



**CITY OF HUNTINGTON BEACH  
SUPPLEMENTAL COMMUNICATION**

**Joan L. Flynn, City Clerk  
Office of the City Clerk**

**TO: Honorable Mayor and City Councilmembers**

**FROM: Joan L. Flynn, City Clerk**

**DATE: July 28, 2014**

**SUBJECT: SUPPLEMENTAL COMMUNICATIONS FOR THE JULY 28, 2014, SPECIAL CITY  
COUNCIL MEETING**

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Attached are the Supplemental Communications to the City Council (received after distribution of the Agenda Packet):

**ADMINISTRATIVE ITEMS**

**#1.** Communications received regarding City Council consideration of a Manufactured Home Rent Stabilization Charter Amendment:

Pete & Jodie Wollman  
Mike Randall  
S Green

Mary Jo Baretich (2)  
Sharon Petersen

Vickie M. Talley  
Joan Walker

**Esparza, Patty**

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**From:** Dombo, Johanna  
**Sent:** Monday, July 28, 2014 7:40 AM  
**To:** Esparza, Patty  
**Subject:** FW: City Council Meeting 7-28-14 re Rent Stabilization for Mobilehome Homeowners

Happy Monday!

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**From:** Jodie Wollman [mailto:jodiewollman@gmail.com]  
**Sent:** Sunday, July 27, 2014 7:55 PM  
**To:** CITY COUNCIL  
**Cc:** Dombo, Johanna; Fikes, Cathy; McGrath, Jennifer; Flynn, Joan  
**Subject:** City Council Meeting 7-28-14 re Rent Stabilization for Mobilehome Homeowners

Dear City Council,

The Rent Stabilization Ordinance before you at the City Council meeting tomorrow afternoon **MUST INCLUDE ALL** mobile/manufactured homeowners and must include **ALL** persons living in mobilehome parks, not only seniors, veterans, and disabled. The **33% income limitation** (and any income limitation requirement) **must be removed**. The rent stabilization proposal was an attempt to protect **all** mobile home residents from a few unscrupulous park owners. The current version of the amendment gives the park owners the freedom to hit park residents with massive increases. We will have no protection.

If these two items are not revised, it will hurt the **MAJORITY** of mobilehome homeowners by putting them at the mercy of their owners. As most of you noted at last Monday's meeting, there are some good mobilehome park owners. The measure as currently written, however, will be worse than having nothing at all for the people who own their homes in mobilehome parks.

In addition to paying the basic rent, mobilehome homeowners pay **MANY ADDITIONAL** costs. To mention a few, these include **TAXES, INSURANCE, UTILITIES, TRASH** and **PASS-THROUGHS**. This is **IN ADDITION TO** a home mortgage.

**If you do not include all persons in all mobilehome parks and remove any and all requirement for income limitation, our request is for you to VOTE "No" on whether to put the measure on the November 4, 2014, ballot.**

Thank you.

Pete and Jodie

Pete and Jodie Wollman  
19361 Brookhurst Street, Space 84  
Huntington Beach, CA 92646-2953

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 7/28/14  
Agenda Item No. 1

**Esparza, Patty**

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**From:** Flynn, Joan  
**Sent:** Monday, July 28, 2014 7:00 AM  
**To:** Esparza, Patty  
**Subject:** Fwd: URGENT - RSO COURT CASES  
**Attachments:** RSO RELEVANT COURT CASES and OTHER RSO INFORMATION.docx; ATT00001.htm

Joan Flynn, City Clerk  
Huntington Beach

Begin forwarded message:

**From:** MJ Baretich <[mjbaretich@hotmail.com](mailto:mjbaretich@hotmail.com)>  
**Date:** July 28, 2014 at 6:46:28 AM PDT  
**To:** Dave <[dave.sullivan@surfcity-hb.org](mailto:dave.sullivan@surfcity-hb.org)>, Connie <[connie.boardman@surfcity-hb.org](mailto:connie.boardman@surfcity-hb.org)>, "joe.shaw@surfcity-hb.org" <[joe.shaw@surfcity-hb.org](mailto:joe.shaw@surfcity-hb.org)>, Jill Hardy <[jhardy@surfcity-hb.org](mailto:jhardy@surfcity-hb.org)>, "Jim Kataopdis" <[jim.katapodis@surfcity-hb.org](mailto:jim.katapodis@surfcity-hb.org)>, Joe Carchio <[jcarchio@surfcity-hb.org](mailto:jcarchio@surfcity-hb.org)>, Matthew Harper <[matthewharper@verizon.net](mailto:matthewharper@verizon.net)>, jflynn <[jflynn@surfcity-hb.org](mailto:jflynn@surfcity-hb.org)>  
**Subject:** URGENT - RSO COURT CASES

Hi City Council Members,

Attached is a document that shows court cases challenging Rent Stabilization Ordinances in California. This document also includes other relevant information regarding RSO;s.

Mary Jo Baretich  
Member, Mobile Home Advisory Board  
GSMOL Region 5 Manager  
Former GSMOL State President

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 7/28/14

Agenda Item No. 1

## RELEVANT COURT CASES

### For MH residents:

City of Goleta – 2010 9th US Circuit Court of Appeal ruled Goleta RSO was legal.  
2011 - Park owner appealed case to US Supreme Court. US Supreme Court refused to hear the appeal, thereby validating the 9th Circuit Court's ruling in favor of rent control.

US Supreme Court. May, 2005 Ruled in favor of the State of Hawaii in Lingle vs Chevron. Confirmed a state's right to impose caps on rents and other charges. It concerned a gas station lease arrangement, but applies to any rent situation, and was being watched by several other states, including CA and the Cotati case, who have similar issues about rent limits.

US Ninth Circuit Court of Appeal – upheld City of Cotati rent control ordinance. June, 2005

CA Court of Appeal Jan. 25, 2005 Upheld City of Santee rent control ordinance, by overturning San Diego County Superior Court decision, in City of Santee vs MHC Corp., to reject that ordinance.

CA Supreme Court, May 11, 2005 City of Santee vs MHC Corp (now know as Equity Lifestyle Properties, Inc) Upheld above Appellate Court decision by rejecting MHC's request for a review.

Palomar East Estates vs. City of San Marcos April, 2002 Dismissed by Federal court. Challenged vacancy control ordinance.

Galland vs. City of Clovis (2001) 24 Cal. 4<sup>th</sup> 1003  
Rent regulation is constitutional.

Leland City vs. City of Palm Desert, and De-Anza vs. Santa Cruz - Courts held statute of limitations for parks to try to overturn rent ordinance is 1 year.

Casella vs. City of Morgan Hill 1991 230 Cal App 4<sup>th</sup> 43, 57 “[1] “It is recognized that residents of mobile home parks tend to be persons living on fixed incomes.”

Rancho Santa Paula Mobilehome Park, Ltd. vs. Evans 1994 26 Cal App 4<sup>th</sup> 1139.1146 said “Because of the high cost of moving mobile homes, they are anything but mobile. A mobile home owner who finds living in a particular park impractical or otherwise infeasible faces the alternatives of selling or renting the home.”

MHC vs. City of San Rafael Jan 2003 Court rejected MHC's challenge to Vacancy Control.

Carpinteria Rent Stabilization: successfully defended up to and including CA Supreme Court

Woodland Rent Stabilization: successfully defended up to and including CA Supreme Court

Nullification of long term lease:

Village Trailer Park, Inc. vs. Santa Monica Rent Control Board B153024 Court of Appeals of State of CA, Second Appellate Div. - Div. 2 Superior Court County of Los Angeles) Court held residents could void their long term leases so as to be eligible for rent stabilization if park manager had not advised them of their lease options when they moved in.

Yee vs. City of Escondido, CA. US Supreme Court said rent stabilization was legal and park owners had right to fair rate of return. Case 90-1947)

Azul Pacifico, Inc. vs.. City of Los Angeles U.S. Ninth Circuit Court of Appeal 948 F.2d 575 (9<sup>th</sup> Cir. 1991) (This was City of LA's appeal of a district court ruling against them). 9<sup>th</sup> reheard case on July 23, 1992 and decided original suit was invalid because 3 year statute of limitations had expired (established by De Anza properties vs. Santa Cruz County case). 1994 - case was remanded to a trial court and the City of LA won, based on U.S. Supreme Court Yee vs. City of Escondido ruling.

Birkenfeld vs. City of Berkely CA Supreme Court 17Cal.3d 129, 130 Cal.Rptr. 465 (1976) Court ruled against City of Berkeley, but stated rent regulation was not unconstitutional, did not require an "existence of an emergency", and is no different from any other city regulation.

Carson Mobilehome Park owners Association vs. City of Carson CA Supreme Court 35 Cal.3d 184, 197 Cal.Rptr. 284 (1983)

Follow up to Birkenfeld. Said City of Carson's 12 non-exclusive factors for rent regulation provided sufficient guidelines and that cities are not obligated to use a particular regulation formula. Many jurisdictions adopted City of Carson's 12 factors.

Carson Harbor Village, Ltd. v City of Carson MHP Rental Review Bd.

70 Cal.App.4th 281 No. B118282.

Feb 24, 1999.

Park owner disputed City of Carson's Rent Control ordinance.

Appeal Court ruled in favor of City of Carson.

I. A Just, Fair and Reasonable Return Is the Overarching Standard Applicable to All Rent Control Schemes

[3a] Constitutionally valid rent control ordinances must be reasonably calculated to eliminate excessive rents and provide landlords a just, fair and reasonable return on their property.

(Donohue v. Santa Paula West Mobile Home Park (1996) 47 Cal.App.4th 1168, 1177 [55 Cal.Rptr.2d 282]; Birkenfeld v. City of Berkeley (1976) 17 Cal.3d 129, 165 [130 Cal.Rptr. 465, 550 P.2d 1001].)

[2b] CHV asserts that under the Carson Mobilehome Space Rent Control Ordinance Implementation Guidelines (Implementation Guidelines), the fair return

standard does not apply. Specifically, CHV argues the Board should consider the issue of fair return only if an applicant claims that a rent increase, determined by applying the ordinance's 11 factors, will not produce a fair return. (Implementation Guidelines, § IV(A).)

We disagree. Fair return is the constitutional measuring stick by which every rent control board decision is evaluated. Consistent with decisional authority, the Ordinance requires the Board to approve just, fair and reasonable rent increases. (Carson Mun. Code, § 4704(g); Implementation Guidelines, § I(B).) The Ordinance directs the Board to review all relevant factors in making a rent increase application determination. However, no one factor is determinative so long as the Board's decision permits a just, fair and reasonable return on the property. (Implementation Guidelines, § I(D).)

[3b] A "just, fair and reasonable" return is characterized as sufficiently high to encourage and reward efficient management, discourage the flight of capital, maintain adequate services, and enable operators to maintain and [70 Cal.App.4th 289] support their credit status.

However, the amount of return should not defeat the purpose of rent control to prevent excessive rents. (Oceanside Mobilehome Park Owners' Assn. v. City of Oceanside (1984) 157 Cal.App.3d 887, 907 [204 Cal.Rptr. 239].) Despite this characterization, courts continue to struggle with the meaning of the "just, fair and reasonable return" standard. "There is a range of rents which can be charged, all of which could be characterized as allowing a 'just and reasonable' return. [Citation.]" (San Marcos Mobilehome Park Owners' Assn. v. City of San Marcos (1987) 192 Cal.App.3d 1492, 1502 [238 Cal.Rptr. 290].) At least one court has deemed the term "fair return" incapable of precise definition. (City of Berkeley v. City of Berkeley Rent Stabilization Bd., supra, 27 Cal.App.4th at p. 984.)

II. Carson's Formula for Setting Rent Control Rates Is Consistent With Constitutional Requirements and the Weight of Authority

Under broad constitutional tolerance, California cities may enact various forms of residential rent control measures to satisfy the just, fair and reasonable rent standard. (Tri County Apartment Assn. v. City of Mountain View (1987) 196 Cal.App.3d 1283, 1286 [242 Cal.Rptr. 438].) Public administrative bodies, charged with implementing and enforcing rent control measures, are not obliged by either state or federal constitutional requirements to employ any prescribed formula or method to fix rents.

De Anza Properties X, Ltd. Vs. County of Santa Cruz U.S. Ninth Circuit Court of Appeal 936 F.2d 1084, 1087 (9<sup>th</sup> Cir. 1991) Established 1 year as statute of limitations for challenges to rent regulations.

Oceanside Mobilehome Park owners Asociation vs. City of Oceanside

CA Court of Appeal, 4th Dstrct 157 Cal.App.3d 887,204 Cal.Rptr. 239 1984

Allows rent regulation as long park owner gets reasonable return, did not have to use typical; "fair market value". Said increase in value of homes in rent regulated parks is not a "taking" from the park owner's value.

Sandpiper MHP, Carpinteria; US Supreme Court ruled Vacancy Control is not a "physical taking" or a "regulatory taking".

Palomar Mobilehome Park vs. Rent Review Commission, City of San Marcos

CA Court of Appeal Fourth Dis. 16 Cal.App. 4<sup>th</sup> 481, 20 Cal.Rptr.2d 371 (1993) Rent regulation based on Net Operating Income (NOI) is ok. Fair rate of return based on total value of property is not necessary. NOI is characterized by “fairness and ease of administration”.

Pennell vs. City of San Jose U.S. Supreme Court  
485 U.S. 1, 108 S. Ct. 849 (1988)

Rent increases can be denied due to “hardship” being suffered by residents. The court said “ a legitimate and rational of rate regulation is the protection of consumer welfare”. Consideration of “hardship” “represents a rational attempt to accommodate the conflicting interests of adjudicating tenants from burdensome rent increase while at the same time ensuring that landlords are guaranteed a fair rate of return on their investment”.

People vs. Sandpiper Mobile Village vs. City of Carpenteria  
10 Cal. App. 4<sup>th</sup>. 542 (1992)

U.S. Supreme Court refused to hear park owner’s appeal.  
Conversion ordinance is legal. Not a physical or regulatory “taking”. Extends Yee vs. Escondido to conversion ordinances.

San Rafael June 03, 2004. Jury trial defeated park owner attempt to rescind rent control ordinance.

Sonoma Cty Superior Ct., Judge Knoel Owen, Feb 11, 2003 ruled in favor of City of Petaluma and against \$ 290. rent increase proposed by park owners Feeney & Smith.

**Challenges to rent control:**

Cashman vs. City of Cotati

Federal District Court, Judge Sandra Brown Armstrong, ruled for Cotati, Sept. 13, 2002  
Park owner went to Ninth Circuit Court of Appeals 3-judge panel and won reversal. City later appealed to full 9<sup>th</sup> Circuit Court and won in June 05.

Court felt rent control ordinance was to preserve “Affordable Housing” rather than for “rent stabilization”. This constituted an “unlawful taking” by the city against the park owner and was unconstitutional.

The U.S. District Court of the Central District of California struck down the rent control ordinance of the City of Goleta in California on October 29, 2004 as an unconstitutional taking because it failed to substantially further its stated goal of creating affordable housing. The law kept rents down but raised sale prices, without allowing the mobile home owner to collect a fair portion of the sales premium.

Amador County Rent Control ballot initiative, Nov. 2002.            LOST  
CALIFORNIAN 1-03

## **California Code 66427.5 provides rent control for low income residents of mobilehomes.**

Mobilehome park residents throughout California are increasingly facing what is known as “economic eviction”. They are required to pay rent for the space their home sits on, but there are little if any controls on the size or the frequency of the increases in that rent. Many residents on modest fixed incomes are being forced to sell or even abandon their mobilehomes because they cannot keep up with the increases in the monthly rent. Exorbitant rent increases also cause the value of these homes to decrease, and makes them less attractive to prospective residents. Therefore, the residents also have less money to pay for relocation. This is not much different from the situation many California homeowners faced prior to enactment of Proposition 13, when exorbitant property taxes forced many fixed income Californians to sell their homes.

Rent stabilization for mobilehomes exists in 99 cities and 9 counties in California. It has been upheld by the courts up to and including the U.S. Supreme Court. In *Yee vs. City of Escondido, CA.*, (Case 90-1947), the U.S. Supreme Court said rent stabilization was legal, and also that park owners had the right to a fair rate of return on their investment. Rent control and a fair rate of return are compatible concepts. Don’t let park owners tell you they are mutually exclusive.

Mobilehome living has been recognized by the courts as having two distinct characteristics. In *Casella vs. City of Morgan Hill* 1991 230 Cal App 4<sup>th</sup> 43, 57 [1], the California Court of Appeal stated, “It is recognized that residents of mobile home parks tend to be persons living on fixed incomes.”

In *Rancho Santa Paula Mobilehome Park, Ltd. vs. Evans* 1994 26 Cal App 4<sup>th</sup> 1139.1146, the California Court of Appeal said, “Because of the high cost of moving mobile homes, they are anything but mobile. A mobile home owner who finds living in a particular park impractical or otherwise infeasible faces the alternatives of selling or renting the home.”

In addition, mobilehome park owners have what is called a “land use monopoly”, in that they control the use of the land on which residents’ homes sit even though, in most cases, they do not own the individual homes.

### **DEFINITIONS:**

Rent Control: Hard and fast cap on amount of increase over 12 months.

Rent Stabilization: Cap on rent increase amount over 12 months with provision for appeal by park owners if “special circumstances” exist.

Vacancy Control: Limits or prohibits rent raise to new resident at time of purchase. (Sonoma Cty Ordinance Sect 2-11; City of San Marcos).

Conversion Control: Defines and limit's the process of converting a mobile home park from its current use to another use.

Memorandum of Understanding (MOU) - Between park owners and city concerning various mobilehome parks issues. City of Napa, around 2001, and unsigned City of Long Beach MOU in 1980.

Fair Rate of Return: Park owners, like any other business, are allowed to make a "fair rate of return" on an investment.

It may be based on City of Santa Rosa type rule: MNOI - Maintenance of Net Operating Income, not on Return on Investment. Park owners were using total investment figures. SCMOA (Sonoma County HOA) Newsletter 3-04

Another method: Net profit for the past year divided by the total investment the park owner made to buy the park. (From CPA Leland Dibble Jr.)

Another method - owners revenue on a per acre per month basis.

See Net Profit Margin (Rate of Return) tables for U.S. industries at end of this file.

Consumer Price Index (CPI) - sometimes called the rate of inflation. It or a percentage of it is sometimes used as guideline for rent stabilization ordinance.

Often used as rent stabilization limit. There are several CPI's: U.S., CA, Western States.

Cost of Living Allowance (COLA): used to determine increases in Social Security Benefits. 75% of the CPI, as is mandated by the Santa Barbara Rent Control Ordinance. That increase is broken down so that 1/2 of any increase is automatically granted to owner/management as a just and reasonable return on investment. The balance of the increase is granted as an automatic increase to cover operating costs which includes capital expenses as well as capital improvements and financing.

Capital Improvement: any addition or betterment made to a mobile home park which consists of more than mere repairs or replacement of existing facilities, or improvements which have a useful life of more than five years.

Capital Expense: repair or replacement of existing facilities or improvements which have an expected life of more than one year.

Affordable Housing: an important issue. All California cities of a certain population are required to prepare a 5 year plan which must take into account requirements for affordable housing. . In some cities, such as Seal Beach, mobile home parks are the only housing that meets the states affordable criteria.

Minimum rent increase: Not always zero.

Subpoena power: allows either side to subpoena the other's financial records.

Rollback: put base rent at previous rent levels for calculating rent increases.

True Market Rent: A fair indication of the rental value of property. It is about a third to a half of the monthly rental one can get from a ready, willing, and able renter from the outside community.

Example: If the most you can rent your home for in a park to a member of the public is \$1,000, then the True Market Rent for the little piece of dirt underneath your home is somewhere between \$333 and \$500 per month depending upon geographic location and amenities in the park.

The ratio between Market Rent and Market Value in California runs at least twice as high as in most other states. In much of the country Market Rent is about 1 % of the Market Value or sales price of the property. In California Market Rent can be ONE HALF of 1 % - or less of the Market Value. Park owners are well aware of this economic fact. That is why many parks will discourage subleasing of MHs by the Homeowners. It makes it apparent to the homeowners that the dirt rent is way too high.

## **RATIONALE**

If park owners are losing money, why don't they sell parks to residents?

Rent Stabilization for mobilehomes is currently in effect in ninety-nine (99) California cities and nine (9) counties.

There has been no noticeable adverse affect on property values in cities and counties that have mobilehome rent control, as evidenced by the most recent 8 year surge in California property values. Park owners and managers are entitled to a fair rate of return on their investment. This must be a factor in determining a fair yearly rent increase.

“No study in California has ever shown that affordable housing developments reduce property values.” From CA Dept. of Housing Website page on Affordable Housing. [www.hcd.ca.gov/hpd/mythsnfacts.pdf](http://www.hcd.ca.gov/hpd/mythsnfacts.pdf)

Some park management companies abide by unsigned agreement with city or county. Courts view that as a “course of conduct”.

In 1980-81 several Long Beach area park owners unofficially agreed to abide by the CPI when determining rent increases. They continued to abide by this agreement for

approximately 20 years, even including a reference to it in their annual rent increase written notices.

What are Mobile Home Park residents actually renting:

A plot of ground, usually about 30' by 80', sometimes paved, sometimes not, surfaced driveway, clubhouse facilities, water and sewer utilities, and operation and maintenance of the park facilities.

They are NOT renting living space. They usually OWN THEIR OWN HOMES.

Average operation and maintenance expenses for a mobile home park owner:

about \$ 200. to \$ 300. per home per month according to many surveys.

Ten Resident Owned Parks (ROPs) in northern CA average \$ 115. per home per month for operation and maintenance costs.

One ROP park in Chula Vista (151 spaces) spends about \$ 70 per home per month on operation and maintenance.

Look at rent increase table in CALIFORNIAN 7-03 pg 3

CPI has not changed drastically for last 15 years, i.e. inflation has been under control so park management expenses have been stable.

CPI was under 3% for most of the last 15 years.

Social Security Cost of Living Allowance (COLA) was below 3% for 10 of the last 11 years. SCMOA Newsletter 1-04

Kenneth Barr, mediator, uses 12% "Fair Rate of Return"

12% profit over the actual expenditures for the year prior to the requested increase, not the value of the park. When the park is sold the owner will realize the full value of the park.

To find the fair rate of return using the current space rent, you must know the actual expenditures of the investment of the park owner for the year prior to the increase request. Then use: rent times the number of spaces times 12. That gives owners income, and expenditures times 12% will give fair rate of return. If expenditures times 12% is lower than income, no increase can be justified. If higher, subtract income from expenditures and divide by number of spaces then divide by 12. This will give fair space rent increase.

Santa Barbara Ordinance:

75% of the CPI is mandated by the Santa Barbara Rent Control Ordinance. That increase is broken down so that 1/2 of any increase is automatically granted to owner/management as a just and reasonable return on investment. Next, the balance of the increase is granted as an automatic increase to cover operating costs which includes capital expenses as well as capital improvements and financing.

If your space rent increase exceeds 75% of the CPI, the Santa Barbara ordinance provides for what is referred to as a "meet and confer." This is an informal meeting between authorized representatives of management and home owners where management shall make available to representatives selected by home owners a detailed list of expenses and income, including utility costs and charges, for the prior four (4) years.

Rent Stabilization for mobile home parks should include an upper limit on yearly rent increases, and a requirement of only one increase per year.

Provision for park owners to appeal to an arbitration board for an exemption based on the principle of "fair rate-of-return", and authority for both parties in the arbitration to subpoena the other party's records.

Since the Supreme Court decision in Feb., 2006, "Spiraling Rents" need not be a prerequisite for an RSO. It must only meet the "Rational Basis Test". So the court actions and the failure of Prop. 90 in 2006 took away the requirement of substantial and widespread rent increases.

The key issue is the need for balancing the "bargaining power" due to the captive nature of the relationship and the inability of the resident to move their home. This is the most significant need for an RSO. After the "mobile" home is first set-up in a space rent park, less than 1% are moved. They are actually "immobile homes"

RSOs must be "well constructed with documentation". There is no need for high rent increases as a test. Ken Baar feels there is ample justification for an ordinance in Visalia after hearing about the park owner's behavior relative to the Long Term Lease Model, the attitude to the City Council, and the size and makeup of the City and number of park spaces (1,432 per the 1996 Cal Poly survey)).

Affordable housing is an important issue. However, Rent Stabilization for mobile homes should not be solely for the purpose of ensuring "affordable housing". (U.S Ninth Circuit Court of Appeals, 2004, City of Cotati Case).

Included in the affordability estimate should be the space rent paid by each mobilehome owner for the ability to place their home in any given mobilehome park. The initial cost of a mobilehome historically has been low, relative to other forms of housing. However, trends over the last 5 years have driven that cost up substantially. Mobilehomes are still low cost compared to single family detached homes, but are now comparable to townhomes and condominiums when monthly rents are included.

The price range for houses in each mobilehome park is commensurate with the income levels in those parks. However, a series of rent increases has seriously eroded the affordability of those residents in terms of remaining in their residences.

Many of the residents of mobilehome parks in higher-income neighborhoods are nonetheless

senior citizens living on relatively modest retirement incomes such as Social Security.

Another item to consider is that some large corporations have recently bought MH parks in other cities and immediately challenged any rent control ordinance in court. Defending the ordinance can be an expensive process for the targeted city. A company that does this regularly is Equity Lifestyle Properties (ELP), listed on the NYSE as ELS., formerly the MHC, Inc. When they lose, they usually appeal to the next court level.

You need to be ready to hear this as a possible argument against rent control by city or county officials.

Other common tactics:

Park owner will demand exorbitant rent increase, lose in arbitration, then make same demand the following year, sometimes more often, in an attempt to wear down the homeowners' resistance.

Also, will claim rent increase due to some recently passed MRL law.

It is imperative to model your ordinances for rent stabilization, vacancy control, and conversion control after existing ordinances that have withstood court challenges.

**Esparza, Patty**

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**From:** Flynn, Joan  
**Sent:** Monday, July 28, 2014 7:00 AM  
**To:** Esparza, Patty  
**Subject:** Fwd: CHARTER SECTION 803 AMENDMENT

**SUPPLEMENTAL  
COMMUNICATION**

Joan Flynn, City Clerk  
Huntington Beach

Meeting Date: 7-28-14

Begin forwarded message:

Agenda Item No. 1

**From:** MJ Baretich <mjbaretich@hotmail.com>  
**Date:** July 28, 2014 at 12:01:50 AM PDT  
**To:** Dave <dave.sullivan@surfcity-hb.org>, Jim Kataopdis <jim.katapodis@surfcity-hb.org>, "Joe.shaw@surfcity-hb.org" <joe.shaw@surfcity-hb.org>, Connie <connie.boardman@surfcity-hb.org>, "Jill Hardy" <jhardy@surfcity-hb.org>, jcarchio <jcarchio@surfcity-hb.org>, "Matthew Harper" <matthewharper@verizon.net>, jflynn <jflynn@surfcity-hb.org>  
**Subject:** CHARTER SECTION 803 AMENDMENT

Dear City Council Members,

The Charter Section 803 Amendment before you at the July 28<sup>th</sup> City Council meeting must not be restrictive. **It MUST include ALL mobile/manufactured homeowners in all the parks in the city. The 33% income limitation must be removed.**

Please **revise** the ballot measure as follows:

**"Shall the proposed Amendment to Article VIII section 803 of City Charter granting rent stabilization for mobile/manufactured parks be approved? This resolution includes, but is not limited to, seniors, veterans, and disabled."**

The only part of Section 803 that needs amending is Section 803 (a). **I suggest adding in the words in red:**

**Section 803. PROPERTY RIGHTS PROTECTION MEASURE.**

(a) **With the exception of mobilehome parks, the City shall not enact or enforce any measure which mandates the price or other consideration payable to the owner in connection with the sale, lease, rent, exchange or other transfer by the owner of real property. Any such measure is hereby repealed.**

There are 108 cities and counties that have Rent Stabilization Ordinances. They very carefully put them together for **ALL the mobilehome homeowners in their parks to not tie Rent Stabilization to any specific income level.**

Remember, CPI had only been at 2% last year and in recent years, on a max of 3.8%. According to Ken Baar, the expert in RSO's, most of the cities have kept their rent increases in their RSO's at either 100% of CPI or below, ranging from None to 75% of CPI.

There are 4,754 mobilehome parks in California with 365,418 spaces. The largest city, Los Angeles, has Rent Stabilization with a cap of **3%**. LA is made up of **280** Sub-Cities from Sylmar (in the north) to San Pedro (in the south). Their RSO has worked well for many years and has faced several court cases and prevailed all the way to the Supreme Court.

The city of Malibu has Rent Stabilization. The two parks, Point Dume and Paradise Cove have rents from \$1650 to \$1850, similar to our highest rents.. The selling prices are from \$250,000 to \$3.5 million dollars for their homes. So it does not matter what the incomes are of the people in the cities.....rich or poor. **They all have their RSO's for All the mobilehome parks in their cities.** So do the cities of Santa Monica and Carson. **We are NOT unique.**

We cannot compare mobilehomes costs with apartment costs. They are entirely different. We have our property rights per the MRL , some Government Codes and HCD Title 25. We own just the home, not the land.

Apartment dwellers do not have to pay for all the costs that we mobilehome homeowners do. Beyond the cost of the RENTAL OF THE LOT, mobilehome homeowners pay TAXES, INSURANCE, UTILITIES, TRASH and PASS-THROUGHS by the park owner. This is in addition to a HOME MORTGAGE. Not much is left over for FOOD for some people.

Now, if this Charter Amendment **change is not reworded** to include **ALL mobilehome homeowners**, we will have jeopardized the majority of our mobilehome homeowners in the city of Huntington Beach.

I suggest **removal of the 33% income limitation (entirely) from the Charter Amendment.** I also suggest **removal of the rent increase detail from the Charter Amendment.** The detailed rent increase structure and any retroactive information belong **only** in the RSO.

Thank you for reviewing this very crucial and complex situation that will affect thousands of Huntington Beach mobilehome homeowners. There are approximately 2500 homeowner-owned spaces out of 2865 spaces in the city of 200,000. They are a fragile segment of our community.

Mary Jo Baretich

Member, Mobile Home Advisory Board

President, Cabrillo Wetland Village HOA

GSMOL Region 5 Manager

Former GSMOL State President

# SUPPLEMENTAL COMMUNICATION



July 28, 2014

Meeting Date: 7-28-2014

Agenda Item No. 1

## BOARD OF DIRECTORS

### Executive Board

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James Jones  
Keith Casenhiser  
Craig Houser  
Robert Glander II  
Stan Magill, Jr.  
Eileen Cirillo

### Lifetime

#### Achievement Award Recipients

Norm McAdoo  
John Crean  
R.J. Brandes  
Robert N. West  
Ed Evans  
Logan A. Boggs  
Jerry Golden  
Harry E. Karsten  
Jesse Mancy  
CHFA  
WMA

#### Above and Beyond Award Recipients

Willis Miller  
Stan Magill  
Dan Jacobs  
Paul Bostwick  
C. Brent Swanson  
Jim Martin  
James Jones  
Chelu Travieso  
Keith Casenhiser  
James B. Bostick

### Executive Director

Vickie Talley

Mayor Matthew Harper  
Mayor Pro Tem Joe Shaw  
Council Member Connie Boardman  
Council Member Joe Carchio  
Council Member Jill Hardy  
Council Member Jim Katapodis  
Council Member Dave Sullivan

**RE: Agenda Item 1 – Consolidation of Ballot Measures  
OPPOSE Amending City Charter Section 803  
Property Rights Protection Measure**

Honorable Mayor Harper and Members of the Council:

The Manufactured Housing Educational Trust (MHET) is a non-profit professional trade association representing mobile home park owners in Orange, Riverside and San Bernardino Counties. MHET has represented the owners of Huntington Beach mobile home parks for the past 32 years and has appeared numerous times before this body. Each time it is with the intent of providing factual information on the operations of the city's mobile home parks. It is our goal to provide you with the information you need to make responsible decisions when it comes to issues impacting mobile home park owners and other property owners in the City of Huntington Beach.

MHET has no position on placing a fireworks measure on the ballot and respectfully requests that the fireworks ballot measure discussion be separated from the proposed Property Rights Protection Measure Charter Amendment ballot measure discussion. MHET is opposed to placing an amendment to the Property Rights Protection Measure on the ballot.

In reviewing the City Charter language it is MHET's opinion that the Council is in violation of the Charter if it moves forward with placing rent restrictions on the ballot. The Charter's Property Rights Protection Measure clearly states (**emphasis added**), "The City shall not enact or enforce any measure which mandates the price or other consideration payable to the owner in connection with the sale, lease, rent, exchange or other transfer by the owner of real property." It further states, "The word "mandates" as used in subsection (a) **includes any measure taken by ordinance, resolution, administrative regulation or other action of the City to establish, continue, implement or enforce any control or system of controls** on the price or other terms on which real property may be offered, sold, leased, rented, exchanged.....". Clearly the action of the City Council to place specific exemptions

25241 Paseo de Alicia, Suite 120 • Laguna Hills, California 92653 • Phone: 949.380.3303 • Fax: 949.380.3310  
Email: info@mhnet.org • Website: www.mhnet.org

Southern California MHET Serving Orange, Riverside and San Bernardino Counties since 1982

on mobile home parks limiting what rent can be charged as an amendment to the City Charter is in violation of the Charter because it is taking an action to establish control or a system of control by proposing to add language to the Charter that controls rents.

In addition to the legal issue of actually violating the Charter, MHET opposes any amendments or changes to the Huntington Beach Charter Section 803 Property Rights Protection Measure for the following reasons for the following reasons:

- Voters have already voted on this issue. They do not support rent control in Huntington Beach and voiced that opinion loud and clear with a 68% yes vote in favor of the Property Rights Protection Measure charter amendment in 2002.
- Rents are fair and reasonable in the City's 17 privately owned Parks. Rents range from \$638 to \$2,140 a month. In the City owned mobile home park market rent charged is \$1,000, which is on par with what many of the other parks in the City charge. In nearby Newport Beach some mobile home parks charge \$3,000 and up monthly rent to be near the ocean. In Santa Ana, hardly a comparable location to Huntington Beach, rents in mobile home parks range from \$738 to \$1,800.
- Huntington Beach mobile home owners as a group are not "poor" or low-income. In fact, it is quite the opposite. Huntington Beach mobile home owners choose the mobile home park lifestyle. They have sold homes, paid cash for their manufactured home and now own their mobile homes free and clear and enjoy living near the ocean.
- Huntington Beach Park Owners provide rent assistance to few low-income, needy residents. While there are government assistance programs such as the Section 8 rent subsidy program available in the City, many of the programs are underfunded and the waiting lists are years long. It is for this reason that MHET began a program over 25 years ago sponsoring a Mobile Home Rental Assistance Program for low income Park residents. These rent subsidies are paid for by the park owner and are a gift and are available to ALL low-income mobile home park residents in the City.
- Government regulated rent control would provide rent subsidies to all mobile home owners, not just the needy low-income. Simply, government regulation of rents in any form is a transfer of wealth and property value from the property owner to the tenant. Rent control is an unconstitutional taking of the value of the property from the owner and giving it to the tenant.
- Mobile home owners who are complaining are a very small group and, most admit that they are not in need of help, but they would like their rent controlled nonetheless. At the July 21, 2014 council meeting, 29 mobile home park tenants spoke out in favor of rent control. Of those 29, 19 came from two Parks – Pacific

(Surf City Beach Cottages) and Rancho Huntington. The other ten speakers were spread across 4 other parks. There was no representation from 11 of the city's 17 privately owned mobile home parks. This certainly puts the issue in perspective. This is not a broad based City issue. It is focused on two parks. Following are some important facts about the two parks where residents are supporting rent control.

- *Rancho Huntington* is a 193 space Park with 60% of the spaces on long-term leases and 8 residents receiving monthly rent subsidies ranging from \$70 to \$300 a month. Long-term leases, according to California Mobilehome Residency Law, are exempt from rent control. That means that if rent control regulations were adopted it would effect 77 residents in this park. Of those 77 mobile home owners only 8 are low-income. We know this because only 8 are receiving monthly rent subsidies, which would end if rent controls were adopted. Rent control would hurt the 8 low-income residents by removing rent subsidies and help 71 residents who can afford market rent.

- *Pacific (Surf City Beach Cottages)* is a 264 space park located a block from the beach. Nearly 70% of the mobile home owner residents in the Park own their mobile homes free and clear. The only monthly payment they have is a rent payment that ranges from a low of \$1,039 to a high of \$2,050. There are 12 people in the Park receiving monthly rent subsidies ranging from \$93 to \$297 a month, which would go away if rent control is implemented.

• What would rent really accomplish in the City? It hurts the few needy park residents and provides unneeded rent subsidy to others who do not need it.

• Rent control is a failed public policy. In California there are 482 cities. Of these cities only 86 have adopted some form of mobile home rent control and 4 have repealed rent control and more are considering repeal of the expensive and divisive ordinances. The cities that have repealed rent control are Capitola, Delano, Hollister and Napa. There are 34 cities in Orange County. One city has mobile home rent control (San Juan Capistrano).

• Huntington Beach can't afford rent control. The city has enough demands on its limited budget. It should not risk expensive litigation or the implementation of a costly bureaucracy to administer rent regulations for a special interest group that makes up less than 2% of the population. And, arguably, only a fraction of that 2% is truly in need and those mobile home residents are currently receiving rent subsidies by a privately funded program sponsored by the MHET and the city's park owners.

Recently, in a staff report the City Attorney of Camarillo told his city council, "...if the City [of Camarillo] were to adopt a rent control/stabilization ordinance

[for mobile home parks], then the current owners of mobilehome parks in the City would file a lawsuit against the City on the grounds that the ordinance constitutes a taking of their property by having a significant economic impact to them as well as interfering with their investment-backed expectations. While the outcome of such a lawsuit would be for the courts to decide, there would be, at a minimum, a substantial time and expense for the City to defend against such lawsuits.”

We respectfully submit that moving toward the implementation of any form of rent control in Huntington Beach is not only against the will of the voters of the city, but is an irresponsible and risky action that will result in the unnecessary and wasteful spending of City [taxpayer] human and financial resources.

Please do not put any amendment to the Property Rights Protection Measure on the ballot.

Sincerely,

A handwritten signature in black ink that reads "Vickie M. Talley". The signature is written in a cursive, flowing style with a large initial "V" and a long, sweeping tail.

Vickie M. Talley  
Executive Director

cc: Huntington Beach Mobile Home Park Owners

## Esparza, Patty

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**From:** Dombo, Johanna  
**Sent:** Monday, July 28, 2014 12:34 PM  
**To:** Esparza, Patty  
**Subject:** FW: Surf City Pipeline: You have been assigned a new Request #: 19164

Here's another...

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**From:** Surf City Pipeline [<mailto:noreply@user.govoutreach.com>]  
**Sent:** Monday, July 28, 2014 12:18 PM  
**To:** Dombo, Johanna  
**Subject:** Surf City Pipeline: You have been assigned a new Request #: 19164

**Request # 19164 from the Government Outreach System has been assigned to you.**

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**Request type:** Question

**Request area:** City Council - Share a Concern

**Citizen name:** Mike Randall

**Description:** Rent control in Huntington Beach? Unbelievable!! - With (I'm sure) the best of intentions, some of you apparently want to 'help' low income folks by interfering with the rental market (first with mobile home parks, then of course with all rentals). The unintended consequences are obvious: look at cities that have it and ask if that is what you really want for Huntington Beach.

When rents are forced lower than they would otherwise be, it is the owner who subsidizes the renter. You know what the voters would say if you tried to subsidize rents with city money, so you take the easier path: you forcibly take money from the owners. Not only is it WRONG, but also it doesn't work.

I doubt that your minds can be changed with logical arguments, so how about a political argument: I promise you that there are many voters who will work very hard to end your political careers, beginning with me. We will assure that you become absolutely famous for this misguided policy. If you have plans for future political office, forget them!

**Expected Close Date:** August 4, 2014

[Click here to access the request](#)

Note: This message is for notification purposes only. Please do not reply to this email. Email replies are not monitored and will be ignored.

### SUPPLEMENTAL COMMUNICATION

Meeting Date: 7/28/14

Agenda Item No. 1

**Esparza, Patty**

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**From:** Fikes, Cathy  
**Sent:** Monday, July 28, 2014 12:40 PM  
**To:** Agenda Alerts  
**Subject:** FW: Proposed charter amendment

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

**From:** Sharon Petersen [<mailto:Spetersen3048@earthlink.net>]  
**Sent:** Monday, July 28, 2014 12:33 PM  
**To:** Boardman, Connie  
**Cc:** Fikes, Cathy  
**Subject:** Proposed charter amendment

Hello Connie,

Most of us believe we need affordable housing in Huntington Beach.

The original exemption proposed was to provide rent stabilization for ALL park residents.

This was designed to protect seniors, veterans and disabled residents from a few unscrupulous park owners. To stop economic evictions.

The exemption as it is now written excludes a huge number of park residents at or near the poverty line. I believe EVERY park resident needs to be protected.

I urge you to consider the removal of the 33% and the 4% or 6%.

I continue to appreciate your efforts on behalf of seniors.

Sharon Petersen

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 7/28/14

Agenda Item No. 1

Request: 19083 Entered on: 07/21/2014 12:58 PM

**Customer Information**

**Name:** Joan Walker  
**Address:** 20701 Beach Blvd. #264  
Huntington Beach, CA  
92648

**Phone:** (714) 374-8685  
**Alt. Phone:** (714) 292-6148  
**Email:** churchworker@aol.com

**Request Classification**

**Topic:** City Council - Agenda & Public  
Hearing Comments  
**Status:** Open  
**Assigned to:** Agenda Alerts

**Request type:** Comment  
**Priority:** Normal  
**Entered Via:** Web

**Description**

I am a resident in Huntington Shorecliffs Mobile Home Park. I moved here to be close to my family when I retired as a professor from Cerritos College in Norwalk CA.

In 2000 when I purchased my mobile home in the park my space rent was \$432.00 per month. It is currently \$1765.00 per month. With no control in sight I do not know how long I can remain in my home on my retirement income. Several residents have already lost their homes or have sold for as little as \$3000.00 because they could not afford the rent increases.

I strongly urge you to vote for the Measure to add RentStabilization for ALL mobile home park homeowners in our city.

I truly feel the lack of rent stabilization in our city is an abuse not only to senior citizens and veterans but on anyone who rents space in a mobile home park. Sincerely, Joan Walker

**Reason Closed**

**Date Expect Closed:** 07/22/2014

Enter Field Notes Below

Notes:

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 7-28-14

Agenda Item No. 1

Notes Taken By: \_\_\_\_\_ Date: \_\_\_\_\_

Request: 19088 Entered on: 07/21/2014 5:56 PM

**Customer Information**

Name: S Green  
Address:  
Huntington Beach, CA

Phone:  
Alt. Phone:  
Email: Marykay4sell@aol.com

**Request Classification**

Topic: City Council - Agenda & Public Hearing  
Comments  
Request type: Comment  
Status: Closed  
Assigned to: Agenda Alerts  
Priority: Normal  
Entered Via: Web

**Description**

Hello got out of work too late & won't be able to attend tonight's meeting. I purchased my mobile a couple of years ago as a vacation home (pacific mobile home park). Things have changed & now it is my permanent home. Where else can one live by the sand at such a low payment. Over time space rent has increased which has been reasonable for some & not for others. Unfortunately some residents have had to move. The park is benefitting by taking over the empty trailers & renting them out. Very very slowing the new owners are making improvements & excuse the slang the trailer trash are leaving. Trailer trash leaving is fine but it is sad to see the elderly that have been there many many years. Each year a slight increase is expected but they are increasing the monthly rent a few hundred dollars per household. There has got to be some sort of rule not to allow them to do what ever they want. I am sure the park was purchased for a lot of money & it is a business but something needs to be done to stop these unreasonable amounts.

**Reason Closed**

Thank you for taking the time to send your thoughts to the City Council. A copy of your comments has been entered into the Pipeline system and will also be forwarded to the City Clerk to be included in the record on this item. Thank you very much for writing.  
Sincerely,  
Johanna Dombo  
Executive Assistant

Date Expect Closed: 07/22/2014

Date Closed: 07/22/2014 07:43 AM By: Johanna Dombo

**Enter Field Notes Below**

Notes:

**SUPPLEMENTAL  
COMMUNICATION**

Meeting Date: 7-28-14

Agenda Item No. 1

Notes Taken By: \_\_\_\_\_ Date: \_\_\_\_\_