



*****If You Lost Your Home and Your Park in the Recent California Fires*****

Compiled by GSMOL State Secretary Carol Brinkman from meetings of displaced homeowners with GSMOL attorney Bruce Stanton

The catastrophic fires in January in California burned nearly 17,000 homes. Among them 331 mobilehomes were destroyed: 173 homes and the entire park of Pacific Palisades Bowl burned to the ground and 158 homes and the entire park of Tahitian Terrance burned to the ground. These homeowners face different obstacles to recovery than those who lose their brick-and-mortar homes because the owner of a mobilehome does not control the land on which to rebuild. Someone else has control of the land where their home stood, and the needs of that land owner might be different from the needs of the homeowner. There are no words GSMOL can offer that will mitigate the tragedy of losing your home and the park where the home was located but Bruce Stanton, GSMOL's Corporate Attorney did answer some questions to help displaced residents move forward.

1. Is a mobilehome park owner required to rebuild a mobilehome park (MHP) on the property after a disaster?

In many cases the answer is likely “No”: it could be very difficult to force the park owner to rebuild the park if the owner desires a different use for the land. In general, the owner of the land can decide whether or not to rebuild the park, or whether to pursue a different use. If the zoning designation for the property is limited to a “mobilehome park use”, the owner’s options become more limited as long as that designation exists, and a mobilehome park might be the only use permitted for the land. The park owner can request to change the zoning to allow a different use by filing a “General Plan Change”. If the City requires affordable housing, that could also limit the park owner’s choices. But there are multiple ways to provide for affordable housing, so that even a City mandate for affordable housing may not guarantee that a mobilehome park must be rebuilt. Check with your City to determine both the current zoning, any affordable housing requirements, and the City’s desire for the future use of the property.

2. If the land is rebuilt as a mobilehome park, do former homeowners retain the right to rent the same space under the same rental terms?

Yes, subject to a potentially higher rent being required. In 2020, GSMOL passed an amendment to the Mobilehome Residency Law which establishes renewed tenancy rights

after a wild fire or natural disaster for any homeowner with a valid tenancy in the park at the time of the fire or disaster.

California Civil Code 798.62 BUILDING AFTER A WILD FIRE OR NATURAL DISASTER provides:

“If a mobilehome park is destroyed as a result of a wildfire or other natural disaster, and management elects to rebuild the park at the same location, management shall offer a renewed tenancy in the rebuilt mobilehome park to all previous homeowners in accordance with the following: The offer of renewed tenancy shall be on substantially the same terms as the previous homeowner’s rental agreement that was in existence at the time of the wildfire or other natural disaster. However, management may adjust terms in the previous rental agreement to reflect costs and expenses to rebuild the park that were incurred from the time of the disaster until management received a final certificate of occupancy for all spaces in the park. These costs and expenses may include, but are not limited to, costs associated with demolition, reconstruction, and environmental remediation, as well as taxes and interest expenses. . . Management shall send each previous homeowner the offer by certified mail, at least 240 days before the park is reopened.”

3. If the park owner decides not to rebuild the park, and pursues a different use of the land, must he “buy out” or reimburse the homeowners?

No. A homeowner does not own an interest in the land, nor does the lease have any value once the park is destroyed. A homeowner purchases only the home, and obtains a lease or rental agreement which conveys limited right to occupy a space, provided that there is a space capable of being occupied. The lease does not have any separate value apart from the home. When the park is destroyed the lease essentially ends, since the space becomes uninhabitable, and the lease by itself has no value that can be sold or transferred by the homeowner to anyone else.

4. Is the park owner responsible for fire safety?

The responsibility of a park owner for disaster preparedness and fire safety is a key question! If it is determined that the park’s negligence was a contributing factor to the destruction of the park, it may be liable in whole or in part for a homeowner’s loss or damages. There may be a legal cause of action for breach of contract (i.e. of the lease or rental agreement) or a claim based upon negligence. The 4 elements of a cause of action for negligence are: (1) a **duty** owed, (2) a **breach** of that duty, (3) and the breach **caused** (4) **damages**. The park owner has a certain duty to keep residents safe from fire. Depending upon the outcome of the investigation as to the causes of the fire, that duty may have been breached. Title 25 of the CA Code of Regulations requires fire suppression facilities in mobilehome parks. Were the fire hydrants working? Were they inspected regularly and “certified”? The toughest element to prove might be causation. Could the park owner have done anything to prevent the fire loss, given its magnitude? It is likely too early to determine causation, although law suits are already being filed claiming local and state jurisdictions were liable. Reduction of the fire department budget, empty water reservoirs, availability of

water pressure, etc. are all questions yet to be determined. Wait to see how these questions and issues are determined. There is a 3-year statute of limitations to file a court claim for negligence, and a 4-year period for breach of contract claims, although an administrative claim against a government or public entity must be first be filed with that entity within 6 months of the date of loss pursuant to the California Tort Claims Act, in order to exhaust administrative remedies.

5. Is there a checklist of disaster preparedness actions a park owner must follow?

Yes. **Title 25, CA Code of Regulations, Article 6, sections 1300 to 1319**, detail fire protection standards that a park must provide to obtain their annual Permit to Operate the park (PTO). Section 1317 requires fire hydrant certification. Clearly the park has a duty to ensure fire hydrants are installed and working properly.

6. Must space rent be paid after a park is destroyed?

No. Because a displaced homeowner is no longer receiving the benefit of occupying the space and the use of common area facilities as described in the lease or rental agreement, they are relieved of any responsibility to pay rent. The destruction of the park terminates the lease. A pro-rated amount of any monthly rent or utilities paid prior to the date of the fire should be returned for each day the space is no longer capable of being occupied.

7. Am I responsible to pay my mortgage if I do not have a home?

To be determined. A homeowner must work this out with the lender. Contact your lender to discuss. It might depend upon what the mortgage documents say happens when the lender's collateral (i.e., the mobilehome) has been destroyed. And there may be legislation that will weigh in on this issue.

8. If the park is rebuilt and you do not want to replace your home, can you rent the space and sell your rights to that space? Or do you need to rebuild/buy a home and install it first?

A homeowner must rebuild or move a new home onto the space once the park reopens in order to have any saleable or transferable right, or the right to rent the space, and has the right to be offered a new tenancy under Civil Code 798.62. There is no right to sell or transfer a vacant space with no home and no lease to occupy being signed.

9. What are the options for legal representation from GSMOL or other private law firms? What advice would you give us in choosing representation?

GSMOL is unable to fund legal representation for this type of claim. With some local law firms already filing these types of cases, it is valuable to follow those news reports, identify those firms and contact them for advice or representation. Ask to interview potential attorneys. Ask about their past history, experience, successes etc. Get referrals.

Next Steps?

Given this is a high-profile urban disaster, great public sympathy is with the fire victims. Take advantage of that. Make your voice heard. Be advocates. Organize members in your park and connect with residents in other affected parks. Attend City Council meetings and give presentations during “public comment”, talk to your City Attorney, speak with your Planning Commission regarding zoning, attend Legislative meetings etc. Talk to some of the law firms who might be filing Class Action suits. Go to hcd.ca.gov and review MPROP information about helping residents purchase their park. Research precedents set in other California fires such as the ones in Paradise and Santa Rosa for information on actions they took to recover.