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September 3, 1982

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**ARIZONA ATTORNEY GENERAL**

INTERAGENCY

The Honorable Juanita Harelson  
Arizona State Representative  
State Capitol, House Wing  
Phoenix, Arizona 85007

Re: 182-088 (R82-034)

Dear Representative Harelson:

This is in response to your letter dated March 11, 1982, asking whether mobile homes on rented pads are included in the State's preemption of the power to control rents on residential property under A.R.S. § 33-1329.<sup>1/</sup> We think the preemption covers rented mobile homes on rented pads, but does not cover the rental of the pad only.

A.R.S. § 33-1329 is contained in the Residential Landlord and Tenant Act, A.R.S. §§ 33-1301 et seq., which governs the rental of all real property containing a structure designed for use as a residence or dwelling unit. A.R.S. § 33-1310 provides in pertinent part:

3. "Dwelling unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. "Dwelling unit" excludes real property used to accommodate a mobile home, unless the mobile home is rented or leased by the landlord.

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1. A.R.S. § 33-1329.A states: Notwithstanding any other provision of law to the contrary the state legislature determines that the imposition of rent control on private residential housing units by cities, including charter cities and towns is of statewide concern. Therefore, the power to control rents on private residential property is preempted by the state. Cities, including charter cities and towns shall not have the power to control rents.

9. "Premises" means a dwelling unit and the structure of which it is a part and existing facilities and appurtenances therein, including furniture and utilities where applicable, and grounds, areas and existing facilities held out for the use of tenants generally or whose use is promised to the tenant.

10. "Rent" means payments to be made to the landlord in full consideration for the rented premises.

The statutory definitions of "rent", "premises" and "dwelling unit" narrow the application of the rent control preemption statute to structures used as residence for individual households. Although the preemption statute uses the terms "private residential housing unit" and "private residential property." The statutory definition of rent focuses on "dwelling units." We think that the term "property", as used in the statute, refers to property that is a dwelling unit. A.R.S. §§ 33-1302 and 33-1307 support this conclusion.<sup>2/</sup>

The rental of mobile home pads is covered in the Arizona Mobile Home Parks Residential Landlord and Tenant Act, A.R.S. §§ 33-1401, et seq. The Act applies to mobile home pads

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2. A.R.S. § 33-1302 provides:

Underlying purposes and policies of this chapter are:

1. To simplify, clarify, modernize and revise the law governing the rental of dwelling units and the rights and obligations of landlords and tenants.

2. To encourage landlord and tenant to maintain and improve the quality of housing.

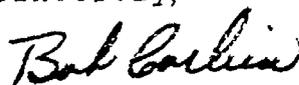
A.R.S. § 33-1307 states:

This chapter applies to, regulates, and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit located within this state.

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and not to the rental of mobile homes. A.R.S. § 33-1406.  
Therefore, when a mobile home pad only is rented, the rent  
control preemption statute does not apply and A.R.S. § 33-1329  
does not prevent cities and towns from exercising control over  
the rents for mobile home pads.

Sincerely,



BOB CORBIN  
Attorney General

BC:LPS:lm