



Golden State Manufactured-Home Owners Education Fund presents a

VIRTUAL TOWNHALL

Saturday, July 10, 2021

Featuring BRUCE STANTON, GSMOL Corporate Counsel

Topic: General Summer Mobilehome Law Update and Q&A

Despite Covid restrictions on the number of proposed bills allowed in Sacramento, GSMOL is advancing two significant bills.

AB 861 (Bennett): Subleasing bill states that if park has a rule that residents cannot rent or sublease their homes, then park owners are also prohibited from renting or subleasing. We refer to this bill as, "What is good for the goose is good for the gander". Note, this bill does not prohibit subleasing! It has passed both the Assembly and Senate and is headed to the floor for a final vote before going to the Governor for his signature.

AB 1061 (Lee) addresses problem of **excessive charges for sub-metered water** in parks. It prohibits management from billing or collecting a separate charge for the provision of sub-metered water service, or from replicating a recurring charge throughout the entire park, beyond the amount of water consumed by the homeowner, if the charge is not authorized by the servicing water provider (or the charge exceeds the collective total that management pays to the water company). This bill has passed the Assembly and awaits a Senate vote.

MRL Civil Code 798.45 **exempts "new construction"** built after 1990 from rent stabilization ordinances. It was originally designed to encourage builders to build new parks without concern about limits on their profitability from space rents. It has been 31 years since the law was established and the definition of "new" construction is outdated. Data suggests it is best to get rid of the exemption: few new parks have been built since 1990 (58 total) with only 14 new parks in the last 20 years. Importantly, this law also affects new spaces built in existing parks, which creates an awkward situation with some residents being under rent control but the "newer"

homes in the same park being exempt. GSMOL sponsored a Bill regarding this in 2020 and is interested in addressing this problem with future legislation.

The **California Public Utilities Commission (CPUC)**, established a pilot program to upgrade and return electric and gas systems (in submetered parks) back to the local serving utility. They recently made this successful pilot program permanent. Concern arose that park owners might use these system upgrades, which arguably increase the value of their park, to evict residents or increase rents. The CPUC has just issued a proposed decision stating a park owner shall not increase rents due to the increased value of the park as a result of any such upgrades. GSMOL advocated for this. This decision becomes permanent in August if the Commission approves it.

Questions & Answers

(1) Can a park owner refuse to open common area facilities after Covid? Can he delay opening facilities? Or only open part?

A: Follow your County guidelines. Management cannot keep amenities closed simply for “cost-saving” reasons. When you pay space rent, you expect the agreed-upon amenities to be available. Any closure of amenities beyond your County’s guidelines must be “reasonable”. You should request common areas be opened, in writing, and cite Civil Code 798.24. If that does not happen, you can take your complaint to small claims court. Note, there is a \$2000 penalty for a “willful” violation. It is a breach of contract if your park rules include the common areas as an amenity. Loss of use that is not reasonable might be considered a “service reduction” (which could justify a rent reduction). You can also file a complaint under the Mobilehome Residency Law Protection Program (MRLPP) with HCD.

(2) Our Park has over 50% rentals and the park owner keeps pulling out old homes and replacing them with new ones that he rents. If number of homes he owns/rents exceed a certain number, can he close the park? Will we lose rent control?

A: Maybe yes! You must check your City’s/County’s Conversion and Rent Stabilization Ordinances for possible triggering of an automatic conversion or loss of rent control if a percentage of spaces are rented. GSMOL’s AB 861 (Bennett) addresses some of those concerns about park owners renting homes in their parks.

(3) My neighbor has been doing construction on his older mobilehome since he moved in two years ago. The constant noise disrupts my peace and the quiet enjoyment of my home? Can management keep extending the 60-day window to complete construction that is set forth in their Rules and Regulations?

A: No. This is a rules enforcement issue and could be considered preferential treatment for one resident. Check with other residents to see if this is a problem for them and ask them to sign a petition to present to management demanding rules enforcement.

(4) *Can a deck extend to the lot line?*

A: State law requires a 3-foot set back (and 6 feet between structures) from the lot line. But HCD may allow an exception if the structure is fireproof, such as metal, vinyl or hardy board, and there is still 6 feet between structures.

(5) *How can I get management make a resident keep their property up?*

A: If there is a rule, it should be enforced. Selective enforcement is a huge problem, and improper: there can be no favorites. Submit a letter in writing to management stating this affects your home's value etc. and ask him to enforce the rules. If the problem amounts to hoarding, it would be a violation under Title 25 (Health and Safety laws). You could file a complaint with HCD who has authority to pull a park owner's permit to operate (PTO). Consequently, the park owner could not collect rent. And he is not allowed to recoup back rent if/when he restores the PTO.

(6) *Can my park charge me \$20 to read my electric meter?*

A: Park can only charge what the serving utility allows. Contact your serving utility and ask what charges are authorized. If no response, contact the CPUC.

(7) *Can Park owner require residents get insurance when they use the common areas?*

A: It depends on the purpose of the meeting (Civil Code 798.51). If it is for an HOA or other mobilehome related meeting, then no. If it is for a private event, such as a memorial service or wedding etc., then management may require insurance.

(8) *Can management round up a fraction when reading the water meter?*

A: Park owner must follow the same practices as the water utility company. Contact your water provider and confirm how they bill, then write a letter to your park management. In the interest of full disclosure, your water bill must include all details (Water is not regulated as much as gas and electric services are.)

(9) Who is responsible for trees that are diseased or whose roots are destructive to property?

A: No matter who planted the tree, it is management's responsibility. If you and management disagree, you can contact HCD and request an inspection. See Civil Code 798.37.5

(10) When can a park owner require an older home be removed as a condition of sale?

A: Civil Code 798.73 contains resale eviction protection. A park owner can only require removal of a home upon resale if it can prove the home violates Code, or is "substantially rundown or in disrepair". The burden of proof is on the park owner. HCD no longer does resale inspections, but you can get a private property inspector to assess the home. You do not want a buyer to accuse you of non-disclosure.

(11) Can a park owner tell anyone who is selling their home that they must sign a 10-year lease before selling?

A: No. This is a clear violation of the MRL. You should ignore any such request. Once the terms of the initial rental agreement signed at move-in expire, you NEVER have to sign any other rental agreement! You automatically become a month-to-month resident. Civil Code 798.17 (b) allows 72 hours to rescind any rental agreement which exceeds 12 months in length, which period starts to run when you receive a copy of the signed agreement.

(12) A park had its operating permit pulled, then restored. Can they collect back rent for the period the permit was pulled?

A: No! There is a written HCD legal Opinion on point.

(13) Our Park MH Accord is subject to renewal. Can stakeholders weigh in to assess the situation about what worked and what didn't?

A: Check the renewal language of the Accord. Go to your local housing jurisdiction and ask them.

(14) Our Park requires those who use the pool to have a key to enter the pool and sign a Waiver related to Covid. Is this legal?

A: It is reasonable for a park to protect itself from liability due to an unknown event such as Covid. But the waiver should be limited to Covid only. Note: A park owner cannot be absolved from his responsibility to keep the pool safe (such as keeping it clean, repairing broken steps etc.)

(15) How can we stop selective enforcement of the rules?

A: You may have a “waiver” argument to use against management if park rules are enforced against one resident but not another. Selective enforcement jeopardizes management’s ability to enforce its rules. Send a letter to management explaining that if you allow some residents to do something, then you must also allow all. Sometimes selective enforcement has been used to retaliate against a resident.

(16) What can I do about people who do not know their rights?

A: Continue to educate people about the MRL. Own a copy of the MRL Handbook or download it to your computer. Civil Code 798.51 allows residents to canvas their park and deliver non-commercial, educational material to park residents.

(17) After my initial rental agreement expired, management requested I sign a new agreement stating rent can be increased upon 90-days’ notice. Do I have to sign?

A: No! You have no obligation to sign, and cannot be evicted for not signing. And, continued residency does not imply agreement to the proposed new terms without your signature. When you pay your rent, you may state in writing that you do not agree to the new agreement. If you live in a rent stabilization jurisdiction, the Ordinance governs rent increases. If you are not protected by a rent stabilization Ordinance, then an owner can increase rent every 90 days (with a 90 day notice).

(18) Management says they can come into my private backyard anytime. Can they? I have a dog and a sign that says, no trespassing.

A: The park owner owns the land, but you are entitled to quiet enjoyment as a tenant. Management can enter your outside space for a legitimate reason, such as to read the gas meter, conduct a lot inspection or for an emergency. Competent management will give advance notice and not invade your privacy. Any such “visit” should occur during reasonable hours, and cannot involve looking into the home or invading privacy.

(19) My adult sons qualified for tenancy and signed the rental agreement for our mobilehome. Now management wants us to sign a new contract and add additional occupants of the home, including me.

A: One is not considered a tenant if they did not qualify financially. Instead, they are considered “additional occupants”. (If those additional occupants are family members, there is no charge for them living there.) To become a tenant, you must apply for tenancy and qualify financially. If one partner in a married couple qualified for tenancy, their spouse cannot continue living there alone without qualifying.

(20) There are 67 units in my park and no resident manager. Services are lacking. Common areas are not opened. No one answers the emergency phone number.

A: Call your Zone VP. Title 25 states that if there are 50 or more spaces, the park needs an emergency contact (that designated person does not need to live in the park). This could be a violation of Title 25. Contact HCD or file an on-line complaint with them.

(21) Management is not experienced in property management, is not certified, or licensed and arbitrarily enforces the rules. What can I do?

A: GSMOL is very aware of the problem of lack of appropriate education of MH park managers. Senator Connie Leyva held a Hearing on this issue and is interested in sponsoring a law to require the licensing or education of park managers.

(22) After receiving courtesy notices, I have now have received a “7-day notice” because my dog is not on a 6-foot leash. But the manager walks her dog on a longer leash. I think this is silly. Do I have to respond?

A: YES! No matter how trivial you believe the issue is, always respond to a 7-day notice in writing. You should either confirm that you will comply if the notice is proper, or otherwise ask for clarification if it is vague. If you object to the notice, state your reasons in writing. Keep a copy of your response. If the park attempts to enforce the notice, you will have your own “paper trial” when it goes to court. A rule must be “reasonable” to be enforceable, and such a trivial thing as the length of a leash would likely never stand up in court.

(23) I own my mobilehome and I want my sister to inherit it. How can I create a smooth transition? Should I put her on the lease? On the title?

A: You should create a private estate plan such as a will or trust. Civil Code 798.78 addresses the rights of heirs. Your sister would have the right to sell the home in place or she can seek to become a tenant/occupant of the home. There is no need to add others to the mobilehome title before you pass away (for reasons that could expose them to liability). There is no need to add her to the lease unless she wishes to live in the home.

The Golden State Manufactured - Home Owners Education Fund emphasizes that you need to know your rights if you want to stand up for your rights! Your rights are spelled out in the Mobilehome Residency Law (MRL), found at California Civil Code 798, et. seq., which contains the tenant-landlord laws governing mobilehomes. Download the MRL at <https://mobilehomes.senate.ca.gov/publications>. This online version makes it easy to search and find articles by key words. The MRL Handbook includes FAQs, Community Resources, and an Index. You can also request a newsprint copy of the MRL Civil Code from your park manager who is required to make it available to you at the start of each new year. For the price of shipping and handling, you can request this MRL Handbook from California Senator Connie Leyva's office in San Bernardino.