

# MOBILE HOMES—A NEW CHALLENGE

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## I

### INTRODUCTION: THE MOBILE HOME EXPLOSION

In 1936 a newspaper reporter, Howard V. O'Brien, made an extended trip in a primitive trailer, then a novelty, and collected his feature articles into a book.<sup>1</sup>

Here are some of his comments:

The trailer is such a new thing that people are not yet armed against it. It takes them by surprise. It overpowers them. A man may fancy that his home is his castle, but let a trailer appear and his stronghold is like Rome before the Goths.<sup>2</sup>

Life in a trailer is not all play—especially for the women. Food and ice and necessary supplies are not always easily accessible. . . . Fires must be built and ashes disposed of. Toilet arrangements constitute a special problem. Electric light is not always available and oil lamps must be cleaned. Foodstuffs must be bought in small quantities because the space for their storage is rigorously limited.<sup>3</sup>

The trailer is here to stay and it will make many changes in our way of life. Though it is an infant industry now, I believe it will be a giant before long, with great numbers of people employed in servicing it. In the long run, I suspect that it will prove another nail in the coffin of urban congestion. No longer will the city dweller be content with short week-ends trips in a crowded countryside.<sup>4</sup>

From the year 1937 come divergent observations from other sources.

In 1937, Roger Babson predicted that in 20 years more than half of the population of the U.S. would be living in trailers; *The Nation's Business* announced that when trailers became so numerous as to affect the tax structure, tax legislation would be passed which would give conventional housing an edge; and Lewis Mumford decreed that because trailers were small they would never amount to anything.<sup>5</sup>

In 1961, it was noted that the mobile home

makes the most of new design, materials and fabrication techniques. Its wheels remain, but are increasingly vestigial remnants. It arrives at the site fully equipped

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<sup>1</sup> H. V. O'BRIEN, *FOLDING BEDOONS OR, ADRIFT IN A TRAILER* (1936).

<sup>2</sup> *Id.* at 37.

<sup>3</sup> *Id.* at 28.

<sup>4</sup> *Id.* at 105.

<sup>5</sup> Bair, *Trailer Parks*, *FLA. PLANNING & DEVELOPMENT*, July 1958, at 1.

with furniture and appliances, ready for occupancy as soon as water, sewer and electrical connections are made.

It does not look like a conventional house. It is not built like a conventional house. . . . It is not sold like a conventional house. Its financing, unlike that of the conventional house, includes furniture and all appliances. It frequently does not have the same relationship to the land on which it is located as does the conventional house. And it has not stopped changing.

It continues to get bigger as it moves toward the time when the wheels will come off. Already individual units are moving toward a 600 sq. ft. average, and combinations of elements . . . make possible sizes ranging up to 1,400 sq. ft. and beyond.<sup>6</sup>

And in early 1967, Max S. Wehrly wrote:<sup>7</sup>

The mobile home industry . . . a comparative newcomer to the housing field . . . seems to be in a favorable position to capture an increasing chunk of the market in the lower price range. Particularly promising is the sectional or "doublewide" unit which utilizes the same techniques of factory production developed for the traditional mobile home and, according to House and Home, can meet the \$10,000 to \$17,000 market, including land.

The doublewide unit is a stranger to wheels except during its journey from factory to site. Two 12-foot wide sections are "slid" onto an already prepared foundation, with or without basement, and permanently joined. The result is a house 24 feet wide, up to 56 or more feet in length, and in most respects indistinguishable from the conventionally built or prefab one-story dwelling.

#### A. The Branching of the Family Tree

In the past thirty years, the previously dwindling family tree of the covered wagon and gypsy caravan has taken on luxuriant new life, dividing into two main branches. The travel trailer in its most advanced form has become a recreational vehicle for portable temporary housing with mechanical refrigeration, air-conditioning, gas stove, television, bath and flush toilet with sewage holding tank, and hot and cold running water. In early 1967, 625,000 travel trailers were in use; but this number does not include numerous cousins. There were also 360,000 pickup campers (units for mounting on pick-up trucks), 220,000 camping trailers (largely fold-out tents mounted compactly on low trailers), motorized homes (converted trucks or buses or custom-built units), and a growing number of other types including a cross-breed between the travel trailer and the houseboat. Total sales of such units reached 323,500 in 1966, as against 87,500 five years earlier.<sup>8</sup>

As leisure and population increase, the travel trailer and its kin will continue to play a rapidly-growing role in American recreational life, creating minor problems in the planning and regulatory field such as specialized layout of recreational areas

<sup>6</sup> AMERICAN SOC'Y OF PLANNING OFFICIALS, REGULATION OF MOBILE HOME SUBDIVISIONS I (ASPO Planning Advisory Service Information Rep. No. 145, 1961).

<sup>7</sup> Wehrly, *The Evolution of the House Trailer*, URBAN LAND, March 1967, at 1, 3-4.

<sup>8</sup> AMERICAN SOC'Y OF PLANNING OFFICIALS, REGULATING STORAGE OF MAJOR RECREATIONAL EQUIPMENT 1-2 (ASPO Planning Advisory Service Information Rep. No. 218, 1967).

and storage when not in use. As related to the main theme of this article, however, the trailer has created one major problem. The split in the family tree some ten or fifteen years ago was not noted by many regulatory bodies, and controls based on the characteristics of the travel trailer—its size, its use, the locational pattern of its parks—are still often employed in regulating the mobile home, which is quite different from the travel trailer.

In the early 1950s, the mobile home began to become large enough and well enough equipped to deserve approval as permanent housing. Since then it has become so large that "mobile" is increasingly a misnomer. Specialized equipment is required for towing units, and moving is expensive. Once the mobile home is moved from the dealer's lot to the location where the customer will use it, there is a fair chance that it will remain there for most of its useful life, being sold to a new occupant on the same site when the original purchaser moves.

The rapid growth of mobile homes in total numbers and in proportion to new housing is traceable to two principle causes. Growth in size and improvements in design and construction have increased and broadened appeal. And there are continuing increases in the size of the age groups to which mobile homes are most attractive—the young marrieds, up to about the time their children enter school, and the retirees.

#### B. Growth in Size, Improvement in Design

At the beginning of the 1950s, the standard width for mobile homes was eight feet, the average length twenty-seven feet. This meant 216 square feet of floor area, or about the area of the living room in some modern units. Lengths increased steadily, increasing floor area, but until the breakthrough to the ten-foot width in 1954 there were few chances for improvements in design. Bedrooms opening to a longitudinal hall were virtually impossible at eight foot widths, manageable at ten.

By 1961, the ten-wide accounted for 98.5 per cent of production, the eight-wide for only 1.5 per cent. At this point, another breakthrough occurred. Early in 1962, a handful of experimental twelve-wides, double-wides, and expansible units (with telescoping rooms) appeared at the annual national mobile home exposition in Louisville, Kentucky. In 1962, 1.6 per cent of units produced were twelve-wides, with 11.8 per cent expansibles and double-wides.

In the first quarter of 1967, twelve-wides made up 72.3 per cent of production, expansibles and double-wides 7.0 per cent, ten-wides had dropped to 20.1 per cent, and the "standard" eight-wide of only twelve years before accounted for only 0.6 per cent. The average length at the beginning of 1967 was more than double the twenty-seven feet in 1950, at about fifty-six feet. (The largest single category was twelve-wides in the sixty to sixty-four foot class, which made up 34.5 per cent of production.) The average floor area was around seven hundred square feet, more than three times the 1950 figure. Design, construction, furniture, and major appliances were all

greatly improved. A very substantial proportion of the units had utility rooms with washing machines and driers, built-in FM and stereo reproduction, and other luxuries which would have been unimaginable a few short years before. But the average retail price of units, including furniture and fixtures, was around \$10 per square foot, a little lower than in 1950.<sup>9</sup>

It was not easy to achieve the changes in width. Remodeling assembly lines was expensive. And it was necessary to get changes in state laws relating to highway movement of wide vehicles. Most states now allow twelve feet, subject in many cases to special restrictions, and this is very probably the upper limit.

Added length did not require such radical changes in production methods, and length does not appear to be as important an element in highway safety as width, although here again upper limits appear to have been reached at something over sixty feet.

### C. Population and New Housing

Currently, mobile homes appeal particularly to persons in the twenty to twenty-nine and sixty-five to seventy-four age groups. Family-formers setting up housekeeping for the first time like mobile homes because of ease of maintenance, size, financing which packages the unit, major appliances and furniture in one monthly payment, and residual mobility. With the current average of floor space, there is room for one or two small children, although when children reach school age there is now a strong tendency to move to a conventional residence. In the future, increased possibilities for adding components may make "mobile homes" lifetime housing, but this means that they will cease being mobile.

At the other end of the age scale, persons retiring provide a major market. Factors here are the size, easy housekeeping, limited yard to care for, price and space rental within conservative budgets, and the neighborliness and recreational programs and facilities to be found in good parks. The active retirement group will be an even more receptive market as retirement age continues to drop.

The combination of improved units and growth in the two age groups is likely to lead to an even greater upsurge in number of mobile homes than has already taken place. From 1960 through 1966, the twenty to twenty-nine group increased only about 3.6 million. From 1966 to 1970, anticipated increase is 5.5 million as the first wave from the high birth rates following the Second World War comes on. From 1970 to 1980, expected gain will be 9.3 million, to a total of 40.5 million.

Numbers in the sixty-five to seventy-four group are growing more slowly, up only half a million from 1960 to 1966, due to rise another half million by 1970 and then between 1970 and 1980 to increase by about 1.6 million to about 14.5 million. But if earlier retirement is common, about ten million persons in the sixty to sixty-five age

<sup>9</sup> F. H. BAIR, JR., *MOBILE HOMES AND THE GENERAL HOUSING SUPPLY—PAST, PRESENT AND OUTLOOK I* (1967).

bracket in 1980 seem very likely to add considerable strength to the retirement market.<sup>10</sup>

As to the recent mobile home explosion, coming at a time when the prime age groups were increasing relatively slowly, shipments to dealers rose from about 90,000 in 1961 to almost 220,000 in 1966. Combining statistics for mobile homes and other forms of housing, in 1961, mobile homes accounted for 6.2 per cent of all additions to the housing supply, and for 8.7 per cent of private, nonfarm, single-family housing. In 1966, mobile homes made up 14.8 per cent of all new housing, and twenty-two per cent of private, nonfarm, single-family housing.<sup>11</sup>

## II

### REGULATORY PROBLEMS OUTLINED

With change so rapid and on such a scale, it is not surprising that most state and local regulations have not adjusted to the mobile home. Complicating matters, the mobile home simply does not fit the established regulatory framework.

A (mobile) home is not a house. It is not a building, as the term is often defined.<sup>12</sup> It is only incidentally a vehicle, and may not remain that long. It is not a travel trailer, although its evolution has led to regulation as though it were, with unfortunate results in many instances.

It is usually constructed outside the local jurisdiction, and arrives completed so that it cannot be inspected for conformity with local plumbing, heating, electrical, and structural codes. Moreover, since its structural characteristics and requirements are quite different from housing built on foundations, its construction should be regulated differently.

The mobile home is at present most assuredly a single-family detached residence. But it usually is not permitted on individual lots in zoning districts for single-family detached residences, largely for aesthetic reasons relating to effects on the value of buildings in the neighborhood. Increase in size and exterior appearance of some models is now raising the problem of selection of mobile homes to be admitted to single-family districts. When is "look-alike" enough to qualify? If density is in keeping with basic single-family zoning, should mobile home parks be permitted in single-family districts, given requirements which protect against friction at outer boundaries? In outlying rural and agricultural districts, should the mobile home be permitted as a principal use on an individual lot? As an accessory use?

Where the new mobile home park has current density of six to ten units per acre, it is in an intensity classification rating it with multifamily housing. The fact that

<sup>10</sup> These figures have been rounded from U.S. BUREAU OF THE CENSUS, DEP'T OF COMMERCE, POPULATION ESTIMATES (Current Population Reports, Ser. P-25, No. 359, 1967).

<sup>11</sup> See U.S. DEP'T OF HOUSING AND URBAN DEVELOPMENT, HOUSING STATISTICS (March 1967).

<sup>12</sup> As the 1960 census defined mobile homes, those with additions were counted as conventional single-family housing, so that any analysis of number of units or characteristics of occupants based on the census is seriously defective.

the units are single-family does not matter—most multifamily zoning permits single-family use. And in multifamily districts, the emerging trend toward garden and high-rise apartments using insertable mobile homes (here definitely less mobile after delivery) can be handled through normal zoning methods. But there are some interesting peculiarities in property law and taxation.

The mobile home park has been referred to as a horizontal apartment house.<sup>13</sup> But whether horizontal or vertical, there are differences from other apartment forms. The occupant has full title to the unit, as in the case of condominiums, but unlike the latter, he usually has no common interest in the facilities. In its physical characteristics, the mobile home park is a planned residential development, with common open space, recreation facilities, a community building, and the like. But again, there is no home owners' association with responsibility for maintenance of common facilities, and occupants do not participate in ownership or management.<sup>14</sup>

Then there is the matter of substandard parks and substandard mobile homes. Many of the older parks were built in commercial districts adjacent to highways, because they served travel trailers. Although the travel trailer is different from the mobile home, the "trailer park" has often shifted to long-term residential use by mobile homes. This puts a vulnerable residential use in the wrong place—residential enclaves in commercialized or commercializing districts tend to deteriorate. And a park designed fifteen years ago for travel trailers, or mobile homes no larger than some of the present travel trailers, is now obsolete on lot width, lot depth, and lot area. The eight-wide became ten-wide and then twelve-wide, with extensions and doublewides on hand in increasing numbers. So unless there has been extensive remodeling once or even twice since 1955, the older parks are not only in the wrong place but are likely to be heavily overcrowded.

As to substandard units in or out of parks, the longevity of some of the older mobile homes has been surprising, and there is almost always an occupant for the cheapest housing available. The poorest parks, in location, design, and facilities, tend to attract or retain units which fail to meet even the lowest minimum standards; and rundown residential neighborhoods are frequently spotted with obsolete, dangerous, and unsightly mobile homes. What can be done about these situations?

As to taxes, there is a bewildering variety of local treatments. In some places, the mobile home is taxed as personal property, in some as real estate, in others it is exempt from real or personal property taxes on purchase of a vehicular license, and subject to one or to the other if the owner does not. Where there is homestead exemption, complications may multiply. The mobile home on a foundation (or without

<sup>13</sup> E.g., Bair, *supra* note 5, at 2.

<sup>14</sup> In some mobile home *subdivisions*, where lots are sold rather than rented, there is sometimes close conformity with condominium and planned unit development principles, but the number of such subdivisions is small as yet, as is the number of conventional subdivisions for mobile homes in which common facilities are not provided.

foundation) which does (or does not) purchase a vehicular license may (or may not) qualify for homestead exemption on real property tax.

Taxed as personal property, the mobile home is sometimes in an inequitable position because of local tax policies which make most personal property taxes nominal, but place a relatively high assessment on the mobile home. Taxed as real estate, how should it be handled if it is not on its own lot, but on a rented space in a park? (Here the condominium principle offers some help.) Because it *can* be moved, should the park operator be made responsible for collection and payment of taxes on individual units? How should depreciation be computed, and to what lower level?

Taxation as a vehicle (through license fees) has the practical difficulty that the fees do not come directly to the local unit of government; and returns from the state level are often generalized and earmarked for particular purposes. The contribution of the mobile home owner is lost sight of in the general return from vehicular licenses. And the restrictions on purposes for which returns from the state level may be spent do not always fit local budget needs. The only "normal" local tax return comes from the mobile home park itself.

It would be highly optimistic to say that we have adequate responses to all of the challenges offered by the mobile home in its current state, much less to those which appear as the mobile home continues to evolve in different directions— to the immobile unit, the look-alike house, the garden apartment, or high-rise component. But there are some answers which are a vast improvement over most present practice. Here are a few.

### III

#### SOME SUGGESTED SOLUTIONS

One of the most basic requirements for improving the regulatory structure is to make a clear distinction between the mobile home, as a full-scale residence, and temporary portable housing in the form of the travel trailer, the pickup camper, and the like. This distinction should carry through all regulations. The definition should be broad enough to fit present and emerging mobile home forms. The one below is adapted by language in brackets from a recent suggested definition already made obsolete by the newly-developing interest in use of mobile homes as apartment modules:<sup>15</sup>

*Mobile home:* A detached single-family dwelling unit [or a dwelling unit for use as a component in a two-family or multifamily structure] with all of the following characteristics:

- a. Designed for long-term occupancy, and containing sleeping accommodations, a flush toilet, a tub or shower bath, and kitchen facilities, with plumbing and electrical connections provided for attachment to outside systems.

<sup>15</sup> F. H. BAIR, JR., LOCAL REGULATION OF MOBILE HOME PARKS, TRAVEL TRAILER PARKS AND RELATED FACILITIES 12 (1965).

- b. Designed to be transported after fabrication on its own wheels, or on flatbed or other trailers or detachable wheels.
- c. Arriving at the site where it is to be occupied as a dwelling complete, including major appliances and furniture, and ready for occupancy except for minor and incidental unpacking and assembly operations, location on foundation supports, [integration into a prepared structure] and the like.

To provide for the contingency that furniture may not be included in all mobile homes in the future, perhaps the language at (c) should drop the words "and furniture." The definition should distinguish the mobile home not only from the travel trailer, but from conventional housing and also from the prefabricated house, which may arrive at the site on a trailer but usually requires extensive assembly.

By itself, the travel trailer is relatively easy to define, but a mere travel trailer definition will not do in the regulatory structure, because of other devices being regulated. To simplify matters, regulations involving travel trailers and similar forms might refer to them as recreational "units," defining the term thus: "*Recreational Unit*: A travel trailer, pickup camper, converted bus, tent-trailer, tent, or similar device used for temporary portable housing."<sup>16</sup>

#### A. State Regulation—Health and Construction

##### 1. *State Health Regulation*

State regulation of health-related aspects of mobile home parks has major advantages. Given state control, substandard facilities cannot develop in local areas having no regulations or regulations which are defective. State regulation assures that the same minimum requirements will apply generally, a matter of substantial importance when the bewildering variety of local standards is considered. (On the matter of sewer, water, and electrical connections, for example, varying specifications for size, location, and connective devices create major problems for park operators, manufacturers, and mobile home occupants. The variation in regulatory requirements is unnecessary in terms of public purposes. Standardized state controls eliminate this problem.)

State regulation of health aspects of mobile home parks also has administrative advantages. County or regional health officers administratively responsible to state boards of health and specialists working directly from state headquarters can usually assure more uniform, and often more expert, application of regulations than can many local jurisdictions.

In some parts of the country, reliance on state regulation would be premature until state controls have been modernized. Some states still fail to distinguish between mobile homes and travel trailers and their parks, with concomitant failure to distinguish between their requirements. Thus, size of individual spaces in what are generically called "trailer parks" or "trailer camps" is adequate for travel trailers but

<sup>16</sup> *Id.* at 50.



entirely too small for mobile homes. And some state laws still call generally for facilities needed for travel trailer parks' but superfluous in mobile home parks—extensive washroom facilities, laundries, drying yards, and sinks for emptying slop jars are hardly necessary for modern mobile homes with their own baths, washers, and driers.

Many states have updated health regulations to reflect changes. The U.S. Public Health Service has provided guidance in this direction in the form of models which can be adapted for state use or used at the local level.<sup>17</sup> Matters covered in the Public Health Service model for mobile home parks include:

- a. General requirements on condition of soil, ground water, drainage, topography, and surroundings.
- b. Required separation between mobile homes.
- c. Required recreation areas.
- d. Required setbacks, buffer strips, and screening.
- e. Requirements on park street system, including design, width, pavement, grades, and lighting.
- f. Requirements on walkways.
- g. Requirements on off-street parking.
- h. Requirements on mobile home stands.
- i. Water supply.
- j. Sewage disposal.
- k. Electrical distribution system.
- l. Service building and other community service facilities.
- m. Refuse handling.
- n. Insect and rodent control.
- o. Fuel supply and storage.
- p. Fire protection.

To the extent that such matters are handled by state regulation and inspection, localities are freed from responsibilities.

## 2. *State Regulation of Construction*

Even more advantageous are state controls of construction of mobile homes, although localities are not helpless without such regulations. As with parks, the principal disadvantage of exclusively local control is that there will be areas where no controls are exercised, in which substandard conditions tend to develop.

<sup>17</sup>U.S. PUBLIC HEALTH SERVICE, DEP'T OF HEALTH, EDUCATION, AND WELFARE, ENVIRONMENTAL HEALTH GUIDE FOR MOBILE HOME PARKS, WITH A RECOMMENDED ORDINANCE (1966); U.S. PUBLIC HEALTH SERVICE, DEP'T OF HEALTH, EDUCATION, AND WELFARE, ENVIRONMENTAL HEALTH GUIDE FOR TRAVEL TRAILER PARKING AREAS, WITH A RECOMMENDED ORDINANCE (1966) (both guides are published by the Mobile Homes Manufacturers Ass'n).

The American Standards Association (ASA) in 1963 formally approved code provision A-119.1, "American Standard for Installation in Mobile Homes of Electrical, Heating and Plumbing Systems," since adopted by the Building Officials Conference of America (BOCA) and the Southern Building Codes Congress. In Kentucky, state law requires that any unit shipped or imported into the state for sale shall conform to this code.<sup>18</sup> In California, the state administers construction codes applicable to mobile homes sold or offered for sale in that state and manufactured after September 1, 1958. These codes give protection roughly equivalent to the ASA code.<sup>19</sup>

The Mobiles Homes Manufacturers Association (MHMA) requires its members to conform to ASA requirements, and each unit must bear a seal certifying to such conformity. This association (which was largely responsible for formulation of the ASA code provisions) has now adopted "Minimum Body and Frame Design and Construction Standards" with January 1, 1968 as the effective date for compliance; and units built under this new code will also bear certification. The MHMA body and frame standards have been submitted to the American Standards Association for approval—and if and as approved will very probably be included in the BOCA and Southern Building Codes.

Requirement for compliance with these or similar codes can be either by the state or by localities. In either case, one of the regulatory problems is solved—how to assure acceptable quality in a dwelling unit constructed outside the local jurisdiction and brought in complete, so that local inspection is impractical.

### B. Zoning for Mobile Home Parks

Properly speaking, zoning should concentrate on regulations which vary from district to district. As to mobile homes and their parks, the ordinance should theoretically indicate only which districts will permit them by right or by special exception or other procedure, with requirements calling for varying densities, buffering, access, or other matters in different districts.

Local regulations applying generally to mobile homes and mobile home parks should generally be in codes dealing with similar subject matter (for example, plumbing, heating, electrical, health, and housing) or in a separate body of regulations dealing with mobile homes and mobile home parks. As indicated above, it is advantageous where there are good state regulations to permit them to govern. Certainly where there are good state regulations needless conflicts with local requirements should be avoided.

In practice, zoning for the mobile home and its environment is often loaded with details which belong elsewhere, and quite frequently there are conflicts with state controls or other local regulations with no apparent reason for the difference.

<sup>18</sup> KY. REV. STAT. ch. 190, § 190.210(1) (Supp. 1966).

<sup>19</sup> CAL. HEALTH & SAFETY CODE § 18371 (West 1964, Supp. 1966). See B. HODES & G. ROBERSON, *THE LAW OF MOBILE HOMES* 6-7 (2d ed. 1964).

### 1. *Location of Mobile Home Parks*

The mobile home is a residence, and belongs in residential areas, since exposure to commercial or industrial environments is likely to have the same blighting influence as for other forms of housing. Generally, density of a mobile home park is such as to make it appropriate for multiple-family residential districts, although at the low end of the density scale the number of units per acre is in the single-family class. In both cases, *if* there is good design, the mobile home park deserves the same type of density bonuses as planned unit developments in view of the increased utility of common open space.

### 2. *Minimum Area and Number of Spaces*

To support effective management and a reasonable range of common facilities and services, an adequate economic base is necessary. For this reason, many new ordinances require a minimum tract of eight to ten acres (with dimensional minimums for entrance and other portions) and at least fifty spaces complete and ready for occupancy when the park opens.

### 3. *Exclusion of Travel Trailers or Limitation on Location*

Late arrivals, early departures, different needs for facilities, and vacation-oriented outlook make travel trailers poor neighbors for mobile homes. Thus, many regulations require mobile home space rentals to be for thirty days or more (a major reversal of older ordinances which limited time of stay) and prohibit travel trailers in mobile home parks.

Under certain circumstances, combinations of mobile home and travel trailer parks may be justified, as for example where a tract has frontage on an important tourist route or is near an outdoor recreation attraction. In such cases, regulations may permit the use of part of the park for travel trailers and the remainder for mobile homes, usually with recreation and service facilities separating the two areas.

### 4. *Control of Quality of Units*

Although such provisions belong properly in construction and housing codes, zoning is often a vehicle for requirements that mobile homes will not be permitted in parks unless they are certified as meeting the ASA or similar standards as described previously, and there is an emerging tendency to require conformity with occupancy codes. The Public Health Service is currently developing new model occupancy codes for all forms of housing, with a special section on mobile homes which will take account of their design characteristics and the availability of common facilities found in most parks.

### 5. *Nonresidential Uses Permitted*

Many ordinances permit minor commercial uses in mobile home parks, limiting the area they may occupy and requiring that there shall be no visible evidence of commercial activities from residential areas outside the park. Although this might at first glance appear as allowing spots of commercial development in residential neighborhoods, there are ample precedents in apartment and planned unit development regulations permitting similar convenience establishments. Sales lots are not permitted in connection with parks in most regulations, with the exception of cases where a portion of the tract is in a commercial category allowing such activity.

### 6. *Buffering*

To provide transitional protection from neighboring property and vice versa, it is common practice in recent ordinances to require that where a park adjoins other residential uses, exterior yards shall have the same dimensions as for front yards in the district involved, regardless of the front, side or rear orientation on the parcel. Some regulations permit fences, walls or vegetative screening of specified kinds and dimensions as a substitute for part of the dimension of the yard; others require such screening in addition to the yard. If carelessly worded, screening requirements can create serious impediments to necessary visibility at intersections of park roadways with bordering public streets.

Some ordinances also require screening where the park adjoins commercial or industrial districts or major streets, in order to protect occupants from potentially adverse effects.

### 7. *Requirements for Recreational Facilities, Common Open Spaces*

Where state requirements do not cover these matters (and sometimes even where they do), local ordinances often specify that a minimum percentage of the tract or that land with stated minimum dimensions be set aside and improved for community recreation.

FHA's *Minimum Property Standards for Mobile Home Courts*, used extensively as a source for local zoning details or standards for general mobile home ordinances, states concerning size of recreation area: "Not less than 8% of the gross site area shall be devoted to recreational facilities, generally provided in a central location or, in the larger courts, decentralized. Recreation area includes space for community buildings and community use facilities, such as guest parking, adult recreation and child play areas, swimming pools, utilities and drying yards."<sup>20</sup>

### 8. *Other Details*

Depending on adequacy of coverage of state controls, local zoning or general mobile home park regulation may cover a wide range of other details. In many

<sup>20</sup> U.S. FEDERAL HOUSING ADMINISTRATION, *MINIMUM PROPERTY STANDARDS FOR MOBILE HOME COURTS* § 2414-3.1 (1962).

instances selected portions of FHA's *Minimum Property Standards for Mobile Home Courts* are adopted by reference to minimize bulk of the ordinance. The FHA material is considerably more extensive and specific than the Public Health Service *Environmental Health Guide for Mobile Home Parks* mentioned above.

### C. Zoning and Mobile Homes Outside Parks<sup>21</sup>

Outside the park, zoning treatment for the mobile home varies widely, and frequently includes material which is unrelated to the usual purposes of zoning. Mobile homes may be permitted generally as single family dwellings. Sometimes this is intentional; sometimes not. Definitions of single family dwellings which unintentionally fail to distinguish the mobile home from other types have led to difficulties.

Mobile homes distinguished as such may be permitted outside parks in selected single or multifamily districts. Thus in rural areas, mobile homes are occasionally allowed either as principal uses on their own lots or as accessory to agricultural operations. In some areas where guest houses or servants quarters are allowable as accessory to principal permitted residential uses, mobile homes subject to the same limitations (location on the lot and prohibition against rental are often included) may be used for the same purposes.

As a concrete example of zoning language fitting a local circumstance (complete with matter extraneous to zoning), in Carbondale, Illinois it was proposed to permit a mixture of single-family conventional residences and mobile homes in one district. Both mobile homes and conventional dwellings were required to have lots of the same size. Only mobile homes meeting prescribed standards for plumbing, heating, and electrical installations were permitted. Any mobile home moved into the district was required to be supported under all exterior walls by a permanent foundation, and wheels were to be removed. Within six months after location within the district, the mobile home was to be taxed as real property.

What these regulations did was to make it probable that anyone moving into the district with a mobile home would be planning permanent occupancy, to provide protection against the appearance of the exposed undercarriage by requiring the permanent solid foundation, to encourage lowering the unit by requiring the removal of the wheels, and to make tax policy clear. Moreover, removal of the wheels and setting the unit on a foundation made it highly probable that the tax policy would stick. Courts might have some doubts if the wheels remained on the unit and it had no permanent foundation.

Now what about the other situation, where it is proposed to be selective about the type of mobile home to be permitted on its own lot in a single-family neighborhood in which mobile homes generally are not acceptable? Here we enter a grey area in zoning where logic increasingly gives way to prejudice, and where courts

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<sup>21</sup> Much of this subpart has been adapted from Bair, *Regulation of Mobile Homes, A New Look*, FLA. PLANNING & DEVELOPMENT, June 1963, at 1.

specializing in logic may tear things apart, while those specializing in defending prejudice will give the approach their blessing. What we are seeking is a way to assure that if mobile homes are to be permitted in neighborhoods of conventional single-family residences, they must be sufficiently similar in appearance to pass as conventional single-family residences. So far as we know, no such provisions have as yet been written. Stated briefly, they might be handled as follows:

Mobile homes will be permitted in the R-1B single-family residential district only if they are similar to other residences now existing in the district in dimensions, design, and exterior appearance.

This runs into all of the problems of vagueness and lack of standards. Being more specific, the provision might go thus:

Mobile homes will be permitted in the R-1B district only if the end portions, as provided with the delivered unit or added, are at least 20 feet in width, the main body of the unit is at least 50 feet in length, the main roof shall be pitched at an angle of not less than 30° and the ridge shall be not less than 10 feet from the front wall, the unit shall be oriented with its long axis parallel to the street, exterior finish shall be of a flat variety, not creating excessive reflection, and colors used shall be the same as those generally in use in the neighborhood.

This puts prejudice into more concrete language, and should help to assure that in neighborhoods where major emphasis is on conformity, any mobile homes used as residences will conform. Obviously the provisions have little to do with health or safety or even the general welfare. Perhaps they might be defended on grounds that they protect the "character of the neighborhood." Administrators and courts would be in a far better position to appraise whether a given unit does or does not fit requirements stated in specific terms than regulations which require merely that new houses must look substantially like houses already in the neighborhood. In any event, intelligent courts are likely to ask the penetrating question: "Is the general welfare served by limiting change and forbidding individuals to create new architectural forms?"

There can be little doubt that in many residential areas, typical mobile homes intermingled with conventional residences would have an adverse effect on property values. To the extent that the difference in character is extreme, it seems probable that most courts would uphold exclusion of mobile homes from such neighborhoods. Whether language along the lines indicated above would be acceptable as a guide would depend to a considerable extent on the court involved, but if applied only to mobile homes, and not to other forms of housing it would appear to be inequitable. *Some* language containing workable guidelines is essential, however. To exclude mobile homes built to acceptable standards and indistinguishable in appearance from conventional housing *solely on grounds that they are mobile homes* seems highly arbitrary and unreasonable.

### D. Housing Codes

Given adequate control of mobile home parks, there still remains the problem of the substandard mobile home, either in or out of a park. The appropriate regulatory medium here is the housing or occupancy code. As in the case of construction codes, some special tailoring is desirable. The mobile home is still a relatively compact dwelling unit. Its shape and the size and location of its windows tend to give it some advantages over usual conventional housing on the matter of light and air in habitable rooms. Its foundation requirements are different and it has other characteristics which call for some special consideration in regulations.

One point of beginning for regulations of this type is New York State's "Model Housing Code Applicable to One- and Two-Family Dwellings, Multiple Dwellings, Mobile Homes and Mobile Home Courts."<sup>22</sup> The New York codes, for voluntary adoption by local governments, were first produced in 1958. Later it was found that special adaptations were needed for mobile homes and certain other uses, and these were added in the 1960 version. Among other things, there are variations from general residential requirements in habitable space per occupant, ceiling heights, minimum dimensions of habitable rooms and kitchens, glassed areas, foundation, and structural specifications.

Currently, the Public Health Service is preparing model occupancy standards for mobile homes which should prove helpful as a guide for local regulation.

In addition to the observation that occupancy standards for mobile homes should be designed for mobile homes, two other cautionary comments are in order. First, it would be discriminatory to adopt and enforce such standards for mobile homes unless other housing is similarly regulated. And second, the controls should be placed in a housing or occupancy code rather than grafted onto zoning, both in the interest of logical regulatory location and because of the handicap to application created by the special status of nonconformities under zoning.

### E. Taxation<sup>23</sup>

In addition to all the complexities as to whether the mobile home is real estate, vehicle or other personal property for tax purposes, there are the problems of how the tax should be collected and distributed and how much the tax should be.

The mobile home is indisputably low-cost housing. As such, even if it is taxed as realty, it does not pay as much as more expensive housing. There are those who argue (and implement their arguments with regulation) that housing in their communities should be kept expensive. To a major extent, this argument is based on tax revenue, although there are strong overtones of social discrimination. Zoning does not estab-

<sup>22</sup> 2 NEW YORK STATE DIVISION OF HOUSING, HOUSING CODES—THE KEY TO HOUSING CONSERVATION, MODEL HOUSING CODE APPLICABLE TO ONE- AND TWO-FAMILY DWELLINGS, MULTIPLE DWELLINGS, MOBILE HOMES AND MOBILE HOME COURTS (1960).

<sup>23</sup> A portion of this subpart has been adapted from Bair, *Mobile Homes*, NATION'S CITIES, Aug. 1965, at 18.

lish minimum price of housing directly, but it can have the same effect by requiring large lots and high minimum floor areas.

In the case of mobile homes, exclusion is often based on tax considerations as well as social, and the tax analysis is limited to income, ignoring net profit or loss. If policy stems from prejudice, facts are superfluous. Policy based on facts stands up better in the long run, but requires that the facts be impartially collected and analyzed. These things are usually found to be true when facts are collected:

- (1) Single family detached family dwellings produce substantially more students per unit than do other forms of housing. A recent survey in Fairfax County, Virginia, shows 1.08 student per unit in single-family and duplex housing, 0.37 per unit in mobile home parks, 0.21 in garden apartments, and 0.09 in high-rise apartments.
- (2) Owner-occupied homes produce a much smaller share of local revenue than is generally realized. Allen Manvel points out: "[O]nly about an eighth of the urban government bill is currently collected in the form of local property taxes on owner-occupied homes."<sup>24</sup>
- (3) Balancing local expenditures against revenues per dwelling unit, single-family detached housing is generally found to require greatest subsidy, garden apartments and mobile home parks come closer to paying their own way, and high-density (and particularly high-rise) apartments turn in a substantial surplus.

These three facts are more useful in putting prejudice in its place than in setting policy. They indicate that several standard clichés are wrong, and they point a moral as to what happens if fiscal expediencies of the moment are allowed to set long-range development policy. Starting from accurate premises which have nothing to do with urban purpose, the policy derived from these facts is magnificently logical and ridiculous: *Eliminate single-family detached housing*. It does not amount to much in the revenue picture, it requires excessive subsidies, and it produces too many children.

For tax purposes, a mobile home is what the tax law declares it to be. In Florida, purchase of a vehicular license exempts it from real or personal property taxes. Without the license, it may be taxed as either real or personal property, depending on its location.

In New York, mobile homes have been classified as real property for tax purposes under state law since 1954. Commenting on New York experience, Mary E. Mann, Assistant Counsel, New York State Board of Equalization and Assessment, reflects concern with governmental revenue without analysis of governmental costs:<sup>25</sup>

<sup>24</sup> Manvel, *Paying the Urban Bill*, 54 NAT'L CIVIC REV. 16, 18-19 (1965).

<sup>25</sup> Mann, *Assessment and Taxation of Mobile Homes: What is the Town's Best Approach?* N.Y. STATE PLANNING NEWS, March-April 1967, at 4, 12.



Now, the dilemma is that although the intent of the legislature was to provide a means whereby the mobile home would pay "its fair share of local taxes," property taxation does not reflect services rendered by local government. It is an assessment against the market value of the property. . . . As long as the mobile home is cheap housing, its value will never be sufficient to raise an amount of revenue from an ad valorem tax equal to that which may be raised on an average single family dwelling.

The original cost of a new mobile home is rarely that of the average house, and the market value of a used mobile home depreciates each year at least 5% of its original cost. In contrast, in the present state of our economy, other types of real property typically tend to appreciate in value or at least to hold their original value over a long number of years . . . .

A long term approach might be to change the type of tax to one which produces more revenue. For example, California and Colorado . . . impose "in lieu" taxes which are only partly based on value. According to recent studies, these taxes, which are administered by the State, produce more revenue than local ad valorem taxes would have produced.

As a preliminary to discussion of substantial administrative problems with local ad valorem taxation in New York, the Mann paper continues: "The recent California study concluded that 'administratively it does not appear desirable to return the taxation of mobile homes to local governments due to disclosure problems and the like.'"

Another state using a form of "in lieu" taxation is Minnesota. Several features of the Minnesota system are useful solutions to difficult problems—the method of collection, the way in which depreciation is handled, and the manner of distribution of returns.

Under the provisions of Minnesota's mobile home tax law<sup>26</sup> all mobile homes are required to purchase number plates annually on or before January 10 from the secretary of state, paying \$3, and, in addition, taxes as indicated below. The listing for taxes and application for registration includes name and address of owner, location, make, model, serial number, length, and weight of the mobile home, and name and number of the school district, the county, and the municipality in which the mobile home is located.

The full and true value of the unit is the suggested factory retail list price. Tax is computed by multiplying the average millage rate of taxes of all counties levied for all purposes and paid during the previous year by a percentage of the full value which declines from ten per cent for a new mobile home to four and a half per cent for a unit six years old or over. Recent figures indicate that a \$7,500 mobile home purchased in 1960 (using the 1963 mill rate for an average) would have paid \$162.89 in 1960, \$73.30 in 1966.<sup>27</sup>

Of the taxes collected, fifty per cent go to the school district, thirty per cent to the

<sup>26</sup> MINN. STAT. ANN. §§ 168.011-.012 (1960, Supp. 1966), § 273.13 (1947, Supp. 1966).

<sup>27</sup> MINNESOTA HIGHWAY INTERIM COMMISSION, MOBILE HOMES AND THE MOBILE HOME INDUSTRY 98 (Report of the Highway Interim Comm'n prepared by Consulting Services Corp., 1967).

municipality or township, ten per cent to the county and ten per cent to the State General Revenue Fund.

The results of this approach appear to be generally satisfactory. "Although final judgment is reserved for broader studies to determine, our findings show that revenues from mobile home owners tend to more than compensate for the municipality's cost of services furnished to such residents."<sup>28</sup>

It is interesting to note, however, that even in Minnesota, which seems to have the most equitable and workable approach known to this writer, there is still awareness of possibilities for improvement. The final recommendation on mobile home taxation urges a detailed study to determine disparity between revenues from mobile and stationary homes, suggests analysis to determine practicality of a flexible schedule of fees reflecting individual county mill rates, and concludes: "Such a study should also investigate the workability of taxing mobile homes as realty, as is done in New York."<sup>29</sup>

#### SUMMARY AND CONCLUSIONS

Mobile homes, the fastest growing segment of the housing industry, are also the most rapidly changing form of housing. Since 1950, growth in size, improvement in design, and control on quality of construction have multiplied the potential market. In the early 1950s, the term "trailer" could be applied indiscriminately to units which might be used for either permanent or vacation housing; there is now a clear break between the increasingly immobile mobile home and the recreational vehicles represented by the travel trailer and its cousins.

Out ahead, several new developments seem likely. Permanently attached wheels will come off most mobile homes. Present manufacturers will use double-wide production and assembly techniques to mass-produce more units indistinguishable in appearance from conventional single-family housing. Units constructed by mobile home assembly techniques will be used in multifamily structures—garden apartments and high rise—and in townhouse forms. Habitat 67, showpiece of the Canadian Centennial Exposition, could well have been built with specially modified mobile homes. The individual apartments are in the mobile home dimensional range.

Thus far, neither conventional construction nor prefabricated conventional housing has been able to produce dwellings furnished and equipped with appliances at anything approaching as low a price as the mobile home, and the difference in cost seems likely to increase rather than diminish. If low-cost housing, with quality assured by construction codes, is a desirable public objective, the mobile home should be encouraged. But *because* it is low-cost housing, and worse—low-cost housing in a form and in locations which do not fit neatly into established taxation patterns—public regulation tends to be either exclusive or repressive.

<sup>28</sup> MINNESOTA HIGHWAY INTERIM COMMISSION, REPORT OF THE 1965-66 HIGHWAY INTERIM COMMISSION 25 (1967).

<sup>29</sup> *Id.* at 27.

There is growing need for good mobile home parks and subdivisions, appropriately located in residential environments. Local regulations (backed by state controls) can assure acceptable quality, location, and design. And equitable devices for taxation and other revenue production can assure that the mobile home pays its fair share of governmental costs. Unless local prejudice can be overcome by reason, it seems probable that mounting pressures for areas suitable for mobile home living will lead to increasing activity in the courts.