

A MILLION CALIFORNIANS CAN'T BE WRONGED

Findings and Recommendations On the Mobilehome Industry --Builder Through Buyer--



ASSEMBLY OFFICE OF RESEARCH

CALIFORNIA LEGISLATURE
SACRAMENTO

MARCH 1974

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On the Mobilehome Industry
--Builder Through Buyer--

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March 1974

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March 11, 1974

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Room 3164, State Capitol

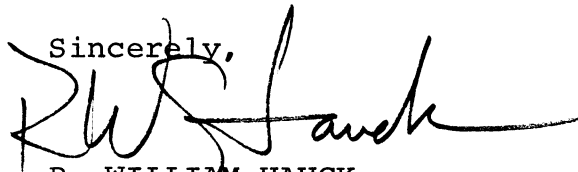
Dear Mr. Speaker:

Transmitted herewith is the report on mobilehomes as requested by your House Resolution 15 adopted on March 1, 1973. We have examined mobilehomes in regard to the following areas: Licensing and regulation; franchise regulations; inspections and warranty enforcement; health and safety construction standards; financing, zoning and taxation; and mobilehome park problems.

This report concentrates on the problem of the mobilehome being regarded as a vehicle and the absence of any single agency to regulate or enforce standards or current statutory requirements. The unstable economic climate, the changing status and effectiveness of the State Department of Housing and Community Development, and the Proposition 1 initiative election combined to obscure the facts and the range of remedies we could recommend. Our conclusions were delayed until conditions became more stable.

A summary of the key recommendations appears on pages 6-8 of the report. A detailed account of the recommendations pertinent to the chapter are given immediately following the chapter. These detailed recommendations have been printed on colored paper so they are easily located.

Sincerely,



R. WILLIAM HAUCK
Director

RWH:db

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PERSPECTIVE

The mobilehome--is it vehicle or house?

There was no question in the early days of the industry. It was a "trailer" you hitched to your car and it could be moved easily from one location to another.

The term "mobilehome" came into use in the mid-50's as manufacturers began producing models over 8' x 40' for people who were demanding more room. Today the buyers of some double- and triple-width styles are getting more living space than found in many conventional homes--and at considerably less expense.

Nationally, mobilehomes were only one percent of total housing in 1960, increasing to three percent in 1970. Now mobilehomes account for one-third of the new single-family housing market and 95 percent of single-family homes selling for \$15,000 or under. Although total sales amounted to only \$50 million in 1955, the 1972 figure reached \$3.5 billion. Just over 100,000 units were shipped in 1960, but a decade later nearly 500,000 were shipped. The 1970 Census showed two million mobilehomes as primary residences for seven million people.

In California, nearly one million people, approximately five percent of the population, live in mobilehomes. It is estimated that this number will increase 300 percent by 1982. Production of mobilehomes in California shot up 100 percent in a recent five-year period. Unlike conventional housing, mobilehome sales have increased each year since 1970.

In the face of all this evidence that mobilehomes are used as residences, it is difficult to understand why they are still being regarded as vehicles. This is the root of much of the dilemma.

Along with the problem of their product being regarded as vehicles, the mobilehome industry is suffering other growing pains. Consumer complaints are mounting for a number of reasons. Units are not being thoroughly inspected in the factory. Some basic construction standards have not been codified. Landlord/tenant relationships are confused since a mobilehome park resident is half-owner, half-renter. Some cities and counties are anti-mobilehome and appropriate zoning is not made available. Some warranties are not honored. Business licensing requirements fail to consider financial stability and, in some cases, even competence.

A basic premise of this study is that mobilehomes are an essential alternative form of housing. The health of the rapidly-growing industry and the well-being of an increasing number of Californians served by that industry are quite properly matters of great concern to the California Legislature.

#1

THE CASE OF THE
RAIN-SOAKED RESIDENCE

A couple nearing retirement age decided to sell the mobilehome they were living in and buy a new one.

After first finding a buyer, they made a down payment on a new \$15,000 model. While it was being installed in their park in a Southern California beach city, it began raining heavily.

When the rain let up five days later, leaks had caused extensive damage in the new model. Ceilings and walls were stained, rugs soaked, and cabinets, doors and wall paneling warped.

Unable to move in, the couple had to keep their old one--losing the buyer and paying double rent. They appealed to the dealer to repair the new mobilehome under the one-year warranty. He ignored their requests. Less than two months from the date of the purchase, the dealer went out of business. After state officials were contacted, the manufacturer sent out repairmen.

The couple moved in the new unit and sold their old one for \$1,000 less than had been offered by the first buyer. Three months later, leaks were discovered again. They eventually had to be repaired by a private contractor at a cost of \$750.

The couple has had to hire an attorney to try to recover the repair expenses, the \$1,000 lost on the sale of their home, and what they spent in double rent.

#2

THE CASE OF THE
DISAPPEARING DEALER

Anticipating retirement, a Sonoma County couple saved enough money to pay cash for a \$13,000 mobilehome. They picked out a park catering to senior citizens in a nearby rural area.

Their "new" life started poorly. Windows didn't close correctly and the wind and rain came in. The frame sagged, causing doors and cabinets to hang open and the floor to slope. Paneling came loose from the walls.

Independent contractors estimate the cost of necessary repairs at \$1,500.

Both the dealer and the manufacturer are now out of business. The owners have sued the defunct dealer's bonding company. The \$5,000 bond is attachable only for fraud, however, and the owners have found that proving fraud in the courts on the basis of a written document is extremely difficult.

#3

THE CASE OF THE
TRANSIENT TITLE

A San Jose couple sold their conventional home and decided to buy what was represented to them as a new mobilehome already set up in a Santa Cruz park. They paid the dealer \$16,700 in cash. He told them not to be concerned if they didn't receive the registration for a few months due to the "slowness" of the Department of Motor Vehicles.

A few months later a savings and loan association placed a lien on the mobilehome, contending a \$13,000 mortgage was outstanding.

Investigation revealed the "new" mobilehome had a former owner. He had sold the unit back to the dealer, who paid him \$1,500 and agreed to assume the payments.

The dealer never transferred title from the original owner. He kept up payments even after re-selling the mobilehome--until a few months later when he went out of business. He's since been "unavailable."

The couple has hired an attorney to defend them against the lending institution.

#4

THE CASE OF THE
TORMENTED TENANTS

A large company owning several mobile-home parks in Orange County hired a new manager for its family park in Santa Ana. A number of tenants objected to some of his policies. Five asked to meet with him to discuss the situation.

At that meeting the tenants expressed their objections, but the manager apparently was unimpressed. Shortly thereafter the five "troublemakers" received eviction notices.

Two of the eviction notices were dismissed by the court because they did not comply with legal requirements. The other three were withdrawn by the company's lawyers.

But within a week, five new eviction notices--which appear to be in compliance with the technicalities of the law--had been issued.

The tenants' legal fees total \$1,000 thus far. If they lose their case, they will have to pay moving charges in addition to any further legal fees.

SUMMARY OF KEY RECOMMENDATIONS

The purpose of this study, as requested by House Resolution 15 authored by Assembly Speaker Bob Moretti last year, was to pursue a number of problem areas in the mobilehome industry and recommend legislative remedies if necessary.

While a number of legislative steps are being suggested, there were a number of instances where administrative action, voluntary action, or further study are in order.

One thing is clear. There is no one immediate and simple answer to the problems outlined in this report. The following are the key recommendations resulting from this study:

Financing: All dealers should be required to hold any customer deposits, fees, taxes or payments in an impound account. This money could not be released to the appropriate parties until the customer has taken delivery and has signed a form indicating the unit is in satisfactory condition.

Any proposal for a state housing finance agency should include provisions for mobilehome loans in amounts reasonable to current costs.

Inspections and Warranty Enforcement: Every purchase or conditional sales contract should contain a specific delivery date after which a customer can refuse delivery without losing his deposit. The contract should also list all options ordered by the customer. A copy of the accessory list should follow the

Key Recommendations

mobilehome throughout its construction and delivery, being checked for compliance at several points.

The dealer should be required to display a one-year warranty notice in the area where sales take place. Dealers and manufacturers should maintain adequate warranty and service facilities. Dealers, manufacturers, transporters, and installers, dismantlers and repairmen should be bonded against unsatisfactory warranty enforcement.

Licensing: The Department of Housing and Community Development should issue business permits to manufacturers, dealers, salesmen, transporters and installers, dismantlers and repairmen--only after all department requirements have been fulfilled, a warranty bond posted, financial responsibility checked and competence tests passed.

Mobilehome Park Problems: Tenants should be entitled to a written lease upon request. Management should be entitled to a reasonable and returnable security deposit. Minimum mobilehome park conditions and services should be codified into law. Restrictions should be placed on park rule changes. Rent withholding for poor park conditions and retaliatory evictions should be outlawed and subject to penalties. Parks should not impose merchants or suppliers on their tenants.

Key Recommendations

Standards for Construction: Unless the industry can eliminate the roofing support problems in an alternate manner, there should be regulations requiring mobilehome roof members and sheathing to support 20 pounds per square foot and a concentrated load of 200 pounds.

Taxation: The mobilehome tax depreciation schedule now in the statutes should be set by the Board of Equalization to reflect current market values. The two percent "in-lieu" tax should be retained, but its distribution to taxing entities should be the same as the distribution of the local property tax.

TEXT

LICENSING

The rapid growth of the mobilehome industry has been documented in the Perspective and Appendix of this report. As is usually the case with phenomenal growth, regulation of the mobilehome industry has been inconsistent and unequal. Certain industry activities are regulated by layers of bureaucratic requirements, many times ineffective, while other activities go entirely uncontrolled.

There is no one agency or department with overall responsibility for the mobilehome industry; however, there are a number of state and local entities with regulatory power over specific areas. These regulations sometimes overlap and blur the lines of governmental responsibility.

The following state and local governmental entities have been given some regulatory power in the field of mobilehomes:

Board of Equalization - Issues seller permits to manufacturers and dealers to post bond in an amount based on predicted volume of sales against the collection and payment of sales taxes.

California Highway Patrol - Checks transporting weight and other regulations on the highway and at the weighing stations.

Department of Consumer Affairs - Receives consumer complaints and tries to mediate them.

Licensing

Contractors' State License Board - Issues installers', dismantlers' and repairmen's licenses and requires a performance bond from each.

Division of Highways - Issues permits for movement on state highways of mobilehomes more than eight feet wide.

Department of Housing and Community Development (HCD) - Inspects and approves manufacturer's model construction plans. Receives construction complaints and enforces compliance to state codes. Regulates construction of mobilehome parks and installation of mobilehome accessories.

Department of Motor Vehicles (DMV) - Licenses mobilehome manufacturers, dealers, salesmen and transporters. Requires bond for dealers. Issues special plates necessary to transport a mobilehome on the state highways. Records transfer of mobilehome ownership. Collects annual registration fee ("in-lieu" taxes) from each mobilehome owner.

Public Utilities Commission (PUC) - Issues transporters' licenses and regulates intrastate transporting rates.

Cities, counties, and cities and counties - Require permits to use county roads. Require business licenses for companies in the mobilehome industry headquartered within their local boundaries. Regulate mobilehome park zoning.

Licensing

The mobilehome industry can be divided into four main categories or services: 1) manufacturers; 2) dealers; 3) transporters; and 4) installers, dismantlers and repairmen. The requirements for each differ. The following requirements must be satisfied before an individual can go into the mobilehome business in California:

Manufacturers

A potential manufacturer must submit a license application and a \$50 administrative fee to DMV. If, upon investigation, the character of the applicant is found satisfactory, DMV issues an annually renewable license. If the manufacturer intends to transport any of the units, he must purchase special license plates DMV offers for \$11 per set. A seller's permit and a bond based on the amount of predicted quarterly or semi-annual sales must be arranged for through the Board of Equalization.

Before he can begin production, a manufacturer must submit to HCD for approval construction plans and complete engineering data on each model he intends to produce. The cost for this plan approval averages between \$165 and \$200 per model. Once the plans are approved, the manufacturer cannot deviate in building the structural systems. Each unit must bear the state seal of approval, an insignia sold by HCD for \$8 each. A manufacturer also must have whatever local business licenses are required to operate in the area where his plant is located.

Licensing

Dealers

Dealers, like manufacturers, must submit an application and a \$50 fee for a DMV license. Salesmen must also be licensed by DMV. In addition to a favorable character check, a potential dealer must post a \$5,000 bond with DMV before he may do business. The main purpose of the bond requirement is to insure the public against fraud. If the dealer wishes to do any transporting, he must purchase special license plates from DMV for \$11 per set.

The Board of Equalization requires each dealer to obtain a seller's permit for each place of business and to post a bond in the amount of his predicted volume of sales for the quarter or half-year period. The bond is held against collection and payment of sales taxes. Since it is unlawful to change the structure of any mobilehome or recreational vehicle, a dealer who wishes to alter a unit must purchase a \$5 permit from HCD and pay \$21 per hour for any necessary HCD inspection of the alteration. A dealer also must have whatever local business licenses are required to operate in the area where his lot is located.

Transporters

Two licenses must be obtained from DMV if one intends to transport mobilehomes. The first is a Class I driver's license. (A license to drive a passenger vehicle is a Class III license.) The other is the DMV yearly license similar to the ones issued to manufacturers and dealers. The fee for this license is \$50. Special plates from DMV are \$11 a set.

Licensing

The PUC also has a required license; however, this license is necessary only if transporting is the primary business. There are two categories of licenses issued by the PUC that will allow one to transport mobilehomes: a Highway Contract Carrier Permit and a Radial Highway Common Carrier Permit. Each permit, if new, costs \$500. A used permit may be purchased from a transporter leaving the business but a transfer fee of \$150 is charged.

Before either permit can be issued, three requirements must be fulfilled:

1. An application must be completed and filed with the PUC.
2. If the transporter is not a subcontractor and works with shippers directly, he must buy Tariff #18 schedules. There are two parts: one costs \$6.50 and the other, \$18.00.
3. Liability insurance with minimum coverage of \$100,000 per person per accident, \$300,000 for injury or death, and \$50,000 property damage must be secured.

If the transporter is carrying a mobile unit which is more than eight feet wide, a transport permit must be secured from the Division of Highways. A permit for a single trip is \$3. A yearly permit is \$30. If county roads must be used, a county permit costing from \$5 to \$7 is needed. A transporter must have whatever local business licenses are required to operate in the area where his headquarters are located.

Licensing

Installers, Dismantlers and Repairmen

Installers, dismantlers and repairmen of mobilehomes must possess a C-61 (limited specialty) contractor's license. A potential servicer in this field must fill out an application accompanied by a \$50 fee and take a two-part exam administered by the Contractors' State License Board. The initial license fee is \$60. A \$2,500 performance bond also must be filed with the Contractors' State License Board.

At first glance, the layers of requirements for these categories seem overwhelming. A more careful look, however, shows that, although many governmental entities regulate the mobilehome industry, there is no single authority or entity to oversee the performance of all four categories. The absence of this single authority decreases the enforcement of the regulations and presents little recourse to consumers.

Another problem arises from the lack of sufficient standards to insure that the applicants for the various permits and licenses are competent and reliable. California is not alone in facing this problem. Arizona, in the latter part of 1972, passed a law requiring all mobilehome installers to be licensed by the state. Included as a requirement of licensing, among other things, is an exam in anchoring and setting up mobilehomes and in hooking up utilities. State inspectors follow up by checking out complaints or making spot checks to discipline licensed servicemen who do inferior work.

A third problem concerns the lack of a check on the financial stability and financial history of those who want to be licensed

Licensing

in one of the four categories of the industry. This check is essential for protecting the public and others in the industry from the fly-by-night operations to which the mobilehome industry is susceptible. Financial stability is especially vital in the dealership field where regulations have been traditionally loose and needed starting capital very small. The Federal Reserve Bank of Chicago estimated that a dealer can begin operating on as little as \$25,000. In California, minimum starting capital is far less.

RECOMMENDATIONS

In making our recommendations to fill these three voids, first it was necessary to choose a governmental entity to take over the responsibility for enforcement of the old requirements and any new requirements suggested by this report. The Department of Housing and Community Development (HCD) was the logical choice.

Of all the state entities attempting to regulate segments of the mobilehome industry, the Codes and Standards Division of the Department of Housing and Community Development has had the most success.

This Division currently has the responsibility for administering the mobilehome manufacturers inspection program and for inspecting mobilehome parks and accessories. While a recent hiring freeze has impaired their historically good inspection record, HCD is still the best enforcement agency in the mobilehome field.

We recommend that HCD issue special permits to all four categories of the mobilehome industry: manufacturers; dealers; transporters; and installers, dismantlers and repairmen. HCD would also issue a special permit to mobilehome salesmen. This permit would be the final step and business could not be conducted without it. The following outlines the criteria for these HCD permits:

Manufacturers

1. A satisfactory check that all current requirements and procedures are being met.

Licensing Recommendations

2. A favorable check on an applicant's financial status and responsibility, including records of past business experiences and bankruptcies.
3. Posting of a \$10,000 bond attachable for failure to perform or to perform satisfactorily the terms of the guaranteed one-year warranty.¹
4. Adequate warranty and service facilities and personnel in relation to the volume of mobilehomes sold annually. Contracts with other companies providing such servicing may serve in lieu of this requirement.¹
5. Compliance with any new standard or statutory requirement placed on mobilehome manufacturers.

Dealers

1. A satisfactory check that all current requirements and procedures are being met.
2. A favorable check on an applicant's financial status and responsibility, including records of past business experiences and bankruptcies.
3. Posting of an additional \$5,000 bond for each location of business attachable for failure to perform or to perform satisfactorily the terms of the guaranteed one-year warranty.¹
4. Proper display of the written warranty information.¹

¹ These items are discussed further in the warranty enforcement section, beginning on page 23.

Licensing Recommendations

5. Use of HCD required forms for sales, delivery and warranty information.²
6. Establishment of impound trust accounts.³
7. Adequate warranty and service facilities and personnel in relation to the volume of mobilehomes sold annually. Contracts with other companies providing such servicing may serve in lieu of this requirement.²
8. Satisfactory testing on such subjects as the Rees-Levering Act, Truth-in-Lending laws, and awareness of HCD and warranty requirements.
9. Compliance with any new standard or statutory requirement placed on mobilehome dealers.

Salesmen

1. A satisfactory check that all current requirements and procedures are being met.
2. A favorable check on an applicant's financial status and responsibility, including records of past business experiences and bankruptcies.
3. Use of HCD required forms for sales, delivery and warranty information.
4. Satisfactory testing on such subjects as the Rees-Levering Act, Truth-in-Lending laws, and awareness of HCD and warranty requirements.

² These items are discussed further in the warranty enforcement section, beginning on page 23.

³ This item is discussed further in the mobilehome financing section, beginning on page 37.

5. Compliance with any new standard or statutory requirement placed on mobilehome salesmen.

Transporters

1. A satisfactory check that all current requirements and procedures are being met.
2. A favorable check on an applicant's financial status and responsibility, including records of past business experiences and bankruptcies.
3. Posting of a \$5,000 bond attachable for failure to repair or to repair satisfactorily damage done to a mobilehome in transit.
4. Use of HCD required forms for pickup and delivery clearance.⁴
5. A favorable check on past records of claims, settlements and/or repairs.
6. Compliance with any new standard or statutory requirement placed on mobilehome transporters.

Installers, Dismantlers and Repairmen

1. A satisfactory check that all current requirements and procedures are being met.
2. A favorable check on an applicant's financial status and responsibility, including records of past business experiences and bankruptcies.

⁴ This item is discussed further in the warranty enforcement section, beginning on page 23.

Licensing Recommendations

3. Posting of a \$5,000 bond attachable for failure to repair or to repair satisfactorily damage done to a mobilehome by the installer, dismantler or repairman.
4. Use of HCD required forms and procedures.⁵
5. A favorable check on past records of claims, settlements and/or repairs.
6. Compliance with any new standard or statutory requirement placed on mobilehome installers, dismantlers and repairmen.

In addition, we recommend that industry association workshops and seminars be held regularly on changing industry regulations and technology.

HCD would have complete enforcement powers and could withhold, suspend or revoke these special permits for lack of any required license or procedure or for repeated complaints constituting failure to perform according to the established standards. Any disciplinary action would be fully appealable to the appropriate judicial authority.

Enactment and enforcement of the above requirements would do much to financially stabilize the mobilehome industry, coordinate governmental efforts to regulate it, and rebuild the public's confidence in it.

⁵ This item is discussed further in the warranty enforcement section, beginning on page 23.

HEALTH AND SAFETY STANDARDS

Contrary to other states, California has excellent health and safety standards for mobilehomes. These standards can be found in Chapter 4 of Title 25 of the California Administrative Code. All regulations are promulgated by the staff of the Division of Codes and Standards in the Department of Housing and Community Development and submitted for adoption to the Housing and Community Development Commission.

The only current controversy regarding mobilehome standards concerns the quality of roof members and sheathing. Action on staff proposals by the HCD Commission has been postponed so that the industry can make counter proposals. The problem concerns the strength of the mobilehome roof and its ability to hold weight. Most roofs are composed of a metal sheathing .025 inches thick over wooden members 16 to 24 inches apart. Damage is easily caused when transporting the mobilehome or when a serviceman or repairman must step on the roof to work. Leaks are the most frequent complaint.

RECOMMENDATIONS

At present, both industry and HCD staff are working on new solutions to roofing problems. Jointly, the industry and the HCD Commission has asked the building section of the National Bureau of Standards to do a study of the problem. If no progress is shown in the immediate future, legislation adding to the Health and Safety Code may be in order. A sample of such legislation appears below.

Section 18056.7. The Commission shall adopt regulations for mobilehome roof members and sheathing. The regulations shall require that roof members and sheathing be capable of supporting a minimum roof load of 20 pounds per square foot and a concentrated load of 200 pounds without failure. The roof deflection shall not exceed $L/180$ of the span between supporting roof members. The sheathing shall be a moisture-resistant type.

INSPECTIONS AND WARRANTY ENFORCEMENT

Factory inspections

Currently, HCD is charged with reviewing mobilehome plans for approval, issuing insignia, making spot inspections in the factory and making inspections on consumer complaints involving health and safety standards. After a spot check showed a surprising amount of noncompliance, HCD's goal became to check every mobilehome at least once before it left the factory. In August 1972, a check on mobilehomes either in the factory or on a dealer's lot found that 94 percent of the units were not in compliance with the code and 41 percent were classified as immediate hazards to health and safety. HCD asked for and was given permission to add 15 new inspectors to their staff to achieve this 100 percent factory-inspection goal. These positions were filled and the inspection percentage at the end of the first quarter of 1973-74 (July 1 - September 30) was 96.5 percent.

Then two things happened. First, through attrition, staff positions in the Codes and Standards Division opened up; however, they were not filled. An unexplained and officially unannounced freeze on hiring exists. At present, an estimated 24 positions of various types remain unfilled in the Division. The inspection program has backed up. At the same time, mobilehome industry production has decreased by an estimated 15 to 18 percent according to HCD. Unfortunately, even the production decrease does not reduce the backlog. The inspection percentage for the months of October and November 1973 was 68.9 percent. The inspection percentage of 83.6 percent was reached for the overall five-month

Inspections and Warranty Enforcement

period (July 1 - November 30, 1973). This is not even approximating the 100 percent goal.

On-site inspections

Senate Bill 261 (Nejedly), which was passed and signed into law in 1973, will require that a permit be issued from the local enforcement agency at any time after July 1, 1974 that a mobile-home larger than eight feet by 40 feet is to be installed as a dwelling. The installation contractor must set up the mobilehome in the amount of time established as reasonable by the HCD Commission. Necessary inside inspections by the enforcement agency are limited to the electrical, water and gas systems. The local enforcement agency must notify HCD if defects in these systems are present. If the contractor does not remedy the defects, the Contractors' License Board will conduct an investigation with possible disciplinary action. If it is a manufacturer's defect, HCD already has enforcement power sufficient to have the defect corrected or to take action against the manufacturer.

Warranty enforcement

The combined effect of the rapid growth of the mobilehome industry and the lack of regulation has resulted in a torrent of consumer complaints. Again, because there is no central agency for complaints, it is difficult to determine the exact number. However many complaints there were, the problem was of sufficient magnitude to be ranked as the number one grievance by consumer agencies and departments.

Inspections and Warranty Enforcement

While the kinds of complaints vary, the California Department of Consumer Affairs at one time identified the five major warranty and service problems as:

- 1) Units not being delivered to the site in the agreed-upon condition.
- 2) Units not being properly set-up.
- 3) Refusal of the dealer and the manufacturer to take the responsibility for correcting defects.
- 4) Poorly executed repairs.
- 5) Delay by the dealer and manufacturer in making satisfactory repairs until after the mobilehome warranty has expired.

The relationship of the dealer and manufacturer is an adversary one when it comes to warranty and service. When the unit is delivered with different features than ordered, the dealer says the manufacturer made a substitution. The manufacturer responds by saying the dealer was not specific in his order. When the unit is in disrepair, the dealer alleges poor manufacturing. The manufacturer, in turn, says the damage was done in the transporting or setting-up. (Usually these services are part of the dealer's customer package.) Transporters claim that damage in transit is usually traceable to flimsy construction and poor quality material used by the manufacturer.

In some cases, the manufacturers give a rebate to the dealer to do the repairs but they contend two problems arise: 1) the dealer uses the money to advertise his business rather than to do

Inspections and Warranty Enforcement

the actual work; or 2) the dealer does a half-an-hour job and charges the manufacturer for four hours. Dealers, on the other hand, claim they have had to sue manufacturers for the money due them for making repairs. Other dealers say that the manufacturer reimburses them but the amount does not cover actual travel and repair expenses.

Sometimes neither the dealer nor the manufacturer wants to assume the responsibility for warranty servicing because he does not have the personnel or equipment to do the job. Because of the expense involved and the precarious nature of the franchise agreements, dealers do not risk keeping an inventory of parts on hand. It is difficult to hire competent servicemen because little, if any, training in mobilehome servicing is available. To further reduce expenses, handymen are hired in lieu of keeping qualified electricians, plumbers, carpenters, and heating specialists on the payroll.

Set-up is a major problem. Often the installing personnel do not have the required C-61 contractor's license. Installers claim that manufacturers do not supply adequate instructions and specifications for proper set-up. Manufacturers claim that even when they do supply these instructions, the installers ignore them. A proper set-up takes a few hours. Especially with the double-wide mobilehomes. The frame must be blocked evenly to prevent sagging, tilting, undue stress on sections of the mobilehome, and concomitant structural problems. Three main types of supports for mobilehomes are used: celled cement blocks, solid concrete blocks, and steel jacks. Wood blocks will dry and shrink.

Inspections and Warranty Enforcement

There must be proper soil-bearing pressure. The ground cannot be wet or weak. To be of proper support, concrete slab foundations must be properly reinforced.

Without proper set-up, the following serious problems can occur:

- 1) Disruption of utility connections.
- 2) Malfunctioning of plumbing, water outlets, lighting fixtures, and the electrical, heating and air conditioning systems.
- 3) Improper closing, binding and sagging of windows, cabinets, and inside and outside doors.
- 4) Buckling of walls, siding, partitions, doors, ceilings, floors, carpeting, linoleum, insulation and weather strippings.
- 5) Leaking roofs, ceilings, walls, doors, windows, floors, seams and junctures.

The mobilehome owner with a consumer complaint may sit in the middle of this cross-fire and not know who is responsible or why or how something happened, but he does know he has a serious problem and few people are willing to help him. The Department of Consumer Affairs, like the Better Business Bureau, can only mediate. The Trailer Coach Association's complaint service can put pressure on their members but they are limited by their procedural requirements and, more importantly, by the fact that the manufacturer who is unwilling to help his customer usually is not a member of the TCA. HCD is usually effective but does not have jurisdiction unless the defect concerns a health or safety standard

Inspections and Warranty Enforcement

that is the responsibility of the manufacturer. The various consumer protection agencies and district attorneys' offices are limited in prosecution by loopholes in the law.

The Legislature has moved to close up these loopholes but, by not wanting to be too restrictive, has made little progress in tightening the law. AB 1158 (Murphy), effective on March 4, 1972, added Section 1797.3 to the Civil Code requiring that manufacturers and dealers give a mobilehome purchaser a one-year, written warranty covering certain specified items. Shortly after the effective date of this measure, the ambiguity of the law became apparent. The original bill did not specify which party should give the customer the warranty, the manufacturer or the dealer; when the warranty should be given to the customer; and to whom and at what address and telephone number notification should be given in case of a substantial defect. Meanwhile, the complaints kept pouring in to various agencies. From March 20, 1972 to December 10, 1973, HCD alone received 2,869 complaints on health and safety matters. In approximately the same time period, HCD suspended 31 manufacturers for varying amounts of time for code violations. In early 1973, Assemblyman Frank Murphy, Jr., introduced legislation (AB 1205) designed to remedy these defects. The bill was signed in September to become Chapter 807.

Another piece of legislation passed in 1973, SB 261 introduced by Senator John A. Nejedly, helped to plug a few more holes. (For details see p. 24.) The provisions requiring a local enforcement agency permit before a mobilehome can be installed will provide

Inspections and Warranty Enforcement

an opportunity to check the installer's C-61 contractor's license. HCD regulations will require the manufacturer to provide detailed instructions and specifications and the installer to follow those instructions. Defects in the electrical, water and gas systems--those inside inspections which are authorized--will be turned over to HCD for enforcement against manufacturers. Installation defects will be turned over to the Contractors' License Board for appropriate action.

There are still some unsolved problems, however.

A. There is no guarantee a mobilehome will be inspected before it leaves the factory.

B. There is no remedy for a mobilehome delivered with missing commodities or different features from those the customer ordered.

C. There is no procedure for deciding if the transporter is responsible for damage to a delivered mobilehome. There is also no procedure for recovery of damages against transporters and no penalties to enforce recovery.

D. There are no civil penalties or disciplinary action for not complying with Civil Code Section 1797.3 warranty provisions.

E. There is no assurance that either the manufacturer or the dealer will have adequate repair personnel to service mobile-homes under warranty.

Inspections and Warranty

RECOMMENDATIONS

The following steps should be instituted by law:

I. Inspections, the Accessory List and Customer Acceptance Form

A. Every purchase order or conditional sales contract for a mobilehome over eight feet by 40 feet must contain or have attached to it:

1. The delivery date past which the mobilehome purchaser may refuse to accept delivery without loss of deposit.
2. A list of all accessory items, optional features or extras, a brief description and the quoted price of each. The list must be dated and signed by both the buyer and the seller at the date of purchase. A copy must be given to the buyer. If a conditional sales contract is assigned to a financial institution, the accessory list must be incorporated by reference in addition to being attached.

B. A copy of the accessory list must accompany the mobilehome unit through the factory and to the site of installation.

C. HCD shall inspect each mobilehome unit at least once in the factory. The inspection shall include the standards of health and safety, overall quality of workmanship and compliance with the accessory list.

D. Transporters shall check the condition of the unit and the purchase order and accessory list before moving the mobilehome

Inspections and Warranty Recommendations

unit from the manufacturer's premises. The transporter and a representative of the manufacturer should sign the accessory list, making notation of any discrepancies or unusual condition. The transporter should keep a copy of this document.

E. The local enforcement agent who makes the on-site inspection should incorporate the purchase order and accessory list in his inspection. He should report any discrepancy to HCD.

F. If the on-site inspection is satisfactory, the dealer and customer meet at the mobilehome site and, after inspecting the mobilehome together, check off the required items on the accessory list. If everything is in order, both parties sign the Customer Acceptance Form. If the customer feels the unit is not in compliance with the accessory list or that there are defects, he should not sign the acceptance form and notify HCD of his complaints.

G. If either the local enforcement agent or the customer reports a violation or complaint to HCD, an HCD inspector, the dealer and the customer meet in the mobilehome. The HCD inspector decides if the mobilehome is in acceptable condition or not. If it is, the customer signs the acceptance form and monies are disbursed from the dealer's impound trust account. If it is not, whoever is judged responsible for the defect must repair it within ten days. Extensions may be approved in extenuating circumstances by the HCD inspector. Either the customer or the party judged responsible retains the right of appeal to the court of appropriate jurisdiction. When the defect is repaired to the HCD inspector's

Inspections and Warranty Recommendations

satisfaction, the customer signs the acceptance form and the monies are disbursed from the dealer's impound trust account.

In no case are funds disbursed from the impound trust account or is the conditional sales contract binding until the Customer Acceptance Form is signed.

H. The HCD Commission has the authority to promulgate all necessary forms, regulations and procedures regarding the above. Failure to use the forms or follow this procedure may result in the suspension or revocation of the HCD permit recommended in the Licensing Section of this report.

II. Warranty Display, Capability and Enforcement

A. All dealers must display a notice of reasonable size stating the existence of a year's warranty and a sample copy. The notice should be posted in the area where purchase orders and conditional sales contracts are written.

B. All manufacturers and dealers must have adequate warranty and service facilities and service personnel in relation to the volume of mobilehomes sold annually. Contracts with other companies providing such servicing may serve in lieu of this requirement.

C. There should be established a requirement for a new bond attachable for the failure to repair or repair satisfactorily under the warranty requirements found in Civil Code Section 1797.3 or the inspection procedure recommended in one (I) above. The bond shall be filed with HCD and be of the following amounts:

Inspections and Warranty Recommendations

Manufacturers	\$10,000
Dealers	\$5,000 per each location of business
Transporters	\$5,000
Installers, Dismantlers or Repairmen	\$5,000

D. Failure to display the warranty notice, have the required warranty facilities and service personnel or to file the above bond should be grounds for denial or suspension of the HCD permit recommended in the Licensing Section.

E. The HCD Commission should have the authority to promulgate the necessary forms, regulations and procedures regarding the above.

FRANCHISE REGULATIONS

Many enterprises have found a franchise system the most efficient method of expansion. A franchise operation allows the parent company to maintain quality control and insure a stable and growing market for the product. The individual purchasing the franchise outlet takes advantage of national product recognition and advertisement plus a stable supply of the goods he needs to run his business. The mutual profit motive can sustain or impede the relationship between the parent company and the individual dealer. The franchise agreement tries to bridge the possible trouble spots in this relationship. Franchise agreements and the regulations which enforce them vary according to the kind of goods or services involved.

In the California mobilehome industry, there are no written franchise regulations governing the relationship between mobilehome manufacturers and mobilehome dealers. Legislation is not easily drafted in this area because such regulation could be construed as a possible restraint of trade. In light of the misunderstandings and some ill-feelings between manufacturers and dealers concerning mobilehome warranty and service, it would seem advantageous to both parties if a standardized, written agreement existed governing certain aspects of their relationship. Such agreements could include but not be limited to:

- A. territorial limits or ranges.
- B. the specific manufacturer's models to which an agreement pertains.

Franchise Regulations

- C. delineation of warranty responsibilities, responsibilities for warranty repair costs and possible procedures for repayment for repair work done by the dealer.
- D. the service capabilities of each of the parties.
- E. the type and extent of the parts inventory expected to be stocked by each dealer for the models he handles.
- F. the re-purchase of obsolete parts by the manufacturer.
- G. causes and notice requirements for the cancellation of the franchise.

RECOMMENDATIONS

Because of the complications in drafting legislation in this area and because voluntary action would be superior to mandates, no legislation regarding franchise agreements is suggested. In other sections, changes in inspection and warranty procedures have been recommended which should indirectly help to clarify the relationship between the mobilehome manufacturer and dealer.

FINANCING

The current unstable financial situation with its resulting high interest rates and tight credit has obscured the differences in the financing of a mobilehome and a conventional home. Traditionally, the mortgage on a conventional home purchase is cheaper in terms of interest costs than a mobilehome loan of the same amount because the mobilehome is classified as a durable consumer expenditure. As such, it is eligible only for installment financing with add-on interest. With conventional mortgage interest rates ranging between 8.5 and 9.5 percent, depending upon terms and points, the difference in the amount of interest paid is not as significant. There are still problems but of a different nature.

There are four sources of loans available to a potential mobilehome buyer in California: the private sector, the Federal Housing Administration (FHA), the Veterans Administration (VA), and the California Veterans Farm and Home Loan Program (Cal Vet). There are, of course, mobilehomes purchased outright. In 1966, the U.S. Bureau of the Census reported about 20 percent of the people who bought mobilehomes paid cash. Given increased inflation and higher prices, this figure should be less in 1973.

Private Sector: Banks Savings and Loans, Finance Companies

There is a silent partner to many mobilehome loans made to consumers by private sector lenders. Of the approximately 80 percent of mobilehome purchasers who did not pay cash, it is estimated that 90 percent of these buyers obtained their loan through their mobilehome dealer. Although many lending institutions

Financing

will lend directly to consumers at rates less than dealers offer, the stiffer requirements and the inconvenience of "loan shopping" serve to make the dealer's financing offer more attractive. An estimated 88 percent of all U.S. mobilehome dealers offer a retail financing package.

On the surface, there are no drawbacks to this method of financing. But if problems do arise, they mean more money from the consumer. One problem can arise if a private agreement exists between the dealer and the lending institution. In return for receiving a certain percentage of the interest charged the purchaser, the dealer agrees to pay off any outstanding balance if the buyer defaults on the loan. Thus, of the 7.5 or eight percent interest charged the consumer, the dealer may be receiving anywhere from one-half of one percent to three percent; the lending institution clears, at minimum, a five-percent return on the loan.

Instead of establishing accounts for mobilehome owners' taxes and insurance premiums as is done with conventional home mortgages, mobilehome purchasers must buy long-term insurance to satisfy the lender. If the lender sells insurance also, as is common, the savings of buying long-term insurance may be lost if the consumer allows the cost of the insurance to be added to the amount of the loan and, therefore, subject to the add-on interest.

The dealer who accepts the customer's money and then goes "belly-up" is the third problem. There is a \$5,000 bond filed with DMV in case of fraud but, if more than one customer is involved, the bond is grossly inadequate.

Financing

Although the bulk of mobilehome dealers have treated their customers honorably, the reputation of all must, unfortunately, suffer by the actions of a few. In the first two years of the Truth-in-Lending law, mobilehome dealers ranked fifth in the number of offenses alleged by the Federal Trade Commission. The charges against these few dealers included omitting required information concerning interest rates and charges from contracts and retaining a claim to ownership of the homes without informing the consumer.

Public Sector: FHA, VA and Cal Vet

The FHA began insuring mobilehome loans in May 1970 and, in September 1971, it started to insure the purchase of lots. The VA began guaranteeing loans for the purchase of both mobilehomes and lots in 1971. These programs were never fully developed. Only 7,500 loans worth \$57 million were insured by FHA from May 1970 through March 1972. In contrast, it is estimated that 347 financial institutions held nearly 550,000 agreements worth almost \$2.9 billion. The Administration's impoundment of housing appropriations in early January 1973 stopped FHA loans in this area entirely.

The Cal Vet program makes direct loans to mobilehome purchasers; however, the transaction must include the property on which the mobilehome is to be located and the maximum loan is \$12,500. These requirements severely stunt the possible effectiveness of this program. Thus, there is no realistic public insurance or loan program available to the mobilehome purchaser.

RECOMMENDATIONS

Any section on mobilehome financing, or housing finance in general, must conclude that new sources of housing revenues must be found. Federal programs must be re-started with new emphasis on mobilehomes and increased loan maximums. Any state financing agency that may be formed should provide for mobilehome loans in amounts reasonable to present day costs.

The additional requirement for testing a dealer's knowledge of the Rees-Levering Act, Truth-in-Lending and warranty laws before an HCD permit is issued (see Licensing Section, p. 12) may not prevent violations of these laws but certainly it will impress the importance of them on the few errant dealers.

The major recommendation of this section is the introduction of an impound trust account system for use by all dealers. Many dealers already employ this or a similar system to protect their customers. All monies received from a mobilehome customer such as good-faith deposits or full payment on purchases, sales taxes, in-lieu taxes and license fees would be placed in an impound account, and a full detailed receipt given to the customer. Only after the Customer Acceptance Form recommended in the Inspections and Warranty Section is signed and the full order delivered could the impound account money be distributed to the proper parties. DMV should audit these accounts every six months. Proven violations could result in either revocation or suspension of a dealer's DMV license and HCD permit as recommended in the Licensing Section. A dealer's bankruptcy would then only result in a loss of time to a customer, not a loss of money.

TAXATION

The controversy surrounding mobilehome taxation is equal to any. The following is a discussion of the issues involved. A more technical presentation can be found in Mobilehome and Travel Trailer Taxation, an Assembly Office of Research report by Stephen Holloway dated May 1972. Some of the material in this section was taken from that report.

Mobilehomes are taxed under the Vehicle License Fee Law "in lieu" of local ad valorem taxation. While this is not the only fee paid, it is the main assessment made on the value of the mobilehome itself. The Vehicle License Fee rate is set by law at two percent of the market value of the mobilehome. If the mobilehome was purchased furnished, as a great many are, the price of the furnishings is included in the taxable value. Every year the mobilehome depreciates according to a statutory schedule. For the mobilehomes discussed in this report, the depreciation schedule is:

<u>Year</u>	<u>Taxable percentage of market value after depreciation</u>
new	100 %
1	85
2	70
3	55
4	45
5	40
6	35
7	30
8	25
9	24
10	23
11	22
12	21
13	20
14	19
15	18
16	17
17	16
18 and thereafter	15

Taxation

Conventional homeowners pay a local property tax on an ad valorem basis. For fiscal year 1972-73, the statewide average property tax rate was \$11.44 per \$100 of assessed valuation. Converted to full value assessments, the effective statewide average property tax rate is 2.86 percent for 1972-73.

The important issue is whether mobilehomes and conventional homes of the same value are paying the same amount of taxes. The first consideration is the county in which the mobilehome is located. In 1972-73, some counties' tax rates were below the two percent level of the Vehicle License Fee, some above. While furnishings do figure in the original value of most mobilehomes, they are never considered a part of the taxable value of a conventional home. Furniture was taxed as personal property at one time but is no longer subject to taxation in California.

Another factor is mobilehome depreciation. There is some question as to whether the statutory depreciation scale is accurate. Generally the market value of a mobilehome does not depreciate as fast as the statutory schedule would indicate, although there are some obsolescence features in mobilehomes. (For example, 10-foot-wide mobilehomes became far less desirable when the 12-foot-wide homes were put on the market.) In 1971, the Office of the Legislative Analyst did a study of the actual market depreciation of a typical 52' x 12' mobilehome in contrast with the statutory schedule. The results showed significant differences in value past the first year.

Taxation

MOBILEHOME DEPRECIATION

<u>Year</u>	<u>Taxable percentage after statutory depreciation</u>	<u>Legislative Analyst's estimate of taxable percentage after market depreciation</u>
1	85 %	89 %
2	70	85
3	55	73
4	45	65
5	40	59
6	35	52
7	30	49
8	25	47

By the eighth year, the statutory taxable percentage is a little more than half of the mobilehome's actual value.

Conventional housing, however, rarely depreciates. Instead, it appreciates. With inflation and the rising price of land, material and construction, the change in value has been phenomenal. This points out a major difference: a conventional home is both shelter and an investment. When the owner sells, he usually realizes a profit. The mobilehome is only shelter. If it is resold, it will bring less money than its original purchase price.

The location of the land on which a conventional home sits may enhance the market value and, therefore, the assessed valuation of the home. Mobilehome owners are renters, for the most part, and pay a portion of the property tax levied on the mobilehome park land through their rent. Even in mobilehome subdivisions, however, the amount is never high. The practice of zoning mobilehomes onto undesirable land is well-documented. The Summary of U.S. General Housing Characteristics compiled from the 1970 Census shows that while 32 percent of all households are located outside of a standard metropolitan statistical area, 54 percent of all

Taxation

mobilehome households are outside of these urban centers. Over 65 percent of mobilehome owners are three or more miles away from schools, hospitals, shopping centers, public transit, and their jobs. There is one thing always close by--major highways. Almost 75 percent of mobilehomes are less than a mile away from these traffic arteries. Much of mobilehome land is poor: flood plain, hilly sites or deep in industrial complexes.

State law provides three property tax exemptions: the Home-owners' exemption at \$1,750; the Veterans' exemption at \$1,000; and the Senior Citizens' exemption--a percent based on income. There are no offsetting deductions for the mobilehome owner.

The entirely mistaken argument in this controversy is that mobilehome owners do not pay their "fair share" of the costs of local government and community services. This "fair share" theory implies that there is a relationship between the amount of taxes paid and the actual or potential services available to the taxpayer.

The California Constitution states in part "all property in the State except as otherwise in this Constitution provided... shall be taxed in proportion to its value...." Neither the "in lieu" fee or the property tax is a "benefits received" tax. Both are levied on the value of the property at the time of assessment. A conventional homeowner is entitled to the same services as any other homeowner regardless of the value of his property and the amount of taxes paid. This same principle also should apply to the mobilehome owner.

Taxation

The "fair share" argument also implies that mobilehomes are a costly or service-gobbler type of housing. Both nationwide studies, such as those done by Frederick H. Bair, Jr. at Duke University Law School, and studies done in California indicate that if "fair share" is an applied concept in property taxation, the mobilehome owner pays his share and sometimes more. For instance:

- A. On a per acre basis, the total annual taxes paid by mobilehome owners exceeds the taxes paid by conventional homeowners.
- B. A high percentage of mobilehome owners are retired senior citizens, widows, or young married couples with few children. A 1967 HUD survey showed that 84 percent of mobilehome households had no school-age children. In fact, single-family detached dwellings produce substantially more students per unit than do other forms of housing. A recent Virginia study shows:

<u>Type of housing</u>	<u>Student per unit</u>
Single-family and duplex housing units:	1.08
Mobilehome parks:	0.37
Garden apartments:	0.21
High-rise apartments:	0.09

Taxation

C. In comparing local expenditures with revenue collected per each dwelling unit, in general, the single-family detached house will require the greatest subsidy. Garden apartments and mobilehome parks come closer to paying their own way. High-density, especially high-rise, apartments turn in a substantial surplus.

The crux of the matter is the difference in the distribution of the revenues received from the "in lieu" Vehicle License Fee and the ad valorem property tax. In 1971-72, the State Board of Equalization estimated the distribution of the local property tax to be 9.9 percent for cities, 32.3 percent for counties, 51.7 percent for school districts and 6.1 percent for special districts. This contrasts greatly with the distribution of the "in lieu" fees. If a mobilehome is situated in an incorporated area, the fee is divided into thirds: one-third to the city, one-third to the county and one-third to the school district (elementary and secondary). If the mobilehome is out of an incorporated area, the fee is divided in two: one-half to the county, the other to the school district. Special districts are not given a share. The following chart illustrates the difference in distribution.

	<u>Estimated 1971-72 distribution of local property taxes</u>	<u>Distribution of "in lieu" fee for mobilehome within incorporated area</u>	<u>Distribution of "in lieu" fee for mobilehome outside of incorporated area</u>
City	9.9%	33.3%	-----
County	33.3	33.3	50.0%
School District (elementary and secondary)	51.7	33.3	50.0
Special Districts	6.1	0	0

Taxation

In many cases, the charge of not paying for services stems from this discrepancy in distribution.

RECOMMENDATIONS

A bill introduced in the 1973-74 Session of the Legislature which would raise the Vehicle License Fee to 2.86 percent would not equalize the present tax situation. It is estimated by the Office of the Legislative Analyst that placing mobilehomes on the property tax rolls in the 1974-75 fiscal year would cost the state \$38.6 million in lost revenue: \$35.6 million from the Homeowners' exemption and \$3 million from the Senior Citizens' exemption.

Neither of these solutions appears especially attractive.

Taking the following steps would seem to result in the most equitable solution:

- 1) Remove the statutory depreciation schedule for mobilehomes over eight feet by 40 feet in size. With accompanying enabling legislation, the Board of Equalization should set the depreciation schedule according to present market value of the mobilehomes. Schedules should be revised as often as necessary.

- 2) The Vehicle License Fee should remain at two percent. Although the statewide property tax rate averages at 2.86 percent, the conventional homeowner's \$1,750 Homeowners' exemption and the revised depreciation schedule should more than offset the two percent retention.

- 3) Distribution of the in lieu fee should be made in the same manner as the county property tax according to the actual location of the mobilehome. Cities, counties, schools and special districts would receive the same percentage of the mobilehome's Vehicle License Fee as they do of the conventional homeowner's property tax.

MOBILEHOME PARK PROBLEMS

In the section on taxation, the relegation of mobilehomes to undesirable land was discussed. Zoning also plays a part in the tensions that exist between the mobilehome owner/tenant and the mobilehome park owner. Stiff zoning regulations can prevent a person from putting a mobilehome on his own land. These regulations force most mobilehome owners into renting a space in a mobilehome park; however, a recent study by the American Society of Planning Officials indicates that, at the minimum, 80 percent of the residents of any given community want to stop the proliferation of mobilehome parks. This attitude keeps favorable zoning to a minimum and mobilehome spaces scarce. A HUD survey in 1968 showed the average occupancy rate of a mobilehome park to be 95.8 percent. The low vacancy rate makes waiting lists long, rent high, fees exorbitant, and rules and regulations intimidating. Buying a mobilehome before securing a rental space can be a costly mistake.

As only a 60 percent occupancy rate is needed in most parks to meet operational expenses, a mobilehome park owner has great leeway in the management of his park. The heavy cost of moving most mobilehomes is another factor placing all the controls in the landlord's hands. Most moves cost between \$300 and \$800, depending on the distance involved and the size of the mobilehome. Chances of mobilehome damage are high during dismantling, transit and setting-up on the new site. As the purchaser of a mobilehome is the owner of his own housing unit, it is difficult for him to perceive he is also a renter--a tenant with only tenants' rights.

Mobilehome Park Problems

When first moving into a mobilehome park, the new mobilehome owner is more interested in space location, clubhouse and recreational facilities, and other park features than in the rental agreement in front of him. It usually does not occur to the prospective tenant that he has in writing what the landlord expects of him but his desires and questions have been given only verbal assurance by park management.

There are instances where mobilehome park rules are extraordinarily arbitrary. In some cases, park management feels the rules are merely to protect the property and provide an orderly living atmosphere for each tenant. In other cases, the intent is not as well-meaning. The following are examples of some of the more arbitrary mobilehome park rules some parks enforce.

- Adults only. Children are limited to visits not to exceed two weeks.
- All guests staying overnight must register at the office. Guests staying over "X" number of days must pay a \$"X" fee per day to the management.
- Pets of any kind are prohibited. (A variation of this rule is a designated pet area in the park with a monthly fee charged for pet privileges.)
- Scanty attire is not permitted.
- Improper conduct of any kind will not be tolerated.
- No mobilehome may be less than "X" feet wide and older than "X" model years. (A variation is a back area where older mobilehomes are permitted.)

Mobilehome Park Problems

- All mobilehomes must be fitted with skirting, awnings and porch decks or other expensive accessory products.
- All mobilehome spaces must be landscaped in "X" manner. Landscaping is not to be removed when tenant terminates his occupancy.
- Yard furniture must be of "X" type. Lawns must be mowed once a week. You may not park on the park roads or wash your car anywhere in the park except in the designated area.
- If you are selling your mobilehome, you must follow "X" procedure. If the mobilehome is to stay on its current space, park management reserves the right to approve the prospective buyer.

Sometimes the unwritten rules, the arrangements with certain merchants or suppliers that they will have a monopoly on servicing the park for a certain fee or rebate, can cost the mobilehome owner a great deal more money than he thought. California law states that any changes in the rules accepted by a mobilehome tenant at the time of entrance may be amended at any future time with the consent of tenant or without his consent after he is given six months' written notice. Many people feel forced to accept rule changes because of the prohibitive cost of moving a mobilehome, the lack of alternative park spaces, or the lack of an available space in a park that will accept an older model of mobilehome. Breaking the rules, without regard to whether

Mobilehome Park Problems

the rules are arbitrary, is one of the five grounds for eviction from a mobilehome park as found in California Civil Code Section 789.5. It is easy to see, given some of the above listed rules, that a landlord could evict almost any tenant from his park.

There has been a deluge of complaints about mobilehome parks. Since there is no central agency authorized to handle these complaints, there is no way to count the number of complaints. However, every legislator with mobilehomes in his district, every consumer protection agency, every Attorney General's office and District Attorney's office has a file full. The complaints vary but include: abnormally high raises in the rent; removal of the mobilehome from the choice space promised verbally for the individual's term of tenancy when he first moves into the park; retaliatory eviction for either a complaint to government officials or for forming or joining a mobilehome owners' association; and special assessments for such activities as planting trees.

While the situation here is poor, California is still ahead of most states in regulating mobilehome parks. Entrance and exit fees which are incentives for park managers to evict old tenants are outlawed. A recent bill made it possible for a mobilehome to remain in the same park space, even if it was resold, for 10 years as long as certain requirements were met by the mobilehome (AB 702 - Wilson - Chapter 785, 1973 Statutes). In addition, the park owner still has the right to approve of the new buyer. California law also outlaws the transfer fee, a percentage of the resale deal which would go to the park management regardless of whether he had shown the mobilehome for the owner.

Mobilehome Park Problems

The eviction of a mobilehome tenant may occur only after 60 days' notice and for one of five specified reasons. As found in Civil Code Section 789.5, they are:

- 1) Failure of the tenant to comply with local ordinances and state laws and regulations relating to mobilehomes.
- 2) Conduct of the tenant, upon the mobilehome park premises, which constitutes an annoyance to other tenants or interference with park management.
- 3) Failure of the tenant to comply with rules and regulations of the mobilehome park as established by the management in the rental agreement at the inception of the tenancy or as amended subsequently with the consent of the tenant, or without his consent upon six months' written notice. Regulations applicable to recreational facilities may be amended at the discretion of the management.
- 4) Nonpayment of rent, utility charges or reasonable incidental service charges.
- 5) Condemnation or change of use of the mobilehome park. Mobilehome park management must specify not only upon which grounds they are terminating a tenancy, but also specific facts concerning the violation.

RECOMMENDATIONS

While the current law heads in the right directions, it does not address some important issues. New legislation should include provisions for the following:

A. Every mobilehome tenant who requests one should be given a written lease in which the rent and other charges would be fixed for the period of the lease. Preferably, the lease should run at least a year and designate the exact space the mobilehome is to occupy.

B. A reasonable and returnable security deposit could be required by mobilehome park management as protection against a tenant's breaking the lease.

C. Park management imposing merchants or suppliers on tenants would be subject to administrative regulations and fines or to criminal or civil penalties.

D. A list of the minimum park conditions or services to be supplied to a mobilehome tenant would be codified into law. Rent withholding for failure of the mobilehome park to meet any of these requirements would not be grounds for eviction.

E. Park rules could be changed only after a reasonable amount of consultation is held with tenant representatives and consensus is reached. For rule changes without the tenant's consent, the six-month written notification requirement would stand; however, if in an eviction notice filed according to Civil Code Section 789.5 the reason cited is broken park rules and the tenant feels the cited rules are arbitrary, an appeal

Mobilehome Park Problems Recommendations

may be made to an appropriate administrative agency. If that agency rules that the park rules are arbitrary or unfair, the eviction notice is void.

F. Retaliatory eviction would become illegal and subject to a substantial fine.

G. An administrative agency should be set up as a first step or alternative to filing a court action. This agency should have the power to hold hearings, make findings, levy fines or revoke park permits after repetition of the following:

1. Merchants or suppliers imposed upon tenants by park management.
2. Violations of maintaining parks up to code and withholding of rent for any such park violations.
3. Refusal to give a mobilehome owner a lease if he requests one.
4. Security deposits required by park management against lease breaking.
5. The procedures for promulgating and the reasonableness of park rules.
6. Retaliatory evictions.

While a tenant's right to file in the appropriate court should not be impaired, this administrative agency should be established to ease the burden on the courts and to make available a remedy to those mobilehome tenants who do not have the money needed to go to court.

APPENDIX

Adopted: March 1, 1973

HOUSE RESOLUTION NO. 15

By Assemblymen Moretti, Murphy, Mobley, Quimby, Burke, and Ray E. Johnson

Relative to preparation of report on mobilehomes

WHEREAS, There are one million mobilehome residents in the State of California today and that number will increase by 300 percent by 1982; and

WHEREAS, The mobilehome industry has a definite impact on the California economy, with 1,600 mobilehome dealers and 85 mobilehome manufacturers operating within the state; and

WHEREAS, The mobilehome production in the state has increased 100 percent in five years; and

WHEREAS, In 1972, 40,000 California families bought mobilehomes, and approximately 8,000 of them later had to seek a remedy for their consumer grievances; and

WHEREAS, Any problem related to the intrarelationships within the mobilehome industry and its interrelationships with the community will ultimately bear upon the lives of a large segment of the California population; now, therefore, be it

Resolved by the Assembly of the State of California, That the staff of the Assembly Office of Research, with technical assistance, prepare a report and subsequent legislation, if needed, on mobilehomes, including such subjects as: mobile-home construction standards in areas not presently covered; more effective factory inspections and provisions for onsite

inspections; the placement and zoning of mobilehomes within and without mobilehome parks; effective warranty issuance and enforcement; mobilehome taxation methods; financing and insurance regulations on mobilehomes; mobilehome franchise regulations; and licensing requirements and standards for manufacturers, dealers, transporters and contractors; and be it further

Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Assembly Office of Research.

TABLE 1

RELATION OF MOBILEHOMES TO TOTAL HOUSING PRODUCTION

All New Homes

Year	Total	Conventional starts	Mobilehome shipments	
	<u>Thous.</u>	<u>Thous.</u>	<u>Thous.</u>	<u>%</u>
1964	1,162	971	191	16.4
1965	1,180	964	216	18.3
1966	996	779	217	21.7
1967	1,084	844	240	22.1
1968	1,218	900	318	26.1
1969	1,224	811	413	33.7
1970	1,214	813	401	33.0

Source: U.S. Department of Commerce, Bureau of the Census, and U.S. Department of Housing and Urban Development.

TABLE 2

NEW HOUSING AUTHORIZED BY BUILDING PERMITS AND NUMBER
OF NEW MOBILE HOME SALES IN CALIFORNIA, 1970-1973

	<u>Total Dwelling¹ Units</u>	<u>Single Units</u>	<u>Multiple Units</u>	<u>Mobile Home Sales</u>
1970	195,707	71,359	124,348	20,139
1971	256,989	113,260	143,729	30,033
1972	280,851	123,990	156,861	32,262
1973E	240,000	123,000	117,000	33,500

PERCENT CHANGE FROM PRIOR YEAR

1970	+ 6.2	- 11.0	+ 19.3	+ 7.6
1971	+ 31.3	+ 58.7	+ 15.6	+ 49.1
1972	+ 9.3	+ 9.5	+ 9.1	+ 7.4
1973E	- 14.5	- 0.8	- 25.4	+ 3.8

¹ Excluding mobile homes

E = Estimated by S.P.N.B.

Source: Security Pacific National Bank and
Mobilehome Market Research Inc.

TABLE 3

HOMES SOLD FOR UNDER \$20,000*

Year	Total	Conven- tional	Mobile
	<u>Percent</u>	<u>Percent</u>	<u>Percent</u>
1964	100	74	26
1965	100	69	31
1966	100	62	38
1967	100	57	43
1968	100	46	54
1969	100	35	65
1970	100	41	59
1971	100	38	62
1972	100	33	67

* Conventional homes estimated from homes with sales price reported (including value of improved lot). All mobilehomes assumed to have a sales price of less than \$20,000. (Of all mobilehomes sold with FHA insurance, October 1, 1970 to March 31, 1971, 99.6 percent were under \$15,000.)

Source: U.S. Department of Commerce, Bureau of the Census, and U.S. Department of Housing and Urban Development.

TABLE 4

OWNER-OCCUPIED, ONE-FAMILY HOMES, CONVENTIONAL AND MOBILE, BY
LOCATION AND SELECTED CHARACTERISTICS OF OCCUPANTS, 1970

Item	Number of homes			Mobile as pct. of total Percent
	Total	Conventional	Mobile	
	<u>Thous.</u>	<u>Thous.</u>	<u>Thous.</u>	
All-----	37,261	35,509	1,752	4.7
URBANIZATION:				
Urban-----	25,393	24,718	675	2.7
Rural-----	11,868	10,792	1,076	9.1
REGION:				
Northeast-----	7,656	7,447	209	2.7
North Central-----	11,196	10,768	428	3.8
South-----	12,089	11,371	718	5.9
West-----	6,321	5,924	397	6.3
AGE OF HEAD:				
Under 25 yrs. ^{1/} -----	761	529	232	30.5
25 to 34 yrs. ^{1/} -----	4,994	4,630	364	7.3
35 to 64 yrs. ^{1/} -----	19,331	18,829	502	2.6
65 yrs. and over ^{2/} ---	7,466	7,150	316	4.2
Other households----	4,709	4,371	338	7.2
HOUSEHOLD SIZE:				
1 person-----	4,148	3,807	341	8.2
2 persons-----	11,091	10,438	653	5.9
3 persons-----	6,577	6,234	343	5.2
4 or more persons---	15,445	15,030	415	2.7
INCOME IN 1969:				
Less than \$4,000----	6,882	6,426	456	6.6
\$4,000 to \$6,999----	5,306	4,881	425	8.0
\$7,000 to \$14,999---	16,679	15,917	762	4.6
\$15,000 and over----	8,395	8,286	109	1.3

Note: Detail may not add to total due to rounding.

- ^{1/} Two-or-more person households with male head, wife present.
^{2/} One-or-more person households, all types.

Source: The Summary of U.S. General Housing Characteristics,
1970 Census of Housing.

TABLE 5

CHARACTERISTICS OF OWNER-OCCUPIED MOBILE HOMES, 1970

<u>Characteristic</u>	<u>Percent</u>
All-----	100.0
Number of bedrooms:	
None-----	1.3
1-----	16.7
2-----	62.2
3 or more-----	19.8
Plumbing facilities:	
With complete facilities-----	96.1
Lacking some or all-----	3.9
Year built:	
1965 to March 1970-----	56.0
1950 to 1964-----	38.1
Before 1950-----	5.9
Year moved into unit:	
1968 to March 1970-----	52.3
1950 to 1967-----	46.3
Before 1950-----	1.4
Heating equipment:	
Warm-air furnace-----	69.2
Other-----	30.6
None-----	.2
Air conditioning:	
Room unit(s)-----	30.3
Central system-----	13.1
None-----	56.6

Source: The Summary of U.S. General Housing Characteristics, 1970 Census of Housing.

SUMMARY OF
MAJOR MOBILEHOME LEGISLATION
1973-74 SESSION

<u>Bill Number</u>	<u>Author</u>	<u>Status</u>	<u>Description</u>
A.B. 274	Murphy	Chapter 98	Sets fees for operating permit (\$25) and authorizes fees for mechanical and electrical installation permits as regards temporary trailer parks.
A.B. 422	Ingalls	In Senate Transportation Committee	Would authorize the State Department of Transportation to issue permits allowing the movement of 14'-wide mobilehomes on selected highways. Applicants for permits would be charged \$15. Calls for a report about the experience of the permitted movement during 1974.
A.B. 442	Dunlap	Chapter 964	Requires the Commission of Housing and Community Development to establish, amend and repeal necessary rules and regulations regarding the manufacture, composition, and use of foam building systems used in mobilehomes, factory-built housing or buildings subject to the State Housing Act.
A.B. 538	Chappie	Chapter 535	States the law shall not be construed to prohibit the installation of fireplaces in mobilehomes. Requires the Commission of Housing and Community Development to adopt regulations for such by July 1, 1974.
A.B. 630	H. Johnson	Chapter 892	Includes in definition of "contractor" for purposes of application of the Contractors License Law those who repair, alter or dismantle mobilehomes.
A.B. 702	Wilson	Chapter 785	Prohibits park management or owner from conditioning residency on mandatory relocation of mobilehome if resold to third party during the term of lease. This provision is not applicable if the mobilehome has been uncupied for at least 120 days prior to sale. Allows that mobilehomes less than 10 feet wide, more than 10 years old or both, or mobilehomes in disrepair may be removed upon resale to upgrade the park quality. Park owner may still

<u>Bill Number</u>	<u>Author</u>	<u>Status</u>	<u>Description</u>
A.B. 702 (continued)			require prior approval of purchaser if mobile-home will remain in park. Requires written owner authorization before a mobilehome can be listed for sale or shown by a park owner or manager.
A.B. 778	Wilson	Chapter 787	Increases a mobilehome's exemption from attachment and execution from \$9,500 to \$15,000 over and above all liens and encumbrances.
A.B. 1077	Cullen	Chapter 331	Allows mobilehome dealers to display models within a mobilehome park for up to six months unless such park has not reached or exceeded 70% occupancy in which case another six-month period is authorized. Requires all coaches and vehicles displayed at a fair or exhibit to display the dealer's name and address.
A.B. 1182	MacGillivray	From Senate Revenue and Taxation Committee without action	Allows cities and counties to tax space rentals in a recreational trailer park if occupancy is on a transient basis (a period of 30 days or less).
A.B. 1205	Murphy	Chapter 807	Provides that the mobilehome warranty from the dealer or manufacturer shall be a separate written document, shall be delivered to the buyer by the dealer at the time the sales contract is signed, and outlines the minimum terms, rights and duties the warranty must contain.
A.B. 1253	H. Johnson	Sent to interim study by Assembly Ways and Means Committee	Would create a Mobilehome Dealers Advisory Committee specifying the committee composition, method of appointment and the functions and duties. Adds requirements, including an examination, for a mobilehome dealers license. Makes certain activities of dealer unlawful and cause for suspension or revocation of his license.

<u>Bill Number</u>	<u>Author</u>	<u>Status</u>	<u>Description</u>
A.B. 2194	Maddy	In Senate Business and Professions Committee	Authorizes real estate brokers to sell or negotiate the sale or exchange of mobilehomes registered with the Department of Motor Vehicles for at least one year. Prohibits real estate brokers from displaying two or more mobilehomes for sale at his place of business. Requires the Real Estate Commissioner, after consultation with the Department of Motor Vehicles, to prescribe regulations carrying out all Vehicle Code requirements.
A.B. 2345	Mobley	Chapter 846	Establishes the Mobilehome Revolving Fund in the State Treasury to hold fees set by the Commission of Housing and Community Development to be deposited in this fund rather than be credited to the appropriation for the Department of Housing and Community Development. Total money in the fund shall not exceed the amount needed for one year's operating expenses. If the amount exceeds that, the Commission is required to reduce such fees.
A.B. 2346	Mobley	Dropped	Prohibits the title transfer or registration application of any mobilehome without an insignia issued by the Department of Housing and Community Development. Requires the mobilehome owner or dealer when selling or transferring title to furnish DMV with the number on the HCD insignia. Authorizes procedure to suspend or revoke any dealer, manufacturer or transporter's DMV license for violating specified portions of the Health and Safety Code. Makes it unlawful and a violation of the Vehicle Code for any dealer, manufacturer or transporter to sell any mobilehome not in compliance with Health and Safety Code regulations or to violate any specified Civil Code provisions.

<u>Bill Number</u>	<u>Author</u>	<u>Status</u>	<u>Description</u>
S.B. 261	Nejedly	Chapter 640	Requires local government to enforce the provisions of the Mobilehome Park Act. Eliminates the requirement that each mobilehome park be inspected for compliance at least once biennially. After July 1, 1974, requires a permit be obtained from the local enforcement agency anytime a mobilehome larger than 8'x40' is to be installed as a dwelling. Specifies contractor installing a mobilehome must do so in the amount of time set by HCD Commission regulations. If installation cannot meet with the enforcement agency's approval because of specified defects, an additional period is allowed. Local enforcement agency must notify HCD if such defects are present. Necessary inside inspection by enforcement agency shall be limited to the electrical, water and gas systems. Establishes procedure to set fees for inspection not to exceed \$30. If contractor does not remedy defects, Contractors' Board conducts an investigation with possible disciplinary action.
S.B. 262	Nejedly	Chapter 1103	Requires local government to enforce within their respective jurisdictions the provisions of the mobilehome park law and pertinent regulations. Requires any fee required when setting up a mobilehome outside a mobilehome park must be imposed by local ordinance. Sets the fee for operating a temporary trailer park at \$25. Makes other technical changes.
S.B. 263	Nejedly	Chapter 490	Requires that just the local enforcement agency instead of both that agency and the Department of Housing and Community Development be notified of a change of name or ownership of a mobilehome park. If a change is made before the park is completed, no new fee may be required as long as construction is completed according to the approved plans and specifications. If substantial changes are made, a new application and accompanying fees is required.

<u>Bill Number</u>	<u>Author</u>	<u>Status</u>	<u>Description</u>
S.B. 510	Alquist	Chapter 1214	Requires the Commission of Housing and Community Development to adopt regulations for minimum standards for mobilehome energy insulation. Enlarges the energy insulation advisory committee. Prohibits issuance of HCD insignia to mobilehome not meeting insulation standards. Provides for standards enforcement by the Department of Housing and Community Development.
S.B. 548	Moscone	Chapter 351	Revises five legal grounds for termination of tenancy in a mobilehome park. Includes mobilehome tenant under law which does not allow the management to prohibit tenant meetings as long as they are held at reasonable hours and the facilities are not otherwise in use. Provides that park management must give specific examples of eviction reason, not merely cite the code section or reiterate code section language.

BIBLIOGRAPHY

- Bair, Frederick H., Jr., "Mobile Homes - A New Challenge in Housing - Part 1: Perspectives and Problems," Law and Contemporary Problems, Vol. 32, No. 2, Spring 1967.
- Bair, Frederick H., Jr., "National Trends in Mobile Home Living," New York State Planning News, February 6, 1967.
- "Bank Financing of Mobile Homes," Federal Reserve Bulletin, March 1971, pp. 179-182.
- Bartley, Ernest R. and Frederick H. Bair, Jr., Mobile Home Parks and Comprehensive Community Planning. Publication No. 19 Gainesville, Fla: Public Administration Clearing Service of the University of Florida, 1960.
- Center for Planning and Development Research. Mobile Homes, January 1970.
- Drury, Margaret J., Mobile Homes - The Unrecognized Revolution in American Housing. Revised ed. New York, Praeger, 1972.
- Gilles, James M., Another Look at...Mobile Home Parks and Municipal Fiscal Problems...
- Hodes, Barnet and G. Gale Roberson, The Law of Mobile Homes. Chicago, Commerce Clearing House, 1957.
- Institute for Local Self Government. Why the Wheels: The Immobile Home. February 1971.
- Krassa, Lucie G., "Mobile Homes," Family Economics Review, December 1972, pp. 3-7.
- Mann, Mary E. "Assessment and Taxation of Mobilehomes: What is the Town's Best Approach?," New York State Planning News, March - April, 1967.
- "The Mobile Home Owner and the Home He Lives In," Urban Land, Vol. 29, No. 8, September 1970.
- Mobilehome and Travel Trailer Taxation. Sacramento, Assembly Office of Research, 1972.
- "Mobile Homes in the National Income and Product Accounts," Survey of Current Business, July 1972.
- Morris, Earl W. and Margaret E. Woods (ed.), Housing Crisis and Response, the Place of Mobile Homes in American Life. Ithaca, N.Y., Cornell University, 1971.

- U. S. Congress. House. Committee on Banking and Currency. Second Annual Report on National Housing Goals and Message From the President of the United States Transmitting the Second Annual Report on National Housing Goals. Washington, D.C., Government Printing Office, April 1970.
- U.S. Department of Commerce, Bureau of the Census, 1970 Census of Housing, Summary of General Housing Statistics.
- U.S. Department of Housing and Urban Development. Characteristics of Mobile Home Loan Transactions Insured by FHA under the Title I Program, April 1, 1971 to March 31, 1972, Washington, D.C., Government Printing Office.
- U.S. Department of Housing and Urban Development. Housing Surveys Parts 1 and 2: Occupants of New Housing Units, Mobile Homes and the Housing Supply. Washington, D.C., Government Printing Office, 1968.
- Wells Fargo Bank. Economics Dept. Mobile Homes in California, 1970 and 1980. Researched and compiled by Economics Dept. Wells Fargo Bank National Association. Anaheim, Calif., Trailer Coach Association, 1971.
- Young, Allan H. and others, "Residential Capital in the United States, 1925-70," Survey of Current Business, November 1971, pp. 16-27.

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