



Golden State Manufactured-home Owners Education Fund

**Notes from Q&A Session Following Ed Fund Virtual Townhall with GSMOL
Attorney Bruce Stanton on April 10, 2021**

Compiled by Carol Brinkman

1. ***Is Park management required to clean after clubhouse use due to COVID? Our park manager says he is not cleaning.*** The answer is likely “Yes”, but check your city or county’s rules and guidelines for specific requirements. Park management which does not follow County health guidelines or reasonable safety protocols is very unwise given virus conditions. Any written COVID waiver the park owner might ask you to sign will not protect the park from its own negligence if it fails to take reasonable precautions to protect residents.
2. ***Can we force the park to open their books? Our park is moving from sub-metered utilities to direct assessment, and we feel the reduction in rent he is offering is too little compared to other parks in our area.*** Civil Code 798.41 allows utilities to be billed separately according to usage, which encourages conservation. Rent reduction shall be equal to the average amount charged by park management for that space during the prior 12 months. The problem is park owners seldom calculate costs on a space-by-space basis as this section appears to require, but simply divide the utility usage by the number of park spaces. There is no known court decision which construes this requirement. But the park has an obligation to show how their calculation is made. Utility companies seldom want to get involved, citing privacy issues. If the rent reduction is unreasonable, residents have the right to have a meeting and challenge it with management. Provide evidence of what comparable local parks are charging. You might have to go to court to prove that the 798.41 rent reduction is inadequate.
3. ***Can I initiate a willful violation in small claims court without actual damages – as a test case? My park is slow to open facilities and refuses to heat our pool.*** Small claims court is always an avenue of relief. Advantages are it is quick (6-8 weeks to get to trial), cost is minimal (less than \$100 to file) and no lawyers are allowed. You can argue your case yourself. It is just you and the landlord. If you win, you can use that decision as a “sword” or precedent for other residents to bring the same case. The disadvantages are that your time in court is very short: you must argue your case efficiently. And if you lose the case there is no right of appeal for the plaintiff, while the defendant can appeal the case to Superior Court for a brand new trial. The court has a calendar and usually

hears 10-25 matters daily. The difficulty will be calculating the value of a service reduction for facilities not re-opening when County guidelines allow for it. Damages must be proven with certainty. It is doubtful that a “willful violation” penalty would be awarded without actual damages being proven.

4. ***How do I get a copy of a COVID Common Area Facility Waiver of Liability?*** Every park will likely have its own waiver form; there are templates available to park owners. You would likely receive this as a mass mailing without needing to ask for it.
5. ***Was the process to change our park rules legal? Park owner did not meet with residents as a group but met with 3-4 persons at a time over several weeks. Then he asked us to sign the new rules. Do we have to sign the new rules?*** NO, you are never required to sign the park rules and shouldn't. Pursuant to Civil Code 798.25 new rules take effect 6 months later, except rules relating to common area facilities take effect 60 days later. If you do sign them they take effect immediately instead of after the waiting period. Also, signing them could be construed as having signed a contract, which residents should avoid. The unique pandemic conditions may prevent “in person” meetings. The question is whether the park owner reasonably accommodated the residents by meeting in small groups; more information is needed. The park owner might claim he met separately with residents for their safety during the pandemic.
6. ***Our park association puts on events. Do we need to require masks, proof of vaccination, waivers etc. How protected is the Association and residents?*** Your Association must comply with park rules, and the County health guidelines. If the park has no rules then what you do will be an added layer to park regulations. You might make a list of safety “Protocols” for members to follow. If you require a waiver (which is a little heavy handed) make it simple, so as not to completely discourage attendance.
7. ***Do we have to sign a new lease when this one expires? NO!*** Once a lease term expires a mobilehome tenancy *automatically* becomes month-to-month. Furthermore, if you sign a long-term lease (longer than one year) you lose the protection of rent control now (and in the future) if your city/county has (or gets) a rent stabilization ordinance. You cannot be evicted for refusing to sign a lease. There are 7 specific reasons for eviction in California and failure to renew a lease is not one of them. Per MRL 798.56 the 7 reasons for eviction are: 1) Failure to pay rent 2) Conduct that constitutes a substantial annoyance to other residents 3) Failure to comply with a reasonable rule and regulation that is part of the rental agreement 4) Failure to comply with local or state laws relating to mobilehomes within a reasonable time after notification of non-compliance 5) Conviction of prostitution or certain felonies committed on the premises 6) Condemnation of the park and 7) Change of use of the park.
8. ***We have a long-term lease in a rent-controlled jurisdiction and the park owner is bumping up the rent before the lease expires (and we are eligible for rent control protection). Can he do this?*** It depends on the terms of your lease. Does it have a

“market catch up clause” which states that near the end of the lease the park can raise rent to market value”? If it does, then increases dictated by your rent stabilization ordinance will be applied to the space rent that exists at the end of the lease. An RSO does not establish the amount space rent should be (high or low) but it does regulate the *increases* allowed each year. That increase is applied to the base rent at the time the RSO becomes effective. AB 2784 that GSMOL sponsored and helped pass in 2020 helps stem the tide of rapidly increasing MH space rent increases. It closes a state loophole that allows long term leases to be exempt from rent stabilization ordinances. It ends that exemption. All leases of any length signed on or after February 13, 2020 shall no longer be exempt from local RSO (Rent Stabilization Ordinance) which means the local RSO rent increase will apply to protect those residents regardless of what the lease provisions might say. The local RSO will effectively pre-empt the lease! All leases with a term of 12 months or longer signed *before* February 13, 2020 will remain exempt from rent control until they expire or until January 1, 2025, whichever comes first.

9. ***In my park which has a rent stabilization ordinance, park owners are raising rents more than 10% at point of sale of a mobilehome. Is this legal?*** You must read your rent control ordinance to see what is allowed. If it has a “Vacancy Control” provision regulating resale rent increases, the park owner is restricted in the amount he can raise rent at point of sale.
10. **Can a park owner bill separately for utilities (garbage, sewer etc.) from rent?** Yes, but he must adjust the space rent accordingly pursuant to Civil Code 798.41, and cannot charge more than the rate as if the resident was served directly by the utility.
11. **If park owners challenge AB 2782 (i.e., park conversion protection and long-term lease exemption from RSO), does this law stand or does it stop until it is adjudicated?** To stop the law, one must get a court injunction which will enjoin the effect of the law pending trial, and then prove the new law is unenforceable. Without an injunction it will remain enforceable.
12. **Does HCD keep a record of space rents in California to help determine what “market value” or average rents in my area are?** No, HCD does not. You can review a local real estate Multiple Listing Service which lists space rents for mobilehome homes for sale. There are also services such a “Mobilehome Village” which might provide you with information. Or you can hire a appraiser.

The Education Fund stands behind California’s one million manufactured-home residents. It provides educational services regarding manufactured-home living. A charitable non-profit with 501(c)(3) status, the Education Fund partners with the Golden State Manufactured-home Owners League (GSMOL). Visit the Ed Fund Academy website at <https://mobilehomerresidentadvocate.blogspot.com>