

Chapter 19

Mobile Homes

Legal Tactics: Tenants' Rights in Massachusetts
Seventh Edition, July 2008

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Mobile Homes

by Peter Benjamin

Italicized words are in the Glossary

If you are a tenant in a mobile home park, you have important legal rights under Massachusetts law.¹ In some cases, your rights, as well as your responsibilities, are very different from those of other tenants. The reason for this is very practical: while other tenants rent their homes, mobile home park tenants own their homes and rent the land under the homes. This makes the relationship of a mobile home tenant to the mobile home park and its owner different from other landlord and tenant relationships.

The purpose of this chapter is to give you an overview of the legal tools that help park tenants protect their right to a decent place to live. Experience has taught park tenants that one very important tool they have is working with other park tenants to resolve problems. More often than not, if there is a problem with the park or its owner, it is likely that more than one park resident is having a problem.

Key Terms to Know

Most mobile home tenants think of their homes in just that way—as mobile homes. The law, however, uses the term "manufactured home" when describing the rights of mobile home tenants. The purpose of using the more technical term is to extend the protection of the law to people who live in any pre-fabricated home built on a chassis at a factory and transported from there to a permanent site. Other homes covered by the mobile home laws are commonly known as pull-outs, double-wides, and pre-fabricated homes.² In this chapter, we use the term "mobile home." Just remember that the law applies whenever a manufactured home is involved. Other important terms include:

Mobile Home Community:

A mobile home park; any piece of land on which there are three or more occupied mobile homes.

Mobile Home Site:

A mobile home lot or a mobile home space. Rent control laws often use the term mobile home park accommodation to describe a mobile home lot.

Mobile Home Park Owner:

The person, corporation, partnership or other business entity that owns your park.

Buying and Selling a Mobile Home

1. Buying

A landlord who is also a mobile home dealer usually cannot restrict your choice of whom you buy your home from. However, the law protects the landlord in one important way: the landlord can restrict your choice of dealer only if the lot on which the home is to be placed is being leased for the first time.³ This should apply only to new or expanded parks. In practice, this exception to the rule should apply only to new parks.

A landlord of a mobile home park cannot make you pay a fee, charge, or commission when you buy a home from another resident located in the owner's park. However, the landlord can agree with the seller to act as the seller's agent for a fee not to exceed 10% of the sale price.⁴ In such cases, the fee is paid by the seller, and not by the buyer.

2. Selling

If you plan to sell your mobile home, you have the right to do so without interference by the park owner.⁵ Among other things, you have the right to sell the home on the lot, to use "for sale" signs, and to choose your own broker. As long as your prospective buyer meets current, enforceable rules of the park, and has the financial ability to pay the rent, the owner must allow him or her to reside in the park.

The owner may have a right of first refusal, i.e., the right to buy the home by matching an offer by your prospective purchaser. But this right does not exist unless you have freely given it to the owner. The owner cannot give it to herself by park rule. Even if the owner has a right of first refusal, there are limitations on how it may be used (including the fact that it does not apply if you are transferring the home to a family member).⁶

Becoming a Mobile Home Park Tenant

1. Moving In

Mobile home park tenants in Massachusetts have a number of very important rights before moving into a mobile home park. Normally, a landlord cannot refuse to rent a lot to you if you meet the current rules of her park.⁷ This rule applies whether you are buying a mobile home that is already located in a park or if you are bringing in your own home from another park, and even if you want to move your home from one site to another in the same park.

When you move in, the landlord must offer you, as an option, a five-year lease at fair market rental rates.⁸ If you plan to remain at least that long, this option may be preferable to a shorter term, because it offers predictability in your rent.

Before you decide to purchase a mobile home and rent a lot in a particular park, the park owner must also inform you about all of the terms of

your *tenancy* and the rules of the park. At a minimum, the park owner must inform you about:

- The total amount of rent.
- All extra charges or fees, which can include a local mobile home tax of \$6 to \$12 monthly⁹ and charges for fuel, goods like mobile home parts, or services that are part of your rental agreement.¹⁰
- The names and addresses of all owners of the park.
- The rules and regulations governing the use of the lot and park.
- Certain changes in her plans for the park. If an owner has discontinued or plans to discontinue use of the park as a mobile home community, she must give you written notice that a change is planned or has taken place.¹¹
- Your rights as a tenant. The park owner must give you a special written notice under the heading "Important Notice Required by Law." This notice must inform you of your rights and be in the exact language contained in the law.

The park owner must give you all of this information within a reasonable time before you rent the lot.¹² This information must also be in writing and be signed by both you and the park owner.

a. Long Term Stability of the Park

While you are considering whether to move into a particular park, there is information that may give you some clues about the park's long-term stability. Here are some things to check out:

- Whether the town or city in which the park is located has a local mobile home rent control ordinance. If it does, you should read the section in this chapter called **Rent Control** to find out how your rent is protected.

- Whether the town or city requires park owners to get permission to sell or close a park. For more about park closings, see the section in this chapter called **Park Closings and Sales**.

2. Park Rules

Many of your rights as a park tenant will be determined by your mobile home park's rules and regulations.¹³ Since the landlord is the person who writes the rules, every park will have different rules. However, landlords do not have free rein regarding park rules.

The Massachusetts Attorney General has issued regulations governing mobile home parks.¹⁴ These regulations further define what a landlord may or may not include in rules. Park rules must be submitted to the Attorney General for review at least 60 days before they are put into effect.¹⁵ The park owner must give you a copy of her rules, in writing, before you begin your tenancy.¹⁶ The owner must also post a copy of the rules and the Attorney General's regulations in an easily seen place near the entrance of the park or in the on-site manager's office.¹⁷

a. Rules Must Be Fair

The law and regulations prohibit rules that are "unreasonable, unfair or unconscionable."¹⁸ The definition of "unfair" or "unreasonable" is not precise. Here is a list of some of the things an owner can and cannot do with her rules:¹⁹

- An owner can impose age restrictions on who lives in a mobile home park if it was created as a "retirement park." A retirement park is a mobile home park designed for people at least 55 years old. The law allows age restrictions only when the park is at least 20 acres in size.²⁰
- Rules must be the same for all tenants, unless the landlord has a legitimate reason for treating different tenants in different ways.²¹

- The landlord cannot demand initial occupancy charges greater than the combined amount of a first and last month's rent and a security deposit.²²
- The rules cannot allow a landlord to impose a charge for late payment of rent until your rent is at least 30 days late.²³
- An owner can have a rule that requires you to pay for increases in her real estate taxes, but can only require you to pay a fair share of the increase based on the total number of rental units in the park.²⁴
- An owner can make and enforce reasonable rules about keeping your home and lot neat and in good repair.²⁵
- An owner can establish reasonable aesthetic standards, but only if they are applied consistently and were disclosed before you moved in.²⁶
- An owner can claim a right of first refusal if you decide to sell your home,²⁷ but only if you have agreed to it. An owner cannot give herself this right by rule.
- An owner cannot charge fees for guests who reside in the mobile home for fewer than 90 days in 12 months.²⁸

b. How Are Rules Set

Park owners create park rules. In order to ensure that park rules are reasonable and do not violate the law, if a park owner makes any changes in the rules, she must submit them to the Attorney General and the Department of Housing and Community Development (DHCD) for review at least 60 days before she wants them to go into effect.²⁹ Proposed rule changes must be posted and provided to any tenants association at least 75 days before the proposed effective date.³⁰ The owner must also provide all tenants with copies of not only the new rules but also *certified mail* receipts from the Attorney General and DHCD, proving that she sent the rule changes to both the Attorney General and DHCD for approval.³¹

If you believe a rule change is unfair, you should submit your comments to the Attorney General as soon as possible within the Attorney General's 60-day review period.³²

If a park owner does not follow the proper procedures, or does not give you and the Attorney General's office notice of a rule change, the change is illegal. Even if the park owner follows the proper procedures, but the change is unfair, the rule is illegal and cannot be enforced. In this case, you have a right to sue your landlord for violation of the consumer protection laws.³³

Park Conditions

As a mobile home park tenant, you have a right to decent park conditions. As the owner of your mobile home, however, you have the responsibility to keep your home in decent condition.

1. Owner's Responsibilities

It is a park owner's obligation to keep the park roadways, common areas (such as laundry buildings and park meeting buildings, as well as areas such as lawns and woods), and gas, electric, water, and sewer lines up to the mobile home hookup in good condition.³⁴

Each local Board of Health must inspect and license mobile home parks. While the park owner must renew her license with the Board of Health on an annual basis,³⁵ the law requires the Board to inspect conditions in individual parks "from time to time."³⁶ As a practical matter, this means that the local Board is likely to inspect a park only when there are problems. If you believe that your landlord is not keeping up with her obligation to properly maintain the park, you can call the Board of Health and ask for an inspection.

The owner must make available basic utilities, including electricity, water, sewerage, disposal and natural gas (if it is available in the community). Owners must allow access to cable television and may not unreasonably restrict

access to satellite TV. It is illegal for a park owner to refuse to provide you with or allow access to these services.³⁷

a. Retaliation Is Illegal

If the landlord tries to evict you and there are bad conditions on your lot, you can defend against the eviction by making claims for money *damages* based on the difference between the value of your lot in good condition and its value in bad condition. If you have complained to the local Board of Health about the condition of the park and your landlord subsequently threatens or tries to evict you, or *retaliates* against you in any other way, you can claim damages in the amount of five months' rent, plus court costs and attorney's fees. If you receive an *eviction* notice within six months of making such a complaint, the law presumes the park owner is retaliating.³⁸ This means that if your case goes to court, you need only prove that you made the complaint and received the eviction notice. The landlord must then convince the judge that she is not retaliating by proving that she has some other good reason for evicting you. If she does not, then you should win your retaliation claim.

2. Tenant's Responsibilities

Because you own your mobile home, you are responsible for keeping it in good condition. Under the state Sanitary Code, tenants are required to keep their homes free of garbage and trash, while the landlord has the obligation to keep her land and the park's common areas clean.³⁹

The owner is responsible for first collection or ultimate disposal of residents' garbage and rubbish. This may be done by the regular municipal collection system or by any other means approved by the Board of Health. Tenants can be required, without charge, to comply with local recycling rules.⁴⁰

Rent

There is no limit to the amount of rent that park owners can initially charge you, unless you live in a town that has adopted local rent control for mobile homes. Whether or not there is a local rent control law, if a landlord changes rents, these changes must be the same throughout the park, unless the owner has a good reason for not making them uniform.⁴¹ Reasons for rent variations might include different lot sizes and lot location.

1. Rent Increases

It is usually legal for your park owner to increase your rent after you move in unless your mobile home park is subject to rent control. Rent control issues are discussed in the next section of this chapter. A rent increase might be illegal if it does not affect all park tenants the same, as described above. Unless the rent increase is illegal, the park owner may be able to evict you if you refuse to pay the increase.⁴²

If the owner wants to increase the rent, the correct procedure is for her to give you a notice *terminating your tenancy* and at the same time offer you a new tenancy at the highest rent.⁴³

Rules about rent increases for mobile homes are different from rules about other rentals. If your landlord has a rule about the amount of a rent increase, or the time when she can impose a rent increase, her rule will be subject to all the laws about rules discussed in the previous sections. This means that if the Attorney General is not notified about the rule, or if the rule is unfair or unreasonable, the rule itself—and, therefore, the rent increase—will be illegal. As with any rule problem, if you feel that a rule about rent increases is improper, you can contact the Consumer Complaint Division of the Attorney General's office.

2. Rent Control

In 1977, the state legislature enacted the first law that allowed a town in Massachusetts to control rents in mobile home parks. That town was Peabody. Since then, Boston, Chicopee, Pittsfield, Dalton, North Adams, Bernardston, Palmer, Belchertown, Ludlow, Brookfield, Springfield, Merrimac, Cheshire, Middleboro, North Reading, Orange, Raynham, Rockland, Salisbury, Wales, Warren, and West Bridgewater have adopted local mobile home rent control *ordinances*. A number of other towns and cities have received approval to adopt local ordinances, but have not done so. At least three towns, Brookfield, Chelmsford, and Brimfield, adopted mobile home rent control and then, several years later, repealed it.

If you live in a town with mobile home park rent control, a park owner cannot increase your rent unless a local rent control agency approves the increase. To find out how the rent control ordinance in your park actually works, you should contact your local town or city hall and ask for a copy of the regulations. These regulations will tell you what your rights are.

Rent control regulations are slightly different from place to place. In general, mobile home rent control regulations follow certain principles:

- Each city or town sets up an agency and a process to review rent increases. The process will tell you how decisions are made. The agency is made up of local government staff or an appointed board with the power to make the decisions.
- Some regulations give agencies the right to make rules that limit the reasons why park owners can evict tenants. Not all municipalities with mobile home rent control do this.
- Each sets up a legal standard, or formula, that the local agency must use to determine whether, or to what extent, a park owner can increase the rent. Rent control formulas are used to set specific rent increases for

individual park tenants and general rent increases for all tenants in a particular park.

Although rent control formulas vary from place to place, most allow park owners to earn what is called "fair net operating income." A fair net operating income is defined as total income the owner earns from the park, after deducting operating costs. Each city or town with rent control decides what are appropriate operating costs and what is income. Check with your local rent board to find out the formula for your park.

Park Closings and Sales

One of the biggest threats to park tenants and tenant groups fighting rent increases and evictions is a park owner's decision to sell or close a park, or part of a park. Tenants faced with this threat can take a number of steps to protect their park.

1. Local Protections

Some communities with rent control or other special laws also require a park owner to obtain permission or a permit from the local agency in order to close a park. If you live in one of these communities, a park owner must send all tenants notice that she is going to appear before a local government body to request what is called a "discontinuance permit." You must receive this notice 15 days in advance of the date of a *hearing*.⁴⁴ The purpose of the hearing is to give tenants an opportunity to challenge the discontinuation of the park. A park owner must also give new tenants this notice if they move in after the notice was mailed to current tenants.⁴⁵

If a local rent control agency grants your park owner a discontinuance permit, the park owner must give you two years' advance notice of discontinuance. Again, new tenants must be given this notice if they move in after a permit has been granted.⁴⁶ A landlord's failure to give notice of a discontinuance hearing could invalidate an otherwise proper discontinuation of a mobile home park. Failure to give the two-year notice after a permit is granted could stop an

eviction and could result in an award of money *damages* for any tenant who is harmed by the lack of proper notice.

2. State Law Protections

Even if your community has no local rent control board or no rules about discontinuance permits, state law protects you when your landlord wants to close her park. These protections are quite comprehensive. They include the following:

- If your landlord sells you your home and rents you your lot, she may not discontinue use of your lot for your mobile home for five years from the date you purchase your home.⁴⁷
- Two years' advance notice of park discontinuance, even if no discontinuance permit is required by local rules. Again, new tenants must be given this notice if they move in after other tenants have received one.⁴⁸
- Once during each year of the two-year advance notice period, the landlord must survey the geographic area within a 100-mile radius of your park to inventory available, alternative mobile home sites. The second-year survey must be conducted at least four months before the end of the two-year period.⁴⁹
- The landlord must conspicuously post the written results of her surveys.⁵⁰
- The landlord must compensate you if you decide to move your mobile home. In particular, she must pay the actual costs of disconnecting it, moving it anywhere within 100 miles, and reconnecting it. She must also pay the cost for lodging until the move and reinstallation are complete. If you do not wish to move your home, the landlord must buy it from you at the appraised value determined by an independent appraiser.⁵¹
- During the two-year notice period, a landlord may not raise rents more than the annual inflation rate, plus a pro-rata share

of any property tax increase. The landlord may not increase the rent more than 10% each year during the two-year notice period, even if the inflation rate or the increase in property taxes is larger than this percentage.⁵²

3. Purchasing a Park

Since 1986, park tenants in Massachusetts have had the "right of first refusal." This right gives park tenant organizations the first right to buy or lease their mobile home parks if the owner wants to sell or lease. You can take advantage of this right if:

- You and other park tenants have formed a park tenant organization.
- At least 51% of the tenants residing in the park are members of the organization.
- The association gives notice to the landlord that the association wants to be notified about any proposed sale or lease.

If you have formed a park tenant organization, and if the association has given the landlord the proper notice, a park owner must give you notice of any "good faith" offer to buy the park that the owner might accept, or her intentions to sell. The notice from the landlord to the tenants association must include all the technical details of the offer the landlord received. Every time the landlord receives a new offer, she must send a new notice to the tenants association.

Once a tenant organization receives notice of an owner's intent to sell, it has 45 days to exercise the right of first refusal and sign a purchase and sale agreement, an additional 90 days to get financing, and another 90 days to close. These deadlines can be extended if both the tenant association and the landlord agree to the extension.⁵³

Evictions

1. Reasons an Owner Can Evict You

Like any other tenant, you cannot be evicted without your landlord first going to court. And, before a landlord can go to court, she must first *terminate (end) the tenancy* of a mobile home park tenant. Under state law, a mobile home park tenant has special protections that limit the landlord's ability to end a tenancy and proceed to court. A park owner can end a tenancy only for the following reasons:

1. Non-payment of rent;
2. Substantial violation of any "enforceable" rule of the mobile home park;
3. Violation of any laws or ordinances that protect the health or safety of other park tenants;
4. When a park owner claims that she is discontinuing the use of the land, or part of it, as a mobile home park.⁵⁴

A landlord may also try to terminate your tenancy if she wants to offer you a new tenancy at a higher rent. The law that requires a termination notice before a landlord can increase your rent is intended to protect tenants, although it may not seem that way. In Massachusetts, a rental agreement is treated like a contract between a landlord and a tenant. While a landlord and tenant both have the right to end their "contract" by ending the tenancy, a landlord does not have the right to change your obligations under your agreement by increasing your rent unless you agree to the increase. In order to win a rent increase, a landlord must therefore end your tenancy and offer you a new tenancy with a higher rent. The law permits the landlord to do this by sending you a rent increase notice and a 30-day notice to terminate the tenancy at the same time. If the tenant does not agree to the higher rent, the tenancy will end when the 30-day period expires, and the landlord can then begin an eviction proceeding. However,

if the tenant wants to continue her tenancy, she can pay the rent increase to indicate her agreement to a new tenancy on new terms.

Whether you have committed a "substantial violation" of a rule depends on the particular circumstances of your case. For example, if your park has a rule about keeping your lot free of trash and you fail to remove your trash for a period of time because of an illness or disability, you probably have not substantially violated the rule, so long as you correct the problem as soon as you can and so long as your trash does not harm other tenants. In all likelihood, a court considering your landlord's request to evict you would take the same approach if the rubbish on your lot violated a health or safety law like the state Sanitary Code. Of course, if the landlord fails to make her rules using the procedure described in the section on park rules, the rule is not enforceable and you cannot be evicted even if you violate it in a substantial way.

As described in the next section, if you fail to pay your rent, or if you violate a rule or health and safety law, you are entitled to an opportunity to correct or "cure" the problem.

2. Terminating the Tenancy

To end (terminate) a tenancy, a park owner must give you a written eviction notice.⁵⁵ Mobile home laws tell the landlord how and when she can deliver the notice, what the notice must say, and what you can do to protect yourself after you have received a notice.

1. The landlord must deliver a written "Notice of Termination" to the park tenant by *certified* or registered *mail*. The notice must be mailed at least 30 days before the date the landlord intends to end your tenancy.
2. The notice must specify the reason or reasons for the termination in the notice, including whether the eviction is based on non-payment of rent, or whether it is based on a violation of a provision of your lease or a rule of the park. If the landlord sends you an eviction notice based on a lease or

rule violation, the notice should tell you what lease provision or rule you violated, when you violated it, and how you violated it.

3. The notice must inform the park tenant that eviction can be avoided if the tenant pays the overdue rent or "cures" or corrects lease or rule violations within 15 days from the date of the mailing of the notice. If a park owner fails to notify a park tenant about her right to cure, the notice may be invalid and the landlord may not be permitted to bring an eviction case against you.

If the purpose of the notice is to increase your rent, it should tell you the new amount of the rent and the date the rent increase is to take effect.

3. Defending an Eviction in Court

Once the notice of termination expires, a park owner can file an eviction case in court under a procedure called a *summary process* action. Summary process cases against mobile home tenants proceed according to the same rules as an eviction case in any other residential tenant-landlord situation. Park tenants have *defenses*, *counterclaims*, and legal *remedies*, like other tenants. These sorts of *claims* are described in detail in other parts of the book, and are outlined below for easy reference.

Legal Claims Checklist

Defenses

- Landlord's waiver of a tenant's violation
- Violations of the state Sanitary Code
- Retaliatory eviction
- No agreement to pay rent increase
- Non-payment caused by delayed government benefit checks

Counterclaims

- Breach of quiet enjoyment
- Retaliation
- Breach of warranty of habitability
- Unfair or deceptive acts or practices
- Rent overpayment

In every summary process case, it is always a landlord's responsibility to prove that the tenant committed the specific violation stated in the notice of termination. If the landlord cannot prove that you did the things she claims, you should not be evicted.

Park tenants can also defend themselves in an eviction case based on the special rights they have under mobile home laws.

a. Defense Based on "Cure"

If your eviction is based on non-payment of rent, a rule violation, or a violation of a health and safety law, and you pay the overdue rent or correct the lease or rule violation within 20 days of the date of the notice, your tenancy cannot be terminated and you cannot be evicted.⁵⁶ If you correct the lease or rule violation late—that is, after the 20 days have passed—the landlord must bring an eviction action against you in court within 30 days of the date of the last violation. If she does not start the court case by that time, it must be *dismissed*. There is an exception to this time limit if you violate the

same rule again within six months of receiving the first eviction notice. In this situation, the law allows the landlord to start the eviction case against you without another notice of termination. There is no limitation on the number of times a park tenant can cure when the cause of the termination is non-payment of rent.⁵⁷

b. Park Owner Fails to Send a Proper Notice of Termination

If your park owner failed to send you a proper notice of termination, you can use this as a defense if your case goes to court. Check to see if any of the elements required in a notice of termination are missing (see the section in this chapter called **Terminating the Tenancy**). For example, if the landlord did not mail you the notice by certified mail, the notice does not describe the particular rule violation, or the notice does not include the information about your right to cure, that is, to pay your back rent or correct a rule violation, the notice is invalid.

If the notice is defective, the court should dismiss the eviction case. This means that the landlord must begin the process of evicting you all over again by serving you proper notice.

c. Rule Violations and Other Problems Left Out of the Notice of Termination

Once you get to court, your park owner cannot ask the judge to evict you based on rule violations that were not included in her original notice of termination. If the park owner attempts to tell the court about violations that were not included in the notice of termination, you should object. Immediately stand up and tell the judge that this evidence should not be admitted, or considered, because it does not relate to any of the violations in the notice.

d. Park Owner Fails to Follow Park Discontinuance Requirements

If your park owner is trying to evict you because she wants to discontinue use of her property as a mobile home park, you can defend against an eviction if the landlord did not follow the proper procedures for discontinuance described in the earlier sections of this chapter. Failure to obtain a proper discontinuance permit where one is required and failure to properly notify tenants of a park closing are examples of mistakes that can stop your eviction—and even prevent or postpone the closing.

e. Park Owner Tries to Evict Early During Discontinuance Period

Tenants are able to prevent evictions for discontinuance with three other defenses. First, you cannot be evicted during the two-year notice period the landlord must give you before the change of use takes effect.⁵⁸ If you find yourself in this situation, you can show the judge your notice of discontinuance. The judge should then dismiss the landlord's case.

You can also stop your eviction if your lease or rental agreement gives you the right to live at the park during and even after the change-of-use period. If, for example, you have a four-year lease with your landlord and the notice of the change of use expires in the third year of the lease, the law says that the landlord cannot evict you, at least until your rental agreement expires at the end of the fourth year.⁵⁹ Again, if you find yourself in this situation, you can show the judge your lease and notice of discontinuance. The judge should then dismiss the landlord's case, even if the notice period has ended.

Finally, when a park tenant purchased her mobile home from the owner and at the same time the owner provided the site for the home, the owner cannot evict the tenant for a period of five years from the date of the sale.⁶⁰

These defenses do not, however, prevent a park owner from evicting you when the landlord proves any of the other grounds for eviction,

such as non-payment of rent or violations of rules or law.

f. No "Good Faith" Closing as Required By Law

When a mobile home park owner is evicting tenants because she is closing all or part of the mobile home park, she must show that the discontinuance has been undertaken in "good faith."⁶¹ This means that the action is not based on some ulterior motive with the intention of getting around other provisions of the law that protect mobile home tenants.

To prove a good faith closing, the owner must introduce evidence showing some pre-existing plan or a business reason for closing the park. Such evidence could include a discontinuance permit, an application for a loan to build buildings on the land or lot, or subdivision plans filed with the local city or town.

Even if the landlord presents this kind of evidence to the court, a park tenant or group of tenants can still try to prove in court through documents or testimony that the owner has no "good faith" plan to close the park or that portion of it on which the tenant's home is sited. For example, if the real reason the park owner wants to evict you or other park tenants is that you complained to the local Board of Health about bad conditions, you can show the judge copies of your letters of complaint or reports of Sanitary Code violations.⁶²

g. Violation of Local Rent Control or Eviction Ordinance

If your town or city has a local mobile home rent control or eviction regulation *ordinance*, there may be rules that require park owners to obtain a certificate of eviction from the local regulatory board prior to starting to evict park tenants. Check your local regulations to see whether this type of certificate is required.

If a certificate of eviction is required, local rules usually also require the park owner to apply for the certificate from the board before she can

evict you. If the owner makes the application, standard rules usually give you the right to a written notice that the application was made, and a right to argue against the issuance of a certificate of eviction at a special *hearing* held before the rent board. If you want to stop your eviction at this stage of the case, you must request a hearing before the board.

If the board does not grant the park owner's certificate of eviction, or if the park owner fails to seek a certificate of eviction from the board, the tenant can raise this as a defense in court and the judge should dismiss the eviction.

If, after a hearing, the board gives the park owner permission to evict, the park owner must still provide you with a proper notice of termination, have "good cause" to evict, and still ask a court for permission to evict you. A park tenant can still contest the park owner's case in court and is not bound by the findings of the board.

A similar argument applies if your landlord is evicting you because she wants to raise your rent. In a community with rent control, if the owner failed to get approval for her rent increase from the local rent board, the increase, and therefore the eviction, are illegal and the eviction case should be dismissed.

4. After Judgment

If a judge gives a park owner permission to evict you, you have basically the same rights as other residential tenants.⁶³ These include the rights to:

- Appeal the eviction.⁶⁴
- Obtain a delay in being evicted (a *stay of execution* of up to six months, or 12 months if the tenant is disabled or over the age of 65).⁶⁵

Under the law, a court can delay an eviction only when the tenancy has been terminated through no fault of the tenant. This means that park tenants being evicted for violations of enforceable rules or laws may not be legally eligible for such delays.⁶⁶ Tenants being evicted due to discontinuance of all or part of a mobile home park, however, should be eligible. In addition, mobile home tenants who are evicted for non-payment of rent may have an argument that they are eligible for a stay of execution provided that they can convince the court that their failure to pay rent was not intentional or that it resulted from causes beyond their control and that they are willing to pay for the use and occupation of the site during any period of delay that the court gives to them.

You also have 120 days after the eviction to sell your mobile home. During that time, you are responsible for rent and for maintaining the home and lot, and the owner has a *lien* on the mobile home for rent, costs of maintenance, and any other amounts owing under the court judgment. During the 120 days, no one may reside in the home, and the former resident must make good faith efforts to sell the home.⁶⁷

Endnotes

1. These rights are derived principally from the governing statute, G.L. c. 140, §32A-32S. The Massachusetts Attorney General, exercising her authority under G.L. c. 140, §32S, and the Consumer Protection Law (G.L. c. 93A, §2), has promulgated a comprehensive set of regulations governing mobile home parks. See 940 C.M.R. §10.00.
2. The official definition of "manufactured home" can be found at G.L. c. 140, §32Q. It says that: the words "manufactured home" shall mean a structure, built in conformance to the National Manufactured Home Construction and Safety Standards which is transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

The size and space requirements of the law are intended to exclude from the definition of manufactured home such things as campers. The construction and safety standards mentioned by the law are embodied in rules adopted by the U.S. Department of Housing and Urban Development (HUD). Found at 24 C.F.R. §3280 (1992), HUD's rules concern such issues as fire safety, space, light and construction requirements, plumbing and heating systems, and energy conservation.
3. G.L. c. 140, §32L(3).
4. G.L. c. 140, §32L(4).
5. For details of the rights of a selling home owner, see 940 C.M.R. §10.07.
6. The *Attorney General's Guide to Manufactured Housing Community Law* has a very good discussion of rights relating to sales, as well as all other rights of mobile home park tenants. To find the *Guide*, go to www.mass.gov, click on the link for Attorney General and then the link for Home and Housing under Consumer Protection. The *Guide* discusses the right of first refusal at page 34.
7. G.L. c. 140, §32M.
8. G.L. c. 140, §32P; 940 C.M.R. §10.03(5).
9. See G.L. c. 140, §32G.
10. The owner cannot force you to buy these things from her. You may purchase fuel, furnishings, goods, services, and accessories from any seller who complies with the law and applicable rules and regulations, including reasonable insurance requirements. The landlord can also make "reasonable" rules about the purchase of centrally metered fuel and gas, but she can charge you only "the average prevailing price in the locality for similar goods and services." G.L. c. 140, §32L(3).
11. G.L. c. 140, §32L(9).
12. G.L. c. 140, §32P.
13. This differs greatly from the non-mobile home tenancy, where the basis of the landlord/tenant relationship is the lease or tenancy at will agreement, as modified or limited by statutes and regulations. While mobile home tenants may have a lease or tenancy at will agreement, the power of the mobile home landlord to terminate the mobile home tenancy is so limited under G.L. c. 140, §32J that the traditional legal significance of those rental agreements is rendered obsolete. In addition, the ability of the mobile home landlord to enforce the provisions of those agreements through eviction is so restricted, again by G.L. c. 32J, that the provisions contained in those agreements are less meaningful than the rules.
14. 940 C.M.R. §10.00 et seq.
15. G.L. c. 140, §32L(5); 940 C.M.R. §10.02(4).
16. G.L. c. 140, §32P.
17. G.L. c. 140, §32D.
18. G.L. c. 140, §32L(1).

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19. Some of the Attorney General's regulations contain a detailed discussion of permitted and prohibited rule provisions, as well as acts and practices deemed by the Attorney General to be unfair and deceptive. See 940 C.M.R. §§10.02, 10.04.
 20. G.L. c. 151B, §4(8). There can be no age restrictions unless the park is a qualifying retirement community within the meaning of G.L. c. 151B and the federal Fair Housing Act, 940 C.M.R. §10.01. A park may not be advertised as a "retirement" or "adult only" park unless it qualifies under these laws. 940 C.M.R. §10.03(e).
 21. G.L. c. 140, §32L(2).
 22. G.L. c. 186, §15B(1)(b).
 23. G.L. c. 186, §15B(1)(c).
 24. G.L. c. 186, §15C.
 25. 940 C.M.R. §10.04(5)(a).
 26. 940 C.M.R. §10.04(5)(b).
 27. 940 C.M.R. §10.07(7) sets strict limits on the enforceability of such rights of first refusal.
 28. 940 C.M.R. §10.03(2)(d).
 29. G.L. c. 140, §32L(5); 940 C.M.R. §10.04(3).
 30. 940 C.M.R. §10.04(3)(a).
 31. G.L. c. 140, §32L(5); 940 C.M.R. §10.04(3)(a).
 32. 940 C.M.R. §10.04(3). The Attorney General can be contacted. To find the address of your regional Attorney General's office, go to: www.mass.gov, click on Attorney General and then select Contact Us.
 33. G.L. c. 140, §32L(6); G.L. c. 93A, §2.
 34. 940 C.M.R. §10.05. The Attorney General's regulations now cover the owner's obligations in considerable detail.
 35. G.L. c. 140, §32B.
 36. G.L. c. 140, §32C.
 37. G.L. c. 186, §14; 940 C.M.R. §§10.05(4) and (5).
 38. G.L. c. 140, §32N.
 39. 105 C.M.R. §410.602(B) requires tenants to keep their homes free of rubbish, while 105 C.M.R. §410.602(A) places the obligation for keeping the land free of garbage on the landlord. 105 C.M.R. §410.602(D) makes the landlord responsible for keeping common areas clean, so long as they are not occupied or controlled by one tenant. See also 940 C.M.R. §10.05(7).
 40. 940 C.M.R. §10.05(8).
 41. G.L. c. 140, §32L(2).
 42. See the information about terminating the tenancy in this chapter. The statute prohibits "unfair" rent levels. *Meadowbrook Trust v. Shand*, Hampden Division, 94-SP-0847 (Abrashkin, J., April 29, 1994). No appellate court has as yet addressed this issue.
 43. G.L. c. 140, §32J(5).

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44. G.L. c. 140, §32L(8). Rent control boards in communities with mobile home rent control often have discontinuance permit rules. Taunton has no rent control, but has special laws that permit the city to regulate evictions. See St. 1992 c. 207, which takes effect upon being adopted by the city of Taunton.
 45. G.L. c. 140, §32L(9).
 46. G.L. c. 140, §32L(9).
 47. G.L. c. 140, §32J(4).
 48. G.L. c. 140, §32L(8) and (9).
 49. G.L. c. 140, §32L(7A).
 50. G.L. c. 140, §32L(7A).
 51. G.L. c. 140, §32L(7A). See also 940 C.M.R. §10.10(3).
 52. G.L. c. 140, §32L(7A).
 53. All the rights described in this section are required by G.L. c. 140, §32R. See also 940 C.M.R. §10.09. If your tenant association needs help in deciding whether to exercise a right of first refusal, or if the association needs help arranging financing, you can contact the Community Economic Development Assistance Corporation at One Center Plaza, Suite 350, Boston, MA 02108.
 54. G.L. c. 140, §32J.
 55. G.L. c. 140, §32J, ¶3.
 56. The difference in the law between the 15-day cure period in the termination notice and the 20-day cure period required before a landlord begins an eviction case is somewhat confusing. The statute appears to give tenants the extra five days to account for any delay caused by receiving the eviction notice by certified mail. A tenant should always receive the benefit of the more generous 20-day time period.
 57. G.L. c. 140, §32J, ¶3(2), (3). Compare G.L. c. 186, §12, where the "right to cure" in tenancies at will is limited to once in every 12-month period. Under the law, when a mobile home tenant dies, the tenancy is automatically continued for a period of one year from the date of death or the date a Probate Court appoints an administrator or executor of the deceased tenant's estate. G.L. c. 140, §32J.
 58. G.L. c. 140, §32L(8).
 59. G.L. c. 140, §32J(4).
 60. G.L. c. 140, §32J(4).
 61. G.L. c. 140, §32J(4).
 62. This would also constitute a defense of retaliation under G.L. c. 140, §32N, not only stopping your eviction, but also entitling you to collect damages equal to five months' rent or the actual damages sustained by the tenant, whichever is greater, under that law.
 63. See **Chapter 14: Evictions** for a more detailed discussion of these post-judgment remedies.
 64. See G.L. c. 239, §5.
 65. This would also constitute a defense of retaliation under G.L. c. 140, §32N, not only stopping your eviction, but also entitling you to collect damages equal to five months' rent or the actual damages sustained by the tenant, whichever is greater, under that law.

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66. G.L. c. 239, §9 excepts from the delay provisions evictions where the tenancy has been "terminated" "by a notice to quit for nonpayment of rent as provided in section twelve of chapter one hundred and eighty-six... ." It can be argued that this provision has no applicability to mobile home tenants since G.L. c. 186, §12 provides that tenancies at will may be "terminated" upon a 14-day notice where there has been non-payment of rent. Mobile home landlords are not permitted to use this procedure to "terminate" for non-payment of rent, but must instead follow the provisions of G.L. c. 140, §32J, which requires a 30-day notice. Accordingly, if a mobile home tenant can demonstrate that she meets all of the other requirements of G.L. c. 239, §§9-13, the tenant may be able to obtain a stay in the non-payment eviction.
67. G.L. c. 140, §32J.

