



Copilot, I'm working on a report <https://www.manufacturedhomepronews.com/wp-content/uploads/2025/12/2PrePubAIChkManufacturedHomeLotRentsAntitrustLitigationCaseNo23-cv-06715JudgeFranklinU.ValderramaOrderAndOpinionWhatOthersMissedMHVilleFEA-MHProNews.pdf> that begs certain questions based on known facts and various estimates. Lets presume for arguments sake that land lease manufactured home community operators are using the Manufactured Housing Institute as a tool for oligopoly style antitrust violations. Since the internet ('the wires') have been used as part of this purported ploy and so have the U.S. Mail, those could be legitimate ways of bringing in evidence-based RICO as well as antitrust claims? Follow the links in the developing draft. Apply the facts-evidence-analysis (FEA) methodology. Use plain text hyperlinks to support your findings.



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You're circling something real here. The question is whether you can turn it from "outrageous pattern" into "actionable pattern" under antitrust + RICO.

I'll walk through it FEA-style: facts → inferences → how mail/wire + MHI fit into a civil RICO / antitrust theory, and what Valderrama's opinion telegraphs about pleading this kind of case better next time.

1. Baseline legal framework (antitrust + RICO + mail/wire)

Antitrust (Sherman Act §1). To get beyond "ugly but legal," you need:

- **Agreement / concerted action** between distinct entities.
- **Unreasonable restraint of trade** in a defined relevant market.
- **Antitrust injury** (harm to competition, not just to a competitor).

Judge Valderrama's opinion in *In re Manufactured Home Lot Rents Antitrust Litigation* is essentially a clinic on how courts now demand not just parallel conduct, but solid "plus factors" and a plausible narrative that beats obvious "market forces" explanations.

RICO (18 U.S.C. §§ 1962, 1964). Civil RICO requires, at a minimum:

- **Enterprise:** any group of individuals or entities associated in fact (e.g., a trade group plus certain members can qualify).
- **Pattern of racketeering activity:** at least two related predicate acts (e.g., mail fraud, wire fraud) within ten years, showing continuity.
- **Conduct / participation:** defendant conducted or participated in the conduct of the enterprise's affairs through that pattern.
- **Injury to business or property** by reason of the RICO violation (including causation).

Text of §1962 is here: <https://www.law.cornell.edu/uscode/text/18/1962>

Mail and wire fraud as RICO predicates.

- Mail fraud: 18 U.S.C. § 1341
- Wire fraud: 18 U.S.C. § 1343
- Elements:
 - **Scheme to defraud** or to obtain money/property by false or fraudulent pretenses.

- **Intent** to defraud.
- Use of **mail or wires** in furtherance of that scheme.
- For civil RICO: plus a **pattern** and a qualifying **enterprise**.

Recent Supreme Court cases (e.g., *Kelly v. United States* (“Bridgegate”)) tightened the “property” and “scheme” elements; **not every deceptive use of government or corporate power is mail/wire fraud unless it aims to obtain money or property.**

Good general summary of mail/wire fraud in RICO context: <https://aaronhall.com/rico-mail-wire-fraud-elements-prosecution/> Justice Department RICO manual: <https://www.justice.gov/criminal/criminal-fraud/file/1391311/dl?inline>

So: **yes**, in principle, use of the internet (“wires”) and U.S. mail can be valid RICO predicate acts—**but only if** you can show they’re part of a deliberate scheme to defraud for money/property, not just ordinary lobbying, advocacy, or coordination.

2. Facts you’ve assembled: supply choke + consolidation + MHI behavior

From your infographic and the AI closure-summary document:

- **Near-freeze in new community development.** Datacomp data you cite shows **only 310 new land-lease communities nationally from 2002–2016**, with single-digit new communities per year after 2008 (e.g., 3 in 2016, 4 in 2012, 3 in 2011). This is effectively “no new supply” in an industry serving millions of households.
- **Net loss of communities.**
 - Circa 2000 estimates: up to **55,000 land-lease manufactured home communities** in the U.S.
 - Lincoln Institute / FEMA study: now roughly **50,000 communities**.
 - AI synthesis of research: at least **900+ specific closures identified**, and likely **thousands of park closures since 2000**, with almost no offsetting new development and one estimate of **only about 10 new communities in the two decades before 2021** being developed nationwide.

These are ballpark, but they establish a **directional fact pattern**: closures >> openings.

- **Regional closure data (illustrative).**
 - Florida: at least **183–400+ parks** closed since 2011 in different analyses; another study found **127 parks with 6,000+ units** closed between 2012–2022.

- Phoenix metro: roughly **4,500 mobile homes lost** to park closures since 2000.
- Harris County, TX: about **85 parks closed** 2002–2011.
- **Demand and “stickiness.”**
 - Sun Communities and similar REITs report **very high occupancy** (around 96%) and **extremely low move-outs** (~0.49% annually), driven in part by **\$6,000–\$10,000 moving costs** for homes.
 - They tout **tens of thousands of applicants** for spaces and significantly lower cost per square foot versus apartments.

This is the foundation of a **supply choke + lock-in + consolidation** narrative. It’s not yet antitrust or RICO. But it is the economic context: **artificial scarcity + captive consumers**.

3. What Valderrama’s opinion tells you about the antitrust side

The *In re Manufactured Home Lot Rents Antitrust Litigation* dismissal is very instructive, but also strangely helpful to your FEA project.

Key takeaways (for your purposes):

- The court accepted that **rents jumped sharply**, with **parallel upward trends**, and that Datacomp/JLT reports enabled detailed competitor visibility. That got plaintiffs over the **parallel conduct** hurdle (barely).
- The case failed on the **“plus factors” and alternative explanations**:
 - Judge Valderrama said the alleged conduct was **equally consistent with rational, independent profit-maximizing behavior** in a market with rising demand, constrained supply, and private equity roll-ups of mom-and-pop parks.
 - Plaintiffs **did not adequately allege market concentration** (shares, dominance), even though they did allege consolidation and acquisition patterns.
 - “Invitation and acceptance” via Datacomp was rejected because there was no **explicit or implied “do this if you want to join the scheme”** allegation—only data solicitation and purchase.
 - Alleged plus factors like trade association membership (MHI), opportunities to conspire, and motive (“make more money”) were deemed too generic;

only the **sensitive information exchange** and **acting against unilateral self-interest** survived as plausible plus factors, and even those were not enough to overcome alternative explanations.

The opinion is here: <https://www.lit-antitrust.aoshearman.com/siteFiles/52013/In%20Re%20MANUFACTURED%20HOME%20LOT%20RENTS%20ANTITRUST%20LITIGATION.pdf>

Docket overview: <https://www.courtlistener.com/docket/67753400/hajek-v-datacomp-appraisal-systems-inc/>

Implication for your report and for any future case: **you need to tie MHI, Datacomp, and major operators into something more than just “we share data and then raise prices in a tight market.”**

4. Hypothesis: MHI as “tool” of an oligopoly + potential RICO enterprise

Your hypothetical:

“Let’s presume for argument’s sake that community operators are using the Manufactured Housing Institute as a tool for oligopoly-style antitrust violations.”

Translate that into legal categories:

4.1. Antitrust “hub-and-spoke” with MHI as hub

To turn that presumption into a plausible antitrust narrative, you’d need to show:

- **Hub:** MHI (and possibly Datacomp, certain law firms, and lobbyists) as coordinating node.
- **Spokes:** Major community operators (Sun, ELS, RHP, YES, etc.) and possibly certain finance players.
- **Rim:** Evidence that the spokes are not just each coordinating with MHI individually, but that there is a **“rim” of mutual awareness and tacit or express understanding** that they will pursue the shared plan (restrict supply, under-enforce MHIA, push rent increases, resist new community development, etc.).

Evidence categories that would matter (in your FEA):

- **Documents & statements** showing MHI knowing the MHIA 2000 “Reform Law” and its enhanced preemption should, if enforced, **make new communities and infill easier**, but **strategically not pursuing enforcement or litigation** – while its dominant members benefit from scarcity.

- **Internal or public communications** that:
 - Dismiss or deflect serious enforcement of MHIA/ enhanced preemption.
 - Strategically support local zoning barriers or “NIMBY-friendly” policies while publicly posturing as pro-affordable housing.
 - Tie policy choices to rent/asset values, cap-rate expansion, or REIT valuation narratives.

If you could show that **MHI’s “inaction” is actually coordinated, purposeful inaction** to keep supply constrained, and that its lobbying/communication is materially misleading to policymakers, members, or the public, then you’re edging toward **agreement to restrain trade via regulatory capture/supply suppression**, not just accidents of “market forces.”

4.2. RICO enterprise theory

On a RICO theory, MHI could fit as:

- **Enterprise:** an association-in-fact consisting of MHI + certain REITs/operators + perhaps Datacomp or other data/finance facilitators. The key is “**purpose, relationships, and longevity.**”
- **Conduct:** key actors “conducting or participating in the conduct” of the enterprise’s affairs (e.g., using MHI’s committees, board, lobbying program, and publications to further a scheme).
- **Pattern of racketeering:** repeated uses of mail/wire (emails, webinars, web content, mailers, legislative submissions) that further:
 - a **scheme to defraud** residents, smaller operators, policymakers, or investors;
 - or to obtain money/property based on materially false or deceptive representations or omissions.

The hard part: **you must frame MHI’s and the REITs’ communications as fraud, not just spin.** That means:

- **Specific misrepresentations or omissions** about:
 - The real intent behind MHIA non-enforcement.
 - The impact on supply, rents, displacement, and access to affordable housing.

- MHI representing itself as championing affordable housing and MHIA enforcement while privately ensuring that key reforms never get teeth.

If you can document that MHI:

1. **Knew** that enforcing MHIA enhanced preemption and related provisions would open up development and siting;
2. **Repeatedly told members, Congress, HUD, or the public** that it was working for enforcement, while in reality **blocking or sabotaging enforcement** at the behest of large consolidators;
3. And those misstatements/omissions were **used via email, website postings, webinars, mailed newsletters, legislative testimony, etc,** and
4. Operators **relied** on that environment (and MHI materials) to justify acquisition, rent-increase, and closure strategies—

then the mail/wire activity becomes **the bloodstream of the scheme** rather than background noise.

5. Using the “wires” and U.S. mail as RICO predicates in this context

To your core question:

“Since the internet (“the wires”) and U.S. Mail have been used as part of this purported ploy, could those be legitimate ways of bringing evidence-based RICO as well as antitrust claims?”

Conceptually, yes, but with critical caveats.

5.1. When internet/ mail use helps a RICO claim

They can be legitimate RICO predicates if:

1. **There is a scheme to defraud.**
 - For example, a scheme to obtain higher lot rents, inflated asset values, or acquisition opportunities by:
 - Misrepresenting MHI’s real agenda and efforts;
 - Misleading policymakers about MHIA enforcement and zoning;
 - Hiding an underlying plan to restrict supply and drive up rents/valuations.

2. **The communications are materially false or misleading** about something that matters to the recipient's economic decisions.
3. **The mail/ wire usage is "in furtherance" of that scheme.**
 - Sending MHI "policy briefs," newsletters, or "fact sheets" to Hill offices, HUD, or members that misstate MHIA's status or MHI's efforts.
 - Publishing web content and webinars aimed at shaping expectations of "inevitable" rent hikes and supply scarcity, while concealing the intentional policy non-enforcement behind it.
 - Investor presentations that omit or misdescribe the role of coordinated trade association strategy in sustaining scarcity and rent growth.
4. **There is a pattern.**
 - Not one-off; but repeated, related communications over years, tied to the same overall scheme.

In that scenario, each email, newsletter, web post, webinar, or mailed item that furthers the scheme could be a **mail or wire fraud predicate** if the other elements are met.

5.2. When internet/ mail use is *not* enough

You **do not** get RICO just because:

- People used email and websites while doing bad things.
- A trade group coordinated strategy but was relatively transparent about its goals.
- A policy choice (non-enforcement of MHIA) is harmful but made openly, without deception about the motives or expected effects.

The Supreme Court's *Kelly* decision (Bridgegate) underscores that not all abuses of power or political schemes equal mail/wire fraud; **there has to be a scheme to obtain money or property via deception**, not just lying to exert political or regulatory power.

Kelly summary: <https://lanzasmith.com/blog/alleging-wire-fraud-now-more-difficult-in-civil-rico-cases-after-2020-u-s-supreme-court-case-re-bridgewater-scandal/>

So your record-building needs to show **economic deceit**, not just "bad policy" or "regulatory capture."

6. FEA: what your existing evidence supports, and where the gaps are

6.1. Facts

- **Supply:**
 - Near-zero new community development for more than a decade.
 - Substantial net closures, likely into the thousands of communities and tens of thousands of homes.
 - High barriers to resident exit (moving costs, zoning, scarcity).
- **Demand:**
 - Very high occupancy and long tenure.
 - Strong, steady demand for affordable space.
- **Market conduct:**
 - Consolidation into REITs and large operators.
 - Use of Datacomp/JLT reports and other data tools to monitor competitor pricing and future increases.
 - Trade association presence (MHI) coordinating lobbying and messaging nationally.
- **Legal landscape:**
 - MHIA 2000 “Reform Law” and enhanced preemption exist and, if enforced, could reduce zoning barriers and enable more development and infill.
 - MHI has not litigated for enforcement in the 21st century.
 - MHARR and others publicly call this out, so the issue is not purely unknown inside the industry.

6.2. Evidence-based inferences

Reasonable inferences (but not yet legally “proof”):

- **Economic incentives:** big operators benefit from constrained supply and high moving costs; rising rents are rational profit-maximizing behavior in this environment.
- **Institutional behavior:** MHI’s non-enforcement posture and public spin likely **support** the scarcity/rent-growth equilibrium.
- **Structural collusion risk:** Data sharing via Datacomp and trade association coordination create a **facilitating structure** for tacit or explicit collusion.

6.3. Analysis: where antitrust + RICO plausibility could emerge

To push from “market forces + rational profit-seeking” to **antitrust + RICO**, you’d need:

1. **Specific conduct at MHI and member firms that shows intent to restrain trade via policy sabotage.**

- E.g., internal emails or minutes indicating: “We cannot push MHIA enforcement because it would flood the market with supply and hurt valuations.”
- Documents showing coordinated efforts to **stop** local/ federal moves that would expand sites, while publicly claiming to support MHIA enforcement.

2. **Misrepresentation / deception elements.**

- Public-facing claims: MHI is “working tirelessly” for MHIA enforcement, DTS, and zoning fairness.
- Contradictory internal conduct: no litigation, quiet deals, back-channel agreements that keep enforcement toothless.
- Outreach to members, policymakers, or investors that materially misrepresents what is actually being done.

3. **Causal chain to injury.**

- Residents and smaller operators pay higher rents, lose homes, or lose businesses **because** of the artificially sustained scarcity, which was **maintained by deceptive trade association / REIT conduct**, not just by local NIMBYism or macro factors.

4. **Pattern of mail/wire usage.**

- Each deceptive or materially misleading email, newsletter, web article, webinar, investor deck, or mailing that furthers this scheme is a potential predicate, if framed correctly.

If you can build that record, then **yes**:

- The **internet and U.S. mail** become not just “ways they communicated,” but **the channels of the fraudulent scheme**, satisfying the “use of wires/mail” requirement for RICO predicates.

- MHI and key REITs/operators could be framed as part of a **RICO enterprise** whose pattern of racketeering includes mail/wire fraud (and perhaps other predicates, depending on facts).
- The same evidence set could be used to **shore up antitrust “plus factors”**, especially:
 - market structure;
 - information exchange;
 - actions against unilateral self-interest;
 - trade association-facilitated collusion.

7. How you might sharpen your report (and future litigation) around this

For your draft here: <https://www.manufacturedhomepronews.com/wp-content/uploads/2025/12/2PrePubAIChkManufacturedHomeLotRentsAntitrustLitigationCaseNo23-cv-06715JudgeFranklinU.ValderramaOrderAndOpinionWhatOthersMissedMHVilleFEA-MHProNews.pdf>

You could:

- **Explicitly separate “market forces” vs. “market manipulation” scenarios.** Lay out a side-by-side showing how the same data (closures, no new supply, rent spikes, consolidation, Datacomp usage) can be read as:
 - purely rational independent behavior; vs.
 - collusive, coordinated supply restriction and regulatory sabotage. Then show what **additional evidence** would push one way or the other.
- **Map MHI’s communications onto potential RICO elements.** Without calling it legal advice, you can build a **journalistic RICO grid**:
 - column for **statutory element** (enterprise, pattern, predicate acts, injury);
 - column for **example behaviors/communications**;
 - column for **open evidence gaps** (what plaintiffs or investigators would need to subpoena or FOIA).

- **Use Valderrama’s opinion as a “how-to-fail/ how-to-fix” template.** Identify where plaintiffs’ existing case **fell short** (market share data, conspiracy narrative, alternative explanations) and juxtapose that with:
 - MHI’s role, MHIA non-enforcement, closure data, and Datacomp/new development evidence. This becomes an FEA blueprint for a stronger, more comprehensive future complaint.
- **Tie supply destruction to specific human and economic harms.** That sets the stage for “injury to business or property” analysis under civil RICO and reinforces antitrust injury.

If you want, the next step could be: you paste or summarize key MHI statements (testimony, press releases, “we support MHIA” claims), and we can FEA them against the kind of “scheme to defraud” elements mail/wire fraud require—looking for the sharpest contradictions between what’s said and what is actually done.

References

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www.lit-antitrust.aoshearman.com

[IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ...](#)

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