

Affordable, mobile homes

Home ownership is central to many Americans' perceptions of social justice. Unfortunately, the dream of home ownership has eroded for most Californians situated on the middle and lower rungs of the state's economic ladder. Despite small gains during the recession, housing affordability remains one of California's largest obstacles to social and economic progress.

The why's of California's housing affordability problem are complicated.

What we want from the housing market is more housing. Unfortunately, we constrain the size of the housing market with very restrictive rules. These include zoning restrictions on boarding houses, the number of unrelated people who may live together, mother-in-law apartments and three-decker houses; rent controls that make it unprofitable to invest in new apartment buildings; requiring federally subsidized housing projects to shelter disinterested tenants rather than stakeholding owners; growth controls designed to exclude everyone who is not us; and a strangely intense aversion to manufactured housing. Consider the last case.

Trucking bulk materials to a construction site and assembling them is a quaint but expensive approach to homebuilding. We have the technology and resources to mass-produce the housing California needs now, this year. Limited numbers of inexpensive, comfortable, durable building components are already produced offsite and transported to their respective points of use. These high-tech structures are called "mobile homes," though this is a euphemism. These houses are prefabricated in one to four sections. Section sizes vary, but 12 by 60 feet is typical. The sections are trucked to a rented site and bolted together.

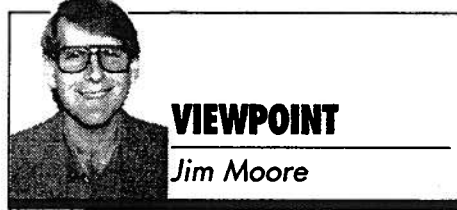
Once situated on a foundation, these made-to-order buildings can cost thousands of dollars to disassemble and move. Consequently, they usually stay put. Unfortunately, the market rules imposed by California's mobile home residency laws make it difficult to leverage this manufactured housing know-how. The problems are intensified by mobile home park rent control.

Residents of manufactured homes usually own their dwellings, but rent the site on which the coach rests. California mobile home residency laws permit owners of manufactured homes to sell their houses in place. The transaction provides the buyer with right of access to the pad under the house, and the purchase price of the coach reflects this right to use the land.

In addition, there are 87 cities in California with mobile home park rent control laws. Early in 1992, the U.S. Supreme Court ruled in *Yee vs. Escondido* that mobile home park

rent control laws may apply even when tenants sell their dwellings in place. Not all rent control ordinances restrict rent increases when a coach is sold, and any mobile home park owner can exclude a new tenant not qualified to pay rent. Still, park owners subject to rent control are routinely required to enter into new rental transactions without the opportunity to negotiate new site rents.

It is not unusual for the right of access to a mobile home pad to be several times more valuable than the coach that rests there. In an extreme case, a 10-by-52-foot house manu-



factured in 1962 and originally costing \$2,300 dollars was placed on a pad in Newport Beach. In 1991 the coach sold in place for \$110,000. Even the most meticulously manufactured home does not appreciate almost 5,000% during 30 years of use. Obviously, the price was not bid for the house but for the right of access to the pad.

Regulations that accomplish nothing are better than most. Unfortunately, California's mobile home residency and rent control laws produce a number of problematic results. The most obvious is that the economic injury imparted to park owners is sufficient to prevent new investments in mobile home parks. Orange County has one of the nation's highest median incomes, and a median home price that remains in excess of \$230,000. Despite a well-earned reputation for affluence, Orange County includes in excess of 31,000 mobile home spaces in more than 200 parks. Almost a third of these parks were built between 25 and 35 years ago. Significantly, none have been built in the last 10 years.

The less obvious effects of California's mobile home residency and rent control laws are even more troublesome. Lending institutions qualify mortgage loans for manufactured housing in the same way they do for conventional homes, by using appraisals based on comparable sales. Technically, these mortgages loans are made against the coach. But in rent-controlled mobile home parks, selling prices include a large premium for access to the rent-controlled pad.

As California land values have dropped from their 1988 peak, this premium has dropped. Many mobile homeowners unable to sell their coaches for what they paid for them are abandoning their mortgages. As a

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ries are throwing egregious sums of punitive damages like confetti in the courtrooms of this state. Nothing could be further from the truth.



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If you bother to be informed about the current status of civil litigation in this state, punitive damages are rarely pled in most civil litigation cases, and are even more rarely granted. Plaintiffs are held to a higher burden of proof in being able to be awarded punitive damages, and must show through clear and convincing evidence, as opposed to evidence by a preponderance (which is the usual standard of proof in civil cases) that the defendant engaged in "despicable conduct" amounting to fraud, malice or oppression. The jury, on motion of the defendant, can hear no evidence of a defendant's financial condition until this high threshold of proof is met by the plaintiff.

Moreover, punitive damage awards, when granted, are always subject to review by the trial judge and an appellate court as to both their reasonableness and appropriateness, and more frequently than not you will find that when a jury does award punitive damages the amount is whittled down in either post-trial motions or in

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result, lending institutions have become reluctant to make new loans on manufactured homes, particularly older, smaller structures. Unfortunately, these are precisely the units newcomers to the housing market are prepared to bid on. Agents report to coach owners that their homes cannot be sold because site rents are too high, and public pressure for more restrictive rent control measures intensifies.

Relief from this cycle is not likely to come from the courts. The U.S. Supreme Court's 1992 finding in *Lucas vs. South Carolina* reinforced private property rights by slightly relaxing constitutional law's traditional tolerance for the economic injuries imposed on land owners by land use regulations. Unfortunately, the traditional legal division between substantive and procedural due process implies that the question of whether regulations actually achieve stated objectives will remain subordinate to the issue of whether the regulations in question are reasonably related to a legitimate purpose.

The objectives of rent control laws are reasonable. Only the mechanism is foolish. Consequently, measures like California's mobile home residency and rent control laws are not likely to be voided soon, if ever. But until they are, count on paying more for a house, recession or no recession — especially a mobile home, and especially in California.

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