HCD and Lot Lines Enforcement

By Ron Javor

(Ronald Javor is the former Assistant Deputy Director for HCD's Division of Codes and Standards, and is a former HCD Chief Counsel who provided assistance regarding mobilehome park matters. Ron currently is a Board member of the Golden State Manufactured-home Owners Education Fund.)

In an issue of *The Californian*, I said that misunderstandings about HCD's role in mobilehome parks often can be remedied by asking whether the complaint or problem is a "physical health and safety issue" or a "civil legal issue" involving lease rights. HCD handles only the health and safety issues. However, sometimes the problem is both. One area that has an overlap between health and safety and management-resident civil law relations involves the location or movement of lot lines.

Correct lot lines and set-backs ensure adjoining lots have adequate separations between homes and other structures for fire safety and cleanliness. Their proper placement also ensures that a homeowner does not have structures covering more than 75% of the lot space, for adequate light and ventilation. However, a homeowner or other park resident also relies on the lot line agreement with the park to ensure that the space being rented allows for all expected benefits, such as room for a garage, workshop, or raised patio or for site gardens. The failure to properly mark or properly change a lot line can have a variety of civil and safety impacts.

The rules governing lot lines (and corners) are fairly simple:

- Since 1949, lot lines had to be "clearly and distinctly marked", and on September 15, 1961, "permanently" was added.
- Before July 11, 1979, lot lines could be moved without any government approvals (but still had to be clearly and permanently marked).
- Beginning July 11, 1979, no lot line changes could occur without approvals from local government planning agencies <u>and</u> occupants whose lots lines would be affected.
- Since July, 2005, approvals are required from both affected residents and the Mobilehome Parks Act enforcement agency (such as HCD), rather than the local planning agency, and new state rules prescribe the process and forms for moving lot lines.

HCD's role in enforcing lot lines also is fairly straightforward.

- During full-park "maintenance inspections", which the Legislature requires for only 5% of all parks each year, inspectors will check for clear and permanent lot lines. There is no inspection to be sure they are in the

right place, but errors in marking or clearly incorrect lot lines (creating fire hazards) may result in lot line violation notices to park management.

- For the installation of a new home, HCD's office makes sure that the lot line diagram submitted as part of the installation permit meets all the requirements (separations from other structures, setbacks from lot lines, and 75% or less lot coverage); during the on-site inspection, the inspector ensures that the installation is consistent with the diagram. If the lot lines (and structures) are not consistent with the diagram, the inspector stops the inspection until they are consistent.
- A resident complaint about a fire hazard or other health and safety problem arising from existing lot lines and separations may result in a lot line violation notice to park management.

Who decides where the lot line should be in any of these situations? Not HCD. If the lot line is wrong, it is a health and safety issue, and HCD can cite it as such. But HCD has no ability to determine where the correct lines should be. This is a civil issue between park residents and management, because the lease or rental agreement identifies the space for the home, and HCD does not interpret leases. If management has "taken" space from a homeowner, or has not provided the area it committed to in a rental agreement, that is a contractual and/or MRL issue.

Some common means for management and residents to ascertain correct lot lines exist. The most common is to identify "historical" lot lines, either by finding old corner markers such as pins or sawcuts in the street or on the site, by measuring from original driveways or fences, by looking at gardens and other improvements and re-measuring (assuming the original measurements for each lot were consistent), or by measuring around the oldest homes in the park. Sometimes, the park office or the local planning department has the original plans for the park (HCD does not keep old construction plans). If enough new homes have been installed, HCD's files will include a number of individual plot plans for those installations which, together, may help create the full picture like parts of a jigsaw puzzle.

There are two ways to "correct" a lot line violation or dispute. One is for management to place the lot lines back in their original (historic) positions. If the affected residents do not agree, and the "corrected" lot lines do not create health and safety violations, this is a civil matter between residents and management. The other is to get an HCD permit and use the lot line "change" process in Title 25 California Code of Regulations

Section 1105 of the park regulations is on-line at
http://www.hcd.ca.gov/codes/mp/mpRegs.html

This requires a permit application from management, various forms, and signed approvals by homeowners whose lots are impacted. The enforcement agency approves

the final changes to ensure that there are no health and safety violations, and that no structure ends up being in violation of any setback or separation standards.

The "bottom line" for HCD is that there should be no health and safety violations, and that the lot lines should be marked clearly. No new manufactured home or accessory structure can be installed on a lot where the lot lines are unclear or in dispute. Residents also can enforce their rights to the lot they believe they should have through the MRL, or through local rent boards or mediation boards if they believe that they are paying rent not commensurate with the lot they believed they contracted for.

A complaint that a lot line has been changed without following proper procedures, or that lot line markings have created fire or other hazards can be made through the **Mobilehome Assistance Center "MAC."** Complaints can be made by calling 1-800-952-8356 or by email to MHAssistance@hcd.ca.gov ,or by USPS mail to HCD — Mobilehome Assistance Center, P.O. Box 278690, Sacramento, CA, 95827.