

Kimball, Tirey & St. John LLP

Frequently Asked Questions About Mobilehome Park Management and Evictions

How do you refer to tenants or other persons in mobilehome parks? Are there any special terms mobilehome parks should be aware of?

Yes! Under the Mobilehome Residency Law (“MRL”), there are homeowners, residents and unauthorized occupants and the distinction between each is important. A homeowner is a person who has a tenancy in a mobilehome park under a rental agreement - these are the individuals who signed the lease with the park. A resident is a homeowner or other person who lawfully occupies a mobilehome. An unauthorized occupant is a person occupying a mobilehome without rights of tenancy and who is not otherwise entitled to occupy the mobilehome.

Why is this distinction important?

This distinction matters most when a park must determine what steps must be taken before the park can reclaim possession of a homesite.

Why is it important to have an updated title search in the file for a mobilehome before terminating a tenancy?

Typically, a mobilehome park requires a homeowner to provide a title search from the California Department of Housing and Community Development (HCD) prior to taking possession of a homesite. However, management can obtain an updated title search from the HCD website at any time and the park should obtain a recent title search before terminating a tenancy as the title search will advise the park who the legal and/or registered owners of the mobilehome are.

How can you, as a park owner, or management company terminate a homeowner’s tenancy?

Civil 798.56 of the MRL provides seven reasons ways to terminate a tenancy in a mobilehome park:

- (a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.
- (b) Conduct by the homeowner or resident, that constitutes a substantial annoyance to other homeowners or residents.
- (c) Conviction of the homeowner or resident for prostitution, for a violation of subdivision (d) of Section 243, paragraph (2) of subdivision (a), or subdivision (b), of Section 245, Section 288, or Section 451, of the Penal Code.
- (d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.
- (e) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy.

- (f) Condemnation of the park.
- (g) Change of use of the park or any portion thereof.

What types of notices are used to terminate a mobilehome tenancy?

- 3-day pay or quit and 60-day
- 0-day rules violations
- 60-day substantial annoyance

All notices must be in writing.

What are some common mistakes on notices that the park should be aware of before serving a notice of termination of tenancy on a homeowner?

- Not listing all the homeowners on the notice.
- Overstating rent (e.g., including late charges).
- Not accurately stating the address, including the space number and the zip code.
- Stating facts that are too vague or too conclusory.
- Citing to the wrong version of the park rules and regulations.

What happens if a homeowner continuously violates the rules and regulations of the park?

The MRL states “no act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days” (Civil Code 798.56(d), thus ostensibly permitting the park to proceed to a 60-day notice after just one 7-day notice, but it is our recommendation that the park serve at least two to three 7-day notices on a homeowner for rule violation before terminating a tenancy.

What constitutes substantial annoyance?

Unfortunately, the Civil Code does not define substantial annoyance. **However, many parks choose to define what behaviors constitute “substantial annoyance” in the lease agreement or the rules and regulations and cite back to those definitions in notices terminating tenancies.**

What if someone other than the homeowner is committing substantially annoying conduct in the park?

The MRL does not prevent the park from holding homeowners responsible for the conduct of their guests or other occupants. But, in practice, we have found that courts are hesitant to evict a homeowner based on another’s conduct unless (1) the conduct is so egregious that it is danger to the homeowner, management, or other homeowners in the park; or (2) that there is some wrongdoing that can be attributed to the homeowner.

Should the park accept rent payments from a homeowner during the 60-day notice period?

The MRL states the homeowner is responsible for the rent during this period. However, some courts have deemed acceptance of the rent a waiver of the 60-day notice. As a result, we recommend that you do not accept rent during the 60-day period.

What happens to the homesite and mobilehome when the 60-day notice period expires?

Under the MRL, management must provide homeowners with no less than 60-days’ notice of termination of their tenancy (as detailed above). However, a homeowner may choose to either remove the mobilehome from the park or sell the mobilehome within that 60-day period. If upon

expiration of the 60-day period, the homeowner has failed to either remove or sell the mobilehome, management may proceed with an eviction to obtain possession of the homesite.

How does the park get possession of the homesite?

This is a multistep process which typically requires a case-by-case analysis, but for the most part, the following must be completed:

1. File an unlawful detainer Complaint.
2. Obtain a judgment (either by trial, default, or stipulation).
3. Obtain a Writ.
4. Have the sheriff complete the lockout
5. Conduct a warehouse lien sale.

If the mobilehome is occupied, but there is substantial rental arrears due, can the park proceed with a warehouse lien sale instead of an eviction?

No. Management can only proceed with a warehouse or warehouseman's lien sale on a mobilehome either after the date of judgment in an unlawful detainer (eviction) action or after the mobilehome is vacant. Proceeding with a warehouse lien while the home is occupied and/or without an unlawful detainer judgment could constitute self-help and result in liability.

Can a bankruptcy filing affect or delay an eviction?

Yes, but typically only for a short period of time. A bankruptcy filing requires that we immediately cease any state court action including evictions, until and unless we receive specific permission from the bankruptcy court to continue with the process. This is accomplished by filing a Motion for Relief of the Automatic Stay. Depending on the court, it can take several weeks for the bankruptcy judge to sign the order. Note, a bankruptcy could also delay a scheduled lockout (if eviction judgment has already been obtained) and/or enforcement of a warehouse lien.

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