

# Manufactured Housing in Pennsylvania

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# Disclaimer

- This presentation only provides general information. Please consult an attorney for legal advice.

# Agenda

- About RHLS
- Introduction to Manufactured Homes
- Legal Framework – Manufactured Homes in PA
- Other Resources



# RHLS

Regional Housing Legal Services is a non-profit law firm with unique expertise in affordable, sustainable housing and its related components — community and economic development, utility matters and preservation of home ownership. RHLS provides innovative project and policy solutions that help create sustainable communities offering decent, safe and affordable housing for lower-income Pennsylvanians.



# RHLS Focus Areas

- Development & preservation of affordable housing
- PA Housing Law Project
- PA Utility Law Project (PULP)
- HEMAP Help Center
- Public Policy Initiatives
- Resident Protection Project
  - inform MH residents of their rights, how to protect them
  - help them purchase their communities
  - work with PLAN regional programs toward these ends

# Intro. To Manufactured Homes

- What is a Manufactured Home?
- Where are Manufactured Homes?
- Who lives in Manufactured Homes?
- Vulnerabilities of Manufactured Home Owners

# Manufactured Home Defined

## A Trailer Park:



# Manufactured Homes Are Not Mobile

“Manufactured Home” is the official term for a home built according to 1976 HUD code. But many people still use “mobile home”, even though they are not mobile:

- In Pennsylvania, nearly 55% have never been moved
- More than 20% have not been moved in over 10 years
- Mobility is not a factor for people who choose this housing
- A manuf. home is a long-term housing choice for most residents



# Where are Manufactured Homes Located?

- Manufactured homes are mainly in rural areas of the state, where they are ~ 11% of the housing stock.
- Manufactured homes make up less than 5% of the housing stock in Pennsylvania as a whole.
- 52% of manuf. homes in rural areas on leased land
- 31% are in manufactured home communities
- Manufactured housing “will continue to be an important source of affordable housing in rural areas.”
- Siting problems--many in Pa. are in flood plain

# Who Lives in Manufactured Homes? by Age

- 69% are age 50 or older
  - 26% are in their 50s
  - 21% are in their 60s
  - 17% are in their 40s
  - 14% are in their 70s
  - 11% are in their 30s
  - 8% are in their 80s
  - 4% are in their 20s

# Who Lives in Manufactured Homes? by Income

- ~ 80% have incomes under \$50,000/year
- ~ 65% have incomes under \$40,000/year
- Details
  - 8% more than \$75k
  - 14% - \$50k-75k
  - 15% - \$40k - \$49,999
  - 18% - \$30k - \$39,999
  - 19% - \$20k - \$29,999
  - 19% - \$10k - \$19,999
  - 8% - less than \$10k

# Who Lives in Manufactured Homes?

- There are ~ 1,800 MH communities in PA
- Most MH households consist of 2 adults
- More than 95% of residents are white
- 89% “very” or “somewhat” satisfied w/their housing
- Dislikes—home value depreciates, land insecurity, resident rights subject to community owner rules
- Rent “less on average” than site-built housing
- But 1/3 of residents have debt on their dwelling, in addition to rent and utilities
- Bottom line - cheaper than stick built?

# Titling of Manufactured Housing

- Manufactured homes are titled as vehicles—they are considered personal property, not real property
- If a home is permanently situated on land owned by the homeowner, the title can be cancelled
- Status as personal property has an adverse effect on financing and interest rates, as well as resale value
- Some MH lenders “specialize in subprime lending”

# Taxation of Manufactured Housing

Despite being titled as vehicles, homes are often taxed as real estate.

Combined with disadvantages of titling as a vehicle, many MH owners feel they get worst of both worlds in this regard.

# Vulnerability of Homeowners in MH Communities

- MH homeowners face “unique vulnerabilities” due to
  - having their homes on land owned by others
  - the status of their homes as personal property
  - social stigmas—income, education, home values
  - siting issues – flood plain
  - Unregulated rent increases - amount
  - Unfair rules or management practices
  - Underinvestment in infrastructure (water, roads, utilities)
  - Community sale or closure—forced relocation, loss of equity, expense of moving home, loss of home

# Legal Framework

- Landlord-Tenant Act - *68 P.S. § 250.101 et seq.*
  - Establishes proper eviction notice and procedure
  - Protects right to organize—“tenant organization”
  - Protects right to have social and business visitors
  - Sets community owner duties—common areas, facilities
- Manufactured Home Community Rights Act
  - Limits legal grounds for eviction—good cause
  - Establishes resident rights
  - Limits community rules
  - Requires disclosure of some information to some residents
  - *68 P.S. § 398.1 et seq.*



# MHCRA Definitions and Applicability

- “Manufactured home community” is a site on which there are 3 or more manuf. home dwellings
- “Resident”-a person who owns and lives in his manufactured home but rents the land
- “Lessee”-a person who owns the home and rents a space —the responsible party for performance
- The MHCRA does not apply to a person who merely rents a manuf. home in a MH community

# Why the MHCRA?

- Community owners generally have “far greater bargaining power” than homeowners
  - *Staley v. Bouril*, 718 A.2d 283 (Pa. 1998)
- Homeowners need “special protections” against
  - arbitrary evictions
  - unfair rules and regulations
  - retaliation
  - *Malvern Courts v. Stephens*, 419 A.2d 21 (Pa. Super. 1980)

# Evictions - Grounds

A MH community owner may evict a resident or not renew the lease only for one of the following reasons:

- Non-payment of rent
- A second or subsequent violation of community rules within a 6-month period
- Change in use of the community or part of it
- Termination of the community or part of it

# The End of the Lease Term is Not a Ground for Eviction

- Commtty. owner can't recover space at end of term if resident:
  - is complying with the rules of the community
  - is paying the rent due
  - desires to continue living in the community
- The only basis for recovery of a space shall be:
  - legal eviction under § 3 of the MHCRA, 68 P.S. § 398.3
  - if owner and resident mutually agree in writing to end lease
  - resident doesn't want to stay and tells owner in writing
  - *Cole v. Czegan*, 722 A.2d 686 (Pa. Super. 1998) (noting important non-retroactive statutory changes)

# Eviction Procedure – General

*68 P.S. § 398.3(b)*

- Prior to the commencement of any eviction proceeding, the community owner shall give the homeowner a written notice
- Notice must describe “particular breach or violation”
- Notice must be served by certified or regis. mail
- Notice is a warning or opportunity to cure
- If no cure or continued violation of rules, then eviction “only . . . in accordance with the . . . procedure” set out in the MHCRA
- Statute prohibits self-help eviction

# Eviction Procedure in case of Non-payment of Rent

- Pre-suit notice that eviction may occur if rent not paid
  - within 20 days from service, April 1 – Aug. 31
  - within 30 days of service, Sept. 1 – March 31
  - or, if there is an additional instance of nonpayment within six (6) months of giving the notice
- Notice to quit if rent remains unpaid after 1<sup>st</sup> notice
  - within 15 days from service, April 1 – Aug. 31
  - within 30 days of service, Sept. 1 – March 31
  - service—personal, posting, leaving at principal building

# Eviction Procedure for Violation of Community Rules

- Notice of rule violation
- Service - certified or registered mail
- Content - notice shall describe the particular violation
- No eviction may be commenced or lease terminated or refusal to renew lease, unless
  - notice of violation has been properly given, and
  - homeowner has again violated the community rules within six (6) months of the first notice

# Eviction Procedure for Violation of Community Rules (cont.)

- Eviction must be started w/in 60 days of last violation
- Owner must also give NTQ before starting eviction
  - 30-day notice for leases of less than one year or indeterminate time
  - 3-month notice for leases of one year or longer
- Question: must 2<sup>nd</sup> violation be of same rule as 1<sup>st</sup>?
- Question: must first notice warn about effect of a second rule violation that occurs within 6 months?
- Question: is refusal to sign a new lease a ground for eviction where resident pays rent and obeys rules?



# Both Notice of Rule Violation or Unpaid Rent and Notice to Quit Are Required.

- Notice of unpaid rent gives opportunity to cure
- Notice of rule violation is warning not to violate a 2<sup>nd</sup> time
- Both of these MHCRA notices are conditional
- A conditional notice cannot terminate a leasehold interest—*Brown v. Brown*, 64 A. 2d 506 (Pa. 1949)
- Notice periods in L-T Act and MHCRA conflict. They must be construed to give effect to both, *1 Pa. C.S. §1933*
- Notice under L-T Act is an unconditional notice of intent to sue because of continuing or further violation
- No waivers – MHCRA §398.12 – No party's rights may be waived by any provisions of a written or oral agreement

# Improper Service of Notice of Rule Violation is a Defense to Eviction

*Malvern Courts, Inc. v. Stephens*, 419 A.2d 21 (Pa. Super. 1980)

- Importance of preventing arbitrary evictions
- Statutory method of giving notice is exclusive
- Reasons for strict notice method of eviction
  - determine if reason for eviction is valid
  - time to cure default or avoid further rule violation
  - fix the 6-month period for 2nd rule violation
- “absent literal compliance with mandatory provisions of this act, no eviction proceedings may be commenced.”
- Improper service of NTQ under 68 P.S. § 250.501 may be defense to eviction – *Pakyz v. Weiser (C.P. Adams)*

# Other Defenses to Eviction

## *Unequal enforcement of rules*

A lessee “shall not be evicted nor shall the community owner terminate or refuse to renew the lease when there is proof that the rules the lessee is accused of violating are not enforced with respect to the other manufactured home lessees...”

Rules must be “uniformly applied to all. . . lessees or prospective. . .occupants of the same or similar category.”

# Other Defenses to Eviction

## *Unfair or Unreasonable Rules*

- Community owner can establish rules
  - at any time
  - they must be fair and reasonable
  - related to health, safety, upkeep of community
- Provided that, the rules are
  - not arbitrary or capricious
  - included in the written lease
  - delivered to existing lessees
  - given to new lessees before acceptance of deposit/rent
  - posted in the community in conspicuous and readily accessible place
- Question: effect of improper/no posting?
- Question: how to challenge improper rules?

# Retaliatory Eviction Prohibited

- Action by community owner to
  - recover possession from lessee or change lease
  - Within 6 months of lessee's assertion of rights under MHCRA
- Shall raise a rebuttable presumption that the Owner's action is retaliatory and unlawful

# Drugs

- Article V-A of L-T Act provides for eviction for illegal drug violations
- *Questions*: Is this basis for eviction excluded because of MHCRA's list of legal grounds for eviction?
- Is MH resident a “tenant” under Expedited Eviction of Drug Traffickers Act, 35 P.S. §780-151 et seq.?
- §3 eviction: “only for one of the following reasons”
- Drugs not listed - *expresio unius, exclusio alterius*
- MHCRA enacted last in time - 1 Pa. C.S. § 1936

# Implied Warranty of Habitability

*Staley v. Bouril*, 718 A.2d 283 (Pa. 1998)

- There is a limited implied warranty of habitability (IWH) for MH residents leasing spaces in a MH community
- The IWH exist to the extent that the community owner provides utilities or other housing services
- IWH and Resident oblig. to pay rent are mutually dependent
- Material breach by one relieves other's obligations
- Resident must give notice of defect to Owner/Operator
- Owner has reasonable time to cure—nature of problem
- “Far greater bargaining power” of Owner recognized
- Remedies—repair & deduct, withhold rent, rent abatement, terminate lease—*Pugh v. Holmes*
- Intentional infliction of emotional distress may apply in IWH case—*Fair v. Negley*, 390 A.2d 240 (Pa. 1978)

# Limit on Frequency of Rent Increases

- Only once every 12 months
- But no limit on amount of rent increase
- Homeowner must either accept increase or move home from community or sell home to another person
- Some “rent justification” bills have been introduced



# New, renewed or extended lease which increases rent or other payables

- Community owner must give 60 days' notice of intent to offer such a lease
- Resident then has 30 days to either accept new lease or notify owner of intent to vacate w/in 30 days
- Resident who “chooses not to enter into” new lease “shall have 60 days from date of notification of intent to vacate. . .to enter into contract to sell or to relocate the manufactured home.”

# MHCRA – Disclosures

- Written disclosure required, prior to signing lease, of
  - all rent and other charges payable to owner, and
  - notice of utility charges for which resident is responsible
- Failure to disclose makes charges “void and unenforceable”
- Fee increases are unenforceable until 30 days after notice of increase is posted
- Rental agreement voidable if disclosure not given to 1<sup>st</sup> time lessee prior to execution of agreement or prior to initial occupancy, during 1<sup>st</sup> year of occupancy, until 5 calendar days after disclosure given

# MHCRA – More Disclosures

- More extensive disclosures are required for leases which are for more than a 60-day period, including:
  - manner in which lot rent will be increased
  - factors that may affect amount of lot rent
  - rent history for the past 3 years
  - history of utility payments to owner for previous 12 months
- But default lease term is 30 days
- Current efforts to amend the MHCRA, but...
- “Calculation of rent history shall be posted” in public, conspicuous, readily accessible place, in same place as all other rules and regulations
- *Question*: does “calculation of rent history” = “rent history”?

# MHCRA – Other Important Rights

- Right to sell one's home in place, subject to reasonable approval of new resident by owner
- No exit/entrance fees, appliance installation or removal fees, unless there are actual costs
- Written lease required – 30-day is default, unless otherwise agreed

# Right to social and business visitors, purchase goods and services

- Manufactured home community is a “multiple dwelling premise” – *68 PS § 250.501-A(3)*
- MDP tenants have the right (*68 P.S. § 250.504-A*) to
  - have social guests and visitors—for reasonable period
  - invite bus. visitors, tradesmen, suppliers of goods/services
  - buy goods/services from source of resident’s choosing
- Community owner may not charge fee or additional rent –*68 P.S. § 398.10, 68 P.S. § 250.504-A.*
- “These rights may not be waived”-*68 P.S. § 250.504-A*

# Tenant Organizations

- A lease cannot be terminated or not renewed because of participation by tenant or member of the tenant's family in a "tenant organization." *68 P.S. §250.205*
- A "tenant organization" is a group of tenants organized for any purpose directly related to their rights or duties. *68 P.S. § 250.102*
- *Mid-Island Properties, Inc. v. Manis*, 570 A.2d 1070 (Pa. Super. 1990) (tenant who individually seeks to induce or deter action by his or her landlord is not protected by the statute)

# No Waiver of Rights or Duties

- Rights and duties of manuf. home community owners, operators, and residents may not be waived by any provisions of a written or oral agreement.
- “Any such agreement attempting to limit those rights shall be void and unenforceable.”
- In spite of this, many MH leases contains waivers of rights, e.g., notice to quit, right to sell home in place
- Question: What are a tenant’s options when a lease contains unlawful provisions?

# Prohibition Against Retaliation for Assertion of Rights

- Any action to recover possession or change the lease
- Within 6 months of a resident's assertion of rights
  - under the MHCRA
  - or any other legal right
- Shall raise a presumption
- That such action is a retaliatory and unlawful eviction
- And is in violation of the MHCRA
- The presumption is rebuttable by competent evidence



# Rights under the Pennsylvania Constitution

- Right of free communication of thoughts and opinions – Every citizen may freely speak, write, and print on any subject – *Article I, sec. 7*
- Right of citizens to peaceably assemble for their common good, and to apply to those invested with the powers of government for redress of grievances or other proper purposes, by petition, address or remonstrance – *Article I, sec. 20*
- Inherent rights of mankind – *Article I, sec. 1*
- Question—Do these rights apply as against private parties as well as the government? Are MH communities equivalent to a company town, as in *Marsh v. Alabama*, 326 U.S. 501 (1946)?

# Enforcement of the MHCRA

- Pa. Attorney General and District Attorneys have the power to bring actions to restrain acts prohibited by the MHCRA, where that would be in the public interest—discretionary
- AG “shall have the power and *it shall be his duty* to enforce the provisions of this act...” - discretionary?
- Private right of action for damages
  - for community owner, operator, or lessee
  - aggrieved by a violation of their MHCRA rights

# Other Laws May Also Apply

- DEP and environmental regulations may apply to water treatment and sewage/septic systems
- Some townships have codes that apply specifically to manufactured home communities
- Other townships have general codes that apply to MH communities, e.g., private roads code

# Current Initiatives

- Opportunity-to-Purchase legislation
  - when community going to close or be sold
  - example of New Hampshire and other states
  - ROC-USA – funding
  - PathStone – technical assistance provider
  - PHFA demonstration project/grant—pre-development funds
- More specific tenant rights to speak, organize
- Rent justification
- Statewide manuf. homeowners association

# Resources

- National Consumer Law Center  
<http://www.nclc.org/issues/manufactured-housing.html>
- CFED - I'M HOME  
[http://cfed.org/programs/manufactured\\_housing\\_initiative/im\\_home/](http://cfed.org/programs/manufactured_housing_initiative/im_home/)
- Manufactured Home Owners Assn. of America  
<http://www.mhoaa.us/>
- “Home Sweet Mobile Home? Benefits and Challenges of Mobile Home Ownership in Rural Pennsylvania,” Aman and Yarnal, *Applied Geography* 30 (2010)
- “An Examination of Mobile Homes in Rural Pennsylvania,” Center for Rural Pennsylvania, Aman and Yarnal  
[http://www.rural.palegislature.us/Mobile\\_Homes09.pdf](http://www.rural.palegislature.us/Mobile_Homes09.pdf)

# Questions?

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