Interference With Mobilehome Sales, Part Three

(From an article published in The Californian)

By Bruce Stanton, GSMOL Corporate Counsel

Can a Park Owner require that Upgrades be performed at the time of Sale?

The answer is "Yes", but there are limitations imposed by the MRL.

In order to prevent park owners from requiring that trees be removed or lawns and sprinklers installed as a condition of resale, Civil Code sec. 798.83 provides that management may not require any improvements or repairs to the park space or land itself, unless there is damage caused by the selling homeowner.

Section 798.73.5 further limits home upgrades to exterior conditions on the home itself which either violate a State or local law, or which are required by the park's rules or regulations.

Common upgrades that are allowable include repairs to unsafe steps, loose handrails, ripped deck carpeting, bent car-port awning supports, missing or dented skirting or removing oil from a driveway. A park owner cannot require repairs to the interior of the home.

Can a Park Owner refuse to accept a Prospective Buyer?

According to 798.74, a buyer can only be rejected if there is a history of failing to follow rules or regulations (i.e. previous "conduct-based" evictions and the like) or

the buyer lacks “financial ability to pay the rent and charges of the park”. Of these two limited grounds, typically only the latter is seen.

Park Owners are entitled to run a credit report to examine whether the buyer has a history of paying bills on time. A bankruptcy, judgments or tax liens can be legitimate reasons for turning down a buyer, as is a history of many late payments on obligations. A limited number of late pays, especially if not recent, should not be enough evidence to reject a buyer.

Proof of income must also be provided, which typically involves bank records, W-2 evidence of earnings, or statement from the employer. Note that the buyer’s tax records cannot be demanded, although the buyer could choose to voluntarily provide them.

The MRL is silent as to how much income is sufficient. But the industry standard amongst most park owner seems to be that a buyer needs to show gross monthly income which is 3 times the amount of rent and utilities. Anything more restrictive is probably unreasonable.

The park owner must respond to a complete tenancy application within 15 business days of the date it is submitted, and the reasons for a rejection must be stated in writing. If the buyer is rejected, any fee collected to run a credit report must be refunded.

Can a Park Owner prevent me from Marketing my Home for Sale?

The answer is “No”. A homeowner has an absolute right to sell, as long as the home meets Code and all reasonable upgrades are performed.

The park does have the right to require approval of a buyer, as described above, and may require that the selling resident submit a “Notice of Intent to Sell” form. At that time, the park should issue its own written Upgrades Request form to the homeowner, and state in writing the amount of the rent to be charged to the new resident as required by 798.74.5.

798.72 also prohibits a park owner from requiring a fee to sell a home in the park.

Can the park require that my Buyer sign a Rental Agreement?

According to 798.75, a rental agreement of some kind can be required in order to close escrow. Some local ordinances do not allow a park owner to demand execution of a rent-control-exempt lease which exceeds one year in length as a condition of tenancy approval.

Can I use Signs or Brochure Boxes to advertise my Home?

Absolutely "Yes". 798.70 describes the size that signs can be, as well as where they can be located.

Can the Park prohibit an "Open House"?

The law is unclear on this issue. According to 798.70, "open house" signs can be prohibited by park rules.

If there is no rule, then clearly one could be held. But 798.71 provides that management cannot prohibit the listing or sale of a mobilehome. Since open houses are typical sales techniques, it can be argued that they cannot be prohibited, as long as no signs are displayed to advertise the open house within the park.

Know Your Rights!

The moral of the story is familiar to mobilehome owners: ***Know your Rights and Stand up for your Rights.*** If you do, the chance that you will successfully market your home is greatly increased.

Should you experience any trouble in connection with the sale of your home, notify your local GSMOL leadership at once.

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.

GSMOL Members: *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.

Real Estate Agents: *For further information contact Anne Anderson, GSMOL State President, a.bushnell.anderson@gmail.com*