



May 20, 2009

Memorandum for Milwaukee MHP Study Committee

There are the following items discussed below:

- Understanding Monthly Municipal Permit fees as a tax and state aid benefit to the City
- Does “gifting” a home constitute a regulated activity
- Temporary but not continuous presence of RV’s in licensed communities
- Thoughts on tenant responsibility for code compliance

Understanding Monthly Municipal Permit Fees

Monthly Municipal Permit fees are charged to residents of manufactured home communities in lieu of property taxes. (See Section 66.0435, Wis. Stats.) The tax rate applied to each home is the same as if the home was real property subject to property taxes however the collection method and distribution of the taxes and their impact on state aids are different.

Monthly Municipal Permit fees are levied on each home at its fair market value subject to the same property assessment methods and appeals processes as applied to real property under the property tax. However, the taxable amount is paid monthly and in advance. The tax is also a joint and several liability meaning that if the homeowner does not pay, the property owner must pay the amount due. (A recent change in state law does require the City to make a collection effort in small claims court prior to putting the unpaid amounts on the tax bill of the community owner.) All amounts collected are transmitted to the municipal treasurer by the 10th of the following month.

Property taxes once collected are divided between the municipality, school district, county, vocational district and state forestry fund. Amounts collected under the Monthly Municipal Permit fee are divided between the municipality and school district only. So these two units of government receive larger payments than they otherwise would receive from similarly valued real estate.

State school aids and shared revenues for local units of government include as a factor the property wealth of the taxing district. Generally, the more wealth, the less state aid is received. The value of homes subject to the Monthly Municipal Permit fee is excluded from the calculations of state school aids and shared revenues, thus the taxing districts look poorer than they really are and thus receive more state aid. The result is that modest manufactured homes on leased land can have a dramatic impact in some jurisdictions on state aids. (For a

copy of an analysis by the Legislative Fiscal Bureau on state aid effects, contact the Wisconsin Housing Alliance.)

Similarly, because many manufactured home communities are located within cities and villages and not townships, there is a swing of state aids as well from rural and urban communities.

M&E Effects - Because a manufactured home on leased land is considered personal property and not real property, a manufactured home owned by a licensed manufactured home dealer is considered “merchant’s stock.” Thus it is exempt from taxation. (A copy of a letter from the Secretary of the Department of Revenue to the Executive Director of the League of Municipalities confirms this status. A recent change in state law also afforded this same tax treatment to homes in communities repossessed by lenders.

Does “Gifting” of a home Constitute “Selling”

State law provides as follows:

101.951 Manufactured home dealers regulated. (1) No person may engage in the business of selling manufactured homes to a consumer or to the retail market in this state unless first licensed to do so by the department as provided in this section.

What does “selling” mean? The dictionary definition of sell is “Sell means to exchange possession and ownership of goods or property for money or something of value.” The question then could be re-stated as does giving the title and possession of a home in a manufactured home constitute and exchange for money or something of value. Presumably, the community owner is not giving possession of the home without strings attached. Those strings include the home remaining in the community and rent being paid. In my mind, that constitutes “something of value.”

What does “in the business of” mean? It seems to me that “in the business of” means an ongoing activity that is beyond causal or occasional acts.

I’ve asked the Department of Commerce for their opinion on this matter.

Temporary but Not Continuous Presence of RV’s in Licensed Communities

Chapter 246 of the City Ordinances defines a “trailer” as: “**5. TRAILER** means any coach, cabin, mobile home, house car or other vehicle or structure intended to be used, or capable of being used for human habitation, dwelling or sleeping purposes, which is equipped or originally designed to be equipped with wheels, is not permanently attached or designed to be attached to the ground below and is capable of being moved by its own power, towed or transported by another vehicle.”

It clearly seems that any mobile home (built prior to July 1, 1976 under state law), manufactured home (labeled as complying with the Manufactured Homes Construction and Safety Standards (HUD Code), or recreational vehicle can be located in a community in Milwaukee.

Modernization of all of the definitions in Chapter 246 is needed, but in doing so, the City will need to confront whether units that are not permanent dwellings such as park model RV's and pop up trailers should be permitted. It appears from the discussion that there is a need for temporary location of these units in the City from time to time.

Tenant Responsibility for Code Compliance

The homes in communities are generally owned by the residents and not the community owner. This creates a disconnect when a corrective order from DNS is related to the condition of a resident owned home is issued. Comm 26.19 provides for some duties of occupants. This could be supplemented in Chapter 246.

Comm 26.19 Duties of occupants. All owners and other occupants of manufactured homes in a manufactured home community shall:

- (1) Register with the manufactured home community operator;
- and
- (2) Maintain their site in a clean, orderly and sanitary condition at all times.

A new section created in City ordinances could read:

Duties of Occupants. All owners and other occupants comply with Comm 26.19 Wis. Admin Code including but not limited to registration and maintenance of their site. In addition, the owners and other occupants shall:

- a. Obey all orders from the City.
- b. Comply with all federal, city and state health and safety regulations.

Enforcement - see s. 200-19.