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COMMERCIAL REAL ESTATE BROKERS
The Manufactured Housing Community Network

The Northwest Report

June 2017

For Owners, Operators and Investors in Manufactured Housing Communities Nationwide

THE OREGON LEGISLATURE

The Oregon Legislature is in its final 23-days before the targeted adjournment, marking a 2017 Oregon Legislative Session that dealt with more landlord related issues than any other legislature in recent memory. The expected adjournment date is Friday, June 23rd and the constitutional deadline for adjournment is July 10th. Actual adjournment will likely take place sometime between those two dates, after difficult budget, tax and transportation issues are addressed.

RENT CONTROL IS OUT!

The Oregon Senate Committee on Human Services amended HB2004A with a dash 9 amendment that **DOES NOT** include rent stabilization, rent control or the elimination of the preemption of local rent control. The dash 9 replaces all of the language from the original HB 2004 that was introduced in January 2017. The bill moved out of the Senate committee on a party line vote. Some Portland Democratic Senators have expressed their disappointment that the bill contains no rent control. That may ultimately doom the bill but not likely. The dash 9 does make changes to 'no cause eviction' and limits rent increases for all rentals to once a year. The legislation now goes to the full Senate for a floor vote and then back to the House for concurrence.

The good news is that most manufactured housing related legislative proposals have died in committee. However, two significant bills relating to manufactured home communities are on their way to Governor Kate Brown's desk for her signature.

SB 277A is the Oregon Manufactured Housing Landlord & Tenant Coalition bill that was developed over several months of meetings and negotiations between the parties. This bill addresses disrepair and deterioration of homes. It provides more succinct definitions of deterioration and disrepair as well as making it clearer that cosmetic concerns are not deterioration or disrepair. The cure period is being extended from 30-days to 60-days and the bill also better defines the responsibility of new residents who purchase existing homes in the community for repairs including cosmetic concerns as long as those concerns are included in the community rules and the community owner gives written notice to a prospective purchaser before they become a new resident.

HB 2008A was a worrisome bill that caused great concern for community owners when it was introduced at the beginning of the legislative session. This bill contained nearly every legislative concept that the industry had been fighting for years. After lengthy negotiations between all involved parties the bill was replaced by a bill addressing three primary issues.

The first issue dealt with the amount of compensation a homeowner receives toward the cost of moving their home when the community is closed. Existing law called for $5,000 (single-wide) $7,000 (double-wide) and $9,000 (triple-wide). The new law increases amounts to $6,000 (single-wide) $8,000 (double-wide) and $10,000 (tripe-wide) with future increases tied to the Consumer Price Index.

The second issue deals with resident owned communities. The USDA Rural Development agency will be offering their 502 1% loan program to homeowners in “resident owned” cooperatives. It was previously impossible for residents to use this program because of the community’s ability to force a home lienholder into removing a repossessed or abandoned home after 12-months. The new agreement will give resident-owned coops the flexibility to negotiate storage terms with lienholders that are beneficial to the cooperative. This gives homeowners extremely low-cost loan programs allowing them to replace older homes with newer, energy efficient homes at much lower interest rates and monthly home payments.

The third issue deals with when a community sells. The new owner will need to report to the state of Oregon the number of vacant spaces and homes in the manufactured home community, the final sale price of the community, the date the conveyance became final, and the name, address and phone number of the community’s new owner.

WHAT IS THE RIGHT AMOUNT OF LIABILITY COVERAGE FOR MY MANUFACTURED HOUSING COMMUNITY?

A common question that comes up whenever insurance is discussed is “Do we have the right amount of liability coverage?” Liability coverage is protection from negligence claims made against the community by third parties. The most common example is a slip and fall where a hazard in the park caused a person to become injured. There was a pothole which was unfilled for two weeks; a resident stepped into it while exiting their car, turned their foot, which led to a broken ankle. The park would be responsible for this type of liability claim.

Most policies carry a $1,000,000 occurrence limit. This limit represents the most the company will pay for a settlement amount in any single occurrence.

The cost to defend the claim is almost always outside of the defense limit, so non-settlement expenses for claims are essentially unlimited in most policies. If you happen to have defense cost inside the policy limits for a GL (General Liability) policy, look for a better policy right away! Assuming you are in the majority of policy holders with a GL policy that has defense cost outside the limit, the question becomes is my $1,000,000 settlement expense limit enough?

Many different strategies have been used to answer this question. 1) Some lenders require a liability limit based on the loan size, and that required limit is what the owner group buys. If the limit is sufficient to what is typical, this can be an acceptable strategy, however if the limit is only $1,000,000 it may leave the group far short. 2) With a non-recourse loan on the property, some owners choose the bare minimum with the thought that if a claim exceeds their insurance coverage, they will just give the property back to the bank. The downfall with this strategy is the owners would lose their equity in the community. 3) Some owners go to the opposite extreme and purchase liability limits well above what is normal for their community, and make the mistake of buying separate limits for each asset when they may be combinable to generate a single high limit covering multiple properties.

The way to increase liability limits is through an umbrella policy. An umbrella policy provides additional liability limits above the underlying $1,000,000 GL limit. A single umbrella can also go over an auto liability policy and workers compensation policy, in addition to the GL coverage for minimal additional cost. A common misconception is umbrella goes over property coverage. Umbrellas do not go over any property coverage they are strictly related to liability exposures. You can buy umbrella liability from $1,000,000 to over $100,000,000, so the limits can vary significantly. As an example of how the total liability limit is calculated, if you have a $1,000,000 GL policy and a $2,000,000 umbrella policy, your community would have $3,000,000 of total coverage available for any single liability occurrence.

Now that the background has been laid out, the question comes back to “What is the right amount of coverage?” There is no right answer unless you have a crystal ball that shows you what the future holds. For the rest of us, the best we can do is come up with an educated guess based on our community characteristics. Here are some features that increase your exposure to high liability claims;

You allow pets, have park owned homes, located in a higher crime area, have a pool, have a playground, located in a known litigious county or state, have high employee turnover, use security guards, adjacent to a water exposure (lake, river, ocean), and/or have community owned autos.

If you answer yes to any of the above, your community should have at least some umbrella protection above the basic $1,000,000 GL coverage. Here are some real life large claim examples of incidents and settlements:

- Restricted dog mauled young child. Management was aware the dog was in community, but did not have pet removed - $10,000,000 settlement.
- Drowning in pool, pool light was out and not repaired - $6,000,000 settlement.
- Murder in community due to alleged lack of security - $4,000,000.
- Auto accident with community vehicle, driver at fault - $3,000,000.

There are many more examples we can give, but the point is they are out there, and sometimes the best laid plans won't prevent them. The smart thing to do is buy limits higher and rest assured. The best part is umbrella coverage is relatively cheap. If you own one 150 space community, the cost for a $1,000,000 umbrella is probably around $700 year. For a $5,000,000 umbrella limit the cost goes to maybe $2,000 per year. The higher the umbrella limits, the lower the premium is per layer. Another strategy if you have multiple parks, or multiple commercial properties, is to put one umbrella limit above all of it. This way the limit can be higher, but the cost per property is lower. If you had 10 properties and a $10,000,000 limit at around $10,000 premium, the cost per property would be $1,000. To buy each location a $10,000,000 limit would cost approximately 5 times what a shared umbrella would cost. This is a common and effective strategy that is recommended.

So, what are the right liability limits to buy? No one can say for sure, but hopefully this article gives you some insight on what the exposures are, the way to obtain higher limits, and the general expense associated with it.

BY: Louis Serro, Brown & Brown Insurance, lserro@bbphoenix.com 602-697-3706.

FIRST RIGHT OR REFUSAL ON HOME SALES

Have you ever considered entering into an agreement with homeowners in your community, giving you first right of refusal to buy their home if they decide to sell? Many community owners are considering this move and a few have drafted agreements granting them first right. The idea largely stemmed from a community owners concern that a resident would sell their home to a "mover" who intends to "pull" the home from the community, thus creating a physical and economic vacancy.

Given the significant costs associated with purchasing a replacement home, accessorizing that home, paying for permits – delivery -set-up and sales costs, purchasing the established, existing home can be the best solution for maintaining occupancy levels within the community.

IMPRESSIVE HOME PRODUCTION AND SHIPMENT GROWTH

According to official statistics compiled on behalf of the U.S. Department of Housing and Urban Development (HUD), year over year manufactured housing production increased substantially during the past several months. The latest statistics available track home production through March of 2017 and they indicate that HUD Code manufacturers produced 8,245 homes in March, a nearly 16% increase over the 7,110 built in March of 2016. Cumulative industry production for 2017 now totals 23,384 homes, a 22.4% increase over the 19,101 HUD Code manufactured homes produced over the same period in 2016. Increases were seen in both single and multi-section home production.

Further examination of official industry statistics shows that the top ten shipment starts from the beginning of the industry production rebound in August 2011 through March 2017 are: Texas, Louisiana, Florida, Alabama, North Carolina, Mississippi, California, Kentucky, Michigan and Tennessee. Unchanged from previous reports. The steady increase in HUD Code home production since 2011 is clear and undisputable evidence that manufactured homes not only continue to serve a vital role in our nation's housing market, but that today's high-quality manufactured homes are attracting ever-larger numbers of homebuyers.

TRUMP APPOINTS MANUFACTURED HOUSING ADVOCATE

(FROM MHI REPORTS) The Manufactured Housing Institute (MHI) applauds President Donald Trump's nomination of J. Paul Compton, Jr. to be General Counsel at the Department of Housing and Urban Development. Compton is a partner in the law firm of Bradley Arant Boult Cummings (Bradley), a Financial Services Division member of MHI.

Compton is the second Bradley attorney to be nominated by President Trump. Kevin Newsom, chair of Bradley's Appellate Practice Group, was nominated earlier in the month to serve as a Circuit Judge on the U.S. Court of Appeals for the 11th Circuit. Rob Couch, counsel at Bradley, previously served as General Counsel for HUD from 2007-2008.

MHI is pleased that HUD's Office of General Counsel will be led by an individual who understands the important role of manufactured housing in America and has the background to appreciate the challenges that regulatory overreach poses for the industry.

INDUSTRY PUSHES FOR MODIFICATIONS TO SAFE ACT

Almost 1,000 industry professionals representing 42 states have asked their U.S. Representative to cosponsor "The Preserving Access to Manufactured Housing Act" (H.R. 1699). Industry leaders are grateful to those who have contacted their State

Representatives and leaders urge those who have not to immediately contact their Representative.

Introduced by a bipartisan group of Representatives, "The Preserving Access to Manufactured Housing Act" addresses federal regulations implementing the Dodd-Frank Act that do not reflect the unique nature of the manufactured home financing and sales process. H.R. 1699 modifies the definition of "high-cost" loans so that manufactured home loans are not unfairly swept under this designation simply due to their small size.

The bipartisan legislation also amends the SAFE Act and the Truth in Lending Act to exclude manufactured housing retailers and sellers from the definition of a loan originator, so long as they are only receiving compensation for the sale of the home and not engaged in financing the loans.

ALL INDUSTRY SEGMENTS FLOURISHING

As reported in the last issue of The Northwest Report, every segment of the manufactured housing business is doing well. Manufacturers have reacted to growing demand for manufactured homes by hiring additional production workers and improving production facilities so increased production capacity can be achieved. Retailers are happy as demand is strong and a variety of financing options are available to home buyers.

Manufactured home community owners and operators, especially those in larger markets, have alleviated most if not all of their vacancies and they are busy replacing older homes with new homes in their communities. Manufactured home community operators have become amongst the nation’s leading manufactured home retailers, buying thousands of homes each year for their communities. YES! Communities, based in Denver and MHI’s Community Operator of the Year has purchased over 4,000 new manufactured homes in the past few years for their communities.

FINANCING A MANUFACTURED HOME COMMUNITY

Interest rates have stayed low and remain stable as the mortgage market enjoys strong, solid growth while continuing to exercise prudent underwriting practices. Financing remains readily available to real estate asset classes, including manufactured home communities.

The latest interest rates for manufactured housing community financing or refinancing on the West Coast remain at or near these rates: Three-year fixed, 3.985%, five-year fixed, 4.165%, seven-year fixed, 4.285%, ten-year fixed, 4.415% and fifteen-year fixed at 4.325%. This represents a slight decrease over previously advertised rates and they certainly remain very attractive. Rates can vary depending on the quality and location of the asset and other determining factors. Annual renewable mortgages (ARM) are as low as 2.450% for highly qualified borrowers.

CONSIDERING A PURCHASE OR SALE?

No brokerage firm in the Pacific Northwest or on the entire West Coast has a better grasp of market conditions than **Northwest Park Brokerage**. We intimately understand the business and have relationships with buyers and sellers who are serious, qualified and motivated. Additionally, with inventory levels at an all-time low, now might be the perfect time to consider a market evaluation of your community. There is a big demand for large and small communities in both metro and rural locations. **Give us a call at 206.652.4100.**

Upcoming Events

MHCO Management Seminar

June 1, 2017
Medford, Oregon
MHCO 503-391-4496

2017 MHI Summer Legislative Fly-In

June 26-27, 2017
Hyatt Regency Washington on Capitol Hill
Washington, DC

George Allen's 26th Annual International Networking Roundtable

September 6-8, 2017
Location to be Announced Soon
George Allen – 877-663-4764

MHCW Washington Events

Inland Empire Unit Meeting – September 12th
Spokane Training Session – September 13th
Yakima Training Session – September 14th

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2017 MHI Annual Meeting

September 17-19, 2017
Disney's Grand Floridian Resort
Orlando, FL

2017 NCC Fall Leadership Conference

November 1-3, 2017
Westin Michigan Avenue
Chicago, IL

Over $550,000,000 in park sales. Visit our website at www.nwparks.com

For more information on manufactured home communities for sale or an assessment of your community call Bill Jackson of Northwest Park Brokerage at 206.652.4100 or email Bill at: billj@nwparks.com

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