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# Identifying and Meeting the Needs of Owners of Manufactured Homes

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**H**omeownership 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."<sup>1</sup> 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

<sup>1</sup>A "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.<sup>2</sup> 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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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.<sup>6</sup> 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.<sup>7</sup>

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.<sup>8</sup> 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.

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.<sup>9</sup> 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.<sup>10</sup>

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

<sup>2</sup>WILLIAM 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](http://www.nw.org/network/pubs/studies/documents/manufactHsgRpt2002.pdf).

<sup>3</sup>*Id.*

<sup>4</sup>Manufactured 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](http://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](http://www.nhi.org/online/issues/112/rosenbloom.html).

<sup>5</sup>See APGAR ET AL., *supra* note 2, at 9.

<sup>6</sup>See Rosenbloom, *supra* note 4.

<sup>7</sup>See 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](http://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).

<sup>8</sup>Thayler Long, *Manufacturing Affordability*, RURAL VOICES, Summer 2003, at 6, available at [www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf](http://www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf).

<sup>9</sup>David 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](http://www.fanniemaefoundation.org/programs/hff/pdf/HFF_v7i4.pdf).

<sup>10</sup>Andrew Kochera, *Manufactured Housing Can Serve Older Persons*, RURAL VOICES, Summer 2003, at 14, available at [www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf](http://www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf).

and the community owner, the strength of these laws depends on whether homeowners can enforce their rights.<sup>11</sup> 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.<sup>12</sup> 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.<sup>13</sup> 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).<sup>14</sup> Most households purchasing used manufactured homes pay cash, while the rest use either chattel or personal property loans with their high interest rates.<sup>15</sup> 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.<sup>16</sup> 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.<sup>17</sup> 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.<sup>18</sup>

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.<sup>19</sup> 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.<sup>20</sup> Moreover, owners of manufactured homes are denied the three-day “cooling-off” period which the Truth in Lending Act

<sup>11</sup>Alabama, 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](http://assets.aarp.org/rgcenter/consumer/d18138_housing.pdf).

<sup>12</sup>See Long, *supra* note 8, at 6.

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

<sup>14</sup>See APGAR 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.

<sup>15</sup>*Id.* at 13.

<sup>16</sup>See 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](http://www.frbsf.org/publications/community/review/062006/west.pdf).

<sup>17</sup>See Genz, *supra* note 7, at 401.

<sup>18</sup>See West, *supra* note 16, at 36.

<sup>19</sup>Real Estate Settlement and Procedures Act, 12 U.S.C. §§ 2601–2617 (2000).

<sup>20</sup>See 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](http://www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf).

provides to borrowers purchasing site-built homes.<sup>21</sup>

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.<sup>22</sup> The association is also encouraging design changes so that manufactured homes look more like site-built structures.<sup>23</sup>

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.<sup>24</sup> 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.<sup>25</sup> 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-

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

<sup>22</sup>See Chris Cooper, *Planners Help to Integrate Manufactured Housing*, RURAL VOICES, Summer 2003, at 9, available at [www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf](http://www.ruralhome.org/manager/uploads/VoicesSummer2003.pdf).

<sup>23</sup>See Long, *supra* note 8, at 6.

<sup>24</sup>Lenders 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.

<sup>25</sup>Alaska, 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.

Tenant Act has evolved over time, some of the additional protections include a longer term lease (one year that automatically renews on the tenant's anniversary date of moving into the community), a just-cause eviction requirement, and rent increases permissible only once a year.<sup>26</sup>

However, this type of law may provide very little real protection to homeowners if they live in states where there is no government agency enforcing the statute. Most homeowners are too poor to afford private counsel to challenge prohibited activities of the community owner or too fearful that any challenge to the community owner's actions will result in retaliation or harassment whether or not any statute proclaims such tactics to be illegal. Some examples of illegal conduct by landlords include raising the rent in a manner prohibited by law, passing along to the homeowners the landlord's responsibility for maintenance and repairs in the community, and including in the rental agreement provisions that result in the homeowner waiving statutory rights. These actions, and others, routinely occur even though landlord intimidation is explicitly illegal in twenty-five states.<sup>27</sup>

The vacancy rate in manufactured-housing communities is very low, making it difficult for homeowners to move out of a community when a landlord is being abusive. Moving a mobile home generally costs more than \$5,000.<sup>28</sup> Once in place the home is highly unlikely ever to be moved again.<sup>29</sup> All of this means that owners of manufactured homes may have very little choice but to put up with abusive landlord practices.

Housing advocates need to be aware of the perils that owners of manufactured homes face when living on leased land. Advocates need to do all they can to ensure that legislatures enact strong laws to prevent homeowners from constantly

facing large rent increases, eviction, inadequate infrastructure maintenance and repair, and other unfair or illegal practices. Even advocates who are constrained by funding sources prohibiting direct lobbying can still ensure that owners of manufactured homes have the protections they need to live in safe, healthy communities. Advocates can attend meetings with the community and give information to the homeowners about their rights and responsibilities under current law. Homeowners are often unaware of existing statutory protections, and knowing that there is legal recourse for bad landlord practices can be heartening. Attorneys can encourage homeowners to form homeowner associations and assist in their incorporation. Solidarity in a homeowners' association can be very powerful. People feel stronger working together. The board of a homeowners' association can represent the concerns of its members to the community owner without fear of individual retribution. Membership in a homeowners' association give homeowners an opportunity to meet to discuss issues and to hold social events. Building a sense of neighborhood and cohesion in this way is good and might prove necessary when the going gets tough, such as when negotiating improvements with the community owner.

Homeowners living on leased land need much stronger protections than currently available in most states to guarantee that the community owner abides by state and local laws. Homeowners need access to a complaint or grievance process when the community owner violates the manufactured- or mobile-home landlord-tenant laws. Arizona and Nevada have systems that seem to work. In Arizona an administrative law judge hears complaints and the judge's decision is binding, although the aggrieved party is allowed to request a rehearing.<sup>30</sup> Should the complaining

<sup>26</sup>WASH. REV. CODE §§ 59.20 *et seq.* (2006).

<sup>27</sup>See Genz, *supra* note 7, at 405.

<sup>28</sup>See Collins, *supra* note 4, at 2.

<sup>29</sup>Where originally sited, 94 percent of manufactured homes remain. See Long, *supra* note 8, at 6.

<sup>30</sup>ARIZ. REV. STAT. ANN. § 41-2198.04(A) (2006).

party prevail, the other side is required to reimburse the \$50 filing fee.<sup>31</sup> A different system operates in Nevada, where an administrator receives and investigates complaints and establishes remedies and time frames within which faults are to be cured.<sup>32</sup> If the violator fails to respond to the administrator's findings, the administrator may impose injunctive relief, fines, and other remedies.<sup>33</sup>

Advocates have been trying to get an administrative remedy in Washington State for the past four years but have yet to convince a majority in the legislature that such a remedy is needed, despite strong evidence to the contrary. Washington's Department of Community, Trade, and Economic Development was required to register all of the manufactured-housing communities in the state and document complaints filed with the department. Following this procedure, the department concluded that it would recommend against the adoption of state enforcement, even though it found that the volume of complaints clearly demonstrated a demand for state assistance.<sup>34</sup> A bill introduced during the 2007 legislative session would guarantee that owners of manufactured homes living in communities in Washington would no longer be subject to abusive practices by their landlords.<sup>35</sup> If the bill is passed, the state attorney general's office would be authorized to respond to complaints, from both homeowners and community owners, regarding violations of the state's Manufactured/Mobile Home Landlord-Tenant Act and Consumer Protection Act.<sup>36</sup> The office may investigate complaints, attempt to mediate solutions, enforce compliance, and establish fines of up to \$500 per day for noncompliance. Appeals of the office's decisions could be

made to an administrative law judge and ultimately to the superior court. The intent of the legislation is to enforce existing legislation and provide meaningful protections to individuals who are vulnerable to unscrupulous landlords' illegal, unfair, and deceptive practices.

A model statute is another good approach. AARP (American Association of Retired Persons) has long been concerned about the lack of protections for seniors living in manufactured-housing communities. In 2001 about 7.2 million manufactured homes were occupied year-round, an additional million were occupied on a seasonal basis, and a vacant 700,000 were waiting to be sold or rented.<sup>37</sup> The National Consumer Law Center in conjunction with AARP reviewed statutes in the states that have manufactured- or mobile-home landlord-tenant statutes and combined the best of what was available to produce a model manufactured- or mobile-home landlord-tenant act.<sup>38</sup> Such a "bill of rights" for owners of manufactured homes is worthy of consideration by housing advocates throughout the country. While state law is the primary way for manufactured housing communities to be regulated, there is evidence that a model statute, adopted in every state, would help tenants to confront the abusive practices of some community owners throughout the country. While a handful of states have some protections built into their statutes, none has a statute that provides homeowners with all the protections needed for long-term security of tenure in their chosen manufactured-housing community. The same statutory protections for owners of manufactured homes as for those living in site-built housing are necessary to ensure that the 7 percent of the households

<sup>31</sup>*Id.* § 41-2198.02(A).

<sup>32</sup>NEV. REV. STAT. § 118B.026(1), (2) (2006).

<sup>33</sup>*Id.* § 118B.026(3)(c).

<sup>34</sup>STEPHEN H. BUXBAUM ET AL., OFFICE OF MANUFACTURED HOUSING, DEPARTMENT OF COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, ESHB 1640: MANUFACTURED/MOBILE HOME LANDLORD-TENANT DISPUTES: REPORT TO THE LEGISLATURE 38 (2005).

<sup>35</sup>S.H.B. 1461 and S.S.B. 5477, 60th Leg., 2007 Reg. Sess. (Wash. 2007).

<sup>36</sup>WASH. REV. CODE §§ 19.86 *et seq.* (2006).

<sup>37</sup>See CARTER ET AL., *supra* note 11, at 1-6.

<sup>38</sup>*Id.* at 9-60.

in this country who live in manufactured housing are not susceptible to the unfair, deceptive, or illegal practices of community owners.<sup>39</sup>

#### IV. When Manufactured-Housing Communities Are Closed

Manufactured housing fills the need for affordable housing and has a future; housing advocates cannot afford to ignore this. Homeowners in manufactured-housing communities value the sense of “neighborhood” inherent in such a lifestyle and often have a tight-knit social network.<sup>40</sup> Neighbors look out for one another, children play together, and seniors meet up for card nights, quilting bees, and other activities. All of this is lost when a community owner opts to sell the property without regard for the tenants’ interests.

##### A. One Tenant’s Story

Paula is being displaced for the third time in thirteen years.<sup>41</sup> She was removed from two other manufactured-housing communities that closed while she resided in them. She is being forced to move again, less than two years since she started living in her current community. She pays her rent on time, she follows the landlord’s rules, her children are well behaved, her 93-year-old grandmother lives with the family, and Paula’s husband has a good job. Paula owns her home, yet she is being evicted. Why? Because Paula does not own the land upon which her home is situated. Paula is one of the ten million individuals who live in a manufactured home without the security of owning the land underneath her home. Because of that significant detail, Paula’s landlords may move her off their property so that it can be sold to developers who will purchase such “raw” land for significant sums of money with total disregard for the resulting displacement of thousands of homeowners.

To add insult to injury, most of these displaced owners of manufactured homes will get no help from the landlords to find alternative sites for their homes. Most will be unable to move their homes to other manufactured-housing communities. Most of these homeowners will simply have to pay to have their homes demolished. They will then walk away from their one asset with nothing to show for the effort and cost they invested in their homes as they attempted to make good long-term investments.

While some may argue that this is simply a consequence of market forces, it is a problem that must be resolved, especially when the number of affordable housing units is shrinking, local governments are struggling to find enough affordable units for low- and moderate-income households, and the goal of homeownership ought to be attainable by most working Americans.

In Washington State, 143 manufactured-housing communities have closed in the past fifteen years, displacing more than 4,000 households.<sup>42</sup> An additional 38 communities will have closed between May 2006 and December 2007, displacing more than 1,400 households.<sup>43</sup> Many of these homeowners will be unable to move their homes to other locations and will likely lose their one opportunity of a lifetime to be homeowners with some potential to increase the equity in their investments.

##### B. Closing Notices

As if this were not enough to deal with, homeowners on leased land may be given very little warning that the land beneath their homes has been sold and that the manufactured-housing community will be closing in a matter of months. Required notice periods range from thirty days in Georgia to sixty days in New Jersey, while homeowners in Massachusetts

<sup>39</sup>*Id.* at 1.

<sup>40</sup>See APGAR ET AL., *supra* note 2, at 5.

<sup>41</sup>Name changed to protect my client.

<sup>42</sup>This information is in reports distributed at regular monthly meetings of the Washington State Office of Manufactured Housing (the reports are in my files).

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

have the “luxury” of a two-year notice that may be extended to four years in certain circumstances.<sup>44</sup> Often the community owner is not required to help the homeowner with relocation expenses or to compensate the homeowner for the loss of the home. Many homes are too old to be moved, and even those that can be moved encounter low vacancy rates in other communities or age-of-the-home restrictions preventing the home from being accepted into another community. Thus many homeowners find themselves not only displaced from their communities but also having to foot the bill to have their homes taken to the dump and demolished. Only a few states require the community owner to compensate the homeowners and make them “whole” as a result of the displacement.<sup>45</sup>

### C. Statutory Relocation Assistance

As manufactured-housing communities close, consider what options, if any, are available to help displaced homeowners. Relocation assistance is often considered a reasonable solution. However, relocation assistance guarantees only that the developer will have a vacant property ready for redevelopment. Relocation assistance does not offer any real advantage to displaced homeowners, especially since many of them will have to demolish their homes because there are no other vacant spaces available to move to, or their homes are too old to be accepted in other manufactured-housing communities.<sup>46</sup> Washington State has a representative example of a statutory relocation scheme.

First, some background on the state: according to the 2000 census, Washington ranked sixth nationally in number of

owners over 55 of manufactured homes. There were 48,810 such homeowners in the state. Washington has 190,184 such households altogether, thus ranking fifteenth in the country in number of manufactured-home households.<sup>47</sup> There are about 2,000 manufactured-housing communities in the state, although this number fluctuates with the data used to calculate the number and because manufactured-housing communities in Washington are closing at an alarming rate.<sup>48</sup>

Many owners of manufactured homes in these communities are seniors. Many others are young families just starting out on the “homeownership ladder.” All are devastated by the idea that someone may simply tell them that they have twelve months to move out of the community and that the landlord or the new owner or developer does not need to raise a finger to help them. Often, before moving into a community, prospective purchasers ask the community owner or manager if the community may be sold in the near future. Reassured that it will not be, they purchase their home and move into the manufactured-housing community only to receive a twelve-month closing-of-park notice, sometimes within mere months of moving into the community. Even homeowners who have resided in the manufactured-housing community for years are completely taken aback when the landlord issues a twelve-month closing notice. They just do not expect that kind of treatment from the person to whom they have paid rent faithfully for years and with whom they might even have a trusting relationship. Their moral outrage and righteous indignation is justified by their assumption that they, and

<sup>44</sup>For a complete list of notice requirements by state, see CARTER ET AL., *supra* note 11, at 47–48.

<sup>45</sup>Oregon in 2005 passed a statute that requires landlords to give tenants 365 days’ closing notice or, in the alternative, to give 180 days’ notice, find another site acceptable to the tenant, and pay the lesser of \$3,500 or the tenant’s cost of moving the home to the new location. See OR. REV. STAT. § 90.630(5) (2006). The City of Wilsonville, Oregon, went even further. Its ordinance requires that landlords must pay a homeowner’s reasonable relocation costs if the homeowner is displaced due to a community closing. However, if the home cannot be relocated, the landlord is required to compensate the homeowner for the “in-place” value of the home. See Lisa Grace Lednicer, *Wilsonville Debates Aid for Mobile Home Owners*, OREGONIAN, Sept. 21, 2005, at C1.

<sup>46</sup>According to the latest figures from the Washington State Department of Community, Trade, and Economic Development, of the 353 households who submitted requests for relocation assistance, 69 demolished their homes, 93 were able to move their homes, and 191 still did not know what they were going to do with their homes. See *supra* note 42.

<sup>47</sup>See Kochera, *supra* note 10, at 14.

<sup>48</sup>See BUXBAUM ET AL., *supra* note 34, at 14.

only they, should be the ones deciding about when and if they would ever move out of their chosen community.

Washington has established a relocation assistance fund.<sup>49</sup> The money in the fund comes from the owners of manufactured homes. Every time a manufactured home is sold in a community, a \$100 transfer-of-title fee goes into the fund. However, because so many communities in Washington are closing, the fund is depleted. People who have already paid for their own eviction when they bought their homes need to wait up to three years for reimbursement of expenses related to their move. Most people cannot readily pay for the cost of moving their home, and so some of them are simply abandoning their homes since they see no other alternative. Other homeowners have outstanding mortgages on their homes, sometimes as much as \$20,000 or more. Some have their homes demolished even as they are fully aware that they will still have to make the monthly mortgage payments on a home that no longer exists.

## V. Preservation Alternatives

Given a relocation assistance fund that does not provide any real compensation to homeowners whose only option may be to have their homes demolished, what can be done to guarantee a return on the investment of a manufactured home sited in a manufactured-housing community?

### A. Right of First Refusal to Preserve Affordable Housing

Many jurisdictions in Washington have comprehensive plans mandated by the state's Growth Management Act.<sup>50</sup> The housing element of many jurisdictions' comprehensive plans stresses the need for diversity of housing stock, the need to

offer options for households at all income levels, and the need for an adequate supply of housing affordable to all economic segments of the population. The preservation of manufactured-housing communities would go a long way toward ensuring that local jurisdictions are on track to meet the affordable-housing goals of their comprehensive plans. Every time a manufactured-housing community closes, fewer homes become available for low-income households. "No net loss of affordable housing" should be the mantra on every housing advocate's lips.

Encouraging community owners to sell to homeowners' associations, nonprofit agencies representing homeowners, housing authorities, or other local governmental entities would be ideal for state government to help preserve affordable housing. While the risk of a community closing remains high in some areas, manufactured-housing communities may be preserved through state statutes that provide homeowners with the right of first refusal to purchase the community should the community owner be interested in selling.<sup>51</sup> Washington's right-of-first-refusal statute was struck down by the state supreme court in 2000, but other methods can encourage community owners to sell to their tenants.<sup>52</sup> For instance, Washington's legislature is considering a bill that would exempt owners of manufactured-housing communities from paying state real estate excise tax if they voluntarily choose to sell to the homeowners.<sup>53</sup> This incentive approach could go a long way toward ensuring the preservation of manufactured-housing communities. It would also give homeowners the opportunity to build equity since homes on leased land tend to depreciate more quickly and sell for less than homes situated on land

<sup>49</sup>WASH. REV. CODE §§ 59.21 *et seq.* (2006).

<sup>50</sup>WASH. REV. CODE §§ 36.70A *et seq.* (2006).

<sup>51</sup>Jennifer Robbins (a 2006 summer intern) and I found the following states to have right-of-first-refusal statutes: Connecticut, Delaware, Florida, Massachusetts, Minnesota, New Jersey, and Rhode Island. But New Hampshire, Oregon, and Vermont require the community owner to consider the homeowners' offer to purchase and to negotiate with the homeowners in good faith. See also CARTER *ET AL.*, *supra* note 11, app. B.

<sup>52</sup>*Manufactured Housing Communities of Washington v. State of Washington and Mobile Home Owners of America Inc.*, 142 Wash. 2d 347, 13 P.3d 183 (2000).

<sup>53</sup>H.B. 1621/S.B. 5780, 60th Leg., 2007 Reg. Sess. (Wash. 2007).

that remains as a manufactured-housing community.<sup>54</sup>

A mandatory right of first refusal for housing authorities and local governmental entities can be an alternative or supplementary solution. The Washington Supreme Court held that denying the owner of a manufactured-housing community the absolute right to determine to whom the community should be sold by granting a right of first refusal to the community homeowner association was a “taking” under the state constitution.<sup>55</sup> However, based on the court’s analysis, the purchase of a manufactured housing community by a housing authority or local governmental entity conceivably would not rise to the level of a “taking” because such a purchase would benefit the public interest by continuing to give affordable homeownership opportunities to the current homeowners in the community. This would also guarantee homeownership opportunities for other low-income households whenever homes in the community come on the market.

### B. Community Loan Fund

A community loan fund provides financing to help homeowners buy their homes under reasonable terms or to buy their community cooperatively. The New Hampshire Community Loan Fund was established in 1984. Since then, 17.5 percent of New Hampshire’s 460 manufactured-housing communities have become resident-owned cooperatives.<sup>56</sup> At writing, the loan fund has helped eighty communities—with eight more communities in the pipeline—convert to resident ownership. Mainstream banks have been supportive. At first the banks were skeptical about loaning funds so that owners of manufactured homes could purchase their communities cooperatively. How-

ever, the banks now approach the loan fund and ask to be in first position, taking on 80 percent of the loan. Originally the banks were willing to assume only the less risky second position with a 20 percent loan, and the loan fund had to come up with most of the financing. The Federal Home Loan Bank of Boston has established a fixed-rate lending program with member banks. This allows homeowners who are purchasing their community cooperatively to do so with a loan-to-value ratio of 80 percent or less. The homeowners contribute what they can toward the remainder of the purchase price, and the loan fund lends the difference with a fixed-rate subordinate down payment loan. According to Paul Bradley of the New Hampshire Community Loan Fund, not one homeowner cooperative has ever defaulted on its loan.<sup>57</sup>

Not only does the New Hampshire Community Loan Fund assist homeowners in purchasing their community, but also it is a home financing system that parallels interest rates for the purchase of site-built homes. The loan fund provides 8 percent to 9 percent interest loans to homeowners for the purchase of a manufactured home or for refinancing to allow current homeowners to make repairs and improvements on their homes. First-time homebuyers are also eligible for Housing Finance Authority loans at 6 percent interest over thirty years.<sup>58</sup>

### C. Legal Assistance and Education

Manufactured housing is the largest form of unsubsidized affordable housing for low-income households in Minnesota. It outnumbers U.S. Department of Housing and Urban Development—subsidized and U.S. Department of Agriculture Rural Development units.<sup>59</sup> The Housing Preservation Project and All Parks Alliance

<sup>54</sup>SALLY WARD ET AL., CARSEY INSTITUTE, BUILDING VALUE AND SECURITY FOR HOMEOWNERS IN “MOBILE HOME PARKS” 2 (2006).

<sup>55</sup>*Manufactured Housing Communities of Washington*, 142 Wash. 2d at 374–75.

<sup>56</sup>See New Hampshire Community Loan Fund, Annual Report (2005), available at [www.nhclf.org/news/AnnualReport05.pdf](http://www.nhclf.org/news/AnnualReport05.pdf).

<sup>57</sup>See PAUL BRADLEY, MANUFACTURED HOUSING PARK COOPERATIVES IN NEW HAMPSHIRE: AN ENTERPRISING SOLUTION TO THE COMPLEX PROBLEMS OF OWNING A HOME ON RENTED LAND, [www.weown.net/ManufacturedHousinginNH.htm](http://www.weown.net/ManufacturedHousinginNH.htm) (last visited Jan. 29, 2007). See also APGAR ET AL., *supra* note 2, at 23.

<sup>58</sup>See West, *supra* note 16, at 40.

<sup>59</sup>Ann M. Norton, President, Housing Preservation Project, Presentation at the Housing Washington Conference (Sept. 11, 2006), available at [www.wshfc.org/conf2006/presentations/M3-2.pdf](http://www.wshfc.org/conf2006/presentations/M3-2.pdf).

for Change work with owners of manufactured homes in Minnesota to preserve manufactured-housing communities at risk of development.<sup>60</sup> Between 2000 and 2006, nineteen manufactured-housing communities closed and displaced about 470 households.<sup>61</sup> The Housing Preservation Project and All Parks Alliance for Change, working with the affected owners of manufactured homes, have preserved two manufactured-housing communities, and their community organizers are developing statewide capacity to help more homeowners achieve this goal. The project and the alliance work in parallel. The Housing Preservation Project takes on needed policy changes and provides legal help, including necessary legal research about the illegality of closing notices and challenges to these illegalities. The All Parks Alliance for Change organizes the homeowners and encourages them to become a voice for the preservation of their lifestyle by educating them about their rights under local and state law, helping them form homeownership associations, and encouraging them to get involved in politics that can affect land-use decisions about the property beneath their homes. The communities that have been preserved benefited from the hard work and tenacity of the homeowners and the staffs of the project and the alliance. In 2006 Minnesota passed a law requiring community owners to notify the Minnesota Housing Finance Agency whenever they issue closing notices, and homeowners have a limited right of first refusal: they can make an offer to purchase a community if the seller owned the property for less than one year.<sup>62</sup>

#### D. Community Land Trust

People of Hope Inc. is developing 17.2 acres close to downtown Athens, Georgia, for a manufactured-housing community, complete with playground and community center, for forty households displaced from closed manufactured-

housing communities. People of Hope adopted a community land-trust model. It has a 99-year ground lease with the Athens Land Trust, which owns the land and whose mission is to provide affordable housing in the area.

Manufactured-housing communities lend themselves well to the community land-trust model. The land trust owns the property, and the homeowners own their homes. If homeowners want to sell their homes, they commit to selling them to other low-income qualified buyers. A formula allows the current owner to get a reasonable return on investment while keeping the purchase price affordable to the buyer, another low-income household.

#### E. Ownership by Cooperatives and Other Entities

Some ten manufactured-housing communities in Washington are owned by local public housing authorities or not-for-profit developers. These entities are committed to maintaining their properties as manufactured-housing communities for the long term. While this model does not give homeowners the degree of autonomy or the responsibilities of cooperative ownership, it does guarantee them security of tenure and some hope of a return on their investment, which may be all that some homeowners desire. At least three manufactured-housing communities in Washington are cooperatively owned by the owners of the manufactured homes in those communities. The most recent community to be owned cooperatively is located in downtown Winslow on Bainbridge Island. The homeowners there were able to afford private financing to purchase their community with help from the city and from local “angels” who provided low-interest loans so that low-income homeowners in the community could purchase their “share” in the cooperative and remain as part of the community.

<sup>60</sup>The Housing Preservation Project is a legal services agency working on affordable housing solutions primarily in Minnesota and New Mexico. All Parks Alliance for Change is a tenants’ organization working to preserve manufactured-housing communities and to ensure better protections for manufactured-housing community tenants through changes in state legislation.

<sup>61</sup>See Norton, *supra* note 59.

<sup>62</sup>MINN. STAT. § 327C.095 (2006).

## F. Other Options

Other options can encourage the long-term viability of manufactured-housing community living. The creation of a mobile home park zone or “overlay” is one such option. An overlay is a set of zoning rules for a specific geographic area and may be imposed prospectively or retrospectively.<sup>63</sup> Land-use policies in most jurisdictions frequently limit zoning available to manufactured homeowners; most often, local zoning does not allow the placement of individual manufactured homes or the development of new manufactured-housing communities in urban areas. Local officials usually cite aesthetic reasons and a fear that the presence of manufactured homes lowers the value of the surrounding site-built homes for restricting manufactured homes in urban neighborhoods.<sup>64</sup> The dearth of new manufactured-home communities puts a premium on spaces in existing communities, and this may encourage community owners to raise rents more than they otherwise might since they know that their tenants have nowhere else to go.<sup>65</sup> Most manufactured-housing communities are situated on land zoned for commercial or multifamily purposes, but the communities are authorized under the local zoning code by an “overlay” of the existing zone of a variance defined by the park boundaries. Some cities already have such overlays in place and are unwilling to approve zone changes when proposed by the community owner, thereby preventing the owner from selling the park’s land for an alternative use. Cities understand that retaining the overlay helps them meet their affordable-housing goals. For cities imposing overlays in the future, the promise of a break in property taxes in return for the imposition of the overlay may be an attractive option for community owners to consider. For instance, most communities are taxed at “highest and best use,” which might be “commercial” or “multifamily residential.” However, if a

“mobile home park” overlay were to be established, these communities would then be taxed at “current use,” giving the community owners a significant break in their property taxes.

Even if a local jurisdiction shied away from the overlay proposal, it might be able to engage the community owner in another long-term solution that would provide security of tenure for the homeowners. For instance, a community owner might be enticed by a property tax break to offer long-term leases (twenty years or more) to the homeowners. Any community owner who reneged on this commitment would be required to pay back the difference between the reduced property tax payment and what would have been paid had the long-term lease commitment not been made.

Ownership of the community by the homeowners themselves, as detailed above, can be another good alternative. While owners of manufactured homes individually may not be able to afford site-built homes and therefore enter the homeownership market as owners of manufactured homes, the aggregate amount that owners of manufactured homes pay in pad rent to community owners could cover the cost of a mortgage should they cooperatively purchase their communities. The New Hampshire experience with the community loan fund described above bears this out. Banks in New Hampshire are more than willing to loan to homeowners’ associations since the banks’ experience over the past twenty years is that not one manufactured-home cooperative in New Hampshire has defaulted on its loan repayments. This is likely because homeowners in this situation understand that failure to pay their pad rents could result in a default on the park’s mortgage.

Another option that local jurisdictions could consider and that housing advocates could foster is to impose a moratorium on the closing and development of manufactured-housing communities until com-

<sup>63</sup>The City of Bothell in Washington has adopted such a policy with regard to manufactured-housing communities, specialized senior housing, and other types of development. Telephone Interview with Stan Kosick, Planner, Community Development Department, City of Bothell, in Seattle, Wash. (Jan 26, 2007).

<sup>64</sup>See APGAR ET AL., *supra* note 2, at 6.

<sup>65</sup>*Id.* at 16.

pleted studies show where the displaced homeowners are to go and how many of them can expect to remain homeowners. Seattle imposed such a moratorium in the early 1990s, and Las Vegas recently imposed an eighteen-month moratorium in response to the closing of thirteen communities in one year, resulting in the displacement of 1,000 residents.<sup>66</sup>

Most community owners are reluctant to accept older manufactured homes into their communities. However, cities might consider offering density bonuses if community owners would agree to accept older manufactured homes when the homeowners are displaced from closing communities.<sup>67</sup>



Owners of manufactured homes have for far too long been ignored, maligned, and left to fend for themselves. Many housing advocates, elected officials, banks, and

other institutions have turned a blind eye to the abuses rampant in manufactured-housing community living and have been unwilling to oppose the unfairness of a situation where a property owner may displace homeowners without regard for their loss of equity, their dearth of alternative housing options, and their complete lack of control over their fate. This must change. Manufactured-housing community living meets the needs of a large segment of the population. It provides affordable homeownership for thousands of low-income families and seniors. It can provide even more in terms of asset building, a sense of community, and an opportunity to live the American dream of homeownership. Around the country, advocates, nonprofit developers, loan fund agencies, and owners of manufactured homes must work together to create better alternatives to preserve these important communities.

<sup>66</sup>Interview with Kristen Cooper, Senior Planner, City of Las Vegas, in San Antonio, Tex. (April 22, 2006).

<sup>67</sup>MUNICIPAL RESEARCH AND SERVICES CENTER OF WASHINGTON, AFFORDABLE HOUSING TECHNIQUES: A PRIMER FOR LOCAL GOVERNMENT OFFICIALS 18 (1992), available at [www.mrsc.org/Publications/textaht.aspx](http://www.mrsc.org/Publications/textaht.aspx).

**These organizations, listed by state, may be willing to work with others to preserve manufactured-housing communities as affordable homeownership options with security of tenure for homeowners:**

**Florida**

C. Martin Lawyer III  
Bay Area Legal Services Inc.  
829 W. Dr. Martin Luther King Jr.  
Blvd., Suite 200  
Tampa, FL 33603-3336  
[mlawyer@bals.org](mailto:mlawyer@bals.org)

**Georgia**

People of Hope Inc.  
2109 W. Broad St.  
Athens, GA 30606  
706.546.5051  
[www.peopleofhope.us](http://www.peopleofhope.us)

**Minnesota**

Housing Preservation Project  
577 Asbury St., Suite 105  
St. Paul, MN 55104  
651.642.0102  
[www.hppinc.org](http://www.hppinc.org)

All People's Alliance for Change  
970 Raymond Ave., Suite 105  
St. Paul, MN 55114  
651.644.5525  
[www.allparksallianceforchange.org](http://www.allparksallianceforchange.org)

Northcountry Cooperative Loan Fund  
219 Main Street SE, Suite 500  
Minneapolis, MN 55414  
612.331.9103  
[www.ncdf.org](http://www.ncdf.org)

**New Hampshire**

New Hampshire Community  
Loan Fund  
7 Wall St.  
Concord, NH 03301  
[www.theloanfund.org](http://www.theloanfund.org)

Manufactured Home Owners &  
Tenants (MOTA)  
PO Box 998  
Concord, NH 03302-0998  
603.224.0408  
[www.mota-nh.org](http://www.mota-nh.org)

**Washington**

Columbia Legal Services  
101 Yesler Way, Suite 300  
Seattle, WA 98104  
206.464.5936  
[www.columbialegal.org](http://www.columbialegal.org)

Low-Income Housing Institute  
Sharon Lee, Director  
2407 First Ave., Suite 200  
Seattle, WA 98101-1311  
206.443.9935  
[www.lihi.org](http://www.lihi.org)

Manufactured Housing Community  
Preservationists  
Doug Hobkirk, Executive Director  
PO Box 22167  
Seattle, WA 98122-0167  
206.324.0063

Common Ground  
Lynn Davison, Director  
401 Second Ave., Suite 500  
Seattle, WA 98104  
206.461.4500  
[www.commongroundwa.org](http://www.commongroundwa.org)

Kulshan Community Land Trust  
Paul Schissler, Executive Director  
215 W. Holly St., Suite H-20  
Bellingham, WA 98225  
360.671.5600  
[paulschissler@kclt.org](mailto:paulschissler@kclt.org)  
[www.kclt.org](http://www.kclt.org)

Save Our Seniors' (SOS) Homes  
c/o Kylin Parks  
4515 176th St. SW #43  
Lynnwood, WA 98037  
425.745.6837  
[kylinparks@yahoo.com](mailto:kylinparks@yahoo.com)

Mobile Home Tenants Association  
c/o Robert Case  
5808 79th St. E. #73  
Puyallup, WA 98371-8325  
253.840.4194

Mobile Home Owners of America  
33421 Kitsap Way, Suite H  
Bremerton, WA 98337  
877.377.4004

**Other Organizations**

CFED-I'M HOME (Innovations in  
Manufactured Homes)  
[www.cfed.org](http://www.cfed.org)

NeighborWorks  
1325 G Street NW, Suite 800  
Washington, DC 20005  
202.220.2300  
[www.nw.org](http://www.nw.org)

National Consumer Law Center  
77 Summer Street, 10th Floor  
Boston, MA 02110  
[www.consumerlaw.org](http://www.consumerlaw.org)

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