Manufactured Housing Metropolitan Opportunity Profile: Policy Snapshot

MANUFACTURED HOME COMMUNITIES IN TEXAS

The policy environment in Texas is not as supportive of manufactured housing as it could be. The state lacks a number of important protections for homeowners living in manufactured home communities. There are no state-level policies that encourage manufactured home community owners to give their residents the opportunity to purchase their communities and preserve the land beneath their homes for the long term. Further, titling a home on leased land as real estate in Texas is conditional upon obtaining permissions from landowners and lienholders, an onerous requirement that impedes homeowners’ access to good financing alternatives.

On the other hand, Texas protects the right of manufactured home community residents to meet, and prohibits retaliation against them for exercising this and other fundamental rights. Texas law requires substantial notice to be given to residents before a community closes. Additionally, some homeownership assistance is available to buyers of manufactured homes through the state housing finance agency, as well as through local and nonprofit housing organizations, and utility companies appear to offer several programs for energy upgrades that can be used on manufactured homes.

TEXAS LAWS PROTECTING HOMEOWNERS IN MANUFACTURED HOME COMMUNITIES

A manufactured home community can be a vibrant neighborhood that is an asset to the community at large. However, because they own their homes but not the land on which the homes sit, owners of homes in manufactured home communities are uniquely vulnerable to confiscatory rent increases; arbitrary rule enforcement; failure to maintain the roads, utilities and common areas; and even closure of the community. If the community closes, the neighborhood disappears, and many residents may be forced to abandon their homes. Most states, including Texas, have laws protecting residents of manufactured home communities, but Texas’ laws are missing many critical protections.

AFFIRMATIVE PROTECTIONS FOR FUNDAMENTAL FREEDOMS

Texas, like almost half the states, provides some affirmative protection for residents to form resident associations. Specifically, Texas prohibits community owners and managers from interfering with resident meetings related to manufactured home living. Any limitations on the use of common area facilities for meetings must be specified in the community rules.

PROTECTION AGAINST RETALIATION

Even if they do not provide affirmative protections for fundamental freedoms, most states at least prohibit retaliation against manufactured housing community residents because of involvement with a resident association. Texas prohibits community owners from retaliating against residents for attempting to enforce their rights, complaining to a government official about health or safety issues, or exercising a lawful right such as participating in a resident organization. Retaliation is defined to include basing an eviction on grounds other than those listed in Texas’ manufactured housing law, as well as other acts such as raising rent or decreasing services during the six months after the resident has exercised the rights described above.
NOTICE BEFORE COMMUNITY CLOSURE
About half the states, including Texas, require a substantial notice period before a manufactured home community closes. Texas requires that community owners provide 180 days’ notice to residents, homeowners and lienholders before any change of use of the property.1 Texas does not require that community owners provide notice to the government before a community closure.

PURCHASE OPPORTUNITY
One of the primary reasons that homeowners in manufactured home communities are so vulnerable is that they do not own the land under their homes. Nineteen states—but not Texas—have a policy that requires or encourages community owners to give residents the opportunity to purchase the land on which their homes sit.

PROTECTION AGAINST ARBITRARY EVICTION
Some states protect homeowners in manufactured home communities from arbitrary eviction or nonrenewal of their leases unless they have done something wrong. Texas has no protection against arbitrary non-renewal of a lease.4

RIGHT TO SELL HOME IN PLACE
Owners of manufactured home communities can effectively prevent homeowners from selling their homes by reserving the right to reject any potential buyer as a resident. Texas offers limited protections to owners of manufactured homes who wish to sell their homes. State law prohibits community owners from requiring that homeowners use the community owner as agent or broker, or requiring the homeowners to pay fees or commissions. However, Texas places no restrictions on community owners’ discretion to disapprove prospective buyers.5

RELOCATION EXPENSES
About 15 states—but not Texas—have programs, usually funded at least in part by community owners, for paying the costs of moving the homes if a manufactured home community closes.

REQUIREMENT OF LEASE OF AT LEAST ONE YEAR
About 20 states require the owner of a manufactured home community to offer homeowners leases of at least one year. This requirement provides a modicum of security of tenure.

REQUIREMENT THAT COMMUNITY OWNER MAINTAIN THE COMMUNITY
Many states specifically require manufactured home community owners to maintain common areas, utility lines (unless they are maintained by a public utility or a political subdivision), and other services so that they are clean, safe and in good working order.4

ADMINISTRATIVE COMPLAINT PROCEDURE
Some states offer a simple administrative procedure for resolving residents’ complaints about their manufactured home community. There does not appear to be any such system in Texas.

RESIDENT ABILITY TO ENFORCE THE LAWS
A right without a remedy is unlikely to be effective. Recognizing this, many states specifically provide that residents have the right to enforce the manufactured home community protections. Texas provides that residents may recover actual damages, a civil penalty and attorney’s fees and costs for a community owner’s violation of the laws regarding manufactured home communities. Some specific sections of the law provide additional remedies.7
The way in which a state governs the titling of manufactured homes, especially when homes may be converted from personal property to real property, has major implications for owners and purchasers. A modern manufactured home may be indistinguishable from a site-built home. However, manufactured homes are typically considered personal property, like a car or a television set, rather than real property, absent some sort of conversion to real property. This classification as personal property, along with other issues common to manufactured housing, often keeps homeowners from enjoying the same security and potential for wealth creation as owners of site-built homes.

Texas manufactured home titling law has clear provisions for converting a home to real property. A manufactured home can be treated as real property if it is attached to land that the owner of the home owns or which the owner is leasing under a long-term lease as defined by the state Department of Housing and Community Affairs—currently five years, as long as the home is not financed. If the home is financed each lienholder must either release the lien or give written consent to the conversion of the home to real property. The home is then considered real property for all purposes. Another Texas statute also provides that, if a consumer buys land and a manufactured home at the same time, the creditor may elect to treat the home as if it were residential real property for all purposes in connection with the credit transaction.

Aspects of Texas law are helpful, such as not requiring homeowners to own the land on which their manufactured home sits in order for the home to be classified as real property. However, the procedure still excludes most manufactured homes in the state because of the long-term lease requirement. Such a requirement greatly restricts the scope of the law and excludes homeowners from accessing many of the benefits of real property status, such as access to mainstream mortgage loans.

There do not appear to be any unusual barriers to licensure for nonprofit manufactured housing developers. To be licensed to buy and sell new and used homes and install homes, a dealer must complete an application for license, post a $50,000 Surety Bond, attend classes, provide a copy of a business name filing or Articles of Incorporation, and pay a $900 fee.

The Texas Weatherization Assistance Program serves low-income families living in manufactured housing under the same processes and rules as any other household. Texas’ most recent application for federal weatherization funding lists no special treatment for manufactured homes other than the use of a different energy audit (MHEA). It also requires steps to ensure that replacement wood stoves are approved for use in manufactured homes and are installed in accordance with the manufacturer’s instructions.

In addition, many utility providers, which include electric cooperatives and public power utilities, offer their own energy efficiency programs. There appear to be no programs solely targeted to manufactured housing, but families living in manufactured homes do appear to be eligible on the same terms as other households for the energy efficiency programs offered. One example is American Electric Power, which serves much of south and central Texas and offers two programs to reduce electricity usage during peak periods—the Residential Standard Offer Program and the Hard-to-Reach Standard Offer Program, targeted to households at or below 200% of the federal poverty level. Residents of manufactured homes are eligible for both programs.

Homeownership assistance is available for eligible buyers of manufactured homes through the Texas Mortgage Credit Program (MCC), offered by the Texas Department of Housing and Community Affairs. The MCC Program provides the homebuyer with a mortgage credit certificate to reduce federal income tax obligations. However, most owners of manufactured homes would not qualify for the program, since the homeowner must also own the land on which the home is sited. Texas explicitly bars manufactured homebuyers from accessing the Taxable Mortgage Program (My First Texas Home), which provides 30-year fixed-rate mortgage loans and downpayment or closing cost assistance.
A number of local and nonprofit housing finance agencies provide homeownership assistance in communities across the state, and owners of manufactured homes generally appear to be eligible for assistance. The Austin Housing Finance Corporation, for example, notes explicitly that manufactured homes permanently affixed to the land are eligible for downpayment assistance. Similarly, Hidalgo County, the largest county in the Rio Grande Valley, provides that manufactured and mobile homes are eligible properties for its Homebuyer Assistance Program, which aims to provide homeownership opportunities to eligible low- and moderate-income residents residing within the 18 member cities, rural and/or countywide areas, which are within the jurisdiction of the Hidalgo County Urban County Program. However, the Travis County website advertises a downpayment assistance program organized by the Travis County Housing Finance Corporation, but specifies that manufactured homes are not permitted to participate in the program.

Two of the local jurisdictions surveyed for this policy snapshot operate home repair programs for which they specifically note the eligibility of manufactured homes. Travis County, Texas’ fifth-largest and home to Austin, operates a home repair program for low-income residents and specifically provides that mobile homes qualify for repairs to their structure and components, including sewer and water connections, provided that the homes are owned by the applicant and located on leased land. However, manufactured homes on leased land are not eligible for septic system repairs. Hidalgo County’s Owner-Occupied Rehabilitation Program aims to provide rehabilitation assistance to eligible residents within much of the county. A manufactured home, including a mobile home, may be included under the program.

LOCAL AND MUNICIPAL POLICY ENVIRONMENT

ZONING AND SITE DEVELOPMENT REQUIREMENTS

STATE ZONING LAWS

Local Jurisdictions’ Power to Exclude Manufactured Homes Through Zoning. Some states prohibit counties and municipalities from using zoning, subdivision or any other regulation affecting development to exclude or have the effect of excluding manufactured homes that meet building code standards. Texas allows municipalities to exclude mobile homes (homes built prior to the 1976 U.S. Department of Housing and Urban Development, or HUD Code, or other homes not built under the HUD Code) from the municipality, but they must allow HUD Code manufactured homes in areas they deem appropriate.

Extent of City and County Zoning Authority. In contrast to municipalities, counties in Texas have little authority to control land use and zoning. A report prepared for Bexar County, where San Antonio is located, takes the position that a county’s lack of power to zone leads to problems in unincorporated urban areas of Texas, such as reduced property values. It states that residents worry about the effect on property values due to adjacent industrial development and other land uses such as manufactured home parks. As a result, municipalities have an incentive to attempt to annex unincorporated areas of the county in order to prevent the establishment of incompatible development patterns. Counties do have authority, however, to set infrastructure and environmental standards for manufactured home communities that are located in the county but outside municipal limits.

Local Authority to Adopt a Moratorium on Development. Many states allow a local jurisdiction to adopt a temporary moratorium on development. This can be a way to stop the closure of manufactured home communities while the jurisdiction works out a long-term solution. Texas allows a municipality to adopt a moratorium of up to 120 days on property development.

SAN ANTONIO & BEXAR COUNTY

San Antonio is the largest municipality in Bexar County, Texas. San Antonio’s Unified Development Code (UDC) includes regulations for the preparation of land in anticipation of development, such as subdivision platting, zoning, and street and drainage design, as well as historic preservation, and implements the city’s Comprehensive Plan policies.

Manufactured homes appear to be permitted in fewer districts than traditional single-family dwellings. They are specifically permitted in the General Industrial District, the Manufactured Housing District, the Manufactured Housing Conventional District and the Manufactured Housing Park District (MHP District). These districts are described as intended to provide suitable locations for individual HUD-Code homes on individual lots, HUD-Code homes in manufactured housing conventional subdivisions, and HUD-code homes in manufactured home parks, respectively. The MHP District is of particular interest, because zoning an area for manufactured home communities can be a way to promote their preservation. The San Antonio MHP District, however, allows a fairly wide range of other uses, including not only ancillary uses such as assisted living facilities, boarding homes, community homes, farms, nursing homes, facilities for elders, parks, churches, schools, transitional homes and small transit centers, but also one- to four-family dwellings and farms. Since a developer would not have to apply for rezoning to change a manufactured home community to any of these other uses, the MHP District probably provides only moderate protection for manufactured home communities.
The UDC sets standards for design and approval of manufactured home communities, including such matters as density, streets, drainage and recreation areas.\(^{30}\) The requirements include permanently affixing the homes to a foundation, as well as various design and installation criteria.\(^{31}\)

**Bexar County** does not have zoning ordinances that apply to the areas of the county outside municipal limits.\(^{32}\) However, it has otherwise adopted most of San Antonio’s Unified Development Code Chapter 35.\(^{33}\)

**AUSTIN & TRAVIS COUNTY**

The City of Austin requires manufactured home communities to be licensed. Austin’s city code regulates manufactured home communities in detail, including requirements for site preparation, density, streets, parking, open space, drainage, fire safety, water supply, sewage systems and maintenance.\(^{34}\)

Austin’s zoning code creates a separate zoning category for manufactured home communities—the mobile home residence district ("MH district"). Manufactured home communities can only be located in MH districts, and the only other uses permitted in MH districts are ancillary uses such as clubs, community gardens, educational facilities, churches and daycare centers. Creating zoning districts specifically for manufactured home communities has been a successful strategy in some states for preserving them.\(^{35}\)

The Travis County Code addresses manufactured homes in several respects. Its regulations for floodplain management include a number of specific provisions regarding manufactured homes.\(^{36}\) The county has detailed site requirements for manufactured home communities, including submission of an infrastructure plan for approval.\(^{37}\)

**EDINBURG & HIDALGO COUNTY**

Edinburg is the county seat of Hidalgo County, located on the Texas-Mexico border. Edinburg’s Unified Development Code permits manufactured home parks and manufactured home subdivisions in the Agriculture (AG) and Auto-Urban Residential (AU) districts as limited uses (ones for which administrative review is required in order to determine that they meet location, design and other requirements).\(^{38}\) They are also allowed in Suburban Residential districts as special uses, which require a public hearing. They are allowed in "Neighborhood Conservation-MH" districts without any special approval.\(^{39}\) Neighborhood conservation districts are ones “intended to preserve the character of existing, built neighborhoods.”\(^{40}\) All manufactured home parks must meet site design and construction requirements, including requirements regarding open space, fencing, bufferyards, roof pitch, skirting and foundations.\(^{41}\)

If a manufactured home is not located in a manufactured home park or subdivision, it is a permitted use only in Agricultural districts. In other districts, the code allows manufactured homes only to replace an existing manufactured home.\(^{42}\)

Article 6 of Edinburg’s UDC deals with nonconformities. Edinburg classifies mobile homes or manufactured homes in Urban Residential, Neighborhood Conservation, “Commercial, Neighborhood” (CN), “Commercial, General” (CG) and Downtown zoning districts as major nonconforming uses that generate a nuisance per se or are so incompatible with adjacent uses and/or the Comprehensive Plan that they should be eliminated.\(^{43}\)

**Hidalgo County’s** Subdivision Rules mention manufactured homes just once. It provides that a manufactured home community must comply with state and county sewage rules, but need not submit a formal plat unless it constitutes a subdivision (in which case it is governed by a different set of rules).\(^{44}\)

**LOCAL POLICIES TO PROTECT MANUFACTURED HOME COMMUNITIES**

**LOCAL TAX AND OTHER FINANCIAL INCENTIVES TO PRESERVE COMMUNITIES**

None of the municipalities or counties researched had tax or other financial incentives for preservation of manufactured home communities.

**LOCAL RENT CONTROL**

None of the municipalities or counties researched had rent control ordinances for manufactured home communities.
INCLUSION OF MANUFACTURED HOUSING IN CONSOLIDATED PLANNING, MUNICIPAL PLANNING AND COMPREHENSIVE PLANNING

Texas allows local governments to adopt comprehensive plans for the long-range development of the municipality but does not require them to address manufactured homes or manufactured home communities.

TRAVIS COUNTY

Travis County contains many incorporated and unincorporated communities. The county lays out planning and zoning information affecting unincorporated communities on its website.

The 2014-2018 Consolidated Plan for the unincorporated areas of Travis County notes that the unincorporated areas have a much higher proportion of mobile homes and other types of housing (such as RVs and boats) compared to the county as a whole. While these properties account for 12% (7,920) of the unincorporated areas’ housing stock, they represent 8% (763,471) of the housing stock in the state of Texas and just 3% (14,083) in the county as a whole. The plan highlights a need for owner and rental rehabilitation in the area.

A 2014 Analysis of Impediments to Fair Housing Choice also covers the unincorporated areas of Travis County, as well as the Village of Webberville. The analysis notes that only 1.2% of applications to commercial lending institutions for home purchase, refinance and home improvement purposes requested financing for manufactured homes. The denial rate was more than twice as high for manufactured homes than the overall denial rate for all housing types (33.8% and 14.1%, respectively). The analysis mentions that a “substantial share” of housing in the county area is considered to be “substandard, deteriorated or otherwise unsuitable as a living environment” by housing advocates and attributes this to the absence of building codes applicable to residential construction and mobile homes in unincorporated areas. It also calls the presence of manufactured homes “notable” in the unincorporated areas of the county and observes that mobile home foreclosures are more common in unincorporated areas, possibly just a reflection of the housing distribution within the county. The analysis also indicates that mobile homes are a common avenue to homeownership for lower-income households, particularly Latino families, but that they are often scattered and may not readily have access to public water and sewer amenities.

CITY OF AUSTIN

The City of Austin is an incorporated community in Travis County. Austin’s planning documents do not contain much information or action items related to manufactured homes, perhaps due to the small share of manufactured housing in the city’s housing stock.

The City’s 2012-2013 Consolidated Annual Performance and Evaluation Report makes limited mention of manufactured homes. The Fair Housing chapter outlines a plan for increasing homeownership for special populations, including outreach to manufactured home residents. However, manufactured homes are not mentioned in subsequent reports for 2013-2014 or 2014-2015.

Austin’s 2014 Comprehensive Market Analysis found that only 2% of acreage in the city is used for mobile homes. In total, a little more than 25% of land acreage in the city was in residential use. The 2% figure is also mentioned in the 2014-2019 Consolidated Plan, which notes that 2% of residential properties are of the following property types: mobile homes, boats, RVs, vans, etc. Between 2000 and 2010, the city’s housing stock changed, with increases in multifamily units but decreases in manufactured homes. The reduction in manufactured homes likely indicates a reduction in the number of lower-priced units in the city.

The city does incorporate manufactured homes in one concrete action item for its 2015-2016 Fiscal Year Action Plan. The “Lead Smart and Lead Healthy Homes” project provides lead abatement services in the homes of income-eligible homeowners and renters, including pre-1978 homes permanently affixed to real property.

BEXAR COUNTY

The Bexar County housing stock is primarily single-family (79%) and owner-occupied, with 9% of properties in the category of “mobile home, boat, RV, van, etc.” The number of affordable units in the county is not enough to meet the level of demand. Including San Antonio, 17.8% of Bexar’s population lives in poverty, which stresses the need for more owner- and renter-occupied affordable housing throughout the community.

Bexar County contains many incorporated and unincorporated communities. The county lays out planning and zoning information affecting unincorporated communities on its website. A 2014 study notes the county’s aging housing stock and highlights the need for rehabilitation of older owner-occupied homes. Manufactured homes are prevalent in many parts of the unincorporated county.
CITY OF SAN ANTONIO

There is little mention of manufactured housing in the city’s 2016-2020 Consolidated Plan & FY 2016 Action Plan, as the document only points out that just 2% of residential properties in San Antonio are mobile homes, boats, RVs, vans, etc.\textsuperscript{54} The FY 2017 Action Plan does not mention manufactured housing at all, nor does the Consolidated Annual Performance and Evaluation Report for FY 2015 (the most recent one available).\textsuperscript{55}

The City’s latest draft of its Comprehensive Plan, from May 2016, mentions the San Antonio Housing Commission for Preserving Dynamic and Diverse Neighborhoods.\textsuperscript{56} The commission is a 15-member coordinating body tasked with making recommendations to the City Council on workforce/affordable production and preservation issues, as well as policies to minimize displacement of residents. One of the issues the Commission has been working on is manufactured housing. An April 2015 draft report highlights the Commission’s specific goals, which include “protection of our most vulnerable residents from adverse impacts affecting history, culture and quality of life resulting from neighborhood change.”\textsuperscript{57} Among the Commission’s recommended strategies to tackle this goal is the exploration of Community Land Trust and other tools to protect existing mobile/manufactured home communities and residents.

The report states that 160 manufactured home communities exist in the City of San Antonio. Since they are often the lowest-cost housing option for families, the report emphasizes the need to protect existing manufactured home communities while making efforts to strike a balance between neighborhood goals, the rights of property owners and the needs of existing manufactured home community residents. Specifically, the Commission recommends that the following tools be considered:

- Create an inventory and assess the condition of current manufactured home communities
- Establish a Community Land Trust for the purchase of the land where the manufactured homes are sited
- Provide assistance with cooperative purchase of the land
- Provide targeted fair housing and housing counseling services

HIDALGO COUNTY

There is no mention of manufactured homes in the planning documents made available by the County on its website: the 2013 and 2014 Consolidated Annual Performance and Evaluation Report\textsuperscript{58} and the 2011-2015 Comprehensive Economic Development Strategy report.\textsuperscript{59}

EDINBURG

The most recent comprehensive plan available on Edinburg City’s website is its 2005 plan.\textsuperscript{60} Although the plan acknowledges the existence of manufactured homes in the city, it does not break down residential property statistics by type, so it is not clear from the plan how many manufactured homes there are in the city. In Chapter 3, Land Use and Character, the plan advocates for amending the city’s zoning ordinances to take into account the character of a neighborhood, not just land uses. The plan posits “issues of incompatibility commonly associated with manufactured home communities, higher density and multiple family dwellings, and non-residential development” as it attempts to lay out the different uses each character should implement. One of the Plan’s recommendations is: “within the Auto-Urban District, there are four development options ranging from double-wide manufactured homes to townhome dwellings, each with defined lot sizes, open space ratios and densities. The plan details relevant considerations for compatibility between uses, such as separation of manufactured homes from single family ‘site-built’ homes, may be handled with increased development standards.”\textsuperscript{61}

CONCLUSION

Manufactured housing is a significant source of affordable housing and homeownership in Texas. While state law protects some of the fundamental freedoms of manufactured home residents, there are still many reforms that need to be made in order to realize the potential of manufactured housing to create affordable pathways for low-income families to build assets through homeownership.
Innovations in Manufactured Homes (I'M HOME) is a national initiative managed by CFED which seeks to ensure that owners of manufactured homes have the opportunity to build wealth through homeownership by improving the quality of new and replacement development, enhancing homeowners' ability to enjoy long-term land security, expanding access to safe home financing and encouraging a supportive policy environment.