# COUNTY OF SAN MATEO
## Inter-Departmental Correspondence

## County Counsel

**To:** Planning Commission
**From:** County Counsel
**Subject:** Legal Issues Concerning Affordability of Manufactured Home Communities
**Date:** August 14, 2002

This matter was referred to the Planning Commission by the Board of Supervisors for consideration of a proposed rent control ordinance and alternatives for maintaining affordability at manufactured home communities, in particular the El Granada Mobilehome Community in Moss Beach. The Planning Commission held hearings on this issue on May 8, 2002 at its regular meeting in Redwood City, and on July 10, 2002 at an evening meeting at the El Granada Mobilehome Community's Clubhouse. The next hearing is scheduled for August 28, 2002.

This memo addresses legal issues concerning affordability for manufactured home communities which arose at the Commission's meeting on July 10, 2002.

### 1. Requirements for and Feasibility of Urgency Ordinance Freezing Rents and Controlling Evictions

Government Code §25123(d) spells out the requirements for adoption of an interim urgency ordinance. Such an ordinance, "for the immediate preservation of the public peace, health, or safety," may take effect immediately if adopted by a four-fifths vote of the board of supervisors. The ordinance must contain a "declaration of the facts constituting the urgency."

The general rule is that ordinances adopted by the Board of Supervisors should apply throughout the County's jurisdiction, in this case, the unincorporated area. To apply an ordinance to a specific section of the jurisdiction, the Board would have to make specific findings of fact to justify and support the distinction.

### 2. Summary of Mobilehome Rent Control Litigation

The case law in California shows that the majority of mobilehome rent control ordinances have been upheld in the face of legal challenges. According to the courts, a rent control ordinance is not an unlawful taking of a mobilehome park owners' property without just compensation, where the ordinance substantially advances legitimate state interests and does not deny owners an economically viable use of their land.

At the last Planning Commission meeting, there was mention of a court challenge to the City of Cotati's ordinance. I have spoken with one of the attorneys who represent the city. Currently, the City of Cotati has litigation pending in both State and Federal Courts concerning its mobilehome rent control ordinance. The Cotati federal court case dealt primarily with the economics of mobilehome rents versus resale/equity value of units. (At this point, the state case, pending in the California Supreme Court, is limited to the issue of whether it violates the anti-SLAPP statute, meaning whether the city filed the state case to discourage the owners' free speech rights to bring suit in federal court.) The federal court did rule against the city's ordinance a few years ago, but that ruling has since been reversed, and a final decision in that case is still pending.

The tenants at EGMHC have claimed that for each $10 that space rent increases, the value of their units decrease by $1000. Steve Alms (of the County's Real Property Division) agreed that this made sense, and made the analogy to condominium ownership, where the value of the interest decreases when monthly fees increase. The attorney for the City of Cotati conducted the trial of the city's case in federal court earlier this year, at which his experts testified that the supposed inverse relationship between rents and resale value was <u>not</u> the case in the City of Cotati. The owners' experts testified that there is an inverse relationship.

The City of Cotati has what is known as a "vacancy control" ordinance, where rent control continues to apply when a new tenant occupies a unit. The alternative is called "vacancy de-control," where the owner would be free to raise the rent to market level once a unit became vacant. Both may be permissible legally, even where the result is an increase in unit values, so long as the specific purpose is stated and the proper findings are made in advance of adopting the ordinance.

The courts have held that: "Vacancy control is a statutory protection for both current tenants, who may wish to sell their mobilehomes with favorable rental rates attached, and for prospective tenants, who may wish to buy into a mobilehome park at the most favorable rental rate as well as a favorable purchase price. To some extent, these interests are intertwined. Some rent control schemes have clearly stated an intent to impose such investment protections for current tenants who wish to sell their coaches." <u>Thomsen v. City of Escondido</u> (1996) 49 Cal. App. 4th 884, 895-896. As such, it is important that the legislative body make specific factual findings and state its intentions in adopting an ordinance, whether it be a vacancy control or a vacancy de-control ordinance. Court challenges will involve an inquiry into the facts, and may even include an after-the-fact review of whether the ordinance has fulfilled its stated purpose. <u>Chevron USA, Inc. v. Cayetano</u> (9th Cir. 2000) 224 F.3d 1030.

**3. <u>Eminent Domain/County Acquisition</u>**

There has been discussion of the possibility of the County acquiring the El Granada MHC and/or other such properties by eminent domain and then turning the property over to a nonprofit housing corporation for the benefit of the tenants. There are legal issues surrounding this option, in that the County could not commence eminent domain proceedings without first doing the requisite fact-finding and analysis to justify the taking of property for a public purpose. The County should not undertake any "pre-condemnation activities" until the appropriate body, in this case the Board of Supervisors, has studied the options and made the necessary findings.

**4. Use Permit**

One approach, which has been discussed, to date is to require the owners at EGMHC to obtain a new use permit, with conditions negotiated specifically for that park.

We are also exploring the option of drafting a new countywide mobilehome ordinance, which would require a use permit, and specify conditions and other requirements specific to mobilehomes. Such ordinances have been adopted in Mendocino County and the City of Santa Clara.

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County of San Mateo
Environmental Services Agency
Planning and Building Division

## MANAGEMENT OF PARK OPERATIONS

There was extensive testimony on May 8 with regard to park management and operation. Residents are dissatisfied with management's responsiveness to resident concerns, although the owner's representative said steps were being taken to address those. Nonetheless, the Commission concluded that significant management issues exist and that the County should be involved in addressing them.

The Commission and staff believe the proper approach to that would be to: (a) formally notify the park that its use permit has lapsed, as discussed in County Counsel's earlier memo, and that a new use permit is required to continue operation; (b) obtain a use permit application; (c) process the application according to standard County procedures, including referral of the application to concerned parties and development of conditions of approval to address identified concerns to the degree feasible; (d) hold a Planning Commission hearing on the application and recommended conditions; and (e) reach a final decision on the conditions that will apply to park operation and management.

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**County of San Mateo**
**Environmental Services Agency**
**Planning and Building Division**

## ZONING OF EGMHP

The park is currently designated in the General Plan as *Medium High Density Residential (8.8-17.4 dwelling units/acre) – Designated Housing Site.* It is zoned H-1, Limited Highway Frontage. The H-1 district allows mobile home parks, subject to a use permit. The H-1 district also allows single- and multiple-family housing subject to a use permit.

Residents have requested that the park be rezoned to R-3-A, Affordable Housing District. The R-3-A district regulations appear in Attachment E. The R-3-A district allows single- and multiple-family dwellings, but does not list mobile home parks as an allowed use. It requires a use permit for all uses, subject to the normal use permit finding plus a finding that the residential development complies with Local Coastal Program (LCP) Policies 3.19, 3.28 and 3.29. In 1992, the LCP Housing Component was amended to bring it into conformance with the updated General Plan Housing Element, adopted by the Board of Supervisors in 1991. As part of those Housing Component amendments, Policy 3.19 was renumbered and now appears as Policy 3.15, *Designated Housing Sites* (see Attachment E). Policy 3.28, *Income, Rent and Cost Controls for Affordable Housing Units*, and Policy 3.29, *Guarantees of Continued Availability of Affordable Housing* were eliminated from the LCP since they were in conflict with most State and Federal funding programs currently available to support new affordable housing development. These policies have, in part, been superseded by General Plan Housing Policies 14.5 and 14.6 (see Attachment E).

It is important to understand that the designation of the EGMHP as an affordable housing site occurred as a result of amendments to the LCP adopted in 1981, when LCP Policy 3.11 was added. This policy was added to the section of the LCP entitled, *Protection of Existing Housing Opportunities for Low and Moderate Income Households*, and reads as follows:

3.11 Protection of El Granada Mobile Home Park

> Designate the existing El Granada Mobile Home Park as an affordable housing site. Prohibit the demolition or displacement of this mobile home park.

This places the EGMHP in a different category from the three other affordable housing sites designated in the LCP when it was first adopted in 1980. The designation of those sites and the policies governing their development are covered in a separate section of the LCP entitled, *Encouragement and Provision of New Housing Opportunities for Low and Moderate Income Households*. They are vacant parcels that were viewed as locations for the development of a mixture of new market rate and affordable housing, to be implemented through the R-3-A zone, which specifies a process for review and approval of development plans and requires that new development comply with income limits and rent and cost controls.

Staff's conclusion, confirmed by review of staff reports prepared for the 1981 LCP Amendment, is that the objective of designating the EGMHP as an affordable housing site was to prevent its demolition or conversion to another use, i.e. its preservation as a mobile home park that was providing affordable housing, not to make it subject to the policies and regulations governing the development of new affordable housing projects, including the R-3-A zone. It should be noted that if the requirements applicable to other designated affordable housing sites were applied to the EGMHP, then, in addition to limitations on the rent charged for a mobile home site, there would be limits on the allowable income of occupants and the resale value of housing units that remain in the park.

As there is no conversion or demolition of the park proposed or contemplated, the LCP requirements for this designated affordable housing site appear to be met.

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# San Mateo County Planning and Building Division

## Affordability Analysis of El Granada Manufactured Home Park June 2002

**How much have rents at EGMHP changed?** Testimony before the Planning Commission indicated rents of about $425 in 1989 and $800 today, 13 years later. The rent control ordinance drafted by County Counsel would allow 5% annual rent increases. A present/future value analysis shows that a rent of $425 in 1989, adjusted 5% annually each year since, would result in a rent of $801 in 2002. Although it is unlikely that the park owners would "capture" the full 5% increase allowed by the ordinance every year over a 13-year period, it does appear that rent increases over that period have been consistent with the limits specified in the proposed ordinance.

**Are current rents affordable?** The appropriate way to answer this question would be to compare housing costs at the park with the rent limits for various categories of affordable housing as set by federal, state and local housing agencies. Park residents lease their space but own their unit. Tenants pay rent for their space but also pay any mortgage on their unit, property taxes and all utilities. In comparing the situation with an apartment, however, utilities should be excluded, as they are not included in the affordable rent limits set by housing agencies.

Testimony indicated that current space rents are $775 for existing tenants and $825 for new tenants, for an average of $800. The California Manufactured Housing Institute states that the current average price of a new 1,560 square foot factory built home installed on a typical California site would be about $83,041. Loans are available from 10 to 30 years. At 7.5% interest for 30 years this would result in a monthly mortgage payment of $522. Property taxes for a new unit are set at 1% of the unit's value. This would add about $70 per month. Total monthly cost would equal $1,392.

A 1,560 square foot factory built home would be equivalent to a three-bedroom apartment suitable for a family of 4-5 persons. Federal "affordable" rents for such a unit in San Mateo County are:

Moderate income (up to $2,686)
Low income (up to $2,118)
Very low income (up to $1,323)
Extremely low income (up to $794)

The total housing costs at the park would seem to fall within the very low income range, indicating they would be affordable to someone with an income of $50-55,000 or above. Thus the unit would qualify as affordable housing according to federal standards.

**Is the above analysis realistic?** Of course the inputs to the above analysis could change. Rents change, but so do the affordable rents as listed above, which are recalculated annually to reflect local economic changes.

Sale price of units and installation costs change over time, but staff believes the $83,041 figure quoted above is actually quite conservative. We are aware of a new manufactured housing unit proposed for installation on a parcel near La Honda. It is a new 3-bedroom, 2-bath unit totaling about 1,250 square feet being installed on a rural site with difficult access. Total cost, delivered and installed, will be about $65,000. It is likely that the cost for installation in a manufactured housing park with easier access would be less. Also, many residents purchase a used unit already on-site when they move into a manufactured home park. Resale price of these units is typically lower than the cost of a new unit. List prices from coastal properties range from roughly $20,000 to $150,000, with most between $70,000 and $100,000.

Interest rates vary. The 7.5% figure cited above is the current typical rate for a manufactured housing mortgage. Rates could, of course, rise, but staff believes that is offset in this analysis by the conservative unit cost/installation figure. For comparison purposes, however, using a 9% mortgage rate in the above analysis changes to total monthly cost to $1,471, which falls at the lower end of the range affordable to low income families.

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## San Mateo County Planning and Building Division

# Method for Evaluating Estimated Cost of Resident Acquisition of El Granada Manufactured Home Park June 2002

The El Granada Manufactured Home Park consists of 227 leased spaces for the installation of mobile/manufactured homes together with associated common spaces such as driveways, common buildings and recreational facilities, landscaping and other amenities. The spaces are leased to tenants who install their own homes on those sites. Tenants pay monthly rents for their spaces, which are reported as currently being about $775 for existing tenants and $825 for new tenants.

The San Mateo County Local Coastal Program, in the section of the LCP entitled, *Protection of Existing Housing Opportunities for Low and Moderate Income Households*, reads as follows:

> 3.11 Protection of El Granada Mobile Home Park
>
> Designate the existing El Granada Mobile Home Park as an affordable housing site. Prohibit the demolition or displacement of this mobile home park.

Thus the EGMHP may not be converted to another use. Unless purchased by the tenants themselves, it will remain fundamentally a rental property. Generally, the value of a rental property is based on the rents that it returns. The County Real Property Division has suggested that a property such as the EGMHP might be valued at somewhere between seven and nine times annual rent. That is the level at which aggregate rents, less taxes, depreciation and operational costs, would presumably represent a reasonable return to a potential investor considering acquisition of this or similar rental property. The Real Property Division stresses that this is a very general guideline only, does not represent an appraisal and could be incorrect for this location, depending on other variables, the state of the real estate market at the time of sale, etc. It is offered for discussion purposes only, to help those interested in pursuing change in park ownership get a sense of the magnitude of the cost they might face.

If we assume average rents of $800 per month, then annual rents would total about $2,179,000. Using the above guideline, we get a total value of $15,255,000 to $18,630,000. If 227 residents were to purchase the park, that would translate to a purchase price of about $67,200 to $82,000 each. Translated into a 30-year mortgage at 7.5%, we get a monthly cost of $470 to $573. Property taxes for residents would rise to cover the taxes on the land and would initially be set at 1% of the sales price ($56-68 per month in the above example). In addition, there would be homeowner association dues to cover the costs of administration, operation, maintenance, repairs and upgrades.

The total would appear to approach the range of current rents, but, of course, from that point forward, resident costs would be relatively fixed, with only taxes and homeowner association dues rising regularly, and residents would be more likely to accrue equity in their home, since they would own both the unit and the land on which it sits. And the park would be "self-managed," presumably to the residents' satisfaction.

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# A Guide for Residents Purchasing Their Mobilehome Park
## *Answers to Residents' Questions*

**State of California**
**Department of Real Estate**

Gray Davis
*Governor*

Maria Contreras-Sweet
*Secretary of the Business, Transportation and Housing Agency*

Paula Reddish Zinnemann
*Real Estate Commissioner*

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*This booklet was originally developed in 1986 by the California State University Real Estate and Land Use Institute under contract with the California Department of Real Estate. The Department of Real Estate revised the booklet in March 1998 (re-printed October 2000).*

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## Preface

Due to rental costs, many residents in mobilehome parks are pursuing the idea of forming a nonprofit corporation to purchase and own their park (in order to keep space rents affordable) or owning rather than renting the space their mobilehome occupies. You too might be considering this option. Or if others in your park have been investigating the possibility of purchasing the park, you may be feeling that you also must get involved. Converting a rental mobilehome park to resident ownership can be rewarding and beneficial to the residents. It is also a major undertaking likely to include problems for which solutions must be found.

This booklet describes generally the steps involved in resident purchase of a mobilehome park, points out some problems common to resident purchase and provides information which is designed to help you understand your role in the process. This booklet also offers some solutions to problems that may arise during the conversion process which may be useful to you as an individual and as a member of a resident organization.

This booklet does not attempt to present all of the possible problems you might encounter during the conversion process, nor is it a source of all possible solutions to the situations. It does, however, emphasize the need to obtain appropriate professional assistance when circumstances suggest that park residents, by themselves, will not be able to conduct some phase of the conversion.

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## PART I

### BASIC INFORMATION ABOUT RENTAL PARK CONVERSIONS TO RESIDENT OWNERSHIP

*Part I describes a park conversion, the jurisdiction of the Department of Real Estate and, generally, the arrangements* *suitable for owning and managing a mobilehome park after conversion.*

**What is a park conversion?**

In this booklet, the term conversion refers to the various aspects of a mobilehome park purchase by the residents. Conversion can involve transformation of a park to a type of common interest development where residents obtain title to, or some right of exclusive use of, their mobilehome spaces.

**What is a common interest development?**

In a common interest development, an individual owns or leases a separate lot, unit or interest together with an undivided interest or membership interest in the common area. The common area is usually governed and maintained by a homeowners' association of which each individual owner is a member. If a mobilehome park is sold or leased with the intention of creating separate interests for the residents, a common interest development will result. See Part IV for a discussion of common interest developments.

**What is the role of the Department of Real Estate?**

The Department of Real Estate (DRE) regulates California real estate brokers and salespeople and the marketing and sale of subdivided real property in California. Basically, DRE's issuance of a final subdivision public report must precede the offering for sale or lease of lots or interests in a subdivision of five or more lots or interests. (Although the subdivider can advertise and accept refundable deposits for reservations pursuant to a preliminary subdivision public report.)

If a representation is made to residents that they will receive a lot or other separate real property interest in the mobilehome park as part of their participation in a park purchase program, a subdivision will be created.

**What is a public report and what is its purpose?**

A public report is a document which discloses to prospective purchasers significant aspects of a subdivision offering. Before DRE issues a public report, the subdivider must meet certain standards to safeguard buyers' purchase money, complete on-site and off-site improvements and, for a common interest development, produce governing instruments which address specific features of the project's operation and management.

***Disclosures Regarding Tentative Prices***

Prior to filing a notice of intention (to sell or lease subdivided lands), the subdivider of a mobilehome park that is proposed to be converted to resident ownership must, by written notice, disclose to the homeowners and residents of the park the tentative price of the subdivided interest proposed to be sold or leased.

The notice must indicate that the price is not binding and may change, without any liability on the part of the subdivider, due to unanticipated expenses: conditions imposed for approval of the conversion, increased financing costs, etc.

The subdivider must obtain a preliminary public report from DRE before distributing the tentative price disclosure notice.

***Nonprofit Corporation's Exemption***

Business and Professions Code Section 11010.8 exempts from the notice of intention/public report requirement a nonprofit corporation's purchase of a mobilehome park, provided:

- The nonprofit corporation obtains a permit from the Department of Corporations.
- All shareholders of the nonprofit corporation are residents of the mobilehome park.
- A majority of the shareholders constitute a majority of the persons who own mobilehomes within the park.
- A majority of the governing body of the nonprofit corporation own mobilehomes within the park.

- All funds of mobilehome park tenants for purchase of the mobilehome park are deposited in escrow until title to the park passes to the nonprofit corporation.

**Is subdivision of the park a necessary part of conversion?**

It is not necessary for park residents to subdivide a mobilehome park in order to own and assume control of it. Indeed, subdividing a park during conversion may result in untimely delays while the subdivider satisfies local, city or county requirements and completes the information and documentation required to obtain a public report.

Instead, park residents may use a two-step approach to conversion. First, the park is purchased as a single property by a resident organization which, in a majority of cases, is a nonprofit corporation created for this purpose. Participating residents become shareholders or members of this corporation. Later, the corporation subdivides the park, obtains a public report, and sells (or leases) the subdivided interests to the residents.

**What is the value in creating a nonprofit corporation?**

Park residents need a legal entity to purchase their park. A nonprofit mutual benefit corporation is well suited to this purpose.

In general, the nonprofit corporation makes an offer of participation to the residents. Residents who decide to participate become shareholders or members in the corporation. As residents purchase shares or memberships in the corporation, cash is accumulated for the down payment required to purchase the park. The officers of the corporation, elected by the members and acting on their behalf, negotiate with the seller to purchase the park and solve problems relating to conversion. After conversion, the corporation may manage the park.

***Legal Advice***

Inasmuch as memberships in a nonprofit corporation are subject to the requirements of the Corporations Code, competent legal advice should be sought prior to formation of a corporation. Unless an exemption is available, a permit from the Department of Corporations (DOC) is generally a necessary prerequisite to issuance of memberships in a nonprofit corporation. It is also recommended that incorporation of the residents' organization be handled by legal professionals.

A standard corporation or a general or limited partnership are alternatives to a nonprofit corporation. Before committing to any type of organizational form, the residents should explore the advantages and disadvantages and obtain legal advice.

***Exemption from DOC and DRE Jurisdiction***

In order to preserve the stock of affordable housing, government financing and subsidies are sometimes used in conjunction with conventional financing to purchase a park with few amenities and generally low-income residents. Ownership of the park is by a nonprofit corporation which typically does not issue stock or memberships. The residents' organization should contact the DOC and DRE to determine if this arrangement is exempt from the jurisdiction of either or both of those agencies.

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# PART II

## ISSUES FOR RESIDENTS THINKING ABOUT THE PURCHASE OF THEIR PARK

*This part discusses issues involved in purchasing a park and what may happen if you choose not to participate.*

**Should I participate in the purchase of my park?**

Many mobilehome park residents are living on fixed or limited incomes. Increases in rent for mobilehome spaces and related services have motivated many residents to join together to purchase and convert their parks to resident ownership.

While the cost of owning may at first be higher than renting, the gap is likely to close and turn positive in a relatively short period of time.

Impending eviction and park closure are also strong motivating factors for conversion. While it is true that state and local government agencies are committed to fostering an adequate supply of affordable housing, displacement is still a very real threat and a strong consideration in residents' decision to purchase and convert their parks.

No matter what the reason for conversion, your decision to participate should be based on your personal needs and financial situation, not part of a "group decision" made under pressure from fellow residents.

**How do I assess my financial situation?**

The most important question is, ***"Can I afford to participate in the purchase?"*** Whether alone or with the help of a financial advisor, you should consider the following factors:

- **Your personal income sources and their stability.**

  Are increased costs of living causing you to withdraw from savings in order to meet monthly expenses? Has the investment capital which generates your income decreased, resulting in a reduction of income? Have interest rates dropped, decreasing your income?

- **Trends in your nonhousing domestic expenditures.**

  Review checkbooks and payment records in order to estimate your costs for food, clothing, medical care, insurance, entertainment, and other expenses. Review your credit reports for negative information (e.g., late payments; too much debt).

- **The projected "bottom line" dollar amount for participation in the park purchase.**

  Compare your estimated housing cost after conversion to the portion of your monthly income available for housing. The commonly used affordability standard is 25 to 30 percent of monthly income for housing-related expenses. However, this may not be applicable to many retirees living in mobilehome parks. For example, residents who rely solely on Social Security are frequently paying as much as 40 to 50 percent of their income for housing.

**What happens if I feel I am financially unable to participate?**

It is common in park conversions to include rental or lease arrangements for residents who cannot afford to participate in the purchase. These arrangements may be open-ended or for a specified term and space rental may be expected to increase over the term of the agreement. Typically, there can be no sale of the mobilehome in place during the term of the rental or lease arrangement and at termination the resident must become an owner or remove the mobilehome from the park.

If a rental or lease arrangement is not available and "involuntary displacement" is expected due to a conversion, various government agencies may require that an impact report be filed. However, the law does not presently require relocation benefits or relief measures for a displaced resident, except in some cases where public funds have been utilized in the conversion.

**What other choices do I have?**

If, after reviewing all the terms and conditions of the purchase/conversion, you are not interested in participating (and a rental or lease arrangement is not available), relocation to another park or to a lot will be necessary. This may be profitable because a mobilehome in a park which is to be converted frequently commands a higher price. Therefore, you should not be in a hurry to leave, as delaying your move as long as possible may give you more leverage in the sale of your mobilehome.

**What if the park owner is not interested in selling?**

If the owner is not interested in selling, the residents' organization may attempt to stabilize space rents by negotiating a lease for the entire mobilehome park. A lease may transfer management and control to the residents' organization without disturbing prior leasing or financing agreements entered into by the owner.

A subdivision will be created and the residents' organization will need a public report from the Department of Rea Estate if:

- the resident organization intends to lease to residents five or more parcels or spaces;
- the term of the leases is more than five years; and
- the lease arrangement is a mandatory condition of tenancy within the park. Mandatory leasing arrangements should be discussed with the local planning agency prior to implementation for purposes of determining requirements under the Subdivision Map Act.

A residents' organization considering a park lease should seek legal advice if there is any uncertainty as to compliance with related laws.

**What have we learned from successful park conversions?**

A park conversion is a difficult process, requiring long-term group cooperation and aggressive resolution of problems. Problems to be solved may include:

- an unanticipated and lengthy educational campaign necessary to explain the conversion and its financing to everyone's satisfaction;
- discussions and debates by dissenting groups of residents, taking necessary attention away from the group of residents interested in purchasing;
- some residents claiming support of the purchase in the beginning, but balking and refusing to participate in the end;
- disagreement by park residents over the form of ownership to which the park should be converted;
- inability of residents to agree on the selection and hiring of consultants necessary to complete the conversion process; and
- difficulty some residents may have in qualifying for loans to purchase their interests in the park.

Residents must be made aware of the magnitude and difficulty of the task their representatives must undertake in attempting to organize the park for purchase and management. Residents must recognize the energy required of these persons, the stresses and physical demands placed on them, and the possibility that replacements may be necessary.

Formal involvement of as many residents as possible should lead to a positive community atmosphere in which park residents look out for one another and assist in explaining different aspects of the conversion to fellow residents. This "grassroots" support will help the residents and representatives keep the long-term goal, ownership, always in sight.

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# PART III

## THE CONVERSION AND MANAGEMENT OF A PARK

*Converting a rental park to resident ownership is a logical process.*
*At some stages of the process, professional assistance may be necessary.*

**The conversion process can generally be divided into three phases:**

- In the first phase, the park purchase committee is organized. The committee tests the level of resident interest and financial capability and considers the organizational structure most appropriate for ownership and management of the park.
- The second phase is the actual purchase. After appraisal, an offer is made and accepted (perhaps after one or more counteroffers), and financing is arranged.
- The final phase is conveyance of the park and commencement of resident operation and management.

**What is a park purchase committee and how is it formed?**

This committee of park residents is elected by residents or appointed by the residents' organization (if already formed) to study the possibility of a park purchase. While perhaps satisfying a need for representation, election may result in exclusion of many highly capable individuals who would have been chosen in an appointment process.

There are advantages and disadvantages to large and small committees. A professional hired to assist residents with the conversion process may prefer working with a small committee which makes decisions quickly. But a small committee may promote elitism and inhibit effective feedback of information to park residents. A large committee may mean a higher level of representation but its members may debate continuously over details, losing sight of the larger goals and objectives.

A committee of five to seven members should be sufficient.

**What is the role of the park purchase committee?**

At first, the committee acts as a clearinghouse for information on the proposed purchase and its effects on the individual residents and the park as a whole. The committee educates residents as to the feasibility of a purchase and the actual steps involved in converting the park. It also solicits residents' opinions and evaluates residents' enthusiasm for the park purchase.

Throughout the conversion process, the committee is responsible for consulting with various professionals (lawyers, local officials, bankers, appraisers, surveyors, engineers, and title officers) who are involved in different aspects of the conversion process. In some cases, the committee's role is expanded to that of supervising the agent of the residents in negotiations to purchase the park.

The park purchase committee can also serve as the governing and managing body after conversion. Committee work is good training for park management, because it familiarizes members with the park's operational needs.

***Effective Use of Resident Talent***

Certain members of the park purchase committee may be called upon to perform special tasks. It is very important that the committee match the special talents and personalities of committee members with the types of jobs to be performed. For example, a committee member supervising the park purchase negotiations should be knowledgeable and skilled in real estate. Likewise, members selected to meet with governmental agencies should be familiar with pertinent laws.

**Should specialized assistance be used?**

As park purchases by residents become more commonplace in California, professionals, including real estate brokers, are establishing themselves as specialists in park conversions.

Some of the skills offered include:

- negotiating, and preparing legal documents related to the sale, financing and transfer of ownership of the property;
- performing financial analyses and assisting with the completion of loan applications;
- complying with local government land use and planning requirements;
- conducting socioeconomic surveys of park residents;
- forming subdivisions, corporations or partnerships;
- creating the governing documents by which the owners' association will operate and manage the park; and
- surveying and engineering.

Before hiring any specialist, the resident organization should make the appropriate inquiries and background checks.

### *Entering Into a Contract For Services*

There are two general types of contracts a resident organization might enter into with a conversion specialist:

- A **phased contract** is like a series of single contracts for the various activities necessary to complete the conversion. The specialist is paid at the completion of each phase of the contract. A phased contract usually allows either party to terminate the agreement upon completion of any phase.

- A **through-to-completion contract** calls for a variety of services to be performed by the contractor. This "total package" contract is completed, and the contractor paid, when all the services contracted for have been performed. This type of contract may have complex and costly provisions for amendment or termination prior to completion, making it difficult to change contractors or add additional services to the contract.

### *Resident Experts*

Park residents with backgrounds in business, finance, management, real estate and the law can often be called upon to provide skills necessary to the conversion. Using residents' skills can be both economical and a way of gaining resident support for the project. Potential leaders, officers and possibly future park managers can also be identified through use of resident expertise.

The potential drawback to relying heavily on volunteer services by resident experts is the lack of control over the quality and performance of the service. The park purchase committee must set standards of performance and be ready to terminate a volunteer for inadequacy just as readily as they would a paid contractor. This can be difficult because of the social environment of the park. A possible solution to the problem of using resident experts is for the park purchase committee to enter into a paid contract with the resident expert. (A resident, whether volunteer or paid contractor, who performs professional services for the park should be aware that he/she may assume considerable personal liability for his/her actions. Before entering into any arrangement with the park purchase committee, the resident should discuss the matter with his/her attorney and insurance agent.)

## Is resident ownership feasible?

Once the park purchase committee has determined that there is sufficient interest, the next step is collecting financial information on the residents' ability to participate and the need for any special financial arrangements.

### *Assessing Financial Feasibility*

The park purchase committee must gather financial data and compile a financial feasibility study which includes:

- *improvements which must be made to the park and an estimate of cost for the work;*
- *maintenance costs for operating the park;*
- *financing available for the park purchase;*
- *approximate down payment necessary and whether or not it is affordable;*

- approximate monthly payment necessary and whether or not it is affordable; and
- kinds of financial assistance needed for residents who could not otherwise participate in the purchase.

An important part of the financial feasibility study is the development of a tentative operating budget for the park. The tentative budget should be provided to residents as part of the feasibility survey and should include th following:

- amount of mortgage payments on the park (if applicable);
- required park repairs and improvements;
- park operating and management costs;
- reserve account required for future replacement of major park components; and
- inflationary factors for the various cost categories (to estimate future costs).

The Department of Real Estate's Operating Cost Manual for Homeowner Associations is a helpful tool for preparation of a homeowners' association budget.

The purchase agreement should require that the owner provide the park purchase committee with operating budgets (income/expense statements) and rent rolls for the preceding three years.

The feasibility study should also provide information on the cash flow the association can expect from the homeowners' association membership dues. This estimated cash flow must cover all the maintenance and operating expenses and any required park improvements or repairs. If revenue will not be sufficient, the conversion is not feasible.

Based on the operating budget and the estimated cash flow, the park purchase committee should also be able to determine the amount and type of financing required to purchase the park, and the amount of down payment or price of a share required of each resident.

The park purchase committee must carefully analyze all of the information obtained in the feasibility study. Usually, if the data indicates that there are problems which cast serious doubt on the success of the park purchase, the committee must abandon efforts to purchase the park. Whether or not the purchase effort proceeds, the committee must communicate the contents of the feasibility study to the residents.

***Appraisal of the Park***

It is important to recognize that an appraisal is an opinion or estimate of value based on an analysis of relevant information about a property. The park purchase committee and the park owner may each obtain appraisals, and those appraisals may vary as to a value conclusion. While an appraisal will not necessarily give the residents bargaining power, it will serve as a starting point for negotiating a fair price and as a basis for making various other decisions concerning the purchase. Indeed, the park purchase committee may deem it prudent to insist on a contract provision specifying that the purchase is contingent on the (residents') appraised value equaling or exceeding the purchase price.

**What sources of financing are available?**

Before drafting an offer to purchase, the committee should identify sources of loans for the different types of financing needed:

- short term - to pay costs associated with the conversion and, if necessary, the down payment on the purchase;
- long term - to finance the purchase of the park; and
- for individual residents to purchase shares in the resident corporation or individual spaces in the park.

***Conventional Lending Institutions***

There appears to be a growing awareness on the part of conventional lenders (insurance companies, mortgage bankers, savings and loans, etc.) of the financial needs of residents desiring ownership of their parks, so that park financing guidelines are being developed.

Residents who choose to subdivide their park should find a conventional lender who is willing to treat their mobilehome park subdivision as they would a conventional residential subdivision. On the other hand, residents choosing to take title to the park in the name of a corporation may find that there are more financing opportunities open to them. The fact that title to the park is held by one corporation as opposed to many individuals can make the loan more secure from the lender's perspective.

***Seller Financing***

Seller financing is frequently used because of the large amount of money required and difficulty in obtaining conventional financing. Seller financing may include a lower interest rate and more favorable terms and conditions.

Clues as to the seller's financial position should be gained during the early stages of negotiations and seller financing should be pursued if there are indications that this would be agreeable.

***Some Possible Loan Terms and Conditions***

If the park purchase committee is considering financing for the park purchase, it must review and understand all the terms and conditions in order to explain the financing to the residents. Here are four provisions with which the committee should be familiar.

- A **balloon payment**. When installment payments do not pay off a loan, a significantly larger payment than the regular installment payment is required. This is usually a final payment for payoff.
- An **acceleration clause** gives the lender the right to demand full payment of a loan upon delinquency in loan payments, sale of the property, failure to maintain the property, or borrower's violation of some other term of the loan.
- A **subordination clause** provides that present or future liens take precedence over an earlier lien recorded against the property.
- A **blanket encumbrance** is a lien covering more than one parcel of real property. If the loan does not contain provisions so that individual parcels can be released upon purchase, it may be extremely difficult to convert the park to a subdivision.

***Public Financing***

Public financing may be available for the purchase of a mobilehome park and for loans to individual residents.

Many residents in mobilehome parks under conversion are in need of financial assistance to make down payments, finance the purchase of a space, or pay their share of conversion costs. Certain of these residents may qualify for government sponsored subsidies. The California Department of Housing and Community Development (HCD) provides technical and financial assistance for these mobilehome park residents. HCD coordinates financial subsidy programs for residents who have varying financial needs. HCD also makes referrals to other public agencies serving the needs of mobilehome park residents.

Two financing programs in which HCD is involved are the Mobilehome Park Resident Ownership Program (MPROP) and the Home Investment Partnerships Program (HOME).

The MPROP provides financial and technical assistance for a park conversion if there is at least one low-income (i.e., at or below 80% of the county median income) household involved and the converted project will meet the ninimum standards of the Mobilehome Parks Act. At least 2/3 of the residents must participate in the park ourchase and the resident organization, representing at least 2/3 of the households in the park, must, for the conversion and blanket loans described below, apply as co-applicant with a local public entity (city, county, housing authority, redevelopment agency, or community development commission). There are three types of MPROP loans:

- A **conversion loan** to the resident organization as interim financing covers costs such as acquisition of the park; loan origination fees and other financing costs; legal and professional fees; and rehabilitation expenses. Payments are interest-only, with repayment required upon completion of the conversion.

- A **blanket loan** to the resident organization is long-term (usually 30-year) financing for conversion costs (rent subsidies for residents whose income is at or below 80% of the county median; internal loans; etc.) attributable to low-income spaces.

- A **30-year individual loan** will enable a low-income (i.e., at or below 80% of the county median income and unable to qualify for a conventional or other private sector mortgage) resident to purchase a lot or other individual interest in the park. Alternative repayment schedules can include interest-only payments c deferral of all principal and interest payments for the full term of the loan. The loan is also due upon sale, transfer, or non-occupancy of the lot by the owner/borrower.

Through the HOME program, HCD acts as a conduit for federal funds used by cities and counties to provide direct oans or grants to persons/families or blanket loans or grants to mobilehome park resident organizations. HOME unds must be used to help make affordable the housing costs of low-income persons/families.

nformation on current mobilehome park programs may be obtained by contacting:

Department of Housing and Community Development
P.O. Box 952054, MS - 390 - 5
Sacramento, CA 94252-2054

The park purchase committee should also contact the local housing authority and redevelopment agency.

**How to make an offer to purchase**

After determining that the park purchase is feasible and of interest to the residents, the park purchase committee must put together an offer to purchase. A real estate broker or attorney will usually be engaged under contract to represent the park residents in the purchase negotiations. It is important that the representative be given specifi written instructions in order to conduct the negotiations in the manner desired by the residents.

***Dealing with the Owner***

After years of tenancy, residents' perceptions of the "landlord" may pose problems in dealing with the owner. Some other factors that may hinder attempts to approach an owner with an offer include:

- Residents see the park as their home; the owner sees it as an investment.
- An owner of a profitable park may have no interest in selling.
- The owner is firm in his price and will not bargain.
- Residents, out of touch with real estate values, may find it hard to equate the value of their space with the price they received for their home 15 or 20 years ago.

Throughout negotiations, the park purchase committee and/or its representative must be prepared to react *positively and make* the best of what sometimes appears to be an unfavorable situation. For example, if the owner refuses to bargain on price, the committee may be able to obtain more favorable terms.

***Enhancing Negotiations***

'he negotiating agent may find the following tactics useful:

- Presenting a well prepared and reasonable offer to the seller in order to assess the seller's priorities.
- Offering terms of sale to the seller which assure ease and speed of transfer of the property.
- Determining whether the owner will carry the financing, eliminating the need to approach other sources of capital.
- Attempting to negotiate a discounted purchase price with the seller in exchange for immediate participation by the residents. (However, although the possibility of a discount may stimulate resident interest in participation, the "immediate participation" aspect may put extreme pressure on residents struggling with the uncertainties of their personal finances.)

**Vhat are the principal factors impacting the length of time it takes to complete a conversion?**

'he fastest way for park residents to gain ownership is purchase by a nonprofit corporation of which the residents re members or shareholders. Remember, this method of ownership does not necessarily include the formation o subdivision. Subdividing, obtaining a public report, and conveying separate interests is a process independent f incorporation and can be undertaken after the corporation purchases the park.

f creation of a subdivision prior to transfer of title is a condition of the park purchase contract, the conversion rocess will usually take considerably longer. The condition and size of the park, as well as the percentage of esidents required to participate are major factors in determining the time required to complete the subdivision rocess. The competency of consultants and professionals doing the conversion and local government agencies' amiliarity with mobilehome park conversions also have a direct bearing on the time needed to complete the onversion process.

**low do we manage the park after conversion?**

:esident owners must decide if they will employ professional management, manage the park themselves, or ome combination of the two.

- **Professional Management**

  Professional management companies generally provide a full range of services, from collection of homeowners' fees to disbursal of the funds to operate and maintain common areas in the park. Professional management is usually an expensive option. A management contract must provide for a level of management suitable to residents' needs and ability to pay.

  Many lenders will require, prior to funding, approval authority over the management agent and contract. This is intended to ensure accountability and successful operation.

  The management company is an employee of the residents' organization and should submit operating budgets to the residents' organization and, if required, to the lender. The final decision regarding major expenditures must rest with the residents' organization.

- **Resident Management**

  Management by the residents can be an economically attractive option. It encourages residents to get involved and gives them an outlet to express interest and pride in the park. However, disputes can arise about the amount of work required from each resident and services can suffer from a lack of professional expertise.

- **Combination**

  A good compromise between professional and resident management is a professional onsite manager responsible to the homeowners' association for overall park operation, assisted by residents or park employees hired to perform certain jobs at the park.

**Do I have long-term security in my purchase?**

If the park is converted to a common interest development and the purchaser continues to pay the mortgage payment, park assessments, and taxes on the individual interest, he/she is assured of remaining in the park.

If ownership of the park is through a corporation, the security of a purchaser's investment is greatly influenced by the financial performance of the corporation and its members. If the corporation is not able to make its payments on the purchase money loan, foreclosure of the entire mobilehome park is possible. To prevent foreclosure, a reserve fund may be established by the homeowners' association. All shareholders pay into this reserve account, in part to cover any nonpayment of dues by corporation members or shareholders.

Before entering into any contract to purchase, residents should be knowledgeable of exactly what they are purchasing and the possible risks involved. In parks where a subdivision is formed, purchasers must receive a copy of the public report before committing themselves to a purchase. As discussed earlier, a public report discloses consumer information and alerts prospective purchasers to significant aspects and possible risks involved in the purchase. In parks where a subdivision is not formed, prospective purchasers must gather sufficient information to make an informed decision, perhaps with the help of the park purchase committee.

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# PART IV

## IF WE DECIDE TO SUBDIVIDE, WHAT ARE OUR OPTIONS?

If residents decide that they wish to convert their park to a subdivision, a choice must be made as to what type of subdivision is most suitable to their needs. There are three main types of common interest developments to which a park might be converted:

- **Condominium**

  A condominium consists of a separate interest in space; and an undivided interest in common in real property (the common area).

  The separate interest or the common area may be filled with air, earth, or water, or any combination thereof, and need not be physically attached to the land except by easements for access and support. A condominium is especially adaptable to mobilehome park subdivisions because the separate interest may consist of a cubicle of air space without reference to a structure.

  Typically, an owner's interest in a condominium is evidenced by a deed conveying both the separate air space and an undivided interest in the common area. The boundaries of the air space and common area are described on the recorded final map or condominium plan for the project. The owner may obtain title insurance on the interest.

  As is the case in all common interest developments, an elected governing board manages the common area on behalf of all the owners. The declaration of restrictions requires that each owner be a member of the homeowners' association and that the association has the power to assess owners for their share of the operational costs of the common area. Generally, assessments are secured by the power to place a lien against an owner's interest.

  Before agreeing to finance a condominium project or make individual loans secured by condominium interests, institutional lenders usually require assurances that the lien securing assessments of the owners' association will be subordinated (junior) to the lender's deed of trust or mortgage. However, the lender must agree to be bound by the declaration of restrictions for the project.

- **Planned Development**

A planned development consists of parcels of land owned separately by residents; other parcels (common area) held in common by all residents or, more typically, deeded to an association of homeowners; and an association of owners with the power to assess residents for maintenance and repair of the common areas. The assessment may become a lien on the separately owned parcel of a nonpaying owner. The lien may be foreclosed upon and the property sold by the homeowners' association in a manner prescribed by law.

- **Stock Cooperative**

In a stock cooperative, a corporation is formed to hold title to real property in fee simple or for a term of years. Each shareholder of the corporation receives an exclusive right to occupy a portion of the real property and a share of stock or a certificate of membership. The right of occupancy is transferable only with concurrent transfer of the membership or share of stock.

As a general rule, the Department of Real Estate will not issue a public report on a stock cooperative if a blanket loan covering the entire park is proposed, unless the lender agrees to subordinate the loan to the governing instruments of the project. The lender must also agree not to foreclose against nondelinquent members or shareholders of the stock cooperative even if the corporation holding title to the park is unable to make its payment to the lender.

Problems may be encountered in financing the purchase of a share in a stock cooperative because the loan may not qualify as a real property loan and different lending criteria may apply. Publicly assisted financing programs have helped to reduce this financing difficulty. In the case of a housing assistance contract, special provisions can be made for a stock cooperative, subject to a regulatory agreement with the Secretary of Housing and Urban Development.

A Limited Equity Housing Cooperative (LEHC) is a nonprofit public benefit corporation, a form of stock cooperative, with a specific set of requirements. The articles of incorporation and bylaws governing an LEHC require the purchase and sale of a membership interest at no more than a specified "transfer value." This value is equal to the initial price of the membership plus an increase in value determined by the board of directors of the corporation, not to exceed ten percent per year. The intent in creating an LEHC is to maintain affordable housing by reducing speculative pressures on value and minimizing the cost of conversion. Certain exemptions from the public report requirement are available for this type of subdivision, provided a regulatory agreement is entered into with a specified federal or state agency.

***Note:*** *Do not confuse a stock cooperative subdivision with ownership of the park by a nonprofit corporation formed for the purpose of holding title, as previously discussed.*

**Department of Real Estate Subdivision Offices**

The Department of Real Estate maintains subdivision offices in Los Angeles and Sacramento. The offices process applications for public reports for projects in certain counties as indicated below.

***Los Angeles***
Subdivisions Office South
320 West 4th Street, Suite 350
Los Angeles, CA 90013-1105
(213) 576-6983

*Counties Served:*
Imperial, Los Angeles, Orange,
Riverside, San Bernardino,
San Diego, Santa Barbara,
and Ventura

***Sacramento***

Subdivisions Office North
2201 Broadway
P. O. Box 187005
Sacramento, CA 95818-7005
(916) 227-0813

*Counties Served:*
All Other Counties

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California Home BTH Home HCD Home

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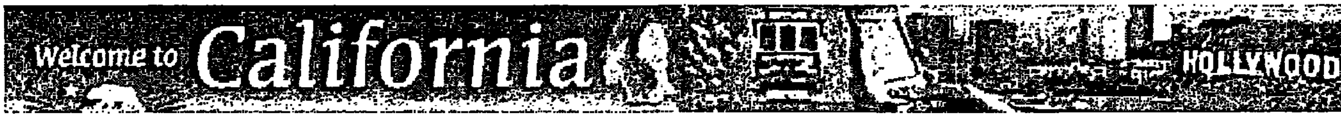


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## Housing & Community Development

Community Affairs

# Mobilehome Park Resident Ownership Program (MPROP)

Pl

Links to program publications are shown following the program description.

**Purpose**

Finance the preservation of affordable mobilehome parks by conversion to ownership or control by resident organizatio housing sponsors, or local public agencies.

**Assistance Type**

Loans

**Terms**

*Short-term conversion loans* at three percent simple annual interest for up to 3 years to enable a resident organization, or local public agency to purchase a mobilehome park.

*Long-term blanket loans* at three percent simple annual interest for up to 30 years for long- term financing of a park purc resident organization, nonprofit or local public agency that has purchased a park to help low -income residents finance t shares or spaces in the park. Payments of conversion and blanket loans can be deferred or adjusted if necessary to ma feasible.

*Long-term individual loans* at three percent simple annual interest, to low -income residents of a mobilehome park that h to ensure housing affordability when the resident buys a cooperative interest, a share, a planned unit development spac condominium space in the park.

**Eligible Activities**

Purchase (conversion) of a mobilehome park by a resident organization, nonprofit entity or local public agency; rehabilit of a purchased park; purchase by a low income resident of a share or space in a converted park.

**Eligible Applicants**

Mobilehome park resident organizations, nonprofit entities, and local public agencies. Low income residents of converte individual loans to the entity that has purchased the park.

**Application Process**

Applications are invited through issuance of Requests for Proposals (RFPs). Projects are evaluated, ranked and funded criteria in the RFPs.

**Contact**

(916) 445-0110

**Program Publications**

- **FY 2002-03 Survey Letter**—*Adobe PDF* or *Microsoft Word*

**Application and Commitment Timelines (June 28, 2001)**. Revision to MPROP Request For Proposal (RFP) is made Applications are due August 24, 2001 at 5:00 p.m. This date is noted in the NOTICE TO POTENTIAL APPLICANTS, R

PROPOSALS (RFP). An error was discovered on page 3 of RFP hard copy version and page 4 of the electronic version web page) indicating applications were due August 14, 2001. Please note the following changes to page 3 of the RFP:

- **Application Deadline:** 8/24/2001
- **Loan & Grant Committee** (anticipated): 10/31/2001
- **Funding Decision** (anticipated): 11/9/2001

- **2001 Request For Proposal (RFP)**— *Adobe PDF* or *Microsoft Word*
- **2001 Application**— *Adobe PDF* or *Microsoft Word*
- **Exhibit J,** Lower Income Limits
- **Exhibit K, Statutes** —*Adobe PDF* or *Microsoft Word*
- **Exhibit L - Regulations**—*Adobe PDF* or *Microsoft Word*

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# Leisureville Community Association, Inc.

*A Cooperative Community for Older Persons (age 55 plus)*

*1313 E. Gibson Road, Woodland, CA 95776*

# Overview of Resident Ownership

Mobile home buyers in Woodland have an opportunity to participate in one of the few resident owned parks in Northern California. In early 1995, the park residents will buy the Leisureville Mobile Home Park and operate it on a nonprofit basis. This arrangement protects the investment in your home. It also ensures that the park will remain affordable as you age. While resident owned parks have been popular in Southern California since the early 1980s, there are only four others in the Sacramento Valley.

Leisureville Community Association, Inc. was formed by the residents of the Leisureville Mobile Home Park to purchase and operate the park on a cooperative basis. The residents' efforts to buy the park grew out negotiations with the park owner to reduce an 11% rent increase that was proposed in early 1993. Rather than be at the park owner's mercy and face additional rent increases in the future, the residents decided they would try to buy the park and operate it themselves.

In October 1993, the residents retained Gerald L. Rioux of HCD Services and David Thompson of Thompson Consulting to assist them with the park purchase process. After some analysis, the residents decided to purchase the park as a Limited Equity Housing Cooperative or LEHC. The LEHC is one of a number of different forms of corporate or cooperative ownership available for the park. The main reasons it was selected over the others and over a more traditional subdivision included:

- most of the park's residents were low income,
- few residents wished to take on personal debt to buy the park,
- residents were more concerned with minimizing future rent increases than receiving a high return on their investment to buy the park, and
- subsidized financing was available from the City of Woodland and State of California.

Rioux negotiated a real estate purchase agreement from the park owner as the residents' real estate broker. The owner agreed to a $5.05 million purchase price and a nine-month escrow. Rioux and Thompson then prepared applications for subsidized financing for the project.

**Leisureville is an LEHC**

In LEHCs, like other forms of cooperative mobile home park ownership, individuals own memberships, shares or stock in the corporation that owns the park. The members own and control the park through their ownership of the corporation.

All homes in Leisureville must be owner occupied. All future home buyers must become co-op members. Residency in the park is limited to older persons subject to state and federal fair housing laws. At least one person in each households must be at least 55 years of age or older.

Membership shares in Leisureville are priced at $5,000 for the initial six months of the co-op's operation. Under the co-op's bylaws, the share values increase at the

**Yolo County Income Limits**

| | |
|---|---|
| 1 person | $24,150 |
| 2 persons | 27,600 |
| 3 persons | 31,150 |



Originally published in February 1995

rate of 3% simple interest per year. While most residents will pay cash for their memberships, those with incomes below the Yolo County Income Limits can receive some financing from the co-op.

The funds for this financing comes from the City of Woodland. The share loans will carry simple interest at the rate of 3% per year. In addition, the loan payments will be fully deferred. Principal and interest will be due when the members sell their homes and leave the park. To the extent that funds are available, low income households that buy homes in Leisureville may also receive share loans.

LEHCs are one of many forms of real estate subdivision and the co-op memberships are considered interests in real estate. Just like condominiums and planned developments, they are a type of Common Interest Development.

The primary laws that describe and set the requirements for LEHCs are Business and Professions Code Section 11003.4 and Health and Safety Code Section 33007.5. LEHCs are also included in and their operations are governed by the Davis-Stirling Common Interest Development Law (Civil Code Section 1350, et. seq.). In addition, portions of the Mobilehome Residency Law (Civil Code Section 798) apply in LEHC parks.

While LEHCs are real estate subdivisions, they are exempt from the local subdivision process (i.e., the Subdivision Map Act). Due to the way Leisureville is financed and organized, it is also exempt from the Subdivided Lands Law. Instead of a DRE Public Report (the so-called White Report), the LEHC must provide a Membership Information Report to prospective buyers.

**Financing for Leisureville**

Like most LEHCs, Leisureville will be financed with blanket loans. There will actually be three loans against the park. The first is an adjustable rate loan from Home Savings of America with a balance of about $2.95 million that will be assumed from the current park owner. The interest rate on this loan was less than 6.5% earlier this year. Since it is tied to the 11th District Cost of Funds Index, it is a relatively stable index.

The second will be $500,000 borrowed from either a nonprofit loan fund or the current park owner. The residents have a commitment from Mercy Housing, and the park owner has agreed to meet or beat their terms. The third loan is a combination of two subsidies administered by the City of Woodland–the $275,000 mentioned above and approximately $950,000 from the state's HOME Investment Partnership Program. An overview of the park's cost and financing is included below.

| **Purchase and Conversion Budget** | |
|---|---|
| Park Purchase Price | $5,050,000 |
| Reserve Funds | 150,000 |
| Purchase and Conversion Costs | 200,000 |
| Total | $5,400,000 |
| **Lender/Funding Source** | |
| Home Savings of America | $2,950,000 |
| Mercy Housing or Park Owners | 500,000 |
| City of Woodland (HOME) | 950,000 |
| City of Woodland (CDBG) | 275,000 |
| Co-op Members | 725,000 |
| Total | $5,400,000 |

The co-op's initial monthly charges will be the same as the rent currently charged by park's owner. The monthly charge will increase by the cost of living index in May of 1995 and 1996. Non-members will pay the same monthly charge. During the year, members will receive a credit for the value of their Home Owners Property Tax Exemption. They will also benefit from any savings in the co-op's operating budget. Since the budget includes a vacancy allowance and some positive cash flow, members should receive a credit each year.

For additional information on the resident purchase of the Leisureville Mobile Home Park, contact Jerry or Chris Rioux of HCD Services at (760) 510-1500 or (916) 272-6751. HCD Services and Jerry Rioux are licensed real estate brokers. [Note: HCD Services is no longer marketing memberships in Leisureville.]

### Contacts and Resources

*See Appendix D for phone numbers and addresses, where relevant.*

HCD, *Incentives for Family Mobilehome Parks*, State of California, Sacramento, 1986.

HCD, *Local Government Mobilehome and Mobilehome Park Policies in California*, 1986.

HCD, *Ordinances and Laws Regulating Change of Use of Mobilehome Parks*, 1987.

*See Also...*

- Conversion Controls (*Page 3-70*)

### Success Stories

- **Resident Purchase of Mobile Home Park Secures Affordable Housing for Low-Income Seniors.** Alta-Mac is a 33-space mobile home park with homes in fairly good condition with a small unused home and a laundry room as amenities. Most of the residents are low and very-low income seniors who were spending over 30 percent of their incomes on housing when the owner asked if they would like to buy the park. They organized themselves and with the help of unsecured funds from the City of Santa Rosa made deposits to hold the purchase deal and used a city loan to cover predevelopment financing. The residents also hired an experienced consultant to help with the deal. They formed a non-profit corporation where each member pays a one-time, non-transferable, non-refundable fee. Each member also receives one vote, occupies one space in the park and pays a monthly rent to the corporation.

  The $885,565 necessary for conversion to resident ownership was raised from Redevelopment Agency set-aside funds, provided as a deferred loan from the **Santa Rosa Housing Authority**, a loan from the National Cooperative Bank, funds from the State Mobile Home Park Resident Ownership Program (MPROP), an Affordable Housing Program Grant from the City, and resident owner equity. The Housing Authority was the co-applicant on the loan from MPROP, which required city staff to monitor and ensure the success of the development—an important contributor to the success of this initiative. The savings from low-interest government financing enabled the resident owners corporation to offer some financial assistance to members. The very successful park conversion to resident ownership took about three years to complete.

- **Affordable Mobile Home Park Provides Sanctuary for Residents.** Osocales Community in Soquel is an affordable mobile home park with a new lease on life. Renovated by **Mercy Housing Santa Cruz** with funding from the Santa Cruz Redevelopment Agency, twenty-eight new and rehabilitated homes for low and very-low income residents are surrounded by existing trees and ample new planting along a quiet driveway. **Pyatok Associates** worked with residents, staff, and Wamsher Construction to design a compact yet friendly site plan. Five-foot minimum setbacks from the driveway and minimal use of asphalt give the park a softer and more permanent feel. While the site improvements took a number of years to complete, the end result was affordable homes in a quality development for low and very-low income residents.

RESIDENT OWNED PARKS, INC.

A Non-Profit Housing Corporation
Vol. One No. One
January 2002

# ROP Can Help Homeowners & Cities To Preserve Affordable Housing

Golden State Manufactured-Home Owners League, Inc., (GSMOL) the nation's oldest consumer organization advocating and protecting the rights of mobilehome owners, has endorsed and recommended Resident Owned Parks, Inc., (**ROP**) a California Non-Profit Housing Corporation. The purpose of **ROP** is to assist residents to acquire ownership and control of the parks to which they currently pay monthly space rent.

Mobilehome owners have made a significant financial investment in their homes, an investment which is increasingly jeopardized as mobilehome park rents escalate. Many homeowners, primarily seniors on fixed incomes, are being priced out of their homes by monthly space rents which are exceeding their ability to pay. Even the option of selling their home is often jeopardized by the common park practice of levying substantial rent increases to the buyer of homes when they commence their tenancy in the park. Buyers are reluctant to pay the fair market price for the home, if the space rent is substantially increased above current rents in the park.

Many homeowners, caught in this financial dilemma have turned to their cities and counties, asking local government to adopt mobilehome rent control ordinances to reasonably regulate the runaway park rents. Approximately 100 local communities in California have adopted mobilehome rent control ordinances, in an effort to provide some financial relief to park residents and to preserve the dwindling supply of affordable housing in their communities.

Some mobilehome owners and cities have pursued the resident acquisition of rental mobilehome parks, as an attractive alternative to rent control, and as a more permanent solution to the affordable housing dilemma.

Since the mid-1980's, approximately 125 mobilehome parks in California have been purchased by the homeowners living in those parks. With approximately 5,200 rental mobilehome parks remaining in the state, the opportunity exists for many more homeowners to gain control of their rental parks, *if they are properly represented and guided through the many legal and financial requirements of such a complex transaction.*

## Why Don't Homeowners Just Buy the Park Directly, Instead of Using a Non-Profit Housing Corporation?

Over the last 15 years, land values in California have skyrocketed. Although many of the first resident purchase of mobilehome parks were accomplished by a direct purchase of the mobilehome park property by the residents, and subdividing the park so that each homeowner received a deed to his space, this form of acquisition has become financially impossible for most homeowners.

For example, if a 100 space park sells for $5 Million, that means that each homeowner's contribution would be a minimum of $50,000, plus their portion of closing costs, fees, commissions, title insurance, etc. Because most homeowners do not have $50,000 extra to use for their portion of the park purchase, they would need to obtain a loan, and make at least a 10% down payment of $5,000, plus monthly payments on the remaining $45,000. Even if they could obtain such financing, each homeowners would, *in addition,* have to pay their portion of monthly park operating costs because now they are the owners of the park. Such costs would include property taxes, insurance, utilities for common areas, maintenance of common areas, and management of the park. Additionally, the process of subdividing the park requires subdivision application to the Department of Real Estate (**DRE**), a costly process that can take as long as 18 months or more. Frankly, even a park owner who is willing to sell the park to the residents, will not want the transaction to be delayed for 18 or more months while the residents seek subdivision approval from the DRE.

An attractive and viable alternative to the subdivision purchase of parks, is for the residents to designate a non-profit housing corporation to purchase the park on their behalf. By designating **Resident Owned Parks, Inc.**, as their representative in the park acquisition, residents of the park authorize **ROP** to negotiate the purchase price of the park with the park owner, and to enlist the help or assistance of the local government in the process.

If the park owner is willing to sell, and the selling price demanded by the park owner is supported by a certified appraisal of the park, **ROP** as a non-profit housing corporation is eligible to obtain tax-exempt financing and bonds, which are less expensive than the conventional loans which homeowners would obtain if attempting to purchase the park directly. This access to lower-priced purchase money enables **ROP** to gain ownership and control of the park on the most favorable terms possible, so that rents charged to residents can remain affordable.

## How Do Homeowners Benefit if They Use ROP For Park Purchase?

By replacing their current "For Profit" park owner with Non-Profit **ROP,** homeowners will receive the following benefits: **(1)** the monthly space rents they pay to **ROP** will be applied to the homeowners' purchase of the park. After the 25-30 year park purchase bonds are paid off, **ROP** will relinquish ownership by transferring ownership of the park to the homeowners association; **(2)** homeowners are *not* required to come up with large down payments, or to pay personal purchase loans in order to purchase the park; **(3)** By written contract with the homeowners association prior to close of escrow, homeowners will know in advance, what space rents they will be paying to **ROP,** and how any rental increases will be calculated; **(4)** After the payment of the purchase bond each month, and the cost of park operation and maintenance, no longer will excess profits leave the park to benefit a "For Profit" park owner, but will be deposited in the Reserve and Maintenance Accounts to be applied to the proper maintenance of park common areas, and where necessary to replace park infrastructure that may have been neglected by the previous park owner; **(5)** homeowners will be able to designate homeowner representatives on park management committee to have direct input into determining how the park maintenance accounts will be spent, and to prioritize the maintenance projects to be performed in the park; and (6) Annual financial accountings will be provided to the homeowners association so that all homeowners will be informed as to how rental income paid by homeowners has been spent.

## How Is ROP Compensated For Its Services Rendered in the Park Acquisition?

Homeowners are not required to pay out of their pocket for the professional services rendered by **ROP. ROP** receives a fee from the close of escrow equal to 3.5% of the purchase price, which fee is factored into the purchase bonds obtained for the park purchase. After the close of escrow, as legal owner of the park, **ROP** receives a monthly fee from each space rent as compensation for its collection of monthly rents, servicing of the monthly purchase bond payment and park property taxes, deposits to and payments from the Reserve and Maintenance Accounts, and for the detailed accounting provided to the homeowners association.

## Advocate for Mobilehome Owners For Over 20 Years, Serves as President of ROP

Serving as President of **ROP** is Maurice A. Priest, who is uniquely qualified to assist homeowners to preserve affordable housing and to protect their investment in their homes. Mr. Priest is a licensed California attorney, who has served as Legislative Advocate for GSMOL for over 21 years. During his tenure, over 120 new laws have been passed to protect mobilehome owners, including new laws to help the resident-purchase of mobilehome parks. ***He has been active in advocating virtually every state law which assists in the resident-purchase of parks including creation of the mobilehome loan programs administered by HCD, the deferment of property tax increases when residents or non-profit housing corporations purchase mobilehome parks, amongst many others.*** Maurice Priest was appointed by the State Bar of California as the Founding Chairman of the State Bar Committee on Mobilehome Law in 1982, and has also been appointed by the State Bar as a member of the executive committee of the Real Property Law Section from 1982-1985.

Serving as Vice-President and Project Manager of **ROP** is Bruce Kemp, who has over 30 years experience in the building industry and who has served as project manager for major developments throughout California. Serving as Controller of **ROP** is Certified Public Accountant Frank Lacusky.

The proven track record of Maurice A. Priest in advocating the interests of mobilehome owners and the extensive experience of the **ROP** team, assures that **ROP** will pursue a park acquisition that is beneficial to homeowners.

**ROP** is available to consult with homeowners who are interested in acquiring their mobilehome parks, and with cities and counties who wish to preserve affordable housing within their communities.

**RESIDENT OWNED PARKS, INC.**
**A Non-Profit Housing Corporation**
**980 Ninth Street, 16th Floor**
**Sacramento, California 95814**
**Phone (916) 446-7900**
**Fax (916) 424-2205**
**E-mail:**
rop@worldnet.att.net

## MOBILE HOME PARKS IN UNINCORPORATED SAN MATEO COUNTY

| Name and Address | Number of Units | Zoning | General Plan | Planning Permit | Environmental Health Permit |
|---|---|---|---|---|---|
| **Belmont Trailer Park**<br>100 Harbor Boulevard, Belmont | 91 | C-2 | High Density Residential | N/A | Permitted through 12/31/02 |
| **El Granada Mobile Home Park**<br>164 Culebra, Moss Beach | 227 | H-1/DR | Medium High Density Residential | UP 85-1<br>UP 1631 | Permitted through 12/31/02 |
| **Redwood Trailer Village**<br>855 Barron Avenue, Redwood City | 50 | C-2/S-1 | General Commercial | N/A | Permitted through 12/31/02 |
| **Sequoia Trailer Village**<br>730 Barron Avenue, Redwood City | 134 | C-2/S-1 | General Commercial | N/A | Permitted through 12/31/02 |
| **Trailer Rancho**<br>3499 East Bayshore, Redwood City | 137 | C-2/S-1 | High Density Residential | UP 1215<br>PLN 2000-00013<br>UP Amendment Approved 4/5/00 | Permitted through 12/31/02 |
| **Trailer Villa**<br>3401 East Bayshore, Redwood City | 141 | C-2/S-1 | High Density Residential | UP 1665<br>PLN 2000-00584<br>UP Amendment Pending | Permitted through 12/31/02 |
| **Meadowbrook**<br>7880 El Camino Real, Daly City | 67 | High Density Residential PC/DR | High Density Residential | N/A | Permitted through 12/31/02 |
| **La Honda Trailer Park**<br>Route 84, Box 28, La Honda | 20 | H-1/S-11 | Residential | N/A | Permitted through 12/31/02 |
| **TOTAL NUMBER OF UNITS (Uninc.)** | **867** | | | | |
| **TOTAL NUMBER OF UNITS (County)** | **3,151** | | | | |

**Source:** State Housing and Community Development Department, 2002
San Mateo County Planning and Building Division, 2002

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Attachment G

**Back to the Table of Contents**

# RENT CONTROL

Under existing law, in the absence of state or local law to the contrary, rental rates for real property are established by contractual agreement. Over 100 jurisdictions have established, through ordinance or initiative, some form of rent control on multifamily rental housing or mobilehome park spaces.

Proponents of rent control argue that either state regulation or the prohibition of rent control is inappropriate - each community is unique and local circumstances should determine whether rent control is warranted. Rent control protects persons with low incomes from high rents which result from speculation, low vacancy rates, or the desire for higher profits.

Opponents of rent control argue that rent controls deter new construction of rental housing and discourage investment. Further, rent controls that do not offer adequate returns inhibit the proper maintenance and upkeep of residential property. Finally, it is contended that rent control subsidizes rents for persons who can readily afford to pay market rates.

Rent controls may be generally categorized as "severe" or "moderate." Severe rent control is characterized by the continuing control of rent when a unit becomes vacant and prohibits a rent increase when a new tenant occupies the unit (vacancy control). Moderate rent control does not control the rent on a unit when it becomes vacant and permits the rent to rise to the market rate when a new tenant moves in. After this new rent is determined, the rent is again controlled (vacancy decontrol).

Fourteen cities have some form of residential rent control and over 100 jurisdictions have enacted mobilehome rent control. Mobilehome rent control applies to about 1,400 parks covering nearly 150,000 mobilehome spaces.

APPENDIX B
CALIFORNIA JURISDICTIONS WITH MOBILEHOME
RENT STABILIZATION ORDINANCES

| City | Affected MH Parks/ spaces | Coverage | Detailed Findings | Comp of Rent Comm. or Board | Hrg Officer | Amount of Annual Incr. Permitted w/out hrg. | Vac. Cntrl | Method of Owner Petition for Additional NOI Increase | Prospective Buyer Protection | Sunset Clause | Date Passed | How Adp |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Alameda County | 22/712 | MH only | | | | Automatic 5% | Yes | | | | 12/65 | Or |
| Arroyo Grande | 5/498 | MH only | Yes | 1-1-3 | No | lesser of 8% or 75% of CPI | Yes | Hardship Pet. based on all relevant evid. | No | repeal 11/86 | 5/86 | Or |
| Azusa | 6/548 | MH only | | | | 8%/75% of CPI | No | | | | 1/92 | Or |
| Beaumont | 8/459 | MH only | Yes | 2-2-1 | No | Est. by Hrg. | No | Escondido Factors | No | No | 10/84 | Or |
| Benicia | 4/317 | MH only | No | 2-2-1 | No | Est. by Hrg. | No | Escondido Factors | No | No | 9/78 | Or |
| Calistoga | 5/569 | MH only | No | 1-1-3 | No | Est. by Hrg. | No | Escondido Factors | No | No | 8/84 | Or |
| Camarillo | 4/747 | MH only | Yes | 1-1-3 | No | Est. by Hrg. | No | Escondido Factors | No | No | 12/81 | Or |
| Capitola | 8/623 | MH only | No | City Council | No | lessor of 5% or 60% of CPI | Yes | Broad Fair Return | No | No | 11/79 | Or |
| Carpinteria | 7/866 | MH only | | | | 75% of CPI | Yes | | | | 3/82 | Or |
| Carson | 28/2,565 | MH only | No | 2-2-3 | No | Set by Board | Yes | Escondido Factors | Yes | No | 8/79 | Or |
| Cathedral City | 10/2,064 | MH only | Yes | 0-0-5 | No | 75% of CPI | Yes | Hardship Pet. to the commission | No | No | 3/83 | In |
| Chino | 5/554 | MH only | Yes | 1-1-3 | No | 66% of CPI | No | Escondido Factors | No | No | 8/83 | Or |
| Cloverdale | 4/165 | MH only | Yes | 0-0-3 | No | Set by Board | Yes to 10% | Escondido Factors | No | No | 8/86 | Or |
| Clovis | 6/582 | MH only | No | 1-1-3 | No | Rent Review Commission | No | Escondido Factors | No | No | 9/78 | Or |
| Colton | 8/916 | MH only | | | | 60% of CPI | No | | | | 6/90 | Or |
| Cotati | 3/106 | All units | | | | Set by Board | Yes | | | | 11/79 | In |
| Daly City | 1/501 | MH only | No | 1-1-3 | No | Set by Board | No | Escondido Factors | No | No | 6/80 | Or |
| Delano | 4/310 | MH only | Yes | 1-1-3 | No | 50% of CPI | Yes | Hardship Applic. | No | No | 11/84 | In |
| East Palo Alto | 4/274 | All units | | | Yes | Set by Board | Yes | M-NOI Formula | | | 11/83 | In |
| Escondido | 30/3,585 | MH only | No | City Council | No | Set by Board | Yes | Escondido Factors | Yes | No | 6/88 | In |
| Fairfield | 9/883 | MH only | No | 1-1-3 | No | Set by Board | No | Escondido Factors | No | Yes 3yr | 11/84 | Or |
| Fontana | 13/684 | MH only | Yes | Rent Admin. | Yes | 7% yr. unless CPI is > 7% | No | Escondido Factors | No | Yes | 10/88 | Or |
| Fremont | 3/732 | MH only | | | | Greater $10 or 80% of CPI | Yes | | | | 1/87 | Or |
| Fresno | 30/3,942 | MH only | Yes | 1-1-3 | No | Rent Review Commission | Yes | Escondido Factors | Yes | Yes 5yr | 12/87 | Or |
| Gardena | 27/1,156 | All Units | No | 3-3-3 | Yes | Rent Mediat. w/Arbitration | No | Escondido Factors | No | Yes 5yr | 4/87 | Or |
| Gilroy | 4/336 | MH only | Yes | None | Yes | lesser of 5% or 80% of CPI | No | Escondido Factors | No | No | 5/87<br>5/87 | Or<br>Or |
| Grover City | 3/140 | MH only | | | | Graduated CPI | No | | | | 12/87 | Or |
| Hawthorne | 11/327 | All units | | | | Rent Med. Board | No | | | | 8/79 | Res |
| Hayward | 16/2,160 | MH only | No | 1-1-3 | No | lesser of 3% or 60% of CPI to 8% | Yes | Escondido Factors | | Yes 3 years | 2/80 | Or |
| Hemet | 20/2,805 | MH only | No | 1-1-3 | No | Set by Board | No | Escondido Factors | No | No | 5/79 | In |
| Hollister | 1/235 | MH only | Yes | 1-1-3 | No | lesser of 8% or 80% of CPI | No | M-NOI Formula | No | No | 5/89 | Or |
| Indio | 6/528 | MH only | | | | 75% of CPI | No | | | | 3/84 | In |
| Lancaster | 27/2,584 | MH only | Yes | 1-1-3 | No | Set by Board | Yes | Escondido Factors | No | No | 3/85 | In |

Rent

| City | MH Parks/ spaces | Coverage | Findings | Board | Officer | Annual Incr. Permitted w/out hrg. | Cntrl | Petition for Additional NOI Increase | Buyer Protection | Clause | Passed |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Lompoc | 7/654 | MH only | Yes | 2-2-1 | No | 75% of CPI to 10% | No | M-NOI Formula | Yes | No | 12/83 |
| Los Angeles City | 62/5,885 | All units | Yes | Det. by Board | No | | No | | No | Yes 7 years | 8/78 |
| Los Angeles County | All parks except if covered by lease | MH only | Yes | 0-0-5 | No | lesser of 75% of CPI or 8% | No | M-NCI Formula | No | No | 3/88 |
| Los Gatos | 2/137 | MH only | Yes | | Yes | 100% of CPI or 5% | $25 or averg. | M-NOI Formula | Yes | No | 10/80 |
| Malibu | 2/527 | MH only | | | | 75% of CPI | to 18% | | | | 12/91 |
| Merced | 3/574 | MH only | Yes | 2-2-3 | No | Set by Hrg. | No | Escondido Factors | No | No | 5/82 |
| Milpitas | | MH only | Yes | Council | Mediator | 50% of CPI or 8% | aver. rent | M-NOI Formula | Yes | No | 8/92 |
| Montclair | 8/620 | MH only | Yes | 2-2-1 | Yes | lesser of 6% or 80% of CPI | No | Escondido Factors | No | No | 11/85 |
| Moreno Valley | 7/809 | MH only | No | Park or Resident Comm. | No | lesser of 5% or 65% of CPI | yes with a limit | Broad Fair Rent | No | No | 7/87 |
| Morgan Hill | 9/875 | MH only | Yes | 1-1-3 | No | 75% of CPI | Yes | M-NOI Formula | No | No | 3/83 |
| Morro Bay | 15/641 | MH only | Yes | 0-0-5 | No | 75% of CPI | 5% cap | Escondido Factors | Limited | No | 8/86 |
| Napa | | MH only | Yes | 1-1-5 | No | 8% | | M-NOI Formula | No | No | 12/83 |
| Oakland | 3/49 | All units | | | | Automatic 5% | No | | | | 9/80 |
| Oceanside | 20/2,401 | MH only | Yes | 0-0-5 | No | lesser of 8% or CPI | Yes | M-NOI Formula | Yes | No | 5/82 |
| Ontario | 7/1,748 | MH only | | | | 100% of CPI | No | | | | 11/90 |
| Oxnard | 25/2,780 | MH only | | | | | 25% Cap | M-NOI Formula | No | No | 3/83 |
| Pacifica | 1/93 | MH only | Yes | None | Yes | 75% of CPI | No | M-NOI Formula | Limited | No | 9/91 |
| Palmdale | 15/1,455 | MH only | No | 1-1-3 | No | CPI or Arb. Award | No | Escondido Factors | Yes | No | 10/85 |
| Palm Desert | 4/676 | MH only | No | 5 picked | No | 75% of CPI | Yes | M-NOI Formula | No | No | 4/80 |
| Palm Srings | 14/2,242 | All units | No | 0-0-5 | No | 75% of CPI | Yes | M-NOI Formula | Yes | No | 4/80 |
| Paramount | | MH only | Yes | 2-2-0 | No | 100% of CPI | No | Escondido Factors | Limited | No | 7/87 |
| Pismo Beach | 2/412 | MH only | | | | 8%/75% of CPI | No | | No | No | 4/81 |
| Pleasanton | 4/ | MH only | Yes | 2-2-1 | Yes | 100% of CPI or 5% | to 25% in 5yr | M-NOI Formula | Yes | No | 2/93 |
| Pomona | 19/1,836 | MH only | | | | By Mediation | No | | | | 5/92 |
| Rancho Mirage | 6/882 | MH only | No | 1-1-5 | No | 75% of CPI | aver. rent | Hardship | No | No | 7/82 |
| Redlands | 8/684 | MH only | No | 0-0-3 | Yes | less of 6-9% or 75% of CPI | No | Escondido Factors | No | Yes | 12/82 |
| Rialto | 12/1,425 | MH only | Yes | 0-0-5 | No | Rent Review Commission | Yes | Escondidio Factors | Yes | Yes | 3/92 |
| Riverside County | 124/ 12,376 | MH only | Yes | 2-2-1 | Yes | 100% of CPI | No | M-NOI Formula | No | No | 8/83 |
| Rocklin | 3/384 | MH only | Yes | 1 and up | Yes | Graduated CPI | No | Fair Rent Formula | No | No | 5/82 |
| Rohnert Park | 5/1,314 | MH only | No | 5 | No | 75% of CPI or 4% Cap. | Yes | M-NOI Formula | No | No | 12/87 |
| Salinas | 11/1,437 | MH only | Yes | | Yes | 75% of CPI or 8% Cap. | No | M-NOI Formula | No | No | 10/90 |
| San Bernardino | 16/1,487 | MH only | Yes | None | Yes | lesser of 3% or 75% of CPI | No | Escondido Factors | No | No | 9/84 |
| San Buena Ventura | | MH only | Yes | 0-0-5 | No | 7% or 75% of CPI | 15% or $35.00 | | No | No | 1/86 |
| San [illegible] | [illegible] | [illegible] | | | | 60% of CPI or | | | | | |

| City | spaces MH Park/Spaces | Coverage | Detailed Findings | Comp. Board | Hrg Officer | Permitted w/out hrg. | VAC. Control | Additional NOI Increase Method | Protection Pros. Buyer | Sunset Clause | Date Passed |
|---|---|---|---|---|---|---|---|---|---|---|---|
| San Jose | 70/11,435 | MH only | Yes | None | Yes | 3% to 7% or 75% of CPI | Yes | M-NOI Formula | Yes | No | 7/85 |
| San Juan Capistrano | 7/1,209 | MH only | No | 2-2-1 | Yes | 100% of CPI | Yes | Escondido Factors | No | No | 3/79 |
| San Luis Obispo City | 15/1,551 | MH only | | | | Graduated CPI with 9% cap | No | | | | 6/88 |
| San Luis Obispo Cty | 40/2,408 | MH only | Yes | 0-0-3 | No | 60% of CPI | No | Hardship | No | No | 6/88 |
| San Marcos | 17/3,216 | MH only | | | | CPI or NOI | with a limit | | Yes | No | 11/80 |
| San Rafael | 1/397 | MH only | Yes | None | Yes | 3-7.5% of CPI | Yes | Escondido Factors | Yes | No | 4/90 |
| Santa Barbara Cty | 15/950 | MH only | Yes | None | Yes | 75% of CPI | 10% 1x5yrs | Escondido Factors | No | No | 9/84 |
| Santa Clarita | 15/2,070 | MH only | | | | 100% of CPI 6% Cap | No | | | | 12/90 |
| Santa Cruz County | 36/2,212 | MH only | | | | 50% of CPI + pass-thrus | Yes | | | | 3/79 |
| Santa Monica | 3/288 | All units | | | | Set by Board | No | | | | 4/79 |
| Santa Paula | 9/838 | MH only | Yes | 0-0-3 | No | lesser of 7% or 75% of CPI | 10% 1x3yrs | M-NOI Formula | Yes | No | 6/84 |
| Scotts Vlly | 5/527 | MH only | No | 0-0-5 | No | 75% of CPI | Yes | M-NOI Formula | No | No | 11/80 |
| Simi Valley | 6/354 | MH only | No | | | Rent Review Commission | No | | | | 3/83 |
| Sonoma Cty. | 51/3,736 | MH only | Yes | | Yes | 100% of CPI | Yes | Escondido Factors | Yes | Yes | 6/87 |
| Thousand Oaks | 8/897 | All units | | | | less of 3-7% or 75% of CPI | Yes | | | | 7/80 |
| Union City | 3/918 | MH only | | | | 7% or 90% of CPI | Yes Yes | | Yes | | 5/80 |
| Upland | 6/866 | MH only | | | Yes | 80% of CPI or 7% | 7% cap | | Yes | No | 12/85 |
| Vacaville | 12/1,126 | MH only | Yes | 0-0-3 | Yes | Graduated CPI | No | Escondido Factors | No | No | 12/77 |
| Vallejo | 17/1,990 | MH only | Yes | 1-1-3 | No | 5% | No | Escondido Factors | No | No | 2/82 |
| Ventura City | 18/1,887 | MH only | | | | lesser of 7% or 75% of CPI | Yes to 15% | Escondido Factors | | | 8/81 |
| Ventura County | 24/1,421 | MH only | No | 0-0-3 | No | Automatic 5% | Yes to 15% | Escondido Factors | limited | Yes 3 years | 2/83 |
| Watsonville | 5/717 | MH only | No | | No | 70% of CPI or 5% | No | Fair Rent Factors | No | No | 3/89 |
| West Covina | 2/265 | MH only | Yes | Human Res.Comm | No | less of 5%-9% or 100% CPI | No | Escondido Factor | No | No | 9/84 |
| Yucaipa | 42/4,425 | MH only | | | | 66.67% of CPI | 5% cap | | | | 12/90 |

**Definition of Appendix B Terms**

Comp of Board -- This category refers to the composition of the Rent Commission or Rent Review Board. The first number refers to the number of designated park owner representatives, the second number to the number of resident representatives and the third number to neutrals. Thus, a "1-1-5" designation means that there are 1 park onwer rep, 1 resident rep. and 5 neutrals. The presence of a single number means that Board members are simply chosen without regard to their affiliation.

Escondido Factors -- Refers to the fair return formula originally established by the Escondido Ordinance. In such a case, the Board or Hearing Officer is not bound to use a mathematical formula such as the M-NOI approach, but instead more broadly considers an entire laundry list of factors such as CPI change, comparable rents, increase in taxes or utility costs capital improvement costs, the level of services provided to residents, etc.

M-NOI -- Refers to the mathematical formula known as the "Maintenance of Net Operating Income", which is described in Section 8 of the Model.

# COUNTY OF SAN MATEO
# OFFICE OF THE COUNTY COUNSEL

**Date:** **May 8, 2002**

**To:** Planning Commission

**From:** Thomas F. Casey III, County Counsel and Planning Staff

**Subject:** Consideration of Rent Control and Alternatives for the El Granada Manufactured Home Community

## RECOMMENDATION

1. Receive Report and Consider Rent Control and Alternatives for the El Granada Manufactured Home Community;

2. Hear Testimony from Interested Parties;

3. Provide Guidance to Planning Staff and Direct Further Research if Needed;

4. Direct Staff to Prepare Report on Recommendations to Board of Supervisors.

## BACKGROUND

At the December 18, 2001 meeting of the Board of Supervisors, the Board referred this matter to the Planning Commission for consideration of rent control and other alternatives which would maintain the affordable nature of manufactured housing, specifically for the tenants of the El Granada Manufactured Home Community.

In accordance with the Board's referral, the report will address rent control and alternatives for the El Granada Manufactured Home Community, namely: affordable housing (i.e. impact of current designation and/or imposition of new requirements); tenant purchase of the park; eminent domain; modification of the park's use permit; and mediation between tenants and owners/management. The public may wish to suggest other alternatives for your consideration which we have not discussed in this report.

## DISCUSSION

### A. General Plan and LCP Policies

General Plan Housing Policies include a policy to "Protect Tenants of Affordable Housing from Overpayment and Displacement." Specifically, policy 14.19 is to "Protect mobilehome park tenants by: (a) regulating the closure of mobilehome parks or cessation of use of the land as a mobilehome park, in accordance with State Government Code section 65863.7, or any successor statute, by ensuring that reasonable measures are provided to mitigate the adverse impact of the conversion on the ability of the park residents to find alternative housing; and (b) where appropriate, designating and zoning suitably located mobilehome parks for exclusive affordable housing development, including mobilehome park use."

The General Plan defines affordable housing as housing with a contract price or rent which is affordable by very low, lower or moderate income households. (Policy 14.6). These categories include any household whose income is less than 110% of the Primary Metropolitan Statistical Area as established by HUD. (Policy 14.5).

Accordingly, Local Coastal Program Policies, Housing Component, under the headings of "Protection of Existing Housing Opportunities for Low and Moderate Income Households" and "3.11 Protection of the El Granada Mobilehome Park" states that the County will: "Designate the existing El Granada Mobilehome Park as an affordable housing site. Prohibit the demolition or displacement of this mobilehome park." (LCP 3.11).

### B. Alternatives

#### 1. Designation as Affordable Housing

The site on which the EGMHC is located was designated as an affordable housing site by LCP 3.11. Because the EGMHC was in existence at the time that the LCP was amended to include this designation, the park may be allowed to continue as a "non-conforming use," and the LCP may not be used to impose affordable housing requirements on the park absent the passage of a rent control ordinance, or an amortization plan to phase in the affordability requirements.

The EGMHC is zoned H-1 (Limited Highway Frontage District). It was not revised along with the other three affordable housing sites on the coastside, which are now zoned R-3-A (Multi-family, Affordable Housing District), when the LCP was amended (sections 3.11 and 3.15). If this proposal is pursued, the zoning will have to be changed to be consistent.

The proposal is to require through Zoning that 50% of the units be affordable (20% for moderate income and 30% for low income residents). This is what section 3.15 of the LCP requires for the other three undeveloped sites on the coastside. This approach raises several issues.

a. **<u>How to make the ordinance applicable to an existing non-conforming use?</u>**

One method is to "amortize" the non-conforming use, so that eventually the units would all be covered by the affordability requirement. The non-conformity would be allowed to continue, but could not become any "worse." New residents would have to meet income requirements and would pay rents at affordable levels until 50 per cent of the park was occupied as affordable housing. Current residents would not be helped if the regulations were phased in on such a "vacancy control" basis.

b. **<u>Current rents may be below "affordable" level already.</u>**

According to numbers for 2001, affordable rent for a studio apartment at median income ($56,050 for one person) is $1401; moderate income (120% of median) is $1681; and low income (80% of median) is $1190. Maximum affordable rent is based on 30% of monthly income, with utilities paid by the landlord. The affordable rent amounts are higher for families of more than one person, and for larger units (1 bedroom or more). We did not have comparable numbers available for mobilehomes, and therefore the lower studio apartment rents are listed here.

These figures use the definitions of affordability from the General Plan. Other definitions of affordability could base the allowable housing costs on a percentage of a person's actual income, or could take into account for mobilehome parks the fact that the tenants also make mortgage payments for their units. The County has not surveyed the income levels of park residents to determine how many are already of low or moderate income. If 50 per cent or more of the tenants already meet this definition, then phasing in a 50 per cent limit would again not be helpful to current residents.

Residents of EGMHC currently pay $750 per month to rent spaces. New tenants will pay $800. Monthly housing costs for mobilehome owners also include mortgage payments for the units themselves. Figures from the Bayside Villa Park stated that the average mortgage payment there was $400 per month. It would be helpful to have more information about how much the EGMHC residents are paying for their mortgages.

### 2. Tenant Purchase of Park

The tenants are in favor of the option of purchasing the El Granada park. However, the owners have indicated in the past that they are not interested in selling. Mechanisms for financing tenant purchase of mobilehome parks include County involvement in issuing bonds, and loans and grants available through the state Department of Housing and Community Development and other sources. HCD maintains a "Clearinghouse" database of available funding. Last year there was a Mobilehome Park Resident Ownership Program, whose purpose was to "finance the preservation of affordable mobilehome parks by conversion from private ownership to ownership or control by resident organizations, nonprofit housing sponsors, or local public agencies." (See HCD website at http://housing.hcd.ca.gov/ca/).

By way of example, tenant purchase has been pursued in Daly City, where the residents of the Franciscan Mobile Home Park have nearly completed the multi-year process. The City of Daly City issued revenue bonds for the tenants' purchase of the 500 unit Franciscan Mobile Home Park. Financing was arranged by LINC Housing, a non-profit based in Long Beach, which will also manage the park. Daly City did not pursue any state grant programs, because they would not have provided sufficient funding given the size of the project.

Another possible vehicle to accomplish this alternative would be through County Acquisition of the Park.

### 3. Use Permit

The EGMHC is zoned H-1 (Limited Highway Frontage District). The Zoning Regulations for the H-1 District allow for mobilehome parks upon the securing of a use permit. The owners obtained the original use permit for construction and operation of the El Granada Mobilehome Park on May 29, 1963. That permit did not specify an expiration date. Subsequent Use Permits were issued for various changes: addition of a retaining wall, conversion of a storage area, addition of a water system. But there was never any "renewal" or new use permit for the park's operation. The use has changed since the original use permit was issued, in that the number of units at the park, as well as other facts and circumstances have changed.

Modification of the Use Permit and/or the imposition of conditions on the permit are some of the options for using the use permit process to manage some of the issues presented here. New use permits in the Coastal Zone are subject to review for compliance with the LCP. (Zoning Regs. Section 6500(f)). There are two reasons for requiring that the park apply for a new use permit.

1) The 1963 permit was valid for only 12 months, because under the regulations which existed at the time, only a 12 month permit was allowed. (See Chapter 10, Trailer Camp Regulations, §5600.5(e).)

2) The ordinances and other applicable laws have changed so much since 1963 that the permit, which is premised on a finding of compliance with then-existing laws, is no longer valid. Also, the ordinance required a long list of information to be submitted, including the number of units, which is no longer accurate. (See Chapter 10, Trailer Camp Regulations, §5600.5(b) and (c).)

The park owners may argue that they have a vested right to continue operating a mobilehome park at the site. Goat Hill Tavern v. City of Costa Mesa, 6 Cal. App. 4th 1519 (1992), *rev. den.*, 1992 Cal. LEXIS 4132 (1992). As such, the County would most likely require the park to apply for a new use permit, including reasonable conditions, and not deny the permit outright.

There is an "Annual Permit to Operate" posted at the park which was set to expire in December 2001. This permit is required by the state Housing Department (HCD). The Annual Permit to Operate is issued by the County Environmental Health Services Division after they conduct an inspection for compliance with state Housing Code and Health and Safety Code requirements. It is not a "Use Permit" of the type which would be handled by the Planning Division and issued under Chapter 24 of the County Zoning Regulations. Environmental Health is in the midst of this year's inspection process. Having conducted two inspections, Environmental Health is now in the process of notifying the management about violations which remain to be corrected. Apparently there are 25-35 cases of units with additions to the structures which may not have the required permits from the state HCD. Due to a recent change in state law, these inspections are now required only once every seven years. However, Environmental Health has indicated its intent to continue conducting the inspections every year.

### 4. Mediation

General Plan Housing Policy 14.20 is to "Provide information, referral and mediation services, such as those offered by the County's Human Relations Division, as a means to resolve conflicts between landlords and tenants." This policy falls under the part entitled "Protect Tenants of Affordable Housing from Overpayment and Displacement."

The park's owners and tenants participated in mediation on March 26, 2002 through the Peninsula Conflict Resolution Center. The County was not a party to the mediation, but it is our understanding that many issues between the parties remain unresolved. Some of the ongoing issues of which the County is aware which could be, or possibly have been, discussed in mediation between the parties are: survey of lots and placement of lot line markers; water quality issues; the requirement of awnings; and general management issues, such as resolution of complaints and convenience of managers' office hours.

A requirement that disputes be mediated could be required as a condition of a new use permit, though the parties may already have such a requirement in place. State law requires that management "meet and consult" with tenants concerning issues of park rules, maintenance of physical improvements, alteration of service, equipment, or physical improvements, and/or certain rental agreements, within 30 days of a written request from the tenant(s). (Civil Code §798.53, part of the Mobilehome Residency Law).

### C. Mobilehome Rent Control Ordinance

A copy of Supervisor Gordon's December 13, 2001 memo introducing the proposed rent control ordinance to the Board of Supervisors, and the text of the ordinance itself are attached to this report. The proposed ordinance was modeled on ordinances which have been adopted in other California jurisdictions. The legality of such ordinances had been upheld by the courts. The park owners are opposed to adoption of rent control, while the tenants favor it. (State law also prohibits imposing rent control regulations on newly constructed spaces held out for rent after January 1, 1990.) Whether rent control is a desirable solution is of course a policy decision.

## ATTACHMENTS

A. General Plan Policies 14.5, 14.6, 14.19, 14.20
B. Local Coastal Program Policies 3.11, 3.15
C. Letter dated February 7, 2002 from Chuck Kozak, MidCoast Community Council
D. Trailer Camp Regulations
E. Memo dated December 13, 2001 from Supervisor Rich Gordon; and proposed Mobilehome Rent Control Ordinance

for THOMAS F. CASEY III, COUNTY COUNSEL

TFC:MS

cc: John L. Maltbie, County Manager
Marcia Raines

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