



# Ways to Address the Need for Manufactured Housing and Manufactured Home Parks



Charlie Schmehl, [cschmehl@urdc.com](mailto:cschmehl@urdc.com)  
Urban Research and Development Corporation

81 Highland Av., Suite 120  
Bethlehem, Pennsylvania 18017 610-865-0701

# Notes

- This presentation is not intended to provide legal advice. Please consult with a knowledgeable attorney.
- MPC = The PA. Municipalities Planning Code.
- In zoning, we treat the terms “manufactured homes” and “mobile homes” as having the same meaning. These homes are built to the HUD Manufactured Housing construction standards.
- “Modular homes” or “Sectional homes” meet the Uniform Construction Code, and are not part of this presentation.

# **PA. Supreme Court Case Prohibits Discrimination Against Manufactured Housing**

- In 1986, the PA. Supreme Court in *Geiger v. North Whitehall Township* ruled that it was not valid to prohibit an individual manufactured home on a lot, where site-built single family homes were permitted by right. The court said it was an arbitrary and unreasonably discriminatory regulation, and that there was no logical basis for the differing treatment of the housing types.
- Unfortunately, this case is not widely known by municipal officials, and many municipalities continue to violate the court's directive. Therefore, it would be desirable to write this existing standard into the MPC.

# Neighborhood Opposition

Manufactured home parks have great potential to provide affordable housing. They should be allowed in appropriate areas as permitted by right uses. Any proposal to make it easier to provide new housing is likely to experience resident opposition. Part of the problem is that municipal governments are often controlled by upper-middle-income owner occupants, and the voices of persons who want to move into the community are not heard at public meetings.

School costs are often used to try to stop new housing, even when the local district has excess capacity. Statistics show that new manufactured home parks often generate few new school kids. They typically have fewer bedrooms than other new housing.



**PUBLIC COMMENT**

Never forget about the children



# How to persuade municipalities to allow for manufactured housing?



- It should be pointed out that many local officials could not afford to buy or rent the houses they live in, if they had not bought the house many years ago.
- Many children of elected officials cannot afford to live in the community where they grew up. Many firefighters, police officers and school teachers cannot afford to live in the community where they work.
- Many people are having to commute long distances from their jobs to find affordable housing, which increases congestion, consumes energy, creates air pollution and takes time away from families.
- Local officials should be shown photos or videos of modern manufactured homes and manufactured home parks, and invited to tour a location. They should also be provided information about the quality, safety and wind-stability of modern HUD code homes, as opposed to dangerous and ugly units of the 1960s. They also need to understand that modern manufactured homes are rarely moved after their initial placement.
- One story homes are valuable for older persons and persons with disabilities, and often are in short supply in many municipalities.

# Alternatives for legal challenges of zoning

- If zoning is overly strict, a developer has options to:
  - Request a regular zoning amendment, which can involve the Governing Body refusing to consider it or delaying any consideration forever.
  - Submit a “curative amendment” to the Governing Body, which must hold a public hearing and decide upon the request. These types of hearings at the local level can last a full year.
  - Submit a “substantive challenge” to the Zoning Hearing Board, which must hold a public hearing and decide upon the request. Municipal boards rarely find their own ordinances to be invalid. Even if the ZHB finds the zoning to be invalid, the ZHB can only recommend a zoning amendment to the Supervisors to provide the relief.

Some municipal officials realize they will lose a legal challenge, but they want to be able to “blame the judge” for allowing a development.

# Legal pressure to convince municipalities to allow for manufactured housing

- It is preferable to convince a municipality that they are likely to lose a legal challenge than to actually have to go through the challenge. Municipalities often draw out the local hearings for many months. Most zoning challenges take at least 2 years until they are decided by the Commonwealth Court, and are expensive to carry out.
- Even if a developer wins a challenge, they effectively may lose, because they have been paying debt service on the land, and the municipality may find ways to be uncooperative even after a judge orders that a development be allowed. For these reasons, court challenges involving manufactured housing have become increasingly rare.



- Typically zoning challenges require large expenses by an applicant and years of delay. Major challenges are typically eventually decided upon by the Commonwealth Court after a couple years, but sometimes the challenges get referred back to a municipal board, which consumes even more time before there is a final decision.





# How to use legal pressure to convince municipalities to allow for manufactured housing?

- Section 604(4) of the MPC says that every zoning ordinance shall allow for “mobile homes” and “mobile home parks.” Court decisions have addressed whether a municipality has provided sufficient opportunities for the municipality’s “fair share” of the region’s need for manufactured home parks, considering the amount of available land in the municipality.
- The housing types do not have to be built, but have to be allowed. The areas that allow different housing types must be buildable land and must not be “taken” in size.
- If a municipality has allowed manufactured home parks in an area, but that area is entirely developed or is not physically buildable, the courts may find that a “de facto” exclusion of manufactured home parks has occurred.



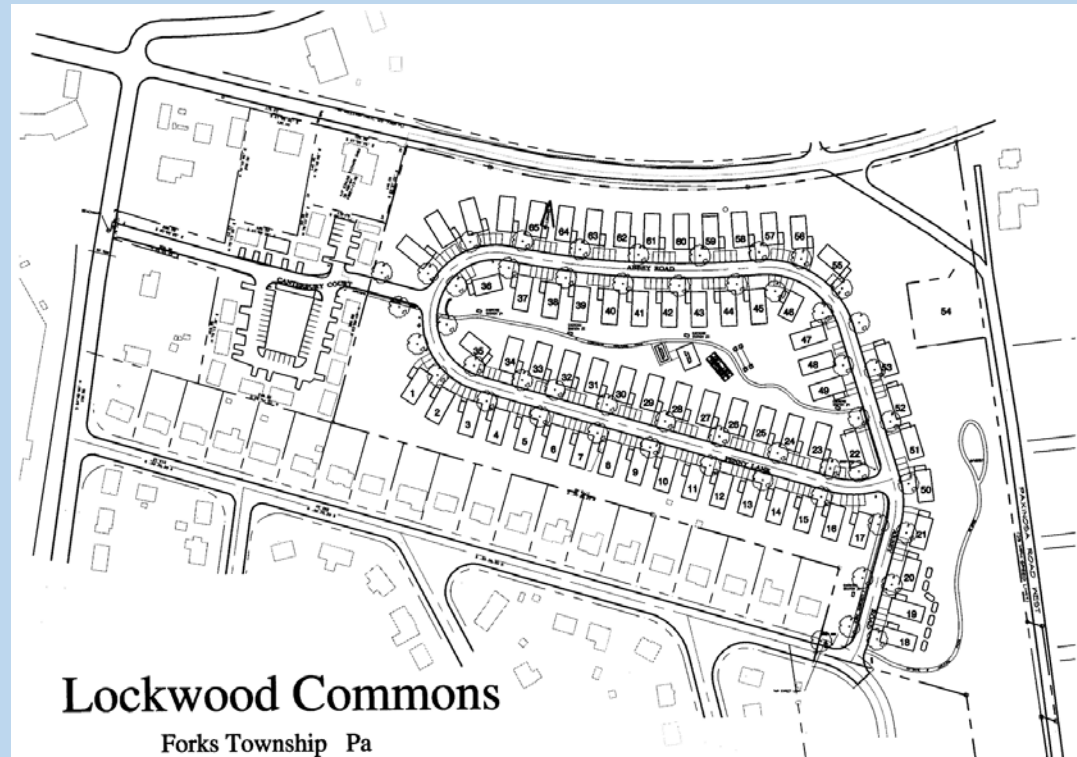
# Standards for Manufactured Home Parks

- Proposing local proper standards for manufactured home parks will help gain municipal acceptance. The parks should have to meet the same standards as site-built home developments (such as paved streets, street trees, stormwater controls), with a few stated exceptions.
- If private streets are used, the municipality should be willing to accept some reduced standards, such as allowing use of ADA-accessible trails instead of sidewalks, allowing local streets to be more narrow, and allowing alternative turnarounds instead of wide cul-de-sac bulbs.



# Standards for Manufactured Home Parks (cont.)

- Unfortunately, many municipalities only provide for manufactured home parks in undesirable locations, such as between a junkyard and a sewage treatment plant.
- A density incentive and reduced parking could be offered if the developer voluntarily restricts the development to persons age 55 and older, in compliance with the Federal Fair Housing Act Amendment.
- A maximum density of 5 units per acre is common. Excessive separation distances could make this density impossible to achieve. If a landscaped perimeter setback area is required, it will help gain acceptance from the public.



**Conditional and Special Exception Approval Processes** are not only time-consuming and expensive for the applicants, they are also time-consuming for municipal officials. If a municipality or neighbor opposes the project, these hearings can continue for a year or two.

If there are proper conditions written into the zoning ordinance, there is less need for this extra approval process.

Are you lonely?

Tired of working on your own?  
Do you hate making decisions?

**HOLD A MEETING!**

You can —

- See people
- Show charts
- Feel important
- Point with a stick
- Eat donuts
- Impress your colleagues





# Reducing Delays and Streamlining Procedures

Delays in obtaining development approvals are a major factor in increasing housing prices. Municipalities can respond by the following, which are allowed by the MPC:

- Using the Hearing Examiner process for some Zoning Hearing Board and conditional use applications. One person is appointed to hear the testimony, and then the full board reads the transcripts and makes the decision. It makes it much easier to schedule hearings in a timely manner.
- Giving the Planning Commission authority to approve certain types of subdivisions and land developments, without needing governing body approval.
- Not requiring a preliminary approval for minor subdivisions and minor land developments.

# Upgrading Older Manufactured Home Parks

- Many older parks include units that should be voluntarily replaced, particularly if the units do not meet the 1974 or later HUD Code.
- Zoning standards may make it hard to replace the older units with new units, particularly because the newer units are usually longer and wider than the old units.
- Zoning Ordinances can include wording to specifically allow replacement of units, with reasonable flexibility on dimensional standards. For example, a 20 feet separation between homes might normally be required, but it might be reduced to 15 feet if it involves the replacement of an old unit.
- If an expansion of an existing park is allowed, it may provide the financing needed to upgrade an old park, such as funding to repave roads and improve the reliability of water and sewage systems.

# Standards for Individual Manufactured Homes Outside of Manufactured Home Parks

- It is easier to achieve acceptance of individual manufactured homes if:
  - the homes will have an enclosure around the base of the unit that appears the same as a perimeter foundation on a site-built home, instead of using metal skirting, and
  - the homes do not have a side of less than 16 feet wide facing a street, where that width would conflict with the pattern of wider neighboring homes.
- Manufactured homes outside of a park are typically required by zoning to meet the same dimensional requirements as a site built home.



# Side-by-Side Duplex Manufactured Homes

- This is a new type of manufactured housing product that has been approved by HUD and offers great potential to supply additional affordable housing units on less land. It typically involves one 15 feet wide manufactured home that is attached by a vertical fire wall to a second 15 feet wide manufactured home. The combined two unit building is as wide as a double wide. It could be particularly attractive to relatives who want to live next to each other, such as a family living in one unit and then renting the second unit to their adult children, parents or grandparents. It also would make it possible to achieve higher densities in manufactured homes parks.
- The PA. Municipalities Planning Code and local ordinances do not yet recognize this housing type. Currently, mobile/manufactured homes are defined as only including one dwelling unit, in a detached dwelling. It would be desirable to:
  - a) propose an amendment to the PA. Municipalities Planning Code (MPC) to recognize these homes, and
  - b) offer model language for municipalities so they could allow the homes wherever similar site built homes are allowed and in manufactured home parks.
- Examples of these homes are included on the following slides, which are provided courtesy of Cavco/Fleetwood of Rocky Mount, Virginia.





# THE Anthem

DUPLEX SERIES



2 Bed	1 Bath	1137 Sq Ft
2 Bed	1 Bath	1137 Sq Ft

## THE ROANOKE



\*Features and sizes may vary based on geographical location. 11.29.23

©2023 CAVCO INDUSTRIES INC. ALL RIGHTS RESERVED.  
Manufactured by Cavco, a Cavco Industries company. Cavco Industries is a registered trademark of Cavco Industries, Inc. All other trademarks are the property of their respective owners. Features and sizes may vary based on geographical location. 11.29.23

[cavcoanthem.com](http://cavcoanthem.com)

MORE HOMES FOR MORE PEOPLE

# THE Anthem

DUPLEX SERIES



## SINGLE WIDE THE SUGAR RUN

2 Bed	1 Bath	1178 Sq Ft
3 Bed	2 Bath	1178 Sq Ft



cavcoanthem.com



©2023 CAVCO INDUSTRIES INC. ALL RIGHTS RESERVED  
 Important: Because we continually update and modify our products, it is important for you to know that our brochures and literature are for illustrative purposes only. ILLUSTRATIONS MAY BE OF OPTIONAL NATURE. All the information contained herein may vary from actual homes we build. Dimensions, area, volume, weight and other material amounts from actual work to order or work. We reserve the right to make changes at any time without notice or obligation in price, subject, material, options, plans, features and models. Please check with your retailer for specific information about the home you are viewing.



This is a new New Manufactured Home Park with Double Wide Units Attached with side garages, separated by a vertical fire wall. These were approved with a zoning variance for the attached garage wall. It is being developed by High Real Estate Group as part of the Greenfields Development, which is east of Greenfields Road in E. Lampeter Twp., Lancaster County.



# HUD Preemption of Local Regulations

Federal law states that municipalities generally cannot discriminate against manufactured housing vs. site-built housing. However, HUD has interpreted this law to only apply to construction codes, and not local development regulations.

The federal law is:

“(d) Supremacy of Federal standards

Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no *State or political subdivision of a State* shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding the construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard. *Federal preemption under this subsection shall be broadly and liberally construed to ensure that disparate State or local requirements or standards do not affect the uniformity and comprehensiveness of the standards promulgated under this section ...*”



# HUD Standards Regarding Fair Housing

- HUD has been working on standards for “Affirmatively Furthering Fair Housing” for several years. These provisions have been politically controversial and the full impact is not yet known.
- In general, HUD is seeking to make sure that municipalities that receive Federal community development or housing funds do not establish policies or regulations that would have the effect of causing discrimination against lower cost housing or that could have a disparate impact upon housing for lower income persons, minority groups or persons with disabilities.
- There are some indications that HUD will condition future grants upon municipalities taking constructive actions to removal unnecessary regulations upon housing. Municipalities and Counties are already required in a report to identify any regulations they have in effect that may conflict with the intent of the Federal Fair Housing Act or the Americans With Disabilities Act.
- This consideration might be used to convince municipalities to be more permissive in allowing manufactured housing and manufactured home parks. Complaints could also filed with HUD’s Fair Housing staff if a municipality is not following this federal directive.

# Incentives for Affordable Housing

- Municipalities have a great deal of flexibility in offering incentives for affordable housing. These incentives most often include a higher density, smaller dimensional requirements or reduced parking.
- Bethlehem has limited their LERTA tax abatement program to only being available for housing projects that include a minimum percentage of affordable units, instead of offering the incentive to all new development within a specified land area. This is because there was plentiful demand for upscale apartments without needing incentives, but the economics did not work for affordable housing.
- With a density bonus, it is necessary to offer at least one additional market rate unit for each affordable unit. Otherwise, there is no real incentive.

# PA. Legislative Proposals to Address the Housing Crisis

- A variety of ideas are being discussed by the Legislature to address the housing crisis.
- SB1126 was introduced by Sen. DiSanto this year. While some other proposals are more controversial, the provisions for manufacturing housing could be separated into its own bill. It would require that manufactured homes be allowed wherever site built homes are allowed, and require that there not be additional standards on manufactured homes that do not apply to site-built homes. Many other states have adopted this type of law, including NY State.
- Other ideas have involved Pennsylvania offering specific infrastructure grants, preference in grants, or other incentives to municipalities that offer wide housing opportunities.

# PA. Legislative Proposals to Address the Housing Crisis

- The Legislature could provide reimbursement grants to municipalities to cover the costs of zoning updates, provided the municipality only receives the grant if the municipality proves they have adopted revisions that substantially increase housing opportunities.
- The Legislature has considered requiring that certain actions be taken by municipalities of 5,000 population in growing counties. This could take the form of establishing a “menu of options” and each municipality would have to prove they have carried out at least 4 of those 12 options within the next 2 years. This process would still provide flexibility for local decision-making.
- One potential way that any new State housing requirements could be enforced upon municipalities would be to provide enforcement authority to the PA. Attorney General to sue municipalities. This would be similar to the existing ACRE process that addresses excessive regulations upon agriculture in PA. With the ACRE process, the Attorney General seeks a negotiated settlement in almost all cases that results in a zoning amendment, and only goes to court as a last resort.



