



## A Distinction With A Difference: Manufactured Home Notices vs. Recreational Vehicle Notices

BY RYAN EGAN

Community owners who own and operate both Manufactured Home Communities (“MHC”) and Recreational Vehicle Parks (“RV Parks”), or where RV’s are allowed into MHC for a short duration, must be careful not to use the same notices and documents for manufactured homes and RV’s. You may ask why? The short answer is that a large majority of jurisdictions regulate manufactured homes and RV’s by two entirely different sets of laws that each have a unique effect on the relationship between the tenant and the landlord.

Like other jurisdictions, California community owners and managers are (or certainly should be) well-versed in the provisions of the Mobilehome Residency Law (“MRL”) (Cal. Civ. Code §798 et seq.), particularly notice provisions that govern the creation and termination of manufactured housing tenancies. While manufactured homeowners remain a MHC’s primary tenant, some communities are increasingly beginning to cater to the tenancy needs of RV owners who desire or need to occupy a space on a more *transient* basis. It should come as no surprise that RV owners, like their manufactured homeowner counterparts, default on payment obligations or violate a MHC’s rules and regulations. Unfortunately, in such situations, MHC managers often act under the mistaken belief that termination notices for manufactured home owners are a “one size fits all” notice that equally applies to RV tenancies. The fact is that termination notices for RV owners are usually, if not always, going to differ in form and substance from those served on the typical manufactured homeowner. Like majority of jurisdictions around the country, California is but one example where RV situations like these are not, as is traditionally thought, governed by “mobile home” law, but rather fall squarely within a separate body of law applicable only to RV’s—California’s Recre-

ational Vehicle Occupancy Law (RVPOL), (Civ. Code § 799.20 et seq.). And if your jurisdiction is similar to California, you are likely to find fundamental differences amidst the notice provisions governing termination of the tenancy.

Notices are important quite simply because serving the wrong notice is costly: it wastes time and increases expense. If, for example, a Community serves an RV owner with a standard sixty (60) day termination notice for cause, which cites code sections that only apply to a mobile home owner, chances are the notice would have no legal force or effect. More importantly, the probability of success for a subsequent unlawful detainer action would be quite low, especially considering that it is the Community who bears the burden to prove service of the correct notice. To cure this mistake, a Community would need to restart the entire termination process thereby wasting time and increasing expense. The good news is that such mistakes are easily preventable so long as managers gain a basic understanding of unique notice provisions that apply towards mobile home owners and RV owners respectively, and the particular classes of tenancies created with RV owners.

Mobile home owners typically fall under one category that identifies or describes their tenancy—In California, they are a “homeowner,” or more particularly, “a person who has a tenancy in a MHC under a rental agreement.” (Civ. Code §798.9.) Like other states, a manufactured home tenancy in California can be terminated only “for cause” and upon 60-day notice pursuant to one of seven authorized reasons set forth in Civil Code § 798.56 that include, among others, violation of a local ordinance or state law, violation of the Community’s rules or regulations, or a default in the payment of rent, utilities, and other charges.

(Civ. Code § 798.56.)

RV owners, on the other hand, are typically divided into multiple categories, depending on the *duration* of the tenancy and jurisdiction. Understanding how your jurisdiction classifies RV owners is crucial, since a specific classification often determines whether a particular type of notice is required, or a certain statutory timeframe must be followed. For instance, California RV owners can either be (1) an “occupant”; (2) a “tenant”; or (3) a “resident.” Among these three classifications, the notice requirements are vastly different.

An “occupant” is an owner or operator of an RV who has occupied a lot in a RV park for thirty (30) days or less. (Civ. Code § 799.28.) A Community can terminate the tenancy of an “occupant” by service of a seventy-two (72) hour notice based upon either default in the payment of rent, utilities, or other charges, or a violation of the Community rules. (Civ. Code § 799.55.) While an occupant may cure a default in the payment of rent, utilities, or other charges within a three (3) day period following service of the notice, a Community need not provide any opportunity to cure an alleged violation of a Community’s rules or regulations.

A “tenant” is an owner or operator of an RV who has occupied a lot in a RV park more than thirty (30) consecutive days. (Civ. Code § 799.32.) A Community can terminate the tenancy of a “tenant” by (1) service of a three (3) day notice to pay or quit for nonpayment of rent, utilities, or other charges; or (2) service of a thirty (30) day notice to terminate possession “for other than nonpayment.” (Civ. Code §§ 799.65-799.66.) An important (and useful) distinguishing feature of the thirty (30) day notice to terminate is that it can be used for good reason or for no cause at all, though it obvi-

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Year 2003 in Post Falls, Idaho.

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**22**

A "resident" is a tenant who has occupied a lot in a RV park for nine (9) months or more. (Civ. Code § 799.31.) The nine (9) month mark is significant in that once a space is occupied for this length of time, the tenancy can only be terminated "for cause" on sixty (60) days' notice (similar to all occupants under the MRL). (Civ. Code § 799.70.) A Community can terminate the tenancy of a "resident" for default in payment of rent, utilities, or other charges upon service of a standard three (3) day notice, with a corresponding sixty (60) day period to remove the recreational vehicle from the Community. To terminate based upon a rule violation, the Community must first serve a seven-day (7) notice, thereby providing the resident with an opportunity to cure the particular rule violation.

Unsuspecting Community managers can create substantial delay by, for example, serving a "for cause" sixty (60) day termination notice on an RV owner who need only be served with a 72-hour notice to remove the RV, or even a "no cause" thirty (30) day notice to terminate the tenancy. Worse still, in California, for example, improperly serving a sixty (60) day notice could arguably confer "resident" status on a "tenant," thereby requiring a Community to abide by the more onerous "for cause" and sixty (60) day notice requirements that a "tenant" would otherwise not have been entitled to. Understanding these unique classifications and corresponding notice requirements is the first step in avoiding needless delay, and to ensure that each RV space remains income-producing.

California's distinct mobilehome and RV laws typify unique laws found in most jurisdictions that not only regulate tenancies for manufactured homes and RV owners, but may constitute a trap for the unwary. Community owners and managers alike are encouraged to become familiar with manufactured home and RV laws that apply in their particular jurisdiction so as to avoid common oversights leading to lost time and/or increased expense.

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