

May 18, 2018  
Joint Senate & House Judiciary Committee  
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RE: Concerns and Practices Involving the Sale of Manufactured Homes

Honorable Senators and Representatives:

My name is James Houston. I am a current tenant at Falcon Wood Village in Eugene and the publisher of a newsletter called The Falcon Wood Village Voice. I call your attention to the March 17, 2018 Register-Guard,

<http://registerguard.com/rg/news/local/36552747-75/state-investigates-sales-at-falcon-wood-village-manufactured-home-park-in-eugene.html.csp>.

My involvement and understanding of how the elderly are exploited by some manufactured home park owners and employees is better explained in this investigative reporting by Saul Hubbard. You will see that I played a pivotal role in getting the attention of Rep. Nancy Nathanson and attorney John Vanlandingham who are instrumental in having this item placed before you today. Without their help and support I doubt that the nefarious deeds that took place at FWV would have been exposed. I salute them for their concerns, care and civic duty for the Common Good.

I have never provided written testimony to an esteemed body such as this (I would have much preferred to be a presenter) so my apology in advance if I don't follow a standard procedure or template for such an undertaking. I endeavor to do my best to share what I know and how I think it can be made more equitable for all concerned. And for what it is worth I have a doctorate in leadership and management and it is with that education/training I offer legislative solutions.

I think it best to share with you my suggestions for enhanced legislative protections for homeowners in manufactured parks, and especially the elderly, by examining the tragedy found in the real-life story of Wilma Tunison who is a central figure in the *State Investigates Sales at Falcon Wood Village* R-G story. Remedies are there to be found to prevent further such acts of exploitation if you have the fortitude to do so in spite of the lobbyists who are paid to protect the enormous profits some park owners are yielding, especially Equity Lifestyle, Inc. of Chicago, IL.

### **Wilma Tunison Exploitation**

*\* For an in-depth understanding of what happened to Wilma you must read the Register-Guard article noted above. I will only highlight, in summary, the salient points as they apply to your examination of how something like this could happen and how the*

*2015 legislation could not prevent it. And I must add that a colleague of mine was once the supervisor of a unit for Adult Protective Services. He told me that in the 'business' they call such places as FWV "**Places of Bondage**" – that is the title of my testimony.*

In 2010 Mrs. Tunison was an 83 year old widow when she found herself unable to pay the ever-increasing rent at Falcon Wood Village. She had resided there for 10 years. She was of the understandings that if she couldn't pay her rent that she had to QUICKLY sell her home or turn ownership of it over to the park. She met with park manager Bill Allard who has since 'retired' and disappeared (a key ELS employee currently under investigation). She asked him to sell the home for her and believing if she could not, she would be obligated for the rent as she tried to sell it. This condition was impossible for her. She met with Allard and he had her sign an exclusive listing agreement, thirty-days in duration. It was his understanding that if he could not sell it in such a short period the home would be given to Equity Lifestyle, Inc. doing business as Carefree Sales through an ELS subsidiary called Realty Systems, Inc. He never showed the home and ELS took possession of the home after 30 days. A week after the relinquishment it was sold. She had been told it was worth \$14,000.00; it sold for \$10,000.00. She was given \$1,000.00 with Bill allegedly stating he did not have to give her anything but he was being a nice guy. When asked about the other \$9,000.00 he got abrasive and allegedly said "it is none of your business" (see attached affidavits). Wilma states that had it not been for a kind and caring neighbor by the name of Del Kennedy she would have had to become homeless as she had no money and no place to go. Since the filing of a complaint with Oregon's Dept. of Business and Consumer Affairs in December of 2017 documents were released by ELS that contain her signature. She adamantly has sworn under oath that she never signed any of them except the listing agreement. A state investigator found irregularities in the signatures; highly suspicious. The paper-trail of the relinquishment and subsequent sale was difficult to follow as Allard/ELS did not re-title the home but instead sat on the title and 'flipped' it to the new buyer, covering the swindle. This is not an isolated modus operandi as the state investigator unearthed and so did investigative reporter Saul Hubbard.

As a former state protective services investigator I have researched dubious dealings at FWV and have interviewed a number of 'victims'. Wilma is credible, of sound mind, and only desirous of making sure it doesn't happen to anyone else. I guess you can call me "boots on the ground" but there is a price to pay for that; ELS is retaliating with a vengeance against me that includes false allegations and eviction proceedings. It has a well-earned reputation for being ruthless.

→Problem #1:

When a homeowner finds they can no longer afford the skyrocketing lot rent they have to either sell below what the home is worth or relinquish ownership to the park. With elderly folks this is a no-win scenario that generates stress, especially for those on fixed-incomes. It can factor into dementia or even suicide.

→Suggested Safeguard:

Parks do not allow sub-letting. This places an oppressive burden on homeowners. Parks such as FWV, besides selling homes they acquire through relinquishment or tenants selling at a 'quick sale' price to them, tenants need protection by being allowed to rent their homes for not more than one year pursuant to the same requirements that home buyers and renters are obligated to. Owners are still obligated for the rent of the land their home sits on. It also allows for time to sell at a fair price as well as give the renter time to consider buying it.

→Justification:

Parks that rent out manufactured homes like FWV will not like competing with owners who sub-let. Here at FWV they currently rent their own single-wides for over \$900 a month and if someone is trying to get out from under ownership and the obligation to pay the now almost \$700 a month rent for the land a home sits on, they could compete with them. They will not like this competition. However, such a law allows for someone under duress to calm down and go about selling their home in a reasonable time that allows them time to obtain a fair price on one of the few assets they have left, their home. It absolutely minimizes homelessness and/or exacerbated mental deterioration that leads to state care in a facility. There is no real financial loss to the park owner as they still get their rent. Should a sub-letted renter prove problematic or not like the conditions of the park and they move, the obligation lies with the homeowner to be careful in who they rent to. This creates an equal playing field and is just and fair in the circumstances. It shows that Oregon Cares for its elderly.

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→Problem #2:

Park owners should be prevented from using the leverage they have that forces some to sell their homes at a much-reduced price from its current fair market value. This can only be achieved by not allowing them to 'flip' homes either through relinquishment or an unfair sale price.

→Suggested Safeguard:

When a park obtains ownership of a home they must be required to obtain title within three (3) days so as to not 'cover their tracks'. The investigation by the State has made it difficult for them to track unsavory activity by having the parks hold on to the signed-over sale/title. In order to monitor such abuses of the elderly a reasonable 'paper-trail' must be required. Not only to keep an eye on possible exploitation but also tax fraud. I know the State is looking into this aspect.

→Justification:

Concealing exploitation as it has and is now taking place can be minimized by establishing a regulation for a paper-trail that shows the true timeline/nature of the ownership(s) of a manufactured home. This will allow the State to monitor said transactions for tax purposes and for a pattern of exploitation as found at Falcon Wood Village.

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→Problem #3:

Questionable signatures found on documents associated with the sale of a park home. Disputes between management and sellers include disputing the seller's signature found on documents that some senior citizen sellers, who found it necessary to relinquish their homes have sworn under oath they had never received or seen the documents. Allegations of forged and/or tampered-with documents should not exist in senior parks obtaining a tenant-owned manufactured home.

→Suggested Safeguard:

If park management through relinquishment, taking possession for non-payment of rent, or a desperation low-value sale obtains ownership of a home all transactional documents, especially sales, must be notarized by an independent third-party notary (not an employee of park owners or anyone associated with management/ownership).

→Justification:

Seniors must be protected by requiring park owners to have any and all documents associated with the sale of their homes notarized that both affirm the sale took place and on what terms/conditions. There should be no 'stealth sales' or a method to conceal business transactions between park owners/management and senior citizen tenants.

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→Problem #4:

A common thread weaves through the swindling of some of the elderly at Falcon Wood Village. It is the statute of limitations for landlord-tenant, breach of contract, and fraud statutes and claims. In the financial exploitation committed against Wilma Tunison, Bobbi Stacy and others they did not become aware of the irregularities of the documents, activities, and management versions of why they were paid next-to-nothing for the sale of their homes until many years later. Mrs. Tunison did not know how she was swindled for seven years robbing her of legal recourse due to the statute of limitations and inability to hire an attorney to argue this.

→Suggested Safeguard:

The tolling of the statute of limitations must be explicitly set-forth that when it comes to the financial exploitation of the elderly it begins to 'run' when such awareness or knowledge of the exploitation is realized. This is synonymous to tolling regarding the making and execution of wills.

→Justification:

Park owners and managers are well aware that some of their victims will die without knowing they had been exploited. Others have failed memories and other cognitive impairments. And then there are those who have been swindled but cannot afford an attorney to make a wrong a right. Legal Aid does not get involved.

Disreputable park owners and their employees must be forewarned and made aware through the law(s) that it is not when they exploit the vulnerable that the statute of limitations becomes applicable but when the exploited individual, his/her family, or the State discover it. An ounce of prevention is worth a pound of cure.

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→Problem #5:

An inherent conflict-of-interest that is a foundational piece of the greed found in the cases of elder exploitation is park owners selling and renting homes instead of just renting lots/land to homeowners. Some park owners and/or management use the power they have as landlords to leverage homeowners, especially those on fixed-incomes, to relinquish or sell their homes to them at a grossly deflated fair market value. This leads to owners or managers then either 'flipping' the homes or renting them out. This is a huge factor behind exploitation.

→Suggested Safeguard:

Parks should not be in a position to view homeowners as 'sitting ducks'. A barrier to preventing this is that they can only rent or sell homes that are grandfathered after a statute that removes this inherent conflict-of-interest becomes law: any homes that a tenant has to relinquish or park owners take possession of must be managed by a state-regulated third-party property management (perhaps a unit established in the Division of Financial Regulations). They manage the sale of the home paying the lot rent that the state or property management company pays and gets reimbursed for. This is synonymous to a bankruptcy where a trustee or real estate company manages a home to sell; dispersing the funds realized from the sale to the management of it and either to the owner or his/her heirs. And should someone die en testate while in the park the dispersement goes into the State's homeless fund, low-income housing, and/or senior services revenue.

→Justification:

Parks cannot be placed in a position to view the homes they rent lots to as a possible 'cash cow'. Some sort of barrier with no conflict-of-interest is needed to prevent the greed factor from influencing how parks conduct their business. They should be restricted to only renting lots and selling/renting homes that they have purchased independent of relinquishment, taking possession of due to abandonment, or leveraging a homeowner with a desperation sale.

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### **Predatory Corporate Practices**

→Problem #6: **\*\*\*This is a problem that must urgently be addressed by the legislature.** *Read the attached exhibit Jury Awards Record for a better understanding of this widespread problem that is a modus operandi of many park owners.*

A pervasive problem not only found at Falcon Wood Village and the other properties owned by Equity Life Style, Inc. (3 more in Oregon) but throughout the State

(and nationally) is not funding routine, reasonable and preventative park maintenance. The operational budget of a park has as its biggest line item park maintenance. This typically includes expenses such as employee payroll, trash pickup if it pays for it, utilities it pays providers for and that expense is then passed onto tenants, and theoretically routine upkeep and maintenance. The best example of this 'secret form of exploitation' are the practices found at Falcon Wood Village and the other 600+ parks owned by Equity Life Style, Inc. a for-profit corporation with over \$1 Billion in assets.

FWV/ELS refuses to release its annual budget to park residents so it is difficult to ascertain what is allocated. It is, however, found on job descriptions for manager positions. One of the duties of a manager is to manage expenses and if there is a profit realized by not spending the entire maintenance budget the onsite manager(s) and regional manager receive a bonus (aka profit-sharing). This has led to the maintenance budget not being fully expended and the often used excuse for no repairs and upkeep being made at FWV "there is no money in the budget" (this is being used right now for much needed road and sidewalk repair, chronic problems with the sewage pump, as well as the removal of hazardous trees). Add to this that the only homes and lots that are being repaired and maintained are those owned by the park, the ones they are trying to sell or rent. Everyone here at FWV sees and comments about this.

Although FWV/ELS hides its profits from residents it is conservatively estimated that with its 182 sites it has a gross profit of \$1.5 million; likely more. Being a corporation guided by its stock price it wants to realize as much profit as possible. In fact a part of the employee benefit package is stock options. This adds another greed motive for managers besides bonuses for keeping costs down by not spending the maintenance budget.

Residents are entitled to reasonable and transparent park maintenance. It is the number one complaint found at FWV and is what led to the \$110 Million jury award found at California Hawaiian, most of it punitive damages.

→Suggested Safeguard:

Oregon must enact legislation that requires parks to allocate a fixed percentage of their gross profits for reasonable repair and preventative maintenance. This expense must be independent of payroll for employees as this is where they will allocate or otherwise manipulate the mandated allotment.

→Justification:

This is a simple fix and it would be something of immense pride to have Oregon become a national leader in protecting senior citizens in age-restricted manufactured parks and minimizing the ever-increasing homeless problem found in this population. **Transparency in the budgets of manufactured home parks is an absolute necessity.** Residents, who are continually faced with ever-increasing rent and not seeing any of what they pay for go towards reasonable park maintenance, or God-forbid, park improvements, have a right to know what the parks are allocating from the profits they realize from them towards maintaining a livable and safe community. Replacing greed with caring ownership can only be a good thing.

→Problem #7:

At FWV each year there is an automatic 4% rent increase and every two years an added increase based upon what they call “comparative value”. They refuse to release how they arrive at “comparative value” it being the highest price rent for a manufactured home park in Lane County. There is no way it is comparative just an arbitrary figure they come up with. It appears that this is not a uniform rent increase but one that different tenants get a different rent increase for. Additionally, other much nicer retirement parks that offer utilities and other amenities for tenancy currently charge less rent. The park next to FWV called Lakeridge that has a two-year waiting list for people wanting to move there offers for \$630 if not on the lake and \$700 for lake-front lots free trash, free cable, a pool and spa opened year-round, free water, and a well manicured cared for community. At FWV the only thing included in the \$680 rent for homes not on the lake or \$720 for the five sites on it is free trash pickup but FWV/ELS has threatened to no longer provide that.

→Suggested Safeguard:

Rent control; if not statewide then in Lane County or Eugene.

→Justification:

To provide affordable housing for the elderly on fixed-incomes this is an absolute necessity. FWV/ELS has threatened residents that if they complain about both the annual rent increase and the comparative market one that it doesn't have to assess approximately \$40 a month more for the comparative increase but instead make it \$100 or more. Such predatory practices and abuse of power must not be allowed.

Oregon is a marvelous State that cares of its citizens. I urge you to make bold moves in protecting seniors who sometimes find themselves in Places of Bondage such as Falcon Wood Village. Alerting predatory corporations such as Equity Life Style, Inc. that Oregon will not allow the preying of its elderly needs to legislative asserted.

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