Rights and Duties of Residents, Owners, and Operators of Manufactured Home Communities in Pennsylvania

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I. Background

Manufactured homes\(^1\) are a major source of housing in the United States and in Pennsylvania. There are an estimated 7.2 million manufactured housing units in the U.S., which are occupied by about 20 million people.\(^2\) Manufactured homes account for one in seven (15\%) of new housing units in any given year.”\(^3\)

The number of such homes in Pennsylvania and the number of people who live in them is substantial but uncertain. It is estimated that there are some 1,500 to 2,000 manufactured home communities in the state.\(^4\) One source cites census figures showing that there are over 200,000 manufactured homes in the state which house about 500,000 people.\(^5\)

In Pennsylvania, manufactured homes are much more common in rural areas, where they make up 11\% of the housing stock, as opposed to less than 5\% statewide. Applied Geography at 86; Center Report at 8; Housing Alliance at 1. The needs of these non-urban manufactured home residents “are interwoven with the special issues that affect rural populations,” such as distance from employment and services. Center Report at 17. The majority (52\%) of rural manufactured home residents in Pennsylvania own their homes but not the land on which they are sited. Center Report at 4, 14. About 32\% of them live in manufactured home communities—the subject of this paper.\(^6\) Their homes tend to be old, many pre-dating the 1976 HUD Code\(^7\) standards for safety, insulation, etc.\(^8\)

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\(^1\) “Mobile home” was the term used for a manufactured home built before June 1976, when HUD standards were adopted and the name was changed to “manufactured home.” But the use of the older term has persisted. “In 2005, the majority of residents living in this housing type referred to them as ‘mobile homes.’ Only 16 percent called them ‘manufactured homes.’ ” Yarnal and Aman, “An Examination of Mobile Homes in Rural Pennsylvania,” Center for Rural Pennsylvania (2009) at 5, 13, available at http://www.rural.palegislature.us/documents/reports/Mobile_Homes09.pdf (hereafter, “Center Report”). The Center is a legislative agency of the Pennsylvania General Assembly.


\(^4\) The Manufactured Home Community Rights Act (MHCRA), 68 P.S. § 398.2, defines a “manufactured home community” as one in which there are three or more manufactured homes that are occupied as dwellings, whether or not there is a charge imposed.


\(^6\) AARP Report at 1; Center Report at 14.

\(^7\) 24 CFR Part 3280 and Part 3282
Manufactured homes are a popular housing choice for many people for a variety of reasons, including their relative affordability—a factor which “trumps the drawbacks” that come with that choice. Center Report at 15. In Pennsylvania in 2005, the average price for a new single-wide home was $38,900 and was $63,600 for a double-wide, contrasted with $165,344 for a new conventional, site-built (a/k/a “stick-built”) home.

Despite the continuing use of the term “mobile home,” manufactured homes are “a long-term permanent housing choice for most” of the people who occupy them. Center Report at 13. And most of them are, on the whole, happy with that choice, in significant part because of relative affordability. Center Report at 15.

Rent for the space where a manufactured home is sited is less on average than rent for a site-built apartment. Center Report at 14. But one-third of all manufactured home residents have a debt on their dwelling itself, as well as the recurring rent for the land on which it is located. About 60% of that group pays $400 or more for the home, in addition to ground rent. These figures do not include the cost of utilities. Center Report at 14. And in Pennsylvania and many other states, there are no limits on the amount of rent increases. Thus, “initial affordability can translate to higher, long-term” costs. AG at 93. For this reason, a manufactured home may not be as good a bargain as it may appear, at least for some.

Most problematic, however, is the fact that manufactured home residents must live with the insecurity of possibly having to move their home if they breach their lease and are evicted; if the community is closed or sold and used for another purpose; or if the rent is raised to an amount which they cannot afford. Some of these circumstances may not involve any wrongful conduct on the part of the resident. In addition, the mobility of many homes is open to question, and moving a home is an expensive proposition in any event. This insecurity, along with other “hardships related to land tenure,” create “relative housing insecurity” and “unique vulnerabilities” for residential owners of homes in manufactured home communities. Center Report at 5, 6, 16-17.

8 According to one source, the majority of manufactured homes in Pennsylvania are “well over 40 years old.” Housing Alliance at 1.

9 “[N]o respondent referenced the mobility of their ‘mobile’ home.” Applied Geography at 90. “[M]obile homes in rural Pennsylvania are not particularly mobile. Nearly 55 percent have never been moved and 20 percent have not been moved for at least 10 years.” Center Report at 12.

10 Most manufactured homes are “primary residences,” most people have lived in them “for decades, and nearly all residents are satisfied with their housing choice.” Center Report at 4.

11 Center Report at 6, 12; AARP Report at 1; Applied Geography at 85. “Mobile homes... are not particularly mobile.” About 55% have never been moved and 20% have not been moved for at least 10 years. Center Report at 12. In addition to the substantial cost of moving a home from one community to another, there might not be a suitable rental space within a reasonable distance. Moreover, getting approved as a tenant by another community owner is not a certainty.
II. Who Lives in Manufactured Home Communities in Pennsylvania?

A. Income – On average, residents of manufactured home communities have “significantly lower incomes than owners of site-built homes. . . .” Center Report at 5; Applied Geography at 94. Household income for 78% of such households was less than $50,000 per year in 2007. Applied Geography at 90; CR at 15; AARP Report at 3.

B. Age – In Pennsylvania, almost 70% of manufactured home residents are age 50 or older, and almost 45% are 60 or older. Center Report 14.

C. Gender - The majority of residents (56%) are female. Center Report at 14.

D. Family size – Most homes (60%) are inhabited by two adults. Sixty-nine percent of households have no children. Center Report 14.

E. Race – Our state’s manufactured home population appears to be “overwhelmingly white”—more than 95% of the sample in the Center Report survey. Center Report 14.

D. Education – Although residents have “varying educational backgrounds,” on the whole they are fairly well-educated—81% have a high-school education or more (32%). Center Report at 14-5.

E. Location – Manufactured homes make up 11% of the housing stock in rural Pennsylvania, but less than 5% statewide. Applied Geography at 86; Center Report at 8. The needs of residents “are interwoven with the special issues that affect rural populations,” such as distances to jobs and community services. Applied Geography at 93.

III. “Unique Vulnerabilities” of Residents of Manufactured Home Communities

The major difference between a typical residential landlord/tenant relationship and the one that exists for a resident of a manufactured home community is that the latter owns his dwelling unit but leases the real estate from someone else. Once a home is in a community, it is basically there for good. A resident who does not like the way an owner runs the community, including the amount of rent, has virtually no choice but to accept things as they are or leave. Yet moving a manufactured home is expensive, assuming that it can be done at all, given a home’s condition. Even if a home can be moved and the resident can afford it, there may not be any available space in a community within a reasonable distance. These things “make. . .it possible for a segment of community operators to adopt exploitative rules and practices that are unique to this type of housing arrangement.” AARP Report at 1, 3-5. A manufactured home community is not a democracy.

Thus homeowners whose residences are in manufactured home communities “encounter hardships related to land tenure” that do not exist for other residential tenants. The fact that
someone else owns the land on which their home is sited and can “at any time” establish rules and regulations—in effect, laws—about the community means that residents have “relative housing insecurity” and face “unique” and “distinctive vulnerabilities.” Center Report at 5, 6; Applied Geography at 85; AARP Report at 1.

To help combat these issues, all but 14 states have adopted laws specifically protecting manufactured home community residents. Pennsylvania’s protective legislation is the Manufactured Home Community Rights Act, 68 P.S. § 398.1, et seq., discussed in VI, below.

IV. Institutional Issues

A. Financing

In Pennsylvania and many other jurisdictions, manufactured homes are considered to be personal property rather than real property, resulting in financing that is similar to that for automobiles rather than stick-built homes. Applied Geography at 85-6. “In what has been cited as a salient example of ‘the poor pay more,’ this specialized type of lending result in interest rates up to 5 percentage points higher than a regular mortgage. . . Additionally, manufactured housing lenders specialize in subprime lending, which itself can be as much as 3 percentage points higher. . . .” Center Report at 6. In addition, manufactured home residents cannot take advantage of the federal mortgage interest deduction.

B. Repossession instead of foreclosure

Like cars, manufactured homes have titles, which reflect the lien of a purchase-money lender. When a homeowner defaults on such a loan, the result is not foreclosure, as with a stick-built home on real property, but rather a repossession—a “much more rapid process than traditional home foreclosure.” Applied Geography at 86; Center Report at 6. Compare the procedure for foreclosure, Pa. R. C. P. 1141 et seq., including the extra time involved in the HEMAP program, 35 P.S. § 1680. 401-C, with the process for repossession, 69 P.S. § 601 et seq. In addition, manufactured homes on leased land are not eligible for state or federal mortgage foreclosure assistance programs.

12 Other problems include: eviction without good cause; entrance and exit fees; hidden charges; provisions against subletting; provisions limiting sales; restrictive supplier arrangements; retaliatory evictions. See generally "Tyranny in Mobile-Home Land," Consumer Reports, July 1973; AARP Report at 1-5.


14 The HEMAP program can only help people who have mortgages. See, 35 P.S. § 1680. 401-C, et seq., and 24 CFR 2700.110. People who live in manufactured homes on leased land cannot get a mortgage, because they do not own the land on which their homes are located.
C. Taxation as real property

Even though manufactured homes are treated as personal property in many respects, they are taxed as real property. Although community owners pay real estate taxes for the land they lease to residents, the residents pay real estate taxes on the value of their homes themselves. Center Report at 8.

D. Depreciation in value

As a general rule, manufactured homes “do not appreciate in value at the same rate as traditional site-built homes.” In fact, two-thirds “actually depreciate, much like an automobile...[Thus] mobile home owners are denied much of the financial flexibility and opportunity offered by traditionally financed site-built housing.” Applied Geography at 86; Center Report at 6.

E. Social stigma

Manufactured home residents “continue to face social stigma associated with their housing choice,” including “persistent negative stereotypes that exist about mobile home residents.” Applied Geography at 92; Center Report at 6.

F. Siting

Many manufactured homes in rural Pennsylvania “are located on parcels that intersect that 100-year floodplain.” Center Report at 13. Manufactured home “also experienced a much higher rate of fire deaths than other home types, with older mobile homes at highest risk.” Center Report at 7. Vulnerability to hurricanes and tornadoes are additional issues. Ibid. Distances to employment and community services are also a concern. Applied Geography at 93; Center Report at 18.

G. Lack of power of self-determination

Manufactured home residents are “vulnerable to the whims of landowners.” Applied Geography at 91. Community owners can establish rules and regulations—in effect, make the law of the community—“at any time.” 68 P.S. § 398.4. Even though the rules are required to be fair and reasonable, there is no mechanism for a resident to challenge an unreasonable rule without risking eviction. Moreover, residents are subject to rent increases that are largely unregulated. Increases may take place only once very twelve months, but there is no limit on the amount of a rent increase—a problem for a large number in a population that, given their age, are likely to be retired and living on a fixed income. Moreover, the statute gives residents no option to refuse a rent increase. They must accept it or leave the community, 68 P.S. § 398.13(e), (f).

A related issue occurs when the community owner closes or sells the community for another use. There is no protection for homeowners in Pennsylvania in this situation—a very “serious problem, because it creates expensive displacement of existing residents, destroys a commu-
ulty, and contributes to shortages of manufactured housing community sites.” AARP Report at 5. See also, Center Report at 5-6, 16. Some other states have addressed this problem by giving residents a right of first refusal (a/k/a, opportunity to purchase) or requiring community owners to deal in good faith with residents who wish to purchase the community. Applied Geography at 93; AARP Report at 5 and at Appendix B (state manufactured home statute charts, pp. 67-145).\(^\text{15}\)

V. The Manufactured Home Community Rights Act (MHCRA), 68 P.S. §§ 398.1, et seq.

The MHCRA\(^\text{16}\) significantly modifies traditional landlord-tenant law as it applies to manufactured home residents and community owners. The MHCRA applies where a "manufactured home resident" owns his home and leases a space in a "manufactured home community," defined as any site occupied (or intended to be occupied) by three or more manufactured homes. The Act specifically does not apply where both the space and mobile home are leased, a situation covered under the general Landlord-Tenant Act, 68 P.S. § 250.1.1 et seq.

The MHCRA attempts to address some of the problems noted above.

The purpose of [the MHCRA] is to give special protection to [manufactured home] owners in [manufactured home communities]. . . . One reason for the distinction between mobile home park owners and other landlords is the hybrid type of property relationship that exists between the tenant who owns the home and the landlord who rents only the lot on which the home sits. In most instances a mobile home owner in a park is required to remove the wheels and anchor the home to the ground in order to facilitate connections with electricity, water and sewerage. Thus it is only at substantial expense that a mobile home can be removed from a park with no ready place to go. The legislature, while recognizing the right of the mobile home park owner to establish and publish reasonable rules and regulations relating to tenants in the park, has sought to prevent arbitrary evictions at a substantial expense to park residents.


A. Evictions only for good cause - 68 P.S. § 398.3

1. *Reasons for Eviction.* - A resident may be evicted “only for one of the

\(^{15}\) House Bill 1767 (Session of 2011) would require a community owner who planned to close or sell the community to a) give notice of that intent to residents; b) consider any offer to purchase from a resident group representing at least 25% of the community spaces; c) negotiate in good faith with such a resident group.

\(^{16}\) The predecessor of the MHCRA, Act 261 of 1976, was called the Mobile Home Park Right Act.
following reasons”:

a) Nonpayment of rent
b) A second or subsequent violation of community rules within 6 months of the initial violation
c) A change in the use of the community, or
d) Termination of the community.

68 P.S. § 398.3(b) (emphasis added).

2. Termination of the lease is not a ground for eviction - A statutory amendment to the Landlord-Tenant Act overruled a line of cases which had permitted ejectment at the end of the term of a lease. In 68 P.S. § 250.501(c.1), the General Assembly made it clear that the “owner of a mobile home park [sic] shall not be entitled to recovery of the mobile home space upon the termination of a lease with a resident, regardless of the end of the lease term, if the resident

1) is complying with the rules of the community;
2) is paying the rent due; and
3) desires to continue living in the community.

These principles are underscored by the next secton, which provides that the “only basis” for the recovery of a space for a manufactured home shall be:

1) When a resident is legally evicted as provided under [68 P.S. § 398.3], which limits the reasons for evictions to non-payment of rent, multiple violation of community rules, or a change in the use or termination of the community
2) When the owner and resident agree in writing to the termination of the lease
3) At the expiration of the lease, if a resident determines that s/he no longer desires to reside in the park and so notifies the owner in writing.


This provision has arisen in a different context with the passage of Act 80 of 2010, which for the first time requires that “[e]very lease for a manufactured home space shall be in writing. . . .” 68 P.S. § 398.4.1(a). Some residents who have not had a written lease may not wish to sign a proposed lease which, for example, contains waivers of rights or regulations which the residents believe are arbitrary or capricious and not fair, reasonable, or reasonably related to the health, safety, or upkeep of the community, 68 P.S. § 398.3(c), 68 P.S. § 398.4.

Question: Can a resident who refuses to sign a lease be evicted, if s/he is complying with the rules of the community and paying the rent due, and desires to continue living in the community?

B. Eviction Procedures

The procedures for eviction because of a) unpaid rent and b) other breach of the lease, including community rules, are different. However, in both instances, there is an opportunity to cure the problem by either bringing the rent current or avoiding a further rule violation. And self-help eviction is not permitted—a community owner may only evict by the procedures set out in 68 P.S. § 398.3 (b)(1), and not by turning off utilities, locking doors, or the like.

1. **Nonpayment of rent - 68 P.S. § 398.3(b)**
   
   a) The resident must be notified in writing by certified or registered mail.

   b) The notice must state that eviction proceedings may be commenced if overdue rent is not paid within 20 or 30 days (depending on the time of year) from date of service of notice, or an additional nonpayment within 6 months of the notice.

   c) Formal eviction proceedings may not be commenced until 20 days after date of service of notice if it is mailed on or after April 1 and before September 1, or until 30 days after date of service of notice if it is mailed on or after September 1 and before April 1.

   d) If the resident does not pay overdue rent within the 20 or 30-day period or, does so but again fails to pay rent within 6 months of the notice, an eviction action can be filed.

2. **Violation of community rules or other breach of lease - 68 P.S. § 398.3(b)**

   a) The resident must be notified in writing by certified or registered mail.

   b) The notice must specify the particular breach of the lease or violation of the rules of the community, 68 P.S. § 398.3(b)(2)(ii).

   c) No eviction proceedings may be commenced unless resident is so notified and has again breached lease or violated the rules a second or subsequent time within 6 months of the notice, 68 P.S. § 398.3(b)(2)(ii).

   d) In the case of a second or subsequent violation of the lease or community rules, eviction proceedings must be commenced within 60 days of the last violation or breach.

*Question* - *Must the second violation be of the same rule as the initial one?* Probably. Although the MHCRA speaks of a second or subsequent violation of “the rules” plural, the intent of the provision seems to be to afford residents a right to cure. *Malvern Courts*, supra, 419 A.2d at 23-4 (the notice give time in which a resident “may cure the rent default. . .[or] may correct” a rule violation.) To allow a park owner to evict a mobile home park resident for a violation that is totally unrelated to the one set out in the first notice would be inconsistent with the holding in and contrary to this language in *Malvern Courts.*
Question - Is a continuing violation a “second or subsequent” violation? Probably. Otherwise, it would be impossible for an owner to prevent continuing violations of the lease or the community rules. It would probably be advisable, however, for a community owner to give a reasonable time in which to cure the violation, given the intent of the MHCRA.

C. Notice to Quit – 68 P.S. § 250.501(c)

After the owner or operator of a manufactured home community has given a resident the notice required by 68 P.S. § 398.3(b), if the resident has not cured the rent default or has again violated a community rule, the owner/operator must give the resident another notice before filing an eviction lawsuit. This is called a Notice to Quit. It is required by the Landlord-Tenant Act, 68 P.S. § 250.501(c).

1) Breach of lease (non-rent)—In the case of a forfeiture for breach of conditions of the lease, where the lease is for a term of less than one year or for an indeterminate time, the notice must give the tenant 30 days from the date of service; where the lease is for one year or more, the notice is must tell the tenant to move within three months from the date of service.

2) Failure to pay rent—In the case on non-payment of rent, the notice, if given on or after April 1st and before September 1st, must give the tenant 15 days from the date of the service; if on or after September first and before April first, the notice must be 30 days.

3) Proper notice to quit has been held to be jurisdictional—Giving a proper notice to quit has been held to be “a prerequisite to proceedings by the landlord to recover possession. . . .” Janowski v. Orloske, 84 D & C 522, 524 (C.P. Lackawanna 1952). Likewise, cases have held that both the method of service18 and the content of the notice19 must satisfy statutory requirements in order for a court to have jurisdiction of an eviction action under the Landlord-Tenant Act.

4) Can the Notice to Quit be waived or the notice period reduced?
The Landlord-Tenant Act, 68 P.S. § 250.501(c), requires a community owner who wants to evict a resident to give a specific Notice to Quit, the length of which depends on the nature of the breach and the time of year when it is given. At the same time, the Act also says that the “notice above provided for may be for a lesser time or may be waived by the tenant if the lease so provides,” 68 P.S. § 250.501(e).

On the other hand, the MHCRA has a section called “Waiver of Rights,” 68 P.S. § 398.12, which protects both residents and community owners and says that:

The rights and duties of manufactured home community owners and operators and the manufactured home lessees may not be waived by any provisions of a written or oral agreement. Any such agreement attempting to limit these rights

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shall be void and unenforceable in the courts of the Commonwealth. There are no reported cases that discuss how the waiver and non-waiver provisions of these statutes interact with each other.

The rules of statutory construction seem to favor a reading that would prohibit the shortening or waiver of the Notice to Quit. By their explicit words, the MHCRA and the Landlord-Tenant Act are in pari materia. Since they treat the same subject—manufactured home evictions—they “shall be construed together, if possible, as one statute.” 1 Pa. C.S. § 1932 (b). The language of 68 P. S. § 250.501(e) about waivers is general, while the language forbidding waivers in manufactured home matters—for residents and owners alike—is particular, and should prevail under 1 Pa. C.S. § 1933. In addition, the no-waiver provision of the MHCRA should prevail over the waiver language of 68 P. S. § 250.501(e), because it was passed in a different and later legislative session than the Landlord-Tenant Act.

The language of the few reported manufactured home cases also supports this reading. “The purpose of [the MHCRA] is to give special protection to mobile home owners in mobile home parks. . . . Absent literal compliance with the mandatory provisions of this act, no eviction proceedings may be commenced.” Malvern Courts, Inc. v. Stephens, 419 A.2d 21, 24 (Pa. Super. 1980) (emphasis added).

Another reason to hold that this “special protection” the MHCRA may not be annulled by a waiver or reduction of the notice-to-quit specified in 68 P.S. § 250.501(c) is the disparity in bargaining power between the resident and community owner, leading to a contract of adhesion. As the Supreme Court has recognized, owners of manufactured home communities, “like other landlords, generally have far greater bargaining power than their tenants.” Staley v. Bouril, 718 A.2d 283, 285 (Pa. 1998). Given that disparity, it is unlikely that such a waiver would be knowing, intelligent, and voluntary—a requirement even in the context of a civil matter.

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20 “Whenever a general provision in a statute shall be in conflict with a special provision in the same or another statute, the two shall be construed, if possible, so that effect may be given to both. If the conflict between the two provisions is irreconcilable, the special provisions shall prevail and shall be construed as an exception to the general provision, unless the general provision shall be enacted later and it shall be the manifest intention of the General Assembly that such general provision shall prevail.”

21 “ Whenever the provisions of two or more statutes enacted finally by different General Assemblies are irreconcilable, the statute latest in date of final enactment shall prevail.” 1 Pa. C.S. § 1936.

22 A contract of adhesion is one which is offered to a consumer on a take-it-or-leave-it basis, without a realistic opportunity to bargain, but rather can only accept or reject it. Such a contract is “unconscionable” where a) it unreasonably favors the other party, and b) there is no meaningful choice to the consumer regarding acceptance of the provisions. Heller v. UPS, 754 A.2d 689, 700-701 (Pa. Super. 2000).

5) Notice under both the MHCRA and the Landlord-Tenant Act—A community owner must give both a notice of rule violation or nonpayment of rent under the MHCRA, 68 P.S. §398.3, and a notice to quit under the Landlord and Tenant Act, 68 P.S. §250.501(c). Although this issue has not yet been addressed in any reported case, the law requires both notices makes sense. The notices required by the MHCRA are conditional (an eviction action may be commenced if the rent is not paid or if there is a second or subsequent nonpayment or rule violation within the specified period). Such a conditional notice cannot serve to terminate a leasehold interest. 24

In addition, the notice periods in and purposes of the two statutes conflict. Whenever statutes on the same subject conflict, they must be construed if possible so as to give effect to both, 1 Pa. C.S. § 1933. The only way to do so here is to construe the notice required by the MHCRA as being a warning about what might happen if rent is not paid within the specified time or there is a further rule violation within a 6-month period. By contrast, the notice under the Landlord-Tenant Act notice is an unconditional notice that, because of a breach, the owner considers to be terminated is and is telling the tenant that he must move by a date certain or face court action.

Note on Palmyra Homes Case: in Adams v. Palmyra Homes, 2011-00531, 14 (CP, Lebanon, September 6, 2011) 25 the court stated that “Lest any confusion exists about the eviction process in a manufactured home community, the Landlord-Tenant Act specifically exempts ‘mobile home space’ from the ‘notice to quit’ requirement that normally governs traditional landlord-tenant arrangements. 68 P.S. § 250.501(a).” The court seems to have missed § 250.501(c), which specifically refers to the notice to quit due in the manufactured home context.

D. No self-help eviction – 68 P.S. § 398.3(b)(1)

“A lessee shall not be evicted by any self-help measure.” Absent a resident voluntarily moving, a community owner must follow the procedures set out in 68 P.S. § 250.501(c) and 68 P.S. § 398.1 et seq.

E. Defenses to Eviction

1) Failure to give the required notice in the prescribed manner - In Malvern Courts, Inc., v. Stephens, 419 A.2d 21, 23 (Pa. Super., 1980), the community owner sent the resident notices about alleged rules violations, but the initial notice was by regular mail, rather

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24 A notice to vacate demised premises, to be effective, must be positive, decisive and free from ambiguity. . . . That a notice to quit "must be clear, explicit and unequivocal, is well settled. . . .” Brown v. Brown, 64 A.2d 506 (Pa. Super. 1949).

than certified or registered, as required by 68 P.S. § 398.3(a), which states that a resident “shall only be evicted in accordance with the following procedure.” Noting the “special protection” the statute intended to give residents and its “strict notice method of eviction,” the court held that the statutory method of service “must be strictly complied with. Hence, absent literal compliance with the mandatory provisions of this act, no eviction proceedings may be commenced.” The decision was also informed by the reality that moving one’s home can be done only at substantial expense and that there may not be a ready place to move the home.

2) Unequal enforcement - “All rules or rental charges shall be uniformly applied to all” current and prospective residents “of the same or similar category.” 68 P.S. § 398.4(b). A resident “shall not be evicted” where there is proof that the rules s/he “is accused of violating are not enforced with respect to other” residents or non-residents on the community premises.” 68 P.S. § 398.3(c).

3) Community rules may not be unfair, unreasonable, arbitrary, or capricious
Under 68 P.S. § 398.4, a community owner has the power to “at any time establish rules and regulations,” but they must be

- “fair and reasonable”
- reasonably related to the health, safety and upkeep of the community
- not “arbitrary or capricious”
- uniformly applied to all residents in the same or similar category

There are only a few common pleas decisions that deal with these provisions. In Semak v. Fiumara, 47 D & C 3d 440 (C.P. Beaver 1987), the court held, without discussion, that a rule which required all vehicles in the community to be registered and in running condition was reasonable.

In Nuss Home Park v. Breiner, 2003 WL 25460454 (C.P. Lehigh), the court found that rules limiting occupancy of a home to a single family and requiring the residents to register the names of all occupants were “fair and reasonable,” but it excused the resident’s lack of “literal compliance” based on a) his “good-faith attempt to register his relatives once he received his first written notice of violation,” b) the fact that the resident and other occupants were close relatives who functioned as a single family, and c) the owner’s failure to specify lack of registration with particularity as a ground for eviction. The court held that the “written notice must describe the particular breach or violation. . . in terms that should be self-sustaining, i.e., it should inform the tenant of the particular violation alleged in terms that can be understood from the notice itself without reference to another document.”

A tenant charged with the same lot rent as others with twice the lot size was unable to establish unreasonableness in Midway Terrace, Inc. v. Foley, 635 A.2d 191 (Pa. Super, 1993), where the court held that the Act does not require community owners to distinguish among residents who lease spaces with different sizes, shapes or locations.

The statutory requirements about rules are valuable rights to a manufactured home community resident. However, there is no way for a resident to challenge a rule which he believes may violate the requirements without actually violating the rule and, thus, risking eviction and hav-
ing to move his home from the community.  

4) Rules must be posted and served—Sec. 398.4(b) of the MHCRA specifies that a copy of the Act and the community rules a) “shall be posted in the public portion of the community office or other conspicuous place and readily accessible place,” and b) “shall be . . . given to each resident upon entering into the lease.”

There are no reported cases about the effect of not properly posting or serving the rules and regulations. Compare MHCRA § 398.6(c), where the effect of a failure to make required disclosures makes proposed changes in rent or fees “void and unenforceable.”

5) Retaliatory evictions - Sec. 398.16 bars retaliatory evictions, in the following language:

Any action by a manufactured home community owner or operator to recover possession of real property from a manufactured home community lessee or to change the lease within six months of a lessee's assertion of rights under this act or any other legal right shall raise a presumption that such action constitutes a retaliatory and unlawful eviction by the owner or operator and is in violation of this act. Such a presumption may be rebutted by competent evidence presented in any appropriate court of initial jurisdiction within the Commonwealth.

There are no reported cases interpreting this section of the law.

6) Breach of the limited implied warranty of habitability. In recognition of the implied warranty of habitability established in residential rental housing in *Pugh v. Holmes*, 405 A.2d 897 (Pa. 1979), and the fact that “landlords of mobile home parks, like other landlord, generally have far greater bargaining power than their tenants,” the Supreme Court held in *Staley v. Bouril*, 718 A.2d 283, 285 (Pa. 1998), that a similar implied warranty applies to the lease of a space in a manufactured home community, at least to the extent that the community owner or operator “chooses to provide utilities and other housing services, and charges tenants in exchange therefor. . . .”

This warranty and the resident’s obligation to pay rent are mutually dependent, so that a ‘material breach of one of these obligations will relieve the obligation of the other so long as the breach continues.’” The scope of this “limited implied warranty of habitability” and the materiality of a breach depend on the particular circumstances of each case. The remedies for a breach are those set out in *Pugh* and include: termination of the lease; repair-and-deduct; rent abatement. *Staley v. Bouril*, 718 A.2d at 285. In addition, the implied warranty of habitability “may not be waived.” *Fair v. Negley*, 390 A.2d 240, 242 (Pa. Super. 1978).

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26 Washington State has a mediation program in which both residents and community owners can ask the resolution of a dispute. See, http://www.atg.wa.gov/MHDR.aspx. The program is administered by the state attorney general and funded by owner contributions of $10 per space per year, half of which can be passed on to the resident.
F. Rent – 68 P.S. § 398.4.1

Although rent can be increased only once every twelve months, there are no limits on the amount of a rent increase.27

Residents have no choice but to accept a rent increase or a) sell their home or b) remove it from the community. Under § 398.13(e) of the MHCRA, after receiving 60 days’ notice of the community owner’s intent to offer a new lease which increases rent or other payables, a resident “shall have 30 days to either accept the new, renewed or extended rental agreement or to notify the . . .community owner of intent to vacate within 30 days.” Under § 398.13(f), a resident “who chooses not to enter into a new, renewed or extended rental agreement shall have 60 days from the date of notification of intent to vacate the manufactured home community to enter into contract to sell or to relocate the manufactured home.”28

Question: Do these provisions apply only to leases which “increase . . .rent or payables to the lessor” and do not contain any other changes? Must a resident agree to a new lease which does not contain a proposed increase in rent or other payables when there is already a written lease in effect? Probably not, although no court has addressed the issue.

Section 398.13(e) begins and ends by discussing a “new, renewed or extended lease...which increases rent or payables to the lessor.” The section describes what happens in such a case. It appears to be limited to a case in which the community owner proposes a new lease which is different from the existing lease only in that it would increase rent or other payables. To read it otherwise would mean that a resident would have to either sell his home or remove it from the community if he refused to sign a lease that contained illegal terms, such as waivers.

This proposed reading is also consistent with 68 P.S. § 250.501(c.2), which provides that the “only basis” for the recovery of a space for a manufactured home shall be 1) when a resident is legally evicted as provided under [68 P.S. § 398.3], which limits the reasons for evictions to non-payment of rent, multiple violation of community rules, or a change in the use or termination of the community; 2) when the owner and resident agree in writing to the termination of the lease; or 3) at the expiration of the lease, if a resident determines that s/he no longer desires to reside in the park and so notifies the owner in writing.

Relocation costs -- So long as the manufactured home community owner or operator complied with disclosure as provided in section 6, the manufactured home lessee who does not enter into a new, extended or renewed rental agreement shall not be entitled to relocation costs.

27 See generally, AARP Report at 4. Senate Bill 26 (Session of 2011) would provide a vehicle for manufactured home residents to challenge rent increases that they believe are “excessive”—that is, unreasonable, based on the owner’s total expenses, considering a “reasonable return” on investment.”
28 This new provision, part of Act 80, seems to further reduce a resident’s bargaining power. Staley v. Bouril, 718 A.2d 283, 285 (Pa. 1998) (community owners “generally have far greater bargaining power than their tenants.”) Once a person has moved his home into a community, he has little choice but to accept rent increases, since the cost of moving the home is likely to be prohibitive, assuming there is even a place to which it can be moved that is more financially reasonable.
**Question:** What relocation costs are being referred to? None are provided in the MHCRA or elsewhere in Pennsylvania statutes.

**G. Written Leases – 68 P.S. §398.4.1**

Act 80 of 2010, 68 P.S. § 398.4.1(a) changed long-standing law by requiring that every lease for a manufactured home space
- shall be in writing
- shall be for a term of one month, unless a longer period is agreed on, and
- shall be renewable

**Question:** Must a resident agree to a new lease which does not contain a proposed increase in rent or other payables, if there is already a written lease in effect? Probably not. Act 80 does not require a new lease for the sake of new lease.

There is other language about renewals in 68 P.S. § 398.4.1(c), which says that “[f]or each lease period over 60 days prior to the expiration of the term” the community owner “shall offer the lessee a renewal lease for the same term and with the same provisions as the original agreement,” unless the community owner “notifies the lessee in writing of any changes, at least 60 days prior to the expiration of the lease.” **Question:** Does this rather confusing clause apply only to leases of more than 60 days? If so, what is the rationale for such a distinction? How does this section relate to § 398.4.1(a)?

**H. Right to Have Social Guests and Business Visitors**

1) **MHCRA - 68 P.S. §398.10** - “In accordance with a lessee’s right to invite. . . such social and business visitors as the lessee wishes, no fee may be charged for overnight visitors or guests. . . However, if such overnight visitors or guests so frequently remain overnight for residential purposes so as to increase the number of persons normally living in the unit, the owner...may revise the rent due to conform to the rent paid by other lessees with a like number of members in their household.”

**Question:** Does a community owner have the right to limit the number of guests or occupants, so long as the resident is in compliance with relevant zoning and occupancy laws?

2) **Landlord-Tenant Act - 68 P.S. § 250.1-A**

- **Tradesmen and business visitors** - The tenant “shall have the right to invite. . . to his dwelling unit such employees, business visitors, tradesmen, deliverymen, suppliers of good and services, and the like as he wishes, so long as his obligations as a tenant under this article are observed.”

- **Social Guests** -- The tenant shall also have the right to invite to his. . . dwelling unit, for a reasonable period of time, such social guests, family or visitors as he wishes so long as his obligations as a tenant under this article are observed.

- **No waiver, no fees or charges** -- These rights may not be waived by any provisions of a written rental agreement, and the community owner may not charge any fee, service charge
or additional rent to the tenant for exercising his right under this act.

- **Intent of the law** – “It is the intent of this article to insure that the landlord may in no way restrict the tenant’s right to purchase goods, services and the like from a source of the tenant’s choosing and as a consequence any provision in a written agreement attempting to limit this right shall be void and unenforceable in the courts of this Commonwealth.”

*Nuss Home Park v. Breiner*, 2003 WL 2540454 (C.P. Lehigh 2003), dealt with the guest issue, generally, but did not cite either the MHCRA or Landlord-Tenant Act provision. The court held that the resident and his brother’s family (brother, sister-in-law, and niece) functioned as single household unit and complied with community regulations, and that, in any event, the community owner did not give proper notice, under 68 P.S. § 398.4, of the alleged rule violation.

*Adams v. Palymra Homes*, (see FN 25), dealt with the issue of a community owner who tried to force the homeowners to use only one brand of heating oil tank, and have it installed and serviced by only one vendor. Both of these practices were deemed illegal under the MHCRA.

### I. Right to Participate in a Tenant Organization - 68 P.S. § 250.205

A lease may not be “terminated or nonrenewed on the basis of the participation of any tenant or member of the tenant’s family in a tenants’ organization or association.” 68 P.S. § 250.205. “ ‘Tenant organization or association’ means a group of tenants organized for any purpose directly related to their rights or duties as tenants.” 68 P.S. § 250.102.

These provisions were read very narrowly by the court in *Mid-Island Properties, Inc v. Manis*, 570 A.2d 1070, 1071 (Pa. Super. 1990), where it was held that a tenant who circulated a petition among other affected tenants in his building was not protected by the statute, since he was not successful in forming an association. The court said that “it must be shown that there was a ‘tenants’ organization or association’ and that the termination of the tenant’s lease was caused” by his participation in it. “The only effort expended in this case was the personal effort of appellant who prepared the petition and set out obtaining signatures thereon. There was no coordinated functioning whole and no united effort by the tenants. . . .[N]ot even a meeting was held for the purposes of making a concerted effort to protest the landlord’s decision. . . .A tenant who individually seeks to induce or deter action by his or her landlord is not protected.”

It could be argued that a more reasonable reading of the statute includes protection for actions related to the attempt to form a tenant group. In addition, the state and federal constitutions may provide such protections, as discussed immediately below.

### J. The Right to Speak and Petition for Redress of Grievances

The rights of people who own homes in a manufactured home community can be “precarious,” in large part because “a third party owns the land underneath their homes. . . .” *NCLC Report at 1, 2.* The community owner has the right “at any time” to establish rules and regulations. The owner is, in effect, the government of the community and has legis-
lative, executive, and judicial power. The owner can a) make the rules—the laws of the community; b) enforce the rules; and c) and judge whether they have been violated, at least initially.

In order to protect their property rights, residents need to have clear social, political, and civil rights vis-à-vis the community owner—the same rights that other citizens have who live in the community at large, including:

- the right to free speech
- the right to ask for a redress of grievances
- the right to a fair process for asking for such redress
- the right to associate with each other, 68 P.S. § 250.205
- freedom from retaliation for exercising rights, 68 P.S. § 398.16
- freedom from eviction without good cause, 68 P.S. §250.501(c.1), (c.2), § 398.3(a)
- the right to sell one’s home in place to a person of one’s choosing, 68 P.S. § 398.11

Fortunately, Pennsylvania provides many of these protections in the Manufactured Home Community Rights Act, 68 P.S. § 398.1 et seq., as indicated in the statutory citations above. The right to speak, to ask for a redress of grievances, and to have a fair means of doing so are not addressed in the statute and are not so clearly established. There is, however, a strong argument that these rights exist under the federal and state constitutions.

In *Marsh v. Alabama*, 326 U.S. 501 (1946), the Court held that the state could not impose criminal punishment for trespass on a person who was distributing religious literature on the premises of a company-owned town, contrary to the wishes of the town management, consistent with First Amendment rights to a free press and the free exercise of religion. Although there are factual differences between a manufactured home community and a company town, there are many similarities. A resident might have First Amendment rights under the doctrine of *Marsh*.

In addition, there are provisions in Article I, sec. 7, and Article I, sec. 20, of the Pennsylvania Constitution that guarantee rights of speech, assembly and redress of grievances that might well apply to residents of manufactured home communities. There is no indication that these rights exist only in relation to the government, as is the case with the First Amendment in the U.S. Constitution. Rather, the “words of Pennsylvania’s free expression guaranties do not confine their protection to particular mode of ‘state action’...The constitutional text gives no reason to believe that private and public assault may not equally violate these rights.”

Other states have statutes which clearly protect these rights in the context of manufactured home communities. At least one state has a mediation program in which both residents and

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community owners can ask for the resolution of a dispute.\textsuperscript{31}

K. Right to Sell One’s Home in Place – 68 P.S. § 398.11

A manufactured home is the property of the community resident. It may be the most valuable thing he owns. The value of this property, in many cases, depends on the ability to locate to or remain in a community. Many homes are incapable of being moved, because of their condition or the cost involved. Therefore, their value is extremely limited unless they can be sold in place, making this a very important right. A person needs to have assurance that, once they have moved their home into a community, they will be able to sell it in place.\textsuperscript{32} This right is protected by the MHCRA, 68 P.S. § 398.11(a), which says that:

- Any rule, regulation or condition of a lease purporting to prevent the sale of a manufactured home shall be void and unenforceable.
- A community owner may reserve the right to approve the purchaser as a lessee, but such approval may not be unreasonably withheld.
- Any claim for a fee or commission in connection with the sale of such manufactured home shall be void and unenforceable unless the claimant shall in fact have acted as a bona fide licensee for the homeowner pursuant to a separate written fee agreement.

Prior to offering a home for sale, § 398.11(b) requires the resident owner to

- Give the prospective buyer the disclosure statement required by 68 P.S. § 398.11.
- Tell the buyer that a written lease is required by law and that the buyer must be approved as a lessee by the community owner.
- Advise the buyer that he has a minimum of five (5) days after getting these disclosures to void the transaction and, if terminated, get back any deposits or rents he has paid.

Failure of the resident seller to obtain a dated acknowledgment from the prospective buyer of receipt of these disclosures may be grounds for cancellation of the sale by the buyer, 68 P.S. § 398.11 (c).

Question: Does a right of first refusal in favor of the community owner violate 68 P.S. § 398.11? Does 68 P.S. § 398.11 imply a right to sell to whomever the resident owner chooses, subject only to the community owner’s approval of the buyer as a lessee? A suggested model law would prohibit a community owner’s option to purchase or right of first refusal, “unless

\textsuperscript{31} The Washington State program is administered by the state attorney general and funded by owner contributions of $10 per space per year, half of which cost can be passed on to the resident. See http://www.atg.wa.gov/MHDR.aspx.

\textsuperscript{32} “If it can’t be sold, a manufactured home is not an asset. If [it] cannot be sold for continued use in the...community, its value is severely undercut.” “Protecting Fundamental Freedoms in Communities” at 5, National Consumer Law Center (NCLC), October 2010, available at http://www.nclc.org/images/pdf/manufactured_housing/efed-freedoms_guide_appendix.pdf (hereafter, “NCLC Report ”).
the purchase price is determined by a qualified, neutral third party, at the expense of the community owner, or based on the first offer of a bona fide purchaser for value.”

L. Waiver of Rights – 68 P.S. § 398.12

The MHCRA specifically prohibits waivers of the rights and duties of both residents and community owners, in the following language:

The right and duties of manufactured community owners and operators and the manufactured home lessees may not be waived by any provisions of a written or oral agreement. Any such agreement attempting to limit these rights shall be void and unenforceable in the courts of the Commonwealth.

For a detailed discussion about this, see V(C)(4), supra, the section on Notice to Quit.

M. Underskirting, Porches, Fences, Other Equipment – 68 P.S. § 398.5

Park owners are permitted to designate the type of material and manner of installation of underskirting, awnings, porches, fences, tied-own equipment, etc., but only “in order to insure the safety and good appearance of the manufactured home community.” Park owners are specifically not permitted to require that residents purchase equipment from designated supplier.

N. Disclosure of Fees – 68 P.S. § 398.6

Although it is not entirely clear, the MHCRA (Act 80 of 2010) may have greatly expanded the disclosures that community owners must give to residents, over and above what had had previously been required under the Mobile Home Park Rights Act, the predecessor of Act 80.

1) Leases of 60-days or less—Prospective and current residents must be told about all rent, fees, service charges, assessments and utility charges payable to the community owner, § 398.6(a).

2) Failure to disclose such fees renders them void and unenforceable. § 398.6(c).

3) Cover sheet - “The written disclosure shall contain a cover sheet with the following statement in 12-point, sans-serif type, except the term ‘five days’ in the final paragraph of the notice shall appear in 16-point, sans-serif, bold type.” § 398.6(d).

4) Leases of more than a 60-day period—§ 398.6(e)—The disclosures for such leases are much extensive than for leases of 60 days or less. The default lease term under the MHCRA is month-to-month, 68 P.S. sec. 398.4.1 (“Every lease...shall be for a duration term [sic] of one month, unless a longer period is mutually agreed upon....” There is no incentive

33 NCLC Report at 12.
for a community owner to agree to a longer lease, since only then does the owner have a duty of disclosure.  

5) Disclosure of rent history—Sec. 398.6(e)(8) states that the “calculation of rent history shall be posted in the public portion of the manufactured home community’s rental office or other conspicuous and readily accessible place and in the same place as any rules and regulations that have been established for the manufactured home community are posted.” Question: Does this language in effect require the community owner to give all residents—not just those with leases of more than 60 days—the same detailed information about rent history? Does it undercut the limitation in § 398.6(e) of greater disclosures to leases of more than 60 days?

O. Interior Improvements, Appliance Installation Fees – 68 P.S. § 398.7

A community owner or operator may not restrict interior improvements, so long as they are in compliance with applicable building codes. A community owner or operator may not restrict the installation, service, or maintenance of an appliance or charge any installation fee “unless the fee reflects the actual cost to the. . . owner of such installation or its use.”

P. Entrance and Exit Fees - 68 P.S. § 398.8

“Entrance and exit fees may not be charged.”

Q. Installation and removal fees - 68 P.S. §398.9

A community owner may charge a fee for the installation or removal of a home, but only if it reflects actual cost of installation or removal to the owner. Such a fees “shall be refundable at the time of removal if, within one year of the initial installation” of the home, the owner acts to recover possession for a reason other than non-payment of rent or a breach of a condition of the lease. Failure to refund such fees entitles the tenant to treble damages, court costs and reasonable attorney's fees.

VI. Other Rights and Duties of Residents and Community Owners Under the Landlord-Tenant Act, 68 P.S. § 250.501-A et seq.

Several sections of Landlord-Tenant Act apply to “multiple dwelling premises,” defined as

any area occupied by dwelling units, appurtenances thereto, grounds and

34 The limitation of extensive disclosures to leases of more than 60 days was a last-minute amendment (A08913) to H.B. 2212, P.N. 3798, which became Act 80. The limitation was termed to be a “technical amendment.” House Bill 1182 (Session of 2011) would require community owners to give the same disclosures to all prospective or current residents, regardless of the length of the lease. H.B. 1182 is sponsored by Rep. Harper, one of the primary proponents of the original version of H.B. 2212, which likewise would have applied to all leases, regardless of their length.
facilities which dwelling units are intended or designed to be occupied or leased for occupation, or actually occupied, as individual homes or residences for three or more households. “Multiple dwelling premises” shall include, inter alia, mobile home parks. [emphasis added]

The law imposes duties on both landlords and tenants and gives certain rights to the latter.

A. Landlord duties - 68 P.S. § 250.502-A

A community who retains control over “passages, roadways and other common facilities” in a manufactured home community has a “duty of reasonable care for safety in use.” This duty “extends not alone to the individual tenant, but also to his family, servants and employees, business visitors, social guests, and the like.”

“Those who enter in the right of the tenant, even though under his mere license, make a permissible use of the premises for which the common ways and facilities are provided.”

B. Tenant duties - 68 P.S. § 250.503-A

This section establishes specific tenant duties. A tenant

• shall comply with all obligations imposed upon tenants by applicable provisions of all state and local laws
• shall not permit anyone on the premises with his permission to willfully or wantonly damage or remove any structure, dwelling, facility, or equipment
• shall not himself do any such thing.
• shall not permit any person on the premises with his permission to willfully or wantonly disturb the peaceful enjoyment of the premises by other tenants and neighbors.

C. Tenant rights – 68 P.S. § 250.504-A – tradesmen, social visitors

• Right to invite business visitors and suppliers of goods and services
• Right to invite social guests and visitors, for a reasonable period of time.
• Community owner may not charge any fee or additional rent
• “These rights may not be waived.”
• Legislative intent – “to insure that the landlord may in no way restrict the tenant's right to purchase goods, services and the like from a source of the tenant's choosing”
• No limitation of these right - Any provision in a written agreement attempting to limit this right “shall be void and unenforceable in the courts of this Commonwealth.”

These provisions are discussed more fully in Section V(H)(2), above.
VII. Enforcement of Rights of Residents and Owners of Manufactured Home Communities

A. Enforcement by Attorney General – 68 P.S. § 398.14, § 398.15

1) Restraining prohibited acts – 68 P.S. § 398.14 - The Attorney General or a district attorney can bring an action for injunctive relief when they have “reason to believe that any person is using or is about to use any method, act or practice declared by this act [the MHCRA] to be prohibited, and that proceedings would be in the public interest.”

2) Duty of enforcement by the Attorney General - 68 P.S. § 398.15 - “The Attorney General shall have the power and it shall be his duty to enforce the provisions of this act [the MHCRA], but in no event shall an individual be prohibited or otherwise restricted from initiating a private cause of action pursuant to any right or remedy conferred by this act.”


B. Private Action for Damages under the MHCRA – 68 P.S. § 398.13

All parties subject to the MHCRA—residents, community owners, and community operators—“may institute a private cause of action” if they are “aggrieved by a violation of their rights under” the MHCRA.

They may recover a) damages, b) treble damages under 68 P.S. § 398.9 (installation and removal fees), or c) restitution.

C. Consumer Protection Law – 73 P.S. § 201-1 et seq.

Like other residential tenants, residents of manufactured home communities have a private right of action for violations of the Consumer Protection Law, 73 P.S. § 201-9.2; Commonwealth v. Monumental Properties, 329 A.2d 812, 820-1 (Pa. 1974). The CPL specifies twenty practices that violate the law, plus the general prohibition against “[e]ngaging in any other fraudulent or deceptive conduct which creates a likelihood of confusion or misunderstanding.” 73 P.S. § 201-2(4)(xxi).

There have been only a few decisions applying the CPL to residential landlord-tenant cases since Monumental Properties, none of which involve manufactured home residents or communities.35 For a full discussion of the application of the CPL in residential landlord-tenant

matters, see Chapter 5 of “Representing Residential Landlords & Tenants” (PBI 2006-4640-R).

D. Attorney General Assurance of Voluntary Compliance

The Attorney General’s office will sometimes investigate a complaint and settle the matter with an Assurance of Voluntary Compliance (“AVC”). These AVCs are binding agreements approved by the courts, and are public record. They can be helpful to review because they shed light on how the AG’s office is interpreting the MHCRA and related laws.

Until recently, the AVCs have not been published or otherwise easy to find, though they were available through Right To Know requests. Regional Housing Legal Services filed a comprehensive Right To Know request in late 2011 and received all of the AVCs that deal with manufactured housing issues since the late 1970’s. RHLS has posted the AVCs to its website.36

VIII. Abandoned Manufactured Homes - 68 P.S. § 250.102, 250.505

Under 68 P.S. § 250.505, if a manufactured home “is abandoned by a resident for a period of thirty days or more,” the community owner or operator may:

1) Enter the home and secure any appliances, furnishings, materials, supplies or other personal property therein and disconnect the home from any utilities.

2) Move the home to a storage area within the community or to another location deemed necessary and proper, without having to get a removal permit from the local taxing authority which would otherwise be required.

3) Assess removal and storage charges against the former residents.

Notice to former resident—The former residents shall be notified by mail and posting on the home and any other known address, or by any other means by which notice may be achieved, that the home has been moved and of its new location.

No liability for damage—A person acting as authorized under this law is not responsible for any loss or damage to an abandoned home or its contents or for any taxes, fees, or other charges of any kind, unless it is proven that the home was not abandoned, in which case the community owner and his agent shall be liable for the loss incurred by the homeowner.

An "abandoned mobile home" means the vacating of the home by a resident

• without notice to the community, and

• nonpayment of required rent, fees, service charges and assessments, and


• one or more of the following:
  - removal of most or all personal property from the home
  - failure to use, maintain or return to the home
  - cancellation of insurance covering the home
  - termination of utility services to the home.\textsuperscript{37}


Residents of manufactured home communities are “tenants” under the Utility Services Tenants Right Acts (USTRA) -- two sets of statutes, which protect residents whose community owners are served either by PUC-regulated utilities, 66 Pa. C.S § 1521 et seq., or by non-PUC utilities, 68 P.S.§ 399.21 et seq.

In each instance, the protection is basically the same. Both sets of statutes define “tenant” as a person contractually obligated to the ratepayer-landlord rather than directly to the utility. The term specifically includes people who rent a space in a “mobile home park,” 66 Pa. C.S. § 1521, 68 P.S.§ 399.2.

In each case, USTRA gives tenants the right to continued service when a landlord-ratepayer is in default and is in danger of having service terminated, 66 Pa. C.S. § 1527, 68 P.S.§ 399.7. Under both statutes, tenants can assume responsibility for services by paying the most recent 30-day billing and paying bills as they become due in the future. Ibid. See generally, Sisco v. Luppert, 28 Pa. D & C 4\textsuperscript{th} 168, 172-3 (C.P. Lycoming 993); Equitable Gas v. Schwartzmiller, 744 A.2d 277 (Pa. Super. 1999); Tenant Action Group v. PUC, 514 A.2d 1003 (Pa. Cmwlth. 1986).

Another provision of the state utility law allows entities such as community owners to “purchase service from a public utility and resell. . .it to consumers.” 66 Pa. C.S § 1313 (price upon resale).

However, “the bill rendered by the reseller to any residential consumer shall not exceed the amount which the public utility would bill its own residential consumers for the same quantity of service under the residential rate of its tariff then currently in effect.” Id.

A person or entity that violates that prohibition is guilty of a summary offense, punishable by a “fine of $100 multiplied by the number of residential bills exceeding the maximum prescribed by section 1313.” 66 Pa. C.S § 3313 (excessive price on resale).

\textsuperscript{37} The definition appears in 68 P.S. § 250.102