



Iowa Manufactured Housing Association

1400 Dean Ave, Des Moines, IA 50316-3938

515-265-1497

Fax: 515-265-6480

www.iamha.org

Email: Joe@iamha.org or Becky@iamha.org

Joanne Stevens
President

Joe M. Kelly
Executive Vice President

Becky Kinney
Office Manager

RIGHT OF FIRST REFUSAL

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Over the years, we've heard the term "right of first refusal" in our manufactured housing business. Usually the term refers to state laws which mandate that owners of mobile home parks/ manufactured housing communities have to give residents the first chance to purchase the community, if the owner decides to sell the community. Some of these sales to residents are happening voluntarily. ROC USA is a national non-profit organization that provides assistance to residents seeking to purchase the community where they live. In November of 2012, we published an article by Warren Kreamer, Executive Director, of the Northcountry Cooperative, which is the Midwest division of ROC USA, on this issue of residents purchasing communities.

However, the latest we're hearing is that some community owners around the country, including a couple in Iowa, are revising their leases or regulations to mandate that residents give the community owner the right of first refusal when residents want to sell their homes. This is a dubious move on the part of community owners. We're never sure how judges will react to such lease provisions or community regulations. A fair guess is that such requirements would not be upheld. Iowa law is clear that residents have the right to sell their homes to whomever they please. If the home remains in the community, the owner of the community has the right to approve the

purchaser as a resident, provided that the decision is based on the factors that the community owner uses for any other potential resident. Judges aren't likely to allow the community owner to mandate that the resident jump through the hoop of requiring that the community owner gets the first chance to purchase the home. In the judicial framework, the right of residents to sell their homes is an unimpeded right. Mandating that community owners get first choice would be most likely seen as an impediment of residents' rights.

How would the legislature react if more community owners adopt this type of provision? It's my judgment that many legislators would react by supporting a legislative proposal to give residents the same right of first refusal when community owners want to sell their communities. Few community owners would support such a legislative ideas. However, in the legislative arena, it would make sense to give the residents the same rights as the community owners would seem to want.

There is the additional problem of adverse publicity from the media. Finally, a smart trial attorney could take an illegal lease provision and set up a class action law suit based on the Iowa Court of Appeals decision from May 30 of 2013, the Staley v Barkalow decision. That decision did two things. It made class action cases easier in the

landlord/ tenant context. It also concluded that merely having an illegal provision in a lease can trigger damages. The illegal provision need not have been acted on. The legal theory is that landlords can use illegal provisions to intimidate residents, who probably don't know the law as well as a landlord.

The legitimate concern from community owners is keeping homes in the community when residents leave. However, this goal has to be achieved the old fashioned way: constant marketing to residents that you're interested in their homes, if they have need to leave your community. Finally, paying a fair price to the residents. Word will soon get around to other residents that the best deal for selling their homes is with you.

MHPAC: Strong Early Response

So far, 31 IMHA members have made a contribution to the Manufactured Housing Political Action Committee, MHPAC. For those of you new to the industry, MHPAC is the political arm of IMHA. Founded in 1982, MHPAC has been raising money every year from members and participating in political campaigns every two years. By participating, we mean that MHPAC makes monetary

contributions to those candidates to the state legislature who either have already demonstrated their support by means of their voting records or candidates who clearly support manufactured housing. Our record of supporting winners has been impressive over the years. Supporting some of our legislative initiatives is not easy. Therefore, it's incumbent that our industry assist those who are willing to stand with us in the legislature.

The support from members in 2014 has been very strong, not so much in the numbers of members who are helping, but in the size of the checks from those who are supporting. Our 31 contributors have sent in over \$19,000. Here are the 31 MHPAC contributors: Kevin Alberhasky, Ken Brenton, Charlotte Brown, Todd Burds, Monte Burrell, Dave Cunningham, Golfview Investors, Curt Erickson, John Fay, Mike Flummerfelt, Cleatus Gerardy, Doug/Lisa Grief, Jerry Horkheimer, Lowell Junkins, Ed Kinkade, Roy Markquardt, Bill Peters, Steve Proctor, Joel Ravitz, Kim Sharp, Linda Scalf, John Sibley, Allen Smith, Ron Struble, Rebecca Terrazas,

MHPAC: Business Checks are Acceptable

In recent conversations with members, it is clear that we should advise you that business checks are perfectly legal for submission to the Manufactured Housing Political Action Committee, MHPAC. What is not acceptable is a corporate check. Therefore, if your business is not incorporated, feel free to use a business check for MHPAC contributions.

Modulars Show Gain in 2013

Iowa retailers and builders ordered 25 more modular homes in 2013 than they did in 2012. There was a total of 457 modular homes ordered, an increase of about 6% from the 2012 total of 432 homes. For the year, Iowa outperformed the north central region, which showed a loss of over 2%, primarily because North Dakota showed a decrease of 134 homes ordered.

Iowa basically had a flat 4th quarter, picking up one home over last year's 4th quarter. Iowa was one of 19 states showing some increase in the 4th quarter, compared to the 15 states that had a decrease. Iowa's 91 orders in the 4th quarter was the 10th highest total for the 34 states surveyed. Last year's 90 homes put Iowa into 8th place for the quarter.

Top 10 Modular States in 2013

New York (1476) 2. North Carolina (1468) 3. Pennsylvania (1223) 4. Virginia (901) 5. North Dakota (892) 6. New Jersey (556) 7. Iowa (457) 8. Illinois (384) 9. Maine (369) 10. Texas (363)

Application Fees

In January 2012 we reported to you that Patty Pratt of Ripley's Homes in Muscatine had an idea for getting more income submitted to IMHA. Patty raised the application fee for those wishing to become residents of the Clear View Community in Muscatine. The increase in the fee was \$25 per application, and Patty decided to send the \$25 to IMHA. She was hopeful that other community owners would follow her lead. That hasn't happened, but Patty has not been deterred by that fact. She

has continued submitting the money to IMHA for the past 30 months. The result is \$3025. Patty didn't have to do this. She wanted to be helpful. And we'll say it again. Thank you Patty. That's \$3025 we would not have had if it hadn't been for your thinking about ways to be helpful to your association.

Federal Legislation

MHI's bill in Congress, HR 1779, sponsored by 115 members of Congress, including Congressmen Latham and Loeb sack from Iowa, has passed out of committee in the House. HF 1779 would make some much needed reforms in the Dodd-Frank law to recognize the differences in manufactured housing loans from traditional real estate lending. Even with this positive development, it's uncertain whether this bill will be passed this year. On the Senate side, S 1828, the companion bill to HR 1779, has 15 sponsors. Neither Iowa Senator is cosponsoring S 1828. The bill is still in the Senate Banking Committee.

The Senate Banking Committee has passed legislation to shut down both Freddy Mac and Fannie Mae while adopting other measures to strengthen the secondary housing market. Included in the legislation was a provision requiring the Consumer Financial Protection Bureau (CFPB) to review the impact HOEPA High-Cost Mortgage and Loan Originator provisions are having on credit availability in the manufactured housing market. The language also directs the Government Accountability Office (GAO) to complete a study on how these provisions impact credit available to those seeking to purchase manufactured housing. The provisions, which were requested by Sen. Joe Manchin (D-WV), were adopted during mark up.