

MHR

MANUFACTURED HOUSING REVIEW

News and educational articles to help you run your business in the manufactured home industry.



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Why Manufactured Housing Must
Remain Federally Regulated

The Naked Mobile Home Park

A Dozen Managing Tips For Small
Business Managers

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Community Business Inherently
Evil?

... and much more!

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Why Manufactured Housing Must Remain Federally Regulated

Issues and Perspectives
By Mark Weiss



In the natural world, the telltale scent of decay inevitably attracts predators and opportunists. Apparently, it is no different with the decay of the HUD manufactured housing program over the past decade, and particularly over the past three years. With the program in a steep decline under its present Administrator, talk has once again emerged about “sunsetting” the program at HUD, along with its federally preemptive building code, “removing this expenditure from the federal budget,” and effectively returning the regulation of manufactured housing to the control of states and/or localities, as is the case with other types of housing.

Such talk, historically, has had sources and proponents both inside and outside of the industry. For the erstwhile “insiders,” this talk is - and remains - more a reflection of misunderstanding, lack of understanding, or lack of knowledge of a complex federal program and complex federal regulatory system, rather than a well thought-out, credible argument for change. Instead of taking-up the heavy lift of the round-the-clock vigilance required to press the federal program and its leadership to do the things required by law, and particularly the Manufactured Housing Improvement Act of 2000 - which can only be done at the federal level (see below) - the “insiders” would rather take the easy way out, and simply end the federal program, without examining the full consequences of doing so, to both the industry and consumers of affordable housing. Instead - in a further reflection of their fundamental misunderstanding - they offer inaccurate irrelevancies, such as the claim that eliminating the federal program would somehow “remove” program “expenditure[s] from the federal budget,” thereby

“freeing-up dollars and other resources, to concentrate on subsidized housing” and other “housing programs.” The fact, however, is that eliminating the federal manufactured housing program would have a minuscule - if any - impact on the \$40 billion HUD budget proposed for Fiscal Year 2018, as the program is - and has been, other than during a very short period when tax dollars were needed to start-up the installation and dispute resolution programs required by the 2000 reform law - self-funded via the certification label fee paid by manufacturers.

Among the “outsiders” which have sought the elimination of the federal program, are numerous groups and interests that - unlike the industry “insiders” - understand the federal program and the federal law upon which it is based all too well. Those industry adversaries, including housing industry competitors, code groups, some states and localities, and would-be “service” providers under a regime of state and local regulation (including current HUD contractors), among others, have always opposed federal regulation of manufactured housing and have sought to destroy it based on their own narrow self-interests. In particular, housing market competitors have a sharp understanding of all the actual- and potential - benefits that do and could accrue to the HUD Code industry as a result of federal regulation and particularly the full and proper implementation of the 2000 reform law. Those competitors could only wish to have a regulatory law like the 2000 Act. To the extent that they cannot, though, they have consistently sought to undermine and destroy the federal program and subject manufactured housing to the same myriad of state and local regulation that, on average, represents nearly 25% of the cost of a new site-built home - adding regulatory compliance costs of nearly \$85,000 to each such new home - according to a 2016 National Association of Home Builders study.

No doubt, such industry competitors and adversaries would like nothing better than for the HUD Code industry to shoot itself in the foot by signing-up, voluntarily, for a shift to such debilitating regulation at the state and local level that would thoroughly undermine the competitive advantage that the industry and its consumers enjoy under current federal law. But why would the industry ever do that? If the HUD program is not living-up to its responsibilities and potential under the 2000 reform law, take the opportunities and prospects offered by the new regulatory policies of the Trump Administration

Why Manufactured Housing Must Remain Federally Regulated cont.

and put the program back on track- with proper leadership - (see, the March 2017 inaugural edition of MHARR- Issues and Perspectives) but do not jettison the program for a "grass is greener" vision with absolutely no basis in fact.

Instead of groundless claims by the "ditch the federal program crowd" (one of whom is currently promoting a soon-to-be "explanation" in the pages of HUD's periodic newsletter- little more than a propaganda organ financed by manufacturer label fees for self-promotion of the program and its regulators), let's look at the facts, starting with a fundamental proposition. Manufactured housing, being inherently interstate in character - i.e., assembled in one place and regularly transported across state lines for delivery and installation -- is a textbook example of the type of interstate industry that can only be effectively and reasonably regulated on the federal level (in partnership with the states). And Congress, from the time that it first legislated the comprehensive federal regulation of the industry via the National Manufactured Housing Construction and Safety Standards Act of 1974, through today, has understood that uniform, performance-based federal standards, uniform federally-based enforcement and federal preemption are the bedrock cornerstones of the inherent affordability of manufactured housing and - **if properly implemented** -

will continue to assure its affordability and its place as the nation's most affordable type of non-subsidized housing and home ownership.

Reverting manufactured housing to regulation at the state and/or local level would subject manufactured homes to a dizzying array of varying standards and interpretations that alone would be toxic to the affordability that defines the market position of manufactured housing. The destructive market impact of such a change is illustrated by the historic production statistics for modular homes, versus HUD Code homes. While manufactured housing production suffered a significant contraction in the mid-2000s - from which it is now recovering- production of modular homes (also factory-built housing) has never come close to HUD Code levels. Add to that the prejudice against manufactured homes and manufactured homeowners that remains pervasive in many communities around the nation - as reflected by the treatment of the elements of the industry that local and state officials can and do control already-(as well as the lack of proper and available consumer financing on par with other types of housing) and it becomes evident that such a change would

be disastrous for the industry and the millions of Americans who rely on its affordable, non-subsidized homes. Conversely, if such a reversion to state and/or local regulation were to occur, the resulting product, subject to a cost-hiking myriad of differing and potentially conflicting standards, would not be the affordable, non-subsidized manufactured homes that today are the nation's most affordable housing.

Indeed, all one needs to know about what would happen to manufactured housing, its affordability and its consumers under a regime of state and locally-based regulation, is there to be seen now, in plain sight. Look at how local governments deal with manufactured home communities and the placement of manufactured homes generally. How many welcome HUD Code homes as attractive, affordable housing, versus how many reject the very notion of accepting manufactured homes and manufactured housing residents into their neighborhoods, towns, or counties? How many times does the industry need to read about new manufactured housing communities being rejected, or the expansion of an existing manufactured housing community being rejected by local officials? Or the placement of even a single manufactured home being rejected?

Nor is such discrimination, in truth, based on the quality of today's manufactured homes, which is outstanding by every objective measure, or the standards to which they are built. It is based, rather, on outdated prejudices and perceptions - which become evident through a careful reading of media reports -- and flat-out bias against lower-cost housing and the lower and moderate-income Americans who reside in such homes. In too many places, officials want no part of lower-cost, affordable housing.

As a result, does anyone seriously doubt that such officials, given even greater power over the acceptance or rejection of manufactured housing, would do anything but abuse that power to place even greater roadblocks in the way of manufactured homes entering their jurisdictions? Put differently, does anyone seriously think that the same officials would use their clout, influence and votes in state legislatures and on state boards to ensure building codes, standards and enforcement mechanisms that would preserve the affordability and availability of manufactured homes built-in and shipped from out of state (competing with local builders of other types of homes), or that they would use that power to impose a myriad of costly mandates and restrictions on manufactured homes, based on biases that are vividly demonstrated every day?

Why Manufactured Housing Must Remain Federally Regulated cont.

The answer to each of these questions is obvious. A reversion to state and/or local regulation for manufactured housing would be ruinous for the industry and consumers, sacrificing affordability while empowering the industry's adversaries and detractors to inflict even more harm than they do now.

So what is the answer? The answer, quite simply, is to make the federal program follow the law and implement the 2000 reform law according to its terms and full purposes. And that begins with "draining the swamp" as President Trump has put it, at the HUD program, without pulling the plug on the program altogether. In practical terms, this means re-assigning the current career program administrator - who was parachuted into the program in 2014, ahead of other possible candidates from within and outside the program - and under whose watch the program has sharply deteriorated and suffered as was addressed in detail in the March 2017 edition

of MHARR - Issues and Perspectives. It also means elevating the program within HUD, in accordance with the 2000 reform law, and enacting the regulatory reform agenda of the Trump Administration in order to unleash the industry's full economic and market potential, and enable it to produce and provide the hundreds-of-thousands of affordable non-subsidized homes that American families want and need today.

In short, the industry as a whole must protect the federal program, aggressively advance the full and proper implementation of the 2000 reform law and stop following-in some quarters the failed approach of go-along-to-get-along, which in the Trump Era of administrative/regulatory deconstruction, is beginning to look and sound more like support for the unacceptable program status quo, which only benefits "the few" within the industry, at the cost of "the many."



Mark Weiss



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

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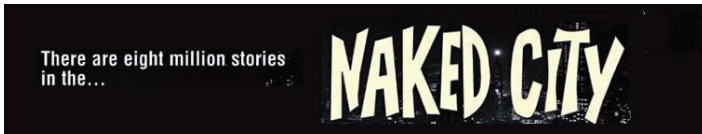
Mark Weiss is the President and CEO of the Manufactured Housing Association for Regulatory Reform (MHARR) in Washington, D.C. He has served in that position since January 2015 and, prior to that, served as MHARR's Senior Vice President and General Counsel.

MHARR is a national trade organization representing the view and interests of producers of HUD Code manufactured housing. Its members are mostly smaller and mid-sized manufacturers from around the country. Founded in 1985, MHARR is dedicated to fighting excessive and unnecessary regulation, to protecting, defending and advancing manufactured housing in accordance with federal law, and to preserving the affordability and availability of manufactured housing.

An honors graduate of Rutgers University with a degree in Political Science, Mr. Weiss received his Juris Doctor degree from the

George Washington University School of Law in Washington, D.C. in 1983 and began working on manufactured housing regulatory issues almost immediately as an attorney for the firm of Casey, Scott & Canfield, P.C. -- then General Counsel for the Manufactured Housing Institute (MHI), and later General Counsel for MHARR. Mr. Weiss later became General Counsel for MHARR in his own right and, in 2006, was named as MHARR's Senior Vice President.

During his career with MHARR, Mr. Weiss has been involved in formulating and supporting MHARR policies with respect to nearly every aspect of the federal regulation of the manufactured housing industry. He played a direct role in the development and passage of the Manufactured Housing Improvement Act of 2000 and has worked to advance the views and interests of the industry's smaller businesses before Congress, HUD, the federal Manufactured Housing Consensus Committee (MHCC) and other government agencies, boards and committees. In recent years, moreover, given the increasing difficulties of the industry's post-production sector (including retailers, communities and finance companies), Mr. Weiss and MHARR have become progressively more involved with advancing the regulatory perspective and interests of this important segment of the industry as well. Most recently, Mr. Weiss served as a member of the U.S. Department of Energy (DOE) Working Group on manufactured housing energy conservation standards, voting against those proposed standards -- and leading the industry effort to roll-back those proposals -- that would significantly and needlessly increase the cost of manufactured homes for American homebuyers.



Just like the not-to-be-missed Naked City TV Show from the 1960's, Mobile Home Park Owners have some dramatic stories. Naked City was a semi-anthology police procedural drama from 1958- 1963. Based on the 1948 film of the same name, it featured the stories of the criminals and victims of New York City which had a population of 8 million at the time. Leslie Nielson, Alan Alda, James Caan or Gene Hackman, you never knew which of your favorite actors would be a victim or a killer...

Mobile Home Park Owners might have at least 8 million stories, even though there are only 44,000 mobile homes parks in the US. We have all had the resident that calls at midnight to report a toilet situation in the mobile home they own, or the resident with one cat that morphs into 15 cats. Or how about the non-paying resident that when served with an eviction notice is quick to file a civil rights action against the landlord. These stories are fodder for Steven Spielberg to make an Academy-Award-winning, Block-buster movie (*tongue deeply implanted in cheek*).

This Naked City Mobile Home Park story is about two sets of MHP owners & partners. As intriguing as it would be to write about resident stories, the drama between partners, (business, family/marriage, etc.) can be the basis for a great film.

ACT 1

Last week I touched base with a client that I had represented a few years ago. I wanted to thank her for past business and see how things were going. We had a good laugh about the quirky things that happened during the sale of the park; multiple offers, abandoned homes, maintenance building that was partly on a neighbor's property. Then she commented that she and her family partners had just concluded their 5-year court case.

WHAT?! Rewind the years back to when the family had just sold their mobile home park. There was talk of some of the family not agreeing on selling in the first place. Nevertheless,

sell they did. One family partner, though, communicated to the other family members through an attorney. Okay. The thing is that of all the family members were perfectly nice people - smart, good, educated, hard-working. When it came to money, investments, and assets, however, an impasse of communication, so large that it took years and tens of thousands of dollars in attorney fees to resolve, consumed all of their lives.

It didn't start out that way. It all started much the same way most MHP's get developed. There was a founding family member (Dad/Mom, Uncle/Aunt, Grandparent, Etc.) that through grit, creativity, effort, time and determination, built a mobile home park or maybe quite a few parks. The founder(s) envision all of the family members (kids, grandkids, great-grandkids) contributing to the enterprise in their own unique way, with their own unique abilities, and all having financial security until kingdom come. Isn't that the American Business Dream; to create a long-lasting business empire capable of providing financial security and jobs for generation upon generation of family. But empires fall, life happens and that dream is not a guarantee of how things go...

ACT 2: SCENE 1



In another Mobile Home Park, a parallel tale unfolds...

A bigger than life MHP builder dies and leaves the park and lots of other assets to the kids. For years, one of the kids operates the property while the others pursue their own careers. All are well off, not only through their inheritance but through their own professions. No one thinks too much about the park. Eventually the managing family partner operating the park gets

sick and can no longer do the job. A manager is hired.

What happens next is bizarre, but could happen to any Mobile Home Park owners.

The Naked Mobile Home Park

ACT 2: SCENE 2

(same park moved forward a few years)

A teenage resident accidentally tips over an old forgotten oil barrel, left in a remote part of the maintenance/storage area. No one notices it for many months as it slowly drips its contents in to the local environment. (imaging the Swamp Thing vs. Erin Brockovich) It's not until the nearby river is found to have been contaminated that the state's EPA gets involved. Ultimately, the tipped over oil barrel is discovered to be the culprit, the boy admits to the accident, and our MHP owners have a big clean up problem. A judge fines the mobile home park and its owners a seven figure fine! Not only that but the judge ruled that the MHP owners were forbidden to pass on the seven figure fine through to the tenants in the form of fees or additional rent. It was a bitter pill to swallow. You may not see your Mobile Home Park Partnership as relatable in any way to the proceeding episode of The Naked Park. And, perhaps, you and your partners are the exception. These family partners thought that, too.

Here are the hallmarks of a MHP partnership going south:

- **Taking the park for granted.** How many times have you heard an owner say "there's nothing to do" with owning a park? Many Mobile Home Park owners don't realize how much oversight there is in operating a park. They don't really know what the manager does except that the manager keeps the time involved in running the park away from them. Many partners take for granted the time and effort needed to operate a park well. This notion may be a key reason that MHP managers are paid so little. Kurt Vonnegut (Cat's Cradle, 1963) popularized the idiom: "In this world, you get what you pay for". Things go unnoticed, unaccounted for because the manager, even if the manager is a partner, is not held to any standard of reckoning.
- **Business meetings.** It doesn't occur to the partners or if it does there isn't a consensus that the Mobile Home Park needs oversight, strategy, planning, decision-making, and initiatives. Then when a problem does arise, the partnership is rife for blaming and finger-pointing; hardly an effective business model. Regular meetings even if only once or twice a year, keep communication flowing.
- **Value and Asset Management.** Most Mobile Home Park Partnerships have a vague notion of the value of their park. Further, they rarely consider what an alternative

investment might be if they sold their interest or sold the park and re-invested in another asset. Many MHP owners aren't good investors (not a sin) but remain reluctant to seek competent financial advice. Or it doesn't occur to them to do so.

Want to avoid Partnership problems, attorney bills, and assorted heartburn? Start with the following:

- Have regular partner meetings and review operations and numbers. Ask lots of questions. The best remedy to troublesome operations is a vision to where your property and your partnership is going.
- Have a Buy/Sell Agreement & Operating Agreement. This is something you don't want to do on the cheap. Invest in top notch legal advice to obtain a fair, simple, but effective buy/sell agreement and operating agreement for those inevitable times when everyone doesn't agree.

Good partners anticipate what could go wrong and effectively work with their partners, creating and implementing preventive measures that trouble shoot a potential problem before it ever is a problem.

Joanne Stevens



A national expert in mobile home parks listings and sales Joanne's specialty is Midwest mobile home parks. She is a former President of the Iowa Manufactured Housing Association and served on the Board of Directors of the Manufactured Housing Institute and is a past national Chairwoman of the Manufactured Housing Educational Institute. She started brokering the sales of Manufactured Home Communities

and Mobile Home Parks in 2004; ranging in size from 30 homesites to 400 plus. She developed a 485 homesite Manufactured Home Community in Marion, Iowa, zoned & permitted a 190 site Mobile Home development in Des Moines, Iowa and founded and operated Squaw Creek Village Home Sales, Inc. (1991- 2001), selling new and pre-owned mobile homes. She continues to list and sell parks as well as runs Stevens Homes & Communities, writes a MHC/MHP newsletter, and hosts a call-in show for Owners by Owners to share best practices among MHP owners. Joanne holds a BA from Loyola and has taken Executive MBA courses at the University of Chicago. As a broker/consultant for MHP owners, Joanne has helped MHP owners evolve their thinking about lot rent, individual water meters, water conservation and improving the cash flow and value of their parks.

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TMHA Supported “Right to Replace,” Passes Texas Senate

At approximately 11:45am on April 19th, Senate Bill 1248 by Sen. Buckingham passed the full body of the Texas Senate with a unanimous vote of 31 - 0. SB 1248 is the Senate version of the bill that preserves a manufactured home community owners' right to replace manufactured homes within their community and preserves the existing lot footprint for the home. The impetus for the legislation derived from some cities prohibiting replacement homes within manufactured home communities creating a, “you move, you lose” scenario. Other cities passed ordinances greatly expanding the lot size and set back requirements so when newer homes were moved in the practical effect is the community dramatically shrank in size and threatened its continued economic viability.

TMHA would like to extend our gratitude and thanks to Sen. Buckingham and her staff for their tireless efforts to pass this legislation. We would also like to thank all of the TMHA members would made calls, sent emails and came to Austin two months ago to ask members for their support of this legislation. Membership involvement with legislative efforts is extremely valuable.

This legislation was met by opposition in both the Senate and as recently as last week in a House committee hearing. The organization representing approximately 1,300 Texas cities opposed this legislation as well as specific cities who had representatives testify against the bill in both the Senate and House. The fact that it was voted out this morning 31-0 in our favor is a testament to the work and effort put into the support for this bill.

While it is certainly a key milestone to pass a bill out of one chamber, the work is far from done. Now the bill heads over to the House where it must also pass. The House version of the bill is currently pending in the House Land and Resource Management committee.

TMHA will continue our efforts to advocate for this bill's passage out of committee so that it can go to the full House floor. We will need a majority vote in the House before the bill heads to the Governor's desk for his signature. Many critical steps still must be completed. Threats and pitfalls remain, like

adverse floor amendments, that must be vigilantly reviewed. But this morning's passage gets us one step closer to having this bill become law.



DJ Pendleton has worked for the Texas Manufactured Housing Association since July 2006. First as general counsel and then in 2008 became the executive director, which is the position he holds today. Pendleton has Bachelors of Business Administration in Accounting from Texas A&M University, a Master of Science in Accounting from Texas A&M University, and a Juris Doctorate degree for Baylor University School of Law. Pendleton has been a licensed attorney in the state of Texas since May 2006.

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A Dozen Managing Tips For Small Business Managers

Kurt D. Kelley, J.D.
Small Business Owner

Except for four years in Corporate America, I've spent my working life in small businesses. There's been ample opportunities to learn from others including my grandfather, dad, step-dad, and Ms. Stacie George, who was the best business communicator I ever witnessed. Each had some real strengths and taught me much. Today, I'm central to the management of five different small businesses with revenues of about \$15 million and employees numbering roughly fifty. Here's my management tips for small business managers:

1. **If you want something done, measure it.** Employees will focus much more when performance is tracked. Asking and hoping is a poor strategy;
2. **When you make a mistake, deal with it right away.** Fresh problems are almost always easier and cheaper to fix than festering ones. If you've failed to perform your end of the bargain with a customer or supplier, settle the issue quickly. Acknowledging and fixing a mistake often leaves others with a better impression of you than if you hadn't made a mistake because now you've demonstrated you'll do the right thing when problems arise;
3. **Take the time and make the effort to hire smart.** Write a description of the ideal employee you are seeking and advertise that description as the person you want. Value talent and personal attributes (good communicator and attitude, professional) over readily teachable skills (knows a software system well). Formal online personal attributes testing is a good investment. Written job descriptions make for proper expectations;
4. **Treat employees like valuable assets.** Herb Kelleher, the famous Southwest Airlines CEO, said managers should treat employees better than customers because he knew how valuable employees were. Employee continuity is valuable and employee turnover is expensive. Creating a quality work environment and paying above average compensation are smart business investments. Getting rid of employees that disrupt your business environment is a good method of maintaining a quality work environment;
5. **Empower employees.** If you've got to micromanage staff, you have the wrong staff. Teach, empower and then periodically audit. When you find mistakes, notify and teach. Punish only for obvious or repeated mistakes;
6. **Have employees do another's work periodically.** This is a great way to audit whether things are being done right as the substitute employee will know when procedures are being ignored and requisite actions skipped. This really helps when employees are on vacation or out sick too;
7. **Focus on your highest valued work.** For example, a \$100/hour sales person is likely only worth \$10/hour doing administrative work. Leave the basic work to those that are compensated accordingly. If a \$12/hour admin assistant can double the production of your star salesperson, hire them;
8. **Make quality attentive customer service the baseline.** You can be forgiving for administrative mistakes, but not for poor customer service. Bad service evidences a lack of empathy or care by an employee. Don't tolerate an employee who doesn't understand this;
9. **Manage money conservatively.** Even after a good month, you can rest assured a lean one is coming so only harvest profits semi-annually or annually. Separate check writing and signing authority. Bank statements and credit card bills must be audited;
10. **Family and Friends - I love them.** But no one who's not productive at the business should get paid by the business. If you must subsidize a loved one, do it with profits from your personal account. Don't let lazy or unproductive family suffocate the golden goose or destroy a financial statement that determines the company's value;
11. **Realize no one cares as much as you do** - You must exhibit attention to the critical matters and set the standard of care. This teaches your employees and customers that you are involved and you care; and
12. **Be diligent with your correspondence.** Unreturned voice mails or emails suggest you don't care and you're unprofessional or disorganized. Dave Reynolds and Kenny Shipley are two of the most successful business owners I know. Both promptly return any phone calls.

Adopting these tips and executing your plan diligently will keep your bank accounts fuller and allow you to sleep more soundly.



Kurt D. Kelley, J.D.
Small Business Owner
Kurt@mobileagency.com

Can My Employee Bring Their Dog to Work?

Karie Martin
Vice President
Mobile Insurance

Much has written about tenant and customer rights to bring their dog or other support animal with them into your Community or Retail Center but does your employee have a right to bring their dog to work? To determine the answer, you first need to know if the employee's dog qualifies as a "Service Animal."

A "Service Animal" as defined by the Americans with Disabilities Act, (ADA), are animals that are individually trained to do work or perform tasks for people with disabilities and are almost exclusively dogs. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person's disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

This law applies even if the disabled employee did not notify you of their need for a "Service Animal" prior to starting work. The law states you must make reasonable accommodations for that employee and allow the animal. If another employee reports they are allergic to the animal or a co-worker is afraid of the animal, then you don't have to weigh the disabled employee's rights more than the non-disabled employee and you can prohibit the animal. When a "Service Animal" is allowed into the workplace, you can mandate that the employee keep the "Service Animal" under their control at all times and that they keep it from disrupting the work environment.

If the employee tells you their animal is not "Service Animal", but is instead a less protected "Emotional Support Animal", then the ADA does not mandate you allow the animal into your workplace. Nevertheless, some states and cities (ex. California, Massachusetts...) may require you to allow the "Emotional Support Animal" into your workplace. You will need to investigate local and state law to determine if this is the case for your location.

It's very important to know what you can and cannot ask an employee. Employers can ask if the dog is required because

of a disability, and what task the dog has been trained to perform. Employers cannot ask for proof the dog has received Service Animal training or request the dog demonstrate its learned services. Employers should never ask the nature of an employee's disability, nor should they treat one disability as worse than another. Service Animals are not required to wear special vests or collars stating they are "Service Animals".

Karie Martin
Vice President
Mobile Insurance



Karie, "the buck stops here", Martin is Mobile's beloved leader, defender, and trainer. Both the staff and the clients know she has their back! Karie keeps the everyone laughing while creating a top-notch, customer service oriented team. She is the mother of two grown kids and as an "empty nester" she spends a great deal of her newly found "down time" staying late at the office.

Karie has been with Mobile since 2003 and is an irreplaceable foundation piece to this company.

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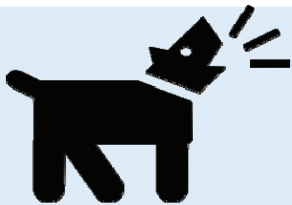
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Advise them your minimum is \$300,000 of liability insurance and they must add you as an "Additional Insured" on their policy. Once their policy is issued let them know you will need a copy of it.
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People are always excited to talk about what they do for a living. I used to watch a TV show called "Dirty Jobs". On the show the host would visit people who, literally, had the dirtiest of jobs, and those people enjoyed talking about what they did for a living. When I was asked to write something about legislative advocacy, i.e. lobbying, I was excited about the prospect of talking about my job. So, for all with similar fascinations with shows like "Dirty Jobs", this article may hold your interest, at least in a figurative sense, because lobbying is a very dirty job. Otto von Bismarck may be right about laws being like sausages, "it's better not to see them being made". One day does not a bill pass, but every day helps. There are many methods which can be deployed for successful advocacy. The grassroots work and social media usage today is light years ahead of what it was when I started doing this nearly 11 years ago. Most of those tools and abilities didn't even exist then. Use of these current tools and technologies are excellent ways to distribute large messages and positions as well as connect similarly minded people. My focus however, will not be on social vehicles like Facebook, Twitter or mass email campaigns.

When all is said and done, and technologies have been deployed, you need hands on people that know what they're doing. Single lobby events where organization show up in mass to talk directly to their elected officials are of great value but a single event at the Capitol does not get a bill passed. To illustrate, I thought it might help to go through some real-life stories of what goes on. The metaphors here are endless, "pulling back the curtain", "the inside baseball", better yet... "welcome to the sausage factory".

Every significant interest or trade group that lobbies the legislature is made up of a team of people, very few are successful on their own. Like any significant undertaking, you need a good team to cover the necessary ground. I'm fortunate to have a terrific team, association leadership and a board of directors. All recognize the importance of the work and the necessity of dedicating resources to our lobby efforts for the best chance of success.

First, you lobby because you have a problem only the legislature can fix. Second, you need to frame the problem in a manner that depicts a compelling story. The problem is not always defensive, like something bad or unfair being done to you or your industry. The problem could be offensive, like

access to new markets or the need for greater incentives. A compelling story must show how the bill makes life better, safer, happier, more fair or improves peoples' lives. You should be able to describe a current injustice allowed that you hope to change.

For example, we are currently working on a problem; certain cities in Texas can tell manufactured home community owners, if a home is moved off a lot in their community it cannot be replaced. We want the legal security to replace these homes. This is the current problem we are taking to our Texas members.

Our story tells of cities which are negatively impacting the property rights of Texas homeowners and businesses in an unfair, targeted manner for a multitude of reasons. Despite their reasons, their goal is to make manufactured home communities shut down and go away.

Another story we tell is of cities imposing lot size restrictions specifically on manufactured home communities which are nearly three times the size of site-built housing in the same city. Or the story of the veteran who wanted a new manufactured home, but the lot for him to place it was now deemed an "abandoned nonconforming use" and the city prohibited a replacement manufactured home on that lot.

Texas manufactured housing communities are clearly being targeted and unfairly treated as these laws and restrictions would not restrict an apartment owner from renting to another tenant after the current tenant moves out. Or if a unit in a self-storage complex has been emptied that it must remain empty and cannot be leased in the future.

Progress has been made on this bill, we have persuaded many members. We must keep at it through May for any hope this bill will pass, the opposition being levied against it by representatives of cities is heavy.

What else encompasses legislative advocacy? Strategy, creativity and procedural savvy. These are necessary tools and where some of the fun is had, yes, including the procedural stuff. We had introduced in a past session and we had vehement opposition. The opposition was against all aspects of the bill at a fundamental level. In session, as on a chess board, the best strategy, creativity and procedural

Advocacy and What It Means to Lobby cont.

savvy produces the winner. Moves and counter moves. The opposition chose to delay direct engagement so the bill would time out and die. They rescheduled meetings, responded piece-meal with long gaps of time in between and constantly debated drafting language. With the clock ticking and patience thinning we made our move. Continuing this chess analogy, we pulled out our queen.

We had worked with another member to file another bill who was similarly upset with our opposition. His bill was significantly worse for our opposition than ours. Our bill would be a rifle shot to the opposition, his was a nuclear warhead. Our queen's move...applying pressure, sending the message, if they would not engage us, we would trade our rifle for a warhead. Faced with this choice the opposition quickly decided there would be less bleed with a rifle and quickly came to the table. Our bill passed.

Creativity serves as you maneuver the opposition to a place where their only response to opposition of it is untenable.

Under the duress of exposure, they are quiet because any answer to these creative questions will reveal their despicable motives. An example of this creativity was when we were dealing with a bill concerning old tax liens. The law stated, a four-year statute of limitations would bar collectors from billing their liens had they not collected them previously. There were millions of tax liens on homes throughout the state which were well beyond four years. The collectors knew if they were challenged in court they would lose due to the statute of limitations. They also knew very few homeowners would take them to court. The collector's common understanding was "they might be unenforceable, but that doesn't mean they are uncollectable." True as it was, saying that openly in a committee hearing would be problematic for the collectors. Not exactly a response that makes you feel all warm and fuzzy inside. It also told us the only way to fix this was to change the law.

Creativity served as we submitted to the legislature the story that some tax collectors were not doing their job in the four



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Advocacy and What It Means to Lobby cont.

years allowed, but continuing to bill people after this limitation. Although prepared for a fight, there was no opposition. The reason, no one wanted to stand and testify before the State Legislature that their desire was to continue to collect on taxes after the legal statute of limitation. We were able to change the law which now says that if taxes have not been collected in four years, the tax liens are scrubbed from the homeowner's title. If this law had not been modified to include these collectors would have continued the harassment.

Experience matters, as does understanding the process. I sat behind a group in committee with a bill to deregulate a small part of current law that certainly sounded reasonable to deregulate. If successful, this small group would be allowed to sell their product, in small amounts, in a manner regulated. This group mustered a dozen people who provided compelling testimony. They were impressive and passionate about their cause.

Then the sole opposition slowly walked to the microphone and said, "we have some concerns that we would like to see if they can be worked out, but until then we are opposed to this bill." This lone voice was the executive director of one of the largest trade associations in Texas. The small, inexperienced group left committee convinced they had won. Based on the persuasiveness of the words spoken they had, however their bill died that day in committee.

Testimony, no matter how compelling in committee, does not determine if a bill passes. It is all the facetime and meetings with the members and staff that pass or kill a bill. In fact, a win in committee is being able to walk away without having done any harm. You do that, and then you go work the bill. In the case of the novice, passionate group, they had been outgunned behind the scenes. Like I said, one day at the Capitol on a bill does not pass a bill. We all learn, that same defeated group created a team of professionals, stayed organized and worked the legislature for the next four sessions and eventually got their bill passed.

The stories are countless, stories of the language that goes into bills, negotiating, the painstaking process of crafting the exact words. Knowing who likes who, who hates who, who is holding up who's bill in the process that is stoking efforts of retribution on other bills. Who is close to the opposition and who joins you in opposing someone. Who is likely to pummel you with questions or blindside you while testifying. Who will throw

out amendments on the floor. Which member said something negative in the press the day before about another member's bill? Which staffers know, talk, socialize, or despise what other staffers? Which staffers are married to each other, married to lobbyists, or divorced from staffers or lobbyists? You must know who, when, and where to apply pressure; and when not to. You must do all without overplaying your hand and position. You must swim fast and with friends and with currents you know you have a chance to win and never slow down the process, always move forward or you run out of time.

The point is, with a lot of work, a lot of time, a lot of maneuvering, a lot of persuading and some luck you have a good chance of being able to point to some area of the law you helped champion and say, "See that? That's my sausage."



DJ Pendleton has worked for the Texas Manufactured Housing Association since July 2006. First as general counsel and then in 2008 became the executive director, which is the position he holds today. Pendleton has Bachelors of Business Administration in Accounting from Texas A&M University, a Master of Science in Accounting from Texas A&M University, and a Juris Doctorate degree for Baylor University School of Law. Pendleton has been a licensed attorney in the state of Texas since May 2006.

Factory Built Dwellings as Affordable Housing

Edward "Eddie" Hicks,
Principal Consultant,
CRG, Mortgage Broker,
Real Estate Broker

Fifteen years ago, in 2002 the Urban Land Institute (ULI) assembled a panel of experts in to discuss the growing shortage of affordable workforce housing. Workforce housing is defined by the ULI as housing that is affordable to those between 60 and 120 percent of the area median household income. Many households in this group do not qualify for federal entitlement programs, yet do not have enough income for adequate housing.

The ULI reports from their meeting which was divided up into smaller groups: Group sessions identified a number of regulatory barriers along with many possible solutions. One panel suggested that local governments donate or sell government-owned land at reduced prices, with the requirement that workforce housing be built.

Another panel urged greater industry marketing efforts to encourage affordable housing community development.

One panel suggested expanding state and local first-time homebuyer tax credit programs, to cover down payments.

Another solution offered is to offer property tax abatements as a tradeoff for the development of workforce housing, similar to a program in the District of Columbia. The panel said that expedited permit processes for affordable housing projects could reduce costs and make such developments more profitable.

Local building codes for site built housing often add time and expense to projects, but do little to improve quality of safety of the units. Manufactured housing with it's faster, semi-automated, protected building processes, can greatly speed up this process. Building permit fees for land lease communities may also only apply to the infrastructure and not necessarily to the factory built units themselves. Another ULI panel suggested linking fees to unit size and make smaller, more affordable housing more attractive to developers.

Changes to local zoning laws, such as allowing existing commercial properties to be redeveloped as workforce housing, allowing manufactured housing in virtually all but a few high end residential zones, and approving rezoning requests conditional on workforce housing could provide development opportunities.

One of their panels also recommends that localities use their comprehensive plan to link commercial zones with residential zones, fostering less zoning segregation and more affordable housing options. Similarly, if a commercial developer makes a special request for a reasonable exemption from the building code or approval of zoning for manufactured housing, the approval can come with a requirement for workforce housing to be built into the project.

It was also suggested that as part of major redevelopment proposals, local governments could require that workforce housing become a part of the "request for proposal" process. This indicates that financial and density bonus incentives that are part of inclusionary policies be expanded to cover low and moderate cost housing, in addition to affordable units. Other regulatory incentives that could be used include shared parking opportunities, mixed-use zoning, flexible zoning, and fee waivers or reductions.

For some time now, with the relatively low interest rates home buyers with sufficient down payments and fair to good credit scores have been able to purchase new and repossessed homes in many markets. And some forward looking factory built home manufacturers have been offering housing structures which are built at low cost, but also to meet the needs of heavy use for families.

Still, there is a crying need for families with fair to medium credit and minimum down payments, especially in markets where there is good employment. In the past, this need was provided by a regular supply of new family land lease communities (previously called mobile home parks), to meet this need. However, with the high rate of defaults on home financing which started in the late 1990s and early 2000s, there has been very little in the way of new community development, primarily limited to a few age restricted seniors communities, and some resort style communities in selected areas of the country.

In many parts of the country today, there is a lack of housing to provide for low and moderate income families which are associated with new jobs which are coming on line. While some of these new jobs are associated with the Shale Oil Fracking Reserves in North Dakota, South Texas and other areas where "man camps" (which some have said were virtual prisons for the workers) built and operated under the

Factory Built Dwellings as Affordable Housing cont.

direction of the production companies. In other less intense workforce areas, there is still a shortage of local housing for families. Many of these housing needs may be met through the judicious use of manufactured housing communities, especially when the owners can provide for self-financing or lease-to-own programs for those with low credit scores and lack of sizable down payments. The increasingly emerging demand for affordable workforce housing may be the first indicator of the ability for manufactured housing land lease communities to provide for this need.

For some time now, with the current relatively low interest rates home buyers with sufficient down payments and fair to good credit scores have been able to purchase new and repossessed homes in many markets. Still, there is an unmet need for families with fair to medium credit and minimum down payments, especially in markets where there is good employment.

The emerging demand for affordable workforce housing may be the first indicator of the ability for manufactured housing land lease communities to provide for this need.

Some older manufactured housing communities with a relatively high number of vacant homesites which were at one time filled, have elected to provide "affordable" housing for those in the workforce who otherwise haven't been able to get "back on their feet" again.

How did they do it?

In North Dakota and South Texas notably, to meet high family housing demands, new manufactured housing land lease communities were being built, until the bottom dropped out of the world oil market prices. And, in other areas, when used and repo homes they were available, a number of community owners purchased and installed them, offering them for occupancy with a "lease to own" option for which the landlord determined the credit worthiness of the buyer. Monthly home lease payments for lower cost used/repo homes, primarily single section post 1976 HUD Code homes, in combination with the monthly lease payment (rent) were often below those of area apartments, and resulted in successfully filling vacant communities.

No matter where the need exists, the need for affordable housing for workers with families located near the jobs, grows

with new jobs. While many may overlook the possibilities of using low cost, manufactured housing, those who are willing to use lower cost factory built homes in combination with some of the newer lease-to-own strategies have been able to meet these needs.

Hopefully with introduction of viable home financing programs through the home financing which may be made available later this year through new financing which are in discussion by HFHA, for chattel mortgages which may be securitized for inclusion on secondary markets such as FNMA, FreddieMac, and FHA, should widen the sales of new factory built homes on leased homesites.

On an equal basis with site built land-home financing, these loans ideally will be based on appraised home values, for longer terms, and lower interest rates, and most of all, be included for sale as securitized loans by lenders on the secondary markets. Of almost as much importance will be the financing of loans to subsequent home buyers, on similar terms and conditions, thus allowing for home value appreciation on a par with area site built homes.

And, well built, safe, functional factory built dwellings, especially those built to the uniform HUD housing codes, will fit into their rightful place as viable housing options for low and moderate income families, empty nesters and retirees, and workforce housing for Americans.

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A few years ago, I was called upon to investigate a complaint filed by a homeowner in a very high end, 55 and older community. The complaint was generated because the homeowner believed that there was mold growing in the crawl space under her home and she was hyper sensitive to air born mold spores.

To paint a better picture, these were all two section homes installed on a masonry (block) crawlspace, on frost protected concrete slabs that were poured 3' below the surrounding grade.



Once backfilled, the slab will be below the frost line.

The crawl space was properly moisture proofed and the sites were well graded for proper drainage. But the inside of the crawl space was soaking wet even on the nice summer day when I visited.



Notice the wet blocks under the porch area

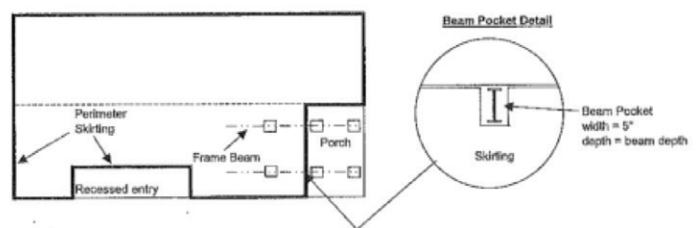
And sure enough, you could see mold and mildew on the bottom board and in the floor cavity where the access panels were not replaced. The homeowner had a legitimate gripe.

As you know, water is needed to support the growth of mold, so we just needed to find the source of the water. The water source was easy to find. The lawn sprinklers!

Every evening, the automatic lawn sprinklers would slightly overspray the grass and water was landing on the recessed porch decking on the end of the home. The porch was decked with composite material that was installed with just enough of a gap for the water to pass through and collect in the crawl space. The ultimate problem was that the crawl space was constructed around the outside of the porch, instead of just around the living area of the home. So, with every lawn sprinkle, rain or snow that landed water on the decking, water was being introduced into the crawl space.

So, I decided to see what the manufacturers installation instructions say about recessed porches. Most installation manuals have two sentences dedicated to this topic, back somewhere around page 95 of most manuals: "Run the skirting along the perimeter of the homes heated, conditioned space. Do not enclose with skirting areas under recessed entries, porches or decks unless the skirting is of the fully vented type and installed as to allow water to freely flow out from under the home". And to complicate matters even further, the ground vapor retarder is not to extend under "recessed entries, decks or porches".

It would be difficult for an installer is to design a crawl space enclosure-skirting that "allows water to freely flow out from under the home".



Configure skirting. Run the skirting along the perimeter of the home's heated, conditioned space (Figure 96). Do not enclose with skirting across areas under recessed entries, porches, or decks (whether constructed as part of the home or added on site) unless skirting is of the fully vented type and installed so as to allow water to freely flow out from under the home.

Difficulties With Porches cont.



Home sits in a "pit" No way for water to escape.

And even if you did, the homeowner would likely do some landscaping that might act as a dam and trap the water in the crawlspace. Easy to see in these two pictures that any water landing on the decking is going straight into the crawl space.



Crawlspace under front end wall, behind lattice work.

Maybe some manufacturers have a better idea. But don't take my word for it, grab an installation manual, turn to the section Complete Exterior Work- Install Skirting. Let me know what you think.

Mark Conte
Conte Manufactured Housing Compliance Services, LLC
Email: markconte3@yahoo.com
717-319-7469



Water gets captured inside skirting.

As we are seeing more homes being constructed with these decked porches we need to take a harder look at this issue. Running skirting underneath the home is difficult at best. I have run across one example that is well done. In the picture below you can see the porch area is only enclosed with a vinyl lattice that allows any water to escape. And yes, there is a crawlspace wall (skirting) under that front end wall.

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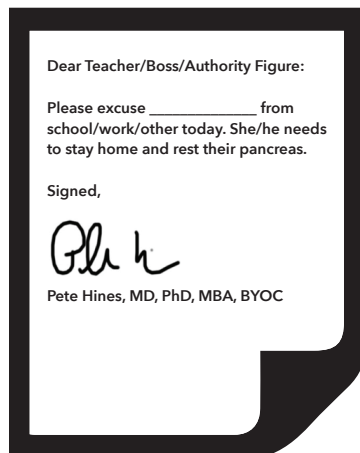


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Can We Lawfully Terminate an Employee After He Submits a Vague Doctor's Note Seeking an Extension of Leave?

By Jeff Nowak
March 15, 2017, Posted
in ADA, Court Decisions

In a Word, Yes.



An employee's 12 weeks of FMLA leave has exhausted, and over the past several weeks, he's provided you a series of vague doctor's notes typically containing nothing more than a one-liner extending his medical leave of absence until his next appointment.

Sound familiar? Makes you want to scream, right?

What if I told you that, instead of screaming, you could lawfully terminate this employee? Interested? Read on.

Facts

Joyce served as an Economic Support Specialist for Milwaukee County, Wisconsin. She was on a team responsible for providing public assistance to county's citizens. Her work included processing applications for benefits and answering phone calls. Not a terribly specialized position, and I'll explain why that's important below.

For several years, Joyce dealt with severe back pain and took FMLA leave from time to time as a result. In summer 2010, she began continuous FMLA leave, which exhausted on October 18. On that day, Joyce asked for additional leave, and the County provided her another three weeks to return to work, or November 8.

Joyce did not return on November 8. She did, however, submit two doctor's notes supporting her need for even more leave. One was dated November 3 and stated simply: "medical leave of absence until 11/17/10." The second was dated November 12 and said only "medical leave of absence until 12/17/10."

The notes – or even Joyce herself – said nothing more.

One week later, the County informed Joyce that it was contemplating terminating her employment, but before doing so, it invited her to a meeting to discuss her situation. It also invited her to bring "any documentation she wished to

submit for consideration." Joyce attended the meeting and again made clear she could not return to work.

The County terminated her employment about one week later. Joyce then found herself an attorney who apparently thinks vague doctor's notes win ADA cases, and she sued.

The Ruling

The court dismissed Joyce's case faster than it took her doctor to write a one-liner on that prescription pad doctor's note. Finding that attendance was an essential function of Joyce's job, the court reaffirmed the basic principle that Joyce's employer could expect her to report to work. Therefore, she could not enjoy the protection of the ADA [or, in this case, the Rehab Act, which is the public sector equivalent of the ADA]. In dismissing her claims, the court summed it up this way: [Joyce] did not offer any evidence regarding the effectiveness of her course of treatment or the medical likelihood of her recovery. The only medical documents she supplied were two terse doctor notes. One stated "medical leave of absence until 11/17/10" and the other stated "medical leave of absence until 12/17/10." These notes did not explain whether she was even receiving treatment, let alone the likely effectiveness of the treatment. Whitaker v. Wisconsin Dept. of Health Services

Insights for Employers

Sweet justice! What a golden nugget for all the HR and leave professionals and in-house counsel out there who feel helpless when dealing with an employee whose "ADA leave" seemingly has no end.

So, what's the practical effect of this decision?

1. Employers can be more aggressive when they receive vague doctor's notes. The best part of this court's decision was not the smack down of this would-be disability discrimination claim (thought that was rather nice). Rather, the court laid out what it expected to find (at a minimum) in a doctor's note supporting additional ADA leave:

- Whether the employee is receiving treatment
- The likely effectiveness of the treatment
- The medical likelihood that leave would enable her to return to work regularly.

Can We Lawfully Terminate an Employee cont.

This is useful guidance, and it will help us address critical questions when we're trying to determine whether our employee will be able to return to work anytime soon. But we need not stop here. In EEOC's [resource document on leave as a reasonable accommodation](#), the agency makes clear that employers may specifically ask the health care provider to respond to questions drafted by the employer and designed to enable the employer to understand: 1) the need for leave; 2) the amount and type of leave required; and 3) whether reasonable accommodations other than (or in addition to) leave may be effective for the employee (perhaps resulting in the need for less leave).

If EEOC is inviting us to do this, and we now have an insightful court decision outlining additional information you can insist upon, why aren't you implementing this in your own accommodation process? Call your employment counsel today [ahem, I know a guy...] to prepare correspondence and forms to use on these occasions.

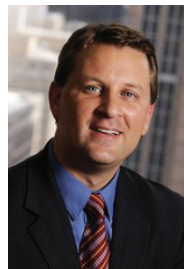
2. We still have to communicate with our employees.

Let's be clear: this employer prevailed here not because the employee turned in two pathetic doctor's notes. It ultimately won because it gave Joyce yet another chance to explain herself after she submitted the doctor's notes. Engaging employees like Joyce in the ADA's Interactive Process is Essential. Communicate during FMLA leave... after FMLA leave ends...and at all times before and in between! When a client calls me for guidance on whether they can deny leave or terminate an employee after he or she has asked for the second or third extension of leave, I ask the employer about all the communications they have had with the employee regarding issues such as: a) the employee's ability to perform his/her job; b) whether the employee likely will be able to return to work (and when); c) whether the requested leave will allow the employee to return to work immediately after the leave ends or very soon thereafter; d) whether there are other accommodations to help the employee return to work in a timely manner; and e) whether the employer has received any feedback from the employee's physician about the above issues. The EEOC's decision to initiate litigation against an employer often hinges on whether the employer is to blame for the breakdown in the interactive process. To minimize your exposure to liability, keep communicating with your employees! The interactive process is essential.

3. When employees submit crappy doctor's notes, you need not consider undue hardship. Normally, I would encourage you also to assess the hardship that the employee's absence has on your operations before you hit the termination button. However, this court case is a reminder that, when an employee submits vague, meaningless doctor's notes that don't provide the key information above, the employee is not a "qualified" individual protected by the ADA.

If you had to assess the hardship Joyce's extended absence is creating, it might be difficult, since she holds a clerical position, the duties of which could be filled by a temp or assumed by other employees. Yet, we don't even get to this undue hardship analysis because the vague doctor's notes save us.

Jeff Nowak



Jeff Nowak is co-chair of the labor and employment practice at Franczek Radelet, where he represents employers in all aspects of employment law. His clients praise him as a trusted business partner who is acutely aware of their business goals and the impact employment decisions have on their operations. A staunch advocate and effective litigator for his clients, Jeff also isn't afraid to be candid with clients where compliance issues or litigation must be resolved to meet business objectives. He is a nationally-recognized leader in the FMLA and ADA, and his passion for the FMLA shows through on this blog.

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Is The Manufactured Home Community Business Inherently Evil?

By Frank Rolfe

I appeared on National Geographic a couple weeks ago, on an Explorer channel story on the mobile home park business (their terminology – not mine). If you missed the show, [here's a link](#). If you watched the show, you probably noted that they thought the business model was sheer genius, but also thought it must be evil – the community owner holds all the cards and the residents have no room to negotiate. This is a common theme in many media portrayals about the industry, so I thought it should be publicly addressed.

Capitalism is not evil

The United States was built on the concept of capitalism, which is defined as “an economic and political system in which a country's trade and industry are controlled by private owners for profit, rather than by the state”. The reverse of capitalism is socialism. These are political doctrines, and they are polar opposites. I respect that some in the U.S. prefer socialism, but that's simply not what America was founded on, nor is it the choice of the majority of our citizens. And the majority rules here, which is the key point of that other American doctrine: democracy.

Providing affordable housing is not evil

In the interview with the head of HUD, he acknowledged that they turn away 3 of every 4 applicants who need affordable housing. To me, that's an admission that the government has failed in providing affordable housing to millions of Americans. If the government can't do it, then who will? The answer, of

course, are the owners of those roughly 50,000 manufactured home communities. Affordable housing is one of the largest problems facing America, with the median home price nearing \$200,000 and the average apartment rent exceeding \$1,000 per month. There's no way that letting people live on their housing budget in modern times can possibly be construed as evil by any sane individual.

Creating a terrific business model is not evil

In any other industry, a smart business model would be heralded as genius. Look at Bill Gates and Microsoft – who have built one of the most profitable niches in American history. Are they ever under fire for being smart about choosing what to invest in? Hardly. In fact, if you look at Forbes or Fortune, every type of sector is applauded for good business model construction. That is, except for manufactured home communities. Despite the fact that we have built an enviable real estate platform that avoids expensive capital repairs, has a capped supply thanks to cities refusing to allow new development, and makes our residents stakeholders in the business model through ownership of the personal property, we are not given credit for being smart, but instead criticism. Unbelievably hypocritical in my opinion.

Manufactured home community owners do not hold all the cards

In a lengthy discussion with the host of the show, I explained in detail how the community owner does not hold all the cards,



Is The Manufactured Home Community Business Inherently Evil? cont.

but shares an equilibrium. I went over in detail the fact that other community owners will pay to move the resident's home to their property if they are unhappy and the home meets restrictions on home age and condition. I also explained that the resident always has the opportunity to sell their home and move if they don't agree that their community offers the best value for them. But all those discussions obviously ended up on the editor's floor. Why? Because it clearly did not fit the producer's agenda. But it's the truth.

But no matter what you say, most folks in the media will simply not listen

I spent three solid days filming with National Geographic - over 30 hours of content. But seeing the final product, it's clear that they only heard what they wanted to hear to advance the concept that manufactured home communities take advantage of the poor. This has been a common theme of so many stories of the industry over time that it's getting redundant. But what's important is not changing the minds of the media, but of the audience. And I think that the normal viewer is not going to draw the conclusion that the producer hoped for. That's the reason we agreed to talk to National Geographic in the first place - because we hoped to impact the story to the benefit of the industry. And I think it worked. We will continue to talk to any media group going forward - not to try to convince them of anything, but to bombard them with so much positive

information that they cannot build a negative story no matter how hard they try. That's what we did with the New York Times article back in 2014.

Conclusion

The manufactured home community business is not inherently evil - unless you view all forms of capitalism as evil. In that case, you must prefer government control of all aspects of the economy and that means that HUD's failure to provide sufficient affordable housing is as good as it would ever get. I think that any rational viewer would find that our business is providing the American Dream to millions of Americans in a creative way that meets their budget. And that can never be construed as evil.



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

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Cap rates are the generally accepted method of comparing different properties and sorting piles of listings into the “make offer” and “don’t bother to make offer” stacks. But cap rates can be misleading in some cases – especially when you are buying properties from non-professional owners who have not been operating the property to its full potential.

Going-in cap rates are often based on flawed operating numbers

You would typically expect a seller to maximize net income before placing a property on the market -- but that’s not always the case. Often the seller has failed to perform market rent analysis annually, and has set their rent at low levels that are not warranted. They may also have piles of vacant community-owned homes as the result of a general lack of marketing effort or willingness to renovate them. And in some cases the property labors under the weight of expenses that could be reduced substantially with no ill effect on the property or its operation.

Many properties offer significant rent increases or utility bill backs in the near term

If target properties are not being operated correctly, then the near-term performance is subject to immediate improvement if you simply fix what’s broken. Typically, that is a combination of raising rents, making residents responsible for their own utility costs, filling vacant community-owned homes, and cutting unnecessary costs. Some of these changes can be

staggering in net effect. We purchased a property in Austin that had \$250 lot rents in a \$500 market. We acquired a property that was burning \$5,000 per month in water leaks. These items can boost your cap rate up two to four points within 90 days of purchase – and take that 5% cap rate to a 8% cap rate as a result.

But be careful when you include factors you don’t control

Raising rents, metering utilities, filling homes and cutting costs are very achievable as there is nothing to hamper you from successful completion. These are completely within your control, assuming there are no laws or ordinances to preclude them. However, not all methods to increase net income are as simple. Filling lots can be capital intensive and you have to really understand your potential customer base and fine tune to get the right fit, which can be time intensive – so you would not want to make any wild assumptions on the speed in which you can fill vacant spaces and the impact on cap rate. Similarly, filling RV lots in some markets requires getting just the right marketing effort in position, and you can never predict how long it will take, or if it will work at all.

And don’t make assumptions that are not based on scientific fact

If you do the lot rent comps in a market and find that \$240 per month is the standard rent, then don’t use the assumption that you can raise your rent to \$300 day one. If it will take you two weeks per vacant home to renovate, show it and sell it, then don’t assume you can knock out six in two weeks. Remember that you cannot alter the facts to meet your own goals. Being conservative in your estimates is always prudent and will save you from embarrassment when your performance misses your estimates. Try to be a scientist in a white lab coat when it comes to planning your budgets on how you will turn the property around and do not let emotion play any part.

Case study: a recent Texas acquisition

We recently purchased a property in Texas that is a good illustration of how the seller’s cap rate can often be deceiving. The property is 94% occupied in a metro of nearly 7,000,000 people, where the median home price is a healthy \$150,000+ and the three-bedroom apartment rent is nearly \$1,300 per month. The market lot rent is \$400 per month net of utilities. Despite these facts, the seller’s lot rent is currently \$325 per month including all utilities, which yields



Why Cap Rates Can Sometimes Be Misleading cont.

a going in cap rate of roughly 8%. While that's not bad by itself, installing sub-meters and making the residents pay for their own utilities (which is the norm in this market) increases the cap rate to around 10% -- and that can be accomplished in roughly 120 days. In the following two to three years, the lot rent can be increased to the market norm of \$400 per month, which yields a 12% cap rate. So in two steps, fully within our control and supported by scientific market data, we can increase the cap rate from 8% to 12%, and the deal goes from being good to spectacular.

Conclusion

Sellers mean well, but their estimate of potential net income is often far off the mark when professional property management skills are employed. Always make sure to review the seller's assumptions that support their announced cap rate, as there is frequently room to increase net income substantially. It would be a shame to miss out on a great deal

just because the seller's cap rate appears unappealing, when actually you can push that cap rate way above your normal buying threshold!



Dave Reynolds has been a manufactured home community owner for almost two decades, and currently ranks as part of the 5th largest community owner in the United States, with more than 23,000 lots in 28 states in the Great Plains and Midwest. His books and courses on community acquisitions and management are the top-selling ones in the industry. He is also the founder of the largest listing site for manufactured home communities, MobileHomeParkStore.com. To learn more about Dave's views on the manufactured home community industry visit www.MobileHomeUniversity.com.

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In my past jobs and when I had my own companies, there was one word that made me jittery - 'sales'

Some people can look at the word 'sales' and think a salesperson. Another will have a thought of the company's growth. Another may think it's the word that will make or break your business. I think the way you see it evolves on your invested interest in the business. Overall, if you have a product or service to sell you need to make sales.

The salesperson of 1970 for example, was a different salesperson than one of today. (Right about now I bet a few of you are shaking your heads and saying "You Ain't Kidding!") The phrase "carried a bag," for example, dates back to door-to-door salespeople who carried their products in a bag while they pounded pavement looking for their next deal. Do you remember those guys? I do. When I think back to all the ways people sold things at one time and all the different 'things' my mother bought from this stranger, it brings up mixed feelings.

One - how trustful everyone was in that time and how freeing it must have felt

Two - how crazy was my mother for letting strangers in with kids around???

See, I have mixed feelings.

Either way it was a period in time like many others where one person sold to another. Did you catch that word? SOLD...

What is selling anyway? You have something that you want another to be interested in. Once you get the interest peaked you work your crafted magic to make the sale.

I, for one, don't like to be sold. I don't like being told what's hot and what's not.

What's the best color, style, design and so on. I personally like my own tastes.

With that in mind let me tell you about a study I conducted.

I have a friend who is a real estate agent and owns his own business. I asked him if I could meet his agents for about a half hour simply to ask questions. I met 4 agents who were good at their job. I showed them a virtual tour of a house and asked them to talk to me as I am an interested buyer they are meeting for the first time. Each one did a great job in their own way. The 2 men were more straight forward and the women approached it in a softer way by asking more questions.

What they all did was make a point to express the features in the house and explain why it would be beneficial to me and why I needed it. Apparently they did some homework and knew who

I was, so pointing out accessible features was not a bad idea so I gave them credit for being proactive.

After my time spent with the agents I went to my friend and we had a talk. I explained that his agents were well trained, knowledgeable and on their game. He explained that's why they "make the sales" I said, "What if we had an experiment whereby your agents don't tell people what they need - but what they deserve" Immediately he understood the difference.

Together we created a short story for the agents to hear, a paragraph for the agents to memorize and a laminated saying that was adhered to their dashboard that read "You deserve that of which you like"

He had his agents go out for 2 months with a different slant on their selling approach to see if there was a difference. Much to his surprised and slap-happy self, he saw a significant increase on houses sold!

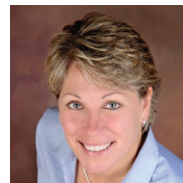
Why you ask? Human nature. Women put others first - pure and simple. This rings 92% true for women as we are natural caregivers and by instinct it's others first.

-Men are on a mission & women are on a journey

-Women make decisions on a more emotional level, whereas men approach decision-making with facts and data

The bottom line to all of this is something you already know and that is: It's the woman who gives the go ahead to a home sale more so than the man. So if you want to make more sales in whatever you sell, once you have a known interested customer don't sell them on anything more than the basic facts and that they deserve it.

You will have the woman decision maker in your hands because I have never met a woman who said they didn't deserve something!



Valerie is a Certified Aging in Place Specialist (CAPS), a professional speaker, author and advisor/consultant. With over 30 years of experience in healthcare and housing, she has a unique view when it comes to educating businesses, industries and families. Valerie became a speaker and advisor to help

businesses and communities see that important decisions are made better as educated choices rather than a gamble. With Valerie's years of experience, she navigates the waters to help you better understand aging, Aging In Place, and how to engage in the market. Visit her website at www.valeriejurik.com

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It's the time of year again when some companies consider adding interns. This can be helpful to both the business and the student seeking valuable work experience and training. But can a business, with no additional budget for more staff, pay them nothing?

The short answer is "no", you must pay them. The longer answer is, you can offer unpaid internships if the internships meets the requirements outlined by the Fair Labor Standards Act.

The Six Factor Test criteria is as follows:

1. The intern won't replace a regular employee, nor will they be filling in for one out for a short term;
2. The training must be comparable to that given at a vocational school;
3. The training must benefit the intern;
4. The employer does not immediately benefit from the intern's work (this is probably the hardest prong of the test);
5. There is no promise of a job following the training, and
6. The employee clearly understands they won't be paid.

Given the difficulty of passing the test, offering unpaid internships is a risky idea for a business operator. I recommend, if there is any doubt, pay the intern at least minimum wage. Unpaid interns can sue for back wages, overtime, and double damages if paid improperly. Employment related lawsuits continue to be the number one category of lawsuits in the United States today.

Good sources for more details include your Employment Practices Liability Insurance Company resource center, your payroll provider, the U.S. Department of Labor, and a lawyer specializing in employment law.

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SWOT Analysis – Marketing, Sales & Management Tool for Manufactured Housing Success

by L. A. 'Tony' Kovach

To truly understand a location, business or organization - and its potential - a SWOT analysis is useful management tool. SWOT is an acronym for Strengths, Weakness, Opportunities, and Threats.

For SWOT to have value, it must be objective. A 'yes man,' someone with an ulterior agenda or kiss-up persona can't do a proper SWOT analysis.

The party doing the SWOT analysis must have sufficient understanding of the industry, plus a working knowledge of the specific part of the industry that an enterprise is engaged in.

The ideal SWOT is done with an in-person inspection of the location or business in question, and with the location's or enterprise's full cooperation. As noted above, it should be done by a professional knowledgeable about the subject matter, and must be objective.

This writer has routinely done a SWOT analysis as part of the business development, marketing and other professional services provided to industry companies.

When a SWOT is done properly and is embraced in a spirit of goal orientation and problem solving, the results can be amazing.

Our business development,

- SWOT,
- recruiting,
- training,
- marketing,
- sales process,

and clients include *mutual confidentiality*.

That said, at times we have clients who willingly share their results (not specific methods) with the industry at large, because they believe in the process and profitable outcomes that follow.



Image credit, Project Smart.

	Opportunities (external, positive)	Threats (external, negative)
Strengths (internal, positive)	Strength-Opportunity strategies Which of the company's strengths can be used to maximize the opportunities you identified?	Strength-Threats strategies How can you use the company's strengths to minimize the threats you identified?
Weaknesses (internal, negative)	Weakness-Opportunity strategies What action(s) can you take to minimize the company's weaknesses using the opportunities you identified?	Weakness-Threats strategies How can you minimize the company's weaknesses to avoid the threats you identified?

Chart graphic credit, BPPlans.

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