2020 | Quarter 2

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The Spanish Flu of 1918, The Great Depression and Investing During the 2020 COVID Crisis

What Landlords Need to Know About Eviction, Lender Talks, and Rent Concessions

What to Do (and Not to Do) with Delinquent Tenants

... and much more!

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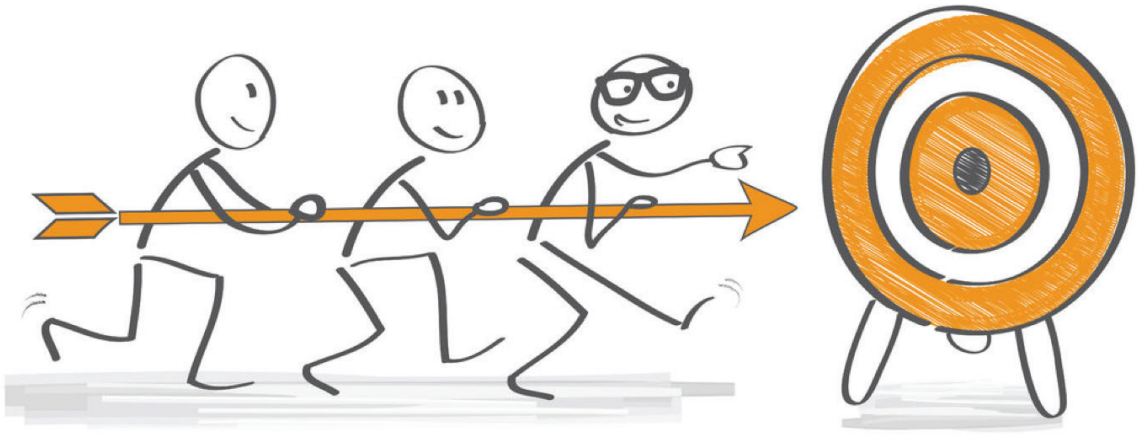
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The Purpose Driven Company

By Skyler Liechty



Why do some companies seem to weather the trials and tribulations of business? Whether the economy is good or bad, they seem to succeed over their competitors. The major difference between success and failure is the company's drive, their "purpose". Purpose-Driven Companies, PDC's, are organizations that are committed to something bigger their company or industry.

Researchers, Millward Brown and Jim Stengel, developed a list, from over 50,000 companies, of the 50 fastest-growing brands in the world. Brands such as FedEx, Coca-Cola, and Starbucks. After nearly ten years of empirical research, Brown and Stengel registered a 400% increase in returns on the stock market compared to the S&P 500. The top 50, the Stengel 50, were all PDC's. https://www.businesswire.com/news/home/20120117005066/en/Millward-Brown-Partnership-Jim-Stengel-Reveals-50

Purpose-Driven Companies focus on the purpose, not just the profits. According to Pricewaterhouse Cooper, PwC, nearly 80% of business leaders believe that purpose is central to success. Although most leaders understand the importance of being a PDC, it's estimated, less than half of their employees know the purpose of their organization. Worse yet, nearly 70% of these business leaders shared that purpose is not used as a guiding principal in leadership decisions. https://www.pwc.com/us/purposesurvey

People in stressful environments, such as property management, must be connected to a purpose bigger than themselves to thrive. Organizations with an authentic purpose attract the type of employees which prove to have a higher engagement and productivity rate. With a workforce increasingly dependent on millennials, studies are focusing on this age group. The same PwC study that looked at how leaders view PDC's, revealed millennials, who have a strong connection to the purpose of their organization, are 5.3 times more likely to stay. A recent "Great Place to Work" report revealed 85% of employees, from Fortune 100 Best companies, say their work has "special meaning" and "it's not 'just a job". In fact, these employees were 11 times more committed to their organizations and were 14 times more likely to look forward to coming to work! https://fortune.com/best-companies/2019/



Three out of four members on LinkedIn place a high value on finding work that delivers a sense of purpose, challenging conventional wisdom that employees stay for the pay. A recent "Better Up" study revealed 9 out of 10 employees are willing to trade a percentage of their lifetime earnings for greater

meaning at work. Perhaps the saying "when the going gets tough, the tough get going", is more appropriately phrased "when the going gets tough, the tough get a purpose". https://www.linkedin.com/pulse/power-purpose-work-reid-hoffman/



Not only do business leaders and employees see the value and want to be a part of a PDC, recent studies show customers view purpose-driven brands as more caring and, as a result, are more loyal. In a recent survey, 67% of customers polled said they are more willing to forgive a PDC for a mistake, compared to non-PDC's. https://www.linkedin.com/pulse/why-do-purpose-driven-companies-better-peter-fisk/



How does an organization adopt a purpose-driven strategy? It starts with a well-defined mission statement. The mission statement must be integrated into every area of the organization. Organizations that are successful in implementing a purpose-driven culture incorporate their mission statement into every aspect of their organization, it becomes part of the company DNA.

A great example would be the Timberland company, an American manufacturer and retailer of outdoors wear. This company wove their "purpose" throughout their company. They developed an outdoor boot called Earthkeeper and marketed the wearing of all their products with an initiative called Earthkeepers. "Our mission is to equip people to make a difference in the world. We do this by creating outstanding products and by trying to make a difference in the communities in which we live and work. We demonstrate this philosophy across all facets of our company from our products to our employee involvement in our communities. We strive to make the world around us better through our dedication to sustainable products and innovations, greening initiatives, and service to our communities". Encouraging and assisting their employees to be a part of something bigger than themselves. https://www.timberland.com/



Keep in mind, "purposes" are costly. Being a PDC requires a credible commitment to the purpose, and a willingness to sacrifice profits, if necessary, to keep committed to it. PDC's will not only survive the current economic climate, they will continue to thrive. While PDC's come in all shapes and sizes, the commonality is a clear understanding of their purpose, why it exists and a commitment. https://www.execunet.com/become-purpose-driven-company/

I encourage you to enter into a commitment with your staff, your community, your company. A commitment of purpose, a commitment to reach outside your "job" and make a difference. The choice is yours, there's no shortage of need… what will your legacy be? What will be your "purpose"?



The Purpose Driven Company Cont.

At American Dream Communities, we believe everyone deserves to own a home in a beautiful, safe, and well-maintained community, which is the 'American Dream'. Our purpose is to provide this type of community to every single one of our residents and give people a pathway to home ownership.

Our world is always changing. We believe everyone deserves an opportunity to attain the American Dream, despite the current chaos and confusion. Achieving this American Dream brings order and security to people's lives. Home ownership brings dignity, pride and a sense of success. Our company was founded on the purpose of helping people reach the American Dream, which is why our company is called American Dream Communities. https://americandreamcommunities.com/

SKYLER LIECHTY
Managing Partner
skyler@americandreamcommunities.com

American Dream COMMUNITIES



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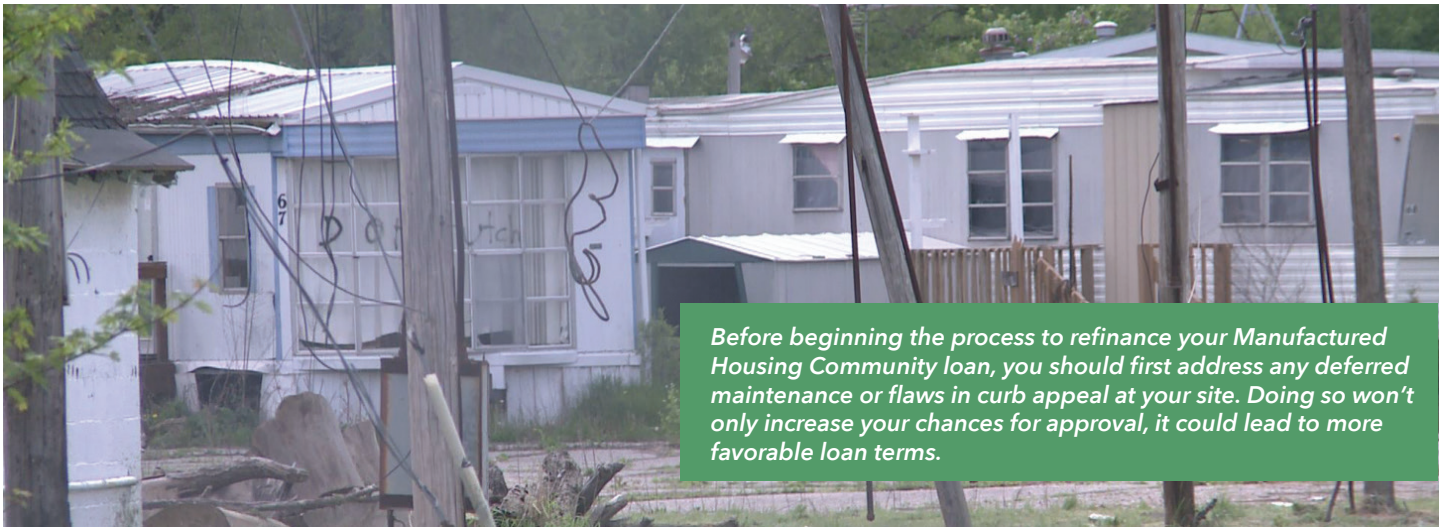


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Prepping Your Manufactured Housing Community for Refinance: Addressing Deferred Maintenance

By Gregory Porter



Before beginning the process to refinance your Manufactured Housing Community loan, you should first address any deferred maintenance or flaws in curb appeal at your site. Doing so won't only increase your chances for approval, it could lead to more favorable loan terms.

One of the most impactful recommendations I make to MHC owners seeking to refinance their loan is that they proactively address deferred maintenance and improve curb appeal at their property before they start the process. This is because there are critical ramifications to not doing so.

Deferred maintenance refers to items in need of immediate repair. While there's some subjectivity when it comes to what falls in this category, we're generally talking about a repair that's gone beyond daily housekeeping, is noticeable to the average tenant, or may have large financial consequences if left ignored. Curb appeal is also subjective and can be impacted by changing design trends; however, it plays a powerful role in the minds of customers as well as prospective buyers, appraisers and lenders.

If you're looking to refinance your manufactured housing community, you can't afford to avoid deferred-maintenance items or curb appeal. Here's why.

Appraised Facility Value and LTV

Regardless of the type of loan you're pursuing—bank, life-insurance company, commercial mortgage-backed securities, etc.—your lender will have a loan-to-value (LTV) requirement in its term sheet. Failing to meet it will nearly guarantee the lender cuts your proceeds, increases your interest rate or simply declines your request. This will generally occur toward the end of the closing process, since it takes three to five weeks to complete an appraisal report. At that point, significant legal and other due-diligence expenses will already have been incurred. That's why it's so important to ensure the highest possible appraised value for your site.

The most cost-effective way to do this is to address deferred maintenance and improve curb appeal before the appraiser even steps foot on your property. While there are market forces that'll help determine the assumptions that result in your appraised value, the better your property looks, the better it'll appraise.

The subconscious effect of a property that is clean, attractive and in good repair—or conversely, dirty, ugly or in disrepair—will play a significant role in the appraiser's mind when deciding your capitalization (cap) rate. This will impact the income approach to value. Your property's condition will also play a role when your appraiser is measuring your site against comparables and applying adjustments for the sales approach to value. These cap-rate or sales-comparison adjustments create the building blocks of the appraiser's assumptions, which ultimately result in your appraised value.

While filling a pothole or repairing a fence represents a relatively minor expense, the potential impact to your appraised facility value is significant. Not only will a high value help you meet your LTV requirement and avoid negative adjustments to your final loan terms, if you achieve an LTV that's significantly lower than the requirement in the term sheet, it may give you bargaining power. This can help you potentially increase proceeds, decrease the interest rate or, at the very least, give you leverage if, during due diligence, the lender uncovers an issue with your property that gives pause. In short, a lower LTV can help offset other risks.

Lastly, remember that you're able to obtain a copy of the appraisal report post-closing (if you ask), which may be useful if there's even a remote chance that you plan to sell your property. While market conditions will likely change, it may be advantageous to share those materials with a prospective buyer. Having the highest appraised value will increase the chances the report will be useful in that regard.

Addressing Deferred Maintenance Cont.



The Engineering Report

Most lenders also require an engineering report, which means an engineer or property-condition specialist will inspect the property. His main focus will be to identify any deferred maintenance and the remaining useful life of capital items. The last thing you want is for him to uncover deferred repairs.

The lender will generally require an escrow from your loan proceeds at closing equal to 125 percent of the engineer's estimated cost to repair. Generally, this is a conservative figure that doesn't take into account careful shopping or deep vendor relationships. In addition, getting funds released during the term of the loan can be time-consuming and frustrating.

Once the loan is closed, the leverage you have as a borrower is limited. Getting a servicer to focus on the release of a reserve can be difficult, and borrowers often receive silly or arduous follow-up requests, such as pictures and new lien searches for even the smallest reserve releases.

Additionally, the more deferred maintenance that's uncovered, the less benefit of doubt the engineer will give you regarding the remaining useful life of other capital items that are older but still in excellent working condition. The lower remaining useful life on critical items, the greater the ongoing replacement reserves will be. Generally, most term sheets or applications indicate that ongoing reserves will be the greater of a predetermined figure and the engineer's estimate.



The Inspection

Finally, your underwriter, credit officer or at least the loan officer will often inspect the property. Not only will he examine your facility and market, he'll evaluate the quality of your management. A lender will assume your property always looks like it does on inspection day. If it looks crummy, he won't presume it's having a "bad-hair day." He'll believe it's consistently in poor shape and you're a consistently poor operator.

Remember, the small nuances of these inspections may have a profound impact on the terms of your mortgage. This is singlehandedly the most dramatic way to improve or reduce your return on equity and cash-on-cash return as a commercial real estate owner.

Key Items

On a larger loan or property, the ideal approach is to have an engineer do an inspection before you begin a refinance. At the very least, you want to comb through the site carefully with your repair person.

Your first focus should be curing deferred maintenance relating to structural items such as roadways or relating to any offered amenities. The condition of your paving including roadways and parking areas make it easy for an inspector to identify problems or acknowledge recent proactive work. Life-safety items including trip hazards turn a small repair into a bid deal. Finally, reviewing maintenance and testing records of private water or sewer systems will also represent key focal points of the engineer's review. Finally, make sure you've addressed any recent tenant complaints relating to repairs. The last thing you want is a tenant to approach you and your guest during a site inspection and verbally follow-up on a repair or complaint.

Once key repairs are complete, don't overlook aesthetic items including new signage, paint or even a power wash. While an engineer will likely not identify curb-appeal issues unless they're a major deterrent, addressing them is the most cost-effective way to improve the terms of your loan and the overall process, given the impact to valuation and your lender's opinion of your property. If you see a piece of trash while walking an inspector through your self-storage facility, pick it up and look confused as to why it's there. That's what I would do.

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Gregory J. Porter is the founder of Summit Real Estate Advisors, a New York-based mortgage brokerage specializing in manufactured housing properties. Gregory is a former, 20-year lending veteran with commercial mortgage-backed securities lenders such as Deutsche Bank and JP Morgan, where he was a senior underwriter. He also served as the chief underwriter at Barclays PLC, with a $100 million signature authority, 917.701.5145, gporter@summitreadvisors.com.

NATIONAL REPORT

Marcus & Millichap

MANUFACTURED HOUSING COMMUNITIES

1H20

Tight Vacancy Provides Cushion in Manufactured Home Parks as Economy Stumbles; Competitive Bidding Boosting Values, Compressing Cap Rates

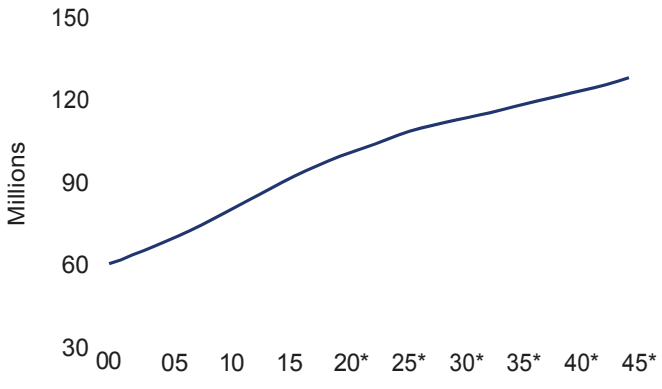
The growing need for lower-cost homes includes manufactured housing options. The reduced entry cost to buy a manufactured home continues to provide a more affordable path to homeownership. The recent decline in interest rates should afford more people to be able to purchase a manufactured home while rates remain low. Additionally, access to loans for new homes is available in local markets across the nation. Although these factors will keep new resident demand strong, long-term job losses due to the new coronavirus (COVID-19), especially in the hourly-wage segments of the employment market, may affect the ability of some current residents to pay lot rent, increasing turnover. Moving forward, if jobs are not reinstated within 2020, vacancy in some parks may increase and rent gains slip as the market adjust, especially in all-age communities.

Parks evolve to meet demand. Although demand for residences in manufactured home communities remains strong, the inventory of parks continues to decline. Some communities are removed as they are purchased and redeveloped for other purposes while new ones are not added as it can be difficult to obtain the necessary approvals required to build new parks. Within the remaining existing stock, to increase NOI, some existing owners are buying homes to fill empty slots and either offering the units for sale or renting them. Others are purchasing the surrounding land to enlarge the park, while a number are bringing in RVs or tiny homes to fill small vacant areas. Looking ahead, the growing need for quick options to provide more workforce housing has resulted in some jurisdictions reviewing zoning codes to ascertain if any revisions are needed to allow for the expansion of manufactured home communities. This may lead to regulation changes that will make it less cumbersome to build new parks or to expand existing sites. In 2020, additional lots are expected to be added in Florida, Michigan, Montana and Texas, while in Memphis, a redeveloped community has been transformed into an all rental community.

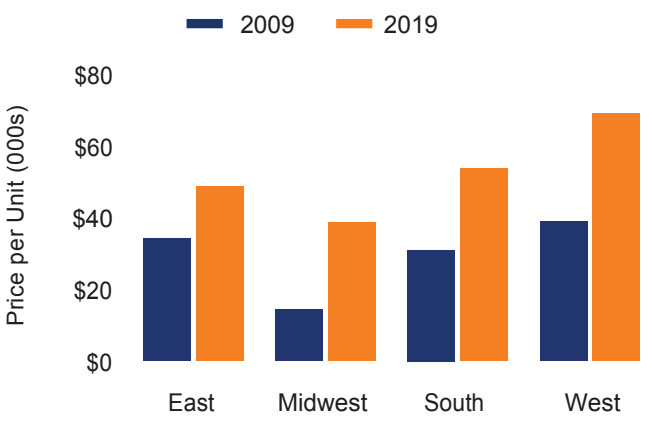
Investment Highlights

- Attractive yields compared with other property types are luring more investors to consider manufactured home communities, making it a highly sought asset class. The increase in competition has raised values and compressed yields about 40 basis points over the past year.
- Stabilized, turn-key assets on city services and within commuting distance to employment nodes are desired by many buyers. Robust competition for these properties, however, requires many investors to expand their geographic and quality expectations to make a successful offer.
- REITs and other major companies are focused at the top end of the market, targeting a limited supply of larger four- and five-star communities, mainly in Sunbelt and coastal metros. Cap rates for well-located assets in primary markets are generally in the 4 to 5 percent range but can dip below that in some locations.
- Many new private investors are active in the under $5 million price tranche. As competition remains robust for a limited supply of listings, more buyers are willing to search in secondary and tertiary locations to gain a foothold in the sector.
- Rent control remains a concern among park owners and investors as the growing need for lower-cost housing options has more jurisdictions considering implementing restrictions on rent growth.

55+ Population Growth



Price Appreciation by Region



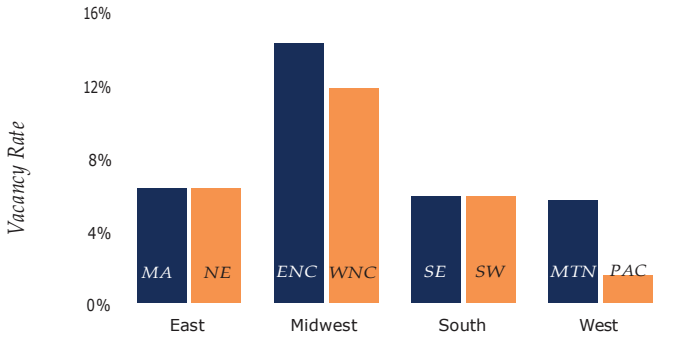
** Forecast*

Sources: Marcus & Millichap Research Services; CoStar Group, Inc.; U.S. Census

Vacancy

Need for lower-cost homeownership options drops the vacancy rate. The shortage of affordable homes for many workers is bolstering demand for the lower-cost housing options available in many parks throughout the nation. However, with the number of communities dwindling and the price of single-family homes rising, more people are considering purchasing in a manufactured home community as a way to gain entry into homeownership. The vacancy rate is especially tight in areas of the country where the price of a site-built home is out of the reach of many people. During 2020, if widespread unemployment is sustained for a lengthy period, the vacancy rate in some communities could rise if homeowners cannot afford to pay lot rent and move-outs increase.

2019 Vacancy Rate



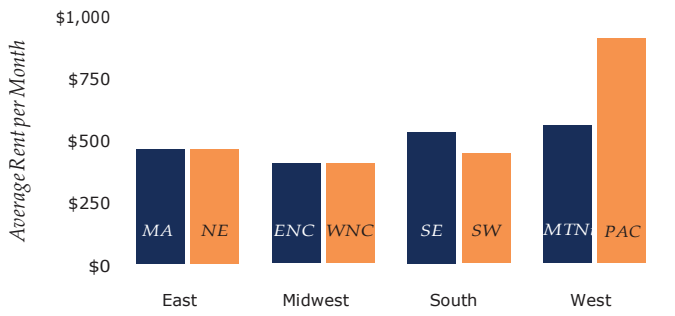
Highlights

- By subregion, the vacancy rate is lowest along the Pacific Coast, mainly due to a sub-1 percent rate in many California markets. Among major California markets, Riverside-San Bernardino registered the highest vacancy at the end of 2019 at a mere 3.7 percent, having fallen 110 basis points during the year.
- The median price of a single-family home in many Midwest metros falls below the national average, providing additional alternatives for lower-cost housing. This factor contributed to the Midwest posting the highest vacancy rate in 2019 at 13.6 percent. Vacancy rates above 20 percent can be found in metros including Flint, Michigan; Kansas City; and Saginaw and Port Huron, Michigan.
- Miami-Dade County recorded the largest annual vacancy improvement, falling 610 basis points to 0.2 percent in 2019, the lowest rate in the South region. Tight vacancy in the metro produced one of the highest annual rent gains in the nation.

Rent

Tight vacancy in many metros promotes rent growth. Manufactured home communities are a large supplier of lower-cost homeownership options. As demand for this type of housing grows amid a contracting supply of spaces, the average lot rent is rising. During 2019, all but a few metros registered annual lot rent increases. By region, average rent is highest in the West at $773 per month, driven up by the elevated rents in many California metros. Meanwhile, more affordable home prices and a higher vacancy rate in the Midwest contributed to the lowest monthly rent among regions at an average of $423 during 2019. Rent growth in 2020 may be hindered by COVID-19's impact on the economy that results in more people not being able to make house and lot payments.

2019 Average Rent



Highlights

- The Pacific subregion posts the highest average lot rent at $903 per month. The rate in many coastal California markets is even higher, topping $1,300 per month in 2019 in Orange County, San Jose and Santa Cruz.
- Among sub regions, the rate in the West North Central is the lowest at $400 per month. Among Midwest metros, the highest rent was found in Chicago at an average of $662 per month, while the average monthly rent in Fort Wayne, Indiana, and Ames, Iowa, was under $300.
- Smaller, more rural metros where the median price of a single-family home is attainable for more residents offer the most affordable rent. Average rates below $250 per month in 2019 were located in Greenville, South Carolina; Lynchburg, Virginia; and Albany, Georgia.

Regions:

East: *Mid-Atlantic* *Northeast* Midwest: *East North Central* *West North Central* South: *Southeast* *Southwest* West: *Mountain* *Pacific*

Sales

Higher yield potential captures investor interest. Manufactured home communities are receiving robust interest from a wider range of buyers. Many investors are new to park ownership, some moving out of securities into real estate, while others are coming from other asset classes in search of higher returns. Cap rates have been compressing over the past year and are typically in the 6 to 7 percent range, although some well-located premium communities or parks with a lot of upside potential are trading below 5 percent. Double-digit returns can still be found in all subregions but are harder to come by. The added competition for a limited number of listings pushed the average price nationwide up 13 percent in 2019 to $55,800 per unit. The coronavirus outbreak may slow transactions in the quarters ahead as deals take longer to close.

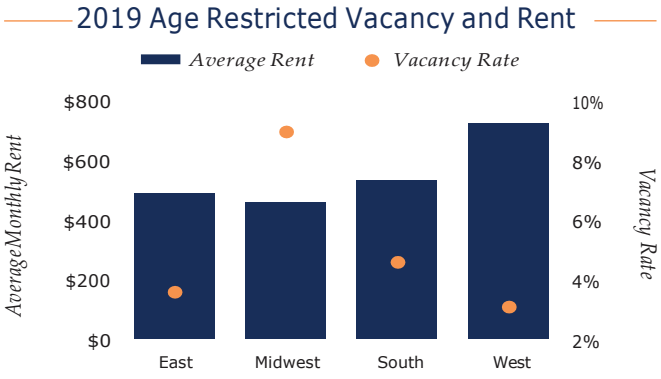


Highlights

- Sales surged in the East region in 2019, led by an increase in North Carolina and Pennsylvania. During this time, the average price jumped 32 percent to $48,900 per unit.
- In the Midwest, a boost in activity in Minnesota was not enough to offset fewer transactions in Michigan, lowering trading velocity in 2019. Over this period, assets transacted at an average of $38,800 per space, up 26 percent year over year.
- Robust trading activity in Florida in 2019 boosted sales velocity in the South. In the same period, the average price posted a 5 percent climb to $53,800 per lot.
- Strong buyer interest in California assets drove up sales volume in the West in 2019. More parks trading in the higher-priced Pacific sub region contributed to the average price jumping 18 percent, maintaining the highest price among regions at $69,300 per unit.

Age-Restricted Communities

Surge in the population aging into retirement underpins demand in age-restricted parks. The age 55-plus cohort in the U.S. will swell by nearly 1.7 million people in 2020, and through 2025, another 7.6 million will reach this milestone. As these residents retire, some will consider purchasing manufactured homes in age-restricted communities, boosting demand, especially in the Sunbelt. Vacancy in 55-plus parks is already lower than all-age properties in all subregions of the nation except the Southwest, where new inventory in Texas nudged the rate higher. Market lot rent in this asset class varies widely, from $200 per month in older parks in smaller towns to more than $2,000 per month in some coastal California cities. These parks should not be as affected by rising unemployment as all-age communities.



Highlights

- Florida leads the nation in age-restricted inventory with more than 151,000 units. The only other states with more than 25,000 homes are also traditional retirement destinations: California and Arizona.
- Among sub regions, the highest vacancy rate is in the East North Central at 9.0 percent in 2019. Rates above 30 percent in Monroe, Michigan, and Gary, Indiana, keep the rate elevated. The Elkhart-Goshen and Cincinnati metros had vacancy below 1.6 percent, the lowest rate in the sub region during this period.
- Market rent by sub region varies widely. Monthly rent above $1,000 in many California metros boosts the rate in the Pacific to the highest in the nation at $807 per month. Rent in the West North Central averaged $341 per month in 2019, slightly below the Southwest sub region, which clocked in at $366 per month.

Sources: Marcus & Millichap Research Services; CoStar Group, Inc.; Datacomp-JLT

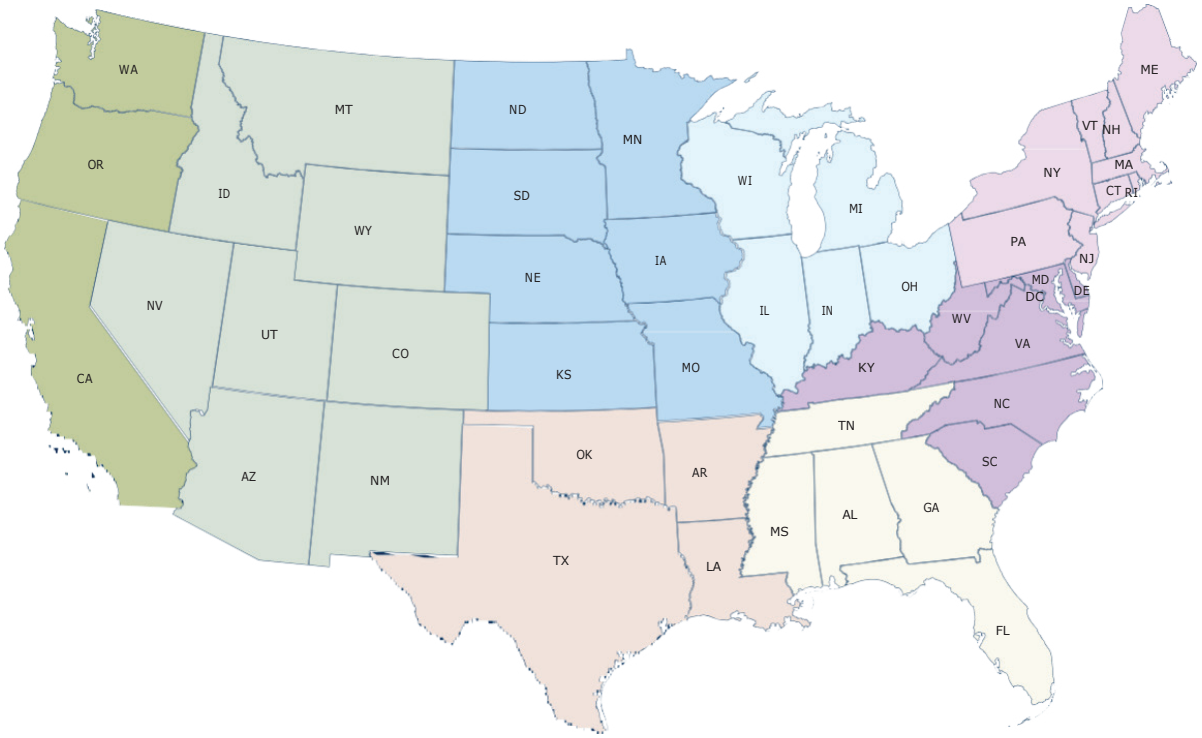
Manufactured Housing Communities Regions and Subregions

East
- *Mid-Atlantic*
- *Northeast*

Midwest
- *East North Central*
- *West North Central*

South
- *Southeast*
- *Southwest*

West
- *Mountain*
- *Pacific*



Metro Performance

Metro	Vacancy	Y-O-Y Basis Point Change	Average Rent	Y-O-Y Change
San Jose	0.4%	-20	$1,481	6.5%
Los Angeles	0.6%	-80	$1,010	2.9%
Orange County	0.6%	-20	$1,338	5.1%
Long Island	0.9%	-80	$711	4.3%
Salt Lake City	1.1%	-50	$618	6.9%
Seattle	1.2%	-50	$708	6.6%
Dallas	2.2%	-100	$464	3.8%
Portland	2.2%	-110	$650	6.2%
Fort Lauderdale	2.9%	-70	$699	4.5%
Philadelphia	3.5%	-30	$530	4.5%
Chicago	4.9%	-10	$662	2.3%
Phoenix	5.5%	-80	$560	4.1%
Virginia Beach	5.9%	90	$425	4.4%
Minneapolis-St. Paul	6.1%	-110	$450	4.4%
Orlando	6.1%	-200	$515	7.3%
Raleigh	6.4%	20	$432	2.6%
San Antonio	6.7%	-320	$446	4.0%
Cleveland	9.3%	120	$384	6.7%
St. Louis	9.4%	10	$368	3.4%
Oklahoma City	9.6%	-190	$348	3.9%
Detroit	13.9%	-130	$467	4.5%

Manufactured Housing Communities Division

Michael L. Glass
Senior Vice President | National Director
Tel: (216) 264-2000 | michael.glass@marcusmillichap.com

Prepared and Edited by

Nancy Olmsted
Senior Market Analyst | Research Services

For information on national manufactured housing communities trends, contact:

John Chang
Senior Vice President | National Director, Research Services Division
Tel: (602) 707-9700 | john.chang@marcusmillichap.com

Price: $500

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Sources: Marcus & Millichap Research Services; Datacomp-JLT; CoStar Group, Inc.; Institute for Building Technology and Safety; Manufactured Housing Institute; U.S. Census Bureau.

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HUD Continues Filing and Settling Fair Housing Act Cases

By Rick Robinson



The Department of Housing and Urban Development (HUD) has settled two Fair Housing Act cases and filed one new case. The descriptions below are from press releases issued by HUD. While the cases do not specifically involve manufactured housing, they offer proper guidance to owners and operators of manufactured home communities.

NEW YORK –

In a new filing, HUD has charged an Oneida landlord with illegal discrimination for denying the reasonable accommodation request of a tenant with mental disabilities. HUD's Charge alleges the landlord attempted to make the tenant pay extra fees for having an assistance animal, made threats to intimidate her, attempted to deter her from exercising her rights, and eventually evicted her. Click here to read the charge.

HUD's Press Release states that prior to moving into her apartment, the tenant had informed the landlord her dog was an assistance animal and he could not charge a pet fee. "After she moved into her apartment, the owner of the building required her to sign a second lease which specified that she would be responsible for paying a monthly pet fee of $50, a cleaning charge of $575, and a $350 pet security deposit. The Charge further alleges that the woman was required to sign a 'Lease Addendum For Dog In Apartment' that stated the monthly pet fee was temporarily waived, but she could be charged the monthly fee retroactively if she discussed the accommodation/waiver of the fee with other tenants. Despite initially waiving the monthly pet fee, the landlord eventually voided the waiver and demanded she pay it. According to the Charge, after she refused to pay the fees, the owner terminated her lease and later threatened to sue her if she attempted to enforce her rights under the (Fair Housing) Act in court."

The Charge is particularly instructive to owners and operators of manufactured home communities struggling to understand how HUD is expecting to interpret its previously issued Notice on reasonable accommodations for assistance animals.



CALIFORNIA –

HUD settled a Fair Housing Act case after a father of two filed a complaint alleging he was denied the opportunity to rent a condominium because he had two young daughters who would be living with him part-time. The father alleged that the leasing agent refused to consider his application for the unit, saying, "I don't want to waste your time or mine. Sorry." Click here to read the Conciliation Agreement.

Of note, in this case, is that the owner denied they discriminated against the family but agreed to settle anyway. The owner of a community can be vicariously liable for the acts of their employees and agents (including a leasing/management company). Conducting regular training of employees and third-party operators regarding the implications of the Fair Housing Act is key to avoiding claims.

HUD Continues Filing and Settling Fair Housing Act Cases Cont.

CALIFORNIA –
In a no-brainer, HUD settled a case against the owners and operators of an apartment complex in Bakersfield involving sexual harassment of female residents. Click here to read the Conciliation Agreement.

"A home should be a place of peace and security, not fear and anxiety because of sexual harassment," said Anna María Farías, HUD's Assistant Secretary for Fair Housing and Equal Opportunity. "Today's settlement agreement sends a clear message to all property owners and landlords that HUD is committed to taking appropriate action when offenders engage in behavior that violates the Fair Housing Act."

Owners and Operators of manufactured home communities should be aware that HUD and the Justice Department are involved in a nationwide joint initiative aimed at combatting sexual harassment in housing and are encouraging tenants faced with sexual harassment to report their cases.





MANUFACTURED HOUSING
Institute of South Carolina

The Manufactured Housing Institute of South Carolina Fall Meeting

COLUMBIA – The Manufactured Housing Institute of South Carolina hosts its fall meeting November 4-5 in downtown Charleston.

The meeting is being held at the Hyatt Place/House located at 560 King St, Charleston, SC 29403

Events include an awards dinner, a roof top afterparty, a golf tournament, and three free hours of continuing education. Celebrate the accomplished younger members in our industry as we honor them at our first ever Rising Star Awards dinner.

Additionally, all of MHISC's member-led committees will meet to discuss important trends and continue work on projects to help better the industry overall.

MHISC's room block is now open. The Hyatt Place/House is offering a special rate for attendees of the meeting. Check out our webpage for more info.

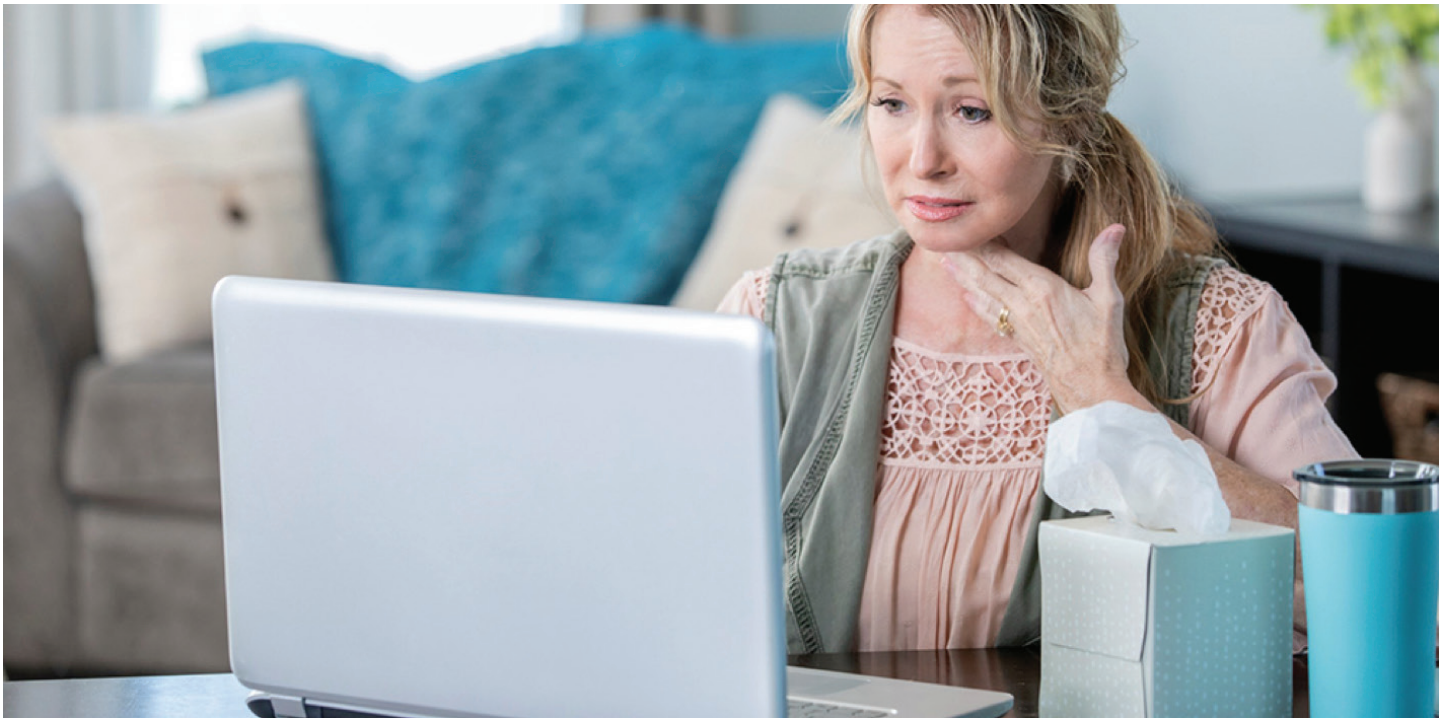
Register today! You can access online registration, hotel reservation, and more information about the meeting at this one convenient link:

mhisc.com/event/fall

MHISC is a non-profit business association representing the manufactured and modular housing industries in South Carolina. The member-run organization was founded in 1967. MHISC's mission is to maximize opportunities for South Carolinians to enjoy the benefits of factory-built homes.

General Guidance for Employers During the COVID-19 Pandemic

By April Walter, Atty.



The following is some General Guidance for Employers During the COVID-19 Pandemic to better protect your workforce and business, and stay responsive to employee and business needs:

Require employees who are ill to stay home.

- The federal Equal Employment Opportunity Commission (EEOC) has published Pandemic Preparedness guidance that provides that, during a pandemic, employers are permitted to ask employees the reasons for their absence from work, including if the employee is experiencing certain symptoms (such as cough or fever). The EEOC updated this guidance on March 18, 2019 to specifically address frequently asked questions and answers from employers related to inquiries they can make related to COVID-19 issues. A link to this updated guidance follows: https://www.eeoc.gov/eeoc/newsroom/wysk/wysk_ada_rehabilitaion_act_coronavirus.cfm
- If you learn that an employee has tested positive for COVID-19, immediately advise your workforce and any effected other contacts (such as clients, customers, vendors), without disclosing any identifying information about the positive employee.
- Also, immediately contact your local public health agency for assistance in determining the appropriate next steps, including appropriate cleaning measures, other notices that may be needed to impacted persons, and potential quarantines or shut down.
- Require a doctor's note to return to work after exhibiting symptoms of the Coronavirus. The EEOC's Pandemic Preparedness guidance provides that an employer may require employees who missed work during a pandemic to provide a doctor's note certifying their fitness to return to work.

Require employees to give notice of illness of members in their immediate household or of others with whom they have close contact (per the CDC's Interim Guidance for Businesses and Employers). https://www.cdc.gov/coronavirus/2019-ncov/community/guidance-business-response.html

- Then assess the risk of contagion (see the Interim U.S. Guidance for Risk Assessment and Public Health Management of Healthcare Personnel with Potential Exposure in a Healthcare Setting to Patients with Coronavirus Disease). https://www.cdc.gov/coronavirus/2019-ncov/hcp/guidance-risk-assesment-hcp.html

General Guidance for Employers During the COVID-19 Pandemic Cont.

Consider requiring employees who have traveled to stay home for 14 days.

- Require employees to report where they are traveling and dates of travel for those employees taking time off for personal travel.
- The CDC's most recent guidance provides that employees "may be asked to stay home for a period of 14 days from the time they left an area with a widespread or ongoing community spread…."
- Notify employees they will be subject to this 14-day "stay at home" period if they intend to travel, or that their request for time off for travel will be denied because of the inability to return to work within a reasonable period of time or before the employee's PTO is exhausted.
- Require employees to report when individuals with whom they have close contact (such as same household members) travel to high-risk areas.



Consider work-from-home options for all or a portion of your workforce.

- Ensure employees who are not accustomed to remote work are outfitted with the resources they will need, including (a) technological resources (such as computers, internet service, remote network connectivity, printers, monitors, telephone), (b) basic office supplies, and (c) critical work files/materials that are not available online or are difficult to work with in electronic form.
- Digitize any relevant files/materials not already in electronic form, and ensure such materials are saved to networks for access by all appropriate users.
- Consult with your IT staff or vendor about anticipated resource needs and limitations, and potential measures (such as cloud-based network/application gateways) to better safeguard corporate information from potential hackers and other security risks.
- Establish and communicate clear expectations for remote work, including how employees will receive new assignments, remain in touch with other personnel, report their working hours, deliver work product, etc.
- Encourage robust communication – the more communicating about current status of projects, needs, unanticipated difficulties, etc., the better.
- Consider pairing employees or groups of employees up for set (i.e., daily, twice daily, etc.) or ad hoc mentoring or brainstorming sessions by phone, video conference, text group, or electronic chat/messaging.

Consider lay-offs and unemployment benefit rights.

- The Texas Workforce Commission (TWC) administers unemployment benefits in Texas. TWC has established a "COVID" page on its website (search "TWC" and "COVID"). On this page, there is a place to subscribe to COVID-related email updates.
- For those employees laid off in this crisis, the TWC is waiving the usual one-week waiting period for receiving benefits and waiving the usual work search requirements to continue to claim benefits every two weeks.
- For those that qualify, the Pandemic Unemployment Assistance can extend TWC unemployment benefits, from the usual 26-week limit to 39-weeks to allow unemployed workers to continue to collect benefits beyond the usual limit.



Stay mindful of wage and hour laws.

- The federal Fair Labor Standards Act (FLSA) requires an employer to pay a salaried, overtime exempt employee their full weekly salary, regardless of the quantity of work performed, for any workweek in which the employee performed any work – otherwise the employer jeopardizes losing the overtime exempt status for that worker and similarly situated workers.

General Guidance for Employers During the COVID-19 Pandemic Cont.

- There are two potentially applicable exceptions to this, but they are very narrow: (a) the employee is absent from work for one or more full days for personal reasons other than sickness or disability; or (b) for absences for one or more full days due to sickness or disability, so long as the deduction is made in accordance with a bona fide plan, policy or practice for providing pay for salary lost due to illness (i.e., pursuant to a sick pay plan).

Consider mental health needs.

- Encourage employees to establish healthy limits on the amount of news coverage they are consuming on the crisis.
- Encourage employees to use paid time off benefits if they are concerned about reporting to work, so long as business needs are not compromised.
- Encourage employees to stay "virtually" connected, with continuous phone, email, text, or chat/messaging communications among and with workers who are telecommuting or quarantining.



April Walter
Ms. Walter is a lawyer with The Strong Firm, a commercial specialty law firm headquartered in The Woodlands, Texas. Thestrongfirm.com

The StrongFirm Attorneys P.C.

The foregoing message was for informational purposes only and was not intended to nor should it be construed as legal advice for any particular situation or circumstances. This discussion was meant as a general overview and cannot replace the guidance of legal counsel. Employers are encouraged to consult with experienced legal counsel before taking any employment actions that implicate federal, state or local employment laws, including, without limitation, the FLSA, Americans with Disabilities Act, Title VII, Texas Commission on Human Rights Act, Family and Medical Leave Act, National Labor Relations Act, or Worker Adjustment Retaining Notification Act.



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COVID-19: Notes from the Field

By Casey Thom, CCIM



Rent Collections- In April 2020 Sunstone Real Estate Advisors surveyed community owners across 250,000 sites throughout the US, with regards to their ability to collect rent in April and May 2020. Collections were reported to be more consistent than anticipated, with most reporting receipts within 5% of March. May numbers surprisingly indicate even higher collection rates than April. Many owners are now opting to set up online payments.

Home Sales- Unexpectedly, community owners reported April was a strong month for home sales. Some owners contributed these strong sales to tax refund checks and stimulus money. Others cited buyers had a desire for an independent living space without shared ventilation. A few community owners reported the changing credit requirements motivated some buyers while the large down payment required to finance a single-family home turned many to manufactured housing. We are also seeing many owners shift to virtual home tours and more automated home sales processes in their communities.

Lending- Multi-Family and Manufactured Housing loans have remained the most consistent performing asset class through Covid-19, reported lending institutions with the strongest collections and few forbearance requests. Agency lenders such as Fannie Mae and Freddie Mac offer a 90-day forbearance program on existing MH loans. Currently they require reserves of 12 to 18 months debt servicing, taxes, and insurance for new investments in anticipation of diminished collections. Life Insurance companies are being selective and conservative, and CMBS lenders, also known as Conduit Lenders, are not lending for the time being. Many community banks continue to lend, albeit more conservatively as they strain through the high volume of SBA stimulus loan processes. The financing that is available has been delayed due to the backlog created by stay-at-home orders which affect them and the required third-party reports from appraisers, surveyors, and engineers.

Commercial Sales- Reported was a steady increase in the amount of interest from buyers in late April and early May. Both existing manufactured housing buyers and those looking for more volatile asset classes are again searching for opportunities to buy stable yield. Many sellers have chosen to wait until travel restrictions are lifted to list their properties actively but have not abandoned earlier decisions to sell. It's still to be seen if there will be a significant gap between sellers' expectations and buyers' willingness to pay. With low-interest rates, limited supply, resilient collections and increased demand, it is unlikely that we will see a significant decline in the value of community assets.



Casey Thom, CCIM
Director Houston

sunstone
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Force Majeure: Breaking Contracts Over Coronavirus

By Brittany Sloan, Atty.

Within days of the World Health Organization declaring the Coronavirus (COVID-19) a pandemic, we saw events canceled, public gatherings restricted to 10 people, businesses closed, travel restricted, and school canceled for our children. With each day and each unprecedented change, businesses have been forced to look at their contractual obligations and potential inability to perform. Though generally glanced-over as "boilerplate" provisions, force majeure (unforeseeable circumstances that prevent someone from fulfilling a contract) clauses are meant to cover occurrences outside the parties control (Acts of God, war, pandemics, etc.) and can potentially excuse parties from contractual performance in the event that such an occurrence is triggered.

Is the Coronavirus (COVID-19) pandemic a force majeure event?

Your favorite attorney answer: well, it depends. Unfortunately, there is no standard force majeure clause. Whether the Coronavirus pandemic is considered a force majeure event will come down to how it is defined in your specific contract. Did the contract provide a closed definitional list? (Ex. 1- Acts of God – fire, explosion, earthquake drought hurricane tornado; 2 – War; 3 – Strikes, Lockouts, Labor Disputes) Was a pandemic specifically mentioned within the definition? Then yes, this is a force majeure event. TEC Olmos, LLC v. Conoco Phillips Co., 555 S.W.3d 176, 183 (Tex. Ct. App. 2018) ("there was no unforeseeability requirement when a specified force majeure condition . . . occurred that excused performance.") If a pandemic was not specifically mentioned, was there a broad catch-all definition, such as "unforeseeable circumstances beyond the parties' control"? See In re Cablevision Consumer Litig., 864 F. Supp. 2d 258, 264 (E.D.N.Y. 2012) (noting that, force majeure clauses are "construed narrowly and will generally only excuse a party's nonperformance that has been rendered impossible by an unforeseen event") If so, the judicial interpretation of "foreseeability" changes jurisdictionally and is highly fact-specific on whether the pandemic was foreseeable.

If Coronavirus (COVID-19) is a force majeure event, is the party excused from performance?

Many contracts also include language that states that the occurrence of the force majeure event must make performance of the contractual obligations impossible, impracticable or illegal. OWBR LLC v. Clear Channel Comms., Inc., 266 F. Supp. 2d 1214, 1216 (D. Haw. 2003) (noting that the force majeure clause excused nonperformance where it was "inadvisable, illegal, or impossible") Some contracts will also require reasonable endeavors to be made to overcome the force majeure event. See, e.g., Richard A. Lord, 30 Williston on Contracts § 77:31 (4th Ed.) (noting that a party seeking the benefits of a force majeure clause must show that performance is impossible "in spite of skill, diligence, and good faith" to continue to perform) Some contracts also require prompt notice following a force majeure event. It is important for parties to understand exactly which circumstances trigger their force majeure clause so they may negotiate the most favorable terms going forward.

What if the contract does not contain a force majeure clause?

If the contract is silent as to force majeure, parties should look to common law doctrines to excuse performance. Through the principals of impracticability and impossibility, courts apply an objective assessment as to whether the excused performance is impracticable or impossible, regardless of whether the party, itself, thinks performance is impracticable or impossible. These doctrines may excuse nonperformance where a party establishes that: (1) an unexpected intervening event occurred; (2) the parties' agreement assumed such an event would not occur; and (3) the unexpected event made contractual performance impossible or impracticable. See, eg. Restatement (Second) of Contracts § 261 (Am. Law Inst. 1981) Under the doctrine of frustration of purpose, a Party must prove that: (1) an event substantially frustrates a party's principal purpose; (2) the nonoccurrence of the event was a basic assumption of the contract; and (3) the event was not the fault of the party asserting the defense. See, eg. Hon. Michael M. Baylson et al., 8 Bus. & Com. Litig. Fed. Cts. § 89:36 (4th ed. 2019) The party would have the burden of proving that the circumstances of the pandemic so directly altered the contract that performance of the contract would no longer fulfill its purpose.

Although force majeure clauses have always been narrowly interpreted, we are in unprecedented times with this Coronavirus pandemic. As you are reviewing your current contracts, if you still have any doubt, please seek further legal advice.



Brittany Sloan
Ms. Sloan is a lawyer with The Strong Firm, a commercial specialty law firm headquartered in The Woodlands, Texas. Thestrongfirm.com

The StrongFirm Attorneys P.C.

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What to Do (and Not to Do) with Delinquent Tenants

By Ryan J. Fishman



As a community operator, late payments and short payments are frustrating and costly. In fact, 84% of landlords claim that non-payment is a top concern when evaluating new residents[1]. It certainly makes sense, given the time and cost involved in an eviction triggered by that first late payment. As a result, understanding your options when delinquencies (inevitably) occur is key to successful community operation. The economic disruption resulting from the COVID-19 crisis, along with the regulations enacted in response have only exacerbated these issues. Eviction moratoriums at the local, state, and federal level leave you potentially on the hook for unpaid rent through September 1, 2020 before you can pursue an eviction. Before it's a problem, you should know what you can do to avoid penalties, lawsuits, or bad publicity.

Once a tenant is in breach of your lease, you must be cautious about your first steps.
Typically, some form of notice must be served on the tenant – either personally, by mail, or posting – depending on the requirements of the city or state where you operate. Some jurisdictions mandate a grace period for tenants which may slow down the notice process. The content of these notices are also typically regulated by local laws in order to ensure they are lawful and valid. Clever tenant attorneys may work to undermine an eviction based on even the most perfunctory of errors. These notices may need to reference an itemization of the balance due, including fees, or a warning of future consequences, i.e. proceeding to eviction. Following that notice, it may be helpful to have community staff phone or visit the resident, but you must be careful not to overdo it – repeated calls or visits may lead to accusations of harassment and inflame the situation.

If there is still an outstanding balance, you will proceed to serve a "pay or quit" notice. This notice typically must include line items of all amounts due, including any late fees incurred. In addition, the document should include a deadline for full payment and make clear that the tenant will be evicted if they do not pay. Once this notice has been served, the landlord must wait the period dictated by state or local laws for the payment before filing the eviction action. Again, the failure to follow a rule requiring something as simple as bold or conspicuous font or a certain font size may result in a judge throwing out your eviction proceeding and requiring you to return to square one.

The aftermath of the COVID-19 pandemic further complicates this process. There are eviction moratoriums in place at the local, state, and federal level. For any properties with

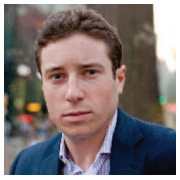
mortgages backed by the Federal Housing Administration, Fannie Mae, or Freddie Mac, evictions must be halted for 120 days. Late fees on rent payments are also barred, meaning that there is no real consequential incentive for some tenants to pay you until the conclusion of this moratorium. In addition, new regulations will require a thirty-day notice (prohibited before July 25, 2020), along with any other requisite statutory notices, ostensibly prohibiting any eviction hearing before September 1, 2020.



Following the statutory waiting period and moratorium, the landlord may finally pursue the eviction – again, however, it is important to proceed with caution and care. You should not accept partial payments of what is owed or make concessions for the tenants as this may jeopardize your recourse in court and be seen as a waiver of otherwise express lease terms. In addition, the failure to adhere to the explicit lease terms with one tenant versus others may give rise to a Fair Housing action. You must stick to the explicit letter of the law in the process of pursuing an eviction as it is illegal to lock-out the tenant, remove a home from your community, or shut off utilities until so ordered by the court.

You might save money doing this all yourself, but it is always prudent to hire an attorney to handle your evictions and file your non-payment complaints. The attorney will collect and organize your evidence of the tenant's breach of contract and can be present on your behalf in court (some jurisdictions will nonetheless require the presence of your staff as well). If the eviction process wasn't complicated enough standing alone, tenants that file a bankruptcy petition can immediately stay any efforts to remove them or collect past-due rent without action to lift the automatic stay by a licensed in the appropriate bankruptcy court. New legislations put in place at federal, state, and local levels create new complexities in collecting and evicting that you may not be equipped to handle, strengthening the necessity to have an attorney by your side.

The process of evicting a delinquent tenant can certainly be expensive and is often fraught with legal landmines. On average, the number can approach $3,500.00 (once you factor in court costs, attorney fees, unpaid rent, utilities, and late fees) and the process may take three to four weeks before you have possession of your unit or site[2]. Given the process is inevitable, however, following the proper procedure is not only critical in allowing you the opportunity to fill your community – but mistakes can jeopardize your ability to collect the past due rent, costs, fees, and damages owed to you. The microscope on landlords is even more focused given the COVID-19 crisis, as any slipup could result in legal ramifications and damage to your firm's image. While monitoring tenants for payments and collecting may be an arduous task (made somewhat similar by the advancing field of property management software), landlords who have consistent and legally compliant procedures in place can simplify and expedite this ordeal.



Fishman Group, P.C. represents the owners and operators of multifamily housing communities across the United States. Our firm has succeeded in making the recovery of accounts receivable a profitable endeavor for more than four decades. Today, we use automation technology partnered with the experience of our attorneys and staff to seamlessly integrate with our clients; manage compliance in multiple jurisdictions; and collect for our clients. Ryan J. Fishman is the firm's managing partner. www.thefishmangroup.com or

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1. https://www.mysmartmove.com/SmartMove/blog/top-4-screening-factors-revealed-by-landlords.page

2. https://www.mysmartmove.com/SmartMove/blog/26-rental-stats-landlords-need-know-infographic.page

What Not to Include In Your Employee Handbook

By Kyle Cupp



The employee handbook serves several purposes. It should educate employees about the company's mission and vision, explain workplace policies and procedures, lay out expectations and strategic goals, and include information about culture and leadership. That's a tall order for one document! Keeping your employee handbook concise, well-organized, and updated can be a headache.

The list of items that should be included in your handbook seems to be growing every day, but some items are better left out.

For a more effective and helpful employee handbook, don't include these four items:

Every Possible Situation That Might Arise

When you list every single situation that might arise and meticulously lay out how you'll handle those situations, you're basically guaranteeing your employees won't read what you've written or remember it. It's simply too much information.

Sadly 43% of generation Y is not reading the majority of the employee handbook even when they have access to a digital copy. Worse yet, of those who have read the employee handbook, only 1 in 3 said it was helpful. Including too many details only makes it more likely that employees will ignore the information you really do need them to know.

Gobs of Organizational Jargon

Most employees see the handbook on their very first day with your organization, and they likely don't have a deep understanding of your workplace culture or slang. Be sure you aren't using acronyms and confusing organizational jargon.

Including jargon makes your handbook less effective. Employees reading it for the first time may not understand what they're reading, and they may be hesitant to ask for clarification. As a result, they might unintentionally violate policies or fail to follow your practices. Jargon also separates those who are new and those who've been with the company for a longer period of time. In some ways, jargon can unite an organization, but in other ways, it can create a clique that's difficult to break into. Leave this type of language out of your handbook.

Pro Tip: Create a dictionary with all organizational-specific terms, and create a link to this resource in the handbook.

What Not to Include In Your Employee Handbook Cont.

Language That Boxes You In

Don't commit to policies and practices on paper if you can't commit to them in action. You may need to make exceptions and accommodations, treating people differently in unique situations. For example, it's fine to mention that you typically follow a progressive disciplinary process, but you don't want to guarantee or give the impression that you'll always follow each progressive step in every case. Sometimes, an employee may need to be terminated immediately because they did something egregious. If your handbook says or implies that discipline will always start with a verbal or written warning, employees may try to hold you to that.

Your handbook should also not imply that it creates a contractual employment relationship. If you want to maintain an at-will relationship with employees, it's a good idea to say in the handbook that nothing in it alters the at-will relationship.

Pro Tip: Many employers call a new employee's first 90 days a "probationary period." This is somewhat outdated and risky because it undermines the concept of at-will employment. Consider calling a new employee's first 90 days an "introductory period."

Overly Restrictive Social Media Policies

Every employer knows that the behavior of employees, while they're off the clock, can affect the company's reputation – especially their social media activity. However, employers take a big risk when they try to define what personal social media activity is acceptable and what is not. Here's why:

Employees have certain rights under Section 7 of the National Labor Relations Act, and those rights extend to their personal social media accounts. Section 7 defines and protects concerted activity by employees. Generally, this concerted activity occurs when employees act as a group (i.e., in concert) for their mutual aid or protection. That said, it's easy for an individual employee to gain protection under the Act if they are discussing the terms and conditions of their employment either physically around co-workers or in the same virtual space (e.g., Facebook). The terms and conditions of employment include pay, benefits, treatment by management, dress codes, workplace policies, scheduling, and much more. An overly restrictive social media policy could put you at risk of violating these employee rights.

As an employer, however, you have certain rights as well. This can be a murky topic, and staying up to date on legislation is tricky. Get the information you need to protect your employees and your organization all while complying with the many employment laws that affect your organization.



Kyle Cupp is an HR certified professional author, editor, and researcher specializing in workplace culture, retention strategies, and the employee experience. He has previously worked with book publishers, educational institutions, magazines, news and opinion websites, nationally-known business leaders, and non-profit organizations. His writing has appeared in The Daily Beast, The Week, and elsewhere.

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What Landlords Need to Know About Eviction, Lender Talks, and Rent Concessions

By Nellie Shipley Sullivan

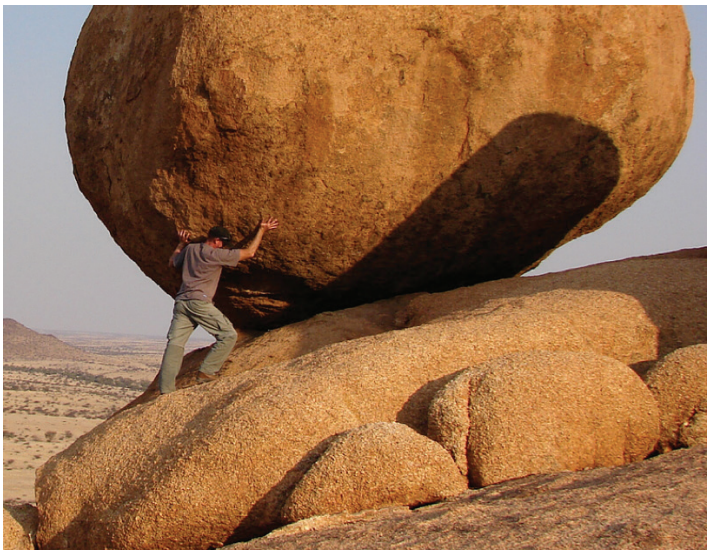


- More than 40 states still have moratoriums on evictions.
- Unlike earlier crises, lenders are being encouraged to be proactive.
- Options exist for rent concessions.

Rent was due again recently, and many property owners are facing more delinquent renters and requests for rent concessions than they have seen in recent years. The coming months promise an increase in this trend even as states start to tentatively "open," as many businesses and people remain at least partially shut down or are otherwise operating well below capacity due to COVID-19. At the same time, stringent governmental measures taken to slow the spread of COVID-19 are directly and indirectly limiting property owners' ability to enforce rent and other lease clauses. Legal remedies remain available but each must be considered carefully. The challenges facing landlords and tenants, practical and legal, vary by jurisdiction and are changing rapidly. This alert is aimed at property owners leasing commercial space, as well as multi-family property owners, in the early days of the COVID-19 pressures on rental arrangements, as both sets of tenants begin increasingly considering asking for rent concessions from their landlords.

Challenges Facing Landlords' Tenants

We are finding that many businesses cannot access their business interruption insurance in a pandemic, making it difficult for commercial tenants to insure against not being able to use the premises to fund the rent. Tenants receiving aid under the recently passed CARES Act may not be able to use that aid to pay rent, either because of competing demands for the use of the funds or because in the case of small-business tenants receiving payroll forgiveness loans, 75% of the loan funds received have to be applied to expenses that do not include rent for the loans to be forgiven.



Challenges Facing Landlords

Landlords are limited in the short term in a number of ways. Many courts around the country are still postponing all non-emergency court hearings, including landlord/tenant disputes, and those courts could face a backlog of matters as they open. Under the CARES Act, the federal government issued a 120-day moratorium on evictions from federally

subsidized housing or from a property with a federally backed mortgage loan. In more than 30 states, broader moratoriums on evictions are in place via orders from governors or state supreme courts, and municipal leaders are also issuing eviction moratoriums.

Complicating matters for landlords is the fact that there is little formal structure in place for aiding landlords that are affected by this economic downturn. Recent updates to the guidelines regarding the Payroll Protection Program under the CARES Act legislation has provided some much-needed clarity, but many landlords remain unclear whether they qualify for PPP loans, whether their loans would in fact be forgiven, and whether they might face public scrutiny and criticism for obtaining such loans. One exception for owners with applicable debt is that the Federal Housing Finance Agency has previously announced that Fannie Mae and Freddie Mac will offer mortgage forbearance for apartment owners if they suspend evictions for tenants who are "unable to pay rent due to the impact of coronavirus."

Better Lending Support this Time?

An important consideration for Landlords, however, is a difference in the lending environment between this economic situation and that of the Great Recession. Unlike the earlier crisis, early conversations (i.e., before a missed payment) may be productive. Lenders are being encouraged to be proactive and told that adjustments to lending arrangements will not expose them to the usual penalties for carrying "bad debt" for the next six months. We are informed that more capital is being put "on the street" for lenders to utilize.

When owners do approach lenders, however, be prepared to discuss measures you are taking and planning to take so your lender has a clear understanding of your circumstances and you have buy-in as to your next steps. What is your cash flow situation for keeping up with other (non-debt) costs and payments you may still owe even while rent is abated? What concessions are you considering, for how long, and under what circumstances. And, importantly, be aware of your existing loan documentation – are there performance standards or operating covenants that you previously would have no question of meeting but might not be meeting now? Those should be included in early discussions with your lender. Also, if you are thinking about allowing rent concessions, be aware of whether your loan documents require lender consent. If adjustments to leasing operations requires lender consent you do not want to get very far down the road with tenants without having buy-in from your lender.



Deciding Whether and How to Allow Rent Concessions

Besides lender approval, there are a number of factors to consider when deciding how to address calls for rent concessions. First, lease provisions matter. Understand first what the legal liabilities are of each party if you do not negotiate changes to the expected arrangements under the lease. Then consider appropriate adjustments you might be willing to make, under what circumstances. If you have a number of tenants on your property(ies) and you want to contextualize any concessions you might offer, consider establishing a simple request intake questionnaire to assess the tenants' circumstances and their relevance to your tenants' requests:

- Is it too early? Has the tenant been impacted yet or is it anticipating an impact that it wants to use your rental stream to delay?
- Have the tenants been offered or given some other form of relief that would obviate or reduce their need to look to rent reduction? (Did they get the individual payments from the federal government? Are they getting help with utilities?)
- Is your commercial tenant's use of space affected, and specifically its income stream? Owners are less likely to entertain arguments that tenants are not getting the full benefit of their lease payments than that tenants' actual businesses are adversely impacted.
- Do you need to treat all tenants equally? Can you efficiently assess tenant requests?
- Are your tenants credit-worthy and/or "loyalty-worthy"? Is your reputation with these tenants important to keeping them as tenants or to the future marketability of your property?

What Landlords Need to Know About Eviction, Lender Talks, and Rent Concessions Cont.

Many landlords are starting out with discussions about rent deferral, meaning the rent will be late (and maybe late fees will be waived), but it will still be due. Some landlords are making arrangements to amortize the missed rent over a number of months once "things return to normal". Others are allowing tenants to apply security deposits against rent. However, if rent concessions (not merely the delay of rent payment or enforcement) become a good option for you, there are a number of approaches to consider. Currently common options include forgiveness of a month or two of rent tied to some benefit to the landlord, like increasing the term of the lease by the same number of months. Whatever arrangements you make, be sure to memorialize them in a lease amendment that helps both parties be clear about what is expected in the coming months. Ideally such a memorialization would include typical tenant estoppel language to assure the landlord and its lender that a tenant being accommodated is not on the verge of making claims against the landlord.



Nellie Shipley Sullivan is a veteran commercial real estate attorney based in Womble Bond Dickinson's Raleigh, NC and Atlanta, Ga. offices. She has deep experience in corporate real estate, including portfolio management, expansions and relocations, and developer projects, including single-family, apartments and assisted living. She also assists clients with economic development incentives and other programs. Nellie received assistance with this article from her colleague, Alex Neal, which she gratefully acknowledges.

Womble Bond Dickinson has a wealth of experience representing commercial and multi-family property owners, including advising on rental agreements and other best practices. Contact us today if you have any questions about navigating this difficult period.



SECO's Non-Profit a Success Story

Submitted by the Veterans Assistance Committee



After 10 successful years, South East Community Owners, SECO, became a 501C-3 nonprofit organization and began a program to help retired U.S. Veterans. SECO's focus is helping retired vets living in manufactured housing communities. The purpose is to make their lives a little easier…our way of saying thank you to these men and women, and their families, who gave so much for our country.

Last year SECO was able to help a family in Wildwood, Florida purchase a new A/C unit for a retired Marine Veteran and his wife.

This year the Veterans Assistance Committee will expand our reach to include the front-line heroes of the "Corona Virus War", our first responders.

SECO will be offering assistance to first responders living in manufactured housing communities. These folks on the front lines, working long hours and risking their own health, and the health of their families, to rescue and work to save those suffering from the virus. We thank them for their unselfish dedication to the calling of rendering aid to others.

If you know of a retired veteran, or a first responder, living in your manufactured housing community, contact us. We will send them an application for this program. Once the application is completed and returned, it will be reviewed by our committee. If accepted, the committee will contact the community owner to help us fill the need.

SECO's goal has always been to help park owners and all associated with the manufactured housing industry. We are excited to be able to extend this help to those who are giving so much of themselves in our times of need.

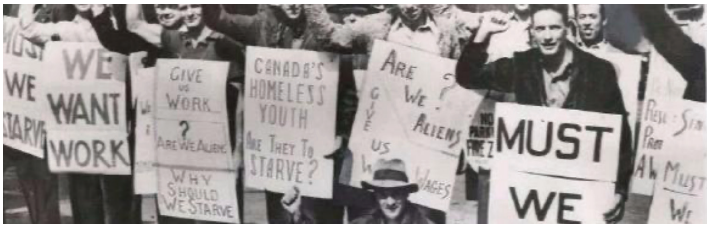
For more information please contact:
DAVID RODEN
423-760-4819
davidroden@yahoo.com

Southeast Community Owners Symposium



The Spanish Flu of 1918, The Great Depression and Investing During the 2020 COVID Crisis

By D. Austin Lewis, JD, MBA, CFP®



Historical Perspective

A dismal jobs report came out last week, and this has highlighted two important questions.

Are we heading into a depression?
How can the stock market go up with all this bad economic news?

Are We Heading into a Depression?

No, I don't think so.

In the mainstream media, there has been a focus on the unemployment rate, which rose from 3.5% to 15% in less than two months. Payrolls in April dropped by 20.5 million, shattering the previous record of 800,000 in October 2009. Don't be surprised if the unemployment rate eventually exceeds 20%.

When I watch the news, interviewers pose questions to experts such as, ***"The last time unemployment was this high was the Great Depression, so we are heading for a depression, right?"*** The experts say, "I don't think so," but they are given only five seconds to tell you why not, which leaves the question hanging. You feel terrified. Cue the commercial.

Not so fast. While the media targets our greatest fears, **the Great Depression was an entirely different event with much different causes. This is not a credit and banking crisis – this is a global pandemic. It's different.**

We are experiencing these shocking job losses because we intentionally shut down our economy to fight the COVID-19 virus and save lives. **If any comparisons are to be made, I think the better analogy is the 1918 Spanish flu pandemic.** Let's compare.

The Great Depression

The Great Depression lasted from 1929 to 1941. It was a devastating economic event. Unemployment approached 25%. The Great Depression lasted 12 long, bitter years. An overheated, overleveraged economy led to a sudden decline in stock prices, which led to a full-blown credit and banking crisis that was greatly exacerbated by deeply flawed fiscal and monetary policy in response to that crisis.


Daily Mail — CONTINENTAL EDITION — FRIDAY, OCTOBER 25, 1929.

GREATEST CRASH IN WALL STREET'S HISTORY

DELUGE OF PANIC SELLING OVERWHELMS MARKET

19,000,000 SHARES CHANGE HANDS

PRICES TUMBLE LIKE AN AVALANCHE

GREAT FILM FIRE AT HOLLYWOOD

MILLIONS OF DOLLARS OF DAMAGE DONE IN LABORATORY OUTBREAK

NEGATIVES DESTROYED

ATTEMPT TO KILL PRINCE HUMBERT

BETROTHAL DAY DRAMA

SHOT AT BY SOCIALIST

SEARCH FOR NEW FRENCH PREMIER

LEADER OF RADICAL-SOCIALIST PARTY RECEIVES CALL TO ELYSEE.

Four differences today than during the start of the Great Depression in 1929:

1. **A Speculative, Leveraged Stock Market**
   The Great Depression began when the stock market crashed in October 1929. It was the end of the Roaring Twenties. The market was extremely speculative, and many investors borrowed great sums of money to buy stock that was overvalued many times over. When the market went down, they had to sell all their stocks to repay their loans. This sent prices down even further.

   Today, we have margin requirements that have created a safer way to borrow against investments.

2. **Banking Panics and Closures**
   During the Great Depression, thousands of banks failed, and millions of people lost their savings.

   Today, we have more robust deposit insurance, bank regulation, and capital requirements. There are no bank runs.

3. **The Federal Reserve Did the Exact Wrong Thing at the Wrong Time for the Wrong Reason**
   During the Great Depression, the Federal Reserve contracted (not expanded) the money supply because it was worried about maintaining the gold standard. This contraction had a catastrophic effect on the economy.

   Today, the gold standard is a thing of the past and the Federal Reserve is doing the exact opposite of what it did in the 1930s. **The Fed has intervened in a huge way to help support markets over the past few weeks, and this has made a big difference in the capital markets.**

4. No Fiscal Help, a Harmful Trade Policy, and the Dust Bowl

During the Great Depression, there was no fiscal help, only pain. The Hoover administration and Congress did not use their powers to help citizens deal with the financial burden of the economic downturn. Instead, they raised taxes and passed the Smoot-Hawley Tariff Act in 1930 that imposed steep tariffs on imported goods, which provoked retaliatory measures by other countries. Trade and economic activity suffered at just the wrong time. Exacerbating the situation was a devastating drought and the resultant Dust Bowl.

Today, Congress recently passed a very robust series of direct emergency fiscal assistance measures for people and businesses. ***No, they're not perfect, but trillions of dollars have just arrived in bank accounts all over the country. This should have a positive impact in the months ahead.*** As for trade policy, this is the one item that does seem similar to that of the Great Depression.

If you want to find an event like the Great Depression, you need look no further than the financial crisis in 2008-09 and the Great Recession that followed. The Great Recession could have actually been the Great Depression Part 2. The Great Recession was a devastating credit and banking crisis. Fortunately, our policymakers handled it differently than their counterparts did in 1930.

When Ben Bernanke was asked how he decided what to do during the financial crisis in 2008, he said that he would do the exact opposite of what the Fed did in 1930 and do it as quickly as possible. Thanks to our policymakers, the financial crisis was a deep recession, but not another depression.



This Pandemic Is More Like the 1918 Spanish Flu Pandemic Than the Great Depression

The 1918 Spanish flu pandemic lasted from the spring of 1918 through the early summer of 1919. It occurred at the end of World War I as infected soldiers from European battlefields took trains and ships back home.

The Spanish flu infected about one-third of the global population and killed somewhere between 20 million and 50 million people worldwide. The virus killed 675,000 people here in the U.S. (the equivalent of 2.1 million people today). There were four waves: The initial wave came in the spring; a second, deadlier wave in the fall; and there were two smaller subsequent waves.

At that time, there were no antibiotics to treat secondary bacterial infections, no therapeutic drugs, and no vaccine. It took public health efforts and herd immunity to finally end the pandemic. Most of it was over in about a year.

Back in 1918, U.S. cities and regions handled the crisis differently. Schools and churches were closed, but not businesses. It looks like people kept working and the economy was not shut down. Some communities that took little or no preventive measures saw much higher death rates than other communities that practiced social distancing and contact tracing.

Although there is not much economic data from that period, it looks like the unemployment rate doubled from about 5% to 10%. The stock market was up by over 18% in both 1918 and 1919. ***The 1918 pandemic did not cause a depression (or even a recession), but the loss of life was staggering.*** In the U.S., our life expectancy came down by 12 years.

Epidemiologists have always said that when the next global pandemic hit, they would handle things differently than in 1918. And that is what is happening now.

During the current pandemic, we made the decision to shut down the economy to avoid the huge loss of life that occurred in 1918. And now we are paying the economic price for that painful decision – right or wrong. If trends hold true, we will suffer a lot fewer deaths than in 1918, but the economic costs to achieve that goal will be high.

We know the virus will be with us for some time, but we reasonably hope that a vaccine will finally end the pandemic sometime early next year.

Why Is the Stock Market Up with All This Bad Economic News?

The market is climbing the classic "Wall of Worry," which Investopedia defines as follows:

> ***Wall of worry is the financial markets' periodic tendency to surmount a host of negative factors and keep ascending.*** Wall of worry is generally used in connection with the stock markets, referring to their resilience when running into a temporary stumbling block rather than a permanent impediment to a market advance.

This is not the first time markets have advanced in the face of bad economic news. The markets ascended a huge wall of worry after the financial crisis in 2008.

Here are four potential reasons markets have recently surged:

First, don't forget the market lost about one-third of its value in about two weeks in March. While the recent surge in April is impressive, most of the market still sits about 10% lower than it did at the beginning of the year. The markets **may** have initially overreacted to the current crisis.

Second, the market has priced in the enormous fiscal and monetary stimulus provided by Congress and the Federal Reserve. Trillions of dollars in stimulus money are sitting in business and consumer bank accounts. Eventually, that money will start to be spent.

Third, the market is counting on certain assumptions as we recover from this pandemic, which include but are not limited to: 1) the economy slowly coming back online, 2) the rehiring of employees, 3) consumers having enough confidence to slowly begin spending again, and 4) the pandemic finally ending when we get an effective vaccine early next year.

Fourth, remember that the market is always forward-looking. That means that market analysts are looking at revenues and earnings over the next several quarters. Those numbers are expected to improve. The market was already expecting last week's jobs report and believes unemployment will top out at about 20%. Markets have also priced in a lot of bankruptcies (many of which will be restructuring under Chapter 11), foreclosures, and workout deals.

As investors, we should be cautious. The markets may react negatively if the assumptions above prove to be incorrect, if we have a resurgence or a larger wave of the virus this fall, if a vaccine proves elusive, or if there are unexpected challenges to the recovery. There are a lot of unknowns.

Public Stock and Bond Investment Recommendations

Investors are coming to realize that the coronavirus pandemic is going to require patience, perseverance, and inner strength. It looks like we are in about the third inning. We have a long way to go, but we can and will get to the end of the game.

Turbulent markets and fears about COVID-19 can make us emotional investors, which reminds me of one of my favorite Nick Murray quotes:

> ***The world does not end. People just fear that it's ending.*** In part, this is because people fear loss much more than they hope for gain. Therefore, they react much more emotionally to declining markets than to rising ones.[1]

We are not out of the emotional woods – not even close. The recovery will not likely be V-shaped. It will likely be a lumpy swoosh. The economy will come back online, but it will do so slowly and unevenly. There may be increases in cases as we reopen, and we will have to learn how to better deal with outbreaks.

From an investment standpoint, the most important thing to do is focus on rebalancing your asset allocation back to your risk tolerance. Remain disciplined and diversified.

As for your individual investments, consider using the core and satellite approach in your portfolio.

On the stock side, hold at least half your portfolio in diversified core indexes, such as the S&P 500 or the Russell 3000. On the international side, the MSCI EAFE Index is a useful choice. As for the rest of your stock portfolio, you can explore satellite strategies such as dividend-paying stocks, lower-volatility stocks, and large-growth stocks.

Stop trying to guess what is going to happen and when. Stop trying to pick winners and losers. You could invest in individual names that are currently performing well in the stay-at-home economy, names like Amazon, Apple, Netflix, Google, Facebook, Walmart, and Target. But I would caution against placing too many bets here, as the market has already priced these stocks for perfection. Eventually, small and value stocks, which have been beaten down considerably, will stage a comeback, and valuations of these larger names may come back down.

On the bond side, at least half your bond portfolio should be invested in conservative, highly rated government and corporate bonds with short to medium durations. Capital preservation is more important than yield right now. You can explore satellite strategies such as mortgage and high-yield bonds, but I would be very cautious here. If the markets plunge, only the most conservative bonds will hold their value.

Recently, the Fed jumped into the bond market by buying junk bonds and even certain bond ETFs, and some investors are trying to take advantage of this situation by buying those same bonds. This seems speculative. If markets plunge again, you would be relying on another Fed bailout. That may prove correct, but you never know.

Overall, keep your eye on the marketability of all your investments. Stay away from thinly traded, exotic, or complex investments that are difficult to sell when markets are under stress.

If you can, make sure your cash needs are met for the next 12 months. Be humble. Don't overreact to negative news, which will remain so for some time. Be prepared for volatility.

Executive Summary

There was a dismal jobs report last week. Investors want to know if we are heading into another Great Depression and why markets went up after this terrible news.

While our unemployment rate may hit 20% (and that has not happened since the Great Depression), we are likely not heading into a depression.

The Great Depression was a credit and banking crisis that was exacerbated by catastrophic policy decisions by the Federal Reserve and the Hoover administration.

This is a global pandemic – it's different. The better analogy is the 1918 Spanish flu pandemic. Back in 1918, we did not shut down our economy and 675,000 people died in the U.S. (up to 50 million globally). This time around, we shut down our economy to save lives and that decision has a cost – right or wrong.

The market has priced in a slow and steady economic recovery with employees being rehired in the next two quarters and a vaccine available early next year. The market also knows that trillions of stimulus dollars have just arrived in business and consumer bank accounts. That is why markets are up.

Of course, the market may be wrong and there are many unknowns. It's time to stay disciplined and diversified.



D. Austin Lewis is a wealth manager at Lewis Wealth Management, a firm he founded in 2010. He focuses on providing wealth management solutions to a select number of affluent clients in a boutique setting. He is a CERTIFIED FINANCIAL PLANNER professional.

Austin has over 25 years of experience in advising clients as a banker, attorney, and financial advisor. Austin started his career as a business banking officer with Wells Fargo Bank. Upon graduation from law school, Austin practiced law for nine years at two prestigious San Francisco law firms: Gordon & Rees and Craigie, McCarthy & Clow, where he specialized in advising businesses on litigation and transactional matters. When Austin returned home to Colorado in 2001, he served as senior in-house counsel to two Colorado companies: Graphic Packaging and Qwest. Since 2005, he has been advising affluent clients on all their financial matters.

Austin received a B.S. in Business Administration from the University of Colorado in 1986, an M.B.A. from San Francisco State University in 1989, and a law degree from Marquette University in 1992.

Lewis Wealth Management is a fee-only, investment advisory firm based in Greenwood Village, Colorado. www.LewisWM.com.

1. Murray, Nick, Simple Wealth, Inevitable Wealth (2008) at p. 79 (emphasis added).

MHI Announces the 2020 Excellence in Manufactured Housing Award Winners

(Washington, D.C., April 15, 2020) – Today, the Manufactured Housing Institute (MHI) announced its 2020 Excellence in Manufactured Housing Award recipients. The annual awards program honors MHI members in the manufactured and modular housing industry who continue to pave the way by providing outstanding products, customer service, creative solutions and state of the art homes.

The winners of this year's MHI Excellence in Manufactured Housing Awards exemplify the determination, commitment and innovative approach that defines our members and industry. This annual honor recognizes leaders from every sector of manufactured housing, including manufacturers, suppliers, communities, retailers, lenders, and designers.

"This year we had over 100 entries from industry partners who are thinking outside of the box to improve the manufactured housing industry," said MHI President, Mark Bowersox. "This year's award winners show the dedication and expertise that this industry needs as we push forward. On behalf of MHI I'd like to congratulate all of this year's winners."

The honorees were chosen by their peers and an independent panel of experts for their leadership and dedication to the manufactured housing industry throughout the last year. MHI is honored to showcase their products and their companies. Here are this year's Excellence in Manufactured Housing Award winners, listed by category:

Manufacturer of the Year Awards

- Manufacturer of the Year – Two Plants or Less: Adventure Homes
- Manufacturer of the Year – Three Plants or More: Clayton Home Building Group

Retail Sales Center of the Year Awards

- Retail Sales Center of the Year - East: UMH Properties, Sunny Acres Sales Center in Somerset, PA
- Retail Sales Center of the Year - West: Family Homes in Chino, CA

Land-Lease Community Awards

- Community Operator of the Year: Hometown America Communities
- Land-Lease Community of the Year - East: Beach-Cove Properties, INC.
- Land-Lease Community of the Year - West: Oak Tree Ranch in Ramona, CA, Hometown America Communities

Supplier of the Year Award

- Supplier of the Year: Style Crest, Inc.

Lender of the Year Awards

- Lender of the Year – Floor Plan: 21st Mortgage Corporation
- Lender of the Year – National: 21st Mortgage Corporation
- Lender of the Year – Regional: Cascade Financial Services, LLC
- Manufactured Home Community Broker of the Year: CBRE – Norm Sangalang, Crawford Follett & Chris Craighead, 16 MHC Portfolio

Design Awards

- Interior Design Award: The Cambridge, Adventure Homes
- Manufactured Home Design - Multi-Section: The Sequoia, Skyline Champion Corp.
- Manufactured Home Design - Single Section: The Sandcastle, Skyline Champion Corp.
- Modular Housing Design Award: Portsmouth Pretty, Skyline Champion Corp.

Details about each winner will be available on the MHI website. MHI is the only national trade organization representing all segments of the factory-built housing industry. MHI members include home builders, retailers, community operators, lenders, suppliers and affiliated state organizations. Visit MHI on Twitter @MHIUpdate and on Facebook.

Survey and Title Review: 5 Common Issues and Practical Tips to Solve Them

By Nick Larson



Any savvy real estate investor will tell you that reviewing the state of title, and determining which title risks are acceptable, is a critical step in diligencing a manufactured housing park (MHP) opportunity. Like flossing, it requires some discipline upfront, but the payoff in the dentist chair (and, frankly, beyond) is always worth it. Here are five common title issues affecting MHPs, as well as practical approaches to reviewing title evidence.

Common Title Issues

Few real estate transactions close without a title insurance policy. And, in many cases, the purchaser is unwilling to close without the insurer's agreement to provide coverage for a title problem that otherwise would cause the deal to collapse. Although every deal presents its own flavor of issues and challenges, a prospective buyer of a MHP probably will encounter one or more of the following issues. It's important to know how to nip them in the bud upfront.

1. **Mechanic's liens recorded against the property** – a contractor, subcontractor or supplier that performs work on, or delivers supplies to, the MHP and who has not been paid for the work or materials, often may record a lien against the real property. A title report or commitment will shed light on any recorded mechanic's liens and may inform you of additional red flags with the MHP. For example, the seller may have misrepresented in the purchase contract that no improvements were made to the MHP. Parties often resolve mechanic's liens by using the seller's sale proceeds to discharge and remove the lien of record at the closing. **Buyer Tip:** Devote sufficient time during the diligence review period to identify the issue, and then to negotiate an acceptable resolution with the seller and the title issuer, well ahead of the closing.

2. **A pre-existing right of first offer/refusal** – it is not uncommon for a third party to have an existing right to purchase the MHP under a right of first offer, right of first refusal or similar agreement. When this happens, an existing preferential right will trump your contractual right to acquire the property (even if you've signed a purchase agreement with the seller). If the seller fails to disclose the preferential right and the purchaser fails to discover it, and the parties subsequently close, the party benefitted by the agreement could sue to unwind the sale. This could put the seller in hot water for an indemnity claim if the seller breached a representation under the purchase contract. **Seller Tip:** When drafting the purchase contract, the seller should give itself flexibility to extend the closing as necessary to satisfy any preferential rights agreements. The seller should also require satisfaction of all preferential rights agreements as a condition for it to proceed to the closing.

3. **Improvements encroaching on adjacent lands** – this refers to a building, structure or similar improvement on the MHP property that extends either onto a neighboring property owner's land or into an area of the MHP with an easement or right-of-way (such as for a utility or pipeline). An American Land Title Association (ALTA) survey will typically disclose encroachments, as well as any improvements that are non-conforming with local zoning laws. If, for example, an improvement is built within a zoning setback the park owner may be required to obtain zoning board approval and a variance. Both can be expensive and may be denied by the zoning board. If the application is denied, the zoning board may require the removal of the structure. If an improvement encroaches onto a neighboring property owner's land, the park owner may have to contend with

costly litigation over adverse possession or other rights. **Buyer Tip:** Obtain a zoning report early on in the diligence period and make certain the surveyor plots zoning setback lines (and any nearby improvements) on the survey.

4. **Park Owned Homes affixed to the ground** – this issue occurs when a Park Owned Home (POH) is cemented or otherwise affixed to the ground such that it is no longer moveable. When this happens, the local jurisdiction may convert the POH's tax classification from personal property to real property. If a POH converts to real property the park owner will not be able to sell the POH to a tenant without first conveying a deed. Although it is possible in some jurisdictions to re-convert the POH to personal property, the process is both timely and expensive. **Buyer Tip:** inspect every POH certificate of title against the local assessor's tax records to confirm the POHs can be transferred as personal property.

5. **Property is subject to restrictive covenants and other cost-sharing agreements** – a title report and survey can also disclose the existence of easements, rights-of-way and cost-sharing agreements. In a recent transaction, the seller failed to disclose the existence of a private road shared with several adjoining properties. At first glance, the road appeared to be a public right-of-way, the maintenance of which would have been the town's responsibility. In the normal course of due diligence, the title report and survey revealed a private road and that the maintenance obligations were shared by the various property owners. This prompted further inquiry and it was soon discovered that substantial repairs, including re-grading and constructing culverts under the road, were scheduled to be performed after the closing. It also revealed that the seller had failed to fund its proportionate share of such expenses. The buyer was able to negotiate a reduction in the purchase price and required the seller to fund into escrow at closing a maintenance reserve to cover the repair costs. B**uyer Tip:** Always obtain estoppel certificates from third parties under easement of record rather than rely on the seller's word about defaults and monetary obligations. Remember that you will step into the seller's shoes after the closing and will be liable for prior agreements that "run with the land" (those that are recorded in the real property records affecting the MHP and which provide that same are binding on successors and assigns).

The issues described above are but some of the many potential title risks that lurk beneath the surface. Should you find yourself on either side of a real estate transaction, it is critical to have as much information about the property – and as early in the process – as possible. Allotting time to a thorough and complete title and survey review will help make for an easy and pleasant real estate transaction experience, setting you up for long-term success.



Nicholas J. Larson
Brownstein Hyatt Farber Schreck, LLP
nlarson@bhfs.com

Nick Larson is a real estate attorney in the Denver, Colorado office of Brownstein Hyatt Farber Schreck, LLP. Nick regularly counsels clients in the acquisition, disposition, management and financing of manufactured housing communities with a national perspective. His practice also centers on master planned communities and condominium developments on behalf of developers, equity investors and institutional lenders. He applies a practical approach to developing creative solutions to get real estate deals across the finish line.

Glossary
A brief overview of terminology you likely will run into during the title review process.

Existing Title Work or Current Owner's Policy – refers to the current policy of title insurance issued by a title company to the current park owner (the Seller). As a practice tip, always ask the Seller to furnish as soon as commercially practical (in other words, up front) the most recent policy of owner's insurance. Not only will this expedite the title company's preparation of the preliminary title commitment, but it will also give you an early look at the condition of title. This same logic applies to the Seller's existing survey.

Title Report or Title Search – this is a detailed report on the current status of title. However, it does not include the assurance of policy insurance provided by a title commitment (more on that below). A title report contains information such as existing liens affecting the property (i.e. mechanic's liens, mortgages, tax liens and judgments), a list of covenants, restrictions and other easements that restrict how the real property may be used, and the current owner's legal information.

Title Insurance Commitment – often confused with a title report, a preliminary commitment for title insurance is a contract in which the title company agrees to issue a policy subject to certain conditions, exceptions and exclusions shown in the commitment. A commitment is valid generally for six months and contains information such as the proposed insured, the premium amount, legal description, and the Schedule B matters.

Pro Forma Policy – this is a specimen of the actual policy to be issued after the land closing. It is important to remember that a pro forma policy takes time for the issuer to prepare and to negotiate its coverage. As a practice tip, do not ignore the title commitment and its requirements for policy issuance or forget that work must continue on eliminating exceptions during the due diligence phase. A sophisticated purchaser will work to have all title issues resolved to its satisfaction before "going hard" on a deal once the due diligence period expires. For this reason, give yourself enough runway during diligence to perform a thorough review of title.

Extended Policy – an ALTA title policy comes in standard and extended forms. A policy becomes "extended" by removing some or all of the general exceptions (i.e. right of parties in possession, encroachments, boundaries and other matters that an accurate survey would disclose, easements not shown in the public records, and mechanic's liens).



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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