

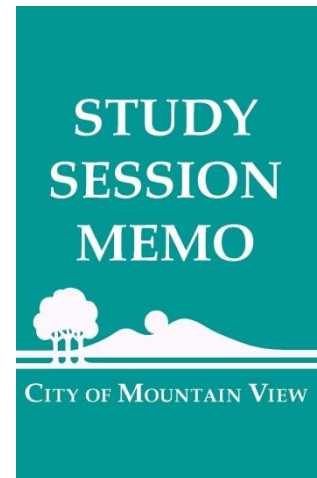
DATE: September 13, 2016

TO: Honorable Mayor and City Council

FROM: Nicole C. Wright, Assistant City Attorney
Jannie L. Quinn, City Attorney

VIA: Daniel H. Rich, City Manager

TITLE: **Mobile Home Park Issues**



PURPOSE

At the March 15, 2016 City Council meeting, the City Council directed staff to prepare a Study Session on the following items related to mobile home parks:

1. Overview of rent control laws applicable to mobile home parks;
2. Summary of how the City's recently adopted Rental Housing Dispute Resolution Program could apply to mobile home parks;
3. Other issues affecting mobile home park residents, including how rents affect the value of the mobile home and zoning change requests; and
4. Summary of the work performed by the City in the early 2000s relating to concerns expressed by mobile home park residents.

OVERVIEW OF RENT CONTROL LAWS APPLICABLE TO MOBILE HOME PARKS

It is helpful to begin this memorandum by outlining some important distinctions in ownership interests between an apartment and a mobile home. Unlike a resident of an apartment, a mobile home park resident often owns the residence or mobile home where he or she lives. The homeowner rents a space in a mobile home park upon which the mobile home is located. The mobile home park, and more specifically the rental spaces in the park, is owned by a park owner.

Application of Mobilehome Residency Law

Through the Mobilehome Residency Law ("MRL"), the State regulates mobile home parks in California. Local agencies can adopt rent control provisions applicable to

mobile home parks so long as the adopted regulations do not conflict with State law. In order to provide the parameters of the City's ability to enact regulations regarding mobile home parks, it is first necessary to understand the State regulations as they preempt the City from enacting certain rent control regulations.

The MRL regulates rental agreements for the park spaces, park rules and regulations, and transfer of mobile homes. The MRL addresses three aspects of mobile home park residency that bear upon the issue of rent control. First, the MRL requires park management to provide residents at least 90 days' notice before implementing a rent increase. Second, the MRL limits the reasons park management may use to terminate a lease of a mobile home park space or deny its renewal to the following seven specific reasons:

1. A tenant's failure to comply with applicable ordinances or State regulations within a reasonable time after receiving a notice of deficiency from the appropriate enforcement agency.
2. A tenant's failure to comply with park rules after receiving a 7-day notice of violation from park management. (After three 7-day notices in a 12-month period for the same violation, management may proceed with eviction without further opportunity to comply – the "Three Strikes – You're Out" rule).
3. Conviction of a criminal offense occurring on the park premises, such as prostitution or illegal drug activities, if the violation is one of the specific Penal Code sections listed in CC798.56(c).
4. A tenant engages in activities that constitute a "substantial annoyance" to other homeowners or residents.
5. A tenant fails to pay rent, utilities, or other service charges which are 5 or more days late, but only after subsequently receiving a 3-day written notice of this deficiency. Delinquency payments can be cured within the 3-day notice period, but the "Three Strikes" also applies here if three prior notices for the same violation have been served within the last 12 months.
6. The park is condemned.
7. A change of use for the park property has been granted, provided that mobile home owners have been given proper advance notice that a change of use application will be made and provided that all government approvals and permits have been obtained.

This provision is somewhat akin to the just-cause eviction provisions that have been recently discussed by the City Council. The park management must provide at least 60 days' advance notice of a termination and must state the factual basis for the termination. The notice must be served on all legal homeowners and lienholders. Because of the ownership interest, a legal owner of the mobile home, such as a bank or lienholder, can cure a default in rent or fees within the first 30 days after notice of termination, but can do so only twice during a 12-month period. In addition, the homeowner can sell the home during the 60-day notice period as long as all arrears are brought current and the transaction is completed during the 60-day time period, including park approval of the purchaser. If eviction is necessary, it is effectuated pursuant to the customary unlawful detainer procedure in Superior Court.

Third, and as further explained below, the MRL only allows cities to regulate those spaces held out for rent before January 1, 1990 and exempts from rent control spaces with certain leases and those spaces where the mobile home is not the homeowner's principal residence and the homeowner has not rented the mobile home to another party.

Spaces Held Out for Rent Before January 1, 1990

The MRL only allows a city to enact rent regulations for mobile home park spaces initially held out for rent before January 1, 1990. All of the five mobile home parks located in the City began operating well before 1990, with the newest park beginning operation in 1982. Although the City does not know when each space within the parks was first held out for rent, given the age of the parks, it is possible that all of the spaces in the parks could be subject to rent control.

Leases Meeting Certain Criteria

The MRL preempts a city from regulating rents for park spaces with leases that meet all of the following certain criteria:

1. The lease term of a rental space is more than 12 months;
2. The agreement is entered into with the homeowner and the homeowner resides in the mobile home on the rental space;
3. The homeowner has at least 30 days to accept or reject an offered rental agreement from the date it was offered; and

4. The homeowner who enters into such a rental agreement may void the agreement within 72 hours of: (i) returning the signed agreement to park management; and (ii) receiving an executed copy of the agreement, which must be provided within 15 business days after park management received the signed copy if management does not provide the signed copy at the time the homeowner returns the signed agreement.

Rental agreements and extensions meeting all of the above criteria would be exempt from a local rent control ordinance.

Not the Homeowner's Principal Residence

The MRL exempts mobile home spaces from rent control regulations when the mobile home is not the homeowner's principal residence and the homeowner has not rented the mobile home to a third party. However, in limited circumstances, rent control could apply.¹

Additional Restrictions

Even when the City is permitted to enact rent control, State law limits the regulations a city may enact. The MRL sets the base rent for spaces in which a lease agreement meeting the above criteria has lapsed and a new agreement meeting the above criteria has not been executed. Furthermore, program cost recovery fees can only be imposed upon those park spaces subject to local rent control. Finally, and similar to a rent control program imposed upon any landlord/tenant situation, a rent control ordinance must provide the park owner with a just and reasonable rate of return.

More Information Needed

The five mobile home parks in Mountain View contain a total of 922 mobile home space rentals. It is unknown how many of the 922 spaces are currently leased or how many of those leases meet the above criteria, and how many spaces are not the principal residence of the homeowner. Additional information is needed to ascertain the number of spaces that would be covered by a local rent control program. This information is not publicly available and includes: (1) spaces held out for lease before January 1, 1990; (2) spaces with lease agreements meeting the MRL criteria; and (3) spaces that are not

¹ The City could regulate the rent of a mobile home space that is not the owner's principal residence if any of the following apply: (a) the park or lease agreement prohibits subletting; (b) the mobile home is available for sale; or (c) the legal owner has taken possession and/or ownership through a surrender of ownership interest or foreclosure proceeding.

the homeowner's principal residence and not rented to a third party. If Council is interested in further considering a rent control program, staff recommends gathering additional information from the mobile home park community to ascertain how many rental spaces or mobile homes could be subject to local rent regulation.

POTENTIAL APPLICATION OF CITY'S RIGHT TO LEASE ORDINANCE AND RENTAL HOUSING DISPUTE RESOLUTION PROGRAM TO MOBILE HOME PARKS

Right to Lease

The MRL requires park management to offer a written lease of 12 months or less upon the mobile home owner's request, to a homeowner for lease of the space. The MRL does not address mobile home units rented to tenants, however. The City's Right-to-Lease Ordinance does not apply to mobile home units rented to tenants. Consequently, it does not appear it is necessary to expand the scope of the Right-to-Lease Ordinance to mobile home space rentals, but would be necessary, if desired by Council, to expand to mobile home units rented to tenants.

Rental Housing Dispute Resolution Program ("RHDRP")

The RHDRP currently does not cover mobile homes. The RHDRP could apply to leased mobile home park spaces and mobile homes rented to tenants (i.e., the homeowner does not reside in the home but, instead, rents it to a tenant). Currently, neither is addressed by the RHDRP. It is unknown how many mobile homes are rented to tenants, and this information is needed to ascertain potential application of the RHDRP to such homes.

The program could apply to rent increases and service reductions at mobile home parks and comply with the MRL; however, the defined service reductions may not all apply in the mobile home context. In addition, mobile home park spaces held out for occupancy after January 1, 1990, mobile home spaces with leases meeting certain criteria, and generally, mobile homes that are not the homeowner's principal residence and not rented to a third party could not be subject to binding arbitration.

Impact of Proposed Charter Amendment

It is not clear whether the proposed Charter Amendment² applies to mobile home park space rentals or mobile homes that are leased to tenants. The Charter Amendment

² By initiative petition, The Community Stabilization and Fair Rent Act Charter Amendment ("Charter Amendment") qualified for inclusion on the 2016 ballot, which proposes to amend the City of

covers “rental units” and rental units are defined as “any building, structure, or part thereof, or land appurtenant thereto, or any other rental property rented or offered for rent for residential purposes, together with all Housing Services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the Tenant.” While neither mobile homes nor mobile home park spaces are specifically described in the definition, it is broad enough that the Charter Amendment could be interpreted to cover both mobile homes and park space rentals.³

Even if mobile homes and park space rentals are deemed to be covered by the Charter Amendment, the MRL would preempt it to the extent it conflicts with State law. The application of the Charter Amendment would be limited to those areas local rent control could apply, as discussed above.

If the Council is interested in further exploring regulation of mobile home parks, staff does not recommend moving forward with any regulation until after the election because the outcome will impact the approach for any future regulation.

OTHER ISSUES AFFECTING MOBILE HOME PARK RESIDENTS

How Does the Space Rent Affect the Mobile Home Value?

Staff attempted to contact two real estate agents familiar with mobile home sales, and only one responded. Staff spoke with a real estate agent familiar with mobile home sales from 12 years of experience in selling mobile homes. The agent indicated that when the space rent in a mobile home park increases, it has a direct negative effect on the sale of the mobile home. In addition, high space rents make it difficult for mobile home owners to secure buyers, causing sale of a mobile home to take longer. For the potential purchaser, the cost is generally the space rent and the mortgage for the mobile home. If the rent increases, the price a purchaser is willing to pay for the mobile home will decrease. A potential buyer evaluates a purchase of a mobile home by comparing the space rent plus the mortgage to the market-rate cost of an apartment. The City has

Mountain View Charter to regulate rents, establish just-cause eviction, and create a rental housing committee in the City of Mountain View.

³ Single-family homes, condominiums, and other Rental Units specified in Civil Code 1954.52(a)(3)(A) (which may include mobile homes); companion units; and duplexes which are defined as Rental Units in a single structure with fewer than three dwelling units are excluded. Mobile home park spaces are not specifically addressed in the exclusion, and the definition of rental unit is broad enough to cover both mobile home park space rentals and mobile homes. Civil Code 1954.52(a)(3)(A) are units alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision, as specified in subdivision (b), (d), or (f) of Section 11004.5 of the Business and Professions Code.

limited data on this topic and, if requested by Council, staff could conduct further study.

Rezoning and Conversions of a Mobile Home Park

Like an owner of multi-family housing, a park owner can decide to go out of business and cease using the property as a mobile home park. The underlying zoning would remain, however. In addition, to discontinue the use through either a park closure or conversion, the park owner must comply with the City's Mobile Home Park Conversion Ordinance. The ordinance authorizes the Council to adopt measures to mitigate the impacts of a park closure on the residents, including the ability of the Council to require that the park owner provide relocation assistance to the park residents.

As you may recall with the recent closure of the Bayair and Bayshore RV Parks, located at 133 and 149 Fairchild Drive, the property owner was required to submit a conversion impact report to the City Council for consideration, and Council required relocation assistance which, depending on resident income eligibility and disposition of the RV, included fair-market value for the RV or homeowner; a \$2,000 lump-sum amount for relocation expense; 12 months of rent gap differential, 2 months' rent plus deposit, or 3 months' rent, not to exceed a specified amount; and housing relocation specialist services to mitigate the impacts to the tenants at the park.

In addition, the City's mobile home parks are located on land that is zoned only for a mobile home park. If a park owner wanted to use the land for another purpose, a General Plan land use map and zoning map amendment would be necessary. The City Council would have opportunity to review the proposed change in consideration of the City's housing supply before making a decision whether to approve or deny the land use change. Opportunities for public input would be provided as part of any such process. To date, the City Council has been clear it would not support changing the zoning of a mobile home park.

A question has recently arisen whether majority ownership of mobile home units in the mobile home park by the park owner would impact the closure or conversion of the park. Regardless of the percentage of ownership of the mobile homes, a park owner must comply with the City's Mobile Home Park Conversion Ordinance to close the park and in order to convert a park to another use, a General Plan land use map and zoning map amendment would be necessary.

Legislation

AB 2351, introduced in 2016, is a bill that would have broadened cities' authority to regulate rents on mobile home park spaces by repealing the MRL exemption from local rent control leases that met specified criteria. Since the bill did not get out of committee during the 2015-16 legislative session, the bill died. It is unknown at this time whether new legislation will be brought forward during the 2017-18 legislative session.

SUMMARY OF CITY WORK PERFORMED IN THE EARLY 2000s

Due to the passage of time and loss of institutional knowledge, only a general summary of the work the City performed in the early 2000s regarding mobile home park issues can be provided. Beginning in 2001, members of the public raised concerns about mobile home park management practices, rent increases, and other administrative issues. The City Council established an ad hoc committee to review mobile home park issues and investigate resident concerns. The committee initially focused on two of the City's mobile home parks: Santiago Villa and Sahara Mobile Village. By December 2003, the City had hosted 18 meetings with mobile home park residents, allocating over 500 hours of staff time in responding to concerns of residents in the Santiago Villa and Sahara Mobile Village parks. The City Council implemented three actions to address the concerns expressed by the mobile home park residents.

First, an information and resource fair for mobile home park residents, paid for by the owner of Santiago Villa and Sahara Mobile Village parks, was held on June 26, 2003. An additional mobile home park resident workshop on "Mobile Home Owners' Rights and Responsibilities" was later conducted by Project Sentinel in 2004.

Second, the City assisted the residents in forming resident committees to represent park residents in discussions with park management to address park rules; maintenance of physical improvements in the park; the addition, alteration, or deletion of service, equipment, or physical improvements; and rental agreements offered. The Santiago Villa and Sahara Mobile Village parks' owner also volunteered to pay for assistance for the residents to form resident committees. The resident committees for the Santiago Villa and Sahara Mobile Village parks engaged with park management to try to resolve ongoing issues and ultimately, through the City Council's encouragement, mediated in 2004 to try to resolve their differences.

Third, the Council Neighborhoods Committee (CNC) began holding and hosting mobile home park community meetings and those meetings continue to be held every other year.

RECOMMENDATION

If the City Council is inclined to further explore whether or not to include mobile home parks within the scope of the RHDRP or establish rent control over mobile home parks where permissible, additional information is needed to assess how many mobile home park spaces, leases, and mobile home rentals could be subject to a local rent control program. In addition, staff recommends deferral of the Council's consideration of such an item until after the election because the outcome of the two measures⁴ on the November ballot will impact how such direction should be implemented.

PUBLIC NOTICING

Agenda posting; City website posting; mobile home park residents, managers, and owners noticed.

NCW-JLQ/KB/2/CAM
015-09-13-16SS-E

⁴ The Charter Amendment and a proposed ordinance revising the City's RHDRP to regulate rents, resolve rental housing disputes, and prohibit the eviction of tenants unless just cause is shown are included on the November ballot.