

# Manufactured Home Scenarios

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## Manufactured Home Evictions

Special rules may apply to eviction suits involving a manufactured home (aka a mobile home).

These special rules are in Chapter 94 of the Property Code.

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## What is a Manufactured Home?

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# **When do the Manufactured Home Rules apply?**

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What is a "Manufactured Home Community?"

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When Do the Manufactured  
Home Rules **NOT** Apply?

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Is this a Manufactured Home Community?

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## General Manufactured Home Eviction Procedure

- The general procedures and time limits for manufactured home evictions are the same as in any other eviction case except as specifically changed by Chapter 94

*Property Code § 24 & Rule 510*

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## Manufactured Homes Definitions

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

*Property Code § 94.001 (9) & Occupations Code § 1201.003(16)*

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Occupied  
Premises

Vacant  
Premises

Other areas of the premises the tenant has access to because they are a tenant in the community

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## Manufactured Home Definitions

**Tenant** - a person who is:

1. Obligated under the lease agreement to pay rent, fees, and other charges.

2. Authorized by a lease agreement to occupy a lot the exclusion of others in a manufactured home community.

*Property Code §§ 94.001 (11) A & B*

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## Breach of Lease:

- Non-payment of rent
- Change in land use

Grounds for eviction in manufactured home case

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## **Breach of Lease:**

If a tenant breaches the lease, then the landlord may terminate the lease and evict the tenant just like in a residential lease.

- The lease might incorporate the manufactured home community rules so that if a tenant violates one of those rules that would be a breach of the lease.

*Property Code § 94.205*

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## Example

- A manufactured home tenant throws their trash on the ground, but the manufactured home community rules prohibit this, and they are incorporated into the lease.
- The owner of the manufactured home community may bring an eviction suit against the tenant for breach of the lease.

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## Nonpayment of Rent:

A landlord may terminate the lease and evict a tenant for nonpayment of rent if:

- The tenant fails to pay on time the rent or other amounts due under the lease (for example, late fees or utility bills) that when added together equal at least one month's rent;
- The landlord notifies the tenant in writing that the payment is delinquent (meaning it was not paid when due); and
- The tenant has not made the delinquent payment in full before the 10th day after the date the tenant receives the notice from the landlord.

*Property Code § 94.206.*

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## Example

Rent of \$500 is due on the first of each month. If not paid by the fifth of the month there is a \$15 late fee.

As of January 6, a tenant has still not paid their rent for January. On January 7, the landlord gives the tenant a written notice that they owe \$515. If the tenant has not paid that amount in full by January 17, the landlord may terminate the lease.

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## Example

On the other hand, suppose the tenant paid \$200 of the \$500 monthly rent on January 1.

On January 7, the landlord gives the tenant a written notice that they owe \$315 (\$300 rent plus the \$15 late fee).

- Since the total amount owed by the tenant is not at least one month's rent, the landlord may not terminate the lease.
- This is different from a residential lease.

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## Change in Land Use:

A landlord may terminate a lease to change the land use of the manufactured home community (for example, if it is sold to a developer) but he must give a 180-day notice to:

- the tenant;
- the owner (if the tenant is not the owner); and
- Anyone who holds a lien (a security interest) on the manufactured home (if he received a written notice of the name and address of the owner and the person who holds the lien).

*Property Code § 94.204*

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## Notice of Lease Renewal

If the landlord offers to renew the lease, the tenant must notify the landlord not later than 30 days before the current lease expires whether the tenant accepts or rejects the new offer.

*Property Code § 94.055*

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# Notice of Lease Renewal – Notice to Vacate

Notice to vacate – When the rental agreement *will not be renewed* a notice must be given **60 days** before the lease expires and will not be renewed. This includes month to month tenants.

*Property Code § 94.055*

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## Notice to Vacate

**Chapter 24 has 4 different time requirements for the Notice to Vacate -**

- 10 Days for failure to pay rent, the tenant must be behind at least one month's rent.
- 30 days for Foreclosure
- Immediately for Forcible Entry
- 10 days if attorney fees are requested.

*Property Code § § 24.005, 24.006, 24.206*

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## Residential Eviction Procedures

that are *the same* in  
mobile home cases:

Chapter 24 rules apply

6-10 day service rule

Alternate service under Rule 510.4. (c)

May request jury trial

Judgment becomes final after 5 days

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## Eviction Citations

Failure to appear for trial may result in a default judgement being entered against you.

- To be used in a suit to recover possession of the premises whether unpaid rent is sought.

*Property Code § 24.0051(c)*

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# Eviction Citations

Further in the same type suit the following language must appear.

- Suit to evict
- This suit to evict involves immediate deadlines. Call the state bar of Texas toll free at 1-877-9TEXBAR if you need help locating an attorney. If you cannot afford to hire an attorney, you may be eligible for free or low-cost legal assistance.

*Property Code § 24.0051(d)*

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## Constable Receives Citation

Receipt in - By date & time

Serve citation in person or by Rule 510.4.(c)

Complete return including the date the citation is mailed if served per Rule 510.4.(c)

Return citation before court date

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# Notice of Eviction

## Suit to Lienholder

If the tenant has given the name and address of a person holding a lien (a security interest) on the manufactured home to the landlord, then the landlord must give written notice of a manufactured home eviction suit to the lienholder no later than the third day after the landlord files the petition for eviction.

*Property Code §§ 94.054, 94.203(b).*

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# Notice of Default Judgment

The court must notify a tenant in writing of a default judgment by sending a copy of the judgment to the address of the mobile home by first class mail within **48 hours** after the judgment is signed.

*Property Code § 94.203(e).*

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# Notice of the Judgment

The court must also send a copy of the judgment to:

- The owner of the mobile home if the tenant is not the owner; and
- Any person who holds a lien on the mobile home if the court has been notified in writing of the name and address of the owner and lienholder.

*Property Code § 94.203(e).*

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## Mailing the Default Judgment

It is not necessary to mail a copy of the default judgment to the owner / lien holder if the tenant did not provide that information to the landlord.

*Property Code § 94.203 (f)*

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## Writs of Possession

(a) The landlord may prevent the tenant from entering the lot, evict a tenant, or require the removal of a manufactured home from the manufactured home lot only after obtaining a Writ of Possession under Chapter 24.

(b) The Writ may not issue until 30 days after judgment if the tenant pays the rent under that 30-day period.

*Property Code § 94.203*

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## Quiz:

- Judgment is issued on March 23rd.
- Tenant paid rent on April 6th.

**When is the first day that a writ can issue?**

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## Writ of Possession – Extension of Time

The tenant must pay the rent for that one month (*not that they must pay all the back rent owed which is now part of the court's judgment*).

If the tenant does not pay the rent for that one month, then the normal writ of possession time frame applies.

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## Writ of Possession Civil Process

- Receipt in – By date & time
- Post a Warning – Note the ***date and time posted***
- also note the ***date and time the writ is set to be executed***. The date to be executed must be at least 24 hours from the date posted.
- ***The writ is executed when possession is given to the landlord.***

*Property Code § 24.0061 (d) (1)*

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## Removal of Manufactured Home

- It's the tenant's responsibility to remove their mobile home from the lot.
- But sometimes they just go off and leave it there. What do you do in this case?
- The Constable is not required to move it.
- So, in practice the landlord may have to.

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## Removal of Manufactured Home

- If the landlord removes the manufactured home from the lot after a writ of possession has been served, the landlord must send a written notice to the tenant concerning the location of the manufactured home no later than the 10th day after it was removed.

*Property Code § 94.203(f)*

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## Removal of Manufactured Home

The notice has to be sent to the tenant's most recent mailing address that the landlord has.

The notice must also be sent to the owner of the manufactured home if the landlord was given notice of the owner's name and address.

**Property Code § 94.203(d)**

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## Writ of Possession – Who Pays?

### Parties Responsible:

- Each party to a suit shall be liable to the officers of the court for all costs incurred by himself.

*Rule 125*

### Parties Liable for Other Costs:

- Each party to a suit shall be liable for all costs incurred by him.

*Rule 127*

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## Writ of Possession - Storage

The officer MAY engage the services of a bonded warehouseman or mover at their discretion. *Property Code § 24.0061(e)*

Keep in mind this is a civil suit. The county has no interest in the case. The county did not rent to the tenant. The county did not receive any rent payments.

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### ***Important!!***

If the landlord fails or refuses to provide labor and no other movers are available – contact your local county or district attorney for advice.

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# Writ of Possession - Permits

Before a manufactured home can be moved in Texas the mover must obtain a permit from The Texas Department of Transportation. *Transportation Code § 623.093 (d-f)*

The mover must have a clear tax statement from the county tax assessor collector or the Writ of Possession before the permit may issue.

This allows for a one move situation of the manufacture home.

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# Why Permits?

- This was designed to collect back taxes due on these homes.
- The permit only allows one move to a storage facility or lot.
- The landlord did not owe the taxes; therefore they can have the home removed with the Writ of Possession.

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## Note!

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

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## The Writ is only for the space!

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

The landlord is granted possession of the lot.

*Property Code § 94.001 (8)*

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## **Writ of Possession – Contents of the House**

- Your writ authorizes you to remove the manufactured housing. The manufactured housing is to be removed from the premises (the lot).
- Some departments inventory the manufactured housing contents. (Liability)
- It is the mover's responsibility for correctly securing the contents before they move the home.

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## **Movers Responsibility**

Put axles and trailer tongue back on when applicable and get it ready to move.

Tear down and remove all attached buildings, porches and garages.

Remove all air-conditioning and septic tank parts from the premises.

Have a completely clean lot when they are finished.

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## Writ of Possession

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

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## Writ of Possession - Storage

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

- PC 94.203 (f)

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## Writ of Possession – Release of Property

The Warehouseman must release property to the tenant on payment of reasonable moving and storage charges attributed to the item being redeemed during the first 30 days. Eligible Items for redemption are listed in TPC 24.0062 (e)

After 30 days all charges must be paid to recover the remainder of tenant's property.

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## Writ of Possession – More Storage Details

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

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## Notice to Tenant

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

TPC 24.0062 (b)

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## Warehouseman's Lien

- If the tenant did not redeem his property, the warehouseman's lien is established, and the property may be sold by the warehouseman under Federal court ruling
- Lien establishes when placed on the truck
- Can not make the warehouseman unload the property and give it to the tenant.

Business & Commerce Code § 7.210 and Subchapter D and F, Chapter 9

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## Writ of Possession - Return

The return should state the date and time the writ was executed

To whom service was made

How it was executed

Who moved the manufactured housing and where it is stored.

Any facts relevant to the move.

The officer signs and returns the writ.

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## What if the Tenant Doesn't Own the Manufactured Home?

- If the tenant does not own the manufactured housing and he is renting the unit (like an apartment) not the lot or premises – then the premises becomes the manufactured house – not the lot.
- The tenant's belongings are removed as prescribed by the writ.

PC 94.002 (b)(1)

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## Election by Owner

When completing an application for the issuance of a statement of ownership and location, an owner of a manufactured home shall indicate whether the owner elects to treat the home as personal property or real property. An owner may elect to treat the home as real property only if the home is attached to:

- real property that is owned by the owner of the home
- land leased to the owner of the home under long term lease.

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## Abandoned Property

Describes the procedure of a real property owner where a manufactured home is installed or is located can declare the home abandoned after proper notification of the homeowner, lien holders, and all taxing units. It sets out all time frames required to successfully declare the home abandoned.

Occupations Code § 1201-1217

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## **Application to Move + Writ of Possession**

If an application for a permit to move a manufactured house is accompanied by a copy of a Writ Of Possession... the applicant is NOT required to submit the written statement from the chief appraiser set forth in the rules.

Transportation Code § 623.093(f)

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## **Transportation of Manufactured Housing**

Notwithstanding any other statute or rule or ordinance, a licensed retailer or licenses installer is not required to obtain a permit, certificate, or license or pay a fee to transport manufactured housing to the place of installation except as required by the Texas Department of Transportation under Subchapter E, Chapter 623, Transportation Code.

Occupations Code § 1201.161

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Is this a Manufactured Home Community?

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## What about RVs?

RVs are not considered “manufactured homes” and they are not subject to the manufactured home eviction rules.

- They are subject to the residential tenancy rules under Chapter 92.

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## Recreational Vehicle

### APPLICABILITY.

(b) In this section, "recreational vehicle" means a motor vehicle primarily designed as temporary living quarters for recreational camping or travel use. The term includes a travel trailer, camping trailer, truck camper, and motor home.

Transportation Code § 522.04

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## RV Parks Operated Like Apartment Complexes

- Written lease for periods at least a year or more
- If the Lease establishes a Landlord-tenant relationship , then an RV Park owner must file an eviction lawsuit with a Justice Court to remove the 'tenant'.

*Mobil Pipe Line Co. vs Smith, 860 S.W.2d 157, 159*

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## **RV Parks Operated Like a Hotel/Motel**

Generally – hotel guest and inn keeper does not constitute a landlord tenant relationship.

Technically, a hotel grants a guest a license to occupy the premises for a specific period. Use of the premises is non-exclusive.

Mallam Vs Trans-Texas Airways 227 S.W.2d 344, 346; Patel vs Northfield Ins. Co. 940 F Supp 995, 1002

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## **No Eviction for Hotel RV Parks**

- The owner of an RV park which functions as a hotel does not initiate eviction proceedings before removing the RV owner from the premises because the relation of landlord and tenant does not exist.
- The guest is not entitled to stay indefinitely in the RV Park and on “reasonable notice” may be ejected without any other reason.

(McBride Vs Hosey, 197 S.W. 2d 372)

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Some RV park owners want law enforcement to remove tenants under criminal trespass statutes

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## Criminal Trespass

Trespass if the person enters or remains on or in property of another, including residential land, agricultural land, a recreational vehicle park, a building, or an aircraft or other vehicle, without effective consent **and** the person:

- had notice that the entry was forbidden; or
- received notice to depart but failed to do so.

Penal Code 30.05. (a)

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If this happens, TJCTC & the Ed. Committee recommends that you contact your County/District Attorney!

Constable Education  
Committee