The Nuts and Bolts of Park Rules and Regulations, Part Three

(Updated from an article published in The Californian)

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

This is an all-too-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 expensive and thankless process which is too burdensome and costly 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 relate to their enactment and enforcement.

This article is part of a series produced by the GSMOL Leadership Training Committee. Articles by Bruce Stanton as well as other experts on mobilehome matters can be viewed and downloaded on the GSMOL website at https://gsmol.org/know-your-mh-rights

If you have further questions on this topic or want to discuss possible violations of law in your park related to this topic, please contact your GSMOL go-to person, who may be a Chapter officer, Associate Manager, Region Manager or Zone Vice President.

To find your go-to person, see the "Who's Who" page in the Californian magazine, or look on the Contact page at https://gsmol.org for the link to the Who's Who page.