



MEMORANDUM

CSFRA, Community Development Department

DATE: September 21, 2020

TO: Rental Housing Committee

FROM: Karen Tiedemann, Special Counsel to the RHC
Anky van Deursen, CSFRA Program Manager

SUBJECT: Study Session Regarding Mobile Homes and Rent Stabilization

RECOMMENDATION

For the Rental Housing Committee to receive background information on the policy context of mobile homes and the specific issue of mobile home rent stabilization in Mountain View. Because there is pending litigation related to the coverage of mobile homes under the Community Stabilization and Fair Rent Act, no action by the Rental Housing Committee is recommended at this time.

BACKGROUND AND OVERVIEW

In November 2016, Mountain View voters approved the Community Stabilization and Fair Rent Act (CSFRA) as a Charter amendment, which went into effect December 23, 2016. The CSFRA enacted stabilization of rents to multi-family residential rental units constructed prior to 1995 and just-cause termination protections for multi-family units constructed prior to the effective date of the CSFRA on December 23, 2016.

The CSFRA does not specifically identify mobile homes as a residential structure subject to the CSFRA, nor does it specifically exempt mobile homes. In 2018, the Rental Housing Committee (RHC) adopted Resolution 11, finding that the CSFRA did not apply to mobile homes. Mobile home residents sued, and a lawsuit ensued. Park owners intervened in the lawsuit. The RHC decision to interpret the CSFRA as excluding mobile homes was upheld in court, with the court finding that the CSFRA was, at best, ambiguous on this point and that the RHC had discretion to interpret the CSFRA in this way. The mobile home residents are appealing the trial court decision, and the appeal is currently pending.

On June 1, 2020, the RHC agenda included an item on mobile home rent stabilization and, more specifically, whether the RHC would like to reconsider its prior action determining that mobile homes and mobile home spaces are not covered by the CSFRA. Since an

appeal of the litigation challenging the adoption of Resolution 11 was still pending, the RHC did not take action at that meeting and directed staff to return with a Study Session on background information and history about mobile home rent stabilization in Mountain View for the September RHC meeting.

Unique Nature of Mobile Homes

Mobile homes and mobile home parks present a unique hybrid between rental and ownership housing. Mobile home owners, unlike apartment tenants or residents of other rental units, make a substantial investment to own their mobile home, which is located on a rented or leased parcel of land (the mobile home park space). Mobile home owners may either purchase a new mobile home, which is assembled on-site or acquire a mobile home already in place within a mobile home park. In either event, the mobile home owner may have an investment that ranges in prices from \$150,000 to \$350,000, depending upon the age and quality of the mobile home and the amenities and space rent of the mobile home park. A mobile home owner's return on investment is impacted by the nature of the housing and typically can only be realized by an "in-place" sale/transfer of the mobile home combined with a dependency on the mobile home park owner's rent charge to the purchaser of the mobile home. Relocation of the mobile home is, in most cases, impossible since:

- Physical relocation of mobile homes is costly and most mobile homes are not actually mobile;
- Relocation within metropolitan areas is practically impossible because of low vacancy rates in mobile home parks;
- Park owners generally will not permit older mobile homes to be moved into their parks even if they do have vacant spaces for rent; and
- The supply of mobile home park spaces in urban areas in California is either frozen or declining. Mobile home park construction in urbanized areas of California virtually ceased by the early 1980s as alternative land uses became more profitable and land use policies continually tightened restrictions on the construction of new mobile home parks.

Space Rent

In addition to the substantial investment made by the mobile home owner on the mobile home itself, the owner also rents the space on which the mobile home sits. Therefore, the total housing cost that a mobile home owner must pay is the purchase of the mobile home

itself plus the monthly space rent. Assuming that a household has a fixed amount of income to spend on total mobile home housing costs, the amount paid for space rent directly correlates to the value of the mobile home: as space rents increase, the land value appreciates (resulting in a gain in equity for the park owner), whereas the mobile home will decline in value because there is less money to spend on the purchase of the unit due to the higher space rent (resulting in a loss in equity for the mobile home owner). This lack of control of the underlying land on which the mobile home is located, the resulting correlation between space rent and mobile home value and the instability this may cause, and the fact that mobile homes are generally not movable, leaving mobile home residents with limited recourse to protect their equity when space rent is increased, are key rationales why State law contains specific provisions addressing mobile home residency issues and why many local laws regulate the rate at which park owners can increase mobile home space rent.

REGULATION OF MOBILE HOMES

California Mobilehome Residency Law

In response to the hybrid nature of mobile home residencies and the lack of mobility available to mobile home residents as described above, California has enacted special protections for mobile home park residents (California Civil Code Chapter 2.5: The Mobilehome Residency Law (MRL)) that apply Statewide. The MRL regulates rental agreements for mobile home spaces, park rules and regulations, and transfer of mobile homes. The MRL does not directly limit rent increases, but it permits local jurisdictions to do so, and it addresses three aspects of mobile home residency that bear upon the issue of rent stabilization:

1. First, the MRL requires park management to provide residents at least 90 days' notice before implementing a rent increase.
2. Second, the MRL limits the reasons the park owner may use to terminate a lease of a mobile home space or deny its renewal to seven specific reasons: (1) failure to comply with local or State law or ordinances; (2) annoying conduct to other homeowners or residents; (3) conviction for prostitution; (4) failure to comply with reasonable park rules and regulations; (5) nonpayment of rent, utilities, or other reasonable charges; (6) condemnation of the park; and (7) change of use of park or portion thereof. Management is required to specify the rule broken and give the resident seven days to correct the rule violation. If not corrected, management can start an unlawful detainer action. In general, the resident has the choice to sell the mobile home "in place" or remove it from the park.

3. Third, the MRL allows cities to regulate those spaces held out for rent before January 1, 1990. Until recently, the MRL also exempted from rent stabilization certain long-term leases over 12 months and spaces where the mobile home is not the owner's principal residence and the mobile home has not been rented out to another party (i.e., vacation homes). AB 2782, passed by the California Legislature this year and signed by Governor Gavin Newsom, eliminates the exemption from local rent stabilization for long-term leases for any lease signed on or after February 13, 2020 and permanently eliminates the exemption from local rent stabilization for long-term leases for any lease effective January 1, 2025.

Regulation of Mobile Home Park Conversions and Closures

California also regulates the closure and conversion of mobile home parks, requiring that park owners complete a conversion or closure impact report prior to converting a park to another use or closing the park. The impact report is filed with the local government and must address the impact of the closure or conversion on the mobile home park residents. New changes to State law effective January 1, 2020 require that the person proposing the change of use or conversion must pay to the residents who cannot adequately find replacement housing in a mobile home park the in-place value of the mobile home valued as if the mobile home park will continue to operate. These requirements are the minimum requirements, and local jurisdictions may impose additional requirements. Additionally, under State law, park residents must be given either a six-month or 12-month notice to vacate in the event of a conversion or closure of the mobile home park.

Mobile Home Rent Stabilization in California

The MRL does not regulate rent increases for mobile homes, and the Statewide cap on rent increases (AB 1482) adopted last year excludes rent increases for mobile home spaces or mobile homes. Mobile home rent stabilization is up to local jurisdictions with some limitations, as discussed earlier. Over time, approximately 100 jurisdictions in California have adopted some type of rent stabilization of mobile home park spaces to help stabilize rent increases and protect mobile home park residents. Most mobile home rent stabilization regulations in California regulate rent increases for the space rent. If a tenant were to rent a mobile home from either a private owner or a mobile home park owner, rental of the mobile home itself is typically not regulated by mobile home rent stabilization. Local rules usually apply to all mobile home spaces in a city or county unless such spaces are exempt under State law (e.g., spaces built after 1990 and spaces used for vacation homes are exempt). Typically, the rent stabilization programs tie annual allowable rent increases to the percentage increase in the Consumer Price Index (CPI).

Unlike with conventional built housing, mobile home rent stabilization can include vacancy control. The Costa-Hawkins Act (the State law prohibiting local jurisdictions from implementing rent stabilization that includes vacancy control) does not apply to mobile homes. Many local mobile home rent stabilization programs include some type of vacancy control, either not allowing any additional rent increase when the mobile home is sold to a new owner or limiting the rent increase to a set amount that may be more than the annual rent increase but less than what might be considered market increase. Under all ordinances, park owners are entitled to petition for additional rent increases in order to obtain a fair return. Table 1 provides an overview of mobile home rent-stabilized jurisdictions in the Bay Area and key policy components.

Table 1: Mobile Home Rent Stabilization Ordinances in Bay Area Jurisdictions

City	County	Date	Parks	Spaces	Annual General Adjustment of Rent	Vacancy Control
Alameda (County)	Alameda	1990-09	19	571	4%	No
East Palo Alto	San Mateo	1983-11	2	146	100% CPI	No
Fremont	Alameda	1987-02	3	732	3% or \$10 or 60% CPI, 6% Cap	Yes CPI% change between transfers, 15% cap
Hayward	Alameda	1980-03	16	2,397	Lesser of 3% or 60% CPI, 6% Cap	Yes AGA
Los Gatos	Santa Clara	1980-10	2	138	100% CPI, 3% Min, 5% Cap	Yes \$25 or AGA
Milpitas	Santa Clara	1992-08	3	521	50% CPI, 5% Cap	Yes AGA

City	County	Date	Parks	Spaces	Annual General Adjustment of Rent	Vacancy Control
Morgan Hill	Santa Clara	1983-08	6	531	75% CPI, 8% Cap	Yes AGA
San Jose	Santa Clara	1985-07	58	10,667	75% CPI, Min 3%, 7% Cap	Yes 8%
Santa Cruz	Santa Cruz	1979-01	24	1,630	75% CPI, 8% Cap	Yes AGA

Different Rent Stabilization Program Mechanisms

The following mechanisms have been used for local rent stabilization programs in California:

1. A Mobile Home Rent Stabilization Ordinance. Most jurisdictions (90+) in California that have a mobile home rent stabilization program have established their program by way of an ordinance. As discussed above, the local ordinance would typically allow for an annual rent increase based on an inflationary index and an individual petition process to ensure a fair rate of return and to provide an enforcement mechanism for residents. For an overview of mobile home rent stabilization ordinances in California, see Attachment 1.
2. A Memorandum of Understanding/Accord. In a few jurisdictions in California, local governments have entered into a Memorandum of Understanding (MOU/Accord), a voluntary agreement with park owners to limit rent increases over some period of time, usually five to 10 years with options to renew the MOU/Accord. A model long-term lease (five to 10 years) usually accompanies a MOU/Accord, negotiated among residents, park owners, and local government. The long-term lease provides protections similar to a rent stabilization ordinance, such as limited rent increases, capital improvement pass-through regulations, and vacancy control or limited-vacancy decontrol. Upon approval of such MOU/Accord, the city usually refrains from adopting rent regulations. Depending upon the MOU/Accord, the city may or may not be involved in the administration of rent increases. In many MOU/Accords, the city is involved in enforcement either by providing mediation services for disputes between the park owner and the resident or by enforcing the residents' rights in the event of a breach by the park owner. Instead of a formal petition process, disputes may be handled through mediation or arbitration or a mobile home citizens review board.

3. A Combination of a Memorandum of Understanding Backed by a Rent Stabilization Ordinance. In a couple of instances, a rent stabilization ordinance has been adopted which includes an exemption from the ordinance as long as the park owner enters into and complies with an MOU/Accord. The City of Modesto is an example of a jurisdiction with a combination mechanism of an MOU and a rent stabilization ordinance.

LOCAL REGULATION OF MOBILE HOMES

Mobile Homes in Santa Clara County

There are 17,115 mobile home spaces in 96 mobile home parks throughout Santa Clara County that are licensed and monitored by the State Department of Housing and Community Development. These parks, which vary in size from 24 to 909 spaces, are located in nine cities from Gilroy to Milpitas to Palo Alto. Of these mobile home parks, 23 with 3,295 spaces are restricted to occupancy by seniors (generally, at least one occupant of the mobile home must be at least 55 years old). The City of Mountain View contains six mobile home parks with a total of 1,130 spaces.

It has been several decades since any new mobile home parks have been developed. Many mobile home parks that were originally developed in low-density areas or in more industrial areas are now surrounded by higher-density and residential uses, and the underlying lands have increased in value. This created increased pressure on two fronts:

1. Redevelopment. On the one hand, pressure increased to convert mobile home parks to other uses. In 1992, Mountain View adopted a special General Plan Land Use Designation and Zoning for mobile home parks, which was continued in the wholesale General Plan adoption in 2012. The City of Mountain View's Housing Element identified mobile homes as an important source of affordable housing for all income level households as a strategy to preserve affordable housing. San Jose is exploring a similar designation. Santa Clara, Sunnyvale, and San Mateo County have special General Plan designations/zoning for mobile home parks. In addition, some cities adopted protective ordinances to provide greater protection for residents in mobile home parks. These ordinances typically include requirements for notifying the residents about hearings on proposed conversions and the preparation of relocation plans and proposed financial benefit packages for residents who would be displaced by conversion. Milpitas, Morgan Hill, Palo Alto, San Jose, and Sunnyvale also adopted conversion ordinances.

2. **Rents.** On the other hand, the increased value of land has also increased pressure on space rents. The impact of rent increases is considerable, bearing in mind that mobile home residents often live on a fixed income, and each rent increase is money not being spent on mortgage or other living costs. In response, the cities of Gilroy, Los Gatos, Milpitas, Morgan Hill, and San Jose as well as almost 100 other jurisdictions in California have adopted rent stabilization ordinances.

Mobile Homes in Mountain View

The City of Mountain View contains six mobile home parks with 1,130 spaces. While no firm data is available, anecdotally, in this past year, rent increases for mobile home spaces in Mountain View ranged from 0 percent to 12 percent. In addition, anecdotally, rent increases at the time of a mobile home sale or transfer “in-place” could range from 25 percent to 50 percent and up. All six mobile home parks in Mountain View began operating well before 1990, with the newest park beginning operation in 1982, and so it appears likely that most of the 1,130 spaces in Mountain View could be subject to rent regulation and are not excluded under the MRL.

Table 2: Overview of Mobile Home Parks in Mountain View

Park Name	Number of Spaces	Number of Senior Households	Average Space Rent	Average Rent Increase in 2020	Homes for Rent by Park Owner
New Frontier	141	127	\$975	\$35	No
Sunset Estates	144	130	\$1,340-\$1,627	-0-	No
Moffett	143	10	\$700-\$1,450	-0-	No
Moorpark	138	45	\$600-\$950	\$70	No
Santiago Villa	358	*	*	AGA	70 - 80
Sahara	206	*	*	AGA	60 - 70

* Information update requested August 31, 2020.

Mobile Home Regulations in Mountain View

On May 21, 2019, the City Council adopted its Fiscal Year 2019-21 Major Goals and associated work plan items. One of the work plan items (Project 2.5) included examining and potentially developing a rent stabilization program, consistent with the MRL, for mobile home park residents.

On January 28, 2020, the City Council held a Study Session to discuss elements of mobile home rent stabilization and comparisons with other mobile home rent stabilization ordinances. Council directed staff to evaluate potential approaches for rent stabilization other than a rent stabilization ordinance, such as MOUs/Accords (discussed below), to hold outreach meetings with stakeholders, and to follow up with Council at the appropriate time. On February 11 and February 18, 2020, mobile home resident stakeholder meetings were conducted, and on February 13, 2020, a park owner stakeholder meeting was organized. In March 2020, surveys were distributed to both residents and park owners to collect more detailed information and data about mobile home parks in the City of Mountain View in order to assist the City in considering policies with regard to mobile home parks and mobile home park tenancies. A summary of the stakeholder meetings is set forth in Attachment 2. The COVID-19 pandemic and the need for Council to address urgent matters related to the pandemic have resulted in Council's next steps regarding mobile homes being significantly delayed.

Stakeholder Input

In stakeholder meetings held in February 2020, mobile home park owners indicated a preference for an MOU/Accord mechanism. They emphasize that this mechanism provides similar protections to rent stabilization but is made with all stakeholders deciding on key issues and, therefore, has the potential to be fair, stable, long-lasting, and less adversarial. According to mobile home park owners, an MOU/Accord is voluntarily entered into between the mobile home park owner and its residents through an "opt-in" clause and, therefore, not subject to expensive legal challenge and administration to the City. An MOU/Accord program could include a rent subsidy program for low-income residents funded by the park owner.

Mobile home park residents, on the other hand, expressed their preference that a mobile home rent stabilization program be part of the CSFRA. If that is not an option, a rent stabilization ordinance adopted by the City Council would be preferred instead of an MOU since an ordinance is universally applicable to all mobile home parks and residents and offers lasting and maximum protection. According to the mobile home residents, an ordinance guarantees the residents with a solid administrative tool to enforce compliance and adherence and can rely on built-in protections of a hearing process to protect their interests.

Mobile Home Rent Stabilization and the CSFRA

The CSFRA does not specifically mention mobile homes as a residential structure subject to the CSFRA, nor does it specifically exempt mobile homes from the ordinance's protections. The definitions in the CSFRA are broad enough to support an argument that

they cover the rental of both mobile home spaces and mobile homes. In addition, the CSFRA is not incompatible with the MRL to such an extent that it clearly precludes regulation of the rental of mobile home spaces and mobile homes. However, the CSFRA does conflict with the MRL in places, and portions of the CSFRA could not be applied directly to mobile homes. If mobile homes were covered by the CSFRA, the existing conflicts between the MRL and the CSFRA would need to be addressed in regulations for mobile home parks to explain how the CSFRA's provisions would be applied.

The Rental Housing Committee previously reviewed draft regulations as presented by its legal counsel to address ambiguities between the CSFRA and MRL. These regulations proposed to explain that mobile homes would be subject to both the CSFRA and relevant State laws, including the MRL. The regulations would have addressed the exemptions in the MRL and modifications to certain CSFRA regulations as well as declarations of inapplicability of certain provisions in the CSFRA for mobile homes, such as the just-cause eviction protections that are included in the MRL. After reviewing the draft regulations, the RHC elected to not adopt them and instead adopted Resolution No. 11, finding that the CSFRA does not apply to mobile homes.

The mobile home rent stabilization landscape in Mountain View is complicated by the pending appeal in the litigation challenging the RHC adoption of Resolution No. 11. Until the appeal is decided, there is no certainty as to the appropriate jurisdiction for adoption of mobile home rent stabilization. Because of the uncertainty of the outcome of the appeal, it would be better for the RHC to defer any action on regulation of mobile homes until a decision is issued. Staff will monitor the appeal process and will follow up with the RHC once the appeal decision has been made.

FISCAL IMPACT

Holding a Study Session does not create a fiscal impact.

PUBLIC NOTICING – Agenda posting.

KT-AvD/TG/6/CDD/RHC

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- Attachments:
1. Overview of Jurisdictions with MHP Rent Stabilization Ordinances
 2. Summary of Mobile Home Park Stakeholder Meetings