances. Generally, a caregiver – including a caregiver relative – does not have the right to continue to live in the mobilehome, even if he or she has inherited it. The caregiver statute recognizes that a senior homeowner has the right to have a caregiver, even someone who is 18 or older in a senior park, to assist them with medical needs under a doctor's treatment plan, but the caregiver resident has no right of residency and is considered a guest of the homeowner. Therefore, when the homeowner dies, the caregiver's right to continue to live in the park normally ends. If, however, the caregiver was a party to the homeowner's rental agreement, or had otherwise been accepted for co-residency by the park while the homeowner was alive, the park could not evict the caregiver after the homeowner's death except for the same kind of reason they could have evicted the homeowner, such as failure to pay the rent. In either case, whether or not the caregiver has a right of residency in the park, if the caregiver inherits the home, he or she would have the right to resell it in place if they continue to pay the rent and charges and comply with other requirements of resale until the home is sold.

Recap:

- If heir is not listed on the rental or lease agreement, then heir cannot assume they have inherited residency rights.
- Heir is responsible for rents and fees until home is sold.

PARK MAINTENANCE, INSPECTIONS & SERVICES

FAILURE TO MAINTAIN THE PARK

Q. The sewer, water, electrical systems are falling apart. How do we get the park owner to fix things for which we are paying rent?

A. File a complaint with the Department of Housing and Community Development (HCD) or local government, whichever has jurisdiction to inspect mobilehome parks in your community. HCD inspectors are spread thin, so you will have to keep in contact with the inspector to make sure they

follow through, once they cite the violations, to be sure the park actually makes the necessary corrections. In more serious cases, residents may have to consider contacting an attorney who specializes in failure-to-maintain lawsuits against mobilehome parks (check with your mobilehome advocacy groups for referrals) on a contingency fee basis.

Recap:

- File official complaint with the code enforcement agency -- either state Dept. of Housing or local health department.

MOBILEHOME PARK INSPECTION PROGRAM

Q. Is the park manager allowed to force residents to correct code violations to their homes and spaces before a scheduled inspection by the state Dept. of Housing?

A. The state Department of Housing (HCD) operates a park inspection program with a goal of completing inspections in at least 5% of the parks in the state per year in order to assure that a reasonable level of health and safety is maintained in those parks. The inspection includes the park common facilities, such as lighting, roads, clubhouse, utilities, and other facilities for which the park is responsible, as well as individual home site spaces, including the outside of the homes and accessory structures for which the homeowner is responsible. HCD inspectors do not go inside a home unless requested to do so by the homeowner. Citations for violations, depending upon how serious, must either be corrected as soon as possible or within 30 to 60 days. Inspectors have the authority to extend the deadline for compliance if the situation warrants it. Homeowners may appeal a citation to HCD if they feel it is unwarranted. (HCD does not have authority to assess fines against homeowners who do not comply.) HCD provides a video and booklets to park managers for homeowners on what to expect in an inspection, which the park manager should distribute to homeowners. Also, see HCD's website (www.hcd.ca.gov/codes/mp/) or call the Mobilehome Ombudsman 1-800-952-5275.

Recap:

- Park manager may urge residents to correct code violations on the outside of their homes or on their spaces, or else resident may risk citation by HCD.

REDUCTION OF PARK SERVICES

Q. Can the park manager reduce or eliminate park services and amenities that we have been paying for in our rent all these years?

A. Yes, but you may need to check with an attorney to see if you have a legal cause of action for damages based on a breach of your lease or rental agreement, if these services are referenced in your lease, rental agreement,

or park rules and regulations, or if you can show these services were bargained or contracted for when you moved into the park.

Recap:
- Park management can reduce or eliminate park features if not otherwise agreed upon in a lease or rental agreement.

LOT LINES

Q. Can the park owner or manager move lot lines without permission from residents whose spaces are affected?

A. Before moving a lot line, the management must obtain a permit from the enforcement agency, usually the Department of Housing (HCD) or a local agency, and verify that the park has obtained the consent of homeowners affected by the lot line change. However, in some older parks there are no markers or defined lot lines and no plot maps indicating where the lot lines should be. In cases where there is no documented evidence of original lot lines, HCD may not be able to determine that the lot line has been moved and that a permit is required. The issue then becomes a legal matter between the park management and the affected homeowners.

Recap:
- Permit is required from state Dept. of Housing before park moves lot lines.
- In old parks with no official lot line maps, moving lot lines may cause legal action.

TREES AND DRIVEWAYS

Q. Can the park manager force me to pay for maintenance or removal of a tree on my space and for maintenance of my driveway?

A. It depends on the facts of the case. The "tree and driveway" issue has been subject to major debate for years. A 1992 Department of Housing and Community Development (HCD) legal opinion characterized trees in mobilehome parks as fixtures belonging to the park owner, who is responsible for their maintenance. However, HCD legal counsel also opined that this responsibility could be delegated to the homeowner through the rental agreement. If the rental agreement requires the homeowner to be responsible for maintenance of the trees, then a 60-day notice probably does not have to be given, since it is already in the rental agreement. If the rental agreement does not make the homeowner responsible for maintenance of the trees, then the park owner is responsible for maintenance or removal of a tree on your space only <u>if it is a hazard or constitutes a health and safety violation, as determined by the enforcement/inspection agency (usually HCD</u>). (Civil Code 798.37.5.) Homeowners may have to pay a fee for an inspection, where there is a dispute between the park and the homeowner over the tree

and where the homeowner requests an inspection by HCD or the local enforcement agency. Inspectors have wide discretion in this regard, and if the inspector does not find a violation, the homeowner may end up having to pay to remove the tree anyway. The issue could also be litigated by paying the charges under-protest to avoid a termination of tenancy and then filing a claim against the park for the amount in small claims court, where a judge would decide.

With regard to driveways, the park owner is responsible for maintenance unless the homeowner has damaged the driveway or the driveway was installed by the homeowner.

Recap:

- If signed lease or rental agreement makes homeowner/resident responsible, then resident must pay.
- If no stipulation of responsibility in the lease agreement, then park is only responsible if it is a health and safety hazard.
- Driveways are responsibility of park unless driveway was installed or damaged by homeowner.

RESPONSIBILITY FOR PRE-EXISTING CODE VIOLATIONS

Q. Am I or the park owner responsible for correcting code violations on my space that were there before I bought the home?

A. The resident it responsible. Although the park operator is ultimately responsible for assuring that all citations on park property are corrected, the law does not require the park operator to pay for code violations involving the home or space except in rare instances. The homeowner is primarily responsible for correcting any violations concerning the home or space on which he/she resides, including any pre-existing code violations after the sale of the home. This is one of the reasons that real estate disclosure was enacted for mobilehome resales in 2000, although conditions not known to the seller cannot be disclosed. However, if the selling homeowner knew or should have known of the violation, the buyer may have a cause of action in small claims court against the seller for the cost of correcting the violation.

Recap:

- Homeowner is responsible for correcting any code violations in connection with their home, space and accessory structures, including pre-existing code violations.

PERMIT FOR REMODELING THE MOBILEHOME

Q. Do I need a permit from HCD to remodel my home, even though all the changes and upgrades are on the inside?

A. You need a permit from the state Department of Housing and Community Development (HCD). Only HCD, not local government, may issue permits for alterations of a mobile home's structural, fire safety, electrical, plumbing or mechanical components. The two offices that handle such permits are:

Northern California Area
Field Operations
9342 Tech Center Drive, Suite 550
Sacramento, CA 95826
(916) 255-2501

Southern California Area Field
Operations
3737 Main Street
Riverside, CA 92501
(951) 782-4420

Recap:

- Permit, permit, permit.

HOME REHABILITATION ASSISTANCE

Q. Is there financial assistance available to correct code violations on my home?

A. Many local governments have rehabilitation or repair grants for low income homeowners, including residents or owners of mobilehomes in some cases. This money is made available through the CalHome program, operated by HCD, to local governments and non-profit organizations, as part of two housing bond issues approved by state voters in recent years. However, application must be made through local government, and not all local jurisdictions have such programs. There are usually income and residency eligibility requirements. Additionally, some jurisdictions do not consider mobilehomes "real property" eligible for rehab funding or may have restrictions on the kinds of repairs that will be funded. To determine whether your city has such a program and whether you may be eligible, contact your city or county housing or community development department or your local elected city councilmember or county supervisor's office for information and referral to the correct local agency.

Recap:

- The State passes money to the counties for home repair assistance to low-income mobilehome owners. Not all counties participate in this program.

PARK CONVERSION TO RESIDENT OWNERSHIP

PARK CONDO CONVERSION

Q. Park owner is planning a "condo-conversion". Will homeowners who can't afford to either buy their lot, or pay the higher rents once the park loses rent control protection, be economically evicted?

A. Not necessarily. A growing number of mobilehome park owners have been utilizing a special provision of the state's Subdivision Map Act to convert their parks to "resident owned condominiums" or "subdivisions", thus exempting the converted parks from local rent control after the sale of the first lot. Condominium interests in mobilehome park spaces must be offered to renting homeowners, and low-income homeowners who cannot afford to buy can continue to rent their spaces under a statute which limits rent increases, including "pre-conversion" pass-through fees, to the Consumer Price Index (CPI) or less. However, non-purchasing residents who are not low-income lose rent control protection upon the conversion and may have their rents increased to higher so-called "market levels" and may eventually have to move. The state's Mobilehome Park Resident Ownership Program (MPROP) provides limited financial assistance to low-income residents to help them buy their interests in resident-owned condo parks, and some local governments may also have financing to assist some as well.

Recap:

- Low-income renters keep rent control protections.
- Low-income buyers may qualify for state and local financial assistance.

RIGHT OF FIRST REFUSAL TO BUY PARK

Q. Is the park owner required to offer residents the right-of-first-refusal to buy the park when it is put up for sale?

A. No. Although the Mobilehome Residency Law (Civil Code Sec. 798.80) provides that the park management must give the governing board of the park homeowners association a 30-day written notice of the park owner's intention to offer or list the park for sale, the notice is <u>not</u> a "right of first refusal," does not apply to sales other than to offers or listings initiated by the park owner, and is only applicable if certain conditions are met. In order to receive the notice, residents must form a homeowners association for the purpose of buying the park and register with the Secretary of State. The homeowners association must notify the park each year of the residents' interest in buying the park. The notice requirement does not apply to the sale or transfer of the park to corporate affiliates, partners, or relatives, or transfers triggered by gift, devise, or operation of law, eminent domain, foreclosure, or transfers between joint tenants or tenants in common.

Recap:

- Park owner is not required to offer park-for-sale to residents first.
- Homeowners association may notify park it is interested in buying park but it does not have the right of first refusal.

LAWS APPLICABLE TO RESIDENT OWNED PARKS

Q. Which state laws regulate the operation of non-profit resident owned parks – the Mobilehome Residency Law, the Mobilehome Parks Act, the Non-Profit Mutual Benefit Corporation Law, or the Davis-Stirling Common Interest Development Act?

A. All these laws may apply, but whether they do in a particular park depends upon the circumstances in each case and may require consultation with an attorney. Therefore, the following answer is only intended to have general application:

Mobilehome Residency Law (MRL): For a resident-owned park, Civil Code Sec. 799.1 clarifies that Article 9 of the MRL, governing the relationship between residents and the park management (Civil Code Section 799 et. seq.), applies only to residents who have an ownership interest in the park, while Articles 1 through 8 (Sections 798 – 798.88), relating to rental parks, apply to any non-owning residents who continue to rent or lease their spaces in a resident-owned park.

Mobilehome Parks Act (MPA): The MPA governs health and safety (building) code requirements for both rental parks and resident-owned parks that were converted from formerly rental parks, but the MPA in most cases does not apply to resident-owned parks that were originally developed as manufactured housing subdivisions or communities under local development standards, not rental parks.

Non-Profit Mutual Benefit Corporation Law (Corporations Code Sec. 7110, et. seq.): This law applies to a non-profit corporation which is a homeowners association that operates or governs a multiple residential community for the mutual benefit of the members of the association. However, the Corporations Code does not apply to unincorporated homeowners associations that operate such communities, of which there are estimated to be but a few.

Davis-Stirling Common Interest Development Act: This Act defines and regulates common interest developments (CIDs), including many resident-owned parks. In order to be a CID subject to the requirements of the Davis-Stirling Act, the park 1) must have a common area or common areas (such as roads, a club house, or other commonly used facilities) in addition to individual interests or residences, and 2) the park must file a declaration of intent to create a CID with the county recorder along with a condominium plan, if applicable, or a final map or parcel map, if applicable, for the CID. In most cases where a resident-owned park is a condominium, planned unit development (PUD), or subdivision, the Davis-Stirling Act will apply. However, non-profit stock cooperatives or other resident-owned parks that are not subdivisions or condominiums may also be subject to the Davis-

Stirling Act if a simple declaration creating the CID is recorded. Without the recording of such a declaration, however, the Davis Stirling Act does not apply.

Recap:
- Different laws apply. Check with attorney.

PARK OWNERS & MANAGERS

PARK MANAGER INTIMIDATION

Q. What can residents do about park managers who intimidate and harass?

A. This is one of the most difficult issues to resolve and there are no easy answers. Recent legislation to initiate a mandatory educational training program for park managers (AB 1469; 2006) was vetoed by the Governor. There are no qualifications to be a mobilehome park manager. Many are good managers, but some are unprofessional and arbitrary in dealing with residents. The Mobilehome Residency Law (MRL) gives residents certain rights, but when difficult issues have to be resolved, residents need to form homeowners' organizations or affiliate with mobilehome groups that advocate for mobilehome owners interests and work as a group in dealing with the park management. The best defense is a good offense, but don't confront the manager in a belligerent or overly argumentative fashion to make matters worse. If the manager won't let residents use the clubhouse for meetings, get organized and use one of the residents' homes or meet at a nearby restaurant, community center or meeting place outside the park. Keep a journal or document as evidence all manager violations. Consult an attorney, victims' rights groups, local fair housing organization or the state Department of Fair Employment and Housing (DFEH) about your rights, as well and those of others in the park, relating to possible violations of protected classes (discrimination), elder abuse laws, unfair business practices, or the MRL. If you prevail against the management in court, you can ask the court for attorney's fees. If you can prove willful management violations of the MRL you can obtain up to a $2,000 penalty for each violation. Talk to the local newspaper or TV news about doing a story about conditions in the park. Have an attorney send a letter to the park owner about the manager's behavior and request a meeting with the owner or another representative of the owner, other than the manager. Ask the owner to consider that the manager be replaced before he/she becomes a liability to the park owner.

Recap:
- Form a homeowners group, keep record of evidence, and contact local or state fair housing commission for counsel and assistance.

PARK VIOLATIONS OF THE MRL

Q. What good is the Mobilehome Residency Law if there is no enforcement and residents have to go to court to protect themselves?

A. The Mobilehome Residency Law (MRL) – the landlord-tenant law for mobilehome parks -- is part of the Civil Code. The enforcement mechanism is through the civil courts, not law enforcement or another government agency. Except with regard to public nuisance and health and safety issues in parks, legislative attempts to have district attorneys or city attorneys enforce all or part of the MRL have failed in the past. There is no mobilehome "police." Courts are a governmental agency, one of the three branches of government responsible for, among other things, resolving or deciding civil disputes. When faced with a problem, residents need to network through mobilehome advocacy organizations or by forming homeowners associations to protect themselves as a group. Few attorneys are familiar with mobilehome law or are interested in practicing it, but as the number of lawsuits against park owners/managers grows, more attorneys are starting to deal with those issues. Some mobilehome organizations or the county bar association can provide references or lists of attorneys who take mobilehome cases. In some cases, simply hiring an attorney to write a letter on his/her firm's letterhead to the management may solve the problem. In other cases, small claims court may have jurisdiction over cases involving damages of less than $7,500, and, with preparation and advice from mobilehome advocates or attorneys, one can appear in court on one's own behalf. All park violations should be documented for evidence in court. MRL provisions allow a successful plaintiff to ask the court for attorney's fees if he/she prevails and obtain up to a $2,000 penalty against the park, at the discretion of the judge, for each willful management violation of the MRL that is proved.

Recap:

- The Mobilehome Residency Law is enforced through the courts.

CONTACTING PARK OWNER OR OPERATOR

Q. How can we find out who operates and who owns the park to tell them about problems that the management is not handling?

A. Contact information for park owners/operators can be found on the Department of Housing's (HCD's) Mobilehome and RV Parks Search webpage (http://www.hcd.ca.gov/ParksListing/faces/parkslist/mp.jsp). Finding the actual owner may be more difficult and requires research of property tax records, deeds of trust and similar records at the county's tax assessor's and recorder's offices. If the name turns out to be a business, corporation or trust, one will have to do more research using the Secretary of State's "Business Portal" (http://www.sos.ca.gov/business/business.htm), listing business organizations that have been formed as limited liability corporations (LLC) or

limited liability partnerships (LLP). As a last resort, where the manager refuses to provide the name and address of the park owner to residents, as required by the MRL (Civil Code Sec. 798.28), residents may wish to consider the cost of taking legal action to get a court to compel the manager to provide the information.

Recap:

- For name of park owner or operator, search online at www.hcd.ca.gov (state Dept. of Housing), or www.sos.ca.gov (Secretary of State).

MANAGEMENT NOT AVAILABLE IN EMERGENCIES

Q. Does the law require a manager to be on the premises at all times in case of emergencies?

A. Not exactly. Health and Safety Code Section 18603 requires a manager or his/her designee to reside in parks with 50 or more spaces, but does not require them to be on the premises 24 hours a day. The code does require a person to be available by telephonic means, including telephone, cellular phone, pager, answering machine or answering service, to reasonably respond in a timely manner to emergencies concerning the operation and maintenance of the park. The agency responsible for enforcement of park health and safety requirements (either local government or HCD) should be contacted about citing the park for this possible violation, although some enforcement agencies are reluctant to cite for this violation because it is difficult to prove. Additionally, residents may have a legal cause of action against the park for damage from a safety or health hazard due to the park's negligence in not being available.

Recap:

- Park manager does not have to be on premises 24/7.
- Park manger does have to be available by phone to respond to health and safety emergencies affecting the park.

PARK MANAGER ENTERING LOT

Q. Does the park manager have the right to enter my lot without notice?

A. The Mobilehome Residency Law (MRL) (Civil Code Sec. 798.26) provides that the park manager has the right to enter the lot at reasonable times and in a manner that does not interfere with the resident's "quiet enjoyment" for the purpose of maintaining utilities, trees and driveways, protection of the park, and for maintenance of the premises where the resident has failed to maintain them in accordance with the park rules. The MRL does not require the manager to give the resident a notice for this purpose, but manager has no

right to enter the home without prior written consent of the homeowner except in an emergency or where the resident has abandoned the home.

Recap:
- Park manager may enter private lots under reasonable circumstances, as defined in the MRL.

HOME SALES, RESALES & TRANSFERS

SELLING HOME IN PLACE IN THE PARK

Q. Can the park manager force me to move my home out of the park when I sell it just because the home is old?

A. If your home is NOT a mobilehome (less than 8 feet wide x 40 feet long) and is therefore classified as a recreational vehicle (trailer), you have no right to sell it in place and will have to move it. With regard to mobilehomes, the MRL (Civil Code Sec. 798.73) establishes two standards. Basically, the home cannot be required to be removed upon a resale if it: 1) is more than 17 to 20 years old or older but meets health, safety and construction standards of state law; and 2) is not in substantially rundown condition or disrepair as determined in the reasonable discretion of management. Generally, if the home meets the first test it is hard to fail the second. If the management is rigid on this issue, you may have to hire a private home inspector to look at your home and repair any code violations or defects the inspector finds in his/her report. Keep a copy of the inspector's final report as proof that your home meets state code standards. HCD inspectors no longer perform this function in most cases; although some local governments that do mobilehome park inspections for the state may be willing to inspect your home. Be prepared to pay an hourly fee in any case, whether it's a public or private inspector. Several attempted legislative reforms requiring HCD to perform home resale inspections have failed to pass the Legislature.

Recap:
- RV and trailer owners may be forced to move their coach out of the park when they sell it.
- Mobilehomes are allowed to stay in the park after they are sold if they meet certain health and safety standards.

RESALE OF A PARK MODEL IN THE PARK

Q. Can the park manager force me to move my park-model out of the park after I sell it?

A. Even though it may look like a small home, a park model is not a mobilehome.

It is a "park trailer," as defined in the Health and Safety Code, which is essentially a type of recreational vehicle that has 400 square feet or less of floor space. A number of mobilehome parks in California accommodate both mobilehomes or manufactured homes, as well as recreational vehicles, but provisions of the Mobilehome Residency Law that require parks to allow homeowners to resell their homes in place in the park only apply if the home is a mobilehome or a manufactured home.

Recap:

- Park-model is not a mobilehome, therefore resident may be forced to move a park-model out of the park when it is sold.

PROSPECTIVE BUYERS SUBJECT TO INCOME REQUIREMENTS

Q. Can the park keep me from selling my home by imposing unreasonable income requirements on buyers?

A. Yes. The sale of a mobilehome located in a mobilehome park is a three-party, not two-party transaction. The buyer and seller must not only agree to terms on the sale of the home, the buyer must be approved for residency in the park by the park owner/management. By denying a buyer residency, the park management can effectively veto sale of the home in the park. There have been a number of legislative battles on this issue over the years, and the unfettered discretion of park management has been somewhat restricted, but management can still withhold approval on the basis of: 1) the buyer's inability to pay the rent and charges of the park and 2) the buyer's inability to comply with park rules and regulations as indicated by prior tenancies (see Civil Code Sec. 798.74). Although guidelines used by other landlords or public agencies for rental housing may be more lenient, many park owners impose higher income requirements to assure buyers will be able to afford future rent increases without causing the park problems, such as evictions. Legislative attempts to impose financial qualification standards for parks have not been successful to date.

Recap:

- Prospective buyer must be approved for residency by the park manager/owner.
- Prospective buyer can be rejected if they don't meet the income standards for the park.

RIGHTS OF HEIRS INHERITING MOBILEHOMES

Q. Can the park prevent me from living in the mobilehome I inherited?

A. Yes, unless you qualify for residency and sign a rental agreement. Upon death of a relative, heirs cannot simply assume they can move into the relative's home or continue to live there if they are not already a party to the

rental agreement. Despite the fact that an heir takes title to the mobilehome, the park management has the right to require an heir, or person who had been living with the resident, to newly apply for residency in the park. If the management rejects the heir's residency because the heir cannot comply with the rules or doesn't have the income to pay the rent and charges, the heir can be required to move out. The heir has the right to resell the inherited mobilehome in place in the park, assuming it meets health and safety code requirements, but must continue to pay the monthly space rent until the home is sold in order to maintain the right to sell it in place in the park. Otherwise, the park may terminate the tenancy and require the home to be moved from the park within 60 days of the notice of termination.

Recap:

- Heir of mobilehomes cannot assume he/she has residency rights if he/she has not been on the rental agreement.
- Heir has right to sell mobilehome in-place, as long as it meets health and safety requirements.
- Heir must continue to pay rent and fees as long as he/she own the home in the park.

USED HOMES - RESALE DISCLOSURE

Q. Do I have to provide a resale disclosure statement when I sell my mobilehome as-is?

A. As a measure of consumer protection, mobilehome resale disclosure (Civil Code Sec. 1102.6d) became effective in January 2000, making mobilehome sellers and their agents responsible for providing prospective buyers, by close of escrow, with a resale disclosure statement. The form requires the seller to check off a list of conditions or defects that may affect the value or condition of the home. The seller is not subject to a penalty or fine for failing to provide the disclosure to the buyer, and the fact that disclosure was not made does not invalidate the sale of the home. However, after purchasing the home, if the buyer discovers defects that were not disclosed by the seller, the fact that the disclosure statement was not provided could affect the outcome of the seller's civil liability in court for the defect. Real estate brokers and dealers are also subject to the disclosure requirements and agent-sales almost always include disclosure. Homeowners handling the sale of their home without an agent may not be aware of the disclosure requirement and should seek advice of an attorney, escrow agent, or another professional familiar with documents needed for resale of a mobilehome. The state Dept. of Housing (HCD) is not required to notify selling homeowners at the time of title transfer, which normally occurs only after the sale is closed. A copy of the form is available online.

Recap:

- Sellers are advised to provide resale disclosure form, even on as-is sales,

to avoid possible liability after the sale.

HOMEOWNERS REQUIRED TO SELL HOME TO THE PARK ON A RESALE

Q. Can the manager force me to offer my home for sale to the park first?

A. It depends on your rental agreement. The Mobilehome Residency Law (Civil Code Sec. 798.19.5) provides that a park rental agreement entered into on or after January 1, 2006 shall not include a provision or rule or regulation requiring homeowners to grant the park the right of first refusal to buy their homes on resale. Hence, if the homeowner entered into a lease on or after January 1, 2006 or is on a month-to-month tenancy, the park could not enforce a right of first refusal to buy the home. However, homeowners may be subject to such a park right of first refusal if they signed a long-term lease with such a provision before January 1, 2006 and that lease has not yet expired. Additionally, the law does not prevent a homeowner and the park from entering into a separate agreement, apart from the lease, for the right of first refusal where the homeowner obtains consideration or compensation from the park for that right.

Recap:

- Check rental or lease agreement for details on whether park has right of first refusal to buy mobilehome for sale.

NEW HOME DEFECTS AND WARRANTIES

Q. What are the rights of a resident whose new manufactured home has defects?

A. New mobilehome or manufactured home warranty complaints must be filed in writing with the dealer and manufacturer within the warranty period, by law, one year and ten days from the date of delivery or occupancy, whichever is earlier. This is necessary in order to preserve your rights under the warranty should litigation or a state Dept of Housing (HCD) investigation not commence until after the warranty has expired. Accessories that were purchased with the home as a package are normally covered by the warranty. An installation problem may complicate warranty complaints. If the home was installed by a licensed contractor as arranged by the dealer, both the dealer and contractor may be responsible. If the homeowner hired the installer independently from the dealer sale, there may be an issue of whether the problem with the home results from faulty installation, and thus is only the responsibility of the installer, or results from manufacturing defects. If the dealer or manufacturer does not satisfactorily respond within a reasonable period of time after filing the complaint with them, the homeowner should contact HCD's Office of the Mobilehome Ombudsman at 1-800-952-5275 about filing a dealer complaint. Complaints about licensed contractor

installers should also be addressed to the Contractors State Licensing Board at 1-800-321-2752.

Recap:

- Warranty is good for 1 year and 10 days after date of delivery or occupancy.
- If home was installed by independent contractor, then problems may occur with identifying who is liable for defects.

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