OVERCOMING PUBLIC POLICY OBSTACLES TO MANUFACTURED HOMES AS AFFORDABLE HOUSING

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Goal: manufactured home as
- Stable form of affordable housing
- Asset for families

Three obstacles
- Policies that allow park land to be sold out from under the residents
- Lack of lease security for park residents
- Policies that impede treatment and financing of the home as real estate

Materials at www.nclc.org

Sale of park land
- When a park closes
  - Hundreds of residents risk loss of asset
  - Hundreds of residents need housing
- Policies that give residents the opportunity to purchase the park reduce these problems

Only twelve states have policies in place
- Cal.
- Conn.
- Fla.
- Maine
- Mass.
- Minn.
- Nev.
- New Hampshire
- New Jersey
- Oregon
- Rhode Island
- Vermont
[Washington statute was held unconstitutional]
Three types of laws
- Notice & right of first refusal
- Notice only
- Tax incentive

Who gets notice? Laws vary -
- All residents
- Existing resident association only (and it may have to jump through hoops)
- State agency

Broadest notice possible, plus notice to state agency, are most desirable.

What triggers notice? Laws vary -
- Intent to discontinue use or sell it for different use
- Any sale
- Listing

The simpler and more inclusive the better.

Content of notice
- Some states don’t specify
- Some require details about existing offer and about the park

Residents’ rights upon notice
- Notice only - Cal., Maine, Nev. (but includes duty to compensate residents forced to move)
- Consider residents’ offer & negotiate in good faith - NH, Oregon, VT

How much time after notice for residents to act
- 45 days most common to make offer or express intent to purchase
- Typically 90-135 more days to close

Important that time frames be workable.
Tax incentive laws
- Vermont gives 7% capital gains tax credit to owner if park is sold to residents or to a non-profit organization
- Oregon has similar provision

Constitutional issues
- Does denying owner free choice in sale amount to a taking of owner's property without just compensation?
  - This challenge is unlikely to succeed, although courts have gone both ways.
- Does right of first refusal law take property for private use?
  - Unlikely under U.S. Constitution, but state constitutions may differ.

AARP Model Law § 113
- NCLC project
  - Analyze options, alternatives
  - State-by-state analysis of best approach
  - Help advocates get, defend, and improve policies

Citations – notice/right of first refusal laws
- Cal. Civil Code § 798.80
- Conn. Gen. Stat. § 21-70
- Mass. Gen. Laws Ch. 140 § 32R
- Minn. Stat. §§ 327C.095, .096
- Or. Rev. Stat. §§ 90.760, .810
- R.I. Gen. Laws § 31-44-3.1
- Wash. Rev. Code § 59.23.025

Lease protections
- Lack of lease protections affects right of first refusal, ability to get other protections
- Residents fearful of retaliation
- AARP Model Law

Lease protections
- Most states allow month-to-month leases
  - About a third require one-year leases
  - A few require longer leases
  - About a quarter require automatic renewal
- About a third of states allow eviction at park owner’s discretion (no good cause requirement)