Little Mountain Estates Tenants Ass'n v. Little Mountain Estates MHC LLC
Dissent by Alexander, J.

No. 82574-2

ALEXANDER, J. (dissenting)—I disagree with the result the majority reaches because, in my view, the provision in the lease in question, which reduces the length of the lease from 25 years to 1 year upon assignment, is unenforceable. Its unenforceability is due to unambiguous provisions in the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), chapter 59.20 RCW, that state that "[a]ny rental agreement shall be assignable by the tenant" (RCW 59.20.073(1)) and that rental agreements shall not contain provisions that "waive or for[]go" the right of assignment or any other remedy under the MHLTA (RCW 59.20.060(2)(d)).

The majority asserts that the assignment right is modified by RCW 59.20.090(1), which provides: "Unless otherwise agreed rental agreements shall be for a term of one year." I disagree. Such a reading would be inconsistent with RCW 59.20.073(1) and RCW 59.20.060(2)(d). The better interpretation, in my judgment, is that RCW 59.20.090(1) merely permits a landlord and tenant to negotiate the term of the rental agreement within the bounds set forth by the MHLTA. Once such term is agreed upon,

pursuant to RCW 59.20.073(1), the tenant has the statutory right to assign the full remaining term of his or her leasehold.

This interpretation is also consistent with plain meaning of "assignment." *Webster's Third International Dictionary* defines "assignment" as "the transfer to another of one's legal interest or right." Webster's Third International Dictionary 132 (2002). Under Washington law, an "assignment" is generally understood to be the transfer of the tenant's whole interest in the leasehold. *Morrison v. Nelson*, 38 Wn.2d 649, 657, 231 P.2d 335 (1951) (citing *McDuffie v. Noonan*, 176 Wash. 436, 29 P.2d 684 (1934)); *Shannon v. Grindstaff*, 11 Wash. 536, 539-40, 40 P. 123 (1895). Critically, "[c]ontract rights are assignable unless forbidden by statute or otherwise violative of public policy." *Old Nat'l Bank v. Arneson,* 54 Wn. App. 717, 723, 776 P.2d 145 (1989). Under the plain meaning of the statutes I have cited at the outset of this opinion, mobile home park tenants have the statutory right to assign the full remaining term of their leases. Because the mobile park owner and the tenants agreed here to a 25-year term, the tenants have the right under the MHLTA to assign the remainder of their leaseholds in full. To preclude them from doing so would violate RCW 59.20.060(2)(d) in that the tenants would waive or forgo their right to assign the remainder of their leaseholds in full.

In a case that bears some similarity to the instant case, the Court of Appeals held that a rental agreement that required a mobile home tenant to expressly request an extension of the one-year rental term violated the MHLTA, which provides that

"'[u]nless otherwise agreed[,] rental agreements . . . shall be automatically renewed.'" *Holiday Resort Cmty. Ass'n v. Echo Lake Assocs., LLC,* 134 Wn. App. 210, 223, 135 P.3d 499 (2006) (quoting RCW 59.20.090(1)). The court properly rejected the argument that the lease provision did not violate the MHLTA on the basis that the act allows the tenant to agree to a different term. *Id.* at 223-24. It further determined that the provision at issue was inconsistent with the statutory provisions that require a tenant to waive the right to the one-year rental term in writing (RCW 59.20.050(1)) and prohibit a tenant from waiving rights under the act (RCW 59.20.060(2)(d)). *Id.* at 225. Like the provision in *Holiday Resort*, the assignment provision at issue is directly at odds with the language of the MHLTA.

In sum, the aforementioned provision in the lease flies in the face of the statutory right of assignment and should not be enforced. I, therefore, respectfully dissent from the majority opinion.

AUTHOR:
Justice Gerry L. Alexander

WE CONCUR:
Chief Justice Barbara A. Madsen

Justice Charles W. Johnson

Justice Tom Chambers