

Protecting Fundamental Freedoms in Communities

OVERVIEW

Manufactured homes represent a pathway to affordable homeownership for millions of Americans, but their ability to be an investment or wealth-building vehicle remains tenuous in many states. Whether a manufactured home is a real asset for a family depends in large part on land tenure security. In some states, if the home is located on rented ground – in a manufactured home community (or “mobile home park”), for example – the homeowner can be evicted from the community at the community owner’s whim.

The precarious status of a manufactured home on rented land can turn it into a financial disaster instead of an asset. Manufactured home community sites are scarce in many areas, so a homeowner who is evicted from the community may not be able to find a new site for the home. Even if sites are available, the home may be too old to meet minimum requirements of a new community or may be damaged in transit, which could force the homeowner to abandon it altogether.

Resident ownership of communities is one of the most effective strategies for helping low-income homeowners build assets. Land tenure security is essential if residents of manufactured home communities are to have the opportunity to buy their communities. In order to pursue resident ownership, residents must be free to meet, to go door-to-door within the community, to form homeowner associations and to advocate for policies that promote resident ownership, without fearing eviction or other retaliation for these activities.

WHAT STATES CAN DO

The rules governing manufactured housing communities – leases, the rights of community owners and homeowners, eviction law, remedies – are the prerogative of the states. States can protect the residents’ freedom of association and freedom of speech, prohibit retaliation, require good cause for eviction and prohibit arbitrary restrictions on the homeowner’s sale of the home.

ELEMENTS OF A STRONG POLICY

Four key policies are needed to give residents stable land tenure and ensure that they can form resident associations and advocate for resident purchase opportunities, including:

- Freedom of Association and Freedom of Speech
- Freedom from Retaliation
- Freedom from Eviction without Good Cause
- Protection of the Right to Sell the Home in Place

It is a common saying that a right without a remedy is no right at all. To be effective, any law protecting these rights should carry meaningful penalties and be enforceable by affected residents.

Freedom of Association and Freedom of Speech. States seeking to promote resident ownership should guarantee residents the right to form, operate and participate in resident associations. Strong policies prohibit harassment, interference and other unfair tactics toward resident associations and require the community owner to make community facilities available for resident meetings on the same basis as other events. Strong policies also allow residents and others to distribute leaflet or canvass peacefully in the community, subject to reasonable rules as to time, place and manner.

Freedom from Retaliation. States seeking to promote resident ownership should prohibit retaliation – whether by way of eviction, rent increases, reduction of services or selective enforcement of rules – against residents for exercising the right to join a resident association, making complaints about conditions in the community, engaging in political activity or exercising other similar rights. Because a community owner’s intent is always hard to prove, a strong law should create a presumption that, in the absence of evidence to the contrary, an eviction filed within a certain period of time, such as six months, after the resident exercised one of the protected rights is in retaliation for the exercise of that right.

Freedom from Eviction without Good Cause. States seeking to promote resident ownership should prohibit termination or nonrenewal of the lease except for good cause such as nonpayment of rent, rule violations, disorderly conduct, or criminal activity. A strong policy should require the community owner to give the resident fair notice of the problem and, where appropriate, an opportunity to correct it. There should be a special, longer notice period if the community is being closed because of a change in use of the land.

A strong policy should state that eviction is allowed only by a court procedure. It is also helpful if the law requires the community owner to offer a lease of at least a certain length, such as two years, and to renew the lease unless there is good cause.

Protection of the Right to Sell the Home in Place. An asset that cannot be sold is not an asset. If the community owner can arbitrarily deny a potential buyer of a resident’s home the right to keep the home in the community, it will be very difficult for the resident to sell the home. States seeking to promote asset building for low-income homeowners should prohibit community owners from interfering with residents who are trying to sell their homes and should prohibit arbitrary denial of a potential buyer’s right to keep the home in the community.

WHAT STATES HAVE DONE

Eighteen states have laws or regulations that specifically protect the right of manufactured home community residents to form resident associations. Many of these laws also specifically protect the right to canvass and pass out leaflets within the community, invite public officials or other speakers to address the group and use community facilities for meetings.

Twenty-eight states have laws that prohibit retaliation against manufactured housing community residents because of involvement with a resident association. In addition, 10 states have provisions in their general landlord-tenant laws, probably applicable to manufactured housing community residents, that prohibit retaliation because of involvement with a resident association. Four additional states have general landlord-tenant statutes that prohibit retaliation, but only for complaining about conditions. In the remaining states there appear to be no statutory protections against retaliation that apply either to manufactured home community residents or to tenants in general. Even in the states that have antiretaliation laws, the laws vary in their strength and comprehensiveness.

Thirty-three states have some statutory provision regarding grounds for eviction of a resident from a manufactured housing community. Some are full-fledged good cause statutes, prohibiting the community owner from terminating the lease or refusing to renew it except for good cause such as failure to pay rent or violation of community rules. Many, however, have significant loopholes. For example, some good cause statutes cover termination of a lease, but do not address nonrenewal.

Thirty states have some statutory provision prohibiting community owners from arbitrarily denying a resident the right to sell the home on-site.

ABOUT I’M HOME

I’M HOME, or Innovations in Manufactured Homes, is an initiative of CFED, a national nonprofit organization dedicated to expanding economic opportunities for all Americans. The I’M HOME network includes nonprofit and for-profit, national and local partners who together work toward ensuring that all homeowners, regardless of whether their home is manufactured or site-built, enjoy the same rights and privileges of homeownership, including asset-building opportunities. For more information about I’M HOME, please visit www.cfed.org/go/imhome.

ABOUT THE NATIONAL CONSUMER LAW CENTER

The National Consumer Law Center (NCLC) is the nation’s consumer law expert, helping consumers, their advocates and public policymakers use powerful and complex consumer laws on behalf of low-income and vulnerable Americans seeking economic justice. NCLC is the leading consumer legal advocate promoting legal protections for owners of manufactured homes. For more information about NCLC please visit www.consumerlaw.org.