MEMBERS PRESENT: Chairman Dini
Vice Chairman Schofield
Mr. Craddock
Mr. DuBois
Mr. Jeffrey
Mr. May
Mr. Mello
Mr. Nicholas
Mr. Polish
Mr. Prengaman
Mr. Redelsperger

MEMBERS ABSENT: None

GUESTS: Please refer to Guest List attached

Chairman Dini called the meeting to order at 10:50 A.M. The first bill to be heard will be SB-680 - Amends certain provisions relating to redevelopment of communities and amends charter of City of Reno.

Miss Debbie Langston, representing the City of Reno: To my right is Louis Test, our City Attorney for the City of Reno. There are two technical corrections I would like to mention and then Mr. Test will explain the bill. On Page 3, Lines 18-21 should be in italics. The bill drafter is aware of this problem. On Page 2, Line 32 refers to page 865, and it should be page 866.

Mr. Test: I would like to go through a brief history of our tax increment district because the first part of the bill SB-680 deals with the combining of our tax increment district. In 1979, the City of Reno formed a tax increment district, the main reason for that district being to attempt to gain some financing through bond sales to lower the railroad tracks in the City of Reno. The citizens of the City of Reno felt that $40 million was kind of a lot to lower the railroad tracks and felt they could wait quite a bit of time for a $40 million project and voted the bond down. As such, the second project we had in the tax increment district was a river beautification project which is the main project that is in our tax increment district now. Since that time, there has been a very strong movement within the Reno area to try to develop and revitalize the downtown or core area. Because of that, we are trying to find other means by which we might be able to finance this type of development in the downtown area with the possibility of having a redevelopment district. As most of you know, the Truckee River does run down through part of Reno, so we don't want to do away with the river beautification and the revenues that we gained through the tax increment district for the beautification of downtown Reno, but we may want to turn

the core area, the Virginia Street, Sierra Street and Center Street, above the river, into a redevelopment district to be able to combine both the tax increment district into a redevelopment district. The first amendments you find on Page 1 of the bill and the beginning of Page 2 down to Line 5, deal with the availability of combining your tax increment district with a redevelopment district. The amendments you see in Line 11 through Line 30 on Page 2 cover another section that we requested because there may be additional projects that we may want to include within the tax increment district if we don't go to a redevelopment district. Under our Charter right now, there is a question that has arisen as to whether or not we can add additional projects to the tax increment district. The legislation is not clear whether we can do that or not, once we have established a tax increment district, and we would like the flexibility that if we want to improve the sidewalks or roadways within the tax increment district, itself, we could go ahead and introduce by resolution and ordinance these additional projects. If we did do that, the increment amount would start from the date of the new resolution so that the funds created from the increment established from the 1979 establishment would still have to go for the Truckee River beautification and anything over and above that would be for new projects. That is briefly what the purpose of the bill is all about and we ask for your favorable action on the bill.

Miss Langston: I would like to mention that Mr. Fred Davis, from the Chamber of Commerce, who was unable to be here today, asked me to explain to the committee that the Chamber is supportive of the bill, with its amendments.

Mr. Dini: Would you please explain the definition of the tax increment area. Would you just get the taxes from that area?

Mr. Test: Yes, that's all that we get. It is an increment limited by the Charter to 5% of the tax base for the area. Starting in 1979, we would take just that increment from the assessments, or any increase that may occur due to reappraisals on taxes, etc.

Mr. Prengaman: At this time, are there any other projects being contemplated besides the river beautification project?

Mr. Test: As far as I know, there has been some talk about doing some projects farther south of the river, also, in relationship to the civic center, kind of an art center where the Sierra Arts Foundation is concerned. The actual tax increment district at this time, to my knowledge, has not been really discussed other than the original improvement of the streets, gutters and sidewalks within the increment district itself.

This concluded the testimony on SB-680.

The next bill to be heard is SB-705 and we will take about three minutes of testimony from each person. The summary: Increases salaries of elected county officers and removes 95 percent limit upon salaries of certain public officers and employees.

Mr. Bryce Wilson, representing the Nevada Association of Counties: First, just a very brief review of what the bill does. One, fees and commissions collected in performance of duties must be paid to the county treasurer; two, district attorneys shall not engage in private practice after January 1, 1983; three, the 95% limit is removed from the base salary of any person working for an elected officer; procedure for the 95% rule exceptions is repealed; four, the new salary scale is effective January, 1983, for elected county officials until at least 1985. Five, salary adjustment effective in July, 1981 for elected county officials except for county commissioners of approximately 15%. The 15% adjustment effective July, 1981 leaves at least the rural counties with a problem. Salaries were last set in 1977 to be effective January, 1979. The inflation which has occurred in 1979, 1980 and 1981 was not foreseen in 1977. Its practical effect has been to reduce the purchasing power of everyone's dollars, as we all know. The net result is that, even with the 15% adjustment encompassed in this bill, the remuneration of these officials in terms of purchasing power is less than it was in 1979. During this same period, other pay scales, both public and private, have been going up leaving these people far behind. This problem is especially apparent in the twelve smaller counties where the salaries of all elected officials, except for district attorneys, will with the 15% adjustment range from a high of $20,700 to a low of $14,950. County commissioners receive no increase in 1981. This problem is twofold. Retaining experienced professionals and finding promising individuals who will run for office. Part of the solution of the problem of retaining the people we have is to make at least a 25% salary adjustment now. This would put the county clerks, assessors, recorders and treasurers in the seven Class 4 counties at $20,875, which is still below the prevailing unskilled labor rate. The Nevada Association of Counties' proposal to the joint Senate/Assembly subcommittee on this matter additionally included a paid retirement provision and a built-in CPI clause similar to the previous provisions for all state employees. These considerations have not been resolved in this or any other bill. The time, effort and resulting increases represented in this bill are appreciated. This opportunity to testify which has been the first and only opportunity is indeed appreciated and your favorable action on the bill to include a 25% interim adjustment is urgently recommended. Thank you.

Mr. Ted Thornton, Carson City Clerk-Treasurer, representing the Nevada Association of Counties Salary Committee and also various

other related organizations within the Association of Counties: I would like to first just read into the record a letter sent from my committee to the subcommittees prior to their meeting. It is addressed to the Senate and Assembly Government Affairs Joint subcommittee on county elected officials' salaries. A copy of the letter and attachments is attached hereto as EXHIBIT A, and made a part of these minutes. SB-705 addresses the request somewhat. At the beginning of the next term, the bill does address the overall 40% that we were asking for. We still do not feel that 15% is sufficient, that a 25% figure is a more realistic figure for July 1, 1981. A cost of living clause would be very desirable. I know that it has probably caused a lot of problems in trying to address it, especially as it relates to elected officials. 40% by itself in 1983 will be a salary that we will be living with through 1987 and if inflation continues at the rate it has, it certainly will not be adequate without a cost of living escalator built into it.

Sheriff Hall Dunn, Carson City, also president of the Nevada State Sheriffs and Chiefs Association: I would subscribe with the supposition of the Association to a raise mid-term of approximately 25%, the same as Mr. Wilson and Mr. Thornton have touched on. I won't belabour with a lot of statistics. I realize that this late time in the legislative session, you are probably tired of listening to statistics. However, I would like to point out an inequity that exists not only in Carson City, but probably statewide. I will use only one example but there are certainly others that I certainly draw from. My department is a department of 76 personnel, counting me. My salary at the present time is $24,000 per annum. I, of course, pay my own retirement because of the provisions of the retirement act. Under the proposed legislation, the 15% salary increase would mean that my salary would go to $27,600 and again I would pay my own retirement. The fire chief during this fiscal year with a 46-person department makes an annual salary of $27,193, his retirement compensation is paid, which brings him to a total salary package of $29,504 for running a department slightly over half the size of mine, or the benefit over even the sheriff's proposal as it stands today before this committee, is just over $1,900.00. There are other positions in Carson City, any number of them, that are paid substantially over the elected officials and will continue to be paid over elected officials. Chiefs of Police inherently, statewide today, are making more than sheriffs in the counties in which they serve.

Mr. George Holden, District Attorney, Lander County: With regard to SB-705, we feel that we can live with that. We are not adverse to any further raise, believe me, should it become possible to come to pass, but as a practical and political matter, we do not conceive that much change would get past the Senate again. With

one exception here, then, we would endorse the bill as it stands and that exception is the Sheriff in Eureka County. We don't understand the major differentiation there. If you are interested why I am concerned with Eureka County, it is because Eureka County Sheriff's Department is very important to us. It is important that we have a good and capable man there. Our counties are very close. We have communities which straddle the line with deputies going back and forth and it is important that we have a good man. We just lost an excellent man. That's a crying shame. Other than that, as I understand it, there will be separate consideration for the omission of the county commissioners, which we believe to be more than equitable because they, too, are under the gun. But for us in the counties, these legislative acts wouldn't have much effect.

Sheriff Jerry Maple, Douglas County: Who here knows what a sheriff or what a clerk-treasurer or what a district attorney in the state of Nevada should make? We started out many, many years ago and to my knowledge there has never been a study or anything done to determine what the wages of elected officials should be, other than the last few days of the Legislature when everybody gets together and jockeys figures around and it is set. I really appreciate the opportunity to speak here today. We did not get the opportunity to speak before the Senate. Two years ago, the bill went before the Senate and it got put in a drawer and nothing ever did come out. We really appreciate being able to speak here today. In Douglas County, the County Commissioners did a complete employee reevaluation study for wages and job descriptions and paid $25,000 for this study. They brought in a consulting firm and they went and completely reorganized the county and put down what each position should make because of the responsibility, the amount of employees and their job titles. I have 87 employees. They studied 22 counties, 12 being related directly around Douglas County and they came up with a salary for the Sheriff of Douglas County of $37,000 a year. Our County Commissioners, since 1979, have put a salary increase in the budget for me, but they have never been able to give it to me because the Legislature has not raised that salary. I read in the newspapers that the state employees are getting a raise and I feel that the elected officials - I know a number of them personally, especially the sheriffs - feel that the elected officials in the state of Nevada, the county elected officials are just shuffled away every time. The state employees came in here, their bargaining units came in and argued. They brought in consultants. You have state people that are hired by the state of Nevada that continously evaluate the state personnel system on how much money should this position pay - how much money should these people make. But, not once has a study been made on what elected officials in the state of Nevada make. I think it is past the time to do this and, hopefully, somebody within state government will direct

a study for elected officials and see what they need to be paid. I'm loosing my people to the state, I'm so close to Carson City. You take an investigator for NDIN. A gaming investigator who goes out and works eight hours a day, five days a week, no responsibility, there is no supervision of any other employees - make, with the new pay package, over $26,000 a year. A sheriff with 87 people under me and the responsibility to the county, I'm going to go to $24,700. I have lost at least eight to ten people that are working here in Carson City right now, in law enforcement, in state law enforcement, that are making $3,000, $4,000 and $5,000 a year more than I am, a sheriff of a county, and they are a eight-hour, five day employee. We are a 24-hour a day operation, seven days a week and I took that job down there and I knew what the salary paid. But, I knew what kind of sheriffs the county had had for the past many, many years. I went in there with the thought that if you do a good job, you get a reward. I have dedicated myself to my job and I feel that I deserved being paid at least what a state employee gets paid. I deserve to be given the benefits that at least the state employees get. You people passed this longevity bill, for example. It's sitting in the other Finance Committee, and it's dead. I don't expect it to come out and neither does anybody else. You take all your elected officials in the state; I was appointed to fill out two years before I ran for sheriff. I have my four years in as sheriff, but I'm not eligible for longevity pay until I have six years of sheriff. You people had the foresight to pass this bill, but it's dead on the other side. The retirement bill - all my employees get paid retirement. My captain makes more money than I do right now. My lieutenants make more money than I do right now, because we have a 95% waiver on me from the Interim Finance Committee, plus they get their retirement paid. When I go to $24,700, I'll still have two employees making more than me, plus they get paid retirement and within just a short time, I might as well demote myself to sargeant, make more money, and go home at 5:00 P.M. at night.

Mr. Bill MacDonald, District Attorney, Humboldt County: I am here representing the District Attorneys' Association and speaking on behalf of the small counties as a member of the Association of Counties Salary Study Committee. In case you are wondering why you haven't been hounded as usual by county elected officials, but not as much as in previous sessions, the County Association and the other associations for sheriffs, assessors, fiscal officers and district attorneys agreed long before this session to work together with a committee and put together the proposals that Mr. Thornton and the counties' lobbyist, Bryce Wilson, have already told you about. We have urged our respective members to not avoid Carson City like the plague, but to give you people a break, for a change. That is why - it isn't because they are not interested, but it's because they wanted to take a little more professional

approach this session. I wanted to speak to a couple of disparities. With respect to district attorneys and levels above mine, I am not speaking for myself, but in the class of counties, the upper part of Class 3 - Carson City, Douglas and Elko and higher. I don't know what the final decision is going to be with respect to district judges, but I would like to point out that they are presently making $43,000 and I am sure will be substantially increased. They should be. For the next four years, the district attorneys for Carson City, Douglas and Elko will be making $38,000. The district attorneys for these counties are extremely burdened. They have tremendous growth problems, besides the criminal problems that they have to deal with. I feel that those salaries are grossly inadequate. The disparity between Washoe County and Carson, Douglas and Elko - $9,000 - I feel is too great. You have a $47,000 salary for the Washoe District Attorney. Carson City and Douglas are much closer to Washoe in size, staff and everything else, than Washoe is to Clark. The relative disparity in amounts are, we feel, just too great. I would certainly echo what Sheriff Maple had to say about some kind of a study with public input to determine just what those salaries should be. If we are looking at these district attorneys being at $38,000 until 1987 and if the district judges are up in the $55,000 to $60,000 range, or any kind of substantial increase over the $43,000, they are just going to be way underpaid. I point out at the bottom of the scale, Class 5, on behalf of the smallest of the rural counties, $18,000 for your courthouse officers: your clerk, assessor and recorder. $20,000 for your sheriffs. I think everyone in this room would have to admit that those are just too low. By today's standards, they are a healthy increase from what they are receiving now, I'll grant that and we certainly appreciate it. But, they are way too low from the standpoint of what you are going to be dictating from 1983 to 1987. One of the problems that Sheriff Maple pointed out was the disparity between the state employees and county officials is because our salaries are set by the Legislature and the state employee salaries start in the money committees. The county commissioners in virtually county have given to your subcommittees on officials' salaries resolutions supporting substantial increases, generally more than what are in here, supporting, and saying that they are able to pay. I would recommend that you very seriously consider the elimination of Class 5 and the incorporation of Class 5 counties into Class 4. It wouldn't offend me if I were in Class 4. We all have the same duties. The bigger the county, the more people we have to assist us in carrying out those duties. Finally, in line with the recommendation of the counties, the Association of Counties and most of the county commissions, that a 25% increase be given effective July 1, I would like to recommend for your consideration that the section that generally gives the 15% increase effective July 1, be changed to provide essentially that in lieu of an additional raise in that schedule, the county be

authorized to pay the retirement that would avoid the problem with the personnel board when they opposed the bill earlier in session that was going to mandate the counties to pay the elected officials' retirement, and not take a reduction in a wage increase. That's the statute - two-thirds of our public employees in state and county and city have taken a reduction of 8% when the employers pay their retirement. I would ask that you consider giving us a 23% to 25% increase, in keeping with the request of the county commissioners and that the table you have be retained and that the balance of the increase be accommodated by authorizing the county commissioners to pay the employees' share of the retirement. I was disappointed that the county commissioners were left out of this. I feel that the county commissioners, on every level but particularly in the smallest counties where they have no county managers or any people like that to carry on the government, have the burdens of growing communities, mining, if the MX comes, which are becoming overwhelming. I hate to see the county commissioners overlooked in this wage increase. I think it is unfortunate that they are being overlooked.

Mr. Dini: I would like to reiterate the work that the subcommittee did and in our negotiations with the Senate, we found a great resentment there in giving the county commissioners any raise or any kind of elected official raise and we were able to get a 15% raise. The feeling of many members of the subcommittee was that the county commissioners are the same as legislators. We are constitutionally forbidden to receiving raise during our term of office. The way to solve this problem is to get the constitution changed so that the county commissioners can set their own county salaries. We have introduced that bill in the Assembly probably ten times and it has always been killed in the Senate. That's where your work ought to be directed. All the counties are now saying that they have to cut employees because they don't have enough money. All of a sudden now, all the counties are saying we have enough money and we want to raise the salaries for the elected officials. You have to be consistent with what you are trying to do. With that, I think we will close the hearing on SB-705, and I will entertain a motion to the members of this committee to do pass the bill.

Mr. May moved to DO PASS SB-705, seconded by Mr. Nicholas. Motion carried. Mr. Polish voted no.

The next bill we are going to consider, Mr. Dini indicated, is SB-656.

Mr. Virgil H. Wedge, attorney at law, practicing with the firm of Woodburn, Wedge, Blakey and Jeppsen in Reno, Nevada: I am here representing the Nevada Manufactured Homes Association and am here supporting and presenting SB-656 to you. We appeared before

the Senate Committee on Government Affairs on this bill and one of the matters of considerable concern before that committee was the issue of whether we were asking the Legislature to take over zoning which was heretofore handled by the governmental entities of county commissioners or counties or cities, and we were successful in answering that issue for the committee in that we were able to convince them that this bill is merely a guideline bill, a general bill, and there is no attempt to ask the Legislature to conduct zoning activity as such. Counties, cities and any other state agency has no inherent power to engage in zoning. That general power is vested in the state of Nevada and flows only to counties and cities or other governmental agencies as granted by the state of Nevada through its legislative branch. In keeping with that philosophy, the state of Nevada has in the past enacted extensive zoning and planning statutes. They are contained in your NRS. Those general statutes are in effect and substance guidelines for the counties and cities and other government agencies to follow in enacting zoning ordinances and zoning provisions. So again, SB-656, is no more and no less than that which the Legislature has done on many occasions before, set out general guidelines and it is not an attempt to get into zoning on a local level. That is a proper function of counties and cities at the local level. SB-656 in Paragraph 1, provides that a commission shall not prepare or adopt a master plan which prohibits manufactured housing in single family subdivisions. Paragraph 2, following that, provides that a governing body shall not enact any zoning ordinance which in substance discriminates as to single family residences. Paragraph 3 provides that a governing body may apply to manufactured dwelling the same restrictions and conditions that apply to any stick-built residence and it includes a provision that they may control the architectural design of a manufactured house by controlling the overhand, the roof, the siding, that's about all there is to control as far as your aesthetics are concerned. This is not new legislation in this country. It is relatively new because manufactured housing is relatively new. But the state of California has adopted it and by its governmental code in the package that we handed out to you, Section 65852.3 in substance provides that a city or county shall not prohibit manufactured homes on a subdivision zoned for single family dwellings if the manufactured home meets the same requirements and provisions as the stick-built home. A like statute has been enacted in the state of Vermont and these documents and sections of the law are in your package. (A set of the package items is attached hereto as EXHIBIT B, and made a part of these minutes.) A like statute has been enacted in the state of Indiana. This matter has been the subject of litigation in the courts of this country. There is a decision by the Supreme Court of the state of Michigan in the case of Napula vs. Township of Grand Blanche at 209NW 2nd 803 and it provides, in keeping with this philosophy of no discrimination as between stick-built homes and manufactured homes, that in this country people are constitutionally guaranteed (and I am quoting from the decision) any lawful use of their real property. Limitations on use may not

impinge on this principle except by exercise by the police power. This exercise must be reasonably related to the public health, safety, welfare and morals. Then the court goes on to say: we cannot possibly see how mobile home park single family residence can be affected by those critera. There is nothing in the record to suggest that trailer parks create any greater moral problem than any other type structure.

Mr. Wedge quoted other cases. He said: Going back to the bill, we have provided in the bill that it would meet the requirements of either, Paragraph 4 of the bill. The problem of discrimination between stick-built homes and manufactured homes comes about historically and this is treated in the cases I cited to you. In the Michigan case, they talk about in the old days when trailers were confined to small trailer court areas, sometimes lacking adequate water, sanitation and sewer services. They were unsightly in appearance. But, today, 'the mobile home currently produced is an attractive completely furnished, efficiently spacious dwelling, for which national construction standards have been adopted and enforced by the Manufacturers Association. To have this settled in court would be costly and it could be four to five years before you could expect a decision. The state Legislature is the proper forum for treating and deciding this issue. This is not an attempt to deprive counties or cities of their zoning function. It is merely a general guideline prohibiting discrimination against manufactured housing. You used this before in delineating the areas and the limitations within which a county or city can zone. It is an answer to a general problem that we have in this country in that there are so many people in this country at the present time who are in desperate need of adequate housing, because housing is not affordable to them. Manufactured housing, in many instances, is an answer to that need. Based on that I conclude my presentation to you.

Mr. Mello: Mr. Wedge, you touched on the fact that manufactured housing is cheaper per square foot than the stick-built homes. What is the comparison?

Mr. Steve Hamilton, an associate of Mr. Wedge: The comparison is about $10.00 per square foot cheaper.

Mr. Mello: The other advantage you feel is the fact of availability of having a home placed faster than one built? Are the manufacturers of these homes unionized? How many are there?

Mr. Hamilton: Yes, that is one of the reasons. Yes, some are unionized. Of the ones in the West Coast market, about 90% are unionized. There are probably 25 to 40 major manufacturers.

Mr. Mello: Are any of these manufactured in Mexico?

Mr. Hamilton: No, not to my knowledge. One thing about our situation in Nevada is that it is becoming increasingly apparent that you cannot transport economically. You lose your economic advantage if you transport more than 400 miles. Los Angeles is the very farthest market that we could import a home in this area from without losing the economic advantage to the stick-built industry, for example. Your freight costs would then start eating into your economic advantage.

Mr. Jeffrey: One of the problems that I think we are getting into here that we haven't touched on this session is that along with the zoning ordinances, the local entities that adopt the Uniform Codes - the various types that are named in the statutes that are covered under Manufactured Housing law - those codes are all nationally accepted minimum standards and by the very nature of the fact that they are minimum standards, many of the local areas have gone beyond those codes and I seriously question that when a manufactured house is shipped in to the state, you need the requirements of this bill under those ordinances.

Mr. Hamilton: When we prepared this bill and in earlier discussions, we knew that there would be a great concern over the structural integrity, especially after the unit has been transported some 300 to 400 miles. The 98% to 99% of the units that will come under the scope of this bill are constructed in accordance with the standards under 42 USC 5403. That came about in 1974. The federal government essentially preempted the industry in the feel of construction standards for manufactured homes and Section 5401 of Title 42 states that the Congress declares that the purposes of this chapter are to reduce the number of personal injuries and deaths and the amounts of insurance costs and property damage resulting from mobile home accidents and to improve the quality and durability of mobile homes.

Mr. Jeffrey: Are you saying that manufactured homes and the standards that may be adopted locally are to be preempted by the local government?

Mr. Hamilton: To a great degree. The act itself does have a preemption paragraph. Section 5403, sub D, states: "Whenever a federal manufactured home construction and safety standard established under this chapter is in effect (and they are currently in effect under federal regulations) no state or political subdivision of the state shall have any authority to either establish or to continue in effect with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the federal manufactured home

construction and safety standards.

Mr. Jeffrey: As far as I am concerned, any preemption of the (stone?) ordinance or the building code at the local level, is opening the door to reempt the building codes locally. I realize we already have it in the mobile home area, but if we are going to get into it in the full manufactured area and move those units into all single family homes, then there is just no way I can support this bill.

Mr. Hamilton: I don't think we are going to run into the situation where we are going to...

Mr. Jeffrey: Because I know that the Clark County ordinances in every entity, in the electrical area particularly, I'm an electrician and I know what the ordinances are, in every case in Clark County, the electrical codes, due to local conditions over the years, have evolved into a code that is stricter than the national code. We have adopted the national code by reference in the statutes. And I think that's about what the feds have done. If we can't take care of local conditions with local codes, then that's...

Mr. Hamilton: The situation is that we are not going to open the door for preemption for anything outside the manufactured home and the Congress, when they formulated this act allowing the standards to be developed, established some criteria. We have further reference to the standards adopted locally. In establishing standards, Section 5403, sub A states: "The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate federal manufactured home construction safety standards. Each such federal manufactured home standard shall be reasonable and shall meet the highest standards, taking into account existing state and local laws relating to manufactured home safety and construction". So, the standards that these homes are built to under the federal act do take into consideration local and state standards.

Mr. Redelsperger: What boards of county commissioners you have approached in the state of Nevada and discussed these problems and tried to get them to revise their regulations to prevent what you are trying to get done?

Mr. Wedge: No, Steve, do you want to answer that?

Mr. Hamilton: Yes, we have, numerous times. I have a presentation I would like to give you at this time. We are getting bogged down in what codes we are going to use and who is going to do the inspection. Realistically, what the federal code simply is saying is that if the home is manufactured in the state of

Nevada and it falls under the manufactured housing code, it has to be manufactured under one of two codes. Either the Uniform Building Code or the HUD code adopted in 1974, which has been under continuing update since. What they are simply saying is that in the manufacturing plant, where the home is being manufactured, they have preempted the field for inspection. They want federal inspectors on the job to see that the homes meet the HUD code. This does not negate a later inspection on site for utility, plumbing and electrical installation. The federal code tries to simulate or better the Uniform Building Code, but is designed to take dynamic loading, racking, travel, jiggling, vibration, etc., and when the home reaches its destination, still has its structural integrity it started out with.

What we are really looking for is affordable housing. We have a situation in which affordable housing in America has virtually dried up because of inflation and interest rates. The home we are proposing to you is not (1) a tin box, (2) something cast aside. What we are proposing is a home in effect with all of the exterior emblishments of a regular house, with garages, etc. We say that since it looks like a house, tastes like a house, feels like a house, just because it is built by a manufacturer plant inside of onsite, don't discriminate against it.

Mr. Jeffrey: When we talk about what you have in mind, that may be one thing, but I don't think that necessarily is what this bill says. This bill says that if it meets the requirements of NRS 461.170 and NRS 461.190, that its all right. Now as far as all hese other things they're going to show us, keep in mind that most local zoning ordinances don't get into the idea of architectural finishes and those things. When you get in those, you are getting into various deed restrictions, or maybe a countryclub setting. Those usually aren't spelled out in local ordinances. When you show us pictures and all the things you are going to add in there, first of all, keep in mind that somebody else may not.

Mr. Hamilton: We are dealing with a hybrid, something we have not really dealt with before. We have discrimination in reverse.

Mr. Redelsperger: Have you been to the Reno City Council or the Washoe County Commissioners or the Clark County Commissioners and discussed you are trying to get done with this bill with them to see if they can revise their ordinances?

Mr. Hamilton: To those specific people, no.

Mr. Redelsperger: Who in the state of Nevada have you talked to?

Mr. Hamilton: In the state of Nevada, the difficulty we are having is simply the same difficulty we are having right here. We are talking about a hybrid, one built to mobile home standards

but has the exterior amenities of a house. The difficulty with it is that we are looking for a uniform approach to the problem. That is the reason we came to the Legislature instead of the local counties. If we go to the various individual counties, we will get different answers. The cow counties allow them as a matter of right. So, we don't have to go to them. But, those cow counties only account for a small fraction of the total population of the state of Nevada. The total population of the state of Nevada is denied the right of affordable housing because we don't have the code. I concur with you in that I would like to see each of the counties adopt an ordinance. Our success rate has been very poor, even after the last session of the Legislature where you agreed to allow mobile homes on foundations as single family residences. Even so, they still will not allow a mobile home built to these specifications within a residential district on a foundation unless that district is out in the slums and is in a mobile home overlay. So, we don't have parity.

Mr. Redelsperger: The problem I have is trying to create legislation and not even giving the local entity the opportunity to hear and make an effort on their part so see if some changes can be made. I think you should start there and then come here if you can't get it done. Secondly, is an issue that I don't think has been discussed. You are talking about HUD approved homes. Now, a mobile home is also a HUD approved home. There are manufacturers that will put another couple of thousand dollars or so into a mobile home and it will become a manufactured house. Now the problem is if you put that into a residential area next to a stick home, can you still obtain FHA and VA financing, not necessarily for that home, but for the neighbor that has a regular home next to it. I know that in many instances, your conventional financing won't (lump?).

Mr. Hamilton: In the past, you are correct, that has been the case. However, the homes we are talking about basically are homes that have been manufactured since the last quarter of last year.

Mr. Byron Cook, Westland Mortgage Service Company: As far as FHA is concerned, they will provide the financing any place, provided it meets their own requirements. They have instructed their appraisers to appraisers the property just like a site building. They see no difference. This came about last November.

Mr. Redelsperger: I'm not talking about the manufactured house. I'm talking about the house next door.

Mr. May: Virgil, on Line 3 of the bill, you mentioned the definition of manufactured dwelling. There is no definition in NRS 278 of a manufactured dwelling. The closest thing to it in Chapter 461 is the manufactured building. See 461.145. Perhaps, through oversight, you have used the incorrect reference.

Mr. Hamilton: The definition of manufactured dwelling is indeed new to the statutes. It is included in Section 4 of the act. One of the questions that will come up will be how these homes will be accepted if put near stick-built houses. Most of the new developments in the metropolitan areas and some of the most prestigious areas, Southern California - homes range from $70,000 to $200,000 in the Orange County area. 80% of those are manufactured homes. They are very compatible. In San Diego County, they are just starting to allow mobile homes on single family residence areas that meet our standards. It opens up a very innovative market.

Mr. Schofield: Mr. Redelsperger had a question regarding who you have contacted in some of the counties. What was your answer?

Mr. Hamilton: My answer is a guarded 'no'. We have contacted them numerous times with respect to individual placements of this type of house. We have been turned down repeatedly. However, we have not contacted them with respect to broad use.

Mr. Wedge: To go out to seventeen counties in the state and try to present something like we are presenting here would be a career project. If we could get the basic guidelines out of the Legislature here, that would handle it once and for all.

This concluded the testimony on SB-656, in favor of the bill.

In opposition, Mr. Bob Sullivan, employed by the counties of Carson, Douglas, Lyon, Storey and Churchill: The bill you have before you, although it is a reprint, is word for word from the original version. I don't see any differences. In 1975, my agency worked with Legislative Counsel Bureau personnel through a HUD grant to do a people preference for mobile homes in this region. We found that even then there were manufactured homes available that did not look like tin boxes, but the buyer preference was one of a more rectangular shape. The inside of the mobile home was very important to them, but the outside was not, as they just wanted conformity. What I am afraid of here is the other side of the coin, as Mr. Jeffrey point out. You have some homes that are very desirable. We mix modular homes freely. Nobody comes and complains to our planning commissions. By the way, our zoning laws are not our laws, they are the laws created by our people coming at us. However, I don't want to see the local governments get into a situation where someone takes advantage of the 'loophole' in the law and we have more 'tin boxes', where you would have a nice rectangular home moved in next to a frame home and then we, as local governments, would be caught in the middle trying to explain how that occurred in the first place in the resolving of a dispute. In my particular

area, we have far more mobile homes than frame houses. We have mobile home subdivisions. In the rural areas, we mix mobile homes and frames, as you can see in the Lahontan Reservoir area. But, I do get concerned about the 'possible taking of someone else's property value', and local government being able to deal with the problem because of a situation developing where you do not have a home that is as shown to you in the glossies but something a little bit different.

Ms. Shannon Zivic, representing the Mobile Home Owners League of the Silver State: I believe this is very important and I speak to you on the economics of the mobile home people themselves. I believe it is a ray of light for future affordable housing in the state. We don't see much hope for mobile home future. We haven't had a mobile home park actually started in Clark County since 1979. All the new estate parks you see for sale down there. We have about four. They have been for sale for a long time. No new rental parks have been started at all. There are 4,500 approved spaces that have sat there, some of them as long as three years and longer. The county commissioners have approved them, but they are not developing. In my opinion, in the density areas, nothing is going on to provide more mobile home living. Since mobile home living is the closest to affordable housing that we can get, I would like to compare this with the size of cars that we were driving a few years ago. Many of us were driving big cars. How many of us are not driving such big cars? We may not like some of the things we do, but we do them because we feel the economics of our community needs. I am supportive of this. I think it is the only future that you have with costs. In Clark County, we are now paying for sites that are for sale in estate (RT) parks as much as from $16,000 to as high as $27,000, where a few years ago, you could get one for $9,000. When you are talking the need in a community and for affordable housing, I highly and fervently ask that you help these people and that you do pass this.

Mr. Dini: This is similar to the PUD's.

Mr. Hamilton: Yes, the only difference is that the lots are not for sale, they are only for rent. The county denied them the zoning for being able to buy the individual lots.

Mr. Dini: Where is the problem in Lyon County where they won't allow these houses?

Mr. Hamilton: In Lyon County you cannot even place one of these homes on a ranch. For example, a man bought a 360 alfalfa ranch. He could not place a manufactured home on the ranch unless he signed an affidavit that he would not live in it, and that the only person who would live in it would be his hired hand.

The owner of a ranch cannot live in a manufactured home.

Mr. Dini: It's temporary housing.

Mr. Hamilton: And that is where the disparity is and it is in the ordinance in Lyon County.

Mr. Joe Denney, Clark County: Our concern, as we testified in the Senate, has to do on Page 2, especially with Lines 4, 5 and 6. It is my understanding that the HUD codes relating to dwellings as they are defined in this ordinance and in the HUD code do not equate to the Uniform Building Codes for construction on site or for modular construction, and they certainly do not conform to Clark County building codes and we do not like to be usurped by the federal government.

Mr. Redelsperger: What steps has the county taken to alleviate this problem. Are you in the future look towards changing your thinking along this line and try to start approving more parks that could be developed without a tremendous investment that would discourage people from going in?

Mr. Denney: There have been three mobile home parks approved within the last year in Clark County. As far as I know, there has been no construction done, primarily because of the poor money market. In addition to that, Clark County is now working on a 100-unit park for seniors. It is a special low income project, and there is a private effort on the west side for some 500 units from a local organization trying to get some BLM land. We are not unaware of the problem and have worked hard on AB-412 and AB-427, relative to how we deal with mobile home parks, both rental and owned.

Mr. Redelsperger: I'm glad to hear that because I honestly feel that if these things aren't addressed and taken care of in the next two years this kind of legislation - you will have a lot of mobile home legislation and these things are going to be passed and we will lose control of growth.

Mr. Denney: Our Building Department advises that it gets into a situation of reverse discrimination, i.e., you have a home built at one set of building codes. You have another home that is built to another set of building codes and a home in the middle that is not built to building codes of either side. If a modular home comes in and meets our building codes, it gets built.

Ms. Debbie Langston: I am speaking on behalf of the League of Cities. Our concern is that having a uniform mandate, statewide, when there are unique situations in different areas, would create a problem. If the City of Reno were approached, we would

look at affordable housing subdivisions, where they are all modular constructed, where you don't have a problem with existing structures and putting a modular structure next to it. In Reno, there are very few areas that have the trailer overlay zoning. The city has been working on affordable housing, trying to encourage developers to come up with some and if somebody were to come in with a plan where they are all modular, so that you don't have a problem with decreasing values of property next door, on a large subdivision scale, I think it could be done - at the local level. In Reno, we have very few properties that are undeveloped lots.

Mr. Dave Deitz, with the Douglas County Planning Department, representing Douglas County: I think that the glossy you were handed is from Douglas County belies the notion that TR zoning is for slums and other such things. That clears up that problem. If there are problems in some counties, I think it should be handled at the local level. It is not something that needs to affect all of the counties with a sweeping state change. If this passes, in order to protect people with standard single family homes, we will have to have architectural controls for all single family homes. This means that for the five percent that might be manufactured housing, all the rest of the people are going to have siding requirements and other requirements that we do not have right now. We have architectural design controls on all commercial buildings, but we have kept out of the business of monkeying with the architectural preferences of people on single family homes. This would have to change in order to protect them, because if we didn't do this, any sort of trailer that met the magic federal code, could be moved in, if we didn't regulate the siding, and other such things. That means not only more government at a time when people obviously don't want this, but more staff to handle this increased load because we would now have to be reviewing this on single family homes. This would be a burden on the additional price of all housing, because they would now have to go through an additional local government reveiw for architectural controls. So, this would be driving up the price of standard housing. We don't feel that his tis appropriate. It is quite clear from the testimony from the proponents of this that they haven't tried to handle this at the local level. I think it is nonsense to comment that they don't get it on certain houses, therefore, they aren't going to try on the larger scale. Douglas County has always been responsive to true modular homes. A lot of not only our single family, but multi-family, is modular construction. I don't think it appropriate that someone should be able to put a house that doesn't meet UBC next to a whole bunch that are. Even if the facade is the same, obviously, the value of the home is not going to be the same, because it doesn't meet the standards.

Mr. Troy Foster, TBT Manufactured Housing: The average house is no longer affordable to the average person. The manufactured housing industry stands ready, willing and able to supply a affordable house for the average person. They do have a Uniform Building Code accepted by the federal government and have ever since June 15, 1976. We have just a few months ago been accepted for FHA and VA financing. We have to allow the average person to once again afford a home.

Mrs. Zivic: May I throw something at you Mr. Denney, before you leave that I think is important? In the 'own-your-own's' now, you have mobile homes because people like mobile homes. You have mobile homes sitting out there that are running as high as, in one park down there that I can speak of, $60,000. In order for these people to live in these very beautiful homes, they have what they call 'covenants', rules and regulations. They are live under the CC & R's. They are controlled right down to the teeth. No matter what they do - their landscapting is controlled, their fencing is controlled. Everything they do is under rules and regulations. This would never happen to them if they lived in normal residential areas. Down around Boulder, you have parks there that are selling the lot and coach for $100,000. They are still under strict control. You have problems of associations where they spend thousands and thousands of dollars and get in limbo. The people don't get control of their associations. It is one of the biggest messes you ever saw for these people to be spending that kind of money. Yet they are living under oppressive control and having to pay up to $100,000 to live in one of these parks. I just wanted you to know that this is what is going on within these types of parks now, with restrictive zoning.

Mr. Cook: Unless this legislation is passed, if you or I or anybody else owns a lot in many areas of this state, there is no freedom of choice. As far as aesthetics go, we have all seen many houses that we don't find attractive, but somebody else has.

Mr. Dini: This will conclude the testimony on SB-656. Are there any volunteers for a subcommittee for this bill? Mr. Jeffrey and Mr. May have volunteered to serve on this subcommittee, together with Mr. Nicholas. They will conduct an investigation on the building code and the questions we had concerning building construction.

The next bill to be heard is SB-693 - Allows pay for persons serving on town advisory boards.

Mr. Bryce Wilson, Nevada Association of Counties: We support the bill.

Mr. Don Johnson, Director of Public Service for the town of Gardnerville: We primarily and in conjunction with our rapport with Douglas County initiated this bill.

Mr. Dini: How many town boards are there in Douglas County?

Mr. Johnson: There are three: Minden, Genoa and Gardnerville. The reason for this bill is because of the increased growth in Carson Valley and the surrounding communities and the fact that our town board members are being elected now. We are going into special meetings in addition to our regularly scheduled monthly meetings, to revie special projects and building subdivisions in conjunction with Douglas County. As growth increases, you become more involved in order to serve the needs of the citizens and the community in research work, surveys, etc. Instead of the usual two or three hours a month, it is becoming fifteen to twenty-five hours a month. This bill will encourage people to come forward and serve. This bill, however, will make it permissive for the board of county commissioners to compensate members of town advisory boards. It was not intended to jeopardize other counties or boards.

Mr. Dini: This concluded the testimony on SB-693.

Mr. Dini: I would like to see the committee take action on SB-680. Mr. Jeffrey moved a DO PASS, seconded by Mr. Schofield. Motion carried.

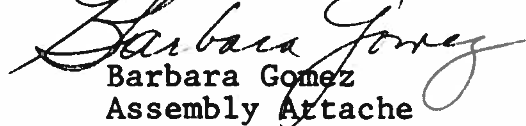
On SB-693, Mr. Dini indicated he wanted to talk to the Lyon County Commissioners, and suggested that the committee could handle the bill on the floor.

Mr. Craddock: I would like to give the committee a report on the state parks. Mr. Schofield and I met with Mr. Capurro and he concluded that the state's recreational needs are not necessarily better served by apportioning money in population pockets. He felt that, maybe, some additional reflection in population should be brought about by appointments on boards. We got the report from the Legislative Counsel Bureau. Mr. Hohmann did the work on it and seven members of the committee signed the letter stating that the information should be attached and readily accessible for future consideration. I made a memo to the committee available to all members of the committee except for the ones assigned to the subcommittee in the other area and I thought that the chairman would like to extend the opportunity to the four members of the committee who did not see fit to sign the report to do so now. I would also like this to be part of the record.

Mr. Dini: We will make this a part of the record, as EXHIBIT C, and made a part of these minutes, and ask the members who have not signed it and want to sign it, to do so, as they have the opportunity.

Mr. Dini adjourned the meeting at 1:00 P.M.

Respectfully submitted,



Barbara Gomez
Assembly Attache

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date 5/29/81

PLEASE PRINT YOUR NAME	PLEASE PRINT REPRESENTING:		I WISH TO SPEAK FOR	AGAINST	BILL NO.
David Dietz	Douglas County	✓		SB 656	
Bryce Wilson	Douglas County	✓			AB 705
Jerry Maple	Douglas County	✓			AB 705
El Chapel	Nevada Mobile Homes		✓		SB 656
Glenn Gruenewald	Nevada Home Specialties Inc	✓		✓	
Bill Deal	All Season Homes - Fallon				
Troy E. Chronister	TBE Mfg Housing Assoc.		✓		
R. R. Gammon	Fallon Mobile Homes				
Ron Johnson	Town of Gardnerville		✓		SB 693
Byron Cook	Westland Mortgage		✓		SB 656
Louie Test	City of Reno	✓	✓		SB 680
Steve Hamilton	Mfg Housing		✓		SB 656
Hal V. Dunn	Sheriffs' Assn & Carson City		✓		AB 705
Dale L Fletcher	NV Mfg Housing Assoc				
John Murtha	Woodburn, Wedge, Blakey & Jeppson		✓		SB 656
Robert Hadfield	Douglas County		✓		SB 693

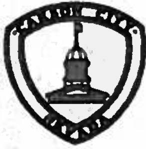
2750

ASSEMBLY GOVERNMENT AFFAIRS COMMITTEE

GUEST LIST

Date 5/29/81

PLEASE PRINT YOUR NAME	PLEASE PRINT REPRESENTING:		I WISH TO SPEAK FOR	AGAINST	BILL NO.
Jana Tica	Light Mobile Homes				
Yvonne [illegible]	Douglas Co. Clerk-Treas		SB693		
[illegible]	Douglas Co Auditor/Rec.				
Ted Thornton	Nev Assoc of Counties		✓		SB705
Shannon [illegible]	Mobile Home - Silver State		656		X



TED P. THORNTON
CARSON CITY CLERK-TREASURER
AND EX OFFICIO CLERK OF THE
FIRST JUDICIAL DISTRICT COURT
OF CARSON CITY

Court Clerk
198 North Carson Street
Carson City, Nevada 89701
(702) 882-1594

Tax Department
138 East Long Street
Carson City, Nevada 89701
(702) 882-6446

Treasurer, Elections,
Business Licenses
198 North Carson Street
Carson City, Nevada 89701
(702) 883-6444

March 30, 1981

TO: SENATE and ASSEMBLY GOVERNMENT AFFAIRS JOINT SUB-COMMITTEE ON COUNTY ELECTED OFFICIALS' SALARIES

SUBJECT: REQUEST AND RECOMMENDATIONS FROM TED THORNTON, CHAIRMAN OF THE NEVADA ASSOCIATION OF COUNTIES COMMITTEE ON SALARY LEGISLATION

After many Committee meetings and many months of research and gathering of information concerning the salaries of County elected officials, we have come to the following conclusions:

(1) Since the establishing of the present salaries by the 1977 Legislature which became effective January 1, 1979, a period of unprecedented inflation has existed.

(2) An already low salary schedule has become completely obsolete.

(3) Numerous elected officials throughout the State have resigned and are resigning because of inadequate salaries.

(4) Qualified people are completely discouraged, because of salaries, from filing for Office.

(5) The elected offices we are concerned with, with the exception of Commissioners, are full-time positions. These Offices should be filled with competent, professional people. These are the administrators who carry out the mandates and laws which your body, The Legislature, mandates.

(6) Most all of the elected officials throughout the State prefer to have salaries set by the Legislature and not by the local Commissions.

(7) In almost every County, well over ten percent of the total employees earn in excess of what the elected officials are paid. Those are Department Heads, Assistant Department Heads and, in some instances, people in the classified service.

(8) We are only asking for what is fair and just -- a salary which is commensurate with the dignity of the Office and the responsibilities that go along with it.

Exhibit A

The following would be our recommendations and requests:

(1) A twenty-five percent (25%) cost-of-living increase effective 7/1/81.

(2) An additional fifteen percent (15%) increase effective 1/1/83, the beginning of the next term of Office.

(3) A cost-of-living clause, based on what the Legislature grants to State employees, to be written in the Salary Bill. This to be added to the 15% and effective on 1/1/83.

(4) A clause that would make employer-paid retirement optional by County. This to become effective 7/1/81.

TPT/hab

BUREAU OF LABOR STATISTICS
WASHINGTON, D.C. 20212

CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
U.S. CITY AVERAGE
ALL ITEMS
(1967 = 100)

YEAR	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.	AVG.
1946	54.5	54.3	54.7	55.0	55.3	55.9	59.2	60.5	61.2	62.4	63.9	64.4	58.5
1947	64.4	64.3	65.7	65.7	65.5	66.0	66.6	67.3	68.9	68.9	69.3	70.2	66.9
1948	71.0	70.4	70.2	71.2	71.7	72.2	73.1	73.4	73.4	73.1	72.6	72.1	72.1
1949	72.0	71.2	71.4	71.5	71.4	71.5	71.0	71.2	71.5	71.1	71.2	70.8	71.4
1950	70.5	70.3	70.6	70.7	71.0	71.4	72.1	72.7	73.2	73.6	73.9	74.9	72.1
1951	76.1	77.0	77.3	77.4	77.7	77.6	77.7	77.7	78.2	78.6	79.0	79.3	77.8
1952	79.3	78.8	78.8	79.1	79.2	79.4	80.0	80.1	80.0	80.1	80.1	80.0	79.5
1953	79.8	79.4	79.6	79.7	79.9	80.2	80.4	80.6	80.7	80.9	80.6	80.5	80.1
1954	80.7	80.6	80.5	80.3	80.6	80.7	80.7	80.6	80.4	80.2	80.3	80.1	80.5
1955	80.1	80.1	80.1	80.1	80.1	80.1	80.4	80.2	80.5	80.5	80.6	80.4	80.2
1956	80.3	80.3	80.4	80.5	80.9	81.4	82.0	81.9	82.0	82.5	82.5	82.7	81.4
1957	82.8	83.1	83.3	83.6	83.8	84.3	84.7	84.8	84.9	84.9	85.2	85.2	84.
1958	85.7	85.8	86.4	86.6	86.6	86.7	86.8	86.7	86.7	86.7	86.8	86.7	86.
1959	86.8	86.7	86.7	86.8	86.9	87.3	87.5	87.4	87.7	88.0	88.0	88.0	87.
1960	87.9	88.0	88.0	88.5	88.5	88.7	88.7	88.7	88.8	89.2	89.3	89.3	88.
1961	89.3	89.3	89.3	89.3	89.3	89.4	89.8	89.7	89.9	89.9	89.9	89.9	89.
1962	89.9	90.1	90.3	90.5	90.5	90.5	90.7	90.7	91.2	91.1	91.1	91.0	90.
1963	91.1	91.2	91.3	91.3	91.3	91.7	92.1	92.1	92.1	92.2	92.3	92.5	91.
1964	92.6	92.5	92.6	92.7	92.7	92.9	93.1	93.0	93.2	93.3	93.5	93.6	92.
1965	93.6	93.6	93.7	94.0	94.2	94.7	94.8	94.6	94.8	94.9	95.1	95.4	94.
1966	95.4	96.0	96.3	96.7	96.8	97.1	97.4	97.9	98.1	98.5	98.5	98.6	97.
1967	98.6	98.7	98.9	99.1	99.4	99.7	100.2	100.5	100.7	101.0	101.3	101.6	100.
1968	102.0	102.3	102.8	103.1	103.4	104.0	104.5	104.8	105.1	105.7	106.1	106.4	104.
1969	106.7	107.1	108.0	108.7	109.0	109.7	110.2	110.7	111.2	111.6	112.2	112.9	109.
1970	113.3	113.9	114.5	115.2	115.7	116.3	116.7	116.9	117.5	118.1	118.5	119.1	116.
1971	119.2	119.4	119.8	120.2	120.8	121.5	121.8	122.1	122.2	122.4	122.6	123.1	121.
1972	123.2	123.8	124.0	124.3	124.7	125.0	125.5	125.7	126.2	126.6	126.9	127.3	125.
1973	127.7	128.6	129.8	130.7	131.5	132.4	132.7	135.1	135.5	136.6	137.6	138.5	133.
1974	139.7	141.5	141.1	143.9	145.5	146.9	148.0	149.9	151.7	153.0	154.3	155.4	147.
1975	156.1	157.2	157.8	158.6	159.3	160.6	162.3	162.8	163.6	164.6	165.6	166.3	161.
1976	166.7	167.1	167.5	168.2	169.2	170.1	171.1	171.9	172.6	173.3	173.8	174.3	170.
1977	175.3	177.1	178.2	179.6	180.6	181.8	182.6	183.3	184.0	184.5	185.4	186.1	181.
1978	187.2	188.4	189.8	191.5	193.3	195.3	196.7	197.8	199.3	200.9	202.0	202.9	195.
1979	204.7	207.1	209.1	211.5	214.1	216.6	218.9	221.1	223.4	225.4	227.5	229.9	217
1980	233.2	236.4	239.8	242.5	244.9	247.6	247.8	249.4	251.7	253.9	256.2	258.4	246.
1981	260.5	263.2											
1982													
1983													
1984													
1985													

EXHIBIT "E"

SALARIES EFFECTIVE 1-1-79 TO PRESENT, ESTABLISHED IN 1977 SESSION

CHART #

COUNTIES	Commissions	Distr. Attorneys	Sheriffs	Clerks	Treasurers	Assessors	Recorders
CLARK	19200	37200	37500	26500	26500	26500	26500
WASHOE	10800	36800	31500	25300	25300	25300	25300
CARSON CITY	9000	30500	24000	21300	—	21300	21300
DOUGLAS	7260	30500	21500	19600	—	19600	19600
ELKO	7260	30500	21500	19600	19600	19600	19600
CHURCHILL	6600	25000	17400	16700	—	16700	16700
LYON	6600	25000	18000	16700	—	16700	16700
HUMBOLDT	6600	25000	17400	16700	16700	16700	16700
NYE	6600	25000	19200	16700	16700	16700	16700
WHITE PINE	6600	25000	18000	16700	16700	16700	16700
MINERAL	6600	25000	18000	16700	—	16700	16700
LANDER	4950	22000	14400	13000	13000	13000	13000
LINCOLN	4950	22000	14400	13000	13000	13000	13000
PERSHING	6600	25000	17400	16700	—	16700	16700
STOREY	4950	22000	14400	13000	—	13000	13000
EUREKA	4950	22000	13000	13000	—	13000	13000
ESMERALDA	4950	22000	13000	13000	—	13000	13000

1) Counties are listed by Population - 1980 Census
2) District Attorney based on full time
3) Sheriffs need to be re-evaluated by class
4) Consideration should be given to the combination Office of Clerk/Treasurer

REFLECTS SALA[illegible]S WITH 25% COST-OF-LIVING INCREASE. RECOMMENDED [illegible]TAKE EFFECT 7-1-81

CHART #2

COUNTIES	Commissions	Distr. Attorneys	Sheriffs	Clerks	Treasurers	Assessors	Recorders
CLARK	24000	47750	46875	33125	33125	33125	33125
WASHOE	13500	46000	39375	31625	31625	31625	31625
CARSON CITY	10000	38125	30000	26625	——	26625	26625
DOUGLAS	9075	38125	26875	24500	——	24500	24600
ELKO	9075	38125	26875	24500	24500	24500	24500
CHURCHILL	8250	31250	21750	20875	——	20875	20875
LYON	8250	31250	22500	20875	——	20875	20875
HUMBOLDT	8250	31250	21750	20875	20875	20875	20875
NYE	8250	31250	24000	20875	20875	20875	20875
WHITE PINE	8250	31250	22500	20875	20875	20875	20875
MINERAL	8250	31250	22500	20875	——	20875	20875
LANDER	6188	27500	19000	16250	16250	16250	16250
LINCOLN	6188	27500	19000	16250	16250	16250	16250
PERSHING	8250	31250	21750	20875	——	20875	20875
STOREY	6188	27500	19000	16250	——	16250	16250
EUREKA	6188	27500	16250	16250	——	16250	16250
ESMERALDA	6188	27500	16250	16250	——	16250	16250

Footnotes:

Consideration should be given to footnotes 2), 3) and 4) on Chart I

REFLECTS SALARIES WITH ADDITI[ONAL] 15% INCREASE. IN ADDITION TO THIS SHOULD BE AD[DITIONAL] COST-OF-LIVING INCREASE GRANTED TO STATE EMPLOYEES. RECOMMENDED THAT BOTH OF THESE TAKE EFFECT AT THE BEGINNING [OF] NEXT TERM -- 1-1-83

C[HART] #3

COUNTIES	Commissions	Distr. Attorneys	Sheriffs	Clerks	Treasurers	Assessors	Recorders
CLARK	27600	54913	53906	38094	38094	38094	38094
WASHOE	15525	52900	45281	36369	36369	36369	36369
CARSON CITY	11500	43844	34500	30619	—	30619	30619
DOUGLAS	10436	43844	30906	28175	—	28175	28175
ELKO	10436	43844	30906	28175	28175	28175	28175
CHURCHILL	9488	35938	25013	24006	—	24006	24006
LYON	9488	35938	25875	24006	—	24006	24006
HUMBOLDT	9488	35938	25013	24006	24006	24006	24006
NYE	9488	35938	27600	24006	24006	24006	24006
WHITE PINE	9488	35938	25875	24006	24006	24006	24006
MINERAL	9488	35938	25875	24006	—	24006	24006
LANDER	7116	31625	20700	18688	18688	18688	18688
LINCOLN	7116	31625	20700	18688	18688	18688	18688
PERSHING	9488	35938	25013	24006	—	24006	24006
STOREY	7116	31625	20700	18688	—	18688	18688
EUREKA	7116	31625	18688	18688	—	18688	18688
ESMERALDA	7116	31625	18688	18688	—	18688	18688

Footnotes:

Consideration should be given to footnotes 2), 3) and 4) on Chart #1

CALIFORNIA GOVERNMENT CODE

§65852.3 Mobilehomes; Installation on lots zoned for single-family dwellings.

A city, including a charter city, county, or city and county shall not prohibit the installation of mobilehomes certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.) on a foundation system, pursuant to Section 18551 of the Health and Safety Code on lots zoned for single-family dwellings. However, a city, including a charter city, county, or city and county may designate lots zoned for single-family dwellings for mobilehomes as described in this section, which lots are determined to be compatible for such mobilehome use. A city, including a charter city, county, or city and county may subject any such mobilehome and the lot on which it is placed to any or all of the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking and architectural, aesthetic requirements, and minimum square footage requirements. However, any architectural requirements imposed on the mobilehome structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. In no case may a city, including a charter city, county, or city and county apply any development standards which will have the effect of totally precluding mobilehomes from being installed as permanent residences.
(Added by Stats. 1980, c. 1142, p.___, § 1.5, operative July 1, 1981.)

Operative July 1, 1981.

Exhibit B
2550

Title 24, §4406. Required regulations.

No municipality may adopt zoning regulations which do not provide for the following:

* * * * * * * * * * * * * * *

(4) Equal Treatment of Housing.

(A) Except as provided in section 4407(6) of this title, no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

(B) No zoning regulation shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in section 4382(c) of this title.

(C) No provision of this chapter shall be construed to prevent the establishment of mobile home parks pursuant to chapter 153 of Title 10.--Amended 1975, No. 236 (Adj. Sess.), §1.

Title 24, §4407.

(6) Design control districts. Zoning regulations may contain provisions for the establishment of design control districts. Prior to the establishment of such a district, the planning commission shall prepare a report describing the particular planning and design problems of the proposed district and setting forth a design plan for the areas which shall include recommended planning and design criteria to guide future development. The planning commission shall hold a public hearing, after public notice, on such report. After such hearing, the planning commission may recommend to the legislative body such design control district. A design control district can be created for any area containing structures of historical, architectural or cultural merit, and other areas in which there is a concentration of community interest and participation such as a central business district, civic center or a similar grouping or focus of activities. Within such a designated design control district no structure may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without approval of the plans therefor by the planning commission. A design review board

may be appointed by the legislative body of the municipality to advise the planning commission, which board shall have such term of office, and such procedural rules, as the legislative body determines.

from: JENKINS BUSINESS MANAGEMENT May 1981

Indiana Joins States Voiding Anti Mobile Home Laws

INDIANAPOLIS, Ind.—Governor Robert D. Orr has signed into law legislation which prevents county and municipal zoners from discriminating against all forms of manufactured homes simply because they were built in factories.

The bill had previously passed the Indiana House by a resounding 83-11 margin, and then Senate by 26-20.

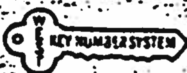
The law prohibits planning commissions from enacting or maintaining ordinances that totally preclude all forms of manufactured housing (including mobile homes) from being installed as permanent residences.

It applies, however, only to homes having more than 950 square feet of space and which are more than 23 feet wide. Local authorities may specify roofing and siding materials, but any such aesthetic specifications must also be applied to site-built homes.

The law covers mobile/manufactured homes built after last Jan. 1, and takes affect July 1, 1982.

The only other state with such a broad state law against mobile home discrimination is California, which won such a measure in 1980. In Florida, a task force of members of Florida Manufactured Housing Assn. is in the initial stages of preparing a similar bill for the 1982 legislative session.

All this legislative activity involves mobile homes built to the standards set by the U. S. Department of Housing and Urban Development.



ROBINSON TOWNSHIP, a Michigan Municipal Corporation, Plaintiff-Appellant,

v.

Donald KNOLL and Merle Knoll, jointly and severally, Defendants-Appellees.

Docket No. 58747.

Calendar No. 1.

Supreme Court of Michigan.

Argued Jan. 8, 1980.

Decided Feb. 23, 1981.

Township brought action against landowners, seeking removal of mobile home from parcel of land. The Ottawa County Circuit Court, James E. Townsend, J., entered judgment that township ordinance provision permitting mobile homes only in mobile home parks was valid, and appeal was taken. The Court of Appeals, Quinnell, J., 70 Mich.App. 258, 245 N.W.2d 709, reversed, holding ordinance unconstitutional, and appeal was again taken. The Supreme Court, Levin, J., held that: (1) per se exclusion of mobile homes from all areas not designated as mobile home parks had no reasonable basis under police power, and was therefore unconstitutional, and (2) municipality need not permit all mobile homes, regardless of size, appearance, quality and manufacture or manner of on-site installation, to be placed in all residential neighborhoods, and mobile home could be excluded if it failed to satisfy reasonable standards designed to assure favorable comparison with site-built housing which would be permitted on site, and not merely because it was a mobile home.

Determination of Court of Appeals affirmed; judgment vacated and remanded.

Coleman, C. J., filed dissenting opinion in which Ryan, J., joined.

Moody, J., filed dissenting opinion.

1. Zoning and Planning ⟹83

Per se exclusion, under township zoning ordinance of mobile homes from all areas not designated as mobile home parks had no reasonable basis under police power, and was therefore unconstitutional; overruling *Wyoming Twp. v. Herweyer*, 321 Mich. 611, 33 N.W.2d 93 (1948). M.C.L.A. Const. Art. 1, § 17.

2. Zoning and Planning ⟹83

A municipality need not permit all mobile homes, regardless of size, appearance, quality of manufacture or matter of on-site installation, to be placed in all residential neighborhoods; a mobile home may be excluded if it fails to satisfy reasonable standards designed to assure more favorable comparison of mobile homes with site-built housing which would

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housing which would be permitted on site, and not merely because it is a mobile home. M.C.L.A.Const. Art. 1, § 17.

3. Zoning and Planning ⇐790

Where township's complaint alleged mobile home owners' violation of provision of zoning ordinance relating to building permits, but building permit could not have issued because of unconstitutional per se rule under separate ordinance confining mobile homes to mobile home parks, township was entitled to no relief based on mobile home owners' failure to apply for building permit prior to erecting mobile home on lot as well as digging well, obtaining septic permit, applying for power from power company, clearing trees for roadway, and erecting rail fence around site.

4. Constitutional Law ⇐278.2(1)

A "reasonable basis" for zoning ordinance, in order that it might satisfy substantive due process, must be grounded in police power, which includes protection of the safety, health, morals, prosperity, comfort, convenience and welfare of the public, or any substantial part of the public. U.S.C.A.Const. Amend. 14.

See publication Words and Phrases for other judicial constructions and definitions.

5. Zoning and Planning ⇐83

Assumption that all mobile homes are different from all site-built homes with respect to criteria cognizable under police power can no longer be accepted. M.C.L.A. Const. Art. 1, § 17.

6. Zoning and Planning ⇐83

If mobile homes were to be excluded from all residential zones in township other than mobile home parks, it could not be because they were "movable or portable," as a "mobile home" was defined under township's zoning ordinance, where site-built homes were "movable or portable," in sense of relocation from outside township or from another location within township, although they were rarely moved, and thus it would be arbitrary to discriminate against mobile homes on such basis. M.C.L.A. Const. Art. 1, § 17.

7. Zoning and Planning ⇐83

The criteria "constructed to be towed on its own chassis" and "designed without a permanent foundation," included in township's definition of "mobile home" under zoning ordinance providing that mobile homes may be located only in mobile home parks, did not identify characteristics which justified exclusion and segregation of mobile homes where, although community might have legitimate interest in safeguarding residents against, for example, windstorm damage, justifying requirement that mobile home be firmly attached to solid foundation, and might reasonably include that dwelling the wheels and chassis of which are exposed is unsightly or is likely to lead to transience, thus justifying requirements that certain on-site modifications be made as condition to placement of mobile home in area not designated mobile home park, ordinance defining "mobile home" reflected no such concerns. M.C.L.A.Const. Art. 1, § 17.

8. Zoning and Planning ⇐83

Ordinance restricting placement of mobile homes must be directed to dwelling as it will exist on the land, and not to its characteristics when delivered to the site. M.C.L.A.Const. Art. 1, § 17.

9. Zoning and Planning ⇐83

Aesthetics was not sufficient ground upon which to justify per se rule of township ordinance excluding mobile homes from other than mobile home parks where it appeared that mobile homes could be designed or modified to compare favorably in appearance to many site-built homes; reasonable requirements to show a favorable comparison with community's aesthetic standards could be imposed by municipality. M.C.L.A.Const. Art. 1, § 17.

10. Zoning and Planning ⇐83

Community concerns based on health and safety were insufficient characteristics of mobile homes to justify per se rule of township ordinance excluding mobile homes from areas other than mobile home parks since municipality was free to deal with

concerns of such type in a reasonable code. M.C.L.A.Const. Art. 1, § 17.

11. Zoning and Planning ⟹83

Concern that mobile homes are given to transient use was insufficient characteristic of mobile homes to justify per se rule of ordinance excluding mobile homes from areas other than mobile home parks since practical necessities attending installation of a single mobile home in an area in which site-built housing was allowed, along with conditions that a township might reasonably attach to such mobile home use, vitiated such cause for concern and, in light of investment required to install mobile home as a single-family dwelling, it was unreasonable to assume mobile home dweller would stay only a short time. M.C.L.A. Const. Art. 1, § 17.

12. Zoning and Planning ⟹83

Where township's building code allowed for prefabricated housing which was assembled at site, there could be no reasonable basis for distinguishing between mobile homes, which were excluded by ordinance from areas other than mobile home parks, and other prefabricated dwellings since both were "movable or portable," and might be similar in appearance and constructed of similar materials; it was not valid basis for distinction under police power that one was not only prefabricated but also preassembled, and "constructed to be towed on its chassis." M.C.L.A.Const. Art. 1, § 17.

Scholten & Fant by R. Neal Stanton, Grand Haven, for plaintiff-appellant.

Hoffman & Watts by John A. Watts, Allegan, Mich., for defendants-appellees.

LEVIN, Justice.

In this case we revisit the holding of *Wyoming Twp. v. Herweyer*,[1] and consider whether a municipality constitutionally may provide that mobile homes are to be sited only in mobile home parks and exclude all mobile homes from other residential zones.

Robinson Township commenced this action against Donald and Merle Knoll, seeking removal of a mobile home from their 80-acre parcel of land.

Count I of the complaint alleged that the use of the mobile home was contrary to § 307.1 of the township's zoning ordinance[2], which provides that mobile homes may be located only in mobile home parks, and to § 1302.1 of the ordinance[3], which requires that a building permit be obtained before the erection of a building or structure on any property in the township. Count II alleged that because of violation of the same sections of the ordinance, the mobile home was a nuisance per se.

The answer raised affirmative defenses based on the unconstitutionality of the ordinance in that it arbitrarily and capriciously prohibits a proper land use, and is overbroad, failing to establish clear standards to be observed by property owners and citizens of the township.

1. *Wyoming Twp. v. Herweyer*, 321 Mich. 611, 33 N.W.2d 93 (1948).

2. "*Mobile Homes—Where Permitted*: Mobile homes are considered as dwelling units and are not permitted as an accessory use to a permitted principal use and are permitted only in approved mobile home parks." Robinson Township Zoning Ordinance, § 307.1.

3. "*Application*. Except as otherwise provided, it shall be unlawful to erect any new building or structure or to alter any existing building or structure at a cost of $200.00 or more until a permit therefor has been obtained from the building inspector by the owner or his duly authorized agent. Application for a permit shall be in writing and upon duplicate printed forms furnished by the building inspector. Such permits shall be non-transferable and must be obtained before any work, excavation, erection, alteration, or movement is begun. Satisfactory evidence of ownership of the premises may be required by the building inspector and shall be furnished upon request. If the application is approved, the building inspector shall so mark both copies over his signature, shall file one copy in the office of the township clerk of Robinson Township, and return the other copy to the applicant together with a construction card signed by the building inspector stating the extent of the work authorized, which card shall be attached to and remain on the premises during the progress of the work authorized." *Id.*, § 1302.1.

Trial was had on stipulated facts, including: the home had been placed on the parcel; the parcel was not a mobile home park; no building permit had been obtained; and the Knolls had dug a well, obtained a septic permit, applied for power from Consumers Power Company, cleared trees for a roadway and erected a rail fence around the site. No claim was made that the dwelling was not a mobile home within the meaning of the ordinance.

The trial judge, citing *Wyoming Twp. v. Herweyer*, held that "unless and until such decision is reversed," the provision that mobile homes are permitted only in mobile home parks was valid, and accordingly ordered removal within 30 days.

The Court of Appeals reasoned that because 1) there was no existing mobile home park in the community, and—given the state of construction on a newly approved mobile home park—"the use of land for mobile homes is neither imminent nor a factual certainty" and 2) "[a]s a matter of law," "a single mobile home [is not] a nuisance per se or detrimental to public health, safety, morals or general welfare, either," the township had totally excluded a legitimate use from the entire township.[4] The Court found no justification for this total exclusion, and held the ordinance unconstitutional. The Court found its conclusion reinforced in that the Knolls' land was so zoned that it could be licensed as a mobile home park, commenting that "if the existence of such a park on that site poses no threat to 'public health, safety, morals or general welfare,' it is difficult to perceive how the existence of one mobile home could do so."

We agree with the Court of Appeals that the ordinance is unconstitutional, but on other grounds.

[1-3] We hold:

(1) The per se exclusion of mobile homes from all areas not designated as mobile home parks has no reasonable basis under the police power, and is therefore unconstitutional.[5]

The reasoning on which the rule of *Wyoming Twp. v. Herweyer* was based is no longer valid in light of improvements in the size, quality and appearance of mobile homes, and that decision and cases to the same effect are overruled as to housing that is not a "trailer."

We add, however, that a municipality need not permit all mobile homes, regardless of size, appearance, quality of manufacture or manner of on-site installation, to be placed in all residential neighborhoods. A mobile home may be excluded if it fails to satisfy reasonable standards designed to assure favorable comparison of mobile homes with site-built housing which would be permitted on the site, and not merely because it is a mobile home.

The Robinson Township ordinance embodies a per se rule segregating mobile homes from residential zones that are not mobile home parks, and is therefore unconstitutional.

(2) The complaint also alleged violation of the provision of the zoning ordinance relating to building permits. A building permit could not have issued because of the per se rule confining mobile homes to mobile home parks. It necessarily would have been futile for the Knolls to apply for one. For this reason, the township is entitled to no relief based on the Knolls' failure to apply for a building permit.

(3) We intimate no opinion whether building code provisions may now be invoked against the Knolls, leaving that question for consideration by the circuit court should the township seek further relief on that basis.

We vacate the judgment of the Court of Appeals, and remand to the circuit court for further proceedings not inconsistent with this opinion.

Municipalities throughout the state have assumed the continuing validity of the rule of *Wyoming Twp. v. Herweyer* in drafting their ordinances. We reserve the question

4. *Robinson Twp. v. Knoll*, 70 Mich.App. 258, 264–266, 245 N.W.2d 709 (1976).

5. Const.1963, art. 1, § 17.

whether our decision overruling that opinion as applied to housing other than "trailers" should be applied retroactively in other pending cases or to other ordinances and, if so, whether retroactivity should be conditioned upon compliance with reasonable standards designed to assure favorable comparison of the mobile home in question with site built housing which would be permitted on the site.[6]

I

In *Kropf v. Sterling Heights*,[7] this Court said that "[a] plaintiff-citizen may be denied substantive due process by the city or municipality by the enactment of legislation, in this case a zoning ordinance, which has, in the final analysis, no reasonable basis for its very existence."

[4] A "reasonable basis" must be grounded in the police power,[8] which this Court has defined as including "protection of the safety, health, morals, prosperity, comfort, convenience and welfare of the public, or any substantial part of the public."[9]

The township's argument based on the land planning principle that like uses should be grouped and incompatible uses kept separate begs the question raised by the appeal: do mobile homes differ from other single-family dwellings in any constitutionally cognizable manner which would justify their per se classification as a different use? If not, then the ordinance limiting mobile homes to mobile home parks has "no reasonable basis for its very existence."

In *Kropf*, we reaffirmed the principle that "'[w]hile an ordinance must stand the test of reasonableness, the presumption is in favor of its validity and courts may not invalidate ordinances unless the constitutional objections thereto are supported by competent evidence or appear on their face.'"[10]

The Knolls, having failed to produce any evidence in the circuit court, can succeed only if the rule that no mobile home may be located outside a mobile home park is invalid on its face.

We believe that it is.[11]

II

Wyoming Twp. v. Herweyer, holding that a municipality may constitutionally limit trailers to trailer parks, would seem to be dispositive of this case, and was so treated by the trial judge. We conclude, however, that it does not control.

[5] That case, decided over thirty years ago, dealt with trailers. Today, we consider the per se exclusion not of trailers, but of mobile homes—and more than the label has changed with time. The mobile home today can compare favorably with site-built housing in size, safety and attractiveness. To be sure, mobile homes inferior in many respects to site-built homes continue to be manufactured. But the assumption that all

6. This case was tried on a stipulation of facts. The record shows that the mobile home placed on the Knolls' land is 14' × 70', and that some improvements have been made. There is no indication that this mobile home is of a kind that the township could exclude. Our decision, however, is not based on a determination that this mobile home could not constitutionally be excluded.

7. *Kropf v. Sterling Heights*, 391 Mich. 139, 157, 215 N.W.2d 179 (1974).

8. "The power of the city to enact ordinances is not absolute. It has been given power by the State of Michigan to zone and regulate land use within its boundaries so that the inherent police powers of the state may be more effectively implemented at the local level. But the state cannot confer upon the local unit of government that which it does not have. For the state itself to legislate in a manner that affects the individual right of its citizens, the state must show that it has a sufficient interest in protecting or implementing the common good, via its police powers, that such private interests must give way to this higher interest." *Id.*

9. *Cady v. Detroit*, 289 Mich. 499, 504–505, 286 N.W. 805 (1939).

10. *Kropf v. Sterling Heights, supra*, 391 Mich. p. 156, 215 N.W.2d 179, quoting *Northwood Properties Co. v. Royal Oak City Inspector*, 325 Mich. 419, 423, 39 N.W.2d 25 (1949).

11. See fn. 6.

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mobile homes are different from all site-built homes with respect to criteria cognizable under the police power can no longer be accepted.

A.

Section 203 of the township's zoning ordinance defines "mobile home" as "[a] movable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed without a permanent foundation for year-round living as a single-family dwelling."

[6] If mobile homes are to be excluded from all residential zones in Robinson Township other than mobile home parks, it cannot be because they are "movable or portable." Site-built homes are "movable or portable," although they are rarely moved.

We note in this regard that § 500.2 of the township's building code [12] specifically provides for the issuance of moving permits to allow the relocation of one- or two-family dwellings from outside the township or from another location within the township. Any dwelling covered by § 500.2 is, by the township's definition, movable. It would be arbitrary to discriminate against mobile homes on that basis.

[7] Nor do the criteria "constructed to be towed on its own chassis" and "designed without a permanent foundation" identify characteristics which justify the exclusion and segregation of mobile homes.

One can agree that a community has a legitimate interest in safeguarding residents against, for example, windstorm damage, justifying a requirement that a mobile home be firmly attached to a solid foundation on the site. And a municipality may reasonably conclude that a dwelling the wheels and chassis of which are exposed is unsightly or is likely to lead to transience and should not be tolerated alongside site-built homes. These and similar considerations would justify requirements that certain on-site modifications be made as a condition to placement of a mobile home in an area not a designated mobile home park. The ordinance governing moving permits, discussed above, employs such a mechanism.[13]

12. The section provides in part:

"*Moving Permit*: Any person desiring to move any one- or two-family dwelling and/or accessory building from outside of the Township limits to any location within the township or from one location to another location within the township shall file a written application for a moving permit with the Township Board of Appeals. Said application shall set forth the present location of said building and/or buildings, the location of [*sic*] which said building or buildings are proposed to be moved within the township, the age of the building or buildings, a statement as to whether or not the building or buildings comply with the requirements of the building code and if not what improvements applicant proposes to make to bring said building or buildings in compliance with the building code. The application shall be accompanied by a site map as required by Sec. 501.1 of the Building Code and said map shall clearly indicate front, side and rear yards as required by Sec. 501.2 of the Building Code." Robinson Township Building Code, § 500.2.

13. "The Board of Appeals shall make or cause to be made an investigation in regard to such application, and if it be determined that the building and/or buildings complies with and is in conformity to the Robinson Township Building Code or will be brought into conformity with said code by the applicant and that such building and/or buildings at the proposed new location will not be injurious to the contiguous property and the surrounding neighborhood, the Board of Appeals may grant a moving permit, and if the applicant is required to make any improvements or changes to bring said building or buildings into conformity with the Building Code the permit shall specify such requirements. If any improvements or alterations in the amount of $200.00 or more are required, the applicant shall apply for and secure a permit for such alterations pursuant to this ordinance before moving said building and/or buildings under the moving permit issued by the Board of Appeals.

"The foundations and all other new portions, improvements or alterations to said building or buildings shall be constructed in conformity with the Township Building Code and the use, location of said building or buildings and yard areas shall conform to the Robinson Township Zoning Ordinance and Building Code." *Id.*, § 500.2.

[8] Just as "the reasonableness of a zoning restriction must be tested according to existing facts and conditions and not some condition which might exist in the future,"[14] so must an ordinance restricting the placement of mobile homes be directed to the dwelling as it will exist on the land, and not, as here, to its characteristics when delivered to the site.

B

While the characteristics specified in the ordinance are not themselves a basis for the disparate treatment of mobile homes, they do serve to identify "the mobile home." If that label implies the existence of other (but unspecified) characteristics which provide a basis for restricting mobile homes to mobile home parks, there is a valid purpose for the ordinance.

[9] We are unable to identify any inherent characteristics of mobile homes that justify the per se rule of the ordinance.

Amicus curiae Michigan Townships Association argues that the segregation of mobile homes is justified on aesthetic grounds.

It appears that mobile homes can be designed or modified to compare favorably in appearance to many site-built homes. There is no longer reason to presume that mobile homes will fail to live up to a community's aesthetic standards. Reasonable requirements to assure favorable comparison with those standards, of course, can be imposed by a municipality.

[10] Concerns based in health and safety are also illusory. A municipality, again, is free to deal with concerns of this type in a reasonable code. Standards to assure that mobile homes compare favorably to other housing in, for example, insulation, adequacy of plumbing, and size of the living space exist[15] or can be imposed. And, as we have noted, a community may impose requirements to assure protection from windstorm damage.

[11] Another concern that has been voiced is that mobile homes are given to transient use. The practical necessities attending the installation of a single mobile home in an area in which site-built housing is allowed, along with conditions (such as those discussed above) that a township might reasonably attach to such mobile home use, vitiate this cause for concern. A parcel of land of sufficient size to meet community standards probably will have been purchased by the mobile home owner. Utility lines may be installed to the site; the municipality may require that a foundation to which the home will be firmly attached be laid, and other on-site modifications may be made to bring the mobile home and the parcel on which it is located into conformity with community aesthetic standards. In light of the investment required to so install a mobile home as a single family dwelling, it is unreasonable to assume the mobile home dweller will stay only a short time.[16]

14. *Christine Building Co. v. Troy*, 367 Mich. 508, 516, 116 N.W.2d 816 (1962).

15. See Department of Housing and Urban Development, Mobile Home Construction and Safety Standards, 24 CFR § 3280.

See A Comparison Between HUD's Mobile Home Construction and Safety Standards (1975) and Building Officials and Code Administrators (BOCA) Single Family Dwelling Code (1975), which is Appendix C in the brief of amicus curiae Manufactured Housing Institute, Inc.

16. "At their location [mobile homes] are removed from the axles and wheels and placed on concrete pads and piers each about 6 to 7 feet apart. In addition, with units constructed during the last 3 years, hurricane bands built into the walls of the units are anchored with bolts augered 3 to 4 feet into the ground.

"[O]nce put in place and made immobile, they are often skirted around their bases. According to plaintiffs' witness, between 75 and 80 percent of mobile homes once located are never moved. When they are moved, it takes approximately three days to dismantle the mobile home and set it up for moving, and several more days to replace it in its new location. At present prices moving expenses will range from $500 for a single-wide, to $1000 for a double-wide." *Gates v. Howell*, 204 Neb. 256, 262, 282 N.W.2d 22 (1979).

"It need hardly be pointed out that these double width homes are intended to remain on site permanently, and that their removal by cranes or other heavy machinery would undoubtedly entail considerable difficulty

The disparate treatment of mobile homes seems to be based on attitudes which once had but no longer have a basis in fact:

"Community fear of blight can be traced to the low quality of both the early trailers and their parking facilities. Economic conditions of the 'thirties, followed by wartime housing shortages and rapid relocations of the labor force, pressed many thousands of unattractive trailers into permanent use. Often these units were without running water or sanitary facilities. There were no construction standards to insure even minimum protection against fire or collapse. They were parked in areas which were usually crowded, poorly equipped, and generally unsuited to residential use. As a result, conditions in these parks seldom exceeded minimum health and sanitation standards. The specter of such parks teeming with tiny trailers made community apprehension understandable. But substantial improvements in the quality of both mobile homes and park facilities may have undermined the bases for this antipathy today. The mobile home currently produced is an attractive, completely furnished, efficiently spacious dwelling for which national construction standards have been adopted and enforced by the manufacturers' associations."[17]

Decisions from other jurisdictions, while not directly on point, support the view that per se discrimination against mobile homes can no longer be legitimized.

In holding that mobile homes intended to be used as permanent dwellings are taxable as real property, the New Jersey Supreme Court explained that "[t]he early house trailers, which originated a half century ago, have been described as makeshift contraptions 'not really fit for permanent human habitation.' * * * That they were then viewed as personal property can have little relevance when dealing with modern mobile homes * * *. These modern homes not only have all of the facilities of conventional homes, including sewage, water, lighting, heating and air conditioning, but also are more and more being constructed to look like and be used as conventional homes."[18]

The Nebraska Supreme Court, holding that mobile homes cannot be taxed as motor vehicles, observed that "[t]he evidence in this case discloses that the mobile homes in question resemble in all respects a residence. * * * The evidence in this record further discloses that the interiors of these mobile homes resemble a residence in every respect, and one looking at the exhibits disclosing the interior of these mobile homes, if not advised that in fact they were mobile homes, would not be able to distinguish them from any other residence."[19]

The New Mexico Supreme Court recently held that the mobile home there in question was "substantially the same as a conven-

and oftentimes considerable damage to the landscape. Insofar as the single width homes are concerned their removal would also entail some difficulty since in their current models they may be as much as seventy feet long and fourteen feet wide. Here, as with the double width homes, the intent that they remain on site permanently is entirely evident." *Koester v. Hunterdon County Board of Taxation*, 79 N.J. 381, 386, 399 A.2d 656 (1979).

Transient use could be expected, if at all, only of mobile homes located in, rather than away from, mobile home parks. But even this expectation is not supportable in fact, for "[w]hile mobile homes were originally for transient purposes, today about 60% of all mobile homeowners never move their home. The MHMA [Mobile Home Manufacturers' Association] reports that the average stay in one location by mobile home owners is 58 months, which is approximately the same residency duration as in conventional housing. About 70% of the mobile homes used since World War II have been used as permanent dwellings." Neithercut, *The Mobile Home: Problems With Its Recognition as a Valid Housing Source*, Newsletter, Real Property Section, State Bar of Michigan (No. 10, Dec., 1975), p. 25.

17. Note, *Toward an Equitable and Workable Program of Mobile Home Taxation*, 71 Yale L.J. 702–703 (1962).

18. *Koester v. Hunterdon County Board of Taxation, supra*, p. 388, 399 A.2d 656.

19. *Gates v. Howell, supra*, 204 Neb. pp. 262–263, 282 N.W.2d 22.

tional one-family dwelling" and therefore "does not violate the letter or the spirit" of a subdivision's restrictive covenant prohibiting trailers.[20] The description of that mobile home demonstrates that mobile homes are not inherently incapable of achieving the aesthetic and comfort standards of conventional dwellings:

"Parker purchased two lots in the Deming Ranchettes subdivision in 1975 and 1977. He bought a double-wide mobile home and moved it on the lots. The wheels, axles, and running gear were removed and sold, and the home was placed on a concrete and slump stone foundation. The mobile home has three bedrooms, two full baths and contains 1,440 square feet of floor space. A patio, a 200 square foot porch, sidewalks, and a 672 square foot two-car garage were constructed. A water well was drilled and a septic tank was installed. Both were connected to the mobile home. A conventional style asbestos shingle roof and aluminum siding were added to the home. A garden was planted and 210 trees were obtained to be planted.

"Parker testified that he and his wife intended to reside in the home permanently. Photographs admitted into evidence showed that their home had the appearance of a conventional single-family dwelling. It compares favorably with other homes in the subdivision."[21]

The legislatures of various states have provided that mobile homes may be taxed as real property,[22] and one statute prohibits ordinances which, like Robinson Township's, discriminate against mobile homes.[23]

[12] Moreover, Robinson Township's building code allows for prefabricated housing which is assembled at the site.[24] There can be no reasonable basis for distinguishing between mobile homes and other prefabricated dwellings. Both are "movable or portable," and may be similar in appearance and constructed of similar materials. It is not a valid basis for distinction under the police power that one is not only prefabricated, but also preassembled, and "constructed to be towed on its own chassis."

This is not to say that a municipality must permit all mobile homes, regardless of size, appearance, quality of manufacture or manner of installation on the site, to be placed wherever site-built single family homes have been built or are permitted to be built. Nor do we hold that a municipality may no longer provide for mobile home parks. We hold only that a per se restriction is invalid; if a particular mobile home is excluded from areas other than mobile home parks, it must be because it fails to satisfy standards designed to assure that the home will compare favorably with other housing that would be allowed on that site, and not merely because it is a mobile home.

20. *Heath v. Parker*, 93 N.M. 680, 682, 604 P.2d 818 (1980). See, also, *Hussey v. Ray*, 462 S.W.2d 45 (Tex.Civ.App., 1970); *Manley v. Draper*, 44 Misc.2d 613, 254 N.Y.S.2d 739 (1963).

21. *Heath v. Parker, supra*, 93 N.M. pp. 680–681, 604 P.2d 818.

22. See Neb.Rev.Stat.1978 Cum.Supp., § 77–202.12, and statutes cited in *Koester v. Hunterdon County Board of Taxation, supra*, 79 N.J. pp. 388–389, 399 A.2d 656.

23. In 1975, the Vermont Planning and Development Act was amended to provide that, subject to certain minor exceptions, "no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded." Vt.Stat.Ann., tit. 24, § 4406(4). Former Vt.Stat.Ann. tit. 24, § 4407(11), which permitted a municipality to confine mobile homes to mobile home parks, was repealed.

24. "*Approval of Alternate Types of Construction and Materials.*—The building inspector may approve the use of types of construction such as prefabricated houses or materials that vary from the specific requirements of this Code if, (1) such alternate types of construction or materials comply with the recommended standards of government agencies or other national organizations which publish recognized standards relative to building materials and workmanship, or, (2) reports of agencies or laboratories generally accepted as competent by engineering authorities indicate that alternate materials or construction equal or exceed the applicable Code requirements.". Robinson Township Building Code, § 102.

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KAVANAGH, WILL
GERALD, JJ., concur.

COLEMAN, Chief Jus

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1. See *Robinson Twp. v.*
(1979).

We affirm the finding of the Court of Appeals that the ordinance is unconstitutional but vacate its judgment and remand to the circuit court for further proceedings not inconsistent with this opinion. No costs, a public question.

KAVANAGH, WILLIAMS and FITZGERALD, JJ., concur.

COLEMAN, Chief Justice (dissenting).

Leave to appeal was granted in this case to include consideration of the continuing validity of *Wyoming Twp. v. Herweyer*, 321 Mich. 611, 33 N.W.2d 93 (1948), in which this Court upheld the constitutionality of an ordinance restricting the occupancy of mobile homes to mobile-home parks.[1]

In addition to the issue mentioned in the order granting leave to appeal, the parties also raise other issues, including whether the classifications in and the application of the zoning ordinances fall unconstitutionally upon defendants' property. Although this case could possibly have been resolved upon one of the more limited issues raised and relied upon by the Court of Appeals, my colleagues have reached out far beyond these issues and the perimeters of this case to strike down in general terms the mobile home zoning classifications relied upon across this state and the nation.

A fundamental rule of judicial review is that a constitutional issue need not be reached when another ground exists for resolving the case, see *MacLean v. State Board of Control For Vocational Education*, 294 Mich. 45, 292 N.W. 662 (1940). A corollary to this rule is that if several constitutional issues are raised, the Court should not proceed to dispose of the case on the broadest constitutional issues, if other more specific issues could dispose of it. However, despite these well-founded principles of judicial review, the majority opinion appears to have completely bypassed the more limited issues which may have provided a vehicle for resolving this matter. In the process of holding the mobile home zoning classification unconstitutional *on its face* and concluding that mobile homes can be located anywhere in any type of residential neighborhood, subject to some as yet unresolved criteria, the majority's opinion has passed by the other questions raised. Also, while stating the facts of the case, the majority ignores them—and by some broad generalizations, with no clear direction to bench, bar and parties to any suit, simply states that there is no reasonable governmental interest being advanced by classifying mobile homes as a use separate from other residential uses.

Although I would prefer to resolve the other issues raised by defendant before addressing the constitutionality of mobile home zoning classification per se, the majority's opinion addresses the broadest issue first. Accordingly, I must also address the most sweeping issue first.

That issue is whether the classification of mobile homes as a separate use for zoning purposes is constitutional. Accordingly, the defendants have the burden of showing that no governmental interest is being advanced by the present classification. They have not sustained that burden.

I

Article III, § 307.1 of the Robinson Township Zoning Ordinance provides:

> "Mobile Homes—Where Permitted: Mobile homes are considered as dwelling units and are not permitted as an accessory use to a permitted principal use and are permitted only in approved mobile home parks."

The ordinance does not restrict mobile-home parks (including mobile-home subdivisions) to any particular zone, but it does require approval of the location and plan by the Board of Appeals. It also places with the board the power to hear and decide applications for "special exceptions, special or conditional uses" and other special questions. Defendants did not apply for a variance or a special exception. They did not apply for a mobile home park permit or a building permit. The property was not

1. See *Robinson Twp. v. Knoll*, 406 Mich. 1007 (1979).

shown to be subject to a nonconforming use. The mobile home was not placed prior to the effective date of the ordinance.

Article II, § 203 of the pertinent zoning ordinance describes a mobile home as:

"A movable or portable dwelling *constructed to be towed on its own chassis*, connected to utilities and *designed without a permanent foundation* for year-round living as a single-family dwelling." (Emphasis added.)

At the outset, one should note that this case involves mobile homes, not modular or prefabricated homes.

Comparisons between mobile homes and modular homes or prefabricated homes are inapposite, if for no other reason, because of the definition of a mobile home.

Moreover, modular homes and prefabricated homes are designed to become parts of site-built residences for which building permits are required and which are subject to approval by the building inspector. No such permit was sought or granted in this case. There is no dispute that the home in question is a mobile home by definition.

Likewise, the argument that other homes can be moved is inapposite. A site-built home is not constructed to be "towed on its own chassis" down a road. Some homes of appropriate size can be removed from their foundations and moved to another site. However, they are not built to be towed or to blend with the flow of traffic. On-site construction is not directed to that purpose. It serves no good purpose to belabor this point further.

II

In *Kirk v. Tyrone Twp.*, 398 Mich. 429, 439–440, 247 N.W.2d 848 (1976), this Court summarized the appropriate standard for determining the constitutional validity of a zoning determination as follows:

"The principles and tests to use to determine whether the present zoning of plaintiffs' property is valid [were] detailed in *Kropf [v. Sterling Heights*, 391 Mich. 139, 215 N.W.2d 179 (1974)].

"The important principles require that for an ordinance to be successfully challenged plaintiffs prove:

" '[F]irst, that there is no reasonable governmental interest being advanced by the present zoning classification itself * * * or

" '[S]econdly, that an ordinance may be unreasonable because of the purely arbitrary, capricious and unfounded exclusion of other types of legitimate land use from the area in question.' 391 Mich. 139, 158 [215 N.W.2d 179].

"The four rules for applying these principles were also outlined in *Kropf*. They are:

"1. ' "[T]he ordinance comes to us clothed with every presumption of validity." ' 391 Mich. 139, 162 [215 N.W.2d 179], quoting from *Brae Burn, Inc. v. Bloomfield Hills*, 350 Mich. 425, 86 N.W.2d 166 (1957).

"2. ' "[I]t is the burden of the party attacking to prove affirmatively that the ordinance is an arbitrary and unreasonable restriction upon the owner's use of his property * * *. It must appear that the clause attacked is an arbitrary fiat, a whimsical *ipse dixit*, and that there is no room for a legitimate difference of opinion concerning its reasonableness." ' 391 Mich. 139, 162 [215 N.W.2d 179], quoting *Brae Burn, Inc.*

"3. 'Michigan has adopted the view that to sustain an attack on a zoning ordinance, an aggrieved property owner must show that if the ordinance is enforced the consequent restrictions on his property preclude its use for any purposes to which it is reasonably adapted.' 391 Mich. 139, 162–163 [215 N.W.2d 179].

"4. ' "This Court, however, is inclined to give considerable weight to the findings of the trial judge in equity cases." ' 391 Mich. 139, 163 [215 N.W.2d 179], quoting *Christine Building Co. v. City of Troy*, 367 Mich. 508, 518, 116 N.W.2d 816 (1962)."

See, also, *Ed Zaagman, Inc. v. Kentwood*, 406 Mich. 137, 277 N.W.2d 475 (1979).

Although my colleagues pay some attention to how the ordinance falls upon these defendants, the leap ultimately is made to the argument that because some mobile homes are improved in appearance and construction (defendant's is not described as within this context), all must be considered for placement in areas zoned for other residential uses despite not only *Wyoming*, but also *Kirk*, *Kropf*, *Zaagman* and all other Michigan precedent, old and new.

III

For the purposes of constitutional analysis, the ordinance comes to us with every presumption of constitutionality, which can be overcome only by finding that no governmental interest is served thereby.

Zoning restrictions are enacted pursuant to the police power. This power encompasses regulations designed to advance the public's health, safety and welfare. M.C.L. § 125.273; M.S.A. § 5.2963(3) provides that a zoning ordinance designed to promote the public health, safety and welfare shall be made "with reasonable consideration, among other things, to [*sic*] the character of each district", the "conservation of property values" and the "general and appropriate trend and character of land, building and population development".

Although the construction of some modern mobile homes has improved and the area of some has been enlarged, basic differences between mobile homes and site-built homes remain. By definition, a mobile home is built without a permanent foundation and must be of a weight and dimensions that can be towed on a highway. They are more susceptible to windstorm and fire damage, which increases the possibility of injury to persons and property in the surrounding area. The police power extends to imposing reasonable regulations to safeguard residents and others against the dangers of such damage.

Plaintiff notes additional problems caused by a general lack of storage space in mobile homes. This lack of storage space may result in personal property being stored outside or the addition of lean-tos. Plaintiff notes that various practical problems result from these conditions.

Also, because a mobile home is designed to be towed on its chassis, they may lead to transience. Increased transience may also result in unsightly and possibly dangerous conditions in the land when the mobile home is removed. Even if the mobile home remains in one spot, it is generally subject to more rapid deterioration than a site-built home. Further, it would be unreasonable to assume or take judicial notice of the conclusion that all mobile homes compare favorably with site-built homes.

As provided in the statute, classifications may take into consideration the preservation of property values.[2] Accordingly, one widely acknowledged, reasonable governmental interest is the preservation of property values. The value of a piece of property or of property in a zone is dependent not only on the intrinsic nature of the property but also upon the nature and uses of neighboring property. For the most part, even the best of mobile homes (e. g., double-width homes towed in two parts, mobile homes with bay windows on the ends, a porch attached or decorator steps, etc.) are significantly different from site-built homes or are so perceived by many. This perception can have a significant effect on property values if mobile homes are scattered throughout any residential district. Regardless of whether the perception is valid, restricting mobile homes to designated areas furthers governmental interests by furthering the safety, sanitary and recreational needs of the occupants and others, and by grouping like uses together.

With only these surface considerations, it becomes apparent that the defendants have not overcome the burden of proving that

2. Although the preservation of surrounding property values and characteristics may not be sufficient by itself to justify these zoning restrictions, see *Senefsky v. Huntington Woods*, 307 Mich. 728, 12 N.W.2d 387 (1943), these factors may be taken into consideration along with the other factors mentioned above, see M.C.L. § 125.273; M.S.A. § 5.2963(3).

there is no room for a legitimate difference of opinion concerning the reasonableness of the classification. The defendants have not overcome the presumption of constitutionality.

IV

While the zoning authorities might have been able to advance similar objectives by less restrictive means, they were not constitutionally required to do so if there exists some reasonable basis for the classifications chosen. In *O'Donnell v. State Farm Mutual Automobile Ins. Co.*, 404 Mich. 524, 542, 273 N.W.2d 829 (1979), this Court stated:

"'If the classification has some "reasonable basis", it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality". * * * "The problems of government are practical ones and may justify, if they do not require, rough accommodations * * *".

"'If it be said, the law is unnecessarily severe, and may sometimes do injustice, without fault in the sufferer under it, our reply is: these are considerations that may very properly be addressed to the legislature, but not to the judiciary—they go to the expediency of the law, and not to its constitutionality.'"

In *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 388–389, 47 S.Ct. 114, 118, 71 L.Ed. 303 (1926), the Supreme Court stated:

"Here, however, the exclusion is in general terms of all industrial establishments, and it may thereby happen that not only offensive or dangerous industries will be excluded, but those which are neither offensive nor dangerous will share the same fate. But this is no more than happens in respect of many practice-forbidding laws which this Court has upheld although drawn in general terms so as to include individual cases that may turn out to be innocuous in themselves. *Hebe Co. v. Shaw*, 248 U.S. 297, 303, 39 S.Ct. 125 [126], 63 L.Ed. 255 (1919); *Pierce Oil Corp. v. City of Hope*, 248 U.S. 498, 500, 39 S.Ct. 172, 63 L.Ed. 381 (1919). The inclusion of a reasonable margin to insure effective enforcement will not put upon a law, otherwise valid, the stamp of invalidity. Such laws may also find their justification in the fact that, in some fields, the bad fades into the good by such insensible degrees that the two are not capable of being readily distinguished and separated in terms of legislation. In the light of these considerations, we are not prepared to say that the end in view was not sufficient to justify the general rule of the ordinance, although some industries of an innocent character might fall within the proscribed class. It cannot be said that the ordinance in this respect 'passes the bounds of reason and assumes the character of a merely arbitrary fiat.' *Purity Extract & Tonic Co. v. Lynch*, 226 U.S. 192, 204, 33 S.Ct. 44 [47], 57 L.Ed. 184 (1912)." See, also, *Cady v. Detroit*, 289 Mich. 499, 286 N.W. 805 (1939).

Zoning classifications designed to group like uses together while at the same time separating incompatible uses necessarily involve generalizations and rough accommodations. If all zoning classifications are now subject to constitutional attacks on the basis that the per se exclusion of certain uses from a zone is unreasonable when the municipality could have adopted more detailed, less restrictive, requirements which would have adequately served the public interest, then it is unlikely that most zoning classifications would survive constitutional scrutiny. For example, a multiple dwelling apartment developer might argue that single family residence zones are unconstitutional because a zoning ordinance could be drafted imposing more detailed, less restrictive, requirements which would adequately serve the same public interest. Minimum floor space and set-back restrictions based on a family unit could be drafted to assure that the multiple-family apartment building is in a comparable situation with other single-family buildings.

The number of similar hypotheticals that could arise is almost infinite. The Constitution does not impose such restrictions on the

zoning authorities. Rather, s
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For these reasons, we cont
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3. *Davis v. Mobile*, 245 Ala
(1943); *McKie v. Ventura*
App.3d 555, 113 Cal.Rptr. 143
County Comm'rs of Jefferson
tain Air Ranch, 192 Colo. 36
(1977); *Town of Hartland v. J*
Conn. 697, 155 A.2d 754 (1
Sinclair, 66 So.2d 702 (Fla., 19
Fayette County, 233 Ga. 220,
(1974); *People of Village of C*
57 Ill.2d 166, 311 N.E.2d 153
Colby v. Hurtt, 212 Kan. 113
(1973); *Wright v. Michaud*,
A.2d 543 (1964); *Town of Ma*
lips, 343 Mass. 591, 180 N.
Town of Granby v. Landry, 3
N.E.2d 364 (1960); *State v. L*
350, 195 N.W.2d 180 (1972);
471 S.W.2d 460 (Mo., 1971);
derry v. Faucher, 112 N.H. 4
(1972); *Vickers v. Twp. Comm*
ter Twp., 37 N.J. 232, 181

zoning authorities. Rather, so long as there is a reasonable basis for the classification chosen, the landowner's remedy lies with the local zoning authorities either through seeking a variance or attempting to change the classification itself.

V.

For these reasons, we continue to adhere to the holding in *Wyoming Twp.* that mobile homes may constitutionally be treated differently from site-built homes for zoning purposes. Although many developments have taken place since *Wyoming Twp.* was decided, this same issue has recently been considered in other jurisdictions, and these cases have consistently upheld the constitutional validity of the classifications being considered.[3] None of the cases cited in the majority's opinion or the parties' briefs hold that a zoning regulation may not constitutionally treat mobile homes differently from site-built homes. While this absence of authority is not dispositive, it does lend support to the conclusion that this ordinance is not unconstitutional.

VI.

We also conclude that defendants cannot prevail on their de facto exclusion argument on the record presented in this case. The ordinance in issue speaks of mobile-home parks as including not only traditional parks in which lots are occupied on a rental basis but also mobile-home subdivisions in which lots are subdivided and sold.[4] The zoning ordinance generously provides for mobile-home parks and the zoning authorities have approved an area in the township for a mobile-home park. The mere fact that the park has not been developed (and that others have not applied) is insufficient to prevail on a de facto exclusion claim.

Defendants have not introduced any evidence that the land zoned for a mobile home park is unsuitable for this use, or that the zoning authorities have consistently denied permits to develop such a park or have acted in any arbitrary or capricious manner. Defendants did not introduce any evidence that they ever sought variance or requested any kind of a permit.

Defendants have failed to show that there is no governmental interest in a mobile home zoning classification as a separate use.

Therefore, on the record presented, we would hold that defendants have failed to overcome the presumption of constitutionality and would uphold the constitutionality of the ordinance.

Finally, the majority's opinion does not settle the question of retroactivity. Because the state (and nation) has to this date relied upon the constitutionality of mobile-home classifications, I would, at a mini-

3. *Davis v. Mobile*, 245 Ala. 80, 16 So.2d 1 (1943); *McKie v. Ventura County*, 38 Cal. App.3d 555, 113 Cal.Rptr. 143 (1974); *Board of County Comm'rs of Jefferson County v. Mountain Air Ranch*, 192 Colo. 364, 563 P.2d 341 (1977); *Town of Hartland v. Jensen's, Inc.*, 146 Conn. 697, 155 A.2d 754 (1959); *Cooper v. Sinclair*, 66 So.2d 702 (Fla., 1953); *Matthews v. Fayette County*, 233 Ga. 220, 210 S.E.2d 758 (1974); *People of Village of Cahokia v. Wright*, 57 Ill.2d 166, 311 N.E.2d 153 (1974); *City of Colby v. Hurtt*, 212 Kan. 113, 509 P.2d 1142 (1973); *Wright v. Michaud*, 160 Me. 164, 200 A.2d 543 (1964); *Town of Manchester v. Phillips*, 343 Mass. 591, 180 N.E.2d 333 (1962); *Town of Granby v. Landry*, 341 Mass. 443, 170 N.E.2d 364 (1960); *State v. Larson*, 292 Minn. 350, 195 N.W.2d 180 (1972); *State v. Murray*, 471 S.W.2d 460 (Mo., 1971); *Town of Londonderry v. Faucher*, 112 N.H. 454, 299 A.2d 581 (1972); *Vickers v. Twp. Committee of Gloucester Twp.*, 37 N.J. 232, 181 A.2d 129 (1962); *Mobile Home Owners Protective Ass'n v. Town of Chatham*, 33 App.Div.2d 78, 305 N.Y.S.2d 334 (1969); *Currituck County v. Willey*, 46 N.C.App. 835, 266 S.E.2d 52 (1980); *Davis v. McPherson*, 58 Ohio Op. 253, 132 N.E.2d 626 (1955); *Fayette County v. Holman*, 11 Pa. Cmwlth. 357, 315 A.2d 335 (1973); *Mobile Home City of Chattanooga v. Hamilton County*, 552 S.W.2d 86 (Tenn.App., 1976); *Duckworth v. Bonney Lake*, 91 Wash.2d 19, 586 P.2d 860 (1978); *Edelbeck v. Town of Theresa*, 57 Wis.2d 172, 203 N.W.2d 694 (1973).

4. Robinson Township Zoning Ordinance, art. II, § 203.4, provides:

"Mobile Home Subdivision: A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Act 288 of the Public Acts of 1967, as amended."

mum, provide that the opinion take effect prospectively.

RYAN, J., concurs.

MOODY, Justice (dissenting).

FACTS

This case, tried upon a stipulation of facts, involves the question of whether defendants should be enjoined from using their property in violation of a local zoning ordinance. Subsequent to the effective date of zoning ordinance amendments,[1] defendants placed a 14–foot by 70–foot mobile home[2] on their property located within the township. The amended ordinance provides that mobile homes are a permitted use only in approved mobile home parks or mobile home subdivisions.[3] Defendants stipulated that their land had not been approved for use as a mobile home park or subdivision. Defendants also admitted that the mobile home was placed upon their property without first having obtained a building permit.[4]

The ordinance defines mobile home parks and subdivisions[5] and sets forth standards relating to approval of such developments. Mobile home parks and subdivisions are a

1. Amendments to pertinent sections of the township's zoning ordinance became effective May 14, 1974. Prior to that date, defendants cleared brush and trees from the site, commenced digging a well and obtained a septic permit. However, the mobile home was not placed on defendants' property until after the present zoning ordinance provisions became effective.

2. Art. II, § 203 of the ordinance in effect on the date the Knolls placed the mobile home on their property defines a mobile home as follows:

   "A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed without a permanent foundation for year-round living as a single-family dwelling. A mobile home may contain parts that may be separated, folded, collapsed, or telescoped when being towed and combined or expanded later to provide additional cubic capacity."

   Art. II, § 203.6 of the ordinance defines a travel trailer somewhat differently:

   "A transportable unit intended for occasional or short-term occupancy as a dwelling unit during travel, recreational, or vacation use."

   Art. II, § 203 of the ordinance, in effect prior to the 1974 ordinance amendments, described a mobile home as follows:

   "Any house car, house trailer, trailer home, trailer coach or similar vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and shall include self-propelled vehicles so designed, constructed, or added to by means of accessories in such manner as will permit the occupancy thereof as a dwelling or sleeping place of one (1) or more persons, and having no foundation other than wheels, jacks or skirtings."

3. Presently, art. III, § 307.1 of the ordinance provides:

   "Mobile homes are considered as dwelling units and are not permitted as an accessory use to a permitted principal use and are permitted only in approved mobile home parks."

   Art. III, § 307.4 of the ordinance which had been in effect prior to the 1974 amendments, provided in part:

   "No person shall * * * use or occupy or permit the use or occupancy of any trailer coach on any lot or parcel of land in any zoning district not licensed as a trailer coach park, except only as provided in this Ordinance."

4. Art. XIII, § 1302.1 of the township zoning ordinance requires that a building permit be obtained in certain circumstances prior to building or altering structures within the township:

   "Except as otherwise provided, it shall be unlawful to erect any new building or structure or to alter any existing building or structure at a cost of $200.00 or more until a permit therefor has been obtained from the building inspector by the owner or his duly authorized agent. Application for a permit shall be in writing and upon duplicate printed forms furnished by the building inspector. Such permits shall be nontransferable and must be obtained before any work, excavation, erection, alteration, or movement is begun."

5. A mobile home park is defined in art. II, § 203.3 of the ordinance as follows:

   "A parcel of land under single ownership which has been planned and improved for the placement of mobile homes on a rental basis for nontransient use."

   Art. II, § 203.4 defines a mobile home subdivision:

   "A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Act 288 of the Public Acts of 1967, as amended."

permitted use in all zoning d
the township with the excep
tional use districts.[6]

The stipulation of facts
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defendants' land is presently
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Robinson Township brough
to enjoin defendants' use of
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The trial court granted the c
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70 Mich.App. 258, 245 N.W.

DISCUSSION

Defendants present a broad
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The issue, squarely presente
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valid. In view of the procedu
this case, the facial validity
nance, and the insufficient fa

6. The record does not indicate
of land within the township
recreation use districts.

7. In *Napierkowski, supra*, the
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Hoytt, 59 Ill.App.2d 368, 208 N
Rundell v. May, 258 So.2d 90
cert. den. 261 La. 468, 259 S
Sioux Falls v. Cleveland, 7
N.W.2d 62 (1955).

permitted use in all zoning districts within the township with the exception of recreational use districts.[6]

The stipulation of facts indicates that plans for a proposed mobile home park have been approved by the township. The proposed park would cover 28 acres and offer facilities for approximately 100 mobile homes. However, at the date of trial no work had commenced on the park. Although it is unclear from the record how defendants' land is presently zoned, there is nothing to indicate that defendants' property could not be used to develop a mobile home park or subdivision.

Robinson Township brought suit seeking to enjoin defendants' use of their property as violative of township zoning ordinances. The trial court granted the desired injunctive relief. The Court of Appeals reversed. 70 Mich.App. 258, 245 N.W.2d 709 (1976).

DISCUSSION

Defendants present a broadside challenge to the constitutionality of the ordinance. The issue, squarely presented, is whether any and all local zoning ordinances which do not totally exclude mobile homes from a community but which restrict the location of mobile homes to mobile home parks and subdivisions within the community are invalid. In view of the procedural posture of this case, the facial validity of the ordinance, and the insufficient factual development of this record, the ordinance survives defendants' constitutional challenge.

I.

Prior to placing a mobile home on their property, defendants not only neglected to obtain the requisite building permit but also failed to seek a variance from existing zoning provisions pertaining to their land. Under these circumstances it is questionable whether the Knolls should be permitted to raise constitutional challenges to the ordinance at issue. See *State v. Larson*, 292 Minn. 350, 356, 195 N.W.2d 180, 183 (1972); *Napierkowski v. Gloucester Twp.*, 29 N.J. 481, 489, 150 A.2d 481, 485 (1959).[7] Further, in rejecting constitutional challenges to similar ordinances, courts have noted the landowner's failure to make use of their land in a manner permitted by zoning ordinances regulating the use and location of mobile homes. *McKie v. Ventura County*, 38 Cal.App.3d 555, 557, 113 Cal.Rptr. 143, 144 (1974); *Town of Greenland v. Hussey*, 110 N.H. 269, 272, 266 A.2d 122, 124 (1970).

Additionally, defendants have failed to seek relief on other narrower grounds. The siting of individual mobile homes outside mobile home parks or subdivisions has been permitted in certain cases where the courts were persuaded to either narrowly construe the term "mobile home" or broadly construe the terms "residence" or "dwelling" as defined in local zoning ordinances.[8]

6. The record does not indicate what percentage of land within the township is classified as recreation use districts.

7. In *Napierkowski, supra*, the failure to seek a variance was excused since the record clearly indicated that township officials would have denied a variance had one been sought. The record in the instant case does not support the inference that the seeking of a variance would have amounted to a fruitless effort.

8. Individual siting of mobile homes was allowed in the following cases through construction of ordinances defining "dwelling", "residence" or similar terms. *Cook County v. Hoyt*, 59 Ill.App.2d 368, 208 N.E.2d 410 (1965); *Rundell v. May*, 258 So.2d 90 (La.App., 1972), *cert. den.* 261 La. 468, 259 So.2d 916 (1972); *Sioux Falls v. Cleveland*, 75 S.D. 548, 70 N.W.2d 62 (1955).

Mobile home owners have also been permitted to individually site their homes where the courts narrowly construed the meaning of "mobile home" contained in ordinances restricting mobile homes to mobile home parks. *Douglass Twp. v. Badman*, 206 Pa Super. 390, 213 A.2d 88 (1965); *State v. Work*, 75 Wash.2d 204, 449 P.2d 806 (1969). But see: *Duckworth v Bonney Lake*, 91 Wash.2d 19, 586 P.2d 860 (1978).

Of course, theories advanced by mobile home owners concerning statutory construction have not always been accepted. See *e. g., Oakdale v. Benoit*, 342 So.2d 691 (La.App., 1977), *cert. den.* 344 So.2d 670 (La., 1977); *Town of Marblehead v. Gilbert*, 334 Mass. 602, 137 N.E.2d 921 (1956); *Asheboro v. Auman*, 26 N.C App. 87, 214 S E.2d 621 (1975), *cert. den.* 288 N.C. 239, 217 S E.2d 663 (1975).

It is to be noted that the facts in the instant case are insufficiently developed to raise an issue with respect to these considerations.

Defendants have instead broadly based their claim for relief on constitutional grounds. In so doing, defendants have pursued the path of greatest resistance.

II.

A successful challenge to the constitutionality of a zoning ordinance requires the establishment of one of the following propositions:

> "'[T]here is no reasonable governmental interest being advanced by the present zoning classification * * * or
>
> "* * * '[The] ordinance * * * [is] unreasonable because of the purely arbitrary, capricious and unfounded exclusion of other types of legitimate land use from the area in question.'" *Kirk v. Tyrone Twp.*, 398 Mich. 429, 439, 247 N.W.2d 848 (1976); *Kropf v. Sterling Heights*, 391 Mich. 139, 158, 215 N.W.2d 179 (1974).

In the instant case, the burden of proof lies squarely with the defendants. It is axiomatic that in most instances, the burden of proof is placed upon the person attacking the validity of a zoning ordinance. *Kirk*, 398 Mich. 439, 247 N.W.2d 848. Defendants have presented no facts which would indicate that the ordinance results in total or de facto exclusion of mobile homes from the township. *Kirk*, 442–444, 247 N.W.2d 848.[9] Rather, the ordinance regulates the location of such land use within the township. In this instance, the burden of proof does not shift to the township to justify exclusion of the use, but remains with defendants.[10]

The Knolls do not contend that the ordinance has been applied in a discriminatory manner so as to prevent the proposed used of their property.[11] Nor have defendants advanced any facts indicating that the ordinance as *applied* is unreasonable or confiscatory.

The sole basis for affording relief is thus premised on the conclusion that constitutional infirmity appears on the face of the ordinance.

III.

The standard of review applicable to zoning ordinances has been a limited one. This developed at least in part from a recognition by a majority of this Court that the functions of local zoning authorities are legislative in nature.

An integral part of this limited standard of review is the principle that zoning ordinances are accorded a presumption of validity. *Kropf*, 391 Mich. 162, 215 N.W.2d 179; *Brae Burn, Inc. v. Bloomfield Hills*, 350 Mich. 425, 86 N.W.2d 166 (1957). If this presumption is to have any viability, the reviewing court has a duty to conceive of possible rational bases to support the ordinance. If a state of facts which would warrant the ordinance can be reasonably perceive, those facts will be presumed to exist. In the absence of evidence tending to rebut the presumption, the ordinance's validity should be upheld. Where any evidence is presented which tends to rebut the presumption or validity, the court must determine whether room for *fair* and *legitimate* differences of opinion exists concerning whether it is reasonable to draw classification or exclude a use. If such a debatable question exists, the court must exercise judicial restraint and up[...] nance.[12] [...]

No constitutional infirmi[...] face of the ordinance in [...] since the means employed [...] may have a reasonable rela[...] legislative zoning goals re[...] health, safety and general [...] dence was presented ten[...] that permissible legislati[...] would not be served by a[...] nance and thus restricting [...] posed use of their land. I[...] lenge, therefore, must be [...]

IV.

Zoning ordinances regul[...] of mobile homes within a [...] nicipality by restricting [...] home parks have been upl[...] this Court and other co[...] Michigan law. *Wyoming* [...] *er*, 321 Mich. 611, 33 N[...] *Connor v. West Bloomfiel*[...] 401 (1975); *State v. Vadna*[...] N.W.2d 657 (1972).

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9. The trial judge correctly found:

   "Defendants did not specifically allege nor have they proven that plaintiff has carried out a systematic de facto exclusion of mobile home parks from plaintiff township."

10. See *Clark v. Lyon Twp. Clerk*, 348 Mich. 173, 82 N.W.2d 433 (1957), and *Gust v. Canton Twp.*, 342 Mich. 436, 70 N.W.2d 772 (1955), for instances where total exclusion of mobile homes from townships required the township to bear the burden of justifying the exclusion.

11. Mobile home owners have obtained relief from ordinances restricting mobile homes to mobile home parks where it was concluded that the ordinance was enforced in a discriminatory manner. See, e. g. *Blackman Twp. v. Koller*, 357 Mich. 186, 98 N.W.2d 538 (1959); *People v. Husler*, 34 Ill.App.3d 977, 342 N.E.2d

12. Conclusory opinions w[...] upon factual predicates w[...] means to rebut the presum[...] to respond to evidence te[...] presumption.

13. See, e. g., *Board of C*[...] *County v. Mountain Air E*[...] 563 P.2d 341 (1977); *Co*[...] So.2d 702 (Fla., 1953), cer[...] 74 S.Ct. 107, 98 L.Ed. 37[...] *Cahokia v. Wright*, *supra* [...] *Hurtt*, 212 Kan. 113; 50[...] *Wright v. Michaud*, *supr*[...] *Manchester v. Philips*, 3[...] N.E.2d 333 (1962); *State v.* [...] nesota); *State ex rel. Wilk*[...] S.W.2d 460 (Mo., 1971); *N*[...] *cester Twp.*, *supra* (New [...] *Clute*, 47 Misc.2d 1[...]5, (1965), *aff'd* 18 N.Y.2d 9[...] 224 N.E.2d 734 (1966); *D*[...] *Lake*, *supra* (Washingtor[...] *wood v. Bell*, 270 S.E.2d [...] See also M.C.L. [...] § 5.2963(3) which e[...] promulgate zoning ordir[...] legislatively prescribe g[...] through such ordinances:

judicial restraint and uphold the ordinance.[12]

No constitutional infirmity exists on the face of the ordinance in the instant case since the means employed by the ordinance may have a reasonable relationship to valid legislative zoning goals relating to public health, safety and general welfare. No evidence was presented tending to indicate that permissible legislative zoning goals would not be served by applying the ordinance and thus restricting defendants' proposed use of their land. Defendants' challenge, therefore, must be rejected.

IV

Zoning ordinances regulating the location of mobile homes within a township or municipality by restricting them to mobile home parks have been upheld generally by this Court and other courts interpreting Michigan law. *Wyoming Twp. v. Herweyer*, 321 Mich. 611, 33 N.W.2d 93 (1948); *Connor v. West Bloomfield Twp.*, 207 F.2d 482 (CA 6, 1953); *Courtland Twp. v. Cole*, 66 Mich.App. 474; 239 N.W.2d 630 (1976); *Lanphear v. Antwerp Twp.*, 50 Mich.App. 641, 214 N.W.2d [illegible]. See also *Stevens v. Royal Oak Twp.*, 342 Mich. 105, 109, 68 N.W.2d 787 (1955).

Challenges to zoning ordinances, similar to the ordinance in the instant case, based upon claims that the ordinance was invalid on its face have been rejected by courts of other states. See, e. g., *Village of Cahokia v. Wright*, 57 Ill.2d 166, 311 N.E.2d 153 (1974); *Wright v. Michaud*, 160 Me. 164, 200 A.2d 543 (1964).

Courts considering the validity of zoning ordinances regulating the location of mobile homes within a community have, nearly universally, concluded that the zoning codes tend to promote the health, safety and welfare of the community's residents and that rational bases may exist for distinguishing between mobile homes and site-built homes.[13] The siting of mobile homes in a given residential district may have a tendency to depress property values of conven-

401 (1975); *State v. Vadnais*, 295 Minn. 17, 202 N.W.2d 657 (1972).

12. Conclusory opinions which are not based upon factual predicates would be insufficient means to rebut the presumption of validity or to respond to evidence tending to rebut this presumption.

13. See, e. g., *Board of Comm'rs of Jefferson County v. Mountain Air Ranch*, 192 Colo. 364, 563 P.2d 341 (1977); *Cooper v. Sinclair*, 66 So.2d 702 (Fla., 1953), cert. den. 346 U.S. 867, 74 S.Ct. 107, 98 L.Ed. 377 (1953); *Village of Cahokia v. Wright*, *supra* (Illinois); *Colby v. Hurtt*, 212 Kan. 113; 509 P.2d 1142 (1973); *Wright v. Michaud*, *supra* (Maine); *Town of Manchester v. Philips*, 343 Mass. 591, 180 N.E.2d 333 (1962); *State v. Larson*, *supra* (Minnesota); *State ex rel. Wilkerson v. Murray*, 471 S.W.2d 460 (Mo., 1971); *Napierkowski v. Gloucester Twp.*, *supra* (New Jersey); *People v. Clute*, 47 Misc.2d 1005, 263 N.Y.S.2d 826 (1965), *aff'd* 18 N.Y.2d 999, 278 N.Y.S.2d 231, 224 N.E.2d 734 (1966); *Duckworth v. Bonney Lake*, *supra* (Washington); *Town of Stonewood v. Bell*, 270 S.E.2d 787 (W.Va., 1980).

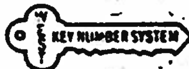
See also M.C.L. § 125.273; M.S.A. § 5.2963(3) which enables townships to promulgate zoning ordinances and sets forth legislatively prescribe goals to be achieved through such ordinances:

"The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare; to encourage the use of lands in accordance with their character and adaptability, and to limit the improper use of land; to conserve natural resources and energy; to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The zoning ordinance shall be made with reasonable consideration, among other things, to [*sic*] the character of each district; its peculiar suitability for particular uses; the conservation of property values and natural resources; and the general and appropriate trend and character of land, building, and population development."

tional dwellings.[14] The development or growth potential of an area for residential purposes may be stunted.[15] Some deference should be given to a community's plan for development.[16]

It may be reasoned that a sufficient number of mobile homes tend to deteriorate more quickly than conventional dwellings. From a public safety standpoint, some may not be as secure, requiring concentrated protection efforts. Mobile homes can be sited more rapidly than conventional dwellings and may thus cause a sudden and severe load on municipal facilities. There may be differences in degree in the supplying of municipal services for and regulation of mobile homes.[17] Accordingly, there are reasonable bases grounded in the police power for the existence of the ordinance. Furthermore, the record in this case presents no evidence to counter the presumption of the ordinance's validity.

For the foregoing reasons I respectfully dissent. Accordingly, I would reverse the decision of the Court of Appeals.



14. See, e. g., *Cooper v. Sinclair, supra; Colby v. Hurtt, supra; Town of Manchester v. Philips, supra; State v. Larson, supra; Wilkerson v. Murray, supra; Napierkowski v. Gloucester Twp., supra; Duckworth v. Bonney Lake, supra.*

15. See, e. g. *Colby v. Hurtt, supra; Town of Manchester v. Philips, supra; Wilkerson v. Murray, supra; Duckworth v. Bonney Lake, supra;* 2 Anderson, American Law of Zoning (2d ed.), § 14.01, p. 550, § 14.05, p. 563.

C. A. F. INVESTMENT COMPANY, a Michigan Partnership, Petitioner-Appellee,

v.

TOWNSHIP OF SAGINAW, Respondent-Appellant.

Docket Nos. 60744, 60745.

Calendar No. 3.

Supreme Court of Michigan.

Argued Jan. 11, 1979.

Decided Feb. 24, 1981.

Taxpayer appealed property tax assessment for years 1971 through 1975 from Michigan Tax Tribunal following earlier remand from Supreme Court, 392 Mich. 442, 221 N.W.2d 588. The Court of Appeals reversed and remanded, 79 Mich.App. 559, 262 N.W.2d 863. Township's request for leave to appeal was granted by the Supreme Court, 403 Mich. 801. The Supreme Court, Ryan, J., held that: (1) Tribunal's failure to use actual income as basis of its capitalization of income in valuing taxpayer's property disregarded mandate of Supreme Court, which was law of the case, and thus was error, and (2) predicating value of taxpayer's property upon taxpayer's rate of return under economically unfavorable lease, while valuating unencumbered property at current market level, did not violate constitutional requirements of uniformity of assessment and due process.

Affirmed and final order directed.

Levin, J., filed concurring opinion.

Moody, Jr., J., dissented and filed opinion.

16. See, e. g., *Padover v. Farmington Twp.*, 374 Mich. 622, 132 N.W.2d 687 (1965); *Napierkowski v. Gloucester Twp., supra; Duckworth v. Bonney Lake, supra.*

17. *McKie v. Ventura County, supra; State v. Larson, supra; Duckworth v. Bonney Lake, supra.*

47 Mich.App. 684

David NICKOLA, Jr. and Evelyn Nickola, Plaintiffs-Appellants,

v.

TOWNSHIP OF GRAND BLANC, a municipal corporation, et al., Defendants-Appellees.

Docket No. 12959.

Court of Appeals of Michigan, Div. 2.

June 25, 1973.

Released for Publication Aug. 24, 1973.

In a zoning case, the Circuit Court, Genesee County, Donald R. Freeman, J., found the zoning ordinance to be valid, and the owners of the subject property appealed. The Court of Appeals, O'Hara, J., held that absent any showing that the use of the subject tract for a trailer park could affect the township's morals, health or safety, an ordinance zoning the tract for single-family residences other than mobile homes was constitutionally infirm as applied to the property.

Reversed.

1. Zoning ⟹762

Township supervisor could not bind municipality by his representation that rezoning tract for trailer park would be no problem.

2. Constitutional Law ⟹87

People are constitutionally guaranteed any lawful use of their real property.

3. Zoning ⟹27

Limitations on use of real property may not impinge on right of owner to any lawful use, except by exercise of police power, which must be reasonably related to public health, safety, welfare and morals.

4. Zoning ⟹83

Absent any showing that use of tract for trailer park could affect township's

morals, health or safety, ordinance zoning tract for single-family residences other than mobile homes was constitutionally infirm as applied to the property.

Richard A. Hamilton, McTaggart, Hermann, Folen & Hamilton, Flint, John D. Nickola, Flint (of counsel), for plaintiffs-appellants.

Lyndon J. Lattie, Flint, for defendants-appellees.

Before QUINN, P. J., and BRONSON and O'HARA,* JJ.

O'HARA, Judge.

The real question presented by this appeal is whether zoning in Michigan is a popularity contest to be won by the most organized and vocal of proponents or opponents[1] or whether it is a set of legal principles embodied in some recognizable and dependable case precedent.

We hope it is the latter and we will try to apply those principles as we understand them to the facts in the case at bar.

Plaintiffs are the owners of a 60-acre tract of land in defendant township. The defendants other than the township are its board of officers.

Plaintiffs bought the property in 1962 with the admitted purpose of building and maintaining a mobile home park. At the time of purchase the property was zoned as it presently is, single family residences other than mobile homes. Plaintiffs contend they purchased it upon the representation to them by the township supervisor that rezoning it for a trailer park would be no problem. This fact is undeterminative of any decisional issue.

[1] However well intentioned and sincere the supervisor may have been, he (assuming he did make the representation) obviously cannot bind the municipality.

In 1963, plaintiffs filed a petition with the township accompanied by a consent thereto by eleven adjacent property owners.[2] No action was taken thereon for two years. Various reasons were advanced for the delay. Among them was the concern that part of the involved land was presumptively to be condemned for highway purposes and the concern of the officials that if it were developed the condemnation damages would be measurably increased. Another reason was the lack of sanitary sewers in the parcel. Again plaintiffs represent that they were led to believe that when these two factors no longer existed rezoning would be granted. We mention this so that prospective purchasers and their counsel be aware of the general unenforceability of such claimed representations. It would be well for purchasers to heed the ancient adage *caveat emptor* in this area of law, and get their rezoning problems adjudicated before purchase and not after.

The briefs of the parties discuss, seek to differentiate and urge reliance upon a host of cases all in apparent conflict. No possible service to trial bench or bar could come from this panel adding its bit of confusion to the litany of conflicting holdings. There simply is no way of reconciling them. Whatever we might say would in no wise affect prior decisions by other panels of this Court. We can follow them,

* MICHAEL D. O'HARA, former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Const.1963, art. 6, § 23 as amended in 1968.

1. See number 6 of the trial judge's findings of fact. We note also the pleadings indicate that when the zoning board recommended approval of plaintiff's petition to the township board petitions for recall of the members of the township board of officers were circulated.

2. The consents have no more legal significance (absent some requirement in the ordinance) than do the recall petitions or other expressions of the residents' disapproval.

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disregard them or distinguish them all to no practical avail. We decide lawsuits. The Supreme Court alone can author opinions binding upon all our panels.

So we go to what we think are the relevant facts in this case. In this we are fortunate because the trial judge favored us with enumerated specific findings of fact. Unless we set them forth verbatim no purpose would be served by discussing our application of law to them. We list them:

"1. An earlier Township Supervisor had suggested this property would be a good site for a mobile home park.

"2. The present value of the park would be quadrupled, if zoned to permit a modern mobile home park, subject to sizable investment being made for improvements for this purpose.

"3. Although there is no large present demand for single family housing in the site at issue, it is located within reasonable proximity of other single family developments and has easy access to the superhighway I-475.

"4. Adjacent property owners include one who has no present plans for developing the piece as a single family development. In the event that the land in question were used as a trailer site, the adjoining property owner would seek the use of its property for high-density purposes.

"5. The property contains municipal sewer and water services which are available to the site as well as access to a main county road.

"6. There has been large expression by citizens of Grand Blanc Township in opposition to rezoning that would permit the plaintiffs to create a trailer park in this site.

"7. There are twenty-three acres of land occupied by mobile home parks in Grand Blanc Township, rezoning has been granted existing parks to permit their enlargement; the existing zoning ordinance of the Township provides for mobile home parks and the proposed land use plan of the Township contains three-hundred acres of land where mobile home parks will be allowed and this plan has been adopted by the Township Board.

"8. The plaintiff[s] paid approximately $350.00 an acre for their land and at the present time it has a price on the market, under present zoning, of approximately $1,500.00 an acre."

In coming to his legal conclusion based on the foregoing found facts the trial court relied on the test set forth in Brae Burn, Inc. v. Bloomfield Hills, 350 Mich. 425, 86 N.W.2d 166 (1957). He quoted *Brae Burn* as follows:

"[T]he ordinance comes to us clothed with every presumption of validity * * * and it is the burden of the party attacking to prove affirmatively that the ordinance is an arbitrary and unreasonable restriction upon the owner's use of his property. * * * This is not to say, of course, that a local body may with impunity abrogate constitutional restraints. The point is that we require more than a debatable question. We require more than a fair difference of opinion. It must appear that the clause attacked is an arbitrary fiat, a whimsical *ipse dixit*, and that there is no room for a legitimate difference of opinion concerning its reasonableness.

* * * * * *

"We have stressed, heretofore, in these zoning cases, the principle that each case must be judged on its own facts. * * * *The question always remains: As to this property, in this city, under this particular plan (wise or unwise though it may be) can it fairly be said there is not even a debatable question?*" (Emphasis supplied.) pp. 432, 433, 86 N.W.2d p. 170.

His decisional holding was that plaintiffs failed to overcome the *Brae Burn* presumption.[3]

[2, 3] We opt this simple formula which we think is permissible under *Brae Burn*.

1. In this country people are constitutionally guaranteed any lawful use of their real property.

2. Limitations on use may not impinge on this principle except by exercise of the police power. This exercise must be reasonably related to the public health, safety, welfare and morals.

[4] According full acceptance to the trial judge's findings of fact we cannot possibly see how a mobile home park vis-a-vis single family residences can possibly affect Grand Blanc Township's morals, health or safety on the land in question. Standards of sanitation, fire protection and other general health and safety requirements are imposed upon mobile home parks by statute. There is nothing of record to suggest that trailer parks create any greater "moral" problem (whatever that means) than any other type structure.

Thus we must equate the extremely difficult to define word "welfare" with the purpose of the Grand Blanc Township ordinance. The only "welfare" we can possibly see here is that Grand Blanc Township residents like single family residences better than they do trailer parks. Access roads and traffic problems would not ensue under the trial judge's findings. Whatever "master-plan" problems exist as between the permitted use and the nonpermitted use do not appear of record.

We do not relish intruding judicial supervision into local governmental affairs. But the constitution of the republic and of this state require us to when our jurisdiction is invoked. We do not see how we can refrain in the case at bar. We reverse and hold the ordinance in question to be constitutionally infirm as applied to plaintiff's property. No costs.

47 Mich.App. 626

Ward WRIGHT and Viola Wright, Plaintiffs-Appellees,

v.

ESTATE of Arthur TREICHEL, Deceased, Defendant-Appellant.

Docket No. 8910.

Court of Appeals of Michigan, Div. 1.

June 25, 1973.*

Released for Publication Aug. 24, 1973.

Plaintiffs brought action against estate for personal injury sustained in automobile accident. Motion for accelerated judgment was denied and appeal was taken. The Court of Appeals reversed, 36 Mich.App. 33, 193 N.W.2d 394. Evidentiary hearing was conducted and the Circuit Court, Wayne County, John B. Swainson, J., granted motion for an accelerated judgment on the ground that the statute of limitations barred plaintiffs' claim. On rehearing, the Court of Appeals, T. M. Burns, P. J., held that an estate is not a proper party to a lawsuit and the administrator or executor is the proper party plaintiff or defendant. The Court further

3. In my personal view it cannot be gainsaid that *Brae Burn* has, like a cheese, suffered a good deal from nibbling. "Yes, but" opinions of this Court, of which we must assume the Supreme Court is aware, have introduced a "favored use" doctrine, a "shift of the burden of proceeding with proof" doctrine, "unconstitutional exclusions" exceptions, "master-plan" concepts, "larger community rights" theories to name only a few. We could not even reduce chaos to disorder if we undertook to discuss them all decisionally.

* Original opinion released Sept. 27, 1971.

MEMORANDUM

TO: Members of the Nevada State Assembly

FROM: Nevada Manufactured Housing Dealers Association

On May 26, 1981 the Nevada State Senate passed Senate Bill 656 by a vote of 18 to 1 (one senator being absent). Senate Bill 656 relates to planning and zoning with regard to "manufactured dwellings." At the public hearings before the Senate Government Affairs Committee some confusion arose regarding the definition of "manufactured dwellings" especially in relation to the construction standards referred to in Section 4 of that Bill. This memorandum is being sent to you in order to define the scope of Senate Bill 656 in the hope that further confusion on the issue may be avoided. Additionally, we wish to assure you that any "manufactured dwelling" which may be subject to the provisions of Senate Bill 656, if passed, will be safe and structurally sound.

I

THE "MANUFACTURED DWELLING."

Before we discuss the construction standards referred to in N.R.S. 461.170 ["Nevada Standards"] and 42 U.S.C. §5403 [Federal Act], and their relative merits, we must establish a common definition which may be applied to "manufactured dwellings" which are the subject of Senate Bill 656. Senate Bill 656 is intended to relate to dwellings, no matter how they are transported to the

building site, which are placed on permanent foundations providing they meet the required building standards. While many of the units which may be placed on residential lots under Senate Bill 656 may be "mobile homes" in the sense that they are on wheels when they leave the factory, the fact remains that Senate Bill 656 requires that any such unit be placed on a permanent foundation. Use of the phrase "mobile home," therefore, will be avoided in this memorandum because such phrase is not completely accurate, is not subject to any single definition and is confusing at best.[1] Instead, reference throughout this memorandum will be made to "manufactured dwellings."

II

42 U.S.C.§5403 and N.R.S. 461.170 - THEIR INTERRELATIONSHIP.

Section 4 of Senate Bill 656 states that:

> As used in this section "manufactured dwelling" means any residential dwelling which meets:
>
> (a) the requirement of the building and construction codes listed in N.R.S. 461.170 and bears the appropriate approval and insignia required by N.R.S. 461.190; or
>
> (b) construction and safety standards which have been established by the Secretary of Housing and Urban Development pursuant to 42 U.S.C. §5403 and are effective on the date of passage of this act.

Because, as the above quote indicates, there exists legislation at both the state and federal level which seemingly addresses the

1. In 1980, the "Mobile Home Construction and Safety Standards Act" (42 U.S.C. §5401 et. seq.) was changed to the "Manufactured Home Construction and Safety Standards Act" by public law 96-399. Wherever the words "Mobile Home" appeared in the Act the words "Manufactured Home" were placed in their stead.

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same issues, i.e., construction standards for manufactured dwellings, confusion naturally results. A careful analysis of the state and federal enactments, however, indicates that those enactments do not overlap and actually apply to separate sets of circumstances. Therefore, in order to bring all "manufactured dwellings" within the scope of Senate Bill 656, reference must be made to both the Nevada Standards and the Federal Act.

In 1974, the Congress of the United States adopted the "Manufactured Home Construction and Safety Standards Act"[2] in order to:

> Reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents, and to improve the quality and durability of manufactured homes. (42 U.S.C. §5401.)

Section 5403 of the Federal Act gave the Secretary of Housing and Urban Development the power to establish appropriate federal manufactured home construction and safety standards. As originally drafted, the Federal Act specifically pre-empted the area of manufactured home construction standards.[3] In 1977, however, Congress amended Section 5403 of the Act to provide for the following exclusion:

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2. See footnote 1.

3. Subsection (d) of 42 USC §5403 states as follows:

> Supremacy of Federal standards
> (d) Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.

(h) The Secretary shall exclude from the coverage of this chapter any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

(1) designed only for erection or installation on a site-built permanent foundation;

(2) not designed to be moved once so erected or installed;

(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to Title II of the National Housing Act; and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation. (Emphasis added).

This 1977 amendment carved out a small segment of the manufactured housing construction industry which could be controlled by state law rather than the federal act.

Currently within the State of Nevada, upwards of 95% of the manufactured dwellings sold comply with the standards adopted by the Secretary of Housing and Urban Development pursuant to 42 U.S.C. §5403, and less than 5% of the manufactured dwellings are built pursuant to the construction standards listed in N.R.S. 461.170. Therein lies the need to refer to both the Federal Act and the Nevada Standards. Without reference to both the Federal Act and the Nevada Standards all "manufactured dwellings" would not receive the benefits of Senate Bill 656.

III

THE STRUCTURAL INTEGRITY
OF "MANUFACTURED DWELLINGS".

Whether a manufacturerd dwelling is built pursuant to construction guidelines adopted by the Secretary of Housing and

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Urban Development pursuant to the Federal Act or pursuant to the Nevada Standards the end product is essentially the same, i.e., a safe and structurally sound habitation built pursuant to nationally recognized building codes.

The building codes applicable to manufactured dwellings constructed in accordance with the provisions of Chapter 461 of the Nevada Revised Statutes are spelled out in N.R.S. 461.170 and need no further elaboration herein. As previously mentioned, manufactured dwellings built pursuant to the Nevada Standards constitute less than 5% of the manufactured dwellings sold in the State of Nevada.

The text of the regulations adopted by the Secretary of Housing and Urban Development can be located at 24 C.F.R. 3280 et. seq. Those regulations cover items such as general planning considerations, fire safety, plumbing systems and much much more. A Xerox copy of the index to the regulations is attached hereto for the purpose of illustrating the comprehensive nature of the regulations. Remember, 95% of the manufactured dwellings sold in the State of Nevada are constructed pursuant to these regulations.

The contents of 24 C.F.R. 3280 et. seq. are too detailed and technical to be fruitfully discussed in this memorandum, but the following quote from 24 C.F.R. 3280.903 may be helpful in understanding the cumulative effect of such regulations:

> (a) The cumulative effect of highway transportation shock and vibration upon a mobile home structure may result in incremental degradation of its designed performance in terms of providing a safe, healthy and durable dwelling. Therefore,

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> the mobile home shall be designed, in terms of its structural, plumbing, mechanical and electrical systems, to fully withstand such transportation forces during its intended life. (Crossreferences omitted.).
>
> (b) Particular attention shall be given to maintaining watertight integrity and conserving energy by assuring that structural components in the roof and walls (and to their interfaces with vents, windows, doors, etc.) are capable of resisting highway shock and vibration forces during primary and subsequent secondary transportation moves.

One may ask why must we refer to both the Federal Act and the Nevada Standards when the end result is the same, i.e., a safe and structurally sound habitation. The reason is that the Federal Act and the Nevada Revised Statutes, while both refer to manufactured homes, address themselves to slightly different products. The Federal Act addresses itself to units which are intended to be more mobile than the units covered by the Nevada Standards. As subsection (h) of 42 U.S.C. §5403 [quoted earlier at page 4] indicates, the Federal Act does not apply to units which are intended to be used on a site-built permanent foundation. The fact that manufactured dwellings constructed pursuant to the Federal Act are built with the idea in mind that they are mobile should not, however, indicate to you that Senate Bill 656 should be rejected because of a fear that the residential areas of our cities will be infested with vagabonds. Senate Bill 656 clearly requires the manufactured dwelling to be placed on a permanent foundation.

A key fact to remember regarding the structural integrity of manufactured dwellings is that they must not only be structurally sound at the time of their completion at the factory, and at the time that they are placed on site, they must also withstand significant impact and vibration while being transported to the job site.

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A manufactured dwelling built pursuant to the Federal Act must maintain its structural integrity despite a sometimes gruelling trip to the job site. Essentially, the regulations adopted pursuant to the Federal Act create a performance, as compared to a mere specification standard.

CONCLUSION

Manufactured dwellings, as they are defined in Senate Bill 656, are subject to strict and specially formulated construction standards. A manufactured dwelling built in accordance with either the Federal Act or the Nevada Standards is a safe and structurally sound habitation. Manufactured dwellings, with the exception of one factor, are comparable to site-built homes. That one factor is cost. Manufactured dwellings provide an economically favorable alternative to site-built housing without sacrificing safety or structural integrity. They should not be discriminated against and should be permitted to occupy any lot which may be occupied by a site-built home. Senate Bill 656 should be passed as proposed.

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AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), Title VI, Housing and Community Development Act of 1974 (42 U.S.C. 5401), unless otherwise noted.

SOURCE: 40 FR 58752, Dec. 18, 1975, unless otherwise noted. Redesignated at 44 FR 20679, Apr. 6, 1979.

Subpart A—General

§ 3280.1 Scope.

(a) This standard covers all equipment and installations in the design, construction, fire safety, plumbing, heat-producing and electrical systems of mobile homes which are designed to be used as dwelling units. The Secretary may approve such equipment and installations which are listed or labeled by an approved testing or listing agency. Equipment and installations not listed or labeled may be approved by the Secretary upon a determination that such equipment and installations are adequate for the protection of health, safety and the general welfare.

(b) These Federal Mobile Home Construction and Safety Standards seek, to the maximum extent possible, to establish performance requirements. In certain instances, however, the use of specific requirements in the Standard is necessary because, at this time, that is the best available means of identifying the desired performance. The use of specific requirements is not intended to prohibit the utilization of any material, piece of equipment, or system which cannot meet the precise specifications, but which upon evaluation provides equivalent or superior performance. Where any material, piece of equipment, or system which does not meet precise specifications set out in the standard is shown, to the satisfaction of the Secretary, to meet the level of performance of a material, piece of equipment or system which meets the precise specifications, the Secretary may waive the specifications set out in the standard for that material, piece of equipment, or system. Whenever a waiver is issued, the Secretary shall issue an interpretative bulletin which announces the waiver, states that the material, piece of equipment or system meets the required standard of performance, and sets out any limitations or other requirements with respect to how the material, piece of equipment, or system must be used, including any tests of the material, piece of equipment, or system which the Secretary determines must be carried out before it can be used. Where a waiver has been issued, the requirements of the section of the Federal standard to which the waiver relates may be met either by meeting the specifications set out in the standard or by meeting any requirements set out in the interpretative bulletin which announces the waiver.

(c) Interpretative bulletins may also be issued for the following purposes:

(1) to clarify the meaning of the standard; and

(2) to assist in the enforcement of the standard.

§ 3280.2 Definitions.

(a) Definitions in this subpart are those common to all subparts of the standard and are in addition to the definitions provided in individual parts.

(1) "Approved," when used in connection with any material, appliance or construction, means complying with the requirements of the Department of Housing and Urban Development.

(2) "Center" means the midline between the right and left side of a mobile home.

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Jenkins

MANUFACTURED HOUSING/RECREATIONAL INDUSTRY

BUSINESS MANAGEMENT

(USPS 872-220)

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SPECIAL REPORT

Michigan Supreme Court Rules Exclusionary Zoning Against Mobile / Manufactured Housing Is "Unconstitutional"!

In a recent landmark decision that will have considerable influence on how local jurisdictions meet their growing future housing needs, the Michigan State Supreme Court ruled Monday, February 23 that communities cannot restrict the location of mobile homes just because they are mobile homes.

In a 4 - 3 ruling, the high court said that modern mobile/manufactured homes "have few defects or other drawbacks to justify discrimination under local zoning laws which frequently prohibit them outside of designated mobile home parks," according to the decision.

Future zoning restrictions, the court ruled, must be based on such reasons as failure to satisfy standards meant to assure compatibility with mobile/manufactured homes and other nearby housing.

The State Supreme Court concurred with an earlier ruling by the State Court of Appeals declaring that a single mobile / manufactured home "is not in inself a nuisance." That Appeals Court ruling concerned the Robinson Township in Michigan's Ottawa County and its attempt to block a family from placing a mobile home on a privately owned piece of land within the town limits. Last year MHI submitted an Amicus Curiae brief for the defendants Donald and Merle Knoll.

In a similiar state action, MHI filed an Amicus brief in a mobile home exclusionary zoning case in New Jersey. It is hoped the precedent established by the Michigan ruling should prove helpful in the yet undecided New Jersey case.

The significance and impact of the Michigan Supreme Court ruling can never be overemphasized. It marks the first time that any State Supreme Court has categorically stated that "zon-

Continued on Page 3

— GOOD NEWS —

HUD's New Undersecretary

Federation Focus states that Donald Hovde, Undersecretary of HUD, is likely to be a supporter of the manufactured housing industry. Hovde is a traditional growth area developer whose major focus is housing. He is reportedly concerned about production levels of housing in the U. S., opposes mortgage revenue bonds and, of great importance to our industry, is opposed to exclusionary and limited zoning.

Mr. Hovde is a native of Madison, Wisconsin, served as President of the National Association of Realtors in 1979, and has been involved in all aspects of commercial and residential development as both a developer and builder. NMHF looks forward to working with Mr. Hovde.

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Michigan Supreme Court Rules — Continued from Page 1

ing discrimination or exclusion of mobile/manufactured homes is unconstitutional," something that MHI has been saying all along.

The Michigan court sent the nation a message; "You cannot blindly exclude or restrict mobile/manufactured homes just because they are in fact mobile/manufactured homes!" It is obvious that in formulating their decision the Michigan Supreme Court examined the facts about the new generation of mobile/manufactured homes (which were largely supplied by MHI in its Amicus brief), and did not resort to tired old misconceptions.

A substantial victory was achieved in Michigan, the key precedent has been established. Zoning ordinances that would restrict and exclude mobile/manufactured homes are now unconstitutional.

Editorial comment: Within the last year or so courts have been leaning in this direction. Several in the east and far west. There is sufficient material developing that other states may have good reasons now for reopening previously unfavorable decisions.

Last year, Dick Klemeyer at the Texas Mfgd. Housing Ass'n convention presented a logical and reasoned comment that no doubt will be included in future briefs on the subject of zoning discrimination.

He said:

"The political and social climate in this country, and in Texas, has undergone a shift toward increasing emphasis on individual human rights. Attitudes, and even laws, that once may have seemed logical safeguards of an entire community's well being have changed because of a realization that in a modern and complex society, it is the individual who needs a greater measure of protection.

In this climate of increasing concern for human rights, it is important to remember that a manufactured home is a thing—and things, as such, have no rights. The U. S. Constitution doesn't protect a mobile home — doesn't grant it any inalienable rights or privileges. But people do have rights. And if discrimination against manufactured housing is to be eliminated, the effort may have to focus, to some extent, on securing the individual rights of people who want to live in a mobile or modular home, and want to locate that home in a desirable neighborhood. It may turn out that the people who buy manufactured homes — rather than those who sell them — will be the most effective troops in the battle for greater site - availability and fair treatment of mobile and modular homes.

People not only have rights —they have votes. And their votes help elect the legislators who adopt statutes and the local officials who adopt zoning ordinances and other control measures. If legal challenges in Court do not completely remove unreasonable restrictions against manufactured housing then, new legislation can be created to achieve that goal. And the fastest - growing segment of the voting population in the 1980's will be adults of family-forming age who represent the strongest market for affordable housing — and that means manufactured housing.

One State — and only one State, Vermont has adopted a law that prohibits municipalities from distinguishing between site-built homes and mobile homes in their zoning ordinances. I'd like to offer a few passages from a letter sent to all Vermont towns and cities by the State Agency of Community Affairs and Development after the law was adopted:

"There ought to be complete agreement with these objectives, for it is inconceivable in a free society that income, lifestyle or method of construction should be a basis for discrimination in housing."

Continued on Next Page

as Mfgd. Housing Ass'n — Continued from Page 3

An interesting thing about the Vermont legislation is that it passed the legislature without a word of testimony (or even public statements) from either the New England Mobile Home Association or the Governor's Advisory Commission on Mobile Homes (which also is primarily an industry group). Lobbying efforts in support of the Bill were led by the Vermont Legal Aid Society and the Low Income Advocacy Council. The Bill was discussed solely in terms of equal treatment and human need. The Bill passed by wide margins in both the House and Senate, with support from both Conservatives and Liberals, because it focused on equality and human rights. The American Mobile Home Owners Association considers the Vermont Law a "model" that the industry should try to have adopted in every state.

It may not be possible to convince all building inspectors that a manufactured home is better-built — or as well-built — as a site-constructed house. We may never convince all members of all Planning and Zoning Commissions that a mobile home will not depress surrounding property values. And we may never convince all members of all City Councils that the "aesthetics" of manufactured homes meet some pre-determined standard in their minds. But those same officials may find it very difficult to maintain a position that not only denies a large segment of the population in their communities the opportunity to live in quality housing they can afford, but also denies those people their individual freedom of choice.

The manufactured housing industry may still have to spend a lot of time at the courthouse and at the State Capitol. But the effort may increasingly focus not so much on explaining and defending building codes and aesthetic values — but on standing up for (and fighting for) the individual rights of the people who want to be our customers."

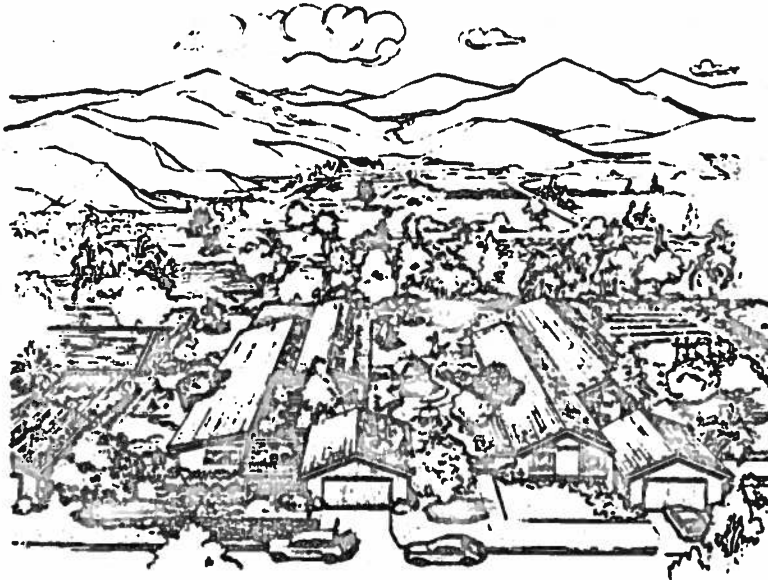
FHA Loan Limits

On January 19, 1981, HUD published notice in the Federal Register approving an increase in the FHA mobile home loan amounts. New limits for single-section homes are $20,000 up from $18,000. The new loan maximum for multi-section homes has increased to $30,000 from $27,000. The rule became effective on February 18. (MHI PL January 30, 1981)

Congress recently passed a bill to cut business' paper load. The Paperwork Reduction Act permits businessmen to ignore forms coming without an Office of Management & Budget stamp of approval, requiring control no., expiration date and reason for the request.

d authoritative information in regard to the subject matter covered. It is sold with the understanding that the ...ing or other professional service. If legal advice or other expert assistance is required, the service of a com... a Declaration of Principles by a Committee of the American Bar Association and a Committee of Publishers.

MOBILEHOMES GO MAINSTREAM



The addition of pitched roofs and two-car garages has made many mobilehome models virtually indistinguishable from conventionally-built tract houses. But until this session of the Legislature, they were still more vehicle than home in the eyes of the law and lenders, especially public lenders.

In the first year of the session, however, the Legislature took a number of steps that signaled their recognition of the importance of mobilehomes in the housing market. Of both symbolic and practical importance is the transfer of mobilehome registration funtions from the Department of Motor Vehicles to HCD.

More importantly, financing options were extended in several directions. AB 333 and SB 229 included as part of the State's new housing finance programs, construction incentives for mobilehome developments and homeownership assistance for individuals.

In a rental project, full development costs will be paid by the State for 30% or more of the units to be kept available and affordable to low and very low income families, as well as the elderly and handicapped for at least 30 years. Eligibility extends to new mobilehome parks, including cooperative parks, of five or more spaces.

The homeownership assistance component of this legislation provides for state co-investment of up to 49% of the cost of a dwelling purchased by a lower income household. Eligibility extends to those living in a mobilehome park being converted to a condominium or cooperative park, and parties who purchase a mobilehome on a permanent foundation outside a park. This program will also provide interim financing assistance to nonprofit corporations or stock cooperatives which are developing mobilehome parks for low and moderate income tenants.

Other legislative changes authored by Assemblyman Dennis Mangers (Dem., Huntington Beach) in AB 2740 had the effect of increasing financing options for manufactured housing:

- Loans can now be authorized by the California Housing Finance Agency for cooperative or nonprofit mobilehome parks, or mobilehome subdivisions for low and moderate income tenants, and for installation on foundation systems outside of parks.

- Financing can now be provided by HCD for mobilehomes-- individual units, parks, and subdivisions-- through the Housing Predevelopment Loan Fund, Urban Housing Development Loan Fund, and the Farmworkers Housing Grant Program.

- Loan ceilings for the Cal Vet Program have been increased from $22,500 to $35,000 for a mobilehome in a park and from $30,000 to $55,000 for a mobilehome on a foundation system on a private lot.

Another noteworthy feature of recently enacted legislation is contained in AB 2915, by Assemblyman Mike Gage (Dem., Napa). For the first time, as a result of this bill, a mobilehome owner will be able to take advantage of the cash value of a residence, a prerogative previously available only to homeowners of traditional dwellings. In the future, a mobilehome owner will have the opportunity to take out a secured second loan on the unit, or derive cash from equity in the unit. AB 2915 also transfers State mobilehome regulatory responsibilities from the Department of Motor Vehicles to HCD.

PLANNING AND ZONING ACCEPTANCE

This session also yielded legislation which assures manufactured housing a place as part of each California community. Currently, many localities exclude mobilehomes entirely, or restrict their location to parks. SB 1960 by Senator Omer Rains, (Dem., Ventura) which will take effect July 1, 1981, precludes prohibition by a locality of installation of newer mobilehomes (built since 1976) which are installed on permanent foundations on single-family lots. The local jurisdiction may apply setback, sideyard, parking and other development standards which would apply to a conventional house on the same lot, and may also designate certain single-family lots for mobilehome use. Local architectural standards may be applied to the mobilehome which deal specifically with roof overhang and roofing and siding materials.

Another measure, AB 1564 authored by Assemblyman Chester Wray (Dem., Westminster) requires cities and counties to include manufactured housing within the housing development options dealt with in their housing element of the local general plans.

MOBILEHOMES TO GENERATE PROPERTY TAXES

Traditionally, mobilehomes have been taxed as vehicles, through an

(Continued on page 8)

(Continued from page 7)

annual license fee based on a depreciation schedule, and a 6% sales and use tax collected upon sale or resale. Local jurisdictions have long been dissatisfied with these taxing mechanisms, contending that their share of revenues did not cover the cost of services utilized by mobilehome residents.

Senator Robert Presley (Dem., Riverside) dealt with this problem in two measures--SB 1004 of 1979, and a refinement, SB 1422 of 1980. As a result of their passage, all new mobilehomes sold on or after July 1, 1980 are subject to local property taxes at the same rates as conventional dwellings. (Annual vehicle-type licensing will continue for units first sold before that date.) Sales tax on post-July 1980 units will be charged only upon initial sale, and will be based only on 75% of the sales price to the retailer, an arrangement similar to conventional housing sales taxes which apply to materials but not value of the completed house. The new legislation also qualifies owners and renters for State tax benefits available to residents of conventional dwellings.

NEW WIDTH REQUIREMENT

Assemblyman Jim Ellis (Rep., San Diego) and Mike Roos (Dem., L.A.) addressed yet another issue influencing practical usage of mobilehomes in AB 677 and AB 2698, respectively. Through their efforts, the width requirement for movement of mobilehomes on California highways has been increased to 14 feet maximum. Previously, units exceeding 12 feet in width could not be moved on the highway in California although all other states permit movement of those up to 14 feet. This issue has been important to prospective mobilehome owners and the industry. A 14 foot-wide unit provides more livable space in a stand-alone or "single-wide" mobilehome, including a 3-bedroom floor plan.

NEW AGENCY SECRETARY

The Department of Housing and Community Development will report to a new cabinet secretary. Lynn A. Schenk, appointed by Governor Brown, succeeds Alan Stein, who recently resigned as Secretary of the Business and Transportation Agency.

The Agency, soon to be renamed Business, Transportation, and Housing embraces the housing activities of HCD, the California Housing Finance Agency (CHFA), and the Department of Real Estate.

Ms. Schenk, 35, was deputy secretary for the Agency, and has worked on numerous housing issues with HCD. Prior to this, she was an attorney for the San Diego Gas & Electric Company and a White House Fellow serving as a special assistant to Vice Presidents Nelson Rockefeller and Walter Mondale.

Ms. Schenk was a founder and on the board of directors of the Women's Bank of San Diego (California Coastal Bank). She was also a founder and president of the Lawyers Club of San Diego and California Women Lawyers.

She received her B.A. from the University of California, Los Angeles and her law degree from the University of San Diego.

A Democrat, Ms. Schenk will receive $60,026. The position requires Senate confirmation.

With the appointment of Ms. Schenk Governor Brown's agency secretaries are now 50 percent female.

CALIFORNIA COMMUNITIES OCTOBER 1980

921 Tenth Street
Sacramento, CA 95814

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the acceptability of mobile homes, to be guided by such fallacies and misconceptions. Manufactured housing today has a major role to play in furnishing the nation's housing needs, particularly in providing shelter for lower and fixed income persons who want to live in their own homes. But that potential will not be realized as long as manufactured homes are considered as substandard to homes built on site.

FROM THE BEGINNING

Mobile homes today are at least as strong, and in some instances, stronger than contemporary model code-complying site-built homes.

From their inception, mobile homes have been constructed to meet a need. In the beginning travel trailers had to withstand the rigors of being pulled over winding, two-lane highways and bumpy back roads. They were rather simple in design and small in size; building them for endurance presented no particular challenge.

As the homes grew larger and more complex in the features provided, professional engineering and creative design became more necessary. As mobile homes evolved through the 1950s and 60s, they reached widths of 14 feet and lengths of 60 feet and more. Most were built as structurally sound as site-built housing. If early mobile homes had any design fault, it was due to the lack of materials to keep them light and versatile. Since no one will knowingly sell a product that is potentially dangerous, manufacturers either developed or changed materials to meet this need.

CODES WERE VOLUNTARY, EFFECTIVE

Until 1974, there were no nationally enforced standards for construction of mobile homes, although many individual states had mandatory standards.

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Like many other industries, manufacturers had policed themselves and each other. California was one of the early leaders, with the assistance of manufacturers, in formulating mobile home standards, which were followed by manufacturers who were members of the Trailer Coach Association or the Mobile Home Manufacturers Association. In the early 1950s, these standards dealt largely with electrical, plumbing and heating system designs. As standards progressed, structural requirements, including such features as window glazing area, minimum room size, heat loss control, wind and snow design loads, and foundation requirements, were needed.

Early mobile home regulations evolved from the jointly published mobile home standard of the National Fire Protection Association and the American National Standards Institute, both voluntary consensus standards-making organizations. Finally 23 states, many of them in the West, followed these standards when drawing up their mobile home regulations. Unfortunately, each state was free to make its own revisions and stipulations to meet their own perceived needs. Since some states perceived their snow to be heavier than their neighbor's, or their winds more brisk, considerable variation in the details of mandatory regulations appeared that manufacturers had to comply within a given market area.

TOWARD UNIFORMITY

A major change in mobile home regulation came in 1974, when Congress enacted the Mobile Home Construction and Safety Standard. Hailed by federal officials as a great victory for consumers, the new law was in essence an embodiment of the ANSI codes already being followed by mobile home manufacturers. The law's most significant contributions were a

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provision for uniform standards and a strict enforcement policy. This standard is the only nationally and uniformly enforced building code in existence today. The regulations were welcomed by the manufactured housing industry as they brought significant uniformity to a previously non-uniform system.

To further minimize differences between state codes, and thus alleviate the need to custom build mobile homes for each state, the National Conference of States for Building Codes and Standards (NCSBCS) began an effort to coordinate mobile home regulations. Individual state agencies, in association with the National Conference, worked to create an effective system for assuring mobile homes were constructed to uniform standards.

"MANUFACTURED" IS THE KEY

We don't feel it's an overstatement to say that modern mobile homes represent the epitome in efficient, cost-effective construction. The concern of the engineering field is to ensure that every component has an important function in relation to the entire structure. The ultimate goal is to build a home that meets the required performance standards at the minimum produced cost.

The achievement of this goal is what sets manufactured housing apart from site-built homes. The key word is "manufactured." Mobile homes are the product of assembly line methods and are built to approved plans that eliminate the inefficiencies in building of site-built homes. An often used analogy that has much truth is the similarity to the construction of a car. How much do you think it would cost to have a

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group of workers, under supervision of knowledgeable individuals, build a car from the ground up in your driveway? Quite plainly, most of us could not afford it. The same is becoming the case in housing. In addition to production efficiencies, purchasing and economy of scale, mobile home builders are able to exercise extensive quality control during the construction of their products. In the end, the consumer receives a high quality home at an affordable price.

STRUCTURAL EFFICIENCY

What type of structural efficiencies are we talking about? Take interior paneling, for instance. Mobile home manufacturers use what is called stress skin paneling It serves two very important functions. First, it creates the interior decor. Secondly, it adds significant structural strength to the wall framing. To further strengthen the structure, manufacturers use adhesives in addition to mechanical fasteners such as nails and staples. Conventional home builders are not generally permitted to utilize adhesives because of construction conditions which they cannot control.

Mobile home roof rafters are another area where efficiency and economy play a big role while still maintaining structural integrity. Instead of the expensive framing seen on many site-built homes, mobile home manufacturers use manufactured truss-type rafters that are based on the same principle as an airplane wing. The ingenuity of geometry takes the place of solid mass. Although some feel that truss-type rafters are inferior, we know they perform efficiently. They are proven strong to

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fulfill the design need, and they do not tend to warp like solid rafters.

Components that go into building a mobile home are tested, tested, and retested to ensure they will perform as the engineer's design expects. The codes by which site-built homes are constructed (the model building codes) are the result of years of field experience, but not of controlled design with a specific purpose in mind. The question mobile home manufacturers ask is: Will component "A" perform task "B" efficiently, effectively, esthetically, and economically? If so, let's use it. If not, back to the drawing boards. Combine this philosophy and nearly three decades of experience, along with the fact mobile homes must be transportable, and you have the basis for modern mobile home construction.

FIRE AND WIND

How safe are mobile homes in a fire? Before answering, we feel obligated to point out that no structure is safe in a fire. Given that, mobile homes today are as safe as any other comparable home. The Federal Mobile Home Construction and Safety Standard sets extremely stringent regulations on fire safety. All materials--excluding drapes and other furnishings--must have a fire spread rating of no more than 200. (Asbestos is 0 and solid 3/4-inch red oak is 100.) This compares to the model building codes requirements. Materials adjacent to stoves must be rated 50 or less, and around furnace and water heaters, 25 or less. All mobile homes built today must have at least one smoke detector installed. There must be at least two exterior doors for escape which must be within 35 feet of each bedroom door, but cannot be in the same room or general area. Bedroom windows must open easily for emergency exiting, and their sill cannot be more than 36 inches above the floor.

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While fire protection provisions can be controlled by manufacturers, wind damage is another matter. Most wind damage to mobile homes is a direct result of inadequate installation and anchoring.

Today's manufactured homes are made to withstand all the same elements of nature that a site-built home can survive. By federal law, mobile home roofs in moderate climate states like California must support up to 20 pounds per square foot. In some northern states, the design standard is 30 to 40 pounds per square foot. Normal wind design requires that exterior walls and windows withstand 15 pounds per square foot, and in hurricane-designated areas, such as Florida and Texas, a 25-pound per square foot design is required. In addition, the standard stipulates that exterior coverings "shall be of moisture and weather resistive materials attached with corrosion resistant fasteners to resist wind, snow and rain."

INSPECTIONS, INSPECTIONS AND MORE INSPECTIONS

In-plant inspection is another important aspect of mobile home construction. Fleetwood Enterprises, for instance, has a quality control administrator at each of its 29 plants who reports directly to the plant general manager. Each unit is closely scrutinized at each phase of construction before shipment to dealers. Consumers are furnished a one-year warranty guaranteeing that workmanship and materials are free from defect.

Several independent or government agencies are also involved in the inspection process. The U.S. Department of Housing and Urban Development (HUD) is responsible for national enforcement of the Mobile Home Construction and Safety Standard, and has contracted with the National Conference of State Building Codes and Standards (NCSBCS) to be its eyes and ears.

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States provide inspectors to NCSBCS, and all mobile home manufacturing plants in the U.S. are monitored by them at least quarterly. Further, all mobile home building plans must be approved by an independent, approved agency.

Inspection agencies have inspectors who visit plants in their area as often as every day, depending on production. Although each agency may have different inspection guidelines, they cannot be less rigorous than required by the Federal Standards.

CHANGE IN THINKING

The fallacies and misconceptions associated with mobile home construction are without basis. People, many in decision-making capacities affecting the manufactured housing industry, still conjure up images of rickety, tin trailers when mobile home related subjects are brought up. This is totally inaccurate and unfair, and the end result of this type of thinking is counterproductive for all concerned. We can only hope that through information and education, manufactured homes will be judged for what they are: Sturdily built, efficient, economic, and attractive homes that are equal in performance to comparable site-built housing.

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MOBILE HOMES AS SAFE FROM FIRE AS SITE-BUILT HOMES; NEW MOBILE HOMES SAFER

The risk of fire is greater in a site-built home than in a mobile home, according to Howard Gate's study, "Comparison of Fire Risk in Mobile Homes and Site-Built Homes." His analysis of data contained in the U.S. Fire Administration's 1978 National Fire Incident Reporting System reveals that the incidence of fire in site-built homes is 534.50 per 100,000 homes, as compared to the slightly lower rate of 534.04 fires per 100,000 mobile homes. More significant, however, is the fact that the fire incidence rate for mobile homes built after 1976 is only 378.9 per 100,000 mobile homes, or 155.6 fewer fires than site-constructed homes experience.

The lower rate of fire incidence for mobile homes is due, in large part to stringent fire safety features required by the Department of Housing and Urban Development's Mobile Homes Construction and Safety Standards, a mandatory, national building code for mobile homes which has been in effect since [illegible]76.

Among the many fire safety provision are: 1) that each mobile home have a minimum of two, easily accessible exits; 2) restrictive interior flame-spread requirements for walls and ceilings; 3) flame-spread ratings for the interior finish of furnace and water compartments, kitchen cabinets and counter tops, interior surfaces adjacent to cooking ranges, furniture materials, and plastic bathtubs, shower units and shower doors; and 4) smoke alarms and emergency egress windows in all sleeping areas. In some states and cities, building codes governing site-constructed housing do not require such stringent fire safety features.

The mobile home industry's careful attention to fire safety features--and stringent quality control--has also led to a lower fire fatality rate than that for site-constructed homes. The fatality rate for site-built homes is [illegible].20 per 100,000 homes, while the rate in mobile homes built since the implementation of the HUD code is 3.44 fatalities per 100,000 homes, according to the National Fire Protection Association's 1978 fire fatality records.

Mobile home fire data for California, a state which has one of the largest mobile home populations, further indicates that the fire incidence rate of mobile homes is significantly less than that of site-built homes. In a 1977 memorandum from the Acting Chief of the Division of Codes and Standards to the California Commission of Housing and Community Development, it was noted that, based on the second annual report of the California State Fire Marshal, one out of every 122 site -built homes had a fire occurrence, while only one out of 409 mobile homes experienced fire.

Prepared by: The Indiana Manufactured Housing Association
3210 Rand Road, Indianapolis, Indiana 46241
8/28/80

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Indiana Joins States Voiding Anti Mobile Home Laws

INDIANAPOLIS, Ind.—Governor Robert D. Orr has signed into law legislation which prevents county and municipal zoners from discriminating against all forms of manufactured homes simply because they were built in factories.

The bill had previously passed the Indiana House by a resounding 83-11 margin, and then Senate by 26-20.

The law prohibits planning commissions from enacting or maintaining ordinances that totally preclude all forms of manufactured housing (including mobile homes) from being installed as permanent residences.

It applies, however, only to homes having more than 950 square feet of space and which are more than 23 feet wide. Local authorities may specify roofing and siding materials, but any such aesthetic specifications must also be applied to site-built homes.

The law covers mobile/manufactured homes built after last Jan. 1, and takes affect July 1, 1982.

The only other state with such a broad state law against mobile home discrimination is California, which won such a measure in 1980. In Florida, a task force of members of Florida Manufactured Housing Assn. is in the initial stages of preparing a similar bill for the 1982 legislative session.

All this legislative activity involves mobile homes built to the standards set by the U. S. Department of Housing and Urban Development.

CALIFORNIA GOVERNMENT CODE

§65852.3 Mobilehomes; Installation on lots zoned for single-family dwellings.

A city, including a charter city, county, or city and county shall not prohibit the installation of mobilehomes certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.) on a foundation system, pursuant to Section 18551 of the Health and Safety Code on lots zoned for single-family dwellings. However, a city, including a charter city, county, or city and county may designate lots zoned for single-family dwellings for mobilehomes as described in this section, which lots are determined to be compatible for such mobilehome use. A city, including a charter city, county, or city and county may subject any such mobilehome and the lot on which it is placed to any or all of the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking and architectural, aesthetic requirements, and minimum square footage requirements. However, any architectural requirements imposed on the mobilehome structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. In no case may a city, including a charter city, county, or city and county apply any development standards which will have the effect of totally precluding mobilehomes from being installed as permanent residences.
(Added by Stats. 1980, c. 1142, p.___, § 1.5, operative July 1, 1981.)

Operative July 1, 1981.

Title 24, §4406. Required regulations.

No municipality may adopt zoning regulations which do not provide for the following:

* * * * * * * * * * * * * * *

(4) Equal Treatment of Housing.

(A) Except as provided in section 4407(6) of this title, no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded.

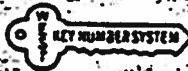
(B) No zoning regulation shall have the effect of excluding from the municipality housing to meet the needs of the population as determined in section 4382(c) of this title.

(C) No provision of this chapter shall be construed to prevent the establishment of mobile home parks pursuant to chapter 153 of Title 10.--Amended 1975, No. 236 (Adj. Sess.), §1.

Title 24, §4407.

(6) Design control districts. Zoning regulations may contain provisions for the establishment of design control districts. Prior to the establishment of such a district, the planning commission shall prepare a report describing the particular planning and design problems of the proposed district and setting forth a design plan for the areas which shall include recommended planning and design criteria to guide future development. The planning commission shall hold a public hearing, after public notice, on such report. After such hearing, the planning commission may recommend to the legislative body such design control district. A design control district can be created for any area containing structures of historical, architectural or cultural merit, and other areas in which there is a concentration of community interest and participation such as a central business district, civic center or a similar grouping or focus of activities. Within such a designated design control district no structure may be erected, reconstructed, substantially altered, restored, moved, demolished, or changed in use or type of occupancy without approval of the plans therefor by the planning commission. A design review board

may be appointed by the legislative body of the municipality to advise the planning commission, which board shall have such term of office, and such procedural rules, as the legislative body determines.



ROBINSON TOWNSHIP, a Michigan Municipal Corporation, Plaintiff-Appellant,

v.

Donald KNOLL and Merle Knoll, jointly and severally, Defendants-Appellees.

Docket No. 58747.
Calendar No. 1.

Supreme Court of Michigan.

Argued Jan. 8, 1980.
Decided Feb. 23, 1981.

Township brought action against landowners, seeking removal of mobile home from parcel of land. The Ottawa County Circuit Court, James E. Townsend, J., entered judgment that township ordinance provision permitting mobile homes only in mobile home parks was valid, and appeal was taken. The Court of Appeals, Quinnell, J., 70 Mich.App. 258, 245 N.W.2d 709, reversed, holding ordinance unconstitutional, and appeal was again taken. The Supreme Court, Levin, J., held that: (1) per se exclusion of mobile homes from all areas not designated as mobile home parks had no reasonable basis under police power, and was therefore unconstitutional, and (2) municipality need not permit all mobile homes, regardless of size, appearance, quality and manufacture or manner of on-site installation, to be placed in all residential neighborhoods, and mobile home could be excluded if it failed to satisfy reasonable standards designed to assure favorable comparison with site-built housing which would be permitted on site, and not merely because it was a mobile home.

Determination of Court of Appeals affirmed; judgment vacated and remanded.

Coleman, C. J., filed dissenting opinion in which Ryan, J., joined.

Moody, J., filed dissenting opinion.

1. Zoning and Planning ⟹83

Per se exclusion, under township zoning ordinance of mobile homes from all areas not designated as mobile home parks had no reasonable basis under police power, and was therefore unconstitutional; overruling *Wyoming Twp. v. Herweyer*, 321 Mich. 611; 33 N.W.2d 93 (1948). M.C.L.A. Const. Art. 1, § 17.

2. Zoning and Planning ⟹83

A municipality need not permit all mobile homes, regardless of size, appearance, quality of manufacture or matter of on-site installation, to be placed in all residential neighborhoods; a mobile home may be excluded if it fails to satisfy reasonable standards designed to assure more favorable comparison of mobile homes with site-built housing which would
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housing which would be permitted on site, and not merely because it is a mobile home. M.C.L.A.Const. Art. 1, § 17.

3. Zoning and Planning ⟹790

Where township's complaint alleged mobile home owners' violation of provision of zoning ordinance relating to building permits, but building permit could not have issued because of unconstitutional per se rule under separate ordinance confining mobile homes to mobile home parks, township was entitled to no relief based on mobile home owners' failure to apply for building permit prior to erecting mobile home on lot as well as digging well, obtaining septic permit, applying for power from power company, clearing trees for roadway, and erecting rail fence around site.

4. Constitutional Law ⟹278.2(1)

A "reasonable basis" for zoning ordinance, in order that it might satisfy substantive due process, must be grounded in police power, which includes protection of the safety, health, morals, prosperity, comfort, convenience and welfare of the public, or any substantial part of the public. U.S. C.A.Const. Amend. 14.

See publication Words and Phrases for other judicial constructions and definitions.

5. Zoning and Planning ⟹83

Assumption that all mobile homes are different from all site-built homes with respect to criteria cognizable under police power can no longer be accepted. M.C.L.A. Const. Art. 1, § 17.

6. Zoning and Planning ⟹83

If mobile homes were to be excluded from all residential zones in township other than mobile home parks, it could not be because they were "movable or portable," as a "mobile home" was defined under township's zoning ordinance, where site-built homes were "movable or portable," in sense of relocation from outside township or from another location within township, although they were rarely moved, and thus it would be arbitrary to discriminate against mobile homes on such basis. M.C.L.A. Const. Art. 1, § 17.

7. Zoning and Planning ⟹83

The criteria "constructed to be towed on its own chassis" and "designed without a permanent foundation," included in township's definition of "mobile home" under zoning ordinance providing that mobile homes may be located only in mobile home parks, did not identify characteristics which justified exclusion and segregation of mobile homes where, although community might have legitimate interest in safeguarding residents against, for example, windstorm damage, justifying requirement that mobile home be firmly attached to solid foundation, and might reasonably include that dwelling the wheels and chassis of which are exposed is unsightly or is likely to lead to transience, thus justifying requirements that certain on-site modifications be made as condition to placement of mobile home in area not designated mobile home park, ordinance defining "mobile home" reflected no such concerns. M.C.L. A.Const. Art. 1, § 17.

8. Zoning and Planning ⟹83

Ordinance restricting placement of mobile homes must be directed to dwelling as it will exist on the land, and not to its characteristics when delivered to the site. M.C.L.A.Const. Art. 1, § 17.

9. Zoning and Planning ⟹83

Aesthetics was not sufficient ground upon which to justify per se rule of township ordinance excluding mobile homes from other than mobile home parks where it appeared that mobile homes could be designed or modified to compare favorably in appearance to many site-built homes; reasonable requirements to show a favorable comparison with community's aesthetic standards could be imposed by municipality. M.C.L.A.Const. Art. 1, § 17.

10. Zoning and Planning ⟹83

Community concerns based on health and safety were insufficient characteristics of mobile homes to justify per se rule of township ordinance excluding mobile homes from areas other than mobile home parks since municipality was free to deal with

concerns of such type in a reasonable code. M.C.L.A.Const. Art. 1, § 17.

11. Zoning and Planning ⟹83

Concern that mobile homes are given to transient use was insufficient characteristic of mobile homes to justify per se rule of ordinance excluding mobile homes from areas other than mobile home parks since practical necessities attending installation of a single mobile home in an area in which site-built housing was allowed, along with conditions that a township might reasonably attach to such mobile home use, vitiated such cause for concern and, in light of investment required to install mobile home as a single-family dwelling, it was unreasonable to assume mobile home dweller would stay only a short time. M.C.L.A. Const. Art. 1, § 17.

12. Zoning and Planning ⟹83

Where township's building code allowed for prefabricated housing which was assembled at site, there could be no reasonable basis for distinguishing between mobile homes, which were excluded by ordinance from areas other than mobile home parks, and other prefabricated dwellings since both were "movable or portable," and might be similar in appearance and constructed of similar materials; it was not valid basis for distinction under police power that one was not only prefabricated but also preassembled, and "constructed to be towed on its chassis." M.C.L.A.Const. Art. 1, § 17.

Scholten & Fant by R. Neal Stanton, Grand Haven, for plaintiff-appellant.

Hoffman & Watts by John A. Watts, Allegan, Mich., for defendants-appellees.

LEVIN, Justice.

In this case we revisit the holding of *Wyoming Twp. v. Herweyer,*[1] and consider whether a municipality constitutionally may provide that mobile homes are to be sited only in mobile home parks and exclude all mobile homes from other residential zones.

Robinson Township commenced this action against Donald and Merle Knoll, seeking removal of a mobile home from their 80-acre parcel of land.

Count I of the complaint alleged that the use of the mobile home was contrary to § 307.1 of the township's zoning ordinance[2], which provides that mobile homes may be located only in mobile home parks, and to § 1302.1 of the ordinance[3], which requires that a building permit be obtained before the erection of a building or structure on any property in the township. Count II alleged that because of violation of the same sections of the ordinance, the mobile home was a nuisance per se.

The answer raised affirmative defenses based on the unconstitutionality of the ordinance in that it arbitrarily and capriciously prohibits a proper land use, and is overbroad, failing to establish clear standards to be observed by property owners and citizens of the township.

1. *Wyoming Twp. v. Herweyer*, 321 Mich. 611, 33 N.W.2d 93 (1948).

2. "*Mobile Homes—Where Permitted*: Mobile homes are considered as dwelling units and are not permitted as an accessory use to a permitted principal use and are permitted only in approved mobile home parks." Robinson Township Zoning Ordinance, § 307.1.

3. "*Application*. Except as otherwise provided, it shall be unlawful to erect any new building or structure or to alter any existing building or structure at a cost of $200.00 or more until a permit therefor has been obtained from the building inspector by the owner or his duly authorized agent. Application for a permit shall be in writing and upon duplicate printed forms furnished by the building inspector. Such permits shall be non-transferable and must be obtained before any work, excavation, erection, alteration, or movement is begun. Satisfactory evidence of ownership of the premises may be required by the building inspector and shall be furnished upon request. If the application is approved, the building inspector shall so mark both copies over his signature, shall file one copy in the office of the township clerk of Robinson Township, and return the other copy to the applicant together with a construction card signed by the building inspector stating the extent of the work authorized, which card shall be attached to and remain on the premises during the progress of the work authorized." *Id.*, § 1302.1.

Trial was had on stipulated facts, including: the home had been placed on the parcel; the parcel was not a mobile home park; no building permit had been obtained; and the Knolls had dug a well, obtained a septic permit, applied for power from Consumers Power Company, cleared trees for a roadway and erected a rail fence around the site. No claim was made that the dwelling was not a mobile home within the meaning of the ordinance.

The trial judge, citing *Wyoming Twp. v. Herweyer*, held that "unless and until such decision is reversed," the provision that mobile homes are permitted only in mobile home parks was valid, and accordingly ordered removal within 30 days.

The Court of Appeals reasoned that because 1) there was no existing mobile home park in the community, and—given the state of construction on a newly approved mobile home park—"the use of land for mobile homes is neither imminent nor a factual certainty" and 2) "[a]s a matter of law," "a single mobile home [is not] a nuisance per se or detrimental to public health, safety, morals or general welfare, either," the township had totally excluded a legitimate use from the entire township.[4] The Court found no justification for this total exclusion, and held the ordinance unconstitutional. The Court found its conclusion reinforced in that the Knolls' land was so zoned that it could be licensed as a mobile home park; commenting that "if the existence of such a park on that site poses no threat to 'public health, safety, morals or general welfare,' it is difficult to perceive how the existence of one mobile home could do so."

We agree with the Court of Appeals that the ordinance is unconstitutional, but on other grounds.

[1-3] We hold:

(1) The per se exclusion of mobile homes from all areas not designated as mobile home parks has no reasonable basis under the police power, and is therefore unconstitutional.[5]

The reasoning on which the rule of *Wyoming Twp. v. Herweyer* was based is no longer valid in light of improvements in the size, quality and appearance of mobile homes, and that decision and cases to the same effect are overruled as to housing that is not a "trailer."

We add, however, that a municipality need not permit all mobile homes, regardless of size, appearance, quality of manufacture or manner of on-site installation, to be placed in all residential neighborhoods. A mobile home may be excluded if it fails to satisfy reasonable standards designed to assure favorable comparison of mobile homes with site-built housing which would be permitted on the site, and not merely because it is a mobile home.

The Robinson Township ordinance embodies a per se rule segregating mobile homes from residential zones that are not mobile home parks, and is therefore unconstitutional.

(2) The complaint also alleged violation of the provision of the zoning ordinance relating to building permits. A building permit could not have issued because of the per se rule confining mobile homes to mobile home parks. It necessarily would have been futile for the Knolls to apply for one. For this reason, the township is entitled to no relief based on the Knolls' failure to apply for a building permit.

(3) We intimate no opinion whether building code provisions may now be invoked against the Knolls, leaving that question for consideration by the circuit court should the township seek further relief on that basis.

We vacate the judgment of the Court of Appeals, and remand to the circuit court for further proceedings not inconsistent with this opinion.

Municipalities throughout the state have assumed the continuing validity of the rule of *Wyoming Twp. v. Herweyer* in drafting their ordinances. We reserve the question

4. *Robinson Twp. v. Knoll*, 70 Mich.App. 258, 264-266, 245 N.W.2d 709 (1976).

5. Const.1963, art. 1, § 17.

whether our decision overruling that opinion as applied to housing other than "trailers" should be applied retroactively in other pending cases or to other ordinances and, if so, whether retroactivity should be conditioned upon compliance with reasonable standards designed to assure favorable comparison of the mobile home in question with site built housing which would be permitted on the site.[6]

I

In *Kropf v. Sterling Heights*,[7] this Court said that "[a] plaintiff-citizen may be denied substantive due process by the city or municipality by the enactment of legislation, in this case a zoning ordinance, which has, in the final analysis, no reasonable basis for its very existence."

[4] A "reasonable basis" must be grounded in the police power,[8] which this Court has defined as including "protection of the safety, health, morals, prosperity, comfort, convenience and welfare of the public, or any substantial part of the public."[9]

The township's argument based on the land planning principle that like uses should be grouped and incompatible uses kept separate begs the question raised by the appeal: do mobile homes differ from other single-family dwellings in any constitutionally cognizable manner which would justify their per se classification as a different use? If not, then the ordinance limiting mobile homes to mobile home parks has "no reasonable basis for its very existence."

In *Kropf*, we reaffirmed the principle that "[w]hile an ordinance must stand the test of reasonableness, the presumption is in favor of its validity and courts may not invalidate ordinances unless the constitutional objections thereto are supported by competent evidence or appear on their face.'"[10]

The Knolls, having failed to produce any evidence in the circuit court, can succeed only if the rule that no mobile home may be located outside a mobile home park is invalid on its face.

We believe that it is.[11]

II

Wyoming Twp. v. Herweyer, holding that a municipality may constitutionally limit trailers to trailer parks, would seem to be dispositive of this case, and was so treated by the trial judge. We conclude, however, that it does not control.

[5] That case, decided over thirty years ago, dealt with trailers. Today, we consider the per se exclusion not of trailers, but of mobile homes—and more than the label has changed with time. The mobile home today can compare favorably with site-built housing in size, safety and attractiveness. To be sure, mobile homes inferior in many respects to site-built homes continue to be manufactured. But the assumption that all

6. This case was tried on a stipulation of facts. The record shows that the mobile home placed on the Knolls' land is 14' × 70', and that some improvements have been made. There is no indication that this mobile home is of a kind that the township could exclude. Our decision, however, is not based on a determination that this mobile home could not constitutionally be excluded.

7. *Kropf v. Sterling Heights*, 391 Mich. 139, 157, 215 N.W.2d 179 (1974).

8. "The power of the city to enact ordinances is not absolute. It has been given power by the State of Michigan to zone and regulate land use within its boundaries so that the inherent police powers of the state may be more effectively implemented at the local level. But the state cannot confer upon the local unit of government that which it does not have. For the state itself to legislate in a manner that affects the individual right of its citizens, the state must show that it has a sufficient interest in protecting or implementing the common good, via its police powers, that such private interests must give way to this higher interest." *Id.*

9. *Cady v. Detroit*, 289 Mich. 499, 504–505, 286 N.W. 805 (1939).

10. *Kropf v. Sterling Heights, supra*, 391 Mich. p. 156, 215 N.W.2d 179, quoting *Northwood Properties Co. v. Royal Oak City Inspector*, 325 Mich. 419, 423, 39 N.W.2d 25 (1949).

11. See fn. 6.

mobile homes are different from all site-built homes with respect to criteria cognizable under the police power can no longer be accepted.

A.

Section 203 of the township's zoning ordinance defines "mobile home" as "[a] movable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed without a permanent foundation for year-round living as a single-family dwelling."

[6] If mobile homes are to be excluded from all residential zones in Robinson Township other than mobile home parks, it cannot be because they are "movable or portable." Site-built homes are "movable or portable," although they are rarely moved.

We note in this regard that § 500.2 of the township's building code [12] specifically provides for the issuance of moving permits to allow the relocation of one- or two-family dwellings from outside the township or from another location within the township. Any dwelling covered by § 500.2 is, by the township's definition, movable. It would be arbitrary to discriminate against mobile homes on that basis.

[7] Nor do the criteria "constructed to be towed on its own chassis" and "designed without a permanent foundation" identify characteristics which justify the exclusion and segregation of mobile homes.

One can agree that a community has a legitimate interest in safeguarding residents against, for example, windstorm damage, justifying a requirement that a mobile home be firmly attached to a solid foundation on the site. And a municipality may reasonably conclude that a dwelling the wheels and chassis of which are exposed is unsightly or is likely to lead to transience and should not be tolerated alongside site-built homes. These and similar considerations would justify requirements that certain on-site modifications be made as a condition to placement of a mobile home in an area not a designated mobile home park. The ordinance governing moving permits, discussed above, employs such a mechanism.[13]

12. The section provides in part:

"*Moving Permit*: Any person desiring to move any one- or two-family dwelling and/or accessory building from outside of the Township limits to any location within the township or from one location to another location within the township shall file a written application for a moving permit with the Township Board of Appeals. Said application shall set forth the present location of said building and/or buildings, the location of [*sic*] which said building or buildings are proposed to be moved within the township, the age of the building or buildings, a statement as to whether or not the building or buildings comply with the requirements of the building code and if not what improvements applicant proposes to make to bring said building or buildings in compliance with the building code. The application shall be accompanied by a site map as required by Sec. 501.1 of the Building Code and said map shall clearly indicate front, side and rear yards as required by Sec. 501.2 of the Building Code." Robinson Township Building Code, § 500.2.

13. "The Board of Appeals shall make or cause to be made an investigation in regard to such application, and if it be determined that the building and/or buildings complies with and is in conformity to the Robinson Township Building Code or will be brought into conformity with said code by the applicant and that such building and/or buildings at the proposed new location will not be injurious to the contiguous property and the surrounding neighborhood, the Board of Appeals may grant a moving permit, and if the applicant is required to make any improvements or changes to bring said building or buildings into conformity with the Building Code the permit shall specify such requirements. If any improvements or alterations in the amount of $200.00 or more are required, the applicant shall apply for and secure a permit for such alterations pursuant to this ordinance before moving said building and/or buildings under the moving permit issued by the Board of Appeals.

"The foundations and all other new portions, improvements or alterations to said building or buildings shall be constructed in conformity with the Township Building Code and the use, location of said building or buildings and yard areas shall conform to the Robinson Township Zoning Ordinance and Building Code." *Id.*, § 500.2.

[8] Just as "the reasonableness of a zoning restriction must be tested according to existing facts and conditions and not some condition which might exist in the future," [14] so must an ordinance restricting the placement of mobile homes be directed to the dwelling as it will exist on the land, and not, as here, to its characteristics when delivered to the site.

B

While the characteristics specified in the ordinance are not themselves a basis for the disparate treatment of mobile homes, they do serve to identify "the mobile home." If that label implies the existence of other (but unspecified) characteristics which provide a basis for restricting mobile homes to mobile home parks, there is a valid purpose for the ordinance.

[9] We are unable to identify any inherent characteristics of mobile homes that justify the per se rule of the ordinance.

Amicus curiae Michigan Townships Association argues that the segregation of mobile homes is justified on aesthetic grounds.

It appears that mobile homes can be designed or modified to compare favorably in appearance to many site-built homes. There is no longer reason to presume that mobile homes will fail to live up to a community's aesthetic standards. Reasonable requirements to assure favorable comparison with those standards, of course, can be imposed by a municipality.

[10] Concerns based in health and safety are also illusory. A municipality, again, is free to deal with concerns of this type in a reasonable code. Standards to assure that mobile homes compare favorably to other housing in, for example, insulation, adequacy of plumbing, and size of the living space exist [15] or can be imposed. And, as we have noted, a community may impose requirements to assure protection from windstorm damage.

[11] Another concern that has been voiced is that mobile homes are given to transient use. The practical necessities attending the installation of a single mobile home in an area in which site-built housing is allowed, along with conditions (such as those discussed above) that a township might reasonably attach to such mobile home use, vitiate this cause for concern. A parcel of land of sufficient size to meet community standards probably will have been purchased by the mobile home owner. Utility lines may be installed to the site; the municipality may require that a foundation to which the home will be firmly attached be laid, and other on-site modifications may be made to bring the mobile home and the parcel on which it is located into conformity with community aesthetic standards. In light of the investment required to so install a mobile home as a single family dwelling, it is unreasonable to assume the mobile home dweller will stay only a short time.[16]

14. *Christine Building Co. v. Troy*, 367 Mich. 508, 516, 116 N.W.2d 816 (1962).

15. See Department of Housing and Urban Development, Mobile Home Construction and Safety Standards, 24 CFR § 3280.

See A Comparison Between HUD's Mobile Home Construction and Safety Standards (1975) and Building Officials and Code Administrators (BOCA) Single Family Dwelling Code (1975), which is Appendix C in the brief of amicus curiae Manufactured Housing Institute, Inc.

16. "At their location [mobile homes] are removed from the axles and wheels and placed on concrete pads and piers each about 6 to 7 feet apart. In addition, with units constructed during the last 3 years, hurricane bands built into the walls of the units are anchored with bolts augered 3 to 4 feet into the ground.

"[O]nce put in place and made immobile, they are often skirted around their bases. According to plaintiffs' witness, between 75 and 80 percent of mobile homes once located are never moved. When they are moved, it takes approximately three days to dismantle the mobile home and set it up for moving, and several more days to replace it in its new location. At present prices moving expenses will range from $500 for a single-wide, to $1000 for a double-wide." *Gates v. Howell*, 204 Neb. 256, 262, 282 N.W.2d 22 (1979).

"It need hardly be pointed out that these double width homes are intended to remain on site permanently, and that their removal by cranes or other heavy machinery would undoubtedly entail considerable difficulty

The disparate treatment of mobile homes seems to be based on attitudes which once had but no longer have a basis in fact:

"Community fear of blight can be traced to the low quality of both the early trailers and their parking facilities. Economic conditions of the 'thirties, followed by wartime housing shortages and rapid relocations of the labor force, pressed many thousands of unattractive trailers into permanent use. Often these units were without running water or sanitary facilities. There were no construction standards to insure even minimum protection against fire or collapse. They were parked in areas which were usually crowded, poorly equipped, and generally unsuited to residential use. As a result, conditions in these parks seldom exceeded minimum health and sanitation standards. The specter of such parks teeming with tiny trailers made community apprehension understandable. But substantial improvements in the quality of both mobile homes and park facilities may have undermined the bases for this antipathy today. The mobile home currently produced is an attractive, completely furnished, efficiently spacious dwelling for which national construction standards have been adopted and enforced by the manufacturers' associations."[17]

Decisions from other jurisdictions, while not directly on point, support the view that per se discrimination against mobile homes can no longer be legitimized.

In holding that mobile homes intended to be used as permanent dwellings are taxable as real property, the New Jersey Supreme Court explained that "[t]he early house trailers, which originated a half century ago, have been described as makeshift contraptions 'not really fit for permanent human habitation.' * * * That they were then viewed as personal property can have little relevance when dealing with modern mobile homes * * *. These modern homes not only have all of the facilities of conventional homes, including sewage, water, lighting, heating and air conditioning, but also are more and more being constructed to look like and be used as conventional homes."[18]

The Nebraska Supreme Court, holding that mobile homes cannot be taxed as motor vehicles, observed that "[t]he evidence in this case discloses that the mobile homes in question resemble in all respects a residence. * * * The evidence in this record further discloses that the interiors of these mobile homes resemble a residence in every respect, and one looking at the exhibits disclosing the interior of these mobile homes, if not advised that in fact they were mobile homes, would not be able to distinguish them from any other residence."[19]

The New Mexico Supreme Court recently held that the mobile home there in question was "substantially the same as a conven-

and oftentimes considerable damage to the landscape. Insofar as the single width homes are concerned their removal would also entail some difficulty since in their current models they may be as much as seventy feet long and fourteen feet wide. Here, as with the double width homes, the intent that they remain on site permanently is entirely evident." *Koester v. Hunterdon County Board of Taxation*, 79 N.J. 381, 386, 399 A.2d 656 (1979).

Transient use could be expected, if at all, only of mobile homes located in, rather than away from, mobile home parks. But even this expectation is not supportable in fact, for "[w]hile mobile homes were originally for transient purposes, today about 60% of all mobile homeowners never move their home. The MHMA [Mobile Home Manufacturers' Association] reports that the average stay in one location by mobile home owners is 58 months, which is approximately the same residency duration as in conventional housing. About 70% of the mobile homes used since World War II have been used as permanent dwellings." Neithercut, *The Mobile Home: Problems With Its Recognition as a Valid Housing Source*, Newsletter, Real Property Section, State Bar of Michigan (No. 10, Dec., 1975), p. 25.

17. Note, *Toward an Equitable and Workable Program of Mobile Home Taxation*, 71 Yale L.J. 702–703 (1962).

18. *Koester v. Hunterdon County Board of Taxation, supra*, p. 388, 399 A.2d 656.

19. *Gates v. Howell, supra*, 204 Neb. pp. 262–263, 282 N.W.2d 22.

tional one-family dwelling" and therefore "does not violate the letter or the spirit" of a subdivision's restrictive covenant prohibiting trailers.[20] The description of that mobile home demonstrates that mobile homes are not inherently incapable of achieving the aesthetic and comfort standards of conventional dwellings:

"Parker purchased two lots in the Deming Ranchettes subdivision in 1975 and 1977. He bought a double-wide mobile home and moved it on the lots. The wheels, axles, and running gear were removed and sold, and the home was placed on a concrete and slump stone foundation. The mobile home has three bedrooms, two full baths and contains 1,440 square feet of floor space. A patio, a 200 square foot porch, sidewalks, and a 672 square foot two-car garage were constructed. A water well was drilled and a septic tank was installed. Both were connected to the mobile home. A conventional style asbestos shingle roof and aluminum siding were added to the home. A garden was planted and 210 trees were obtained to be planted.

"Parker testified that he and his wife intended to reside in the home permanently. Photographs admitted into evidence showed that their home had the appearance of a conventional single-family dwelling. It compares favorably with other homes in the subdivision."[21]

The legislatures of various states have provided that mobile homes may be taxed as real property,[22] and one statute prohibits ordinances which, like Robinson Township's, discriminate against mobile homes.[23]

[12] Moreover, Robinson Township's building code allows for prefabricated housing which is assembled at the site.[24] There can be no reasonable basis for distinguishing between mobile homes and other prefabricated dwellings. Both are "movable or portable," and may be similar in appearance and constructed of similar materials. It is not a valid basis for distinction under the police power that one is not only prefabricated, but also preassembled, and "constructed to be towed on its own chassis."

This is not to say that a municipality must permit all mobile homes, regardless of size, appearance, quality of manufacture or manner of installation on the site, to be placed wherever site-built single family homes have been built or are permitted to be built. Nor do we hold that a municipality may no longer provide for mobile home parks. We hold only that a per se restriction is invalid; if a particular mobile home is excluded from areas other than mobile home parks, it must be because it fails to satisfy standards designed to assure that the home will compare favorably with other housing that would be allowed on that site, and not merely because it is a mobile home.

20. *Heath v. Parker*, 93 N.M. 680, 682, 604 P.2d 818 (1980). See, also, *Hussey v. Ray*, 462 S.W.2d 45 (Tex.Civ.App., 1970); *Manley v. Draper*, 44 Misc.2d 613, 254 N.Y.S.2d 739 (1963).

21. *Heath v. Parker*, *supra*, 93 N.M. pp. 680–681, 604 P.2d 818.

22. See Neb.Rev.Stat.1978 Cum.Supp., § 77-202.12, and statutes cited in *Koester v. Hunterdon County Board of Taxation*, *supra*, 79 N.J. pp. 388–389, 399 A.2d 656.

23. In 1975, the Vermont Planning and Development Act was amended to provide that, subject to certain minor exceptions, "no zoning regulation shall have the effect of excluding mobile homes, modular housing, or other forms of prefabricated housing from the municipality, except upon the same terms and conditions as conventional housing is excluded." Vt.Stat.Ann., tit. 24, § 4406(4). Former Vt.Stat.Ann. tit. 24, § 4407(11), which permitted a municipality to confine mobile homes to mobile home parks, was repealed.

24. "*Approval of Alternate Types of Construction and Materials.*—The building inspector may approve the use of types of construction such as prefabricated houses or materials that vary from the specific requirements of this Code if, (1) such alternate types of construction or materials comply with the recommended standards of government agencies or other national organizations which publish recognized standards relative to building materials and workmanship, or, (2) reports of agencies or laboratories generally accepted as competent by engineering authorities indicate that alternate materials or construction equal or exceed the applicable Code requirements.". Robinson Township Building Code, § 102.

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KAVANAGH, WILL
GERALD, JJ., concur.

COLEMAN, Chief Jus

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1. See *Robinson Twp. v.*
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We affirm the finding of the Court of Appeals that the ordinance is unconstitutional but vacate its judgment and remand to the circuit court for further proceedings not inconsistent with this opinion. No costs, a public question.

KAVANAGH, WILLIAMS and FITZGERALD, JJ., concur.

COLEMAN, Chief Justice (dissenting).

Leave to appeal was granted in this case to include consideration of the continuing validity of *Wyoming Twp. v. Herweyer*, 321 Mich. 611, 33 N.W.2d 93 (1948), in which this Court upheld the constitutionality of an ordinance restricting the occupancy of mobile homes to mobile-home parks.[1]

In addition to the issue mentioned in the order granting leave to appeal, the parties also raise other issues, including whether the classifications in and the application of the zoning ordinances fall unconstitutionally upon defendants' property. Although this case could possibly have been resolved upon one of the more limited issues raised and relied upon by the Court of Appeals, my colleagues have reached out far beyond these issues and the perimeters of this case to strike down in general terms the mobile home zoning classifications relied upon across this state and the nation.

A fundamental rule of judicial review is that a constitutional issue need not be reached when another ground exists for resolving the case, see *MacLean v. State Board of Control For Vocational Education*, 294 Mich. 45, 292 N.W. 662 (1940). A corollary to this rule is that if several constitutional issues are raised, the Court should not proceed to dispose of the case on the broadest constitutional issues, if other more specific issues could dispose of it. However, despite these well-founded principles of judicial review, the majority opinion appears to have completely bypassed the more limited issues which may have provided a vehicle for resolving this matter. In the process of holding the mobile home zoning classification unconstitutional *on its face* and concluding that mobile homes can be located anywhere in any type of residential neighborhood, subject to some as yet unresolved criteria, the majority's opinion has passed by the other questions raised. Also, while stating the facts of the case, the majority ignores them—and by some broad generalizations, with no clear direction to bench, bar and parties to any suit, simply states that there is no reasonable governmental interest being advanced by classifying mobile homes as a use separate from other residential uses.

Although I would prefer to resolve the other issues raised by defendant before addressing the constitutionality of mobile home zoning classification per se, the majority's opinion addresses the broadest issue first. Accordingly, I must also address the most sweeping issue first.

That issue is whether the classification of mobile homes as a separate use for zoning purposes is constitutional. Accordingly, the defendants have the burden of showing that no governmental interest is being advanced by the present classification. They have not sustained that burden.

I

Article III, § 307.1 of the Robinson Township Zoning Ordinance provides:

> "Mobile Homes—Where Permitted: Mobile homes are considered as dwelling units and are not permitted as an accessory use to a permitted principal use and are permitted only in approved mobile home parks."

The ordinance does not restrict mobile-home parks (including mobile-home subdivisions) to any particular zone, but it does require approval of the location and plan by the Board of Appeals. It also places with the board the power to hear and decide applications for "special exceptions, special or conditional uses" and other special questions. Defendants did not apply for a variance or a special exception. They did not apply for a mobile home park permit or a building permit. The property was not

1. See *Robinson Twp. v. Knoll*, 406 Mich. 1007 (1979).

shown to be subject to a nonconforming use. The mobile home was not placed prior to the effective date of the ordinance.

Article II, § 203 of the pertinent zoning ordinance describes a mobile home as:

> "A movable or portable dwelling *constructed to be towed on its own chassis*, connected to utilities and *designed without a permanent foundation* for year-round living as a single-family dwelling." (Emphasis added.)

At the outset, one should note that this case involves mobile homes, not modular or prefabricated homes.

Comparisons between mobile homes and modular homes or prefabricated homes are inapposite, if for no other reason, because of the definition of a mobile home.

Moreover, modular homes and prefabricated homes are designed to become parts of site-built residences for which building permits are required and which are subject to approval by the building inspector. No such permit was sought or granted in this case. There is no dispute that the home in question is a mobile home by definition.

Likewise, the argument that other homes can be moved is inapposite. A site-built home is not constructed to be "towed on its own chassis" down a road. Some homes of appropriate size can be removed from their foundations and moved to another site. However, they are not built to be towed or to blend with the flow of traffic. On-site construction is not directed to that purpose. It serves no good purpose to belabor this point further.

II

In *Kirk v. Tyrone Twp.*, 398 Mich. 429, 439–440, 247 N.W.2d 848 (1976), this Court summarized the appropriate standard for determining the constitutional validity of a zoning determination as follows:

> "The principles and tests to use to determine whether the present zoning of plaintiffs' property is valid [were] detailed in *Kropf [v. Sterling Heights*, 391 Mich. 139, 215 N.W.2d 179 (1974)].
>
> "The important principles require that for an ordinance to be successfully challenged plaintiffs prove:
>
> "'[F]irst, that there is no reasonable governmental interest being advanced by the present zoning classification itself * * * or
>
> "'[S]econdly, that an ordinance may be unreasonable because of the purely arbitrary, capricious and unfounded exclusion of other types of legitimate land use from the area in question.' 391 Mich. 139, 158 [215 N.W.2d 179].
>
> "The four rules for applying these principles were also outlined in *Kropf*. They are:
>
> "1. '"[T]he ordinance comes to us clothed with every presumption of validity."' 391 Mich. 139, 162 [215 N.W.2d 179], quoting from *Brae Burn, Inc. v. Bloomfield Hills*, 350 Mich. 425, 86 N.W.2d 166 (1957).
>
> "2. '"[I]t is the burden of the party attacking to prove affirmatively that the ordinance is an arbitrary and unreasonable restriction upon the owner's use of his property * * *. It must appear that the clause attacked is an arbitrary fiat, a whimsical *ipse dixit*, and that there is no room for a legitimate difference of opinion concerning its reasonableness."' 391 Mich. 139, 162 [215 N.W.2d 179], quoting *Brae Burn, Inc.*
>
> "3. 'Michigan has adopted the view that to sustain an attack on a zoning ordinance, an aggrieved property owner must show that if the ordinance is enforced the consequent restrictions on his property preclude its use for any purposes to which it is reasonably adapted.' 391 Mich. 139, 162–163 [215 N.W.2d 179].
>
> "4. '"This Court, however, is inclined to give considerable weight to the findings of the trial judge in equity cases."' 391 Mich. 139, 163 [215 N.W.2d 179], quoting *Christine Building Co. v. City of Troy*, 367 Mich. 508, 518, 116 N.W.2d 816 (1962)."

See, also, *Ed Zaagman, Inc. v. Kentwood*, 406 Mich. 137, 277 N.W.2d 475 (1979).

Although my colleagues pay some attention to how the ordinance falls upon these defendants, the leap ultimately is made to the argument that because some mobile homes are improved in appearance and construction (defendant's is not described as within this context), all must be considered for placement in areas zoned for other residential uses despite not only *Wyoming*, but also *Kirk*, *Kropf*, *Zaagman* and all other Michigan precedent, old and new.

III.

For the purposes of constitutional analysis, the ordinance comes to us with every presumption of constitutionality, which can be overcome only by finding that no governmental interest is served thereby.

Zoning restrictions are enacted pursuant to the police power. This power encompasses regulations designed to advance the public's health, safety and welfare. M.C.L. § 125.273; M.S.A. § 5.2963(3) provides that a zoning ordinance designed to promote the public health, safety and welfare shall be made "with reasonable consideration, among other things, to [*sic*] the character of each district", the "conservation of property values" and the "general and appropriate trend and character of land, building and population development".

Although the construction of some modern mobile homes has improved and the area of some has been enlarged, basic differences between mobile homes and site-built homes remain. By definition, a mobile home is built without a permanent foundation and must be of a weight and dimensions that can be towed on a highway. They are more susceptible to windstorm and fire damage, which increases the possibility of injury to persons and property in the surrounding area. The police power extends to imposing reasonable regulations to safeguard residents and others against the dangers of such damage.

Plaintiff notes additional problems caused by a general lack of storage space in mobile homes. This lack of storage space may result in personal property being stored outside or the addition of lean-tos. Plaintiff notes that various practical problems result from these conditions.

Also, because a mobile home is designed to be towed on its chassis, they may lead to transience. Increased transience may also result in unsightly and possibly dangerous conditions in the land when the mobile home is removed. Even if the mobile home remains in one spot, it is generally subject to more rapid deterioration than a site-built home. Further, it would be unreasonable to assume or take judicial notice of the conclusion that all mobile homes compare favorably with site-built homes.

As provided in the statute, classifications may take into consideration the preservation of property values.[2] Accordingly, one widely acknowledged, reasonable governmental interest is the preservation of property values. The value of a piece of property or of property in a zone is dependent not only on the intrinsic nature of the property but also upon the nature and uses of neighboring property. For the most part, even the best of mobile homes (*e. g.*, double-width homes towed in two parts, mobile homes with bay windows on the ends, a porch attached or decorator steps, etc.) are significantly different from site-built homes or are so perceived by many. This perception can have a significant effect on property values if mobile homes are scattered throughout any residential district. Regardless of whether the perception is valid, restricting mobile homes to designated areas furthers governmental interests by furthering the safety, sanitary and recreational needs of the occupants and others, and by grouping like uses together.

With only these surface considerations, it becomes apparent that the defendants have not overcome the burden of proving that

2. Although the preservation of surrounding property values and characteristics may not be sufficient by itself to justify these zoning restrictions, see *Senefsky v. Huntington Woods*, 307 Mich. 728, 12 N.W.2d 387 (1943), these factors may be taken into consideration along with the other factors mentioned above, see M.C.L. § 125.273; M.S.A. § 5.2963(3).

there is no room for a legitimate difference of opinion concerning the reasonableness of classification. The defendants have not overcome the presumption of constitutionality.

IV

While the zoning authorities might have been able to advance similar objectives by less restrictive means, they were not constitutionally required to do so if there exists some reasonable basis for the classifications chosen. In *O'Donnell v. State Farm Mutual Automobile Ins. Co.*, 404 Mich. 524, 542, 273 N.W.2d 829 (1979), this Court stated:

"'If the classification has some "reasonable basis", it does not offend the Constitution simply because the classification "is not made with mathematical nicety or because in practice it results in some inequality" * * *. "The problems of government are practical ones and may justify, if they do not require, rough accommodations * * *".

"'If it be said, the law is unnecessarily severe, and may sometimes do injustice, without fault in the sufferer under it, our reply is: these are considerations that may very properly be addressed to the legislature, but not to the judiciary—they go to the expediency of the law, and not to its constitutionality.'"

In *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 388–389, 47 S.Ct. 114, 118, 71 L.Ed. 303 (1926), the Supreme Court stated:

"Here, however, the exclusion is in general terms of all industrial establishments, and it may thereby happen that not only offensive or dangerous industries will be excluded, but those which are neither offensive nor dangerous will share the same fate. But this is no more than happens in respect of many practice-forbidding laws which this Court has upheld although drawn in general terms so as to include individual cases that may turn out to be innocuous in themselves. *Hebe Co. v. Shaw*, 248 U.S. 297, 303, 39 S.Ct. 125 [126], 63 L.Ed. 255 (1919); *Pierce Oil Corp. v. City of Hope*, 248 U.S. 498, 500, 39 S.Ct. 172, 63 L.Ed. 381 (1919). The inclusion of a reasonable margin to insure effective enforcement will not put upon a law, otherwise valid, the stamp of invalidity. Such laws may also find their justification in the fact that, in some fields, the bad fades into the good by such insensible degrees that the two are not capable of being readily distinguished and separated in terms of legislation. In the light of these considerations, we are not prepared to say that the end in view was not sufficient to justify the general rule of the ordinance, although some industries of an innocent character might fall within the proscribed class. It cannot be said that the ordinance in this respect 'passes the bounds of reason and assumes the character of a merely arbitrary fiat.' *Purity Extract & Tonic Co. v. Lynch*, 226 U.S. 192, 204, 33 S.Ct. 44 [47], 57 L.Ed. 184 (1912)." See, also, *Cady v. Detroit*, 289 Mich. 499, 286 N.W. 805 (1939).

Zoning classifications designed to group like uses together while at the same time separating incompatible uses necessarily involve generalizations and rough accommodations. If all zoning classifications are now subject to constitutional attacks on the basis that the per se exclusion of certain uses from a zone is unreasonable when the municipality could have adopted more detailed, less restrictive, requirements which would have adequately served the public interest, then it is unlikely that most zoning classifications would survive constitutional scrutiny. For example, a multiple dwelling apartment developer might argue that single family residence zones are unconstitutional because a zoning ordinance could be drafted imposing more detailed, less restrictive, requirements which would adequately serve the same public interest. Minimum floor space and set-back restrictions based on a family unit could be drafted to assure that the multiple-family apartment building is in a comparable situation with other single-family buildings.

The number of similar hypotheticals that could arise is almost infinite. The Constitution does not impose such restrictions on the

zoning authorities. Rather, s
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seeking a variance or attemp
the classification itself.

V

For these reasons, we cont
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VI

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3. *Davis v. Mobile*, 245 Ala.
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App.3d 555, 113 Cal.Rptr. 143
County Comm'rs of Jefferson
tain Air Ranch, 192 Colo. 36
(1977); *Town of Hartland v. J*
Conn. 697, 155 A.2d 754 (1
Sinclair, 66 So.2d 702 (Fla., 19
Fayette County, 233 Ga. 220
(1974); *People of Village of C*
57 Ill.2d 166, 311 N.E.2d 153
Colby v. Hurtt, 212 Kan. 113
(1973); *Wright v. Michaud*, 1
A.2d 543 (1964); *Town of Ma*
lips, 343 Mass. 591, 180 N.
Town of Granby v. Landry, 3
N.E.2d 364 (1960); *State v. L*
350, 195 N.W.2d 180 (1972);
471 S.W.2d 460 (Mo., 1971);
derry v. Faucher, 112 N.H. 4
(1972); *Vickers v. Twp. Comm*
ter Twp., 37 N.J. 232, 181

zoning authorities. Rather, so long as there is a reasonable basis for the classification chosen, the landowner's remedy lies with the local zoning authorities either through seeking a variance or attempting to change the classification itself.

V

For these reasons, we continue to adhere to the holding in *Wyoming Twp.* that mobile homes may constitutionally be treated differently from site-built homes for zoning purposes. Although many developments have taken place since *Wyoming Twp.* was decided, this same issue has recently been considered in other jurisdictions, and these cases have consistently upheld the constitutional validity of the classifications being considered.[3] None of the cases cited in the majority's opinion or the parties' briefs hold that a zoning regulation may not constitutionally treat mobile homes differently from site-built homes. While this absence of authority is not dispositive, it does lend support to the conclusion that this ordinance is not unconstitutional.

VI

We also conclude that defendants cannot prevail on their de facto exclusion argument on the record presented in this case. The ordinance in issue speaks of mobile-home parks as including not only traditional parks in which lots are occupied on a rental basis but also mobile-home subdivisions in which lots are subdivided and sold.[4] The zoning ordinance generously provides for mobile-home parks and the zoning authorities have approved an area in the township for a mobile-home park. The mere fact that the park has not been developed (and that others have not applied) is insufficient to prevail on a de facto exclusion claim.

Defendants have not introduced any evidence that the land zoned for a mobile home park is unsuitable for this use, or that the zoning authorities have consistently denied permits to develop such a park or have acted in any arbitrary or capricious manner. Defendants did not introduce any evidence that they ever sought variance or requested any kind of a permit.

Defendants have failed to show that there is no governmental interest in a mobile home zoning classification as a separate use.

Therefore, on the record presented, we would hold that defendants have failed to overcome the presumption of constitutionality and would uphold the constitutionality of the ordinance.

Finally, the majority's opinion does not settle the question of retroactivity. Because the state (and nation) has to this date relied upon the constitutionality of mobile-home classifications, I would, at a mini-

3. *Davis v. Mobile*, 245 Ala. 80, 16 So.2d 1 (1943); *McKie v. Ventura County*, 38 Cal.App.3d 555, 113 Cal.Rptr. 143 (1974); *Board of County Comm'rs of Jefferson County v. Mountain Air Ranch*, 192 Colo. 364, 563 P.2d 341 (1977); *Town of Hartland v. Jensen's, Inc.*, 146 Conn. 697, 155 A.2d 754 (1959); *Cooper v. Sinclair*, 66 So.2d 702 (Fla., 1953); *Matthews v. Fayette County*, 233 Ga. 220, 210 S.E.2d 758 (1974); *People of Village of Cahokia v. Wright*, 57 Ill.2d 166, 311 N.E.2d 153 (1974); *City of Colby v. Hurtt*, 212 Kan. 113, 509 P.2d 1142 (1973); *Wright v. Michaud*, 160 Me. 164, 200 A.2d 543 (1964); *Town of Manchester v. Phillips*, 343 Mass. 591, 180 N.E.2d 333 (1962); *Town of Granby v. Landry*, 341 Mass. 443, 170 N.E.2d 364 (1960); *State v. Larson*, 292 Minn. 350, 195 N.W.2d 180 (1972); *State v. Murray*, 471 S.W.2d 460 (Mo., 1971); *Town of Londonderry v. Faucher*, 112 N.H. 454, 299 A.2d 581 (1972); *Vickers v. Twp. Committee of Gloucester Twp.*, 37 N.J. 232, 181 A.2d 129 (1962); *Mobile Home Owners Protective Ass'n v. Town of Chatham*, 33 App.Div.2d 78, 305 N.Y.S.2d 334 (1969); *Currituck County v. Willey*, 46 N.C.App. 835, 266 S.E.2d 52 (1980); *Davis v. McPherson*, 58 Ohio Op. 253, 132 N.E.2d 626 (1955); *Fayette County v. Holman*, 11 Pa.Cmwlth. 357, 315 A.2d 335 (1973); *Mobile Home City of Chattanooga v. Hamilton County*, 552 S.W.2d 86 (Tenn.App., 1976); *Duckworth v. Bonney Lake*, 91 Wash.2d 19, 586 P.2d 860 (1978); *Edelbeck v. Town of Theresa*, 57 Wis.2d 172, 203 N.W.2d 694 (1973).

4. Robinson Township Zoning Ordinance, art. II, § 203.4, provides:

"Mobile Home Subdivision: A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Act 288 of the Public Acts of 1967, as amended."

mum, provide that the opinion take effect prospectively.

RYAN, J., concurs.

MOODY, Justice (dissenting).

FACTS

This case, tried upon a stipulation of facts, involves the question of whether defendants should be enjoined from using their property in violation of a local zoning ordinance. Subsequent to the effective date of zoning ordinance amendments,[1] defendants placed a 14–foot by 70–foot mobile home[2] on their property located within the township. The amended ordinance provides that mobile homes are a permitted use only in approved mobile home parks or mobile home subdivisions.[3] Defendants stipulated that their land had not been approved for use as a mobile home park or subdivision. Defendants also admitted that the mobile home was placed upon their property without first having obtained a building permit.[4]

The ordinance defines mobile home parks and subdivisions[5] and sets forth standards relating to approval of such developments. Mobile home parks and subdivisions are a

1. Amendments to pertinent sections of the township's zoning ordinance became effective May 14, 1974. Prior to that date, defendants cleared brush and trees from the site, commenced digging a well and obtained a septic permit. However, the mobile home was not placed on defendants' property until after the present zoning ordinance provisions became effective.

2. Art. II, § 203 of the ordinance in effect on the date the Knolls placed the mobile home on their property defines a mobile home as follows:

"A movable or portable dwelling constructed to be towed on its own chassis, connected to utilities and designed without a permanent foundation for year-round living as a single-family dwelling. A mobile home may contain parts that may be separated, folded, collapsed, or telescoped when being towed and combined or expanded later to provide additional cubic capacity."

Art. II, § 203.6 of the ordinance defines a travel trailer somewhat differently:

"A transportable unit intended for occasional or short-term occupancy as a dwelling unit during travel, recreational, or vacation use."

Art. II, § 203 of the ordinance, in effect prior to the 1974 ordinance amendments, described a mobile home as follows:

"Any house car, house trailer, trailer home, trailer coach or similar vehicle used or so constructed as to permit its being used as a conveyance upon the public streets or highways and duly licensable as such, and shall include self-propelled vehicles so designed, constructed, or added to by means of accessories in such manner as will permit the occupancy thereof as a dwelling or sleeping place of one (1) or more persons, and having no foundation other than wheels, jacks or skirtings."

3. Presently, art. III, § 307.1 of the ordinance provides:

"Mobile homes are considered as dwelling units and are not permitted as an accessory use to a permitted principal use and are permitted only in approved mobile home parks."

Art. III, § 307.4 of the ordinance which had been in effect prior to the 1974 amendments, provided in part:

"No person shall * * * use or occupy or permit the use or occupancy of any trailer coach on any lot or parcel of land in any zoning district not licensed as a trailer coach park, except only as provided in this Ordinance."

4. Art. XIII, § 1302.1 of the township zoning ordinance requires that a building permit be obtained in certain circumstances prior to building or altering structures within the township:

"Except as otherwise provided, it shall be unlawful to erect any new building or structure or to alter any existing building or structure at a cost of $200.00 or more until a permit therefor has been obtained from the building inspector by the owner or his duly authorized agent. Application for a permit shall be in writing and upon duplicate printed forms furnished by the building inspector. Such permits shall be nontransferable and must be obtained before any work, excavation, erection, alteration, or movement is begun."

5. A mobile home park is defined in art. II, § 203.3 of the ordinance as follows:

"A parcel of land under single ownership which has been planned and improved for the placement of mobile homes on a rental basis for nontransient use."

Art. II, § 203.4 defines a mobile home subdivision:

"A mobile home park except that the mobile home lots are subdivided, surveyed, recorded, and sold in accordance with Act 288 of the Public Acts of 1967, as amended."

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The stipulation of facts
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Robinson Township brough
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70 Mich.App. 258, 245 N.W.

DISCUSSION

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6. The record does not indicate
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7. In *Napierkowski, supra*, the
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Rundell v. May, 258 So.2d 90
cert. den. 261 La. 468, 259 S
Sioux Falls v. Cleveland, 7
N.W.2d 62 (1955).

permitted use in all zoning districts within the township with the exception of recreational use districts.[6]

The stipulation of facts indicates that plans for a proposed mobile home park have been approved by the township. The proposed park would cover 28 acres and offer facilities for approximately 100 mobile homes. However, at the date of trial no work had commenced on the park. Although it is unclear from the record how defendants' land is presently zoned, there is nothing to indicate that defendants' property could not be used to develop a mobile home park or subdivision.

Robinson Township brought suit seeking to enjoin defendants' use of their property as violative of township zoning ordinances. The trial court granted the desired injunctive relief. The Court of Appeals reversed. 70 Mich.App. 258, 245 N.W.2d 709 (1976).

DISCUSSION

Defendants present a broadside challenge to the constitutionality of the ordinance. The issue, squarely presented, is whether any and all local zoning ordinances which do not totally exclude mobile homes from a community but which restrict the location of mobile homes to mobile home parks and subdivisions within the community are invalid. In view of the procedural posture of this case, the facial validity of the ordinance, and the insufficient factual development of this record, the ordinance survives defendants' constitutional challenge.

I

Prior to placing a mobile home on their property, defendants not only neglected to obtain the requisite building permit but also failed to seek a variance from existing zoning provisions pertaining to their land. Under these circumstances it is questionable whether the Knolls should be permitted to raise constitutional challenges to the ordinance at issue. See *State v. Larson*, 292 Minn. 350, 356, 195 N.W.2d 180, 183 (1972); *Napierkowski v. Gloucester Twp.*, 29 N.J. 481, 489, 150 A.2d 481, 485 (1959).[7] Further, in rejecting constitutional challenges to similar ordinances, courts have noted the landowner's failure to make use of their land in a manner permitted by zoning ordinances regulating the use and location of mobile homes. *McKie v. Ventura County*, 38 Cal.App.3d 555, 557, 113 Cal.Rptr. 143, 144 (1974); *Town of Greenland v. Hussey*, 110 N.H. 269, 272, 266 A.2d 122, 124 (1970).

Additionally, defendants have failed to seek relief on other narrower grounds. The siting of individual mobile homes outside mobile home parks or subdivisions has been permitted in certain cases where the courts were persuaded to either narrowly construe the term "mobile home" or broadly construe the terms "residence" or "dwelling" as defined in local zoning ordinances.[8]

6. The record does not indicate what percentage of land within the township is classified as recreation use districts.

7. In *Napierkowski, supra*, the failure to seek a variance was excused since the record clearly indicated that township officials would have denied a variance had one been sought. The record in the instant case does not support the inference that the seeking of a variance would have amounted to a fruitless effort.

8. Individual siting of mobile homes was allowed in the following cases through construction of ordinances defining "dwelling", "residence" or similar terms. *Cook County v. Hoytt*, 59 Ill.App.2d 368, 208 N.E.2d 410 (1965); *Rundell v. May*, 258 So.2d 90 (La.App., 1972), *cert. den.* 261 La. 468, 259 So.2d 916 (1972); *Sioux Falls v. Cleveland*, 75 S.D. 548, 70 N.W.2d 62 (1955).

Mobile home owners have also been permitted to individually site their homes where the courts narrowly construed the meaning of "mobile home" contained in ordinances restricting mobile homes to mobile home parks. *Douglass Twp. v. Badman*, 206 Pa.Super. 390, 213 A.2d 88 (1965); *State v. Work*, 75 Wash.2d 204, 449 P.2d 806 (1969). But see: *Duckworth v. Bonney Lake*, 91 Wash.2d 19, 586 P.2d 860 (1978).

Of course, theories advanced by mobile home owners concerning statutory construction have not always been accepted. See *e. g., Oakdale v. Benoit*, 342 So.2d 691 (La.App., 1977), *cert. den.* 344 So.2d 670 (La., 1977); *Town of Marblehead v. Gilbert*, 334 Mass. 602, 137 N.E.2d 921 (1956); *Asheboro v. Auman*, 26 N.C.App. 87, 214 S.E.2d 621 (1975), *cert. den.* 288 N.C. 239, 217 S.E.2d 663 (1975).

It is to be noted that the facts in the instant case are insufficiently developed to raise an issue with respect to these considerations.

Defendants have instead broadly based their claim for relief on constitutional grounds. In so doing, defendants have pursued the path of greatest resistance.

II.

A successful challenge to the constitutionality of a zoning ordinance requires the establishment of one of the following propositions:

> "'[T]here is no reasonable governmental interest being advanced by the present zoning classification * * * or
>
> "* * * '[The] ordinance * * * [is] unreasonable because of the purely arbitrary, capricious and unfounded exclusion of other types of legitimate land use from the area in question.'" *Kirk v. Tyrone Twp.*, 398 Mich. 429, 439, 247 N.W.2d 848 (1976); *Kropf v. Sterling Heights*, 391 Mich. 139, 158, 215 N.W.2d 179 (1974).

In the instant case, the burden of proof lies squarely with the defendants. It is axiomatic that in most instances, the burden of proof is placed upon the person attacking the validity of a zoning ordinance. *Kirk*, 398 Mich. 439, 247 N.W.2d 848. Defendants have presented no facts which would indicate that the ordinance results in total or de facto exclusion of mobile homes from the township. *Kirk*, 442–444, 247 N.W.2d 848.[9] Rather, the ordinance regulates the location of such land use within the township. In this instance, the burden of proof does not shift to the township to justify exclusion of the use, but remains with defendants.[10]

The Knolls do not contend that the ordinance has been applied in a discriminatory manner so as to prevent the proposed used of their property.[11] Nor have defendants advanced any facts indicating that the ordinance as *applied* is unreasonable or confiscatory.

The sole basis for affording relief is thus premised on the conclusion that constitutional infirmity appears on the face of the ordinance.

III.

The standard of review applicable to zoning ordinances has been a limited one. This developed at least in part from a recognition by a majority of this Court that the functions of local zoning authorities are legislative in nature.

An integral part of this limited standard of review is the principle that zoning ordinances are accorded a presumption of validity. *Kropf*, 391 Mich. 162, 215 N.W.2d 179; *Brae Burn, Inc. v. Bloomfield Hills*, 350 Mich. 425, 86 N.W.2d 166 (1957). If this presumption is to have any viability, the reviewing court has a duty to conceive of possible rational bases to support the ordinance. If a state of facts which would warrant the ordinance can be reasonably perceive, those facts will be presumed to exist. In the absence of evidence tending to rebut the presumption, the ordinance's validity should be upheld. Where any evidence is presented which tends to rebut the presumption or validity, the court must determine whether room for *fair* and *legitimate* differences of opinion exists concerning whether it is reasonable to draw classification or exclude a use. If such a debatable question exists, the court must exercise

9. The trial judge correctly found:

> "Defendants did not specifically allege nor have they proven that plaintiff has carried out a systematic de facto exclusion of mobile home parks from plaintiff township."

10. See *Clark v. Lyon Twp. Clerk*, 348 Mich. 173, 82 N.W.2d 433 (1957), and *Gust v. Canton Twp.*, 342 Mich. 436, 70 N.W.2d 772 (1955), for instances where total exclusion of mobile homes from townships required the township to bear the burden of justifying the exclusion.

11. Mobile home owners have obtained relief from ordinances restricting mobile homes to mobile home parks where it was concluded that the ordinance was enforced in a discriminatory manner. See, e. g. *Blackman Twp. v. Koller*, 357 Mich. 186, 98 N.W.2d 538 (1959); *People v. Husler*, 34 Ill.App.3d 977, 342 N.E.2d

judicial restraint and uphold the ordinance.[12]

No constitutional infirmity exists on the face of the ordinance in the instant case since the means employed by the ordinance may have a reasonable relationship to valid legislative zoning goals relating to public health, safety and general welfare. No evidence was presented tending to indicate that permissible legislative zoning goals would not be served by applying the ordinance and thus restricting defendants' proposed use of their land. Defendants' challenge, therefore, must be rejected.

IV

Zoning ordinances regulating the location of mobile homes within a township or municipality by restricting them to mobile home parks have been upheld generally by this Court and other courts interpreting Michigan law. *Wyoming Twp. v. Herweyer*, 321 Mich. 611, 33 N.W.2d 93 (1948); *Connor v. West Bloomfield Twp.*, 207 F.2d 482 (CA 6, 1953); *Courtland Twp. v. Cole*, 66 Mich.App. 474, 239 N.W.2d 630 (1976); *Lanphear v. Antwerp Twp.*, 50 Mich.App. 641, 214 N.W.2d 66 (1973). See also *Stevens v. Royal Oak Twp.*, 342 Mich. 105, 109, 68 N.W.2d 787 (1955).

Challenges to zoning ordinances, similar to the ordinance in the instant case, based upon claims that the ordinance was invalid on its face have been rejected by courts of other states. See, e. g., *Village of Cahokia v. Wright*, 57 Ill.2d 166, 311 N.E.2d 153 (1974); *Wright v. Michaud*, 160 Me. 164, 200 A.2d 543 (1964).

Courts considering the validity of zoning ordinances regulating the location of mobile homes within a community have, nearly universally, concluded that the zoning codes tend to promote the health, safety and welfare of the community's residents and that rational bases may exist for distinguishing between mobile homes and site-built homes.[13] The siting of mobile homes in a given residential district may have a tendency to depress property values of conven-

401 (1975); *State v. Vadnais*, 295 Minn. 17, 202 N.W.2d 657 (1972).

12. Conclusory opinions which are not based upon factual predicates would be insufficient means to rebut the presumption of validity or to respond to evidence tending to rebut this presumption.

13. See, e. g., *Board of Comm'rs of Jefferson County v. Mountain Air Ranch*, 192 Colo. 364, 563 P.2d 341 (1977); *Cooper v. Sinclair*, 66 So.2d 702 (Fla., 1953), cert. den. 346 U.S. 867, 74 S.Ct. 107, 98 L.Ed. 377 (1953); *Village of Cahokia v. Wright, supra* (Illinois); *Colby v. Hurtt*, 212 Kan. 113; 509 P.2d 1142 (1973); *Wright v. Michaud, supra* (Maine); *Town of Manchester v. Philips*, 343 Mass. 591, 180 N.E.2d 333 (1962); *State v. Larson, supra* (Minnesota); *State ex rel. Wilkerson v. Murray*, 471 S.W.2d 460 (Mo., 1971); *Napierkowski v. Gloucester Twp., supra* (New Jersey); *People v. Clute*, 47 Misc.2d 1005, 263 N.Y.S.2d 826 (1965), *aff'd* 18 N.Y.2d 999, 278 N.Y.S.2d 231, 224 N.E.2d 734 (1966); *Duckworth v. Bonney Lake, supra* (Washington); *Town of Stonewood v. Bell*, 270 S.E.2d 787 (W.Va., 1980).

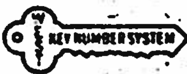
See also M.C.L. § 125.273; M.S.A. § 5.2963(3) which enables townships to promulgate zoning ordinances and sets forth legislatively prescribe goals to be achieved through such ordinances:

"The zoning ordinance shall be based upon a plan designed to promote the public health, safety, and general welfare; to encourage the use of lands in accordance with their character and adaptability, and to limit the improper use of land; to conserve natural resources and energy; to meet the needs of the state's residents for food, fiber, and other natural resources, places of residence, recreation, industry, trade, service, and other uses of land; to insure that uses of the land shall be situated in appropriate locations and relationships; to avoid the overcrowding of population; to provide adequate light and air; to lessen congestion on the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for a system of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; and to conserve the expenditure of funds for public improvements and services to conform with the most advantageous uses of land, resources, and properties. The zoning ordinance shall be made with reasonable consideration, among other things, to [sic] the character of each district; its peculiar suitability for particular uses; the conservation of property values and natural resources; and the general and appropriate trend and character of land, building, and population development."

tional dwellings.[14] The development or growth potential of an area for residential purposes may be stunted.[15] Some deference should be given to a community's plan for development.[16]

It may be reasoned that a sufficient number of mobile homes tend to deteriorate more quickly than conventional dwellings. From a public safety standpoint, some may not be as secure, requiring concentrated protection efforts. Mobile homes can be sited more rapidly than conventional dwellings and may thus cause a sudden and severe load on municipal facilities. There may be differences in degree in the supplying of municipal services for and regulation of mobile homes.[17] Accordingly, there are reasonable bases grounded in the police power for the existence of the ordinance. Furthermore, the record in this case presents no evidence to counter the presumption of the ordinance's validity.

For the foregoing reasons I respectfully dissent. Accordingly, I would reverse the decision of the Court of Appeals.



C. A. F. INVESTMENT COMPANY, a Michigan Partnership, Petitioner-Appellee,

v.

TOWNSHIP OF SAGINAW, Respondent-Appellant.

Docket Nos. 60744, 60745.
Calendar No. 3.

Supreme Court of Michigan.

Argued Jan. 11, 1979.

Decided Feb. 24, 1981.

Taxpayer appealed property tax assessment for years 1971 through 1975 from Michigan Tax Tribunal following earlier remand from Supreme Court, 392 Mich. 442, 221 N.W.2d 588. The Court of Appeals reversed and remanded, 79 Mich.App. 559, 262 N.W.2d 863. Township's request for leave to appeal was granted by the Supreme Court, 403 Mich. 801. The Supreme Court, Ryan, J., held that: (1) Tribunal's failure to use actual income as basis of its capitalization of income in valuing taxpayer's property disregarded mandate of Supreme Court, which was law of the case, and thus was error, and (2) predicating value of taxpayer's property upon taxpayer's rate of return under economically unfavorable lease, while valuating unencumbered property at current market level, did not violate constitutional requirements of uniformity of assessment and due process.

Affirmed and final order directed.

Levin, J., filed concurring opinion.

Moody, Jr., J., dissented and filed opinion.

14. See, e. g., *Cooper v. Sinclair, supra; Colby v. Hurtt, supra; Town of Manchester v. Philips, supra; State v. Larson, supra; Wilkerson v. Murray, supra; Napierkowski v. Gloucester Twp., supra; Duckworth v. Bonney Lake, supra.*

15. See, e. g. *Colby v. Hurtt, supra; Town of Manchester v. Philips, supra; Wilkerson v. Murray, supra; Duckworth v. Bonney Lake, supra;* 2 Anderson, American Law of Zoning (2d ed.), § 14.01, p. 550, § 14.05, p. 563.

16. See, e. g., *Padover v. Farmington Twp.*, 374 Mich. 622, 132 N.W.2d 687 (1965); *Napierkowski v. Gloucester Twp., supra; Duckworth v. Bonney Lake, supra.*

17. *McKie v. Ventura County, supra; State v. Larson, supra; Duckworth v. Bonney Lake, supra.*

Williams, J., filed op
part and dissenting in pa
Fitzgerald, J., dissen
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1. Taxation ⟹348(3)

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9, § 3; M.C.L.A. § 211.2

See publication Wo
for other judicial co
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2. Appeal and Error ⟹

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3. Taxation ⟹348(3)

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4. Taxation ⟹348(2)

Assessment decision
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5. Taxation ⟹348(5)

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47 Mich.App. 684

David NICKOLA, Jr. and Evelyn Nickola, Plaintiffs-Appellants,

v.

TOWNSHIP OF GRAND BLANC, a municipal corporation, et al., Defendants-Appellees.

Docket No. 12959.

Court of Appeals of Michigan, Div. 2.

June 25, 1973.

Released for Publication Aug. 24, 1973.

In a zoning case, the Circuit Court, Genesee County, Donald R. Freeman, J., found the zoning ordinance to be valid, and the owners of the subject property appealed. The Court of Appeals, O'Hara, J., held that absent any showing that the use of the subject tract for a trailer park could affect the township's morals, health or safety, an ordinance zoning the tract for single-family residences other than mobile homes was constitutionally infirm as applied to the property.

Reversed.

1. Zoning ⇐762

Township supervisor could not bind municipality by his representation that rezoning tract for trailer park would be no problem.

2. Constitutional Law ⇐87

People are constitutionally guaranteed any lawful use of their real property.

3. Zoning ⇐27

Limitations on use of real property may not impinge on right of owner to any lawful use, except by exercise of police power, which must be reasonably related to public health, safety, welfare and morals.

4. Zoning ⇐83

Absent any showing that use of tract for trailer park could affect township's

morals, health or safety, ordinance zoning tract for single-family residences other than mobile homes was constitutionally infirm as applied to the property.

Richard A. Hamilton, McTaggart, Hermann, Folen & Hamilton, Flint, John D. Nickola, Flint (of counsel), for plaintiffs-appellants.

Lyndon J. Lattie, Flint, for defendants-appellees.

Before QUINN, P. J., and BRONSON and O'HARA,* JJ.

O'HARA, Judge.

The real question presented by this appeal is whether zoning in Michigan is a popularity contest to be won by the most organized and vocal of proponents or opponents[1] or whether it is a set of legal principles embodied in some recognizable and dependable case precedent.

We hope it is the latter and we will try to apply those principles as we understand them to the facts in the case at bar.

Plaintiffs are the owners of a 60-acre tract of land in defendant township. The defendants other than the township are its board of officers.

Plaintiffs bought the property in 1962 with the admitted purpose of building and maintaining a mobile home park. At the time of purchase the property was zoned as it presently is, single family residences other than mobile homes. Plaintiffs contend they purchased it upon the representation to them by the township supervisor that rezoning it for a trailer park would be no problem. This fact is undeterminative of any decisional issue.

[1] However well intentioned and sincere the supervisor may have been, he (assuming he did make the representation) obviously cannot bind the municipality.

In 1963, plaintiffs filed a petition with the township accompanied by a consent thereto by eleven adjacent property owners.[2] No action was taken thereon for two years. Various reasons were advanced for the delay. Among them was the concern that part of the involved land was presumptively to be condemned for highway purposes and the concern of the officials that if it were developed the condemnation damages would be measurably increased. Another reason was the lack of sanitary sewers in the parcel. Again plaintiffs represent that they were led to believe that when these two factors no longer existed rezoning would be granted. We mention this so that prospective purchasers and their counsel be aware of the general unenforceability of such claimed representations. It would be well for purchasers to heed the ancient adage *caveat emptor* in this area of law, and get their rezoning problems adjudicated before purchase and not after.

The briefs of the parties discuss, seek to differentiate and urge reliance upon a host of cases all in apparent conflict. No possible service to trial bench or bar could come from this panel adding its bit of confusion to the litany of conflicting holdings. There simply is no way of reconciling them. Whatever we might say would in no wise affect prior decisions by other panels of this Court. We can follow them,

* MICHAEL D. O'HARA, former Supreme Court Justice, sitting on the Court of Appeals by assignment pursuant to Const.1963, art. 6, § 23 as amended in 1968.

1. See number 6 of the trial judge's findings of fact. We note also the pleadings indicate that when the zoning board recommended approval of plaintiff's petition to the township board petitions for recall of the members of the township board of officers were circulated.

2. The consents have no more legal significance (absent some requirement in the ordinance) than do the recall petitions or other expressions of the residents' disapproval.

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disregard them or distinguish them all to no practical avail. We decide lawsuits. The Supreme Court alone can author opinions binding upon all our panels.

So we go to what we think are the relevant facts in this case. In this we are fortunate because the trial judge favored us with enumerated specific findings of fact. Unless we set them forth verbatim no purpose would be served by discussing our application of law to them. We list them:

"1. An earlier Township Supervisor had suggested this property would be a good site for a mobile home park.

"2. The present value of the park would be quadrupled, if zoned to permit a modern mobile home park, subject to sizable investment being made for improvements for this purpose.

"3. Although there is no large present demand for single family housing in the site at issue, it is located within reasonable proximity of other single family developments and has easy access to the superhighway I-475.

"4. Adjacent property owners include one who has no present plans for developing the piece as a single family development. In the event that the land in question were used as a trailer site, the adjoining property owner would seek the use of its property for high-density purposes.

"5. The property contains municipal sewer and water services which are available to the site as well as access to a main county road.

"6. There has been large expression by citizens of Grand Blanc Township in opposition to rezoning that would permit the plaintiffs to create a trailer park in this site.

"7. There are twenty-three acres of land occupied by mobile home parks in Grand Blanc Township, rezoning has been granted existing parks to permit their enlargement; the existing zoning ordinance of the Township provides for mobile home parks and the proposed land use plan of the Township contains three-hundred acres of land where mobile home parks will be allowed and this plan has been adopted by the Township Board.

"8. The plaintiff[s] paid approximately $350.00 an acre for their land and at the present time it has a price on the market, under present zoning, of approximately $1,500.00 an acre."

In coming to his legal conclusion based on the foregoing found facts the trial court relied on the test set forth in Brae Burn, Inc. v. Bloomfield Hills, 350 Mich. 425, 86 N.W.2d 166 (1957). He quoted *Brae Burn* as follows:

"[T]he ordinance comes to us clothed with every presumption of validity * * * and it is the burden of the party attacking to prove affirmatively that the ordinance is an arbitrary and unreasonable restriction upon the owner's use of his property. * * * This is not to say, of course, that a local body may with impunity abrogate constitutional restraints. The point is that we require more than a debatable question. We require more than a fair difference of opinion. It must appear that the clause attacked is an arbitrary fiat, a whimsical *ipse dixit*, and that there is no room for a legitimate difference of opinion concerning its reasonableness.

* * * * * *

"We have stressed, heretofore, in these zoning cases, the principle that each case must be judged on its own facts. * * * *The question always remains: As to this property, in this city, under this particular plan (wise or unwise though it may be) can it fairly be said there is not even a debatable question?*" (Emphasis supplied.) pp. 432, 433, 86 N.W.2d p. 170.

His decisional holding was that plaintiffs failed to overcome the *Brae Burn* presumption.[3]

[2,3] We opt this simple formula which we think is permissible under *Brae Burn*.

1. In this country people are constitutionally guaranteed any lawful use of their real property.

2. Limitations on use may not impinge on this principle except by exercise of the police power. This exercise must be reasonably related to the public health, safety, welfare and morals.

[4] According full acceptance to the trial judge's findings of fact we cannot possibly see how a mobile home park vis-a-vis single family residences can possibly affect Grand Blanc Township's morals, health or safety on the land in question. Standards of sanitation, fire protection and other general health and safety requirements are imposed upon mobile home parks by statute. There is nothing of record to suggest that trailer parks create any greater "moral" problem (whatever that means) than any other type structure.

Thus we must equate the extremely difficult to define word "welfare" with the purpose of the Grand Blanc Township ordinance. The only "welfare" we can possibly see here is that Grand Blanc Township residents like single family residences better than they do trailer parks. Access roads and traffic problems would not ensue under the trial judge's findings. Whatever "master-plan" problems exist as between the permitted use and the nonpermitted use do not appear of record.

We do not relish intruding judicial supervision into local governmental affairs. But the constitution of the republic and of this state require us to when our jurisdiction is invoked. We do not see how we can refrain in the case at bar. We reverse and hold the ordinance in question to be constitutionally infirm as applied to plaintiff's property. No costs.

47 Mich.App. 626

Ward WRIGHT and Viola Wright, Plaintiffs-Appellees,

v.

ESTATE of Arthur TREICHEL, Deceased, Defendant-Appellant.

Docket No. 8910.

Court of Appeals of Michigan, Div. 1.

June 25, 1973.*

Released for Publication Aug. 24, 1973.

Plaintiffs brought action against estate for personal injury sustained in automobile accident. Motion for accelerated judgment was denied and appeal was taken. The Court of Appeals reversed, 36 Mich.App. 33, 193 N.W.2d 394. Evidentiary hearing was conducted and the Circuit Court, Wayne County, John B. Swainson, J., granted motion for an accelerated judgment on the ground that the statute of limitations barred plaintiffs' claim. On rehearing, the Court of Appeals, T. M. Burns, P. J., held that an estate is not a proper party to a lawsuit and the administrator or executor is the proper party plaintiff or defendant. The Court further

3. In my personal view it cannot be gainsaid that *Brae Burn* has, like a cheese, suffered a good deal from nibbling. "Yes, but" opinions of this Court, of which we must assume the Supreme Court is aware, have introduced a "favored use" doctrine, a "shift of the burden of proceeding with proof" doctrine, "unconstitutional exclusions" exceptions, "master-plan" concepts, "larger community rights" theories to name only a few. We could not even reduce chaos to disorder if we undertook to discuss them all decisionally.

* Original opinion released Sept. 27, 1971.

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MEMORANDUM

TO: Members of the Nevada State Senate.

FROM: Nevada Manufactured Housing Dealers Association

On May 20, 1981, Senate Bill 656, which relates to planning and zoning with regard to "manufactured dwellings," received a do-pass recommendation from the Senate Government Affairs Committee by a vote of 4 to 2. At an earlier hearing on Senate Bill 656 before the same committee a great deal of confusion arose regarding the definition of "manufactured dwellings" especially in relation to the construction standards referred to in Section 4 of that Bill. This memorandum is being sent to you in order to define the scope of Senate Bill 656 in the hope that further confusion on the issue may be avoided. Additionally, we wish to assure you that any "manufactured dwelling" which may be subject to the provisions of Senate Bill 656, if passed, will be safe and structurally sound.

I

THE "MANUFACTURED DWELLING."

Before we discuss the construction standards referred to in N.R.S. 461.170 ["Nevada Standards"] and 42 U.S.C. §5403 [Federal Act], and their relative merits, we must establish a common definition which may be applied to "manufactured dwellings" which are the subject of Senate Bill 656. Senate Bill 656 is intended to relate to dwellings, no matter how they are transported to the

building site, which are placed on permanent foundations providing they meet the required building standards. While many of the units which may be placed on residential lots under Senate Bill 656 may be "mobile homes" in the sense that they are on wheels when they leave the factory, the fact remains that Senate Bill 656 requires that any such unit be placed on a permanent foundation. Use of the phrase "mobile home," therefore, will be avoided in this memorandum because such phrase is not completely accurate, is not subject to any single definition and is confusing at best.[1] Instead, reference throughout this memorandum will be made to "manufactured dwellings."

II

42 U.S.C.§5403 and N.R.S. 461.170 - THEIR INTERRELATIONSHIP.

Section 4 of Senate Bill 656 states that:

> As used in this section "manufactured dwelling" means any residential dwelling which meets:
>
> (a) the requirement of the building and construction codes listed in N.R.S. 461.170 and bears the appropriate approval and insignia required by N.R.S. 461.190; or
>
> (b) construction and safety standards which have been established by the Secretary of Housing and Urban Development pursuant to 42 U.S.C. §5403 and are effective on the date of passage of this act.

Because, as the above quote indicates, there exists legislation at both the state and federal level which seemingly addresses the

1. In 1980, the "Mobile Home Construction and Safety Standards Act" (42 U.S.C. §5401 et. seq.) was changed to the "Manufactured Home Construction and Safety Standards Act" by public law 96-399. Wherever the words "Mobile Home" appeared in the Act the words "Manufactured Home" were placed in their stead.

same issues, i.e., construction standards for manufactured dwellings, confusion naturally results. A careful analysis of the state and federal enactments, however, indicates that those enactments do not overlap and actually apply to separate sets of circumstances. Therefore, in order to bring all "manufactured dwellings" within the scope of Senate Bill 656, reference must be made to both the Nevada Standards and the Federal Act.

In 1974, the Congress of the United States adopted the "Manufactured Home Construction and Safety Standards Act"[2] in order to:

> Reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents, and to improve the quality and durability of manufactured homes. (42 U.S.C. §5401.)

Section 5403 of the Federal Act gave the Secretary of Housing and Urban Development the power to establish appropriate federal manufactured home construction and safety standards. As originally drafted, the Federal Act specifically pre-empted the area of manufactured home construction standards.[3] In 1977, however, Congress amended Section 5403 of the Act to provide for the following exclusion:

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2. See footnote 1.

3. Subsection (d) of 42 USC §5403 states as follows:

> Supremacy of Federal standards
> (d) Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.

(h) The Secretary shall exclude from the coverage of this chapter any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

(1) designed only for erection or installation on a site-built permanent foundation;

(2) not designed to be moved once so erected or installed;

(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a state or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to Title II of the National Housing Act; and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

This 1977 amendment carved out a small segment of the manufactured housing construction industry which could be controlled by state law rather than the federal act.

Currently within the State of Nevada, upwards of 95% of the manufactured dwellings sold comply with the standards adopted by the Secretary of Housing and Urban Development pursuant to 42 U.S.C. §5403, and less than 5% of the manufactured dwellings are built pursuant to the construction standards listed in N.R.S. 461.170. Therein lies the need to refer to both the Federal Act and the Nevada Standards. Without reference to both the Federal Act and the Nevada Standards all "manufactured dwellings" would not receive the benefits of Senate Bill 656.

III

THE STRUCTURAL INTEGRITY OF "MANUFACTURED DWELLINGS".

Whether a manufacturerd dwelling is built pursuant to construction guidelines adopted by the Secretary of Housing and

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Urban Development pursuant to the Federal Act or pursuant to the Nevada Standards the end product is essentially the same, i.e., a safe and structurally sound habitation built pursuant to nationally recognized building codes.

The building codes applicable to manufactured dwellings constructed in accordance with the provisions of Chapter 461 of the Nevada Revised Statutes are spelled out in N.R.S. 461.170 and need no further elaboration herein. As previously mentioned, manufactured dwellings built pursuant to the Nevada Standards constitute less than 5% of the manufactured dwellings sold in the State of Nevada.

The text of the regulations adopted by the Secretary of Housing and Urban Development can be located at 24 C.F.R. 3280 et. seq. Those regulations cover items such as general planning considerations, fire safety, plumbing systems and much much more. A Xerox copy of the index to the regulations is attached hereto for the purpose of illustrating the comprehensive nature of the regulations. Remember, 95% of the manufactured dwellings sold in the State of Nevada are constructed pursuant to these regulations.

The contents of 24 C.F.R. 3280 et. seq. are too detailed and technical to be fruitfully discussed in this memorandum, but the following quote from 24 C.F.R. 3280.903 may be helpful in understanding the cumulative effect of such regulations:

> (a) The cumulative effect of highway transportation shock and vibration upon a mobile home structure may result in incremental degradation of its designed performance in terms of providing a safe, healthy and durable dwelling. Therefore,

the mobile home shall be designed, in terms of its structural, plumbing, mechanical and electrical systems, to fully withstand such transportation forces during its intended life. (Crossreferences omitted.).

(b) Particular attention shall be given to maintaining watertight integrity and conserving energy by assuring that structural components in the roof and walls (and to their interfaces with vents, windows, doors, etc.) are capable of resisting highway shock and vibration forces during primary and subsequent secondary transportation moves.

One may ask why must we refer to both the Federal Act and the Nevada Standards when the end result is the same, i.e., a safe and structurally sound habitation. The reason is that the Federal Act and the Nevada Revised Statutes, while both refer to manufactured homes, address themselves to slightly different products. The Federal Act addresses itself to units which are intended to be more mobile than the units covered by the Nevada Standards. As subsection (h) of 42 U.S.C. §5403 [quoted earlier at page 4] indicates, the Federal Act does not apply to units which are intended to be used on a site-built permanent foundation. The fact that manufactured dwellings constructed pursuant to the Federal Act are built with the idea in mind that they are mobile should not, however, indicate to you that Senate Bill 656 should be rejected because of a fear that the residential areas of our cities will be infested with vagabonds. Senate Bill 656 clearly requires the manufactured dwelling to be placed on a permanent foundation. A key fact to remember regarding the structural integrity of manufactured dwellings is that they must not only be structurally sound at the time of their completion at the factory, and at the time that they are placed on site, they must also withstand significant impact

and vibration while being transported to the job site. A manufactured dwelling built pursuant to the Federal Act must maintain its structural integrity despite a sometimes gruelling trip to the job site. Essentially, the regulations adopted pursuant to the Federal Act create a performance, as compared to a mere specification, standard.

CONCLUSION

Manufactured dwellings, as they are defined in Senate Bill 656, are subject to strict and specially formulated construction standards. A manufactured dwelling built in accordance with either the Federal Act or the Nevada Standards is a safe and structurally sound habitation. Manufactured dwellings, with the exception of one factor, are comparable to site-built homes. That one factor is cost. Manufactured dwellings provide an economically favorable alternative to site-built housing without sacrificing safety or structural integrity. They should not be discriminated against and should be permitted to occupy any lot which may be occupied by a site-built home. Senate Bill 656 should be passed as proposed.

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AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), Title VI, Housing and Community Development Act of 1974 (42 U.S.C. 5401), unless otherwise noted.

SOURCE: 40 FR 58752, Dec. 18, 1975, unless otherwise noted. Redesignated at 44 FR 20679, Apr. 6, 1979.

Subpart A—General

§ 3280.1 Scope.

(a) This standard covers all equipment and installations in the design, construction, fire safety, plumbing, heat-producing and electrical systems of mobile homes which are designed to be used as dwelling units. The Secretary may approve such equipment and installations which are listed or labeled by an approved testing or listing agency. Equipment and installations not listed or labeled may be approved by the Secretary upon a determination that such equipment and installations are adequate for the protection of health, safety and the general welfare.

(b) These Federal Mobile Home Construction and Safety Standards seek, to the maximum extent possible, to establish performance requirements. In certain instances, however, the use of specific requirements in the Standard is necessary because, at this time, that is the best available means of identifying the desired performance. The use of specific requirements is not intended to prohibit the utilization of any material, piece of equipment, or system which cannot meet the precise specifications, but which upon evaluation provides equivalent or superior performance. Where any material, piece of equipment, or system which does not meet precise specifications set out in the standard is shown, to the satisfaction of the Secretary, to meet the level of performance of a material, piece of equipment or system which meets the precise specifications, the Secretary may waive the specifications set out in the standard for that material, piece of equipment, or system. Whenever a waiver is issued, the Secretary shall issue an interpretative bulletin which announces the waiver, states that the material, piece of equipment or system meets the required standard of performance, and sets out any limitations or other requirements with respect to how the material, piece of equipment, or system must be used, including any tests of the material, piece of equipment, or system which the Secretary determines must be carried out before it can be used. Where a waiver has been issued, the requirements of the section of the Federal standard to which the waiver relates may be met either by meeting the specifications set out in the standard or by meeting any requirements set out in the interpretative bulletin which announces the waiver.

(c) Interpretative bulletins may also be issued for the following purposes:

(1) to clarify the meaning of the standard; and

(2) to assist in the enforcement of the standard.

§ 3280.2 Definitions.

(a) Definitions in this subpart are those common to all subparts of the standard and are in addition to the definitions provided in individual parts.

(1) "Approved," when used in connection with any material, appliance or construction, means complying with the requirements of the Department of Housing and Urban Development.

(2) "Center" means the midline between the right and left side of a mobile home.

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MARCH, 1981

Jenkins

MANUFACTURED HOUSING/RECREATIONAL INDUSTRY

BUSINESS MANAGEMENT

(USPS 872-220)

VOL. 11 — Arthur D. Jenkins, editor and publisher — NO. 5

SPECIAL REPORT

Michigan Supreme Court Rules Exclusionary Zoning Against Mobile/Manufactured Housing Is "Unconstitutional"!

In a recent landmark decision that will have considerable influence on how local jurisdictions meet their growing future housing needs, the Michigan State Supreme Court ruled Monday, February 23 that communities cannot restrict the location of mobile homes just because they are mobile homes.

In a 4 - 3 ruling, the high court said that modern mobile/manufactured homes "have few defects or other drawbacks to justify discrimination under local zoning laws which frequently prohibit them outside of designated mobile home parks," according to the decision.

Future zoning restrictions, the court ruled, must be based on such reasons as failure to satisfy standards meant to assure compatibility with mobile/manufactured homes and other nearby housing.

The State Supreme Court concurred with an earlier ruling by the State Court of Appeals declaring that a single mobile / manufactured home "is not in inself a nuisance." That Appeals Court ruling concerned the Robinson Township in Michigan's Ottawa County and its attempt to block a family from placing a mobile home on a privately owned piece of land within the town limits. Last year MHI submitted an Amicus Curiae brief for the defendants Donald and Merle Knoll.

In a similiar state action, MHI filed an Amicus brief in a mobile home exclusionary zoning case in New Jersey. It is hoped the precedent established by the Michigan ruling should prove helpful in the yet undecided New Jersey case.

The significance and impact of the Michigan Supreme Court ruling can never be overemphasized. It marks the first time that any State Supreme Court has categorically stated that "zon-

Continued on Page 3

— GOOD NEWS —

HUD's New Undersecretary

Federation Focus states that Donald Hovde, Undersecretary of HUD, is likely to be a supporter of the manufactured housing industry. Hovde is a traditional growth area developer whose major focus is housing. He is reportedly concerned about production levels of housing in the U. S., opposes mortgage revenue bonds and, of great importance to our industry, is opposed to exclusionary and limited zoning.

Mr. Hovde is a native of Madison, Wisconsin, served as President of the National Association of Realtors in 1979, and has been involved in all aspects of commercial and residential development as both a developer and builder. NMHF looks forward to working with Mr. Hovde.

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ing discrimination or exclusion of mobile/manufactured homes is unconstitutional," something that MHI has been saying all along.

The Michigan court sent the nation a message; "You cannot blindly exclude or restrict mobile/manufactured homes just because they are in fact mobile/manufactured homes!" It is obvious that in formulating their decision the Michigan Supreme Court examined the facts about the new generation of mobile/manufactured homes (which were largely supplied by MHI in its Amicus brief), and did not resort to tired old misconceptions.

A substantial victory was achieved in Michigan, the key precedent has been established. Zoning ordinances that would restrict and exclude mobile/manufactured homes are now unconstitutional.

Editorial comment: Within the last year or so courts have been leaning in this direction. Several in the east and far west. There is sufficient material developing that other states may have good reasons now for re-opening previously unfavorable decisions.

Last year, Dick Klemeyer at the Texas Mfgd. Housing Ass'n convention presented a logical and reasoned comment that no doubt will be included in future briefs on the subject of zoning discrimination.

He said:

"The political and social climate in this country, and in Texas, has undergone a shift toward increasing emphasis on individual human rights. Attitudes, and even laws, that once may have seemed logical safeguards of an entire community's well being have changed because of a realization that in a modern and complex society, it is the individual who needs a greater measure of protection.

In this climate of increasing concern for human rights, it is important to remember that a manufactured home is a thing—and things, as such, have no rights. The U. S. Constitution doesn't protect a mobile home — doesn't grant it any inalienable rights or privileges. But people do have rights. And if discrimination against manufactured housing is to be eliminated, the effort may have to focus, to some extent, on securing the individual rights of people who want to live in a mobile or modular home, and want to locate that home in a desirable neighborhood. It may turn out that the people who buy manufactured homes — rather than those who sell them — will be the most effective troops in the battle for greater site - availability and fair treatment of mobile and modular homes.

People not only have rights —they have votes. And their votes help elect the legislators who adopt statutes and the local officials who adopt zoning ordinances and other control measures. If legal challenges in Court do not completely remove unreasonable restrictions against manufactured housing then, new legislation can be created to achieve that goal. And the fastest - growing segment of the voting population in the 1980's will be adults of family-forming age who represent the strongest market for affordable housing — and that means manufactured housing.

One State — and only one State, Vermont has adopted a law that prohibits municipalities from distinguishing between site-built homes and mobile homes in their zoning ordinances. I'd like to offer a few passages from a letter sent to all Vermont towns and cities by the State Agency of Community Affairs and Development after the law was adopted:

"There ought to be complete agreement with these objectives, for it is inconceivable in a free society that income, lifestyle or method of construction should be a basis for discrimination in housing."

Continued on Next Page

as Mfgd. Housing Ass'n — Continued from Page 3

An interesting thing about the Vermont legislation is that it passed the legislature without a word of testimony (or even public statements) from either the New England Mobile Home Association or the Governor's Advisory Commission on Mobile Homes (which also is primarily an industry group). Lobbying efforts in support of the Bill were led by the Vermont Legal Aid Society and the Low Income Advocacy Council. The Bill was discussed solely in terms of equal treatment and human need. The Bill passed by wide margins in both the House and Senate, with support from both Conservatives and Liberals, because it focused on equality and human rights. The American Mobile Home Owners Association considers the Vermont Law a "model" that the industry should try to have adopted in every state.

It may not be possible to convince all building inspectors that a manufactured home is better-built — or as well-built — as a site-constructed house. We may never convince all members of all Planning and Zoning Commissions that a mobile home will not depress surrounding property values. And we may never convince all members of all City Councils that the "aesthetics" of manufactured homes meet some pre-determined standard in their minds. But those same officials may find it very difficult to maintain a position that not only denies a large segment of the population in their communities the opportunity to live in quality housing they can afford, but also denies those people their individual freedom of choice.

The manufactured housing industry may still have to spend a lot of time at the courthouse and at the State Capitol. But the effort may increasingly focus not so much on explaining and defending building codes and aesthetic values — but on standing up for (and fighting for) the individual rights of the people who want to be our customers."

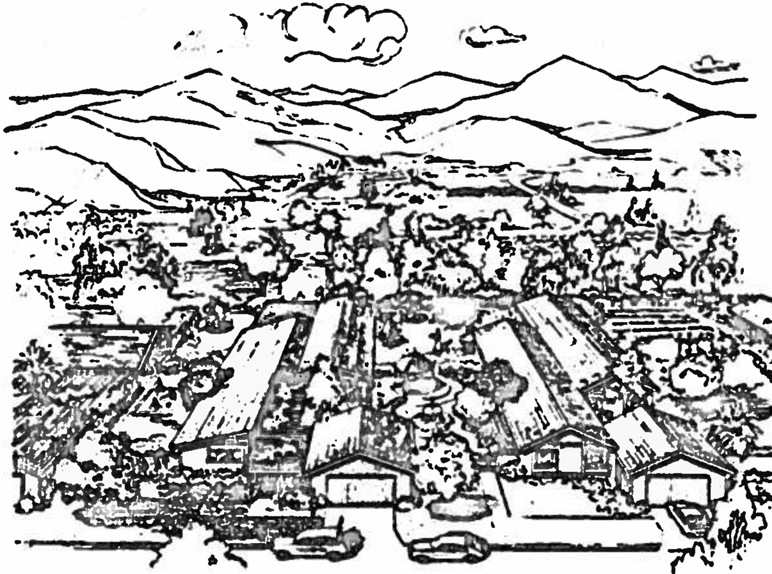
FHA Loan Limits

On January 19, 1981, HUD published notice in the Federal Register approving an increase in the FHA mobile home loan amounts. New limits for single-section homes are $20,000 up from $18,000. The new loan maximum for multi-section homes has increased to $30,000 from $27,000. The rule became effective on February 18. (MHI PL January 30, 1981)

Congress recently passed a bill to cut business' paper load. The Paperwork Reduction Act permits businessmen to ignore forms coming without an Office of Management & Budget stamp of approval, requiring control no., expiration date and reason for the request.

...d authoritative information in regard to the subject matter covered. It is sold with the understanding that the ...ing or other professional service. If legal advice or other expert assistance is required, the service of a com... a Declaration of Principles by a Committee of the American Bar Association and a Committee of Publishers.

MOBILEHOMES GO MAINSTREAM



The addition of pitched roofs and two-car garages has made many mobilehome models virtually indistinguishable from conventionally-built tract houses. But until this session of the Legislature, they were still more vehicle than home in the eyes of the law and lenders, especially public lenders.

In the first year of the session, however, the Legislature took a number of steps that signaled their recognition of the importance of mobilehomes in the housing market. Of both symbolic and practical importance is the transfer of mobilehome registration funtions from the Department of Motor Vehicles to HCD.

More importantly, financing options were extended in several directions. AB 333 and SB 229 included as part of the State's new housing finance programs, construction incentives for mobilehome developments and homeownership assistance for individuals.

In a rental project, full development costs will be paid by the State for 30% or more of the units to be kept available and affordable to low and very low income families, as well as the elderly and handicapped for at least 30 years. Eligibility extends to new mobilehome parks, including cooperative parks, of five or more spaces.

The homeownership assistance component of this legislation provides for state co-investment of up to 49% of the cost of a dwelling purchased by a lower income household. Eligibility extends to those living in a mobilehome park being converted to a condominium or cooperative park, and parties who purchase a mobilehome on a permanent foundation outside a park. This program will also provide interim financing assistance to nonprofit corporations or stock cooperatives which are developing mobilehome parks for low and moderate income tenants.

Other legislative changes authored by Assemblyman Dennis Mangers (Dem., Huntington Beach) in AB 2740 had the effect of increasing financing options for manufactured housing:

- Loans can now be authorized by the California Housing Finance Agency for cooperative or nonprofit mobilehome parks, or mobilehome subdivisions for low and moderate income tenants, and for installation on foundation systems outside of parks.
- Financing can now be provided by HCD for mobilehomes-- individual units, parks, and subdivisions-- through the Housing Predevelopment Loan Fund, Urban Housing Development Loan Fund, and the Farmworkers Housing Grant Program.
- Loan ceilings for the Cal Vet Program have been increased from $22,500 to $35,000 for a mobilehome in a park and from $30,000 to $55,000 for a mobilehome on a foundation system on a private lot.

Another noteworthy feature of recently enacted legislation is contained in AB 2915, by Assemblyman Mike Gage (Dem., Napa). For the first time, as a result of this bill, a mobilehome owner will be able to take advantage of the cash value of a residence, a prerogative previously available only to homeowners of traditional dwellings. In the future, a mobilehome owner will have the opportunity to take out a secured second loan on the unit, or derive cash from equity in the unit. AB 2915 also transfers State mobilehome regulatory responsibilities from the Department of Motor Vehicles to HCD.

PLANNING AND ZONING ACCEPTANCE

This session also yielded legislation which assures manufactured housing a place as part of each California community. Currently, many localities exclude mobilehomes entirely, or restrict their location to parks. SB 1960 by Senator Omer Rains, (Dem., Ventura) which will take effect July 1, 1981, precludes prohibition by a locality of installation of newer mobilehomes (built since 1976) which are installed on permanent foundations on single-family lots. The local jurisdiction may apply setback, sideyard, parking and other development standards which would apply to a conventional house on the same lot, and may also designate certain single-family lots for mobilehome use. Local architectural standards may be applied to the mobilehome which deal specifically with roof overhang and roofing and siding materials.

Another measure, AB 1564 authored by Assemblyman Chester Wray (Dem., Westminster) requires cities and counties to include manufactured housing within the housing development options dealt with in their housing element of the local general plans.

MOBILEHOMES TO GENERATE PROPERTY TAXES

Traditionally, mobilehomes have been taxed as vehicles, through an

(Continued on page 8)

MOBILEHOMES...

(Continued from page 7)

annual license fee based on a depreciation schedule, and a 6% sales and use tax collected upon sale or resale. Local jurisdictions have long been dissatisfied with these taxing mechanisms, contending that their share of revenues did not cover the cost of services utilized by mobilehome residents.

Senator Robert Presley (Dem., Riverside) dealt with this problem in two measures--SB 1004 of 1979, and a refinement, SB 1422 of 1980. As a result of their passage, all new mobilehomes sold on or after July 1, 1980 are subject to local property taxes at the same rates as conventional dwellings. (Annual vehicle-type licensing will continue for units first sold before that date.) Sales tax on post-July 1980 units will be charged only upon initial sale, and will be based only on 75% of the sales price to the retailer, an arrangement similar to conventional housing sales taxes which apply to materials but not value of the completed house. The new legislation also qualifies owners and renters for State tax benefits available to residents of conventional dwellings.

NEW WIDTH REQUIREMENT

Assemblyman Jim Ellis (Rep., San Diego) and Mike Roos (Dem., L.A.) addressed yet another issue influencing practical usage of mobilehomes in AB 677 and AB 2698, respectively. Through their efforts, the width requirement for movement of mobilehomes on California highways has been increased to 14 feet maximum. Previously, units exceeding 12 feet in width could not be moved on the highway in California although all other states permit movement of those up to 14 feet. This issue has been important to prospective mobilehome owners and the industry. A 14 foot-wide unit provides more livable space in a stand-alone or "single-wide" mobilehome, including a 3-bedroom floor plan.

NEW AGENCY SECRETARY

The Department of Housing and Community Development will report to a new cabinet secretary. Lynn A. Schenk, appointed by Governor Brown, succeeds Alan Stein, who recently resigned as Secretary of the Business and Transportation Agency.

The Agency, soon to be renamed Business, Transportation, and Housing embraces the housing activities of HCD, the California Housing Finance Agency (CHFA), and the Department of Real Estate.

Ms. Schenk, 35, was deputy secretary for the Agency, and has worked on numerous housing issues with HCD. Prior to this, she was an attorney for the San Diego Gas & Electric Company and a White House Fellow serving as a special assistant to Vice Presidents Nelson Rockefeller and Walter Mondale.

Ms. Schenk was a founder and on the board of directors of the Women's Bank of San Diego (California Coastal Bank). She was also a founder and president of the Lawyers Club of San Diego and California Women Lawyers.

She received her B.A. from the University of California, Los Angeles and her law degree from the University of San Diego.

A Democrat, Ms. Schenk will receive $60,026. The position requires Senate confirmation.

With the appointment of Ms. Schenk Governor Brown's agency secretaries are now 50 percent female.

CALIFORNIA COMMUNITIES OCTOBER 1980

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group of workers, under supervision of knowledgeable individuals, build a car from the ground up in your driveway? Quite plainly, most of us could not afford it. The same is becoming the case in housing. In addition to production efficiencies, purchasing and economy of scale, mobile home builders are able to exercise extensive quality control during the construction of their products. In the end, the consumer receives a high quality home at an affordable price.

STRUCTURAL EFFICIENCY

What type of structural efficiencies are we talking about? Take interior paneling, for instance. Mobile home manufacturers use what is called stress skin paneling It serves two very important functions. First, it creates the interior decor. Secondly, it adds significant structural strength to the wall framing. To further strengthen the structure, manufacturers use adhesives in addition to mechanical fasteners such as nails and staples. Conventional home builders are not generally permitted to utilize adhesives because of construction conditions which they cannot control.

Mobile home roof rafters are another area where efficiency and economy play a big role while still maintaining structural integrity. Instead of the expensive framing seen on many site-built homes, mobile home manufacturers use manufactured truss-type rafters that are based on the same principle as an airplane wing. The ingenuity of geometry takes the place of solid mass. Although some feel that truss-type rafters are inferior, we know they perform efficiently. They are proven strong to

(more)

fulfill the design need; and they do not tend to warp like solid rafters.

Components that go into building a mobile home are tested, tested, and retested to ensure they will perform as the engineer's design expects. The codes by which site-built homes are constructed (the model building codes) are the result of years of field experience, but not of controlled design with a specific purpose in mind. The question mobile home manufacturers ask is: Will component "A" perform task "B" efficiently, effectively, esthetically, and economically? If so, let's use it. If not, back to the drawing boards. Combine this philosophy and nearly three decades of experience, along with the fact mobile homes must be transportable, and you have the basis for modern mobile home construction.

FIRE AND WIND

How safe are mobile homes in a fire? Before answering, we feel obligated to point out that no structure is safe in a fire. Given that, mobile homes today are as safe as any other comparable home. The Federal Mobile Home Construction and Safety Standard sets extremely stringent regulations on fire safety. All materials--excluding drapes and other furnishings--must have a fire spread rating of no more than 200. (Asbestos is 0 and solid 3/4-inch red oak is 100.) This compares to the model building codes requirements. Materials adjacent to stoves must be rated 50 or less, and around furnace and water heaters, 25 or less. All mobile homes built today must have at least one smoke detector installed. There must be at least two exterior doors for escape which must be within 35 feet of each bedroom door, but cannot be in the same room or general area. Bedroom windows must open easily for emergency exiting, and their sill cannot be more than 36 inches above the floor.

(more)

While fire protection provisions can be controlled by manufacturers, wind damage is another matter. Most wind damage to mobile homes is a direct result of inadequate installation and anchoring.

Today's manufactured homes are made to withstand all the same elements of nature that a site-built home can survive. By federal law, mobile home roofs in moderate climate states like California must support up to 20 pounds per square foot. In some northern states, the design standard is 30 to 40 pounds per square foot. Normal wind design requires that exterior walls and windows withstand 15 pounds per square foot, and in hurricane-designated areas, such as Florida and Texas, a 25-pound per square foot design is required. In addition, the standard stipulates that exterior coverings "shall be of moisture and weather resistive materials attached with corrosion resistant fasteners to resist wind, snow and rain."

INSPECTIONS, INSPECTIONS AND MORE INSPECTIONS

In-plant inspection is another important aspect of mobile home construction. Fleetwood Enterprises, for instance, has a quality control administrator at each of its 29 plants who reports directly to the plant general manager. Each unit is closely scrutinized at each phase of construction before shipment to dealers. Consumers are furnished a one-year warranty guaranteeing that workmanship and materials are free from defect.

Several independent or government agencies are also involved in the inspection process. The U.S. Department of Housing and Urban Development (HUD) is responsible for national enforcement of the Mobile Home Construction and Safety Standard, and has contracted with the National Conference of State Building Codes and Standards (NCSBCS) to be its eyes and ears.

(more)

States provide inspectors to NCSBCS, and all mobile home manufacturing plants in the U.S. are monitored by them at least quarterly. Further, all mobile home building plans must be approved by an independent, approved agency.

Inspection agencies have inspectors who visit plants in their area as often as every day, depending on production. Although each agency may have different inspection guidelines, they cannot be less rigorous than required by the Federal Standards.

CHANGE IN THINKING

The fallacies and misconceptions associated with mobile home construction are without basis. People, many in decision-making capacities affecting the manufactured housing industry, still conjure up images of rickety, tin trailers when mobile home related subjects are brought up. This is totally inaccurate and unfair, and the end result of this type of thinking is counterproductive for all concerned. We can only hope that through information and education, manufactured homes will be judged for what they are: Sturdily built, efficient, economic, and attractive homes that are equal in performance to comparable site-built housing.

-#-

COMPARISON OF CRITERIA FOR

FEDERAL MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS

WITH THE UNIFORM BUILDING CODE (SINGLE FAMILY DWELLING)

DESIGN ELEMENT	FEDERAL MH STANDARD	UNIFORM BUILDING CODE (1976)
Structural Design Loads:		
Roof live load	20 PSF (min.)	20 PSF (min.)
Wind load (horizontal)	15 PSF	15 PSF
Floor live load	40 PSF	40 PSF
Horiz. load on interior walls	5 PSF	5 PSF
Architectural Design-Building Planning:		
Minimum room size:		
One room	150 sq. ft.	150 sq. ft.
Bedroom	70 sq. ft.	70 sq. ft.
Closet depth (each bedroom)	22 in.	None specified
Hall width	28 in.	None specified
Ext. wall covering	Weather resistant; corrosion resistant fasteners	Prescribes min. materials and fasteners
Fire Safety:		
Exit doors	2	1
Specify exit door location relationship	Yes	No
Furnace compartment lining	Gyp. bd. + 25 FS max.	Not specified

DESIGN ELEMENT	FEDERAL MH STANDARD	UNIFORM BUILDING CODE (1976)
Fire Safety (continued)		
Water heater compartment lining	Gyp. bd. + 25 FS max.	Not specified
Kitchen range back wall	Gyp. bd. + 50 FS max.	Not specified
Flamespread in living area:		
Walls	200 or less (Class III)	Class III
Ceiling	200 or less (Class III)	Class III
Protect cabinets above range	Yes	Yes
Smoke detector	Yes	Yes
Thermal Energy Conservation		
Condensation control:		
Walls	Vapor barrier	Vapor barrier
Ceiling	Vapor barrier	Vapor barrier
Air infiltration control	Specified	Not specified
Maximum heat loss	Specified	Not specified
Double glazing or storm windows	Mandatory	Not mandatory
Interior heated to 70°F (design basis)	Required	Required
Electrical		
Require listed materials and devices	Yes	No
Aluminum wire in branch circuits	Not permitted	Permitted
Receptacle locations	Comparable	Comparable
Load calculations	Comparable	Comparable
Separate neutral and ground circuits on branch circuit wiring and service panel	Yes	No

MOBILE HOMES AS SAFE FROM FIRE AS SITE-BUILT HOMES; NEW MOBILE HOMES SAF

The risk of fire is greater in a site-built home than in a mobile home, according to Howard Gate's study, "Comparison of Fire Risk in Mobile Homes a. Site-Built Homes." His analysis of data contained in the U.S. Fire Administration's 1978 National Fire Incident Reporting System reveals that the incidence of fire in site-built homes is 534.50 per 100,000 homes, as compared to the slightly lower rate of 534.04 fires per 100,000 mobile homes. More significant, however, is the fact that the fire incidence rate for mobile homes built after 1976 is only 378.9 per 100,000 mobile homes, or 155.6 fewer fires than site-constructed homes experience.

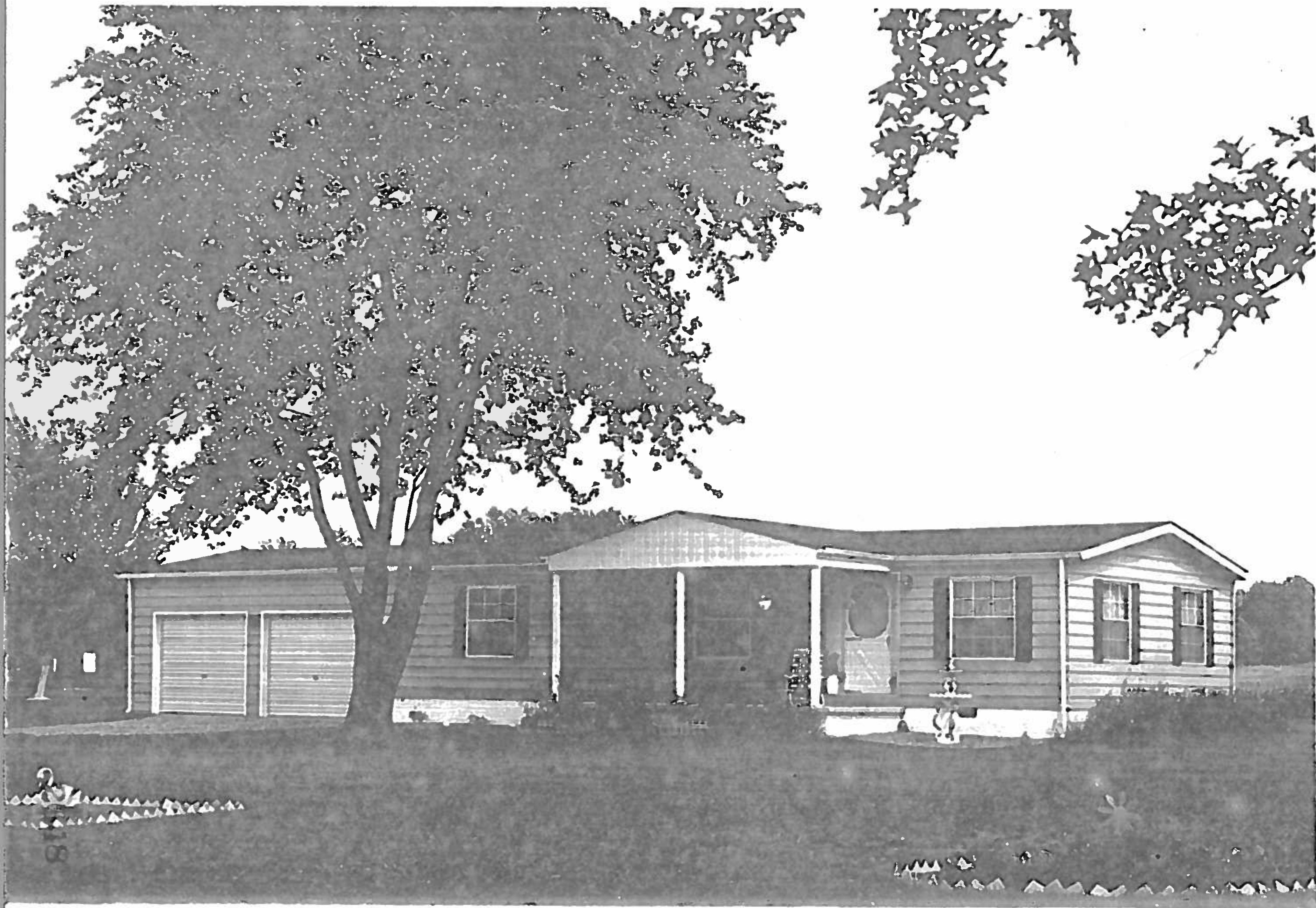
The lower rate of fire incidence for mobile homes is due, in large part to stringent fire safety features required by the Department of Housing and Urban Development's Mobile Homes Construction and Safety Standards, a mandatory, national building code for mobile homes which has been in effect since 1976.

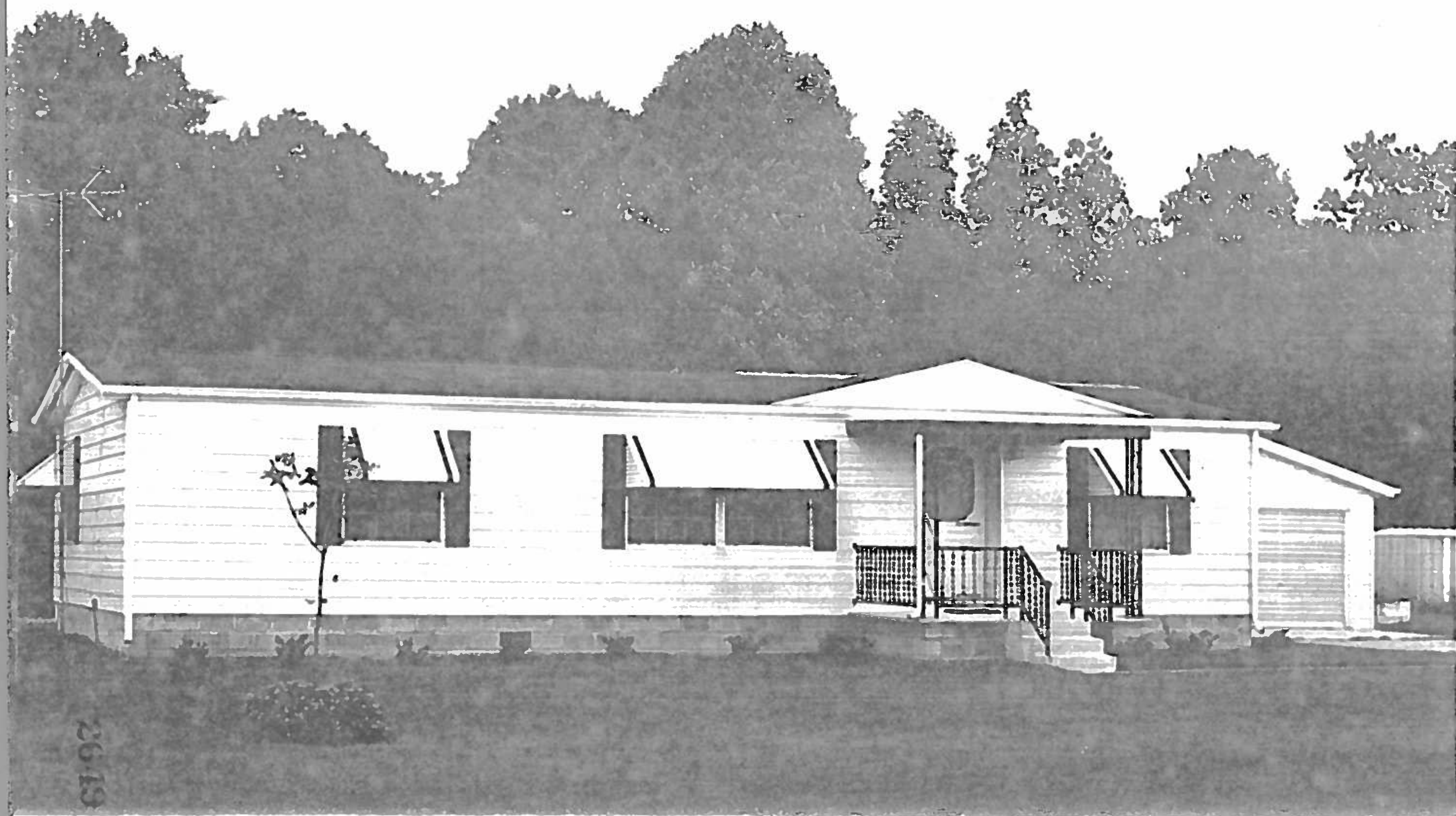
Among the many fire safety provision are: 1) that each mobile home have a minimum of two, easily accessible exits; 2) restrictive interior flame-spread requirements for walls and ceilings; 3) flame-spread ratings for the interior finish of furnace and water compartments, kitchen cabinets and counter tops, interior surfaces adjacent to cooking ranges, furniture materials, and plastic bathtubs, shower units and shower doors; and 4) smoke alarms and emergency egress windows in all sleeping areas. In some states and cities, building codes governing site-constructed housing do not require such stringent fire safety features.

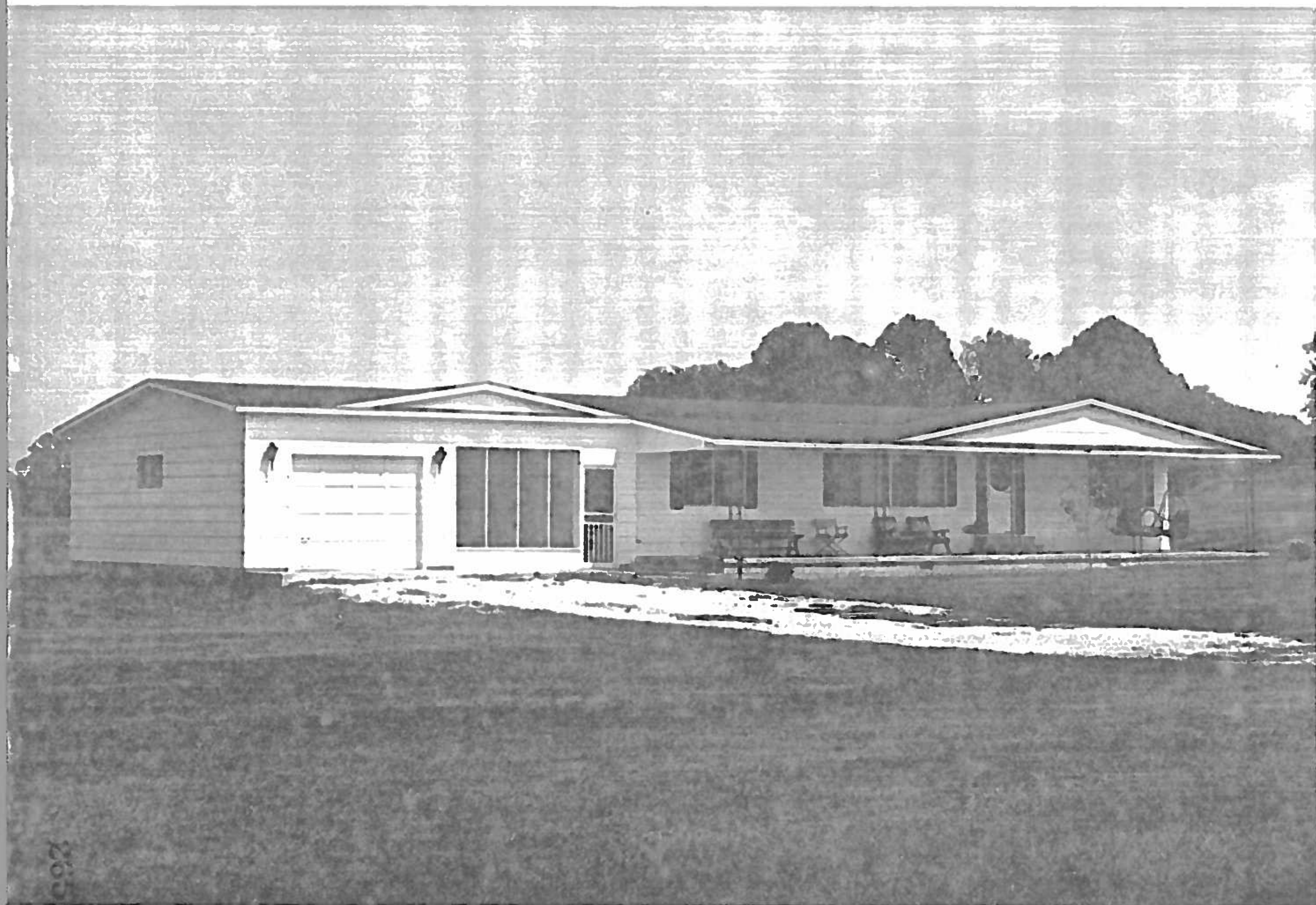
The mobile home industry's careful attention to fire safety features—and stringent quality control—has also led to a lower fire fatality rate than that for site-constructed homes. The fatality rate for site-built homes is 4.20 per 100,000 homes, while the rate in mobile homes built since the implem tation of the HUD code is 3.44 fatalities per 100,000 homes, according to the National Fire Protection Association's 1978 fire fatality records.

Mobile home fire data for California, a state which has one of the largest mobile home populations, further indicates that the fire incidence rate of mobile homes is significantly less than that of site-built homes. In a 1977 memorandum from the Acting Chief of the Division of Codes and Standards to the California Commission of Housing and Community Development, it was noted that, based on the second annual report of the California State Fire Marshal, one out of every 122 site -built homes had a fire occurrence, while only one out of 409 mobile homes experienced fire.

Prepared by: The Indiana Manufactured Housing Association
3210 Rand Road, Indianapolis, Indiana 46241







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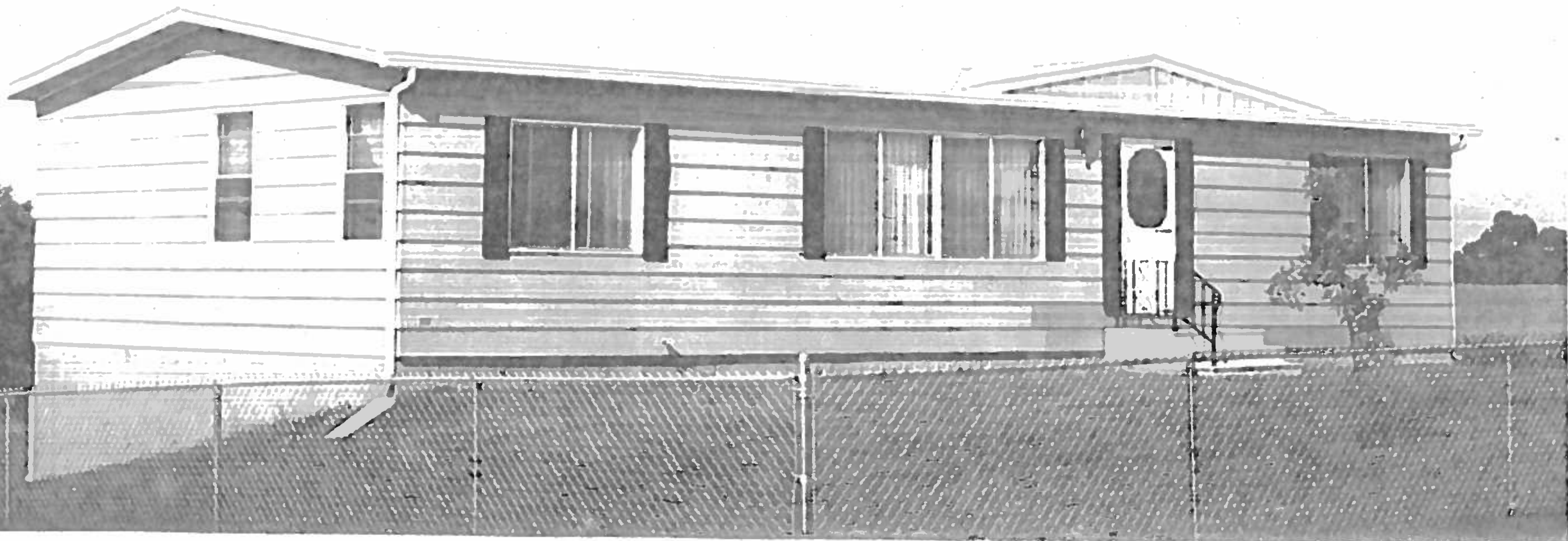
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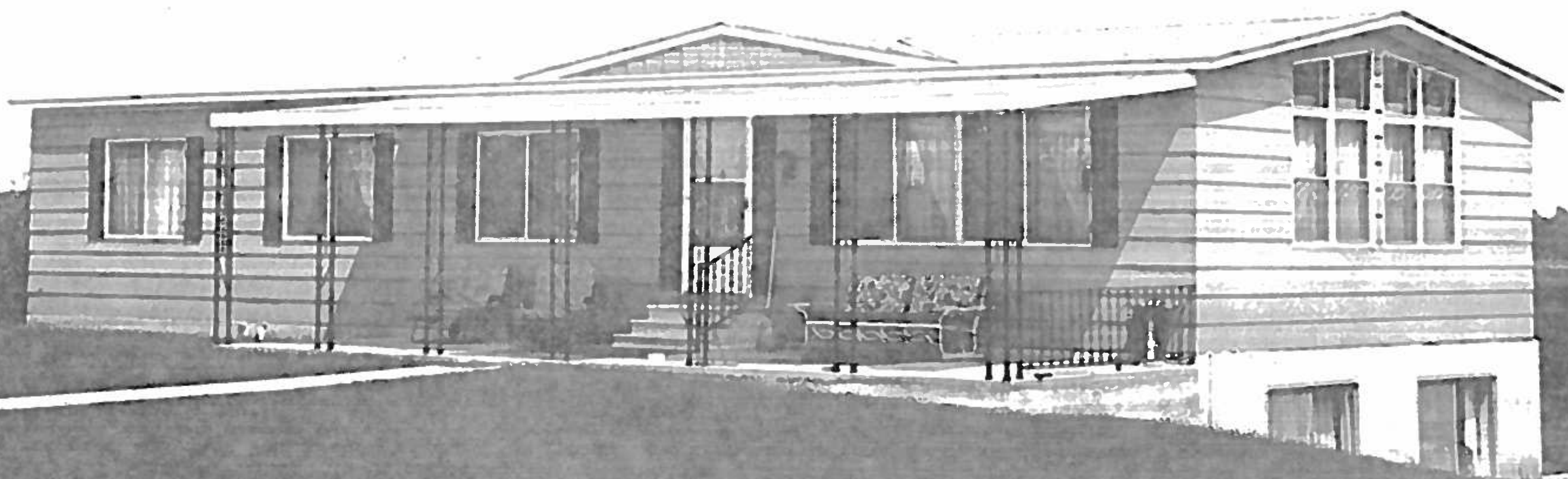
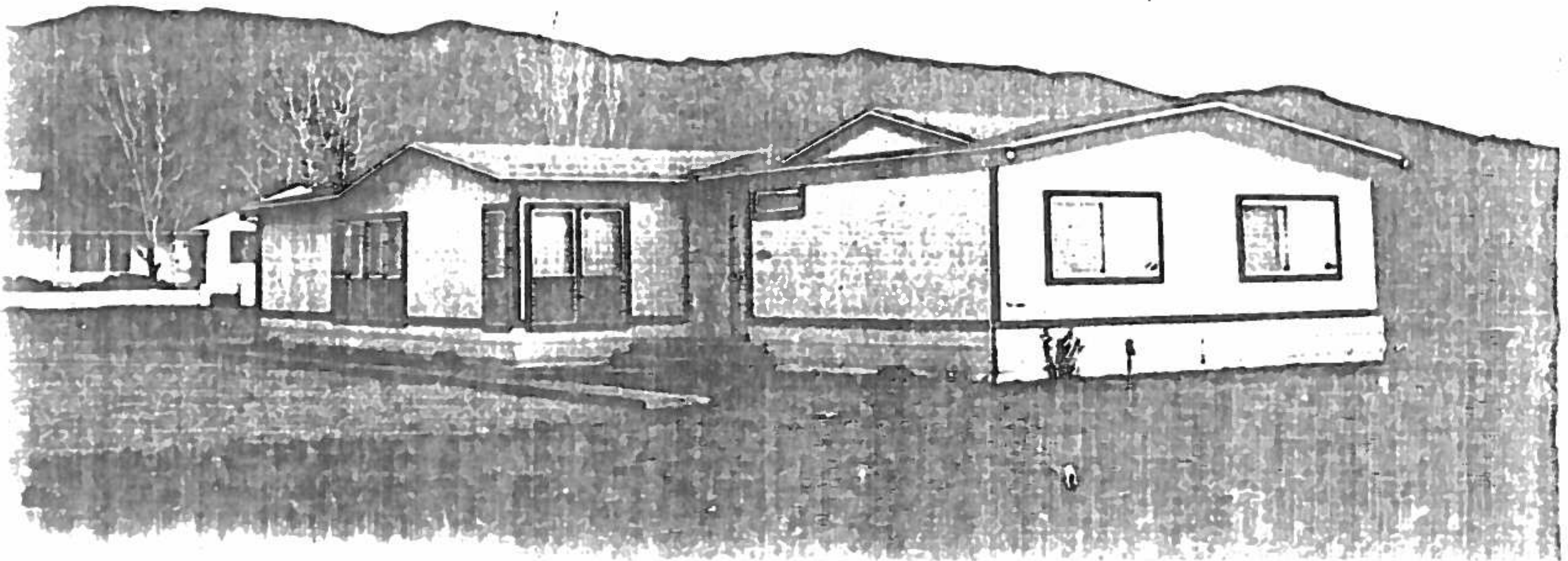
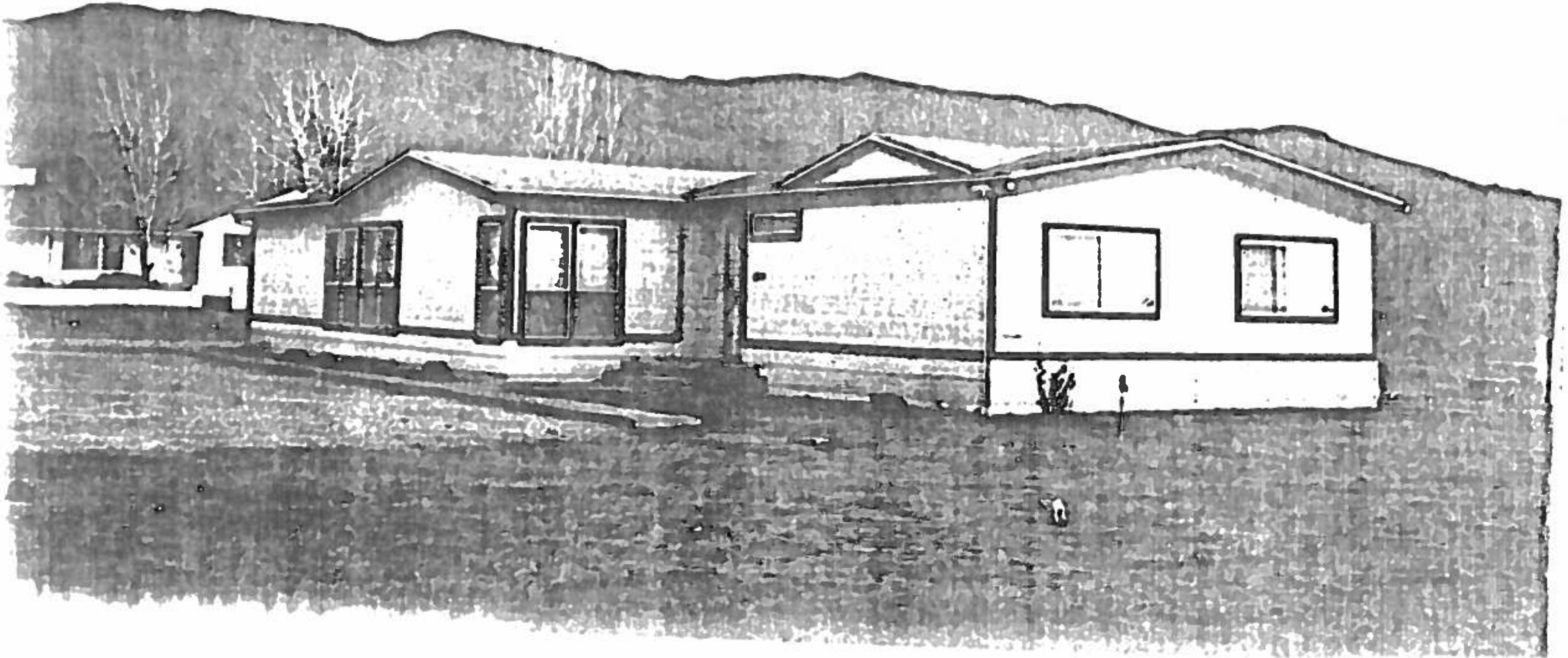
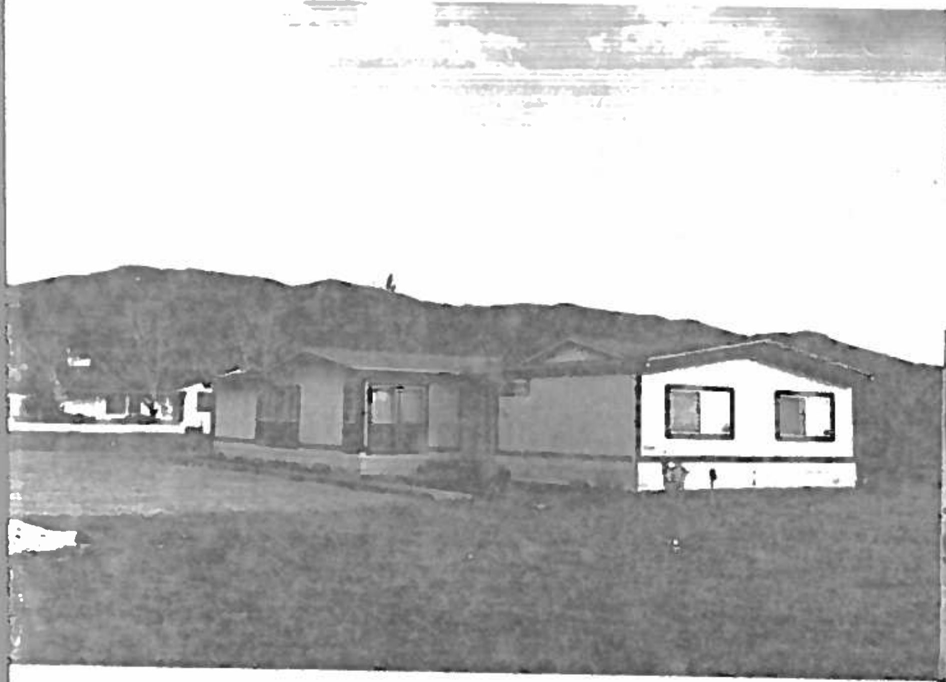
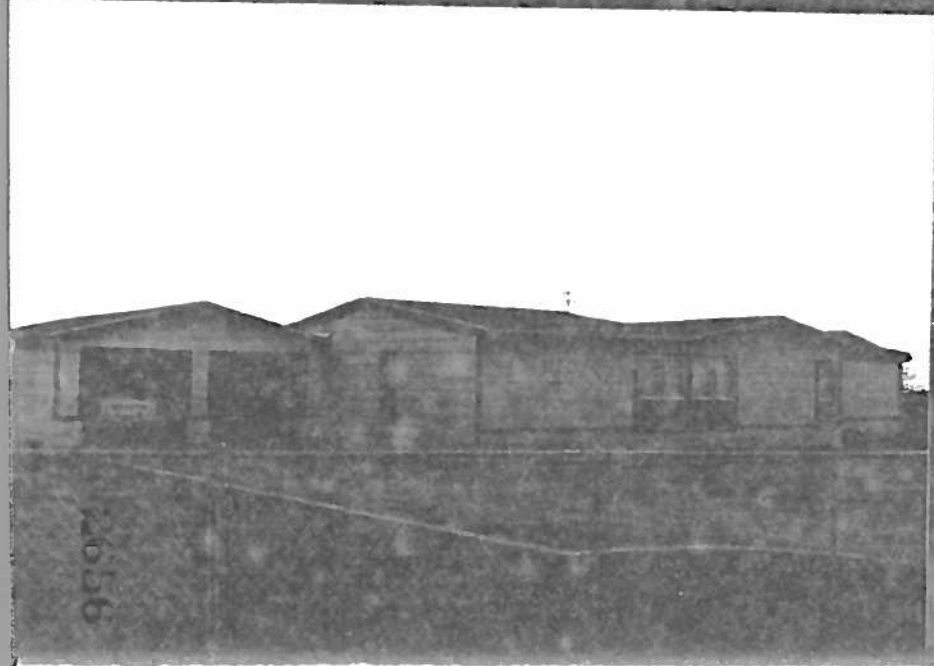
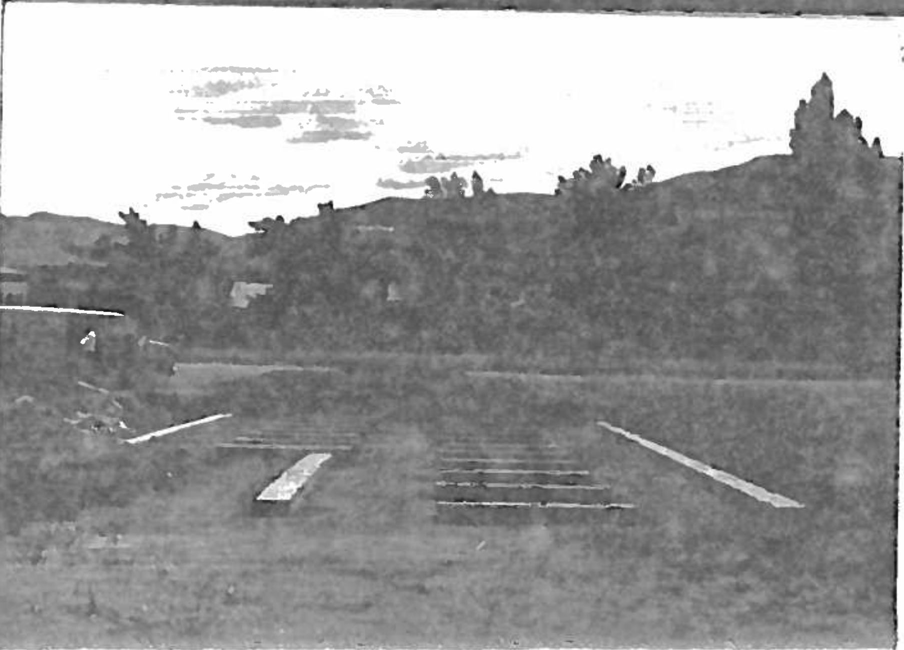








Cinder Block skirting in addition to Normal Blocking

Siding

Alu. Drip Cap

1" to 2" grout

Bound-Block

21" #1 Rebar @ 32" centers

6"x8"x16" Cinder Block to be grouted solid for skirting

6" 6"

6"

12"

18"

6" High by 12" wide Leveling Pad to be continuous around perimeter of Unit to lay 6"x8"x16" Cinder Block skirting

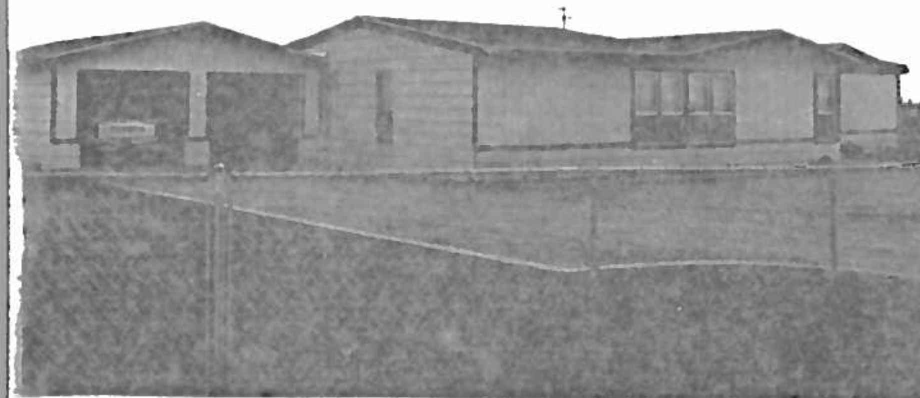
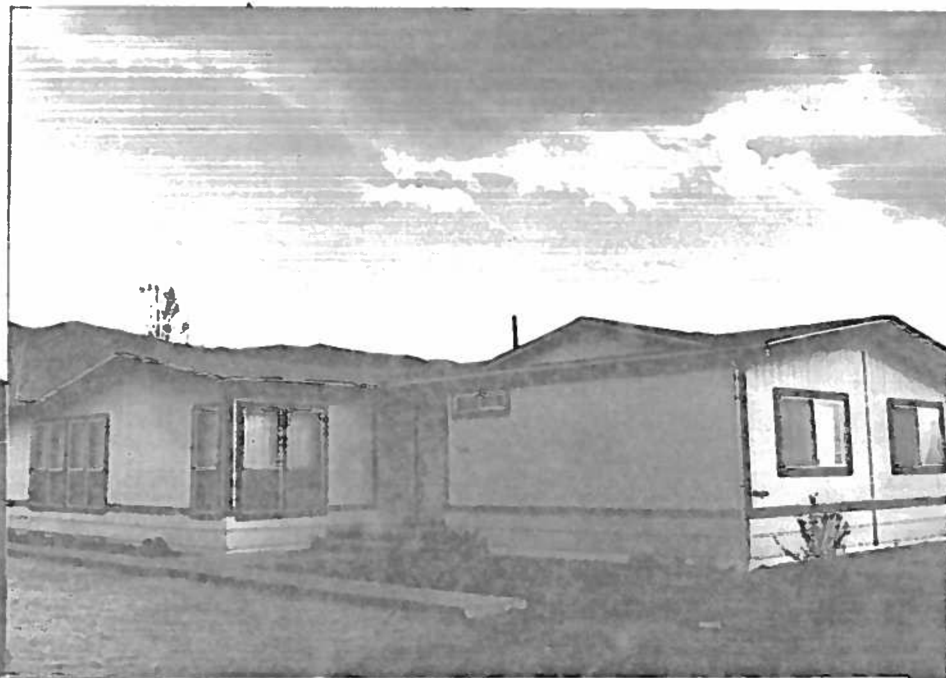
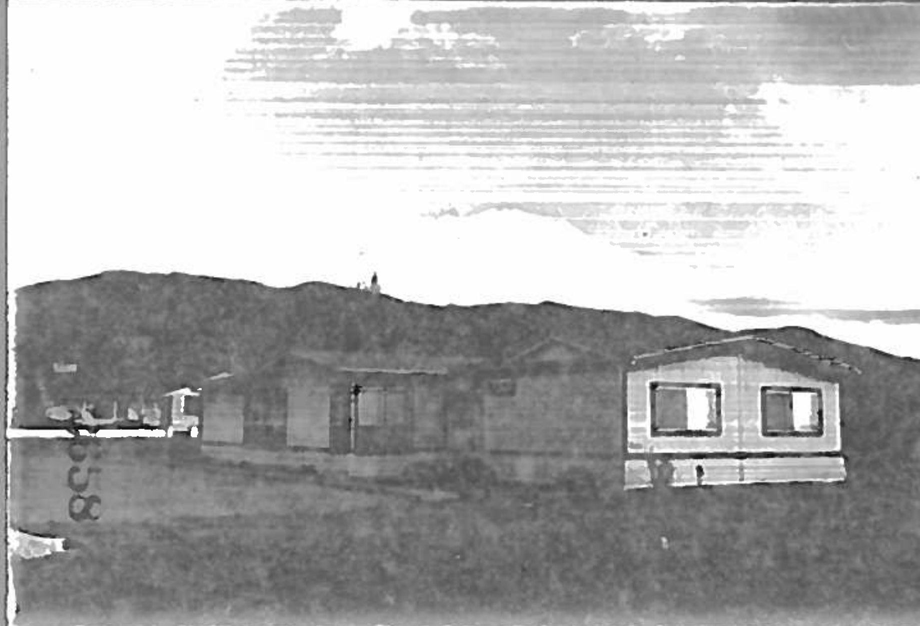
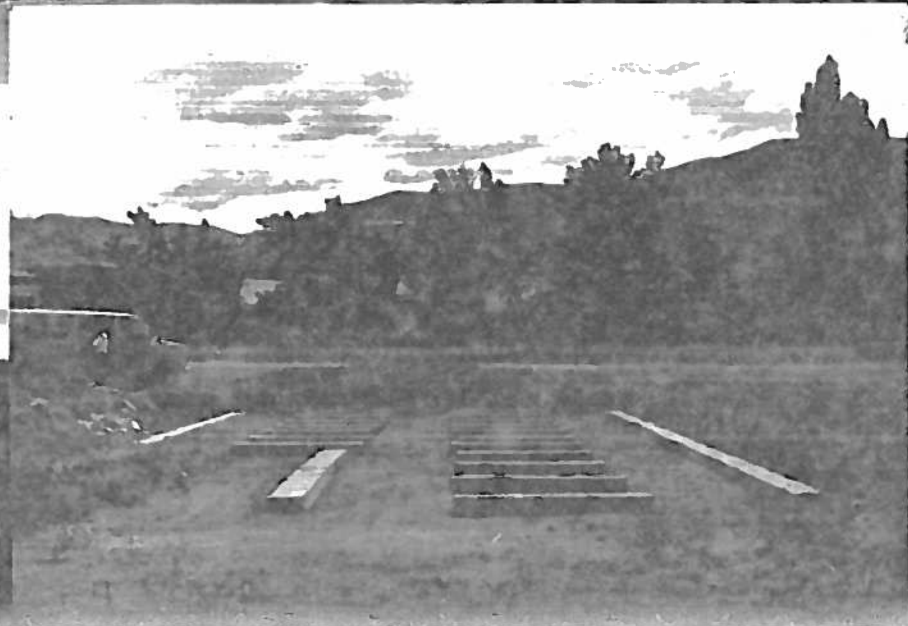
#4 Rebar continuous around perimeter

24"

#4 Corner Bars

24"

2657

CINDER BLOCK SKIRTING IN ADDITION TO NORMAL BLOCKING

Siding

Alu. Drip, cap

1/2" to grout

Bound-Block

21" #4 Rebar @ 32" centers

6"x8"x16" CINDER Block to be grouted solid FOR skirting

6"

6"

6"

12"

18"

6" High by 12" wide Leveling Pad to be continuous around perimeter of Unit to lay 6"x8"x16" CINDER Block skirting

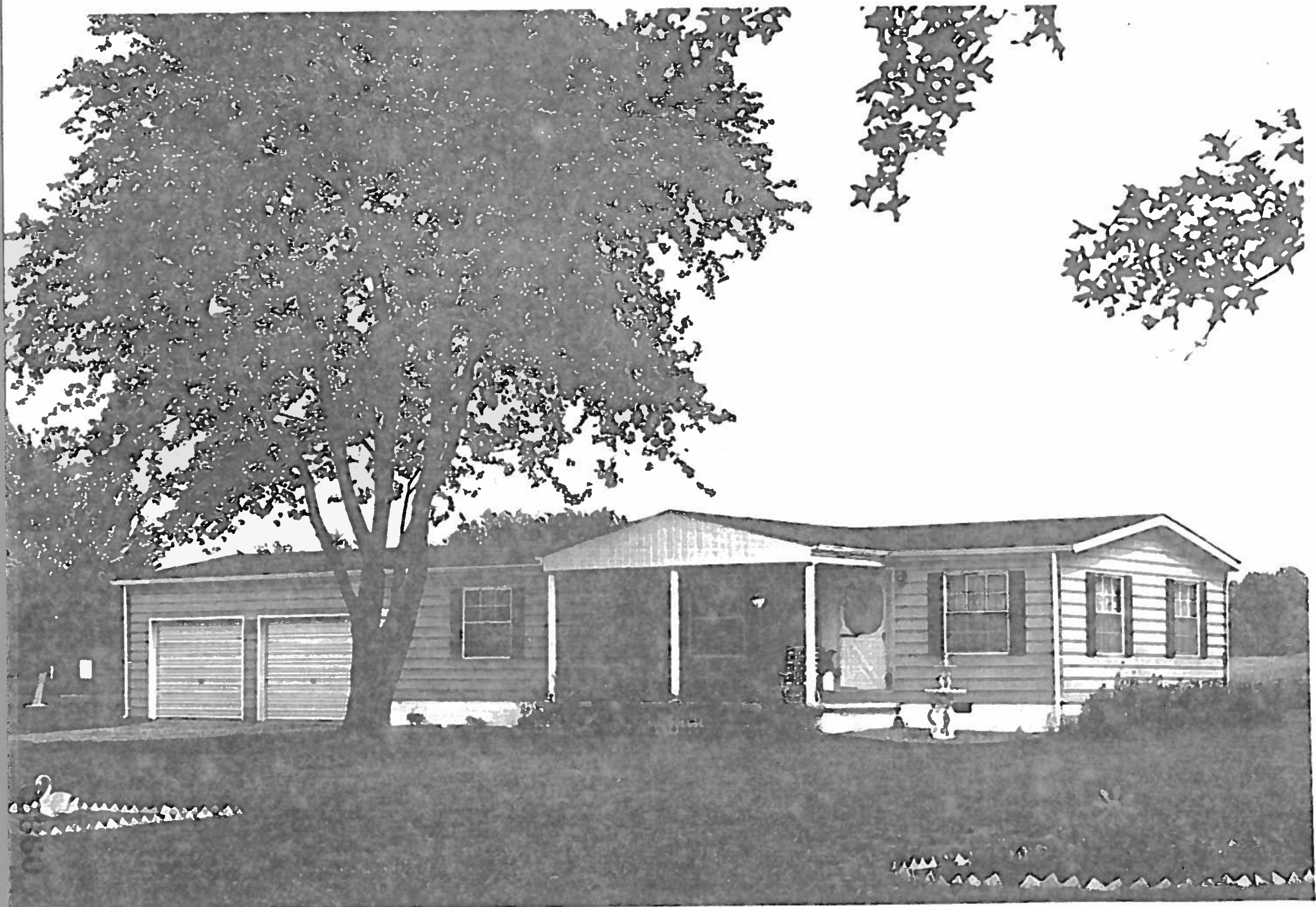
#4 Rebar continuous around perimeter

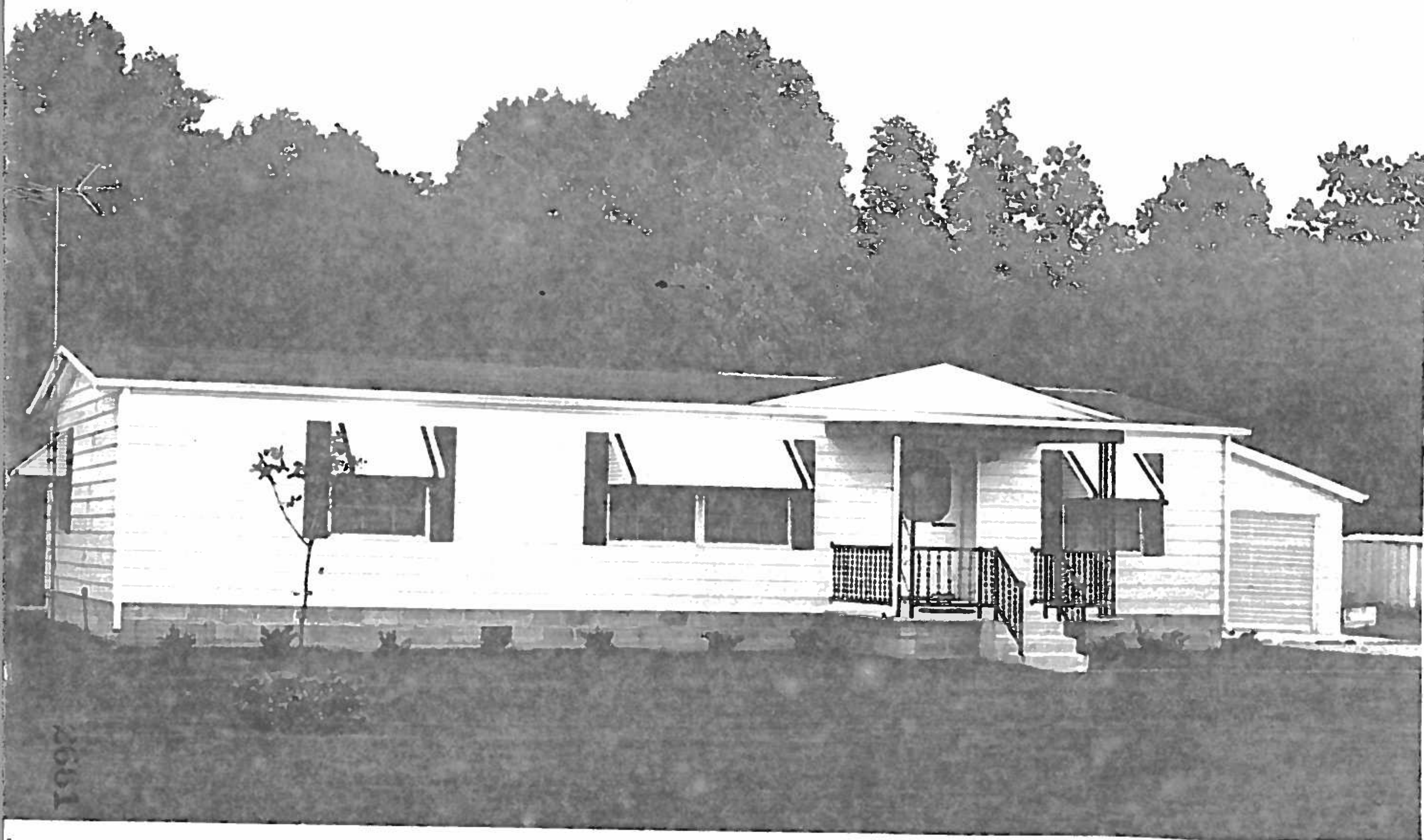
#4 Corner Bars

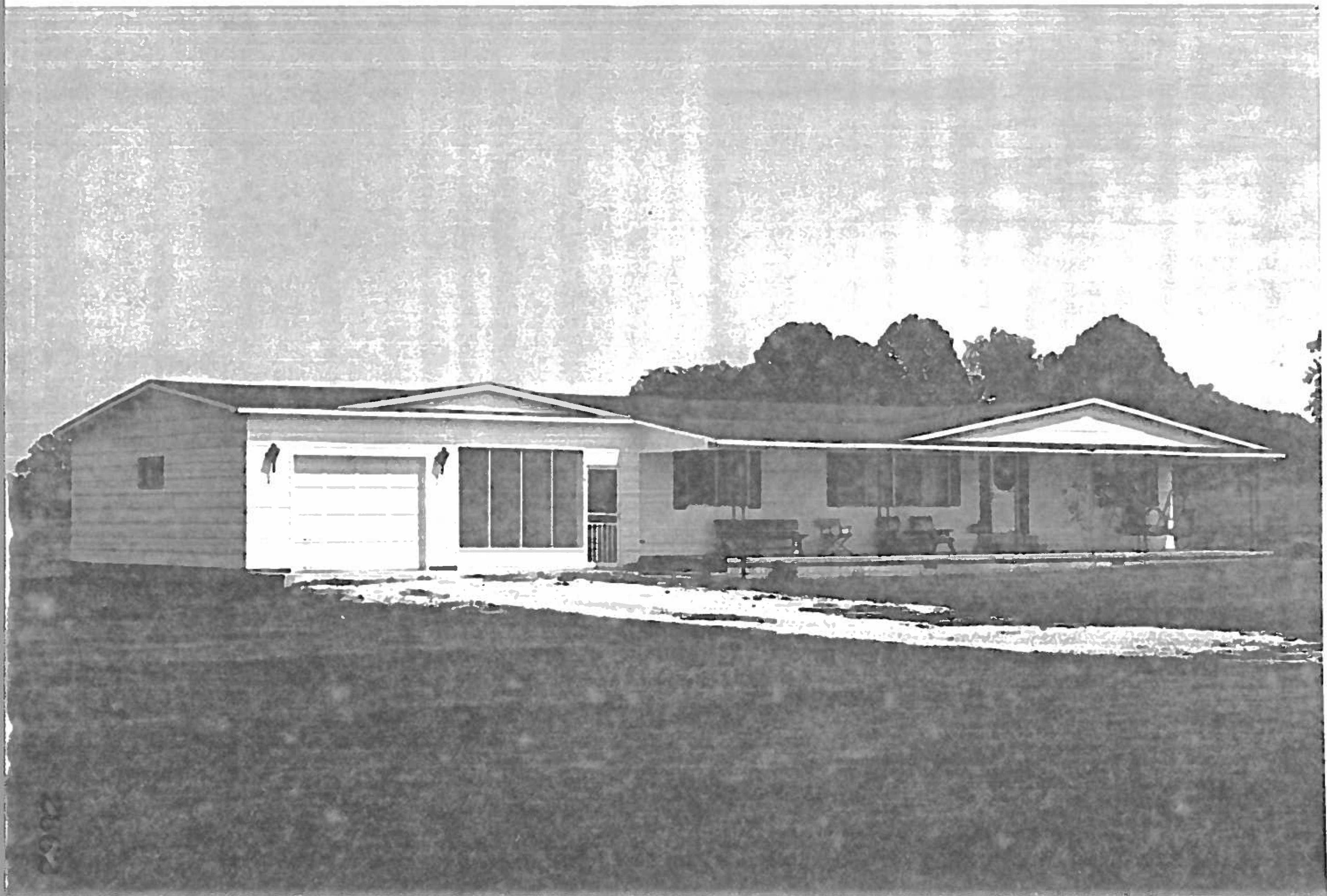
24"

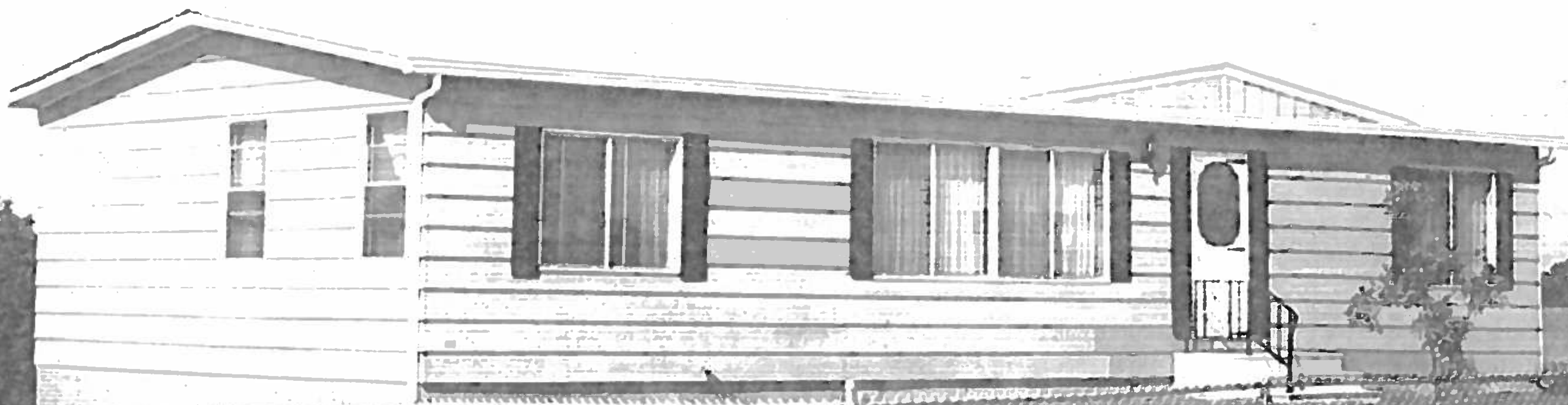
24"

2659









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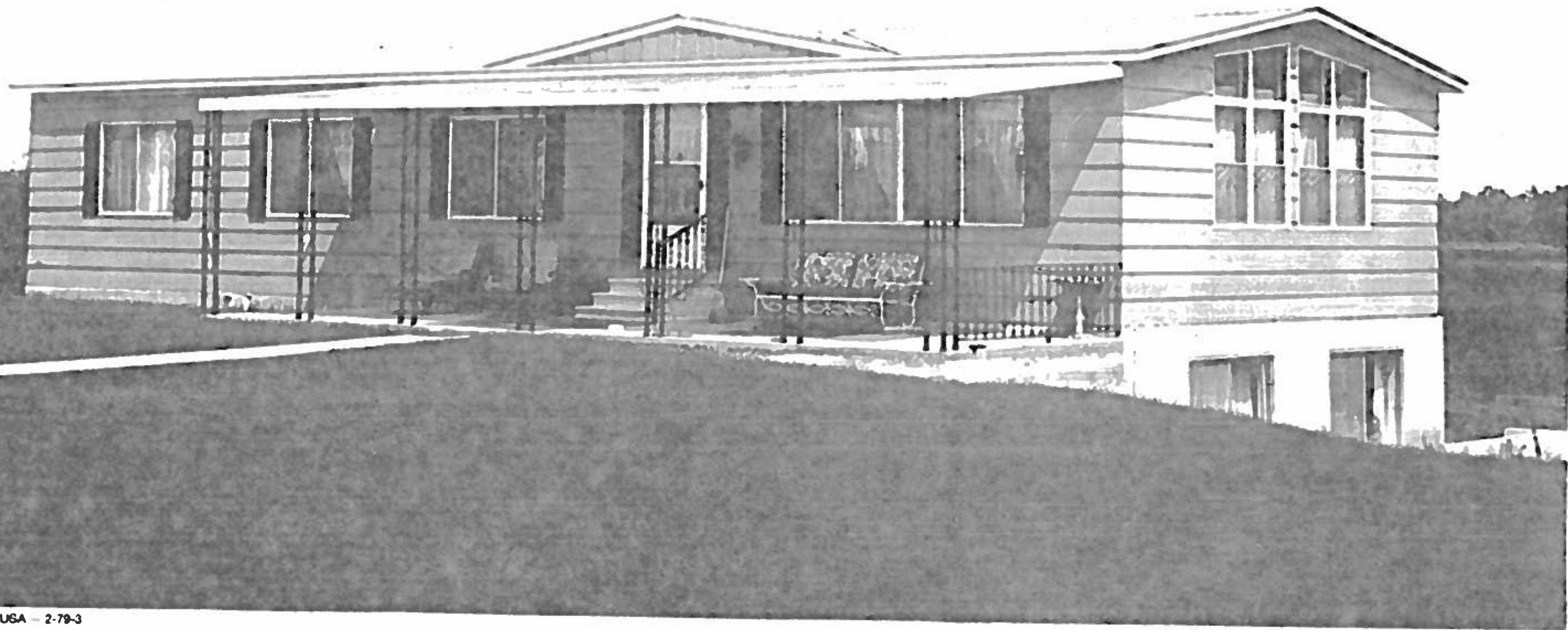

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2664

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Waiver or reduction of requirement of closely settled unit of general local government

(m) For purposes of carrying out this section, the Secretary may reduce or waive the requirement, as described in section 5302(a)(5)(B)(ii) of this title and applied to recipients of community development grants, that a town or township be closely settled.

Action by State historic preservation officer and Secretary of Interior

(n) In the case of any application which identifies any property in accordance with subsection (c)(7)(B) of this section, the Secretary may not commit funds with respect to an approved application unless the applicant has certified to the Secretary that the appropriate State historic preservation officer and the Secretary of the Interior have been provided an opportunity to take action in accordance with the provisions of section 5320(b) of this title.

Application of provisions to Guam, the Virgin Islands, and Indian tribes

(o)(1) For the purpose of carrying out this section, the term "city" includes Guam, the Virgin Islands, and Indian tribes.

(2) The application requirements—

(A) of section 5304 of this title, and

(B) of subsection (c)(2) of this section, to the extent such subsection requires a concentrated urban development action program to be consistent with the program and plan described in paragraphs (3) and (4) of section 5304(a) of this title,

shall not apply to applications by Guam, the Virgin Islands, or Indian tribes for assistance under this section.

(3) Grants may be made under this section to Guam, the Virgin Islands, or an Indian tribe only with respect to fiscal years for which Guam, the Virgin Islands, or such Indian tribe, as the case may be, has submitted an application meeting requirements prescribed pursuant to section 5307 of this title.

(4) The Secretary may not approve a grant to an Indian tribe unless such Indian tribe—

(A) is located on a reservation or in an Alaskan Native Village; and

(B) is an eligible recipient under the State and Local Fiscal Assistance Act of 1972.

Pub.L. 93–383, Title I, § 119, as added Pub.L. 95–128, Title I, § 110(b), Oct. 12, 1977, 91 Stat. 1126, and amended Pub.L. 95–557, Title I, § 103(g), (h), Oct. 31, 1978, 92 Stat. 2084; Pub.L. 96–153, Title I, §§ 104, 105, Dec. 21, 1979, 93 Stat. 1102, 1104; Pub.L. 96–399, Title I, §§ 110(a), (b), 117(a), Oct. 8, 1980, 94 Stat. 1619, 1623.

References in Text. The State and Local Fiscal Assistance Act of 1972, referred to in subsec. (o)(4)(B), is classified to chapter 24 (section 1221 et seq.) of Title 31, Money and Finance.

1980 Amendment. Subsec. (c)(7). Pub.L. 96-399, § 110(a)(1) to (3), added subsec. (c)(7).

Subsec. (n). Pub.L. 96-399, § 110(b), added subsec. (n).

Subsec. (o). Pub.L. 96-399, § 117(a), added subsec. (o).

1979 Amendment. Subsec. (b). Pub.L. 96-153, § 104, designated existing provisions as par. (1) and added par. (2).

Subsec. (c). Pub.L. 96-153, § 104(b), designated existing provisions as par. (1) and in par. (1) as so designated, substituted "Except in the case of a city or urban county eligible under subsection (b)(2) of this section, in establishing criteria" for "In establishing criteria" in the opening sentence, redesignated existing cls. (1)–(3) as (A)–(C), and added pars. (2) and (3).

Subsecs. (l), (m). Pub.L. 96-153, § 105, added subsecs. (l) and (m).

1978 Amendment. Subsec. (c)(6). Pub.L. 95-557, § 103(g), added subsec. (c)(6).

Subsec. (e). Pub.L. 95-557 added "impact of the proposed urban development action program on the residents, particularly those of low and moderate income, of the residential neighborhood, and on the neighborhood, in which the program is to be located" following "objectives of this chapter".

Effective Date of 1978 Amendment. Amendment by Pub.L. 95-557 effective Oct. 1, 1978, see section 104 of Pub.L. 95-557, set out as a note under section 1709 of Title 12, Banks and Banking.

Effective Date. Section effective Oct. 1, 1977, see section 114 of Pub.L. 95-128, set out as a note under section 5304 of this title.

Legislative History. For legislative history and purpose of Pub.L. 95-128, see 1977 U.S.Code Cong. and Adm.News, p. 2884. See, also, Pub.L. 95-557, 1978 U.S. Code Cong. and Adm.News, p. 4773; Pub.L. 96-153, 1979 U.S.Code Cong. and Adm.News, p. 2317; Pub.L. 96-399, 1980 U.S.Code Cong. and Adm.News, p. [illegible]

1. Standing to sue

Minority residents and organization represented by them lacked standing to challenge eligibility of city for federal funds under urban development action grant program administered by Department of Housing and Urban Development in that requested relief, namely, cutting off of funds would not relieve residents and their organization of discrimination in housing of which they complained. N. A. A. C. P., Boston Chapter v. Harris, C.A.Mass.1979, 607 F.2d 514.

Black persons, whose injury was that racial tension in city interfered with conduct of their daily lives, lacked standing to seek an injunction to compel Department of Housing and Urban Development to condition funds disbursed to city under urban development action grant program on meeting of certain equal opportunity and affirmative action standards in absence of a showing that any relief emerging from lawsuit would alleviate, even in a small way, injury of which those persons complained. Id.

§ 5319. Community participation in programs

No community shall be barred from participating in any program authorized under this chapter solely on the basis of population, except as expressly authorized by statute.

Pub.L. 93–383, Title I, § 120, as added Pub.L. 95–557, Title I, § 103(i), Oct. 31, 1978, 92 Stat. 2084.

Effective Date. Section effective Oct. 1, 1978, see section 104 of Pub.L. 95-557, set out as a note under section 1709 of Title 12, Banks and Banking.

Legislative History. For legislative history and purpose of Pub.L. 95-557, see 1978 U.S.Code Cong. and Adm.News, p. 4773.

§ 5320. Historic preservation requirements

Regulations

(a) With respect to applications for assistance under section 5318 of this title, the Secretary of the Interior, after consulting with the Secretary, shall prescribe and implement regulations concerning projects funded under section 5318 of this title and their relationship with—

(1) "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes", approved October 15, 1966, as amended; and

(2) "An Act to provide for the preservation of historical and archeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam", approved June 27, 1960, as amended.

Actions by State historic preservation officer and Secretary of Interior

(b) In prescribing and implementing such regulations with respect to applications submitted under section 5318 of this title which identify any property pursuant to subsection (c)(7)(B) of such section, the Secretary of the Interior shall provide at least that—

(1) the appropriate State historic preservation officer (as determined in accordance with regulations prescribed by the Secretary of the Interior) shall, not later than 45 days after receiving information from the applicant relating to the identification of properties which will be affected by the project for which the application is made and which may meet the criteria established by the Secretary of the Interior for inclusion on the National Register of Historic Places (together with documentation relating to such inclusion), submit his or her comments, together with such other information considered necessary by the officer, to the applicant concerning such properties, and

(2) the Secretary of the Interior shall, not later than 45 days after receiving from the applicant the information described in paragraph (1) and the comments submitted to the applicant in accordance with paragraph (1), make a determination as to whether any of the properties affected by the project for which the application is made is eligible for inclusion on the National Register of Historic Places.

Regulations by Advisory Council on Historic Preservation providing for expeditious action

(c) The Advisory Council on Historic Preservation shall prescribe regulations providing for expeditious action by the Council in making its comments under section 106 of the Act referred to in subsection (a)(1) in the case of properties which are included on, or eligible for inclusion on, the National Register of Historic Places and which are affected by a project for which an application is made under section 5318 of this title.
Pub.L. 93–383, Title I, § 121, as added Pub.L. 96–399, Title I, § 110(c), Oct. 8, 1980, 94 Stat. 1630.

References in Text. "An Act to establish a program for the preservation of additional historic properties throughout the Nation, and for other purposes, approved October 15, 1966," referred to in subsec. (a)(1), probably means Pub.L. 89–665, Oct. 15, 1966, 80 Stat. 915, popularly known as the National Historic Preservation Act of 1966, which is classified to section 470 et seq. of Title 16, Conservation.

"An Act to provide for the preservation of historical and archaeological data (including relics and specimens) which might otherwise be lost as a result of the construction of a dam, approved June 27, 1960," referred to in subsec. (a)(2), is Pub.L. 86–523, June 27, 1960, 74 Stat. 220, which is classified to section 469 et seq. of Title 16.

Section 106 of the Act referred to in subsection (a)(1), referred to in subsec. (c), means section 106 of Pub.L. 89–665, Oct. 15, 1966, 80 Stat. 917, which is classified to section 470f of Title 16.

Legislative History. For legislative history and purpose of Pub.L. 96–399, see 1980 U.S.Code Cong. and Adm.News, p. —.

CHAPTER 70—MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS

§ 5401. Congressional declaration of purposes

The Congress declares that the purposes of this chapter are/to/reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents and to improve the quality and durability of manufactured homes/ Therefore, the Congress determines that it is necessary to establish Federal construction and safety standards for manufactured homes and to authorize manufactured home safety research and development.
As amended Pub.L. 96–399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

Codification. "Manufactured homes" was editorially substituted for "mobile homes" wherever appearing, as the probable intent of Congress, in view of section 308(c)(4) of Pub.L. 96–399, which substituted "manufactured home" for "mobile home" wherever appearing.

1980 Amendment. Pub.L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

Short Title. Section 601 of Pub.L. 93–383, as amended by Pub.L. 96–399, Title III, § 308(c)(5), Oct. 8, 1980, 94 Stat. 1641, provided that: "This title [which enacted this chapter and provision set out as a note under this section] may be cited as the 'National Manufactured Housing Construction and Safety Standards Act of 1974'."

Legislative History. For legislative history and purpose of Pub.L. 96–399, see 1980 U.S.Code Cong. and Adm.News, p. —.

1\. Sales contracts

Promissory note given for purchase of mobile home was enforceable even though electrical and plumbing modifications to mobile home had not been approved as allegedly required by Mobile Home Act, West's RCWA 43.22.340–.432, in that neither this chapter nor Mobile Home Act contained provision rendering sales contract in violation of Mobile Home Act void, and only statutory penalty in Mobile Home Act provided that any person who violated provision of the Act was guilty of a gross misdemeanor. Siegall v. Kynaston, Wash.App.1980, 613 P.2d 1214.

§ 5402. Definitions

As used in this chapter, the term—

(1) "mobile home construction" means all activities relating to the assembly and manufacture of a manufactured home including but not limited to those relating to durability, quality, and safety;

(2) "dealer" means any person engaged in the sale, leasing, or distribution of new manufactured homes primarily to persons who in good faith purchase or lease a manufactured home for purposes other than resale;

(3) "defect" includes any defect in the performance, construction, components, or material of a manufactured home that renders the home or any part thereof not fit for the ordinary use for which it was intended;

(4) "distributor" means any person engaged in the sale and distribution of manufactured homes for resale;

(5) "manufacturer" means any person engaged in manufacturing or assembling manufactured homes, including any person engaged in importing manufactured homes for resale;

(6) "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this chapter;

(7) "Federal manufactured home construction and safety standard" means a reasonable standard for the construction, design, and performance of a manufactured home which meets the needs of the public including the need for quality, durability, and safety;

(8) "manufactured home safety" means the performance of a manufactured home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such manufactured home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur;

[See main volume for text of (9)]

(10) "purchaser" means the first person purchasing a manufactured home in good faith for purposes other than resale;

[See main volume for text of (11) to (13)]

As amended Pub.L. 96–399, Title III, § 308(c)(4), (d), Oct. 8, 1980, 94 Stat. 1641.

Codification. "Manufactured homes" was editorially substituted for "mobile homes" in pars. (2), (4), and (5), as the probable intent of Congress in view of section 308(c)(4) of Pub.L. 96–399, which substituted "manufactured home" for "mobile home" in this section wherever appearing.

1980 Amendment. Pars. (1), (2), (3), (7), (8), (10). Pub.L. 96–399, § 308(c)(4), substituted "manufactured home" for "mobile home" wherever appearing.

Par. (6). Pub.L. 96–399, § 308(c)(4), (d), substituted "manufactured home" for "mobile home", substituted "in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet" for "is eight body feet or more in width and is thirty-two body feet or more in length," and added exception relating to inclusion of any structure meeting all requirements of this paragraph except size and with respect to which a certification is voluntarily filed and standards complied with.

Legislative History. For legislative history and purpose of Pub.L. 96–399, see 1980 U.S.Code Cong. and Adm.News, p. —.

§ 5403. Construction and safety standards

Establishment pursuant to orders of Secretary; consultation with Consumer Product Safety Commission; reasonableness; consideration of State and local laws

(a) The Secretary, after consultation with the Consumer Product Safety Commission, shall establish by order appropriate Federal manufactured home construction and safety standards. Each such Federal manufactured home standard shall be reasonable and shall meet the highest

standards of protection, taking into account existing State and local laws relating to manufactured home safety and construction.

[See main volume for text of (b)]

Effective date of orders establishing standards

(c) Each order establishing a Federal manufactured home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than one hundred and eighty days or later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes his reasons for such finding.

Supremacy of Federal standards

(d) Whenever a Federal manufactured home construction and safety standard established under this chapter is in effect, no State or political subdivision of a State shall have any authority either to establish, or to continue in effect, with respect to any manufactured home covered, any standard regarding construction or safety applicable to the same aspect of performance of such manufactured home which is not identical to the Federal manufactured home construction and safety standard.

Amendment or revocation by Secretary; effective date

(e) The Secretary may by order amend or revoke any Federal manufactured home construction or safety standard established under this section. Such order shall specify the date on which such amendment or revocation is to take effect, which shall not be sooner than one hundred and eighty days or later than one year from the date the order is issued, unless the Secretary finds, for good cause shown, than[1] an earlier or later date is in the public interest, and publishes his reasons for such finding.

Criteria

(f) In establishing standards under this section, the Secretary shall—

(1) consider relevant available manufactured home construction and safety data, including the results of the research, development, testing, and evaluation activities conducted pursuant to this chapter, and those activities conducted by private organizations and other governmental agencies to determine how to best protect the public;

[See main volume for text of (2)]

(3) consider whether any such proposed standard is reasonable for the particular type of manufactured home or for the geographic region for which it is prescribed;

(4) consider the probable effect of such standard on the cost of the manufactured home to the public; and

[See main volume for text of (5)]

Time for issuance of order establishing initial standards

(g) The Secretary shall issue an order establishing initial Federal manufactured home construction and safety standards not later than one year after August 22, 1974.

Coverage; exclusion

(h) The Secretary shall exclude from the coverage of this chapter any structure which the manufacturer certifies, in a form prescribed by the Secretary, to be:

(1) designed only for erection or installation on a site-built permanent foundation;

(2) not designed to be moved once so erected or installed;

(3) designed and manufactured to comply with a nationally recognized model building code or an equivalent local code, or with a State or local modular building code recognized as generally equivalent to building codes for site-built housing, or with minimum property standards adopted by the Secretary pursuant to title II of the National Housing Act; and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation.

As amended Pub.L. 95–128, Title IX, § 902(a), Oct. 12, 1977, 91 Stat. 1149; Pub.L. 96–399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

[1] So in original. Probably should be "that".

References in Text. Title II of the National Housing Act, referred to in subsec. (h)(3), is classified to section 1707 et seq. of Title 12, Banks and Banking.

1980 Amendment. Subsecs. (a), (c) to (g). Pub.L. 96–399 substituted "manufactured home" for "mobile home" wherever appearing.

1977 Amendment. Subsec. (h). Pub.L. 95–128 added subsec. (h).

Legislative History. For legislative history and purpose of Pub.L. 95–128, see 1977 U.S.Code Cong. and Adm.News, p. 2884. See, also, Pub.L. 96–399, 1980 U.S. Code Cong. and Adm.News, p. ——.

§ 5404. National Manufactured Home Advisory Council

Appointment; composition; appointments without regard to civil service laws; publication of names of members and designation of members representing general public

(a) The Secretary shall appoint a National Manufactured Home Advisory Council with the following composition: eight members selected from among consumer organizations, community organizations, and recognized consumer leaders; eight members from the manufactured home industry and related groups including at least one representative of small business; and eight members selected from government agencies including Federal, State, and local governments. Appointments under this subsection shall be made without regard to the provisions of Title 5 relating to appointments in the competitive service, classification, and General Schedule pay rates. The Secretary shall publish the names of the members of the Council annually and shall designate which members represent the general public.

Consultation by Secretary with Council prior to establishment, etc., of standards

(b) The Secretary shall, to the extent feasible, consult with the Advisory Council prior to establishing, amending, or revoking any manufactured home construction or safety standard pursuant to the provisions of this chapter.

Compensation; per diem; travel expenses

(c) Any member of the National Manufactured Home Advisory Council who is appointed from outside the Federal Government may be compensated at a rate not to exceed $100 per diem (including travel-time) when engaged in the actual duties of the Advisory Council. Such members, while away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence as authorized by section 5703(b) of Title 5 for persons in the Government service employed intermittently.

As amended Pub.L. 96–399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

1980 Amendment. Subsec. (a). Pub.L. 96–399 substituted "Manufactured Home" for "Mobile Home" and "manufactured home" for "mobile home" wherever appearing.

Subsec. (b). Pub.L. 96–399 substituted "manufactured home" for "mobile home".

Subsec. (c). Pub.L. 96–399 substituted "Manufactured Home" for "Mobile Home".

Legislative History. For legislative history and purpose of Pub.L. 96–399, see 1980 U.S.Code Cong. and Adm.News, p. ——.

§ 5405. Submission of cost or other information by manufacturer

[See main volume for text of (a) and (b)]

Establishment, etc., of standards on basis of submitted information; publication of notice in Federal Register by Secretary to allow comment by interested parties

(c) If the Secretary proposes to establish, amend, or revoke a Federal manufactured home construction and safety standard under section 5403 of this title on the basis of information submitted pursuant to subsection (a) of this section, he shall publish a notice of such proposed action, together with the reasons therefor, in the Federal Register at least thirty

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days in advance of making a final determination, in order to allow interested parties an opportunity to comment.

[*See main volume for text of (d) and (e)*]

As amended Pub.L. 96-399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

1980 Amendment. Subsec. (c). Pub.L. 96-399 substituted "manufactured home" for "mobile home".

Legislative History. For legislative history and purpose of Pub.L. 96-399, see 1980 U.S.Code Cong. and Adm.News, p. —.

§ 5407. Research, testing, development, and training by Secretary; scope; contracts and grants with States, interstate agencies, and independent institutions

(a) The Secretary shall conduct research, testing, development, and training necessary to carry out the purposes of this chapter, including, but not limited to—

(1) collecting data from any source for the purpose of determining the relationship between manufactured home performance characteristics and (A) accidents involving manufactured homes, and (B) the occurrence of death, personal injury, or damage resulting from such accidents;

(2) procuring (by negotiation or otherwise) experimental and other manufactured homes for research and testing purposes; and

(3) selling or otherwise disposing of test manufactured homes and reimbursing the proceeds of such sale or disposal into the current appropriation available for the purpose of carrying out this chapter.

[*See main volume for text of (b)*]

As amended Pub.L. 96-399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

Codification. "Manufactured homes" was editorially substituted for "mobile homes" in subsec. (a)(1) to (3) as the probable intent of Congress in view of section 308(c)(4) of Pub.L. 96-399, which substituted "manufactured home" for "mobile home".

1980 Amendment. Subsec. (a)(1). Pub.L. 96-399 substituted "manufactured home" for "mobile home".

Legislative History. For legislative history and purpose of Pub.L. 96-399, see 1980 U.S.Code Cong. and Adm.News, p. —.

§ 5408. Cooperation by Secretary with public and private agencies

The Secretary is authorized to advise, assist, and cooperate with other Federal agencies and with State and other interested public and private agencies, in the planning and development of—

(1) manufactured home construction and safety standards; and

(2) methods for inspecting and testing to determine compliance with manufactured home standards.

As amended Pub.L. 96-399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

1980 Amendment. Pub.L. 96-399 substituted "manufactured home" for "mobile home" in two places.

Legislative History. For legislative history and purpose of Pub.L. 96-399, see 1980 U.S.Code Cong. and Adm.News, p. —.

§ 5409. Prohibited acts; exemptions

(a) No person shall—

(1) make use of any means of transportation or communication affecting interstate or foreign commerce or the mails to manufacture for sale, lease, sell, offer for sale or lease, or introduce or deliver, or import into the United States, any manufactured home which is manufactured on or after the effective date of any applicable Federal manufactured home construction and safety standard under this chapter and which does not comply with such standard, except as provided in subsection (b) of this section, where such manufacture,

lease, sale, offer for sale or lease, introduction, delivery, or importation affects commerce;

[*See main volume for text of 2 and (3)*]

(4) fail to issue a certification required by section 5415 of this title, or issue a certification to the effect that a manufactured home conforms to all applicable Federal manufactured home construction and safety standards, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect;

(5) fail to comply with a final order issued by the Secretary under this chapter; or

(6) issue a certification pursuant to subsection (h) of section 5403 of this title, if such person in the exercise of due care has reason to know that such certification is false or misleading in a material respect.

(b)(1) Paragraph (1) of subsection (a) of this section shall not apply to the sale, the offer for sale, or the introduction or delivery for introduction in interstate commerce of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(2) For purposes of section 5410 of this title, paragraph (1) of subsection (a) of this section shall not apply to any person who establishes that he did not have reason to know in the exercise of due care that such manufactured home is not in conformity with applicable Federal manufactured home construction and safety standards, or to any person who, prior to such first purchase, holds a certificate issued by the manufacturer or importer of such manufactured home to the effect that such manufactured home conforms to all applicable Federal manufactured home construction and safety standards, unless such person knows that such manufactured home does not so conform.

(3) A manufactured home offered for importation in violation of paragraph (1) of subsection (a) of this section shall be refused admission into the United States under joint regulations issued by the Secretary of the Treasury and the Secretary, except that the Secretary of the Treasury and the Secretary may, by such regulations, provide for authorizing the importation of such manufactured home into the United States upon such terms and conditions (including the furnishing of a bond) as may appear to them appropriate to insure that any such manufactured home will be brought into conformity with any applicable Federal manufactured home construction or safety standard prescribed under this chapter, or will be exported from, or forfeited to, the United States.

(4) The Secretary of the Treasury and the Secretary may, by joint regulations, permit the importation of any manufactured home after the first purchase of it in good faith for purposes other than resale.

(5) Paragraph (1) of subsection (a) of this section shall not apply in the case of a manufactured home intended solely for export, and so labeled or tagged on the manufactured home itself and on the outside of the container, if any, in which it is to be exported.

(c) Compliance with any Federal manufactured home construction or safety standard issued under this chapter does not exempt any person from any liability under common law.

As amended Pub.L. 95-128, Title IX, § 902(b), Oct. 12, 1977, 91 Stat. 1149; Pub.L. 96-399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

1980 Amendment. Subsecs. (a)(1), (4), (b)(1) to (3), (c). Pub.L. 96-399 substituted "manufactured home" for "mobile home" wherever appearing.

1977 Amendment. Subsec. (a)(6). Pub.L. 95-128 added par. (6).

Legislative History. For legislative history and purpose of Pub.L. 95-128, see 1977 U.S.Code Cong. and Adm.News, p. 2884. See, also, Pub.L. 96-399, 1980 U.S. Code Cong. and Adm.News, p. —.

§ 5410. Civil and criminal penalties

(a) Whoever violates any provision of section 5409 of this title, or any regulation or final order issued thereunder, shall be liable to the United

States for a civil penalty of not to exceed $1,000 for each such violation. Each violation of a provision of section 5409 of this title, or any regulation or order issued thereunder shall constitute, a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required thereby, except that the maximum civil penalty may not exceed $1,000,000 for any related series of violations occurring within one year from the date of the first violation.

[See main volume for text of (b)]

As amended Pub.L. 96–399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

1980 Amendment. Subsec. (a). Pub.L. 96-399 substituted "manufactured home" for "mobile home".

Legislative History. For legislative history and purpose of Pub.L. 96-399, see 1980 U.S.Code Cong. and Adm.News, p. —.

§ 5411. Injunctive relief

Jurisdiction; petition of United States attorney or Attorney General; notice by Secretary to affected persons to present views

(a) The United States district courts shall have jurisdiction, for cause shown and subject to the provisions of rule 65(a) and (b) of the Federal Rules of Civil Procedure, to restrain violations of this chapter, or to restrain the sale, offer for sale, or the importation into the United States, of any manufactured home which is determined, prior to the first purchase of such manufactured home in good faith for purposes other than resale, not to conform to applicable Federal manufactured home construction and safety standards prescribed pursuant to this chapter or to contain a defect which constitutes an imminent safety hazard, upon petition by the appropriate United States attorney or the Attorney General on behalf of the United States. Whenever practicable, the Secretary shall give notice to any person against whom an action for injunctive relief is contemplated and afford him an opportunity to present his views and the failure to give such notice and afford such opportunity shall not preclude the granting of appropriate relief.

[See main volume for text of (b) to (d)]

Designation by manufacturer of agent for service of administrative and judicial processes, etc.; filing and amendment of designation; failure to make designation

(e) It shall be the duty of every manufacturer offering a manufactured home for importation into the United States to designate in writing an agent upon whom service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturer, and to file such designation with the Secretary, which designation may from time to time be changed by like writing, similarly filed. Service of all administrative and judicial processes, notices, orders, decisions, and requirements may be made upon such manufacturer by service upon such designated agent at his office or usual place of residence with like effect as if made personally upon such manufacturer, and in default of such designation of such agent, service of process or any notice, order, requirement, or decision in any proceeding before the Secretary or in any judicial proceeding pursuant to this chapter may be made by mailing such process, notice, order, requirement, or decision to the Secretary by registered or certified mail.

As amended Pub.L. 96–399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

1980 Amendment. Subsecs. (a), (e). Pub.L. 96-399 substituted "manufactured home" for "mobile home", wherever appearing.

Legislative History. For legislative history and purpose of Pub.L. 96-399, see 1980 U.S.Code Cong. and Adm.News, p. —.

§ 5412. Noncompliance with standards or defective nature of manufactured home; administrative or judicial determination; repurchase by manufacturer or repair by distributor or dealer; reimbursement of expenses, etc., by manufacturer; injunctive relief against manufacturer for failure to comply; jurisdiction and venue; damages; period of limitation

(a) If the Secretary or a court of appropriate jurisdiction determines that any manufactured home does not conform to applicable Federal manufactured home construction and safety standards, or that it contains a defect which constitutes an imminent safety hazard, after the sale of such manufactured home by a manufacturer to a distributor or a dealer and prior to the sale of such manufactured home by such distributor or dealer to a purchaser—

(1) the manufacturer shall immediately repurchase such manufactured home from such distributor or dealer at the price paid by such distributor or dealer, plus all transportation charges involved and a reasonable reimbursement of not less than 1 per centum per month of such price paid prorated from the date of receipt by certified mail of notice of such nonconformance to the date of repurchase by the manufacturer; or

(2) the manufacturer, at his own expense, shall immediately furnish the purchasing distributor or dealer the required conforming part or parts or equipment for installation by the distributor or dealer on or in such manufactured home, and for the installation involved the manufacturer shall reimburse such distributor or dealer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 per centum per month of the manufacturer's or distributor's selling price prorated from the date of receipt by certified mail of notice of such nonconformance to the date such vehicle is brought into conformance with applicable Federal standards, so long as the distributor or dealer proceeds with reasonable diligence with the installation after the required part or equipment is received.

The value of such reasonable reimbursements as specified in paragraphs (1) and (2) of this subsection shall be fixed by mutual agreement of the parties, or, failing such agreement, by the court pursuant to the provisions of subsection (b) of this section.

(b) If any manufacturer fails to comply with the requirements of subsection (a) of this section, then the distributor or dealer, as the case may be, to whom such manufactured home has been sold may bring an action seeking a court injunction compelling compliance with such requirements on the part of such manufacturer. Such action may be brought in any district court in the United States in the district in which such manufacturer resides, or is found, or has an agent, without regard to the amount in controversy, and the person bringing the action shall also be entitled to recover any damage sustained by him, as well as all court costs plus reasonable attorneys' fees. Any action brought pursuant to this section shall be forever barred unless commenced within three years after the cause of action shall have accrued.

As amended Pub.L. 96–399, Title III, § 308(c)(4), Oct. 8, 1980, 94 Stat. 1641.

1980 Amendment. Subsecs. (a), (b). Pub.L. 96-399 substituted "manufactured home" for "mobile home", wherever appearing.

Legislative History. For legislative history and purpose of Pub.L. 96-399, see 1980 U.S.Code Cong. and Adm.News, p. —.

§ 5413. Inspections and investigations for promulgation or enforcement of standards or execution of other duties

Authority of Secretary; results furnished to Attorney General and Secretary of Treasury for appropriate action

(a) The Secretary is authorized to conduct such inspections and investigations as may be necessary to promulgate or enforce Federal manufactured home construction and safety standards established under this

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EMERGENCY HOMEOWNERS' RELIEF PROGRAM
INCOME CERTIFICATION FORM

CHAPTER XX—OFFICE OF ASSISTANT SECRETARY FOR NEIGHBORHOODS, VOLUNTARY ASSOCIATIONS AND CONSUMER PROTECTION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

NOTE: Nomenclature changes to Chapter XX appear at 42 FR 37547, July 22, 1977.

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AUTHORITY: Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d), Title VI, Housing and Community Development Act of 1974 (42 U.S.C. 5401), unless otherwise noted.

SOURCE: 40 FR 58752, Dec. 18, 1975, unless otherwise noted. Redesignated at 44 FR 20679, Apr. 6, 1979.

Subpart A—General

§ 3280.1 Scope.

(a) This standard covers all equipment and installations in the design, construction, fire safety, plumbing, heat-producing and electrical systems of mobile homes which are designed to be used as dwelling units. The Secretary may approve such equipment and installations which are listed or labeled by an approved testing or listing agency. Equipment and installations not listed or labeled may be approved by the Secretary upon a determination that such equipment and installations are adequate for the protection of health, safety and the general welfare.

(b) These Federal Mobile Home Construction and Safety Standards seek, to the maximum extent possible, to establish performance requirements. In certain instances, however, the use of specific requirements in the Standard is necessary because, at this time, that is the best available means of identifying the desired performance. The use of specific requirements is not intended to prohibit the utilization of any material, piece of equipment, or system which cannot meet the precise specifications, but which upon evaluation provides equivalent or superior performance. Where any material, piece of equipment, or system which does not meet precise specifications set out in the standard is shown, to the satisfaction of the Secretary, to meet the level of performance of a material, piece of equipment or system which meets the precise specifications, the Secretary may waive the specifications set out in the standard for that material, piece of equipment, or system. Whenever a waiver is issued, the Secretary shall issue an interpretative bulletin which announces the waiver, states that the material, piece of equipment or system meets the required standard of performance, and sets out any limitations or other requirements with respect to how the material, piece of equipment, or system must be used, including any tests of the material, piece of equipment, or system which the Secretary determines must be carried out before it can be used. Where a waiver has been issued, the requirements of the section of the Federal standard to which the waiver relates may be met either by meeting the specifications set out in the standard or by meeting any requirements set out in the interpretative bulletin which announces the waiver.

(c) Interpretative bulletins may also be issued for the following purposes:

(1) to clarify the meaning of the standard; and

(2) to assist in the enforcement of the standard.

§ 3280.2 Definitions.

(a) Definitions in this subpart are those common to all subparts of the standard and are in addition to the definitions provided in individual parts.

(1) "Approved," when used in connection with any material, appliance or construction, means complying with the requirements of the Department of Housing and Urban Development.

(2) "Center" means the midline between the right and left side of a mobile home.

(3) "Certification label" means the approved form of certification by the manufacturer that, under § 3280.8, is permanently affixed to each transportable section of each mobile home manufactured for sale in the United States.

(4) "Combustible Material" means materials made of, or surfaced with, wood, compressed paper, plant fibers, or other material that will ignite and burn. Such materials shall be considered as combustible even though flameproofed, fire-retardant treated, or plastered.

(5) "Defect" includes any defect in the performance, construction, components, or material of a mobile home that renders the home or any part thereof not fit for the ordinary use for which it was intended.

(6) "Department" means the Department of Housing and Urban Development.

(7) "Dwelling Unit" means one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking and eating.

(8) "Equipment" includes materials, appliances, devices, fixtures, fittings or accessories both in the construction of, and in the fire safety, plumbing, heat-producing and electrical systems of mobile homes.

(9) "Federal mobile home construction and safety standard" means a reasonable standard for the construction, design, and performance of a mobile home which meets the needs of the public including the need for quality, durability, and safety.

(10) "Imminent safety hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury.

(11) "Installations" means all arrangements and methods of construction, as well as fire safety, plumbing, heat-producing and electrical systems used in mobile homes.

(12) "Labeled" means a label, symbol or other identifying mark of a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of production of labeled equipment or materials, and by whose labeling is indicated compliance with nationally recognized standards or tests to determine suitable usage in a specified manner.

(12) "Length of a Mobile Home" means the distance from the exterior of the front wall (nearest to the drawbar and coupling mechanism) to the exterior of the rear wall (at the opposite end of the home) where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, drawbars, couplings, hitches, wall and roof extensions, or other attachments.

(14) "Listed or Certified" means included in a list published by a nationally recognized testing laboratory, inspection agency, or other organization concerned with product evaluation that maintains periodic inspection of production of listed equipment or materials, and whose listing states either that the equipment or material meets nationally recognized standards or has been tested and found suitable for use in a specified manner.

(15) "Manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale.

(16) "Mobile Home" means a structure, transportable in one or more sections, which is eight body feet or more in width and is thirty-two body feet or more in length, and which is built on a permanent chassis, and designed to be used as a dwelling with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein.

(17) "Mobile Home Construction" means all activities relating to the assembly and manufacture of a mobile home including, but not limited to, those relating to durability, quality and safety.

(18) "Mobile Home Safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur.

(19) "Registered Engineer or Architect" means a person licensed to practice engineering or architecture in a state and subject to all laws and limitations imposed by the state's Board of Engineering and Architecture Examiners and who is engaged in the professional practice of rendering service or creative work requiring education, training and experience in engineering sciences and the application of special knowledge of the mathematical, physical and engineering sciences in such professional or creative work as consultation, investigation, evaluation, planning or design and supervision of construction for the purpose of securing compliance with specifications and design for any such work.

(20) "Secretary" means the Secretary of Housing and Urban Development, or an official of the Department delegated the authority of the Secretary with respect to Title VI of Public Law 93-383.

(21) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(22) "Width of a Mobile Home" means the distance from the exterior of one side wall to the exterior of the opposite side wall where such walls enclose living or other interior space and such distance includes expandable rooms but not bay windows, porches, wall and roof extensions, or other attachments.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 960, Jan. 4, 1977]

§ 3280.3 Acceptance of plans.

(a) Each manufacturer of mobile homes shall submit the building plans for every model of such mobile home to the Secretary, or Secretary's designee, for the purpose of inspection for conformance to this standard.

(b) The manufacturer shall certify that each such building plan meets the Federal construction and safety standard in force at that time before the mobile home involved is produced.

(c) Regulations pertaining to enforcement of these standards and to labeling of mobile homes shall be as prescribed by the Secretary.

§ 3280.4 Incorporation by reference.

(a) The specifications, standards and codes of agencies of the U.S. Government, to the extent they are incorporated by reference in this standard, have the same force and effect as this standard. Wherever reference standards and this standard are inconsistent, the requirements of this standard prevail to the extent of the inconsistency.

(b) The abbreviations and sources of these referenced standards, specifications and codes appear below:

AA—The Aluminum Association, 750 Third Avenue, New York, NY 10017.

ABPA—Acoustical and Board Products Association, 205 West Touhy Avenue, Chicago, Illinois 60068.

AGA—American Gas Association Laboratories, 8501 East Pleasant Valley Road, Cleveland, Ohio 44131.

AISC—American Institute of Steel Construction, 1221 Avenue of the Americas, New York, New York 10020.

AISI—American Iron and Steel Institute, 1000 16th Street, N.W., Washington, D.C. 20036.

AITC—American Institute of Timber Construction, 333 W. Hampden Avenue, Englewood, Colorado 80110.

ANSI—American National Standards Institute, 1430 Broadway, New York, New York 10017.

APA—American Plywood Association, 1119 A Street, Tacoma, Wash. 98401.

ASHRAE—American Society of Heating Refrigeration and Air-conditioning Engineers, 345 East 47th Street, New York, New York 10017.

ASME—American Society of Mechanical Engineers, 345 East 47th Street, New York, New York 10017.

ASTM—American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103.

CMI—Cultured Marble Institute, 230 North Michigan Avenue, Chicago, Illinois 60601.

CS—Commercial Standards—Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

DOC—Department of Commerce, Washington, D.C. 20230.

DOT—Department of Transportation, Washington, D.C. 20590.

FHA—Federal Housing Administration, Washington, D.C. 20410.

FHDA—Fir and Hemlock Door Association, Yeon Building, Portland, Oregon 97204.

FS—Federal Specification—Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

GAL Gas Appliance Laboratory, 3130 East Olympic Boulevard, Los Angeles, California 90023.

HUD U.S. Department of Housing and Urban Development, Washington, D.C. 20410.

HPMA Hardwood Plywood Manufacturers Association, P.O. Box 6246, Arlington, Virginia 22206.

HVI Home Ventilating Institute, 230 North Michigan Avenue, Chicago, Illinois 60601.

IAPMO International Association of Plumbing and Mechanical Officials, 5032 Alhambra Avenue, Los Angeles, California 90032.

ISANTA Industrial Staple and Nail Technical Association, P.O. Box 3072, City of Industry, California 91744.

NFPA National Fire Protection Association, 470 Atlantic Avenue, Boston, Massachusetts.

(N)FPA National Forest Products Association (formerly National Lumber Manufacturers Association), 1619 Massachusetts Ave., Wash., D.C. 20036.

NPA National Particleboard Association, 2306 Perkins Place, Silver Spring, Maryland 20910.

NSF National Sanitation Foundation, 3475 Plymouth Road, Ann Arbor, Michigan 48105.

NWMA National Woodwork Manufacturers Association, 400 West Madison Street, Chicago, Illinois 60606.

PS Product Standard Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

SJI Steel Joist Institute, 2001 Jefferson Davis Highway, Arlington, Virginia 22202.

TPI Truss Plate Institute, Suite 200, 7100 Baltimore Avenue, College Park, Maryland 20740.

UL Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Illinois 60611.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 960, Jan. 4, 1977]

§ 3280.5 Data Plate.

(a) Each mobile home shall bear a data plate affixed in a permanent manner near the main electrical panel or other readily accessible and visible location. Data plates shall contain not less than the following information:

(1) The name and address of the manufacturing plant in which the mobile home was manufactured.

(2) The serial number and model designation of the unit and the date the unit was manufactured.

(3) The statement, "This mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture."

(4) A list of major factory-installed equipment including the manufacturer's name and the model designation of each appliance.

(5) Reference to the structural zone and wind zone for which the home is designed and duplicates of the maps as set forth in § 3280.305(c)(4). This information may be combined with the heating/cooling certificate and insulation zone maps required by §§ 3280.510 and 3280.511.

(6) The statement: "Design Approval by" followed by the name of the agency which approved the design.

[42 FR 960, Jan. 4, 1977]

§ 3280.6 Serial number.

(a) A mobile home serial number which will identify the manufacturer and the state in which the mobile home is manufactured, must be stamped into the foremost cross member. Letters and numbers must be ⅜ inch minimum in height. Numbers must not be stamped into hitch assembly or drawbar.

§ 3280.7 Modular Homes.

A structure which meets the definition of "mobile home" set out in § 3280.2(a)(16) is not subject to the provisions of this part if it enters the first stage of production before June 30, 1976, and meets any one or more of the following criteria:

(a) The structure is manufactured in accordance with and meets the following codes or the most recent edition of the following codes published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA):

(1) BOCA Basic Building Code—1975;

(2) BOCA Basic Industrialized Dwelling Code—1975;

(3) BOCA Basic Mechanical Code—1975;

(4) BOCA Basic Plumbing Code—1975; and

(5) National Electrical Code—NFPA 70—1975.

(b) The structure is manufactured in accordance with and meets the following codes or the most recent edition of the following codes published by the Southern Building Code Congress (SBCC) and the NFPA:

(1) Standard Building Code—1976;

(2) Standard Gas Code—1976;

(3) Standard Mechanical Code—1976;

(4) Standard Plumbing Code—1975, with 1976 revision; and

(5) National Electrical Code—NFPA 70—1975.

(c) The structure is manufactured in accordance with and meets the following codes or the most recent edition of the following codes published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAPMO), and the NFPA.

(1) Uniform Building Code—1973; (ICBO)

(2) Uniform Mechanical Code—1975; (ICBO) and (IAPMO)

(3) National Electrical Code—NFPA 70—1975; and

(4) Uniform Plumbing Code—1973, (IAPMO)

(d) The structure is manufactured in accordance with and meets the following codes published by BOCA, SBCC, ICBO, the American Insurance Association and the NFPA:

(1) One- and Two-Family Dwelling Code, 1975 edition; and

(2) National Electrical Code—70—1975.

(e) The structure meets a standard established by a state for modular homes, as distinct from mobile homes as they are defined by the state.

(f) The structure is built in accordance with an FHA Structural Engineering Bulletin and FHA Minimum Property Standards and is eligible for long-term financing under section 203(b) of the National Housing Act, 12 U.S.C. 1701 et seq.

(g) The structure is manufactured with and meets the following codes or the most recent edition of the following codes published by the American Insurance Association, (NFPA), (BOCA), (SBCC) (ICBO), (IAPMO), and the National Association of Plumbing-Heating-Cooling Contractors (NAPHCC).

(1) The National Building Code—1976;

(2) National Electrical Code—NFPA—70—1975.

(3) BOCA Basic Plumbing Code—1975 or Standard Plumbing Code with 1976 revision or Uniform Plumbing Code (IAPMO)—1973 or National Standard Plumbing Code (NAPHCC)—1973.

Provided, that any aspects of the cited codes or any state codes which are intended to apply to mobile homes, as such codes may define them, are preempted by the comparable aspects of the Federal standards.

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5403, 5404 and 7(d) of the Dept. of Housing and Urban Development Act, 42 U.S.C. 3535(d))

[42 FR 35012, July 7, 1977]

§ 3280.8 Certification label.

(a) A permanent label shall be affixed to each transportable section of each mobile home for sale or lease in the United States. This label shall be separate and distinct from the data plate which the manufacturer is required to provide under § 3280.5 of the standards.

(b) The label shall be approximately 2 in. by 4 in. in size and shall be permanently attached to the mobile home by means of 4 blind rivets, drive screws, or other means that render it difficult to remove without defacing it. It shall be etched on 0.32 in. thick aluminum plate. The label number shall be etched or stamped with a 3 letter designation which identifies the production inspection primary inspection agency and which the Secretary shall assign. Each label shall be marked with a 6 digit number which the label supplier shall furnish. The labels shall be stamped with numbers sequentially.

(c) The label shall read as follows: "As evidenced by this label No. ABC 000001, the manufacturer certifies to the best of the manufacturer's knowledge and belief that this mobile home has been inspected in accordance with the requirements of the Department of Housing and Urban Development and is constructed in conformance with the Federal Mobile Home Construction and Safety Standards in effect on the date of manufacture. See data plate." However, labels contain-

ing the language specified in 24 CFR 3282.362 as issued on May 13, 1976, at 41 FR 19869, shall be used until inventories held by IPIA's as of December 31, 1976, are exhausted, except that all labels applied to mobile homes on or after June 30, 1977, shall contain the language set out herein.

(d) The label shall be located at the tail-light end of each transportable section of the mobile home approximately one foot up from the floor and one foot in from the road side, or as near that location on a permanent part of the exterior of the mobile home unit as practicable. The road side is the right side of the mobile home when one views the mobile home from the tow bar end of the mobile home.

(42 FR 960, Jan. 4, 1977)

Subpart B—Planning Considerations

§ 3280.101 Scope.

Subpart B states the planning requirements in mobile homes. The intent of this subpart is to assure the adequacy of architectural planning considerations which assist in determining a safe and healthful environment.

§ 3280.102 Definitions.

(a) "Gross Floor Area" means all space, wall to wall, including recessed entries not to exceed 5 sq. ft. and areas under built-in vanities and similar furniture. Where the ceiling height is less than that specified in § 3280.104, the floor area under such ceilings shall not be included. Floor area of closets shall not be included in the gross floor area.

(b) "Habitable Room" means a room or enclosed floor space arranged for living, eating, food preparation, or sleeping purposes not including bathrooms, foyers, hallways, and other accessory floor space.

(c) "Laundry Area" means an area containing or designed to contain a laundry tray, clothes washer and/or clothes dryer.

§ 3280.103 Light and ventilation.

Provisions shall be made for adequate light and ventilation in accordance with the following:

(a) Each habitable room shall be provided with exterior windows and/or doors having a total glazed area of not less than 8 percent of the gross floor area. An area equivalent to not less than 4 percent of the gross floor area shall be available for unobstructed ventilation. Glazed areas need not be openable where a mechanical ventilation system is provided and is capable of producing a change of air in the room(s) every 30 minutes with not less than one-fifth of the air supply taken from outside the mobile home. Windows and doors used for light or ventilation shall open directly to the outside of the home.

(b) In lieu of the requirements in § 3280.103(a), kitchens may be provided with artificial light and mechanical ventilation capable of producing a change of air in the room every 30 minutes. (See § 3280.710).

(c) Bathroom and toilet compartments. Each bathroom and toilet compartment shall be provided with artificial light and, in addition, be provided with external windows or doors having not less than 1½ sq. ft. of fully openable glazed area, except where a mechanical ventilation system is provided capable of producing a change of air every 12 minutes. Any mechanical ventilation system shall exhaust directly to the outside of the mobile home.

§ 3280.104 Ceiling heights.

(a) Every habitable room and bathroom shall have a minimum ceiling height of not less than 7 feet, 0 inches for a minimum of 50 percent of the room's floor area. The remaining area may have a ceiling with a minimum height of 5 feet, 0 inches. Minimum height under dropped ducts, beams, etc. shall be 6 feet, 4 inches.

(b) Hallways and foyers shall have a minimum ceiling height of 6 feet, 6 inches.

§ 3280.105 Exit facilities; exterior doors.

(a) *Number and location of exterior doors.* Mobile homes shall have a mini-

mum of two exterior doors located remote from each other.

(1) Required egress doors shall not be located in rooms where a lockable interior door must be used in order to exit.

(2) In order for exit doors to be considered "remote" from each other, they must comply with all of the following:

(i) Both of the required doors must not be in the same room or in a group of rooms which are not defined by fixed walls.

(ii) Single wide units. Doors may not be less than 12 ft. c-c from each other as measured in any straight line direction regardless of the length of path of travel between doors.

(iii) Double wide units. Doors may not be less than 20 ft. c-c from each other as measured in any straight line direction regardless of the length of path of travel between doors.

(iv) One of the required exit doors must be accessible from the doorway of each bedroom without traveling more than 35 ft.

(b) *Door design and construction.* (1) Exterior swinging doors shall be constructed in accordance with § 3280.405 the "Standard for Swinging Exterior Passage Doors for Use in Mobile Homes". Exterior sliding glass doors shall be constructed in accordance with § 3280.403 the "Standard for Windows and Sliding Glass Doors Used in Mobile Homes".

(2) All exterior swinging doors shall provide a minimum 28 inch wide by 74 inch high clear opening. All exterior sliding glass doors shall provide a minimum 28 inch wide by 72 inch high clear opening.

(3) Each swinging exterior door other than screen or storm doors shall have a key-operated lock that has a deadlocking latch or a key-operated dead bolt with a passage latch. Locks shall not require the use of a key for operation from the inside.

(4) All exterior doors, including storm and screen doors, opening outward shall be provided with a safety door check.

§ 3280.106 Exit facilities; egress windows.

(a) Every room designed expressly for sleeping purposes, unless it has an exit door (See § 3280.105), shall have at least one outside window or approved device which meets the requirements of § 3280.404 the "Standard for Egress Windows for Use in Mobile Homes".

(b) The bottom of the window opening shall not be more than 36 inches above the floor.

(c) Locks, latches, operating handles, tabs and any other window, screen or storm window devices which need to be operated in order to permit exiting shall not be located in excess of 60 inches from the finished floor.

§ 3280.107 Interior privacy.

Bathroom and toilet compartment doors shall be equipped with a privacy lock.

§ 3280.108 Interior passage.

(a) Interior doors having passage hardware without a privacy lock, or with a privacy lock not engaged, shall open from either side by a single movement of the hardware mechanism in any direction.

(b) Each mobile home interior door, when provided with a privacy lock, shall have a privacy lock that has an emergency release on the outside to permit entry when the lock has been locked by a locking knob, lever, button, or other locking device on the inside.

§ 3280.109 Space planning.

The dimensions set forth in §§ 3280.110 through 3280.113 are intended to assure that space and a functional arrangement of this space are provided to accommodate the normal activities of living in the mobile home.

§ 3280.110 Room requirements.

(a) Every mobile home shall have at least one living area with not less than 150 sq. ft. of gross floor area.

(b) Rooms designed for sleeping purposes shall have a minimum gross square foot floor area as follows:

(1) All bedrooms shall have at least 50 sq. ft. of floor area.

(2) Bedrooms designed for two or more people shall have 70 sq. ft. of floor area plus 50 sq. ft. for each person in excess of two.

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(c) Every room designed for sleeping purposes shall have accessible clothes hanging space with a minimum inside depth of 22 inches and shall be equipped with a rod and shelf.

§ 3280.111 Minimum room dimension.

The gross floor area required by § 3280.110 (a) and (b) shall have no clear horizontal dimension less than 5 feet except as permitted by § 3280.102(a).

§ 3280.112 Toilet compartments.

Each toilet compartment shall be a minimum of 30 inches in width, except, when the toilet is located adjacent to the short dimension of the tub, the distance from the tub to the center line of the toilet shall not be less than 12 inches. At least 21 inches of clear space shall be provided in front of each toilet.

§ 3280.113 Hallways.

Hallways shall have a minimum horizontal dimension of 28 inches measured from the interior finished surface to the interior finished surface of the opposite wall. When appliances are installed in a laundry area, the measurement shall be from the front of the appliance to the opposite finished interior surface. When appliances are not installed and a laundry area is provided, the area shall have a minimum clear depth of 27 inches in addition to the 28 inches required for passage. In addition, a notice of the available clearance for washer/dryer units shall be posted in the laundry area. Minor protrusions into the minimum hallway width by doorknobs, trim, smoke detectors or light fixtures are permitted.

§ 3280.114 Glass and glazed openings.

(a) *Windows and sliding glass doors.* All windows and sliding glass doors shall meet the requirements of § 3280.403 the "Standard for Windows and Sliding Glass Doors Used in Mobile Homes".

(b) *Safety glazing.* Glazing in all entrance or exit doors, sliding glass doors units (fixed or moving sections), unframed glass doors, unbacked mirrored wardrobe doors (i.e. mirrors not secured to a backing capable of being the door itself), shower and bathtub enclosures and surrounds to a height of 6 feet above the bathroom floor level, storm doors or combination doors, and in panels located within 12 inches on either side of exit or entrance doors shall be of a safety glazing material. Safety glazing material is considered to be any glazing material capable of passing the requirements of ANSI Z97.1-72.

Subpart C—Fire Safety

§ 3280.201 Scope.

The purpose of Subpart C of this standard is to specify measures which will provide a reasonable degree of safety from fire for the occupants. It is the intent of this Subpart that mobile homes shall be constructed so as to reduce fire hazards and provide detection of a fire for safe egress.

§ 3280.202 Definitions.

(a) The following definitions are applicable to Subpart C only:

(1) "Flame Spread" means the propagation of flame over a surface.

(2) "Interior finish" means the surface material of walls, fixed or movable partitions, ceilings and other exposed interior surfaces affixed to the mobile home structure including any material such as paint or wallpaper and the substrate to which they are applied. Interior finish does not include windows and doors or their frames, skylight, trim, moldings, decorations or furnishing which are not affixed to the mobile home structure.

(3) "Single Station Alarm Device" means an assembly incorporating the smoke detector sensor, the electrical control equipment requirement, and the alarm-sounding device in one unit.

(4) "Smoke Detector" means wall mounted detector of the ionization chamber or photoelectric type which detects visible or invisible particles of combustion and operates from the 120 V AC source of electrical power supply.

§ 3280.203 Flame spread limitations and fire protective requirements.

(a) *Flame spread limitations.* The surface flame spread rating of interior

finish materials shall not exceed the following when tested by Standard Method of Test for Surface Burning Characteristics of Building Materials, ASTM E84. The surface flame spread rating of interior finish materials required by § 3280.203(a) (4) and (6) may be established using the Surface Flammability of Materials Using a Radiant Heat Energy Source, ASTM E162. Testing shall be by laboratories acceptable to the Secretary.

(1) The interior finish of all walls and partitions shall not have a flame spread rating exceeding 200 except as otherwise specified herein. The flame spread limitation shall not apply to: molding, trim, windows, doors or series of doors not exceeding 4 feet in width, and permanently attached decorative items such as pictures or accent panels constituting not more than 10 percent of the aggregate wall surface in any room or space nor more than 32 square feet in surface area whichever is less.

(2) All ceiling interior finish shall not have a flame spread rating exceeding 200, excluding molding and trim 2 inches or less in width.

(3) Furnace and water heater spaces shall be enclosed by walls, ceiling and doors having an interior finish with a flame spread rating not exceeding 25.

(4) Combustible kitchen cabinet doors, countertops, exposed bottoms and end panels shall not exceed a flame spread rating of 200. Cabinet rails, stiles, mullions and toe strips are exempted.

(5) Exposed interior finishes adjacent to the cooking range shall not have a flame spread rating exceeding 50. Adjacent surfaces are the exposed vertical surfaces between the range top height and the overhead cabinets and/or ceiling and within 6 horizontal inches of the cooking range.

(6) Finish surfaces of plastic bath tubs, shower units and tub or shower doors shall not exceed a flame spread rating of 200.

(b) *Fire protective requirements.* The interior surfaces of walls and ceilings encasing furnace and water heater enclosures (including combustible doors for either interior or exterior access to the enclosures) and the exposed wall adjacent to the cooking range as referenced in § 3280.203(a)(5) shall be protected by 5/16" gypsum board or material having equivalent fire protective properties. At furnace and water heater spaces, all openings for pipes and vents shall be tight-fitted or firestopped.

(40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977)

§ 3280.204 Kitchen cabinet protection.

(a) The bottom and sides of combustible kitchen cabinets over cooking ranges including a space of 6 inches from the side of the cooking range shall be protected with at least ¼ inch thick asbestos millboard covered with not less than 26 gage sheet metal (.017 stainless steel, .024 aluminum, or .020 copper) or equivalent protection. The protective metal over the range shall form a hood with not less than a 3 inch eyebrow (measuring horizontally from face of cabinet). The hood shall be centered over and at least as wide as the cooking range.

§ 3280.205 Carpeting.

(a) Carpeting shall not be used under a fuel-fired furnace or water heater.

§ 3280.206 Firestopping.

(a) Firestopping of 1 inch minimum nominal lumber or the equivalent, shall be provided to cut off all concealed draft openings in all stud walls and partitions, including furred spaces, so placed that the maximum vertical dimension of any concealed space is not over eight feet.

§ 3280.207 Requirements for foam plastic thermal insulating materials.

(a) *General.* Foam plastic thermal insulating materials shall not be used within the cavity of walls or ceiling or exposed to the interior of the mobile home, unless otherwise specifically approved by HUD, based on accepted tests including full scale room fire testing.

(b) *Specific requirements.* Foam plastic having a flame spread rating of 75 or less may be used as siding backer board or sheathing with a maximum of ¾" inch thickness when separated from the interior of the mobile home

by a minimum of 2 inches of mineral insulation or equivalent fire protective material.

§ 3280.208 Mobile home fire detection equipment.

(a) *General.* At least one smoke detector (which may be a single-station alarm device) shall be installed in each mobile home to protect each separate bedroom area.

(b) *Smoke detector location.* A smoke detector shall be installed in the hallway or space communicating with the bedroom area.

(1) The specific location shall be in the hallway between the living room area and the first bedroom, except that when a door(s) separates the living area from the bedroom area, the detector shall be installed on the living area side as close to the door(s) as practicable.

(2) Mobile homes having bedrooms separated by any one or combination of common use areas such as kitchen, dining room, living room, or family room (but not a bathroom or utility room), shall have at least two smoke detectors, one detector protecting each bedroom area.

(3) Where practicable, the detector shall be located between the return air intake and the living area.

(4) The architectural planning of the mobile home shall not isolate a smoke detector so as to impair its effectiveness.

(c) *Smoke detectors.* Smoke detectors shall be either the ionization chamber or the photoelectric wall mounted type and shall comply with all the requirements of Underwriters' Laboratories Standard No. 167 for ionization and 168 for photoelectric type detectors. Detectors shall bear the label of a testing and approval laboratory that indicates the smoke detectors have been tested and approved under the requirements of UL 167 or 168. The testing and approved laboratory shall be one which maintains a periodic follow-up service of the labeled devices to ensure compliance with the original approval.

(d) *Installation.* Smoke detectors shall be installed on an interior wall of the mobile home. The top of the detector shall be 5- to 7-inches from the ceiling. The detector mounting shall be attached to an electrical outlet box and the detector connected by a permanent wiring method into a general electrical circuit. There shall be no switches in the circuit to the detector other than the overcurrent proective device protecting the branch circuit. The smoke detector shall not be placed on any branch circuit protected by a ground fault circuit interrupter. (See § 3280.208(b)).

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5403 and 5424 and § 7(d), Department of HUD Act, 42 U.S.C. 3535(d)))

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 54383, Oct. 6, 1977]

Subpart D—Body and Frame Construction Requirements

§ 3280.301 Scope.

This subpart covers the minimum requirements for materials, products, equipment and workmanship needed to assure that the mobile home will provide: (a) Structural strength and rigidity, (b) protection against corrosion, decay, insects and other similar destructive forces, (c) protection against hazards of windstorm, (d) resistance to the elements, and (e) durability and economy of maintenance.

§ 3280.302 Definitions.

(a) The following definitions are applicable to Subpart D only:

(1) "Anchoring Equipment" means straps, cables, turnbuckles, and chains, including tensioning devices, which are used with ties to secure a mobile home to ground anchors.

(2) "Anchoring System" means a combination of ties, anchoring equipment, and ground anchors that will, when properly designed and installed, resist overturning and lateral movement of the mobile home from wind forces.

(3) "Tie" means strap, cable, or securing devices used to connect the mobile home to ground anchors.

(4) "Diagonal Tie" means a tie intended to primarily resist horizontal forces, but which may also be used to resist vertical forces.

(5) "Vertical Tie" means a tie intended to resist the uplifting or overturning forces.

(6) "Footing" means that portion of the support system that transmits loads directly to the soil.

(7) "Ground Anchor" means any device at the mobile home stand designed to transfer mobile home anchoring loads to the ground.

(8) "Hurricane Resistive Mobile Home" means a mobile home which meets the wind design load requirements for Zone II in § 3280.305(c)(2).

(9) "Loads" (i) "Dead Loads" means the weight of all permanent construction including walls, floors, roof, partition, and fixed service equipment.

(ii) "Live Load" means the weight superimposed by the use and occupancy of the mobile home, including wind load and snow load, but not including dead load.

(iii) "Wind Load" means the lateral or vertical pressure or uplift on the mobile home due to wind blowing in any direction.

(10) "Main Frame" means the structural component on which is mounted the body of the mobile home.

(11) "Pier" means that portion of the support system between the footing and the mobile home exclusive of caps and shims.

(12) "Sheathing" means material which is applied on the exterior side of a building frame under the exterior weather resistant covering.

(13) "Stabilizing Devices" means all components of the anchoring and support systems such as piers, footings, ties, anchoring equipment, ground anchors, and any other equipment which supports the mobile home and secures it to the ground.

(14) "Support System" means a combination of footings, piers, caps, and shims that will, when properly installed, support the mobile home.

§ 3280.303 General requirements.

(a) *Minimum requirements.* The design and construction of a mobile home shall conform with the provisions of this standard. Requirements for any size, weight, or quality of material modified by the terms of "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer or installer may exceed these standards provided such deviation does not result in any inferior installation or defeat the purpose and intent of this standard.

(b) *Construction.* All construction methods shall be in conformance with accepted engineering practices to insure durable, livable, and safe housing and shall demonstrate acceptable workmanship reflecting journeyman quality of work of the various trades.

(c) *Structural analysis.* The strength and rigidity of the component parts and/or the integrated structure shall be determined by engineering analysis or by suitable load tests to simulate the actual loads and conditions of application that occur. (See Subparts E and J.)

(d) *Hurricane resistive design.* Only mobile homes which meet the applicable requirements of § 3280.305(c)(2) may be designated "Designed for Hurricane Zone." No similar designation which would imply hurricane resistance shall be used when the mobile home does not meet these requirements.

(e) *New materials and methods.* (1) Any new material or method of construction not provided for in this standard and any material or method of questioned suitability proposed for use in the manufacture of the structure shall nevertheless conform in performance to the requirements of this standard.

(2) Unless based on accepted engineering design for the use indicated, all new mobile home materials, equipment, systems or methods of construction not provided for in this standard shall be subjected to the tests specified in paragraph (g) of this section.

(f) *Allowable design stress.* The design stresses of all materials shall conform to accepted engineering practice. The use of materials not certified as to strength or stress grade shall be limited to the minimum allowable stresses under accepted engineering practice.

(g) *Alternate test procedures.* In the absence of listed and prescribed standards, the manufacturer shall develop or cause to be developed necessary tests to demonstrate the structural

properties and the significant characteristics of the method employed. Such tests shall be witnessed by an independent licensed professional engineer or architect or by a recognized testing organization. Copies of the test results shall be kept on file by the mobile home manufacturer.

§ 3280.304 Materials.

(a) Dimension and board lumber shall not exceed 19 percent moisture content at time of installation.

(b)(1) Standards for some of the generally used materials and methods of construction are listed in the following table.

(2) Materials and methods of construction utilized in the design and construction of mobile homes which are covered by the standards in the following table, or any applicable portion thereof shall comply with these requirements.

(3) Engineering analysis and testing methods contained in these references shall be utilized to judge conformance with accepted engineering practices required in § 3280.303(c).

(4) Materials and methods of installation conforming to these standards shall be considered acceptable when installed in conformance with the requirements of this part.

(5) Materials meeting the standards (or the applicable portion thereof) are considered acceptable unless otherwise specified herein or unless substantial doubt exists as to conformance.

Material / method	Standard
Aluminum: Aluminum Construction Manual, specifications for aluminum structures	AA-1971
Steel	
Specification for the design, fabrication, and erection of structural steel for buildings with supplements 1, 2 and 3 (space frames meeting ASTM A36 are acceptable if designed to meet the loadings and performance requirements of this standard)	AISC-1973
Specification for the design of cold formed steel structural members with supplement 1	AISI-1968
Specification for the design of light gage cold formed stainless steel structural members	AISI-1972
Standard specifications for open web steel joists, J- and H-Series	AISC and SJI
Criteria for structural applications of steel cables for buildings	AISI-1973
Wood and wood products	
Hardboard	PS 58, 59, and 60-1973
Hardwood and decorative plywood	USDC PS 51-71
Structural design guide for hardwood plywood	HPMA-SG-71
Timber, structural glued laminated—inspection	AITC 200-1973
Timber, structural glued laminated	USDC PS 56-73
Construction and industrial plywood	PS 1-74
Plywood residential construction guide	APA-1975
Design specifications for plywood—lumber components	APA-1974
Fabrication specifications of plywood—lumber components	APA-1975
Stress grade lumber and its fastenings—national design specifications for (and supplement)	(NF) FPA-1973
Structural design data—vol. I	(NF) FPA-1970
Span tables for joists and rafters (PS 20-70)	(NF) FPA-1973
Working stresses for joists and rafters	(NF) FPA-1974
Timber construction standards	AITC 100-1972
Design specifications for light metal plate connected wood trusses	TPI-74
Span tables for light metal plate connected wooden trusses	TPI, 1972
Particleboard for mobile home decking	NPA 1-73
Mat formed wood particleboard	CS 236-66
All plywood beams for mobile homes	APA 124-74
Wood flush doors	NWMA IS 1-74
Wood window units	ANSI A200.1-74 (NWMA IS 2-73)
Water repellent preservative treating for millwork	NWMA IS 4-70
Wood patio doors	NWMA IS 3-70
Other: Gypsum wallboard	ASTM C36
Fasteners	
Nails, brads, staples and spikes, wire, cut and wrought	FS FF-N-105b
Application and fastening schedule: Power driven, mechanically driven and manually driven fasteners	HUD FHA Use of Materials Bulletin No. UM-25d
Windows and glazing: Transparent safety glazing material used in buildings	ANSI Z97.1-1972
Unclassified: Building code requirements for minimum design loads in buildings and other structures	ANSI A58.1-1972

(c) Wood products shall be identified as complying with the appropriate standards.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977]

§ 3280.305 Structural design requirements.

(a) Each mobile home shall be designed and constructed as a completely integrated structure capable of sustaining the design load requirements of this standard and shall be capable of transmitting these loads to stabilizing devices without exceeding the allowable loads stresses or deflections. Roof framing shall be securely fastened to wall framing, walls to floor structure, and floor structure to chassis to secure and maintain continuity between the floor and chassis, so as to resist wind overturning and sliding as imposed by design loads in this part. Uncompressed finished flooring greater than ⅛ inch in thickness shall not extend beneath load bearing walls which are fastened to the floor structure.

(b) *Design Loads.* (1) *Design dead loads.* Design dead loads shall be the actual dead load supported by the structural assembly under consideration.

(2) *Design live loads.* The design live loads and wind and snow loads shall be as specified in this section and shall be considered to be uniformly distributed. The roof live load or snow load shall not be considered as acting simultaneously with the wind load and the roof live or snow load and floor live loads shall not be considered as resisting the overturning moment due to wind.

(3) When engineering calculations are performed, allowable unit stresses may be increased as provided in the documents referenced in § 3280.304 except as shown otherwise in § 3280.306(a).

(c) *Wind, Snow and Roof Loads.* (1) *Standard Wind (Zone I).* When a mobile home is not designated as "Hurricane Resistive," the mobile home and each wind resisting part and portion thereof shall be designed for horizontal wind loads not less than 15 psf and a net uplift load of not less than 9 psf.

(2) *Hurricane Resistive (Zone II).* (i) When a mobile home is designated as "Hurricane Resistive," the home and each wind resisting part and portion thereof shall be designed for horizontal wind loads not less than 25 psf and a net uplift not less than 15 psf.

(ii) For exposures in coastal and other areas where wind records indicate significant differences, 125 mph or greater, from the wind loads stated above, the Department may establish more stringent requirements for homes known to be destined for such areas.

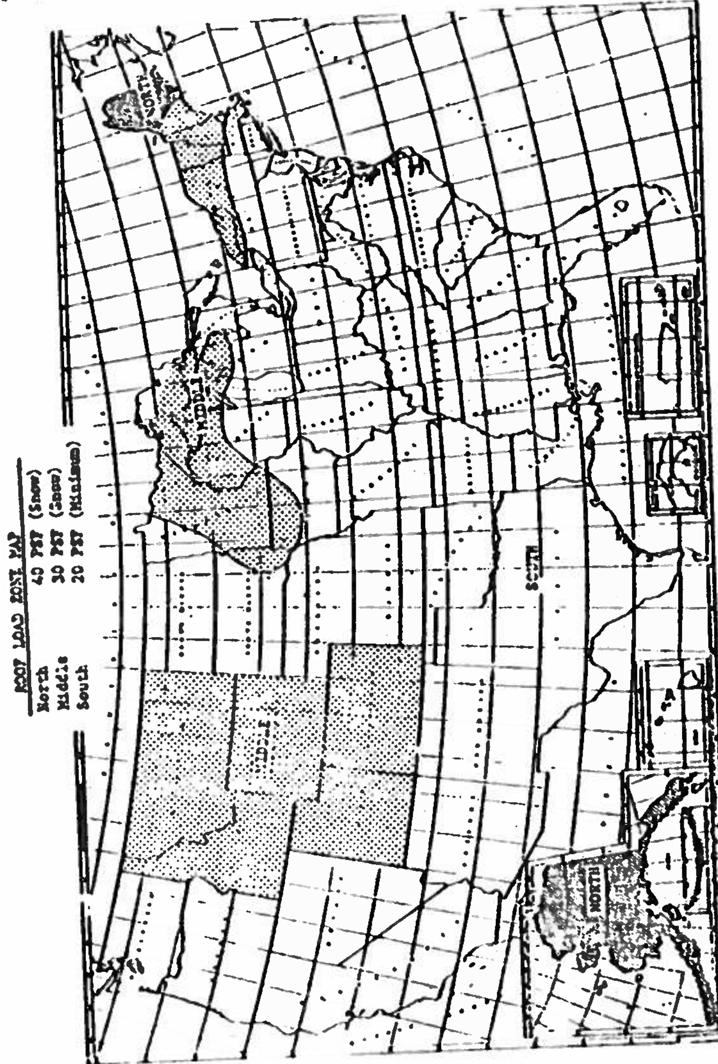
(3) *Roof Loads.* (i) Flat, curved and pitched roofs shall be designed to resist the following live loads, applied downward on the horizontal projection as appropriate for the design zone marked on the mobile home:

	Pounds per square foot
North Zone	40
Middle Zone	30
South Zone	20

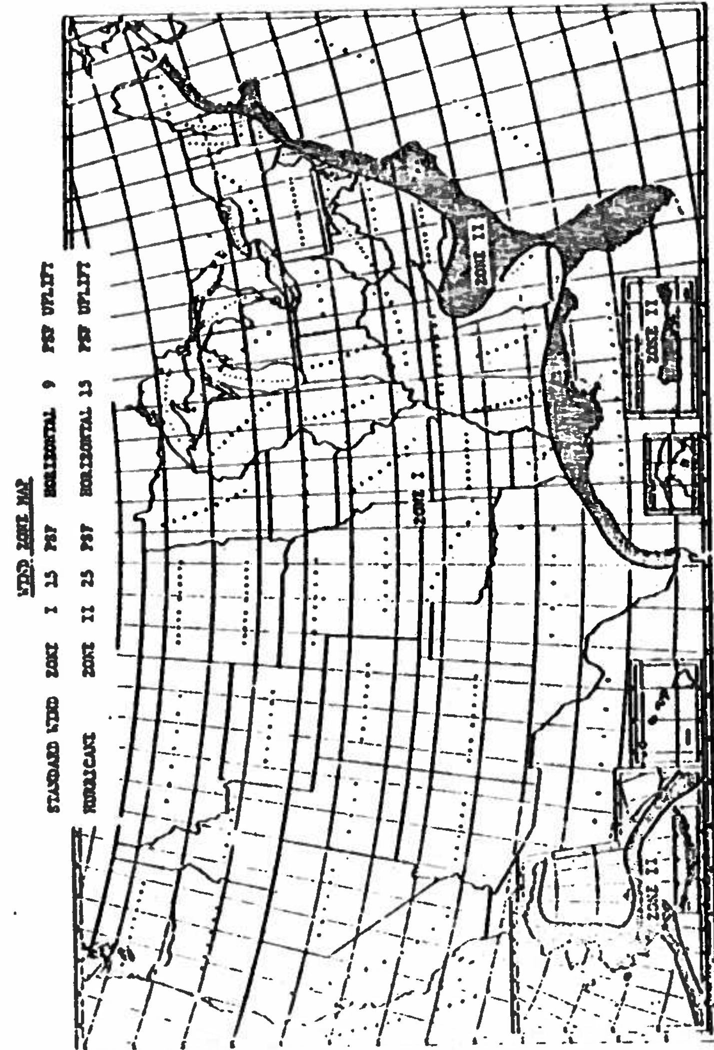
(ii) For exposures in areas (mountainous or other) where snow or wind records or experience indicate significant differences from the loads stated above, the Department may establish more stringent requirements for homes known to be destined for such areas. For snow loads, such requirements are to be based on a roof snow load of 0.6 of the ground snow load for areas exposed to wind and a roof snow load of 0.8 of the ground snow load for sheltered areas.

(iii) Eaves and cornices shall be designed for a net uplift pressure of 2.5 times the design uplift wind pressure cited in § 3280.305(c)(1) and (2).

(4) The Data Plate posted in the mobile home (See § 3280.5) shall show for which structural zone(s) of the USA the mobile home has been designed and the actual design external snow and/or wind live loads. The Data plate shall include reproduction of the Load Zone Maps shown in this section and related information. The Load Zone Maps shall be not less than one-half the size illustrated.



ROOF LOAD ZONE MAP
North 40 PSF (Snow)
Middle 30 PSF (Snow)
South 20 PSF (Minimum)
NORTH
MIDDLE
SOUTH



WIND ZONE MAP
STANDARD WIND ZONE I 15 PSF HORIZONTAL 9 PSF UPLIFT
HURRICANE ZONE II 25 PSF HORIZONTAL 15 PSF UPLIFT
ZONE I
ZONE II

(d) *Design Load Deflection.* When a structural assembly is subjected to total design live loads, the deflection for structural framing members shall not exceed the following:

Floor	L/240
Roof and ceiling	L/180
Headers, beams, and girders (vertical load)	L/180
Walls and partitions	L/180

Where L equals the clear span between supports or two times the length of a cantilever.

(e) *Fastening of Structural Systems.* Roof framing shall be securely fastened to wall framing, walls to floor structure, and floor structure to chassis to secure and maintain continuity between the floor and chassis, so as to resist wind overturning and sliding as imposed by design loads in this Part.

(f) *Walls.* The walls shall be of sufficient strength to withstand the load requirements as defined in § 3280.305(c) of this part, without exceeding the deflections as specified in § 3280.305(d). The connections between the bearing walls, floor, and roof framework members shall be fabricated in such a manner as to provide support for the material used to enclose the mobile home and to provide for transfer of all lateral and vertical loads to the floor and chassis.

(1) Except where substantiated by engineering analysis or tests, studs shall not be notched or drilled in the middle one-third of their length.

(2) Interior walls and partitions shall be constructed with structural capacity adequate for the intended purpose and shall be capable of resisting a horizontal load of not less than five pounds per square foot. Finish of walls and partitions shall be securely fastened to wall framing.

(g) *Floors.* (1) Floor assemblies shall be designed in accordance with accepted engineering practice standards to support a minimum uniform live load of 40 lb/ft^2 plus the dead load of the materials. In addition (but not simultaneously), floors shall be able to support a 200-pound concentrated load on a one-inch diameter disc at the most critical location with a maximum deflection not to exceed one-eighth inch relative to floor framing. Perimeter wood joists of more than six inches depth shall be stabilized against overturning from superimposed loads as follows: at ends by solid blocking not less than two-inch thickness by full depth of joist, or by connecting to a continuous header not less than two-inch thickness and not less than the depth of the joist with connecting devices; at eight-feet maximum intermediate spacing by solid blocking or by wood cross-bridging of not less than one inch by three inches, metal cross-bridging of equal strength, or by other approved methods.

(2) Wood, wood fibre or plywood floors or subfloors in kitchens, bathrooms (including toilet compartments), laundry rooms, water heater compartments, and any other areas subject to excessive moisture shall be moisture resistant or shall be made moisture resistant by sealing or by an overlay of nonabsorbent material applied with water-resistant adhesive. Carpets and/or carpet pads shall not be installed in concealed spaces subject to excessive moisture such as plumbing fixture spaces.

(3) Except where substantiated by engineering analysis or tests:

(i) Notches on the ends of joists shall not exceed one-fourth the joist depth.

(ii) Holes bored in joists shall not be within 2 inches of the top or bottom of the joist, and the diameter of any such hole shall not exceed one-third the depth of the joist.

(iii) Notches in the top or bottom of the joists shall not exceed one-sixth the depth and shall not be located in the middle third of the span.

(4) Bottom board material (with or without patches) shall meet or exceed the level of 48 inch-pounds of puncture resistance as tested by the Beach Puncture Test in accordance with ASTM D 781-68. The material shall be suitable for patches and the patch life shall be equivalent to the material life. Patch installation instruction shall be included in the mobile home manufacturer's instructions.

(h) *Roofs.* (1) Roofs shall be of sufficient strength to withstand the load requirements as defined in § 3280.305 (b) and (c) without exceeding the deflections specified in § 3280.305(d). The connections between roof framework members and bearing walls shall be

fabricated in such a manner to provide for the transfer of design vertical and horizontal loads to the bearing walls and to resist uplift forces.

(2) Roofing membranes shall be of sufficient rigidity to prevent deflection which would permit ponding of water or separation of seams due to wind, snow, ice, erection or transportation forces.

(3) Cutting of roof framework members for passage of electrical, plumbing or mechanical systems shall not be allowed except where substantiated by engineering analysis.

(4) All roof penetrations for electrical, plumbing or mechanical systems shall be properly flashed and sealed. In addition, where a metal roof membrane is penetrated, a wood backer shall be installed. The backer plate shall be not less than 5/16 inch plywood, with exterior glues, secured to the roof framing system beneath the metal roof, and shall be of a size to assure that all screws securing the flashing are held by the backer plate.

(i) *Frame construction.* The frame shall be capable of transmitting all design loads to stabilizing devices without exceeding the allowable load and deflections of this section. The frame shall also be capable of withstanding the effects of transportation shock and vibration without degradation as required by Subpart J.

(1) *Welded connections.* (i) All welds shall be made in accordance with the applicable provisions of the Manual of Steel Construction as published by the AISC-1973, the specification for the design of cold-formed steel structural members as published by the AISI-1968, and the specification for the design of light gage cold-formed stainless steel structural members as published by the AISI-1972.

(ii) Regardless of the provisions of any reference standard contained in this subpart, deposits of weld slag or flux shall be required to be removed only from welded joints at the following locations:

(A) Drawbar and coupling mechanisms;

(B) Main member splices, and

(C) Spring hanger to main member connections.

(2) Protection of metal frames against corrosion. Metal frames shall be made corrosion resistant or protected against corrosion. Metal frames may be protected against corrosion by painting.

[40 FR 58752, Dec. 18, 1975, as amended at 44 FR 66195, Nov. 19, 1979]

§ 3280.306 Windstorm protection.

(a) *Provisions for support and anchoring systems.* Each mobile home shall have provisions for support and anchoring systems, which, when properly designed and installed, will resist overturning and lateral movement (sliding) of the mobile home as imposed by the respective design loads. The design wind loads to be utilized for calculating resistance to overturning and lateral movement shall be the wind loads indicated in § 3280.305(c)(1) and (2) increased by a factor of safety of 1.5. The basic allowable stresses of materials required to resist overturning and lateral movement shall not be increased in the design and proportioning of these members.

(1) The provisions of this section shall be followed and the support and anchoring systems shall be designed by a Registered Professional Engineer or Architect.

(2) The manufacturer of each mobile home is required to make provision for the support and anchoring systems but is not required to provide the anchoring equipment or stabilizing devices. When the manufacturer's installation instructions provide for the main frame structure to be used as the points for connection of diagonal ties, no specific connecting devices need be provided on the main frame structure.

(b) The manufacturer shall provide printed instructions with each mobile home specifying the location and required capacity of stabilizing devices on which the design is based. The manufacturer shall provide drawings and specifications certified by a registered professional engineer indicating at least one acceptable system of anchorage including the details of required straps or cables, their end connections and all other devices needed to transfer the wind loads from the mobile home to the ground anchors.

(c) The provisions made for anchoring systems shall be based on the following design criteria for mobile homes.

(1) The minimum number of ties required per side shall be as required to resist the design loads stated in § 3280.305(c)(1) and (2).

(2) Ties shall be as evenly spaced as practicable along the length of the mobile home with not more than 8 feet open-end spacing on each end.

(3) When continuous straps are provided as vertical ties, such ties shall be positioned at rafters and studs. Where a vertical tie and diagonal ties are located at the same place, both ties may be connected to a single ground anchor, provided that the anchor used is capable of carrying both loadings.

(4) Add-on sections of expandable mobile homes shall have provisions for vertical ties at the exposed ends.

(d) Double-wide mobile homes require only diagonal ties. These shall be placed along the main frame and below the outer side walls.

(e) Protection shall be provided at sharp corners where the anchoring system requires the use of external cables or straps. Protection shall also be provided to minimize damage to roofing or siding by the cable or strap.

(f) Anchoring equipment shall be capable of resisting an allowable working load equal to or exceeding 3,150 pounds and shall be capable of withstanding a 50 percent overload (4,725 pounds total) without failure of either the anchoring equipment or the attachment point on the mobile home.

(g) Anchoring equipment exposed to weathering shall have a resistance to weather deterioration at least equivalent to that provided by a coating of zinc on steel of not less than 0.30 ounces per square foot of surface coated.

(1) Slit or cut edges of zinc-coated steel strapping do not need to be zinc coated.

(2) Type 1, Finish B, Grade 1 steel strapping, 1¼ inches wide and 0.035 inch thick, conforming with Federal Specification QQ-S-781H, is judged to conform with the provisions of this section and paragraph (f) of this section.

§ 3280.307 Resistance to elements and use.

(a) Exterior coverings shall be of moisture and weather resistive materials attached with corrosion resistant fasteners to resist wind, snow and rain. Metal coverings and exposed metal structural members shall be of corrosion resistant materials or shall be protected to resist corrosion. All joints between portions of the exterior covering shall be designed, and assembled to protect against the infiltration of air and water, except for any designed ventilation of wall or roof cavity.

(b) Joints between dissimilar materials and joints between exterior coverings and frames of openings shall be protected with a compatible sealant suitable to resist infiltration of air or water.

(c) Where adjoining materials or assemblies of materials are of such nature that separation can occur due to expansion, contraction, wind loads or other loads induced by erection or transportation, sealants shall be of a type that maintains protection against infiltration or penetration by air, moisture or vermin.

(d) Exterior surfaces shall be sealed to resist the entrance of rodents.

Subpart E—Testing

§ 3280.401 Structural load tests.

Every structural assembly tested shall be capable of meeting the Proof Load Test or the Ultimate Load Test as follows:

(a) *Proof load tests.* Every structural assembly tested shall be capable of sustaining its dead load plus superimposed live loads equal to 1.75 times the required live loads for a period of 12 hours without failure. Tests shall be conducted with loads applied and deflections recorded in ¼ design live load increments at 10-minute intervals until 1.25 times design live load plus dead load has been reached. Additional load shall then be applied continuously until 1.75 times design live load plus dead load has been reached. Assembly failure shall be considered as design live load deflection (or residual deflection measured 12 hours after live load removal) which is greater than the limits set in § 3280.305(d), rupture, fracture, or excessive yielding. An assembly to be tested shall be of the minimum quality of materials and workmanship of the production. Each test assembly, component or subassembly shall be identified as to type and quality or grade of material. All assemblies, components or subassemblies qualifying under this section shall be subject to a continuing qualification testing program acceptable to the Department.

(b) *Ultimate load tests.* Ultimate load tests shall be performed on a minimum of three assemblies to generally evaluate the structural design. Every structural assembly tested shall be capable of sustaining its total dead load plus live loads increased by a factor of safety consistent with the material being tested. Factors of safety shall be based on nationally recognized standards and approved by the Department. Tests shall be conducted with loads applied and deflections recorded in ¼ design live load increments at 10-minute intervals until 1.25 times design live load plus dead load has been reached. Additional loading shall then be applied continuously until failure occurs or 1.60 times the factor of safety times the design live load plus the dead load is reached. Assembly failure shall be considered as design live load deflection greater than the limits set in § 3208.305(d) rupture, fracture, or excessive yielding. Assemblies to be tested shall be representative of average quality or materials and workmanship of the production. Each test assembly, component, or subassembly shall be identified as to type and quality or grade of material. All assemblies, components, or subassemblies qualifying under this section shall be subject to a periodic qualification testing program acceptable to the Department.

§ 3280.402 Test procedure for roof trusses.

(a) *Roof load tests.* The following is an acceptable test procedure, consistent with the provisions of § 3280.401, for roof trusses that are supported at the ends and support design loads. Where roof trusses act as support for other members, act as cantilevers, or support concentrated loads, they shall be tested accordingly.

(b) *General.* Trusses may be tested in pairs or singly in a suitable test facility. When tested singly, simulated lateral support of the test assembly may be provided, but in no case shall this lateral support exceed that which is specified for the completed mobile home. When tested in pairs, the trusses shall be spaced at the design spacing and shall be mounted on solid support accurately positioned to give the required clear span distance (L) as specified in the design. The top and bottom chords shall be braced and covered with the material, with connections or method of attachment, as specified by the completed mobile home.

(1) As an alternate test procedure, the top chord may be sheathed with ⅜ inch by 12 inch plywood strips. The plywood strips shall be at least long enough to cover the top chords of the trusses at the designated design truss spacing. Adjacent plywood strips must be separated by at least ⅛ inch. The plywood strip shall be nailed with 4d nails or equivalent staples not closer than 8 inches on center along the top chord. The bottom chords of the adjacent trusses may be either: (i) Unbraced, (ii) laterally braced together (not cross braced) with 1" x 2" stripping not closer than 24 inches on center nailed with only one 6d nail at each truss, or (iii) covered with the material, with connections or methods of attachment, as specified for the completed mobile home.

(2) Truss deflections will be measured relative to a taut wire running over the support and weighted at the end to insure constant tension or other approved methods. Deflections will be measured at the two quarter points and at midspan. Loading shall be applied to the top chord through a suitable hydraulic, pneumatic, or mechanical system, masonry units, or weights to simulate design loads. Load units for uniformly distributed loads shall be separated so that arch action does not occur, and shall be spaced not greater than 12 inches on center so as to simulate uniform loading.

(c) *Nondestructive test procedure*—(1) *Dead load plus live load.* (i) Noting figure A-1, measure and record initial

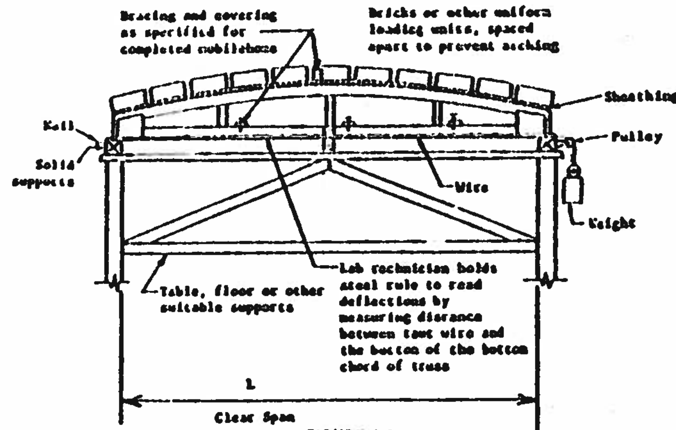


FIGURE A-1
Test Procedure for Roof Trusses

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977]

elevation of the truss in test position at no load.

(ii) Apply load units to the top chord of the truss equal to the full dead load of roof and ceiling. Measure and record deflections.

(iii) Maintaining the dead load, add live load in approximate ¼ design live load increments. Measure the deflections after each loading increment. Apply incremental loads at a uniform rate such that approximately one-half hour is required to establish the total design load condition. Measure and record the deflections five minutes after loads have been applied. The maximum deflection due to design live load (deflection measured in step (iii) minus step (ii)) shall not exceed L/180, where L is a clear span, measured in the same units.

(iv) Continue to load truss to dead load plus 1.75 times the design live load. Maintain this loading for 12 hours and inspect the truss for failure.

(v) Remove the total superimposed live load. Trusses not recovering to at least the L/180 position within 12 hours shall be considered as failing.

(2) *Uplift loads.* This test shall only be required for truss designs which may be critical under uplift load conditions.

(i) Measure and record initial elevation of the truss in an inverted test position at no load. Bottom chord of the truss shall be mounted in the horizontal position.

(ii) Apply the uplift load as stated in § 3280.305(c) to the bottom chord of the truss. Measure and record the deflections 5 minutes after the load has been applied.

(iii) Continue to load the truss to 1.75 times the design uplift load. Maintain this load for 3 hours and inspect the truss for failure.

(iv) Remove applied loads and within three hours the truss must recover to at least L/180 position, where L is a clear span measured in the same units.

(d) *Destructive test procedure.* (1) Destructive tests shall be performed on three trusses to generally evaluate the truss design.

(2) Noting figure A-1, apply the load units to the top chord of the truss assembly equal to full dead load of roof and ceiling. Measure and record deflections. Then apply load and record deflections in ¼ design live load increments at 10-minute intervals until 1.25 times design live load plus dead load has been reached.

(3) Additional loading shall then be applied continuously until failure occurs or the factor of safety times the design live load plus the dead load is reached.

(4) Assembly failure shall be considered as design live load deflection greater than the limits set in § 3280.305(d), rupture, fracture, or excessive yielding.

(5) The assembly shall be capable of sustaining the dead load plus the applicable factor of safety times the design live load (the applicable factor of safety for wood trusses shall be taken as 2.50).

(e) Trusses qualifying under the nondestructive test procedure. Tests §§ 3208.402(c) (1) and (2) (when required), shall be subject to a continuing qualification testing program acceptable to the Department. Trusses qualifying under the destructive test procedures, Tests § 3280.402 (c)(2) (when required), and (d), shall be subject to periodic tests only.

§ 3280.403 Standard for windows and sliding glass doors used in mobile homes.

(a) *Scope.* This section sets the requirements for prime windows and sliding glass doors used in mobile homes except for windows used in entry doors. Windows so mounted are components of the door and thus are excluded from this standard.

(b) *Materials and methods.* Any material or method of construction, whether or not provided for in this standard, and any material or method of questioned suitability, proposed for use in manufacture, shall nevertheless conform in performance as outlined in paragraph (c) of this Section and proof of capability of structural integrity shall be presented. If applicable, units shall comply with the following:

(1) *Wood and wood based products.* (i) *Wood.* Wood parts including plywood and particleboard parts of window units shall have a moisture content of 6 to 12 percent at the time of fabrication. Wood parts, except inside stops and trim shall be manufactured utilizing wet-use adhesive requirements as defined in ASTM D 3110 and preservative treated in accordance with NWMA IS-4.

(ii) *Plywood.* Plywood parts except for inside stops and trim shall be exterior type plywood and preservative treated in accordance with NWMA IS-4.

(iii) *Particleboard.* Particleboard parts except for inside stops and trim shall be type-2 particleboard and preservative treated in accordance with NWMA IS-4.

(2) *Aluminum.* (i) *Alloys.* Aluminum shall be of a commercial quality and of proper alloy for window construction, free from defects impairing strength and/or durability, as follows:

Wrought aluminum alloys shall be those in which the alloying elements do not exceed the following maximum limits:

	Percent
Silicon	7.0
Magnesium	6.0
Manganese	6.0
Chromium	6.0
Iron	1.0
Copper	4
Zinc	1.0
Other	.5
Aluminum	Balance

These limits apply to both bare products and to the core clad products. The cladding of clad products shall be within the same limits except that the maximum zinc limit may be 3.0 percent in order to assure that the cladding is anodic to the core. Where aluminum extrusions are used for the main frame and sash or ventilator sections, they shall have a minimum ultimate tensile strength of 22,000 psi and a yield of 16,000 psi.

(ii) *Finish.* The exposed surface of all aluminum members shall be clean and free from serious surface blemishes. If exposed welded joints are used, they shall be dressed and finished.

(3) *Glass.* (i) Safety glazing materials, where used, shall meet ANSI Z97.1-1972. Tempered glass, where used, shall also meet FS DD-G-1403A.

(ii) Insulated glass, when used, shall meet or exceed the requirements of Sealed Insulating Glass Manufacturers Association (SIGMA) and shall be

permanently identified with the name of the insulating glass manufacturer.

(iii) Glass tolerances and areas shall meet or exceed the values shown in the Glass Table below.

Glass dimensional tolerances and maximum allowable areas[1] sheet glass

Nominal thickness (inches)	Minimum thickness (inches)	Maximum area[2] (square feet) at 15 lb/ft²	Maximum area[2] (square feet) at 25 lb/ft²
16 oz	[illegible]	11	[illegible]
SS	.085	13	11
24 oz	.100	16	14
DS	.115	20	15
3/16	.182	40	30
7/32	.205	60	37
1/4	.236	72	43

[1] For other types of glass see Federal Specification DD G 451c, dated Jan. 15, 1968.

[2] Maximum areas shown are based on minimum glass thicknesses set forth. Maximum areas shown apply for rectangular lites of annealed glass firmly supported on all 4 sides in a vertical position.

Tabulated areas may be increased as noted for use of tempered, heat strengthened or sealed insulating glass and shall be decreased as noted for use of sandblasted, wire or laminated glass. Glass louvers installed in jalousies shall be not less than 5/32" thick nor longer than 36" and exposed edges shall be seamed, ground or polished.

ADJUSTMENT FACTORS
RELATIVE RESISTANCE TO WIND LOADS[1]

Glass type	Approximate relationship
Regular plate	1.0
Laminated	.6
Wire	.5
Heat strengthened	2.0
Fully tempered	4.0
Factory fabricated insulating glass[2]	1.5
Rough rolled or patterned surface	1.0
Sand blasted annealed glass	.4

[1] To determine the maximum allowable area for the glass types listed multiply the allowable area established by the appropriate adjustment factor.

[2] Use thickness of thinner of the two lights, not thickness of unit.

(4) *Glazing.* Any method of glazing conforming to the Performance Requirements (paragraph c of this section) and Material and Methods Requirements (paragraph b of this section) shall be acceptable.

(5) *Hardware and Fasteners.* All hardware components and fasteners when considered as individual components, whether commercially available, or proprietary, must be capable of performing to the criteria stipulated in Performance Requirements, paragraph (c) of this section.

(c) *Performance Requirements.* Test procedures as outlined in paragraphs (c) (1) through (4) of this section are applicable to reproduction prototype units of prime windows and sliding glass doors. Production line units shall be equivalent in design and materials to the tested and passed prototype units and shall also meet the requirements of § 3280.403(c)(5).

(1) *Size of test specimen.* Production line units shall have width and height dimensions equal to or less than the corresponding dimensions of the prototype unit tested and passed. No interference of compliance to these requirements is to be made for products exceeding the size of the tested and passed prototype.

(2) *Structural performance test*—(i) *Zone I.* There shall be no glass breakage, permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to an exterior pressure of 15 pounds per square foot. The test method applicable to this requirement shall be ASTM E-330.

(ii) *Zone II.* There shall be no glass breakage, permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to exterior pressure of 25 pounds per square foot. The test method applicable to this requirement shall be ASTM E-330.

(iii) *Interior pressure.* There shall be no glass breakage, permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to an interior pressure equal to ½ the requirements in either paragraphs (c)(2)(i) or (c)(2)(ii) of this section. The test method applicable to this requirement shall be ASTM E 330 except that no artificial means of containing pressure shall be allowed. Should pressure not be obtainable due to lack of air the testing agency will report the pressure achieved, the theoretical air flow supplied to the unit, and certify that no additional flow from the equipment in use was available. Laboratory equipment used for this test must be capable of developing 10 × air flow determined in § 3280.403(c)(3).

(3) *Air infiltration test.* Air infiltration shall not exceed 0.50 CFM per square foot of window area when tested in accordance with ASTM E-283 at an exterior pressure differential of 1.567 pounds per square foot (0.30" of water pressure).

(4) *Water resistance test.* No leakage shall pass the interior face of the test specimen at a test pressure of 2.86 psf (0.55" Water pressure) when tested in accordance with ASTM E-547 with a test cycle consisting of 5 minutes with pressure applied and 1 minute with pressure released, during which the water spray shall be continuously applied.

(i) For the purpose of compliance with paragraph (c)(4) of this section, all units which may have exterior screens, shall be tested first with screens in place and thereafter with screens removed.

(ii) For the purpose of compliance with paragraph (c)(4), penetration, as referenced in ASTM E-547 paragraph 4.3, shall not include drops passing the interior face by energy developed in the bursting of sill drain system bubbles created by a pressure differential applied to the exterior face of the specimen.

(5) *Production Line Units.* Production line units of prime windows and sliding glass doors shall comply with: (i) The structural performance test to the zone limit certified in paragraph (c)(2) of this section and; (ii) the air infiltration test in paragraph (c)(3) of this section and; (iii) the water resistance test in paragraph (c)(4) of this section except that the test pressure shall be 1.56 psf (0.30" water column) and the water application rate shall be 2.6 GPH, per square foot of window surface area, all other parameters being the same as set forth in paragraph (c)(4) of this section.

(d) *Test sequence.* The sequence of tests shall be performed as they are listed above except that Structural Performance Test to Zone I (15 PSF) exterior pressure may be followed by Zone I interior pressure (7.5 PSF), which may be followed by the Air Infiltration Test, which may be followed by the Water Resistance Test, which may be followed by the Structural Performance Test to Zone II and (25 PSF) exterior pressure, which may be followed by the Zone II and interior pressures (12.5 PSF), which may be followed by the Air Infiltration Test, which may be followed by the Water Resistance Test. The Air Infiltration Test may be performed after the Water Resistance Test providing all sealed areas are thoroughly dried.

(e) *Screens.* (1) Screen, when specified, shall be provided with fastening devices, suited particularly for application to the specific window for which they are intended, and be of sufficient strength to perform satisfactorily.

(2) Insect screening shall be of a material compatible with aluminum and shall meet CS 138-55, "Insect Wire Screening," FS RR-W-365, "Screening, Wire, Insect," CS 248-64, "Vinyl Coated Glass Fibre Insect Screening and Louver Cloth," or FS L-S-125a "Screening, Non Metallic Insect."

(f) *Assembly.* Windows shall be assembled in a secure and workmanlike manner to perform as hereinafter specified and to assure neat and weather tight construction. A permanent-type water-tight joint shall be made at the junction of the sill and side frame members.

(g) *Shipping.* Units may be shipped either as a subassembly unit or as a completely assembled unit but not as a KD or open unit. A KD unit is a unit that is complete in its entirety with the exception of glass, glazing material, or screen, which is shipped in a disassembled condition and later assembled and glazed according to the instructions of the manufacturer and utilizing all of the components supplied or specified by the manufacturer.

(1) An open unit is a unit that is complete in its entirety with the exception of glass, glazing materials, or screen, which is shipped in an assembled condition and later glazed according to the instruction of the manufacturer, utilizing all of the components supplied by the manufacturer.

(2) A subassembly unit is a unit that is complete in its entirety including the glazing of glass or other glazing panels into their respective fixed or

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moving sash frames, which is shipped with such glazed panels separate from each other or from any master frame, which master frame may be either disassembled or assembled. The connection of such master frame to glazed, fixed, or moving panels is to take place later according to the instructions of the manufacturer utilizing all of the components supplied by the manufacturer.

(3) A completely assembled unit is one that is complete in its entirety and is shipped with all parts and subassemblies in complete connection with each other and no separate pieces.

(h) *Permanent identification*. (1) As identification, each unit shall bear a certification label containing a code number traceable to the manufacturer through the certifying agency or the name of the manufacturer or brand name together with the city and state location of the manufacturer or main office of the manufacturer.

(2) The label shall be of a permanent type designed to discourage easy removal, shall be legible and shall remain legible under normal operating conditions for a period of not less than five years from date of product installation.

(3) Acceptable means of identification are, but are not limited to, the following: Embossed, stamped, cast or molded characters becoming an integral part of the material on which they are located, flexible color-fast and durable labels, decals, stickers, etc., affixed with a permanent-type adhesive, or rigid metal or plastic name plates affixed mechanically or with a permanent-type adhesive.

(4) Location of the label shall be such that it is accessible for normal direct viewing purposes from the interior side of the product, after the unit is installed, without the necessity of product disassembly. Identification located only on the glass or screen shall not be acceptable.

(i) *Certification*. The manufacturer shall show evidence of continued compliance by affixing a quality certification label to the product in accordance with ANSI Z34.1, "American National Standard Practice for Certification Procedures." In determining certifiability under this section, compliance shall consist of preproduction specimen testing in accordance with each and every requirement of this section followed by an inplant inspection and production unit testing system consisting of a minimum of two such inspections per year by an independent quality assurance agency.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977]

§ 3280.404 Standard for egress windows for use in mobile homes.

(a) *Scope and purpose*. The purpose of this section is to establish the requirements for the design, construction, and installation of windows and approved devices intended to be used as an emergency exit during conditions encountered in a fire or similar disaster.

(b) *Requirements*—(1) *Installation*. Window manufacturers shall provide the home manufacturer with written installation instructions.

(2) *Performance*. The egress window including auxiliary frame and seals, if any, shall meet the requirements of § 3280.403 "Standard for Windows and Sliding Glass Doors Used in Mobile Homes."

(3) *Dimensions*. (i) All egress windows shall have a minimum clear dimension of 22 inches when determined in accordance with Test A paragraph (d)(1) of this section.

(ii) All egress windows shall have a minimum clear opening of 5 square feet when determined in accordance with Test B, paragraph (d)(2) of this section.

(4) *Operational*. (i) Operating instructions shall be applied to each egress window and carry the legend "Do Not Remove." In addition, the instructions should include a reminder to remove all shipping clips on screens, storm windows, and other appurtenances for exiting purposes.

(ii) The number of locks and latches shall not exceed 2, not including the 4 appurtenance attachment mechanisms permitted by paragraph (c)(2)(i) of this section.

(iii) Locks, latches, lifting and sliding operational forces shall not exceed a force of 20 pounds when tested in accordance with Test C, paragraph (d)(3) of this section.

(iv) Any handle or latch required to operate the emergency egress provisions of the window shall be attached in the factory by either a permanent method or a mechanical method which requires a tool not commonly available in the home, unless removal of the latch or handle will in no way limit the effectiveness of the egress provision.

(v) Any window whose egress provisions are dependent on the operation of a rotary operator is unacceptable.

Example: Awning windows utilizing a single vent for egress and requiring a rotary operator for activation is unacceptable, whereas an awning window set in a separate frame whose activation requires only a 180° twist of the lock to allow egress is acceptable even though a rotary operator is present for normal operation.

(c) *Appurtenances*. (1) The addition or inclusion of screens, storm windows, or other appurtenances shall not encroach upon the dimensional requirements set forth in paragraph (b)(3) of this section.

(2) Any mechanism used to attach an appurtenance such as a screen or storm window to the window shall meet the following requirements unless the appurtenance meets the requirements of paragraph (c)(3): (i) The number of mechanisms shall not exceed 4 and; (ii) The operating force of the mechanisms shall not exceed 5 pounds tested in accordance with Test D paragraph (d)(4) and; (iii) The mechanisms shall be designed so that they cannot be misapplied utilizing normal household tools such as screwdrivers, pliers and wrenches exceeding the aforementioned forces; and (iv) The surface to which the operating force is applied shall have a minimum cross-sectional area of 0.25 square inches.

(3) If an appurtenance such as a screen or storm window is attached to the window in such a manner that it need not be removed or disengaged in any way in order to effect a fully opened exit, the requirements of paragraph (c)(2) need not be met.

(4) The operating instructions detailed in paragraph (b)(4)(i) of this section shall include instructions on the required removal and replacement of any screen and/or storm sash appurtenance.

(d) *Test methods*—(1) *Test Method A—Minimum Dimensions*. The minimum dimension of 22 in. required by paragraph (b)(3)(i) of this section shall be tested as follows: When the window is in the final position for egress, a 22 in. dowel shall be passed through the opening at the point of its least dimension while contacting only one point of the window frame, at either the horizontal or vertical orientation of the dowel.

(i) Example: In a horizontally opening window (sliding or rolling), the minimum dimension requirement may be met as follows. When the window is in the final position for egress, place one end of the dowel perpendicularly against the portion of the main frame side (bottom) projecting furthest towards the center of the opening, and pass the dowel through the opening in a horizontal (vertical) plane without touching any portion of the device except the main frame side (bottom) on which it is pivoted.

(ii) Example: Any type of window may be mounted in a side, bottom, or top hinged or pop-out egress frame which in the fully opened position meets the minimum dimensions and area requirements.

(2) *Test Method B—Minimum Area*. The minimum area requirement of 5 square feet contained in paragraph (b)(3)(ii) shall be determined by multiplying the minimum dimension (which may exceed 22 in.) by the clear dimension measured perpendicularly to the minimum dimension and in the plane of the window main frame. (i) Example: In a vertically operating window whose minimum dimension is from the main frame bottom to that portion of the operating vent projecting furthest toward the horizontal center line of the egress opening when in the fully opened position, the minimum area shall be determined by multiplying the minimum dimension by the inside side-to-side dimension.

(3) *Test Method C—Operating Forces*. (i) For horizontal or vertical moving windows, a force gage shall be attached to the manual pull bar at its centerpoint. After opening the latch or lock, a force not to exceed 20

pounds shall be exerted in a direct pull parallel to the window in order to obtain movement in the opening direction. The window shall be in the closed and latched position prior to the test and shall have been subjected to 5 opening and closing cycles prior to the test.

(ii) Locks and latches shall be tested as noted in paragraph (d)(3)(i) of this section except that the force gage shall be located in the center of the latch or lock handle.

(4) *Test Method D—Mechanical Device Operating Force (Appurtenances)*. (i) A force gage of sufficient capacity using a point contact and having the ability to retain the maximum reading (Chatillion DPP 50 or similar) shall be used. The force gage point shall be applied to the mechanism at the center of the normal force application area and sufficient force applied to disengage the appurtenance. The maximum reading shall be retained by the force gage and may be read directly.

(e) *Test Report*. (1) The test report shall include all requirements of this standard listed in their order shown in this standard. Where certain provisions of the standard do not apply, the notation "N.A." (Not applicable) shall so denote these items. Where certain appurtenances are not supplied, such as storm windows or screen, the notation "N.S." (Not supplied) shall so denote those items.

(2) The test report shall be complete with manufacturers assembly drawing, extrusion drawings, parts list, weather-strip description, glazing method, description including backbedding and glazing method, installation and operating instructions. Where the unit tested is not in its actual installation, a clause stating the following shall be included in the test report: "This unit tested as submitted. Actual installation must be in accordance with the instructions included with this report or this report is not valid."

(3) The test report on all units submitted for test not having appurtenances listed in paragraph (c) of this section shall include a statement as follows: "This unit tested without storm windows (or screen). The installation of these items with this product invalidates this test report."

(4) For any test on component parts, such as balances, friction positioners, etc., certification by an independent testing agency shall be acceptable for evidence of compliance. If such certification is used, the test report shall so state, and give the name of the agency.

(5) Test reports used to demonstrate compliance with this standard to any governmental body shall be made available to the public upon request.

§ 3280.405 Standard for swinging exterior passage doors for use in mobile homes.

(a) *Introduction*. This standard applies to all exterior passage door units, excluding sliding doors and doors used for access to utilities and compartments. This standard applies only to the door frame consisting of jambs, head and sill and the attached door or doors.

(b) *Purpose*. It is the purpose of this standard to establish the requirements for exterior passage door units irrespective of the type of material used in the manufacture of these products.

(c) *General requirements and materials of construction*. (1) The design and construction of the exterior passage door units shall conform with the provisions of this standard. Requirements for any size, weight, or quality of material modified by the terms of "minimum," "not less than," "at least," and similar expressions are minimum standards. The manufacturer may exceed these standards provided such deviation does not result in an inferior product or defeat the purpose and intent of this standard. Units may be shipped as a completely assembled unit, but not as KD or open unit. A KD unit is a unit that is complete in its entirety, which is shipped in a disassembled condition and later assembled and glazed according to the instructions of the manufacturer. An open unit is a unit that is complete in its entirety with the exception of a window insert, which is shipped in an assembled condition and later glazed according to the instructions of the manufacturer. A completely assembled unit is one that is complete in its entirety and is shipped with all parts and

subassemblies in complete connection with each other and no separate pieces, except for: Lock-knobs only and keys, door chain and attachments, storm door latch, chain and attachments, threshold extension, screw cover, drip cap.

(2) *Workmanship*. All construction methods, materials and workmanship shall be in conformance with accepted engineering practices to insure durable, livable, and safe housing.

(d) *Materials and methods*. Any material or method of construction, whether or not provided for in this standard, and any material or method of questioned suitability, proposed for use in manufacture, shall nevertheless conform in performance as outlined in paragraph (e) of this standard and proof of capability of structural integrity shall be presented. If applicable, units shall comply with the following:

(1) *Wood and wood based products*—(i) *Wood*. Wood door parts shall be manufactured of suitable lumber having a moisture content of 6 to 12 percent at time of fabrication. Wood parts except interior trim shall be manufactured utilizing wet-use adhesive requirements as defined in ASTM D-3110 and Preservative Treated in accordance with NWMA I.S.-4 standard. Doors shall conform to the Type I requirements of NWMA I.S. 1-74.

(ii) *Plywood*. Plywood shall be exterior type and preservative treated in accordance with NWMA I.S.-4.

(iii) Hardboard parts shall meet or exceed the requirements for ⅛ inch tempered hardboard in accordance with the latest edition of PS 58.

(2) *Hardware and fasteners*. All hardware components and fasteners when considered as individual components, whether commercially available, or proprietary, must be capable of performing to the criteria stipulated in this section and in the Performance Requirements section, paragraph (e) of these specifications.

(3) *Glass*. All glazing in doors shall be safety glazing material meeting ANSI Z97.1-72. Glass in jalousies shall also be at least ³⁄₁₆ in. in thickness and not longer than 36 inches. Exposed edges shall be seamed, ground or polished to prevent injury.

(4) *Weatherstripping*. A tight threshold and weatherstripping to reduce air infiltration and improve water resistance shall be provided capable of conforming to the criteria stipulated in the Performance Requirements section, paragraph (e) of this standard.

(e) *Performance requirements*—(1) *Size of test specimen*. All tests shall be performed on exterior passage door units with all operable portions closed and all criteria herein are applicable to exterior passage doors of the largest type that the producer desires to qualify under this specification. No inference of compliance to these requirements is to be made for products exceeding the size of the test specimen submitted. Largest unit size is determined by the maximum width and height dimensions of production units that are equal to or less than corresponding dimensions in that unit tested and passed.

(2) *Structural performance test*—(i) *Wind pressure resistivity*. There shall be no glass breakage or permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to exterior pressures of 25 pounds per square foot. The test method applicable to this requirement shall be ASTM E-330.

(ii) *Interior pressure*. There shall be no glass breakage or permanent deflection or any other condition which would cause the specimen to be inoperable after being subjected to an interior pressure equal to ½ the requirements in paragraph (e)(2)(i). The test method applicable to this requirement shall be ASTM E-330 except that no artificial means of containing pressure shall be allowed. Should pressure not be obtainable due to lack of air, the testing agency will report the pressure achieved, the theoretical air flow supplied to the unit, and certify that no additional flow from the equipment in use was available. Laboratory equipment used for this test must be capable of developing 10 × air flow determined in paragraph (e)(2)(iii) of this specification.

(iii) *Air infiltration test*. Air infiltration shall not exceed the limits set forth below when tested in accordance with ASTM E-283 at an exterior pres-

sure differential of 1.56 pounds per square foot (0.300" water pressure).

1.25 CFM per sq. ft. of door	Jan. 1, 1975
1.2 CFM per sq. ft. of door	Jan. 1, 1976
1.0 CFM per sq. ft. of door	Jan. 1, 1977

(iv) *Water resistance test.* No water shall pass the interior face of the test specimen at a test pressure of 0 psf when tested in accordance with ASTM E 331.

(v) The sequence of tests shall be performed as they are listed above. The air infiltration test may be performed after the water resistance test providing all sealed areas are thoroughly dried.

Subpart F—Thermal Protection

§ 3280.501 Scope.

This subpart sets forth the requirements for condensation control, air infiltration, thermal insulation and certification for heating and comfort cooling.

§ 3280.502 Definitions.

(a) The following definitions are applicable to Subpart F only:

(1) "Pressure Envelope" means that primary air barrier surrounding the living space which serves to limit air leakage. In construction using ventilated cavities, the pressure envelope is the interior skin.

(2) "Thermal Envelope Area" means the sum of the surface areas of outside walls, ceiling and floor, including all openings. The wall area is measured by multiplying outside wall lengths by the inside wall height from floor to ceiling. The floor and ceiling areas are considered as horizontal surfaces using exterior width and length.

§ 3280.503 Materials.

Materials used for insulation shall be of proven effectiveness and adequate durability to assure that required design conditions concerning thermal transmission are attained.

§ 3280.504 Condensation control (vapor barriers).

(a) *Ceilings.* Ceilings shall have a vapor barrier having a permeance not greater than 1 perm (dry cup method) installed on the living space side of the roof cavity.

(b) *Exterior walls.* (1) Exterior walls shall have a vapor barrier not greater than 1 perm (dry cup method) installed on the living space side of the wall, or (2) Unventilated wall cavities shall have an external covering and/or sheathing which forms the pressure envelope. The covering and/or sheathing shall have a combined permeance of not less than 5.0 perms. In the absence of test data, combined permeance may be computed using the formula: $P_{total} = (1/((1/P_1)+(1/P_2)))$

where P_1 and P_2 are the permeance values of the exterior covering and sheathing in perms.

Formed exterior siding applied in sections with joints not caulked or sealed shall not be considered to restrict water vapor transmission, or (3) Wall cavities shall be constructed so that ventilation is provided to dissipate any condensation occurring in these cavities.

§ 3280.505 Air infiltration.

(a) *Envelope air infiltration.* The opaque envelope shall be designed and constructed to limit air infiltration to the living area of the home. Any design, material, method or combination thereof which accomplishes this goal may be used. The goal of the infiltration control criteria is to reduce heat loss/heat gain due to infiltration as much as possible without impinging on health and comfort and within the limits of reasonable economics.

(1) *Envelope penetrations.* Plumbing, mechanical and electrical penetrations of the pressure envelope not exempted by this part, and installations of window and door frames shall be constructed or treated to limit air infiltration. Penetrations of the pressure envelope made by electrical equipment, other than distribution panel boards and cable and conduit penetrations, are exempt from this requirement. Cable penetrations through outlet boxes are considered exempt.

(2) *Joints between major envelope elements.* Joints not designed to limit air infiltration between wall-to-wall, wall-to-ceiling and wall-to-floor connections shall be caulked or otherwise sealed. When walls are constructed to form a pressure envelope on the outside of the wall cavity, they are deemed to meet this requirement.

§ 3280.506 Heat loss.

The mobile home heat loss/heat gain shall be determined by methods outlined in §§ 3280.508 and 3280.509. The outdoor winter design temperature zone for which the mobile home is acceptable and the lowest outdoor temperature to which the installed heating equipment will maintain a temperature of 70 F shall be certified as specified in § 3280.510 of this subpart.

(a) Transmission heat loss coefficient. The overall coefficient of heat transmission of the mobile home for the respective zones and an indoor design temperature of 70 F, including internal and external ducts, and excluding infiltration ventilation and condensation control, shall not exceed the B.T.U./(hr.) (sq. ft.) (F) of the mobile home envelope area as tabulated below

Zone	Maximum coefficient
I	157 Btu/(hr.) (sq. ft.)(F)
II	126 Btu/(hr.) (sq. ft.)(F)
III	104 Btu/(hr.) (sq. ft.)(F)

(b) To assure uniform heat transmission in mobile homes, cavities in exterior walls, floors, and ceilings shall be provided with thermal insulation.

(c) Mobile homes designed for Zones II and III shall be factory equipped with storm windows or insulating glass.

§ 3280.507 Comfort heat gain.

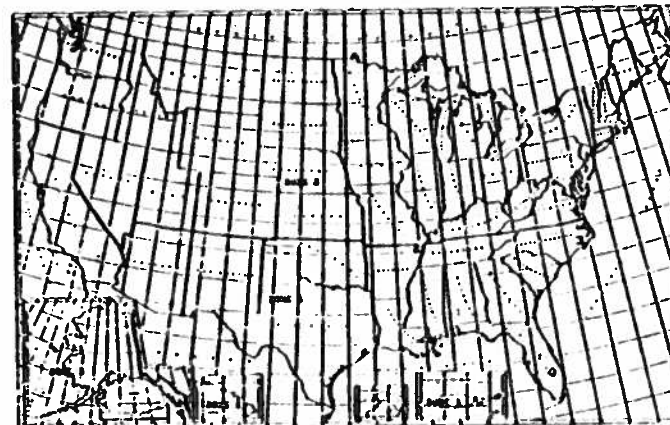
Information necessary to calculate the home cooling load shall be provided as specified in this Part.

(a) *Transmission heat gains.* Homes complying with this section shall meet the minimum heat loss transmission coefficients specified in § 3280.506(a).

§ 3280.508 Heat loss, heat gain and cooling load calculations.

Information, values and data necessary for heat loss and heat gain determinations shall be taken from the 1972 ASHRAE Handbook of Fundamentals.

Infiltration and Ventilation—Chapter 19.
Determining "R" & "U" Value—Chapter 20.
Heating Load—Chapter 21.
Cooling Load Calculations—Chapter 22.
Outdoor Winter Design Temperatures (Use 97½ percent values)—Chapter 33.
Outdoor Summer Design Temperatures (Use 2½ percent values)—Chapter 33.



§ 3280.509 Criteria in absence of specific data.

In the absence of specific data, for purposes of heat-loss/gain calculation, the following criteria shall be used:

(a) *Infiltration Heat Loss.* In the absence of measured infiltration heat loss data, the following formula shall be used to calculate heat loss due to infiltration and intermittently operated fans exhausting to the outdoors. The perimeter calculation shall be based on the dimensions of the pressure envelope.

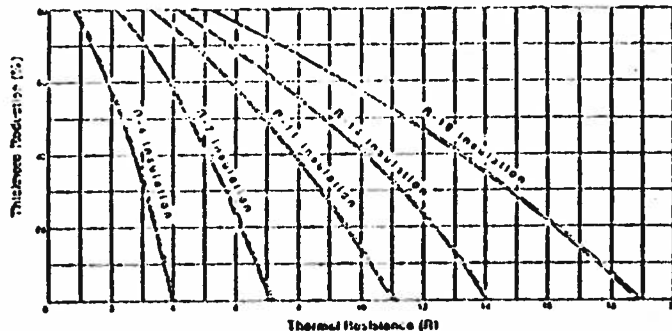
Infiltration Heat Loss 0.7 (T) (ft. of perimeter), BTU/hr.

where: T 70 minus the heating system capacity certification temperature stipulated in the Heating Certificate, in F.

(b) *Framing areas.*

Wall	15 percent of wall area less windows and doors
Floor and Ceiling	10 percent of the area

(c) *Insulation compression.* Insulation compressed to less than nominal thickness shall have its nominal R-values reduced for that area which is compressed in accordance with the following graph.



When insulation is installed over the framing members the thermal performance of the insulation is reduced due to compression at the framing members. The Resistance value of the insulation between the framing members is reduced by 12.5 percent for framing members 16" O.C., 8.5 percent for framing members 24" O.C., and 4 percent for framing members 48" O.C.

(d) *Air supply ducts within floor cavity.* Air supply ducts located within a floor cavity shall be assumed to be heating or cooling the floor cavity to living space temperatures unless the duct is structurally isolated by the framing system or thermally insulated from the rest of the floor cavity with a thermal insulation at least equal to R-4.

(e) *Air supply ducts within ceiling cavity.* Where supply ducts are located in ceiling cavities, the influence of the duct on cavity temperatures shall be considered in calculating envelope heat loss or heat gain.

(f) The supply duct loss (and/or heat gain where applicable—See § 3280.511) shall be calculated using the actual duct surface area and the actual thickness of insulation between the duct and outside of the mobile home. If there is an air space of at least ¾ inch between the duct and the insulation, heat loss/gain need not be calculated if the cavity in which the duct is located is assumed to be at living space temperature. The average temperature inside the supply duct, including ducts installed outside the mobile home, shall be assumed to be 130 F for purposes of calculation of heat loss and 60 F for heat gain.

(g) *Return air cavities.* Cavities used as return air plenums shall be considered to be at living space temperature.

§ 3280.510 Heat loss certificate.

The mobile home manufacturer shall permanently affix the following "Certificate" to an interior surface of the home that is readily visible to the homeowner. The "Certificate" shall specify the following:

(a) *Heating zone certification.* The design zone at which the mobile home heat loss complies with § 3280.506(a).

(b) *Outdoor certification temperature.* The lowest outdoor temperature at which the installed heating equipment will maintain a 70 F temperature inside the home without storm sash or insulating glass for Zone I and with storm sash or insulating glass or Zones II and III and complying with §§ 3280.508 and 3280.509.

HEATING CERTIFICATE

Home Manufacturer ——————
Plant Location ——————
Home Model ——————

(Include Winter Climate Zone Map)

This mobile home has been thermally insulated to conform with the requirements of the Federal Mobile Home Construction and Safety Standards for all locations within climatic Zone——.

Heating Equipment Manufacturer ——————
Heating Equipment Model ——————

The above heating equipment has the capacity to maintain an average 70 F temperature in this home at outdoor temperatures of ——F.

To maximize furnace operating economy and to conserve energy it is recommended that this home be installed where the outdoor winter design temperature (97½%) is not higher than —— degrees Fahrenheit.[1]

[1] The temperature to be specified shall be 20 F or 30% of the design temperature difference, whichever is greater, added to the temperature specified as the heating system capacity certification temperature without storm windows or insulating glass for Zone I and with storm windows or insulating glass for Zones II and III. Design temperature difference is 70 minus the heating system capacity certification temperature in degrees Fahrenheit.

The above information has been calculated assuming a maximum wind velocity of 15 MPH at standard atmospheric pressure.

§ 3280.511 Comfort cooling certificate and information.

(a) The mobile home manufacturer shall permanently affix a "Comfort Cooling Certificate" to an interior surface of the home that is readily visible to the home owner. This certificate may be combined with the heating certificate required in § 3280.510. The manufacturer shall comply with one of the following three alternatives in providing the certificate and additional information concerning the cooling of the mobile home:

(1) *Alternative 1.* If a central air conditioning system is provided by the home manufacturer, the heat gain calculation necessary to properly size the air conditioning equipment shall be in accordance with procedures outlined in Chapter 22 of the ASHRAE Handbook of Fundamentals, with an assumed location and orientation. The following information shall be supplied on the Comfort Cooling Certificate:

"Air Conditioner Manufacturer ——————
Air Conditioner Model ——————

Certified Capacity B.T.U./Hr. in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards.

The central air conditioning system provided with this home has been sized, assuming an orientation of the front (hitch) end of the home facing —— and is designed on the basis of a 75 F indoor temperature and an outdoor temperature of —— F dry bulb and —— F wet bulb."

Example Alternate 1

COMFORT COOLING CERTIFICATE

Mobile Home Mfg ——————
Plant Location ——————
Mobile Home Model ——————
Air Conditioner Manufacturer ——————
Air Conditioner Model ——————

Certified Capacity B.T.U./Hr. in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards.

The central air conditioning system provided with this home has been sized assuming an orientation of the front (hitch end) of the home facing ——. On this basis the system is designed to maintain an indoor temperature of 75 F when outdoor

temperatures are ___ F dry bulb and ___ F wet bulb.

The temperature to which this home can be cooled will change depending upon the amount of exposure of the windows of this home to the sun's radiant heat. Therefore, the home's heat gains will vary dependent upon its orientation to the sun and any permanent shading provided. Information concerning the calculation of cooling loads at various locations, window exposures and shadings are provided in Chapter 22 of the 1972 edition of the ASHRAE Handbook of Fundamentals.

Information necessary to calculate cooling loads at various locations and orientations is provided in the special comfort cooling information provided with this mobile home.

(2) *Alternative 2.* For each home suitable for a central air cooling system, the manufacturer shall provide the following statement: "This air distribution system of this home is suitable for the installation of a central air conditioning system."

Example Alternate 2

COMFORT COOLING CERTIFICATE

Mobile Home Manufacturer ___
Plant Location ___
Mobile Home Model ___

This air distribution system of this home is suitable for the installation of central air conditioning.

The supply air distribution system installed in this home is sized for Mobile Home Central Air Conditioning System of up to ___ B.T.U./Hr. rated capacity which are certified in accordance with the appropriate Air Conditioning and Refrigeration Institute Standards. When the air circulators of such air conditioners are rated at 0.3 inch water column static pressure or greater for the cooling air delivered to the mobile home supply air duct system.

Information necessary to calculate cooling loads at various locations and orientations is provided in the special comfort cooling information provided with this mobile home.

(3) *Alternative 3.* If the mobile home is not equipped with an air supply duct system, or if the manufacturer elects not to designate the home as being suitable for the installation of a central air conditioning system, the manufacturer shall provide the following statement: "This air distribution system of this home has not been designed in anticipation of its use with a central air conditioning system."

Example Alternate 3

COMFORT COOLING CERTIFICATE

Mobile Home Mfg ___
Plant Location ___
Mobile Home Model ___

The air distribution system of this home has not been designed in anticipation of its use with a central air conditioning system.

(b) *For each home designated as suitable for central air conditioning* the manufacturer shall provide the maximum central mobile home air conditioning capacity certified in accordance with the appropriate A.R.I. standards and in accordance with § 3280.715(a)(3). If the capacity information provided is based on entrances to the air supply duct at other than the furnace plenum, the manufacturer shall indicate the correct supply air entrance and return air exit locations.

(c) *Comfort cooling information.* For each mobile home designated, either "suitable for" or "provided with" a central air conditioning system, the manufacturer shall provide comfort cooling information specific to the mobile home necessary to complete the cooling load calculations. The comfort cooling information shall include a statement to read as follows:

To determine the required capacity of equipment to cool a home efficiently and economically, a cooling load (heat gain) calculation is required. The cooling load is dependent on the orientation, location and the structure of the home. Central air conditioners operate most efficiently and provide the greatest comfort when their capacity closely approximates the calculated cooling load. Each home's air conditioner should be sized in accordance with Chapter 22 of the American Society of Heating, Refrigerating and Air Conditioning Engineers (ASHRAE) Handbooks of Fundamentals, once the location and orientation are known.

INFORMATION PROVIDED BY THE MANUFACTURER NECESSARY TO CALCULATE SENSIBLE HEAT GAIN

Walls (without windows and doors)	"U"
Ceilings and roofs of light color	"U"
Ceilings and roofs of dark color	"U"
Floors	"U"
Air ducts in floor	"U"
Air ducts in ceiling	"U"
Air ducts installed outside the home	"U" ___

Information necessary to calculate duct area

Subpart G—Plumbing Systems

§ 3280.601 Scope.

Subpart G of this standard covers the plumbing materials, fixtures, and equipment installed within or on mobile homes. It is the intent of this subpart to assure water supply, drain, waste and vent systems which permit satisfactory functioning and provide for health and safety under all conditions of normal use.

§ 3280.602 Definitions.

(a) The following definitions are applicable to Subpart G only:

(1) "Accessible," when applied to a fixture, connection, appliance or equipment, means having access thereto, but which may require removal of an access panel or opening o' a door.

(2) "Air Gap (Water Distribution System)" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe or faucet supplying water to a tank, plumbing fixture, water supplied appliances, or other device and the flood level rim of the receptacle.

(3) "Anti-Siphon Trap Vent Device" means a device which automatically opens to admit air to a fixture drain above the connection of the trap arm so as to prevent siphonage, and closes tightly when the pressure within the drainage system is equal to or greater than atmospheric pressure so as to prevent the escape of gases from the drainage system into the mobile home.

(4) "Backflow" means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended sources.

(5) "Backflow Connection" means any arrangement whereby backflow can occur.

(6) "Backflow Preventer" means a device or means to prevent backflow.

(7) "Branch" means any part of the piping system other than a riser, main or stack.

(8) "Common Vent" means a vent connecting at the junction of fixture drains and serving as a vent for more than one fixture.

(9) "Continuous Vent" means a vertical vent that is a continuation of the drain to which it connects.

(10) "Continuous Waste" means a drain from two or more fixtures connected to a single trap.

(11) "Critical Level" means a point established by the testing laboratory (usually stamped on the device by the manufacturer) which determines the minimum elevation above the flood level rim of the fixture or receptacle served on which the device may be installed. When a backflow prevention device does not bear a critical level marking, the bottom of the vacuum breaker, combination valve, or of any such approved or listed device shall constitute the critical level.

(12) "Cross Connection" means any physical connection or arrangement between two otherwise separate systems or sources, one of which contains potable water and the other either water, steam, gas or chemical of unknown or questionable safety whereby there may be a flow from one system or source to the other, the direction of flow depending on the pressure differential between the two systems.

(13) "Developed Length" means that length of pipe measured along the center line of the pipe and fittings.

(14) "Diameter," unless otherwise specifically stated, means the nominal (inside) diameter designated commercially.

(15) "Drain" means a pipe that carries waste, water, or water-borne waste in a drainage system.

(16) "Drain Connector" means the removable extension, consisting of all pipes, fittings and appurtenances, from the drain outlet to the drain inlet serving the mobile home.

(17) "Drain Outlet" means the lowest end of the main or secondary drain to which a sewer connection is made.

(18) "Drainage System" means all piping within or attached to the structure that conveys sewage or other liquid waste to the drain outlet, not including the drain connector.

(19) "Fixture Drain" means the drain from the trap of a fixture to the junction of that drain with any other drain pipe.

(20) "Fixture Supply" means the water supply pipe connecting a fixture to a branch water supply pipe or directly to a main water supply pipe.

(21) "Flood Level" means the level in the receptacle over which water would overflow to the outside of the receptacle.

(22) "Flooded" means the condition which results when the liquid in a container or receptacle rises to the flood-level.

(23) "Flush Tank" means that portion of a toilet that is designed to contain sufficient water to adequately flush the fixture.

(24) "Flush Valve" means a device located at the bottom of a flush tank for flushing a toilet.

(25) "Flushometer Valve" means a device which discharges a predetermined quantity of water to a fixture for flushing purposes and is closed by direct water pressure.

(26) "Grade" means the fall (slope) of a pipe in reference to a horizontal plane expressed in inches per foot length.

(27) "Horizontal Branch" means any pipe extending laterally, which receives the discharge from one or more fixture drains and connects to the main drain.

(28) "Horizontal Pipe" means any pipe or fitting which makes an angle of not more than 45 degrees with the horizontal.

(29) "Individual Vent" means a pipe installed to vent a fixture drain.

(30) "Inlet Coupling" means the terminal end of the water system to which the water service connection is attached. It may be a swivel fitting or threaded pipe end.

(31) "Main" means the principal artery of the system to which branches may be connected.

(32) "Main Drain" means the lowest pipe of a drainage system which receives sewage from all the fixtures within a mobile home and conducts these wastes to the drain outlet.

(33) "Main Vent" means the principal artery of the venting system to which vent branches may be connected.

(34) "Offset" means a combination of pipe and/or fittings that brings one section of the pipe out of line but into a line parallel with the other section.

(35) "Pitch." See Grade.

(36) "Plumbing Fixtures" means receptacles, devices, or appliances which are supplied with water or which receive liquid or liquid-borne wastes for discharge into the drainage system.

(37) "Plumbing System" means the water supply and distribution pipes; plumbing fixtures, faucets and traps; soil, waste and vent pipes; and water-treating or water-using equipment.

(38) "Primary Vent." See Main Vent.

(39) "Relief Vent" means an auxiliary vent which permits additional circulation of air in or between drainage and vent systems.

(40) "Secondary Vent" means any vent other than the main vent or those serving each toilet.

(41) "Sewage" means any liquid waste containing animal or vegetable matter in suspension or solution, and may include liquids containing chemicals in solution.

(42) "Siphonage" means the loss of water seal from fixture traps resulting from partial vacuum in the drainage system which may be of either of the following two types, or a combination of the two: (a) Self-siphonage resulting from vacuum in a fixture drain generated solely by the discharge of the fixture served by that drain, or, (b) induced siphonage resulting from vacuum in the drainage system generated by the discharge of one or more fixtures other than the one under observation.

(43) "Toilet Drain" means that part of the drainage piping which receives the discharge from each individual toilet.

(44) "Trap" means a fitting or device designed and constructed to provide a liquid seal that will prevent the back passage of air without materially affecting the flow of liquid waste through it.

(45) "Trap Arm" means the portion of a fixture drain between a trap and its vent.

(46) "Trap Seal" means the vertical depth of liquid that a trap will retain.

(47) "Vacuum Breaker." See Backflow Preventer.

(48) "Vent Cap" means the device or fitting which protects the vent pipe

from foreign substance with an opening to the atmosphere equal to the area of the vent it serves.

(49) "Vent System" means that part of a piping installation which provides circulation of air within a drainage system.

(50) "Vertical Pipe" means any pipe or fitting which makes an angle of not more than 45 degrees with the vertical.

(51) "Water Connection" means the fitting or point of connection for the mobile home water distribution system designed for connection to a water supply.

(52) "Water Connector" means the removable extension connecting the mobile home water distribution system to the water supply.

(53) "Water Distribution System" means potable water piping within or permanently attached to the mobile home.

(54) "Wet Vent" means a vent which also serves as a drain for one or more fixtures.

(55) "Wet Vented Drainage System" means the specially designed system of drain piping that also vents one or more plumbing fixtures by means of a common waste and vent pipe.

§ 3280.603 General requirements.

(a) *Minimum requirements.* Any plumbing system installed in a mobile home shall conform, at least, with the provisions of this subpart.

(1) *General.* The plumbing system shall be of durable material, free from defective workmanship, and so designed and constructed as to give satisfactory service for a reasonable life expectancy.

(2) *Conservation.* Water closets shall be selected and adjusted to use the minimum quantity of water consistent with proper performance and cleaning.

(3) *Connection to drainage system.* All plumbing, fixtures, drains, appurtenances, and appliances designed or used to receive or discharge liquid waste or sewage shall be connected to the mobile home drainage system in a manner provided by this standard.

(4) *Workmanship.* All design, construction, and workmanship shall be in conformance with accepted engineering practices and shall be of such character as to secure the results sought to be obtained by this standard.

(5) *Components.* Plumbing materials, devices, fixtures, fittings, equipment, appliances, and accessories intended for use in or attached to a mobile home, and not shown in the Table in § 3280.604, shall be listed or certified by an approved listing agency, or be specifically approved by the Department when listing by an approved listing agency is not available.

(6) *Prohibited fittings and practices.* (i) Drainage or vent piping shall not be drilled and tapped for the purpose of making connections.

(ii) Except as specifically provided elsewhere in this standard, vent pipes shall not be used as waste or drain pipes.

(iii) Fittings, connections, devices, or methods of installation that obstruct or retard the flow of sewage, or air in the drainage or venting systems in an amount greater than the normal frictional resistance to flow shall not be used unless their use is acceptable in this standard or their use is accepted as having a desirable and acceptable function of ultimate benefit to the proper and continued functioning of the plumbing system.

(iv) Cracks, holes, or other imperfections in materials shall not be concealed by welding, brazing, or soldering or by paint, wax, tar, or other leak-sealing or repairing agents.

(v) Piping, fixtures or equipment shall be located so as not to interfere with the normal use or with the normal operation and use of windows, doors or other required facilities.

(vi) Galvanized pipe shall not be bent or welded.

(7) *Alignment of fittings.* All valves, pipes, and fittings shall be installed in correct relationship to the direction of flow.

(b) *Protective requirements.* (1) Cutting structural members. Structural members shall not be unnecessarily or carelessly weakened by cutting or notching.

(2) *Exposed piping.* All piping, pipe threads, hangers, and support exposed to the weather, water, mud, and road hazard, and subject to damage therefrom, shall be painted, coated,

wrapped, or otherwise protected from deterioration.

(3) *Road damage.* Pipes, supports, drains, outlets, or drain hoses shall not extend or protrude in a manner where they could be unduly subjected to damage during transit.

(4) *Freezing.* All piping and fixtures subject to freezing temperatures shall be insulated or protected to prevent freezing, under normal occupancy. The manufacturer shall provide: (i) Written installation instructions for the method(s) required for compliance to this section; (ii) a statement in his installation instructions that if heat tape is used it shall be listed for use with mobile homes; (iii) a receptacle outlet for the use of a heat tape located on the underside of the mobile home within 2 feet of the water supply inlet. The receptacle outlet provided shall not be placed on a branch circuit which is protected by a ground fault circuit interrupter.

(5) All piping, except the fixture trap, shall be designed to allow drainage.

(6) *Rodent resistance.* All exterior openings around piping and equipment shall be sealed to resist the entrance of rodents.

(7) Piping and electrical wiring shall not pass through the same holes in walls, floors or roofs. Plastic piping shall not be exposed to heat in excess of manufacturers recommendation or radiation from heat producing appliances.

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5403 and 5424 and § 7(d), Department of HUD Act, 42 U.S.C. 3535(d)))

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 54383, Oct. 5, 1977]

§ 3280.604 Materials.

(a) *Minimum standards.* Materials, fixtures, or devices used or entering into the construction of plumbing systems in any mobile home shall be free from defects and shall conform to approved standards or to applicable standards in the following Table.

(b) *Specific usage.* Each of the sections following the Table indicates specifically the type of material presently permitted for use in the various parts of the plumbing system.

Materials	ANSI	ASTM	FS	Other standards
Ferrous pipe and fittings:				
Cast iron screwed fittings	B16.4—1971			
Malleable iron screwed fittings	B16.3—1971			
Special cast iron fittings				IAPMO PS 5—1966
Welded wrought iron pipe	B36.2—1968	A72—1968		
Wrought steel and wrought iron pipe	B36.10—1970			
Black and hot dipped zinc-coated (galvanized) welded and seamless steel pipe		A120—1972a		
Welded and seamless steel pipe	B125.1—1972	A53—1972a		
Pipe threads (except dry seal)	B2.1—1968			
Cast iron soil piping and fittings	A112.5.1—1971	A74—1972	WW-P-401D—1969	
Nonferrous pipe and fittings:				
Seamless copper pipe, standard sizes	H26.1—1972	B42—1972		
Wrought seamless copper and copper alloy tube	H23.4—1972	B251—1971		
Seamless copper water tube	H23.1—1973	B88—1972		
Copper drainage tube (DWV)	H23.6—1973	B306—1972		
Wrought copper and bronze solder-joint pressure fittings	B16.22—1973			
Wrought copper and wrought copper alloy solder joint drainage fittings	B16.29—1966			
Cast brass solder joint pressure fittings	B16.18—1972			
Cast bronze solder joint drainage fittings—DWV	B16.23—1969			
Cast bronze fittings for flared copper tubes	B16.26—1967			
Seamless red brass pipe, standard sizes	H27.1—1973	B43—1972		
Cast bronze threaded fittings, 150 and 300 pound	B16.15—1971			
Plastic Pipe and Fittings:				
ABS plastic drain, waste, and vent pipe and fittings		D2661—1973	L-P 322B—1973	IAPMO PS 17-71 NSF 14—1970
PVC plastic drain, waste, and vent pipe and fittings		D2665—1973	L-P 320B—1973	IAPMO PS 27-69 NSF 14—1970
Chlorinated poly (vinyl chloride) (CPVC) plastic hot water distribution systems		D2846—1973		NSF 14—1970
Polybutylene (PB) plastic pipe (SDR-PR)		D2662—1973		
Polybutylene (PB) plastic hot water distribution systems		D3309—1974		
Miscellaneous:				
Pipe nipples, threaded			WW-N-351B(1)—1970	
Rubber gaskets for cast iron soil pipe fittings		C564—1970		
Backflow prevention devices	A112.14.1—1975			IAPMO PS 31—1971
Valves, bronze, gate 125—150 and 200 pound			WW-V-54D—1973	
Valves, cast iron gate, threaded and flanged			WW-V-58B—1971	
Plumbing—fixture setting compound			HH-C-536A—1964	
Cast brass and tubing P traps				IAPMO PS 2—1966
Relief valves and automatic gas shutoff devices for hot water supply systems	Z21.22—1971			
Solvent cement for ABS plastic pipe and fittings		D2235—1973		NSF 14—1970
Solvent cement for PVC plastic pipe and fittings		D2564—1973		NSF 14—1970
Anti-siphon trap vent device				NSF 24
Diversion tees and twin waste elbow				IAPMO PS 9-66
Flexible copper water connectors				IAPMO PS 14—1971
Dishwasher drain airgaps				IAPMO PS 23—1968
Coated flexible metal gas connectors for exterior use				IAPMO TSC 9—1972
Plumbing fixtures:				
Plumbing fixtures for land use			WW-P-541D—1971	
Vitreous china plumbing fixtures	A112.19.2—1973			
Enameled cast iron plumbing	A112.19.1—1973			
Porcelain enameled formed steel plumbing fixtures				IAPMO TSC 22—1972
Formed metal porcelain enameled sanitaryware				IAPMO PS 5—1967
Plastic bathtub units	Z124.1—1974			
Gel-coated glass-fiber reinforced polyester resin shower receptor and shower stall units	Z124.2—1967			
Stainless steel plumbing fixtures—residential use				CS 243—1962 NSA 24—1972
Drains for prefabricated and precast showers				IAPMO PS 4—1966 NSA 24—1972
Cultured marble lavatory				IAPMO PS 38—1973 CMI TS 1-75

Materials	ANSI	ASTM	FS	Other standards
Performance specifications and methods of test for safety glazing material used in buildings	Z97.1-1972			NSF 24—72

*With addenda

§ 3280.605 Joints and connections.

(a) *Tightness.* Joints and connections in the plumbing system shall be gastight and watertight for the pressures required under testing procedures.

(1) *Assembling of pipe.* All joints and connections shall be correctly assembled for tightness. Pipe threads shall be fully engaged with the threads of the fitting. Plastic pipe and copper tubing shall be inserted to the full depth of the solder cup or welding sockets of each fitting. Pipe threads and slip joints shall not be wrapped with string, paper, putty, or similar fillers.

(2) *Threaded joints.* Threads for screw pipe and fittings shall conform to the approved or listed standard. Pipe ends shall be reamed out to size of bore. All burrs, chips, cutting oil and foreign matter shall be removed. Pipe joint cement or thread lubricant shall be of approved type and applied to male threads only.

(3) *Solder joints.* Solder joints for tubing shall be made with approved or listed solder type fittings. Surfaces to be soldered shall be cleaned bright. The joints shall be properly fluxed with noncorrosive paste type flux and made with approved or listed 50-50 solder or an approved solder having a higher melting temperature.

(4) *Plastic pipe, fittings and joints.* Plastic pipe and fittings shall be joined by installation methods recommended by the manufacturer or in accordance with the provisions of a recognized, approved, or listed standard.

(5) *Union joints.* Metal unions in water piping shall have metal-to-metal ground seats.

(6) *Flared joints.* Flared joints for soft copper water tubing shall be made with approved or listed fittings. The tubing shall be expanded with a proper flaring tool.

(7) *Cast iron soil pipe joints.* Approved or listed cast iron pipe may be joined as follows: (i) Approved or listed hubless pipe as per the manufacturer's recommendation. (ii) Hub and plain-end soil pipe may be joined by compression fittings per the manufacturer's recommendation.

§ 3280.606 Traps and cleanouts.

(a) *Traps*—(1) *Traps required.* Each plumbing fixture, except listed toilets, shall be separately trapped by approved water seal "P" traps. All traps shall be effectively vented.

(2) *Dual fixtures.* A two-compartment sink, two single sinks, two lavatories, or a single sink and a single lavatory with waste outlets not more than 30 inches apart and in the same room and flood level rims at the same level may be connected to one "P" trap and may be considered as a single fixture for the purpose of drainage and vent requirements.

(3) *Prohibited traps.* A trap which depends for its seal upon concealed interior partitions shall not be used. Full "S" traps, bell traps, drum traps, crown-vented traps, and running traps are prohibited. Fixtures shall not be double-trapped.

(4) *Material and design.* Each trap shall be self-cleaning with a smooth and uniform interior waterway. Traps shall be manufactured of cast iron, cast brass, or drawn brass tubing of not less than No. 20 Brown and Sharpe gage, or approved or listed plastic, or other approved or listed material. Union joints for a trap shall be beaded to provide a shoulder for the union nut. Each trap shall have the manufacturer's name stamped or cast in the body of the trap, and each tubing trap shall show the gage of the tubing.

(5) *Trap seal.* Each "P" trap shall have a water seal of not less than 2 inches and not more than 4 inches and shall be set true to its seal.

(6) *Size.* Traps shall be not less than 1¼ inches in diameter. A trap shall

not be larger than the waste pipe to which it is connected.

(7) *Location.* Each trap shall be located as close to its vent and to its fixture outlet as structural conditions will permit.

(8) *Length of tailpiece.* The vertical distance from a trap to the fixture outlet shall not exceed 24 inches.

(9) *Installation.* (i) *Grade of trap arm.* The piping between a "P" trap and the fixture tee or the vented waste line shall be graded ¼ inch per foot towards the vent and in no event shall have a slope greater than its diameter. The vent opening at fixture tees shall not be below the weir of the "P" trap outlet.

(ii) *Trap arm offset.* The piping between the "P" trap and vent may change direction or be offset horizontally with the equivalent of no more than 180 degrees total change in direction with a maximum of 90 degrees by any one fitting.

(iii) *Concealed traps.* Traps with mechanical joints shall be accessible for repair and inspection.

(iv) *Removability of Traps, Etc.* Traps shall be designed and installed so the "U" bend is removable without removing the strainers from the fixture. Continuous waste and tail pieces which are permanently attached to the "U" bend shall also be removable without removing the strainer from the fixture.

(b) *Cleanout openings*—(1) *Location of cleanout fittings.* (i) Cleanouts shall be installed if the drainage system cannot be cleaned through fixtures, drains, or vents. Cleanouts shall also be provided when fittings of more than 45 degrees are used to affect an offset except where long turn ells are used which provide sufficient "sweep" for cleaning.

(ii) A full size cleanout shall be installed at the upper end of any section of drain piping which does not have the required minimum slope of ¼ inch per foot grade.

(iii) A cleaning tool shall not be required to pass through more than 360 degrees of fittings, excluding removable "P" traps, to reach any part of the drainage system.

(2) *Access to cleanouts.* Cleanouts shall be accessible through an unobstructed minimum clearance of 12 inches directly in front of the opening. Each cleanout fitting shall open in a direction opposite to the flow or at right angles to the pipe. Concealed cleanouts that are not provided with access covers shall be extended to a point above the floor or outside of the mobile home, with pipe and fittings installed, as required, for drainage piping without sags and pockets.

(3) *Material.* Plugs and caps shall be brass or approved or listed plastic, with screw pipe threads.

(4) *Design.* Cleanout plugs shall have raised heads except that plugs at floor level shall have counter-sunk slots.

§ 3280.607 Plumbing fixtures.

(a) *General requirements*—(1) *Quality of fixtures.* Plumbing fixtures shall have smooth impervious surfaces, be free from defects and concealed fouling surfaces, be capable of resisting road shock and vibration, and shall conform in quality and design to listed standards. Fixtures shall be permanently marked with the manufacturer's name or trademark.

(2) *Strainers.* The waste outlet of all plumbing fixtures, other than toilets, shall be equipped with a drain fitting that will provide an adequate unobstructed waterway.

(3) *Fixture connections.* Fixture tailpieces and continuous wastes in exposed or accessible locations shall be not less than No. 20 Brown and Sharpe gage seamless drawn-brass tubing or other approved pipe or tubing materials. Inaccessible fixture connections shall be constructed according to the requirements for drainage piping. Each fixture tailpiece, continuous waste, or waste and overflow shall be not less than 1½ inches for sinks of two or more compartments, dishwashers, clothes washing machines, laundry tubs, bath tubs, and not less than 1¼ inches for lavatories and single compartment sinks having a 2 inch maximum drain opening.

(4) *Concealed connections.* Concealed slip joint connections shall be provided with adequately sized unobstructed access panels and shall be accessible for inspection and repair.

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(b) *Directional fitting.* An approved or listed "Y" or other directional-type branch fitting shall be installed in every tailpiece or continuous waste that receives the discharge from food waste disposal units, dishwashing, or other force discharge fixture or appliance. (See also § 3280.607(b)(4)(ii).)

(b) *Fixtures.* (1) *Spacing.* All plumbing fixtures shall be so installed with regard to spacing as to be reasonably accessible for their intended use.

(2) *Toilets.* (i) Toilets shall be designed and manufactured according to approved or listed standards and shall be equipped with a water flushing device capable of adequately flushing and cleaning the bowl at each operation of the flushing mechanism.

(ii) Toilet flushing devices shall be designed to replace the water seal in the bowl after each operation. Flush valves, flushometer valves, and ball cocks shall operate automatically to shut off at the end of each flush or when the tank is filled to operating capacity.

(iii) Flush tanks shall be fitted with an overflow pipe large enough to prevent flooding at the maximum flow rate of the ball cock. Overflow pipes shall discharge into the toilet, through the tank.

(iv) Toilets that have fouling surfaces that are not thoroughly washed at each discharge shall be prohibited. Any toilet that might permit the contents of the bowl to be siphoned back into the water system shall be prohibited.

(v) Floor connection. Toilets shall be securely bolted to an approved flange or other approved fitting which is secured to the floor by means of corrosion-resistant screws. The bolts shall be of solid brass or other corrosion-resistant material and shall be not less than ¼ inch in diameter. A watertight seal shall be made between the toilet and flange or other approved fitting by use of a gasket or sealing compound.

(3) *Shower compartment.* (i) Each compartment stall shall be provided with an approved watertight receptor with sides and back extending at least 1 inch above the finished dam or threshold. In no case shall the depth of a shower receptor be less than 2 inches or more than 9 inches measured from the top of the finished dam or threshold to the top of the drain. The wall area shall be constructed of smooth, noncorrosive, and nonabsorbent waterproof materials to a height not less than 6 feet above the bathroom floor level. Such walls shall form a watertight joint with each other and with the bathtub, receptor or shower floor. The floor of the compartment shall slope uniformly to the drain at not less than one-fourth nor more than one-half inch per foot.

(ii) The joint around the drain connection shall be made watertight by a flange, clamping ring, or other approved listed means.

(iii) Shower doors and tub and shower enclosures shall be constructed so as to be waterproof and, if glazed, glazing shall comply with the Standard for Transparent Safety Glazing Material used in Buildings (ANSI Z97.1-1972).

(iv) Prefabricated plumbing fixtures shall be approved or listed.

(4) *Dishwashing machines.* (i) Dishwashing machine shall not be directly connected to any waste piping, but shall discharge its waste through a fixed air gap installed above the machine. The drain connection from the air gap may connect to an individual trap, to a directional fitting installed in the sink tailpiece, or to the opening provided on the inlet side of a food waste disposal unit.

(ii) Drain from a dishwashing machine shall not be connected to a sink tailpiece, continuous waste line, or trap on the discharge side of a food waste disposal unit.

(5) *Clothes washing machines.* (i) Clothes washing machines shall drain either into a properly vented trap, into a laundry tub tailpiece with watertight connections, into an open standpipe receptor, or over the rim of a laundry tub.

(ii) Standpipes shall be 1½ inches minimum nominal iron pipe size, 1½ inches diameter nominal brass tubing not less than No. 20 Brown and Sharpe gage, or 1½ inches approved plastic materials. Receptors shall discharge into a vented trap or shall be connected to a laundry tub tailpiece by means of an approved or listed di-

rectional fitting. Each standpipe shall extend not less than 18 inches or more than 30 inches above its trap and shall terminate in an accessible location no lower than the top of clothes washing machine. A removable tightfitting cap or plug shall be installed on the standpipe when clothes washer is not provided.

(iii) Clothes washing machine drain shall not be connected to the tailpiece, continuous waste, or trap of any sink or dishwashing machine.

(c) *Installation*—(1) *Access.* Each plumbing fixture and standpipe receptor shall be located and installed in a manner to be accessible for usage, cleaning, repair and replacement.

(2) *Alignment.* Fixtures shall be set level and in true alignment with adjacent walls. Where practical, piping from fixtures shall extend to nearest wall.

(3) *Brackets.* Wall-hung fixtures shall be rigidly attached to walls by metal brackets or supports without any strain being transmitted to the piping connections. Flush tanks shall be securely fastened to toilets or to the wall with corrosive-resistant materials.

(4) *Tub supports.* Bathtub rims at wall shall be supported on metal hangers or on end-grain wood blocking attached to the wall unless otherwise recommended by the manufacturer of the tub.

[40 FR 58742, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977]

§ 3280.608 Hangers and supports.

(a) *Strains and stresses.* Piping in a plumbing system shall be installed without undue strains and stresses, and provision shall be made for expansion, contraction, and structural settlement.

(b) *Piping supports.* Piping shall be secured at sufficiently close intervals to keep the pipe in alignment and carry the weight of the pipe and contents. Unless otherwise stated in the standards for specific materials shown in the Table in § 3280.604(a), or unless specified by the pipe manufacturer, plastic drainage piping shall be supported at intervals not to exceed 4 feet and plastic water piping shall be supported at intervals not to exceed 3 feet.

(c) *Hangers and anchors.* (1) Hangers and anchors shall be of sufficient strength to support their proportional share of the pipe alignments and prevent rattling.

(2) Piping shall be securely attached to the structure by hangers, clamps, or brackets which provide protection against motion, vibration, road shock, or torque in the chassis.

(3) Hangers and straps supporting plastic pipe shall not compress, distort, cut or abrade the piping and shall allow free movement of the pipe.

§ 3280.609 Water d stribution system.

(a) *Water supply.* (1) *Supply piping.* Piping systems shall be sized to provide an adequate quantity of water to each plumbing fixture at a flow rate sufficient to keep the fixture in a clean and sanitary condition without any danger of backflow or siphonage. (See Table in § 3280.609(f)(1)). The manufacturer shall include in his written installation instructions that the mobile home has been designed for an inlet water pressure of 80 psi, and a statement that when the mobile home is to be installed in areas where the water pressure exceeds 80 psi, a pressure reducing valve should be installed.

(2) *Hot water supply.* Each mobile home equipped with a kitchen sink, and bathtub and/or shower shall be provided with a hot water supply system including a listed water heater.

(b) *Water outlets and supply connections.* (1) *Water connection.* Each mobile home with a water distribution system shall be equipped with a ¾-inch threaded inlet connection located within the rear half of the length of the mobile home. This connection shall be tagged or marked "Fresh Water Connection" (or marked "Fresh Water Fill"). A matching cap or plug shall be provided to seal the water inlet when it is not in use, and shall be permanently attached to the mobile home or water supply piping. When a master cold water shutoff full flow valve is not installed on the main feeder line in an accessible location, the manufacturer's installation instructions shall indicate that such a

valve is to be installed in the water supply line adjacent to the home. When a mobile home includes expandable rooms or is composed of two or more units, fittings or connectors designed for such purpose shall be provided to connect any water piping. When not connected, the water piping shall be protected by means of matching threaded caps or plugs.

(2) *Prohibited connections.* (i) The installation of potable water supply piping or fixture or appliance connections shall be made in a manner to preclude the possibility of backflow.

(ii) No part of the water system shall be connected to any drainage or vent piping.

(3) *Rim outlets.* The outlets of faucets, spouts, and similar devices shall be spaced at least 1 inch above the flood level of the fixture.

(4) *Appliance connections.* Water supplies connected to clothes washing or dishwashing machines shall be protected by an approved or listed fixed air gap provided within the appliance by the manufacturer.

(5) *Flushometer valves or manually operated flush valves.* An approved or listed vacuum breaker shall be installed and maintained in the water supply line on the discharge side of a toilet flushometer valve or manually operated flush valve. Vacuum breakers shall have a minimum clearance of 6 inches above the flood level of the fixture to the critical level mark unless otherwise permitted in their approval.

(6) *Flush tanks.* Toilet flush tanks shall be equipped with an approved or listed anti-siphon ball cock which shall be installed and maintained with its outlet or critical level mark not less than 1 inch above the full opening of the overflow pipe.

(c) *Water heater safety devices.* (1) *Relief valves.* (i) All water heaters shall be installed with approved and listed fully automatic valve or valves designed to provide temperature and pressure relief.

(ii) Any temperature relief valve or combined pressure and temperature relief valve installed for this purpose shall have the temperature sensing element immersed in the hottest water within the upper 6 inches of the tank. It shall be set to start relieving at a pressure of 150 psi or the rated working pressure of the tank whichever is lower and at or below a water temperature of 210° F.

(iii) Relief valves shall be provided with full-sized drains, with cross sectional areas equivalent to that of the relief valve outlet, which shall be directed downward and discharge beneath the mobile home. Drain lines shall be of a material listed for hot water distribution and shall drain fully by gravity, shall not be trapped, and shall not have their outlets threaded, and the end of the drain shall be visible for inspection.

(d) *Materials*—(1) *Piping material.* Water pipe shall be of standard weight brass, galvanized wrought iron, galvanized steel, Type K, L or M copper tubing, approved or listed plastic or other approved or listed material.

(i) *Plastic piping.* All plastic water piping and fittings in mobile homes must be approved or listed for use with hot water.

(2) *Fittings.* Appropriate fittings shall be used for all changes in size and where pipes are joined. The material and design of fittings shall conform to the type of piping used. Special consideration shall be given to prevent corrosion when dissimilar metals are joined.

(i) Fittings for screw piping shall be standard weight galvanized iron for galvanized iron and steel pipe, and of brass for brass piping. They shall be installed where required for change in direction, reduction of size, or where pipes are joined together.

(ii) Fittings for copper tubing shall be cast brass or drawn copper (sweat-soldered) or shall be approved or listed fittings for the purpose intended.

(3) *Prohibited material.* Used piping materials shall not be permitted. Those pipe dopes, solder fluxes, oils, solvents, chemicals, or other substances that are toxic, corrosive, or otherwise detrimental to the water system shall not be used.

(e) *Installation of piping.* (1) *Minimum requirement.* All piping equipment, appurtenances, and devices shall be installed in workmanlike manner and shall conform with the provisions and intent of this standard.

(2) *Screw pipe.* Iron pipe-size brass or galvanized iron or steel pipe fittings shall be joined with approved or listed standard pipe threads fully engaged in the fittings. Pipe ends shall be reamed to the full bore of the pipe. Pipe-joint compound shall be insoluble in water, shall be nontoxic and shall be applied to male threads only.

(3) *Solder fittings.* Joints in copper water tube shall be made by the appropriate use of approved cast brass or wrought copper fittings, properly soldered together. The surface to be soldered shall be thoroughly cleaned bright mechanically. The joints shall be properly fluxed and made with approved solder.

(4) *Flared fittings.* A flaring tool shall be used to shape the ends of flared tubing to match the flare of fittings.

(5) *Plastic pipe and fittings.* Plastic pipe and fittings shall be joined by installation methods recommended by the manufacturer or in accordance with provisions of a listed standard.

(f) *Size of water supply piping*—(1) *Minimum size.* The size of water supply piping and branch lines shall not be less than sizes shown in the following Table:

Minimum size tubing and pipe for water distribution systems

Number of fixtures	Tubing (nominal)		Pipe iron pipe size (inches)
	Diameter (inches)	Outside diameter (inches)	
1	[illegible]	[illegible]	[illegible]
2	[illegible]	[illegible]	[illegible]
3	[illegible]	[illegible]	[illegible]
4	[illegible]	[illegible]	[illegible]
5 or more	[illegible]	[illegible]	[illegible]

[1] 6 ft maximum length.

Exceptions to table. 3/8 inch nominal diameter or 1/2 inch OD minimum size for clothes washing or dishwashing machines, unless larger size is recommended by the fixture manufacturer. 3/4 inch nominal diameter or 7/8 inch OD minimum size for flushometer or metering type valves unless otherwise specified in their listing. No galvanized screw piping shall be less than 3/4 inch iron pipe size.

(2) *Sizing procedure.* Both hot and cold water piping systems shall be computed by the following method: (i) *Size of branch.* Start at the most remote outlet on any branch of the hot or cold water piping and progressively count towards the water service connection, computing the total number of fixtures supplied along each section of piping. Where branches are joined together, the number of fixtures on each branch shall be totalled so that no fixture is counted twice. Following down the left-hand column of the preceding Table a corresponding number of fixtures will be found. The required pipe or tubing size is indicated in the other columns on the same line.

(ii) A water heater, food waste disposal unit, evaporative cooler or ice maker shall not be counted as a water-using fixture when computing pipe sizes.

(g) *Line valves.* Valves, when installed in the water supply distribution system, (except those immediately controlling one fixture supply) and when fully opened, shall have a cross-sectional area of the smallest orifice or opening, through which the water flows, at least equal to the cross-sectional area of the nominal size of the pipe in which the valve is installed.

§ 3280.610 Drainage systems.

(a) *General.* (1) Each fixture directly connected to the drainage system shall be installed with a water seal trap (§ 3280.606(a)).

(2) The drainage system shall be designed to provide an adequate circulation of air in all piping with no danger of siphonage, aspiration, or forcing of trap seals under conditions of ordinary use.

(b) *Materials* (1) *Pipe.* Drainage piping shall be standard weight steel, wrought iron, brass, copper tube DWV, listed plastic, cast iron, or other listed or approved materials.

(2) *Fittings.* Drainage fittings shall be recessed drainage pattern with smooth interior waterways of the same diameter as the piping and shall be of a material conforming to the type of piping used. Drainage fittings shall be designed to provide for a 1/4 inch per foot grade in horizontal piping. (i) Fittings for screw pipe shall be cast iron, malleable iron, brass, or

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listed plastic with standard pipe threads. (ii) Fittings for copper tubing shall be cast brass or wrought copper. (iii) Socket-type fittings for plastic piping shall comply with listed standards. (iv) Brass or bronze adaptor or wrought copper fittings shall be used to join copper tubing to threaded pipe.

(c) *Drain outlets*—(1) *Location of drain.* Each mobile home shall have only one drain outlet which shall terminate in the rear half section.

(2) *Clearance from drain outlet.* The drain outlet shall be provided with a minimum clearance of 3 inches in any direction from all parts of the structure or appurtenances and with not less than 18 inches unrestricted clearance directly in front of the drain outlet.

(3) *Drain connector.* The drain connector shall not be smaller than the piping to which it is connected and shall be equipped with a water-tight cap or plug matching the drain outlet. The cap or plug shall be permanently attached to the mobile home or drain outlet.

(4) The drain outlet and drain connector shall not be less than 3 inches inside diameter.

(5) *Preassembly of drain lines.* Drain lines, provided by the manufacturer, located under the mobile home, designed to bring the drain system to one distribution point and which may be damaged in transit, must be designed for proper site assembly.

(d) *Fixture connections.* Drainage piping shall be provided with approved or listed inlet fittings for fixture connections, correctly located according to the size and type of fixture to be connected.

(1) *Toilet connection.* The drain connection for each toilet shall be 3 inches minimum inside diameter and shall be fitted with an iron, brass, or listed plastic floor flange adaptor ring securely screwed, soldered or otherwise permanently attached to the drain piping, in an approved manner and securely fastened to the floor.

(e) *Size of drainage piping*—(1) *Fixture load.* Except as provided by § 3280.611(d), drain pipe sizes shall be determined by the type of fixture and the total number connected to each drain. (i) A 1½ inch minimum diameter piping shall be required for one and not more than three individually vented fixtures. (ii) A 2-inch minimum diameter piping shall be required for four or more fixtures individually vented. (iii) A 3-inch minimum diameter piping shall be required for toilets.

(f) *Wet-vented drainage system.* Plumbing fixture traps may connect into a wet-vented drainage system which shall be designed and installed to accommodate the passage of air and waste in the same pipe.

(1) *Horizontal piping.* All parts of a wet-vented drainage system, including the connected fixture drains, shall be horizontal except for wet-vented vertical risers which shall terminate with a 1½ inch minimum diameter continuous vent. Where required by structural design, wet-vented drain piping may be offset vertically when other vented fixture drains or relief vents are connected to the drain piping at or below the vertical offsets.

(2) *Size.* A wet-vented drain pipe shall be 2 inches minimum diameter and at least one pipe size larger than the largest connected trap or fixture drain. Not more than three fixtures may connect to a 2-inch diameter wet-vented drain system.

(3) *Length of trap arm.* Fixture traps shall be located within the distance given in § 3280.611(c)(5). Not more than one trap shall connect to a trap arm.

(g) *Offsets and branch fittings*—(1) *Changes in direction.* Changes in direction of drainage piping shall be made by the appropriate use of approved or listed fittings, and shall be of the following angles: 11¼, 22½, 45, 60, or 90 degrees; or other approved or listed fittings or combinations of fittings with equivalent radius or sweep.

(2) *Horizontal to vertical.* Horizontal drainage lines, connecting with a vertical pipe shall enter through 45-degree "Y" branches, 60-degree "Y" branches, long-turn "TY" branches, sanitary "T" branches, or other approved or listed fittings or combination of fittings having equivalent sweep. Fittings having more than one branch at the same level shall not be used, unless the fitting is constructed so that the discharge from any one branch cannot readily enter any other branch. However, a double sanitary "T" may be used when the drain line is increased not less than two pipe sizes.

(3) *Horizontal to horizontal and vertical to horizontal.* Horizontal drainage lines connecting with other horizontal drainage lines or vertical drainage lines connected with horizontal drainage lines shall enter through 45-degree "Y" branches, long-turn "TY" branches, or other approved or listed fittings or combination of fittings having equivalent sweep.

(h) *Grade of Horizontal Drainage Piping.* Except for fixture connections on the inlet side of the trap, horizontal drainage piping shall be run in practical alignment and have a uniform grade of not less than ¼ inch per foot toward the mobile home drain outlet. Where it is impractical, due to the structural features or arrangement of any mobile home, to obtain a grade of ¼ inch per foot, the pipe or piping may have a grade of not less than ⅛ inch per foot, when a full size cleanout is installed at the upper end.

§ 3280.611 Vents and venting.

(a) *General.* Each plumbing fixture trap shall be protected against siphonage and back pressure, and air circulation shall be ensured throughout all parts of the drainage system by means of vents installed in accordance with the requirements of this section and as otherwise required by this standard.

(b) *Materials*—(1) *Pipe.* Vent piping shall be standard weight steel, wrought iron, brass, copper tube DWV, listed plastic, cast iron or other approved or listed materials.

(2) *Fittings.* Appropriate fittings shall be used for all changes in direction or size and where pipes are joined. The material and design of vent fittings shall conform to the type of piping used.

(i) Fittings for screw pipe shall be cast iron, malleable iron, plastic, or brass, with standard pipe threads.

(ii) Fittings for copper tubing shall be cast brass or wrought copper.

(iii) Fittings for plastic piping shall be made to approved applicable standards.

(iv) Brass adaptor fittings or wrought copper shall be used to join copper tubing to threaded pipe.

(v) Listed rectangular tubing may be used for vent piping only providing it has an open cross section at least equal to the circular vent pipe required. Listed transition fittings shall be used.

(c) *Size of vent piping*—(1) *Main vent.* The drain piping for each toilet shall be vented by a 1½ inch minimum diameter vent or rectangular vent of venting cross section equivalent to or greater than the venting cross section of a 1½ inch diameter vent, connected to the toilet drain by one of the following methods: (i) A 1½ inch diameter (min.) individual vent pipe or equivalent directly connected to the toilet drain within the distance allowed in § 3280.611(c)(5), for 3-inch trap arms undiminished in size through the roof, (ii) A 1½ inch diameter (min.) continuous vent or equivalent, indirectly connected to the toilet drain piping within the distance allowed in § 3280.611(c)(5) for 3 inch trap arms through a 2-inch wet vented drain that carries the waste of not more than one fixture, or, (iii) Two or more vented drains when at least one is wet-vented, or 2-inch diameter (minimum), and each drain is separately connected to the toilet drain. At least one of the drains shall connect within the distance allowed in § 3280.611(c)(5) for 3 inch trap arms.

(2) *Vent Pipe Areas.* Each individually vented fixture with a 1½ inch or smaller trap shall be provided with a vent pipe equivalent in area to a 1¼ inch nominal pipe size. The main vent, toilet vent and relief vent, and the continuous vent of wet-vented systems shall have an area equivalent to 1½ inch nominal pipe size.

(3) *Common Vent.* When two fixture traps located within the distance allowed from their vent have their trap arms connected separately at the same level into an approved double fitting, an individual vent pipe may serve as a common vent without any increase in size.

(4) *Intersecting Vents.* Where two or more vent pipes are joined together, no increase in size shall be required; however, the largest vent pipe shall extend full size through the roof.

(5) Distance of fixture trap from vent shall not exceed the values given in the following Table:

Maximum Distance of Fixture Trap From Vent

Size of fixture drain (inches)	Distance trap to vent
1¼	4 ft 6 in
1½	4 ft 6 in
2	5 ft
3	6 ft

(d) *Anti-siphon trap vent.* An anti-siphon trap vent may be used as a secondary vent system for plumbing fixtures protected by traps not larger than 1½ inches, when installed in accordance with the manufacturers' recommendations and the following conditions: (1) Not more than two fixtures individually protected by the device shall be drained by a common 1½ inch drain.

(2) Minimum drain size for three or more fixtures individually protected by the device shall be 2 inches.

(3) A primary vent stack must be installed to vent the toilet drain at the point of heaviest drainage fixture unit loading.

(4) The device shall be installed in a location that permits a free flow of air and shall be accessible for inspection, maintenance, and replacement and the sealing function shall be at least 6 inches above the top of the trap arm.

(5) Materials for the anti-siphon trap vent shall be as follows: cap and housing shall be listed acrylonitrile-butadiene styrene, DWV grade; stem shall be DWV grade nylon or acetal; spring shall be stainless steel wire, type 302; sealing disc shall be neoprene, conforming to ASTM C 564-70, or, silicone rubber, low and high temperature and tear resistant, conforming to P.S. ZZ-R-765B and MIL-L-10547.

(e) *Grade and connections*—(1) *Horizontal vents.* Each vent shall extend vertically from its fixture "T" or point of connection with the waste piping to a point not less than 6 inches above the extreme flood level of the fixture it is venting before offsetting horizontally or being connected with any other vent pipe. Vents for horizontal drains shall connect above the centerline of the drain piping ahead (downstream) of the trap. Where required by structural conditions, vent piping may offset below the rim of the fixture at the maximum angle or height possible.

(f) *Vent terminal*—(1) *Roof extension.* Each vent pipe shall extend through its flashing and terminate vertically, undiminished in size, not less than 2 inches above the roof. Vent openings shall not be less than 3 feet away from any motor-driven air intake that opens into habitable areas.

(2) *Flashing.* The opening around each vent pipe shall be made watertight by an adequate flashing or flashing material.

(g) *Vent caps.* Vent caps, if provided, shall be of the removable type (without removing the flashing from the roof). When vent caps are used for roof space ventilation and the caps are identical to vent caps used for the plumbing system, plumbing system caps shall be identified with permanent markings.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977]

§ 3280.612 Test and inspection.

(a) *Water system.* All water piping in the water distribution system shall be subjected to a pressure test. The test shall be made by subjecting the system to air or water at 100 psi for 15 minutes without loss of pressure.

(b) *Drainage and vent system and plumbing fixtures.* The waste and vent system shall be tested by one of the three following alternate methods for evidence or indication of leakage:

(1) *Water test.* Before plumbing fixtures are connected, all of the openings into the piping shall be plugged and the entire piping system subjected to a static water test for 15 minutes by filling it with water to the top of the highest vent opening. There shall be no evidence of leakage.

(2) *Air test.* After all fixtures have been installed, the traps filled with water, and the remaining openings securely plugged, the entire system shall be subjected to a 2-inch (manometer) water column air pressure test. If the system loses pressure, leaks may be located with smoke pumped into the system, or with soap suds spread on the exterior of the piping (Bubble test).

(3) *Flood level test.* The mobile home shall be in a level position, all fixtures

shall be connected, and the entire system shall be filled with water to the rim of the toilet bowl. (Tub and shower drains shall be plugged). After all trapped air has been released, the test shall be sustained for not less than 15 minutes without evidence of leaks. Then the system shall be unplugged and emptied. The waste piping above the level of the toilet bowl shall then be tested and show no indication of leakage when the high fixtures are filled with water and emptied simultaneously to obtain the maximum possible flow in the drain piping.

(c) *Fixture test.* The plumbing fixtures and connections shall be subjected to a flow test by filling them with water and checking for leaks and retarded flow while they are being emptied.

(d) *Shower compartments.* Shower compartments and receptors shall be tested for leaks prior to being covered by finish material. Each pan shall be filled with water to the top of the dam for not less than 15 minutes without evidence of leakage.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977; 42 FR 54383, Oct. 5, 1977]

Subpart H—Heating, Cooling and Fuel Burning Systems

§ 3280.701 Scope.

Subpart H of this standard covers the heating, cooling and fuel burning equipment installed within, on, or external to a mobile home.

§ 3280.702 Definitions.

(a) The definitions in this subpart apply to Subpart H only.

(1) "Accessible," when applied to a fixture, connection, appliance or equipment, means having access thereto, but which may require the removal of an access panel, door or similar obstruction.

(2) "Air Conditioner Blower Coil System" means a comfort cooling appliance where the condenser section is placed external to the mobile home and evaporator section with circulating blower attached to the mobile home air supply duct system. Provision must be made for a return air system to the evaporator/blower section. Refrigerant connection between the two parts of the system is accomplished by tubing.

(3) "Air Conditioner Split System" means a comfort cooling appliance where the condenser section is placed external to the mobile home and the evaporator section incorporated into the heating appliance or with a separate blower/coil section within the mobile home. Refrigerant connection between the two parts of the system is accomplished by tubing.

(4) "Air Conditioning Condenser Section" means that portion of a refrigerated air cooling or (in the case of a heat pump) heating system which includes the refrigerant pump (compressor) and the external heat exchanger.

(5) "Air Conditioning Evaporator Section" means a heat exchanger used to cool or (in the case of a heat pump) heat air for use in comfort cooling (or heating) the living space.

(6) "Air Conditioning Self Contained System" means a comfort cooling appliance combining the condenser section, evaporator and air circulating blower into one unit with connecting ducts for the supply and return air systems.

(7) "Air Duct" means conduits or passageways for conveying air to or from heating, cooling, air conditioning or ventilation equipment, but not including the plenum.

(8) "Automatic Pump (Oil Lifter)" means a pump, not an integral part of the oil-burning appliance, that automatically pumps oil from the supply tank and delivers the oil under a constant head to an oil-burning appliance.

(9) "Btu. British Thermal Units" means the quantity of heat required to raise the temperature of one pound of water one degree Fahrenheit.

(10) "Btuh" means British thermal units per hour.

(11) "Burner" means a device for the final conveyance of fuel or a mixture of fuel and air to the combustion zone.

(12) "Central Air Conditioning System" means either an air conditioning split system or an external combination heating/cooling system.

(13) "Class 0 Air Ducts" means ducts of materials and connectors having a fire-hazard classification of zero.

(14) "Class 1 Air Ducts" means ducts of materials and connectors having a flame-spread rating of not over 25 without evidence of continued progressive combustion and a smoke-developed rating of not over 50.

(15) "Class 2 Air Ducts" means ducts of materials and connectors having a flame-spread rating of not over 50 without evidence of continued progressive combustion and a smoke-developed rating of not over 50 for the inside surface and not over 100 for the outside surface.

(16) "Clearance" means the distance between the appliance, chimney, vent, chimney or vent connector or plenum and the nearest surface.

(17) "Connector—Gas Appliance" means a flexible or semi-rigid connector listed as conforming to ANSI Standard Z21.24, Metal Connectors for Gas Appliance, used to convey fuel gas, three feet or less in length (six feet or less for gas ranges), between a gas outlet and a gas appliance in the same room with the outlet.

(18) "Energy Efficiency Ratio (EER)" means the ratio of the cooling capacity output of an air conditioner for each unit of power input.

EER=Capacity (Btuh)/Power input (watts)

(19) "External Combination Heating/Cooling System" means a comfort conditioning system placed external to the mobile home with connecting ducts to the mobile home for the supply and return air systems.

(20) "Factory-Built Fireplace" means a hearth, fire chamber and chimney assembly composed of listed factory-built components assembled in accordance with the terms of listing to form a complete fireplace.

(21) "Fireplace Stove" means a chimney connected solid fuel burning stove having part of its fire chamber open to the room.

(22) "Fuel Gas Piping System" means the arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel gas to the appliance(s).

(23) "Fuel Oil Piping System" means the arrangement of piping, tubing, fittings, connectors, valves and devices designed and intended to supply or control the flow of fuel oil to the appliance(s).

(24) "Gas Clothes Dryer" means a device used to dry wet laundry by means of heat derived from the combustion of fuel gases.

(25) "Gas Refrigerator" means a gas-burning appliance which is designed to extract heat from a suitable chamber.

(26) "Gas Supply Connection" means the terminal end or connection to which a gas supply connector is attached.

(27) "Gas Supply Connector, Mobile Home" means a listed flexible connector designed for connecting the mobile home to the gas supply source.

(28) "Gas Vents" means factory-built vent piping and vent fittings listed by an approved testing agency, that are assembled and used in accordance with the terms of their listings, for conveying flue gases to the outside atmosphere. (i) "Type B Gas Vent" means a gas vent for venting gas appliances with draft hoods and other gas appliances listed for use with Type B Gas Vents. (ii) "Type BW Gas Vent" means a gas vent for venting listed gas fired vented wall furnaces.

(29) "Heat Producing Appliance" means all heating and cooking appliances and fuel burning appliances.

(30) "Heating Appliance" means an appliance for comfort heating or for domestic water heating.

(31) "Liquefied Petroleum Gases." The terms "Liquefied petroleum gases," "LPG" and "LP-Gas" as used in this standard shall mean and include any material which is composed predominantly of any of the following hydrocarbons, or mixtures of them: propane, propylene butanes (normal butane or isobutane), and butylenes.

(32) "Plenum" means an air compartment which is part of an air-distributing system, to which one or more ducts or outlets are connected. (i) Furnace supply plenum is a plenum attached directly to, or an integral part of, the air supply outlet of the furnace. (ii) Furnace return plenum is a plenum attached directly to, or an integral part of, the return inlet of the furnace.

(33) "Quick-Disconnect Device" means a hand-operated device which provides a means for connecting and disconnecting a gas supply or connecting gas systems and which is equipped with an automatic means to shut off the gas supply when the device is disconnected.

(34) "Readily Accessible" means direct access without the necessity of removing any panel, door, or similar obstruction.

(35) "Roof Jack" means that portion of a mobile home heater flue or vent assembly, including the cap, insulating means, flashing, and ceiling plate, located in and above the roof of a mobile home.

(36) "Sealed Combustion System Appliance" means an appliance which by its inherent design is constructed so that all air supplied for combustion, the combustion system of the appliance, and all products of combustion are completely isolated from the atmosphere of the space in which it is installed.

(37) "Water Heater" means an appliance for heating water for domestic purposes other than for space heating.

§ 3280.703 Minimum standards.

Heating, cooling and fuel burning appliances and systems in mobile homes shall be free of defects and shall conform to applicable standards in the following table unless otherwise specified in this standard. (See § 3280.4).

Type	ANSI	UL	Other standards
Appliances			
Air conditioners, central cooling		465	
Liquid fuel-burning heating appliances for mobile homes and travel trailers	A147.1 1969	307(A)—1969	
Electric Air Heater		1025	
Electric Baseboard Heating Equipment		1042	
Electric Central Air Heating Equipment	1096		
Gas-heating appliances for mobile homes and travel trailers		307(B)—1965	
Gas clothes dryers	Z21.5.1 1972 Z21.5.1a—1973 Z21.5.1b—1974		
Commercial gas fired and electrically heated hot water generating equipment			NSF-5—1950
Gas fired absorption summer air conditioning appliances	Z21.40.1—1973 Z21.40.1b—1974		
Gas fired gravity and forced air central furnaces	Z21.47—1973 Z21.47a—1974		
Gas-fired gravity and fan-type sealed combustion system wall furnaces	Z21.44—1973 Z21.44a—1974 Z21.44b—1975		
Commercial cooking and warming equipment			NSF 4—1967
Household cooking gas appliances	Z21.1—1972 Z21.1a—1974		
Refrigerators using gas fuel	Z21.19—1971 Z21.19a—1972 Z21.19b—1973		
Automatic storage type water heaters with input less than 75,000 Btu/h	Z21.10.1—1974 Z21.10.1a—1975		
Heating equipment, electric central air		1096	
Heat pumps		559	

Type	ANSI	UL	Other standards
Ferrous pipe and fittings:			
Black and hot dipped zinc coated (galvanized) welded and seamless steel pipe for ordinary uses			ASTM A120-1972a, WW-P-406D-1973
Electric-resistance welded coiled steel tubing for gas and fuel oil lines			ASTM A539-1973
Pipe threads	B2.1-1968		
Wrought steel and wrought iron pipe	B36.10-1970		
Nonferrous pipe, tubing, and fittings:			
Seamless copper water tube			ASTM B88-1972
Seamless copper tube for air conditioning and refrigeration field service			ASTM B280-1973
Metal connectors for gas appliances	Z21.24-1973		
Nonferrous pipe, tubing, and fittings—Continued			
Manually operated gas valves	Z21.15-1974		
Trailer standard for coated flexible metal gas connectors for outdoor use			IA PMO TSC 9-1972
Wrought seamless copper and copper alloy tube			ASTM B251-1971
Seamless copper pipe, standard size			ASTM B42-1972, WW-P-377D-1962
Miscellaneous:			
Air ducts		181-1972	
Flame tests of flame resistant fabrics		214-1971	
Tube fittings for flammable and combustible fluids and refrigeration service		109-1972	
LPG containers and accessories			ASME, DOT
Pigtails, expansion coils, and flexible hose connectors for liquefied petroleum gas		569-1973	
Road jacks for trailer coaches		311-1971	
Relief valves and automatic gas shutoff devices for hot water supply systems	Z21.22-1971, Z21.22b-1974	132a-1972	
Automatic gas ignition systems and components	Z21.20-1971, Z21.20a-1972, Z21.20b-1974		
Automatic valves for gas appliances	Z21.21-1974		
Gas appliance thermostats	Z21.23-1971, Z21.23a-1972, Z21.23b-1973		
Gas vents	A131.2-1973	441-1973	
Factory built chimneys	A131.1-1971	103-1971	
Factory built fireplaces	A131.3-1971	127-1971	GA
Installation of oil burning equipment	A95.1-1974		NFPA No. 31-1974
Installation of gas appliances, gas piping in buildings	Z223.1-1974		NFPA No. 54-1974
Residence type warm air heating and air conditioning			NFPA No. 90B-1973
Tests for flammability of plastic materials for parts in devices and appliances		94-1974	
Storage and handling of liquefied petroleum gas	Z106.1-1974		NFPA No. 58-1974

§ 3280.704 Fuel supply systems.

(a) *LP—Gas system design and service line pressure*—(1) Systems shall be of the vapor-withdrawal type.

(2) Gas, at a pressure not over 14 inches water column (½ psi), shall be delivered from the system into the gas supply connection.

(b) *LP-Gas Containers*—(1) *Maximum capacity.* No more than two containers having an individual water capacity of not more than 105 pounds (approximately 45 pounds LP Gas capacity), shall be installed on or in a compartment of any mobile home.

(2) *Construction of containers.* Containers shall be constructed and marked in accordance with the specifications for LP-Gas Containers of the U.S. Department of Transportation (DOT) or the Rules for Construction of Unfired Pressure Vessels, Section VIII, Division 1, ASME Boiler and Pressure Vessel Code. ASME Containers shall have a design pressure of at least 312.5 psig. (i) Container supply systems shall be arranged for vapor withdrawal only. (ii) Container openings for vapor withdrawal shall be located in the vapor space when the container is in service or shall be provided with a suitable internal withdrawal tube which communicates with the vapor space in or near the highest point in the container when it is mounted in service position, with the vehicle on a level surface. Containers shall be permanently and legibly marked in a conspicuous manner on the outside to show the correct mounting position and the position of the service outlet connection. The method of mounting in place shall be such as to minimize the possibility of an incorrect positioning of the container.

(3) *Location of LP-Gas Containers and Systems.* (i) LP-Gas Containers shall not be installed, nor shall provisions be made for installing or storing any LP-Gas container, even temporarily, inside any mobile home except for listed, completely self-contained hand torches, lanterns, or similar equipment with containers having a maximum water capacity of not more than 2½ pounds (approximately one pound LP-Gas capacity).

(ii) Containers, control valves, and regulating equipment, when installed, shall be mounted on the "A" frame of the mobile home, or installed in a compartment that is vaportight to the inside of the mobile home and accessible only from the outside. The compartment shall be ventilated at top and bottom to facilitate diffusion of vapors. The compartment shall be ventilated with two vents having an aggregate area of not less than two percent of the floor area of the compartment and shall open unrestricted to the outside atmosphere. The required vents shall be equally distributed between the floor and ceiling of the compartment. If the lower vent is located in the access door or wall, the bottom edge of the vent shall be flush with the floor level of the compartment. The top vent shall be located in the access door or wall with the bottom of the vent not more than 12 inches below the ceiling level of the compartment. All vents shall have an unrestricted discharge to the outside atmosphere. Access doors or panels of compartments shall not be equipped with locks or require special tools or knowledge to open.

(iii) Permanent and removable fuel containers shall be securely mounted to prevent jarring loose, slipping or rotating and the fastenings shall be designed and constructed to withstand static loading in any direction equal to twice the weight of the tank and attachments when filled with fuel, using a safety factor of not less than four based on the ultimate strength of the material to be used.

(4) *LP-Gas Container Valves and Accessories.* (i) Valves in the assembly of a two-cylinder system shall be arranged so that replacement of containers can be made without shutting off the flow of gas to the appliance(s). This provision is not to be construed as requiring an automatic change-over device.

(ii) Shutoff valves on the containers shall be protected as follows, in transit, in storage, and while being moved

into final utilization by setting into a recess of the container to prevent possibility of their being struck if container is dropped upon a flat surface, or by ventilated cap or collar, fastened to the container, capable of withstanding a blow from any direction equivalent to that of a 30-pound weight dropped 4 feet. Construction shall be such that the blow will not be transmitted to the valve.

(iii) [Reserved]

(iv) Regulators shall be connected directly to the container shutoff valve outlets or mounted securely by means of a support bracket and connected to the container shutoff valve or valves with listed high pressure connections. If the container is permanently mounted the connector shall be as required above or with a listed semi-rigid tubing connector.

(5) *LP-Gas Safety Devices.* (i) DOT containers shall be provided with safety relief devices as required by the regulations of the U.S. Department of Transportation. ASME containers shall be provided with relief valves in accordance with Subsection 221 of the Standard for the Storage and Handling of Liquefied Petroleum Gases (NFPA No. 58-1974; ANSI Z106.1-1974). Safety relief valves shall have direct communication with the vapor space of the vessel.

(ii) The delivery side of the gas pressure regulator shall be equipped with a safety relief device set to discharge at a pressure not less than two times and not more than three times the delivery pressure of the regulator.

(iii) Systems mounted on the "A" frame assembly shall be so located that the discharge from the safety relief devices shall be into the open air and not less than three feet horizontally from any opening into the mobile home below the level of such discharge.

(iv) Safety relief valves located within liquefied petroleum gas container compartments may be less than three feet from openings provided the bottom vent of the compartment is at the same level or lower than the bottom of any opening into the vehicle, or the compartment is not located on the same wall plane as the opening(s) and is at least two feet horizontally from such openings.

(6) *LP-Gas System Enclosure and Mounting.* (i) Housings and enclosures shall be designed to provide proper ventilation at least equivalent to that specified in § 3280.704(b)(3)(ii).

(ii) Doors, hoods, domes, or portions of housings and enclosures required to be removed or opened for replacement of containers shall incorporate means for clamping them firmly in place and preventing them from working loose during transit.

(iii) Provisions shall be incorporated in the assembly to hold the containers firmly in position and prevent their movement during transit.

(iv) Containers shall be mounted on a substantial support or a base secured firmly to the vehicle chassis. Neither the container nor its support shall extend below the mobile home frame.

(c) *Oil Tanks* (1) *Installation.* Oil tanks and listed automatic pumps (oil lifters) installed for gravity flow of oil to heating equipment shall be installed so that the top of the tank is no higher than 8 feet above the appliance oil control and the bottom of the tank is not less than 18 inches above the appliance oil control.

(2) *Auxiliary Oil Storage Tank.* Oil supply tanks affixed to a mobile home shall be so located as to require filling and draining from the outside and shall be in a place readily available for inspection. If the fuel supply tank is located in a compartment of a mobile home, the compartment shall be ventilated at the bottom to permit diffusion of vapors and shall be insulated from the structural members of the body. Tanks so installed shall be provided with an outside fill and vent pipe and an approved liquid level gage.

(3) *Shutoff Valve.* A readily accessible, approved manual shutoff valve shall be installed at the outlet of an oil supply tank. The valve shall be installed to close against the supply.

(4) *Fuel Oil Filters.* All oil tanks shall be equipped with an approved oil filter or strainer located downstream from the tank shutoff valve. The fuel oil filter or strainer shall contain a sump with a drain for the entrapment of water.

§ 3280.705 Gas piping systems.

(a) *General.* The requirements of this section shall govern the installation of all fuel gas piping attached to any mobile home. The gas piping supply system shall be designed for a pressure not exceeding 14 inch water column (½ psi) and not less than 7 inch water column (¼ psi). The manufacturer shall indicate in his written installation instructions, the design pressure limitations for safe and effective operation of the gas piping system. None of the requirements listed in this section shall apply to the piping supplied as a part of an appliance. All exterior openings around piping, ducts, plenums or vents shall be sealed to resist the entrance of rodents.

(b) *Materials.* All materials used for the installation, extension, alteration, or repair of any gas piping system shall be new and free from defects or internal obstructions. It shall not be permissible to repair defects in gas piping or fittings. Inferior or defective materials shall be removed and replaced with acceptable material. The system shall be made of materials having a melting point of not less than 1,450 F, except as provided in § 3280.705(e). They shall consist of one or more of the materials described in § 3280.705(b) (1) through (4).

(1) Steel or wrought-iron pipe shall comply with ANSI Standard B36.10-1970 for Wrought-Steel and Wrought-Iron Pipe. Threaded brass pipe in iron pipe sizes may be used. Threaded brass pipe shall comply with Standard Sizes and Specifications for Seamless Red Brass Pipe (ASTM B43-66).

(2) Fittings for gas piping shall be wrought iron, malleable iron, steel, or brass (containing not more than 75 percent copper).

(3) Copper tubing shall be annealed type, Grade K or L, conforming to the Specifications for Seamless Copper Water Tube (ASTM B88-72), or shall comply with the Specifications for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service, ASTM B280-73. When used on systems designed for natural gas, such tubing shall be internally tinned.

(4) Steel tubing shall have a minimum wall thickness of 0.032 inch for tubing of ½ inch diameter and smaller and 0.049 inch for diameters ½ inch and larger. Steel tubing shall be constructed in accordance with ASTM Specification for Electric-Resistance-Welded Coiled Steel Tubing for Gas and Fuel Oil Lines (ASTM A539-73), and shall be externally corrosion protected.

(c) *Piping design.* Each mobile home requiring fuel gas for any purpose shall be equipped with a fuel gas piping system that is designed for LP-Gas only or with a natural gas piping system acceptable for LP-Gas.

(1) Where fuel gas piping is to be installed in both portions of an expandable or multiple unit mobile home, the design and construction of the crossover shall be as follows: (i) There shall be only one point of crossover which shall be readily accessible from the exterior of the mobile home.

(ii) The connector between units shall be a listed type for exterior use, sized in accordance with § 3280.705(d).

(iii) The connection shall be made by a listed "quick disconnect" device which shall be designed to provide a positive seal of the supply side of the gas system when such device is separated.

(iv) The flexible connector and "quick disconnect" device shall be provided with protection from mechanical and impact damage and located to minimize the possibility of tampering.

(v) Suitable protective coverings for the "quick disconnect" device, when separated, shall be permanently attached to the device or flexible connector.

(vi) A 3 inch by 1¾ inch minimum size tag made of etched, metal-stamped or embossed brass, stainless steel, anodized or alclad aluminum not less than 0.020 inch thick, or other approved material (e.g., 0.005 inch plastic laminates) shall be permanently attached on the exterior wall adjacent to the access to the "quick disconnect" device. Each tag shall be legibly inscribed with the following information using letters no smaller than ¼ inch high:

Do Not Use Tools to Separate the "Quick Disconnect" Device.

(d) *Gas Pipe Sizing.* Gas piping systems shall be sized so that the pressure drop to any appliance inlet connection from any gas supply connection, when all appliances are in operation at maximum capacity, is not more than 0.5 inch water column as determined on the basis of test, or in accordance with the following Table. When determining gas pipe sizing in the table, gas shall be assumed to have a specific gravity of 0.65 and rated at 1000 B.T.U. per cubic foot. The natural gas supply connection(s) shall be not less than the size of the gas piping but shall be not smaller than ¾ inch nominal pipe size.

(e) *Joints for Gas Pipe.* All pipe joints in the piping system, unless welded or brazed, shall be threaded joints that comply with ANSI Standard Pipe Threads (Except Dryseal) B2.1—1968. Right and left nipples or couplings shall not be used. Unions, if used, shall be of ground joint type. The material used for welding or brazing pipe connections shall have a melting temperature in excess of 1,000 F.

(f) *Joints for Tubing.* (1) Tubing joints shall be made with either a single or a double flare of 45 degrees in accordance with SAE Standard J 533A or with other listed vibration-resistant fittings, or joints may be brazed with material having a melting point exceeding 1,000 F. Metallic ball sleeve compression-type tubing fittings shall not be used.

(2) Steel tubing joints shall be made with a double-flare in accordance with SAE Standard J 533A.

(g) *Pipe Joint Compound.* Screw joints shall be made up tight with listed pipe joint compound, insoluble in liquefied petroleum gas, and shall be applied to the male threads only.

(h) *Concealed Tubing.* Tubing shall not be run inside walls, floors, partitions, or roofs. Where tubing passes through walls, floors, partitions, roofs, or similar installations, such tubing shall be protected by the use of weather resistant grommets that shall snugly fit both the tubing and the hole through which the tubing passes.

Maximum Capacity of Different Sizes of Pipe and Tubing in Thousands of Btu's Per Hour of Natural Gas For Gas Pressures of 0.5 Psig or Less and a Maximum Pressure Drop of ½ In. Water Column

Pipe: Iron Pipe Sizes	Length in Feet: 10	20	30	40	50	60	70	80	90	100	Tubing: O.D.	Length in Feet: 10	20	30	40	50	60	70	80	90	100
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Maximum Capacity of Different Sizes of Pipe and Tubing in Thousands of Btu's Per Hour of Undiluted Liquefied Petroleum Gas Based on a Maximum Pressure Drop of ½ Inch Water Column

Pipe: Iron Pipe Sizes	Length in Feet: 10	20	30	40	50	60	70	80	90	100	Tubing: O.D.	Length in Feet: 10	20	30	40	50	60	70	80	90	100
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
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(i) *Concealed Joints.* Piping or tubing joints shall not be located in any floor, wall partition, or similar concealed construction space.

(j) *Location of gas supply connection.* (1) For LP-Gas-only systems the supply connection shall be located at the "A" frame, container recess, or in the rear half of the total length of the mobile home and within 24 inches from the left (road) side wall, and should be as close as practicable to a point 30 feet from the front of the mobile home.

(2) For combination LP-Gas and natural gas systems, the natural gas supply connection shall be located under the rear half of the total length of the mobile home and within 24 inches of the left (road) side wall and be located as close as practicable to a point 30 feet from the front of the mobile home. The natural gas supply connection shall not be located beneath any exit door. An additional connection, if used, shall be located at the "A" frame. The system shall be sized to provide adequate capacity from either supply connection for natural gas.

(k) *Identification of gas supply connections.* Each mobile home shall have permanently affixed to the exterior skin at or near each gas supply connection or the end of the pipe, a tag of 3 inches by 1¾ inches minimum size, made of etched, metal-stamped or embossed brass, stainless steel, anodized or alclad aluminum not less than 0.020 inch thick, or other approved material (e.g., 0.005 inch plastic laminates), which reads (as appropriate) in accordance with one of the following label designs depending upon the fuel used. The connector capacity indicated on this tag shall be equal to or greater than the total Btuh rating of all intended gas appliances.

(l) *Gas supply connectors*—(1) *LP-Gas.* A listed LP-Gas flexible connector conforming to the UL Standard for Pigtails, Expansion Coils and Flexible Hose Connectors for LP-Gas (UL 569-1973) or equal shall be supplied when the fuel gas piping system is designed for the use of LP-Gas and cylinder(s) and regulator(s) are supplied.

(2) *Appliance connections.* All gas burning appliances shall be connected to the fuel piping. Materials as provided in § 3280.705(b) or listed appliance connectors shall be used. Listed appliance connectors when used shall not run through walls, floors, ceilings or partitions. Connectors of aluminum shall not be used outdoors. A mobile home containing an LPG or combination LP-natural gas system may be provided with a gas outlet to supply exterior appliances when installed in accordance with the following:

(i) No portion of the completed installation shall project beyond the wall of the mobile home.

(ii) The outlet shall be provided with an approved "quick-disconnect" device, which shall be designed to provide a positive seal on the supply side of the gas system when the appliance is disconnected. A shutoff valve shall be installed immediately upstream of the quick-disconnect device. The complete device shall be provided as part of the original installation.

(iii) Protective caps or plugs for the "quick-disconnect" device, when disconnected, shall be permanently attached to the mobile home adjacent to the device.

(iv) A tag shall be permanently attached to the outside of the exterior wall of the mobile home as close as possible to the gas supply connection. The tag shall indicate the type of gas and the Btuh capacity of the outlet and shall be legibly inscribed as follows:

THIS OUTLET IS DESIGNED FOR USE WITH GAS PORTABLE APPLIANCES WHOSE TOTAL INPUT DO NOT EXCEED — — BTUH. REPLACE PROTECTIVE COVERING OVER CONNECTOR WHEN NOT IN USE.

(3) *Valves.* A shutoff valve shall be installed in the fuel piping at each appliance inside the mobile home structure, upstream of the union or connector in addition to any valve on the appliance and so arranged to be accessible to permit servicing of the appliance and removal of its components. The shutoff valve shall be located within 6 feet of a cooking appliance and within 3 feet of any other appliance. A shutoff valve may serve more than one appliance if located as required above. Shutoff valves used in connection with gas piping shall be of

a type designed and listed for use on LP-Gas.

(4) *Gas Piping System Openings.* All openings in the gas piping system shall be closed gas-tight with threaded pipe plugs or pipe caps.

(5) *Electrical Ground.* Gas piping shall not be used for an electrical ground.

LP-Gas System

This gas piping system is designed for use of liquefied petroleum gas only.

DO NOT CONNECT NATURAL GAS TO THIS SYSTEM.

CONTAINER SHUTOFF VALVES SHALL BE CLOSED DURING TRANSIT.

When connecting to lot outlet, use a listed gas supply connector

for mobile homes rated at ☐100,000 Btuh or more.
☐250,000 Btuh

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliances for leakage with soapy water or bubble solution, and light all pilots.

Combination LP-Gas and Natural Gas System

This gas piping system is designed for use of either liquefied petroleum gas or natural gas.

NOTICE: BEFORE TURNING ON GAS BE CERTAIN APPLIANCES ARE DESIGNED FOR THE GAS CONNECTED AND ARE EQUIPPED WITH CORRECT ORIFICES. SECURELY CAP THIS INLET WHEN NOT CONNECTED FOR USE.

When connecting to lot outlet, use a listed gas supply connector

for mobile homes rated at ☐100,000 Btuh or more.
☐250,000 Btuh

Before turning on gas, make certain all gas connections have been made tight, all appliance valves are turned off, and any unconnected outlets are capped.

After turning on gas, test gas piping and connections to appliances for leakage with soapy water or bubble solution, and light all pilots.

(6) *Couplings* Pipe couplings and unions shall be used to join sections of threaded piping. Right and left nipples or couplings shall not be used.

(7) *Hangers and Supports.* All gas piping shall be adequately supported by galvanized or equivalently protected metal straps or hangers at intervals of not more than 4 feet, except where adequate support and protection is provided by structural members. Solid iron-pipe gas supply connection(s) shall be rigidly anchored to a structural member within 6 inches of the supply connection(s).

(8) *Testing for Leakage.* (i) Before appliances are connected, piping systems shall stand a pressure of at least six inches mercury or three PSI gage for a period of not less than ten minutes without showing any drop in pressure. Pressure shall be measured with a mercury manometer or slope gage calibrated so as to be read in increments of not greater than one-tenth pound, or an equivalent device. The source of normal operating pressure shall be isolated before the pressure tests are made. Before a test is begun, the temperature of the ambient air and of the piping shall be approximately the same, and constant air temperature be maintained throughout the test.

(ii) After appliances are connected, the piping system shall be pressurized to not less than 10 inches nor more than 14 inches water column and the appliance connections tested for leakage with soapy water or bubble solution.

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5403 and 5424) and sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

(40 FR 58752, Dec. 18, 1975 as amended at 42 FR 54383, Oct. 5, 1977)

§ 3280.706 Oil piping systems.

(a) *General.* The requirements of this section shall govern the installation of all liquid fuel piping attached to any mobile home. None of the requirements listed in this section shall apply to the piping in the appliance(s).

(b) *Materials.* All materials used for the installation extension, alteration, or repair, of any oil piping systems shall be new and free from defects or internal obstructions. The system shall be made of materials having a melting point of not less than 1,450 F, except as provided in § 280.706(d) and (e). They shall consist of one or more of the materials described in § 3280.706(b)(1) through (4).

(1) Steel or wrought-iron pipe shall comply with American National Standard for Wrought-Steel or Wrought-Iron Pipe, B36.10—1970. Threaded copper or brass pipe in iron pipe sizes may be used.

(2) Fittings for oil piping shall be wrought iron, malleable iron, steel, or brass (containing not more than 75 percent copper).

(3) Copper tubing shall be annealed type, Grade K or L conforming to the Specifications for Seamless Copper Water Tube (ASTM B88-72), or shall comply with the specifications for Seamless Copper Tube for Air Conditioning and Refrigeration Field Service, ASTM B280-73.

(4) Steel tubing shall have a minimum wall thickness of 0.032 inch for diameters up to ½ inch and 0.049 inch for diameters ½ inch and larger. Steel tubing shall be constructed in accordance with the Specification for Electric-Resistance Welded Coiled Steel Tubing for Gas and Fuel Oil Lines (ASTM A539-73) and shall be externally corrosion protected.

(c) *Size of Oil Piping.* The minimum size of all fuel oil tank piping connecting outside tanks to the appliance shall be no smaller than 3/8 inch OD copper tubing or 1/4 inch IPS. If No. 1 fuel oil is used with a listed automatic pump (fuel lifter), copper tubing shall be sized as specified by the pump manufacturer.

(d) *Joints for Oil Piping.* All pipe joints in the piping system, unless welded or brazed, shall be threaded joints which comply with American National Standard for Pipe Threads (Except Dryseal), B2.1—1968. The material used for brazing pipe connections shall have a melting temperature in excess of 1,000 F.

(e) *Joints for Tubing.* Joints in tubing shall be made with either a single or double flare of the proper degree, as recommended by the tubing manufacturer, by means of listed tubing fittings, or brazed with materials having a melting point in excess of 1,000 F.

(f) *Pipe joint compound.* Threaded joints shall be made up tight with listed pipe joint compound which shall be applied to the male threads only.

(g) *Couplings.* Pipe couplings and unions shall be used to join sections of threaded pipe. Right and left nipples or couplings shall not be used.

(h) *Grade of piping.* Fuel oil piping installed in conjunction with gravity feed systems to oil heating equipment shall slope in a gradual rise upward from a central location to both the oil tank and the appliance in order to eliminate air locks.

(i) *Strap hangers.* All oil piping shall be adequately supported by galvanized or equivalently protected metal straps or hangers at intervals of not more than 4 feet, except where adequate support and protection is provided by structural members. Solid iron-pipe oil supply connection(s) shall be rigidly anchored to a structural member within 6 inches of the supply connection(s).

(j) *Testing for leakage.* Before setting the system in operation, tank installations and piping shall be checked for oil leaks with fuel oil of the same grade that will be burned in the appliance. No other material shall be used for testing fuel oil tanks and piping. Tanks shall be filled to maximum capacity for the final check for oil leakage.

§ 3280.707 Heat producing appliances.

(a) Heat-producing appliances and vents, roof jacks and chimneys necessary for their installation in mobile homes shall be listed or certified by a nationally recognized testing agency for use in mobile homes.

(1) A mobile home shall be provided with a comfort heating system. (i) When a mobile home is manufactured to contain a heating appliance, the heating appliance shall be installed by the manufacturer of the mobile home in compliance with applicable sections of this subpart. (ii) When a mobile home is manufactured for field application of an external heating or combination heating/cooling appliance, preparation of the mobile home for this external application shall comply with the applicable sections of this part.

(2) After the effective date specified herein gas and oil burning comfort heating appliances shall have a flue loss of not more than that specified below, and a thermal efficiency of not less than that specified in nationally recognized standards. (See § 3280.703)

Effective date	Maximum allowable flue loss
Jan. 1, 1977	25 percent
Jan. 1, 1976	30 percent

(b) Fuel-burning heat-producing appliances and refrigeration appliances, except ranges and ovens, shall be of the vented type and vented to the outside.

(c) Fuel-burning appliances shall not be converted from one fuel to another fuel unless converted in accordance with the terms of their listing and the appliance manufacturer's instructions.

(d) Performance Efficiency:

(1) Except as provided herein, all automatic electric storage water heaters installed in mobile homes that enter the first stage of production on or after February 15, 1977, shall have a standby loss not exceeding 43 watts/meter^2 (4 watts/ft^2) of tank surface area. The method of test for standby loss shall be as described in section 4.3.1 of ANSI C72.1-72.

However, a mobile home that enters the first stage of production on or after February 15, 1977, and before April 1, 1977, may contain an automatic electric storage water heater which does not meet the above performance efficiency requirements if a label is affixed to the water heater as follows.

(i) The label shall be located on the front of the water heater so that it is readily visible after the water heater is installed in the mobile home.

(ii) The label shall be made of paper, .005 plastic laminate material, or other materials which may be easily affixed to the water heater by use of a gum or adhesive backing.

(iii) The label shall be a minimum of 3" x 1 3/4" in dimension.

(iv) The label shall read as follows:

This electric water heater does not meet energy efficiency criteria established by the Department of Housing and Urban Development for water heaters installed in mobile

tomes. This does not make the water heater unsafe or hazardous.

(2) All gas and oil-fired automatic storage water heaters shall have a recovery efficiency, E_r, and a standby loss, S, as described below, effective January 1, 1977. The method of test of E_r and S shall be as described in Section 2.7 of ANSI Z21.10.1-1974, except that for oil-fired units, CP = 1.0, Q = total gallons of oil consumed and H = total heating value of oil in Btu/gallon.

Storage capacity in gallons	Recovery efficiency	Standby loss
Less than 25	At least 75 percent	Not more than 7.5 percent
25 up to 35	do	Not more than 7 percent
35 or more	do	Not more than 6 percent

(c) Each space heating, cooling or combination heating and cooling system shall be provided with at least one readily adjustable automatic control for regulation of living space temperature. The control shall be placed a minimum of 3 feet from the vertical edge of the appliance compartment door. It shall not be located on an exterior wall or on a wall separating the appliance compartment from a habitable room.

(f) Oil fired heating equipment. All oil fired heating equipment shall conform to UL 307(A)-1969 or ANSI 147.1-1969 and be installed in accordance with NFPA 31-1974. Regardless of the requirements of the above referenced standards, or any other reference standards, the following are not required: (1) External switches or remote controls which shut off the burner or the flow of oil to the burner, or (2) An emergency disconnect switch to interrupt electric power to the equipment under conditions of excessive temperature.

(Secs. 604 and 625 of Title VI of P.L. 93-383, (42 U.S.C. 5403 and 524), and sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

[40 FR 58752, Dec. 17, 1975, as amended at 41 FR 56276, Dec. 27, 1976; 42 FR 54383, Oct. 5, 1977]

§ 3280.708 Exhaust duct system and provisions for the future installation of a clothes dryer.

(a) *Clothes dryers.* (1) All gas and electric clothes dryers shall be exhausted to the outside by a moisture-lint exhaust duct and termination fitting. When the clothes dryer is supplied by the manufacturer, the exhaust duct and termination fittings shall be completely installed by the manufacturer. However, if the exhaust duct system is subject to damage during transportation, it need not be completely installed at the factory when: (i) The exhaust duct system is connected to the clothes dryer, and (ii) a moisture lint exhaust duct system is roughed in and installation intructions are provided in accordance with section 3280.708 (b)(3) or (c).

(2) A clothes dryer moisture-lint exhaust duct shall not be connected to any other duct, vent or chimney.

(3) The exhaust duct shall not terminate beneath the mobile home.

(4) Moisture-lint exhaust ducts shall not be connected with sheet metal screws or other fastening devices which extend into the interior of the duct.

(5) Moisture-lint exhaust duct and termination fittings shall be installed in accordance with the appliance manufacturer's printed instructions.

(b) *Provisions for future installation of a gas clothes dryer.* A mobile home may be provided with "stubbed in" equipment at the factory to supply a gas clothes dryer for future installation by the owner provided it complies with the following provisions: (1) The "stubbed in" gas outlet shall be provided with a shutoff valve, the outlet of which is closed by threaded pipe plug or cap; (2) the "stubbed in" gas outlet shall be permanently labeled to identify it for use only as the supply connection for a gas clothes dryer; (3) a moisture-lint exhaust duct system shall be roughed in by the manufacturer. The manufacturer shall provide written instructions to the owner on how to complete the exhaust duct installation in accordance with provisions of § 3280.708(a) (1) through (5).

(c) *Provisions for future installation of a electric clothes dryers.* When wiring is installed to supply an electric clothes dryer for future installation by the owner, the manufacturer shall: (1) Provide a roughed in moisture-lint exhaust duct system; (2) install a receptacle for future connection of the dryer; (3) provide written instructions on how to complete the exhaust duct installation in accordance with the provisions of § 3280.708(a) (1) through (5).

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5403 and 5424) and sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d)))

[42 FR 54383, Oct. 5, 1977]

§ 3280.709 Installation of appliances.

(a) The installation of each appliance shall conform to the terms of its listing and the manufacturer's instructions. The installer shall leave the manufacturer's instructions attached to the appliance. Every appliance shall be secured in place to avoid displacement. For the purpose of servicing and replacement, each appliance shall be both accessible and removable.

(b) Heat-producing appliances shall be so located that no doors, drapes, or other such material can be placed or swing closer to the front of the appliance than the clearances specified on the labeled appliances.

(c) Clearances surrounding heat producing appliances shall not be less than the clearances specified in the terms of their listings.

(1) Prevention of storage. The area surrounding heat producing appliances installed in areas with interior or exterior access shall be framed in or guarded with noncombustible material such that the distance from the appliance to the framing or guarding material is not greater than three inches unless the appliance is installed in compliance with paragraph (c)(2), of this section. When clearance required by the listing is greater than three inches, the guard or frame shall not be closer to the appliance than the distance provided in the listing.

(2) Clearance spaces surrounding heat producing appliances are not required to be framed in or guarded when:

(i) A space is designed specifically for a clothes washer or dryer.

(ii) Dimensions surrounding the appliance do not exceed three inches, or

(iii) The manufacturer affixes either to a side of an alcove or compartment containing the appliance, or to the appliance itself, in a clearly visible location, a 3"x5" adhesive backed plastic laminated label or the equivalent which reads as follows:

"Warning"

This compartment is not to be used as a storage area. Storage of combustible materials or containers on or near any appliance in this compartment may create a fire hazard. Do not store such materials or containers in this compartment.

(d) All fuel-burning appliances, except ranges, ovens, illuminating appliances, clothes dryers, solid fuel-burning fireplaces and solid fuel-burning fireplace stoves, shall be installed to provide for the complete separation of the combustion system from the interior atmosphere of the mobile home. Combustion air inlets and flue gas outlets shall be listed or certified as components of the appliance. The required separation may be obtained by:

(1) The installation of direct vent system (sealed combustion system) appliances, or

(2) The installation of appliances within enclosures so as to separate the appliance combustion system and venting system from the interior atmosphere of the mobile home. There shall not be any door, removable access panel, or other opening into the enclosure from the inside of the mobile home. Any opening for ducts, piping, wiring, etc., shall be sealed.

(e) A forced air appliance and its return-air system shall be designed and installed so that negative pressure created by the air-circulating fan cannot affect its or another appliance's combustion air supply or act to mix products of combustion with circulating air.

(1) The air circulating fan of a furnace installed in an enclosure with another fuel-burning appliance shall be operable only when any door or panel covering an opening in the furnace fan compartment or in a return air plenum or duct is in the closed position. This does not apply if both appliances are direct vent system (sealed combustion system) appliances.

(2) If a warm air appliance is installed within an enclosure to conform to § 3280.709(d)(2), each warm-air outlet and each return air inlet shall extend to the exterior of the enclosure. Ducts, if used for that purpose, shall not have any opening within the enclosure and shall terminate at a location exterior to the enclosure.

(3) Cooling coils installed as a portion of, or in connection with, any forced-air furnace shall be installed on the downstream side unless the furnace is specifically otherwise listed.

(4) An air conditioner evaporator section shall not be located in the air discharge duct or plenum of any forced-air furnace unless the mobile home manufacturer has complied with certification required in § 3280.511.

(5) If a cooling coil is installed with a forced-air furnace, the coil shall be installed in accordance with its listing. When a furnace-coil unit has a limited listing, the installation must be in accordance with that listing.

(6) When an external heating appliance or combination cooling/heating appliance is to be applied to a mobile home, the manufacturer shall make provision for proper location of the connection to the mobile home supply system and return air system of the external ducts connected to the appliance.

(7) The installation of a self contained air conditioner comfort cooling appliance shall meet the following requirements: (i) The installation on a duct common with an installed heating appliance shall require the installation of an automatic damper or other means to prevent the cooled air from passing through the heating appliance unless the heating appliance is certified or listed for such application and the supply system is intended for such an application.

(ii) The installation shall prevent the flow of heated air into the external cooling appliance and its connecting ducts to the mobile home supply and return air system during the operation of the heating appliance installed in the mobile home.

(iii) The installation shall prevent simultaneous operation of the heating and cooling appliances.

(f) *Vertical clearance above cooking top.* Ranges shall have a vertical clearance above the cooking top of not less than 24 inches. (See § 3280.204).

(g) Solid fuel-burning factory-built fireplaces and fireplace stoves listed for use in mobile homes may be installed in mobile homes provided they and their installation conform to the following paragraphs. A fireplace or fireplace stove shall not be considered as a heating facility for determining compliance with Subpart F.

(1) A solid fuel-burning fireplace or fireplace stove shall be equipped with integral door(s) or shutter(s) designed to close the fireplace or fireplace stove fire chamber opening and shall include complete means for venting through the roof, a combustion air inlet, a hearth extension, and means to securely attach the fireplace or the fireplace stove to the mobile home structure. The installation shall conform to the following paragraphs (g)(1) (i) to (vii) inclusive:

(i) A listed factory-built chimney designed to be attached directly to the fireplace or fireplace stove shall be used. The listed factory built chimney shall be equipped with and contain as part of its listing a termination device(s) and a spark arrester(s).

(ii) A fireplace or fireplace stove, air intake assembly, hearth extension and the chimney shall be installed in accordance with the terms of their listings and their manufacturer's instructions.

(iii) The combustion air inlet shall conduct the air directly into the fire chamber and shall be designed to prevent material from the hearth dropping onto the area beneath the mobile home.

(iv) The fireplace or fireplace stove shall not be installed in a sleeping room.

(v) Hearth extension shall be of noncombustible material not less than ⅜-inch thick. The hearth shall extend at least 16 inches in front or and at least 8 inches beyond each side of the fireplace or fireplace stove opening. Furthermore the hearth shall extend over the entire surface beneath a fireplace stove and beneath an elevated or overhanging fireplace.

(vi) The label on each solid fuel-burning fireplace and solid fuel-burning fireplace stove shall include the following wording: For use with solid fuel only.

(vii) The chimney shall extend at least three feet above the part of the roof through which it passes and at least two feet above the highest elevation of any part of the mobile home within 10 feet of the chimney. Portions of the chimney and termination that exceed an elevation of 13½ ft. above ground level may be designed to be removed for transporting the mobile home.

[40 FR 58752, Dec. 18, 1975, as amended at 44 FR 66195, Nov. 19, 1979]

§ 3280.710 Venting, ventilation and combustion air.

(a) The venting as required by § 3280.707(b) shall be accomplished by one or more of the methods given in (a) (1) and (2) of this section:

(1) An integral vent system listed or certified as part of the appliance.

(2) A venting system consisting entirely of listed components, including roof jack, installed in accordance with the terms of the appliance listing and the appliance manufacturer's instructions.

(b) Venting and combustion air systems shall be installed in accordance with the following:

(1) Components shall be securely assembled and properly aligned using the method shown in the appliance manufacturer's instructions.

(2) Draft hood connectors shall be firmly attached to draft hood outlets or flue collars by sheet metal screws or by equivalent effective mechanical fasteners.

(3) Every joint of a vent, vent connector, exhaust duct and combustion air intake shall be secure and in alignment.

(c) Venting systems shall not terminate underneath a mobile home.

(d) Venting system terminations shall be not less than three feet from any motor-driven air intake discharging into habitable areas.

(e) The area in which cooking appliances are located shall be ventilated by a metal duct which may be single wall, not less than 12.5 square inches in cross-sectional area (minimum dimension shall be two inches) located above the appliance(s) and terminating outside the mobile home, or by listed mechanical ventilating equipment discharging outside the home, that is installed in accordance with the terms of listing and the manufacturer's instructions. Gravity or mechanical ventilation shall be installed within a horizontal distance of not more than ten feet from the vertical front of the appliance(s).

(f) Mechanical ventilation which exhausts directly to the outside atmosphere from the living space of a home shall be equipped with an automatic or manual damper. Operating controls shall be provided such that mechanical ventilation can be separately operated without directly energizing other energy consuming devices.

§ 3280.711 Instructions.

Operating instructions shall be provided with each appliance. These instructions shall include directions and information covering the proper use and efficient operation of the appliance and its proper maintenance.

§ 3280.712 Marking.

(a) Information on clearances, input rating, lighting and shutdown shall be attached to the appliances with the same permanence as the nameplate, and so located that it is easily readable when the appliance is properly installed or shutdown for transporting of mobile home.

(b) Each fuel-burning appliance shall bear permanent marking designating the type(s) of fuel for which it is listed.

§ 3280.713 Accessibility.

Every appliance shall be accessible for inspection, service, repair, and replacement without removing permanent construction. Sufficient room shall be available to enable the operator to observe the burner, control, and ignition means while starting the appliance.

§ 3280.714 Appliances, cooling.

(a) Every air conditioning unit or a combination air conditioning and heating unit shall be listed or certified by a

nationally recognized testing agency for the application for which the unit is intended and installed in accordance with the terms of its listing.

(1) Mechanical air conditioners shall be rated in accordance with the Standard for Unitary Air-Conditioning Equipment (ARI Standard 210-74) and certified by ARI or other nationally recognized testing agency capable of providing follow-up service.

(i) Electric motor-driven unitary cooling systems with rated capacity less than 65,000 Btu/hr manufactured after the times indicated in the following table, when rated at ARI Standard rating conditions as listed in ARI Standard 210-74, shall show energy efficiency ratio (EER) values not less than as shown below:

Date	Energy efficiency ratio
Jan. 1, 1977	6.5
Jan. 1, 1980	7.2

(ii) Direct refrigerating systems serving any air conditioning or comfort-cooling system installed that ranks no lower than Group 5 in the Underwriters' Laboratories, Inc. "Classification of Comparative Life Hazard of Various Chemicals."

(iii) Heat pumps shall be listed in the ARI Directory of Certified Unitary Heat Pumps or certified to comply with all the requirements of the Standard for Unitary Heat Pumps 240-74. Electric motor-driven vapor compression heat pumps with supplemental electrical resistance heat shall be sized to provide by compression at least 60 percent of the calculated annual heating requirement for the mobile home being served. A control shall be provided and set to prevent operation of supplemental electrical resistance heat at outdoor temperatures above 40 F, except for defrost operation.

(iv) Electric motor-driven vapor compression heat pumps with supplemental electric resistance heat conforming to ARI Standard 240-74 manufactured after the dates indicated in the table shall show coefficient of performance ratios not less than shown below:

COP

Date	Outdoor air temperature 45 F	20 F	0 F
Jan. 1, 1977	2.2	1.4	Permit shutoff
Jan. 1, 1980	2.5	1.7	1.0

(2) Gas fired absorption air conditioners shall be listed or certified in accordance with ANSI Standard Z21.40.1-1973 and certified by AGA or another nationally recognized testing agency capable of providing follow-up service.

(3) Direct refrigerating systems serving any air conditioning or comfort-cooling system installed in a mobile home shall employ a type of refrigerant that ranks no lower than Group 5 in the Underwriters' Laboratories, Inc. "Classification of Comparative Life Hazard of Various Chemicals."

(b) *Installation and instructions.* (1) The installation of each appliance shall conform to the terms of its listing as specified on the appliance and in the manufacturer's instructions. The installer shall include the manufacturer's installation instructions in the mobile home. Appliances shall be secured in place to avoid displacement and movement from vibration and road shock.

(2) Operating instructions shall be provided with the appliance.

(c) Fuel-burning air conditioners shall also comply with § 280.707.

(d) The appliance rating plate shall be so located that it is easily readable when the appliance is properly installed.

(e) Every installed appliance shall be accessible for inspection, service, repair and replacement without removing permanent construction.

§ 3280.715 Circulating air system.

(a) *Supply system.* (1) Supply ducts and any dampers contained therein shall be made from galvanized steel, tin-plated steel, or aluminum, or shall be listed Class 0, Class 1, or Class 2 air ducts. Class 2 air ducts shall be located at least 3 feet from the furnace bonnet or plenum. A duct system integral with the structure shall be of durable construction that can be demonstrated to be equally resistant to fire and deterioration. Ducts constructed from sheet metal shall be in accordance with the following table:

Minimum metal thickness for ducts [1]

Duct type	Diameter 14 in. or less	Width Over 14 in.
Round	0.013	0.016
Enclosed rectangular	.013	.016
Exposed rectangular	.016	.019

[1] When "nominal" thicknesses are specified, 0.003 in. shall be added to these "minimum" metal thicknesses.

(2) *Sizing of ducts for heating.* (i) Ducts shall be so designed that when a labeled forced-air furnace is installed and operated continuously at its normal heating air circulating rate in the mobile home, with all registers in the full open position, the static pressure measured in the casing shall not exceed 90% of that shown on the label of the appliance. For upflow furnaces the static pressure shall be taken in the duct plenum. For external heating or combination heating/cooling appliances the static pressure shall be taken at the point used by the agency listing or certifying the appliance.

(ii) When an evaporator-coil specifically designed for the particular furnace is installed between the furnace and the duct plenum, the total static pressure shall be measured downstream of the coil in accordance with the appliance label and shall not exceed 90 percent of that shown on the label of the appliance.

(iii) When any other listed air-cooler coil is installed between the furnace and the duct plenum, the total static pressure shall be measured between the furnace and the coil and it shall not exceed 90 percent of that shown on the label of the furnace.

(iv) The minimum dimension of any branch duct shall be at least 1½ inches, and of any main duct, 2½ inches.

(3) *Sizing of ducts.* (i) The mobile home manufacturer shall certify the capacity of the air cooling supply duct system for the maximum allowable output of ARI certified central air conditioning systems. The certification shall be at operating static pressure of 0.3 inches of water or greater. (See § 3280.511).

(ii) The refrigerated air cooling supply duct system including registers must be capable of handling at least 300 cfm per 10,000 btuh with a static pressure no greater than 0.3 inches of water when measured at room temperature. In the case of application of external self contained comfort cooling appliances or the cooling mode of combination heating/cooling appliances, either the external ducts between the appliance and the mobile home supply system shall be considered part of, and shall comply with the requirements for the refrigerated air cooling supply duct system, or the connecting duct between the external appliance and the mobile supply duct system shall be a part of the listed appliance. The minimum dimension of any branch duct shall be at least 1½ inches, and of any main duct, 2½ inches.

(4) *Airtightness of supply duct systems.* A supply duct system shall be considered substantially airtight when the static pressure in the duct system, with all registers sealed and with the furnace air circulator at high speed, is at least 80 percent of the static pressure measured in the furnace casing, with its outlets sealed and the furnace air circulator operating at high speed. For the purpose of this paragraph and § 3280.715(b) pressures shall be measured with a water manometer or equivalent device calibrated to read in increments not greater than ⅒ inch water column.

(5) *Expandable or multiple mobile home connections.* (i) An expandable or multiple mobile home may have ducts of the heating system installed in the various units. The points of connection must be so designed and constructed that when the mobile home is fully expanded or coupled, the resulting duct joint will conform to the requirements of this Part.

(ii) Installation instructions for supporting the crossover duct from the mobile home shall be provided for onsite installation. The duct shall not be in contact with the ground.

(6) Air supply ducts shall be insulated with material having an effective thermal resistance (R) of not less than

4.0 unless they are within mobile home insulation having a minimum effective value of R-4.0 for floors or R-6.0 for ceilings.

(7) Supply and return ducts exposed directly to outside air, such as under chassis crossover ducts or ducts connecting external heating, cooling or combination heating/cooling appliances shall be insulated with material having a minimum thermal resistance of R-4.0, with a continuous vapor barrier having a perm rating of not more than 1 perm. Where exposed underneath the mobile home, all such ducts shall comply with § 3280.715(a)(6)(ii).

(b) *Return air systems*—(1) *Return air openings.* Provisions shall be made to permit the return of circulating air from all rooms and living spaces, except toilet rooms), to the circulating air supply inlet of the furnace.

(2) *Duct material.* Return ducts and any diverting dampers contained therein shall be in accordance with the following: (i) Portions of return ducts directly above the heating surfaces, or closer than 2 feet from the outer jacket or casing of the furnace shall be constructed of metal in accordance with § 3280.715(a)(1) or shall be listed Class 0 or Class 1 air ducts.

(ii) Return ducts, except as required by (a) above, shall be constructed of one-inch (nominal) wood boards (flame spread classification of not more than 200), other suitable material no more flammable than one-inch board or in accordance with § 3280.715(a)(1).

(iii) The interior of combustible ducts shall be lined with noncombustible material at points where there might be danger from incandescent particles dropped through the register or furnace such as directly under floor registers and the bottom return.

(iv) Factory made air ducts used for connecting external heating, cooling or combination heating/cooling appliances to the supply system and return air system of a mobile home shall be listed by a nationally recognized testing agency. Ducts applied to external heating appliances or combination heating/cooling appliances supply system outlets shall be constructed of metal in accordance with § 3280.715(a)(1) or shall be listed Class 0 or Class 1 air ducts for those portions of the duct closer than 2 feet from the outer casing of the appliance.

(v) Ducts applied to external appliances shall be resistant to deteriorating environmental effects, including but not limited to ultraviolet rays, cold weather, or moisture and shall be resistant to insects and rodents.

(3) *Sizing.* The cross-sectional areas of the return air duct shall not be less than 2 square inches for each 1,000 Btu per hour input rating of the appliance. Dampers shall not be placed in a combination fresh air intake and return air duct so arranged that the required cross-sectional area will not be reduced at all possible positions of the damper.

(4) *Permanent uncloseable openings.* Living areas not served by return air ducts or closed off from the return opening of the furnace by doors, sliding partitions, or other means shall be provided with permanent uncloseable openings in the doors or separating partitions to allow circulated air to return to the furnace. Such openings may be grilled or louvered. The net free area of each opening shall be not less than 1 square inch for every 5 square feet of total living area closed off from the furnace by the door or partition serviced by that opening. Undercutting doors connecting the closed-off space may be used as a means of providing return air area. However, in the event that doors are undercut, they shall be undercut a minimum of 2 inches and no more than 2½ inches, and no more than one-half of the free air area so provided shall be counted as return air area.

(c) *Joints and seams.* Joints and seams of ducts shall be securely fastened and made substantially airtight. Slip joints shall have a lap of at least 1 inch and shall be individually fastened. Tape or caulking compound may be used for sealing mechanically secure joints. Where used, tape or caulking compound shall not be subject to deterioration under long exposures to temperatures up to 200° F. and to conditions of high humidity, excessive moisture, or mildew.

(d) *Supports.* Ducts shall be securely supported.

(e) *Registers or grilles.* Fittings connecting the registers or grilles to the duct system shall be constructed of metal or material which complies with the requirements of Class 1 or 2 ducts under Underwriters' Laboratories, Inc. Standard for Air Ducts, UL181-1972. Air supply terminal devices (registers) when installed in kitchens, bedrooms, and bathrooms shall be equipped with adjustable closeable dampers. Registers or grilles shall be constructed of metal or conform with the following:

(1) Be made of a material classified 94VE-0 or 94VE-1 when tested as described in Underwriters' Laboratories, Inc. Standard for Tests for Flammability of Plastic Materials for Parts in Devices and Appliances, UL94-1974.

(2) Floor registers or grilles shall resist without structural failure a 200 lb. concentrated load on a 2-inch diameter disc applied to the most critical area of the exposed face of the register or grille. For this test the register or grille is to be at a temperature of not less than 165° F and is to be supported in accordance with the manufacturer's instructions.

Subpart I—Electrical Systems

§ 3280.801 Scope.

(a) Subpart I of this standard and Part A of Article 550 of the National Electrical Code (NFPA No. 70—1975) cover the electrical conductors and equipment installed within or on mobile homes and the conductors that connect mobile homes to a supply of electricity.

(b) In addition to the requirements of this standard and Article 550 of the National Electrical Code (NFPA No. 70—1975), the applicable portions of other Articles of the National Electrical Code shall be followed covering electrical installations in mobile homes. Wherever the requirements of this standard differ from the National Electrical Code, this standard shall apply.

(c) The provisions of this standard apply to mobile homes intended for connection to a wiring system nominally rated 115/230 volts, 3-wire AC, with grounded neutral.

(d) All electrical materials, devices, appliances, fittings and other equipment shall be listed or labeled by a nationally recognized testing agency and shall be connected in an approved manner when in service.

(e) Aluminum conductors are not acceptable in branch circuit wiring in mobile homes except as specifically approved by the Department after examination of proposed systems for individual cases.

§ 3280.802 Definitions.

(a) The following definitions are applicable to Subpart I only.

(1) "Accessible" (i) "(As Applied to Equipment)" means admitting close approach because not guarded by locked doors, elevation, or other effective means. (See "Readily Accessible.") (ii) "(As Applied to Wiring Methods)" means capable of being removed or exposed without damaging the mobile home structure or finish, or not permanently closed in by the structure or finish of the mobile home (see "Concealed" and "Exposed").

(2) "Air Conditioning or Comfort Cooling Equipment" means all of that equipment intended or installed for the purpose of processing the treatment of air so as to control simultaneously its temperature, humidity, cleanliness, and distribution to meet the requirements of the conditioned space.

(3) (i) "Appliance" means utilization equipment, generally other than industrial, normally built in standardized sizes or types, which is installed or connected as a unit to perform one or more functions, such as clothes washing, air conditioning, food mixing, deep frying, etc.

(ii) "Appliance, Fixed" means an appliance which is fastened or otherwise secured at a specific location.

(iii) "Appliance, Portable" means an appliance which is actually moved or can easily be moved from one place to another in normal use. For the purpose of this Standard, the following major appliances are considered portable if cord-connected: refrigerators, clothes washers, dishwashers without booster heaters, or other similar appliances.

(iv) "Appliance, Stationary" means an appliance which is not easily moved

from one place to another in normal use.

(4) "Attachment Plug (Plug Cap) (Cap)" means a device which, by insertion in a receptacle, establishes connection between the conductors of the attached flexible cord and the conductors connected permanently to the receptacle.

(5) "Bonding" means the permanent joining of metallic parts to form an electrically conductive path which will assure electrical continuity and the capacity to conduct safely any current likely to be imposed.

(6) "Branch Circuit" (i) means the circuit conductors between the final overcurrent device protecting the circuit and the outlet(s). A device not approved for branch circuit protection, such as a thermal cutout or motor overload protective device, is not considered as the overcurrent device protecting the circuit.

(ii) "Branch Circuit—Appliance" means a branch circuit supplying energy to one or more outlets to which appliances are to be connected, such circuits to have no permanently connected lighting fixtures not a part of an appliance.

(iii) "Branch Circuit General Purpose" means a circuit that supplies a number of outlets for lighting and appliances.

(iv) "Branch Circuit—Individual" means a branch circuit that supplies only one utilization equipment.

(7) "Cabinet" means an enclosure designed either for surface or flush mounting, and provided with a frame, mat, or trim in which swinging doors are hung.

(8) "Circuit Breaker" means a device designed to open and close a circuit by nonautomatic means, and to open the circuit automatically on a predetermined overload of current without injury to itself when properly applied within its rating.

(9) "Concealed" means rendered inaccessible by the structure or finish of the mobile home. Wires in concealed raceways are considered concealed, even though they may become accessible by withdrawing them. (See "Accessible (As Applied to Wiring Methods)")

(10) "Connector, Pressure (Solderless)" means a device that establishes a connection between two or more conductors or between one or more conductors and a terminal by means of mechanical pressure and without the use of solder.

(11) "Dead Front (As Applied to Switches, Circuit Breakers, Switchboards, and Distribution Panelboard)" means so designed, constructed, and installed that no current-carrying parts are normally exposed on the front.

(12) "Demand Factor" means the ratio of the maximum demand of a system, or part of a system, to the total connected load of a system or the part of the system under consideration.

(13) "Device" means a unit of an electrical system that is intended to carry but not utilize electrical energy.

(14) "Disconnecting Means" means a device, or group of devices, or other means by which the conductors of a circuit can be disconnected from their source of supply.

(15) "Distribution Panelboard" means a single panel or a group of panel units designed for assembly in the form of a single panel, including buses, and with or without switches or automatic overcurrent protective devices or both, for the control of light, heat, or power circuits of small individual as well as aggregate capacity; designed to be placed in a cabinet placed in or against a wall or partition and accessible only from the front.

(16) "Enclosed" means surrounded by a case that will prevent a person from accidentally contacting live parts.

(17) "Equipment" means a general term, including material, fittings, devices, appliances, fixtures, apparatus, and the like used as a part of, or in connection with, an electrical installation.

(18) "Exposed" (i) (As Applied to Live Parts) means capable of being inadvertently touched or approached nearer than a safe distance by a person. It is applied to parts not suitably guarded, isolated, or insulated. (See "Accessible" and "Concealed.")

(ii) (As Applied to "Wiring Method") means on or attached to the surface or

behind panels designed to allow access. (See "Accessible (As Applied to Wiring Methods)")

(19) "Externally Operable" means capable of being operated without exposing the operator to contact with live parts.

(20) "Feeder Assembly" means the overhead or under-chassis feeder conductors, including the grounding conductor, together with the necessary fittings and equipment, or a power supply cord approved for mobile home use, designed for the purpose of delivering energy from the source of electrical supply to the distribution panelboard within the mobile home.

(21) "Fitting" means an accessory, such as a locknut, bushing, or other part of a wiring system, that is intended primarily to perform a mechanical rather than an electrical function.

(22) "Ground" means a conducting connection, whether intentional or accidental, between an electrical circuit or equipment and earth, or to some conducting body that serves in place of the earth.

(23) "Grounded" means connected to earth or to some conducting body that serves in place of the earth.

(24) "Grounded Conductor" means a system or circuit conductor that is intentionally grounded.

(25) "Grounding Conductor" means a conductor used to connect equipment or the grounded circuit of a wiring system to a grounding electrode or electrodes.

(26) "Guarded" means covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, casings, barriers, rails, screens, mats or platforms to remove the likelihood of approach or contact by persons or objects to a point of danger.

(27) "Isolated" means not readily accessible to persons unless special means for access are used.

(28) "Laundry Area" means an area containing or designed to contain either a laundry tray; clothes washer and/or clothes dryer.

(29) "Lighting Outlet" means an outlet intended for the direct connection of a lampholder, a lighting fixture, or a pendant cord terminating in a lampholder.

(30) "Mobile Home Accessory Building or Structure" means any awning, cabana, ramada, storage cabinet, carport, fence, windbreak or porch established for the use of the occupant of the mobile home upon a mobile home lot.

(31) "Mobile Home Service Equipment" means the equipment containing the disconnecting means, overcurrent protective devices, and receptacles or other means for connecting a mobile home feeder assembly.

(32) "Outlet" means a point on the wiring system at which current is taken to supply utilization equipment.

(33) "Panelboard" means a single panel or group of panel units designed for assembly in the form of a single panel; including buses, automatic overcurrent protective devices, and with or without switches for the control of light, heat, or power circuits; designed to be placed in a cabinet or cutout box placed in or against a wall or partition and accessible only from the front.

(34) "Raceway" means any channel for holding wires, cables, or busbars that is designed expressly for, and used solely for, this purpose. Raceways may be of metal or insulating material, and the term includes rigid metal conduit, rigid nonmetallic conduit, flexible metal conduit, electrical metallic tubing, underfloor raceways, cellular concrete floor raceways, cellular metal floor raceways, surface raceways, structural raceways, wireways, and busways.

(35) "Raintight" means so constructed or protected that exposure to a beating rain will not result in the entrance of water.

(36) "Readily Accessible" means capable of being reached quickly for operation, renewal, or inspection, without requiring those to whom ready access is requisite to climb over or remove obstacles or to resort to portable ladders, chairs, etc. (See "Accessible.")

(37) "Receptacle" means a contact device installed at an outlet for the connection of a single attachment plug. A single receptacle is a single contact device with no other contact device on the same yoke. A multiple receptacle is a single device containing two or more receptacles.

(38) "Receptacle Outlet" means an outlet where one or more receptacles are installed.

(39) "Utilization Equipment" means equipment which utilizes electric energy for mechanical, chemical, heating, lighting, or similar purposes.

(40) "Voltage (of a Circuit)" means the greatest root-mean-square (effective) difference of potential between any two conductors of the circuit concerned. Some systems, such as 3-phase 4-wire, single-phase 3-wire, and 3-wire direct-current may have various circuits of various voltages.

(41) "Weatherproof" means so constructed or protected that exposure to the weather will not interfere with successful operation. Rainproof, raintight, or watertight equipment can fulfill the requirements for weatherproof where varying weather conditions other than wetness, such as snow, ice, dust, or temperature extremes, are not a factor.

§ 3280.803 Power supply.

(a) The power supply to the mobile home shall be a feeder assembly consisting of not more than one listed 50 ampere mobile home power-supply cords, or a permanently installed circuit. A mobile home that is factory-equipped with gas or oil-fired central heating equipment and cooking appliances shall be permitted to be provided with a listed mobile home power supply cord rated 40 amperes.

(b) If the mobile home has a power-supply cord, it shall be permanently attached to the distribution panelboard or to a junction box permanently connected to the distribution panelboard, with the free end terminating in an attachment plug cap.

(c) Cords with adapters and pigtail ends, extension cords, and similar items shall not be attached to, or shipped with, a mobile home.

(d) A listed clamp or the equivalent shall be provided at the distribution panelboard knockout to afford strain relief for the cord to prevent strain from being transmitted to the terminals when the power-supply cord is handled in its intended manner.

(e) The cord shall be of an approved type with four conductors, one of which shall be identified by a continuous green color or a continuous green color with one or more yellow stripes for use as the grounding conductor.

(f) The attachment plug cap shall be a 3-pole, 4-wire grounding type, rated 50 amperes, 125/250 volts with a configuration as shown herein and intended for use with the 50-ampere, 125/250 receptacle configuration shown. It shall be molded of butyl rubber, neoprene, or other approved materials which have been found suitable for the purpose, and shall be molded to the flexible cord so that it adheres tightly to the cord at the point where the cord enters the attachment plug cap. If a right-angle cap is used, the configuration shall be so oriented that the grounding member is farthest from the cord.

(g) The overall length of a power-supply cord, measured from the end of the cord, including bared leads, to the face of the attachment plug cap shall not be less than 21 feet and shall not exceed 36½ feet. The length of cord from the face of the attachment-plug cap to the point where the cord enters the mobile home shall not be less than 20 feet.

50 ampere 125/250 volt receptacle and attachment plug cap configurations, 3 pole, 4 wire grounding types used for mobile home supply cords and mobile home parks. Complete details of the 50-ampere cap and receptacle can be found in the American National Standard Dimensions of Caps, Plugs and Receptacles, Grounding Type (ANSI C73.17—1972).

(h) The power-supply cord shall bear the following marking: "For use with mobile homes—40 amperes" or "For use with mobile homes—50 amperes."

(i) The point of entrance of the feeder assembly to the mobile home shall be in the exterior wall, floor, or roof, in the rear third section (away from the coupler), of the mobile home.

(j) Where the cord passes through walls or floors, it shall be protected by means of conduit and bushings or

equivalent. The cord may be installed within the mobile home walls, provided a continuous raceway is installed from the branch-circuit panelboard to the underside of the mobile home floor. The raceway may be rigid conduit, electrical metallic tubing or polyethylene (PE), poly-vinylchloride (PVC) or acrylonitrile-butadiene-styrene (ABS) plastic tubing having a minimum wall thickness of nominal ⅛ inch.

(k) Permanent provisions shall be made for the protection of the attachment-plug cap of the power supply cord and any connector cord assembly or receptacle against corrosion and mechanical damage if such devices are in an exterior location while the mobile home is in transit.

(l) Where the calculated load exceeds 50 amperes or where a permanent feeder is used, the supply shall be by means of:

(1) One mast weatherhead installation installed in accordance with Article 230 of the National Electrical Code NFPA No. 70—1975 containing four continuous insulated, color-coded, feeder conductors, one of which shall be an equipment grounding conductor; or,

(2) An approved raceway from the disconnecting means in the mobile home to the underside of the mobile home with provisions for the attachment of a suitable junction box or fitting to the raceway on the underside of the mobile home. The manufacturer shall provide in his written installation instructions, the proper feeder conductor sizes for the raceway and the size of the junction box to be used.

§ 3280.804 Disconnecting means and branch-circuit protective equipment.

(a) The branch-circuit equipment shall be permitted to be combined with the disconnecting means as a single assembly. Such a combination shall be permitted to be designated as a distribution panelboard. If a fused distribution panelboard is used, the maximum fuse size of the mains shall be plainly marked with lettering at least ¼-inch high and visible when fuses are changed. See Section 110-22 of the National Electrical Code (NFPA No. 70—1975) concerning identification of each disconnecting means and each service, feeder, or branch circuit at the point where it originated and the type marking needed.

(b) Plug fuses and fuseholders shall be tamper-resistant, Type "S," enclosed in dead-front fuse panelboards. Electrical distribution panels containing circuit breakers shall also be dead-front type.

(c) Disconnecting means. A single disconnecting means shall be provided in each mobile home consisting of a circuit breaker, or a switch and fuses and their accessories installed in a readily accessible location near the point of entrance of the supply cord or conductors into the mobile home. The main circuit breakers or fuses shall be plainly marked "Main." This equipment shall contain a solderless type of grounding connector or bar for the purposes of grounding with sufficient terminals for all grounding conductors. The neutral bar termination of the grounded circuit conductors shall be insulated.

(d) The disconnecting equipment shall have a rating suitable for the connected load. The distribution equipment, either circuit breaker or fused type, shall be located a minimum of 24 inches from the bottom of such equipment to the floor level of the mobile home. There shall be a label attached to the panelboard stating: This Panelboard shall be connected by a Feeder Assembly having Overcurrent Protection rated at not more than ______ Amperes. The correct ampere rating shall be marked in the blank space.

(e) A distribution panelboard employing a main circuit breaker shall be rated 50 amperes and employ a 2-pole circuit breaker rated 40 amperes for a 40-ampere supply cord, or 50 amperes for a 50-ampere supply cord. A distribution panelboard employing a disconnect switch and fuses shall be rated 60 amperes and shall employ a single 2-pole, 60-ampere fuseholder with 40- or 50-ampere main fuses for 40- or 50-ampere supply cords, respectively. The outside of the distribution panelboard shall be plainly marked with the fuse size.

(f) The distribution panelboard shall not be located in a bathroom, or in

any other inaccessible location, but shall be permitted just inside a closet entry if the location is such that a clear space of 6 inches to easily ignitable materials is maintained in front of the distribution panelboard, and the distribution panelboard door can be extended to its full open position (at least 90 degrees). A clear working space at least 30 inches wide and 30 inches in front of the distribution panelboard shall be provided. This space shall extend from floor to the top of the distribution panelboard.

(g) Branch-circuit distribution equipment shall be installed in each mobile home and shall include overcurrent protection for each branch circuit consisting of either circuit breakers or fuses.

(1) The branch circuit overcurrent devices shall be rated: (i) Not more than the circuit conductors; and (ii) not more than 150 percent of the rating of a single appliance rated 10 amperes or more which is supplied by an individual branch circuit; but (iii) not more than the fuse size marked on the air conditioner or other motor-operated appliance.

(h) A 15-ampere multiple receptacle shall be acceptable when connected to a 20-ampere laundry circuit.

(i) When circuit breakers are provided for branch-circuit protection, 230-volt circuits shall be protected by 2-pole common or companion trip, or handle-tied paired circuit breakers.

(j) A 3 inch by 1¾ inch minimum size tag made of etched, metal-stamped or embossed brass, stainless steel, anodized or alclad aluminum not less than 0.020 inch thick, or other approved material (e.g., 0.005 inch plastic laminates) shall be permanently affixed on the outside adjacent to the feeder assembly entrance and shall read: This connection for 120/240 Volt, 3 Pole, 4-Wire, 60 —— Hertz Ampere Supply. The correct ampere rating shall be marked on the blank space.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977]

§ 3280.805 Branch circuits required.

(a) The number of branch circuits required shall be determined in accordance with the following:

(1) *Lighting.* Based on 3 watts per square foot times outside dimensions of the mobile home (coupler excluded) divided by 115 volts times amperage to determine number of 15- or 20-ampere lighting area circuits, e.g.,

$$\frac{3 \times \text{Length} \times \text{Width}}{115 \times 15 \text{ (or 20)}} = \text{No. of 15 (or 20) ampere circuits}$$

(2) *Portable appliances.* For the small appliance load in kitchen, pantry, family room, dining room and breakfast rooms of mobile homes, two or more 20-ampere appliance branch circuits, in addition to the branch circuit specified in § 3280.805(a)(1), shall be provided for all receptacle outlets in these rooms, and such circuits shall have no other outlets. Receptacle outlets supplied by at least two appliance receptacle branch circuits shall be installed in the kitchen.

(3) *General appliances (including furnace, water heater, range, and central or room air conditioner, etc.).* There shall be one or more circuits of adequate rating in accordance with the following: (i) Ampere rating of fixed appliances not over 50 percent of circuit rating if lighting outlets (receptacles, other than kitchen, dining area, and laundry, considered as lighting outlets) are on same circuit; (ii) For fixed appliances on a circuit without lighting outlets, the sum of rated amperes shall not exceed the branch-circuit rating for other than motor loads of 80 percent of the branch-circuit rating for air conditioning or other motor loads; (iii) The rating of a single portable appliance on a circuit having no other outlets shall not exceed 80 percent of the circuit rating; (iv) The rating of range branch circuit shall be based on the range demand as specified for ranges in § 3280.811, Item (b)(5) of Method 1. For central air conditioning, see Article 440 of the National Electrical Code (NFPA No. 70—1975). (v) Where laundry facilities are provided in a mobile home, a 20-ampere branch circuit shall be provided within 6 feet of the intended location of the appliance. See § 3280.804(j).

§ 3280.806 Receptacle outlets.

(a) All receptacle outlets shall be:

(1) Of grounding type;

(2) Installed according to Section 210-7 of the National Electrical Code (NFPA No. 70—1975) and

(3) Except when supplying specific appliances, be parallel-blade, 15-ampere, 125-volt, either single or duplex.

(b) All 120 volt single phase, 15 and 20 ampere receptacle outlets, including receptacles in light fixtures, installed outdoors and in bathrooms shall have ground-fault circuit protection for personnel. Feeders supplying branch circuits may be protected by a ground-fault circuit-interrupter in lieu of the provision for such interrupters specified above.

(c) There shall be an outlet of the grounding type for each cord-connected fixed appliance installed.

(d) Receptacle outlets required. Except in the bath and hall areas, receptacle outlets shall be installed at wall spaces 2 feet wide or more, so that no point along the floor line is more than 6 feet, measured horizontally, from an outlet in that space. In addition, a receptacle outlet shall be installed:

(1) Over or adjacent to counter tops in the kitchen (at least one on each side of the sink if counter tops are on each side and 12 inches or over in width).

(2) Adjacent to the refrigerator and free-standing gas-range space.

(3) At counter top spaces for built-in vanities.

(4) At counter top spaces under wall-mounted cabinets.

(5) In the wall, at the nearest point where a bar type counter attaches to the wall.

(6) In the wall at the nearest point where a fixed room divider attaches to the wall.

(7) In laundry area.

(8) At least one receptacle outlet shall be installed outdoors. Receptacle outlets located in compartments accessible from outdoors shall be considered outdoor receptacles and shall be protected as required in § 3280.806(b).

(9) Adjacent to bathroom basins or integral with the light fixture over the bathroom basin.

(10) Receptacle outlets are not required in the following locations: (i) wall space occupied by built-in kitchen or wardrobe cabinets, (ii) wall space behind doors which may be opened fully against a wall surface, (iii) room dividers of the lattice type, less than 8 feet long, not solid within 6 inches of the floor, (iv) wall space afforded by bar type counters.

(e) Receptacle outlets shall not be installed in or within reach (30 inches) of a shower or bathtub space.

(f) Receptacle outlets shall not be installed above electric baseboard heaters.

§ 3280.807 Fixtures and appliances.

(a) Electrical materials, devices, appliances, fittings, and other equipment installed, intended for use in, or attached to the mobile home shall be approved for the application and shall be connected in an approved manner when in service. Facilities shall be provided to securely fasten appliances when the mobile home is in transit. (See § 3280.809.)

(b) Specifically listed pendant-type fixtures or pendant cords shall be permitted in mobile homes.

(c) If a lighting fixture is provided over a bathtub or in a shower stall, it shall be of the enclosed and gasketed type, listed for wet locations.

(d) The switch for shower lighting fixtures and exhaust fans located over a tub or in a shower stall shall be located outside the tub shower space. (See § 3280.806(e).)

(e) Any combustible wall or ceiling finish exposed between the edge of a fixture, canopy, or pan and an outlet box shall be covered with noncombustible material.

(f) Every appliance shall be accessible for inspection, service, repair, or replacement without removal of permanent construction.

§ 3280.808 Wiring methods and materials.

(a) Except as specifically limited in this Part, the wiring methods and materials specified in the National Electrical Code (NFPA No. 70—1975) shall be used in mobile homes.

(b) Nonmetallic outlet boxes shall be acceptable only with nonmetallic cable.

(c) Nonmetallic cable located 15 inches or less above the floor, if exposed, shall be protected from physi-

cal damage by covering boards, guard strips, or conduit. Cable likely to be damaged by stowage shall be so protected in all cases.

(d) Nonmetallic sheathed cable shall be secured by staples, straps, or similar fittings so designed and installed as not to injure any cable. Cable shall be secured in place at intervals not exceeding 4½ feet and within 12 inches from every cabinet, box or fitting.

(e) Metal-clad and nonmetallic cables shall be permitted to pass through the centers of the wide side of 2-inch by 4-inch studs. However, they shall be protected where they pass through 2-inch by 2-inch studs or at other studs or frames where the cable or armor would be less than 1¼ inches from the inside or outside surface of the studs when the wall covering materials are in contact with the studs. Steel plates on each side of the cable, or a tube, with not less than No. 16 MSG wall thickness shall be required to protect the cable. These plates or tubes shall be securely held in place.

(f) Where metallic faceplates are used they shall be effectively grounded.

(g) If the range, clothes dryer, or similar appliance is connected by metalclad cable or flexible conduit, a length of not less than three feet of free cable or conduit shall be provided to permit moving the appliance. Type NM or Type SE cable shall not be used to connect a range or a dryer. This shall not prohibit the use of Type NM or Type SE cable between the branch circuit overcurrent protective device and a junction box or range or dryer receptacle.

(h) Threaded rigid metal conduit shall be provided with a locknut inside and outside the box, and a conduit bushing shall be used on the inside. Rigid nonmetallic conduit shall be permitted. Inside ends of the conduit shall be reamed.

(i) Switches shall be rated as follows:

(1) For lighting circuits, switches, shall have a 10-ampere, 120-125 volt rating, or higher if needed for the connected load.

(2) For motors or other loads, switches shall have ampere or horsepower ratings, or both, adequate for loads controlled. (An "AC general use" snap switch shall be permitted to control a motor 2 horsepower or less with full-load current not over 80 percent of the switch ampere rating).

(j) At least 4 inches of free conductor shall be left at each outlet box except where conductors are intended to loop without joints.

(k) When outdoor or under-chassis line voltage wiring is exposed to moisture or physical damage, it shall be protected by rigid metal conduit. The conductors shall be suitable for wet locations. Electrical metallic tubing may be used when closely routed against frames, and equipment enclosures.

(l) The cables or conductors shall be Type NMC, TW, or equivalent.

(m) Outlet boxes of dimensions less than those required in Table 370-6(a) of the National Electrical Code (NFPA No. 70-1975), shall be permitted provided the box has been tested and approved for the purpose.

(n) Boxes, fittings, and cabinets shall be securely fastened in place, and shall be supported from a structural member of the home, either directly or by using a substantial brace. Snap-in type boxes provided with special wall or ceiling brackets that securely fasten boxes in walls or ceilings shall be permitted.

(o) Outlet boxes shall fit closely to openings in combustible walls and ceilings, and they shall be flush with such surfaces.

(p) Appliances having branch-circuit terminal connections which operate at temperatures higher than 60°C (140°F) shall have circuit conductors as described in paragraph (p) (1) and (2) of this section:

(1) Branch-circuit conductors having an insulation suitable for the temperature encountered shall be permitted to run directly to the appliance.

(2) Conductors having an insulation suitable for the temperature encountered shall be run from the appliance terminal connections to a readily accessible outlet box placed at least one foot from the appliance. These conductors shall be in a suitable raceway which shall extend for at least 4 feet.

§ 3280.809 Grounding.

(a) *General.* Grounding of both electrical and nonelectrical metal parts in a mobile home shall be through connection to a grounding bus in the mobile home distribution panelboard. The grounding bus shall be grounded through the green-colored conductor in the supply cord or the feeder wiring to the service ground in the service-entrance equipment located adjacent to the mobile home location. Neither the frame of the mobile home nor the frame of any appliance shall be connected to the neutral conductor in the mobile home.

(b) *Insulated neutral.* (1) The grounded circuit conductor (neutral) shall be insulated from the grounding conductors and from equipment enclosures and other grounded parts. The grounded (neutral) circuit terminals in the distribution panelboard and in ranges, clothes dryers, counter-mounted cooking units, and wall-mounted ovens shall be insulated from the equipment enclosure. Bonding screws, straps, or buses in the distribution panelboard or in appliances shall be removed and discarded.

(2) Connection of ranges and clothes dryers with 115/230-volt, 3-wire ratings shall be made with 4-conductor cord and 3-pole, 4-wire grounding-type plugs, or by Type AC metal-clad cable or conductors enclosed in flexible metal conduit. For 115-volt rated devices, a 3-conductor cord and a 2-pole, 3-wire grounding-type plug shall be permitted.

(c) *Equipment grounding means.* (1) The green-colored grounding wire in the supply cord or permanent feeder wiring shall be connected to the grounding bus in the distribution panelboard or disconnecting means.

(2) In the electrical system, all exposed metal parts, enclosures, frames, lamp fixture canopies, etc., shall be effectively bonded to the grounding terminal or enclosure of the distribution panelboard.

(3) Cord-connected appliances, such as washing machines, clothes dryers, refrigerators, and the electrical system of gas ranges, etc., shall be grounded by means of an approved cord with grounding conductor and grounding-type attachment plug.

(d) *Bonding of noncurrent carrying metal parts.* (1) All exposed noncurrent-carrying metal parts that may become energized shall be effectively bonded to the grounding terminal or enclosure of the distribution panelboard. A bonding conductor shall be connected between each distribution panelboard and an accessible terminal on the chassis.

(2) Grounding terminals shall be of the solderless type and approved as pressure-terminal connectors recognized for the wire size used. Star washers or other approved paint-penetrating fitting shall be used to bond terminals to chassis or other coated areas. The bonding conductor shall be solid or stranded, insulated or bare and shall be No. 8 copper minimum, or equal. The bonding conductor shall be routed so as not to be exposed to physical damage. Protection can be afforded by the configuration of the chassis.

(3) Metallic gas, water and waste pipes and metallic air circulating ducts shall be considered bonded if they are connected to the terminal on the chassis (see § 3280.809) by clamps, solderless connectors, or by suitable grounding-type straps.

(4) Any metallic roof and exterior covering shall be considered bonded if (i) the metal panels overlap one another and are securely attached to the wood or metal frame parts by metallic fasteners, and (ii) if the lower panel of the metallic exterior covering is secured by metallic fasteners at a cross member of the chassis by two metal straps per mobile home unit or section at opposite ends. The bonding strap material shall be a minimum of 4 inches in width of material equivalent to the skin or a material of equal or better electrical conductivity. The straps shall be fastened with paint-penetrating fittings (such as screws and star washers or equivalent).

§ 3280.810 Electrical testing.

(a) Dielectric Strength Test. The wiring of each mobile home shall be subjected to a 1-minute, 900-volt dielectric strength test (with all switches closed) between live parts (including neutral) and the mobile home ground. Alternatively, the test may be performed at 1,080 volts for 1 second. This test shall be performed after branch circuits are complete and after fixtures or appliances are installed.

have been properly made.

§ 3280.811 Calculations.

(a) The following method shall be employed in computing the supply-cord and distribution-panelboard load for each feeder assembly for each mobile home and shall be based on a 3-wire, 115/230 volt supply with 115-volt loads balanced between the two legs of the 3-wire system. The total load for determining power supply by this method is the summation of:

(1) Lighting and small appliance load as calculated below.

(i) Lighting Watts: Length times width of mobile home (outside dimensions exclusive of coupler) times 3 watts per square foot; e.g. Length × width × 3 = lighting watts.

(ii) Small Appliance Watts: Number of circuits times 1,500 watts for each 20 ampere appliance receptacle circuit (See definition of "Appliance Portable" with note); e.g. Number of circuits × 1,500 = small appliance watts.

(iii) Total Watts: Lighting watts plus small appliance = total watts.

(iv) First 3,000 total watts at 100 percent plus remainder at 35 percent = watts to be divided by 230 volts to obtain current (amperes) per leg.

(2) Nameplate amperes for motors and heater loads (exhaust fans, air conditioners, electric, gas, or oil heating). Omit smaller of air conditioning and heating except include blower motor if used as air conditioner evaporator motor. When an air conditioner is not installed and a 40-ampere power supply cord is provided, allow 15 amperes per leg for air conditioning.

(3) 25 percent of current of largest motor in (2).

(4) Total of nameplate amperes for: Disposal, dishwasher, water heater, clothes dryer, wall-mounted oven, cooking units. Where number of these

12,501 to 13,500	[illegible]
13,501 to 14,500	8,800
14,501 to 15,500	9,200
15,501 to 16,500	9,600
16,501 to 17,500	10,000

(6) If outlets or circuits are provided for other than factory-installed appliances include the anticipated load. The following example is given to illustrate the application of this Method of Calculation.

Example. A mobile home is 70 × 10 feet and has two portable appliance circuits, a 1000 watt 230 volt heater, a 200 watt 115 volt exhaust fan, a 400 watt 115 volt dishwasher and a 7000 watt electric range.

Lighting and small appliance load	Watts
Lighting 70 × 10 × 3	2,100
Small appliance 1,500 × 2	3,000
Total	5,100
1st 3,000 W at 100 pct	3,000
Remainder (5,100 − 3,000 = 2,100) at 35 pct	735
Total	3,735

3,735/230 = 16A per leg

1,000 W (heater) ÷ 230 = 4.4A.
200 W (fan) ÷ 115 = 1.7A.
400 W (dishwasher) ÷ 115 = 3.5A.
7,000 W (range) × 0.8 ÷ 230 = 24.0 A.

	Amperes per leg A	Amperes per leg B
Lighting and appliances	16	16
Heater (230 V)	4	4
Fan (115 V)	2	
Dishwasher (115 V)		4
Range	24	24
Totals	46	48

Note: Based on the higher current calculated for either leg, use one 50 A supply cord.

(b) The following is an optional method of calculation for lighting and appliance loads for mobile homes served by a single 3-wire 115/230 volt set of feeder conductors with an ampacity of 100 or greater. The total load for determining the feeder ampacity may be computed in accordance with the following Table instead of the method previously specified. Feeder conductors whose demand load is determined by this optional calculation shall be permitted to have the neutral load determined by Section 220-22 of the National Electrical Code. The loads identified in the Table as "other load" and as "Remainder of other load" shall include the following:

(1) 1500 watts for each 2-wire, 20-ampere small appliance branch circuit and each laundry branch circuit specified.

(2) 3 watts per square foot for general lighting and general-use receptacles.

(3) The nameplate rating of all fixed appliances, ranges, wall-mounted ovens, counter-mounted cooking units, and including 4 or more separately controlled space heating loads.

(4) The nameplate ampere or kVA rating of all motors and of all low-power-factor loads.

(5) The largest of the following: (i) Air conditioning load; (ii) the 65 percent diversified demand of the central electric space heating load; (iii) the 65 percent diversified demand of the load of less than four separately-controlled electric space heating units; (iv) the connected load of four or more separately-controlled electric space heating units.

OPTIONAL CALCULATION FOR MOBILE HOMES WITH 110-AMPERE OR LARGER SERVICE

Load (in kilowatts or kilovolt-amperes)	Demand factor (percent)
Air conditioning and cooling including heat pump compressors	100
Central electric space heating	65
Less than 4 separately controlled electric space heating units	65
1st 10 kW of all other load	100
Remainder of other load	40

§ 3280.812 Wiring of expandable units and dual units.

(a) Expandable or multiple unit mobile homes shall use fixed-type wiring methods and materials for connecting such units to each other.

(b) Expandable or multiple unit mobile homes not having permanently installed feeders and which are to be moved from one location to another, shall be permitted to have disconnect-

together or units the requirements of § 3280.803 will be met.

shall be listed or approved for outdoor use. Outdoor receptacles or convenience outlets shall be of a gasketed-cover type.

(b) A mobile home provided with an outlet designed to energize heating and/or air conditioning equipment located outside the mobile home, shall have permanently affixed, adjacent to the outlet, a metal tag which reads:

This Connection Is for Air Conditioning Equipment Rated at Not More Than ___ Amperes, at ___ Volts, 60 Hertz. A disconnect shall be located within sight of the appliance.

The correct voltage and ampere ratings shall be given. The tag shall not be less than 0.020 inch, etched Brass, stainless steel, anodized or alclad aluminum or equivalent or other approved material (e.g., .005 inch plastic laminates). The tag shall be not less than 3 inches by 1¾ inches minimum size.

[40 FR 58752, Dec. 18, 1975, as amended at 42 FR 961, Jan. 4, 1977]

§ 3280.814 Painting of wiring.

During painting or staining of the mobile home, it shall be permitted to paint metal raceways (except where grounding continuity would be reduced) or the sheath of the nonmetallic cable. Some arrangement, however, shall be made so that no paint shall be applied to the individual wires, as the color coding may be obliterated by the paint.

§ 3280.815 Polarization.

(a) The identified (white) conductor shall be employed for grounding circuit conductors only and shall be connected to the identified (white) terminal or lead on receptacle outlets and fixtures. It shall be the unswitched wire in switched circuits, except that a cable containing an identified conductor (white) shall be permitted for

single-pole three-way or four-way switch loops where the connections are made so that the unidentified conductor is the return conductor from the switch to the outlet. Painting of the terminal end of the wire shall not be required.

(b) If the identified (white) conductor of a cable is used for other than grounded conductors or for other than switch loops as explained above (for a 230-volt circuit for example), the conductor shall be finished in a color other than white at each outlet where the conductors are visible and accessible.

(c) Green-colored wires or green with yellow stripe shall be used for grounding conductors only.

§ 3280.816 Examination of equipment for safety.

The examination or inspection of equipment for safety, according to this standard, shall be conducted under uniform conditions and by organizations properly equipped and qualified for experimental testing, inspections of the run of goods at factories, and service-value determinations through field examinations.

Subpart J—Transportation

§ 3280.901 Scope.

Subpart J of this standard covers the general requirement for designing the structure of the mobile home to fully withstand the adverse effects of transportation shock and vibration without degradation of the integrated structure or of its component parts and the specific requirements pertaining to the transportation system and its relationship to the structure.

§ 3280.902 Definitions.

(a) "Chassis" means the entire transportation system comprising the following subsystems: drawbar and coupling mechanism, frame, running gear assembly, and lights.

(b) "Drawbar and Coupling Mechanism" means the rigid assembly, (usually an "A" frame) upon which is mounted a coupling mechanism, which connects the mobile home's frame to the towing vehicle.

(c) "Frame" means the fabricated rigid substructure which provides considerable support to the affixed mobile home structure both during transport and on-site; and also provides a platform for securement of the running gear assembly, the drawbar and coupling mechanism.

(d) "Running Gear Assembly" means the subsystem consisting of suspension springs, axles, bearings, wheels, hubs, tires, and brakes, with their related hardware.

(e) "Lights" means those safety lights and associated wiring required by applicable U.S. Department of Transportation regulations.

(f) "Transportation System," (Same as Chassis, above).

(g) "Highway," includes all roads and streets to be legally used in transporting the mobile home.

(h) "Length," for purposes of transportation only, means the distance from the extreme front of the mobile home to the extreme rear, including the drawbar and coupling mechanism, but not including expandable features that do not project from the body during transportation.

§ 3280.903 General requirements for designing the structure to withstand transportation shock and vibration.

(a) The cumulative effect of highway transportation shock and vibration upon a mobile home structure may result in incremental degradation of its designed performance in terms of providing a safe, healthy and durable dwelling. Therefore, the mobile home shall be designed, in terms of its structural, plumbing, mechanical and electrical systems, to fully withstand such transportation forces during its intended life. (See §§ 3280.303(c) and 3280.305(a)).

(b) Particular attention shall be given to maintaining watertight integrity and conserving energy by assuring that structural components in the roof and walls (and their interfaces with vents, windows, doors, etc.) are capable of resisting highway shock and vibration forces during primary and subsequent secondary transportation moves.

(c) In place of an engineering analysis, either of the following may be accepted: (1) Documented technical data

of suitable highway tests which were conducted to simulate transportation loads and conditions; or (2) acceptable documented evidence of actual transportation experience which meets the intent of this subpart.

§ 3280.904 Specific requirements for designing the transportation system.

(a) *General.* The entire system (frame, drawbar and coupling mechanism, running gear assembly, and lights) shall be designed and constructed as an integrated, balanced and durable unit which is safe and suitable for its specified use during the intended life of the mobile home. In operation, the transportation system (supporting the mobile home structure and its contents) shall effectively respond to the control of the braking, while traveling at applicable towing vehicle in terms of tracking and highway speeds and in normal highway traffic conditions.

(NOTE: While the majority of mobile homes utilize a fabricated steel frame assembly, upon which the mobile home structure is constructed, it is not the intent of this standard to limit innovation. Therefore, other concepts, such as integrating the frame function into the mobile home structure, are acceptable provided that such design meets the intent and requirements of this part).

(b) *Specific requirements* (1) *Drawbar.* The drawbar shall be constructed of sufficient strength, rigidity and durability to safely withstand those dynamic forces experienced during highway transportation. It shall be securely fastened to the mobile home frame by either a continuous weld or by bolting.

(2) *Coupling mechanism.* The coupling mechanism (which is usually of the socket type) shall be securely fastened to the drawbar in such a manner as to assure safe and effective transfer of the maximum loads, including dynamic loads, between the mobile home structure and the hitch assembly of the towing vehicle. The coupling shall be equipped with a manually operated mechanism so adapted as to prevent disengagement of the unit while in operation. The coupling shall be so designed that it can be disconnected regardless of the angle of the mobile home to the towing vehicle. With the mobile home parked on level ground, the center of the socket of the coupler shall not be less than 20 inches nor more than 26 inches from ground level.

(3) *Chassis.* The chassis, in conjunction with the mobile home structure, shall be designed and constructed to effectively sustain the designed loads consisting of the dead load plus a minimum of 3 pounds per square foot floor load, (example: free-standing range, refrigerator, and loose furniture) and the superimposed dynamic load resulting from highway movement but shall not be required to exceed twice the dead load. The integrated design shall be capable of insuring rigidity and structural integrity of the complete mobile home structure and to insure against deformation of structural or finish members during the intended life of the home.

(4) *Running gear assembly.* (i) The running gear assembly, as part of the chassis, shall be designed to perform, as a balanced system, in order to effectively sustain the designed loads set forth in § 3280.904(b)(3) and to provide for durable dependable safe mobility of the mobile home. It shall be designed to accept shock and vibration, both from the highway and the towing vehicle and effectively dampen these forces so as to protect the mobile home structure from damage and fatigue. Its components shall be designed to facilitate routine maintenance, inspection and replacement.

(ii) Location of the running gear assembly shall be determined by documented engineering analysis, taking into account the gross weight (including all contents), total length of the mobile home, the necessary coupling hitch weight, span distance, and turning radius. The coupling weight shall be not less than 12 percent nor more than 25 percent of the gross weight.

(5) *Spring assemblies.* Spring assemblies (springs, hangers, shackles, bushings and mounting bolts) shall be capable of withstanding all the design loads as outlined in 3280.904(b)(3) without exceeding maximum allowable stresses for design spring assembly life as recommended by the spring assembly manufacturer. The capacity

of the spring system shall assure, that under maximum operating load conditions, sufficient clearance shall be maintained between the tire and mobile home frame or structure to permit unimpeded wheel movement and for changing tires.

(6) *Axles*. Axles, and their connecting hardware, shall be capable of withstanding all of the design loads outlined in § 3280.904(b)(3) without exceeding maximum allowable stresses for design axle life as recommended by the axle manufacturer. The number of axles required to provide a safe tow and good ride characteristics shall be determined and documented by engineering analysis. Those alternatives listed in § 3280.903(c) may be accepted in place of such an analysis.

(7) *Hubs and bearings*. Hubs and bearings shall meet the requirements of § 3280.904(b)(3) and good engineering practice. Both of these components shall be accessible for inspection, routine maintenance and replacement of parts.

(8) *Tires, wheels and rims*. Tires, wheels and rims shall meet the requirements of § 3280.904(b)(3). Tires shall be selected for anticipated usage.

(9) *Brake assemblies* (i) The number, type, size and design of brake assemblies required to assist the towing vehicle in providing effective control and stopping of the mobile home shall be determined and documented by engineering analysis. Those alternatives listed in § 3280.903(c) may be accepted in place of such an analysis.

(ii) Brakes on the towing vehicle and the mobile home shall be capable of assuring that the maximum stopping distance from an initial velocity of 20 miles per hour does not exceed 40 feet (U.S. Department of Transportation Regulations).

(10) *Lights and associated wiring*. Highway safety electrical lights and associated wiring shall conform to applicable Federal requirements in terms of location and performance. The manufacturer shall have the option of meeting this requirement by utilizing a temporary light/wiring harness provided by the mobile home transportation carrier.

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AUTHORITY: Sec. 625 of the National Mobile Home Construction and Safety Standards Act of 1974, Title VI of Pub. L. 93-383, 42 U.S.C. 5401, sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d), unless otherwise noted.

SOURCE: 41 FR 19852, May 13, 1976, unless otherwise noted.

NOMENCLATURE CHANGES: 44 FR 20680, Apr. 6, 1979.

Subpart A—General

§ 3282.1 Scope and purpose.

(a) The National Mobile Home Construction and Safety Standards Act of 1974 (Title VI of Pub. L. 93 383, 88 Stat. 700, 42 U.S.C. 5401, et seq.) (hereinafter referred to as the Act), requires the Secretary of the Department of Housing and Urban Development to establish Federal mobile home construction and safety standards and to issue regulations to carry out the purpose of the Act. The standards promulgated pursuant to the Act appear at Part 3280 of Chapter XX of this title, and apply to all mobile homes manufactured for sale to purchasers in the United States on or after the effective date of the standards (June 15, 1976). A mobile home is manufactured on or after June 15, 1976, if it enters the first stage of production on or after that date.

(b) The Secretary is also authorized by the Act to conduct inspections and investigations necessary to enforce the standards, to determine that a mobile home fails to comply with an applicable standard or contains a defect or an imminent safety hazard, and to direct the manufacturer to furnish notification thereof, and in some cases, to remedy the defect or imminent safety hazard. The purpose of this part is to prescribe procedures for the implementation of these responsibilities of the Secretary under the Act through the use of private and State inspection organizations and cooperation with State mobile home agencies. It is the policy of the Department to involve State agencies in the enforcement of the Federal mobile home standards to the maximum extent possible consistent with the capabilities of such agencies and the public interest.

§ 3282.2 Program implementation authority.

(a) The Secretary has delegated to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection all of the authority to exercise the responsibilities of the Secretary under the Act except the power to sue and be sued.

(b) The Secretary has further authorized the Assistant Secretary to redelegate any of the delegated authority to employees of the Department.

§ 3282.3 Establishment of office.

There is established, as a unit subordinate to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection, the Office of Mobile Home Standards.

§ 3282.4 Director.

The Office of Mobile Home Standards is headed by the Director, who shall be named by the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

§ 3282.5 Principal divisions.

The following Divisions have been established within the Office of Mobile Home Standards:

(a) Standards Coordination and Liaison Division.

(b) Enforcement and State Liaison Division.

(c) Investigation and Data Collection Division.

§ 3282.6 Separability of provisions.

If any clause, sentence, paragraph, section or other portion of Part 3282 shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined by its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 3282.7 Definitions.

The definitions in this subpart are those common to all subparts of the regulations.

(a) "Act" means the National Mobile Home Construction and Safety Standards Act of 1974, Title VI of the Housing and Community Development Act of 1974 (42 U.S.C. 5401 et seq.)

(b) "Add-on" means any structure (except a structure designed or produced as an integral part of a mobile home) which, when attached to the basic mobile home unit, increases the area, either living or storage, of the mobile home.

(c) "Alteration" means the replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a dealer or distributor but prior to sale by a dealer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It includes any modification made in the mobile home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance requiring plug-in to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug in" to an electrical receptacle, which appliance was not provided with the mobile home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected.

(d) "Certification label" see "label".

(e) "Certification Report" means the report prepared by an IPIA (see definition z) for each mobile home manufacturing plant under § 3282.203 in which the IPIA provides a complete description of the initial comprehensive inspection of the plant, an evaluation of the quality assurance program under the approved quality assurance manual, and the identity of the DAPIA (see definition z) which approved the designs and quality assurance manual used in the plant. Where appropriate under § 3282.362(b)(5), the certification report may be made by a DAPIA.

(f) "Component" means any part, material or appliance which is built in as an integral part of the mobile home during the manufacturing process.

(g) "Cost Information" means information submitted by a manufacturer under section 607 of the Act with respect to alleged cost increases resulting from action by the Secretary, in such form as to permit the public and the Secretary to make an informed judgment on the validity of the manufacturer's statements. Such term includes both the manufacturer's cost and the cost to retail purchasers.

(h) "Date of Manufacture" means the date on which the label required by § 3282.205(c) is affixed to the mobile home.

(i) "Dealer" means any person engaged in the sale, leasing, or distribution of new mobile homes primarily to persons who in good faith purchase or lease a mobile home for purposes other than resale.

(j) "Defect" means a failure to comply with an applicable Federal mobile home safety and construction standard that renders the mobile home or any part or component thereof not fit for the ordinary use for which it was intended, but does not result in an unreasonable risk of injury or death to occupants of the affected mobile home. See related definitions of "imminent safety hazard" (definition q), "noncompliance" (definition x), and "serious defect" (definition ff).

(k) "Department" means the Department of Housing and Urban Development.

(l) "Design" means drawings, specifications, sketches and the related engineering calculations, tests and data in support of the configurations, structures and systems to be incorporated in mobile homes manufactured in a plant.

(m) "Director" means the Director of the Office of Mobile Home Standards.

(n) "Distributor" means any person engaged in the sale and distribution of mobile homes for resale.

(o) "Failure to Conform" means an imminent safety hazard related to the standards, a serious defect, defect, or noncompliance and is used as a substitute for all of those terms.

(p) "HUD" means the Department of Housing and Urban Development.

(q) "Imminent Safety Hazard" means a hazard that presents an imminent and unreasonable risk of death or severe personal injury that may or may not be related to failure to comply with an applicable Federal mobile home construction or safety standard. See related definitions of "defect" (definition j), "noncompliance" (Definition X) and "serious defect" (Definition ff).

(r) "Joint Monitoring Team" means a monitoring inspection team composed of personnel provided by the various State Administrative Agencies, or by HUD or its contract agent, operating under a contract with HUD for the purpose of monitoring, or otherwise aiding in the enforcement of the Federal standards.

(s) "Label" or "certification label" means the approved form of certification by the manufacturer that, under § 3282.362(c)(2)(i), is permanently affixed to each transportable section of each mobile home manufactured for sale to a purchaser in the United States.

(t) "Manufacturer" means any person engaged in manufacturing or assembling mobile homes, including any person engaged in importing mobile homes for resale.

(u) "Mobile home" means a structure, transportable in one or more sections, which when erected on site measures eight body feet or more in width and thirty-two body feet or more in length, and which is built on a permanent chasis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, airconditioning, and electrical systems contained therein.

(v) "Mobile Home Construction" means all activities relating to the assembly and manufacture of a mobile home including but not limited to those relating to durability, quality, and safety.

(w) "Mobile Home Safety" means the performance of a mobile home in such a manner that the public is protected against any unreasonable risk of the occurrence of accidents due to the design or construction of such mobile home, or any unreasonable risk of death or injury to the user or to the public if such accidents do occur.

(x) "Noncompliance" means a failure of a mobile home to comply with a Federal mobile home construction or safety standard that does not constitute a defect, serious defect, or imminent safety hazard. See related definitions or "Defect" (defection j), "imminent safety hazard" (definition q), and "serious defect" (definition ff).

(y) "Owner" means any person purchasing a mobile home from any other person after the first purchase of the mobile home, in good faith, for purposes other than resale.

(z) "Primary Inspection Agency" (PIA) means a State/or private organization that has been accepted by the Secretary in accordance with the requirement of subpart H of this Part. There are two types of PIA:

(1) Design Approval PIA (DAPIA), which evaluates and approves or disapproves mobile home designs and quality control procedures, and

(2) Production Inspection PIA (IPIA), which evaluates the ability of mobile home manufacturing plants to follow approved quality control procedures and provides ongoing surveillance of the manufacturing process. Organizations may act as one or both of these types.

(aa) "Purchaser" means the first person purchasing a mobile home in good faith for purposes other than resale.

(bb) "Quality Assurance Manual" means a manual, prepared by each manufacturer for its manufacturing plants and approved by a DAPIA which contains: a statement of the manufacturer's quality assurance program, a chart of the organization showing, by position, all personnel accountable for quality assurance, a list of tests and test equipment required, a station-by-station description of the manufacturing process, a list of inspections required at each station, and a list by title of personnel in the manufacturer's organization to be held responsible for each inspection. Where necessary, the quality assurance manual used in a particular plant shall contain information specific to that plant.

(cc) "To Red Tag" means to affix a notice to a mobile home which has been found to contain an imminent safety hazard or a failure to conform with any applicable standard. A "red tag" is the notice so affixed to the mobile home.

(dd) "Secretary" means the Secretary of Housing and Urban Development.

(ee) "Secretary's Agent" means a party operating as an independent contractor under a contract with HUD.

(ff) "Serious Defect" means any failure to comply with an applicable Federal mobile home construction and safety standard that renders the mobile home or any part thereof not fit for the ordinary use for which it was intended and which results in an unreasonable risk of injury or death to occupants of the affected mobile home.

(gg) "Standards" means the Federal mobile home construction and safety standards promulgated under section 604 of the Act, 42 U.S.C. 5403, as Part 3280 of these regulations.

(hh) "State" includes each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

(ii) "State Administrative Agency" (SAA) means an agency of a State which has been approved or conditionally approved to carry out the State plan for enforcement of the standards pursuant to section 623 of the Act, 42 U.S.C. 5422, and Subpart G of this part.

(jj) "State Plan Application" means the application of any State organization which is submitted to the Secretary for approval as a State Administrative Agency under Subpart G.

(kk) "System" means a set or arrangement of materials or components related or connected as to form an operating entity, i.e., heating, ventilating and air-conditioning systems, evaporative coolers.

(ll) "Title I" means Title I of the National Housing Act, 12 U.S.C. 1701, which authorizes HUD to insure loans made for the purchase of mobile homes that are certified as meeting HUD requirements for dwelling quality and safety.

(mm) "United States District Courts" means the Federal district courts of the United States and the United States courts of the Commonwealth of Puerto Rico, Guam, the Virgin Islands, the Canal Zone, and American Samoa.

[41 FR 19853, May 13, 1976, as amended at 41 FR 24971, June 21, 1976]

§ 3282.8 Applicability.

(a) *Mobile Homes.* This part applies to all mobile homes that enter the first stage of production on or after June 15, 1976, and to all mobile homes that enter the first stage of production before June 15, 1976, to which labels are applied under § 3282.205(d).

(b) *States.* This part applies to States that desire to assume responsibility under the Federal mobile home construction and safety standards enforcement program. It includes requirements which must be met in order for State agencies to be approved by the Secretary under 623(c) of the Act, 42 U.S.C. 5422(c). It also includes requirements for States wishing to act as primary inspection agencies, as defined in § 3282.7, or to participate in monitoring activities under § 3282.308.

(c) *Primary Inspection and Engineering Organizations.* This part applies to each private inspection and engineering organization that wishes to qualify as a primary inspection agency under Subpart H.

(d) *Mobile Home Manufacturers.* This part applies to all manufacturers producing mobile homes for sale in the United States. It includes:

(1) Inspection procedures to be carried out in the manufacturing plants.

(2) Procedures by which a manufacturer obtains approval of mobile home designs.

(3) Procedures by which a manufacturer obtains approval of manufacturing quality control and assurance programs.

(4) Procedures by which a manufacturer may obtain production inspections and certification labels for its mobile homes.

(e) *Mobile Home Dealers and Distributors.* This part applies to any

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person selling, leasing, or distributing new mobile homes for use in the United States. It includes prohibitions of the sale of new mobile homes to which labels have not been affixed pursuant to Subpart H of these regulations or that have been altered, damaged, or otherwise caused not to be in compliance with the Federal standards.

(f) *Purchasers, owners and consumers.* This part applies to purchasers, owners and consumers of mobile homes in that it sets out procedures to be followed when purchasers, owners and consumers complain to manufacturers, States, the Secretary or others concerning problems in mobile homes for which remedies are provided under the Act.

(g) *Recreational vehicles.* Recreational vehicles do not fall within the definition of mobile homes and are not subject to these regulations. A recreational vehicle is a vehicle, regardless of size, which is not designed to be used as a permanent dwelling, and in which the plumbing, heating, and electrical systems contained therein may be operated without connection to outside utilities and which are self propelled or towed by a light duty vehicle.

(h) *Imported mobile homes.* Imported mobile homes are covered by the regulations except as modified by regulations promulgated jointly by the Secretary and the Secretary of the Treasury.

(i) *Export mobile homes.* Mobile Homes intended solely for export are not governed by this part or by Part 3280 of this title if a label or tag stating that the mobile home is intended solely for export is placed on the mobile home or the outside of the container, if any, in which it is to be exported. However, any mobile home so tagged or labeled that is not exported but is sold to a purchaser in the United States is subject to this part and Part 3280 of this title.

(j) *Add-on.* An add-on added by the dealer or some other party not the manufacturer (except where the manufacturer acts as a dealer) as part of a simultaneous transaction involving the sale of a new mobile home, is not governed by the standards and is not subject to these regulations. However, the addition of the add-on must not affect the ability of the basic mobile home to comply with the standards. If the addition of an add-on causes the basic mobile home to fail to conform to the standards, sale, lease, and offer for sale or lease of the home is prohibited until the mobile home is brought into conformance with the standards. While the standards do not govern add-ons, the Secretary has the authority to promulgate standards for add-ons and may do so in the future.

(k) A structure (including an expandable room, tip-out, or tag-along unit) which is designed and produced as an integral part of a mobile home when assembled on site, is governed by the standards and these regulations regardless of the dimensions of such structure.

(l) *Multifamily homes.* Mobile homes designed and manufactured with more than one separate living unit are not covered by the standards and these regulations.

(Secs. 615 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5414 and 5424 and sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

[41 FR 19854, May 13, 1976, as amended at 41 FR 24970, June 21, 1976; 42 FR 35013, July 7, 1977; 44 FR 66733, Nov. 29, 1979]

§ 3282.9 Computation of time.

(a) In computing any period of time prescribed or allowed by these regulations, the day of the act or event from which the designated period of time begins to run shall not be included in the computation. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or a legal holiday, in which event the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. When the period of time prescribed or allowed is less than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. When the period of time prescribed or allowed is more than 7 days, intermediate Saturdays, Sundays, and legal holidays shall be included in the computation. As used in this section "legal holiday" includes New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States.

(b) Extensions of any of the time periods set out in these regulations may be granted by the Secretary or, as appropriate, by a State Administrative Agency, upon a showing of good cause by the party governed by the time period.

[42 FR 2580, Jan. 12, 1977]

§ 3282.10 Civil and criminal penalties.

Failure to comply with these regulations may subject the party in question to the civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410.

§ 3282.11 Preemption and reciprocity.

(a) No State mobile home standard regarding mobile home construction and safety which covers aspects of the mobile home governed by the Federal standards shall be established or continue in effect with respect to mobile homes subject to the Federal standards and these regulations unless it is identical to the Federal standards.

(b) No State may require, as a condition of entry into or sale in the State, that a mobile home which has been certified as in conformance with the Federal standards by the application of the label required by § 3282.362 (c)(2)(i) be subjected to state inspection to determine compliance with any standard covering any aspect of the mobile home covered by the Federal standard, except that a State may inspect a home to determine compliance with the Federal standard or an identical State standard if a transition certification label has been affixed to the home under § 3282.207. Nor may any State require that a State label certifying conformance to the Federal standard or an identical standard be placed on the mobile home, except that such a label may be required where a transition certification label has been affixed to the home under § 3282.207. Certain actions which States are permitted to take are set out in § 3282.303 of Subpart G of this part.

(c) States may participate in the enforcement of the Federal standards enforcement program under these regulations either as SAAs or PIAs or both. These regulations establish the exclusive system for enforcement of the Federal standards. No State may establish or keep in effect through a building code enforcement system or otherwise, procedures or requirements which constitute systems for enforcement of the Federal standards or of identical State standards which are outside the system established in these regulations or which go beyond this system to require remedial actions which are not required by the Act and these regulations. A State may establish or continue in force consumer protections, such as warranty or warranty performance requirements, which respond to individual consumer complaints and so do not constitute systems of enforcement of the Federal standards, regardless of whether the State qualifies as an SAA or PIA.

(d) Except where a State is inspecting or providing a State label for a mobile home to which a transition certification label has been applied under § 3282.207, and except where a State is providing one of the services mentioned in § 3283.303, and except where a State is acting as a PIA, no State may charge a fee for any services provided under these regulations. Further no State may charge a fee which is designed simply to replace revenues lost when this program replaces the State program or a fee which burdens interstate commerce, or a fee which, in itself or as it is administered, constitutes a system of enforcement of the Federal standards or of an identical State standard.

(e) No State or locality may establish or enforce any rule or regulation or take any action that stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. The test of whether a State rule or action is valid or must give way is whether the State rule can be enforced or the action taken without impairing the Federal superintendence of the mobile home industry as established by the Act.

[42 FR 2580, Jan. 12, 1977]

§ 3282.12 Excluded structures—Modular homes.

(a) The purpose of this section is to provide the certification procedure authorized by section 604(h) of the National Mobile Home Construction and Safety Standards Act of 1974 under which modular homes may be excluded from coverage of the Act if the manufacturer of the structure elects to have them excluded. If a manufacturer wishes to construct a structure that is both a mobile home and a modular home, the manufacturer need not make the certification provided for by this section and may meet both the Federal mobile home requirements and any modular housing requirements. When the certification is not made, all provisions of the Federal requirements shall be met.

(b) Any structure that meets the definition of "mobile home" at 24 CFR 3282.7(u) is excluded from the coverage of the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. 5401 *et seq.*, if the manufacturer certifies as prescribed in paragraph (c) of this section that:

(1) The structure is designed only for erection or installation on a site-built permanent foundation,

(i) A structure meets this criterion if all written materials and communications relating to installation of the structure, including but not limited to designs, drawings, and installation or erection instructions, indicate that the structure is to be installed on a permanent foundation

(ii) A site-built permanent foundation is a system of supports, including piers, either partially or entirely below grade which is:

(A) Capable of transferring all design loads imposed by or upon the structure into soil or bedrock without failure,

(B) Placed at an adequate depth below grade to prevent frost damage, and

(C) Constructed of concrete, metal, treated lumber or wood, or grouted masonry, and

(2) The structure is not designed to be moved once erected or installed on a site-built permanent foundation,

(i) A structure meets this criterion if all written materials and communications relating to erection or installation of the structure, including but not limited to designs, drawings, calculations, and installation or erection instructions, indicate that the structure is not intended to be moved after it is erected or installed and if the towing hitch or running gear, which includes axles, brakes, wheels and other parts of the chassis that operate only during transportation, are removable and designed to be removed prior to erection or installation on a site-built permanent foundation; and

(3) The structure is designed and manufactured to comply with the currently effective version of one of the following:

(i) One of the following nationally recognized building codes:

(A) That published by Building Officials and Code Administrators (BOCA) and the National Fire Protection Association (NFPA) and made up of the following:

(*1*) BOCA Basic Building Code,

(*2*) BOCA Basic Industrialized Dwelling Code,

(*3*) BOCA Basic Plumbing Code,

(*4*) BOCA Basic Mechanical Code, and

(*5*) National Electrical Code, or

(B) That published by the Southern Building Code Congress (SBCC) and the NPPA and made up of the following:

(*1*) Standard Building Code,

(*2*) Standard Gas Code,

(*3*) Standard Mechanical Code,

(*4*) Standard Plumbing Code, and

(*5*) National Electrical Code, or

(C) That published by the International Conference of Building Officials (ICBO), the International Association of Plumbing and Mechanical Officials (IAPMO), and the NPPA and made up of the following:

(*1*) Uniform Building Code,

(*2*) Uniform Mechanical Code,

(*3*) Uniform Plumbing Code, and

(*4*) National Electrical Code or

(D) The codes included in paragraphs (b)(3)(i)(A), (B), or (C) in connection with the One- and Two-Family Dwelling Code, or

(E) Any combination of the codes included in paragraphs (b)(3)(i)(A), (B), (C), and (D), that is approved by the Secretary, including combinations using the National Standard Plumbing Code published by the National Association of Plumbing, Heating and Cooling Contractors (PHCC), or

(F) Any other building code accepted by the Secretary as a nationally recognized model building code, or

(ii) Any local code or State or local modular building code accepted as generally equivalent to the codes included under paragraph (a)(3)(i), (the Secretary will consider the manufacturer's certification under paragraph (c) of this section to constitute a certification that the code to which the structure is built is generally equivalent to the referenced codes. This certification of equivalency is subject to the provisions of paragraph (f) of this section) or

(iii) The minimum property standards adopted by the Secretary pursuant to Title II of the National Housing Act; and

(4) To the manufacturer's knowledge, the structure is not intended to be used other than on a site-built permanent foundation

(c) When a manufacturer makes a certification provided for under paragraph (b) of this section, the certification shall state as follows:

The manufacturer of this structure, Name ———, Address ——— (location where structure was manufactured).

Certifies that this structure (Ser. No. ———) is not a mobile home subject to the provisions of the National Mobile Home Construction and Safety Standards Act of 1974 and is—

(1) designed only for erection or installation on a site built permanent foundation,

(2) not designed to be moved once so erected or installed,

(3) designed and manufactured to comply with ——— (Here state which code included in paragraph (b)(3) of this section has been followed), and

(4) to the manufacturer's knowledge is not intended to be used other than on a site-built permanent foundation

(d) This certification shall be affixed in a permanent manner near the electrical panel, on the inside of a kitchen cabinet door, or in any other readily accessible and visible location.

(e) As part of this certification, the manufacturer shall identify each certified structure by a permanent serial number placed on the structure during the first stage of production. If the manufacturer also manufactures mobile homes that are certified under §§ 3282.205 and 3282.362(c), the series of serial numbers for structures certified under this section shall be distinguishable on the structures and in the manufacturer's records from the series of serial numbers for the mobile homes that are certified under §§ 3282.205 and 3282.362(c).

(1) If a manufacturer wishes to certify a structure as a mobile home under §§ 3282.205 and 3282.362(c) after having applied a serial number identifying it as exempted under this section, the manufacturer may do so only with the written consent of the Production Inspection Primary Inspection Agency (IPIA) after thorough inspection of the structure by the IPIA at at least one stage of production and such removal or equipment, components, or materials as the IPIA may require to perform inspections to assure that the structure conforms to the Federal mobile home standards. The manufacturer shall remove the original serial number and add the serial number required by § 3280.6.

(2) A manufacturer may not certify a structure under this section after having applied the mobile home serial number under § 3280.6.

(f) All certifications made under this section are subject to investigation by the Secretary to determine their accuracy. If a certification is false or inaccurate, the certification for purposes of this section is invalid and the structures that have been or may be the subject of the certification are not excluded from the coverage of the Act, the Federal Mobile Home Construction and Safety Standards, or these Regulations.

(1) If the Secretary has information that a certification may be false or inaccurate, the manufacturer will be given written notice of the nature of this information by certified mail and the procedure of this subparagraph will be followed.

(i) The manufacturer must investigate this matter and report its findings in writing as to the validity of this information to the Secretary

within 15 days from the receipt of the Secretary's notice.

(ii) If a written report is received within the time prescribed in paragraph (f)(1)(i), the Secretary will review this report before determining whether a certification is false or inaccurate. If a report is not received within 15 days from the receipt of the Secretary's notice, the Secretary will make the determination on the basis of the information presented.

(iii) If the Secretary determines that a certification is false or inaccurate, the manufacturer will be given written notice and the reasons for this determination by certified mail.

(2) The Secretary may seek civil and criminal penalties provided for in section 611 of the Act, 42 U.S.C. 5410, if the party in question in the exercise of due care has reason to know that such certification is false or misleading as to any material fact.

(Sections 604(b) and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, 42 USC 5403 and 5424, and sec. 7(d), Department of HUD Act, 42 USC 3535(d))

[44 FR 66733, Nov. 29, 1979]

Subpart B—Formal Procedures

§ 3282.51 Scope.

This subpart contains rules of procedure generally applicable to the transaction of official business under the National Mobile Home Construction and Safety Standards Act of 1974, including the rules governing public availability of information.

§ 3282.52 Address of communications.

Unless otherwise specified, communications shall be addressed to the Director, Office of Mobile Home Standards, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

§ 3282.53 Service of process on foreign manufacturers and importers.

(a) *Designation of agent for service.* Any manufacturer, before offering a mobile home for importation into the United States, shall designate an agent upon whom service of all processes, notices, orders, decisions, and requirements may be made for and on behalf of such manufacturers as provided in section 612(e) of the Act and in this section. The agent may be an individual, a firm, or a domestic corporation. Changes in the designation of agents shall be made in accordance with the provisions of § 3282.53(b).

(b) *Form and contents of designation of agent.* The designation shall be in writing, dated, and signed by the manufacturer and the designated agent. The designation shall be made in legal form required to make it valid and binding on the manufacturer under the laws, corporate by-laws, or other requirements governing the making of the designation by the manufacturer at the place and time where it is made and the person or persons signing the designation shall certify that it is so made. The designation shall disclose the full legal name, principal place of business, and mailing address of both the manufacturer and the designated agent.

(c) *Method of service.* Service of any process, notice, order, requirements, or decision specified in section 612(e) of the Act may be made by registered or certified mail addressed to the agent with return receipt requested, or in any other manner authorized by law. If service cannot be effected on the designated agent for any reason, service may be made to the Secretary by registered or certified mail.

§ 3282.54 Public information.

(a) *General.* Subject to the provisions of 24 CFR Part 15 covering the production or disclosure of material or information and the provisions of 24 CFR Part 16 at 40 FR 39729 relating to the Privacy Act, and except as otherwise provided by paragraphs (b), (c), (d), and (e) of this section, the Secretary may make available to the public:

(1) Any information which may indicate the existence of an imminent safety hazard, and

(2) Any information which may indicate the failure of a mobile home to comply with applicable mobile home construction and safety standards, and

(3) Such other information as the Secretary determines is necessary to

carry out the Secretary's functions under the Act.

(b) *Protected information.* Data and information submitted or otherwise provided to the Secretary or an agent of the Secretary or a PIA or SAA which fall within the definitions of a trade secret or confidential commercial or financial information are exempt from disclosure under this section, only if the party submitting or providing the information so requests under paragraph (c) of this section. However, the Secretary may disclose such information to any person requesting it after deletion of the portions which are exempt, or in such combined or summary form as does not disclose the portions which are exempt from disclosure or in its entirety in accordance with section 614 of the Act, U.S.C. 5413.

(c) *Obtaining exemption.* Any party submitting any information to the Secretary in any form under this Part, or otherwise in relation to the program established by the Act shall, if the party desires the information to be exempt from disclosure, at the time of submittal of the information or at any time thereafter, request that the information or any part thereof be protected from disclosure. The request for nondisclosure shall include the basis for the request under the Act or other authority and complete justification supporting the claim that the material should be exempt from disclosure. The request should also include a statement of the information in such combined or summary form that alleged trade secrets or other protected information and the identity of the submitting party would not be disclosed. This request need not be made with respect to information which was submitted to the Secretary, an SAA or a PIA prior to the effective date of these regulations.

(d) *Information submitted in opposition to action of the Secretary under section 607(a) of the Act, 42 U.S.C. 5406(a).* Notice of the availability of any information submitted under section 607 of the Act shall be published in the FEDERAL REGISTER promptly after its receipt and after any determination by the Secretary regarding a manufacturer's request for exemption from disclosure under that section.

(e) *Request for information from PIAs or SAAs.* Whenever a PIA or SAA receives requests for disclosure of information, it shall disclose the information unless the party from which the information was originally obtained has submitted to the PIA or SAA a request that the information not be disclosed under paragraph (c) of this section, except that the PIA or SAA shall be governed by the provisions of 24 CFR Part 16 (40 FR 39729) relating to the Privacy Act which may limit the disclosure of information. If a request for nondisclosure under paragraph (c) of this section has been received with respect to information whose disclosure is requested, the PIA or SAA shall refer the matter to the Secretary within 5 days of the request for disclosure. If a PIA or SAA receives a request for disclosure of information related to this program, which information was submitted to the PIA or SAA prior to the effective date of these regulations, the PIA or SAA shall refer the request for nondisclosure and required information to the Secretary.

Subpart C—Rules and Rulemaking Procedures

§ 3282.101 Scope and purpose.

This subpart prescribes procedures that apply to the formulation, issuance, amendment and revocation of rules pursuant to the National Mobile Home Construction and Safety Standards Act of 1974. Rulemaking under the Act is also subject to the provisions of 24 CFR Part 10.

§ 3282.102 Regulatory docket.

Information and data deemed relevant by the Secretary relating to rulemaking actions, including notices of proposed rulemaking, comments received in response to notices, petitions for rulemaking and reconsideration, denials of petitions for rulemaking and reconsideration, and final rules are maintained by the Rules Docket Clerk, Office of the Secretary, Room 10141, Department of Housing and Urban Development, 451 Seventh

[illegible] person showing reasonable grounds therefor.

(b) *Petitions for rulemaking by interested persons.* (1) Each petition filed under this subsection:

(i) Shall set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(ii) Shall explain the interest of the petitioner in the action requested;

(iii) Shall contain any information and arguments available to the petitioner to support the action sought; and

(iv) Should be identified as a petition for rulemaking submitted under this subpart.

(2) The Secretary shall respond to a petition submitted under this section within 180 days of receipt thereof by granting or denying the petition or scheduling a public hearing or other appropriate proceeding, except that this time limit may be exceeded where necessary to assure full resolution of the issues involved on the basis of adequate information. Unless the Secretary otherwise specifies, no public hearing, argument or other proceedings shall be held on a petition before its disposition under this subsection. If the Secretary determines that the petition contains adequate justification, the Secretary shall initiate rulemaking action under this subpart. If the Secretary determines that the petition does not justify rulemaking, the Secretary shall deny the petition and notify the petitioner.

§ 3282.104 Advance notice of proposed rulemaking.

An Advance Notice of Proposed Rulemaking is a notice in which the Secretary indicates that consideration is being given to proposing a rule and through which the public is given an [illegible] order to develop a proposed rule under § 3282.105. The Secretary will use the Advance Notice whenever, in the judgment of the Secretary, it is appropriate and practicable in developing rules under this subpart.

§ 3282.105 Notice of proposed rulemaking.

(a) A notice of proposed rulemaking shall be issued and interested persons invited to participate in the process of formulation of rules under applicable provisions of the Act, unless the Secretary, for good cause, finds that notice is impractical, unnecessary or contrary to the public interest, and incorporates that finding and a brief statement of the reasons therefor in the rule.

(b) Each notice of proposed rulemaking shall be published in the FEDERAL REGISTER, and shall include:

(1) A statement of the nature of the proposed rulemaking;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted;

(5) A statement of the time and place of the public rulemaking proceedings, if any.

§ 3282.106 Participation by interested persons.

Any interested person may participate in the process of formulating, amending or repealing a rule by submitting comments in writing containing information, views or arguments.

§ 3282.107 Contents of written comments.

Comments should be clearly organized so that the Secretary can determine which points made in the comment relate to which aspects of the [illegible] or Advanced Notice. [illegible] documentation of [illegible] [illegible] incorporation of material [illegible] should be [illegible] [illegible] incorporated material should [illegible] with respect to document [illegible] page.

§ 3282.108 Consideration of comments received.

All timely comments [illegible] before final action is taken on a rulemaking proposal. Comments filed late may be considered as far as practicable.

§ 3282.109 Additional rulemaking proceedings.

The Secretary may initiate any further rulemaking proceedings that the Secretary finds necessary or desirable.

§ 3282.110 Effective date of standards.

Each order establishing, amending or revoking a Federal mobile home construction and safety standard shall specify the date such standard is to take effect, which shall not be sooner than 180 days or later than one year after the date such order is issued, unless the Secretary finds, for good cause shown, that an earlier or later effective date is in the public interest, and publishes the reasons for such finding.

§ 3282.111 Petitions for reconsideration of final rules.

(a) *Definition.* A petition for reconsideration of a final rule issued by the Secretary is a request in writing from any interested person which must be received not later than 60 days after publication of the rule in the FEDERAL REGISTER. The petition shall state that it is a petition for reconsideration of a final rule, and shall contain an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest. If the petitioner requests the consideration of additional facts, the petitioner shall state the reason they were not presented to be treated as petitions for rulemaking.

[illegible] a final decision on reconsideration without further proceeding, or may provide such opportunity to submit comments or information and data as the Secretary deems desirable.

[illegible]

(c) Any party seeking to challenge any rule or regulation issued under the Act, except orders issued under section 604 42 U.S.C. 5403, if the challenge is brought before the expiration of the 60 day period set out in paragraph (a) of this section, shall file a timely petition for reconsideration under this section prior to seeking any other remedy.

§ 3282.112 Rulemaking on the basis of cost information submitted.

Whenever the Secretary proposes to establish, amend or revoke a standard on the basis of cost information submitted by a manufacturer in opposition to any action of the Secretary under section 604 42 U.S.C. 5403, or any other provision of the Act, the Secretary shall publish a notice of such proposed action and the reasons therefor in the FEDERAL REGISTER at least 30 days in advance of making a final determination in order to allow interested parties an opportunity to comment.

§ 3282.113 Interpretative bulletins.

When appropriate, the Secretary shall issue interpretative bulletins interpreting the standards under the authority of § 3280.1(b) and (c) of this chapter or interpreting the provisions of this Part. Issuance of interpretative bulletins shall be treated as rulemaking under this subpart unless the Secretary deems such treatment not to be in the public interest and the interpretation is not required by 24 CFR Part 10 or any other applicable statutes or regulations to be treated as rulemaking. All interpretative bulletins shall be indexed and made available to the

public at the Office of Mobile Home Standards and a copy of the index shall be published periodically in the FEDERAL REGISTER.

(2) Resolution of disputes where an SAA or manufacturer disagrees with a determination of a DAPIA under § 3282.361 that a mobile home design does or does not conform to the standards or that a quality assurance manual is or is not adequate.

Subpart D—Hearings, Presentations of Views, and Investigations

§ 3282.151 Applicability and scope.

(a) This subpart sets out procedures to be followed when an opportunity to present views provided for in the Act is requested by a party entitled to one under the Act. Those situations arise whenever the Secretary contemplates injunctive action under section 612(a) 42 U.S.C. 5410(a) of the Act, whenever the Secretary contemplates making an administrative determination of imminent safety hazard, serious defect, defect, or noncompliance under section 615(e), 42 U.S.C. 5414(e) whenever there is a question as to who should bear the responsibility for correction under section 615(g), 42 U.S.C. 5414(g) whenever the Secretary contemplates rejecting a State plan under section 623(d), 42 U.S.C. 5422(d), and whenever the Secretary contemplates withdrawal of approval of a State plan under section 623(f), 42 U.S.C. 5422(f). Section 3282.152 provides for two types of procedures which may be followed in these cases, one informal and nonadversary, and one more formal and adversary. It also sets out criteria to govern which type of procedure will be followed in particular cases.

(b) The procedures of § 3282.152 also apply to.

(1) Proceedings held by the Secretary whenever the suspension or disqualification of a primary inspection agency, which has been granted final approval, is recommended under § 3282.356 of these regulations, and

(2) Resolution of disputes where an SAA or manufacturer disagrees with a determination of a DAPIA under § 3282.361 that a mobile home design does or does not conform to the standards or that a quality assurance manual is or is not adequate with a decision by an IPIA to red tag or not to red tag or to provide or not to provide a certification label for a mobile home under § 3282.362 when the IPIA believes that the mobile home does or does not conform to the standards.

(c) This subpart also sets out procedures which the Secretary may follow in holding hearings and carrying out inspections and investigations authorized by section 614(c) of the Act, 42 U.S.C. 5413(c), or otherwise. Generally, the provisions of § 3282.153 apply to these proceedings, though the procedures set out in § 3282.152 may also be followed, as may other procedures which the Secretary deems appropriate.

(d) The procedures set out in § 3282.152 shall also be followed whenever State Administrative Agencies hold hearings or presentations of views under § 3282.309.

(e) To the extent that these regulations provide for hearings or presentations of views for parties which would otherwise qualify for hearings under 24 CFR Part 24, the procedures of 24 CFR Part 24 shall not be available and shall not apply.

§ 3282.152 Procedures for hearings and for the presentation of views.

(a) *Policy.* All Hearings and Presentations of Views under this subpart shall be public, unless, for good cause, the Secretary determines it is in the public interest that the proceedings should be closed. If the Secretary determines that a proceeding should be closed, the Secretary shall state and make publicly available the basis for that determination.

(b) *Request.* Upon receipt of a request for a Hearing or Presentation of Views under this subpart, the Secretary shall either grant the relief for which the Hearing or Presentation of Views is requested or shall issue a notice under paragraph (c) of this section.

(c) *Notice.* When the Secretary decides to conduct a Hearing or Presentation of Views under this section, the Secretary shall provide notice as follows:

(1) Except where the need for swift resolution of the question involved

prohibits it, notice of a proceeding hereunder shall be published in the Federal Register at least 10 days prior to the date of the proceeding. In any case, notice shall be provided to interested persons to the maximum extent practicable. Direct notice shall be sent by certified mail to the parties involved in the hearing.

(2) The notice, whether published or mailed, shall include a statement of the time, place and nature of the proceeding; reference to the authority under which the proceeding will be held; a statement of the subject matter of the proceeding, the parties and issues involved; and a statement of the manner in which interested persons shall be afforded the opportunity to participate in the hearing.

(3) The notice shall designate the official who shall be the presiding officer for the proceedings and to whom all inquiries should be directed concerning such proceedings.

(4) The notice shall state whether the proceeding shall be held in accordance with the provisions of paragraph (f)—(Presentation of Views) or paragraph (g)—(Hearings) of this section, except that when the Secretary makes the determinations provided for in sections 623(d) and 624(f) of the Act, the requirements of paragraph (g) of this section shall apply. In determining whether the requirements of paragraph (f) or (g) of this section shall apply the Secretary shall consider the following: (i) The necessity for expeditious action; (ii) the risk of injury to affected members of the public; (iii) the economic consequences of the decisions to be rendered; and (iv) such other factors as the Secretary deems appropriate.

(d) *Department Representative.* If the Department is to be represented by Counsel, such representation shall be by a Department hearing attorney designated by the General Counsel.

(e) *Reporting and transcription.* Oral proceedings shall be stenographically or mechanically reported and transcribed under the supervision of the presiding officer, unless the presiding officer and the parties otherwise agree, in which case a summary approved by the presiding officer shall be kept. The original transcript or summary shall be a part of the record and the sole official transcript, or summary. A copy of the transcript or summary shall be available to any person at a fee established by the Secretary, which fee the Secretary may waive in the public interest. Any information contained in the transcript or summary which would be exempt from required disclosure under Section 3282.54 of these regulations may be protected from disclosure if appropriate under that section upon a request for such protection under section 3282.54(c).

(f) *Presentation of Views.* (1) A Presentation of Views may be written or oral, and may include an opportunity for an oral presentation, whether requested or not, whenever the Secretary concludes that an oral presentation would be in the public interest, and so states in the notice. A presiding officer shall preside over all oral presentations held under this subsection. The purpose of such presentations shall be to gather information to allow fully informed decision making. Presentations of Views shall not be adversary proceedings. Oral presentations shall be conducted in an informal but orderly manner. The presiding officer shall have the duty and authority to conduct a fair proceeding, to take all necessary action to avoid delay, and to maintain order. In the absence of extraordinary circumstances, the presiding officer at an oral Presentation of Views shall not require that testimony be given under oath or affirmation, and shall not permit either cross-examination of witnesses by other witnesses or their representatives, or the presentation of rebuttal testimony by persons who have already testified. The rules of evidence prevailing in courts of law or equity shall not control the conduct of oral presentations of views.

(2) Within 10 days after a Presentation of Views, the presiding officer shall refer to the Secretary all documentary evidence submitted, the transcript, if any, a summary of the issues involved and information presented in the Presentation of Views and the presiding official's recommendations with the rationale therefor. The presiding officer shall make any appropriate

statements concerning the apparent veracity of witnesses or the validity of factual assertions which may be within the competence of the presiding officer. The Secretary shall issue a Final Determination concerning the matters at issue within 30 days of receipt of the presiding officer's summary. The Final Determination shall include: (i) a statement of findings, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of fact, law, or discretion as presented on the record, and (ii) an appropriate order. Notice of the Final Determination shall be given in writing and transmitted by certified mail, return receipt requested, to all participants in the presentation of views. The Final Determination shall be conclusive, with respect to persons whose interests were represented.

(g) *Hearings.* (1) A Hearing is an adversary proceeding and includes an opportunity for the oral presentation of evidence. All witnesses shall testify under oath or affirmation which shall be administered by the presiding officer. Participants shall have the right to present such oral or documentary evidence and to conduct such cross-examination as the presiding officer determines is required for a full and true disclosure of the facts. The presiding officer shall receive relevant and material evidence, rule upon offers of proof and exclude all irrelevant, immaterial or unduly repetitious evidence. However, the technicalities of the rules of evidence prevailing in courts of law or equity shall not control the conduct of a hearing. The presiding officer shall take all necessary action to regulate the course of the Hearing to avoid delay and to maintain order. The presiding officer may exclude the attorney or witness from further participation in the particular Hearing and may render a decision adverse to the interests of the excluded party in his absence.

(2) Decision. The presiding officer shall make and file an initial written decision on the matter in question. The decision shall be filed within 10 days after completion of the hearing. The decision shall include: (i) A statement of findings of fact, with specific references to principal supporting items of evidence in the record and conclusions, as well as the reasons or bases therefor, upon all of the material issues of law or discretion presented on the record, and (ii) an appropriate order. The presiding officer's decision shall be final and shall constitute the Final Determination of the Secretary unless reversed or modified within 30 days by the Secretary. Notice of the Final Determination shall be given in writing, and transmitted by registered or certified mail, return receipt requested, to all participants in the proceeding. The Final Determination shall be conclusive with respect to persons whose interests were represented.

§ 3282.153 Public participation in hearings or presentation of views.

(a) Any interested persons may participate in writing, in any Hearings or Presentation of Views held under the provisions of paragraphs (f) or (g) of § 3282.152. The presiding officer shall consider to the extent practicable any such written materials.

(b) Any interested person may participate in the oral portion of any Hearing or Presentation of Views held under paragraphs (f) and (g) of § 3282.152 unless the presiding officer determines that such participation should be limited or barred so as not to unduly prejudice the rights of the parties directly involved or unnecessarily delay the proceedings.

§ 3282.154 Petitions for hearings or presentations of views, and requests for extraordinary interim relief.

Any person entitled to a Hearing or Presentation of Views under paragraphs (f) or paragraph (g) of § 3282.152 to address issues as provided for in paragraph (a) of § 3282.151 may petition the Secretary to initiate such Hearing or Presentation of Views. The petition may be accompanied by a request that the Secretary provide such interim relief as may be appropriate pending the issuance of a Final Determination or Decision. No interim relief will be granted absent extraordinary cause shown. Upon receipt of a petition, the Secretary shall grant the petition and issue the notice provided for in paragraph (b) of § 3282.152 for Hearing or Presentation of Views, and grant, deny or defer decision of any request for interim relief.

§ 3282.155 Investigations.

(a) In connection with a formal investigation or inquiry involving an alleged or suspected violation or threatened violation of the Act or rules and regulations, the Secretary may permit any person to file with the Secretary a signed statement setting forth facts and circumstances known to such person and relevant to the investigation or inquiry.

(b) Subpoenas in investigations. The Secretary may issue subpoenas relating to any matter under investigation for any or all of the following reasons:

(1) Requiring testimony to be taken by interrogatories or depositions.

(2) Requiring the attendance and testimony of witnesses at a specific time and place.

(3) Requiring access to, examination of, and the right to copy documents, books, records, and papers.

(4) Requiring the production of documents, books, records, and papers at a specific time and place.

(c) Investigational hearings. For the purpose of taking the testimony of witnesses and receiving documents and other data relating to any subject under investigation, hearings may be conducted by the Secretary in the course of any investigation. These hearings shall be stenographically or mechanically reported. Testimony of witnesses shall be under oath or affirmation. Unless the Secretary determines otherwise for good cause, these hearings shall be public.

(d) Rights of witnesses in investigations. (1) Any person compelled to testify or to submit data in connection with any investigation shall be entitled, on payment of lawfully prescribed costs, to purchase a copy of any data submitted by him and of his own testimony as stenographically or mechanically reported, except that in a nonpublic proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(2) Any witness summoned under section 614(c)(1) of the Act shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.

(3) Any witness compelled to appear in person in an investigative hearing may be accompanied, represented, and advised by counsel as follows:

(i) Counsel for a witness may advise his client, in confidence, and upon initiative of either himself or the witness, with respect to any question asked of his client; and, if the witness refuses to answer a question, the counsel may briefly state on the record if he has advised his client not to answer the question and the legal grounds for such refusal.

(ii) Where it is claimed that the testimony or other evidence sought from a witness is outside the scope of the investigation, or it is claimed that the witness is privileged to refuse to answer a question or to produce other evidence, counsel for the witness may object on the record to the question or requirement and may briefly and precisely state the grounds therefor.

(iii) Objections interposed under the rules in this subpart will be continuing objections throughout the course of the proceedings, and repetitious or cumulative statement of an objection or of the grounds therefor, in such cases, is unnecessary.

(iv) Motions challenging the authority of the Secretary to conduct the investigation or the sufficiency or legality of the subpoena must be addressed to the Secretary in advance of the proceeding. Copies of such motions may be filed with the presiding official at the proceeding as part of the record of the investigation, and argument in support thereof may be allowed if it will not unduly delay the proceeding.

(v) Upon completion of the examination of a witness, counsel for the witness may request that the presiding official permit the witness to clarify any of his answers on the record in order that specified points of ambiguity, equivocation, or incompleteness may be corrected. The granting or denial of such request in whole or in part, shall be within the sole discretion of the presiding official. However, the reasons for any denial of a request shall be given by the presiding official

and shall be included in the record of the proceedings.

(vi) The presiding officer shall take all necessary action to regulate the course of the proceeding to avoid delay and to maintain order. If necessary to maintain order, the presiding officer may exclude the attorney or witness from further participation in the particular investigation and may render a decision adverse to the interests of the excluded party in that party's absence.

(e) In the case of contumacy of the witness or the witness's refusal to obey a subpoena or order of the Secretary, the United States district court for the jurisdiction in which an inquiry is carried on may issue an order requiring compliance therewith; and any failure to obey the court may be punished by such court as a contempt thereof.

§ 3282.156 Petitions for investigations.

(a) Any person may petition the Secretary in writing to open an investigation into whether noncompliances, defects, serious defects, or imminent safety hazards exist in mobile homes. A petition shall include the reasons that the petitioner believes warrant an investigation, and it shall state any steps which have previously been taken to remedy the situation. The petition shall include all information known to the petitioner concerning the identity of mobile homes which may be affected and where those mobile homes were manufactured. The Secretary shall respond to petitions concerning alleged imminent safety hazards and serious defects within 60 days and to petitions alleging the existence of defects or noncompliances within 120 days.

(b) Any person may petition the Secretary in writing to undertake an investigation for the purpose of determining whether a primary inspection agency should be disqualified. The petition shall set out all facts and information on which the petition is based and a detailed statement of why such information justifies disqualification. The Secretary shall consider such petitions when making determinations on final acceptance and continued acceptance. The Secretary shall respond to such petition within 120 days.

Subpart E—Manufacturer Inspection and Certification Requirements

§ 3282.201 Scope and purpose.

(a) This subpart sets out requirements which must be met by manufacturers of mobile homes for sale to purchasers in the United States with respect to certification of mobile home designs, inspection of designs, quality assurance programs, and mobile home production, and certification of mobile homes. Other than references and a general description of responsibilities, this subpart does not set out requirements with respect to remedial actions or reports which must be taken or filed under the Act and these regulations.

(b) The purpose of this subpart is to require manufacturers to participate in a system of design approvals and inspections which serve to assist them in assuring that mobile homes which they manufacture will conform to Federal standards. Such approvals and inspections provide significant protection to the public by decreasing the number of mobile homes with possible defects in them, and provide protection to manufacturers by reducing the number of instances in which costly remedial actions must be undertaken after mobile homes are sold.

§ 3282.202 Primary inspection agency contracts.

Each manufacturer shall enter into a contract or other agreement with as many Design Inspection Primary Inspection Agencies (DAPIAs) as it wishes and with enough Production Inspection Primary Inspection Agencies (IPIAs) to provide IPIA services for each manufacturing plant as set out in this subpart and in subpart H of this Part. In return for the services provided by the DAPIAs and IPIAs each manufacturer shall pay such reasonable fees as are agreed upon between the manufacturer and the primary inspection agency or, in the case of a State acting as an exclusive IPIA under § 3282.3 such fees as may be established by the State.

§ 3282.203 DAPIA services.

(a) Each manufacturer shall have each mobile home design and each quality assurance manual which it intends to follow approved by a DAPIA under § 3282.361. The manufacturer is free to choose which DAPIA will evaluate and approve its designs and quality assurance materials manufacturer may obtain design and quality assurance manual approval from a single DAPIA regardless of the number of plants in which the design and quality assurance manual will be followed. A manufacturer may also obtain approval for the same design and quality assurance manual from more than one DAPIA. The choice of which DAPIA or DAPIAs to employ is left to the manufacturer.

(b) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out design approvals. This information shall, except where the manufacturer demonstrates to the DAPIA that it is not necessary, include the following:

(1) Construction drawings and/or specifications showing structural details and layouts of frames, floors, walls and roofs, and chassis; material specifications, framing details, door locations, etc., for each floor plan proposed to be manufactured,

(2) Structural analysis and calculations, test data and/or other accepted engineering practices used by the manufacturer to validate the design,

(3) Complete heat loss calculations for each significant variation of home design,

(4) Floor plans showing room arrangement and sizes, window sizes, emergency exists and locations, locations of smoke detectors, fixed appliance range hoods, and other standards related aspects of the mobile home that can be shown on the floor plans,

(5) Diagrams of the fuel supply system, potable water system and drain, waste and vent systems. The diagrams shall specify the types of materials used, types of fittings and methods of installing required safety equipment,

(6) Wiring diagrams, including circuit allocation of electrical load and branch circuit calculations, a table of the branch circuit protection provided, the type of wiring used, and wiring methods,

(7) Details showing the design of air supply and return systems,

(8) Details of chassis construction, components, connections and running gear including rating capacities of tires,

(9) A list of fixed and portable appliances furnished with the mobile home, including type of appliance, rating of appliance, and applicable minimum and maximum performance ratings and/or energy requirements,

(10) Detailed manufacturer installation instructions including specifications and procedures for the erection and hook-up of the home at its permanent location, and

(11) Reports of all tests that were run to validate the conformance of the design to the standards.

(c) The manufacturer shall submit to the DAPIA such information as the DAPIA may require in order to carry out quality assurance manual approvals. At a minimum, this information shall include the quality assurance manual for which approval is sought. That manual shall include the manufacturer's quality assurance program, an organizational chart showing the accountability, by position, of the manufacturer's quality control personnel, a description of production tests and test equipment required for compliance with the standards, a station-by-station description of the manufacturing process, a list of quality control inspections required by the manufacturer at each station, and identification by title of each person who will be held accountable for each quality control inspection.

(d) Manufacturers may be required to furnish supplementary information to the DAPIA if the design information or the quality assurance manual is not complete or if any information is not in accordance with accepted engineering practice.

(e) When a manufacturer wishes to make a change in an approved design or quality assurance manual, the manufacturer shall obtain the approval of the DAPIA which approved the design or manual prior to production for sale. The procedures for obtaining such approval are set out in § 3282.361.

(f) The information to be submitted to a DAPIA under § 3282.203 (b) and (c) may be prepared by the manufacturer's staff or outside consultants, including other DAPIAs. However, a DAPIA may not perform design or quality assurance manual approvals for any manufacturer whose design or manual has been created or prepared in whole or in part by members of the DAPIA's organization or of any affiliated organization.

(g) Each manufacturer shall maintain a copy of the drawings, specifications, and sketches from each approved design received from a DAPIA under § 3282.361(b)(4) in each plant in which mobile homes are being produced to the design. Each manufacturer shall also maintain in each manufacturing plant a copy of the approved quality assurance manual received from a DAPIA under § 3282.361(c)(3) that is being followed in the plant. These materials shall be kept current and shall be readily accessible for use by the Secretary or other parties acting under these regulations.

§ 3282.204 IPIA services.

(a) Each manufacturer shall obtain the services of an IPIA as set out in § 3282.362 for each manufacturing plant operated by the manufacturer.

(b) The manufacturer shall make available to the IPIA operating in each of its plants a copy of the drawings and specifications from the DAPIA approved design and the quality assurance manual for that plant, and the IPIA shall perform an initial factory inspection as set out in § 3282.362(b). If the IPIA issues a deviation report after the initial factory inspection, the manufacturer shall make any corrections or adjustments which are necessary to conform with the DAPIA approved designs and manuals. After the corrections required by the deviation report are completed to the satisfaction of the IPIA, the IPIA shall issue the certification report as described in § 3282.362(b)(2). In certain instances a DAPIA may provide the certification report. (See § 3282.362) The manufacturer shall maintain a current copy of each certification report in the plant to which the certification report relates.

(c) After the certification report has been signed by the IPIA, the manufacturer shall obtain labels from the IPIA and shall affix them to completed mobile homes as set out in § 3282.362(c)(2). During the initial factory certification, the IPIA may apply labels to mobile homes which it knows to be in compliance with the standards if it is performing complete inspections of all phases of production of each mobile home and the manufacturer authorizes it to apply labels.

(d) During the course of production the manufacturer shall maintain a complete set of approved drawings, specifications, and approved design changes for the use of the IPIA's inspector and always available to that inspector when in the manufacturing plant.

(e) If, during the course of production, an IPIA finds that a failure to conform to a standard exists in a mobile home in production, the manufacturer shall correct the failure to confirm in any mobile homes still in the factory and held by distributors or dealers and shall carry out remedial actions under § 3282.404 and § 3282.405 with respect to any other mobile homes which may contain the same failure to conform.

§ 3282.205 Certification requirements.

(a) Every manufacturer shall make a record of the serial number of the first mobile homes in the sequence of production of the assembly line on June 15, 1976 and a duly authorized representative of the manufacturer shall certify that the first mobile home and all subsequent mobile homes in the sequence of production manufactured on or after June 15, 1976, have been constructed in accordance with the Federal standards. The manufacturer shall furnish a copy of that certification to the IPIA for the purpose of determining which mobile homes are subject to the notification and correction requirements of subpart I of these regulations. If the manufacturer does not have the services of an IPIA and is using transition certification labels under § 3282.207, it shall keep a certified record of mobile homes produced on or after June 15, 1976, and furnish that record to the IPIA that performs

the first plant approval or the Secretary if the manufacturer discontinues production at the expiration of the transition period.

(b) Every manufacturer of mobile homes shall certify on the data plate as set out in § 3280.5 of Chapter XX of 24 CFR and § 3282.362(c)(3) that the mobile home is designed to comply with the Federal mobile home construction and safety standards in force at the time of manufacture in addition to providing other information required to be completed on the data plate.

(c) Every manufacturer of mobile homes shall furnish to the dealer or distributor of each such mobile home produced by such manufacturer a certification that such mobile home, to the best of the manufacturer's knowledge and belief, conforms to all applicable Federal construction and safety standards. Such certification shall be in the form of the label provided by the IPIA under § 3282.362(c)(2), except when the manufacturer provides the label under § 3282.207. Such labels shall be affixed only at the end of the last stage of production of the mobile home.

(d) The manufacturer shall apply a label required or allowed by these regulations only to mobile homes that it knows by its inspections to be in compliance with the standards. The manufacturer shall affix the transition certification label allowed by § 3282.207 only to mobile homes that enter the first stage of production on or after June 15, 1976. The manufacturer may affix the label described in § 3282.362(c)(2) to mobile homes that enter the first stage of production prior to June 15, 1976, only under all of the following circumstances.

(1) No such labels are affixed to any mobile homes prior to June 15, 1976.

(2) The labels are obtained only through the procedures set forth in subpart H of this part pursuant to the full range of services provided by primary inspection agencies.

(3) The manufacturer keeps a record of all mobile homes that enter the first stage of production prior to June 15, 1976, and to which labels are affixed under this provision.

(4) The manufacturer certifies the accuracy of the record required under paragraph (d)(3) of this section and provides a copy of that certification to the IPIA that provides production inspections in the plant in which those mobile homes are manufactured.

(5) The manufacturer pays the monitoring inspection fee required by § 3282.210 for each mobile home to which a label is affixed under this provision.

(6) The manufacturer agrees that all mobile homes that it labels under this provision shall be subject to the requirements of the Act and these regulations, and particularly to the remedial provisions of subpart I of this part.

(7) The manufacturer obtains the agreement of the State in which the mobile homes are manufactured that the State will accept such mobile homes as if they had entered into the first stage of production on or after June 15, 1976, including agreement by the State not to require any State label for such mobile homes and not to require any inspections or charge any fees that would not be allowed with respect to mobile homes that enter the first stage of production on or after June 15, 1976.

(8) No other label relating to any aspect of the mobile home covered by the Federal standards is affixed to the mobile homes.

(41 FR 19850, May 13, 1976, as amended at 41 FR 24970, June 21, 1976)

§ 3282.206 Disagreement with IPIA or DAPIA.

Whenever a manufacturer disagrees with a finding by a DAPIA or an IPIA acting in accord with subpart H of this Part, the manufacturer may request a hearing or presentation of views as provided in § 3282.152. The manufacturer shall not, however, produce mobile homes pursuant to designs which have not been approved by a DAPIA or produce mobile homes which the relevant IPIA believes not to conform to the standards unless and until: (a) The Secretary determines that the manufacturer is correct in believing the design of the mobile home conforms to the standards; or (b) extraordinary interim relief is granted under § 3282.154; or (c) the

Nevada Legislature

ASSEMBLY

M E M O R A N D U M

TO: COMMITTEE ON GOVERNMENT AFFAIRS

FROM: MEMBERS SIGNATORY

Due to specific concerns of money allocation, two members of the Committee on Government Affairs, Messrs. Craddock and Schofield, met with Mr. Randall Capurro, Chairman of the State Parks Advisory Commission, and discussed the apportionment of the commission, as well as money. Mr. Capurro generally concluded that, while the state's recreational needs are not necessarily better served by apportioning money in population pockets, the needs of the population should be reflected in development.

Furthermore, an apportionment of the commission which more accurately reflects the population would be conducive to setting priorities for development according to state need.

The undersigned members of the Committee on Government Affairs believe that a brief history of the state bond money, made readily available, may be helpful in understanding future concerns relevant to park development. Our Research Department provided such information which is attached for your ready access.

Very truly yours,

R. Craddock
Jim Schofield
Jack Jeffrey
[illegible]
Paul Bergamo
John [illegible]
[illegible]

cc: Mr. Randall Capurro

Exhibit C

STATE OF NEVADA
LEGISLATIVE COUNSEL BUREAU
LEGISLATIVE BUILDING
CAPITOL COMPLEX
CARSON CITY, NEVADA 89710

ARTHUR J. PALMER, *Director*
(702) 885-5627

LEGISLATIVE COMMISSION (702) 885-5627
KEITH ASHWORTH, *Senator, Chairman*
Arthur J. Palmer, *Director, Secretary*
INTERIM FINANCE COMMITTEE (702) 885-5640
DONALD R. MELLO, *Assemblyman, Chairman*
Ronald W. Sparks, *Senate Fiscal Analyst*
William A. Bible, *Assembly Fiscal Analyst*

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JOHN R. CROSSLEY, *Legislative Auditor* (702) 885-5620
ANDREW P. GROSE, *Research Director* (702) 885-5637

May 28, 1981

M E M O R A N D U M

TO: Assemblyman Robert G. Craddock

FROM: Samuel F. Hohmann, Senior Research Analyst

SUBJECT: History of the State Bond Money

This memorandum is in response to your request for information regarding the history of state bond money for parks and the state parks advisory commission.

STATE BOND MONEY FOR PARKS

The provision for state bond money for parks was contained in Assembly Concurrent Resolution No. 26 of 1977. The resolution called for the issuance of $5 million in state general obligation bonds for park purposes allocated to the six park districts (planning regions), the state parks, the Nevada department of fish and game, and for historic preservation. The amounts allocated for each are listed in the resolution; see the enclosed copy.

Several tables regarding state bond money for parks are also enclosed. They include the following:

1. State Bond Programs.
   This table summarizes the legislative allocation of 1975 and authorizations of 1977 and 1979.

2. State Parks--State Bond Grants.
   This table identifies distribution of state bond grants expressly for state parks by planning region.

3. City and County State Bond Grants.
   This table lists state moneys received or obligated for city and county park projects. These projects are also grouped according to planning region.

4. State Applications from Clark County.
   This table lists all applications for state bond money from political subdivisions within Clark County, planning region III. As can be seen from the table, all applications from Clark County for funds have been honored to date.

The proposed distribution for the unsold bonds, based on the 1980 census, is as follows:

Region	Amount
Region I	$ 360,500*
II	70,000
III	2,030,000
IV	56,000
V	73,500
VI	70,000
	$ 2,660,000

*Washoe/Sparks received $840,000 in 1979 for two programs. The amount for Region I, therefore, is based on Carson City, Douglas, Lyon, Churchill, and Storey counties only.

Finally, I am enclosing a map which outlines Nevada planning regions.

STATE PARKS ADVISORY COMMISSION MEMBERSHIP

The only statutory provisions for appointment of members to the state parks advisory commission are contained in NRS 407.017. The section simply states that the governor shall appoint seven members; neither political, geographical, occupational, nor any other qualification is specified. In addition, there is no history of imposing qualifications on the governor's choice since the creation of the state parks commission in 1935 (S.B. 94 - chapter 86).

I hope this information is helpful. If you have any questions or would like additional information, please do not hesitate to contact me.

SFH/jld 5.1 Parks
Encl.

STATE APPLICATIONS FROM CLARK COUNTY

Bike Path General Fund Appropriation

1973 Applications

Las Vegas/Clark County	- $100,000 application, $95,000 funded
North Las Vegas	- $ 42,782 application, $37,500 funded (City later cancelled this project)
Henderson	- $ 10,000 application, $ 7,500 funded

1977 Park Bond Issue

1974 - 1977 Applications

No applications from any political subdivision.
1973 Bike Path General Fund winding down.
$10 million Bond issue getting started.

1978 Applications

Clark County, Paradise Park	- $ 43,500, fully funded
Clark County, Winchester Park	- $119,000, fully funded (Clark County eventually cancelled this project
Las Vegas, Park Acquisition	- $208,000, fully funded
Las Vegas, Park Acquisition	- $ 13,000, fully funded
Henderson, O'Callaghan Park	- $ 71,500, fully funded

1979 Applications

North Las Vegas, Walker Pool Acquisition	- $204,000, fully funded

1980 Applications

Clark County, Wetlands Park	- $109,000, fully funded

1981 Applications

Clark County, Red Rock Bike Path	- $ 45,394, fully funded, pending approval of Bond authorization by '81 Legislature.
North Las Vegas, Hartke and Pettitti Parks	- $ 85,803, fully funded, pending approval of Bond authorization by '81 Legislature.

STATE BOND PROGRAM

January 1981

In 1975 the Nevada Legislature passed an act providing $10 million in State bond funds for park purposes, fish and game habitat acquisition, and historic preservation. In 1976 it was passed in the general election and in 1977 a total of $5 million in bonds were sold.

Of the total $10 million bond issue, $9 million was allocated to park purposes and historic preservation:

LEGISLATIVE ALLOCATION		TOTAL BONDS SOLD IN 1977	OBLIGATIONS/ EXPENDITURES FOR 1977		TOTAL BONDS SOLD IN 1979	OBLIGATIONS/ EXPENDITURES FOR 1979	BONDS REMAINING TO BE SOLD
State Parks	$3,000,000	$1,500,000	$1,400,000 100,000	- Floyd Lamb State Park - Dayton State Park	$782,000	Wildhorse	$ 718,000
Political Subdivisions	5,000,000	1,500,000	1,500,000	- Various political subdivisions	200,000 640,000	Sparks San Rafael - Washoe Co.	2,660,000
Bicycle Path	500,000	500,000	500,000	- Various political subdivisions	-0-		-0-
Historic Preservation	500,000	500,000		(Administered by the Division of Historic Preservation & Archeology)		(Administered by the Division of Historic Preservation & Archeology)	-0-

The remaining $1 million of the $10 million total bond issue was allocated to the Nevada Department of Fish and Game. The total $1 million bonds were sold in 1977. Refer to Nevada Department of Wildlife for Obligation/Expenditure breakdown.

Assembly Concurrent Resolution No. 26—Assemblymen Mello, Howard, Kosinski, Dini, Glover, Dreyer, Harmon, Demers, Jeffrey, Kissam, Bremner, Gomes, Hickey, May, Murphy, Moody, Polish, Rhoads, Price, Robinson, Schofield, Serpa, Sena, Vergiels, Wagner, Westall, Hayes, Horn, Jacobsen, Mann, Barengo, Bennett, Banner, Chaney and Craddock

FILE NUMBER...........

ASSEMBLY CONCURRENT RESOLUTION—Allocating $5,000,000 from the sale of park bonds to acquisition and construction, bicycle paths and historic preservation.

Resolved by the Assembly of the State of Nevada, the Senate concurring, That the board of examiners is directed to sell sufficient bonds under "An Act relating to natural resources; directing the submission of a proposal to issue state general obligation bonds for park purposes and fish and game habitat acquisition to a vote of the people; providing for the use of the proceeds if such issue is approved; and providing other matters properly relating thereto." approved May 21, 1975, being chapter 660, Statutes of Nevada 1975, at page 1303, to produce $5,000,000 to be allocated as provided in this resolution; and be it further

Resolved, That the proceeds of the sale of the bonds shall be allocated to six districts, the state parks, the Nevada department of fish and game and for historic preservation as follows:

1. District 1, consisting of Carson City and Churchill, Douglas, Lyon, Storey and Washoe counties and the cities within the respective counties: $670.000, of which $502.500 is allocated to acquisition and construction and $167.500 is allocated to bicycle paths;
2. District 2, consisting of Esmeralda, Mineral and Nye counties and the cities within the respective counties: $40.000, of which $30,000 is allocated to acquisition and construction and $10,000 is allocated to bicycle paths;
3. District 3, consisting of Clark County and the cities within the county: $1,156.000, of which $867.000 is allocated to acquisition and construction and $289.000 is allocated to bicycle paths;
4. District 4, consisting of Eureka, Lincoln and White Pine counties and the cities within the respective counties: $40.000, of which $30,000 is allocated to acquisition and construction and $10,000 is allocated to bicycle paths;
5. District 5, consisting of Elko County and the cities within the county: $54.000, of which $40.500 is allocated to acquisition and construction and $13.500 is allocated to bicycle paths;
6. District 6, consisting of Humboldt, Lander and Pershing counties and the cities within the respective counties: $40,000, of which $30,000 is allocated to acquisition and construction and $10,000 is allocated to bicycle paths;
7. The Nevada state park system: $1,500,000 for acquisition and construction;
8. The Nevada department of fish and game: $1,000,000 for acquisition and construction;
9. For historic preservation purposes, to be distributed in accordance with guidelines and regulations developed by the division of historic

preservation and archeology of the state department of conservation and natural resources: $500,000;
and be it further

Resolved, That the following conditions are placed upon the distribution of money under the provisions of this resolution:

1. No more than 25 percent of the money allocated to any county or city pursuant to the provisions of this resolution may be used for development purposes.
2. Money which is not used by a district to which it has been allotted before January 1, 1979, becomes available for allocation among the other districts.
3. Bond funds allocated to the Nevada state park system shall be matched to the maximum extent possible by money which is made available by the Federal Government.
4. No money from the allocation to a district may be granted to counties or cities for park purposes until the state park advisory commission has reviewed all plans for acquisition, construction and development of parks in all counties and cities.
5. For each dollar of bond proceeds allocated to a district, the district shall provide one dollar of local funds to each project;

and be it further

Resolved, That the directions and allocations of this resolution are contingent upon the enactment of an amendment to chapter 660, Statutes of Nevada 1975, to permit the legislature to allocate proceeds of bonds sold under the above-entitled act by its concurrent resolution;
and be it further

Resolved, That the requirement of distribution according to guidelines and regulations developed by the division of historic preservation and archeology of the state department of conservation and natural resources is contingent upon the enactment of Senate Bill No. 359 of the 59th session.

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STATE PARKS -- STATE BOND GRANTS

PLANNING REGION I Dayton State Park	$ 100,000	4.50%
PLANNING REGION II No Projects		
PLANNING REGION III Floyd Lamb State Park	$ 1,400,000	63.11
PLANNING REGION IV No Projects		
PLANNING REGION V Wild Horse State Park	$ 718,000	32.37
PLANNING REGION VI No Projects		
TOTAL ALL REGIONS	$ 2,218,000	

CITY AND COUNTY STATE BOND GRANTS

PLANNING REGION I

Location and Project	State Monies Received or Obligated	Percent of Total
Carson City		6.09%
Carson Greenbelt	$ 10,375	
Carson Linear Park	125,000	
Highway 50 Bikepath	10,000	
Roop to Mountain Street Bikepath	25,000	
Roop Street Bikepath	15,000	
	$ 185,375	
Douglas County		19.53%
Douglas County Parks	$ 64,642	
Kahle Property Acq. (Executive Hold)	530,000	
	$ 594,642	
Storey County		
No Grants		
Reno		3.25%
Truckee River East Bikepath	$ 99,000	3.25%
Washoe County		30.55%
Truckee River/Mayberry Park Acq.	$ 39,866	
Rancho San Rafael Acq. (Leg. Approved)	640,000	
Incline Village Bikepath	200,000	
Mayberry Bridge Bikepath	50,000	
	$ 929,866	
Sparks		20.53%
Truckee River Acq.	$ 100,000	
Denevi Acq.	142,085	
Sports Complex (Leg. Approved)	200,000	
Sparks Bikepath	20,000	
Truckee River Bikepath I	70,000	
Truckee River Bikepath II	120,000	
	$ 625,085	
TOTAL WASHOE COUNTY	$1,653,951	54.34%
Churchill County		
No Grants		
Lyon County		
No Grants		
TOTAL PLANNING REGION I	$2,433,968	79.97%

CITY AND COUNTY STATE BOND GRANTS

PLANNING REGION II

Location and Project	State Monies Received or Obligated	Percent of Total
Mineral County		
No Grants		
Nye County		
No Grants		
Esmeralda County		
No Grants		

CITY AND COUNTY STATE BOND GRANTS

PLANNING REGION III

Location and Project	State Monies Received or Obligated	Percent of Total
Henderson		2.43%
O'Callaghan Park	$ 67,925	
Henderson Bikepath	6,235	
	$ 74,160	
North Las Vegas		3.20%
Walker Swimming Pool Acq.	$ 97,500	
Clark County		5.02%
Paradise Park Acq./Dev.	$ 43,500	
Las Vegas Wash Acq.	109,000	
	$ 152,500	
Las Vegas		7.58%
Penwood Acq.	$ 7,500	
Lake Mead Blvd. Acq.	108,779	
Las Vegas Bikepaths	114,580	
	$ 230,859	
TOTAL PLANNING REGION III	$ 555,019	18.23%

CITY AND COUNTY STATE BOND GRANTS

PLANNING REGION IV

Location and Project	State Monies Received or Obligated	Percent of Total
Lincoln County		
No Grants		
White Pine County		
No Grants		
Eureka County		
No Grants		

CITY AND COUNTY STATE BOND GRANTS

PLANNING REGION V

Location and Project	State Monies Received or Obligated	Percent of Total
Elko County		
Wells Park	$ 28,000	.92%
TOTAL PLANNING REGION V	$ 28,000	.92%

CITY AND COUNTY STATE BOND GRANTS

PLANNING REGION VI

Location and Project	State Monies Received or Obligated	Percent of Total
Humboldt County		.46%
Winnemucca Bikepath	$ 8,762	
Winnemucca Bikepath	5,474	
	$ 14,236	
Lander County		.40%
Austin Town Park	$ 12,200	
Pershing County		
No Grants		
TOTAL PLANNING REGION VI	$ 26,436	.86%
TOTAL ALL REGIONS	$3,043,423	