

Exploring Manufactured Housing Institute's "Get the Facts on Zoning" Facts, Evidence, Analysis, Commentary plus Linked Resources

On 11.20.2022 on the MHI website at this link below is the follow story. The highlighting below is added by MHProNews.

<https://www.manufacturedhousing.org/zoning-2/>

## Get the Facts on Zoning

### Unfair Zoning Laws Can Restrict Manufactured Home Placement

There is an affordable housing crisis in the U.S. and some communities are making a bad situation worse.

There is a growing trend of municipalities trying to use zoning and other land use regulations to restrict or eliminate manufactured housing in their jurisdictions. These actions could reduce the supply of critically-needed affordable housing for working families across the country **and may be discriminatory under the Fair Housing Act.**

The attempts at cities discriminating against manufactured housing are wide ranging. Some cities now restrict community owners from replacing units when someone moves, others are looking at banning them altogether, and some are segregating them at locations far out from local amenities such as schools, transportation, doctors and jobs.

Local city and county government's use a variety of land use planning devices to restrict the use of manufactured homes as an available source of affordable housing. Interestingly, these devices are often in conflict with the entity's comprehensive plan. These cases often involve zones within a community where manufactured housing fits the character and ascetics of the zone.

#### **Outright Bans**

This past year, Huntsville, Texas, passed an outright ban on the placement of manufactured homes in the community, including on private property. This change in the law came despite the presence of manufactured homes and multi-family homes in the community. After an outcry from residents living in manufactured homes, the council overturned the ban.

#### **Lot Size**

Rural Harrison County, Kentucky is attempting to pass a requirement that manufactured homes may only be placed on lots of 10 acres or more. These types of ordinances are found in other communities and can range from 1 to 10 acres.

Lot size is not just a rural issue. In a community in South Carolina, the Georgetown council required minimum lot size in a zone predominated by older mobile homes whereby the practical effect would be to require the accumulation of several lots to build any new home. As this case involves a zone containing a majority of African American residents, HUD is investigating for possible Fair Housing violations.

#### **Layering of Multiple Ordinances**

When a Mississippi Supreme Court decision disallowed Pearl's method of excluding manufactured housing, the city undertook changes to multiple land use planning devices (density, occupancy, setbacks) which allowed the placement of a home in a land-lease community, but made it illegal for anyone to occupy the home.

**Density**

Changes to density and setback requirements cause land-lease communities to provide homes on every other lot.

**Restriction to Manufactured Home Communities (Parks) only**

An affront to private property rights is where a government restricts the placement of manufactured homes to manufactured home parks only. An ordinance in Kentucky like this was passed in London, and following a lawsuit, reversed.

**Age**

A trend in western states (Kansas and Arizona for instance) is the adoption of ordinances where there is an age restriction on manufactured homes, disallowing the placement of a home more than 5- or 10- years old. These local laws basically place expiration dates on homes, and artificially kill resale values.

**Non-conforming Uses**

The Village of Lodi, Ohio, changed its interpretation of non-conforming use such that when a home would be removed from a land-lease community, the entire park would become a non-conforming use. The Ohio Supreme Court struck down the interpretation.

**No Reason Whatsoever**

The most frustrating cases come when a city or county denies the placement of a home for no reason whatsoever. In Washington Township, Ohio, it took a court order to force a zoning panel to issue a permit for the replacement of an older manufactured home with a new one. ##

**MHProNews Notes and Expert Viewpoint on MHI's Narrative Above**

Paltering is defined as being a mixture of true statements that omit or slants (i.e.: 'frames') information in a manner *designed to mislead or deceive*.

- A Word search of the MHI text above reveals "No matches" for this phrase: "Manufactured Housing Improvement Act" on this date.
- A Word search of the MHI text above produces "No matches for this phrase: "enhanced preemption" on this date.

MHI claims to be in favor of HUD enforcing its enhanced preemption authority under the Manufactured Housing Improvement Act of 2000 (MHIA or what MHARR sometimes refers to as the 2000 Reform Law). Yet on their own website on an article specifically focused on zoning, they fail to mention either the MHIA or "enhanced preemption?"



#### **4) HUD Must Implement and Enforce its Enhanced Preemption Authority...**

**MHI Proposes that HUD shall issue a revised and updated policy statement regarding the Department's position concerning preemption and state and local zoning, planning, or development restrictions that either severely limit or outright prohibit manufactured housing."**

**- Lesli Gooch, Ph.D.  
then EVP, now CEO of MHI**

<https://www.manufacturedhomelivingnews.com/huds-own-report-confirm-alarms-hud-officials-manufactured-housing-institute-leaders-duck-charges-of-racial-bias-dereliction-thwarting-racial-equity-more-in-plant-a-home/>

- A) MHI is *demonstrably negligent at best* at doing what they claim they want. But if they are paltering, posturing, and projecting without any serious intention of acting as needed, then a different reality begins to emerge.
- B) MHI is arguably civilly and/or criminally supporting supportive of the consolidation of the manufactured home industry into ever fewer hands which routinely are their member brands. Who says?



Federal Reserve Bank of Minneapolis

James A. Schmitz, Jr. | Federal Reserve Bank of Minneapolis



**“This [pattern of obscured sabotaging monopoly tactics] leads to whole new set of monopolies, those in [the] manufactured housing industry itself.” ~**

James A. “Jim” Schmitz Jr., in an presentation to university students. See that full presentation and these

comments in context at the link below.

<https://www.manufacturedhomepronews.com/affordable-homes-for-low-income-must-produce-in-factory-years-to-unravel-sabotage-grad-students-interest-in-manufactured-housing-factory-home-solutions-plus-sun/>



PROUD MEMBER OF



MONOPOLISTIC HOUSING INSTITUTE



THE NATIONAL ASSOCIATION  
SERVING CONSOLIDATORS OF THE  
MANUFACTURED HOUSING INDUSTRY



**"The Manufactured Housing Institute [MHI] acts not only as the public mouthpiece of the Big 3 manufacturers (in the name of the industry) but also appears to act directly on its behalf in its various lobbying endeavors."<sup>95</sup>**



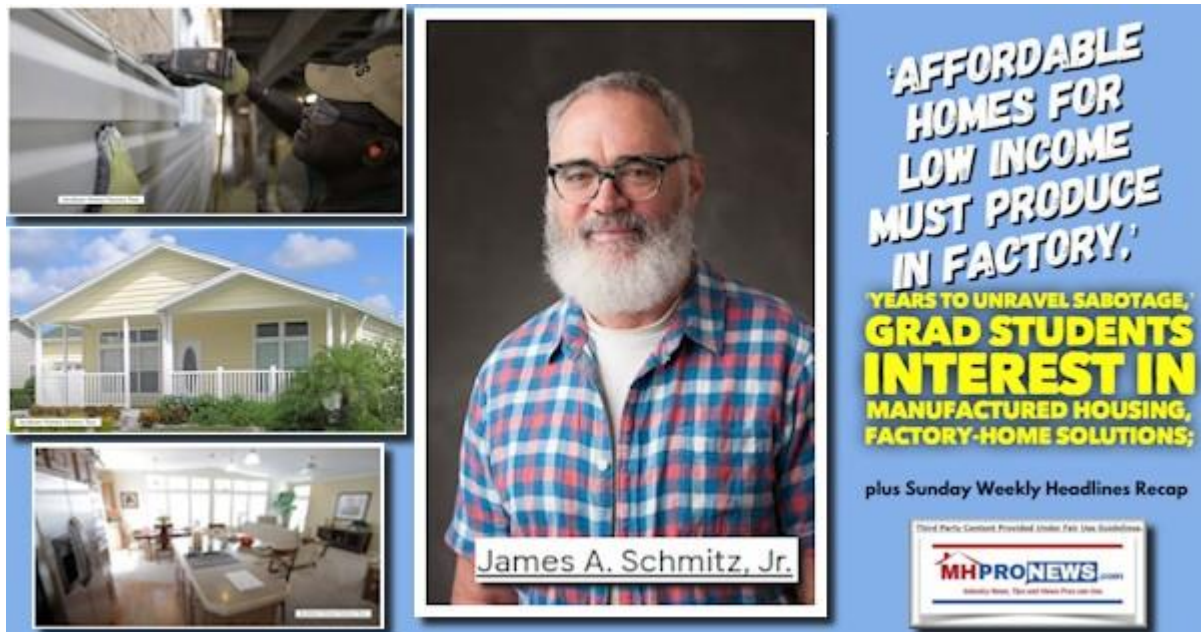
Samuel Strommen

Strommen said he **"submits that the MHI's conduct in obfuscation judicious decision-making by the [FHFA and HUD] constitutes a conspiracy to restrain trade under Section 1 of the Sherman Act, and by virtue of the misrepresentative nature of the conduct, should not be afforded *Noerr* protection."**



– Sam Strommen,  
**The Monopolization of the American  
Manufactured Home Industry and the  
Formation of REITs: a Rube Goldberg  
Machine of Human Suffering.**

<https://www.manufacturedhomelivingnews.com/strommen-felony-conspiracy-case-monopolization-of-affordable-manufactured-housing-and-manufactured-home-communities-rube-goldberg-machine-of-human-suff/>



<https://www.manufacturedhomepronews.com/affordable-homes-for-low-income-must-produce-in-factory-years-to-unravel-sabotage-grad-students-interest-in-manufactured-housing-factory-home-solutions-plus-sun/>



<https://www.manufacturedhomelivingnews.com/strommen-felony-conspiracy-case-monopolization-of-affordable-manufactured-housing-and-manufactured-home-communities-rube-goldberg-machine-of-human-suff/>

Those claims fit evidence-based allegations made on the *MHPProNews* Masthead from a few years ago, while Richard "Dick" Jennison was still MHI's president and CEO.





<https://www.manufacturedhomepronews.com/masthead/prima-facie-cases-against-manufactured-housing-institute-richard-a-dick-jennison-tim-williams-21st-mortgage-kevin-clayton-tom-hodges-clayton-homes-et-al/>

Schmitz and Strommen approach the issue of the impact of oligopoly version of monopoly power on manufactured housing from different starting points and different disciplines. Both outside researchers looking in are supportive of manufactured housing in their respective research reports.

MHI has had their legal team advise *MHProNews'* leaders that they actively monitor our website. There is other evidence that MHI leaders monitor what is published on *MHProNews* and *MHLivingNews*. *MHProNews* has been doing this web search for enhanced preemption periodically on the MHI website for years. If MHI's outside counsel David P. Goch is to be taken at his word, apparently what *MHProNews*/*MHLivingNews* publish about MHI must not be disparaging? Then, logically, what we publish on this issue is accurate and based on facts, trends, evidence, and applied common sense.



DAVID P. GOCH

Partner

#### AREAS OF PRACTICE

Antitrust

Charitable Registration Law

Corporate

Employment

Lobbying and Government Relations

Tax Law



**"MHI actively monitors and proactively addresses any attempts by third parties who wrongfully disparage the organization. Therefore, to the extent any third party communicates (orally, in writing, electronically) untrue, false, fabricated deleterious statements regarding MHI, the Institute is firmly committed to pursue every legal remedy available to preserve the reputation it has worked so hard to establish and maintain. This includes statements made from its membership as well..."**

~ David P. Goch, J.D. Partner -

Webster, Chamberlain and Bean LLP law firm

on behalf of the Manufactured Housing Institute

National Communities Council (MHI/NCC)

**MHProNews note:** Tim Williams, prior MHI Chairman and the president and CEO of Berkshire Hathaway owned 21<sup>st</sup> Mortgage Corp, made the point that there is a good case to be made that the industry should aggressively refute every Incorrect or false claim. Where is the evidence that MHI has done that? By contrast, Goch's statement makes it plain that MHI is **"actively monitoring"** those that disparage – MHI. By implication, apparently our years of fact checks, analysis, and commentary must not fit that concern. Ergo, our analysis stands publicly uncontested. If MHI want to debate their arguably poor performance, bring it on. **By contrast, why isn't MHI taking every legal remedy to get good laws enforce?** Isn't their hypocrisy ever more apparent in the light of the evidence?

*Goch is a paid mouthpiece for MHI. This pull quote from a letter from Goch is fascinating. On the one hand, Goch says that MHI is working for the interests of all, and wants all points of view. But then, Goch threatens in writing an then MHI member who dared question the association. They can not have it both ways. Part of the irony is that in hindsight, as the evidence mounts, it becomes obvious that MHI has postured efforts for almost 20 years, since the start of the Berkshire era of manufactured housing began. Coincidence? Or just part of a broader plan that has benefited a few at great cost and harm to the many? <https://www.manufacturedhomepronews.com/sun-communities-official-q2-2021-results-inversion-spencer-roane-letter-manufactured-housing-institute-scientia-potentia-est-plus-manufactured-home-stock-updates/>*

Clearly, there is direct evidence that MHI is paltering when it comes to several key issues.



**"A look into the rearview mirror often reveals that politicians, nonprofits, corporate, NGOs, and other leaders may posture and palter about genuine issues that they have no serious interest in acting on what they pledged or talked about.**



**When time passes and no discernable change occurs after promises are made, that's a warning sign.**

**That problematic pattern is why the BS detector must be used. There are simply too many cases where promises are made but are not kept.**

**All citizens, honest business professionals, and voters must be skeptical and do their homework. It's a mistake to feed the hands that bite yours. ~**

*L. A. "Tony" Kovach, award winning history buff, 30 plus year manufactured home veteran and expert, co-founder of industry leading ManufacturedHomeProNews.com (MHProNews.com). Kovach was a popular speaker at Manufactured Housing Institute and MHI state affiliate events until he began holding MHI's leadership to account for their promises made that have arguably not been kept.*




<https://www.manufacturedhomepronews.com/masthead/federated-states-newsletter-uncovers-manufactured-housing-institute-behavior-and-lack-of-effectiveness-at-their-own-claimed-advocacy-mhis-own-words-3rd-party-fact/> and <https://www.manufacturedhomepronews.com/masthead/what-then-shall-we-say-in-response-to-these-things-if-god-is-for-us-who-can-be-against-us-by-god-if-we-can-do-it-you-can-too-anniversary-reflections-viewpoints-mhville/>



<https://www.manufacturedhomepronews.com/understanding-crony-corporate-paltering-media-washington-d-c-reality-check-with-b-s-decoder-ring-sunday-satire-on-national-affordable-housing-issues-with-weekly-mhville-headlines-review/>

Though the MHARR website is newer (younger) than MHI's, MHARR has numbers of articles on the topic of the MHIA that use the phrase "enhanced preemption."

MHARR is demonstrably doing what MHI claims to do.



**MHARR**  
Manufactured Housing Association for Regulatory Reform


Site search conducted on  
MHARR website on  
04-26\_0911 2019.

Home > Search


## enhanced preemption - search results

Search


If you're not happy with the results, please do another search




**"Time to Enforce the Law on Federal Preemption"**  
October 31, 2017




**HUD Code Manufactured Home Production Decline Persists – Time For Action...**  
February 4, 2019




**"The Illusion of Motion Versus Real-World Challenges"**  
January 23, 2019




**Comprehensive MHARR Comments on HUD Review Of Manufactured Housing Regulations**  
February 21, 2018




**MHARR Calls on HUD To Remove Zoning, Placement and Consumer Financing...**  
October 11, 2018




**"Another Missed Post-Production Opportunity?"**  
August 27, 2018




**"MHARR Leadership Continues to Produce Results for Industry"**  
March 28, 2018



**MHARR Officials Meet with HUD Secretary Dr. Benjamin Carson**  
January 30, 2018



**MHARR Washington Update, 10.10.2017**  
October 11, 2017



**Actions and Abuses Of The Current HUD Manufactured Housing Program...**  
August 3, 2017

*Since the screen capture above was performed, MHARR has done more articles that mention or are focused on the federal preemption given to HUD Code manufactured homes under the Manufactured Housing Improvement Act of 2000. Which begs the question. Why doesn't MHI have any mention of "enhanced preemption" on their own website? **How serious can MHI be if they don't say on their own website – for example, in their article on zoning – the legal***



***terminology that could be applied to remove those zoning/placement impediments that limit manufactured housing sales and growth?***

Manufactured housing has several factors that are keeping it operating at a level that is only 30 percent of what it was at the last highwater mark achieved in 1998. Zoning/placement and finance are among them.

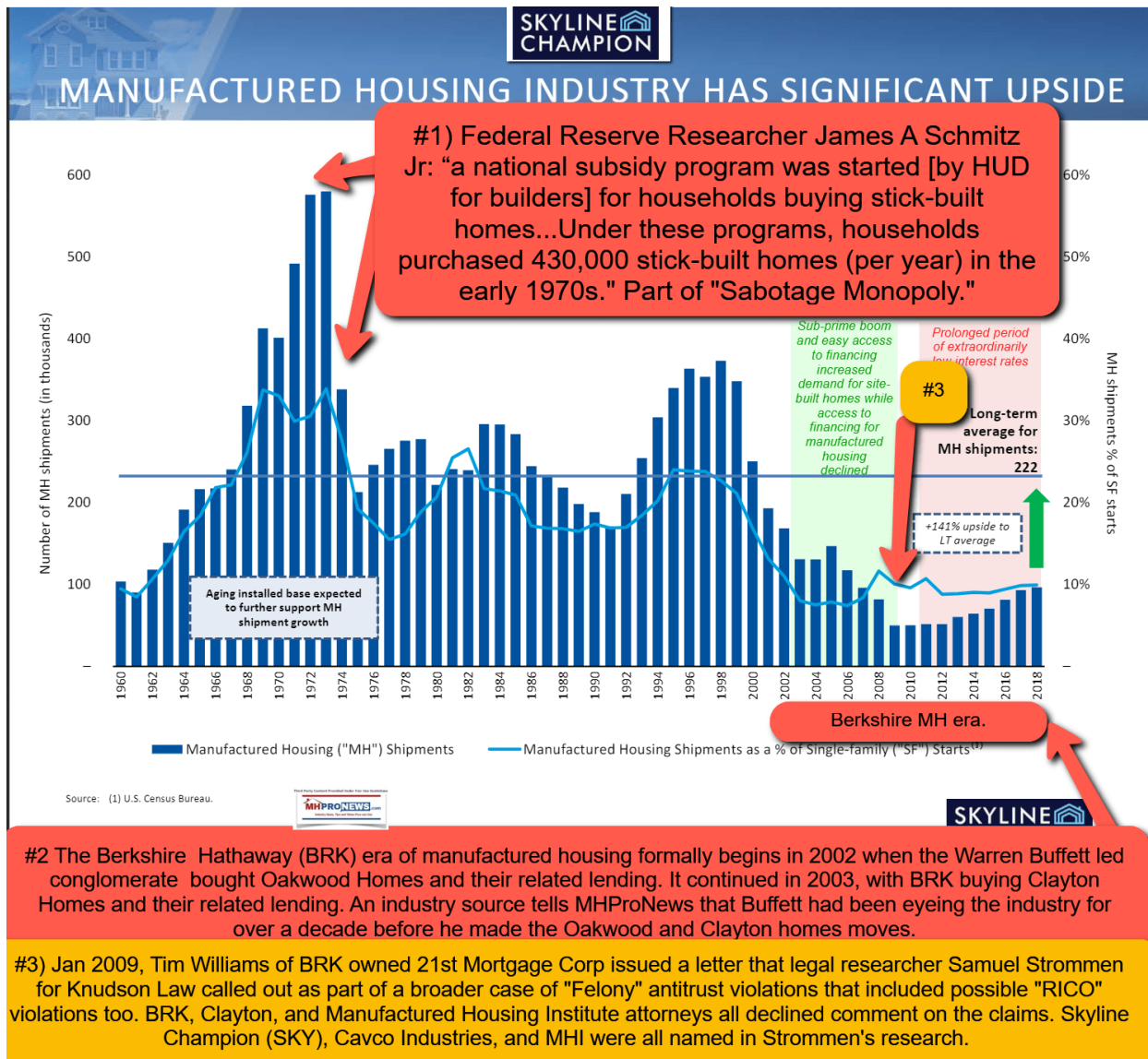
The looming DOE energy rule could be slamming the manufactured home industry in about 6 months. Before then, factories that intend to comply will have to start making plans to do so, which means that there is actually very little time for much needed litigation.



<https://www.manufacturedhomepronews.com/masthead/mhi-owes-the-manufactured-home-industry-an-explanation-and-a-lawsuit-the-need-to-stop-destructive-energy-regulations-of-manufactured-housing/>

Why does MHI have a 21<sup>st</sup> century history of fumbling on issue after issue that is keeping the manufactured housing industry underperforming? Follow the money trail, as any good investigator should do in searching for potential explanations. Consolidation is what has been occurring since Warren Buffett led Berkshire Hathaway has entered the industry.





*Ironically, Skyline Champion's own investor pitch-deck provides ample evidence for manufactured housing industry underperformance. That same pitch-deck further provides evidence that Mergers and Acquisitions are a key part of their business model. What is there in such revelations that Birch and Williams miss? Bear in mind, that they are mere stand-ins who voluntarily raised their hands in defense of Berkshire and MHI firms like Skyline Champion. Notice: Several of the illustrations shown in this report can be opened in many browsers to reveal a larger size. To open this picture, click the image once. When the window opens, click it again to reveal the larger size photo. Use your browsers back key to return to the article.*

More including video evidence is found at the postscript of the report at this link below.

<https://www.manufacturedhomepronews.com/apparently-misleading-statements-emerge-in-1-manufactured-home-producer-texas-report-why-do-texas-manufactured-housing-survey-contradictions-go-unresolved-plus-sunday-weekly-headlines-recap/>