

THE CALIFORNIAN

GOLDEN STATE MANUFACTURED-HOME
OWNERS LEAGUE

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DIGITAL EDITION

Our 2nd DIGITAL EDITION



*Official quarterly publication of the Golden State
Manufactured-Home Owners League, Inc.*

GSMOL enhances the quality of life for all manufactured home owners and for residents of mobilehome park communities throughout California. We champion the property rights of homeowners and deliver value through advocacy, information and service. GSMOL lobbies for just and fair protection under the law for manufactured home owners so they may experience the quiet, peaceful enjoyment of their community. GSMOL, Inc. reserves the right to exercise such discretion as it may deem appropriate in the selection of advertising material to be published in *THE CALIFORNIAN*. Advertising published in *THE CALIFORNIAN* does not constitute endorsement by GSMOL, Inc. of the products or services offered. *THE CALIFORNIAN* welcomes articles relating to mobilehome lifestyles, but they are subject to editing based on space availability, style, good taste and importance and at the discretion of the Editor. Content in this publication may not be reprinted or used in any way without the written consent of GSMOL, Inc. GSMOL is a nonprofit corporation with an IRS 501(c)(4) charitable tax exempt status.

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From the desk of the President:

Welcome to the 2nd digital edition of *The Californian*. I want to thank all of you who have been so supportive of this, and all of you who have written in and called to make sure we have your email address.

I hope everyone who is reading this has had a wonderful summer and are looking forward to Autumn and the cooler weather that will come with it.

Good things have been happening within GSMOL and that is good for all of you.

We have successfully passed two bills through the Legislature in Sacramento this cycle. As we go to print, both bills have been signed by the Governor and become law on January 1, 2024. The two bills are AB 604 which is Assemblymember Alex Lee's bill re: water service charges. It is sad we need to clarify this after it was already passed over a year ago, but some of the more predatory park owners don't seem to feel they need to follow the law. Hence: AB604 which is ultimately good for all of us.

In addition to that is AB318 by Assemblymember Dawn Addis, which extends the Mobilehome Residency Law Protection Program (MRLPP) by an additional 3 years. This bill is necessary for all of us. Currently it is the most effective protection we have against the predators and the abusive managers that will not follow the Mobilehome Residency Laws (MRL).

I need to thank our relentless lobbyist for all her hard work and her "never say die" attitude. And I cannot leave out our Legislative Action Team (LAT) and Legislative Contacts (LC) committee chair, Roger Johnson. He works tirelessly and is our face in Sacramento whenever we have hearings on our bills.

For the first time in years, we can say our financial house is in order. We are not rich, but the bills are paid and we have a reserve for emergencies. This is due to the blood and sweat of our State Treasurer, Shelly Parker. This is also due to hard choices and fiscal responsibility. Thank you, Shelly.

But there is still so much work to do. We are still fighting those predatory park owners up and down the state. We continue to encounter park managers who think it is a sport to harass and intimidate residents. On a personal level, this is something I do not understand and will never accept. But I can say we will NEVER stop fighting for you. And when all is said and done, in the end, **WE WILL WIN!!!**

So, in closing, I want to wish all of you a Happy Thanksgiving.

Again, thank you for your support.

Respectfully,

A handwritten signature in blue ink that reads "Linda Nye".

Linda Nye, President, GSMOL

GSMOL ELECTION 2024

REMINDER - GSMOL ELECTIONS

GSMOL is pleased to announce that we are taking applications for positions on the GSMOL State Board of Directors. Every two years we have an election of Board members, and any GSMOL member or member-at-large who is in good standing, is eligible to run for office. GSMOL members will vote by ballot, which will be included in *The Californian* magazine that will be published in January 2024.

What Positions are Open for Election in 2024 – 2028?

- ♦ GSMOL Secretary
- ♦ GSMOL Treasurer
- ♦ Vice President Zone A (must be a resident of Zone A)
- ♦ Vice President Zone C (must be a resident of Zone C)

How Can I Apply to Run As A Candidate?

Fill in and submit three forms:

1. **Candidate Application Form (#471)**
2. **Candidate Endorsement (requires signatures of 10 GSMOL members) Form (#472)**
3. **Candidate Willingness to Serve Form (#473)**

These forms are **available for download at our website** (www.gsmol.org) under the **ELECTION 2024** tab, or call the Home Office at 800-888-1727. Forms must be submitted before **December 08, 2023** to the GSMOL office either by email at gsmolgoldenstate@gmail.com, or by regular US mail to GSMOL

Who Can Vote?

All GSMOL members and members-at-large who are in good standing (i.e. GSMOL Membership is paid up to date) as of **December 31, 2023** may vote.

How Do We Vote?

Your **BALLOT** will be in *The Californian* magazine that you will receive in **January, 2024**. The ballot, the information about candidates, Bylaws amendments, and instructions for voting will be in the magazine in English, Spanish and Vietnamese. Contact Roger Johnson, rjconsult1@gmail.com if you have questions.



GSMOL ADVOCATED FOR THREE BILLS DURING THE 2023 LEGISLATIVE SESSION:

AB 318 Mobilehome Residency Law Protection Act.

Extends the much-needed Mobilehome Residency Law Protection Program (MRLPP), thereby allowing mobilehome homeowners to continue filing alleged violations of the MRL with HCD. This bill was signed by the Governor. [Read Bill Here](#)

AB 1035 Mobilehome Parks: Rent Caps

Authored by Assemblymember Muratsuchi. Because of a lawsuit filed over the passage of a similar bill, the state-wide Rent Cap Bill became a 2-year bill in the Assembly. This bill is still at the top of GSMOL's Legislative Priorities and we are hopeful it will be taken back up in the 2024 legislative session.

[Read Bill Here](#)

AB 604 Mobilehome Parks: Water Utility Charges, Mobilehome Parks: Water Utility Charges - Provides further clarification about the previous bill, AB 1061, which protects mobilehome residents from arbitrary and unfair water "service" charges and fees. The bill clarifies the scope of AB 1061 to explicitly include residents of all mobilehome parks in each of the protections within the statute. This bill has been signed by the Governor. [Read Bill Here](#)

GSMOL Tracked the following Bills this year. (Please Visit GSMOL.org and Sign-up for Our Weekly Capitol Bulletin for all of the details on these bills):

AB 319 (Connolly) Mobilehome Parks Act: inspectors: conflict of interest [Read Bill Here](#)

Governor signed into law.

AB 1334 (Pellerin) Mobilehome parks: Additional Spaces: Exemption from Additional Fees or Charges [Read Bill Here](#)

This bill died in the Senate Appropriations Committee

AB 1093 (Patterson) Property Taxation: Manufactured Homes: Tax Collection [Read Bill Here](#)

This bill died in the Senate Appropriations Committee

AB 22 (Gipson) Mobilehomes: mobile coaches

[Read Bill Here](#) This bill remains in the Assembly Transportation Committee and may qualify as a 2-year bill.

AB 1472 (Alvarez) City of National City and City of Imperial Beach: recreational vehicle parks: rent caps

[Read Bill Here](#) This bill may qualify as a 2-year bill when reconsideration was granted after initially failing passage in Senate Judiciary Committee.

SB 567 (Durazo) Tenancy

[Read Bill Here](#) This bill was amended to remove mobilehomes.

AB 12 (Haney) Security Deposits

[Read Bill Here](#) Governor signed into law.

SB 569 (Glazer) Taxation: Renter's Credit

[Read Bill Here](#) This bill was amended and no longer relates to a Renter's Credit but instead to Political Reform. The bill died in Assembly Appropriations Committee.

AB 59 (Gallagher) Taxation: Renter's Credit

[Read Bill Here](#) This bill died in Assembly Appropriations Committee.

SB 713 (Padilla) Planning and Zoning: Density Bonuses: Preemption

[Read Bill Here](#) Governor's signed into law.

SB 423 (Wiener) Housing Approval

[Read Bill Here](#) Governor's signed into law.

AB 799 (Luz Rivas) Homeless Housing, Assistance, and Prevention program: Homelessness Accountability Act

[Read Bill Here](#) The bill was placed on the inactive file on the Senate Floor and may qualify as a 2-year bill.

SB 834 (Portantino) Housing: California Family Home Construction and Homeownership Bond Act of 2023

[Read Bill Here](#) The Assembly Housing Committee hearing was cancelled at the request of the Author and may qualify as a 2-year bill.

ACA 10 (Haney) Fundamental Human Right to Housing [Read Bill Here](#) This constitutional amendment is in Assembly Appropriations Committee. It is a 2-year measure. Constitutional amendments do not follow the same deadlines as bills. It will require a 2/3rd vote from both Assembly and Senate before it can reach a statewide ballot. It does not require approval by the Governor.

GSMOL's 2022 "*Legislator of the Year*" Award, presented to Senator John Laird, on March 8, 2023

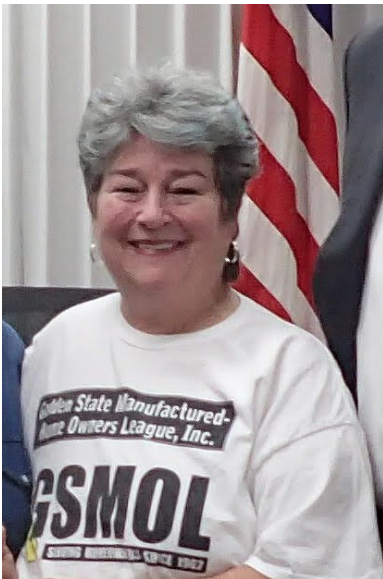


The GSMOL Legislative Action Team (LAT) present the 2022 "*Legislator of the Year*" Award. From left to right, Roger Johnson, LAT Chairman (former), Michele Moenning, LAT Member, CA State Senator John Laird, and Bev Purcell, LAT Member

GSMOL Meets with Assemblyman Alex Lee, sponsor of AB 604



Members of GSMOL's Legislative Action Team (LAT), meet with Assemblymember Alex Lee, sponsor of AB 604, designed to eliminate predatory charges for water on mobilehome owners invoices. From left to right, Michele Moenning, Assemblymember Alex Lee, Roger Johnson, and Bev Purcell



In Memoriam

Remembering those who have passed



Michelle Smith, 1947 to 2023
President, GSMOL—2018-2019

Compiled by Martha O’Connell, Regional Manager, Zone A-1, Region 1

Michelle Smith was elected President of GSOL in 2018 and served until she was forced to resign due to health reasons in 2019..She fought valiantly, but lost her battle with cancer on June 22, 2023.

Besides being a passionate advocate for residents in mobilehome parks, Michelle was a leader in the campaign to end workplace bullying. If you would like to read more about her involvement in this critical issue, you can use the link below. I think Michelle would be happy to know that through this article we are continuing her efforts to educate people about this ongoing campaign.

[In Memoriam, Michelle Smith - Workplace Bullying Institute](#)

Below are some “memories of Michelle” from her fellow GSMOL members.

In 2018, Michelle Smith was elected President of GSMOL. To my knowledge, she was the first person to be elected from a Park so far north in the state. I served as her campaign manager and got to know her well.

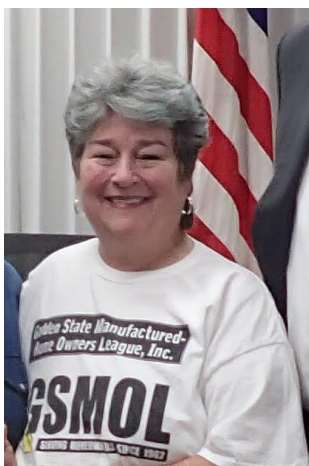
Michelle ran on a platform of fiscal responsibility, transparency and “power from the bottom up.” She, along with several other folks who got elected at the same time, turned GSMOL around and onto a different path. We tightened our belt, stopped overspending money we did not have, and began the trek from being in the red to being in the black. Michelle strongly believed that the “power” in GSMOL came from the rank and file, the members, and that the Board should be their servant and not their master.

Michelle was a no-nonsense leader. What you saw was what you got. I believe that Michelle was one of the folks who saved GSMOL.

—**Martha O’Connell**

Michelle was an ardent supporter of the Sacramento Area Coalition (SAC), through which we got to know her very well. We encouraged her to become GSMOL President, and worked to support her effort. Michelle was intelligent, funny, pragmatic and kind. After she resigned for health reasons, we would meet for coffee a few times a month. She was a great lady.

—**Beverly Purcell, GSMOL Publications Committee Chairperson**



In Memoria Cont.

I first met Michelle at the Sacramento convention (when Jim Burr was state president) and we sat together at the Saturday night dinner and got to know each other. When she and Mary Jo were running for president, we had them both at our Petaluma lunch to make their campaign pitches. After her election Michelle returned to our luncheon to speak. I didn't realize it at the time but this was her last appearance as President. The next day she had her emergency surgery and subsequently resigned the presidency. During her short time as President, I believe she proved the kick in the rear that helped turn GSMOL around from its path of self-destruction.

—**Dick Heine, GSMOL Vice President Zone A-1**

In 2017, she ran for office, in part, to bring fiscal integrity back to GSMOL after many years of boards that spent over income. Another key issue for her was to make the board more responsible and open to members. She admirably led us to those. My main interaction with her was when she came to Santa Cruz to present Mark Stone the GSMOL legislator of the year. This picture was from that visit. Her energy, brilliance, and enthusiasm were catching. She brought the GSMOL t-shirts she had made. She knew we had to increase the visibility of the GSMOL brand. She gave Mark Stone one.

—**Henry Cleveland, GSMOL Vice President-at-Large**

Michelle Smith was part of the Sacramento Area Coalition (SAC is a group of MH-owner organizations in our region). A delightful lady, her energy, enthusiasm and encouraging spirit were contagious! Kept her thumb on the pulse of local issues even after becoming the GSMOL President! She inspired a renewed interest in and awareness of the vital "advocacy voice" GSMOL and mobilehome owners have at state and local levels. A worthy legacy. RIP Michelle.

—**Michele Moenning**

I started working with Michelle in 2016 on Save Our Seniors (SOS) from LLC's take over. She worked very hard and many thankless hours for the things she believed in. I will always remember her positive attitude and that great smile of encouragement she gave me to keep fighting. Michelle was truly a lovely person who will be missed.

—**Kathy Kniffin**

While President of GSMOL, Michelle held a large county wide meeting at the American Legion Hall here in Placerville. This is where we met. After that meeting, we formed El Dorado Mobile Home Coalition, where I remain President and she Treasurer. It has been five and half years and we have just had a countywide rent survey sent out to mobile home parks in El Dorado County for rent analysis and possible action. Although Michelle could not join us over the later years due to her health, she was nonetheless the impetus for the movement.

As the Country started to feel the affects of the Covid Crisis, Michelle saw a need to help low-income folks find the food banks that happen monthly in the County. She put together a calendar with every food bank, times, dates and locations and became the source and distributor of this information, until right before her passing. To date, it is used by El Dorado County Health and Human Services, El Dorado County libraries, Homeless and housing advocates and many other human service providers. I work with the homeless and I am a GSMOL Regional Manager and I found it to be invaluable.

I found Michelle to be a kind and giving human being with a passion for advocacy and the skill set to make things happen. She will be missed by the mobile home community.

—**Tamara Janies, GSMOL Regional Manager; Zone A, Region 11**

GSMOL “IN ACTION”

Zone C, Region 5

Regional Educational Conference (summarized)

Submitted by Carol Brinkman, GSMOL State Secretary

September 30, 2023, Orange, California

“Just say ‘MARSHMALLOW’ and I will shut up”, Matt Weise told us. At least that is what his wife does when he starts ‘squirreling’ off topic and goes on and on. And Matt did go on and on, but he was too entertaining and funny for us to end his stories with a marshmallow blow! Matt is the Field Operations Manager for the Division of Codes and Standards in [Housing and Community Development \(HCD\)](#). He somehow makes the inherently dry, legal minutiae of [Title 25](#) (click to download), (mobilehome health and safety laws) almost fun - serious stuff, but fun.

The [Manufactured Housing Opportunity & Revitalization \(MORE\)](#) program, formerly called MPRROP, is a funding program that can be used for rehabilitation of mobilehome parks that have the most severe health and safety concerns. The intent is to ensure that mobilehome parks can continue to provide a significant source of affordable homeownership for California residents. Criteria for an award of funds is receipt of a notice of violation from HCD.

When the inevitable question came up about sheds, Matt visibly winced and confessed that (for HCD) “shed” is the same as a more common four-letter word that also begins with “s”! Sheds are a big headache during park inspections. Problems with sheds are often problems relating to its set-back or intrusion on lot lines. “Tree” is another four-letter headache word. If the tree affects safety, such as it rests on someone’s roof, HCD (Title 25) steps in because that is a safety issue. If it is a question of who is responsible for maintaining the tree, the [Mobilehome Residency Law \(MRL\)](#) (click to download) prevails, since that is a civil question.

HCD is responsible for inspecting 5% of MHPs annually. The top resident citation is for trash and combustibles around the home. Currently, the top park owner citations are for unsupported gas meters and electric equipment. HCD has the power to write citations only: it does not evict. A resident can call and request an inspection if the park has not been inspected within the last three years and they have a verifiable complaint, such as sewage in the streets.

Carol Brinkman, GSMOL Secretary, shared that GSMOL has been protecting mobilehome residents since 1962 and today we stand on the shoulders of prior homeowners who have been fighting for our rights for over 60 years. GSMOL’s single biggest accomplishment was building the MRL, one law at a time until the MRL now numbers over 100 protections. In 2018 GSMOL passed a law to provide a mechanism for residents to file a complaint if there are violations of those laws - the MRLPP, MRL Protection Program. Additionally, GSMOL provides resources and a network of trained leaders to guide residents on local issues in their local parks – another example of membership fees at work.

Despite not being physically present, Attorney David Loop, GSMOL VP of ROP, Resident Owned Parks, engaged in a dialogue with conference participants via audio (thanks to GSMOL member, Don Hart) on the value of buying your park. He spoke from personal experience purchasing his own park and 25 years helping others do the same. Purchasing a park is a complicated, big-ticket, real estate transaction and Dave offered guidance on how to decide which form of purchase makes the best sense, the different types of financing available, how to secure that financing, and the need to manage your park once you own it. Attendees almost forgot he wasn’t in the room as he fielded their many questions.



HCD’s Matt Weise, addresses Conference Attendees

GSMOL "IN ACTION"

Orange County Regional Educational Conference, Zone C (cont.)

September 30, 2023

Orange, California

As always, it was with great anticipation that conference attendees waited to hear words of wisdom from the last speaker, Bruce Stanton, GSMOL's Corporate Attorney. Bruce brought with him a 5-page handout, "The Nuts and Bolts of Park Rules and Regulations" (reprinted for you on pages 11-14) and he covered topics such as: what makes a rule legal and reasonable; how is it enforced; how to write a letter of complaint to management? Q&A followed. For many, the chance to ask Bruce their personal question was a prime reason they attended. They were not disappointed and for over an hour Bruce gave them what they came for.

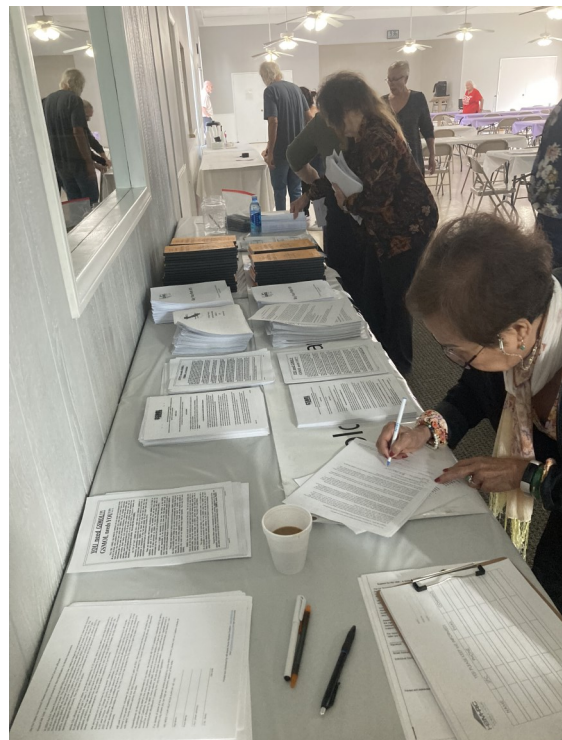
Thanks to Mary Jo Baretich, VP Zone C, Bobbie Magnusson, Manager Region 5 and the many unnamed people who worked tirelessly to coordinate the Orange County Conference.



GSMOL General Counsel, Bruce Stanton, delivers remarks at the Zone C Conference



*GSMOL's Zone C Vice President,
Mary Jo Baretich*



Zone C Conference Attendee Check-in

GSMOL “IN ACTION”

Strength in Numbers!

SAC (Sacramento Area Coalition) is a five-county group of mobilehome owners in Northern California, started by former GSMOL Zone Vice President John Bertaut, which meets monthly as a large group, in a local restaurant, to discuss resident problems/solutions. The lively breakfast meetings often feature a guest speaker. Past speakers have included Bruce Stanton, GSMOL’s General Counsel, Eric Guerra, Principal Consultant to the CA Senate’s Select Committee on Manufactured Home Communities, and representatives from local legislator’s and district attorney’s offices. Former GSMOL President, Michelle Smith, got her start within SAC.

SAC meetings are open to all mobilehome park residents in the area and a typical meeting has 40-50 attendees. A Leaders Group, comprised of SAC members, and generally led by officers of the park’s HOA or GSMOL Chapter, also meet to plan meetings, with a focus on the Mobilehome Residency Law Protection Program (MRLPP) or Housing and Community Development (HCD) issues.

Current SAC officers include GSMOL luminaries, Roger Johnson (Chair), Bev Purcell (Vice Chair) and Michele Moenning (Secretary/Treasurer). GSMOL relies heavily on SAC members, because of their proximity to the capitol and their familiarity with state politics, to provide testimony at hearings, for many of GSMOL’s legislative efforts.

Below are photos from SAC’s May, 2023 meeting in Roseville, CA.



We NEED HELP!!!

Volunteer Positions (from Home)

Social media coordinator and committee volunteers. We are increasing our electronic presence!

Mail Chimp Bulletins, Facebook, e-Californians and Townhalls. We need 3-4 volunteers to organize and coordinate the information that is being published. Good organization, computer skills, proof reading and editing experience is valuable. Committee will be interacting with the Board of Directors. Please contact us on our email: gsmolgoldenstate@gmail.com



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THE NUTS AND BOLTS OF PARK RULES AND REGULATIONS

PART 1

By: Bruce Stanton, Attorney

ABOUT THE AUTHOR: MR. STANTON HAS BEEN A PRATICING ATORNEY SINCE 1982, AND HAS BEEN REPRESENTING MOBILEHOME RESIDENTS AND HOMEOWNERS ASSOCIATIONS AS A SPECIALTY FOR OVER 25 YEARS. HIS PRACTICE IS LOCATED IN SAN JOSE, AND HE IS THE CORPORATE COUNSEL FOR GSMOL

Mobilehome or manufactured home communities are legally classified as multi-family or high density residential housing developments, where many people typically occupy a limited amount of space. Given that residents live close to one another, and must necessarily share in the use and enjoyment common area facilities, rules and regulations which regulate conduct within the community are both valuable and necessary. Mobilehome owners would in truth not want to live in a community with no rules. Some regulation of conduct is necessary to ensure the quiet enjoyment of all residents, and to prevent chaos from overwhelming the community. We know from reading the Mobilehome Residency Law (MRL) that the existence of rules and regulations are acknowledged by State law, and that they become a part of the rental agreement for the mobilehome space. Park owners have unilateral power to enact rules and regulations, since they own the property, and will hopefully do so in a fair and reasonable manner. But this is not always the case, and thus issues commonly arise in connection with the content and enforcement of park rules and regulations.

I am routinely asked to review rules and regulations, and to give an opinion about a number of related issues. Some common questions which GSMOL receives are:

- What makes a Rule or Regulation “legal”? Or what makes it “reasonable”?
- Can the park owner enforce a given rule or regulation? How does enforcement occur?
- What procedure does the park use to amend a rule or regulation, and when does the amendment take effect?
- Does a park owner have to meet with residents before the amendment takes place, and what is required in such a meeting?
- Are any rules or regulations void on their face?
- How can I require my park owner to enforce its rules or regulations?
- Can I be charged a fee for enforcing rules or regulations?
- Can rules or regulations be retroactively enforced?

This article, which will appear in two parts, will address these common questions.

What makes a park rule “Legal” or “Reasonable”?

The MRL does not define rules or regulation (I will collectively refer to them as “rules”) or directly speak to their legality. Thus, there are no defined categories or proper or improper rules. Rather, the MRL speaks to the ability of a park owner to enforce a rule or regulation, and Civil Code sec. 798.56 (d) states that a homeowner’s tenancy may be terminated for failure “to comply with a *reasonable* rule or regulation”. Any rule or regulation which is not “reasonable” thus cannot be enforced, or by inference need not be followed. So to be “legal”, the rule or regulation must be “reasonable”. The immediate question thus becomes: what makes a rule or regulation “reasonable”? The word can obviously be subject to differing interpretations. But “reasonableness” is usually determined by factors such as (1) a legitimate purpose for the rule which benefits the community, (2) the ability of a homeowner to understand and comply with the rule, and (3) the monetary cost of compliance with the rule. If a rule does not serve to benefit the community in some way, is too complex or restrictive to be followed or is cost prohibitive, then it is more likely that a court would find the rule to be “un reasonable” and thus unenforceable.

For example, a rule that requires every resident to repaint their homes a certain color probably fails the reasonable test because its purpose is not rational or legitimate, and the cost would be prohibitive. Some homes may not require any painting at all, and to require only one given color would have no legitimate basis.

Time and space do not allow this article to discuss all of the different types of rules which may or may not be unreasonable. But some issues have been and will be considered separately in the future, such as rules relating to pets, speeding within the park or use of common areas facilities.

Can a given park rule be enforced? If so, how does enforcement occur?

Whether a rule can be enforced requires that “reasonableness” be determined. This is not an inquiry that homeowners should make on their own. The reasonableness test factors should be carefully applied in each case, and a homeowner should never choose not to obey a rule except in rare and very clear cases; i.e. to comply is not financially possible, or the rule is so random or arbitrary on its

face that no court would find it to be reasonable. Where there is a close call, advice of an attorney should always be sought first. The reason is simple: Park rules form a part of the rental agreement with the homeowner. The failure to comply with a rule constitutes a breach of the rental agreement, and can justify eviction from the park.

Civil Code 798.56 (d) contains the procedure for terminating a tenancy based upon the failure to follow a park rule. The park owner is required to first give a 7-day notice of the violation. To be proper, such a notice should quote the applicable rule and then contain a detailed description of time, date, and place of the alleged conduct. If the notice is not corrected within 7 days, the park owner must then give a 60-day notice of termination of tenancy in order to evict. Thus, two separate notices are required. Ultimately, if the 7-day notice is turned into a subsequent 60-day notice, 798.57 will require a specific statement of reasons for termination in that notice. A resident faced with a 7-day notice should always respond in writing, so that a paper trail is created in case the matter turns into a termination. The response should specify whether the violation is disputed, or if not in dispute, that compliance has occurred. Compliance within the 7-day period cures the violation. Compliance after the 7 days expires technically does not. A homeowner is entitled to receive up to three 7-day notices within a 12-month period for the same rules violation. On the fourth occasion, no 7-day notice is required, no chance to cure will be given, and the park owner could proceed directly to a 60-day notice of termination, followed by an eviction action in court. It is thus important that 7-day notices not be ignored, as serious consequences could result. And multiple violations of the same rule become increasingly risky.

If termination is pursued in court, the homeowner must be ready with photographs, documents and testimony to prove that no violation occurred. Sometimes evidence will be needed in the form of testimony from neighbors, and it can be a challenge to convince other residents to essentially testify against the park owner. Their fear of future harassment is understandable. For that reason, again, the suggested response is: When in doubt, comply with the rule, as long as it is financially or logistically possible to do so. But in the case of a minor violation, park owners know that it can be very difficult to convince a Judge that the resident should be forced to lose their home over such an issue. And there are admittedly those cases where conflict, and thus a court action, might be inevitable. But any homeowner must proceed very carefully in making that determination.

What is the procedure for amending park rules, and when do they take effect?

Pursuant to 798.25, a park owner is permitted to revise or amend its rules and regulations unilaterally, without any consent or agreement from the residents, as long as the park gives proper advance notice, waits until the time that the new rule can be enforced (60 days for rules relating to recreational facilities and 6 months for all others) and holds a meeting with residents upon 10 days notice. Until the meeting occurs, and where no consent is given the applicable time period elapses, the proposed new rule cannot be enforced. There is no waiting period, and the rule takes effect immediately, if the homeowner consents to immediate enforcement. GSMOL would never recommend that any homeowner do so, since it is beneficial to have the notice period to acquaint one's self with the new rule and the need to follow it. In addition, signing a written consent arguably amounts to a contractual obligation to follow the rule.

Park owners will often announce the proposed new rule in writing and request that the homeowner sign an acknowledgement that the notice was received. As long as the acknowledgement only says this, it is not a problem. But if the language states that the homeowner "acknowledges receipt and consent to the rule amendment", or words to that effect, the homeowner should not sign such a statement.

The only exception to the meeting and notice period is where the rule amendment is required by a change in the law. In such a case, the amendment takes effect upon 60 days' notice, with or without the homeowner's consent. The notice of any such rules amendment must specify the law which requires the amendment.

Is a meeting with the park residents required? What must take place in such a meeting?

As stated above, no rule can be amended without a meeting with residents, except where a change of law requires the amendment. This 798.25 requirement presumably exists so as to allow the residents to clearly understand the rule and its purpose. It also contemplates that the parties will communicate freely and share concerns or suggestions. In a perfect world management would call the meeting and attend in a spirit of good will, listening to comments or criticisms or answering questions. Sadly, this does not always occur. Because the statute is silent about the conduct of the meeting, it is true that management could simply show up, read the proposed rule, listen to comments and questions, say nothing and adjourn the meeting without further comment. Such a result would not, in this author's opinion, be good business practice for a park owner who should be interested in the comments of its customers, the residents. But it does happen, and in such a case it would be difficult for the residents to have any legal recourse for management with a bad attitude. Homeowners are encouraged to attend such meetings and ask whatever questions are desired. They should do so without fear of any retaliation, since this is a right given by law. And they should participate in a way that causes even the most uncooperative park owner to engage with them in a courteous manner. If you have a good attitude and show that you have the best interests of the park community in mind, management may find it difficult not to participate in a discussion of the issues.

Are any Rules or Regulations void on their face?

Yes. Civil Code 798.25.5 prohibits the enforcement of any rule which is unilaterally implemented without consent and which by its terms requires arbitration of disputes. Such clauses are typically found in the middle or near the end of rental agreements, in bold or 10-point type. Arbitration clauses require homeowners to give up their right to a trial by jury for most legal disputes, and are thus not favored by GSMOL.

THE NUTS AND BOLTS OF PARK RULES AND REGULATIONS

PART 2

By: Bruce Stanton, Attorney

ABOUT THE AUTHOR: MR. STANTON HAS BEEN A PRATICING ATORNEY SINCE 1982, AND HAS BEEN REPRESENTING MOBILEHOME RESIDENTS AND HOMEOWNERS ASSOCIATIONS AS A SPECIALTY FOR OVER 25 YEARS. HIS PRACTICE IS LOCATED IN SAN JOSE, AND HE IS THE CORPORATE COUNSEL FOR GSMOL

Mobilehome or manufactured home communities are high density residential housing developments, where many people occupy a limited amount of space. Because residents live close to one another, and must necessarily share in the use and enjoyment common area facilities, rules and regulations regulating conduct within the community are both valuable and necessary. Homeowners would not want to live in a community with no rules. Some regulation is necessary to ensure the quiet enjoyment of all residents, and to prevent chaos in the community. According to the Mobilehome Residency Law (MRL), rules become a part of the rental agreement for the mobilehome space. Park owners have unilateral power to enact and enforce rules and regulations, since they own the property, and should do so in a fair and reasonable manner. But this is not always the case, and issues commonly arise in connection with the content and enforcement of park rules and regulations.

In Part 1 of this Article which previously appeared in The Californian, we answered several common questions that are typically asked about rules and regulations. In Part 2 we discuss some remaining questions:

How can I require my park owner to enforce its Rules and Regulations?

This is an all-to-common problem. Although park owners have several remedies at their disposal to require compliance with Rules and Regulations, some parks do not enforce them. This might be by choice, or due to negligence or inattention. But the result is the same: a community where some residents follow the rules, some do not, and no enforcement occurs to force the offenders to comply. No homeowner has the power to enforce park rules. So do residents have any ability to require the park owner to enforce them? The answer is: YES.

There are actually several ways that a park owner can require compliance with park rules. One is the threat of eviction, following service of a 7-day notice under Civil Code section 798.56(d). Another is the power to obtain an injunction from a court for violation of park rules, which is found in section 798.88. Where some rules violations result in a nuisance, the park owner can also proceed under section 798.87 to abate the nuisance. And under section 798.36 the park owner can serve a 14-day notice of its intent to remove offending personal property items, debris or other items, or to perform required landscaping to bring the space back into compliance with the rules, the charges for which may be billed to the resident. Sometimes a park owner simply needs to be reminded that these remedies exist, and that the homeowners expect the park owner to use them.

I always recommend that a written notice be sent from the GSMOL Chapter, the HOA or, if possible, a collection of homeowners, which request enforcement of specified rules. Photos or other evidence should be attached whenever possible. Putting the request in writing creates a “paper trail” in the event that homeowners need to later prove that they made the request. Be as specific as possible in making your request. The first letter should be polite but firm. If there is no response, the second letter should indicate that the park’s failure to enforce will be treated as a breach of the rental agreement, and will also be deemed by the homeowners as a waiver of the rule in question. This would mean that no one has to comply with it. If a park owner is faced with the possibility that inaction will waive ability to enforce a rule, the owner might be motivated to see that it is enforced. The park owner needs to be informed that its failure to enforce will make it far more difficult to evict offenders in the future, who will be sure to argue in court that no enforcement has occurred. For example, if a park rule says that there can be only one dog, and many residents are allowed for years to have 2 or more dogs, the failure to enforce can result in the defense of estoppel; i.e. the homeowners can argue that they acquired multiple dogs because they believed the park owner had waived compliance with the rule, and that they thus “changed their position” in reliance upon this. A court could find that the park owner is not able to enforce the one-dog limit.

Ultimately only a court action can force the park owner to enforce its rules if they won’t respond to homeowner requests. This would be a last resort, to be used only when the park owner simply will not respond. Some park owners view rules enforcement to be an expense and thankless process which is too burdensome and expensive to pursue. The key in these cases is how you communicate with management. Many homeowners are concerned about the condition of other home sites in the park, and desire that uniform standards be kept. A group of homeowners who want space conditions to improve can offer to work with the park owner to make compliance work. If the owner knows that a committee or group of residents will assist to convince their neighbors to comply with the rules, a joint effort can achieve the desired goals for both sides; a true “win-win” situation. So offer to work with your park owner. When you write your letter, don’t just threaten or complain, but also ask how the residents can assist the park with rules enforcement. If the park owner knows the level of your concern, and that you are willing to assist with enforcement, the odds of achieving results will improve.

Can I be charged a fee for the enforcement of Park Rules?

The answer is: No, except for the two situations described in Civil Code section 798.36. If the park owner alleges that landscaping or space maintenance is required, this section allows service of a 14-day notice of intent to perform the work if the homeowner does not do it. The notice must specify the basis for the notice, and cite the rule or regulation relied upon. It must also state the condition to be corrected and an estimate of the charges to be imposed if the homeowner does not comply. Any homeowner faced with such a notice should comply at once if the notice is accurate, since the park's charges will likely be more than what the homeowner would pay to have the work done. Note that while the MRL does not describe any limits to the amount that can be billed to homeowners who do not comply, the law would require that the amount be reasonable, and it should be based upon a professional estimate of the cost to do the work.

The same section sets forth a detailed procedure allowing the park owner to charge for removing personal property from the space which constitutes a rules violation. Again, a 14-day notice is required, and storage fees may be owed. The section also describes lien, auction and sales procedure for the property which is removed.

Other than these two scenarios, a homeowner cannot be charged a fee for the enforcement of park rules. But if the park owner is forced to file an eviction or injunction action, attorney's fees and court costs can be awarded against the homeowner if the park owner prevails in court.

Can Rules and Regulations be retroactively enforced?

The clear answer is: No. Since Rules cannot take effect until they are noticed in writing, a meeting is held and a waiting period expires before the effective date (see Part 1 of this Article), it is impossible to pass a rule and then retroactively require its enforcement. No homeowner can be expected to follow a rule which does not exist, and until they have been informed long enough ahead of time to change their conduct.

Are managers and park employees obligated to follow Rules and Regulations?

Absolutely. With two exceptions, Civil Code section 798.23 states that a park owner and its employees must follow the park rules. The only exceptions are rules governing age (park managers need not qualify as seniors when managing a senior park) and acts undertaken to fulfill park duties. An example would be the need of the manager to park in the fire lane where no parking is typically allowed, in order to respond to an emergency or read the utility meters.

In conclusion, rules and regulations are a necessary and important part of mobilehome living. Homeowners need to be aware of the many nuances and issues which relates to their enactment and enforcement.

GSMOL Elections 2024

GSMOL is holding an election is 2024 for four (4) Board of Directors positions and changes to the By-Laws.

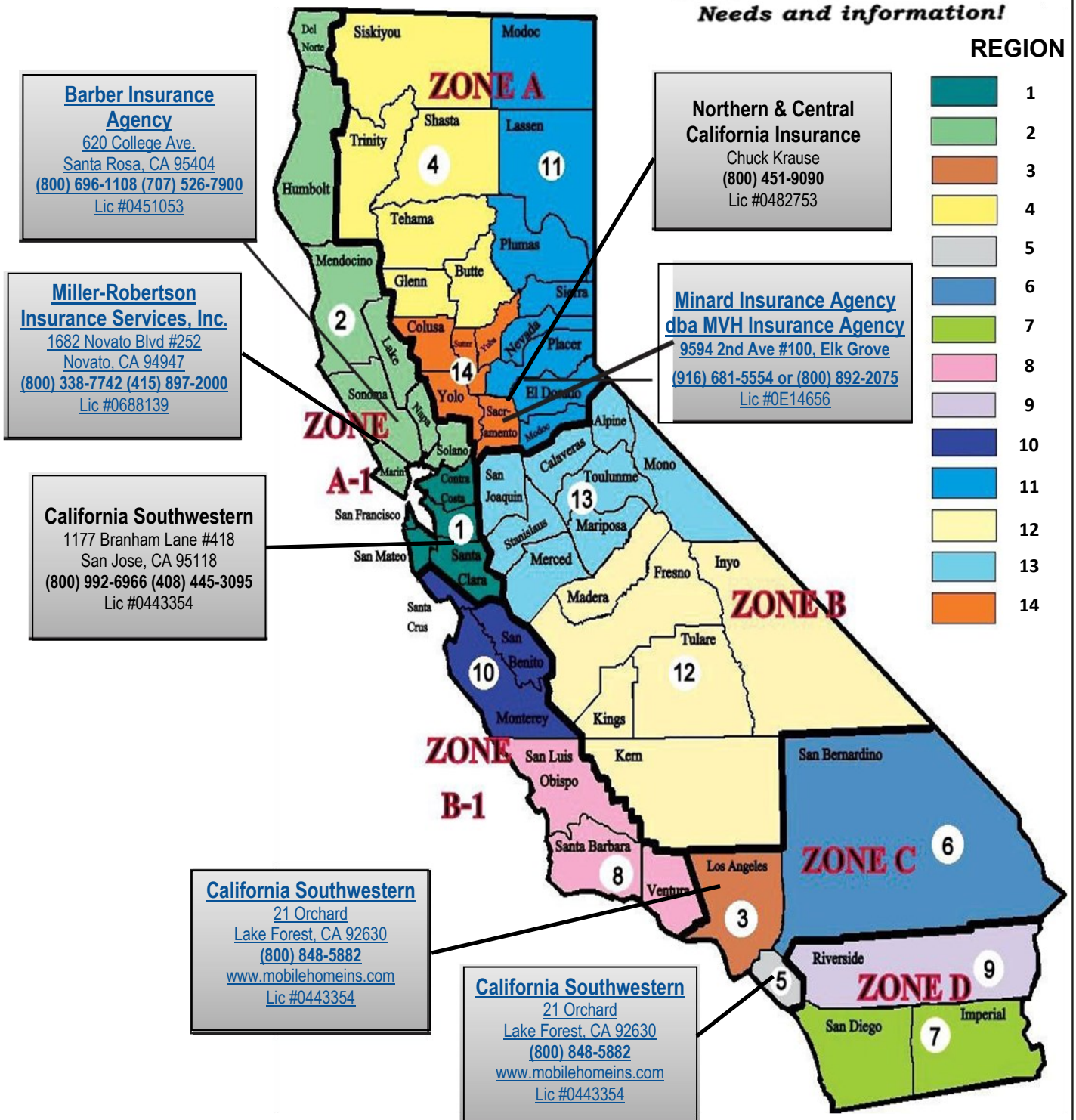
See Page 2 of this issue for details.



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Please contact your local Associate
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