Policy Brief: Preserving the Affordability of Manufactured Homes in Land-Lease Communities

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About Enterprise Community Partners

Enterprise Community Partners is a national nonprofit that exists to make a good home possible for the millions of families without one. We support community development organizations on the ground, aggregate and invest capital for impact, advance housing policy at every level of government, and build and manage communities ourselves. Since 1982, we have invested $44 billion and created 781,000 homes across all 50 states – all to make home and community places of pride, power and belonging. Join us at enterprisecommunity.org.

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Introduction

The supply of affordable housing falls short of demand in nearly every jurisdiction in America. Absent from many discussions of affordable homes is the role that manufactured housing plays, even though it comprises roughly 6% of the nation's housing stock.[i] Manufactured housing is home to the lowest income households; the median household income for manufactured housing residents is lower than any other permanent structure type.

While the majority of manufactured housing is placed on land located outside of land-lease communities, roughly 40% of manufactured homes are located in upwards of 45,000 manufactured home communities (MHCs)[ii] – where tenants who own their manufactured homes rent the land beneath their homes from a community owner. The creation of new MHCs has slowed drastically in recent decades, with the average age of existing communities now at 43 years. Aging and deteriorating infrastructure can threaten community viability, yet the cost of modernization may necessitate raising rents substantially or drive long-time community owners to sell to new owners who may also raise rents or close the community and convert the land to alternative uses.

The financial pressures that manufactured homeowners feel when renting lots are set against the scale of decreasing affordability for people who rent their homes. Nationwide, nearly 11 million renter households are severely cost burdened – that is, they spend more than 50% of their income on housing. At the same time, a significant portion of the U.S. affordable rental housing stock is at risk of being lost due to the expiration of affordability requirements or market pressures.

Expiring affordability covenants on subsidized rental housing have been accelerating over the past five years, and the Harvard Joint Center for Housing Studies estimates that the affordability restrictions on nearly 1.2 million subsidized rental units could expire by 2029.[iii] Unsubsidized, market-rate affordable rental housing is also at risk. As neighborhoods change and demand for housing increases, this valued segment of the affordable housing stock is becoming increasingly scarce.

Any comprehensive preservation strategy, therefore, must include policies that address the long-term affordability of land leases and community fees for the tenants of MHCs. This policy brief examines some of the risks posed to the affordability of manufactured homes placed in MHCs. It also explores ways in which public and mission-driven stakeholders can support preserving the affordability of this type of housing, with the goal of protecting its tenants from significant financial burdens and displacement.

Background

What is manufactured housing?

The term "manufactured housing" broadly encompasses several types of housing units that are constructed off-site and transported to their final destination. Prior to 1976, these units were commonly known as "mobile homes" and were more likely to resemble campers and to be mounted on wheels. Since the adoption of the U.S. Department of Housing and Urban Development's Manufactured Home Construction and Safety Standards[iv] in 1976, the quality, durability and safety of manufactured homes, which can be attached to permanent foundation systems when desired, have increased significantly. The Housing Act of 1980 mandated the use of the term "manufactured home" in place of "mobile home" in referencing homes built after 1976 and according to HUD's 1976 code in all federal laws and literature.[v] Today, manufactured housing comprises a range of configurations that include those described as mobile and manufactured homes, as well as prefabricated and modular homes that are also constructed off-site but built according to the home site's respective state and local building codes. The use of the term 'manufactured housing' in this policy brief refers to both HUD's manufactured and mobile home categories, excluding prefabricated and modular homes.

Mobile Home

Manufactured Home

Modular Home

Who lives in manufactured housing?

Manufactured housing, including manufactured homes located in MHCs, provides lower-income families across the U.S. with access to unsubsidized, affordable housing. According to the Manufactured Housing Institute, the U.S. housing stock includes 8.5 million manufactured homes, which comprises roughly 6% of the nation's housing stock.[vi] The Housing Assistance Council estimates that more than half of all manufactured homes are located in rural areas across the U.S.[vii] Generally, renters and homeowners living in manufactured homes earn less income than those living in site-built homes. For example, the 2019 American Community Survey (ACS) data shows that the median income for owners of manufactured homes with mortgages was $54,700, compared to a median income of $99,600 for homeowners with mortgages living in single-family detached homes. The data also shows that median income for renters living in manufactured homes was $31,460 in 2019, compared to $50,000 for renters living in single-family detached homes. Additionally, an analysis from the Urban Institute found that households living in manufactured homes pay less for housing than those residing in site-built residential developments.[viii]

Who owns the land underneath manufactured housing?

The tenant could own both the manufactured or mobile home and the land underneath it. Under this ownership structure, the borrower may be able to purchase a home in a way that allows both the home and the land underneath to be titled together as real property, just like traditional site-built and modular single-family homes. In many cases, however, the home and land are financed separately, even when owned by the same household, with the home treated as personal property (similar to a car loan).

When tenants own their manufactured homes but do not own the land underneath, they may rent their lots from the landowner, who is the MHC owner. It is estimated that nearly 40% of all manufactured homes are situated in roughly 45,000-50,000 MHCs across the country.[ix] In addition to offering land that can be leased by manufactured homeowners, MHC owners typically provide the tenants of their communities with access to utilities, finance necessary operations, maintenance and capital improvements, and regulate land rentals and the use of shared community spaces. Because of the separate home and land ownership structures, generally the only financing available to tenants residing in MHCs is to purchase their home through lending products that treat the home as personal property.

MHC Tenants Vulnerability to Financial Burdens and Displacement

Ideally, housing stakeholders who are involved in or influence the MHC sector, including federal finance entities, state and local governments, mission-driven housing organizations and MHC owners, are able to achieve the right balance between the rights and interests of residents and owners of MHCs.[x] Residents living in these communities should be able to live in a well-maintained, stable community without facing significant financial burdens. At the same time, owners of MHCs should be able to recognize reasonable returns on their investment in the community. However, there are often tensions between the community owner's financial returns and the tenants' interest in the communities' affordability. Tensions are often driven by increased land rents and community fees induced by the acquisition of a community and/or capital improvements.[xi]

The cost of capital improvements, such as infrastructure upgrades or repairs that go beyond the scope of typical operations and maintenance, is often shifted from the community owners to the tenants in the form of land rent and community fee increases. While necessary to cover the cost of capital improvements, these increases can significantly impact the affordability of the community, particularly to tenants on small, fixed incomes. Additionally, the acquisition of a community by a new owner could lead to substantial land rents and community fees increases, which may or may not be linked to capital improvements. The latter is often categorized as a predatory practice by for-profit private investors who acquire MHCs with an intention to maximize their return on investment in the property while deferring any necessary capital improvements.

The unique nature of living in MHCs often creates imbalances between the rights and interests of the communities' owners and its tenants. That is because tenants living in such communities generally face challenges that are specific to living in MHCs, and these challenges often put these tenants in an ineffective position at the bargaining table since they may have no reasonable alternative but to agree to the owner's land rent and community fee increases. Therefore, the challenges that stem from the unique nature of living in MHCs generally make these tenants vulnerable to financial burdens and potential housing insecurity. This section discusses some of these challenges and how they make MHC tenants vulnerable to housing cost burdens and potential displacement from their communities, or even from the homes they own.

Immobility

A 2018 analysis from Prosperity Now estimated that more than 82% of manufactured homes remain in the same locations where they were placed initially.[xii] A combination of factors can make the relocation of a manufactured home very difficult. While data from the U.S. Census Bureau shows that the average sales price of a new single-section manufactured home was nearly $63,000 in December 2020, the cost of moving a manufactured home one time can reach $20,000 or more, which is a barrier for many residents.[xiii] Additionally, under some circumstances, it is nearly impossible to move older manufactured homes without causing significant damage to the physical structure.

While newer manufactured homes are often designed and built with long-lasting, quality materials to visually resemble conventional site-built housing, it is estimated that approximately 20% of occupied manufactured homes, including those located in MHCs, are older units that were built before 1980.[xiv] Generally, these units were built under weaker construction standards (compared to those adhering to HUD's 1976 code), which has resulted in dwellings with poor physical conditions and expensive structural issues. Furthermore, MHC regulations may preclude moving in dwellings manufactured earlier than a named date, which limits where older homes can be placed. In addition to cost and structural challenges, some homeowners' contracts impose restrictive regulations regarding moving their homes to another community.

Scarcity of available lots

Additionally, when a local government imposes regulatory barriers on the placement of manufactured housing within its jurisdiction, relocating a manufactured home to a new community becomes a daunting task due to the scarcity of land zoned for manufactured housing across the jurisdiction.[xv] This zoning also limits the creation of new MHCs. Furthermore, when local municipalities change the designated land use of the community's site from manufactured housing to another use with a higher economic value, such as commercial or multifamily housing, this action can incentivize owners to sell their communities in order to benefit from the rezoning-induced higher land value. Sale of an MHC for a new use leads to the closure of the community and the displacement of its residents, who will face challenges in finding available lots in other communities – on top of incurring the high cost of moving the home, assuming it is structurally sound.

There are multiple examples of requests for rezoning MHCs into other types of land uses from jurisdictions across the U.S., including Asheville (NC),[xvi] Fayetteville (NC),[xvii] Lakewood (WA)[xviii] and Springfield (OR)[xix]. To address this issue, some jurisdictions have adopted land use designations that regulate the rezoning of MHCs, such as the city of San Jose's new "mobile home" land use designation, which requires that the city, and not only local entities governing land use changes, approve any zoning requests that would impact MHCs.[xx]

Lack of tenant protections

Where state and local tenant protection ordinances exist, they often fail to provide explicit protections for tenants living in MHCs. In jurisdictions where tenants living in MHCs do not have the same explicit protections as those living in site-built rentals, tenants of MHCs are more vulnerable to housing insecurity and displacement. For example, tenants living in MHCs could be excluded or not explicitly protected by vital tenant protection provisions, such as “just cause” eviction and automatic lease renewal policies, which prohibit the property owners from evicting the tenant or refusing to renew the land lease without providing a valid reason for terminating the lease.

When ordinances fail to provide explicit protections for tenants living in MHCs, the question of whether these tenants meet the ordinance’s definition of a renter and if they are aware of their legal protections arises. Tenants living in MHCs who are facing the threat of eviction may not get the benefit of requirements that the owner provide a notice that specifies the nature of the lease violation and allows the tenant to cure the violation within a specific timeframe.

Home value depreciation challenges

When the manufactured home and land are titled together as real property, the purchase can be financed with conventional mortgage products, similar to a site-built home, because in both instances, while the home will likely decrease in value, the land will likely increase. However, when the home is in a land-lease community, the financing is generally via a personal loan, because the home, like a car, will likely decrease in value, making the loan riskier than in the preceding scenario. These loans tend to be significantly more expensive for the borrower than traditional real estate financing primarily due to higher interest rates. This type of financing used to purchase homes placed in MHCs, which classifies a manufactured home as depreciable personal property that is sold at a high purchase price, is one of the factors that results in appraised home value depreciation in those communities.

Among the other factors that impact the value of manufactured homes placed on leased land is the condition of their homes. When owners of manufactured homes are unable to afford maintaining and repairing their units, then the appraised values of these homes will continue to depreciate as the physical conditions of the units deteriorate. Additionally, accessing homeownership through owning a manufactured home that is financed through a personal loan and placed on a leased lot does not allow homeowners to tap into the wealth-building opportunities that are often available through owning traditionally financed, site-built homes. Unlike traditional site-built homeowners, a long-term manufactured homeowner facing significant land rents and community fees increases won’t be able to tap into home equity either by refinancing or selling their home.

Preserving the Affordability of MHCs

Preserving the affordability of MHCs is essential, since challenges that stem from the unique nature of living in such communities – including immobility, scarcity of available alternate lots, lack of tenant protections and home value depreciation – make their tenants vulnerable to sudden and substantial land rent and community fee increases, with few alternatives. Recent media coverage and analyses tracking real estate trends indicate that the acquisition of MHCs has been capturing the interest of a range of for-profit investors, such as real estate investment trusts, private equity firms and institutional investors.[xxi] As the acquisition of MHCs continue to gain traction among for-profit investors, balancing the investors' interest in a financial return on their investment and the tenants' interest in preserving the affordability of their communities will require some action by the public sector and mission-driven nonprofit stakeholders. This intervention, which could include financial support and regulatory changes, is required to protect tenants, some of whom could be under the threat of predatory real estate investments, from significant financial burdens and potential displacement.

MHC acquisition financing backed by federal finance entities

Borrowers seeking to finance the acquisition of MHCs can use a number of available lending products, including federally backed loans tailored for the acquisition of such communities. These lending products include loans backed by Freddie Mac and Fannie Mae (the Government-Sponsored Entities, or GSEs), and the Federal Housing Administration (FHA).[1] The GSEs play a role in providing liquidity to the U.S. manufactured housing finance market, which offers an opportunity to utilize GSE-backed financing to preserve the affordability of MHCs across the country and mitigate the displacement of low-income households residing in those communities.

Under the Federal Housing Finance Agency's (FHFA's) Duty to Serve (DTS) rule, the GSEs are required to implement targeted business plans to support certain segments of the mortgage market that are traditionally underserved by private investors, including manufactured housing.[xxii] Although most of the GSEs' DTS-based focus on manufactured housing addresses financing for manufactured homes categorized as real property, the GSEs are also to support financing for MHCs owned by a governmental entity, nonprofit organization or residents, as well as communities with certain lot-lease protections.

GSEs are not currently obligated to include tenant protections on all their MHC mortgages. However, in September 2021, Freddie Mac voluntarily revised its MHC policies for all future borrowers using Freddie Mac-backed lending to acquire or refinance MHCs, requiring that they implement tenant protections on all leased sites effective immediately.[xxiii]

[1] The Federal Housing Administration's (FHA's) Section 207 program backs mortgages for the construction or substantial rehabilitation of eligible MHCs. While this FHA program is still active, it has been largely unused.

Fannie Mae- and Freddie Mac-backed MHC acquisition financing

Since 2000, Fannie Mae has been backing eligible mortgages for acquiring or refinancing MHCs.[xxiv] In 2019, Fannie Mae adopted additional pricing incentives for borrowers with new mortgages who are willing to implement the GSE's Tenant Site Lease Protections (TSLPs)[xxv] during the loan term. These protections may be incorporated into new or amended land leases or rules and regulations that are included by reference into land leases. Fannie Mae's TSLP program offers borrowers at least a 15-basis point discount and up to $10,000 toward reimbursement of third-party costs in exchange for enacting a set of tenant protections in at least 50% of a MHC's land leases.[xxvi]

In October 2021, Fannie Mae announced plans to expand the required tenant protections for 100% of the MHC's sites for each new MHC loan that participates in the agency's TSLP program, with a targeted implementation date of January 2022.

Freddie Mac, another GSE regulated by the FHFA, offered pricing discounts to borrowers who commit to TSLPs on all owner-occupied pad sites through September 13, 2021, when it revised its MHC policies to require including TSLPs on all Freddie Mac-backed MHC mortgages.

Under the DTS rule, these TSLPs include a 5-day grace period for late rent payments, 30-day written notice of rent increases, and a one-year renewable term for the land lease. In most major metropolitan areas, the industry standard is a 12-month initial term, and then the lease goes into month-to-month status, so this lease-term requirement is not seen as a barrier to the adoption of GSE MHC tenant protections. These protections also give MHC tenants the following rights: sell a manufactured home without having to move it out of the MHC; sublease a manufactured home or assign the site lease to a buyer, provided the buyer meets the minimum MHC rules and regulations and credit rating required for financing; post "for sale" signs on a manufactured home, provided the signage complies with the MHC's rules and regulations; sell the manufactured home in place within 45 days after eviction; and receive at least 60 days' notice of any planned sale or closure of the MHC.

Some manufactured housing experts have raised a concern that the TSLP program's protections lack the competitiveness and strength needed to effectively preserve the affordability of MHC land leases. That is because the program's discounted pricing is deemed not competitive enough to incentivize a large number of borrowers to implement the program's protections in a way that would make a significant impact. Furthermore, not every land lease will necessarily benefit from the offered TSLPs under Fannie Mae's program, since implementing the protections to all land leases is not mandatory and the protections are mainly focused on mitigating the displacement of tenants rather than preserving the affordability of land leases.

Enterprise applauds Freddie Mac's decision to include TSLPs on all future MHC transactions, and we call on Fannie Mae to follow suit. Operationally, Fannie Mae's TSLP obligations should consider a good faith effort by the owner to get tenants to sign updated lease terms with the protections to be considered compliant with the loan terms, even if a few tenants decide not to sign the modified land leases. Resident resistance to signing updated leases, even ones that strengthen their rights, could be due to mistrust between an MHC's residents and its owners.

Additionally, Enterprise calls on the FHFA and the GSEs to strengthen their TSLPs to preserve the long-term affordability of MHCs. In May 2021, U.S. Rep. Cindy Axne (D-IA) introduced the Manufactured Housing Tenant's Bill of Rights.[xxvii] The legislation would require borrowers who use financing backed by the GSEs or Federal Housing Administration (FHA) to purchase, create or rehabilitate MHCs to implement a set of tenant protections in their communities. These protections would include requiring owners to provide tenants with a 60-day written notice of rent increases or new additional charges, guaranteeing tenants the right to a one-year lease renewal absent good cause for nonrenewal, protecting tenants from evictions without a just cause, the right to a 5-day grace period for late rent payments, and 60 days advance notice of a community's planned sale or closure. Additionally, the bill would penalize owners of MHCs with federally backed financing for failing to meet the required tenant protections, including compensation for impacted tenants. Enterprise encourages Congress and the Biden Administration to pass and enact this legislation into law to preserve the long-term affordability of MHCs backed by federal finance entities.

Resident-owned MHC financing

Mission-driven financing

Mission-driven organizations play a key role in supporting residents interested in owning their MHCs by offering financing needed for acquiring these communities. Under the resident-owned model, a cooperative association will be responsible for purchasing, managing and maintaining the community as a single entity. For example, Resident Owned Communities (ROC) USA, a nonprofit venture that aims to expand resident-owned manufactured home communities, has established Resident Ownership Capital, LLC (ROC USA Capital) to provide residents of MHCs with the capital necessary for acquiring their communities.[xxviii] ROC USA Capital has financed over 90 such acquisitions. This includes offering loans for up to 110% of the community's appraised value, as well as pre-development loans to cover the cost of upfront due diligence, such as hiring experts to the assess the community and the purchase before making a final decision. The ability to support higher loan-to-value ratios than the GSEs can offer (see below) makes it a more usable financing vehicle for converting MHCs into resident-owned communities. Enterprise supports efforts to ensure continued affordability of manufactured housing, including the resident-owned MHC model.

Community Development Financial Institutions (CDFIs), private, mission-driven financial institutions dedicated to providing affordable lending in low-income communities, can play a significant role in preserving the affordability of MHCs. CDFIs are well equipped to offer low-cost capital for supporting the resident-owned model or enabling nonprofit organizations to acquire MHCs to preserve their long-term affordability. That is because CDFIs are able to provide low-cost, short-term loans that can be used to acquire communities, which are then refinanced into permanent loans. The nature of CDFI lending creates a revolving fund that provides the short-term financing necessary to support residents in the first step of acquiring their MHCs. Multiple CDFIs have developed lending products tailored for financing resident-owned communities. Following are two brief examples.

- The Network for Oregon Affordable Housing (NOAH) offers financing for the acquisition and preservation of MHCs.[xxix] This lending product is designed to enable qualifying resident-owned cooperatives (at least 60% of the residents within the community are members of the cooperative), nonprofits and public entities to acquire MHCs that might otherwise be lost as affordable housing through acquisition or redevelopment. NOAH attaches a range of specific affordability requirements for the original term of the loan, such as requiring that 40% or more of the manufactured homes and lots are rented to households earning up to 60% of their area median income (AMI). This lending product offers loans between $300,000 and $8 million with a term of up to 36 months, offering borrowers a possible extension of up to 12 months as long as the loan term does not exceed 48 months. It is set up to require monthly interest payments for the loan term with principal payment due at loan maturity. Furthermore, NOAH requires hiring a professional property management firm or agency to manage the community, and in the case of a resident-owned model, NOAH requires hiring a technical assistance advisor for the term of the loan.

- The New Hampshire Community Loan Fund created the Resident-Owned Communities (ROC-NH) program,[xxx] which offers loans, training and technical assistance to help resident cooperatives in the state of New Hampshire purchase and manage their MHCs, with the goal of preserving the affordability of those communities. Today there are at least 136 ROCs in New Hampshire. The Community Loan Fund also offers financing through fixed-rate mortgage loans to assist with purchases, refinancing and home improvements.[xxxi]

Residents who pursue ownership of their MHCs must be financially capable of hiring a property manager or agency to ensure that the community will be well maintained and operated once owned by the cooperative association. Therefore, it is critical to account for property operation and maintenance costs in any lending product tailored to supporting the residents of MHCs in acquiring and preserving the affordability of their communities. It is also important to ensure that such lending products have favorable terms that would enable the residents of MHCs, who tend to be lower-income households, to acquire their communities as a cooperative association without facing any significant financial challenges. A range of factors, such as the loan term, maturity date (when the borrower's final loan payment is due) and payment structure can impact whether the cooperative association will be able to pay the loan back without facing any significant financial challenges. Another factor that should be considered is what options the cooperative association will have when the loan term ends, such as refinancing the loan.

GSE-backed financing for resident ownership

The GSEs back financing for co-op manufactured home communities – a model in which residents are shareholders in a cooperative, nonprofit corporation that owns the entire community excluding the manufactured homes. Under this model each shareholder, who is a resident living in the community, owns their manufactured home, and their ownership of shares in the co-op allows them to use one of the community's subdivided lots for their manufactured home. The GSEs also offer discounted pricing to borrowers pursuing non-traditional ownership forms[xxxii] – qualifying MHCs whose owners, such as residents, nonprofits and government entities, presumably implement tenant protections of their own accord.

These lending products could be used by the borrower (the cooperative, nonprofit corporation that owns the entire community) to either finance the acquisition of a community in the process of being converted into a resident-owned manufactured home community, or to refinance an existing resident-owned community with most shares already owned by community residents. Generally, these lending products aim to expand affordable housing options in rural and non-metro areas where resident-owned manufactured communities are more prevalent.

The GSEs' lending products for resident-owned MHCs have yet to be utilized at a large scale due to substantial barriers, including challenges to accessing the secondary financing needed for supporting resident-owned communities. A working paper[xxxiii] from George W. McCarthy, president and CEO of the Lincoln Institute of Land Policy, and Jim Gray, senior fellow at the Lincoln Institute of Land Policy, provides an assessment of the progress of GSEs in regard to expanding lending in underserved markets under their DTS obligations. The paper suggests that the GSEs have not created a viable lending product or purchased any newly originated loans to serve the resident-owned manufactured home community market. The paper also suggests that the main hurdle is that the GSEs' lending products generally do not accept a loan-to-value (LTV) ratio, which compares the desired loan value to the assessed property value, in excess of the property's value, which is necessary to secure financing for this low-income market.

Furthermore, the GSEs do not allow borrowers to secure subordinate loans behind a GSE's first mortgage, a rule that creates challenges in securing secondary mortgages needed for pursuing resident-owned MHCs, either through nonprofit partners or public entities. While we support Freddie Mac's approach to addressing these financial barriers by supporting resident-owned MHC acquisitions that receive secondary financing from CDFIs, this approach should include efforts to expand the GSEs' network of lenders, both CDFIs and others, who can facilitate such acquisitions. It is also important to explore facilitating access to secondary mortgages at a financially feasible cost to support such resident-owned MHCs. Fannie Mae should develop a substantive plan to support resident-owned MHC conversions more robustly with financing that addresses both acquisition and refinancing needs.

Examining the GSEs' future plans for supporting financing for MHCs owned by government entities, nonprofit organizations or residents shows that the GSEs have modest goals for boosting their support for such communities. Draft DTS plans for 2022-2024 for each of the GSEs[xxxiv] set exceedingly modest goals. Fannie Mae is proposing financing three government-or nonprofit-owned MHCs in 2022 – keeping pace with its 2020 production – and increasing financed government-or nonprofit-owned MHCs to only four in 2023 and 2024.

Fannie Mae also proposes to purchase loans on two resident-owned MHCs in each year of the plan; they have not done any such loans since finalizing the terms of their resident-owned community product at the end of 2018. Freddie Mac is proposing the purchase of one resident-owned MHC mortgage in each year of its three-year DTS plan, focused on refinancing transactions to provide liquidity to CDFIs that supported the initial conversion to resident ownership.

With respect to tenant pad lease protections, Fannie Mae has proposed only slight annual increases in its unit and transaction goals over 2020 figures. While Freddie Mac's plan doubles its over 2020 actuals, those goals remain level throughout the three years of the plan rather than increasing over time.

Public funding for preserving the affordability of MHCs

When lending products that are not backed by the federal government are used to finance the acquisition of MHCs, then the government cannot utilize federally backed lending to incentivize or require preserving the affordability of the community's land leases or protecting its residents from displacement. Under such circumstances, financial support at the federal, state or local level could be provided in exchange for maintaining the long-term affordability of MHCs. However, there is a significant need for tools that can preserve the affordability of MHCs at scale. This substantial need is induced by a range of factors, such as mom-and-pop MHC owners who want to sell their communities in jurisdictions across the country, lower incomes of MHC residents, immobility challenges facing MHC residents, and dilapidated infrastructure systems in older MHCs. While federal, state and local financial support can incentivize preserving the affordability of MHCs' land leases, these approaches have less scalability than GSE lending products that incorporate tenant protections as a basic feature, with additional pricing incentives for borrowers who commit to long-term affordability.

Public funding for infrastructure improvements

The GSEs back financing for co-op manufactured home communities – a model in which residents are shareholders in a cooperative, nonprofit corporation that owns the entire community excluding the manufactured homes. Under this model each shareholder, who is a resident living in the community, owns their manufactured home, and their ownership of shares in the co-op allows them to use one of the community's subdivided lots for their manufactured home. The GSEs also offer discounted pricing to borrowers pursuing non-traditional ownership forms[xxxii] – qualifying MHCs whose owners, such as residents, nonprofits and government entities, presumably implement tenant protections of their own accord.

Through grants or low-cost capital, federal, state and local governments can incentivize existing owners or enable nonprofit organizations to preserve the affordability of MHCs. An owner of an MHC is responsible of ensuring that its infrastructure is well maintained to prioritize the health and safety of community residents. This includes providing the equity or securing the capital needed to maintain utilities, drainage, and road and sidewalk systems, among other infrastructure systems. Older manufactured home communities often require significant financial resources for upgrading deteriorating infrastructure systems, which can be an expensive task for the community's owner and can have a spillover effect on the affordability of the community's land leases. That is because a portion of the costs of upgrading the community's infrastructure will likely be covered through land lease or community fees increases. This challenge is likely common in a large share of MHCs, as many communities have dated and dilapidated infrastructure systems that were installed sometime from 1950 to 1980.[xxxv]

One strategy to mitigate significant maintenance-induced land-lease increases is to provide public resources to support the financing of infrastructure upgrades, while requiring that the existing owner preserve the affordability of the community's land leases. For example, state or local governments could use portions of their annual HUD Community Development Block Grant (CDBG) funds or other public resources to support infrastructure improvement projects in qualifying manufactured MHCs.[xxxvi] Allocating CDBG funds to infrastructure improvement projects can help improve the quality of MHCs, while mitigating land-lease and community fee increases induced by infrastructure upgrades.

Another strategy is to provide public funding that would assist nonprofit organizations with acquiring MHCs with dilapidated infrastructure systems to improve the quality of these communities and preserve the affordability of their land leases and community fees. Following are three brief examples of public resources aimed at preserving the affordability of communities' land leases through supporting infrastructure improvements.

- In July 2020, the U.S. House passed a $1.5 trillion infrastructure package, titled the Moving Forward Act, including an approved amendment that would direct HUD to create a grant program that would help nonprofit organizations, public housing agencies and other entities acquire and preserve MHCs; make improvements to common areas and community property in those communities; and demolish, remove and replace dilapidated homes in the acquired/preserved communities. Originally introduced by Rep. Cynthia Axne (D-IA) under the Manufactured Housing Community Preservation Act,[xxxvii] this program would offer eligible awardees grants of up to $1 million per community in exchange for maintaining the community for 20 years and committing to preserving its land-lease affordability.
- Additionally, the Housing is Infrastructure Act of 2021,[xxxviii] introduced by House Committee on Financial Services Chairwoman Maxine Waters (D-CA), includes a provision that would direct HUD to carry out a manufactured housing infrastructure grant program, which would support eligible infrastructure improvement activities in qualifying MHCs. These competitive grants would fund eligible infrastructure improvement projects, such as energy efficiency projects, emergency storm shelters and water distribution systems, for qualifying communities including resident-owned communities that meet specific affordability requirements or those that will abide by agreements that ensure the community remains affordable for low-income families.

- State and local governments can also offer resources needed for upgrading dated infrastructure systems in MHCs, while requiring communities' owners to preserve the affordability of land leases. Here are two brief examples:
    - Minnesota's Manufactured Home Community Redevelopment program,[xxxix] a state-funded grant program that supports eligible infrastructure improvements and activities in MHCs in exchange for following agreed upon affordability requirements, such as capping annual lot rent increases and maintaining affordable lot rent for low- to moderate-income households. Eligible infrastructure activities include water and sewer, roads and sidewalks, storm shelters and lighting installation and improvements. These three-year grants are available through an annual request for proposals (RFPs) process, which prioritizes projects based on health, safety and critical need improvements; support from local municipalities; and proposals for advancing a cooperative ownership model.
    - Another example is New York State's Manufactured Home Advantage program,[xl] which offers low-interest loans in the form of a subsidy to support capital improvements of infrastructure and the repair or replacement of substandard manufactured homes in MHCs. This includes the rehabilitation and/or demolition of infrastructure, such as sewer, water, electrical and road systems. This financing is available for communities where the majority of households earn up to 120% of the Area Median Income, as defined by the local HUD Metro FMR Areas (HMFA).

New York State's Manufactured Home Advantage program

Enterprise's New York market had provided gap funding for responsible MHCs' owners and tenants to preserve or purchase their communities, with the goal of protecting residents from the effects of predatory community acquisitions. Enterprise has set aside $6 million in grants to support the New York State Division of Homes and Community Renewals' newly established Manufactured Home Advantage Program. Through this program, eligible borrowers interested in preserving the affordability of a MHC, including resident-led cooperatives and nonprofit affordable housing organizations, may access low-cost financing for the acquisition of the community. Borrowers are required to enter into an agreement that ensures the compliance with the Housing Stability and Tenant Protection Act of 2019 during the loan term.

Under this effort, Enterprise has committed nearly $300,000 to Rural Ulster Preservation Company, Inc. (RUPCO). These funds are being used to support predevelopment expenses related to Foxcroft Village, a manufactured home rental community located in the foothills of the Sullivan County Catskills in Loch Sheldrake. In addition, Enterprise has deployed $530,000 to Country Sky MHC Project in Plattsburg, New York. Country Sky MHC Project is home to 42 families who had been facing eviction due to health code violations in Plattsburg, New York. The funds are covering over 25 % of the total project cost, helping the cooperative association acquire the project and upgrade the site's infrastructure. Enterprise is working with nonprofit organizations in Onondaga and Tompkins Counties on additional projects.

Rental assistance for residents of manufactured home communities

Federal Housing Choice Vouchers (HCVs) occupy a large portion of federal housing assistance distributed to eligible households. HCVs fall into two categories: project-based and tenant-based. Project-based vouchers are connected to specific units whose landlords hold contracts with a public housing authority (PHA) to rent the units to eligible families. Tenant-based vouchers are assigned to families to allow them to rent any private apartment that meets program guidelines. Due to the possibility of a home being transported to another location, manufactured housing is barred from the use of project-based assistance. Since HCVs are tenant-based instruments, residents of MHCs may qualify for federal housing assistance under the HCV program in one of three ways: regular rental assistance, Homeownership Voucher Assistance, or Manufactured Home Space Rental Assistance.[xli]

- When the rental configuration of the occupied unit covers both the manufactured housing unit and the leased land on which the manufactured home is placed, the cost of renting the home and leasing the land may be covered by the regular rental assistance under the HCV program. Some housing stakeholders have raised a concern that there are practical considerations that complicate the use of HCVs for manufactured housing under such rental configuration. Given that an HCV would allow its holder to pay a maximum of 30% of the family's income in rent, there may be significant incentive for the renter to choose a traditional housing option and use an HCV to access site-built rental housing, which is likely to be of higher quality and could be covered by state or local tenant protections when they exist in the tenant's jurisdiction.

- For households that own their homes but lease the land, HCV support is a more tenuous proposition, falling to two other forms of HCV assistance categorized as "special housing." Under this designation, public housing authorities are not required to provide the specified assistance as part of their respective HCV programs, except if needed as a reasonable accommodation for persons with disabilities.

    - Assistance through the HCV program may be granted if the residents purchase the manufactured home under the Housing Choice Voucher homeownership program, which assists the household with their monthly costs of ownership.

    - Manufactured Home Space Rental assistance may be granted if the residents own the manufactured home but are renting the space on which it is sited. The HCV would be used to subsidize the household's rent, which is defined as the total of the rent charged for leasing the lot on which the manufactured home is placed; maintenance and management fees charged by the community owner; monthly payments made by the family to amortize the cost of purchasing the manufactured home, including any required insurance and property taxes; and the applicable utility allowances for tenant-paid utilities.

State and local strategies to preserve the affordability of MHCs

State and local governments are particularly well positioned to preserve the affordability of MHCs and to mitigate the displacement of residents living in those communities due to their legal jurisdiction over matters related to tenant protections. Specifically, state and local jurisdictions can adopt protections aimed at mitigating involuntary displacement of tenants living in MHCs. This could include prohibiting the community owner from evicting tenants without a "just cause," requiring that the community owner provide their tenants with at least one-year lease terms, banning owners from refusing land-lease renewals without valid justifications, and giving tenants the right to cure for nonpayment of rent. State and local jurisdictions can also adopt tenant protections pertaining to mitigating financial burdens induced by land-lease increases. For example, a jurisdiction can include MHCs in its existing rent reasonableness provisions or enact MHC-specific rent reasonableness provisions as discussed below (see the New York State *Housing Stability and Tenant Protection Act of 2019*).

Here are two examples of state measures aimed at mitigating the negative effects of MHC acquisition on tenants' housing and financial security, strengthening tenant rights and preserving the long-term affordability of MHCs:

- The state of Oregon provides some of the most robust state-level protections in the nation for residents of MHCs. For instance, with regard to eviction and involuntary displacement,[xlii] the state requires that owners of MHCs provide a one-year advance written notice prior to its sale or closure, offer relocation assistance when a community closes and make a good-faith effort to participate in mandatory mediation, when initiated by the tenant. The state further prevents owners from denying lease renewals without sufficient justification, interfering with a homeowner's ability to sell their manufactured home, and using eviction as a form of retaliation or evicting tenants without just cause.[xliii] Most notably, Oregon's law provides existing tenants with the right of first refusal (ROFR) to purchase their community when it is put up for sale.
- Right-of-first-refusal policies, also known as tenant-opportunity-to-purchase laws, have been gaining momentum as an effective strategy for the long-term preservation of unsubsidized affordable housing. Under these laws, tenants are first granted the right to make an offer to purchase the property they live on when it is put up for sale. While these laws are frequently utilized in rapidly changing, high-cost urban areas, they can play an important role in the preservation of MHCs. By purchasing the land underneath their homes, owners of manufactured housing can establish long-term security and stability. The state of Oregon offers tax incentives to help facilitate such purchases, either by the residents themselves or a nonprofit partner. Owning the land provides the tenant with an opportunity – at least in Oregon[xliv] – to convert their home from personal property to real property, which can facilitate equity and wealth building.

- New York has also taken a series of steps aimed at protecting residents of MHCs. In 2019, the state legislature approved a package of bills, the Housing Stability and Tenant Protection Act of 2019, to strengthen renter protections, including significant protections for residents of MHCs.[xlv] Owners of MHCs are required by the state to provide advance notice of two years prior to eviction when the use of the community will be changed to another land use. They are also required to offer annual land leases and to provide all tenants with a copy of their rights under the new law. Additionally, the New York law includes a provision that caps annual increases on land leases at no more than 3% in most instances and imposes limitations on late fees.[xlvi]

  The 2019 laws also provide residents of MHCs with the right of first refusal when their communities are being sold, but only when a prospective purchaser intends to change the land use of the community.[xlvii] Under the law, residents may form a homeowners' association, which then has 140 days to make an offer to purchase the community. If the association can meet the same terms and conditions of other offers received by the community owner, then the association may purchase the community.

Recommendations

What the federal government and mission-driven lenders can do

Federal agencies that back mortgages, including the GSEs, should expand or create new lending products with attached requirements for preserving the affordability of existing MHCs and mitigating the displacement of tenants living in such communities. Specifically:

- Fannie Mae and Freddie Mac should expand and strengthen their Tenant Site Lease Protections to ensure that borrowers using GSE-backed lending for acquiring MHCs preserve the long-term affordability of these communities' land leases. This could be accomplished by adding tenant protection and affordability provisions – such as rent reasonableness and "just cause" eviction provisions – to all their offerings, pairing protections with pricing incentives to maintain market share and growing the number of tenants protected over time.

- In addition to incorporating tenant protections into the GSEs' basic MHC loan products, we encourage FHFA to explore permitting a new product that specifically targets long-term affordability for the most vulnerable residents. Unlike the current TSLP mortgage options, which offer a fixed incentive on mortgage pricing and funds for implementing the protections, a new product would offer deeper pricing incentives in exchange for guaranteed affordability for MHC residents (using a calculation that includes pad leases and fees) over the life of the loan. The incentive structure of the MHC product should be priced to attract borrowers who would otherwise seek purely private sources of capital that carry no affordability or mission goals and offset the cost of complying with the affordability and resident stability obligations.

- The federal government should establish a new HUD program that would offer competitive infrastructure improvement grants to existing owners of MHCs, while requiring them to preserve the affordability of the land leases. The federal government should also offer grants that would help nonprofit organizations and resident-led cooperatives acquire and preserve the affordability of these communities. Such proposals have been included in the Housing is Infrastructure Act of 2021 and the Moving Forward Act of 2020.

- CDFIs are well equipped to provide technical assistance and can offer low-cost, short-term loans with favorable terms that would enable nonprofit organizations and resident-led cooperatives to acquire and preserve the long-term affordability of MHCs. These CDFI lending products should ensure that community residents, who tend to be lower-income tenants, are able to acquire, maintain and operate their communities as a cooperative association without facing any significant financial hurdles.

But without strong balance sheets comprised of long-term equity and equity equivalent investments, CDFIs may not be able to provide loans of an appropriate duration. FHFA could consider allowing GSEs to make equity equivalent investments in CDFIs to develop financing products that can be used to support nonprofit organizations and resident-led cooperatives in acquiring MHCs. Similarly, while Freddie Mac has proposed refinancing seasoned CDFI loans as part of its new DTS plan, this requires seasoning on the CDFI's balance sheet (limiting the CDFIs ability to lend) and incurring transaction costs by the borrower for the refinancing. As an alternative, the GSEs should develop targeted programs to buy CDFI-issued MHC mortgages on resident-and nonprofit-owned MHCs to increase liquidity to the sector. Allowing the GSEs to hold a small number of MHC loans in their portfolio to season before securitization would minimize both of those issues.

What state and local governments can do

In consideration of the concerns raised above, there are many steps states and localities can take to help ensure that MHCs remain stable and affordable for communities' tenants while still financially sustainable for owners.

Tenant rights and protections

- Right to purchase: these laws require MHCs' owners to notify residents of their intent to sell the community and to provide residents with sufficient time to make either a first offer or to match the offered market-rate sale price for the MHC. State laws could further require owners to sell their MHCs to resident-led cooperatives if these associations can meet either the land market-rate value or an offer from a third party. Since residents often lack access to sufficient capital for the purchase of an MHC, state governments can offer tax incentives or assist with the financing of resident purchases. Several states[xlviii] provide residents with the right to purchase their MHCs.
    - In Massachusetts, owners of MHCs are required to notify residents of their intent to sell, and residents have the first right of refusal if there is a planned change of the land use, or if more than half of the community's residents express an interest in the sale.
    - In Delaware, MHC owners are required to give notice to residents of their intent to sell. Residents have first right of refusal that provides them with 30 days to purchase the property.
    - In 2020, Colorado passed HB20-1201, a measure that provides MHC tenants with advance notice and an opportunity to purchase when a community is for sale.[xlix]
- Just-cause eviction: "just cause" ordinances and statutes prevent the eviction of tenants unless a landlord can demonstrate cause, such as nonpayment of rent or lease violations. Many state and local governments have passed legislation that requires "good cause" for evictions, but it is critical that such rights are extended to residents living in MHCs.
- The right to organize: states can provide protections for organizations and resident-led cooperatives. Currently, less than half of all states protect the rights of the residents of MHCs to form resident organizations.[l]
- Rent stabilization: laws that limit annual rent increases or tie them to certain expenses, such as capital improvements, can prevent residents living in MHCs from experiencing unexpected or exorbitant increases to their monthly rents. To ensure tenants of these communities are not subject to excessive fees in addition to rent increases, such as utilities and trash service, states can ensure that laws governing rent are also inclusive of fees and consider the full housing costs to the tenant. Additionally, states can mandate minimum notice requirements for rent increases; for example, state governments can require owners of MHCs to provide tenants with at least a 90-day written notice prior to any rent increases.
- Health and safety: states can require that owners of MHCs meet minimum habitability standards that ensure healthy and safe living conditions for all residents. While the health and safety of the individual home is the responsibility of the homeowner, the basic infrastructure needs of the community, such as sewer, water and utilities are the responsibility of the MHC owner. By enforcing MHC owners' responsibility to provide these essential connections, states can ensure the health and safety of MHC residents.

- Home replacement: when manufactured homes have depreciated to the point at which rehabilitation is cost-prohibitive or even impossible, state and local governments can offer financing to assist homeowners in replacing their manufactured home. The New York State Mobile and Manufactured Home Replacement Program, for example, provides financing to low-and moderate-income homeowners to demolish and replace dilapidated mobile or manufactured homes if they own the land.[li] Similar programs could be replicated for tenants who own their manufactured home but reside in MHCs, coupled with eviction protections that are critical for MHC tenants who cannot relocate their homes and would have to abandon their new replacement homes if faced by sudden and substantial land rent and community fee increases.

- Decent treatment: states can institute protections against retaliation, lease provisions that undermine tenants' rights under the law, and sales scams, as well as ensure language access for all residents living in MHCs.

- Moving costs: states can offer protections to renters when MHCs are sold, while allowing them to sell their manufactured homes. States could also require the MHC's owner to pay for their tenants' "moving" expenses if moving is feasible, or otherwise compensate the tenants for losses. For example, in New York state, tenants can receive from the MHC owner a stipend of up to $15,000 for moving costs when the community is closed to change the use of the land.

- Other tenant protections: state and local governments could:

    - Design and implement regulations for the financing of manufactured homes, holding them to the same standards as other credit transactions.[lii]

    - Provide tenants residing in MHCs with lease rights, such as standard lease provisions and access to a copy of the lease.

    - Extend eviction prevention programs, rental assistance programs and housing counseling programs to cover residents of MHCs.

    - In 2019 and 2020 the Colorado legislature passed several bills to protect residents of manufactured housing, including HB19-1309,[liii] which creates a manufactured home community complaint and dispute resolution program,[liv] and HB20-1196,[lv] which improves oversight of the state's Mobile Home Park Act, a measure that grants counties the power to enact ordinances for MHCs.

Financial levers

- Financial incentives: state and local governments can create financial incentives for owners of MHCs to sell their communities to resident-led cooperatives, as well as provide financial and technical assistance to these resident-led cooperatives or residents working on establishing a resident-led organization.

    - The Montana legislature recently passed SB 269, which exempts sales of MHCs from the state's capital gains tax if the owner sells the MHC to its residents.[lvi] The state's Board of Housing is required to notify community owners of this tax benefit to encourage them to sell such communities to residents.

- Financial assistance: states can provide financial assistance for property maintenance and infrastructure upgrades to MHC owners who provide tenant and affordability protections to their residents.

Key Policy Takeaways

- While manufactured housing placed in MHCs provides low-cost housing options across the U.S., the importance of MHCs for the provision and preservation of unsubsidized affordable homes remains absent from many housing policy discussions. Since preserving the affordability of land rents and community fees is critical to prevent the loss of unsubsidized affordable housing units in a national housing market with persistent supply and affordability challenges, it is important to explore, identify and implement strategies to mitigate the risks posed to the affordability of manufactured homes placed in MHCs. Having comprehensive, national data on MHCs, including MHC tenants' income levels, MHC monthly lease rents and community fees, and financing sources of MHC acquisitions and rehabilitation, would help policymakers better understand the importance of MHCs for providing and preserving affordable housing options across the country, as well as understand and respond to the stressors induced by sudden and substantial land rent and community fee increases to MHC tenants.
- Preserving the affordability of MHC land rents and community fees to mitigate the displacement of their tenants requires strong policy action at the federal, state and local levels. This includes supporting the affordability of MHC land leases and community fees through federally backed lending used to acquire, refinance or rehabilitate MHCs, public finance for upgrading MHC infrastructure with attached community affordability requirements, and state and local tenant protections. Ensuring that Americans living in MHCs do not lose their housing stability due to sudden and substantial land rent and community fee increases requires exploring, identifying and implementing effective and data-driven solutions at all levels of government that also include mission-driven partners in the private sector. This includes financial and regulatory strategies that can mitigate the risks posed to the affordability of MHC land rents and community fees, especially for tenants with the lowest incomes.

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