

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

50 ADVANCING EQUITY
BUILDING JUSTICE
years

Protecting Mobilehome Park Homeowner & Resident Rights

The Preventing Older Homelessness Collaborative

May 2, 2022

Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems with getting on to the webinar? Send an e-mail to trainings@justiceinaging.org.
- Find materials for this training and past trainings by searching the [Resource Library](https://justiceinaging.org/resource-library), justiceinaging.org/resource-library. A recording will be posted to [Justice in Aging's Vimeo page](https://www.vimeo.com/justiceinaging) at the conclusion of the presentation, [vimeo.com/justiceinaging](https://www.vimeo.com/justiceinaging).

Today's Presenters

- **Anona Bonner**, Senior Program Manager, Div. of Codes & Standards, Housing & Community Dev., Anona.Bonner@hcd.ca.gov
- **Rosanna Kendrick**, Attorney & Program Manager, Elder Law and Advocacy rkendrick@seniorlaw-sd.org
- **Michael Novasky**, Senior Attorney, Neighborhood Legal Services of Los Angeles County michaelnovasky@nlsla.org
- **Kellie Morgantini**, Executive Director, Legal Services for Seniors, Monterey County kellie@lssmc.net
- **Craig Castellanet**, Staff Attorney, Public Interest Law Project ccastellanet@pilpca.org
- **Patti Prunhuber**, Senior Housing Attorney, Justice in Aging, (Moderator) pprunhuber@justiceinaging.org
- **Lorraine Lopez**, Senior Attorney, Western Center on Law & Poverty llopez@wclp.org

The Mobilehome Residency Law (MRL)

- Governs the landlord-tenant relationship between residents who own their mobilehome and rent a space for the home in a mobilehome park
- Hybrid of homeownership and tenancy
- In many cases, greater protections than general landlord-tenant law
- Civil Code § 798, et seq.

MRL Legislative Findings

- Civil Code § 798.55:
 - “The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.”
(1978)

Key Definitions in the MRL

- Mobilehome park (Civ. Code § 798.4)
 - Area of land where two or more mobilehome sites are rented, or held out for rent
- Mobilehome, including manufactured home (Civ. Code § 798.3)
 - Structure designed for habitation and for being moved on street or highway under Vehicle Code § 35790
 - Trailers and other RV's (other than motor homes, truck campers, and camping trailers) used for human habitation if
 - Has occupied a mobilehome space for 9 or more continuous months since Nov. 15, 1992 or
 - On Nov. 15, 1992 occupied a mobilehome space under rental agreement and occupied a mobile-home space in the park before Jan. 1, 1991
- All home types defined in Health & Safety Code § 18000, et seq.

Key Definitions in the MRL (cont.)

- Homeowner (Civ. Code § 798.9)
 - Person who has a tenancy in a mobilehome park under a rental agreement. Gets all MRL protections
- Tenancy (Civ. Code § 798.12)
 - The right of a homeowner to use a site within a mobilehome park for their mobilehome
- Resident (Civ. Code § 798.11)
 - Homeowners or other persons who lawfully occupy a mobilehome
- Tenant (not defined in MRL)
 - Person who rents the MH. Tenants have all the rights of tenants in other types of housing, but only get the MRL protections that are for “residents”

MRL Protections

- Notices and Disclosures
 - Park required to provide certain written info before homeowner moves in/purchases home: rents, fees and park rules
- Mandatory lease terms
 - MRL requires certain terms and prohibits other terms
- Park Rules
 - Must be part of rental agreement.
 - Park must consult with residents when amending rules
 - Rules must be reasonable
- 90 Day Notice for rent increases
- Good cause for homeowner evictions

MRL Protections Also Include...

- Guests, companions and live-in care providers
- Subleasing
- Pets
- Allowable fees and charges
- Security deposits
- Charges for utilities
- Management entry into mobilehome
- Resident Associations
 - and more

Space Rent Increases

- Park management is required to give homeowners written notice of a rent increase at least 90 days before effective date. Civ. Code § 798.30
- Notice of a rent increase to begin in less than 90 days is void. *Rich v. Schwab* (1984) 162 Cal. App. 3d 739, 742–743.
- Notice is proper if personally delivered to the homeowner or delivered via U.S. mail. Civ. Code § 798.14

Rent Stabilization or Rent Control

- The MRL does not limit the amount of rent increases
- Most rental agreements are subject to rent control if it exists in the jurisdiction. Civ. Code § 798.17
 - MHP Rent Control in about 94 jurisdictions across the state
- Exception: Rental agreements for > 12 mos. voluntarily entered into by homeowner may be exempt from rent control
 - Can opt for a 12 mos. or month-to-month lease
 - And, rent control exemption does not apply to any long-term rental agreements entered into:
 - on or after January 1, 2021
 - between Feb. 13, 2020 – Dec. 31, 2020
 - All rent control exemptions expire on January 1, 2025

Does the Tenant Protection Act Apply?

- TPA rent limits **do not** apply to mobilehomeowners renting the land underneath their home
- TPA rent limits **do apply** to tenants renting a mobilehome from the park
- TPA rent limits **may apply** to tenant renting a home from some entity other than the park

Cal. Civ. Code § 1947.12

Cal. Civ. Code § 798.30.5

Consider Anti-Price Gouging Law

- During federal/state/local declaration of emergency
- Rent increases can't exceed 10% of previously charged or advertised amount (some exceptions)
- Applies to "a space rented in a mobilehome park"
- Rental housing - § 396(e)
- Can't evict and then offer to rent for >10% more

CA Penal Code § 396

Limits on Other Fees and Charges

- Cannot charge a fee for other than rent, utilities and
- Incidental reasonable fees for services actually provided which are:
 - Listed in rental agreement or
 - At least 60 days prior notice
- No charges for entry, installation, hookup or landscaping unless Government fee
- No charges for
 - At least one pet, unless special pet facilities provided
 - Guests or live-in provider
 - One companion
 - Members of immediate family

Only 7 Reasons for Eviction

- MRL requires just cause to terminate a tenancy
- **Seven** allowable reasons to evict:
 - Failure to comply with state or local law after notice
 - Substantial annoyance to other residents
 - Conviction for specific crimes committed on premises
 - Failure to comply with reasonable park rules within 7 days after notice
 - Failure to pay rent, utilities or service charge
 - Condemnation of the park
 - Change of park use

Civil Code §§ 798.56, 799.70

Ground 1: Failure to Comply with MH Law

- Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after receiving notice of noncompliance from the appropriate government agency.
 - Homeowner may receive notice after HCD inspects the park and issues notice of violation.

Key Defenses and Strategies

- If cited for violation, depending upon how serious, must either be corrected ASAP or within 30 to 60 days
- Inspectors have the authority to extend the deadline for compliance if the situation warrants
- Homeowners may appeal a citation to HCD if they feel it is unwarranted
- Homeowners can ask for a reasonable accommodation for more time to comply

Ground 3: Specific Criminal Conviction

- Conviction of these specific crimes (Civ. Code § 798.56(c))
 - Prostitution
 - Battery resulting in serious bodily injury
 - Assault upon a person with a firearm, or semiautomatic firearm
 - Sexual assault
 - Arson
- Exception: Can't be terminated if person convicted permanently moves out

Possible Defenses and Strategies

- Must be a conviction
- Must occur anywhere “on the premises”
- Can the convicted person permanently move out?

4: Failure to Comply with Park Rules

- Failure to comply with a reasonable park rule or regulation that is part of rental agreement or any amendment
 - 7 days' notice to comply
 - If 3+ notices for same rule within 12-month period, no further notice required
 - Homeowner is responsible for violations by guest, companion, live-in caregiver, or family member under the care of homeowner
- Park must follow notice and meeting requirements before implementing new rules. Civ. Code § 798.25
 - If tenants disagree with the new rule, park must wait 6 months to implement

Possible Defenses and Strategies

- Rule is not reasonable:
 - MRL permits management to amend park rules without homeowners' consent, but such rules must be reasonable to be enforceable. *Rancho Santa Paula Mobilehome Park, Ltd. v. Evans* (1994) 26 Cal. App. 4th 1139, 1146.
- Notice & meeting procedure to implement rule not followed
- Homeowner cured, or park did not provide 7-day notice to cure
- Reasonable accommodation for more time to cure
- Retaliation

Ground 5: Failure to Pay

- COVID-19 Tenant Relief Act (TRA) applies to mobilehomes
- Outside of TRA exception, mobile home tenancy can be terminated for nonpayment of rent, utility charges or reasonable incidental charges only if:
 - Payment must be 5 days late before notice can be served
- Non-payment can only be cured by non-homeowner 2 times in a 12- month period
- If 3 or more notices to pay or quit in a 12-month period, no further 3-day pay or quit notices required for subsequent failure to pay. Only 60-day notice to quit.

Possible Defenses and Strategies

- Is the notice amount correct?
- Does the amount demanded exceed a local rent control ordinance? Or did park fail to provide adequate notice of rent increase?
- Is the rent demanded COVID-19 Rental Debt? Is there a pre-March 31st ERAP application?
- Did the park management serve all required parties with every 3-day Notice to Pay or Quit in the 12-month period?
 - Must serve the legal owner, registered owner, and any junior lienholders. If not, 30 days to cure
- Is the park legally allowed to collect rent? They cannot collect rent if HCD has suspended their permit

7: Park Sale, Closure or Conversion

- While one of the 7 reasons for Eviction, discussed later

Unlawful Detainer

- Tenancy can only be terminated for just cause, for the 7 reasons specified (with proper notice)
 - Homeowners who live in the park cannot be evicted upon lease expiration unless there is a failure to pay, or they've violated park rules
- If 3+ violations of the same rule within a 12-month period, park management can file an unlawful detainer upon the 3rd violation (Civ. Code § 798.56(d)) even if violation is cured
- Park management must provide 60 days' notice of termination
- Following 60 days' notice, park management can file unlawful detainer
- Conventional UD laws apply to mobilehome park non-owner tenants.
- Separate set of rules apply to RV Park terminations, depending on length of time in park, whether in specially designated area of MHP. Civ. Code §§799.55 – 799.70.

If Homeowner Loses the UD

- When termination notice is served, homeowner may choose to:
 - (a) sell the mobilehome to the park,
 - (b) foreclose its security interest in the home, or
 - (c) request that the management pursue the eviction and offer to reimburse their fees and costs
- If they choose (b) or (c), the homeowner can also sell the mobilehome to a third party. However, homeowner must strictly comply with all statutory requirements, including:
 - Appropriate, timely notice to the park owner
 - Remain current on all rent, utilities, and maintenance charges, and
 - Conduct all required repairs on the mobilehome. Civ. Code § 798.56a
- If homeowner doesn't comply, after judgment, park owner may lock owner out, place mobilehome in storage. Park owner acquires a "warehouse lien" Civ. Code § 798.56a(e)

4 Key Laws Prohibit Disability Discrimination

- Federal Fair Housing Act – applies to almost all housing
- Section 504 of the 1973 Rehabilitation Act
 - Federally funded housing – enforced by HUD
 - Doesn't apply to private housing unless accept §8
- Americans with Disabilities Act (ADA)
- CA Fair Employment & Housing Act (FEHA)

What Is a Reasonable Accommodation?

- Change to a rule, policy, practice, service or procedure that is necessary to afford a disabled person equal opportunity to use or enjoy a housing opportunity or dwelling
- Applies to applicants and participants
- Required by FHA, Section 504, ADA and California FEHA

RA: 4 Step Analysis

- Must have a disability
- Accommodation must be necessary – a direct and logical connection between requested accommodation and the disability
- Do not need to use the magic words
- Accommodation is reasonable. Burden on landlord to show:
 - Undue \$\$ and administrative burden
 - Fundamental alteration or
 - Direct threat

What Is a Reasonable Structural Modification?

- Structural change to a building or mobile home site that is necessary to afford a person with a disability the equal opportunity to use or enjoy their mobile home
- Can include changes to the interior or exterior of the mobile home
- Can also apply to common areas

Reasonable Accommodation Process

- Person with disability/representative makes RA Request
 - See [MHP RA Request Form](#)
 - No particular form may be required
- If request not immediately granted, duty to engage in interactive process to determine if an alternative, less burdensome accommodation would offer equally effective results

RA to Support MHP Residents

- Examples:
 - Ramp or other structural changes to premises
 - Accessible parking space
 - Allowing adult under age 55 to provide in-home care
 - Pay rent after first of month when benefits received
 - Time/opportunity to cure violation, preserve tenancy
- Request can be made at any time, including any time during eviction process
- Failure to provide a RA is an affirmative defense to a UD action

Rights of Homeowners When Selling

- Homeowner has right to list for sale independently of park
- Management can't impose selling or transfer fee
- Limits on upgrades that may be required
- Management can require prior approval of prospective purchaser based on ability to pay
- Approval can't be withheld unless evidence of:
 - Financial inability to pay
 - Based on prior tenancies, purchaser won't comply with park rules
- Time limits for approval/denial; statement of reasons

Park Closures and Conversions

- Right to Notice (Civil Code § 798.56(g))
 - If no permits are required, park owner must provide 1 year notice of termination to all residents
 - Where permits are required, owner must provide 60 days notice prior to appearing before a local board or planning commission to request permits
 - After all permits issued, 6 month termination notice
- Before closing, converting or changing use, park owner must file a Resident Impact Report with the local government to document:
 - Demographics and income of residents in MHP
 - Alternative housing options and relocation
 - Replacement plan to mitigate loss of existing units

Resident Impact Report

- Resident Impact Report (RIR) requirements:
 - Must plan to mitigate any adverse impact on ability of displaced park residents to find adequate housing in a mobilehome park. Gov. Code § 65863.7(e)(2)
 - Before local agency approves any change of use, must make a finding as to whether closure will result in or contribute to shortage of housing opportunities. § 65863.7(e)(1)
 - Residents should get copy of report 60 days prior to agency or legislative hearing. § 65863.7(b)
 - If the resident cannot find housing in another park, the park shall pay them the in place market-value of the mobilehome, as determined by state-certified appraiser. § 65863.7(a)
- Local park closure ordinances may provide greater protections

Responding to Closures & Conversions

- Organize tenants, form resident association
- Explore possible resident purchase of park
- Owner must provide notice to any resident organization prior to sale of park. Civ. Code 798.80
- Preservation strategy with non-profit ownership
- Advocacy with local governments for programs and resources on preservation
- See also: subdividing parcels Gov. Code §66427.4, and condo conversion Gov. Code §66427.5



Questions?

JUSTICE IN AGING
FIGHTING SENIOR POVERTY THROUGH LAW

50 ADVANCING EQUITY
BUILDING JUSTICE
years



@justiceinaging