Inheritance - What You Need To Know

I am often contacted by families following the death of a mobilehome resident about what they should do to get the home secured and sold, or just to obtain an understanding of their rights as heirs to the estate. The Mobilehome Residency Law (MRL) portion of the California Civil Code contains a specific section which sets forth the rights of heirs or joint tenants when the homeowner has died. It is important that certain steps be followed by the heirs to ensure that they protect their rights to the home. It is equally important that heirs know their rights ahead of time, so they will not fail to do what is necessary to maintain the mobilehome tenancy after the death of a family member. Otherwise, the park owner can use what is typically a time of confusion and emotions to deprive the estate of what is often its most significant asset value. Where rent is not paid, or some other violation of park rules occurs due to the actions of unsuspecting relatives, the park owner can use it as justification for requiring that the home be evicted from the park, or to decontrol and raise space rent where there is local rent control in place. Absolute vigilance by the decedent's family is required to ensure that this does not occur.

Preliminarily, a homeowner can take certain steps in advance to ensure that his or her family understands what needs to be done to protect the mobilehome inheritance.

1. KNOW YOUR RIGHTS. This is essential. A homeowner needs to know his or her rights so that he or she can communicate them to family members. Every mobilehome resident should have a copy of the MRL, which is distributed by most park owners annually. Anyone can go online to download a copy of the complete MRL for free at: www.sen.ca.gov/mobilehome. Any resident can write to the Senate Publications Office in Sacramento to purchase a copy for $7.00. Or any resident should be able to go to the park office and request a copy. The MRL requires a park owner to distribute a copy to all residents each year where a "significant change" of the MRL provisions is made by the legislature, so there will often be a copy kept in the home. But heirs who do not know anything about the MRL will need to know where to look for a copy of the law. This leads us to step 2 below.

2. INFORM YOUR HEIRS OF WHERE TO FIND INFORMATION AHEAD OF TIME. Just as you would tell your family members where to find important papers, or the details of disposition of property and funeral instructions, you also need to tell your heirs how to secure and sell your home after your passing. Be sure that they know where to find a copy of Civil Code section 798 78, which is the MRL section that sets forth the rights and responsibilities of heirs. Make a copy of that section and leave it in a place where they can locate it, or give it to them in advance with a copy of this article.

3. WHAT SHOULD THE HEIRS DO AFTER THE HOMEOWNER HAS DIED? It is important that heirs act immediately to prevent the loss of their inheritance rights in the home. There are two options set forth in section 798.78. First, any heir, joint tenant or personal representative may seek to sell the home "in place" in the park. Or, in the alternative, any heir or joint tenant may seek to establish a tenancy with the park and move into the home. But for either of these steps to be available, it is required that the decedent's estate satisfy all of the decedent's responsibilities, such as payment of rent and utilities or maintenance of the homesite. Thus, if the rent is allowed to go into default or other maintenance issues arise which are not performed after a notice is served (this might only be taped to the door), then the right to establish a tenancy or sell the home is lost. 798.78(b) specifically provides that in such a case the park owner can require the home to be removed from the park. IT IS THUS CRITICAL THAT THE HEIRS ASCERTAIN WHAT THE SPACE RENT AND UTILITIES PAYMENTS ARE AND PAY THEM IMMEDIATELY AS THEY COME DUE. The death of the homeowner does not deter many park owners from claiming a breach of the rental agreement if the rent or utilities payment is even one day late. And since the heirs may not visit the home immediately, they might be unaware that the first of the month has rolled around and a rent payment is due. No payments can be missed if the family wants to be certain that its rights are protected. And if a three-day notice to pay rent or utilities is served, it must be satisfied within the three day period. The three days are calculated from the day after the notice is served. Since service of any 3-day or 7-day notice by the park does not have to be personal, and the notice can thus be posted on the home and mailed to that address, it is important that the heirs visit the home regularly to check for posted notices, and that the mail be immediately forwarded to an

address where it will be read. There is nothing worse than opening an envelope after the fact to find that an important deadline has been missed. If a rent payment is not made within the three-day period, and there is a loan on the home, the heirs should immediately contact the lender and request that it "cure" the rent default by paying the rent to the park. Under 798.56(e) (4), a bank may cure a rent default twice every twelve months, and the park owner is obligated to accept the payment. This section presumably also applies where the homeowner has died, but the estate desires to maintain the right to sell the home "in place".

Equally important is the duty of the estate to maintain the physical appearance of the home and the homesite. This means that landscaping must be maintained, and debris cannot be allowed. Any seven-day notices for Rules violations need to be corrected at once. Newspapers should be stopped, the home should be secured, and vehicles should be either removed or otherwise stored only in the carport at the homesite. A gardener should be hired to mow and weed the homesite if the heirs live out-of-town or otherwise are not likely to visit the home often. But it is also important to check for notices at the home regularly, in case something is posted that is never received via mail.

To ensure the best possible communication, the heirs should meet with management as soon as possible following the death and identify a new person and address for communication purposes. Rent bills and all notices from the park should be directed to that new address, so that communications do not fall into a "black hole".

4. **WHAT THE HEIRS SHOULD NOT DO.** It is equally important to understand one of the most frequent problems encountered by estates. Often, the heirs allow someone to move into the home if it is otherwise vacant in order to be a caretaker and watch over the home. This certainly sounds reasonable enough. After all, the estate desires that the home be protected from crime or vandalism. And if it is perceived that cousin Bob will most certainly qualify to purchase or occupy the home, it might be tempting to allow him to just move into the home early without qualifying for tenancy first. This should not be done. Most all parks throughout California do not allow a non-tenant to occupy the home if a tenant is not present. Thus, either scenario could trigger an immediate seven-day notice of a rules violation. If the estate desires to allow someone to occupy the home, written permission should be obtained from the park first. Otherwise, it should never be allowed to occur, since the result could be a termination of the estate's right to sell the home "in place". Note that we are only speaking of occupancy here; any authorized person, including heirs or third party contractors or realtors can enter the home to clean, repair or secure it. But no one can occupy it by spending the night or establishing it as their residence. If a seven-day notice is received for this sort of violation, the occupant needs to be removed at once. Note that this scenario also does not help the potential tenant, whom the park might categorize as a "rules violator" when an application for tenancy is later presented for consideration.

5. **WHAT ABOUT SATISFYING AGE RESTRICTIONS?** In senior parks, or parks which seek to meet the Federal guidelines for "housing for older persons", homeowners who are 55 or older often leave the home to much younger heirs who are under age 55. The immediate reaction of these younger heirs is that they are not old enough to live in the park, and thus cannot qualify for tenancy. But special exemption language in the Federal law allows heirs who are under age 55 to still inherit the home and live in it without compromising the park's senior status under Federal law. Otherwise, the inheritance might prove to be without value for the family, and this was never the intent of the Congress when the 1988 laws regarding age limitations were passed. This means that a park can never reject an heir based upon age status by arguing that it will lose its senior status under Federal law if a 40-year old heir is allowed to occupy the home. The key is that only the heirs or blood relatives of the deceased homeowner would probably qualify for this exemption. Note that if the park otherwise has an age limit for all residents in its own rules, those limitations may still need to be complied with.

6. **CAN THE PARK RAISE THE SPACE RENT?** The answer depends upon the local laws. If there is a local mobilehome rent control ordinance, it should be consulted. Many ordinances do not allow a park to raise rents to the family following the death of the homeowner. But if the family sells the home to a dealer, the rent can probably be raised at that time, since local rent control typically does not protect commercial dealers or agents.

The ability to protect a home during the inheritance process can be tricky. But if these steps are followed, the family of a deceased homeowner should be able to inherit and realize the value of the mobilehome which has been left to them in a Will or Trust. Just as importantly, the intent and last wishes of the deceased homeowner can be honored and carried out.

About The Author: Mr. Stanton has been a praticing attorney since 1982, and has been representing mobilehome residents and homeowners associations as a specialty for over 20 years. His practice is located in San Jose, and he is currently the corporate counsel for the golden state manufactured homeowner league (GSMOL).

We thank Mr. Stanton for his contributions