

March 2019

MHR

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IN THIS ISSUE:

Monday Morning Outlook: Where's the Recession?

Spotlight – MHC Management and Operation Trends and Ideas

How Do Manufactured Homes Depreciate?

GMHA passes House Bill #212 through the Georgia House of Representatives

... and much more!

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Publisher's Letter

By Kurt D. Kelley, J.D.
Publisher

Dear MHR Readers,

Beginning after this edition, the MHR will be published on a quarterly basis. We are moving to this new publishing schedule for two reasons. One, it will allow us to offer richer more interesting content. Our readers report they are busy, fully engaged business operators and the efficient use of their time is critical. And two, it will allow us better quality control. We'll have more time to review submissions and prepare for the publication.

As always, if you have an important management, acquisitions, or industry related news to share with your fellow manufactured home industry members, send it to me. We'll review and

respond promptly. Over the past few years, some of our best content has come from industry members who wouldn't label themselves as writers. Our editorial staff is always willing to help draft a message.

See you again on June 15th!



Kurt D. Kelley, J.D.
Publisher
kkelley@manufacturedhousingreview.com

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CALENDAR OF EVENTS

AMHA.net = Arkansas Manufactured Housing Association	4/30 = AMHA'S Board meeting & Pac-Benefit Razorbacks Baseball Game
CMHA = Connecticut Manufactured Housing Association	4/11 = Board Meeting 5/9 = Board Meeting 6/7 = Lobster Fest & Mid-Year Meeting 7/11 = Board Meeting 9/12 = Board Meeting 10/10 = Board Meeting 11/14 = Annual Meeting 12/12 = Board Meeting & Holiday Luncheon
FSMHA = First State Manufactured Housing Association	5/22 = Spring Membership Meeting 9/12 = FSMHA Annual Crab Feast 11/20 = Fall Membership Meeting
IMHA = Illinois Manufactured Housing Association	4/28 = IMHA Annual Conference
MHAO = Manufactured Housing Association of Oklahoma	6/18 = MHAO ANNUAL CONVENTION
MHI = Manufactured Housing Institute	5/6 = National Congress and Expo 9/22 = Annual Meeting 10/11 = Summer Legislativ Fly-in 11/13 = National Communities Council Fall Leadership Forum
MHISC = Manufactured Housing Institute of South Carolina	7/17 = MHISC Convention
MSMHA = Mississippi Manufactured Housing Association	3/26 = TUNICA Show 5/16 = General Membership Meeting 7-27 = Multi-State Convention
NARPM = National Association Residential Property Managers	7/17 = Southern States Conference
SECO = Southeast Community Owners Symposium	10/9 = SECO10
TMHA = Texas Manufactured Housing Association	06 = Third Quarter Board Meeting 9/8 = TMHA Convention 9/10 = Fourth Quarter Board Meeting
WHA = Wisconsin Housing Alliance	5/15 - Community Management Seminar 8/14 - Manufactured Housing Community Boot Camp Seminar

To have your event noted, please email Staff@ManufacturedHousingReview.com



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Whatever happened to the recession calls?

Seems like just a few weeks ago that the correction in the stock market as well as the partial government shutdown had convinced many analysts and investors the US was about to enter a recession.

Fortunately, the data haven't cooperated. Ten days ago we got the employment report for January, which showed a payroll increase of 304,000 and the highest share of adults working since 2008. Yes, February has seen both initial and continuing unemployment claims average higher than in January, but only slightly. In other words, job growth looks set to continue shutting down economic naysayers.

Meanwhile, the ISM Manufacturing index, which had moved down to a still-solid 54.3 in December, rebounded to a robust 56.6 for January. Traditionally, this measure needs to fall to 45.0, or below, to signal a US recession, and we're not even close. The ISM Non-Manufacturing (services sector) index fell to 56.7 in January, which is still robust relative to historical standards. And that index, compared to the one for manufacturing, tends to be more sensitive to temporary shifts in sentiment rather than changes in underlying business activity.

Last week we started clearing out some of the major backlog of government economic data created by the partial shutdown, including the report on international trade which showed a much smaller trade deficit than anticipated. This further strengthens our expectation that the economy grew at a 2.5% annual rate in the fourth quarter of last year and will continue to grow at around that pace in the first quarter of 2019.

This week, we'll get several reports to keep an eye on. In particular, we'll finally find out about retail sales in December and also get industrial production in January, both of which play key roles in estimating real GDP growth.

Superficially, we're not optimistic about retail sales, estimating that they were unchanged for the month. But that was back in December when gas prices were plummeting. Excluding gas, retail sales were likely OK. Industrial production comes out Friday and we expect a modest increase of 0.2%. If we're right, that'll mean production is up about 4.5% from a year ago, another sign we're nowhere close to recession.

And in the meantime, we continue to get reports on corporate profits as well as forward guidance. Profits compared to a year ago are doing well; estimates for the future, not so much. But those estimates for the future appear excessively pessimistic. The recession many anticipated isn't happening and consumers and businesses have plenty of purchasing power, which means top-line growth should offset any pressure on margins.

In addition, the power of improved incentives has only begun to play out. Dropping the corporate tax rate to 21% from 35% means companies have more reason to shift operations to the US. But these shifts take time and it's only been a year.

Those predicting the next recession are going to be waiting for a while before they finally get one "right."

Brian S. Wesbury, Chief Economist and Robert Stein, Deputy Chief Economist with First Trust Portfolios and The American Spectator



Brian S. Wesbury, Chief Economist, and Robert Stein, Deputy Chief Economist with Morgan Stanley. Brian Wesbury is an American Economist focusing on macroeconomics and economic forecasting, and regular author with the "American Spectator" as well as a regular on such television stations as CNBC, Fox Business, and Bloomberg.

Spotlight – MHC Management and Operation Trends and Ideas

Each issue, the **MHR** is highlighting the operations and ideas of different community operators. This issue's highlighted operator is Skyler Liechty of American Dream Communities headquartered in Dallas, Texas. They currently manage communities located in the Midwest. Skyler and his partners have been MHC owners for thirty plus years.

Where is your highlight MHC located?

Forney, TX

When did you purchase it?

2016

Was there anything you didn't know about the community when you bought it that you wish you had known?

Seller did not disclose that the creek at the front of the property was prone to flooding, making it impossible to enter the park from the main entrance.

What is the size, occupancy %, number of community owned homes, and other unique features of this MHC?

130 lots 100 MH and 30 RV. Currently there are 10 Community owned homes. We are 95% occupied. When we purchased the property it came with an additional 10 acres that is now a prime spot for development. The city will not allow MH expansion.

Describe your tenant base? (Family, typical employment, etc)

This is a family community mostly made up of blue collar workers. The median home price is \$211k and the cheapest listed single family home in the city is \$160k making this community the only affordable housing option in the city.

What's the biggest challenge this MHC faces?

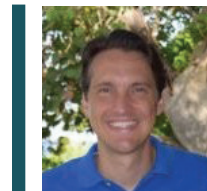
The prior ownership did not do meaningful tenant screening. Their only concern was collecting rent. When we purchased it there was a lot of tenant clean up. This result in about 15 homes being removed over the first two years. When we purchased the community there were no amenities for the children. We added a commercial grade playground. Currently our biggest challenge is working with the residents in the resident owned homes. We have been helping them update their homes on the outside for a better appearance, but it has been a slow process. We have been balancing the aesthetics with the speed of compliance.

Why is this a good MHC to own and operate?

The location is second to none. We are right off a major highway. The rents are comparatively low for the market and the DFW metroplex is one of the strongest in the country. Over the last 3 years we feel we have greatly improved the park and therefore the lives of the residents that continue to live in the community.

What are interesting/unique things about this MHC and how you operate and manage it?

This is our only community with a true RV section. We have been fortunate in that we have about a 10% a year turnover. Most of the RVer's are long term.



Skyler Liechty is a periodic contributor to the Manufactured Housing Review whose consultation on operational issues is often sought by MHC owners. Skyler manages multiple investment funds owning a number of communities across the country. You can reach Skyler at skyler@americandreamcommunities.com



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Legal Tips from an MHC Owning Lawyer: Protecting Your Community from Dog Bite, Disability Discrimination, and Worker Misclassification Claims

By Kurt D. Kelley, J.D.

One of my multi-MHC owning clients is a partner in a large law firm. Recently, he and I had a discussion about tenant owned dog bite liability, tenant/emotional support animal and employee wage discrimination claims. Here's his assessment of the risk and how to protect yourself as an MHC owner:

"Worker misclassification claims are why community owners must have Employment Practices Liability Insurance ("EPLI") with third-party coverage. Microsoft and other major companies got into serious legal trouble with federal authorities for misclassifying workers, who were employees, as independent contractors (and thus not entitled to employee benefits or subject to withholding, etc.). There are legal tests for determining whether a person is an "employee" or an "independent contractor." It is the law, and not your perceptions or your agreements, that control.

Let's say you hire someone to manage your community. You might think that he/she is an independent contractor, but that person -- or the government -- might think that he/she is legally an employee. You can have lots of employees whether you realize (or admit) it or not -- your manager(s), maintenance

person(s), someone who works on the premises, even for a short time, or others. And even if someone is not legally your employee nothing prevents that person from claiming to the contrary -- people have been known to make false or inaccurate claims. You can't discriminate against your employees, or your alleged employees, on the basis of things like race, religion, gender, age, national origin, disability, etc. And this applies not only when you are firing people, but also when you are hiring them, promoting or demoting them, changing their compensation, changing their hours, disciplining them, etc.

Let's say you fire your manager for what you think is an ironclad reason. Again, he/she, or the government, might have a different perspective. If they do, and if they decide to initiate a lawsuit or a regulatory action (the EEOC can bring its own action separate from the employee's) against you, that's where I come in. I'm a lawyer, I charge money to defend employers, I work hard, and my rate is high. You might have a great defense but it is going to cost you a lot of money -- maybe \$10,000, \$25,000, \$50,000, or more, in attorney's fees alone to defend a discrimination lawsuit. That doesn't count the amount you will have to pay to settle the case -- if you want to make it go away to stop the bleeding -- or the amount you will have to pay



Legal Tips from an MHC Owning Lawyer Cont.

me to roll the dice and go to trial if you don't settle. By the way, it costs even more if you lose and want to appeal. You can pay me, or your EPLI carrier can pay me -- if you have one. I don't care who pays, but you probably do. Most general liability policies don't cover employment discrimination claims; you may have to purchase EPLI coverage separately, and it can be expensive. However, many general liability carriers will allow you to add EPLI coverage to your policy, often at fairly low rates. Don't forget to ask for it.

I recommend a low deductible. You can select a higher deductible for a slightly (in the big picture) lower premium. You will feel brilliant, prudent, and frugal, until someone sues you. If you selected a \$25,000 deductible you can write me a check for the full amount. If you selected a \$5,000 deductible you can write me a check for that amount and let your EPLI carrier worry about the balance. The choice is yours, not mine. Just don't complain about my bills. And by the way, because they are hired so often by insurance companies, lawyers will be more careful with the legal defense bills they send to the insurance company than those billed to you as the policy owner.

Why do you need third-party coverage? Here's why. Tenants are different from employees. You can't discriminate against tenants -- or prospective tenants -- for the reasons mentioned above. Let's say you evict a tenant, or deny a prospective tenant's application, or apply your rules against a tenant, or in favor of other tenants, for what you think is a good reason. Again, they or the government might have a different perspective. If they do, and if they decide to initiate a lawsuit or a regulatory action (HUD can bring its own action separate from the tenant's) against you, once again, that's where I come in. Most EPLI policies only cover discrimination claims by employees (or persons who claim to be employees), but they do not cover discrimination claims by tenants. Those types of claims are covered by EPLI policies with third-party coverage.

Why do you need third-party coverage with a low deductible? Here's why. Multiple claims. What if you have several tenants, or prospective tenants, who claim that you have engaged in a pattern of unlawful discrimination -- i.e., several lawsuits? What if a group of neighbors on the park aren't getting along, and then all of them claim unlawful discrimination because of the way you tried to handle the situation? Many EPLI/third-party policies treat multiple related claims as a single claim with a

single deductible, but some don't. And it's better to have a low deductible because it will get eaten up in most disputes. Also, what if you have several unrelated claims ("copycat" claims, for example) during the same policy period? Each unrelated claim will have its own deductible. It is better to have five unrelated claims under a policy with a \$5,000 deductible ($\$5,000 \text{ apiece} \times 5 = \$25,000$), than five unrelated claims under a policy with a \$25,000 deductible ($\$25,000 \text{ apiece} \times 5 = \$125,000$).

Community owners have a lot more tenants than employees, so the chances are that you're more at risk of a discrimination claim by a tenant. Consequently, you probably need third-party coverage more than you need EPLI, but generally you can't get third-party coverage unless you get EPLI in the first place. So why not get both? And while you're at it, go to a seminar and go online and educate yourself about fair housing law, employment discrimination law, and the differences between employees and independent contractors.

I'm not giving you legal advice or insurance advice, so contact your lawyer and your insurance agent. You can ignore this and tell yourself you're saving money, that you're in control of your sleepy park, and that you'll never be sued by the government or by your actual or claimed employees or tenants. If you do, I say you are a fool -- and so do my clients (think about that). Beware. I look forward to meeting you."



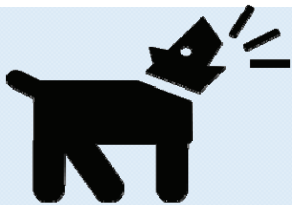
By Anonymous MHC Owning Lawyer,
prefaced by Kurt Kelley, J.D.,
President of Mobile Insurance.
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How Do Manufactured Homes Depreciate?

By Mark D. Simpson

Following is a comparison of the depreciating historical cost or book value of a manufactured home, with its real economic value through its economic life. While the historical book value of a home declines steadily over 27.5 years toward \$0, the typical manufactured home should maintain its value in nominal terms for at least 30 years. Understanding the two models is important in making financial and operational decisions.

Introduction

As Sam Zell said, "Pencil head, it's not a trailer park." But, I still hear the old derogative term used regularly, which means that many people still operate under the old paradigm. This led to questions. What other long-held assumptions about manufactured housing are false or at least confused and what are the implications?

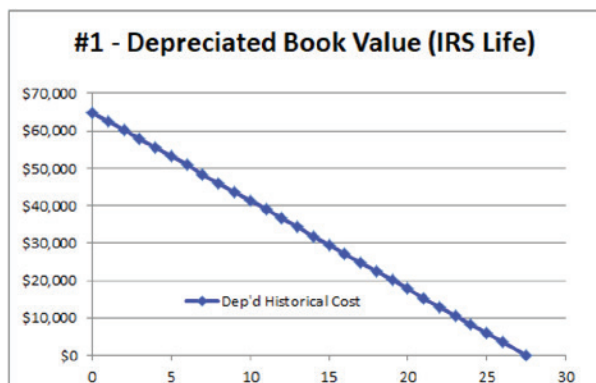
Then, at a recent conference I heard a speaker proclaim, "We all know that manufactured homes are depreciating assets!" At first I nodded along. But, then I questioned if this could be one of those long-held assumptions. Are manufactured homes depreciating assets and what does that mean?

Depreciating Assets

When the term "depreciating asset" is spoken, most people probably envision a short-lived asset such as computer equipment or a pickup truck. These assets tend to begin depreciating immediately after purchase and have only nominal values at the ends of their lives.

Book Value & Depreciation

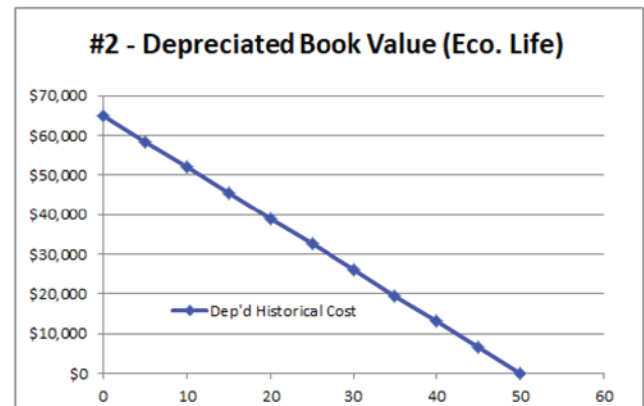
For bookkeeping and tax purposes, the lifetime value pattern of a manufactured home would look like a typical depreciating asset with a longer life (recovery period) of 27.5 years according to the IRS. The lifetime depreciated book value of a manufactured home purchased for \$65,000 would look like Graph #1 below. The value would fall steadily after purchase until no value remains at the end of 27.5 years.



However, financial analysis is not tax preparation. When doing financial analyses, book value and the "recovery period" are not the pertinent figures. The balance sheets of real estate oriented companies typically have minimal relation to the actual values of the companies. For our purposes, the important variables are the realistic economic life and the replacement cost of a manufactured home.

Realistic Home Lives

Modern manufactured homes have economic lives that should reach 50 years, if not longer. Even with substantially inferior building standards and qualities, we still see many homes from the 1960s and 1970s in service today. The physical lives of such homes would be 40 to 59 years as of this writing. So, it's not a stretch to assume that modern homes should last at least 50 years and should depreciate at the average rate of 2% per year. If this rate is applied to the historical cost of the home discussed previously, then we get Graph #2 below, which looks very much like the preceding book value graph (#1), albeit with a longer life or forecast term of 50 years.



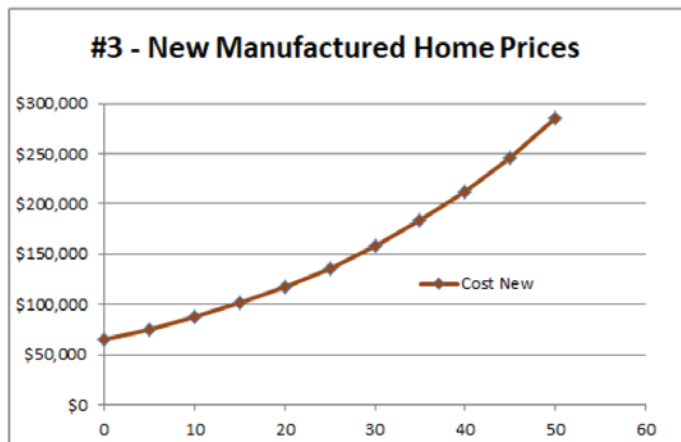
Manufactured Home Costs (New)

The pertinent cost for financial analysis is the cost to replace the home in each subsequent year. In other words, it is replacement cost that matters.

Historical manufactured home prices published by the Department of Housing and Urban Development (HUD) indicated that the average home price has increased by approximately 3.95% per year over the past 40 years (1978 to 2018). We must consider that homes have gotten larger and have improved in quality during this period. So, a somewhat lower rate of 3% would be appropriate to reflect increasing prices of similar homes. If we can purchase an attractive two-bedroom home today for \$65,000, then the price in the future

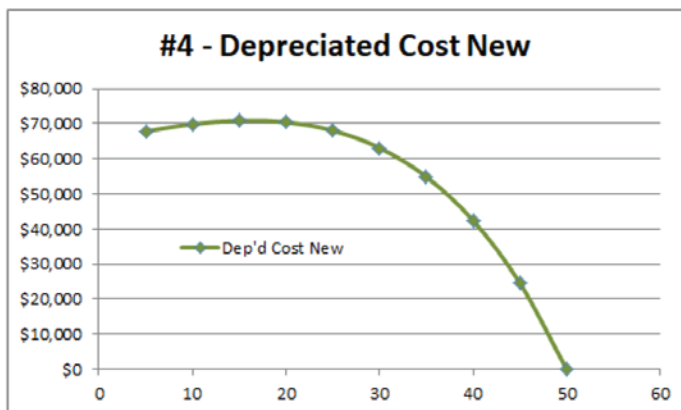
How Do Manufactured Homes Depreciate? Cont.

should increase at roughly 3% per year and the graph would look like Graph #3 below.

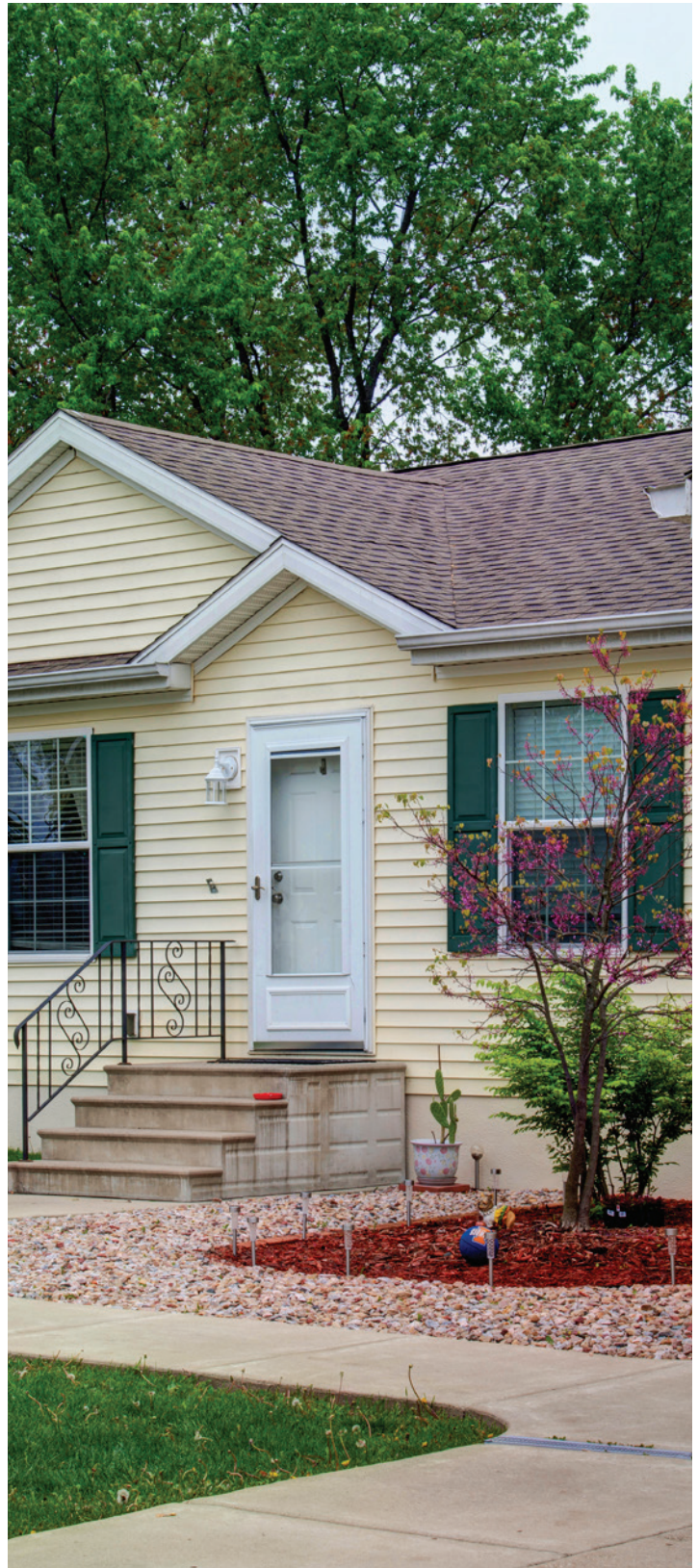


Depreciated Replacement Costs

Next, we combined graphs #2 and #3 to produce a model of the value of a manufactured home throughout its economic life. We used the replacement cost new for each year of the forecast and then deducted depreciation at the rate of 2% per year.



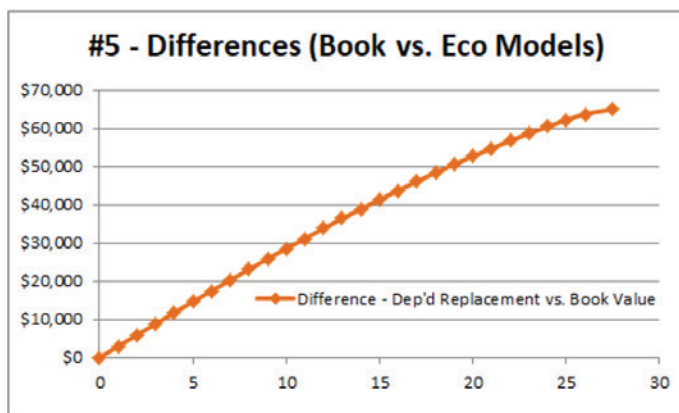
As Graph #4 illustrates, the manufactured home life looks dramatically different from the straight-line depreciating assets illustrated previously in Graphs #1 and #2. In fact, the manufactured home value should maintain or exceed its initial purchase price for about 30 years. The home value begins to fall below its initial price somewhere after year 30 and the decline accelerates as the home ages further.



How Do Manufactured Homes Depreciate? cont.

The pattern of a home's value through its life, as shown by this model, is consistent with my personal observations. Home values tend to hold firm while they are functional and consistent with style trends and then decline at an increasing rate as they get farther out of date.

Also, this pattern is consistent with resale prices that I have observed. In my submarket, I have observed resale prices for 20, 30, and even 40-year old manufactured homes that are similar to their initial prices from so many years ago. Nearby parks in my Submarket of Hillsborough County, Florida offer used homes from the mid-1990s at prices that are very consistent with the average purchase prices from 1993 to 1997 (\$30,500-\$39,800).



So What! - Does it Matter

Using the economic value model rather than the book value model will positively impact an owner's assets and equity by realistically reflecting home values. In the preceding examples, the depreciated book value would undervalue the manufactured home by \$14,636 in Year 5, increasing to \$64,973 in Year 27 as illustrated in Graph #5.

Thus, analysis of park-owned homes using the economic model would increase each homes value and ultimately a property's value, perhaps substantially, if the property has a large number of park-owned homes.

From the income perspective, use of the proper lifetime value model will positively impact an owner's cash flow forecasts by applying realistic reversion figures. In the chart below, I have presented the cash flows for a park-owned home that was purchased for \$65,000. The only difference

in the two projections is the treatment of the reversion at the end of year 10.

COMPARISON OF DEPRECIATION MODELS									
Year	Park Owned		Rent	Growth	Rent/Year	Exp. %	Book Value IRS		COST NEW DEP'N
	Rent/Mo						NOI	Rev.	NOI
							Cash Flow		Cash Flow
0						60.0%	-\$65,000		-\$65,000
1	\$1,100				\$13,200	60.0%	\$7,920		\$7,920
2	\$1,133	3.0%			\$13,596	60.0%	\$8,158		\$8,158
3	\$1,167	3.0%			\$14,004	60.0%	\$8,402		\$8,402
4	\$1,202	3.0%			\$14,424	60.0%	\$8,654		\$8,654
5	\$1,238	3.0%			\$14,857	60.0%	\$8,914		\$8,914
6	\$1,275	3.0%			\$15,302	60.0%	\$9,181		\$9,181
7	\$1,313	3.0%			\$15,761	60.0%	\$9,457		\$9,457
8	\$1,353	3.0%			\$16,234	60.0%	\$9,741		\$9,741
9	\$1,393	3.0%			\$16,721	60.0%	\$10,033		\$10,033
10	\$1,435	3.0%			\$17,223	60.0%	\$51,697	\$41,364	\$80,217
Total NOI w/Reversion							\$67,158		\$95,678
IRR							11.5%		13.9%
NPV @ 10.0%							\$4,970		\$14,966

The economic value model produces superior returns that are as follows:

- Cash flows - \$28,520 higher
- Internal Rate of Return - 2.4% higher
- Net Present Value - \$9,996 higher

Mark D. Simpson holds the MAI designation from the Appraisal Institute and earned an MBA in Finance from the University at Albany. He has appraised commercial real estate throughout the U.S. for 30 years and has owned a variety of investment properties since 2003, including his current obsession, the first Agrihood for Manufactured Homes in America.



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GMHA passes House Bill #212 through the Georgia House of Representatives

By C. Jay Hamilton

Georgia Manufactured Housing Association, GMHA, has moved Georgia House Bill #212 along at a rapid pace. Last year's session caused us to use a lot of political capital with many of the long-term legislative relationships which have always assisted us in consistent movement of our legislation; Georgia House Bill #871 which was a 2% Tax Exemption on M/H Real Estate Loans, and Georgia House Bill #381 which created a new Abandoned Housing Act.

GMHA was not expecting to be pushing another controversial piece of Legislation this session, however, six months ago the Georgia Department of Banking and Finance stated they would require M/H Retailers to become Licensed Mortgage Brokers, or, we could not handle a customer's financial documents, even to send them to the lender on their behalf. The cost of the initial license is about \$2,000, but the primary concern is the financial liability placed on our Sales Centers. This forced us to draft Georgia House Bill #212.

At the beginning of the Legislative Session, the first committee to hear our bill was the House Banking Committee. They suggested, to increase this bill's chances of passing, GMHA should consider negotiating its language with the Department of Banking and Finance, the DBF. The DBF offered to craft language agreeable to all before moving forward, moving from their previous "we don't negotiate" position. Mediation with DBF attorneys led to the recent passage of House Bill #212.

The bill has now passed the Senate Banking Committee in its first hearing, and the Second Reader should be completed on the Senate Floor before the publishing of this article. After Rules Committee hearings and positive committee votes it will be taken to the Senate Floor for a full vote by the end of the month.

Our next two pieces of planned legislation are "Extended Length" on the homes we ship in Georgia, from 76' box size to up to 78 feet overall size. The other piece of legislation would limit the abuse which occurs with "Emotional Aid Service Animal Certification" making it a crime to misrepresent a disability and limit the type of animal to non-vicious breed dogs and cats only.

The thing to remember is these issues are important and are for the betterment of the manufactured housing industry as a whole. It's imperative that everyone in this industry support their state's Manufactured Housing Association and recognize the difference their MHA makes every day.

*C. Jay Hamilton, Executive Director
Georgia Manufactured Housing Association
<http://www.gmha.com/>*



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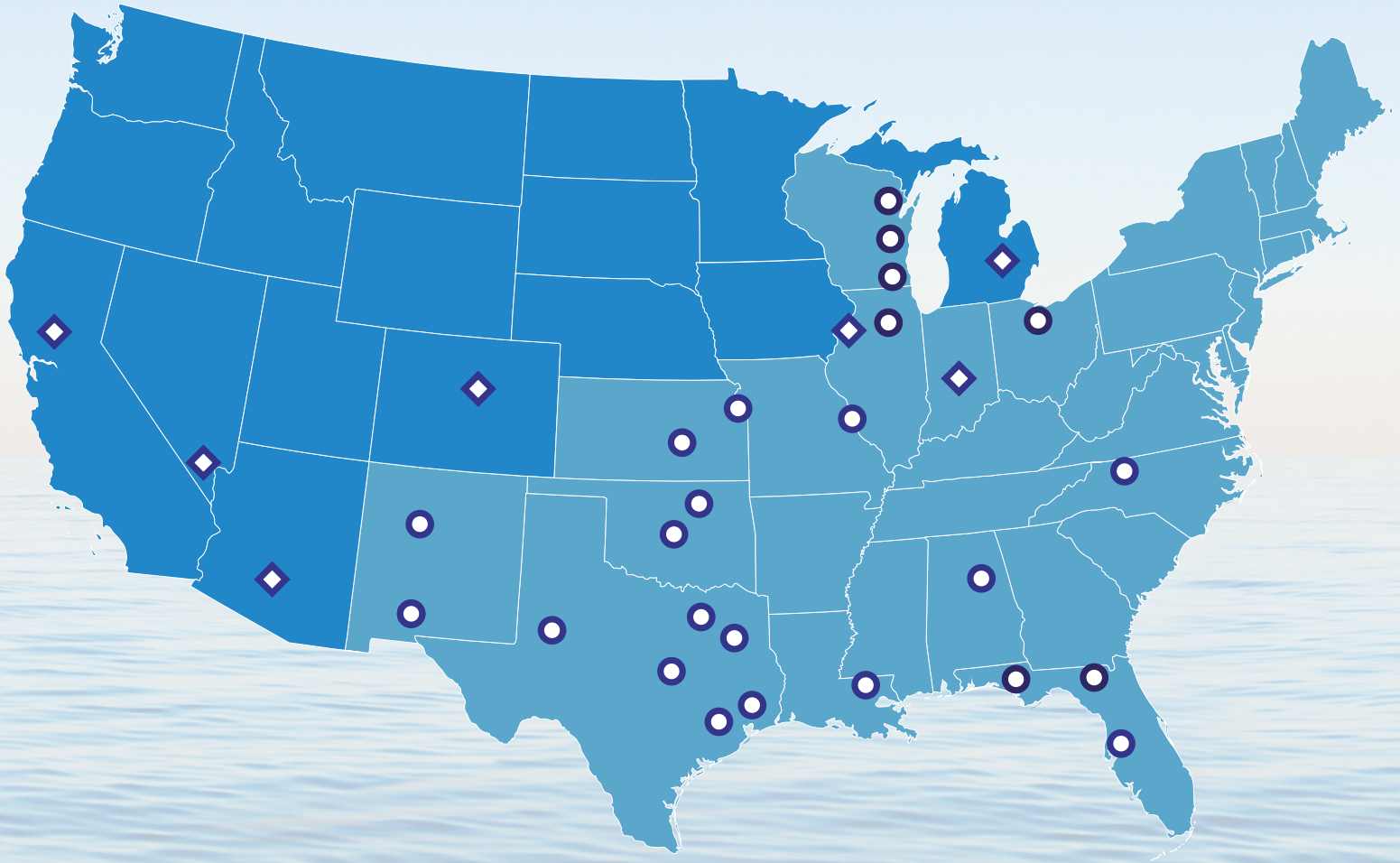
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Interesting Statistics about the Manufactured Housing World provided by Foremost Insurance

- 32% of respondents bought their manufactured home new
- 48% of manufactured homes from the survey were single section homes
- 51% of manufactured homes from the survey are located outside of a traditional subdivision, manufactured home community or co-op setting and 41% of homes are located in manufactured home communities
- 72% of manufactured home owners reported annual household income less than \$50K
- 46% reside in a home that was manufactured within the last 22 years
- 54% of responses came from manufactured home residents age 50 or older
- 47% of respondents estimated the value of their manufactured home below \$30K
- 32% of mobile home households also own a recreational vehicle
- 26% have a graduate or post graduate college degree

Foremost Insurance Company is one of the leading insurers of manufactured homes in the country. These are the results of their most recent study. Be sure to check with MHI too as they've recently produced a number of additional manufactured home owner statistics as well.





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Marijuana use has been legalized in many states for medical usage and in some states for recreational usage. It's also true that today's labor market is tight and that employees often believe they have endless rights in your work place. So, what is the current law relating to employees who use marijuana?

The good news for employers and safe working environments is employers may enforce drug-free workplace policies. Employees may be terminated for testing positive for marijuana usage, appearing to be high at work, or smelling like marijuana. Because marijuana metabolizes slowly, it can often stay in a user's system for a month. Marijuana use remains prohibited by federal law, thus even medical provider prescribed marijuana usage may be prohibited by an employer.

Whether the employee is smoking marijuana right before work or only on the weekends doesn't reduce an employer's rights. The employer may still terminate an employee for marijuana usage outside work hours. In *Coats vs Dish Network*, the Colorado Supreme Court upheld Dish Network's right to fire an employee for medical use of marijuana at home during non-work hours.

If an employee is hurt on the job, the employer may choose to test for marijuana usage. Whether to do so remains within the legal discretion of the employer. Presuming an employee tests positive, it's not necessary to prove that marijuana use caused their injury. When an employee tests positive for marijuana use or has a blood alcohol limit above .1%, it is presumed that the injury was caused by intoxication. However, employers may not use the threat of a drug test to deter an injured worker from making a workers' compensation insurance claim. If you believe an employee was hurt on the job because of their marijuana use, it would be wise to have them tested.

Some states are now writing specific marijuana and other drug impairment rules into their workers compensation laws. For example, in Colorado, if an employee injured on the job tests positive for marijuana use, they are presumed to be high on the job. This presumption means they are only entitled to 50% of the benefits they'd receive otherwise. An employee can only overcome this presumption with clear and convincing evidence that they were not impaired when they were hurt on the job. Legally speaking, this is a difficult hurdle to get over.

In summary, an employee's right to use marijuana does not supersede an employer's right to maintain a drug-free work environment. Employers with zero tolerance policies should clearly communicate these to their employees in writing and consistently enforce them. Marijuana use policies should exclude both medical and recreational marijuana usage and when tests may be conducted.



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