



## Effective Use of Workplace Violence Petitions in Your Community

BY PATRICK BRUSO

Manufactured Home Communities (MHC) are typically very nice communities in which to live and work. Everyone gets along and residents embrace community policies, community management, and the relationship between the residents and the employees is one of cooperation and mutual respect. However, sometimes, tempers flare and residents focus their tempers and frustration on the community management. Sometimes this can lead to threats of violence against the community management. What is a community owner to do? This article focuses on how California has come to the aid of community owners to protect some of their best assets, their community management employees.

In 1994, the California Legislature passed the Workplace Violence Safety Act (Act), the first such statute of its kind, set forth in Section 527.8 of the Code of Civil Procedure. The Act provides that any employer whose employee has suffered violence or is faced with a credible threat of violence in the workplace, may seek injunctive relief on behalf of the employee, prohibiting further acts of violence.

These petitions are especially useful for MHC owners, where everyday interactions can become explosive due to the fact that many people can become heated and irrational when dealing with housing issues, especially since residents can be very close to their neighbors. These petitions are equally important in situations where MHC employees also live within the community, and thus are spending the majority of their time in close contact with potentially violent and abusive residents. The purpose of the Act is to prevent such acts of workplace violence. This is important as it gives an MHC owner a remedy and course of action before events escalate to actual violence.

As defined in the Act, "unlawful violence" is any "assault, battery, or stalking." The only exception is lawful acts of self-defense or defense of others. Thus, if any resident commits an assault or battery, however slight, against a MHC employee, that resident would be susceptible to being restrained and enjoined under a Workplace Violence Petition (WVP).

The Act also enjoins "threats of violence" in

addition to actual violence. A "credible threat of violence" is a knowing or willful statement or course of conduct that would place a reasonable person in fear for his or her safety, and that serves no legitimate purpose. This could cover not only direct threats to harm an employee, but also implicit threats such as a MHC resident threatening to "get even with" an employee or telling an employee to "watch his (or her) back."

In addition to threatening statements, a "course of conduct" would include such activities as following or stalking an employee to or from their place of work; entering the workplace; following an employee during hours of employment; making telephone calls to an employee; or sending correspondence to an employee. This "pattern of conduct" must be composed of a "series of acts" over a period of time, however short, evidencing a continuity of purpose. Thus, a resident who knowingly or willfully enters into a community management office on multiple occasions to verbally harass a community employee would be liable to being restrained and enjoined if that employee had a reasonable fear for his or her safety.

A WVP is for situations where actions have escalated past normal resident-employee interactions. Whether to file a WVP should be promptly evaluated upon the first incident of physical violence. In addition to a WVP, there can be a request for a temporary restraining order (TRO) where there are allegations of actual physical violence or assault. Upon proper evidence and form, a TRO can be obtained within a day or two of filing the request. Additionally, the resident at issue will not have a chance to initially contest the TRO, and the TRO will stay in effect until the court hearing on the WVP. A TRO will require the resident to stay a certain distance away from the community employee, including the employee's workplace and place of residence. They will also require that the resident turn over any firearms to law enforcement or a licensed gun dealer. If a WVP permanent restraining order is granted, the resident will normally be required to "stay away" from the employee for a period of 3-5 years.

A MHC can also file a WPV for threats of vio-

lence or a course of conduct, such as stalking, entering the workplace, or making phone calls to the MHC employee that show a "continuity of purpose" and put the employee in a "reasonable" fear for his or her safety. Thus, a TRO can be obtained by a MHC on behalf of an employee for a threat of violence against the employee, or for a course of conduct by a resident, such as repeatedly entering the MHC office to harass employees, that would make a reasonable employee fear for their safety. A request for a TRO under a "course of conduct" situation may be less likely to obtain, especially if there has been no physical violence, but the MHC can succeed in obtaining a permanent restraining order if the MHC can show that, on multiple occasions, a resident harassed a specific employee in such a way that the employee reasonably feared for their safety.

A Workplace Violence Restraining Order can be a powerful tool to add to the MHC's arsenal "to keep the peace" in the community and to protect its employees. It can also provide an extremely quick remedy for any instances of physical violence or threat of violence toward MHC employees. It also allows the MHC to show its employees that the MHC is taking an immediate course of action to protect their respective safety respecting legitimate threats of violence. Lastly, it protects the MHC employees with stay away orders and firearm turnover orders, and can provide for jail time if the resident violates either the temporary or permanent restraining order. Upon the first incident of physical violence or a threat of violence against a community employee, the community owner should seek advice from its attorney to determine if there are sufficient grounds to file a WVP.

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