C A L I F O R N I A L E G I S L A T U R E

SENATE SELECT COMMITTEE

ON

MOBILE AND MANUFACTURED HOMES

SENATOR JOSEPH L. DUNN
CHAIRMAN

TRANSCRIPT AND REPORT OF HEARING ON

MOBILEHOME PARK "DOUBLE RENTING" --PARK BUYOUT AND RENTAL OF HOMES

APRIL 26, 1999

STATE CAPITOL
SACRAMENTO, CALIFORNIA

TRANSCRIPT OF HEARING ON

THE MOBILEHOME PARK "DOUBLE RENTING" ISSUE

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TABLE OF CONTENTS

LIST OF WITNESSES

PAGES

INFORMATION PAPER

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Senate Select Committee on Mobile and Manufactured Homes
April 26, 1999 Hearing, 2:30 – 4 p.m.
Room 113, State Capitol
on
"Double-Renting" – Park Buyout and Rental of Homes

INFORMATION PAPER

Summary

California's more than 600,000 mobilehome owners normally own their own homes but rent a space in a mobilehome park on which their home is located. But in recent years, some park operators have begun buying out homeowners and renting the homes and spaces as one unit, like an apartment or conventional tenancy. Mobilehome owners argue that this practice, nicknamed "double-renting," has disenfranchised mobilehome owners by changing the status of those parks from homeowner-type parks to a more transient population, has depressed home values for homeowners still remaining in the parks, and has allowed park operators to out-maneuver mobilehome owners on such issues as local rent control and conversion ordinances which protect the mobilehome owners' investment in their homes.

Background

According to the Department of Housing and Community Development (HCD), there are 5,070 mobilehome parks in California. As part of the Mobilehome Residency Law, Civil Code Section 798.4 defines a mobilehome park as an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation. For purposes of building code enforcement, Health and Safety Code Section 18214(a) has a similar definition with the addition of a sentence which reads, "The rental paid for a manufactured home or mobilehome shall be deemed to include rental for the lot it occupies."

In layout, a mobilehome park can be likened to a small subdivision, with streets and utilities and sometimes a community (club) house or other recreational facilities. The land along the streets is divided into spaces separated and identified by lot markers. Each space usually consists of a utility pedestal for electric, gas and water hookup, a short entry or driveway and an area or pad for the installation of a mobilehome or manufactured home.

Traditionally, there are two owners: the park owner, who owns the park, and the homeowner, who owns the home but rents or leases the space on which the home is installed. The land owner may be a park operator, who hires his or her own manager to run the mobilehome park. Or the land owner may lease the land on a long-term basis to a park operator and have nothing to do with the actual operation of the park. Owners of manufactured homes enter into a rental agreement with the park operator to locate their homes on the spaces. Despite the connotation, most mobilehomes, once they are installed, are never moved from the park but are simply resold in place, with the approval of the park management, to a new buyer. Many mobilehomes have remained in the same park and on the same space for 30 or more years and have been bought and sold during that time by a number of different homeowners.

In most parks, it is not uncommon for the park operator to own a few mobilehomes in the park. Usually, the operator will provide a home for the site manager that is owned by the park. Many park operators and managers are mobilehome dealers or salespersons, and some are real estate salespersons. Sometimes, they will take an existing mobilehome in on trade for a new home, or the homeowner or a homeowner's heirs, on the death of a homeowner, may offer to sell the home to the park to get rid of it. Park operators are often in a better position than the homeowner to resell a mobilehome in the park for a profit to a new homeowner.

More recently, some parks have been buying homes in the park to rent them out like apartments, changing the park into a so-called "landlord-tenant park." But mobilehome owners left in the park, who continue to own their homes but rent the spaces, often feel threatened. They say they are concerned that: 1) the character of their park is declining because of management rentals to an increasing number of non-homeowner tenants who move in and out in a matter of months with little interest in the upkeep of the homes or spaces; 2) if the use of the park is allowed to be changed to a conventional landlord-tenant status, the equity in their homes will evaporate and they will be forced out of the park with little or no compensation; and 3) in certain rent control jurisdictions, with formulas which allow parks to become rent-control exempt when mobilehome owners only constitute a minority of the residents, the management will economically evict them with higher rents and take their homes for the back rent they owe.

The Department of Housing and Community Development (HCD) has no information or statistics available on how many mobilehomes in parks are owned by the park management or park operators and rented out to tenants. The committee, lacking the resources to do a survey, has not been able to verify how pervasive the practice of "double-renting" by park operators may actually be.

How Park Operators Buy Mobilehomes in the Park

Generally, there are two ways for the park operator or management to buy mobilehomes located in the park, either by buying the homes from existing homeowners or by taking title and possession after an eviction or abandonment.

Resales: In the sale of a home, there are, of course, normally two parties, the buyer and the seller. But in the case of a mobilehome located in a mobilehome park, there is an additional party - the park owner or management. This is due to the fact that the homeowner living in a park is both a homeowner as well as a tenant of the space on which the home is installed. Hence, the buyer and the seller may agree to terms for the sale of the home, but the park management may deny approval of the buyer as a resident if the buyer, in the management's view, cannot afford to pay the rent and charges required to live in the park, or , based on prior rental history, cannot comply with the park's rules and regulations. Additionally, unless the park is located in a vacancy control rent control jurisdiction, the park can impose a higher rent on the buyer than the seller was paying. As a condition of approving the sale, the management may also require

various upgrades or cosmetic improvements to the home, such as new skirting or awnings, which add cost to the sale. Often, the park will require the buyer to sign a long-term lease, exempt from local rent control, or an agreement waiving the buyer's right to sue the park and requiring arbitration of disputes, as a condition of tenancy.

Homeowners complain that sometimes the management intimidates their prospective buyers at the interview stage, either by discouraging them by imposing various conditions on the sale or trying to dissuade a buyer from purchasing their home by switching him to a home for which the management serves as the agent. In some parks, despite abolition of the old "17 year law", complaints have been received claiming the park management still insists that the mobilehome cannot be sold in place because it is too old and must be removed from the park. For the average mobilehome owner, mobilehomes are expensive to move, most parks will not accept older homes, and few parks have vacant spaces to accommodate them anyway. Most parks will not permit subletting, and a homeowner who must move due to a job change or illness has no option but to pay rent on an empty home if he wants to keep the home in the park in order to resell it in place. According to some homeowners, these practices discourage many would-be buyers and make it difficult for homeowners to sell their homes. Thus, many selling homeowners, facing these prospects, eventually end up accepting the management's offer to buy their home for much less than the equity they have in it.

Lien Sale or Abandonment: Under the Mobilehome Residency Law, there is "just-cause" eviction. Homeowners can only be terminated for one of 7 reasons listed under Section 798.56, such as failure to pay the rent and charges, failure to abide the park rules, conduct on the park premises which constitutes a substantial annoyance to other homeowners, etc. If a homeowner is not able to pay the rent under 798.56, she is served with a 3-day notice to pay along with a 60-day notice of termination. If she doesn't pay, or even after paying late rent is subject to the 3-day late notice more than twice within a 12-month period, on the third notice she must move within 60 days or face an unlawful detainer action in court. If the homeowner is subsequently evicted and has not been able to work out a deal with the park management to sell the home in place and cannot move it, the management can file a warehouseman's lien on the home. Subject to notice and other procedures, and upon a court ordered sale may purchase the home for the amount of the storage lien and costs. Likewise, where the homeowner has abandoned a mobilehome pursuant to a termination or otherwise, the park may file an abandonment action. Under this procedure, the park owner files a petition with the court. Upon a hearing, if the court determines that the criteria for abandonment have been met, it may award attorneys costs and fees to the park owner and permit the home, subject to notice, to be put up for bid at a public sale conducted by the management. If there are no other bids, the management may thus purchase the home for the costs of the abandonment proceeding.

Some Effects of "Double-Renting"

The practice of "double-renting" in mobilehome parks would appear to have an effect on, or be affected by, other mobilehome issues, such as the Mobilehome Residency Law, local

mobilehome rent control, and the conversion of mobilehome parks to other uses.

1) Circumventing the Mobilehome Residency Law. The Mobilehome Residency Law (MRL), the landlord-tenant law for mobilehome parks, was codified in 1978 from a number of different sections enacted in the Civil Code to protect mobilehome owners. In recognizing that mobilehome owners living in parks own their own homes, the Legislature provided them with unique protections over and above those found under conventional landlord-tenant law, such as just-cause eviction and various notice requirements, among others. Some contend that if the park management can completely buy out the homeowners in the park and rent each home and space as a unit, like an apartment, the management does not have to comply with the MRL. In fact, although attorneys may differ, a 1997 Legislative Counsel's Opinion contends that residents who don't own a home in the park, but rent both a mobilehome and its space, are subject to conventional landlord-tenant law, not the MRL. See addendum. Thus, for park operators who believe that the Mobilehome Residency Law provides too much regulation of the park industry, circumvention of the MRL may provide an incentive to buy the homes.

2) Counting for Rent Control: About 100 local jurisdictions in California have some form of rent control affecting about 1/5 of the parks within the state. These ordinances vary from locality to locality. Some local rent ordinances provide for certain exemptions, such as an exemption upon a new vacancy, or a requirement that a certain percentage, such as 67%, of the homeowners in a given park approve the rent schedule or lease offered by the park management in order exempt the park from the local ordinance. In the case of such a percentage requirement, how the requisite number of residents is counted in order to exempt the park from rent control is crucial. Park residents who own their mobilehomes are concerned that tenants without any home ownership interest are being counted as "homeowners" or members of a "homeowner association" in order to exempt an entire park. If a sufficient majority of the homes in the park are owned by the management and rented out like apartments, the management may be in a better position to influence those tenants through rebates or discounts to agree to the management's rent schedule than the homeowners who continue to own their homes in the park. Tenants have no investment in the home to worry about, and don't have to sell or move their homes from the park if the rents are raised beyond their ability to pay. Thus, if a sufficient number of tenants are counted as "homeowners" who support the management's proposed rent schedule, the park may qualify for the exemption under the local rent ordinance. If only actual mobilehome owners were counted, however, the exemption probably could not be obtained.

3) A Change of Use or Not. If a park owner buys up all or most of the mobilehomes in the park and rents them to tenants like apartments, is there a change of use of the park requiring approval of the appropriate local entity? Legislative Counsel has also opined that where the conversion is from a zoned use, a city or county could require a park operator to obtain a conditional use permit in order to convert the park to one in which both the homes and spaces are rented. See addendum. Usually the process whereby the park buys most or all the homes in the park is a gradual one. Therefore, the park operator does not propose a change of use at the front end. By

the time the city or county discovers that the use is being changed, the majority of homes have already been bought by the park, leaving a minority of homeowners to fend for themselves with the park operator and the local entity over what if any reasonable relocation assistance should be afforded to them when the park completes the change and requires the rest of the homeowners to move out. Some homeowners feel the change is not really a change. The park is still there, the homes are still there, and the park is still collecting rents for a residential use. The only change, they say, is not in the use of the land but in the change in legal ownership of the homes, which now belong to the park operator or management, a change which also may exempt the park from local rent control, if applicable, and other requirements.

A Legislative Look

In the last year, two bills have been introduced in the Legislature to deal with problems relating to the issue of "double-renting."

S.B. 1954 (Peace, 1998). This bill addressed the issue of which residents are counted for purposes of a local rent control ordinance. S.B. 1954 would have required that a homeowner, as defined in the Mobilehome Residency Law, to not only have a tenancy in a mobilehome park under a rental agreement but have either title to the mobilehome, be the registered or legal owner, or be a purchaser of the home. The bill would have also provided that a mobilehome park rent control ordinance shall not include or affect a person who rents a mobilehome in a park. Status: The author at the request of the sponsor dropped the bill.

A.B. 1644 (Floyd, 1999). This bill addresses the change of use issue. A.B. 1644 amends the Mobilehome Residency Law to provide that a mobilehome park may not change the use of the park and terminate the residency of mobilehome owners where the real purpose is to buy out the homeowners and continue park operation by renting out the homes as a landlord-tenant park. Status: Pending a hearing in the Assembly Housing and Community Development Committee

Purpose of the Hearing

The purpose of the April 26th hearing is to address the reasons why park owners are buying mobilehomes in their parks, what problems have been created for mobilehome owners by the practice of "double-renting," and what alternatives exist for the resolution of these problems.

Addendum: 1997 Legislative Counsel Opinion

# # #

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Sacramento, California
July 18, 1997

Honorable William A. Craven
3070 State Capitol

Mobilehome Residency Law - #12892

Dear Senator Craven:

QUESTION NO. 1

Does the Mobilehome Residency Law apply to the relationship between mobilehome park management and its tenants, when management owns both the land (spaces) and the mobilehomes located on those spaces and rents a mobilehome together with a space to a tenant?

OPINION NO. 1

The Mobilehome Residency Law does not apply to a mobilehome park in which all tenants rent both a mobilehome and the site on which it is located from management but, rather, their relationship is governed by the principles of law generally applicable to landlord and tenant. Where the park consists both of tenants who rent the space but who own the mobilehome and persons who rent both space and mobilehome, only those limited provisions of the Mobilehome Residency Law expressly applicable to residents are applicable to those latter described persons, and their fundamental rights as tenants such as those relating to the nature of the rental agreement and termination of tenancy, are governed by the general law relating to landlord and tenant.

ANALYSIS NO. 1

The Mobilehome Residency Law, contained in Chapter 2.5 (commencing with Section 798) of Title 1 of Part 2 of Division 2

of the Civil Code,[1] is the primary statutory scheme affecting mobilehome tenancies. It governs the relationships between homeowners, residents, and mobilehome park management (owners and their agents), the rental agreement, park rules and regulations, fees and charges (including special notice requirements for termination of such a tenancy), park homeowner meetings, termination of mobilehome tenancies, transfer of mobilehomes or mobilehome parks, as well as certain aspects of subdivisions, cooperatives, and condominiums for mobilehomes.

Thus, the following definitions are central to answering the question posed:

> "798.2. 'Management' means the owner of a mobilehome park or an agent or representative authorized to act on his [or her] behalf in connection with matters relating to a tenancy in the park."
>
> "798.3. (a) 'Mobilehome' is a structure designed for human habitation and for being moved on a street or highway under permit ... .
>
> * * *"
>
> "798.4. 'Mobilehome park' is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation."
>
> "798.8. 'Rental agreement' is an agreement between the management and the homeowner establishing the terms and conditions of a park tenancy. A lease is a rental agreement." (Emphasis added.)
>
> "798.9. 'Homeowner' is a person who has a tenancy in a mobilehome park under a rental agreement."
>
> "798.11. 'Resident' is a homeowner or other person who lawfully occupies a mobilehome." (Emphasis added.)
>
> "798.12. 'Tenancy' is the right of a homeowner to the use of a site within a mobilehome

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[1] All section references are to the Civil Code unless otherwise indicated.

> park on which to locate, maintain, and occupy a mobilehome, site improvements, and accessory structures for human habitation, including the use of the services and facilities of the park." (Emphasis added.)

Thus, a "homeowner" may or may not be a park "resident," and a park "resident" is not necessarily a "homeowner." The extent to which the Mobilehome Residency Law will apply to a particular "resident" will turn on whether he or she is a "homeowner."

Additionally, subdivision (a) of Section 798.55 states:

> "798.55. (a) The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter."

We think it is clear that the definitions set forth above indicate that the provisions of the Mobilehome Residency Law are intended to apply to the landlord-tenant relationship created by the rental of a "site" in a "mobilehome park" by a "homeowner" who locates his or her mobilehome in the park. Although certain provisions of that law are expressly applicable to both "homeowners" and "residents," those provisions do not relate to the fundamental rights and responsibilities of the relationship (such as those pertaining to the nature of the rental agreement and termination of tenancy), but rather to various incidental matters (see, for example, Secs. 798.29.5 (notice of interruption of utility service); 798.33 (pets); and 798.51 (right to assemble, public meetings)). Additionally, Section 798.55 evidences the clear intent of the Legislature to give special protections to mobilehome homeowners in eviction proceedings because of the unique problems of mobilehome ownership. Thus, we think that the Mobilehome Residency Law does not apply to define the landlord-tenant relationship of those who rent both the site and the mobilehome since these persons do not fall within the definition of "homeowner" pursuant to Section 798.9, nor does such an arrangement create a park "tenancy" pursuant to Section 798.12 since a tenancy is limited to "the right of a homeowner to the use of a site ... on which to locate, maintain, and occupy a mobilehome." When such a person rents site and mobilehome in a park otherwise composed of homeowners, his or her rights under the

Mobilehome Residency Law are limited to those provisions expressly applicable to residents. The terms and conditions of his or her tenancy are governed by the general rules of the law pertaining to landlord-tenant. Axiomatically, Mobilehome Residency Law is entirely inapplicable to a park where all tenants rent both their site and mobilehomes, as that park is not a mobilehome park, pursuant to the above definitions. Therefore, where all mobilehomes and sites are owned by park management, the fundamental rights and responsibilities of the tenancy would be controlled by the general principles of state law regarding landlord-tenant relationships (Sec. 1940 and following; see Adamson Companies v. Zipp, 163 Cal. App. 3d. Supp. 1, as to applicability of standard unlawful detainer procedures to a nonowner resident of a mobilehome park).

Accordingly, in our opinion, the Mobilehome Residency Law does not apply to a mobilehome park in which all tenants rent both the mobilehome and the site on which it is located from the management but rather their relationship is governed by the principles of law generally applicable to landlord and tenant. Where the park consists both of tenants who rent the space but who own the mobilehome and persons who rent both space and mobilehome, only those limited provisions of the Mobilehome Residency Law expressly applicable to residents are applicable to those latter described persons and their fundamental rights as tenants are governed by the general law relating to landlord and tenant, such as those relating to the nature of the rental agreement and termination of tenancy.

QUESTION NO. 2

May a city or county require a mobilehome park owner to obtain a conditional use permit in order to convert the park to a park in which both sites and mobilehomes are rented?

OPINION NO. 2.

Where the conversion is a change from permitted zoning usage, the legislative body of a city or county could require a mobilehome park owner to obtain a conditional use permit in order to convert the park to a park in which both sites and mobilehomes are rented.

ANALYSIS NO. 2

Initially, Section 7 of Article XI of the California Constitution grants to any city or county the power to "... make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws." The power conferred upon cities and counties by this

provision of the California Constitution is generally known as the "police power" (see People ex rel. Younger v. County of El Dorado, 5 Cal. 3d 480, 495; In re Pfahler, 150 Cal. 71, 80; In re Smith, 143 Cal. 368, 371).

The prerogative of cities and counties to regulate land through zoning regulations has long been held to be a valid exercise of their police power, as derived from Section 7 of Article XI of the California Constitution (Associated Home Builders, etc. v. City of Livermore, 18 Cal. 3d 582, 604-605; Rancho La Costa v. County of San Diego, 111 Cal. App. 3d 54, 60, cert. den. 68 L. Ed. 2d 326; G&D Holland Construction Co. v. City of Marysville, 12 Cal. App. 3d 989, 994).

A city or county's authority to issue conditional use permits is linked to its power with respect to enacting and administering zoning ordinances under Section 7 of Article XI of the California Constitution (see also Sec. 5, Art. XI, Cal. Const., as to additional powers of charter cities; see also Sec. 65803, Gov. C.). Chapter 4 (commencing with Section 65800) of Title 7 of the Government Code statutorily provides for local authority to adopt and administer zoning regulations. In this regard, a legislative body of a city or county is specifically empowered to hear and decide applications for conditional use permits (Secs. 65901 to 65904, incl.).

A conditional use permit is a special dispensation for a use barred by the zoning ordinance (Tustin Heights Assn. v. Bd. of Supervisors, 170 Cal. App. 2d 619, 633). A provision for the granting of a conditional use permit is usually found in the basic zoning ordinance. A local ordinance may authorize the granting or denial of a conditional use permit upon finding that the proposed use is, or is not, essential or desirable to the public convenience or welfare (Wheeler v. Gregg, 90 Cal. App. 2d 348, 360).

Thus, if a conversion such as the one posed deviates from permitted zoning usage, the city or county could require a conditional use permit in order to effectuate the conversion.

In this regard, Section 65863.7 of the Government Code provides, in pertinent part, as follows:

> "65863.7. (a) Prior to the conversion of a mobilehome park to another use ... the person or entity proposing the change in use shall file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure,

> or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs.
>
> * * *
>
> "(e) The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion ... on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation."

Thus, Section 65863.7 of the Government Code requires the preparation of a report on the impact of the conversion of a mobilehome park to another use upon the displaced residents of the mobilehome park and authorizes the local legislative body to condition approval of the change on mitigation of any adverse impact of the conversion on the ability of displaced residents to find adequate housing in a mobilehome park (see Secs. 798.10, 798.27, and 798.56 for required distribution of this report to park residents and specified notice requirements for such a conversion).

Thus, where the conversion is a change from permitted zoning usage, it is our opinion that the legislative body of a city or county could require a mobilehome park owner to obtain a conditional use permit in order to convert the park to one in which both sites and mobilehomes are rented.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By
Maria L. Bondonno
Deputy Legislative Counsel

MLB:cfv

TRANSCRIPT OF TESTIMONY

APRIL 26, 1999

SENATE SELECT COMMITTEE ON MOBILE AND MANUFACTURED HOMES

SENATOR JOSEPH L. DUNN, CHAIRMAN

"DOUBLE-RENTING" HEARING

STATE CAPITOL, ROOM 113

MONDAY, APRIL 26, 1999
2:30 p.m. - 4:00 p.m.

SENATOR JOSEPH L. DUNN, CHAIRMAN: Welcome everybody to the second meeting this year of the Senate Select Committee on Mobile and Manufactured Homes. We will, even though we are starting ten minutes late, we should stay pretty much on the agenda and get through everybody by about 4 o'clock. As everyone in the room is aware, we're here to hear testimony about the issue of "double renting," both those representing residents of mobilehome parks and representative of the owners of those parks as well as other interested parties.

There has been a background paper that's been prepared. I know we first ran out of some, and then we've got additional copies, and there are some additional copies up here as well. I'd also like to mention if papers, studies, other things are mentioned during the testimony and you'd like to get copies, just jot them down on a piece of paper and give them to us afterwards. We'll try our best to try to secure copies for you or at least let you know eventually where you can obtain those materials.

There are, without question, concerns from both sides concerning the "double renting" issue. We want to hear from both sides, residents and owners of the parks, to hear about the arguments in favor of doing something about it, arguments against, how it would affect both sides. So we're going to

hear from every side of the issue. I ask that everyone be courteous to all of the witnesses. If you are one of the witnesses, we ask you to speak clearly and slowly for us so that we can all understand. There will probably be questions along the way as well. But again, I ask everybody to be courteous to each other as we move through this process.

I know John Tennyson, the consultant to the committee, has already spoken to you about some of the procedures that we must adhere to today. I won't go back into those. I will let everybody know if you are not on the agenda, to please give your name to the Sergeant-at-Arms. We'll do our best to get you on at the end of the already scheduled witnesses if you wish to make some comments that have not already been made during the testimony. We'll try our best to get you in there at the end.

I'd also like to introduce, and I will do this as they come through during the afternoon--the other committee member who is here with us today and that is Senator Wes Chesbro. Senator, any comments you'd like to make?

SENATOR WES CHESBRO: Well, I'm just glad to see you all here, especially the large numbers of people from my district. Had a chance to meet with some of you earlier, and I am looking forward to the testimony on today's issue. So welcome, and remember how much more interesting and effective it is for us to hear from real people telling real stories as opposed to, and I'm not besmirching the professional people here in the building, but it really, really makes a difference to hear people telling from the heart stories of how what we do in this building affects you. So I'm glad that you're here, and I'm glad that you're working to get your message across.

CHAIRMAN DUNN: Okay, without anything further, let's move right into the witnesses. I'm going to call them up three at a time. And so if I can call Mr. Priest, Mr. Persily, and Mr. McAtee. And again, for all of those

present, please identify yourself, who you represent, and let us begin, of course, with Mr. Priest.

MR. MAURICE PRIEST: Thank you, Senator Dunn, and Senator Chesbro. We sincerely appreciate the hearing that you've scheduled today on the "double renting" problem. It is one that is affecting mobilehome owners statewide whether they happen to be members of GSMOL or not. They're affected by a practice that seems to be growing throughout rental mobilehome parks in the state. And that is the practice by park owners of purchasing homes previously brought into the park by mobilehome owners at the times they commence their tenancy, purchasing those homes, and then renting out those home themselves. So, in effect, the park owner becomes the landlord for that mobilehome. Renting out both the mobilehome and the space to a tenant rather than the mobilehome owner.

Several years ago, GSMOL in cooperation with Western Mobilehome Association discussed a bill that required park owners to comply with their own rules and regulations. And at that time, the legislation indicated that if a park owner adopted certain rules which he expected his residents to comply with, he should do the same. In other words, management, employees, park owners, all of the employees within the park should comply with those same rules and regulations. We did not dictate whether a park owner could sublet mobilehomes within the park. We didn't dictate whether he would prohibit subletting or allow subletting. But we felt that if a park owner chose to adopt a "no subletting" rule in the park, that he should not be permitted to, in effect, sublet homes that he was buying.

And one of our compromises on the bill with the park owners and the bill became law, stated that clearly park owners would have the right to purchase for the use of their park employees housing adequate for the

number of employees within the park. For example, some of the largest parks that have hundreds of spaces, they might have and would have a full-time resident manager. They might have an assistant manager. They might have grounds keepers, maintenance personnel that would basically be there in the park. And we felt that a park owner who needed several homes in which to house his employees conducting the park business was entirely reasonable.

What we've seen is a growing practice among park owners of purchasing homes, re-renting those homes, and basically decreasing the number of homeowners within the park. An example, I believe, to be one of the most egregious abuses of this practice has occurred recently in Marin County. Mr. Coleman Persily our second witness, is a GSMOL vice president who will address the problems occurring within his region. A homeowner who has been personally affected by this will be our third witness, Mr. Gene McAtee, seated to my right.

One of the examples--and the Sergeant, I believe, has passed out a letter from which was "cc"ed to me--this had to do with the announced closure of a mobilehome park called, Redwood Mobilehome Park in Novato. This is a very recent example. It's still in the works. This letter is dated November 16, 1998, and it was written to residents of Redwood Mobilehome Park by the park owner's attorney. I'm "cc"ed at the bottom because I was representing some of the homeowners, and I would direct your attention to the second paragraph which says, "For those of you who are renting mobilehomes from the park owner, and do not own your home, this closure impact report does not affect your tenancy. The owner of the mobilehome park is in the process of closing the mobilehome park but does not intend to stop renting the mobilehomes owned by him at this time. He will stop renting pads to people

who own their own homes, but for the time being will continue renting mobilehomes."

Now, the reason that I wanted to provide this example, this makes it very clear that this park owner is purporting to close his mobilehome park. But those who drive down Redwood Boulevard, where Redwood Mobilehome Park is located in Novato, won't see any physical changes in that park. For the better than 90 percent of the same homes, or spaces, the only thing that has changed in that park is the title to the mobilehomes. All but two homeowners have left. They've left the park. Their homes are occupied by renters now renting directly from the landlord.

When the park owner announced the closure of the park just over a year ago, he represented to the city of Novato that he was closing the park, "a change of use." And I want to be clear that from GSMOL's perspective, we're not attempting to stop a true and legitimate "change of use" of mobilehome parks if they're actually closing or if they're actually changing. We do have other legislation such as AB 690 that we believe should be passed to fairly and adequately treat homeowners who are displaced. But we have never said that park owners should not have an option to close if there's some legitimate reason for them doing so.

But the example that I've given you is basically a misrepresentation. This is a park owner who would like the world and local officials to believe that he's closing the park, changing to another use, and the only thing he intends to do is to run out homeowners such as Mr. McAtee, who you'll hear from. And I think that's deplorable. I don't think--and this is why we have introduced AB 1644 being carried by Assemblymember Dick Floyd--we don't believe that park owners should be able to announce that they're closing their

parks, that they're changing the use of parks, when their purpose in doing so is just to become a landlord/tenant and utilizing those same mobilehomes.

The final comment that I'd like to make with regard to this example is that Novato had adopted a mobilehome rent regulation ordinance. And as you may know, the rents in Marin County can be extremely high. The average rent paid by mobilehome owners living in Redwood Mobilehome Park before they were forced out was in the average of $350 per month for their space rent. Many of the them still had mortgage payments on their homes. But $350 was the average space rent.

Since moving out the homeowners and forcing their evictions or removal from the park, in some cases purchasing their homes, the owner of this park is now renting those homes for $750, $850, close to $1000 per month. To add insult to injury, this park owner has placed many of these homes and spaces under the Section 8 HUD program. He is seeking out low income renters that qualify for Section 8. There's nothing wrong with that. I mean, low income people, many of whom are mobilehome owners, need a place to live. But he's now collecting federal tax dollars through Section 8 of as much as a $1000 per month to rent out these same homes from which he's forced out homeowners. In effect, he's tripled his income through the restriction under the rent regulation ordinance, is getting triple the income, he's getting it from tax dollars, and I guess it's a wonderful business if you can get away with it.

But I don't think that is an appropriate application or appropriate interpretation of the laws. We believe the law needs to be clarified, and that's why we're supporting AB 1644. And I believe that the letter I've given you is about as clear an example as can be given to at least clearly present what this one park owner's intent is. And I think if a park owner is truly

changing or converting the use, if he's closing the park, and if it complies with the other state law--and I hope one of them will soon be AB 690--but if he complies with those laws, we're not saying he shouldn't be able to. But he shouldn't be able to call it a conversion of use for a park closure if he's just forcing out our homeowners to expand his landlord/tenant income.

Thank you, and with that Mr. Coleman Persily is a vice president of GSMOL, and we appreciate him being here as well.

CHAIRMAN DUNN: Mr. Persily.

MR. COLEMAN PERSILY: Thank you.

Dear members of this Senate committee. My name is Coleman Persily. I reside in Contempo-Marin Mobilehome Park in San Rafael, California. I am vice president of the GSMOL, and my territory covers all Northern California.

I know we all would like to see residents in mobilehome parks, especially senior citizens, live out their lives without having to worry about being forced out of their homes because of some park owner tactics. The previous state Legislature recognized this as a need and passed many laws to protect this class of resident. However, some park owners discovered a tactic to overcome the state and local authority protection laws and ordinances by using the "double renting" tactic. They merely turned the mobilehome park into a landlord/tenant park by gradually buying up or picking up the deserted homes instead of selling the homes. They rent out the homes that rents three or four times the previous space rent, and gradually, but surely, turn the park from a mobilehome park which may have state and local protection into a park-owned, landlord/tenant park. At that point, it is no longer a mobilehome park with state and local ordinance protection, but a park where

the senior and other low income residents will be forced to move because of the rent increases.

We, therefore, ask that you protect the status quo insofar as mobilehome living is concerned, and help us protect the senior citizens and low income residents of mobilehome parks by voting for the "double renting" now before you. Thank you.

CHAIRMAN DUNN: Mr. McAtee.

MR. EUGENE MCATEE: Good afternoon, Senator Dunn and honorable committee persons. I am Eugene McAtee, and I reside at No. 2, El Novato Court, in the city of Novato in Marin County. I've been a mobilehome owner since 1989.

The issue of "double renting" has affected me personally since 1995 when the owner of my park embarked on a path of acquiring each home in our park and raising that space rent as high as he wished. One year ago he terminated the tenancies of the remaining 50 percent of the homeowners in the park when making the public claim that he was causing a "change of use" in the park. At that time, he stated to the city of Novato that he was closing the park. In November of last year, after he had acquired nearly 75 percent of the homes by various means, he changed his park closure information to state that he was only refusing to rent to homeowners in the park.

He further informed his new tenants that anyone renting both the mobilehome and space from him would be permitted to remain in the park indefinitely. His attorney told the city of Novato that, "This is the way you close a mobilehome park."

I hope you can realize that this is the way serious harm can befall California's largest stock of affordable housing. The direct harmful effect in this case was to force lawful homeowners from their legally-owned personal

property under the guise of park closure. The next harmful effect was to triple the park rents, and to destroy the affordability of the housing. I believe that the direct effect of the invocation of the change of use provision of the California Government Code Section 65863.7 was to destroy the affordability of the small neighborhood in Novato. No clear proposal for definite "change of use" for the property was ever explained and no plans for one are being considered by the city.

I believe that due to a substantial lack of clarity in this Code Section, the city of Novato was misled into thinking that they were compelled to approve the park owner's proposal. In reality this was simply a constructive eviction from which all mobilehome owners in California are protected under the Mobilehome Residency Law. Thank you.

CHAIRMAN DUNN: Mr. McAtee, and hold on Mr. Priest, I have a few questions for you.

Just walk me through. You said that he was terminating the tenancies through various means. Can you explain what you mean by that?

MR. MCATEE: At the start of his ownership of the park, he passed information subtly through his first managers that he was in the process of closing the park, and that anyone who wished to sell their home, had to sell it to him for $1,500. And they could not sell it to anyone from the outside. Even before he actually filed legal foreclosure documents, approximately a year ago, through one of his managers, he made an assertion in a letter to us from his manager that we were to inform anyone seeking interest in our home if they were going to buy it, that the plans for the park might include closure. So what he had been doing for some time was applying very clear economic coercion upon the homeowners by implying repeatedly that he was at some point going to close the park. So in this course of time, there were

only one or two people that actually were allowed to sell to someone from the outside. Everyone else believed him because they presumed that he was being a man of his word.

At this time, I was informing some of the homeowners, certainly those who came to me and asked for clarification, that lacking a closure report, lacking a statutory notification and lacking otherwise good reason to refuse new tenancies at the time of change of sale, that the park owner had no right to do what he was doing. But virtually no one took me at my word, so we lost--by the time he made his park closure issuance, 50 percent of the park.

CHAIRMAN DUNN: What's the current status of that park?

MR. MCATEE: There are two of us actual homeowners left, and there are at least five of the original residents still in the park.

CHAIRMAN DUNN: Out of how many original residents?

MR. MCATEE: I would estimate that there were probably 80, but that number fluctuates a lot. This is in 44 units.

CHAIRMAN DUNN: Okay.

Mr. Priest, a question for you. And this I'm going to ask of several of the witnesses along the way this afternoon. How often do we see this occur? Is this an increasing problem, decreasing problem? Do you have statistics showing how often it has occurred?

MR. PRIEST: I would say based on our experience, it's hard to put a number to some of them. But I would say that probably half of the park owners who have chosen a rule that says there will be no subletting engage in the practice themselves even though they don't permit their homeowners to do it. That's a fundamental issue.

In terms of closure of the park, it's a growing trend. The Novato example is close by, and that's a personal one. But there are many parks

that have undergone a "change of use" in closure, and I think many of those examples have been when the park owner intended to do a specific development, has had plans ready to go, and has done that. That's been the historical experience.

But I know--I'm here saying it publicly--if park owners can do what this park owner has done in Marin County, if they're permitted to do that under the law, and they can triple their income, and do so by getting tax dollars to do it, there's no doubt in my mind that it's going to become more of a trend. And that's why we need to address the issue now.

The notice that the park owner gave through his attorney, I have a copy of it here, and I can see that Mr. Tennyson gets one following the hearing. But this is a notice dated April 8, 1998. It says, "Notice of intent to change use of the park and to terminate your tenancy." And it specifically told everyone in the park in writing that they had to be out by April 15, 1999. So the park residents as well as the city would believe in looking at this that there was going to be a specific change of use, "closure of the park" and not simply a change on title documents.

Yet, that's not specifically clarified in existing law, and that's one of the things we need to do through AB 1644.

CHAIRMAN DUNN: You, or one of you, I can't recall which, indicated that the park owner was able to prohibit the mobilehome owners from selling to others besides him. Through what mechanism was he able to exercise--

MR. PERSILY: The mechanism is that in order to get into the park, you've got to go to management. So when the buyer goes to management, the park, one way or another, declines his reason for coming into the park. And this is what they're doing all over the place. So that even, for example, when they want to get rid of a small home, and put a big one in, and you want to

sell your small home, and a buyer comes along, and goes to the management to get in. And the management in a nice way tells you to get out without accepting you. So as a result a person in a small home cannot sell his home.

And then of course we go into a bigger thing which was described by Priest and McAtee on a bigger scale. We have a lot of park owners who are doing subletting gradually but surely aiming to get rid of the protection that they got from the mobilehome ordinance and from the state.

Thank you.

MR. PRIEST: Senator, in response to your question. If anyone else in the world would buy these homes, they had to move them out of the park. And as the home--ironically, the park owner admitted in his impact report that his own survey indicated that there were no spaces within the general area that would accept these homes due to their age. So, in effect, it was either to sell to him or not at all. But if anyone else wanted them, they would have to relocate the homes and move them out.

SENATOR CHESBRO: I would just like to comment, Mr. Chairman. These are very compelling stories about the impacts on individuals, but I'd also like to point out, Marin County's a very good example, although two counties to the north that I represent, Sonoma and Napa, experienced similar things. These are counties that have a great challenge in providing affordable housing in general. And so the impact of loss of affordable units is a much broader and significant issue than these very real impacts that I'm not trying to diminish or minimize the impacts on the individuals that live in the home parks. But in terms of the overall housing need in those counties for affordable places to live, it would mean that we're going backwards instead of moving forward in coming up with more affordable units. So that's, I think, a broader, societal concern we need to look at.

MR. PRIEST: Thank you.

CHAIRMAN DUNN: Mr. Priest, just one other question. Can you give me an estimate based upon your experience on the percentage of mobilehome parks that this is happening to. I mean if we have 5,000 in the state. Nobody's going to hold you to it, just rough approximation from your perspective and what you hear.

MR. PRIEST: In the park closure bill for compensation, AB 690, we were estimating that anywhere from 1½ to perhaps 2 percent of the mobilehome parks at any one time would be going through some closure process. And that's just an educated estimate on my part. But that would basically pencil out to, I believe, anywhere from 150 to perhaps 200 parks statewide. And that's potentially a lot of people.

But that means parks that are in some stage of closure, whether they've given notices as this park owner did a 12-month notice, 12 months from now, we're closing, you're out. That effectively kills the resale market right there. Realtors in the area quit showing homes, mobilehome dealers--why show a home that's for sale in a park that's going to be closed in 12 months. But that's a rough estimate, and I know that we have industry representatives here that may have their own--

CHAIRMAN DUNN: And I'll be asking the same question as well, too.

Thank you very much, each of you. Why don't we call up the next three? And again, going in the same order, we invite Don Gilbert, Craig Biddle, and Jeri McLees, and we'll bring up Greg Evans, as well.

MR. CRAIG BIDDLE: Mr. Chairman and members, Craig Biddle representing the Western Mobilehome Park Owners Association. I have two witnesses with me who are both members of our association who have parks and who rent spaces directly, and I'll ask them to testify afterwards and tell

you why they do it. I'll ask them each to tell you as Mr. Tennyson puts in his analysis, why they do it and what problems are created as a result of that.

At the outset, I'd like to make a couple of comments myself. Our association and GSMOL have been discussing the whole subletting issues, if I can call it that, for a number of years. We've had a number of cases of legislation, and we've worked closely with GSMOL trying to solve this problem. Because it's a problem not only for their association but for ours. And we've been unsuccessful in doing that over the years although we've attempted to do that in several pieces of legislation.

I think though, Mr. Tennyson's paper, Mr. Chairman and members, raises a lot of important issues today. And it even says in his paper that he doesn't--I think he mentions because of the resources of your committee--doesn't have all of the facts or the information. And I think this is important for this committee and all of the committees to really know the exact facts and information. As an example, Mr. Priest just told you that he believes that there's about 150 mobilehome park owners who are in the process of doing a closure. Two weeks ago, he testified to that fact of 150. But he said last time, he said that was 150 over a five-year period. Not that are going through the process now, but 150 have closed over a five-year period over the last five years. We don't have those statistics. We don't know exactly the number that are closing, and we think this committee should find that out though. I think that would be important.

I'd like to call your attention also that when we close a mobilehome park in the state of California a result of a law that was passed many years ago, over ten years ago--and I believe Senator Craven was the one, and your predecessor, that offered the bill--we have a very complicated process to go through before we close a mobilehome park. After the notice goes out, we

have to do an impact report on what effect this will have on the homeowners in the park. We have to have a public hearing before the local governmental agency. The local governmental agency has a right to mitigate damages on the effect of the closure, and they often impose many conditions upon us.

There is a limit that this cannot exceed the "reasonable costs" of relocation, and that's in the statute now. When we get into an argument as to what that means, oftentimes because there's no space where you can move the mobilehome, or it's getting too old and can't be moved. But we have a lot of those problems and have had those and are continuing working on them. But going to the issues that are raised by your committee paper, what types of problems we have, while we're in the process we don't call it "double renting", we call it renting the mobilehomes and the space.

And let me turn it over now to Mr. Greg Evans who has parks that are involved with this and does it and why he does it and let him explain to you some of the problems that he perceives or doesn't perceive that are the cause.

MR. GREG EVANS: Good afternoon. Thank you for the opportunity. My name is Greg Evans. I operate a management company that operates approximately 18 mobilehome parks in California, Arizona, and Nevada. Additionally, I own mobilehome parks myself, and do rent mobilehomes in some of those parks.

As to the questions why we do this. I want to give you two examples--tape turned--and reasons for it. The first is in Hemet. As you probably are well aware, there has been a very soft housing market in that area. And at one point, the park that I operate down there and have operated for about 12 years, which had been full, found itself with a 30 percent vacancy factor in 150 spaces. Meaning when you drove into the park, one third of the spaces were vacant. Nobody was living on those. The homes had left.

We also found at this time that due to changes in regulations for the requirements for installation, particularly earthquake tie-downs and bracings, the cost of installing, bringing homes back into the park, had jumped by $7,000 to $10,000. So if a home moved out and down to the Boulevard, and the park owner went out and bought it and moved it back into the park, the cost of replacing that very same home was up by $7,000 to $10,000. So in order to preserve the community, in order to stop the hemorrhaging, we embarked upon a process of aggressively attempting to acquire homes in that park. Not by forcing people out, not by employing any subterfuge or tactics, we simply went out and offered market, and in many cases above market, prices because we knew the cost of moving a home back into the park had this $7,000 to $10,000 premium. And in order to keep the park full, in order to keep the park viable so that we are now able to start turning it around, we're able to offer an attractive community, and we're starting to bring new homes back in. That economy is changing.

But that park might not have survived economically had we not had that opportunity to do so. We didn't sell them at great profits, many times we were just trading dollars in acquiring and getting in and out of these homes. That's Hemet. So that was one market.

I operate and own a park in Santa Cruz County which is a very different market. My family's owned that park since 1961, and at one time or another my family has always owned and rented homes in that park. It has not been for the purpose of closing the park. We would have done that in the last 38 years. Quite the contrary. It started out years ago as an accommodation because it was a senior community, and some folks would come out, and they'd be finished there. They'd want to leave, they may go to a rest home, they may move back to families or they'd pass away. We

acquired homes as an accommodation really to our residents. Over the period of time, we have acquired a number of homes. So have 12 other people in that park, all of who sublet in that community, and we have very few problems in that park. It is an older park, it is over 50 years old, and we invest substantial dollars into the rehabilitation of the homes so that they remain clean, comfortable, and affordable housing in the county.

We have very few problems in having these rental homes side by side with owner-occupied homes. And some people go back and forth. They rent the homes, they move in. Sometimes they move back out. It provides more opportunities, and more choices for the residents in the park as to how they may want to use their home. It has not been a problem for us. Those are two examples of very different reasons why park owners get into mobilehome rentals.

Now, as for practices as to utilizing unfair tactics in trying to keep people out or destroying sales, there are mechanisms in place that specifically delineate the two reasons why we can deny somebody residency in a mobilehome park. I don't believe that it is a viable opportunity or a tactic that a park owner can employ to try to destroy sales. The liability is just far too great to try and do something like that. And that's not what we're out to try and do. We want our parks to be full. We want them to be communities that are viable and operate clearly and nicely.

That is essentially my testimony.

CHAIRMAN DUNN: Let me ask you a couple of questions before we move on. You mentioned that there is other recourse if there was an owner, for example, that employed certain not-so-nice means to force the resale value down to purchase a home. What are those recourses?

MR. EVANS: Well, I would have to say, for example, if a park owner were trying to destroy the value of those homes, he would have to do so by trying to impede the value through a sale. Well, state law already requires the only two reasons that a park owner can currently deny an applicant coming in is if the applicant does not have the financial ability to pay the fees and charges of the parks. Secondly, if they cannot comply with the park's reasonable rules and regulations based upon prior tenancies. So the burden of proof, if you will, is on the park owner to make a determination within 14 days as to the viability of an incoming applicant. And if the resident passes both of those tests, and they're not difficult tests to pass, we cannot stop a transaction from going forward as a park management.

SENATOR CHESBRO: What about in the earlier case that we were talking about. I don't expect you to know or comment specifically, but just generically, where the park owner essentially said that he was closing the park, and so their only option was to sell to him or move it.

MR. EVANS: I can't comment as to a particular case like that. If park owners believe they could force people to sell mobilehomes to them that have value of $20,000 or $30,000 for $1,500, I'm sure they tried to do that. But this is the first time I've ever heard of an instance like this. I suspect it's an isolated case.

CHAIRMAN DUNN: The Hemet situation that you described. How come there's a third vacancy in the first place?

MR. EVANS: It's a very soft and depressed market. The economic forces, I suspect, related to a couple of things. First of all, in 1988, the federal Fair Housing Act changed. That park had been a 45-and-over age park, and due to federal changes in law, parks had to either go to housing for older person status, or all age. And the market in Hemet is largely housing for

older persons. So we had a different customer base to go to. Secondly, the cost of retiring in California is much higher than it is in Nevada or Arizona, and we were finding that the seniors were not coming to Hemet. They were going to Laughlin, to Las Vegas. There's no income tax there. Much cheaper cost of living. So we had a very difficult marketplace based upon demand.

CHAIRMAN DUNN: Okay, let's go on to the next one. We're probably going to come back with more questions, but go ahead.

MS. JERI MCLEES: Mr. Chairman, members of the committee, my name is Jeri McLees, and I've been involved in the mobilehome park industry since 1975. I had the privilege of working with Craig Biddle in the legislative arena for 17 years, but I've owned a mobilehome park since 1985, and also serve as a property supervisor for mobilehome parks.

Part of my testimony, Greg has usurped, so I'm going to pass over that. But I did want to give you a real-life example of here in Sacramento, and I think it's important for you to recognize since many of you at least are living here when the Legislature's in session. Sacramento, as you know, is not under rent control, but we have had over the last four or five years some major other economic circumstances that have hit us and made the economy go upside down.

My business partner bought a beautiful manufactured housing community called Brook Meadow in 1994. Two hundred, thirty-five units, up-scale, really a lovely community. We had 11 vacant home sites. We had lots of great ambitions for doing some marvelous additional things in the community. And then in 1995 and 1996, we found ourselves in a scenario that he with 35 years in the business, and me with 25 years in the business had never seen. We had homes leaving the community through foreclosure. We had a group of dealers from Nevada, the Reno area, who virtually came in

and took 11 homes out of our community in one week. They went door-to-door to the residents and offered top dollar and bought them. We had abandonments. And we did have a few people that I did evict because they either didn't pay their rent or a couple that just were not meeting our standards. And much as we would try to work with them after months, and months, and months, we really had no option.

In the spring of 1998, out of 235 homesites, we found that we had 67 non-paying homesites. Now, we're in the business of providing affordable housing, and we truly believe in doing that, but we're also in a business. And we had a mortgage to pay, we had utility bills to pay. We had a number of things that we had to continue paying no matter whether those homesites were paying. We ended up for various reasons never buying a home through coercion from a resident, but we bought homes from the banks after they did foreclosures. Oftentimes the rents were current with us, but they weren't paying their mortgages. We bought from heirs whose parents had passed away and they lived in Massachusetts, and they didn't know what to do with these houses, and they willingly asked us if we would purchase them. And we also even with the extreme cost, we brought some homes in that were late modeled homes.

In the spring of 1998, with 67 non-paying homesites, we owned 40 homes. We had over $500,000 invested in the housing stock alone, and I'm going to tell you the cash flow was just absolutely in the red. And we had to bite the bullet. And what we did is we decided to rent our homes just as if they were under general landlord/tenant law to people that we screened very carefully. We had a careful security deposit system. We made sure that these people complied with the rules and regulations of our community. And we're delighted to say, we didn't rent a lot of them, but we're delighted to say

that we rented 12 of them. They've been rented for over a year, and we haven't had one problem.

What it did do is it gave us some cash flow, which helped my other residents. It occupied some homes that otherwise would not have been occupied. And if you go through any kind of community site-build or mobilehome, and you see a lot of empty walls and landscaping not quite maintained as well as when somebody's living there, you can appreciate it as important for the rest of the residents. My residents at Brook Meadow know that I'm doing this. And although they had a little bit of nervousness in the beginning, I think they also worked with me.

And now we're at that spot where the economy is turning around. We've got some of these tenants who are trying to buy the homes, which delights me. We have one that already has. I'd be glad to sell all of the houses tomorrow, but the Sacramento economy just doesn't allow that. What has happened for us and I think it's really important, the homeowners in a mobilehome park have an equity interest in their home, and they have the protections of just cause eviction, all the protections that the Legislature has given them for years. The key is when somebody is renting a home from me, they're renting just as if it's an apartment, a condominium, a subdivision, a site-built house.

But I have the ability if something goes wrong, to quickly go in and remove that person from my community. I cannot do that necessarily from the bad apple homeowner. It's much more difficult to remove the bad apple homeowner from the community. It's a key, it's not "double renting." It's not subletting. It's my property. It's a complete property. I own the house, I own the land, and I've got to have that ability to make those tough economic decisions to keep my community going. Frankly, in Brook Meadow, if I

hadn't been able to do what I did, I would have had to adjust the rents to all my remaining homeowners just to cover my basic cost. So kind of like Greg, we did it for economic reasons.

Nobody has any statistics unfortunately, but I would bet you if you took a poll of the mobilehome park owners, the vast majority would not like to go into the landlord/tenant issue. They'd much prefer to be the providers of the land management as we have done for all these years. That's why we own mobilehome parks, and not apartment buildings.

Thank you very much.

MR. DON GILBERT: Mr. Chair, members of the committee. Don Gilbert representing California Mobilehome Park Owners Alliance. My testimony will be very brief.

I just want to first state that California Mobilehome Park Owners Alliance concurs with the testimony of WMPOA, its witness, and also I think that the testimony of the previous panel of witnesses as well as the background report suggests that in order to really make fully informed decisions here as to whether and what kind of legislation might be required, that some kind of study to get those statistics you're asking for and to get that concrete sort of non-anecdotal based information that you're asking for would be warranted. We would not have any problem at all with that.

Thank you.

CHAIRMAN DUNN: Let me direct a question probably more appropriately to Mr. Gilbert or to Mr. Biddle. And pardon my ignorance, if I may, but I understand as you've described there may be circumstances where you believe it's necessary for you to sublet if you own the home and you sublet to a tenant. What is the reasoning behind, as I understand, most parks' prohibition on a mobilehome owner subletting their own unit?

MR. BIDDLE: Let me see if I can answer it this way. In the past, we've had many problems in this area. We get into the problem, first of all, if a person buys the mobilehome and immediately sublets it, doesn't ever live in the home for a while first. So he just bought it for the purpose of subletting. Then they get into the problem of how often do they sublet. Is it for weekends, is it for a short period of time? The other tenants in the park don't want to have people coming in and moving out all the time, continually.

We also have problems with the subtenant. How do they abide by the rules and regulations and whether they do or they don't? And if they don't abide by the rules and regulations, how do we enforce the rules and regulations against the subtenant where the tenant of the park is long gone? We have a whole series of these problems.

Some of our parks do allow subletting into a three-way rental agreement with the subtenant, the tenant, and the park management. And they've been able to work out some of these problems in that way. I can't give you the percentage, maybe Mr. Evans can, what percent prohibits subletting. Many of our parks allow subletting--

CHAIRMAN DUNN: What's your guess, Mr. Biddle?

MR. BIDDLE: I'd say around 50 percent, something like that.

CHAIRMAN DUNN: Prohibit it across the board?

MR. BIDDLE: Yes, that's just a guess.

But they have problems. They've had them in the area, and we've had them in the past.

Let me just state, Mr. Chairman, I think it's important--Mr. Gilbert was just saying this--I think it's important that you, the committee, know all the facts that are involved in this problem. Because the Novato case that Mr. Priest talked about is one part, and that's in litigation. I don't have the facts

on that park, but maybe you should have those. But I think there's a lot of misunderstanding about what the true facts are.

As an example, Mr. Tennyson in his paper talks about some ordinances that are triggered that the whole park would be exempt from rent control after a certain percentage of homeowners in the park are no longer homeowners that were renting out those spaces. Well, I'm not familiar with those ordinances. Now, there may be an ordinance like that, but I checked with all of our people, and of the 100 ordinances, they couldn't find one ordinance that has that provision in it. But Mr. Tennyson refers to that.

But I think you should know those facts before you do anything in this area. If there is such an ordinance, we are unaware of it. WMPOA is unaware of it. Maybe Mr. Tennyson can give us the ordinance, and I think you should have all of those facts, and the facts in the Novato case. What's happening in that park? This litigation now Mr. Priest is the attorney for the tenants in that. Mr. Kenyon is the attorney for the park, and I think you should have all the facts in that case, and I don't have them. But it's in litigation.

CHAIRMAN DUNN: Let me ask you another question, Mr. Biddle?

I heard some of the issues you raised that the park owners have with respect to subletting. And let's just assume you're correct that it's a 50-50 as far as parks that allow it versus parks that don't. If some of those issues that you raised could be addressed, do you think there would be basically across-the-board acceptance by park owners to allow subletting?

MR. BIDDLE: A number of years ago, I can't remember what year it was, we tried to work this out in a bill. It think it was Assemblyman McClintock's bill at that time. And we had worked out all of these problems that I just reiterated to you, like how do we enforce the rules against the

subtenant and so forth. And we had them all worked out, and I think we were very close to reaching agreement on it, and I can't remember why but Mr. McClintock dropped the bill at that point. Yes, I think we could work them out. And we'd be glad to sit down with GSMOL and your committee and see if we could work them out again as we did a number of years ago.

CHAIRMAN DUNN: Okay, other questions of this panel? No, none? Okay, thank you each and every one of you.

Let's call up the next three, and they are Mr. Sams, Mr. Smith, and Mr. Carter. Mr. Sams.

MR. JIM SAMS: Thank you, Senator Dunn and members of the Senate Select Committee. My name is Jim Sams, and I am a mobilehome owner living in Olympia Mobile Lodge in Sacramento. I appreciate this opportunity to testify before your committee.

I was also asked to express these views as those of the watchdog team of the Mobile Manufactured Homeowners Network, and you have a few sheets of a brochure in front of you there identifying who we are. I was privileged as a past officer of a mobilehome organization to work with the late Len Wehrman, an officer of the National Foundation of Manufactured Homeowners. He, along with Mr. George Smith, who will testify today, early on identified the severity of the "double renter" problem. Although we, as a legislative committee, were not permitted to pursue legislation to deal with the "double renting" problem last year, we're very happy that it is now being considered.

Mr. Wehrman was very concerned about the danger to mobilehome owners and resident organizations should this practice continue unchecked. Very briefly, I and the watchdog team wish to express concerns about allowing this practice to continue. In doing so, I wish to commend committee

chairman, Senator Dunn, and committee consultant, John Tennyson, for the fine background material they've provided. I'm concerned about the apparent "change of use" brought about by this practice. It is detrimental to mobilehome owners because it produces a strong temptation for park owners to increase rents that result in bargain basement prices on mobilehomes or result in their abandonment, and thus become available to park owners as park rentals.

I am also appalled by the threat to rent stabilization areas where renters of park units can be convinced to approve park owner proposed leases or rent schedules that result in exemption of the park from local rent control for mobilehome owners. I agree that this places management in a very advantageous position. The more mobilehomes the park owner buys, the more it increases the chance that the park can avoid any control on rents because it erodes the residents in the park.

Another problem exists because of the present double standard which you've already mentioned allowing a park owner to rent out a park-owned mobilehome but denying the same right to a mobilehome owner in the park. This once again puts further financial pressure on the resident to walk away from his or her investment because of the inability to rent it. A park owner then buys the available mobilehome as you've heard at distressed prices and rents it to someone else. Mobilehome owners must have that same right to balance the scales. Even the Legislative Counsel's opinion from 1997, which you have in your packet, sees a change from mobilehome law to landlord/tenant law resulting from this continued practice. And the hard won Mobilehome Residency Law becomes less effective as it is superseded in this area. Mobilehome park living has a uniqueness which landlord/tenant law cannot deal with effectively.

There is one concern about the legislation, AB 1644, by Assemblyman Floyd. As an aside, I know Assemblyman Floyd is a very dedicated supporter of mobilehome residents. This is not a criticism, I'm bringing it out because I'm concerned about it. The statement is made that "a change of use" may not be made where the real purpose is to convert the park to a landlord/tenant park. How does one prove the intent or real purpose of a park owner who continues to acquire one mobilehome after another when mobilehome owners abandon or are financially forced to sell for whatever reason? My feeling is this weakens the bill.

Nevertheless, I wish along with the watchdog team of the Mobilehome Manufactured Homeowners Network to urge support of AB 1644 and trust that it will be amended to make it strong enough to stand without a court challenge. I've taken the liberty of including three proposed amendments from last year's legislative session which you'll find in our packet, capitalized portions within the paragraphs of the amendments which may help solve the dilemma of "double renting," and I'm going to leave the identification of those amendments to Mr. Smith.

I wish to thank you once again for holding this hearing which has such an important bearing on our continued financial security in the mobilehome community. Thank you very much.

CHAIRMAN DUNN: Mr. Smith.

MR. GEORGE SMITH: Mr. Chairman and members of the committee, ladies and gentlemen. I reside in the Meadows Mobilehome Park in El Cajon, California. Having lived there since 1 July, 1980, I've been involved in mobilehome issues in and out of several organizations since that date, and continue to be involved today.

I think it's very interesting to hear the various approaches between the park owners and mobilehome owners. The fact that there's differences is not unusual. That's always been the case. I want to give you what I believe is a very factual and correct version of what's actually happening here, and what it's going to do to the Mobilehome Residency Law, and what's it's going to do to mobilehome parks as we know them if some corrections are not made in the definitions as contained in Section 1.

Basically a steep decline--and you've heard this, but I'm going to repeat it--a steep decline in occupancy in space rental in mobilehome parks resulting from no competition and high rents has caused the park owner's income stream to sharply diminish. Many schemes have surfaced to combat the problem. One of those most onerous and least publicized is referred to as "double renter." The park owner through economic eviction either purchases mobilehomes for a fraction of their worth, or liens to pay for back rent, and obtains possession through foreclosure. He then sells the old single-wide, and replaces it with a double-wide, or in some manner retains the home, refurbishes it, and then rents the lot and the home as one unit. That's where we coined the term in early 1997, "double renting." He rents the home and the space as one unit. And that is in every sense of the word, "double renting."

Many in and out of the state Legislature, and I also contend that this constitutes a "change of use" as currently defined in Section 798.10 of the Mobilehome Residency Law. Further, that space and perhaps that park no longer fits the definition of a mobilehome park as set forth in Section 798.4 of the Mobilehome Residency Law. Many rent regulation ordinances accords and similar legislation requires a certain percentage of homeowners to agree to a park owner's rent schedule in order to exempt the park owner from the

control of that entity by the park owner only. Many such organizations specify 67 percent of a resident organization must approve before that schedule can be adopted.

A recent decision--not quite so recent now, made perhaps a year ago--the city of Santee's rent review commission permitted a park owner to count his "double renters" as part of the resident organization. And because of the current definition of resident in Section 798.11 of the Mobilehome Residency Law, this resulted in the park owner being enabled to impose a park rent schedule that was obscene and over a period of 20 years raised rent to well over a $1,000 per space. (We formerly believe the intent of the Mobilehome Residency Law is to limit the participation in mobilehome park associations to homeowners.) Homeowners to be redefined to mean those who actually hold title to their mobilehome or have real estate, personal property, legal and/or registered owner, the purchaser in a contract of sale. This redefinition would exclude the "double renter" from being included as a homeowner.

The former state legislative committee for GSMOL that sat in 1997 and again in 1998 advocated that the failure to legislate corrections eliminating the misuse or unintended use of these definitions will result in the death knell of all public rent regulations and rental of mobilehome parks in the state of California.

Very quickly, the changes that in my view should be made in the law to correct this situation are almost all, in fact, are all contained in the definition section. Section 798.4, the definition of a mobilehome park, for example. A mobilehome park is an area of land where two or more mobilehome sites are rented or held out to rent to accommodate mobilehomes used for human habitation. We need to add a new subsection (a) which states, "The renting of a rental park owner or manager of a mobilehome and a mobilehome site or

space as one unit is not a mobilehome occupying a mobilehome site in a mobilehome park." And it isn't. It's very simple, it is not.

Section 738.9, the definition of homeowner. Homeowner is now defined as a person who has a tenancy in a mobilehome park under a rental agreement. We believe the change should be, "Homeowner is defined as a person or persons who has title to a mobilehome park as a real estate, personal property, or registered and/or legal owner is a purchaser under a contract of sale or who has tenancy in a rental mobilehome park under rental agreement." Section 798.11, the definition of resident. "Resident is a homeowner or other person who lawfully occupies a mobilehome." We need to add a section. "Other person includes a person or persons who reside in a rental mobilehome park but does not include a homeowner."

Section 798.13 of the definition of a homeowners' association. "Homeowners' association is an alliance of homeowners formed to"--this is an addition by the way, it's recommended--"homeowners' association is an alliance of homeowners formed to represent a mobilehome owner's residing and rental in a mobilehome park and the relations with the mobilehome park owner management and all issues arising between them, and before the public entity such as city councils, boards of supervisors, rent review commissions, and any and all similar entities." Subsection (a), "Homeowners' association shall be recognized as the official voice of homeowners in a mobilehome rental park when they represent 70 or more percent of the units in a mobilehome park."

The following amendment needs to be made. Section 798.80, the sale of a park notice by management. "All references to resident organizations shall be removed and homeowners' associations shall be substituted therefore as

defined in Sections 798.13 and 798.13(a), the definition of a homeowner's association."

Thank you. That concludes my testimony.

CHAIRMAN DUNN: Okay, before we move on to Mr. Carter, let me pose a question to either one of the two of you in the following way. I'll put myself in the shoes of a park owner, okay? If Mr. Priest was right in his estimate of the number of parks that may be engaging in this activity, if it was truly that beneficial to the park owner, why wouldn't there be more that are engaging in this activity?

MR. SMITH: I don't wish to criticize Mr. Priest or challenge his statement. But at least in my area, which is San Diego, Imperial and Riverside counties, if I were to use the information that I have in my own immediate area, I would tell you that probably 95 percent of rental parks today have some "double renters." Maybe not all, but some. And I would suggest and urge that the request for some statistics to be developed is appropriate. But in my own view and from my own experience with dealing with the people in these parks, there isn't a park in my area that doesn't have one or more--except ROP, resident owned parks--that does not have some "double renters."

CHAIRMAN DUNN: Care to add Mr. Sams? Go ahead.

MR. SAMS: In my response to that, I would say that it's quite obvious that if Mr. Priest's estimate is correct, and I have no way of saying it is not correct, I assume it is or at least a rough estimate. If 50 percent of the park owners are doing it now, I would say that's a pretty good indication that there is something there. When you get 50 percent of park owners doing this, there is something that's happening. And also I might call to your attention that this vacancy that we are seeing in mobilehome parks has occurred to a great

deal because of the fact that rents have escalated in various areas, maybe some areas not quite so much as others. However, we are raising rents on people who are unable to continue paying as the years go by, and they're on retirement or lesser incomes. So I think that you're seeing a developing situation which is not going to get any better, it's only going to get worse.

MR. JOHN TENNYSON: If I may ask a question, Mr. Smith? With regard to your concerns on the state definitions of resident homeowner and so forth, if the problem is with regard to these definitions as they effect the mobilehome rent control ordinance in the city of Santee and perhaps a few other cities, wouldn't it be easier to prevail upon the city council to change the exemptions or the provisions of the ordinances rather than try to change the definition of some of these terms in the state law which may affect the rights of homeowners or residents in other ways that perhaps we cannot foresee? Case by case, in other words.

MR. SMITH: I understand your question, and that's been suggested before, been posed before. And I would tell you that at this point even though we made an attempt to survey, Santee is not the only one. There's quite a few others, and there may be even more. Because I don't think a good solid survey has been made. But my point is simply also that one of the things we need to do legislatively, and I'm sure you gentlemen agree, is we don't always react, we all sometimes need to do some preventative maintenance. And if this 67 percent rule is not addressed statewide, then there's nothing at all to prevent any jurisdiction that is prevailed upon to use the 67 percent rule in any of their rent regulation ordinances. And so if we're going to address the issue after the fact, it's my view that we also ought to address it before the fact and prevent that from ever happening. Because if we don't, then that

very thing is going to be used to take those parks out from under rent control and so far as that particular municipality's concerned.

CHAIRMAN DUNN: Okay, let's go on. Mr. Carter.

MR. SCOTT CARTER: Yes, Scott Carter. I own a small mobilehome park in El Sobrante, California. I've also been a property manager of mobilehome parks since 1986, and--I think it was pointed out today, and it's important to look at the reason park owners are renting out mobilehomes and have been in the 90s. It's been due to the poor economic climate for resales in mobilehomes that many park owners have been forced to take this kind of action to maintain their economic viability. And Jeri McLees addressed this issue rather well, and, I think, it would pay well to re-read her remarks.

In many cases, this included buying mobilehomes that weren't selling and then renting them out. The committee has described this as "double renting." In 1992 when I purchased my small, older mobilehome park in El Sobrante, there were two vacant mobilehomes being offered for sale, and no vacant spaces. The mobilehomes had been on the market for several months with no takers. Finally the mobilehome park owner, which happened to be the city of San Pablo, sold both of them to an individual who took them out of the park. I was left with two vacant spaces. It took several months to fill these spaces. Even then, I was only able to obtain tenants with recreational vehicles.

Another less desirable space remained vacant nearly two years after that owner removed her trailer. I have kicked myself a hundred times for not buying those units myself and renting them out to others until the market returned. During this same poor economic climate for resales in the early 90s, the owners of a mobilehome park in Concord were dismayed to find that the residents were not able to sell their mobilehomes and were taking them

out of the park leaving vacant spaces as we've already heard testified to in Southern California. The park owners decided to buy a new a mobilehome and place it on one of these vacant spaces and market the home. Over a year went by and they had no takers for that home. They even reduced their price down to their cost, their actual bare cost, and they got a discount price, they were dealers. And they couldn't sell that home. In desperation to obtain at least some income from the space, they rented--or as this committee has called "doubled rented"--the mobilehome.

With the continuing flight of mobilehomes apparent due to death, transfers to nursing homes and other transfers, the park owners started buying up the homes for sale. The mobilehome park spent thousands of dollars to make these homes habitable, and then rented them out in order to keep the mobilehome park financially seaworthy.

By 1996, the park owned more than 21 mobilehomes. The park owners in this case didn't want to rent mobilehomes. They had no choice. They knew that their management and maintenance intensity would be increased with the mobilehome renters, and they had to hire more staff for both administration and maintenance. The renters would only stay for months usually unlike mobilehome owners who stay for years. The increased costs of maintenance, advertising, showing, qualifying, and collecting rents with some periods of vacancies cost these owners a lot of money.

As a farther complication to the park owners' task to try and economically manage their investment, the city of Concord passed an onerous rent control ordinance, one of the hardest in the state allowing only 60 percent recovery of the rental loss due to inflation. Needless to say, these park owners decided it was time to get out of the business and sold their park to another. Since that sale, the market for resales for mobilehomes has

begun to return. The new park owner began selling off his rental stock of mobilehomes, and today there are but a few owned by that park owner.

What problems exist for mobilehome owners renting spaces in these parks where we see this thing happening? Well, first of all, it's well known, at least in the lending community, that people who have an investment in their homes, a sizable or significant down payment, are much more likely to take care of that investment and preserve the security. Likewise in mobilehome parks, mobilehome park owners that are operating a park with the intent of having an investment want to maintain the quality of the environment and the value of the park. And incidentally, it maintains the value of the mobilehomes in those parks.

Homeowners are more likely as a class to keep up the appearances of their homes. The neighbors to these mobilehome owners are the incidental beneficiaries of this behavior. Vacant properties and, to some lesser degree, properties occupied by a tenant with no vested interest generally tend to reduce the desirability of the surrounding properties. Park owners generally will hire professionals to manage their parks, the larger parks anyway, and these folks have acquired skills over the years in screening applicants and qualifying them for tenancy. Also, because they're managing the park day-to-day, they're going to see to it that space maintenance concerns are addressed, the rents are paid, and conduct problems between one tenant and another are dealt with.

Park owners are generally reluctant to permit subletting because the mobilehome owners are absentee landlords, typically unable and often unwilling to exercise proper oversight as traditionally done by professionals or park owners who are at the properties. As a rule, the absentee mobilehome owners have no skill or experience in selecting or counseling

tenants, and are prone to make crucial errors of judgement. Because of this, their spaces end up showing a deteriorated condition and the subtenant's lack of appreciation or respect for the neighboring homeowners.

The subtenant has no direct tenancy relationship with the park manager, and they often act as if they are immune to park rules and regulations, and that's been pointed out today as well. Park management lacking any direct authority over the sub-tenancy is frustrated with having to deal with an absentee tenant/landlord who isn't able to and is often lacking in appreciation of their duty to deal with the problems the subtenant is causing for the park and its other residents.

Because of the incumbent delays and impediments built into the mobilehome residency law designed to protect homeowners who occupy their homes, management is not able to effectively deal with subtenants over which they have no direct control. On the other hand, where management rents both the mobilehome and the space, it has direct control over the tenancy and can effectively and efficiently correct the occasional situation of a bad tenant using general landlord/tenant law. While an absentee mobilehome owner has that same procedure available to them, they're far less likely to use it because of more limited financial resources, and the tenanted interest in correcting problems such as poor landscape maintenance or conduct deemed offensive to the neighboring mobilehome owners.

One of my concerns that was brought up by Mr. Sams and Mr. Smith is these local municipalities that have rent control, and they're a minority in the state. I think the paper indicated only 100 of these municipalities have some form of rent control out of perhaps as many as 400. The local government has the ability to reshape and amend these ordinances. If they find that the ordinances fail to adequately serve their intended purposes, and

they often do amend these ordinances. Since California recognizes rent control as a local prerogative, it should recognize the constitutional qualifications for applying these ordinances as local prerogatives too.

I believe the state should recognize that the economic crisis faced by mobilehome owners in the early part of this decade was a crisis faced by Californians on a broad basis. That crisis is now generally over. Mobilehome parks offer a unique and positive solution to homeownership for many Californians, and legislation at this time that would further deplete or restrict property rights of mobilehome park investors would exacerbate the decline of mobilehome parks in California. The Legislature, I would hope, would seek ways to attract more investors to build and operate parks and be watchful that their well-intentioned legislation does not destroy the future viability of this form of housing as an attractive investment.

Finally, comment. Mr. Biddle, I believe, indicated that it was his belief that perhaps as many as 50 percent of the mobilehome parks in California allow subletting. I disagree with that. I don't know if a survey has actually been done, but I can tell you clearly in the areas that I've been operating as a property management company, and that's typically Northern California, less than 10 percent of the parks' rules allow subletting, whereas at least probably 50 percent of the parks do own homes in the park and rent them out.

Typically, they don't seek that kind of business because of the management intensity and the additional cost, and the turnover, and the resultant depreciation in the overall value of the park. They typically buy these mobilehomes because they want to keep the baby alive. They want to keep the income coming in until the market is better, and they can resell

those homes to a responsible homeowner who will take pride of ownership and be a good addition to the community.

I don't think it would be in the best interest of these residents here. These folks to me appear to be the folks that want to live out their lives in their communities, and they want to preserve their investments. They're not seeking to move out and sublet their homes. However, if legislation were to occur that brought about the right for tenants to sublet their homes, it would, in my opinion depreciate the value of their homes and their quality of life and their environment because of the increased turnover and the quality of renters that would be brought in by people not skilled in screening those tenants and further not in a position because they're absentee to oversee that tenancy for the benefit of the other residents in the park.

Thank you.

CHAIRMAN DUNN: Mr. Carter, let me put myself in the shoes of the resident now. I asked these two gentlemen when I was putting myself in the shoes as a park owner, would you agree with the current state of the law that if there was an unscrupulous park owner out there that wanted to drive down the value of the homes of the residents could do that under the current state of the law, such as I think in the case that Mr. Priest talked about filing a notice to convert? Would you agree that that by itself would drive down the value of the homes in that particular park?

MR. CARTER: I think the fact that the law in California requiring us to give a one-year notice of our intent to convert a park by that fact alone is going to reduce the value in the mind of a purchaser who wants to locate in that mobilehome park. A person that wants to buy a mobilehome generally intends to live there for years. They don't intend to live there for six months

or a year. And if the home is, in fact, going to be converted to another use, then that shunts that purpose. And the value is going to go down.

Persons who buy mobilehomes as a form of occupancy, are buying two things. One, they're buying the mobilehome itself which has a certain intrinsic value. And two, they're buying the right to live in a particular location assuming they've been approved for occupancy. (In California through its law has given these people a perpetual right of tenancy.) That perpetual right of tenancy has limitations. The limitations are that they must comply with reasonable rules and regulations, and they must pay their rent and not substantially annoy other tenants.

Assuming that time goes by and rent control is passed, the value of the right to occupy that space in dollars and cents, intrinsically, is reduced in relationship to the value of purchasing from a homeowner that's already got the right to live there. They're paying three things then. They're paying for the value of the home, they're going to be paying for the right to pay that rent and that has significant value.

If a park owner has been reduced in his ability to achieve profitability in that park, and the trend in that community has been to re-zone and change the highest and best use for that land to some other purpose, the park owner will be tempted or his successor tempted to convert that use. And in preserving property for low cost housing, sometimes cities may be hurting themselves to pass legislation that is going to reduce the ability of that park to remain viable.

Certainly, giving homeowners the right to sublet mobilehomes in the park is going to take away some of the ability of a park owner to maintain the environment, the aesthetic environment, and economically viable environment of that mobilehome park as a community.

CHAIRMAN DUNN: Okay.

Let's bring up our last two witnesses. Thank each of you.

Our last two witnesses are Ms. Jones and Mr. Harrison.

MS. LUCILLE JONES: Some of this may be repeat, but I'll try--

CHAIRMAN DUNN: Yeah, try to eliminate the repetitious stuff.

MS. JONES: Senator Dunn and members of the Senate Select Committee on Mobile and Manufactured Homes. My name is Lucille Jones, and I'm past president of the Golden State Mobilehome Owners League.

I'm here today to give you some background on AB 1644 by Assemblyman Floyd which addresses the subject of "double renting" in mobilehome parks. When mobilehome parks are developed, they are established as rental parks with the homeowner purchasing the home and renting the space upon which it sits. A few years back due to the increases in space rent and the depressed state of the mobilehome market, many homeowners had to walk away from their homes or in some cases sell their homes to park owners at far below market value. Plainly economic eviction.

Most park rules and regulations state homeowners are not permitted to sublet their homes. However, when a park owner rents a home, he is permitted to rent the home and space, hence the term "double renting." In 1997, the question of this practice was directed to Senator Craven by Len Wehrman who was the vice president of the National Foundation of Manufactured Homeowners and a GSMOL member with the request that a written response be obtained from the Legislative Counsel. Mr. Wehrman's original request is part of the packet that I just presented to you, and the response from the Legislative Counsel was made a part of the information paper.

Unfortunately, Mr. Wehrman passed away in 1998, and he asked Inge Swaggart of GSMOL and me to continue his work. This year the request was submitted to the GSMOL legislative committee and was subsequently approved. The information paper covers most of the information about which Len was concerned. So I won't repeat it here. In the information paper, it states that the Department of Housing and Community Development, HCD, has no information or statistics available on how many mobilehomes and parks are owned by park management, or park operators and rented out to tenants. To remedy this, I would suggest that in as much as park owners have to renew their license to operate a mobilehome park once each year, it would be very simple for HCD to include in the application to renew, a simple statement, "How many spaces and homes are rented as one unit?" After one year this information should be provided to the Senate Select Committee by HCD. This would provide the statistics that are needed to support this bill.

Likewise, local jurisdictions, cities, and counties must bear some responsibility to check mobilehome parks to determine that they are being operated as originally established. The practice of park owners being both landlords and park owners, in fact two businesses, a commercial and a residential, could cause incorrect information being provided to rent stabilization jurisdictions when hearings are held to review rent increases. This also has a bearing on home values and selling prices. The effect upon renters who in talking with neighbors could find out that the homeowners have protection under the Mobilehome Residency Law, whereas as a renter would come under the landlord/tenant law and have no protection is apparent. A good example is if a renter fails to pay rent, all that is required is a three-day notice to pay rent or quit. Whereas homeowners have protection of the MRL Section 798.56.

Mobilehome living is unique in that it is a community within a community generally with the GSMOL chapter and a homeowners' association to help the homeowners understand their rights and remedies to live within the rules and regulations of the park. Some people like mobilehome living. Others don't like being controlled in what they can or cannot do to their homes. Each homeowner is different. The practice of "double renting" is simply doing away with mobilehome living as we now know it. When you have homeowners and renters in the same area, there is bound to eventually be friction between the two factions. If this practice is allowed to continue and expand as is presently the situation, it will in the long run seriously threaten the viability and livability of the homes in the community as we now know them.

AB 1644 by Assemblyman Floyd will help to correct the practice of "double renting" of mobilehomes in parks that were originally established as rental parks where the homeowner owns the homes but rents the space upon which it sits.

Thank you.

CHAIRMAN DUNN: Thank you, Ms. Jones.

Mr. Harrison.

MR. HARRISON: Thank you and good afternoon. And Mr. Chairman, Honorable Senators, allow me to express my appreciation for the opportunity to address the issue that is before you here today. First, I want to take this opportunity to state for the record that I have been authorized to offer testimony on this manner in the name of the Congress of California Seniors.

Mobilehome owners in the name of fairness, rightfully feel that if park owners rent homes that they have acquired, residents should be allowed to do

the same. There may be some parks that do allow subletting, but they appear to be a rarity. One such I'm told is Cameron Park Mobile Estates in El Dorado County. This same park, however, has a "no subletting" rule. The residents themselves in some parks would prefer that their neighbors not be allowed to sublet. However, the residents that hold that position, do not appear to have the need to sublet their own homes.

Experience has shown that the means by which park owners gain possession of the homes they rent is of equal if not more concern than the "double renting" itself. The "double renting" issue frequently surfaces when the survivors of a deceased homeowner, while in a process of settling the estate, attempts to sell the mobilehome in place. The family of the departed homeowner soon learns that it is taking an unusual length of time to sell the home. And during a process of sale, the necessity of having to continue to pay the space rent is eating into whatever equity remains in the home. And it is not uncommon that even though the home is not occupied, the park will demand utility payments as well. Far too frequently, the seller will conclude that there is not enough equity left in the home and abandons it. And all the while the park owner is renting out homes that he has acquired, but will not allow residents to do likewise.

The families of homeowners who have been placed in nursing homes suffer the same fate. Inexplicable space rent increases that go beyond the financial ability of the homeowners, unilateral space-renting increases on resale, the employment by the park of an unlawful checklist determining certain conditions to be met before resale, unilateral denial of a prospective homeowner on resale, unlawfully demanding the removal of a home from the park on resale, or the removal of a single-wide on resale are all additional factors contributing to abandonment, or selling at nothing more than salvage

value. These factors are additional means by which park owners add to their stock of homes to be used for "double renting."

In all fairness what is a park owner to do but rent a mobilehome that has irreverently befallen him. I submit that the ill-begotten gain is the real issue and requires intervention. Intervention could, I believe, be in a form of some amendments to the MRL, the Mobilehome Residency Law. I have first-hand knowledge of park owners' circumvention of Section 798.74 of the MRL. This statute which is clear in it's intent to allow only two areas of inquiry of a prospective homeowner is violated time and time again.

The statute providing for the removal upon sale to a third party, Section 798.73, could also use some fine tuning. It appears as though some park owners only read as far as they want to. They don't seem to notice that removal upon sale will occur only after, and I quote, "As determined following an inspection by the appropriate enforcement agency." And it goes without saying that park owners are not an enforcement agency. Yet many park owners tell a homeowner that the home will have to be removed upon sale, thereby cutting the value of the home to a point of worthlessness.

As to why there is such prevalence in a practice of "double renting," there may be some confusion among those who practice it. We see references to park owners providing housing and owning housing communities. Perhaps some park owners believe that their business ventures are no different than operating an apartment complex. We all know, I'm sure, that when the operator of a mobilehome park rents both the space and the home, which is sited upon it, the occupant of that home does not enjoy the benefits and protection of the MRL. The MRL gives that person a residency only, and all the rights of tenancy can be denied. Those holding such a residency could be denied the use of all of the common area facilities, and please see Sections

798.11 and 798.12 of the MRL definition of resident and definition of tenancy, respectively.

It goes without saying that the "double renting" issue is in dire need of addressing and intervention is called for. I will conclude with the admonition that to mitigate the problem, there is a need to include a strong consideration for amendments to the statues already mentioned.

Thank you for your kind attention and consideration to the forgoing remarks.

CHAIRMAN DUNN: Thank you, Mr. Harrison. Senator Morrow, any question? No.

That's going to conclude it for today. I think the one thing that we were able to gather out of today as was suggested early on is we need to look at the extent of this issue, subletting, or "double renting" depending upon your perspective, of course. And I think we will, of course, do that to gather more of the facts and figures to determine, "a", if we do have a problem, and "b", if so what would be the solutions without presuming an answer to either one of those questions at this point in time.

We will review all the testimony today, and both the transcript and a report will be available in approximately 30 to 40 days for those of you who are interested in the outcome of today's hearing.

Again, I thank all the witnesses very much. Thank you, the two of you, and that ends the hearing today. Thanks.

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SUMMARY AND CONCLUSION

APRIL 26, 1999

Summary and Conclusion

Mobilehome owner representatives testified that park owners are buying up mobilehomes in parks throughout the state to circumvent local rent control, park conversion ordinances and the Mobilehome Residency Law. Some claimed this is a growing and alarming trend, the effect of which is to put mobilehome owners who continue to own their homes in parks at a disadvantage by facilitating additional rent increases, making it more difficult or impossible for homeowners to sell their homes, and devaluing the investment in their homes. Homeowner representatives claimed that 50% of the parks in the state are buying up homes in their parks (one homeowner testified to 95% in the San Diego area) and about 2% of the park are trying to close or convert their parks to another use.

Homeowner recommendations varied from recommending that the Department of Housing (HCD) do a survey on the issue to prohibiting parks from changing the use of the park and terminating the tenancy of mobilehome owners where the real purpose is to buy-out homeowners and continue operation of the park (AB-1644). Others testified that the Legislature needs to clarify the rights of those who rent mobilehomes versus mobilehome owners for purposes of local rent control by changing various definitions of homeowners and residents in the Mobilehome Residency Law. And implicit in some homeowner remarks is the ever present issue of subletting. Homeowners' representatives believe that if park owners can buy up the homes and rent them out directly, then homeowners should not be denied the opportunity of subletting their mobilehomes in the park as well.

Park owner representatives contended that, even though there may be a few isolated cases, there is no evidence of a growing trend of park owners buying up the homes in the parks in order to take advantage of homeowners and disputed homeowner claims that 50% of the

the parks are buying out homes and 2% are closing the parks. Park owners said that in most cases, other than employee housing, park owners buy the homes and rent them out directly out of necessity. The economic decline of the early '90's (and in some areas, like Sacramento, market conditions even in the mid to late '90's) led to a situation where homeowners themselves could not sell their homes to other homeowners or there was a growing vacancy factor in the park.

A couple park owner representatives testified that they were not otherwise interested in buying mobilehomes in their parks and renting them out like apartments, but to keep the park rental income flowing in, and to help some of the seniors needing to leave the park, some parks bought the homes from the owners wishing to move or brought in new homes to fill the vacancies. Park owners couldn't sell them either, so they rented them out instead. A couple representatives testifying for park owners addressed the subletting issue, intimating that homeowners are pumping up the double-renting issue to push through subletting legislation. Park owners offered no recommendations other than to suggest the issue needs more study.

The Select Committee has received a number of letters or calls concerning the so-called 'buy-out' of mobilehomes in parks in San Diego, Marin and Sonoma counties, and there appears to be a problem in some parks. The real extent of the problem, however, is unknown at this time. At the printing of this report, AB-1644 (Floyd), the double-renting bill sponsored by GSMOL, has become a 'two year' bill in the Assembly Housing and Community Development Committee. In the current form of the bill, it is unclear how local government will determine the real intent of the park owner, in following through on closure of the park, at the time the park seeks approval for closure or change of use. Perhaps alternatives could include provisions that only permit renting of mobilehomes by park owners for a limited period – say 18 months –

before the park is closed, or a limit on the percentage of the homes in the park the park could buy and rent out during a given time period. Likewise, suggestions that the Legislature change definitions of 'homeowner' or 'resident' in the Residency Law to better fit the particular circumstances of various rent control ordinances would be better directed at trying to change the local rent ordinances which have created various exemptions or problems for homeowners. One shoe doesn't fit all. But, the Legislature could give consideration to clarifying that either certain significant or selected provisions of the Mobilehome Residency Law apply to both homeowners and other residents, including tenants. To that extent, such a change would serve as a disincentive for parks to buy up mobilehomes and "double-rent" them in order to circumvent the Residency Law.

In any case, one suggestion made at the hearing by one witness, that a survey by the Department of Housing (or perhaps another agency) be made to determine the extent of the problem, i.e. the number of mobilehomes owned by the park owner in each park that is issued a renewal of its annual permit to operate, may be a good starting point.

# # #

APPENDIX

(Related Materials and Information)

April 26, 1999

ASSEMBLY BILL No. 1644

Introduced by Assembly Member Floyd

March 4, 1999

An act to amend Sections 798.23 and 798.56 of the Civil Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1644, as introduced, Floyd. Mobilehome parks.

Existing law, the Mobilehome Residency Law, provides that the owner of a mobilehome park and the employees thereof are bound by all park rules and regulations to the same extent as residents and their guests, but that this provision neither validates nor invalidates, and expresses no legislative policy regarding, rules and regulations prohibiting or restricting the subletting of a mobilehome park space.

This bill would delete the latter provision.

Existing law provides that a mobilehome park tenancy may be terminated by the management only for specified reasons, including a change of use, as defined, provided specified conditions are met.

This bill would provide that the management of a mobilehome park may not change the use of the mobilehome park for the purpose of compelling existing homeowners renting spaces within the park to move from the park or to sell mobilehomes to the park ownership or management, where the sole purpose thereof is for the management to rent mobilehomes, located on those mobilehome park spaces, to

others. The bill would also set forth the findings and declarations of the Legislature in this regard.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 798.23 of the Civil Code is amended to read:

798.23. (a) The owner of the park, and any person employed by the park, shall be subject to, and comply with, all park rules and regulations, to the same extent as residents and their guests.

(b) This section shall not apply to either of the following:

(1) Any rule or regulation that governs the age of any resident or guest.

(2) Acts of a park owner or park employee which are undertaken to fulfill a park owner's maintenance, management, and business operation responsibilities.

~~(c) This section shall not affect in any way, either to validate or invalidate, nor does this section express a legislative policy judgment in favor of or against, the enforcement of a park rule or regulation which prohibits or restricts the subletting of a mobilehome park space by a tenant.~~

SEC. 2. Section 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the homeowner or resident to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the homeowner receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the homeowner or resident, upon the park premises, that constitutes a substantial annoyance to other homeowners or residents.

(c) Conviction of the homeowner or resident for prostitution or a felony controlled substance offense if the act resulting in the conviction was committed anywhere on the premises of the mobilehome park, including, but not limited to, within the homeowner's mobilehome.

However the tenancy may not be terminated for the reason specified in this subdivision if the person convicted of the offense has permanently vacated, and does not subsequently reoccupy, the mobilehome.

(d) Failure of the homeowner or resident to comply with a reasonable rule or regulation of the park that is part of the rental agreement or any amendment thereto.

No act or omission of the homeowner or resident shall constitute a failure to comply with a reasonable rule or regulation unless and until the management has given the homeowner written notice of the alleged rule or regulation violation and the homeowner or resident has failed to adhere to the rule or regulation within seven days. However, if a homeowner has been given a written notice of an alleged violation of the same rule or regulation on three or more occasions within a 12-month period after the homeowner or resident has violated that rule or regulation, no written notice shall be required for a subsequent violation of the same rule or regulation.

Nothing in this subdivision shall relieve the management from its obligation to demonstrate that a rule or regulation has in fact been violated.

(e) (1) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided that the amount due has been unpaid for a period of at least five days from its due date, and provided that the homeowner shall be given a three-day written notice subsequent to that five-day period to pay the amount due or to vacate the tenancy. For purposes of this subdivision, the five-day period does not include the date the payment is due. The three-day written notice shall be given to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure. A copy of this notice shall be sent to the persons or entities specified in subdivision (b) of Section 798.55 within 10 days after notice is delivered to the

homeowner. If the homeowner cures the default, the notice need not be sent. The notice may be given at the same time as the 60 days' notice required for termination of the tenancy.

(2) Payment by the homeowner prior to the expiration of the three-day notice period shall cure a default under this subdivision. If the homeowner does not pay prior to the expiration of the three-day notice period, the homeowner shall remain liable for all payments due up until the time the tenancy is vacated.

(3) Payment by the legal owner, as defined in Section 18005.8 of the Health and Safety Code, any junior lienholder, as defined in Section 18005.3 of the Health and Safety Code, or the registered owner, as defined in Section 18009.5 of the Health and Safety Code, if other than the homeowner, on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner, each junior lienholder, and the registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to that payment.

(4) Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner, any junior lienholder, or the registered owner, if other than the homeowner, as provided by this subdivision, may not be exercised more than twice during a 12-month period.

(5) If a homeowner has been given a three-day notice to pay the amount due or to vacate the tenancy on three or more occasions within the preceding 12-month period, no written three-day notice shall be required in the case of a subsequent nonpayment of rent, utility charges, or reasonable incidental service charges.

In that event, the management shall give written notice to the homeowner in the manner prescribed by Section 1162 of the Code of Civil Procedure to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner, each junior lienholder, and the registered owner of the

mobilehome, if other than the homeowner, as specified in paragraph (b) of Section 798.55, by certified or registered mail return receipt requested within 10 days after notice is sent to the homeowner.

(6) When a copy of the 60 days' notice described in paragraph (5) is sent to the legal owner, each junior lienholder, and the registered owner of the mobilehome, if other than the homeowner, the default may be cured by any of them on behalf of the homeowner prior to the expiration of 30 calendar days following the mailing of the notice, if all of the following conditions exist:

(A) A copy of a three-day notice sent pursuant to subdivision (b) of Section 798.55 to a homeowner for the nonpayment of rent, utility charges, or reasonable incidental service charges was not sent to the legal owner, junior lienholder, or registered owner, of the mobilehome, if other than the homeowner, during the preceding 12-month period.

(B) The legal owner, junior lienholder, or registered owner of the mobilehome, if other than the homeowner, has not previously cured a default of the homeowner during the preceding 12-month period.

(C) The legal owner, junior lienholder or registered owner, if other than the homeowner, is not a financial institution or mobilehome dealer.

If the default is cured by the legal owner, junior lienholder, or registered owner within the 30-day period, the notice to remove the mobilehome from the park described in paragraph (5) shall be rescinded.

(f) Condemnation of the park.

(g) Change of use of the park or any portion thereof, provided:

(1) The management gives the homeowners at least 15 days' written notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) After all required permits requesting a change of use have been approved by the local governmental board, commission, or body, the management shall give

the homeowners six months' or more written notice of termination of tenancy.

(3) If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

~~(3)~~

(4) The management gives each proposed homeowner written notice thereof prior to the inception of his or her tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

~~(4)~~

(5) The notice requirements for termination of tenancy set forth in Sections 798.56 and 798.57 shall be followed if the proposed change actually occurs.

~~(5)~~

(6) A notice of a proposed change of use given prior to January 1, 1980, that conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall be governed by the law in effect at the time the notice was given.

(7) However, the ownership or management may not change the use of the mobilehome park for the purpose of compelling existing homeowners renting spaces within the park to move from the park or to sell mobilehomes to the park ownership or management, where the sole purpose thereof is for the ownership or management to rent mobilehomes, located on those mobilehome park spaces, to others. In this regard, the Legislature finds and declares that the owners of mobilehomes occupied within mobilehome parks are entitled to unique protection from actual or constructive eviction, including that which could result from the purported change of use of a mobilehome park by a park owner who intends to continue operating the mobilehome park as a landlord-tenant rental facility, by renting out

mobilehomes acquired from park residents after notice of the proposed change of use or closure, and which mobilehomes occupy the spaces previously rented by park residents.

(h) The report required pursuant to subdivisions (b) and (i) of Section 65863.7 of the Government Code shall be given to the homeowners or residents at the same time that notice is required pursuant to subdivision (g) of this section.

(i) For purposes of this section, "financial institution" means a state or national bank, state or federal savings and loan association or credit union, or similar organization, and mobilehome dealer as defined in Section 18002.6 of the Health and Safety Code or any other organization that, as part of its usual course of business, originates, owns, or provides loan servicing for loans secured by a mobilehome.

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99

SENATE BILL No. 1954

Introduced by Senator Peace

February 19, 1998

An act to amend Sections 798.9 and 798.11 of, and to add Sections 798.13 and 798.49.5 to, the Civil Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1954, as introduced, Peace. Mobilehome parks.

Existing law, the Mobilehome Residency Law, defines a homeowner as a person who has a tenancy in a mobilehome park under a rental agreement. The law defines a resident as a homeowner or other person who lawfully occupies a mobilehome.

This bill would revise the definition of homeowner to specify that the person also has title to a mobilehome or is a registered or legal owner of a mobilehome or is a purchaser under a contract of sale. It would revise the definition of resident to exclude a person who lawfully occupies a mobilehome when the owner of the park has title to it, is the registered or legal owner of the mobilehome, or is a purchaser of it under a contract of sale.

The bill would provide that, for purposes of any local ordinance, rule, regulation, or ordinance measure which establishes a maximum amount that management may charge a tenant for rent, a resident does not include a person who rents a mobilehome.

This bill would also define a homeowner association, as specified.

99

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 798.9 of the Civil Code is amended to read:

798.9. "Homeowner" is a person who has a tenancy in a mobilehome park under a rental agreement *and has title to a mobilehome, is the registered or legal owner of a mobilehome, or is a purchaser under a contract of sale of a mobilehome.*

SEC. 2. Section 798.11 of the Civil Code is amended to read:

798.11. "Resident" is a homeowner or other person who lawfully occupies a mobilehome, *except when the owner of the mobilehome park has title to the mobilehome, is the registered or legal owner of the mobilehome, or is a purchaser of the mobilehome under a contract of sale.*

SEC. 3. Section 798.13 is added to the Civil Code, to read:

798.13. "Homeowner association" means an organization of homeowners who have tenancies in a mobilehome park.

SEC. 4. Section 798.49.5 is added to the Civil Code, to read:

798.49.5. For the purposes of any local ordinance, rule, regulation, or initiative measure adopted by any city, county, or city and county, which establishes a maximum amount that management may charge a tenant for rent, a resident shall not include a person who rents a mobilehome.

O

Eugene O. McAttee
#2 El Novato Ct.
Novato, CA 94945
26 April 99

Senator Joseph L. Dunn, Chairman
Senate Select Committee on Mobile and
Manufactured Homes
Double-renting Hearing

Good afternoon Senator Dunn and Honorable
Committee Persons:

I am Eugene McAttee and I reside at #2 El Novato Court, in the City of Novato, in Marin County. I have been a mobile-home owner since 1989.

The issue of double-renting has affected me personally, since 1995 when the owner of my park embarked on a path of acquiring each home in our park and raising that space rent as high as he wished. One year ago, he terminated the tenancies of the remaining 50% of the homeowners in the park when making the public claim that he was causing "a change of use" in the park.

At that time he stated to the City of Novato that he was closing the park. In November of last year, after he had acquired nearly 75% of the homes by various means, he changed

his park closure information to state that he was only refusing to rent to homeowners in the park. He further informed his new tenants that anyone renting both the mobilehome and space from him would be permitted to remain in the park indefinitely. His attorney told the City of Novato that, "This is the way you close a mobilehome park."

I hope you can realize that this is the way serious harm can befall California$ largest stock of affordable housing.

The direct harmful effect in this case was to force lawful homeowners from their legally owned personal property under the guise of park closure. The next harmful effect was to triple the park rents, and to destroy the affordability of the housing.

I believe that the direct effect of the invocation of the "change of use" provision in the California Government Code section 65863.7, was to destroy the affordability of this small neighborhood in Novato. No clear proposal for a different use for the property was ever explained and no plans for one are being considered by the City.

I believe that due to a substantive lack of clarity in this code section, the City of Novato was mislead into thinking that they were compelled to approve the parkowners proposal.

Eugene O. McAttee

In reality, this was simply a constructive eviction from which all mobilehome owners in California are protected under the Mobilehome Residency Law.

Thank you.

George R. Smith
15420 Olde Highway 80, Space 157
El Cajon, California 92021-2425

24 April 1999

BIOLOGICAL SKETCH

Prepared For:
CA Senate Select Committee on Mobile and Mfgd Homes
The Honorable Joseph L. Dunn, Senator
Chairman
Members:
The Honorable Senators:
Wesley Chesbro
Maurice Johannssen
Bill Morrow
Jack O'Connell
Byron Sher

BORN:
12 May 1920
Des Moines, IA

EDUCATION:
K12- VALLEY JUNCTION IA SCHOOLS
Graduated Valley Junction High School January 1938.
Two years College Credits.Military Schools;
OCS, Officers Communication Course, Armor Advanced Course, Partial Completion Assoc Command &General Staff College.
Legally trained by correspondence course study.
Graduated magna cum laude after 70plus years in the University of Hard Knocks.

FAMILY:
Married Vivian June Allingham, 24 September 1944.
Became widower due to Vivians death 7 March 1985.
Three sons, three daughters in law, two grandsons, three granddaughters, one Great Grandson

RESIDENCE:
The Meadows Mobilehome Park since 1 July 1980, Space 157.
A Resident Owned Park
Converted from a Rental Mobilehome Park to a Mobilehome Airspace Condominium on leased Land in 1989.
Owned and Governed by The Meadows Homeowners Acquisition Corporation, a CA Nonprofit Mutual Benefit Corporation pursuant to the Davis-Stirling Community Development Act.

Bio of George R. Smith.

PROFESSION:
Property-Casualty Insurance Claims Manager, Retired 30 June 1980.
35plus years in the Industry. 1946-1948 Kansas Farm Bureau Mutual Insurance Co, Manhattan, KS; Jan 1949 to Sept 1949-General Insurance Co of America, Los Angeles, CA; 19 Sept 1949 to 30 June 1980 Fireman's Fund Insurance Co of California Los Angeles, CA; Van Nuys, CA; Woodland Hills, CA; Santa Ana, CA; San Diego, CA. Claims Manager Santa Ana and San Diego CA Branch Claims Offices. Adjuster, Supervisor, Litigation Supervisor; all lines including Workers Compensation, Fidelity and Surety, Ocean Marine and Inland Marine, Automobile, General Liability, Product Liability, Medical and Legal Malpractice, Board of Directors Errors and Omissions.

AVOCATION:
Army of the United States;
From 28 April 1938 to 15 May 1966.
Horse Cavalry; Mecz Cavalry; Armored Cavalry; Armor(Tanks).
Commanded Squad, Section, Platoon, Troop, and Bn.
Served on Squadron, Regiment and Division Staff's. Primary Staff positions Communication Officer, Squadron & Regiment. S/3 and Asst G/3 Plans, Training and Operations.
Private, Corporal, Sergeant E5. Commissioned 2nd Lt 27 June 1942, 1st Lt, Captain, Major, Lt Colonel.
Promoted to Lt Colonel Armor in Dec 1956 at 36 yrs of age.
5 plus years of Active Duty WWII. 23 years of active reserve duty.
Commenced receiving reserve retirement pay 12 May 1980.

HOBBIES:
Gardening.
Family Genealogy.
Music.

MOBILEHOME AND OTHER EXPERIENCES:
Resided in a Mobilehome Park since 1 July 1980.
Golden State Mobilhome Owners League,.Inc.:-
Chapter Officer including President, several times.
Asst & Assoc Regional Manager, Region 7 for Don Olmsted.
Special Assistant to Past State President Marie Malone.
President District II, Region 7, Zone South, GSMOL
Secretary to Arturo Franco Vice President Zone South, GSMOL.
Member representing Zone S on State Legislative Committee 1997 & 1998.
Member of current State Legislative Committee GSMOL.
Member of State Legislative Advisory Board, GSMOL.
Current duly elected and sitting Vice President Zone D, GSMOL.(San Diego, Imperial and Riverside Counties) January 18, 1998 to date.

Served on The Meadows Home Owners Acquisition Committee fm 1986-1989.

Biographical Sketch George R. Smith.

Served two years as a member of the Board of Directors of The Meadows HOAC a Mobilehome Airspace Condominium pursuant to Davis-Stirling Community Development Act.

Appointed to County of San Diego Mobilehome Issues Study Group by County Ordinance. Served as its Chairman for approx 3 1/2 Years. Pubished final written report accepted by County Board of Supervisors 27 March 1990.

Co-founder and first President of COMPAC, INC (County Mobilhome Positive Action Committee, Inc. A CA Nonprofit Mutual Benefit Corporation formed specifically to pursue Mobilehome Rent Regulation for all jurisdictions within the County of San Diego and provide education on all mobilehome issues to the general public within the County of San Diego. I remain active as its Immediate Past President.

Served as Deputy Regional Coordinator AARP/VOTE(County of San Diego) for many years. AARP/VOTE is the Legislative Advocacy Arm of AARP. We Advocated for or opposed Federal and State Legislation affecting Seniors. This included visits to Federal, State, County and Municipal legislators and reporting results to AARP Chapters and Officials. This also included conducting educational forums on issues and candidate forums at election time.

Served as Chairman of the Military Retiree and Veteran Healthcare Study Group of San Diego. This group was/is responsible for the concept and development of Medicare Subvention Funding for the Military Retiree and Veteran 65yrs of age or older to obtain care at a Military or Veteran Affairs Treatment Facility by using their Medicare eligibility.. This advocacy continued for approx ten years resulting in legislation we originally drafted authorizing a nationwide test of the idea. It is called Tricare Senior Prime and is being tested at US Naval Hospital, San Diego and other sites nationwide.

Currently serving as Chairman of The Greater San Diego CA Area Army Retiree Council. This is a network of Councils throughout the world who are the eyes and ears of the Chief of Staff, United States Army. They keep him informed thru his Army Chief of Staff Retiree Council. The Councils address the concerns of Army Retirees and current active duty problems perceived by the various council members.

Respectively submitted,

George R. Smith

GEORGE R. SMITH
619-443-8248
FAX: Same.
Email: gsmith4893@aol.com

GOLDEN STATE MOBILHOME OWNERS LEAGUE, INC.

Reply to:
George R. Smith
Vice President, Zone D, GSMOL, Inc
15420 Olde Hwy 80 Sp157
El Cajon, CA 92021-2425

"A Homeowners Association"

12 April 1999

Mr John G. Tennyson
Principal Consultant
California Legislature
Senate Select Committee on Mobile/Mfgd Homes
Senator Joseph L. Dunn, Chairman
1020 N. Street Rm: 520
Sacramento, CA 95814
ByFAX: 916-327-4480

Re: "Double Renting" Hearing
26 April 1999

Dear Mr Tennyson:

I am the duly elected and sitting Vice President of Zone D, GSMOL, Inc. Zone D consists of San Diego, Imperial and Riverside Counties. I will be in attendance at the GSMOL Day at the Capitol on that date. I have arranged my travel so I also can attend the hearing conducted by Senator Dunn and his Select Committee from 2:30 to 4:00 PM PDST on that date.

During my service on the GSMOL State Legislative Committee and in conjunction with Mr Leonard G. Wehrman (Deceased), then a member of our Committee and the Vice President for Govt and Industry Relations of the National Foundation of Manufactured Home Owners addressed this issue in 1997. I refer you to correspondence he initiated 23 July 1997 with attachments being mailed to you under separate cover. The attachments also include the Legislative Counsel of California's Opinion Letter on this subject dated 18 July 1997.

The GSMOL State Legislative Committee with me as the point became heavily involved with this most important issue. I drafted potential legislation and prevailed upon Senator Steve Peace to sponsor and carry SENATE BILL No.1954 introduced by him 19 February 1998. Because of some dissension with in the GSMOL BOD as to the thrust of the legislation, it was dropped during the 98 State Legislative Session. I include a copy of the bill as written and introduced.

The BOD of GSMOL< Inc now serves as its Legislative Committee. As VP Zone D, GSMOL, Inc I am an official member of that Committee. I will not be

Tennyson-Dunn Dbl Renter Hearing.

presenting GSMOL's testimony at the hearing. I do request I be permitted to appear and testify as an individual who early on (1997), recognized the great threat "Double Renting" presents to the continuance of Rental Mobilehome Parks, as we know them, and has been involved in attempting to find a solution every since.

Please confirm my request and grant my appearance before the Senator's Select Committee and furnish me with a copy of the Agenda as soon as possible.

Very truly yours,

GEORGE R. SMITH
619-443-8248
Fax: Same.
Email: gsmith4893@aol.com
cc:
Mr Jim Sams
The Honorable Marilyn Glassman
Councilwoman and Mayor Pro Tem
City of Rancho Mirage, CA

Amendments to MRL.

"Mobilehome park" is an area of land where two or more mobilehome sites are rented or held out to rent, to accommodate mobilehomes used for human habitation.
ADD NEW SUBSECTION:
(a) The renting by a rental park owner or manager of a mobilehome and a mobilhome site(space) as one unit is not a mobilehome occupying a mobilehome site in a mobilehome park.

Sec. 798.9. DEFINITION OF HOMEOWNER
"Homeowner" is a person who has a a tenancy in a mobilehome park under a rental agreement.

CHANGE:
"Homeowner" is a person or persons who has title to a mobilehome as real estate; personal property; or, registered and/or legal owner; or, is a purchaser under a contract of sale; who has tenancy in a rental mobilehome park under a rental agreement.

Sec. 798.11 DEFINITION OF RESIDENT
"Resident" is a homeowner or other person who lawfully occupies a mobilehome.
ADD Subsection (a)
"other person' includes a person or persons who reside in a rental mobilehome in a rental mobilehome park but does not include a "Homeowner"!

ADD Sec. 798.13 DEFINITION OF HOMEOWNER'S ASSOCIATION
"Homeowners Association" is an alliance of "Homeowners" formed to represent mobilehome "Homeowners" residing in a rental mobilehome park in their relations with the mobilehome park owner/manager on all issues arising between them; and, before public entities such as City Councils, Boards of Supervisors, Rent Review Commissions or any/all similar entities.
(a) "Homeowners Associations" shall be recognized as the official voice of "Homeowners" in mobilehome rental parks when they represent seventy percent (70%) or more units in said mobilehome park.

AMEND:
Sec. 798.80. SALE OF PARK - NOTICE BY MANAGEMENT
All references to "residents organization(s) shall be removed and "Homeowners Association(s)" shall be substituted therefore as defined in Sec. 798.13 and Sec. 798.13(a) -DEFINITION OF HOMEOWNER ASSOCIATION.

GEORGE R. SMITH
Member, State Legislative Committee GSMOL

D R A F T NR 1

THE "DOUBLE RENTER" PROBLEM
Legislative Solution(s) by Amendments & Additions to MRL.

DISCUSSION

A steep decline in occupancy in space rental mobilehome parks resulting from no competition and high rents has caused the parkowners income stream to sharply diminish. Many schemes have surfaced to combat this problem. One of the most onerous and least publicized is referred to as the "Double Renter" solution. The parkowner through economic eviction either purchases mobilehomes for a fraction of their worth or liens to pay for back rent and obtains possession through foreclosure: and, he then sells the old singlewide and replaces it with either a new doublewide or one he has obtained as described above. The parkowner then rents both the mobilehome and the space as one unit. THUS - DOUBLE RENTING.

Many in and out of the state legislature believe this constitutes a change of use as currently defined in Section 798.10 of the MRL, Further, that space and perhaps that park no longer fits the definition of a Mobilehome Park as set forth in Section 798.4 of the MRL.

Many public rent regulation ordinances, accords and similar legislation require a certain percentage of "homeowners" agree to a parkowners rent schedule in order to exempt that parkowner from the control of that entities rent regulation and adoption of the parks rent schedule imposed and enforced by the park owner only. Many such regulations specify 67% of a resident organization must approve.

A recent decision by the City of Santee's Rent Review Commission permitted a park owner to count his double renters as part of the "resident organization" because of the current definition of resident in Section 798.11 of the MRL. This resulted in the parkowner being enabled to impose a park rent schedule that was obscene and over a a period of twenty (20) years raised monthly rent to well over $1000.00 per space.

GSMOL fully believes the intent of the MRL is to limit the participation in mobilehome park associations to "Homeowners" . Homeowners to be redefined to mean those who actually hold title to their mobilehome as real estate; personal property; legal and/or registered owner; or, the purchaser in a contract of sale. This redefinition would exclude the double renter from being included as a "homeowner".

The GSMOL State Legislative Committee advocates the failure to legislate corrections eliminating misuse or unintended use of these definitions will result in the "death knell" of all public rent regulation in rental mobilehome parks in the State of California.

CHANGES

DEFINITIONS---ARTICLE 1- GENERAL
Sec. 798.4 DEFINITION OF MOBILEHOME PARK.

George R. Smith
15420 Olde Highway 80, Space 157
El Cajon, California 92021-2425

12 July 1997

TO : Members GSMOL State Legislative Committee & Gualco Gp

FROM : George R. Smith-Member GSMOL State Legis Committee

SUBJECT : THE DILEMMA - Will Our Own Definitions Destroy Public Rent Regulation aka Rent Control?
The Double Renter Problem!

Some years ago, SMOAC-Santee Mobilehome Owners Action Committee, after months of study, writing and rewriting, crafted their own Public Rent Regulation Ordinance and after a horrendous battle and rewrites by City Council, City Atty and a Council Review Committee, obtained its passage. It is a Council Appointed Commission type ordinance. It also contains a section of Definitions and a section 44,080 entitled Park Rent Schedule Exemption.(copy this section, included).

I am reasonably certain neither Don Lincoln, Dick Singer, or others, including laymen such as I, never in their wildest imagination or dreams contemplated/envisioned that some day the Parkowner, in desperation, would be owning and renting mobilehhomes along with the space and we would have residents who rent both their space and their home from the same parkowner That is occurring with great rapidity, over the entire state.

Tho definitions in the MRL and this ordinance do not support the perception, MOST OF US ALWAYS ASSUMED/PRESUMED that Homeowner meant the person or persons who had title to the mobilehome. We also assumed that a Homeowners Association was a group of people who actually OWNED their mobilehome who have banded together to, in effect, form their own Mobilehome Owners Union! Certainly, that has been and remains the common perception by most.

LO and BEHOLD a careful study of the MRL definitions and the Santee Mfgd Home Fair Practices Commission ordinance the person(s) who rent their mobilehome and their space as one (DO NOT OWN ANYTHING EXCEPT THEIR OWN FURNISHINGS AND APPLIANCES) ARE JUST AS MUCH A HOMEOWNER, RESIDENT, TENANT ETC AS THE PERSON WHO HAS TITLE TO THEIR MOBILEHOME. FURTHER, THE REFERENCE TO AN ASSOCIATION REFERS TO "RESIDENTS ASSOCIATION" AS TO REPRESENTATION BY A GROUP, NOT HOMEOWNERS ASSOCIATION.

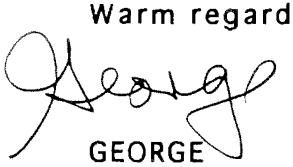
WHAT IS THE POINT(PROBLEM)?:
The problem is how the 67% of residents who must approve the rent schedule is calculated in order for the parkowner to be exempt from regulation,?

The Double Renter Problem

Heretofore, it was assumed it must be titled homeowners, NOW RENTERS WHO. RENT BOTH SPACE AND HOME FROM THE PARKOWNER ARE OFFICIALLY PART OF THE COUNT. IT IS A SLAM DUNK FOR THE PARKOWNER. He cant enforce anything against his double renter. Like any other apt renter, he gives his notice backs up the truck, loads his furnishings and appliances and is gone. So the double renter can be influenced to do most anything the parkowner can pay for!
In the case in point, the parkowner prevailed before the commission and was granted the rent schedule exemption. Even worse, the rent schedule was approved for 20 years and on average, is raised approx 40 dollars ($40.00) per month, per year, for the duration.

COMMENT, CONCLUSIONS AND SOLUTION(S):
It is my humble opinion that; if we do not find a solution to the parkowners ability to count double renters, Public Rent Regulation as we know it, will be a dinosaur and extinct, in short order. This was engineered by a WMA Parkowner with the full knowledge and assistance of the local area full time Area Vice President, Jack Doyle, former Mayor of Santee. I am sure it will be broadcast far and wide. Every parkowner under rent regulation who has the rent schedule exemption will be coached as to how to obtain it using his/her double renters.
SOLUTION(S): If any of you share my concern, we must change some definitions in the MRL to prevent the use of double renters. WE also must change/clarify the definition of Mobilehome/Mfgd Home Park to clearly exclude the practice of double renting. In my view we rent sites to person)s) who have title to a mobilehome, not rent one from either the Parkowner or the Homeowner. Double renters are no different than apartment dwellers and no longer, in actuality, reside in a "MOBILEHOME PARK"!

Warm regards,



GEORGE

National Foundation of
Manufactured Home Owners
161 FRANCISCAN DRIVE • DALY CITY, CALIFORNIA 94014 • (415) 992-7470

July 23, 1997

To: _____

Re" California Legislative Counsel Opinion ("LCO") Letter "When/How to Treat M H sited in a Community as Commercial Rental Unit Housing. May Require Change of Use "Conditional Use Permit". Inclusion or Exclusion of Mobilehome Residency Law.

Request for Your Immediate Response.

TREAT AS CONFIDENTIAL INFORMATION - UNTIL ISSUES RESOLVED.

The attached is being provided in strict confidence as requested by myself and Senator Craven until we can resolve the complex issues and the responses raised in the LCO letter and have a "consensus agreement" on how to proceed and then publish the results to the homeowners and GSMOL members.

SPECIAL REQUEST: You may not share or allow these documents to be read by or photo-copied for anyone, except your attorney. This subject is too controversial and has numerous future implications.

PARK OWNERS WON'T LIKE THIS ONE BIT!!! SOME HOMEOWNERS WITH A DEPRESSED SALES MAY NOT EITHER IF THEY ARE SELLING TO THAT PARK OWNER.

In my opinion, the overall opinion and conclusions are generally clear, however, most of the current language will be confusing to the average homeowner and GSMOL Member. We will need to clarify many of those issues first.

Therefore, I am respectfully requesting your personal comments on the LCO letter back to me ASAP. I would ask that you fully address how we can give directions to implement the change of use and deal with the local planning ordinances and identify the various sections of the Mobilehome Residency Law for the "rental units".

Does GSMOL Need new legislation on the subject for the 1998 session? If yes - be very specific.

Len

Leonard G. Wehrman
Vice President for Gov't
and Industry RElations

Founder - NFMHO

National Foundation of
Manufactured Home Owners
161 FRANCISCAN DRIVE • DALY CITY, CALIFORNIA 94014 • (415) 992-7470

April 11, 1997

The Honorable William A. Craven
State Senator, California Legislature
Chairman, Sen Sel Comm on Mobilehomes
Sacramento, Ca 95814

Re: Mobile Home Park Owners That Own, Maintain, and "Rent Out" Both Home and Lot Package as a "Rental Unit" Form of Housing.
Conducting a Commercial Rental Housing Business in a Rental/Land-lease Type Residential Community.
When Does This Require a "Change of Use" Approval Process?
Homeowner/resident versus Renter/resident.
Likely Mingling of Revenues and Costs in Dual Businesses.
Application of Inclusion or Exclusion of the Mobilehome Residency Law (MRL) For The Renters/residents.
Mobilehome Residency Law Sections 798.4, 798.10, and 798.11.

Dear Senator Craven:

I am respectfully requesting a written response to the two inquiries raised in this letter as to whether or when the park owners that (1) purchase, hold title/registration, and then "rent out" both the home and lot package on their present sites triggers a "change of use" approval process that for many, many years have been designated and approved by the local governments as a rental/land-lease type mobile home community composed of only homeowners/residents and the renting of lots - not homes - and not home and lot packages as rental housing, and, (2) the application of the inclusion or the exclusion of all or most or none of the Mobilehome Residency Law on the renters/residents.

For ownership, taxation, operational, and business purposes, some park owners have established either a separate or a subsidiary company to handle and account for this housing asset that may also include the management and financial aspects of the property.

The likelihood of the mingling of revenues and costs of the two businesses, commercial and residential, are obvious. Consider these factors - budgets, net operating income, general park expenditures, repairs and maintenance of the premises and the homes, a return on the investment, the borrowing and payments of loans, the 7-year health and safety inspection program, the rent raises to the current homeowner/resident and how this can be justified, and literally dozens of additional issues that homeowners are finding very difficult to understand and to deal with. It has a bearing on home values and selling prices, competition with the renters, joining homeowner association, etc.

Re: "Rental Units" in Residential Mobile Home Parks.

Senator Craven, from my research over the years nearly all of these park owners have privately determined that their "renter/ residents" are exempt from all, or almost all, of the benefits and due process protections of the Mobilehome Residency Law. In their place they use the general landlord-tenant civil code sections or a style of their own that best suits the business operation through a multi-complex residential and commercial business within their community.

These practices are ripping at the very heartstring of mobile home living today and, if allowed to continue and expand as is presently the situation, will long-term seriously threaten the viability and livability of the homes and the communities as we know them.

We all know that this is a very complex and sensitive subject and it has future implications. Many questions need to be asked and responded to. We'll start with this brief presentation.

Senator Craven, I am asking that you consider seeking a California "Legislative Counsel Opinion" on the statutory intent and language interpretation regarding the two major issues raised in my letter.

Thank You.

Sincerely

Leonard G. Wehrman
Vice President for Gov't
and Industry Relations

Founder - NFMHO

Legislative Counsel of California

BION M. GREGORY

Sacramento, California
July 18, 1997

Honorable William A. Craven
3070 State Capitol

Mobilehome Residency Law - #12892

Dear Senator Craven:

QUESTION NO. 1

Does the Mobilehome Residency Law apply to the relationship between mobilehome park management and its tenants, when management owns both the land (spaces) and the mobilehomes located on those spaces and rents a mobilehome together with a space to a tenant?

OPINION NO. 1

The Mobilehome Residency Law does not apply to a mobilehome park in which all tenants rent both a mobilehome and the site on which it is located from management but, rather, their relationship is governed by the principles of law generally applicable to landlord and tenant. Where the park consists both of tenants who rent the space but who own the mobilehome and persons who rent both space and mobilehome, only those limited provisions of the Mobilehome Residency Law expressly applicable to residents are applicable to those latter described persons, and their fundamental rights as tenants such as those relating to the nature of the rental agreement and termination of tenancy, are governed by the general law relating to landlord and tenant.

ANALYSIS NO. 1

The Mobilehome Residency Law, contained in Chapter 2.5 (commencing with Section 798) of Title 1 of Part 2 of Division 2

Reply to:
George R. Smith
Vice President Zone D, GSMOL
15420 Olde Hwy 80 Sp157
El Cajon, CA 92021-2425

5 February 1998

The Honorable Steve Peace
Senator, 40th State Senatorial District
CA State Legislature
7877 Parkway Drive Ste1-B
La Mesa CA 91942

Re: 1. The "Double Renter" Bill".

2. SB524-Peace (D) $0th SD
Deregulation of Elec Power

Dear Senator Peace:

On 18 Jan 1998 the members of GSMOL in Zone D (Regions 7 & 9)San Diego, Riverside and Imperial Counties, elected me to represent them on the Board Of Directors of the League. I also was member of the CA State Legislative Committee, GSMOL representing Zone D in 1997 and anticipate I will again be appointed to that Committee, again to represent the GSMOL Members of Zone D

Last year I was informed by Mr Bill Jackson, the President of the Santee Mobilhome Owners Action Committee, a parkowner in their city was renting both the mobilhome and the space it was occupying as one unit and charging one rent. Thus this person was no no longer a mobilhome owner as described by definition in the Mobilhome Residency Law but allegedly was a member of the park's Resident Organization. Thus in the capacity as a member of the park "Resident Association" could allegedly vote with Mobilhome Owners to meet the percentage of residents in the park necessary to adopt a "Rent Schedule" and avoid the park being subject to the Public Regulation Of Rent as ordained in the Santee Ordinance as approved by the City Council. This was accepted by the Santee Rent Review Commission and a decision excluding this park from public rent regulation was rendered. This was never the intent of the legislature and if not curbed by remedial legislation will result in a gradual change of use, turning a "Mobilhome Park" into what amounts to a housing rental park subject to Landlord=Tenant Law, not the MRL, and eliminating Mobil/Mfgd Home Parks from the low and moderate income housing inventory in every jurisdiction in the State.

We have since learned that this practice has now become prevalent throughout

Double Renting and Dereg of Electrical Power.

the State of California.

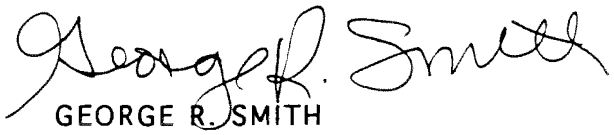
We, through our professional representative to the State Legislature (The Gualco Group) have forwarded to Legislative Counsel for crafting the proper languageto create remedial legislation to make the changes in the Mobilhome Residency Law necessary to stop this practice!

I have been informed you wish to become more involved in Mobil/Mfgd Home issues. The magnitude and effect of Double Renting on the mobil/mfgd home industry in this State would be a magnificent and far reaching project for you to begin your involvement and use your particular talent for obtaining passage of difficult legislation.

We also are very much involved and very much interested in the legislation you have "fathered" we refer to as "Deregulation of Electrical Power." We are very specifically interested in the ultimate affect it will have on two types of residents; 1. The ones who live in Rental Mobilhome Parks and are a submeter user of the parkowners Master Metered Distribution System, who is in turn the Customer of the Utility now servicing that Park. 2. We also have Resident Owned Parks who are now a direct customer of the Utility and has the right to negotiate as an individual with a competitive power generator. They also should have the right to form a group and negotiate a group rate which may be lower than the individual can obtain on their own.

I understand thru Susan, your Mobilhome Liaison, that you have been attempting to confirm a District appointment with Pat LaPierre, Assoc Manager, Region 7, Zone D, GSMOL for this type discussion. Pat and I have worked together for many years and I would very much appreciate being included in the meeting with him to discuss these two issues and any others you may be interested in.

Very truly yours,



GEORGE R. SMITH
VP Zone D, GSMOL
Member, State Legis Committee, GSMOL
619-443-8248
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cc:
Pat La Pierre
Jim Sams, VP Zone A & Chair State Legis Committee
Melissa Deiro, The Gualco Group

Civil Code Chapter 2.5
Mobilehome Residency Law

"Double Rent" Issue

Amend Section 798.4 DEFINITION OF MOBILEHOME PARK

"Mobilehome Park" is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehomes used for human habitation. *For purposes of this chapter, renting or holding out for rent a mobilehome site does not include a rental combination of site and mobilehome.*

Amend Section 798.9 DEFINITION OF HOMEOWNER

"Homeowner" is a person *who has title to a mobilehome, is the registered and/or legal owner, or is a purchaser under contract of sale and* who has tenancy in a mobilehome park under a rental agreement.

Add Section 798.13 DEFINITION OF RESIDENT OR HOMEOWNER ASSOCIATION

"Resident or Homeowner Association" is an organization of homeowners or residents who have tenancy in a mobilehome park as defined by Section 798.12.

SENATE BILL No. 1954

Introduced by Senator Peace

February 19, 1998

An act to amend Sections 798.9 and 798.11 of, and to add Sections 798.13 and 798.49.5 to, the Civil Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1954, as introduced, Peace. Mobilehome parks.

Existing law, the Mobilehome Residency Law, defines a homeowner as a person who has a tenancy in a mobilehome park under a rental agreement. The law defines a resident as a homeowner or other person who lawfully occupies a mobilehome.

This bill would revise the definition of homeowner to specify that the person also has title to a mobilehome or is a registered or legal owner of a mobilehome or is a purchaser under a contract of sale. It would revise the definition of resident to exclude a person who lawfully occupies a mobilehome when the owner of the park has title to it, is the registered or legal owner of the mobilehome, or is a purchaser of it under a contract of sale.

The bill would provide that, for purposes of any local ordinance, rule, regulation, or ordinance measure which establishes a maximum amount that management may charge a tenant for rent, a resident does not include a person who rents a mobilehome.

This bill would also define a homeowner association, as specified.

99

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 62.1 of the Revenue and Taxation Code is amended to read:

62.1. Change in ownership shall not include either of the following:

(a) Any transfer, on or after January 1, 1985, of a mobilehome park to a nonprofit corporation, stock cooperative corporation, limited equity stock cooperative, or other entity formed by the tenants of a mobilehome park, for the purpose of purchasing the mobilehome park, provided that, with respect to any transfer of a mobilehome park on or after January 1, 1989, subject to this subdivision, the individual tenants who were renting at least 51 percent of the spaces in the mobilehome park prior to the transfer participate in the transaction through the ownership of an aggregate of at least 51 percent of the voting stock of, or other ownership or membership interests in, the entity which acquires the park.

(b) Any transfer or transfers on or after January 1, 1985, **and before** ~~January 1,~~ 2000~~,~~ of rental spaces in a mobilehome park to the individual tenants of the rental spaces, provided that (1) at least 51 percent of the rental spaces are purchased by individual tenants renting their spaces prior to purchase, and (2) the

shall be a change in ownership of a pro rata portion of the real property of the park unless the transfer is for the purpose of converting the park to condominium, stock cooperative ownership, or limited equity cooperative ownership or is excluded from change in ownership by Section 62, 63, or 63.1.

(2) For the purposes of this subdivision, "pro rata portion of the real property" means the total real property of the mobilehome park multiplied by a fraction consisting of the number of shares of voting stock, or other ownership or membership interests, transferred divided by the total number of outstanding issued or unissued shares of voting stock of, or other ownership or membership interests in, the entity which acquired the park in accordance with subdivision (a).

(3) Any pro rata portion or portions of real property which changed ownership pursuant to this subdivision may be separately assessed as provided in Section 2188.10.

(d) ~~Subdivisions (e) and (b) shall remain operative only until January 1, 2000.~~

~~(e)~~ It is the intent of the Legislature that, in order to facilitate affordable conversions of mobilehome parks to tenant ownership, subdivision (a) apply to all bona fide transfers of rental mobilehome

GOLDEN STATE MOBILHOME OWNERS LEAGUE, INC.

"A Homeowners Association"

Reply to:
George R. Smith
VP Zone D, GSMOL
15420 Olde Hwy 80 Sp157
El Cajon, CA 92021-2425

10 April 1998

All Members of the State Legis Committee, GSMOL:
All Members of the State BOD, GSMOL:
Mr Maurice Priest, Esquire,
General Counsel, GSMOL:
Mr Mark A. Theisen. Gualco Group:
Broadcast by HO Fax:

RE: SB1954 Peace (D) 40thSD
"The Double Renter"
798.1-798.12 et seq, MRL,
other affected sections.

Ladies and Gentlemen:

It is obvious to me after discussion of this legislation during the BOD meeting of 8 April 1998; and, after studying the information furnished by Mr Mark A. Theisen of the Gualco Group, there remains a basic lack of understanding of the background and reasons which clearly establishes a very dire need for changing the definitions and the adding of several new sections to the MRL.

More than two years ago, it was discovered parkowners in Region 7 had discovered a new wrinkle to assist in filling their "vacant spaces" and/or ridding themselves of the older mobilehomes, usually occupied by the elderly poor.
Constant raises in rent, even in rent controlled, spaces, resulted in the economic eviction of many. They either walked away from their homes because of inability to pay rent or sold it to the parkowner for a fraction of its former value. It must be remembered, years ago, in the Lake Jennings case, the court accepted and approved evidence that for every $10.00 raise in space rent the Mobilehome Owners home decreased in value $1000.00. This amounts to physical taking of the mobilehome owners property by transferring the reduction in value to a raise in rent which goes into the parkowner's pocketbook.

The parkowner then either refurbishes and upgrades the mobilehome he has acquired for a song; or, hauls it out and sells it in Mexico; then, replaces it with an upgrade in quality(new or used); from, single wide to doublewide on a singlewide space. Thus, the parkowner, who has priced his spaces out of the market and cant rent them, is now able to use this devious, illegal scheme to

11021 MAGNOLIA BOULEVARD, GARDEN GROVE, CALIFORNIA • P.O. BOX 876, GARDEN GROVE, CALIFORNIA 92642 • (714) 826-4071 • 1-800-888-1727

SB1954, the double renter problem.

to rent the space and mobilehome as one unit for less than most apartment rent, in the vic of $600 to $800 per month for two bedroom, two baths and some ground under your own control not available in an apartment complex.

What is the immediate and longterm result/effect of this scheme using the MRL and its definitions as presently constituted?

- It is no longer a mobilhome space as defined in the MRL.
- The person that rents the home is not a "homeowner" and no longer has the protections of the MRL.
- The person is still within the definition as a resident and therefore can be used, or at least argued, is a legal member of a "resident organization" and coerced to vote on behalf of any park owner scheme to avoid a local rent control ordinance.
- Is now a renter just like an apartment renter and thus subject to plain landlord-tenant law, not MRL. Eviction after 30 days notice, etc.
- The "double renter" is no longer the beneficiary of any rent control ordinance as the space is is no longer rented to a homeowner.
- The double renting constitutes an illegal "change of use" as defined in Sec 798.10.

The ultimate result, if this practice is not halted will be the complete disappearance of rental mobilehome parks due to the ability to remove unit by unit all spaces from the protection of the MRL.. Eventually, there will no longer be two or more spaces held out to rent to accommodate mobilehomes used for human habitation. Note: This definition says nothing about renting mobilehomes but spaces.

This in turn will result in no need for the MRL as there will no longer be any mobilehome parks as currently defined.

The effect on rent control is open and obvious. Each space that is illegally double rented is automatically removed from the roles as it is no longer legally a mobilehome space.

The problem of the members subject to the Santee Rent Control Ordinance: Their current ordinance contains a clause which permits the parkowner to remove his park from rent control if he can prove he legally and voluntarily obtained a 67% agreement from his residents(spaces) that they prefer his park rent a schedule to the benefits of local rent control. The double renting tenant as a resident and member of a residents organization was permitted to

SB1954, the double renter problem.

be a voter to decide that issue. I am not privy as to the results of the request to find other jurisdictions which have this or a similar clause which permits the parkowner to avoid rent control by a vote of the a majority of the residents. I urge you to believe this is a red herring to force us to drop that aspect of the proposed legislation. The parkowners in the guise of WMA and PMA are in full support of doublerenting; have already published opinions in their newsletter supporting the idea and contend if certain procedures are adhered to in the application of this scheme, it may be legal under current provisions of the MRL.

Do we really wish each of our jurisdictions which contain many active chapters within a municipal or county organization to have to change their local ordinance one by one? WMA & PMA are not dummies and they publicize a chink in our armor and take advantage of it within days after it occurs. I believe we should adopt the attitude this situation requires preventive legislation applicable statewide to prevent the necessity of doing it jurisdiction by jurisdiction in the approximately 90 rent control ordinances currently in effect in the state.

I am not convinced the changes in definition as to Legal vs Registered Owners is the ogre it is purported to be. I would urge all to remember many of our members are both the legal and registered owner as they own their own homes free and clear. We need to clearly address that issue. I have no pride of authorship. I am more than willing to support any changes necessary to enlist the support of Mfgrs Institute as long as it completely eliminates the parkowner"s ability to destroy all rental mobilehome parks and all rent control ordinances thru the illegal practice of doublerenting and all of its resultant evil consequences.

I WISH TO CLOSE WITH THE THOUGHT AND ADMONITION THAT IF WE DO NOT VIGOROUSLY PURSUE THIS LEGISLATION (SB1954) WITH AMENDMENTS IF NECESSARY, WE HAVE SEEN THE BEGINNING OF THE DEATH KNELL OF RENTAL MOBILEHOME PARKS AND RENT CONTROL AS WE NOW KNOW IT!!!!

Very truly yours,

George R. Smith

GEORGE R. SMITH
VP Zone D, GSMOL
619-443-8248
Fax: Same
email: gsmith4893@aol.com

From: jjsams1
Full-Name:
Subject: Testimony on Double-Renting: Apr. 26, 1999.
X-Status: New

Senator Dunn and Members of the Senate Select Committee,

My name is Jim Sams and I am a mobilehome owner living in Olympia Mobilodge in Sacramento.

I appreciate this opportunity to testify before this committee. I was also asked to express these views as those of the Watchdog Team of the Mobile/Manufactured Home (Owners) Network. (You have information sheets describing this resident group before you.)

I was privileged, as a past officer of a mobilehome organization, to work with the late Len Wehrman, an officer of the National Foundation of Manufactured Home Owners. He, along with Mr. George Smith, who will testify today, early-on identified the severity of the "double renter" problem. Although we, as a legislative Committee, were not permitted to pursue legislation to deal with the double renting problem last year, we are happy that it is now being considered. Mr. Wehrman was very concerned about the danger to mobilehome owners and resident organizations, should this practice continue unchecked.

Very briefly, I (and the Watchdog Team) wish to express concerns about allowing this practice to continue. In doing so, I wish to commend Committee Chairman Senator Dunn and the committee Consultant, John Tennyson, for the fine background material provided.

I am concerned about the apparent "change of use" brought about by this practice. It is detrimental to mobilehome owners because it produces a strong temptation for park owners to increase rents that result in bargain basement prices on mobilehomes or result in their abandonment and thus, become available to park owners as park rentals.

I am also appalled by the threat to rent stabilization areas where "renters" of park units can be convinced to approve park owner proposed leases or rent schedules that result in exemption of the park from local rent control for mobilehome owners. I agree that this places management in a very advantageous position. The more mobilehomes the park owner buys, the more it increases the chance that the park can avoid any control on rents because it erodes the number of homeowners living in the park, who support rent control.

Another problem exists because of the present double standard allowing a park owner to rent out a park-owned mobilehome but denying the same right to a mobilehome owner in the park. This once again puts further financial pressure on the resident to "walk away" from his/her investment because of the inability to rent it. A park owner then buys the available mobilehome at distress prices and rents it to someone else. Mobilehome owners must have that same right to balance the scales.

Even the Legislative Counsel's Opinion of 1997 sees a change from mobilehome law to "landlord-tenant law" resulting from this continued practice - and the hard-won Mobilehome Residency Law becomes less effective as it is superseded in this area. Mobilehome park living has a uniqueness which landlord tenant law can not deal with effectively.

There is one concern about the legislation (AB-1644) by Assemblyman Floyd. The statement is made that a change of use may not be made where the REAL PURPOSE is to convert the park to a landlord-tenant park. How does one prove the intent (real purpose) of a park owner who continues to acquire one mobilehome after another when mobilehome owners abandon or are financially forced to sell, for whatever reason? Does this not weaken the bill?

Nevertheless, I wish, along with the Watchdog Team of the Mobile/Manufactured Home (Owners) Network, to urge passage of AB-1644 and trust that it will be amended to make it strong enough to stand without court challenge.

I have taken the liberty of including two proposed amendments from last year's legislative session (CAPITALIZED PORTIONS WITHIN THE PARAGRAPHS) which may help solve the dilemma of double renting.

I wish to thank you once again for holding this hearing which has such an important bearing on our continued financial security in the mobilehome community.

Amend Section 798.4 DEFINITION OF MOBILEHOME PARK.

"Mobilehome Park" is an area of land where two or more mobilehome sites are rented, or held out for rent, to accommodate mobilehones used for human habitation. FOR PURPOSES OF THIS CHAPTER, RENTING OR HOLDING OUT FOR RENT A MOBILEHOME SITE DOES NOT INCLUDE A RENTAL COMBINATION OF SITE AND MOBILEHOME.

Amend Section 798.9 DEFINITION OF HOMEOWNER.

"Homeowner" is a person WHO HAS TITLE TO A MOBILEHOME, IS THE REGISTERED AND/OR LEGAL OWNER, OR IS A PURCHASER UNDER CONTRACT OF SALE AND who has tenancy in a mobilehome park under a rental agreement.

Add Section 798.15 DEFINITION OF RESIDENT HOMEOWNER ASSOCIATION.

RESIDENT OR HOMEOWNER ASSOCIATION IS AN ORGANIZATION OF HOMEOWNERS OR RESIDENTS WHO HAVE TENANCY IN A MOBILEHOME PARK AS DEFINED BY SECTION 798.12.

Submitted by Jim Sams
Watchdog Team
Mobile/Manufactured Home (Owners) Network
jjsams1@juno.com
April 26, 1999.

LET'S GET AQUAINTED!!!!

Mobile/Manufactured Home (Owners) Network
Website: http://maxpages.com/mobilehomes
E-mail: jsisker@sprynet.com

GREETINGS from a NEW, MODERN electronic Mobile/ Manufactured Home (Owners) Network. Our fast, efficient and active service to the mobilehome community - in the State of California and nationwide - is bringing new life and information to those who live in mobilehome parks.

On the Website, you will find the "Legislative" page, the "WatchDog" page, the "Forum" (a page dedicated to pro & con debate), plus a whole lot more.

OUR MISSION STATEMENT!
(As one example only - within our "WatchDog" section. For the full text, visit our Website)

Our agenda is to restore GSMOL (the Golden State Mobilehome Owners League) to its former position as an organization sensitive to the will of its members and giving liberty to its officers from Associate Managers up to Vice Presidents to do the job they were elected (appointed) to do. That is to make GSMOL strong. In our collective opinion, it is not happening under the present Board of Directors - nor can it happen under that Board because it apparently has even forced other Board Members out. It is the people who need to be concerned that the GSMOL they may be supporting is not the GSMOL it used to be, as the "Watchdog" mailouts will point out.

The GSMOL concept of statewide organization with a Board of Directors responsive to the membership and supportive of active leadership is what we believe in.

Are we simply undermining any organization? Certainly not! LET THE FACTS SPEAK FOR THEMSELVES!!!

ADVANTAGES YOU GET FROM THE ENTIRE MOBILE/MANUFACTURED HOME (OWNERS) NETWORK:

1. The Nationwide One-Stop-Source For The Manufactured Home Owner.
2. Freedom of Speech/Press - for you to give your uncensored input.
3. Non Profit - No money is ever asked for or even collected for any purposes whatsoever for the Network.
4. No Membership - Information available to anyone on a 24 hour per day basis.

5. We are not an organization in the sense of a membership group - only to organize available information and materials. Effective communication is the key to success.
6. WatchDog Team - looks at alleged abuses within the industry - no matter from what source.
7. Manufactured Home E-Mail Net(work) informs those on the founder's personal e-mail list.
8. Education - some of the information may be of use to educate select park owners as well as residents. Therefore, let the truth come forth to educate all concerned for the betterment of our chosen form of housing.
9. Mail bag section is used to house some of the positive feedback comments - from outside sources as well as manufactured home owners.

THE WATCHDOG TEAM & WEBSITE FOUNDER, JOHN SISKER INVITES YOU TO VISIT THE WEBSITE AND E-MAIL RESOURCES LISTED HERE. If you don't have Internet or E-mail access, please pass this information along to someone who does!!!!

WATCHDOG TEAM:
Jim Sams, former GSMOL Vice President
Gerald Lenhard, former GSMOL Vice President
Don Hunter, former GSMOL Regional Manager
John Sisker, former GSMOL Assistant/Associate Manager

WATCHDOG Sub-Committee:
Patricia Dean, Attorney, former GSMOL Legal Advisor
Maxine Pfieffer, former GSMOL Vice President/Regional Manager
Jerry Grimm, former GSMOL Regional/Associate Manager
Robert Fleak, former GSMOL Assistant Regional Manager
Dave Philbrick, former GSMOL Regional Manager & Statewide Membership Recruiter.

Communications: John Sisker, 80 Huntington Street, Number 266,
Huntington Beach, California 92648-5343
Phone: (714) 536-3850
(800) 724-6644 (pagoo ID: 714.536.3850)

SACRAMENTO E-MAIL AFFILIATE: CAL-email-NET
Founder: Jim Sams E-mail address: jjsams1@juno.com

CAL-email-NET was founded in January, 1999, in order to reach the statewide mobilehome community with legislative information, successful mobilehome owner actions, park problems, resources available to mobilehome owners, and other vital information.

To date, CAL-email-NET has issued 10 reports covering legislation, park news, litigation and general news from the manufacture/mobilehome community.

There is no membership requirement to receive these reports. Contact Jim Sams at the E-mail address above and request to be added to the e-mail list. THE GOAL OF THIS EFFORT IS STATEWIDE DISSEMINATION (on an instantaneous basis) OF MOBILEHOME INFORMATION!!!!!
If you do not have E-mail capability, PLEASE PASS THIS INFORMATION ALONG TO SOMEONE WHO DOES!!!!

Signed: Jim Sams
7515 Goldenrod Lane
Sacramento, CA 95828-4154
Phone: (916) 689-9660

SENATE SELECT COMMITTEE on MOBILE/MANUFACTURED HOMES
Hearing on Park Owners "double renting"
April 26, 1999

Mr. Chairman, Honorable Senators.

Allow me to express my appreciation for the opportunity to address the issue that is before you today.

First, I wish to take this opportunity to state for the record that I have been authorized to offer testimony on this matter in the name of the Congress of California Seniors.

Mobilehome owners, in the name of fairness, rightfully feel that if park owners rent homes that they have acquired, residents should be allowed to do the same. There may be some parks that do allow sub-letting, but they appear to be a rarity. One such I'm told is, Cameron Park Mobile Estates, in El Dorado County. This same park however, has a no sub-letting rule. The residents themselves, in some parks, would prefer that their neighbors be not allowed to sub-let. However, the residents that hold that position, do not appear to have the need to sub-let their own homes.

Experience has shown that the means by which park owners gain possession of the homes they rent, is of equal if not more concern, than the "double renting" itself.

The "double renting" issue frequently surfaces when the survivors of a deceased homeowner, while in the process of settling the estate, attempt to sell the mobilehome in place. The family of the departed homeowner, soon learns that it is taking an unusual length of time to sell the home. And during the process of sale, the necessity of having to continue to pay the space rent is eating into whatever equity remains in the home. And it is not uncommon, that even though the home is not occupied, the park will demand utility payments as well. Far too frequently, the seller will conclude that there is not enough equity left in the home and abandon it. And all the while the park owner is renting out homes that he has acquired, but will not allow residents to do likewise. The families of homeowners who have been placed in nursing homes suffer the same fate.

Inexplicable space rent increases, that go beyond the financial ability of the homeowners; unilateral space rent increases on resale; the employment, by the park, of an unlawful check list determining certain conditions to be met before resale; unilateral denial of a prospective homeowner on resale; unlawfully demanding the removal of a home from the park on resale; or the removal of a single wide on resale, are all additional factors contributing to abandonment or selling at nothing more than salvage value. These factors are additional means by which park owners add to their stock of homes to be used for "double renting."

Hear. "dbl. rent." 4/26/99

In all fairness, what is a park owner to do but rent a mobilehome that has irreverently befallen him. I submit that, the ill begotten gain is the real issue, and requires intervention.

Intervention could I believe, be in the form of some amendments to the MRL, the Mobilehome Residency Law. I have first hand knowledge of park owner circumvention of Section 798.74 of the MRL. This statute which is clear in its intent to allow only two areas of inquiry of a prospective homeowner, is violated time and time again.

The statute providing for the removal upon sale to a third party 798.73, could also use some fine tuning. It appears as though some park owners only read as far as they want to. They don't seem to notice that removal upon sale will occur only after, and I quote, "...as determined following an inspection by the appropriate enforcement agency,..." End of quote. And it goes without saying that park owners are not an enforcement agency. Yet many park owners tell a selling homeowner, that the home will have to be removed upon sale. Thereby cutting the value of the home to a point of worthlessness!

As to the why there is such a prevalence in the practice of "double renting", there may be some confusion among those who practice it. We see references to park owners providing housing and owning housing communities. Perhaps some park owners believe that their business ventures are no different than operating an apartment complex.

We all know, I'm sure that, when the operator of a mobilehome park rents both the space and the home which is sited upon it, the occupant of that home does not enjoy the benefits and protection of the MRL. The MRL gives that person, a residency only, and all rights of tenancy can be denied. Those holding such a residency could be denied use of all of the common area facilities. Please see: 798.11 and 798.12 of the MRL, DEFINITION OF RESIDENT and DEFINITION OF TENANCY respectfully.

It goes without saying that the "double renting" issue is in dire need of addressing, and intervention is called for. I will conclude with the admonition that to mitigate the problem, there is a need to include a strong consideration for amendments to the statutes already mentioned.

Thank you for your kind attention and consideration to the foregoing remarks.

Respectfully submitted,

Clay Harrison

Clay Harrison

April 22, 1999

Senator Joseph L. Dunn
California State Senate
State Capital, Room 2068
Sacramento, CA 95814-4906

Dear Senator Dunn:

Thank you for your letter of April 1, 1999. It is gratifying to know that you and your colleagues welcome input from residents of manufactured home parks.

Regarding the issue of "double-renting," I do have additional information and thoughts on this issue. It has been the practice of some park owners to obtain ownership of manufactured homes in their parks, and then 'rent' those homes. I do not oppose free enterprise, so necessary in a free society, however free enterprise abuses in the setting of a captive market could be described as 'hell.'

The basic problem in Santee has occurred because of the definition in Section 798.9 of the Mobile Home Residency Law (MRL). The MRL defines a homeowner as a person who has a tenancy in a Mobilehome park under a rental agreement and Section 798.11 defines a resident as a homeowner or other person who lawfully occupies a Mobilehome. Section 798.12 defines a tenancy as the right of a homeowner to use the site within a park on which to locate, maintain and occupy a mobilehome (manufactured home). As a practical matter, one who owns a home is therefore 'captive,' if unable to sell the home or to move the home. Further, civil code, local zoning ordinances and park owners, not allowing 'older' homes to relocate in an area that the resident wishes to live, contributes to this dilemma. Additionally, as stated in our local fair practices ordinance, the cost for moving a manufactured home is substantial, and the risk of damage is significant.

The practice of some park owners, after obtaining ownership of a 'vacated' home, and retaining ownership, in order to rent to non-owners has resulted in serious problems in Santee. First, the vacancy rate for apartments, etc., is at an all time low in San Diego County. The resulting market condition creates an opportunity for more profits to the park owner. This profit opportunity is realized when a park owner obtains ownership of a 'home' that cannot be moved, or is vacated by death, or adverse economic conditions of the 'owner.' Park rules that prohibit renting to others by homeowners, even in cases where temporary hospitalization has occurred, adds to these adverse economic conditions that result in the loss of home ownership. These same park rules do not apply to park owners who own the coaches (manufactured homes).

In Santee the outcome of these conditions ended in a park owner, obtaining over twenty five homes in his park, (30% of space available) then using the voting status as 'homeowner' and 'resident,' to override any vote taken by a legitimate and qualifying homeowner. The only qualifying voters were those <u>not</u> with long-term leases. The vote by residents (renters) not

owning their home allowed the park owner to substitute a schedule of rent in place of cost of living increases allowed by the Santee Fair Practices Ordinance. For purposes of comparison, this park is an older park, with 84 spaces crammed between a major resturant in Santee and some low cost housing apartments. I have attached a copy of the ludicrous rent schedule. In addition to the base rent on the rent schedule, the park owner added such items as accounting, landscaping, repairs and maintenance, capital improvements and attorney fees as pass-through expenses. Normally, in any other business, these expenses would be regarded as the 'cost of doing business.' So much for affordable housing! I have more documentation of unscrupulous practices by park owners in Santee.

As you know, some park owners will go the great lengths to increase their profit potential, in an industry all ready regarded as the best opportunity in real estate. Many have discovered that owning and managing a manufactured home park provides excellent cash flow with minimal management, at a low risk of income loss due to unpredictable changes in the economy or market conditions.

I hope the enclosures and any input that I have given you will result in legislation that will rectify the ambiguous and obstructive conditions that prevent manufactured home owners from fair consideration under law. Thank you for your efforts, they are greatly appreciated.

Sincerely,

Mary Alice

Mary Alice Gerken
GSMOL President, Chapter 964
8712-43 N. Magnolia Ave.
Santee, CA 92071

Enclosures: Document with

I do love the 30 yr ~~Lease~~ (Rental) Schedule of the park. In 30 yrs time mine rent will go to $1,400 pm not including maintenance, water, landscaping, repair, lien payment + attorney fees just to name a few. Available if you want. 34 pgs worth

Scott Carter
138 Skelly Ct.
Hercules, CA 94547

April 27, 1999

Senator Joseph L. Dunn
Chairman of the Senate Select Committee on Mobile and Manufactured Homes
1020 N Street, Room 520
Sacramento, CA 95814

Dear Senator Dunn:

Please preserve the right of mobilehome park owners to rent out mobilehomes while excluding subtenancies in mobilehome parks. Please do not legislate a global solution to what is likely and isolated incident and may be no problem at all. Vote No on AB1644 and encourage others to do likewise.

Craig Biddle testified at the Senate Select Committee hearing on Double Renting that 50% of the mobilehome parks in California permit subletting. NOT TRUE by a long shot! I have been actively managing mobilehome parks in Northern California since 1986 and active in the Western Mobilehome Parkowners Association (WMA) for as many years. I am certain a casual survey of mobilehome parks in any part of California would reveal that MOBILEHOME PARKS RARELY PERMIT SUBLETTING. There is a good business reason for that. Requiring landowners to permit subletting in residential settings would destroy the quality environment of these primarily owner-occupied mobilehome communities because there would be a loss of central control and administration of occupancies in the complex as a whole.

With rare exception, the rules, regulations, and rental agreements in common use in mobilehome parks throughout California contain boilerplate prohibitions against subletting. A random sampling of park owners in California is all that you would need to prove that.

The reasoning is simple.

Management has no direct contractual relationship with subtenants and they often act as if they are immune to park rules and regulations. Where there is a sublet, management can legally address only the park's absentee homeowner/sublessor regarding subtenant breaches, and must do so under the restrictive Mobilehome Residency Law (MRL) designed to protect mobilehome owners. That body of law requires that the homeowner be given at least a seven-day written notice to comply with rules and regulations and their tenancies may only be terminated after service of a 60-day notice of termination for a listed cause. Dealing with the absentee tenant/sublessor on these matters takes additional time and expense, especially if that tenant/sublessor does not reside locally. Furthermore, the absentee tenant/sublessor cannot appreciate the urgency of alleviating the discomfort experienced by neighboring homeowners by the ill conduct of the subtenant and is often unaware and unconcerned about the dilapidated condition of the mobilehome lot. However, park management is reminded by the neighbors constantly. The absentee sublessor often lacks the financial ability or incentive to deal with the problems the subtenant is causing for the park and its residents.

When park management owns and rents out a mobilehome with the space, it is quite a different matter. First, it is not subletting. Renting out a mobilehome and the lot together is legally no

different that renting out a stick built home which includes the structure and the land. Unlike the requirement to adhere to unique protections the Legislature has found necessary to protect owners of mobilehomes in mobilehome parks, the general landlord-tenant law provides more flexibility than the MRL because there is no requirement of just cause for eviction and the law has shorter notice periods. Second, when management rents out a mobilehome with a lot, it relies on its own superior knowledge, skills, and experience to screen tenants and avoid bad tenancies. The occasional sublessor lacks that knowledge, skill, experience, and often financial resources. Management is familiar with the legal process in administering tenancies and is financially better able to take legal action against a breaching tenant than an inexperienced sublessor.

Management has a contractual relationship with the occupant of a management rented mobilehome and can take direct action against the tenancy by service of a three-day notice to cure or quit if necessary. The sublessor would also have a similar contractual relationship with a subtenant, but is far less likely to adequately exercise these prerogatives. The reluctance exhibited by sublessors is borne out of their inferior knowledge, skill, experience, and financial resources in addition to the natural conflict of interest the sublessor has with the park management. Barring a threat to the sublessor's tenancy, they just don't have the incentive to use these tools to quickly resolve a bad situation with their subtenant. Unfortunately, when trying to deal with a problem subtenant in a mobilehome park, the neighbors and park management must to go the long way around and deal with the tenancy of the sublessor under Mobilehome Residency Law.

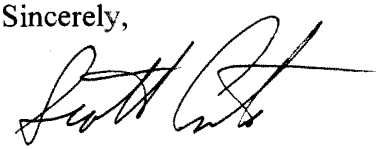
The anecdotes communicated by GSMOL's Legislative Advocate, Maurice Priest, do deserve further investigation, but do not in any way represent a trend or significant threat to mobilehome owners in California. I am sure a factual inquiry will bear that out.

I do subscribe to the suggestions of GSMOL's former president, Lucille Jones, who suggested the legislature might require the Department of Housing and Community Development to do a survey of mobilehome parks in California during the next year to determine how many mobilehomes in rental parks are owned and rented out by their operators. However, I would suggest two more questions: 1) Does the mobilehome park permit subletting by tenants? 2) If so, how many spaces are currently sublet to others by homeowners? I believe such a survey would point out the insignificance of the proffered allegations and threats to mobilehome owners alleged by GSMOL in the hearing on April 26, 1999 and correct the misinformation given by WMA's representative Craig Biddle, concerning the prevalence of permitted subletting in mobilehome parks.

You should believe Jeri McLees testimony. Park owners, as a rule, do not want to own and rent out mobilehomes. There is just too much management and maintenance intensity required and it is generally not profitable. Park owners typically buy and rent out mobilehomes only as an interim measure to span periods of down economic climates affecting resales of mobilehomes in their parks.

Thank you for the opportunity to speak at the hearing on April 26, 1999. I would appreciate being kept informed of any legislation contemplated on this matter.

Sincerely,



Scott Carter

Senator Dunn and members of the Senate Select Committee on Mobile & Manufactured Homes -

My name is Lucille Jones, past-president of the Golden State Mobilhome Owners League Inc.

I am here today to give you some background on AB 1644 (Floyd) which addresses the subject of "Double Renting" in mobilehome parks.

When mobilehome parks are developed, they are established as "rental" parks with the homeowner purchasing the home and renting the space upon which it sits.

A few years back, due to increases in space rent and the depressed state of the mobilehome market, many homeowners had to walk away from their homes or, in some cases, sell their home to a park owner, at far below market value - plainly "economic eviction".

Most park Rules and Regulations state homeowners are not permitted to sub-let their homes; however, when a park owner owns the home, he is permitted to rent the home and space - hence the term "double renting".

In 1997 the question of this practice was directed to Senator Craven by Len Wehrman Vice-President of the National Foundation of Manufactured Home Owners and a GSMOL Member with the request that a written response be obtained from the Legislative Counsel. Mr. Wehrman's original request is part of the packet I have presented to you. The response from the Legislative Counsel was made a part of the Information Paper so you have the background on how this all came about.

Unfortunately, Mr. Wehrman passed away in 1998. He had asked Inge Swaggart, GSMOL VP-ROP and me to continue his work.

This request was submitted to the GSMOL Legislative Committee this year and was subsequently approved for consideration in 1999.

The Information Paper covers most of the information about which Len was concerned, so I won't repeat it here.

I read in the Information Paper that the Department of Housing and Community Development (HCD) has no information or statistics available on how many mobilehomes in parks are owned by park management or park operators and rented out to tenants.

To remedy this, I would suggest that inasmuch as Park owners have to renew their license to operate a mobilehome park once each year. It would be very simple for HCD to include in the application to renew, a simple statement "How many spaces and homes are rented as one unit?_____". After one year, this information should be provided to the Senate Select Committee by HCD. This would provide the statistics that are needed to support the this bill. Likewise, local jurisdictions, cities and counties, must bear some responsibility to check mobilehome parks to determine they are being operated as originally established.

The practice of park owners being both landlords and park owners (two businesses - commercial and residential -) could cause incorrect information being provided to Rent Stabilization jurisdictions when hearings are held to

review rent increases. This also has a bearing on home values and selling prices.

The effect upon renters who, in talking with neighbors, could find out that the homeowners have protection under the Mobilehome Residency Law; whereas as a renter, would come under the landlord/tenant law and have no protection. A good example is if a renter fails to pay rent, all that is required is a three (3) day notice to pay rent or quit; whereas, homeowners have protection of MRL Section 798.56.

Mobilehome living is unique in that it is a community within a community generally with a GSMOL Chapter and a Homeowners Association to help the homeowners understand their rights and remedies to live within the Rules and Regulations of the park. Some people like mobilehome living - others don't like being controlled in what they can or can not do to their homes - each homeowner is different.

The practice of "double renting" is simply doing away with mobilehome living as we know it today. When you have homeowners and renters in the same area, there is bound to eventually be friction between the two factions.

If this practice is allowed to continue and expand, as is presently the situation, it will, in the long run, seriously threaten the viability and livability of the homes and the community as we now know them.

AB 1644 (Assy. Dick Floyd) will help to correct the practice of "double renting" of mobilehomes in parks that were originally established as "rental" parks where the homeowner owns the home but rents the space upon which it sits.

Thank you.

4-12-99

Senator Joe Dunn, Chr.
Senate Select Committee/Mobile Homes

The "Double Renting" issue must be addressed by government.

1. The park owners are comparing their rental prices to apts or homes and they cannot because they are not paying property tax there making a much greater profit.
MOST IMPORTANT!

2. Since manufactured homes do not have to meet state bld. code there is no insulation, no double-pane windows and cold/hot on winders. You are living in a metal box. The utilities all all higher. I have A/C wall unit at one end. The other end gets over 120° and the temp. is never ever to 100°. My pets, possessions, food, medicine were ruined.

Recommendation:

Limit the rent by the difference between a comparable apt of # and bedrooms/baths by the saving on property tax. This can be done easily. HUD has the average rental for every city.

A park in Garden Grove has 100's of homes, most of them owned by the park owner and they are in great disrepair. They are also old with no insulation.

3. There is also a misunderstanding that mobile home owners are responsible for all changes to their coach that they own. Management needs to understand that the park owners are responsible for the coaches he owns.

Sue Alexon

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E-mail: attorneyaccess@worldnet.att.net

MAURICE A. PRIEST*

*ALSO ADMITTED IN HAWAII

January 25, 1999

TO: HONORABLE MAYOR MICHAEL DI GEORGIO AND MEMBERS OF THE NOVATO CITY COUNCIL

FROM: MAURICE A. PRIEST, ATTORNEY FOR REMAINING HOMEOWNERS AT REDWOOD MOBILEHOME PARK

RE: MEETING ON JANUARY 26, 1999, 7 P.M. RE CONVERTING REDWOOD MOBILEHOME PARK TO A LANDLORD RENTAL PARK, DISPLACING EXISTING HOMEOWNERS

The purpose of this memo is to advise you of the position of the remaining five homeowners residing at Redwood Mobilehome Park in Novato, to respond to certain points raised in the City Attorney's January 13, 1999 memo to the Mayor and Council on this issue, and to urge the adoption of the enclosed Novato Ordinance On Mobilehome Park Closures, Conversions To Other Uses, and Compensation to Displaced Residents.

Change of Use of Redwood Mobilehome Park

While the City of Novato considers the "change of use" proposal submitted by Dr. Taylor, and the impact report he has prepared regarding the remaining 5 homeowners who would be displaced, it is interesting to note the written notice given to the residents of Redwood Mobilehome Park on April 8, 1998, was accompanied by a "**Closure Impact Report".** The clear statement of that impact report caused residents to believe that Dr. Taylor was closing the mobilehome park and that it would no longer be used as a mobilehome park. This interpretation was also shared by members of the Novato City Council.

It was not until the December 8, 1998 meeting of the City, that it became clear that Dr. Taylor intends to continue renting out mobilehomes which he has purchased, and which are located on the same mobilehome spaces from which he has removed homeowners who were previously protected by the City's mobilehome rent ordinance. Dr. Taylor's position, is that he does not want to rent mobilehome spaces to the only 5 remaining homeowners protected by the city's rent ordinance, but instead he wants force out those current homeowners, and to rent those spaces and the homes which he seeks to purchase. **In other words, Dr. Taylor objects to renting spaces to the homeowners who live there now, but he asks for the city's blessing to rent those spaces and the homes which he purchases, to new tenants.**

City of Novato

Although a mobilehome park may be defined as an area "for the rental of 2 or more mobilehome sites to accommodate mobilehomes used for human habitation", Dr. Taylor would, in fact, be engaging in the rental of both the mobilehome spaces and the mobilehomes which he has acquired. The approximately 40 homes which he has purchased are not sitting in a void, but are situated on the same mobilehome spaces previously rented by homeowners protected by the City's rent ordinance. In reality, Dr. Taylor is *"now renting both the space and the mobilehome"* to new tenants.

Dr. Taylor and his counsel, David Kenyon, stated at the December 8, 1998 public hearing, that they do not know when Dr. Taylor will cease to rent mobilehomes at Redwood Mobilehome Park. They admit that Dr. Taylor has entered into HUD Section 8 Housing contracts for some of the mobilehomes which require that he rent such homes for at least a year, that is through November 1999. Mr. Kenyon stated that Dr. Taylor may enter into more Section 8 contracts covering other mobilehomes which he has acquired from former homeowners at Redwood. Dr. Taylor, through his counsel, has indicated that he does not want to continue renting spaces to these remaining 5 homeowners, but that he wants to remove them from the park, so that he can rent mobilehomes on those 5 spaces to other new tenants.

Such a position begs the question: **Why is the request of Dr. Taylor to rent spaces and mobilehomes to new tenants, more important that the rights of the existing 5 homeowners to continue renting those spaces from Dr. Taylor, under provisions of the City's mobilehome rent ordinance?**

It was Dr. Taylor's announced "**closure**" of Redwood Mobilehome Park, and his notice to all residents that they had until April 15, 1999 to move out, that eliminated the resale market that had been available to homeowners who lived there. After all, what prospective buyers would want to buy a home and move into a park that was "closing"? In effect, Dr. Taylor became the only available and interested buyer. His plan seems to have worked well, because according to Mr. Kenyon, Dr. Taylor has acquired approximately 40 homes.

I believe that it is appropriate that Dr. Taylor's **"Closure Impact Report"** is now being scrutinized by the City. Given the revelation by Dr. Taylor, that he now intends for an indefinite period of time to rent mobilehomes and spaces to new tenants, *it does not follow that the City must allow the eviction and removal of the remaining 5 homeowners at this time.*

The City of Novato still has an interest in preserving a dwindling stock of affordable housing. Given the fact that mobilehomes now owned by Dr. Taylor will continue to be rented at Redwood Mobilehome Park indefinitely, the City is under no mandate to force the remaining 5 homeowners to move from the park, until such time as the property is no longer used for mobilehome housing.

The City has the right to adopt a Mobilehome Park Closure Ordinance, as other cities have done, so that it can establish the parameters of compensation which a park owner must pay when he displaces mobilehome owners. The adoption of such an ordinance at this time, will assist the City, with regard to other parks which may be closed in the future, and with regard to these 5 homeowners at Redwood

Mobilehome Park, if and when Dr. Taylor, chooses to no longer use the land for the rental of mobilehomes.

What harm will befall Dr. Taylor, if the City adopts a "Mobilehome Park Closure" ordinance at this time, but does not require that the remaining 5 homeowners move from the park, or sell their homes to Dr. Taylor?

Under the City of Novato's mobilehome rent ordinance, Dr. Taylor had been receiving monthly gross rents of approximately $350 on 44 homes, or a gross of $15,400 per month. With the removal of approximately 40 homeowners and the acquisition of their homes, Dr. Taylor is collecting somewhere between $750 per month and $1,000 per month in rent. We are advised that some Section 8 contracts can be in the range of $900-$1,000 per month. Taking an average of $850 per month rent multiplied by the approximately 40 homes acquired by Dr. Taylor would generate a gross monthly income of $34,000, or a gain of approximately $18,600. The incentive for the change becomes quite clear.

DR. TAYLOR'S INCOME UNDER RENT ORDINANCE

44 SPACES X $350 PER MONTH = $15,400

GROSS ANNUAL INCOME = $184,000

DR. TAYLOR'S INCOME OUTSIDE THE ORDINANCE

44 SPACES X $850 PER MONTH = $37,400

GROSS ANNUAL INCOME = $448,800

ANNUAL GAIN BY CIRCUMVENTING NOVATO RENT ORDINANCE = $264,800.

With regard to homeowners McAttee, Brogioli, Quinn, Valim, and Piazza, the remaining 5 homeowners, under the City's mobilehome rent ordinance, their 5 spaces generate approximately $1,750 in monthly rent to Dr. Taylor. If he can convince the City that these 5 remaining homeowners must go, those same 5 homes and spaces will generate approximately $4,250 per month, or a gain of $2,500 per month. Of course, Dr. Taylor would incur the acquisition cost of their respective homes, but such costs will be recovered over time. Remember, Dr. Taylor and his counsel are not saying when the park will be closed for housing purposes.

Without a doubt, the forced removal of these 5 homeowners from Redwood Mobilehome Park, will dramatically impact their cost of housing. Even the written appraisal figures produced by Dr. Taylor will provide little more than monies to pay for other rental housing which will be exhausted in 6 months to a year; and then what? From their forced removal, Dr. Taylor would increase

rental income from $350 to approximately $850, or a gain of $500. For each of those 5 homeowners, their alternative housing costs will be a minimum of $1,250 per month for a 1 bedroom apartment, or a net *housing cost increase of $900 per month*. Comparing the legal and equitable rights of each party, and considering the City's right to reasonably protect low income homeowners and seniors, one can conclude that a compelling case has been made to protect the remaining homeowners.

Summary and Conclusion

The 5 remaining homeowners, protected by the City's rent ordinance, should have the right to remain in their homes at Redwood Mobilehome Park, for as long as Dr. Taylor owns mobilehomes at that location which are rented for housing. If and when, Dr. Taylor closes the park and moves out his own rental homes, then, and only then, should the City then apply its own "Mobilehome Park Closure" ordinance to determine what compensation should be paid to these remaining 5 homeowners.

Our proposed "Mobilehome Park Closure" ordinance is attached hereto for your consideration.

NOVATO ORDINANCE

ON MOBILEHOME PARK CLOSURES,CONVERSIONS TO OTHER USES, AND COMPENSATION TO DISPLACED RESIDENTS

Prior to conversion of a mobilehome park to another use, or prior to closure of a mobilehome park or cessation of use of the land as a mobilehome park, the person or entity proposing the change in use shall file a report on the impact of the conversion, closure , or cessation of use upon the displaced residents of the mobilehome park to be converted or closed. In determining the impact of the conversion, closure, or cessation of use on displaced mobilehome park residents, the report shall address the availability of adequate replacement housing in mobilehome parks and relocation costs.

The person proposing the change in use shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at least 15 days prior to the hearing, if any, on the impact report by the advisory agency, or if there is no advisory agency, by the city council.

When the impact report is filed prior to the conversion, closure, or cessation of use, the person or entity proposing the change shall provide a copy of the report to a resident of each mobilehome in the mobilehome park at the same time as the notice of the change is provided to the residents.

When the impact report is filed prior to the conversion, closure, or cessation of use, the person or entity filing the report or park resident may request, and shall have a right to, a hearing before the city council on the sufficiency of the report.

The city council, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate

any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation. As used in this section, the reasonable costs of relocation may include the lesser cost of the following, as determined by the legislative body or its delegated advisory agency:

(1) Where another mobilehome park can be found to relocate a displaced mobilehome within 10 miles of the park subject to conversion, closure, or cessation of use, the costs of relocating a displaced park resident's mobilehome, accessories, and possessions to a comparable mobilehome space in another park within 10 miles, including removal, transportation, and reinstallation of the mobilehome and accessories at the new site, indemnification for any damage to personal property of the resident caused by the relocation, reasonable living expenses of displaced park residents from the date of actual displacement until the date of occupancy at the new site, payment of any security deposit required at the new site and the difference between the rent paid in the existing park and any higher rent at the new site for the first 12 months of the relocated tenancy.

(2) The cost of purchasing a mobilehome of a displaced mobilehome owner at a value to be determined by the city council or its delegated advisory agency, where the mobilehome cannot be relocated due to age or condition, as determined by the city council or advisory agency. The purchase price shall also take into consideration the cost of available alternative housing within 10 mile of the mobilehome park.

The city may establish reasonable fees to cover any costs incurred by the city in implementing this section. Those fees shall be paid by the person or entity proposing the change in use.

A mobilehome park owner engaged in the rental of spaces occupied by mobilehome in a

mobilehome park, who proposes to purchase homes, not for resale purposes, but for purposes of rental of those home purchased by the park owner, shall be considered to be changing the use of the rental mobilehome park, requiring the filing and hearing of a change of use permit by the City. In consideration of such change of use permit, the city shall consider the effect which such change of use may have on any rent regulation ordinance then in effect, the effect on displaced residents, and any other factors which the city believes to be relevant with regard to such proposed change of use.

RESIDENTS' IMPACT REPORT REGARDING PROPOSED CLOSURE OF REDWOOD MOBILEHOME PARK NOVATO, CALIFORNIA

October 23, 1998

Prepared by
Maurice A. Priest, Esq.
PRIEST & ASSOCIATES

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Telephone: (916) 446-0000 Facsimile: (916) 446-0165

TO: The City of Novato
901 Sherman Avenue
Novato, California 94948

The Mayor and Members of the City Council of the City of Novato are requested to consider the following Residents' Impact Report on the Proposed Closure of Redwood Mobilehome Park, 7530 Redwood Boulevard, Novato, California. This report has been prepared on behalf of the following named homeowners who are residents of Redwood Mobilehome Park, and who are represented by the Law Firm of Priest & Associates, 980 Ninth Street, 16th Floor, Sacramento, California 95814.

1. Eugene O. McAttee, 2 El Novato Court Novato 94948
2. Joe S. Piazza, 7530 Redwood Boulevard #24
3. James Quinn, 7530 Redwood Boulevard #15
4. Carlos J. Valim, 7530 Redwood Boulevard #16
5. Dean Hoy, 7530 Redwood Boulevard #6
6. James Brogioli, 8 El Novato Circle

In April 1998, each of the above homeowners, residents of Redwood Mobilehome Park, received a written notice from David G. Kenyon, attorney for Taylor Investments, LLC, owner of Redwood Mobilehome Park, stating that their tenancies within the mobilehome park would be terminated as of April 15, 1999. The termination of tenancy as announced by the park owner was due to a proposed change of use to cease operating the property as a mobilehome park. Each of the homeowners was provided a copy of a "closure impact report" prepared by the park owner, and copies of which have been submitted to the City of Novato for its consideration. A hearing on the

impact report and the proposed closure of Redwood Mobilehome Park has been scheduled for December 8, 1998. The homeowners and their attorney hereby request the City's consideration of the residents' impact report in preparation for that hearing of December 8, 1998, and with regard to any decisions which the City may make regarding the continued use of the subject property as a mobilehome park accommodating low and moderate income residents of the City of Novato.

1.

THE HOMEOWNERS ARE INFORMED AND BELIEVE THAT TAYLOR INVESTMENTS, LLC, HAS RECENTLY ENTERED INTO WRITTEN SECTION 8 CONTRACTS WITH HUD WHICH WOULD REQUIRE THE PARK OWNER TO HONOR SUCH NEW TENANCY AGREEMENTS THROUGH AT LEAST OCTOBER 1999 OR LATER. GIVEN NEW LONG-TERM COMMITMENTS MADE BY THE PARK OWNER FOR CONTINUED OPERATION OF THE PROPERTY FOR THE BENEFIT OF OTHER NEW TENANTS, WHAT URGENCY EXISTS FOR THE CITY TO CONDONE THE EVICTION AND DISPLACEMENT OF HOMEOWNERS CURRENTLY RESIDING AT REDWOOD MOBILEHOME PARK?

Homeowners have learned from new tenants moving into the park who are renting mobilehomes from Taylor Investments, LLC, that they have done so pursuant to a written Section 8 contract which Taylor Investments has entered into with HUD. Such agreements are for a minimum of one year, and it appears that several such contracts have recently been signed by the park owner with HUD. Homeowners request that the City of Novato determine from the park owner if such information is correct prior to any hearing on the impact report and proposed closure of Redwood Mobilehome Park.

If such information is correct, and Taylor Investments has entered into new commitments with new tenants for at least a year or more, then the question must be asked: what is the urgency which requires the displacement of homeowners who have made an investment in their manufactured homes and who are currently renting spaces from Taylor Investments pursuant to the City of Novato's Mobilehome Rent Regulation Ordinance? In the Notice of Termination of Tenancy, the park owner has stated only that the proposed change of use is to cease operating the property as a mobilehome park. Does this mean that Taylor Investments does not want to continue renting to

mobilehome owners who are protected by the City's rent control ordinance, but would rather displace such homeowners and rent mobilehomes acquired by Taylor Investments to other renters who would not be subject to the City's rent control ordinance? By forcing the displacement of homeowners at Redwood Mobilehome Park, acquiring their mobilehomes at a nominal price, and renting those homes to tenants who are not protected by the City's Mobilehome Rent Regulation Ordinance, it appears that the park owner has attempted to find a means to circumvent the City of Novato's rent regulation ordinance. If the park owner is going to continue operating a form of "rental property" at Redwood Mobilehome Park, and has made commitments through HUD Section 8 contracts to do so through at least October 1999 or longer, the current resident homeowners would request that the City not approve or condone their displacement from the mobilehome park without reasonable and realistic compensation, and while the park owner continues to rent homes at the subject property.

2.

THE IMPACT REPORT PREPARED BY THE PARK OWNER CONFIRMS THAT THERE ARE NO AVAILABLE VACANT MOBILEHOME SPACES TO WHICH DISPLACED HOMEOWNERS AT REDWOOD MOBILEHOME PARK COULD BE RELOCATED.

Pursuant to the legal requirement as stated in Government Code § 65863.7, the park owner has included information concerning the impact which the proposed closure of the park would have on displaced residents of the mobilehome park. The report also addresses the availability of adequate replacement housing in mobilehome parks. At page 9 of their impact report, the park owner confirms that, in the immediate surrounding area, there are no vacant mobilehome spaces which will take homes that would be displaced from Redwood Mobilehome Park. The park owner accurately explains that whenever parks do have vacancies, they have the legal right to "upgrade" their park by requiring that homes being moved there are equal to the homes already situated in the park or are newer. Obviously, if the relocation of mobilehomes to other parks within the immediate surrounding area is not a viable option, then the park owner's offer to pay a nominal sum for the relocation of such homes is meaningless.

The sale of mobilehomes by the homeowner residents to other buyers is no longer a viable option. The owner of Redwood Mobilehome Park has effectively destroyed the resale market for all remaining homeowners at Redwood Mobilehome Park. All real estate agents and dealers who sell mobilehomes in the area are now aware of the announced closure of the park, even though the closure and the impact report have yet to be considered by the City of Novato. The park owner, after destroying the resale market, is now offering remaining homeowners nominal compensation for their homes which, in some cases, he is then renting to others for approximately $750 to $800 per month.

3.

THE CITY OF NOVATO HAS THE AUTHORITY TO REQUIRE THAT THE PARK OWNER PAY "ALL REASONABLE COSTS OF RELOCATION" AS A CONDITION OF THE PARK OWNER'S CHANGE OF USE AND DISPLACEMENT OF THE CURRENT HOMEOWNERS.

This authority is granted pursuant to Government Code § 65863.7. Please note that the Code section does not refer only to "relocation of the mobilehome," but expressly states "all reasonable costs of relocation." If there are no available spaces within the immediate area which will accept the homes, then the City should consider what the costs of alternative housing would be within the city for displaced homeowners. What amount of compensation should the park owner be required to pay if he is removing a significant portion of the existing affordable housing stock from the city of Novato?

4.

THE PROPOSED CLOSURE OF REDWOOD MOBILEHOME PARK, IF APPROVED BY THE CITY OF NOVATO, WOULD BE INCONSISTENT WITH THE HOUSING POLICIES AS ADOPTED BY THE CITY OF NOVATO REDEVELOPMENT AGENCY IN 1988.

According to the City of Novato Redevelopment Agency, on December 20, 1988, the City adopted the following mission: **to develop and maintain low and moderate income housing affordable both to households currently residing in the City and those projected to live in the City**. The City of Novato General Plan, adopted March 8, 1996, included specific statements of goals, objectives and policies which addressed "**mobilehome park affordability; to ensure that**

mobilehome parks remain affordable to present residents." This General Plan stated that there were 641 mobilehomes located in mobilehome parks in Novato, which constitute an important proportion of the City's affordable housing stock. Specifically, as part of the General Plan adopted March 8, 1996, H.O. Policy 6 addressed conversion of mobilehome parks, "**require developers to provide relocation assistance to residents displaced from mobilehome parks that are converted to other uses. . . . [t]he Planning Commission or City Council may require, as a condition of the change, that the developer take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to relocate by finding adequate housing in another mobilehome park**."

The City also proposed the adoption of a Mobilehome Conversion Ordinance in a portion of its General Plan as follows:

> **H.O. Program 6.1: Mobilehome Conversion Ordinance. Consider adopting a mobilehome conversion ordinance with guarantees to ensure that lower-income mobilehome residents are provided with affordable housing. Investigate methods of tenant acquisition of mobilehome parks. Responsibility: Community Development Department. Several jurisdictions, including Camarillo, Carson, Chula Vista, Hawthorne, Huntington Beach, and San Diego County, have adopted similar ordinances.**

In view of information indicating that the park owner has committed to Section 8 HUD long-term housing to new tenants moving into the park, *the homeowner residents urge the City of Novato at this time to adopt a Mobilehome Conversion Ordinance which will appropriately address the compensation which park owners should be required to make to residents if those residents are displaced due to the change of use or the cessation of use of the mobilehome park. Two and one-half years ago, the City acknowledged that such an ordinance should be considered. In view of the displacement of homeowners threatened by the closure of Redwood Mobilehome Park, we believe that it is now time for the City to act upon the recommendation which it adopted in its 1996 General Plan.*

5.

THE CITY OF NOVATO SHOULD GIVE CONSIDERATION TO THE "REPORT ON HOUSING NEEDS AND SOLUTIONS" PREPARED FOR

THE CITY OF NOVATO BY CONNERLY & ASSOCIATES, INC. ON AUGUST 27, 1993.

In 1993, the City of Novato requested an independent evaluation of its housing needs and solutions, which resulted in a report by Connerly & Associates, Inc. of Sacramento, California. The report by Connerly & Associates specifically referenced existing mobilehome parks. At page 15 of the Connerly report, it stated that:

> Based on annual information collected by the Department of Housing and Community Development on mobilehome sales, as reported in the Berlin report, the average resale price of a mobilehome in Novato peaked in 1990-91 at about $45,000.

At page 16 of the Connerly report, it states:

> A substantial percentage of mobilehome park residents (about 40%) pay more than 30% of their income for housing expenses. Of these residents paying more than 30%, nearly two thirds pay more than 40% of their income for housing expenses. **These residents are the most likely to face financial hardship in meeting housing expenses, while those who pay between 30 and 40% of their income for housing expenses may be on the 'verge' of facing such hardship. Although the proportion of households paying more than 30% of their income for housing expenses is high in absolute terms, this percentage is typical of low-income households in communities throughout the state.**

On page 25 of the Connerly report, the housing sales cost comparison was stated as follows:

Average mobilehome sales price in 1992:	$ 35,000
Median estimated value of mobilehomes (1993 survey):	$ 53,000
Average sales price for homes in Novato:	$ 277,486
Median sales price for homes in Novato:	$ 280,330

The value of the Connerly report to the City on this issue is that it independently establishes the value of housing, both mobilehomes and conventional housing, in the City of Novato in 1992 and 1993. These determinations were made neither by the owner of Redwood Mobilehome Park or the homeowners threatened with eviction and displacement.

6.

THE CITY OF NOVATO SHOULD REJECT THE IMPACT REPORT OF THE PARK OWNER. THE PARK OWNER'S IMPACT REPORT ADMITS THAT SPACES DO NOT EXIST IN OTHER PARKS TO WHICH THE

EXISTING HOMES CAN BE RELOCATED, AND THE PARK FAILS TO ADDRESS THE REALISTIC AND REASONABLE COSTS OF RELOCATION FOR DISPLACED HOMEOWNERS.

The issue of replacement housing is addressed in the park owner's impact report form pages 9 through 15. The report confirms that there are no vacant mobilehome spaces in the immediate area to which these threatened homes could be moved, and with regard to alternative rental housing, the report admits that it is a tight market. The homeowners submit the following table of information obtained from the classified advertising section of the ***Marin Independent Journal*** in recent weeks for the City's consideration:

Classified Housing Advertisements

Marin Independent Journal

Date	Description	Cost	Additional
07/19/98	Mobilehome for sale	$35,000	2 BR - Novato
	Mobilehome for sale	$25,000	2 BR, 2 BA - Novato Family Park
	Unfurnished house for rent	$1,475/mo	2BR, 1 BA - Novato
	Unfurnished house for rent	$850/mo	1 BR - Novato
	Unfurnished house for rent	$1,500/mo	2 BR, 1 BA - Novato
07/26/98	Mobilehome for sale	$14,500	1 BR - Novato
	Unfurnished house for rent	$1,900/mo	3 BR, 2-1/2 BA - Novato
	Unfurnished house for rent	$1,400/mo $2,000 sec dep	3 BR, 2 BA - Novato
	Unfurnished house for rent	$1,300/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$1,375/mo	2 BR, 1 BA - Novato
08/02/98	Mobilehome for sale	$47,000	2 BR, 2 BA - Novato Adult Park
	Mobilehome for sale	$55,000	2 BR, 2 BA - Novato Adult Park

Date	Description	Cost	Additional
	Mobilehome for sale	$21,500	2 BR, 2 BA - Novato Family Park
	Mobilehome for sale	$34,000	2 BR - Novato
	Unfurnished house for rent	$2,200/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$1,375/mo	2 BR, 2 BA - Novato
08/09/98	Mobilehome for sale	$55,000	Novato Senior Park
	Mobilehome for sale	$55,000	2 BR, 2 BA - Novato Adult Park
08/09/98	Mobilehome for sale	$47,500	2 BR, 2 BA, doublewide
	Unfurnished house for rent	$2,400/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$1,375/mo	2 BR, 1 BA - Novato
	Unfurnished house for rent	$1,000/mo plus deposit	2 BR, 1 BA - Novato
08/17/98	Mobilehome for sale	$24,500	3 BR, 1 BA - Novato
	Mobilehome for sale	$49,950	2 BR, 2 BA - Novato Senior Park
	Unfurnished house for rent	$2,400/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$1,250/mo	2 BR, 1 BA - Novato
08/23/98	Mobilehome for sale	$49,950	2 BR, 2 BA - Novato Senior 55+ Park
	Unfurnished house for rent	$2,350/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$2,800/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$1,850/mo	2 BR, 1-1/2 BA - Novato
08/30/98	No mobilehomes listed for sale on this date		
	Unfurnished house for rent	$1,400/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$1,750/mo	2 BR, 2 BA - Novato

Date	Description	Cost	Additional
09/06/98	Mobilehome for sale	$55,000	2 BR, 2 BA - Novato Adult Park
	Mobilehome for sale	$47,500	2 BR, 2 BA - Novato Adult Park
	Unfurnished house for rent	$2,250/mo	2 BR, 2 BA - Novato
09/12/98	No mobilehomes listed for sale on this date		
	Unfurnished house for rent	$2,250/mo	2 BR, 2 BA - Novato
	Unfurnished house for rent	$1,200/mo	2 BR, 1 BA - Novato
09/20/98	Mobilehome for sale	$41,000	2 BR, 2 BA - Novato
	Mobilehome for sale	$55,000	2 BR, 2 BA - Novato Adult Park
	Mobilehome for sale	$47,500	2 BR, 2 BA - Novato Adult Park
	Unfurnished house for rent	$1,250/mo	2 BR, 1 BA - Novato
09/27/98	Mobilehome for sale	$37,000	2 BR, 1 BA - Novato
	Mobilehome for sale	$55,000	2 BR, 2 BA - Novato Adult Park
	Mobilehome for sale	$47,500	2 BR, 2 BA - Novato Adult Park
	No listings for unfurnished houses, 2 BR or smaller, only larger than 2 BR		

From July 19, 1998 to September 27, 1998, only 15 ads of mobilehomes for sale in Novato appeared. The average sales price for these homes is between $35,000 to $40,000. During the same period of time, unfurnished homes for rent indicate an average rental price for a 2-bedroom apartment to be approximately $2,000 per month. In view of this market reality, does the owner of Redwood Mobilehome Park's offer to pay a $100 telephone hook-up, plus $2,500 to move a

singlewide home, or $4,000 to move a doublewide home, equate to paying "all reasonable costs of relocation"? We think not.

In mitigation of the impact and relocation costs, the park owner has offered the services of a "housing specialist." While the homeowners do not doubt the expertise of Fred Consulting of Novato, who has been hired by the park owner to render this service, the best action for the park owner to take in mitigation of the impact, is to provide more realistic compensation to those homeowners who are facing displacement. Payment of $2,500 or $4,000 moving expenses for mobilehomes means nothing because there are no spaces to which they can be moved.

The park owner, having ruined the potential resale market with other prospective buyers by announcing closure of the park, has purchased most of the 22 homes for a purchase price of approximately $5,000 per home. A $5,000 purchase price will not buy a replacement mobilehome in other mobilehome parks in Novato, and it will pay for less than two months rent plus security deposits for the average apartment rental.

7.

THE PARK OWNER'S RELOCATION PLAN AND TIMETABLE, REQUIRING THE REMAINING HOMEOWNERS TO MAKE A WRITTEN ELECTION BY DECEMBER 15, 1998 OR FORFEIT THEIR RIGHT TO RECEIVE FINANCIAL ASSISTANCE FROM THE PARK OWNER, IS BOTH UNREASONABLE AND INADEQUATE.

According to the park owner, the rental of mobilehome spaces at the park will cease on April 15, 1999. By a deadline of December 15, 1998, only one week following the scheduled impact hearing with the City of Novato, the remaining homeowners must have signed a written election to sell their homes to the park owner, or they will be deemed to have elected to move their homes from the park on or before April 15, 1999. At the top of page 15 of the impact report, the park owner indicates that he will make the relocation payments after the resident has removed himself and all property from the park and signed the Release Statement attached as Appendix 8 to the impact report. The possibility of advancing some costs is available if documentation is provided to the park owner.

The homeowners who face displacement do not doubt the stated goal and mission of the City of Novato to protect and preserve low and moderate income housing, nor do the homeowners doubt the sincerity of the City when it has stated that it would "require developers to provide relocation assistance to residents displaced from mobilehome parks that are converted to other uses." (See park owner's impact report, bottom of page 3.) Pursuant to Government Code § 65863.7, the City has the authority to require the park owner to pay all reasonable costs of relocation. The City, due to this announced cessation of use of the subject property as a mobilehome park, now has the opportunity and the authority to demonstrate its commitment to the preservation of affordable housing in Novato, and its commitment to low and moderate income residents.

HOMEOWNER RECOMMENDATIONS TO THE CITY OF NOVATO

The homeowner residents of Redwood Mobilehome Park in Novato respectfully request the following action and/or assistance from the City of Novato:

(1) Demand the park owner to confirm, prior to the December 8, 1998 hearing on the impact report, whether or not the park owner has rented mobilehomes to new tenants pursuant to a Section 8 written contract with HUD, requiring the continued rental of homes within the park for one year or longer;

(2) Consider the immediate adoption of a Mobilehome Conversion Ordinance pursuant to H.O. Program 6.1 of the City's General Plan, which specifies a realistic compensation requirement to be paid by park owners to displaced homeowners;

(3) Make a finding that the park owner's continued rental of mobilehomes which he owns at Redwood Mobilehome Park, while attempting to evict existing homeowners, constitutes a violation of the City's mobilehome rent regulation ordinance;

(4) Make a finding that the park owner's impact report and mitigation efforts are totally inadequate and do not constitute reasonable compliance with park owner's obligation to displaced homeowners;

(5) Make a determination that the City's approval of the park owner's continued rental of homes at the subject property, and the City's approval of any change of use or future development

of the subject property, is contingent upon the park owner's reasonable and realistic compensation to remaining homeowners who would be displaced; and

(6) For a determination that the remaining homeowners at Redwood Mobilehome Park need not make a written election by December 15, 1998, as demanded by the park owner, and need not move their homes by April 15, 1999, unless and until the park owner has complied with requirements imposed by the City pursuant to its authority as stated in Government Code § 65863.7.

Respectfully submitted,

PRIEST & ASSOCIATES

By _____
Maurice A. Priest
Attorney for Resident Homeowners

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Copies to CC
Rod, Sonia & Staff
8/13/98

August 7, 1998

Mayor Carole Dillon-Knutson
City of Novato
901 Sherman
Novato, CA 94948

Re: Objection to Change of Use and Termination of Tenancies at Redwood Mobilehome Park
Our Clients: Eugene McAtee, Space 2
Joe Piazza, Space 24
James Brogioli, Space 8

Dear Mayor:

This lawfirm represents homeowners McAtee, Piazza, and Brogioli who reside at Redwood Mobilehome Park in Novato. My clients and other remaining homeowners at Redwood Mobilehome Park, face severe problems and economic hardship due to the premature announcement by the owner of the park, of his intention to change the park to another use and of terminating all tenancies within the park.

I am aware that Mr. McAtee addressed this matter briefly with the City Council on July 21, 1998 and requested that the subject be set for a hearing. I appreciate the interest of the City Council in setting a hearing date that will enable my clients and I to fully present our objections to the announced change of use and termination of tenancies by the owner of Redwood Mobilehome Park.

On behalf of my clients, I would request that this subject be set for hearing in mid-October 1998. Our clients will need the time to prepare an impact report which addresses the serious economic hardships which their displacement from Redwood Mobilehome Park will cause, and which realistically assesses the costs which they face in attempting to secure alternative affordable housing within the City of Novato.

By setting the hearing in mid-October, the City will also be allowing sufficient time to notify the owners of Redwood Mobilehome Park of their obligation under Civil Code Section 798.56 (g)(1), to give all homeowners in the park at least a 15 day written notice that management will be appearing before the City Council regarding permits for a change of use of the mobilehome park and for a thorough hearing on the Impact Report prepared by the park owner and his attorney.

On behalf of the homeowners represented by this law firm, we anticipate that our impact report would be completed and filed with the City on October 8th or 9th, approximately one week before the hearing. At that time we would also provide a copy to the park owner and his attorney.

August 7, 1998

Severe damage has already been caused by the park owner's premature announcement of the park's change of use and termination of tenancies. As former chairman of the State Bar Committee on Mobilehome Law, and legislative advocate for Golden State Mobilehome Owners League at the State Capitol for over 16 years, I am familiar with the statutory requirements imposed on park owners concerning change of use, as well as the authority held by the City regarding such issues.

The notice of change of use should ***not*** have been given by the park owner until he first obtained the necessary approval from the City Council. The submission of the Impact Report by the park owner to the City indicates the park owner's awareness of this requirement. Approximately 10 years ago the statute was purposely modified so that the notice would not be given until all approvals had first been obtained from the local government. The purpose of this change in the law, was to prevent park owner's from sending premature notices of the park's closure or change of use without even knowing if such approval would be obtained, or first determining what conditions might be imposed by the City before the change of use would be permitted.

The owner of Redwood Mobilehome Park has effectively destroyed the re-sale market for my clients and all remaining homeowners at Redwood Mobilehome Park. All real estate agents and dealers who sell mobilehomes in the area, are now of the opinion that the park is closing even though that has yet to be determined by the City. The park owner, after destroying the market, is now offering remaining homeowners, nominal compensation for their homes which, in some cases, he is then renting to others for approximately $750 per month! Such practices beg the question, if the park owner's true intent was to circumvent the City's mobilehome rent regulation ordinance by forcing "low-ball" sales so that he could receive dramatic increases in rents.

Under Government Code Section 65863.7, the City has the authority to require that the park owner pay ***"all reasonable costs of relocation"*** if the City permits the park to close or change use, and existing homeowners are displaced. I know that the City is interested in preserving the small amount of affordable housing remaining in Novato. The City has demonstrated its desire to protect occupants of affordable housing frojm excessive rent increases by adopting the mobilehome rent regulation ordinance. The City now has the authority and opportunity to carefully review the practices of the owner of Redwood Mobilehome Park, and to carefully assess what compensation should be paid to remaining homeowners, ***if*** the City permits a change of use.

Contrary to the park owner's impact report, simply paying the cost of pulling out the mobilehomes from the park, is not a fulfillment of the statute as cited above. The park owner admits in his own impact report that the mobilehomes cannot be moved into any of the other mobilehome parks in the City of Novato, due to an absence of available space, and the age of these particular homes. In light of this fact, the City has the authority to consider what the "reasonable cost of relocation" should be. In other words, what will it realistically cost displaced homeowners to find alternative housing

August 7, 1998

within the City? We will assist the City by providing information in our own impact report that addresses this issue as well as others. **Please keep in mind, that the statute does not say your authority is limited to determining the "reasonable costs of moving the mobilehome", but rather "<u>all reasonable costs of relocation</u>".**

I look forward to discussing this matter with you further. We appreciate the City's concern and interest in preserving affordable housing in Novato, and seeing that residents of affordable housing are treated fairly.

Very truly yours,

MAURICE A. PRIEST

cc:clients

Law Offices of
DAVID G. KENYON

DAVID G. KENYON

950 Northgate Dr., Ste. 302 • San Rafael, CA 94903
Telephone (415) 507-0188 • Fax (415) 507-0198

December 21, 1998

Mayor and Members of the City Council
City of Novato
900 Sherman Avenue
Novato, CA 94945

Re: Redwood Mobilehome Park

Dear Mr. Mayor and Members of the City Council:

This letter is written in response to your questions and comments at the recent hearing for the certification of the conversion impact report for the Redwood Mobile Home Park.

One of the issues that was raised was "is the conversion of the park from rental of pads to rental of mobile homes a closure of the park?"

In response to that question, Section 798.10 of the Civil Code is right on point. That Code reads as follows:

Section 798.10 Change of Use

> "Change of use" means a use of a park for a purpose other than the rental, or holding out for rent, of two or more mobilehome sites to accommodate mobilehomes used for human habitation...

Your city attorney reported that this change of use requires no permits from the city. My client has determined that he will close the mobilehome park and temporarily rent out the homes on the site. The issue remaining, is therefore what is the compensation that will be paid to the remaining residents that must be relocated.

You are directed by the government code in this regard that you may cause the owner of the park to pay sums that do not exceed the reasonable relocation costs for the residents. Dr. Taylor has already agreed to pay those sums and has been paying far in excess of those sums to the residents who have already sold their homes.

You have had considerable difficulty in determining what a reasonable cost of relocation is; the state legislature did not give much guidance in enacting these laws.

As you know, the legislature passed a bill to give you some guidance, but the governor did not sign that bill into law. Many cities have enacted their own ordinances to give their residents and park owners some warning as to what a conversion might entail. In an effort to assist you in determining what costs are appropriate, I have gathered conversion ordinances from Carson and Sunnyvale as well as the proposed law that was not signed by the governor on this topic. East Palo Alto, like Novato, had no ordinance when confronted with a conversion of a park. I have provided a copy of the approved report and plan of conversion that sets forth the compensation awarded by that city to their residents as a further example for your consideration. I have enclosed the source documents with the summaries so that you may review them as well. I am trying to boil down many pages of text into a one-page summary. I am providing these to you at this early date so that your city attorney may review the materials to be certain that the summaries accurately reflect the source documents.

The city ordinances range from a fairly strong resident orientation (Carson) to a middle of the road (Sunnyvale) to a strong landlord ordinance bias (East Palo Alto). The relocation benefits range from full fair market value including in-place value plus actual costs of relocation and up to one year's rent subsidy to cover any increase in rent for Carson, to 85% of fair market value of the home including in-place value for Sunnyvale, to as low as Blue Book value (without any in-place value) for East Palo Alto.

Each of the enacting bodies has attempted to define what costs can be included and still fit under the guiding principal of not exceeding the reasonable relocation cost. Obviously, facts and circumstances will change what is required under each of those benefit plans. The two essential parts to these ordinances are what the report is to contain, and what benefits may be assessed. The ordinances generally give guidelines rather than mandates to the local government and are all limited by the state law on the topic to not exceed the reasonable relocation costs.

One thing that should be made clear as you review these laws, is that none of these ordinances mandates the purchase of condominiums as was discussed at the last council meeting. Carson does mandate that reports on alternate housing be included. Carson requires the park owner to submit information about condominiums only if alternate mobilehome sites are unavailable. Fortunately, mobilhomes are available in this area. The proposed state law (AB1803) that failed to receive the governor's signature states that the compensation is to be the lesser of the total of specified cost factors or the value of the mobilehome. The proposed law did give jurisdictions the ability to adopt their own standards but stated that the cost factors were intended to provide a maximum mitigation

payable. Here, the owner has offered the full value of the homes plus relocation benefits. It would seem that he has exceeded the formerly proposed state guidelines. This is the proposed law Mr. Priest helped write.

Another issue that was raised is if the rental of the mobilehomes at prices in excess of the pad rents is in violation of the city's mobilehome rent control ordinance. The city's ordinance only regulates the rental of mobilehome pads. I was in attendance when this particular part of the ordinance was discussed, and remember discussion about homeowners not being bound by the rent restrictions if they were to rent their homes. To do otherwise might constitute a taking of the value of the resident's home. Section H of Part 20.2 of the ordinance specifically exempts the rental of homes from the ordinance.

Finally, it was suggested that it was undue influence for the owner to have his offers terminated upon council action because this was a great deal of pressure to put on the residents to make their decision before a council hearing occurred. We assumed that since this matter was not heard for seven months after our request for a hearing that you preferred that we resolve it without council intervention. In an effort to try to resolve this before you were required to intervene, Dr. Taylor made bonus offers that expired at the time of your recent hearing. There has been no undue pressure, but simply offers to purchase homes for their full fair market values or more.

I believe that the best method for resolving this issue of compensation is for the council to appoint two members, or two staff members to mediate the issue with the residents and park owner and the city attorney. We are willing to attend such a mediation at your convenience, but would want this completed before the January 26 hearing.

Sincerely

David G. Kenyon

Cc: Maurice Priest, Esq.
Jeff Walter, Esq.
Dr. Irvin Taylor

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JEFFREY A. WALTER*
VALERIE PISTOLE
*A PROFESSIONAL CORPORATION

VERONICA A.F. NEBB
JENNIFER M. WALDRON

FAX TRANSMITTAL

DATE: 12.15.98
TIME: _____

TO: Dave Kenyon

FROM: Karen Harrell

FAX NUMBER: 415 507 0198

WE ARE SENDING THE FOLLOWING DOCUMENTS TO YOU BY FACSIMILE MACHINE. THESE ARE TRANSMITTED AS CHECKED BELOW:

_____ For your approval
_____ Please review and comment
_____ For your use
_____ As you requested
_____ For your records
_____ Other
_____ Photocopying and routing to the City Council
_____ Place on Council agenda for the next meeting
_____ Sign and return of original document

NO. OF PAGES 7
(Including cover)
_____ ORIGINAL TO FOLLOW BY MAIL

DESCRIPTION

COMMENTS: Here's AB 1803

TO FAX A REPLY, DIAL (707) 996-9603

Citation Search Result Rank 1 of 2 Database
Comm. Rep. CA A.B. 1803 CCA-OLD
Committee Report for 1991 California Assembly Bill No. 1803, 1991-92 Regular Session

Date of Hearing: March 24, 1992
SENATE HOUSING AND URBAN AFFAIRS COMMITTEE BILL NO.: AB 1803
Senator Mike Thompson, Chairman AUTHOR: Cortese
VERSION:

ASSEMBLY VOTES:	AYES	NOES	(orig.:
H. & C.D.	6	2	(As Amend.:3/12/92
Assembly	43	24	FISCAL COMMITTEE: No

URGENCY: No
SIGNIFICANT SENATE AMENDMENTS CONSULTANT: PS

SUBJECT:

Mobilehome parks.

SUMMARY:

Specifies relocation costs which may be used by local government to determine the maximum mitigation payable to displaced mobilehome park residents.

BACKGROUND:

Existing law does the following:

1. Requires a person or entity seeking to close or change the use of a mobilehome park to file a report on the impact of the conversion, closure, or cessation of use upon the displaced residents of the park.

2. Requires this report to address the availability of adequate replacement housing in mobilehome parks and relocation costs.

3. Requires the locality's legislative body (body), or its delegated advisory agency (agency), to review the report prior to any change of use.

4. Permits the body, or its agency, to require the person who filed the report to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in another mobilehome park.

5. Prohibits the body, or its agency, from requiring steps in mitigation which exceed the 'reasonable costs of relocation'.

6. Requires that the same conditions apply if the change results from decisions by a local governmental entity or planning agency.

Comm. Rep. CA A.B. 1803

7. Prohibits applying these provisions if a closure or cessation of use of a mobilehome park results from bankruptcy (Gov.C. Section 65863.7..

PROPOSED LAW:

AB 1803 does the following:

1. Specifies that the relocation costs may include the lesser of the following as determined by the body or its agency:

   a) The total of specified cost factors when a displaced resident can be relocated to another park within the local jurisdiction or within 50 miles of the closing park.

   b) The cost of purchasing the mobilehome of a displaced resident at a value to be determined by the body or its agency.

2. Specifies cost factors used to calculate the relocation costs when a displaced resident can be relocated to another park within the local jurisdiction or within 50 miles of the closing park.

3. Specifies that where the body or agency determines that the mobilehome cannot be relocated due to age or condition, the value of the mobilehome, as determined by the body or agency, may be used as the measure of the reasonable cost of relocation.

4. Specifies that these cost factors are intended to provide permissive guidelines in determining the maximum mitigation payable to displaced residents.

5. Specifies that these provisions shall not be construed to prevent a body from adopting reasonable standards and procedures used in determining relocation costs.

COMMENTS:

1. The bill failed in Housing and Urban Affairs July 2, 1991: Ayes 2. Noes 3.

   The bill was granted reconsideration on July 16,1991: Ayes 6. Noes 0.

   The bill was amended in Housing and Urban Affairs, March 10, 1992 and will be presented as amended for a vote only.

2. The bill is essentially a reintroduction of SB 399 (Craven. from the 1989-90 session. In his veto message, Governor Deukmejian stated, 'The guidelines contained in this bill would not necessarily provide more equitable compensation to mobilehome park residents. As an

example, the ten-mile relocation limit may not be appropriate in all communities. I believe that local governments are in a better position than the state for choosing relocation strategies to protect the rights of both park residents and owners within their communities'.

3. The Golden State Mobilehome Owners League (sponsor. states the bill is designed to assist a locality which is reviewing the impact report on closing a park, thereby dislocating the resident mobilehome owners. The League states that the bill would not require compensation and would not interfere, in any way, with the locality's decision on what compensation, if any, is appropriate under the particular application before it.

4. The Western Mobilehome Association, in opposing the bill, argues that in most cases no spaces will be found within 10 miles and, therefore, the owners will have to buy old trailers at whatever price local government determines.

SUPPORT:

California Rural Legal Assistance Foundation
Golden State Mobilehome Owners League, Inc.
Western Center on Law and Poverty, Inc.
Mary N. Hudson
City of Escondido
The Plantation on the Lake, Calmesa
City of Napa Mobilehome Owner's Association
West Grove Mobilehome Park Association Action Committee, Inc.
Numerous individual letters of support, statewide

OPPOSED:

California Mobilehome Parks Alliance
Western Mobilehome Association
Robert Bendetti
Newport Pacific Capital Company, Inc.

Senate Committee on Housing & Urban Affairs
Comm. Rep. CA A.B. 1803
END OF DOCUMENT

Citation Search Result Rank 2 of 2 Database
Comm. Rep. CA A.B. 1803 CCA-OLD
Committee Report for 1991 California Assembly Bill No. 1803, 1991-92 Regular Session

Date of Hearing: March 10, 1992
SENATE HOUSING AND URBAN AFFAIRS COMMITTEE
Senator Mike Thompson, Chairman

BILL NO.: AB 1803
AUTHOR: Cortese

VERSION:

ASSEMBLY VOTES:	AYES	NOES
H. & C.D.	6	2
Assembly	43	24

(Orig.):
(As Amend.): 6/25/91
FISCAL COMMITTEE: No

URGENCY: No
SIGNIFICANT SENATE AMENDMENTS

CONSULTANT: PB

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4) Permits the body, or its agency, to require the person who filed the report to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in another mobilehome park.

5) Prohibits the body, or its agency, from requiring steps in mitigation which exceed the 'reasonable costs of relocation'.

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Comm. Rep. CA A.B. 1803

decisions by a local governmental entity or planning agency.

7) Prohibits applying these provision if a closure or cessation of use of a mobilehome park results from bankruptcy (Gov.C. Section 65863.7).

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   b) The cost of purchasing the mobilehome of a displaced resident at a value to be determined by the body or its agency.

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Comm. Rep. CA A.B. 1803

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SUPPORT:

California Rural Legal Assistance Foundation
Golden State Mobilehome Owners League, Inc.
Western Center on Law and Poverty , Inc.
Mary N. Hudson

OPPOSED:

California Mobilehome Parks Alliance
Western Mobilehome Association

Senate Committee on Housing & Urban Affairs
Comm. Rep. CA A.B. 1803
END OF DOCUMENT

To: GSMOL
From: Tri-Park Chapter 408 Cotati, Ca.
Re: Double Renting Problem GSMOL legislation,
P.O Box 876 Garden Grove, CA 92842

We are a three park chapter in Cotati and enjoy rent control.
Each of our park rules state that tenants are not allowed to sublet.
Two out of the three mobile home parks have situations where the management is buying up mobile homes, and then renting them out for very high rents. This appears to be one way for management to circumvent rent control. Please put us on your list of parks that are experiencing the "double renting" problem.

Please contact us if you wish further information. Thank you.

Theresa A. Eaton

President Theresa Eaton 117 Silver Drive, Cotati, CA 94931
Vice President Don Ruano, Sandy Vega
Secretary Marian Koglin
Treasurer Connie Deluca

cc City of Cotati - City Council, Manager, City Attorney
cc Sonoma County Rent Stabilization Program

MEMBER INFORMATION SHEET

DATE RECV"D AT HOME OFFICE: 2-16

MEMBER NAME: Shirley Murphy

ADDRESS: Wharf Road Manor
2155 Wharf Road #6
Capitola, Ca 95010

MEMBER NUMBER: 115955

DATE JOINED: 1-89 EXPIRATION DATE: 1-01

TELEPHONE: (831) 462-1149

CHAPTER#: 780 REGION#: 10

OF MEMBERS: 24 # OF SPACES: 34

CHAPTER OFFICERS: [PRES] Shirley Murphy
[V.P.] Olive Finch
[SEC] Irma Morris
[TREAS] _____
[M.C.] _____

COMMENTS: _____

REFERRED TO: _____

DATE: _____

February 11, 1999

GSMOL Legislative Dept.:

Re: Double Renting

Yes, we are experiencing double renting and a double standard here in Wharf Road Manor (chapter 780). Our double standard did not start until last year, however, other parks in this area have had this problem for a longer period of time.

Our owners, the Saia family, approached the children of a woman who was in the process of dying and offered to purchase their coach for $32,000.00 cash, no real estate agent, no title search, no inspection and no repairs required. Unfortunately, the children agreed and sold to them. The rent on the space was $197.52 (due to rent control) and Mr. Saia did some surface repairs and now rents the coach for $850.00 per month.

The park rules from 1994 state: Subletting and Assignments, Homeowners shall neither have the right nor the power to sublet or assign their Lot Lease Agreement and rights of tenancy. As you can see, the wording says you have to have a lot lease agreement so since the Saia family did not sign one for their 'lot' they felt they were not included. Since we were already in a lawsuit about a fair rate of return on their investment, there was no use getting into this until the other was settled.

The tenants were in the process of attempting to purchase the park, and eliminate this problem, when the Saia family sold the park to a new owner who now owns and rents the coach in question. Not pertinent to your inquiry, but I'll add: the son is in real estate and we have filed a grievance that the family had already entered escrow (unlisted and price unknown to anyone) at the time we made our first offer; they said it was too low, we countered and in the meantime escrow closed - ie: they did not act in good faith - but that is another issue.

There are two or three parks in the city limits of Capitola and in Santa Cruz County where park owners have bought coaches and are renting them but I don't know how many will respond to your inquiry.

Another matter: will you be addressing the issue of water gouging? The act of charging for a meter reading in a sub-metered park where the park owner has given themselves an unauthorized rent increase by charging more than they are charged for the meter readings?

Thanks for looking into the double standard of buying and renting coaches by owners but not allowing tenants to do the same thing.

Shirley Murphy, president
Wharf Road Manor, chapter 780
2155 Wharf Road #6
Capitola Ca 95010

STAFF REPORT

H-5

THE CITY OF
NOVATO
CALIFORNIA

900 Sherman Avenue
Novato, CA 94945
415/897-4311
FAX 415/897-4354

MEETING DATE: January 19, 1999

TO: City Council

FROM: Jeffrey A. Walter, City Attorney

SUBJECT: **REDWOOD MOBILEHOME PARK CLOSURE**

REQUEST

a. Determine nature and methodology of determining the amount of the award of relocation costs for: (a) mobilehome owners who cannot reasonably locate their mobilehomes to other parks; (b) mobilehome owners who can reasonably locate their mobilehomes to other parks; (c) RV owners who cannot reasonably locate their RV's to other parks; and (d) RV owners who can reasonably locate their RV's to other parks.

b. As to those owners whose mobilehomes and RV's cannot be relocated, determine the method of appraising the fair market value of their units.

c. Determine the additional information and data which the Council will require to be added to the park owners' closure impact report.

d. Set another hearing at which the Council will make its final decision concerning the relocation costs which shall be paid by the park owner, any other assistance which is to be provided by the park owner and establishing a monitoring program and implementation schedule.

DISCUSSION

Issues

At the December 8, 1998 Council meeting concerning the closure of the Redwood Mobilehome Park, Council raised several issues which Council stated need to be resolved before review and approval of the closure impact report could be accomplished. The issues are the following:

1. Does the conversion of the Redwood Mobilehome Park to a rental facility constitute a change of use so as to give rise to the requirements of Government Code Section 65863.7 which mandates the preparation of the closure impact report, requires Council approval of the report, and requires the mitigation of adverse impacts resulting from that change

of use? (A copy of Government Code Section 65863.7 is attached to this memo as Exhibit A.)

2. Was the 12 month notice provided to the residents of the Redwood Mobilehome Park in April of 1998 timely and appropriate?

3. Does the obligation to mitigate the adverse impacts resulting from the conversion of the Redwood Mobilehome Park apply to the owners of the recreational vehicles as well as to the owners of the mobilehomes?

4. What are the reasonable costs of relocation which may be included as measures which may be imposed by the Council in order to mitigate the impact of the conversion of the Park on the present residents?

5. Can the Council compel the owner of the Redwood Mobilehome Park to pay the relocation costs ordered by the Council to the former mobile home owners who have already executed the release and settlement agreements with the Park?

In order to answer these questions, my office reviewed the law, legislative history and court cases concerning Government Code Section 65863.7. My office also reviewed ordinances from neighboring jurisdictions concerning the closure of mobile home parks. In this regard, it should be noted that relatively few cities in the North Bay Area have adopted such ordinances. Not a single Marin County City contacted by my office responded that it had adopted ordinance requirements relating to mobile home park closures. From Sonoma County, we reviewed ordinances from Santa Rosa and Windsor. In addition, we reviewed ordinances from the cities of Carson and Sunnyvale. Those ordinances are attached to this memo as Exhibit B.

Executive Summary of Answers

Based on my research, the answers to the questions raised by the Council are as follows:

1. The conversion of the Redwood Mobilehome Park to a rental facility is a "change of use" pursuant to Government Code Section 65863.7 thereby giving rise to the requirements of a closure impact report and the adoption of measures to mitigate the impacts of the conversion on present Park residents.

2. The 12 month notice provided Park residents in April of 1998 was timely and appropriate.

3. The protections of Government Code Section 65863.7 apply to the owners of the recreational vehicles at the Park provided that the recreational vehicle was used for human habitation and the recreational vehicle has occupied a site at the Park for at least nine months.

4. The reasonable costs of relocation authorized by Government Code Section 65863.7 are those costs necessary to relocate the person. Those costs are not limited to simply relocating the mobile home. As a result, the Council may authorize the full costs of moving the mobile home to another park, if that is feasible, including take down and set up fees, all incidental costs which may arise as a result of that move, including the payment of security deposits, first and last month's rent and sewer and other hookup fees. If the new park charges higher rent, the Council also may authorize a cash payment to cover the differential between the displaced resident's existing rent at Redwood Mobilehome Park and that higher rent for a reasonable period of time.

   If it is not feasible to move the mobile home, the Council may authorize the owner of the Redwood Mobilehome Park to purchase the mobile home at 100 percent of on-site value. The Council also may authorize the payment of incidental costs the mobile home owner could incur in renting a home or apartment, including the payment of moving costs, deposits, utility costs and a cash payment to cover the difference between what the mobile home owner paid for rent at the Park and what the owner will now have to pay for rent at the home or apartment for a reasonable period of time.

5. The order of the Council requiring the Park owner to pay designated relocation payments to the remaining mobile home and RV owners should not be made retroactive so as to apply to other mobile home owners who have already executed contracts with the owner of the Redwood Mobilehome Park.

Discussion

The Conversion of the Redwood Mobilehome Park To A Rental Facility Is A Change Of Use Pursuant To Government Code Section 65863.7: Government Code Section 65863.7 was first adopted by the California Legislature in 1980. It was part of Assembly Bill 2234, which also included amendments to California Civil Code Section 798, et seq, entitled the Mobilehome Residency Law.

Government Code Section 65863.7 was adopted in recognition of the fact that a change in park use, which would require a mobile home owner to vacate the park, could have significant impacts on the mobile home owner based on the fact that the owner has an equity interest in the mobile home and the fact that there are fewer and fewer parks to which the mobile home may be moved. This intent by the Legislature to provide relief for those mobile homeowners was made clear by the report of the Assembly Committee on Housing and Community Development, issued March 18, 1980, which explained the reasons for the enactment of Section 65863.7:

> The problems caused by conversion of mobilehome parks to other uses can be substantial and much more grave than the problems faced by tenants of conventional housing who do not have an equity investment in their dwellings. In the case of a conversion which will result in the elimination of the park, mobilehome owners must relocate their homes to another park . . . ."

The present version of Section 65863.7 was the result of amendments adopted by the Legislature in 1985 through Senate Bill 316. These amendments were intended to close certain loopholes in the law. Certain park owners sought to avoid Section 65863.7 by simply closing their parks and ceasing the use of their land as mobilehome parks. In response to arguments by park owners that this did not constitute a change in use subject to Section 65863.7, the Legislature amended Section 65863.7 to state clearly that its requirements also apply to situations in which the park owner closes the mobilehome park or ceases to use the land as a mobilehome park. The Legislature also reconfirmed the connection of this section to Civil Code Section 798 by requiring the park owner to provide each park tenant with a copy of the closure impact report at the same time that the owner is required to give each tenant a notice of the change of use of the park pursuant to Civil Code Section 798.56(g).

The overriding purpose of Section 65863.7 was reconfirmed by Senator William Craven, who authored Senate Bill 316, in a letter, dated September 10, 1985, to then Governor Deukmejian:

> One of the most difficult problems we face in the mobilehome area involves the conversion or closure of a mobilehome park, where many long-term residents are displaced and cannot find another park in which to move their coach.

According to the legislative history relating to Section 65863.7, then, it is clear that its provisions are triggered when a park owner proposes action which will require the residents of the park to remove their mobile homes from park property because the park is being closed or converted, at some time, to another use. Since that is the situation present in the case of the Redwood Mobilehome Park, Section 65863.7 applies.

Still renting spaces occupied by MH.

Mr. Priest, on behalf of his clients who rent space at the Park, argues that since the owners of the Park intend to rent mobilehomes to tenants, that this is not a change of use or a park closure subject to Section 65863.7. This argument, however, ignores the clear intent of Section 65863.7 as well as the provisions of Civil Code Sections 798, et seq.

Still renting -

Section 798.4 defines a mobilehome park as "an area of land where *two or more mobilehome sites* are rented or held out for rent to accommodate mobilehomes used for human habitation." [emphasis added.] A "change of use" of a mobilehome park is defined in Section 798.10 as "a use of the park for a purpose other than the rental, or the holding out for rent, of two or more mobilehome sites to accommodate mobilehomes used for human habitation . . . ."

Does not trigger 65863.7

The owners of the Redwood Mobilehome Park propose to cease renting out sites to the owners of mobilehomes. Therefore, the Park will no longer be deemed a mobilehome park, as defined by State law. This constitutes a "change in/of use" within the meaning of Section 65863.7, and since this will require the present owners of mobile homes at the Park to remove those homes or the owners of those homes, this triggers the "costs of relocation" provisions and requirements of Section 65863.7.

The 12 Month Notice Provided By The Owners Of The Redwood Mobilehome Park Is Appropriate And Complies With The Requirements Of Section 65863.7 And Civil Code Section 798.56(g): Section 65863.7(c) requires the park owner to provide each tenant with a copy of the closure impact report "at the same time as the notice of the change [of use] is provided to the residents pursuant to paragraph (2) of subdivision (f) of Section 798.56 of the Civil Code."

Section 798.56(f)(2) of the Civil Code requires that notice be provided six months after permits have been issued by the local government body approving the change in use, or twelve months prior to the date the change of use will occur if the change in use does not require the issuance of government permits.

The Redwood Mobilehome Park has been classified as an existing nonconforming use by the Community Development Department since the Park pre-dated Novato's present zoning ordinance. As part of its pre-existing use, the Park has historically rented out mobilehomes owned by the Park. Since the conversion of the Park to a rental facility conforms to its nonconforming use status, no City permit is required for such use. Therefore, the twelve month notice provided by the Park owners is appropriate pursuant to Sections 65863.7(c) and 798.56(f)(2).

Mr. Priest argues that since the Park owners intend to redevelop the Park in the future, and since that redevelopment will require permits from the City, the 12 month notice is premature. Instead, according to Mr. Priest, the Park owners must first secure these additional City permits and then provide notice to the present mobile home park owners.

No precedent.

In Windriver Investments LLC v. Riley, Case Number C-163353,[1] the Municipal Court in San Mateo County specifically rejected such an argument. In that case, the Park owner intended to demolish a mobilehome park and build an apartment complex sometime in the future. The Park owner provided each mobile home owner a 12 month notice of the owner's intent to close the park until plans for the apartment complex could be prepared and developed. The Court held that the twelve month notice was proper even though the owner would likely proceed with the apartment complex in the future. According to the Court, the law imposes no requirement that the owner keep the park open until the owner was prepared to proceed with the apartment project application. The owner could cease operation of the property as a mobilehome park through the provision of a 12 month notice until the owner was ready to proceed.[2]

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[1] I recognize that in a court of law, this case could not be cited as precedent. However, it can be relied upon her for its persuasive value and certainly offers insight into how one judge views these matters.

[2] The Court also rejected an argument that notice could not be given until the legislative body approved the closure impact report. Approval of the report is not deemed a permit pursuant to Section 798.56(f)(2).

Therefore, the 12 month notice provided by the owners of the Redwood Mobilehome Park complies with the applicable provisions of law.

Applicability Of Section 65863.7 To The Owners Of Recreational Vehicles: According to Section 65863.7(e), the legislative body may impose measures to mitigate adverse impacts of the park conversion on "mobilehome park residents."

Civil Code Section 798.11 defines a resident of a mobilehome park as "a homeowner or other person who lawfully occupies a mobilehome." Section 798.3(b) defines a mobilehome as including recreational vehicles which are used for human habitation if "the . . . recreational vehicle occupies a mobilehome site in the park for nine or more continuous months commencing on or after November 15, 1992." [Section 798.3(b)(2)]

Therefore, the owners of the recreational vehicles at the Redwood Mobilehome Park will be entitled to relocation benefits if they meet the requirements of Section 798.3(b). This is a question of fact, evidence of which must be provided by the parties.

Mitigation Measures Which May Be Imposed As Part Of The Reasonable Costs Of Relocation: The legislative history surrounding Section 65863.7 outlines two major issues which the legislation sought to address. One issue concerns the fact that the owner of a mobile home faces substantial costs and expenses when that owner is forced to remove his/her mobile home from a park subject to closure or change in use. The other issue is a recognition that there are fewer and fewer mobilehome parks to which an owner may move a mobile home. This creates a severe hardship for the mobile home owner who often finds it impossible to locate another park to which that owner can move. This results in the devaluation of the owner's equity in the mobile home and it also deprives that owner of affordable housing in the community in which that owner lives.

This legislative concern was expressed by the Assembly Committee on Housing and Community Development on March 18, 1980 when Section 65863.7 was first adopted

> Given the tight mobilehome park vacancy rates in many localities, a mobilehome owner may be unable to sell his or her home (since it cannot remain where it is and since there are no spaces available on which it can be sited) at a price which reflects its market value. The owner will most likely sell the mobilehome to a wholesaler at a fraction of market value.

When first adopted in 1980, Section 65863.7 left to the local legislative body the task of determining the scope of the measures which could be authorized to mitigate the impacts caused by the closure of the park. When Section 65863.7 was amended to its present form in 1985, the California Legislature limited the mitigation measures which may be imposed to the "reasonable costs of relocation".

There is nothing in the legislative history regarding the 1985 amendment to indicate that in fashioning mitigations based on the reasonable costs of relocation, the Legislature intended to limit the measures a legislative body may impose on the park owner to the costs of moving the mobile home to another location. As stated previously, the absence of park spaces substantially deflates the owner's equity in the mobile home and deprives that owner of affordable housing in the area in which the owner resides. To limit permissible mitigation measures to the cost of moving the mobile home would mean that the legislative body would not be able to impose conditions in response to this stated Legislative concern.

That such a limitation would substantially undercut the purpose of Section 65863.7 is evidenced here. The owner of the Redwood Park Mobilehome Park and all of the other parties in this matter concede that there is no mobilehome park within many miles to which the mobile home owners at issue could move their mobile homes. To fashion mitigation measures on the cost of moving these mobile homes even though there is no place to which to move the homes would be inconsistent with the Legislature's intent in enacting Section 65863.7. As such, one must conclude that although the imposed measures must be limited to the reasonable cost of relocation, the type of measures which may be imposed by the legislative body are those which focus on the relocation of the person, and not just the mobile home. Therefore, those mitigation measures could include the park owner's obligation to purchase the mobile home if a mobilehome park to which to move the mobile home is not available, the payment of moving costs, deposits and utility charges, and the payment of the rent differential, for a reasonable period of time, between the park rent previously paid and the cost of alternate rental housing.

As stated previously, this office reviewed ordinances concerning mobilehome park closures from the cities of Carson, Santa Rosa, Sunnyvale and Windsor. Copies of those ordinances are attached to this memo. The approach by these cities to the issue of mitigation measures is outlined below.

When Moving The Mobile Home To Another Park Is Feasible: All of the ordinances establish a radius from the park at issue in order to determine whether an alternate mobile home park is available. In Carson, the applicable radius is 50 miles. In Santa Rosa and Sunnyvale, the applicable radius is 20 miles. The City of Windsor establishes a 30 mile radius.

radius was 10 mile in SB 399 in 1989. Vetoed.

The purpose of establishing a radius is to determine whether it is feasible to move the mobile home at issue. A relocation beyond the established radius is not deemed reasonable since it would require a major disruption to the mobile home owner and his/her family.

If a park within the established radius can be located for the mobile home, the mobile home owner is entitled to the full costs of moving the mobile home and the owner's personal possessions to that location. Moving costs generally include all out-of-pocket

costs, including the first and last month rent at the new park, the security deposit and all hookup costs. In Carson, Santa Rosa and Windsor, the mobile home owner is entitled to the owner's actual out-of-pocket costs. In Sunnyvale, specified cost maximums are established.

In Carson, Santa Rosa and Windsor, the mobile home owner is entitled to a cash payment if the mobile home owner is required to pay an increased rent at the new park. The cash payment is equal to the difference in park rent for a 12 month period. The City of Sunnyvale does not provide for a rent differential.

When Moving The Mobile Home To Another Park Is Not Feasible: If it is not feasible to move the mobile home, all of the cities require the park owner who seeks to close the park to purchase the mobile home from the owner. The purchase price is based on the in-place value of the mobile home. This requires an appraisal of the mobile home based on its value at its current location, assuming the continuation of the mobilehome park at issue, and assuming that the park will continue to be maintained in a safe and sanitary condition. In Carson, Santa Rosa and Windsor, the mobile home owner is entitled to 100 percent of this appraised value. In Sunnyvale, the mobile home owner is entitled to 85 percent of the appraised value.

The Payment Of Incidental Costs And Expenses: All of the ordinances provide for the payment of moving expenses, security deposits, first and last months rent, etc. to the mobile home owner who must sell the mobile home to the park owner and relocate to alternate rental housing. In Carson, Santa Rosa and Windsor, the mobile home owner is entitled to his/her actual costs and expenses. In Sunnyvale, a cap of $1,300 is established for these expenses.

The Payment Of A Rent Differential: In Carson, Santa Rosa and Windsor, the mobile home owner who must move to rental housing is entitled to a cash payment from the park owner representing the difference between the monthly rent for the rental housing and the park rent previously paid by the mobile home owner prior to the closure of the park. In Carson and Santa Rosa, the cash payment is equal to the rent differential for a 12 month period. In Windsor, the cash payment represents a 24 month period. The City of Sunnyvale does not provide a similar mitigation measure.

In Carson and Windsor, the rent differential is capped at the fair market rent established for new construction and substantial rehabilitation by the U.S. Department of Housing and Urban Development (HUD). These rental amounts are published by HUD for each region in the United States and serve as the basis for the allowable rents which may be charged for rental units which receive HUD assistance. The City of Santa Rosa does not establish a rent cap.

The Council Resolution Adopting Mitigation Measures Based On The Reasonable Cost Of Relocation May Not Be Retroactively Applied. The owner of the Redwood Mobilehome Park has entered into agreements with many of the previous mobile home

owners who rented space at the park. It is the opinion of this office that a Council resolution adopting mitigation measures cannot be made retroactive so as to invalidate the contracts already executed by the Park owner and previous tenants who owned mobile homes at the Park.

Article 1, Section 10 of the United States constitution forbids a legislative body from enacting a "law impairing the obligation of contracts." This same prohibition is included in the California constitution as Article 1, Section 9 which states that a "law impairing the obligation of contracts may not be passed."

In adopting mitigation measures in the present context, the Council is not acting in a purely legislative capacity. However, even if its action is viewed as quasi-judicial rather than legislative, strong public policy precludes the retroactive application of the mitigation measures.

In California, court decisions are applied retroactively. However, in regards to civil cases, courts will apply decisions prospectively "when considerations of fairness and public policy preclude full retroactivity." Kreisher v. Mobil Oil Corporation (1988) 243 Cal.Rptr. 662, 668. This is particularly true "if retroactive application . . . will disturb vested rights of property or contract." Id at 668.

In Los Angeles County v. Faus (1957) 48 Cal.2d 672, 686 the California Supreme Court held that "where contracts have been made or property rights acquired . . . such contracts will not be invalidated nor will vested rights acquired under the decision be impaired by a change of construction adopted in a subsequent decision."

In the present matter, the City of Novato does not have an ordinance regulating mobilehome park closures which identifies the relocation expenses a park owner is obligated to provide park residents. Nor are these expenses specified in the applicable state law. Therefore, if the parties wanted to resolve the relocation issue between them prior to the Council hearing on the closure impact report, the parties had no choice but to negotiate and execute contracts. If the Council attempted to set aside those contracts through this resolution, the courts would likely determine this to be unfair to both parties since it would disturb their expectations and vested rights.

It should be noted that all of the ordinances relating to mobile home park closures which are attached to this memo allow a mobile home owner and the park owner to execute an agreement which provides for alternate mitigation measures. In the absence of such a provision, mobile home owners, who desire a resolution prior to the hearing, would have no mechanism to achieve such a resolution. Therefore, even if the City of Novato had adopted any of the ordinances attached, the mitigation measures adopted by the Council would not apply to mobile home owners who executed prior contracts with the Park owner.

A retroactive application of the resolution would be extremely burdensome. If the Council adopts a standard requiring the Park owner to pay in place fair market value to those mobile home owners who cannot relocate to another park, and the standard was deemed retroactive, all mobile homes would have to be appraised to determine whether the proper amount was paid to those owners who executed agreements. A mechanism would have to be provided for refunds to the Park owner and enhanced payments to mobile home owners depending on the amount of the appraisal and the contract amount. A mechanism would have to be provided for appraisal of those mobile homes which are no longer at the Park (or may have been destroyed) and for those previous residents who cannot be easily located.

In In Re Marriage of Brown (1976) 126 Cal.Rptr. 633, the California Supreme Court refused to apply a decision involving pension rights retroactively because it would disturb property rights already resolved and lead to numerous court actions seeking to set aside negotiated rights and obligations. The Court held that interests in finality and in upholding the expectations of persons who believed they had already resolved their property rights represented a higher societal value than a retroactive application of its decision.[3]

Further Proceedings: At the January 19, 1999 meeting, the Council should identify those mitigation measures which constitute the reasonable cost of relocation. Since all of the parties agree that it is not feasible to move any of the mobile homes at issue, the Council must decide whether to require the owner of the Redwood Mobilehome Park to purchase the mobile homes of the owners represented by Mr. Priest. If the Council decides to require a purchase, Council must determine whether the price be based on the in-place value of the mobile home or some other basis. The Council also must determine what percentage of value the Park owner must pay.

If the Council determines that the Park owner must purchase the mobile homes, an appraisal of the mobile homes will be required. It is my understanding that the Park owner has already performed appraisals for the mobile homes at issue. The Council should require that copies of these appraisals be provided to Mr. Priest by the end of January. If the mobile home owners dispute the appraisal, those owners should obtain their own appraisals. In order to expedite the process, the Council should set a date for the completion of those appraisals, copies of which should be submitted to Mr. Kenyon. In the event that these appraisals differ by 10 percent (or some other percentage deemed reasonable by the Council) or more, the Council should require the two appraisers to select a third appraiser. The cost of that appraisal should be divided between the Park

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[3]It also should be noted that it has been represented to us that each of the contracts already executed between the Park owner and the owner of a mobile home contained a release waiving any future claims, damages or losses. Based on the releases, it may be unlikely that a mobile home owner could sue to obtain additional relocation benefits, even if the Council made its order retroactive.

owner and the owner of the mobile home. The fair market value determined by this third appraiser will serve as the fair market value of the mobile home for this proceeding. If the two appraisals differ by less than 10 percent (or some other percentage deemed reasonable by the Council), the Council should determine fair market value by averaging the appraisals.[4]

The Council next must determine whether the reasonable costs of relocation includes any other incidental costs and expenses, such as the first and last month's rent, a security deposit, moving expenses, utility connection costs, etc.

Lastly, the Council must decide whether a rent differential payment should be required. If a rent differential payment is required, the Council must identify the applicable term for that payment and whether the rent amount is to be capped at HUD fair market rents.

Specific Issues for Council Determination:

Below, I outline, in abbreviated format, the issues which the Council will need to decide:

1. The radius beyond which relocation is deemed infeasible.

2. As to those mobilehomes whose relocation is infeasible:

   a. Payment of fair market value "in place" (see Windsor Ord. at section 8-2-135(a)(2) for definition of "in-place")?.
   b. What percent of fair market value is to be paid?
   c. What incidental costs of relocating the resident are to be paid?
      (1) moving expenses?
      (2) security deposits?
      (3) first and last months rent?
      (4) lump sum rent differential?

         (i) based on HUD standards?

         (ii) based on comparable mobilehome rents for comparable mobilehomes in comparable mobilehome parks?

         (a) if so, how will that be determined (e.g., if there exist such mobilehomes within a reasonable radius which can be purchased by the displaced resident with the fair market value payment made

[4] Obviously, there are a variety of ways to select appraisers and determine which appraisals should control. Santa Rosa's ordinance contemplates the City developing such a list. Our office contacted Santa Rosa to obtain a copy of this list. Thus, far it has not been developed.

by the Park owner?), when will that be determined. by whom will that be determined?

(iii) Windsor only allows such rent differential to be based (assuming no comparable mobilehomes can be purchased) on multi-family or duplex rents using the HUD formula.

(iv) for up to 12 or 24 months?

(5) Should there be a ceiling? For incidental expenses other than rent differential, Sunnyvale imposes a $1,300 ceiling.

3. As to those RV's whose relocation is feasible:

a. Payment of all costs of relocating the RV and personal property?
(1) take down and set up costs?
(2) hook up costs?
(3) first and last months rent?
(4) security deposit?
(5) rental differential?

(i) Windsor provides up to 12 months of rent differential in those cases where the mobilehome can be relocated.

4. Private arrangements struck between the Park owner and displaced residents to prevail? If so, under what terms and conditions (e.g., in writing, express acknowledgment by resident of the rights granted by the Council and waiver of those rights?)?

5. How is fair market value to be determined? See three-appraisal suggestion above.

a. When is appraisal by residents to be completed?
b. What percentage variance between the appraisals should trigger a third appraisal?
c. Who is to pay for residents' and third appraisals?

6. When are the relocation costs to be paid?

7. How should the closure impact report be supplemented?

a. Include all appraisal reports?
b. Include data on comparable mobilehome rental rates?
c. Include data on HUD rental formula and how those apply to each displaced resident?
d. Include data on incidental expenses which are likely to be incurred at multi-family, duplex and mobilehome parks?

e. Include copies of private agreements between Park owner and displaced residents which the Park owner proposes the Council accept in lieu of the Council's award of relocation costs?

f. Include information about how Park owner's housing specialist can be used in the process (to gather the data required by Council, to directly assist residents locate alternative housing?)?

g. Other information described in any of the other ordinances attached?

8. How should compliance with the Council's ultimate decision be effected?

a. Submittal by Park owner of compliance report at set times over the next several months?

b. City staff or city consultants to verify?

FISCAL IMPACT

Depending upon the Council's utilization of City resources and staff to implement and verify the decisions made by the Council, the City costs will be relatively minor or could be more significant. The precise amount is not possible to quantify at this time.

RECOMMENDATION

Consider the Specific Issues for Council Determination section of the staff report and give direction to staff.

ATTACHMENTS

1. Exhibit A — Copy of Gov't Code section 65863.7
2. Exhibit B — Copies of four municipalities' conversion ordinances
3. Exhibit C — David Kenyon letter of January 4, 1999
4. Exhibit D — Copy of summary of AB 1803

993-S

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