

Proposed New Standard of Title: Mobile Home Owners' and Tenants' Right of First Purchase or First Refusal on Sale of Mobile Home Park

BY ELLEN L. SOSTMAN

The Standards of Title Committee has adopted proposed new Standard 31.7, addressing P.A. 23-125, effective October 1, 2023, now codified as Conn. Gen. Stat. Secs. 21-70b and 21-70c. The Act provides that, if the owner of a mobile home park decides to sell it, the park must first be offered to an association primarily comprised of owners of mobile homes located in the park and/or those tenants of such mobile homes who are immediate family members of the owner (right of first purchase). The park owner may only enter

into a contract to sell the park before offering it to such an association if the contract is subject to the mobile home owners' and tenants' right to purchase (right of first refusal).

If approved, this new standard will become part of Chapter 31, Parties in Possession and Leaseholds, of the Connecticut Standards of Title, since all mobile home parks consist of spaces or "lots" that are leased to the owners of mobile manufactured homes, who are thus tenants of

the park owner. The owners of the mobile homes may also be the occupants, or may allow family members or unrelated third parties to rent and occupy the mobile home.

What follows is a brief synopsis of the proposed new Standard 31.7.

PROPOSED STANDARD 31.7 Mobile Home Owners' and Tenants' Right of First Purchase or First Refusal on Sale of Mobile Home Park

Effective October 1, 2023, an association of owners of or tenants occupying a mobile home located in a mobile home park that is the subject of a sale, lease or transfer has a right of first purchase or right of first refusal under the conditions set forth in Secs. 21-70b and 21-70c. Title to the land comprising such mobile home park is unmarketable unless and until such right has been exercised, has expired or is released.

Following the above headnote are eight paragraphs of comments that expand on and explain the specifics of these new rights. Comment 1 identifies the public act which created the new rights, P.A. 23-125, and its effective date of October 1, 2023, and further notes that Section 1 of that Act also contains new definitions that replace those contained in Conn. Gen. Stat. Sec. 21-64. The reason for the proposed new standard is also set out in Comment 1: the new statute sections create a new encumbrance on the title to the land comprising the mobile home park that is referenced nowhere else outside



of the statutes and is not recorded in the chain of title.

Comment 2 distinguishes the new right of first purchase or right of first refusal from a right already existing under Conn. Gen. Stat. Sec. 21-70f that applies when the owner of a mobile home park seeks to discontinue the use or to sell to someone who intends to do so. Section 21-70f is unaffected by P.A. 23-125. Comment 2 also contains the limitations on the applicability of the new rights: they don't apply to mobile home parks containing fewer than 15 lots or spaces, or to certain transactions, set forth in Comment 2.

Comment 3 contains the specific requirements for the notices that must be given to the owners of the mobile homes in the park by the park owner, both by mail and by personal delivery, and the notices that must be given to any existing association of park residents, the Connecticut Department of Housing, the Connecticut Department of Consumer Protection and CHFA.

Comment 4 notes that, notwithstanding that notice of the sale must be given to the mobile home owners, they are required to organize themselves into an association in order to exercise the right to purchase. That association must represent 51% or more of the owner-occupants of the mobile homes and/or owners of mobile homes that are occupied by members of their immediate family. Once organized, it may give notice to the park owner of its intent to purchase the park and may record that notice in the land records. It has 180 days after the last notice was given to close on the purchase of the park. DOH and CHFA are required, on the request of the association, to assist in developing financing for the purchase.

Comment 4 also contains recommendations for actions not required by the statute. First, since the association may take title to the land and may also close a mortgage on it, it is recommended that it organize as an entity recognized as capable of holding title to real property in Connecticut. Second, it is recommended that the personal delivery of notices required by the statute be documented, either by having them served by a marshal or other officer who will make a return of service or that the recipient of the notice be required to sign a dated receipt, in order to

be able to document the commencement of the 180 day limit by which the association must close.

Comment 5 sets out the time limitation contained Conn. Gen. Stat. Sec. 21-70b(c), which requires that an agreement for the sale of the park to the association, executed by the association and the park owner, be recorded in the land records no later than 90 days after the last of the required notices was given or the association's right to purchase becomes void. Comment 5 further notes that the status of the 90 period is not ascertainable without inquiry made to the park owner to produce a list of the owners of mobile homes within the park along with documentary evidence of the notices given by mail and personal delivery, to confirm that all owners were notified and to establish whether the 90 day period has passed. Although not required by statute, the termination of the association's right to purchase must be documented in the land records by the recording of an affidavit prepared in accordance with Conn. Gen. Stat. Sec. 47-12a, attaching copies of the notices given, in a manner similar to the tax collector's affidavit required by Standard 29.1.

Comment 5 further recommends that, even in the case of a sale to the association of owners and tenants, such an affidavit be recorded as evidence that the notice provisions of the statute were complied with, reducing the possibility of a later challenge to the title.

In the event an agreement to purchase between the park owner and the association of owners and tenants is recorded in the land records and is not followed within 90 days by a conveyance to the association, Comment 5 states that title to the land comprising the mobile home park is unmarketable until either a conveyance to the association is recorded or a release identifying the agreement by volume and page of recording, signed by the association and witnessed and acknowledged, is recorded in the land records.

Comment 6 addresses the circumstance in which multiple parks are owned by the same party and some or all are being offered for sale or a contract of sale has been entered into for multiple parks, or the entity that owns the parks is selling a controlling interest by stock transfer or other non-cash instrument. In such case,

the required notices must still be given and the owner-occupants and/or their related tenants in each park must still organize themselves into an association, but the association then has the choice of matching any existing offer or, if the association wishes to purchase only the park in which it was formed, submitting its own offer to the park owner for that park. The park owner must consider the offer but is neither bound to sell to the association nor bound to postpone closing a sale on any existing contract.

Comment 7 notes that an association formed under Section 21-70b may assign its right of first purchase or first refusal to the municipality in which it is located or to a housing authority located in that municipality or to a non-profit organization, for the purpose of continuing the use of the property as a mobile home park. Any such assignment must be recorded to avoid a break in the chain of title, particularly when the association has recorded notice of its intent to purchase.

Comment 8 addresses Conn. Gen. Stat. Sec. 21-70c, which provides that, on a sale by the park owner to an association formed under Sec. 21-70b or its assignee which sale requires the continued maintenance of the property as a mobile home park, the seller shall be exempt from payment of the conveyance tax and the buyer shall be liable for both the municipal portion of the conveyance tax and 50% of the state conveyance tax, unless the transaction is otherwise exempt.

After the 60 day comment period established by the CBA bylaws, which begins to run on the date of publication of this article, the Committee will consider any comments received and will make whatever changes to the proposed standard it deems appropriate. Proposed Standard 31.7 will then be submitted to the Board of Governors for final approval. A complete copy of Standard 31.7 is available from the CBA. Any comments should be submitted to the committee chair, Ellen L. Sostman, by email to eslaramie15@gmail.com. □

Ellen L. Sostman is a retired senior title counsel at Connecticut Attorneys Title Insurance Company, a member of the CBA's Real Property Section's Executive Committee, and chair of the Standards of Title Committee.