

Golden State Manufactured-Home Owners Education Fund presents a

## **VIRTUAL TOWNHALL**

Saturday, June 1, 2024

Featuring BRUCE STANTON, GSMOL Corporate Counsel

Topic: Update on 2024 Mobilehome Legislation and Q&A

GSMOEF, otherwise known as the “ Ed Fund”, which sponsored this Townhall is a non-profit 501(C)3 organization formed by GSMOL over 10 years ago. It is a charitable and educational organization and donations to the Ed Fund are tax deductible. GSMOL is a 501(C)4 organization that is allowed to lobby and participate in initiatives and political campaigns. Donations are not tax deductible. Both organizations work to support the rights and security of mobilehome residents in California.

The format of the Townhall begins with Bruce Stanton presenting a 2024 legislative update. It is mid-legislative session and all bills are still in process. It is followed by a Q&A session that allows participants to ask questions relating to their personal mobilehome issues.

*GSMOL is sponsoring two bills this year.*

**AB 2022 (Addis)** requires a mobilehome park to adopt an emergency preparedness plan, which includes prescribed elements such as maintenance of park fire hydrants, before renewing the park’s permit to operate (PTO). The bill requires a park owner to submit an attestation of compliance under penalty of perjury. HCD can issue a suspension of the PTO if there is no compliance. The bill is headed to the Assembly floor for a vote.

**SB 1408 (Roth)** prevents management from removing a resident’s work vehicle from the park when it has advertising on its side and is parked in the owner’s driveway. This bill passed through the Senate successfully and is now in the Assembly.

*GSMOL is monitoring multiple bills of interest to mobilehome residents:*

**AB 2539 (Connelly)** would allow residents the right of first refusal to purchase their park if it is put up for sale. Current requirement to notify residents only applies if the park is “listed” for sale. All too often a park goes up for sale behind the scenes and there is no listing. This bill is “held under submission”, which means it is not dead, but it does not currently have enough votes to get out of committee so is held with that designation which communicates a desire to continue to work on the Bill.

**SB1190 (Baird)** relates to solar energy. Current law makes no reference to solar panels in a mobilehome park. This bill allows residents to opt for solar installation on their homes. Currently several park owners are installing solar in the common areas.

**AB2373 (Rendon)** prevents a park owner from evicting a park resident when the park does not have a valid permit to operate (PTO). Termination of residency can only occur after the basis for the suspension of the PTO has been corrected.

**AB 2399 (Rendon)** requires disclosure to new MHP residents of information about the MRLPP program, along with program contact information.

**SB1108 (Ochoa Bogh)** fine tunes rules relating to violations residents incur after HCD inspects their park under its MPM inspection program. Inspectors look at common areas of the park as well as (the exterior) of residents' homes. There has been concern when a notification is given to both residents and park managers and the violation becomes weaponized and used as a cause for eviction. The bill aims to give homeowner 60 days to fix the violation without notice of violation to the park owners, and only if there is a second notice is the park owner notified. This bill has been placed in the Suspense file and might turn into 2-year bill.

**AB2387 (Pellerin)** is being sponsored by mobilehome manufacturers association and makes the process easier for a park owner to add new spaces in the park and place homes on them. We are concerned about the impact adding new spaces might have on lot lines being moved, and have requested amended language which provides the park must adhere to lot line adjustment requirements in Title 25. We have also requested language which states that adding any new exempt "new construction" spaces shall not affect the total number of RSO-controlled spaces, so as to trigger loss of ordinance protection.

## **Q&A**

1. Is it legal for management to charge us \$5.25 to process lot payments due to the increased cost of office supplies? Also, no notification of this change was given.

**MRL Civil Code 798.31 says a park owner may not charge a fee other than for rent, utility expenses and incidental reasonable charges for services actually rendered. Example: a new dog park. It is not reasonable to charge for ink and paper, nor to make a change without a written notice. This is an improper charge.**

2. Is the park manager required to give us a receipt for space rent each month? We drop our checks in a non-secure box attached to a shed and have no proof rent is paid. We are concerned that the park manager might say rent is not paid or that it is not paid on time.

**No law requires a park owner to give a receipt. A Park cannot refuse payment via a non-electronic method; checks are ok. Usually, a park provides a calculation for utilities, so they give residents an invoice. Some parks are going paperless. If you are concerned, contact the park owner directly. It would be difficult for the park owner to successfully argue in court that the rent was not deposited on time, due to this insecure, slipshod way of collecting rent. Park owner has the burden of proof.**

3. Can a park owner charge us for capital improvements and maintenance?

**Capital improvements are separate from maintenance. Capital improvements include things such as a new roof, roads, new buildings etc. Court cases, including the California Supreme Court case of *Cacho v. Boudreau*, validate the legality of pass-throughs for capital improvements.**

4. Can I put up a clothesline in my park?

**The MRL does not address clotheslines. Civil Code 1940.20 does allow a clothesline in private areas rented by tenants. If there is no health and safety hazard, and you get the permission before installing a clothesline, it might be the same in mobilehome parks. Park management cannot reasonably deny consent but probably would have rules regulating time and place.**

5. If I submit a complaint in MRLPP and I lose my case, do I have to pay the other party's legal fees?

**Probably, yes. Civil Code 798.85 addresses this. In any action arising under the MRL, the prevailing party is entitled to reasonable attorney fees and costs. You should consider the risk and the strength of your case before filing in court, which your attorney should discuss with you. Park owners usually have expensive attorneys, which means you could be liable for a higher amount of fees if you lose the case. But if you are the prevailing party then you get to recover your fees and costs from the park owner.**

6. When the manager training program goes into effect, does the on-site park manager have to take the training, or can someone else from management?

**SB 869 (2022) provides for the long-awaited and much-desired manager training program and will commence May 1, 2025. The requirement is that one person involved in management will do the training. It does not specify it has to be the onsite manager.**

7. Recently we had an HCD park inspection and rather than the residents being told about their violations, they got a letter/notice of necessary repairs. I felt our inspector was unprofessional. What can I do?

**Residents are notified of violations by HCD via letters or notices, not by personal conversation with the inspector. If you go to the HCD website, you can review procedures for an inspection. If you feel your inspector was unprofessional, contact HCD with your complaint. Or contact your GSMOL Regional Manager.**

8. Our park management is unreasonable about rules, colors of homes, flowers etc. What recourse do we have?

**It is difficult to legislate “reasonableness” beyond what the MRL says in 798.56 (d). It is a case-by-case situation. Management always has the burden of proof to show rules are “reasonable”. When residents stand up for their rights, often management complies or relents. If there is a violation of the MRL, you can always use the MRLPP program to file a complaint.**

9. What action can I take if park owner refuses to repair my driveway?

**Civil Code 798.37.5 provides management is responsible for the maintenance, repair, replacement, paving, sealing and expenses of driveways if the park owner originally installed it. The homeowner is responsible if they (or a prior resident living on their site) installed it, or caused the damage. Management has the burden of proof! Look around the park. If all driveways are similar, probably the park owner installed them. If you see many different driveways that might suggest individual homeowners installed them over the years. The more likely assumption is that the park owner installed the driveway, and it is his responsibility.**

10. My park owner is imposing safety inspections when a home is for sale. Can he do that?

**When selling your home, the park manager can give you a repair or upgrade list that is limited to exterior of the home (but not the interior). Example: paint, improper railings, unsafe steps, etc. Management cannot require removal of trees or changes to the land, such as requiring you to install a sprinkler system before you sell. They cannot demand a full health and safety inspection, but it is to the homeowner’s advantage to get an inspection because it will flag issues that might need repair.**

11. If a park allows sub-leasing and limits the amount a homeowner can charge for rent, does the park owner have same limits?

**Civil Code 78.23 suggests park owners are under the same limitations as residents, but the law does not specifically address this situation. In a situation of a medical sublease, Civil Code 798.23.5 states the homeowner can only charge what he pays for rent. It might require a court to decide this issue.**

12. We got a notice we must pay \$100 to use our clubhouse and pay a \$200 non-refundable deposit. We can’t have parties in the clubhouse. Our clubhouse has not been open since the Covid-19 shutdown. Is this legal? We have called HCD and they have done nothing.

**Civil Code 798.51 contains the First Amendment Rights of mobilehome residents. It guarantees the right to assemble, canvas, petition and invite speakers into your park. Civil Code 798.24 states common area facilities must be open or available at reasonable hours You cannot be charged a fee or cleaning deposit for using the clubhouse for a meeting for purposes relating to mobilehome issues. But, the Park can charge for a private event if not all residents of the park are invited (such as a baby shower, wedding, funeral etc.). So, the question to ask is: ‘What is purpose of the meeting?’ If it is for a birthday party, then yes, they can charge you. If you have a complaint, it is not enough to just call HCD; you must file a written complaint with the MRLPP.**

13. I am concerned that managers are stopping home sales and compelling sellers to make repairs even when the buyer is willing to buy “as is.” What can be done?

**Civil Code 798.73.5 relates to repairs to the home that a park manager can impose when it is up for sale. Interference with home sales is a big problem! Only the exterior of a home is subject to park inspection unless there is a health and safety code violation. You can sell the home with the interior as-is if you want to, as long as it has basic services working for heat, air, water and utilities. Some park owners want to de-control rent control for the space by forcing the seller to eventually walk away. When the park owner owns the space, it is removed from rent control. A resident needs to push back. Remind the park owner they can be responsible for your financial loss if they interfere with the sale.**

14. My tree extended a branch over my next-door neighbor’s home who was concerned for her safety. I contacted an arborist, who said he would cut the branch off, and charge the person whose property it was on. Who is responsible to pay?

**Civil Code 798.37.5 states that management must pay for trimming, pruning and trimming trees if there is a hazard or health and safety violation. If there is no such violation, then the resident is responsible for taking care of the tree, such as pruning, spraying, watering, picking up leaves etc. If the tree was a hazard and extended over your neighbor’s home, it is the park’s responsibility to pay for the cost to trim it. If management refuses, you can file a claim with the MRLPP or go to small claims court.**

15. My park rules state if I repaint my house, I must use a neutral color, which is not defined. The manager showed me 5 colors and told to pick one. Is this reasonable?

**It is reasonable to put some restrictions on color. Typically, a park will restrict colors to earth tone colors and provide a palette with a reasonable number of possible colors. Only five might be unreasonable. A Park can regulate colors, but they can’t force you to use any brand of paint.**

16. My rent check, along with other resident's checks, were stolen from our outside rent box. What is the property manager's responsibility to us? I had to pay a stop payment fee and the cost of new checks.

**Management is not liable for unforeseen criminal conduct, unless you can prove they were negligent and took no steps to secure the rent box. It is a question of how secure the rent box was. This would be within the jurisdiction of small claims court.**

17. My driveway is two strips of concrete with pavers and landscaping around them. Who is responsible for repairs?

**If the park owner installed the driveway, the park is responsible. But if modifications had been added (by you or prior homeowners), then probably it is the responsibility of the homeowner to fix.**

18. If a local jurisdiction passes a Senior Overlay, what is risk of the city being sued?

**A park owners' lawsuit protesting the Senior Overlay that the city of Yucaipa enacted went all the way to the 9<sup>th</sup> Circuit Court of Appeal, which validated the Senior Overlay. I am not aware of any final court decisions that invalidate a Senior Overlay. After the Cities of Cotati and Petaluma made modifications to its rent control ordinance, the park owner sued the Cities saying their Senior Overlay is unenforceable, since they were enacted during the 6-month period after management had given notice of a change in the park rules. These cases are pending.**

19. Can a park remove all defibrillators?

**Some parks, usually a resident-owned park, install defibrillator devices throughout park, so an immediate emergency apparatus is available to save their lives if needed. If a park does install defibrillators, they must provide instructions at the location for how to use them, and training, and thus can incur some liability. Because defibrillators are not required, park owners might choose to remove them due to their liability risk.**

20. How can we get rid of a poor property manager who consistently violates the rules? Is court the only way to get rid of such a manager? Or do we complain to HCD? Can we remove him due to poor performance?

**I have never seen court action used to remove a manager because residents have no legal power to fire or replace the manager. The way to deal with such a situation is for residents to organize and communicate to the management company or the park owner about the *risk* this manager is posing to them since they are the ones with deep pockets and will be sued for manager transgressions. Unite as many homeowners as possible and collect clear facts that demonstrate the problems with the manager. Put the park owner on written notice that it is liable for any problem that arises due**

**to the manager. The manager training program which will start up in mid-2025 should hopefully help with this type of situation.**

21. How does changing a park from a Senior Park to an All-Age or Family Park correlate with a park owner making more money?

**If you add spaces and increase the number of homes, you make more money and it is easier to do that in an all-age park. Families feed into the narrative that park owners might take to a City or County to argue for abolishment of rent control, since they are not vulnerable seniors, typically have more income and thus that they “have no need for rent control”. Families are more distracted with life, raising kids, focusing on carer and are less willing to push back on park rules, resist rent increases or join GSMOL. The perception of an all-age park increases value in terms of salability, the ability to get capital, or refinance. Seniors, on the other hand, are usually retired, have fixed, limited incomes, have time to explore issues and are more willing to be vigilant about and stand up for their rights.**

22. Does a park need to publish lot lines?

**The Health and Safety Code requires lot markers to be clearly defined and visible. A park owner can be cited if they are not visible. Most markers are in the front of home and are a notch in the curb or a pin in the road. More problems exist when the marker is in the rear of the home. If there is no rebar or a visible pin, often a tree, or post, or landscaping defines the lot line. HCD does not keep records long term, so seldom do they, or your City, have records of lot lines. Lot lines are determined before a home goes in and are never determined by the length of the home.**

23. Are there requirements a park must provide common areas.

**No.**

24. Which is a better way to settle disputes: arbitration or mediation? Does one process have less obligation to pay prevailing legal fees over the other?

**Mediation is a voluntary settlement discussion, with a mediator. Arbitration is more formal and is before a hearing officer who is hired to make a decision. Rent control ordinances must provide for arbitration if a park owner wishes to increase rents above and beyond the annual allowed adjustment amount; some also require mediation. Most court actions require some form of Alternative Dispute Resolution (ADR), such as mediation or arbitration. It might be beneficial to try mediation first, which typically costs less than arbitration, if the facts or monetary amount in dispute warrant it.**