Homeowners' "First Amendment" Rights – Part 1

(Updated from an article published in The Californian)

By Bruce Stanton, GSMOL Corporate Counsel

Of all the protections contained within the MRL, perhaps none are more valuable than those found in sections 798.50-52.

I call these sections the "First Amendment" of the MRL, because they contain a number of protections which pertain to the basic right of a manufactured-home owner to communicate with his or her fellow homeowners about mobilehome issues.

Civil Code 798.50 contains a sentence that is critical to understanding the importance of communication to the preservation of the mobilehome lifestyle:

"It is the intent of the Legislature in enacting this article to ensure that homeowners and residents of mobilehome parks have the right to peacefully assemble and freely communicate with one another and with others with respect to mobilehome living or for social or educational purposes".

No higher statement of importance could have been given by the California Legislature to these rights. It is clear that the Legislature understood the importance of networking and organizing, of the ability of homeowners to work together for the common good. Organizing into a GSMOL Chapter, or just being a member of a State organization like GSMOL, can mean the difference between

protecting your home investment, or losing it. But in order to fulfill this legislative intent, and bring these words to life, homeowners need to put into action those rights which are specifically described in the sections which follow. And homeowners need to know and understand their rights before they put them into practice. Information is power. But that is only the first step. Once the law is known, it then becomes necessary to exercise one's rights in order to enjoy them.

The goal of each mobilehome owner should be to strengthen and protect their investments and way of life. This is accomplished by communication, organizing, assembling and meeting together, walking the park, hearing from those who have knowledge of mobilehome issues, and electing representatives who are committed to protect mobilehome living.

Belonging to a strong organization such as GSMOL which can provide both the necessary information and the way to use it, is essential.

So how can we strengthen GSMOL and GSMOL Chapters? How can we communicate and organize for the betterment of all mobile homeowners? There are a number of guarantees and protected activities set forth in the MRL which are invaluable tools that can be used to build a better mobilehome world. They are illustrated by a number of questions which are frequently asked of GSMOL leaders.

1. Does the MRL guarantee the right of homeowners and residents to meet in the park?

Absolutely. 798.51 (a) states that homeowners cannot be prohibited from peacefully meeting in the common area facilities (which must be open or available to all residents pursuant to 798.24) for any lawful purpose, as long as the facility is "not otherwise in use". This means that management cannot flatly deny clubhouse use to homeowners. Some parks might try to disguise their denial by claiming that the clubhouse is already in use, such as where a last-minute "cleaning project" allegedly creates a conflict. Homeowners should keep a record of such last-minute conflicts, as evidence of the park owner's true intent, if a pattern of denial becomes clear. Remember that for each willful violation of the MRL a court may order a penalty of up to $2,000.00 (see 798.86).

2. Must the homeowners comply with a rule or regulation that requires a GSMOL meeting to be scheduled or reserved in advance?

Yes, as long as it is not unreasonably enforced, and reasonable in scope. It is reasonable for management to require that only one group at a time use the facilities, and to schedule usage at a reasonable time in advance so that all homeowners can enjoy clubhouse availability. It is not reasonable to require 6 months advance notice, or to base approval upon the purpose of the meeting or what will be discussed. GSMOL has successfully taken park owners to court who have violated this provision.

3. Can management require liability insurance be obtained as a condition of holding a clubhouse meeting?

The answer contained in 798.51 (c) is clearly "No". This would chill the ability of homeowners who cannot afford insurance policies to meet. The only exception is where alcohol will be served.

4. Can management require a cleaning deposit as a condition of holding a clubhouse meeting?

798.51 (b) says that no deposit can be required, regardless of whether guests or visitors attend the meeting, as long as a resident of the park is hosting the meeting and all homeowners are invited. This would not apply to a social gathering where only invited guests intend, such as a private wedding reception.
Continued in Part 2…

This article is part 1 of a 2-part 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.