



Identifying and Meeting the Needs of Owners of Manufactured Homes

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Homeownership is touted as the way to get ahead and fulfill the American dream in the United States. However, ownership of a home without owning the underlying land can be a nightmare for owners of manufactured homes when landlords may sell the property without regard to the fate of the tenants. These tenants may have paid their rent on time, followed community rules, invested in their home's infrastructure, and have otherwise been model citizens in their communities. Yet they have little, if any, protection if the landlord chooses to sell the land beneath their homes. For more than 3.5 million households living in communities of manufactured housing, this type of housing is an affordable homeownership option for low-income families and seniors, and more needs to be done on a national, regional, and local level to encourage banks to make loans for manufactured homes as affordable as other home loans, to enact laws that support homeowners' rights in a meaningful way, and to devise preservation strategies to protect homeowners from the selling and closing of their communities. Advocates can assist homeowners in securing tenure through statutory provisions for a safe, healthy, peaceful environment in which to live, raise their children, and realize the benefits of homeownership.

I. Community Living in Manufactured Housing

Manufactured-housing communities, or "mobile home parks" as they are more familiarly called, are most often defined as "real property rented out for the placement of two or more manufactured homes."¹ These communities are an attractive alternative to multifamily housing for low-income families because there is likely greater privacy, perhaps access to a garden, and the possibility of "ownership" rather than

¹A "manufactured home" is generally defined as a single-family dwelling built according to the U.S. Department of Housing and Urban Development Manufactured Home Construction and Safety Standards Act, 42 U.S.C. §§ 5401–5426, which is a national preemptive building code. See, e.g., WASH. REV. CODE § 59.20.030. A "mobile home" is generally defined as a factory-built dwelling constructed before June 15, 1976, and before the imposition of the above federal standards. *Id.* In this article I use "manufactured housing" to describe both types of housing.

simply the payment of rent for an apartment.² Some families who may have too much income to qualify for subsidized housing but cannot obtain a conventional loan for a site-built home can afford to buy a manufactured home and pay the space rent.³ The mass production of these homes on an assembly line keeps their costs low, and the exclusion of the land acquisition cost from the price makes it considerably more affordable for low-income buyers to purchase a manufactured home in a community than it does to purchase a site-built home.⁴ Purchasers can pay with cash or with personal loans without a down payment. Personal loans are convenient; approval is quick, and one's credit history hardly matters.⁵

Most manufactured-housing communities were established at the end of World War II as temporary housing for returning military personnel who were seeking work and who intended to bring their families to join them later.⁶ However, these "temporary" quarters were becoming more nearly permanent; the "mobile" homes would not be moving any time soon. Only about one in one hundred homes actually moves out of a community voluntarily after it is in place and is hooked up to utilities.⁷

Manufactured housing is one of the largest sources of unsubsidized affordable housing in the country. Between 1997 and

1999 manufactured housing accounted for 72 percent of unsubsidized new homes affordable to low-income buyers; manufactured housing offers an opportunity to enjoy affordable homeownership in an unsubsidized setting.⁸ Ideally, if the community is resident-owned, homeowners would continue to live without needing government subsidy and could pass along this affordable homeownership opportunity to other low-income families whenever the homes are sold.⁹

Owners of manufactured homes tend to be poor. Between 1997 and 2002, at least 66 percent of new homes affordable to low-income households (less than 80 percent of area median income) were manufactured homes, and nearly all of these were unsubsidized.⁹ Manufactured housing is also an affordable homeownership option for low-income seniors, who often choose the mobile-home lifestyle after their children are grown or their spouses die. In 2001 seniors bought 40,000 new manufactured homes; the median income of seniors who owned manufactured homes in 2001 was \$16,400, compared with \$24,000 for seniors who owned site-built homes.¹⁰

However, there is a dark side to living in communities of manufactured housing. While most states have landlord-tenant statutes governing the relationship between the owner of a manufactured home

²WILLIAM APGAR ET AL., NEIGHBORHOOD REINVESTMENT CORPORATION, AN EXAMINATION OF MANUFACTURED HOUSING AS A COMMUNITY- AND ASSET-BUILDING STRATEGY: A REPORT TO THE FORD FOUNDATION 9 (2002), available at www.nw.org/network/pubs/studies/documents/manufactHsgRpt2002.pdf.

³*Id.*

⁴Manufactured homes use about 50 percent less labor to produce than site-built homes. See Michael Collins, *Rural America's Housing of Choice? Exploring Manufactured Housing's Growing Role*, RURAL VOICES, Summer 2003, at 2, available at www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf. See also APGAR ET AL., *supra* note 2, at 9; Phillip Rosenbloom, *Homeowners, and Tenants Too: Mobile Homeowners Face Unique, Yet Similar, Challenges*, SHELTERFORCE ONLINE, July-August 2000, available at www.nhi.org/online/issues/112/rosenbloom.html.

⁵See APGAR ET AL., *supra* note 2, at 9.

⁶See Rosenbloom, *supra* note 4.

⁷See Richard Genz, *Why Advocates Need to Rethink Manufactured Housing*, 12 HOUSING POLICY DEBATE 393, 401 (2001), available at www.fanniemaefoundation.org/programs/hpd/pdf/hpd_1202_genz.pdf. See also Allan Wallis, *Manufactured Housing*, in ENCYCLOPEDIA OF HOUSING 347-51 (Willem van Vliet ed., 1998).

⁸Thayler Long, *Manufacturing Affordability*, RURAL VOICES, Summer 2003, at 6, available at www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf.

⁹David Buchholz, "Mobile" Homes No More: Policy Innovations in Manufactured Housing, HOUSING FACTS AND FINDINGS 1, 3 (2005), available at www.fanniemaefoundation.org/programs/hff/pdf/HFF_v7i4.pdf.

¹⁰Andrew Kochera, *Manufactured Housing Can Serve Older Persons*, RURAL VOICES, Summer 2003, at 14, available at www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf.

and the community owner, the strength of these laws depends on whether homeowners can enforce their rights.¹¹ Even where they have rights, homeowners often fear retaliation or intimidation. Realizing that the home is not actually "mobile" and cannot be easily moved (if at all) and fearing eviction for standing up for one's rights are usually enough to keep homeowners "in line."

Constituting 35 percent of all owners of manufactured homes, owners of manufactured homes on leased land are some of the country's most vulnerable households.¹² Intimidated by unscrupulous landlords who raise the rent without proper notice, change or selectively enforce the rules when they feel like it, and ignore infrastructure repairs to the detriment of the health, welfare, and safety of the homeowners in the community, such homeowners may feel like prisoners in their own homes.¹³ Some community owners consider the manufactured-housing community as merely a "cash cow" and see no reason to reinvest in the property notwithstanding that the homeowners are paying good money to live there and expect their community to be clean, well maintained, and not hazardous to their health and well-being.

II. Financing a Manufactured Home

Nationally between 50,000 and 60,000 manufactured-housing communities supp-

ly pads for more than 3.5 million households (some 10 million individuals).¹⁴ Most households purchasing used manufactured homes pay cash, while the rest use either chattel or personal property loans with their high interest rates.¹⁵ Typical interest rates for the purchase of a manufactured home range from 7.5 to 15 annual percentage rates, where the median interest rate for a single family site-built home is about a 7.5 annual percentage rate.¹⁶ The higher interest rates imposed on the owners of manufactured homes may have nothing to do with the homeowner's creditworthiness and everything to do with choice of housing.¹⁷ According to data reported in compliance with the Home Mortgage Disclosure Act of 1975, mortgage applications for the purchase of manufactured housing were rejected 30 percent more often than applicants for site-built homes at every level of income.¹⁸

Note that, since they are purchased with "chattel" loans, manufactured homes are not subject to the protection provisions of the Real Estate Settlement and Procedures Act.¹⁹ The Act requires that all the costs associated with the sale of a home be provided to the consumers prior to closing, but this protection is not available to chattel loan borrowers.²⁰ Moreover, owners of manufactured homes are denied the three-day "cooling-off" period which the Truth in Lending Act

¹¹Alabama, Arkansas, Georgia, Hawaii, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Dakota, Tennessee, Texas, and Wyoming do not have laws specifically protecting owners of manufactured homes. See CAROLYN L. CARTER ET AL., AMERICAN ASSOCIATION OF RETIRED PERSONS & NATIONAL CONSUMER LAW CENTER, MANUFACTURED HOUSING COMMUNITY TENANTS: SHIFTING THE BALANCE OF POWER app. B (2004), available at http://assets.aarp.org/rgcenter/consumer/d18138_housing.pdf.

¹²See Long, *supra* note 8, at 6.

¹³I have met with victims of some or all of such abusive practices in Washington State.

¹⁴See ARGAR ET AL., *supra* note 2, at 21. A "pad" is the individual site upon which the manufactured home is placed and for which the homeowner pays rent to the property owner. A manufactured-housing community of fifty spaces with a monthly pad rent of \$450 grosses \$270,000 annually.

¹⁵*Id.* at 13.

¹⁶See Sean West, *Manufactured Housing Finance and Secondary Market*, COMMUNITY DEVELOPMENT INVESTMENT REVIEW, 2006, at 35-36, available at www.frbsf.org/publications/community/review/062006/west.pdf.

¹⁷See Genz, *supra* note 7, at 401.

¹⁸See West, *supra* note 16, at 36.

¹⁹Real Estate Settlement and Procedures Act, 12 U.S.C. §§ 2601-2617 (2000).

²⁰See Kevin Jewell, *Research Identifies Problems in Manufactured Home Financing System*, RURAL VOICES, Summer 2003, at 12, available at www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf.

provides to borrowers purchasing site-built homes.²¹

Having no financing options further harms purchasers of manufactured homes. Chattel loans are expensive. Most mainstream banks are reluctant to loan money for the purchase of a manufactured home situated on leased land. Repossession of a manufactured home under this type of loan, should the borrower default, is considerably less complicated than foreclosure and much more akin to car repossession.

Despite mainstream financial institutions' lack of support for investment in the market for manufactured-housing communities, the American Planning Association, among others, recognizes that manufactured housing can fill the need for affordable housing. The association has adopted policies to encourage local jurisdictions to amend zoning laws and subdivision standards so that manufactured homes are governed by the same ordinances as site-built homes.²² The association is also encouraging design changes so that manufactured homes look more like site-built structures.²³

Furthermore, procedures currently not utilized by lenders should be developed to establish common criteria for evaluating the worth of the home, thereby benefiting homeowners. These might include on-site appraisals once the home is installed and all decks, porches, carports, and other structures have been attached; interest rates that are more akin to real property rates rather than personal property rates; and counseling before the homeowner accepts the dealer's terms.²⁴ Homeowner education about available financing options would help ensure that the purchase of a manufactured home is

financed with the best terms. Advocates should encourage home-buyer classes and credit counselors to include information about the range of financing options available for the purchase of a manufactured home to clients who are beginning their quest for their first home. Advocates should also work with elected officials to establish some criteria whereby manufactured-home dealerships are required to supply educational brochures to would-be purchasers to give them a better idea of financing opportunities. Advocates should work with state legislators and attorneys general to ensure that the protection provisions of the Real Estate Settlement Procedures Act and the three-day cooling-off period provided by the Truth in Lending Act apply to the purchase of manufactured homes as well as to site-built homes.

III. Landlord-Tenant Act Protections for Owners of Manufactured Housing

Protection for homeowners should not end with the purchase of their manufactured homes. There remains a need for state statutes with protection provisions for homeowners once they are living in the manufactured-housing community. About two-thirds of states have statutes that cover the relationship between the community owner and the homeowners who lease the pads for their homes.²⁵ For instance, in 1977 the Washington state legislature passed a law tailored toward the unique situation of homeowners living in manufactured-housing communities because the legislature recognized that such tenants needed more protections than were provided by the state's Residential Landlord-Tenant Act. As the Manufactured/Mobile Home Landlord-

²¹Truth in Lending Act, 15 U.S.C. §§ 1601 *et seq.* (2000). See also APGAR ET AL., *supra* note 2, at 15.

²²See Chris Cooper, *Planners Help to Integrate Manufactured Housing*, RURAL VOICES, Summer 2003, at 9, available at www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf.

²³See Long, *supra* note 8, at 6.

²⁴Lenders underwrite personal property loans based upon the purchase price of the home and the credit of the borrower rather than the value of the home once it is installed in its final location. See Jewell, *supra* note 20, at 12.

²⁵Alaska, Arizona, California, Colorado, Connecticut, Delaware, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Maryland, Massachusetts, Michigan, Minnesota, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Dakota, Ohio, Oregon, Pennsylvania, Rhode Island, South Carolina, Utah, Vermont, Virginia, Washington, West Virginia, and Wisconsin have statutes providing some level of protection to homeowners living in manufactured-housing communities. See CARTER ET AL., *supra* note 11, app. B.

