

successors. But in the exercise of the business powers of a municipal corporation, the municipality and its officers are controlled by no such rule, and they may lawfully exercise these powers in the same way, and in their exercise the municipality will be governed by the same rules which control a private individual or a business corporation under like circumstances. Under this distinction, it is generally held that a municipal [board] may contract for water supply, street lighting, gas supply, etc., and bind subsequent boards, such contracts being made in the exercise of the [municipality's] business or proprietary powers, although a contract of this kind must be reasonable in the length of time for which it is to extend. The [board] may lease its property for a term extending beyond the term of the council, or it may lease property from others. . . .

* * * *

“ . . . Thus, it is held that such a board cannot contract in reference to matters which are personal to their successors. But if a board of county commissioners has express power to make a particular contract at any time during its term of office, a contract made by such board, in accordance with the law, a short time before the expiration of its term of office is not contrary to public policy and, in the absence of fraud, is valid and binding upon an incoming board of commissioners, although it extends far into their term of office. The ground for this rule is that a board of county commissioners is a continuously existing corporation, and, consequently, while the personnel of its membership changes, the corporation continues unchanged. Since its contracts are the contracts of the board and not of its members, it follows that those contracts extending beyond the term of service of its then members are not invalid, for that reason.”

Therefore, in response to your question, a county board of commissioners may lease a county-owned building which has been determined to be excess to the needs of the county to a private individual for a period longer than the commissioners' terms of office. See OAG, 1948-1949, No 242, p 258 (April 18, 1948).

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MOBILE HOMES: Residential Builders Maintenance and Alteration
Contractors Licensing Act

RESIDENTIAL BUILDERS: Mobile homes

WORDS AND PHRASES: “Residential property”
“Mobile homes”

A person who, for consideration, undertakes with another to repair or alter a mobile home, including set-up and connections with plumbing and electricity, is required to be licensed under the residential builders maintenance and alteration contractors licensing act.

Opinion No. 4921

February 2, 1976.

Beverly J. Clark, Director
Department of Licensing & Regulation
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You have requested my opinion as to the applicability of the residential builders maintenance and alteration contractors licensing act, 1965 PA 383, as last amended by 1974 PA 250, MCLA 338.1501 *et seq*; MSA 18.86(101) *et seq*, to "mobile homes" in certain situations. The factual circumstances you raise are:

1. Mobile Homes parked on private property, which would include set-up and connections with plumbing, electricity and also additions.
2. Mobile Homes parked in mobile home parks—on rental property.
3. Once the home is parked, work done on structure direct with mobile home owner, additions, skirting, etc."

1965 PA 383, *supra*, § 2(f) which was added by 1974 PA 250, *supra*, states:

"(f) 'Residential structure' includes, but is not limited to, premises used or intended to be used for residence purposes and related facilities appurtenant thereto, used or intended to be used as an adjunct or residential occupancy."

In addition, the applicability of 1968 PA 283, *supra*, to the construction of mobile home parks was considered in *Artman v College Heights Mobile Park*¹, 20 M App 193, 173 NW2d 833 (1969); and *King Arthur's Court v Badgley*, 47 M App 222, 209 NW2d 488 (1973).

In *Artman, supra*, the court stated:

"Plaintiff also asserts that a trailer park or a trailer home should not be considered 'residential property.' If we were to accept this argument, this Court would be diametrically opposed to the avowed purpose of the statute, which is to protect the homeowner-consumer. *Tracer v Bushre* (1968), 381 Mich 282. A trailer home is no less a home because it is mobile; it is as much a home or residence as one which is stationary.

"'Modern trailer parks afford modern living accommodations for many of the families in America today, and should not be classified other than dwellings or residences.' *Land v City of Grandville* (1966), 2 Mich App 681, 696, 697."

¹ In *People v Lee*, Mich App; NW2d (1975), which involved a criminal case, the Court of Appeals overruled the portion of the decision in *Artman* holding that, if charged criminally, a person laying asphalt rather than concrete is not required to possess a license to act as a residential builder or maintenance and alteration contractor. The *Lee* opinion, however, does not overrule the holding in *Artman* that a mobile home park is residential property.

Artman, supra, dealt with the issue of whether an asphalt contractor was required to be licensed pursuant to 1968 PA 383, *supra*, § 4 (3). The court, however, went on to analyze the definition of a maintenance and alteration contractor contained in section 2 (c) of 1968 PA 383, *supra*, which reads as follows:

“(c) ‘Residential maintenance and alteration contractor’ means a person who, for a fixed sum, price, fee, percentage, valuable consideration, or other compensation, other than wages for his own personal labor only, undertakes with another for the repair, alteration, or an addition to, subtraction from, improvement of, movement of,

wrecking of, or demolition of a residential structure or combination of residential and commercial structure, or building of a garage, or laying of concrete on residential property, or who engages in (1) purchase, (2) substantial rehabilitation or improvement, and (3) resale of residential structures, engaging in all the foregoing on the same structures more than twice in any one calendar year, except (a) for his own use or occupancy, or (b) the rehabilitation or improvement work as to any such residential type property and structures as may be contracted for, with or hired entirely to be done and performed for the owner by a licensed residential builder or licensed residential maintenance and alteration contractor as provided in this act or (c) work performed by a licensed construction tradesman employed by the owner to perform work for which the tradesman is licensed by the state. Licensure as a residential builder shall qualify any person within the terms of this subsection. The provisions of this act shall not be construed to prevent a duly licensed residential maintenance and alteration contractor from constructing an addition to an existing residential structure, or other structure accessory to an existing residential structure.”

The court then determined:

“ . . . From this, the Court concludes that the important criterion for coverage by the statute is not the existence or type of structure, but rather the nature of its occupancy. This interpretation is in harmony with that of the Supreme Court, that the residential builders act is essentially a ‘consumer protection measure.’ *Tracer v Bushre, supra*.”

In *King Arthur's Court, supra*, the court chose to follow *Artman, supra*, and rule that mobile home parks are residential property within the purview of 1968 PA 383, *supra*.

It is therefore my opinion that mobile homes are residences and that the requirements of 1968 PA 383, *supra*, must be met in the three situations you have described.

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