

NORTH DAKOTA MANUFACTURED HOME OWNERS ASSOCIATION

MEETING ON LEGAL RIGHTS & LEGISLATIVE ISSUES

SEPTEMBER 26, 2022

7:00 P.M.

WELCOME & INTRODUCTIONS

- What is the North Dakota Manufactured Home Owners Association?
- Review Agenda
- Meeting Ground Rules
- Introductions



WHAT IS THE NORTH DAKOTA MANUFACTURED HOME OWNERS ASSOCIATION?

- Residents began organizing in 2016
- Formed the Fargo Area Park Residents Association (FAPRA)
- FAPRA worked with the Fargo Cass Public Health to get problems in the city's parks addressed, to draft a legal rights handbook, and to introduce state legislation
- Formed the North Dakota Manufactured Home Owners Association (NDMHOA)
- NDMHOA supported passage of new state laws protecting residents

REVIEW AGENDA

- **Legal Rights** -- Learn about your legal rights. Ask questions about problems and learn about possible solutions.
- **State Legislation** -- The next legislative session starts in January. Discuss possible proposals for the 2023 legislative session.
- **State Association or Chapter** -- Residents organized an informal state association. Discuss how to make it more formal:
 - 1) incorporate as a nonprofit organization,
 - 2) becoming a state chapter of the National Manufactured Home Owners Association, or
 - 3) both.

MEETING GROUND RULES

- **Be respectful of others:** Raise your hand before speaking and do not interrupt.
- **Stay on topic:** Wait until the matter at hand has been resolved before switching to a new topic.
- **Keep statements brief:** To keep meetings short, please try to be concise.

INTRODUCTIONS

- Please share your name, park, and years in your park

LEGAL RIGHTS DISCUSSION

- Overview of residents' legal rights
- Resources available to residents
- Questions & answers about problems

OVERVIEW OF RESIDENTS' LEGAL RIGHTS

- **Purchasing**

A person or company must be licensed to sell homes. Licenses are annually renewed and can be suspended for 3 violations in 5 years.

If you have a problem with a dealer contact the North Dakota Department of Transportation Motor Vehicles division: 701-328-2725 or 800-582-8032.

OVERVIEW OF RESIDENTS' LEGAL RIGHTS

- **Duties of the Park Owner or Manager**

A person or company must be licensed to operate a park.

Licenses are annually renewed, are subject to inspection at least every 2 years, and licenses can be suspended for unaddressed health and safety issues.

A park owner is required to distribute a copy of North Dakota Century Code Chapter 23-10 (the state laws governing park operations) and relevant rules and regulations to each park tenant. The owner must post Chapter 23-10 and the relevant rules and regulations in a visible and obvious location in the park.

A park with 10 or more mobile homes must establish a plan to respond to park emergencies and complaints by tenants and provide the plan to residents, including the contact information of a park representative.

A park must follow housing codes, supply water and sewer service, keep common areas clean and safe, provide appropriate garbage service, and make all repairs necessary to keep the park in habitable condition.

If a tenant informs a park of needed repairs and those repairs are not made, the tenant may: repair the property and deduct the cost of the repair from the rent, recover the costs in any lawful manner from the park (such as a lawsuit), or vacate the property.



OVERVIEW OF RESIDENTS' LEGAL RIGHTS

Park Conditions

Parks are required to meet state and local health and safety laws and regulations. They must provide:

- Safe drinking water and meet state plumbing code
- Proper sanitation and trash removal
- Dry ground by preventing or draining sinkholes or pooling water

All plumbing or electrical installations must comply with the appropriate state installation code.

Streets must be wide enough for the movement of traffic and parking within the park.

A park must be well lit.

Mobile homes, accessory buildings, or structures must be spaced a minimum number of feet apart (6 feet end to end, 10 feet side to side, with some exceptions).

A park with twenty-five or more lots must provide playground space. For every twenty-five lots, a park must provide a playground space equivalent to the size of one lot.

The grounds, buildings, storage areas, and structures of a park must be maintained free of conditions that would allow insects, rodents, or other vermin to harbor.

All areas must be maintained free of accumulations of debris.



OVERVIEW OF RESIDENTS' LEGAL RIGHTS

Fees, Security Deposits, and Rent

- **Application Fee** – A park may charge potential tenants an application fee.
- **Service Fee** – A park may charge tenants a fee if a service is performed in a park. The service fee must reasonably reflect the cost of the service provided.
- **Late Fee** – Your lease must state both the amount of a late fee and when it becomes effective.
- **Security Deposit** – A park may require tenants to pay a security deposit in an amount no greater than one month's rent. If a tenant has a pet, then an amount no greater than two months' rent, although, not for a disabled tenant's service animal.

Upon termination of a lease, a park must return a tenant's security deposit and any accrued interest, deducting only for the itemized cost of damages, unpaid rent, or cleaning or repair costs.

If a security deposit is not returned, a tenant can seek triple the amount in damages through small claims court.

OVERVIEW OF RESIDENTS' LEGAL RIGHTS

- **Eviction** – There are eight reasons why a park may evict a tenant—these are not the only reasons that a park may evict a tenant.
 - Failure to pay rent for three days after it is due *
 - Holding over after termination or expiration of a lease *
 - Unreasonable disturbance of other tenants' peaceful enjoyment of the premises
 - Violation of a material term of a written lease *
 - Nonpayment of charges or fees for accommodations
 - Violation of the law

- Disorderly conduct
- Violation of any department regulation
- Violation of any reasonable rule of the park which is publicly posted

** In these instances, a park must provide the tenant with a notice called a "notice of intention to evict" providing the tenant 3 days to resolve the problem or vacate the premises. A park cannot institute proceedings until 3 days after the notice is provided to the tenant.*

OVERVIEW OF RESIDENTS' LEGAL RIGHTS

Rental Agreement

- **Lease** – A lease may be verbal or written, unless it is for a term of more than one year, and then must be in writing.
- **Lease Renewal** – Generally, if the park accepts rent from the tenant, the parties are presumed to have renewed the lease as a month-to-month tenancy.
- **Unconscionable Lease Terms** – A court may refuse to enforce a lease or any provision of a lease that the court finds is unconscionable.
- **Notice to Change Lease Terms** – In a month-to-month lease, a park may change the terms of the lease. The park must give the tenant notice in writing at least 30 days before the change takes effect at the end of the month. A tenant may reject the proposed changes by terminating the lease. In a term lease, a park may not change the terms of the lease unless the tenant agrees.
- **Domestic Violence** – A tenant involved in domestic violence may terminate a lease early without penalty under certain circumstances.
- **Abandoned Property** – If a tenant does not claim a security deposit within one year of the termination of the lease, it is presumed abandoned. A landlord may dispose of property worth \$2,500 or less 28 days after the tenant moves.
- **Lien** – A park may have a lien on mobile home if the tenant left the mobile home on the lot after eviction or expiration of the lease. The lien may consist of costs for accrued rent, storage, and removal of a mobile home. A park may sell a home 30 days after the park mails a lien notice to the home owner. After the sale, the park must money left after payment of the lien to the former owner. If the former owner is unknown, the money is presumed abandoned.

OVERVIEW OF RESIDENTS' LEGAL RIGHTS

- **Discrimination** – State law prohibits discrimination. A person may not discriminate against an individual based on race, color, religion, sex, disability, age, familial status, national origin, marital status, or receipt of public assistance

Housing discrimination includes:

- Offering different terms, conditions, or privileges of a sale or rental
- Providing different services or facilities in connection with a sale or rental
- Refusing to permit reasonable modification to a property by a disabled person

- Refusing to make reasonable accommodation to rules, policies, practices, or services for a disabled person
- Failing to comply with housing design and construction accessibility standards for disabled persons
- Engaging in blockbusting activity (making representations about the characteristics of a neighborhood to encourage the sale or rental of a property for profit)
- Interfering, through intimidation, force, or threat of force, with any person's full enjoyment of housing privileges



GENERAL RESOURCES

North Dakota Mobile & Manufactured Home Park Handbook

<http://allparksallianceforchange.org/?q=northdakota>

North Dakota Attorney General's Office

600 E. Boulevard Ave Dept. 125

Bismarck ND 58505

Phone: 701-328-2210

<http://attorneygeneral.nd.gov>

North Dakota Dept. of Health, Environmental Health Section

918 East Divide Avenue

Bismarck, ND 58501-1947

Phone: 701-328-5150

<http://www.ndhealth.gov>

North Dakota Dept. of Labor and Human Rights

600 E Boulevard Ave Department 406, Room 107

Bismarck, ND 58505

Phone: 701-328-2660

Concerning Housing Discrimination

<http://www.nd.gov/labor/human-rights/housing>

North Dakota Dept. of Transportation Motor Vehicles

Phone: 701-328-2725

Toll Free: 1-800-582-8032

Concerning Dealer Regulations and Licensing

<http://www.dot.nd.gov/divisions/mv/vehicle.htm#dealerrequirements>

North Dakota Dept. of Commerce

1600 E. Century Ave., Suite 2, PO Box 2057

Bismarck, ND 58503

Phone: 701-328-5300

Concerning Inspections and Building Codes of Manufactured Homes:

<https://communityservices.nd.gov/buildingcode/>

Legal Services of North Dakota

Offices in Bismarck, Fargo, and Minot

Phone (Age 60+): 1-866-621-9886

Phone (Under age 60): 1-800-634-5263

<http://www.legalassist.org/>

DISCUSSION & QUESTIONS



POSSIBLE RESIDENT PROPOSALS FOR STATE LEGISLATION

- Residents have identified changes needed in state law and proposed changes in 2017, 2019, and 2021. Residents were able to pass some legislative changes in 2021.
- The North Dakota Legislative Assembly meets every other year. The next legislative session starts in January.
- NDMHOA has fully drafted proposals that have not yet been acted on that could be introduced for the 2023 legislative session, including:
 - Ability to Pay and Avoid Eviction
 - Longer Notice of Lease Non-Renewals
 - Notice and Disclosure of Liens Placed on Mobile Homes
 - Protection from Retaliation

MOBILE HOME PARK RESIDENTS' OPPORTUNITY TO PAY AND STAY

- **Current Law** – When evicted, a resident is allowed only 3 days to leave and move their home. Even if they demonstrate substantial hardship, the time allowed can only be extended to 5 days.
- **Problem** – Eviction from a mobile home park often means the loss of the home itself, because of the cost to move a home (\$5,000 to \$8,000) and the difficulty of finding a buyer in just a few days.
- **Proposed Changes** – If a court orders the eviction from a mobile home park, the court shall specify the amount the resident owes the park in rent and other costs, including court costs and reasonable attorney fees. If the resident pays the park the full amount within 30 days of the eviction order, the order will be rescinded and the resident may remain in the park.

MOBILE HOME PARK LEASE NON-RENEWAL

- **Current Law** – There are eight reasons for which a mobile home park can evict a resident; such as nonpayment of rent, breaking the terms of the lease, etc.
- **Problem** – If a homeowner is not given enough time to move their home, the result is often the loss of the home itself. Mobile homes are difficult to move. If the ground beneath the home is frozen, the home cannot be moved without causing significant damage to the home. Mobile homes are also expensive to move. On average, it costs \$5,000 to \$8,000 to move a mobile home.
- **Proposed Changes** – If the park decides, without a specific cause, not to renew an at-will lease agreement with a resident, the park will provide at least 180 days written notice of the non-renewal decision to the resident. This will uphold the park's authority over who resides within the mobile home park while preventing homeowners who have not committed an evictable offense from losing their homes as a result of inadequate time to prepare for a move.

MOBILE HOME LIEN NOTICE AND DISCLOSURE

- **Current Law** – A park may place a lien on a mobile home if the resident left the home on the lot following an eviction or end of the lease. The lien may relate to unpaid rent or the storage/removal of a home. A park must post a notice of lien on the home's primary entrance stating the lien amount. A park may sell a home after 30 days, and, if the former owner's address is unknown, keep the excess money after covering costs.
- **Problem** – The lien notice does not require the park to identify or itemize the costs owed by the resident. The park is not required to mail the notice to the resident who is no longer living in the home. The resident is not allowed an opportunity to pay what is owed and move the home. The park is not required to make a good faith effort to send excess money to the resident after the sale.
- **Proposed Changes** – Require the lien notice include an itemization of the costs owed by the homeowner and a notice that explicitly states the park will sell the home if the lien is not paid. Require notice also be sent to the homeowner's last known address by first class mail. Allow residents 60 days to pay the lien and remove the home. Require sending a post-sale notice to the former homeowner with basic information about the sale of the home and the proceeds of the sale. Treat excess proceeds as abandoned only if the notice is returned as undeliverable.

MOBILE HOME PARK RESIDENTS' PROTECTION FROM RETALIATION

- **Current Law** – North Dakota has guidelines to ensure mobile home parks are safe and sanitary neighborhoods, but often relies on residents to identify and report when unhealthy conditions have developed.
- **Problem** – To encourage residents to report unsafe or unsanitary conditions, 41 states, including all three of North Dakota's bordering states, have provided basic protections against retaliation for residents who bring these conditions to the attention of the park or public officials. However, North Dakota is one of nine states in the country that does not.
- **Proposed Changes** – A park may not initiate or threaten to initiate an eviction, rent increase, decrease in services, change in lease, non-renewal of lease, or otherwise retaliate against a resident in response to that resident:
 - Making a complaint in writing in good faith to the park or a public official regarding the conditions, utility services, park rules and regulations, rent, charges, or fees related to the mobile home park;
 - Attempting in good faith to exercise the resident's legal rights or remedies; or
 - Attending meetings or public hearings related to the conditions, utility services, park rules and regulations, rent, charges, or fees related to the mobile home park.

DISCUSSION & QUESTIONS



HOME OWNERS ORGANIZING STATEWIDE

WHY ORGANIZE STATEWIDE?

- Share useful information & resources
- Provide mutual support
- Act together using power of numbers
- Counter park owners disinformation
- Provide a statewide park resident voice (when we need to respond to park owners, state legislators, or the media)

WHAT ARE THE CHALLENGES?

- It's a big task if only a few people are interested.
- It's a big state to cover, if it's only a few people.
- The costs are very small, but they can add up if only a few people are paying them.
- Any progress made can be lost if a few people are doing everything and if, at some point, they stop.
- Can residents have a statewide voice, if only a few people are interested?

HOME OWNERS ORGANIZING STATEWIDE

- In 2019-2020, residents did start organizing an informal state association, which was slowed down by the pandemic.
- We discussed, but made no decision about, a couple options for making it a more formal one, including:
 - 1) Incorporating as a nonprofit organization
 - 2) Becoming a state chapter of the National Manufactured Home Owners Association
 - 3) Or both

HOME OWNERS ORGANIZING STATEWIDE

Option 1: Set Up a Nonprofit State Association

PROS

- It creates a formal, legal structure.
- It makes a lot of simple tasks easier, such as reserving meeting space or renting a P.O. Box.
- It puts the organization into official listings that make it easier for residents and potential allies to find.
- A nonprofit can apply for grants and request donations.
- A majority of states have set up associations, which provides plenty of examples to learn from.

CONS

- It means filing forms and paying some filing fees, in order to set it up.
- It means submitting a few required reports each year.
- It requires raising and spending at least a little bit of money each year.
- It is more formal and requires adopting written bylaws and electing a board of directors.
- It means some time is spent on managing the organization rather than dealing with residents' issues and concerns.



HOME OWNERS ORGANIZING STATEWIDE

Option 2: Become a State Chapter of the National Group

PROS

- It provides a connection to residents involved with the national association and other state groups, and information about issues and events taking place nationally and in other states.
- Residents will be listed with other state chapters making it easier for national allies to find them.
- Residents can run for the national group's board of directors and serve on its committees.
- It creates an official structure with a minimum number of required steps.
- It doesn't require spending time managing an organization.

CONS

- It may not be viewed as "official" as a nonprofit organization, and will not appear in certain types of official listings that may make it harder to find.
- It doesn't necessarily make certain tasks, such as reserving meeting space or renting a P.O. Box, easier.
- It doesn't make residents eligible to apply for grants and request donations.
- Becoming a state chapter does require paying a small annual membership fee, which requires raising and spending at least a little bit of money.



DISCUSSION & QUESTIONS



NEXT STEPS

- What do we want to do next?
- When do we want to meet?
- Who wants to help plan it?

CONTACT INFORMATION

- **North Dakota Manufactured Home Owners Association (ND-MHOA)**
E-Mail: North.Dakota.MHOA@gmail.com | <http://www.allparksallianceforchange.org/?q=northdakota>
- **National Manufactured Home Owners Association (NMHOA) – Dave Anderson**
Phone: (202) 800-9795 | E-Mail: dave@nmhoa.org | www.nmhoa.org
Facebook: <https://www.facebook.com/NationalManufacturedHomeOwnersAssociation>
- **All Parks Alliance for Change (APAC) – Dave Anderson**
Phone: (651) 644-5525 | E-Mail: dave@allparksallianceforchange.org | www.allparksallianceforchange.org
Facebook: <https://www.facebook.com/pages/All-Parks-Alliance-for-Change/195851170447968?ref=hl>