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Majority of Consumers Say They Would Consider Purchasing a Manufactured Home

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Buyers Feel Pinch of Rising Interest Rates and more!

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What Help Can a Community Owner Expect After a Catastrophe?

By Kurt D. Kelley, J.D.

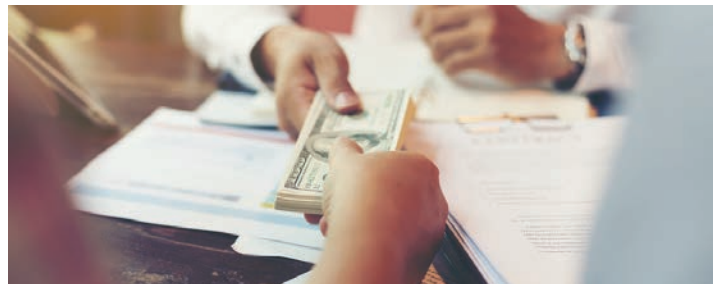
Manufactured home communities aren't immune from catastrophic damage. Hurricanes, tornadoes, fires, and floods happen. Here's information on available assistance after a catastrophe, plus managerial preparation, and post event management recommendations.



Government Assistance

The Federal government doesn't generally expend resources to help investment property owners. But here's what government often provides that helps:

- 1. Debris removal from your property.** The government won't pay to remove debris off your home sites. But if you can get home, tree, and other debris to the curb, they will generally pick it up and haul it off for no charge.
- 2.** In federally declared disaster areas, FEMA generally **offers housing vouchers up to \$30,000 for renters and uninsured tenant owned homeowners** who lost their homes. And yes, you read that right. If you are a responsible homeowner who purchased homeowners' insurance, you won't qualify. These housing vouchers aren't enough to buy a site-built house. But they are enough to buy or make a substantial down payment on a manufactured home.
- 3. Temporary rental housing assistance,** hotel stays, repair assistance to those who can't live in their homes.
- 4. Subsidized flood insurance** via the National Flood Insurance Program to homeowners. Policy benefits include money for sandbags, tarps, and lumber.
- 5.** Disaster **Unemployment Assistance.**
- 6.** In some federally declared disaster areas such as Louisiana, the federal government is funding **housing vouchers** up to \$80,000 for single section homeowners and \$120,000 for multi-section homeowners who lost their homes. These aren't loans. These are gifts.
- 7.** Short term, zero interest loans up to \$50,000 to qualifying businesses - The **Small Business Emergency Bridge Loan Program**



Cash from Your Insurance Company

- 1. Building, Sign, Fence, and Other Structures** - Presuming the loss is due to a covered peril, you will receive reimbursement for repair and rebuild costs for buildings and structures listed on your insurance policy. Here are **three key tips** -
 - a) Building Repair/Replacement Costs increased 50% the past three years. **Verify your insured \$ limits to make sure they are adequate.** Many are underinsured. Insurance pays the lesser of your insured value or the actual repair/replacement cost.
 - b) **Add coverage to your policy for "above ground utility infrastructure."** MHC owners should not forget they have valuable power pedestals, streetlights, street signs, etc.
 - c) **If it isn't listed** as covered on your insurance policy with a \$ limit of coverage, then **it isn't insured**; and
 - d) **Choose higher limits and broader coverage with bigger deductibles** vs lower limits and basic coverage with smaller deductibles. This gives you the most compensation for your insurance dollar when a disaster hits.
- 2. Replacement Income** - Loss of Income with Extra Expense coverage is critical. It compensates for income you are no longer receiving due to a covered calamity until you reopen or 12 months, whichever is shorter. The

What Help Can a Community Owner Expect After a Catastrophe? Cont.

Extra Expense portion of the coverage may cover extra expenses such as temporary generators and office set ups, plus debris removal necessary to make a home site leasable. Your coverage limit should meet or exceed your expected annual pre-catastrophe gross rental income. Be sure to also add "extended loss of income coverage" too. This pays for loss of income for a listed amount of time post re-opening while you begin to lease-up your property; and

3. **Flood risk is unique** - Almost no commercial package insurance policies include flood coverage. Discuss flood coverage options for your buildings and income with your insurance agent.

Remember that your insurance company will provide you financial resources to repair and rebuild, but they don't coordinate and manage the rebuild and repairs.



4. Have an **agreement with local debris removal companies** to work for you as a priority. Include pre-negotiated rates when possible. You'll be surprised that these companies are happy to respond and have you as a client before the storm or fire hits. They like pre-contracted business too.
5. **Do not allow any contractors to perform services for you prior to their being a written contract outlining rates.** Warn your tenant homeowners to do the same. The post calamity clean-up / repair industry is full of those that allowed a contractor to start work, got billed an unreasonably huge fee, and then saw their property or home encumbered by a materialman's lien; and
6. **Communicate to your tenants all aid available** to them from governmental agencies. Handing out water bottles is a good way to endear yourselves to tenants too.



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Key contributions to this article were provided by Mr. Jim Ayotte, Executive Director of the Florida Manufactured Housing Association www.myFloridaManufacturedHome.com and coordinator of disaster assistance for FMHA member communities.

Self-Help: Pre-Planning and Good Management

1. Have a well-distributed **employee cell phone contact list**. Post catastrophe, land telephone lines are often down, and cell phone service may be spotty. Your best means of communication is usually texting.
2. All managers should have an accessible **list of key service providers and their contact information** - computer, utility, telephone, internet, insurance company, bank, etc.
3. Knowing the employees must take care of themselves and their families first, consider having a **pre-defined return to work time** that gives employees time to tend to themselves.



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Kurt Kelley - President

The Impact of 6% 30-Year Home Mortgages on Mobile Home Parks

By Frank Rolfe

You only have to go back to January 2021 to get a 30-year home mortgage of 2.74%. But with the advent of some of the dumbest governmental policies since Jimmy Carter the 30-year home mortgage has now broken the 6% barrier and is on the way to approaching 7%. While that's historically about the norm (the 1972 mortgage rate was 7.28%) it's going to be a huge shock to an America that has been enjoying quantitative easing and low rates since 2008. What will be the impact on this doubling of home mortgage rates for the mobile home park industry?



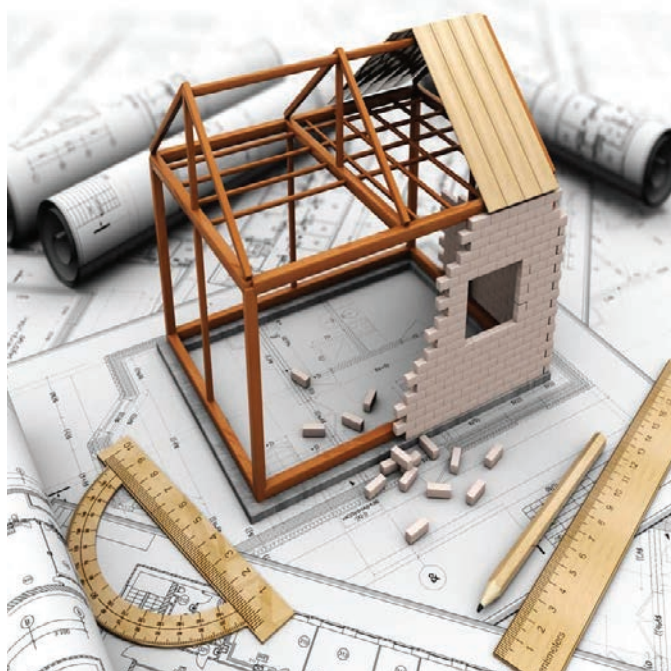
Loss of the pricing advantage that single-family home mortgages have held over mobile homes

When you bought a mobile home in 2021, the interest rate on the mortgage was typically between 8% and 10% while single-family mortgage rates were 2.74% -- no comparison, right? However, now the mortgage rates are between 6% and 7% on single-family and 8% to 10% on mobile homes, so that pricing advantage has pretty much evaporated. And the monthly payments on the single-family home with the "double" mortgage interest rate dwarf any mobile home in any market in the U.S.

So much for all those articles on what great investments single-family homes are vs. mobile homes

In interview after interview over the past few years, woke journalists have tried to argue that mobile homes are for "chumps" as they do not have the same price appreciation as single-family homes. Well, now that single-family home mortgages have doubled you can say goodbye to U.S. home appreciation. Of course, the truth was always that mobile homes did not have to appreciate to be a good purchase for the consumer as the savings far exceeded any needed price appreciation to be a terrific value. At the same time, the new "chumps" are those who depended on the appreciation of

single-family homes which will not be going up any more now that mortgages have doubled.



Higher demographic customers who would not look at "trailer parks" before

The mortgage on a \$250,000 single-family home is now around \$1,700 per month at a 6% interest rate. That's going to force many people who wanted to buy those type of houses needing to find a lower-cost detached alternative. Mobile homes are the only option to these consumers. As a result, there will be a new breed of mobile home park customer that has higher credit scores and higher down-payment funds. And that will allow for the new, higher cost of single-wide homes that have suffered from inflation since the pandemic.



The Impact of 6% 30-Year Home Mortgages on Mobile Home Parks Cont.

Higher rental rates for all forms of housing

Higher mortgage rates for single-family homes will usher in higher rental rates for single-family homes. It's just a fact of life that businesses will charge rents that are roughly equivalent to or higher than the cost of home ownership. And higher single-family homes prices and rents will fuel higher apartment rents - which recently topped \$2,000 per month on average nationwide. And higher apartment rents result in higher mobile home park lot rents. That's just the cycle of life when it comes to housing and rents. Mobile home park owners will profit from higher rents, just as apartment owners will.



Conclusion

Single-family mortgage rates have more than doubled. The single-family home industry is screwed. The mobile home park industry, on the other hand, is a big beneficiary from this reality. Higher single-family home mortgage rates will result in reduced competition for park owners, who will enjoy higher rents and better-quality customers as a result.



Frank Rolfe has been an investor in mobile home parks for almost 30 years and has owned and operated hundreds of mobile home parks during that time. He is currently ranked, with his partner Dave Reynolds, as the 5th largest mobile home park owner in the U.S., with around 20,000 lots spread out over 25 states. Along the way, Frank began writing about the industry, and his books, coupled with those of his partner Dave Reynolds, evolved into a course and boot camp on mobile home park investing that has become the leader in this niche of commercial real estate.



Takeaway

An option period benefits both parties in a real estate transaction. It allows the buyer time to discover any property defects before committing to the purchase, and it lowers the seller's chances of losing litigation if a defect is discovered after closing.



The termination option period under the Texas Real Estate Commission (TREC) promulgated contracts is an integral part of the contract for both the buyer and the seller. It is designed to reduce litigation after closing on a house by allowing a buyer time to do more than a walk-through of the property before fully committing to purchasing the property.

Simply stated, an option period is a negotiated number of days after the contract is fully executed during which time the buyer can terminate the contract for any reason and get his earnest money back. It is intended to give the buyer time to conduct due diligence on the property—home inspections, including specialty inspections like roof, foundation, hydrostatic or environmental testing—anything the buyer wants to consider before deciding whether this property is, in fact, the right property for him at the agreed-upon contract price.

Most Texas real estate license holders likely learned the basics about option periods when studying for their license exam. However, as with any aspect of Texas real estate, understanding the intricacies and nuances of the law is key to better serving buyers and sellers. To that end, here is everything you ever wanted to know about option periods but were afraid to ask.

How Long is the Option Period?

The option period is negotiable, meaning the seller and buyer agree to the number of days needed. The seller usually

likes a shorter period because it increases the certainty the buyer is going to stay in the contract. The buyer generally wants a longer period to make sure she can get inspections completed and negotiate for any repairs she may want the seller to make based on those inspections.

In a Hot Market, Should an Agent Recommend the Buyer Decline the Option Period?

This is not a good idea. It could put the agent at risk for litigation if problems are found after closing that could have been discovered during an option period.

While the agent may think not having an option period will make the seller more likely to accept the offer, the agent may not be acting in the buyer's best interest.

Many agents argue that inspections are still allowed under Paragraph 7 of the contract whether there is an option period or not. This is true. However, if something turns up under an inspection outside of an option period, the buyer does not have the ability to terminate the contract and have her earnest money returned.

At the very least, the agent should explain to the buyer the pros and cons of not having an option period. The pros of the offer being accepted more readily by the seller may not outweigh the cons of the buyer not knowing if there are major repair or structural issues with the property before risking his earnest money.

Can a Seller Refuse to Allow an Option Period?

A seller may like the idea of no option period because it decreases the likelihood that the buyer will come back with an amendment asking for repairs or a decrease in the purchase price. However, it increases the seller's and the agent's risk of a lawsuit claiming the seller or agent was trying to hide a condition of the property. It's better to allow the buyer to have an option period to make any independent inspections and assessments of the property the buyer deems necessary.

The agent should remind the seller that allowing a buyer an option period does not obligate the seller to negotiate or agree to any proposed amendment the buyer puts forward. In a hot market, the seller may ask for more option money or a shorter option period, but an agent should caution the seller against shortening the option period to the point where it is not likely the buyer can get inspections completed.

How is the Option Period Calculated?

Days in the contract are always counted in calendar days, not

Option Period Basics Cont.

business days. The language in the contracts states the option period is “ ____ days after the Effective Date of this contract...” To count, start with the effective date of the contract as day zero. Each subsequent day is one, two, three, and so forth. For example, if the contract effective date is Nov. 1 and the negotiated option period is for ten days, the option period would end Nov. 11 at 5 p.m. local time where the property is located.

Do You Need an Option Fee to Have an Option Period?

Yes. Extensive case law in Texas has held that an option fee is necessary to create an option right. In essence, the buyer pays the seller an option fee for the unrestricted right to terminate the contract within the option period and have his (the buyer’s) earnest money returned. The contract language in Paragraph 5B makes it clear that the consideration for the Termination Option includes “Buyer’s agreement to pay the Option Fee within the time required . . .”

How Much is the Option Fee?

The option fee is negotiable between the parties. The parties can agree on any amount, but it should not be a token amount. The amount may vary depending on

factors such as the number of days desired for the option period or how hot the market is. Obviously, the seller will want the fee to be higher, and the buyer will want it to be lower.

Where and When is the Option Fee Delivered?

As of April 1, 2021, the option fee is delivered in the same manner and within the same time frame as the earnest money. Paragraph 5A of the contract provides that the option fee must be delivered within three days after the effective date to the escrow agent under the contract. Again, to count days, start with the effective date of the contract as day zero. Each subsequent day is one, two, and three. For example, if the contract effective date is Nov. 1, the option fee would have to be delivered to the escrow agent on or before midnight on Nov. 4.

However, the contract provides an automatic extension if the third day falls on a Saturday, Sunday, or legal holiday. If the effective date is on Thursday, the third day would fall on a Sunday, which means the earnest money and option fee would be due to the escrow agent on Monday. If Monday is a holiday, the earnest money and option fee would be due Tuesday.

Remember, other than procrastinating human nature, there is no law or other requirement to wait until the last day to deliver the option fee and earnest money to the has serious consequences, so don’t be late.

Can the Earnest Money and Option Fee be Delivered in a Single Check?

Yes. The contract provides that the earnest money and option fee may be paid separately or combined in a single payment.

What if the Buyer Deposits the Earnest Money and Option Fee in One Sum and Gets the Amount Wrong?

The contract provides money received by the escrow agent is first applied to the option fee and then to the earnest money. So, if both sums are given in one check and the check is short, the option fee will be paid, securing the option period for the buyer, but the earnest money will not be paid in full.

If the earnest money is not paid in full within the time frame required, the seller can declare the buyer in default under the contract. This gives the seller an opportunity to terminate the contract under the terms of Paragraph 5C.

The takeaway? Double check the math before delivering combined funds.

Can the Option Fee be Delivered Via Electronic Payment, Such as Through PayPal or Venmo?

Yes, if it is considered good funds by the escrow agent. It’s important to check with the escrow agent to see what type of fund delivery methods are acceptable. Also, the payment must be an unconditional delivery, and any fee required by the service must be paid in addition to the option fee amount required by contract.

What Does “Time is of the Essence” in Paragraph 5 Mean Regarding Options?

It means the two main deadlines for options—time for delivery of the option fee and termination notice sent before the end of the option period—must be strictly met, or there will be consequences.

How Does the Seller Receive the Option Fee?

If the seller asks the escrow agent for the fee, the escrow agent will deliver it directly to the seller after the escrow agent has determined the option fee was delivered in “good funds.” Most title companies wait ten business days before delivering the fee to the seller. If the seller does not ask for it, the option fee will be credited to the seller on the settlement statement at closing.

What Are the Seller’s Remedies if the Buyer Fails to Deliver the Option Fee on Time?

The contract specifically states under Paragraph 5D that the buyer will not have the unrestricted right to terminate under Paragraph 5 if there is no option fee or the option fee is not delivered on time.

Option Period Basics Cont.

Can a Seller Accept a Late Option Fee?

Yes. A seller can agree to accept a late option fee and allow the buyer to have the option period negotiated under the contract. However, accepting a late payment does not extend the length of the option period.

Will the Escrow Agent Refuse to Accept the Option Fee if it is Late?

It is not the escrow agent's responsibility to determine if the option fee is paid in a timely manner. The escrow agent will receive and receipt the date of delivery of the fee whenever it is paid. It is the listing agent's job to find out from the escrow agent when the option fee was delivered and to communicate that with the seller.

A best practice is for the agent to contact the escrow agent late in the day on the last day for delivery of the option fee to find out if it has been delivered. If it has not been delivered, the agent should discuss with the seller whether the seller wants to accept the option fee late and still let the buyer have the option period under the contract, or if the seller wants to hold the buyer to the terms of the contract and not allow the buyer to have the unrestricted right to terminate if the option fee is not delivered by midnight.

How Does a Buyer Terminate the Contract Under the Option Period Provision?

The buyer must give written termination notice to the seller on or before 5 p.m. local time where the property is located on the last day of the option period in the contract. Paragraph 21 of the contract sets out the requirements for delivery of notices between the parties. TREC has a form agents can use with their buyers for termination.

Does a Buyer Have to State a Reason Why They're Terminating the Contract During the Option Period?

No. Paragraph 5B states the buyer has purchased an "unrestricted right" to terminate the contract. This means the buyer can terminate the contract for any reason or no reason at all.

Can the Seller Back Out of the Contract During the Option Period?

No. The right to terminate under the option period is bought and paid for by the buyer and does not extend to the seller.

How Does One Extend an Option Period?

Although many people refer to it as an extension, the buyer is really purchasing a new option period.

Texas case law suggests an option period cannot be "extended" without the payment of an additional option

fee, and the additional fee must offer something of value to the seller and not just a token amount. Agents should use Paragraph 6 of TREC's Amendment to Contract form (use QR code to view it), to evidence the additional option period. Under the amendment provision, the option fee for the additional period is paid directly to the seller (not the escrow agent) at the time the amendment is executed.

Is the Option Fee Refundable to the Buyer if the Transaction Doesn't Close?

No. The option fee is never refundable. The buyer purchased the right to have an unrestricted right to terminate the contract for a period of time.

Is the Option Fee Credited to the Sales Price if the Transaction Closes?

Yes. The contract specifically provides for this in Paragraph 5A.

How Long is the Option Period on a Back-Up Contract?

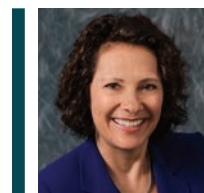
Under TREC's Addendum for "Back-Up" Contract form, if the buyer has purchased an option period under the contract, the unrestricted right to terminate begins on the effective date of the Back-Up Contract and ends after the number of days stated in the contract for the option period after the back-up contract goes into first position.

This is quite an advantage for a buyer in a back-up position because the buyer can continue looking for another property and terminate the back-up contract and get his earnest money back if he finds one before going into first position or even after going into first position if terminated before the negotiated option period ends.

Is the Option Fee Refundable Under a Back-Up Contract if the First Contract Closes?

The option fee is never refundable. The buyer purchased the right to have an unrestricted right to terminate the contract for a period of time.

Nothing in this publication should be construed as legal or tax advice. For specific advice, consult an attorney and/or a tax professional.



Kerri Lewis is a Texas real estate and administrative law attorney and published author. She served as General Counsel for the Texas Real Estate Commission from 2013-2019. Kerri first joined TREC as Director of Standards & Enforcement Services in 2009 and was Deputy General Counsel from 2012-2013. [Email](#)



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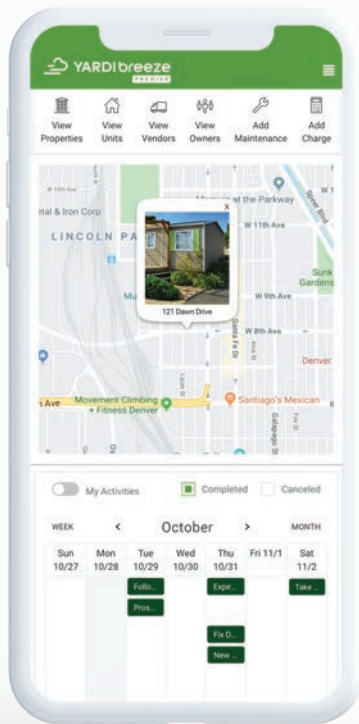
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- ✓ Rent deferment
- ✓ Rent control
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Texas' Manufactured-Housing Industry Pulls Back Production as Sales Slide

By David Jones and
Bryan Pope

COLLEGE STATION, Tex. (Texas Real Estate Research Center) – Texas' housing manufacturers slowed production for the second straight month, according to the latest Texas Manufactured Housing Survey (TMHS), as higher interest rates shocked demand and subdued sales. The slowdown spread through daily operations, prompting plant managers to shrink payrolls and reduce work weeks.

"Manufacturers have been shortening work weeks since May, but August marked the first month of a meaningful payroll contraction," said Wes Miller, senior research associate for the Texas Real Estate Research Center (TRERC). "These adjustments have taken some pressure off of wages and salaries despite skilled-labor shortages."

The TMHS labor-cost index decelerated into the single digits for the first time in series history (starting in June 2020), and other supply-side constraints moderated from pandemic peaks.

"Input prices are declining as supply chains continue to improve," said TRERC Research Economist Dr. Harold Hunt. "Lumber prices are a third of what they were six months ago, and shipping costs are falling. Many economists feel like inflation has peaked, but it's still a long way back to the 2 percent target that the Federal Reserve is shooting for."

The manufactured housing industry was cautiously optimistic regarding the supply chain, and some of the smoothing was likely caused by dampened demand across the economy. The price received for finished homes is expected to fall more than input prices over the next six months.

"Across most of the indicators in this month's survey, the future sentiment is more moderate than current readings," said Rob Ripperda, vice president of operations for the Texas Manufactured Housing Association. "While everybody downshifted during August, a good share of manufacturers expects to keep running at their current production rates as we head into next year. Retailers reached a point where they needed to lower their order volumes, but they're still selling homes at historically high levels, just not with the same amount of year-over-year gains."

While ongoing capital expenditures corroborate the positive outlook in the long run, the rapid shift in demand over the past two months has elevated uncertainty and heightened concerns as the fourth quarter approaches.

Funded by Texas real estate licensee fees, TRERC was created by the state legislature to meet the needs of many audiences, including the real estate industry, instructors, researchers, and the public.

Thousands of pages of data are available at the [Center's website](#). News is available in our twice-weekly electronic newsletter [RECON](#), our [Real Estate Red Zone](#) podcast, our daily [NewsTalk Texas](#) feed, on [Facebook](#), on [Twitter](#), on [LinkedIn](#), and on [Instagram](#). To request a free press subscription to our quarterly flagship periodical [TG](#) magazine, contact David Jones at the e-mail address above. Subscribe to Center news releases [here](#).

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TEXAS A&M UNIVERSITY
Texas Real Estate
Research Center

Manufactured Housing Mythbusters

MYTH 01 "They're the same as tiny homes, trailers, and mobile homes."

FACT	 The terms trailer and mobile home apply to dwellings on wheels, that can be pulled by a vehicle, built prior to June 15, 1976, that are typically titled as personal property and licensed by a State Department of Motor Vehicles (DMV).	 Manufactured homes are not trailers. They're factory-built on a permanent, nonremovable steel chassis, must meet or exceed the Manufactured Home Construction and Safety Standards Act of 1974 (HUD Code) and can be titled as real or personal property.	 Tiny homes are neither a manufactured or mobile home. Typically sized between 100-400 square feet, they must be built to the DMV/Recreational Vehicle code(s) and pass a licensing inspection. Tiny homes may be on wheels/mobile, but it's not a requirement.
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MYTH 02 "They're unattractive and have limited design options."

FACT	 Manufactured homes are modern, energy efficient, high-quality homes and with CHOICEHome® are comparable to site-built homes.
------	--

MYTH 03 "They're poorly constructed and unsafe."

FACT	 Manufactured homes are built entirely in a factory throughout construction process. They are quality controlled and inspected per HUD's standards for design and construction, strength and durability, transportability, fire resistance, heating, plumbing, air-conditioning, thermal and electrical systems and overall home quality.
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MYTH 04 "They're more vulnerable to storm, hurricane and tornado damage."

FACT	 Having the HUD code seal of approval ensures that a manufactured home meets regional standards for roof load, wind resistance, thermal efficiency, safety and durability, including wind resistance in areas prone to hurricane-force winds. Reference: Manufactured Housing Institute These standards were tested in Florida during hurricane season and have stood the test of time. Proper installation and anchoring of the home is a key element in how a manufactured home will perform in severe weather situations. In 2017, when Hurricane Irma hit Florida, a majority of manufactured homes were battered but left largely intact, just like the site-built homes. Reference: New York Times, September 14, 2017
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MYTH 05 "You're confined to living in a trailer park."

FACT	 You can install your manufactured home on vacant land that you own or leased land or in a manufactured housing community (MHC). Many MHCs offer security, amenities and a sense of community. Cities are selecting manufactured homes for infill on vacant and blighted homesites.
------	--

You Can't Have it Both Ways

By Ben Ivry

An airport in Virginia is closing down a mobile home park due to aging infrastructure and it illustrates a problem that cannot be solved: you can't have both low rents and freedom from redevelopment for the residents. It's one thing when you hear this narrative from a private business, but a totally different perspective when a public airport has come to the same conclusion. So, what happened at Patrick Henry Mobile Home Park?



Someone reading the article would assume it must be a story of an airport enlarging its runways. But that's simply not the case. The airport, in fact, has repeatedly stated that it will not be doing anything with the land the community sits on. The only reason they gave for terminating all residents' leases was that the infrastructure is starting to deteriorate. Of course, all mobile home parks in the U.S. also experience utility lines that age. The difference is that Patrick Henry Mobile Home Park had low rents that did not allow for capital investment to fix these issues and still show a net profit. The airport authority had no interest in injecting that capital.

It's not a theory that should come as a shock. Economists for the past century have argued against rent control as it leads to landlords freezing out spending capital to renovate and maintain properties, as well as a reduction in new construction. Capital requires a return on investment, and that means higher rents. You simply cannot have low rents and a healthy housing market.

What could have been done differently? If the airport authority had honestly gone to the residents and said "here's the deal, we are going to have to shut down the Patrick Henry Mobile Home Park unless we raise the rent to a level that supports capital investment," they probably would have had no problem



is convincing the residents to pay more – it sure beats losing your home or moving into an even more expensive apartment that does not have a yard.

Of course, if the airport authority had held such a meeting, you know where that would have gone. Residents would have immediately called the local media to complain about the higher rent and the media would have been more than happy to intervene and publicly shame the airport folks into reversion course on the rent increase. Essentially, by simply shutting down the property, the airport skipped the public humiliation step and went right to the conclusion that low rents lead to the wrecking ball.



The bottom line is that the media and residents are directly responsible for many of the park closures in the U.S. When you refuse to accept the realities of money, you are doing everyone a disservice. There needs to be an open conversation regarding the reality that most mobile home parks require significant investment to survive and that means every higher rents. When honest dialogues are impossible due to public

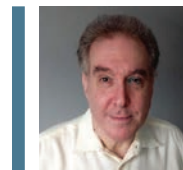
You Can't Have it Both Ways Cont.

shaming, then owners are simply going to skip that step and the park will quietly convert to a different use and the residents will become homeless.

If you look online, you will see that one of the most common stories regarding mobile home parks is that of demolition. It's a fact that more communities get torn down annually than built new. The supply of mobile home lots in America is diminishing constantly. This is never going to be solved by whining or public shaming.

If the media wants to help maintain a healthy affordable housing supply, then it needs to change the perspective and start applauding community owners who bring these properties back to life and hold off the wrecking ball. Stories of owners who took the risk, put in the effort, and made successful communities out of blighted parks like Patrick Henry. Embracing these brave businesspeople would empower others to follow that path. Affirming that higher rents are necessary to keep parks in business would be a truthful narrative that would inspire residents to not fight back against higher rents but to be happy that they translate into forever homes.

Patrick Henry Mobile Home Park should serve as a wake-up call to the simple fact that we are all ruled by dollars and cents, whether it's our household budget or that of a giant airport authority. By shaming truthful dialogues between owners and residents, we are setting in motion the destruction of the last non-subsidized affordable housing option in the U.S. Is that what we really want?



Ben Ivry has written for The Economist, The Wall Street Journal, Newsweek, Time, The New York Times, Bloomberg.com, and The Washington Post.



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Moving Water: Boundary Changes and Property Rights

By Rusty Adams

Generally, when a body of water forms a boundary, gradual changes in the shore result in gradual changes in the boundary of the property, whereas sudden changes do not.



For all of human history, water has naturally served as a boundary for land. Texas and Mexico once disputed the area between the Rio Grande and the Nueces River, with the Rio Grande finally winning out. The Mississippi River forms part of the borders of ten states. God even told Moses in Exodus, "I will set thy bounds from the Red Sea even unto the sea of the Philistines, and from the desert unto the river." But a river moves, as poet John O'Donohue observed, "carried by the surprise of its own unfolding." Likewise, ocean shorelines move. Sometimes these changes are gradual and imperceptible, and sometimes they happen abruptly. How are property rights in real estate affected by these changes?

When water serves as a boundary for land, the land generally falls into one of two categories. The term "riparian" means "belonging or relating to the bank of a river or stream." A "riparian owner" is a person whose land is bounded by a river. The term "littoral" is similar, but it deals with land bounded by the shore of an ocean, sea, or lake.

Riparian Tracts

In riparian tracts, if the call in the deed is to a non-navigable stream, the boundary is the center or "thread" of the stream, unless the deed expresses that the parties intended otherwise. Even a description of a "meander line" does not show such an intent unless manifested in the language of the deed.

Navigable streams, on the other hand, are owned by the State of Texas. If the boundary is a navigable stream or

river, the boundary is generally to a point on the shore called the "gradient boundary," with the exception of grants affected

by the 1929 "Small Bill." A navigable river is one with an average width of 30 feet from the mouth up.

Erosion, Accretion, and Reliction on Riparian Tracts Change Boundaries

Erosion happens when the stream gradually and imperceptibly wears away the land. Accretion happens when solid material such as mud or sand (alluvion) is deposited, adding to the land. When the land is worn away by erosion, a riparian owner loses that land. In the same way, a riparian owner gains land when it increases by the process of accretion.

Reliction (sometimes called dereliction) occurs when the water permanently subsides, permanently uncovering previously submerged land. In that event, the riparian owner gains the newly exposed land. Thus, the boundary moves with the body of water.

The general rule, summarized, is when a boundary is a body of water, and it is gradually and imperceptibly changed or shifted by accretion, reliction, or erosion, the boundary moves with the body of water.

If an island is formed, ownership depends on whether the stream is navigable. In a navigable stream, it is the property of the state. In a non-navigable stream, ownership continues for the owner of that part of the stream bed. If the middle thread of the stream crosses the island, the property line also crosses the island.

These rules apply even if the accretion, erosion, or reliction is man-made. An exception to this rule is that accretion does not belong to the riparian owner when the owner directly causes the accretion by "self-help."

For example, an owner may not artificially build up submerged land until it rises above the surface and then claim that land. This exception is often called the "landfill rule." On the other hand, where a manmade dam upstream affects the flow of the river, the riparian owner is entitled to the resulting accretion or reliction.

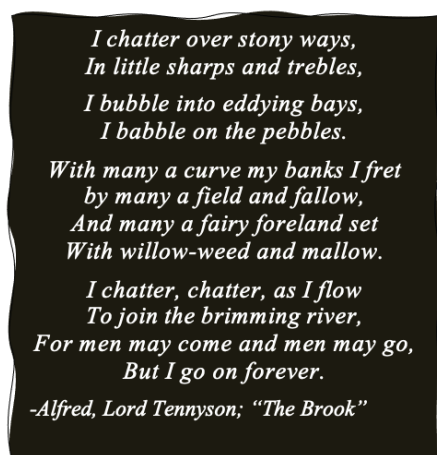
Other exceptions to this rule exist. If a property description indicates the intended boundary is an object called for at a river, then the object is the landmark. The boundary is fixed to the object and does not change when the stream moves.

It is important to note that title is not affected by the rising and falling of the stream, or by temporary or seasonal changes. The change must be permanent.

Moving Water: Boundary Changes and Property Rights Cont.

Avulsion and Subsidence on Riparian Tracts Do Not Change Boundaries

Sometimes, however, rivers and streams do not change course gradually. As any child who ever played in a creek can attest, streams can take another path quickly. When a river changes course “suddenly and perceptibly,” removing or depositing land in doing so, the process is called “avulsion.” In this case, the boundaries of the land do not change, even though the body of water has moved.



The difference depends on whether the change is a “gradual and imperceptible change.” If a person can notice, from time to time, that it is changing/moving, that can be gradual and imperceptible. If it can be detected while it’s going on, it is not gradual and imperceptible but sudden and perceptible.

There is an exception to this rule, as well. If a navigable stream leaves its bed and cuts a new bed, the boundaries are not otherwise changed, but the new bed is owned by the state. If the avulsion creates an island, the state owns only the new riverbed; the island belongs to its original owner. Any accretions to the island belong to the owner of the island.

When the surface of land sinks, it is called “subsidence,” and it has no bearing on the boundaries of the land, regardless of whether the change is gradual or sudden.

Littoral Tracts

When dealing with littoral tracts, a simplified definition of the “shoreline” is the average daily high-water level. A call to the shore of a lake does not include the bed. In property abutting the Gulf of Mexico, bays, or tidal waters, typically the littoral owner owns to the shoreline, and land seaward of the shoreline is covered by “navigable waters” and owned by the State of Texas.

Erosion and Accretion on Littoral Tracts Change Boundaries

As with riparian owners, each owner bears the risk that the shoreline will move over time.

The general rule is that the owner acquires or loses title to the land gradually or imperceptibly added to or taken from her shoreline. That is, if the shoreline moves inward, the littoral owner loses that land; if the shoreline moves seaward, the littoral owner’s property grows.

However, the burden to show the property has accreted is on the property owner. The state is presumed to retain title to the newly exposed land, absent such a showing. As with accretion on riparian tracts, the landfill rule applies. The owner may not intentionally build up the land and then claim the dry land as her own.

Subsidence on Littoral Tracts Does Not Change Boundaries

As with subsidence on riparian tracts, when the surface of the land sinks vertically, even underneath the surface of the water, the boundaries remain unchanged.

Effect on Mineral Ownership

In most cases, the exact boundaries of land abutting rivers, streams, and coastal flats would rarely be litigated except for one thing: oil and gas.

Much of the law surrounding these boundaries exists because of boundary disputes over mineral rights. The rules regarding erosion, accretion, reliction, and subsidence apply equally to the surface and mineral estates.

Other Matters Not Addressed

These rules affect the ownership of the land and the minerals—not the water. Ownership of the water is determined by other rules. Likewise, these rules do not necessarily affect the rights of the public to access beaches and navigable waters.



E.V. 'Rusty' Adams III

Research Attorney

Legal research

E.V. "Rusty" Adams III is the Center's legal expert. He received a Bachelor of Business Administration in management in 1996 and a Master of Science in marketing in 1998, both from Texas A&M University. After graduating from Baylor Law School in 2004, Rusty practiced general civil law, including real estate

law, in the Bryan-College Station area.

Nothing in this article should be considered legal advice. For advice or representation on specific matters, consult an attorney.

Propane Council Introduces Manufactured Housing Retailer Incentive Program

By Propane Education & Research Council (PERC)

WASHINGTON (Nov. 15, 2022) – A new incentive program is available for manufactured housing retailers from the Propane Education & Research Council (PERC). The new incentive program, the Manufactured Housing Retailer Incentive Program, encourages manufactured housing retailers to work with their clients to include clean, reliable, and efficient propane appliances in homes. The Incentive Program offers up to \$6,000 for each sales center location to install model homes containing propane appliances to help showcase the benefits of building with propane.

"This incentive program provides a great opportunity for manufactured housing retailers to access funds necessary to showcase propane and its benefits," Cordill said. "Adding propane performance to homes is an important step in further reducing greenhouse gas emissions and increasing efficiency and resiliency."

Learn more about the qualifications, and register for the program by visiting www.Propane.com/Manufactured-Housing-Retailer-Incentive-Program.



"To receive funding, we ask that retailers work directly with their propane supplier to apply for the program," said **Bryan Cordill**, the director of residential and commercial business development at PERC.

The funds will cover any increase in the cost of the model home to incorporate propane, including the cost to convert appliances, install the propane system, and perform safety checks.

The program applies to both HUD code and modular homes and requires that a gas range and a heating appliance (furnace and/or fireplace) are showcased in the model home. Both the propane supplier and manufactured housing retailer are required to report sales of propane homes from the retailer on a semi-annual basis for three years.

Propane Education & Research Council (PERC)

The Propane Education & Research Council is a nonprofit that provides leading propane safety and training programs and invests in research and development of new propane-powered technologies. PERC is operated and funded by the propane industry. For more information, visit Propane.com.



MHARR Comments Oppose Incorporation of DOE Energy Standards Within The HUD Code

By Mark Weiss, MHARR

The Manufactured Housing Association for Regulatory Reform (MHARR) has filed written comments (available upon request) with the Manufactured Housing Consensus Committee (MHCC) opposing the incorporation or summary "alignment" of U.S. Department of Energy (DOE) manufactured housing "energy conservation" standards within the Federal Manufactured Housing Construction and Safety Standards (FMHCSS) maintained by the U.S. Department of Housing and Urban Development. MHARR's November 9, 2022 comments were submitted in advance of a scheduled November 15-17, 2022 MHCC meeting in Washington, D.C., to consider the integration of the DOE final energy standards with the FMHCSS.

Both the excessive cost of the DOE energy rule and its complete unsuitability for manufactured housing and the manufactured housing market, as well as the legal mangle now facing HUD (and DOE) with respect to the enforcement of the standards, could have been avoided if DOE had properly consulted with HUD and the MHCC – as required by section 413 of the Energy Independence and Security Act of 2007 (EISA) – from the very start. Instead, DOE unlawfully relegated such "consultation" to meaningless after-the-fact activity, while MHI urged and supported the sham "negotiated rulemaking" used by DOE and its energy/climate special interest allies to sidestep the type of real and legitimate consultation that could have avoided the current morass. Now, the industry faces the consequences of that instinct to "go along," as the DOE energy standards are slated to go into effect on May 31, 2023.

While MHARR has called for MHI to lead an industry lawsuit to obtain an injunction against the DOE standards as the only available remedy that could be secured in time to stop those baseless and unlawful standards, MHI, instead, is stubbornly pursuing corrective legislation as part of a so-called "multi-pronged" strategy. In the wake of the November 8, 2022 election, however, it is – or should be – obvious that a legislative remedy is simply not in the cards, with razor-thin results in both houses guaranteeing that a presidential veto would be all but impossible to overturn (even if such legislation could ever be secured in the first place).

As a result, litigation remains the only potential remedy that could stop the DOE standards before they begin doing severe damage to the industry.

Consistent with this approach, MHARR's comments strongly oppose the wholesale incorporation of the DOE standards within the HUD Code, or the incorporation of any "aligned" variant of the DOE standards without full notice and comment rulemaking as required by federal manufactured housing law.

MHARR will continue its consistent and aggressive opposition to the implementation of the excessively costly and destructive DOE manufactured housing energy standards and will continue to urge MHI-led industry legal action to enjoin those standards prior to their scheduled May 31, 2023 implementation date.



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.

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Manufactured Housing Institute Releases New Study: “Manufactured Housing Market Trends During Recession Periods and Market Outlook”



MHI commissioned a study to examine how the manufactured housing market performed during recessionary periods over the last 40 years. The study found that manufactured housing shipments have generally declined during recessions, but that decline has been less severe than the decline in site-built housing as measured by overall housing starts. As there remains the possibility of a recession in the near-term, likely to be exacerbated by rising interest rates, high inflation, and a contracting housing market, this research is important for industry participants to understand the threat posed by economic headwinds and the historical impacts of prior recessions on the manufactured housing market as a whole.

Key findings from the study include:

- The rate of decline for manufactured housing shipment has been less severe than the decline in site-built housing (measured by housing starts) during four of the six recessions that have occurred over the last forty years: 1980-82 (two recessionary periods), 1990-1991, and 2008-2009. From January - May 2022, a year when the housing market has weakened amid rising interest rates, manufactured home shipments continued to increase faster than total housing starts.
- The Great Recession of 2008-09 was triggered by the collapse of the housing market when rising interest rates led to unaffordable mortgage payments and home foreclosures. Manufactured housing shipments contracted by 48% in 2009 compared to 2007 and housing starts fell even more by 59%. With a steeper decline in housing starts, however, the share of manufactured housing to total housing new supply increased to 8.2% from 6.6% in 2007.
- The primary impact of the COVID-induced recession in 2020 was the broad, and ongoing, disruption of supply chains. With this short recession, the level of manufactured home shipments was essentially unchanged during the whole year of 2020 from the level in 2019 while housing starts rose 7%.



Kurt Kelley Elected President of American Insurance Alliance



Kurt D. Kelley, JD, President of Mobile Insurance, The Woodlands, TX, has been elected President of American Insurance Alliance (AIA), effective January 1, 2023. Kurt entered the manufactured housing insurance industry in 1996 and has served on the Board of Directors for the Texas Manufactured Housing Association. Prior to entering the insurance industry, Kurt was an attorney in private practice.



Sue DeLeon, President of Bob Wallin Insurance, Bellingham, WA, has been elected Vice President of AIA. Rick King, President of King Insurance Brokerage, Omaha, NE, will be serving the Alliance as Secretary-Treasurer. Lou Serro, Senior Vice President of Brown & Brown Insurance of Arizona in Phoenix, will continue to serve on the Board as Immediate Past President.

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

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



For additional information about this press release, contact Kathleen Bianculli kbianculli@AmericanInsuranceAlliance.com.

For more information on AIA and its members, please visit www.AmericanInsuranceAlliance.com.



Interest rates are increasing, but good financing is still available for manufactured homes.

1. When buying a manufactured home, start with **as much down payment** as possible. Equity will build up faster and payments will be lower.
2. Always consider **taxes and insurance** (called “escrow”) when budgeting your monthly loan payment. When a lender quotes a payment for your new loan, ask if it includes taxes and insurance.
3. If you select a non-standard loan, make sure you **understand** terms like teaser rate, variable rate, or balloon payment.
4. All banks require homeowner’s insurance. Lenders have access to national insurance companies that specialize in mobile home insurance and will generally quote good rates, but don’t be afraid to **shop around**.
5. Speaking of which, **never let your homeowner’s insurance lapse**. It will cost several hundred dollars to get the policy reinstated, if that’s even possible, and you’ll likely pay a higher premium.
6. Don’t let a lender tell you **“credit life”** insurance is required. (This is the insurance that pays off your loan if die or become disabled.) It’s not required, and you may have enough life and short-term disability insurance already.
7. Finance your loan for the **shortest time** as possible, it will save a TON of money in interest.
8. Interest on mobile and manufactured home loans is **tax deductible**. It’s your primary dwelling so you get a tax break, the same as real estate. Consult to your tax advisor for more information.
9. **Make your payments on time!** This sounds simple, but it will improve your credit score and give you more options when you’re ready to upgrade to a newer manufactured home.
10. Before applying online with a national lender, visit your **local bank**. The bank or credit union where you have your checking account may give you favorable terms on a manufactured home loan, too!



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Barbara Hames-Bryant is President of Hames Homes, a three-generation family business located in Cedar Rapids, Iowa. Hames-The Homes People® has been a trusted housing brand in Eastern Iowa since 1969. In addition to manufactured home sales and two premier manufactured home communities, the Hames family operates a finance company and insurance agency. Ms. Hames-Bryant is author of the monthly blog: hameshomes.com. She can be reached at Barbara.Hames

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Passive Aggressive Planning: Passive Activity Rules for Investors

By William D Elliott

Passive activity rules are ever-present and complicated, and they play a major role in real estate professionals' investment decisions.



Federal tax law contains several meaningful and problematic fault lines. Among the most notable is the capital gain-ordinary income fault line. Another significant one is the passive activity rules, which real estate investors and professionals commonly encounter.

Passive activity rules have existed since 1987, when Congress decided to enact rules separating those who materially participate in their business or investment activities from those who do not. The rules provide that if someone materially participates in an investment activity, losses from the activity can offset profits from ordinary income. If the person does not materially participate, then losses from the activity can only offset profits from passive sources and cannot be offset against ordinary profits.



In any given year, if passive losses exceed the passive profits for the year, the remaining losses are suspended, to be carried forward and used to offset future generated profits, or perhaps

captured when the asset or activity is sold. Suspended losses can only be carried forward, not backward. For real estate professionals, these passive activity rules may play a major role in investment decision-making.

RENTAL REAL ESTATE

Congress decided in 1987 that rental real estate is passive regardless of whether the taxpayer materially participates. However, some exceptions are provided for real estate professionals who meet higher standards of material participation. For a real estate activity to avoid the passive activity characterization and have income treated as ordinary income, the real estate professional must materially participate in the real estate activity as determined by two rules:

- the real estate professional must perform more than half of the services in a real estate trade or business as a material participant, and
- more than 750 hours must be performed in the particular real property trade or business.

The net effect of these material participation dual rules for real estate professionals is that rental real estate is not passive, and losses are not subject to the passive loss limitations if the taxpayer materially participates. But real estate professionals have the added burden of satisfying the new excess business loss limitations enacted in 2017, as discussed later.



DEFINING REAL PROPERTY TRADE OR BUSINESS

"Real property trade or business" is defined as "real property development, redevelopment, construction, reconstruction, acquisition, conversion, rental, operation, management, leasing, or brokerage trade or business."

Passive Aggressive Planning: Passive Activity Rules for Investors Cont.

Most commonly, taxpayers qualify as being in the real estate business if they work as real estate brokers and agents, general and specialty contractors, land developers, and property managers.

Qualified real estate professionals can treat unrelated real estate rentals as non-passive activities. The rental real estate does not have to be related or directly tied to the real estate business to qualify as non-passive if the taxpayer and/or the taxpayer's spouse materially participates.

Employee status could pose a problem unless the taxpayer has more than a 5 percent ownership interest in the business.



AGGREGATION OF PROPERTIES

Taxpayers may aggregate all real estate rental properties as a single rental activity when measuring the seven tests of material participation (discussed below).

This could help taxpayers test material participation and meet the hours requirements. Material participation in one rental



will qualify as material participation in all the rental real estate.

The election to aggregate is binding for all future years.

SPECIAL RULE FOR SMALL LANDLORDS

When Congress created the passive loss limitation statute in 1987, it created a safe harbor of sorts for small landlords.

Taxpayers who own at least 10 percent of a property and actively participate by providing management services pertaining to the property in question are allowed to deduct \$25,000 in net passive losses annually.

The safe harbor is subject to a phase-out for higher income levels.



SEVEN MATERIAL PARTICIPATION TESTS

The abundance of passive loss limitation rules adds to their complexity, but they're intended to help prevent abuse and accomplish the tax policy's intent: limit losses that offset ordinary income, except for a few who work in the business.

The IRS has created the seven tests to annually determine whether a taxpayer is materially participating in the activity. The taxpayer:

- must have worked more than 500 hours in the activity;
- performs substantially all of the work in the activity;
- works more than 100 hours in the activity, more than anyone else who works in the activity;
- significantly participated in the activity (worked more than 100 hours), and the total amount of hours worked in all significant participation activities exceeds 500 hours for the year;

Passive Aggressive Planning: Passive Activity Rules for Investors Cont.

- materially participated in the activity for any five of the previous ten taxable years (do not have to be consecutive years);
- materially participated in the activity, which is a personal service activity, for any of the three taxable years preceding the current tax year; or
- is involved with the activity on a regular, continuous, and substantial basis based on all facts and circumstances. This applies only if the taxpayer works more than 100 hours, and the hours spent managing the real estate activity (for the 100-hour test) are countable only if:
 - no other person who performs management services is compensated for the services, and
 - no other person spends more time performing management services than the taxpayer.

The focus is on the taxpayer's regular, continuous, and substantial involvement in the activity.

For short-term rentals, which are measured by average rental periods of no more than seven days, rental activity is treated as a business and is exempt from the passive loss limitation rules only if the activity can satisfy one of the seven material participation tests. Rental real estate is not passive if the rental activity is not passive and if extraordinary personal services (for example, hospital rooms for medical care) are provided as part of the rental.

Investor-type services are not subject to passive limitation rules, so they are excluded from the 750-hour and 500-hour tests for material participation.

If the taxpayer materially participates in a rental business, the rental income derived from that activity is not passive. This rule targets an individual attempting to generate passive income to offset passive losses through self-rent activities.

Record-keeping could be challenging for the real estate professional. As with business expenses, contemporaneous records, daily logs, diaries, etc. are often the best form of proof. The Tax Court has many decided cases where individuals lost because of poor or insufficient record-keeping or documentation. When proving material participation in an activity, no hours exist unless they can be proven (i.e., documented).

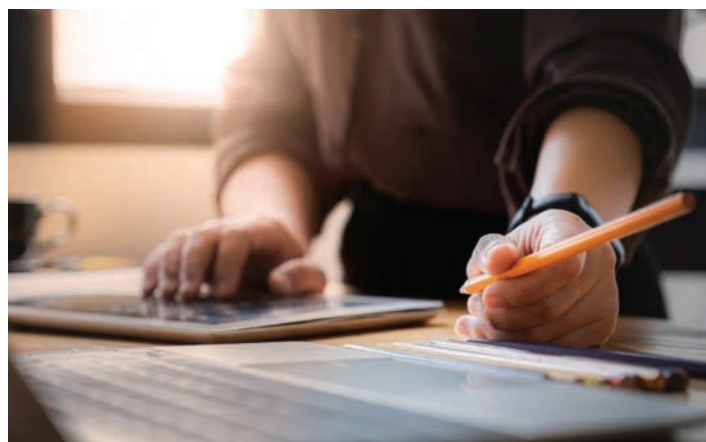
SELF-RENTALS

Self-rental property may generate a loss that cannot be deducted for tax purposes.



When property is rented to oneself or to a business in which one materially appreciates, how the real estate rental activity is treated (i.e., as passive or non-passive) depends on whether it produces income or a loss.

If the self-rental produces income, it is non-passive. If there's a loss, the self-rental produces passive losses. Some focused planning is required to avoid this self-rental tax trap.



RULES LIMITING DEDUCTION OF EXCESS BUSINESS LOSSES

Tax legislation in 2017 added rules that limit a non-corporate taxpayer from deducting excess business losses against non-business income. This new limitation is in addition to the passive loss limitation rules. For a deduction to be limited, the business loss generally must be in excess of:

- the taxpayer's deductions for the tax year attributable to a trade or business, over
- the sum of the taxpayer's gross income or gain for the tax year attributable to trades or businesses, plus \$250,000 (or \$500,000 for a joint return).

Passive Aggressive Planning: Passive Activity Rules for Investors Cont.

For partnership or Subchapter S corporations, the limitation is applied at the partner or shareholder level.

Congress intended for the new excess business loss limitations to apply after the passive loss limitations are applied. Further, the excess business loss limitation is just that: a limitation on losses. The rule does not change the character of income (e.g., capital gain, or recaptured Section 1250 gain or regular Section 1231 gain).

One uncertainty about the new excess business loss limitations is the interplay with a taxpayer's earned income. Earned income is treated differently for various tax provisions, but it is included as trade or business income for some purposes. How the new excess business loss limitations characterize earned income remains to be seen.

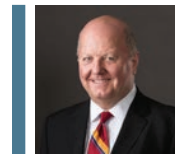
2017 tax legislation limited net operating loss carryover to 80 percent of taxpayer's income.

EVER-PRESENT, COMPLICATED, AND BENEFICIAL

Passive loss limitations affect real estate investors and professionals about as much as any tax provision. The rules are ever-present, but they are not easy to understand.

For the real estate professional, the rules offer the opportunity to reduce taxes. Significantly, rentals generating a loss do not have to be tied to the real estate business and can be treated as non-passive.

Nothing in this publication should be construed as legal or tax advice. For specific advice, consult an attorney and/or a tax professional.



William Elliott is a Dallas tax attorney, Board Certified, Tax Law; Board Certified, Estate Planning & Probate; Texas Board of Legal Specialization; and Fellow American College of Tax Counsel.

Disallowed losses under this new provision are treated as a net operating loss that is carried over to the following year and future years, indefinitely. The 2017 legislation clarified this interpretation for future carryovers. Nevertheless, the



ELLIOTT, THOMASON & GIBSON, LLP
Attorneys and Counselors



Hurricane Ian Highlighted the Vulnerabilities of Older Mobile Homes

By John Burnett

PUNTA GORDA, Fla. – A man in his late 70s, eyes red-rimmed and holding a beer in a koozie, surveys the ruination that was once his happy home. His decapitated mobile home is in Gasparilla Mobile Estates, about 30 miles north of Ft Myers. The name comes from the famed barrier island just offshore.

"How do you describe it?" John Borren says with a forced chuckle. "Gone. Demolished."

The drone photos from the coast of Southwest Florida show the aftermath of Hurricane Ian: mobile home parks blown to smithereens. At Gasparilla Mobile Estates, it looks like a giant took a weed whacker to this community of 178 mobile homes. Roofing, siding, skirting, walls, and carports flung about in a frightful mess, no longer recognizable as human dwellings.

It's a perennial problem during hurricane season. Older mobile homes, built to lower wind standards, are acutely vulnerable. But they're sought-after because this is affordable housing in Florida.



In this photo shot with a drone, shrimp boats lie grounded atop what was a mobile home park following the passage of Hurricane Ian on San Carlos Island in Fort Myers Beach, Fla., on Oct. 7. -Rebecca Blackwell/AP

Borren would take his wife and motor out to the island in his skiff, where they collected shells and fossilized shark's teeth. They owned their 1972 trailer free and clear. The rent on their lot was only \$580 a month. On a monthly social security check of \$2,500 they got by on their little piece of paradise.

No more.

They lost everything

"This trailer's been here for 40 years. I mean, it's a '72 trailer. (I've put) thousands of dollars in it and they won't pay me nothin'. Very few people had insurance. They lost everything."

Borren's story epitomizes Florida's affordable housing dilemma.

In 1994, two years after Hurricane Andrew pulverized the Homestead area, the U.S. Department of Housing and Urban Development toughened wind standards for mobile homes. About the same time, the industry started calling them manufactured housing. And they became more expensive.

"They're living in these mobile home parks because there is not an affordable housing stock available to them," says Jamie Ross, CEO of the Florida Housing Coalition, an advocacy group.

"This is what happens, these tragedies"

"They should not be there because it is not stable housing in a state like Florida. This is what happens, these tragedies."

But tell that to retirees on fixed incomes like John Borren,



John Borren and his wife live in Gasparilla Mobile Estates in Placida, Fla. Most of the older mobile homes, built to lower wind standards, were pulverized by Hurricane Ian. John Burnett/NPR

"That wind was so strong. I never seen anything so strong," says Borren, a retired construction worker from Massachusetts. "They claim it was stronger than Charley. I believe it now."

Before Ian, the hurricane of record on this stretch of coastline was Charley in 2004 – also a Category 4, with 150 mph winds. But Charley spared Gasparilla. Life went on.

Hurricane Ian Highlighted the Vulnerabilities of Older Mobile Homes Cont.



low-wage earners and farmworkers who cannot afford to live anywhere else in a booming real estate market like Florida's. Folks from up north are streaming into the state to enjoy the mild summers, year-round sunshine and sugar-sand beaches.

"The pressure on affordable housing in Florida is just excruciating," says Gladys Cook, director of Resilience and Disaster Recovery at the Florida Housing Coalition. "We've had land costs and construction costs go up 30 percent in just the last couple of years."

Older mobile homes are everywhere in Florida. Of 822,000 mobile and manufactured homes in the state almost two-thirds of them are pre-1994 vintage, according to the Florida Manufactured Housing Association.

Major storms like Ian are culling, so to speak, the old structures.

"Every time there's a hurricane we see a number of our older homes that suffer catastrophic failures," says Jim Ayotte, CEO of the Florida Manufactured Housing Association. He says while mobile home parks have gone upscale, with swimming pools and landscaping, the industry continues to suffer from an age-old image problem in many Florida cities and towns.

"They would rather see a mobile park gone," Ayotte says. "They see it as a blight on the community. They don't really look at that as an affordable housing source. They say let's get rid of it."

If you don't believe him, believe Jimmy Buffett.

"Yeah, they're ugly and square, they don't belong here, they looked a lot better as beer cans," croons the singer-songwriter who fell in love with Key West.

But the fact is, they're not beer cans – anymore.

Newer manufactured housing fared well during Ian

Modern manufactured housing can be built to withstand 150 mph winds. Since the advent of post-Andrew wind standards, a mobile home on the Florida coast has to have double wall studs, double roof trusses, thicker nails, and double tie-downs anchored in concrete.

Just ask the residents of Parkhill Estates in Punta Gorda. It's a 55+ community of 176 homes where folks like to play shuffleboard, poker, and bridge, and cruise the curved streets in fleets of golf carts.

"Hi Bob!"

"Hi Denny, how are ya?" says Bob Murphy, 82, to another T-shirted retiree in a baseball cap. Murphy is the genial president of the residents' co-op that owns the park. He's driving around catching up with his neighbors.

"You doin' OK?" Murphy asks, "Your house fared very well, didn't it?"

"Yes it did, I can't complain," calls back Denny.

Eighteen years ago, Hurricane Charley decimated Parkhill Estates.



Bob Murphy had only minor damage to his manufactured home in Parkhill Estates, Punta Gorda, Fla., where newer homes mostly withstood the ferocious winds of Hurricane Ian. John Burnett/NPR

Hurricane Ian Highlighted the Vulnerabilities of Older Mobile Homes Cont.

"It demolished all the older homes," says Ernie Parent, a 74-year-old gas company retiree from Zanesville, Ohio, who had moved in only months before the storm hit. "We had over a hundred new homes brought in after Charley. Ian was bad, but the hundred new homes all stood up."

The worse storm damage from Ian appears to be the slab-built club house, not the manufactured homes.

"The structures themselves seem to be pretty durable compared with this hurricane," says Murphy, who winters in Punta Gorda and spends summers at his home in Cincinnati. "Ninety-nine percent of the structures are still standing. There's some siding off and some roof damage. The skirting came off of a number of 'em. But for most part they held up pretty well."

Still, Murphy says he's too old to go through another major hurricane like Charley and Ian. He hopes his mobile home holds, but if it doesn't, "I won't come back."



John Burnett
Southwest Correspondent, National Desk

John Burnett is a national correspondent based in Austin, Texas. He has filed stories from more than 30 countries since joining NPR in 1986. In 2012, he spent five months in Nairobi as the East Africa Correspondent, followed by a stint during 2013 as the network's religion reporter. His special reporting projects have included working in New Orleans during and after Hurricane Katrina, as an embedded reporter with the First Marine Division during the 2003 invasion of Iraq, and continuing coverage of the U.S. drug war in the Americas. His reports are heard regularly on NPR's award-winning newsmagazines *Morning Edition*, *All Things Considered*, and *Weekend Edition*.



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Carbon sequestration could offer income for landowners willing to follow required management practices. However, the market is in its infancy, so contract terms vary. Owners should consult legal experts before executing contracts.



ESG, a new abbreviation bandied about by socially aware investors, may fuel an opportunity for Texas landowners to increase their income. ESG stands for environmental, social, and governance criteria, and a growing number of entities supply ESG scores for companies to potential investors who may use them when making investment decisions.

A company's carbon footprint can adversely affect its ESG score. That has prompted many businesses to reduce their carbon footprint, reducing the amount of carbon dioxide they release during operations or acquiring carbon credits to offset their releases. As a result, carbon storage and carbon credit incentives may become an important source of income for Texas landowners, depending on their management practices. Adopting appropriate management practices might allow landowners to participate in an emerging market for carbon credits.

In general, a carbon credit permits its owner to emit one ton of carbon dioxide without that emission counting as a negative environmental impact. Presumably, an emitting business could reduce its carbon footprint by paying landowners to undertake management practices that sequester carbon in their soil. In addition, if governments adopt cap-and-trade programs, a market for credits might emerge. California has instituted such a program.

Anticipating the possible adoption of a national cap-and-trade system, entrepreneurs attempted to create a viable market for carbon credits under the auspices of the Chicago

Climate Exchange in the early 2000s. The exchange certified contracts for activities that sequestered carbon creating a carbon credit. Those contracts could then be traded to provide carbon credits to the buyers. However, cap-and-trade legislation did not pass, and the market failed due to a lack of demand. ESG scores have created a renewed focus on curbing carbon emissions, prompting companies to begin purchasing contracts for carbon sequestration in an effort to reach "carbon neutrality."

Players in the Market

California's cap-and-trade program has sought to reduce greenhouse gas (GHG) emissions since 2009. This program mandates reporting of GHG emissions. Companies required to participate in the program include oil refiners, power companies, and any other large carbon emission company. The recent appearance of carbon-marketing companies in Texas has farmers and ranchers considering the potential for the sale of carbon credits.

Most companies act as "brokers" for the carbon credit process. The voluntary Texas carbon market depends on landowners' grazing and/or farming practices to supply carbon sequestration. Demand will presumably come from companies attempting to boost their ESG score by reducing their carbon footprint.

Because brokerage of carbon credits is just emerging in Texas, terms of contracts vary substantially from company to company and for each landowner. For a discussion of carbon contracts, see Understanding & Evaluating Carbon Contracts by Tiffany Dowell Lashmet. Because contracts are long-term and future conditions can impact revenues, landowners should consult with an attorney with experience dealing with these agreements to reduce the possibility of future difficulties.

Focusing on the supply side, the first step in the process is for the broker company and landowner to discuss regenerative practices in place on the land and the potential for those practices to provide income through carbon sequestration. That potential is unique for each property.

Carbon sequestration consists of plants capturing carbon from the atmosphere and depositing it in the soil. Adopting particular practices that leave plants in place sequesters carbon through their root systems. Practices might include things like planting trees (wind breaks or forests) and cover crops (clover) and then doing rotational grazing. Switching to organic farming or ranching practices might also qualify. Particular requirements depend on actions specified in the

Down to Earth: Carbon Credits for Landowners Cont.

particular contract offers. In general, qualifying practices do not disturb the soil.

After initial contact with a landowner, brokers determine the suitability of the property for adopting regenerative practices specific to companies' standards. This requires extensive soil analysis to establish potential impacts, requirements, and revenue implications for the owner. Because this market is voluntary with no true regulation, many companies require third-party verification of analyses.

After reviewing all data, the carbon broker estimates annual revenues to landowners based on market prices for carbon credits, the number of carbon credits the property can produce, and an estimated timeframe that the landowner can continue these practices. Depending on the brokerage company standards, additional soil testing generally occurs every one to five years after the start of the contract. These tests seek to verify that landowner practices actually have produced the forecasted carbon sequestration. Shortfalls may result in landowner refunds to the contracting entity.

Lease terms normally range up to 20 years and typically have provisions for renewals as well. The success and profitability of a carbon contract on any property differs based on the ecological composition of the property, the landowner's fulfillment of the regenerative practices, and demand for carbon credits.

Potential and Future Regulations

The current federal administration has discussed establishing a required program for GHG reduction. Californian and European cap-and-trade programs have engendered relatively successful regulated markets for carbon credits.

A federal program would increase demand for carbon credits and enhance markets for carbon sequestration on a broad basis. However, no national legislation is currently in process.

Concerns for Landowners

Landowners considering executing a contract for carbon sequestration should look at estimated costs of the required practices. Startup costs may add up to a substantial sum. They differ with conditions on each specific property.

In addition, owners should anticipate impacts on livestock and farming operations as well as recreational land uses. Terms of the carbon lease may conflict with other contracts currently in place, such as a hunting lease, minerals lease, or wind turbine contracts.

Because the market is in its infancy, there is no generally accepted form of agreement, so these deals can vary substantially for each landowner. Therefore, engaging an experienced attorney will help mitigate the risk of negotiating an agreement involving many complicated features.



[Dr. Charles Gilliland](#)
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Rural land, property taxes

Charles is the Texas Real Estate Research Center's land market expert. He holds M.S. and Ph.D. degrees from Texas A&M University. He has been studying land prices since the 1980s and is known throughout the state as the man to go to if you have questions about Texas land. In 2010, he was inducted into the Farm Credit Bank of Texas Hall of Honor for his "significant contributions to agriculture." [email](#)



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Manufactured Housing Consensus Committee Convenes Second Week of Meetings

By The Manufactured
Housing Institute

About DOE Energy Rule; Votes to Recommend HUD Code Revisions Consistent with MHI's Proposal by Voice Vote

The Manufactured Housing Consensus Committee (MHCC) began its second week of meetings on Tuesday regarding the incorporation of the Department of Energy's (DOE) manufactured housing energy conservation standards (Energy Rule) into the HUD Code. At the prior meeting in October, the MHCC agreed with MHI's recommendation to reject the incorporation of the DOE energy standards into the HUD Code by reference. Instead, the MHCC began the vital task of drafting specific language into the HUD Code applying energy standards that adhere to the realities of manufactured home construction. MHI is pleased that the MHCC utilized its proposal to help draft the language and will continue this process at this second meeting where MHI will again be an active participant.



Much of the discussion throughout Tuesday's meeting was informed by MHI's in-depth analysis of the DOE rule and dealt with the potential for increased costs associated with DOE's proposed standards. Specifically, the costs associated with DOE's standards often increase the costs of a new manufactured

home to such an extent that the homeowner cannot recoup the frontend expense through energy savings. Further, in order to meet these standards, manufacturers would lose the ability to include features, such as vaulted ceilings and windows, that consumers find desirable in a home. **MHI CEO Lesli Gooch** spoke at the meeting noting that the MHCC should "encourage HUD to craft its own standard that balances energy efficiency with affordability and encourages homeownership" as is HUD's mandate.

Additionally, in advance of Tuesday's meeting, MHI provided the MHCC with additional analysis of MHI's alternative proposal and highlighted flaws in the DOE's economic analysis about cost effectiveness. MHI's submission clearly demonstrates that MHI's proposed thermal requirements provide better cost savings for consumers with comparable energy efficiency to the DOE rule. Furthermore, MHI shared results of a third-party economic analysis of the DOE rule establishing that DOE failed to consider key cost inputs in its analysis so its findings

cannot be relied upon to show cost effectiveness, as required by law. MHI also provided architectural drawings to show the negative impacts of the DOE rule on the design and aesthetics of manufactured homes.



The Manufactured Housing Consensus Committee agreed with MHI's proof that the DOE did not follow its statutory mandate that the Energy Rule result in energy efficiency requirements that are cost effective. On Wednesday, the MHCC voted to recommend HUD code revisions, consistent with MHI's initial proposal, by a voice vote. Furthermore, the MHCC attached to its submission to HUD MHI's documentation supporting its proposal. [Click here](#) to read MHI's submissions to the MHCC in advance of the November meeting.

MHI is the national trade organization representing all segments of the factory-built housing industry. MHI serves its membership by providing industry research, promotion, education and government relations programs, and by building and facilitating consensus within the industry.



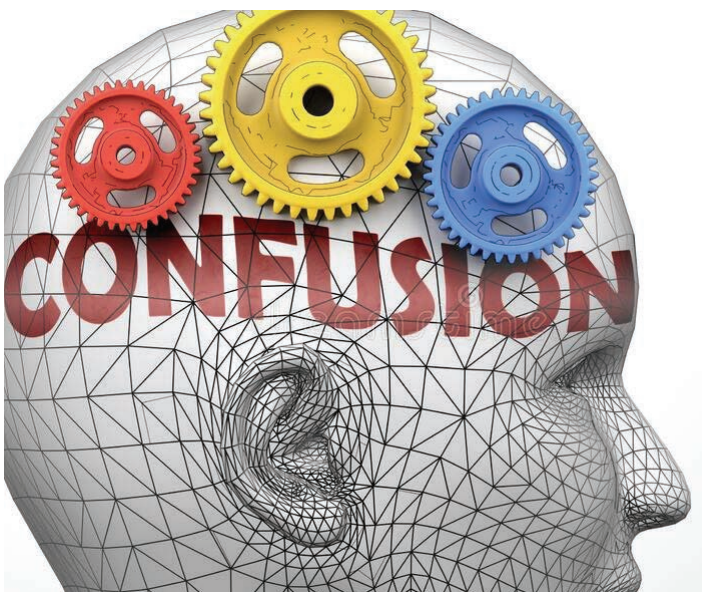
Denver Deciding on Mobile Home Parks Moratorium

By Carly Moore, FOX31/
Channel 2, Denver, CO



DENVER (KDVR) – Denver City Council weighing the decision to put a moratorium on mobile home park development citywide. This is modeled after Aurora's 10-month moratorium that was enacted back in 2018.

The goal is to prohibit the redevelopment of mobile home parks while the group determines how to keep and possibly rezone the parks moving forward.



Right now, the city has five mobile home parks that house about 300 families. All five parks are zoned differently meaning they are all required to follow different regulations.

The goal of this is to work on developing a possible new manufactured home zoning district, that way there is equity across the board.

The zoning right now does not allow mobile home park owners to replace or remodel any homes meaning despite falling into disrepair there's nothing they can do.

"Preserving housing and creating housing stability is one of our foremost priorities in Denver. Being able to keep, retain and support the dignity of all housing, I think is one of the most important things that we do, and whether you live in a multi-bedroom home, a studio, or a mobile home park, you need to be afforded the same dignity and opportunity," **Denver City Councilwoman Jamie Torres** said.



Additionally, the council is trying to ensure these parks don't fall through the cracks, and this is the proposal to do that.

"[One Denver mobile home park owner] tried to improve the housing options in that park and we just as a city in our rules, we certainly haven't allowed them to do that. But that's absolutely a fear right that because it is so under the radar and in the zoning shadows. We really turned a blind eye turn a blind eye to those communities and so this is really trying to shine the light and get more resources," Torres said.

As far as the timeline goes there will be several committee meetings on this and then the city council public hearing in March of 2023.



Carly Moore joined FOX31 and Colorado's Own Channel 2 as a reporter in April 2021. She won a regional Edward R. Murrow award in 2021 for Excellence in Writing. Carly won the Southern Colorado Press Club's Excellence in Media Radio/TV Broadcasting award in 2019. Carly received a Certificate of Merit from the Colorado Broadcasters Association for Best Hard News, Spot News Report

Within 24 Hours in 2017.

<https://www.facebook.com/CMooreNews/>

Fair Housing Toolkit for Manufactured Housing Owners and Developers

By Sara Pratt

Many owners and developers of manufactured housing are not aware of the ways that the federal [Fair Housing Act](#) can support them in their interactions, sometimes hostile, with local governments that want to limit or exclude manufactured housing when these adverse actions, either directly or indirectly, are based on the race or the national origin of current or expected residents of the community, or even directed against families with children, the Fair Housing Act may protect the manufactured housing community.

You might encounter resistance or hostility when first seeking [zoning or other planning](#) approval or when you seek to expand. It might happen when [local opposition to an existing community is based on bias or stereotypes about residents](#) and becomes the basis for adverse action to close the community and displace its residents.

What is Affordable Housing?



Manufactured housing is, of course, an important form of affordable housing and it is critical to rental and homeownership choice, especially in rural areas. There are many fair housing cases where affordable housing has been excluded, attacked, run out of town, overly restricted or had local standards which impose costly obligations only applicable to that type of housing. These cases provide valuable lessons to the manufactured housing industry.

Intentional Discrimination

Developers and operators have seen openly discriminatory opposition based on stereotyped assumptions about the current or projected residents based on their presumed race or national origin in objections by neighbors or by elected officials. Sometimes the opposition is direct: "No Mexicans," "those immigrants," "those people should go back to where they came from."

Sometimes the opposition uses code words which convey strong negative messages based on racial or ethnic bias—



phrases like "decrease property values," housing will "change the character of the neighborhood," "overburden the schools," "cause an increase in crime," "destroy the rural nature of the community," or "increase violence."

Courts also have found evidence of intentional discrimination from municipal actions that exclude, or limit manufactured housing where the housing will likely be occupied by Black or Latino families. This kind of evidence includes:

Departures from the usual rules targeted at manufactured housing sites

- Unusual sequence of events in zoning decisions
- Some evidence of direct discrimination or code words
- The history or context of the challenged actions and
- The impact of the decision related to race, national origin or other illegal discrimination

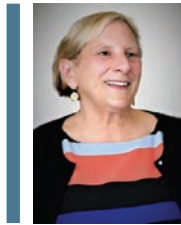
Exclusionary Discrimination

In some communities, local zoning practices and policies exclude, or limit manufactured housing. [Some communities zone out manufactured housing altogether](#) or significantly limit the areas where it can be located. These policies can have a strong adverse impact on manufactured housing that is or will be occupied by groups protected against discrimination and they can be illegal.

Potentially discriminatory policies include outright bans on manufactured housing, refusals to approve a variance to allow siting of a community or an expansion, restricting manufactured housing to areas that have adverse environments or fewer amenities or opportunities, or abruptly changing rules to limit number of units when there's an application. Large lot sizes and low-density zoning, unexpected revisions to zoning schemes, mandating senior rather than family occupancy, and preferring stick-built housing over manufactured housing are other exclusionary techniques that might violate the Fair Housing Act.

Fair Housing Toolkit for Manufactured Housing Owners and Developers Cont.

At times, the explanations offered by communities for their exclusionary decisions are not even supported by the facts. For example, fears of school overcrowding after occupancy are often not supported by the local school situation. One community was disapproved because there was no public transportation in a rural area where there was no public transportation for any residents and where all the residents of the manufactured housing community had their own cars. The explanations for exclusionary actions need to be closely examined to see whether they are true, and whether they justify the adverse action or are just designed to exclude manufactured housing.



Sara Pratt is counsel at the national civil rights law firm Relman Colfax PLLC, based in Washington, D.C. She joined the firm in 2016 after her retirement from the Department of Housing and Urban Development. Her civil rights litigation practice focuses on the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the 1973 Rehabilitation Act, and related civil rights laws. Her work emphasizes challenges to institutional barriers to access to housing, lending, and insurance and to policies and practices that perpetuate discrimination and segregation based on race, national origin, sex, and disability.

Sara Pratt, Counsel

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Here's one more thing that owners and operators should know: When the Fair Housing Act applies to local actions that stop manufactured housing for discriminatory reasons, the law provides for payment of damages and attorneys' fees to owners, developers and residents who have been injured by discriminatory practices who have successfully challenged the practices.

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The Biggest Office Building in Missouri Recently Sold for Only \$4 Million

By Frank Rolfe

"Trailer Parks" Are Now More Valuable Than Some "Office Parks"!

Built in 1985 the One Bell Center is a 44-story behemoth that ranks as the largest office building in Missouri. It also just sold for only \$4.08 million - less than \$90,000 per floor <https://www.msn.com/en-us/money/realestate/at-tower-s-new-owner-has-discussed-selling-it/ar-AA12uf6X?ocid=hponeservicefeed&cvid=2f32f2da7d3b47d2828344a67920211a>. In addition to being a terrible bell weather for office building owners nationwide, it also offers some lessons learned on why "trailer parks" are better than prestigious office buildings in today's America.



occupancy and lower their rents mobile home parks took off and enjoyed massive increases in rent levels and occupancy. If real estate was judged solely on appearance, then I'd be the first to admit that office buildings would win. But it's not a beauty contest and 100% of your grade is strictly financial performance and office buildings have simply not been able to hold up to their earlier successes.



Amazing to think back on the 1990s

When I got into the mobile home park business in 1996 the average mobile home park sold for around \$10,000 to \$20,000 per lot. At the same time, office buildings were selling for \$100 per square foot or more. Nobody would ever put office buildings and mobile home parks into the same category. We were the distant cousin of the "legitimate" real estate sectors and many banks would just hang up on you when you called looking for a "trailer park" loan. It's hard to believe that a single manufactured home community in northern California recently sold for over \$200 million while Missouri's largest office building sold for \$4 million. I wish I could tell those lenders "I told you so" but most have already retired.

It's all about the money

Of course, the reason that mobile home parks and office buildings ultimately attained parity is the simple fact that commercial real estate is solely based on money; namely net income. At the same time that office buildings started to lose



It's nice to be in a real estate sector that does not risk obsolescence

Of course, one of the big problems with One Bell Center is that nobody wants office space any more - at least not in large volume. The demand for affordable housing, however, is bottomless. While Covid led many companies to promote working from home and simply learning to operate with a leaner employee count, housing is essential and there's

The Biggest Office Building in Missouri Recently Sold for Only \$4 Million Cont.

no chance of it going out of favor. On top of that, mobile homes are very simple structures that never goes out of style and have not had a major redesign since 1990 while office buildings have changed a lot since 1985 (the year One Bell Center was built) and require a huge capital commitment to remodel them to modern tastes. In the case of One Bell Center, that estimated price tag is \$200 million to convert it into an apartment building (since housing is where the demand is and office space is not).



Affordable housing is on the right side of U.S. megatrends

In 1984 (the year before One Bell Center was built) John Naisbitt published "Megatrends" and started a revolution in evaluating business opportunities based on major U.S. trends. Office buildings are simply on the wrong side of all U.S. megatrends which revolve around downsizing, remote working, and suburban office locations away from urban crime. Meanwhile, mobile home parks benefit from being on the correct side of the megatrends including:

- 10,000 Americans retiring per day and downsizing their housing.
- The need for affordable housing as single-family homes hit \$380,000 on average and \$2,000 per month average apartment rents.
- Americans leaving urban centers for suburban and exurban areas that are safer and offer a higher quality of life – and are where the majority of mobile home parks are located.

Naisbitt argued that no business could flourish unless it was in harmony with U.S. megatrends and office buildings are on the wrong side of the trends and mobile home parks are on the right side.



Looks like John Jacob Astor was right all along

Perhaps John Jacob Astor (America's first real estate millionaire who died in 1848) was right when he reasoned that the way to make money in property ownership was to never get involved in building or maintaining

structures. Astor only believed in one basic principle: leasing land. Although mobile home parks didn't exist in the early 19th century, he would have most definitely owned them if they had. If someone wanted a house on Astor's land, he'd rent them the land for them to build the house – but he never built anything. He didn't like the capital costs or management hassles of owning buildings. And mobile home park owners are on the same page.

Conclusion

It's hard to believe that a 44-story office building could sell for a little over \$4 million. It's equally hard to believe that your standard 100-space mobile home park today can easily sell for twice that amount based on the market and location. The bottom line is that, once again, community owners need to respect what we do and how we do it. We are not a lesser real estate sector after all and can go toe-to-toe with any other asset class.



Frank Rolfe has been a manufactured home community owner for over 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.

Buyers Feel Pinch of Rising Interest Rates

By Clare Losey - Texas Real Estate Research Center

The recent rise in mortgage interest rates affects potential homebuyers in several ways, including lowering their purchasing power, increasing their mortgage payments, and diminishing their anticipated returns on homeownership. Buyers currently entering the market will take longer to reap the wealth-building benefits of owning a home.

the required income to qualify for a mortgage loan increases as the mortgage rate increases. In effect, this pushes more potential buyers out of the housing market. An estimated 34.8 percent of Texas renters could afford the first-quartile home price in 2Q2022 with a 3 percent interest rate. That proportion declines to 24.7 percent with a 6 percent rate.

Second, all else being equal, a higher interest rate means a higher mortgage payment, which increases the buyer's debt-to-income (DTI) ratio. This generally makes a buyer a bigger credit risk to lenders, potentially diminishing the likelihood of qualifying for a mortgage loan. Moreover, a higher DTI ratio can make mortgage repayment more difficult, particularly for borrowers who lose their jobs.

Because higher interest rates result in higher mortgage payments, they diminish the returns on homeownership, prolonging the amount of time necessary to break even on the costs of homeownership.

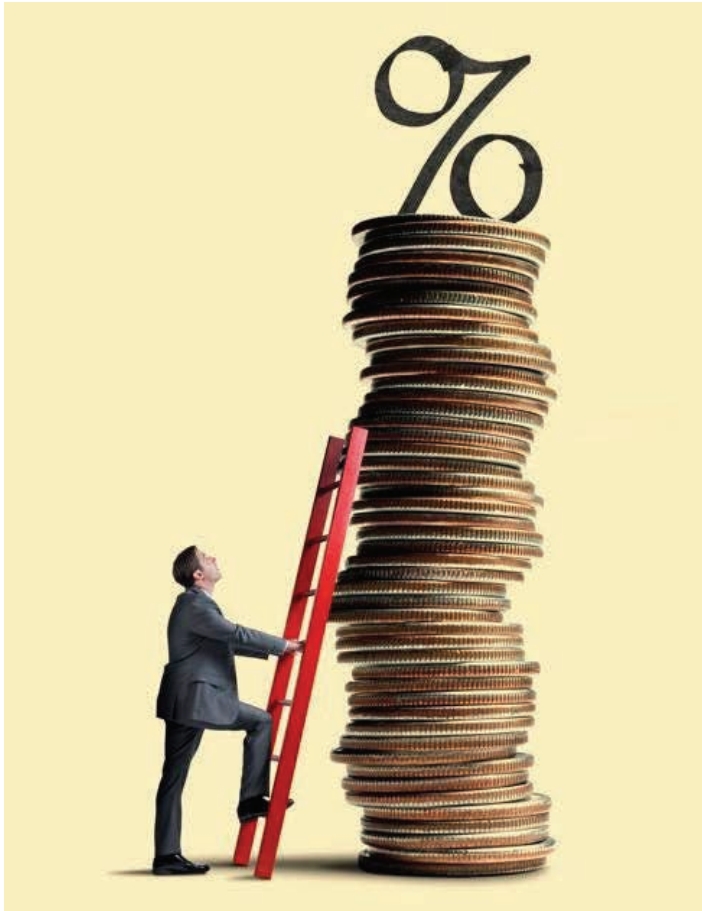
Impact on Mortgage Payments

Mortgage principal represents the portion of the mortgage payment that goes toward paying off the initial loan amount.

If a buyer makes a 5 percent down payment on a \$250,000 home (so, a \$12,500 down payment), the loan amount is \$237,500. The total amount of mortgage principal to be paid over the life of the loan (generally 30 years) does not depend on the mortgage interest rate—it always equals the loan amount (in this case, \$237,500). Source: Texas Real Estate Research Center at Texas A&M University

However, the total amount of mortgage principal paid in any given year of the loan does depend on the mortgage interest rate. Mortgage principal initially makes up a smaller proportion of the mortgage payment than the mortgage interest does, but over the loan's duration, the proportion devoted to principal increases while the proportion for interest decreases (Table 1).

Meanwhile, the amount paid in mortgage interest depends on the interest rate obtained by the borrower. For instance, a borrower with a 3 percent rate would pay \$7,556 in mortgage interest in year five of homeownership. Meanwhile, a borrower with a 6 percent rate would pay \$14,574 that same year. Spending a higher proportion of the mortgage payment on interest—which happens as the rate increases—diminishes the returns on homeownership and prolongs the time necessary to break even on homeownership costs.



Homeownership represents the single largest investment—and source of wealth—for most U.S. households, but a multitude of factors have made attaining homeownership more challenging, especially for first-time buyers. The most recent factor is rising mortgage interest rates. In the first half of 2022, the average rate on a 30-year fixed mortgage increased 2 percentage points, from 3.22 percent to 5.7 percent.

Rising interest rates have several implications for potential buyers. To begin with, they diminish buyers' purchasing power. As mortgage rates go up, so does the mortgage payment, increasing the income necessary to qualify for a mortgage loan. In other words, for the same-priced home,

Buyers Feel Pinch of Rising Interest Rates Cont.

"How Interest Rates Affect Homeownership Rate of Return"

The Texas Real Estate Research Center recently looked at how different interest rates can affect the rate of return on homeownership for first time buyers. The study's model made several assumptions (Table 2).

- The home costs \$250,000, which was the first-quartile sales price for first-time buyers for an existing

Table 1. Breakdown Between Mortgage Principal and Interest by Interest Rate

Year

Mortgage Balance Principal Interest 3% Rate 6% Rate 3% Rate 6% Rate 3% Rate 6% Rate

1	\$232,942	\$234,845	\$4,558	\$2,655	\$8,240	\$15,359
2	\$228,222	\$232,013	\$4,720	\$2,832	\$8,078	\$15,182
3	\$223,334	\$228,991	\$4,888	\$3,022	\$7,910	\$14,992
4	\$218,272	\$225,766	\$5,062	\$3,224	\$7,736	\$14,789
5	\$213,031	\$222,326	\$5,242	\$3,440	\$7,556	\$14,574
6	\$207,602	\$218,655	\$5,428	\$3,671	\$7,370	\$14,343
7	\$201,981	\$214,739	\$5,621	\$3,917	\$7,176	\$14,097
8	\$196,160	\$210,560	\$5,821	\$4,179	\$6,977	\$13,835
9	\$190,132	\$206,101	\$6,028	\$4,459	\$6,769	\$13,555
10	\$183,889	\$201,343	\$6,243	\$4,757	\$6,555	\$13,256
Total	-	\$53,611	\$36,157	\$74,367	\$143,983	

Notes: Assumes a purchase price of \$250,000, 30-year loan term, 0.5 percent mortgage insurance premium, and 95 percent loan-to-value ratio. Source: Texas Real Estate Research Center at Texas A&M University

Table 2. Assumptions Used in Model

Purchase Price Annual Rent Down Payment Term

\$250,000 \$21,600 5% 360 Mortgage Interest Rate 3%, 6% Mortgage Insurance Premium 0.50% Closing Costs (% of Purchase Price) 2% Average Annual Appreciation 4% Selling Fees 6% Property Taxes (% of Home Value) 3% Insurance 1% Maintenance 2%

First-Quartile Sales Price

single-family home in Texas in 2Q2022.

- The buyer made a 5 percent down payment (\$12,500) on a \$250,000 home.
- Rent reflected the first quartile rent for an existing single-family home in Texas in 2Q2022– \$1,800 per month, or \$21,600 annually. Rent reflects the opportunity cost incurred by the homeowner in purchasing a home.

In other words, by purchasing a home, the homeowner is saving on rent. However, the true opportunity cost of homeownership is renting and investing the difference between the mortgage payment and rent in an investment account.

The first quartile reflects the lowest-priced 25 percent of homes sold in a particular geography. The first-quartile sales price represents the highest home price among those lowest-priced 25 percent of homes sold. If the price of the lowest 25 percent of homes sold ranges from \$100,000 to \$150,000, then the first-quartile sales price would be \$150,000. That price is supposed to be reflective of homes that are affordable to most first-time buyers.

Table 3. Rate of Return on Homeownership by Mortgage Interest Rate

Mortgage Interest Rate Year 3% 6%

1	-55.7%	-96.3%
2	3.6%	-33.7%
3	18.3%	-10.7%
4	22.0%	-1.5%
5	22.7%	2.9%
6	22.3%	5.3%
7	21.6%	6.6%
8	20.8%	7.4%
9	20.0%	7.9%
10	19.3%	8.2%
11	16.5%	8.7%
12	14.8%	8.7%
13	13.6%	8.6%
14	12.8%	8.5%

Note: Reflects assumptions listed in Table 2. Source: Texas Real Estate Research Center at Texas A&M University

Buyers Feel Pinch of Rising Interest Rates Cont.

Table 4. Breakdown Among Initial Costs, Cash Outflows, and Proceeds from Sale by Mortgage Interest Rate

Year

Initial Investment

Cash Outflows Proceeds from Sale 3% Rate 6% Rate 3% Rate 6% Rate

1	\$17,500	\$25,298	\$30,514	\$11,458	\$9,555
2	\$17,500	\$25,798	\$31,014	\$25,954	\$22,163
3	\$17,500	\$26,318	\$31,534	\$41,009	\$35,352
4	\$17,500	\$26,859	\$32,075	\$56,644	\$49,150
5	\$17,500	\$27,421	\$32,637	\$72,883	\$63,587
6	\$17,500	\$28,006	\$33,222	\$89,748	\$78,695
7	\$17,500	\$28,614	\$33,830	\$107,263	\$94,505
8	\$17,500	\$29,247	\$34,463	\$125,454	\$111,054
9	\$17,500	\$29,905	\$35,121	\$144,347	\$128,378
10	\$17,500	\$30,589	\$35,805	\$163,969	\$146,514

Note: Reflects assumptions listed in Table 2. Source: Texas Real Estate Research Center at Texas A&M University

- As the loan-to-value ratio exceeds 80 percent (in other words, if there's less than a 20 percent down payment), the model assumes private mortgage insurance of 0.5 percent.
- The loan term was 30 years.
- Property taxes were 3 percent of the home price; insurance, 1 percent.
- Maintenance costs were 2 percent of the home price.
- Closing costs equated to 2 percent of the purchase price; selling fees were 6 percent.

These assumptions carry several limitations. First, should home price appreciation measure higher (lower) on average than 4 percent, the returns on homeownership will increase (decrease). Second, if closing costs or selling fees measure lower (higher) than 6 percent, the returns on homeownership will increase (decrease). Third, should property taxes, insurance, and maintenance make up less than (more than) a combined 6 percent of home price, the returns on homeownership

will increase (decrease). Last, if the down payment increases (decreases), the returns on homeownership will increase (decrease).

Unsurprisingly, the results show a stark difference in the returns on homeownership by mortgage interest rate (Table 3).

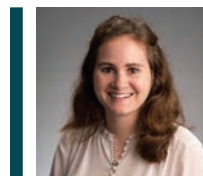
First-time buyers with a mortgage rate of 3 percent could expect to break even on their investment after just one year of owning their home, compared with four years for a buyer with a 6 percent rate. As the mortgage rate rises, buyers must hold onto their homes longer to reap the wealth building benefits of homeownership.

Higher mortgage rates translate into higher cash outflows (mortgage principal and interest plus property taxes, insurance, and maintenance) and lower proceeds from sale (the sales price minus selling expenses and the remaining mortgage balance).

For example, with a rate of 3 percent, homeowners can expect to expend \$27,421 in year five on mortgage principal and interest and property taxes, insurance, and maintenance (Table 4). That amount increases to \$32,637 with a 6 percent rate.

Meanwhile, homeowners with a rate of 3 percent can expect to make \$72,883 from the sale of the home in year five, but only \$63,587 with a 6 percent rate.

In addition, higher mortgage rates leave higher residual mortgage balances, because it takes longer for the mortgage principal to be paid down.



Clare is an assistant research economist at the Texas Real Estate Research Center. Her research broadly focuses on developing econometric and statistical models for Texas housing markets, with an emphasis on modeling housing affordability. She conducts research and analysis for special case studies on housing affordability for cities, communities, and nonprofit organizations across Texas. [Email](#)



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