



**Mobilehome Rent Review Commission
Agenda**

May 24, 2016 – 1:30 PM

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

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

PUBLIC COMMENT

DISCUSSION AND ACTION

- P.2 1. **SUBJECT:** MOBILEHOME RENT REVIEW COMMISSION VICE-CHAIRPERSON APPOINTMENT.

RECOMMENDATION: That the Mobilehome Rent Review Commission choose one of its members as Vice-Chairperson.

- P.3 2. **SUBJECT:** APPROVE COMMISSION MINUTES OF JANUARY 13, 2016.

RECOMMENDATION: That the Commission approve the Mobilehome Rent Review Commission Minutes of January 13, 2016.

- P.15 3. **SUBJECT:** APPROVE COMMISSION MINUTES OF MARCH 22, 2016.

RECOMMENDATION: That the Commission approve the Mobilehome Rent Review Commission Minutes of March 22, 2016.

- P.17 4. **SUBJECT:** BIENNIAL REVIEW OF MOBILEHOME RENT STABILIZATION ORDINANCE AND RESOLUTION (CONTINUED FROM MARCH 22, 2016).

RECOMMENDATION: That the City of Yucaipa Mobilehome Rent Review Commission review and consider the remaining discussion issues for the biennial review, and provide recommendations to the City Council

ADJOURNMENT

**CITY OF YUCAIPA
AGENDA REPORT**

TO: Honorable Commissioners
FROM: Jennifer Shankland, Rent Administrator 
FOR: Meeting of May 24, 2016
SUBJECT: Mobilehome Rent Review Commission Vice-Chairperson Appointment

RECOMMENDATION:

That the Mobilehome Rent Review Commission choose one of its members as Vice-Chairperson.

DISCUSSION:

On March 22, 2016 the City of Yucaipa received a letter from Vice-Chairperson Marnati stating that he was moving out of Yucaipa and needed to resign from the Mobilehome Rent Review Commission.

Due to vacancy of the Vice-Chairperson position and pursuant to the adopted Mobilehome Rent Stabilization Administrative Rules, the Mobilehome Rent Review Commission shall elect a Commissioner to the position. The Vice-Chairperson shall serve the remainder of the unexpired term (appointments made January 13, 2016).

Nominations for Vice-Chairperson may be made by any member of the Commission and need not be seconded in order to be effective. The selection shall be by three or more affirmative votes. In the event that no person receives three or more votes in the selection process, the selection process shall be repeated immediately.

City of Yucaipa
Mobilehome Rent Review Commission Minutes
Regular Meeting of January 13, 2016

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 January 13, 2016 at 1:00 PM.

PRESENT: Hayden Martin, Chairperson
Mark Marnati, Vice-Chairperson
Mark Bender, Commissioner
James Ewing, Commissioner
Thomas Powell, Commissioner
Jennifer Shankland, Deputy City Manager/Rent Administrator
Amy Greyson, Commission Attorney

ABSENT: None

CONVENE MOBILEHOME RENT REVIEW COMMISSION

The meeting was opened with the Pledge of Allegiance led by Chairperson Martin.

CEREMONIAL

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

PUBLIC COMMENT

None

COMMISSION BUSINESS

1. SUBJECT: COMMISSION REORGANIZATION.

RECOMMENDATION: That the Mobilehome Rent Review Commission choose one of its members as Chairperson and another of its members as Vice-Chairperson.

DISCUSSION: Deputy City Manager/Rent Administrator Shankland provided procedural guidelines for the process and opened nominations for the position of Chairperson.

Commissioner Marnati nominated Commissioner Martin for Chairperson.

Commissioner Ewing nominated Commissioner Powell for Chairperson.

Deputy City Manager/Rent Administrator Shankland closed nominations for the office of Chairperson.

Deputy City Manager/Rent Administrator Shankland called for votes.

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ACTION: AFFIRMATIVE VOTES WERE RECEIVED FROM COMMISSIONER MARNATI, COMMISSIONER BENDER, AND COMMISSIONER MARTIN, CARRIED 3-2, (COMMISSIONER EWING AND COMMISSIONER POWELL VOTED NOE) TO SELECT COMMISSIONER MARTIN FOR THE OFFICE OF CHAIRPERSON.

Deputy City Manager/Rent Administrator Shankland opened nominations for the position of Vice-Chairperson.

Chairperson Martin nominated Commissioner Marnati for Vice-Chairperson.

Deputy City Manager/Rent Administrator Shankland closed nominations for the office of Vice-Chairperson.

Deputy City Manager/Rent Administrator Shankland called for votes.

ACTION: AFFIRMATIVE VOTES WERE RECEIVED FROM CHAIRPERSON MARTIN, COMMISSIONER BENDER, COMMISSIONER EWING, COMMISSIONER MARNATI AND COMMISSIONER POWELL, CARRIED 5-0, TO SELECT COMMISSIONER MARNATI FOR THE OFFICE OF VICE-CHAIRPERSON.

DISCUSSION AND ACTION

2. **SUBJECT:** APPROVE COMMISSION MINUTES OF MARCH 4, 2015.

RECOMMENDATION: That the Commission approve the Mobilehome Rent Review Commission Minutes of March 4, 2015.

ACTION: MOTION BY COMMISSIONER POWELL, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO APPROVE MOBILEHOME RENT REVIEW COMMISSION MINUTES OF MARCH 4, 2015.

3. **SUBJECT:** BIENNIAL REVIEW OF MOBILEHOME RENT STABILIZATION ORDINANCE AND RESOLUTION

RECOMMENDATION: That the City of Yucaipa Mobilehome Rent Review Commission conduct a review of the Mobilehome Rent Stabilization Ordinance (Yucaipa Municipal Code Chapter 15.20) and the Administrative Rules last amended by Resolution No. 2011-52, and direct staff as appropriate.

DISCUSSION: Deputy City Manager/Rent Administrator Shankland proposed that the Commission review one item at a time to allow public comment and to receive Commission direction on each item separately. The Commission concurred.

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RECOMMENDATIONS FOR POLICY CHANGES AND IMPROVEMENTS IN THE ADMINISTRATION OF THE ORDINANCE:

Admin #1: Temporary Rent Adjustment

Deputy City Manager/Rent Administrator Shankland presented Admin #1.

Public Comment

Tony Slaick, YMRA, requested that the Commission amend the Administrative Rules and Ordinance with language to limit recovery to the actual cost of the hearing process incurred by the legal challenge. Mr. Slaick stated YMRA's concerns pertaining to the interest rate.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), stated that as a non-profit, they run a tight budget and the cost of the litigation and the application impacts them.

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), questioned how the process would be implemented in the event the Commission denied the temporary rent increase and the court overturned that decision.

Commission Attorney Greyson provided clarification to issues raised during public comment.

Chairperson Martin closed the public comment.

Commission Attorney Greyson addressed questions raised by Commissioners.

After Mobilehome Rent Review Commission discussion, the following Motion was made:

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY COMMISSIONER BENDER, CARRIED 5-0, TO AMEND ADMINISTRATIVE RULES §6.0004(E)(1) AND ADMINISTRATIVE RULES §6.0004(G) AS DETAILED IN THE STAFF REPORT.

Admin #2: Capital Improvement Bid/Proposal Application Requirements

Deputy City Manager/Rent Administrator Shankland presented Admin #2.

Public Comment

Tony Slaick, YMRA, spoke in support of staff recommendation and requested that the language that requires the park owner to meet with the park residents "prior to the completion ..." be amended to read "prior to the application...".

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Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), spoke in support of open communication with the residents and raised concerns about being reimbursed for the improvement after the work has been completed.

Chairperson Martin closed the public comment.

Commission Attorney Greyson addressed questions raised by Commissioners.

After Mobilehome Rent Review Commission discussion, the following Motion was made:

ACTION: MOTION BY COMMISSIONER BENDER, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO AMEND YMC §15.20.085(A)(1) AS DETAILED IN THE STAFF REPORT.

Admin #3: Permits, Inspections and Quality of Code Improvements

Deputy City Manager/Rent Administrator Shankland presented Admin #3.

Public Comment

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), spoke in opposition to staff recommendation and cautioned against making administrative changes to Title 25.

Julie Paule, WMA, spoke in opposition to staff recommendation and requested that the Commission decline this recommendation.

Peter Herzog, MHET, spoke in opposition to staff recommendation and requested that this item be continued to a future meeting.

Deputy City Manager/Rent Administrator Shankland clarified the intent of Admin #3.

Commission Attorney Greyson provided clarification to issues raised during public comment and reiterated that the Commission would welcome suggestions and ideas from park owners and representatives.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), spoke in favor of moving this item to a future meeting for a more thorough discussion and raised concerns pertaining to potential added costs.

Tony Slaick, YMRA, stated YMRA's concerns pertaining to this item and requested that the Commission consider adding language to the Ordinance that would require the park owner and the tenants to each pay 50% of the cost of the Capital Improvement.

Chairperson Martin closed the public comment and recommended that this item be continued in order to obtain input from all interested parties.

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Commission Attorney Greyson advised the Commission that they have the option to delay voting on this item until the end of the meeting. The Commission moved to General #1.

The Commission returned to this item at the end of the meeting. After discussion, it was Commission consensus to request staff to return to the Commission with input provided by interested parties. It was also Commission consensus to establish February 10, 2016 as the deadline for interested parties to submit their input to the City.

GENERAL ISSUES:

General #1: Annual Adjustments

Deputy City Manager/Rent Administrator Shankland presented General #1.

Public Comment

Julie Paule, WMA, spoke in support of establishing 100% of the increase in the CPI (Option #2).

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), spoke in support of establishing 100% of the increase in the CPI (Option #2).

Peter Herzog, MHET, spoke in support of establishing 100% of the increase in the CPI (Option #2).

Tony Slaick, YMRA, spoke in support of making no change to the existing Ordinance and Rules and maintaining 80% of the increase in the CPI (Option #3).

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), requested that the Commission consider how the CPI applies to parks with lower rents versus higher rents.

Chairperson Martin closed the public comment.

After Mobilehome Rent Review Commission discussion, the following Motions were made:

ACTION: MOTION BY COMMISSIONER POWELL, SECOND BY COMMISSIONER EWING, FAILED 2-3, (CHAIRPERSON MARTIN, VICE-CHAIRPERSON MARNATI AND COMMISSIONER BENDER VOTED NOE) TO AMEND THE ANNUAL ADJUSTMENT FORMULA TO 85% OF THE INCREASE IN CPI.

ACTION: MOTION BY CHAIRPERSON MARTIN, FAILED DUE TO A LACK OF A SECOND, TO SELECT OPTION #2 OF STAFF RECOMMENDATION (100% OF THE INCREASE IN CPI, OR BY 5% PERCENT OF THE CURRENT SPACE RENT, WHICHEVER IS LESS).

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ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY COMMISSIONER POWELL, CARRIED 4-0-0-1, (COMMISSIONER EWING ABSTAINED) TO SELECT OPTION #3 OF STAFF RECOMMENDATION. (NO CHANGE TO THE EXISTING ORDINANCE AND RULES)

The Commission recessed for five minutes.

ISSUES PRESENTED BY YMRA:

YMRA #1: Application Fee and Costs to Administer Ordinance

Deputy City Manager/Rent Administrator Shankland presented YMRA #1.

Public Comment

Tony Slaick, YMRA, stated YMRA's request to amend the Ordinance or Administrative Rules to allow park residents or a group of residents to seek a waiver or postponement of the \$1,750 application fee.

Chairperson Martin closed the public comment.

ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR ADMINISTRATIVE RULES PERTAINING TO WAIVERS OF APPLICATION COSTS.

YMRA #2: Annual Adjustments

Deputy City Manager/Rent Administrator Shankland presented YMRA #2.

Public Comment

None

ACTION: MOTION BY COMMISSIONER POWELL, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT MAKE ANY AMENDMENTS TO THE ANNUAL ADJUSTMENT PROVISIONS TIED TO CHANGES OR ELIMINATION OF THE CAPITAL IMPROVEMENT RENT ADJUSTMENT PROVISIONS OF THE ORDINANCE OR ADMINISTRATIVE RULES.

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YMRA #3: Vacancy Decontrol

Deputy City Manager/Rent Administrator Shankland presented Vacancy Decontrol, reiterated the positions of YMRA #3, WMA, MHET and Rottenbacher, and addressed questions raised by the Commission.

Public Comment

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), requested that this item be postponed to allow the opportunity for discussion between the various stakeholders and spoke in support of vacancy decontrol for spaces that become vacant.

Peter Herzog, MHET, spoke in support of vacancy decontrol and requested that this item be deferred to allow the opportunity for discussion between the various stakeholders.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), spoke in support of vacancy decontrol.

Tony Slaick, YMRA, spoke in opposition to vacancy decontrol and requested that this item be postponed.

Chairperson Martin closed the public comment.

Deputy City Manager/Rent Administrator Shankland advised stakeholders that they may wish to meet to form a consensus pertaining to recommended amendments that may be included as additional information to the agenda report that will be presented to the City Council.

Commission Attorney Greyson addressed questions raised by Commissioners.

After Commission discussion, the following Motion was made:

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 4-0-0-1 (COMMISSIONER EWING ABSTAINED), TO REQUEST STAFF TO RETURN WITH VACANCY DECONTROL OPTIONS RELATING TO VACANT PADS FOR COMMISSION CONSIDERATION AND TO ESTABLISH FEBRUARY 10, 2016 AS THE DEADLINE FOR INTERESTED PARTIES TO SUBMIT THEIR INPUT TO THE CITY.

YMRA #4: Financial Information for MNOI Rent Adjustment

Deputy City Manager/Rent Administrator Shankland presented YMRA #4.

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Public Comment

None

ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR THE ADMINISTRATIVE RULES WITH REGARD TO DOCUMENTATION SUPPORTING APPLICATIONS FOR SPECIAL RENT ADJUSTMENTS INCLUDING MNOI RENT ADJUSTMENTS.

YMRA #5: Minimum Notice Requirements for Special Meetings

Deputy City Manager/Rent Administrator Shankland presented YMRA #5.

Public Comment

None

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ADMINISTRATIVE RULES WITH REGARD TO SCHEDULING OF SPECIAL MEETINGS OR MINIMUM NOTICE REQUIREMENTS FOR SPECIAL MEETINGS.

YMRA #6: Other Issues Raised by YMRA

Deputy City Manager/Rent Administrator Shankland stated YMRA #6 identified opinions and were not specific requests to change the Ordinance or Administrative Rules.

ISSUE PRESENTED BY ROSE MARY CONWAY OF BEL AIRE MOBILE ESTATES:

Conway #1: Annual Adjustments

Deputy City Manager/Rent Administrator Shankland presented Conway #1.

Public Comment

Tony Slaick, YMRA, stated support for the CPI increase based on an average of the prior year.

Chairperson Martin closed the public comment.

ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO NOT CHANGE THE EXISTING

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ORDINANCE AND RULES. (REFERENCE THE COMMISSION'S ACTION UNDER GENERAL #1)

ISSUES PRESENTED BY WESTERN MANUFACTURED HOUSING COMMUNITIES' (WMA) AND MANUFACTURED HOUSING EDUCATIONAL TRUST (MHET):

WMA #1: Annual Adjustments

(Addressed in General #1)

MHET #1: Annual Adjustments

(Addressed in General #1)

WMA/MHET #2: Capital Improvement

Deputy City Manager/Rent Administrator Shankland presented WMA/MHET #2.

Public Comment

Peter Herzog, MHET, spoke in support of automatic pass thru of capital improvements.

Commission Attorney Greyson provided clarification on the capital improvement process as it relates to the Ordinance and the Administrative Rules.

Julie Paule, WMA, spoke in support of automatic pass thru of capital improvements.

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), spoke in support of automatic pass thru of capital improvements and stated that there are alternatives.

Deputy City Manager/Rent Administrator Shankland addressed questions raised by the Commission and clarified the capital improvement application process.

Commission Attorney Greyson reiterated the administrative review process and provided background information.

Tony Slaick, YMRA, spoke in opposition of automatic pass thru of capital improvements.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), stated concerns pertaining to capital improvements as it relates to non-profit parks and requested staff clarification pertaining to the administrative process.

Chairperson Martin closed the public comment.

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ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO NOT AMEND THE ORDINANCE OR ADMINISTRATIVE RULES TO ALLOW AN AUTOMATIC RENT INCREASE BASED ON AMORTIZED CAPITAL IMPROVEMENT COSTS.

WMA #3: Vacancy Decontrol

(Addressed in YMRA #3)

MHET #3: Vacancy Decontrol

(Addressed in YMRA #3)

ISSUES PRESENTED BY ANDREW ROTTENBACHER, CALANDRA REAL, LP. ON BEHALF OF LAKEVIEW MOBILEHOME PARK

Rottenbacher #1: Annual Adjustment

(Addressed in General #1)

Rottenbacher #2: Minimal Annual Adjustments

(Addressed in General #1)

Rottenbacher #3: Vacancy Decontrol

(Addressed in YMRA #3)

ISSUE PRESENTED BY SUZANNE TAYLOR, AUGUSTA COMMUNITIES, ON BEHALF OF VALLEY VIEW MOBILEHOME PARK

Taylor #1: Nonprofit Mobilehome Parks Rent Adjustment Policy

Deputy City Manager/Rent Administrator Shankland presented Taylor #1.

Public Comment

None

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT AMEND THE ORDINANCE AND ADMINISTRATIVE RULES TO CREATE A SEPARATE PROCEDURE OR POLICY REGULATING RENTS IN NON-PROFIT PARKS.

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Taylor #2: Vacancy Decontrol

Deputy City Manager/Rent Administrator Shankland presented Taylor #2 and stated that this item pertains specifically to non-profit parks.

Public Comment

None

It was Commission concurrence at the end of the meeting to treat non-profit parks the same as profit parks. Vacancy Decontrol will be brought back for Commission consideration at a future meeting.

Taylor #4: Capital Improvements – Eliminate Park Resident Vote

Deputy City Manager/Rent Administrator Shankland presented Taylor #4.

Public Comment

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), stated concerns pertaining to capital improvements and requested clarification regarding health and safety projects.

Deputy City Manager/Rent Administrator Shankland and Commission Attorney Greyson addressed questions raised by Ms. Taylor.

Tony Slaick, YMRA, spoke in opposition of eliminating the park resident's vote.

Chairperson Martin closed the public comment.

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR ADMINISTRATIVE RULES WITH RESPECT TO THE VOTE PROVISIONS RELATING TO CAPITAL IMPROVEMENT RENT ADJUSTMENTS.

Taylor #5: Capital Improvements – Approval Prior to Commencement

Deputy City Manager/Rent Administrator Shankland presented Taylor #5.

Public Comment

None

After Commission discussion, the following Motion was made:

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ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY COMMISSIONER POWELL, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE CAPITAL IMPROVEMENT RENT ADJUSTMENT PROVISIONS OF THE ORDINANCE OR ADMINISTRATIVE RULES REGARDING TIMING OF SUBMITTAL OF CAPITAL IMPROVEMENT RENT ADJUSTMENT APPLICATIONS.

ISSUE PRESENTED BY IAN DYER, REAL ESTATE ADVISORS, INC, ON BEHALF OF YUCAIPA VALLEY AND HIDE-AWAY MOBILEHOME PARK

Dyer #1: Park Owned Mobilehomes

Deputy City Manager/Rent Administrator Shankland presented Dyer #1.

Public Comment

None

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR ADMINISTRATIVE RULES WITH RESPECT TO PARK-OWNED MOBILEHOMES.

ADJOURNMENT

The meeting adjourned.

Hayden Martin
Chairperson

ATTEST:

Jennifer Shankland
Deputy City Manager/Rent Administrator

APPROVED AT THE MEETING OF: _____

City of Yucaipa
 Mobilehome Rent Review Commission Minutes
 Regular Meeting of March 22, 2016

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 March 22, 2016 at 1:30 PM.

PRESENT: Hayden Martin, Chairperson
 Mark Marnati, Vice-Chairperson
 Mark Bender, Commissioner
 James Ewing, Commissioner
 Thomas Powell, Commissioner
 Jennifer Shankland, Deputy City Manager/Rent Administrator
 Amy Greyson, Commission Attorney

ABSENT: None

CONVENE MOBILEHOME RENT REVIEW COMMISSION

The meeting was opened with the Pledge of Allegiance led by Chairperson Martin.

PUBLIC COMMENT

Tony Slaick, YMRA, raised concerns regarding the Commission’s consideration of issues presented by YMRA.

DISCUSSION AND ACTION

1. **SUBJECT:** APPROVE COMMISSION MINUTES OF JANUARY 13, 2016.

RECOMMENDATION: That the Commission approve the Mobilehome Rent Review Commission Minutes of January 13, 2016.

NO ACTION. (This item will be brought back to the Commission at the next meeting)

2. **SUBJECT:** BIENNIAL REVIEW OF MOBILEHOME RENT STABILIZATION ORDINANCE AND RESOLUTION (CONTINUED FROM JANUARY 13, 2016).

RECOMMENDATION: That the City of Yucaipa Mobilehome Rent Review Commission review and consider the remaining discussion issues for the biennial review, and provide recommendations to the City Council

DISCUSSION: Deputy City Manager/Rent Administrator Shankland stated that during the January 13, 2016 meeting, the Commission gave YMRA, MHET, and WMA until February 10, 2016 to provide input on two items that the Commission continued until today’s hearing and reported that the Commission’s agenda packet included copies of responses received from MHET and YMRA. Deputy City Manager/Rent Administrator Shankland stated that

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Regular Meeting of March 22, 2016

the City received an email from MHET (dated March 16, 2016) requesting that this Commission hearing be continued to a date uncertain to allow more time for the interested parties to continue their discussions and advised that the Commission would need to make that determination as the Rent Administrator cannot make a determination to continue a hearing.

Peter Hertzog, MHET, stated that MHET, YMRA, and WMA met to discuss the issues that were to be reported back to the Commission by February 10, 2016 and stated that many other items were discussed that pertain to the Ordinance. Mr. Hertzog requested that the meeting be continued to allow the interested parties additional time to continue their discussions and addressed questions raised by the Commission.

Tony Slaick, YMRA, stated his support to either continue the hearing or to address the remaining items and addressed questions raised by the Commission.

Clay Hage, Park Management Inc., spoke in support of continuing the meeting.

Deputy City Manager/Rent Administrator Shankland and Commission Attorney Greyson addressed questions raised during public comment.

After Commission discussion, the following Motions were made.

ACTION: MOTION BY COMMISSIONER POWELL, FAILED DUE TO THE LACK OF A SECOND, TO EXTEND THE MEETING DATE FOR THREE WEEKS.

ACTION: MOTION BY COMMISSIONER EWING, SECOND BY COMMISSIONER BENDER, CARRIED 3-2 (CHAIRPERSON MARTIN AND VICE-CHAIRPERSON MARNATI VOTED NOE) TO EXTEND THE MEETING DATE FOR TWO MONTHS.

ADJOURNMENT

The meeting adjourned.

ATTEST:

Hayden Martin
Chairperson

Jennifer Shankland
Deputy City Manager/Rent Administrator

APPROVED AT THE MEETING OF: _____

**CITY OF YUCAIPA
MOBILEHOME RENT REVIEW COMMISSION
AGENDA REPORT**

TO: Mobilehome Rent Review Commission
FROM: Jennifer Shankland, Rent Administrator 
FOR: Mobilehome Rent Review Commission of May 24, 2016
SUBJECT: Biennial Review of Mobilehome Rent Stabilization Ordinance and Resolution
 (continued from March 22, 2016)

RECOMMENDATION

That the City of Yucaipa Mobilehome Rent Review Commission review and consider the remaining discussion issues for the biennial review, and provide recommendations to the City Council.

BACKGROUND

The Mobilehome Rent Review Commission (Commission) met on January 13, 2016, to conduct the biennial review of the Yucaipa Mobilehome Rent Stabilization Program (Chapter 15.20 of the Yucaipa Municipal Code) (“Ordinance”) and the Administrative Rules for the Implementation of the Yucaipa Mobilehome Rent Stabilization Ordinance (“Administrative Rules”). During that meeting, the Commission reached consensus on all but two issues, (1) permits, inspections and quality of capital improvements; and (2) vacancy decontrol. After discussion and comments from representatives of park management and the park residents, the Commission continued discussion of these two items to a future Commission meeting, in order to allow the stakeholders to meet and discuss these issues and to then provide input to staff on these issues for further consideration by the Commission. The Commission also requested options on vacancy decontrol relating to vacant pads for consideration by the Commission. The Commission also established February 10, 2016, as the deadline for stakeholders to submit their input to the City.

Pursuant to the February 10, 2016 deadline established by the Commission, the City received letters from MHET on February 3, 2016 and YMRA on February 8, 2016. The correspondence was included with the March 22, 2016 Commission Agenda packet that was distributed to the Commission and made available to the public on March 8, 2016. On March 16, 2016 (Attachment A) the City received a letter from MHET requesting that the March 22, 2016 Commission meeting be continued to a date uncertain so that stakeholder discussions could continue.

The Commission met on March 22, 2016, to review and consider the two remaining biennial review issues. Staff presented the Commission with MHET’s request for a continuance and recommended that the Commission deny the request and move forward with the remaining two items. However, based on input received from the stakeholders the Commission granted a two month continuance. On March 30, 2016 the stakeholders were notified that the deadline to

submit input pertaining to the two remaining items was May 10, 2016 and the Commission Hearing was scheduled for May 24, 2016.

DISCUSSION

The City has received input from the various stakeholders (Attachments B-G) pertaining to the two remaining issues before the Commission.

The 2015 biennial review started over a year ago (March 10, 2015), and although the Commission granted a continuance in March 2016 in response to the request from the stakeholders, the City has again received correspondence claiming that insufficient time has not been provided to allow for ideas and solutions to reach a common ground. Based on the correspondence received, it appears that common ground between the stakeholders was not achieved. In addition, the City received objections to some of the proposed amendments on the two remaining issues, and some stakeholders have raised concerns that the City is precluded from adopting the proposed amendments, but the City still has not received practical solutions or suggestions to assist in remedying the resident concerns that led to the original proposed amendments.

The January 13, 2016 (Attachment H) and March 22, 2016 (Attachment I) staff reports contained a discussion of each of the remaining two issues, along with the previous comments raised by park management representatives and park resident representatives.

The two remaining biennial review items that are before the Commission for review and consideration include:

-Permits, Inspections and Quality of Capital Improvements-

Staff Comments: This Administrative item has been proposed and recommended by staff to ensure that capital improvement projects for construction of street and flatwork meet acceptable standards, via a certified inspector, to ensure quality of work if the costs relating to the improvement are being passed on to the residents. The expense associated with a certified inspector (3%-4% of total project cost for testing and inspection) would be an acceptable pass-thru item, would provide calculations needed for the City Engineer to determine if acceptable standards were met, and would address issues and concerns raised by park residents relating to the quality of work. If this recommendation is not approved, then it would be up to the residents of the park to hire a certified inspector, at their own expense, if they believe the work being performed is unacceptable or will not last for the claimed useful life of the capital improvement. Compliance with the standards of this rule would be evaluated as part of the City's consideration of a capital improvement rent adjustment application

Based on the input received from the stakeholders, amendments have been made to the staff recommendation as follows:

Revised Staff Recommendation: Add new Administrative Rules §5.0010, Certification of Capital Improvements, as follows:

5.0010 CERTIFICATION OF CAPITAL IMPROVEMENTS

A. If a park owner intends to apply for a capital improvement rent adjustment for expenses incurred in carrying out street improvements or flatwork improvements (e.g., sidewalks, driveways, patios), the application shall include a certification signed by a registered or licensed civil engineer under penalty of perjury and verifying the following:

1. That the work was carried out under the supervision of a licensed or certified engineer to make sure that the capital improvements were properly constructed in accordance with the proposal, contract or bid;

2. That the improvement meets the standards required by the City of Yucaipa AC Pavement Specifications or other engineering standards to ensure adequacy of access and parking throughout the area of the improvement in accordance with the requirements of Title 25 of the California Code of Regulations;

3. That the improvement complies with all grading and drainage requirements of Title 25 including but not limited to the urban storm water runoff management requirements of the applicable MS-4 permit issued by the California State Regional Water Quality Control Board;

4. That the improvement will provide equal or improved circulation and parking areas in the mobilehome park as previously approved in the conditional use permit or other entitlement for the subject park;

45. To the extent that the area of improvement qualifies as a place of public accommodation under the Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) (ADA), That the improvement complies with all applicable accessibility requirements of the ADA Americans With Disabilities Act (42 U.S.C. §12101 et seq.); including but expressly not limited to parking;

56. That the improvement will provide adequate maintain the existing circulation and access for fire, life safety, service vehicles and trash trucks; and

7. That the improvement will be inspected and tested upon completion to ensure compliance with the required standards as indicated in item 2 above last at least as long as the amortization period.

B. The application for a capital improvement rent adjustment shall not be deemed complete by the rent administrator under YMC §§15.20.085 (A) (2) and

15.20.105 unless the application contains this certification. In the event that the applicant fails or refuses to submit the certification, the application shall be processed in accordance with YMC §§15.20.085(A)(2) and 15.20.105, and the rent administrator or Commission may consider the failure or refusal to submit the certification in determining whether the applicant (or appellant) met his or her burden of proof that he or she is entitled to a capital improvement rent adjustment.

Staff Recommendation: Renumber Administrative Rule, §5.0010 as §5.0011, as follows:

5.0010 5.0011 APPLICABILITY OF THESE ADMINISTRATIVE RULES.... [continue as in current Rule]

-Vacancy Decontrol-

Staff Comments: This Stakeholder item was raised in both January 13, 2016 (Attachment H) and March 22, 2016 (Attachment I) reports. As reflected in the examples of ordinances provided to the Commission on March 22, 2016 (Attachment I pg. 20-22), there are various methods used by cities and counties in addressing vacancies resulting when a mobilehome space becomes completely vacant.

Based on the direction provided by the Commission at the January 13, 2016, the sample ordinances provided, and input received from the stakeholders, the Commission may wish to consider any of the following options regarding vacancy increases when a mobile home is removed from the pad and the pad becomes vacant. Staff proposes that these options be drafted to exclude vacancies that result from (i) when the mobile home remains on the space (an in-place transfer), (ii) the home is replaced by the same tenant or resident for any reason (including age, fire, substantial destruction, or replacement with a new mobile home); or (iii) transfers of ownership of the mobile home by inheritance or other transfers to relatives, heirs, personal representatives, and successors in interest.

Option #1: Upon a vacancy (as defined), allow a park owner to impose a one-time space rent increase of \$25. If a space becomes vacant more than once during a calendar year, the park owner may increase the rent once more by an additional \$25 rent increase, but no further vacancy increases would be allowed regardless of the number of additional vacancies during that calendar year.

Option #2: Upon a vacancy (as defined), allow the park owner to increase the space rent by eighty percent (80%) of the annual increase in CPI (the same amount as the Permitted Annual Rent Adjustment). Also limit vacancy increases to more than twice in the same calendar year, regardless of the number of vacancies during that calendar year.

Option #3: Same as Option #2, but cap the vacancy increase at five percent (5%) of the last rent in effect prior to the vacancy.

Option #4: Allow the park owner to increase rents to market upon a vacancy (as defined).

Option #5: Require the park owner to post notice of the dollar amount or percentage of the vacancy increase in that calendar year and limit increases to the posted amount; and require prior notification to the City of the proposed vacancy increase and past 6 months' increases, before the vacancy increases are posted.

The Commission may wish to consider other options for potential amendments to allow limited vacancy decontrol based on further input from the Park Residents, Park Owners and other stakeholders.

If the Commission recommends any of these options, staff also recommends that the Ordinance and Rules be amended to require park management to file notice with the City upon a vacancy, and require the park owner to update its annual registration form to list the new proposed rent within a specified number of days of the mobile home space becoming vacant. In addition, staff recommends that the Ordinance and Rules make clear that upon re-rental following a vacancy, rent control is reapplied to the space and rent increases may only be imposed in compliance with the rent adjustment provisions of the Ordinance and Rules.

CONCLUSION:

Staff requests that the Commission discuss and reach consensus on the two remaining issues, (1) permits, inspections and quality of capital improvements; and (2) vacancy control or decontrol when a pad becomes completely vacant.

Following the Commission's review and discussion of this Report, the Report and any Ordinance and Resolution changes recommended by the Commission, will be presented to City Council for review and action.

Attachments:

- A Letter dated March 16, 2016 from Peter Herzog, MHET
- B Letter dated May 5, 2016 from Dowdall Law Offices
- C Email dated May 5, 2016 from Tony Slaick, YMRA
- D Letter dated May 9, 2016 from Julie Paule, WMA
- E Letter dated May 9, 2016 from Calanda Real LP
- F Letter dated May 9, 2016 from Hart King Law Offices
- G Letter dated May 10, 2016 from Peter Herzog, MHET
- H January 13, 2016 Agenda Packet
- I March 22, 2016 Agenda Packet



March 16, 2016

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Chair Hayden Martin and Mobile Home Rent Review Commission Commissioners
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, CA 92399

Sent via Email

Re: Continuation of the March 22, 2016 Biennial Review Hearing

Dear Chair Martin and Commissioners:

This letter is on behalf of YMRA and its Chairman Tony Slaick, the park owners of Yucaipa, WMA and MHET expressing our joint request that the March 22 Biennial Review Hearing should be continued to a date uncertain so that the very positive discussions that have been taking place among the true stakeholders can be completed. We will notify the Commission and City when our fruitful discussions are completed, which we are pursuing as rapidly as possible, and the hearing can then be reset.

We, your constituents, have mutually agreed this is the best course. This letter stands as a testament to the historic new beginning that has been achieved. We are on one page, not in an adversarial position. Mobile Home residents and park owners meeting repeatedly sharing each others concerns and needs in an effort to come together with ways to improve the quality of life within the mobile home parks of Yucaipa. This effort is something that should be applauded and supported. The best way to do so is to grant our request to continue this hearing so those who are the ones actually impacted can work together.

Together we stand looking forward to your positive reply to our request.

Sincerely,

Peter Herzog
Inland Empire Representative

Cc: Jennifer Shankland
Kim Everts

MAY 09 2016

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Of Counsel
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M.A., M.F.A., J.D.
jdb@dowdallw.net

IN REPLY, REFER TO:
2377

May 5, 2016

Via Electronic Mail
Original Via First Class Mail

Mobilehome Rental Review Commission
of the City of Yucaipa
Hayden Martin, Chairperson
Mark Marnati, Vice-Chairperson
Mark Bender, Commissioner
James Ewing, Commissioner
Thomas Powell, Commissioner
Jennifer Shankland, Deputy City Manager/Rent Administrator
Amy Greyson, Commission Attorney
Yucaipa City Hall
34272 Yucaipa Boulevard
Yucaipa, CA 92399

Re: Permits, Inspections and Quality of Capital Improvements. Invalidation of Regulations Requiring Standards Exceeding Requirements of the Mobilehome Parks Act (Health and Safety Code, Division 13, Housing, Part 2.1 (§§ 18200-18700) ("MPA"), including the California Code of Regulations, Title 25, Div. 1, Ch. 2, Arts 1-11 ("Title 25").

Gentlepersons:

These offices represent the Western Manufactured Housing Communities Association, the Manufactured Housing Educational Trust, and several mobilehome park owners located in the City of Yucaipa. I am writing to you on their behalf respecting the matter referenced above.

The referenced recent proposal to the rent control law would materially exceed the local police power authority vested in the City of Yucaipa as set forth in California Constitution, Article XI, section 7. The proposal violates the state and federal constitutional rights of the owners. The proposal erroneously presupposes that the parks are required to comply with the Americans with Disabilities Act (ADA); this conclusion is in error, as mobilehome parks are not places of public accommodation.

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of the City of Yucaipa
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The proposal would violate the owner's rights of substantive due process, fair trial, procedural due process and equal protection.

Matters of construction, maintenance and improvement of extant mobilehome parks are controlled by the Mobilehome Parks Act and implementing regulations. Matters of legislative cognizance wholly occupied by the general laws are beyond the jurisdiction and power of the residual police powers. Thus, promulgating in an area of statewide concern is an abridgment of the California Constitution, under color of law. Moreover, a pre-qualification such as approval of an engineer sets up a veto to block the right to seek a return of the costs of a capital improvement and the return on the expenses posed by a capital improvement. These rights are constitutionally secured and may not be so invalidated by requiring standards above legally specified requirements.

The city may not truncate and eviscerate the right to seek a capital improvement based on the third party opinion of an engineer which serves as a bar to even filing for discretionary consideration of capital improvement costs. These fundamental flaws render the proposal of the city invalid and unenforceable. Seeking reimbursement for capital improvements may not be conditioned on the consent of a third party; cutting off the right to discretionary consideration may not be conditioned as an irrebuttable presumption of evidence. This effort abridges the well worn lesson from *Birkenfeld v. City of Berkeley*, 17 Cal.3d 129 (1976), that a mechanism for rent review must allow the introduction of all relevant evidence. A proposal to cut-off obviously relevant evidence on the 'say-so' of an engineer required to second-guess code inspectors who have already issued and approved permits and inspections is the improper delegation of unreviewable power onto the shoulders of a stranger. That stranger is not selected, disciplined, monitored, supervised or directed by a city agent or representative. And if no engineer will sign off, the right to seek reimbursement is vanquished without so much as a hearing. And if the legislative intent is that an engineer can be found by the owner, somewhere, somehow, anyway, then the additional burden serves no purpose except to create an unnecessary and additional burden to validate a foregone conclusion, which interferes with the right to petition for redress of grievances.

Why is such an effort ultra vires to the local police powers?

State law regulates construction and development in mobilehome parks. Existing parks may not be subjected to retroactive requirements not pertaining at the time of construction and approval.

For example, pursuant to the April 21, 2008, Information Bulletin 2008-10 (MP), entitled "VALIDITY OF LOCAL ORDINANCES RELATING TO INSTALLATION OF NEW MANUFACTURED HOMES AND/OR SALE OR CONVERSION OF MOBILEHOME

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PARKS", the Mobilehome Parks Act (Health and Safety Code, Division 13, Housing, Part 2.1 (§§ 18200-18700) ("MPA") contains an express preemption, with minimal express authority for local ordinances. In addition, the Legislature's findings support its intent to allow only very restrictive authority for local government action within the boundaries of a mobilehome park. In the MPA, subdivision (a) of Health and Safety Code §18300 provides that "the MPA and HCD regulations apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, affecting parks."

Health and Safety Code §§18300(g), (h) constitute exceptions, are not authority to cut off rights of reimbursement, over and above building code regulations for which permits were obtained. Authority also exists to regulate the activities *outside* a mobilehome park.¹

In implementing the Legislature's comprehensive statewide program to establish and enforce park standards for construction, maintenance, repairs, and occupancy, the Department's statutory and regulatory standards impose standards for virtually every aspect of physical conditions.

With respect to construction of a *new or expanded park*, HCD regulations require evidence of local approvals from the local planning agency; the health, fire, and public works departments; the agency responsible for flood control; the serving utilities; and any other state or federal agency or special district that has jurisdiction and would be impacted by the proposed construction. (Title 25, §§1020.6, 1032). Similarly, HCD or the Local Enforcement Agency may require local approvals for construction of a permanent building under the ownership or control of the park within a park if that installation may impact local services. Most other types of construction, replacements, installations, and alterations require an MPA enforcement agency permit and inspections, but, not local approval. This power does not apply to any existing parks in the City.

Other examples of local ordinances that have been brought to HCD's attention and that area preempted by state laws and regulations as several. For example,

¹ Such as construction and use of equipment and facilities located outside of a manufactured home or mobilehome used to supply gas, water, or electricity thereto or to dispose of sewage when the facilities are located outside a park. [subdivision (g)(2)]; requiring a permit to use a manufactured home or mobilehome outside a park which permit may be refused or revoked if the use violates the MPA or the Manufactured Housing Act. [subdivision (g)(3)]; requiring a local building permit to construct an accessory structure for a manufactured home or mobilehome when the manufactured home or mobilehome is located outside a mobilehome park [subd. (g)(4)]; prescribing and enforcing setback and separation requirements governing manufactured home, mobilehome, or mobilehome accessory structure or building installation outside of a mobilehome park. [subd. (g)(5)].

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“Written documentation from HCD shall be obtained demonstrating that the park complies with all applicable Title 25 requirements.”

This is similar to the proposal here. But the MPA governs performance of inspections and issuance of reports of violations or corrections and does not require HCD or an LEA to perform inspections to ensure compliance with “all applicable” Title 25 requirements. An engineer report that any particular improvements comply with law is not authorized. There is no right to require an engineer to “sign off” on a clubhouse roof replacement, a pool patio overlay or resurfacing, a pool re-plaster, or any of the myriad capital expenditures specified by Internal Revenue Service rules.

Another example:

“The sides of the park facing a public street and the sides facing residential construction shall have walls high enough to block sight access of the roofs of the mobilehomes with ivy or other permanent foliage coverage, and no mobilehome shall be closer than 15 feet from the wall or fence.”

According to HCD, a city may regulate only the wall or enclosure on the public street frontage, not other sides of the park. The locality is authorized to establish a set-back for the wall or enclosure on the public street frontage, but all other set-back and separation requirements (within the boundaries of the park) are preemptively established by the MPA regulations.

Another example:

“All on-site utilities shall be installed underground.”

Utility construction requirements are preempted either by the PUC for utility-owned utilities, and/or by Title 25, CCR, which permits overhead utilities. New parks built after 1997 must have gas and electric services owned, operated, and maintained by the serving utility. See, *Public Utilities Code* §2791, Title 25, §1180(g).

Construction in accordance with Title 25 is sufficient for lawful and proper work. Adding requirements to such provisions, in order to create a gateway to a rent increase, is to require the elevated standards. That effort is preempted and a violation of substantive due process, and first and fourteenth amendment rights. Rather, compliance with the provisions of existing law are all that is required. Requiring more than this is invalid and unenforceable.

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of the City of Yucaipa
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ADA Inapplicable

The ADA does not apply to mobilehome parks. This is because mobilehome parks are not public facilities. Please see attached AG Opinion.

As to reasonable *modifications* under the FHAA, the expense is only absorbed by the homeowner, for whom the park has no responsibility. The park is not responsible for the improper actions of the tenant with respect to FHAA issues.

Again, the ADA does not apply to mobilehome parks. The parks are not public accommodations. They do not allow entry by the public. See *Reycroft v. Lee* (2009) 177 Cal.App.4th 1211. This is also the policy enunciated by HUD—private residential enclaves are not subject to the ADA. See also, *Jankey v. Twentieth Century Fox Film Corp.* (9th Cir. 2000) 212 F.3d 1159.

The Yucapia parks are also “private and not actually open to the public.” Hence, by imposing requirements that do not apply to the parks, the City is going beyond the powers set up in the Mobilehome Parks Act (Health and Safety Code, Division 13, Housing, Part 2.1 (§§ 18200-18700) (“MPA”). Again, the draft proposal is invalid and unenforceable in respect to ADA compliance.

Capital improvements are a constitutional right that may not be conditioned on the matters specified in the proposed regulations.

Finally, frustrating the right to seek reimbursement of one-hundred percent of the costs of capital improvements is an actionable wholesale deprivation of due process.

The courts protect against a “. . . violation of substantive due process under Guaranty National.” *Sierra Lake Reserve v. City of Rocklin* 938 F.2d 951 (9th Cir.1991). A return of and on that investment is constitutionally required.

“[¶] Under...[Guaranty National Insurance Co. v. Gates (9th Cir.1990) 916 F.2d 508]..., every dollar the landlord puts into the property by way of capital improvements constitutes an investment in the property for which a ‘fair and reasonable’ return must be allowed. Breaking even is not enough; the law must provide for a profit on one's investment. Id. at p. 515. To the extent plaintiff alleges that the rent increases allowed on account of capital improvements merely offset the cost of those improvements (or less), it has stated a claim for a violation of substantive due process under Guaranty National.” 938 F.2d 951, 958).

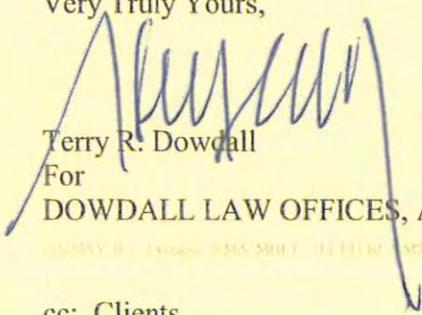
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Mobilehome Rental Review Commission
of the City of Yucaipa
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Interfering with the right to seek a capital improvement because it, already in compliance with law, might fail to meet some super-charged new requirement for sufficiency, is confiscatory on its face.

I urge you to reconsider and decline the draconian proposals which have been made for your consideration. If you have any questions or comments, please feel free to contact the undersigned.

Very Truly Yours,



Terry R. Dowdall
For
DOWDALL LAW OFFICES, A.P.C.

cc: Clients

ENCLOSURES - AG Opinion

Opinion No. 81-1104—January 26, 1982

SUBJECT: MOBILE HOME PARK RECREATION BUILDING NOT PUBLIC FACILITY—Unless it is used by the general public, a recreation building in a mobile home park is not a "public accommodation or facility" within the meaning of Health & Saf. Code § 19955 so as to be required to be accessible to and usable by physically handicapped persons.

Requested by: DIRECTOR, DEPARTMENT OF REHABILITATION

Opinion by: GEORGE DEUKMEJIAN, Attorney General
Ronald M. Weiskopf, Deputy

The Honorable Edward V. Roberts, Director, Department of Rehabilitation, has requested an opinion on the following question:

Is a recreation building in a mobile home park a "public accommodation or facility" within the meaning of Health and Safety Code section 19955 so as to be required to be accessible to and usable by physically handicapped persons?

CONCLUSION

Unless it is used by the general public, a recreation building in a mobile home park is not a "public accommodation or facility" within the meaning of Health and Safety Code section 19955 so as to be required to be accessible to and usable by physically handicapped persons.

ANALYSIS

Chapter 7 to division 5 of title 1 of the Government Code (§§ 4450-4458) is designed to "insure that all buildings, structures . . . and related facilities constructed in this state by the use of [public] funds shall be accessible to and usable by the physically handicapped." (*Id.*, § 4450; see also fn. 2, *post.*) Complementing that, part 5.5 to division 13 of the Health and Safety Code (§§ 19955-19959) (hereinafter, "part 5.5"), the subject of our concern, is designed to insure that "public accommodations or facilities constructed in this state with *private* funds" be likewise so accessible and usable. (*Id.*, §§ 19955, 19956.)¹ We are asked whether a recreation building in a mobilehome park is a "public accommodation or facility" within the meaning of the latter statute. We conclude that a recreation building in a mobilehome park is not a "public accommoda-

¹ Unidentified statutory references are to the Health and Safety Code.

tion or facility" within the meaning of section 19955 so as to be required to be accessible and usable by handicapped persons.

Part 5.5 was enacted in 1969 to address concern about the effect that the design and construction of *privately* constructed buildings had on the ability of handicapped persons to have access to and use them. (§ 19955; see also *Marsh v. Edwards Theatres Circuit, Inc.* (1976) 64 Cal. App. 3d 881, 887-888.) The legislation seeks "to insure that *public accommodations or facilities constructed with private funds* adhere to the provisions of chapter 7 (commencing with § 4450) of division 5 of title 1 of the Government Code" (§ 19955) and requires "all *public accommodations* constructed in this state [to] conform to [those] provisions . . ." (§ 19956.) As noted at the outset, the referenced provisions of the Government Code were enacted to insure that all buildings constructed with public funds would be accessible to and usable by physically handicapped persons.² For the purpose of part 5.5, the phrase "public accommodation or facility" is defined by section 19955 as follows:

" [P]ublic accommodation or facilities' means a building, structure, facility, complex, or improved area *which is used by the general public* and shall include auditoriums, hospitals, theaters, restaurants, hotels, motels, stadiums, and convention centers," (§ 19955; emphasis added.)

We must therefore decide whether a recreation building of a mobilehome park fits the bill.

It is the fundamental principle of statutory construction that the primary and controlling consideration in the construction of a statute is the determination of and the giving effect to the legislative intent behind the enactment. (*Friends of Mammoth v. Board of Supervisors* (1972) 8 Cal. 3d 247, 256; *Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal. 3d 152, 163; *Select Base Materials v. Board of Equal.* (1959) 51 Cal. 2d 640, 645.) We look to the words of the statute itself (*Moyer v. Workmen's Comp. Appeals Board* (1973) 10 Cal. 3d 222, 230; *Steilberg v. Lackner* (1977) 69 Cal. App. 3d 780, 785; *People v. Knowles* (1950) 35 Cal. 2d 175, 182) and construe them with the nature and purpose of the statute in mind (*West Pico Furniture Co. v. Pacific Finance Loans* (1970) 2 Cal. 3d 594, 608; *Rich v. State Board of Optometry* (1965) 235 Cal. App. 2d 591, 604). In this endeavor the legislative history of the statute is a legitimate

² Chapter 7 of division 5 of title 1 of the Government Code (Stats. 1968, ch. 261, p. 573, § 1) was enacted in 1968, to alleviate concern about the effect, the design, and construction of buildings, structures, and related facilities constructed with *public funds* was having on the ability of handicapped persons to have access to and use of them. (*Marsh v. Edwards Theatres Circuit, Inc.*, *supra*, 64 Cal. App. 3d at p. 887.) Section 4450 of the Government Code declares the Legislature's purpose to be "to insure that all buildings, structures, sidewalks, curbs, and related facilities, constructed in this state by the use of state, county, or municipal funds, or the funds of any political subdivision of the state shall be accessible to and usable by the physically handicapped." The section mandates the State Architect to adopt and submit proposed building standards and to adopt other regulations for making buildings, structures, and related facilities accessible to and usable by the physically handicapped. The regulations and standards so adopted are to be consistent with the Uniform Building Code as augmented as the State Architect, in consultation with the State Department of Rehabilitation, the League of California Cities, the County Supervisors Association of California, and at least one private organization representing and comprised of physically handicapped persons, determines necessary to assure the buildings' accessibility and usability by the physically handicapped (*id.*, § 4450) but without their loss of function, space, or facility where the general public is concerned. (§ 4452.) Responsibility for enforcement is vested in the Director of the Department of General Services or local governing bodies, as appropriate. (*Id.*, § 4453.)

aid in divining the Legislature's intentions. (*California Mfrs. Assn. v. Public Utilities Com.* (1979) 24 Cal. 3d 836, 844, citing *Steilberg v. Lackner, supra*; *Alford v. Pierno* (1972) 27 Cal. App. 3d 682, 688; see also *People v. Ventura Refining Co.* (1928) 204 Cal. 286, 291; *County of San Diego v. Milotz* (1953) 119 Cal. App. 2d Supp. 871, 881.)

So directed, we do not believe the Legislature intended that a recreation building of a mobilehome park be considered a "public accommodation or facility" for the purposes of part 5.5, unless, of course, it is used by the general public. To be brought within the ambit of section 19955 a facility must be *public*. That notion pervades the section. Thus, while the section's setting forth examples which the Legislature has specifically deemed to be included within its intended meaning of the term "public accommodation or facility" (ie., "auditoriums, hospitals, theaters, restaurants, hotels, motels, stadiums and convention centers") might nor limit or preclude other possibilities from being so considered (*People v. Western Air Lines, Inc.* (1954) 42 Cal 2d 621, 639; *Koenig v. Johnson* (1945) 71 Cal. App. 2d 739, 747-749; cf. *Estate of Banerjee* (1978) 21 Cal. 3d 527, 538; 58 Ops. Cal. Atty. Gen. 512 (1975) (pedestrian overcrossing a "sidewalk" for purposes of Gov. Code, § 4451)), *still*, to be a "public accommodation or facility" within the meaning of the section, by its unexemplary terms any other such possibility must be a "building, structure, facility, complex or improved area *which is used by the general public.*" (§ 19955.) Furthermore, even in the examples which the Legislature has provided in section 19955, a common denominator of being public is found throughout, and to be included within the section any other type of accommodation or facility should have that characteristic as well. (*People v. Buese* (1963) 220 Cal. App. 2d 802, 807; 64 Ops. Cal. Atty. Gen. 173, 177 (1981); *Fox v. Hale & Norcross S.M. Co.* (1895) 108 Cal. 369, 426.) We are therefore doubly reluctant to include the recreation building of a mobilehome park in the statutory scheme because, simply put, it does not fit: as we shall show, the recreation building just does not have the characteristics and incidents of being public that section 19955 not only contemplates but specifically requires.

A mobilehome park has been defined as "any area or tract of land where two or more mobilehome lots³ are rented or leased or held out for rent or lease to accommodate mobilehomes⁴ used for human habitation." (§ 18214; cf. § 50541.) Unlike what its name implies, and especially in today's economy, a mobilehome park is *not* a facility for transitory use by the general public. (Compare §§ 18217 ("temporary trailer park" with occupancy for 11 days or less), 18220 ("travel trailer park" that is used by "recreational vehicles") and see also *Dean v. Ashling* (5th Cir. 1969) 409 F.2d 754, 756 (a trailer park is an "other establishment which provides lodging to *transient* guests" and is thus a "public accommodation" within the meaning of the Civil Rights Act of 1964, § 201(b)(1); 42 U.S.C.A. § 2000a(b)(1).) Its occupancy is more permanently rooted and more limited in availability and as such it is more akin to a subdivision where

³ The word "lot" has been defined as "any area or tract of land or portion of a mobilehome park . . . used for the occupancy of one mobilehome." (§ 18210.)

⁴ A "mobilehome" is defined (for the purposes of the Mobilehome Parks Act (div. 13, pt. 2.1)) as "a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units [i.e., one or more habitable rooms which are designed to be occupied by one family with facilities for living, sleeping, cooking, eating, and sanitation (§ 18005.5)] to be used with or without a foundation system." (§ 18211; cf. § 18008; Veh. Code, § 396.) It does *not* include a recreational vehicle, commercial coach or certain "factory-built housing." (§ 18211; cf. § 19971.)

homes are leased or rented (or viewed vertically, an apartment complex) than it is to a hotel or motel or trailer park as has been suggested. In short, it does not have the incidents of use by the general public, nor does it expect to have the same to survive, as does an auditorium, a hospital, a theater, a restaurant, a hotel, a motel, a stadium, or a convention center.

But what of its recreation building? Undoubtedly that facility is open to a more general class than the residents of the park, for surely it is available to their families and invited guests. Use by the expanded group of persons in our view, however, does not reach the use "by the general public" spoken of in section 19955. There are still *meaningful restrictions* on who may use the facilities, which considerably narrows their amenability to user from being generally available to the public—as is the case with an auditorium, hospital, theater, restaurant, hotel, motel, stadium or convention center—to being available to a select and definable few. Furthermore, unlike those facilities, the purpose for whose creation is based upon their being made continuously available to the general public and whose economic viability cannot survive without their being so available, the recreation center at a mobilehome park is neither so created nor dependent. Rather, it is a secondary appendage to another unit, the park itself which, like it, neither contemplates nor needs accessibility of continuous use by the general public for its sustenance. Thus, we do not believe the fact that a recreation building in a mobilehome park might well be used by the residents' families, friends, and invited guests makes it "a building . . . or facility used by the general public" or a "public facility or accommodation" within the meaning of section 19955.

We therefore are apt to conclude that unless a recreation building of a mobilehome park is used by the general public it is not a "public accommodation or facility" within the meaning of section 19955 of the Health and Safety Code so as to be required to be accessible to and usable by physically handicapped persons.

It has been suggested, however, that we must not construe section 19555 *in vacuo*, that we must read it in connection with the other sections of part 5.5, and that if the recreation building of the mobilehome park cannot be brought into part 5.5 through the front door of section 19955's "public accommodation or facility" or through one of its front windows such as its being in effect a hotel, a motel, an auditorium, or a convention center, then at least we might bring it into part 5.5 through one of the back doors or windows of one of the other sections. In this regard, we are invited to examine (1) section 19955.5's requirement that "office buildings" constructed in this state conform to the salient provisions of the Government Code requiring access and user for the physically handicapped, together with its definition of an office building as "a structure wherein *commercial activity* is performed or a profession is practiced, or wherein any combination thereof is performed or practiced in all or the majority of such building or structure,"⁵ and (2) an earlier opinion of this office wherein we noted that the

⁵ Section 19955.5 provides:

"All passenger vehicle service stations, shopping centers, offices of physicians and surgeons, and office buildings constructed in this state with private funds shall adhere to the provisions of Chapter 7 (commencing with Section 4450) of Division 5 of Title 1 of the Government Code. As used in this section, 'office building' means a structure wherein commercial activity or service is

term "business establishment" as used in the Unruh Civil Rights Act (Civ. Code, § 51) has been broadly construed to encompass those engaged in the rental of real property and those engaged in developing, building, and selling tracts of houses. (See 59 Ops. Cal. Atty. Gen. 223, 224 (1976).) Considering the suggestion, we reject it.

It simply does not follow from the proposition that the renting or leasing of mobilehome lots in a mobilehome park constitutes a commercial activity within the meaning of section 19955.5, that *all* of the structures and facilities in the park are part of that commercial activity and therefore "office buildings" subject to the access-and-use-by-handicapped-persons provisions of the Government Code. The main office of the park might be considered engaging in a commercial activity, but surely the individual mobilehomes cannot be so considered, nor do we believe the recreation building itself can be so considered. While that building may be a selling point, and while it may house certain conveniences such as vending machines and laundry facilities, still, as we have seen, it is but a secondary adjunct or consideration to the primary purpose of the park: the leasing of space (lots) for mobilehomes. And although a recreation building may contain conveniences which may generate some profit, that is but secondary to the purpose of the recreation building itself (recreation), and is thus yet another step removed from the primary purpose of the park which we accept as being a commercial endeavor. Thus, while the office of the mobilehome park would be covered by section 19955.5, since commercial activity is performed within it, that does not extend to the park's recreation building and it would not be covered by the section's mandate.

Returning to section 19955, we are confronted and circumscribed by the definition-al language and examples contained therein which we can neither add to (*Vallerga v. Dept. of Alcoholic Bev. Control* (1959) 53 Cal. 2d 313, 318) nor rewrite (*Rowan v. City etc. of San Francisco* (1966) 244 Cal. App. 2d 308, 314) to make as Macbeth "the green one red." Faced as we are with that language, we conclude that unless a recreation building in a mobilehome park is actually used by the general public it is not a "public accommodation or facility" within the meaning of section 19955 so as to be required to be accessible to and usable by physically handicapped persons.

RECEIVED
CITY OF YUCAIPA**Jennifer Shankland**

MAY 05 2016

From: Tony Slaick <datonestir@aol.com>
Sent: Thursday, May 05, 2016 8:04 AM
To: Jennifer Shankland
Subject: Rent Review Commission follow up; (Continued from 3/22/2016 meeting)

GENERAL SERVICES/CITY CLERK'S
DEPARTMENT

May 5, 2016

Tony Slaick, Chairman
 Yucaipa Mobile home Residents Association (YMRA)
 P. O. Box 1052
 Yucaipa, CA 92399

Jennifer Shankland
 Director of General Services/City Clerk/Rent Administrator, Rent Review Commission and City Council

City of Yucaipa
 34272 Yucaipa Blvd.
 Yucaipa, CA 92399

Re: Rent Review Commission follow up; (Continued from 3/22/2016 meeting) as per the Rent Review Commission's consent.

For submission, inclusion and consideration

Biennial Review of Mobilehome Rent Stabilization , (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules - Vacancy Control and Capital Improvement Certification

Dear Ms. Shankland,

YMRA is supporting the current Rent Stabilization Ordinance as it stands, and in addition, also does support the inclusion of the Capital Improvement oversight provision relating to the certification of Capital Improvement projects.

YMRA has met with mobile home park owners and their representatives; Peter Herzog - Manufactured Housing Educational Trust and Julie Paule - Western Manufactured Mobilehome Association, about possible compromises that could be agreed on, relating to changes in the City of Yucaipa's Administrative Rules and the Rent Stabilization Ordinance. Specifically, but not limited to the Oversight/Certification of Capital Improvements and Vacancy Control in consideration of a vacant pad; when a space is completely empty and a new mobile home is installed.

We have made significant progress in discussing concerns of mobile home park owners and the organizations that represent them, as well as the concerns of the mobile home park residents.

Mobile home park owners/representatives have submitted a proposal that identified a compromise that included mobile home park owners pay 20% of Capital Improvement costs in consideration of other trade offs.

YMRA presented the park owner/representative proposal to the mobile home residents at our March 12, 2016 open YMRA meeting. Mobile home park residents were not receptive to the proposal due to their belief that mobile home park owners should already be paying 50% of Capital Improvement costs.

If we were able to obtain a compromise that included mobile home park owners pay 50% of Capital Improvements, the importance of the Capital Improvement certification would be diminished, as the park owner would have a vested interest in the projects.

The certification of capital Improvements is important due to the fact that as it stands, There is basically no oversight to determine if a proposed Capital Improvement is in fact necessary, that the proposed improvement is the best course of

action and that work done meets reasonable standards. Furthermore, the mobile home residents will ultimately bare the cost of these improvements.

Until the cost of capital improvements are divided between park owners and park residents, park owners have little to lose and little to compel them to seek the best solutions that benefit the park, park owner and the residents.

Certification would at least insure that the money spent is in fact substantiated.

We have made progress in identifying core issues well beyond the main issues regarding the up coming Rent Review Commission's agenda.

We, together with the park owners and their representatives, believe there is a consensus that there may be healthy discussions that should continue into the future. We also feel the issues are convoluted in that one aspect does relate to another.

With this in mind, however, it is prudent to make the above request of **no changes other than the addition of the Certification of Capital Improvements** in this current Biennial Review, in order to avoid another continuance of the review process. In the meantime, until the next biennial Review, discussions can continue with mobile home park owners, their representation and the park residents/YMRA.

We thank you for your patience and consideration.

Sincerely,

Tony Slaick, Chairman YMRA
Yucaipa Mobilehome Residents Association



May 9, 2016

Chairman Hayden Martin
Vice Chairman Mark Marnati
Commissioner Thomas Powell
Commissioner Mark Bender
Mobilehome Rent Review Commission
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

RE: Mobilehome Rent Review Commission May 23rd Hearing

Dear Members of the Mobilehome Rent Review Commission:

Thank you for continuing the hearing from March 22. This time was needed to explore if the residents and the park owners could find common ground on important issues that impact both stakeholders. Neither side could remember a time when we sat down to learn of the others concerns and seek solutions together. While these series of meetings were historic, unfortunately no joint proposal could be reached. This stemmed from the residents surprisingly rescinding earlier offerings and we find ourselves further away from the middle then when we were first before you in January.

We continue our request for some sort of vacancy decontrol. Perhaps a good place to start with easing controls on vacancy are those pads which are vacant? The city's count has 95 pads with no homes. This policy change would provide the economic incentive to park owners to bring in new homes and once the homes were sold, those spaces would be regulated by the rent control ordinance. With a vacant home site, there is no resident to protect or resale value to effect. Residents argue that park owners will force them out and economically evict them from their homes. This is cannot occur under the rent increase protections residents have with Yucaipa's local ordinance and the limited ability to evict a resident under the State of California's Mobilehome Residency Law (MRL).

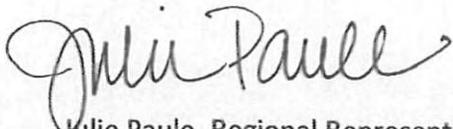
We continue to have grave concerns about the street proposal. In a letter to you from the law firm of Terry Dowdall, he outlines the legal peril the city places itself in by moving forward with staff's proposal. In the past, city staff has attempted to "fix" problems without any input from park owners. The last time they created a "solution" it had to be rescinded by the council due to the park owner's inability to legally meet the city's requirements. This approach presents the same broken, unattainable solution.

2-8

Passing staff's proposal will either land both parities back in court or no streets will ever be replaced in Yucaipa. In both instances it compounds a substantial problem and the commission should find both outcomes unacceptable.

Once again, thank you for the continuance. Both sides were given the time needed for a healthy exchange of ideas. Park owners hope you will move forward with both of our recommendations.

Sincerely,

A handwritten signature in cursive script that reads "Julie Paule". The signature is written in black ink and is positioned above the printed name.

Julie Paule, Regional Representative

Calanda Real LP

P.O. Box 1389 • Alhambra, CA 91802 • 626-289-3109 • Fax 626-289-2959 MAY 9 2016

May 9, 2016

GENERAL SERVICES/CITY CLERK'S
DEPARTMENT

City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa CA 92399

Re: Biannual review of the Rent Control Ordinance

Members of the Rent Review Committee:

We would like to address the two remaining issues before the Rent Review Commission: 1) the certification for a capital improvement and 2) vacancy decontrol.

Prior to addressing these issues, allow us to express our appreciation for the two-month extension to affect an overall change to the Ordinance through face-to-face meetings with YMRA. The initial conversations were promising towards making changes to the Ordinance that promote both mobile home owner investment and Park owner investment. We are disappointed that YMRA's position hardened when they retracted their vacancy decontrol position.

The future of the communities and the mobile home owner's equity is directly correlated to the encouragement of new investment. Ultimately, without a comprehensive change to the Ordinance, investment in mobile homes and mobile home parks will continue to weaken. New investment is essential and needs to be encouraged for Park Owners and Mobile Home Owners to increase the overall quality of living and its reputation.

It is telling that Parks with the lowest rents have the lowest mobile home resale values and Parks with the highest rents have the highest resale values. The Parks with the lowest rent end up attracting buyers with limited means due to the lower overall income-qualifying requirement. These buyers have limited resources to maintain their homes and spaces.

1) Certification of Capital Improvements

Staff has recommended that the Capital Improvement application be amended to require a certification by a Civil Engineer under penalty of perjury including guaranteeing that "the improvement will last at least as long as the amortization period." We have enclosed a letter from Bruce G. Howard, a registered Professional Engineer. He states that this requirement is not possible to obtain. Requiring this statement in essence allows staff to deem a capital improvement pass-through application incomplete and preventing the application from even being heard. This will expose the City to a legal challenge but more consequential is the continued discouragement of investment. See attached letter sent separately via email. We request that the Rent Review Commission recommend that the City not require the certification.

2) Vacancy Control

A. Rent on a vacant space rent with no home on it.

There are 94 vacant spaces in the Yucaipa Mobile Home Parks. Besides being an eyesore and providing no tax revenue, a vacant space conveys a pessimistic outlook regarding the future of the property. These spaces do not have a resident as a stakeholder and should be rented at market. Thereafter, the space rent can once again become subject to the Ordinance. For example, a mobile home burned down due to a homeowner smoking a cigarette in the bedroom. The homeowner had no insurance and could not afford a new home creating an empty space. If we were able to charge market rent, we would invest in a new home. A new home brings life to the community and provides a positive outlook to mobile home living. Restricting market rent on a vacant space discourages investment and negatively impacts the values of the other homes in the Park through the regulated under market rent.

B. Rent on resale of an existing home to remain in the Park.

As submitted earlier, we requested that the Ordinance be amended to allow a 5% rent increase upon the resale of a mobile home to remain in the Park. This request was coupled with adjusting the annual increase to 100% of the CPI. We understand that the Commission has voted on this item and recommended making no change to the Ordinance. Staff's detailed analysis of increasing the formula for an annual adjustment from 80% to 100% of the CPI was thorough and is still convincing.

Restricting annual adjustments below inflation coupled with the vacancy control provisions in the Ordinance discourages property investment. We request an increase of 10% of the rent or the average of the 3 highest rents in the Park which ever is greater upon the resale of a mobile home to remain in the Park as introduced by YMRA.

Note that the reuse study by Rosenow Spavacek Group Inc. acknowledges that a reasonable rate of return is required for investment. The current Ordinance has excessively restricted rents such that no park has a rent that is above the \$512.00 as stated in the reuse study. And no park comes close to the improved market value rent of \$662.00. Excessively restricting rent adjustments continues to discourage investment.

When the Ordinance was adopted 25 years ago its intent was to protect the interests of the mobile home owner and allow Park Owners a fair return on their investment. Twenty-five years later, the City now has a 2.2% vacancy rate in the mobile home parks. The City paid for a reuse study to evaluate closing 7 Parks. The Ordinance has had the unintended consequence of lowering the resale values of mobile homes in Parks with the lowest rents. Park Owner new investment in their properties has been decreased. Continuing the policy of vacancy control and recommending an unattainable certification for a capital improvement will only accelerate the decline.

Rent Review Commission

May 9, 2016

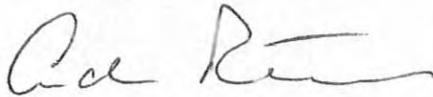
Page 3 of 3

A reasonable balance that does not overly restrict rent adjustments and still protects the interests of the mobile home owner and the park owner calls for the following changes to the Ordinance:

1. Annual 100% CPI adjustments.
2. Vacancy decontrol on vacant spaces.
3. An increase of 10% or the average of the 3 highest rents in the Park upon the resale of a mobile home to remain in the Park, which ever is greater.
4. A capital improvement application that is not conditioned on an overly restrictive and unattainable requirement.

We need to encourage investment that ultimately protects the investment of both the mobile home owner and park owner.

Sincerely,



By: Lakeview Estates LLC, Its General Partner

By: Andrew Rottenbacher, Its Managing Member

RECEIVED
CITY OF YUCAIPA

MAY 09 2016

C. William Dahlin

bdahlin@hartkinglaw.com

GENERAL SERVICES/CITY CLERK'S
DEPARTMENTHART | KING
ATTORNEYS AT LAW

May 9, 2016

Our File Number: 36599.004/4829-9177-4769v.1

Via EMail & U.S. Mail
jshankland@yucaipa.orgJennifer Shankland, Rent Administrator
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, CA 92399**RE: Mobilehome Rent Review Commission Proposed Administrative Rule 5.0010**

Dear Ms. Shankland:

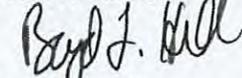
We represent Calanda Real, L.P., the owner of the 296 unit Lakeview Mobile Estates located in the City of Yucaipa. This letter addresses the proposed new Administrative Rule § 5.0010, Certification of Capital Improvements. In particular, Calanda objects to Section A.7. of the Rule which requires engineer certification that proposed street capital improvements will last at least as long as the City's 15 year amortization period.

With regards to the proposed Rule, please find attached a letter from Associated Engineering Consultants, Inc., the engineer for J.B. Bostick, a premier paving contractor for mobilehome parks in Southern California. As the letter states, the one-size-fits-all street improvements Rule is very confusing as it fails to take into account the differing design lives of various types of street improvements. The Rule fails to establish a workable standard or knowledgeable person to administer its provisions. Most significantly, the letter states that a licensed engineer would not be able to guarantee that street improvements will last for the entire amortization period because the engineer will not have knowledge or control over future maintenance of the street improvements.

Thus, the proposed Rule would effectively prevent Calanda and all other City mobilehome park owners from recovering their capital improvements costs. The proposed Rule is thus an unreasonable regulation that would amount to a per se taking of Calanda's property. We urge the City's Rent Commission and/or City Council to remove the offending provision from the proposed rule.

Sincerely,

HART KING


Boyd L. Hill
BLH/drcc: Andrew Rottenbacher, Calanda
C. William Dahlin, Hart King
Amy Greyson, Richards Watson & GershonA Professional Corporation
4 Hutton Centre Drive, Suite 900, Santa Ana, California 92707
Ph 714.432.8700 | www.hartkinglaw.com | Fx 714.546.7457



Associated Engineering Consultants, Inc.

May 6, 2016

J. B. Bostick, Inc.
2870 E. La Cresta Avenue
Anaheim, CA 92806

Attn: Mr. Steve Cashdollar
Project Manager

Subject: City of Yucaipa

Gentlemen:

We have reviewed the information provided to AEC by J.B. Bostick which includes the City of Yucaipa Staff recommended changes to the Administrative Rules Section **5.0010 CERTIFICATION OF CAPITAL IMPROVEMENTS.**

After reviewing there is a concern with Item 7 of that section, namely the expected life of the improvement. It states "*That the improvement will last at least as long as the amortization period.*"

From an engineering point of view there are a number of things that are a problem with this statement.

First of all, under Section **5.0004 AMORTIZATION** it states that the amortization period for Paving is 15-years. It goes on to define Paving as "*asphalt, cement or micro-surfacing, but excluding patch-work or pothole repair or slurry seal.*" Without an exact definition of what asphalt treatment is being completed we cannot tell what the life expectancy would be. An asphalt overlay is typically designed for a 10-year design life, as shown in California Test Method 356. Micro-surfacing is considered as a preventative maintenance measure with a design life of 7-years, as indicated in Section 612.4 (1) of the State of California Highway Design Manual. A full asphalt reconstruction, whether full-depth or conventional section is typically designed to a 20-year design life, again based on the Highway Design Manual.

With these differing design life terms it would lend itself to show that there is "*substantial evidence that a different amortization period is more appropriate*", as stated under City of Yucaipa Administrative Rules Section **5.0004 AMORTIZATION (A)** at the top of the table.

This brings up the most distressing concern with the entire statement listed as Item 7, in paragraph 2 above. That is that the improvement will last at least as long as the amortization period. Who is to define when the pavement life is over? How is it defined that the pavement exhibits enough defects and distress that it has no more effective life? Section 612.1 of the Highway Design Manual defines it this way:

"Pavement design life, also referred to as performance period, is the period of time that a newly constructed or rehabilitated pavement is engineered to perform before reaching a condition that requires CAPM."

The State of California defines CAPM as "Capital Preventative Maintenance." This would include any new structural asphalt overlay, grinding and asphalt inlay, reconstruction, etc. Basically anything that is done to increase the structural adequacy of the pavement section. This would be needed because the original capital improvement cannot be adequately maintained through normal preventative maintenance techniques.

The State of California defines preventative maintenance as non-structural measures that extend the effective service life of a pavement. Every new pavement section goes through a life cycle that includes maintenance. If proper maintenance is not completed at the appropriate times it will not reach its expected design life. A pavement section can have longitudinal and transverse cracking, minor isolated fatigue cracking and surface raveling and still not be at the end of its service life. These defects can be remedied with preventative maintenance.

This lack of adequate definition within the City of Yucaipa recommended Administrative Rules addition as it relates to Certification of Capital Improvements would make it impossible for a registered or licensed Civil Engineer to verify, "That the improvement will last at least as long as the amortization period." This would also be too risky for a registered or licensed Civil Engineer due to having no knowledge or control over the future maintenance of the pavement in question. Anything, absent proper maintenance, will fail earlier than originally intended.

If you have any questions, please call.

Very truly yours,
ASSOCIATED ENGINEERING CONSULTANTS, INC.

Bruce G. Howard, P.E.
Principal Engineer



MAY 10 2016

May 10, 2016

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DEPARTMENT



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Executive Director

Vickie Talley

Chair Hayden Martin and Mobile Home Rent Review Commission Commissioners
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, CA 92399

Sent via Email

Re: Biennial Review of the Mobilehome Rent Ordinance and Administrative Rules

Dear Chair Martin and Commissioners:

First, we do want to thank the Commission for providing us the additional time to attempt to work on issues with YMRA. These talks were showing great promise. MHET firmly believes Tony Slaick, YMRA Chairman, wanted to, and still does want to, address various issues and concerns facing the mobile home parks in the city, and we thank him for his efforts. Unfortunately, the YMRA organization did not allow things to progress by taking the position they do not want any changes to the ordinance. In fact, YMRA actually withdrew offers they had put in writing in letters to the City removing any potential of an agreement. Yet, MHET and the park owners remain committed to working with the residents as we feel having a good faith, two-way discussion is the best course for all. Additionally, YMRA's position of the status quo will only lead to continued deterioration of the parks, conflict, and unnecessary costs; all of which the park owners had hoped to avoid, but now apparently will continue unless the Commission takes action to adjust the ordinance.

In light of the above, MHET sets forth the following information, and we also attach our letters of March 30, 2015 and January 11, 2016 for your convenience.

Admin 3 (Permits, Inspections, and Quality of Capital Improvements)

I reference our initial discussion of this item on page 3 of our January 11, 2016 letter and incorporate it by reference, so I will not repeat those comments. The City Council has made it clear they are very concerned about the conditions within some of the parks. In fact, this concern has gone so far that they have identified 7 parks where they want to create "incentives" to lead the park owners to close the parks due to the conditions in those parks. This should make it clear to all the dire need to incentivize investment in parks, not stop them, to maintain the viability of the mobile home parks throughout the city. This proposed certificate takes a huge step toward preventing future capital improvements, investments, in the parks.

The proposal would require a certificate under penalty of perjury from a civil engineer guaranteeing various items. The record before you contains a January 11, 2016 letter from a paving company, JB Bostick Company, which is attached, raising numerous issues including the inability to get any engineer to make such guarantees. Additionally, the May 6, 2016 letter from a licensed engineer with Associated Engineering Consultants (AEC), which is attached, states clearly that it would be "too risky" and, in fact, the ordinance "would make it impossible for a registered or licensed Civil Engineer to verify." Thus, the evidence before you is that the proposed certificate cannot be complied with, and this will, essentially, stop any future capital

improvements. Sound public policy should be to encourage the capital investment in the parks, not put up as many blockades as possible.

This raises various legal questions as well because it blocks the right of park owners to recover their appropriate costs to complete capital improvements. In fact, since the facts before the Commission are that the proposed certificate cannot be obtained, the park owner is even prevented from applying for a capital improvement recovery as the certificate is required to have the application deemed complete. You have received a May 5, 2016 letter from attorney Terry Dowdall setting out numerous legal concerns about the proposed certificate. It is clear that any rent control/stabilization ordinance must provide for the ability to recover capital improvement expenses. To prevent such an ability, as the proposed certificate would do, makes the ordinance constitutionally questionable.

Additionally, the record before you contains a letter from the law firm of Hart/King that specifically says the proposed declaration "would amount to a per se taking". These two letters indicate there are serious legal flaws with the proposal and this must not be taken lightly. The City of Carson made changes to their ordinance and earlier this month were found to have created a regulatory taking in violation of the 5th Amendment. The jury awarded \$3.3 million dollars to the park owner.

The City should be interested in supporting the maintenance and improvement of the mobile home parks throughout the City. To do so, especially with the age of the parks, does require capital improvements to keep the parks as viable housing for the residents. Ten years ago the City's own expert pointed to the "Ordinance as a major cause for the deterioration and conditions in some of the mobile home parks." (RSG report, 2006, page 5) To pile on even more restrictive provisions will just make the situation worse.

Vacancy Decontrol

I reference our prior discussions of this item on pages 2-3 of our March 30, 2015 letter and pages 2-3 of our January 11, 2016 letter and incorporate them by reference, so I will not repeat those comments. As our letters point out, for many reasons, MHET believes there should be full vacancy decontrol and this would fully protect the focus of the ordinances on preventing "excessive" rent *increases*. YMRA put in writing to the City a potential compromise, and the park owners in good faith entered into discussions with them. Yet, even with YMRA withdrawing that written offer and refusing to negotiate even an initial step, the park owners are still willing to offer such a step to add to the evidence that complete vacancy control, as the ordinance currently provides, is not necessary.

There are approximately 95 vacant parcels within the mobile home parks in Yucaipa. No home or resident occupies those lots. Nothing to sell or rent. To put this in perspective, if one takes the total number of mobile home spaces in the city and divide it by the number of parks, you get an average size park of about 100 spaces. Why are so many spaces left vacant? Because it is not economically feasible to do so under the current total vacancy control provision.

The purported argument for vacancy control is that it supposedly decreases the amount a park resident could sell their home, decreases its value, due to the potential higher rent. MHET does

not agree with this concept, yet the key thing is that argument does **not** apply to lots with no home on them. There is nothing to sell. And, once a new home is on the lot and a new resident takes over the home, the new resident would be completely under the same rent increase provisions as every other resident in Yucaipa. In other words, the new resident would be fully protected from supposed “excessive” rent increases.

Additionally, the park owners have been and still are agreeable to the idea set out by YMRA in their written offer regarding partial vacancy decontrol on all other vacant spaces fitting the ordinance definition of “vacancy”. That proposal is to allow a rent increase of 10% or the average of the 3 highest rents in the park, whichever is greater.

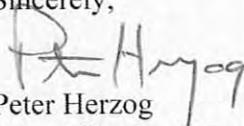
The above specifically proves the park owners are still willing in good faith to address the concerns of residents, even in spite of YMRA taking written proposals off the table, and to create the ability to maintain and improve the parks. The above takes a step in that direction. The time is now to improve, not restrict, the potential for needed capital improvements to realistically occur for the benefit of all. Just holding on to the status quo and saying no is no longer an option.

Thus, MHET respectfully requests the Commission recommend the City Council:

1. Not adopt the program outlined in Admin 3;
2. Approve full vacancy decontrol on empty spaces, and
3. Approve, on all other vacant spaces as defined in the ordinance, rent increases upon vacancy of 10% or the average of the 3 highest park space rents, whichever is higher.

Thank you for your consideration of these proposals.

Sincerely,


Peter Herzog
Inland Empire Representative

Attachments

Cc: Jennifer Shankland



Mobilehome Rent Review Commission
 Agenda
 January 13, 2016 – 1:00 PM

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

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

CEREMONIAL

OATH OF OFFICE

PUBLIC COMMENT

COMMISSION BUSINESS

1. **SUBJECT**: COMMISSION REORGANIZATION.

RECOMMENDATION: That the Mobilehome Rent Review Commission choose one of its members as Chairperson and another of its members as Vice-Chairperson.

DISCUSSION AND ACTION

2. **SUBJECT**: APPROVE COMMISSION MINUTES OF MARCH 4, 2015.

RECOMMENDATION: That the Commission approve the Mobilehome Rent Review Commission Minutes of March 4, 2015.

3. **SUBJECT**: BIENNIAL REVIEW OF MOBILEHOME RENT STABILIZATION ORDINANCE AND RESOLUTION.

RECOMMENDATION: That the City of Yucaipa Mobilehome Rent Review Commission conduct a review of the Mobilehome Rent Stabilization Ordinance (Yucaipa Municipal Code Chapter 15.20) and the Administrative Rules last amended by Resolution No. 2011-52, and direct staff as appropriate.

ADJOURNMENT

**CITY OF YUCAIPA
AGENDA REPORT**

TO: Honorable Commissioners
FROM: Jennifer Shankland, Rent Administrator 
FOR: Meeting of January 13, 2016
SUBJECT: Mobilehome Rent Review Commission Reorganization

RECOMMENDATION:

That the Mobilehome Rent Review Commission choose one of its members as Chairperson and another of its members as Vice-Chairperson.

DISCUSSION:

The adopted Mobilehome Rent Stabilization Administrative Rules §1.0028 states that the Mobilehome Rent Review Commission shall elect the Chairperson and Vice-Chairperson. The Chairperson and Vice-Chairperson shall be elected for a term of one (1) year. No Commissioner may hold the office of Chairperson for more than two (2) successive terms of one (1) year each.

City of Yucaipa
Mobilehome Rent Review Commission Minutes
Regular Meeting of March 4, 2015

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 March 4, 2015 at 3:30 PM.

PRESENT: Mark Bender, Commissioner
Hayden Martin, Commissioner
Thomas Powell, Commissioner
Mark Marnati, Commissioner
Jennifer Shankland, Director of General Services/Rent Administrator
Amy Greyson, Commission Attorney

ABSENT: None

CONVENE MOBILEHOME RENT REVIEW COMMISSION

The meeting was opened with the Pledge of Allegiance.

CEREMONIAL

Director of General Services/Rent Administrator Shankland administered the Oath of Office to the Commissioners.

PUBLIC COMMENT

None

COMMISSION BUSINESS

1. **SUBJECT:** COMMISSION REORGANIZATION.

RECOMMENDATION: That the Mobilehome Rent Review Commission choose one of its members as Chairperson and another of its members as Vice-Chairperson.

DISCUSSION: Director of General Services/Rent Administrator Shankland provided procedural guidelines for the process and opened nominations for the position of Chairperson.

Commissioner Marnati nominated Commissioner Martin for Chairperson.

Director of General Services/Rent Administer Shankland closed nominations for the Chairperson position.

Commissioner Martin was selected by a majority vote for the office of Chairperson.

Director of General Services/Rent Administrator Shankland opened nominations for the position of Vice-Chairperson.

City of Yucaipa
Mobilehome Rent Review Commission Minutes
Regular Meeting of February 12, 2013

Chairperson Martin nominated Commissioner Marnati for Vice-Chairperson.

Director of General Services/Rent Administer Shankland closed nominations for the Vice-Chairperson position.

Commissioner Marnati was selected by a majority vote for the office of Vice-Chairperson.

DISCUSSION AND ACTION

2. **SUBJECT:** RECEIVE AND FILE COMMISSION MINUTES OF FEBRUARY 12, 2013.

RECOMMENDATION: That the Commission receive and file Mobilehome Rent Review Commission Minutes of February 12, 2013.

The Commission received and filed the Mobilehome Rent Review Commission Minutes of February 12, 2013.

STUDY SESSION

3. **SUBJECT:** THE COMMISSION WILL HOLD A TRAINING SESSION REGARDING THE YUCAIPA MOBILEHOME RENT STABILIZATION ORDINANCE, ADMINISTRATIVE RULES, AND RULES AND PROCEDURES FOR THE CONDUCT OF HEARINGS.

DISCUSSION: Commission Attorney Greyson conducted the training session.

ADJOURNMENT

The meeting adjourned.

Hayden Martin
Chairperson

ATTEST:

Jennifer Shankland
Director of General Services/Rent Administrator

APPROVED AT THE MEETING OF: _____

**CITY OF YUCAIPA
MOBILEHOME RENT REVIEW COMMISSION
AGENDA REPORT**

TO: Mobilehome Rent Review Commission
FROM: Jennifer Shankland, Rent Administrator *JS*
FOR: Mobilehome Rent Review Commission of January 13, 2016
SUBJECT: Biennial Review of Mobilehome Rent Stabilization Ordinance and Resolution

RECOMMENDATION

That the City of Yucaipa Mobilehome Rent Review Commission conduct a review of the Mobilehome Rent Stabilization Ordinance (Yucaipa Municipal Code Chapter 15.20) and the Administrative Rules last amended by Resolution No. 2011-52, and direct staff as appropriate.

BACKGROUND

The Mobilehome Rent Stabilization Ordinance (“Ordinance”) requires that the City carry out a review of the Ordinance during odd-numbered years (YMC §15.20.140.) The last review was completed in 2011. That review resulted in extensive modifications to both the Ordinance and Administrative Rules.

On March 10, 2015, staff notified Park Owners, Park Owner Organizations, and the Park Resident Organization of the upcoming biennial review and requested that they submit comments regarding the Ordinance and/or Administrative Rules, by April 3, 2015. Staff received comments from the Yucaipa Mobilehome Residents Association (“YMRA”), Manufactured Housing Educational Trust (“MHET”), Western Manufactured Housing Communities Association (“WMA”), Augusta Communities, Bel Aire Mobile Estates, LLC, Real Estate Advisors, Inc., and Calanda Real LP. .

Since the 2011 Biennial Review, the following rent adjustment applications were submitted to the City:

2011 – Current	Final Decision	Type	Base Rent Increase	Kavanau	Galland
Yucaipa Village	Apvd – MRRC Reso 2011-52	MNOI	\$81.29		\$11.61
Caravan	Apvd. – Administrative	Cap. Imp	\$15.28		

Since the 2011 Biennial Review, all parks have implemented annual adjustments each year, based on 80% of the increase in CPI since the prior year. A chart showing average rents in each park is attached to this Staff Report as Attachment A.

The intent of this Study Session is to address issues that have arisen since the last biennial review that are based on legal considerations, clarification to provisions and procedures, political and policy issues, and other issues raised by staff and various stakeholders, and to identify potential amendments to the Ordinance or Administrative Rules based on those issues . This Study Session will provide the Commission with an opportunity to discuss these issues and potential amendments, to seek further information if necessary, to receive input from various stakeholders, and ultimately provide general direction to staff and recommendations for consideration by the City Council. Staff will then prepare a report for the City Council conveying the recommendations of the Commission and staff recommendations, if they differ from the Commission recommendations, on possible amendments to YMC Chapter 15.20 or the Administrative Rules.

The following issues that have been raised by staff, staff counsel, and stakeholders, have been broken down into categories by commentator to assist in this process. If the City Council adopts any amendments made to the Ordinance or Administrative Rules, which relate to public hearings on rent adjustment applications to the Commission or appeals, those amendments will also be reflected in the Rules and Procedures for Conduct of Mobilehome Rent Public Hearings document and application forms. To assist the Commission's review and consideration of the issues, this Staff Report includes additional back-up materials and all of the written comments submitted by the stakeholders, and additional supporting materials, which are enclosed as Attachments A through O. Staff previously provided the Commission with copies of the current Ordinance, Administrative Rules, and Rules and Procedures for Conduct of Mobilehome Rent Public Hearings.

RECOMMENDATIONS FOR POLICY CHANGES AND IMPROVEMENTS IN THE ADMINISTRATION OF THE ORDINANCE.

- | | |
|-------|--|
| Admin | 1. <u>(Temporary Rent Adjustments)</u> - In <i>Galland v. City of Clovis</i> (2001) 24 Cal.4 th 1003, the California Supreme Court ruled that park owners should be allowed to include the costs of the hearing process in a rent adjustment in order to prevent a confiscatory result. Based on the <i>Galland</i> decision, the Ordinance and Administrative Rules were amended to allow consideration of a temporary rent adjustment (sometimes referred to as a “ <i>Galland</i> adjustment”) in conjunction with a Special Rent Adjustment application for a Maintenance of Net Operating Income (“MNOI”) rent adjustment, Readjustment to Base Year NOI rent adjustment or Fair Return rent adjustment. YMC §15.20.116 provides that if a park owner obtains approval of a Special Rent Adjustment, the park owner may also request that the City approve a temporary rent adjustment to reimburse the park owner for reasonable professional costs incurred by the park owner in preparing and presenting the application to the Commission. The Ordinance also provides that a <i>Galland</i> adjustment is only temporary, must be amortized over a five-year period with interest at 7%, cannot be part of the space rent and itemized as a separate charge on the residents’ monthly rent statement; and must cease at the end of the amortization period. Residents also have the option of paying the <i>Galland</i> adjustment in one lump sum. For the past several years, if the Commission or City Council approved a temporary rent adjustment under YMC |
|-------|--|

§15.20.116, the Resolution of Findings has included a provision that requires the Park Owner to separately itemize the amount of the temporary rent adjustment on the rent invoice, along with its expiration date, and also prohibits park management from including the temporary rent adjustment as part of the base rent for future rent increases.

Staff Comments: Chapter 6 of the Rules implements the temporary rent adjustment procedure authorized by YMC §15.20.116, but does not contain all of its requirements. Staff believes that it would be appropriate to amend the Administrative Rules to require that any Resolution of Findings approving a temporary rent adjustment under YMC §15.20.116 contain provisions requiring park management to separately itemize the amount of the temporary rent adjustment and its expiration date on the monthly rent statements, prohibiting park management from including the temporary rent adjustment in the base rent for purposes of future rent adjustments, and prohibiting park management from demanding, collecting or retaining any temporary rent adjustment after its expiration date. These amendments will assist in ensuring that the park owner is only reimbursed for the costs of the application and hearing costs as approved by the Commission and that the *Galland* adjustment is only temporary.

Staff Recommendation: Amend Administrative Rules §6.0004(E)(1) as follows:

E(1) At the conclusion of the hearing on a special rent adjustment application, if the park owner is the prevailing party on such application, the Commission shall also have the authority to deny, approve, or approve a modified temporary rent adjustment to the park owner in accordance with this Chapter 6. The Commission's decision shall be included in the Commission's decision on the underlying special rent adjustment application, and shall include:

(a) findings pursuant to Section 15.20.116 of the Ordinance and Administrative Rule ~~6.4(B)~~ **§6.0004(B); and**

(b) if the application is granted, **(i) the amount of the temporary rent adjustment and the reasons therefore; (ii) the amortization period; (iii) the expiration date for the temporary rent adjustment, (iv) the right of each resident to pay the temporary rent adjustment in a lump sum; (v) a provision prohibiting park management from demanding, collecting or retaining any temporary rent adjustment after its expiration date; and (vi) a provision prohibiting park management from including the temporary rent adjustment in the base rent for purposes of future permissive, capital improvement and special rent adjustments; or**

(c) if the application is denied, the basis for denial of any such temporary rent adjustment.

Staff Recommendation: Amend Administrative Rules §6.0004(G) as follows:

G. City Council Decision. If the park owner successfully appeals the decision of the Commission on a special rent adjustment (including successfully appealing the Commission's decision on a special rent adjustment under Chapter 4, or the Commission's decision on a temporary rent adjustment under this Chapter 6, or successfully opposes an appeal filed by the park resident representative (or a park resident) from the decision of the Commission), at the conclusion of the appeal hearing the City Council shall also have the authority to deny, approve or approve a modified temporary rent adjustment for the successful Park Owner in accordance with this Chapter 6. The City Council's decision shall include:

(a) findings on the factors set forth in this Section **and the reasons therefore; and**

(b) if the appeal is granted, **(i) the amount of the temporary rent adjustment and amortization period; and the reasons therefore; (ii) the amortization period; (iii) the expiration date for the temporary rent adjustment; (iv) the right of each resident to pay the temporary rent adjustment in a lump sum; (v) a provision prohibiting park management from demanding, collecting or retaining any temporary rent adjustment after its expiration date; and (vi) a provision prohibiting park management from including the temporary rent adjustment in the base rent for purposes of future permissive, capital improvement and special rent adjustments;** or

(c) if the appeal is denied, the basis for denial of any such temporary rent adjustment.

- Admin 2. **(Capital Improvement Bid/Proposal Application Requirements)** - YMC §15.20.085(A)(1) pertaining to "Rent adjustments based on capital improvements" requires the park owner to meet with the park residents prior to the completion of the proposed capital improvement to gain input from the residents and to conduct a ballot election, unless the proposed capital improvement is necessary for the health and safety of the park, its residents or the community. Required documentation of the meetings with the park residents includes, but is not limited to, notice of meetings, resident attendance sign in sheets, official minutes from the meeting(s), election ballot form(s) and any materials handed out at the meeting(s). The intent of the meeting requirement is to provide park owners and park residents with an opportunity to discuss the proposed capital improvement, why the improvement is warranted, and the cost of the improvement, in an attempt for the park owner to gain 51% resident approval consenting to the capital improvement.

Staff Comments: The Ordinance does not require that the park owner provide a copy of bids or proposals received for the proposed capital improvement work, but bids or proposals may be valuable information for the residents to review prior to filling out the

ballot election. The park owner is not required to choose the lowest responsible bidder; but by requiring the park owner to provide bid or proposal information to the park residents, park residents would be able to evaluate whether the bids or proposals are competitive and whether the bids or proposals ensure a good price for the work to be performed and would have additional information to assist the residents in understanding the reasons for the proposed capital improvement and the justification for the costs.

Staff Recommendations: Amend YMC §15.20.085(A)(1) as follows:

A(1)Documentation of the meetings with the park residents shall include, but is not limited to, notice of meeting between the park owner(s) and residents, resident attendance sing-in sheets, and official minutes from the meeting, **a summary of each of the bids or proposals received and a written explanation from the park owner explaining the reasons for the selection of the contractor,** and election ballot form(s). **The summary shall include sufficient detail for the park residents to understand the nature and extent of the proposed work and the costs to be incurred therein. If the owner proposes to perform the capital improvement with his or her own labor, the summary provided to the residents shall include an explanation of the proposed work and costs.**

Admin

3. **(Permits, Inspections and Quality of Capital Improvements)** - State and local law regulate construction and development in mobilehome parks. The California Building Code identifies building and safety permitting requirements for construction projects. These requirements include compliance with the urban storm water runoff management requirements of the MS-4 Permit issued pursuant to California Regional Water Quality Control Board (SRWQCB Order No. R8-2010-0036, NPDES No. CAS 618036), which requires that a property owner prepare a Water Quality Management Plan and/or Storm Water Pollution Prevention Plan for certain construction projects. The Yucaipa Development Code also identifies zoning and other use and development standards for land uses in the City including mobilehome parks. The City requires that public and private streets inside single-family subdivisions must meet City construction standards, including construction of streets to City specifications. The City Engineer is also developing a construction standard which includes minimum requirements for construction of private streets and parking areas in multi-family developments, such as apartment projects, condominium projects and mobilehome parks, to ensure quality of work and also for compliance with disability access, stormwater and drainage issues, trash, circulation, fire and safety access, and similar requirements.

The City serves as the enforcement agency for the California Mobilehome Parks Act (“MPA”), contained in Health and Safety Code (“HSC”) §18200 et seq.), and Chapter 2 of Division 1 of Title 25 of the California Code of Regulations (“CCR”) §§1000-1758). The MPA contains provisions regulating the construction of mobilehome parks and the installation of mobilehomes in mobilehome parks, including permits to operate, construction permits, mobilehome installation permits, and inspections to ensure that the

park and its residents comply with state standards. The MPA also incorporates certain requirements of the California Building Code and/or California Residential Code. Pursuant to the MPA, the City may adopt rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks. (See Health & Safety Code §18300(g).) Also, to the extent that a mobilehome park or any portion thereof constitutes a “public accommodation” under the Americans with Disabilities Act of 1990 (“ADA”), the park must comply with certain disability access requirements of the ADA and the applicable federal regulations set forth in the 2010 Standards for Accessible Design and the California Building Code. Mobilehome parks must also comply with the federal Fair Housing Act, which prohibits discrimination against persons with disabilities.

Staff Comments: A Capital Improvement Rent Adjustment is intended to reimburse the park owner for costs incurred in carrying out a completed capital improvement. The City sometimes receives complaints about the quality of capital improvements constructed by park owners, or objections from residents stating that they should not have to pay for capital improvements that are poorly done or will not last for the claimed useful life of the capital improvement.

The issue of deferred maintenance of mobilehome parks was addressed in previous amendments to the Administrative Rules. For example, under the MNOI Rent Adjustment process, the definition of “operating expenses” excludes costs resulting from the park owner’s failure to undertake prudent and ongoing maintenance activities or costs which were caused by unnecessarily and unreasonably deferred negligent, or otherwise improper repair and/or maintenance or other acts or omissions of the park owner. (Administrative Rules, §4.0003(D)(4)(h).)

Also, when a park owner submits a Capital Improvement Rent Adjustment application, Administrative Rules, §5.0009 provides that the Rent Administrator, or the Commission on an appeal, must consider whether the costs of the capital improvement, in whole or in part, could have been minimized or avoided by the park owner through prudent and ongoing repair and maintenance activities. If the need for or extent of the claimed capital improvement was exacerbated through unnecessarily deferred, negligent or otherwise improper repair and maintenance or other acts or omissions of the park owner, those costs shall be disregarded in determining the amount of any capital improvement rent adjustment otherwise determined to be appropriate. The Rent Administrator or Commission may also condition the approval of any capital improvement rent adjustment application in order to ensure that future ongoing repair and maintenance activities will be taken by the park owner to minimize or avoid the need for replacement or reconstruction of said capital improvement in the future, including a condition providing that should the capital improvement not last the duration of the amortization period, the park owner may not pass on all or a portion of the cost of any replacement or reconstruction of the same capital improvement to the park residents.

As explained above, under the MPA, the City may enact rules and regulations regarding circulation, access and parking inside mobilehome parks, including with respect to fire, life safety, service vehicles and trash trucks. The City, as the enforcement agency under the MPA, may also ensure that the grading of lots and streets comply with the applicable drainage requirements of the MPA and Title 25 with regard to drainage, such as compliance with urban storm water runoff management requirements of the SRWQCB MS-4 permit. In order to address these concerns, the Commission may wish to consider recommending that the Administrative Rules be amended to require that if a park owner intends to apply for a capital improvement rent adjustment for expenses incurred in carrying out street improvements or flat work improvements (e.g., sidewalks, driveways, patios), the application must include a certification signed by a registered or licensed civil engineer verifying that the capital improvements meet engineering standards and federal and state law requirements. Costs incurred by the park owner for such inspections or certifications could be included in an application for a capital improvement rent adjustment submitted to the City by the park owner and if approved by the City, would become part of the capital improvement rent adjustment charged to the residents for the useful life of the improvement.

Staff Recommendation: Add new Administrative Rules §5.0010, Certification of Capital Improvements, as follows:

5.0010 CERTIFICATION OF CAPITAL IMPROVEMENTS

A. If a park owner intends to apply for a capital improvement rent adjustment for expenses incurred in carrying out street improvements or flatwork improvements (e.g., sidewalks, driveways, patios), the application shall include a certification signed by a registered or licensed civil engineer under penalty of perjury and verifying the following:

1. That the work was carried out under the supervision of a licensed or certified engineer to make sure that the capital improvements were properly constructed in accordance with the proposal, contract or bid;

2. That the improvement meets the standards required by the City of Yucaipa AC Pavement Specifications or other engineering standards to ensure adequacy of access and parking throughout the area of the improvement;

3. That the improvement complies with all grading and drainage requirements of Title 25 including but not limited to the urban storm water runoff management requirements of the applicable MS-4 permit issued by the California State Regional Water Quality Control Board;

4. That the improvement will provide equal or improved circulation and parking areas in the mobilehome park as previously approved in the conditional use permit or other entitlement for the subject park;

5. That the improvement complies with all applicable accessibility requirements of the Americans With Disabilities Act (42 U.S.C. §12101 et seq.), including but expressly not limited to parking;

6. That the improvement will provide adequate circulation and access for fire, life safety, service vehicles and trash trucks; and

7. That the improvement will last at least as long as the amortization period;

B. The application for a capital improvement rent adjustment shall not be deemed complete by the rent administrator under YMC §§15.20.085 (A) (2) and 15.20.105 unless the application contains this certification.

Staff Recommendation: Renumber Administrative Rule, §5.0010 as §5.0011, as follows:

~~5.0010~~ **5.0011** APPLICABILITY OF THESE ADMINISTRATIVE RULES.... [continue as in current Rule]

GENERAL ISSUES

- General 1. **(Annual Adjustments)** - The Ordinance authorizes park owners to raise their rents each year without Commission approval, pursuant to the Annual Adjustment process set forth in YMC §15.20.080 and Administrative Rules, Chapter 3. The Annual Adjustment is calculated based on 80% of the CPI or 5%, whichever is less (YMC §15.20.080; Administrative Rules, §§3.0001 and 3.0001(B)). Although the Ordinance caps the amount of the Annual Adjustment, the Ordinance does not establish a minimum rent increase under the Annual Adjustment formula, such as when there has been no increase or only a minimal increase in inflation, or where there is an actual decrease in the cost of living, over the prior 12 months. The Commission may wish to consider recommending that the City amend the Annual Adjustment formula to establish a minimum percentage increase on base rent across-the board, or to set a minimum percentage increase or dollar increase in those situations where the CPI has not increased, increased by only a minimal amount, or has decreased over the prior 12 months.

Staff Comments: The Annual Adjustment process allows park owners to obtain a rent increase once each year based on 80% of the increase in the CPI published by the Bureau of Labor Statistics over the prior twelve months, capped at 5% of base rent, so that park owners are guaranteed an annual increase based on inflation. The purpose of the Annual Adjustment process is to provide a relatively simple, expedited process that enables park owners to obtain rent increases without having to go through a formal noticed-hearing process through the Special Rent Adjustment process.

Under the Ordinance and Administrative Rules, park owners may apply for an Annual Adjustment each year. The Rent Administrator provides the park owners with the

applicable CPI indexing factor by February 1st of each year. Because the Bureau of Labor Statistics runs about two months behind in publishing the monthly CPI, the CPI most recently available to the City is the CPI reported in December of each year. (See YMC §15.20.080; Administrative Rules, §3.0001.)

Over the past few years, due to the state of the national economy, the increase in CPI over the prior year has been decreasing, and in the past few years has become quite low. The Annual Adjustment for 2015 was **0.58%**. The following chart shows the CPI increases between 2008 and 2015:

2008 – 2015 CPI Calculations								
	2008*	2009*	2010*	2011	2012	2013	2014	2015
Prior Year	210.60	219.37	219.62	223.64	226.64	231.57	236.04	238.74
Current Year	219.37	219.62	223.64	226.64	231.57	236.04	238.74	240.48
CPI (100%)	4.16%	0.11%	1.83%	1.34%	2.17%	1.93%	1.14%	0.73%
CPI Factor (80%)**	3.33%	0.09%	1.47%	1.07%	1.74%	1.55%	0.92%	0.58%

* The reported CPI figure most recently available from the Bureau of Labor Statistics as of February 1st, generally is the CPI for December of the prior year.

** Used in calculating each park's Annual Adjustment to be imposed on or after February 1st of each year.

The following chart shows the difference between 80% CPI and 100% CPI using a hypothetical monthly space rent of \$300 beginning in 2008.

Hypotetical Rent Control Monthly Space Rent \$300.00								
	2008	2009	2010	2011	2012	2013	2014	2015
Rent	\$300.00	\$309.99	\$310.27	\$314.83	\$318.20	\$323.74	\$328.75	\$331.78
80% CPI Increase	3.33%	0.09%	1.47%	1.07%	1.74%	1.55%	0.92%	0.58%
	\$9.99	\$0.28	\$4.56	\$3.37	\$5.54	\$5.02	\$3.02	\$1.92
	\$309.99	\$310.27	\$314.83	\$318.20	\$323.74	\$328.75	\$331.78	\$333.70
100% CPI Increase	4.16%	0.11%	1.83%	1.34%	2.17%	1.93%	1.14%	0.73%
	\$12.48	\$0.34	\$5.72	\$4.27	\$7.01	\$6.37	\$3.83	\$2.48
	\$312.48	\$312.82	\$318.55	\$322.82	\$329.82	\$336.19	\$340.02	\$342.50
Difference	\$2.49	\$2.55	\$3.72	\$4.62	\$6.09	\$7.43	\$8.24	\$8.80

There are several options that may be considered by the Commission:

- Option #1: Amend YMC §15.20.080(A) and Administrative Rules, §3.0001(B)(3) to provide that if the increase in CPI over the prior the prior 12 months is less than one percent (1%), the Annual Adjustment will be an amount equal to one-and-one-half percent (1.5%) of the current rent. The 5% percent cap would be retained. Under this option, the Annual Adjustment process will continue to provide park residents with some certainty in being able to anticipate the amount of their next rent adjustment based on the Annual Adjustment while providing park owners with a simplified procedure to raise rents each year even in those situations in which there is no increase or only a minimal increase in inflation.
- Option #2: Amend YMC §15.20.080(A) and Administrative Rules §3.0001(B)(3), to provide that the park owner may increase the rent in each regulated space once annually, by 100% of the increase in CPI, or by 5% percent of the current space rent, whichever is less. This revision would allow park owners to increase rent by the full cost of inflation.
- Option #3: No change to existing Ordinance and Rules – maintain 80% CPI.
- The stakeholders have also presented the City with proposals for amendments to the Annual Adjustment process, which are outlined below.

Staff Recommendation: Staff recommends that the Commission consider the above options for amending the Annual Adjustment formula, or retain the existing language of the Ordinance and Administrative Rules.

ISSUES PRESENTED BY YMRA

YMRA submitted seven emails to the City containing their comments and recommendations on the Ordinance and Administrative Rules. (Attachments B through H to this Staff Report).

YMRA

1. **(Application Fee and Costs to Administer Ordinance)** YMRA requests that the City amend the Ordinance or Administrative Rules to allow park residents or a group of residents to seek a waiver or postponement of the \$1,750 application fee due to its financial impact on park residents. YMRA also states that if the park owner would not earn a fair return because of the fees to administer the Ordinance, this fact could be taken into account during the MNOI Rent Adjustment process. (Attachment B).

Staff Comments: Over the years, the City Council has established the policy that the Ordinance must pay for itself, and that the benefited parties – the park residents and park owners – must bear the cost of administering and implementing the Ordinance. Costs for administering the Ordinance are substantial, due to the involvement of staff, experts and

attorneys. The decision whether to provide a waiver process is a policy decision for the City.

Staff Recommendation: Staff does not recommend any changes to the Ordinance or Administrative Rules pertaining to waivers of application costs at this time.

- YMRA 2. **(Annual Adjustments)** YMRA opposes any amendments to the Annual Adjustment provisions of the Ordinance and Administrative Rules, so long as the Capital Improvement Rent Adjustment provisions remain in place. (Attachment C).

Staff Comments: The Annual Adjustment provision allows park owners to obtain annual rent increases once by the lesser of either five percent of the current space rent as of the date of the complete application, or 80% of the increase in the CPI during the preceding 12 months. An application and RA approval are necessary, but proof of need and a Commission hearing before the Commission are not required. Capital Improvement Rent Adjustments are one of the additional discretionary types of rent increases that a park owner may apply for and which require proof of justification and approval by the City. Capital Improvement Rent Adjustments are addressed in Section 15.20.085 of the YMC and Chapter 5 of the Administrative Rules. Under YMC §15.20.020, a capital improvement means the installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance or repairs, have a useful life of at least five years and satisfy the procedural requirements of YMC §15.20.085(A). The Capital Improvement Rent Adjustment is a temporary rent adjustment which, if approved, allows a park owner to recover the cost of completed capital improvements from the park residents, on an amortized basis, subject to certain procedural requirements.

The Capital Improvement Rent Adjustment has been one of the authorized rent adjustment methods since the Ordinance was originally adopted. As a result of the 2011 biennial review, the City amended the Ordinance to also allow a park owner to apply for approval of an Emergency Capital Improvement Rent Adjustment, subject to modified procedures, when the need for the capital improvement arose to remedy an imminent threat to public health or safety (YMC §15.20.085(B)). In addition, the Ordinance was amended in 2011 to exclude capital improvements from the calculation of an MNOI Rent Adjustment or MNOI Rent Adjustment based on a Readjusted Base Year NOI under YMC §15.20.100 and Chapter 4 of the Administrative Rules. If a park owner includes capital improvements in a Special Rent Adjustment based on the MNOI formula or the Readjusted Base Year NOI formula, the City will separate out the capital improvement costs and process those separately under the Capital Improvement Rent Adjustment procedures.

The treatment of expenses for major improvements and replacements in the City's Ordinance is based on a combination of legal and policy issues.

Legal Principles Impacting Treatment of Capital Improvements:

The courts have established several legal principles when evaluating rent control ordinances and these principles may impact how the City's Ordinance must treat capital improvement costs.

- In order to be constitutionally valid, a rent control ordinance must provide a park owner with a fair return. A "fair return" means that a park owner is entitled to earn a return on the park as a whole "which is earned by comparable investments with commensurate risks and commensurate opportunities for appreciation and tax benefits", or "which is high enough to encourage good management, reward efficiency and discourage the flight of capital and is commensurate with returns on comparable investments, but not so high as to defeat the purpose of preventing excessive rents."
- There is no set formula or methodology required to provide a fair return. In the event of a legal challenge, the courts evaluate the mechanism established in the applicable ordinance to determine whether that mechanism provides a particular park owner with the opportunity to earn a fair return.
- An MNOI formula generally will provide a fair return to a park owner so long as the ordinance allows a park owner to raise rents to provide growth in net operating income in order to cover the cost of operating expenses (including capital improvements), and also does not perpetually freeze profits.
- A rent control ordinance cannot preclude consideration of costs of capital improvements that are necessary for the health and safety of the park, its residents or surrounding communities, or which are otherwise required to comply with federal or state laws. Some court decisions have also established that an ordinance must not only allow pass through of the actual costs of the capital improvements, but also allow a return on those costs.

Staff Recommendation: In light of the legal principles underlying the Capital Improvement Rent Adjustment provisions, and the City's extensive review of the Capital Improvement Rent Adjustment provisions during the 2011 Biennial Review, staff does not recommend that any amendments to the Annual Adjustment provisions be tied to changes or elimination of the Capital Improvement Rent Adjustment provisions of the Ordinance or Administrative Rules.

YMRA 3.

(Vacancy Decontrol) YMRA supports the Mobilehome Rent Stabilization Ordinance and Administrative Rules pertaining to Vacancy Control, on the basis that the current structure lends to a fair balance for mobilehome park owners and resident. YMRA also opposes amending the Ordinance and Administrative Rules to allow vacancy decontrol because the Annual Adjustment process allows park owners to experience gains and earn profits that are consistent with inflation. However, YMRA also states that if the City

considers adopting some form of vacancy decontrol, the City should only allow rent to increase on vacancy by one-half (50%) of the prior period CPI adjustment, or 40% of the actual CPI; that only one vacancy increase should be allowed in a 12-month period even if more than one vacancy results during that 12-month period; and the vacancy increase should also be capped at 5% of current rent. YMRA makes this suggestion in the hope that it will finally resolve the matter of vacancy control or decontrol in the City's Ordinance. (Attachment D).

Staff Comments: The City's Ordinance defines a vacancy to mean any of the following: (i) the existence of any space on which no mobilehome is located; (ii) any transfer of ownership of a mobilehome which remains in a park; or (iii) any change in occupancy of any mobilehome space. (YMC §15.20.020) The Ordinance regulates rents upon vacancies as follows:

- The Ordinance prohibits any increase in space rent upon a vacancy resulting in the transfer of ownership of a mobilehome that remains in the park (an "in-place transfer" of ownership), or any change in occupancy of a mobilehome space (YMC §15.20.050 (A)).
- If a space is vacant because a mobilehome was removed or never had a mobilehome on it, the Ordinance also limits the rent that may be charged after a home is moved onto the space (YMC §15.20.050 (B)).
- If a homeowner buys a park-owned mobilehome, the base rent is the last regulated rent charged under the Ordinance, including any Annual Adjustments and any other Commission-approved adjustments, or, if the space was never subject to the Ordinance, the rent is the average of the rents charged for comparable spaces in the park (YMC §15.20.050(B)(3)).

The purpose of the City's vacancy control provision is to protect the investment by mobilehome owners in their homes, given the unequal bargaining position of residents, imposition of exorbitant rents, and the immobility of mobilehomes.

In prior biennial reviews, Park Owners and Park Owner Organizations have proposed amending the Ordinance to allow rents to increase to market rent level upon an in-place transfer of a mobilehome. YMRA and the park residents have consistently been opposed to any rent increases upon such vacancies, and the City Council in the past has declined to enact any form of vacancy decontrol.

Numerous legal challenges have been brought by park owners against vacancy control ordinances in the past, but these challenges have generally not been successful. For example, the Ninth Circuit Court of Appeals rejected a facial challenge to the Goleta mobile home park rent control ordinance in *Guggenheim v. City of Goleta*, 638 F.3d 1111 (9th Cir.2010) (en banc), cert. denied 131 S.Ct. 2455 (2011). In that case, the plaintiffs purchased their mobilehome park while it was in unincorporated land subject to a Santa

Barbara County rent control ordinance. On the same day as the city's effective date of incorporation, Goleta adopted the County's rent control ordinance. The Goleta rent control ordinance contains a form of vacancy de-control, which allows a park owner to increase rents by 10% upon the sale of a mobilehome. Plaintiffs challenged the ordinance as a taking, on the grounds that the below-market rents enabled park tenants to sell their mobilehomes to new tenants at higher prices, resulting in a wealth transfer of ninety percent of the mobilehome's value from the park owners to the park tenants.

The Ninth Circuit rejected the park owners' contention. The court ruled that because the plaintiffs bought their park when it was already under the county's rent control ordinance, the plaintiffs did not suffer any taking when the newly incorporated City of Goleta adopted the county's ordinance immediately upon its incorporation. The court's opinion also suggests that future courts may consider the interests of both the park owners and park tenants in considering challenges to a rent control ordinance. The court commented that a change in the rent control ordinance would have no effect on the park owners' investment-backed expectations, since they bought the park subject to rent control, but a change in the ordinance would impair the investment-backed expectations of the tenants who bought their homes after rent control went into effect by destroying the value those tenants thought they were buying.

The *Guggenheim* decision ruled only upon a facial challenge to the Goleta mobilehome rent control ordinance containing a limited form of vacancy de-control, and the decision emphasized that the Ninth Circuit was not ruling on an as-applied challenge. As such, the viability of a challenge to an ordinance containing full vacancy control remains uncertain, particularly in any as-applied challenges.

GSMOL periodically surveys the cities and counties in California with some form of mobilehome park rent control. Their most recent survey, updated as of March 2015, indicates that out of 96 jurisdictions surveyed, 53 of those cities and counties have some type of vacancy control, such as a prohibition on any rent increase at the time of an in-place transfer of ownership of a mobilehome, exclusions for transfers to relatives, dollar caps, or caps based on a percentage of rent as of date of transfer. A copy of the GSMOL survey is enclosed with this staff report as (Attachment O).

The City of Yucaipa has 41 mobilehome parks and a total of 4,268 spaces. Examples of various types of vacancy decontrol are summarized below.

City of Oxnard (25 parks and 2,780 spaces)

Oxnard's ordinance addresses vacancy control in City Code §24-11, which contains "change of occupancy adjustment". Upon a change of occupancy of a space, the owner may increase the rent up to 15 percent of the average space rent for regulated spaces, or \$80, whichever is less. The change of occupancy increase may be applied to a specific space no more than once every five years, and is determined by the rent stabilization director once a year for each mobile home park. A change of occupancy

adjustment is not permitted upon the transfer of rights to a space by a resident to any joint tenant or blood relation by gift, devise or operation of law.

On or before January first of each year, the owner shall post a written notice stating the maximum amount of rent to be charged for each space upon change of occupancy. The notice may be revised and posted no more than three times in the next 12 months. Upon a written request, the owner must provide a resident a written commitment for the space stating the exact amount of the rent for the resident's space to be effective upon a change of occupancy. This commitment must be effective for six months.

The rent stabilization director may review a change of occupancy adjustment based on a written complaint, and it may be subject to a hearing to resolve the dispute.

County of Riverside (124 parks and 12,376 spaces)

Riverside County Code §5.36.050 allows several types of increases upon vacancies: Except as provided below, if the mobile home space or mobile home is (i) voluntarily vacated, abandoned or repossessed, or (ii) vacated pursuant to California Civil Code Sections 798.56 or 798.75 the landlord may adjust the rental rate to an amount determined in the park owner's discretion. However, if the mobile home is sold in place and is to remain on site, the landlord may only increase the space rental rate to the new owner to an amount that is no greater than the average of the three highest rentals then currently being charged by the park owner for resident owner occupied spaces of comparable size, location and amenities in the park. Also, if a resident owner must move from his or her mobile home because of a need for long term medical or custodial care, the space remains subject to the ordinance during the time that the owner is absent and remains incapacitated. In those parks that allow subletting, the absent and incapacitated owner may sublet the mobile home for a charge not to exceed the space rent and utilities and all legally allowable pass through costs for a period of time not to exceed twenty-four (24) months without removing the space from the protection of the ordinance.

City of Fremont (3 parks and 732 spaces)

Under Fremont Municipal Code §9.55.030(k), an "in-place transfer" is a sale, transfer or other conveyance of a mobile home with the mobile home remaining on the mobile home space following the sale, transfer or other conveyance. Section 9.55.030(bb) defines "vacancy decontrol" as the partial or full removal of rent increase limitations otherwise required by this chapter when an existing mobile home owner is party to an in-place transfer or the mobile home is abandoned in-place.

The ordinance allows partial vacancy control upon the closure of an in-place sale, transfer or other conveyance of a mobile home. The rent increase is limited to 15%. The provision applies to initial turnovers January 1, 2002, through December 31, 2019. The

park owner may also obtain approval of an inflationary adjustment for subsequent turnovers, by transfers of title through December 31, 2019, equal to the percentage change in the Consumer Price Index between the time of the previous transfer and the time of the then relevant transfer, but capped at 15 percent.

The ordinance also allows full vacancy decontrol in certain situations. (Fremont Municipal Code §9.55.060(b)): A park owner may increase space rent in any amount (i) when a commercial purchaser replaces a mobile home with a new or different mobile home; or (ii) when a mobile home is abandoned in-place or when a vacancy results from a lawful eviction. The new rent base is thereafter subject to all the requirements of the City's ordinance. A homeowner intending to sell a mobilehome may submit a written request to the park owner for a written statement of increase in rent due to vacancy decontrol. The park owner must provide the written statement within five days, and it remains valid for 120 days. (Fremont Municipal Code §9.55.060(c)) Certain transfers are exempt from vacancy decontrol, including (i) an in-place transfer of a mobile home to a spouse, parent, child, siblings, grandparent, grandchild, or domestic partner of the mobile home owner or a person who was a joint tenant of the mobile home owner on the effective date; and (ii) a temporary removal of a mobile home to allow rehabilitation, capital improvements, or upgrades of the mobile home or a replacement of a mobile home with a new or different mobile home by an existing home owner on the same space.

City of Concord (11 parks and 1,800spaces)

Concord Municipal Code§15.05.160 defines a “vacancy decontrol space rent increase” as the increase in space rent permitted upon the qualifying sale, transfer, or other conveyance of a mobile home. Section 15.105.190 allows limited rent increases upon vacancy. The park owner may increase space rent by ten percent upon the closure of an in-place sale, transfer or other conveyance of a regulated mobile home space. However, no vacancy decontrol space rent increase may be assessed where (i) an existing mobile home owner or resident replaces an existing mobile home with another mobile home, occupying the same mobile home space; (ii) where title to the mobile home passes to the owner's spouse, domestic partner, or son/daughter who at the time of the title transfer was also a resident of the mobile home; or (iii) a vacancy decontrol space rent increase may not be assessed to the same mobile home space more than once every 24 months.

City of Redlands (Redlands (7 or 8 parks and 684 spaces)

Under Redlands Municipal Code §5.48.100, if a mobilehome owner sells his or her home, the park owner cannot increase the rental rate above the amount of rent being paid by the seller of the mobilehome. The Ordinance does not prohibit a mobilehome park owner from increasing the monthly space rent for a mobilehome park space when the mobilehome has been removed from the park, where the mobilehome has been

abandoned by its owner, or when a legal eviction of a mobilehome owner-occupant is effected by the property owner.

Staff Recommendation: Staff does not recommend any changes to the vacancy control provision of the Ordinance or Administrative Rules at this time. However, the Commission may wish to consider recommending amendments to allow limited vacancy decontrol based on input from the Park Residents, Park Owners and other stakeholders.

YMRA 4.

(Financial Information for MNOI Rent Adjustment): YMRA proposes amending the Ordinance and Administrative Rules to require that when a park owner submits an MNOI Rent Adjustment application, the park owner must submit or make available all financial reports to all parties that may be affected by the resulting decision, including profit and loss statements, income statements, balance sheets and cash flow records. YMRA also proposes that park owners be required to submit, or have the option of submitting, personal tax returns and bank statements. YMRA believes that full disclosure will make sure that the residents are fully advised of the basis for the claimed rent adjustment. (Attachment E)

Staff Comments: YMC §15.20.100 requires that in order to present a Special Rent Adjustment application for hearing to the Commission, the park owner must submit a complete application, including complete financial records that support the requested rent adjustment. Those financial records include profit and loss statements, balance sheets, bank statements, invoices, cancelled checks, and similar financial records. The City cannot require that a park owner submit personal or business tax returns as those returns are confidential under federal and state law. The City also carried out a thorough review of the Ordinance and Administrative Rules and made extensive revisions to the application process in the 2011 biennial review.

Staff Recommendation: For the reasons set forth under Staff Comments, Staff believes the Ordinance and Administrative Rules thoroughly address the records required in support of a Special Rent Adjustment Application and does not recommend such changes to the Ordinance or the Administrative Rules at this time with regard to documentation supporting applications for Special Rent Adjustments including MNOI Rent Adjustments.

YMRA 5.

YMRA proposes that special meetings be held on at least 30 days prior notice, rather than the minimum 24 hours' notice contained in Administrative Rule §1.0003. (Attachment F)

Staff Comments: The 24-hour notice provision of Administrative Rule §1.0003 merely reflects the requirement of the Ralph M. Brown Act ("Brown Act") (Cal. Gov. Code §54950 et seq.), that the Commission must provide at least 24 hours' notice of a special meeting. The provision cited by the Administrative Rules was drafted to reflect these requirements. The Ordinance and Administrative Rules contain additional timing

requirements for processing the Special Rent Adjustment application and scheduling public hearings on the application, which provide significantly more than 24 hours' notice. For example, the Ordinance requires that the Commission commence the public hearing on the application within 60 days of the date the Rent Administrator deemed the application complete, and issue its written decision within seventy-five (75) days after the date of the completeness determination (YMC §15.20.110). The City Council must commence an appeal hearing within 30 days of the Rent Administrator's determination that the appeal application is complete, and issue its written decision within 15 days of commencement of the hearing, with some exceptions (YMC §15.20.115(C) and (D)). To implement these time deadlines, the Administrative Rules establish timing requirements for notice to the park residents of the filing of the application, and each party's deadline to submit documents to the City. All of these time deadlines ensure that both park residents and park owners have sufficient time to review the application and Commission agendas and prepare for the hearing. For example, the park owner must post a notice of filing of a rent adjustment application in three places in the park, and must also make a copy of the application available for review by the residents (YMC §15.20.105(A)). The Rent Administrator must notice to the park residents and park resident representative when the Rent Administrator deems an application complete (YMC §15.20.105(E)). Any other documentation provided to the Rent Administrator for a Commission agenda must be provided not later than 14 days prior to the meeting and the Rent Administrator circulates the agenda to the Commission not later than six days prior to the meeting. (Administrative Rule, §1.0008) These timing procedures were reviewed during the 2011 biennial review; the City conducted a thorough review of the hearing procedures.

Staff Recommendation: For the reasons set forth under Staff Comments, Staff does not recommend such changes to the Administrative Rules at this time with regard to scheduling of special meetings or minimum notice requirements for special meetings.

- YMRA 6. Other issues raised by YMRA were not specific requests to change the Ordinance or Administrative Rules but identified opinions pertaining the following (Attachment G and H):
- a. YMRA agrees with the rent control fee and the 50/50 split shared by the park owners and park resident. (Attachment G)
 - b. YMRA supports the Mobilehome Rent Stabilization Ordinance and Administrative Rules. (Attachment H)

ISSUES PRESENTED BY ROSE MARY CONWAY OF BEL AIRE MOBILE ESTATES

- Conway 1. **(Annual Adjustments)** Mrs. Conway proposes that the annual CPI increase should be based on an average of the prior year rather than selecting December only (Attachment I).

Staff Comments: In 1996, the CPI indexing factor used in determining the Annual Adjustment was increased from 66-2/3% of the increase in the CPI to eighty percent (80%) of the increase in the CPI. While rent ordinances are subject to the requirement that owners be permitted a fair return, the courts have held that automatic annual increases are not required as long as the fair return requirement is met without unreasonable delay. In addition, the courts have held that there is no minimum CPI indexing factor that must be provided in an annual rent increase such as the City's Annual Adjustment process, or any particular method that must be used in providing an automatic rent increase such as the Annual Adjustment process. There are alternate rationales for no general or automatic annual increases, and for increases ranging up to 100% of the increase in the CPI. To the extent that the Annual Adjustment is below the amount necessary to meet the fair return standard, the system becomes increasingly dependent upon rent adjustments through individual hearings pursuant to the special adjustment procedures set out in YMC §15.20.100.

As a practical matter, the impact of the CPI indexing factor on Annual Adjustments will depend on how much, or how little, the CPI has actually increased or decreased over the prior year CPI. In some years, use of the yearly average may result in a higher or lower Annual Adjustment; in other years, use of the yearly average may result in a lower adjustment than if a particular date in time is chosen. In other years, there may not be any difference between the two approaches. However, use of an average makes the CPI formula more complicated than a straight point change comparison between the current December and the prior December.

Staff Recommendation: Staff presented several options in its discussion under General #1, above, for consideration by the Commission. The determination of what percentage to use for the inflationary adjustment in the Annual Adjustment process is a policy decision for the City.

ISSUES PRESENTED BY WESTERN MANUFACTURED HOUSING COMMUNITIES' (WMA) AND MANUFACTURED HOUSING EDUCATIONAL TRUST (MHET)

WMA 1. (Annual Adjustments) WMA requests that the City modify the practice of calculating the Annual Adjustment rate from 80% of the increase in the CPI to 100% of the increase in the CPI, on the basis that use of 80% of the increase in the CPI does not sustain proper operations or a park. (Attachment J)

MHET (Annual Adjustments) MHET requests that the Ordinance and rules be amended to allow for automatic annual rent increases of 100% CPI, on the basis that the use of 80% CPI does not allow the park owner to keep up with inflation or increasing park expenses. (Attachment K)

Staff Comments: Staff's comments on proposals to modify the CPI factor used to determine the Annual Adjustment are contained in its discussion of the annual adjustment under General #1, and Conway #1, above.

Staff Recommendation: Staff presented several options for consideration by the Commission under General #1.

WMA

2.

(Capital Improvement) WMA requests that the Ordinance be amended to allow automatic pass thru of capital improvements. WMA contends that the reason the aging communities are deteriorating is because the Ordinance strips the needed income and revenue to address these problems. (Attachment J)

MHET

(Capital Improvement) MHET requests that the Ordinance be amended to allow automatic pass thru of capital improvements. MHET contends that the parks are aging, technology has changed a great deal and upgrading or replacing park infrastructure is expensive. MHET states that a proven way to successfully upgrade the parks is to allow capital improvements to be amortized and passed thru automatically. (Attachment K)

Staff Comments: Staff provided an extensive analysis of the capital improvement rent adjustment procedure under Admin #1, above. As outlined therein, court decisions have established that a rent control ordinance is valid if it provides the park owner with a fair return, which means that the park owner must be allowed to maintain and increase profit based on inflation, and recover the cost of the operating expenses, including capital improvements. State and Federal court decisions do not require any specific formula for rent increases, and there is no legal requirement for the automatic pass-through of capital improvements. During the prior Biennial Review, the City undertook an extensive analysis of the capital improvement rent adjustment procedures, and made several revisions to the Ordinance and Administrative Rules. The City's Ordinance contains three procedures which allow consideration of capital improvements – (i) through a separate temporary capital improvement rent adjustment process or an emergency capital improvement rent adjustment process based on an application submitted at a time; (ii) if capital improvement costs are included as part of an application for an MNOI rent adjustment or MNOI rent adjustment based on a readjusted base year NOI, those capital improvement costs may be considered separately under the capital improvement rent adjustment procedures, subject to certain limitations under the Ordinance and Administrative Rules; and (iii) as a factor that may be considered if the park is earning a fair return under the fair return adjustment process set forth in YMC §15.20.100(C), subject to certain limitations under the Ordinance. The current methods provide a balance that encourages park owners to make improvements in their parks, while avoiding excessive rent increases to residents.

A proposal to allow automatic pass-throughs of the costs of capital improvements would also need to be evaluated under the Mobilehome Residency Law (“MRL”), Cal. Civil Code §798 et.seq. The MRL provides, in Civil Code §798.31, that “a homeowner shall not be charged a fee for other than rent, utilities, and incidental reasonable charges for services actually rendered.” A separate charge for a capital improvement “pass through” may violate the MRL. In contrast, the City's capital improvement rent adjustment provision, which allows the cost of a completed capital improvement to be as a form of a

temporary rent increase, has been upheld in court as a legitimate rent increase that does not violate the MRL because of the broad definition of “rent” in the City’s Ordinance. (*Robinson v. City of Yucaipa (1994) 28 Cal.App.4th 1506*; see also *Dills v. Redwoods Associates, Ltd. (1994) 28 Cal.App.4th 888*.)

Staff Recommendation: Whether to allow an automatic rent increase based on **amortized capital improvement costs is a policy decision for the City. Staff makes no recommendation on this proposal.**

WMA 3.

(Vacancy Decontrol) WMA requests that the Ordinance be amended to provide for vacancy decontrol. WMA contends that vacancy decontrol will fundamentally change mobilehome communities for the better and reduces litigation. (Attachment J)

MHET

(Vacancy Decontrol) MHET requests that the Ordinance be amended to provide rent adjustments upon vacancy. MHET contends that allowing rent adjustments at the time of vacancy is fair and reasonable, and still protective of the residents. (Attachment K)

Staff Comments: Staff provided an extensive discussion of vacancy control and decontrol under YMRA #3, above. As noted therein, the Ordinance was enacted with a vacancy control provision in order to protect the investment of mobilehome owners in their homes, given the unequal bargaining position of residents, exorbitant rents, and the immobility of mobilehomes. If a resident sells his or her mobilehome to someone else, the park owner cannot raise the rent to market levels, and the space continues to be subject to rent control. Park owners have frequently brought legal challenges against vacancy control in the past, but those challenges have generally not been successful.

Staff Recommendation: For the reasons set forth under Staff Comments, staff does not recommend such changes to the Ordinance at this time. However, the Commission may consider a limited form of vacancy decontrol, such as those outlined in the examples provided under YMRA #3, above.

ISSUE PRESENTED BY ANDREW ROTTENBACHER, CALANDRA REAL, LP. ON BEHALF OF LAKEVIEW MOBILEHOME PARK

Rottenbacher

1. **(Annual Adjustment)** Mr. Rottenbacher requests that the City allow for an administrative annual increase of 100% of the change in CPI, on the basis that restricting rent increases to anything less only further erodes the overall maintenance standards of Mobile Home Parks. (Attachment L)

Staff Comments: Staff addressed the proposal to calculate Annual Adjustments based on 100% of the CPI increase rather than 80% of the CPI increase under Staff’s General Issues #1, and WMA and MHET #1 of this Report.

Staff Recommendation: See Staff’s recommendation under Staff’s General Issues #1, and WMA and MHET #1 of this Report.

2. **(Minimum Annual Adjustment)** Mr. Rottenbacher requests that the City remove the 5% maximum annual increase provision and/or implement a minimum administrative 2.5% annual increase. (Attachment L)

Rottenbacher

Staff Comments: As outlined above, the purpose of Chapter 15.20 of the Yucaipa Municipal Code is to protect residents from excessive rents given the relative immobility of mobilehomes, low vacancy rates, and the lack of alternative mobilehome sites in Yucaipa. As outlined above, the Annual Adjustment process in the Ordinance allows park owners to obtain annual rent increases based on a simplified and expeditious basis, while at the same time placing a limit on these annual “automatic” rent adjustments so as to avoid excessive increases in rent for the park’s residents, particularly when there are large increases in inflation. The City is not legally required to amend the Ordinance to allow use of 100% of the increase in CPI rather than 80% of the increase in the CPI. Whether to change the CPI indexing factor is a policy decision for the City.

Staff Comments: Discussion on the proposal to implement a minimum administrative 2.5% annual increase is contained in its discussion of the Annual Adjustment process under General #1. Staff also presented several options for consideration by the Commission under General #1

Staff Recommendation: Whether to change the maximum annual increase or implement a minimum annual increase is a policy decision for the City. Staff makes no recommendation on this proposal.

3. **(Vacancy Decontrol)** Mr. Rottenbacher requests that the City provide for an increase of 5% in the then current monthly rent upon the resale of a mobilehome or vacancy limited to once every 3 years per space. (Attachment L)

Rottenbacher

Staff Comments: Staff’s comments on vacancy decontrol are contained in its discussion under YMRA #3 and WMA / MHET #3.

Staff Recommendation: Staff’s recommendations on vacancy decontrol are contained in its recommendations under YMRA #3 and WMA / MHET #3.

ISSUE PRESENTED BY SUZANNE TAYLOR, AUGUSTA COMMUNITIES, ON BEHALF OF VALLEY VIEW MOBILEHOME PARK

1. **(Nonprofit Mobilehome Parks Rent Adjustment Policy)** Ms. Taylor is requests that the City amend the Ordinance and Administrative Rules to provide a separate rental adjustment policy for 501(c)(3) housing non-profits that comply with federal and state household income and affordability standards. (Attachment M)

Taylor

Staff Comments: The impact of the City’s Ordinance on a park will be dependent upon the individual park’s situation, regardless of whether or not the park is a for-profit business or a non-profit park. For example, according to the letter submitted by Augusta

Communities (Attachment M), Augusta Communities purchased Valley View Mobile Home Park in 2000, with proceeds from revenue bonds issued by the Yucaipa Redevelopment Agency; and refinanced the park in 2012 by the Independent Cities Financing Authority (ICFA) as part of a pooled bond issue that combined the resources of Valley View with three other parks owned by Augusta in other communities. When Augusta purchased Valley View in 2000, the City's Ordinance had already been in effect for nine years, a fact confirmed by the park's Regulatory Agreement, which provides that the rents cannot exceed the amount considered affordable under federal and state law, or the amount permitted by the City's Ordinance, whichever is less. Thus, the purchase price at the time of Augusta Communities' acquisition of the park as well as at the time of the refinancing by ICFA, took into accounts the rent provisions of the City's Ordinance, including whether the rent provisions of the Ordinance would allow the park owner the opportunity to earn a fair return.

Staff Recommendation: Staff does not recommend that the City amend the Ordinance and Administrative Rules to create a separate procedure or policy regulating rents in non-profit parks such as Valley View

2. **(Vacancy Decontrol)** Ms. Taylor requests that base rents in non-profit parks be adjusted after a home is sold or abandoned, to cover the cost of operating the park at a higher than average level of service with enough surplus to begin funding reserves for improvements. (Attachment M).

Taylor

Staff Comments: Staff's comments on the Annual Adjustment process and vacancy decontrol issues are contained in its discussion under General #1, YMRA #2 and #3, Conway #1, Rottenbacher #1 and #2, and WMA / MHET #3.

Staff Recommendation: Staff's recommendations regarding vacancy decontrol are contained in its recommendations under General #1, YMRA #2 and #3, Conway #1, Rottenbacher #1 and #2, and WMA and MHET #3.

4. **(Capital Improvements – Eliminate Park Resident Vote)** Ms. Taylor requests that capital improvement adjustments resulting from health and safety related projects, including those mandated by law, should be permitted without a vote by park residents (Attachment M).

Taylor

Staff Comments: The Ordinance requires that a park owner obtain prior resident approval from at least 51% of the park residents in order for the park owner to obtain approval from the City for a Capital Improvement Rent Adjustment. The Ordinance does not require prior majority approval for capital improvements constructed for health and safety reasons. However, because disputes frequently arise between the park owner and park residents about whether an improvement is for health and safety reasons, and the City Rent Administer decides whether or not the improvement was necessary for health or safety reasons, staff typically recommends a resident meeting in an attempt obtain 51% resident consent. The overall intent of the resident meeting is to provide the residents

with the reasons for the proposed improvement and the park owner's position why the proposed improvements are necessary for the health or safety of the park, its residents, or the community.

Staff Recommendation: For the reasons set forth in the Staff Comments and Admin #1, Staff does not recommend such changes to the Ordinance or Administrative Rules with respect to the vote provisions relating to Capital Improvement Rent Adjustments at this time.

5. **(Capital Improvements – Approval Prior to Commencement)** Ms. Taylor is requesting that rent increases related to health and safety projects, including those mandated by law, should be approved by the governing body prior to the commencement of the project rather than after the project has been completed. Ms. Taylor indicates that capital improvements cannot be constructed without knowing the method of financing (Attachment M).

Taylor

Staff Comments: The Ordinance does not regulate the method of financing of a capital improvement in a park; the park owner selects the financing method and includes the cost of that financing in the proposed Capital Improvement Rent Adjustment. As set forth in YMRA #2, above, the City carried out an extensive review of the Ordinance's Capital Improvement Rent Adjustment provisions during the 2011 biennial review, and amended the Ordinance and Administrative Rules to provide for emergency capital improvements. Staff believes that the current Capital Improvement Rent Adjustment provisions represent of a fair balancing of the interests of park owners and park residents, by requiring that health and safety improvements do not require 51% resident consent but encourage the park owner to consult with the park residents and obtain that consent in the event there is a dispute over whether the proposed improvements are health and safety improvements.

Staff Recommendation: For the reasons set forth in the Staff Comments, as well as Staff's Comments and Recommendation under Admin #1, above, Staff does not recommend any changes to the Capital Improvement Rent Adjustment provisions of the Ordinance or Administrative Rules regarding timing of submittal of Capital Improvement Rent Adjustment applications at this time.

ISSUE PRESENTED BY IAN DYER, REAL ESTATE ADVISORS, INC. ON BEHALF OF YUCAIPA VALLEY AND HIDE-AWAY MOBILEHOME PARK

1. **(Park Owned Mobilehomes)** Mr. Dyer requests that the City amend the Ordinance and Administrative Rules to allow homesite rents to rise to market when the mobilehome is owned by the park. (Attachment N)

Dyer

Staff Comments: Under YMC §15.20.050(B)(2), spaces owned by the park are not subject to the rent limitations of the Ordinance. However, once a park-owned coach is sold to a resident (through a rent-to-own agreement or straight purchase) and the coach remains in the park, the base rent shall be either the last regulated space rent charged for

the space, if the space was previously subject to this code, increased by the annual CPI increases properly charged by the park and any other applicable commission-approved rent increase for the spaces in the park; or if the space was never subject to this code, the average of the rents charged for comparable spaces in the park subject to rent control. Staff's additional comments on vacancy decontrol are contained in its discussion under YMRA #3 and WMA and MHET #3.

Staff Recommendation: Staff does not recommend any change to the Ordinance or Administrative Rules with respect to park-owned mobilehomes at this time,

CONCLUSIONS:

Following the Commission's review and discussion of this Report, the Report and any Ordinance and Resolution changes recommended by the Commission, will be presented to City Council for review and action.

Attachments:

- A 2015 Chart of Average Rents – City of Yucaipa
- B YMRA
- C YMRA
- D YMRA
- E YMRA
- F YMRA
- G YMRA
- H YMRA
- I Conway
- J WMA
- K MHET
- L Rottenbacher
- M Taylor
- N Dyer
- O GSMOL Survey of CA Jurisdictions with Mobilehome Park Rent Stabilization Ordinances (updated March 2015)

Approved by: _____

**2015 CITY OF YUCAIPA
General Services/City Clerk Dept.**

		PARK SPACES Source: 2015 Annual Registration							BASE RENTS LONG-TERM LEASE (LTL) SPACES Source: 2015 Annual Registration			BASE RENTS RENT CONTROL SPACES (**Source: 2015 Adjusted Space Rents [CPI Increase])		
		Total Spaces	Park Owned	LT Lease	Rent Control	Vacant Pads	PO Vacant Coaches	RO Vacant Coaches	LTL High Base Rent	LTL Low Base Rent	LTL Average Base Rent	RC High Base Rent	RC Low Base Rent	RC Average Base Rent
Mobilehome Park	Address													
Aladdin Mobilehome Park *	12813 7th Street	96	41	0	55	0	9	0	\$0.00	\$0.00		\$326.81	\$268.49	\$314.85
Avalon Mobilehome Park *	35011 Avenue E	85	41	0	44	0	9	0	\$0.00	\$0.00		\$351.71	\$326.73	\$348.60
Bel Aire Mobilehome Park	13060 2nd Street	111	26	16	69	8	2	0	\$484.00	\$326.14	\$401.03	\$582.24	\$293.15	\$355.59
Bonanza Mobilehome Park *	13645 5th Street	83	15	0	68	0	2	0	\$0.00	\$0.00		\$347.67	\$325.19	\$345.31
Caravan Mobilehome Park *	12656 2nd Street	70	2	0	68	2	0	0	\$0.00	\$0.00		\$304.11	\$250.57	\$267.04
Carriage Trade Manor MHP *	12874 California St	97	0	0	97	0	0	0	\$0.00	\$0.00		\$257.79	\$222.18	\$233.93
Crafton Hills Mobilehome Park	31816 Avenue E	159	3	112	44	0	0	0	\$378.61	\$297.02	\$346.06	\$382.09	\$309.12	\$329.58
Crestview I Mobilehome Park *	12220 5th Street	145	3	105	37	0	0	1	\$318.25	\$291.35	\$310.16	\$321.18	\$296.02	\$312.56
Crestview II Mobilehome Park	12821 4th Street	55	13	0	42	0	1	0	\$0.00	\$0.00		\$449.08	\$260.30	\$344.59
Eldorado Mobilehome Park ¹ *	35218 Fir Street	217	2	0	215	0	0	0	\$0.00	\$0.00		\$474.01	\$344.02	\$402.52
Executive Mobilehome Park	10622 Bryant Street	152	1	0	151	0	0	0	\$0.00	\$0.00		\$455.11	\$355.63	\$410.45
Fremont Heights Mobilehome Park *	12151 Fremont St	114	5	0	109	1	2	0	\$0.00	\$0.00		\$546.87	\$470.07	\$502.73
Grandview East Mobilehome Park ¹	12655 2nd Street	99	1	0	98	1	0	0	\$0.00	\$0.00		\$453.59	\$248.22	\$358.27
Grandview West Mobilehome Park *	12700 2nd Street	51	0	1	50	0	0	0	\$316.84	\$316.84	\$316.84	\$381.58	\$338.53	\$346.61
Green Valley Mobilehome Park	12414 4th Street	109	98	0	11	0	24	0	\$0.00	\$0.00		\$315.76	\$304.05	\$312.14
Hidden Valley Mobilehome Park *	12680 4th Street	60	0	0	60	0	0	0	\$0.00	\$0.00		\$317.08	\$305.33	\$312.82
Hidden Village Mobilehome Park *	12582 2nd Street	81	4	0	77	1	0	0	\$0.00	\$0.00		\$411.04	\$349.77	\$374.55
Hide-Away Mobilehome Park	34447 Yucaipa Blvd	46	2	20	24	0	2	0	\$750.00	\$395.00	\$584.50	\$349.01	\$347.00	\$348.92
Hillcrest Mobilehome Park *	33600 Calimesa Blvd	196	61	0	135	19	7	0	\$0.00	\$0.00		\$662.72	\$401.53	\$426.97
Hitching Post Mobilehome Park	34642 Yucaipa BLvd	110	13	0	97	7	0	0	\$0.00	\$0.00		\$497.38	\$267.65	\$351.71
Holiday Mobilehome Park	34184 County Line Rd	128	69	0	59	1	3	0	\$0.00	\$0.00		\$305.58	\$230.81	\$268.16

¹ Denotes Non-Profit Status

* Senior Park

** Base rents subject to change with City approval of annual CPI increases that take place throughout the year

2015 CITY OF YUCAIPA
General Services/City Clerk Dept.

		PARK SPACES Source: 2015 Annual Registration							BASE RENTS LONG-TERM LEASE (LTL) SPACES Source: 2015 Annual Registration			BASE RENTS RENT CONTROL SPACES (**Source: 2015 Adjusted Space Rents [CPI Increase])		
Mobilehome Park	Address	Total Spaces	Park Owned	LT Lease	Rent Control	Vacant Pads	PO Vacant Coaches	RO Vacant Coaches	LTL High Base Rent	LTL Low Base Rent	LTL Average Base Rent	RC High Base Rent	RC Low Base Rent	RC Average Base Rent
Knollwood Mobilehome Park	12941 2nd Street	124	36	31	57	3	6	0	\$468.57	\$295.22	\$364.44	\$450.64	\$294.95	\$345.67
Lakeview Mobile Estates	11050 Bryant Street	296	2	0	294	2	1	1	\$0.00	\$0.00		\$494.65	\$415.81	\$462.93
Las Casitas Mobilehome Park	33848 Avenue G	70	17	43	10	7	9	0	\$922.00	\$230.00	\$545.03	\$537.26	\$291.75	\$442.84
Melody Lane Mobilehome Park	12688 California St	32	5	0	27	2	0	0	\$0.00	\$0.00		\$338.81	\$257.94	\$299.76
Mission Valley Oaks Mobilehome Park*	12367 4th Street	76	2	74	0	1	1	0	\$520.00	\$420.00	\$496.18	\$0.00	\$0.00	
Mount Vista Mobilehome Park	13061 2nd Street	56	2	0	54	0	1	0	\$0.00	\$0.00		\$344.58	\$247.62	\$263.62
Mountain View Mobilehome Park	12726 California St	77	13	0	64	0	2	0	\$0.00	\$0.00		\$338.81	\$259.14	\$292.27
Northview Mobilehome Park *	10675 Bryant Street	129	3	11	115	2	1	0	\$255.22	\$227.89	\$237.01	\$256.88	\$219.31	\$238.56
Park Terrace Mobilehome Park *	12177 3rd Street	73	2	0	71	2	0	0	\$0.00	\$0.00		\$291.08	\$291.08	\$291.08
Patrician Mobilehome Park *	34480 Countyline Rd	137	2	5	130	2	0	0	\$400.00	\$400.00	\$400.00	\$339.98	\$313.04	\$321.70
Rancho Del Sol Mobilehome Park ¹	12351 4th Street	110	5	0	105	4	0	0	\$0.00	\$0.00		\$453.54	\$299.38	\$412.27
Skyline Village Mobilehome Park *	12650 California St	77	41	0	36	12	6	0	\$0.00	\$0.00		\$308.33	\$266.81	\$296.56
Twin Pines Mobilehome Park	12300 5th Street	93	79	1	13	0	7	0	\$543.74	\$543.74	\$543.74	\$323.54	\$306.02	\$314.36
Valley Breeze Mobilehome Park *	13576 California St	87	37	0	50	12	10	0	\$0.00	\$0.00		\$362.56	\$349.30	\$352.35
Valley View Mobilehome Park ¹ *	12995 6th Street	75	10	0	65	4	3	0	\$0.00	\$0.00		\$334.82	\$256.68	\$296.03
Westwind Mobilehome Park	12380 4th Street	86	58	0	28	0	2	0	\$0.00	\$0.00		\$339.06	\$208.13	\$256.04
Wildwood Canyon Mobilehome Park	34111 Wildwood Cyn	147	2	0	145	0	1	0	\$0.00	\$0.00		\$324.22	\$250.69	\$282.41
Wishing Well Mobilehome Park *	13063 5th Street	73	15	0	58	1	1	0	\$0.00	\$0.00		\$313.16	\$230.50	\$255.58
Yucaipa Valley Mobilehome Park	12710 3rd Street	104	4	71	29	0	3	0	\$696.00	\$395.00	\$526.17	\$342.33	\$340.36	\$342.24
Yucaipa Village Mobilehome Park *	12830 6th Street	82	0	0	82	0	0	0	\$0.00	\$0.00		\$476.05	\$333.78	\$348.67
Total Spaces:		4,268	735	490	3,043	94	115	2						

¹ Denotes Non-Profit Status

* Senior Park

** Base rents subject to change with City approval of annual CPI increases that take place throughout the year

Kim Everts

From: Jennifer Shankland
Sent: Wednesday, April 01, 2015 2:52 PM
To: Kim Everts
Subject: FW: Application Fee - Biennial review of Mobile home Rent Stabilization Ordinance and Administrative Rules

Also put with folder

From: Tony Slaick [<mailto:datonestir@aol.com>]
Sent: Wednesday, April 01, 2015 2:50 PM
To: Jennifer Shankland
Subject: Fwd: Application Fee - Biennial review of Mobile home Rent Stabilization Ordinance and Administrative Rules

April 1, 2015

Yucaipa Mobile home Renters Association (YMRA)
Tony Slaick, Chairman
P. O. Box 1052
Yucaipa, CA 92399

Jenifer Shankland
Director of General Services/City Clerk/Rent Administrator
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

Re: Application Fee - Biennial review of Mobilehome Rent Stabilization Ordinance, (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules

Dear Ms. Shankland,

Thank you for the opportunity to submit questions, concerns and comments for consideration in the Biennial review.

I beseech city Staff to do/recommend there be a study that will explore the pros and cons, the fairness and/or hardships that could make the filing of an application (currently \$1750) possible or prohibitive.

The structure of the Ordinance and/or Rules pertaining to filing an application currently offers relief to the city by keeping the filing numbers low, resulting in a more orderly and manageable operation of maintaining the overall system relating to Rent Stabilization.

As the average resident (senior) in a Yucaipa mobile home park could not possibly afford to make the filing, it is likely that many voices and issues are not being heard. The YMRA represents the residents of Yucaipa mobile home parks, however, finds the filing fees prohibitive in many important matters, resulting in an inability to bring the needed voice of the many mobile home residents to the proper legal arena; specifically, but not limited to, the Rent Review Commission.

Considering that the mobile home park residents as well as mobilehome park owners currently bear the cost of administrating and implementing the ordinance, it seems that the benefited parties could continue the same and gain a measure of relief by deferring the cost by allowing postponement of the fees. In view of the fact that in an action, the prevailing party is also awarded recovery of legal fees, it seems reasonable the city consider the following scenarios: 1. An application is filed by (a) park tenant(s), the matter is heard and the award goes to the park owner; tenant(s) lose case. In the case of a park owner being successful, he/she is awarded recovery of legal fees; paid by tenant(s). The application fee could be divided by the park spaces and added to the maintenance amount that is calculated in the annual cost of maintaining the ordinance. The park owner would not be impacted. The city would recover the \$1750, and the residents of the park would have at least had the opportunity of being heard. 2. The tenant(s) prevail. They are awarded recovery of legal fees, however, the application cost would then go directly to the city from the park owner.

This is a very preliminary move in an effort to impress upon city staff that there are options in aiding people who's voices cannot be heard due to the financial barriers that could be overcome through creative problem solving.

There could be a criteria for determining who/what parties are responsible for the application fees. An example: If an individual in a mobilehome park wanted to pursue the filling of an application, they would either have to personally pay the filing fee (no waiver/postponement) or get at least 35% or 51% (a percentage to be determined) of the park residents to vote in favor of filing the application. Furthermore, in a filing that relates to all mobilehome parks in Yucaipa, the application cost could be recovered throughout the entire mobilehome park community through the annual assessment of the cost of maintaining the Ordinance; again by vote.

I would imagine city staff would feel this somewhat burdensome and justly so, however, IF mobilehome park residents (keeping in mind they are for the most part seniors), we're to complete the process to qualify, that in itself should reflect the importance of the issue keeping in mind it would also take an effort on their part.

I implore Staff to NOT suggest this be a policy decision for the city, but rather, recommend a study that will result in changes to the Ordinance that will allow the mobilehome residents as well as YMRA (their collective voices) to file an application without the current cost prohibitive structure.

In conclusion, the right thing to do is to make provisions for every resident to be heard. At the same time, make the provisions to where standards are met, qualifications are clear and the burden is shared.

Again, thank you for your serious consideration.

Respectfully,

Tony Slaick, Chairman YMRA
Yucaipa Mobilehome Residents Association

Kim Everts

From: Jennifer Shankland
Sent: Friday, April 03, 2015 8:38 AM
To: Kim Everts
Subject: FW: CPI used in rent increases vs Capital Improvements - Biennial review of Mobilehome Rent Stabilization Ordinance (YMC 15.20) & Administrative Rules

From: Tony Slaick [<mailto:datonestir@aol.com>]
Sent: Friday, April 03, 2015 8:30 AM
To: Jennifer Shankland
Subject: CPI used in rent increases vs Capital Improvements - Biennial review of Mobilehome Rent Stabilization Ordinance (YMC 15.20) & Administrative Rules

April 3, 2015

Yucaipa Mobilehome Residents Association (YMRA)
Tony Slaick, Chairman
P. O. Box 1052
Yucaipa, CA 92399

Jenifer Shankland
Director of General Services/City Clerk/Rent Administrator
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

CPI used in rent increases vs Capital Improvements - Biennial review of Mobilehome Rent Stabilization Ordinance (YMC 15.20) & Administrative Rules

Dear Ms. Shankland,

Thank you for the opportunity to submit questions, concerns and comments for consideration in the Biennial review.

In spite of all the inclusions that create the overall composition to establish fairness in the current formula used in the adjusting of mobilehome space rents (80% of the CPI, capital improvement adjustments/recovery as well as the MNOI process), mobilehome park owners as well as powerful organizations that represent them have proposed that annual rent increases be equal to the change in CPI and not a percentage thereof.

With all due respect, I urge that very careful consideration is given to all the current aspects of the ordinance that collectively create a more than fair and balanced system. This system has established guidelines for an honest return and profits for mobilehome park owners while protecting residents from possible abuses that would not otherwise have oversight. The ordinance has had much analysis and scrutiny. It seems evidently clear that if all is "on the up and up", the current Mobilehome Rent Stabilization Ordinance and Administrative Rules will prevail for mobilehome park owners as well as the mobilehome park residents.

If any change in the CPI percentage were to be an increase, there should no longer be the possibility of a capital improvement recovery. In other words, there should be no way for a mobilehome park owner to pass the cost on to the mobilehome park residents ever/at anytime.

As with any rental property, a properly managed property is rented with the anticipation that there will be future expenses as well as capital improvements. In the real world (for lack of a better way to express this), a property owner does not collect rents and only do basic maintenance. They know that removing an old worn "shake" roof on slats and replacing it by tearing it off, sheeting it and re-roofing with a modern upgraded & improved product could fall into a capital improvement. Pouring a concrete driveway where it was once dirt would also be a capital improvement. In any event, these are paid for by the owner through the rents collected and the monies held back from those rents or through future rents collected along with regular rent increases.

Imagine if a property owner replaced a roof or poured a driveway and then turned to the renter/tenant and said "I just upgraded the roof and I need you to pay for it" or "I just poured a concrete drive where you were parking on dirt ... I need you to pay for it"

A home owner (landlord) as well as mobilehome park owners know that capital improvements also increase their property values.

Many of the capital improvements in mobilehome parks relate to streets and structures that currently exist. Though often labeled capital improvements, it is not uncommon for park owners to divert monies to personal uses or unrelated investments and neglect park maintenance. When this is the case, the result is generally a complete replacement and/or upgrade that is then labeled a "Capital Improvement" and then paid for by park residents.

Many capital improvements are completely legitimate. The current process has all the needed provisions for park owners to pass on/recover costs.

The CPI percent currently used should remain the same. IF a change in this is being considered, I would respectfully urge a move to a lower number as long as the Capital Improvement provisions are available.

In summary, the CPI percentage currently used as the basis for rent increases should NOT be increased; especially without complete removal of the Capitol Improvement option.

Thank you for your objective consideration.

Respectfully submitted,

Tony Slaick, Chairman
Yucaipa Mobilehome Residents Association

Kim Everts

From: Jennifer Shankland
Sent: Wednesday, April 01, 2015 2:53 PM
To: Kim Everts
Subject: FW: Vacancy Control - Biennial Review - Mobilehome Rent Stabilization Ordinance & Administrative Rules

This also

From: Tony Slaick [mailto:datonestir@aol.com]
Sent: Wednesday, April 01, 2015 2:42 PM
To: Jennifer Shankland
Subject: Fwd: Vacancy Control - Biennial Review - Mobilehome Rent Stabilization Ordinance & Administrative Rules

April 1, 2015

Yucaipa Mobilehome Residents Association (YMRA)
Tony Slaick, Chairman
P. O. Box 1052
Yucaipa, CA 92399

Jenifer Shankland
Director of General Services/City Clerk/Rent Administrator
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

Re: Biennial Review of Mobilehome Rent Stabilization , (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules - Vacancy Control

Dear Ms. Shankland,

Thank you for the opportunity to submit questions, concerns and changes to be considered in the biennial review of the Mobilehome Rent Stabilization Ordinance (YMC 15.20) and Administrative Rules.

As Chairman of the Yucaipa Mobilehome Residents Association (YMRA) and through my experience, as well as speaking with mobile home park owners, managers and residents, I submit the following to you for your consideration:

In general terms, rent control and the 1987 basis for calculating rent increases (based on the CPI), using 80 percent of the CPI annual change, the 5 percent cap, vacancy control, the capital improvement push through process, and the current overall structure of rent control are all effective, reasonable and fair for mobile home park owners as well as mobile home park residents.

Most mobile home parks in Yucaipa are well maintained and run efficiently. The current rent control structure does provide for a fair return for mobile home park owners as well as keeping rents in line with inflation (considering the opportunities/options for capital improvements, etc.), there-by keeping rents affordable as well.

Regarding Vacancy Control, if that were an issue to resurface, I would contend that with the built in annual rent increases (for eligible spaces - if not currently applicable to Vacancy Control, should be), park owners continue to experience gains and are provided an opportunity to remain consistent with profits and inflation.

Currently, (with all things considered in the rent control structure), the vacancy structure regarding rent increases lends to a fair balance for mobile home park owners and residents. This includes departing residents attempting to sell their coaches at a fair market price.

IF, the argument persists that vacancy control be modified or eliminated, I would argue that it should only be changed to allow a space rent increase of half (50%) the prior period CPI adjustment (half of the 80% of the CPI number) or less (40% or less of the actual CPI).

This should not effect or cancel the the normal scheduled space rent increase. The increase in vacancy space rent should only be allowed one time in a 12 month period. If there is a vacancy in the same space in the following year (12+ to 24 month period), that space rent increase should be (proposed) 20% (25% of the actual CPI). This percentage should (in the event of additional vacancies in the same space), continue until a period that exceeds 12 months from the last vacancy increase; resulting in a reset for the full vacancy increase in future vacancies.

It would be difficult to argue this unfair considering a mobile home park owner would actually enjoy (and possibly continue to in basically every year) an annual space increase 150%/1.5 times the normal increases in a given year. Furthermore, if a vacancy were to occur in the following year (12+ - 24 months), that would result in a rent increase of 125%/1.25 times the normal rent increase in that/those years (based on the formula described above).

Finally, on the Vacancy Control issue, the increase should also be capped at half the cap of the regular approved annual rate increase of 5% (2.5% cap). In this case, it is possible to have a space rent increase 7.5% in a given year.

All things considered, the vacancy rule should also factor in with checks and balances. Allowing space rent increases using a formula with these parameters would almost, in a sense, be a windfall for mobile home park owners in that they would enjoy additional space rent increases beyond the normal annual rent increase.

Limiting the amount of increase will help maintain a check and balance by giving park owners the ability to possibly raise space rents at a pace that exceeds 100% of CPI (considering the regular annual space rent increase and the Vacancy Rent increase) while not encouraging unnecessary or unwarranted evictions. Furthermore, although mobile home owners selling their coaches would be impacted, the effect of the impact should be minimal.

As YMRA Chairman, I would only support this if it were to permanently put the Vacancy issue to rest. This should also factor into considerations with any CPI issues as it does create the possibility for some space rents to rise faster than 100% of the CPI.

From the Administrative stand point, this could most likely be calculated using a basic standardized formula. As is the case with most (similar) issues, park owners would need to submit their requests and allow for processing. There could be an established period for submissions during the course of each month and a cut off date. This would allow for processing multiple submissions after the cut off date and easing the burden of a case by case effort.

Thank you for your interest, efforts and consideration in reviewing YMC 15.20 and the Administrative Rules.

Respectfully submitted,

Tony Slaick, Chairman
Yucaipa Mobilehome Residents Association

Kim Everts

From: Jennifer Shankland
Sent: Friday, April 03, 2015 3:58 PM
To: Kim Everts
Subject: FW: MNOI, Capex, proposed rent increases & financial recovery - Biennial review of Mobilehome Rent Stabilization Ordinance (YMC 15.20) & Administrative Rules

From: Tony Slaick [<mailto:datonestir@aol.com>]
Sent: Friday, April 03, 2015 2:26 PM
To: Jennifer Shankland
Subject: MNOI, Capex, proposed rent increases & financial recovery - Biennial review of Mobilehome Rent Stabilization Ordinance (YMC 15.20) & Administrative Rules

April 3, 2015

Yucaipa Mobile home Renters Association (YMRA)
Tony Slaick, Chairman
P. O. Box 1052
Yucaipa, CA 92399

Jennifer Shankland
Director of General Services/City Clerk/Rent Administrator
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

Dear Ms. Shankland,

I would like to propose that it be incorporated in the Mobilehome Rent Stabilization Ordinance (YMC 15.20) and/or in the Administrative Rules that when a Maintenance of Net Operating Income (MNOI) is filed, that a mobilehome park owner also be required to provide or make available, their financial reports to all parties that may be affected by the resulting decision.

When a park owner is pursuing a favorable outcome through an MNOI and/or the Rent Review Commissions, it is assumed that everyone affected is in the loop. Even though the affected parties are notified and can present their side, they are at a loss not knowing the financial information that completely relates to the justification of the outcome.

In the spirit of honesty and transparency, a park owner should welcome the opportunity to share information with tenants and related parties if the need is legitimate; sharing this information should help make their case.

Obviously, if park owners have been lacking in maintenance, improvements or in the legitimate use of revenues earned through the operations of their mobilehome park, they would most likely object to this proposal. However, for park owners that would like support from their tenants and/or their representatives, full disclosure and transparency would be an important aspect needed to be included to enhance their best interest.

This proposal would not only help park owners by obtaining the support of their park residents, but could even allow park owners an opportunity to gain positive votes and resident approvals that could preempt legal action. A winning proposition for everyone.

I would hope that, at a minimum, the (Biennial) review process would consider including a requirement for all records relating to financial matters in the operation of their park, be made available to all parties involved. The financial records would include, but not be limited to Profit/Loss statements, Income statements, Balance sheets as well as Cash Flow records.

Also, in the spirit of complete disclosure, this might also include personal tax returns and bank statements or at least the added option as a request.

Please bear in mind that when an MNOI adjustment occurs, they often run into the 10's of thousands of dollars; sometimes hundreds of thousands. Often the decisions are appealed. Allowing mobilehome park residents and their representatives the opportunity to see and digest financial information would bring better clarity, cooperation and more solid agreement when decisions are handed down.

This, by default, could/would lesson the number of cases that would go before the Rent Review Commission as well as the number of appeals that would end up being heard by the City Council.

Once again, thank you for the opportunity to be included in this biennial review.

Respectfully submitted,

Tony Slaick, Chairman YMRA
Yucaipa Mobilehome Residents Association

MAR 24 2015

Jennifer Shankland

From: Tony Slaick <datonestir@aol.com>
Sent: Tuesday, March 24, 2015 8:42 AM
To: Jennifer Shankland
Subject: Fwd: Biannual Review YMC 15.20 RRC Special Meetings 1.0003.

GENERAL SERVICES/CITY CLERK'S
DEPARTMENT

March 21, 2015

To: Jennifer Shanklin
Director of General Services/City Clerk
City of Yucaipa, Rent Administrator

From: Tony Slaick/YMRA Chairman
P.O. Box 1052
Yucaipa, CA 92399

Regarding: Biannual Review of the Mobilehome Rent Stabilization Ordinance (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules.
City of Yucaipa Rent Review Commission - Special Meetings/notification and update to City of Yucaipa Administrative Rules.
YMC 15.20 1.0003. Special Meetings

Dear Ms Shanklin/et al,

I am writing in response to your invitation to participate (with concerns, questions and/or changes) in the City of Yucaipa Mobilehome Rent Stabilization Ordinance and Administrative Rules biannual review.

Any meeting with the Rent Review Commission is important and of concern to the Yucaipa mobile home residents. A special meeting is more likely to be additionally important. The current City of Yucaipa Administrative Rules (section 1.0001.) states (in general) that there will be a minimum of 24 hours notice given to the public for a City of Yucaipa Rent Review Commission "Special Meeting".

24 hours notice is completely unreasonable/unacceptable to the Yucaipa mobile home residents; keeping in mind that a person would have to watch for postings/notifications 365 days a year to be guaranteed of the notification. In all fairness, it would seem 30 days notice would be more appropriate.

Residents would have to first be informed of the meeting and then have time to properly prepare, digest information and possibly gather material. In addition, and in the concern of the other Yucaipa mobile home residents, the word of the special meeting would most likely need enough time to get out and circulate among other members of the mobile home community.

The mobile home residents, for the most part, are living life (doing what they normally do) and not focused on the concerns that mobile home park owners are preparing to submit to the Rent Review Commission. Mobile home park owners are involved in their business on a daily basis. They have had the luxury of preparing detailed information before submitting to the City of Yucaipa.

Due to the fact that we are making reference to a Special Meeting, it is reasonable to expect that there is a higher urgency as well as a possible time sensitive aspect to seeking a resolution to an issue. Given this fact, I would grant that 30 days notice may be difficult. In any event and in all fairness, if the Rent Review Commission were to do justice in serving the mobile home residents (as well as mobile home park owners), there should be a minimum notification of 15 days.

Furthermore, there should be a mailing list (electronic and by U.S. Postal service) for Yucaipa residents and the interested public to subscribe and receive proper notification. This list should be sent out with the required notice set in the (updated/amended) Administrative Rules.

Thank you for your consideration.
Respectfully submitted,

Tony Slaick
YMRA Chairman
(Yucaipa Mobile home Residents Association)

Kim Everts

From: Jennifer Shankland
Sent: Wednesday, April 01, 2015 2:51 PM
To: Kim Everts
Subject: FW: Fees to Administer - Re- Biennial review of Mobilehome Rent Stabilization Ordinance (YMC 15.20) & Administrative Rules

Put with Biennial Review file

From: Tony Slaick [<mailto:datonestir@aol.com>]
Sent: Wednesday, April 01, 2015 2:53 PM
To: Jennifer Shankland
Subject: Fwd: Fees to Administer - Re- Biennial review of Mobilehome Rent Stabilization Ordinance (YMC 15.20) & Administrative Rules

April 1, 2015

Yucaipa Mobilehome Residents Association (YMRA)
Tony Slaick, Chairman
P. O. Box 1052
Yucaipa, CA 92399

Jenifer Shankland
Director of General Services/City Clerk/Rent Administrator
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

Re: Fees to administer Ordinance - Biennial review of Mobilehome Rent Stabilization Ordinance , (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules

Dear Ms. Shankland,

Thank you for the opportunity to submit questions, concerns and comments for consideration in the Biennial review.

It has been argued by mobilehome park owners, that the mobilehome residents are the beneficiaries of rent control. This argument in itself expresses the need for rent control in that it implies that park owners would, if they were allowed, raise mobilehome space rents beyond a reasonable and fair return in profits.

Keeping in mind the fair return provision, it seems the cost of administering the Ordinance to the mobilehome park owners would already in fact, be factored in. In as much as has been stated in the opposition of these fees by mobilehome park owners, I am not aware of any mention (or disclosure) from park owners that this cost, for the most part, is also shared by the mobilehome park residents.

If a mobilehome park owner were unable to make a fair return/profit, due to the impact of the fees charged to administer the Ordinance, that would be allowed to be considered and readjusted through the MNOI process.

I fear the many Yucaipa mobilehome park residents (approximately 4500 of them?) are a small voice up against well funded, legal savvy, powerful people and corporations.

It is important to be honest and make full disclosures. The mobilehome park owners do pass on 50% of these costs to the mobilehome park tenants. The fees and fee structure does provide the funding needed to maintain the Ordinance. The fees are shared by the mobilehome park owners as well as the tenants and very obviously offers the needed protections while maintaining an overall fair balance.

It is commendable that the City of Yucaipa has recognized the plight of the Yucaipa mobilehome park residents and have taken the necessary steps to insure fairness across the board.

Thank you for keeping these facts present in your review process. All your consideration is very much appreciated.

Sincerely,

Tony Slaick, Chairman YMRA
Yucaipa Mobilehome Residents Association

Kim Everts

From: Jennifer Shankland
Sent: Wednesday, April 01, 2015 2:56 PM
To: Kim Everts
Subject: FW: Changes to the Ordinance - Biennial review of Mobilehome Rent Stablization Ordinance & Administrative Rules

And this

From: Tony Slaick [<mailto:datonestir@aol.com>]
Sent: Wednesday, April 01, 2015 3:00 PM
To: Jennifer Shankland
Subject: Changes to the Ordinance - Biennial review of Mobilehome Rent Stablization Ordinance & Administrative Rules

April 1, 2015

Yucaipa Mobilehome Residents Association (YMRA)
 Tony Slaick, Chairman
 P.O. Box 1052
 Yucaipa, CA 92399

Jennifer Shankland
 Director of General Services/City Clerk/Rent Administrator
 City of Yucaipa
 34272 Yucaipa Blvd.
 Yucaipa, CA 92399

Re: Changes to the Ordinance - Biennial review of Mobilehome Rent Stablization Ordinance (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules

Dear Ms. Shankland,

In the past reviews there have been arguments in favor and against the rent control ordinance. Reference has been made to low cost/affordable housing and compared with income levels to illustrate affordability.

I submit the following to you to reiterate what I believe is one of the core reasons for rent control. It seems there is much emphasis on affordability for seniors. While being a favorable community benefit as a by product or side benefit, it is my opinion this is not the core reason for the ordinance.

It is noteworthy to reiterate for the purpose of this review.

Mobilehomes, for the most part are generally fairly expensive. Once installed in a park, basically built in; go through a permitting process and basically become a home on a rented lot.

With this in mind and many other factors not mentioned here, mobilehome/coach owners are captive to park owners. The rent control ordinance is extremely important in keeping a balance to insure mobilehome park owners can profit as well as mobilehome/coach owners be protected from excessive space rent increases.

Without the rent control ordinance, park owners would in a sense have a monopoly without oversight. It is in these cases where government entities can and should intervene and bring a balance.

The Mobilehome Rent Stabilation Ordinance (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules do an excellent job in keeping a fair balance. In addition, this offers a very important aspect that helps the Yucaipa mobile home park residents (mainly seniors) while allowing mobile home park owners to enjoy a fair return.

I encourage and thank you (the City of Yucaipa) for your continued efforts and the balance this brings to protect the mobilehome residents as well as park owners in Yucaipa.

Thank you for considering this in you review.

Sincerely yours,

Tony Slaick, Chairman YMRA
Yucaipa Mobilehome Residents Association

APR 01 2015

GENERAL SERVICES/CITY CLERK'S

DEPARTMENT

Bel Aire Mobile Estates, LLC

April 1, 2015

Post Office Box 760, Alpine, CA 91903
Phone: (619) 445-4845
glacierinv@cox.net

► **Jennifer Shankland**

Director of General Services/ City Clerk/ Rent Administrator
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, California 92399-9950

RE: Biennial Review of the Mobilehome Rent Stabilization Ordinance (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules

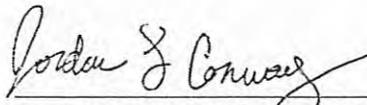
Dear Jennifer,

I am writing this letter to suggest a change in the CPI used to calculate the rent increases Parks may use for a full twelve month period.

Since we use the CPI figure from the preceding December to calculate the CPI we use for the next June-May, I suggest that instead we use an average of the CPI percentage from the prior January-December. So, it would be an average of the CPI from the preceding year, then 80% of that to determine how we calculate our rent increases. In reality, I believe we are entitled to set our space rent increases at the full CPI, since our cost of living and operational expenses are increased in full and not subject to 80% of CPI cap. However, currently, I would like to make the suggestion of averaging a year's CPI as the percentage that sets what we are able to use for the next year. This seems like a logical approach since one month of the year isn't a true representation of actual CPI changes for a full year.

Thank you for your time and consideration and should you have any questions please call or email me so I can better explain our proposal.

Sincerely,



**Jordan L. Conway for Rose Mary Conway, Member
Bel Aire Mobile Estates, LLC**



Western
Manufactured Housing Communities
Association

March 31, 2015

Ms. Jennifer Shankland
Director of General Services
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

RECEIVED
CITY OF YUCAIPA

APR 03 2015

GENERAL SERVICES/CITY CLERK'S
DEPARTMENT

Dear Ms. Shankland:

Thank you for the opportunity to submit concerns or areas for discussion regarding the City of Yucaipa's Mobile Home Rent Control Ordinance.

I understand many members, if not all, of the rent review commission are new to the commission this year. It can be difficult to make recommendations to the council not having much, if any, working knowledge of the rent control ordinance or the housing stock it regulates. I suspect this will be a difficult endeavor for a volunteer commission.

The goal of Yucaipa's Mobile Home Rent Control Ordinance is to protect the residents of these communities who, in many cases, are seniors on fixed incomes. You won't find a single community owner in Yucaipa that finds it palatable to abuse or gouge their customers. Despite the fear tactics used to demonize an important affordable housing provider in Yucaipa, we don't want to see someone's life savings being taken from him or her or home ownership lost. While this ordinance has a lofty and noble purpose, if swings too far in the resident's favor and puts the communities' viability at risk. It also costs Yucaipa's unaffected taxpayer millions of dollars with the accompanying litigation.

There is a way out of this quagmire. But it requires leadership and vision. If the city determines that this is just too expensive to taxpayers, there are models of how other cities with many manufactured housing communities provide fairness to property owners and protection for residents in an equitable manner.

The commission is reviewing this ordinance at a historic time. The ordinance is 24 years old. Cities with ordinances like Yucaipa find an increase in the difference between market rents and regulated rents growing at a rapid rate. As this differential grows, so does the likelihood of increased litigation and that comes to a cost to the city and taxpayers. *The time to amend the ordinance is ripe.* You can make three substantial changes to the ordinance if your want to change the outlook in Yucaipa's mobile home parks: 1) adjust annual increases to 100% of CPI, 2) allow pass thrus of capital improvements and 3) allow for rents to adjust to market on turn over.

Annual Increases. Unfortunately, a percentage of CPI or sub-inflationary increases overtime will not sustain proper operations of a park and, furthermore, sub-inflationary annual increases do not take into account many of the parks expenses that have risen in the last 24 years astronomically, many of which are government mandated. The 80% figure is argued to be the housing costs associated with the CPI. However, we are businesses and that revenue goes to pay for on-site managers, insurance, legal costs, etc. None of these items come at a discount to the business owner simply because they are a housing provider. Even resident-advocate Dr. Ken Barr is suggesting 100% of the CPI is the best indicator for annual increases in mobile home parks.

Capital Improvement Pass Thrus: Prohibiting pass thrus of capital improvements only defers needed upgrades to these ageing communities. The condition of these properties has been an active concern since 2005. The city hired a firm to study if it could condemn, close or reuse the parks to other uses. That year, the city spent nearly \$40,000 on a study that stated the rent control ordinance contributes to the decaying nature of Yucaipa's mobile home parks. This message was soundly rejected by the council. They covered their ears and eyes and threatened not to pay the firm for the study. It was embarrassing for all involved. Fast forward to 2014 and the city tries to address the problem again with another \$40,000 study. The outcome of this study still remains to be seen. The reason the aging communities are deteriorating is because the ordinance strips the needed income and revenue to address these problems. It isn't an issue of park owners' willingness to invest, as city staff has suggested in the past. It's that they can't.

Studying reuse hasn't worked and the city has tried now twice at the cost of \$80,000 to all of Yucaipa's taxpayers. Why not amend the ordinance and infuse market forces into these communities and watch them bloom as owners actively compete for a higher rental dollar from potential new customers.

Vacancy Decontrol: This single amendment will fundamentally change your communities for the better. First and most importantly, litigation disappears. The market through turn over allows owners to receive a fair rate of return. Lawyers hate this policy change because they aren't needed to represent frustrated park owners, cities (in some cases, cities require two legal teams) and fearful residents.

The way to look at Vacancy Decontrol is very similar to Proposition 13 and local property taxes. In 1978, California voters affirmed that their property taxes shouldn't increase year over year at the same residence with the passage of Proposition 13. . Once they sell their residence the tax resets and is reassessed for the new homeowner. This provides much needed protection all homeowner enjoy today. **Where would the City of Yucaipa be without this reset of property taxes when a residence sells? Would they be able to operate the city with the same revenue since 1978?** They are requiring their park owners to operate under a repressive calculation that they themselves don't adhere to.

In Mr. Herzog's letter he correctly points out that most jurisdictions in San Bernardino County do not have the controls on turn over like Yucaipa. They also

don't have the hysteria that residents claim will happen with this fair and equitable reassessment of rents. They also lack litigation paid for by the entire, citywide tax base. And they don't have the deteriorating conditions of unattended communities.

Some manufactured housing communities operate as non-profits. They bond out for the purchase of the communities and have federal regulatory constraints on how "profits" are set aside or added to pools of funds for the non-profit's affordable housing communities. For investors, this is a tempting exit from the rent control maze. I have had personal conversations that even the non-profits are preparing MNOI applications for the city to review. Is the city ready to hear applicants that can't even break even at their communities? The courts have consistently required park owners are afforded a "fair rate of return" on their investment. What is the standard for non-profits? And has the pendulum swung so far to favor one stakeholder when non-profits have to go through a hearing and then very likely the courts to meet their obligations?

In closing, I would like to thank the commission members for their service to their fellow Yucaipa citizens. We all recognize this is hours of homework and studying to understand all the complexity that is involved with these communities. Collectively, we have a lot of common ground. We can all agree that there is a great need for non-traditional housing that many are priced out of. We can all agree that a level of protection is needed to give a significant peace of mind to residents and their future in their homes. And we can all agree that the citywide Yucaipa taxpayer base must be considered when drafting oversight. The time has come to amend this archaic, regressive ordinance and make positive changes in Yucaipa's mobile home parks.

Sincerely,

A handwritten signature in black ink that reads "Julie Paule". The signature is written in a cursive, flowing style with a large initial "J" and a long, sweeping underline.

Julie Paule, Regional Representative



March 30, 2015

BOARD OF DIRECTORS

*Executive Board**President*

Natalie Costaglio

Jennifer Shankland

Vice President

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Director of General Services/City Clerk/Rent Administrator

City of Yucaipa

Treasurer

Rod Anderson

34272 Yucaipa Boulevard

Sent via Email

Secretary

Lee Miller

Yucaipa, CA 92399

Past President

Wynn Hornburg

Re: Biennial Review of the Mobilehome Rent Ordinance and Administrative Rules

Keith Casenhiser

Lauren Fischer

Stan Magill, Jr.

Larz McAdoo

Dear Ms. Shankland:

Board Members

Bob Bendetti

Robert Coldren

John Fairbrother

Jay Greening

Richard Hall

Bill Hanks

Craig Heuser

Jerry Jacobson

Clint Lau

Jim Martin

Deann Pancheri

On behalf of the mobile home park owners in the City of Yucaipa, MHET appreciates being given the opportunity to provide comments as part of the biennial review of the Rent Ordinance and Administrative Rules. We believe the following changes to the Ordinance, and the requisite accompanying changes to the Rules, would be a solid step forward in assuring the continued viability of an important element of the City's Housing Element, the mobile home park communities, and improving the quality of life for its residents.

Advisory Committee

Barry Cole

David Firestone

Julie Rubin

Dave Thomas

1. Automatic Annual Rent Adjustments of 100% of the CPI.

The sole reason set forth in the Ordinance for the Rent Ordinance is to prevent supposed "excessive" rent increases. The fact is the rents are not even keeping up with ever increasing expenses due to limiting the annual increase to 80% of CPI.

Past Presidents

Ed Evans

J. R. Phillips

W. Lee Miller

Robert Olander Sr.

Gerry Dougherty, Sr.

Paul Bostwick

Janet Gilbert

Clarke Fairbrother

Boyce Jones

Chelu Travieso

Larz McAdoo

James Jones

Keith Casenhiser

Craig Heuser

Robert Olander II

Stan Magill, Jr.

Eileen Cirillo

The CPI is a respected means of determining how much the cost of items goes up each year. Additionally, the CPI is determined by a completely neutral party that is not controlled or influenced by any of the park owners, the residents, or the City. The only thing allowing rents to increase by 100% of the CPI would do is to provide the park owner with the ability to keep up with inflation. How is keeping up with inflation an "excessive" rent increase?

Furthermore, even so-called experts in the field of rent control, including one used by the City, have testified that the stated goal of preventing supposed "excessive" rent increases is ACHIEVED by allowing rents to increase by 100% of the CPI. The logic of this position is inescapable as how can anyone say a rent increase to just keep up with inflation is "excessive". Thus, the Ordinance and rules should be amended to allow for annual rent increases of 100% of the CPI.

*Lifetime**Achievement**Award Recipients*

Norm McAdoo

John Crean

R.J. Brandes

Robert N. West

Ed Evans

Logan A. Boggs

Jerry Golden

Harry E. Karsten

Jess Maxey

CHPA

WMA

2. Capital Improvement Pass Thru

The City has for many years indicated an interest in developing strategies to rehabilitate the mobile home parks. Staff has indicated the parks in Yucaipa were built between 1950 and 1975, so the "newest" park is 40 years old. Clearly, not only have the parks aged, but technology has changed a great deal, and upgrading or replacing park infrastructure is expensive. When the City did take a detailed look into this issue in 2005-2006, the City's own Housing Element said 25% of the mobile home parks would require substantial

*Above and Beyond**Award Recipients*

Willis Miller

Stan Magill

Dan Jacobs

Paul Bostwick

C. Brent Swanson

Jim Martin

James Jones

Chelu Travieso

Keith Casenhiser

James B. Bostwick

Executive Director

Vickie Talley

improvements to maintain their viability. The City indicated back then there was a “need to rehabilitate” the parks, or redevelop them.

This led the City to retain the Rosenow Spevacek Group (RSG) to look into, among other things, “what strategies may or may not be feasible” in rehabilitating the parks. Their January, 2006 report was very clear. RSG pointed to “the Ordinance as a major cause for the deterioration and conditions observed in some of the mobile home parks. The Ordinance requires that should park owners wish to raise rents to cover capital improvements, they must file an application for a rent increase with the rent administrator....It was noted very few capital improvements have been made because of this process...” (RSG report, page 5, emphasis added) The report goes on to state the capital improvement provisions of the Ordinance “are extremely prohibitive and ineffectual. Rather than aid in the continued improvement of the mobile home parks, the restrictions in the Ordinance may promote a continued lack of reinvestment and capital improvements.” (RSG report, page 41, emphasis added) Therefore, “given the current provisions of the Ordinance,” RSG did not believe a “rehabilitation scenario would be feasible.” (RSG report, page 7)

Unfortunately, nothing was done and it is now 9 years later. The situation has not improved as RSG predicted. The City now has the opportunity to change that downward trend, to make rehabilitation of the parks FEASIBLE. A proven way to successfully do so is to allow capital improvements to be amortized and passed thru. This occurs in other cities with rent control ordinances without extensive expert costs and staff time, no lawsuits, no appeals, no attorneys fees. The goal of providing for the rehabilitation of the parks and improving the quality of life for the mobile home park residents is achieved without any City money or effort.

Please, do not allow this unnecessary and detrimental situation to continue. The Ordinance should be amended to provide for the automatic pass thru of capital improvements. This is a path the City of Riverside has used for over 20 years without problems, and it is also a path to bettering the community of Yucaipa.

3. Rent Adjustments Upon Vacancy

The Ordinance and Rules prohibit any rent adjustment when a vacancy occurs in a mobile home park. Again, it is clear from reading Section 15.20.010(A) the purpose of the Ordinance is to prevent supposed “excessive” rent increases. Vacancy decontrol does not cause any of the issues set forth under the Purpose section of the Ordinance. Vacancy control still provides residents who are living in the mobile home parks the full protection against the supposed “excessive” rent increases.

Vacancy decontrol allows a new resident who is considering living in a mobile home park to come to an agreement on an acceptable rent level with the park owner. One that is affordable to the prospective resident. Once moved into the park, any future rent increase is fully regulated by the Ordinance. The objective of protecting residents against any supposed “excessive” rent INCREASES remains completely intact.

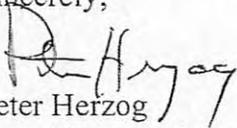
It should also be noted Yucaipa is one of the few cities that has a ban on rent adjustments when there is a vacancy. In fact, in San Bernardino County, only two cities have such a provision. In

all of the other cities there is no such provision, there is no crisis, no pending disasters, no one being thrown out of parks. So the reality is, as proven by other cities, that allowing rent adjustments at the time of vacancy is fair and reasonable, and still protective of the residents.

Based upon the above, it is respectfully submitted the ban on rent adjustments when a vacancy occurs should be eliminated.

Thank you for considering our comments. MHET looks forward to working with you, the Commission, the City Council, and the residents as we progress through the biennial review. I am more than happy to meet with you to discuss the ideas set forth above and any of the written comments that might be received from other organizations or individuals. Please feel free to contact me at any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter Herzog". The signature is written in a cursive style with a large initial "P" and a long, sweeping underline.

Peter Herzog
Inland Empire Representative

Calanda Real LP

P.O. Box 1389 · Alhambra, CA 91802 · 626-289-3109 · Fax 626-289-2951

March 25, 2015

City of Yucaipa
 Attn: Jennifer Shankland
 34272 Yucaipa Blvd.
 Yucaipa, CA 92399-9950

RECEIVED
 CITY OF YUCAIPA

MAR 25 2015

GENERAL SERVICES/CITY CLERK'S
 DEPARTMENT

Dear Ms. Shankland:

Thank you for the opportunity to submit our concerns for the biennial review of the Mobilehome Rent Stabilization Ordinance.

We request the Rent Review Commission consider the following changes to the Ordinance:

1. Allow for an administrative annual increase of 100% of the change in the CPI. For the past 7 years the CPI increased on average 1.9%. Our operating expenses increased by more than twice that rate during same period of time. Restricting a full adjustment by the change in the CPI only further erodes the overall maintenance standards of Mobile Home Parks. Bear in mind that the prior 7-year period the CPI increased 4% on average.
2. Remove the 5% maximum annual increase provision and/or implement a minimum administrative 2.5% annual increase. A minimum fairly balances out unrecovered increases during periods of high inflation.
3. Provide for an increase of 5% in the then current monthly rent upon the resale of a mobilehome or vacancy limited to once every 3 years per space. Without resale adjustments or vacancy adjustments coupled with only partial CPI adjustments, the difference between market rents and actual rents continues to increase. Since income requirements for new incoming homeowners are based on the current rent, the unintended consequence of the Ordinance is to lower income standards for new homeowners. A case can be made that lower income standards increase police involvement impacting the overall reputation of the City.

Thank you for your consideration.

Sincerely,



Andrew Rottenbacher
 General Partner

cc: Julie Paule, WMA
 Peter Herzog, MHET

APR 06 2015



AUGUSTA
COMMUNITIES

GENERAL SERVICES/CITY CLERK'S

DEPARTMENT augustacommunities.org

400 N Mountain Avenue, Suite 205 • Upland, California 91786
T • 909-981-0192 F • 909-981-9130

April 3, 2015

Members of the Commission
City of Yucaipa MRRC
34272 Yucaipa Blvd.
Yucaipa, CA 92339

Dear Members of the MRRC:

I am writing on behalf of Augusta Communities, a 501(c)3 affordable housing non-profit that owns Valley View Mobile Home Park, a 77-space senior park located at 12995 6th Street in Yucaipa. Augusta has been providing affordable housing opportunities to over 750 households in Southern California for 16 years. This letter is written in response to the city's request for comments on Yucaipa's Mobilehome Rent Stabilization Ordinance for consideration at the upcoming MRRC study session.

BACKGROUND

Valley View was purchased by Augusta in October 2000 with the proceeds of revenue bonds issued by the Yucaipa Redevelopment Agency. The project was refinanced by the Independent Cities Financing Authority (ICFA) in 2012 as part of a pooled bond issue that combined the resources of Valley View with three other parks owned by Augusta. The purpose of the refinancing was to increase the amount available for operations and maintenance, and to raise funds for capital improvements.

Valley View is governed by a variety of financing documents including the Indenture, Loan Agreement, Oversight Agreement and Regulatory Agreement. The bond structure requires the property manager to forward net operating revenue to a trust officer who is responsible for the payment of the bond loan, fees and expenses. All remaining funds are held by the trustee in a surplus account, and are only released for projects that benefit park residents after receiving written approval by the oversight agent, who works on behalf of the issuer. Under the governing documents, Augusta has the right to an administrative fee to cover its expenses, but only when surplus funds are available. Augusta is prohibited by law from taking a profit.

The Regulatory Agreement governs spaces rents and maintenance standards. Under the agreement, Valley View's space rents are limited to the amount considered affordable under federal and state law, or the amount permitted by Yucaipa's Rent Stabilization Ordinance, whichever is less. The agreement places "prime importance on quality maintenance" and emphasizes that the park must not be allowed to deteriorate to a "below average state of repair".

To assure compliance with the governing agreements, the oversight agent reviews Augusta's conformance with the governing documents and provides quarterly financial statements and compliance reports to the city, ICFA and bond investors. The oversight agent's responsibilities include reviewing and approving annual operating budgets; reviewing financial statements and annual audits; monitoring federal and state household income limits and affordability standards; reviewing and approving capital improvement and surplus expenditures; and conducting quarterly inspections of the park.

Park residents are kept apprised. Augusta holds quarterly meetings at the park's clubhouse where budgets, financial statements, annual audits, capital improvement updates and minutes of meetings are presented to the residents. Budgets, quarterly financial statements and annual audits are also posted on Augusta's website.

CONCERNS

Augusta does not make ownership decisions based on profitability or return on investment. Because it is a non-profit charitable organization, surplus cash is returned to the properties for the benefit of the residents. Augusta's budgeting decisions are based on bettering neighborhoods, enriching the lives of residents and preserving affordability. Rents are kept low, properties are maintained and improved, and supportive services, such as rent subsidies, are offered. Valley View is the only park Augusta owns that does not benefit from this level of service.

In Valley View, Yucaipa's restrictive rent controls permit rents that are high enough to support a part-time office and management staff and pay for ordinary maintenance, but are not high enough to pay the park's share of administrative costs or repay intercompany operating loans; and revenues fall completely short of funding long-term capital needs. As illustrated in Attachment A, the average monthly base space rent in Valley View in 2014 was just \$293—far below what is considered affordable under federal and state law.

Valley View was built sixty years ago. Even with an adequately maintained infrastructure, emergencies and failures inevitably occur, and utilities systems and common area facilities must eventually be replaced. Although Augusta has spent over \$350,000 on capital improvement projects (funded from bond proceeds and loans from other Augusta properties), many critical projects remain outstanding. Valley View currently has only \$30,000 in reserve for capital improvements and emergencies, and net operating revenues do not support additional loans. Augusta has had limited success in finding outside funding sources for these projects, and the park cannot be refinanced for at least another ten years.

In spite of extraordinarily low rents, vacancies are increasing because prospective renters are not interested in living in a mobilehome that is at the end of its useful life, or that either needs substantial repairs or a complete overhaul to become habitable. These homes are often pulled out of the park by heirs, or are abandoned and become the responsibility of the park. If the park's electrical system cannot accommodate a newer home, or if no funds are available to install a new home or rehabilitate the old one, the space remains empty, resulting in a long-term loss of rental income that the park can ill afford.

In Valley View, rents are simply too low to support a financially stable community. Without regulatory relief, the long-term viability of the park as a quality source of affordable housing is at stake.

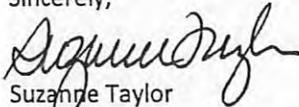
CHANGES

A separate rental adjustment policy should be developed for 501(c)3 housing non-profits that comply with federal and state household income and affordability standards, provide full financial transparency to park residents and to the public, and that by the nature of their organizational structure, do not make a return on investment. Non-profits must keep rents affordable, but they also must pay their bills and set aside funds for long-term capital needs.

The policy for non-profit owners should incorporate the changes listed below.

- Base rents, which were calculated many years ago, should be adjusted after a home is sold or abandoned. Revised base rents should cover the cost of operating the park at a higher than average level of service with enough surplus to begin funding reserves for future improvements.
- In addition to the currently permissible annual CPI rent increase, an additional reasonable rent increase should be permitted upon the sale or abandonment of a home. New residents should benefit from rent controls that protect the investment in their home, and that protection should not be linked to that of the previous homeowner.
- Capital improvement adjustments resulting from health and safety related projects, including those mandated by law, should be permitted without a vote by park residents. Augusta is responsible for keeping Valley View's physical infrastructure safe and well-maintained, not the residents.
- Rent increases related to health and safety projects, including those mandated by law, should be approved by the governing body prior to the commencement of the project rather than after the project has been completed. Capital improvements cannot be constructed without knowing the method of financing.

Sincerely,



Suzanne Taylor
Executive Director

**Yucaipa MHP Average Base Rent
2014**

Mobilehome Park	Senior Park	Address	2014 Average Base Rent	Above/Below Valley View Base Rent	Rank High to Low	% Average Base Rent Above or Below Valley View
Fremont Heights Mobilehome Park *	x	12151 Fremont St	499.97	206.63	1	70.4%
Mission Valley Oaks Mobilehome Park *	x	12367 4th Street	490.16	196.82	2	67.1%
Lakeview Mobilehome Park		11050 Bryant Street	458.71	165.37	3	56.4%
Las Casitas Mobilehome Park		33848 Avenue G	428.18	134.84	4	46.0%
Hillcrest Mobilehome Park *	x	33600 Calimesa Blvd	422.57	129.23	5	44.1%
Rancho Del Sol Mobilehome Park (Non-Profit)		12351 4th Street	407.99	114.65	6	39.1%
Executive Mobilehome Park		10622 Bryant Street	406.71	113.37	7	38.6%
Eldorado Mobilehome Park (Non-Profit) *	x	35218 Fir Street	400.19	106.85	8	36.4%
Hidden Village Mobilehome Park *	x	12582 2nd Street	371.20	77.86	9	26.5%
Hitching Post Mobilehome Park		34642 Yucaipa Blvd	354.73	61.39	10	20.9%
Grandview East Mobilehome Park (Non-Profit)		12655 2nd Street	354.47	61.13	11	20.8%
BelAire Mobilehome Park		13060 2nd Street	352.44	59.10	12	20.1%
Valley Breeze Mobilehome Park *	x	13576 California St	350.20	56.86	13	19.4%
Avalon Mobilehome Park *	x	35011 Avenue E	346.94	53.60	14	18.3%
Hide-Away Mobilehome Park		34447 Yucaipa Blvd	346.88	53.54	15	18.3%
Knollwood Mobilehome Park		12941 2nd Street	343.96	50.62	16	17.3%
Yucaipa Village Mobilehome Park *	x	12830 6th Street	343.51	50.17	17	17.1%
Grandview West Mobilehome Park *	x	12700 2nd Street	343.45	50.11	18	17.1%
Bonanza Mobilehome Park *	x	13645 5th Street	343.41	50.07	19	17.1%
Crestview II Mobilehome Park		12821 4th Street	341.63	48.29	20	16.5%
Yucaipa Valley Mobilehome Park		12710 3rd Street	339.76	46.42	21	15.8%
Crafton Hills Mobilehome Park		31816 Avenue E	326.63	33.29	22	11.3%
Patrician Mobilehome Park *	x	34480 Countyline Rd	318.90	25.56	23	8.7%
Aladdin Mobilehome Park *	x	12813 7th Street	313.36	20.02	24	6.8%
Twin Pines Mobilehome Park		12300 5th Street	311.49	18.15	25	6.2%
Hidden Valley Mobilehome Park *	x	12680 4th Street	309.97	16.63	26	5.7%
Crestview I Mobilehome Park *	x	12220 5th Street	309.89	16.55	27	5.6%
Green Valley Mobilehome Park		12414 4th Street	309.30	15.96	28	5.4%
Melody Lane Mobilehome Park		12688 California St	295.35	2.01	29	0.7%
Skyline Village Mobilehome Park *	x	12650 California St	294.73	1.39	30	0.5%
Valley View Mobilehome Park (Non-Profit) *	x	12995 6th Street	293.34	0.00	31	-1.3%
Mountain View Mobilehome Park		12726 California St	289.61	3.73	32	-1.3%
Park Terrace Mobilehome Park *	x	12177 3rd Street	289.40	3.94	33	-4.6%
Wildwood Canyon Mobilehome Park		34111 Wildwood Cyn	279.84	13.50	34	-9.5%
Caravan Mobilehome Park *	x	12656 2nd Street	265.50	27.84	35	-9.6%
Holiday Mobilehome Park		34184 County Line Rd	265.18	28.16	36	-10.9%
Mount Vista Mobilehome Park		13061 2nd Street	261.28	32.06	37	-12.8%
Westwind Mobilehome Park		12380 4th Street	255.81	37.53	38	-13.5%
Wishing Well Mobilehome Park *	x	13063 5th Street	253.66	39.68	39	-19.1%
Northview Mobilehome Park *	x	10675 Bryant Street	237.26	56.08	40	-20.7%
Carriage Trade Manor MHP *	x	12874 California St	232.58	60.76	41	14.4%
Total/Average/Differential			335.61	42.27		

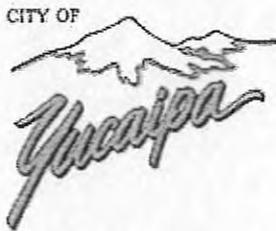
From: Jennifer Shankland
Sent: Monday, April 20, 2015 8:35 AM
To: Ian Dyer
Cc: Tammy Vaughan
Subject: RE: Biennial Review of the RSO

Ian-

I have read your e-mail pertaining to the biennial review and I would like to make a point of clarification. Park-owned coaches are not governed by the MRSO and the monthly space rents for park owned coaches can be raised to market rents if the park owner so chooses.

Resident owned coaches (resident holds title) are governed by the MRSO.

Jennifer Shankland



Director of General Services/City Clerk
34272 Yucaipa Boulevard
Yucaipa, CA 92399
jshankland@yucaipa.org
(909) 797-2489, ext. 236
(909) 255-4655 - cell

From: Ian Dyer [<mailto:IanDyer@RealEstateAdvisors.com>]
Sent: Friday, April 17, 2015 4:00 PM
To: Jennifer Shankland
Subject: Biennial Review of the RSO

Dear MRCC & Yucaipa City Council,

In the best interests of the City and its residents, the RSO should be amended to allow homesite rents to rise to market when the home on a homesite is park-owned. This benefits the existing residents of the city:

- 1. It causes the park owner to be willing to pay more for the home to the existing homeowner than an outside buyer will pay.**
- 2. It allows the park owner to bring the homesite rent to market. This gives the park owner more funds to improve the park. It gives the park owner incentive to upgrade the park, in order to attract higher rents from new residents.**
- 3. New residents who pay market rents are statistically more likely to be positive, contributing members of the community and less likely to be involved in crime. Over time, this will decrease crime in the mobile home parks and make them better places to live.**

4. THIS POLICY WILL NOT AFFECT EXISTING HOMEOWNERS WHO SELL TO A NEW HOMEOWNER. IN THAT CASE, HOMESITE RENTS WILL NOT RISE.
5. IT DOES NOT AFFECT EXISTING HOMEOWNERS IN ANY NEGATIVE WAY. IT IS A WIN-WIN FOR THE EXISTING HOMEOWNERS AND THE PARK OWNER AND THE CITY.

In the 11 years we've done business in this city, I've seen that there's kind of a knee-jerk reaction against any change to the RSO. The fear, I think, is that any change to the RSO will weaken the RSO. In this case, to the contrary, it will strengthen the RSO, because it will cause the mobilehome parks to be better maintained, without affecting the rents of the homeowners. History shows that rent control in general damages a community. This will fix that to a great extent, without causing rents to rise for the existing residents, plus it will improve the maintenance and upgrades of the mobile home parks.

Sincerely,

Ian Dyer

REAL ESTATE ADVISORS, INC.

Office of the President

Ian Dyer - President



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Yucaipa, CA 92399 (949) 488-3937 DRE License 01476651

CA JURISDICTIONS with Mobilehome Park Rent Stabilization Ordinances
(Revised 2015)

City/County	DATE	# Pks/Spaces	% Increase	*Vacancy Control	**Committee/Board	Adopted by
Alameda County	12/1965	22 / 712	Automatic up to 5%	YES	Board of Supervisors	Ordinance
Azusa	01/1992	6 / 548	8%/75% of CPI	NO	—	Ordinance
Beaumont	10/1984	8 / 459	Established by Hearing	NO	2-2-1	Ordinance
Benicia	09/1978	4 / 317	Established by Hearing	NO	2-2-1	Ordinance
Calistoga	08/1984	5 / 569	Established by Hearing	NO	1-1-3	Ordinance
Camarillo	12/1981	4 / 747	Established by Hearing	NO	1-1-3	Ordinance
Capitola	11/1979 Repeal'd 8/11	8 / 623	Lesser of 5% or 60% CPI	YES	City Council	Ordinance
Carpinteria	03/1982	7 / 866	75% of CPI	YES	RentStabilization Commission	Ordinance
Carson	08/1979	28 / 2565	Set by Board	YES	2-2-3	Ordinance
Cathedral City	03/1983	10 / 2064	75% of CPI	YES	0-0-5	Initiative
Chino	08/1983	5 / 554	66% of CPI	NO	1-1-3	Ordinance
Cloverdale	08/1986	4 / 165	Set by Board	YES to 10%	0-0-3	Ordinance
Clovis	09/1978	6 / 582	Rent Review Commission	NO	1-1-3	Ordinance
Colton	06/1990	8 / 916	60% of CPI	NO	—	Ordinance
Cotati	11/1979	3 / 106	Set by Board	YES	Arbitration	Ordinance
Daly City	06/1980	1 / 501	Set by Board	NO	1-1-3	Ordinance

Delano	11/1984 Rpeal'd '94	4 / 310	50% of CPI	YES	1-1-3	Initiative
East Palo alto	11/1983	4 / 274	Set by Board	YES	-	Initiative
Escondido	06/1988	30 / 3585	Set by Board	YES	City Council	Initiative
Fairfield	11/1984	9 / 883	Set By Board	NO	1-1-3	Ordinance
Fontana	02/1987	10 / 684	100% CPI	NO	Rent Admin.	Ordinance
Fremont	02/1987	3 / 732	Greater \$10 or 70% CPI	YES	Hearing Officer	Ordinance
Fresno	12/1987	30 / 3942	Rent Review Commission	YES	1-1-3	Ordinance
Gardena	04/1987	27 / 1156	Rent Mediation With Arbitration	NO	3-3-3	Ordinance
Gilroy	05/1987	4 / 336	Less of 5% or 80% CPI	NO	NONE	Ordinance
Goleta	06/2002	4/500	75% CPI	10% 1-5 yrs	4-4-0 Meet & Confer Arbitration	Ordinance
Grover Beach	12/1987	3 / 140	Graduated CPI	YES 5%	City App. Mediator	Ordinance
Hawthorne	06/1979	11 / 327	Rent Mediation Board	NO	Rent Board	Ordinance
Hayward	02/1980	16 / 2160	Lesser of 3% or 60% CPI to 8%	NO	NONE	Ordinance
Hemet	05/1979	20 / 2805	Set by Board	NO	1-1-3	Initiative
Hollister	05/1989 Rpeal'd '94	1 / 235	Lesser of 8% or 80% CPI	NO	1-1-3	Ordinance
Indio	03/1984	6 / 528	75% of CPI	NO	Fair Practice Commission	Initiative
Lancaster	03/1985	27 / 2584	Set by Board	YES	1-1-3	Initiative
La_Verne	10/1994	8 / 1762	Lesser of 7% or CPI	No	Rent Admin	Ordinance
Lompoc	12/1983	7 / 654	75% of CPI to 10%	No	2-2-1	Ordinance

LA City	03/1988	62 / 5885	3-8% based on CPI	Lesser of 10% or comp rent in park	Determined by Rent Adj. Comm.	Ordinance
Los Gatos	10/1980	2 / 137	100% CPI or 5%	\$25 or average	Mediation/ Arbitration	Ordinance
Malibu	12/1991	2 / 527	75% of CPI	To 10%	-	Ordinance
Marina	11/2011	5 / 399	100% CPI	5% every 2 yrs	Rent Admin	Ordinance
Merced	5/1982	3 / 574	Set by hearing	NO	2-2-1	Ordinance
Milpitas	8/1992	3 / 521	50% CPI or 8%	Avg Rent	City Council	Ordinance
Modesto	10/2007	9 / 1400	100% CPI	10% every 5 yrs	Hearing Board	Ordinance
Montclair	11/1985	8 / 620	Lessor of 6% or 6% of CPI	NO	2-2-1	Ordinance
Moreno Valley	7/1987	7 / 809	Lessor of % or 65% CPI	With Limit	Park or Res Committee	Ordinance
Morgan Hill	03/1983	9 / 875	75% CPI	YES	1-1-3	Ordinance
Morro Bay	8/1986 Rev'sd 2004	15 / 641	75% of CPI 125% CPI Non-perm res	10-15% Cap	2-2-3	Ordinance
Napa	12/1983 Rpeal'd '85	22 / 1605	8% cap	-	1-1-5	Ordinance
Oakland	9/1980	3 / 49	Automatic 5%	NO	-	Ordinance
Oceanside	5/1982	20 / 2401	Lesser of 8% or CPI	YES	0-0-5	Ordinance
Oxnard	3/1983 Rev'sd '98	25 / 2780	Lesser of CPI or 4%, see Ordinance	YES 15% avg space rent	Hearg Adm/ RentRev Bd	Ordinance
Pacifica	09/1991	1 / 93	75% of CPI	NO	NONE	Ordinance
Palmdale	10/1985	15 / 1455	CPI or Arb Award	NO	1-1-3	Ordinance
Palm Desert	04/1980	4 / 676	75% of CPI	YES	5 picked	Ordinance
Palm Springs	04/1980	14 / 2242	75% of CPI	YES	0-0-5	Ordinance
Paramount	07/1987	17 / 1228	100% CPI	NO	2-2-0	Ordinance

Petaluma	02/1994	9 / 1006	Lesser of 100% CPI or 6%	NO	Arbitration	Ordinance
Pismo Beach	04/1981	2 / 412	Lesser of 6% or 75% of CPI	YES 10%	City Admin.	Ordinance
Pleasanton	02/1993	4 / 412	Lesser of 100% CPI or 5%	To 25% in 5 years	2-2-1	Ordinance
Pomona	05/1992	19 / 1836	Mediation	NO	Hearing Rent Board	Ordinance
Rancho Mirage	07/1982	6 / 882	75% of CPI	Avg Rent	1-1-5	Initiative
Redlands	12/1982	8 / 684	Lesser of 6-9% or 75% CPI	NO	0-0-3	Ordinance
Rialto	03/1992	12 / 1425	Rent Review Commission	YES	0-0-5	Ordinance
Riverside County	08/1983	124/12376	100% CPI	NO	2-2-1	Ordinance
Rocklin	05/1982	3 / 384	Guaranteed CPI	NO	1 and up	Ordinance
Rohnert Park	12/1987	5 / 1314	75% CPI or 4% cap	YES	5	Initiative
Salinas	10/1990	11 / 1437	75% CPI or 8% cap	NO	Rent Review Board	Ordinance
San Bernardino	09/1984	16 / 1487	Lesser of 4% or 75 % CPI	NO	None	Ordinance
San Francisco	06/1970	1 / 56	4-7% or 60% CPI	YES	-	Ordinance
San Jose	07/1985	70 / 11435	3-7% or 75% of CPI	YES	None	Ordinance
San Juan Capistrano	03/1979	7 / 1209	100% CPI	YES	2-2-1	Ordinance
San Luis Obispo City	06/1988	15 / 1551	100% CPI up to 5%, if higher, .75 of diff.	YES 10% (1x in 3 yrs)	Hearing Officer	Initiative
San Luis Obispo County	06/1988	39 / 2408	60% CPI	YES 10%	3 Rent Review Bd	Initiative
San Marcos	11/1980	17 / 3216	CPI or NOI	With Limit	Rent Review Commission	Ordinance
San Raphael	04/1990	1 / 397	3-7.5% or CPI	YES	None	Ordinance

Santa Barbara City	1984	5 / 232	75% CPI	10% 1-5 yrs	Arbitration	Ordinance
Santa Barbara County	09/1994	19 / 2161	75% CPI	10% 1-5 yrs	Arbitration	Ordinance
Santa Clarita	12/1990	15 / 2070	100% CPI with 6% cap	NO	-	Ordinance
Santa Cruz County	01/1979	36 / 2212	50% of CPI + pass through	YES	Hearing Officer	Ordinance
Santa Monica	04/1979	3 / 283	Set by Board	NO	-	Initiative
Santa Paula	06/1984	9 / 838	Lesser of 7% or 75% of CPI	10% 1-3 yrs	0-0-3	Ordinance
Santa Rosa	2004	14/2008	100% CPI or up to 6%	YES	Arbitration	Ordinance
Scotts Valley	11/1980	5 / 527	75% of CPI	YES	0-0-5	Ordinance
Sebastopol	Revised 08/1992	6 / 173	100% of CPI	NO	Arbitration	Ordinance
Simi Valley	03/1983	6 / 354	Rent Review Commission	NO	-	Ordinance
Sonoma County	06/1987	51 / 3736	100% CPI	YES	Arbitration	Ordinance
Thousand Oaks	07/1980 Rev'sd 2011	8 / 897	Designated 10 Yr Plan - see Ordinance	YES 10-15%	Rent Review Board	Ordinance
Ukiah	02/11 orig 10/10	23/1043	100% CPI (cap 5% or less)	YES 10%	Arbitration	Ordinance
Union City	05/1980	3 / 918	90% of CPI or max of 7%	YES	-	Ordinance
Upland	12/1985 Rev'sd 1992	6 / 866	80% CPI or max of 7%	YES	Arbitration	Ordinance
Vacaville	12/1977	12 / 1126	Graduated CPI	NO	0-0-3	Ordinance
Vallejo	02/1982	17 / 1990	5%	NO	1-1-3	Ordinance
Ventura City	06/1981	18 / 1087	Lesser of 7% or 75% CPI	YES to 15%	Rent Review Bd.	Ordinance
Ventura County	02/1983	24 / 1421	Soc. Sec COLA 2%-8%, see Ord.	YES to 15%	0-0-3	Ordinance

Watsonville	03/1989	5 / 717	70% of CPI or 5%	NO	-	Ordinance
West Covina	09/1984	2 / 265	Less of 5-9% or 100% CPI	NO	Human ResourcesComm.	Ordinance
Windsor	08/1992	4-5 / 567	100% CPI cap 6%	NO	Arbitration	Ordinance
Yucaipa	12/1990	42 / 4425	80% CPI 5% cap	Only annual increase allowed	Rent Review Commission	Ordinance

* **Vacancy Control** – YES indicates that there are % or \$ limits as to how much rents can be increased at change of ownership of the mobilehome. Some RCO's exclude any increase in inheritance situations; others do not.

** **Comm/Boards** – Refers to who decides whether a rent increase higher than the ordinance permits would be approved, disapproved or modified. Various jurisdictions responded with different types of comments. In a 3 number response, the first # equals how many park owner reps serve on a board or committee, the 2nd # equals how many resident reps and the 3rd # equals people who would "neutral".

Revised by GSMOL: March, 2015

Documents submitted at the MRRC meeting of January 13, 2016



Western
Manufactured Housing Communities
Association

January 11, 2016

Chairman Hayden Martin
Vice Chairman Mark Marnati
Commissioner Thomas Powell
Commissioner Mark Bender
Mobilehome Rent Review Commission
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

Dear Members of the Mobilehome Rent Review Commission:

I would like to thank you all for your service to your city by serving on this important commission. My name is Julie Paule, and I am the regional representative for the Western Manufactured Housing Communities Association (WMA). WMA is a statewide trade association that represents the interests of mobile home park owners throughout California. The decisions you collectively make as they relate to this biennial review of Yucaipa's Mobilehome Rent Control Ordinance will affect Yucaipa for years to come. The viability of these parks is at risk, and your review of these housing policies will make a significant difference if they remain a valuable housing source.

Yucaipa's rent control ordinance has been in place since 1990. The ordinance only allows for 80% of the Consumer Price Index (CPI) to be used when calculating annual increases. Under this scheme, park owners' ability to keep up with the costs to operate their properties and their purchasing power fall behind incrementally every year. Over the course of 26 years, these small increments have added up and become an insurmountable obstacle. The capability to maintain the communities is compromised. The capital needed to upgrade or increase amenities isn't available under the current rent control system. Basic health and safety become the focus of management, and a great opportunity is missed. This doesn't just hurt the owner—it affects the current resident.

When upgrading or renovating is not a viable financial option, communities can deteriorate. This is a prevalent and growing problem in Yucaipa. This isn't just my opinion; it's the opinion of the city staff and the city council who have spent the better part of the year identifying a way to encourage the closure and reuse of seven of Yucaipa's mobile home parks because of the inability to upgrade the properties. These seven parks are identified as being older with high crime. Proactive closure activity is unheard of in municipalities that value the attainable housing mobile home parks provide. We know Yucaipa desires these parks to thrive; residents to have predictable, low rents; and park owners to have a fair

contend the average street replacement in mobile home parks is \$2 per square foot. Under these proposed guidelines, it will jump to \$5 per square foot. The additional burden of finding a professional engineer who will guarantee the asphalt under penalty of perjury is unattainable. An engineer might design a system, but he or she won't make that kind of guarantee especially if he or she can be charged with a felony. This type of guarantee doesn't exist. The costs to replace streets will nearly triple and residents having to pay to inflated costs for years to come.

Under Title 25, parks aren't required to have paved roads. They can have maintained dirt roads if the owner desires. Obviously paved roads are a desirable amenity for our communities and the norm in urban and suburban areas. If the State of California doesn't require paved streets and if the City of Yucaipa is going to make their replacement so onerous and regulatory burdensome, what stops a park owner from ripping them up and having maintained dirt roads? Not to mention, the costs associated to comply with these requirements are placed on the backs of the residents. **It is our recommendation that the Rent Review Commission reject the staff's recommendations as they relate to capital replacements.**

General #1 — Annual Adjustments

We agree with the staff recommendation to make changes to the formula for annual increases. As the staff report points out the current ordinance contains a ceiling on maximum allowable increases but no floor. This is fundamentally unfair. Also, the historical CPI has been low, providing little if any increase of revenue for park owners. Over the past 24 years, costs have skyrocketed and revenue has stayed flat. As I stated earlier, our purchasing ability has fallen behind a little every year. Our vendors do not charge us 80% the market rate because we are housing providers. Why is it acceptable that our increases are based on this arbitrary number? This approach to mobile home park regulations was acceptable decades ago. Today it is generally accepted that the full CPI is needed to maintain proper operations.

It is our recommendation that the Rent Review Commission accept the staff's recommendations as they relate to annual increases.

YMRA #3—Vacancy Decontrol

The staff report lays out a detailed case that controls on vacancy is legal and appropriate. There is no question that the courts have ruled that municipalities can use this tactic to keep rental space artificially low, but park owners ask if the City of Yucaipa *should* regulate new rents on turnover. The use of stringent controls on vacancies directly relates to the park owner's ability to receive a fair rate of return on their investment, which is guaranteed to park owners by the

From: Harward, Bradley@HCD Bradley.Harward@hcd.ca.gov
Subject: RE: Yucaipa asphalt standards
Date: January 6, 2016 at 12:35 PM
To: Julie Paule julie@pauleconsulting.com
Cc: Sheila sheila@wma.org

Since streets aren't even required to be paved their ordinance would be superseded by the Parks Act. They would have to enforce the parks Act and regulations to the same extent as HCD and could not use their authority as a LEA to enforce local ordinances. If it comes about let us know.

From: Julie Paule [mailto:julie@pauleconsulting.com]
Sent: Wednesday, January 06, 2016 12:12 PM
To: Harward, Bradley@HCD
Cc: Sheila
Subject: Yucaipa asphalt standards

Brad,

The City of Yucaipa is looking at adding a local standard for street/asphalt replacements. My understanding is that they are prohibited to go beyond Title 25 and the MPA. Would they get push back from HCD if they proceeded?

Julie Paule, Regional Representative
WMA
40335 Winchester Rd. #E-165
Temecula, CA 92591
(951) 926-0631 office
(951) 926-8770 fax
julie@pauleconsulting.com

.....
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A



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Page 1 of 2

City of Yucaipa's Mobilehome Rent Review Commission:
Chairman Hayden Martin
Vice Chairman Mark Marnati
Commissioner Thomas Powell
Commissioner Mark Bender

January 11, 2016

Mobilehome Rent Review Commission,
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

Dear City of Yucaipa's Mobilehome Rent Review Commission,
At the request of Mobile Home Park owners and their representatives I have reviewed the proposed "Capital Improvement Bid/Proposal Application Requirements" and have concluded that these proposed requirements will substantially increase the costs and time duration of any repaving projects in MHP's. Please keep in mind that "Title 25 section 1106. Roadways" states that these roads are not even required to be paved.

It should also be noted that any costs you as a Commission add on to the park owner "WILL" be included in the application for a capital improvement instead of "COULD" as these added costs will be astronomical and unrealistic for any park owner in Yucaipa under these strict rent control requirements.

I would like to address some specific concerns with the proposed changes and would ask that you have further discussions with park owners, licensed civil engineers and contractors with experience in repaving MHP's prior to adopting these very strict and expensive requirements as per 5.0010 CERTIFICATION OF CAPITAL IMPROVEMENTS:

1. Not many licensed civil engineers will sign under penalty or perjury to verify the following:
2. City of Yucaipa AC Pavement Specifications will cause the streets to be removed much deeper than the existing asphalt (2" to 4") which if you have any experience in MHP streets you will know the utilities are only 12" to 18" below the surface because of the lack requirements when these parks were originally constructed. This will result in having to also replace the utilities to install 4" of asphalt on 6" to 12" of rock base with soil processing of an additional 12".



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Page 2 of 2

3. Circulation patterns will most likely not change due to the lot lines and already established road edges.
4. The ADA requirements are to allow parking and access to the park office only, not private homes or streets. It "SHOULD" be limited to that and that alone. To make all areas accessible in most cases is physically impossible and/or cost prohibitive.
5. Circulation patterns will most likely not change due to the lot lines and already established road edges.
6. No reputable company or engineer will be willing to guarantee the improvements will last as long as the amortization period for a number of reasons such as: excessive rainy season, trash truck traffic more than once a week due to lack of trash bin storage, earthquakes etc.

Respectfully submitted,

David L. Thomas
Estimator/Project Manager



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January 11, 2016

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Vickie Talley

Commissioners of the Mobile Home Rent Review Commission
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, CA 92399

Sent via Email

Re: Agenda Item #3 – Biennial Review of Mobilehome Rent Stabilization Ordinance
and Resolution

Dear Commissioners:

MHET, on behalf of the mobilehome park owners of Yucaipa, appreciates you providing us with the opportunity to comment on the issues raised in the biennial review. We provided an initial letter dated March 30, 2015, which we attach for your convenience, that sets out a few changes to the Ordinance and accompanying Rules that we feel would be a solid step forward in assisting in the continued viability of the mobilehome parks in the City and improve the quality of life for the residents. This correspondence provides additional information and addresses some of staff's recommendations.

Initial Overview

You have been provided the opportunity to take action that can be of great benefit to the quality of life of the residents of the mobilehome parks. As you know, the City Council has been evaluating the condition of the mobilehome parks for many years, and now is the appropriate time to act.

When the City began taking a detailed look in 2005-2006, 10 years ago, at the mobile home parks, the City General Plan stated 25% of the mobilehome parks would require substantial improvements to maintain their viability. The City retained the Rosenow Spevacek Group (RSG) to look at the feasibility of rehabilitating the parks. In their January, 2006 report, RSG pointed to the "Ordinance as a major cause for the deterioration and conditions observed in some of the mobile home parks." (page 5) Thus, "given the current provisions of the Ordinance," RSG did not believe a "rehabilitation scenario would be feasible." (page 7)

Concerns continued and this led the City Council, for the first time in the history of the City, to discuss the potential of park closures due to the conditions within the parks, particularly of 7 identified parks. At their November 2, 2015, meeting, the City Council did indicate they wanted to develop a park closure ordinance. Yet, at the same time they indicated it is NOT their preference to see parks closed.

The reality of the situation is that it is high unlikely even the 7 identified parks will close. Additionally, even if one or two do close, there are still many more parks in the City. The

decontrol. (For one city there is no information on vacancy controls) It appears from Attachment O that, at most, there are only 28 jurisdictions that might have full vacancy control; about 5% total. 25 have some form of partial vacancy decontrol. So, 95% of the jurisdictions in the State do NOT have full vacancy control, and people are living in these parks, moving, selling homes, and there is no dire problem that requires government controls.

Again, the purpose of the Ordinance is to protect the residents living in the parks from supposed "excessive" rent INCREASES. Vacancy decontrol merely allows a NEW resident who is considering living in a mobile home park to come to an agreement with the park owner on a rent level that is entirely acceptable and affordable to the new resident. The new residents' choice. Vacancy decontrol does NOT impact the rent level of the current residents. Once moved into the park, any future rent increase for the new resident of the park is fully regulated by the Ordinance. The objective of protecting all residents, new and old, against any supposed "excessive" rent INCREASES remains completely intact.

Additionally, vacancy decontrol is a key element of achieving the goal of seeing parks rehabilitated as needed. The concept of 100% CPI solely keeps park owners even with increasing costs. Treading water so to speak. 100% CPI does not provide any of the revenue needed for rehabilitation projects. Vacancy decontrol helps provide a means of both encouraging rehabilitation and fully protecting all the residents of the park from potential "excessive" rent increases. This is a policy that should be fully endorsed.

While MHET believes vacancy decontrol is equitable and fair to all, we were pleased to see the comments set forth by YMRA on the issue and thank them for offering to discuss the issue. MHET is happy to enter into discussions with YMRA. As staff has pointed out, there are a wide variety of vacancy control/decontrol provisions, and each have their own pros and cons that need to be fully vetted. Thus, it would not be possible to come to any decision on any type of partial vacancy control/decontrol measure today.

This is a very unique opportunity that has not been present before. Let's take advantage of it as who knows when it might surface again. Therefore, MHET respectfully requests the Commission set this issue aside for now and solely recommend the park owners and YMRA meet regarding the vacancy control issue.

MHET 2 (Capital Improvements) – pages 24-25

The ability to timely and effectively completing capital improvements is a very important part of any policy package that allows for the rehabilitation of the parks. We fully agree with staff that this "is a policy decision for the City.", and appreciate they did not make any recommendation.

It is agreed by all that capital improvements are a key component of any effort to improve the parks. It is also clear what is the main obstacle to such improvements; the capital improvement provisions of the Ordinance. The City's own retained expert forcefully stated in 2006, "It was noted very few capital improvements have been made **because of this process...**" (RSG report, page 5, emphasis added) The report goes on to state the capital improvement provisions of the Ordinance "**are extremely prohibitive and ineffectual.** Rather than aid in the continued improvement of the mobile home parks, **the restrictions in**

Based upon all of the above, it is respectfully submitted that the recommendation under Admin 3 should NOT be adopted.

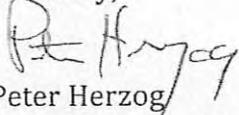
Conclusion

Thank you for considering our thoughts regarding how to develop a policy plan to incentivize the upgrading of the mobilehome parks in Yucaipa. Please help us by:

1. Changing the annual monthly rent adjustment to 100% of CPI, and support the 1.5% floor to create an equitable annual monthly rent adjustment;
2. Adopt a first ever opportunity by solely recommending the park owners and YMRA meet regarding the vacancy control issue;
3. Recommend the capital improvement pass thru; and
4. Reject the recommendation under Admin 3

By doing so, you will benefit everyone; the residents, the park owners and the people of Yucaipa. The time is now to take a very positive step to address issues that have been raised for over 10 years in the mobilehome parks. This rather unique opportunity should not be missed.

Sincerely,



Peter Herzog
Inland Empire Representative

improvements to maintain their viability. The City indicated back then there was a "need to rehabilitate" the parks, or redevelop them.

This led the City to retain the Rosenow Spevacek Group (RSG) to look into, among other things, "what strategies may or may not be feasible" in rehabilitating the parks. Their January, 2006 report was very clear. RSG pointed to "the Ordinance as a major cause for the deterioration and conditions observed in some of the mobile home parks. The Ordinance requires that should park owners wish to raise rents to cover capital improvements, they must file an application for a rent increase with the rent administrator...It was noted very few capital improvements have been made because of this process..." (RSG report, page 5, emphasis added) The report goes on to state the capital improvement provisions of the Ordinance "are extremely prohibitive and ineffectual. Rather than aid in the continued improvement of the mobile home parks, the restrictions in the Ordinance may promote a continued lack of reinvestment and capital improvements." (RSG report, page 41, emphasis added) Therefore, "given the current provisions of the Ordinance," RSG did not believe a "rehabilitation scenario would be feasible." (RSG report, page 7)

Unfortunately, nothing was done and it is now 9 years later. The situation has not improved as RSG predicted. The City now has the opportunity to change that downward trend, to make rehabilitation of the parks FEASIBLE. A proven way to successfully do so is to allow capital improvements to be amortized and passed thru. This occurs in other cities with rent control ordinances without extensive expert costs and staff time, no lawsuits, no appeals, no attorneys fees. The goal of providing for the rehabilitation of the parks and improving the quality of life for the mobile home park residents is achieved without any City money or effort.

Please, do not allow this unnecessary and detrimental situation to continue. The Ordinance should be amended to provide for the automatic pass thru of capital improvements. This is a path the City of Riverside has used for over 20 years without problems, and it is also a path to bettering the community of Yucaipa.

3. Rent Adjustments Upon Vacancy

The Ordinance and Rules prohibit any rent adjustment when a vacancy occurs in a mobile home park. Again, it is clear from reading Section 15.20.010(A) the purpose of the Ordinance is to prevent supposed "excessive" rent increases. Vacancy decontrol does not cause any of the issues set forth under the Purpose section of the Ordinance. Vacancy control still provides residents who are living in the mobile home parks the full protection against the supposed "excessive" rent increases.

Vacancy decontrol allows a new resident who is considering living in a mobile home park to come to an agreement on an acceptable rent level with the park owner. One that is affordable to the prospective resident. Once moved into the park, any future rent increase is fully regulated by the Ordinance. The objective of protecting residents against any supposed "excessive" rent INCREASES remains completely intact.

It should also be noted Yucaipa is one of the few cities that has a ban on rent adjustments when there is a vacancy. In fact, in San Bernardino County, only two cities have such a provision. In

Yucaipa Mobile Home Residents Association
Tony Slaick, (YMRA) Chairman
33600 Calimesa Blvd, spc # 93, Yucaipa, CA 92399
909-732-440
Email: datonestir@aol.

In reference to: City of Yucaipa, Mobilehome Rent Review Commission Agenda
January 13, 2016 - 1:00 PM
Agenda Item No. 3

YMRA respectfully requests that the Rent Review Commission not rule on these issues today, but take the time necessary to read, consider and digest the important information being presented and reconvene again at a later date.

Page numbering: All page numbers referenced are based on page numbers at the bottom of each agenda page (not the page numbers at the top left)

In the City of Yucaipa's Recommendations For Policy Changes and Improvements In The Administration of The Ordinance. (Pg. 6)

Admin 1. Temporary Rent Adjustments

Being that this is referenced to the Supreme court ruling (Galland v. City of Clovis 2001 24 Cal.4th 1003, I would agree with the language that was amended in the City of Yucaipa's Administrative Rules, that the city should *allow consideration* of a temporary rent adjustment relating to *the cost of the hearing process*. I would argue, however, that 'consideration' should be isolated to the cost of the hearing process, specifically additional costs incurred due to the legal challenge. Not costs that would have been incurred if the challenge did not occur. E.g. The cost of filing the MNOI/NOI application and the costs incurred in preparing and presenting the application to the city.

professional costs incurred by the park owner in preparing and presenting the application to the city has nothing to do with the mobile home park tenants. It is a cost incurred by a city requirement.

In essence, the MNOI/NOI application and cost of preparing for submission to the city is a cost of doing business to a park owner and an option they may or may not wish to choose. If there was opposition from mobile home park residents or not, the park owner would still be required to make this application and pay the required fees if seeking a rent adjustment. When an MNOI/NOI is *challenged* by mobile home park tenants, the added fees to a park owner are generally 'Legal Fees'. It stands to reason that a park owner would recover *legal fees (the cost of the hearing process)* in a victory outcome of a legal challenge.

Making the MNOI/NOI application could be compared to many things/many types of applications/filings. When a utility company makes application for a rate increase or even something as common as when a person or business files a tax return, (the cost of preparing and filing). If a property developer purchases land with the intent to build; many applications are made for a variety of aspects. Very costly and without recovery.

When a person goes to work, the obvious reason is to make money; not to spend money. Yet, there are costs that are usually not reimbursed: Fuel, wear and tear on the vehicle, etc.

These are, for the most part, costs of doing business. In some cases there is little choice (taxes) while in other cases it is about making a choice (to go to work, or to purchase and develop property, etc.). No one expects to be reimbursed for those costs. They are usually recovered by the activity in itself; the end result of the 'choice'.

What is reasonable consideration? Galland v. City of Clovis states that park owners should be able to include the cost of the hearing process.

YMRA believes the cost of preparing and filing the MNOI/NOI application is not a cost of the hearing process in that if there were no legal challenge, this would be an existing cost in either event; no matter what.

Furthermore, the park owner will enjoy the added returns of increased rents as long as he/she owns the park. The benefits also go far beyond and into the sale of the park due to the fact that increased rents generally result in an increased cap rate or return on investment.

Hart/King, The law firm that represented the mobile home park owner(s) of Yucaipa Village in 2011, ***state in their own words [SEE COPY ATTACHED]*** (Ref: <http://www.hartkinglaw.com/2011/08/mobilehome-rent-review-commission-approves-a-large-increase-and-the-residents-dont-appeal/>)
Reference Agenda Item #3, page number 6, Yucaipa Village Apvd - MRCC Reso 2011-52 MNOI

"It is hard to say what is more surprising, that the Yucaipa Rent Review Commission ***approved a large rent increase*** for Yucaipa Village – a total increase of about \$93.00 per month – or that the residents did not appeal. ...

The increase of \$93.00 for 82 spaces translates to an increased annual net operating income for the Park of about \$91,500, which equates to over 1.3 million added park value, assuming a 7 percent capitalization. Not a bad cost-benefit decision *particularly since the park owner was allowed to recover the costs of the application.*"

Above in bold; In their own words and by their own admission, Hart/King implies that the Yucaipa Mobile home Rent Review Commission failed the mobile home residents of Yucaipa by granting what they describe as *surprising* and *large* (rent increase) as well as the recovery of *the cost of the application*.

In hindsight, and partly in thanks to Hart/King for posting on their website, what appears to be their boastful remarks about how they got over on the Yucaipa Mobile Home Rent Review Commission and the residents of Yucaipa Village Mobile Home Park, it is clearly illustrated that, basically, an injustice had occurred. Considering the objective of the post/webpage, it is for potential clients to see that they were able to achieve results beyond what anyone would have imagined or expected.

Despite Hart/King's win of this *large rent increase* and the *recovery of the cost of the application*, it is obviously too late to go back and correct the injustice, however, it is not too late to recognize and change the language in the Ordinance to reflect the correct guidance to disallow recovery of the application fee. Allowing recovery of the application fee was clearly a mistake and is unfair to mobile home park residents.

A distinction should be made when considering recovery of the application fee. In general, when a park owner files for an MNOI/NOI or Capital Improvement, the choice to file is most likely driven by a desire to increase rents/income or make improvements. This is a choice made in an effort to bring a 'rebalancing' or adjustment. On the other hand, if park residents file an application, this would most likely be driven in an effort to correct an injustice. The first driven by a desire or choice, the latter, driven by the need to litigate.

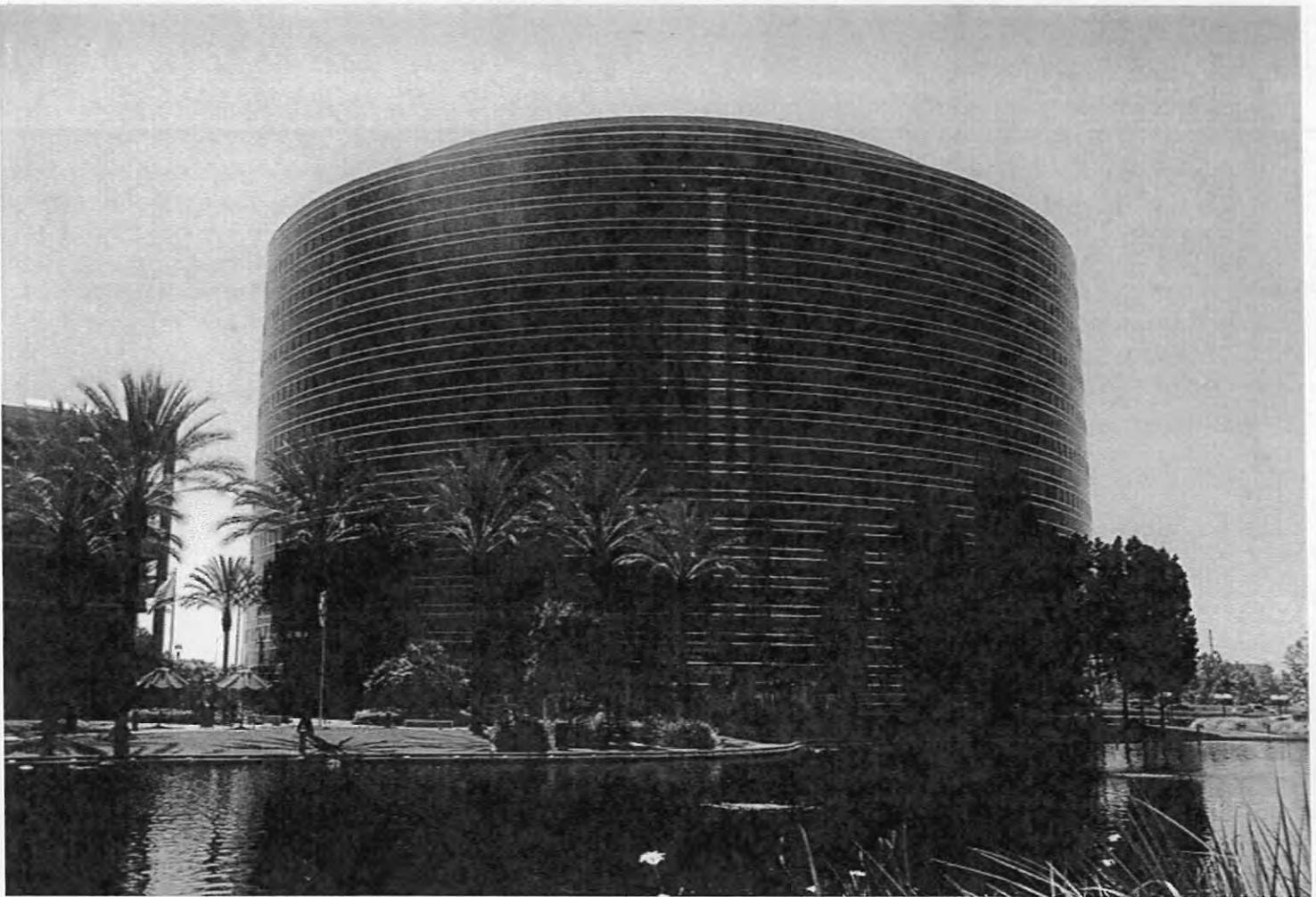
YMRA requests that the Yucaipa Mobile Home Rent Review Commission opt to amend and/or include in the Administrative Rules and/or Rent Stabilization Ordinance, language to disallow recovery of the cost of preparation and filing an MNOI/NOI application, and limit recovery to the actual cost of the hearing process incurred by the legal challenge, unless the cost of preparing the application was incurred due to an opposing legal challenge.

On a related note (same section); Though the 'Galland' adjustment provides that it be temporary, amortized over 5 years and at an interest rate of 7%, this does not reflect today's economy or an equitable settlement for all parties involved.

In today's real world, in an effort to make an investment with an exceptional return, there is little that would come close to 7%. Recovery of legal fees should not be an investment with lucrative returns, it should be recovery with minimal damage. Legal battles should not come with additional incentives to enter a challenge, but offer an opportunity to make reasonable recovery.

- The interest rate charged should be based on an index such as the 5 year average of 5 year treasuries or London Interbank Offered Rate (LIBOR) and equal to that average rate.
- The interest rate should be capped at a reasonable 5%

YMRA requests that the Yucaipa Mobile Home Rent Review Commission opt to amend and/or include in the Administrative Rules and/or Rent Stabilization Ordinance, language to specifically set forth a formula that will reflect the reasonable return/recovery of costs at reasonable and current interest rates that reflect any economy at any time.



HART | KING
ATTORNEYS AT LAW

Mobilehome Rent Review Commission Approves a Large Increase – and the Residents Don’t Appeal

Aug 26, 2011 | [Staff](#) | [Blog](#)

It is hard to say what is more surprising, that the Yucaipa Rent Review Commission approved a large rent increase for Yucaipa Village – a total increase of about \$93.00 per month – or that the residents did not appeal. The residents of Yucaipa Village were represented by YMRA (the Yucaipa Village Mobilehome Residents Association), which has been led for years by Len Tyler. Len Tyler actually lives in Yucaipa Village, which makes it even more surprising YMRA did not appeal. Then again, Mr. Tyler was keenly aware of the results of prior appeals he has pursued on behalf of other parks. The appeals were denied or, if approved, reversed by the Courts, ultimately resulting in a larger rent increase to compensate the park owners for the cost of the appeal.

YMRA once again hired an attorney and accounting expert to represent the residents at the hearing, no doubt at substantial expense. It was to no avail. In fact, we convinced the Rent Review Commission to make rulings excluding from any consideration much of their expert’s opinions, as well as Mr. Tyler’s “expert” testimony. Some of the residents of Yucaipa may be wondering whether the contribution to YMRA is serving them well. In difficult economic times, it may be that the citizens of Yucaipa will start to wonder whether rent control serves them well.

The increase of \$93.00 for 82 spaces translates to an increased annual net operating income for the Park of about \$91,500, which equates to over 1.3 million added park value, assuming a 7 percent capitalization. Not a bad cost-benefit decision particularly since the park owner was allowed to recover the costs of the application. Yucaipa Village was represented throughout the hearing process by Mark Alpert of Hart, King & Coldren.



Admin #2, pg 8. **Capital Improvement Bid/Proposal Application Requirements**

YMRA requests that changes be made to the following regarding (advance) notice to (application) completion:

YMC 15.20.085 (A), (1), 2nd sentence. Rent adjustments based on capital improvements:

Change/correct language to omit "~~Prior to the completion~~" to "Prior to the application"

Admin #3, pg. 9, (Permits, inspections and Quality of Capital Improvements), in reference to Staff Comments

Regarding Capital Improvements (specifically) - To date, there has been little or no discussion as to the merit of recovering these costs from park tenants. Where did these ideas originate? We have found that there have been court rulings granting the recovery of capital improvement costs, although, we have not found where this is law or set as a precedence. In nearly any given scenario regarding real estate and rental property, a property owner does not recover the cost of the Capital Improvements by a direct means as in charging the cost to the tenants. They are usually recovered by the end result of the value added.

In light of new information that YMRA has learned, the benefits of Capital Improvements favor mobile home park owners in that the entire cost is recovered through the tenants in the park, the tenants also pay interest while the park owners writes off the interest and depreciation. When it comes to depreciation as in street pavement, a park owner can depreciate this over the course of 15 years (a windfall through being accelerated compared to city streets that are generally closer to 25 years.) This results in lucrative returns through these tax advantages. Furthermore, a park owner has an incentive to opt for everything possible in a capital improvement as the bigger the project and cost, the bigger the benefit to the park owner, including added park value.

Park residents generally enjoy the use of the capital improvement, however, more often than not, the capital improvement results in the continued use of something that has already existed; just brought back to its best state. In the event that a capital improvement created something that did not exist before, we would think and possibly expect different considerations due to the fact that a park tenant would then have something new that brings a much greater benefit in the tenants favor.

YMRA believes the oversight changes/additions that are proposed in the Ordinance are good, however, the cost of the capital improvement in itself should be shared 50/50% with the park owner and the tenants.

Please see/reference: http://www.hrcsf.org/rent_increases.html (Buildings with 6 or more units) 50% recovery.

The San Francisco Rent Ordinance

Buildings with 6 or more units: Only 50% of the costs of improvements can be passed through. Amortization schedules remain 7 and 10 years; rent increases limited to 10% of the tenant's base rent at the time the petition was filed or \$30, whichever is greater, in any 12-month period. In place of the above, a tenant may elect to have 100% of the costs passed through to the tenant, with an annual limitation of 5% and a total limitation of 15% of the tenant's base rent applicable to the capital improvement rent increases. (Note: This option may be chosen within 15 days after a decision on a 50% pass through is mailed to tenant.)

Please Google:

- How can I recover the cost of my capital improvement on rental property
- Recovering the cost of capital improvements on rental property

Or Google anything that you feel would give some answers on recovering money spent for a capital improvement. Your queries will come back with information relating to tax deductions that relate to depreciation and amortization and/or interest deductions.

YMRA requests that the City Rent Review Commission and Staff consider and change to the Ordinance to reflect the cost of the capital improvement benefits to be shared in proportion to the beneficiaries (50/50%).

General Issues #1 Annual Adjustments (page 12)
Also see Rottenbacher pg. 26 (Minimum Annual Adjustments)

With Social Security recipients not receiving a cost of living raise at all when they say inflation is flat or even negative, it is illogical to justify a minimum. If a mobile home park owner were not making a fair return, they do have the option to apply for the MNOI/NOI. Furthermore, Capital Improvements also lend to additional options to stay with or even beat inflation. The 5% cap protects mobile home residents from 'run away' inflation while the MNOI/NOI and Capital improvement options protect park owners to insure a fair return. No changes are needed as there is currently an established balance.

Page 14, Option 1 is baseless and completely unwarranted

In this option, if inflation is 1.25% or even 1%, a park owner will get 80% of that amount, however, if inflation is less than 1%, they will get 1.5% or 80% (an even higher amount).

It's like saying (as a loose example but making the point) minimum wage is \$9.00 an hour. If you are getting paid \$10.00 an hour, you're in good shape. But if your pay falls below 9.00 an hour, we're going to give you \$15 an hour because any pay you get under \$9 automatically becomes \$15. That is basically what option 1 would do.

In addition, due to the fact that a mobile home park owner could receive an MNOI/NOI rent increase as well as a resulting increase in park value in the event that a fair return were not realized, applying 80% of the CPI annually for rent increases is more than fair. With the opportunity to pass on the cost of capital improvements to park residents, resulting in basically no cost to a park owner, yet, increasing park (resale) value, resulting in lucrative tax benefits (adding to returns on investment) through (accelerated) depreciation and interest deductions is even more compelling to maintain 80% CPI with no floor/minimum.

In spite of the aforementioned, we would contend that if CPI were 1% or less, that allowing the full 100% (vs. 80%) would be boon for park owners, especially considering that when inflation is flat or negative, seniors are unlikely to receive a Cost of Living Allowance (COLA). Reiterating, we are identifying what would basically be a gift to park owners *if the CPI would be 1% or less*.

We would concede that when the federal government establishes a floor/minimum for Social Security COLA benefits, we would openly revisit the prospect of including a floor/minimum for annual rent increases relating to the CPI.

Regarding the chart (pg.13) showing the difference between 80% CPI and 100% CPI using a hypothetical monthly space rent of \$300 beginning in 2008 through 2015; this is a very good example, however, for the most part, illustrates a best

case scenario. The chart does show the most current 8 years, however, they are also the most current years POST the "Great Recession". We continue to see our country 'in recovery' and inflation quite low. Many parks in Yucaipa have rents in excess of \$400 per month. The scenario should take into account the higher rate of inflation typical of PRE 'Great Recession' years.

(see Rottenbacher letter pg 54 - attachment L, his/her own words - prior 7 year period inflation was 4%

Regarding option 2.

As long as a park owner has the option to file an MNOI/NOI (for a fair and reasonable return and/or Capital Improvements, costs recovered by the park owner through the park residents paying for years into the future), 80% of the CPI is more than fair.

YMRA asks that the Yucaipa Mobilehome Rent Review Commission select Option 3, with no changes in the existing ordinance and maintain 80% CPI, unless the options for the MNOI/NOI and Capital Improvements are removed/phased out where park owners would ultimately assume 100% of the cost of maintaining their parks.

Regarding/relating to: Page 54, Attachment L Rottonbacher Annual Adjustment 80% vs. 100%

Considering the collective components of the ordinance (80% of CPI, MNOI/NOI and Capital Improvement possibilities, etc.), The ordinance is fair and balanced.

If the ordinance were to change to allow 100% of a CPI increase, the options for MNOI/NOI and/or Capital Improvements should no longer exist. Due to the fact that a park owner would always be equal to inflation, they should also, always have the means to maintain and improve their parks.

To be fair, many parks have been receiving 80% of the CPI for many years. It is reasonable to assume that there are *some* parks with below market rents. With this in mind, phasing out the opportunity for the MNOI/NOI and Capital Improvement options could be done over the course of several (3) years to allow park owners the option to consider their needs for possible re-adjustments.

Issues Presented by YMRA

YMRA 1 pg 14 (Application Fee and Cost to Administer Ordinance)

City staff makes reference to YMRA's letter attachment 'B' (pg 32). The request for consideration of the waiver/postponement of the \$1,750 'Application Fee' did not relate to the MNOI process as implied by city staff. With all due respect, staff comments are incorrect and unrelated to the issue.

This letter is specifically about the Application Fee. More so, the emphasis is on the inability for many park residents to have their voices heard due to the cost prohibitive structure. It is proposed that the city consider options to allow an equitable method for park residents to complete the application process, being heard, and reaching an outcome while insuring that the city receives all application fees through a structured formula that establishes recovery with little impact to city staff in the calculation and collection, thereby, continuing to (financially self) support the maintenance of the ordinance.

YMRA request the staff and/or the Rent Review Commission re-read and re-consider this letter in it's proper context.

YMRA 3 (Vacancy Decontrol) pg 16

In reference to - pg 17, line 5. "should also be capped at 5% of current rent" is an incorrect reference to our (YMRA) letter (Attachment 'D', pg 36)

Page 37, paragraph 6 (of Attachment 'D') proposed a cap of 2.5%, not 5%

Please note this **important correction to staff notes** as well as the added narrative regarding vacancy periods re-occurring after 12 months and before 24 months.

We would like to add that there should be prohibitions on any rent increase at the time of an in place transfer of ownership of a mobile home as well as exclusions to transfers to relatives.

Conway (Annual Adjustments), Pg 22

Regarding the calculating of the CPI. Average 12 month CPI vs. December

Staff Comments pg 23, 2nd paragraph, last sentence: "However, use of an average makes the CPI formula more complicated than a straight point change comparison between the current December and the prior December."

YMRA completely agrees with the Conway letter (page 47, Conway - attachment I) in regards to using the 12 month average in calculating the CPI figure (opposed to the single read from December).

In our research, we found that obtaining the average CPI changes for a 12 month period requires obtaining the changes for each of the 12 months in consideration (basically the same resource for obtaining the single December number) and dividing by 12. That result would be noted and remain the figure used for the entire year.

We have not identified where obtaining this average might be complicated.

General Important Notes

Regarding the letter from Western Manufactured Housing Communities, attachment J, page 48 in the Agenda packet, dated March 31, 2015

Julie Paule, Regional Representative points out in the second paragraph that the Rent Review Commission is new and can have difficulty making recommendations without having much, if any, working knowledge of the Rent Control Ordinance.

The letter goes on to describe the goal of the rent Control Ordinance as well as making reference to the cost when there is litigation.

It's concerning to us that directly after noting that we have a new commission, the author of this letter gives the commission some very misleading information.

We just want to note that in the third paragraph, it says, and I'll quote "It also costs Yucaipa's unaffected taxpayer millions of dollars with the accompanying litigation."

This simply isn't true as the cost to maintain the ordinance is self supporting and divided by the park owners and the mobile home park residents. When it comes to litigation, the prevailing party generally recovers the cost of litigation.



**Mobilehome Rent Review Commission
Agenda**

March 22, 2016 – 1:30 PM

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

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

PUBLIC COMMENT

DISCUSSION AND ACTION

- P. 1. **SUBJECT**: APPROVE COMMISSION MINUTES OF JANUARY 13, 2016.

RECOMMENDATION: That the Commission approve the Mobilehome Rent Review Commission Minutes of January 13, 2015.

- P. 2. **SUBJECT**: BIENNIAL REVIEW OF MOBILEHOME RENT STABILIZATION ORDINANCE AND RESOLUTION (CONTINUED FROM JANUARY 13, 2016).

RECOMMENDATION: That the City of Yucaipa Mobilehome Rent Review Commission review and consider the remaining discussion issues for the biennial review, and provide recommendations to the City Council

ADJOURNMENT

City of Yucaipa
Mobilehome Rent Review Commission Minutes
Regular Meeting of January 13, 2016

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 January 13, 2016 at 1:00 PM.

PRESENT: Hayden Martin, Chairperson
Mark Marnati, Vice-Chairperson
Mark Bender, Commissioner
James Ewing, Commissioner
Thomas Powell, Commissioner
Jennifer Shankland, Deputy City Manager/Rent Administrator
Amy Greyson, Commission Attorney

ABSENT: None

CONVENE MOBILEHOME RENT REVIEW COMMISSION

The meeting was opened with the Pledge of Allegiance led by Chairperson Martin.

CEREMONIAL

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

PUBLIC COMMENT

None

COMMISSION BUSINESS

1. **SUBJECT:** COMMISSION REORGANIZATION.

RECOMMENDATION: That the Mobilehome Rent Review Commission choose one of its members as Chairperson and another of its members as Vice-Chairperson.

DISCUSSION: Deputy City Manager/Rent Administrator Shankland provided procedural guidelines for the process and opened nominations for the position of Chairperson.

Commissioner Marnati nominated Commissioner Martin for Chairperson.

Commissioner Ewing nominated Commissioner Powell for Chairperson.

Deputy City Manager/Rent Administrator Shankland closed nominations for the office of Chairperson.

Deputy City Manager/Rent Administrator Shankland called for votes.

City of Yucaipa
Mobilehome Rent Review Commission Minutes
Regular Meeting of January 13, 2016

ACTION: AFFIRMATIVE VOTES WERE RECEIVED FROM COMMISSIONER MARNATI, COMMISSIONER BENDER, AND COMMISSIONER MARTIN, CARRIED 3-2, (COMMISSIONER EWING AND COMMISSIONER POWELL VOTED NOE) TO SELECT COMMISSIONER MARTIN FOR THE OFFICE OF CHAIRPERSON.

Deputy City Manager/Rent Administrator Shankland opened nominations for the position of Vice-Chairperson.

Chairperson Martin nominated Commissioner Marnati for Vice-Chairperson.

Deputy City Manager/Rent Administrator Shankland closed nominations for the office of Vice-Chairperson.

Deputy City Manager/Rent Administrator Shankland called for votes.

ACTION: AFFIRMATIVE VOTES WERE RECEIVED FROM CHAIRPERSON MARTIN, COMMISSIONER BENDER, COMMISSIONER EWING, COMMISSIONER MARNATI AND COMMISSIONER POWELL, CARRIED 5-0, TO SELECT COMMISSIONER MARNATI FOR THE OFFICE OF VICE-CHAIRPERSON.

DISCUSSION AND ACTION

2. **SUBJECT:** APPROVE COMMISSION MINUTES OF MARCH 4, 2015.

RECOMMENDATION: That the Commission approve the Mobilehome Rent Review Commission Minutes of March 4, 2015.

ACTION: MOTION BY COMMISSIONER POWELL, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO APPROVE MOBILEHOME RENT REVIEW COMMISSION MINUTES OF MARCH 4, 2015.

3. **SUBJECT:** BIENNIAL REVIEW OF MOBILEHOME RENT STABILIZATION ORDINANCE AND RESOLUTION

RECOMMENDATION: That the City of Yucaipa Mobilehome Rent Review Commission conduct a review of the Mobilehome Rent Stabilization Ordinance (Yucaipa Municipal Code Chapter 15.20) and the Administrative Rules last amended by Resolution No. 2011-52, and direct staff as appropriate.

DISCUSSION: Deputy City Manager/Rent Administrator Shankland proposed that the Commission review one item at a time to allow public comment and to receive Commission direction on each item separately. The Commission concurred.

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Mobilehome Rent Review Commission Minutes
Regular Meeting of January 13, 2016

RECOMMENDATIONS FOR POLICY CHANGES AND IMPROVEMENTS IN THE ADMINISTRATION OF THE ORDINANCE:

Admin #1: Temporary Rent Adjustment

Deputy City Manager/Rent Administrator Shankland presented Admin #1.

Public Comment

Tony Slaick, YMRA, requested that the Commission amend the Administrative Rules and Ordinance with language to limit recovery to the actual cost of the hearing process incurred by the legal challenge. Mr. Slaick stated YMRA's concerns pertaining to the interest rate.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), stated that as a non-profit, they run a tight budget and the cost of the litigation and the application impacts them.

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), questioned how the process would be implemented in the event the Commission denied the temporary rent increase and the court overturned that decision.

Commission Attorney Greyson provided clarification to issues raised during public comment.

Chairperson Martin closed the public comment.

Commission Attorney Greyson addressed questions raised by Commissioners.

After Mobilehome Rent Review Commission discussion, the following Motion was made:

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY COMMISSIONER BENDER, CARRIED 5-0, TO AMEND ADMINISTRATIVE RULES §6.0004(E)(1) AND ADMINISTRATIVE RULES §6.0004(G) AS DETAILED IN THE STAFF REPORT.

Admin #2: Capital Improvement Bid/Proposal Application Requirements

Deputy City Manager/Rent Administrator Shankland presented Admin #2.

Public Comment

Tony Slaick, YMRA, spoke in support of staff recommendation and requested that the language that requires the park owner to meet with the park residents "prior to the completion ..." be amended to read "prior to the application...".

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Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), spoke in support of open communication with the residents and raised concerns about being reimbursed for the improvement after the work has been completed.

Chairperson Martin closed the public comment.

Commission Attorney Greyson addressed questions raised by Commissioners.

After Mobilehome Rent Review Commission discussion, the following Motion was made:

ACTION: MOTION BY COMMISSIONER BENDER, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO AMEND YMC §15.20.085(A)(1) AS DETAILED IN THE STAFF REPORT.

Admin #3: Permits, Inspections and Quality of Code Improvements

Deputy City Manager/Rent Administrator Shankland presented Admin #3.

Public Comment

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), spoke in opposition to staff recommendation and cautioned against making administrative changes to Title 25.

Julie Paule, WMA, spoke in opposition to staff recommendation and requested that the Commission decline this recommendation.

Peter Herzog, MHET, spoke in opposition to staff recommendation and requested that this item be continued to a future meeting.

Deputy City Manager/Rent Administrator Shankland clarified the intent of Admin #3.

Commission Attorney Greyson provided clarification to issues raised during public comment and reiterated that the Commission would welcome suggestions and ideas from park owners and representatives.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), spoke in favor of moving this item to a future meeting for a more thorough discussion and raised concerns pertaining to potential added costs.

Tony Slaick, YMRA, stated YMRA's concerns pertaining to this item and requested that the Commission consider adding language to the Ordinance that would require the park owner and the tenants to each pay 50% of the cost of the Capital Improvement.

Chairperson Martin closed the public comment and recommended that this item be continued in order to obtain input from all interested parties.

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Commission Attorney Greyson advised the Commission that they have the option to delay voting on this item until the end of the meeting. The Commission moved to General #1.

The Commission returned to this item at the end of the meeting. After discussion, it was Commission consensus to request staff to return to the Commission with input provided by interested parties. It was also Commission consensus to establish February 10, 2016 as the deadline for interested parties to submit their input to the City.

GENERAL ISSUES:

General #1: Annual Adjustments

Deputy City Manager/Rent Administrator Shankland presented General #1.

Public Comment

Julie Paule, WMA, spoke in support of establishing 100% of the increase in the CPI (Option #2).

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), spoke in support of establishing 100% of the increase in the CPI (Option #2).

Peter Herzog, MHET, spoke in support of establishing 100% of the increase in the CPI (Option #2).

Tony Slaick, YMRA, spoke in support of making no change to the existing Ordinance and Rules and maintaining 80% of the increase in the CPI (Option #3).

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), requested that the Commission consider how the CPI applies to parks with lower rents versus higher rents.

Chairperson Martin closed the public comment.

After Mobilehome Rent Review Commission discussion, the following Motions were made:

ACTION: MOTION BY COMMISSIONER POWELL, SECOND BY COMMISSIONER EWING, FAILED 2-3, (CHAIRPERSON MARTIN, VICE-CHAIRPERSON MARNATI AND COMMISSIONER BENDER VOTED NOE) TO AMEND THE ANNUAL ADJUSTMENT FORMULA TO 85% OF THE INCREASE IN CPI.

ACTION: MOTION BY CHAIRPERSON MARTIN, FAILED DUE TO A LACK OF A SECOND, TO SELECT OPTION #2 OF STAFF RECOMMENDATION (100% OF THE INCREASE IN CPI, OR BY 5% PERCENT OF THE CURRENT SPACE RENT, WHICHEVER IS LESS).

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ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY COMMISSIONER POWELL, CARRIED 4-0-0-1, (COMMISSIONER EWING ABSTAINED) TO SELECT OPTION #3 OF STAFF RECOMMENDATION. (NO CHANGE TO THE EXISTING ORDINANCE AND RULES)

The Commission recessed for five minutes.

ISSUES PRESENTED BY YMRA:

YMRA #1: Application Fee and Costs to Administer Ordinance

Deputy City Manager/Rent Administrator Shankland presented YMRA #1.

Public Comment

Tony Slaick, YMRA, stated YMRA's request to amend the Ordinance or Administrative Rules to allow park residents or a group of residents to seek a waiver or postponement of the \$1,750 application fee.

Chairperson Martin closed the public comment.

ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR ADMINISTRATIVE RULES PERTAINING TO WAIVERS OF APPLICATION COSTS.

YMRA #2: Annual Adjustments

Deputy City Manager/Rent Administrator Shankland presented YMRA #2.

Public Comment

None

ACTION: MOTION BY COMMISSIONER POWELL, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT MAKE ANY AMENDMENTS TO THE ANNUAL ADJUSTMENT PROVISIONS TIED TO CHANGES OR ELIMINATION OF THE CAPITAL IMPROVEMENT RENT ADJUSTMENT PROVISIONS OF THE ORDINANCE OR ADMINISTRATIVE RULES.

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YMRA #3: Vacancy Decontrol

Deputy City Manager/Rent Administrator Shankland presented Vacancy Decontrol, reiterated the positions of YMRA #3, WMA, MHET and Rottenbacher, and addressed questions raised by the Commission.

Public Comment

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), requested that this item be postponed to allow the opportunity for discussion between the various stakeholders and spoke in support of vacancy decontrol for spaces that become vacant.

Peter Herzog, MHET, spoke in support of vacancy decontrol and requested that this item be deferred to allow the opportunity for discussion between the various stakeholders.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), spoke in support of vacancy decontrol.

Tony Slaick, YMRA, spoke in opposition to vacancy decontrol and requested that this item be postponed.

Chairperson Martin closed the public comment.

Deputy City Manager/Rent Administrator Shankland advised stakeholders that they may wish to meet to form a consensus pertaining to recommended amendments that may be included as additional information to the agenda report that will be presented to the City Council.

Commission Attorney Greyson addressed questions raised by Commissioners.

After Commission discussion, the following Motion was made:

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 4-0-0-1 (COMMISSIONER EWING ABSTAINED), TO REQUEST STAFF TO RETURN WITH VACANCY DECONTROL OPTIONS RELATING TO VACANT PADS FOR COMMISSION CONSIDERATION AND TO ESTABLISH FEBRUARY 10, 2016 AS THE DEADLINE FOR INTERESTED PARTIES TO SUBMIT THEIR INPUT TO THE CITY.

YMRA #4: Financial Information for MNOI Rent Adjustment

Deputy City Manager/Rent Administrator Shankland presented YMRA #4.

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Public Comment

None

ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR THE ADMINISTRATIVE RULES WITH REGARD TO DOCUMENTATION SUPPORTING APPLICATIONS FOR SPECIAL RENT ADJUSTMENTS INCLUDING MNOI RENT ADJUSTMENTS.

YMRA #5: Minimum Notice Requirements for Special Meetings

Deputy City Manager/Rent Administrator Shankland presented YMRA #5.

Public Comment

None

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ADMINISTRATIVE RULES WITH REGARD TO SCHEDULING OF SPECIAL MEETINGS OR MINIMUM NOTICE REQUIREMENTS FOR SPECIAL MEETINGS.

YMRA #6: Other Issues Raised by YMRA

Deputy City Manager/Rent Administrator Shankland stated YMRA #6 identified opinions and were not specific requests to change the Ordinance or Administrative Rules.

ISSUE PRESENTED BY ROSE MARY CONWAY OF BEL AIRE MOBILE ESTATES:

Conway #1: Annual Adjustments

Deputy City Manager/Rent Administrator Shankland presented Conway #1.

Public Comment

Tony Slaick, YMRA, stated support for the CPI increase based on an average of the prior year.

Chairperson Martin closed the public comment.

ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO NOT CHANGE THE EXISTING

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ORDINANCE AND RULES. (REFERENCE THE COMMISSION'S ACTION UNDER GENERAL #1)

ISSUES PRESENTED BY WESTERN MANUFACTURED HOUSING COMMUNITIES' (WMA) AND MANUFACTURED HOUSING EDUCATIONAL TRUST (MHET):

WMA #1: Annual Adjustments

(Addressed in General #1)

MHET #1: Annual Adjustments

(Addressed in General #1)

WMA/MHET #2: Capital Improvement

Deputy City Manager/Rent Administrator Shankland presented WMA/MHET #2.

Public Comment

Peter Herzog, MHET, spoke in support of automatic pass thru of capital improvements.

Commission Attorney Greyson provided clarification on the capital improvement process as it relates to the Ordinance and the Administrative Rules.

Julie Paule, WMA, spoke in support of automatic pass thru of capital improvements.

Clay Hage, Director of Operations for Park Management Inc. (Las Casitas Mobilehome Park), spoke in support of automatic pass thru of capital improvements and stated that there are alternatives.

Deputy City Manager/Rent Administrator Shankland addressed questions raised by the Commission and clarified the capital improvement application process.

Commission Attorney Greyson reiterated the administrative review process and provided background information.

Tony Slaick, YMRA, spoke in opposition of automatic pass thru of capital improvements.

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), stated concerns pertaining to capital improvements as it relates to non-profit parks and requested staff clarification pertaining to the administrative process.

Chairperson Martin closed the public comment.

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ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY VICE-CHAIRPERSON MARNATI, CARRIED 5-0, TO NOT AMEND THE ORDINANCE OR ADMINISTRATIVE RULES TO ALLOW AN AUTOMATIC RENT INCREASE BASED ON AMORTIZED CAPITAL IMPROVEMENT COSTS.

WMA #3: Vacancy Decontrol

(Addressed in YMRA #3)

MHET #3: Vacancy Decontrol

(Addressed in YMRA #3)

ISSUES PRESENTED BY ANDREW ROTTENBACHER, CALANDRA REAL, LP. ON BEHALF OF LAKEVIEW MOBILEHOME PARK

Rottenbacher #1: Annual Adjustment

(Addressed in General #1)

Rottenbacher #2: Minimal Annual Adjustments

(Addressed in General #1)

Rottenbacher #3: Vacancy Decontrol

(Addressed in YMRA #3)

ISSUE PRESENTED BY SUZANNE TAYLOR, AUGUSTA COMMUNITIES, ON BEHALF OF VALLEY VIEW MOBILEHOME PARK

Taylor #1: Nonprofit Mobilehome Parks Rent Adjustment Policy

Deputy City Manager/Rent Administrator Shankland presented Taylor #1.

Public Comment

None

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT AMEND THE ORDINANCE AND ADMINISTRATIVE RULES TO CREATE A SEPARATE PROCEDURE OR POLICY REGULATING RENTS IN NON-PROFIT PARKS.

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Taylor #2: Vacancy Decontrol

Deputy City Manager/Rent Administrator Shankland presented Taylor #2 and stated that this item pertains specifically to non-profit parks.

Public Comment

None

It was Commission concurrence at the end of the meeting to treat non-profit parks the same as profit parks. Vacancy Decontrol will be brought back for Commission consideration at a future meeting.

Taylor #4: Capital Improvements – Eliminate Park Resident Vote

Deputy City Manager/Rent Administrator Shankland presented Taylor #4.

Public Comment

Suzanne Taylor, Executive Director of Augusta Communities (Valley View Mobilehome Park), stated concerns pertaining to capital improvements and requested clarification regarding health and safety projects.

Deputy City Manager/Rent Administrator Shankland and Commission Attorney Greyson addressed questions raised by Ms. Taylor.

Tony Slaick, YMRA, spoke in opposition of eliminating the park resident's vote.

Chairperson Martin closed the public comment.

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR ADMINISTRATIVE RULES WITH RESPECT TO THE VOTE PROVISIONS RELATING TO CAPITAL IMPROVEMENT RENT ADJUSTMENTS.

Taylor #5: Capital Improvements – Approval Prior to Commencement

Deputy City Manager/Rent Administrator Shankland presented Taylor #5.

Public Comment

None

After Commission discussion, the following Motion was made:

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ACTION: MOTION BY CHAIRPERSON MARTIN, SECOND BY COMMISSIONER POWELL, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE CAPITAL IMPROVEMENT RENT ADJUSTMENT PROVISIONS OF THE ORDINANCE OR ADMINISTRATIVE RULES REGARDING TIMING OF SUBMITTAL OF CAPITAL IMPROVEMENT RENT ADJUSTMENT APPLICATIONS.

ISSUE PRESENTED BY IAN DYER, REAL ESTATE ADVISORS, INC, ON BEHALF OF YUCAIPA VALLEY AND HIDE-AWAY MOBILEHOME PARK

Dyer #1: Park Owned Mobilehomes

Deputy City Manager/Rent Administrator Shankland presented Dyer #1.

Public Comment

None

ACTION: MOTION BY VICE-CHAIRPERSON MARNATI, SECOND BY CHAIRPERSON MARTIN, CARRIED 5-0, TO SUPPORT STAFF RECOMMENDATION TO NOT CHANGE THE ORDINANCE OR ADMINISTRATIVE RULES WITH RESPECT TO PARK-OWNED MOBILEHOMES.

ADJOURNMENT

The meeting adjourned.

Hayden Martin
Chairperson

ATTEST:

Jennifer Shankland
Deputy City Manager/Rent Administrator

APPROVED AT THE MEETING OF: _____

**CITY OF YUCAIPA
MOBILEHOME RENT REVIEW COMMISSION
AGENDA REPORT**

TO: Mobilehome Rent Review Commission
FROM: Jennifer Shankland, Rent Administrator JS
FOR: Mobilehome Rent Review Commission of March 22, 2016
SUBJECT: Biennial Review of Mobilehome Rent Stabilization Ordinance and Resolution
 (continued from January 13, 2016)

RECOMMENDATION

That the City of Yucaipa Mobilehome Rent Review Commission review and consider the remaining discussion issues for the biennial review, and provide recommendations to the City Council.

DISCUSSION

The Mobilehome Rent Review Commission met on January 13, 2016, to conduct the biennial review of the Yucaipa Mobilehome Rent Stabilization Program (Chapter 15.20 of the Yucaipa Municipal Code) (“Ordinance”) and the Administrative Rules for the Implementation of the Yucaipa Mobilehome Rent Stabilization Ordinance (“Administrative Rules”). During that meeting, the Commission reached consensus on all but two issues, (1) permits, inspections and quality of capital improvements; and (2) vacancy decontrol. After discussion and comments from representatives of park management and the park residents, the Commission continued discussion of these two items to a future Commission meeting, in order to allow the stakeholders to meet and discuss these issues and to then provide input to staff on these issues for further consideration by the Commission. The Commission also requested options on vacancy decontrol relating to vacant pads for consideration by the Commission. The Commission also established February 10, 2016, as the deadline for stakeholders to submit their input to the City.

BACKGROUND

The January 13, 2016 staff report contained a discussion of each of the remaining two issues, along with the previous comments raised by park management representatives and park resident representatives. The portion of the January 13, 2016 staff report which addresses each of the issues is set forth below:

Admin

3. **(Permits, Inspections and Quality of Capital Improvements)** - State and local law regulate construction and development in mobilehome parks. The California Building Code identifies building and safety permitting requirements for construction projects. These requirements include compliance with the urban storm water runoff management requirements of the MS-4 Permit issued pursuant to California Regional Water Quality Control Board (SRWQCB Order No. R8-2010-0036, NPDES No. CAS 618036), which requires that a property owner prepare a Water Quality Management Plan and/or Storm

Water Pollution Prevention Plan for certain construction projects. The Yucaipa Development Code also identifies zoning and other use and development standards for land uses in the City including mobilehome parks. The City requires that public and private streets inside single-family subdivisions must meet City construction standards, including construction of streets to City specifications. The City Engineer is also developing a construction standard which includes minimum requirements for construction of private streets and parking areas in multi-family developments, such as apartment projects, condominium projects and mobilehome parks, to ensure quality of work and also for compliance with disability access, stormwater and drainage issues, trash, circulation, fire and safety access, and similar requirements.

The City serves as the enforcement agency for the California Mobilehome Parks Act ("MPA"), contained in Health and Safety Code ("HSC") §18200 et seq., and Chapter 2 of Division 1 of Title 25 of the California Code of Regulations ("CCR") §§1000-1758. The MPA contains provisions regulating the construction of mobilehome parks and the installation of mobilehomes in mobilehome parks, including permits to operate, construction permits, mobilehome installation permits, and inspections to ensure that the park and its residents comply with state standards. The MPA also incorporates certain requirements of the California Building Code and/or California Residential Code. Pursuant to the MPA, the City may adopt rules and regulations by ordinance or resolution prescribing park perimeter walls or enclosures on public street frontage, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks. (See Health & Safety Code §18300(g).) Also, to the extent that a mobilehome park or any portion thereof constitutes a "public accommodation" under the Americans with Disabilities Act of 1990 ("ADA"), the park must comply with certain disability access requirements of the ADA and the applicable federal regulations set forth in the 2010 Standards for Accessible Design and the California Building Code. Mobilehome parks must also comply with the requirements of the federal Fair Housing Act, which prohibits discrimination against persons with disabilities.

Staff Comments: A Capital Improvement Rent Adjustment is intended to reimburse the park owner for costs incurred in carrying out a completed capital improvement. The City sometimes receives complaints about the quality of capital improvements constructed by park owners, or objections from residents stating that they should not have to pay for capital improvements that are poorly done or will not last for the claimed useful life of the capital improvement.

The issue of deferred maintenance of mobilehome parks was addressed in previous amendments to the Administrative Rules. For example, under the MNOI Rent Adjustment process, the definition of "operating expenses" excludes costs resulting from the park owner's failure to undertake prudent and ongoing maintenance activities or costs which were caused by unnecessarily and unreasonably deferred negligent, or otherwise improper repair and/or maintenance or other acts or omissions of the park owner. (Administrative Rules, §4.0003(D)(4)(h).)

Also, when a park owner submits a Capital Improvement Rent Adjustment application, Administrative Rules, §5.0009 provides that the Rent Administrator, or the Commission on an appeal, must consider whether the costs of the capital improvement, in whole or in part, could have been minimized or avoided by the park owner through prudent and ongoing repair and maintenance activities. If the need for or extent of the claimed capital improvement was exacerbated through unnecessarily deferred, negligent or otherwise improper repair and maintenance or other acts or omissions of the park owner, those costs shall be disregarded in determining the amount of any capital improvement rent adjustment otherwise determined to be appropriate. The Rent Administrator or Commission may also condition the approval of any capital improvement rent adjustment application in order to ensure that future ongoing repair and maintenance activities will be taken by the park owner to minimize or avoid the need for replacement or reconstruction of said capital improvement in the future, including a condition providing that should the capital improvement not last the duration of the amortization period, the park owner may not pass on all or a portion of the cost of any replacement or reconstruction of the same capital improvement to the park residents.

As explained above, under the MPA, the City may enact rules and regulations regarding circulation, access and parking inside mobilehome parks, including with respect to fire, life safety, service vehicles and trash trucks. The City, as the enforcement agency under the MPA, may also ensure that the grading of lots and streets comply with the applicable drainage requirements of the MPA and Title 25 with regard to drainage, such as compliance with urban storm water runoff management requirements of the SRWQCB MS-4 permit. In order to address these concerns, the Commission may wish to consider recommending that the Administrative Rules be amended to require that if a park owner intends to apply for a capital improvement rent adjustment for expenses incurred in carrying out street improvements or flat work improvements (e.g., sidewalks, driveways, patios), the application must include a certification signed by a registered or licensed civil engineer verifying that the capital improvements meet engineering standards and federal and state law requirements. Costs incurred by the park owner for such inspections or certifications could be included in an application for a capital improvement rent adjustment submitted to the City by the park owner and if approved by the City, would become part of the capital improvement rent adjustment charged to the residents for the useful life of the improvement.

Staff Recommendation: Add new Administrative Rules §5.0010, Certification of Capital Improvements, as follows:

5.0010 CERTIFICATION OF CAPITAL IMPROVEMENTS

A. If a park owner intends to apply for a capital improvement rent adjustment for expenses incurred in carrying out street improvements or flatwork improvements (e.g., sidewalks, driveways, patios), the application shall include a

certification signed by a registered or licensed civil engineer under penalty of perjury and verifying the following:

1. That the work was carried out under the supervision of a licensed or certified engineer to make sure that the capital improvements were properly constructed in accordance with the proposal, contract or bid;

2. That the improvement meets the standards required by the City of Yucaipa AC Pavement Specifications or other engineering standards to ensure adequacy of access and parking throughout the area of the improvement;

3. That the improvement complies with all grading and drainage requirements of Title 25 including but not limited to the urban storm water runoff management requirements of the applicable MS-4 permit issued by the California State Regional Water Quality Control Board;

4. That the improvement will provide equal or improved circulation and parking areas in the mobilehome park as previously approved in the conditional use permit or other entitlement for the subject park;

5. That the improvement complies with all applicable accessibility requirements of the Americans With Disabilities Act (42 U.S.C. §12101 et seq.), including but expressly not limited to parking;

6. That the improvement will provide adequate circulation and access for fire, life safety, service vehicles and trash trucks; and

7. That the improvement will last at least as long as the amortization period.

B. The application for a capital improvement rent adjustment shall not be deemed complete by the rent administrator under YMC §§15.20.085 (A) (2) and 15.20.105 unless the application contains this certification.

Staff Recommendation: Renumber Administrative Rule, §5.0010 as §5.0011, as follows:

~~5.0010~~ 5.0011 APPLICABILITY OF THESE ADMINISTRATIVE RULES.... [continue as in current Rule]

YMRA

3. (Vacancy Decontrol) YMRA supports the Mobilehome Rent Stabilization Ordinance and Administrative Rules pertaining to Vacancy Control, on the basis that the current structure lends to a fair balance for mobilehome park owners and resident. YMRA also opposes amending the Ordinance and Administrative Rules to allow vacancy decontrol because the Annual Adjustment process allows park owners to experience gains and earn

profits that are consistent with inflation. However, YMRA also states that if the City considers adopting some form of vacancy decontrol, the City should only allow rent to increase on vacancy by one-half (50%) of the prior period CPI adjustment, or 40% of the actual CPI; that only one vacancy increase should be allowed in a 12-month period even if more than one vacancy results during that 12-month period; and the vacancy increase should also be capped at 5% of current rent. YMRA makes this suggestion in the hope that it will finally resolve the matter of vacancy control or decontrol in the City's Ordinance. (Attachment D).

WMA 3. **(Vacancy Decontrol)** WMA requests that the Ordinance be amended to provide for vacancy decontrol. WMA contends that vacancy decontrol will fundamentally change mobilehome communities for the better and reduces litigation. (Attachment J)

MHET 3. **(Vacancy Decontrol)** MHET requests that the Ordinance be amended to provide rent adjustments upon vacancy. MHET contends that allowing rent adjustments at the time of vacancy is fair and reasonable, and still protective of the residents. (Attachment K)

Staff Comments: Staff provided an extensive discussion of vacancy control and decontrol under YMRA #3, above. As noted therein, the Ordinance was enacted with a vacancy control provision in order to protect the investment of mobilehome owners in their homes, given the unequal bargaining position of residents, exorbitant rents, and the immobility of mobilehomes. If a resident sells his or her mobilehome to someone else, the park owner cannot raise the rent to market levels, and the space continues to be subject to rent control. Park owners have frequently brought legal challenges against vacancy control in the past, but those challenges have generally not been successful.

Staff Comments: The City's Ordinance defines a vacancy to mean any of the following: (i) the existence of any space on which no mobilehome is located; (ii) any transfer of ownership of a mobilehome which remains in a park; or (iii) any change in occupancy of any mobilehome space. (YMC §15.20.020) The Ordinance regulates rents upon vacancies as follows:

- The Ordinance prohibits any increase in space rent upon a vacancy resulting in the transfer of ownership of a mobilehome that remains in the park (an "in-place transfer" of ownership), or any change in occupancy of a mobilehome space (YMC §15.20.050 (A).)
- If a space is vacant because a mobilehome was removed or never had a mobilehome on it, the Ordinance also limits the rent that may be charged after a home is moved onto the space (YMC §15.20.050 (B).)
- If a homeowner buys a park-owned mobilehome, the base rent is the last regulated rent charged under the Ordinance, including any Annual Adjustments and any other Commission-approved adjustments, or, if the space was never subject to the

Ordinance, the rent is the average of the rents charged for comparable spaces in the park (YMC §15.20.050(B)(3).)

The purpose of the City's vacancy control provision is to protect the investment by mobilehome owners in their homes, given the unequal bargaining position of residents, imposition of exorbitant rents, and the immobility of mobilehomes.

In prior biennial reviews, Park Owners and Park Owner Organizations have proposed amending the Ordinance to allow rents to increase to market rent level upon an in-place transfer of a mobilehome. YMRA and the park residents have consistently been opposed to any rent increases upon such vacancies, and the City Council in the past has declined to enact any form of vacancy decontrol.

Numerous legal challenges have been brought by park owners against vacancy control ordinances in the past, but these challenges have generally not been successful. For example, the Ninth Circuit Court of Appeals rejected a facial challenge to the Goleta mobilehome park rent control ordinance in *Guggenheim v. City of Goleta*, 638 F.3d 1111 (9th Cir.2010) (en banc), cert. denied 131 S.Ct. 2455 (2011). In that case, the plaintiffs purchased their mobilehome park while it was in unincorporated land subject to a Santa Barbara County rent control ordinance. On the same day as the city's effective date of incorporation, Goleta adopted the County's rent control ordinance. The Goleta rent control ordinance contains a form of vacancy de-control, which allows a park owner to increase rents by 10% upon the sale of a mobilehome. Plaintiffs challenged the ordinance as a taking, on the grounds that the below-market rents enabled park tenants to sell their mobilehomes to new tenants at higher prices, resulting in a wealth transfer of ninety percent of the mobilehome's value from the park owners to the park tenants.

The Ninth Circuit rejected the park owners' contention. The court ruled that because the plaintiffs bought their park when it was already under the county's rent control ordinance, the plaintiffs did not suffer any taking when the newly incorporated City of Goleta adopted the county's ordinance immediately upon its incorporation. The court's opinion also suggests that future courts may consider the interests of both the park owners and park tenants in considering challenges to a rent control ordinance. The court commented that a change in the rent control ordinance would have no effect on the park owners' investment-backed expectations, since they bought the park subject to rent control, but a change in the ordinance would impair the investment-backed expectations of the tenants who bought their homes after rent control went into effect by destroying the value those tenants thought they were buying.

The *Guggenheim* decision ruled only upon a facial challenge to the Goleta mobilehome rent control ordinance containing a limited form of vacancy de-control, and the decision emphasized that the Ninth Circuit was not ruling on an as-applied challenge. As such, the viability of a challenge to an ordinance containing full vacancy control remains uncertain, particularly in any as-applied challenges.

GSMOL periodically surveys the cities and counties in California with some form of mobilehome park rent control. Their most recent survey, updated as of March 2015, indicates that out of 96 jurisdictions surveyed, 53 of those cities and counties have some type of vacancy control, such as a prohibition on any rent increase at the time of an in-place transfer of ownership of a mobilehome, exclusions for transfers to relatives, dollar caps, or caps based on a percentage of rent as of date of transfer. A copy of the GSMOL survey is enclosed with this staff report as (Attachment O).

The City of Yucaipa has 41 mobilehome parks and a total of 4,268 spaces. Examples of various types of vacancy decontrol are summarized below.

City of Oxnard (25 parks and 2,780 spaces)

Oxnard's ordinance addresses vacancy control in City Code §24-11, which contains "change of occupancy adjustment". Upon a change of occupancy of a space, the owner may increase the rent up to 15 percent of the average space rent for regulated spaces, or \$80, whichever is less. The change of occupancy increase may be applied to a specific space no more than once every five years, and is determined by the rent stabilization director once a year for each mobilehome park. A change of occupancy adjustment is not permitted upon the transfer of rights to a space by a resident to any joint tenant or blood relation by gift, devise or operation of law.

On or before January first of each year, the owner shall post a written notice stating the maximum amount of rent to be charged for each space upon change of occupancy. The notice may be revised and posted no more than three times in the next 12 months. Upon a written request, the owner must provide a resident a written commitment for the space stating the exact amount of the rent for the resident's space to be effective upon a change of occupancy. This commitment must be effective for six months.

The rent stabilization director may review a change of occupancy adjustment based on a written complaint, and it may be subject to a hearing to resolve the dispute.

County of Riverside (124 parks and 12,376 spaces)

Riverside County Code §5.36.050 allows several types of increases upon vacancies: Except as provided below, if the mobilehome space or mobilehome is (i) voluntarily vacated, abandoned or repossessed, or (ii) vacated pursuant to California Civil Code Sections 798.56 or 798.75 the landlord may adjust the rental rate to an amount determined in the park owner's discretion. However, if the mobilehome is sold in place and is to remain on site, the landlord may only increase the space rental rate to the new owner to an amount that is no greater than the average of the three highest rentals then currently being charged by the park owner for resident owner occupied spaces of comparable size, location and amenities in the park. Also, if a resident owner must move from his or her mobilehome because of a need for long term medical or custodial care, the space remains subject to the ordinance during the time that the owner is absent and

remains incapacitated. In those parks that allow subletting, the absent and incapacitated owner may sublet the mobilehome for a charge not to exceed the space rent and utilities and all legally allowable pass through costs for a period of time not to exceed twenty-four (24) months without removing the space from the protection of the ordinance.

City of Fremont (3 parks and 732 spaces)

Under Fremont Municipal Code §9.55.030(k), an “in-place transfer” is a sale, transfer or other conveyance of a mobilehome with the mobilehome remaining on the mobilehome space following the sale, transfer or other conveyance. Section 9.55.030(bb) defines “vacancy decontrol” as the partial or full removal of rent increase limitations otherwise required by this chapter when an existing mobilehome owner is party to an in-place transfer or the mobilehome is abandoned in-place.

The ordinance allows partial vacancy control upon the closure of an in-place sale, transfer or other conveyance of a mobilehome. The rent increase is limited to 15%. The provision applies to initial turnovers January 1, 2002, through December 31, 2019. The park owner may also obtain approval of an inflationary adjustment for subsequent turnovers, by transfers of title through December 31, 2019, equal to the percentage change in the Consumer Price Index between the time of the previous transfer and the time of the then relevant transfer, but capped at 15 percent.

The ordinance also allows full vacancy decontrol in certain situations. (Fremont Municipal Code §9.55.060(b)): A park owner may increase space rent in any amount (i) when a commercial purchaser replaces a mobilehome with a new or different mobilehome; or (ii) when a mobilehome is abandoned in-place or when a vacancy results from a lawful eviction. The new rent base is thereafter subject to all the requirements of the City’s ordinance. A homeowner intending to sell a mobilehome may submit a written request to the park owner for a written statement of increase in rent due to vacancy decontrol. The park owner must provide the written statement within five days, and it remains valid for 120 days. (Fremont Municipal Code §9.55.060(c)) Certain transfers are exempt from vacancy decontrol, including (i) an in-place transfer of a mobilehome to a spouse, parent, child, siblings, grandparent, grandchild, or domestic partner of the mobilehome owner or a person who was a joint tenant of the mobilehome owner on the effective date; and (ii) a temporary removal of a mobilehome to allow rehabilitation, capital improvements, or upgrades of the mobilehome or a replacement of a mobilehome with a new or different mobilehome by an existing home owner on the same space.

City of Concord (11 parks and 1,800 spaces)

Concord Municipal Code §15.05.160 defines a “vacancy decontrol space rent increase” as the increase in space rent permitted upon the qualifying sale, transfer, or other conveyance of a mobilehome. Section 15.105.190 allows limited rent increases upon vacancy. The park owner may increase space rent by ten percent upon the closure of an in-place sale, transfer or other conveyance of a regulated mobilehome space. However,

no vacancy decontrol space rent increase may be assessed where (i) an existing mobilehome owner or resident replaces an existing mobilehome with another mobilehome, occupying the same mobilehome space; (ii) where title to the mobilehome passes to the owner's spouse, domestic partner, or son/daughter who at the time of the title transfer was also a resident of the mobilehome; or (iii) a vacancy decontrol space rent increase may not be assessed to the same mobilehome space more than once every 24 months.

City of Redlands (7 or 8 parks and 684 spaces)

Under Redlands Municipal Code §5.48.100, if a mobilehome owner sells his or her home, the park owner cannot increase the rental rate above the amount of rent being paid by the seller of the mobilehome. The Ordinance does not prohibit a mobilehome park owner from increasing the monthly space rent for a mobilehome park space when the mobilehome has been removed from the park, where the mobilehome has been abandoned by its owner, or when a legal eviction of a mobilehome owner-occupant is effected by the property owner.

City of Palmdale (15 parks and 2,084 spaces)

Palmdale allows increases upon vacancy in certain situations. A "vacancy" includes any space upon which there is no mobile home, a transfer of ownership of a mobile home that remains in the park (but excluding transfer to a spouse or other specified relatives, trustees, heirs, and also excluding if a space becomes vacant because a mobile home is removed to replace it with a new mobile home). Under Palmdale Municipal Code §5.44.060, a park owner may impose a vacancy increase subject to certain procedures. Using a City-approved form, the park owner must post a notice of the rent increases that will be imposed on any space that becomes vacant in the following six months. If different rents are charged based on type of space or coach size, the notice must include the vacancy increases for those space categories. At least 15 days prior to posting the notice in the park, park management must also provide the City with a copy of the proposed notices, and also provide information including all spaces which became vacant during the previous 6-month period; the rent levels charged for re-rented spaces; dates of re-rental, and other specified information. Vacancy increases are only allowed if the vacancy results from the lawful termination of tenancy for just cause or by the voluntary termination of tenancy by the resident, and only if the park owner complies with all ordinance requirements and the rent increase does not exceed the posted amount.

STAKEHOLDER INPUT:

Following the January 13, 2016 Commission meeting, the City understands that representatives of YMRA, WMA and MHET met and discussed these two issues. The City received a letter from MHET, dated February 3, 2016, and an email from YMRA outlining their discussions. Copies of that correspondence are enclosed with this staff report. The MHET letter does not contain any specific recommendations or options on either issue. The YMRA proposals made to

the park management representatives are set out in their letter. With regard to vacancy decontrol, YMRA indicated that its proposal included a small increase of 40% of the annual CPI upon vacancy (excluding in-place transfers or transfers to relatives). YMRA also expressed a willingness to support additional vacancy increases in a future biennial review, such as an increase when a home is changed out due to a tenant move and necessary replacement for an upgrade or due to fire, modernizing, etc.

At this time, City staff has not received any further input from any of the stakeholders on either of these two remaining issues.

DISCUSSION:

As reflected in the examples of ordinances provided to the Commission, in California in this report, there are various methods used by cities and counties in addressing vacancies resulting when a mobilehome space becomes completely vacant. Examples include, but are not limited to, the following:

- Ordinances may prohibit any rent increases upon any kind of change in occupancy or vacancy (complete vacancy control).
- Ordinances may limit increases in space rent upon removal of a mobilehome from the park to only specific situations, such as (i) when a mobilehome is voluntarily vacated, abandoned, or repossessed in accordance with state law; or (ii) when a vacancy results from a lawful eviction under state law.
- Ordinances may limit the amount of permissible increases when a pad becomes vacant, such as a specific dollar limit or a defined percentage of the current space rent; other ordinances may allow space rent to be set by a level determined by park management in its discretion.
- Ordinances may limit the frequency of vacancy increases, such as (1) a limit on the number of times space rent may be increased during a 12-month period on the same space; or (2) providing that a vacancy decontrol space rent increase may not be assessed to the same mobilehome space more than once every 24 months.
- Ordinances typically provide that upon imposition of the vacancy increase, rent control thereafter applies to the space and cannot be increased except in compliance with the rent adjustment provisions of the applicable ordinance.

Staff Recommendation: Based on the comments of the Commission at the last meeting, the sample ordinances provided with this report, and the limited input received from the stakeholders since the last meeting, the Commission may wish to consider any of the following options regarding vacancy increases when a mobile home is removed from the pad and the pad becomes vacant. Staff proposes that these options be drafted to exclude vacancies that result from (i) when the mobile home remains on the space (an in-place

transfer), (ii) the home is replaced by the same tenant or resident for any reason (including age, fire, substantial destruction, or replacement with a new mobile home); or (iii) transfers of ownership of the mobile home by inheritance or other transfers to relatives, heirs, personal representatives, and successors in interest.

Option #1 (YMRA proposal): Upon a vacancy resulting in a vacant pad (as defined), the park owner may increase the last rent in effect prior to the vacancy by forty percent (40%) of the annual CPI.

Option #2: Same as Option #1, but cap the vacancy increase at five percent (5%) of the last rent in effect prior to the vacancy.

Option #3: Upon a vacancy (as defined), allow a park owner to impose a one-time space rent increase of \$25. If a space becomes vacant more than once during a calendar year, the park owner may increase the rent once more by an additional \$25 rent increase, but no further vacancy increases would be allowed regardless of the number of additional vacancies during that calendar year,

Option #4: Upon a vacancy (as defined), allow the park owner to increase the space rent by eighty percent (80%) of the annual increase in CPI (the same amount as the Permitted Annual Rent Adjustment). Also limit vacancy increases to more than twice in the same calendar year, regardless of the number of vacancies during that calendar year.

Option #5: Same as Option #4, but cap the vacancy increase at five percent (5%) of the last rent in effect prior to the vacancy.

Option #6: Allow the park owner to increase rents to market upon a vacancy (as defined).

Option #7: Require the park owner to post notice of the dollar amount or percentage of the vacancy increase in that calendar year and limit increases to the posted amount; and require prior notification to the City of the proposed vacancy increase and past 6 months' increases, before the vacancy increases are posted.

If the Commission recommends any of these options, staff also recommends that the Ordinance and Rules be amended to require park management to file notice with the City upon a vacancy, and require the park owner to update its annual registration form to list the new proposed rent within a specified number of days of the mobile home space becoming vacant. In addition, staff recommends that the Ordinance and Rules make clear that upon re-rental following a vacancy, rent control is reapplied to the space and rent increases may only be imposed in compliance with the rent adjustment provisions of the Ordinance and Rules.

The Commission may wish to consider other options for potential amendments to allow limited vacancy decontrol based on further input from the Park Residents, Park Owners and other stakeholders.

CONCLUSION:

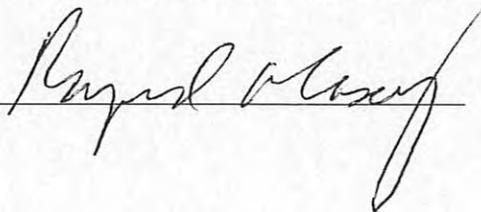
Staff requests that the Commission obtain further public input and thereafter discuss and reach consensus on the two remaining issues, (1) permits, inspections and quality of capital improvements; and (2) vacancy control or decontrol when a pad becomes completely vacant.

Following the Commission's review and discussion of this Report, the Report and any Ordinance and Resolution changes recommended by the Commission, will be presented to City Council for review and action.

Attachments:

- (1) Letter dated February 3, 2016 from Peter Herzog, MHET
- (2) Email dated February 8, 2016, from Tony Slaick, YMRA

Approved by:





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February 3, 2016

Chair Hayden Martin and Commissioners
Mobile Home Rent Review Commission
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, CA 92399

Sent via Email

Re: Biennial Review – Further Discussions on Vacancy Control

Dear Chair Martin and Commissioners:

At the January 13, 2016 Biennial Review hearing the issue of vacancy control was discussed. The result was the residents and parkowners were to privately discuss the issue further, and we were to report back by February 10.

Additional discussions have occurred between YMRA representatives, MHET and WMA with parkowner presence. Although no final agreements were reached, the discussions were very positive and fruitful. Not only was vacancy control discussed, but so were many of the varying issues surrounding the Ordinance. All parties felt positively about how the discussions went and we are in agreement to continue to meet to continue the dialogue. The parties are now reviewing the numerous points raised and plan to reconvene in the near future.

We look forward to the continuance of these initial good faith discussions between the residents and park owners.

Sincerely,

Peter Herzog
Inland Empire Representative

Cc: Jennifer Shankland
Kim Everts

Jennifer Shankland

From: Tony Slaick <datonestir@aol.com>
Sent: Monday, February 08, 2016 1:47 PM
To: Jennifer Shankland
Subject: Fwd: Rent Review Commission follow up; Vacancy Control (from 1/13/2016 meeting)

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FEB 08 2016

GENERAL SERVICES/CITY CLERK'S
DEPARTMENT

February 8, 2016

Yucaipa Mobile home Residents Association (YMRA)
Tony Slaick, Chairman
P. O. Box 1052
Yucaipa, CA 92399

Jennifer Shankland
Director of General Services/City Clerk/Rent Administrator, Rent Review Commission and City Council
City of Yucaipa
34272 Yucaipa Blvd.
Yucaipa, CA 92399

Re: Rent Review Commission follow up; Vacancy Control (from 1/13/2016 meeting) as per the Rent Review Commission's consent and encouragement.

For submission, inclusion and consideration

Biennial Review of Mobilehome Rent Stabilization , (Yucaipa Municipal Code [YMC] 15.20) and Administrative Rules - Vacancy Control

Dear Ms. Shankland,

On 2/1/2016 YMRA Chairman Tony Slaick and YMRA Vice Chairman Chuck Barnes met with Peter Herzog, Manufactured Housing Educational Trust (MHET), Julie Paule, Western Manufactured Housing Communities Association (WMA) and a Yucaipa mobile home park owner.

Our meeting was to see if we could agree on concerns relating to Vacancy Control (as the Rent Review Commission also supported and encouraged).

The Yucaipa Rent Control Ordinance has been in existence for about 25 years. There has never been a change to Vacancy Control and YMRA has approached this with a spirit of openness and cooperation.

YMRA has not been known for working *on behalf* of mobile home park owners as YMRA represents the many thousand park residents here in Yucaipa. We are looking for ways to address mobile home

park owner concerns, while supporting the park residents with efforts to protect them from possible undue or unnecessary hardships as well as possible abuses of misconduct or unethical practices.

Regarding Vacancy Control, YMRA has proposed some measures to help mobile home park owners raise rents due to various types of vacancies.

YMRA is concerned about possible misconduct and abuses to mobile home park residents by some park owners and/or their management. Most park owners/managers seem to run good honest businesses and are fair and reasonable with their residents. We have found however, that on a regular and on going basis, there are park owners/managers looking for any reason to evict tenants.

We have found that there are a number of tactics used to pressure tenants in moving and/or selling their coaches to park owners. The motivation for this is well known as YMRA receives the calls from park tenants on a regular basis and the end results often reveal that truth.

Many park owners pressure tenants in moving and/or selling their coaches in order to re-rent the coach as a park owned coach and/or with a long term lease. This allows a park owner to avoid rent control completely.

YMRA has proposed the following, including additional compromises and concessions beyond our original letter submitted to the Rent Administrator relating to changes in the Rent Ordinance during the biennial review process that began in 2015.

The proposal was as follows: Upon a vacancy in a mobile home park, the park owner would be allowed a space rent increase of $\frac{1}{2}$ of the current annual allowance of the CPI (80%, half being 40%) one time per year. YMRA initially proposed that if there were additional vacancies during the period from 12 -24 months, that would only allow a space rent increase of $\frac{1}{4}$ of the current CPI allowance of the regular annual rent adjustment (80%, $\frac{1}{4}$ being 20%). This 20% would have continued until a park had an established resident in the space for a period exceeding 12 months. YMRA has agreed to support the additional 40% CPI increase year over year without the clause requiring a 12 month occupancy as an additional compromise and also in consideration of the accounting/governance that would have impacted city staff.

YMRA would only support this if rents did not adjust with 'In Place Transfers' or transfers to relatives.

In addition, YMRA proposed that when a park owner changes out a coach, due to a tenant move and a necessary replacement for an upgrade (or due to fire, modernizing, etc), that the space rent be allowed to increase the average of the highest three rent controlled spaces in the park or 10%, whichever is greater.

YMRA felt that after 25 years of the rent control ordinance and no changes in the area of Vacancy Control, we have made a generous offer to compromise in the spirit of showing good faith, in an effort to work with park owners while protecting mobile home park residents. In our letter to the Rent Administrator regarding the biennial review of the ordinance, YMRA stated that we would only agree to the proposed changes if the changes put this issue to rest. In our recent meeting (2/1/2016) with park owner/industry representatives, this statement was brought up. YMRA agreed that we could revisit the issue of possible changes regarding park owners replacing coaches due to fires, upgrading and modernizing, etc. sometime in the future; most likely during the next biennial review of the ordinance.

YMRA feels that we are not only willing to come to the table and discuss this matter, but even asked for the opportunity. We understand that park owner industry representatives are paid to gain as much as possible for park owners. We would like to give support to reasonable proposals that benefit park owners,

however, are also concerned about possible abuses and unintended consequences. We feel it prudent to make changes that opt for caution, while recognizing that park owners can enjoy these added benefits with minimal impact to park residents.

We thank you for your consideration on the matter and look forward to further discussions in the future.

Sincerely,

Tony Slaick, Chairman YMRA
Yucaipa Mobilehome Residents Association