



# EVALUATING THE CONSTITUTIONALITY OF RENT STABILIZATION LAWS TO PROTECT HOMEOWNER STABILITY IN MANUFACTURED HOME COMMUNITIES

Prepared on behalf of the Coalition of Manufactured Home  
Communities of Pennsylvania by Regional Housing Legal Services  
and Community Justice Project.

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## **Introduction:**

Residents of manufactured home communities are under unprecedented stress as large corporations and private equity firms buy up communities across Pennsylvania, raising rents at a remarkable rate. This sea change in ownership structure threatens the affordability of this vital source of housing, strips value from residents' homes, and places homeowners on fixed incomes at risk of eviction and forfeiture of their homes. Rent stabilization statutes, like those proposed in House Bill 1250<sup>1</sup> (2025-26) and Senate Bill 745<sup>2</sup> (2025-26), are a valid exercise of the legislature's police power to address such exigencies, and such laws have consistently been upheld by the United States Supreme Court and the courts of Pennsylvania. To protect the public welfare, the legislature is well within its constitutional authority to enact HB 1250 and SB 745, or other similar proposals.

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<https://www.palegis.us/legislation/bills/2025/hb1250>

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<https://www.palegis.us/legislation/bills/2025/sb0745>

**Background:**

For most of the 56,000<sup>3</sup> homeowners in manufactured home communities (MHCs) across Pennsylvania today, homeownership has become far harder to sustain than in the past. While buying a manufactured home remains a relatively affordable alternative to purchasing a higher-cost traditional home, homes in MHCs, also known as a land-lease communities, are subject to lot leases with ever-increasing rents determined by the landlord who controls the land on which these homes sit. Manufactured homeowners in MHCs carry the burdens of both homeownership and renting with few of the benefits of either. As homeowners, they are responsible for upkeep, taxes, and insurance, yet most are unable to build wealth in their homes because their homes depreciate, and they do not own the land.<sup>4</sup> As renters, they are subject to the landlord-issued rules and rent hikes but without the ability to

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<sup>3</sup> This number is an estimate of manufactured homes located in manufactured home communities. See Divringi, E., "[Manufactured Housing Communities in Pennsylvania: The Basics](#)", Federal Reserve Bank of Philadelphia, 2023.

<sup>4</sup> *Id.*

easily relocate when the rent becomes too high. Despite the common reference to manufactured homes as “mobile homes,” they are far from mobile once they have been set on a pad or foundation.

Moreover, residents of MHCs tend to be lower income than manufactured homeowners who own the land on which their home is located.<sup>5</sup> Similarly, MHC homeowners on average have lower incomes than traditional homeowners.<sup>6</sup> In many rural counties in Pennsylvania there is little, if any, subsidized housing, and MHCs are the *de facto* affordable housing.<sup>7</sup>

In 1975, the General Assembly recognized the precarious situation of homeowners in MHCs (then called mobile home parks) when it passed the Mobile Home Park Rights Act, now the Manufactured Home Communities Rights Act (MHCRA).<sup>8</sup> The primary purpose of the Act is to grant protections to MHC homeowners/lot-renters that are not granted to other renters in

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<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> Policy Map, <https://www.policymap.com/newmaps/#/>.

<sup>8</sup> 68 P. S. § 398.1 *et seq.*

Pennsylvania because, as the bill sponsor, Rep. James Manderino, stated, “residents of mobile-home parks do not have much facility in moving that mobile home, which may be their life investment, to another mobile-home park. In many communities there are no other mobile-home parks.”<sup>9</sup>

MHCRA has protected MHC residents for almost 50 years. However, in the past few years the nature of MHC ownership has changed, and that change presents a new challenge for MHC residents who are just as stuck as they were in 1975. According to a recent report:

For most residents, it is nearly impossible to move their homes – the structures cannot withstand the move, the costs of moving them are unaffordable, and finding a new spot is untenable. When community owners raise the lot rents, residents are trapped, choosing between paying rent and abandoning their home.

This structure makes manufactured home communities a very stable source of revenue for investors, including during economic downturns, and makes residents vulnerable to exploitation. Real estate investment groups seized on this vulnerability and built a highly profitable

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<sup>9</sup> Legislative Journal – House, July 15, 1975, p. 2079.

business model with devastating effects on low-income seniors and families.<sup>10</sup>

The investors the report refers to are institutional and private equity firms that turned to MHCs after the Great Recession knowing they could get a good return on investment. Why? “The fact that tenants can’t afford the \$5,000 it takes to move a mobile home ... makes it easy to raise rent without losing any occupancy.”<sup>11</sup> The Mobile Home University, a company that trains investors, sums up the situation this way: “With over 20% of Americans trying to live on \$20,000 per year or less, the demand for mobile homes has never been higher - and the big winners are the owners of the mobile home parks in which those customers reside.”<sup>12</sup>

Private equity firms typically seek to generate 15-25% annualized returns on their investments over a 4-6 year period,

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<sup>10</sup>[PRIVATE EQUITY GIANTS CONVERGE ON MANUFACTURED HOMES,](#) The Private Equity Stakeholder Project, MHAction, and Americans for Financial Reform Education Fund; 2019 (hereinafter “Private Equity Giants”).

<sup>11</sup> *Id.*, quoting material from Mobile Home University as reported in “Housing advocates protest ‘boot camp’ to maximize trailer park profits,” Austin American-Statesman, Dec 2, 2017.

<sup>12</sup> [Mobile Home University website.](#)

after which time they often sell the asset or take the business public.<sup>13</sup> To generate those returns, they tend to invest a limited amount of their own capital, rely heavily on debt financing, and make business decisions that increase cash flow.<sup>14</sup> For rental properties, that means increasing rents, reducing operating costs, and keeping capital improvements to a minimum. Kevin Bupp, CEO of Sunrise Capital Investors, advises investors in MHCs to “raise rents upon purchase, as doing so ‘goes immediately to your bottom line.’<sup>15</sup>

This national trend is playing out here in Pennsylvania. Large corporations and private equity firms such as Kingsley Management Corp.<sup>16</sup>, RHP Properties<sup>17</sup>, Horizon Land Company<sup>18</sup>, The BoaVida Group<sup>19</sup>, and UMH Properties<sup>20</sup> are buying up

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<sup>13</sup> Private Equity Giants at 7.

<sup>14</sup> *Id.*

<sup>15</sup> *Id.* at 5.

<sup>16</sup> “Manufactured homeowners rally for lot rent caps,” The Center Square, [https://www.thecentersquare.com/pennsylvania/article\\_4663d38e-3614-11ee-b0c8-a71b1f0aa999.html](https://www.thecentersquare.com/pennsylvania/article_4663d38e-3614-11ee-b0c8-a71b1f0aa999.html).

<sup>17</sup> <https://www.rhp.com/communities.html>

<sup>18</sup> <https://horizonlandmgmt.com/our-communities/?pproplk=&pstatelk=PA&pcitylk=>

<sup>19</sup> <https://mhphoa.com/investors/>

<sup>20</sup> <https://umh.com/>

Pennsylvania communities. The increased presence of private equity in Pennsylvania's MHC market has been accompanied by drastic increases in lot rents, including these:

- In Douglass Village in Douglassville, 13%-15% monthly lot rent increases each year for past few years years<sup>21</sup>
- In Stone Hill Village in Annville, 9.7% lot rent increase in 2022, 10.1% in 2023, and 13.7% in 2024<sup>22</sup>
- In Oak Springs MHP in Cranberry Township, 42% lot rent increase in 2024<sup>23</sup>

The same market forces that made it necessary to enact the Mobile Home Park Rights Act in 1975 require that home owners in MHCs today be protected from skyrocketing, often predatory, increases in rents and fees and decreasing services.

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<sup>21</sup> Presentation by Robert Besecker at Manufactured Housing: Increasing Access and Preserving Affordability hosted by the Federal Reserve Bank of Philadelphia, June 25, 2024, <https://www.youtube.com/watch?v=vqaVZWISBtQ>.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

## **Analysis:**

### **I. Regulation of Rents in MHCs Does Not Violate Substantive Due Process**

Rent stabilization laws regulating lot rents in MHCs, like other forms of price regulation, are a constitutional exercise of the legislature's police powers.

The Due Process Clause of the federal<sup>24</sup> and state<sup>25</sup> constitutions protect persons against arbitrary and unjust laws that infringe on their rights,<sup>26</sup> including "the right of an owner of property to fix the price at which he will sell it is an inherent attribute of the property itself."<sup>27</sup> However, that right is not sacrosanct and wholly immune from governmental regulation.<sup>28</sup> "Property rights are not absolute and a state, in order to protect

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<sup>24</sup> "...nor shall any state deprive any person of life, liberty, or property, without due process of law," U.S. Const. amend. XIV, § 1.

<sup>25</sup> "All men are born equally free and independent, and have certain inherent and indefeasible rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing and protecting property and reputation, and of pursuing their own happiness." Pa. Const. art. 1, § 1.

<sup>26</sup> *Shoul v. Commonwealth, Dep't of Transportation, Bureau of Driver Licensing*, 173 A.3d 669, 676 (Pa 2017).

<sup>27</sup> *Com. v. Zasloff*, 13 A.2d 67, 69 (Pa 1940).

<sup>28</sup> *Id.*

the health, safety and welfare of its citizens may, under its police power, impinge on that interest by regulation.”<sup>29</sup>

To balance individual rights and the public interest, Courts apply a “means-end review.”<sup>30</sup> Under the federal constitution, the regulation of property rights must simply have a “rational basis,” that is, it must be rationally related to a legitimate governmental interest.<sup>31</sup> Under the state constitution, a slightly more restrictive, but substantially similar, test applies, which requires a statute (1) to not be “unreasonable, unduly oppressive, or patently beyond the necessities of the case” and (2) to bear a “real and substantial relation to the public interest” it seeks to advance.<sup>32</sup>

The United States Supreme Court has upheld the constitutionality of rent stabilization laws under the federal due process clause. In *Pennell v. City of San Jose*<sup>33</sup>, the Court considered a California municipal rent stabilization ordinance that

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<sup>29</sup> *Com., Dep't of Env't Res. v. Pennsylvania Power Co.*, 416 A.2d 995, 1002 (Pa. Cmwlth. Ct. 1980).

<sup>30</sup> *Ladd v. Real Est. Comm'n*, 230 A.3d 1096, 1108 (Pa. 2020).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.* at 1108-10.

<sup>33</sup> 485 U.S. 1 (1988).

limited a landlord's ability to raise rents beyond a predetermined reasonable amount (set at eight percent annually) and required a landlord to proceed through a hearing process to obtain approval to raise rents beyond that amount.<sup>34</sup> The hearing focused on balancing several factors, including hardship to tenants, to determine if the higher rent would be "reasonable under the circumstances."<sup>35</sup>

Chief Justice Rehnquist, writing for the majority, first noted that state price-control regulations were constitutional as long as they were not "arbitrary, discriminatory, or demonstrably irrelevant to the policy the legislature is free to adopt."<sup>36</sup> The Court then held that the ordinance's stated purpose of "prevent[ing] excessive and unreasonable rent increases" caused by the "growing shortage of and increasing demand for housing" was a legitimate exercise of police powers.<sup>37</sup> The Chief Justice expressly recognized that the "protection of consumer welfare"

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<sup>34</sup> *Id.* at 4-6.

<sup>35</sup> *Id.* at 5.

<sup>36</sup> *Id.* at 11.

<sup>37</sup> *Id.* at 12.

was also a “legitimate and rational goal of price or rate regulation.”<sup>38</sup> Moreover, the Chief Justice noted approvingly that “reducing the costs of dislocation that might otherwise result if landlords were to charge rents to tenants that they could not afford” was a legitimate purpose for the ordinance.<sup>39</sup> The ordinance accommodated the conflicting interests of “protecting tenants from burdensome rent increases while at the same time ensuring that landlords [were] guaranteed a fair return on their investment.”<sup>40</sup> Thus, the U.S. Supreme Court found that the regulation of rents was rational and reasonable, and thus did not violate the federal Due Process Clause.<sup>41</sup>

Pennsylvania Courts have not had recent occasion to consider the constitutionality of statutes regulating rents under the state Due Process Clause. However, in 1955 in *Warren v. Philadelphia*<sup>42</sup> (*Warren I*) the Pennsylvania Supreme Court

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<sup>38</sup> *Id.* at 13.

<sup>39</sup> *Id.* at 14 n.8.

<sup>40</sup> *Id.* at 13.

<sup>41</sup> *Id.* at 14.

<sup>42</sup> 115 A.2d 218 (Pa. 1955)

reviewed and upheld a Philadelphia ordinance, enacted in response to an emergency housing shortage, that limited increases in rent and grounds for eviction.<sup>43</sup> In discussing the constitutionality of regulating rents and evictions, the Court stated that rent and eviction controls were a valid exercise of state and municipal police power:

‘Under its police power a state or its municipalities may enact statutes and ordinances for the welfare and health of its citizens. Such a statute or ordinance, however, must be reasonable and not arbitrary [and] must not invade the fundamental liberties of its citizens; ...’  
[Citations omitted] This power has been juridically extended to many fields by social and economic welfare. [Citation omitted] That rent and eviction controls are not unreasonable or arbitrary, and are valid exercises of this power, is established. [Citations omitted]. The instant ordinance, being admittedly designed “for the health and welfare of its citizens,” is a valid exercise of police power.<sup>44</sup>

In upholding the ordinance, the Court went on to focus on Philadelphia’s adoption of a home rule charter that established its authority to exercise police power to this degree.

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<sup>43</sup> *Id.* at 219.

<sup>44</sup> *Id.* at 220.

The Pennsylvania Supreme Court's broad holding in *Warren I* is consistent with the United States Supreme Court's holding in *Pennell*.<sup>45</sup> It is also consistent with the Pennsylvania Supreme Court's rulings on other price regulation legislation.<sup>46</sup>

Furthermore, in 1971 the Pennsylvania Supreme Court again reviewed the regulations of property rights within the context of the housing rental market in *DePaul v. Kauffman*.<sup>47</sup>

Pennsylvania's newly enacted Rent Withholding Act allowed tenants to withhold their rent from a landlord when a property had been determined unfit for human habitation.<sup>48</sup> Even though the law blocked landlords from collecting rents in some circumstances and might prevent a landlord from evicting a

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<sup>45</sup> 485 U.S. 1.

<sup>46</sup> *See, e.g., Finucane v. Pennsylvania Milk Mktg. Bd.*, 136 582 A.2d 1152, 1156 (Pa. Cmwlth. Ct. 1990) (Setting of retail minimum price control scheme for milk to address legislative concern for the public health and welfare and for the prevention of fraud held constitutional); *Associated Wholesalers, Inc. v. Com., Dep't of Revenue*, 780 A.2d 759, 765 (Pa. Cmwlth. Ct. 2001) (Pennsylvania Cigarette Sales and Licensing Act restrictions on price of cigarettes upheld as legitimate and reasonable means of furthering legislative goal of protecting public from unfair business practices.)

<sup>47</sup> 272 A.2d 500, 504 (Pa 1971).

<sup>48</sup> *Id.* at 505-06.

tenant at the end of the lease term, the Court found the law constitutional.<sup>49</sup> The Court explicitly recognized that “among the legitimate objects of the regulation of property for the general welfare is an adequate supply of safe and decent housing.”<sup>50</sup> Since the mechanisms utilized by the law each could arguably achieve this end, the law withstood constitutional scrutiny even under the slightly higher standard imposed by Pennsylvania’s Due Process Clause.<sup>51</sup> Consistent with *Warren I* and the United States Supreme Court precedent, the Pennsylvania Supreme Court did not require an emergency to regulate the rental market.

Given this precedent, the regulation of lot rents in MHCs, as proposed by HB 1250 and SB 745, clearly meets federal and state substantive Due Process requirements. As already established in *DePaul* and *Pennell*, the pursuit of an adequate supply of safe and decent housing is a legitimate object of regulation, and the regulation of lot rents in MHCs directly serves this purpose by

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<sup>49</sup> *Id.*

<sup>50</sup> *Id.* at 504.

<sup>51</sup> *Id.* at 505-06.

preventing predatory rent hikes in MHCs and preserving housing stability and affordability. The bills are also not “unreasonable, unduly oppressive, or patently beyond necessity.” HB 1250 and SB 745 do not impose a blanket ban on lot rent increases.

Instead, each bill only partially limits the total amount of annual increases in rent and other charges relative to inflation, while allowing MHC owners to exceed that limit to cover documented increases in operating costs. Additionally, such regulation is increasingly necessary in Pennsylvania to protect manufactured home owners’ investment in their homes, given the unique vulnerability of those living in MHCs and paradigm shift in ownership of MHCs that has occurred in recent years. Thus, the regulation of lot rents, as designed by HB 1250 and SB 745, satisfy the requirements of the federal and state Due Process Clauses.

**1. *Warren v. Philadelphia (Warren II)* does not restrict the regulations of rents to emergencies.**

It has been suggested that a 1956 decision by the Pennsylvania Supreme Court concerning Philadelphia's emergency rent control ordinance<sup>52</sup> (*Warren II*) stands for the proposition that regulation of rent increases in Pennsylvania will only be upheld during the existence of an emergency.<sup>53</sup> That interpretation misunderstands the facts and the holding and reasoning of the Court in *Warren II*.

The rent and eviction controls (at issue in *Warren I*) established by the Philadelphia Rent Control Ordinance of 1955 were temporary, and the city sought to extend them in 1956.<sup>54</sup> The issue before the Court in *Warren II* was whether the emergency conditions specified in the ordinance continued to exist at the time the ordinance was extended:

***The question presented to the court below and now before us in the present appeal is whether the evidence adduced by the plaintiffs that no emergency housing shortage existed was sufficient to overcome the presumption of constitutionality and validity of the Rent***

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<sup>52</sup> *Warren v. Philadelphia*, 127 A.2d 703 (Pa. 1956).

<sup>53</sup> Additionally, any suggestion that *Warren II* stands for the proposition that any "rent control" is unconstitutional is clearly unsupported by a plain reading of the text.

<sup>54</sup> *Id.* at 704.

Control Ordinance of January 31, 1956, or, stating it in another form, was such evidence sufficient to overcome come [sic] **the presumption that the alleged emergency conditions relating to housing accommodations in the City of Philadelphia were correctly stated in the Ordinance.**<sup>55</sup>

While the nonexistence of a housing emergency was critical to the outcome in *Warren II*, the Court's statement of the legal principle that was applicable at the time was broader: "Rent control which impinges upon the constitutional rights of the owners of property must be based upon a public exigency **or** emergency."<sup>56</sup> While "exigency" and "emergency" are often used interchangeably, "exigency" is a much broader concept that denotes a need for timely, responsive action, sometimes arising out of an emergency but not necessarily so.<sup>57</sup>

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<sup>55</sup> *Id.* at 705 (emphasis added).

<sup>56</sup> *Id.* at 705 (emphasis added).

<sup>57</sup> See Black's Law Dictionary (12th ed. 2024) (**exigency**: "A state of urgency; a situation requiring immediate action.") (**emergency**: "1. A sudden and serious event or an unforeseen change in circumstances that calls for immediate action to avert, control, or remedy harm. 2. An urgent need for relief or help; an exigent circumstance in which immediate assistance is needed to protect property, public health, or safety, or to lessen or avert the threat of disaster. See, e.g., 42 USCA § 5122.")

The seminal case on the regulation of rents in that era was *Block v. Hirsh*,<sup>58</sup> which was one of the cases cited in *Warren II*. The opinion in *Block* discussed the “public exigency” that formed the basis of state authority to regulate rents and grounds for eviction at that time. The examples of public exigency cited by the Court – mine safety, building height, billboards and watersheds<sup>59</sup> – make clear that such authority was not limited to emergency situations.

More importantly, the “exigency” standard that was articulated in *Block* and referenced in *Warren II* has been superseded by subsequent decisions by both the United States Supreme Court and the Pennsylvania Supreme Court, holding that the appropriate standard is the means-end review discussed above.<sup>60</sup> Under that standard, federal and Pennsylvania courts

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<sup>58</sup> 256 U.S. 135 (1921).

<sup>59</sup> *Id.* at 155-56.

<sup>60</sup> *See, e.g., Nebbia v. New York*, 291 U.S. 502 (1934) (“So far as the requirement of due process is concerned, and in the absence of other constitutional restriction, a state is free to adopt whatever economic policy may reasonably be deemed to promote public welfare, and to enforce that policy by legislation adapted to its purpose”); *Ladd, supra*

have consistently upheld the constitutionality of price regulations.<sup>61</sup>

The only question before the Court in *Warren II* was whether the emergency conditions that formed the justification for the Rent Control Ordinance remained in existence when that ordinance was extended. That was the basis upon which the Court decided the case. The existence or nonexistence of an emergency was relevant only because that was the specific harm that the ordinance was enacted to protect against. And the Court found, based on the facts of the case, that this underpinning justification for the original legislation no longer existed. The holding of *Warren II* must be read against the facts of that case; it is a misreading of *Warren II* to interpret the Court's holding as imposing an emergency requirement to all efforts to regulate rents and evictions—especially since subsequent federal and

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<sup>61</sup> See *Pennell, supra*; *Finucane, supra*; *Associated Wholesalers, supra*; *Eisen v. Eastman*, 421 F. 2d 560, 567 (2d Cir. 1969), cert. denied, 400 U.S. 841 (1970); *Westchester West No. 2 Ltd. Partnership v. Montgomery County*, 348 A.2d 856 (Md. 1975); *Aspen-Tarpon Springs L.P. v. Stuart*, 635 So. 2d 61 (Fla. Dist. Ct. App. 1994); *Guggenheim v. City of Goleta*, 638 F.3d 1111 (9th Cir. 2010).

Pennsylvania decisions have upheld such controls in the absence of an emergency.<sup>62</sup>

The Commonwealth clearly has a legitimate public interest in promoting the housing stability and property rights of existing home owning residents of MHCs in the face of dramatic changes in the MHC ownership market that has led to rapidly increasing lot rents, and enacting reasonable controls on lot rent increases would bear a real and substantial relationship to that public interest. As the Pennsylvania Supreme Court's decision in *DePaul* and the United States Supreme Court's decision in *Pennell* demonstrate, the lot rent regulations proposed by HB 1250 and SB 745 would easily satisfy the requirements of due process.

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<sup>62</sup> The Pennsylvania Supreme Court has on many occasions said that its decisions are to be read against their facts. *See, e.g., Maloney v. Valley Med. Facilities, Inc.*, 984 A.2d 478, 485–86 (Pa. 2009) (“The Court simply did not consider the extension of the rule to complex factual scenarios such as the present one. Notably, the axiom that decisions are to be read against their facts. . . prevents the wooden application of abstract principles to circumstances in which different considerations may pertain.”)

## **II. Rent Stabilization Statutes Do Not Violate the Contracts Clause of the Pennsylvania and State Constitutions**

The Contracts Clauses of the federal<sup>63</sup> and state<sup>64</sup> constitutions pose no barrier to the constitutionality of rent stabilization statutes like those proposed in HB 1250 and SB 745. The Contract Clause is retrospective, and its prohibitions only apply to contracts in existence at the time of the challenged state action.<sup>65</sup> In *DePaul v. Kauffman*,<sup>66</sup> the Pennsylvania Supreme Court reviewed the legality of contractual changes to residential lease agreements imposed by the City Rent Withholding Act.<sup>67</sup>

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<sup>63</sup> “No State shall . . . pass any . . . Law impairing the Obligation of Contracts . . . .” U.S. Const., Art. I, s 10, cl. 1.

<sup>64</sup> “No *ex post facto* law, nor any law impairing the obligation of contracts, or making irrevocable any grant of special privileges or immunities, shall be passed.” Pa. Const., Art. I, § 17. Courts apply the same test of constitutionality under the federal and Pennsylvania constitutions. *Commonwealth v. Ritz*, 153 A.3d 336, 346 (Pa. Super. 2016).

<sup>65</sup> *Munday v. Wisconsin Tr. Co.*, 252 U.S. 499, 503 (1920) (Contract Clause “applies only to legislation subsequent in time to the contract alleged to have been impaired.”); *see also Watson v. Emps. Liab. Assur. Corp.*, 348 U.S. 66, 70 (1954); *First Nat. Bank of Pa. v. Flanagan*, 528 A.2d 134, 137 (Pa. 1987) (“The contracts clauses of the United States and Pennsylvania Constitutions protect contracts freely arrived at by the parties to them from *subsequent* legislative impairment or abridgment.” (emphasis added)).

<sup>66</sup> 272 A.2d 500 (Pa 1971).

<sup>67</sup> 35 P.S. § 1700-1.

The Act altered a tenant's contractual obligation to pay rent or move out at the end of the lease term when the Health Department determined the property was "unfit for human habitation" and the tenant escrowed rent with the Department.<sup>68</sup> The Court expressly held that "[a]s applied to leases entered into or renewed after the effective date of the Act, there can be no 'impairment', for the laws in force when a contract is entered into become part of the obligation of contract 'with the same effect as if expressly incorporated in its terms.'"<sup>69</sup>

Both SB 745 and HB 1250 explicitly limit their applicability to "the renewal or extension of a lease for a manufactured home lot on or after the effective date of this subsection."<sup>70</sup> A renewal or extension of a lease containing an agreement to increase rent or other charges must, under contract law principles, be

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<sup>68</sup> *DePaul*, 272 A.2d at 502.

<sup>69</sup> *Id.* at 506-7 (quoting *Beaver Cnty. Bldg. & Loan Ass'n v. Winowich*, 187 A. 481, 484 (Pa. 1936)).

<sup>70</sup> See Senate Bill 745, Section 6.1, available at <https://www.palegis.us/legislation/bills/2025/sb0745> (last accessed on September 3, 2025); House Bill 1250, Section 6.1, available at <https://www.palegis.us/legislation/bills/2025/hb1250> (last accessed on September 3, 2025).

supported by adequate consideration and in essence creates a new contract.<sup>71</sup> The new lease would then be subject to any laws in effect at the time it is entered, including any rent stabilization amendments to MHCRA. Thus, SB 745 and HB 1250, or any similarly-prospective bill regulating future rent increases, do not violate the Contracts Clause.

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<sup>71</sup> *Kreutzer v. Monterey Cnty. Herald Co.*, 747 A.2d 358, 362 (Pa. 2000) (“It is hornbook law that a contract, either oral or written, may be modified by a subsequent agreement which is supported by legally sufficient consideration or a substitute therefor and meets the indicia of contract formation.”); *Matevish v. Sch. Dist. of Borough of Ramey*, 74 A.2d 797, 800 (Pa. Super. 1950) (“To modify a contract requires a new meeting of minds, and a modified instrument is tantamount to a new contract.”); *Mun. Auth. of Westmoreland Cnty. v. CNX Gas Co., L.L.C.*, 380 F. Supp. 3d 464, 470 (W.D. Pa. 2019) (citing *Melat v. Melat*, 602 A.2d 380, 385 (Pa. Super. 1992)) (“Modifying a contract effects a permanent change to the agreement's terms, essentially creating a new, substitute contract that incorporates the unchanged terms of the original agreement together with any amended provision.”).

### **III. The Takings Clause Would Not Prohibit The Regulation of Lot Rents in MHCs As set Forth in HB 1250 and SB 745 Because Neither Bill Would result In a Violation of the Regulatory Takings Standards.**

The U.S. Supreme Court's takings<sup>72</sup> jurisprudence recognizes three forms of regulatory actions that constitute a taking. Two of these are considered *per se* or "categorical" takings and involve the "relatively narrow" circumstances in which a regulation either results in a "permanent physical occupation" under *Loretto v. Teleprompter Manhattan CATV Corp.*<sup>73</sup> or denies a landowner "all economically beneficial use" of their property under *Lucas v. S.C. Coastal Council*.<sup>74, 75</sup> Neither of these "relatively narrow" circumstances apply to the regulations of rents. As such, any asserted takings concern with HB 1250 and SB 745 or similar legislation must be analyzed to determine whether

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<sup>72</sup> "... nor shall private property be taken for public use, without just compensation", U.S. Const. amend. V.

<sup>73</sup> 458 U.S. 419, 426 (1982).

<sup>74</sup> 505 U.S. 1003, 1019 (1992).

<sup>75</sup> See *Lingle v. Chevron U.S.A. Inc.*, 544 U.S. 528, 538 (2005) ("Our precedents stake out two categories of regulatory action that generally will be deemed a *per se* taking.").

implementation of the bill(s) would constitute a taking using the “principle guidelines” set forth in *Penn Central Transportation Co. v. City of New York*.<sup>76, 77</sup>

### **1. HB 1250 and SB 745 Cannot Be Construed as a *Per Se* Regulatory Taking.**

The Supreme Court recognizes “the longstanding distinction between government acquisitions of property and regulations,” a critical distinction that makes clear why neither HB 1250 nor SB 745 would operate as a taking under *Loretto* or *Lucas*.<sup>78</sup>

To establish a taking under *Loretto*, the plaintiff must suffer a “permanent physical occupation” of its land that is “qualitatively more severe than a regulation of the use of property.”<sup>79</sup> HB 1250

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<sup>76</sup> 438 U.S. 104 (1978).

<sup>77</sup> See *Lingle*, 544 U.S. at 538.

<sup>78</sup> *Horne v. Dep’t of Agri.*, 576 U.S. 350, 361 (2015).

<sup>79</sup> 458 U.S. at 434–36; see, e.g., *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning Agency*, 535 U.S. 302, 323 (2002) (concluding it is “inappropriate to treat cases involving physical takings as controlling precedents for the evaluation of a claim that there has been a regulatory taking, and vice versa.”) (internal citations omitted); *2910 Georgia Ave. L.L.C. v. D.C.*, 234 F.Supp.3d 281, 304 (D.D.C. 2017) (explaining “categorical takings” analysis under *Loretto* is “plainly not applicable” to inclusionary zoning ordinance because ordinance regulates the terms of use).

and SB 745 constitute regulations of land use rather than a permanent physical occupation. No case law supports the contention that a rent regulation like that in HB 1250 or SB 745 compels or equates to the physical or permanent occupation of a manufactured home community owner's land. In fact, the U.S. Supreme Court, in *Yee v. City of Escondido*,<sup>80</sup> already upheld the regulation of lot rent in an MHC. In *Yee*, the Court considered a California municipality's rent control ordinance that set lot rents in an MHC at 1986 levels and prohibited increases without the approval of the municipality's city council based on various factors.<sup>81</sup> Applying *Loretto*, the Court held that the ordinance was clearly not a "compelled physical invasion" because park owners voluntarily rented their land to residents.<sup>82</sup> Instead, the ordinance was merely a regulation of the use of the property.<sup>83</sup>

Similarly, neither HB 1250 nor SB 745 is a *per se* taking under the standard set forth in *Lucas*. Under *Lucas*, economic

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<sup>80</sup> 503 U.S. 519 (1992).

<sup>81</sup> *Id.* at 524-5.

<sup>82</sup> *Id.* at 527.

<sup>83</sup> *Id.* at 528.

regulations result in a taking only “when the owner of real property has been called upon to sacrifice *all* economically beneficial uses in the name of the common good, that is, to leave his property economically idle.”<sup>84</sup> Therefore, any *per se* taking challenge to HB 1250 and SB 745 must demonstrate that the regulation would result in the deprivation of *all* uses.<sup>85</sup>

While HB 1250 and SB 745 would impose some limits on how a community owner may increase rents on the land, they would not deny community owners “*all* economically beneficial” land uses.<sup>86</sup> In fact, property owners are still permitted to engage in the same exact use as previously intended. Thus, the bills do not aim to render the land “economically idle.”<sup>87</sup>

## **2. Implementation of HB 1250 or SB 745 Would Not Result in a Regulatory Taking Under the *Penn Central* Test.**

Rather than the *per se* taking test applied in *Lucas* and *Loretto*, here *Penn Central* supplies the applicable standard for

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<sup>84</sup> *Lucas*, 505 U.S. at 1019 (emphasis in original).

<sup>85</sup> See *Lingle*, 544 U.S. at 539 (“The complete elimination of a property’s value is the determinative factor” for establishing a taking in *Lucas*).

<sup>86</sup> *Lucas*, 505 U.S. at 1019 (emphasis in original).

<sup>87</sup> *Id.*

determining whether HB 1250 and SB 745 would constitute a regulatory taking. *Penn Central* requires consideration of: (1) “the regulation’s economic effect on the landowner;” (2) “the extent to which the regulation interferes with reasonable investment-backed expectations;” and (3) “the character of the government action.”<sup>88</sup> Here, the factors clearly weigh against a finding that HB 1250 and SB 745 would result in a regulatory taking.

**a. The Character of the Government’s Action under HB 1250 and SB 745 Is More Akin to a Regulation of Economic Life to Promote a Public Good, Rather than a Physical Invasion of the Property Regulated.**

In considering the “character of the government action” the court must decide whether it is akin to a “physical invasion” or to “a public program adjusting the benefits and burdens of economic life to promote the public good,” with the presumption that the latter is true.<sup>89</sup> The Supreme Court “has consistently affirmed

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<sup>88</sup> *Palazzolo v. Rhode Island*, 533 U.S. 606, 617 (2001) (citing *Penn Central*, 438 U.S. at 124–25).

<sup>89</sup> *Penn Central*, 438 U.S. at 124; see *Pace Res. Inc. v. Shrewsbury Twp.*, 808 F.2d 1023, 1030 (3d Cir. 1987) (instructing that in assessing character,

that States have broad power to regulate housing conditions” without running afoul of the Takings Clause even when the regulation produces economic injuries to a land owner.<sup>90</sup> In fact, the Supreme Court has expressly held that legislation providing for rent control constitutes a regulatory taking “*only* where it requires the landowner to submit to the physical occupation of his land.”<sup>91</sup> As such, HB 1250 and SB 745 would not operate as a regulatory taking but, rather, a valid exercise of a Commonwealth’s police power.<sup>92</sup>

Furthermore, there is no possible reading of HB 1250 and SB 745 that could be interpreted to result in an actual or equivalent “physical invasion” of MHCs by the state.<sup>93</sup> The bills simply would regulate, in certain circumstances, the percentage by which lot rents may be increased in an MHC in a given a year. Community

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the government is “entitled to a presumption that it does advance the public interest”).

<sup>90</sup> *Yee*, 503 U.S. at 528–29.

<sup>91</sup> *Id.* at 527.

<sup>92</sup> *Id.*; see also, e.g. *Home Builders Ass’n of Greater Chi. v. City of Chi.*, 213 F. Supp. 3d 1019, 1027 (N.D. Ill. 2016) (dismissing takings claim based on challenge to ordinance’s imposition of rent ceilings on new housing developments).

<sup>93</sup> *Penn Central*, 438 U.S. at 124.

owners would suffer nothing equivalent to the permanent physical occupation of their land.

**b. As Written, the Degree to Which HB 1250 and SB 745 Would Result in Economic Harm to A Community Owner or the Extent to Which HB 1250 and SB 745 Would Interfere with Reasonable Investment-Backed Expectations Is Unlikely to Be Severe Enough to Satisfy These Two Elements of the *Penn Central* Test.**

Under *Penn Central*, the burden is on a community owner to also provide sufficient facts proving that the regulation severely interferes with its ability to benefit economically from its property.<sup>94</sup> To that end, the “magnitude” of the regulation’s economic impact on the owner’s property interests must rise to where the regulation drastically interferes with the uses or significantly diminishes the value of the property.<sup>95</sup> Then, a community owner must provide sufficient facts to prove that the degree of interference the regulation has on the park owner’s

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<sup>94</sup> *Id.*

<sup>95</sup> *Lingle*, 544 U.S. 540; see also *Pace Res. Inc.*, 808 F.2d at 1031.

“reasonable, distinct, investment-backed expectations” is severe.<sup>96</sup>

In the Third Circuit, courts routinely dismiss takings claims that allege that economic regulations deprive parties of economically viable uses where the property retains commercially exploitable uses.<sup>97</sup> Here, the lot rent limits that HB 1250 and SB 745 would impose on community owners would almost certainly have smaller economic consequences than those alleged in the cases cited above. The bills still permit community owners to engage in the same commercial use as before, *i.e.*, operating MHCs for rental to manufactured home owners. Further, the bills provide mechanisms for community owners to increase rents as needed to cover necessary expenses and still make a reasonable

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<sup>96</sup> *Keystone Bituminous Coal Ass’n v. Duncan*, 771 F.2d 707, 713 (3d Cir. 1985), *aff’d*, 480 U.S. 470 (1987) (hereafter “KBCA”).

<sup>97</sup> *See, e.g., Pace Res. Inc.*, 808 F.2d at 1031 (determining that although industrial use was no longer available under new zoning ordinance, ordinance was not a taking because the land still retained other exploitable uses); *Rogin v. Bensalem*, 616 F.2d 680, 692 (3d Cir. 1980) (dismissing claim that downzoning of developer’s property constituted taking because the reduction in housing density would add other value to owner’s existing parcel).

<sup>98</sup> *Rogin*, 616 F.2d at 690.

profit. Thus, the impact on the use of the property is well below drastic economic impact that is required to demonstrate a regulatory taking under the *Penn Central* test.

Moreover, to be construed as a taking, the diminution in the value of the property must be shown to “destroy or severely” reduce the value of the existing property.<sup>98</sup> Unlike in cases where plaintiffs provided courts with comparative cost estimates demonstrating total or severe loss of property value due to a challenged regulation,<sup>99</sup> here any diminution in property value caused by the regulation of annual lot rents under HB 1250 and SB 745 is extremely unlikely to “destroy or severely” reduce the overall market value of communities. Under HB 1250 and SB 745, the ability of any individual community owner to increase rent and other charges above the inflation-based limit would necessarily be analyzed on a case-by-case basis. Therefore, it could not be argued that HB 1250 and SB 745, on their face, would result in the type of economic loss that is necessary to prevail on a regulatory taking challenge.

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<sup>99</sup> See, e.g., *KBCA*, 480 U.S. at 497.

Nor could a conclusion be reached that HB 1250 and SB 745 would interfere with a community owner's "reasonable distinct investment-backed expectations," as required under the third *Penn Central* factor, absent a factual showing to establish this.<sup>100</sup> These expectations are subject to two limiting principles: 1) requiring a plaintiff to show the regulation has "nearly the same effect as the complete destruction of the property right of the owner," with 2) the implicit understanding that to be reasonable the expectations must account for the state's authority to regulate private property to further the public interest.<sup>101</sup> Any alleged interference here fails on both counts.

The government's power to regulate the residential housing market to promote housing stability and affordability is a paradigmatic example of allowable government action that typically does not violate the Takings Clause.<sup>102</sup> There should be no surprise that an MHC owner's expected return on investments may be tempered by the government's right to regulate,

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<sup>100</sup> *KBCA*, 771 F.2d at 713.

<sup>101</sup> *Pace Res. Inc.*, 808 F.2d at 1033.

<sup>102</sup> *See, e.g., Yee*, 503 U.S. at 528–29.

particularly in a field as extensively regulated as housing.<sup>103</sup>

“[L]aws often affect some property owners more severely than others[,]” but this does not by itself establish a taking.<sup>104</sup> And, again, laws that regulate housing (or other matters) cannot be construed as a regulatory taking under *Penn Central* unless they have “nearly the same effect as the complete destruction” of the property owner’s rights.<sup>105</sup> Any expectation of a property owner that he or she is entitled to exploit property through its most profitable use free from government regulation is an unreasonable expectation. Government action that prohibits the “most profitable use” of property does not constitute a taking.<sup>106</sup> Therefore, such a complaint or argument could not sustain a regulatory takings claim.

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<sup>103</sup> *Home Builders Ass’n of Greater Chi.*, 213 F.Supp.3d at 1030; *Concrete Pipe & Prod. of Cal., Inc. v. Constr. Laborers Pension Tr. for S. Cal.*, 508 U.S. 602, 645 (1993) (“Those who do business in the regulated field cannot object if the legislative scheme is buttressed by subsequent amendments to achieve the legislative end.”).

<sup>104</sup> *Penn Central*, 438 U.S. at 133–34.

<sup>105</sup> *Id.* at 127.

<sup>106</sup> *Andrus*, 444 U.S. at 66; see also *Penn Central*, 438 U.S. at 130 (holding “untenable” plaintiff’s claimed taking based on its prior assumption that an exploitable interest was available).

As such, under controlling legal precedent, it is clear that neither HB 1250 nor SB 745, on their face, would constitute or result in an unconstitutional regulatory taking. In an extreme case where implementation of the laws might arguably “deprive a community owner of any economically viable use of the property” or “destroy or severely” reduce the market value of the property, then such an aggrieved owner would be able to file an as-applied legal challenge to raise and prove those facts. In short, there is no basis for the General Assembly to interpret the Takings Clause as a barrier to or prohibition of the enactment of HB 1250 or SB 745 or similarly written rent stabilization bills.

**Conclusion:**

Rent stabilization bills, such as HB 1250 and SB 745, are not unconstitutional. Both the federal and state Due Process Clauses authorize the legislature to regulate rents, like other price regulations, to protect the general welfare of the community, including to ensure the availability of affordable, safe housing. As regulation of rents operates prospectively to new

leases or lease renewals, the federal and state Contracts Clauses do not apply. Moreover, the regulation of rents does not restrict a community owner's ability to receive a reasonable return on investment. Thus, the federal and state Takings Clauses would not be triggered. To address rapidly rising rents threatening residents of manufactured home communities with displacement and impairing the value of their manufactured homes, the legislature should exercise its authority to regulate lot rents to ensure a fair balance between the interest of the public in stable communities and the reasonable return on investment for community owners.

*NOTE: This paper was originally written on September 6, 2024. It has been updated to specifically address HB 1250 and SB 745, which were introduced in the 2025-2026 legislative session.*