

WHAT HOMEOWNERS NEVER HEAR ABOUT LONG TERM LEASES: *A New Look at Benefits, Innovations, and Security*

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Long term leases (see Civil Code §798.17) are often touted as valuable assets for the community owner. But they are more. Leases pave the way to harmony within a community; and can provide residents with benefits and powers not conceivably mandated by rent controls. However, our homeowners are continually barraged with strident invective condemning even the thought of considering leases. Why?

If the reason be to rely on rent control to avoid rent increases, the omnipresent risk of rent increase litigation looms. The bottomless abyss of litigation produces unconscionable expense, uncertainty about the future and results in great personal stress, anxiety and emotional turmoil. Is this to be the plight of our residents? Ardent opposition to leases in non-rent-controlled areas is even more puzzling. More than one resident attorney has quipped that his client “was crazy” to purchase a mobilehome, landscape it, and THEN enter JUST a month-to-month agreement.

Why?

Because the rents can increase at the demand of the park owner, rent controls or none. If the impassioned denouncement of leases is concocted on anecdotal evidence of unfair tactics in procuring leases, the civil remedy of rescission (the existing 72 hour “cooling off” period) provides complete relief. The same complaints could be made of any rental agreement; yet, only leases may be unilaterally rescinded by the resident.

The fact is that leases provide the best opportunity for creative accord and resident goal achievement available under current law. So let us consider what our residents do not hear from their advocates. Simply, leases can provide opportunities for residents otherwise not possible.

RESIDENT EMPOWERMENT: Leases can establish a system of sharing decision-making power about improvements and maintenance. Leases can provide for resident-controlled improvement funds earmarked for maintenance or beautification. Choices concerning common area landscaping, replacements, improvements and services can be decided by the residents themselves for a portion of the budget. Meet and confer provisions can be provided for other changes. Such resident empowerment has proven valuable where concern for quality of life is shared by residents. Only leases can set the stage to promote such a unity of purpose and long term stability.

CAPITAL IMPROVEMENTS BY VOTE: Many leases provide a majority-vote requirement for new capital improvements. While capital improvement pass-throughs are constitutionally protected (Sierra Lake Reserve v. City of Rocklin), community owners routinely balance a compromise of such rights against other lease benefits and duties. If residents approve a capital improvement, it is typically itemized as a separate, temporary rental amount; such portion of rent is not then compounded by CPI or other changes and is deleted when recovered. Residents can participate in determining future park enhancements in this way.

RENTAL ASSISTANCE FOR HARDSHIPS AND ELDERLY PERSONS IN

NEED: Some residents may experience financial hardship during tenancy. Leases may include a subsidy system in which the community owner may give financial relief, rent reductions, and deferral of payment to mitigate hardship and avoid foreclosure. Residents may, by committee or association, control subsidy awards both privately and with a minimum of delay and red-tape. Moreover, a resident seeking to sell due to continuing hardship might receive benefits such as additional time, deferred payment, or discounted payment through to close of escrow. Rent controls cannot legally subsidize a resident.

HEIR BENEFITS: Leases can institutionalize relief for a resident's heirs after departure from the homesite (e.g., hospitalization or decease). The code requires that the heirs pay rents timely through to the date of sale of the mobilehome to a new purchaser (Civil Code §798.78). This mandate can impose hardships on the resident's survivors. While community owners commonly cooperate with heirs, any anxiety can be conclusively ameliorated by providing a systemized moratorium from rent payment.

ACADEMIC ACHIEVEMENT RENT REDUCTIONS AND SCHOLARSHIPS: Some communities offer rent reductions for children who bring home high grades. The rent reduction can vary by the extent of academic excellence. Such a program is an incentive for parents to stress scholastic achievement and instill values which benefit society as a whole. Moreover, scholarships for the college bound are also possible.

SPECIAL PROGRAMS: Leases can be used to generate funds for resident entertainment. For example, social and political functions, celebrations, and trips to resort destinations can all be supported through a satisfactory lease structure. Community owners voluntarily support these activities, with enthusiasm, in the context of lease stability. Some owners sponsor social or recreational activities off-site for the kids in the park each month (Disneyland, movies, bowling, etc.) so parents have some quiet time. Some owners are considering placing computers in the recreational hall for afternoon "study hall" for the students in the community, so there will be a quiet place to study. Many communities are considering adding to their libraries and purchasing wide-screen televisions for resident enjoyment.

OLDER PERSONS SERVICES: "Older persons" communities (55+) no longer are required to provide services and facilities for the convenience or independent living of our seniors. Leases can establish such services and guarantee their continuing existence and how the costs will be covered.

The bounds of the meaningful benefits are limited only by the imagination and needs of a specific community. As such goals vary, the lease is the only means to satisfy the needs of all.

Leases are incentives to unify with residents in philosophy and spirit for a satisfying future. Rent control may demand expensive hearings and profess to avoid reduction of services, but never raise the collective consciousness of a community into a dynamic relationship of cooperation.

What do the residents never seem to hear about other lease advantages? Leases require adherence to a fixed formula for rent increases. Where such a formula provides for adjustments based on changes in operating costs, the adjustment may be up or down depending on actual cost experience. Residents do not hear that leases may reduce rent, but leases commonly provide it. Leases guard against unexpected increases by a new community owner on change of ownership. Leases protect against possibly dramatic changes in the economy. In leased communities, there is more pride and satisfaction reflected by residents. A prospective homeowner may desire the certainty of a lease. Manufactured homes may be more marketable and command higher sales prices if

leased. Financing may be more attractive.

LEASES VS. RENT CONTROL: We sometimes hear of discord and patent vindictiveness in rent control communities. This is often the by-product of rent controls. Leased communities evidence markedly less such strife. Why? Rent controls require expensive economic analyses, attorneys, economists and accountants. Residents are compelled to rally. Meaningful communication cannot exist amid entrenched adversaries in a hostile atmosphere. Imagine the collective expense of these herculean efforts and the good to be done if re-directed into the community through cooperative efforts!

Leases also serve an educational function. By educating each other to the needs and terms of a long-range relationship, the owners and residents help to bridge the gap in each other's position, rather than drive each other even further apart. Remember that tenancy in a manufactured home community is essentially a life estate. Short term agreements and rent laws only act to balkanize the relationship into parsed, chaotic episodes of acrimony, each year acted out in rent boards across the state.

Leases provide security and peace. There is too little of this in our manufactured home communities today -- and less where there is rent control. It would be a mistake if our residents allowed themselves to fall into a permanent trap and forever destroy opportunities to work with their owners because they do not get all the facts about leases.