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STATE OF CALIFORNIA

OPINION OF THE ATTORNEY GENERAL

NO. 60-187

NOVEMBER 7, 1960

STATUS OF MOBILEHOMES AFTER
REMOVAL OF WHEELS AND THE
PLACEMENT ON A FOUNDATION

OFFICE OF THE ATTORNEY GENERAL
State of California

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Attorney General

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THE HONORABLE JOHN F. HENNING, DIRECTOR OF INDUSTRIAL RELATIONS, has requested the opinion of this office on the following question:

> Is a person who owns two or more trailer coaches and who rents them or holds them out for rent on a tract of land under his possession or control after removing the wheels and placing the coaches on a permanent foundation, violating the Auto and Trailer Parks Act (Health & Saf. Code §§ 18000 - 475)? 1/

The conclusion may be summarized as follows:

The rental of trailers under such circumstances is a violation of section 18252; that both removal of wheels from a trailer and placing it on a permanent foundation are each a violation of section 18250. Further, violations of section 18250 do not transform a trailer into a "building" so as to evade the requirements of sections 18000-18475.

1/ All section references are to the Health and Safety Code unless otherwise specified.

ANALYSIS

Section 18252 of the Health and Safety Code provides:

"It shall be unlawful for any person to rent or hold out for rent any trailer coach in an auto and trailer park which is owned by or in the possession or control of the owner or operator of the auto and trailer park or his agent. The rental paid for any such trailer coach shall also be deemed to be rental for the space it occupies." (Calif. Stats. 1955, ch. 91, p. 535.)

The legislative history of this statute was considered in 22 Ops. Cal. Atty. Gen. 122 and again in 26 Ops. Cal. Atty. Gen. 244. These opinions examined a variety of factual situations and concluded:

"[A] rented trailer coach in an auto and trailer park cannot be owned by the owner or operator of the auto and trailer park, or his agent. Nor can such coach be in possession or control of the said park owner, operator or agent" (22 Ops. Cal. Atty. Gen. 122 at 125).

This conclusion was sustained recently in Lozano v. Brant, 172 Cal. App.2d 650. The court held unenforceable a lease of a trailer park which called for rental of trailers by the lessee because the lease was an unlawful contract under section 18252.

The above disposes of the question as long as the problem involves trailers rented by an owner in possession or control of the trailer park. 2/ It has been suggested however that if the wheels of the trailer are removed and the coach placed on a permanent foundation, it ceases to be a "trailer" within the meaning of section 18252.

We reject this suggestion, first, because it is inconsistent with the definition in section 18001 of a "trailer-coach" for purposes of the act as a "vehicle . . . designed and constructed to travel. . . ." (Emphasis added.) (See also Vehicle Code § 635.) This phraseology does not require a present ability to travel as an essential element of a "trailer coach" for purposes of this act.

2/ There is no question that rental of two or more trailers in a single area constitutes operation of a "trailer park". Section 18002 defines a "trailer park" in terms of the rental of two or more spaces for trailers and section 18252, quoted above, treats the rental of a trailer as also the rental of the space which it occupies.

Second, note must be taken of section 18250, which provides:

"It shall be unlawful for any person in an auto and trailer park to use or cause, or permit to be used for occupancy:

"(a) Any trailer from which any tire or wheel has been removed therefrom, . . . [except for repair or storage].

"(b) Any trailer [with rigid gas, water or sewer pipes].

"(c) Any trailer coach which is permanently attached with underpinning or foundation to the ground."

Removing the wheels and placing the coach on a foundation are both unlawful acts under the above provisions.

The rationale of these statutes restricting the rental of trailers (§ 18252), and prohibiting the removal of wheels, or placing the trailers on permanent foundations (§ 18250) are based on a legislative judgment that if permanent trailer settlements are allowed to develop they will lead to slums and other conditions hazardous to the health, safety and welfare of the community. 3/

As the court said in Lozano v. Brant, supra, at 656:

"It would appear that it was the intent of the Legislature to prevent the permanent occupation as dwelling places of facilities which do not conform to the requirements of building codes for permanent structures. Where trailer coaches are owned or in the possession and control of the operators of trailer parks, the conclusion follows that such coaches will remain indefinitely in the park and in effect tend to become a permanent type of housing which does not conform to building requirements which have been established for the benefit of the public. . . . [This regulation is] a proper exercise of the police power in protecting the public health, safety, and morals by avoiding difficulties inherent in the permanent accommodation of a large, mixed group of people confined to limited space and facilities primarily intended for transients alone. From the history of the legislation it is apparent that it was the intention of the Legislature to prohibit the rental or holding out for rental of a trailer coach in an auto and trailer park where the trailer

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3/ This justification for the statutes is criticized in Comment, Regulation and Taxation of House Trailers, 22 U. Chi. L. Rev. 738 at 740-1.

coach is owned by, or in possession or control of, the owner or operator of the park or his agent." (Emphasis added.)

Other states have discouraged permanent communities of trailers by restricting the period of time that trailers may be parked in a camp to sixty or ninety days. 4/ Evidently the California Legislature believed that by prohibiting certain characteristics of permanency it could similarly discourage the establishment of permanent trailer communities. It seems apparent that this legislative purpose would be frustrated if a trailer coach ceased to be one merely by removing the wheels and placing it on a foundation. 5/ Section 18250 makes both acts unlawful. The prohibition on removing wheels, for example, would be totally meaningless if taking off the wheels transformed the trailer into a building, thereby rendering the prohibited act lawful. In short, a trailer from which the wheels have been removed and placed upon a foundation, or used in any other manner prohibited by section 18250, is merely being used unlawfully; it has not ceased to be a trailer as defined under section 18001 (accord, New Orleans v. Louvieve, 52 So.2d 751, 752 [La. Ct. App.]). Accordingly such a trailer remains subject to the requirements imposed by sections 18000 - 18475.

4/ For example see the landmark case of Cady v. City of Detroit, 289 Mich. 499, 286 N.W. 805, appeal dismissed, 309 U.S. 620, which found no denial of equal protection of the law in spite of the admitted superiority of most trailers to substandard housing. See also Renker v. Village of Brooklyn, 139 Ohio St. 484, 40 N.E.2d 925; Stary v. City of Brooklyn, 162 Ohio St. 120, 121 N.E.2d 11; Karen v. Hadden, 146 Conn. 720, 155 A.2d 921; Gillam v. Bd. of Health of Saugus, 327 Mass. 621, 100 N.E.2d 687. See generally the extensive annotation in 22 A.L.R.2d 774.

5/ It should be observed that if a certain dwelling has ceased to be a "trailer coach" within the meaning of section 18001, then the conclusion is inescapable that it is then a "building" which would be otherwise regulated depending on the manner of use. For example, if the ex-trailer is used with other dwellings "intended wholly or in part for the accomodation of transients, . . . and [is] offered for hire, rent, or lease . . ." under section 18501, then sections 18500 - 895, regulating auto courts, resorts and motels, become applicable.

Even a quick perusal of those sections would reveal the normal trailer would not meet the standards there established, e.g., at least 80 square feet in each sleeping room (sec. 18663).

Similarly, if the dwelling is no longer a "trailer" but is now a building, local building requirements for such dwellings must be met.