



THE COMMUNITY OWNERS' ADVOCATE

Mobilehome Parks and Eminent Domain in California

*By Robert S. Coldren, Esq. and
C. William Dahlin, Esq..*

HK&C recently represented a property owner with a mobilehome park adjacent to Highway 99 in Northern California. The highway route was being modified by Caltrans to change on and off ramps to the freeway. The local municipality that was impacted also sought to negotiate how the mobilehome park would be utilized, if at all, in the future.

The government agency at issue (Caltrans) eventually commenced an eminent domain proceeding and offered approximately \$400,000.00 for a "partial" take of the property. HK&C represented the property owner. An answer and cross-complaint were prepared and filed on behalf of the park owner. HK&C alleged the government's pre-condemnation activity caused additional damage and that the agency's actions actually resulted in the equivalent of a "full take".

HK&C was able to negotiate a full

and complete resolution of the matter, whereby the property owner received \$2.3 million for the entire parcel property. Thus, the overall result was that the property owner received compensation for the full value of the entire parcel of land, resolved



all pending disputes and the condemning agency took on the responsibility of terminating any and all tenancies of residents remaining in the park.

As is typical for many long-term projects initiated by government agencies, the impact upon the park commenced long before the formal eminent domain proceeding was commenced. The government's pre-condemnation activity impacted rents and the operation of the park.

The government's actions were, by their nature, detrimental to the park's net operating income and its value.

Many mobilehome parks in California are anywhere from 30 to 50 years old. Many are built in areas where the surrounding land use has changed dramatically over the past decades. Encroaching commercial usage, as well as new residential development or other forms of "redevelopment", have placed many mobilehome parks at the epicenter of change.

Mobilehome parks are frequently adjacent to highways that need to be expanded, or are next to commercial areas where new shopping centers are being built or where other new projects are being developed. These historical facts present unique challenges for many park owners and the government agencies that control development in and around these existing mobilehome parks. HK&C has assisted a number of park owners that have been approached

Will Your Insurance Company Leave You Holding the Bag?

by Rhonda H. Mehlman, Esq.



Insurance companies refusing to defend and settle lawsuits against mobilehome park owners is becoming more and more common. Due to the high cost of defending such suits, obtaining insurance coverage under your existing policy is critical at the earliest possible stage of the litigation. If the park is found liable, a park owner needs to be confident that their insurance company will not leave them "holding the bag".

Since 1982, HK&C, has successfully represented the manufactured housing industry with various insurance coverage disputes and matters including:

- Policy review to determine the best avenue of obtaining coverage.
- Responding to denials of coverage in the most cost effective way to obtain coverage.
- Getting you a lawyer that you trust with mobilehome law expertise at the insurer's expense.
- Persuading insurers to promptly settle claims and suits using policy benefits.
- Litigation against your insurers if they wrongfully deny claims or refuse to settle (bad faith).

Rhonda Mehlman is an Associate in HK&C's litigation department. Ms. Mehlman has extensive experience in general business litigation including franchise, contract, trademark, partnership, insurance bad faith, real estate, probate, and fraud disputes. For more information she may be reached at 714-432-8700 x. 353 or via email at rmehlman@hkclaw.com.

HK&C Strengthens Mobilehome Litigation Group



Hart, King & Coldren is pleased to introduce the firm's newest addition to the mobilehome litigation group - Mr. Darrell White. Mr. White will specialize in business, intellectual property and real estate litigation.

Mr. White earned his undergraduate degree from University of California, Los Angeles and earned his law degree at Chapman University School of Law. Prior to passing the State Bar exam, he was employed with the firm as a law clerk. "Mr. White comes to HK&C at the start of his legal career. However, he has already had several impressive wins for mobilehome park owners. We look forward to his continued success at the firm,"

said Senior Partner Rob Coldren.

Mr. White previously held positions with several companies in which he gained broad ranging experience including assisting in high profile investigations and oversight with a top professional sports body, researching and preparing music licensing agreements for an international media company and working in the intellectual property division of a Fortune 500 company.

On a personal note, Mr. White and his fiancée have set a wedding date for January 2011.

"Eminent Domain" continued from front page

by agencies that need the underlying land for redevelopment or other land use changes. Those changes can be as simple as an expansion of a freeway off ramp to needing the parcel to complete assembling enough acreage for a new shopping center.

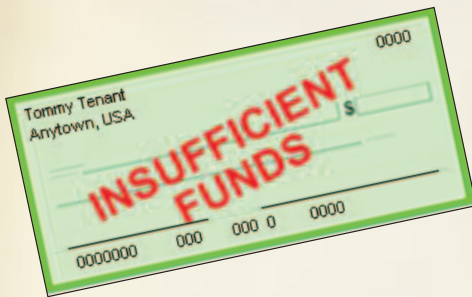
If your park has issues regarding a potential "taking" of your park, a threat to take some or all of your park, or any other government activity that is interfering with the effective business management of your mobilehome park, please contact Rob Coldren or Bill Dahlin at 714-432-8700. We can help.

For over a quarter of a century, Mr. Coldren's practice has emphasized representation of mobilehome parks and recreational vehicle parks, as well as park owners, throughout the State of California. Bill Dahlin is a Partner with HK&C with 30 plus years of experience and has practiced law at HK&C for over two decades. Mr. Dahlin's practice focuses on park owners and their property rights. They may be reached at rcoldren@hkclaw.com or bdahlin@hkclaw.com.

Does a Bounced Check Reset the Clock?

By John H. Pentecost, Esq.

Q: A tenant was served with a 3/60 day notice on the 7th of the month. On the 10th of the month,



the tenant “paid” the amounts owing on 3/60 day notice with his personal check. On the 15th of the month and five days after the expiration of the 3/60 notice period, the check was returned for non-sufficient funds in the tenant’s account. Do I have to start over?

A: Good question. While the tenant tried to pay within the 3 day period, he did not do so because the check was returned for non-sufficient funds. Payment with a non-sufficient fund check is like not paying at all on the notice. Therefore, you could act on the original notice assuming that it was served properly and no further amounts are accepted.

If you would like to submit a question to HK&C’s mobilehome attorneys, and for possible inclusion in our newsletter, please send to the editor at kkoenes@hkclaw.com.

John Pentecost is a Partner with the firm and specializes in property rights and the law as it pertains to the manufactured housing industry. He may be reached at 714-432-8700 x. 363 or via email jpentecost@hkclaw.com.

Evict Your Tenants Legally

By Renee Bessett

When a landlord and tenant enter into a lease agreement, each party has certain rights and responsibilities regarding the property. In the event that a tenant fails to pay rent or violates any other term of the lease, the landlord has the right to evict the tenant. However, the tenant cannot just be kicked out, a strict legal procedure must be followed. The state of California refers to this process as an “unlawful detainer” lawsuit.

Hart, King & Coldren has extensive experience assisting mobilehome and recreational vehicle park owners and managers with issues relating to evicting non-compliant tenants including:

- Preparation and service of notices for non-payment of rent and utilities, 7 Day Notices for rule violations; 60 Day Notices to Terminate Possession, and 5 Day Notices to Quit for unauthorized residents. Review notices prepared by managers for compliance with Mobilehome Residency Law or Recreational Vehicle Residency Law.
- Assistance with filing and service of the unlawful detainer complaint, entry of defaults, answers and/or judgments, issuance of the Writ of Possession, posting of the Writ of Possession and Sheriff lock out information and procedures. HK&C will keep you notified every step of the way.
- If the tenant files an answer to the unlawful detainer complaint, the answer is reviewed and discussed with you. All documents for setting the matter for trial or possible stipulation agreements, as well as preparation for attending the trial,

are reviewed with you in detail.

- Once judgment has been entered and tenants have been evicted, if the home is not park owned, HK&C will assist with the warehouseman’s lien process to recoup lost rent and utilities. We will prepare and serve the Notice of Warehouseman’s Lien, Election to Sell and the Notice of Sale. HK&C can also assist with detailed instructions for on-site management to perform the warehouseman’s lien sale at the premises or can acquire an auctioneer for the sale.
- Preparation and acquiring of a money judgment and Writ of Execution against the resident so collection procedures can be instituted, if the premise is not park owned.

If you’re struggling to evict a tenant properly, please contact Renee Bessett, at 714-432-8700 x. 312 or via email at rbessett@hkclaw.com.

With Thanks...

“Thank you Jock and Rob for a fantastic job with the county assessment and doing so under our budget. This will result in great savings to our family business. I appreciate the personal attention I received from both of you.”

A mobilehome park owner asked HK&C to look into potential property tax savings for the park. By recharacterizing some valuation items, HK&C worked with taxing authorities to get hundreds of thousands of dollars of relief for our valued client. Thank you to all of our clients for your confidence in us.

“The Effects of the Guggenheim Case” to be Presented by Mark Alpert of HK&C

Hart, King & Coldren attorney Mark Alpert has been asked to speak on “The Effects of the Guggenheim Case” at the CLE International’s 14th Annual Eminent Domain Conference on October 28-29, 2010 at the Hotel Nikko in San Francisco.

Mr. Alpert’s practice focuses on takings law and land use litigation. He has been deeply involved in the Guggenheim litigation from the beginning of the case. As you may know, the Ninth Circuit has granted en banc review of the decision. Mr. Alpert will discuss the important implications of the decision for future litigants pursuing takings claims and how the decision may impact the willingness of local governments to adopt regulations that severely impact land values. Win, lose, or draw, media reports believe that this case will be appealed to the U.S. Supreme Court. However, this case has already established important principles in opening property rights claims to review in the federal courts.

For more information about the program or to obtain a copy of the presentation, Mr. Alpert may be reached at 714-432-8700 x. 355 or via email at malpert@hkclaw.com. Visit HK&C’s property rights blog at www.capropertyrights.com to keep updated on recent land use and takings issues.



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