

# Manufactured Housing



By

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Two Story Now

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## **Manufactured Housing**

- Objectives
- What is required when filing
- What is the landlord duty
- What is the constables duty

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## **Manufactured Housing**

- *Reference Materials*
- Property Code Chapter 94 -  
Manufactured Home Tenancies
- Texas Civil Practice and Remedies  
Code
- Texas Rules of Civil Procedure
- Justice Training Center Guides

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## **Chapter 94- Manufactured Home Tenancies**

- This act became effective April 1, 2002
- The act applies only to a lease agreement entered into on or after that date.

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## **Manufactured Housing Definition**

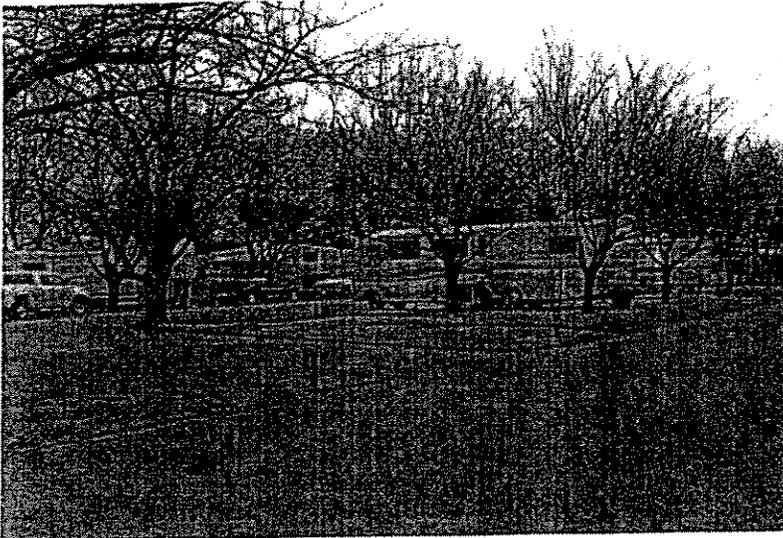
- **Manufactured Home Community-**  
Means a parcel of land on which four or more lots are offered for lease for installing and occupying manufactured homes. TPC 94.001 (4)

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Is this a Manufactured Housing Community?

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Is this a Manufactured Housing Community?

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## **“Lease agreement” 94.001 (2) TPC**

- A written agreement between a landlord and a tenant that establishes the terms, conditions, and other provisions for placing a manufactured home on the premises of a manufactured home community.

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## **Definitions continued**

- Premises-
- means a tenant's manufactured home lot, any area or facility the lease authorizes the tenant to use, and the appurtenances, grounds, and facilities held out for the use of tenants generally  
TRC 94.001 (8)

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## Definitions continued

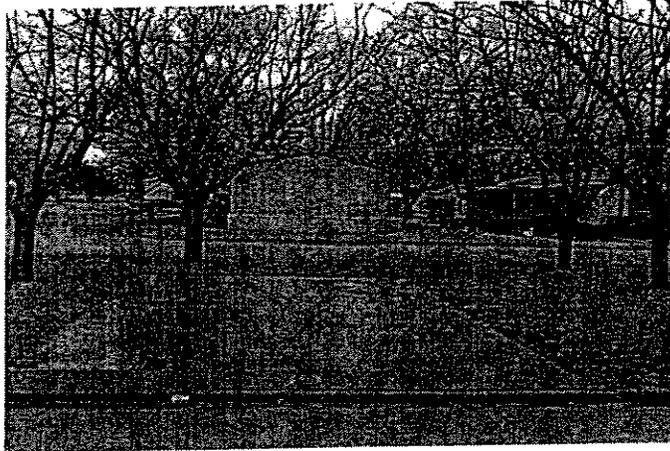
- Manufactured Home-includes recreational vehicle TPC 94.001 (3)
- Manufactured Home Lot-means the space allocated in the lease agreement for the placement of the tenant's manufactured home and area adjacent as designated in the lease. TPC 94.001 (6)

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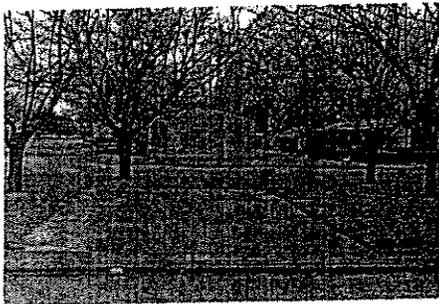


An Occupied Lot or Space

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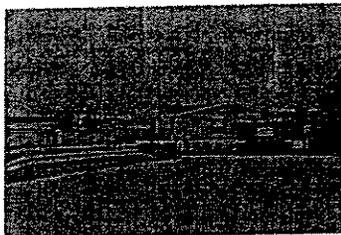
Vacant Lot or Space



Vacant Premises



Occupied Premises

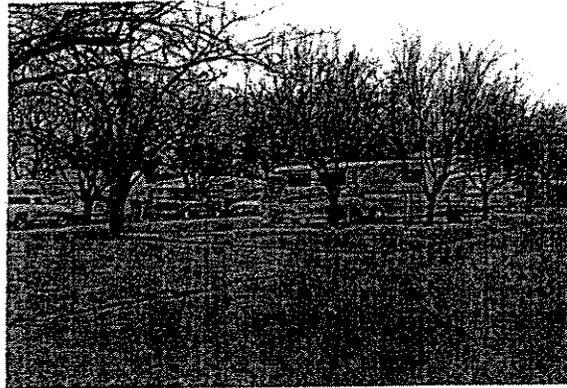


Other parts of the *premises* tenant has access to because he is a tenant in the community

## Definition continued

- Recreational vehicle-
- means a motor vehicle primarily designed as a temporary living quarters for recreational camping or travel use TPC 94.001 (9)
- Tenant - means a person who is: authorized by agreement to occupy a lot and is obligated to pay rent, fees, and other charges TPC 94.001 (10)

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Motor vehicle primarily used for housing

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## **Applicability 94.002 TPC**

- (a) This act applies only to a tenant who leases property for the purpose of situating a manufactured home or a recreational vehicle on the property
- (b) This chapter does not apply to
  - (1) a tenant who leases the manufactured home from the landlord
  - (2) personal property used for human habitation, excluding a manufactured home or recreational vehicle.

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## **Removal of a tenant from a manufactured home community**

- NOTICE – *When the rental agreement will not be renewed* notice must be given 60 days before the lease will not be renewed. This includes month to month tenants. TPC 94.055

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## **Removal of a tenant from a manufactured home community**

- When the land use will change and the land will no longer be used as a manufactured housing community the landlord must give 120 day advanced notice of termination.
- TPC 94.204

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## **Removal of a tenant from a manufactured home community**

- The landlord may terminate the lease agreement and evict the tenant if:
- The tenant fails to timely pay rent or other amounts due under the lease equal to 1 month's rent
- The landlord notifies the tenant in writing if the payment is delinquent
- The tenant must pay the amount within 10 days after the notice
- TPC 94.206

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## **Removal of a tenant from a manufactured home community**

- 94.203 (a) The landlord may prevent the tenant from entering the lot, evict a tenant, or require the removal of a manufactured home from the manufactured home lot only after obtaining a Writ of Possession under Chapter 24
- (d) The Writ may not issue until 30 days after judgment if the tenant pays the rent under that 30 day period.

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## **Removal of a tenant from a manufactured home community**

- Chapter 24 has 4 different time requirements for the Notice to Vacate
- 10 Days for failure to pay rent-94.206 TPC – the tenant must be behind at least one months rent.
- 30 days for Foreclosure
- Immediately for Forcible Entry TPC 24.005
- 10 days if attorney fees are requested TPC 24.006

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## **Removal of a tenant from a manufactured home community**

- Chapter 24 rules apply:
- Six to ten day service rule
- Alternate service Rule 742A
- May request Jury trial
- Judgment becomes final after 5 days

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## **Removal of a tenant from a manufactured home community**

- The court will mail a copy of the judgment to the tenant at the last known address by first class mail no later than 48 hours after judgment is rendered
- The owner and any person who holds a lien against the manufactured home shall also be notified in writing by the court (if known) TPC 94.203

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## **Removal of a tenant from a manufactured home community**

- It is not necessary to mail a copy of the default judgment to the owner / lien holder if the tenant did not provide that information to the landlord  
TPC 94.203 (f)

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## **Removal of a tenant from a manufactured home community**

- Included are 2 sample Eviction Complaint Forms:
- Non-manufactured housing complaint form listed under Chapter 24 (page 11)
- Manufactured housing complaint form listed under Chapter 94 (page 12)

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## **Constable receives Citation**

- Log in - Date & Time
- Serves Citation in person or by rule 742a
- Returns citations before court date

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## **Writ of Possession**

- Log in - Date & Time
- Post the warning-Note the date and time posted
- Also note the date and time the writ is set to be executed The date to be executed must be at least 24 hours from the date posted.
- The writ is executed when possession is given to the landlord.
- TPC 24.0061 (d) (1)

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## **Writ of Possession 94.203 (f)**

- After executing a writ of possession for the manufactured home lot, the landlord removes the manufactured home from the lot, the landlord no later than 10 days after that date shall send a written notice regarding the location of the manufactured home to the tenant at the tenant's most recent mailing address.

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## **Writ of Possession**

- The landlord supplies the movers. TPC 24.0061 (d) (C) – TRCP 125 & 127 TPC 94.203 (f)
- The officer may engage the services of a bonded warehouseman or mover at their discretion.
- Keep in mind this is a civil suit. The county has no interest in the case. The county did not rent to the tenant. The county did not receive any rent payments.

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## **Writ of Possession**

- Before a Manufactured Home can be moved in Texas the mover must obtain a permit from The Texas Department of Transportation. Transportation Code 623.093 (d-f)
- The mover must have a clear tax statement from the county tax assessor collector or the Writ of Possession before the permit may issue.

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## **Writ of Possession**

- This was designed to collect back taxes due on these homes.
- The permit only permits one move to a storage facility or lot
- The landlord did not owe the taxes, therefore he can have the home removed with the writ of possession

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## **NOTE**

- The only writ addressed in this law was the eviction writ of possession
- All other writs require the payment of the taxes before the permit is issued
- The court order is also used to get a new "Statement of Ownership and Location" – this is the new name for a title of a manufactured home.

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## **Writ of Possession**

THE WRIT IS FOR

**THE SPACE ONLY**

It authorizes the removal of the manufactured housing from the lot and any other movable fixtures.

The landlord is granted possession of the lot.

TPC 94.001 (8)

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## **Writ of Possession**

- Your writ does authorize you to remove the manufactured housing. The manufactured housing is to be removed from the premises (the lot). Harris County does remove the tenants property and stores it through the same warehouseman.
- Some departments inventory the manufactured housing contents. (Liability)
- It is the mover's responsibility for correctly securing the contents before they move the home.

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## **Writ of Possession**

- The writ allows the landlord or warehouseman, acting under the officers supervision to remove the manufactured housing
- If the lien holder is acting as the mover for the landlord, he becomes a WAREHOUSEMAN and must store the home for 30 days.
- The writ is filed by the landlord, but is directed and is executed by the officer.

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## **Writ of Possession**

- If the landlord or officer uses someone other than the lien holder as the warehouseman, the landlord is responsible for notification of the tenant and the lien holder no later than 10 days after the home is removed.
- TPC 94.203 (f)

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## **Writ of Possession**

- The *Warehouseman* must release property to the tenant on payment of reasonable moving and storage charges attributed to the item being redeemed during the first 30 days. Eligible Items for redemption are listed in TPC24.0062 (e)
- After 30 days all charges must be paid to recover the remainder of tenants property.

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## **Writ of Possession**

- The lien holder cannot withhold the personal property of the tenant for back rent or delinquent mortgage payments.
- If at all possible the home and personal property should be stored in the county of jurisdiction.

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## **Writ of Possession**

- No less than 72 hours after the property has been removed from the lot the officer shall ---  
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- Deliver to the tenant in person or Post a copy at the premises and first class mail a written notice stating name, address, and phone number where his property may be redeemed within 30 days after payment. TPC 24.0062  
(b)

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## **Writ of Possession**

- If the tenant did not redeem his property the warehouseman's lien is established and the property may be sold by the warehouseman under Section 7.210 and Subchapter D and F, Chapter 9, of the Business & Commerce Code.
- Federal court ruled-lien establishes when placed on the truck.... Can not make the warehouseman unload the property and give it to the tenant.

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## **Writ of Possession**

- The return should state the date and time the writ was executed
- To whom service was made
- How it was executed
- Who moved the manufactured housing and where it is stored.
- Any facts relevant to the move.
- The officer signs and returns the writ.

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## **Writ of Possession**

- If the tenant does not own the manufactured housing and he is renting the unit (like an apartment) not the space – then the premises becomes the manufactured house – not the lot.  
94.002 (b)(1) TPC
- The tenants belongings would be inventoried, moved out, and securely stored.

**FORM 1      Official Statement (retained by official)**  
**(PART 2)**

*Please type or print. Provide all requested information legibly.*

**STATEMENT OF ELECTED/APPOINTED OFFICER**

I, \_\_\_\_\_, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

\_\_\_\_\_  
**Affiant's Signature**

\_\_\_\_\_  
**City and/or County**

\_\_\_\_\_  
**Position to Which Elected/Appointed**

\_\_\_\_\_  
**Date**