Joint House and Senate Judiciary Committees
Capitol Building, Hearing Room F, 8:00 a.m.

Chairs Prozanski and Barker; members of the committee;

For the record my name is Susan Sparks and I am a constituent of District 13. Thank you all for the opportunity to testify in regards to Concerns and Practices Involving the Sale of Manufactured Homes. I am a licensed real estate agent with the State of Oregon since 1995 (950400244) and am well acquainted with the high standards that are imposed upon me when representing buyers or sellers as well as the conflicts of interest that can arise in real estate transactions.

As you know, in the State of Oregon you must be a licensed agent to sell another party's real property and you are likely familiar with the State Real Estate Agency's requirement of me as a licensee to present ALL prospective clients at the initial contact with the State form titled "Oregon Real Estate Initial Agency Disclosure Pamphlet OAR 863-015-215 (4)." This form was developed in direct response to improprieties of conduct by agents in real estate sales and to clarify agent representation. It was designed to educate prospective clients about the three legal agent representations allowed by law in the State of Oregon which are: Seller's Agent, Buyer's Agent, and Disclosed Limited Agency and states the **fiduciary** duties in each of those roles. Disclosed Limited Agency carries a stricter directive with three important communications I am not allowed to divulge. And I quote under item 3 of "**Duties and Responsibilities of an Agent Who Represents More than One Client in a Transaction**"

3a. That the seller will accept a price lower or terms less favorable than the listing price or terms;

3b. That the buyer will pay a price greater or terms more favorable than the offering price or terms; or

3c. Confidential information as defined.

Based on my experience of over two decades working in the real estate industry and having lived in a manufactured home park for 3 years, it is clear to me that when the owner/manager of a manufactured home park, whose business model and income is derived from managing land leases, also engages in buying and selling structures on the rented land, myriad conflicts of interest arise.

Manufactured home parks that rent land are unique in the real estate world in that the homes don't fit the definition of real property, which is land and it's appurtenances, nor is the landlord tenant classification a good fit because unlike a rental unit, these structures are owned by the residents. So you have a home owned by the resident, but not connected to land except by virtue of a lease. To complicate matters the entire parcel of land is viewed as "private property". In other words, as if it was someone's backyard. By that definition the state deems the parcel of land on which homes are owned and inhabited by sometimes hundreds of people, totally exempt from the standard legal protections the State believes necessary to protect residents not only in the buying and selling of their homes, but in many applications of state and municipal laws. As I have come to understand, specifically the sale transactions escape the bounds of strict regulation, have no government oversight entity, and carry far more potential for impropriety than homes sold on real property. The manager of the park where I lived said to me one day, "The money is in these parks."

Why? Because EVERY prospective Buyer is required to meet with the owner/manager for lot lease approval and it is in fact a rule in most parks that they be the first point of contact, which is reasonable for the purpose of creating a lot lease agreement. However, when home sales become an integral part of their business, that practice creates a closed system enabling the manager to capture all market interest while being solely empowered to determine lot lease approval, the

pivotal point of a completed park sale. This dynamic is rife with potential to wield management's self-interest. Here is what that looks like from first hand experience:

First of all, it is common for a resident to ask the owner/manager of their park what their home is worth. Likewise, in the real property world a real estate agent is approached with the same question because both agents and owner/managers have empirical knowledge. An agent can give an opinion of value supported by recent sales data, but cannot appraise a property. However, if I use my license qualification and empirical knowledge to give a skewed below-market opinion of value with the sole intent of purchasing the property myself or by way of a "straw man" for personal gain, I have violated that license and I have a conflict of interest. It is a documented and common practice for managers as well as the manager where I lived to give an opinion of value lower than the market will bear for the sole purpose of personal gain, and unfortunately this practice is known and deemed acceptable by governing entities that have mischaracterized a park as a car lot which thereby entitles a manager to wheel and deal and sell to their advantage.

Secondly, if as a buyer's agent I have an interested buyer I steer only to homes that will pay me a high commission or homes that I have listed and further engage in shutting out the competing available market by some form of denigration, again, I am no longer serving the interest of my client. I have a conflict of interest. We have documented this tactic in the management of manufactured home parks.

Thirdly, if I bought a property for any purpose in the real estate world, I must title it in my name. Park managers often skip this step and it begins with a legitimate contract to sell a resident's home. When you list a home for sale you become a representative of that home owner, the absolute point person of contact to show, negotiate, and assist any qualified party of interest to facilitate the successful sale of that home. You are duty bound to diligently return calls and be available for showings. However, in the park setting managers use a stall

tactic whereby they do not return interested party's calls, and do not show the home to prospective buyers, (and we know this because we have documented some cases of interested buyers knocking on the doors of *manager-listed* properties stating they have never had their calls returned). After a time the manager approaches the homeowner stating there is a lack of interested buyers and in fact the owner hasn't had showings by the manager. The homeowner is faced with their impending need to sell-*often urgent in senior parks*- and those needs in conjunction with the mounting lot space rent create duress. Then the manager graciously comes to the 'rescue' with a very low offer to purchase, and the owner or heir acquiesces due to the duress and accepts payment from the manager for the home. What has actually happened is the manager purposely stonewalled potential buyers' access meanwhile covertly collecting a list of interested parties from calls on the "for sale" sign. Simultaneously, and by that I mean sometimes the same day, unbeknownst to the owner, the manager engages in a transaction with a "pocket" buyer(s) to quickly flip the home at a personal profit without ever having held title. This scenario might be performed by a manager without the knowledge of the park owner. If I conducted myself in this manner as a real estate agent, at the very least, I would have a conflict of interest. There are documented cases of these very events.

And lastly, managers creating roadblocks or outright disapproval of lot lease agreements for potential buyers especially targeting those transactions that involve a real estate agent or a home for sale by owner that do not benefit the manager. Variable approval criteria are now not only against the law, but it constitutes a conflict of interest. If I falsely alleged someone was not qualified to purchase a property in order to position a more profitable sale for myself my license would be in jeopardy. The manager of the park I lived in actually stated to my client, "If you had listed with me you would have already sold your home." The message is clear: let the manager sell park homes, it will go better for the residents if they do. This is a documented practice.

That explains the manager stating, "The money is in these parks." because it enabled him to pocket thousands of untaxed dollars by skimming the profit of home sales. Never claiming title, leveraging the monthly lease rent to coerce people to relent on such a scale that in some cases the homeowner or heirs feel compelled to hand over the keys and gift their entire homes to the manager to avoid the known pitfalls and intentional bias that would ensue. Tactics range from lack of availability, obstinacy, rude behavior, and outright threatening statements. I can personally attest in my experience of selling homes in parks that these maneuvers are utilized and thriving despite the new legislation. The power of managers in this small environment constitutes a dictatorship in an unregulated market with no oversight. Often real estate agents refuse to list property in these parks—such is the case where I lived.

Many of our manufactured parks are 55+. Senior citizens enjoy special protections by law due to that demography's age related physical and sometimes mental limitations as well as their generational trust of honest dealings by professionals, making them easy prey. They neither have the resources or knowledge of how to deal with these improprieties.

What is the remedy? To begin with, a serious reclassification of manufactured home parks. Landlord tenant law, in my estimation, is not a suitable application, it's a bad fit. These resident owned structures are actually people's homes, assets, and often comprise their entire estate. The homeowners are levied a county tax under 'Improvement' to the land, so there is some recognition they are not in the "vehicle dealership" category with the manager simply required to obtain a 'dealer's license'. Reviewing existing real estate licensing, property management laws—which are highly regulated through reporting and auditing, and condominium laws, might be the beginning of how to revise the regulation of this unique form of housing. It is my personal opinion owners/mangers should

not be allowed to own or sell homes in their parks because it is not just a two party "Disclosed Limited Agency" but a three party dynamic to which there is no transparency of the manager's representation--sadly the manager is usually representing themselves--nor is there any reasonable, enforceable resolution to the conflicts of interest.

Other problems persist and unfortunately this debate doesn't touch issues such as the undisclosed maintenance budgets or schedules in manufactured home parks which is another area managers can skimp and skim; the lack of apparent recourse for elderly leaseholders who are abused by overly aggressive managers threatening homeowners with eviction from their owned homes; or elderly residents on fixed incomes in a semi-permanent living agreement experiencing relentless rent increases ~~and don't have any~~ with no other housing options.

The whole picture is a very difficult business model that needs some scrutiny. Thank you again for your concern in these matters and for the opportunity to testify.