



**Mobilehome Rent Review  
Commission Agenda**

**August 1, 2017 - 10:00 AM**

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**City Council Chambers - Yucaipa City Hall  
34272 Yucaipa Blvd., Yucaipa, California**

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**THE CITY OF YUCAIPA COMPLIES WITH THE AMERICANS WITH DISABILITIES ACT OF 1990. IF YOU REQUIRE SPECIAL ASSISTANCE TO ATTEND OR PARTICIPATE IN THIS MEETING, PLEASE CALL THE CITY CLERK'S DEPARTMENT AT (909) 797-2489 AT LEAST 48-HOURS PRIOR TO THE MEETING.**

**ANY PUBLIC WRITINGS DISTRIBUTED BY THE CITY TO AT LEAST A MAJORITY OF THE COMMISSION REGARDING ANY ITEM ON THIS REGULAR MEETING AGENDA WILL BE MADE AVAILABLE AT THE PUBLIC RECEPTION COUNTER AT CITY HALL, LOCATED AT 34272 YUCAIPA BOULEVARD, DURING NORMAL BUSINESS HOURS.**

**IF YOU WISH TO ADDRESS THE COMMISSION DURING THE MEETING, PLEASE COMPLETE A SPEAKERS FORM AND RETURN IT TO THE CITY CLERK PRIOR TO THE BEGINNING OF THE MEETING. THERE IS A THREE-MINUTE TIME LIMIT FOR SPEAKING.**

**CALL TO ORDER**

**PLEDGE OF ALLEGIANCE**

**ROLL CALL**

**CONSENT AGENDA**

The following Consent Agenda items are expected to be routine and non-controversial. The Commission will act upon them, at one time, without discussion. Any Commission Member or Staff Member may request removal of an item from the Consent Agenda for discussion.

P. 3 1. **SUBJECT:** APPROVE COMMISSION MINUTES OF JULY 18, 2017.

**RECOMMENDATION:** That the Mobilehome Rent Review Commission approve Mobilehome Rent Review Commission Minutes of July 18, 2017.

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**PUBLIC COMMENT**

**COMMISSION REPORT**

- P. 15 2. **SUBJECT:** CARRIAGE TRADE MANOR MOBILEHOME PARK MNOI/FAIR RETURN APPLICATION

**RECOMMENDATION:** That the Mobilehome Rent Review Commission approve Resolution No. 2017-35 as presented.

**ANNOUNCEMENTS**

**ADJOURNMENT**

City of Yucaipa  
Mobilehome Rent Review Commission Minutes  
Regular Meeting of July 18, 2017

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A Regular meeting of the Mobilehome Rent Review Commission of the City of Yucaipa, California was called to order in the Council Chambers, 34272 Yucaipa Boulevard, Yucaipa, California, on July 18, 2017 at 9:00 AM.

**PRESENT:** Caecilia Johns, Chairperson  
Jordan Mack, Vice-Chairperson  
William Mecham, Commissioner  
Thomas Powell, Commissioner  
Amy Greyson, Commission Attorney  
Jennifer Shankland, Deputy City Manager/Rent Administrator  
Don Lincoln, City Staff Attorney

**ABSENT:** Andrew Irvin, Commissioner

**CONVENE MOBILEHOME RENT REVIEW COMMISSION**

The meeting was opened with the Pledge of Allegiance led by Commissioner Mack.

**CEREMONIAL**

Deputy City Manager/Rent Administrator Shankland administered the Oath of Office to Commissioner Powell.

**PUBLIC COMMENT**

None

**CONSENT AGENDA**

The following Consent Agenda items are expected to be routine and non-controversial. The Commission will act upon them, at one time, without discussion. Any Commission Member or staff member may request removal of an item from the Consent Agenda for discussion.

1. **SUBJECT:** APPROVE COMMISSION MINUTES OF FEBRUARY 14, 2017.

**RECOMMENDATION:** That the Commission approve Mobilehome Rent Review Commission Minutes of February 14, 2017.

**ACTION:** MOTION BY COMMISSIONER MECHAM, SECOND BY COMMISSIONER MACK, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT) TO APPROVE COMMISSION MINUTES OF FEBRUARY 14, 2017.

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**PUBLIC HEARING**

2. **SUBJECT:** CARRIAGE TRADE MANOR MOBILEHOME PARK MNOI/FAIR RETURN APPLICATION.

**RECOMMENDATION:** The Mobilehome Rent Review Commission should conduct a Public Hearing and:

1. Adopt a Motion finding that Carriage Trade Manor (“Applicant”) did not meet its burden of proof to support its claim that its 1987 space rents should be adjusted to \$205 per month, finding that the analysis of the staff’s appraisal expert, James Brabant, MAI (“Brabant’), is more credible than the claims made by Applicant’s Appraiser, John Neet, MAI (“Neet”) and further finding that the Applicant’s 1987 average monthly space rents of \$175 were not disproportionately low when compared to rents being charged in comparable parks in Yucaipa; and
2. Adopt a Motion finding that the Applicant did not meet its burden of proof to support its claim that it is entitled to a \$165.01 monthly space rent increase using the YMC §15.20 Maintenance of Net Operating Income (“MNOI”) approach, and finding that the analysis of the staff’s expert, Kenneth K Baar, Ph.D. (“Dr. Baar”) is more credible than the Applicant’s expert, Michael McCarthy, CPA (“McCarthy”), and further finding that Dr. Baar’s calculation of the required monthly space rent increase of \$95.94 using Dr. Baar’s adjustments to income and expense items under the MNOI formula is consistent with Yucaipa Municipal Code (“YMC”) §15.20 and provides the Applicant with a fair return while not requiring the Residents to pay excessive rent; and
3. Adopt a Motion finding that the Applicant is not entitled to use 100% of the percentage increase in the CPI in an MNOI formula since YMC §15.20 clearly indicates that for the period December 1987 to October 1996 the base year NOI should be indexed by 66.67% of the percentage change in the CPI and for the period October 1996 to the date of the application is deemed complete, the base year NOI should be indexed by 80% of the percentage change in the CPI and further finding that there is no basis under YMC §15.20 for a rent increase of \$198.58 per month per space; and
4. Adopt a Motion finding that the Applicant did not meet its burden of proof to support its claim, that to be comparable, the Carriage Trade space rents should be \$500 or \$550 per month per space, finding that Brabant’s analysis is more credible than the claims made by Neet and shows that the Carriage Trade monthly space rents should be \$340, and therefore are \$102 per month per space below those of comparable spaces, and further finding that while Brabant’s comparable rent analysis could justify a slightly higher rent increase as compared to Dr. Baar’s MNOI analysis (\$102 vs. \$95.94) the difference between the two is relatively small (less than \$10), and therefore since they are within the same “range of rents” the comparable rent

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- approach does not justify a higher rent increase than the \$95.94 per month per space rent increase shown by the MNOI approach; and
5. Adopt a Motion to grant an additional temporary rent increase in the amount of \$10.09 per month per space (or \$10.45 per month per space if the application fee is included) for a period of five years and at an interest rate of 7% per year based on the amortized cost to Carriage Trade Manor for preparing the application and participating in the hearing process in accord with Dr. Baar's analysis and report; and
  6. Adopt a Motion granting the Residents of Carriage Trade Manor the option of paying the temporary rent increase representing the costs associated with the application and participating in the hearing process (\$509.53) in a lump sum (or \$527.57 if the application fee is included) without any payment of interest, rather than amortized over five years; and
  7. Adopt a Motion finding that the temporary rent increases determined above, shall not be included in the Base Rent for the purposes of calculating any future rent adjustments and the amortized amount shall be identified as a separate line itemized on the monthly rent invoice; and
  8. Adopt a Motion authorizing the Commission's Legal Counsel to prepare a written Resolution memorializing its findings and decisions.

Chairperson Johns opened Public Hearing Item No. 2 and stated the purpose of the Hearing.

Chairperson Johns asked the Commissioners if they have visited the subject parks and reviewed the pertinent materials prior to the Hearing. Chairperson Johns, Vice-Chairperson Mack, Commissioner Mecham, and Commissioner Powell acknowledged that they have visited the subject parks and reviewed the pertinent materials prior to the Hearing.

Commissioner Mecham disclosed that the Appraiser for the Applicant has done appraisal work at properties that he has managed. Commissioner Mecham further stated that he did not hire the Appraiser; the Appraiser was hired by the ownership of the properties.

Chairperson Johns stated that the Public Hearing shall be conducted in accordance with the City's Mobilehome Rent Stabilization Ordinance, Resolution, and Hearing Rules and Procedures.

**ADMINISTRATION OF OATH**

Chairperson Johns administered the oath. City staff, City staff experts, Applicant, Applicant experts, Opposition, and members of the audience that were presenting testimony stood and agreed to the oath administered:

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Chairperson Johns stated that the order of business for the Public Hearing will be conducted in accordance with the City's rules and procedures for the conduct of mobilehome rent hearings (Hearing Rules and Procedures), which was received by all parties on June 26<sup>th</sup> and also included as part of the packet, and asked if any of the parties felt that they could not present their case in the time allotted in the Hearing Rules and Procedures.

Mart Alpert, Rudderow Law Group, Attorney representing the Applicant, stated that they would do their best to stay within the 30 minutes allotted for applicant testimony.

Bruce E. Stanton, Law Offices of Bruce E. Stanton, Attorney for Carriage Trade Manor Residents, stated that they would do their best to stay within the perimeters of the 30 minutes allotted for Opposition testimony.

Chairperson Johns announced the commencement of the Public Hearing and presented introductory remarks pertaining to presenting public testimony and comments to the Commission.

**INTRODUCTION**

Deputy City Manager/Rent Administrator Shankland introduced all of the parties represented and provided a general overview of Carriage Trade Manor Mobilehome Park and the MNOI/Fair Return Application.

**TESTIMONY SECTION**

**Applicant Testimony**

Mark Alpert, Rudderow Law Group, 2601 Main Street, Suite 1300, Irvine, CA 92614, Attorney representing the Applicant, presented testimony on behalf of the Applicant.

John Neet, MAI Appraiser, 26845 Jefferson Avenue, Suite A, Murrieta, CA 92562, presented testimony on behalf of the Applicant.

Michael McCarthy, C.P.A., 100 Spectrum Center Drive, #650, Irvine, CA 92618, presented testimony on behalf of the Applicant.

The Mobilehome Rent Review Commission recessed for five-minutes. The Commission reconvened.

Mr. Neet was cross-examined and questioned by Carriage Trade Manor Residents' Attorney Bruce E. Stanton.

Mr. McCarthy was cross-examined and questioned by Carriage Trade Manor Residents' Attorney Bruce E. Stanton.

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Mr. McCarthy was cross-examined and questioned by Staff Attorney Don Lincoln.

Mr. McCarthy and Mr. Neet were cross-examined by members of the Mobilehome Rent Review Commission and Commission Attorney Amy Greyson.

**Resident Opposition Testimony**

Bruce E. Stanton, Law Offices of Bruce E. Stanton, 6940 Santa Teresa Blvd., Suite 3, San Jose, CA 95119, Attorney for Carriage Trade Manor Residents, presented argument on behalf of the residents of Carriage Trade Manor Mobilehome Park.

Michael Pritchard, Carriage Trade Manor resident and resident representative, presented testimony on behalf of the residents.

Brenda Mitchell, Carriage Trade Manor resident, presented testimony on behalf of the residents.

Martha Henriquez, Carriage Trade Manor resident, presented testimony on behalf of the residents.

Margaret Hicks, Carriage Trade Manor resident, presented testimony on behalf of the residents.

Mr. Stanton was questioned by members of the Mobilehome Rent Review Commission.

The Mobilehome Rent Review Commission recessed at 12:15 p.m. and reconvened at 1:00 p.m.

Chairperson Johns called for public comment from those that would like to speak in response to the Application. Public testimony was submitted as follows:

Debra Mummy, Valley View Mobilehome Park resident, stated her concerns with the Park Owner and stated her opposition to the proposed rent increase.

Jennifer Marshall, Northview Mobilehome Park resident, stated her concerns with the recovery of reasonable legal fees.

Dr. Jamie Elam, Rancho Calimesa Mobilehome Ranch resident, stated that he was requested to speak by YMRA and stated his concerns with the Park Owner and the proposed rent increase.

Joe Gonzales, Caravan Mobile Estates resident, stated his concerns with the Park Owner and stated his opposition to the proposed rent increase.

Jo Sutt, Wildwood Canyon Mobilehome Park resident, stated her concerns with the Park Owner and requested the Commission to carefully evaluate the Park Owner's request for a rent increase.

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Thomas Butler, Valley Breeze Mobilehome Park resident, stated his concerns pertaining to the park comparisons chosen by the Park Owner's expert witness.

Yvonne Aguilera, Beaumont, stated her concerns with the "undermining of the fair return provision of rent control" and stated her opposition to the proposed rent increase.

Pam Lee, Hillcrest Mobile Estates resident, cited her concerns with the expenses listed in the Park Owner's Application and stated her opposition to the proposed rent increase.

Steven Morales, Mount Vista Mobilehome Park resident, stated his concerns with the Park Owner and urged the Commission to deny the rent increase.

Susan Taylor, Hillcrest Mobile Estates resident, stated her opposition to the proposed rent increase and requested that the Commission deny the increase.

Freda Harlow, Crestview I Mobilehome Park resident, cited Section 798.49 of the Mobilehome Residency Law.

Ray Nieves, El Dorado Palms Mobilehome Park resident, requested that the Commission deny the proposed rent increase.

John Hostetler, Hidden Village Mobilehome Park resident, stated his concerns about the expenses listed in the Park Owner's Application.

Steve Potts, Wishing Well Mobilehome Park resident, stated his concerns with the recovery of the legal fees and stated his opposition to the proposed rent increase.

Wayne Foreman, Northview Mobilehome Park resident, requested that the Commission consider that all the stakes are high and stated his opposition to the proposed rent increase.

Tony Slaick, YMRA Chairperson, requested that the Commission accept the introduction of a written Declaration of Abram Tavera, prior Park Owner.

Applicant Attorney Mark Alpert objected to the submission of new evidence.

Mr. Alpert stated that the Declaration should have been submitted in advance to allow review and response.

Commission Attorney Amy Greyson requested a copy of the Declaration. It was the Commissioners' consensus to proceed with other speakers in order to provide time for Attorney Greyson to review the Declaration and respond to the objection.

Sue Andrews, Hillcrest Mobilehome Park resident, cited the hardships and financial burdens a rent increase would have on the residents and stated her opposition to the proposed rent increase.

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Sheryl Stanfill, Hillcrest Mobile Estates resident, stated her concerns with the Park Owner and stated her opposition to the proposed rent increase.

Dwight Rutherford, Executive Mobile Estates resident, addressed his concerns regarding imposing legal fees.

Colleen Kirkpatrick, Valley View Mobilehome Park resident, addressed the issue of “the spirit of the law versus the letter of the law”.

Sharon McCabe, Skyline Village Mobilehome Park resident, stated her opposition to the proposed rent increase.

Pat Bradshaw, El Dorado Palms Mobilehome Park resident, deferred her three-minute time limit to speaker Tony Slaick, YMRA Chairperson.

After reviewing the proposed Declaration, Commission Attorney Amy Greyson sustained Mr. Alpert’s objection to Mr. Slaick’s request that the Commission accept the introduction of a written Declaration of Abram Tavera, and ruled that the Declaration would not be admitted into evidence. Attorney Greyson also recommended the Commission allow Mr. Slaick to present any other relevant testimony based on his personal knowledge.

Tony Slaick, YMRA Chairperson, requested the opportunity to cross-examine Applicant Attorney Mark Alpert. The Commissioners’ consensus was to allow Mr. Slaick to explain what he wished to question Attorney Alpert about and Mr. Slaick stated he had some questions about Mr. Alpert’s comments. Carriage Trade Manor Residents Attorney Bruce Stanton objected. Commission Attorney Amy Greyson sustained the objection and ruled that Mr. Slaick would only be allowed to cross-examine Mr. Alpert with regard to the claimed legal expenses included in the Applicant’s request for a temporary rent increase. Attorney Greyson also stated that Mr. Slaick would not be permitted to ask questions about Mr. Alpert’s legal arguments, and that if the Commission had any questions about Mr. Alpert’s legal arguments they could ask him directly. Mr. Slaick then stated his opposition to the proposed rent increase and cited the reasons for his opposition.

Irene Vasquez, Grandview West Mobilehome Park resident, addressed the role of the Commission and stated her opposition to the proposed rent increase,

Harvey Cohen, Fremont Heights Mobilehome Park resident, stated his concerns with the Application and stated his opposition to the proposed rent increase.

Patricia Pringle, San Bernardino, stated her opposition to the proposed rent increase and cited the reasons for her opposition.

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**Staff Testimony**

Donald R. Lincoln, Attorney at Law, 6065 Avenida Chamnez, La Jolla, CA 92037, Attorney representing City staff, presented argument on behalf of the City.

James Brabant, MAI Appraiser, 353 W. Ninth Avenue, Escondido, CA 92025, presented testimony in regards to his appraisal report.

Kenneth Baar, Ph.D., 2151 Stuart Street, Berkeley, CA 94705, presented testimony in regards to his analysis of the Carriage Trade Manor Mobilehome Park Increase Application.

The Mobilehome Rent Review Commission recessed for five-minutes. The Commission reconvened.

Applicant Attorney Mark Alpert requested the Commission hear rebuttal from Park Owner Peter Wang before cross-examination. Chairperson Johns concurred.

**Rebuttal**

Peter Wang, 358 View Street, Mountain View, CA 94041, as a partner of Wang Discovery LP, the representative of the Park Owner, testified that he objects to the accusations made against him by residents from multiple mobilehome parks, provided information pertaining to a "Rent Credit Program" for Carriage Trade Manor residents that meet income requirements, and presented rebuttal on behalf of the Park.

Mr. Wang was cross-examined by members of the Mobilehome Rent Review Commission and Commission Attorney Amy Greyson.

**Staff Testimony (continued)**

Mr. Brabant was cross-examined and questioned by Applicant Attorney Mark Alpert.

Dr. Baar was cross-examined and questioned by Applicant Attorney Mark Alpert.

Tony Slaick, YMRA Chairperson, stated his opinion regarding the value of the Park.

Mr. Brabant and Dr. Baar were cross-examined by members of the Mobilehome Rent Review Commission and Commission Attorney Amy Greyson.

**Rebuttal**

Applicant Attorney Mark Alpert presented rebuttal on behalf of the Applicant and asked Mr. McCarthy and Mr. Neet clarification questions.

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**Closing Arguments**

City Staff Attorney Don Lincoln presented staff closing argument.

Carriage Trade Manor Residents' Attorney Bruce Stanton presented Opposition closing argument.

Applicant Attorney Mark Alpert presented Applicant's closing argument.

**Public Hearing Closed**

Chairperson Johns closed the Public Hearing at 4:45 p.m. Chairperson Johns opened Commission discussion and deliberation.

Commission Attorney Greyson provided guidance pertaining to court guidelines in determining Fair Returns and the guidelines provided with the Ordinance and the Administrative Rules and legal guidelines pertaining to expert testimony and the weight of expert testimony.

**Commission Motion and Vote**

After Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 3, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON MACK, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT), FINDING THAT THE APPLICANT IS NOT ENTITLED TO USE 100% OF THE PERCENTAGE INCREASE IN THE CPI IN AN MNOI FORMULA SINCE YMC §15.20 CLEARLY INDICATES THAT FOR THE PERIOD DECEMBER 1987 TO OCTOBER 1996 THE BASE YEAR NOI SHOULD BE INDEXED BY 66.67% OF THE PERCENTAGE CHANGE IN THE CPI AND FOR THE PERIOD OCTOBER 1996 TO THE DATE OF THE APPLICATION IS DEEMED COMPLETE, THE BASE YEAR NOI SHOULD BE INDEXED BY 80% OF THE PERCENTAGE CHANGE IN THE CPI AND FURTHER FINDING THAT THERE IS NO BASIS UNDER YMC §15.20 FOR A RENT INCREASE OF \$198.58 PER MONTH PER SPACE.**

After Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 1, MOTION BY VICE-CHAIRPERSON MACK, SECOND BY COMMISSIONER POWELL, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT), FINDING THAT CARRIAGE TRADE MANOR ("APPLICANT") DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT ITS 1987 SPACE RENTS SHOULD BE ADJUSTED TO \$205 PER MONTH, FINDING THAT THE ANALYSIS OF THE STAFF'S APPRAISAL EXPERT, JAMES BRABANT, MAI ("BRABANT"), IS MORE CREDIBLE THAN THE**

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**CLAIMS MADE BY APPLICANT'S APPRAISER, JOHN NEET, MAI ("NEET") AND FURTHER FINDING THAT THE APPLICANT'S 1987 AVERAGE MONTHLY SPACE RENTS OF \$175 WERE NOT DISPROPORTIONATELY LOW WHEN COMPARED TO RENTS BEING CHARGED IN COMPARABLE PARKS IN YUCAIPA.**

After Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 2, MOTION BY COMMISSIONER MECHAM, SECOND BY CHAIRPERSON JOHNS, FAILED 1-3-1-0 (CHAIRPERSON JOHNS, VICE-CHAIRPERSON MACK, AND COMMISSIONER POWELL VOTED NOE; COMMISSIONER IRVIN ABSENT), FINDING THAT THE APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT IT IS ENTITLED TO A \$165.01 MONTHLY SPACE RENT INCREASE USING THE YMC §15.20 MAINTENANCE OF NET OPERATING INCOME ("MNOI") APPROACH, AND FINDING THAT THE ANALYSIS OF THE STAFF'S EXPERT, KENNETH K BAAR, PH.D. ("DR. BAAR") IS MORE CREDIBLE THAN THE APPLICANT'S EXPERT, MICHAEL MCCARTHY, CPA ("MCCARTHY"), AND FURTHER FINDING THAT DR. BAAR'S CALCULATION OF THE REQUIRED MONTHLY SPACE RENT INCREASE OF \$95.94 USING DR. BAAR'S ADJUSTMENTS TO INCOME AND EXPENSE ITEMS UNDER THE MNOI FORMULA IS CONSISTENT WITH YUCAIPA MUNICIPAL CODE ("YMC") §15.20 AND PROVIDES THE APPLICANT WITH A FAIR RETURN WHILE NOT REQUIRING THE RESIDENTS TO PAY EXCESSIVE RENT.**

After further discussion, Commissioner Mack requested a break. It was the Commissioners' consensus to recess for 10 minutes.

The Commission reconvened.

**ACTION: MOTION BY VICE-CHAIRPERSON MACK, SECOND BY COMMISSIONER MECHAM, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT), TO RECONSIDER STAFF RECOMMENDATION ITEM NO. 2.**

After further Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 2, MOTION BY COMMISSIONER MECHAM, SECOND BY CHAIRPERSON JOHNS, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT), FINDING THAT DR. BAAR'S CALCULATION OF THE REQUIRED MONTHLY SPACE RENT INCREASE OF \$95.94 USING DR. BAAR'S ADJUSTMENTS TO INCOME AND EXPENSE ITEMS UNDER THE MNOI FORMULA IS CONSISTENT WITH YUCAIPA MUNICIPAL CODE ("YMC") §15.20 AND PROVIDES THE APPLICANT WITH A FAIR RETURN WHILE NOT REQUIRING THE RESIDENTS TO PAY EXCESSIVE RENT.**

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After Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 4, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON MACK, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT), FINDING THAT THE APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT TO BE COMPARABLE, THE CARRIAGE TRADE SPACE RENTS SHOULD BE \$500 OR \$550 PER MONTH PER SPACE, FINDING THAT BRABANT'S ANALYSIS IS MORE CREDIBLE THAN THE CLAIMS MADE BY NEET AND SHOWS THAT THE CARRIAGE TRADE MONTHLY SPACE RENTS SHOULD BE \$340, AND THEREFORE ARE \$102 PER MONTH PER SPACE BELOW THOSE OF COMPARABLE SPACES, AND FURTHER FINDING THAT WHILE BRABANT'S COMPARABLE RENT ANALYSIS COULD JUSTIFY A SLIGHTLY HIGHER RENT INCREASE AS COMPARED TO DR. BAAR'S MNOI ANALYSIS (\$102 VS. \$95.94) THE DIFFERENCE BETWEEN THE TWO IS RELATIVELY SMALL (LESS THAN \$10), AND THEREFORE SINCE THEY ARE WITHIN THE SAME "RANGE OF RENTS" THE COMPARABLE RENT APPROACH DOES NOT JUSTIFY A HIGHER RENT INCREASE THAN THE \$95.94 PER MONTH PER SPACE RENT INCREASE SHOWN BY THE MNOI APPROACH.**

After Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATIONS ITEM NO. 5 AND ITEM NO. 6, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON MACK, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT), GRANTING AN ADDITIONAL TEMPORARY RENT INCREASE IN THE AMOUNT OF \$10.45 PER MONTH PER SPACE FOR A PERIOD OF FIVE YEARS AND AT AN INTEREST RATE OF 7% PER YEAR BASED ON THE AMORTIZED COST TO CARRIAGE TRADE MANOR FOR PREPARING THE APPLICATION AND PARTICIPATING IN THE HEARING PROCESS IN ACCORD WITH DR. BAAR'S ANALYSIS AND REPORT, AND FURTHER GRANTING THE RESIDENTS OF CARRIAGE TRADE MANOR THE OPTION OF PAYING THE TEMPORARY RENT INCREASE REPRESENTING THE COSTS ASSOCIATED WITH THE APPLICATION AND PARTICIPATING IN THE HEARING PROCESS IN A LUMP SUM IN THE AMOUNT OF \$527.57 WITHOUT ANY PAYMENT OF INTEREST, RATHER THAN AMORTIZED OVER FIVE YEARS.**

After Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATIONS ITEM NO. 7 AND ITEM NO. 8, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON MACK, CARRIED 4-0-1-0 (COMMISSIONER IRVIN ABSENT), FINDING THAT THE TEMPORARY RENT INCREASES DETERMINED ABOVE, SHALL NOT BE INCLUDED IN THE BASE RENT FOR THE PURPOSES OF**

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**CALCULATING ANY FUTURE RENT ADJUSTMENTS AND THE AMORTIZED AMOUNT SHALL BE IDENTIFIED AS A SEPARATE LINE ITEMIZED ON THE MONTHLY RENT INVOICE, AND AUTHORIZING THE COMMISSION'S LEGAL COUNSEL TO PREPARE A WRITTEN RESOLUTION MEMORIALIZING ITS FINDINGS AND DECISIONS.**

After Commission discussion, the following Motion was made:

**ACTION: WITH REGARD TO STAFF RECOMMENDATION ITEM NO. 2, MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON MACK, CARRIED 4-0-1-0 (COMMISSION IRVIN ABSENT), FINDING THAT THE APPLICANT DID NOT MEET ITS BURDEN OF PROOF TO SUPPORT ITS CLAIM THAT IT IS ENTITLED TO A \$165.01 MONTHLY SPACE RENT INCREASE USING THE YMC \$15.20 MAINTENANCE OF NET OPERATING INCOME ("MNOI") APPROACH, AND FINDING THAT THE ANALYSIS OF THE STAFF'S EXPERT, DR. BAAR, IS MORE CREDIBLE THAN THE APPLICANT'S EXPERT, MCCARTHY.**

After Commission discussion, the following Motion was made:

**ACTION: MOTION BY COMMISSIONER MECHAM, SECOND BY VICE-CHAIRPERSON MACK, CARRIED 4-0-1-0 (COMMISSION IRVIN ABSENT), TO CONTINUE THE MEETING TO A TIME TO BE DETERMINED BY STAFF FOR THE PURPOSE OF PRESENTING THE RESOLUTION OF FINDINGS FOR COMMISSION CONSIDERATION.**

**ADJOURNMENT**

The meeting adjourned.

**ATTEST:**

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Caecilia Johns  
Chairperson

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Tammy Vaughan  
Deputy City Clerk/Asst. Rent Administrator

APPROVED AT THE MEETING OF: August 1, 2017

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**CITY OF YUCAIPA  
AGENDA REPORT**

**TO:** Mobilehome Rent Review Commissioners

**FROM:** Amy Greyson, Assistant City Attorney/Commission Attorney

**FOR:** Mobilehome Rent Review Commission Meeting of August 1, 2017

**SUBJECT:** Carriage Trade Manor Mobilehome Park MNOI/Fair Return Application

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**RECOMMENDATION:**

That the Mobilehome Rent Review Commission approve Resolution No. 2017-35 as presented.

**BACKGROUND:**

On July 18, 2017, the Mobilehome Rent Review Commission held a Public Hearing pertaining to the Carriage Trade Manor Mobilehome Park Net Operating Income/Fair Return Adjustment Application. The hearing was conducted pursuant to Yucaipa Municipal Code (“YMC”) Chapter 15.20 (the “Ordinance”) and Administrative Rules for the Implementation of the Yucaipa Mobilehome Rent Stabilization Ordinance (“Rules”).

After reviewing the Staff Report, Application and supporting expert analysis and documentation, the written opposition and supporting evidence submitted by the Park’s residents, other written evidence, hearing oral testimony from the applicant/applicant experts, opposition/residents and City staff/staff experts, and deliberating, and based on substantial evidence in the record of proceedings, the Mobilehome Rent Review Commission determined/approved, by a unanimous vote (Commissioner Irvin absent), the following actions:

1. Adopted a Motion finding that Carriage Trade Manor (“Applicant”) did not meet its burden of proof to support its claim that its 1987 space rents should be adjusted to \$205 per month, finding that the analysis of the staff’s appraisal expert, James Brabant, MAI (“Brabant”), is more credible than the claims made by Applicant’s Appraiser, John Neet, MAI (“Neet”) and further finding that the Applicant’s 1987 average monthly space rents of \$175 were not disproportionately low when compared to rents being charged in comparable parks in Yucaipa.
2. Adopted a Motion granting the Applicant a \$95.94 monthly rent increase per space using the YMC § 15.20 Maintenance of Net Operating Income (“MNOI”) approach, finding that the Applicant did not meet its burden of proof to support its claim that the Applicant is entitled to a \$165.01 monthly space rent increase using the YMC § 15.20 MNOI approach, finding that the analysis of the staff’s expert, Kenneth K Baar, Ph.D. (“Dr. Baar”) is more credible than the Applicant’s expert, Michael McCarthy, CPA (“McCarthy”), and further finding that Dr. Baar’s calculation of the required monthly

space rent increase of \$95.94 using Dr. Baar's adjustments to income and expense items under the MNOI formula is consistent with YMC § 15.20 and provides the Applicant with a fair return while not requiring the Residents to pay excessive rent; and

3. Adopted a Motion finding that the Applicant is not entitled to use 100% of the percentage increase in the CPI in an MNOI formula since YMC § 15.20 clearly indicates that for the period December 1987 to October 1996 the base year NOI should be indexed by 66.67% of the percentage change in the CPI and for the period October 1996 to the date of the application is deemed complete, the base year NOI should be indexed by 80% of the percentage change in the CPI and further finding that there is no basis under YMC § 15.20 for a rent increase of \$198.58 per month per space; and
4. Adopted a Motion finding that the Applicant did not meet its burden of proof to support its claim, that to be comparable, the Carriage Trade space rents should be \$500 or \$550 per month per space, finding that Brabant's analysis is more credible than the claims made by Neet and shows that the Carriage Trade monthly space rents should be \$340, and therefore are \$102 per month per space below those of comparable spaces, and further finding that while Brabant's comparable rent analysis could justify a slightly higher rent increase as compared to Dr. Baar's MNOI analysis (\$102 vs. \$95.94) the difference between the two is relatively small (less than \$10), and therefore since they are within the same "range of rents" the comparable rent approach does not justify a higher rent increase than the \$95.94 per month per space rent increase shown by the MNOI approach; and
5. Adopted a Motion to grant an additional temporary rent increase in the amount of \$10.45 per month per space for a period of five years and at an interest rate of 7% per year based on the amortized cost to Carriage Trade Manor for preparing the application and participating in the hearing process in accord with Dr. Baar's analysis and report; and also granted the Residents of Carriage Trade Manor the option of paying the temporary rent increase, representing the costs associated with the application and participating in the hearing process (\$527.57), in a lump sum without any payment of interest, rather than amortized over five years; and
6. Adopted a Motion finding that the temporary rent increases determined above, shall not be included in the Base Rent for the purposes of calculating any future rent adjustments and the amortized amount shall be identified as a separate line itemized on the monthly rent invoice; and
7. Adopted a Motion authorizing the Commission's Legal Counsel to prepare a written Resolution memorializing its findings and decisions.

The Commission directed Amy Greyson, Commission Attorney, to prepare a written Resolution memorializing the Commission's findings of fact and conclusions based upon said findings for Commission approval. The proposed Resolution 2017-35 is attached hereto for your consideration and action. Upon action by the Commission, Resolution No. 2017-35 shall constitute the final decision of the Commission on the Application.

Pursuant to YMC § 15.20.115, the Commission's final decision may be appealed to the City Council within ten (10) days of the date of the Commission's written decision has been deposited in the mail, addressed to the Applicant and the affected party(ies).

Attached: Resolution No. 2017-35

MRRRC RESOLUTION NO. 2017-35

A RESOLUTION OF THE CITY OF YUCAIPA MOBILEHOME RENT REVIEW COMMISSION GRANTING A MAINTENANCE OF NET OPERATING INCOME (“MNOI”) RENT ADJUSTMENT FOR CARRIAGE TRADE MANOR MOBILEHOME PARK, DENYING AN MNOI RENT ADJUSTMENT BASED ON A READJUSTED BASE YEAR NOI AND DENYING A FAIR RETURN RENT ADJUSTMENT FOR CARRIAGE TRADE MANOR MOBILEHOME PARK, PURSUANT TO SECTIONS 15.20.100 (A), (B), (C) OF THE CITY OF YUCAIPA RENT STABILIZATION ORDINANCE

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WHEREAS, Carriage Trade Manor Mobilehome Park (the “Park” or “Carriage Trade Manor”), a mobilehome park located in the City of Yucaipa (“City”); and

WHEREAS, the Park is owned by Wang Discovery, LP (the “Park Owner”), and

WHEREAS, the City has adopted a mobilehome rent stabilization ordinance (“Ordinance”) that is codified in Chapter 15.20, Sections 15.20.010 through 15.20.140 of the Yucaipa Municipal Code (“YMC”); and

WHEREAS, on February 21, 2017, Peter Wang, on behalf of Wang Discovery LP (the “Park Owner” or “Applicant”), filed a rent increase application (“Application”) with the City of Yucaipa (“City”) for consideration by the Yucaipa Rent Review Commission (the “Commission”) for a Maintenance of Net Operating Income/Fair Return rent adjustment in Carriage Trade Manor Mobilehome Park (the “Park” or “Carriage Trade Manor”) (**Staff Exhibits, TAB C**); and

WHEREAS, the Application was submitted under YMC §§ 15.20.100 (A), (B) and (C) of the Ordinance (**Staff Exhibits, TAB I**), and Sections 4.0003, 4.0004 and 4.0005 of the Administrative Rules for the Implementation of the Yucaipa Mobilehome Rent Stabilization Ordinance (“Administrative Rules” or “Rules”) (**Staff Exhibits, TAB J**); and

WHEREAS, the Ordinance was originally enacted in 1991; and

WHEREAS, Carriage Trade Manor was constructed in the early 1960’s, and has been subject to rent control since adoption of the Ordinance; and

WHEREAS, the Application includes an analysis prepared by Michael McCarthy, CPA (“McCarthy”), an Appraisal prepared by John P. Neet, MAI appraiser (“Neet Report”); a letter brief from Mark Alpert, Esq., of Rudderow Law Group, legal counsel for the Park Owner; and other documentation (**collectively Staff Exhibits, TAB C**), and was later supplemented by certain additional correspondence and documents from Mr. Alpert submitted following inquiry from the City’s Rent Administrator (**Staff Exhibits, TAB D**), in support of the Application; and

WHEREAS, in the Application, the Park Owner contends that the Base Year is 1987, and the Current Year is October 2015 through September 2016, and includes certain documentation

regarding the Park's Base Year and Current Year Gross Income, Operating Expenses and Net Operating Income ("NOI"), and alleged base year and current year market rents; and

WHEREAS, the Staff of the Commission retained independent consultants, Kenneth K. Baar, Ph.D., and appraiser James Brabant, MAI, to evaluate the Application pursuant to the Ordinance; and

WHEREAS, following submittal of the Application, the City and Mr. Alpert exchanged written communications regarding the City's questions relating to the Application, and Mr. Alpert submitted supplemental information and documentation to the City on behalf of the Park Owner (**Staff Exhibits, TAB D**); and

WHEREAS, by emailed letter dated May 19, 2017, City Staff declared the Application sufficiently complete to move forward with a hearing before the Commission, and set the Commission hearing date for July 18, 2017, at 9:00 a.m., in the City Council Chambers, City of Yucaipa, California, and concurrently provided a copy of the letter to Resident Representative Michael Pritchard ("Pritchard") (**Staff Exhibits, TAB D**); and

WHEREAS, on May 31, 2017, Tony Slaick, Chairman of the Yucaipa Mobile Home Residents' Association ("YMRA") submitted an opposition to the Application to the City, and provided copies to the Park Owner, Attorney Alpert and Park Resident Pritchard (**Staff Exhibits, TAB E**); and

WHEREAS, on June 8, 2017, the residents of Carriage Trade Manor, through their attorney, Bruce E. Stanton, Esq. ("Stanton"), of the Law Offices of Bruce E. Stanton, submitted opposition to the Application, including a Residents' Pre-Hearing Brief, Appendix A (Photos of Comparable Parks) and Appendix B (Photos of Carriage Trade Manor Maintenance and Condition) (**Staff Exhibits, TAB E**); and

WHEREAS, on June 22, 2017, City Staff sent by email a letter to Attorney Alpert requesting additional clarification and documentation regarding certain expenses, and Alpert responded by a dated June 29, 2017 along with additional documentation (**Staff Exhibits, TAB D**); and

WHEREAS, on June 26, 2017, notices of the hearing were forwarded to Alpert and Stanton by City staff, along with copies of the Rules and Procedures for the Conduct of Mobilehome Rent Review Hearings (**Staff Exhibits, TAB C and TAB D**); and

WHEREAS, Brabant submitted a Report, dated June 28, 2017 ("Brabant Report") containing his opinions of value relating to a Net Operating Income/Fair Return Standard application for Carriage Trade Manor, including his review of the Neet Report and Brabant's own interpretation of the rental value of spaces at Carriage Trade Manor as of the base year 1987 and April 12, 2016 (**Staff Exhibits, TAB G**); and

WHEREAS, Dr. Baar submitted a Report, dated July 2016 ("Baar Report"), containing his analysis of the Application and the requested rent adjustments under the MNOI provisions of the Ordinance and Rules (**Staff Exhibits, TAB H**); and

WHEREAS, the Park Owner's Application, letter brief, Neet Report, McCarthy analysis and documentation submitted along with the Application; the Staff Report and all exhibits thereto including but not limited to the Brabant Report and Baar Report; and the park residents' opposition documents, were all made available to the Park Owner, the affected residents and the public prior to the public hearing on the Application; and the Application and all supporting and opposing documentation and information were submitted to the Commission for their consideration at the public hearing; and

WHEREAS, on July 18, 2017, at 9:00 a.m., the Commission held the public hearing on the Application, and heard and considered all offered evidence and testimony by all interested persons concerning the Application; and

WHEREAS, at the hearing, the Park Owner was represented by Mark D. Alpert, Esq., of the Rudderow Law Group; the park residents were represented by Bruce E. Stanton, Esq., of the Law Offices of Bruce E. Stanton; City staff was represented by Donald Lincoln, Esq., and the Commission was represented and advised by Amy Greyson, Esq., of Richards, Watson & Gershon; and

WHEREAS, at the July 18, 2017 public hearing the following witnesses spoke in favor of the Park Owners and their Application: Michael McCarthy, CPA; John P. Neet, and Peter Wang. The following witnesses spoke as representatives of the Park residents in opposition to the Application: Michael Pritchard, Brenda Mitchell, Martha Henriquez, and Margaret Hicks. Other members of the public presented oral testimony in opposition to the Application, including Debra Mummy, Jennifer Marshall, Dr. Jamie Elam, Joe Gonzales, Jo Sutt, Thomas Butler, Yvonne Aguilera, Pam Lee, Steven Morales, Susan Taylor, Freda Harlow, Ray Nieves, John Hostetler, Steve Potts, Wayne Foreman, Sue Andrews, Sheryl Stanfill, Dwight Rutherford, Colleen Kirkpatrick, Sharon McCabe, Pat Bradshaw, Irene Vasquez, Harvey Cohen, Patricia Pringle, and Tony Slaick. City Staff called two witnesses: Kenneth K. Baar, PhD, and James Brabant, MAI. All testimony was presented under oath; and

WHEREAS, Mr. Lincoln, Mr. Stanton and Mr. Alpert presented closing arguments to the Commission and thereafter, on July 18, 2017, the Commission closed the public hearing and thereafter conducted deliberations on the Application; and

WHEREAS, in the Application, the Park Owner seeks alternative rent adjustments under YMC §§ 15.20.100 (A), (B) and (C), as implemented by Administrative Rules §§ 4.0003, 4.0004 and 4.0005, as follows:

A. Claim #1: The Park Owner contends that an adjustment should be made the Park's Base Year (1987) space rents under YMC § 15.20.100 (B) and Administrative Rules § 4.0004, *by adding \$205 per space per month to the base year space rents*, based on three grounds:

(i) The Gross Income was disproportionately low in 1987 despite prudent business practices (**Staff Exhibits, TAB C [Application, CTM p. 50]**); and

(ii) The rent during 1987 was disproportionately low when compared to parks being charged in comparable parks in 1987 in the City, and that the market rental value of

the Park's spaces in 1987 was \$205 per month (**Staff Exhibits, TAB C [Application, p. 50 and CTM pp. 496, 515-518]**); and

(iii) The rent in 1987 was not sufficient to provide a just and reasonable return by providing evidence that the return actually earned by the Park in 1987 and the return earned by comparable parks in the City in 1987 (**Staff Exhibits, TAB C [Application p. 51]**); and;

B. Claim #2: The Park Owner contends that it is entitled to a ***\$165.01*** space rent increase as a maintenance of net operating income ("MNOI") rent adjustment, based on the readjusted Base Year NOI referred to in Claim #1, pursuant to YMC § 15.20.100 (B) and Administrative Rules § 4.0004 (**Staff Exhibits, TAB C [Application pp. 50-51, and CTM pp. 496, 540-542]**); and

C. Claim #3: The Park Owner contends that it is entitled to a space rent increase of ***\$198.58*** using the adjusted 1987 Base Year rent as determined under Claim #1, and the MNOI methodology using 100% of the increase in the Consumer Price Index between the Base Year (1987) and the Current Year (**Staff Exhibits, TAB C [Application pp. 50-51]**); and

D. Claim #4: The Park Owner contends that using a comparable rent approach, Carriage Trade space rents should be ***\$500 or \$550 per month per space*** (**Staff Exhibits, TAB C [Application, CTM pp. 496, 515-517]**); and

E. Claim #5: The Park Owner contends that it is entitled to a temporary rent increase for the costs of preparing the Application and participating in the hearing process, in the amount of ***\$10.09 per month per space for a period of five years and at an interest rate of 7% per year*** based on the amortized cost to Carriage Trade, with an option for the residents to pay the total application and hearing costs in ***a lump sum of \$509.53*** rather than over five years and without payment of interest (**Staff Exhibits, TAB D [4/26/17 Letter, p. 4]**); and

WHEREAS, since the enactment of the Ordinance, park owners of regulated parks have been permitted to receive and charge an annual rent adjustment ("Annual Adjustment") based on the lesser of either five percent (5%) of current space rent or 80% of the annual increase in the CPI over the preceding twelve (12) months, in accordance with YMC § 15.20.080 and Chapter 3 of the Rules; and

WHEREAS, under the Ordinance and Rules, park owners may also seek a rent increase based on the cost of a completed capital improvement (a "Capital Improvement Rent Adjustment"), which upon approval constitutes a temporary rent adjustment that must be separately listed on the monthly rent statement, may only be charged during the useful life of the capital improvement as provided in the City's approval, and must cease upon conclusion of the useful life, in accordance with YMC § 15.20.085 and Chapter 5 of the Rules; and

WHEREAS, under the Ordinance and Rules, a park owner may seek a rent increase in addition to an Annual Adjustment or Capital Improvement Rent Adjustment, by applying for: (i) a Maintenance of Net Operating Income ("MNOI") rent adjustment under YMC § 15.20.100 (A) and Section 4.0003 of the Rules; (ii) an MNOI adjustment based on a readjusted Base Year NOI

pursuant to YMC § 15.20.100 (B) and Section 4.0004 of the Rules; and (iii) a rent adjustment pursuant to YMC § 15.20.100 (C) and Section 4.0005 of the Rules; and

WHEREAS, Section 15.20.100 (A) of the Ordinance provides that a park owner may seek an MNOI rent adjustment by increasing the park's Base Year NOI by 66-2/13% of the increase in the Consumer Price Index ("CPI") between December 31, 1987 and October 28, 1996, and 80% of the increase in CPI between October 29, 1996 and the date of the complete application; and

WHEREAS, Section 15.20.100(B) of the Ordinance and Section 4.0004 of the Rules provide that a park owner may rebut the presumption that the Park's 1987 NOI provided a just and reasonable return by providing evidence that the Park's 1987 NOI was insufficient to provide a fair return based on factors set out the Administrative Rules including:

A. The park's operating expenses in 1987 were unusually high despite prudent business practices;

B. Gross income was disproportionately low in 1987 despite prudent business practices;

C., The rent during 1987 was disproportionately low when compared to rents being charged in comparable parks in 1987 in the City;

D. Capital improvements were made during 1987, but were not reflected in rent increases collected in 1987; and

E. The rent in 1987 was not sufficient to provide a just and reasonable return by providing evidence of the return actually earned by the park in 1987 and of the return earned by comparable parks in the city in 1987; and

WHEREAS, pursuant to YMC § 15.20.100 (B) and Section 4.0004 (B) of the Rules, in order to qualify for an adjustment to the base year (1987) NOI under YMC § 15.20.100 (B), the owner shall have the burden of proving the existence of one of the circumstances enumerated above in Section 4.0004 (B) of the Rules, and of providing reliable, credible evidence of the rents, operating expenses, gross income, NOI and return on investment at the park and comparable parks or of the capital improvement costs which are necessary to make the appropriate adjustment to the 1987 NOI under the Ordinance and Rules; and

WHEREAS, under Section 15.20.100 (C) of the Ordinance and Section 4.0005 of the Rules, a park owner may apply for a rent increase that exceeds the MNOI rent adjustment authorized under Sections 15.20.100 (A) and/or (B), if the park owner meets its burden of establishing that the rate of return earned by the park is not just and reasonable return, as determined by the Commission based on its consideration of a variety of factors, including but not limited to:

A. The rents being charged for spaces subject to the Ordinance in comparable mobilehome parks subject to the Ordinance in the City of Yucaipa;

B. The capitalization rate being earned by the mobilehome park in the application year, each of the preceding five years, and in the first year after the park was purchased. For purposes of this section capitalization rate means the ratio of a park's NOI to its purchase price;

C. The capitalization rate associated with the purchase of comparable mobilehome parks in the application year and the preceding five years;

D. The mobilehome park's pattern of income and expenses over each of the past five (5) years;

E. The quality of the services, amenities and maintenance provided at the mobilehome park and any decrease or increase in services, maintenance and amenities; and

F. Any evidence of delay on the part of the park owner in seeking a rent increase pursuant to this section. If the Commission finds that the park owner unreasonably delayed in submitting a rent increase application pursuant to this section, the Commission may, at its discretion, grant a rent increase to be implemented in increments over a period not greater than the period of delay; and

WHEREAS, pursuant to Section 15.20.100 (B) of the Ordinance and Sections 4.0004 (B) and 4.0005 (C) of the Rules, in reviewing the evidence and comparing rents, gross income, operating expenses, NOI and return on investment at the park with those at comparable parks, the term "comparable park" shall mean a park in the City subject to the YMC, which has similar quality, number and type of amenities, construction and services, is located in a similar neighborhood and provides similar access and proximity to schools, medical and educational facilities, recreation, entertainment, parks, shopping and other services and amenities and is similarly maintained as the applicant's park; and

WHEREAS, under California case law, evaluation of comparability of rents in comparable parks in 1987 or currently must be based on expert testimony and cannot be based on personal experience and knowledge of real estate; and

WHEREAS, under Section 15.20.100 (A) of the Ordinance, and Section 1.0029 (E) of the Rules, the Park Owners bear the burden of proof, based on substantial evidence, that the Park Owners are entitled to a rent adjustment under the Ordinance; and

WHEREAS, Section 1.0029 (E) of the Rules provides that evidence is substantial "when it is relevant, credible and reliable and provides enough information, together with the reasonable inferences from that information, to support a conclusion even though other conclusions might be reached"; and

WHEREAS, in seeking an MNOI rent adjustment under Section 15.20.100 of the Ordinance, the Park Owner bears the burden of proving the categories and amount of gross income and operating expenses for the Base Year and the Current Year (the year preceding the date of application), as well as for its income and expenses for the last five years or since its prior special adjustment; and

WHEREAS, pursuant to Section 4.0003 (E) of the Rules, the Park Owner has the burden of proving that all operating expenses are reasonable, and if the operating expenses exceed the normal industry or other comparable standard, the Park Owner has the burden of providing the reasonableness of the expense; and if the Commission finds that an expense is unreasonable, the Commission shall adjust an expense to reflect the normal or other comparable standard; and

WHEREAS, Section 4.0003 (D) (5) of the Rules provides that in calculating expenses for any year, when (i) an expense item for a particular year is not representative; or (ii) in the case of base year expenses, when the expense is not a reasonable projection of average past expenditures for that time; or (iii) in the case of current year expenses, when the expense is not a reasonable projection of future expenditures of that item, said expense shall be averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses; and

WHEREAS, pursuant to Section 4.0003 (F) of the Rules, where scheduling of rental increases, or other calculations, require projections of income and expenses because actual data is not available, it shall be presumed that operating expenses and management expenses, exclusive of property taxes, increase at the rate of the increase in the CPI for the applicable year; and that property taxes increase at two percent (2%) per year; and

WHEREAS, in ruling on an application for a rent adjustment, Section 1.0029 (D) of the Rules provides that no decision may be supported solely by hearsay evidence; and

WHEREAS, there were conflicting evidentiary reports and testimony, and the Commission is entitled to evaluate the conflicting expert testimony based on the requirements of the Ordinance and Rules; and

WHEREAS, prior to issuing this decision, the Commission reviewed and considered the application and all documentation and information contained in the Application, the Staff Report and exhibits including Reports filed by Dr. Baar and Mr. Brabant; the documentation and Brief and photographs filed by Mr. Stanton, and all oral testimony and arguments submitted at the hearing on July 18, 2017; and

WHEREAS, at the conclusion of the hearing on July 18, 2017, by a unanimous vote (Commissioner Irvin absent), the Commission approved motions granting the Park Owners an MNOI Rent Adjustment of **\$95.94** per month per space under YMC § 15.20.100 (A), and further granting the Park Owner a temporary rent increase under YMC § 15.20.116 for the Application fee, costs of preparing the Application and participating in the hearing process, in the amount of ***\$10.45 per space per month spread over five years at the rate of 7% interest, or in a \$527.57 lump sum payment rather than over five years and without payment of interest;*** and

WHEREAS, on July 18, 2017, by a unanimous vote (Commissioner Irvin absent), the Commission also approved motions finding that the Park Owner did not meet its burden of proof under YMC § 15.20.100 (B) and Section 4.0004 of the Rules to support its claim that the 1987 space rents should be adjusted to \$205 per month; denying an MNOI Rent Adjustment of \$165.01 per month per space based on a readjustment of Base Year rents under YMC

§ 15.20.100 (B) and Section 4.0004 of the Rules; granting an MNOI Rent Adjustment of \$95.94 using the MNOI methodology of YMC § 15.20.100 (A) and income and expenses as adjusted in the Baar Report; denying a space rent increase of \$198.58 using the adjusted 1987 Base Year rent and the MNOI methodology using 100% of the increase in the Consumer Price Index between the Base Year (1987) and the Current Year; and finding that the Park Owner did not meet its burden of proof that under a comparable rent analysis, the Park's space rents should be \$500 or \$550 per space per month; and further directed the Commission's legal counsel to prepare a written resolution with proposed findings and decision for Commission review and action at its next meeting; and

WHEREAS, on August 1, 2017, the Commission conducted further proceedings on the Park Owner's Application, and reviewed the draft resolution prepared by its legal counsel;

WHEREAS, under the Ordinance, three affirmative votes are required in order for the Commission to approve or deny a rent adjustment application;

NOW, THEREFORE, THE CITY OF YUCAIPA MOBILEHOME RENT REVIEW COMMISSION HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

1. All facts set forth in the Recitals are true and correct.
2. Carriage Trade Manor Mobilehome Park (the "Park" or "Carriage Trade Manor") is located at 12874 California Street, Yucaipa, California.
3. The park was originally constructed in the 1960's.
4. The application for a rent adjustment was signed by Peter Wang on behalf of the Park Owner, Wang Discovery LP. Mr. Wang is a partner of Wang Discovery LP.
5. Carriage Trade is within the jurisdiction of the City of Yucaipa Mobilehome Rent Review Commission ("Commission").
6. Carriage Trade consists of a total of 97 spaces, of which 85 spaces are on month-to-month tenancies and not owned by the Park Owners, and are therefore subject to the rent control provisions of the Ordinance. The 97 mobilehomes include 40 double wide and 57 single-wide mobilehomes. .
7. Carriage Trade is a senior park (55 years and above), located in a residential neighborhood. Carriage Trade's amenities include a clubhouse with a multi-purpose room, kitchen and restrooms; swimming pool; covered shuffleboard court; and laundry room.
8. In 1987, the base year, the cost of water was included in the space rent and the park residents did not pay the park owner or water provider separately for water service. Currently no services or utilities are included in the base rent in the Park. Separately billed utilities and/or services during the Current Year include water (reduced from base rent on October 1, 2013 in the amount of \$20.17), trash, gas, electric (master metered with each space on individual electric meters billed by the park), sewer, and city paramedic taxes. **(Staff Exhibits, TAB H [Baar Report, pp. 1-2, 7-8 and Appendix D thereof])**

9. The Park Owner purchased Carriage Trade in August 2015, and 2016 was the first full year of ownership.

10. The 2016 space rents at Carriage Trade ranged from \$226 to \$262 per month, with an average of \$238 per month. **(Staff Exhibits, TAB H [Baar Report, p. 1 and Appendix A thereof])**

11. The prior owner of Carriage Trade did not seek or receive all Annual Adjustments allowed under the Ordinance. From 1987 to 2016, the average monthly space rents in the Park increased a total of only \$63, at the rate of less than \$4.00 per year. **(Staff Exhibits, TAB H [Baar Report, p. 1 and Appendix A thereof])**

12. The Park Owner has not previously applied for an MNOI Rent Adjustment, MNOI Rent Adjustment based on Readjusted Base Year NOI, or Fair Return Rent Adjustment under the Ordinance pursuant to Section 15.20.100 (A), (B) or (C). **(Staff Exhibits, TAB H [Baar Report, p. 1 and Appendix A thereof])**

13. On February 7, 2017, the City approved a Capital Improvement Rent Adjustment of \$15.16 per month per space for a period of 15 years, to cover the cost of certain capital improvements relating to the Park's streets. **(Staff Exhibits, TAB H [Baar Report, p. 1, fn. 3])**

14. Findings with Regard to Claim #1 (Park Owner's Application for \$205 MNOI Rent Adjustment based on Readjusted Base Year NOI. Based on substantial evidence in the entire record before the Commission, including the Application, Staff Report and exhibits, all other written evidence oral testimony submitted to the Commission, the Park Owner did not meet its burden of establishing that the Park Owner is entitled to an MNOI rent adjustment of \$205 per space based on a readjusted Base Year NOI under Section 15.20.100 (B) of the Ordinance and Section 4.0004 of the Rules, for the following reasons:

A. The Park Owner claimed that Gross Income was disproportionately low in 1987 despite prudent business practices under YMC § 15.20.100 (B) and Section 4.0004 (B) (2) of the Rules. The Park Owner provided no evidence supporting this ground and therefore failed to meet its burden of proof.

B. The Park Owner claimed that the rent during 1987 was disproportionately low when compared to rents being charged in comparable parks in 1987 in the City under YMC § 15.20.100 (B) and Section 4.0004 (B) (3) of the Rules. The Park Owner failed to meet its burden of proof to establish it is entitled to an adjustment of base year rents, or base year NOI, on this ground, for the following reasons.

(i). In support of its contention, the Park Owner claimed that it did not know the actual 1987 space rent levels, and was instead relying on market rents for 1987 based on the appraisal report of John Neet ("Neet") **(Staff Exhibits, TAB C [Alpert Letter dated 2/17/15 p. 5; TAB C [Neet Report, CTM pp. 515-518])** and Neet's testimony. Neet concluded that the market rental value of the park spaces in 1987 was \$205 per month, based on his comparative analysis of 1987 reported space rents in four parks located in the City of Yucaipa (Knollwood, Crafton Hills, Mission Valley Oaks and El Dorado Palms) and two parks located outside the City, Sunrise MHP located in Banning and Country Highlands located in Beaumont.

(ii) The appraisal submitted by John Neet is not credible. It is in conflict with the Ordinance as it uses comparables from parks outside the City, and because source documents that it relied upon were not provided in the appraisal report submitted with the application. More fundamentally, Neet also ignored space rent data from the subject park which showed that in 1987 the actual space rent had varied from \$167 to \$183 per month, while the Ordinance and Rules require that the applicant demonstrate that the actual space rents in the Park were disproportionately low when compared with rents charged in comparable parks. **(Staff Exhibits, TAB H [Baar Report, p. 1 and Appendix A thereto])**

(iii) The report submitted by the City's expert, James Brabant **(Staff Exhibits, TAB G)**, and Brabant's testimony, provides substantial evidence that the rents in the Park were not disproportionately low in 1987 when compared with rents charged in comparable parks in the City in 1987. The 1987 space rents at Carriage Trade ranged from \$167 to \$183, with a midpoint of \$175. Brabant analyzed the 1987 space rent of eight Yucaipa parks including (Avalon Mobile Estates, Bel-Aire Mobile Estates, Bonanza Mobile Estates, Grandview East, Patrician Park, Valley View Mobile Home Park, Crestview I Mobile Home Park, and Green Valley), and concluded that a reasonable range for rental value of space rents in Carriage Trade Manor, including water, was \$175 to \$180 per month as of the base year of 1987. Brabant concluded that since 1987 space rents at Carriage Trade Manor ranged from \$167 to \$183 with a midpoint of \$175, 1987 rents in the Park were well within the range of rents at comparable parks and were not disproportionately low when compared to rents being charged in comparable parks in Yucaipa. In comparison, Neet only considered four parks in Yucaipa, and Mr. Neet focused more on Yucaipa parks with the highest rent and which were superior to Carriage Trade Manor in one or more respects. For example, both in the Base Year and Current Year, El Dorado is far superior to Carriage Trade Manor because it has more and larger amenities and is in a more expensive area. Mr. Brabant also established that Mr. Neet made erroneous adjustments for utilities, including his failure to take into account that water was included in the space rent in Carriage Trade Manor in 1987. Mr. Brabant's analysis and testimony is more credible than Mr. Neet's analysis and testimony. **(Staff Exhibits, TAB G [Brabant Report, pp. 14-19])**

(iv) Therefore, based on an evaluation of the Brabant and Neet Reports, the Park Owner did not meet its burden of proof to support its claim that the Carriage Trade Manor's 1987 space rents should be adjusted to \$205 per month. The Commission finds that Brabant's analysis is more credible than the claims made by Neet and that the Carriage Trade Manor's 1987 average monthly space rents of \$175 were not disproportionately low when compared to rents being charged in comparable parks in Yucaipa.

C. The Park Owner claimed that the rent in 1987 was not sufficient to provide a just and reasonable return by providing evidence of the return actually earned by the park in 1987 and of the return earned by comparable parks in the City in 1987 under YMC Section 15.20.100 (B) and Section 4.0004 (B) (5) of the Rules. The Park Owner provided no evidence in support for this ground and therefore failed to meet its burden of proof.

15. Findings with Regard to Claim #2 (Park Owner's Application for a \$165.01 MNOI Rent Adjustment based on a Readjusted Base Year NOI). The Park Owner did not meet its burden of proof to support its claim that it is entitled to a \$165.01 monthly space rent increase using adjusted 1987 base year rents under YMC § 15.20.100 (B) and Section 4.0004 (B) of the

Rules, and under the MNOI methodology, the Park Owner is entitled to an MNOI rent adjustment of ***\$95.94 per month per space***. The Commission makes the following findings in support of this determination:

A. As set forth in Finding No. 14(A) with regard to Claim #1, the Park Owner failed to meet its burden of proof that it is entitled to an adjustment of base year rents under YMC Section 15.20.100 (B). Consequently, determination of any Maintenance of Net Operating Income (“MNOI”) rent adjustment must be made under YMC § 15.20.100 (A) and Section 4.0003 of the Rules.

B. In analyzing the Application under the MNOI methodology set forth in YMC § 15.20.100 (A) and Section 4.0003 of the Rules, the Commission further finds that the analysis of the staff’s expert, Kenneth K. Baar, Ph.D. (“Dr. Baar”), as set forth in Dr. Baar’s Report (**Staff Exhibits, TAB H, pp. 1-22, Table 6 at p. 16 thereof, and Appendices A through G thereof**) and Dr. Baar’s testimony, is based on substantial evidence and is more credible than the Applicant’s expert, Michael McCarthy, CPA (“McCarthy”) (**Staff Exhibits, TAB C [Application, CTM pp. 537-544]**), and further finds that Dr. Baar’s calculation of the required monthly space rent increase of \$95.94 using Dr. Baar’s adjustments to income and expense items under the MNOI formula is consistent with the Ordinance, and provides the Applicant with a fair return while not requiring the residents to pay excessive rent. The Commission finds that Dr. Baar’s analysis is more credible than McCarthy’s and finds that Dr. Baar’s calculation of the required monthly space rent increase of \$95.94 using Dr. Baar’s adjustments to income and expense items under the MNOI formula is consistent with YMC §15.20 and provides the Applicant with a fair return while not requiring the Residents to pay excessive rent.

C. For purpose of determining whether the Park Owner is entitled to an MNOI adjustment under YMC § 15.20.100 (A), the base year is 1987 and the Current Year is October 2015 through September 2016. Under the Ordinance and Rules, the Park Owner bears the burden of presenting substantial evidence of the Park’s Gross Income and Operating Expenses for the Base Year and Current Year.

D. Wang Discovery LP did not own the subject Park in the base year (1987).

E. When Wang Discovery LP purchased the Park from the prior owner, Wang Discovery did not obtain any records from the prior owner reading base year gross income or operating expenses. Only a limited number of financial records of the prior park owner are available from a few years immediately prior to the Current Year.

F. The Ordinance has required, from its enactment, that the Base Year NOI must be determined using Base Year Gross Income and Operating Expenses information. The Commission finds that the prior owner and the Applicant were on notice that they would need Base Year documentation if they sought an MNOI Rent Adjustment under Section 15.20.100 (A) or (B) of the Ordinance. However, based on the testimony before the Commission, in determining the Park’s Base Year Gross Income, Operating Expenses and Net Operating Income, the Park Owner met its burden of proof to establish that the Base Year Operating Expense information is not currently available. As such, pursuant to Section 15.20.100 (A) of the

Ordinance and Section 4.0003 (F) and (J) of the Rules, Base Year Operating Expenses should be determined by using the Operating Expenses from the Park Owners' first full year of ownership (2016), adjusted back to the Base Year by the increase or decrease in the CPI between the Current Year and the Base Year, as modified based on actual expenses and documentation established during the hearing pursuant to Section 4.0003, and adjusted as warranted pursuant to Sections 4.0003 (D), (E), (F) and (J) based on the expert reports and oral testimony received at the hearing on the application.

G. In determining Base Year and Current Year Operating Expenses in the application, the Park Owner removed all income from and expenses for gas and electricity utilities provided to individual mobilehomes, because the regulation of such charges is subject to PUC jurisdiction and preempted by state law. The Park Owner included common area electricity and gas utility expenses in the operating expenses. **(Staff Exhibits, TAB C [Application, CTM p. 18])** Water, sewer and trash expenses, which are passed through to the residents, were excluded from the income and expense analysis by the Park Owners. **(Staff Exhibits, TAB C [Application, CTM p. 18])**

H. Park Base Year Gross Income. The Commission finds that the Park's Gross Income in 1987 was **\$199,143**. This amount is calculated from the following revenue sources:

(i) Annual rent revenue was \$203,700. This sum was calculated from rent rolls on file with the City for the Park.

(ii) The offset for vacancies – or vacancy deduction -- was \$4,557.00. In calculating the Park's 1987 Gross Income, the Park Owner did not include any deduction for vacancies in the Base Year. However, based on Dr. Baar's Report, the Commission finds that the Park's Gross Income of \$203,700 should be reduced by \$4,557 as the vacancy deduction. This vacancy deduction was calculated using the same vacancy ratio to scheduled rental income reported by the Park Owner in the Current Year -- 2.2% of scheduled space rental income. **(Staff Exhibits, TAB H [Baar Report, p. 6])**

(iii) Based on these adjustments, the Park's base year gross income was \$199,143 (\$203,700 - \$4,557 = \$199,143.00).

I. Park Base Year Operating Expenses. The Commission finds that the Park's Base Year Operating Expenses were **\$77,490**. The Park Owner contends that the Park's Base Year Operating Expenses totaled \$109,628. However, based on the substantial evidence in the record including Dr. Baar's Report **(Staff Exhibits, TAB H)** and the oral testimony, the Commission finds that the adjustments recommended by Dr. Baar must be made to the claimed Operating Expenses based on the requirements of the Ordinance and Rules, and evidence submitted to the Commission, and reduce the claimed operating expenses from \$109,628 to **\$77,490**, based on the following:

(i) Base Year Water Expense. The Commission finds that an operating expense of \$13,650.74 for water must be included in the Base Year Operating Expenses. In the Base Year, the owner of Carriage Trade included water as part of the base rent

at that time and did not separately bill the water expense to the residents, and consequently the rents had to cover the cost of water incurred by the park owner. All other utility expenses were separately billed to the residents in the Base Year. The cost of water in the Base Year was properly determined by Dr. Baar using current year water usage and base year water rates. As determined by Dr. Baar, the water expenses of \$13,650.74 should be included in Base Year operating expenses. **(Staff Exhibits TAB H [Baar Report, pp. 7-8 and Appendix D])**

(ii) Base Year Property Tax Expense. The Commission finds that an operating expense of \$8,690.75 must be included in the Base Year Operating Expenses. The Park Owner included the sum of \$23,567 as the Base Year property tax expense. However, in so doing, the Park Owner overestimated the Base Year property taxes by discounting the current property taxes, of \$40,971.67, which reflected the Park Owner’s purchase of the subject property in 2015, rather than the actual property taxes which reflected the pre-purchase assessed value. The Park Owner also included imputed an expense for a bond that did not exist in the Base Year. Property tax records for the Park obtained by Dr. Baar demonstrate that the Park’s actual property taxes for the base year (1987) were \$8,690.25. **(Staff Exhibits TAB H [Baar Report, pp. 8-10, Appendix C)** Therefore, the sum of \$8,690.25 must be included in the base year operating expenses, rather than the sum of \$23,567 set forth in the Application.

(iii) The adjustments to the Base Year Operating Expenses total \$32,138, and change the Base Year Operating Expenses from \$109,628 as claimed by the Applicant, to **\$77,490**.

J. Base Year Net Operating Income (NOI). The Commission finds that the Base Year Net Operating Income (unadjusted) is **\$121,653.00**. This sum was calculated by subtracting Base Year Operating Expenses from Base Year Gross Income.

$$\begin{array}{r r r r r} \text{Base Year Gross Income} & - & \text{Base Year Operating Expenses} & = & \text{Base Year NOI} \\ \$199,143 & & \$77,490 & & = \text{\$121,653.00} \end{array}$$

K. Current Year NOI Entitlement. The Park’s Current Year NOI Entitlement is **\$222,752.12**. This sum was determined as follows:

(i) From December 1987 to October 1996, the CPI increased by 38.3%, and 66.67% of that figure is 25.5%. From October 1996 to the date the Application was deemed complete, the CPI increased by 57.3%, and 80% of that figure is 45.9%. The two-tiered change in CPI results in an 83.10% increase in CPI from the base year to the date of application. Thus, the Park Owner is entitled to a current NOI which is 83.10% above the 1987 NOI. **(Staff Exhibits, TAB C [Application, CTM p. 22 and 540] and TAB H [Baar Report, p. 4])**

(ii) The Park’s Base Year NOI of \$121,653.00 X 83.1% results in a Current Year NOI Entitlement of **\$222,752.12**, as calculated below:

$$\begin{array}{r r r r r} \text{Base Year NOI} & \times & \text{CPI Increase} & = & \text{Factor A} \\ \$121,653.00 & \times & 83.10\% & = & \text{\$101,099.12} \\ \\ \text{BY NOI} & + & \text{Factor A} & = & \text{CY NOI Entitlement} \end{array}$$

$$\$121,653.00 + \$101,099.12 = \$222,752.12$$

L. Current Year Gross Income The Park's Current Year Gross Income is **\$369,825.00**. The Park's Current Year Gross Income includes the following revenue sources as reduced by an imputed vacancy allowance (vacancy deduction):

- (i) Gross space rents totaled \$275,603.
- (ii) RV Storage totaled \$300.00.
- (iii) Miscellaneous revenue totaled \$1,198.00.
- (iv) The Imputed vacancy allowance (vacancy deduction) was \$6,166.
- (v) Other income totaled \$187.00.
- (vi) Utilities revenue (water, sewer and trash) totaled \$98,703.

**(See Staff Exhibits, TAB C [Application, CTM p. 15] and TAB H [Baar Report, Table 6 at p. 16 thereof])**

M. Current Year Operating Expenses. The Park's Current Year Operating Expenses are **\$258,749**. The Park Owner claims that the Park's Current Year Operating Expenses of are \$324,503. However, the Commission finds that the Park Owner's claimed Operating Expenses of \$324,503 must be reduced to **\$258,749** based on the following adjustments made by Dr. Baar in his Report (**Staff Exhibits, TAB H [Baar Report, pp. 10-16 and Table 6 at p. 16 thereof]**), and testimony submitted to the Commission.

(i) Current Year Legal and Accounting Expenses. The Current Year legal and accounting expenses total **\$8,215**. The Park Owner claimed a total of \$23,447 for these types of expenses. The amount of \$8,215 was determined by including only the costs for legal bills not related to the Application. All other claimed costs represent projected expenses claimed by the Park Owner for the costs of preparing the Application and for payment of the application fee. Because these latter expenses were associated with the Rent Application and are not recurring expenses and may be subject to separate reimbursement and they must be removed. Consequently, and only the sum of \$8,215 included as a Current Year Operating Expense. (**Staff Exhibits, Tab H [Baar Report, pp. 10-11 and Table 6 at p. 16 thereof]**)

(ii) Current Year Repairs and Maintenance Expenses. The Current Year repairs and maintenance expenses total **\$50,000**. The Park Owner claimed that its Current Year expenses for repairs and maintenance expenses totaled \$87,030. However, this sum was four times more than prior year levels and well above industry norms for such expenses, based on Dr. Baar's Report and the appraisals prepared by Neet as referenced therein. (**Staff Exhibits, TAB H [Baar Report, pp. 13-14, Table 6 at p. 16 thereof, and Appendix B]**) Therefore, the current year operating expenses for repairs and maintenance should therefore be reduced to \$50,000.

(iii) Current Year Insurance Expenses. The Current Year operating expense for insurance totals **\$6,973**. The Park Owner claimed a total of \$13,135 in insurance expenses, but this sum was reduced by \$6,162 due to lack of documentation of that expense. (Staff Exhibit TAB H [Baar Report, p. 11 and Table 6 at p. 16 thereof])

(iv) Current Year State Tax Expense. The Park Owner included a state tax expense of \$800. That expense was removed in its entirety from Current Year Operating Expenses on the basis that it is not an operating expense of the Park (Staff Exhibits, TAB H [Baar Report, p. 14 and Table 6 at p. 16 thereof]), and also based on lack of documentation that the Park Owner actually paid this state tax, as reflected in McCarthy's testimony.

(v) Current Year Travel Expenses. The Park Owner included a travel expense of \$4,084. This expense was removed from Current Year Operating Expenses in its entirety due to lack of documentation. (Staff Exhibits, TAB H [Baar Report, p. 14 and Table 6 at p. 16 thereof])

(vi) These adjustments in the Park's operating expenses total \$65,754, or a reduction from the Park Owner's claimed \$324,503 to the sum of **\$258,749**.

N. Current Year NOI. The Commission finds that the Park's Current Year NOI is **\$111,076.00**. This sum was determined by subtracting the Park's Current Year Expenses from the Park's Current Year Gross Income, as follows:

$$\begin{array}{r r r r} \text{Current Year Gross Income} & - & \text{Current Year Operating Expenses} & = & \text{Current Year NOI} \\ \$369,825.00 & - & \$258,749.00 & = & \mathbf{\$111,076.00} \end{array}$$

O. Park MNOI Adjustment. The Park's MNOI Adjustment, for the entire Park, is **\$111,677**. This amount was determined by subtracting the Park's Current Year NOI of \$111,076.00 (Finding # 15 (N)) from the Park's Current Year NOI Entitlement of \$222,752.12 (from Finding # 15 (K)).

$$\begin{array}{r r r r} \text{Current Year NOI Entitlement} & - & \text{Current Year NOI} & = & \text{Current Year Park MNOI Adjustment} \\ \$222,752.12 & - & \$111,076.00 & = & \mathbf{\$111,677.00} \end{array}$$

P. Park Monthly MNOI Rent Adjustment. The Park's required MNOI rent adjustment is **\$95.94** per space per month. This amount was determined by dividing the Park's MNOI Adjustment of the entire Park by 97 spaces by 12 months, as follows:

$$\begin{array}{r r r r} \text{Current Year Park MNOI Adjustment} \div \text{Total Space} \div 12 & = & \text{MNOI Space Rent Adjustment} \\ \$111,677 & \div 97 & \div 12 = & \mathbf{\$95.94} \end{array}$$

16. Findings with regard to Claim #3 (Park Owner's Application for an MNOI adjustment of \$198.58 per space per month using 100% of the Increase in CPI since the Base Year). The Park Owner contends that it is entitled to an MNOI adjustment of \$198.58 per space per month, using the adjusted base year rent and an MNOI methodology using 100% of the increase in the CPI between the Base Year and the Current Year. Alternatively, the Park Owner

contends it is entitled to a space rent increase of \$198.58 per space per month, applying and MNOI methodology using 100% of the increase in the CPI since the base year. The Park Owner failed to meet its burden of proof that they are entitled to a rent adjustment using 100% of the increase in CPI, for the following reasons:

A. The Commission is bound to follow the provisions of the Ordinance and Rules in determining whether a park owner is entitled to a rent adjustment. The MNOI methodology set forth in YMC § 15.20.100 and Sections 4.0003 and 4.0004 of the Rules clearly requires that for the period December 1987 to October 1996, the base year NOI should be indexed by 66.67% of the percentage change in the CPI, and for the period of October 1996 to the date the application is deemed complete, the base year NOI should be increased by 80% of the percentage change in the CPI. There is no basis under the Ordinance or Rules for a rent increase of \$196.58 using 100% of the increase in CPI since the Base Year.

B. The Applicant does not cite to any specific provision of the Ordinance in support of its contention. The Applicant contends that using 100% of the increase in CPI is justified by the Park Owner's investment in the Park. However, the Park Owner previously received a capital improvement rent adjustment based on completed capital improvements to the streets, and as such is already being compensated for that investment. The Park Owner's intent to invest more funds in the future for other capital improvements or repairs does not justify use of the 100% CPI indexing factor under the Ordinance.

C. Section 15.20.100 (C) of the Ordinance and Section 4.0005 of the Rules provide that a park owner may seek an increase in addition to the MNOI adjustment authorized under YMC §§ 15.20.100 (A) and (B) if park owner meets its burden of proof that the Park will not earn a fair return even with the MNOI adjustment. Relevant factors to be considered are set out in Section 15.20.100 (C) of the Ordinance and Section 4.0005 (B) of the Rules. In this hearing, the Park Owner also did not submit evidence regarding any of the relevant factors as outlined under Section 4.0005 (B) of the Rules and as such, did not meet its burden of proof that it is entitled to an MNOI rent adjustment based on 100% of the increase in the CPI since the Base Year. The Commission finds as follows:

(i) The Park Owners did not submit any evidence of the return earned by the Park in the Current Year or any prior year.

(ii) The Park Owner did not submit any evidence of the capitalization rate earned by the Park in the application year, each of the five preceding years, and in 2016 (the first full year of ownership).

(iii) The Park Owner did not submit any evidence of the capitalization rate associated with the purchase of comparable mobilehome parks in the application year and preceding five years.

(iv) The evidence submitted by the Park Owner with regard to the Park's income and expenses over each of the past five (5) years, does not support the conclusion that the Park Owner will not earn a fair return, since none of the other evidence required by Section 4.0005 of the Rules was provided by the Park Owner.

(v) The Park Owner failed to submit any other evidence to contradict the determination that the MNOI rent adjustment of \$95.94 determined above provides a fair return to the Park Owner.

D. The Park Owner failed to satisfy its burden of providing evidence to support this alternative, and the evidence before the Board supports a contrary finding. Evidence and testimony by Dr. Baar, including his testimony and Report (**Staff Exhibits, TAB H and Appendix E thereto**), support the finding that the MNOI approach does not require using 100% of the CPI increase. Courts have ruled that the MNOI methodology is constitutional even if it is determined based on less than 100% of the increase in CPI, and have upheld ordinances that use partial indexing in their MNOI formulas, such as 40%, 50%, and 75% of the increase in CPI. (*Colony Cove Properties, LLC v. City of Carson* (2014) 220 Cal.App.4th 840, 876 (75% of CPI); *Stardust Mobile Estates v. City of San Buenaventura* (2007) 147 Cal.App.4th 1170 [50% of CPI]; *H.N. Francis Berger Foundation v. City of Escondido* (2005) 127 Cal.App.4th 1.)

17. Findings with regard to Claim #4 (Park Owner Application for Rent Adjustment of \$500 or \$550 per month per space based on comparability analysis). The Park Owner contends that to be comparable, Carriage Trade space rents should be \$500 or \$550 per month per space. The Park Owner did not meet its burden of proof to support this contention, for the following reasons:

A. As set forth above in Finding No. 14, Brabant's analysis is more credible than the claims made by Neet, and shows that the Carriage Trade monthly space rents should be \$340, and therefore are \$102 per month per space below those of comparable space; and further that while Brabant's comparative analysis could justify a slightly higher rent increase as compared to Dr. Baar's MNOI analysis (\$102 vs. \$95.94), the difference between the two is relatively small (less than \$10), and therefore since they are within the same "range of rents", the comparable rent approach does not justify a higher rent increase than the \$95.94 per month per space rent increase shown by the MNOI approach. (**Staff Exhibits, TAB 14 [Brabant Report, pp. 21-23]**)

B. Several of the Yucaipa parks that Neet relied upon were superior to Carriage Trade and Neet's utilization of parks located in Banning and Beaumont is inconsistent with Admin. R §4.0004(B), which describes a "comparable park" as being in the City of Yucaipa and subject to the YMC. Therefore, Neet's opinion of "market rent" should be rejected. Neet's analysis of "controlled market rent" was based on a comparable analysis of the rents at four parks in Yucaipa. However, based on both the Neet and Brabant Reports and testimony, there is no such thing as "controlled market rent" in appraisal terminology and it is inconsistent with Yucaipa's Rent Ordinance. (**Staff Exhibits, TAB C [Neet Report] and TAB G [Brabant Report, p. 15]**)

C. Brabant analyzed eight comparable parks located in Yucaipa (Avalon Mobile Estates, Bel-Aire Mobile Estates, Bonanza Mobile Estates, Grandview East, Patrician Park, Valley View, Crestview I Mobile Home Park, and Green Valley), and concluded based on that analysis that the average rental value of spaces at Carriage Trade, was \$340 per month. This is an average increase of \$102 per month above the actual 2016 space rent levels of \$238 at Carriage Trade. (**Staff Exhibits, TAB G, pp. 16-23**)

18. The Commission finds that the rents, as adjusted by the MNOI adjustment of \$95.94 per space per month, will provide the Owners with a fair return.

19. The Park's space rents currently in effect for month-to-month spaces, based on the City's official records, including any Annual Adjustments approved by the City, are set forth in **Exhibit A**, attached hereto and incorporated herein by this reference as though set forth in full. The new space rents for each month-to-month space, based on the \$95.94 MNOI rent adjustment are also set out in Column "D" on **Exhibit A**, attached hereto.

20. Claim #5 (Temporary Rent Adjustment for Application and Hearing Costs under YMC Section 15.20.116 and Chapter 6 of the Rules). Based on the entire record before the Commission, the Commission finds as follows:

A. The Park Owner incurred costs of the application and public hearing, totaling \$51,174.50, including legal fees of \$25,932.00, McCarthy accounting and hearing attendance fees of \$18,142.50, the Neet appraisal fee and hearing attendance fee of \$5,350.00 and a City application fee of \$1,750. The Park Owners are entitled to recover the costs of the application and public hearing, pursuant to *Galland v. City of Clovis*, 24 Cal.3d 1003 (2001). Each resident's proportionate share of this sum is \$527.57. However, if the proportionate amount of \$527.57 were imposed in one lump sum on each space, the residents may suffer significant financial hardship particularly given that they are also going to have to pay an additional \$95.94 per space per month for the MNOI adjustment. If the sum of \$51,174.50 is amortized over a five-year period at an interest rate of seven percent (7%), the monthly cost would be \$10.45 per space per month for five years.

B. The Commission finds that the Park Owners are entitled to a temporary rent increase of ***\$10.45 per month, over a five-year period*** (which includes seven percent interest), to recover the costs of the Application and public hearing. The temporary rent increase must cease after five years, and shall be separately itemized on the rent invoice and not included in the base rents for purposes of future rent adjustments.

C. Each Park resident shall have the option of paying off the temporary adjustments set forth in Finding No. 20(A) in ***one lump sum, totaling \$527.57***, without accrual of any interest, at the option of each resident. Payment of the lump sum amount shall be made at the time of initial payment of any rent increase by such resident, as authorized under this Resolution, and in any event no later than the date that the first rent adjustment is paid following service of appropriate 90-day notice under State law.

D. Upon payment by any resident of the temporary adjustments in one lump sum, as authorized by Finding No. 20 (C), the Park Owners shall provide written confirmation to the Park resident, sent or personally delivered at the resident's last known mailing address. The Park Owner shall also provide written certification to the City of any resident's payment, sent or personally delivered to: City of Yucaipa, 34272 Yucaipa Boulevard, Yucaipa, CA 92399, Attn: Rent Administrator. The confirmation and certifications shall be served upon the Park resident and City within ten (10) calendar days of that resident's payment of the lump sum to the Park Owners.

21. No rents, charges or other costs shall be imposed by the Park Owners on any month-to-month spaces above the current rents as approved under this Resolution. The new space rents for each of the 85 spaces subject to rent control, and the approved temporary adjustments, are set forth in **Exhibit A**, attached hereto and incorporated herein by this reference as though set forth in full.

22. The Park Owners shall not apply for an Annual Adjustment pursuant to Section 15.20.080 (A) of the Ordinance and Chapter 3 of the Administrative Rules, until the expiration of at least twelve (12) months following the approval of the MNOI adjustment under this Resolution. The Park Owners may apply for a capital improvement rent adjustment pursuant to Section 15.20.080 (B) of the Ordinance and Chapter 5 of the Administrative Rules, at any time following approval of the MNOI adjustment.

23. This Resolution and any decision herein shall be binding upon the Applicant and any of their successors in interest, assignees or transferees, and shall be binding upon the residents/tenants of the month-to-month spaces in the Park.

24. Nothing herein shall authorize any increase or change in any rent or other charge imposed on the residents not in compliance with the Ordinance and/or State law, including but not limited to, any 90-day notice required by State law.

25. The procedures and determinations herein have been carried out in compliance with the Yucaipa Rent Stabilization Ordinance.

26. This decision may be appealed to the City Council within 10 (ten) days of the date of the Commission's written decision, pursuant to Section 15.20.115 (A) of the Ordinance. If the Applicant or a Park resident does not appeal this written decision within the ten-day deadline, the decision of this Commission shall become final on the eleventh day following the date of this Resolution. Any legal challenge to a final decision of the City with regard to the Application must be filed within ninety (90) days of the date that the City's decision becomes final.

PASSED, APPROVED AND ADOPTED by the City of Yucaipa Mobilehome Rent Review Commission this 1<sup>st</sup> day of August 2017.

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Caecilia Johns  
Chairperson

ATTEST:

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Tammy Vaughan  
Deputy City Clerk/Asst. Rent Administrator

Attachments: Exhibit A: Carriage Trade Manor List of Rents for Spaces 1—100 MNOI Rent Adjustment and Temporary Rent Increase for a 5-Year Period

# MRRC RESOLUTION NO. 2017-35 EXHIBIT "A"

## CARRIAGE TRADE MANOR MOBILEHOME PARK

### LIST OF RENTS FOR SPACES 1-100

#### MNOI ADJUSTMENT AND TEMPORARY RENT INCREASE FOR A 5-YEAR PERIOD

(The current monthly base rents do not include the previously approved Capital Improvement Rent Adjustment of \$15.16 - Decision Dated February 7, 2017)

(Column A)	(Column B)	(Column C)	(Column D)	(Column E) (Rent Increase Application and Public Hearing Costs)
Space Number	Current Monthly Base Rent (Eff. June 1, 2010)	MNOI Monthly Adjustment (Requires 90-Day Notice per MRL)	Adjusted Base Rent	*Temporary Rent Increase (Amortization Period Expires 5-Years from Implementation) (Requires 90-Day Notice per MRL)
1	\$228.72	\$95.94	\$324.66	\$10.45
2	\$243.17	\$95.94	\$339.11	\$10.45
3	\$243.17	\$95.94	\$339.11	\$10.45
4	\$228.72	\$95.94	\$324.66	\$10.45
5	\$243.17	\$95.94	\$339.11	\$10.45
6	\$233.01	\$95.94	\$328.95	\$10.45
7	\$233.01	\$95.94	\$328.95	\$10.45
8	\$228.72	\$95.94	\$324.66	\$10.45
9	\$228.72	\$95.94	\$324.66	\$10.45
10	\$228.72	\$95.94	\$324.66	\$10.45
11	\$233.01	\$95.94	\$328.95	\$10.45
14	\$261.97	\$95.94	\$357.91	\$10.45
15	\$233.01	\$95.94	\$328.95	\$10.45
16	\$233.01	\$95.94	\$328.95	\$10.45
17	\$228.72	\$95.94	\$324.66	\$10.45
18	\$228.72	\$95.94	\$324.66	\$10.45
19	Park Owned	N/A	N/A	N/A
20	\$243.17	\$95.94	\$339.11	\$10.45
21	Park Owned	N/A	N/A	N/A
22	Park Owned	N/A	N/A	N/A
23	\$238.84	\$95.94	\$334.78	\$10.45
24	Park Owned	N/A	N/A	N/A
25	\$233.01	\$95.94	\$328.95	\$10.45
26	\$238.84	\$95.94	\$334.78	\$10.45
27	\$233.01	\$95.94	\$328.95	\$10.45
28	\$233.01	\$95.94	\$328.95	\$10.45

# MRRC RESOLUTION NO. 2017-35 EXHIBIT "A"

## CARRIAGE TRADE MANOR MOBILEHOME PARK

### LIST OF RENTS FOR SPACES 1-100

#### MNOI ADJUSTMENT AND TEMPORARY RENT INCREASE FOR A 5-YEAR PERIOD

**(The current monthly base rents do not include the previously approved Capital Improvement Rent Adjustment of \$15.16 - Decision Dated February 7, 2017)**

(Column A)	(Column B)	(Column C)	(Column D)	(Column E) <small>(Rent Increase Application and Public Hearing Costs)</small>
Space Number	Current Monthly Base Rent <small>(Eff. June 1, 2010)</small>	MNOI Monthly Adjustment <small>(Requires 90-Day Notice per MRL)</small>	Adjusted Base Rent	*Temporary Rent Increase <small>(Amortization Period Expires 5-Years from Implementation) (Requires 90-Day Notice per MRL)</small>
29	\$238.84	\$95.94	\$334.78	\$10.45
31	\$233.01	\$95.94	\$328.95	\$10.45
32	\$233.01	\$95.94	\$328.95	\$10.45
33	\$247.49	\$95.94	\$343.43	\$10.45
34	\$233.01	\$95.94	\$328.95	\$10.45
35	\$247.49	\$95.94	\$343.43	\$10.45
36	Park Owned	N/A	N/A	N/A
37	\$238.84	\$95.94	\$334.78	\$10.45
38	\$233.01	\$95.94	\$328.95	\$10.45
39	\$233.01	\$95.94	\$328.95	\$10.45
40	\$253.35	\$95.94	\$349.29	\$10.45
41	\$232.14	\$95.94	\$328.08	\$10.45
42	\$238.84	\$95.94	\$334.78	\$10.45
43	\$247.49	\$95.94	\$343.43	\$10.45
44	\$233.01	\$95.94	\$328.95	\$10.45
45	\$233.01	\$95.94	\$328.95	\$10.45
46	\$238.84	\$95.94	\$334.78	\$10.45
47	\$233.01	\$95.94	\$328.95	\$10.45
48	\$238.84	\$95.94	\$334.78	\$10.45
49	\$238.84	\$95.94	\$334.78	\$10.45
50	\$251.81	\$95.94	\$347.75	\$10.45
51	\$246.43	\$95.94	\$342.37	\$10.45
52	\$238.84	\$95.94	\$334.78	\$10.45
53	\$253.35	\$95.94	\$349.29	\$10.45
54	Park Owned	N/A	N/A	N/A
55	\$233.01	\$95.94	\$328.95	\$10.45

# MRRC RESOLUTION NO. 2017-35 EXHIBIT "A"

## CARRIAGE TRADE MANOR MOBILEHOME PARK

### LIST OF RENTS FOR SPACES 1-100

#### MNOI ADJUSTMENT AND TEMPORARY RENT INCREASE FOR A 5-YEAR PERIOD

**(The current monthly base rents do not include the previously approved Capital Improvement Rent Adjustment of \$15.16 - Decision Dated February 7, 2017)**

(Column A)	(Column B)	(Column C)	(Column D)	(Column E) <small>(Rent Increase Application and Public Hearing Costs)</small>
Space Number	Current Monthly Base Rent <small>(Eff. June 1, 2010)</small>	MNOI Monthly Adjustment <small>(Requires 90-Day Notice per MRL)</small>	Adjusted Base Rent	*Temporary Rent Increase <small>(Amortization Period Expires 5-Years from Implementation) (Requires 90-Day Notice per MRL)</small>
56	\$238.84	\$95.94	\$334.78	\$10.45
57	\$238.84	\$95.94	\$334.78	\$10.45
58	\$234.86	\$95.94	\$330.80	\$10.45
59	\$233.01	\$95.94	\$328.95	\$10.45
60	\$238.84	\$95.94	\$334.78	\$10.45
61	\$238.84	\$95.94	\$334.78	\$10.45
62	\$238.84	\$95.94	\$334.78	\$10.45
63	\$238.84	\$95.94	\$334.78	\$10.45
64	\$238.84	\$95.94	\$334.78	\$10.45
65	\$233.01	\$95.94	\$328.95	\$10.45
66	\$238.84	\$95.94	\$334.78	\$10.45
67	\$233.01	\$95.94	\$328.95	\$10.45
68	\$233.01	\$95.94	\$328.95	\$10.45
69	\$238.84	\$95.94	\$334.78	\$10.45
70	\$233.01	\$95.94	\$328.95	\$10.45
71	\$247.49	\$95.94	\$343.43	\$10.45
72	\$253.35	\$95.94	\$349.29	\$10.45
73	\$233.01	\$95.94	\$328.95	\$10.45
74	\$238.84	\$95.94	\$334.78	\$10.45
75	\$238.84	\$95.94	\$334.78	\$10.45
76	\$233.01	\$95.94	\$328.95	\$10.45
77	\$238.84	\$95.94	\$334.78	\$10.45
78	\$234.86	\$95.94	\$330.80	\$10.45
79	Park Owned	N/A	N/A	N/A
80	\$238.84	\$95.94	\$334.78	\$10.45
81	Park Owned	N/A	N/A	N/A

# MRRC RESOLUTION NO. 2017-35 EXHIBIT "A"

## CARRIAGE TRADE MANOR MOBILEHOME PARK

### LIST OF RENTS FOR SPACES 1-100

#### MNOI ADJUSTMENT AND TEMPORARY RENT INCREASE FOR A 5-YEAR PERIOD

**(The current monthly base rents do not include the previously approved Capital Improvement Rent Adjustment of \$15.16 - Decision Dated February 7, 2017)**

(Column A)	(Column B)	(Column C)	(Column D)	(Column E) <small>(Rent Increase Application and Public Hearing Costs)</small>
Space Number	Current Monthly Base Rent <small>(Eff. June 1, 2010)</small>	MNOI Monthly Adjustment <small>(Requires 90-Day Notice per MRL)</small>	Adjusted Base Rent	*Temporary Rent Increase <small>(Amortization Period Expires 5-Years from Implementation) (Requires 90-Day Notice per MRL)</small>
82	\$238.84	\$95.94	\$334.78	\$10.45
83	\$247.49	\$95.94	\$343.43	\$10.45
84	\$233.01	\$95.94	\$328.95	\$10.45
85	\$233.01	\$95.94	\$328.95	\$10.45
86	\$233.01	\$95.94	\$328.95	\$10.45
87	\$238.84	\$95.94	\$334.78	\$10.45
88	\$238.84	\$95.94	\$334.78	\$10.45
89	Park Owned	N/A	N/A	N/A
90	Park Owned	N/A	N/A	N/A
91	\$225.78	\$95.94	\$321.72	\$10.45
92	\$247.49	\$95.94	\$343.43	\$10.45
93	Park Owned	N/A	N/A	N/A
94	\$233.01	\$95.94	\$328.95	\$10.45
95	\$253.35	\$95.94	\$349.29	\$10.45
96	Park Owned	N/A	N/A	N/A
97	\$253.35	\$95.94	\$349.29	\$10.45
98	\$233.01	\$95.94	\$328.95	\$10.45
99	\$233.01	\$95.94	\$328.95	\$10.45
100	\$238.84	\$95.94	\$334.78	\$10.45

\*Pursuant to MRRC Resolution No. 2017-35 "Each Park resident shall have the option of paying off the temporary adjustments set forth in Finding No. 20(A) in one lump sum, totaling \$527.57, without accrual of any interest, at the option of each resident. Payment of the lump sum amount shall be made at the time of initial payment of any rent increase by such resident, as authorized under this Resolution, and in any event no later than the date that the first rent adjustment is paid following service of appropriate 90-day notice under State law."