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"You Promised!" (the two words you never want, but hear too often)

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MH Industry Law and Insurance Roundup

By Kurt D. Kelley, J.D.

The year 2020 has had an interesting impact on insurance and law.

Here are some of the highlights particular to the manufactured housing industry:

- Insurance claims handling nationwide is delayed due to a lack of insurance adjusters available to manage claims. Hurricanes, the August Iowa derecho windstorm, and the widespread West Coast fires have generated more claims than can be timely processed. The specialty insurance companies that serve the MH industry often utilize third parties to manage their claims. These claims management companies are particularly busy and losing work hours to COVID and COVID protocols;

- Umbrella and excess liability insurance premiums for MHC owners, particularly larger portfolio owners and those with higher excess liability limits have seen rate increases of 100% plus in 2021. The culprits are large jury verdicts and Appeals Court dockets backed up for years both due to regular flow of appeals and those delayed by pandemic related issues. Owners of apartments and all types of rental housing are particularly affected by this rate increase;

- California requires all employers to report all employees that test positive for COVID within three days. Financial penalties apply for both late and non-reporting;

- The number of Occupational Safety and Health Administration (OSHA) corporate public shaming events has dropped significantly under the Trump Administration. In past years, OSHA would issue public pronouncements of what it alleged to be dangerous corporate conduct. Targeted companies had little ability to defend themselves or prove their innocence. The Trump administration has largely ceased this practice;

- Court dockets are backed up. For all those happy with a delayed trial, it is a good thing. For those trying to evict a tenant or collect rent, it is a bad thing. Expect delays of months… at best;

- 2020 has been a bad year for insurance losses. Between the tropical storms, fires, flooding, wind events, and the continued onslaught of nuclear judgments, losses paid out have caused insurers and the companies that back them (reinsurers) to lose money. A singular Manufactured Home Community owner in Lake Charles, Louisiana suffered a $32 million dollar hurricane loss this year. Expect insurance rates to rise; and

- Two of the large, quality manufactured home community owner insurance programs available in the United States are no longer renewing current policy owners or writing new ones due to losses. Both programs had concentration of business in California where community owners suffered a plague of fires as well as California's unique cause of liability claims, failure to maintain lawsuits.

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Real Estate Lessons Learned From The Pandemic

By Frank Rolfe

Prior to March 2020 nobody ever dreamed that toilet paper would be the number one item hoarded in a national emergency. But then again, nobody would have guessed there would also be a time in which restaurants and bars would be scuttled and life-long small businesses sent into ruin with the government selecting (at their whim and sole judgement) what's essential in life and what's not. The pandemic has brought forward some important observations on the unique traits that make the mobile home park business so successful in a Covid-19 world and beyond.

Having your customers as "stakeholders" is extremely important

Mobile home parks have a unique feature that no other real estate sector has: our customers are "stakeholders" in the business. They own their home and we own the land. This unique situation makes both parties have "skin in the game" regarding the peaceful operation of the property. And that one quality – perhaps over all others – makes the very idea of non-payment of rent undesirable because they know the end result will be the loss of their home and position in the neighborhood. Apartments, on the other hand, have no buy-in of the resident or stakeholder feature, so they not only refuse to pay rent but they just throw their futon in the pick-up truck and drive off when the constable stops by.

Our residents are the backbone of the U.S. economy

Were they thinking of our residents when the government released the "essential services" list? Well, it sure seems like it, because the list reads like the directory of typical park resident occupations. From fast food to delivery to construction, mobile home park residents are better positioned to be able to go to work than virtually any other group. And this then begs the question: "if these are the truly essential jobs that make the U.S. function, then these really are the most important people in America when it comes to the basics of life?" The answer, of course, is yes.

Being affordable also means being paid

I was talking to an upscale apartment complex owner recently, and they told me there were only raking in about 60% of their rents (which are over $1,200 per month per unit) since Covid hit in March. So how come mobile home park owners are collecting 90%+ in the same environment. Well, obviously it's a whole lot easier to collect $300 to $500 per month (the average lot rent in the U.S.) than it is to collect around $1,000 per month more. What the pandemic has taught all landlords is that maybe Walmart and DollarTree were correct: real safety and security in revenue is somewhat tied to the customer being able to actually afford what they're buying and not just whipping out the credit card.

No wonder banks love us

Most mobile home park owners in the U.S. have fared better than any other real estate sector that I'm aware of. A recent study showed that 30% of all U.S. hotels are facing foreclosure (just look at what's happening in north Chicago) and office and retail is taking a death plunge. In a world like this, performance is all that matters and "trailer parks" are beating the pants off the competition. If safety of revenue and strong demand despite economic recession are hallmarks of successful income properties, then mobile home parks win. If beauty is your sole focus, then that office building downtown is one heck of an investment (assuming you have a preference for insolvency).

Conclusion

Years from now, few will remember the pandemic except for the t-shirts in thrift stores that declare "will work for toilet paper". But those of us who owned mobile home parks during 2020 will never forget one big lesson: that we have the best business model in the history of the free world.

Frank Rolfe has been a manufactured home community owner for almost two decades, and currently ranks as part of the 5th largest community owner in the United States, with more than 23,000 lots in 28 states in the Great Plains and Midwest. His books and courses on community acquisitions and management are the top-selling ones in the industry. To learn more about Frank's views on the manufactured home community industry visit

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Nation's First Virtual Manufactured Home Retailer, Braustin Homes, Receives $1.9 million Seed Funding from Local Tech Investors

By Braustin Homes

San Antonio, Texas-based Braustin Homes, has raised a seed round investment of $1.875 million to support the manufactured housing company's expansion of its innovative, high-tech dealerships. Founded by brothers Alberto and Jason Piña in 2017, Braustin Homes built the nation's first virtual mobile home dealership, an innovative breakthrough in a traditional mobile home market. In May 2020, Braustin launched its first hybrid dealership, marrying the virtual, online customer experience with a physical showroom. The funding will support the company's expansion of its hybrid dealerships across Texas and the nation.

The fundraising round, led by Geekdom Fund, also includes investment from Rackspace Technology co-founders Graham Weston and Pat Condon and angel investor Pat Matthews. Pat Condon and Geekdom Fund managing director Mike Troy will join the Braustin Homes board of directors.

"Over the last few years, we have put a lot of effort into building a scalable sales process that provided a better experience for the customer and made us more efficient as a business," said Alberto Piña, co-founder and CEO of Braustin Homes. "Through the pandemic, we were able to really fine tune an effective model, and now this round of funding will give us the resources needed to rapidly scale the brand across Texas and beyond. The end goal is to build a company that creates value for our communities in terms of job creation and home ownership, while also building value for our shareholders."

Since its inception in 2017, Braustin Homes has helped more than 300 families build a place to call home. As of October 2020, the company had surpassed 2019 sales despite navigating through a global pandemic that caused Braustin Homes to lose more than $1M in sales in the early days of the shutdown. Currently, Braustin Homes has one hybrid showroom located at 16890 IH-35 South, Atascosa, TX 78002, about 10 miles south of San Antonio's Loop 410. Braustin Homes intends to deploy an additional 10 hybrid dealerships across the state by the end of 2021.

"Braustin Homes really has everything we look for in an investment," said Geekdom Fund's Mike Troy. "The founders have deep domain expertise, which means they are familiar with the industry, the competition and the challenges customers face in buying a home. They have an incredible strategy of leveraging online and social media to extend their reach. Braustin has a highly competitive business model that allows them to utilize technology to do more with less. Their emphasis on the customer is paying off with hundreds of delighted customers, great customer testimonials, and an industry leading NPS score. Over the next few years, we expect to see them grow rapidly to become the largest independent dealer group in Texas which makes up 20% of the overall market."

"Today, buying a mobile home is full of friction, tons of paperwork, and lots of inefficiency. Braustin is unique in its technology-driven approach and commitment to improving the customer experience for home buyers," said angel investor Pat Matthews.

"It was clear to me from first meeting the founders that they were not just building a different kind of mobile home dealer. They're really playing a different type of ballgame," said investor Pat Condon. "Their values as a company squarely put customers first. Their customer-centric approach to an industry that often does not put the customer first really resonated with me. It's what we endeavored to do at Rackspace. At Rackspace we called our approach Fanatical Support, but at our core we were a company that was totally focused on putting our customers first and making sure their outcomes were amazing.

Graham Weston added, "I believe San Antonio is truly a city on the rise, and to achieve its potential, we will need companies to address the affordable housing issue in our city and create jobs that allow our residents to become homeowners. I'm drawn to big, transformative ideas, and I see that in Braustin Homes. They're building a company that is both for people and profit, and I can see it ultimately having the kind of economic impact on San Antonio that Rackspace has had."

To reach managing partner Alberto Piña or for additional information, contact Mary Ullmann Japhet at 210-414-9030 or mjaphet@japhet-media.com.. You'll find valuable information listening to The Braustin Homes podcast, "Doublewide Dudes", which focuses on affordable housing issues.

BRAUSTIN HOMES
A Better Way Home

The 3 R's of Proper Risk Management for Manufactured Housing Communities

By Haylor, Freyer & Coon, Inc.

The manufactured Housing industry is evolving. As a result of the many changes occurring within the industry, it is important that owners and leaders understand the importance of risk management. Proper risk management can provide tremendous cost savings, while those entities not implementing a risk management program will find themselves uncompetitive and at risk of losing all they worked to create.

Risk management has many elements, but it is important to first understand how to manage risk. Risk is essentially managed in 3 distinct methods. These methods are:

- **Risk Avoidance**
- **Risk Acceptance**
- **Risk Transfer**

We can safely make the assumption that if you are managing or operating a business, you inherently have risk. It is the level of activities and services provided as well as the choices made that will determine which of the 3 methods are used to manage risk.

To be clear, Risk Avoidance is simply not participating in an activity that inherently has risk. For example, a community operator may choose not to participate in retail operations by not selling homes in his or her community. Risk assumption implies the individual will perform a task that has risk and he or she will assume all responsibility associated with the risk or a portion of that risk. Think of using a high deductible to reduce insurance costs. The deductible represents the assumed risk the individual is willing to bear. Finally, Risk transfer apportions the risk or part of the risk to another party. An example would be a retailer that utilizes subcontractors to set a home for a customer.

When operating/managing a manufactured housing community or sales center it becomes important to evaluate the risks your business assumes. As mentioned, many businesses choose to transfer the risk, by hiring third parties to perform certain activities. The question then becomes, have they truly transferred the risk? For most of the industry's long history, business was done with a handshake agreement. As the industry evolved, it has matured in its understanding of risk assumption and transfer.

Risk transfer has many advantages if it is managed correctly. If not managed, it can have an adverse effect by creating a unique juxtaposition that moves the risk transfer to a risk assumption. Having a third party perform specific operations in your business is very common in our industry today. The cost to do such things as hauling homes, setting homes, removing trees, etc. has made it more effective to subcontract that work. This transfer of duties to a third party must be navigated carefully and clearly in order to be sure the risk is transferred to the appropriate party.

The first step to a successful risk transfer is the use of a contract that clearly outlines the activities the subcontractor will be performing. In addition, it should include "hold harmless" language, insuring requirements as well as payment schedules and dates the activity will take place. These contracts are quite common, albeit many fail to include insuring requirements and "hold harmless" language. These are 2 critical elements to the risk transfer. The insuring requirements is simply a statement asking the subcontractor to carry specific limits of insurance and that the business is named as an **additional insured**. Typically, the subcontractor should maintain limits of liability coverage that mirror your business or a minimum of $1 million. "Hold Harmless" language is verbiage that states the subcontractor agrees to not hold liable the business owner in the event of an occurrence that is a result of the work of the subcontractor.

The next step to a successful risk transfer is obtaining a certificate of insurance from the subcontractor. While many of us practice this step in our operations, it is important that the certificate is truly implementing the transfer of risk. There are several items the business owner needs to identify on a certificate to be sure it is correct. First it is important to confirm that the Name of the entities identified on the Certificate of Insurance (COI) are accurate. As the insured requesting the COI, your entity will be identified in the Certificate Holder section. Next, it will be important that all coverages (including

workmen's compensation) boxes are checked off indicating the entity has those coverages. They should also be including the limit of insurance the entity maintains. Ideally these limits should be equivalent or greater than your own commercial insurance limits. Next, it will be important to confirm the policy period of the coverages to ensure the policy will remain active during the period you are hiring them. Finally, in the remarks section of the COI, wording should promulgate that your entity is an additional insured under their policy and identify any additional endorsements their policy maintains. It is important to note that in order to achieve Additional Insured status on the subcontractor's policy, the carrier will typically include an endorsement or language requiring a contract between both parties exists. Therefore, the importance of the aforementioned contract becomes critical.

The importance of Contractual Risk Transfer (CRT) in business becomes a critical element in risk management. It also is an important step in reducing insurance costs or creating a desirable position for your company when the insurance industry enters "hard" markets. To expand, by implementing a CRT program for your business, you are placing the burden of liability with the appropriate party. This limits your exposure and as a result, claims are bore by the appropriate party. This mitigates your claims experience and as a result more aggressive pricing can be achieved from your carrier. Another important aspect is putting your company in a favorable position in a "hard" market. The insurance industry cycles between soft, stable and hard markets. These cycles can last months or years depending on economic factors. When the industry cycles to a "hard" market, businesses can see substantially increased premiums, reduced coverages or even non renewed policies. In order to achieve the best of price, coverage and renewal of your policy during this period it is important to have a risk mitigation plan in place and a strong claim(loss) ratio.

By understanding and identifying risk in your business, you can better decide how to address the exposure…avoidance, assumption, or transfer. It is important to note that there is not a means to transfer all of your exposures by purchasing insurance. We are all familiar with insurance policy exclusions. It is important to read and review your policy with your agent to best understand the limitations of your policy. These exclusions force you as a business owner to make a decision between assumption and avoidance.

Take the time to consult with your insurance agent as he or she can play a pivotal role in assisting with a risk mitigation plan. Many insurance carriers will also provide loss control services to assist you in reducing risk and ultimately insurance costs.

Haylor, Freyer & Coon, Inc. has been a leader in Risk Management for the Manufactured Housing Industry for over 50 years. With a team of true industry specialists, we can provide the safety programs and insurance products you need to protect your community.

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Michigan Manufactured Housing Commission Plays a Vital Role in Ensuring Fairness in the Industry

By Michigan Manufactured Housing Association (MMHA)

The Michigan Manufactured Housing Commission is one of the most important organizations within the manufactured housing industry and ensures fairness for both industry business members and community residents. The commission is responsible for establishing uniform policy relating to all phases of manufactured housing, business, manufactured housing parks, and seasonal manufactured housing parks. The commission has the legal authority to approve local governmental ordinances which would regulate manufactured housing, grant variances to the Manufactured Housing Commission Rules, approve licenses for manufactured home installer/servicers and retailers, and impose penalties.

The commission is vital to providing a consistent standard across all 83 counties in Michigan. Michigan Manufactured Housing Association (MMHA) Director Darren Ing commented, "Without this authority, counties and municipalities could conceivably promulgate rules that widely differ from one another. This would create an undue burden for the community owners who operate multiple communities, but also for the individuals who set and service homes. Having one set of rules ensures a level playing field and allows everyone from community owners to state and local officials to understand the requirements for the manufactured housing industry in Michigan."

Commission Chairperson Marge Burns commented, "The most important role of the commission is to make sure that current and future residents of manufactured home communities have access to safe and affordable living options by upholding the standards of the Mobile Home Act." Burns is also a member of the association (MMHA), and remarked, "I find it very beneficial and important to be active in both the commission and MMHA. What happens at the commission meetings affects the members of MMHA, but more importantly it affects the residents of manufactured home communities and all industries related to the manufactured home business. I want what's best for the industry as a whole, and I'm able to participate in that process on two different levels. For over 75 years, MMHA has protected and promoted manufactured housing by providing education on issues affecting the industry. Ultimately, both the commission and MMHA want what is best for the state of Michigan, local municipalities, and residents of communities when it comes to safe, affordable housing.

"I'm proud that as a resident of a manufactured home community, my voice can be heard," says commission member Glenna Adams, who holds a resident seat on the commission. "There are so many outdated rules and regulations. I think, 'How can I help?' 'What can be done?' or 'Is this right?'" She believes the industry is entering a new era, and things are changing. "Some of the current rules and regulations no longer apply or do not fit the situation. The commission helps update, interpret the rules, understand ALL of the rules. The commission is a representation of many fields in the industry, and therefore our discussions and decisions truly will help everyone, no matter where they fit in."

Michigan Manufactured HOUSING Association

The Michigan Manufactured Housing Association is dedicated to educating the public about the benefits of manufactured and modular home living and connecting people interested in finding a community or home with its members. MMHA is one of Michigan's oldest trade associations, founded in 1941. MMHA is a nonprofit association representing the manufactured and modular home industry in Michigan. MMHA works to improve the image of manufactured and modular housing by educating consumers, media and government about the quality, affordability, design and beauty of the homes. For more information, visit the Michigan Manufactured Housing Association at www.michhome.org or contact MMHA, 2222 Association Drive, Okemos, MI 48864-5978; 517.349.3300.

Manufactured Home Communities Emerge as a Hot Investment Class

By Erik J. Hanson, MAI

In recent years, manufactured home communities (MHCs) – also known as mobile home parks – have emerged as an attractive investment class, and 2020's COVID-induced recession has only served to strengthen their allure. That's due to high rates of return and consistent reliability from a product that is not only recession-proof but tends to perform even better when the economy softens.

The dearth of affordable single-family homes and multifamily units in many markets steers demand to the MHC sector. Demand for affordable housing, coupled with the perennially low supply of MHCs due to zoning restrictions, creates a supply-and-demand dynamic in favor of MHC owners. MHCs, compared to apartment buildings, tend to have dramatically lower tenant turnover; lower operating and capital expenses; and less volatile rents.

MHCs provide owners with high cash flow and, at the end of the investment cycle, large equity payouts.

MHCs are also tax-efficient. Much of the purchase price can be allocated to capital improvements, which depreciate over an accelerated 15-year time frame versus the standard 27.5 years for residential real estate or 39 years for commercial real estate.

In bad times as well as good, the MHC sector also benefits from relatively large lending volumes. Most MHCs comprise affordable housing stock, so they're an essential industry that lenders tend not to retreat from.

It should be noted that there are two basic types of MHCs – the affordable housing model as well as four- or five-star MHCs that consumers opt for as a lifestyle choice rather than financial reasons. These parks are often gated with paved streets and amenities. REITs and other major corporations are focused on the top end of the market, while the remainder is attracting an ever-widening range of new and experienced private investors.

Current economic and demographic trends enhance the investment allure of both types of MHC. Over the next decade, more than 20 million single-family homes will come on the market as Baby Boomers downsize and settle their estates. The MHC industry provides a great source of replacement housing. Along with Boomer interest comes an elevation in the quality expectations for manufactured and mobile homes and their communities, which will, in time, help improve the image of MHCs.

Generally, competition to buy MHCs is robust due to the limited supply of listings. However, an aging population also means that many original developers of MHCs are looking to retire and sell their properties, increasing buying opportunities in coming years.

Mr. Hanson is a Managing Director and National Practice Leader-MHC at BBG, a national due diligence commercial real estate firm. Mr. Hanson has specialized in appraisal and consulting for hundreds of manufactured housing communities and RV parks and campgrounds throughout the Midwest and Great Plains. His experience also includes appraising various property types including apartments, mixed-use, industrial, retail, hospitality, recreational and land.

BBG

"You Promised!"
(the two words you never want, but hear too often)

By Ken Corbin

The phone rings and the first two words out of your unhappy customer is, "You Promised!" Sound familiar?

The next two words your delivery, set up or service department (AKA the back end) says are, *"I'm sorry."* Does this also sound familiar?

After the conversation ends, the back end immediately runs to the front end. The new conversation between the back end and the front end goes something like this:

Back end: "They say you promised they'd be moved in my February 1st"

Front end: "No, I said we'd try to get them in by February 1st"

Back end: "That's crazy. You'll promise anything to make a sale!"

Front end: "Again, I didn't promise. I said we'd try to get them in by the 1st."

Sales said *"Yes"* when they should have said *"No"*

You have a customer who says, *"If you can have us moved in within 60 days, we'll buy that home you have in stock and sign a contract today."* Your sales team member (who just might be your lead salesperson) says *"Absolutely."*

In fact, in the past, you we're able to have a customer moved in within 60 days. At the same time, it's the middle of winter and you know it's likely to take two months or longer to meet the customers' expectations.

In this scenario, I'd suggest the owner / manager say to the customer, *"I want to ensure we're are all on the same page. I know, in a perfect setting, we've had a customer moved in within 60 days. Other projects have taken closer to 3 months. I'd hate for any delays to impact you. I'd like to know we all have the same expectation of 3 months, knowing we'll do whatever we can to shorten the schedule to 60 days. Would that be OK?"*

This accomplishes three things:

1. You've firmly set the expectation with the customer and overcome any "promises" (aka "we'll try") they may have heard from the salesperson.
2. Unless you are delivering the ball for Times Square on New Year's Eve, a short delay is often not a deal killer; just manage their expectations up front.
3. If your customer is being unrealistic, fire them now! Here's a Ken Corbin-ism that says, *"The lower the control & the lower the gross, the higher the grief!"*

What sales or the back end said was accurate until something messed up

Perhaps sales, delivery and set-up did set correct deadlines and expectations. However, your solution depends on the work of others; or weather. Perhaps you depend on special permits, equipment, materials, suppliers and so on.

In these situations, the natural thing to do is throw the other party under the bus. I was at a restaurant recently where the food was delayed. The waiter said "The kitchen has no clue what they are doing. It's not my fault."

Having heard that statement, I wasn't inclined to dine there in the future. In fact, I was dubious about staying for the remainder of my meal. **If you throw your own team under the bus with the hopes of making yourself not look foolish, it just doesn't work.**

I call this the boomerang effect.

In this scenario, CALL THE CUSTOMER BEFORE THEY EVER CALL YOU! The person making the call should always be someone in authority.

In this instance you might say, *"We felt we had planned for potential delays, but I guess we did not allow enough time. (explain the situation honestly) We're doing everything in our power to get the issue resolved, and as soon as we know with certainty the revised schedule, I'll personally call, text or email you. What would you prefer?"*

This will likely take some of the fire out of their nostrils; although they'll still be disappointed. YOU took the initiative to contact them before they called you.

End the conversation this way. *"I promise to keep in close contact with you. We're in the business of selling home and making friends. I also want to give you my personal cell number and feel free to call or text me at any time. Is there anything else I can do for you at this time?"*

Bottom Line

When faced with a difficult situation, you might make the mistake of trying to hide facts from your customer. That approach rarely has a good ending. When you make a mistake, take ownership and communicate honestly. Customers realize "stuff happens". You will often be rewarded for how effectively you address setbacks.

The most important thing to remember is that the sooner you can reset expectations, the better.

Finally, when you or someone on your team makes a mistake, remember to always contact the customer before they contact you. Your candid conversation will go a long way toward making them feel comfortable.

Ken Corbin is president of the largest sales & marketing firm in our industry and has worked with over 900 communities, retailers, associations, and manufacturers. For more information, e-mail: Ken@callkencorbin.com or call him at 888-823-4945.

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Mattress Disposal Guide – How to Get Rid of a Mattress

By MattressInsider.com

Mattress disposal can be quite the challenge. Especially if you're unaware of the options available to you for donating or destroying your mattress.

You might be thinking "I'll just put it out on my driveway on trash pick up day." But assuming your trash company even picks it up, it's going to end up in the landfill which is not great for the environment.

In this guide, we'll show you how you can dispose, reuse, or repurpose your mattress in an eco-friendly way.

Sadly, such unnecessary waste is devastating to the environment. We live in an age when so much is disposable, and sustainable living is more important than ever. So….how to get rid of a mattress? That….is the question. If your old mattress is in good condition, you would do better to donate or resell it. If it is worn out, then recycling may be a better option.

How to Recycle an Old Mattress

The eco-friendly option for mattress disposal is recycling your old mattress.

Since there are so many mattress companies and options, mattresses are made of varying kinds of materials, including wood, plastic, metal, wool, various foams and fabrics, and even animal hair. *(Drake, the artist, even has a $300,000 mattress made of horse hair.)*

If you take these various mattress components apart, you can often recycle most or all of your mattress to build new products, sell to scrap, or simply add to your firewood pile. If you don't want to go to the trouble of taking your old mattress apart, there are recycling facilities that dispose of old mattresses properly.

They break the mattress down into its **recyclable components** and organize them by type.

1. **Metal springs:** after melting, the springs transform into new metal items, or they can be repurposed as new steel parts. Some of that steel can end up in renewable technology applications like wind turbines.
2. **Textile materials** (like cotton or wool covers) can be used in the production of carpets.
3. **Foams** undergo chemical treatments and can become a component of organic fuel.
4. **Leftovers** (like wood pieces or other unusable components)

can be given to farmers to convert into energy, or biochar production facilities.

If you are thinking to go the recycling route, here are some ways to find a recycling center near you:

- Earth 911. The program finds the closest recycling facilities based on your zip code.
- Here's a list of 100 recyclers to help you find the best option in your area.

Look for **Bye Bye Mattresses**. The organization collects a fee for every mattress that is sold, and uses the money to aid mattress recycling

How to Donate an Old Mattress

If your mattress is still in good shape, there are people in need who can benefit from a second-hand mattress. If you want to do a good deed, your mattress donation can help. Here are a few things to have in mind if you are donating.

First, make sure the mattress is in decent condition. You obviously can't donate a mattress that has bedbugs. Also, the mattress should have a well-attached and clean cover (with minimal tears or rips and little to no stains).

Next, search for local branches of the following charity organizations: :

- The Salvation Army. Not only do they accept old mattresses, but they sometimes offer free pick-ups, depending on the area.
- Furniture Bank Network. This charity donates home furniture to families in financial struggle, and they do this all over the country. Their branches are a great place to drop off your old mattress in person. The FBN provides pick-up services, but only within a 15-20 miles radius of the local center nearest to you.
- Habitat for Humanity International. They build houses of course, but they also will often furnish houses with donated items. Your old but usable mattress could serve a great purpose and help others in need.
- Goodwill. The charity accepts only mattresses that are in new or like new condition. However, even if yours is worn out on the outside, it's worth asking your local goodwill about donating components like bedding, blankets, and pillows.
- Vietnam Veterans of America collects donations of used mattresses and other furniture items, and they will pick up for free. The charity sells the old items. It helps war veterans with the money raised.
- Donation Town: If you can't find the mentioned charities on your own, visit this website. It can help you discover the nearest nonprofits that accept donations. With green thinking in mind, Donation Town will also help you schedules free pick-ups.
- **Consider local furniture stores, shelters, or churches** if you live in an area where none of the above are available.

Check also: How to Clean A Mattress: The Ultimate Guide

Hire a Professional For Mattress Pick up

What if no nearby organizations offer pick-up services, and dropping it off yourself is not an option?

Consider contacting a local mattress disposal service that sends trucks to transport your mattress to a charity, recycling location, a buyer's address or etc. for a small fee. We've covered some of the options above, but services like 1-800-GOT-JUNK will come and pick up pretty much anything.

Take the Mattress Apart and Get Crafty

What's more environmentally-conscious than repurposing? Equip yourself with the right tools, some patience, and get started. According to zero waste thinker Antonia, you can turn the mattress into a fun DIY project. It's can be time-consuming, but if you're willing to work at it, it can also be worth it. For example, an old bed frame can become new again in numerous ways.

One way to go about this is to tear up the used mattress with a razor blade knife. Beware of sharp parts. Use protective eyewear and gloves to keep yourself safe. If you want the maximum usage potential from the materials, do your best to find and cut along the seams where the fabric was initially sewn together.

Then, let creativity take its course:

- Pet beds: Use the padding or foams from the bed. Prepare a soft bed for your pet
- Cushions: Use the padding to stuff your favorite cushions to make them puffier.
- Carpet Padding: Use the foam underneath carpet when laying new carpet.

- Moving Padding: Use the foam when moving from one place to another to avoid scratches/dings on your furniture.
- Packing material: Shipping something? Use the foam from your old mattress.
- Building insulation or noise insulation: If you want to dampen sound in a space, mattress foam can be a good option. It can also be an option for building insulation, though you'll want to check your local and federal laws around what can and can't be used for insulation.
- Sewing projects: Incorporate materials from the cover like buttons and fabric.
- Upholstered furniture: Various kinds of furniture can be made from the clean parts of some mattress covers.
- Art canvas: This could be an option for a mattress cover… as the medium for a charcoal drawing or painting.
- Carpentry: There is a variety of carpentry ideas for the wood parts. You can make a bed for your pet, a kitchen cabinet, a cutting board, or just keep any wooden pieces as scrap material.
- Wine Racks: If you're a bit handy with pliers, the steel springs can become a great holder and serve a second life as a rustic wine rack.
- Outdoor furniture and decor: Decorate your outdoor space with unique pieces made from the springs or the bed frames.

There are countless ideas. Let your imagination go to work and see what you come up with.

Make Your Old Mattress into a Compost Holder

The mattress itself won't compost. However, if you're looking for another option, you could choose to make a compost frame from the wood and natural parts of the filling of the mattress. Use the wooden parts of your mattress to construct the compost container. Use the padding and mattress cover as a cover for your compost pile. This can help to keep the warmth in the compost pile and stimulate the bacterial process that takes place in a compost pile. And if it's built well, you can reuse the same compost bin over several seasons.

Some Final Thoughts About Disposing of An Old Mattress

Now that you know how to get rid of a mattress in a sustainable way, you are empowered with additional knowledge to help and protect the environment. By remembering some of these ideas when you're getting rid of your mattress, you can ensure your mattress stays out of the landfill. By following these tips for responsible disposal, you can enjoy guilt-free sleep, and even get a longer-term benefit from something that may have initially been an expensive purchase.

By MattressInsider.com. If you want to know anything about mattresses, buy mattresses or toppers at a good price, this is your contact. Lindsey Summers at Lindsey@theMattressInsider.com.

https://yoast.com/rel-canonical/

Splash Pads in Manufactured Home Communities

By Karie Martin

More Manufactured Home Community (MHC) managers are considering adding splash pads as opposed to the more costly construction and maintenance associated with a swimming pool. Mobile Insurance recently polled its insurance company underwriters regarding their perspective on splash pads in MHC's. While data is not clear whether splash pads will present more or less risk than swimming pools, we were able to formulate splash pad construction, design, and operation standards. Follow these and you are more likely to have a sustainable splash pad operation.

If you are considering adding a splash pad to your MHC, use the following guidelines to lower your risk and insurance rates:

Surfacing:

- Surfacing must be a non-slip surface that reduces injuries related to falls.
- Surfaces for the play components should be soft enough to limit injury from falls, but firm and stable enough for wheelchair maneuvering to comply with ADA.

Water Drainage:

- Should the main drain become blocked, the design should not allow pooling of more than two inches before overflow drainage occurs. Drain covers should not cause dangerous suction or vortexes and be large enough to handle the escaping water.
- Pooling of water creates a dangerous hazard. The design should prevent this.

Water Source:

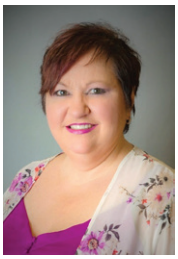
- Non-recirculated water is preferred.
- If water is recirculated, it must be treated, and operating equipment monitored to maintain safe water conditions. Ultraviolet systems are very effective against bugs such as crypto. Manufacturers also recommend adopting an ozone system as an upgrade to the regular sanitation system. Proof of testing water as well as proof of system maintenance testing is required. Avoidance of disease control is a major concern.

Rules must be conspicuously posted and include:

- Hours of operation.
- Notice that no MHC supervision is provided. Children under 12 years of age must be accompanied by an adult.
- All persons using the splash pad do so at their own risk. The safe use of this facility is your responsibility.
- Please shower before use (if showers are provided).
- Do not drink the water.
- Swim diapers are required for children under 4 years of age.

- Individuals with diarrhea or are feeling unwell are not allowed.
- Be courteous and respectful of others. Take turns. Have fun.
- Surfaces may be HOT – non slip-footwear is required.
- In case of injury or emergency, call 911.
- Climbing on splash/spray items is not allowed unless the item is intended to be used in such a manner. No rowdy or rough play.
- No alcoholic beverages or drugs are allowed.
- Please keep food and beverages off the pad and use trash cans.
- Pets are not allowed in the spray pad area.
- No modification to spray features is permitted.
- Clear the area when conditions for thunder or lightning are possible.
- The MHC (entity name) reserves the right to revoke use of the site privileges for individuals who are rowdy or do not obey the rules.
- Please report any damage or equipment failures to MHC Management.

In the most litigious country on Earth, it is important for landlords to minimize risk. Failure to do so creates both risky and unsustainable operations. Nuclear verdicts can cost operators their ownership. Play, but be safe.



Karie Martin, Vice President
Mobile Insurance
Karie Martin has almost 2 decades of experienced in every facet of the insurance industry. She has an excellent comprehension of commercial insurance coverage coupled with an exceptional understanding of the intricacies and needs of the manufactured housing community.

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FHFA Announces Changes to MHC Lending Programs

By Nick Bertino, Tony Petosa, Eric Edwards, and Matt Hersokowitz of Wells Fargo Bank

The Federal Housing Finance Agency ("FHFA") this week announced the new multifamily lending volume caps for Fannie Mae and Freddie Mac will be $70B each across four quarters (an average of $17.5B per quarter) for 2021, with 50% of this amount to be provided for mission-driven, affordable housing business. The previous volume cap was $100B each across five quarters (an average of $20B per quarter) with the requirement that 37.5% of volume be mission-driven, affordable housing business. Manufactured Home Communities ("MHCs") have historically fallen into the mission-driven category; however, the FHFA has modified MHCs' qualification to require Tenant Site Lease Protections ("TSLPs") in order to be categorized as mission-driven business.

Highlights from the FHFA's announcement are outlined below:

- **Fannie Mae and Freddie Mac Multifamily Volume Caps Set at $70B each for 2021**
- **50% of the Agencies' Lending Volume Must Be Mission-Driven Business**
- **MHCs Still Qualify as Mission-Driven Business, but Must Implement the 8 Tenant Site Lease Protections**

The 8 Tenant Site Lease Protections ("TSLPs") are:

- One-year renewable term for the site lease;
- 30-day written notice of rent increases;
- 5-day grace period for late rent payments;
- Rights of the tenant of a site lease to:
  - Sell the manufactured home without having to move it out of the MHC;
  - Sublease the manufactured home or assign the site lease to a buyer, provided the buyer meets the minimum MHC rules and regulations and credit quality or financing;
  - Post "for sale" signs on the manufactured home, provided the signage complies with the MHC rules and regulations;
  - Sell the manufactured home in place within 45 days after eviction; and
  - Receive at least 60 days' notice of any planned sale or closure of the MHC

Borrowers who implement all 8 TSLPs will be eligible to receive reduced interest rate spread pricing and up to $10,000 per property in third party report cost reimbursement.

Additional details on the FHFA announcement can be found on the following website link:

- FHFA Announcement and Memos

The Wells Fargo team has financed MHCs with TSLPs since they were first introduced in 2019. For more information, contact Tony Petosa at Tpetosa@WellsFargo.com, 760-438-2153

Iowa Manufactured Homes Stand Up to 'Inland Hurricane'

By Iowa Manufactured Housing Association (IMHA)

One thing Iowans are familiar with is wild weather. Positioned in the heart of the Midwest, Iowa's weather ranges from extreme cold and snow to temperatures in the triple digits. And let's not forget tornadoes. Iowans see virtually everything mother nature can throw, but on August 10th, 2020, the state was in for a record-setting weather incident. What has been compared to an *"Inland Hurricane,"* a ferocious storm called a derecho swept across the state with winds equal to a Category 2 hurricane, taking down 100 year old oak trees, stripping homes of roofs, destroying business complexes and more. But through it all, Iowa's manufactured homes, generally perceived an easy target for wind and storm damage, stood up to the derecho.

"We're blessed to say the least," said Troy Hames, General Manager and VP of Sales for Hames Homes. "But, honestly, we're not surprised."

Cedar Rapids, Iowa, where Hames manages three manufactured home developments totaling over 900 units, seemed to suffer the worst from Iowa's derecho. Striking an area with a population of just over 130,000, the damage was overwhelming. Businesses saw structural damage to buildings and signage. Parks and rural areas lost up to 80% of their trees, and thousands of acres of crops will need to be plowed under. Residential areas seemed to fare the worst. Over a month later, many residents are still cleaning up fallen trees and thrown debris. But Hames' communities, along with other manufactured home communities throughout the state, saw comparatively little damage.

While common perceptions of manufactured homes would lead one to think hurricane force winds would be catastrophic, reality and the recent derecho proved otherwise. Out of Hames' 900+ units, only three (3) were damaged beyond repair. That's less than 0.5% destruction. Most units, like the surrounding residential areas on the Southwest side of the city, saw shingles and siding damage. Some external buildings like garages or sheds saw worse, but the homes themselves were safe and secure. Why?

More than old school "Mobile homes," today's manufactured homes are subject to strict Federal HUD (Housing and Urban Development) construction guidelines. Based on HUD Code 3280 and 3285(2), *"All … manufactured homes built in the U.S. after June 15, 1976 must contain certification label (commonly referred to as a HUD Tag) on the home. The label is the manufacturer's certification that the home section is built in accordance with HUD's Manufactured Home Construction and Safety Standards."*

As it relates to the Midwest Derecho and why the manufactured homes in Iowa fared so well: section 3280.306 (a) on windstorm protection, states, *"Each manufactured home shall have provisions for support/anchoring or foundation systems that, when properly designed and installed, will resist overturning and lateral movement (sliding) of the manufactured home as imposed by the respective design loads."*

"This is where we have an advantage over homes built on foundations or even over basements," said Hames. "HUD requires manufactured homes to have another level of structural integrity - being anchored with galvanized steel straps, at a minimum of four feet into the ground at multiple places on each home."

Where other construction throughout the area saw devastating damage ranging from missing roofs to complete upper levels destroyed by the derecho, the manufactured homes anchored through their walls and floor joists into the earth saw little impact from winds that reached up to 140 miles per hour and lasted over 20 minutes.

According to a Cedar Rapids Gazette article from August 18, 2020, Lon Pluckhahn, City Manager of Cedar Rapids suburb Marion, Iowa said, "Ninety to 95 percent of all properties in the city sustained some degree of damage."

As Hames drove through his Summit View development in the southwest corner of Cedar Rapids, he saw the manufactured home community come together to help clean up the damage that did happen. Weeks after the storm, debris from the storm had all but disappeared from the streets of the community, but some units were still waiting on insurance and contractors to finish up minor repair projects.

"These are good, hard-working people," said Hames. "From first time homebuyers to retirees, we get to see every aspect of the community."

Chad and Laura Curl, who have been residents in the Summit View development for over 14 years, stopped Troy to give updates on the recovery process for their unit. The Curls property sustained minor roofing damage and cracked siding on the exterior of the home, but nothing more from the derecho. Directly across the street from the development stood a twisted heap of metal girders and splintered wood from a manufacturing plant that didn't survive the storm.

"Mobile homes have gotten a negative stigma over the years," said Laura Curl about their development. "Well, I rode a CAT3 hurricane out in mine, and it's still here," she continued with a wave of her hand.

The Curls were quick to point out that throughout their manufactured home community, it wasn't the actual structures that received the brunt of the storm damage, but the ancillary construction - decks, garages, car ports not included in the original structure - that were impacted most.

"We can deal with a little cracked siding," said Chad Curl. "It's good to know we have a strong home in a strong community."

While storms throughout the Midwest come with a litany of risks, the perception that manufactured homes are high risk investments because of these storms just doesn't hold true. With some models starting as low as the $30,000 range, first-time homebuyers have the advantage of "lower-than-renting" entry points. Others, like empty-nesters or retirees, find many more modern designs with over 2400 square feet of living space, granite countertops, hardwood flooring, all appliances and more.

"These aren't your grandfather's mobile homes," said Hames. "A manufactured home is as safe and secure as most of the houses in the neighborhoods surrounding us, but ours come with community services like snow removal and storm shelters and much less upkeep."

If you'd like more information on manufactured homes or how you can learn more about the manufactured home industry, you can contact Joe Kelly at the Iowa Manufactured Housing Association, 1400 Dean Avenue, Des Moines, Iowa 50316, visit them on the Web at: https://iamha.org or call 515-265-1497.

The Iowa Manufactured Housing Association (IMHA), established in 1947, is a not-for-profit board made up of elected officials to serve the association members. IMHA represents all segments of the industry: manufacturers of manufactured and modular homes, retailers, community owners, suppliers, and service companies. More information about IMHA can be found at https://iamha.org.

SPOKE Communications, LLC

Get Over It!

By George Allen

MHI, MHARR & EducateMHC Critique FHFA, Fannie Mae & Freddie Mac at 16 October 2020 Virtual Listening Session

More than a dozen panelists and nearly 100 registrants participated in the FHFA (Federal Housing Finance Agency) – hosted Listening Session on Friday, 16 October 2020.

What follows here are synopses of presentations orated by representatives of the Manufactured Housing Institute (Dr. Lesli Gooch), Manufactured Housing Association for Regulatory Reform (Mark Weiss), and EducateMHC (George Allen). For more information on these presentations, contact the responsible individual.

I. Educate MHC

Let's begin with the shortest of the presentations, the one by **EducateMHC**. Knew it was important for me to 'set the stage', as a businessman with equity interest in the activities of the FHFA and both GSEs – and how, on two previous occasions (not counting two earlier Listening Sessions in Chicago & St. Louis), I'd witnessed their actions and inactions, relative to manufactured housing and land lease communities. Specifically…

- **Year 2010.** 100+/- Midwestern businessmen & women met in a downtown Elkhart, IN. office building (I was there), and were told by FHFA & two GSEs: "You are now on your own, relative to personal property (chattel) capital!" This, following year 2009, when only 48,789 new HUD-Code homes were shipped, in large part, due to lack of easy access to home-only financing', which had disappeared due to MH industry's financial finagling, i.e. 300,000 repossessed homes valued at $1.3 billion, per Consumer Finance Protection Board.
- **Year 2014.** When representatives from FHFA, Fannie Mae & Freddie Mac, participated in lively panel discussions at the annual Networking Roundtable I hosted, in Peachtree City, GA. Why important? That event marked the 'return' of FHFA and both GSEs, in a rudimentary fashion, to the industry and realty asset class. This has been followed by further meetings, ever since, with industry and realty asset class representatives.

So, what does all that mean today? Well, to be gracious about the matter, one might say the latter event, and three Listening Sessions since then, demonstrate FHFA and GSEs ongoing interest in working with us to cultivate and secure more sources of chattel capital for new home sales. However, there's a continuing 'dark side' to that perspective, and that's what I attempted to communicate during my presentation, in the following fashion…

"Ongoing recalcitrance pursuant to Congressional fiat, on the part of the FHFA and GSEs Fannie Mae & Freddie Mac, to secure realistic, appropriate, and ongoing access to chattel capital for (manufactured) home-only loans is, in my opinion, **profound benign neglect** – by definition: "…an attitude or policy of ignoring an often delicate or undesirable situation one is held to be responsible for dealing with…."

What might be remedies for this pattern, now sad culture, of **profound benign neglect**?

- Once and for all **'Get over it!'** - the chattel capital lending debacle of 1998 – 2003! Begin a new and helpful chapter via GSE's tangible and overt support of manufactured housing and land lease community lending! Stop pretending progress!
- Reverse 12 years of minimal activity, relative to GSE's Duty to Serve ('DTS') plans and programs – to date, appearing to be languishing and, in a word, ineffective.
- During year 2021, buy many seasoned chattel manufactured housing mortgages, to stimulate a much-needed secondary market for selling these specialty loans; in the end, freeing up capital for additional manufactured housing sales and financing.

And yes, there's more that could be said – specifically; but why waste time elucidating measures likely to be, once again, ignored; until FHFA & GSE's 'Get Over' what happened two decades ago?!

II. MHARR – Manufactured Housing Association for Regulatory Reform

MHARR "…has rebuked FHFA, as well as Fannie Mae and Freddie Mac, for their continuing failure to fully and faithfully implement the remedial DTS directive within the mainstream manufactured housing market, to the profound detriment of both consumers and the industry."

This is what we expect from the 'Washington watchdog for the manufactured housing industry'! MHARR goes on to say…

"…some 12 years after enactment of DTS, as a remedy for Fannie Mae and Freddie Mac's long-term failure to serve the mainstream manufactured housing market, and the lower and moderate-income American consumers who rely on inherently affordable manufactured homes, only 5-6 percent of the total market for new manufactured homes is being 'served' under DTS, while the industry's single largest and most affordable segment – comprised of homes financed as personal property – has been left totally unserved. Worse yet, FHFA, in various reports to Congress, has falsely certified that both Enterprises are in compliance with the DTS mandate, when they clearly are not. Thus…94-95 percent of the current-day manufactured housing market remains completely unserved under DTS." (Lightly edited. GFA)

Therefore, "…more than 90 percent of manufactured housing personal property borrowers (have been forced into) 'higher-rate' loans, according to federal data, with less-than-fully-competitive lending market dominated by a relative handful of 'portfolio' lenders, most of which are directly affiliated with the industry's largest corporate conglomerates. This discrimination in the implementation of DTS not only subjects millions of lower and moderate-income Americans to needlessly high borrowing rates for mainstream, personal property manufactured home loans, but also needlessly excludes many more families from the American Dream of homeownership altogether."

MHARR's recommended remedies:

- "…FHA must conduct a thorough internal investigation into its failure to faithfully implement DTS within the manufactured housing market for 12 years…"
- (Ensure) the two Enterprises terminate their diversionary tactics under DTS and scrap their current non-complying 'plans' and programs.
- (Ensure) Fannie and Freddie immediately implement effective, market-significant and fully comp0liant DTS programs within all segments of the mainstream HUD-Code manufactured housing industry…."

MHARR is a Washington, D.C.-based national trade association representing the views and interests of independent producers of federally-regulated manufactured housing. (202) 783-4087

III. The Manufactured Housing Institute (MHI)

The following remarks are quoted directly, in part, from Dr. Lesli Gooch's presentation, on behalf of **MHI** at the subject Listening Session on 16 October.

"In light of the impact of COVID-19 on the economy, MHI believes the importance of the Enterprises carrying out their charter access-to-credit and statutory Duty to Serve ('DTS') manufactured housing responsibilities should be a priority. In the longer term, as Fannie Mae and Freddie Mac move toward eventual exit from conservatorship, adherence to DTS responsibilities become increasingly critical to ensure these underserved areas are not ignored.

In assessing progress in meeting their statutory DTS responsibilities so far, let's first look at the GSE's performance on manufactured homes backed by real estate. Both Fannie and Freddie's plans promised to develop more flexible, innovative loan products for real property loans – and we believe they have done so.

MHI is also pleased both GSE's have introduced new programs that provide conventional financing for manufactured homes with site-built features. Qualifying home features for the MHAdvantage and CHOICE Home programs align closely with the industry's new CrossMod™ homes with higher roof pitches, permanent and lower profile foundations, garages or carports, and porches. CrossMod™ homes are a point of entry for home buyers who are currently priced out of homeownership because traditional site-built housing is not produced at below $200,000. homes, with higher roof pitches, permanent and lower profile foundations, garages or carports, and porches.

A secondary market for chattel manufactured home loans, also called personal property loans, is an area that continues to elude the manufactured housing industry. Chattel loans are mortgage loans which are only backed by the manufactured home, and not by underlying land. Both Fannie Mae and Freddie Mac had included the acquisition of existing chattel loans as a pilot project within their three-year plans. We assume this (COVID-19) has been a factor in Fannie and Freddie not making any visible progress to develop a secondary market for chattel financing in the first three years of their plans.

We would also appreciate candor about how long this delay in re-entering the chattel loan market will continue – and more specifically, what Fannie and Freddie hope to accomplish next year.

There has been much discussion about the GSE's support for the purchase of land lease communities, both within and outside of DTS. Land lease communities offer more than affordable housing. Communities offer a sense of neighborhood and often feature a range of amenities. MHI recently conducted a national survey of people living in manufactured housing, which showed 87 percent of residents in all-age communities are satisfied with their homes.

MHI understands some parties have raised concerns about some bad actors raising rents excessively and otherwise acting in bad faith. Raising rents and evicting tenants is counter to the prevailing business model of every professional land lease community owner-operator who relies upon stable rent and high occupancy. Going forward, MHI remains committed to responsible, professional ownership of (land lease communities) – and to the homeowners in those communities." (Lightly edited. GFA)

In closing, MHI appreciates FHFA and the GSE's for setting up these Listening Sessions.

MHI is an Arlington, VA. – based national advocate for all segments of the manufactured housing industry, including the land lease community real estate asset class. (703) 558-0400

Compiled and edited by George Allen, CPMEmeritus, MHM Master, EducateMHC. Mr. Allen is the publisher of the Allen Report, one of the most read and longest running manufactured housing industry newsletters. In addition, Mr. Allen hosts the annual International Networking Roundtable, one of the industry's best organized MH Industry education events.

Nuclear Jury Verdicts

By Kurt D. Kelley, J.D.

Large jury verdicts continue to plague American businesses. Here are examples:

- $100 million plus verdict in California in favor of the tenants and against an MHC
- (manufactured home community) owner for failing to properly maintain their MHC
- $9 million verdict in Florida against an MHC owner whose maintenance man molested nine
- young boys in an MHC
- $2 million pre-verdict settlement in Oklahoma when an MHC tenant's dog mangled the face of
- another tenant's child
- $22 million verdict in Texas when a truck driver talking on his cell phone injured another driver
- $21 million verdict against a Louisiana apartment complex owner when a woman was sexually
- assaulted in her apartment
- $4.7 billion verdict vs Johnson & Johnson for alleged harm by baby powder
- $2 billion verdict vs Monsanto for alleged harm by RoundUp weed killer

And recently, the first $1 billion verdict against a company in favor of a single claimant was awarded. These verdicts result in higher operating costs, insurance costs, and consumer prices. Nuclear judgments also minimize competition by discouraging business owners from engaging in new or riskier business models.

Why is this happening? According to Robert Tyson in his book, "Nuclear Verdicts," there are three main reasons. First, lawyers are more adept at making juries mad at businesses. Lawyers exploit inconsistencies between business pronouncements and practices, no matter how small. Lawyers search for failures to reach standards by government regulations, even when such isn't the true reason for an injury. Like our media, lawyers foster pre-disposed dislike of others. Then they exploit it.

Second, most jurors are generally hostile to business. During the most prosperous business climate in history from 2017 to the start of the pandemic, most polled jurors claimed hostility toward businesses, executive pay, and corporate power. Almost 80% of jurors believe they should be guardians of a community and force companies to change behaviors. This hate is not reserved solely for big businesses either. Mom and Pop companies face it too.

Third, investors are funding lawsuits for plaintiff lawyers. A new industry has grown that supplies capital to plaintiffs needing it to maximize their claims. Money supplies expensive experts, more data to choose from, and better searches for good witnesses. In exchange, these investors receive a cut of the final judgment or settlement.

For MHC owners, the leading causes of million dollar plus judgments against them include:

- Deaths due to fires in rental homes
- Swimming pool accidents
- Slip and fall claims resulting in brain or spinal cord injuries and
- Failure to maintain lawsuits (almost exclusively California)

To reduce your company's risk of becoming a casualty of a nuclear jury verdict, consider the following:

1. Manage client expectations. Do this by properly training managers and sales/leasing agents, and by accurately writing advertisements and websites
2. Strive to be at the top of your class of business. Having clean, well-kept properties adds equity and reduces liability
3. Promptly correct obvious dangers such as damaged swimming pool fences, faulty steps, uneven walkways, or potholes
4. Don't publish what you don't mean. Statements on websites such as "Safety is our #1 Priority" create a self-inflicted standard. An MHC owner's number one priority is probably providing a clean, nice living environment. Instead, say, "Safety is important to us" or "We care about your safety"

5. Have a high enough liability insurance limit to entice a full cash settlement prior to trial. Liability limits of $1m to $2m for owners of one to five parks, and limits of more for larger portfolio members are reasonable for most

6. Properly separate businesses and operations into distinct business entities (LLC's, Corporations, Limited Partnerships, etc). Don't place high value assets in a company with high risk operations

The data suggests nuclear sized jury verdicts will continue. The courts are backed up now, but post-COVID the juries will be right back at it and likely madder than ever. A majority polled report they feel more vulnerable in a COVID world. Own and manage your businesses accordingly.

Kurt D. Kelley, J.D., President of Mobile Insurance, a commercial specialty insurance agency specializing in the manufactured home industry. Kurt@MobileAgency.com

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Dan Greenfelder Elected President of American Insurance Alliance

Dan Greenfelder, President of Greenfelder Insurance Services, Inc. in North Canton, Ohio has been elected President of American Insurance Alliance (AIA), effective January 1, 2021. Dan is a founding member of AIA and has been active in the manufactured housing insurance industry for over 30 years.

Lou Serro of Brown & Brown of AZ, Inc., Scottsdale, AZ was elected Vice President and Kurt Kelley of Mobile Insurance, The Woodlands, TX was elected Secretary/Treasurer. Sean Dalton of Haylor, Freyer & Coon, Syracuse, NY will continue to serve on the board as Immediate Past President.

American Insurance Alliance is a group of the leading independent insurance agencies in the country specializing in Commercial Manufactured Housing Insurance for Retailers and Communities. AIA was formed in 1999 to create a national presence within our niche and entice more insurance companies to participate in the industry. This national presence and the ability to share underwriting and product information has enabled AIA to grow as the industry leader in providing products and services to the manufactured home industry.

AIA members and their agencies include Lou Serro, Brown & Brown of AZ, Scottsdale, Arizona; Dan Greenfelder, Greenfelder Insurance Services, Inc., North Canton, Ohio; Sean Dalton, Haylor, Freyer & Coon, Inc. of Syracuse, New York; Mark Barrett, HUB International Midwest, Bloomfield Hills, Michigan; Rick King, King Insurance Brokerage, Omaha, Nebraska; Kurt Kelley, Mobile Insurance, The Woodlands, Texas; Ed Purvis, Purvis Insurance Agency, San Antonio, Texas; Paul Simson, Towne Insurance, Raleigh, North Carolina; and Sue DeLeon, Bob Wallin Insurance, Bellingham, Washington.

For additional information, contact Kathleen Bianculli at KBianculli@AmericanInsuranceAlliance.com.

MHR

MANUFACTURED HOUSING REVIEW

We are an electronically delivered quarterly magazine focused on the Manufactured Housing Industry. From Manufactured Home Community Managers, to Retailers, to Manufacturers, and all those that supply and service them, we supply news and educational articles that help them run their businesses.

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