

How to Use 7- and 14- Day Notices the Right Way



Presented By:

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Who are John & Melissa?



John Pentecost is a partner with over 30 years of significant experience representing mobilehome communities. He has litigated hundreds of trials and has had extensive involvement in defending mobilehome communities—ranging from ground lease dispute issues, state and federal discrimination issues, failure to maintain actions, and Americans with Disabilities Act (ADA) matters.



Melissa Dougherty has been in the mobilehome and property management industry since 1996. She is an entrepreneurial executive with more than 20 years' experience leading and growing multi-billion dollar portfolios within the residential property management industry. She has helped multiple organizations manage and develop numerous portfolios within diverse markets and has directed multi-cultural and bilingual teams throughout the United States consistently exceeding established company goals. She is currently a regional manager for Hometown America (southwest region).

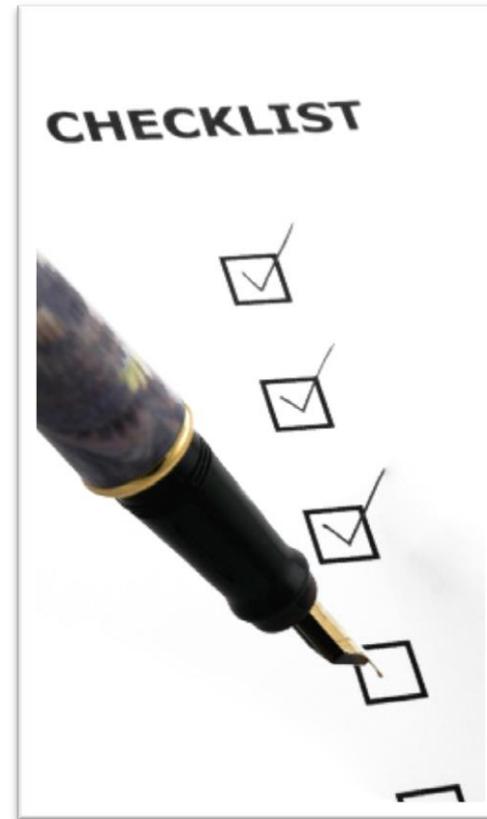
Enforcing Rules and Regulations

- Documentation is Critical
 - Use your maintenance workers
 - Let them be your extended “eyes and ears”
 - Require residents to submit complaints in writing
 - Log verbal complaints
- Communication is Key
 - Litigation can be extremely costly – open communication may be a way to circumvent the need for litigation

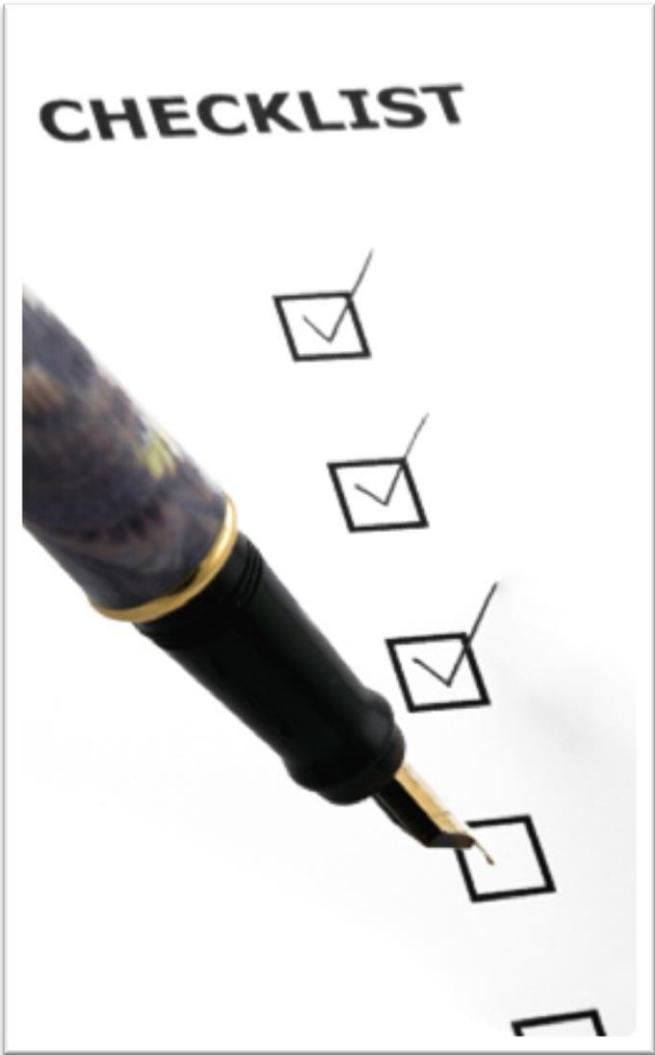


Types of Rules Enforcement Measures

- “Friendly Reminders”
- Continuing Violations Letter
- 7-Day Notice – 798.56 (d)
- 14-Day Notice – 798.36
- 3-Day Notice – 798.56 (e)
- Injunction – 798.88
- Eviction – 798.56



Types of Rules Enforcement Measures



CALIFORNIA NOTICE TO QUIT

TEENANT OF RENTAL PROPERTY
Tenant Name _____

ADDRESS OF RENTAL PROPERTY
Address _____ City _____ State _____ Zip _____

NOTICE TO QUIT
You are hereby informed to give up possession of the premises occupied by you. Details regarding this Notice To Quit are included below.



Friendly Reminders

- Informal “reminder” of Park’s Rules and Regulations
 - Familiar to Park Managers
 - Not recommended for chronic violators
- Benefits
 - Opens dialogue between Park and resident
 - Alerts homeowners that Park Management knows about situation

Friendly Reminders

- Drawbacks
 - Lacks legal effect
 - May create unintended results
 - Modification of rental agreement
 - Disparate enforcement claim
 - Waiver of formal action
- Document everything

Continuing Violations Letter

- Letter prepared by attorney
- Benefits
 - Shows Park is serious
 - Identifies specific Rule violations
 - Forceful – “Final Informal Notice”
 - Comes from attorneys
 - (High Success Rate)
- Drawbacks
 - Lacks legal effect
 - Attorneys’ fees



7-Day Notice

- Formal notice of homeowner's (and – if in Residency Documents - their guest's) violations
- Must be in writing
- Must clearly state the rule(s) being enforced
- Must clearly describe homeowner conduct that violated rules
- Must clearly describe what homeowner must do or cease doing to cure violation(s)



7-Day Notice (continued)

- Benefits
 - Serious – initiates legal process
 - If sufficient, 3 or more for same rule violation within previous 12-month period
 - One 7 day notice or “3 strikes”
- Drawbacks
 - “7 days to cure” dilemma
 - If stop violation by 7th day – have cured
 - Chronic offenders - gamesmanship



Example of a 7-Day Notice

November 23, 2015

Our File Number: 38555.091/4829-6035-7675v.1

TO: _____
and All Residents in Possession

PREMISES: _____

RE: SEVEN (7) DAY NOTICE (Civil Code § 798.56)

Dear _____

Our office represents Lamplighter Camarillo Mobile Home Park (hereinafter the "Park"), and I am writing to you on behalf of my client in connection with the above referenced matter.

As you are aware, you are bound by the terms and conditions of the Rules and Regulations, Rental Agreement, and Residency Documents of the Park. These Residency Documents provide, in pertinent part, that you must conform to, and abide by, the provisions and terms set forth in **Exhibit "A,"** attached hereto and incorporated herein by this reference.

Furthermore, California Civil Code § 798.56 provides, in part, that a tenancy in a mobilehome park may be terminated as follows:

A tenancy shall be terminated by the management only for one or more of the following reasons:

- (a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.
- (b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

* * *

- (d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park which is part of the rental agreement or any amendment thereto.

14-Day Notice

- Written notice to homeowner that Park intends to remove homeowner's personal property or perform maintenance work on the homesite—Does not include mobilehome deficiencies
- Must describe “condition to be corrected” or “property to be removed”
- Must state the rule, regulation, or code justifying the work to be performed or property to be removed
- Must state a \$ estimate of charges if performed by management / agents
 - Estimate for work from outside vendor
 - More than one estimate if possible



14-Day Notice (continued)

- Benefits
 - Non-payment basis for eviction
- Drawbacks
 - Disputed charges – reasonableness
 - Burden of clean-up on management
 - Raises tenant expectations that management will fix at minimal cost to tenant
 - Count as rule violations strike?
 - Attorney's fees?



Case Study #1

FACTS:

Mrs. Lawrence has not been maintaining her yard and landscaping for the last couple of months, she lives alone and is on a very limited budget. Her yard is creating a hazard on the street as cars have to veer out into the middle of the street to avoid her trees and bushes. In addition, Mrs. Lawrence has a substantial amount of junk and debris on the patio, carport and under her home. Also, her skirting is damaged and could allow pests to get underneath her home.

She pays her rent on time and management does not want to evict her, but the neighbors are beginning to complain. Management has not given her any verbal or written notices as she has been recently ill.

Mrs. Lawrence has also complained that her neighbor has installed security cameras facing her house and yard.

Case Study #1 (continued)

Questions:

1. How should park management first approach Mrs. Lawrence regarding the violation of the park rules and condition of her homesite?
2. What if Mrs. Lawrence does not respond to the park management's attempt to informally resolve the matter, e.g., a friendly reminder?
3. If Mrs. Lawrence tells management that she would like to cooperate but does not have the funds and is too ill to go out to do the yard work herself, what options can management offer?
4. What if Mrs. Lawrence becomes defiant, how should the park management respond?
5. What should the park do about the security camera issue?

Case Study #2

FACTS:

Resident 1 has been given a notice to trim their trees. They never did. During a wind storm their tree blew into their neighbors yard and damaged their neighbors awning. Resident 1 refused to pay to fix their awning. Resident 2 is now asking us as community owners to pay him back or he will name us both in a small claims case. What is our recourse?



Case Study #3

FACTS:

A resident has a very tall tree. The branches are hanging over into the neighbor's yard and making a mess. We have served a 14 day after several conversations that went unaddressed. Can we trim them and charge him?



Questions?



Thank you!

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