

ISSUE BRIEF: ZONING AND LAND USE PLANNING

There is a growing trend of municipalities trying to use zoning and other land use regulations to restrict or eliminate manufactured housing in their jurisdictions. These actions could reduce the supply of critically-needed affordable housing for working families across the country and may be discriminatory under the Fair Housing Act.

TALKING POINTS

- There is an affordable housing crisis in the U.S. and some communities are making a bad situation worse. Counties and towns across the country are restricting an individual's choice of and access to affordable housing by using land use planning ordinances to mandate strict construction codes and land use policies which effectively eliminate manufactured housing from a community's housing stock. This not only has a chilling effect on communities and the local real estate market, but can reduce the supply of critically-needed affordable housing.
- The attempts at cities discriminating against manufactured housing are wide ranging. Some cities now restrict community owners from replacing units when someone moves, others are looking at banning them altogether and some are segregating them at locations far out from local amenities such as schools, transportation, doctors and jobs.
- Many of the ordinances may be considered discriminatory and have a disparate impact on the protected classes under the Fair Housing Act.
- MHI urges HUD to use its authority to pre-empt strict local manufactured housing construction standards that go well beyond the HUD code, and to become involved in other egregious land use and zoning mandates that effectively eliminates manufactured housing as a form of affordable housing.
- If HUD does not take more action to pre-empt these efforts, then these local ordinances will continue to multiply, and the supply of critically-needed affordable housing will be reduced.
- MHI with its state manufactured housing associations have established a Zoning Task Force to encourage HUD to take a more aggressive position on these cases and to assist local manufactured housing stake holders in opposing these types of ordinances.

BACKGROUND

The Manufactured Housing Improvement Act of 2000 gives HUD the broad authority to pre-empt strict local manufactured housing construction codes. MHI encourages and works with HUD to use this authority to challenge the local zoning ordinances and other requirements that discriminate against manufactured housing and those who live in it. MHI will continue to urge HUD to increase its reviews of local ordinances and issue public statements in instances where pre-emption is clearly warranted.

There are numerous examples across the country where municipalities have used arbitrary land planning to adversely impact the placement of manufactured homes. The most common forms of zoning restrictions include restricting the age of homes in land lease communities, requiring increased spacing between homes when replacing older homes, requiring larger lot sizes homes and banning manufactured homes in residential areas.

Additionally, MHI is asking HUD to investigate specific cases where the land use regulation seems to have a disparate discriminatory impact on a class of persons protected under the Fair Housing Act and/or its equivalent state and local housing discrimination statutes.

Updated: September 9, 2016

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