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Housing and Technology: The Mobile Home Experience

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HOUSING AND TECHNOLOGY: THE MOBILE HOME EXPERIENCE

BAILEY H. KUKLIN*

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I. INTRODUCTION

In striking contrast to the technological advances radically changing the processes by which man satisfies his other basic needs, housing has undergone little evolutionary change since the advent of the steel-framed, multi-storied building. As has been true for centuries, housing is still primarily built by hand at the site, and although the incorporation of new sources of energy and materials has been significant, there is little about modern dwellings that a person from several hundred years ago could not easily comprehend.¹ While in other areas improved products and services have become more available and relatively less expensive, housing is in short supply and is prohibitively expensive to an increasing number of families.²

The development of modular and mobile homes has been a notable exception to the lack of innovation in housing. Modular construction, due to a less marked economic advantage, has not yet met with as great success and is far less in evidence in most

1. How very little, since things were made,
Things have altered in the building trade.

R. KIPLING, *A Truthful Song*, in *THE REWARDS AND FAIRIES* 57 (1926).

2. The cost is prohibitive for most families even when the more economical multi-family dwellings are included. Flippen, *Constitutionality of Zoning Ordinances Which Exclude Mobile Homes*, 12 *AM. BUS. L.J.* 15-16 (1974).

areas.³ Mobile homes, on the other hand, exist in or near most communities.

The mobile home, a form of housing considerably different from more traditional types, has met with various degrees of success. After World War II the modern mobile home, having a width of at least eight feet and including bathroom and kitchen facilities, began to emerge.⁴ In recent years up to one-half of all new single family housing has been mobile homes;⁵ altogether they accommodate nearly ten million Americans.⁶ Although mobile homes are neither designed for nor purchased by lower-income families alone,⁷ their low price tag is the primary explanation for their success.⁸ Mobile homes are virtually the only form of new

3. See D. MANDELKER & R. MONTGOMERY, HOUSING IN AMERICA 407-09 (1973).

4. See generally Andracheck, *Mobile Homes: Some Historical Notes*, in HOUSING CRISIS AND RESPONSE 6-11 (E. Morris & M. Woods eds. 1971); D. Cowgill, *Mobile Homes* 1-12 (1941) (unpublished dissertation in University of Pennsylvania Library); L. Landis, *Urban Life Styles* 14-78 (1974) (unpublished thesis in University of Iowa Library).

5. See B. HODES & G. ROBERSON, THE LAW OF MOBILE HOMES 15 (3d ed. 1974) (45% in 1972); Mobile Homes Manufacturers Association, *Mobile Home Financing: Twenty-Third Annual Survey* 4 (1973) [hereinafter cited as *Mobile Home Financing*] (48% in 1973). The number of mobile home shipments peaked in 1972-73, and thus perhaps the percentage of mobile homes in the single family housing market has also declined since that time. Manufactured Housing Institute, *Quick Facts About the Manufactured Housing Industry* 12 (1975) [hereinafter cited as *Quick Facts*].

6. The exact number of people living in mobile homes is subject to dispute. Compare *Hearings on Housing and Urban Development Legislation Before the Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking, Housing and Urban Affairs*, 93d Cong., 1st Sess. 839 (1973) (statement of Rep. Louis Frey, Jr.) [hereinafter cited as *1973 Hearings*] (7 million people), with Satterfield, *Mobile Homes: The Current Market Place*, J. COM. BANK LENDING, May 1969, at 37-38 (13 million people) and Porter, *Price is About Right on Mobile Housing*, Clev. Plain Dealer, June 7, 1976, § B, at 9 (9.9 million families).

7. Mobile homes costing as much as \$40,000 are not uncommon. Comarow, *The Surprising New Look of Mobile Homes*, MONEY, Oct. 1975, at 92.

8. The per square foot cost of a mobile home is about one-half the cost of a conventional house. Porter, *Extra Costs in Buying a Mobile Home*, Clev. Plain Dealer, June 8, 1976, § C, at 9. See Fichtner, *The Mobile Home Dilemma*, 14 A.F. JAG L. REV. 164 (1973); Federal Home Loan Bank Board, *A Study of the Mobile Home Industry* 9 (2d printing 1973) [hereinafter cited as *Mobile Home Industry*]; *Mobile Home Financing*, *supra* note 5, at 4. See generally Koncelik, *Mobile Home Construction and the Systems Building Concept*, in HOUSING

housing that families with annual incomes less than \$7,500 can purchase.⁹ Yet the income of the average mobile home owner is not very different from the overall national average.¹⁰

It might be expected that society would readily accept mobile homes as a solution to the housing crisis, but the reception of this type of housing has been fraught with problems. The resistance to mobile homes is not surprising because changes frequently encounter opposition from vested interests. The conflict is often resolved by the market mechanism and, should there remain imbalances of power among the affected parties, by the legislatures and the courts. Nonetheless, the magnitude of the unresolved difficulties still confronting this mode of living is surprising. The purpose of this article is to examine the reasons for these problems and to consider whether the causes might affect the acceptability of other types of housing innovations. This article will first survey the nature of the special problems affecting mobile homes, then look at their causes, and conclude with a study of both current and potential solutions.

II. THE NATURE OF THE SPECIAL PROBLEMS IN THE RELATIONSHIPS OF PARTIES AFFECTED BY MOBILE HOMES

In analyzing the difficulties involving mobile homes, it is useful to separate the affected parties into four categories: the mobile home owner;¹¹ the mobile home park owner or management;¹² the mobile home industry;¹³ and local, state, and federal

CRISIS AND RESPONSE 44-46 (E. Morris & M. Woods eds. 1971); Newcomb, *Mobile Home Parks: Part 1, An Analysis of Characteristics*, Urban Land Institute 5 (1971).

9. Under the common formula by which a family can afford to spend twice its annual income on the purchase of housing, a family earning \$7,500 per year can spend \$15,000 for housing. In 1969, mobile homes accounted for 98.3% of the housing sold for \$15,000 or less. Levine, *Where Can a Home Go?: Mobile Units Fight for Sites*, Christian Sci. Monitor, May 7, 1970, at 2, col. 4. In 1974, mobile homes accounted for 94% of the housing sold for less than \$20,000. Quick Facts, *supra* note 5, at 7.

10. See note 392 *infra*.

11. "Mobile home owners" are defined as those residing in mobile homes and include owners, renters, or purchasers under a conditional sales contract. In this article, the term "owner" will refer to "mobile home owner" as so defined.

12. "Mobile home park owner" is defined as the owner and management of a mobile home park.

13. "Mobile home industry" is defined as all of the primary enterprises

governments. Not all the relationships among these parties suffer from imbalances giving cause for complaint.¹⁴ The major conflicts arise primarily in the relations of the owner to the industry, the owner to the park, the owner to the government, and the park to the government.

A. Owner-Industry Relationship

The owners of mobile homes have often found their relationship with the industry to be painful. Poor construction, poor service, and poor financing have been the primary causes of owner dissatisfaction with the industry.¹⁵ Of these, the first, markedly deficient construction, is the chief cause for complaint.¹⁶

that provide the goods and services necessary for the construction and maintenance of a mobile home. Included within this broad term are manufacturers, dealers, transporters, insurers, financiers, setup and maintenance personnel, as well as the manufacturers and servicers of auxiliary equipment such as skirting, tiedowns, and outbuildings. Excluded are mobile home parks. *See generally* 1 D. NULSEN & R. NULSEN, *MOBILE HOME AND RECREATIONAL VEHICLE PARK MANAGEMENT* 82-90 (1971).

14. There have been occasional breakdowns in cooperation among the four groups. For example, when the industry seeks authorization from the states to transport wider models on the highways, it meets the usual hurdles in attempting to change legislative or administrative regulations. Such hurdles, however, generally have been cleared without undue struggle. It is the contention of the author that the remaining relationships have endured greater conflicts than those normally to be expected.

15. Although this section of the article will develop the negative aspects of the owner-industry relationship, the reader should not conclude that the average owner regrets his decision to live in a mobile home. Surveys, with striking consistency, show that owners enjoy living in mobile homes and would choose to live in them again. *See, e.g.,* E. BARTLEY & F. BAIR, *MOBILE HOME PARKS AND COMPREHENSIVE COMMUNITY PLANNING* 11 (1960); Connett, *A Study of Mobile Home Parks, Spaces, and Residents in Humboldt County, California*, Humboldt State College 34-35 (1966); Owens-Corning Fiberglas Corp., *The New Mobile Home Market* 15-16 (1974) [hereinafter cited as *Mobile Home Market*].

16. PRACTICING LAW INSTITUTE, *THE MOBILE HOME INDUSTRY* 29 (1973) [hereinafter cited as *PLI 1973*]; D. Kuduk, *The Mobile Home Industry in Minnesota: Study of a Consumer Problem* 3-4, 13 (1972) (unpublished study in Minnesota State Attorney General's Library). *See generally* M. DRURY, *MOBILE HOMES* 33, 52-53 (rev. ed. 1972); CENTER FOR AUTO SAFETY, *MOBILE HOMES* 87-108 (1975) [hereinafter cited as *MOBILE HOMES*]; Hoyt, *Mobile-Home Builder Code Often Ignored*, *Christian Sci. Monitor*, Apr. 18, 1972, at 1, col. 2. For a

1. Deficient Construction

Surveys of mobile home owners have repeatedly revealed serious discontent with the quality of the homes.¹⁷ A substantial majority of mobile homes are defectively manufactured,¹⁸ and the stresses of transportation often exacerbate such defects.¹⁹

One of the primary causes of construction flaws is poor design,²⁰ attributable, until recently, to a lack of attention.²¹ Another weakness is the use of inferior materials.²² Economic considerations induce many companies to purchase cheap components,²³ although often a notable exception is the installation of high quality household appliances to increase sales appeal.²⁴

discussion of the construction and service problems of one owner, see *What Living in a Mobile Home is Like*, CHANGING TIMES, Oct. 1969, at 7 [hereinafter cited as CHANGING TIMES].

17. 1973 Hearings, *supra* note 6, at 1145-66; MOBILE HOMES, *supra* note 16, at 88; Waind & Wright, North Dakota Mobile Home Park Residents: An Attitudinal Survey, Univ. of North Dakota Bureau of Governmental Affairs, Special Rep. No. 45, at 6 (1975); Fla. Dep't of Community Affairs, Report of Governor's Task Force on Mobile Homes 18, 25 (1974) [hereinafter cited as Fla. Task Force]; D. Moore, American Life Styles in Mobile Homes 48 (Nov. 1962) (unpublished report for the Whirlpool Corp. by the Mobile Home Research Group at Michigan State University).

18. See 1973 Hearings, *supra* note 6, at 1173; Ohio Commerce Dep't, Mobile Home Buyer's Guide 9 [hereinafter cited as Ohio Guide]; Mobile Home Market, *supra* note 15, at 19, 27. *But cf.* PROFESSIONAL BUILDER, Apr. 1970, at 66-67 [hereinafter cited as PROFESSIONAL BUILDER] (large proportion of conventional housing also flawed).

19. See 1973 Hearings, *supra* note 6, at 849; Congers, *The Mobile Home Transportation Problem*, 11 A.F. JAG L. REV. 252-53 (1969); Frey & Knop, *The Imperative Need for Uniform Mobile Home Safety Standards*, 30 WASH. & LEE L. REV. 459, 462-63 (1973); Swaback, *Production Dwellings: An Opportunity for Excellence*, LAND ECON., Nov. 1971, at 321, 323. *But see* Fichtner, *supra* note 8, at 166.

20. MOBILE HOMES, *supra* note 16, at 90-92.

21. M. DRURY, *supra* note 16, at 161-62; MOBILE HOMES, *supra* note 16, at 90-91. See generally Frey & Knop, *supra* note 19, at 460.

22. MOBILE HOMES, *supra* note 16, at 93-97; Congers, *supra* note 19, at 253; *Mobile Homes and Recreational Vehicles*, CONSUMERS' RESEARCH MAGAZINE, Oct. 1973, at 118-19 [hereinafter cited as CONSUMERS' RESEARCH MAGAZINE]; *Those Wheeled Industrialized Houses*, FORTUNE, July 1965, at 174, 178 [hereinafter cited as FORTUNE].

23. Swaback, *supra* note 19, at 321, 323; see Comarow, *supra* note 7, at 92, 102.

24. Swaback, *supra* note 19, at 321, 323.

Shoddy workmanship that results from poor training of unskilled laborers,²⁵ ill-devised incentive pay systems,²⁶ and substandard quality control²⁷ aggravates these basic construction flaws.²⁸

Mobile homes are more dangerous than conventional housing and are especially susceptible to the perils of fire and wind. Fire losses result from the use of cheaper but more exacting aluminum wire,²⁹ highly combustible paneling,³⁰ unreliable heat tape to keep pipes from freezing,³¹ faulty furnaces and flues,³² and inflammable plastics,³³ as well as from the inherent shape of the interior.³⁴ There is evidence that the rate of fatalities caused by fires is generally much greater among occupants of mobile homes than among traditional housing dwellers.³⁵ The average financial loss from fires is also much higher.³⁶ As a consequence of weak construction, shapes, weights, and lack of solid foundations,³⁷ there

25. MOBILE HOMES, *supra* note 16, at 97-98.

26. *Id.* at 98-99.

27. *Id.* at 99-100.

28. MOBILE HOMES, *supra* note 16, at 97-104; CONSUMERS' RESEARCH MAGAZINE, *supra* note 22, at 118-19; FORTUNE, *supra* note 22, at 174, 178.

29. 1973 Hearings, *supra* note 6, at 848; MOBILE HOMES, *supra* note 16, at 130-32; see Hearings on Housing and Urban Development Act of 1972 Before House Comm. on Banking and Currency, 92d Cong., 2d Sess. 435 (1972) [hereinafter cited as 1972 Hearings]; *The Cracks in the Mobile Home Market*, BUS. WEEK, Apr. 14, 1973, at 105 [hereinafter cited as BUS. WEEK].

30. MOBILE HOMES, *supra* note 16, at 137-40; Comarow, *supra* note 7, at 92, 106; see BUS. WEEK, *supra* note 29, at 105.

31. 1973 Hearings, *supra* note 6, at 848; 1972 Hearings, *supra* note 29, at 376, 435.

32. 1973 Hearings, *supra* note 6, at 848; 1972 Hearings, *supra* note 29, at 376, 435.

33. MOBILE HOMES, *supra* note 16, at 140-44; cf. Wandres, *What's New in Mobile Homes?*, RETIREMENT LIVING, Apr. 1975, at 31-32 (some plastics used give off toxic fumes when they burn).

34. Comarow, *supra* note 7, at 92, 106.

35. 1973 Hearings, *supra* note 6, at 848; 1972 Hearings, *supra* note 29, at 366, 369, 374-75, 433, 435; Margolis, *Mobile Homes and the Rural Poor: An Alternative Non-Solution*, Rural Housing Alliance 16 (1973); Project, *Study of Mobile and Modular Housing: A Marketing Research Class Project*, Univ. of Tenn. Technical Assistance Center 26 (1972) [hereinafter cited as UT Project]; see Comarow, *supra* note 7, at 106.

36. 1973 Hearings, *supra* note 6, at 848; 1972 Hearings, *supra* note 29, at 366, 369, 374-75, 433, 435; McDonnell, *This Land is Whose Land?: Mobile Boxes of Ticky-Tacky*, PROGRESSIVE, May 1974, at 25-26.

37. See 1973 Hearings, *supra* note 6, at 849; 1972 Hearings, *supra* note 29,

is also a greater incidence of wind damage.³⁸ Thus mobile homes are subjected to disproportionately higher insurance rates than other forms of housing.³⁹

2. Inadequate Service

Deficient servicing has been one of the greatest weaknesses of the industry.⁴⁰ A large percentage of owners discover defects within the first year, request service, and learn that the mobile home either will not be repaired within a reasonable time or will not be repaired at all.⁴¹ The frustration from such poor service has on occasion been known to be so great that some owners have chosen to allow the mobile homes to be repossessed rather than to continue the struggle for relief.⁴²

The local dealers are partly to blame for the weak service record. Some dealers believe followup service is unimportant,⁴³ and others do not have the facilities to provide such service.⁴⁴ The integrity of some dealers has also been called into question;⁴⁵ one

at 369, 435-36; *MOBILE HOMES*, *supra* note 16, at 153-55; McDonnell, *supra* note 36, at 25-26.

38. 1973 *Hearings*, *supra* note 6, at 849; 1972 *Hearings*, *supra* note 29, at 369, 435-46. See generally Defense Civil Preparedness Agency, U.S. Dep't of Defense, Pub. No. TR-75, *Protecting Mobile Homes from High Winds* (1974).

39. 1973 *Hearings*, *supra* note 6, at 849; *BUS. WEEK*, *supra* note 29, at 105; Halverson, *Low Cost Housing—It's on Wheels*, *Christian Sci. Monitor*, Aug. 8, 1968, at 14, col. 3; Porter, *supra* note 8, at 9; see *MOBILE HOMES*, *supra* note 16, at 46-47.

40. M. DRURY, *supra* note 16, at 33, 70; *MOBILE HOMES*, *supra* note 16, at 109-124; see 1973 *Hearings*, *supra* note 6, at 1145-66; Andrachek, *Two Years and Eight Months in a Mobile Home: A Personal Case Study*, in *HOUSING CRISIS AND RESPONSE* 32 (E. Morris & M. Woods eds. 1971); Fla. Task Force, *supra* note 17, at 17.

41. 1973 *Hearings*, *supra* note 6, at 1140, 1173; *MOBILE HOMES*, *supra* note 16, at 110-11; *Mobile Home Market*, *supra* note 15, at 20; see *Wade v. Chariot Trailer Co.*, 331 Mich. 576, 50 N.W.2d 162 (1951). For a discussion of the misadventures of one owner, see *CHANGING TIMES*, *supra* note 16, at 7.

42. 1973 *Hearings*, *supra* note 6, at 1199; *MOBILE HOMES*, *supra* note 16, at 120.

43. See M. DRURY, *supra* note 16, at 43.

44. *MOBILE HOMES*, *supra* note 16, at 25-26, 120. See generally D. Kuduk, *supra* note 16, at 14.

45. *MOBILE HOMES*, *supra* note 16, at 25-28, 30; *Is There an Opportunity for Builders in the Mobile-Home Market?*, *HOUSE & HOME*, Jan. 1968, at 60-61 [hereinafter cited as *HOUSE & HOME*]; *Mobile Home Industry*, *supra* note 8, at 25; D. Kuduk, *supra* note 16, at 3-4, 15-16.

survey found a significant percentage of owners apprehensive about purchasing another mobile home from the same dealer.⁴⁶

The adequacy of the manufacturer's warranty has also been criticized.⁴⁷ Ambiguously worded and designed to protect the manufacturer rather than the consumer,⁴⁸ most warranty provisions have disclaimed all implied warranties, including that of merchantability, and have left the owner with little other protection.⁴⁹ The warranties have not covered many defects⁵⁰ and historically have been of short duration, typically ninety days.⁵¹ Compliance with the terms of the warranties has been difficult⁵² and the prescribed procedures appear to be designed to deter claims. The mobile home must be returned to the factory; the transportation charges must be prepaid; and the company must acknowledge its responsibility for the defect.⁵³

Even if the owner seeks repairs that arguably fall within the terms of the warranty, service is not assured. Manufacturers have told owners to look to the dealers for relief, and the dealers in turn have pointed to the manufacturers.⁵⁴ Critics contend that such

46. See *Mobile Home Market*, *supra* note 15, at 13.

47. *1973 Hearings*, *supra* note 6, at 1173; *Warranties on Mobile Homes Are Target of F.T.C. Action*, N.Y. Times, Dec. 27, 1974, § L, at 27, col. 1. For a description of the warranty service process, see *Manufactured Housing Institute, Mobile Homes 56-57 (1972)* [hereinafter cited as *Mobile Homes*]. The federal National Mobile Home Construction and Safety Standards Act of 1974 has corrected many of the problems related to the manufacturer's warranty. See 42 U.S.C. §§ 5401-5426 (1976).

48. See *SHEPARD'S MOBILE HOMES AND MOBILE HOME PARKS 32-33 (1975)* [hereinafter cited as *SHEPARD'S*]; *MOBILE HOMES*, *supra* note 16, at 112.

49. *MOBILE HOMES*, *supra* note 16, at 112-13; *Congers*, *supra* note 19, at 256.

50. *1973 Hearings*, *supra* note 6, at 849; *1972 Hearings*, *supra* note 29, at 370; *Frey & Knop*, *supra* note 19, at 463.

51. *1973 Hearings*, *supra* note 6, at 849; *1972 Hearings*, *supra* note 29, at 370; *MOBILE HOMES*, *supra* note 16, at 112; *Congers*, *supra* note 19, at 256; *Frey & Knop*, *supra* note 19, at 463; *Task Force on Mobile Homes, Report to Gov. William G. Milliken, Michigan Dep't of Commerce 52 (1971)* [hereinafter cited as *Mich. Task Force*].

52. *1973 Hearings*, *supra* note 6, at 849; *1972 Hearings*, *supra* note 29, at 370; *Frey & Knop*, *supra* note 19, at 463.

53. *1973 Hearings*, *supra* note 6, at 849, 1140; *1972 Hearings*, *supra* note 29, at 370; *MOBILE HOMES*, *supra* note 16, at 113.

54. *1973 Hearings*, *supra* note 6, at 1140-41, 1175; *MOBILE HOMES*, *supra* note 16, at 122-23; *SHEPARD'S*, *supra* note 48, at 33; *Comarow*, *supra* note 7, at 92, 104; *McDonnell*, *supra* note 36, at 25-26; *Porter, New Standards Should*

buckpassing is a tactic used to stall repairs until the warranties expire.⁵⁵ Once a claim is recognized, and service under the warranty is promised, other difficulties may arise. Great delay often follows,⁵⁶ and when the service is finally delivered, the incompetency of the repairmen often prevents substantial improvement.⁵⁷

Claims against transporters for damages during moves have encountered similar barriers.⁵⁸ For example, "sweetheart" relationships between repairmen and transporters have led either to questionable findings that the carriers were not negligent or to unrealistically low insurance settlements insufficient to pay for reasonable repairs.⁵⁹

3. Poor Financing

Between two-thirds and four-fifths of all new mobile homes are purchased by means of financing, through either the dealer or other lenders.⁶⁰ The high cost of the usual financing arrange-

Make Trailers Safer, Clev. Plain Dealer, June 10, 1976, § D, at 14; Mich. Task Force, *supra* note 51, at 52; D. Kuduk, *supra* note 16, at 14.

55. MOBILE HOMES, *supra* note 16, at 120-21; BUS. WEEK, *supra* note 29, at 105; CONSUMERS' RESEARCH MAGAZINE, *supra* note 22, at 118-19.

Dealers themselves have had trouble with manufacturers who refuse to respect warranties. MOBILE HOMES, *supra* note 16, at 118-19. On the other hand, manufacturers have been gouged by dealers who do the warranty work and then overcharge the manufacturers. *Id.* at 119-20.

56. *Hearings on Bills to Provide for Purchase of Mobile Homes Under Veterans Administration Guaranteed Loan Program Before the Subcomm. on Housing of the House Comm. on Veterans Affairs*, 91st Cong., 2d Sess. 3705 (1970) [hereinafter cited as *VA Hearings*]; see PRACTICING LAW INSTITUTE, MOBILE HOMES 90 (1971) [hereinafter cited as *PLI 1971*].

57. MOBILE HOMES, *supra* note 16, at 121-22. Repairmen training programs are beginning to alleviate this problem. *Id.* at 122; *cf.* 1973 *Hearings*, *supra* note 6, at 1198-99 (few manufacturers offer specialized training in repair and maintenance); MOBILE HOMES, *supra* note 16, at 115 (poor setups are often caused by inexperienced laborers); *PLI 1971*, *supra* note 56, at 90-91 (mobile heating plant servicers are not always well trained); Fichtner, *supra* note 8, at 171 (transporters have lack of well-trained drivers).

58. Congers, *supra* note 19, at 255; Fichtner, *supra* note 8, at 167; D. Kuduk, *supra* note 16, at 14. See generally B. HODES & G. ROBERSON, *supra* note 5, at 363-65 (and cases cited therein).

59. Congers, *supra* note 19, at 255; Fichtner, *supra* note 8, at 168.

60. See Osman, *Mobile Homes: The Third Alternative*, AM. INST. OF ARCHITECTS J., Dec. 1971, at 42, 44-45 (two-thirds); *The Changing Emphasis on Mobile Home Financing*, FED. RES. BANK OF ATLANTA MONTHLY REV., May 1967, at 58, 62 (75-80%) [hereinafter cited as *ATLANTA RES. BANK*]; *Immobile Mobile*

ment causes dissatisfaction among borrowers and is one of the principal hindrances to an expanded mobile home market. Dealers recognize this as their major problem.⁶¹

Mobile home financing combines attributes of automobile financing and real estate lending.⁶² The vast majority of these arrangements are consumer installment loans, usually in the form of conditional sales contracts or chattel mortgages,⁶³ and only a small percentage are real estate mortgages.⁶⁴ Because most mobile homes are not considered realty for financing purposes, they cannot qualify for the lower rates and better terms of real estate mortgages.⁶⁵

Financing may be arranged under mortgage insurance programs of the Federal Housing Administration⁶⁶ or the Veterans

Homes, HOUSE & HOME, Nov. 1959, at 64, 90 (80%) [hereinafter cited as HOUSE & HOME]; *The Mobile-Modular Home Industry: An Answer to the Housing Shortage*, Wall Street Transcript, Sept. 21, 1970, at 21,799-800 (80%) [hereinafter cited as *Shortage Answer*]; Newcomb, *supra* note 8, at 22 (two-thirds).

For a description of retail mobile home financing and litigation, see B. HODES & G. ROBERSON, *supra* note 5, at 285-88. See generally Manufactured Housing Institute, *Manufactured Housing Financing: Twenty-Fourth Annual Survey (1975)* [hereinafter cited as *Mobile Home Survey*].

61. Mobile Home Market, *supra* note 15, at 30; see *Housing: New Chance for Mobile Homes*, BUS. WEEK, June 28, 1976, at 96-97 [hereinafter cited as BUS. WEEK].

62. Coha, *Mobile Home Financing*, BANKER'S MONTHLY MAGAZINE, Aug. 15, 1967, at 34, 56.

63. Greenwald, *Mobile Homes in New England*, NEW ENGLAND ECON. REV., May/June 1970, at 2, 15; Matthews, *Owning a Mobile Home: 1,000,000 Buyers by 1975?*, MORTGAGE BANKER, Nov. 1972, at 64, 70; *Mobile Homes and the Housing Supply*, FED. RES. BANK OF CHICAGO BUS. CONDITIONS, Nov. 1972, at 2, 13 [hereinafter cited as CHICAGO RES. BANK]; Newcomb, *supra* note 8, at 22.

64. Greenwald, *supra* note 63, at 2, 13; CHICAGO RES. BANK, *supra* note 63, at 2, 13; see Woods & Bower, *The Financing of Mobile Homes*, in HOUSING CRISIS AND RESPONSE 50 (E. Morris & M. Woods eds. 1971). Consumer loans for mobile homes are more profitable than real estate mortgages and thus have been preferred by lenders. Greenwald, *supra* note 63, at 2, 15.

65. Wood, *Mobile Homes: New Financing for the Mortgage Banker*, MORTGAGE BANKER, Nov. 1969, at 42, 49; Greenwald, *supra* note 63, at 2, 15.

One commentator has recommended against financing mobile homes that can be considered realty because they are sufficiently attached to the owner's land. Satterfield, *supra* note 6, at 37, 42.

66. 12 U.S.C. § 1703 (1970).

Administration,⁶⁷ or financial assistance may be obtained from the Farmers Home Administration.⁶⁸ Thus far, however, these federal programs have had limited success because their requirements are more demanding than those of regular loans.⁶⁹ The restrictions imposed by these federal programs include nonparticipation in the loan by the dealer;⁷⁰ a minimum warranty term of one year;⁷¹ warranty service where the mobile home is parked rather than at the factory;⁷² conformance to a uniform mobile home construction code;⁷³ noncompetitive maximums for interest rates;⁷⁴ and considerable governmental red tape.⁷⁵ As a result, financing under a federal program is clearly less profitable to dealers and lenders. The industry, therefore, is discouraged from promoting federal financing programs.

Mobile home consumer financing has been particularly lucrative for commercial lenders.⁷⁶ Since such loans pay higher in-

67. 38 U.S.C. § 1819 (1970).

68. 42 U.S.C. § 1490(g) (Supp. V 1975). See generally SHEPARD's, *supra* note 48, at 41-43.

69. FHA and VA mobile home loans have risen to only 3 percent of the total mobile homes shipped from manufacturers as of June 30, 1975. HUD CHALLENGE, Dec. 1975, at 33.

70. PLI 1973, *supra* note 16, at 43-44; see text accompanying note 494 *infra*.

71. Meyer, *Purgatory on Wheels*, RAMPARTS, Aug. 1974, at 33, 38.

72. *Id.*

73. See 24 C.F.R. § 201.520 (1977); Am. Nat'l Standards Inst., Standard for Mobile Homes A119.1 (1972).

74. 1973 Hearings, *supra* note 6, at 855-57; C. GIBSON, POLICY ALTERNATIVES FOR MOBILE HOMES 43-45; MOBILE HOMES, *supra* note 16, at 50; PLI 1973, *supra* note 16, at 42; Matthews, *supra* note 63, at 64, 70; McDonnell, *supra* note 36, at 25, 27-28; see Weitzman, *Mobile Homes: High Cost Housing in the Low Income Market*, 10 J. ECON. ISSUES 576, 587 (1976).

75. C. GIBSON, *supra* note 74, at 43-45; PLI 1973, *supra* note 16, at 422-43; Clark, *A Visit To a Mobile Home Park*, MORTGAGE BANKER, Nov. 1972, at 74, 76; Matthews, *supra* note 63, at 64, 70.

76. MOBILE HOMES, *supra* note 16, at 41; PLI 1973, *supra* note 16, at 42; Anderson, *A Big-Scale Mobile Home Financing Operation*, BURROUGHS CLEARING HOUSE, Aug. 1959, at 46; Matthews, *supra* note 63, at 64, 72; Meredith, *Loans on Mobile Homes? We Did All Right*, BANKING, Mar. 1959, at 51, 118; Weitzman, *supra* note 74, at 586-87; *Mobile Home Sales Roll Toward \$3-Billion*, BUS. WEEK, Jan. 24, 1970, at 74.

terest than other loans,⁷⁷ are easily processed,⁷⁸ can be fully protected,⁷⁹ and are short term,⁸⁰ some lenders have considered mobile home loans the best consumer loans they handle.⁸¹ Normally mobile home dealers enter into the agreement with the purchasers and then sell the contracts to financial institutions at a profit.⁸² Banks,⁸³ finance companies,⁸⁴ credit unions,⁸⁵ savings and loan associations,⁸⁶ and life insurance companies⁸⁷ have all entered the field.

While consumer financing arrangements generally have been advantageous to lenders, the overall benefit to the mobile home purchaser is dubious. The positive aspects are considered to be easier loan financing during tight money periods;⁸⁸ easier,

77. Aiken, *For the Long Haul: Mobile Homes are the Likeliest Form of Middle-Income Shelter*, BARRON'S, Oct. 29, 1973, at 3; Dart, *The Potentialities of Mobile Home Financing*, BURROUGHS CLEARING HOUSE, June 1957, at 42.

Since most owners retire their loans early, the "rule of 78s" increases the effective interest rate. MOBILE HOMES, *supra* note 16, at 45; see Roach, *Actual Lending on Mobile Homes: What to Know Before You Start*, FED. HOME LOAN BANK BOARD J., May 1970, at 16-17.

78. Dart, *supra* note 77, at 42; Silbernagel, *Credit Insurance for Mobile Homes: Profit Potential for Mortgage Bankers*, MORTGAGE BANKER, Nov. 1972, at 24, 26.

79. Dart, *supra* note 77, at 42; Matthews, *supra* note 63, at 64-72; Silbernagel, *supra* note 78, at 24, 26.

80. Matthews, *supra* note 63, at 64, 72; Silbernagel, *supra* note 78, at 24, 26.

81. Breeze & Altman, *Mobile Home Financing*, J. COMMERCIAL BANK LENDING, Feb. 1970, at 31, 35; Dart, *supra* note 77, at 42; Matthews, *supra* note 63, at 64, 72; Silbernagel, *supra* note 78, at 24, 26. *But see* Wilson, *Financing Mobile Homes: 'A Natural for Mortgage Bankers'*, MORTGAGE BANKER, Nov. 1972, at 4; ATLANTA RES. BANK, *supra* note 60, at 58, 60.

82. Note, *Mobilehomes: Present Regulation and Needed Reforms*, 27 STAN. L. REV. 159, 163 (1974); D. Kuduk, *supra* note 16, at 5-6.

Indirect loans are preferred by financial institutions because they are more profitable, more easily administered, and often more protected. MOBILE HOMES, *supra* note 16, at 39. Such indirect loans are usually more costly to the borrower. *Id.* at 38-39. *But see* Jung, *Dealer Pricing Practices and Finance Charges for New Mobile Homes*, J. BUS., Oct. 1966, at 430, 438.

83. National banks are authorized under 12 U.S.C. § 24 (1864). State banks are similarly authorized. *See, e.g.*, CAL. FIN. CODE § 1223 (West 1951).

84. *See* Mobile Home Survey, *supra* note 60, at 1.

85. *See* Matthews, *supra* note 63, at 64, 70.

86. Federal savings and loan associations are authorized under 12 U.S.C. § 1464 (1970). State chartered savings and loan associations are similarly authorized. *See, e.g.*, CAL. FIN. CODE § 7187 (West Supp. 1977).

87. Wood, *supra* note 65, at 42, 44.

88. C. GIBSON, *supra* note 74, at 42; Aiken, *supra* note 77, at 3; Greenwald, *supra* note 63, at 2, 13; Mayer, *Mobile Homes Move Into the Breach*, FORTUNE,

cheaper, and more rapid loan processing;⁸⁹ easier resale of the mobile home;⁹⁰ and avoidance of closing or settlement costs.⁹¹ The disadvantages include computation of the interest rates by the add-on method that contributes to very high equivalent rates⁹² and results in a slow buildup of equity;⁹³ shorter loan periods than for conventional housing;⁹⁴ and fewer protections for the borrowers than exist under real estate mortgages.⁹⁵ Thus, the disadvan-

Mar. 1970, at 126, 130; *Bank Financing of Mobile Homes*, FED. RES. BULL., Mar. 1971, at 179; *Shortage Answer*, *supra* note 60, at 21,799-800. *But see* Garino, *Mobile-Home Shipments Lag; Makers Blame Economy, Too Many Rivals, Too Few Parks*, Wall Street J., June 19, 1970, at 9, col. 1; Nenneman, *Mobile Homes Invade Suburbia*, Christian Sci. Monitor, July 27, 1967, at 10, col. 1. The ready availability of financing, however, has not existed during the recent financial crisis beginning in 1974, when, primarily because of the lack of funds for credit, up to 35% of the dealers have folded. *Mobile Homes: Paying the Piper*, FORBES, Apr. 15, 1975, at 20 [hereinafter cited as FORBES]. *See* Lichtenstein, *Mobile-Home Business Has Fallen on Difficult Times*, N.Y. Times, Oct. 25, 1975, § L, at 30, col. 1.

89. M. DRURY, *supra* note 16, at 128; Woods & Bower, *supra* note 64, at 53; Matthews, *supra* note 63, at 70-72. *See generally* HOUSE & HOME, *supra* note 60, at 90.

90. Woods & Bower, *supra* note 64, at 56.

91. MOBILE HOMES, *supra* note 16, at 37.

92. Simple interest rate equivalents have been reported as high as 14%, Magid, *The Mobile Home Industry*, FINANCIAL ANALYSTS J., Sept.-Oct. 1969, at 29, 31; *The Great American House Party Is Over*, FORBES, Nov. 1, 1974, at 22, 26 [hereinafter cited as FORBES]; 16%, BUS. WEEK, *supra* note 29, at 105; 18%, C. GIBSON, *supra* note 74, at 5; and 21.5%, Meyer, *supra* note 71, at 33, 38. The use of simple interest terms is being adopted. Dennis, *The Growing Opportunity in Mobile Home Financing*, BURROUGHS CLEARING HOUSE, Oct. 1969, at 28-29; Osman, *supra* note 60, at 42, 44; *The Mobile Home: Rising New Giant in Housing*, HOUSE & HOME, June 1963, at 136, 142 [hereinafter cited as HOUSE & HOME]. For a historical explanation of the use of add-on interest, see Silbernagel, *supra* note 78, at 24, 26-28.

93. *See* Woods & Bower, *supra* note 64, at 57-58; Osman, *supra* note 60, at 42, 44. The use of simple interest rates will facilitate a more rapid rise in equity value. Woods & Bower, *supra* note 64, at 57-88; Osman, *supra* note 60, at 42, 44.

94. The terms have lengthened from 3 years in the 1940's, Woods & Bower, *supra* note 64, at 52, to 15 years at the present, M. DRURY, *supra* note 16, at 129; PLI 1973, *supra* note 16, at 42. Government assured loans for doublewides can be for up to 20 years. 12 U.S.C. § 1703(b) (1970); 38 U.S.C. § 1819(d)(2) (1970); 42 U.S.C. § 1490(g)(b) (Supp. V 1975). *See generally* Mobile Home Market, *supra* note 15, at 10.

95. *See* MOBILE HOMES, *supra* note 16, at 43-44; McDonnell, *supra* note 36, at 25, 28; CHICAGO RES. BANK, *supra* note 63, at 2, 13.

tages often outweigh the advantages.

A primary explanation offered to justify financial arrangements disadvantageous to borrowers is the uncertainty of the future resale value of mobile homes.⁹⁶ Although the life expectancy of the homes has been estimated to be from six or seven years⁹⁷ to well over twenty years,⁹⁸ lenders tend to use liberal estimations of depreciation in order to protect their investments in case of repossession. The quality of mobile homes, however, has improved substantially over the last few decades, especially during the last several years; therefore it is impossible to ascertain the actual life expectancy.⁹⁹ Estimates are further influenced by such variables as lack of standardized appraising systems,¹⁰⁰ diversity of model sizes, types, and styles,¹⁰¹ sale prices below suggested retail prices,¹⁰² climate,¹⁰³ quality of maintenance,¹⁰⁴ degree of site development¹⁰⁵ and the nature of its location,¹⁰⁶ ownership rather than rental of the site,¹⁰⁷ and inclusion in the sales price of items other than the home itself.¹⁰⁸ Depreciation rates, as a result, have been determined according to widely dif-

96. Reimensnyder, *Mortgage Financing of Mobile Homes*, BULL. OF ROBERT MORRIS ASSOCIATES, Apr. 1964, at 337.

97. Osman, *supra* note 60, at 45; *Mobile Homes: "Tin Boxes" or a Housing Solution?*, APPALACHIA, May/June 1971, at 8 [hereinafter cited as APPALACHIA].

98. VA Hearings, *supra* note 56, at 3523; Woods & Bower, *supra* note 64, at 53; APPALACHIA, *supra* note 97, at 1, 9-10; CHICAGO RES. BANK, *supra* note 63, at 8; Mobile Home Industry, *supra* note 8, at 5.

99. See Woods & Bower, *supra* note 64, at 53; Comarow, *supra* note 7, at 100-02; *If You're Thinking of Buying a Mobile Home*, U.S. NEWS & WORLD REP., Feb. 14, 1972, at 84 [hereinafter cited as U.S. NEWS].

100. See Fla. Task Force, *supra* note 17, at 13.

101. See APPALACHIA, *supra* note 97, at 9; Fla. Task Force, *supra* note 17, at 13.

102. See Fla. Task Force, *supra* note 17, at 13.

103. See APPALACHIA, *supra* note 97, at 8.

104. See *id.* at 8-9. See generally Woods & Morris, *The Mobile Home in the Context of Neighborhood and the Community*, in HOUSING CRISIS AND RESPONSE 39 (E. Morris & M. Woods eds. 1971).

105. See Morris & Woods, *Outlook for the Future: Cautious Assessment or Fearless Forecasting?*, in HOUSING CRISIS AND RESPONSE 63 (E. Morris & M. Woods eds. 1971); Woods & Bower, *supra* note 64, at 53; Comarow, *supra* note 7, at 92, 100; APPALACHIA, *supra* note 97, at 11; UT Project, *supra* note 35, at 60.

106. See APPALACHIA, *supra* note 97, at 1, 9, 11; Mobile Home Industry, *supra* note 8, at 5.

107. See C. GIBSON, *supra* note 74, at 8, 41.

108. See Woods & Bower, *supra* note 64, at 52.

fering actuarial schedules, ranging from fifty percent the first year and ten percent annually thereafter¹⁰⁹ to as low as about three percent the first year and two percent annually thereafter.¹¹⁰

Other factors used to defend the financing policies include the inability of mobile homes to qualify for real estate mortgages¹¹¹ and the concerns generated by the negative stereotypes of mobile home purchasers.¹¹² The relative youth of many borrowers, their small initial equity, and their lower incomes have also been advanced as partial explanations.¹¹³

The perceived risks of mobile home lending, however, do not fully explain the magnitude of such poor financing terms.¹¹⁴ In fact, lenders appear to have adequately insulated themselves from many of these risks. In general, the average credit dollar loss for mobile homes has been very small.¹¹⁵ Mobile home purchasers have a record of favorable delinquency and repossession rates.¹¹⁶

109. See CONSTRUCTION REV., Feb. 1965, at 7 [hereinafter cited as CONSTRUCTION REV.]; *A Report on Trailer Living*, CONSUMER REP., Mar. 1956, at 118 [hereinafter cited as CONSUMER REP.].

110. See APPALACHIA, *supra* note 97, at 11. It has been suggested that today mobile homes may even appreciate in value. CHICAGO RES. BANK, *supra* note 63, at 18; BUS. WEEK, *supra* note 61, at 97. In any case, the trend is toward a recognition of smaller depreciation rates. See also *Mobile Homes: An Idea Whose Time has Come?*, FORBES, May 15, 1976, at 54 [hereinafter cited as FORBES].

111. See UT Project, *supra* note 35, at 91.

112. See PLI 1973, *supra* note 16, at 41; Coha, *supra* note 62, at 34, 46; ATLANTA RES. BANK, *supra* note 60, at 58, 61. See also text accompanying notes 363-69 *infra*.

113. See Greenwald, *supra* note 63, at 21. As to whether or not they in fact have lower incomes, see generally authorities cited in note 392 *infra*.

114. See Greenwald, *supra* note 63, at 2, 21.

115. See MOBILE HOMES, *supra* note 16, at 41; Breeze & Altman, *supra* note 81, at 31, 35-36; Dart, *supra* note 77, at 42; Dennis, *supra* note 92, at 28, 76; McDonnell, *supra* note 36, at 25, 27; Meredith, *supra* note 76, at 51.

116. See VA Hearings, *supra* note 56, at 3567; Breeze & Altman, *supra* note 81, at 31, 35-36; Willatt, *More Homes on Wheels*, BARRON'S, Mar. 25, 1957, at 5; *Shortage Answer*, *supra* note 60, at 21,799-800; *The Mobile Home Industry*, Wall Street Transcript, Mar. 16, 1970, at 19,930-31 [hereinafter cited as *Industry*]; Newcomb, *supra* note 8, at 24. But see MOBILE HOMES, *supra* note 16, at 41; ATLANTA RES. BANK, *supra* note 60, at 58, 60. Sharply increased repossession rates have occurred periodically due to changes in (1) the standard model. see Boynton, *Financing the Mobile Home Industry*, FINANCIAL ANALYSTS J., Mar./Apr. 1960, at 87; and (2) the recent recession, see BUS. WEEK, *supra* note 61, at 96; FORBES, *supra* note 91, at 20; Lichtenstein, *supra* note 88, at 30; Mobile Home Survey, *supra* note 60, at 14.

Lenders are also protected by full recourse provisions against dealers from whom loans are purchased.¹¹⁷ More recently, lenders have increased the protection of their investments by requiring credit insurance.¹¹⁸

There are factors other than the concern for the riskiness of the investment that contribute to the high cost of mobile home financing. The dealers effectively pass on to their borrowers a disproportionate share of their own financing expenses. Most dealers finance their inventories at relatively low rates from lenders who expect, in exchange for the low rates, to obtain much of the consumer loans that follow.¹¹⁹ Additionally, as consideration for passing along their consumer loan business, the dealers are allowed to participate in the income from the finance charge,¹²⁰ reportedly by as much as thirty percent.¹²¹ Prepaid insurance policies of various types, often required or highly recommended, become part of the initial purchase price and are financed at high rates.¹²² Dealers receive further commissions from the insurance companies sometimes equaling fifty percent of the cost of the policies.¹²³ Sales taxes and auxiliary equipment regularly are

117. See 1 D. NULSEN & R. NULSEN, *supra* note 13, at 223; Woods & Bower, *supra* note 64, at 51; Lubell, *Legal Aspects of Mobile Home Lending by Institutional Lenders*, 45 L.A.B. BULL. 408 (1970); ATLANTA RES. BANK, *supra* note 60, at 58, 60; CHICAGO RES. BANK, *supra* note 63, at 2, 15; Silbernagel, *supra* note 78, at 24, 30; Newcomb, *supra* note 8, at 22.

118. See Woods & Bower, *supra* note 64, at 51; Lubell, *supra* note 117, at 415; Silbernagel, *supra* note 78, at 24, 30; CHICAGO RES. BANK, *supra* note 63, at 2, 15; Margolis, *supra* note 35, at 23.

119. See 1973 Hearings, *supra* note 6, at 857; Woods & Bower, *supra* note 64, at 51; Roach, *supra* note 77, at 16-17; Weitzman, *supra* note 74, at 576, 586; Mobile Home Industry, *supra* note 8, at 23; Newcomb, *supra* note 8, at 23. See generally B. HODES & G. ROBERSON, *supra* note 5, at 284-85, 288-91.

120. See PLI 1973, *supra* note 16, at 42; Boynton, *supra* note 116, at 87, 89; Breeze & Altman, *supra* note 81, at 31, 43; Silbernagel, *supra* note 78, at 24, 28; Weitzman, *supra* note 74, at 576, 586.

121. See Breeze & Altman, *supra* note 81, at 31, 35. This participation is a reason dealers might resist long-term, low interest financing. HOUSE & HOME, *supra* note 92, at 136, 142. In 1970 it was reported that borrowers rarely were being charged reduced rates for direct bank loans even though there was no dealer participation. Greenwald, *supra* note 63, at 2, 21-22.

122. See Boynton, *supra* note 116, at 87, 89; Comarow, *supra* note 7, at 92, 106; McDonnell, *supra* note 36, at 25, 28; Satterfield, *supra* note 6, at 37, 42; Margolis, *supra* note 35, at 23.

123. See Breeze & Altman, *supra* note 81, at 31, 42-43. For a justification of these commissions, see Fla. Task Force, *supra* note 17, at 10-12.

parts of the package and become similarly financed.¹²⁴ Rather than purchasing consumer loans directly from dealers, many lenders obtain loans from service companies that are formed to act as brokers for the loans in exchange for commissions of about one-third of the finance charge.¹²⁵ Insurance commissions are also an important part of the income of the service companies.¹²⁶

In conclusion, the owner may find himself in an ironic position. Although the main reason for purchasing the mobile home is its low cost, the result of the construction, service, and finance expenses is that ultimately it may cost nearly as much as a conventional house.¹²⁷ During the period of financing, the monthly payments themselves are comparable to those paid for a conventional house or apartment.¹²⁸

124. MOBILE HOMES, *supra* note 16, at 45-46.

125. MOBILE HOMES, *supra* note 16, at 40; *see* Woods & Bower, *supra* note 64, at 51; Lubell, *supra* note 117, at 415; Silbernagel, *supra* note 78, at 24, 32, 34; CHICAGO RES. BANK, *supra* note 63, at 2, 14-15; Newcomb, *supra* note 8, at 25-26. *See generally* *Mobile Home Industry*, *supra* note 8, at 30-33.

126. CHICAGO RES. BANK, *supra* note 63, at 2, 14-15.

127. *See* Weitzman, *supra* note 74, at 576, 583, 593-94 (mobile homes more expensive); BUS. WEEK, *supra* note 29, at 105; *The Consumers' Observation Post*, CONSUMER RESEARCH MAGAZINE, July 1973, at 37; *cf.* C. GIBSON, *supra* note 74, at 5 ("Financing turns a low-cost home into the equivalent of a far more expensive one. . . ."); McDonnell, *supra* note 36, at 25-26 ("low initial cost is often deceptive"); Smith, *Housing in the Seventies: Realism vs. Euphoria*, REAL EST. REV., Spring 1971, at 34, 38 (mobile home "can hardly be considered a bargain").

128. D. NULSEN & R. NULSEN, *supra* note 13, at 225-26; Woods & Bower, *supra* note 64, at 55; Weitzman, *supra* note 74, at 582; *The Business Front*, BARRON'S, June 6, 1966, at 11, 17 [hereinafter cited as BARRON'S]; *Mobile Homes Capture the Low-Cost Market*, BUS. WEEK, May 13, 1972, at 146 [hereinafter cited as BUS. WEEK]; *see* Cassidy, Book Review, N.Y. Times, Jan. 12, 1975, § 7, at 28. *But see* *A Mobile Home vs. A House: How the Costs Compare*, CHANGING TIMES, Jan. 1971, at 19, 21 [hereinafter cited as CHANGING TIMES]. For comparisons of the costs of owning a mobile home with the costs of owning other forms of housing, *see* Frey & Knop, *supra* note 19, at 482-84; Greenwald, *supra* note 63, at 2, 4; Weitzman, *supra* note 74, at 576, 582-83, 593-97; CHANGING TIMES, *supra*, at 19; *Choosing a Mobile Home*, CONSUMER BULL., Sept. 1968, at 34-35 [hereinafter cited as CONSUMER BULL.]; Texas Dep't of Community Affairs, *Texas Consumer's Guide to Mobile Homes* 28-33 (1974) [hereinafter cited as *Tex. Guide*].

B. Owner-Park Relationship

About forty percent to seventy-five percent of all mobile homes are located in mobile home parks.¹²⁹ The relationship of the owner to the park is usually different from the typical landlord-tenant situation in that the owner is not renting quarters from the park but is renting only a lot on which to place his own quarters. Owners consider the difficulties resulting from their association with the park to be second only to difficulties with the mobile home industry.¹³⁰

1. Landlord-Tenant Problems

Many of the mobile home owner's troubles stem from the fact that his rights and duties are not usually specified in a lease.¹³¹ Owners are normally tenants at will,¹³² periodic tenants,¹³³ or mere licensees subject to eviction on short notice.¹³⁴ Therefore, the park

129. See B. HODES & G. ROBERSON, *supra* note 5, at 6 (40%); I D. NULSEN & R. NULSEN, *supra* note 13, at 227 (76%); Mayer, *supra* note 88, at 126, 145 (50%); Murray, *New Boom in Mobile Homes*, DUN'S REV., Oct. 1976, at 53 (40%); U.S. NEWS, *supra* note 99, at 84-85 (25-50%); *Industry*, *supra* note 116, at 19,930-31 (55-70%); *Mobile Home Market*, *supra* note 15, at 9 (56%); *Mobile Home Survey*, *supra* note 60, at 4 (40%); *Quick Facts*, *supra* note 5, at 10 (40%).

130. See Quinn, *Mobile Home Owners Ask Property Rights Protection*, Lincoln (Neb.) Star, July 17, 1976, at 8; Council on Community Affairs, Fla. Dep't of Community Affairs, Report of Hearings on Mobile Home Park Operations in Florida 4 (1970) [hereinafter cited as Fla. Hearings]; Fla. Task Force, *supra* note 17, at 17. See generally *Tyranny in Mobile-Home Land*, CONSUMER REP., July 1973, at 440 [hereinafter cited as CONSUMER REP.]. But see Woods & Morris, *supra* note 104, at 36; Waing & Wright, *supra* note 17, at 7.

131. MOBILE HOMES, *supra* note 16, at 54, 59; Note, *Closing the Gap: Protection for Mobile Home Owners*, 16 ARIZ. ST. L. REV. 101, 105 (1974); CONSUMER REP., *supra* note 130, at 440; Waing & Wright, *supra* note 17, at 4. A trend may be emerging in favor of written leases. Wehrly, *Mobile Home Parks: Part 2, An Analysis of Communities*, Urban Land Inst., 14-15 (1972). State statutes have been enacted that require written leases. See note 519 *infra*.

132. MOBILE HOMES, *supra* note 16, at 60; Note, *The Community and the Park Owner Versus the Mobile Home Park Residents: Reforming the Landlord-Tenant Relationship*, 52 B.U.L. REV. 810, 813 (1972) [hereinafter cited as *Landlord-Tenant Relationship*]; Note, *The Necessity for Specific State Legislation to Deal with the Mobile Home Park Landlord-Tenant Relationship*, 9 GA. L. REV. 212, 219 (1974) [hereinafter cited as *Legislation Necessity*].

133. Note, *supra* note 131, at 105; Note, *supra* note 82, at 159, 165 n.42.

134. MOBILE HOMES, *supra* note 16, at 54; Note, *supra* note 131, at 105; CONSUMER REP., *supra* note 130, at 440. Some state statutes have been enacted

is free to change the terms of the tenancy¹³⁵ and to evict tenants for any infractions of those terms.

The consequences of eviction can be severe.¹³⁶ Park space is often scarce,¹³⁷ and many parks are "closed parks" that restrict entry to those who have purchased their mobile homes from affiliated or other specified dealers.¹³⁸ The result is that an evicted owner desiring space in the closed park must buy a new mobile home for the privilege and must pay a noncompetitive price for that home.¹³⁹ Even if the owner finds another park space for his mobile home, his worries are not over. Moving a mobile home is a troublesome and expensive task.¹⁴⁰ A commercial mover is required by statute,¹⁴¹ the contents of the home must be packed to withstand the rigors of the road, and the damages of transit can be costly.¹⁴² Not surprisingly, it may be more reasonable to sell the home and purchase another at the new location.¹⁴³ Whether

to require termination notice of up to one month. *Landlord-Tenant Relationship*, *supra* note 132, at 814 (and authorities cited therein).

135. Note, *supra* note 131, at 105; see Waind & Wright, *supra* note 17, at 6; Council of Better Business Bureaus, *Tips on Buying a Mobile Home* 11 (1975).

136. See *Lavoie v. Bigwood*, 457 F.2d 7, 14 n.16 (1st Cir. 1972).

137. See text accompanying notes 316-18 *infra*.

138. See C. GIBSON, *supra* note 74, at 20; MOBILE HOMES, *supra* note 16, at 66; SHEPARD's, *supra* note 48, at 43-44; *Landlord-Tenant Relationship*, *supra* note 132, at 217; Fla. Hearings, *supra* note 130, at 5-6; Hegel, *Mobile Home Zoning, Building and Site Regulations, and Taxation: Implications for Michigan Municipalities*, Mich. Municipal League Information Bulletin No. 118, at 10 (1970); D. Kuduk, *supra* note 16, at 11. Nationwide, less than one-third of the parks have been reported to be "closed" although the actual fraction is suspected to be higher. Wehrly, *supra* note 131, at 14. Up to 80% of the parks in Florida are "closed." MOBILE HOMES, *supra* note 16, at 66.

139. See MOBILE HOMES, *supra* note 16, at 66. See also Jung, *supra* note 82, at 430, 438; CONSUMER REP., *supra* note 130, at 440-41; *The Mobile Scene Turns to Environment*, PROFESSIONAL BUILDER, Aug. 1971, at 51, 56 [hereinafter cited as PROFESSIONAL BUILDER].

140. Andrachek, *supra* note 40, at 31; L. Landis, *supra* note 4, at 65; Note, *supra* note 82, at 169; see Note, *supra* note 131, at 104 n.20. See generally *Your Mobile Home: Move It or Leave It?*, CHANGING TIMES, Apr. 1972, at 23. As much as \$4.00 per mile is charged for the move. Porter, *supra* note 6, at 9.

141. B. HODES & G. ROBERSON, *supra* note 5, at 54-55, 360; UT Project, *supra* note 35, at 58-59.

142. Andrachek, *supra* note 40, at 31; CONSUMER REP., *supra* note 130, at 440; Quinn, *supra* note 130, at 8.

143. Comarow, *supra* note 7, at 92, 106; Wang & Travis, *The Characteristics, Economic Resources and Housing Preferences of Mobile Home Occupants*

the owner moves his home or purchases another, he is subject to additional expenses. Entrance fees, exit fees, sales commissions, and other park fees, as well as the other investments in the development of the old lot, can be lost by the relocation.¹⁴⁴

According to some commentators, these problems and the ease of eviction consequently give the parks "feudal sway" over the tenants.¹⁴⁵ Some managers have been accused of taking abusive advantage of their great power.¹⁴⁶ In response to this quandary, many owners experience insecurity, fear, apprehension, despair, and resignation.¹⁴⁷ Believing that they have no other option, the owners often accept unconscionable park rules, fees, and rent increases without complaint.¹⁴⁸

2. Park Rules

Stringent rules are commonly promulgated for mobile home park residents.¹⁴⁹ Most residents approve of such rules because

in Santa Clara County, Cal., Real Estate Research Bureau, San Jose State College, 19 (1967); see Randall, *Mobile Home Subdivisions*, *APPRAISAL J.*, July 1967, at 361, 364. For the possible difficulties in selling the mobile home, see note 164 *infra*.

144. Note, *Mobile Home Park Practices: The Legal Relationship Between Mobile Home Park Owners and Tenants Who Own Mobile Homes*, 3 *FLA. ST. U.L. REV.* 103, 120 (1975); Comarow, *supra* note 7, at 92; see Quinn, *supra* note 130, at 8. For an explanation of these costs, see text accompanying notes 181-91 *infra*.

145. C. GIBSON, *supra* note 74, at 10; *CONSUMER REP.*, *supra* note 130, at 440; see Quinn, *supra* note 130, at 8.

146. *MOBILE HOMES*, *supra* note 16, at 75; see *Landlord-Tenant Relationship*, *supra* note 132, at 816; Note, *supra* note 144, at 104.

147. See C. GIBSON, *supra* note 74, at 27; Meyer, *supra* note 71, at 33-34; *CONSUMER REP.*, *supra* note 130, at 440; Hegel, *supra* note 138, at 10.

148. See C. GIBSON, *supra* note 74, at 6; *CONSUMER REP.*, *supra* note 130, at 440; D. Kuduk, *supra* note 16, at 10-11. Retaliatory evictions occur. *Landlord-Tenant Relationship*, *supra* note 132, at 814-15; Hegel, *supra* note 138, at 10. "Blacklisting" also occurs. *MOBILE HOMES*, *supra* note 16, at 65. Even when the tenant has done nothing antagonistic, the park management may evict him to achieve various objectives, including: (1) new entrance fees, C. GIBSON, *supra* note 74, at 27; *MOBILE HOMES*, *supra* note 16, at 73; (2) new sales at "closed" parks, C. GIBSON, *supra* note 74, at 27; Hegel, *supra* note 138, at 10; and (3) an improved image by the removal of older mobile homes, *Landlord-Tenant Relationship*, *supra* note 132, at 814-15; Note, *supra* note 82, at 167 n.49.

149. See N. ASBURY, *A FORMULA FOR DETERMINING THE FEASIBILITY OF MOBILE HOUSING DEVELOPMENTS* 90-91 (1971). Tenants rarely participate in the rule-

they think that the imposition of standards of care and conduct contributes to more amenable living conditions.¹⁵⁰ Yet the rules become, at times, vehicles for maltreatment. Arbitrariness, unfairness, and unnecessary conformity are induced by rules that have been unevenly enforced,¹⁵¹ illegal,¹⁵² undisclosed,¹⁵³ freely changed,¹⁵⁴ ambiguous,¹⁵⁵ or overly strict.¹⁵⁶

Among the subjects that have been prohibited or regulated by mobile home parks are children;¹⁵⁷ pets;¹⁵⁸ landscaping;¹⁵⁹

making process. C. GIBSON, *supra* note 74, at 27. The community, as well as the park management and residents, has an interest in reasonable park rules. N. ASBURY, *supra*, at 93. For extensive compilations of park rules, see generally 1 D. NULSEN & R. NULSEN, *supra* note 13, at 458-61; Wehrly, *supra* note 131, at 57-136; Frederick County, Md., Planning Comm'n, *The Environmental Impact of the Mobile Home on Frederick County* 36-43 (1970) [hereinafter cited as Md. Study].

150. See *Landlord-Tenant Relationship*, *supra* note 132, at 815; *Choosing a Mobile Home Park*, CONSUMER BULL., Mar. 1969, at 21, 23 [hereinafter cited as CONSUMER BULL.]; D. Moore, *supra* note 17, at 24-25, 88.

151. MOBILE HOMES, *supra* note 16, at 61-64; Meyer, *supra* note 71, at 33, 36; Fla. Hearings, *supra* note 130, at 8; D. Kuduk, *supra* note 16, at 10. *But see* Weeks, *Attitudes About Mobile Home Park Living By Residents of Them*, Univ. of N.H. Inst. of Natural and Environmental Resources (1972).

152. *Landlord-Tenant Relationship*, *supra* note 132, at 815.

153. *Id.*; Fla. Hearings, *supra* note 130, at 9; D. Kuduk, *supra* note 16, at 9.

154. MOBILE HOMES, *supra* note 16, at 61; Fla. Hearings, *supra* note 130, at 9; D. Kuduk, *supra* note 16, at 9; see *Legislation Necessity*, *supra* note 132, at 220.

155. *Legislation Necessity*, *supra* note 132, at 219; see D. Kuduk, *supra* note 16, at 10.

156. MOBILE HOMES, *supra* note 16, at 61-66; *Legislation Necessity*, *supra* note 132, at 219; see D. Kuduk, *supra* note 16, at 9-10.

157. Starr, *Guidelines for Mobile Home Park Development*, APPRAISAL J., Jan. 1971, at 41, 46; *Study of a Proposed Mobile Home Park*, APPRAISAL J., Jan. 1971, at 52, 55 [hereinafter cited as *Proposed Park*]; CONSUMER REP., *supra* note 109, at 117; Wehrly, *supra* note 131, at 16-17; New York State Office of Planning Servs., *Facts on Mobile Homes: 9*, New York Metropolitan Region Survey 17 (1972) [hereinafter cited as N.Y. Survey]; D. Moore, *supra* note 17, at 51. Explanations for these rules are (1) limitations in park facilities, *Proposed Park*, *supra* at 52, 55; (2) friction caused by mixing residents of different ages, D. Moore, *supra* note 17, at 55, 79; Comarow, *supra* note 7, at 92, 98; and (3) compliance with community demands for fear of overcrowded schools, *Landlord-Tenant Relationship*, *supra* note 132, at 815 n.58.

158. MOBILE HOMES, *supra* note 16, at 63; CONSUMER REP., *supra* note 109, at 113, 117; Connett, *supra* note 15, at 10; N.Y. Survey, *supra* note 157, at 17; D. Moore, *supra* note 17, at 79.

159. CONSUMER BULL., *supra* note 150, at 23; Connett, *supra* note 15, at 14.

maintenance;¹⁶⁰ storage;¹⁶¹ laundry;¹⁶² visitors;¹⁶³ mobile home resale;¹⁶⁴ lot location;¹⁶⁵ noise;¹⁶⁶ recreational and public facilities;¹⁶⁷ conduct of business;¹⁶⁸ mobile home type, size, and price;¹⁶⁹ age of occupant and of mobile home;¹⁷⁰ accessories;¹⁷¹ additional structures;¹⁷² religious preferences;¹⁷³ race;¹⁷⁴ renting or subletting;¹⁷⁵ and other subjects.¹⁷⁶ Park rules have included broadly worded restrictions on tenant conduct and expression that prohibit "improper" or "objectionable" conduct or derogatory re-

160. Clark, *supra* note 75, at 74, 78; CONSUMER BULL., *supra* note 150, at 23; Note, *supra* note 144, at 115 n.63.

161. CONSUMER BULL., *supra* note 150, at 23.

162. CHANGING TIMES, *supra* note 16, at 10; CONSUMER BULL., *supra* note 150, at 23.

163. CONSUMER BULL., *supra* note 150, at 23. Overnight guests may be required to register and to pay a daily charge. *Id.*

164. C. GIBSON, *supra* note 74, at 30; MOBILE HOMES, *supra* note 16, at 74-75; Clark, *supra* note 74, at 74, 78; Smith, *Developing a Mobile Home Park: 'Key to Unlocking a Housing Giant'*, MORTGAGE BANKER, Nov. 1972, at 40, 51; Waind & Wright, *supra* note 17, at 6. The park may reserve the right to grant or withhold approval of sales in general as well as of a particular buyer. Clark, *supra* note 75, at 74, 78. Sometimes the owner cannot transfer the right to his lot and must tow away the mobile home or sell it to the park at a loss. C. GIBSON, *supra* note 74, at 30.

165. Clark, *supra* note 75, at 74, 78-79. Management has reserved the right to move a mobile home, at management's expense, to avoid friction among neighbors. *Id.*

166. Note, *supra* note 144, at 115 n.63.

167. *Id.*

168. Note, *supra* note 144, at 115 n.63; see Tex. Guide, *supra* note 128, at 10.

169. Mobile Homes, *supra* note 47, at 79. See generally Smith, *supra* note 164, at 51.

170. MOBILE HOMES, *supra* note 16, at 67, 69; Smith, *supra* note 164, at 40, 51; CHANGING TIMES, *supra* note 16, at 7, 10; Wang & Travis, *supra* note 143, at 22; Wehrly, *supra* note 131, at 33.

171. Smith, *supra* note 164, at 40, 51.

172. Connett, *supra* note 15, at 14.

173. MOBILE HOMES, *supra* note 16, at 68.

174. *Id.* at 68-69. See generally Weitzman, *supra* note 74, at 588.

175. MOBILE HOMES, *supra* note 16, at 74.

176. Parks also regulate parking, traffic, refuse disposal, group activity, mail boxes, trespassing, and bill payment. Note, *supra* note 144, at 115 n.63.

marks about the park.¹⁷⁷ These rules have been used to justify otherwise unreasonable evictions since virtually everyone can be found guilty of a violation of the letter of such laws.¹⁷⁸

Regulations also may be used as important means of earning extra income for the park. Utilities, which owners are able to obtain only from the park, can be purchased at wholesale and sold to the tenants at a rate above standard retail.¹⁷⁹ By requiring various services, supplies, and accessories, but limiting acquisition to specified merchants or the park itself, these regulations often facilitate inflated prices, rebates, and kickbacks.¹⁸⁰

3. Park Fees

Park rules have provided means for imposing fees directly as well as for deriving income indirectly as previously discussed. Furthermore, park owners have commonly demanded extra non-refundable charges for privileges that either cost the park nothing or are usually conceived to be part of the basic rent: initial entry into the park;¹⁸¹ final exit from the park;¹⁸² planting of trees;¹⁸³

177. See *Legislation Necessity*, *supra* note 132, at 219-20; *CONSUMER REP.*, *supra* note 130, at 440-41.

178. See *CONSUMER REP.*, *supra* note 130, at 440-41; D. Kuduk, *supra* note 16, at 9-10. The park management is normally the final judge of rule violations. *Landlord-Tenant Relationship*, *supra* note 132, at 816.

179. N. ASBURY, *supra* note 149, at 76; *MOBILE HOMES*, *supra* note 16, at 73-74; Connett, *supra* note 15, at 21; Newcomb, *supra* note 8, at 52; Fla. Hearings, *supra* note 130, at 8; *Mobile Homes*, *supra* note 47, at 19; D. Kuduk, *supra* note 16, at 4, 7-8.

180. *MOBILE HOMES*, *supra* note 16, at 73; *Landlord-Tenant Relationship*, *supra* note 132, at 815-16; *CONSUMER REP.*, *supra* note 130, at 440-42; *Legislation Necessity*, *supra* note 132, at 220; Quinn, *supra* note 130, at 8; Fla. Hearings, *supra* note 130, at 8; *Mobile Homes*, *supra* note 47, at 79; D. Kuduk, *supra* note 16, at 11-12. Such restrictions have been explained as methods of traffic control. *Landlord-Tenant Relationship*, *supra* note 132, at 815 n.58; see, e.g., *Southland Dev. Co. v. Ehrler's Dairy, Inc.*, 468 S.W. 2d 284 (Ky. 1971) (rule strictly construed against the park).

181. C. GIBSON, *supra* note 74, at 20-21; *MOBILE HOMES*, *supra* note 16, at 72; *PLI 1971*, *supra* note 56, at 91-92; *SHEPARD'S*, *supra* note 48, at 43-44; *CONSUMER REP.*, *supra* note 130, at 440-41; Hegel, *supra* note 138, at 9; *Waind & Wright*, *supra* note 17, at 4; D. Kuduk, *supra* note 16, at 12. Entrance fees as high as \$2,500 have been known. C. GIBSON, *supra* note 74, at 20-21; *Legislation Necessity*, *supra* note 132, at 218 n.25; Fla. Hearings, *supra* note 130, at 6. The noncompetitive price paid for a mobile home from a dealer attached to a "closed" park has been justified as a substitute for an entrance fee. C. GIBSON,

entertainment of overnight guests;¹⁸⁴ keeping of pets;¹⁸⁵ occupation beyond a specified number;¹⁸⁶ occupation by children;¹⁸⁷ owner's use of his own washing and drying machines;¹⁸⁸ installation of tiedowns to protect against wind damage;¹⁸⁹ original "setup" of the unit;¹⁹⁰ and sales commissions upon resale.¹⁹¹ For example, an owner who sells his own unit on its site without the assistance of the park may be charged a substantial sales commission even though the new owner will also be charged an entrance fee.

supra note 74, at 20-21. The possibility of deriving more profit by charging new residents with entrance fees provides an incentive for parks to evict old tenants or to exert pressure on them to leave. C. GIBSON, *supra* note 74, at 27; CONSUMER REP., *supra* note 130, at 440-41; see *Stewart v. Green*, 300 So. 2d 889, 892 (Fla. 1974). These fees have been charged even when used mobile homes were purchased already on the site. Meyer, *supra* note 71, at 33.

182. MOBILE HOMES, *supra* note 16, at 74; D. Kuduk, *supra* note 16, at 13; PLI 1973, *supra* note 16, at 22; Note, *supra* note 131, at 106; CONSUMER REP., *supra* note 130, at 440-41; Waing & Wright, *supra* note 17, at 5; Fla. Hearings, *supra* note 130, at 6. Exit fees are either flat charges or, when the mobile home has been resold, a percentage (10-25%) of the resale price, often whether or not the park has participated in the resale. MOBILE HOMES, *supra* note 16, at 74; *Landlord-Tenant Relationship*, *supra* note 132, at 816; *Legislation Necessity*, *supra* note 132, at 220. For an explanation of this resale fee, see *Landlord-Tenant Relationship*, *supra* note 132, at 816.

183. MOBILE HOMES, *supra* note 16, at 73; CONSUMER REP., *supra* note 130, at 440-41.

184. Meyer, *supra* note 71, at 33, 36; CONSUMER REP., *supra* note 130, at 440-41; *Landlord-Tenant Relationship*, *supra* note 132, at 219-20; Fla. Hearings, *supra* note 130, at 6-7.

185. C. GIBSON, *supra* note 74, at 9; MOBILE HOMES, *supra* note 16, at 63; CONSUMER REP., *supra* note 130, at 440-41; Connett, *supra* note 15, at 12; Fla. Hearings, *supra* note 130, at 6-7.

186. Connett, *supra* note 15, at 12; Wang & Travis, *supra* note 143, at 27 n.13.

187. C. GIBSON, *supra* note 74, at 9; Comarow, *supra* note 7, at 92, 98; Meyer, *supra* note 71, at 33, 36; Connett, *supra* note 15, at 12; Fla. Hearings, *supra* note 130, at 6.

188. Meyer, *supra* note 71, at 8.

189. See Fla. Hearings, *supra* note 130, at 6.

190. See *id.*

191. Note, *supra* note 131, at 101, 106; Fla. Hearings, *supra* note 130, at 7.

4. Quality of Park and Management

For all of the expense and trouble that owners have encountered in their dealings with parks, one would hope that their living accommodations would be of a high caliber. Indeed, many of them are, especially in the newer parks. The overall quality of the parks, nonetheless, has been called into question.¹⁹² Some parks, particularly the older ones, have inadequate or hazardous utility service,¹⁹³ overcrowded conditions,¹⁹⁴ and other dangers to health and safety.¹⁹⁵ The worst of them are slums.¹⁹⁶ *Woodall's Mobile Home and Park Directory* includes annual ratings of parks throughout the country. The minimum rating, one star, requires, among other things, all-weather patios, maintained homes, minimum clutter, adequate and passable streets, buildings of fair condition, and evidence of fair management.¹⁹⁷ Nearly one-half of the nation's parks fail to qualify for even one star.¹⁹⁸

The most important determinant of the quality of life within the park is the competence and character of the management; yet some managers have been accused of falling below reasonable expectations.¹⁹⁹ In the last analysis, good management can compensate for many weaknesses in the physical and regulatory aspects of park living.²⁰⁰

192. See generally *MOBILE HOMES*, *supra* note 16, at 52-86.

193. *Id.* at 56, 58, 80.

194. *Id.* at 58.

195. *Id.* at 58, 79-80.

196. See notes 428-30 *infra*.

197. *WOODALL'S 1975 MOBILE HOME & PARK DIRECTORY* 5-6 (1975).

198. *Id.* at 5.

199. See N. ASBURY, *supra* note 149, at 98; PLI 1971, *supra* note 56, at 103; Comarow, *supra* note 7, at 92, 100; Smith, *supra* note 127, at 40, 60; Watkins, *The Best Way to Finance a Mobile Home*, *MECHANIX ILLUSTRATED*, June 1974, at 60, 119; D. Moore, *supra* note 17, at 58, 150, 178-79. For examples of questionable management attitudes, see C. GIBSON, *supra* note 74, at 21; *MOBILE HOMES*, *supra* note 16, at 75; Wellington, *Trailer Camp Slums*, *SURVEY*, Oct. 1951, at 418-20; J. Meyers, *Social Solidarity in a Mobile Home Park: The Effects of Discrimination* 6 (1971) (unpublished thesis in Cornell University Library); D. Moore, *supra* note 17, at 93-105, 127-30, 150-56.

200. See Salinas, *A Study of Mobile Homes and Management*, *J. PROP. MANAGEMENT*, July/Aug. 1964, at 290, 294.

C. Owner-Government Relationship

Until quite recently government has done little to alleviate the difficulties encountered by mobile home owners. On the contrary, through the use of questionable taxation and housing regulations or the misapplication of proper regulations, it has even caused some of the troubles. Government intervention in this area often depends upon whether the mobile home owner has title to or is merely renting the lot upon which the home is located. For purposes of discussion in this section, both situations will be considered together whenever possible.

1. Housing Regulations

Zoning practices and building codes are among the greatest hindrances to an expanded use of mobile homes.²⁰¹ General regulations as well as specific mobile home ordinances, such as license or permit requirements, have created obstacles for the owners.²⁰²

There are numerous examples of such general regulations. Typically there are ordinances regulating the floor space of dwellings by prescribing either a minimum space per occupant or an absolute minimum space irrespective of the number of occupants;²⁰³ mobile homes normally satisfy the former type of ordi-

201. In 1969 dealers reported that the two greatest adverse factors facing their businesses were the closely related problems of park space (59%) and local zoning (55%). See notes 316-27 *infra* and accompanying text. By 1974 local zoning had dropped to second (43%) and park space had dropped to fourth (21%). Mobile Home Market, *supra* note 15, at 30. These are troublesome for dealers primarily because of the impact they have on potential customers. See generally B. HODES & G. ROBERSON, *supra* note 5, at 189-281; *Validity and Application of Zoning Regulations Relating to Mobile Home or Trailer Parks*, Annot., 42 A.L.R.3d 598 (1972) [hereinafter cited as *Application of Zoning Regulations*]; Levine, *supra* note 9, at 2.

202. See generally 2 R. ANDERSON, *AMERICAN LAW OF ZONING* § 14.04 to .12 (2d ed. 1976); B. HODES & G. ROBERSON, *supra* note 5, ch. 4; SHEPARD'S, *supra* note 48, at chs. IX-XI.

203. B. HODES & G. ROBERSON, *supra* note 5, at 111; Comment, *Regulation and Taxation of House Trailers*, 22 U. CHI. L. REV. 738, 741-42 (1955); R. Boyd, *Regulations of Mobile Home, Mobile Home Parks and Mobile Home Subdivisions* 91 (1965) (unpublished thesis in University of Oklahoma Library). Sometimes these restrictions are a part of the building code rather than the zoning ordinance. See, e.g., *Commonwealth v. McLaughlin*, 168 Pa. Super. Ct. 442, 78 A.2d 880 (1951); Comment, *supra* at 742 n.19.

nance²⁰⁴ but have been excluded by the latter.²⁰⁵ Minimum lot size requirements similarly have operated to exclude mobile homes.²⁰⁶ Zoning by means of separate housing districts historically has redounded to the disadvantage of mobile home owners. "Single family dwelling," or other comparable terms, have regularly been interpreted in such a way as to exclude mobile homes from residential zones²⁰⁷ and to relegate them to rural areas, undesirable urban locations, or mobile home parks. For this reason, mobile home parks have generally been found in the countryside or the areas zoned for commercial or industrial use.²⁰⁸ Finally, building, health, and safety codes have operated to frustrate the attempts of owners to locate where they desire.²⁰⁹ Evaluating mobile homes by the terms of standard codes has inevitably resulted in their

204. This is true if the minimum prescribed by the ordinance is typical and the number of occupants in the mobile home is not large. B. HODES & G. ROBERSON, *supra* note 5, at 111; Comment, *supra* note 203, at 742; R. Boyd, *supra* note 203, at 91.

205. C. GIBSON, *supra* note 74 at 37; B. HODES & G. ROBERSON, *supra* note 5, at 111; Comment, *supra* note 203, at 742; R. Boyd, *supra* note 203, at 91-92. Related are the ordinances that limit the total number of persons occupying the premises, which are usually satisfied by mobile homes, and the ordinances that prescribe a minimum room width, which historically have been difficult for mobile homes to satisfy. R. Boyd, *supra* note 203, at 91-92.

206. See, e.g., *County of Will v. Stanfill*, 7 Ill. App. 2d 52, 129 N.E.2d 46 (1955); *County Council to Form Citizens Panel to Study Zoning Law on Mobile Homes*, *Chattanooga Times*, Apr. 22, 1976, at 37, col. 6 (minimum mobile home lot of 10,000 square feet).

207. See Note, *supra* note 144, at 108-09. See generally 2 R. ANDERSON, *supra* note 202, at § 14.04 to .05; *Application of Zoning Regulations*, *supra* note 201, at 611-15.

208. Woods & Morris, *supra* note 104, at 39-40; Bair, *Mobile Homes: Many Questions, Some Answers*, *NATION'S CITIES*, Aug. 1965, at 18; Mays, *Zoning for Mobile Homes: A Legal Analysis*, *J. AM. INST. PLANNERS*, Aug. 1961, at 204, 208; Comment, *Mobile Homes in North Carolina: Residence or Vehicle?*, 50 *N.C.L. REV.* 612, 624 (1972); Note, *Regulation of Mobile Homes*, 13 *SYRACUSE L. REV.* 125, 129-30 (1961); Wang & Travis, *supra* note 143, at 20.

209. By falling within the terms of a building, health, or safety code, mobile homes have been excluded from the community. See, e.g., *Lower Merion Township v. Gallup*, 158 Pa. Super. Ct. 572, 46 A.2d 35 (1946) (building code). Some mobile homes have been built according to the standards of houses. HOUSE & HOME, *supra* note 45, at 60. See generally C. GIBSON, *supra* note 74, at 5; B. HODES & G. ROBERSON, *supra* note 5, at 104-12; MOBILE HOMES, *supra* note 16, at 57; Eshelman, *Municipal Regulation of House Trailers in Pennsylvania*, 66 *DICK. L. REV.* 301, 303-06, 313-15 (1962); Comment, *supra* note 203, at 742-43.

being declared deficient. Too little thought has been given to whether many of these ordinances, designed for housing based on quite different technology, could be applied rationally to mobile homes.

Restrictive zoning ordinances have been designed specifically to discourage the spread of mobile homes and parks and to continue the traditional isolation of mobile homes from the rest of society. For example, communities have excluded mobile homes entirely,²¹⁰ have imposed time limitations on their stay,²¹¹ or have restricted them to established parks.²¹²

Controversy persists among the authorities as to the proper location for mobile homes. Some assert that they should be allowed on nonrural, private lots,²¹³ while others propose that they be restricted to parks.²¹⁴ No one contends, however, that individ-

210. These exclusionary ordinances have been upheld. *See, e.g.*, *Davis v. McPherson*, 132 N.E.2d 626 (Ohio App. 1955); *City of Raleigh v. Morand*, 247 N.C. 363, 100 S.E.2d 870 (1957). Courts, however, generally have taken a dim view of totally exclusionary ordinances. *See, e.g.*, *Gust v. Township of Canton*, 342 Mich. 436, 70 N.W.2d 772 (1955); *Commonwealth v. Amos*, 44 Pa. D. & C. 125 (1941). *See generally* 2 R. ANDERSON, *supra* note 202, § 14.04; E. BARTLEY & F. BAIR, *supra* note 15, at 79-80; B. HODES & G. ROBERSON, *supra* note 5, at 116-26, 219; Carter, *Problems in the Regulation and Taxation of Mobile Homes*, 48 IOWA L. REV. 16, 24 (1962); Flippen, *supra* note 2, at 15; Moore, *The Mobile Home and the Law*, 6 AKRON L. REV. 1, 9-11 (1973); Note, *Trailer Parks vs. The Municipal Police Power*, 35 CONN. B.J. 285, 288-89 (1960); Note, *supra* note 208, at 132-33; *Application of Zoning Regulations*, *supra* note 201, at 604-11.

211. Usually time limitation ordinances are upheld. *See, e.g.*, *Karen v. Town of East Haddam*, 146 Conn. 720, 155 A.2d 921 (1959); *Cady v. City of Detroit*, 289 Mich. 499, 286 N.W. 805 (1939), *appeal dismissed*, 309 U.S. 620 (1940); *Starry v. City of Brooklyn*, 162 Ohio St. 120, 121 N.E.2d 11 (1954), *appeal dismissed*, 348 U.S. 923 (1955). *See generally* 2 R. ANDERSON, *supra* note 202, at § 14.11; B. HODES & G. ROBERSON, *supra* note 5, at 96-104; Eshelman, *supra* note 209, at 314; Mays, *supra* note 208, at 204, 210-11; Moore, *supra* note 210, at 16-17; Note, *supra* note 210, at 289-91; Note, *supra* note 208, at 133, 136; *Application of Zoning Regulations*, *supra* note 201, at 620-22; R. Boyd, *supra* note 203, at 120.

212. Generally these restrictions have been upheld. *See, e.g.*, *Davis v. City of Mobile*, 245 Ala. 80, 16 So. 2d 1 (1943); *Town of Granby v. Landry*, 341 Mass. 443, 170 N.E.2d 364 (1960); *People v. Clute*, 47 Misc. 2d 1005, 263 N.Y.S.2d 826 (Wash. County Ct. 1965). *See generally* 2 R. ANDERSON, *supra* note 202, at § 14.08; B. HODES & G. ROBERSON, *supra* note 5, at 72-82, 127; Carter, *supra* note 210, at 33-34; Moore, *supra* note 210, at 11-13; Comment, *supra* note 208, at 615-16, 623-24; Note, *supra* note 208, at 128-29.

213. *See* C. GIBSON, *supra* note 74, at 35; R. Boyd, *supra* note 203, at 54.

214. E. BARTLEY & F. BAIR, *supra* note 15, at 12-13, 99, 106; Woods &

ual mobile homes or parks must be limited to commercial and industrial zones because, it is argued, the rental of a space for a mobile home is no more a business than is the rental of an apartment unit or a house.²¹⁵

Since it is realistic to conceive of a park as a horizontal apartment house,²¹⁶ parks ought to be treated similarly to other rental housing and thus allowed in residential zones. Such treatment would partially counter the contention that, because of the presence of various commercial operations within the parks, such as dealerships, lot rentals to travel trailers, laundromats, or convenience grocery markets, these parks should be excluded from residential areas. Perhaps the better view is that certain minor, controlled business activities ought to be permissible in mobile home parks as they often are in apartment complexes.²¹⁷

There are numerous reasonable nonrural locations for mobile homes: multiple-family residential districts;²¹⁸ single-family resi-

Morris, *supra* note 104, at 42; Moore, *supra* note 210, at 13; Newcomb, *supra* note 8, at 34; R. Boyd, *supra* note 203, at 29, 81; D. Cowgill, *supra* note 4, at 7; see F. BAIR, LOCAL REGULATION OF MOBILE HOME PARKS, TRAVEL TRAILER PARKS AND RELATED FACILITIES 14 (1965); C. GIBSON, *supra* note 74, at 35. Virtually no one suggests that mobile homes be excluded from private lots in rural areas. See E. BARTLEY & F. BAIR, *supra* note 15, at 99-100; Newcomb, *supra* note 8, at 34; R. Boyd, *supra* note 203, at 163; D. Cowgill, *supra* note 4, at 7.

215. E. BARTLEY & F. BAIR, *supra* note 15, at 77; B. HODES & G. ROBERSON, *supra* note 5, at 226, 228; Bartke & Gage, *Mobile Homes: Zoning and Taxation*, 55 CORNELL L. REV. 491, 498-99 (1970); Comment, *supra* note 203, at 744. But see B. HODES & G. ROBERSON, *supra* note 5, at 220; Note, *supra* note 210, at 292.

216. E. BARTLEY & F. BAIR, *supra* note 15, at 13-14, 34-35; Martini, *Mobile Homes, Immobile Landscape*, LANDSCAPE ARCHITECTURE, Fall 1960, at 15; Comment, *supra* note 208, at 625; R. Boyd, *supra* note 203, at 53; see Comment, *Mobile Homes in Kansas: A Need for Proper Zoning*, 20 KAN. L. REV. 87, 97 (1971) [hereinafter cited as *Proper Zoning*]. But see Bair, *Mobile Homes—A New Challenge*, 32 L. & CONTEMP. PROB. 286, 291 (1967).

217. F. BAIR, *supra* note 214, at 32-33; E. BARTLEY & F. BAIR, *supra* note 15, at 76; Bair, *supra* note 216, at 297; *Proper Zoning*, *supra* note 216, at 96; Southern Tier East Regional Plan, Broome-Tioga Counties, New York, *The Mobile Home Park: An Analysis of its Adequacy As a Living Environment* 98 (1973) [hereinafter cited as N.Y. Plan]; R. Boyd, *supra* note 203, at 159; D. Moore, *supra* note 17, at 39-40. But see B. HODES & G. ROBERSON, *supra* note 5, at 227-28. Prohibition from a residential zone of a dealership attached to a park is, however, reasonable. E. BARTLEY & F. BAIR, *supra* note 15, at 76, 78; Wehrly, *supra* note 131, at 33.

218. E. BARTLEY & F. BAIR, *supra* note 15, at 40, 42, 79, 81; B. HODES &

dential districts;²¹⁹ light commercial zones;²²⁰ buffer zones between residential and commercial areas;²²¹ the urban fringe;²²² and special park districts.²²³ Yet communities have not accepted this view. By forcing mobile homes and parks into districts not planned for residential use, the community instead contributes to the deterioration of the homes by eliminating much of the incentive to maintain high standards.²²⁴ Examples of this degeneration are in turn often used to justify relegating the homes to nonresidential areas.

2. Taxation

The methods by which state and local governments tax mobile homes have been characterized as "bewildering"²²⁵ and as a "jungle of inconsistencies."²²⁶ Even a classification of these meth-

G. ROBERSON, *supra* note 5, at 227; Bair, *supra* note 216, at 296; Bair, *supra* note 208, at 18, 21; Mays, *supra* note 208, at 204, 208; Note, *supra* note 210, at 292-93; Comment, *supra* note 216, at 97; Connett, *supra* note 15, at 2-3; Northern Natural Gas Co., *Mobile Homes and the Mobile Home Park: An Aspect of Housing Supply* 9 (1973) [hereinafter cited as *Housing Supply*]; R. Boyd, *supra* note 203, at 50, 143.

219. Such an area is reasonable only if the mobile home density so qualifies. Bair, *supra* note 216, at 296; see E. BARTLEY & F. BAIR, *supra* note 15, at 40, 79.

220. Connett, *supra* note 15, at 2-3; see R. Boyd, *supra* note 203, at 143.

221. E. BARTLEY & F. BAIR, *supra* note 15, at 40; Woods & Morris, *supra* note 104, at 40; see Starr, *supra* note 157, at 41, 44.

222. E. BARTLEY & F. BAIR, *supra* note 15, at 42.

223. B. HODES & G. ROBERSON, *supra* note 5, at 259; Moore, *supra* note 210, at 21-22; 61 MICH. L. REV. 1010, 1014 (1963); R. Boyd, *supra* note 203, at 28, 51, 59, 79. *Contra* F. BAIR, *supra* note 214, at 23; E. BARTLEY & F. BAIR, *supra* note 15, at 105-06, 121. *But see* R. Boyd, *supra* note 203, at 78. For a discussion of the process by which a park should be permitted into a particular zone, see generally E. BARTLEY & F. BAIR, *supra* note 15, at 81, 94-98; R. Boyd, *supra* note 203, at 59-60.

224. E. BARTLEY & F. BAIR, *supra* note 15, at 78-79; B. HODES & G. ROBERSON, *supra* note 5, at 226; PLI 1971, *supra* note 56, at 19, 22; Morris & Woods, *supra* note 105, at 63; Bair, *supra* note 216, at 296; Note, *supra* note 210, at 292-93; Comment, *supra* note 216, at 96-97; Mich. Task Force, *supra* note 51, at 42; R. Boyd, *supra* note 203, at 12-13; D. Cowgill, *supra* note 4, at 2.

225. See Bair, *supra* note 216, at 291; Bartke & Gage, *supra* note 215, at 521-22.

226. E. BARTLEY & F. BAIR, *supra* note 15, at 111; see M. DRURY, *supra* note 16, at 123.

ods is troublesome.²²⁷ Some states provide alternative types of taxation²²⁸ while others provide combinations.²²⁹ The form of taxation is sometimes determined by whether the mobile home is placed on a lot that is owned or rented²³⁰ or by the degree of attachment of the mobile home to the ground.²³¹ Even though a description of taxing methods is soon outdated since the area is in a rapid state of flux,²³² the more common types of taxation will be briefly described.

Personal property taxes are regularly levied on mobile homes.²³³ Objections to this device include inefficiency,²³⁴ inequality;²³⁵ disproportionately high or inaccurate assessments;²³⁶ loopholes;²³⁷ nonenforcement;²³⁸ high exemptions;²³⁹ inaccurate depreciation rates;²⁴⁰ lack of forced sale redemption periods;²⁴¹ lack

227. Comment, *The Search for an Equitable Approach to Mobile Home Taxation*, 21 DE PAUL L. REV. 1008, 1010 (1972). See generally B. HODES & G. ROBERSON, *supra* note 5, at 170-74.

228. C. GIBSON, *supra* note 74, at 39; Comment, *supra* note 227, at 1012; Note, *Toward an Equitable and Workable Program of Mobile Home Taxation*, 71 YALE L.J. 702, 707 (1962).

229. Comment, *supra* note 227, at 1010; see Note, *supra* note 82, at 161.

230. E. BARTLEY & F. BAIR, *supra* note 15, at 111; see Comment, *supra* note 227, at 1012.

231. Bair, *supra* note 216, at 291-92.

232. Comment, *supra* note 227, at 1010-11. For general discussions of mobile home taxation, see B. HODES & G. ROBERSON, *supra* note 5, at 155-88; SHEPARD'S, *supra* note 48, at 81-131; Bartke & Gage, *supra* note 215, at 521-22; Carter, *supra* note 210, at 46-57; Comment note 227 *supra*; Note, *Housing—Mobile Homes—Some Legal Questions*, 75 W. VA. L. REV. 382, 418-21 (1973) [hereinafter cited as *Legal Questions*]; Note note 228 *supra*; Comment, *supra* note 203, at 745-51; Mich. Task Force, *supra* note 51, at 16-29.

233. See generally *Legal Questions*, *supra* note 232, at 420 (and authorities cited therein).

234. Comment, *supra* note 227, at 1010; Comment, *supra* note 203, at 747. But see B. HODES & G. ROBERSON, *supra* note 5, at 155.

235. B. HODES & G. ROBERSON, *supra* note 5, at 168; Bair, *supra* note 216, at 292.

236. Bair, *supra* note 216, at 292; Comment, *supra* note 227, at 1029-30. But see B. HODES & G. ROBERSON, *supra* note 5, at 155-56; Carter, *supra* note 210, at 50-51.

237. See Comment, *supra* note 203, at 747.

238. B. HODES & G. ROBERSON, *supra* note 5, at 155-56; Comment, *supra* note 227, at 1028; Note, *supra* note 228, at 707.

239. Comment, *supra* note 227, at 1028.

240. *Id.* at 1030.

241. Note, *supra* note 228, at 708.

of normal housing exemptions;²⁴² and collection difficulties.²⁴³

Taxation of mobile homes as real property is common.²⁴⁴ It has been argued, however, that this form of taxation is faulty for the following reasons: the tax assessment of a park can include the value of the mobile homes therein, thus one party is taxed for the realty of another;²⁴⁵ mobile homes are manifestly not realty;²⁴⁶ inequality occurs during conversion from another taxation method;²⁴⁷ mobile homes are subject to forced sale if the park fails to pay taxes;²⁴⁸ and the park has difficulty in passing the tax burden to the owners.²⁴⁹

Vehicle license fees for mobile homes are required in some states.²⁵⁰ Weaknesses of this method are alleged to be horizontal inequity, that is, taxing dissimilarly people in like situations,²⁵¹

242. *Id.*

243. E. BARTLEY & F. BAIR, *supra* note 15, at 114-15. *But see* Carter, *supra* note 210, at 50-51.

244. *Legal Questions, supra* note 232, at 420 (and authorities cited therein). *See generally* Taxation, as Real Estate, of Trailers or Mobile Homes, Annot., 86 A.L.R.2d 277 (1962) [hereinafter cited as *Taxation*]. For arguments in favor of this method, see Note, *supra* note 82, at 170-71. Such statutes have been upheld by the courts. *See, e.g.,* New York Mobile Homes Ass'n v. Steckel, 9 N.Y.2d 533, 175 N.E.2d 151, 215 N.Y.S.2d 487 (1961), *appeal dismissed*, 369 U.S. 150 (1962); Lantz Appeal, 199 Pa. Super. Ct. 310, 184 A.2d 127 (1962).

245. Bartke & Gage, *supra* note 215, at 522-25; Carter, *supra* note 210, at 53-54; Comment, *supra* note 227, at 1013, 1019; Note, *supra* note 208, at 134; *see* New York Mobile Homes Ass'n v. Steckel, 9 N.Y.2d 533, 175 N.E.2d 151, 215 N.Y.S.2d 487 (1961), *appeal dismissed*, 369 U.S. 150 (1962); Barnes v. Gorham, 12 Misc. 2d 285, 175 N.Y.S.2d 376 (Sup. Ct. 1957).

246. Comment, *supra* note 227, at 1010, 1017-18; Note, *supra* note 208, at 134. *But see* B. HODES & G. ROBERSON, *supra* note 5, at 160.

247. Bartke & Gage, *supra* note 215, at 522; Rooney, *Micro-Analysis of Mobile Home Characteristics with Implications for Tax Policy: A Reply*, 44 LAND ECON. 414, 416 (1968). *But see* Berney & Larson, *Micro-Analysis of Mobile Home Characteristics with Implications of Tax Policy: Rejoinder*, 44 LAND ECON. 417, 417-18 (1968).

248. Carter, *supra* note 210, at 53 n.201.

249. Carter, *supra* note 210, at 54; Comment, *supra* note 227, at 1020-21. The difficulty of the park's passing the tax burden on to the owners arises only, of course, if the tax is imposed on the park rather than directly on the owner.

250. Carter, *supra* note 210, at 46-50; Note, *supra* note 210, at 293-94; Comment, *supra* note 227, at 1030; Note, *supra* note 208, at 135-37; *Legal Questions, supra* note 232, at 420-21 (and authorities cited therein).

251. Comment, *supra* note 227, at 1010; Note, *supra* note 82, at 170; California Senate Fact Finding Comm. on Revenue and Taxation, An Evaluation

inappropriate disbursement of proceeds among governmental units;²⁵² inability to assess improvements;²⁵³ inaccurate depreciation rates;²⁵⁴ and inaccurate valuations.²⁵⁵

Fees have also been imposed under the name of occupancy, parking, license, excise, or permit fees.²⁵⁶ Arguable deficiencies include inaccurate valuations,²⁵⁷ horizontal inequity,²⁵⁸ and fees unrelated to services received.²⁵⁹

Other forms of mobile home taxation or fees include sales taxes,²⁶⁰ use taxes,²⁶¹ inventory taxes,²⁶² and, for those renting lots, business and other taxes imposed upon the landlord.²⁶³ Several states have no specific statutes for mobile home taxes or fees but extract their due from the owners under a "tax anything" statute.²⁶⁴ Horizontal inequity is the primary criticism of these var-

of the Taxation of Mobilehomes in California 10 (1965) [hereinafter cited as Cal. Evaluation].

252. Bair, *supra* note 216, at 292; Carter, *supra* note 210, at 47; Note, *supra* note 82, at 170-71; Note, *supra* note 228, at 706-07.

253. Note, *supra* note 82, at 171; Note, *supra* note 228, at 707.

254. Cal. Evaluation, *supra* note 251, at 10.

255. Note, *supra* note 228, at 706.

256. 2 R. ANDERSON, *supra* note 202, at § 14.12; Carter, *supra* note 210, at 55-57; *Legal Questions*, *supra* note 232, at 421 (and authorities cited therein); Note, *supra* note 228, at 708-10. These fees are revenue measures typically collected on a monthly basis. Carter, *supra* note 210, at 55.

257. E. BARTLEY & F. BAIR, *supra* note 15, at 117; Hegel, *supra* note 138, at 72; see *County Comm'rs v. English*, 182 Md. 514, 35 A.2d 135 (1943).

258. Note, *supra* note 228, at 709-10; E. BARTLEY & F. BAIR, *supra* note 15, at 117; see *Wright v. Steers*, 242 Ind. 582, 179 N.E.2d 721 (1962); *Kelley v. City of San Diego*, 63 Cal. App. 2d 638, 147 P.2d 127 (1944).

259. Carter, *supra* note 210, at 57.

260. C. GIBSON, *supra* note 74, at 39; Woods & Morris, *supra* note 104, at 41; Note, *supra* note 82, at 161-62; Chattanooga, Tennessee, Area Regional Council of Governments, *Mobile Home Study 31* (1971) [hereinafter cited as Chattanooga Study]; see, e.g., CAL. REV. & TAX. CODE § 6051 (West Supp. 1977).

261. Note, *supra* note 82, at 161-62; see, e.g., CAL. REV. & TAX. CODE § 6201 (West Supp. 1977).

262. Although only dealers are subject to this tax, obviously it will be passed on to the purchasers. Chattanooga Study, *supra* note 260, at 31.

263. C. GIBSON, *supra* note 74, at 39. These taxes also will be passed on to the tenants.

264. Note, *Municipal Regulation and Taxation of Trailers and Trailer Camps Under Pennsylvania Law*, 57 DICK. L. REV. 338, 342 (1953); *Legal Questions*, *supra* note 232, at 421 (and authorities cited therein).

ious modes of taxation.²⁶⁵

A cursory examination of some of the complaints about the forms of mobile home taxation reveals that they have little substance or significance. One example is the objection that mobile homes should not be taxed as real property because they do not fall within the traditional definition of real property.²⁶⁶ Other tax deficiencies actually work to the advantage of mobile home owners, such as the fact that personal property taxes are rarely effectively collected.²⁶⁷

While it is generally believed that mobile homes are insufficiently taxed,²⁶⁸ the basic question ultimately is whether or not mobile homes are taxed "fairly." The commentators have no uniform theory of "fair" taxation.²⁶⁹ The theory most commonly employed is that tax fairness should mean horizontal equity, that is, that people in like situations should be taxed similarly.²⁷⁰ Thus, the mobile home owner should pay taxes at the same rate as others do for shelter²⁷¹ regardless of differences in the form of taxation.²⁷² Another theory is that tax fairness should be judged

265. C. GIBSON, *supra* note 74, at 39-41; Note, *supra* note 82, at 261-62; see Chattanooga Study, *supra* note 260, at 31.

266. See note 202 *supra*; Comment, *supra* note 227, at 1017.

267. See note 194 *supra*; Note, *supra* note 228, at 707.

268. See notes 343-46 *infra* and accompanying text.

269. E. BARTLEY & F. BAIR, *supra* note 15, at 107; Carter, *supra* note 210, at 46; see Newcomb, *supra* note 8, at 62. For an interesting debate on the proper analysis and application of policy for mobile home taxation, see Berney & Larson note 247 *supra*; Berney & Larson, *Micro-Analysis of Mobile Home Characteristics with Implications for Tax Policy*, 42 LAND ECON. 453 (1966), and Rooney note 247 *supra*.

270. Cal. Senate Comm. on Revenue and Taxation, *Interim Hearing*, Dec. 4, 1972, at 115-16 [hereinafter cited as *Cal. Hearing*]; Bartke & Gage note 215 *supra*; Berney & Larson, *supra* note 269, at 458; Galligan, *Taxation & Zoning of Mobile Homes in New York*, New York Conference of Mayors and Municipal Officials Report No. 72-4, at 22-23 (1972).

271. Bartke & Gage, *supra* note 215, at 520; Berney & Larson, *supra* note 269, at 459; Cal. Evaluation, *supra* note 251, at 8; see C. GIBSON, *supra* note 74, at 39-40.

272. Berney & Larson, *supra* note 269, at 459; see Ohio Dep't of Taxation, *Taxation of House Trailers in Ohio and Other States 11-12 (1958)* [hereinafter cited as *Ohio Tax Report*]. It has been argued that it is impossible, as a practical matter, to arrive at horizontal equity when different taxing methods are applied. C. GIBSON, *supra* note 74, at 8, 12; Berney & Larson, *supra* note 269, at 459. For a curious and questionable chain of reasoning attacking this proposi-

by the benefits-received test, that is, that people should pay for the cost of the governmental services they receive.²⁷³ Although this latter test is certainly a consideration, it is readily apparent that it does not predominate in our taxation system; otherwise, those who have unusual demands for governmental services, as for example, parents with many school-aged children, would pay more than those with similar incomes who are without such demands.²⁷⁴ Yet the benefits-received test has often been utilized to measure whether or not mobile home owners pay their fair share of taxes.²⁷⁵ Other tests of fairness have rarely been mentioned in the literature examining this question.

Whatever test of fairness is applied, the surveyors, commentators, and judges disagree on the conclusion to be reached.²⁷⁶ Some have contended that owners pay less than their fair share,²⁷⁷ others that they do pay their fair share,²⁷⁸ and still others that

tion, see Comment, *supra* note 227, at 1022-27. When there is horizontal equity between mobile home owners and the owners of other forms of housing, it will appear that the mobile home owner is paying inequitably low taxes. This results from the fact that mobile homes are less expensive than other forms of comparable housing and that mobile homes depreciate at a faster rate. *Cal. Hearing*, *supra* note 270, at 106; *Newcomb*, *supra* note 8, at 61-62; *Chattanooga Study*, *supra* note 260, at 26. Perhaps these facts call into question the basic concept of horizontal equity.

273. *Morris & Woods*, *supra* note 105, at 63-64; Comment, *supra* note 227, at 1023-24; *Galligan*, *supra* note 270, at 23; *Ohio Tax Report*, *supra* note 272, at 11-12; see *Manhattan Trailer Court v. Township of North Bergen*, 104 N.J. Super. 405, 250 A.2d 156 (1969). For discussions of the view that this is not the definitive test of tax fairness, see *Cal. Hearing*, *supra* note 270, at 115; *C. GIBSON*, *supra* note 74, at 39; Comment, *supra* note 227, at 1024 (considered the test nonetheless); *Galligan*, *supra* note 270, at 22-23; *Cal. Evaluation*, *supra* note 251, at 8; and *Chattanooga Study*, *supra* note 260, at 26.

274. See *C. GIBSON*, *supra* note 74, at 39; *Bartke & Gage*, *supra* note 215, at 521; Comment, *supra* note 227, at 1024.

275. See *Manhattan Trailer Court v. Township of North Bergen*, 104 N.J. Super. Ct. 405, 250 A.2d 156 (1969); *E. BARTLEY & F. BAIR*, *supra* note 15, at 10, 109; *M. DRURY*, *supra* note 16, at 124; *Bair*, *supra* note 208, at 18-20; *Matthews*, *supra* note 63, at 72; *Wood*, *supra* note 65, at 42, 48; *Proposed Park*, *supra* note 157, at 52, 55-56; Note, *supra* note 144, at 105 n.15; *HOUSE & HOME*, *supra* note 92, at 136, 142; *Wang & Travis*, *supra* note 143, at 66; *D. Cowgill*, *supra* note 4, at 82-84.

276. *M. DRURY*, *supra* note 16, at 114, 127; see *Matthews*, *supra* note 63, at 64, 72.

277. See note 343 *infra*.

278. *E. BARTLEY & F. BAIR*, *supra* note 15, at 110; *B. HODES & G. ROBERSON*, *supra* note 5, at 99; see *M. DRURY*, *supra* note 16, at 126.

they pay more than their fair share.²⁷⁹ With unfortunate regularity the authors fail to state the fairness test employed.²⁸⁰ Yet even if the horizontal equity test be the criterion, there are other hindrances to a reasonable, generalized evaluation of tax fairness. These impediments include such determinative factors as the efficiency of the tax collection,²⁸¹ the form of the taxation,²⁸² the accuracy of the valuation,²⁸³ and the location of the mobile home on a lot rented or owned by the mobile home dweller.²⁸⁴ Therefore, the final conclusion must be that the tax treatment of mobile homes, a subject fraught with controversy, offers no evidence in favor of the thesis of this article that mobile home owners are treated inequitably by the government, or perhaps it offers some evidence to the contrary.

D. Park-Government Relationship

Many of the problems discussed in regard to the owner-government relationship apply to the relationship of mobile home parks and the government. The park, being a buffer between the government and perhaps the majority of owners, often must endure the brunt of the strict regulations aimed at mobile homes.²⁸⁵

279. See E. BARTLEY & F. BAIR, *supra* note 15, at 10; APPALACHIA, *supra* note 97, at 1, 4; *Mobile Homes: Use and Abuse*, Christian Sci. Monitor, Apr. 22, 1972, § E, at 16, col. 1 [hereinafter cited as *Use and Abuse*]; *Trailer Dwellers* (Letter to the Editor), Christian Sci. Monitor, Sept. 16, 1969, § E, at 16, col. 6.

280. See, e.g., M. DRURY, *supra* note 16, at 126; APPALACHIA, *supra* note 97, at 1, 4.

281. M. DRURY, *supra* note 16, at 126; see E. BARTLEY & F. BAIR, *supra* note 15, at 111-12; Newcomb, *supra* note 8, at 62; Ohio Tax Report, *supra* note 272, at 1. It has been alleged that the expense of administering the tax on mobile homes exceeds the revenue the tax produces. M. DRURY, *supra* note 16, at 125.

282. See M. DRURY, *supra* note 16, at 126. See, more specifically, the previously mentioned objections to individual forms of taxation at notes 234-43, 245-49, 251-55, 257-59 *supra* and accompanying text. The particular objection, however, often does not affect the question of horizontal equity. For example, a determination of whether or not the taxes are returned to appropriate governmental units is irrelevant to the analysis of whether or not the owner pays at an equitable rate. See, e.g., C. GIBSON, *supra* note 74, at 40.

283. See Newcomb, *supra* note 8, at 62; Ohio Tax Report, *supra* note 272, at 1.

284. See Newcomb, *supra* note 8, at 62-64.

285. Once the park has overcome the initial difficulties, it is often able to use this leverage against the owner, as was seen in the discussion in the section

Many commentators think that parks create special problems of their own,²⁸⁶ and while most of these difficulties occur at the time of the creation of parks, they may reappear if expansion of the park is planned.²⁸⁷

III. THE CAUSES OF THE PROBLEMS AFFECTING MOBILE HOMES

That mobile home technology should encounter resistance is not surprising. That it should encounter as many difficulties as were seen in the previous section is surprising, especially in light of the great demand for new housing and, in particular, low-cost housing. This section will examine the major causes of the problems: realty-personalty confusion; supply and demand pressures; and the perceived undesirability of mobile homes and their owners.

A. Realty-Personalty Confusion

The forerunners of the modern mobile home were the same as the forerunners of the modern travel trailer, small units easily towed by the average automobile.²⁸⁸ Today a mobile home is still normally towed to its site on its own wheels,²⁸⁹ but it is so large that it must be moved by a licensed transporter. As a reflection of this evolution, the mobile home has a double nature. Having the characteristics of a vehicle (personalty) and of a house (realty), the mobile home has suffered from considerable legal confusion.²⁹⁰

"Owner-Park Relationship." See text accompanying notes 129-200 *supra*. A prime example is the market advantage resulting from a regulation that mobile homes be confined to parks.

286. See note 438 *infra* and accompanying text.

287. Van Iden, *Zoning Restrictions Applied to Mobile Homes*, 20 CLEV. ST. L. REV. 196 (1971); see Morris & Woods, *supra* note 105, at 63; N.Y. Survey, *supra* note 157, at 15-16, 21-23.

288. B. HODES & G. ROBERSON, *supra* note 5, at 1, 8-9. Although the mobile home became fully distinguishable from the travel trailer over 20 years ago, regulatory bodies and courts have been slow to recognize the differences. See Bair, *supra* note 216, at 288, 298.

289. Some mobile homes are without wheels and are transported by flat bed trucks.

290. See generally 2 R. ANDERSON, *supra* note 202, at § 14.03; E. BARTLEY & F. BAIR, *supra* note 15, at 56; Carter, *supra* note 210, at 17-19; Frey & Knop, *supra* note 19, at 465-66; Note, *The House Trailer: Real or Personal Property?*, 6 N.Y.U. INTRA. L. REV. 83 (1951).

The characterization of mobile homes as either realty or personalty may determine whether or not the mobile home satisfies various requirements or warrants certain benefits.²⁹¹ For example, depending upon statutory construction, the choice between characterizing the mobile home as realty or personalty may affect the application of building codes;²⁹² zoning ordinances;²⁹³ health and safety codes;²⁹⁴ tax codes;²⁹⁵ homestead rights;²⁹⁶ security interests;²⁹⁷ landlord-tenant regulations;²⁹⁸ residency requirements;²⁹⁹

291. See, e.g., *Napierkowski v. Gloucester Township*, 29 N.J. 481, 150 A.2d 481 (1959).

292. When building codes are considered applicable, mobile homes rarely will satisfy them. See note 205 *supra*. Generally, however, building codes have been considered inapplicable. *Carter*, *supra* note 210, at 29. This facilitates mass production and marketing. *MOBILE HOMES*, *supra* note 16, at 57; *PLI 1973*, *supra* note 16, at 45.

293. See, e.g., *Commonwealth v. Flannery*, 1 Pa. D. & C.2d 680 (1954); *City of Sioux Falls v. Cleveland*, 75 S.D. 548, 70 N.W.2d 62 (1955). At times, the owner argues that the mobile home falls within the terms of the zoning ordinance and that it conforms to the ordinance requirements, and, at other times the government contends that the mobile home falls within the terms of the zoning ordinance but that it fails to conform to the requirements. See *Bartke & Gage*, *supra* note 215, at 500-01 (and authorities cited therein). See generally note 533 *infra* and accompanying text; *B. HODES & G. ROBERSON*, *supra* note 5, at 67-69.

294. See, e.g., *Boxer v. Harrison*, 175 Misc. 249, 22 N.Y.S.2d 501 (1940).

295. Taxation can be affected several ways by this characterization. First, the type of tax imposed is determined; see notes 225-48 *supra* and accompanying text; and this in turn can determine who (either the owner or the park) can deduct the state and local taxes from the federal taxes. I.R.C. § 164(a) (1977). Special exemptions also are related, including old age abatements, and widows', orphans', and veterans' exemptions. See generally *PLI 1973*, *supra* note 16, at 31; Note, *supra* note 228, at 708, 711.

296. See, e.g., *Clark v. Vitz*, 190 S.W.2d 736 (Tex. Ct. App. 1945); *In re Foley*, 97 F. Supp. 843 (Neb. 1951). See generally *E. BARTLEY & F. BAIR*, *supra* note 15, at 9, 115-16; *B. HODES & G. ROBERSON*, *supra* note 5, at 104, 349-53; *SHEPARD'S*, *supra* note 48, at 309-12; *Castleberry, Mobile Home Financing*, 5 ST. MARY'S L.J. 259, 269-72 (1973); Note, *supra* note 290, at 83-85, 88-89; *Legal Questions*, *supra* note 232, at 414-16.

297. See generally *Castleberry* note 296 *supra*; Comment, *Mobile Home Financing Under the Uniform Commercial Code*, 36 MONT. L. REV. 213 (1975); Note, *supra* note 82, at 171-72; *Legal Questions*, *supra* note 232, at 408-14.

298. See note 517 *infra*.

299. See, e.g., *Schreiner v. Allen*, 13 App. Div. 2d 871, 216 N.Y.S.2d 57 (1961); *Vrooman v. Vrooman*, 183 Misc. 233, 50 N.Y.S.2d 694 (1944).

statutes of frauds;³⁰⁰ statutes of descent and distribution;³⁰¹ transportation controls;³⁰² statutes of limitations;³⁰³ the Uniform Commercial Code;³⁰⁴ criminal statutes;³⁰⁵ and other rights and regulations.³⁰⁶ The confusion has often prevented mobile home owners from enjoying the advantages given to those in comparable positions, such as by denying the mobile home owner rights given to the owner of conventional housing.³⁰⁷ Determining the nature of a mobile home has also affected the interpretation of restrictive covenants,³⁰⁸ wills,³⁰⁹ land sales contracts,³¹⁰ and insurance con-

300. See generally Note, *supra* note 290, at 89-90.

301. See generally *id.* at 87.

302. As realty, mobile homes would not be subject to many transportation controls. M. DRURY, *supra* note 16, at 130-32. Industry representatives may prefer the vehicle classification for ease of transportation. *Cal. Hearing, supra* note 270, at 96.

303. See, e.g., *Gendreau v. State Farm Fire Ins. Co.*, 206 Minn. 237, 288 N.W. 225 (1939).

304. See generally Castleberry note 296 *supra*; Comment note 297 *supra*; Note, *supra* note 82, at 163-64.

305. See, e.g., *United States v. One 1953 Model Glider Trailer*, 120 F. Supp. 504 (E.D.N.C. 1954); *State v. Parsons*, 70 Ariz. 399, 222 P.2d 637 (1950); *Simmons v. State*, 234 Ind. 489, 129 N.E.2d 121 (1955). See generally SHEPARD's, *supra* note 48, at 345-50.

306. See generally B. HODES & G. ROBERSON, *supra* note 5, at 48-51, 70-71, 104-05.

307. In one sense, however, it can be said that the hybrid nature of the mobile home facilitated its development by allowing it to work into the housing market before confronting the conservatism of the housing institutions. M. DRURY, *supra* note 16, at 120-23. Housing and automobile regulatory bodies also let it slip through the interstices with a minimum of regulation. MOBILE HOMES, *supra* note 16, at xii; see Lemert, *Notes on Research and Teaching: Is there a Natural History of Social Problems?*, AM. SOCIOLOGICAL REV., Apr. 1951, at 217, 222; FORBES, *supra* note 110, at 53-54.

308. See, e.g., *Brownfield Subdivision, Inc. v. McKee*, 61 Ill. 2d 168, 334 N.E.2d 131 (1975); *Crawford v. Boyd*, 453 S.W.2d 232 (Tex. Ct. App. 1970). See generally B. HODES & G. ROBERSON, *supra* note 5, at 335-46; SHEPARD's, *supra* note 48, at 135-52; Bartke & Gage note 215 *supra*; Moore, *supra* note 210, at 19-21; *Proper Zoning, supra* note 216, at 112-14; 25 DE PAUL L. REV. 553 (1976); *Use of Trailer or Similar Structure for Residence Purposes as Within Limitation of Restrictive Covenant, Zoning Provision, or Building Regulation*, Annot., 96 A.L.R.2d 232, 263-65 (1964).

309. See, e.g., *Reim Estate*, 21 Pa. D. & C.2d 650 (1960); *Little Estate*, 8 Pa. D. & C.2d 468 (1956).

310. As realty, the mobile home might fall within the terms of a contract for the sale of the underlying land. See, e.g., *Gomez v. Dykes*, 89 Ariz. 171, 359

tracts.³¹¹ Moreover, the applicability of common law rules has been similarly influenced by this dichotomy; if the mobile home is considered realty there is some authority for imposing liability for housing construction defects on the primary lender,³¹² while if considered personalty the mobile home may be covered under common law warranties.³¹³

Despite all the confusion, the courts have generally concluded that the mobile home is some form of real property once the wheels have been removed and the home affixed to the land by means of a foundation and utility connections.³¹⁴ Ultimately, it may be irrelevant whether the mobile home is considered realty or personalty; for example, if considered a "vehicle," the mobile home may be excluded under a statute limiting parking time in the community, whereas if considered a "dwelling," it may be excluded under a zoning statute requiring a certain minimum square footage.³¹⁵

B. Supply and Demand Pressures

Many problems experienced by mobile home owners have been caused by the shortage of sites on which to place their homes. Owners now recognize that obtaining good park space is one of their most serious concerns.³¹⁶ With perhaps fifty percent

P.2d 760 (1961); *Clifford v. Epstein*, 106 Cal. App. 2d 221, 234 P.2d 687 (1951). See generally *Legal Questions*, *supra* note 232, at 407-08.

311. See, e.g., *Farmers Union Mutual Ins. Co. v. Denniston*, 237 Ark. 768, 376 S.W.2d 252 (1964); *Meccage v. Spartan Ins. Co.*, 156 Mont. 135, 477 P.2d 155 (1970). See generally B. HODES & G. ROBERSON, *supra* note 5, at 353-59; SHEPARD's, *supra* note 48, at 46-48; *Legal Questions*, *supra* note 232, at 416-17.

312. *Connor v. Great W. Sav. & Loan Assoc.*, 73 Cal. Rptr. 369, 69 Cal. 2d 850, 447 P.2d 609 (1968). The holding of this case was subsequently restricted by legislative enactment. See CAL. CIV. CODE § 3434 (West 1970). *Connor* has not been followed by courts of other jurisdictions. But see PLI 1975, *supra* note 333, at 83 (cases cited not involving mobile homes). Although *Connor* dealt with a lender for a real estate development, its reasoning arguably could also apply to impose such liability on the financial backers of manufacturers of defective personal property. Therefore, the characterization of mobile homes as realty or personalty would seem immaterial in this situation.

313. See note 479 *infra*.

314. B. HODES & G. ROBERSON, *supra* note 5, at 66.

315. See Freilich, *Missouri Law of Land Use Controls: With National Perspectives*, 42 U. MO. KANSAS CITY L. REV. 1, 55 (1973).

316. E. BARTLEY & F. BAIR, *supra* note 15, at 11; *Buying a Mobile Home*,

of all mobile homes located in parks,³¹⁷ occupancy rates have generally been very high, often as much as 100 percent.³¹⁸ Because the search for park space is often arduous,³¹⁹ owners have been warned to locate a space before purchasing mobile homes or moving them to new areas.³²⁰ The cost of preparing a single private lot, possibly exceeding \$5,000,³²¹ itself usually precludes this alternative solution even in the absence of regulatory impediments to private lot development.

The lack of adequate parks has been acknowledged by dealers and manufacturers as one of the greatest hindrances to an expanded mobile home market,³²² and both groups have been

CONSUMER BULL., Feb. 1961, at 6; Wang & Travis, *supra* note 143, at 60; see Woods & Morris, *supra* note 104, at 38; FORTUNE, *supra* note 22, at 174-78.

317. See note 129 *supra*.

318. See 1 D. NULSEN & R. NULSEN, *supra* note 13, at 50 (94.6%); MOBILE HOMES, *supra* note 16, at 55 (94% in 1972); *Landlord-Tenant Relationship*, *supra* note 132, at 812 n.27 (95.8% in 1968); U.S. NEWS, *supra* note 99, at 85 (97%); Hoyt, *supra* note 16, at 6 (95%); Porter, *Look Hard at Place to Put Mobile Home*, Clev. Plain Dealer, June 11, 1976, § B, at 16 (94% in 1972); *The Mobile Home Industry*, Wall Street Transcript, Mar. 16, 1970, at 19,930-31 (98%); Wang & Travis, *supra* note 143, at 26 (up to 100% in Santa Clara County, Cal., in 1967); Mobile Home Industry, *supra* note 8, at 36 (99% in Denver in 1968). But see U.T. Project, *supra* note 35, at 37 (60% in 1972). Especially in recent years, occupancy rates have varied greatly by area. See Salinas, *supra* note 200, at 290, 294; Smith, *supra* note 127, at 40, 52; U.S. NEWS, *supra* note 99, at 84-85; *Factory-Built Homes are Gaining But—*, U.S. NEWS & WORLD REP., Oct. 11, 1971, at 70.

319. MOBILE HOMES, *supra* note 16, at 58; *The Mobile Home Isn't So Mobile Any More*, BUS. WEEK, Mar. 16, 1957, at 44, 46; *The Consumers Observation Post*, CONSUMERS' RESEARCH MAGAZINE, Jan. 1974, at 6; see M. DRURY, *supra* note 16, at 43-45; MOBILE HOMES, *supra* note 16, at 53, 81; CHANGING TIMES, *supra* note 16, at 7, 11; Hegel, *supra* note 138, at 9. But see M. DRURY, *supra* note 16, at 29; BARRON'S, *supra* note 128, at 11, 18; N.Y. Survey, *supra* note 157, at 100.

320. See MOBILE HOMES, *supra* note 16, at 186; Coffee, *The Now Trend: Barely-Mobile Homes*, MECHANIX ILLUSTRATED, Feb. 1976, at 39, 98; Loving, *Financing Mobile Home Parks: A More Marketable Investment*, MORTGAGE BANKER, Nov. 1972, at 14, 19; *A Brand-new Home for \$6,000*, CHANGING TIMES, Apr. 1968, at 39, 42; CONSUMER REP., *supra* note 109, at 113, 117; *Mobile Homes and RV's*, CONSUMERS' RESEARCH MAGAZINE, Oct. 1976, at 142, 144.

321. See Watkins, *supra* note 199, at 104-05.

322. E. BARTLEY & F. BAIR, *supra* note 15, at 78-79; 1 D. NULSEN & R. NULSEN, *supra* note 13, at 82; MOBILE HOMES, *supra* note 16, at 67; Osman, *supra* note 60, at 42, 45; Randall, *supra* note 143, at 361; Willatt, *supra* note 116, at 5; D. Moore, *supra* note 17, at 183. The magnitude of the problem seems to have

working to develop or promote new ones.³²³ Other evidence of the demand for park space has been the high rate of return on the park investment, reportedly as high as twenty-five percent,³²⁴ and the rapid appreciation in the appraised valuation of land zoned for a park.³²⁵

Restrictive zoning practices that exclude mobile homes and parks or constrain mobile homes within parks are the most obvious causes of the shortage of good parks.³²⁶ Building, health, and safety codes have had a similar effect.³²⁷ The low status of park developers among homebuilders has deterred experienced people from entering the field.³²⁸ The expense of developing parks has been a further limitation since the large capital outlay required, sometimes as much as \$5,500 per space exclusive of the cost of

declined substantially in the last few years. See *MOBILE HOMES*, *supra* note 16, at 30.

323. Kendall, *The Invisible Suburbs*, *HORIZON*, Winter 1971, at 104, 106; Starr, *supra* note 157, at 41-42; *BUS. WEEK*, *supra* note 128, at 146, 148; *Infant Industry Grows Up*, *FED. RES. BANK OF ATLANTA MONTHLY REV.*, July 1971, at 129, 134; *Homes With-Without Wheels*, *FED. RES. BANK OF SAN FRANCISCO MONTHLY REV.*, June 1969, at 129, 132; Baybak, *Mobile Homes: Park Development and Coach Building Attract Big Business As Sales Rise 'n' Rise*, *Christian Sci. Monitor*, June 12, 1970, at 13, col. 3. Dealer park development often leads to "closed" parks. See note 138 *supra* and accompanying text. The manufacturers' attempts to develop parks have not met with great success. *MOBILE HOMES*, *supra* note 16, at 12, 23-24; Magid, *supra* note 92, at 29; *U.S. NEWS*, *supra* note 318, at 70.

324. Baybak, *supra* note 323, at 13 (20-35%); Mayer, *supra* note 88, at 126, 145 (25%); Salinas, *supra* note 200, at 290, 293 (14-19%); Willatt, *supra* note 116, at 5-6 (10-15%); *Mobile Homes: Your Chance for a 25% Return*, *AM. BUILDER*, Feb. 1969, at 8 (25%); *Where Housing Market Has Lots of Life*, *BUS. WEEK*, Sept. 3, 1966, at 148, 152 (18-22%); *Builders Move in on Mobile-Home Boom As Land Developers*, *HOUSE & HOME*, Mar. 1969, at 4-5 (12-18%); *HOUSE & HOME*, *supra* note 60, at 64, 90 (10-14%); *Shortage Answer*, *supra* note 60, at 21, 799 (20-25%). But see *CONSTRUCTION REV.*, *supra* note 109, at 4, 7; *U.S. NEWS*, *supra* note 99, at 84-85; *U.S. NEWS*, *supra* note 318, at 70.

325. *MOBILE HOMES*, *supra* note 16, at 58-59.

326. *Landlord-Tenant Relationship*, *supra* note 132, at 811; *Mobile Homes: Growth Field*, *FINANCIAL WORLD*, Feb. 16, 1966, at 13; Note, *supra* note 144, at 110-11; see *Legislation Necessity*, *supra* note 132, at 216.

327. See note 209 *supra* and accompanying text.

328. *HOUSE & HOME*, *supra* note 324, at 4; see *FORBES*, *supra* note 110, at 53-54. The skyrocketing cost of conventional housing is now forcing homebuilders to consider the mobile home market. Murray, *supra* note 129, at 53, 55.

the land, is often prohibitive.³²⁹ High land values have added considerably to the cost of parks and would have done so even without restrictive zoning.³³⁰ The expense of the large parcels of land needed to make the project commercially feasible,³³¹ zoning fights,³³² and finance charges³³³ have also inflated the costs of development. The amenities expected or required of a modern park have taken their toll.³³⁴ Finally, the time period needed to realize a profit has required that the developer be well capitalized.³³⁵

Modernization of older parks has not satisfied the need for more high quality parks. The cost of improvement is high for some of the same reasons that initial development is so expensive.³³⁶ Furthermore, the increased space required for newer, larger mobile homes and the greater expected amenities have

329. Quick Facts, *supra* note 5, at 9 (\$3,500-\$5,500, exclusive of land, in 1974).

330. UT Project, *supra* note 35, at 29; see Breeze & Altman, *supra* note 81, at 31, 36-37. In 1969 prices ran from \$250 to \$10,000 per acre. Woods & Morris, *supra* note 104, at 37.

331. Breeze & Altman, *supra* note 81, at 31, 37; HOUSE & HOME, *supra* note 45, at 60, 67.

332. HOUSE & HOME, *supra* note 45, at 60, 67; see B. HODES & G. ROBERSON, *supra* note 5, at 189; Galligan, *supra* note 270, at 26.

333. It seems incongruous to state on the one hand that the return on park investment is high but on the other hand that the cost of financing the development is also high. One would think the financiers would be vying to lend money for parks. The only explanation seems to be that the institutional lenders are wary of the uncertainty of this form of investment, especially in light of the large size of the necessary loans. See Loving, *supra* note 320, at 24; O'Neill, *Mobile-Home Lesson: There's a Big Difference Between Sticking Your Head in the Sand and Keeping Your Ear to the Ground*, HOUSE & HOME, Aug. 1965, at 77; HOUSE & HOME, *supra* note 92, at 136, 142; UT Project, *supra* note 35, at 102. See also Woods & Morris, *supra* note 104, at 37; HOUSE & HOME, *supra* note 324, at 4, 8. But see Salinas, *supra* note 200, at 290, 294; Wood, *supra* note 65, at 42-43. For a general discussion of the financing of parks, see PRACTICING LAW INSTITUTE, MOBILE HOME FINANCING 79-128 (1975) [hereinafter cited as PLI 1975]; Loving, *supra* note 323, at 24.

334. Woods & Morris, *supra* note 104, at 38; Breeze & Altman, *supra* note 81, at 31, 37.

335. HOUSE & HOME, *supra* note 45, at 60, 67; see O'Neill, *supra* note 333, at 77; CONSTRUCTION REV., *supra* note 109, at 4, 7.

336. See Mobile Home Industry, *supra* note 8, at 37. The cost of acquiring additional land can be prohibitively expensive. Wang & Travis, *supra* note 143, at 24.

made modernization impractical.³³⁷ Perhaps most importantly, the older parks have continued to attract a great amount of business. The cost of moving the mobile home retards the desire to seek a more satisfactory location.³³⁸ Stringent rules in the new parks, such as the prohibition of children, pets, and older mobile homes, also have added to the appeal of the lower quality, usually older parks.³³⁹

Because of the shortage of park spaces, parks have had monopolistic leverage over owners.³⁴⁰ Park rental fees have often been unrelated either to the amenities or conveniences offered or to the development costs.³⁴¹ General abuse of the management's power has not been uncommon.³⁴²

C. Public Attitudes Concerning Mobile Homes and Owners

The primary explanation for the tribulations of mobile home owners, and to some extent of parks, is that mobile homes and owners are perceived by the general populace as being undesirable. This attitude makes it politically expedient for governmental officials to ignore the owners' plights. Upon examination the main bases for this perceived undesirability appear to be that owners make an insufficient tax contribution to the local government; owners themselves are undesirable people; mobile homes and parks are aesthetically unappealing; mobile homes are not a legitimate form of permanent housing; and mobile homes and parks depress the value of surrounding land.

337. See Wang & Travis, *supra* note 143, at 24, 34; Mobile Home Industry, *supra* note 8, at 37; L. Landis, *supra* note 4, at 67-68.

338. Connett, *supra* note 15, at 33; see notes 140-42 *supra* and accompanying text.

339. Wang & Travis, *supra* note 143, at 23; see Free, *Creative Management, Market Analysis Save Obsolescent Trailer Parks*, J. PROP. MANAGEMENT, Nov./Dec. 1969, at 278-79; Salinas, *supra* note 200, at 290, 292, 294; Mobile Home Industry, *supra* note 8, at 37.

340. MOBILE HOMES, *supra* note 16, at 59; Bartke & Gage, *supra* note 215, at 512 n.100; Clark, *supra* note 75, at 12; Mayer, *supra* note 88, at 126, 145; *Legislation Necessity*, *supra* note 132, at 219; Note, *supra* note 144, at 104; Fla. Hearings, *supra* note 130, at 4.

341. Greenwald, *supra* note 63, at 2, 12; Chattanooga Study, *supra* note 260, at 19-20.

342. See note 146 *supra* and accompanying text.

1. Insufficient Taxation

The most commonly voiced objection is that mobile home owners do not pay their share of the taxes needed to support the governmental services they receive.³⁴³ Among those services for which payment allegedly is not made are utilities,³⁴⁴ police protection,³⁴⁵ and roads.³⁴⁶ Generally, however, this criticism is based on impressions, not facts.³⁴⁷ The few serious studies of the question tend to indicate that today owners do pay for the services they receive.³⁴⁸ Furthermore, the park itself fulfills many governmental functions; owners pay for services by means of rent to the park, which in turn maintains local roads and provides utilities, among other things.³⁴⁹

Differences in the forms of taxing mobile homes and conventional housing have led people to assume that unfairly low taxes have been imposed upon mobile home owners.³⁵⁰ Historically, mobile homes were in fact often taxed inadequately since taxing statutes not designed to deal with permanent housing were applied to them.³⁵¹ As discussed before, the most common test of tax fairness is "horizontal equity," that is, people in like situations

343. 2 R. ANDERSON, *supra* note 202, at 362-63; M. DRURY, *supra* note 16, at 52, 119; Moore, *supra* note 210, at 3-4, 22; Note note 264 *supra*; *Housing and Urban Development: Mobile Home, Other Amendments Add to Impact of Housing Measure*, NAT'L J., Nov. 1, 1969, at 23; *Trailer Test*, TIME, Nov. 23, 1936, at 66, 68; Newcomb, *supra* note 8, at 62; Tri-County Regional Planning Comm'n (Peoria, Tazewell, Woodford Counties, Illinois), *The Mobile Home and Its Place 7* (1970) [hereinafter cited as Illinois Report].

344. *Mobile Homes: One Solution to the High Cost of Building*, CONSUMER BULL., Feb. 1970, at 23.

345. *Id.*

346. See *Lakeland Bluff, Inc. v. County of Will*, 114 Ill. App. 2d 267, 274, 252 N.E.2d 765, 770 (1969).

347. E. BARTLEY & F. BAIR, *supra* note 15, at 122; see Margolis note 35 *supra*.

348. See HOUSE & HOME, *supra* note 92, at 136, 141; Sunnyvale, Cal., Dep't of Community Development, *Mobile Home Parks 1* (1967) [hereinafter cited as Cal. Report]; R. Boyd, *supra* note 203, at 39-40.

349. See Newcomb, *supra* note 8, at 64; Wehrly, *supra* note 131, at 21, 23-24; Cal. Report, *supra* note 348, at 10; N.Y. Survey, *supra* note 157, at 17.

350. C. GIBSON, *supra* note 74, at 4-5; Berney & Larson, *supra* note 269, at 459; Cal. Hearing, *supra* note 270, at 84-85; see M. DRURY, *supra* note 16, at 123; Woods & Morris, *supra* note 104, at 40; Murray, *supra* note 129, at 53-54; FORBES, *supra* note 110, at 53-54.

351. PLI 1971, *supra* note 56, at 10.

should be taxed similarly; the benefits-received test is less commonly utilized.³⁵² Nevertheless, the latter test has been the one most often used by those who contend that mobile home owners have not been taxed sufficiently.³⁵³

One complaint that has been particularly emphasized is that mobile home owners have not been required to pay for their school services.³⁵⁴ This is based upon the belief that they have a disproportionately high number of school-aged children.³⁵⁵ Statistics, however, show the contrary; owners have fewer school-aged children than the average citizen.³⁵⁶

Even if owners do not pay their fair share of taxes, it does not necessarily follow that they should be excluded from or restricted by the community. The owners are not at fault if their taxes are not more onerous.³⁵⁷ Means are available to levy appro-

352. See notes 273-74 *supra* and accompanying text.

353. See note 275 *supra*.

354. Osman, *supra* note 60, at 42, 45; Cal. Hearing, *supra* note 270, at 101-02; Connett, *supra* note 15, at 37; D. Cowgill, *supra* note 4, at 81; see, e.g., Town of Yorkville v. Fonk, 3 Wis. 2d 371, 88 N.W.2d 319 (1958).

355. Bair, *supra* note 208, at 18; Hegel, *supra* note 138, at 46; see, e.g., Karen v. Town of East Haddam, 146 Conn. 720, 155 A.2d 921 (1959); Town of Heartland v. Jensen's, Inc., 146 Conn. 697, 155 A.2d 754 (1959); DeQuindre Dev. Co. v. Charter Township of Warren, 359 Mich. 634, 103 N.W.2d 600 (1960).

356. 1 D. NULSEN & R. NULSEN, *supra* note 13, at 216-17; Greenwald, *supra* note 63, at 13; Hegel, *supra* note 138, at 46-47, 49, 51; Mayer, *supra* note 88, at 144; Connett, *supra* note 15, at 37; Chattanooga Study, *supra* note 260, at 12; St. Charles County, Mo., Planning and Zoning Comm'n, Mobile Home Parks, St. Charles County, Mo., 12 (1969) [hereinafter cited as Mo. Report]; R. Boyd, *supra* note 203, at 8; D. Cowgill, *supra* note 4, at 22; U.S. Dep't of HUD, Housing Surveys: Parts 1 and 2, at 85 (1968) [hereinafter cited as HUD Survey]; see *How to Gather Tax Data in Your Community*, MOBILE HOME PARK MANAGEMENT, Feb.-Mar. 1967, at 22; Cal. Report, *supra* note 348, at 1, 10; Md. Study, *supra* note 149, at 2; N.Y. Survey, *supra* note 157, at 2. For model analyses of the impact on schools of a mobile home park, see *Proposed Park*, *supra* note 157, at 53-55; R. Boyd, *supra* note 203, at 199. Local officials are more likely to approve adult parks that will not threaten the school population, MOBILE HOMES, *supra* note 16, at 71. This encourages parks to restrict children. C. GIBSON, *supra* note 74, at 24; PLI 1973, *supra* note 16, at 21; Bus. WEEK, *supra* note 324, at 152; see *Vickers v. Township Comm. of Gloucester Township*, 37 N.J. 232, 181 A.2d 129 (1962).

357. See E. BARTLEY & F. BAIR, *supra* note 15, at 113; M. DRURY, *supra* note 16, at 127; Morris & Woods, *supra* note 105, at 64. It has been noted that mobile home owners, parks, and industry reinforce suspicions that mobile home owners do not pay their fair share by lobbying against the taxation of mobile

appropriate taxes, and failure to utilize those means should not result in discrimination against mobile homes.³⁵⁸ Moreover, were sufficient means to tax mobile homes not available, the question of whether or not local governments should prevent or limit the placement of mobile homes and favor more taxable uses would still remain.³⁵⁹ Conventional single-family owners pay for less of the benefits they receive than do mobile home owners in parks,³⁶⁰ yet objections to this tax inequity are rare.³⁶¹ Housing should be available to all, with some choice as to the form of that housing.³⁶²

2. Undesirable Characteristics of Mobile Home Dwellers

A common opinion is that mobile home owners are not the kind of people that a community would wish to have as residents.³⁶³ Stereotyped as irresponsible,³⁶⁴ immoral,³⁶⁵ unedu-

homes as realty instead of personalty in order to save a few dollars per year. FORBES, *supra* note 110, at 53-54.

358. See *Zoning Bd. of Adjustment v. Dragon Run Terrace, Inc.*, 222 A.2d 315, 319 (Del. 1966); E. BARTLEY & F. BAIR, *supra* note 15, at 9-10, 113, 118, 122; Woods & Morris, *supra* note 104, at 40-41; Md. Study, *supra* note 149, at 19; Mo. Report, *supra* note 356, at 32.

359. See *Lakeland Bluff, Inc. v. County of Will*, 114 Ill. App. 2d 267, 277, 252 N.E.2d 765, 770 (1969); *Vickers v. Township Comm. of Gloucester Township*, 37 N.J. 232, 265, 181 A.2d 129, 147 (1962) (dissenting opinion); C. GIBSON, *supra* note 74, at 40; Newcomb, *supra* note 8, at 62; Cal. Report, *supra* note 348, at 9. *But see* Woods & Morris, *supra* note 104, at 41.

360. PLI 1971, *supra* note 56, at 20; *see* Cal. Report, *supra* note 348, at 10.

361. See Bair, *supra* note 208, at 18-19; Carter, *supra* note 210, at 27.

362. Weeks, *Fitting Mobile Homes to the Community—An Overview*, Institute of Natural and Environmental Resources, Univ. of N.H., Memo 11B-18A (1972); *see* *Vickers v. Township Comm. of Gloucester Township*, 37 N.J. 232, 265, 181 A.2d 129, 147 (1962) (dissenting opinion); B. HODES & G. ROBERSON, *supra* note 5, at 14.

363. M. DRURY, *supra* note 16, at 15-16; Note note 210 *supra*; Note note 228 *supra*; *see* *Cady v. City of Detroit*, 289 Mich. 499, 514, 286 N.W. 805, 810 (1939); Greenwald, *supra* note 63, at 2, 6-7; Meyer, *supra* note 71, at 36; TIME, *supra* note 343, at 68; Margolis, *supra* note 35, at 10; Housing Supply, *supra* note 218, at 6. *But see* M. DRURY, *supra* note 16, at 16.

364. See Andrachek, *supra* note 40, at 30.

365. Bair, *supra* note 208, at 18; *see* *Cady v. City of Detroit*, 289 Mich. 499, 286 N.W. 805 (1939) (city counsel argued that trailer living leads to immorality among children); Note note 208 *supra*; Kneeland, *From "Tin Cans on Wheels" to the "Mobile Homes,"* N.Y. Times, May 9, 1971, § 6 (Magazine), at 18.

cated,³⁶⁶ low-income³⁶⁷ rootless drifters,³⁶⁸ mobile home owners have been traditionally considered unlikely to make civic or political contributions.³⁶⁹ Their allegedly objectionable lifestyle³⁷⁰ has been used to rationalize and excuse the actions of communities in hindering the introduction of mobile homes.

This pejorative characterization is today an inappropriate hangover from a bygone period when "travel trailers" and "trailer courts" lacked basic amenities.³⁷¹ A large percentage of the original trailerites was migratory. Such persons were perceived as threatening traditional values³⁷² and were held in low esteem.³⁷³

366. See Mich. Task Force, *supra* note 51, at 51.

367. Bair, *supra* note 208, at 18; *Increasing Use Over Nation Fails to Stem Opposition*, N.Y. Times, Oct. 4, 1971, at 16, col. 1; Connett, *supra* note 15, at 4; see M. DRURY, *supra* note 16, at 147; Meyer, *supra* note 71, at 36; CONSUMER REP., *supra* note 109, at 117; FORBES, *supra* note 88, at 20; Mich. Task Force, *supra* note 51, at 51.

368. 1973 Hearings, *supra* note 6, at 845; 2 R. ANDERSON, *supra* note 202, at 549; M. DRURY, *supra* note 16, at 15, 17, 89; MOBILE HOMES, *supra* note 16, at 54; Bair, *supra* note 208, at 18; Osman, *supra* note 60, at 42, 45; Comment note 203 *supra*; Kneeland, *supra* note 365, at 18; *Use and Abuse*, *supra* note 279, § E, at 16, col. 1; Connett, *supra* note 15, at 4; Mo. Report, *supra* note 356, at 5; see *Hornstein v. Lovett*, 221 Ga. 279, 144 S.E.2d 378 (1965); *Yorkville v. Fonk*, 3 Wis. 2d 371, 88 N.W.2d 319 (1958), *appeal dismissed*, 358 U.S. 58 (1958); *Andrachek*, *supra* note 40, at 30; *Eshelman*, *supra* note 209, at 302; FORBES, *supra* note 88, at 20; Hegel, *supra* note 138, at 22. See generally Whyte, *The Transients*, FORTUNE, June 1953, at 129; Comment, *supra* note 203, at 738 n.2 (and authorities cited therein); Note, *supra* note 228, at 703 n.14 (and authorities cited therein).

369. 2 R. ANDERSON, *supra* note 202, at 549; M. DRURY, *supra* note 16, at 15; Osman, *supra* note 60, at 42, 45; Comment note 203 *supra*; Note note 210 *supra*; FORTUNE, *supra* note 22, at 174, 178; *Use and Abuse*, *supra* note 279, § E, at 16, col. 1; see Bair, *supra* note 208, at 18; CONSUMER REP., *supra* note 109, at 113, 117.

370. See M. DRURY, *supra* note 16, at 15; Bair, *supra* note 208, at 18; Osman, *supra* note 60, at 42.

371. 2 R. ANDERSON, *supra* note 202, at 547; PLI 1971, *supra* note 56, at 29; MOBILE HOMES, *supra* note 16, at 14; Carter, *supra* note 210, at 17; French & Hadden, *An Analysis of the Distribution and Characteristics of Mobile Homes in America*, 41 LAND ECON. 131, 132 (1965); Gerloff, *Mobile Homes in the Inner City?*, J. FED. HOME LOAN BANK BD., Nov. 1970, at 21; Connett, *supra* note 15, at 4; Wang & Travis, *supra* note 143, at 65; Mobile Home Industry, *supra* note 8, at 1; see Salinas, *supra* note 200, at 290-92; Comment, *supra* note 203, at 751 n.66; Note, *supra* note 228, at 703-04; Wall Street Transcript, *supra* note 318, at 19,930-31.

372. M. DRURY, *supra* note 16, at 82, 85-87.

373. See D. Cowgill, *supra* note 4, at 46-48.

For that reason, a belief that the modern owner is also transient often includes the unfavorable connotations associated with the earlier image. Because housing is considered a symbol of social status, and mobile homes are considered to have low status, mobile homes have signified the social inferiority of their inhabitants.³⁷⁴ Additionally, the mobile home has been caught in an injurious cycle. Inadequate or nonexistent community planning has forced mobile homes into substandard locations and conditions. A few decades ago many parks were slums;³⁷⁵ today, unfortunately, some of the poor ones continue to operate.³⁷⁶ Located in highly visible places along highways and in commercial and industrial zones, these earlier parks have provided some evidence supporting the charges of undesirability.³⁷⁷ The newer, better parks have been placed on much less visible sites. The phenomenon of the self-fulfilling prophecy has made this pattern difficult to break.

Relevant in determining the validity of the stereotype are the motivations of those who purchase mobile homes. If the actual reason for purchasing is to identify with the stereotype considered by others to be objectionable, then this characterization would more likely be true. The studies, of course, fail to confirm this

374. PLI 1971, *supra* note 56, at 19; see Roberts, *From Common Law Logic-Chopper to Land-Use Planner: Eulogy for the Lawyer as Social Engineer*, 53 CORNELL L. REV. 957, 982 (1968); J. Meyers, *supra* note 199, at 2, 11.

375. PLI 1973, *supra* note 16, at 41; Moore, *supra* note 210, at 2-3; *Trailer Parks: They Mushroom into a Thriving Business Across the Nation*, BARRON'S, Sept. 26, 1955, at 15; see Starr, *supra* note 157, at 43; Van Iden, *supra* note 287, at 197; FORTUNE, *supra* note 22, at 174, 178; *Proper Zoning*, *supra* note 216, at 89; Note, *supra* note 228, at 702-03; Wang & Travis, *supra* note 143, at 6. For vivid descriptions of park slums, see generally Wellington, *supra* note 199, at 418; D. Cowgill, *supra* note 4, at ch. VII.

376. E. BARTLEY & F. BAIR, *supra* note 15, at 1-2; MOBILE HOMES, *supra* note 16, at 58, 78; Woods & Morris, *supra* note 104, at 39; Comarow, *supra* note 7, at 92; D. Morris, *The Zoning Power and Mobile Homes: A Study of Columbus, Ohio*, 36 (1973) (unpublished thesis in University of Tennessee Library); see E. BARTLEY & F. BAIR, *supra* note 15, at 119; Moore, *supra* note 210, at 2; Note, *supra* note 264, at 338; R. Boyd, *supra* note 203, at 10, 115-16; note 196 *supra* and accompanying text. For a bleak picture of some of the parks in operation, see generally Meyer, *supra* note 71, at 33; *Mobile Homes: The New Ghettos*, SATURDAY REV., Sept. 23, 1972, at 51.

377. *Proper Zoning*, *supra* note 216, at 96-97; see Woods & Morris, *supra* note 104, at 42; Kneeland, *supra* note 365, at 18; D. Morris, *supra* note 376, at 38.

assumption. The primary reasons cited³⁷⁸ for living in a mobile home are economy,³⁷⁹ the preference to own rather than to rent,³⁸⁰ fewer maintenance requirements,³⁸¹ mobility,³⁸² use as a retirement home,³⁸³ convenience,³⁸⁴ and the assumption of a new lifestyle.³⁸⁵ Two of these reasons, the desire for mobility and a new lifestyle, arguably support the truth of the stereotype. As in the case of other Americans, however, it is the desire to establish personal freedom and identity through the positive quest for mobility and changing life patterns that is pursued, not the negative, poor-tramp stereotype from the past.³⁸⁶

The actual attributes of the modern mobile home owner fail to support other aspects of the stereotype.³⁸⁷ Even though there is little evidence to rebut the charge of irresponsibility, an inference against it is raised by the good record of mobile home financing.³⁸⁸ Similarly, there is little evidence regarding the owners'

378. No two questionnaires are alike. The surveys cited at notes 379-86 *infra* are thus approximate, except perhaps the Mobile Home Market survey, cited at notes 379-84 *infra*. See generally 1 D. NULSEN & R. NULSEN, *supra* note 13, at 97-101.

379. HUD Survey, *supra* note 356, at 98 (44%); C. GIBSON, *supra* note 74, at 26; Osman, *supra* note 60, at 43 (10%); Wang & Travis, *supra* note 143, at 60 (48.6%); Mobile Home Market, *supra* note 15, at 15 (73%).

380. Mobile Home Market, *supra* note 15, at 15 (64%).

381. C. GIBSON, *supra* note 74, at 26; Comarow, *supra* note 7, at 92, 94; Wang & Travis, *supra* note 143, at 60 (67.9%); Mobile Home Market, *supra* note 15, at 15 (48%).

382. HUD Survey, *supra* note 356, at 98 (17%); Mayer, *supra* note 88, at 126, 144; *Mobile Homes—Fast Pace*, FINANCIAL WORLD, Aug. 27, 1969, at 6; Wang & Travis, *supra* note 143, at 60 (31.7%); Mobile Home Market, *supra* note 15, at 15 (36%); N.Y. Survey, *supra* note 157, at 5 (3.5%).

383. Mobile Home Market, *supra* note 15, at 15 (21%).

384. C. GIBSON, *supra* note 74, at 26; Osman, *supra* note 60, at 42-43 (46%); Mobile Home Market, *supra* note 15, at 15 (18%).

385. HUD Survey, *supra* note 356, at 98; Mayer, *supra* note 88, at 126, 144; Osman, *supra* note 60, at 42-43; L. Landis, *supra* note 4, at 76-77; see 1 D. NULSEN & R. NULSEN, *supra* note 13, at 236; Comarow, *supra* note 7, at 92, 94; FINANCIAL WORLD, *supra* note 382, at 6; UT Project, *supra* note 35, at 44. See generally L. Landis, *supra* note 4, at 275-324.

386. See notes 396-97 *infra* and accompanying text.

387. Newlyweds and retirees purchase more mobile homes than other groups of people, far exceeding the next largest groups of purchasers, farmers and military personnel. The great majority of purchasers are blue collar workers. See generally MOBILE HOMES, *supra* note 16, at 14-22.

388. See note 116 *supra* and accompanying text.

standards of morality.³⁸⁹ The educational attainments of owners, although below the national average, are sufficiently close to the average to refute any charge that they are uneducated.³⁹⁰

While at times the average income of the mobile home family has been higher than the national average,³⁹¹ today it is somewhat below;³⁹² yet at no time have mobile home dwellers been more dependent on welfare assistance than the general population.³⁹³ The high cost of living in a mobile home precludes occupancy by members of the lowest income group,³⁹⁴ and many of the newer parks implicitly exclude lower-income tenants by rules that regulate the size, price, or age of the mobile home.³⁹⁵

Mobile home owners are not transients. Not only do they intend to acquire permanent residences when they purchase their mobile homes,³⁹⁶ but they also manifest this intention by actually remaining as long or longer than the length of time the average citizen resides in a conventional home.³⁹⁷ One reason is that mov-

389. Cf. B. HODES & G. ROBERSON, *supra* note 5, at 13-14 ("the danger of immoral conduct is manifestly less in a mobile home park than in motels or hotels, which cater primarily to transients"). Less recent writers have also stated that there has been no lack of high moral standards among mobile home dwellers. See Lemert, *supra* note 307, at 217, 220; D. Cowgill, *supra* note 4, at 56, 86.

390. See HUD Survey, *supra* note 356, at 71, 87; 1 D. NULSEN & R. NULSEN, *supra* note 13, at 217-18; Edwards, Klemmack, & Hatos, *Social Participation Patterns Among Mobile-Home and Single Family Dwellers*, 51 SOC. FORCES 485-86 (1973); N.Y. Survey, *supra* note 157, at 2. But see Md. Study, *supra* note 149, at 2 (educational level of owner as high or higher than average citizen).

391. See Mays, *supra* note 208, at 204, 206 n.20; Comment, *supra* note 203, at 738 n.1; Connett, *supra* note 15, at 4; Mo. Report, *supra* note 356, at 13; D. Cowgill, *supra* note 4, at 25.

392. HUD Survey, *supra* note 356, at 71-72, 91; 1 D. NULSEN & R. NULSEN, *supra* note 13, at 219-21; MOBILE HOMES, *supra* note 16, at 15; Edwards, Klemmack, & Hatos, *supra* note 390, at 485-86. But see Md. Study, *supra* note 149, at 2.

393. M. DRURY, *supra* note 16, at 62-65; Lemert, *supra* note 307, at 217, 220; D. Cowgill, *supra* note 4, at 85. See generally MOBILE HOMES, *supra* note 16, at 14-22.

394. See 1 D. NULSEN & R. NULSEN, *supra* note 13, at 221.

395. See Salinas, *supra* note 200, at 290, 292; Wang & Travis, *supra* note 143, at 21; notes 169-70 *supra*.

396. HUD Survey, *supra* note 356, at 73; see Wang & Travis, *supra* note 143, at 64; Mobile Home Market, *supra* note 15, at 16. See generally Morris & Woods, *supra* note 105, at 61.

397. HUD Survey, *supra* note 356, at 95; B. HODES & G. ROBERSON, *supra*

ing costs can be prohibitively expensive.³⁹⁸ Additionally, some local ordinances³⁹⁹ and park rules⁴⁰⁰ prohibit either transients themselves or trailers small enough to be towed conveniently by the owners.

Many factors discourage owners from becoming active in the community. First, they encounter social discrimination.⁴⁰¹ Second, they are often forced to live under conditions that are not conducive to a feeling of belonging to the community.⁴⁰² Third, local legislation sometimes withholds full citizenship from mobile home owners.⁴⁰³ Finally, the park itself is a community in which the needs for social interaction may be satisfied. Commentators, nonetheless, have alleged that owners play an active role in the general community.⁴⁰⁴

Park residents have typically become park-oriented. The park provides a "way of life" of which many residents become enamored. Sharing in this experience is one of the main motiva-

note 5, at 8; Kendall, *supra* note 323, at 105-06; CHANGING TIMES, *supra* note 320, at 39, 41; Porter, *supra* note 6, at 9; Chattanooga Study, *supra* note 260, at 10; Md. Study, *supra* note 149, at 2; *see Mobile Homes Take on New Forms for Low-Cost Housing*, ENGINEER NEWS REC., Apr. 25, 1968, at 38-39. *But see* Hegel, *supra* note 138, at 49; Mo. Report, *supra* note 356, at 6. As a result of this fact, it has been suggested that the term "mobile home" is a misnomer and should be changed. *See* C. GIBSON, *supra* note 74, at 19; FINANCIAL WORLD, *supra* note 382, at 6; Ill. Report, *supra* note 343, at 3. The largest trade organization, the Mobile Home Manufacturers Association, has recently changed its name to the Manufactured Housing Institute.

398. *See* text accompanying note 140 *supra*.

399. *See* notes 210-12 *supra* and accompanying text.

400. *See* Salinas, *supra* note 200, at 290-92; Wang & Travis, *supra* note 143, at 21.

401. E. BARTLEY & F. BAIR, *supra* note 15, at 11; Kendall, *supra* note 323, at 105, 109; Wang & Travis, *supra* note 143, at 60; *see* J. Meyers, *supra* note 199, at 11. *But see* Hasbrouck, Learning to Live with Mobile Homes, VIII Resource Dev. Highlights, Dep't of Agricultural and Resource Economics, Univ. of Maine at Orono (1973).

402. Note, *supra* note 208, at 138; *see* L. Landis, *supra* note 4, at 72.

403. *See* Osman, *supra* note 60, at 42, 45.

404. *See* Edwards, Klemmack, & Hatos, *supra* note 390, at 486, 489; Wang & Travis, *supra* note 143, at 58; D. Cowgill, *supra* note 4, at 85-86; L. Landis, *supra* note 4, at 323-24. A high percentage of owners are registered voters. *See* Mays, *supra* note 208, at 204, 206 n.20; Comment, *supra* note 203, at 738 n.1; CONSUMER BULL., *supra* note 150, at 21, 23; Wang & Travis, *supra* note 143, at 58; D. Cowgill, *supra* note 4, at 85.

tions for mobile home living,⁴⁰⁵ often thought to be more important than the amenities of better housing.⁴⁰⁶ Within the park is a closeness and friendliness greater than that seen in other neighborhoods.⁴⁰⁷ These qualities are enhanced by relatively high park densities⁴⁰⁸ and by jointly-used communal facilities.⁴⁰⁹ Other contributing factors include the isolated locations of parks⁴¹⁰ and a "justification syndrome" or "coping behavior" in reaction to popular stereotyping.⁴¹¹ Furthermore, in an attempt to sell more mobile homes or to maintain high occupancy, this "way of life" concept is promoted by the industry⁴¹² and by park management.⁴¹³ Those who disapprove of this encouraged togetherness tend to avoid living in mobile homes or parks.⁴¹⁴

In summary, there is little or no basis for the common perceptions regarding mobile home residents. Although there are some differences between owners and the rest of the population, these differences are not substantial. In any case, presumed undesirability, based upon erroneous misconceptions, is an insuffi-

405. See note 385 *supra*.

406. U.S. NEWS, *supra* note 99, at 84-85; see Woods & Morris, *Orientation to Mobile Home Living*, in HOUSING CRISIS AND RESPONSE 22 (E. Morris & M. Woods eds. 1971).

407. 1 E. BARTLEY & F. BAIR, *supra* note 15, at 12; M. DRURY, *supra* note 16, at 59-61, 66, 72, 89; Woods & Morris, *supra* note 406, at 23; U.S. NEWS, *supra* note 99, at 84-85; Hegel, *supra* note 138, at 51; L. Landis, *supra* note 4, at 76, 294-95; see Mo. Report, *supra* note 356, at 17. See generally Edwards, Klemmack, & Hatos note 390 *supra*. But see N.Y. Survey, *supra* note 157, at 5; D. Moore, *supra* note 17, at 25, 89. Some have contended that park living is socially less ideal since it isolates the residents from the larger community. C. GIBSON, *supra* note 74, at 10; cf. *Are Mobile Homes Some Kind of an Answer—Or Are They an Environmental Cop-Out?*, ENV'T'L MONTHLY, Nov. 1969, at 1 (no sense of permanence and continuity).

408. 1 D. NULSEN & R. NULSEN, *supra* note 13, at 235; Hegel, *supra* note 138, at 51; D. Cowgill, *supra* note 4, at 55-56; L. Landis, *supra* note 4, at 336.

409. 1 D. NULSEN & R. NULSEN, *supra* note 13, at 235-36; Hegel, *supra* note 138, at 51; see D. Moore, *supra* note 17, at 90.

410. See Wang & Travis, *supra* note 143, at 20; L. Landis, *supra* note 4, at 336.

411. D. Moore, *supra* note 17, at 53, 85, 193; see L. Landis, *supra* note 4, at 337. But see J. Meyers, *supra* note 199, at 50.

412. See Wang & Travis, *supra* note 143, at 20.

413. See 1 D. NULSEN & R. NULSEN, *supra* note 13, at 377-78; Wang & Travis, *supra* note 143, at 21; D. Moore, *supra* note 17, at 180.

414. D. Cowgill, *supra* note 4, at 56; L. Landis, *supra* note 4, at 76-77, 336.

cient justification for excluding a sizeable proportion of the population from preferred areas of residency.⁴¹⁵

3. Objectionable Physical Appearance of Mobile Homes and Parks

Mobile homes have been considered undesirable for aesthetic reasons. They are said to clash with the surroundings and to destroy the beauty of the environment.⁴¹⁶ Although the designs of the interiors have encountered little criticism,⁴¹⁷ quite the opposite is true of the exteriors. These have been criticized for their metallic finish,⁴¹⁸ simple geometric shape,⁴¹⁹ and lack of variety in their configurations.⁴²⁰ A further cause for complaint has been that the manner in which they appear to be attached to the land gives rise to the impression of impermanence.⁴²¹

There are several reasons for the unique exterior design. Limitations imposed by the need to transport mobile homes to their sites furnish the most apparent reason; manufacture on a production line with standardized components,⁴²² and the industry's failure to use architects are other reasons.⁴²³ Furthermore, buyer re-

415. See *Vickers v. Township Comm. of Gloucester Township*, 37 N.J. 232, 252, 181 A.2d 129, 147 (1961) (dissenting opinion); C. GIBSON, *supra* note 74, at 34; Greenwald, *supra* note 63, at 2, 6-7; *Proper Zoning*, *supra* note 216, at 90.

416. See *Wright v. Michaud*, 160 Me. 164, 174, 200 A.2d 543, 548 (1964); *Town of Manchester v. Phillips*, 343 Mass. 591, 595, 180 N.E.2d 333, 336 (1962); *Koncelik*, *supra* note 8, at 48; *Osman*, *supra* note 60, at 42; *Swaback*, *supra* note 19, at 322-23, 326; *CONSUMER BULL.*, *supra* note 344, at 23; *Newcomb*, *supra* note 8, at 34; N.Y. Plan, *supra* note 217, at 95.

417. See *Mayer*, *supra* note 88, at 126, 130; *HOUSE & HOME*, *supra* note 45, at 60, 62. *But see Elliott*, *Long, Long Trailer*, *BARRON'S*, Feb. 23, 1970, at 3.

418. See *Martini*, *supra* note 216, at 15, 17; *Mayer*, *supra* note 88, at 126, 130; *Swaback*, *supra* note 19, at 326; *Watkins*, *supra* note 199, at 104; *Kneeland*, *supra* note 365, at 18; *Lawrence*, *Mobile Homes May Be Answer to Low-Cost Housing Problem*, *L.A. Times*, Jan. 27, 1969, § B, at 1, col. 1; *L. Landis*, *supra* note 4, at 67.

419. See *Swaback*, *supra* note 19, at 323-24, 326; *Watkins*, *supra* note 199, at 104; *SATURDAY REV.*, *supra* note 376, at 51, 54; *U.S. NEWS*, *supra* note 99, at 84-85; *Lawrence*, *supra* note 418, at 1; *L. Landis*, *supra* note 4, at 67.

420. See *Wehrly*, *supra* note 131, at 41, 44.

421. See *Koncelik*, *supra* note 8, at 48; *Swaback*, *supra* note 19, at 326; *FORTUNE*, *supra* note 22, at 174, 178.

422. See *Do You Expect to Get the Mobile Home Park Business by Default?*, *PROFESSIONAL BUILDER*, Sept. 1970, at 74.

423. See note 21 *supra* and accompanying text.

sistance has developed against attempts to hide the nature of the mobile home by facile imitations of conventional housing.⁴²⁴ While some resist cosmetic changes to what they consider to be the "traditional" appearance of mobile homes,⁴²⁵ others fear that a "new look" mobile home, such as one with shingle siding, will be harder to maintain⁴²⁶ or unacceptable to park management.⁴²⁷

Mobile home parks have been criticized for aesthetic reasons and have been described as collections of unattractive mobile homes⁴²⁸ in crowded,⁴²⁹ cluttered settings.⁴³⁰ The public's view of parks is even lower than its perception of individual mobile homes.⁴³¹ Utilization of the easiest park layouts, such as simple, symmetrical geometries, rather than layouts in which attractiveness is a conscious goal,⁴³² has lent credibility to the proposition that parks are inherently ugly.⁴³³ In addition to objections to their present appearance, there is the fear that parks will inevitably become slums.⁴³⁴ The fact that parks are more closely regulated

424. PROFESSIONAL BUILDER, *supra* note 422, at 74-75; see PROFESSIONAL BUILDER, *supra* note 18, at 65-66; cf. Mayer, *supra* note 88, at 126, 130 (great buyer demand causes little incentive to innovate); D. Moore, *supra* note 17, at 172 ("conceiving of the mobile home as a trailer . . . explains the way of life . . . and gives an illusion of luxury and space"). *But see* Reschke, *The New Look in Mobilehome Living*, RETIREMENT LIVING, Aug. 1974, at 22, 24; Wandres, *supra* note 33, at 31.

425. See Bair, *supra* note 208, at 18, 21; Martini, *supra* note 216, at 15; Dole, *Mobile-Home Pioneer Sees High-Rise Park: Trilevel Structure Tests Market in the Midwest*, Christian Sci. Monitor, Apr. 16, 1971, § A, at 9, col. 1. *But see* Swaback, *supra* note 19, at 324-25; D. Moore, *supra* note 17, at 173.

426. See Mobile Homes, *supra* note 47, at 27.

427. Mobile Homes, *supra* note 47, at 28. See generally PROFESSIONAL BUILDER, *supra* note 422, at 76, 78.

428. See FORBES, *supra* note 92, at 22, 24; Wehrly, *supra* note 131, at 41.

429. See E. BARTLEY & F. BAIR, *supra* note 15, at 1; Mead & Hauptert, *How to Get the House You Want*, BETTER HOMES & GARDENS, Apr. 1975, at 68; FORBES, *supra* note 92, at 22, 24. Densities as high as 50 spaces per acre have been reported. See Salinas, *supra* note 200, at 290-91.

430. See E. BARTLEY & F. BAIR, *supra* note 15, at 1; Koncelik, *supra* note 8, at 48; FORBES, *supra* note 92, at 22, 24.

431. M. DRURY, *supra* note 16, at 42, 111-12; see Mead & Hauptert, *supra* note 429, at 68; FORBES, *supra* note 92, at 22, 24; Note, *supra* note 228, at 703 n.12.

432. See Wehrly, *supra* note 131, at 41.

433. See Moore, *supra* note 210, at 4.

434. Morris & Woods, *Mobile Home Residents*, in HOUSING CRISIS AND RESPONSE 14 (E. Morris & M. Woods eds. 1971); Note, *supra* note 210, at 286;

than regular subdivisions⁴³⁵ and that deteriorated mobile homes can be more easily replaced than conventional housing⁴³⁶ has not overcome the concerns engendered by the history of the old parks.⁴³⁷

The sordid past and the continued tendency to judge by the worst examples of park planning⁴³⁸ have made it difficult to alter the negative image held by the public. Yet modern parks are often of very high quality, fully on a par with comparable subdivisions of conventional housing.⁴³⁹ It should not be surprising that there are excellent parks. For several reasons, encouraging excellence in the parks is in the self-interest of the residents who naturally are desirous of an amenable environment.⁴⁴⁰ First, the quality of the location of the mobile home, as well as its maintenance and care, affect the value of the home.⁴⁴¹ Second, this individual incentive is complemented by strong social pressures within the park⁴⁴² and by park rules that for market reasons are aimed at satisfying the rigid standards required for high ratings in *Woodall's Directory*.⁴⁴³

4. Other Criticisms

Society has been reluctant to consider the mobile home a

Note note 264 *supra*; see *Stary v. City of Brooklyn*, 102 Ohio St. 120, 121 N.E.2d 11 (1954), *appeal dismissed*, 348 U.S. 923 (1955); M. DRURY, *supra* note 16, at 111; Swaback, *supra* note 19, at 323. See generally French & Hadden, *supra* note 371, at 220.

435. See R. Boyd, *supra* note 203, at 16.

436. See Morris & Woods, *supra* note 105, at 60; Koncelik, *supra* note 8, at 48.

437. M. DRURY, *supra* note 16, at 15, 58, 111; Woods & Morris, *supra* note 104, at 39; Carter, *supra* note 210, at 17; Moore, *supra* note 210, at 2; FORTUNE, *supra* note 22, at 174, 178; Note, *supra* note 228, at 702; Wall Street Transcript, *supra* note 318, at 19,930-31; D. Morris, *supra* note 376, at 36; see note 377 *supra* and accompanying text.

438. See *Proper Zoning*, *supra* note 216, at 97. See generally E. BARTLEY & F. BAIR, *supra* note 15, at 5, 105-06.

439. HOUSE & HOME, *supra* note 92, at 136; Wood, *supra* note 65, at 42, 48; see Comarow, *supra* note 7, at 92, 94; Mayer, *supra* note 88, at 126.

440. See Woods & Morris, *supra* note 104, at 39.

441. See notes 104-05 *supra* and accompanying text.

442. See Woods & Morris, *supra* note 104, at 39.

443. See *id.*; *Trends and Forecasts*, INDUSTRY WEEK, Jan. 5, 1970, at 112-13.

legitimate form of permanent housing.⁴⁴⁴ "I can't imagine anybody preferring to live in a trailer if he could live in a real home," one mobile home owner was quoted as saying.⁴⁴⁵ Incompatibility of the concept of mobility with that of housing,⁴⁴⁶ the unfamiliarity of the public with mobile home technology,⁴⁴⁷ and the lag between traditional concepts of housing and contemporary lifestyles⁴⁴⁸ have contributed to this reluctance. That mobile homes, unlike conventional housing, depreciate rather than appreciate,⁴⁴⁹ and that the owners usually do not own the land on which they are anchored⁴⁵⁰ have been considered further reasons to denigrate their value as permanent housing. The federal government has shared this disinclination. Not until 1970, when it became necessary for the President to include them in the statistics in order to demonstrate more success in meeting housing goals, were mobile homes officially recognized as a form of permanent housing.⁴⁵¹

444. See *City of Colby v. Hurtt*, 212 Kan. 113, 116, 509 P.2d 1142, 1145 (1973); M. DRURY, *supra* note 16, at 3-12; PLI 1971, *supra* note 56, at 15, 19; *Use and Abuse*, *supra* note 279, at 16. See generally L. Landis, *supra* note 4, at 209-24.

445. SATURDAY REV., *supra* note 376, at 51 (emphasis in original).

446. See *Town of Marblehead v. Gilbert*, 334 Mass. 602, 604, 137 N.E.2d 921, 922 (1956); FORTUNE, *supra* note 22, at 174, 178; Note, *supra* note 290, at 91; R. Boyd, *supra* note 203, at 10-11, 25.

447. See 2 R. ANDERSON, *supra* note 202, at 547-48; Koncelik, *supra* note 8, at 46-48; *Proper Zoning*, *supra* note 216, at 91; *Mobile Home Industry*, *supra* note 8, at 1; R. Boyd, *supra* note 203, at 10-11, 25; D. Morris, *supra* note 376, at 30, 36.

448. See E. BARTLEY & F. BAIR, *supra* note 15, at 75; M. DRURY, *supra* note 16, at 8-12, 82, 88; Morris & Woods, *supra* note 105, at 64; Mayer, *supra* note 88, at 126, 146; Osman, *supra* note 60, at 42, 45; Comment, *supra* note 208, at 628-29; FORTUNE, *supra* note 22, at 174, 178; SATURDAY REV., *supra* note 376, at 51-52; Newcomb, *supra* note 8, at 8; *Housing Supply*, *supra* note 218, at 1; R. Boyd, *supra* note 203, at 145; D. Cowgill, *supra* note 4, at 2; J. Meyers, *supra* note 199, at 9; D. Morris, *supra* note 376, at 30. The author's use of the term "conventional housing" in contradistinction to "mobile homes" is a reflection of the popular belief that there is something unconventional, with disparaging overtones, about mobile homes. The industry uses the term "stick-built housing."

449. M. DRURY, *supra* note 16, at 87-88.

450. See J. Meyers, *supra* note 199, at 2.

451. MOBILE HOMES, *supra* note 16, at 10; McDonnell, *supra* note 36, at 25-27; see Morris, *Mobile Homes and the American Multiphasic Response to a Housing Crisis*, in *HOUSING CRISIS AND RESPONSE 3* (E. Morris & M. Woods eds. 1971); Osman, *supra* note 60, at 42.

The introduction of a mobile home into a neighborhood often depresses surrounding property values, usually because of its negative impact on the aesthetic appearance of the neighborhood.⁴⁵² This effect on property values has provided the primary ground for the strict governmental regulation of mobile homes and parks under the police power.⁴⁵³

Several other explanations have been suggested for the perceived undesirability of mobile homes. It has been thought that the admission of mobile homes and parks into a community brings health and safety problems,⁴⁵⁴ unsatisfactory population densities,⁴⁵⁵ traffic congestion,⁴⁵⁶ and a shift in the political balance of power.⁴⁵⁷ Since mobile homes usually have been inherently unable to satisfy local building codes, they have been considered substandard housing.⁴⁵⁸ Construction at a distant factory

452. Note, *supra* note 144, at 105 n.15; see *Wright v. Michaud*, 160 Me. 164, 174, 200 A.2d 543, 548 (1964); *Napierkowski v. Township of Gloucester*, 29 N.J. 481, 494, 150 A.2d 481, 487 (1959); Bair, Regulation of Modular Housing with Special Emphasis on Mobile Homes, American Soc'y of Planning Officials Rep. No. 271, at 13 (1971); cf. Stull, *Community Environment, Zoning, and the Market Value of Single-Family Homes*, 18 J.L. & ECON. 535, 535 (1975) (certain land uses (other than mobile home parks) have inimical effects on the market value of proximate single-family homes).

453. See *Cooper v. Sinclair*, 66 So. 2d 702 (Fla.), cert. denied, 346 U.S. 867 (1953); *Town of Manchester v. Phillips*, 343 Mass. 591, 595, 180 N.E.2d 333, 336 (1962); *Napierkowski v. Township of Gloucester*, 29 N.J. 481, 494, 150 A.2d 481, 487 (1959); SHEPARD'S, *supra* note 48, at 281; Carter, *supra* note 210, at 33-34; Stull, *supra* note 452, at 535; Note, *supra* note 210, at 292 n.41; Note, *supra* note 208, at 126; 78 DICK. L. REV. 605 (1974). Mobile home parks do not depress adjacent property values, see *Proposed Park*, *supra* note 157, at 52; M. DRURY, *supra* note 16, at 72, or at least do not necessarily depress property values, see *Anstine v. Zoning Board of Adjustment of York Township*, 411 Pa. 33, 42, 190 A.2d 712, 717 (1963).

454. See, e.g., *Midgarden v. City of Grand Forks*, 79 N.D. 18, 23, 54 N.W.2d 659, 662 (1952); *Napierkowski v. Township of Gloucester*, 29 N.J. 481, 494, 150 A.2d 481, 487; *Stary v. City of Brooklyn*, 162 Ohio St. 120, 121 N.E.2d 11 (1954), appeal dismissed, 348 U.S. 923 (1955); Comment, *supra* note 203, at 738. Mobile homes in general are in better condition than conventional housing. French & Hadden, *supra* note 371, at 136.

455. Wang & Travis, *supra* note 143, at 5; see, e.g., *Midgarden v. City of Grand Forks*, 79 N.D. 18, 23, 54 N.W.2d 659, 662 (1952); *Renker v. Village of Brooklyn*, 139 Ohio St. 484, 487, 40 N.E.2d 925, 927 (1942).

456. Wang & Travis, *supra* note 143, at 5; see Comment, *supra* note 203, at 738.

457. PLI 1971, *supra* note 56, at 10.

458. See Bair, *supra* note 208, at 18; Swaback, *supra* note 19, at 324.

has normally precluded inspection for code violations for such hidden items as electrical wiring.⁴⁵⁹ There has been concern that ugly mobile home junkyards might follow when the units become unusable.⁴⁶⁰ It has been argued, on one hand, that an influx of mobile homes will diminish the tax base and thus will inhibit the economic growth of the community,⁴⁶¹ and on the other hand, that other uses of the land might be better for the areas.⁴⁶² Last, but far from least, mobile homes have posed a threat to the local conventional housing market by undermining the need for contractors, real estate agents, building tradesmen, and materialmen, among other people.⁴⁶³

5. Effects of Misconceptions

The attitude of the public toward mobile homes and parks is based on the impressions discussed in this part of the article. It is not surprising that this attitude has been described at its worst in terms ranging from indifference⁴⁶⁴ to intolerance⁴⁶⁵ to

459. Bair, *supra* note 208, at 18; Comment, *supra* note 208, at 626.

460. See C. GIBSON, *supra* note 74, at 38; Swaback, *supra* note 19, at 324; Margolis, *supra* note 35, at 14.

461. See *Town of Manchester v. Phillips*, 343 Mass. 591, 595, 180 N.E.2d 333, 336 (1962); 2 R. ANDERSON, *supra* note 202, at 563; Swaback, *supra* note 19, at 324.

462. See *Town of Manchester v. Phillips*, 343 Mass. 591, 595, 180 N.E.2d 333, 336 (1962); *Napierkowski v. Township of Gloucester*, 29 N.J. 481, 494, 150 A.2d 481, 487 (1959); Wang & Travis, *supra* note 143, at 5.

463. E. BARTLEY & F. BAIR, *supra* note 15, at 10; M. DRURY, *supra* note 16, at 119; PLI 1971, *supra* note 56, at 10; Bair, *supra* note 208, at 18; Hegel, *supra* note 138, at 22; see Comment, *supra* note 208, at 628; BUS. WEEK, *supra* note 324, at 148, 152; CONSUMER BULL., *supra* note 344, at 23; HOUSE & HOME, *supra* note 60, at 64; D. Moore, *supra* note 17, at 150. Real estate interests often dominate zoning boards. See M. DRURY, *supra* note 16, at 134.

464. A survey of park owners indicated that 22% of public and 20% of local officials were indifferent toward their parks. See Weeks note 151 *supra*. A survey of owners of individual lots suggested that 25% of public and 22% of local officials were indifferent toward their mobile homes. See Weeks note 362 *supra*.

465. See 2 R. ANDERSON, *supra* note 202, at 547 ("hostility"); 1 B. HODES & G. ROBERSON, *supra* note 5, at 116 ("hostility"); J. FRIED, HOUSING CRISIS U.S.A. 157 (1971) ("scorned"); C. GIBSON, *supra* note 74, at 33 ("hostility"); Woods & Morris, *supra* note 104, at 34 ("highly negative"); Wang & Travis, *supra* note 143, at 5 ("viewed askance"; "bitterly opposed"); Comment, *supra* note 203, at 738 n.2, 739 ("hostility"); Note, *supra* note 208, at 137 ("hostile and intolerant"); Housing Supply, *supra* note 218, at 1 ("viewed with disfavor");

downright hatred.⁴⁶⁶ As has been shown, many of these perceptions are inaccurate or outdated. Nevertheless, current caselaw and ordinances reflect this negative attitude,⁴⁶⁷ with many communities imposing restrictive, discriminatory regulations in the form of effective exclusion,⁴⁶⁸ time limitations,⁴⁶⁹ restriction to parks,⁴⁷⁰ severe licensing requirements,⁴⁷¹ exclusion from residential areas,⁴⁷² and other inhibiting ordinances.⁴⁷³

Attempts to rectify the inequitable treatment of mobile homes are difficult because of the institutionalization of the hostility. Courts cite older decisions as authority to uphold recent, antagonistic enactments without consideration of whether the rationales remain valid or, for that matter, were ever valid.⁴⁷⁴

Mobile Home Industry, *supra* note 8, at 39 ("hostile"); R. Boyd, *supra* note 203, at 115 ("general intolerance").

466. See R. Boyd, *supra* note 203, at 115. *But see* Gerloff, *supra* note 371, at 21 ("emerging positive image"); *The Mobile Home Owner and the House He Lives In*, URBAN LAND, Sept. 1970, at 288-89 ("prejudice . . . slowly disappearing").

467. See M. DRURY, *supra* note 16, at 134-36; Carter, *supra* note 210, at 17; Frey & Knop, *supra* note 19, at 465; O'Neill, *supra* note 333, at 77; Comment, *supra* note 203, at 738-40, 743; Note, *supra* note 144, at 108; R. Boyd, *supra* note 203, at 3, 9-10; D. Morris, *supra* note 376, at 31. For a discussion of the reasons for the restrictive regulation of mobile homes, see generally Newcomb, *supra* note 8, at 34-38.

468. MOBILE HOMES, *supra* note 16, at 54; PLI 1971, *supra* note 56, at 17; Carter, *supra* note 210, at 17; Comment, *supra* note 203, at 742 n.21; R. Boyd, *supra* note 203, at 116; *see* June v. City of Lincoln Park, 361 Mich. 95, 104 N.W.2d 792 (1960) (mobile homes restricted to specified zone although no such land available); Rottman v. Township of Waterford, 13 Mich. App. 271, 164 N.W.2d 409 (1968) (some land provided for parks but used entirely for other purposes without additional allocations for parks); Bartke & Gage note 215 *supra*; Eshelman, *supra* note 209, at 302; *Proper Zoning*, *supra* note 216, at 104-05.

469. Newcomb, *supra* note 8, at 38; R. Boyd, *supra* note 203, at 116. *See generally* Carter, *supra* note 210, at 27-28; Comment, *supra* note 203, at 740-41.

470. PLI 1973, *supra* note 16, at 20; Newcomb, *supra* note 8, at 38.

471. *See* Newcomb, *supra* note 8, at 38; R. Boyd, *supra* note 203, at 116.

472. Newcomb, *supra* note 8, at 38; *see* MOBILE HOMES, *supra* note 16, at 56; PLI 1971, *supra* note 56, at 17; Carter, *supra* note 210, at 17; Note, *supra* note 208, at 138. The attitude that mobile homes do not belong in residential areas is changing. M. DRURY, *supra* note 16, at 137.

473. *See* MOBILE HOMES, *supra* note 16, at 55-57; Comment, *supra* note 203, at 740; Note, *supra* note 208, at 125; R. Boyd, *supra* note 203, at 116.

474. *See* B. HODES & G. ROBERSON, *supra* note 5, at 99; Newcomb, *supra* note 8, at 38.

Older statutes have the advantage of inertia and are difficult or impossible to amend appropriately.⁴⁷⁵ The better approach would be to rescind and start again from a more enlightened stance, but attitudes and vested interests unfriendly to mobile homes clearly will not be uprooted without a struggle.⁴⁷⁶

IV. CURRENT REMEDIES FOR THE PROBLEMS AFFECTING MOBILE HOMES

Means are presently available to counter some of the imbalances affecting parties involved with mobile homes. General statutes, common law rules, and, more recently, specific mobile home legislation have provided some legal remedies. Educational efforts have helped as well by warning buyers of potential pitfalls. Although there are still salient inequities, a swing toward a better balance is apparent. No effort will be made here to discuss the full extent of available remedies, but a brief survey of some of the more important and interesting ones follows.

A. *Owner Solutions to Problems with the Industry*

Remedies embodied in present state and federal law are available to help the owners combat difficulties with the industry. Some may depend upon whether the mobile home is considered personalty or realty. If the mobile home is considered realty, under the modern view the owner may have a common law remedy to recover damages for a latent defect of which the seller knew or had reason to know.⁴⁷⁷ Furthermore there is authority for allow-

475. See PLI 1971, *supra* note 56, at 29; Newcomb, *supra* note 8, at 37-38; *cf.* BUS. WEEK, *supra* note 324, at 152 ("zoning ordinances are based on the assumption that since early trailer parks were located adjacent to major highways, that's where God intends for mobile home parks to be.").

476. See Freilich, *supra* note 315, at 55; Wang & Travis, *supra* note 143, at 32-33; R. Boyd, *supra* note 203, at 147. It seems that the struggle, however, is having some success. See Matthews, *supra* note 63, at 64, 72; BUS. WEEK, *supra* note 76, at 74; CONSUMER BULL., *supra* note 128, at 34-35; URBAN LAND, *supra* note 466, at 288-89.

477. RESTATEMENT (SECOND) OF TORTS § 353 (1965). See also PLI 1973, *supra* note 16, at 32. Before the emergence of the Restatement view, the universal rule was, absent deceit or fraudulent concealment, embodied in the principle of caveat emptor. The remedy for latent defects is not limited to situations in which the mobile home is deemed to be realty. The owner may arguably recover on a theory of strict liability regardless of the characterization of the mobile

ing the owner to recover from the primary lender for construction defects or builders' fraud.⁴⁷⁸ If the mobile home is considered personalty, there are many optional remedies for the owner. He may bring a warranty action on a products liability theory,⁴⁷⁹ Common law contract actions⁴⁸⁰ as well as statutory remedies under the Uniform Commercial Code are available.⁴⁸¹ In addition, tort actions using the theories of fraud,⁴⁸² strict liability,⁴⁸³ and negligence⁴⁸⁴ may be available. State unfair trade and deceptive practices acts provide further possibilities.⁴⁸⁵ The Federal Trade

home as realty or personalty. See *Schipper v. Levitt & Sons, Inc.*, 44 N.J. 70, 207 A.2d 314 (1965).

478. See note 312 *supra*.

479. See, e.g., *George v. Willman*, 379 P.2d 103 (Alaska 1963); *Wade v. Chariot Trailer Co.*, 331 Mich. 576, 50 N.W.2d 162 (1951); *American Coach Co. v. Hopkins*, 355 S.W.2d 83 (Tex. Ct. App. 1962); *Nettles v. Imperial Distrib., Inc.*, 152 W. Va. 9, 159 S.E.2d 206 (1968). See generally Note, *Products Liability—Mobile Homes A Neglected Product?*, 3 MEM. ST. L. REV. 92 (1972); 70 W. VA. L. REV. 467 (1968).

480. See, e.g., *Green v. De Voe Sales, Inc.*, 206 Kan. 238, 477 P.2d 944 (1970); *Thayer v. Smith*, 357 P.2d 1115 (Wyo. 1960).

481. See, e.g., *Morrow v. New Moon Homes, Inc.*, 548 P.2d 279 (Alaska 1976); *Jones v. Abriani*, 350 N.E.2d 635 (Ind. Ct. App. 1976); *Minsel v. El Rancho Mobile Home Center, Inc.*, 32 Mich. App. 10, 188 N.W.2d 9 (1971); *Fablok Mills, Inc. v. Cocker Machine & Foundry Co.*, 125 N.J. Super. 251, 310 A.2d 491 (1973); *Nobility Homes v. Shivers*, 539 S.W.2d 190 (Tex. Ct. App. 1976), noted in 8 ST. MARY'S L.J. 865 (1977). See generally PLI 1973, *supra* note 16, at 30.

482. See, e.g., *Stryker v. Rusch*, 187 N.Y.S.2d 663, 8 App. Div. 2d 244 (1959); *Baker v. Jewell*, 77 S.D. 573, 96 N.W.2d 299 (1959); *Rawlins v. McIntyre*, 330 S.W.2d 524 (Tex. 1959); *Nyquist v. Foster*, 44 Wash. 2d 465, 268 P.2d 442 (1954).

483. See, e.g., *Hales v. Green Colonial, Inc.*, 490 F.2d 1015 (8th Cir. 1974); *States S.S. Co. v. Stone Manganese Marine, Ltd.*, 371 F. Supp. 500 (D.N.J. 1973); *Eli Lilly & Co. v. Casey*, 472 S.W.2d 598 (Tex. Ct. App. 1971); *Melody Home Mfg. Co. v. Morrison*, 455 S.W.2d 825 (Tex. Ct. App. 1970). See generally Note, *supra* note 479, at 101-02.

484. See, e.g., *Wilson v. Modern Mobile Homes, Inc.*, 376 Mich. 342, 137 N.W.2d 144 (1965); *Kothe v. Tysdale*, 233 Minn. 163, 46 N.W.2d 233 (1951); *Robinson v. L-Cart, Inc.*, 54 Tenn. App. 298, 390 S.W.2d 689 (1964); *Nettles v. Imperial Distrib., Inc.*, 152 W. Va. 9, 159 S.E.2d 206 (1968). See generally Note, *supra* note 479, at 94-97.

485. See PLI 1973, *supra* note 16, at 29-30; Fla. Task Force, *supra* note 17, at 9.

Act,⁴⁸⁶ antitrust laws,⁴⁸⁷ and truth-in-lending legislation⁴⁸⁸ are areas of federal law that afford possible remedies to the consumer.

Enactment of specific mobile home legislation has provided regulations and remedies where none existed before.⁴⁸⁹ Yet minimum standards for mobile home construction, adopted by most states,⁴⁹⁰ have been of questionable efficacy.⁴⁹¹ Of greater benefit to mobile home owners is the National Mobile Home Construction and Safety Standards Act of 1974, which provides for the preemption of the state codes by a federal code as of June 15, 1976.⁴⁹² This legislation alone should do much to offset the disadvantageous position of owners as consumers by assuring the reasonable quality of the product.⁴⁹³ Furthermore, the Federal Housing Administration, the Veterans Administration, and the Farm-

486. It has been reported that 4 of the largest manufacturers agreed to proposed Federal Trade Commission consent orders to "establish prompt and effective systems to handle warranty-related complaints." *Four Mobilehome Makers Agree to Correct Warranty-Related Defects*, RETIREMENT LIVING, Feb. 1975, at 7-8.

487. The Justice Department brought suit against 3 major transporters for illegal price-fixing. *Suit on 3 Concerns in Transport Filed*, N.Y. Times, Dec. 6, 1974, § L, at 67, col. 1.

488. See MOBILE HOMES, *supra* note 16, at 43; cf. B. HODES & G. ROBERSON, *supra* note 5, at 300-02 (citations of cases based upon state usury statutes).

489. See, e.g., CAL. CIV. CODE §§ 2983.5, 2983.8 (West Supp. 1977). See generally MOBILE HOMES, *supra* note 16, at 33-34, 39, 73, 112, 124, 160; Lubell, *supra* note 117, at 412-13; *Legislation Necessity*, *supra* note 132, at 226; Note, *supra* note 82, at 164; Fla. Task Force, *supra* note 17, at iii-xiii (recommended legislation).

490. Most states have adopted the ANSI A119.1 or a similar code. For citations, see Note, *supra* note 144, at 107 n.18.

491. The state codes were considered inadequate because the model was developed under the domination of the industry. See 1973 Hearings, *supra* note 6, at 850, 878-80, 882-83, 888-89, 1134-37; 1972 Hearings, *supra* note 29, at 365-66, 368; McDonnell, *supra* note 36, at 25, 28; Watkins, *supra* note 199, at 104; *How to Pick a Really Good Mobile Home*, CHANGING TIMES, Mar. 1975, at 17, 20; Hoyt, *supra* note 16, at 1; UT Project, *supra* note 35, at 26. See generally MOBILE HOMES, *supra* note 16, at 166-79; Frey & Knop, *supra* note 19, at 469-74.

492. National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. §§ 5401-5426 (1976).

493. See 1973 Hearings, *supra* note 6, at 878; 1972 Hearings, *supra* note 29, at 366-67; Frey & Knop, *supra* note 19, at 481; BUS. WEEK, *supra* note 128, at 146, 148; Porter, *supra* note 54, at 14. See generally MOBILE HOMES, *supra* note 16, at 170; Blumberg, *Mobile Home Construction and Safety Standards—Title VI of the Housing and Community Development Act of 1974*, 8 CLEARINGHOUSE REV. 694, 695 (1975). It has been reported that the quality of mobile homes has improved sharply since 1975, in anticipation of the new federal standard. Murray, *supra* note 129, at 53.

ers Home Administration have mobile home mortgage programs that impose conditions beneficial to owners; unfortunately, for a variety of reasons these programs have been little used.⁴⁹⁴

The most effective safeguard against the problems of owners has been to take precautions to avoid them from the outset. Information and advice is available from Better Business Bureaus,⁴⁹⁵ consumer agencies,⁴⁹⁶ state attorneys general,⁴⁹⁷ extension agencies,⁴⁹⁸ and occasionally from periodicals⁴⁹⁹ and newspapers,⁵⁰⁰ as well as from other sources. Ultimately it is the owners themselves who, by consulting these sources and planning carefully, can provide the best protection.

The owners, interestingly, have not done as much to protect themselves as might be anticipated under theories of the free market mechanism. One would expect that those members of the industry who produce poor products or provide poor service would succumb to the pressures of competition and either improve or fail. The continued dissatisfaction of owners with the industry indicates that this has not been the result. A possible explanation

494. See notes 66-69 *supra* and accompanying text.

495. See, e.g., Council of Better Business Bureaus, *Tips on Buying a Mobile Home*, Pub. No. 311-03227 (1975); Council of Better Business Bureaus, *Tips on Mobile Home Selection*, Pub. No. 227 (1972).

496. See, e.g., Ohio Guide note 18 *supra*; Tex. Guide note 128 *supra*. For the method of filing complaints with consumer agencies, see *Mobile Homes*, *supra* note 47, at 37-38.

497. See, e.g., D. Kuduk, *supra* note 16, at 1.

498. See, e.g., Hohn & Knapp, *Choosing and Using Mobile Homes*, Cooperative Extension Serv., N.M. St. Univ., Circular 459 (1974); Levy, *A Mobile Home in Your Life*, Cooperative Extension Serv., Univ. of Ariz. at Tucson; Shaffer, *Mobile Homes: Evaluation and Choice*, Colo. St. Univ. Extension Serv., Pub. No. 9.103 (1974); Tucker, *Shopping for a Mobile Home*, Cooperative Extension Serv., Kan. St. Univ. at Manhattan (1975). See generally *Mobile Homes Manufacturers Association, Consumer Facts About Mobile Home Living: Bibliography of Data on Mobile Home Living as Prepared by Cooperative Extension Specialists*, Extension Information Serv. Bull. (1975).

499. See, e.g., Jung, *supra* note 82, at 430, 438-39; Wandres, *supra* note 33, at 31, 34; Watkins, *supra* note 199, at 60; *CHANGING TIMES*, *supra* note 491, at 17; *CONSUMER BULL.*, *supra* note 316, at 6, 8; *CONSUMER REP.*, *supra* note 109, at 113; *Mobile Homes and Recreational Vehicles*, *CONSUMERS' RESEARCH MAGAZINE*, Oct. 1974, at 133-35; *Important Safety Checks for Mobile Homes*, *GOOD HOUSEKEEPING*, July 1974, at 147; *Recreational Vehicles*, *MOTOR TREND*, June 1974, at 124.

500. See, e.g., Porter, *supra* note 8, at 9; Weaver, *Buying Mobile Homes*, *L.A. Times*, July 23, 1972, § E, at 11, col. 1.

for the salability of poor quality mobile homes is that their major weaknesses are not readily apparent, being hidden beneath carpeted floors and paneled walls. The inferior quality of visible materials might not be obvious, such as the inflammability of the paneling,⁵⁰¹ or not as important to the purchaser as would be the hidden defects in the wiring or plumbing. The more visible parts are often not of substandard quality, appliances being the prime example.⁵⁰² There is also evidence that construction and service are not of major concern to most buyers.⁵⁰³

Most potential buyers have not been influenced by the business goodwill of mobile home retailers. Two-thirds of the mobile home market consists of new buyers rather than repurchasers,⁵⁰⁴ and few new buyers choose dealers or homes on the basis of advice from other mobile home owners.⁵⁰⁵ Many dealerships, furthermore, have been too new to have established a reputation, either good or bad.⁵⁰⁶ Finally, buyers rarely engage in shopping comparatively among dealers or brands.⁵⁰⁷

501. See text accompanying note 30 *supra*.

502. See text accompanying note 24 *supra*.

503. When asked, "Why did you buy the brand you did?" only 36% of the owners responded "construction"; the three more common responses were "floor plan layout" (73%), "price" (51%), and "interior design and decor" (46%). In answer to the question, "Why did you buy from your particular dealer?" only 15% of the owners said "dealer reputation"; the two more commonly cited reasons were "dealers had what we wanted" (66%) and "price" (32%). Mobile Home Market, *supra* note 15, at 12-13.

504. *Id.* at 7. Even though one-third of the buyers have previously owned a mobile home as a main residence, good will is not necessarily relevant to their choices. When moving to a distant location, owners are likely to sell their old mobile homes and buy new ones because of the high cost of transporting, the need to enter a "closed" park, and the desire to minimize park fees. See notes 138, 140, 181-82 *supra* and accompanying text. Furthermore, manufacturers have tended to be regionalized because of the high transportation costs. Thus repurchasers often have no other choice than to buy a different brand from a new dealer. Tex. Guide, *supra* note 128, at 6.

505. A survey of purchasers revealed that only 8% first learned about their dealers from other mobile home owners. Mobile Home Market, *supra* note 15, at 12. The survey did not investigate the number who rejected dealers based on advice of other owners. It did show, however, that the selection process is somewhat haphazard, 51% having learned of their dealers by "driving around" and 27% from "friend or relative" (apparently excluding other mobile home owners). Most of the remaining buyers were attracted by advertisements. *Id.*

506. See Tex. Guide, *supra* note 128, at 7.

507. According to one survey, prior to making a purchase the average

Whatever market pressure exists from competition among lenders, it is clearly insufficient to effect a significant decrease in consumer interest rates.⁵⁰⁸ Even if better rates could be found, the dealer often has an interest in inducing purchasers not to shop around; the dealer can profit by financing the sale itself or by sending the buyer to a financial institution with which the dealer has a prior arrangement.⁵⁰⁹

B. Owner Solutions to Problems with Parks

Common law remedies against restraints of trade,⁵¹⁰ as well as antitrust acts,⁵¹¹ have provided some means of alleviating the severe conditions of tenancy imposed upon mobile home owners by the parks. Although there are few reported cases, unconscionability has been mitigated by legislative remedies in the form of the Uniform Commercial Code,⁵¹² state and federal unfair trade practices acts,⁵¹³ and state consumer protection acts.⁵¹⁴ The Interstate Land Sales Full Disclosure Act has effected more open dealing with the owners.⁵¹⁵ When disputes with the park have reached crisis proportions, evictions have been prevented under constitutional doctrines,⁵¹⁶ general landlord-tenant acts,⁵¹⁷ and specific

buyer visits 4.21 dealers and seriously considers 2.61 brands. Mobile Home Market, *supra* note 15, at 25.

508. See Jung, *supra* note 82, at 430, 434-35.

509. See notes 119-21 *supra* and accompanying text.

510. See *Southland Dev. Corp. v. Ehler's Dairy, Inc.*, 468 S.W.2d 284 (Ky. 1971).

511. See, e.g., *Carlson v. Cimarron*, No. 686970 (Minn. 4th Judicial Dist., filed May 22, 1972). See generally MOBILE HOMES, *supra* note 16, at 84; PLI 1973, *supra* note 16, at 25.

512. See generally PLI 1973, *supra* note 16, at 22-23.

513. See generally *Landlord-Tenant Relationship*, *supra* note 132, at 819-20.

514. See *Commonwealth v. DeCotis*, 366 Mass. 234, 316 N.E.2d 748 (1974).

515. 15 U.S.C. § 1701 (1970). See generally PLI 1973, *supra* note 16, at 49-55.

516. See *Lavoie v. Bigwood*, 457 F.2d 7 (1st Cir. 1972); *Bowles v. Blue Lake Dev. Corp.*, 1 Pov. L. REP. (CCH) ¶ 2325.51 (S.D. Fla. 1971), *dismissed as moot and remanded*, 504 F.2d 1094 (5th Cir. 1974). See generally *Landlord-Tenant Relationship*, *supra* note 132, at 817-18; *Legislation Necessity*, *supra* note 132, at 223.

517. See *Ratel v. Tremblay*, 201 Misc. 423, 114 N.Y.S.2d 283 (1952). These general landlord-tenant acts often use terminology that excludes the park relationship. MOBILE HOMES, *supra* note 16, at 53, 85; PLI 1973, *supra* note 16, at

legislation designed to cover the landlord-tenant relationship in parks.⁵¹⁸ In a few states, specific mobile home legislation deals with other aspects of the landlord-tenant relationship in the park by requiring written leases, limiting park fees and regulations, and preventing practices such as tie-in sales.⁵¹⁹ States have also imposed controls on the parks to protect tenants through such devices as health regulations.⁵²⁰ The various federal mobile home mortgage programs, as well as the Federal Housing Administration program for insured park loans,⁵²¹ have created minimum standards for sites on which qualifying mobile homes are placed.⁵²²

The excessive leverage of park management has increasingly been attacked through such extralegal channels as tenants organizations.⁵²³ Rental problems have sometimes been avoided altogether by locating the mobile home outside the traditional park and within condominium parks,⁵²⁴ cooperative parks,⁵²⁵ and mobile home subdivisions.⁵²⁶ As previously stated, the best preventa-

27; *Landlord-Tenant Relationship*, *supra* note 132, at 818-19; Note, *supra* note 131, at 101. See also *Legislation Necessity*, *supra* note 131, at 224.

518. See, e.g., DEL. CODE tit. 7, § 7009(e) (Noncum. Supp. 1972); MASS. GEN. LAWS ANN. ch. 140, § 32N (1974). See generally Note, *supra* note 131, at 101.

519. See, e.g., CAL. CIV. CODE § 789.5 (West Supp. 1972); FLA. STAT. § 83.69 (1973); MASS. GEN. LAWS ANN. ch. 140, § 32J (Supp. 1972). See generally Note, *supra* note 131, at 104; *Landlord-Tenant Relationship*, *supra* note 132, at 821-26; CONSUMER REP., *supra* note 130, at 440; *Once Over: States Act to Reduce Mobile-Home Park Tyranny*, CONSUMER REP., Oct. 1973, at 600; Note, *supra* note 144, at 104-05, 112-13, 121-25; *Legislation Necessity*, *supra* note 132, at 226-28, 231-32, 234-35; Note, *supra* note 82, at 167-68, 172-73.

520. See U.S. Public Health Service, *Suggested Uniform Standards Governing Mobile Home Parks* (1965).

521. See 12 U.S.C. § 1713 (1970).

522. See 12 U.S.C. § 1703(a) (1970); 38 U.S.C. § 1819(e)(6) (1970); 42 U.S.C. § 1490g(b)(1) (Supp. V 1975).

523. See *MOBILE HOMES*, *supra* note 16, at 80, 85; Andrachek, *supra* note 4, at 11; *Landlord-Tenant Relationship*, *supra* note 132, at 821; Note, *supra* note 131, at 123; CONSUMER REP., *supra* note 130, at 440-41; Hegel, *supra* note 138, at 10; Wehrly, *supra* note 131, at 7.

524. See generally *PLI 1975*, *supra* note 333, at 14-15; Connett, *supra* note 15, at 48-49.

525. See generally *PLI 1975*, *supra* note 333, at 17; Connett, *supra* note 15, at 48-49.

526. See generally *N. ASBURY*, *supra* note 149, at 38-39; *E. BARTLEY & F. BAIR*, *supra* note 15, at 40; *M. DRURY*, *supra* note 16, at 112; *PLI 1975*, *supra*

tive is to promote forethought and planning through information and awareness.⁵²⁷

C. *Owner and Park Solutions to Problems with the Government*

The tools available to owners and parks to attack governmental regulation, similar in many respects, are considered together in this section. The legal approaches are quite limited.⁵²⁸ Occasionally legislation or its implementation has been successfully challenged as a violation of a state constitution⁵²⁹ or the federal Constitution.⁵³⁰ Courts have invalidated ordinances for failure to comply with the state enabling legislation⁵³¹ or for failure to be within the police power.⁵³² Generally, however, the more

note 333, at 13; MOBILE HOMES, *supra* note 16, at 57; Woods & Morris, *supra* note 104, at 34-35; Martini, *supra* note 216, at 15, 17; Randall, *supra* note 143, at 361; HOUSE & HOME, *supra* note 134, at 4; Hegel, *supra* note 138, at 28-29; Newcomb, *supra* note 8, at 42; Wehrly, *supra* note 131, at 14-15; Mobile Home Industry, *supra* note 8, at 35; D. Moore, *supra* note 17, at 158-60.

527. See MOBILE HOMES, *supra* note 16, at 85-86; Coffee, *supra* note 320, at 39, 100; CONSUMER BULL., *supra* note 150, at 21; GOOD HOUSEKEEPING, Feb. 1972, at 181; Porter, *supra* note 318, at 16; Ripley, *Money Matters: Here are ABCs of Mobile Homes*, Christian Sci. Monitor, July 9, 1973, at 10, col. 6; Newcomb, *supra* note 8, at 48-49.

528. For compilations of cases, see generally Annot., 22 A.L.R.2d 774 (1952); Taxation note 244 *supra*; Application of Zoning Regulations note 201 *supra*.

529. See, e.g., Wright v. Steers, 242 Ind. 582, 179 N.E.2d 721 (1962); Crawford v. Borough of Wesleyville, 68 Pa. D. & C. 215 (1949).

530. See, e.g., County Comm'rs of Anne Arundel County v. English, 182 Md. 514, 35 A.2d 135 (1943); Barnes v. Gorham, 12 Misc. 2d 285, 175 N.Y.S.2d 376 (1957); New York Trailer Coach Ass'n v. Steckel, 208 Misc. 308, 144 N.Y.S.2d 82 (1955), *rev'd on other grounds*, 3 App. Div. 2d 643, 158 N.Y.S.2d 179 (1956); Perrin's Appeal, 305 Pa. 42, 156 A. 305 (1931); *In re Falls Township Trailer Ordinance*, 84 Pa. D. & C. 199 (1952). See generally Flippen, *supra* note 2, at 18-19, 29-30; Comment, *supra* note 208, at 621-28.

531. See, e.g., Gust v. Township of Canton, 342 Mich. 436, 70 N.W.2d 772 (1955); Zullo v. Board of Health, 9 N.J. 431, 88 A.2d 625 (1952); Devine v. Mantua Gloucester Co., 28 N.J. Super. 299, 100 A.2d 563 (1953); Stewart v. Carrington, 203 Misc. 543, 119 N.Y.S.2d 778 (1953); County Bd. of Supervisors v. American Trailer Co., 193 Va. 72, 68 S.E.2d 115 (1951). See generally B. HODES & G. ROBERSON, *supra* note 5, at 200; Van Iden, *supra* note 287, at 206; Note, *supra* note 208, at 127-28.

532. See, e.g., Nichola v. Township of Grand Blanc, 47 Mich. App. 684, 209 N.W.2d 803 (1973); Town of Conover v. Jolly, 277 N.C. 439, 177 S.E.2d 879 (1970); Borough of Mountville v. Miller, 7 Pa. D. & C. 2d 577 (1956); *In re Falls*

effective remedies lie outside the legal system.

One method of avoiding the consequences of restrictive legislation has been to locate outside the jurisdictional boundaries of the regulating body; this is one reason most parks are not found within municipalities.⁵³³ Organized owners and park groups also have become involved in the political process and have sought the repeal of unfavorable legislation and the enactment of more favorable regulations.⁵³⁴ Powerful industry associations have aided these efforts.⁵³⁵ Yet the lack of consensus on the most appropriate form for achieving fairness has frustrated the solution of a crucial problem, the proper taxation of mobile homes.⁵³⁶ Similarly, disagreement still remains as to whether or not mobile homes should be allowed on private lots within municipalities.⁵³⁷ At any rate, whatever strides have been made in the last few years toward achieving more equitable regulations must be attributed in large part to the organized efforts of owners and parks.

V. THE MOST COMPREHENSIVE SOLUTION: ELIMINATE THE CAUSES OF MOBILE HOME PROBLEMS

Legislation designed to offset the imbalances existing among the parties involved with mobile homes has done much to correct inequities. For various reasons, nonetheless, many enactments have failed to provide all their expected benefits. First, improperly conceived legislation aimed at one of the problems relating to mobile homes has resulted in a solution to the immediate problem but an exacerbation of a related problem. For example, in Florida an act was passed to ameliorate arbitrary evictions by allowing evictions only on the grounds of failure to pay rent, failure to abide by the law, or failure to comply with park rules

Township Trailer Ordinance, 84 Pa. D. & C. 199 (1952). See generally Van Iden, *supra* note 287, at 206.

533. See HUD Survey, *supra* note 356, at 68, 72; Connett, *supra* note 15, at xii.

534. See Andrachek, *supra* note 4, at 11; Hegel, *supra* note 138, at 10.

535. See Quick Facts, *supra* note 5, at 12.

536. APPALACHIA, *supra* note 97, at 1, 7; see *Cal. Hearing*, *supra* note 270, at 1; C. GIBSON, *supra* note 74, at 38-39; Carter, *supra* note 210, at 58. Compare Note, *supra* note 228, at 710-12, with Comment, *supra* note 227, at 1033-35, and Hegel, *supra* note 138, at 72-74.

537. See notes 213-14 *supra*.

and regulations.⁵³⁸ By neglecting to impose a standard of reasonableness, the act has encouraged park management to make park rules more restrictive so that the complete control that existed prior to the act could be maintained.⁵³⁹ A second problem in mobile home legislation is the failure to provide penalties for violations. Consequently the legislation has had little deterrent effect; this has been another problem with the Florida park eviction act.⁵⁴⁰ Third, inadequate legislation has ultimately worked to the disadvantage of the party intended to be benefitted by misleading that party into believing that he is protected when in fact he is not. An example of this type of deficiency is the uniform mobile home construction standard adopted by most states, which has been criticized as insufficiently comprehensive, weak and ambiguous, and outmoded.⁵⁴¹ Finally, the absence of adequate enforcement, rendering legislation ineffective and disarming the unknowing intended beneficiary, has presented another difficulty. It has also been said that the uniform mobile home construction standard suffers from this weakness.⁵⁴²

An awareness of the basic causes of the problems relating to mobile homes can help to avoid some of the pitfalls often encountered in drafting remedial legislation. Some general guidelines for this approach follow.

A. *Realty-Personalty Confusion*

Some of the confusion arising from an inability to categorize mobile homes as either realty or personalty would be avoided if legislative bodies would explicitly state whether mobile homes fall within the terms of a particular statute. Unambiguous statements of intention for new statutes and clarifying amendments for old ones would dispel doubt and preclude the temptation of courts to decide if a particular law is applicable to mobile homes by the simplistic process of determining whether the law is aimed at personal or real property and whether mobile homes fit within that particular category.⁵⁴³

538. FLA. STAT. ANN. § 83.759 (West 1976).

539. See MOBILE HOMES, *supra* note 16, at 82.

540. *Id.*

541. See note 491 *supra*.

542. *Id.*

543. See 2 R. ANDERSON, *supra* note 202, at 553; Bair, *supra* note 216, at

Too often courts have lost sight of the principle that the applicability of common law doctrines or unclear statutes should be determined by the purposes of the doctrines or statutes in light of the essential nature of the object of regulation, mobile homes in this case, rather than by ancient labels that roughly characterize it.⁵⁴⁴ The purpose of a building code is to assure minimum quality; that a mobile home manifestly cannot comply with a chimney regulation, for instance, implies nothing about the quality of the home.⁵⁴⁵

Mobile homes are inherently hybrids of personal and real property; thus, in determining their essential nature, the context should control. When a mobile home is located on a lot for dwelling purposes, it should be considered a "house," "building," or "single-family dwelling" for purposes of relevant building code provisions, zoning ordinances, tax statutes and other such regulations.⁵⁴⁶ When a mobile home is being towed it should be a "vehicle."⁵⁴⁷ Similarly a park is an area in which "homes" are located and should be treated the same as other housing subdivisions.⁵⁴⁸ Of course there are contexts in which the applicability is

292-93; Carter, *supra* note 210, at 37; Moore, *supra* note 210, at 15-16; *Proper Zoning*, *supra* note 216, at 92; Galligan, *supra* note 270, at 16; Mich. Task Force, *supra* note 51, at 30. *But see* Bartke & Gage, *supra* note 215, at 500.

544. See *Aetna Life Ins. Co. v. Aird*, 108 F.2d 136, 138 (5th Cir. 1939); *Corning v. Town of Ontario*, 204 Misc. 28, 121 N.Y.S.2d 288 (1953); *Uwchlan Township v. Carter*, 11 Chest. 304 (Pa. C.P. 1963); Bair, *supra* note 216, at 290; Carter, *supra* note 210, at 57; Note, *supra* note 82, at 168-69; Note, *supra* note 228, at 716-17; R. Boyd, *supra* note 203, at 23-24.

545. See B. HODES & G. ROBERSON, *supra* note 5, at 104, 110; Carter, *supra* note 210, at 30-32; R. Boyd, *supra* note 203, at 91. The new federal mobile home construction standards preclude the application of inappropriate building code regulations. See 42 U.S.C. § 5403(d) (1976).

546. See *Aetna Life Ins. Co. v. Aird*, 108 F.2d 136 (5th Cir. 1939); *Corning v. Town of Ontario*, 204 Misc. 38, 121 N.Y.S.2d 288 (1953); 2 R. ANDERSON, *supra* note 202, at 550; E. BARTLEY & F. BAIR, *supra* note 15, at 56; Bartke & Gage, *supra* note 125, at 507; Berney & Larson, *supra* note 269, at 459; Eshelman, *supra* note 209, at 303-04; Frey & Knop, *supra* note 19, at 465-66; Comment, *supra* note 203, at 749; *Proper Zoning*, *supra* note 216, at 93.

547. See *Biasotti v. Clark*, 51 F. Supp. 608 (D.R.I. 1943); E. BARTLEY & F. BAIR, *supra* note 15, at 56; B. HODES & G. ROBERSON, *supra* note 5, at 45, 155; Berney & Larson, *supra* note 269, at 459.

548. See text accompanying notes 215-16 *supra*. See also Bartke & Gage, *supra* note 215, at 498-99; Starr, *supra* note 157, at 41-44; *Proper Zoning*, *supra* note 216, at 115-16.

not so clear, but the decision should be based upon the underlying policies. To rule that the nature of mobile homes is irrevocably fixed by their physical appearance when manufactured is to elevate form over substance in the face of more compelling logic.⁵⁴⁹

B. Supply and Demand Pressures

Park management has traditionally been able to exert unconscionable leverage over tenants because of the high demand for park space. The lack of a free market, produced by local policies of restrictive zoning among other things, has been the major contributor to this situation.⁵⁵⁰ Remedial park-tenant legislation, although possibly providing some relief,⁵⁵¹ can do little to ease the overall housing crisis.⁵⁵² The obvious and easy solution is to make more park spaces available and there are several ways to encourage such a result.⁵⁵³

To circumvent parochial interests and facilitate less restrictive zoning, some have suggested the use of regional⁵⁵⁴ or state-wide⁵⁵⁵ zoning policies. Land use planning for a larger area is more likely to result in proper accommodations for parks; the planners cannot ignore the demand by rationalizing that the next community will satisfy it.

By conditioning the permit to build a park upon the consent of a percentage of the immediate neighbors, a potentially object-

549. See E. BARTLEY & F. BAIR, *supra* note 15, at 56-57; PLI 1971, *supra* note 56, at 62; Berney & Larson, *supra* note 269, at 459; Note, *supra* note 290, at 91-92. See generally Bartke & Gage, *supra* note 215, at 499-507; Comment, *supra* note 208, at 619-21, 629. Perhaps the leading case that considers the more fundamental issues involved, rather than mere semantic labels, is *State v. Work*, 75 Wash. 2d 212, 449 P.2d 806 (1969).

550. See text accompanying note 326 *supra*; MOBILE HOMES, *supra* note 16, at 81.

551. See note 518 *supra*.

552. Increasing the availability of sites would also improve the market for used mobile homes and thereby further ease the housing demand, especially among the lower income groups. See C. GIBSON, *supra* note 74, at 6-8.

553. See MOBILE HOMES, *supra* note 16, at 81-86. But see text accompanying notes 326-35 *supra*.

554. See Woods & Morris, *supra* note 104, at 40; Galligan, *supra* note 270, at 17-18. See also Bartke & Gage, *supra* note 215, at 511-12.

555. See C. GIBSON, *supra* note 74, at 6, 37; Bartke & Gage, *supra* note 215, at 513-14; Vestal, *Planning for Urban Areas: The Fight for Coherency*, 56 Iowa L. Rev. 19 (1970).

ing constituency can be mollified.⁵⁵⁶ Since the validity of such ordinances has been questioned as an improper delegation of legislative powers,⁵⁵⁷ and their use has had but limited success in getting parks approved,⁵⁵⁸ this approach should probably be used only to try to ease well-established community resistance.

Having acknowledged that mobile homes can play a role in solving the housing crisis,⁵⁵⁹ the federal government should enact new, workable programs to encourage park development. Among the purposes of such programs should be the countering of restrictive zoning practices as well as making available easier loans for park construction.⁵⁶⁰

The consequences of the supply and demand pressures on park tenants can also be alleviated by the greater use of private lots for mobile homes. Those on private lots will have no landlord-tenant problems and those remaining in parks will be in a better bargaining position because of the existence of a viable alternative and reduced demand.⁵⁶¹ The techniques discussed in this section for increasing park supply are equally applicable for increasing private lot supply.

Ultimately, however, the best method of increasing the supply of parks and private lots is to decrease the community resistance to them. In order to do this, the perceived undesirability of mobile homes and owners must be considered.

C. *Public Attitudes Concerning Mobile Homes and Owners*

The law is unable to deal adequately with some of the main reasons that mobile homes and owners are perceived to be undesirable, particularly the notions that owners are unsavory people

556. See Eshelman, *supra* note 209, at 314-15; Note, *supra* note 208, at 136. See generally 1 E. YOKLEY, *ZONING LAW & PRACTICE* §§ 7-13 (3d ed. 1965); *Application of Zoning Regulations*, *supra* note 201, at 619.

557. See, e.g., *Williams v. Whitten*, 451 S.W.2d 535 (Tex. Ct. App. 1970); *Perrin's Appeal*, 305 Pa. 42, 156 A. 305 (1931). See generally B. HODES & G. ROBERSON, *supra* note 5, at 270-74.

558. See *Legislation Necessity*, *supra* note 132, at 215. See also E. BARTLEY & F. BAIR, *supra* note 15, at 106 n.54.

559. See note 451 *supra*.

560. The current Federal Housing Administration program of insured loans for parks, see 12 U.S.C. § 1713 (1965), has not been used very much because of low mortgage limits. M. DRURY, *supra* note 16, at 139-40.

561. *But see* text accompanying note 321 *supra*.

and that the mobile home is not a legitimate form of permanent housing. The law, on the contrary, can alleviate some other concerns with great efficacy. It can assure that owners make a sufficient tax contribution. It can insure improvement of the appearance of mobile homes and parks. Finally, it can generate some relief against the fear that mobile homes and parks will depress the values of the surrounding land.

Education, of course, is the best method of reversing the commonly-held negative image of owners.⁵⁶² Such bias, based upon outmoded data at best, is difficult to change. The public and governmental officials should be informed of the fact that today the mobile home owner is not significantly different from the average citizen.⁵⁶³ To discriminate against mobile home owners because they are considered different from the average is repugnant to basic policies of our society but, since this attitude is based upon a vast misconception, it is even more reprehensible. The industry, parks, and owners have an interest in educating the public, and they are making efforts to change public misconceptions.⁵⁶⁴ The law obviously cannot force the public to revise its prejudices, but it can nullify the more egregiously discriminatory legislation⁵⁶⁵ and can institutionalize more affirmative action.⁵⁶⁶

The feeling that the mobile home is not a legitimate form of permanent housing cannot be easily countered. What constitutes legitimate forms of permanent housing and why public opinion does not include mobile homes in that category are questions yet to be answered. Research in this area is important;⁵⁶⁷ mobile homes are here to stay for the foreseeable future and certainly

562. See E. BARTLEY & F. BAIR, *supra* note 15, at 5, 51-52; Van Iden, *supra* note 287, at 206; CONSUMER BULL., *supra* note 344, at 23.

563. See text following note 363 *supra*.

564. See C. GIBSON, *supra* note 74, at 33; 1 D. NULSEN & R. NULSEN, *supra* note 13, at 369-71; Kendall, *supra* note 323, at 104; Smith, *supra* note 127, at 40, 54; HOUSE & HOME, *supra* note 324, at 4, 8; HOUSE & HOME, *supra* note 92, at 136, 141; *Mobile Home Makers Launch a Public Relations Campaign*, Wall Street J., Oct. 30, 1975, at 1, col. 5.

565. See text accompanying notes 529-32 *supra*.

566. For example, the U.S. Extension Service has sponsored conferences to encourage the acceptance of mobile homes. Margolis, *supra* note 35, at 11.

567. See Knight, *Planners and Mobile Home Research*, 5 SOCIO-ECON. PLAN. SCI. 213, 218 (1971). See also E. BARTLEY & F. BAIR, *supra* note 15, at 60; Bair, *supra* note 216, at 292.

cannot be ignored.⁵⁶⁸ The reeducation of the public as described above would help, as would, perhaps, the legitimizing effect of greater mobile home use following the elimination of restrictive legislation.

If mobile homes are undesirable because of the failure of the owners to pay their fair share of taxes, the law provides the means to rectify the situation.⁵⁶⁹ It is inexcusable for the government to restrict mobile homes for reasons totally beyond the control of the owners and completely within its own control.

The aesthetic offensiveness of mobile homes and parks is another aspect of the problem that can be treated by the law in ways other than by exclusion or severe restriction. Aesthetic zoning, although not fully accepted, provides a powerful means of assuring a minimum standard of acceptability.⁵⁷⁰ Intelligent site preparation can do much to improve the appearance of a mobile home and its lot.⁵⁷¹ Screening, buffer zones, landscaping, porches, modified roof lines, and conventional siding are among the ways that mobile homes can be made to blend into the neighborhood.⁵⁷²

568. See *Yeager v. Cassidy*, 20 Ohio Misc. 251, 253 N.E.2d 320 (1960); *E. BARTLEY & F. BAIR*, *supra* note 15, at 106, 119-20, 122; *B. HODES & G. ROBERSON*, *supra* note 5, at 65-66; *Morris & Woods*, *supra* note 105, at 63; *Fogarty, Trailer Parks: The Wheeled Suburbs*, ARCHITECTURAL F., July 1959, at 127; *Mays*, *supra* note 208, at 204; *Proper Zoning*, *supra* note 216, at 94-95; *Note*, *supra* note 82, at 175; *Note*, *supra* note 208, at 138; *Legal Questions*, *supra* note 232, at 401.

569. See text accompanying notes 343-49 *supra*.

570. See generally 1 R. ANDERSON, *supra* note 202, at §§ 7.22-25; *SHEPARD'S*, *supra* note 48, at 209-12; *Steinbach, Aesthetic Zoning: Property Values and the Judicial Decision Process*, 35 MO. L. REV. 176 (1970); *Uddo, Land Use Controls: Aesthetics, Past and Future*, 21 LOY. L. REV. 851 (1975); *Comment, The Aesthetic Factor in Zoning*, 11 DUQ. L. REV. 204 (1972); *DICK. L. REV.* note 453 *supra* (aesthetic zoning); *Aesthetic Objectives or Considerations as Affecting Validity of Zoning Ordinance*, *Annot.*, 21 A.L.R.3d 1222 (1968).

Examples of cases involving the aesthetic zoning of mobile homes are *Wright v. Michaud*, 200 A.2d 543 (Me. 1964); *Manchester v. Phillips*, 343 Mass. 598, 180 N.E.2d 333 (1962); *Wilkerson v. Murray*, 471 S.W.2d 460 (Mo. 1971); *New Boston v. Coombs*, 111 N.H. 359, 284 P.2d 920 (1971); and *County of Fayette v. Holman*, 11 Pa. Commw. Ct. 357, 315 A.2d 335 (1974).

571. See *Proper Zoning*, *supra* note 216, at 97; *Newcomb*, *supra* note 8, at 34. See generally N.Y. Plan note 217 *supra*; *Oliver, Landscaping the Mobile Home*, The Pennsylvania State Univ., College of Agriculture Extension Serv., Special Circular 155.

572. See *Mayer*, *supra* note 88, at 126, 130; *Swaback*, *supra* note 19, at 324,

Some models have advanced greatly toward acquiring the appearance of conventional housing.⁵⁷³ Parks can utilize similar devices.⁵⁷⁴ By enacting aesthetic zoning ordinances, the government allows the owner or the park to integrate the facility into the neighborhood without the government's questionable prejudgment that such integration is impossible. Mobile homes can presently be made harmonious with many low- and medium-priced houses;⁵⁷⁵ certainly no policy reason forbids the integration of traditional single-family dwellings and compatible mobile homes.⁵⁷⁶

Aesthetic requirements will increase the cost of living in a mobile home by forcing expenditures for the beautification of the home and environment.⁵⁷⁷ Because there is such a great demand for housing, especially low-cost housing, mobile homes and parks should be allowed somewhere in the community without the need for a significant outlay for beautification.⁵⁷⁸ On the other hand, the community's purported concern for the economies of mobile home living should not be used as an excuse for automatically banning mobile homes from those other areas in which substantial expenditures would be required to make them concordant.

The community's acceptance of beautified mobile homes and parks will induce buyers to look for more pleasing features

327; Wandres, *supra* note 33, at 31, 34; *Proper Zoning*, *supra* note 216, at 101; U.S. NEWS, *supra* note 99, at 84-85; Newcomb, *supra* note 8, at 34; Mobile Homes, *supra* note 47, at 27. See generally *Towards a Movable, Livable Mobile Home*, ARCHITECTURAL F., Apr. 1969, at 58; Bair, *supra* note 452, at 36-38.

573. See F. BAIR, *supra* note 214, at 14; *Bringing Mobiles Down to Earth*, PROFESSIONAL BUILDER, Oct. 1975, at 80-81; Mobile Homes, *supra* note 47, at 26. See generally PROFESSIONAL BUILDER, *supra* note 422, at 76.

574. See E. BARTLEY & F. BAIR, *supra* note 15, at 81-89, 121; B. HODES & G. ROBERSON, *supra* note 5, at 15; Bair, *supra* note 216, at 297; Bair, *supra* note 208, at 18, 21; Greenwald, *supra* note 63, at 2, 12; *Proper Zoning*, *supra* note 216, at 88-89; Hegel, *supra* note 138, at 44; Wehrly, *supra* note 131, at 20; R. Boyd, *supra* note 203, at 63, 65-66, 157-58. See generally PROFESSIONAL BUILDER, *supra* note 139, at 51; PROFESSIONAL BUILDER, *supra* note 422, at 76; Bair, *supra* note 452, at 33-50.

575. See Wandres, *supra* note 33, at 31; Bair, *supra* note 452, at 61.

576. See Bair, *supra* note 216, at 290, 298-99; Comment, *supra* note 208, at 629-30; Bair, *supra* note 452, at 13, 62, 65. They have been given the opportunity to integrate with single-family dwellings in some areas. Bair, *supra* note 208, at 18, 21.

577. See Morris & Woods, *supra* note 105, at 63.

578. See Bartke & Gage, *supra* note 215, at 512.

and thereby to exert pressure on the parks and the industry to put more emphasis on this aspect of the design.⁵⁷⁹ Eventually mobile homes and parks could become indistinguishable from comparably priced conventional housing and subdivisions.

The tools of the law can indirectly lessen to some degree the depreciation of the value of property in the neighborhood of mobile homes and parks. Generally much of the depreciation is attributable to the perception that mobile homes and owners are undesirable.⁵⁸⁰ Community education together with legally imposed aesthetic standards can diminish this objection as discussed above.⁵⁸¹ Whatever is done to overcome the resistance to mobile homes and parks will also lessen the depreciation of the neighborhood property values.

VI. CONCLUSION

The housing crisis remains unsolved. In fact, the gap between housing supply and housing demand continues to increase. Traditional methods of construction offer no solution to the housing needs of low and moderate income families, a group constituting a vast proportion of the population. Ordinary, evolutionary improvements in conventional construction techniques offer little hope for reversing the housing shortage. Some relief is possible, nonetheless, without a change in the building industry. Society may alter its expectations with respect to living conditions by accepting higher density accommodations, less space per resident, or expenditures of larger proportions of family incomes for housing either directly in the form of higher housing payments or indirectly by means of additional taxes for government housing subsidies.⁵⁸² Some degree of change in this direction is already

579. Conversely, beautification by the industry and parks of their products would lead to greater acceptance by the community. See M. DRURY, *supra* note 16, at 111-12; Martini, *supra* note 216, at 15, 61; Moore, *supra* note 210, at 22; Reimensnyder, *supra* note 96, at 335, 337; Swaback, *supra* note 19, at 325; BUS. WEEK, *supra* note 61, at 96-97; BUS. WEEK, *supra* note 324, at 148, 150; ENV'T. MONTHLY, *supra* note 407, at 1; *Proper Zoning*, *supra* note 216, at 96-97; *Shortage Answer*, *supra* note 60, at 21, 799; Chattanooga Study, *supra* note 260, at 44; UT Project, *supra* note 35, at 25; D. Morris, *supra* note 376, at 146.

580. See note 452 *supra* and accompanying text.

581. See Mays, *supra* note 208, at 204, 206.

582. See THIRD ANNUAL REPORT ON NATIONAL HOUSING GOALS, HOUSE DOC. No. 92-136, 92nd Cong., 1st Sess. 23 (1971); Breckenfeld, *Is the One-Family*

evident. More seems required.

Radical advancement in housing technology offers an alternative or additional way by which to meet housing needs. Modular units and mobile homes provide the prime, current example. Yet the mobile home experience supports the conclusion that nonconventional technology will encounter considerable resistance. The difficulties surrounding mobile homes are partially due to inherent qualities likely to be shared by other new housing forms. Furthermore, even though these difficulties are also due to unique historical factors, some of the stigma attached to this form of housing will carry over to other new forms. Much of the impetus for development of the modular unit, for example, will probably come from the mobile home industry which has now gained relevant experience, resources, and marketing networks easily applicable to the similar technology of modular construction.⁵⁸³ Dissatisfaction with one product of the industry, the mobile home, will somewhat undermine confidence in the next product, the modular home. Even if other new forms of housing were to come from unrelated industries, the perceived failure of one experiment will discourage some from participating in another. Thus further incentive for the development of new housing technology will probably follow from greater public acceptance of mobile home living.

By constructing quality products and informing the public of their advantages, the mobile home parks and the industry can counter the "bad will" resulting from the trailer heritage. Government also has an interest in the maximum use of available technology and can provide additional incentives and impose rational regulations that will eliminate the errors of yesterday.

The most difficult hurdle—the fundamental resistance to mobile homes as a form of permanent housing—is psychological. Some of this resistance probably will be lessened with the passage

Housing Becoming a Fossil? Far From It, FORTUNE, Apr. 1976, at 84, 87-88; Nicholson, Copeland, Barnes & Browne, *Housing: The New Look*, NEWSWEEK, Mar. 15, 1976, at 78, 81.

583. See APPALACHIA, *supra* note 97, at 1, 3; *Has Factory-Built Housing Finally Come Into Its Own?*, FORBES, Dec. 15, 1976, at 47; FORBES, *supra* note 110, at 53; Bair, *Modular Housing, Including Mobile Homes: A Survey of Regulatory Practices and Planners' Opinions*, American Soc'y of Planning Officials Rep. No. 265, at 5 (1971); Bair, *supra* note 452, at 12.

of time. Economic pressures of the market place will force more people to consider seriously the purchase of this type of home irrespective of personal desires. Increasing public familiarity with the product as well as constructing mobile homes that look more like conventional housing will also help to overcome the public bias. Yet the resistance that accompanies all housing innovations must be anticipated and minimized since the future will probably bring radical design changes to ease housing demand and to facilitate the adoption of alternative resources as some of those used today become depleted.