



# City of San Leandro

Meeting Date: May 20, 2019

## Staff Report

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**File Number:** 19-271

**Agenda Section:** ACTION ITEMS

**Agenda Number:** 10.A.

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** Staff Report for a Proposed City of San Leandro City Council Ordinance to Add Mobilehome Space Rent Stabilization to the City of San Leandro Municipal Code (An Ordinance that Would Regulate Space Rents in San Leandro Mobilehome Parks)

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### SUMMARY AND RECOMMENDATIONS

Mobilehome Parks represent an important stock of affordable housing in cities and counties throughout California. There are nine (9) Mobilehome Parks in San Leandro. In the last two years, there have been two Mobilehome Parks in the City that have changed ownership: Trailer Haven (September 2016) and Bayshore Commons, which was formerly Estudillo Trailer Park (October 2017). Subsequent to the changes in ownership, City staff received anecdotal reports of displacement and space rent increases. The Sandev Mobilehome Park is currently for sale.

On March 4, 2019, the City Council conducted a first reading of a proposed Mobilehome Rent Stabilization Ordinance ("Ordinance"). After receiving public comments, City Council instructed City staff to conduct further outreach to both Mobilehome Owners and Mobilehome Park Owners and return with a revised Ordinance for first reading.

After collecting comments and conducting further review of the ordinance, staff recommends that the City Council adopt the proposed Ordinance, which would add Chapter 4-39 "Mobilehome Space Rent Stabilization" to the San Leandro Municipal Code. In the following section, "Background & Analysis", changes/additions to the March 4, 2019 proposed Ordinance are identified and explained further. Attachment A is included with this staff report and contains the updated Ordinance in blue-lined track-changes format.

### BACKGROUND & ANALYSIS

The proposed Ordinance will establish a method to review mobilehome park space rent increases, protect Mobilehome Owners from arbitrary, capricious, or unreasonable rent increases, and ensure that mobilehome park owners, operators and/or investors receive a fair and reasonable return on their investment. In response to the March 4, 2019 City Council Meeting, Staff held two meetings--one with Mobilehome Owners on April 17 and one with Mobilehome Park Owners and industry representatives on April 25. See "Summary of Public Outreach" section below for more information on both of these meetings.

Given the feedback received from both of stakeholder meetings and public comments received to the first version of the Ordinance that was presented for first reading (see Attachment B), there were two significant changes to the Ordinance since the March 4 first reading.

The first change involves adding a section for "Just Cause for Evictions" to the Ordinance using the State of California Mobilehome Residency Law (MRL) Section 798.56 "Seven Authorized Reasons for Termination of Tenancy" as a basis. The MRL "just cause" eviction protections prohibit the owner of a mobilehome park from terminating or refusing to renew the tenancy of an individual who rents a mobilehome space except for specific reasons. Examples of such reasons include the nonpayment of rent, failure of a resident to comply with a rule in a rental agreement, and conduct by the resident that constitutes a substantial annoyance to other residents. The MRL also includes specific requirements regarding the opportunity to correct a violation that must be provided to the resident before an eviction can occur. The protections of the MRL apply throughout California.

The proposed ordinance will apply the just-cause eviction provisions of the MRL to all individuals renting a mobilehome space, regardless of the structure located thereon. For example, the provision will apply to individuals who locate certain types of recreational vehicles that fall under the proposed Ordinance on mobilehome spaces. The proposed Ordinance's just cause eviction provision applies to the rental of mobilehome spaces, but not the mobilehomes themselves. The rental of mobilehomes is governed by the City's Rent Review Ordinance (SLMC Chapter 4-32) and the Tenant Relocation Ordinance (SLMC Chapter 4-37) in addition to specific existing California laws regulating landlord-tenant contracts.

The second change replaces the Consumer Price Index (CPI), All Urban Consumers, West Region from the March 4th Ordinance with the CPI, All Urban Consumers, San Francisco-Oakland-Hayward as an annual rent increase threshold. Staff evaluated all suggested versions of the Consumer Price Index (CPI), accounting for public comments. Consequently, staff recommends that the CPI (SF-Oakland-Hayward) be used in the Ordinance because it is geographically specific. Attachment C provides a table and line graph that shows a comparison over time of the West Region vs. the San Francisco-Oakland-Hayward CPI Tables. Both CPI indices have changed annually at a similar average rate over the last 8 years, although the CPI (SF-Oakland-Hayward) rate is slightly higher (2.9% vs 2.2%) over this period.

## **Definitions**

Base Rent - rent in effect for a Mobilehome Space on July 1, 2018.

Base Year - the 2018 calendar year or, if a Fair Return Application subsequently establishes a new Base Rent, the calendar year preceding the year the application is made.

Fair Return Application - an application to the City seeking to increase space rents above one hundred percent of the Consumer Price Index (CPI) to provide a fair return to the Mobilehome Park Owner.

Mobilehome - a structure designed for human habitation and for being moved on a street or highway including manufactured homes and trailers and all other recreational vehicles of all types defined in section 18010 of the California Health and Safety Code. Recreational vehicles defined in section 799.29 of the Civil Code and section 18010 of the Health and Safety Code and certain motor homes, truck campers, and camping trailers covered under California Civil Code Section 798.3(b) (the Mobilehome Residency Law or MRL) are not included in the Ordinance's definition of Mobilehome. The MRL is the State law regulating Mobilehome Parks.

Mobilehome Owner - a person who owns a Mobilehome and legally occupies the Mobilehome within a Mobilehome Park.

Mobilehome Park - an area of land within the City of San Leandro where two or more Mobilehome Spaces are rented, or held out for rent, to accommodate Mobilehomes.

Mobilehome Space - the spaces within a Mobilehome Park intended, designed or used for the location or accommodation of a Mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith.

Mobilehome Park Owner - the owner or operator of a Mobilehome Park or an agent or representative authorized to act on said owner's or operator's behalf in connection with the maintenance or operation of the Mobilehome Park.

### **Eligibility**

The following are eligible for Mobilehome Space rent stabilization under the proposed Ordinance:

Mobilehome Owners whose space is not covered by a valid lease meeting the requirements of section 798.17(b) of the MRL, or otherwise legally exempt from local rent stabilization regulations.

Under MRL, Mobilehomes which include trailers or other recreational vehicles that have occupied a Mobilehome Space on November 15, 1992 under a rental agreement with a term of one month or longer and Mobilehomes that have occupied a Mobilehome Space in a Mobilehome Park prior to January 1, 1991.

Under MRL, trailers or other recreational vehicles that occupy a Mobilehome Space in a Mobilehome Park for nine or more continuous months on or after November 15, 1992.

### **Base Rent**

In general, the Ordinance establishes a base rent in an amount not exceeding the 90th percentile

of all rents in effect in the Mobilehome Park at the time the Mobilehome Space is rented.

Base rents under the Ordinance may change under other circumstances such as expiration of an exempt lease.

### **Space Rent Increase Cap**

Establishes an annual rent increase, which is the lesser of the increase to the applicable Consumer Price Index (CPI) defined in the Ordinance or four percent (4%) once in a twelve (12) month period.

Requires that Mobilehome Park Owners provide written notice of rent increase or capital improvement/replacement pass-through charges to the City's Rent Review Officer and each affected Mobilehome Owner at least 90 days before the rent increase goes into effect or as required by the MRL.

### **Special Circumstances Households**

The proposed Ordinance addresses Mobilehome Owners whose incomes and capacity to pay rent are limited based on objective factors. The Ordinance provides protections from capital improvement pass-throughs to "Special Circumstances Households" based on the following objective factors:

- One (1) resident that is sixty-two years of age or older; or
- One (1) resident qualified as disabled as defined by Title 42, United States Code section 423 or handicapped as defined by California Health and Safety Code Section 50072; and
- A total household income that is below fifty percent (50%) of the Alameda County area median household income as established annually by the U.S. Department of Housing and Urban Development, or closest equivalent if the HUD income limits no longer exist.

### **Exemptions**

The proposed ordinance recognizes that California state law provides for certain exemptions that preempt local law including the following:

- Newly constructed Mobilehome Spaces initially held out for rent after January 1, 1990.
- A Mobilehome Space upon which there is a Mobilehome that is not the principal or primary residence of the Mobilehome Owner.
- Civil Code Section 798.17(b) allows an exemption from any city ordinance that establishes a maximum amount that a landlord may charge a tenant if there is a different rent amount allowed in a signed rental agreement. This is allowed only while the rental agreement is active and has not lapsed.



- Mobilehomes or Mobilehome Parks owned or operated by any governmental agency.
- Any Mobilehome that is also a rental unit where the rent is subsidized pursuant to a public program that limits the rent that can be charged for the Mobilehome.
- Mobilehome Parks with fewer than 10 spaces.

### **Vacancy Decontrol**

Under the Ordinance, it would be lawful for a Mobilehome Park Owner or operator to charge a new Mobilehome Space rent beyond the space rent thresholds established under the Ordinance pursuant to the following:

- Voluntary in place sale or transfer of a Mobilehome which remains in place on the space or pad.
- Voluntary removal of a Mobilehome by the Mobilehome Owner who will no longer reside in the park.
- Vacancy occurring after the park owner obtains a judgement of unlawful detainer or other legal termination of tenancy.
- Abandonment of the Mobilehome.

The Ordinance establishes the following circumstances where it would be unlawful for a Mobilehome Park Owner or operator to charge Mobilehome Space rent beyond the space rent thresholds under the Ordinance:

- Mobilehome Owner replaces his/her mobilehome unit on the existing space.
- Mobilehome owner legally transfers title to existing lawful residents of the Mobilehome, or the Mobilehome Owner legally transfers title to a parent or parents, siblings, children, grandchildren, nieces or nephews.

### **Fair Return Rent Increase**

The Ordinance establishes a method to ensure a fair rate of return to park owners based on the concept of Maintenance of Net Operating Income (MNOI).

Provides a method to calculate Net Operating Income (NOI) based on Gross Rental Income and Operating Expenses (as both are defined in the Ordinance). NOI would be calculated by subtracting operating expenses from gross rental income.

Gross rental income would not include: utility charges for submetered gas and electricity; charges for water, refuse disposal, sewer service and/or other services provided by or charged to the Mobilehome Owner solely on a pass-through basis and/or are regulated by state or local law,

laundry service charges, storage charges, and rental income spaces exempted from rent limits by state law or the Ordinance.

Operating expense exclusions would include: mortgage principal or interest payments or other debt service costs; penalties, fees or interest assessed or awarded for violations of the Ordinance or other laws; depreciation; political contributions; and master-metered gas and electricity services.

### **Process to Consider Alternate or Settlement Proposals**

The Ordinance allows an opportunity for - and a period where - either the Mobilehome Owner(s) or Mobilehome Park landowner may propose an alternative and mutually agreeable rent change.

If an offer for settlement is rejected and the rejecting party fails to obtain a more favorable decision or award, the rejecting party cannot recover his or her post-offer legal expenses and must pay for the offering party's legal costs from the time of the offer. When settlement offers have been submitted in a timely manner, but neither were accepted, the Rent Review or Hearing Officer may assign responsibility for legal costs based on which party failed to obtain a more favorable decision.

### **Procedures for Rent Review**

The Ordinance allows Mobilehome Park Owners and affected Mobilehome Owners a request for review by the Rent Review Officer once within any 12-month period year for applications seeking:

- Rent increase based on a Fair Rate of Return;
- Temporary increase in rent based on a Capital Improvement Cost pass-through;
- Temporary increase in rent based on a Capital Replacement Cost pass-through;
- Rent reduction based on a reduction of services by the Mobilehome Park Owner.

Notification of the rent review application must be sent to the Mobilehome Owner, or the owner's representative. A copy of the rent review application must also be available for public review and copying in City Hall during normal business hours. The Rent Review Officer may determine the need for financial expertise (a certified public accountant, for example) to verify the accuracy of application-related financial documentation.

Applications for rent review will be decided by the Rent Review Officer, which will be the Community Development Director or his or her designee, based on substantial evidence and without a hearing or personal appearances by any of the involved parties or their representatives. The Rent Review Officer's determination will be mailed and emailed to the park owner and the Mobilehome Owners, and if applicable, to their representatives.

### **Appeal of the Rent Review Officer's Decision**

The proposed ordinance provides procedures for appealing the Rent Review Officer's decision. There will be a 30 day deadline from the date the Rent Review Officer mailed his or her decision. For Mobilehome Owners to appeal a rent increase or pass-through, at least 25% of the affected Mobilehome Owners within the park must sign the appeal application.

A Hearing Officer would review and make a decision regarding the appeal. The Hearing Officer will be a licensed attorney and member of the California Bar. The Hearing Officer will be selected through the California Office of Administrative Hearings (OAH), or through the City Manager if the OAH is unable to provide hearing officers. The Hearing Officer must conduct a public hearing where both the park owner and Mobilehome Owners can attend and present their cases.

### **Rights of Prospective Mobilehome Owners**

The proposed ordinance requires that Mobilehome Park Owners offer to prospective Mobilehome Owners in the City's Mobilehome Parks the right to receive the benefits of the Ordinance, that they are offered an initial lease agreement of at least 12 months, and that they provide a copy of this Ordinance for the prospective Mobilehome Owner's information.

### **Annual Registration/Noticing**

The proposed Ordinance requires that Mobilehome Park Owners register with the City annually. The City will track contact information and the name of the legal entity, if any, that has an ownership interest in the Mobilehome Park. Additionally, the annual registration will require information on the rents as well as any other charges by the Mobilehome Park Owner for a Mobilehome Owner's occupancy of a Mobilehome Space. In recent years, when Mobilehome Parks have changed ownership, the City has invested significant staff time to address problems and conflicts with these changes in ownership. The Ordinance proposes that the City and all Mobilehome Owners in a Mobilehome Park must be notified of any change in ownership, and that the prospective park owners will be informed of the Ordinance.

### **Prohibition of Retaliation**

The following conduct by a Mobilehome Park Owner will be considered unlawful under the Ordinance:

- Eviction of a tenant as retaliation for organizing, petitioning, or exercising rights granted by the Ordinance.
- Any retaliatory conduct, including threats to bring an action to recover possession of a mobilehome park space, harassment, unlawful mobilehome park space rent increases, or unlawfully imposing requirements.

### **Miscellaneous**

An affected Mobilehome Owner may refuse to pay any illegal rent in excess of the maximum rent increase amount authorized under the proposed Ordinance. Such unpaid rent in excess of the

maximum rent increase permitted will be a defense in any action brought to recover possession of a Mobilehome Space for nonpayment of rent or to collect the illegal rent.

The following rent increases may be implemented anytime during the year: 1) government mandated expense pass-throughs, 2) utility pass-throughs, 3) capital improvement pass-throughs, and 4) in-place transfer rent increases (e.g., eligible change of ownership of the Mobilehome unit, which remains in its space).

All prospective tenants must be offered the option of a tenancy of 12 months or less upon terms consistent with the proposed Ordinance unless the Mobilehome Park Owner and the Mobilehome Owners mutually agree upon their own lease terms.

### **Previous Actions**

On July 16, 2018, staff provided the City Council general information on the status of City Mobilehome Parks. City Council members requested that staff return to the City Council Rules Committee for further discussion and public input regarding mobilehome park space rent.

On January 14, 2019, the City Council held a work session regarding the elements of a proposed Ordinance. City staff summarized key components for an ordinance and presented comparable local ordinances. The City Council provided comments and direction to staff to prepare the Ordinance.

On March 4, 2019, the City Council conducted a first reading of a proposed Mobilehome Rent Stabilization Ordinance. After receiving public comments and asking questions, City staff was instructed to do further outreach and collect comments from both Mobilehome owners and Mobilehome park owners.

### **Committee Review and Actions**

On October 22, 2018, the City Council Rules Committee held a meeting to receive public input regarding 1) mobilehome park space rents. The City Council Rules Committee directed staff bring the matter to a January 2019 City Council Work Session.

### **Applicable General Plan Policies**

Housing Element Goal 56 Affordable Housing Conservation; Policy 56.08, Conservation of Mobile Home Parks - promote the conservation and rehabilitation of mobile home parks without displacing tenants or reducing the number of affordable units. Mobile home parks should be recognized as an important affordable housing resource for San Leandro's seniors and low-income households.

Housing Element Policy Action 56.08-A: Mobile Home Rent Stabilization - Consider adopting a mobile home rent stabilization ordinance similar to the agreement currently in effect for Mission Bay. (The agreement would apply more broadly to residents of all mobile home parks in the city and help protect the city's supply of mobile homes.)

## **Environmental Review**

Approval of the ordinance is exempt from further environmental review under the general rule in California Environmental Quality Act (CEQA) Guidelines Section 15061(b)(3) that CEQA only applies to projects that have the potential for causing a significant effect on the environment.

## **Summary of Public Outreach Efforts**

A community meeting with mobilehome Owners was held on April 17, 2019 at the San Leandro Senior Center. There were 52 people in attendance. Of those attendees there were 42 tenants (or 80% of all meeting attendees) representing all nine San Leandro Mobilehome Parks, 2 former residents of Bayshore Commons who currently self-identify as being homeless, 7 tenant advocates, an attendee identifying themselves as a "SL Tenant," and a representative from Assembly Member Rob Bonta's office. Public comments highlighted concerns with the instability of future rent increases, evictions due to infeasible rent increases, and inadequate park conditions.

The meeting with Mobilehome Park Owners had in attendance owners from five of the nine San Leandro Mobilehome Parks in addition to representatives from two industry groups: staff from Western Manufactured Housing Communities Association and a board member from the Rental Housing Association of Southern Alameda County. The public comments from park owners and the industry representatives included opposition to a permanent space rent stabilization ordinance for a variety of reasons (e.g., cumbersome regulations, inadequate fair return) and support for a direct agreement between the City and park owners for space rent stabilization limits over a shorter term period with higher and wider floor/ceiling space rent thresholds.

For tonight's meeting and prior City Council public meetings regarding mobilehome park space rent stabilization, city staff contacted the owners and/or owners' representatives of all nine Mobilehome Parks. The City also sent notices to all park residents. Staff emailed copies of the notice to an ongoing interested parties email list. A notice for tonight's meeting was also posted online on Nextdoor.

All public comments received in writing as of the finalization of the agenda materials are included with the agenda (see Attachment B).

## **Legal Analysis**

The proposed Ordinance was prepared by the City Attorney's Office and staff.

## **Fiscal Impacts**

The projected annual cost to administer the Ordinance could range from approximately \$30,000 to \$75,000 depending on the volume of applications for review and appeals. Thus, Ordinance administration could impact the General Fund should fee revenue to offset the costs not be approved. The Ordinance, as proposed, does establish the options for an administrative fee based on a dollar amount per each Mobilehome Space in the City pending future approval by the City Council. The annual fee would cover the costs to administer the Ordinance, including city staff

(e.g. a Senior Housing Specialist, Project Specialist, or City Attorney time), a Rent Review Officer, a Hearing Officer, and professional financial services (such as a certified public accountant). Mobilehome Park Owners may pass through up to 50% of any fee approved by the City to Mobilehome Owners in their parks.

**Attachment to Staff Report**

Attachment A: Proposed Mobilehome Rent Stabilization Ordinance (redline)

Attachment B: Public Written Comments after February 26, 2019

Attachment C: Consumer Price Index - Western Region vs. San Francisco-Oakland-Hayward

**Attachment to Ordinance**

Exhibit A: Proposed Mobilehome Rent Stabilization Ordinance (clean)

**PREPARED BY:** Maryann Sargent, Senior Housing Specialist, Community Development Department

**SECTION 1.** Article 1, **Mobilehome Park Rent Stabilization**, is hereby created in [Chapter 4-39, Mobilehome Park Regulations, of Title 4 Public Welfare] of the San Leandro Municipal Code as follows:

**TITLE** [4] – [PUBLIC WELFARE]  
**CHAPTER** [4-39] – MOBILEHOME SPACE RENT STABILIZATION  
**ARTICLE** [1] – DEFINITIONS

**[4-39-100] Short Title.**

This Chapter shall be known as the “Mobilehome Space Rent Stabilization Ordinance.”

**[4-39-105] Definitions.**

For purposes of this Chapter, the following words, terms and phrases shall be defined as follows:

- A. “Affected Mobilehome Owners” means those Mobilehome Owners whose Space Rent is affected by a Rent adjustment made pursuant to this Chapter that is not covered by a valid lease meeting the requirements of California Civil Code section 798.17(b) of the Mobilehome Residency Law, or otherwise legally exempt from local rent stabilization regulation.
- B. “Base Rent” means the Rent in effect for that Space on July 1, 2018, as adjusted in accordance with this Chapter.
- C. “Base Year” means the 2018 calendar year or, if a Fair Return Application subsequently establishes a new Base Rent pursuant to this Chapter, the calendar year preceding the year the application is made for the new Base Rent that is established.
- D. “Capital Improvement” means the installation of new improvements and facilities not including ordinary maintenance or repairs or Capital Replacement Costs. Capital Improvements are required to be amortized over the useful life of the improvements pursuant to the provisions of this Chapter and the United States Internal Revenue Code.
- E. “Capital Improvement Costs” means all costs reasonably and necessarily related to the planning, engineering and construction of Capital Improvements and shall include debt service costs, if any, incurred as a direct result of ~~the~~ Capital Improvements. Capital Improvement Costs does not include ordinary maintenance or repairs or Capital Replacement Costs.
- F. “Capital Replacement” means an improvement required to maintain the common facilities and areas of the park in a decent, safe and sanitary condition or to maintain the existing level of park amenities and services. A Capital Replacement is an expenditure as defined by the United States Internal Revenue Code ~~which that~~ replaces, upgrades or repairs an existing improvement, such as, but not limited to, an onsite water or electrical distribution or sewage collection system, a street, a parking area, or common facility, such as a laundry, community kitchen or meeting room. If the expenditure qualifies for treatment as a capital expenditure which must be depreciated under the Internal Revenue Code, it is a Capital Replacement. If it can be fully deducted in one year as a business expense, it does not qualify as a Capital Replacement.
- G. “Capital Replacement Costs” means all costs reasonably and necessarily related to the planning, engineering and construction of Capital Replacement and shall include debt service costs, if any, incurred as a direct result of the Capital Replacement. Capital

Replacement does not include Capital Improvement Costs.

- H. “Consumer Price Index or CPI” means the ~~annual percentage change~~ ~~monthly data on changes~~ in the prices paid by urban consumers for a representative basket of goods and services. For purposes of this Ordinance, the consumer price index is defined follows: All Urban Consumers, ~~San Francisco-Oakland-Hayward, CA Area West Region~~ All Items, 1982-1984=100, as published by the United States Bureau of Labor Statistics of the United States Department of Labor.
- I. “Fair Return Application” means an application made to the City that seeks to increase Space Rents beyond the lesser of the CPI or four (4) percent during the most recent twelve-month period ending December of the prior year in order to provide a fair return to the Park Owner.
- J. “Hearing Officer” The City Manager or their designee who conducts a hearing or hearings pursuant to this Ordinance. The minimum qualifications of the Hearing Officer shall be as established by the rent review procedures. A person shall not be appointed as a Hearing Officer if the City Manager or designee determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a mobilehome owner, a park owner or an immediate family member of a mobilehome owner or park owner shall be ineligible to serve as a Hearing Officer.
- K. “Interest Allowance on Amortized Expenses” means the interest rate on the cost of the amortized expense equal to the “average rate” for 30-year fixed rate home mortgages plus two percent. The “average rate” shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (“PMMS”) as of the date of the initial submission of the application. In the event that this rate is no longer published, the index which is most comparable to the PMMS index shall be used.
- L. “Legal Expenses” means reasonable attorney’s fees, expert witness’ fees, and legal costs.
- M. “Mobilehome Residency Law” means the California Mobilehome Residency Law codified in California Civil Code Section 798 *et seq.* as now enacted and hereafter amended.
- N. “Mobilehome” has the meaning set forth in Section 798.3 of the Mobilehome Residency Law, ~~which is defined~~ as of the date of enactment of this Chapter as follows:
  - 1. A structure designed for human habitation and for being moved on a street or highway under permit pursuant to section 35790 of the Vehicle Code, including a manufactured home, as defined in section 18007 of the Health And Safety Code, and a mobilehome, as defined in section 18008 of the Health And Safety Code, but, except as provided in subsection 2 of this definition, does not include a recreational vehicle, as defined in section 799.29 of the Civil Code and section 18010 of the Health and Safety Code or a commercial coach as defined in section 18001.8 of the Health and Safety Code.
  - 2. "Mobilehome" for purposes of this Chapter and pursuant to California Civil Code section 798.3(b) “includes trailers and other recreational vehicles of all types defined in section 18010 of the Health and Safety Code, other than motor homes, truck campers, and camping trailers, which are used for human habitation, if the occupancy criteria of either subsection [2a] or [2b] of this definition, as follows, are met:”



- a. “The trailer or other recreation vehicle occupies a mobilehome site in the park, on November 15, 1992, under a rental agreement with a term of one month or longer, and the trailer or other recreational vehicle occupied a mobilehome site in the park prior to January 1, 1991.” (Civil Code section 798.3(b)(1))
- b. “The trailer or other recreational vehicle occupies a mobilehome site in the park for nine (9) or more continuous months commencing on or after November 15, 1992.” (Civil Code section 798.3(b)(2))
- O. “Mobilehome Owner” means a person who is the owner of a Mobilehome and legally occupies the Mobilehome within a Mobilehome Park.
- P. “Mobilehome Park” or “Park” has the meaning set forth in Section 798.6 of the Mobilehome Residency Law, which is defined as of the date of enactment of this Chapter as any area of land within the City of San Leandro where two (2) or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes used for human habitation.
- Q. “Mobilehome Space” or “Space” is the site within a Mobilehome Park intended, designed or used for the location or accommodation of a Mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith.
- R. “Mobilehome Park Owner” or “Park Owner” means the owner or operator of a mobilehome park or an agent or representative authorized to act on said owner’s or operator’s behalf in connection with the maintenance or operation of such park.
- S. “Party” means any Affected Mobilehome Owner and/or Park Owner involved in proceedings under this Chapter.
- T. “Prospective Mobilehome Owner” means a person who is in the process of negotiating a Space tenancy in a Mobilehome Park.
- U. “Rent” means any consideration, including any bonus, benefit or gratuity demanded or received by a Park Owner for, or in connection with, the use or occupancy of a Mobilehome Space, or in connection with the assignment of a lease, or in connection with subleasing of a Space. Rent shall not include:
  - 1. Utility charges for sub-metered gas and electricity.
  - 2. Charges for water, refuse disposal, sewer service, and/or other services, which are either provided and charged to Mobilehome Owners solely on a cost pass-through basis and/or are regulated by state or local law.
  - 3. Any amount paid for the use and occupancy of a Mobilehome unit (as opposed to amounts paid for the use and occupancy of a Mobilehome Space).
  - 4. Charges for laundry services.
  - 5. Storage charges.
- V. “Rent Increase” means any increase in Base Rent charged by a Mobilehome Park Owner to a Mobilehome Owner or offered to a Prospective Mobilehome Owner.
- W. “Rent Review Officer” means the Community Development Director or designee who shall

serve as the Rent Review Officer to administer and enforce the provisions of this Ordinance. The Rent Review Officer shall have the power and duty to receive, investigate, and make findings and decisions regarding petitions for rent adjustment.

- X. “Rent Stabilization Administration Fee” means the fee established by this Ordinance and amended from time to time by resolution of the City Council in accordance with the provisions of this Chapter.
- Y. “Service Reduction” means a decrease or diminution in the basic service level provided by the Park Owner occurring at any time since January 1, 2019, including but not limited to services the Park Owner is required to provide pursuant to:
  - 1. California Civil Code Sections 1941.1 and 1941.2.
  - 2. The Mobilehome Residency Law, California Civil Code Section 798 *et seq.*
  - 3. The Mobilehome Parks Act, California Health and Safety Code Section 18200 *et seq.*, or
  - 4. An express or implied agreement between the Park Owner and the Space tenant.
- Z. “Special Circumstances Household” means a Mobilehome Owner or anyone else leasing a Space who has the following characteristics at the time of notice or implementation of a Mobilehome Park Owner action prescribed by this Ordinance:
  - 1. Is sixty-two (62) years of age or older; or
  - 2. Qualifies as disabled as defined by Title 42, United States Code section 423 or
  - 3. handicapped as defined by California Health and Safety Code Section 50072; and
  - 4. Has total household income at or below fifty percent (50%) of the Alameda County area median household income as established annually by the U.S. Department of Housing and Urban Development, or closest equivalent if the HUD income limits no longer exist.

**SECTION 2.** Article 2, **Mobilehome Park Rent Stabilization**, is hereby created in [Chapter 4-39, Mobilehome Park Regulations, of Title 4 Public Welfare] of the San Leandro Municipal Code as follows:

**TITLE** [4] – [PUBLIC WELFARE]  
**CHAPTER** [4-39] – [MOBILEHOME PARK RENT STABILIZATION PROGRAM]  
**ARTICLE** [2] – [GENERAL PROVISIONS]

**[4-39-200] Purpose.**

The purpose of this Article is to establish an efficient method for reviewing certain requested Mobilehome Space Rent Increases in Mobilehome Parks to protect Mobilehome Owners from arbitrary, capricious or unreasonable Rent adjustments while enabling Park Owners and/or operators and investors to earn a fair and reasonable return on their investment in their Mobilehome Parks.

**[4-39-202] Definitions.**

Unless specifically defined in this Article or the context specifically requires otherwise, the terms used

herein are defined in Article 1, Definitions, of this Chapter.

**[4-39-205] Applicability.**

This Article shall be applicable to all Mobilehome Spaces within the City of San Leandro except those specifically exempted by this Chapter or state law.

**[4-39-207] Exemptions.**

- A. The following exemptions from local Rent regulations are provided by state law:
  - 1. Spaces that are subject to a lease that exempts that Space from Rent regulation pursuant to the Mobilehome Residency Law.<sup>1</sup>
  - 2. New Mobilehome Spaces exempted pursuant to Civil Code section 798.45 of the Mobilehome Residency law.<sup>2</sup>
  - 3. Spaces that are not the principal residence of the Mobilehome Owner, and that are exempt pursuant to California Civil Code Section 798.21 of the Mobilehome Residency Law.
- B. This Article shall not apply to Mobilehomes or Mobilehome Parks owned or operated by any governmental agency or any rental unit where Rent is subsidized pursuant to a public program that limits the Rent that can be charged for the Mobilehome.
- C. This Article shall not apply to Mobilehome Parks with fewer than ten (10) Spaces.

**[4-39-210] Base Rent.**

- A. Base Rent in 2018 for Non-exempt Spaces. Base Rent in 2018 for non-exempt Spaces means the Rent in effect for that Space on July 1, 2018. Except as provided in this Article, a Mobilehome Park Owner shall not demand, accept or retain Rent for a Mobilehome Space exceeding the Base Rent.
  - 1. If a previously rented Mobilehome Space was not rented in the 2018 calendar year, the Park Owner shall not demand, accept, or retain Rent for said Space in an amount exceeding the 90th percentile of all subject Rents in effect at the time the Space is rented. The Park Owner shall provide evidence verifying compliance with the terms of

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<sup>1</sup> Civil Code section 798.17(a)(1) (“Rental agreements satisfying the criteria for exemption under Civil Code Section 798.17(b) shall be exempt from any city ordinance, rule, regulation, or initiative measure that establishes a maximum amount that a landlord may charge a tenant for rent. The terms of a rental agreement meeting the criteria of subdivision 798.17(b) shall prevail over conflicting provisions of an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks, only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months’ duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.”)

<sup>2</sup> Civil Code sections 798.45 and 798.7 (Newly constructed Mobilehome Spaces initially held out for rent after January 1, 1990 “shall be exempt from any city ordinance, rule, regulation, or initiative measure adopted by any city, county, or city and county, which establishes a maximum amount that a landlord may charge a tenant for rent.”)

this provision to the Rent Review Officer upon request.

2. If an existing Mobilehome Space is rented for the first time after the 2018 calendar year, the rent charged by the Park Owner in that year shall be the Base Rent for the Space.

B. Base Rent Following Expiration of an Exempt Lease. Base Rent for a Mobilehome Space that becomes subject to this Chapter upon the expiration of an exempt lease shall be the Rent in effect under the exempt lease as of the date of its expiration. Mobilehome Space Rents shall be verified by information required on the annual registration application or any other documentation required by the City.

C. Base Rent Following Termination or Permanent Removal. Under either of the following circumstances listed below, a Park Owner shall be permitted to charge a new Base Rent for the Mobilehome Space not to exceed the 90th percentile of all subject rents in effect at the time the Space is rented:

1. The termination of the tenancy of the Affected Mobilehome Owner in accordance with the Mobilehome Residency Law; or
2. The voluntary permanent removal of a Mobilehome by a Mobilehome Owner. A removal of the Mobilehome from the Space for the purpose of performing rehabilitation or Capital Improvements to the Space or for the purpose of upgrading the Mobilehome shall not constitute a voluntary removal of the Mobilehome.

The Park Owner shall provide evidence verifying compliance with the terms of this provision to the Rent Review Officer upon request.

D. Base Rent Following a Fair Return Application. Base Rent shall be the allowable Rent determined as a result of a Fair Return Application.

**[4-39-212] Annual Rent Increases.**

A. Annual Rent Increase:

1. Starting in 2019, on or after January 1 of each year, a Mobilehome Park Owner may impose a Rent Increase for a Mobilehome Space that shall be equal to the lesser of CPI or four (4) percent of the Rent charged for the Space in the preceding year, except as permitted by this Article in accordance with a CPI Decrease, an In-place Mobilehome transfer, or extraordinary circumstances. Such Rent Increase may be imposed once in any twelve (12) month period.
2. CPI Decrease: In the event that the CPI decreases, no Rent decrease shall be required pursuant to this Section.

B. Notice of Allowable Annual Rent Increase.

1. Calculation of Annual Increase. The allowable annual Rent Increase shall be equal to the lesser of CPI or four (4) percent annually unless the Rent Review Officer or designee elects to set an alternate cap on the annual increase due to a CPI Decrease or extraordinary circumstances.
2. Notice of Annual Increase. If the Rent Review Officer elects to change the amount

of the Annual Increase due to a CPI Decrease or extraordinary circumstances, notice shall be: (a) posted by February 15 of each year in City Hall and on the City's website, (b) mailed and/or emailed by the City to each Park Owner and Affected Mobilehome Owner in each Park, and (c) posted by the Park Owner on a notice board in each Mobilehome Park within three business days after it is received by the Park Owner.

- C. Compliance with State Law. Rent Increases permitted pursuant to this Section shall not be effective and shall not be demanded, accepted, or retained until the Park Owner has given the notice required by state law.
- D. Notice: A written notice of the amount and duration of each Rent Increase or new or increased Capital Improvement Cost or Capital Replacement Cost pass-through charge made under the provisions of this Section shall be filed by the Park Owner with the Rent Review Officer or designee, and provided to each Affected Mobilehome Owner, at least ninety (90) days before the Rent Increase goes into effect or as required by the Mobilehome Residency Law. The notice shall identify the Park and shall specify the dollar amount of the increase, the percentage of the increase, the duration of the increase, an itemization of all new or increased pass-throughs and additional Rent charges, the specific Space affected, the date the increase will go into effect, how each increase was calculated, and the date the Rent on each affected Space was last increased. The notice shall also advise each Affected Mobilehome Owner of any right to petition for review of a proposed Rent Increase and that a petition form may be requested from the Rent Review Officer or Designee.

**[4-39-215] Vacancy Decontrol, Rent Increases and Establishment of New Base Rent.**

- A. A Park Owner shall be permitted to charge a new Space Rent for a Mobilehome Space subject to the terms of this chapter whenever a lawful Space vacancy occurs. The new Space Rent shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated. For the purposes of this chapter, a lawful Space vacancy is defined as any of the following:
  - 1. Voluntary in place transfer, which is a sale, transfer or other conveyance of a mobilehome with the mobilehome remaining on the mobilehome space following the sale, transfer or conveyance. A transfer of title whereby the Mobilehome Owner adds or removes one or more co-owners and continues to reside in the mobilehome as their primary residence shall not constitute an in-place transfer. No increase may be imposed pursuant to this Section when an existing Mobilehome Owner replaces an existing Mobilehome with another Mobilehome, occupying the same Mobilehome Space. No increase may be imposed pursuant to this Section where title to the Mobilehome passes to one or more person(s) who, at the time of the title transfer, (1) was/were also lawful, authorized resident(s) of the mobilehome, or (2) were/are parents, siblings, children, grandchildren, nieces, or nephews of the Mobilehome Owner and the Mobilehome remains in the same Space. A Park Owner may not condition an in-place transfer of a Mobilehome, or condition the assignment of an existing lease to a prospective Mobilehome Owner that is subject to this Ordinance, upon agreement to an increased Rent.
  - 2. Voluntary removal of a mobilehome by the mobilehome owner who will no longer be a resident of the Park. Removal of the mobilehome from the Space for the purpose of performing rehabilitation or Capital Improvements to the Space or for the purpose of upgrading the mobilehome with a newer mobilehome shall not constitute a voluntary removal of the mobilehome under this section.

3. A vacancy occurring after the Park Owner obtains a judgment of unlawful detainer (an eviction), a judgment of abandonment for an “abandoned mobilehome” as defined by and pursuant to the Mobilehome Residency Law, or other termination of the tenancy of the Affected Mobilehome Owner in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.60, as amended.
4. Abandonment of the mobilehome as determined by a judgment of abandonment pursuant to section 798.61 of the Mobilehome Residency Law.

B. Rent Increases authorized by this Section shall be in addition to any other Rent Increases authorized by this Chapter.

**[4-39-217] Fair Return Rent Increases.**

- A. Fair Return. A Park Owner has the right to obtain a Rent Increase to maintain net operating income (“MNOI”) equal to the Base Year net operating income adjusted by the percentage increase in the CPI since the Base Year. It shall be presumed this standard provides a fair return. Nothing in this Article shall preclude the Rent Review Officer, or Hearing Officer if on appeal, from granting a Rent Increase that is necessary in order to meet constitutional fair return requirements.
- B. If a Park Owner presents evidence to the Rent Review Officer, or Hearing Officer if on appeal, including any financial records requested by the Rent Review Officer, which proves that the Park Owner is denied a fair return by the provisions of this Article, the Rent Review Officer, or Hearing Officer if on appeal, may authorize an increase in Rent as deemed appropriate by the Rent Review Officer, or Hearing Officer if on appeal, to provide a fair return to the Park Owner. The Rent Review Officer, or Hearing Officer if on appeal, shall use the method set forth in this Article to determine the fair return.

**[4-39-220] Method to Determine a Fair Return.**

- A. Maintenance of Net Operating Income: It shall be presumed that the net operating income produced by the property during the Base Year provided a fair return. A Park Owner shall be entitled to Rents sufficient to earn a fair and reasonable return and to maintain and increase the Base Year net operating income in accordance with this Section. This method shall be called maintenance of net operating income (“MNOI”) and shall be included in all Fair Return Applications.
- B. Adjustment of Base Year Net Operating Income: The Park Owner or the Affected Mobilehome Owners may apply to the Rent Review Officer to rebut the presumption of fair and reasonable return based upon the Base Year net operating income. To make such a determination and in order to adjust to the Base Year net operating income, the Rent Review Officer, or Hearing Officer on appeal, must make the following findings:
  1. Exceptional Expenses in the Base Year. The Park Owner’s operating expenses in the Base Year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the Base Year operating expenses reflect average expenses for the park over a reasonable period of time. The following factors shall be considered in making such a finding:
    - a. Extraordinary amounts were expended for necessary maintenance and repairs.

- b. Maintenance and repairs were below accepted standards so as to cause significant deterioration in the quality of services provided.
  - c. Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.
2. Exceptional Circumstances in the Base Year. The gross income during the Base Year was disproportionately low due to exceptional circumstances. The following factors shall be considered in making such a finding:
- a. If the gross income during the Base Year was lower than it might have been because some Mobilehome Owners were charged reduced rent.
  - b. If the gross income during the Base Year was significantly lower than normal because of the destruction of the Park and/or temporary eviction for construction or repairs.
  - c. The pattern of rent increases in the years prior to the Base Year and whether those increases reflected increases in the CPI.
  - d. Base Year Rents were disproportionately low in comparison to the Base Year Rents of other comparable parks in the City.
  - e. Other exceptional circumstances, excluding any comparisons of Base Year Rents to Rents of other comparable parks located outside of the City or to market rents determined from comparable Parks located outside of the City.

C. Calculation of Net Operating Income.

- 1. Net Operating Income. Net operating income shall be calculated by subtracting operating expenses from gross rental income.
- 2. Gross Rental Income.
  - a. Gross rental income shall include the following:
    - i. Gross Rents calculated as gross rental income at 100 percent occupancy, adjusted for uncollected Rents due to vacancy and bad debts to the extent such vacancies or bad debts are beyond the control of the Park Owner. Uncollected Space Rents in excess of three percent of gross Space Rent shall be presumed to be uncollectable unless established otherwise and shall not be included in computing gross rental income.
    - ii. All other income or consideration received or receivable in connection with the use or occupancy of the Rental Unit, except as excluded below.
  - b. Gross rental income shall not include the following:
    - i. Utility charges for submetered gas and electricity.
    - ii. Charges for water, refuse disposal, sewer service, and/or other services which are either provided and charged to Mobilehome Owners solely on a cost pass-through basis and/or are regulated by state or local law.

- iii. Any amount paid for the use and occupancy of a Mobilehome unit (as opposed to amounts paid for the use and occupancy of a Mobilehome Space).
- iv. Charges for laundry services.
- v. Storage charges.
- vi. Rental Income from Spaces exempted from Rent limitation by state law or this Chapter.

3. Operating Expenses.

- a. Operating expenses shall include the following:
  - i. Reasonable costs of operation and maintenance.
  - ii. Management expenses. It shall be presumed that management expenses increase by the percentage increase in Rents or the CPI, whichever is greater, between the Base Year and the prior year unless the level of management services has either increased or decreased significantly between the Base Year and the prior year.
  - iii. Utility costs, except where the consideration of the income associated with the provision of the utility service is regulated by state law and consideration of the costs associated with the provision of the utility service is preempted by state law.
  - iv. Real property taxes attributable to the Base Year or prior year regardless of when actually paid.
  - v. License and registration fees required by law to the extent these expenses are not otherwise paid or reimbursed by Mobilehome Owners.
  - vi. Park Owner-performed labor compensated at reasonable hourly rates. No Park Owner-performed labor shall be included as an operating expense unless the Park Owner submits documentation showing the date, time, and nature of the work performed. There shall be a maximum allowed under this subsection of five percent of gross income unless the Park Owner shows greater services were performed for the benefit of the Mobilehome Owners.
  - vii. Legal Expenses incurred (1) in connection with successful good faith attempts to recover Rents owed, (2) pursuit of rights under or in relationship to this Article, including Legal Expenses incurred in the course of pursuing successful Fair Return Applications, (3) under unlawful detainer actions not in derogation of applicable law and, when incurred in the normal operation of the Park, to the extent such expenses are not recovered from adverse or other parties.
  - viii. Interest Allowance on Amortized Expenses.
- b. Exclusions from Operating Expenses. Operating expenses shall not include the



following:

- i. Mortgage principal or interest payments or other debt service costs.
  - ii. Penalties, fees or interest assessed or awarded for violation of any provision of this Chapter or other provisions of law.
  - iii. Land lease expenses.
  - iv. Political contributions and payments to organizations which are substantially devoted to legislative lobbying purposes.
  - v. Depreciation.
  - vi. Expenses for which the Park Owner has been reimbursed by any utility rebate or discount, security deposit, insurance settlement, judgment for damages, settlement or any other method or device.
  - vii. Unreasonable increases that deviate substantially from the historical average increase in expenses since the base year.
  - viii. Expenses associated with the provision of master-metered gas and electricity services.
  - ix. Expenses attributable to unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements.
  - x. Expenses attributable to a Park-owned Mobilehome, including but not limited to any Mobilehomes rented out by the Park Owner except when provided to a Park manager as a component of employment compensation.
  - xi. Expenses attributable to Spaces exempt from Rent limitations by state law or this Chapter shall be excluded, for the purpose of determining applicable rents for non-exempt spaces, by reducing the total allowed operating expenses by the amount attributable to exempt spaces. This may be done by reducing the total allowed operating expenses by the percentage of operating expenses attributable to the total number of exempt Spaces in the Park, or by another method approved by the Rent Review Officer.
- c. Adjustments of Operating Expenses. Base Year and/or current operating expense items shall be averaged with other expense levels for the same types of items for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for the item(s) that most reasonably serves the objectives of obtaining a reasonable comparison of Base Year and prior year expenses. Grounds for such adjustments include, but are not limited to:
- i. Either the amount or nature of an expense item for a particular year is not representative.
  - ii. The Base Year expense is not a reasonable projection of average past expenditures for that item in the years immediately preceding or following the base year.

- iii. The prior year expense is not a reasonable projection of expenditures for that item in recent years or of future expenditures for that item.
- iv. If a particular item of expense exceeds the normal industry or other comparable standard for the area, the Park Owner shall bear the burden of proving the reasonableness of the expense. To the extent that it is found that the expense is unreasonable it may be adjusted to reflect the normal industry standard.
- v. A Base Year expense is exceptionally low by industry standards and/or on an inflation adjusted basis is exceptionally low relative to the prior year expense although the level or type of service for which the expense is incurred has not changed significantly.
- vi. An increase in maintenance or management expenses is disproportionate to the percentage increase in the CPI, while the level of services has not changed significantly and/or is not justified by special circumstances.

D. Constitutionally Required Fair Return: Notwithstanding any other provisions of this Chapter, the Rent Review Officer or Hearing Officer, if on appeal, is authorized to approve any Rent Increase that is constitutionally required by law to yield a fair return.<sup>3</sup>

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E. Rent Increase Effective Date: Rent Increases approved by the Rent Review Officer shall be effective on the date given by the applicant in the notice to the Affected Mobilehome Owners required in section 798.30 of the California Civil Code. In the event that the period for determining the allowable Rent Increase exceeds 120 days, the Park Owner may recover a Rent charge retroactive to 120 days after the Fair Return Application is deemed complete. Delays or continuances that are mutually agreed to in writing by all parties concerned, extensions authorized in this Article, and the number of days that lapse between applicant receiving notice of the necessity of replenishing their cost account with the City and paying the required amount pursuant to the fee payment procedure for review of Fair Return Applications, including any costs of expert analysis ordered pursuant to this Article, shall not be counted in determining whether said 120-day period has expired. In order to avoid undue hardship on the Mobilehome Owners affected by the decision, the retroactive Rent charge shall be amortized and paid over a period of five years, unless the Rent Review Officer, or Hearing Officer if on appeal, determines that a different amortization period is more reasonable. Interest may be charged on this amortized Rent.

F. Per Space Rent Adjustment Pursuant to Fair Return Standard: The allowable Rent Increase per Mobilehome Space pursuant to this Section may not be increased as a result of exempt Spaces in the Park.

**[4-39-222] Settlement Proposals.**

A. At least 10 days prior to the date specified when the Rent Review Officer will take under submission a Fair Return, Capital Replacement, or Rent Reduction application filed pursuant to this Article, or 10 days prior to any appeal hearing, the Mobilehome Owner

<sup>3</sup> *Fisher v. Berkeley*, 37 Cal. 3d 644, 693 P.2d 261, 209 (The court held that a standard allowing the landlord to recover a reasonable return on investment was sufficient to withstand a facial challenge. The court suggested a Net Operating Income Method would be acceptable, provided landlords' income was not indefinitely frozen at the nominal amount earned in the base year.)

Representative or the Park Owner may submit a written settlement offer to the other party to settle the claims or requests made in the application and to allow a decision or award to be made in accordance with the terms and conditions stated in the offer.

- B. The offer shall include a statement of the terms and conditions that the offering party is willing to accept, and a provision that allows the accepting party to indicate acceptance of the offer by signing a statement that the offer is accepted. At the same time that the offering party submits its offer to the other party, the offering party shall also file a copy of the written settlement offer with the Rent Review Officer, or Hearing Officer if on appeal, in a separately sealed envelope, with a statement on the outside of the envelope identifying the offeror and stating that it is a written settlement offer submitted pursuant to this section. The sealed copy of the written settlement offer that is filed with the Rent Review Officer or Hearing Officer if on appeal shall not be opened until it is either timely accepted by the opposing party or, if it is not timely accepted by the opposing party, after the Rent Review Officer or Hearing Officer, as appropriate, has rendered a final decision on the application or appeal.
- C. Acceptance of the offer must be in writing and shall be signed by the counsel for the accepting party or, if unrepresented by counsel, by the accepting party.
- D. If the offer is accepted, the parties shall notify the Rent Review Officer, and the Hearing Officer if the application is on appeal, and the Rent Review Officer or Hearing Officer, as appropriate, shall enter the accepted offer as the final decision respecting the application or appeal.
- E. If the offer is not accepted within seven calendar days of the offer's receipt by the opposing party, the offer shall be deemed withdrawn and cannot be given in or considered as evidence as part of the Rent Review Officer's or Hearing Officer's decision.
- F. Legal Expenses. If an offer made pursuant to this Section is not accepted and the rejecting party fails to obtain a more favorable award or decision, the rejecting party shall not recover their post-offer Legal Expenses and shall pay the Legal Expenses incurred by the offering party from the time of the offer. If competing offers to settle are timely submitted but have not been timely accepted, the Rent Review Officer or Hearing Officer, as may be appropriate, shall determine which party has failed to obtain a more favorable decision or award and assign responsibility for the payment of legal expenses accordingly.
  - 1. The Rent Review Officer or Hearing Officer shall mail and email to the parties a notice of assignment of Legal Expense liability ("Legal Expense Notice") within seven days after issuance of a final decision on the application or appeal. Within seven days of receipt of the Legal Expense Notice, each party shall simultaneously serve a written request for the awarding of and an accounting of Legal Expenses on the Rent Review Officer or Hearing Officer and all parties by regular mail and electronic mail. Said requests shall include detailed records of fee billings, time records and supporting declarations executed under penalty of perjury. Within seven days of receiving the requests, opposing parties may file and serve objections in the same manner as service of the original requests. Within seven days after service of the oppositions or within seven days of the deadline for the filing of oppositions, if none is submitted, the Rent Review Officer or Hearing Officer may submit a proposed supplemental decision stating the amount of legal expenses each party is required to pay and the reasons therefor.
    - a. When issued by the Rent Review Officer, said supplemental decision shall become final when issued and shall be appealable separately from the Rent Review

Officer's decision pertaining to the merits of the application. The appellate procedures set forth in this Article shall govern an appeal of a Rent Review Officer's decision pertaining to the awarding of Legal Expenses, but an appeal of a Legal Expenses award shall be consolidated with any appeal taken of the Rent Review Officer's final decision pertaining to the merits of the application.

- b. When issued by the Hearing Officer, said supplemental decision shall become final seven days after the proposed decision, unless either party requests an evidentiary hearing within said seven days in which case a final decision shall be made within seven days after the evidentiary hearing is concluded. The Hearing Officer's decision shall become final upon mailing, with proofs of service, to all parties of the (i) final decision on the merits of the application, or (ii) final decision on the Legal Expenses award, whichever occurs last.
  - c. In their discretion, the Rent Review Officer or the Hearing Officer, as appropriate, may reduce or offset from any Legal Expense award made in favor of the applicant by the amount of legal expenses the applicant may be required to pay.
2. Any award of Legal Expenses shall be itemized by the Park Owner separately from any Rent Increase or Services Reduction award. Legal Expenses awarded to Park Owners shall be shown as a limited time pass-through charged to the Affected Mobilehome Owners. A Legal Expense award to a Park Owner plus Allowable Interest on Amortized Expenses shall be recovered in equal monthly payments over a five-year period, unless the Rent Review Officer or Hearing Officer determines that a different period is more appropriate, and shall be eliminated after payment is completed at the end of the amortization period. Legal Expenses awarded to Mobilehome Owners shall be made as either a Rent credit or direct payment to the Mobilehome Owners.
3. In determining whether a party has obtained a more favorable award or decision than that proffered in a written settlement offer not accepted by that party, the Rent Review Officer or Hearing Officer shall rely upon and be guided by legal precedent and authorities construing the same term as it is used in California Code of Civil Procedure Section 998.
- G. The time limits prescribed in this Section may be extended by the Rent Review Officer or the Hearing Officer, as appropriate, upon a showing of good cause.

**[4-39-225] Procedures for Review of Rent.**

- A. The following matters are subject to review by the Rent Review Officer upon application:
  - 1. Fair Return Rent Increase.
  - 2. Preapproval of a temporary Rent Increase for specified Capital Improvements and Capital Replacements.
  - 3. Rent reduction for Service Reduction.
- B. Limit on Frequency of Applications. Only one application pursuant to this Article may be filed for a Mobilehome Park within any 12-month period, except in the event of extraordinary circumstances that could not reasonably have been foreseen at the time the prior application was filed.

C. Filing of Application.

1. Applications for Rent adjustments for fair return Rent Increases, temporary Capital Improvements and Capital Replacements Rent Increases, or Rent reductions for Service Reductions shall be on forms prescribed by the Rent Review Officer.
2. The Rent Review Officer may require an application to contain any information as he or she deems relevant, including, but not limited to:
  - a. A list of the names and addresses of all Mobilehome Owners subject to the proposed Rent adjustment.
  - b. A statement of the date the Rent adjustment is proposed to be effective.
  - c. The Rent for each Space in the park in the Base Year, and the three (3) prior years.
  - d. An income and expense statement for the Base Year, and the four (4) prior years.
  - e. Evidence documenting the income and expenses claimed by the Park Owner.
  - f. All other documentation and opinion testimony upon which the Park Owner is relying upon to justify the Rent Increase, or upon which the Mobilehome Owner is relying upon to justify a Rent reduction.
  - g. A statement of the applicant's theories in support of the Rent Increase or Rent reduction.

D. Notice of Application. The applicant and the City shall provide notice of an application as follows:

1. The applicant and City: by sending a hard copy and electronic copy of the application to either (a) each Affected Mobilehome Owner, or (b) the Park Owner, as appropriate;
2. The applicant: by providing the City with hard and electronic copies of the application.

E. Determination that Application is Complete. Within sixty [60] days after filing an application, the Rent Review Officer will determine if it is complete. An application will be considered complete only if and when the required fees have been paid. If the application is incomplete, the Rent Review Officer will inform the applicant in writing as to what additional information is required. Within 45 days of the applicant's submittal of requested additional information or fees, the Rent Review Officer shall determine whether the application is complete and notify the applicant of the Rent Review Officer's determination. This process shall continue until the Rent Review Officer issues a written notice advising the applicant that the application is complete. The time period for Rent Increase effective date shall begin running on the date the Rent Review Officer delivers said completeness notice to the applicant.

F. Access to Application. Applications shall be available upon request for inspection and copying by the public during the City's normal business hours.

- G. Expert Analysis. Upon the receipt of an application authorized by this Article, the Rent Review Officer shall determine if the employment of experts will be necessary for a thorough analysis of the application. The Rent Review Officer may retain a certified public accountant to, among other things, verify the accuracy of the expense and income items stated in the application; an expert in the use and theory of the fair return and MNOI methods utilized in this Article; and/or, a licensed appraiser.
- H. Response by other party. The party not filing the application may submit a written response to the application within 30 days after the application is determined complete, unless the Rent Review Officer determines that there is good cause to extend that deadline. The party filing a written response shall deliver it to the applicant and to the Rent Review Officer.
- I. Decision by Rent Review Officer. Applications filed pursuant to this Article shall be decided by the Rent Review Officer based on substantial evidence and without a hearing or personal appearances by any of the involved parties or their representatives. The decision will be made within 60 days of the date that the application is deemed complete, unless the Rent Review Officer determines that there is good cause to extend that deadline. The Rent Review Officer shall email all involved parties or their representatives the date on which the Rent Review Officer will consider the matter under submission and beyond which the Rent Review Officer will not accept additional information, briefs, evidence or arguments (the "Submission Date"). The Rent Review Officer shall email notice of the Submission Date to all parties or their representatives at least 21 days prior to the Submission Date. The Rent Review Officer's decision on the merits of the application shall be emailed and sent by mail, with proof of mailing, to the Mobilehome Owner, the Park Owner, the Park Owner's and Mobilehome Owners' representatives, and the Mobilehome Owners' Association Representative, if any.
- J. Required Findings in Fair Return Decision: Any Rent adjustment decision pursuant to this Article that approves a fair return rent increase shall include a determination that the Park Owner would be denied a fair return according to the method in this chapter and shall include findings made of the following:
1. Base Year and prior year rental income;
  2. Base Year and prior year operating expenses by category;
  3. Base Year and prior year overall operating expenses;
  4. Base Year and prior year net operating income;
  5. The percentage change in net operating income between the Base Year and the prior year;
  6. The percentage change in the CPI between the Base Year and prior year;
  7. The ratio of the percentage change in net operating income to the percentage change in the CPI between the Base Year and prior year;
  8. The rent adjustment required under the MNOI standard, if applicable to the application.
- K. Conditions for Allowance or Disallowance of Rent Increase: The allowance or disallowance

of any proposed Rent Increase (or decrease) or portion thereof may be reasonably conditioned in any manner necessary to effectuate the purposes of this Article.

L. Representation of Parties:

1. Each party may be represented by any person of its choosing. The representative need not be an attorney.
2. Written designation of representatives shall be filed with the Rent Review Officer or Hearing Officer.
3. The written designation of the representative shall include a statement that the representative is authorized to bind the party to any stipulation, decision or other action taken by the Rent Review Officer or Hearing Officer.

M. Overall Period for Review of Application. Except as otherwise provided in this Article, a decision on an application for Rent adjustment made pursuant to this Article shall be made within 120 days after the application is deemed complete, unless extended by the Rent Review Officer or Hearing Officer for good cause.

N. Standard of Review. The applicant shall bear the burden of proof, by a preponderance of the evidence, on all issues necessary to the granting of the petitioner's petition, both at the Rent Review Officer and Hearing Officer levels of review.

**[4-39-227] Appeal of the Rent Review Officer's Decision.**

A. The decision of the Rent Review Officer on an application for Rent Increase for fair return, Capital Improvements, or Capital Replacements, or Rent reduction for Service Reduction may be appealed within 30 days after the date of its mailing. An appeal by the Park Owner shall be signed by the Park Owner or its lawfully authorized agent. An appeal by the Mobilehome Owners must be signed by the Mobilehome Owners residing on twenty-five (25) percent of the Mobilehome Spaces that are subject to the Rent Review Officer's decision. An appeal must be in writing and must be delivered to the opposing parties and the City within the 30-day appeal period. If the Rent Review Officer's decision is not timely appealed, the Rent Review Officer's decision shall become final on the thirty-first day after the decision is mailed. The appealing party shall be required to pay for the costs of the appeal, including those imposed by the Hearing Officer and those established by resolution of the City Council. The appeal shall be conducted through a de novo evidentiary hearing, which shall consider at least the following: the application, all information, expert opinions and arguments submitted by the parties to the Hearing Officer; the opinions of the City's experts; additional arguments or facts upon which the Hearing Officer's decision is based; and the briefs, evidence and testimony accepted or rejected by the Hearing Officer in support of or in opposition to the application by any of the parties to the proceedings.

B. Procedure for Selection of a Hearing Officer.

1. Hearing Officers shall be licensed attorneys of the State Bar of California in good standing, and shall have no financial interest in Mobilehomes, Mobilehome Spaces or Mobilehome Parks and shall not have represented Mobilehome Park Owners or Mobilehome Park Mobilehome Owners in Rent setting cases or Park closings, Park conversions or any disputes between Park Owners and Park residents.

2. A hearing officer shall be selected through the California Office of Administrative Hearings (OAH). In the event OAH is unavailable or unable to provide a hearing officer, the City Manager or designee may elect to contract with another agency, lawyer, or law firm that provides arbitration or hearing officer services or may establish a panel from which the hearing officer is selected in accordance with this Section.
3. In the event a list of hearing officers is established, the City Manager or designee shall make all reasonable efforts to ensure that the list is comprised of at least five qualified candidates. A hearing officer shall disqualify himself or herself from serving as Hearing Officer in a particular matter where he/she has a conflict of interest within the meaning of the Political Reform Act (Government Code Section 87100 *et seq.*), and shall otherwise comply with the disqualification provisions of Canon 3.E. of the Code of Judicial Ethics. The City shall make the initial selection of the Hearing Officer from the panel. The parties to the appeal shall be advised in writing of the selected Hearing Officer, and advised of their right to disqualify the selected Hearing Officer within five days of receipt of the notice of selection. In the event of a disqualification, another Hearing Officer shall be randomly selected from the panel by the City, and a new notice of hearing sent to the parties. Each party shall have the right to disqualify one Hearing Officer for a particular appeal if there are five or fewer hearing officers on the list and may disqualify up to two hearing officers if there are eight or more hearing officers on the list.

C. Time of and Scheduling of Hearing.

1. A hearing on the appeal shall commence within 30 days of the selection of the Hearing Officer unless both parties agree to a different schedule. The hearing shall be completed within 15 days after it is commenced. These time deadlines may be extended by the Hearing Officer for good cause.
  2. The hearing may be scheduled during normal business hours of the City unless a majority of the residents that are subject to the appeal requests that the hearing be scheduled outside of normal City business hours. The hearing shall be scheduled at a time that is convenient for the residents' and Park Owner's representatives.
- D. Presentations by each party at the hearing and of the City staff and experts shall be limited to 30 minutes each unless the Hearing Officer determines good cause exists to extend those time periods. Each party and the City shall be permitted a cumulative total of one hour of cross-examination of the opposing party's expert witnesses, unless the Hearing Officer determines good cause exists to extend those time periods. The City may provide legal counsel to help prepare the City's experts for their presentation at the appeal hearing, to defend the City's expert witness and to cross examine the expert witnesses of the parties.
- E. Notwithstanding anything to the contrary stated herein, whether or not the City decides to appear, submit documents and/or briefs, retain counsel to represent the City, or otherwise participate in the administrative appellate proceedings shall be left to the discretion of the City.
- F. Written notice of the time, date and place of the hearing shall be given at least 21 days prior to the hearing.
- G. Requests for Additional Information Not Previously Provided to the Rent Review Officer by Opposing Party:



1. Either party or the City may request that additional, supporting documentation that was not previously provided to the Rent Review Officer as part of its initial examination and decision be provided to substantiate the claims made by a party. The request shall be presented in writing to the Hearing Officer.
2. The Hearing Officer may order production of such requested documentation if the Hearing Officer determines the information is relevant to the proceedings.

H. Responses:

1. Mobilehome Owners or the Park Owner may submit responses to the decision of the Rent Review Officer or to reports by the City's experts. Responses shall be submitted to the other parties and the Hearing Officer at least 10 days prior to the hearing. Responses shall be in printed and electronic form.
2. Rebuttal reports may be submitted by the Park Owner, Mobilehome Owners, and/or City or its expert(s). Such reports shall be submitted to the parties and Hearing Officer at least five days prior to a hearing. Rebuttals shall be in printed and electronic form.
3. The parties' responses and rebuttal reports shall be considered the prehearing briefs of the parties and the City and no other prehearing briefs shall be allowed unless requested by the Hearing Officer for good cause.

I. Conduct of Hearing:

1. The hearing shall be conducted in accordance with such rules and regulations as may be promulgated by the City Council and any rules set forth by the Hearing Officer.
2. The Hearing Officer shall have the power and authority to require and administer oaths or affirmations where appropriate, and to take and hear evidence concerning any matter pending before the Hearing Officer.
3. The rules of evidence generally applicable in the courts shall not be binding in the hearing. Hearsay evidence and any and all other evidence which the Hearing Officer deems relevant may be admitted and considered.
4. Any party or such party's representative, designated in writing by the party, may appear at the hearing to offer such documents, oral testimony, written declaration or other evidence as may be relevant to the proceedings.
5. The Hearing Officer may grant or order not more than two continuances of the hearing for not more than 10 working days each. Additional continuances may be granted only if all parties stipulate in writing or if the Hearing Officer finds that there is a good cause for the continuance. Such continuances may be granted or ordered at the hearing without further written notice to the parties.
6. A recording of the proceedings shall be made or arranged by the Hearing Officer in a format that is made easily available, upon request, within thirty days of the conclusion of the hearing.

7. The hearing shall be conducted in a manner that ensures the parties have an opportunity to obtain documents and to obtain information about the theories and facts to be presented by the opposing parties in adequate time in advance of the hearing to enable preparation of their respective cases.
8. **Deadline for Decision:** Appeals shall be decided by the Hearing Officer within 90 days of the date of the filing of the appeal and payment of all appellate fees, unless extended by the Hearing Officer for good cause or by the Rent Review Officer to accommodate scheduling availability of a Hearing Officer.
9. **Notice of Decision:** The Rent Review Officer shall mail hardcopies of the hearing officer's decision to the Park Owner and all Affected Mobilehome Owners within 15 calendar days of the City's receipt of the Hearing Officer's written decision. The decision shall be emailed to the Park Owner's and Mobilehome Owners' representatives as soon as possible after the decision is received by the City.

J. Modification of Decision in the Event of Mathematical or Clerical Inaccuracies: Any party alleging that the Hearing Officer's statement of decision contains mathematical or clerical inaccuracies may so notify the Hearing Officer and the other party within 15 calendar days of the date of mailing of the decision. The Hearing Officer may make corrections and shall file a corrected statement of decision within 10 working days after receiving the request to correct. Alternatively, the Hearing Officer may decline to correct the decision and shall so notify the parties of his/her determination. Upon filing a corrected statement of decision or a determination not to correct the decision, the Hearing Officer's decision shall be final.

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K. Preservation of Record: Written findings made by the final decision maker pursuant to this Section shall be permanently preserved in the City records.

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**[4-39-230] Temporary Rent Increases for Specified Capital Improvements and Capital Replacements.**

- A. A Park Owner shall be permitted to obtain a temporary Rent increase to reimburse specified Capital Improvements and Capital Replacements pursuant to this Section.
- B. The City Council shall from time to time adopt an amortization schedule for typical Capital Improvements and Capital Replacements subject to the provisions of this Section.
- C. Prior to making a Capital Replacement or Capital Improvement, the Park Owner may file an application with the Rent Review Officer for approval of a temporary Rent Increase to reimburse Capital Improvement Costs or Capital Replacement Costs. Except as provided in Subsection H., a Park Owner who commences and completes a Capital Improvement project prior to obtaining a temporary Rent Increase approval under this Section, shall be deemed to have conclusively waived its right to seek a Rent Increase for that Cost.
- D. Applications for a temporary Rent Increase shall contain at a minimum the following information:
  1. A description and cost of the proposed project. The estimated cost of the proposed project shall be reflected in at least two bids or proposals from qualified and licensed (if required by law) contractors, installers and/or builders;

2. Evidence establishing that the project is necessary at the time the Park Owner seeks to implement it;
  3. The date(s) upon which the Park Owner proposes to commence and complete the project;
  4. The manner by which the Park Owner will notify the City of the commencement of the work to allow the City to monitor construction and ensure, as practicable, that the work is completed consistent with the temporary Rent Increase approval;
  5. The period of time during which the Park Owner proposes to amortize the Rent Increase and the rationale therefor;
  6. Evidence that the project will be made at a direct cost of not less than \$100.00 per affected Mobilehome Space or at a total direct cost of not less than \$5,000, whichever is lower, or such other amounts as adjusted by resolution of the City Council;
  7. Calculation of costs amortized over a period of not less than 36 months, or a different time period if the monthly payment amount will not impose an unreasonable financial burden on the Mobilehome Owners;
  8. Evidence that the costs do not include any additional costs incurred for property damage or deterioration that result or have resulted from any unreasonable delay in undertaking or completing any repair or improvement;
  9. Evidence that the costs do not include costs incurred to bring the Park, improvement or other property into compliance with a provision of the San Leandro Municipal Code or state law where the original installation of the improvement was not in compliance with code requirements;
  10. A representation by the Park Owner stating that at the end of the amortization period, the allowable monthly Rent will be decreased by any amount it was increased because of a Rent Increase approval granted under this Section; and
  11. Evidence that the amortization period is in conformance with any schedule adopted by the City Council, unless it is determined that an alternate period is justified based on the evidence presented during the consideration of the Park Owner's application.
- E. Capital Replacement. Upon receipt of a Capital Replacement application, the Rent Review Officer shall provide notice ("Capital Replacement Notice") of the application to all Affected Mobilehome Owners. The Capital Replacement Notice shall state the proposed Capital Replacement, the amortization schedule including interest for the project, and the resulting temporary Rent Increase proposed. The Rent Review Officer shall email the application and all of its attachments to the Affected Mobilehome Owners. The Park Owner shall post a complete, physical copy of the application and its attachments at a location that is obvious and accessible to all Mobilehome Owners.
1. A temporary Rent Increase for Capital Replacement shall be approved and the protest provisions under subsections 2 and 3 shall not apply if the Park Owner submits evidence with its application that the Park Owner has:

- a. Consulted with the Affected Mobilehome Owners prior to initiating construction of the Capital Replacement project regarding the nature and purpose of the project and estimated cost; and
  - b. Obtained the prior written consent of an adult household member from at least 50 percent plus one of the Spaces whose Rent would be affected by the requested Capital Replacement temporary Rent Increase. Evidence of such consent must be presented at the time of filing the application with the City.
  - b-c. Provided that the ~~above~~ two criteria listed in (a) and (b) have been satisfied, the Rent Review Officer City Manager or their designee shall approve the application as submitted, and shall send notice to the Park Owner and Affected Mobilehome Owners stating that the application ~~has been~~ granted and identifying the amount of the approved temporary Rent Increase. Said decision by the Rent Review Officer City Manager or their designee shall be final and shall not be appealable.
2. In the event that one adult household member from at least 50 percent plus one of the affected Mobilehome Spaces protest the application in writing to the Rent Review Officer within 45 days after the date the Rent Review Officer mails or emails the Capital Replacement Notice to the Affected Mobilehome Owners, the Rent Review Officer City Manager shall determine whether the application is complete, including determining whether all applicable fees have been paid. The Rent Review Officer City Manager may require additional information if the application is deemed incomplete. Upon determining that the application is complete, the Rent Review Officer City Manager may retain expert assistance as necessary to review the application, and may require the Park Owner to pay the cost of expert assistance. The complete application shall be reviewed by the Rent Review Officer, and approved, rejected or modified, pursuant to this Chapter.
  3. In the event that one adult household member from at least 50 percent plus one of the affected Mobilehome Spaces whose Rent would be increased if the application were approved do not protest the application in writing to the Rent Review Officer within 45 days after the date the Rent Review Officer mails or emails the Capital Replacement Notice to the Affected Mobilehome Owners, the Rent Review Officer City Manager shall approve the application as submitted, and send a notice to the applicant and the Affected Mobilehome Owners stating that the application has been granted and identifying the amount of the temporary Rent Increase allowed to be charged the Affected Mobilehome Owners. Said decision by the Rent Review Officer City Manager shall be final and shall not be appealable.
- F. Capital Improvements. A Park Owner shall be entitled to seek a temporary Rent Increase to make a Capital Improvement only if the Park Owner submits evidence with its application that the Park Owner has:
1. Consulted with the Affected Mobilehome Owners prior to initiating construction of the project regarding the nature and purpose of the project and estimated cost;
  2. Limited the annual increase in Rent solely attributable to Capital Improvements to less than or equal to four (4) percent of the Rent for Spaces being rented by Special Circumstances Households, such that the total increase in Rent inclusive of approved Capital Improvements is limited to eight (8) percent per year for Special Circumstances Households; and

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3. Obtained the prior written consent of an adult household member from at least 50 percent plus one of the Spaces whose Rent would be affected by the requested Capital Improvement temporary Rent Increase. Evidence of such consent must be presented at the time of filing the application with the City.

Provided that the above three criteria have been satisfied, the Rent Review Officer shall approve the application as submitted, and shall send notice to the applicant Park Owner and Affected Mobilehome Owners stating that the application ~~has been~~ granted and identifying the amount of the approved temporary Rent Increase.

- G. No temporary Rent Increase granted pursuant to this Section shall become effective until the first full calendar month following the filing by the Park Owner of a notice of completion of the Capital Improvement or Capital Replacement project with the Rent Review Officer, and determination by the City that the work was completed in accordance with the Rent Increase approval. A Rent Increase approved pursuant to this Section shall be itemized separately on the rental billing provided to the Affected Mobilehome Owners and shall terminate upon the conclusion of the approved amortization period.
- H. Nothing in this Section shall prevent the Park Owner from making emergency Capital Replacements required as a result of a disaster or other ~~unpredictable emergency~~ event to preserve or secure the health, safety, or welfare of persons or property. In such event, the Park Owner may make limited and reasonable Capital Replacements required to protect the public health and safety and to limit further damage to the Park, and to thereafter or simultaneously seek a Rent adjustment for such Capital Replacement pursuant to this section.

**[4-39-232] Rent Reduction for Service Reduction.**

Rent may be reduced and/or refunded if a Service Reduction results in the reduction in the Mobilehome Owners' enjoyment of their Mobilehomes.

- A. Filing and Processing a Service Reduction Application. A Service Reduction application must be signed by at least one adult Mobilehome Owner from each of twenty-five percent (25%) plus one of the Spaces subject to this Chapter.
- B. If the Rent Review Officer, or Hearing Officer on appeal, finds that a material Service Reduction has occurred, the Rent Review Officer, or Hearing Officer on appeal, shall determine the resultant percentage reduction in the Mobilehome Owners' enjoyment due to the Service Reduction. Rent shall be reduced by that percentage or amount. In addition, the Mobilehome Owners shall be entitled to, and the Rent Review Officer, or Hearing Officer on appeal, shall award a rebate in the amount of the monthly Rent reduction multiplied by the number of months between the date the Mobilehome Owners notified the Park Owner of the reduction in service and the date the Rent Review Officer, or Hearing Officer on appeal, determined the Rent reduction. Any rebate authorized pursuant to this section may be amortized over a maximum five year period, and bear the Interest Allowance for Amortized Expenses. In the event the Park Owner was not notified of the Service Reduction by the Mobilehome Owners or applicant and the Park Owner did not know nor should have known that the Service Reduction occurred prior to the filing of the application, no rebate shall be awarded. If a preponderance of the evidence proves that the Park Owner knew or should have known of the Service Reduction, a rebate shall be awarded and calculated from the date that the Park Owner knew or should have known of the start of the reduction.
- C. No rebate shall be allowed or authorized if a Service Reduction of a recreational facility or service, and resulting Rent decrease, has the prior written approval signed by at least one

adult Mobilehome Owner from each of fifty percent (50%) plus one of the Spaces subject to this Article.

- D. No Service Reduction may include a condition created by the Park management’s failure to maintain the physical improvements in the common facilities in good working order, or condition for which the provisions of Civil Code section 798.84 provides a remedy.
- E. No recreational service or facility that has been reduced or eliminated shall be reinstated at any cost to the Mobilehome Owners without prior written approval signed by at least one adult Mobilehome Owner from each of fifty percent (50%) plus one of the Spaces subject to this Article.
- F. In the event that a Service Reduction application is filed while a Fair Return Application is pending, the Rent Review Officer, may require consolidation of applications. The Park Owner, or the Affected Mobilehome Owners may request consolidation of the applications.

**[4-39-234] Cause for Termination.**

A. A Mobilehome Park Owner may not terminate or refuse to renew a Tenancy except in the same manner as provided for in Chapter 2.5 of the Mobilehome Residency Law, Civil Code sections 798.55 et seq., as may be amended from time to time.

B. -For the purposes of this section, a “Tenancy” means the right of a person or persons to use a Mobilehome Space on which to locate, maintain, and occupy a Mobilehome or any other vehicle or structure for the purpose of human habitation.

C. In adopting this Section, the City Council finds and declares that structures and vehicles that do not meet the technical definition of a Mobilehome, but are nevertheless located on a Mobilehome Space, often share many of the same characteristics as a Mobilehome. These structures or vehicles are not generally intended to be moved frequently, if at all, and often have site improvements and accessory structures constructed onto or adjacent to the structure or vehicle. The City Council finds and declares that there is a high cost of moving these vehicles and structures and a potential for damage resulting from a move, such that the owners of these structures or vehicles used for human habitation and located in a Mobilehome Space need the special protections provided for in this section.

**[4-39-235] Waivers.**

- A. Any waiver or purported waiver by a Mobilehome Owner of rights granted under this Article shall be void as contrary to public policy.
- B. It shall be unlawful for a Park Owner to require or attempt to require as a condition of tenancy in a Mobilehome Park a Mobilehome Owner or a prospective Mobilehome Owner to waive in a lease or rental agreement or in any other agreement the rights granted to a Mobilehome Owner by this Article.
- C. It shall be unlawful for a Park Owner to deny or threaten to deny tenancy in a Mobilehome Park to any person on account of such person’s refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a Mobilehome Owner by this Article.

**[4-39-237] Rights of Prospective Mobilehome Owners.**

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- A. Prospective Mobilehome Owners shall be offered the option of renting a Space in a manner that will permit the “Mobilehome-to-be” to receive the benefits of the Mobilehome Park Rent Stabilization Program codified herein, which includes, but is not limited to, rental of a Mobilehome Space on a month-to-month basis. A prospective Mobilehome Owner cannot be denied the option of a tenancy of 12 months or less in duration.
- B. The Park Owner shall provide each prospective Mobilehome Owner with a copy of this Chapter.
- C. Any effort to circumvent the requirements of this Article shall be unlawful.

**[4-39-240] Annual registration and other notices required from Park Owner.**

- A. Due Date. No later than May 31<sup>st</sup> of each year, each Park Owner shall file with the City an annual registration statement, on a form prescribed by the Rent Review Officer.
- B. Contents of Registration Form. The registration form shall include, but not be limited to, the name(s), business address(es), and business telephone number(s) of each person or legal entity possessing an Ownership interest in the Park and the nature of such interest; the number of Mobilehome Spaces within the Park; a Rent schedule reflecting the current Space Rents within the Park; a listing of all other charges, including utilities not included in Space Rent, paid by Mobilehome Owners within the Park and the approximate amount of each such charge; the name and address to which all required notices and correspondence may be sent; the name and address of each Mobilehome Owner; the name and address of each person renting a Mobilehome; an identification of those Spaces or Mobilehomes which the Park Owner considers exempt from this Article and a statement of the reasons therefor; a statement of the number of recreational vehicle Spaces in the Park, the names of the RV owners and renters, and the current rent and utilities charged for each space; and other information required by the Rent Review Officer.
- C. Certification of Registration Forms. All registration forms, and any documentation accompanying registration forms, shall contain an affidavit or declaration signed by the Park Owner or a designated agent, with his/her signature notarized, certifying that the information contained therein is true, correct and complete.
- D. Notice of Sale of a Park. Upon the sale or transfer of the Mobilehome Park, the seller or transferor shall notify the Rent Review Officer and all Mobilehome Owners within the Mobilehome Park of the sale or transfer and of the name and address of the buyer or transferee. Within 10 days of the sale or transfer of a Mobilehome Park, the buyer or transferee shall provide a new registration form meeting the requirements of this section and a copy of the statement of the Base Year income, expenses, and net operating income of the Park and supporting documents that the previous Park Owner had provided to them pursuant to subsection E. of this section.
- E. Notice to Prospective Park Purchasers. The Park Owner shall provide prospective Park purchasers with a copy of this Chapter.

**[4-39-242] Retaliation Prohibited.**

- A. It shall be unlawful for a Park Owner to evict a Mobilehome tenant where the Park Owner’s motive in seeking to recover possession of the space is:
  - 1. Retaliation for the Mobilehome Owner’s organizing, petitioning for Rent relief, or

exercising any right granted under this Article; or

2. Evading or circumventing the purposes of this Article.
- B. It shall be unlawful for a Park Owner to retaliate against a Mobilehome Owner because of the Mobilehome Owner's assertion or exercise of rights under this Article in any manner, including but not limited to:
1. Threatening to bring or bringing an action to recover possession of a space.
  2. Engaging in any form of harassment that causes the Mobilehome Owner to quit the premises.
  3. Decreasing housing services.
  4. Unlawfully increasing Rent.
  5. Imposing or increasing a security deposit or other charge payable by the Mobilehome Owner.

**[4-39-245] Time of Allowed Rent Increase/Adjustment.**

- A. Once within a twelve (12) month period, the Park Owner may implement a CPI Rent adjustment or a Fair return increase, as authorized in this Article, but not both.
- B. A Capital Replacement Cost pass-through authorized by this Article may only be implemented on the effective date of the CPI or Fair return rent adjustment.
- C. The following Rent Increases or adjustments, as authorized by this Article, may be implemented at any time during the year:
  1. Government mandated expense pass-throughs;
  2. Utility pass-throughs;
  3. Capital Improvement Cost pass-throughs;
  4. In-place transfer Rent Increases.
- D. Rent Increases subject to approval by the Rent Review Officer shall be implemented after final determination.
- E. Rent reductions for Service Reductions shall be implemented at the time Service Reductions are ordered.

**[4-39-247] Refusal of Mobilehome Owner to Pay Illegal Rent.**

It shall be unlawful for a Park Owner to demand, accept, receive, or retain Rent in excess of the amounts authorized by this Article. An Affected Mobilehome Owner may refuse to pay any Rent in excess of the maximum Rent permitted by this Chapter. The fact that such unpaid Rent is in excess of



the maximum Rent shall be a defense in any action brought to recover possession of a Mobilehome Space for nonpayment of Rent or to collect the illegal Rent.

**[4-39-250] Disclosures.**

A Park Owner shall disclose to each prospective Mobilehome Owner the current and proposed Base Rent for the Mobilehome Space, any rental agreement options, provide each prospective Mobilehome Owner a copy of this Chapter, and that if the prospective Mobilehome Owner signs a lease with a term of more than one year, that lease will be exempt from rent stabilization in addition to notice required pursuant to Civil Code section 798.74.5 of the Mobilehome Residency Law. The Park Owner shall give the required disclosure and provide a copy of this Chapter to the prospective Mobilehome Owner at the time that the Park Owner, or Owner's representative, receives the prospective Mobilehome Owner's application for tenancy. The Park Owner shall obtain a signature of the prospective Mobilehome Owner on the disclosure form acknowledging receipt of the disclosures. The Park Owner shall retain the signed disclosure form throughout the entire tenancy of the Mobilehome Owner. This signed form shall be made available to the Rent Review Officer upon reasonable written notice.

**[4-39-252] Prospective Mobilehome Owner; Tenancy Twelve Months or Less.**

All prospective Mobilehome Owners shall be offered the option of a tenancy of twelve (12) months or less upon terms consistent with the provisions of this Article. This section shall not apply to prevent a mutually agreed upon assignment between a Park Owner and an existing Mobilehome Owner of an existing lease, provided any such assignment does not violate the provisions in this Article applicable to in-place transfer Rent Increases.

**[4-39-255] Rent Stabilization Administration, Fees.**

- A. Administrative Regulations: The Rent Review Officer may administratively adopt implementing regulations that are consistent with the provisions and intent of this Article.
- B. Rent Stabilization Administration Fee: All or any portion of the costs to administer this Chapter may be collected by the imposition of an annual rent stabilization administration fee, which shall be established by the City Council. The fee, if any, shall be chargeable against every Mobilehome Space in the City subject to rent stabilization. The Park Owner shall remit payment to the City within 30 days after the end of each calendar quarter, and may pass-through up to one-half of the fee to those Mobilehome Owners subject to the fee as a government mandated expense pass-through. The fee is intended to cover the full cost of administration and the fee assessment amount may be amended from time to time by resolution of the City Council.
- C. Other Fees: The City Council may adopt by resolution additional fees as necessary to reimburse the City for its costs to implement this Chapter, and may allocate specified charges to the respective Parties.

**[4-39-257] Amendment.**

Any amendment to this Article shall require a prior public hearing before the City Council with notice thereof mailed to all Affected Mobilehome Owners in the City at least ten (10) days prior to the hearing.

**SECTION 3.** This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines based on the finding that the provisions of the Ordinance constitute additional regulation for a process already existing under

State law and thus does not have the potential for causing a significant impact to the environment.  
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# OSCAR ROMERO AND SIMONE WEIL CATHOLIC WORKER HOUSE

A division of People Without Borders Justice Temple

a 501 (c) (3) corporation

[REDACTED]  
Hayward, CA 94541

*Rev. Silvia A. Brandon Pérez, Director*  
[REDACTED]

Pauline Cutter, Mayor  
San Leandro City Council  
Councilman Victor Aguilar

March 5, 2019

Honorable Mayor and Council members, Councilman Victor Aguilar

Re: Inequality of bargaining power and other comments on last night's meeting:

## **1. On Councilman Victor Aguilar's spirited defense of our most vulnerable:**

My gratefulness and admiration for Councilman Victor Aguilar's spirited defense of both inclusion of "just cause" for eviction in the ordinance and a moratorium. He is doing the work Ralph Waldo Emerson commended when he said:

"The purpose of life is not to be happy. It is to be useful, to be honorable, to be compassionate, to have it make some difference that you have lived and lived well."

Or, since we just celebrated the 70<sup>th</sup> anniversary of the Universal Declaration of Human Rights, which represented a worldwide compact to be the best that we can be as human beings, here is what Ban Ki-moon, Eighth Secretary-General has to say about it:

"Saving our planet, lifting people out of poverty, advancing economic growth... these are one and the same fight."

Victor Aguilar is in fact doing the work that is required of the City Council. In the Councilmembers' Handbook, Section VII, the following is stated as ROLE OF THE CITY COUNCIL:

### ***Policy Development – A sense of Mission:***

*Local officials need to listen to the community as well as help the community visualize where it wants to be in the future.*

### ***Policy Making:***

*In very simple terms, policy making means deciding what you are going to do - not how you are going to do it. An example may help illustrate the difference. Deciding that your community is going to emphasize the provision of low-income housing is a basic policy decision. Making that decision means that you will be spending money on housing programs, that you intend to make this subject a priority, and that, in all likelihood, some other programs will have to wait their turn. (...). Policies are formulated for the broad issues that affect your community.*

*These may include everything from providing jobs to paving streets to making sure that children have enough playgrounds.*

*As a policy maker, you are sometimes judge and sometimes advocate; you need to hear opposing views, consider the arguments, think about the concerns of the constituency you serve.*

I commend Mr. Aguilar's commitment to our community and in particular, to the most vulnerable segments of that community. He is being a fearless advocate for right action and representing the most vulnerable sectors of that community.

## **2. On the moratorium and unenforceable "gentlemen's agreements"**

Not only did the community appear in force both last night and at the January hearing, but you, the City Council and Mayor, have received multiple letters and statements about the current housing crisis both in the State of California and in particular in the Bay Area. As members of the City, the State, the country, the planet, you have an obligation to stay abreast of this situation. This City has its own homeless, and unhoused people do not live long. Their lives are usually cut short because of the terrible difficulties of living in the streets. NOT signing an immediate moratorium, and allowing these actors to continue to act **WITH IMPUNITY**, is an act of human and political **MISFEASANCE**.

The United Nations has made a damning report about our treatment, as a country, of our homeless populations. **The issue is imperative, and the requirement for a moratorium is imperative.** As I mentioned last night, it is a **MORAL** issue. **Not to be adjourned, not to be relegated to "a future meeting," not to be deferred for further consideration.** That is **damnable, execrable** behavior. And I say this as someone who has sung Amazing Grace too many times at ceremonies honoring members of our unhoused population who have died from exposure to the elements in their early fifties.

In the same way that I commended the comments by Victor Aguilar, I **repudiate** the comments made by **Councilman Ballew**. I repudiate his characterization of H. John Busch's selfless and principled actions.

The fact is that Bayshore Commons deliberately destroyed **a community of people** who were living at the trailer park. The letters I provided last night showing that there was a problem with setbacks with Bayshore Commons, specifically affecting Unit 13,

which was the unit occupied by Mr. Busch for at least eight (8) years, and about which they had been notified, and over which they may **LOSE THEIR LICENSE** to operate the park, should give **all of you** pause. And sixty-percent increases in space rents constitute abominable behavior which should offend the consciences of any right-thinking person.

A basic concept in contract law is the requirement of equality of bargaining power in making contracts. When you have a Goliath (the mobile home park owners such as Matt Davies' outfit) and a David (any of the residents who spoke out last night and in January about retaliation, harassment, a lack of services), the inequality of bargaining position results in a contract of adhesion, which is not enforceable in a court of law. The lawyers who appeared last night for the mobile home park owners are part of the same industry that paid 76 million dollars to prevent the passing of Prop 10 which would have allowed California to enact rent control measures on a statewide level. **Of course**, they are going to speak about the "evils" of rent control and rent stabilization!

I speak about the evils of people dying on the streets from the perils of being unhoused. I speak of children doing their homework in the back of the family car, or in the street. I speak about our hypocrisy when using terms such as "food insecurity." One out of four people in Alameda County experience hunger. **Hunger, not "food insecurity."**

Matt Davies and his ilk are **a cancer** on our body politic. Mr. Ballew, you are on the **WRONG** side of history.

I am very disappointed in the uncaring and misguided attitude which prevented the Council's adoption of a moratorium **NOT ONLY on rent increases but on evictions**. Do we need to "follow the money"?

Respectfully submitted,

Rev. Silvia Antonia Brandon-Pérez  
ARCWP Priest

March 4, 2019

Margaret E. Nanda  
mnanda@hopkinscarley.com  
T. 408.299.1327  
F. 408.998.4790

**VIA EMAIL**

Honorable Mayor Pauline Russo Cutter  
Vice Mayor Corina Lopez  
Council Member Deborah Cox  
Council Member Ed Hernandez  
Council Member Victor Aguilar, Jr.  
Council Member Benny Lee  
Council Member Pete Ballew  
City of San Leandro  
835 East 14th Street  
San Leandro, CA 94577

**Re: Proposed Mobilehome Rent Stabilization Ordinance  
March 4, 2019 City Council Meeting Agenda Item 10-A**

Dear Mayor, Vice Mayor, & Council Members:

My client, Brandenburg, Staedler and Moore ("BS&M"), is the developer, owner, and operator of 14 upscale mobilehome communities throughout the Bay Area, consisting of approximately 3,500 spaces, including Mission Bay Mobilehome Community ("Mission Bay") in San Leandro. Mission Bay is a five-star park, a Community for Older Persons, and the largest mobilehome park in the City of San Leandro. Mission Bay, with 366 spaces represents forty-three percent (43%) of the mobilehome space inventory in the City. Since opening Mission Bay in 1971, BS&M has taken great pride in maintaining and improving the community, upholding its standards as a business and a housing provider, and maintaining positive relations with residents.

For over twenty years, Mission Bay and a Resident Rent Committee have worked together to negotiate agreements which cap yearly rent increases. Every five years since 1992, Park Management and a Resident Rent Committee have met and agreed upon a schedule of annual rent increases, rent increases upon vacancy and a dispute resolution process. This process, which has resulted in six such agreements has successfully provided the residents with protection against unforeseen rent increases, while allowing BS&M to obtain a fair return on investment. This lengthy history of successfully negotiated agreements further demonstrates why the proposed rent control ordinance is unnecessary and can accomplish its goals via other means. City Staff claim that the Draft RSO is necessitated by anecdotal reports of increased rents and displacement of mobilehome residents, yet there are no factual findings explaining why the Proposed Mobilehome Rent Stabilization Ordinance ("Draft RSO") is necessary and a reasonable means to ensure mobilehome rents are controlled while also protecting park owners' investment.

Moreover, as discussed in detail below, unfortunately, there are a litany of legal deficiencies which preclude the City Council's consideration and first reading of the Draft RSO at tonight's hearing.

**I. Additional Time is Necessary to Adequately Consider the Proposed Mobilehome Rent Stabilization Ordinance.**

The Brown Act,<sup>1</sup> California's most prominent open meeting law, insists that the people have a right to remain informed and that government be open and accessible to the public. (See Cal. Govt. Code § 54950 ["The people insist on remaining informed so that they may retain control over the instruments they have created."].) It would be contrary to the purpose and spirit of the Brown Act and related open government laws to consider a first reading of this ordinance barely a month after the City first decided to study its impacts and necessity. The City Council admitted as much in its January 14, 2019, work session, in which it suggested, in PowerPoint slides, that a draft ordinance would be prepared for public comment and review in Spring of 2019 and a final ordinance would be prepared sometime in Summer of 2019. Yet, inexplicably, City Staff has now hastily submitted the Draft RSO and recommended its passage on a mere three business days' notice to the public, a grossly inadequate amount of time for input and review from the public and various stakeholders on this complex issue. This is contrary to California's commitment to open and transparent government, and the laws (such as the Brown Act) which mandate the same.

**II. As Currently Written, the Proposed Mobilehome Rent Stabilization Ordinance Deprives Park Owners of a Fair Return on Investment.**

The Draft RSO, as currently written, denies park owners a fair and reasonable return, which is an unconstitutional denial of due process. (see e.g., *Federal Power Commission v. Natural Gas Pipeline Co. of America*, 315 U.S. 575, 584–585, 62 S. Ct. 736, 86 L. Ed. 1037 (1942); *Kavanau v. Santa Monica Rent Control Bd.*, 16 Cal. 4th 761, 771, 66 Cal. Rptr. 2d 672, 941 P.2d 851 (1997) [explaining that price control, including rent control, must not deprive investors a "fair return" and thereby become "confiscatory"].)

Specifically, the Draft RSO denies park owners a reasonable rate of return in the following ways:

**A. Yearly Rent Increases are Capped at the Lesser of 4% or Annual CPI for the Western Region Rather than the Bay Area.**

First and most significantly, the RSO proposes to cap yearly rent increases at the lesser of four percent (4%) or the rise in the Bureau of Labor and Statistic's Consumer Price Index ("CPI") for the Western Region. (See Draft RSO at 4-39-212 ["[A] Rent Increase for a Mobilehome Space that shall be equal to the lesser of CPI or four (4) percent of the Rent charged for the Space in the preceding year, except as permitted by this Article in accordance with a CPI Decrease, an In-place Mobilehome transfer, or extraordinary circumstances.].) The language "*the lesser of*" is significant, because for many years this would more likely than not, deprive a park owner of almost *any* rent increase at all. For example, the annual CPI increase for the preceding five years (December to December) in the Western Region has been 1.27% (2014); 1.81% (2015); 2.5% (2016); 3.14% (2017); and 3.06% (2018). (See U.S. Dept. of Labor and Statistics, Western Information Office, Consumer Price Index.) Indeed, since 2000, the CPI in any given year has never been more than 3.7%. (*Id.*) Thus, in many, if not most years, park owners will be denied a fair and reasonable return, based on the current language of the Draft RSO.

Additionally, the Draft RSO bafflingly uses the CPI index for the entire Western Region, which includes the states of Alaska, Arizona, California, Hawaii, Idaho, Nevada, Oregon, and Washington, and the territory of Guam. Other Bay Area mobilehome rent control jurisdictions, such as the City of Hayward and the City of San Jose, which has the most mobilehome parks in the state, use the much more appropriate CPI index for the San Francisco-Oakland-Hayward MSA. (See Hayward Ord. No. 89-057 as

<sup>1</sup> Government Code section 54950 *et seq.*

amended through Ord. 08-12 at §2(d); San Jose Muni. Code § 17.22.115.) The annual percent changes in the San Francisco-Oakland-Hayward MSA are much greater than those found in the Western Region's data. For example, the annual CPI increase for the preceding five years (December to December) in the San Francisco-Oakland-Hayward MSA have been 2.67% (2014); 3.18% (2015); 3.53% (2016); 2.94% (2017); and 4.5% (2018), all of which are significantly higher than the Western Region data. Thus, the Western Region data would lead to significantly and artificially lower annual rent increases under the Draft RSO. The appropriate CPI metric, as other Bay Area mobilehome rent control jurisdictions concede, is the San Francisco-Oakland-Hayward MSA data.

Indeed, the City Council knows the current formula is not an appropriate way to calculate a fair and reasonable return. In slides circulated at the City Council's January 14, 2019 work session, you suggested a yearly rent increase the "*greater of 5% or CPI.*" Yet, inexplicably, City Staff has now hastily submitted the draft RSO which caps yearly rent increases in a way that deprives park owners of fair and reasonable returns, in that it ties yearly rent increases to very low rates of inflation for the entire Western Region of the United States (including Guam) rather than the more accurate figures from the Bay Area.

**B. Capital Improvements and Replacements Cannot Effectively Be Passed Through.**

As written, the Draft RSO only allows capital improvements to be passed-through at four percent (4%) of the rent of Special Circumstance Households. (See Draft RSO at 4-39-230(f).) Special Circumstances Households is defined broadly to include homeowners or residents who are 62 years of age or older, low-income, or disabled. Mission Bay is a Community for Older Persons<sup>2</sup> and thus restricts occupancy to at least one person per household to age 55 and over. Because Mission Bay provides the finest senior mobilehome living environment in the City of San Leandro, its residents continue to reside there for many years. Thus, it is estimated that at least 70% or more of households in Mission Bay will qualify as Special Circumstance Households because the mobilehome owner or the lessee of the mobilehome space is age 62 or over and/or disabled or low income. This will effectively prevent pass-through of a disproportionately large portion of the funds necessary for capital improvement projects. This is constitutionally impermissible, as the law requires that park owners obtain a reasonable return on investment, including for capital improvements, (See e.g., *Kavanau v. Santa Monica Rent Control Bd.* (1997) 16 Cal. 761, 773 ["[A] rent control law that merely allows a landlord to recoup the bare costs of a necessary capital improvement runs the risk of being confiscatory and thereby violating the landlord's right to due process of law."]; see also *Sierra Lake Reserve v. City of Rocklin* (9th Cir. 1991) 938 F.2d 951, 958, vacated in part (9th Cir. 1993) 987 F.2d 662 ["Breaking even is not enough; the law must provide for a profit on one's investment. Thus, [a rent control ordinance] must do more than simply allow plaintiff to pass through certain costs; it must ensure that plaintiff will receive a reasonable return on those expenditures."].) The RSO as drafted, is clearly unconstitutional, as it would deprive a park owner from recouping capital expenditures, much less making a reasonable rate of return on those expenses. (*Id.*) Instead, the Draft RSO would force a park owner who is already providing a scarce resource in San Leandro, namely senior housing, to subsidize the burden of capital improvements that its tenants will benefit from and enjoy. The inclusion of criteria for a Special Circumstance Household which includes any person over age 62 as limiting of capital improvement pass-throughs unquestionably deprives a senior community park owner of a fair return on investment.

Notably, there are no demonstrated factual findings or nexus related to the categories of Special Circumstances Households and their supposed financial inability to pay a reasonable, fair share of pass-through costs for capital improvements. Rent control ordinances cannot be arbitrary in their attempts to limit excessive rent increases. (See e.g., *Oceanside Mobilehome Park Owners' Assn. v. City of Oceanside* (1984) 157 Cal.App.3d 887, 897 [noting rent control ordinances must be reasonably

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<sup>2</sup> See 42 USC § 3601



calculated to further the city's interest in eliminating excessive rents for spaces in mobile home parks].) Simply delineating the magic age of 62 as a "special circumstance" which precludes effective pass-through of capital improvements, without a demonstrated financial need or other nexus for such a limitation, is an unconstitutionally arbitrary provision. (*Id.*) For instance, of the last ten household applicants to move into Mission Bay, six (i.e., 60%) have a lessee aged 62 or older, which automatically puts those households into the "special circumstance" category without regard to the household's monthly income or ability to pay.

The adoption of the special circumstance language could force BS&M to re-evaluate whether it can continue to operate the Mission Bay as a Community for Older Persons.

Moreover, it is important to note that Mission Bay is 48 years old, and will undoubtedly need to undertake various capital improvement and replacement projects in the future. As currently written the Draft RSO mandates that pass-through of capital replacement projects or capital improvements can only be accomplished via a "fair return application" where evidence is shown that fifty percent (50%) plus one of households have consented to such pass-through. (See Draft RSO at 4-39-230(E) and 4-39-230(F)(3)) This impermissibly takes away the judgment of the park owner of whether a capital replacement or capital improvement needs to be accomplished in favor of the tenants. (See *Kavanau v. Santa Monica Rent Control Bd.*, *supra*, 16 Cal. at 772 [noting that procedural mechanisms for rent adjustments must not be unduly burdensome].) The successful operation and maintenance of a luxury mobilehome community such as Mission Bay is the result of strategic management decision making concerning whether capital improvement or capital replacement projects should be undertaken. The replacement or improvement of vital park utilities and infrastructure systems should not be subject to a campaign by the park owner to persuade its residents to vote to increase their monthly rent obligation.

**C. Artificially Low Interest Allowance Results in Artificially Low Net Operating Income.**

The Draft RSO is written to allow a park owner to submit a "fair return application" to attempt to maintain "net operating income" equal to the base year. (See Draft RSO at 4-39-217.) However, the method of calculating "net operating income" is unduly restrictive so as to deprive park owners of a fair and reasonable return. Specifically, net income is calculated by subtracting operating expenses from gross rental income. Operating expenses, however, is defined unduly narrowly, in that the interest allowance on amortized expenses, which can be included in operating expenses, is defined to mean "the interest rate on the cost of the amortized expense equal to the 'average rate' for 30-year fixed rate home mortgages plus two percent. The "average rate" shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey ("PMMS") as of the date of the initial submission of the application."

Such a calculation is artificially low, in that it caps interest at the Freddie Mac rate, which is a government sponsored enterprise attempting to increase homeownership through affordable (i.e., low) mortgage rates. Moreover, it makes no sense why interest for amortized expenses should be tied to mortgage rates, when the amortized expenses and interest which a park owner would seek to include in operating expenses are associated with the interest rates charged by hard money lenders.

Such a restrictive view of operating expenses in turn artificially restricts operating income, which deprives park owners of a fair return on their investment, irrespective of their ability to file a so-called "fair return application."

**III. The Proposed Mobilehome Rent Stabilization Ordinance Is Not Exempt From CEQA. San Leandro Must Conduct an Initial Study to Analyze Potential for Urban Decay and Blight.**

As outlined above, the Draft RSO imposes substantial constraints on a park owner's existing right to individualized rent increases following investment in capital improvements by limiting the annual increase in rent solely attributable to capital improvements to four (4) percent for "Special Circumstances Households" as defined. Capital improvements are necessary to upgrade and improve San Leandro's mobilehome parks and to prevent blight and urban decay of the City's affordable housing stock. By creating a broad class of "Special Circumstance Households" that is composed of an unknown number of Mobilehome Owners, Park Owners will refrain from investing in necessary and desirable improvements to their real property. As infrastructure deteriorates, the incidents of leaks and spills of drinking water, storm water and sewerage will increase, along with use of diesel generators when electrical systems fail. These incidents will have an impact on the environment.

The Draft RSO will have a reasonably foreseeable indirect physical change in the environment as defined in California Environmental Quality Act section 21065. Therefore, the City's adoption of the Ordinance constitutes a project subject to CEQA and environmental impact analysis must be done of the cumulative impacts of the City's actions. Under the CEQA Guidelines such an ordinance is a project if it creates a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment.

Additionally, it is well settled that "projects" involving a potential for urban decay and blight are subject to CEQA. (See *Bakersfield Citizens for Local Controls v Bakersfield* (2004) 124 Cal.App.4th 1184.) Local decisions that pose the potential to cause a cumulative impact of closures and long-term vacancies, ultimately creating social and economic impacts that can destroy or cause deterioration in existing neighborhoods must be analyzed under CEQA. (See *Black Property Owners Association v Berkeley* (1994) 22 Cal. App. 974 [effects of City's housing policies must be studied upholding City's reliance on Negative Declaration].)

The burden of establishing an exemption from CEQA rests with the government. (See e.g., *Davidon Homes v San Jose* (1997) 54 Cal.App.4th 106, 112, 113.) The present record is devoid of any analysis whatsoever of the potential environmental impacts of the Draft RSO. Conversely, imposing substantial barriers to capital improvements and replacements raise a substantial possibility of a cumulative impact resulting in decay to the environment.

Contrary to the unsupported conclusion that the Draft RSO is exempt from CEQA because it "does not have a potential for causing significant impact to the environment," San Leandro must first analyze the potential that constraints on rent increases will disincentivize capital improvements leading to a cumulative environmental impact of decay and blight within the City's mobilehome parks. The proposed actions are designed to freeze the land in its current use, which includes aging facilities which cannot be feasibly maintained without the ability to raise rents or pass the costs through. Thus, San Leandro has failed to properly analyze the potential that the Draft RSO could cause a significant impact to the environment.

**IV. Action on the Proposed Mobilehome Rent Stabilization Ordinance Should be Deferred and Alternatives Considered.**

In closing, the aforementioned arguments countenance against considering a first reading of the Draft RSO at tonight's hearing. At the least, this matter should be taken off-calendar to provide additional time for input from the community and various stakeholders. But, if the City Council decides to consider the Draft RSO, it should not adopt the ordinance as written, as it deprives park owners of a fair and

reasonable return. Moreover, there are various other ways to successfully prevent unreasonable rent increases on tenants within mobilehome parks, such as Mission Bay's practice of negotiating reasonable rent increases with a residents' committee since the early 1990s, or by considering amendment to the current apartment rent review ordinance to apply to mobilehome parks. Thus, not only is the Draft RSO unfair and unconstitutional as currently drafted, it is unnecessary, based on alternative approaches which will ensure both tenants' and park owners' interests are effectively protected.

Sincerely,

HOPKINS & CARLEY  
A Law Corporation

  
Margaret E. Nanda

MEN

cc: Ryan Jasinsky  
Jeff Smoker  
Patricia Davis  
John V. Moore  
G. Jeff Moore  
Rudy Staedler  
William B. Baron  
Andrew Zachs, Esq.  
Matthew Telford, Esq.  
Chuck Reed, Esq.  
(All Via Email)

## Sargent, Maryann

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**From:** Liao, Thomas  
**Sent:** Tuesday, March 05, 2019 10:20 AM  
**To:** Sargent, Maryann  
**Subject:** Fwd: Delayed Proposed Mobile Home Rent Stabilization Ordinance  
**Attachments:** Notice of Termination of Tenancy.pdf; ATT00001.htm; Ltr to Rocha 05.08.18.pdf; ATT00002.htm; Ltr to Rocha 05.11.18.pdf; ATT00003.htm; State Sues Huntington Beach Over Blocked Homebuilding.pdf; ATT00004.htm; Cesar Garcia's eviction notice.pdf; ATT00005.htm

Begin forwarded message:

**From:** GINA MARQUEZ <[glmarquez@zonemail.clpccd.edu](mailto:glmarquez@zonemail.clpccd.edu)>  
**Date:** March 5, 2019 at 8:59:48 AM PST  
**To:** [vaguilar@sanleandro.org](mailto:vaguilar@sanleandro.org)  
**Cc:** "Cutter, Pauline" <[pcutter@sanleandro.org](mailto:pcutter@sanleandro.org)>, "Hernandez, Ed" <[ehernandez@sanleandro.org](mailto:ehernandez@sanleandro.org)>, "Lee, Benny" <[blee@sanleandro.org](mailto:blee@sanleandro.org)>, "Ballew, Pete" <[pballew@sanleandro.org](mailto:pballew@sanleandro.org)>, "Lopez, Corina" <[clopez@sanleandro.org](mailto:clopez@sanleandro.org)>, "Kay, Jeff" <[JKay@sanleandro.org](mailto:JKay@sanleandro.org)>, Helena Straughter <[delegat41@gmail.com](mailto:delegat41@gmail.com)>, "Liao, Thomas" <[TLiao@sanleandro.org](mailto:TLiao@sanleandro.org)>, [rpioroda@meyersnave.com](mailto:rpioroda@meyersnave.com)  
**Subject:** **Delayed Proposed Mobile Home Rent Stabilization Ordinance**

March 5, 2019

**Via Email:** [vaguilar@sanleandro.org](mailto:vaguilar@sanleandro.org)  
Victor Aguilar, San Leandro City Council Member  
The City of San Leandro  
835 E. 14<sup>th</sup> Street  
San Leandro, Ca. 94577

**Re: *Delayed Proposed Mobile Home Rent Stabilization Ordinance***

Dear Victor Aguilar,

I write this letter to commend you on your magnanimous support for the mobile home park tenants within The City of San Leandro, during the televised meeting on March 4, 2019. I support your colleagues' decision to dedicate more time to make the pertinent amendments to the proposed ordinance. However, an expedited moratorium was needed as opposed to a verbal: "Gentleman's Agreement" between a property owner and Mayor Cutter.

I understand you are a welcomed addition to The City of San Leandro and a true council member of your word, having observed your actions during the election. It is without a doubt that your colleagues may have failed to acknowledge the commitment and dedication that advocates like myself have done, without the support of Mr. Liao and The Community Development Department. In fact, during my advocacy in support of elder, John Busch, disabled Cesar Garcia and Carolyn of Bayshore Commons; Maryann Sargeant, the alleged Senior Housing Specialist, expressed vulgar language over a telephone conversation in March of 2018. Ms. Sargeant demanded my strategic plan and confirmed I would not

accomplish such a proposed Mobile Home Park Ordinance. She continues to question San Leandro residents identified as Donna Moltzen if I have assisted them.

Furthermore, you may not be aware about the lack of support Echo Housing has provided for tenants throughout San Leandro, San Lorenzo, Hayward and Castro Valley. I was successful in rescinding Cesar Garcia's eviction at Bayshore Commons in 2018.

In brief, I want to provide you relevant evidence to solidify why "Just Cause" and the 2% CPI is significant. In addition to the inclusion of safety and zoning code enforcement. I've participated in meetings with Board of Supervisor Nate Miley in 2018, which is why he amended The Alameda County Renter's Ordinance.

In the summer of 2018, a team of advocates took photographs of Bayshore Commons and we all signed a petition to persuade The State of California to send an inspector to assess the property. I, including many others contacted The State of California and were re-directed back to The City of San Leandro for safety and code enforcement. Last night, tenants of Golden State Mobile Home Park, explained they've suffered the same fate as Bayshore Commons. Retaliatory evictions, threatening notices, countless rent increases. I encouraged the tenants to contact your office.

Attached are pertinent documents that may help you at the bargaining table.

Very Truly Yours,

Gina Marquez

Email: [gmarquez@zonemail.clpccd.edu](mailto:gmarquez@zonemail.clpccd.edu)

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**NOTICE OF TERMINATION OF TENANCY AND  
SIXTY (60) DAY NOTICE TO REMOVE MOBILEHOME  
FROM MOBILEHOME PARK**

TO: Cesar Garcia  
1468 Grand Ave. #21  
San Leandro, CA 94577

AND TO ALL OTHER PERSONS IN POSSESSION.

NOTICE: Your tenancy of the above-described premises is hereby terminated.

Pursuant to California Civil Code §798.55, you now have sixty (60) days from the date that this notice is served upon you to **vacate the premises and remove your mobilehome there from as required below or sell the mobilehome at your election**. If you elect to sell your mobilehome within said 60 day period, park management reserves the right to require its removal pursuant to Civil Code §798.73 and §798.73.5.

You have previously been served with written notices providing you with at least seven (7) days to comply with these rules and regulations, and said seven day periods have expired and you have failed to so comply. True and correct copies of said notices are attached hereto as Exhibit "A" and are incorporated herein by this reference.

**11. LANSCAPING: Subject to the limitations of Civil Code Section 798.37.5, Resident is required to provide and maintain attractive landscaping of the homesite. Resident may use any combination of lawn, shrub, flowers, rocks or bark. If the lawn, shrub, flowers or trees are used, such landscaping must be well maintained, neat and attractive. Resident is solely responsible for maintenance, pruning, trimming and when necessary in park's discretion removal of any tree on Resident's space. If rock or bark is used, plastic sheeting must be placed beneath leaving a ring around any trees for watering and an edging must be used. Permission of the Management is required prior to any digging in the park or on the homesite. If rock or bark is utilized, such must be contained with in the homesite and kept in a neat and attractive fashion.**

**13. LOT MAINTENANCE:**

**A. Residents shall maintain their homesites in a clean, well kept and attractive fashion, including the front, sides and back. If a home site is neglected, after reasonable written notice, Management reserves the right, but is not obligated to, take over its care and bill the Resident for the services, pursuant to civil code section 798.36. When a home site is vacated, all holes must be filled and leveled.**

**23. PETS: Residents may keep one dog or cat, and caged indoor birds and aquatic animals in aquariums as a pet, subject to Management's prior approval. Max weight of pet is 25 lbs. Approved pets must be registered with Management. Dogs and cats must be kept on a leash at all times when outside of Resident's mobilehome. Pets, which cause a substantial annoyance to neighbors, must be removed from the Park. Pet droppings must be cleaned up immediately. Pet owners must sign a pet agreement as an addendum to their Rental Agreement. Guest must not bring pets into the Park except for guide dogs, signal dogs and other service dogs, as defined in the Civil Code Section 54.1.**

**Specifically, you have failed, and continue to fail, to comply with rules as follows:**

Remove rug/mat, office chair, tarps, metal framing, plastic bins, wood etc. Space needs to remain clean and well kept at all times.

Pets must be on leash AND in Owners control at all times. Pets are not to be left outside unattended

The foregoing incidents of rules violations have occurred since approximately February 15, 2018, and the present, and have been witnessed by Park management.

Based upon the foregoing conduct, and in view of your failure to respond to requests that you refrain from this type of conduct, your tenancy is hereby terminated pursuant to California Civil Code §798.56(d).

### **W A R N I N G**

If you fail to remove your mobilehome from the Park or sell your mobilehome at your election within the time permitted by law, and this notice, legal proceedings may be commenced against you to declare your rental agreement forfeited as of this date, to recover physical possession of the premises, punitive damages, and damages for your continued possession of said premises, together with court costs and attorneys' fees as provided in California Civil Code §798.85.

Dated: 3/16/2018

Bayshore Commons

Sherrie Fuqua  
209-932-8747

Posted on your door 3 4.7.18  
weeks ago was a 60 day  
termination notice which  
means that from the day  
the notice was posted you  
have 60 day to leave.  
Don't turn in your rent  
anymore because I can't  
accept it. the owner want  
you gone.



TO

BAY SHORE COMMONS  
FROM

CESAR GARCIA  
# 21

May 8, 2018

**Via Email: margie@echofairhousing.org**

Marjorie A. Rocha, Executive Director  
Echo Housing Rent Review Program  
770 A Street  
Hayward, Ca. 94541

***Re: Red Vehicle photographs***

Dear Marjorie A. Rocha,

On or about May 8, 2018, I visited Cesar Garcia at The Bayshore Commons Mobile Home Park to assist with pictures of his red vehicle that the Property Owner wanted him to clean. Mr. Garcia is patiently awaiting his paperwork from Sherrie with Harmony Communities to pay the fee for storage.

As you know, the storage site resembles a wrecking yard but I instructed Cesar Garcia to comply so we can prevent eviction. I further questioned Garcia about his Mobile Home Park Rental Agreement to ensure he understands the rules at Bayshore Commons. Cesar Garcia conveyed he didn't receive a new Rental Agreement when Bayshore Commons took ownership, nor the paperwork that includes the verbiage to remove the items in the trunk of his red car.

Will you kindly ask Harmony Communities to provide the supporting documents and email them to me? That way I can explain to Cesar Garcia what the paperwork entails and if he executed the correct Mobile Home Park Rental Agreement. I further conveyed that if he has any other vehicles, he must clean them, so we can try and prevent eviction and displacement.

I'm also concerned, because Garcia explained that he phoned Sherrie with Harmony Communities to question a storage shed for his items. The gentleman over the phone explained that Sherrie was unavailable and suggested he purchase one from Home Depot. The gentleman further stated that he was pleased that he cleaned up but for how long. He further explained that Cesar Garcia is not allowed to have his medical walker anywhere around the mobile home park. Garcia explained he uses it for his medical condition.

As we both agreed per our discussion on Monday, May 7, 2018, Mr. Cesar Garcia shouldn't be continuously harassed and singled out. Upon the visit, I saw other storage vehicles with items. I've attached the photographs for your review.

Sincerely,

Gina Marquez

[REDACTED]

[REDACTED]

[REDACTED]

Email: [glmarquez@zonemail.clpccd.edu](mailto:glmarquez@zonemail.clpccd.edu)

May 11, 2018

**Via Email: margie@echofairhousing.org**

Marjorie A. Rocha, Executive Director  
Echo Housing Rent Review Program  
770 A Street  
Hayward, Ca. 94541

***Re: Regarding Mobile Home Leak photograph***

Dear Marjorie A. Rocha,

On or about May 11, 2018, I visited Cesar Garcia to question the leak and to provide him with the photograph you emailed. We observed his Mobile Home, the photograph and discovered the picture was not of Cesar Garcia's Mobile Home.

1. The picture mirrors a little white fence and garden shaped bricks.
2. I provided previous photographs that reflect Mr. Garcia does not have a garden nor plants.
3. The bricks Garcia has, surround a black pipe as shown in the backside of his Mobile Home.

I captured more pictures for your review at the angles where you can observe the detail. Note, the tires to the right of the photograph, white large fence and other items belong to Cesar Garcia's neighbor. I further instructed Cesar Garcia to water down his Space 21 so you can get a visual of what water spots look like. I've also attached a sample photograph of his neighbor's leak.

Continue to keep me posted regarding the paperwork if there is anything else, Mr. Davies would like Cesar Garcia to remove or clean. Again, it appears Mr. Garcia has remained in compliance regarding the Notice of Termination of Tenancy.

Sincerely,

Gina Marquez

████████████████████  
████████████████████  
████████████████████

Email: [glmarquez@zonemail.clpccd.edu](mailto:glmarquez@zonemail.clpccd.edu)

# State Sues Huntington Beach Over Blocked Homebuilding

Friday, January 25, 2019

Priscella Vega and Liam Dillon

Los Angeles Times

At Gov. Gavin Newsom's request, California filed a lawsuit Friday against the city of Huntington Beach over what state officials describe as the city's failure to allow enough homebuilding to accommodate a growing population.

Newsom said the suit is needed to address rising housing costs that threaten economic growth and deepen inequality. The lawsuit accuses Huntington Beach of defying a state law that requires cities and counties to set aside sufficient land for housing development.

The California Department of Housing and Community Development issued letters to the city in 2015 and 2018 requesting that it comply.

"Many cities are taking herculean efforts to meet this crisis head on," Newsom said in a statement. "But some cities are refusing to do their part to address this crisis and willfully stand in violation of California law. Those cities will be held to account."

The state is asking that an Orange County Superior Court judge order Huntington to comply with the law. It also seeks attorney fees and other costs.

But Huntington Beach City Attorney Michael Gates contended "the city has been, in fact, complying with all applicable state housing and zoning laws."

Huntington "has been and will continue to work with the California Department of Housing and Community Development regarding meeting the city's Regional Housing Needs Assessment," Gates said in a statement Friday. "Any delay experienced by the city in its ability to amend its zoning and/or make additional progress has been caused by the city fighting lawsuits and court appeals filed by plaintiffs such as the Kennedy Commission."

He pointed to recent court victories in an ongoing lawsuit in which the Kennedy Commission, an affordable-housing advocacy group, alleged that an amendment to the city's development plan for the Beach Boulevard-Edinger Avenue corridor violated state housing law.

Gates called the state's lawsuit "timed poorly" because it interrupts months of discussions between the Department of Housing and Community Development and the Kennedy Commission toward reaching a resolution of outstanding disputes.

He said it also raises questions about the state's motive, as "50 other cities in California have not yet met their RHNA targets."

Gates said the city is reviewing its options on how to respond to the lawsuit.

The case against Huntington Beach is a rare legal action by the state against a local government over housing laws. In 2009, when former Gov. Jerry Brown was attorney general, the state intervened in a lawsuit against the Bay Area city of Pleasanton, where voters capped the amount of housing allowed. The case ended with Pleasanton getting rid of its cap, zoning for more homes and owing about \$4 million in attorney fees.

Though cities and counties do not build homes, local restrictions on development, such as high fees or a lack of land zoned for residential use, can prevent construction that might otherwise occur. Higher-income coastal communities, including Huntington Beach, often maintain some of the tightest development rules in the state, even as housing costs have soared in the past decade.

The median home value in the beach city of 200,000 people tops \$834,000, according to real estate website Zillow. More than half of Huntington Beach's tenants are rent-burdened, meaning they spend more than 30% of their income on housing, according to U.S. Census data.

Huntington Beach put itself in a shortfall toward its state-mandated target for low-income housing units when the council in 2015 amended the Beach and Edinger Corridors Specific Plan, which was adopted in 2010 to help revitalize Beach Boulevard and Edinger Avenue by streamlining the building approval process.

The amendments reduced the cap on new residential development from 4,500 units to 2,100 and imposed stricter height and setback requirements after many residents complained about the high rate at which high-density residential projects were popping up.

The original Beach and Edinger plan is tied to Huntington Beach's housing element, a guideline in the city general plan that it uses to identify ways the city can address housing needs for all economic segments as the community grows.

The amendments meant the city no longer had enough land zoned to accommodate low-income residents under state requirements, prompting a lawsuit two months later from the Kennedy Commission.

According to the state's lawsuit, the Department of Housing and Community Development began working with the city to prepare an amended and "legally compliant" housing element shortly after it issued its first letter in 2015.

But the Kennedy Commission sued Huntington in the midst of the state and city partnership.

"We're concerned about the opportunities for affordable housing, being that Orange County is among the least affordable counties in the nation and in California," Cesar Covarrubias, the nonprofit's executive director, said in 2015. "We believe that every city should have appropriate sites to create opportunities for housing all its residents, especially low-income residents."

The city argued in court that it was working to amend its housing element and that the Kennedy Commission's lawsuit was "unnecessary and would soon be moot." But a proposed plan was unanimously rejected by the City Council in 2016.

Councilman Erik Peterson said at the time that the city should prepare to fight the state regarding the mandated amount of low-income housing in the city.

The legal battle with the Kennedy Commission is continuing, though a state appeals court ruled in favor of the city in 2017 because Huntington is a charter city, exempting it from some state zoning laws.

After Housing and Community Development issued a second notice of noncompliance in 2018, the city said it would create a new housing plan after it resolved its dispute with the Kennedy Commission.

"The time for empty promises has come to an end," the state's lawsuit says. "The city should not be allowed to avoid its statutory obligations any longer."

Huntington Beach has issued permits and filed inspections for more than 2,500 new housing units, including about 100 very-low-income and low-income deed-restricted units, since 2014, according to Gates. The city also established a Tenant Based Rental Assistance Program designed for extremely low-income and homeless people, he said.

State Assemblyman Tyler Diep (R-Westminster) expressed support for Huntington Beach, part of the area he represents, and said litigation isn't the solution to the housing shortage.

"There are reports on cities in California stating they will not meet their 2040 housing goals until the year 2295 or after," Diep said in a statement Friday. "Huntington Beach has had a 4% population increase since 2004; meanwhile, some of the fastest-growing cities in California are required to build less housing than this city."

State Sen. John Moorlach (R-Costa Mesa) said in a statement that he was "befuddled" that Newsom — a former mayor of San Francisco, a city with high housing costs — singled out Huntington Beach with litigation instead of engaging in "goodwill gestures" to help cities reach their housing goals.

"Once this approach is started, then it must be applied to all other cities not in compliance," Moorlach said. "He should have a policy of no better, no worse. Otherwise, these are strong-arm tactics."

Source URL:

<https://www.latimes.com/socal/daily-pilot/news/tn-dpt-me-hb-housing-lawsuit-2...>

## Sargent, Maryann

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**From:** [REDACTED]  
**Sent:** Tuesday, March 05, 2019 9:25 AM  
**To:** Cutter, Pauline  
**Cc:** \_Council; Liao, Thomas; Sargent, Maryann  
**Subject:** Mobile Home Space Rent - 2% of \$1Million is BIG number  
**Attachments:** 2% of \$1Million is not a small return.xls

Dear Mayor Cutter -

I was taken aback by your belief that if an owner only raises the space rent at 2% a year their property isn't making them a profit. In an attempt to show you the arithmetic to prove otherwise, I expanded my spreadsheet (which Mr. Ballew got yesterday) to include what a rent increase translates to for annual rental income for a whole park. I did a spreadsheet so I could let Excel do the arithmetic rather than a calculator, and so it was not that much harder to do the numbers for ALL the San Leandro park sizes.

Since reading the spreadsheet, which has now gotten as big as the income, might not be fun, below is a verbal reading of what the profit is for a 2% and a 4% increase in a park of 58 spaces. I think you can easily see from the spreadsheet how big the numbers get as the size of the park grows in size.

Perhaps you could look at this before you meet with the owners.  
Virginia Madsen

For a 58 space park: (Hesperian)

with a 2% increase which doubles the individual space rent after 36 years

the owner's annual rental income for 1 space in year 1 is \$12,240

for all 58 spaces in year 1 it is \$709,920

After 5 years of 2% rent increases the owner's income for all 58 spaces is \$768,440 which is \$58,520 more than year 1 which is an 8% increase in income

After 10 years of 2% rent increases the owner's income for all 58 spaces is \$848,420 which is \$138,500 more than year 1 which is a 19.5% increase in income

After 15 years of 2% rent increases the owner's income for all 58 spaces is \$936,724 which is \$226,804 more than year 1 which is a 32% increase in income

After 36 years of 2% rent increases, at which time the tenant is now paying double the rent as in year 1, the owner's income for all 58 spaces is \$1,419,762 which is \$709,842 more than year 1 which is a 99.98% increase in income

In the 36 years, the owner has made \$37 MILLION in rents and gotten over \$600,000 from that one tenant with just a 2% rent annual increase

How is \$1 Million a year in rental income not a fair return?

For a 58 space park:

With a 4% increase which doubles the individual space rent after 18 years

The owner's annual rental income for 1 space in year 1 is \$12,480

for all 58 spaces in year 1 it is \$723,840

After 5 years of 4% rent increases the owner's income for all 58 spaces is \$846,790 which is \$122,950 more than year 1 which is an 17% increase in income



After 10 years of 4% rent increases the owner's income for all 58 spaces is \$1,030,250 which is \$306,410 more than year 1 which is a 42% increase in income

After 18 years of 4% rent increases, at which time the tenant is now paying double the rent as in year 1, the owner's income for all 58 spaces is \$1,409,968 which is \$686,128 more than year 1 which is a 95% increase in income

In the 18 years, the owner has made \$18.5 MILLION in rents and gotten over \$320,000 from that one tenant with a 4% rent annual increase

This is still about \$1 Million a year in rental income for 18 years. Even with operating costs this is NOT a small return.

From: [REDACTED]  
To: PBallew@sanleandro.org  
Cc: tliao@sanleandro.org  
Subject: Re: Mobile Home Space Rent Stabilization Ordinance - spreadsheet  
Date: Mon, 4 Mar 2019 18:37:14 GMT

Pete -  
Per your request attached is the little spreadsheet I mentioned in my email.

I have very old technology but you should be able to read my .xls file attached. And there are no fancy bells and whistles because I didn't need them, just an easier way to do calculations.

This file started because I was trying to figure out the trajectory of my annual 7% increase (at the bottom of the spreadsheet). My rent has gone up on schedule since 2015. Property management company just did a minor repair - recaulked the bathroom tub which I said I was going to do again this summer - so the next one is imminent.

Lest you have forgotten why I am still speaking up ...  
Virginia

----- Original Message -----

From: "Ballew, Pete" <PBallew@sanleandro.org>  
To: [REDACTED]  
Subject: Re: Mobile Home Space Rent Stabilization Ordinance - comments  
Date: Mon, 4 Mar 2019 06:36:02 +0000

Thank you, Virginia. This ordinance is comprehensive, maybe even too comprehensive. I had to read it three times to get it all! I don't know where we will end up. We're trying to balance many competing interests on this one. I am interested in the simple spreadsheet you have if you can share it. Thank you.

Pete Ballew  
City Council Member  
510-680-0981

## Sargent, Maryann

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**From:** Anderson, Kimberly  
**Sent:** Tuesday, March 05, 2019 3:33 PM  
**To:** Sargent, Maryann  
**Subject:** FW: Mission Bay Rental Increase, [REDACTED]

Forwarding to you . . .

-----Original Message-----

**From:** Lana Fash [REDACTED]  
**Sent:** Tuesday, March 05, 2019 12:02 PM  
**To:** mbhoasl@gmail.com  
**Cc:** Anderson, Kimberly <KAnderson@sanleandro.org>  
**Subject:** Mission Bay Rental Increase, [REDACTED]

Attention: Mission Bay Mobilehome Owners ASSN.  
All Board Members

I recently bought a mobilehome in Mission Bay Senior Park. I chose this specific mobile home because the rental space was \$889.07 per month. This was the lowest rent available in the Senior Park and it was important to me as a senior living on a fixed income. This mobile home would not have been my first choice but the rent was the deciding factor.

This is very different, you own the home but you pay rent and are not free to do what you want with the property.

I paid a \$1,000 deposit and had already paid for 3 inspections. I moved all my belongings to 3 storage units while waiting to move in. I had invested a lot of money into buying this mobile home. I had made arrangements for repairs and upgrades. I needed to move in ASAP.

On 10/30/18, the Park's Community Administrator, Wendy Howard, signed a document certifying that the rent for the space is \$889.07. The next rent increase to be January 1, 2019 3% increase and would be \$915.74.

Days before Escrow was to close my Real Estate Agent, Ernest Costa, notifies me that the Park increased the rent from \$889.07 to \$1050 (15% increase) because the seller paid her rent late. This increase was done with no written notice or verbal notice to me from the Park Owner or Management. On January 1, 2019, I received another 3% increase raising my rent to \$1080. Total 18% increase in 2 months.

I took ownership on 11/29/18. This increase raised my rent \$160.93 per month. My rent would not have reached \$1050 for 5 years. Costing me \$9,655.80 over the next 5 years.

The Park caused a financial burden and a lot of stress. I was penalized for no reason. I don't know if this was even legal or not. I was never given a full explanation or the information that allowed them to increase my rent. I was told by Management there is nothing you can do about it. I was lucky they could have raised it more. Of course, I could have walked away and not purchased the mobilehome but as I explained I had already invested a lot of money and made arrangements to move. I really had no choice.

I don't feel this was anyway to treat a buyer and future tenant. I felt I was basically held hostage to pay or walk away. It was not fair but a tactic to increase rental income. The increase did not penalize the seller. The increase only penalized me as the buyer and tenant.

This increase created a financial hardship for me. The added stress has been very hard to deal with. What should of been a happy event was now a major problem.

Brandenburg Staedler & Moore and Mission Bay Park Management need to change their policy and penalize the seller and not the buyer. They need to notify sellers, buyers, and real estate agents of this practice so this does not happen to another person.

I have requested that the owner and management send me written documentation that legally allowed them to impose this rent increase on me even though I have a signature certifying the rent is \$889.07.

I would like to discuss this unfair increase with the Homeowners Association. Please contact me by email or my phone number is [REDACTED].

Sincerely,

Lana Fash

[REDACTED]  
San Leandro, CA 94579

Sent from my iPad

César García  
1468 Grand Avenue Space No. 21  
San Leandro, CA 94577

March 12, 2019

Pauline Cutter, Mayor  
San Leandro City Council

Re: Proposed Mobile Home Park Rent Stabilization Ordinance  
And Moratorium for Existing Park Residents

Honorable Mayor and Council members,

I attended the meetings of the City Council on the proposed rent stabilization ordinance and the request for a moratorium, and I have to admit I was very disappointed at your refusal to pass an immediate moratorium to help those of us who are in peril of eviction and who continue to be harassed, intimidated, treated in a discriminatory manner, only for the profit of park owners.

We already had the unlawfully eviction and jailing of H. John Busch by the Alameda County Sheriff's Office at the age of 81 in November of last year. The issue there was whether rent increases of 60% or higher should be allowed, not whether Mr. Busch had been offered inducements to go along with his eviction. All of us who live at Bayshore Commons are experiencing terrible and extreme conditions of harassment by the owners of that park. Yet you have refused to sign a moratorium.

One of our residents let us know about a citation by the State of California's Department of Housing and Community Development, Division of Codes and Standards, dated February 21, 2019. It's a Notice of Intent to Suspend Permit to Operate for Bayshore Commons. I have written to them to request a copy of their file against Bayshore Commons, since I am an interested resident.

I am a disabled man who lives in unit 21 and who has been refused the right to have my walker in front of my property. Despite the fact that I paid extra funds to store a truck (\$50 per month), my truck was recently towed and I have no information as to its whereabouts. The "notice" that I was to remove my truck took place on December 24 and was effective on December 31. Building management demanded a series of very punitive "cleanup" measures within a very short period of time. I have taken a series of pictures, which I can show you if given an appointment, of the condition of my unit versus the condition of other units in the building. There are cars which have not been moved in years, accumulations of debris and garbage, and similar conditions which exist in other units.

On June 21, 2018 I received a packet from the Legal Advocacy Unit of Disability Rights California, and filed a complaint for unfair treatment and housing discrimination. The complaint that I filed included the demand that I move a car in my driveway, for expired registration, and ordering me to clean everything around my motor home. There were any number of trailers and spaces that were not bothered by the administration and I have pictures of all of these trailers. I was also told I was not allowed to have my walker outside in my driveway despite the fact that I need it to get around.

I own my trailer, and I have been renting space from the Trailer Park. There should be no difference in how I am treated, as a disabled man, in my own home. And further, there should be no discrimination against me, since other people in the park are not made to follow these stringent rules.

I also made a complaint to the Mobile Home Ombudsman seeking help which described the following problems, which continue unabated:

- a. The new owners who took over the park in December 2017 have placed in between existing occupied trailer spaces, more permanent modular homes which their company, Harmony, constructs and sells. These new modular homes are placed as close as 10 inches away from the pre-existing trailers.
- b. The above has narrowed the roadways with the new modular homes, and this has required the removal of fencing between the park and the public street to accommodate the large modular structures, blocking the pre-existing trailers or exposing them directly to the street.
- c. This has been accompanied by huge rent increases, which have been meant to evict and displace existing long-time owners/tenants.
- d. In few cases in the entire park in what was 40 trailers is there any space that meets Title 25, Div. 1, Chap. 2, Article 7, Section 1330 of California State law.

The rental agreement that I signed with prior owner Estudillo Trailer Park on June 1, 2016 provided for a monthly space rent of \$625.00, which included water. There was also a separate agreement for a storage shed of \$135.00, and a separate space to store a truck of \$50.00.

On October 11, 2018 I received a Notice to Pay Rent or Quit which raised my base rent to \$895.00.

Again, Christmas Eve, 2018, to be effective on New Year's Eve, I received a Notice of Intention to Tow Vehicle, which referred to a storage notice mailed out on 11/7/18 which claimed to state:

Storage is no longer available. The vehicle needs to be removed immediately. Please take the necessary steps to remove your car/items left in the storage area by 12/31/2018. As of 1/ 1/ 2019 you will not be charged and our vehicle and/or vessel should be removed.

I never received this alleged notice, and continued to be charged throughout the period in time, even being charged for a vehicle that had been removed from the property.

I had a small dog that was being cared for by a friend who was in fact inside my trailer when management came in and stole my dog and accused me of having left it alone. This was a lie, and my friend will testify to the fact that it was a lie.

This company and its agent, Matt Davies, is interfering with my protected rights under ADA. I am being discriminated against because I am disabled and because I am a Latino male, a person of color.

You are supposed to protect all of us, not just the very rich. If I lose my home and my trailer just as my friend John Busch did, I will become homeless. By not acting promptly, you are contributing to the housing crisis, perpetuating an unfair system. We deserve your protection, because you represent ALL San Leandro residents.

You are allowing retaliatory evictions and harassment to continue. This is contrary to what your duties of office call for.

Bayshore Commons, among others, is interfering with our lives and our welfare. We had created a community before the new owners came along, intent on destroying it. Bayshore Commons is a housing predator, contributing to the housing crisis

I am hoping you will consider my letter and prevent further injustice.

César García

**Sargent, Maryann**

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**From:** Silvia Brandon-Pérez <[precisetranslations2008@gmail.com](mailto:precisetranslations2008@gmail.com)>  
**Sent:** Monday, April 01, 2019 7:07 PM  
**To:** Cutter, Pauline; Cox, Deborah; Ballew, Pete; Lopez, Corina; Kay, Jeff; Liao, Thomas; Sargent, Maryann; Anderson, Kimberly; Aguilar Jr, Victor; Hernandez, Ed; Lee, Benny  
**Subject:** Re: Proposed Mobile Home Rent Stabilization Ordinance  
**Attachments:** letter on clinic paper Pauline Cutter rent control moratorium April 1.docx

Mayor and Council members,

Please find attached, once again, my plea that you institute an IMMEDIATE moratorium on rent increases and evictions on mobile home park units.

I am writing to the Governor and to the ACLU.

The newest evicted tenant is a disabled woman at Bayshores Commons whose eviction sentence was entered on March 8, 2019, at the Superior Court, Alameda County, under Case No. HG18931965. Wonderful thing to receive on International Woman's Day...

I cannot be there this evening, but Mr. Busch has copies of this letter to introduce into the proceedings under "Comments."

Sincerely,

Rev. Silvia A. Brandon Pérez

Le lun. 4 mars 2019 à 14:56, Silvia Brandon-Pérez <[precisetranslations2008@gmail.com](mailto:precisetranslations2008@gmail.com)> a écrit :

March 4, 2019

Honorable Mayor and Council members,

## Re: Proposed Mobile Home Park Rent Stabilization Ordinance

I have reviewed the proposed ordinance for rent stabilization of space rents in mobile home parks. I am a long-time social justice activist, practicing priest, and housing and immigration rights advocate, who has appeared before you at least twice on the issue of rent stabilization and a moratorium, as well as homelessness. I run the Oscar Romero and Simone Weil Catholic Worker House in my home in Hayward, which has given temporary refuge to H. John Busch, who was unlawfully evicted by the Alameda County Sheriff's Office at the age of 81 in November of last year and jailed for a period of four days.

I am writing to ask that you include "just cause" provisions and set back the effective date of the ordinance so that what happened to John Busch does not happen again. I would also like you to consider a lower CPI and a moratorium. I ask this for the following reasons.

I have been working with Our Revolution San Leandro to advise mobile home park dwellers of this new ordinance and of tonight's meeting. In doing this, the last place we visited yesterday was Hesperian Trailer Park, located at 15263 Hesperian Boulevard in San Leandro. There, Mr. Busch and I spoke to a large number of residents who were eager to express their view about their homes and their rights. One woman, Ursuline, told me she was feeling very discouraged because this home of hers was her last chance. She could not in any way "afford" to live in San Leandro if her space rent continued to go up. She also expressed concern that the area where their trailer park is located has just been rezoned for



multi-storied buildings. She is expecting eviction attempts soon because the property will become much more valuable if they can sell homes rather than trailer space... Quite frankly, she said, "I have been looking to possibly move out of the United States to live the rest of my retirement free from economic pressures." She also spoke about moving to the trailer park back when the space rent included all services and utilities...

There were a number of Latino families to whom I spoke in Spanish, who are equally concerned. Their trailers represent an investment that allows them to raise their families, house their elders, form community.

The trailer park out of which Mr. Busch was evicted, Bayshore Commons, formerly Estudillo Trailer Park, has been cited by the State of California's Department of Housing and Community Development, Division of Codes and Standards, dated February 21, 2019, a copy of which I attach to this letter. It's a Notice of Intent to Suspend Permit to Operate for Bayshore Commons, and states, in part:

"These violations were brought to your attention in one or more notices of violation dated October 11, 2018, November 15, 2018, and a Final Compliance Order dated November 21, 2018. It talks about the placement of new park trailers, creating separation and setback issues, in several units, including that occupied by Mr. Busch for the last eight (8) years of his stay in that particular trailer park, i.e. lot 13.

I have spoken to Don Vieira, who lives with his wife Michelle in Unit 6. He was recently diagnosed with COPD and is being refused the right to park his adult tricycle in front of his unit. Building management demanded a series of very

punitive "cleanup" measures within a very short period of time.

César García Velasco in unit 21 is a disabled man who has been refused the right to have his walker in front of his property. Despite the fact that he has been paying extra funds to store a truck (\$50 per month), his truck was recently towed and he has no information as to its whereabouts. Most of these "notices" took place on December 24 and were effective on December 31.

Just as people who are unhoused are not looked upon kindly by the society at large, people who live in trailer parks are treated as though they are "lesser than." In a moral society, there are no "lesser than" people. John Busch is a retired engineer, just as I am a retired attorney. In our society, our respective ages (82 and 70) too often make us into pariahs. Elders, the poor and the unhoused, immigrants, people of color and people of different sexual orientation, among others, are too often labeled as pariahs, deplorable, disreputable.

We have a housing crisis, and an unfair system, and a great number of people who die every year because they are unhoused, because they couldn't afford local housing, because their medical bills are outrageous.

It is up to you to say, ENOUGH. Or en español, BASTA YA.

The only way to stop retaliatory evictions and harassment is to consider that those who live in mobile home parks are also homeowners. Their homes are mobile, not stationary, but they are still their homes. They care for them, plant gardens, celebrate holy days, create community.

There are any number of cities that have enacted or are enacting rent control or stabilization measures. Richmond, Alameda, Emeryville, San Francisco, San José, and others. Hayward has enacted a moratorium and is discussing a new ordinance tomorrow.

Let San Leandro do better than any of them. Prevent the abuses of the housing predators that are contributing to the homeless crisis. Consider that these men and women and their families are San Leandro residents, San Leandro taxpayers, San Leandro human beings. Consider that we recently celebrated the 70th anniversary of the Universal Declaration of Human Rights, which guarantees housing as a human right for EVERYONE. Please do not exclude those who have chosen to live in trailer homes, and who would be homeless without your protection.

I leave you with the beautiful preamble to that declaration, to which our country is a signatory.

Respectfully submitted,

Silvia A. Brandon Pérez  
ARCWP Priest

### **Preamble**

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

ance, I had a few questions that I anticipate Mr. Liao and City Council Members will address on Monday, March 4, 2019. Concerns as follows:

1. **Just Cause** verbiage is missing from the ordinance. This addition is pertinent because of the harassment and retaliatory evictions many Mobile Home Park Tenants have endured. Most importantly, because of John Bush's apprehension for exercising his rights.
2. **The CPI** is still too high at 4%. Council Member Benny Lee, publicly stated that even 2% is a hardship. Much gratitude for including the CPI based on my suggestion and evidence.
3. **Section 4-30-207 Part B**, John Busch supporters are concerned because a Mobile Home Park Tenant appears to be exempt from the ordinance due to government assistance. This may inspire retaliatory acts from a ravenous property owner, as an excuse for capital improvement.
4. **Temporary Rent Increases**, is a large problem and must be elaborated so we can fathom the understating of how this inclusion supports a Mobile Home Park Tenant.
5. **Zoning and Code Enforcement?** The Mobile Home Park Tenants were re-directed to The City of San Leandro from the State of California regarding safety inquiries.
6. **Rent Review Officer**, should be reconsidered based on the lack of support from The Community Development Department during advocacy. How can the department re-establish trust and that Mr.Liao will enforce the new Mobile Home Rent Stabilization Ordinance?
7. **Retroactive Inclusion**, for the retaliatory notices after the City Council Public Meetings. Property Owners produced such ill notices to all Mobile Home Park Tenants for exercising their rights.
8. **Moratorium**, to protect all Mobile Home Park Tenants from further retaliation and harassment, until the new Mobile Home Rent Stabilization Ordinance is finalized.

Much gratitude for acknowledging the listed concerns.

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It isn't enough to talk about peace, one must believe it. And it isn't enough to believe in it, one must work for it. - Eleanor Roosevelt

True peace is not merely the absence of tension: it is the presence of justice.

- Mohandas K. Gandhi

Ningún soldado esta obligado a cumplir una ley en contra de la ley de Dios, pues una ley inmoral nadie tiene por qué cumplirla. - Arzobispo Oscar Romero

Silvia Antonia Brandon Pérez

**Bernie or Bust**

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It isn't enough to talk about peace, one must believe it. And it isn't enough to believe in it, one must work for it. -

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Silvia Antonia Brandon Pérez

**Bernie or Bust**

**OSCAR ROMERO AND SIMONE WEIL CATHOLIC WORKER HOUSE,**

A division of People Without Borders Justice Temple,  
a 501 (c) (3) corporation

[REDACTED]  
Hayward, CA 94541

*Rev. Silvia A. Brandon Pérez, Director*  
[REDACTED]

Pauline Cutter, Mayor  
San Leandro City Council

April 1, 2019

Honorable Mayor and Council members,

Re: Proposed Mobile Home Park Rent Stabilization Ordinance

I have already expressed my displeasure at your failure to act to enact an immediate moratorium against further action and for rent stabilization of space rents in mobile home parks. Since that last hearing I have continued speaking to people at the local parks. The last person who was evicted was Shelley Janine Young, a disabled woman at Space 18, who walks with a walker or uses a wheelchair. Her space rent was raised to the outrageous amount of \$895 and she was just EVICTED, on March 8, 2019, by Bayshore Commons, while you and most of the Council were deliberating and refusing to act to protect your residents.

She has a thirty-day stay of eviction and will have to be packed up to leave in May.

While you were doing nothing except meeting with the landlords who offered spurious promises.

This is not how you discharge your duties as Mayor and Council Members.

This is an outrage.

A letter to the governor of California and to the ACLU will follow forthwith.

This same trailer park out of which Mr. Busch was evicted, Bayshore Commons, formerly Estudillo Trailer Park, has been cited by the State of California's Department of Housing and Community Development, Division of Codes and Standards, dated February 21, 2019, a copy of which I attach to this letter as I mentioned in my previous letter. They are now making outrageous demands of the residents to "fix" the things contained in the notice, conditions that they created.

César García Velasco in unit 21 is a disabled man who is fighting back. His latest letter to the State is attached.

We have a housing crisis, and an unfair system, and a great number of people who die every year because they are unhoused, because they couldn't afford local housing, because their medical bills are outrageous.

Your failure to act will have serious consequences, for which you will all be held liable.

Sincerely,

Rev. Silvia A. Brandon Pérez

César García  
1468 Grand Avenue Space No. 21  
San Leandro, CA 94577

April 7, 2019

Pauline Cutter, Mayor  
San Leandro City Council  
835 14<sup>th</sup> Street  
San Leandro, CA 94577

Re: Proposed Mobile Home Park Rent Stabilization Ordinance  
And Moratorium for Existing Park Residents

Honorable Mayor and Council members,

Further to my March letter, which I append, I am requesting an immediate moratorium. I asked in March that you pass an immediate moratorium to help those of us who were in peril of eviction and who continue to be harassed, intimidated, treated in a discriminatory manner, only for the profit of park owners.

The conditions at Bayshore Commons, which unlawfully evicted and caused the jailing of H. John Busch by the Alameda County Sheriff's Office in November of last year at the age of 82, continue to worsen. I stress that ALL OF US who live at Bayshore Commons are experiencing terrible and extreme conditions of harassment by the owners of that park. I was told that yesterday the manager approached Mr. Busch, who was visiting friends, and threatened to call the police to have him removed, as he is "not allowed" to visit his friends because he was evicted. The manager has been spreading the story that Mr. Busch is to blame for the new restrictions in the park, because he reported the park.

My letter to the State of California's Department of Housing and Community Development, Division of Codes and Standards, as to the Notice of Intent to Suspend Permit to Operate for Bayshore Commons, has not been answered. I am planning to write them again, as this is a matter that affects me as an interested resident.

I remind you again that I am a disabled man who lives in unit 21 and who has been refused the right to have my walker in front of my property. All of the notices that were sent me were sent with short deadlines and on holidays, including a "notice" to remove my truck (which I was paying an extra amount per month) on December 24 effective on December 31, both federal and state holidays.

For the past few months building management has demanded a series of very punitive "cleanup" measures within a very short period of time. As I mentioned in my previous letter, I have a series of pictures which show you the condition of my unit versus the condition of other units in the building. My small dog was actually taken by management



without my permission. It is taken care of by a roommate and sometimes it is put outside on a leash so it can enjoy some fresh air.

The latest notice, which claims to be the "4<sup>th</sup>" notice and also claims that I have NOT COOPERATED OR COMPLIED, accuses me of failures to comply which are false. But this month my rent was returned to me, and I received a threatening telephone call from the Owner or Owner's agent, Matt Davies, which had a threatening tenor.

Again as I mentioned, last year I filed a complaint for unfair treatment and housing discrimination under my disability rights, including the fact that I am not allowed to have my walker outside in my driveway despite the fact that I need it to get around.

I reiterate that I own my trailer, and I have been renting space from the Trailer Park. I am being treated shabbily, as a disabled man, in my own home. I am being discriminated against, and no one seems to be doing anything about it.

The complaint I made to the Mobile Home Ombudsman seeking help described the following problems, which continue unabated:

- a. The new owners who took over the park in December 2017 have placed in between existing occupied trailer spaces, more permanent modular homes which their company, Harmony, constructs and sells. These new modular homes are placed as close as 10 inches away from the pre-existing trailers.
- b. The above has narrowed the roadways with the new modular homes, and this has required the removal of fencing between the park and the public street to accommodate the large modular structures, blocking the pre-existing trailers or exposing them directly to the street.
- c. This has been accompanied by huge rent increases, which have been meant to evict and displace existing long-time owners/tenants.
- d. In few cases in the entire park in what was 40 trailers is there any space that meets Title 25, Div. 1, Chap. 2, Article 7, Section 1330 of California State law.

I am tired of this. I am tired of having my rights trampled. I have been complaining for over a year. By the tone of Mr. Davies' voice in his telephone call and the tenor of these continuing notices, as well as the fact that they returned my rent check, I expect to have eviction proceedings filed against me soon. It will be a retaliatory eviction, as was Mr. Busch's. And the stress is making me physically and emotionally ill.

This company and its agent, Matt Davies, is interfering with my protected rights under ADA. I am being discriminated against because I am disabled and because I am a Latino male, a person of color.

As I said last March, if I lose my home and my trailer just as my friend John Busch did, I will become homeless. By not acting promptly, you are contributing to the housing crisis, perpetuating an unfair system. We deserve your protection, because you represent ALL San Leandro residents.

You are allowing retaliatory evictions and harassment to continue. This is contrary to what your duties of office call for.

Bayshore Commons, among others, is interfering with our lives and our welfare. We had created a community before the new owners came along, intent on destroying it. Bayshore Commons is a housing predator, contributing to the housing crisis.

I am hoping you will consider my letter and sign a strong moratorium immediately to prevent further injustice.

This letter is also being sent to Governor Gavin Newsom.

Sincerely,



Cesar Garcia

## Sargent, Maryann

---

**From:** [REDACTED]  
**Sent:** Monday, April 08, 2019 10:51 AM  
**To:** Liao, Thomas; Sargent, Maryann; Anderson, Kimberly  
**Cc:** Cutter, Pauline; Lopez, Corina; Cox, Deborah; Lee, Benny; Hernandez, Ed; Ballew, Pete; Aguilar Jr, Victor  
**Subject:** Re: Mobilehome Space Rent Ordinance pre-meeting questions  
**Attachments:** Bayshore HCD letter pg1.jpg; Bayshore HCD letter pg2.jpg

Dear San Leandro City Staff and Council -

Thank you for scheduling the Mobilehome Space Rent Ordinance meeting on the 17th. You must know that I am doing everything I can to get park residents to come to that meeting AND, barring that, to come tell MaryAnn and Kimberley about what is happening to them.

Things are really heating up at Harmony Bayshore - the owner has responded to the California State HCD action (see attached screenshot of February 21 letter) by moving in 3 MORE of the modular homes that encroach on existing mobilehome tenant spaces which is what the HCD cited. I am trying to find out if the HCD knows about this response, and where their threat to revoke the park's permit to operate stands. Does the City know about the HCD letter and subsequent actions?

At least 6 long term Harmony Bayshore tenants have been hit with 7 day notices telling them to move storage sheds - many of which existed prior to their tenancy - or be evicted. Interestingly, they are being told, either verbally or in a 'post-it' attached to the back of this letter that it is the **City** that has demanded this change and it is being done as 'pay-back' for John Busch. Is this true?

You gave the park owners 90 days so that their lawyers could attack the ordinance, and yet elderly, disabled people on fixed incomes are given 7 days to remove possessions and long standing storage sheds, many of which do NOT violate the Mobilehome Residency Law. Have you seen these letters?

Matt Davies is no gentleman. I cannot believe that this is who you want to own San Leandro in the future.

I do my best to bring information to you that I have made an effort to prove to myself, but know that you discount me whenever possible. I am grateful to the homeowner who sent me the link to last night's John Oliver show on mobilehomes below - it validated so much of what I have seen looking at this in San Leandro and it is a VERY educational and amusing use of 15 minutes.

<https://www.youtube.com/watch?v=jCC8fPQOaxU>

Sincerely,  
Ginny Madsen  
San Leandro resident who cares

[REDACTED]

[REDACTED]

[REDACTED]

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT  
DIVISION OF CODES AND STANDARDS**

9142 Tech Center Drive, Suite 550  
Sacramento, CA 95826  
(916) 255-2501 FAX (916) 255-2508  
From TDD Phones: 1-800-735-2929  
From Voice Phones: 1-800-735-2922



February 21, 2019

**NOTICE OF INTENT TO SUSPEND  
PERMIT TO OPERATE**

San Leandro Trailer Park LLC  
Bayshore Commons  
3461 Brookside Rd Suite C  
Stockton, CA 95219

RE: Notice of Intent to Suspend Permit to Operate for  
Bayshore Commons  
01-0023-MP

This letter is to inform you the Department of Housing and Community Development (HCD), pursuant to the provisions of Sections 18510 and 18511 of the California Health and Safety Code, will suspend the Permit to Operate the Bayshore Commons thirty (30) days after the date of this notification unless the previously cited violation(s) are corrected. These violations were brought to your attention in one or more notices of violation dated October 11, 2018, November 15, 2018 and a Final Compliance Order dated November 21, 2018. The following violation(s) remain uncorrected:

1. Sometime in the recent past Bayshore Commons has placed new park trailers creating several separation and setback issues. Including lots #39, #13 and #14.  
25CCR1330 (a)
2. Delinquent complaint reinspection fees due in the amount of \$196.00.  
25CCR1004.5 (c)

Section 18513 of the California Health and Safety Code allows you to petition the enforcement agency for a hearing on this matter. If a hearing is desired, you must submit a written petition to the address above requesting the hearing and set forth a brief statement of the grounds in support of your petition within 10 days of the date of mailing of this notice. You will be notified of the hearing date no later than 15 working days after receipt of your request and within 15 working days from the date of that notice the hearing will commence.

You also should be aware, pursuant to the California Health and Safety Code Section 18500, if your Permit to Operate is suspended, it will be unlawful for you to operate the park, including demanding or collecting any rent or other monies from the residents in the park or charging any monies for the occupancy of the mobilehome park. The current residents will be notified, by posting in a conspicuous place within the park, that the park's

Permit to Operate has been suspended, and that the park operator is not legally permitted to collect rent. Additionally, the Department will not issue any further installation permits, restricting further occupancy until such time as the park is brought into compliance. However; a permit to construct from the enforcement agency still is required for any construction or repair activity related to correction of the previously cited violations.

Be advised, this is the last and only notice you will receive from this office prior to suspension of your Permit to Operate. If the Permit to Operate is suspended, the appropriate officials in Alameda county will be notified, and your land use and/or use permit status to operate as a mobilehome park also may be invalidated. Informational copies will also be furnished to the Franchise Tax Board and the Internal Revenue Service stating that Bayshore Commons no longer is operating as a legitimate business.

If you have any questions regarding the violations, contact Michael Bartlett by voicemail at 408-828-6942. If you have any questions about this proposed suspension or other administrative issues of this case contact me through this office at 916-255-2501.



David Dance  
Codes and Standards Administrator I

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

cc: DR-II Danny Newman  
DR-I Michael Bartlett  
File



**MISSION BAY MOBILEHOME OWNER'S ASSN.**  
**15333 Wicks Blvd.**  
**San Leandro, CA 94579**  
**Email: [mbhoas@gmail.com](mailto:mbhoas@gmail.com)**

Mayor Pauline Russo Cutter  
Vice Mayor Corina Lopez – District 5  
District 1 Councilmember Deborah Cox  
District 2 Councilmember Ed Hernandez  
District 3 Councilmember Victor Aguilar, Jr.  
District 4 Councilmember Benny Lee  
District 6 Councilmember Pete Ballew  
City of San Leandro  
895 E. 14<sup>th</sup> St.  
San Leandro, CA 94579

**RE: Proposed Mobilehome Rent Ordinance**

Dear Mayor Cutter:

As Officers and Board Members representing the 366 Homeowners of the Mission Bay Mobilehome Community, we appreciate the steps you and Staff are taking to address the financial concerns – the very real fears – of our members. The stability, diversity and wellness of our 55+ community has been under threat for several years as rising space rents outpace fixed retirement incomes.

We heard at a recent Council meeting that Mission Bay park owner BSM regards its residents “as family”. In fact, Mission Bay and the 13 other Bay area mobilehome park owned by BSM Properties are managed as a business. This business ensures a predictable and steadily increasing source of revenue for its owners with minimal capital outlays.

Thank you to Council and Staff for crafting the proposed Mobilehome Rent Stabilization Ordinance. We request the following important amendments or considerations before adoption:

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**Requested Ordinance Amendments**

- **[4-39-212] A. 1. Annual Rent Increase**
  - COLA Index is *specified as CPI-W* (Social Security COLA index)
  - Rent Increase upper limit is *lowered to 3% (three percent)* from 4%.
- **[4-39-220] Method to Determine a Fair Return**
  - Financial information provided to support Park Owner appeal must be, at minimum, CPA compiled, preferably audited.
- **[4-39-255] Rent Stabilization Administration, Fees**
  - We have a collective concern about the size of these fees and the ability of the Park Owner to pass through one-half of this expense to Homeowners. Please ensure transparency when establishing these fees.

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**San Leandro, CA 94579**  
**Email: [mbhoas1@gmail.com](mailto:mbhoas1@gmail.com)**

The Mobile Home industry, along with its San Leandro Park Owner-Clients, have been lobbying the City Council to weaken the proposed ordinance. We imagine the following points have been made by anti-ordinance advocates:

**MYTH #1:** The rise in mobilehome corporate investment supports affordable housing growth.

- **Let's not kid ourselves. Corporate investors are in it for the profits.**

As we've seen with recent SL trailer park sales, these transactions are viewed as traditional real estate investments focused on maximizing return on investment for its owners. The resulting exponential rent increases and intimidation tactics by some Park Owners imposed on a relatively powerless group of homeowners is the intentional result of that goal.

- **Potential rezoning opportunities:** New investors may also have eyes on rezoning our mobile home communities to increase development value. We need the City's active partnership to provide a more permanent solution to this potential threat.

- **Stable Source of Predictable Investor Income:** Within the Mission Bay community, for example, annual 3% rent increases have been imposed for years. The primary benefit residents derive from these *annual* increases are continued maintenance of dated improvements built in the early 1970's, including clubhouse, streets, utility infrastructure.

Given newest park rents of \$1,300, we conservatively estimate Mission Bay gross rents around \$360,000 *per month* (\$1K \* 366 units). BSM notified the homeowners that flood insurance had been cancelled effective Jan. 1, 2018, so we assume there is no significant property debt. At any given time, there are never more than 4 full-time staff. Expenses appear to be primarily asset maintenance, not capital improvements due to ongoing promise of rent pass-throughs.

BSM has owned the community since its 1970's inception. Total annual revenues are estimated to exceed \$4.3 million *for this park alone*. 3% annual rent increases. Do the math.

- **Capital Improvements:** Suggestions to update amenities for baby boomer seniors (wi-fi, more security like cameras, modernize clubhouse for a younger generation) are met with fear by tenant-homeowners ("I can't afford a rent hike!") to paternalistic resistance from the property owner ("If we give it to you, we have to give it to all [14] of our parks!").

Where is the much-needed introduction of San Leandro-style innovation and tech into these neighborhoods? What is the Park Owner's responsibility to modernize Park facilities after 50 years of extremely profitable ownership?

**MYTH #2:** Our tenants' homes are mobile. If rents get too high, mobilehome owners can pick up and leave.

- **Nothing mobile about our homes:** We have manufactured homes. Like Marea Alta's construction, just not stacked. Moving a house is a sure-fire way to break it.

- **Limited Resale Market Size:** Market size for our homes is limited by age, income, park owner pre-sale screening requirements. When the actual financial risk of rising rents is revealed, the buyer is often reluctant to acquire a mortgage *plus* the risk of a year-to-year ground lease.



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- **Rising ground rents, lower homeowner values:** Homeowners' ability to grow equity in their property is inversely proportionate to the rising level of ground rent. Homeowners receive no additional benefit from rising rents, and yet is the stakeholder that assumes most of the financial risk from rent increases.
- **"Mobile" home marketing does not clearly identify financial risk:** Here in Mission Bay, we have new homeowners paying considerably more ground rent at closing than had been quoted to them at escrow opening.  
In one instance (Dec 2018), the original \$889 space rent shot up to \$1080 days before closing, resulting in an unanticipated additional \$10K homeowner expense over next 5 years. The homeowner felt "basically held hostage to pay or walk away. It was not fair, but a tactic to increase rental income."

**MYTH #3:** WE should accept the unequivocal right of corporate land owners to maximize return on their investments.

- **Investors are taking advantage of the economically disabled:** Investors understand every aspect of the property and the market. They understand the relative helplessness of their resident homeowners to adjust to increased rents. The relentless annual increases in Mission Bay occur largely because of resident feelings of powerlessness – "It could be worse. BSM could raise it a lot higher" is a common response.
- **Seniors live on fixed incomes, with increases tied largely to federal COLA's:** These increases historically have not kept up with average annual rent increases of 5%.

Or Mission Bay's annual 3%.

Annual Social security increases<sup>1</sup> since 2000 have averaged 2.7%. Since 2008, however, COLA increases have averaged 1.3% - including 3 years of 0%. See Exhibit A for **analysis of Compound Growth Impacts: Social Security COLA's vs. Rental Income:**

- **EXHIBIT A / Historical Comparisons: Income vs. Rent (2000-2018)**
  - Rents subject to fixed annual 3% increase resulted in significantly higher rents and compounded annual growth rates than rent increases tied to CPI-W.
  - A 3% annual rent increase, in this example, provides Landlord with a compounded annual return of 6%, before expenses and taxes. Effective return on investment is double that of the simple 3% annual increase.
- **EXHIBIT B / Actual and Projected Space Rent, Mission Bay Mobilehome Owner:**
  - **Projections indicate within twenty years of annual 3% increases, rent will increase 75% over 20 years, yielding a 6.4% compound annual growth rate of return for Park Owner.** Growth rate of rising rents will continue to outpace senior incomes, increasing financial risk with no upside reward. Rising rents will negatively impact Mobilehome Owner equity and mortgage-ability given the limited market for these homes.
- **EXHIBIT C / Historical Cost-of-Living Adjustments, Social Security**

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<sup>1</sup> Benefit adjustments based on Bureau of Labor Statistics/Consumer Price Index for Urban Wage Earners (CPI-W)



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**15333 Wicks Blvd.**  
**San Leandro, CA 94579**  
**Email: [mbhoasl@gmail.com](mailto:mbhoasl@gmail.com)**

Park Owners hold all the cards. If you don't like the rent increases, feel free to move on, we're told.

Except that we are not free to move on.

**Next Steps:**

The long-term financial pressure on "mobile" home communities will continue – unless we find a path toward home and land homeownership. Across the U.S., mobile home communities are organizing and buying back their land. Organizations like ROC USA (Resident Owned Communities) help homeowners purchase and successfully manage their mobile home parks.

Alternatively, the City could also develop a partnership with local housing authorities to purchase our mobilehome parks for the benefit of our mostly low-income residents. There is recent precedent (Buena Vista Mobile Home Park, 2016 / Santa Clara Housing Authority acquired the park in partnership with City of Palo Alto).

We propose that the City Council work with its 9 parks to explore the potential of removing these mobile home parks from the investor market permanently. Even limited rent increases impact your most vulnerable stakeholders. Thank you for your continued future help!

**Summary:**

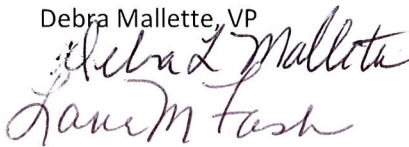
Approval of this ordinance with requested amendments by the San Leandro City Council will restore some measure of equilibrium to the "Mobile" Homeowner / Landlord relationship. The renewed connection of our economically disabled homeowners to the City through the protections offered by this ordinance is critical. We want to continue living in San Leandro – our home.

On Behalf of the Officers and Board  
Mission Bay Mobilehome Owners Assn.

Rubelet Domingo, President



Debra Mallette, VP

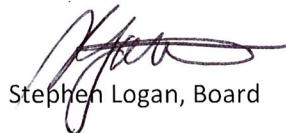


Lana Fash, Secretary/Treasurer

Cindy Fonzeno, Board



Peggy Herrera, Board



Stephen Logan, Board

Patty Gurski, Board



Deborah Acosta, Board



David Leung, Board

cc. MaryAnn Sargent, Senior Housing Specialist  
Tom Liao, Community Development Director

## EXHIBIT A

**Historical Comparisons: Income vs. Rent**

<u>Year</u>	<u>Rent Increase thru COLA / CPI-W</u>	<u>Fixed Annual Rent Increase</u>	<u>Rent w. annual CPI- W based increase</u>	<u>Rent w. fixed annual 3% increase</u>
<b>2000 (base rent)</b>	<b>0.035</b>	<b>0.03</b>	<b>500.00</b>	<b>500.00</b>
2001	0.026	0.03	513.00	515.00
2002	0.014	0.03	520.18	530.45
2003	0.021	0.03	531.11	546.36
2004	0.027	0.03	545.45	562.75
2005	0.041	0.03	567.81	579.64
2006	0.033	0.03	586.55	597.03
2007	0.023	0.03	600.04	614.94
2008	0.058	0.03	634.84	633.39
2009	0.000	0.03	634.84	652.39
2010	0.000	0.03	634.84	671.96
2011	0.036	0.03	657.69	692.12
2012	0.017	0.03	668.87	712.88
2013	0.015	0.03	678.91	734.27
2014	0.017	0.03	690.45	756.29
2015	0.000	0.03	690.45	778.98
2016	0.030	0.03	711.16	802.35
2017	0.020	0.03	725.39	826.42
<b>2018 (end rent)</b>	<b>0.028</b>	<b>0.03</b>	<b>745.70</b>	<b>851.22</b>
<b>Average Annual Rent Increase</b>	<b>0.0232</b>	<b>0.0300</b>		
<b>Total % Rent Increase 2000 - 2018</b>			<b>0.49</b>	<b>0.70</b>
<b>Compound Annual Growth Rate</b>			<b>0.0454</b>	<b>0.0609</b>

EXHIBIT B

**Actual & Projected Rent, Mission Bay Mobilehome Owner:**

<u>Year</u>	<u>COLA / CPI-W</u>	<u>Rent Increase</u>	<u>Rent w annual CPI- W adj</u>	<u>Rent w. fixed annual 3% adj</u>
<b>2015 (Base Rent, Actual)</b>	<b>0.000</b>	<b>0.03</b>	<b>895.00</b>	<b>895.00</b>
2016 (Actual)	0.003	0.03	897.69	921.85
2017 (Actual)	0.020	0.03	915.64	949.51
2018 (Actual)	0.028	0.03	941.28	977.99
2019 (Projected 2%)	0.020	0.03	960.10	1,007.33
2020	0.020	0.03	979.30	1,037.55
2021	0.020	0.03	998.89	1,068.68
2022	0.020	0.03	1,018.87	1,100.74
2024	0.020	0.03	1,039.25	1,133.76
2025	0.020	0.03	1,060.03	1,167.77
2026	0.020	0.03	1,081.23	1,202.81
2027	0.020	0.03	1,102.86	1,238.89
2028	0.020	0.03	1,124.91	1,276.06
2029	0.020	0.03	1,147.41	1,314.34
2030	0.020	0.03	1,170.36	1,353.77
2031	0.020	0.03	1,193.77	1,394.38
2032	0.020	0.03	1,217.64	1,436.21
2033	0.020	0.03	1,241.99	1,479.30
2034	0.020	0.03	1,266.83	1,523.68
<b>2035 (End Rent)</b>	<b>0.020</b>	<b>0.03</b>	<b>1,292.17</b>	<b>1,569.39</b>
<b>Average Annual Rent Increase</b>	<b>0.0186</b>	<b>0.0300</b>		
<b>Total % Rent Increase 2015 - 2035</b>			<b>0.44</b>	<b>.75</b>
<b>Compound Annual Growth Rate</b>			<b>0.0417</b>	<b>0.0644</b>



## Cost-Of-Living Adjustments<sup>1</sup>

### Automatic Determinations

Since 1975, Social Security general benefit increases have been cost-of-living adjustments or COLAs. The 1975-82 COLAs were effective with Social Security benefits payable for June in each of those years; thereafter COLAs have been effective with benefits payable for December.

### COLA determination

### SSI payment rates increase with COLA

Prior to 1975, Social Security benefit increases were set by legislation.

<b>Year</b>	<b>COLA</b>	<b>Year</b>	<b>COLA</b>	<b>Year</b>	<b>COLA</b>
1975	8.0	1990	5.4	2005	4.1
1976	6.4	1991	3.7	2006	3.3
1977	5.9	1992	3.0	2007	2.3
1978	6.5	1993	2.6	2008	5.8
1979	9.9	1994	2.8	2009	0.0
1980	14.3	1995	2.6	2010	0.0
1981	11.2	1996	2.9	2011	3.6
1982	7.4	1997	2.1	2012	1.7
1983	3.5	1998	1.3	2013	1.5
1984	3.5	1999 <sup>a</sup>	2.5	2014	1.7
1985	3.1	2000	3.5	2015	0.0
1986	1.3	2001	2.6	2016	0.3
1987	4.2	2002	1.4	2017	2.0
1988	4.0	2003	2.1	2018	2.8
1989	4.7	2004	2.7		

<sup>a</sup> The COLA for December 1999 was originally determined as 2.4 percent based on CPIs published by the Bureau of Labor Statistics. Pursuant to Public Law 106-554, however, this COLA is effectively now 2.5 percent.

The first COLA, for June 1975, was based on the increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) from the second quarter of 1974 to the first quarter of 1975. The 1976-83 COLAs were based on increases in the CPI-W from the first quarter of the prior year to the corresponding quarter of the current year in which the COLA became effective. After 1983, COLAs have been based on increases in the CPI-W from the third quarter of the prior year to the corresponding quarter of the current year in which the COLA became effective.

<sup>1</sup> <https://www.ssa.gov/oact/cola/colaseries.html>

## Sargent, Maryann

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**From:** [REDACTED]  
**Sent:** Wednesday, April 17, 2019 2:49 AM  
**To:** Sargent, Maryann  
**Subject:** Fw: We Need a Mobilehome Park Fair Rent Ordinance

Sent from [Outlook](#)

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**From:** [REDACTED]  
**Sent:** Tuesday, April 16, 2019 11:32 PM  
**To:** pcutter@sanleandro.org  
**Cc:** citycouncil@sanleandro.org  
**Subject:** We Need a Mobilehome Park Fair Rent Ordinance

Hello,

My name is [REDACTED]. I am 64 years old and a resident of the Mission Bay Mobilehome Community here in San Leandro. I work full time as a legal secretary at [REDACTED] in East Palo Alto. I do not have a pension nor do I have any savings. No wealthy relatives either.

My current space rent is slightly over \$1,000; with utilities I pay the park about \$1,500 a month. My rent increases every year. Fortunately, to date, my annual salary increases have allowed me to keep pace with the 3% raises in my space rent.

I am fortunate to own my mobile home; I do not have a mortgage. If I did have a mortgage, it would be a financial disaster -- I would have to file bankruptcy. Any uncontrolled or massive increase(s) in my space rent also would be a financial disaster.

Please enact a fair rent ordinance governing San Leandro's mobilehome parks. Do not allow greedy nonresident owners to run our living spaces. I used to live in the Casa del Lago park which has a nonresident owner. It is run down and very poorly managed. The space rents are so high that most folks cannot stay more than one or two years.

The Mission Bay park, by contrast, is very well managed and maintained. I love living here despite my long commute.

Thank you for your time,

[REDACTED]  
Home: [REDACTED]  
Work: [REDACTED]  
Sent from [Outlook](#)

## Sargent, Maryann

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**From:** [REDACTED]  
**Sent:** Tuesday, April 30, 2019 6:29 PM  
**To:** Cutter, Pauline; Lopez, Corina; Cox, Deborah; Hernandez, Ed; Aguilar Jr, Victor; Lee, Benny; Ballew, Pete; Liao, Thomas; Sargent, Maryann  
**Cc:** Doug Johnson; Matt Davies; Brock Kaveny; Bob Guilford; Diana Nielsen; Jim Nielsen; Sharon Nichols; atwasp@hotmail.com; winfordfrady@gmail.com  
**Subject:** Proposed Mobilehome Rent Stabilization Ordinance

Dear Honorable Mayor Cutter, Vice Mayor and Council Members,

On behalf of the Park Owners, we had an opportunity to meet with Tom Liao and Maryann Sargent on Thursday, April 25<sup>th</sup> to discuss alternative options to the proposed San Leandro rent control ordinance. As I have expressed, Brandenburg, Staedler and Moore is not in favor of a rent control ordinance. We have been historically successful with our Rent Stabilization Agreements that we have negotiated in the past with our Residents and even the City (when they used to be involved). That being said, it appears those successes have been replicated in a similar fashion with the San Dimas Mobilehome Accord.

In reviewing over the proposed San Leandro rent control ordinance and the San Dimas Accord, we would like to highlight some items that we believe could lead to a successful outcome for the City, Residents and Park Owners. We want to emphasize that not every Tenant or Owner is going to agree to the terms presented (initial or final) but the Park Owners are continually open to finding a sound solution. What we should be focusing on is the long-term viability and sustainability of our RV and mobilehome communities. If the City's true intention is to protect affordable housing, we're hopeful you will genuinely take into consideration the business owners' perspective as well.

- **Rent:** The way it is presented in the San Leandro rent control ordinance is: "the lesser of CPI or 4% of the rent charged in the preceding year." We don't believe this allows Park Owners to appropriately or adequately balance a budget to maintain or improve the community. We suggest changing the language to, "the space rent payable for use or occupancy of any mobilehome space shall not be increased more than the greater of 4% or 100% CPI." When utilizing CPI, we suggest using a local reading published by the Bureau such as San Francisco/Oakland/Hayward.
- **Special Circumstances Household:** We would like to see this language removed or revised. As currently presented in the San Leandro Rent Control Ordinance, it appears that as long as a Resident meets one of the 4 criteria in the section they would be exempt from capital expenditure pass throughs. We understand the City's intention of protecting vulnerable classes, but age and health are not applicable criteria in the regards to being financially capable of paying rent. If the City is interested in keeping language for special circumstances households, then we believe it should be financially means based.
  - Additionally, given the language in this section, this could open Park Owners up to potential discrimination lawsuits since we would be required to request personal health information.
- **Vacancy Decontrol:** We are in agreement with the full vacancy decontrol.
- **Pass through:** We agree that these pass throughs are beneficial to all parties the Residents, Park Owners and the City. It allows the park to improve on systems that are aging while also providing the Residents with a quality community to call home. Allowing Tenants to vote on what can be passed through would be problematic and will likely lead to further deterioration of the community.

We believe an Accord is the best direction for the City. It holds Park Owners responsible for their actions, it protects the Residents by giving them transparent and predictable expectations and it assists with protecting the City by limiting their legal liability. In addition, bringing the Residents and Park Owners together to create an Accord could assist with building stronger relationships. We all understand the challenges facing the real estate industry, but it is in all our interests to work together to find a favorable long-term solution.

We also recognize that this is a large task that has ripple effects far into the future. This is one of many reasons why we want to be so involved in assisting the City with finding a fair solution for everyone. I hope you find my email helpful and if you need any further clarification I am always available.

Sincerely,

[Redacted]

Brandenburg Staedler & Moore  
Mobilehome Communities of America, Inc.  
1122 Willow Street, Suite 200  
San Jose, CA 95125  
Main: 408-279-5200  
Direct: [Redacted]  
Fax: 408-279-3614  
E-mail: [Redacted]  
[www.bsmcommunities.com](http://www.bsmcommunities.com)



**Rental Agreement Method Imposed by Mission Bay Mobilehome Park Owners**

**( Base Rent = adjustable, Compounded Increases Method )**

Mobilehome Park Residents							Mobilehome Park Owners				
Date	Age	If Base Rent = adjusta	3% Rent Increase /year	Σ Total Increase to present	Rent per Month	Σ Total Rents to Present	Owners income /month	Owners expens /month	Owners profit /month	Owners profit /year	Σ Total Profits to present
2019	55	1000	0	0	1000	12000	366000	90000	276000	3312000	3312000
2020	56	1000	30	30	1030	24360	376980	90000	286980	3443760	6755760
2021	57	1030	30.9	60.9	1060.9	37090.8	388289	90000	298289.4	3579472.8	10335232.8
2022	58	1060.9	31.827	92.727	1092.73	50203.524	399938	90000	309938.08	3719256.98	14054489.8
2023	59	1092.7	32.7818	125.5088	1125.51	63709.63	411936	90000	321936.22	3863234.69	17917724.5
2024	60	1125.5	33.7653	159.2741	1159.27	77620.919	424294	90000	334294.31	4011531.73	21929256.2
2025	61	1159.3	34.7782	194.0523	1194.05	91949.546	437023	90000	347023.14	4164277.69	26093533.9
2026	62	1194.1	35.8216	229.8739	1229.87	106708.03	450134	90000	360133.83	4321606.02	30415139.9
2027	63	1229.9	36.8962	266.7701	1266.77	121909.27	463638	90000	373637.85	4483654.2	34898794.1
2028	64	1266.8	38.0031	304.7732	1304.77	137566.55	477547	90000	387546.99	4650563.82	39549357.9
2029	65	1304.8	39.1432	343.9164	1343.92	153693.55	491873	90000	401873.39	4822480.74	44371838.7
2030	66	1343.9	40.3175	384.2339	1384.23	170304.35	506630	90000	416629.6	4999555.16	49371393.8
2031	67	1384.2	41.527	425.7609	1425.76	187413.49	521828	90000	431828.48	5181941.82	54553335.6
2032	68	1425.8	42.7728	468.5337	1468.53	205035.89	537483	90000	447483.34	5369800.07	59923135.7
2033	69	1468.5	44.056	512.5897	1512.59	223186.97	553608	90000	463607.84	5563294.07	65486429.8
2034	70	1512.6	45.3777	557.9674	1557.97	241882.58	570216	90000	480216.07	5762592.89	71249022.7
2035	71	1558	46.739	604.7064	1604.71	261139.05	587323	90000	497322.56	5967870.68	77216893.4
2036	72	1604.7	48.1412	652.8476	1652.85	280973.22	604942	90000	514942.23	6179306.8	83396200.2
2037	73	1652.8	49.5854	702.4331	1702.43	301402.42	623091	90000	533090.5	6397086	89793286.2
2038	74	1702.4	51.073	753.5061	1753.51	322444.49	641783	90000	551783.22	6621398.59	96414684.8
2039	75	1753.5	52.6052	806.1112	1806.11	344117.83	661037	90000	571036.71	6852440.54	103267125
2040	76	1806.1	54.1833	860.2946	1860.29	366441.36	680868	90000	590867.81	7090413.76	110357539
2041	77	1860.3	55.8088	916.1034	1916.1	389434.6	701294	90000	611293.85	7335526.17	117693065
2042	78	1916.1	57.4831	973.5865	1973.59	413117.64	722333	90000	632332.66	7587991.96	125281057
2043	79	1973.6	59.2076	1032.794	2032.79	437511.17	744003	90000	654002.64	7848031.72	133129089
2044	80	2032.8	60.9838	1093.778	2093.78	462636.51	766323	90000	676322.72	8115872.67	141244962
2045	81	2093.8	62.8133	1156.591	2156.59	488515.6	789312	90000	699312.4	8391748.85	149636710
2046	82	2156.6	64.6977	1221.289	2221.29	515171.07	812992	90000	722991.78	8675901.31	158312612
2047	83	2221.3	66.6387	1287.928	2287.93	542626.2	837382	90000	747381.53	8968578.35	167281190
2048	84	2287.9	68.6378	1356.566	2356.57	570904.99	862503	90000	772502.98	9270035.7	176551226
2049	85	2356.6	70.697	1427.262	2427.26	600032.14	888378	90000	798378.06	9580536.77	186131763
2050	86	2427.3	72.8179	1500.08	2500.08	630033.1	915029	90000	825029.41	9900352.88	196032115
2051	87	2500.1	75.0024	1575.083	2575.08	660934.1	942480	90000	852480.29	10229763.5	206261879
2052	88	2575.1	77.2525	1652.335	2652.34	692762.12	970755	90000	880754.7	10569056.4	216830935
2053	89	2652.3	79.5701	1731.905	2731.91	725544.98	999877	90000	909877.34	10918528.1	227749463
2054	90	2731.9	81.9572	1813.862	2813.86	759311.33	1029874	90000	939873.66	11278483.9	239027947

**Rent control Parameters:**

.Base Rent : fixed or adjustable.

.Increase Calculation Method : Simple or Compounded interests formulas.

.Increase Rate : 0+ or higher

.Number of increase within a year : 1 time or multiple times.



**Rental Agreement Method Proposed by Mission Bay Mobilehome Park Residents**

**( Base Rent = fixed, Simple Increase Method )**

Mobilehome Park Residents							Mobilehome Park Owners				
Date	Age	If Base Rent = Fixed	3%Rent Increase /3years	Σ Total Increase to present	Rent per Month	Σ Total Rents to Present	Owners income /Month	Owners expens /Month	Owners profit /Month	Owners profits /Year	Σ Total Profits to Present
2019	55	1000	0	0	1000	12000	366000	90000	276000	3312000	3312000
2020	56	1000	0	0	1000	24000	366000	90000	276000	3312000	6624000
2021	57	1000	30	30	1030	36360	376980	90000	286980	3443760	10067760
2022	58	1000	0	30	1030	48720	376980	90000	286980	3443760	13511520
2023	59	1000	0	30	1030	61080	376980	90000	286980	3443760	16955280
2024	60	1000	30	60	1060	73800	387960	90000	297960	3575520	20530800
2025	61	1000	0	60	1060	86520	387960	90000	297960	3575520	24106320
2026	62	1000	0	60	1060	99240	387960	90000	297960	3575520	27681840
2027	63	1000	30	90	1090	112320	398940	90000	308940	3707280	31389120
2028	64	1000	0	90	1090	125400	398940	90000	308940	3707280	35096400
2029	65	1000		90	1090	138480	398940	90000	308940	3707280	38803680
2030	66	1000	30	120	1120	151920	409920	90000	319920	3839040	42642720
2031	67	1000		120	1120	165360	409920	90000	319920	3839040	46481760
2032	68	1000		120	1120	178800	409920	90000	319920	3839040	50320800
2033	69	1000	30	150	1150	192600	420900	90000	330900	3970800	54291600
2034	70	1000		150	1150	206400	420900	90000	330900	3970800	58262400
2035	71	1000		150	1150	220200	420900	90000	330900	3970800	62233200
2036	72	1000	30	180	1180	234360	431880	90000	341880	4102560	66335760
2037	73	1000		180	1180	248520	431880	90000	341880	4102560	70438320
2038	74	1000		180	1180	262680	431880	90000	341880	4102560	74540880
2039	75	1000	30	210	1210	277200	442860	90000	352860	4234320	78775200
2040	76	1000		210	1210	291720	442860	90000	352860	4234320	83009520
2041	77	1000		210	1210	306240	442860	90000	352860	4234320	87243840
2042	78	1000	30	240	1240	321120	453840	90000	363840	4366080	91609920
2043	79	1000		240	1240	336000	453840	90000	363840	4366080	95976000
2044	80	1000		240	1240	350880	453840	90000	363840	4366080	100342080
2045	81	1000	30	270	1270	366120	464820	90000	374820	4497840	104839920
2046	82	1000		270	1270	381360	464820	90000	374820	4497840	109337760
2047	83	1000		270	1270	396600	464820	90000	374820	4497840	113835600
2048	84	1000	30	300	1300	412200	475800	90000	385800	4629600	118465200
2049	85	1000		300	1300	427800	475800	90000	385800	4629600	123094800
2050	86	1000		300	1300	443400	475800	90000	385800	4629600	127724400
2051	87	1000	30	330	1330	459360	486780	90000	396780	4761360	132485760
2052	88	1000		330	1330	475320	486780	90000	396780	4761360	137247120
2053	89	1000		330	1330	491280	486780	90000	396780	4761360	142008480
2054	90	1000	30	360	1360	507600	497760	90000	407760	4893120	146901600

**Rent control Parameters:**

.Base Rent : fixed or adjustable.

.Increase Calculation Method : Simple or Compounded interests formulas.

.Increase Rate : 0+ or higher

.Number of increase within a year : 1 time or multiple times

## Sargent, Maryann

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**From:** Lana Fash [REDACTED]  
**Sent:** Monday, May 13, 2019 2:14 PM  
**To:** Sargent, Maryann  
**Cc:** Deborah Acosta  
**Subject:** Mission Bay Rental Space Increase [REDACTED]

I am following up on my previous email regarding the purchase of a mobilehome in Mission Bay Senior Park.

On March 9th I went to the Mission Bay Mobilehome Owners Association meeting where the Mayor was going to talk about the Ordinance Rent Stabilization and I spoke about what had happened to me. Days before Escrow was closing the Real Estate Agent tells me your rent has been increased from \$889 to \$1,050. The Seller did not pay her rent so they are increasing your rent by \$160 a month. I received no notice or explanation from Mission Bay Owners or Management. After I sent an email, I received a response in March.

While at the meeting several people told me they could not raise your rent more than \$75 per a Rental Agreement with BSM and Community Tenants. Debbie Acosta sent me a copy of the agreement which I was not aware of. I further investigated myself why my rent was increased by 15%. The seller did not pay her rent and so by an exemption in the agreement between Mission Bay and tenants it allowed the owners to increase the rent 15% without giving me any notice as the buyer. It may have been legal but it was wrong to punish me the buyer and then have no obligation to tell me until a couple days before Escrow was closing. I budgeted for the rent to be \$889. \$160 a month is a lot of money when your on a fixed income. It not only created a financial problem but was devastating for me. I felt betrayed.

On October 29th, Wendy Howard, Community Administrator, certified my rent was \$889.07. She never disclosed that there was going to be a \$75 increase in the rent per the Agreement with BSM and Mission Bay Tenants. **This was before the seller did not pay her rent.** So why was this not disclosed? There is no transparency. This should be illegal. It was withheld from me as the tenant/buyer. I was led to believe my rent was \$889. So you can imagine how I felt when without any notice they raise the rent \$160 per month.

On November 6th when the rent was late BSM new they were going to increase the rent. Why wait until I have spent hundreds of dollars on inspections, rented 3 storage units, and gave notice I was moving. That is morally wrong. They should be responsible to disclose the true amount for the rental space. BSM wants us to believe we are treated as family. I understand money is the end all goal here but at least be transparent about it. We as tenants here in Mission Bay work very hard to keep our properties kept up. The value of our homes are set. The rental space keeps increasing.

The Ordinance should make sure this does not happen to another person. There should be no hidden increases. There should be transparency in rents, Capital Improvements; fees and costs. I am glad the Ordinance addresses retaliation. The 4% increase is too high. A minimum of 3% or less is fair.

Thank you,

Lana Fash  
[REDACTED]

## Sargent, Maryann

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**From:** Carol Habercoss <chabercoss@att.net>  
**Sent:** Friday, May 10, 2019 10:49 PM  
**To:** Anderson, Kimberly; Sargent, Maryann; Cutter, Pauline; Cox, Deborah; madsenv@netzero.net; Rob Rich; Jeromey Shafer; Liao, Thomas; Lorri Foster  
**Subject:** Re: [REDACTED] at Harmony Bayshore is locked out

Hi - It is very hard to write this email, to me this is heartbreaking.

I went over to Bayshore today and went to [REDACTED] home and yes it was locked up and she is gone. John Maderos the Manager came walking towards me and said 'She's gone'. I said what happened and he said 'She got evicted'. He then told me that BACS was helping her and he thinks she is in a hotel somewhere, but he is not sure. We have tried calling her and can't reach her. I could tell he was irritated I was there and that he had to talk to me. I asked him what will happen to her mobile home and he said she has 10 to 12 days to move it, but he wasn't sure about that either. Then he had to go because he was showing someone one of the new homes.

If we had the Moratorium in place, this would not have happened. BACS and [REDACTED] were actively looking for housing, I saw the applications in her home the last time I visited her. BACS did not call me back today. So we don't know where our friend [REDACTED] is. [REDACTED] is a friend and has been part of us ever since these terrible things started happening at Bayshore, she was scared but bravely spoke to you the City Council to ask for help and we are so proud of her. She had a very rough life, she has shared with me some of her story as a victim of violence, physical disabilities, and poverty. She is happy living in that little home, she feels safe, has community there and people who watch out for her. She is being charged almost \$1000 a month for a tiny spot.

So she was locked out of her home while actively looking for a another home. This is how homelessness happens. I do believe that the best way to help people is to change policy and create policy that works to help people - but we have been coming to you and the refusal to pass a moratorium and delay in passing the Ordinance has made [REDACTED] homeless and she might lose everything - I don't even know if they let her get some of her things out before they locked her out and made her leave.

So here is my ask to the City to act immediately to help [REDACTED]:

1. Find out where [REDACTED] and if she is safe and taken care of - we need to see her.
2. Act quickly and do not let her Mobile Home be towed out of park. It is in good shape and has everything she needs.
3. Let [REDACTED] go back to her home until BACS finds her a safe place to move to.

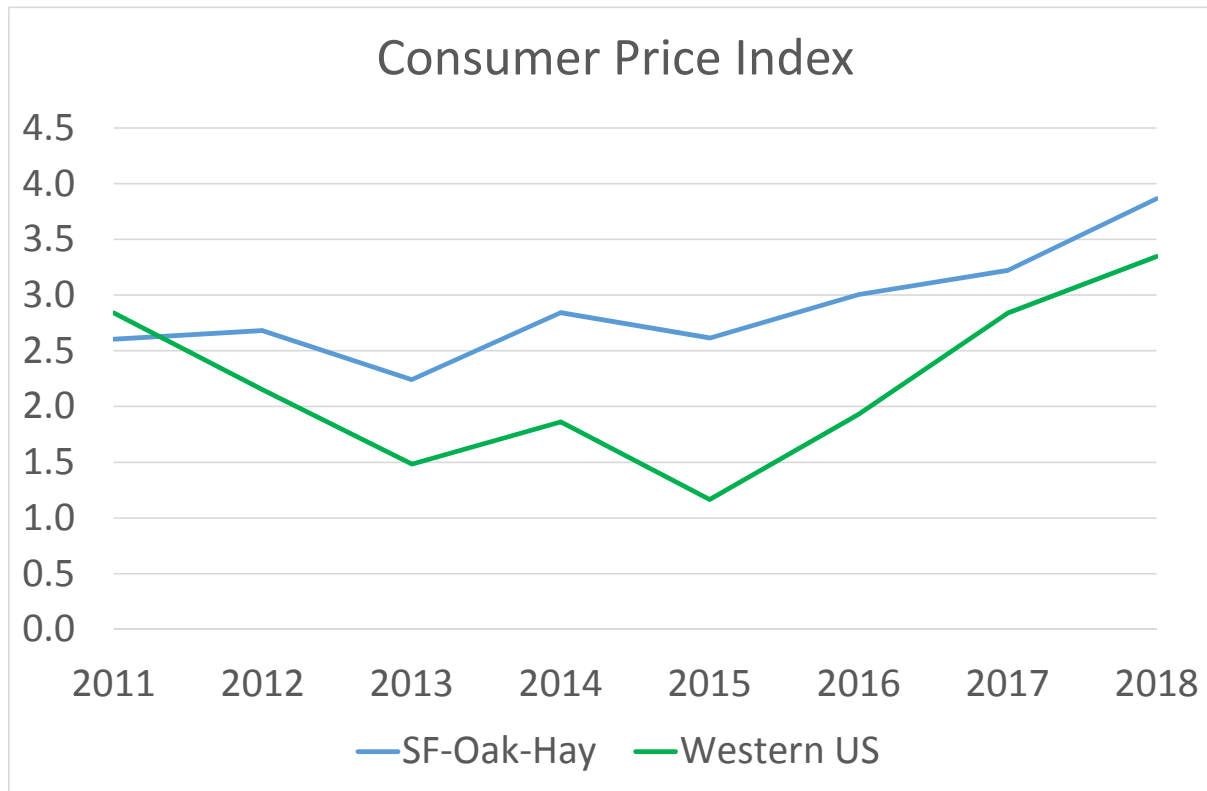
I am pleading for you to help [REDACTED], and to pass the Mobile Home Rent Stabilization Ordinance May 20th to prevent anymore of these evictions from happening.

I am adding a few more people to this email.

Sincerely,  
Carol Habercoss  
510-388-1768

# Attachment C: Consumer Price Index: Western Region vs. the San Francisco-Oakland-Hayward

Year	CPI-All Urban Consumers (Current Series) All Items - Based on Annual Average Not Seasonally Adjusted	
	SF-Oak-Hay	Western US
2011	2.6	2.8
2012	2.7	2.2
2013	2.2	1.5
2014	2.8	1.9
2015	2.6	1.2
2016	3.0	1.9
2017	3.2	2.8
2018	3.9	3.3







# City of San Leandro

Meeting Date: May 20, 2019

## Ordinance

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**File Number:** 19-272

**Agenda Section:** ACTION ITEMS

**Agenda Number:**

**TO:** City Council

**FROM:** Jeff Kay  
City Manager

**BY:** Tom Liao  
Community Development Director

**FINANCE REVIEW:** Not Applicable

**TITLE:** ORDINANCE of the City of San Leandro City Council to Add Mobilehome Space Rent Stabilization to the City of San Leandro Municipal Code (An Ordinance that Regulates Space Rents in San Leandro Mobilehome Parks)

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The City Council of the City of San Leandro recites the following:

**WHEREAS**, the State of California recognizes, by the adoption of special legislation regulating tenancies of mobilehome owners in mobilehome parks, that there is a significant difference between homeowners in mobilehome parks and other dwelling units; and

**WHEREAS**, the State likewise recognizes that homeowners in mobilehome parks, unlike apartment tenants or residents of other rental housing stock, are in the unique position of having made a substantial investment in a residence, the space for which is rented or leased and not owned (*Galland v. County of Clovis* (2001) 24 Cal.4th 1003, 1009); and

**WHEREAS**, state law defines mobilehomes as a residential structure if they have been in place for nine months or greater (State Law, Chapter 2.5, Cal. Civil Code, Article 1, section 798.3(b)(2) ("The trailer or other recreational vehicle occupies a mobilehome site in the park for nine or more continuous months commencing on or after November 15, 1992").); and

**WHEREAS**, the City of San Leandro has nine (9) mobile home parks with a total of approximately eight hundred fifty-five (855) spaces located within the City limits. These spaces represent a significant portion of the affordable housing supply within the City; and

**WHEREAS**, the City of San Leandro General Plan, Chapter 6, Housing Element provides for the following goals and actions:

1. Conservation of Mobile Home Parks. Promote the conservation and rehabilitation of mobile home parks without displacing tenants or reducing the number of

affordable units. Mobile home parks should be recognized as an important affordable housing resource for San Leandro's seniors and low-income households (Policy 56.08).

2. Mobile Home Rent Stabilization. Consider adopting a mobile home rent stabilization ordinance similar to the agreement currently in effect for Mission Bay (Action 56.08-B) (The agreement would apply more broadly to residents of all mobile home parks in the city and help protect the city's existing supply of mobile homes.); and

**WHEREAS**, it is often difficult to move mobilehomes from one park to another due to the age and condition of some mobilehomes and the limited availability of vacant spaces in mobilehome parks; and

**WHEREAS**, it is often costly to move a mobilehome and, in many instances, moving a mobilehome requires separation of the mobilehome from its appurtenances, which may create severe damage and depreciation in value to the mobilehome; and

**WHEREAS**, the U.S. District Court of the Central District of California observed that "the park owners are business people who understand that the operation of a mobilehome park involves an economic relationship in which both park owner and the home owner must make a substantial investment. Indeed, they have encouraged the tenants to make the investment and to expect a return on it." (*Adamson Companies v. County of Malibu*, 854 F.Supp. 1476, 1489 (1994, U.S. Dist. Ct., Central Dist. California).)

**NOW THEREFORE**, the City Council of the City of San Leandro does **ORDAIN** as follows:

**SECTION 1. AMENDMENT OF CODE.** Title 4 (Public Welfare), Chapter 4-39 of the San Leandro Municipal Code, entitled "Mobilehome Park Rent Stabilization" and consisting of Article 1, Definitions, and Article 2, General Provisions is hereby created as provided in Exhibit A, which is incorporated herein and made a part hereof.

**SECTION 2. SEVERABILITY.** If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

**SECTION 3. EFFECTIVE DATE AND PUBLICATION.** This ordinance shall take effect thirty (30) days after adoption. The City Clerk is directed to publish the title once and post a complete copy thereof on the City Council Chamber bulletin board for five (5) days prior to

adoption.

**SECTION 1.** Article 1, **Mobilehome Park Rent Stabilization**, is hereby created in [Chapter 4-39, Mobilehome Park Regulations, of Title 4 Public Welfare] of the San Leandro Municipal Code as follows:

**TITLE** [4] – [PUBLIC WELFARE]  
**CHAPTER** [4-39] – MOBILEHOME SPACE RENT STABILIZATION  
**ARTICLE** [1] – DEFINITIONS

**[4-39-100] Short Title.**

This Chapter shall be known as the “Mobilehome Space Rent Stabilization Ordinance.”

**[4-39-105] Definitions.**

For purposes of this Chapter, the following words, terms and phrases shall be defined as follows:

- A. “Affected Mobilehome Owners” means those Mobilehome Owners whose Space Rent is affected by a Rent adjustment made pursuant to this Chapter that is not covered by a valid lease meeting the requirements of California Civil Code section 798.17(b) of the Mobilehome Residency Law, or otherwise legally exempt from local rent stabilization regulation.
- B. “Base Rent” means the Rent in effect for that Space on July 1, 2018, as adjusted in accordance with this Chapter.
- C. “Base Year” means the 2018 calendar year or, if a Fair Return Application subsequently establishes a new Base Rent pursuant to this Chapter, the calendar year preceding the year the application is made for the new Base Rent that is established.
- D. “Capital Improvement” means the installation of new improvements and facilities not including ordinary maintenance or repairs or Capital Replacement Costs. Capital Improvements are required to be amortized over the useful life of the improvements pursuant to the provisions of this Chapter and the United States Internal Revenue Code.
- E. “Capital Improvement Costs” means all costs reasonably and necessarily related to the planning, engineering and construction of Capital Improvements and shall include debt service costs, if any, incurred as a direct result of Capital Improvements. Capital Improvement Costs does not include ordinary maintenance or repairs or Capital Replacement Costs.
- F. “Capital Replacement” means an improvement required to maintain the common facilities and areas of the park in a decent, safe and sanitary condition or to maintain the existing level of park amenities and services. A Capital Replacement is an expenditure as defined by the United States Internal Revenue Code that replaces, upgrades or repairs an existing improvement, such as, but not limited to, an onsite water or electrical distribution or sewage collection system, a street, a parking area, or common facility, such as a laundry, community kitchen or meeting room. If the expenditure qualifies for treatment as a capital expenditure which must be depreciated under the Internal Revenue Code, it is a Capital Replacement. If it can be fully deducted in one year as a business expense, it does not qualify as a Capital Replacement.
- G. “Capital Replacement Costs” means all costs reasonably and necessarily related to the planning, engineering and construction of Capital Replacement and shall include debt service costs, if any, incurred as a direct result of the Capital Replacement. Capital



Replacement does not include Capital Improvement Costs.

- H. “Consumer Price Index or CPI” means the annual percentage change in the prices paid by urban consumers for a representative basket of goods and services. For purposes of this Ordinance, the consumer price index is defined follows: All Urban Consumers, San Francisco-Oakland-Hayward, CA Area All Items, 1982-1984=100, as published by the United States Bureau of Labor Statistics of the United States Department of Labor.
- I. “Fair Return Application” means an application made to the City that seeks to increase Space Rents beyond the lesser of the CPI or four (4) percent during the most recent twelve-month period ending December of the prior year in order to provide a fair return to the Park Owner.
- J. “Hearing Officer” The City Manager or their designee who conducts a hearing or hearings pursuant to this Ordinance. The minimum qualifications of the Hearing Officer shall be as established by the rent review procedures. A person shall not be appointed as a Hearing Officer if the City Manager or designee determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a mobilehome owner, a park owner or an immediate family member of a mobilehome owner or park owner shall be ineligible to serve as a Hearing Officer.
- K. “Interest Allowance on Amortized Expenses” means the interest rate on the cost of the amortized expense equal to the “average rate” for 30-year fixed rate home mortgages plus two percent. The “average rate” shall be the rate Freddie Mac last published in its weekly Primary Mortgage Market Survey (“PMMS”) as of the date of the initial submission of the application. In the event that this rate is no longer published, the index which is most comparable to the PMMS index shall be used.
- L. “Legal Expenses” means reasonable attorney’s fees, expert witness’ fees, and legal costs.
- M. “Mobilehome Residency Law” means the California Mobilehome Residency Law codified in California Civil Code Section 798 *et seq.* as now enacted and hereafter amended.
- N. “Mobilehome” has the meaning set forth in Section 798.3 of the Mobilehome Residency Law\ as of the date of enactment of this Chapter as follows:
  - 1. A structure designed for human habitation and for being moved on a street or highway under permit pursuant to section 35790 of the Vehicle Code, including a manufactured home, as defined in section 18007 of the Health And Safety Code, and a mobilehome, as defined in section 18008 of the Health And Safety Code, but, except as provided in subsection 2 of this definition, does not include a recreational vehicle, as defined in section 799.29 of the Civil Code and section 18010 of the Health and Safety Code or a commercial coach as defined in section 18001.8 of the Health and Safety Code.
  - 2. "Mobilehome" for purposes of this Chapter and pursuant to California Civil Code section 798.3(b) “includes trailers and other recreational vehicles of all types defined in section 18010 of the Health and Safety Code, other than motor homes, truck campers, and camping trailers, which are used for human habitation, if the occupancy criteria of either subsection [2a] or [2b] of this definition, as follows, are met:”
    - a. “The trailer or other recreation vehicle occupies a mobilehome site in the park,

on November 15, 1992, under a rental agreement with a term of one month or longer, and the trailer or other recreational vehicle occupied a mobilehome site in the park prior to January 1, 1991.” (Civil Code section 798.3(b)(1))

- b. “The trailer or other recreational vehicle occupies a mobilehome site in the park for nine (9) or more continuous months commencing on or after November 15, 1992.” (Civil Code section 798.3(b)(2))
- O. “Mobilehome Owner” means a person who is the owner of a Mobilehome and legally occupies the Mobilehome within a Mobilehome Park.
- P. “Mobilehome Park” or “Park” has the meaning set forth in Section 798.6 of the Mobilehome Residency Law, which is defined as of the date of enactment of this Chapter as any area of land within the City of San Leandro where two (2) or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes used for human habitation.
- Q. “Mobilehome Space” or “Space” is the site within a Mobilehome Park intended, designed or used for the location or accommodation of a Mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith.
- R. “Mobilehome Park Owner” or “Park Owner” means the owner or operator of a mobilehome park or an agent or representative authorized to act on said owner’s or operator’s behalf in connection with the maintenance or operation of such park.
- S. “Party” means any Affected Mobilehome Owner and/or Park Owner involved in proceedings under this Chapter.
- T. “Prospective Mobilehome Owner” means a person who is in the process of negotiating a Space tenancy in a Mobilehome Park.
- U. “Rent” means any consideration, including any bonus, benefit or gratuity demanded or received by a Park Owner for, or in connection with, the use or occupancy of a Mobilehome Space, or in connection with the assignment of a lease, or in connection with subleasing of a Space. Rent shall not include:
  - 1. Utility charges for sub-metered gas and electricity.
  - 2. Charges for water, refuse disposal, sewer service, and/or other services, which are either provided and charged to Mobilehome Owners solely on a cost pass-through basis and/or are regulated by state or local law.
  - 3. Any amount paid for the use and occupancy of a Mobilehome unit (as opposed to amounts paid for the use and occupancy of a Mobilehome Space).
  - 4. Charges for laundry services.
  - 5. Storage charges.
- V. “Rent Increase” means any increase in Base Rent charged by a Mobilehome Park Owner to a Mobilehome Owner or offered to a Prospective Mobilehome Owner.
- W. “Rent Review Officer” means the Community Development Director or designee who shall serve as the Rent Review Officer to administer and enforce the provisions of this

Ordinance. The Rent Review Officer shall have the power and duty to receive, investigate, and make findings and decisions regarding petitions for rent adjustment.

- X. “Rent Stabilization Administration Fee” means the fee established by this Ordinance and amended from time to time by resolution of the City Council in accordance with the provisions of this Chapter.
- Y. “Service Reduction” means a decrease or diminution in the basic service level provided by the Park Owner occurring at any time since January 1, 2019, including but not limited to services the Park Owner is required to provide pursuant to:
  - 1. California Civil Code Sections 1941.1 and 1941.2.
  - 2. The Mobilehome Residency Law, California Civil Code Section 798 *et seq.*
  - 3. The Mobilehome Parks Act, California Health and Safety Code Section 18200 *et seq.*, or
  - 4. An express or implied agreement between the Park Owner and the Space tenant.
- Z. “Special Circumstances Household” means a Mobilehome Owner or anyone else leasing a Space who has the following characteristics at the time of notice or implementation of a Mobilehome Park Owner action prescribed by this Ordinance:
  - 1. Is sixty-two (62) years of age or older; or
  - 2. Qualifies as disabled as defined by Title 42, United States Code section 423 or
  - 3. handicapped as defined by California Health and Safety Code Section 50072; and
  - 4. Has total household income at or below fifty percent (50%) of the Alameda County area median household income as established annually by the U.S. Department of Housing and Urban Development, or closest equivalent if the HUD income limits no longer exist.

**SECTION 2.** Article 2, **Mobilehome Park Rent Stabilization**, is hereby created in [Chapter 4-39, Mobilehome Park Regulations, of Title 4 Public Welfare] of the San Leandro Municipal Code as follows:

**TITLE** [4] – [PUBLIC WELFARE]  
**CHAPTER** [4-39] – [MOBILEHOME PARK RENT STABILIZATION PROGRAM]  
**ARTICLE** [2] – [GENERAL PROVISIONS]

**[4-39-200] Purpose.**

The purpose of this Article is to establish an efficient method for reviewing certain requested Mobilehome Space Rent Increases in Mobilehome Parks to protect Mobilehome Owners from arbitrary, capricious or unreasonable Rent adjustments while enabling Park Owners and/or operators and investors to earn a fair and reasonable return on their investment in their Mobilehome Parks.

**[4-39-202] Definitions.**

Unless specifically defined in this Article or the context specifically requires otherwise, the terms used herein are defined in Article 1, Definitions, of this Chapter.

**[4-39-205] Applicability.**

This Article shall be applicable to all Mobilehome Spaces within the City of San Leandro except those specifically exempted by this Chapter or state law.

**[4-39-207] Exemptions.**

- A. The following exemptions from local Rent regulations are provided by state law:
1. Spaces that are subject to a lease that exempts that Space from Rent regulation pursuant to the Mobilehome Residency Law.<sup>1</sup>
  2. New Mobilehome Spaces exempted pursuant to Civil Code section 798.45 of the Mobilehome Residency law.<sup>2</sup>
  3. Spaces that are not the principal residence of the Mobilehome Owner, and that are exempt pursuant to California Civil Code Section 798.21 of the Mobilehome Residency Law.
- B. This Article shall not apply to Mobilehomes or Mobilehome Parks owned or operated by any governmental agency or any rental unit where Rent is subsidized pursuant to a public program that limits the Rent that can be charged for the Mobilehome.
- C. This Article shall not apply to Mobilehome Parks with fewer than ten (10) Spaces.

**[4-39-210] Base Rent.**

- A. Base Rent in 2018 for Non-exempt Spaces. Base Rent in 2018 for non-exempt Spaces means the Rent in effect for that Space on July 1, 2018. Except as provided in this Article, a Mobilehome Park Owner shall not demand, accept or retain Rent for a Mobilehome Space exceeding the Base Rent.
1. If a previously rented Mobilehome Space was not rented in the 2018 calendar year, the Park Owner shall not demand, accept, or retain Rent for said Space in an amount exceeding the 90th percentile of all subject Rents in effect at the time the Space is rented. The Park Owner shall provide evidence verifying compliance with the terms of this provision to the Rent Review Officer upon request.
  2. If an existing Mobilehome Space is rented for the first time after the 2018

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<sup>1</sup> Civil Code section 798.17(a)(1) (“Rental agreements satisfying the criteria for exemption under Civil Code Section 798.17(b) shall be exempt from any city ordinance, rule, regulation, or initiative measure that establishes a maximum amount that a landlord may charge a tenant for rent. The terms of a rental agreement meeting the criteria of subdivision 798.17(b) shall prevail over conflicting provisions of an ordinance, rule, regulation, or initiative measure limiting or restricting rents in mobilehome parks, only during the term of the rental agreement or one or more uninterrupted, continuous extensions thereof. If the rental agreement is not extended and no new rental agreement in excess of 12 months’ duration is entered into, then the last rental rate charged for the space under the previous rental agreement shall be the base rent for purposes of applicable provisions of law concerning rent regulation, if any.”)

<sup>2</sup> Civil Code sections 798.45 and 798.7 (Newly constructed Mobilehome Spaces initially held out for rent after January 1, 1990 “shall be exempt from any city ordinance, rule, regulation, or initiative measure adopted by any city, county, or city and county, which establishes a maximum amount that a landlord may charge a tenant for rent.”)

calendar year, the rent charged by the Park Owner in that year shall be the Base Rent for the Space.

- B. Base Rent Following Expiration of an Exempt Lease. Base Rent for a Mobilehome Space that becomes subject to this Chapter upon the expiration of an exempt lease shall be the Rent in effect under the exempt lease as of the date of its expiration. Mobilehome Space Rents shall be verified by information required on the annual registration application or any other documentation required by the City.
- C. Base Rent Following Termination or Permanent Removal. Under either of the following circumstances listed below, a Park Owner shall be permitted to charge a new Base Rent for the Mobilehome Space not to exceed the 90th percentile of all subject rents in effect at the time the Space is rented:
1. The termination of the tenancy of the Affected Mobilehome Owner in accordance with the Mobilehome Residency Law; or
  2. The voluntary permanent removal of a Mobilehome by a Mobilehome Owner. A removal of the Mobilehome from the Space for the purpose of performing rehabilitation or Capital Improvements to the Space or for the purpose of upgrading the Mobilehome shall not constitute a voluntary removal of the Mobilehome.

The Park Owner shall provide evidence verifying compliance with the terms of this provision to the Rent Review Officer upon request.

- D. Base Rent Following a Fair Return Application. Base Rent shall be the allowable Rent determined as a result of a Fair Return Application.

**[4-39-212] Annual Rent Increases.**

A. Annual Rent Increase:

1. Starting in 2019, on or after January 1 of each year, a Mobilehome Park Owner may impose a Rent Increase for a Mobilehome Space that shall be equal to the lesser of CPI or four (4) percent of the Rent charged for the Space in the preceding year, except as permitted by this Article in accordance with a CPI Decrease, an In-place Mobilehome transfer, or extraordinary circumstances. Such Rent Increase may be imposed once in any twelve (12) month period.
2. CPI Decrease: In the event that the CPI decreases, no Rent decrease shall be required pursuant to this Section.

B. Notice of Allowable Annual Rent Increase.

1. Calculation of Annual Increase. The allowable annual Rent Increase shall be equal to the lesser of CPI or four (4) percent annually unless the Rent Review Officer or designee elects to set an alternate cap on the annual increase due to a CPI Decrease or extraordinary circumstances.
2. Notice of Annual Increase. If the Rent Review Officer elects to change the amount of the Annual Increase due to a CPI Decrease or extraordinary circumstances, notice shall be: (a) posted by February 15 of each year in City Hall and on the City's website, (b) mailed and/or emailed by the City to each Park Owner and

Affected Mobilehome Owner in each Park, and (c) posted by the Park Owner on a notice board in each Mobilehome Park within three business days after it is received by the Park Owner.

- C. Compliance with State Law. Rent Increases permitted pursuant to this Section shall not be effective and shall not be demanded, accepted, or retained until the Park Owner has given the notice required by state law.
- D. Notice: A written notice of the amount and duration of each Rent Increase or new or increased Capital Improvement Cost or Capital Replacement Cost pass-through charge made under the provisions of this Section shall be filed by the Park Owner with the Rent Review Officer or designee, and provided to each Affected Mobilehome Owner, at least ninety (90) days before the Rent Increase goes into effect or as required by the Mobilehome Residency Law. The notice shall identify the Park and shall specify the dollar amount of the increase, the percentage of the increase, the duration of the increase, an itemization of all new or increased pass-throughs and additional Rent charges, the specific Space affected, the date the increase will go into effect, how each increase was calculated, and the date the Rent on each affected Space was last increased. The notice shall also advise each Affected Mobilehome Owner of any right to petition for review of a proposed Rent Increase and that a petition form may be requested from the Rent Review Officer or Designee.

**[4-39-215] Vacancy Decontrol, Rent Increases and Establishment of New Base Rent.**

- A. A Park Owner shall be permitted to charge a new Space Rent for a Mobilehome Space subject to the terms of this chapter whenever a lawful Space vacancy occurs. The new Space Rent shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated. For the purposes of this chapter, a lawful Space vacancy is defined as any of the following:
  - 1. Voluntary in place transfer, which is a sale, transfer or other conveyance of a mobilehome with the mobilehome remaining on the mobilehome space following the sale, transfer or conveyance. A transfer of title whereby the Mobilehome Owner adds or removes one or more co-owners and continues to reside in the mobilehome as their primary residence shall not constitute an in-place transfer. No increase may be imposed pursuant to this Section when an existing Mobilehome Owner replaces an existing Mobilehome with another Mobilehome, occupying the same Mobilehome Space. No increase may be imposed pursuant to this Section where title to the Mobilehome passes to one or more person(s) who, at the time of the title transfer, (1) was/were also lawful, authorized resident(s) of the mobilehome, or (2) were/are parents, siblings, children, grandchildren, nieces, or nephews of the Mobilehome Owner and the Mobilehome remains in the same Space. A Park Owner may not condition an in-place transfer of a Mobilehome, or condition the assignment of an existing lease to a prospective Mobilehome Owner that is subject to this Ordinance, upon agreement to an increased Rent.
  - 2. Voluntary removal of a mobilehome by the mobilehome owner who will no longer be a resident of the Park. Removal of the mobilehome from the Space for the purpose of performing rehabilitation or Capital Improvements to the Space or for the purpose of upgrading the mobilehome with a newer mobilehome shall not constitute a voluntary removal of the mobilehome under this section.
  - 3. A vacancy occurring after the Park Owner obtains a judgment of unlawful detainer (an eviction), a judgment of abandonment for an “abandoned mobilehome” as defined by and pursuant to the Mobilehome Residency Law, or

other termination of the tenancy of the Affected Mobilehome Owner in accordance with the Mobilehome Residency Law, California Civil Code Sections 798.55 through 798.60, as amended.

4. Abandonment of the mobilehome as determined by a judgment of abandonment pursuant to section 798.61 of the Mobilehome Residency Law.
- B. Rent Increases authorized by this Section shall be in addition to any other Rent Increases authorized by this Chapter.

**[4-39-217] Fair Return Rent Increases.**

- A. Fair Return. A Park Owner has the right to obtain a Rent Increase to maintain net operating income (“MNOI”) equal to the Base Year net operating income adjusted by the percentage increase in the CPI since the Base Year. It shall be presumed this standard provides a fair return. Nothing in this Article shall preclude the Rent Review Officer, or Hearing Officer if on appeal, from granting a Rent Increase that is necessary in order to meet constitutional fair return requirements.
- B. If a Park Owner presents evidence to the Rent Review Officer, or Hearing Officer if on appeal, including any financial records requested by the Rent Review Officer, which proves that the Park Owner is denied a fair return by the provisions of this Article, the Rent Review Officer, or Hearing Officer if on appeal, may authorize an increase in Rent as deemed appropriate by the Rent Review Officer, or Hearing Officer if on appeal, to provide a fair return to the Park Owner. The Rent Review Officer, or Hearing Officer if on appeal, shall use the method set forth in this Article to determine the fair return.

**[4-39-220] Method to Determine a Fair Return.**

- A. Maintenance of Net Operating Income: It shall be presumed that the net operating income produced by the property during the Base Year provided a fair return. A Park Owner shall be entitled to Rents sufficient to earn a fair and reasonable return and to maintain and increase the Base Year net operating income in accordance with this Section. This method shall be called maintenance of net operating income (“MNOI”) and shall be included in all Fair Return Applications.
- B. Adjustment of Base Year Net Operating Income: The Park Owner or the Affected Mobilehome Owners may apply to the Rent Review Officer to rebut the presumption of fair and reasonable return based upon the Base Year net operating income. To make such a determination and in order to adjust to the Base Year net operating income, the Rent Review Officer, or Hearing Officer on appeal, must make the following findings:
  1. Exceptional Expenses in the Base Year. The Park Owner’s operating expenses in the Base Year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating operating expenses so the Base Year operating expenses reflect average expenses for the park over a reasonable period of time. The following factors shall be considered in making such a finding:
    - a. Extraordinary amounts were expended for necessary maintenance and repairs.
    - b. Maintenance and repairs were below accepted standards so as to cause significant deterioration in the quality of services provided.

- c. Other expenses were unreasonably high or low notwithstanding the application of prudent business practices.
2. Exceptional Circumstances in the Base Year. The gross income during the Base Year was disproportionately low due to exceptional circumstances. The following factors shall be considered in making such a finding:
- a. If the gross income during the Base Year was lower than it might have been because some Mobilehome Owners were charged reduced rent.
  - b. If the gross income during the Base Year was significantly lower than normal because of the destruction of the Park and/or temporary eviction for construction or repairs.
  - c. The pattern of rent increases in the years prior to the Base Year and whether those increases reflected increases in the CPI.
  - d. Base Year Rents were disproportionately low in comparison to the Base Year Rents of other comparable parks in the City.
  - e. Other exceptional circumstances, excluding any comparisons of Base Year Rents to Rents of other comparable parks located outside of the City or to market rents determined from comparable Parks located outside of the City.

C. Calculation of Net Operating Income.

- 1. Net Operating Income. Net operating income shall be calculated by subtracting operating expenses from gross rental income.
- 2. Gross Rental Income.
  - a. Gross rental income shall include the following:
    - i. Gross Rents calculated as gross rental income at 100 percent occupancy, adjusted for uncollected Rents due to vacancy and bad debts to the extent such vacancies or bad debts are beyond the control of the Park Owner. Uncollected Space Rents in excess of three percent of gross Space Rent shall be presumed to be uncollectable unless established otherwise and shall not be included in computing gross rental income.
    - ii. All other income or consideration received or receivable in connection with the use or occupancy of the Rental Unit, except as excluded below.
  - b. Gross rental income shall not include the following:
    - i. Utility charges for submetered gas and electricity.
    - ii. Charges for water, refuse disposal, sewer service, and/or other services which are either provided and charged to Mobilehome Owners solely on a cost pass-through basis and/or are regulated by state or local law.
    - iii. Any amount paid for the use and occupancy of a Mobilehome unit (as



opposed to amounts paid for the use and occupancy of a Mobilehome Space).

- iv. Charges for laundry services.
- v. Storage charges.
- vi. Rental Income from Spaces exempted from Rent limitation by state law or this Chapter.

3. Operating Expenses.

- a. Operating expenses shall include the following:
  - i. Reasonable costs of operation and maintenance.
  - ii. Management expenses. It shall be presumed that management expenses increase by the percentage increase in Rents or the CPI, whichever is greater, between the Base Year and the prior year unless the level of management services has either increased or decreased significantly between the Base Year and the prior year.
  - iii. Utility costs, except where the consideration of the income associated with the provision of the utility service is regulated by state law and consideration of the costs associated with the provision of the utility service is preempted by state law.
  - iv. Real property taxes attributable to the Base Year or prior year regardless of when actually paid.
  - v. License and registration fees required by law to the extent these expenses are not otherwise paid or reimbursed by Mobilehome Owners.
  - vi. Park Owner-performed labor compensated at reasonable hourly rates. No Park Owner-performed labor shall be included as an operating expense unless the Park Owner submits documentation showing the date, time, and nature of the work performed. There shall be a maximum allowed under this subsection of five percent of gross income unless the Park Owner shows greater services were performed for the benefit of the Mobilehome Owners.
  - vii. Legal Expenses incurred (1) in connection with successful good faith attempts to recover Rents owed, (2) pursuit of rights under or in relationship to this Article, including Legal Expenses incurred in the course of pursuing successful Fair Return Applications, (3) under unlawful detainer actions not in derogation of applicable law and, when incurred in the normal operation of the Park, to the extent such expenses are not recovered from adverse or other parties.
  - viii. Interest Allowance on Amortized Expenses.
- b. Exclusions from Operating Expenses. Operating expenses shall not include the following:

- i. Mortgage principal or interest payments or other debt service costs.
  - ii. Penalties, fees or interest assessed or awarded for violation of any provision of this Chapter or other provisions of law.
  - iii. Land lease expenses.
  - iv. Political contributions and payments to organizations which are substantially devoted to legislative lobbying purposes.
  - v. Depreciation.
  - vi. Expenses for which the Park Owner has been reimbursed by any utility rebate or discount, security deposit, insurance settlement, judgment for damages, settlement or any other method or device.
  - vii. Unreasonable increases that deviate substantially from the historical average increase in expenses since the base year.
  - viii. Expenses associated with the provision of master-metered gas and electricity services.
  - ix. Expenses attributable to unreasonable delays in performing necessary maintenance or repair work or the failure to complete necessary replacements.
  - x. Expenses attributable to a Park-owned Mobilehome, including but not limited to any Mobilehomes rented out by the Park Owner except when provided to a Park manager as a component of employment compensation.
  - xi. Expenses attributable to Spaces exempt from Rent limitations by state law or this Chapter shall be excluded, for the purpose of determining applicable rents for non-exempt spaces, by reducing the total allowed operating expenses by the amount attributable to exempt spaces. This may be done by reducing the total allowed operating expenses by the percentage of operating expenses attributable to the total number of exempt Spaces in the Park, or by another method approved by the Rent Review Officer.
- c. Adjustments of Operating Expenses. Base Year and/or current operating expense items shall be averaged with other expense levels for the same types of items for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for the item(s) that most reasonably serves the objectives of obtaining a reasonable comparison of Base Year and prior year expenses. Grounds for such adjustments include, but are not limited to:
- i. Either the amount or nature of an expense item for a particular year is not representative.
  - ii. The Base Year expense is not a reasonable projection of average past expenditures for that item in the years immediately preceding or following the base year.
  - iii. The prior year expense is not a reasonable projection of expenditures for that

item in recent years or of future expenditures for that item.

- iv. If a particular item of expense exceeds the normal industry or other comparable standard for the area, the Park Owner shall bear the burden of proving the reasonableness of the expense. To the extent that it is found that the expense is unreasonable it may be adjusted to reflect the normal industry standard.
  - v. A Base Year expense is exceptionally low by industry standards and/or on an inflation adjusted basis is exceptionally low relative to the prior year expense although the level or type of service for which the expense is incurred has not changed significantly.
  - vi. An increase in maintenance or management expenses is disproportionate to the percentage increase in the CPI, while the level of services has not changed significantly and/or is not justified by special circumstances.
- D. Constitutionally Required Fair Return: Notwithstanding any other provisions of this Chapter, the Rent Review Officer or Hearing Officer, if on appeal, is authorized to approve any Rent Increase that is constitutionally required by law to yield a fair return.<sup>3</sup>
- E. Rent Increase Effective Date: Rent Increases approved by the Rent Review Officer shall be effective on the date given by the applicant in the notice to the Affected Mobilehome Owners required in section 798.30 of the California Civil Code. In the event that the period for determining the allowable Rent Increase exceeds 120 days, the Park Owner may recover a Rent charge retroactive to 120 days after the Fair Return Application is deemed complete. Delays or continuances that are mutually agreed to in writing by all parties concerned, extensions authorized in this Article, and the number of days that lapse between applicant receiving notice of the necessity of replenishing their cost account with the City and paying the required amount pursuant to the fee payment procedure for review of Fair Return Applications, including any costs of expert analysis ordered pursuant to this Article, shall not be counted in determining whether said 120-day period has expired. In order to avoid undue hardship on the Mobilehome Owners affected by the decision, the retroactive Rent charge shall be amortized and paid over a period of five years, unless the Rent Review Officer, or Hearing Officer if on appeal, determines that a different amortization period is more reasonable. Interest may be charged on this amortized Rent.
- F. Per Space Rent Adjustment Pursuant to Fair Return Standard: The allowable Rent Increase per Mobilehome Space pursuant to this Section may not be increased as a result of exempt Spaces in the Park.

**[4-39-222] Settlement Proposals.**

- A. At least 10 days prior to the date specified when the Rent Review Officer will take under submission a Fair Return, Capital Replacement, or Rent Reduction application filed pursuant to this Article, or 10 days prior to any appeal hearing, the Mobilehome Owner Representative or the Park Owner may submit a written settlement offer to the other party to settle the claims or requests made in the application and to allow a decision or award to

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<sup>3</sup> *Fisher v. Berkeley*, " 37 Cal. 3d 644, 693 P.2d 261, 209 (The court held that a standard allowing the landlord to recover a reasonable return on investment was sufficient to withstand a facial challenge. The court suggested a Net Operating Income Method would be acceptable, provided landlords' income was not indefinitely frozen at the nominal amount earned in the base year.)

be made in accordance with the terms and conditions stated in the offer.

- B. The offer shall include a statement of the terms and conditions that the offering party is willing to accept, and a provision that allows the accepting party to indicate acceptance of the offer by signing a statement that the offer is accepted. At the same time that the offering party submits its offer to the other party, the offering party shall also file a copy of the written settlement offer with the Rent Review Officer, or Hearing Officer if on appeal, in a separately sealed envelope, with a statement on the outside of the envelope identifying the offeror and stating that it is a written settlement offer submitted pursuant to this section. The sealed copy of the written settlement offer that is filed with the Rent Review Officer or Hearing Officer if on appeal shall not be opened until it is either timely accepted by the opposing party or, if it is not timely accepted by the opposing party, after the Rent Review Officer or Hearing Officer, as appropriate, has rendered a final decision on the application or appeal.
- C. Acceptance of the offer must be in writing and shall be signed by the counsel for the accepting party or, if unrepresented by counsel, by the accepting party.
- D. If the offer is accepted, the parties shall notify the Rent Review Officer, and the Hearing Officer if the application is on appeal, and the Rent Review Officer or Hearing Officer, as appropriate, shall enter the accepted offer as the final decision respecting the application or appeal.
- E. If the offer is not accepted within seven calendar days of the offer's receipt by the opposing party, the offer shall be deemed withdrawn and cannot be given in or considered as evidence as part of the Rent Review Officer's or Hearing Officer's decision.
- F. Legal Expenses. If an offer made pursuant to this Section is not accepted and the rejecting party fails to obtain a more favorable award or decision, the rejecting party shall not recover their post-offer Legal Expenses and shall pay the Legal Expenses incurred by the offering party from the time of the offer. If competing offers to settle are timely submitted but have not been timely accepted, the Rent Review Officer or Hearing Officer, as may be appropriate, shall determine which party has failed to obtain a more favorable decision or award and assign responsibility for the payment of legal expenses accordingly.
  - 1. The Rent Review Officer or Hearing Officer shall mail and email to the parties a notice of assignment of Legal Expense liability ("Legal Expense Notice") within seven days after issuance of a final decision on the application or appeal. Within seven days of receipt of the Legal Expense Notice, each party shall simultaneously serve a written request for the awarding of and an accounting of Legal Expenses on the Rent Review Officer or Hearing Officer and all parties by regular mail and electronic mail. Said requests shall include detailed records of fee billings, time records and supporting declarations executed under penalty of perjury. Within seven days of receiving the requests, opposing parties may file and serve objections in the same manner as service of the original requests. Within seven days after service of the oppositions or within seven days of the deadline for the filing of oppositions, if none is submitted, the Rent Review Officer or Hearing Officer may submit a proposed supplemental decision stating the amount of legal expenses each party is required to pay and the reasons therefor.
    - a. When issued by the Rent Review Officer, said supplemental decision shall become final when issued and shall be appealable separately from the Rent Review Officer's decision pertaining to the merits of the application. The appellate procedures set forth in this Article shall govern an appeal of a Rent Review

Officer's decision pertaining to the awarding of Legal Expenses, but an appeal of a Legal Expenses award shall be consolidated with any appeal taken of the Rent Review Officer's final decision pertaining to the merits of the application.

- b. When issued by the Hearing Officer, said supplemental decision shall become final seven days after the proposed decision, unless either party requests an evidentiary hearing within said seven days in which case a final decision shall be made within seven days after the evidentiary hearing is concluded. The Hearing Officer's decision shall become final upon mailing, with proofs of service, to all parties of the (i) final decision on the merits of the application, or (ii) final decision on the Legal Expenses award, whichever occurs last.
  - c. In their discretion, the Rent Review Officer or the Hearing Officer, as appropriate, may reduce or offset from any Legal Expense award made in favor of the applicant by the amount of legal expenses the applicant may be required to pay.
2. Any award of Legal Expenses shall be itemized by the Park Owner separately from any Rent Increase or Services Reduction award. Legal Expenses awarded to Park Owners shall be shown as a limited time pass-through charged to the Affected Mobilehome Owners. A Legal Expense award to a Park Owner plus Allowable Interest on Amortized Expenses shall be recovered in equal monthly payments over a five-year period, unless the Rent Review Officer or Hearing Officer determines that a different period is more appropriate, and shall be eliminated after payment is completed at the end of the amortization period. Legal Expenses awarded to Mobilehome Owners shall be made as either a Rent credit or direct payment to the Mobilehome Owners.
  3. In determining whether a party has obtained a more favorable award or decision than that proffered in a written settlement offer not accepted by that party, the Rent Review Officer or Hearing Officer shall rely upon and be guided by legal precedent and authorities construing the same term as it is used in California Code of Civil Procedure Section 998.
- G. The time limits prescribed in this Section may be extended by the Rent Review Officer or the Hearing Officer, as appropriate, upon a showing of good cause.

**[4-39-225] Procedures for Review of Rent.**

- A. The following matters are subject to review by the Rent Review Officer upon application:
  1. Fair Return Rent Increase.
  2. Preapproval of a temporary Rent Increase for specified Capital Improvements and Capital Replacements.
  3. Rent reduction for Service Reduction.
- B. Limit on Frequency of Applications. Only one application pursuant to this Article may be filed for a Mobilehome Park within any 12-month period, except in the event of extraordinary circumstances that could not reasonably have been foreseen at the time the prior application was filed.
- C. Filing of Application.

1. Applications for Rent adjustments for fair return Rent Increases, temporary Capital Improvements and Capital Replacements Rent Increases, or Rent reductions for Service Reductions shall be on forms prescribed by the Rent Review Officer.
2. The Rent Review Officer may require an application to contain any information as he or she deems relevant, including, but not limited to:
  - a. A list of the names and addresses of all Mobilehome Owners subject to the proposed Rent adjustment.
  - b. A statement of the date the Rent adjustment is proposed to be effective.
  - c. The Rent for each Space in the park in the Base Year, and the three (3) prior years.
  - d. An income and expense statement for the Base Year, and the four (4) prior years.
  - e. Evidence documenting the income and expenses claimed by the Park Owner.
  - f. All other documentation and opinion testimony upon which the Park Owner is relying upon to justify the Rent Increase, or upon which the Mobilehome Owner is relying upon to justify a Rent reduction.
  - g. A statement of the applicant's theories in support of the Rent Increase or Rent reduction.

D. Notice of Application. The applicant and the City shall provide notice of an application as follows:

1. The applicant and City: by sending a hard copy and electronic copy of the application to either (a) each Affected Mobilehome Owner, or (b) the Park Owner, as appropriate;
2. The applicant: by providing the City with hard and electronic copies of the application.

E. Determination that Application is Complete. Within sixty [60] days after filing an application, the Rent Review Officer will determine if it is complete. An application will be considered complete only if and when the required fees have been paid. If the application is incomplete, the Rent Review Officer will inform the applicant in writing as to what additional information is required. Within 45 days of the applicant's submittal of requested additional information or fees, the Rent Review Officer shall determine whether the application is complete and notify the applicant of the Rent Review Officer's determination. This process shall continue until the Rent Review Officer issues a written notice advising the applicant that the application is complete. The time period for Rent Increase effective date shall begin running on the date the Rent Review Officer delivers said completeness notice to the applicant.

F. Access to Application. Applications shall be available upon request for inspection and copying by the public during the City's normal business hours.

G. Expert Analysis. Upon the receipt of an application authorized by this Article, the Rent Review Officer shall determine if the employment of experts will be necessary for a thorough

analysis of the application. The Rent Review Officer may retain a certified public accountant to, among other things, verify the accuracy of the expense and income items stated in the application; an expert in the use and theory of the fair return and MNOI methods utilized in this Article; and/or, a licensed appraiser.

- H. Response by other party. The party not filing the application may submit a written response to the application within 30 days after the application is determined complete, unless the Rent Review Officer determines that there is good cause to extend that deadline. The party filing a written response shall deliver it to the applicant and to the Rent Review Officer.
- I. Decision by Rent Review Officer. Applications filed pursuant to this Article shall be decided by the Rent Review Officer based on substantial evidence and without a hearing or personal appearances by any of the involved parties or their representatives. The decision will be made within 60 days of the date that the application is deemed complete, unless the Rent Review Officer determines that there is good cause to extend that deadline. The Rent Review Officer shall email all involved parties or their representatives the date on which the Rent Review Officer will consider the matter under submission and beyond which the Rent Review Officer will not accept additional information, briefs, evidence or arguments (the "Submission Date"). The Rent Review Officer shall email notice of the Submission Date to all parties or their representatives at least 21 days prior to the Submission Date. The Rent Review Officer's decision on the merits of the application shall be emailed and sent by mail, with proof of mailing, to the Mobilehome Owner, the Park Owner, the Park Owner's and Mobilehome Owners' representatives, and the Mobilehome Owners' Association Representative, if any.
- J. Required Findings in Fair Return Decision: Any Rent adjustment decision pursuant to this Article that approves a fair return rent increase shall include a determination that the Park Owner would be denied a fair return according to the method in this chapter and shall include findings made of the following:
1. Base Year and prior year rental income;
  2. Base Year and prior year operating expenses by category;
  3. Base Year and prior year overall operating expenses;
  4. Base Year and prior year net operating income;
  5. The percentage change in net operating income between the Base Year and the prior year;
  6. The percentage change in the CPI between the Base Year and prior year;
  7. The ratio of the percentage change in net operating income to the percentage change in the CPI between the Base Year and prior year;
  8. The rent adjustment required under the MNOI standard, if applicable to the application.
- K. Conditions for Allowance or Disallowance of Rent Increase: The allowance or disallowance of any proposed Rent Increase (or decrease) or portion thereof may be reasonably conditioned in any manner necessary to effectuate the purposes of this Article.

L. Representation of Parties:

1. Each party may be represented by any person of its choosing. The representative need not be an attorney.
2. Written designation of representatives shall be filed with the Rent Review Officer or Hearing Officer.
3. The written designation of the representative shall include a statement that the representative is authorized to bind the party to any stipulation, decision or other action taken by the Rent Review Officer or Hearing Officer.

M. Overall Period for Review of Application. Except as otherwise provided in this Article, a decision on an application for Rent adjustment made pursuant to this Article shall be made within 120 days after the application is deemed complete, unless extended by the Rent Review Officer or Hearing Officer for good cause.

N. Standard of Review. The applicant shall bear the burden of proof, by a preponderance of the evidence, on all issues necessary to the granting of the petitioner's petition, both at the Rent Review Officer and Hearing Officer levels of review.

**[4-39-227] Appeal of the Rent Review Officer's Decision.**

A. The decision of the Rent Review Officer on an application for Rent Increase for fair return, Capital Improvements, or Capital Replacements, or Rent reduction for Service Reduction may be appealed within 30 days after the date of its mailing. An appeal by the Park Owner shall be signed by the Park Owner or its lawfully authorized agent. An appeal by the Mobilehome Owners must be signed by the Mobilehome Owners residing on twenty-five (25) percent of the Mobilehome Spaces that are subject to the Rent Review Officer's decision. An appeal must be in writing and must be delivered to the opposing parties and the City within the 30-day appeal period. If the Rent Review Officer's decision is not timely appealed, the Rent Review Officer's decision shall become final on the thirty-first day after the decision is mailed. The appealing party shall be required to pay for the costs of the appeal, including those imposed by the Hearing Officer and those established by resolution of the City Council. The appeal shall be conducted through a de novo evidentiary hearing, which shall consider at least the following: the application, all information, expert opinions and arguments submitted by the parties to the Hearing Officer; the opinions of the City's experts; additional arguments or facts upon which the Hearing Officer's decision is based; and the briefs, evidence and testimony accepted or rejected by the Hearing Officer in support of or in opposition to the application by any of the parties to the proceedings.

B. Procedure for Selection of a Hearing Officer.

1. Hearing Officers shall be licensed attorneys of the State Bar of California in good standing, and shall have no financial interest in Mobilehomes, Mobilehome Spaces or Mobilehome Parks and shall not have represented Mobilehome Park Owners or Mobilehome Park Mobilehome Owners in Rent setting cases or Park closings, Park conversions or any disputes between Park Owners and Park residents.
2. A hearing officer shall be selected through the California Office of Administrative Hearings (OAH). In the event OAH is unavailable or unable to provide a hearing



officer, the City Manager or designee may elect to contract with another agency, lawyer, or law firm that provides arbitration or hearing officer services or may establish a panel from which the hearing officer is selected in accordance with this Section.

3. In the event a list of hearing officers is established, the City Manager or designee shall make all reasonable efforts to ensure that the list is comprised of at least five qualified candidates. A hearing officer shall disqualify himself or herself from serving as Hearing Officer in a particular matter where he/she has a conflict of interest within the meaning of the Political Reform Act (Government Code Section 87100 *et seq.*), and shall otherwise comply with the disqualification provisions of Canon 3.E. of the Code of Judicial Ethics. The City shall make the initial selection of the Hearing Officer from the panel. The parties to the appeal shall be advised in writing of the selected Hearing Officer, and advised of their right to disqualify the selected Hearing Officer within five days of receipt of the notice of selection. In the event of a disqualification, another Hearing Officer shall be randomly selected from the panel by the City, and a new notice of hearing sent to the parties. Each party shall have the right to disqualify one Hearing Officer for a particular appeal if there are five or fewer hearing officers on the list and may disqualify up to two hearing officers if there are eight or more hearing officers on the list.

C. Time of and Scheduling of Hearing.

1. A hearing on the appeal shall commence within 30 days of the selection of the Hearing Officer unless both parties agree to a different schedule. The hearing shall be completed within 15 days after it is commenced. These time deadlines may be extended by the Hearing Officer for good cause.
2. The hearing may be scheduled during normal business hours of the City unless a majority of the residents that are subject to the appeal requests that the hearing be scheduled outside of normal City business hours. The hearing shall be scheduled at a time that is convenient for the residents' and Park Owner's representatives.

D. Presentations by each party at the hearing and of the City staff and experts shall be limited to 30 minutes each unless the Hearing Officer determines good cause exists to extend those time periods. Each party and the City shall be permitted a cumulative total of one hour of cross-examination of the opposing party's expert witnesses, unless the Hearing Officer determines good cause exists to extend those time periods. The City may provide legal counsel to help prepare the City's experts for their presentation at the appeal hearing, to defend the City's expert witness and to cross examine the expert witnesses of the parties.

E. Notwithstanding anything to the contrary stated herein, whether or not the City decides to appear, submit documents and/or briefs, retain counsel to represent the City, or otherwise participate in the administrative appellate proceedings shall be left to the discretion of the City.

F. Written notice of the time, date and place of the hearing shall be given at least 21 days prior to the hearing.

G. Requests for Additional Information Not Previously Provided to the Rent Review Officer by Opposing Party:

1. Either party or the City may request that additional, supporting documentation that was not previously provided to the Rent Review Officer as part of its initial

examination and decision be provided to substantiate the claims made by a party. The request shall be presented in writing to the Hearing Officer.

2. The Hearing Officer may order production of such requested documentation if the Hearing Officer determines the information is relevant to the proceedings.

H. Responses:

1. Mobilehome Owners or the Park Owner may submit responses to the decision of the Rent Review Officer or to reports by the City's experts. Responses shall be submitted to the other parties and the Hearing Officer at least 10 days prior to the hearing. Responses shall be in printed and electronic form.
2. Rebuttal reports may be submitted by the Park Owner, Mobilehome Owners, and/or City or its expert(s). Such reports shall be submitted to the parties and Hearing Officer at least five days prior to a hearing. Rebuttals shall be in printed and electronic form.
3. The parties' responses and rebuttal reports shall be considered the prehearing briefs of the parties and the City and no other prehearing briefs shall be allowed unless requested by the Hearing Officer for good cause.

I. Conduct of Hearing:

1. The hearing shall be conducted in accordance with such rules and regulations as may be promulgated by the City Council and any rules set forth by the Hearing Officer.
2. The Hearing Officer shall have the power and authority to require and administer oaths or affirmations where appropriate, and to take and hear evidence concerning any matter pending before the Hearing Officer.
3. The rules of evidence generally applicable in the courts shall not be binding in the hearing. Hearsay evidence and any and all other evidence which the Hearing Officer deems relevant may be admitted and considered.
4. Any party or such party's representative, designated in writing by the party, may appear at the hearing to offer such documents, oral testimony, written declaration or other evidence as may be relevant to the proceedings.
5. The Hearing Officer may grant or order not more than two continuances of the hearing for not more than 10 working days each. Additional continuances may be granted only if all parties stipulate in writing or if the Hearing Officer finds that there is a good cause for the continuance. Such continuances may be granted or ordered at the hearing without further written notice to the parties.
6. A recording of the proceedings shall be made or arranged by the Hearing Officer in a format that is made easily available, upon request, within thirty days of the conclusion of the hearing.
7. The hearing shall be conducted in a manner that ensures the parties have an

opportunity to obtain documents and to obtain information about the theories and facts to be presented by the opposing parties in adequate time in advance of the hearing to enable preparation of their respective cases.

8. **Deadline for Decision:** Appeals shall be decided by the Hearing Officer within 90 days of the date of the filing of the appeal and payment of all appellate fees, unless extended by the Hearing Officer for good cause or by the Rent Review Officer to accommodate scheduling availability of a Hearing Officer.
9. **Notice of Decision:** The Rent Review Officer shall mail hardcopies of the hearing officer's decision to the Park Owner and all Affected Mobilehome Owners within 15 calendar days of the City's receipt of the Hearing Officer's written decision. The decision shall be emailed to the Park Owner's and Mobilehome Owners' representatives as soon as possible after the decision is received by the City.
- J. **Modification of Decision in the Event of Mathematical or Clerical Inaccuracies:** Any party alleging that the Hearing Officer's statement of decision contains mathematical or clerical inaccuracies may so notify the Hearing Officer and the other party within 15 calendar days of the date of mailing of the decision. The Hearing Officer may make corrections and shall file a corrected statement of decision within 10 working days after receiving the request to correct. Alternatively, the Hearing Officer may decline to correct the decision and shall so notify the parties of his/her determination. Upon filing a corrected statement of decision or a determination not to correct the decision, the Hearing Officer's decision shall be final.
- K. **Preservation of Record:** Written findings made by the final decision maker pursuant to this Section shall be permanently preserved in the City records.

**[4-39-230] Temporary Rent Increases for Specified Capital Improvements and Capital Replacements.**

- A. A Park Owner shall be permitted to obtain a temporary Rent increase to reimburse specified Capital Improvements and Capital Replacements pursuant to this Section.
- B. The City Council shall from time to time adopt an amortization schedule for typical Capital Improvements and Capital Replacements subject to the provisions of this Section.
- C. Prior to making a Capital Replacement or Capital Improvement, the Park Owner may file an application with the Rent Review Officer for approval of a temporary Rent Increase to reimburse Capital Improvement Costs or Capital Replacement Costs. Except as provided in Subsection H., a Park Owner who commences and completes a Capital Improvement project prior to obtaining a temporary Rent Increase approval under this Section, shall be deemed to have conclusively waived its right to seek a Rent Increase for that Cost.
- D. Applications for a temporary Rent Increase shall contain at a minimum the following information:
  1. A description and cost of the proposed project. The estimated cost of the proposed project shall be reflected in at least two bids or proposals from qualified and licensed (if required by law) contractors, installers and/or builders;
  2. Evidence establishing that the project is necessary at the time the Park Owner seeks to implement it;

3. The date(s) upon which the Park Owner proposes to commence and complete the project;
  4. The manner by which the Park Owner will notify the City of the commencement of the work to allow the City to monitor construction and ensure, as practicable, that the work is completed consistent with the temporary Rent Increase approval;
  5. The period of time during which the Park Owner proposes to amortize the Rent Increase and the rationale therefor;
  6. Evidence that the project will be made at a direct cost of not less than \$100.00 per affected Mobilehome Space or at a total direct cost of not less than \$5,000, whichever is lower, or such other amounts as adjusted by resolution of the City Council;
  7. Calculation of costs amortized over a period of not less than 36 months, or a different time period if the monthly payment amount will not impose an unreasonable financial burden on the Mobilehome Owners;
  8. Evidence that the costs do not include any additional costs incurred for property damage or deterioration that result or have resulted from any unreasonable delay in undertaking or completing any repair or improvement;
  9. Evidence that the costs do not include costs incurred to bring the Park, improvement or other property into compliance with a provision of the San Leandro Municipal Code or state law where the original installation of the improvement was not in compliance with code requirements;
  10. A representation by the Park Owner stating that at the end of the amortization period, the allowable monthly Rent will be decreased by any amount it was increased because of a Rent Increase approval granted under this Section; and
  11. Evidence that the amortization period is in conformance with any schedule adopted by the City Council, unless it is determined that an alternate period is justified based on the evidence presented during the consideration of the Park Owner's application.
- E. Capital Replacement. Upon receipt of a Capital Replacement application, the Rent Review Officer shall provide notice ("Capital Replacement Notice") of the application to all Affected Mobilehome Owners. The Capital Replacement Notice shall state the proposed Capital Replacement, the amortization schedule including interest for the project, and the resulting temporary Rent Increase proposed. The Rent Review Officer shall email the application and all of its attachments to the Affected Mobilehome Owners. The Park Owner shall post a complete, physical copy of the application and its attachments at a location that is obvious and accessible to all Mobilehome Owners.
1. A temporary Rent Increase for Capital Replacement shall be approved and the protest provisions under subsections 2 and 3 shall not apply if the Park Owner submits evidence with its application that the Park Owner has:
    - a. Consulted with the Affected Mobilehome Owners prior to initiating construction of the Capital Replacement project regarding the nature and purpose of the project and estimated cost; and

- b. Obtained the prior written consent of an adult household member from at least 50 percent plus one of the Spaces whose Rent would be affected by the requested Capital Replacement temporary Rent Increase. Evidence of such consent must be presented at the time of filing the application with the City.
      - c. Provided that the two criteria listed in (a) and (b) have been satisfied, the Rent Review Officer or their designee shall approve the application as submitted, and shall send notice to the Park Owner and Affected Mobilehome Owners stating that the application is granted and identifying the amount of the approved temporary Rent Increase. Said decision by the Rent Review Officer or their designee shall be final and shall not be appealable.
  - 2. In the event that one adult household member from at least 50 percent plus one of the affected Mobilehome Spaces protest the application in writing to the Rent Review Officer within 45 days after the date the Rent Review Officer mails or emails the Capital Replacement Notice to the Affected Mobilehome Owners, the Rent Review Officer shall determine whether the application is complete, including determining whether all applicable fees have been paid. The Rent Review Officer may require additional information if the application is deemed incomplete. Upon determining that the application is complete, the Rent Review Officer may retain expert assistance as necessary to review the application, and may require the Park Owner to pay the cost of expert assistance. The complete application shall be reviewed by the Rent Review Officer, and approved, rejected or modified, pursuant to this Chapter.
  - 3. In the event that one adult household member from at least 50 percent plus one of the affected Mobilehome Spaces whose Rent would be increased if the application were approved do not protest the application in writing to the Rent Review Officer within 45 days after the date the Rent Review Officer mails or emails the Capital Replacement Notice to the Affected Mobilehome Owners, the Rent Review Officer shall approve the application as submitted, and send a notice to the applicant and the Affected Mobilehome Owners stating that the application has been granted and identifying the amount of the temporary Rent Increase allowed to be charged the Affected Mobilehome Owners. Said decision by the Rent Review Officer shall be final and shall not be appealable.
- F. Capital Improvements. A Park Owner shall be entitled to seek a temporary Rent Increase to make a Capital Improvement only if the Park Owner submits evidence with its application that the Park Owner has:
- 1. Consulted with the Affected Mobilehome Owners prior to initiating construction of the project regarding the nature and purpose of the project and estimated cost;
  - 2. Limited the annual increase in Rent solely attributable to Capital Improvements to less than or equal to four (4) percent of the Rent for Spaces being rented by Special Circumstances Households, such that the total increase in Rent inclusive of approved Capital Improvements is limited to eight (8) percent per year for Special Circumstances Households; and
  - 3. Obtained the prior written consent of an adult household member from at least 50 percent plus one of the Spaces whose Rent would be affected by the requested Capital Improvement temporary Rent Increase. Evidence of such consent must be

presented at the time of filing the application with the City.

Provided that the above three criteria have been satisfied, the Rent Review Officer shall approve the application as submitted, and shall send notice to the applicant Park Owner and Affected Mobilehome Owners stating that the application is granted and identifying the amount of the approved temporary Rent Increase.

- G. No temporary Rent Increase granted pursuant to this Section shall become effective until the first full calendar month following the filing by the Park Owner of a notice of completion of the Capital Improvement or Capital Replacement project with the Rent Review Officer, and determination by the City that the work was completed in accordance with the Rent Increase approval. A Rent Increase approved pursuant to this Section shall be itemized separately on the rental billing provided to the Affected Mobilehome Owners and shall terminate upon the conclusion of the approved amortization period.
- H. Nothing in this Section shall prevent the Park Owner from making emergency Capital Replacements required as a result of a disaster or other emergency event to preserve or secure the health, safety, or welfare of persons or property. In such event, the Park Owner may make limited and reasonable Capital Replacements required to protect the public health and safety and to limit further damage to the Park, and to thereafter or simultaneously seek a Rent adjustment for such Capital Replacement pursuant to this section.

**[4-39-232] Rent Reduction for Service Reduction.**

Rent may be reduced and/or refunded if a Service Reduction results in the reduction in the Mobilehome Owners' enjoyment of their Mobilehomes.

- A. Filing and Processing a Service Reduction Application. A Service Reduction application must be signed by at least one adult Mobilehome Owner from each of twenty-five percent (25%) plus one of the Spaces subject to this Chapter.
- B. If the Rent Review Officer, or Hearing Officer on appeal, finds that a material Service Reduction has occurred, the Rent Review Officer, or Hearing Officer on appeal, shall determine the resultant percentage reduction in the Mobilehome Owners' enjoyment due to the Service Reduction. Rent shall be reduced by that percentage or amount. In addition, the Mobilehome Owners shall be entitled to, and the Rent Review Officer, or Hearing Officer on appeal, shall award a rebate in the amount of the monthly Rent reduction multiplied by the number of months between the date the Mobilehome Owners notified the Park Owner of the reduction in service and the date the Rent Review Officer, or Hearing Officer on appeal, determined the Rent reduction. Any rebate authorized pursuant to this section may be amortized over a maximum five year period, and bear the Interest Allowance for Amortized Expenses. In the event the Park Owner was not notified of the Service Reduction by the Mobilehome Owners or applicant and the Park Owner did not know nor should have known that the Service Reduction occurred prior to the filing of the application, no rebate shall be awarded. If a preponderance of the evidence proves that the Park Owner knew or should have known of the Service Reduction, a rebate shall be awarded and calculated from the date that the Park Owner knew or should have known of the start of the reduction.
- C. No rebate shall be allowed or authorized if a Service Reduction of a recreational facility or service, and resulting Rent decrease, has the prior written approval signed by at least one adult Mobilehome Owner from each of fifty percent (50%) plus one of the Spaces subject to this Article.
- D. No Service Reduction may include a condition created by the Park management's failure to

maintain the physical improvements in the common facilities in good working order, or condition for which the provisions of Civil Code section 798.84 provides a remedy.

- E. No recreational service or facility that has been reduced or eliminated shall be reinstated at any cost to the Mobilehome Owners without prior written approval signed by at least one adult Mobilehome Owner from each of fifty percent (50%) plus one of the Spaces subject to this Article.
- F. In the event that a Service Reduction application is filed while a Fair Return Application is pending, the Rent Review Officer, may require consolidation of applications. The Park Owner, or the Affected Mobilehome Owners may request consolidation of the applications.

**[4-39-234] Cause for Termination.**

- A. A Mobilehome Park Owner may not terminate or refuse to renew a Tenancy except in the same manner as provided for in Chapter 2.5 of the Mobilehome Residency Law, Civil Code sections 798.55 *et seq.*, as may be amended from time to time.
- B. For the purposes of this section, a “Tenancy” means the right of a person or persons to use a Mobilehome Space on which to locate, maintain, and occupy a Mobilehome or any other vehicle or structure for the purpose of human habitation.
- C. In adopting this Section, the City Council finds and declares that structures and vehicles that do not meet the technical definition of a Mobilehome, but are nevertheless located on a Mobilehome Space, often share many of the same characteristics as a Mobilehome. These structures or vehicles are not generally intended to be moved frequently, if at all, and often have site improvements and accessory structures constructed onto or adjacent to the structure or vehicle. The City Council finds and declares that there is a high cost of moving these vehicles and structures and a potential for damage resulting from a move, such that the owners of these structures or vehicles used for human habitation and located in a Mobilehome Space need the special protections provided for in this section.

**[4-39-235] Waivers.**

- A. Any waiver or purported waiver by a Mobilehome Owner of rights granted under this Article shall be void as contrary to public policy.
- B. It shall be unlawful for a Park Owner to require or attempt to require as a condition of tenancy in a Mobilehome Park a Mobilehome Owner or a prospective Mobilehome Owner to waive in a lease or rental agreement or in any other agreement the rights granted to a Mobilehome Owner by this Article.
- C. It shall be unlawful for a Park Owner to deny or threaten to deny tenancy in a Mobilehome Park to any person on account of such person’s refusal to enter into a lease or rental agreement or any other agreement under which such person would waive the rights granted to a Mobilehome Owner by this Article.

**[4-39-237] Rights of Prospective Mobilehome Owners.**

- A. Prospective Mobilehome Owners shall be offered the option of renting a Space in a manner that will permit the “Mobilehome-to-be” to receive the benefits of the Mobilehome Park Rent Stabilization Program codified herein, which includes, but is not limited to, rental of a

Mobilehome Space on a month-to-month basis. A prospective Mobilehome Owner cannot be denied the option of a tenancy of 12 months or less in duration.

- B. The Park Owner shall provide each prospective Mobilehome Owner with a copy of this Chapter.
- C. Any effort to circumvent the requirements of this Article shall be unlawful.

**[4-39-240] Annual registration and other notices required from Park Owner.**

- A. Due Date. No later than May 31<sup>st</sup> of each year, each Park Owner shall file with the City an annual registration statement, on a form prescribed by the Rent Review Officer.
- B. Contents of Registration Form. The registration form shall include, but not be limited to, the name(s), business address(es), and business telephone number(s) of each person or legal entity possessing an Ownership interest in the Park and the nature of such interest; the number of Mobilehome Spaces within the Park; a Rent schedule reflecting the current Space Rents within the Park; a listing of all other charges, including utilities not included in Space Rent, paid by Mobilehome Owners within the Park and the approximate amount of each such charge; the name and address to which all required notices and correspondence may be sent; the name and address of each Mobilehome Owner; the name and address of each person renting a Mobilehome; an identification of those Spaces or Mobilehomes which the Park Owner considers exempt from this Article and a statement of the reasons therefor; a statement of the number of recreational vehicle Spaces in the Park, the names of the RV owners and renters, and the current rent and utilities charged for each space; and other information required by the Rent Review Officer.
- C. Certification of Registration Forms. All registration forms, and any documentation accompanying registration forms, shall contain an affidavit or declaration signed by the Park Owner or a designated agent, with his/her signature notarized, certifying that the information contained therein is true, correct and complete.
- D. Notice of Sale of a Park. Upon the sale or transfer of the Mobilehome Park, the seller or transferor shall notify the Rent Review Officer and all Mobilehome Owners within the Mobilehome Park of the sale or transfer and of the name and address of the buyer or transferee. Within 10 days of the sale or transfer of a Mobilehome Park, the buyer or transferee shall provide a new registration form meeting the requirements of this section and a copy of the statement of the Base Year income, expenses, and net operating income of the Park and supporting documents that the previous Park Owner had provided to them pursuant to subsection E. of this section.
- E. Notice to Prospective Park Purchasers. The Park Owner shall provide prospective Park purchasers with a copy of this Chapter.

**[4-39-242] Retaliation Prohibited.**

- A. It shall be unlawful for a Park Owner to evict a Mobilehome tenant where the Park Owner's motive in seeking to recover possession of the space is:
  - 1. Retaliation for the Mobilehome Owner's organizing, petitioning for Rent relief, or exercising any right granted under this Article; or
  - 2. Evading or circumventing the purposes of this Article.



- B. It shall be unlawful for a Park Owner to retaliate against a Mobilehome Owner because of the Mobilehome Owner's assertion or exercise of rights under this Article in any manner, including but not limited to:
1. Threatening to bring or bringing an action to recover possession of a space.
  2. Engaging in any form of harassment that causes the Mobilehome Owner to quit the premises.
  3. Decreasing housing services.
  4. Unlawfully increasing Rent.
  5. Imposing or increasing a security deposit or other charge payable by the Mobilehome Owner.

**[4-39-245] Time of Allowed Rent Increase/Adjustment.**

- A. Once within a twelve (12) month period, the Park Owner may implement a CPI Rent adjustment or a Fair return increase, as authorized in this Article, but not both.
- B. A Capital Replacement Cost pass-through authorized by this Article may only be implemented on the effective date of the CPI or Fair return rent adjustment.
- C. The following Rent Increases or adjustments, as authorized by this Article, may be implemented at any time during the year:
  1. Government mandated expense pass-throughs;
  2. Utility pass-throughs;
  3. Capital Improvement Cost pass-throughs;
  4. In-place transfer Rent Increases.
- D. Rent Increases subject to approval by the Rent Review Officer shall be implemented after final determination.
- E. Rent reductions for Service Reductions shall be implemented at the time Service Reductions are ordered.

**[4-39-247] Refusal of Mobilehome Owner to Pay Illegal Rent.**

It shall be unlawful for a Park Owner to demand, accept, receive, or retain Rent in excess of the amounts authorized by this Article. An Affected Mobilehome Owner may refuse to pay any Rent in excess of the maximum Rent permitted by this Chapter. The fact that such unpaid Rent is in excess of the maximum Rent shall be a defense in any action brought to recover possession of a Mobilehome Space for nonpayment of Rent or to collect the illegal Rent.

**[4-39-250] Disclosures.**

A Park Owner shall disclose to each prospective Mobilehome Owner the current and proposed Base Rent for the Mobilehome Space, any rental agreement options, provide each prospective Mobilehome Owner a copy of this Chapter, and that if the prospective Mobilehome Owner signs a lease with a term of more than one year, that lease will be exempt from rent stabilization in addition to notice required pursuant to Civil Code section 798.74.5 of the Mobilehome Residency Law. The Park Owner shall give the required disclosure and provide a copy of this Chapter to the prospective Mobilehome Owner at the time that the Park Owner, or Owner's representative, receives the prospective Mobilehome Owner's application for tenancy. The Park Owner shall obtain a signature of the prospective Mobilehome Owner on the disclosure form acknowledging receipt of the disclosures. The Park Owner shall retain the signed disclosure form throughout the entire tenancy of the Mobilehome Owner. This signed form shall be made available to the Rent Review Officer upon reasonable written notice.

**[4-39-252] Prospective Mobilehome Owner; Tenancy Twelve Months or Less.**

All prospective Mobilehome Owners shall be offered the option of a tenancy of twelve (12) months or less upon terms consistent with the provisions of this Article. This section shall not apply to prevent a mutually agreed upon assignment between a Park Owner and an existing Mobilehome Owner of an existing lease, provided any such assignment does not violate the provisions in this Article applicable to in-place transfer Rent Increases.

**[4-39-255] Rent Stabilization Administration, Fees.**

- A. Administrative Regulations: The Rent Review Officer may administratively adopt implementing regulations that are consistent with the provisions and intent of this Article.
- B. Rent Stabilization Administration Fee: All or any portion of the costs to administer this Chapter may be collected by the imposition of an annual rent stabilization administration fee, which shall be established by the City Council. The fee, if any, shall be chargeable against every Mobilehome Space in the City subject to rent stabilization. The Park Owner shall remit payment to the City within 30 days after the end of each calendar quarter, and may pass-through up to one-half of the fee to those Mobilehome Owners subject to the fee as a government mandated expense pass-through. The fee is intended to cover the full cost of administration and the fee assessment amount may be amended from time to time by resolution of the City Council.
- C. Other Fees: The City Council may adopt by resolution additional fees as necessary to reimburse the City for its costs to implement this Chapter, and may allocate specified charges to the respective Parties.

**[4-39-257] Amendment.**

Any amendment to this Article shall require a prior public hearing before the City Council with notice thereof mailed to all Affected Mobilehome Owners in the City at least ten (10) days prior to the hearing.

**SECTION 3.** This Ordinance is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3) of the CEQA Guidelines based on the finding that the provisions of the Ordinance constitute additional regulation for a process already existing under State law and thus does not have the potential for causing a significant impact to the environment.

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