

MOUNTAIN VIEW MOBILE HOME RENT STABILIZATION ORDINANCE

-- SUMMARY OF STAKEHOLDER MEETING FOR PARK RESIDENTS --

Introduction and Meeting Preparation

At a March 16, 2021 meeting, the Mountain View City Council directed city staff to prepare a draft of a Mobile Home Rent Stabilization Ordinance for Council's consideration. At the same City Council Meeting, City staff was also directed to hold community stakeholder meetings with the park owners and with the mobile home park residents.

As an initial step, City staff prepared a draft of potential mobile home rent stabilization policies for input from mobile home park owners and residents regarding what should be included in the Ordinance.

The meeting for park residents was held on June 24, 2021, at 6 p.m. City staff conducted outreach to the park residents prior that date. The outreach effort included sending English and Spanish versions of a post card with the meeting invitation and registration instructions, to every park resident. The invite was also emailed to every person who registered on the Interest List for this project. [a copy of the invitation post card is attached as Appendix A]. Due to the Covid-19 restrictions, the meeting was conducted on the City's Zoom Webinar platform. A total of 72 persons registered in advance. The actual meeting attendance totaled 34 persons.

Meeting Process

The meeting was convened and chaired by City Attorney Krishan Chopra. He began by welcoming the attendees, explaining that the purpose of the meeting was to obtain stakeholder input for the City Council Ordinance deliberations scheduled for September 14. He stated that a similar meeting with the park owners had been conducted the day before. He explained how participants could access a simultaneous Spanish translation of the meeting, while displaying a slide with a written explanation of the Spanish translation process. He next introduced the other panel presenter, Eric Phillips of the firm Burke, Williams & Sorensen LLP. special counsel retained for this project. He also announced that the meeting facilitation was being conducted by Martin Eichner, and

that Spanish translation was being provided by Elena Garcia.¹ Zoom technical support was provided by Andrea Kennedy, City of Mountain View Administrative Analyst I.

City Attorney Chopra next described the Meeting Agenda. The meeting would begin with a presentation on the content of the proposed ordinance. PowerPoint slides had been prepared to accompany this presentation. [A copy of the slide “deck” used for both meetings is attached to this Summary as Appendix B.]

City Attorney Chopra explained that the remainder of the meeting was being allocated to input from the participants. Summaries of both stakeholder meetings would be included in the staff report submitted to the City Council for their review when considering the ordinance in September.

Facilitator Eichner then explained his role as a neutral facilitator, and he described the mechanics for participants to provide input through the virtual platform. He explained that written input could be submitted during the meeting through the Zoom “Q&A” feature and direct verbal input could be submitted through the “Raise Hand” Feature.

City Attorney Chopra then explained that the meeting tonight was being held as a follow-up to City Council direction in March 2021 to develop a draft ordinance and to obtain stakeholder input.

Outline of Basic Ordinance Concepts Presented by Special Counsel

After these remarks, Special Counsel Phillips used the presentation slides to summarize the potential content of the draft ordinance being developed, based on staff understanding of the City Council direction. He also listed issues and questions that might arise. The following is a summary of that presentation:

In its current form, the draft ordinance would generally track the existing CSFRA structure and content, as directed by the City Council. However, there would be differences from the CSFRA, such as exceptions required by the State of California Mobilehome Residency Law, “MRL.” The ordinance would begin with appropriate findings and definitions focusing on the mobile home parks along with a description of the ordinance coverage and exemptions. Just cause for eviction would not be included in the ordinance because that process is pre-empted by the MRL. The ordinance would regulate space rental rates and would also address how rents for new occupants would be determined after spaces were vacated. Unlike the Costa Hawkins

¹ After a significant portion of the meeting had passed, it became clear that none of the participants had accessed the Spanish option., at which point Elena Garza logged out of the meeting.

legislation that fully exempts new apartments from rent stabilization, there would be no exemption for new space tenancies in this ordinance because the MRL allows some rent regulation of new space tenancies. The draft ordinance would vest oversight with the current Rental Housing Committee, [“RHC”]. The RHC would be authorized to administer the ordinance and to develop regulations. The draft ordinance would also include enforcement mechanisms.

Eric Phillips then described further details in this draft ordinance.

The rent stabilization process would apply to space rents charged in all mobile home parks in Mountain View, unless a specific exemption was required by the MRL. The current proposal does not apply rent stabilization to tenants occupying individual mobile homes rented to them by their owners.

The annual increase, [“AGA”] would be limited to no more than the Consumer Price Index, “CPI”, the same limit in the CSFRA. The Ordinance would balance the tenant protections against the park owners’ right to a “fair return” by recognizing a petition process for park owners to justify increases above the AGA. As already noted, there would be a limit on space rent increases resulting from vacancies. Based on feedback from the RHC, the petition process could also include a streamlined method to increase space rents above the AGA to compensate for capital improvements such as park infrastructure and community amenities.

The Ordinance would establish a base rent date as the foundation for subsequent rent increase calculations. The proposed base rent date is March 16, 2021, the date that the City Council issued its clear direction to develop an ordinance. The rollback would prevent increases after March 16 that might be imposed to avoid the impending space rent regulation. The CSFRA had a longer rollback period, but the rollback here is tied to the date the Council directed preparation of the draft ordinance.

Private MOUs between a park owner and mobile home owners could be an alternative option offered to the Council for consideration, but only if any such MOU provided protections at the same level as the Ordinance.

In order to protect the mobile home owners’ equity value in their homes, and because the Costa Hawkins law does not apply to mobile home parks, there is a proposed 10% limit on vacancy rent increases at the time of a mobile home ownership change.

The RHC would develop regulations to implement the ordinance, including the petition hearing process. The hearing process would be modeled on the CSFRA process. The RHC would retain hearing officers to determine petitions, with appeals from the hearing

officer decisions heard by the RHC. In an approach analogous to the apartment rental fee in the CSFRA, the RHC would be authorized to establish an annual fee paid by the park owner based on the number of spaces rented in the park. This fee would recover the cost for administering this ordinance, making the program self-sustaining.

- **Input and Panel Responses during the Meeting:**

This input from the attendees at the meeting, along with responses from the panel is summarized below, with language clarifications and content reorganization where appropriate. The summarized panel response for each specific input at the meeting is set forth in italics.

- Rent control for mobile home owners is very different than rent control for apartment dwellers who can change their living situation more easily. The mobile home owners have equity in their homes which the renters do not have and which they lose if they move. How sensitive is the City to these key differences?

Panel Response: The City is aware of these differences and that is why staff was directed to draft an ordinance tailored to mobile home ownership. Even though the CSFRA structure is used as a model, basic changes are necessary such as the vacancy control provision as well as different definitions and exemptions.

- Is the City absolutely committed to maintaining the current mobile home park zoning?

Panel Response: A change in this zoning is not part of any current City work plans and staff is not aware of any plans to do so in the future.

- What about the hundreds of residents who rent their mobile homes, either from the mobile home owner or from the park ownership? They are not protected by the MRL. What about some type of protection for them such as just cause for eviction or the right of first refusal to buy their homes?

Panel Response: At this stage, covering these mobile home tenants is not included in the proposed ordinance. This omission is designed to avoid the potential for any perceived conflict with the scope of the CSFRA.

- If the CPI drops, would the rents be decreased, in other words could there be a negative annual adjustment?

Panel Response: There is no such provision in the current draft ordinance. Such a rollback provision for drops in the CPI is not typically included in rent stabilization ordinances.

- Is the “so-called” MOU now gone or “out the window?”

Panel Response: The ordinance would govern and would supersede any private agreements between mobile home owners and park owners. However, consideration of a MOU exemption will be offered to the Council as an option it could adopt, as long as any such MOU provides all the terms and protections of the proposed ordinance.

- The City Council previously lead people to believe that mobile home renters would be included in any proposed mobile home park ordinance. And there would be unintended consequences from their exclusion, such as pushing the cost for lost rent increases unto the mobile home tenants.

Panel Response: Coverage for all tenants will be carefully considered. For this initial proposal, it was not an oversight to limit rent stabilization to mobile home spaces. Regulating mobile homes in addition to spaces has the potential to conflict with terms in the CSFRA. Staff hears the concern about excluding these tenants and that issue will be given further consideration in light of the CSFRA’s language.

- If a park is sold to a developer who forces us to leave, we need compensation for being forced out of Mountain View. There is a trend for investors to buy mobile home parks and immediately increase the rent. Also, if a tenant renting a mobile home is not going to be covered by this new ordinance, that tenant should be covered by the CSFRA.

Panel Response: The issue of compensation for mobile home owners whose park is closed is not part of this ordinance because it is covered by other legal protections. Also, as noted, the zoning protections would apply. However, if directed by counsel to include such protections in the ordinance, staff will address them.

- When will the ordinance become effective? I am planning to sell my home this summer but might wait if the ordinance will lower the space rent after it is enacted.

Panel Response: The ordinance will be introduced for the City Council to consider enactment at the September 14 regular Council meeting. If passed, there will be a Second Reading at the next regular Council meeting, probably two weeks later. If approved at that second reading, it would take effect 30 days after that approval vote. There is a correlation between rent levels and the sale value of mobile homes, which is why the ordinance seeks to protect the current mobile home owner’s equity stake through the vacancy rent increase limit.

- How would the ordinance regulate which capital improvement costs would be eligible for passing through to the mobile home owners and would the residents be entitled to vote on whether the capital improvement pass-through would be permitted?

Panel Response: The current thinking is that the capital improvement details would be left to the RHC to include in regulations they adopt for the ordinance. There is precedent in other ordinances to hold a vote on whether to permit proposed capital improvements.

- How would the space rent be affected if an individual mobile home owner decides to “swap out” an older home and replace it with a modern manufactured home?

Panel Response: Right now, such an impact hasn't been factored into the space rent calculation but it might be subject to further study, as a justification for a rent increase, especially in the case of whether vacancy control should be modified when there is an involuntary dealer “pullout” of an older home.

- Several participants questioned how staff decided to allow a 10% vacancy rent increase, which seems too high?

Panel Response: The 10% rate increase is at the high end of similar limits in other California ordinances. This number was intended as a starting point in the discussion of this issue; and as a potential balance between the park owners and mobile home owners. The final decision setting the rate has not yet been made. There was a letter from the RHC suggesting that the vacancy increase limit be set between 5% and 10%, but again there is no final decision at this point, due to the need to consider feedback on this issue.

- I appreciate the opportunity to provide input through this meeting, but we should have been protected under the CSFRA from the beginning in 2015. The rollback should be set for the earlier 2015 date in light of that exclusion. The ordinance should protect all residents. And why haven't some landlords provided the data that was requested from them? Also, both I and my mother are disabled. Many park residents are disabled or are seniors or low income or veterans and they should be protected. We hope our feedback is truly taken into account.

Panel Response: There must be a balance; there is no perfect science to determine the correct rollback date. There were intervening events after 2015, which would affect the rollback date, including the RHC decision to exclude the mobile home parks and the subsequent extended litigation. There must be a reasonable justification for picking a rollback date. The great amount of time and the various intervening events have to be

considered. Also, there must be proof of reasonable advance notice and reasonable expectation of the impending rollback to the parties that will be regulated. A City Council study session in January 2020 might be another potential rollback date if directed to do so by Council, but there was the subsequent disruption from the impact of the Covid pandemic. Staff is still open to feedback and further discussion of a potential rollback date.

- There was a study session in October 2015, which was attended by mobile home residents, who expected to be covered at that meeting. Also, the RHC letter about the vacancy limit does not mention a specific 5-10% limit.

Panel Response: The rollback issue is complicated by the fact that the RHC rejected inclusion of mobile home residents after October 2015. The RHC letter had attachments which included the 5-10% range for the vacancy limit. More importantly, the purpose of these stakeholder meetings is to obtain feedback on issues such as the limit on vacancy increases after presenting initial ideas from staff. The message that a lower vacancy limit is preferred is a message that staff hears and one which will be reported to the City Council.

- I understand there is a different legal framework that would be required to cover mobile home tenants, but I want to voice support and strongly recommend that both owners and renters be covered either in this proposed ordinance or in a “sister” ordinance. If everyone will be guaranteed all the same legal protections, or stricter protections, if a MOU would be an option, why would a park owner desire to utilize the MOU approach? It seems that offering an option MOU under these conditions would result in unnecessary complications. Is this option being presented only because several Council members requested it? Otherwise, I do want to thank you all for the work you have doing here today.

Panel Response: Some of the park owners wanted an MOU instead of any ordinance. That alternative is not what we have been describing tonight for the role of an MOU. Reports from both meetings will be transmitted to the Council so that everyone will be able to examine the feedback from both meetings.

- Is there going to be a representative from the mobile home community on the RHC to provide the perspective of this community to the RHC.

Panel Response: The Council just appointed members to the RHC. Their choice is not within the scope of Staff authority. The seats on the RHC are currently defined by the CSFRA, but the Council could consider this representation criteria when making future

appointments. There is already one recently appointed RHC member who is a resident of a mobile home park.

- Given that many mobile home owners are in the low income range, is there any consideration for space rent being set differently for this income group?

Panel Response: So far, the ordinance drafting has assumed there would be one formula for setting space rents. Having different rates depending on status such as low income might be attractive and is a good point that could be subject to further discussion with the Council. However, lowered rates for a certain group might have the unintended consequence of become a disincentive to park owners when reviewing their ownership applications.

- What about giving the mobile home owners the right of first refusal to purchase a park whose owner wants to sell or go out of business?

Panel Response: As of now, like the option of relocation benefits, that option is not in the current ordinance framework, but it could be expanded in the future. If a park is sold to another park owner, the new owner would assume the park operation subject to being bound by the ordinance and the current rent rates in place.

- I also support giving residents the right to vote on capital improvements. The vacancy decontrol limit is set too high, but the most serious concern is the lack of inclusion of mobile home renters. If it is too difficult to include them in this ordinance, they should be covered under the CSFRA. Thank you so much for all your work on this.

Panel Response: We are definitely hearing the messages about setting the vacancy control limit at a lower percentage and about covering the mobile home renters.

- Section 1700 [of the CSFRA] at the end it says it guarantees fair protection for renters, which we are, and homeowners which we are. How did we get left out? The “Property” definition in Section 1702(m) refers to rental units, which we are, on our parcel. How were our manufactured homes left out of the CSFRA?

Panel Response: The CSFRA, as the courts have told us, was not fully clear about the scope of units protected. Based on this ambiguity, the RHC used its authority to determine that mobile homes were not covered. The courts then upheld this decision as a reasonable exercise of the RHC authority. As a result, it is clear that the CSFRA as currently written does not cover mobile home park space rents.

- Many of the parks have large numbers of seniors and low income mobile home owners and so the rent increases should be limited to just a fraction of the CPI, which is how the limit is set in Contra Costa and Santa Cruz Counties. Another reason for a lower limit is that social security cost of living increases received by seniors have been kept at 1 or 2% in recent years.

Panel Response: This is good feedback, it is recognized that other jurisdictions allow just a percentage of CPI, rather than the full CPI. The goal here is to achieve a balance between the various interests. Ultimately, determining the specific balance will be the role of the City Council.

- I live in Sunset Estates. When I replaced my old home with a new one, my rent was not increased.

Panel Response: Your input is noted.

- Capital improvement costs can be manipulated to justify pass-through rent increases. Will there be language in the ordinance that will prevent this type of abuse?

Panel Response: There a couple of different ways to handle this concern. So far, we have taken the approach of deferring to the RHC to use its expertise to develop specific, in-depth regulations that would prevent this type of abuse. However, the ordinance could place guard rails around this practice, if specific suggestions are made as part of the feedback.

- Krishan and Eric, you are invited to attend a meeting of the Mobile Home Alliance where we can discuss these issues in a more communal setting; we meet almost every Saturday.

Panel Response: We cannot immediately respond. We appreciate the invitation, but we need to be mindful of appearing to take a fair approach to all stakeholders.

Meeting Conclusion and Post-Meeting Input

Having concluded the input portion of the meeting, Martin Eichner stated again that both the meeting recordings and the meeting summary reports will be publicly available for all parties to review prior to the Council Meeting.

City Attorney Chopra thanked all the members of the public for their participation in this meeting. Staff knows this is a controversial issue with stakeholders on both sides holding strong views on the issues. A lot of points were presented tonight that will help staff fashion their report to Council.

Additional input will continue to be accepted from all parties throughout the time period between now and the Council meeting in the fall. The last slide in today's presentation listed the email address and telephone number to be used to submit additional input.

The following is a summary of Additional Q&A input not directly addressed during the meeting:

- My space rent is \$2060.45. I would like to have an exemption from an increase for at least five years. If I get yearly space rents increases at CPI, my space rent rises a LOT faster than someone with a \$1000 space rent.
- Shouldn't a 10% increase for new tenants be a variable number based on current economies? During harder economic times, shouldn't the 10% cap be lowered so as to not negatively impact the owner trying to sell?
- The city needs to just say once and for all that for the next 25 years the park will not be rezoned.
- Thank you for a meeting that is bringing out what our concerns are.
- Perhaps a rollback should also include analysis of rent increases over the past 5 years. Were they reasonable and should we roll back further to get back to a more equitable position for everyone? March is too recent. High rent increases have been happening for longer. I just got a rent increase for 2% in the midst of the pandemic. Really?
- the vacancy control percent should be tied to the same CPI as with the rent control.
- In my opinion, anyone subject to a variable monthly rent cost should be covered in some way, regardless of their status as a renter or mobile home owner. This is all about protecting everyone.
- My husband and I live in the Moffett Mobile Home Park. My husband is disabled and I have been laid-off from my job. Rents keep going up and I am just concerned that we won't be able to make payments.
- I suggest having an exemption for space rents that currently exceed \$2000, an exemption that does not permit increases for at least five years from the implementation of the ordinance.
- the vacancy control percent should be tied to the same CPI as with the rent control. The issue should be resolved now, not kicked down the road. The RHC is very much politically influenced.

Summary of written input received outside the residents meeting:

- [The ordinance should] establish a committee of at least 50% renters to regulate any rent increases on mobile homes or underlying land. Rent increases should not be larger than the social security cost of living index because most park residents are senior citizens whose sole income is social security. Requests to increase rent should be submitted in writing to the committee. Any rent increase that was collected without approval from the committee would be punishable with a \$1000 fine and 30 days in jail for the offender, a sentence which could not be suspended.
- My wife and I have lived in Sahara Mobile Village for almost 5 years. When we bought our Manufactured Home in October of 2016, the pad rental was \$1100/month. I thought that was obscenely expensive but this is Silicon Valley, I guess. By October of 2018, the pad rental for new buyers had skyrocketed to \$1500/month, a 36% increase in 2 years! It is now \$1650/month. Apparently, the owner has achieved his "sweet spot".

If you seriously believe that the March 16th, 2021 base date will prevent sudden pad rental increases, I believe that ship has sailed long ago. As usual, as far as finances are concerned, the owners are way ahead of us.

- I am sorry I was unable to attend the meeting this evening, and thought I would send you my comments, as briefly as I can summarize them.

As a home-owning resident of Sahara Mobile Village (and refugee from Palo Alto's tripling rents in 2014), these are my two most serious personal concerns about the current lack of rental controls:

1) As a senior living on social security and savings, my ability to absorb even cost-of-living increases in space rent is extremely limited. (In the five years I have lived here, my space rent has increased by slightly more than 15%.)

2) If I need to sell my unit, the Park Owner can make that very difficult by raising the space rent beyond what any likely buyer could afford. (To qualify for residence, a buyer must document that they have income three times the amount of the space rent.) This could foreseeably force me to sell *to the landlord* at a drastically reduced price -- and thus lose most of the large chunk of my savings that went into buying this home in 2015. (This is exactly what happened to my next-door neighbors last year -- that house is now a rental, and as such perhaps even more lucrative for the landlord.)

- [From the Mountain View Mobile Home Alliance] The city's initial proposal needs a lot of work. (For instance, it doesn't cover renters *at all*)

MOUNTAIN VIEW MOBILE HOME RENT STABILIZATION ORDINANCE

-- SUMMARY OF STAKEHOLDER MEETING FOR PARK OWNERS --

Introduction and Meeting Preparation

At a March 16, 2021 meeting, the Mountain View City Council directed city staff to prepare a Mobile Home Rent Stabilization Ordinance for Council's consideration. At the same City Council Meeting, City staff was also directed to hold community stakeholder meetings with the park owners and with the mobile home park residents.

As an initial step, City staff prepared a draft of potential mobile home rent stabilization policies for input from mobile home park owners and residents regarding what should be included in the Ordinance.

The park owner meeting was held on June 23, 2021, at 10 a.m. City staff conducted outreach to the park owners prior that date. The outreach effort included sending a post card with the meeting invitation and registration instructions to every park owner. [a copy of the invitation post card is attached as Appendix A]. Due to the Covid-19 restrictions, the meeting was conducted on the City's Zoom Webinar platform. A total of 8 persons registered in advance, all of whom attended.

Meeting Process

The meeting was convened and chaired by City Attorney Krishan Chopra. The other panel member for this meeting was special counsel retained for this project, Eric Phillips of the firm Burke, Williams & Sorensen LLP. The meeting facilitation was conducted by Martin Eichner, an independent facilitator retained by the City. Zoom technical support was provided by Andrea Kennedy, City of Mountain View Administrative Analyst I.

City Attorney Chopra began by welcoming the attendees and introducing the panel presenters. Facilitator Eichner then described the process for participants to provide input through the virtual platform. He explained that written input could be submitted during the meeting through the Zoom "Q&A" feature and direct verbal input could be submitted through the "Raise Hand" Feature.

City Attorney Chopra next described the Meeting Agenda. He then explained the City Council direction to develop a draft ordinance and he explained that the purpose of the meeting was to obtain stakeholder input for the City Council deliberations in September.

PowerPoint slides had been prepared to outline the content of the panel presentation at the meeting. [A copy of the slide “deck” used for both meetings is attached to this Summary as Appendix B.] Special Counsel Phillips used the presentation slides to summarize the potential content of the draft ordinance being developed, based on staff understanding of the City Council direction. He also listed issues and questions that might arise.

Outline of Basic Ordinance Concepts Presented by Special Counsel

The draft ordinance would track the current CSFRA structure and content, as directed by the City Council, with exceptions required by the State of California Mobilehome Residency Law, “MRL.” The ordinance would begin with appropriate findings and definitions along with a description of the ordinance coverage and exemptions. The draft ordinance would allow automatic rent increases pursuant to an Annual General Adjustment [“AGA”] process as well as creating a petition process for other types of increases. Just cause for eviction would not be included in the ordinance because that process is pre-empted by the MRL. The ordinance would address how rents for new tenants would be determined after spaces were vacated. Unlike the rule for apartment tenants, there would be no exemption of rent regulation for new space tenancies. The MRL allows some rent regulation of new space tenancies unlike the Costa Hawkins legislation that fully exempts new apartments. The draft ordinance would vest oversight with the current Rental Housing Committee, [“RHC”], including authority to administer the ordinance and to develop regulations. Finally, the draft ordinance would include enforcement mechanisms.

Eric Phillips then described further proposed details.

The rent stabilization process would apply to space rents charged by the park owners. To avoid potential perceived conflicts with the CSFRA, the current proposal would not apply rent stabilization to mobile homes rented by owners to tenants.

The annual increase would be based on the Consumer Price Index, “CPI”, the same standard utilized by the CSFRA. The Ordinance would protect the park owners’ right to a “fair return” by recognizing a petition process under which an owner could justify an increase greater than the AGA. The petition process could include a streamlined method to additionally increase space rents to compensate for capital improvements. This process would apply to improvements benefiting the entire park, such as road construction and other infrastructure upgrades. Further details for this capital improvement process might be included in the ordinance or left to the RHC to develop through regulations.

The Ordinance would establish a base rent date as the foundation for subsequent rent increase calculations. The proposed base rent date is March 16, 2021, the date that the City Council issued its clear direction to develop an ordinance. Earlier potential dates for the base rent were not recommended because of earlier uncertainty about whether to proceed with a mobile home park ordinance and because of the impact of Covid-19.

Coverage exemptions required by the MRL would apply, for example new homes constructed after 1990. Private MOUs between a park owner and mobile home owners might be an alternative option, but only if any such MOU provided protections at the same level as the Ordinance.

In order to protect the mobile home owners' equity value in their homes, there would be a 10% limit on vacancy rent increases at the time of a mobile home ownership change.

Finally, the cost for administering this ordinance would be funded through a fee charged to the park owners, based on the number of spaces being rented by the park. This fee would be similar to the existing CSFRA fee provisions based on the number of apartment units being rented. The actual fee would be set by the RHC.

- **Input and Panel Responses during the Meeting:**

The remainder of the meeting was allocated to questions and comments from the meeting participants. This input from the attendees, along with responses from the panel, is summarized below, with language clarifications and content reorganization where appropriate. The summarized panel response for each specific input is set forth in italics.

- Greg Evans identified himself as a park owner who operates approximately 50 parks and who is also a non-attorney board member of the Pacific Legal Foundation. He questioned whether a CPI standard for rent increases would generate the fair rate of return guaranteed to park owners. He stated that the fair rate of return process itself is unfair to park owners because the hearing process requires owners to bear the extensive costs of retaining attorneys and financial experts to prove a fair rate of return. He also expressed a concern about the time lag between March 16 and the eventual adoption date of the ordinance in the Fall of 2021. He noted that this time lag would impose a rent rollback for increases during this period that exceeded the CPI. As a result, the mobile home owners would unjustly benefit from the increase in home value resulting from the lower rent, because the level of rent is one factor that determines the value of a mobile home.

Panel Response: The park owner right to a fair return would be protected by the creation of a petition process to allow a park owner to petition for an increase above the CPI. This approach has been approved in the applicable California case law. In fact, some mobile home park rent stabilization ordinances have an annual adjustment that is less than the applicable CPI. The 100% CPI proposed here would be at the top end of overall annual adjustments allowed under existing ordinances.

Rent rollbacks are also typical of rent stabilization ordinances, and in fact the CSFRA had a longer rollback period. The purpose of a rollback is to avoid the incentive to park owners to raise rents before the ordinance takes effect. Ultimately the City Council will decide the final rollback date, if any.

Tenants who rent mobile homes, either from individual home owners or from park owners would be outside the regulatory scheme of the ordinance as currently conceived. The RHC already found that rentals of mobile homes were outside the CSFRA, so this exemption is consistent with that finding. Preventing any unjust profits resulting from these rentals will require further consideration, not addressed in the current proposal.

- Frank Kalcic, who identified himself as a park owner, asked how the ordinance would address space rents that have been purposely kept below market rate by a park owner. These lower rents increased the value of the individual mobile home because that value is tied in part to the space rent. Most park residents enjoy the current status quo and prefer it to rent stabilization. Residents and park owners also prefer a MOU approach rather than rent stabilization. A MOU could include the participation of the City to guarantee enforcement. This is the approach being following by the City of Sunnyvale. It would be different from the prior MOU approach which was based only on negotiations between the park owner and the individual mobile home owner.

Panel Response: The City Council directed staff to prepare a rent stabilization ordinance, but park owners' comments on an MOU approach would be shared with the City Council.

Park owners who have capped space rents below market could recapture some of the lost market value by applying the 10% increase available at the time of space vacancy turnover. Although these details not covered in this "high level" presentation, dealing with other types of below market space rents could be handled by different rules. For example, there could be an exemption for involuntary transfer of ownership such as turnover resulting from eviction.

- Sharlene Garza, who identified herself as a representing two parks, encouraged offering a MOU as an alternative. It would be less costly and provide sufficient protection to both park owners and mobile home owners.

Panel Response: In addition to the prior response, it is emphasized again that the current proposed ordinance results from City Council direction. The City Council will have an opportunity to consider an MOU alternative that provides the same or greater protection as the proposed ordinance.

- Doug Johnson spoke on behalf of the Western Manufactured Housing Communities Association that represents many park owners and operators in California. He stated that the owners he represents are opposed to a rent stabilization ordinance. He supports the Sunnyvale MOU negotiation process which has made great progress. The resulting MOU will be presented to the Sunnyvale City Council on July 13. An MOU gives everyone a seat at the table and results from every party making concessions to reach agreement. This is a better approach than imposing a rent stabilization ordinance without input from all parties in the negotiation process.

Panel Response: The purpose of these stakeholder meetings is to provide an opportunity for all stakeholders to have a say in fashioning the ordinance. Meetings such as these accomplish the goal of having input from all parties before enacting the final ordinance.

- Greg Evans spoke again, to further raise the concern that the staff proposal has not addressed the unjust profit resulting from regulating space rent without regulating home sale prices. This result would be contrary to the Vega fair return court decision. Also, park owners who have maintained rent levels below market should not be penalized by preventing them from catching up. Since the mobile home owners recognize an increase in the value of their homes from the rent increase limit, why are the park owners being asked to pay the cost of administering the program?

The City should consider the provision in the San Jose Rent Stabilization Ordinance that allows for an adjustment when there is a “dealer pullout” of an inadequate unit. He also wants to endorse the MOU alternative.

Panel Response: The city staff is always analyzing equivalent provisions in other jurisdictions and will definitely be open to considering the example of the City of San Jose “pullout” rent exemption.

This proposed ordinance is definitely consistent with the Vega decision. The CSFRA already offers several approaches to provide adjustments to recognize the Vega fair return requirements, for example through a fair return petition process. As for the

question of who bears the cost of the program administration, the proposed fee to be paid by the park owners is currently modeled on the CSFRA approach. However, the final version of the ordinance could provide other ways to apportion the program costs between the park owners and the mobile home owners.

- A representative from DeAnza Properties asked about whether the City had received the Memorandum from their attorney. A further explanation was then provided by Anthony Rodriguez, who identified himself as the attorney for DeAnza Properties. He stated that memos were sent to all park residents in both parks owned by DeAnza in early 2021 after the Court of Appeals decided the Mountain View mobile home park case. These memos offered to limit space rent increases to the same CPI index established for apartments under the CSFRA. They also promised to limit turnover increases to 20% or \$200. There would be a rent credit program for low-income owners that would waive all rent increases. DeAnza also promised not to close any park for ten years. All of these commitments would be contingent on the City not adopting rent control. Since there currently is no rent control for these parks, DeAnza has been honoring these promises. If rent control is adopted, all these promises, including the rent control credit, would be withdrawn.

Fair return cases are lengthy and expensive. There can a 5-6 year lag while the case is pending. This lag period then results in a substantial “Cavanaugh” adjustment that damages the relationship between the park owner and the mobile home owners. In some cases, there is a group of mobile home owners who decide to continue the adversarial process for extensive periods of times resulting in substantial increases at the end of the process. Based on his experience with these cases, he has realized that the MOU process is a better approach because it decreases the animosity between the two sides. Another approach would be to give the park owners “a little bit more.” When owners operate with lower automatic increases, they are incentivized to file fair return petitions. However, if there is a “little bit more” general increase every year there will be no need for such petitions. The limit on vacancy turnover increases could be tiered to whether prior rent was below market. Also, spaces that turn over due to eviction, abandonment or dealer takeover should be set at market rate because the new owner will be expecting to pay the true market rate. When vacancy increases for involuntary turnover are capped, all the resulting benefit accrues to the dealer instead of the park owner. The City of Fremont currently utilizes this approach, which he considers to be a better model than the San Jose version.

Mr. Rodriguez is happy to see the AGA cap set at 100% because that is closer to a fair return. He also wants the fair return decision made by a hearing officer, such as a retired judge, rather than a board which will be more political and will likely generate an appeal. He advises against including the City's attorney fees in the program administrative costs charged to the park owners. Including the city attorney bills in the administrative fee would likely violate applicable federal civil rights statutes.

Panel Response: Petition determinations would be based on the hearing process conducted under current CSFRA regulations. Under this process, a professional hearing officer makes the initial decision subject to appeal to the RHC which is composed of members from a variety of backgrounds.

The administrative costs will be studied to make sure they are limited to the true program costs.

The proposed tiered approach for exemptions such as dealer pullout will be further studied based on the input from today. The Fremont example has already been studied and staff is aware of the merit to the Fremont model. As more details are developed for the proposed ordinance, these considerations will be addressed.

The DeAnza MOU will be available for City Council consideration. Staff needs time to further evaluate the Memo from attorney Rodriguez which was just received yesterday.

Attorney Rodriguez then acknowledged that some provisions in the DeAnza MOU were less protective than the proposed ordinance. An example is the 20% vacancy adjustment which is higher than the 10% vacancy adjustment proposed for the ordinance. However, he pointed out that the MOU provides additional protections not in the proposed ordinance. These additional protections include waiving the right to seek a Vega adjustment along with a promise not to close the park for 10 years. He also asserted that a Vega adjustment is not just limited to a fair return analysis.

Mobile home owners are precluded from renting their homes in many park lease agreements, so that concern may not be significant. However, the park owners need to retain the right to rent the homes they own.

As for the rollback, will rent increases during the rollback period be allowed if they were within the same CPI limits that would have been in place if the ordinance was already applicable?

Martin Eichner then asked Mr. Rodriguez how this MOU would be enforced. Mr. Rodriguez responded that the DeAnza MOU is already voluntarily being honored by the

park owner. However, the park owner could enter into a formal binding contract with the City or with some other party.

Panel Response: An exception for a rent increase during the rollback that was consistent with the ordinance limit is one of the options that hasn't been addressed yet. However, this option will be presented to the City Council. As noted, the MOU input will be shared with the City Council. To clarify, an ordinance based on the CSFRA was directed by Council. The option of an MOU between the City or other party and owners instead of an ordinance is not being considered by Council.

- Fred Kalcic asked whether the meeting recording will be made available.

Panel Response: The answer is yes.

Meeting Conclusion

Having concluded the input portion of the meeting, City Attorney Chopra thanked the meeting participants for their contribution to a discussion on a challenging area of regulation. He also thanked city staff for all their help with this stakeholder process.

He explained that a similar meeting is being held with the park residents on June 24. Additional input will continue to be accepted from all parties throughout the time period between now and the Council meeting in the fall. The last slide in today's presentation listed the email address and telephone number to be used to submit additional input.

As of the date of this Summary, there has been no subsequent input on behalf of the park owners.