



ITEM NO.: 10a
MEETING DATE: June 2, 2010

AGENDA SUMMARY REPORT

SUBJECT: DISCUSSION AND POSSIBLE DIRECTION TO STAFF REGARDING MOBILEHOME RENT STABILIZATION ORDINANCE

Background: At its meeting on May 5, 2010, the City Council instructed the City Manager to provide estimates of the costs to adopt and implement a mobilehome park rent stabilization program for the City. The City Attorney was instructed to review ordinances from other jurisdictions, including the Santa Rosa ordinance, and provide a range of options with enough detail so that the City Manager could estimate the cost of the different options and the City Council could decide which, if any, of the options it would want to adopt. This information is to be reported to the City Council during its consideration of the City budget for the 2010-11 fiscal year.

The City Attorney has identified three ordinances which provide different approaches to mobilehome rent stabilization or control: (1) the Santa Rosa ordinance (attachment 1); (2) the proposed ordinance and model mobilehome rental agreement, considered, but not adopted, in Lake County (attachment 2); and (3) the City of Merced ordinance (attachment 3).

In this ASR, the three ordinances are described in enough detail to assist the City Manager in her cost estimates.

Discussion: The attached ordinances represent three distinct approaches to mobilehome rental control and appear somewhat typical of the approaches taken statewide to mobilehome rent control.

1. The Santa Rosa Ordinance.

a. Summary of ordinance. This ordinance establishes a base rent for mobilehome parks and controls the allowable increases in the base rent. In Santa Rosa the base rent is the rent that was charged in each park as of September 1, 1993. In Ukiah that would probably be the date, when the ordinance is introduced, adopted or becomes effective.

Recommended Action(s): Discuss Options for an Ordinance and Provide Direction to Staff as to Further Steps, as Appropriate.

Alternative Council Option(s):

Citizens advised: n/a
Requested by: City Council
Prepared by: David J. Rapport, City Attorney
Coordinated with: Jane Chambers, City Manager
Attachments: 1- Santa Rosa Ordinance
2- Lake County Draft Ordinance and Draft Lease Supplement
3-Merced Ordinance
4- UC Berkeley article on effects of Mobilehome Rent Control
5- History of rent control in Escondido

Approved: _____
Jane Chambers, City Manager

The ordinance allows a mobilehome park to increase the rent each year by 100 percent of the consumer price index for the most recent 12-month period ending in August. The 12-month period in Ukiah would depend on the date when the base rent is fixed.

The ordinance caps the CPI increase at 6%, but if the the CPI increases by more than 6% for two consecutive years, the Mobilehome Rent Control Clerk (Clerk)¹ is directed to review the maximum rent increase and recommend an amendment to the ordinance adjusting the cap, “if appropriate.”

The Ordinance also allows a mobilehome park owner to pass-through to the mobilehome space tenant the following cost increases: (1) government mandated expenses, such as, but not limited to, government mandated capital expenditures, and increases in fees and taxes (except the annual 2% increase in property taxes); (2) utility charges (although water, gas and electric utilities that are not separately metered must be included as additional rent rather than passed-through as a separate charge); (3) capital improvements, including design and financing costs; and (4) capital replacement costs, including design and financing costs. Capital improvements are improvements that are amortized and depreciated under the Internal Revenue Code. Capital replacements are capital expenditures as defined in the IRC. Maintenance expenses cannot be passed through. The ordinance gives, as an example, an asphalt overlay, which is a capital replacement, and a slurry seal which is not.

All of the pass-throughs must be listed as charges which are separate from base rent and the park owner must disclose how the pass-through was calculated within a reasonable time upon request of a tenant.

The ordinance specifies different procedures for imposing or protesting the different pass-throughs. The park owner can immediately pass-through the government mandated expense, but the tenants of 50 percent of the spaces or 50 spaces, whichever is less, can file a petition with the Clerk protesting the pass-through within 30 days after the park owner gives notice of the increase. The protest is heard by an Arbitrator who can reduce or disallow the increase based on criteria set forth in the ordinance.

Ninety days before a park owner can pass-through capital improvements or replacements, he or she must give to each affected tenant and file with the Clerk a notice of the dollar amount of the increase, the percentage of the increase, how the increase was calculated, the spaces affected, the effective date, and that any tenant may request from the Clerk a petition for review of the proposed increase. The ordinance contains a detailed arbitration procedure for conducting this review.

The ordinance also allows a park owner to seek a “fair return” rent increase, if he can show that the CPI increase does not provide a fair return on the park owner’s investment, using a method which is spelled out in the ordinance. He must make that showing through the arbitration procedure.

The arbitration procedure is formal to insure due process. The ordinance specifies a meet and confer process to resolve petitions and protests and failing that the formal arbitration procedure.

¹ In Santa Rosa, this is the Director of Planning and Redevelopment or his or her designee. In Ukiah, it could be an existing City official (e.g., City Manager, Director of Planning and Community Development, etc.) who could delegate the duties to another City employee or contractor.

Under the arbitration rules in the ordinance, the Clerk gives written notice to the applicant or petitioner and the park owner when an application or petition is referred for arbitration. The Clerk maintains a list of qualified arbitrators. The Clerk presents the parties a list of three. Each party can challenge one. The remaining arbitrator conducts the arbitration. The Clerk sets the date for the arbitration and gives the parties notice of the time, date and place. The Clerk provides the clerical services in support of the arbitration and is empowered to issue subpoenas upon the request of a party who wants to compel the attendance of witnesses at the arbitration hearing or the production of documents and other evidence.

When the arbitrator renders his or her decision, after conducting the hearing in accordance with the rules in the ordinance, he or she also submits a bill for his or her services to the Clerk who pays the bill from the ordinance administrative fund. The arbitrator may impose the fee on either party to the arbitration, if he or she finds that the party's position in the arbitration was frivolous.

Significantly, the ordinance does prohibit rent increases, when a mobilehome is sold in place. This is the practice challenged in *Guggenheim v. City of Goleta*, the case which is currently pending in the Ninth Circuit federal court of appeal. The economic impact of this and other features of mobilehome rent control ordinances are also discussed in the attached economic analysis, entitled, "The Curious Institution of Mobile Home Rent Control: An Analysis of Mobile Home Parks in California" (2006), by Carl Mason and John M. Quigley, University of California, Berkeley, published in Working Papers, Berkeley Program on Housing and Urban Policy, Institute of Business and Economic Research, UC Berkeley. (Attachment 4.) Also attached for the City Council's consideration is a history of mobilehome rent control in the City of Escondido prepared by the City, which provides some useful insight into the effects of mobilehome rent control. (Attachment 5.)

A park owner is required to provide a written disclosure to any person proposing to purchase a mobilehome in place stating the current and proposed base rent, a copy of the ordinance, and advise the tenant that he or she is exempt from rent control if he or she signs a lease with a term of more than one year as required by Cal. Civil Code §798.17. The form of the notice must be approved by the Clerk. The park owner must retain a copy of the disclosure signed by the prospective mobilehome owner which the Clerk may inspect upon request.

If a mobilehome park charges rent in excess of the amount allowed under the ordinance, the tenant can refuse to pay the excess and assert the ordinance violation as a defense in a legal action filed by the landlord to collect the excess rent.

The costs of administering the ordinance are paid by an annual fee established by City Council resolution, which is charged against the total number of mobilehome spaces in the City which are subject to rent control. The park owner is liable for the fee based on the number of spaces in his or her park and may pass through to his or her tenants 50% of the fee. The fee is due on a date established by the City Council but may be paid in quarterly installments by the park owners.

b. Administrative costs.

The costs to administer the ordinance include the costs of a Clerk to perform all of the functions assigned to the Clerk under the ordinance, including assessing and collecting ordinance administration fees, accounting for ordinance administrative funds, proposing fees for City Council approval and preparing resolutions adopting the fees, processing petitions protesting government

mandate, capital improvement and capital replacement pass throughs, processing fair return applications by park owners, accepting, recording and maintaining documents required to be filed with the Clerk, performing the Clerk's duties in conducting arbitrations, including developing and maintaining a list of qualified arbitrators, giving notices to parties, proposing arbitrators to the parties, reviewing and determining whether applications or petitions are complete or contain the requisite number of bona fide signatures, developing and maintaining the administrative record in all arbitrations, developing forms required by the ordinance such as petition, notice and disclosure forms, maintaining a list of affected mobilehome park owners, providing copies of documents upon request, and assisting in the enforcement of the ordinance.

Direct and indirect overhead to cover clerical time to assist the Clerk, office equipment, space cost, supplies, similar costs.

City Attorney legal fees to advise the Clerk.

The costs of each arbitrator who must be a licensed attorney or CPA who has completed a formal course of training on arbitration; a membership in the American Arbitration Association with expertise in rental dispute arbitration; or service as a California judge. The hourly rates for arbitrators with these qualifications could range from \$250-\$500/ hour.

Some allowance should be included for litigation expenses and attorneys fees to defend challenges to the ordinance or to an arbitrator's decision. All of the decisions by arbitrators in arbitrations conducted under the ordinance will be subject to judicial review. (See, e.g., the article from the May 19 Press Democrat concerning the recent settlement of two law suits challenging arbitration decisions under the Petaluma mobilehome rent control ordinance. Attachment 5.) The City Attorney recommends budgeting a significant amount initially for litigation expenses, because a "facial" challenge to a rent control ordinance, like the one in the *Goleta* case, must be filed within a two year statute of limitations which begins to run from the date the ordinance is adopted. Therefore, if a challenge to the ordinance itself is going to be filed, it will most likely be filed within the first two years after the ordinance is adopted.

2. Lake County draft ordinance.

a. Summary of ordinance.

The Lake County ordinance (attachment 2) is similar to the Santa Rosa ordinance in that it establishes a base rent and then controls increases based on CPI increases and pass-throughs. The primary differences are that the Lake County draft ordinance uses a Hearing Board rather than a professional arbitrator. It calls the Clerk an Administrator, but the duties of the Administrator are similar.

The unique feature of the Lake County draft ordinance is that it offers mobilehome park owners the option of exempting the entire park from the rent control ordinance, if the park owner simply offers its tenants a five year lease in a form approved by the Board of Supervisors under the ordinance or an equivalent lease with the same or better protections as determined by the Administrator. The draft lease supplement is part of Attachment 2. The park is exempt whether any tenant agrees to enter the lease supplement or not. Once the park is exempt, the rent control features of the lease are enforced as contractual obligations of the parties to the agreement. The City is not involved. The administrative and enforcement costs are imposed on and under the control of the parties to the lease.

This feature of the ordinance is different than the exemption from rent control in Civil Code Section 798.17. That statute exempts any lease between a park owner and a tenant with a term greater than 12 months from any otherwise applicable rent control ordinance. This statutory exemption in the mobilehome park residency law only applies to specific leases that are actually entered by the park owner and individual tenants. Unless longer term leases are actually entered by every tenant in a mobilehome park, the statute, unlike the ordinance, would not exempt an entire park from the rent control ordinance.

b. Administrative costs.

The City would continue to incur the administrative costs of the ordinance as to any mobilehome parks that did not offer the lease to their tenants. In addition, the Administrator would have to review and approve any lease supplements proposed by a mobilehome park owner as an equal or better option to the standard form lease supplement.

The other costs would be similar to the costs of administering the Santa Rosa ordinance, but would be imposed on a smaller number of spaces, if any of the parks offered the form lease to their tenants, because the fee only applies to spaces which are not exempt from the ordinance.

3. Merced ordinance.

a. Summary of ordinance.

The Merced ordinance (attachment 3) does not establish a base rent and regulate increases to the base rent. The ordinance is called the Mobile Home Rent Review Ordinance. It establishes a Rent Review Commission, consisting of seven (7) members appointed by the City Council: two park tenants, two park owners, three city residents who have no connection or financial interest in mobilehome parks.

The Commission conducts investigations and hearings upon petitions from mobilehome park tenants objecting to a rent increase within the past six months. The petition must be signed by tenants representing 51% or more of the physically occupied spaces in mobilehome parks with 25 or more spaces. The Commission is empowered to order a reduction in any proposed rent increase that it determines is so great as to be unconscionable or an unreasonable increase.

Pursuant to findings of an unconscionable or unreasonable rent increase, the Commission can require the mobile home park owner, operator or manager to: (1) Reduce the rental charge to a rate to be determined by the Commission; (2) Continue the rental charge as it existed under the former lease or rental agreement, written or implied; or (3) Increase the rental charge to a rate set by the commission or to the rate requested by the park owner.

Any rental increases which have been collected by a mobilehome park owner pursuant to an increase which is later determined by the Commission to have been excessive shall be returned to the tenants with sixty (60) days after such determination.

In evaluating the rent increase, the Commission shall consider the increased operating costs to the owner attributable to, and including but not limited to, increases in utility rates and property taxes, insurance, advertising, governmental assessments, capital improvements, incidental

services, normal repair and maintenance, minor upgrading of amenities and services, or the deletion of amenities or services, plus a fair rate of return on investment.

The ordinance contains sanctions for park owners who threaten or take punitive action against tenants who sign petitions. The Commission decisions are final for the City. There is no appeal to the City Council.

The ordinance covers administrative costs by charging a fee to petitioners and park owners who participate in a hearing before the Commission. The fee is set in the ordinance at \$300 for the petitioner and \$300 for the park owner.

b. Administrative costs.

There are relatively few on-going administrative costs. Most of the costs are incurred in connection with the filing of a petition and conducting a hearing and defending a decision if there is a legal challenge.

There would have to be a City employee or Commission clerk who administers the process of advertising for Commission appointments, provides meeting space and support services to the Commission in conducting hearings, adopting regulations and making semi-annual reports to the City Council. The employee would have to certify the signatures on petitions, provide notice of hearings to parties and commissioners, maintain Commission records, keep and prepare administrative records of commission hearings and collect and account for hearing fees.

There would have to be some legal advice to the Commission Clerk and the Commission.

There would be legal expenses in defending a Commission decision.

The fees charged to the parties to a hearing would have to exceed \$300 to cover these expenses.

<input type="checkbox"/> Budgeted FY 09/10	<input type="checkbox"/> New Appropriation	<input type="checkbox"/> Not Applicable	<input type="checkbox"/> Budget Amendment Required
<u>Amount Budgeted</u>	<u>Source of Funds (title and #)</u>	<u>Account Number</u>	<u>Addtl. Appropriation Requested</u>

Chapter 6-66 RENT CONTROL—MOBILEHOMES

Note:

* Prior ordinance history: 3072, 3213, 3219, 3243, 3255, 3281, 3360, 3376, 3469, 3480, 3491, 3540.

6-66.010 Findings and purpose.

(A) The State of California has recognized, by the adoption of special legislation regulating tenancies of mobilehome owners in mobilehome parks, that there is a significant distinction between homeowners in mobilehome parks and other dwelling units, and the State likewise has recognized that homeowners in mobilehome parks, unlike apartment tenants or residents of other rental stock, are in the unique position of having made a substantial investment in a residence, the space for which is rented or leased as distinguished from owned.

The physical removal and relocation of a mobilehome from a rented or leased space within a mobilehome park can be accomplished only at substantial cost and inconvenience with a limited concurrent ability to find another location and, in many instances, the removal requires a separation of the mobilehome unit from appurtenances which have been made permanent, thus creating severe damage and depreciation in value to the mobilehome.

As a result of the absence of vacant spaces that are not new, it is virtually impossible for mobilehome owners to move their mobilehomes from one park to another within the City.

(B) There is presently within the City and the surrounding areas a shortage of sites for the placement of mobilehomes.

(C) Mobilehomes presently constitute an important source of housing for persons of low and moderate income, who as a group are unable to afford unreasonably large rent increases.

(D) A large number of persons living in mobilehomes are elderly, some of whom live on small fixed incomes. These persons may expend a substantial portion of their income on rent and may not be able to afford other housing within the City.

(E) There is an extremely low vacancy rate in mobilehome parks within the City, with no sites presently available in some or all of the mobilehome parks. This condition enables owners to impose unreasonably large rent increases.

(F) Rents for sites within mobilehome parks have, prior to the adoption of rent control, increased substantially within the City and other areas of the State. In some mobilehome parks, rent increases in the five years prior to 1993 were substantially in excess of the increases in the Consumer Price Index.

(G) Mobilehome owners residing in mobilehome parks have very limited mobility because it is difficult and costly to move mobilehomes; such mobilehome owners may be forced to accept and pay unreasonably increased rents.

(H) Studies and hearings have shown that there is presently, within the City and surrounding areas, a shortage of spaces for the location of mobilehomes, resulting in an extremely low vacancy rate. Space rent increases at the time of sale or other transfer of a mobilehome within a park have been shown to be substantially over the pre-transfer rent. Such large rent increases at the time of sale of a mobilehome may unfairly depress the

sales price of the mobilehome and work an economic hardship on the mobilehome owner. The annual rent increases and vacancy control provisions of this chapter prevent this economic hardship while protecting the property rights of owners.

(I) Rapidly rising and large incremental increases in space rent prior to rent control resulted in an atypical market depression in the resale value of mobilehomes within the City.

(J) Because of the space shortage and potential for rapidly rising rents, regulation is necessary to assure that economic hardship to a substantial number of mobilehome owners in the City, many of whom are senior citizens on low fixed incomes, does not occur.

(K) It is the purpose of this chapter to establish a speedy and efficient method of reviewing certain requested mobilehome space rent increases in mobilehome parks to protect mobilehome owners from arbitrary, capricious or unreasonable site rent adjustments while insuring owners and/or operators and investors a fair and reasonable return. It is not the purpose of this chapter to preserve affordable housing, but rather to allow reasonable annual rent increases which protect mobilehome owners while providing a fair return to owners. (Ord. 3648 § 1 (part), 2004)

6-66.020 Definitions.

For the purpose of this chapter, the following words, terms and phrases shall be defined as follows:

(A) "Affected mobilehome owners" means those mobilehome owners whose space is not covered by a valid lease meeting the requirements of section 798.17(b) of the California Civil Code or otherwise legally exempt from local rent control regulation.

(B) "Arbitrator" means a person who is neither a mobilehome owner nor has an interest in a mobilehome park of a nature that would require disqualification under the provisions of the Political Reform Act if the person were a designated City employee, has experience in analysis of financial records, and meets one of the following criteria:

(1) Licensed attorney or CPA who has completed a formal course of training on arbitration;

(2) Membership in the American Arbitration Association with expertise in rental dispute arbitration; or

(3) Service as a California judge.

(C) "Capital improvement" means those improvements which directly and primarily benefit and serve the existing mobilehome owners by materially adding to the value of the park or adapting it to new uses, and which are required to be amortized over the useful life of the improvements pursuant to the provision of the Internal Revenue Code. "Capital improvement costs" means all costs reasonably and necessarily related to the planning, engineering and construction of capital improvements and shall include debt service costs, if any, incurred as a direct result of the capital improvement. Capital improvement does not include ordinary maintenance or repairs.

(D) "Capital replacement" means a capital expenditure as defined by the Internal Revenue Code which replaces an existing improvement. For example, an asphalt overlay of an existing roadway or parking lot is a capital replacement, a slurry seal of an existing roadway or parking lot is not.

(E) "City" means the City of Santa Rosa, California.

(F) "Clerk" means Clerk of the Santa Rosa Mobilehome Rent Control Program, who shall be the Director of Housing and Redevelopment or his/her designee.

(G) "Consumer Price Index" or "CPI" means the Consumer Price Index for all urban consumers in the San Francisco/Oakland/San Jose area published by the Bureau of Labor Statistics.

(H) "Department" means the Department of Housing and Redevelopment of the City of Santa Rosa.

(I) "MRL" means the California Mobilehome Residency Law.

(J) "Mobilehome" means a structure, designed for human habitation and for being moved on a street or highway under permit pursuant to California Vehicle Code section 35790, including a trailer or recreational vehicle, as defined in California Civil Code section 798.3 as it may be amended from time to time. [Why include trailers or recreational vehicles?]

(K) "Mobilehome park" or "park" means any area of land within the City of Santa Rosa where two or more mobilehome spaces are rented, or held out for rent, to accommodate mobilehomes used for human habitation. [No minimum rent specified. Could this include a park where spaces are rented by the day to recreational vehicles?]

(L) "Mobilehome space" means the site within a mobilehome park intended, designed or used for the location or accommodation of a mobilehome and any accessory structures or appurtenances attached thereto or used in conjunction therewith.

(M) "Mobilehome owner" means a person who is the owner of a mobilehome and legally occupies the mobilehome within a mobilehome park.

(N) "Owner" means the owner or operator of a mobilehome park or an agent or representative authorized to act on said owner's or operator's behalf in connection with the maintenance or operation of such park.

(O) "Party" as used in this chapter refers to any affected mobilehome owner and/or owner involved in proceedings under this chapter.

(P) "Prospective mobilehome owner" means a person who is in the process of negotiating a tenancy in a mobilehome park.

(Q) "Rent" means the consideration paid for the use or occupancy of a mobilehome space.

(R) "Rent stabilization administration fee" means the fee established from time to time by resolution of the City Council in accordance with the provisions of the ordinance.

(S) "Rent increase" means any increase in base rent charged by an owner to a mobilehome owner or offered to a prospective mobilehome owner. (Ord. 3648 § 1 (part), 2004)

6-66.030 Base rent.

Except as provided in this chapter, an owner shall not demand, accept or retain rent for a mobilehome space exceeding the base rent which shall be the rent in effect for that space on September 1, 1993. If a previously rented mobilehome space was not rented on September 1, 1993, the base rent shall not exceed the rent in effect during the last month the space was rented prior to September 1, 1993, except as provided in this chapter. For a mobilehome space first rented after September 1, 1993, the owner shall establish the base

rent. For parks annexed into the City after September 17, 1993, the base rent shall be the rent charged on the date of a park's annexation into the City. (Ord. 3648 § 1 (part), 2004)

6-66.040 Consumer Price Index, utilities and other pass throughs.

(A) Consumer Price Index. An owner, once in any 12-month period, may impose a rent increase for a mobilehome space by 100 percent of the percentage increase, if any, in the Consumer Price Index (CPI) during the most recent 12-month period ending in August; provided, however, the rental increase shall not exceed six percent of the previous rent charged for the space. If an owner has obtained a rent increase under subsection 6-66.050(B), the owner may calculate the rent increase allowed by this subsection based upon the approved comparable rent as allowed in subsection 6-66.050(B) instead of upon the actual rent in effect at the time of the increase.

(B) If the change in the CPI exceeds six percent for two consecutive years, the Clerk shall review the maximum rent increase and recommend an ordinance amendment if appropriate.

(C) Government Mandated Expense Pass Through. An owner may pass through to affected mobilehome owners any new or increase in government mandated capital expenditures and operating expenses including taxes (other than the two percent annual increase authorized by California Constitution Article XIII A, section 2(b)) and assessments, fees and mandated expenses due to code changes subject to the following procedure:

(1) Upon a petition signed by one adult mobilehome owner of 50 percent of the spaces subject to rent control in a park or 50 spaces, whichever is less, and filed with the Clerk within 30 days of the date the owner gives notice of a government mandated expense pass through to every affected mobilehome owner, the Arbitrator may disallow or decrease the proposed pass through based upon substantial evidence in the record that the pass through is not legally proper, or excessive, or that during the pass through period the owner is including an unreasonably high financing cost and/or return on the expense being passed through.

(D) Utilities. An owner may separately pass through to a mobilehome owner charges for all utilities, including, but not limited to, sewer, water, garbage, cable T.V., gas and electricity, and any increases in such charges (except water, gas and electric utilities which are not separately metered shall not be passed through, but may be charged as additional rent). Notwithstanding any provision to the contrary in this section, the owner shall not pass through any charge or expense for gas or electric service to the extent prohibited by section 739.5 of the California Public Utilities Code.

(E) Capital Improvement Pass Through. An owner may charge to the affected mobilehome owner as additional rent the pro rata share of new service and capital improvement costs including reasonable financing costs if, prior to initiating the service or incurring the capital improvement cost, the owner has:

(1) Consulted with the mobilehome owners prior to initiating construction of the improvements or initiating the new service regarding the nature and purpose of the improvements or services and the estimated cost of the improvements or services;

(2) Obtained the prior written consent of at least one adult mobilehome owner in each of a majority of the mobilehome spaces which are occupied by the mobilehome

owner to the proposed service or capital improvement. Each space shall have only one vote.

(F) Capital Replacement Pass Through. Notwithstanding the provision of subsection E of this section, an owner may charge to the mobilehome owner as additional rent the pro rata share of capital replacement costs including reasonable financing costs, if not otherwise prohibited by law, subject to the following procedure:

(1) The owner may seek advance approval for the proposed pass through, before undertaking the capital project, by following the procedures set forth in Sections 6-66.100 to 6-66.120. If the increase is approved by the Arbitrator, it shall not be effective until the next regularly scheduled annual rent increase date, provided that the 90-day notice is issued, the expense is actually incurred and that proper verification is submitted. This verification shall include, at a minimum, proof of actual costs and payment to vendor. In the event that the actual cost of the capital expense is less than the approved amount, the increase shall be adjusted to reflect this decreased amount;

(2) The owner shall give notice of the proposed pass through to each affected mobilehome owner no later than 12 months after completion of the capital replacement work;

(3) Upon a petition signed by one adult mobilehome owner of 50 percent of the spaces subject to rent control in a park or 50 spaces subject to rent control [Does this mean one adult for each space or one adult who owns the required number of spaces?], whichever is less, and filed with the Clerk within 30 days of the date the owner gives notice of the pass through to every affected mobilehome owner, the Arbitrator may disallow or decrease the pass through for capital replacements based upon substantial evidence in the record that the capital replacement was not necessary, or that the cost of the capital replacement was excessive, or that during the pass through period, the owner is including an unreasonably high financing cost and/or return on the expense being passed through. The owner shall have the burden of proving the necessity for and reasonable cost of the capital replacements. In determining whether the owner has met its burden of proving the necessity for and reasonable cost of the capital replacement, the Arbitrator may consider, among other factors, the reasonableness of the owner's history of maintenance of the property or improvement to be replaced. The Arbitrator's review will include, but not necessarily be limited to, the records reflecting past maintenance work and the cost.

(G) All charges passed through by the owner to the mobilehome owners pursuant to subsection C and D of this section and additional rent charged pursuant to subsections E and F of this section must be separate from the base rent and listed separately. All billings used to calculate a pass through or additional rent to mobilehome owners must be disclosed within a reasonable time upon request by a mobilehome owner.

(H) Notice. A written notice of each rent increase or new or increased capital improvement or capital replacement pass through charge made under the provisions of this section shall be filed by the owner with the Clerk, and provided to each affected mobilehome owner, at least 90 days before the rent increase goes into effect or as required by the MRL. The notice shall identify the park and shall specify the dollar amount of the increase, the percentage of the increase, an itemization of all new or increased pass throughs and additional rent charges, the specific space affected, the date the increase will go into effect, how each increase was calculated, and the date the rent on

each affected space was last increased. The notice shall also advise each affected mobilehome owner of any right to petition for review of a proposed rent increase and that a petition form may be requested from the Clerk. (Ord. 3648 § 1 (part), 2004)

6-66.050 In-place transfer rent increases—Establishment of new base rent.

(A) Whenever either of the following events occurs, an owner shall be permitted to charge a new base rent for the mobilehome space as provided in this section:

(1) The termination of the tenancy of the affected mobilehome owner in accordance with the MRL (California Civil Code sections 798.55 through 798.60, as amended, excepting section 798.59); or

(2) The voluntary permanent removal of a mobilehome by a mobilehome owner. A removal of the mobilehome from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobilehome shall not constitute a voluntary removal of the mobilehome.

(B) An owner who applied for, in 1995, and received approval for a base rent increase upon an in-place transfer of ownership of a mobilehome, may implement a maximum of two increases on the same space. Each increase shall be the lesser of \$50.00 per month or the approved base rent as adjusted each year by 100 percent of the August CPI. The parks affected by this provision are Coddington Mobile Estates, Journey's End, The Orchard, Rancho Cabeza, Rancho San Miguel, Rincon Valley, Santa Rosa Village and Woodcrest.

(C) An owner may not condition an in-place transfer of a mobilehome or condition assignment of an existing lease to a prospective mobilehome owner, upon agreement to an increased rent in anticipation of the in-place transfer. This subsection shall not apply to specific conditions included in a lease exempt from rent control which allows an owner to condition assignment in a manner prohibited by this section. For purposes of this subsection, "a lease exempt from rent control" means a lease meeting, in all respects, the criteria of subdivision (b) of the MRL, California Civil Code section 798.17, as such criteria are presently enacted or may hereafter be amended. (Ord. 3648 § 1 (part), 2004)

6-66.060 Fair return rent increases.

If an owner presents evidence to the Arbitrator, including any financial records requested by the Arbitrator, which proves that the owner is denied a fair return by the rent control provisions of this chapter, the Arbitrator may authorize an increase in rents as deemed appropriate by the Arbitrator to provide a fair return to the owner. The Arbitrator shall use the method set forth in subsection 6-66.120(C) to determine the fair return. (Ord. 3648 § 1 (part), 2004)

6-66.070 Rent freeze or rent rollback.

(A) Upon the petition signed by one adult mobilehome owner of 50 percent of the spaces subject to rent control in a park or 50 spaces subject to rent control, whichever is less, the Arbitrator may prohibit future rent increases for spaces governed by this chapter, upon its determination that maintenance by the owner has been substantially reduced.

The determination shall be based upon substantial evidence in the record. The prohibition may be continued until the Arbitrator determines that maintenance by the owner has been restored to a reasonable level.

(B) Upon petition by one or more affected mobilehome owners, an Arbitrator may prohibit future rent increases, or order a rollback of the existing rent as to those petitioners, upon its determination that after September 1, 1993, an owner instituted a rent increase inconsistent with the criteria established by this chapter. The determination shall be based upon substantial evidence in the record. The prohibition may be continued until the Arbitrator determines that the rent has become consistent with this chapter. (Ord. 3648 § 1 (part), 2004)

6-66.080 Time of allowed rent increase/adjustment.

(A) Once within a 12-month period, the owner may implement a CPI rent adjustment (subsection 6-66.040(A)), if any, or a fair return increase (Section 6-66.060), but not both.

(B) A capital replacement pass through subsection 6-66.040(F) may only be implemented on the effective date of the CPI or fair return rent adjustment.

(C) The following increases or adjustments may be implemented at any time during the year:

- (1) Government mandated expense pass through (subsection 6-66.040(C));
- (2) Utility pass throughs (subsection 6-66.040(D));
- (3) Capital improvements (subsection 6-66.040(E));
- (4) In-place transfer rent increases (Section 6-66.050).

Any increases subject to arbitration shall be implemented after the final ruling of the arbitration.

(D) Rent freeze and rent rollbacks shall be implemented at the time they are ordered (Section 6-66.070). (Ord. 3648 § 1 (part), 2004)

6-66.090 Arbitration.

(A) Matters Subject to Arbitration.

(1) An owner shall file with the Clerk:

(a) An application seeking to increase space rents beyond 100 percent of the CPI to provide a fair return to the owner as allowed by Section 6-66.060.

(2) Affected mobilehome owners may file with the Clerk:

(a) A petition objecting to a government mandated expense pass through as allowed by subsection 6-66.040(C);

(b) A petition objecting to a capital replacement pass through as allowed by subsection 6-66.040(F);

(c) A petition for rent freeze as allowed by subsection 6-66.070(A);

(d) A petition for rent rollback as allowed by subsection 6-66.070(B).

(B) These petitions and applications shall be decided by the Arbitrator.

(C) Cost of Arbitration. The cost of arbitration shall be paid by the Clerk out of revenue from the rent stabilization administration fee. The Arbitrator may reimburse the

City by assessing the cost of the arbitration to either party if the Arbitrator determines that the position taken by the party is frivolous. (Ord. 3648 § 1 (part), 2004)

6-66.100 Procedures for fair return notice and application and petition forms.

(A) Notice. At least 10 days prior to submission of a fair return application or a petition to the Clerk, the applicant or petitioner shall mail a notice and a copy of the application or petition to the owner and each affected mobilehome owner in the park. The notice shall be on a form specified by the Clerk. The supporting documents for the application or petition shall be available for review at the park's office. One copy of the supporting documents shall be provided by the applicant or petitioner at no cost to the other party. All fair return notices shall include the following information:

(1) The amount of the rent increase both in dollars and as a percentage of the existing rent, how it was calculated, an itemization of all pass throughs and additional rent charges, information that explains and supports the level of increase proposed including, at a minimum, a summary of the owner's net operating income for the base year and the preceding 24 months and other relevant information that supports the level of rent increase desired, the effective date of the increase and that copies of the supporting documents shall be provided by the owner at no cost to the mobilehome owners' representative and be available to the mobilehome owners at the park's office for inspection;

(2) The name, address and telephone number of the Clerk or designee, a statement to inform the mobilehome owners to contact the Clerk or designee for an explanation of the provisions of this chapter, and that a roster of affected mobilehome owners can be requested from the Clerk; and

(3) A copy of the official petition form which is to be used for the process established by this chapter.

(B) Application/Petition Forms. The application or petition shall be filed with the Clerk on the form prescribed by the Clerk and must be accompanied by all supporting material necessary to support the request. The application and petition shall contain the following declaration: "I declare under penalty of perjury that the foregoing is true and correct." The application shall be dated and subscribed by the applicant(s) and shall state the place of execution.

(1) Within five working days of receipt, the Clerk shall complete a preliminary review of the application or petition. Applications or petitions which are incomplete will not be considered properly filed.

(2) No further action shall take place on applications or petitions which are not properly filed, and the Clerk may decline to accept such application and/or return them to the petitioner immediately after the preliminary review with a notice of the defects.

(3) When the Clerk determines that the application or petition is complete, the Clerk shall send a written notice of confirmation of receipt of a completed application or petition to the parties.

(4) In capital replacement proceedings and in government mandated capital expenditure and operating expense proceedings, affected mobilehome owners shall have

30 calendar days after receipt of the confirmation of the completed application to file with the Clerk a petition objecting to the rent increase signed by one adult in at least 50 percent of the mobilehome spaces subject to rent control.

(C) Insufficient Objection—Capital Replacement or Government-Mandated Pass Through Proceeding—Clerk Action. If less than the required number of affected mobilehome owners object to a proposed capital replacement or government-mandated pass through, or if objection is withdrawn, including any amendments, before or after the meet and confer process, the Clerk shall approve the requested pass through. (Ord. 3648 § 1 (part), 2004)

6-66.110 Procedure for meet and confer.

Within 10 working days of the date of the Clerk's notice of a completed application or petition and prior to assignment of an Arbitrator, affected mobilehome owners and owners shall meet and confer with each other's representatives. The time, place and date of the meeting shall be agreed to by the parties or, if the parties cannot agree, determined by the Clerk. Written notice of the scheduled meeting shall be given by the applicant or petitioner. At the meeting, representatives of the parties shall exchange documentary evidence that the parties, in good faith then know, will be used to support their respective positions in an arbitration and discuss the issues in dispute. In the case of an owner, all financial data upon which any proposed increase is claimed shall be supplied to affected mobilehome owner representatives at the time of the meet and confer meeting. The parties may request that the Clerk provide a mediator, at no cost to the parties, to assist with the meet and confer process. The Arbitrator may deny an application based on the applicant's failure to participate in good faith in the meet and confer process. (Ord. 3648 § 1 (part), 2004)

6-66.120 Procedures for arbitration.

(A) The Clerk shall give written notice to the applicant or petitioners and mobilehome owner representative that the application/petition has been referred to arbitration.

(1) An Arbitrator shall be appointed in the following manner:

(a) The Clerk shall maintain a list of qualified arbitrators.

(b) Assignment of Arbitrator and Hearing Date. The Clerk shall choose three possible Arbitrators and present them to the residents' representative and the owner. Within five days each party may challenge one candidate. The one remaining shall be the selected Arbitrator. If both parties challenge the same candidate, the Clerk shall choose between the two remaining candidates. The Clerk shall set a date for the arbitration hearing no sooner than 21 or no later than 30 working days after the Arbitrator is assigned. The owner and affected mobilehome owners shall be notified immediately in writing by the Clerk of the date, time and place of the hearing and this notice shall be served either in person or by ordinary mail. The parties may agree, in writing, to extend these times. The Arbitrator may extend the date for the arbitration hearing upon a showing of good cause.

(2) The Arbitrator shall conduct a hearing with the parties and/or their representatives. During this hearing process, the concerns of each party shall be discussed

and the Arbitrator shall indicate the amount and nature of information needed from any party in order to reach a determination. In fair return proceedings in Section 6-66.060, this shall include four years of the income and expense portion of the general ledgers for the park. All information submitted shall be in writing and shall be certified in the same manner as set forth in subsection 6-66.100(B). The applicant shall have the burden of proof unless other sections of this chapter specify otherwise. Each party shall comply with the Arbitrator's request for information within five working days of the request. Additional information provided to the Arbitrator shall be immediately available to the owner or affected mobilehome owner representative which will have five working days to give written comment to the Arbitrator. The Arbitrator may proceed under this part regardless of whether any party defaults in providing any of the requested information.

(B) Arbitration Determination.

(1) Within 21 days of the hearing, but no later than 90 days from the date of the owner's rent increase notice, the Arbitrator shall deliver his or her decision on the application or petition and a bill for services to the Clerk.

(2) The rent increase in a fair return proceeding shall not exceed the increase requested in the application.

(3) The Clerk shall provide the result of the Arbitrator's decision to the affected parties.

(4) The Arbitrator's decisions are final and not appealable to the City Council.

(C) Method to Determine a Fair Return.

(1) The base year for the purpose of this section shall be the last full fiscal year prior to the park becoming subject to this chapter. The Arbitrator may establish an alternative base year if the owner is unable to produce records of the last full fiscal year prior to the park becoming subject to rent control.

(2) It shall be presumed that the net operating income produced by the property during the base year provided a fair return. An owner shall be entitled to rents to earn a just and reasonable return and to maintain and increase their base year net operating income in accordance with subsection (C)(4) of this section. This method is called maintenance of net operating income (MNOI) and shall be included in all applications.

(3) The applicant or the affected mobilehome owners may present evidence to rebut the presumption of fair and reasonable return based upon the base year net operating income. To make such a determination and in order to adjust to the base year net operating income, the Arbitrator must make the following finding:

(a) The owner's operating and maintenance expenses in the base year were unusually high or low in comparison to other years. In such instances, adjustments may be made in calculating such expenses so that the base year operating expenses reflect average expenses for the property over a reasonable period of time. In considering whether the base year net operating income yielded more or less than a fair net operating income, the Arbitrator shall consider the following factors:

(i) Substantial repairs were made due to damage caused by uninsured disaster or vandalism;

(ii) Maintenance and repairs were below accepted standards so as to cause significant deterioration of housing services;

(iii) Other expenses were unreasonably high or low notwithstanding prudent business practice; and

(iv) The rent in the base year was disproportionately low due to the fact that it was not established in an arms-length transaction or other peculiar circumstances.

(4) Fair Net Operating Income. The Arbitrator shall submit a determination based on rental income which will provide the owner a net operating income which shall be increased by 100 percent of the percentage increase in the CPI over the base year's CPI index. The base year CPI shall be the CPI for the first day of June. For purposes of this section, the current CPI shall be the CPI last reported as of the date of the completed application.

(5) Net operating income of a mobilehome park means the gross income of the park less the operating expenses of the park.

(6) Gross income means the sum of the following:

(a) Gross space rents computed as gross space rental income at 100 percent occupancy (but excluding rent attributed to a space occupied by a park employee who receives the space rent free as part of the employee's compensation); plus

(b) Other income generated as a result of the operation of the park, including, but not limited to, fees for services actually rendered; plus

(c) All other pass through revenue received from mobilehome owners except capital pass throughs and gas and electric; minus

(d) Uncollected space rents due to vacancy and bad debts to the extent that the same are beyond the owner's control. There is a rebuttable presumption that uncollected space rents in excess of the average of the current and past three years uncollected rents (each year's rent shall be adjusted by the change in the CPI between that year and the final year of the four-year period) are excessive and shall not be deducted from gross income.

(7) Operating expenses means:

(a) Real property taxes and assessment;

(b) Advertising costs;

(c) Management and administrative expenses including the compensation of administrative personnel;

(d) Repair and maintenance expenses for the grounds and common facilities including, but not limited to, landscaping, cleaning and repair of equipment and facilities;

(e) In addition to the management expenses listed above, where the owner performs onsite managerial or maintenance services which are uncompensated, the owner may include the reasonable value of such services. Owner-performed labor shall be limited to five percent of gross income unless the Arbitrator finds that such a limitation would be substantially unfair in a given case. No credit for such services shall be authorized unless an owner documents the hours utilized in performing such services and the nature of the services provided;

(f) Operating supplies such as janitorial supplies, gardening supplies, stationery and so forth;

(g) Insurance premiums related to operation of the park prorated over the life of the policy;

(h) Payroll taxes, business, utility, license and permit fees;

(i) Dues;

(j) Consultant services for park operation and maintenance;

(k) All operating expenses must be reasonable and necessary. Whenever a particular expense exceeds the normal industry or other comparable standard, the owner shall bear

the burden of proving the reasonableness of the expense. To the extent that an Arbitrator finds any expense to be unreasonable, the Arbitrator shall adjust the expense to reflect the normal industry or other comparable standard;

(l) There is a rebuttable presumption that expenditures in the current year are unreasonable to the extent that they substantially exceed the average of the current and past three years (each year's expenses shall be adjusted by the change in the CPI between that year and the final year of the four-year period);

(m) Operating expenses shall not include the following:

(i) Mortgage debt service expenses;

(ii) Land-lease expenses;

(iii) Depreciation;

(iv) Income taxes;

(v) Electric and gas expenses included in Section 739.5 of the California Public Utility Codes;

(vi) The cost of government mandated expenses (subsection 6-66.040(C)), capital improvements (subsection 6-66.040(D)), or capital replacements (subsection 6-66.040(F)).

(8) Notwithstanding any other provisions of the ordinance codified in this chapter, the Arbitrator is authorized to approve any rent increase that is constitutionally required by law to yield a fair return.

(E) Subpoenas. The parties may obtain the issuance and service of a subpoena for the attendance of witnesses or the production of other evidence at the arbitration hearing. Subpoenas shall be issued and attested by the Clerk. Issuance of the subpoena must be obtained upon the filing with the Clerk of the City of an affidavit or declaration, under oath, setting forth the name and address of the proposed witness; specifying the exact things to be produced and the relevancy to the issues involved; and stating that the witness has the desired things in his/her possession or under his/her control.

Service of the subpoena on a witness to attend arbitration must be at least five working days before the hearing. Service of a subpoena duces tecum must be at least 21 days before the hearing. Any party served with a subpoena duces tecum must produce copies of the requested items to the subpoenaing party no later than 10 days before the hearing.

A subpoena need not be issued when the affidavit or declaration is defective in any particular. No arbitration hearing may be continued due to the failure to file a timely request, or to timely serve a subpoena. Any person who refuses, without lawful excuse, to attend the arbitration or to produce relevant evidence as required by a subpoena served upon that person shall be guilty of a misdemeanor.

No subpoena shall issue until after the parties have met and conferred as required in Section 6-66.110.

(F) Increases for Capital Expense. Increases attributed to a capital expense, as approved by the Arbitrator to provide a park with a fair return, shall not be included in base rent. These increases must be separately itemized on the monthly rent invoice and terminate at the end of the approved amortized period. Advance approval and effective date of the increase shall be as allowed in subsection 6-66.040(F)(1).

(G) Rent Increase Effective Date. Rent increases approved by the Arbitrator, as determined necessary to provide an owner with a fair return, shall be allowed upon the

effective date given by the applicant in the notice to the affected mobilehome owners, required in section 798.30 of the California Civil Code. (Ord. 3648 § 1 (part), 2004)

6-66.130 Refusal of mobilehome owner to pay illegal rent.

An affected mobilehome owner may refuse to pay any rent in excess of the maximum rent permitted by this chapter. The fact that such unpaid rent is in excess of the maximum rent shall be a defense in any action brought to recover possession of a mobilehome space for nonpayment of rent or to collect the illegal rent. (Ord. 3648 § 1 (part), 2004)

6-66.140 Disclosures.

An owner shall disclose to each prospective mobilehome owner the current and proposed base rent for the mobilehome space and the rental agreement options required by this section and Section 6-66.150, provided each prospective mobilehome owner with a copy of this chapter, and disclose to the prospective mobilehome owner that if the prospective mobilehome owner signs a lease with a term of more than one year, that lease will be exempt from rent control. The owner shall give the required disclosure and provide a copy of this chapter to the prospective mobilehome owner at the time that the owner, or owner's representative, receives the prospective mobilehome owner's application for tenancy. The required disclosures shall be made in a form approved by the Clerk, and the owner shall obtain a signature of the prospective mobilehome owner on the disclosure form acknowledging receipt of the disclosures. An owner must retain the signed disclosure form throughout the entire tenancy of the mobilehome owner. This signed form shall be made available to the Clerk upon reasonable written notice. (Ord. 3648 § 1 (part), 2004)

6-66.150 Prospective mobilehome owner—Tenancy 12 months or less.

All prospective mobilehome owners shall be offered the option of a tenancy of 12 months or less upon terms consistent with the provisions of the ordinance codified in this chapter. This section shall not apply to prevent a mutually agreed upon assignment between an owner and an existing mobilehome owner of an existing lease, provided any such assignment does not violate subsection 6-66.050(C). (Ord. 3648 § 1 (part), 2004)

6-66.160 Rent stabilization administration fees.

The costs of administration of this chapter shall be paid by the imposition of an annual rent stabilization administration fee established by resolution of the City Council. The fee is chargeable against the total number of mobilehome spaces in the City subject to rent control determined on a date certain each year to be established by the City Council. The owner who pays these fees may pass through to the mobilehome owners, subject to rent control on the date established by the City Council, 50 percent of the fees assessed against a mobilehome space. The fee shall be due on a date established by the City Council but may be paid in quarterly installments by the owners. Owners of parks annexed to the City after September 17, 1993, shall be charged the fee established by resolution beginning on the effective date of the annexation. (Ord. 3648 § 1 (part), 2004)

6-66.170 Amendment.

Any amendment to this chapter shall require a prior public hearing before the City Council with notice thereof published in a newspaper of general circulation in the City at least 10 days prior to the hearing. (Ord. 3648 § 1 (part), 2004)

6-66.180 Violation.

Every person who violates any provision of this chapter is guilty of a misdemeanor and shall be subject to the provisions of Section 1-28.010 of this code. This section shall not apply to the Arbitrator or officers or employees of the City. (Ord. 3648 § 1 (part), 2004)

1 BOARD OF SUPERVISORS, COUNTY OF LAKE, STATE OF CALIFORNIA

2 ORDINANCE NO. _____

3 **AN ORDINANCE ADDING TO CHAPTER 32 TO THE LAKE COUNTY CODE**
4 **ESTABLISHING A MOBILE HOME RENT STABILIZATION PROGRAM**

5 THE BOARD OF SUPERVISORS OF THE COUNTY OF LAKE ORDAINS AS
6 FOLLOWS:

7 **SECTION ONE:** Chapter 32 is hereby added to the Lake County Code to read as follows:

8 **“CHAPTER 32. MOBILE HOME RENT STABILIZATION PROGRAM**

9 **ARTICLE I. IN GENERAL**

10 **Sec. 32.1. Title.**

11 This Ordinance may be cited as the Mobile Home Park Rent Stabilization Program
12 Ordinance of the County of Lake.

13 **Sec. 32.2. Findings.**

14 (a) Mobile home parks are a valuable resource of affordable housing for low and
15 moderate income individuals and families. There are considerable differences between
16 residents of mobile home parks and tenants of other types of rental properties. It is
17 generally impractical to move a mobile home because of the significant cost to do so. A
18 mobile home owner typically rents a plot of land from the owner of a mobile home park.
19 The park owner provides private roads within the park and may also provide certain
20 common facilities and utilities. The mobile home owner often invests in site-specific
21 improvements such as a driveway, steps, walkways, porches, or landscaping. When the
22 mobile home owner wishes to move, the mobile home is usually sold in place. The
23 immobility of the mobile home, the investment of the mobile home owner, and restriction
24 on mobile home spaces, has sometimes led to what has been perceived as an economic
25 imbalance of power in favor of mobile home park owners.

26 (b) Many residents of mobile home parks have expressed concerns about both the
27 significant increases in mobile home park space rents and the potential for unexpected
28

1 future increases. In response to those concerns, the Board of Supervisors created an Ad
2 Hoc committee, the Mobile Home Task Force, the composition of which included two
3 members of this Board, mobile home park residents and mobile home park owners. The
4 Mobile Home Task Force devoted considerable time and effort over the course of their
5 numerous meetings, culminating in the development of a supplemental lease agreement,
6 which agreement limits both the amount and frequency of rental increases imposed upon
7 mobile home park residents.

8 (c) The Board of Supervisors adopted Resolution No.2008-117 on September 16, 2008,
9 whereby the Board endorsed the supplemental lease agreement and encouraged all mobile
10 home park owners to agree to offer this Agreement to all eligible residents of their
11 respective parks.

12 (d) The Board of Supervisors finds and declares that a Mobile Home Rent Stabilization
13 Program is necessary to facilitate and encourage fair bargaining between mobile home
14 park owners and park residents in order to reach mutually satisfactory agreements as to
15 space rental rates in mobile home parks, which agreements preserve the value of the
16 residents' mobile homes and the value of the owners' mobile home parks. Absent such
17 agreements, the Board hereby finds it is necessary to protect the residents from
18 unreasonable rent increases in a manner which still provides for the interest of the park
19 owners in achieving a fair and reasonable return on their property. Administration of this
20 Ordinance shall be under the direction of the Lake County Mobile Home Rent
21 Stabilization Program Administrator.

22 (e) The Board of Supervisors finds that the adoption of the ordinance codified in this
23 chapter will not have a significant, substantial or adverse effect on the physical
24 environment of the community because enactment of this chapter involves no deviation
25 from the General Plan and no change in the present use of any property within the
26 unincorporated areas.

27 //

1 **Sec. 32.3. Purpose.**

2 The purpose of this chapter is to:

3 (a) Encourage the fair and reasonable practices utilized by most mobile home park
4 owners and managers in the County.

5 (b) Encourage good and productive relationships between mobile home park owners and
6 residents, and mobile home park owners and managers;

7 (c) Prevent excessive and unreasonable increases in mobile home park space rents;

8 (d) Permit mobile home park owners to fairly run their businesses and receive a fair
9 return on their investments; and

10 (e) Help preserve a valuable form of affordable housing within the County of Lake.

11 **32.4. Definitions..**

12 (a) **Approved Long-Term Lease Supplement.** The Approved Long-Term Lease
13 Supplement is the supplemental lease agreement approved by Board of Supervisors
14 pursuant to Resolution No.2008-117. The Approved Supplement, included here as
15 Appendix “A”, sets forth the applicable terms to be included in any long-term lease
16 agreement or as a supplement to any existing written lease agreement.

17 (b) **Base Rent.** The authorized rent, as calculated pursuant to the provisions of Section
18 32.11 herein, plus any rent increase allowed under this Chapter or any rent adjustment
19 attributable to vacancies as provided in Section 32.10(c) herein.

20 (c) **Consumer Price Index.** The Consumer Price Index all items for the western region for
21 all-urban consumers as reported by the Bureau of Labor Statistics of the United States
22 Department of Labor.

23 (d) **In-Place Transfer.** The transfer of the ownership of a mobile home with the mobile
24 home remaining on the mobile home park space following the transfer.

25 (e) **Mobile Home.** A structure transportable in one (1) or more sections, designed and
26 equipped to contain not more than one (1) dwelling unit, to be used with or without a
27 foundation system.

1 (f) **Mobile Home Owner or Resident.** A person entitled to occupy a mobile home
2 dwelling space pursuant to ownership thereof or a rental or lease agreement with the
3 owner thereof. To be entitled to the protections of this Ordinance, a mobile home owner
4 or resident must occupy the mobile home as his/her principal residence.

5 (g) **Mobile Home Park.** Any area or tract of land where ___#___ or more mobile home
6 lots are rented or leased, or held out for rent or lease, to accommodate mobile homes used
7 for human habitation for permanent, as opposed to transient, occupancy.

8 (h) **Mobile Home Park Owner.** A mobile home park owner, mobile home owner, lessor
9 or sublessor who receives or is entitled to receive rent for the use and occupancy of any
10 rental unit or portion thereof, and the agent, representative or successor of any of the
11 foregoing and one who reports to the Internal Revenue Service any income received or
12 loss of income resulting from such ownership or claims any expenses, credits, or
13 deductions because of such ownership.

14 (i) **Mobile Home Hearing Board.** A Hearing Board, consisting of three (3) members,
15 exclusive of elected officials.

16 (j) **Mobile Home Rent Stabilization Administrator or Administrator.** The individual
17 designated by the Board of Supervisors to administer the County's Mobile Home Rent
18 Stabilization Program.

19 (k) **Mobile Home Space.** The site within a mobile home park intended and/or used for the
20 location of a mobile home and any structures, accessory or appurtenant thereto.

21 (l) **Space Rent or Rent.** Any consideration, including any bonus, benefit or gratuity,
22 demanded or received for and in connection with the use or occupancy of a mobile home
23 space within a mobile home park, but exclusive of any amounts paid for the use of the
24 mobile home as a dwelling unit. The use or occupancy of a mobile home space shall
25 include the exercise of all rights and privileges and the use of facilities, services, and
26 amenities accruing to the residents thereof. Space rent or rent does not include any
27 separately billed utility fees and charges for propane gas, electricity, water, cable
28

1 television, garbage, or sewer service.

2 (m) **Rent Adjustments.** Any rent increase or decrease demanded of or paid by a mobile
3 home park resident, including any reduction in housing services without a corresponding
4 reduction in the monies demanded or paid for in rent.

5 (n) **Rental Agreement.** A written agreement between a mobile home park owner and
6 mobile home park resident establishing the terms and conditions of the occupancy and use
7 of a mobile home space in a mobile home park. A lease is a rental agreement.

8 **ARTICLE II. MOBILE HOME HEARING BOARD ESTABLISHMENT AND**
9 **POWERS**

10 **Sec. 32.5. Establishment of Hearing Board.** The Board of Supervisors hereby
11 establishes a Mobile Home Hearing Board for the County of Lake for the purpose of
12 hearing and determining any petitions filed pursuant to Section 32.16 or Article V of this
13 chapter.

14 **Sec. 32.6. Composition.** The Board shall consist of three (3) regular members and two (2)
15 alternate members. One regular member shall be a mobile home park resident whose
16 principal residence is in the unincorporated area of Lake County; one regular member shall
17 be a mobile home park owner of a mobile home park located in the unincorporated area of
18 Lake County. The two alternate members shall be a mobile home park resident from a
19 different mobile home park in the unincorporated area of Lake County and a mobile home
20 park owner of a different mobile home park in the unincorporated area of Lake County.
21 The remaining regular member shall be a resident of the unincorporated area of Lake
22 County who is neither a mobile home park resident or owner and who has no conflict of
23 interest due to a relationship with either or both. Candidates for membership shall submit
24 the County's standard application form used for consideration of appointment to various
25 County boards and commissions, which form is available from the Office of the Clerk of
26 the Board of Supervisors. The Board of Supervisors shall appoint the members in
27 accordance with all applicable County procedures.
28

1 **Sec. 32.7. Term.**

2 (a) Each regular member of the Mobile Home Board shall serve for a term of two (2)
3 years. For the first Board, the members shall be appointed to serve terms which shall
4 conclude on January 1, 2011. Thereafter, the successors shall be appointed for terms of
5 two (2) years. Each regular member shall hold office until a new member has been duly
6 appointed and assumed his or her duties. Each alternate member of the Board shall serve
7 for a term of two (2) years except as provided herein. Each alternate member shall hold
8 office until a new alternate member has been duly appointed and assumes his or her duties.
9 If a vacancy occurs or an office becomes vacant other than by expiration of a term, it shall
10 be filled by the Board of Supervisors by appointment as previously prescribed herein for
11 the unexpired portion of such member's term. Notwithstanding the above provisions of
12 this paragraph, a member may be removed, at any time, with cause, by a majority vote of
13 the Board of Supervisors. Further notwithstanding the above provisions of this
14 paragraph, any member who is absent without sufficient cause as determined by the
15 Board of Supervisors from three (3) consecutive meetings of the Mobile Home Board
16 which such member was required to attend shall be deemed to have vacated his or her
17 office.

18 (b) The Board of Supervisors hereby reserves the right to dissolve the Mobile Home
19 Hearing Board at any time upon majority vote to do so and transfer the functions and
20 duties of the Mobile Home Hearing Board to an Arbitrator selected by the Board of
21 Supervisors. Said Arbitrator shall conduct those functions and duties according to the
22 provisions herein applicable to the Mobile Home Hearing Board.

23 **Sec. 32.8. Powers and Duties of the Board.**

24 The Mobile Home Hearing Board may approve, modify, or deny major rent adjustments as
25 defined in Article V herein and may determine whether the action or proposed action
26 which is the subject of said petition is valid, authorized, and in conformity with Section
27 32.16 pursuant to the criteria and conditions enumerated in this chapter.

1 **ARTICLE III. APPLICABILITY AND EXEMPTIONS**

2 **Section 32.9. Applicability**

3 This Ordinance shall be applicable to all mobile home park spaces within the
4 unincorporated areas of the County of Lake, unless exempt pursuant to the provisions of
5 this Ordinance and/or pursuant to state or federal law. Nothing in this Ordinance shall be
6 deemed to supersede any provision of California Civil Code Sections 798, et seq. as
7 written and/or as it may be amended.

8 **Section 32.10. Exemptions**

9 The provisions of this Ordinance shall not apply to:

10 **(a) Approved Long-Term Lease Supplement**

11 1. A mobile home park shall be exempt from this chapter if it has entered into the
12 Approved Long Term Lease Supplement. The mobile home park owner must provide all
13 eligible mobile home owners and residents who, as of _____ [date] _____, are not
14 parties to an existing long-term rental agreement having an initial term in excess of twelve
15 (12) months, the opportunity to enter into the Approved Long-Term Lease Supplement,
16 and provide proof of offer of said Approved Long-Term Lease Supplement to the County
17 of Lake.

18 2. The Approved Long-Term Lease Supplement is identical to the terms as approved by
19 Board of Supervisors resolution. Alternatively, any long-term lease which offers the same
20 or better protections to the mobile home owners and residents may be used with approval
21 of the Mobile Home Rent Stabilization Program Administrator. As long as the Approved
22 Long-Term Lease Supplement is offered to the mobile home owners and residents, the
23 park owner may offer other rental agreements to the mobile home owners and residents for
24 their consideration and acceptance/rejection.

25 3. The mobile home owner or resident must be provided with an Information Sheet, which
26 among other things, must set forward the rights of residents and owners under this Chapter
27 as well as additional information as determined by the Mobile Home Rent Stabilization
28

1 Program Administrator.

2 4. The mobile home park owner must submit verification of compliance with this section
3 to the County for each current and incoming resident, in accordance with procedures as set
4 forth by the Mobile Home Rent Stabilization Program Administrator. The mobile home
5 park owner must also submit verification of compliance upon request of the County.

6 **(b) State Law Exemptions.**

7 1. Spaces that are subject to a rental agreement which exempts that space from rent
8 regulation pursuant to the California Mobile Home Residency Law, California Civil Code
9 Section 798 et seq.

10 2. Newly constructed spaces, which are exempted pursuant to Civil Code Section 798.45.

11 3. Spaces which are exempt pursuant to Civil Code Section 798.21 (which exempts
12 spaces which are not the principle residence of the mobile home owner).

13 4. Any space otherwise exempted by State law.

14 5. Units Owned or Operated by Government Agencies. The provisions of this chapter
15 shall not apply to any rental unit whose rent is subsidized pursuant to a public program
16 that limits the rent that can be charged for the mobile home park space.

17 **(c) Vacancies**

18 1. Subject to the limitations of paragraphs 2 and 3 below, if a mobile home space or
19 mobile home is voluntarily vacated, abandoned or repossessed, or vacated pursuant to
20 California Civil Code Section 798.56 or 798.75, the mobile home park owner may adjust
21 the space rental rate to an amount he/she in his or her discretion may determine.

22 2. Subject to the provisions of Civil Code Section 798.17, if the mobile home is sold in
23 place and is to remain on site, the landlord may only increase the rental rate of the space to
24 te new owner to an amount that is no greater than the average of the three highest rentals
25 then currently being charged by the park owner for resident owner occupied spaces of
26 comparable size, location, and amenities in the park.

27 3. If a resident owner must move from his or her mobile home because of a need for long-
28

1 term medical care or custodial care, the space shall remain subject to this Ordinance
2 during the time the owner is absent and remains incapacitated. In those parks which allow
3 subletting, the absent and incapacitated owner may sublet the mobile home for a charge
4 not to exceed the space rent and utilities and all legally allowable pass-through costs for a
5 period of time to exceed twenty-four (24) months without removing the space from the
6 protection of this Ordinance.

7 **(d) Tenant Approval**

8 This Ordinance does not apply if two-thirds of all residents in a mobile home park affected
9 by a rent increase or other action give their approval in writing as evidenced by the
10 signature of one resident for each space or in an election called to consider the matter with
11 each space casting one vote. The mobile home park owner shall supply proof of such
12 approval to the Mobile Home Park Rent Stabilization Administrator for verification.

13 **ARTICLE IV. SPACE RENT INCREASE LIMITATIONS**

14 **Sec. 32. 11. Base Rent - Initial Calculation.**

15 Except as hereinafter provided, an owner shall not demand, accept, or retain rent for a
16 mobile home space exceeding rent in effect for such space on the effective date of this
17 Ordinance. If a previously rented mobile home space was not rented on the effective date
18 of this Ordinance, the mobile home park owner shall not, except hereinafter provided,
19 demand, accept, or retain rent for such space exceeding the rent in effect during the last
20 month the space was rented prior to the effective date of this Ordinance.

21 **Sec. 32.12. Space Rent Ceiling Adjustment.**

22 **(a) Permissive Annual Adjustment**

23 Except as otherwise provided herein, from and after the effective date of this Ordinance,
24 the space rent payable for the use or occupancy of any mobile home space shall not be
25 adjusted in any twelve-month period more than once and no increase resulting from said
26 adjustment shall exceed the percent change in the Consumer Price Index. This allowance
27 shall not exceed five percent (5%). No application or permission is required for the annual
28

1 adjustment under this section.

2 **(b) Notice of Permissive Annual Rent Increase.**

3 1. Notice by Mobile Home Rent Stabilization Administrator. The annual rent increase
4 shall be annually calculated by the Mobile Home Rent Stabilization Administrator, and
5 posted by February 1 of each year both in the County Courthouse located at 255 North
6 Forbes Street in Lakeport, California and on the County of Lake website. The information
7 shall also be mailed to each non-exempt mobile home park owner.

8 (2) Notice in Mobile Home Parks. A copy of the notice shall be posted by the park owner
9 or manager in a prominent place in each non-exempt mobile home park within three (3)
10 days after it is received by the mobile home park owner.

11 (c) **No Decrease if CPI Decreases.** In the event that the CPI decreases, no rent decrease
12 shall be required pursuant to this section.

13 (d) **Compliance with State Law.** Rent increases permitted pursuant to this section shall
14 not be effective and shall not be demanded, accepted, or retained until the mobile home
15 park owner has given the notice required by State law.

16 **Sec. 32. 13. In-Place and Other Transfer of Ownership of Mobile Homes.**

17 (a) **Increase Permitted.** Upon an in-place sale or transfer of the ownership of a mobile
18 home, a park owner may increase the space rent by ten (10) percent.
19

20 (b) **Allowable Frequency of Increases.** Only one (1) increase of ten (10) percent shall be
21 allowed pursuant to this section within a sixty (60) month period.
22

23 (c) **Types of Transfers Excluded from this Section.** In-place sales and transfer of
24 ownership of the purposes of this chapter shall not include transfer to the conservator,
25 guardian or trustee of a homeowner, transfers to a homeowner's trust (provided that the
26 beneficiaries entitled to ownership of the mobile home are members of the homeowner's
27

1 immediate family), for transfers to a surviving spouse, parent, or children of the
2 homeowner.

3 **(d) Replacement of Mobile Home not a Transfer.** No increase may be imposed pursuant
4 to this section pursuant to the removal of a mobile home from a park by a homeowner
5 already residing in the park for the purpose of replacing a mobile home with a new or
6 different mobile home.
7

8 **(e) Advance Notice of Allowable Rent Increases Pursuant to this Section.** A mobile
9 home owner who intends to offer the mobile home for sale may request a written
10 statement from the mobile home park owner specifying the rent which will be charged to a
11 new mobile home owner. The mobile home park owner shall provide this written
12 statement within ten (10) days of the request, which shall be deemed received on the day
13 that the notice is personally delivered or within three (3) days of the time that the notice is
14 mailed.
15

16
17 **Sec. 32.14. Pass-through of Property Tax Increases Pursuant to the Sale of a Park/
18 Special Assessments.**

19 (a) A mobile home park owner may pass through property tax increases resulting from a
20 reassessment of the park as a consequence of the sale of the park, provided that the
21 purchaser of the park is not a member of the seller's immediate family or a surviving
22 spouse. This section shall not authorize any pass-through that is not permitted under State
23 law.
24

25 (b) The amount of the property tax increase resulting from the sale of a park for the year in
26 which the sale took place shall be computed by comparing the annual property tax for the
27 property tax year (July 1st-June 30th) prior to the sale of the property with the property tax
28

1 for the property tax year in which the transfer occurred. The amount of the property tax
2 increase for subsequent years shall be computed by comparing the annual property tax for
3 the property tax year (July 1st-June 30th) prior to the sale of the property with the property
4 tax for the property tax year following the year in which the transfer occurred. The
5 property tax comparisons pursuant to this section shall not take into account the portion of
6 the property tax increase attributable to County-wide increase in assessed values, such as
7 the two (2) percent annual increase that is ordinarily applied to all properties.
8

9 (c) A park owner may pass through cost increases resulting from new types of property
10 assessments. The amount of the any property tax increase or cost increase resulting from a
11 new type of property assessment shall be prorated on a monthly basis among all of the
12 spaces in a park.
13

14 **Sec. 32.15. Administrative Fees.**

15 (a) A park owner may increase the space rent payable for a mobile home space within any
16 twelve-month period to apportion and pass through, on a pro-rata basis, to each mobile
17 home space subject to the provisions of this chapter, the allowable percentage of County
18 administrative fees pursuant to Section 32.36.
19

20 (b) The park owner shall provide to all affected residents documentation supporting the
21 allowable amount to be collected in order to recover a portion of rent stabilization
22 administration fees. At a minimum such documentation shall include: billing notices or
23 other equivalent documents from the County imposing the rent stabilization administration
24 fee.
25

26 (c) The administrative fee rent increase shall not be included as part of the base rent upon
27
28

1 which future rent increases are based and shall be deleted from the space rent once the
2 mobile home owner's pro rata share of said administrative fee rent increase has been
3 collected.
4

5 **Sec. 32.16. Rent Increase Based upon Capital Improvements - Five Percent**
6 **Limitation.**

7 **(a). Streamlined Procedure Where Cost is Five Percent or Less of Existing Rent**

8 An application for a rent increase based on the cost of a proposed or completed capital
9 improvement shall be approved by the Mobile Home Rent Stabilization Program
10 Administrator if it meets the criteria and conditions of this section. For the purposes of this
11 section "Capital Improvement" is defined as the installation of new improvements and
12 facilities, and/or the replacement or reconstruction of existing improvements and facilities
13 which consist of more than ordinary maintenance or repairs, with a useful life of at least
14 five (5) years. In no event shall any single rent increase or any cumulative rent increases
15 under this subsection exceed five percent (5%) of any mobile home owner's then existing
16 rent.
17

18 **(b) Approval of Capital Improvements When Required for Public Health and Safety**
19 **and/or to Comply with Federal, State, and Local Law.**

20 A capital improvement shall be approved by the Rent Stabilization Program Administrator
21 upon a satisfactory showing by the mobile home park owner that the improvement is
22 required to:
23

- 24 1. Maintain the common facilities and other areas of the park in a safe and sanitary
25 condition; or
 - 26 2. Comply with the law or an administrative regulation.
27
- 28

1 (c) **Amortization.** Capital Improvement rent increases permitted under this section shall
2 be amortized over the useful life of the improvement as set forth in Internal Revenue class
3 life tables then in effect, unless the Mobile Home Rent Stabilization Administrator in
4 his/her discretion determines that the use of such tables is unreasonable under the
5 circumstances.
6

7 (d) **Apportionment.** Capital Improvement rent increases shall be apportioned equally
8 among all spaces in the mobile home park affected thereby and shall be payable monthly,
9 and shall be set forth by the park owner as a separate item from the space rent. The
10 increase shall remain in effect only until the cost of the improvement, plus reasonable
11 costs of financing as set forth above, have been fully recovered.
12

13 (e) **Contents of the Application.** The application for the cost of a completed capital
14 improvement or the estimated cost of a proposed capital improvement shall contain:
15

- 16 1. A description of the capital improvement;
- 17 2. A copy of all estimates, contracts, bills, invoices, canceled checks and other
18 documentation reasonably necessary to establish the cost of the capital improvement and
19 the reasonable cost of financing the capital improvement.
20

21 (f) A petition by an affected residents of a mobile home park, as allowed by Section 32.19,
22 shall, as to this section, be limited to challenging the increase for a capital improvement
23 only on the basis that it does not meet the criteria established in this section.

24 (g) Nothing in this section shall preclude a mobile home park owner from foregoing the
25 right to seek a rent increase under this section and instead applying for a major rent
26 increase, including applying for a major increase based on capital improvement
27
28

1 expenditures that would otherwise result in a rent increase in excess of five percent of the
2 mobile home resident's then existing rent.

3 (h) No rent increase for a proposed capital improvement may be collected until the mobile
4 home park owner provides proof to the Administrator that the improvement has been
5 completed.
6

7 **Sec. 32.17. Notice to Residents.** A notice of rent increase given by a mobile home park
8 owner pursuant to this Article shall be given in writing at least ninety (90) days before any
9 rent increase is to take effect
10

11 **Sec. 32.18. Filing of a Petition by a Mobile Home Park Resident**

12 (a) Any resident of a mobile home park subject to this Ordinance and joined by at least
13 fifty percent (50%) of the other residents similarly affected, may petition for a
14 determination whether a proposed or actual action by the mobile affecting such resident(s)
15 is within the terms of Section 32.16. Such petition shall be on a form prescribed by the
16 Mobile Home Rent Stabilization Administrator. In the absence of such designated form,
17 the petition shall contain the name, address and telephone number, if known, of the mobile
18 home park owner or other person authorized to represent the owner of the mobile home
19 park, a brief statement of the facts giving rise to the petition and a statement that a copy of
20 the petition has been personally served or mailed to the owner or other person authorized
21 to accept and receive notices.
22

23 (b) A petition must be filed within 60 days of notice being given by the park owner or
24 within 90 days of the action actually taken by the park owner when no written notice
25 preceded the action.
26
27
28

1 (c) Upon receipt of the petition, the Administrator shall determine whether the petition
2 contains the minimum number of signatures required. Thereafter, the Administrator shall
3 notify, in writing, the park owner and the residents of the results of that determination.
4

5 (d) **Informal Hearing.** The Administrator shall conduct an informal hearing in an attempt
6 to resolve the matter. In making his/her recommendation(s), the Administrator may
7 consider all relevant factors including those listed in this Ordinance.

8 1. The hearing may be attended by no more than two representatives from the affected
9 residents and two representatives from the park owner. Attorneys shall not be present at
10 the informal hearing(s) unless agreed to by both sides except in a case where the park
11 owner or petitioning resident(s) is an attorney in which case the other party may be
12 accompanied by its own attorney.
13

14 2. The Administrator shall submit his/her final recommendations in written form to both
15 sides. Any agreements reached by the parties shall be reduced to writing and be signed by
16 them and the Administrator.
17

18 3. Any party to the informal hearing conducted by the Administrator shall be entitled to
19 appeal the decision to the Mobile Home Hearing Board. The conduct of proceedings on
20 appeal shall be as described in Section 32.27 herein.
21

22 **ARTICLE V. MAJOR RENT INCREASES**

23 An increase in space rent payable for any mobile home space within any twelve-month
24 period more than the amounts otherwise permitted herein, whether for a hardship rent
25 increase, capital improvement costs as to which Section 32.16 herein is inapplicable, or for
26 other reasons and purposes, and/or a reduction in services without a concurrent decrease in
27
28

1 space rent shall be considered a major rent increase and is subject to the provisions set
2 forth in this Article, Article V and other provisions of this chapter.

3 **Sec. 32.19. Notice to Mobile Home Park Residents.**

4
5 (a) At least ninety (90) days before instituting a major rent adjustment as defined in this
6 Article, the mobile home park owner shall give written notice of the proposed action to all
7 affected mobile home residents.

8 (b) Whenever the owner serves such a notice of rent increase, owner shall at the same time
9 and in the same manner serve the affected resident with a notice that sets forth all of the
10 following information:

11
12 1. The amount of the rent increase both in dollars and as a percentage of existing rent and
13 documentation supporting the level of increase desired, including at a minimum: a
14 summary of the unavoidable increases in maintenance and operating expenses; a statement
15 of the cost, nature, amortization, and allocation among mobile home spaces of any
16 substantial rehabilitation or capital improvement; a summary of the increased cost of the
17 owner's debt service and the date and nature of the sale or refinancing transaction; a
18 summary of the owner's net operating income of the preceding twenty-four (24) months
19 and other relevant information that supports the level of rent increase desired;

20
21 2. The identity of all affected residents.

22
23 (c) **Reduction in Mobile Home Park Service.** For a reduction in park service with or
24 without a decrease in rent, the relevant information to be provided to affected park
25 residents referred to in Section 32.19(b) hereinabove must include the specific park
26 services to be reduced and the decrease in park space rent, if any, which will result.
27
28

1 **Sec. 32.20. Notice of Meeting.**

2 (a) Concurrently with providing notice of a rent increase as required in Section 32.19, or
3 reasonably soon thereafter, the mobile home park owner shall provide at least thirty (30)
4 days advance written notice of a meeting with the affected residents to discuss the
5 proposed increase. This notice shall include the time and date of the meeting, which time
6 must be as convenient for as many affected residents as possible, the exact location of the
7 meeting, which shall be at a location within the mobile home park. The rent increase not
8 become effective until forty-five (45) days after the commencement of this meeting.
9

10 **Sec. 32.21. Notice to Mobile Home Rent Stabilization Administrator.**

11 The mobile home park owner shall serve a copy of the notice of rent increase described in
12 Section 32.19 and a list of names and addresses of all persons receiving notice upon the
13 Mobile Home Rent Stabilization Administrator at least seventy-five (75) days prior to the
14 effective date of the rate increase.
15

16 **Sec. 32. 22. Manner of Giving Notice.**

17 Notices of rent increases and meetings required by this chapter shall be given personally to
18 the affected resident, deposited in the United States mail, postage prepaid, addressed to the
19 resident at his or her site within the mobile home park or by other manner agreed upon in
20 writing by the resident and the park owner.
21

22 **Sec. 32.23. Implementation.** Following the provision of notice in substantial compliance
23 with the requirements of this Article and the holding of the meeting required herein, and
24 the provision of any and all notices required by state law, the rent increase may be
25 implemented unless a timely petition substantially in compliance with the requirements
26
27
28

1 provided in Article VI herein has been filed. Should such a petition be so filed, the
2 collection of increased rent shall be stayed pending the review proceedings provided
3 herein.
4

5 **ARTICLE VI. REVIEW HEARING PROCEDURES**

6 **Sec. 32.24. Petition for Review.**

7 (a) **Right to Petition.** Mobile home residents affected by a major rent increase as
8 described herein shall have the right to file a petition for review of any such increase with
9 the Mobile Home Rent Stabilization Administrator in the Lake County [name of
10 department] Department at 255 North Forbes Street, Lakeport, California. 95453.
11

12 (b) The petition must be signed by more than fifty (50) percent of the mobile home
13 residents affected by the rent increase. For purposes of determining the sufficiency of the
14 petition, only one resident per occupied space shall be counted.
15

16 (c) The petition must include the name and address of the mobile home park, the names
17 and addresses of the park owners, and the name of the petitioners' legal representative or
18 the affected resident who shall act as the representative of the petitioners.

19 (d) **Petition Form Required.** Such petition shall be on a form prescribed by the Mobile
20 Home Rent Stabilization Administrator.
21

22 (e) **Petition Content.** The petition shall include a brief summary of the amount of the
23 disputed rent increase. For a petition challenging a reduction in service without a
24 concurrent decrease in rent, the petition must describe the service that has been reduced,
25 the date the reduction occurred or was discovered, and the claimed amount that the space
26 rent should be decreased as a result of the reduction in service. The petition should
27
28

1 include all documentation which the petitioners believe is relevant to the rate increase
2 under review.

3 (f) **Time for Filing.** The petition shall be filed no later than thirty (30) days after the
4 effective date of the rent increase.
5

6 (g) **Verification of Petition.** Within twenty (20) days after the petition is submitted, the
7 Mobile Home Rent Stabilization Administrator shall determine if the petition is complete
8 and verify that the petition has the required number of signatures.

9 (h) **Notification of Mobile Home Park Owner.** Upon verifying the petition, the Mobile
10 Home Rent Stabilization Administrator shall send written notice to the park owner that a
11 petition has been received and determined to be sufficient.
12

13 **Sec. 32.25. Dispute Resolution.**

14 Within fifteen (15) days of having sent notification to the mobile home park owner as
15 described in Section 32.24 (h), the Mobile Home Rent Stabilization Administrator shall
16 convene a meeting with the park owner and the petitioners' representative for purposes of
17 mediating the dispute. If no resolution is achieved through this process within forty-five
18 (45) days of having first convened a meeting, the Administrator shall notify the Mobile
19 Home Hearing Board that it will convene for a hearing on the petition.
20
21

22 **Sec. 32.26. Hearing Before the Mobile Home Hearing Board.**

23 (a) The Mobile Home Hearing Board shall commence an administrative hearing on the
24 petition within not less than thirty (30) nor more than sixty (60) days after the date of
25 notification from the Mobile Home Rent Stabilization Administrator described in Section
26 32.25.
27
28

1 (b) The hearing shall be completed within fifteen (15) days after it is commenced. These
2 time deadlines may be extended if the Hearing Board finds that there is good cause to
3 commence and/or complete the hearing at a later date.
4

5 (b) The Hearing Board may schedule the hearing during the normal business hours of the
6 County unless the park owner or a majority of the residents that are subject to the petition
7 request that the hearing be scheduled during the evening.

8 (c) **Notice of Hearing.** The Mobile Home Rent Stabilization Administrator shall give
9 written notice of the time, date, and place of the administrative hearing to the park owner
10 and to the petitioners, by and through their designated representative, at least thirty (30)
11 days prior to the hearing.
12

13 (d) The Hearing Board may order production of such requested documentation, if the
14 Hearing Board determines the information is relevant to the proceedings.
15

16 **Sec. 32.27. Conduct of the Hearing .**

17 (a) All hearings held by the board shall be conducted in accordance with the Ralph
18 M. Brown Act, at Sections 54950 et seq. of the California Government Code.

19 (b) All interested parties to a hearing may have assistance from an attorney or such other
20 person as may be designated by the parties in presenting evidence or in setting forth by
21 argument their positions. All witnesses shall be sworn in and all testimony shall be under
22 penalty of perjury.
23

24 (c) In the event that either the mobile home park owner or the petitioners should fail to
25 appear at the hearing at the specified time and place, the board may hear and review such
26 evidence as may be presented, and make such decisions as if all parties had been present.
27
28

1 (d) The petitioners and the mobile home park owner may offer any relevant evidence and
2 the formal rules of evidence shall not apply.

3 (e) The board shall maintain a record of all proceedings by electronic recording. Either the
4 petitioners or the mobile home park owner will have the right to procure the services of a
5 court reporter at their own expense to record and transcribe the proceedings.
6

7 **Sec. 32.28. Standards of Review**

8 (a) In reviewing a petition challenging a major rent increase, the board may consider,
9 along with all other factors it considers relevant, changes in costs to the mobile home park
10 owner attributable to an increase or decrease in utility rates, property taxes, insurance,
11 advertising, variable mortgage interest rates, employee costs, normal repair and
12 maintenance, and other considerations, including, but not limited to, rehabilitation work,
13 capital improvements, upgrading and addition of amenities or services, net operating
14 income and the level of rent necessary to permit a just and reasonable return on the
15 owner's property.
16
17

18 (b) In reviewing a petition appealing a determination permitting a rent increase based on
19 capital improvements with a five percent (5%) limitation under Section 32.16 herein, the
20 board may consider only whether the proposed increase meets the criteria established in
21 that section.
22

23 **Sec. 32.29. Standards of Review for Rent Increase to Maintain Net Operating**

24 **Income.**

25 (a) In addition to the information to be considered enumerated in Section 32.29(a), when
26 reviewing a space rent increase imposed by a park owner to maintain the owner's net
27
28

1 operating income from the park, the following definitions and provisions shall apply:

2 1. "Net operating income" of a mobile home park means the gross income of the park less
3 the operating expenses of the park.

4 2. "Gross income" means the sum of the following:

5 A. Gross space rents, computed as gross space rental income at one hundred
6 percent (100%) occupancy; plus

7 B. Other income generated as a result of the operation of the park, including, but
8 not limited to, fees for services actually rendered; plus

9 C. Revenue received by the park owner from the sale of gas and electricity to park
10 residents where such utilities are billed individually to the park residents by the
11 park owner; minus

12 D. Uncollected space rents due to vacancy and bad debts to the extent that the same
13 are beyond the park owner's control. Uncollected space rents in excess of three
14 percent (3%) of gross space rent shall be presumed to be unreasonable unless
15 established otherwise and shall not be included in computing gross income. Where
16 uncollected space rents must be estimated, the average of the preceding three (3)
17 years experience shall be used.

18 3. "Operating expenses" means:

19 A. Real property taxes and assessments;

20 B. Utility costs to the extent that they are included in space rent;

21 C. Management expenses including the compensation of administrative personnel,
22 including the value of any mobile home space offered as part of compensation for
23 such services, reasonable and necessary advertising to ensure occupancy only, legal
24 and accounting services as permitted herein, and other managerial expenses.

25 Management expenses are presumed to be not more than five percent (5%) of gross
26 income, unless established otherwise;

27 D. Normal repair and maintenance expenses for the grounds and common facilities
28 including but not limited to landscaping, cleaning and repair of equipment and
facilities;

E. Owner-performed labor in operating or maintaining the park. (To be limited to
five percent of gross income unless the Hearing Board finds in a particular case
such a limitation would be unfair.)

F. Operating supplies;

G. Insurance premiums pro-rated over the life of the policy;

H. Taxes, fees, and permits, except as provided in Section 32.14.

I. Capital Improvement Costs;

J. Involuntary Refinancing of Mortgage or Debt Principal.

1 (b) All operating expenses must be reasonable. Whenever a particular expense exceeds the
2 normal industry or other comparable standard, the park owner shall bear the burden of
3 proving the reasonableness of the expense.
4

5 (c) **Presumption of Fair Base Year Net Operating Income.** A mobile home park owner
6 has the right to obtain a net operating income equal to the base year net operating income
7 adjusted by the percentage increase in the CPI since the base year. It shall be presumed
8 that the net operating income received by the mobile home park owner in the base year,
9 provided the park owner with a fair and reasonable return.
10

11 **Sec. 32.30. Standards of Review for Capital Improvement Rent Increases.**

12 (a) In a review of a rent increase for a capital improvement not subject to the streamlined
13 procedure provided in Section 32.16, and in addition to the information described in
14 Section 32.28(a), the Hearing Board shall consider:
15

- 16 1. The description of the improvement;
- 17 2. Contract documents or bid documents showing the cost or estimated cost of the project.
- 18 3. The amortization period to be used;
- 19 4. The interest rate to be obtained;
- 20 5. The formula used to calculate the pro-rata share of each resident;
- 21 6. The monthly cost to each resident in dollars.
22

23 **Sec. 32.31. Decision of the Board.**

24 (a) The board shall make a final decision no later than twenty days after the conclusion of
25 its hearing. The board's decision shall be based on the preponderance of the evidence
26 submitted at the hearing. The decision shall be based on findings. All parties to the hearing
27
28

1 shall be advised by mail of the board's decision and findings.

2 (b) Pursuant to its findings, the board may:

- 3 1. Permit the requested rent increase to become effective, in whole or in part, or
4
5 2. Deny the requested rent increase, or
6
7 3. Permit or deny, in whole or in part, requested reductions of or charges for, facilities or
8 services.

9 (c) Any decision of the board shall be final unless, within fifteen days after mailing of the
10 decision, an appeal is filed with the Board of Supervisors pursuant to the terms and
11 conditions provided in Section 32.32.

12 **Sec. 32.32. Appeal.**

13 (a) Any appeal from a decision of the Mobile Home Hearing Board shall be filed with the
14 Clerk of the Board of Supervisors. The date for consideration of the appeal shall be set by
15 the clerk no less than ten days nor more than thirty days after the expiration date for filing
16 of an appeal. Notice of the date, time and place shall be given by the clerk to the
17 petitioners by and through their designated representative, and the mobile home park
18 owner.
19

20 (b) At the time set for consideration of the appeal, the Board of Supervisors shall review
21 and consider the record of board hearing and the decision and findings of the Mobile
22 Home Hearing Board. After review and consideration, the Board of Supervisors may
23 either:
24

- 25 1. Determine that a further hearing shall be held, to be conducted before the Board of
26 Supervisors at the second regular meeting of the Board of Supervisors following the
27
28

1 determination that such further hearing is necessary; or

2 2. Ratify and adopt the decision and findings of the Mobile Home Hearing Board.

3 (c) If a further hearing is conducted, the Board of Supervisors may, upon conclusion of the
4 hearing, and in no event more than forty-five days thereafter, modify, reverse or uphold the
5 decision of the board, and shall make the findings in support thereof.

6
7 (d) **Notice of Decision.** The Clerk of the Board of Supervisors shall mail copies of the
8 decision to the petitioners, by and through their designated representative, and the mobile
9 home park owner no later than ten (10) days after the approval of the decision by the
10 Board of Supervisors.

11
12 **ARTICLE VII. OBLIGATIONS OF THE MOBILE HOME PARK OWNER TO**
13 **PROVIDE INFORMATION**

14 **Sec. 32.33. Information to be Supplied by the Mobile Home Park Owner to Residents**
15 **and Prospective Residents.**

16 (a) **Posting of Ordinance.** A copy of the ordinance codified in this chapter shall be posted
17 in the office of every mobile home park and in the recreation building or clubhouse of
18 every mobile home park located in the County.

19 (b) A copy of this ordinance shall be provided to every resident and to prospective
20 residents of a mobile home park in the County before the resident or prospective resident
21 agrees to any rental agreement or lease.

22
23 **Sec. 32.34. Information to be Provided by the Park Owner to Prospective Park**
24 **Purchasers.**

25 A copy of this Ordinance shall be shown to every prospective purchaser of a mobile home
26 park in the unincorporated areas of the County before the prospective purchaser enters
27 into an agreement to purchase the park.

1 **Sec. 32.35. Annual Registration and Other Notices Required from Owner.**

2 (a) **Due Date.** Every mobile home park owner shall file an annual registration statement on
3 a form provided by the Mobile Home Rent Stabilization Administrator no later than
4 February 1st of each year.
5

6 (b) **Contents of Registration Form.** The initial registration shall include the name(s),
7 business address(es), and business telephone number(s) of each person or legal entity
8 possessing an ownership interest in the park and the nature of such interest; the number of
9 mobile home spaces within the park; a rent schedule reflecting space rents within the park;
10 a listing of all other charges, including utilities not included in space rent, paid by mobile
11 home owners within the park and the approximate amount of each such charge; the name
12 and address to which all required notices and correspondence may be sent, and other
13 information required by the Mobile Home Rent Stabilization Administrator.
14

15 (c) **Certification of Registration Forms.** All registration forms and any documentation
16 accompanying any registration forms shall contain an affidavit or declaration, signed by
17 the park owner or a designated agent, with his/her signature notarized, certifying that the
18 information contained therein is true, correct, and complete.
19

20 (d) **Notice of Sale of a Park.** Upon the sale or transfer of a mobile home park, the seller or
21 transferor shall notify the Mobile Home Rent Stabilization Administrator of the sale or
22 transfer and of the name and address of the buyer or transferee. Within ten (10) days
23 following the sale or transfer of a mobile home park, the buyer or transferee shall register
24 with the Mobile Home Rent Stabilization Administrator by providing the information
25 required by this subsection.
26
27
28

1 **ARTICLE VIII. FEES AND PENALTIES.**

2 **Sec. 32.36. Administrative Fees.**

3 (a) Administrative fees imposed for the purpose of reimbursement to the County's general
4 fund the costs of providing and administering the administrative hearing process and other
5 services established by this chapter may be adopted pursuant to Board resolution.

6 (b) The Mobile Home Rent Stabilization Administrator shall provide the Board of
7 Supervisors with a recommendation regarding the amount of the fee that is necessary to
8 recover the costs of administering this chapter as part of the County's annual budget
9 process. The amount of the fee shall be set forth in the schedule of fees adopted by
10 resolution of the County of Lake. The fee shall not exceed the amount found by the Board
11 of Supervisors to be necessary to recover the costs of administering this chapter, and the
12 Board's finding in this regard shall be final.

13 (c) The mobile home park owner shall pay any applicable fee to the County for all of the
14 owner's rental spaces which are subject to this chapter on or before January 31st of each
15 year.

16 (d) The mobile home park owner may pass the amount of the administrative fee to the
17 resident of each space which is subject to the fee as provided in Section 32.15 herein.

18 (e) Any mobile home park owner who fails or refuses to pay any fee required under this
19 chapter for a period of thirty (30) days from and after the date such fee is due shall, in
20 addition to the fee, pay a penalty of twenty (20) percent of the amount of the unpaid fee.
21 The penalty shall be increased to fifty (50) percent if the fee is not paid within ninety (90)
22 days after the due date. A park owner must be provided with a thirty (30) day notice prior
23 to the due date.

1 to becoming subject the penalties set forth in this subsection. The notice shall be delivered
2 by certified U.S. mail, postage prepaid and return receipt requested; U.S. mail delivery
3 confirmation; U.S. mail signature confirmation; or such other delivery method that is
4 reasonably calculated to provide actual notice to the park owner.
5

6 **Sec. 32.37. Penalties and Remedies.** In addition to those penalties and remedies set forth
7 elsewhere in this chapter, the following remedies shall apply:

8 Any mobile home park owner who demands, accepts, receives or retains any money as
9 rent from a mobile home park resident to which the owner is not entitled under the
10 provisions of this chapter shall be liable to the resident for any actual damages, attorney's
11 fees and costs incurred by the resident as a consequence thereof plus a penalty in the sum
12 of three (3) times the amount of money the owner accepted, received or retained in
13 violation of the provisions of this article or five hundred dollars (\$500.00), whichever is
14 greater.
15

16
17 **Sec.32.38. Rights of Affected Residents Reserved.** This chapter shall not be construed
18 to limit or curtail any other action or proceeding which may be pursued by an affected
19 mobile home park resident against an owner before any court or other body having
20 jurisdiction thereof.
21

22 **Sec. 32.39. Authority of the Board of Supervisors to Bring Civil Action to Compel
23 Compliance.**

24 In addition to any other remedy available by law, the Board of Supervisors may institute a
25 civil action to compel compliance with this chapter.”

26 **SECTION TWO:** The Board of Supervisors shall review the effectiveness of this chapter in
27 addressing the problems giving rise to its enactment at least one (1) year from its enactment.
28

1 Notice of the time and place of the board of supervisors' review shall be published at least ten
2 (10) days prior to said date in a newspaper of general circulation in the County of Lake.

3 **SECTION THREE:** If any provision or clause of this chapter or application thereof to any
4 person or circumstances is held invalid, such invalidity shall not affect other provisions or
5 applications of this chapter which can be given effect without the invalid provision or application,
6 and to this end the provisions of this chapter are declared to be severable and are intended to have
7 independent validity. The Board of Supervisors declares that it would have passed the Mobile
8 Home Rent Stabilization Program codified in this chapter and each section, subsection, clause, or
9 phrase hereof, irrespective of the fact that any one (1) or more of the sections, subsections,
10 sentences, clauses, or phrases hereof be declared invalid or unconstitutional.

11 **SECTION FOUR:** All ordinances or parts of ordinances in conflict herewith are hereby
12 repealed to the extent of such conflict and no further.

13 **SECTION FIVE:** This Ordinance shall take effect on the _____ of _____, 2009,
14 and within fifteen (15) days after adoption of the ordinance, the Clerk to the Board of
15 Supervisors shall publish a summary of the Ordinance with the names of those supervisors
16 voting for and against the ordinance and the Clerk shall post in the office of the Clerk to the
17 Board of Supervisors a certified copy of the full text of the adopted ordinance along with the
18 names of those supervisors voting for and against the Ordinance.

19 //

20 //

21 //

22 //

23 //

1 The Foregoing Ordinance was introduced before the Board of Supervisors on the _____
2 day of _____, 2009, and passed by the following vote on the ____ day of _____,
3 2009.

4 AYES:

5 NOES:

6 ABSENT OR NOT VOTING:

8 COUNTY OF LAKE

9
10
11
12 _____
Chair Board of Supervisors

13
14 ATTEST: KELLY F. COX
Clerk of the Board of Supervisors

15 APPROVED AS TO FORM:
16 ANITA L. GRANT

17 By: _____
Deputy

18 By: _____

THIS AGREEMENT WILL BE EXEMPT FROM ANY ORDINANCE, RULE, REGULATION OR INITIATIVE MEASURE ADOPTED BY ANY LOCAL GOVERNMENTAL ENTITY WHICH ESTABLISHES A MAXIMUM AMOUNT THAT A LANDLORD MAY CHARGE A TENANT FOR RENT.

INSERT PARK NAME Manufactured Home Community (hereinafter "Park") and those persons (collectively, "Resident") listed on the last page of this document (hereinafter "Supplement") agree to the terms and conditions set forth herein which amend and supplement the Rental Agreement (hereinafter "Agreement") for Homesite _____ entered into by and between the parties on _____, _____.

ACKNOWLEDGEMENT: Resident acknowledges and agrees that this Supplement, in addition to other modifications, modifies the provisions of the Agreement regarding the payment of rent, the manner in which rent increases are computed, and the term of the Agreement. Accordingly, Resident acknowledges and agrees that the Agreement shall be deemed to immediately follow this Supplement, pursuant to Section 798.17 of the California Civil Code, and the Agreement shall remain in full force and effect subject to the following modifications:

1. SPECIFIC INFORMATION.

1.1 **Term.** The tenancy created under the Agreement shall be changed from a month-to-month tenancy to the period designated below (unless sooner terminated in accordance with the terms of this Supplement, the Agreement, California Civil Code or other applicable law).

Five years (60 month) and shall commence on _____, _____, and end on _____, _____.

Seven years (84 months) and shall commence on _____, _____, and end on _____, _____.

Ten years (120 months) and shall commence on _____, _____, and end on _____, _____.

Other: _____ and shall commence on _____, _____, and end on _____, _____.

1.2 **Initial Base Rent:** _____ per month.

1.3 **Anniversary Date:** _____ ("Anniversary Date").

- 1.4 **Termination by Resident.** Resident may elect to terminate the Agreement and this Supplement on sixty (60) days' prior written notice to Park pursuant to paragraph 3 below.
2. **RENT.** Resident shall pay Base Rent in advance to Park on the first day of each month, without deduction, offset, eliminated abatement or rebate.
- 2.1 **First Anniversary Date.** The Initial Base Rent specified in paragraph 1.2 shall remain in effect until the first Anniversary Date, whereupon the Cost of Living adjustments shall commence pursuant to paragraph 2.2 below.
- 2.2 **Cost of Living Adjustments.** Commencing with the first Anniversary Date and on each Anniversary Date thereafter, the Base Rent then in effect shall be increased by an amount equal to the percentage increase in the Consumer Price Index for All Urban Consumers for the San Francisco-Oakland-San Jose California Area (1982-84=100) as published by the United States Department of Labor, Bureau of Labor Statistics during the twelve (12) month period ending at least one (1) month (but not more than four (4) months) prior to the month in which notice of increase is given. Such increase shall be made upon ninety (90) days' prior written notice. However, the cost-of-living adjustment shall not be less than three percent (3%) or greater than seven percent (7%). In the event of the foregoing Consumer Price Index is discontinued or revised, another governmental index then in existence shall be selected by Park and used to obtain substantially the same result.
- 2.3 **Formula Adjustments to Base Rent.** At any time after the initial twelve (12) months of this Agreement, the Base Rent then in effect shall be subject to formula adjustments.
- 2.3.1 **Notice.** A formula adjustment to Base Rent can be made by Park only after the giving of at least ninety (90) days' prior written notice. If a formula adjustment has been made for any of the items listed in subparagraph 2.3.4 below, then no additional increase for such item shall be implemented for twelve (12) months from the date of the previous noticed increase.
- 2.3.2 **Comparison Period.** For each formula adjustment set forth below, the "Comparison Period" is the twelve (12) month period ending at least one (1) month (but not more than four (4) months) prior to the month in which the rent increase notice is given or, at the election of the Park, the twelve (12) month period ending in December of the year prior to the month in which the rent increase notice is given. The "Base Period" is the twelve (12) month period immediately preceding the Comparison Period.

2.3.3 **Annualized.** If the amount for any item subject to the formula adjustments listed in subparagraph 2.3.4 has been instituted or increased at any time during the Comparison Period, such amounts may, at the election of Park, be annualized and be considered on a full twelve (12) month basis for the Comparison Period.

2.3.4 **Formula adjustments** are as follows:

(a) **Property Taxes.** If the property taxes for the Comparison Period exceeds the property taxes for the Base Period by more than two percent (2%), the Base Rent then in effect shall be increased by the amount of the increase in excess of two percent (2%), divided by twelve (12) and divided by the number of spaces in the Park. Property taxes includes, without limitation, general and special real estate taxes, personal property taxes, ad valorem taxes, bonds, fees, user fees, charges for or on offsite or onsite improvements, or any assessments or charges in lieu of real property taxes), any tax or excise on rents or any such other tax, however described, which is levied or assessed against Park as a direct substitution in whole or in part for any real property taxes. In the event Resident's Mobilehome, appurtenances and/or accessory structures shall be assessed and taxed with Park's real property, such tax assessed is included in property taxes. Park may estimate the amount of such taxes due and impound from Resident, on a monthly basis, Resident's estimated tax obligation pursuant to this paragraph. Park shall disclose exact amount of taxes due.

(b) **Government Required Services.** If the costs for Government Required Services on an item-by-item basis for the Comparison Period exceed the cost for any one or more Government Required Services compared to the Base Period, the Base Rent then in effect shall be increased by the amount of all such increased costs, divided by twelve (12) and divided by the number of spaces in the Park. The term "Government Required Services" includes, without limitation, any existing, new, additional or changed service or facility which Park is required by the government to provide, or which is economically imprudent not to provide due to governmental regulation, fees, bonds, charges and other related costs and expenses for water, sewer, hook-up to municipal sewer or local water company, trash pickup and trash bin rental and utilities provided by Park. Utilities separately billed by Park to Resident are excluded from this definition.

(c) **Capital Improvements and Capital Replacements.** The Base Rent then in effect shall be increased by an amount equal to the total cost of Capital Improvements and Capital Replacements made by the Park during the Comparison Period, amortized in accordance to Internal Revenue Service Depreciation Schedule, divided by twelve (12) and divided by the number of spaces in the park. Capital Improvements and Replacements are estimated to have a useful life of at least one (1) year, and Park shall be entitled to received interest on the unamortized balances calculated by utilizing a prime + two percent (2%) interest factor.

(i) **Capital Improvement Defined.** The term “Capital Improvement” refers to any thing that is new and does not currently exist in the Park, such as the construction of a new swimming pool where none existed before.

(ii) **Capital Replacement Defined.** The term “Capital Replacement” refers to replacement of any existing thing in the Park. Examples of Capital Replacements are: a new roof to replace the old roof on the existing clubhouse; and a replacement pump and filter for the swimming pool. Examples of repairs which are Capital Replacements, but which are excluded from the formula adjustment are: ordinary upkeep, e.g., repairing the clubhouse roof or repairing the pool pump and filter, maintaining landscaping and ordinary expenses which may be deducted in accordance with Internal Revenue Service regulations and federal tax and case law.

(iii) **Approval.** No individual capital improvement which would cost more than \$10,000 and which would result in an increase in Base Rent then in effect shall be made without the approval of the Park and the approval, by written ballot, of a majority (more than 50%) of Residents (one vote per Homesite). In the event that a capital improvement is proposed by the Park, but is not approved by a majority of Residents, then Resident’s rent shall not be increased for such capital improvement.

(d) **Insurance.** If the costs for insurance to the Park during the Comparison Period exceed the costs for insurance during the Base Period, the Base Rent in effect shall be increased by the amount of excess cost, divided by twelve (12) and divided by the number of spaces in the Park. The term “insurance” includes all amounts paid by the Park for insurance with respect to the Park, including, without limitation, insurance for any loss, damage or injury to property or person, including fire, earthquake, flood, vandalism, burglary, or theft, or workers’ compensation insurance.

2.3.5 **Increases Comprise Rent.** The Base Rent increases in paragraphs 2.2 and 2.3 comprise rent. No delay in the exercise of any right of Park to institute or increase any formula adjustment to Base Rent listed hereinabove shall be construed as a waiver or shall impair any right of Park to institute or increase such formula adjustment.

2.4 **Disclosure.** All billings and other documentation relating to calculation of an adjustment, pass through, or rent increase shall be disclosed to a homeowner within a reasonable time after request.

2.5 **Adjustment Upon Expiration.** Notwithstanding paragraphs 2.2 and 2.3, the Base Rent shall be increased either to (1) the highest space rent in the Park, or (2) by ten percent (10%) of the then existing base rent, whichever amount is higher, commencing with the next to last month of this Supplement, unless this Supplement is renewed pursuant to paragraph 6 entitled “Extension or Renewal.”

3.0 TERMINATION BY RESIDENT. Resident may elect to terminate the Agreement and this Supplement on sixty (60) days' prior written notice to Park if one of the following occurs:

3.1 Removal of Mobilehome. All persons occupying the Homesite rented to Resident by the Agreement and this Supplement terminate their tenancy as to said Homesite and remove Resident's Mobilehome, appurtenances and accessory structures from the Park. In such event, the Homesite shall revert to Park's control, and Park may lease or rent the Homesite to any party on any terms Park chooses.

3.2 Sale of Mobilehome. All persons occupying the Homesite rented to Resident by the Agreement and this Supplement terminate their tenancy as to said Homesite and sell Resident's mobilehome to another party who has been approved by Park for tenancy in the Park in accordance with the terms set forth in the paragraph entitled "Approval of Purchaser." In such event, the Agreement and this Supplement may, be assigned to the purchaser in accordance with the terms of this Supplement.

4. APPROVAL OF PURCHASER. Resident may sell Resident's Mobilehome at any time pursuant to the Mobilehome Residency Law and other applicable law. If the prospective purchaser of the Mobilehome intends for the Mobilehome to remain in the Park, said purchaser must do the following before occupying the Mobilehome: (a) complete an application for tenancy (which may include a fee for obtaining a credit report); (b) be accepted by Park; and (c) execute an assignment of Resident's interest in the Agreement and this Supplement or a new rental agreement, the Park's Rules and Regulations, and other residency documents. If the purchaser fails to execute an assignment or a new agreement, such purchaser shall have no rights of tenancy. The residency documents signed by the prospective purchaser may be different in their terms and provisions than such residency documents now in effect so long as residency documents are consistent with the terms of this agreement

5. ASSUMPTION OF AGREEMENT. After the initial twelve months of this Supplement, upon the sale of Resident's Mobilehome, Resident shall assign and the purchaser shall assume Resident's interest in the Agreement and this Supplement. Park retains the option, upon such assumption and transfer, to increase the adjusted Base Rent (the Base Rent then in effect for the month immediately preceding the effective date of the assumption or transfer) either (1) to the highest space rent in the Park for a comparable site/space, or (2) by an amount not exceeding ten percent (10%) of the then existing Base Rent, whichever amount is higher. Said increase shall be in addition to any other rental adjustments provided for in this Supplement.

6. EXTENSION OR RENEWAL. As long as this Agreement is in full force and effect and Resident is not in default of any term or condition hereof, Resident shall have the right to renew the Agreement and this Supplement for two (2) additional terms of sixty (60) months by giving written notice to other party of such election at least sixty (60) days prior to the expiration of the term. Park shall provide resident with at least six (6) and no more than nine (9) months notice of Resident's right to renew.

7. **MEGAN’S LAW DISCLOSURE. NOTICE.** : Pursuant to Section 290.46 of the Penal Code, information about specified sex offenders is made available to the public via an internet Web site maintained by the Department of Justice at www.meganslaw.ca.gov. Depending on the offender’s criminal history, this information will include either the address at which the offender resides or the community of residence and Zip Code in which he or she resides.

8. **PRIOR AGREEMENTS.** This Supplement supersedes all prior agreements regarding the terms of tenancy referenced herein. In the event of a conflict between the terms of the Agreement and the terms of this Supplement, the terms of this Supplement shall control.

9. **ACKNOWLEDGMENTS.** Resident represents, acknowledges and agrees as follows:

9.1 **Personal Residence.** Resident is entering into this Supplement for the personal and actual residence of Resident.

9.2 **Acceptance Period.** Resident has sixty (60) calendar days from and after the date Park submits this Supplement to Resident to accept or reject it.

9.3 **Cancellation Period.** Resident may cancel this Supplement within seventy-two (72) hours after executing it, by delivering a written notice to the Park stating Resident’s election to cancel.

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10. **ATTORNEYS FEES.** If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

THE PERSONS whose signatures appear below have reviewed, understand, and agree to be bound by this Supplement.

INSERT PARK NAME

Dated: _____ By: _____
Authorized Agent

RESIDENT(S)

Dated: _____ Signature _____

Time: _____ Print Name _____

Dated: _____ Signature _____

Time: _____ Print Name _____

Chapter 2.50 MOBILE HOME RENT REVIEW

Sections:

[2.50.010 Purpose.](#)

[2.50.020 Definitions.](#)

[2.50.030 Applicability.](#)

[2.50.040 Rent review commission.](#)

[2.50.050 Powers of the commission.](#)

[2.50.060 Initiation of commission review and hearing process.](#)

[2.50.070 Disallowed increases.](#)

[2.50.080 Enforcement.](#)

2.50.010 Purpose.

There is presently within the city a shortage within mobile home parks of desirable spaces for the location of mobile homes. Because of the high cost of moving mobile homes the potential for damage resulting therefrom, the requirements relating to the installation of mobile homes, including permits hookup fees, landscaping and site preparation, the lack of alternative home sites for mobile home residents, and the substantial investment of mobile home owners in such homes, the city council finds and declares it necessary to protect the owners and occupiers of mobile homes from unreasonable space rent increases, while at the same time recognizing, with reservations, the need of park owners to receive a fair return on their investment and rental increases sufficient to cover the increased cost of repairs, maintenance, insurance, taxes, upkeep and additional amenities, and governmental assessments. (Ord. 1441 § 1 (part), 1982).

2.50.020 Definitions.

Words used in this chapter shall have the meaning ascribed to them in this section.

A. "Commission" means the mobile home rent review commission established by Section 1.50.040 of this chapter.

B. "Members" means commissioners of the mobile home rent review commission.

C. "Mobile home park" is an area of land where two or more mobile home sites are rented, or held out for rent, to accommodate mobile homes used for human habitation.

D. "Mobile home" is a structure designed for human habitation and for being moved on a street or highway under permit.

E. "Mobile home park owner" or "owner" means the owner, lessor, operator or manager of a mobile home park within the purview of this chapter.

F. "Mobile home tenant" or "tenant" means any person or persons entitled to occupy a mobile home dwelling unit pursuant to ownership thereof or a rental or lease arrangement with the owner thereof.

G. "Space rent" or "rent" means the consideration, including any bonus, benefits or gratuity demanded or received in connection with the use and occupancy of a mobile home space, or site, in a mobile home park, or for the transfer of a lease for a park space or site, services and amenities, subletting and security deposits, but exclusive of any amounts paid for the use of the mobile home dwelling unit.

(Ord. 1441 § 1 (part), 1982).

2.50.030 Applicability.

The provisions of this chapter shall not apply to a mobile home park which contains fewer than twenty-five (25) spaces or sites.

(Ord. 1441 § 1 (part), 1982).

2.50.040 Rent review commission.

A. Pursuant to Section 700 of the Charter of the City, there is created within the city a mobile home rent review commission consisting of seven (7) members to be appointed by the city council.

B. Two members shall be mobile home tenants and shall be selected by the city council from a list of no more than five (5) applicants supplied through a committee of Merced City mobile home tenants, which committee shall include two (2) members from at least two (2) active Merced City mobile home parks.

C. Two (2) members shall be mobile home park owners, operators or managers, and shall be selected by the city council from a list of no more than five (5) applicants whose names have been agreed upon by no less than two Merced City mobile home park owners, operators or managers.

D. The fifth, sixth, and seventh members shall be neither mobile home tenants nor mobile home owners, operators or managers, or any person holding a financial interest in rental property. They shall be selected by the city council from a list of applicants at large. All members shall be full-time residents of the city.

One alternate shall be appointed in each classification for subsections B, C, and D, to serve when needed.

E. Within ten (10) days after having taken the oath of office, the commission shall select a chairman from the members at large, shall serve at the pleasure of the commission.

(Ord. 1441 § 1 (part). 1982).

2.50.050 Powers of the commission.

Within the limitations provided by law, the commission shall have the following powers:

A. To meet from time to time as requested by the city manager, or upon the filing of a petition, and to utilize city offices and/or facilities as needed;

B. To receive, investigate, hold hearings on, and pass upon the petitions of mobile home tenants as set forth in this chapter;

C. To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out their duties;

D. To adjust rents either upward or downward upon completion of their hearings and investigations;

E. To render, at least semiannually, a comprehensive written report to the city council concerning their activities, rulings, actions, results of hearings and all other matters pertinent to this chapter which may be of interest to the city council;

F. To adopt, promulgate, amend, and rescind administrative rules to effect the purposes and policies of this chapter;

G. To maintain and keep at City Hall mobile home rent review hearing files and dockets listing the time, date, and place of hearings, the parties involved, the addresses involved and the final disposition of the petition;

H. To assess such amounts of money against the petitioners and respondent upon the conclusion of a hearing as may be necessary to compensate the city for staff time and other costs incurred. Such assessment shall not exceed three hundred dollars (\$300.00) each from the petitioners and the respondent.

(Ord. 1441 § 1 (part), 1982).

2.50.060 Initiation of commission review and hearing process.

A. Upon the receipt of a written petition signed by tenants representing fifty-one (51) percent or more of the physically occupied spaces, not including spaces occupied by management personnel, of any mobile home park containing twenty-five (25) or more spaces, who have been subjected to a rent increase within six (6) months prior to, or at any time subsequent to, the enactment of this chapter, the commission shall hold a hearing no sooner than ten (10) days and no later than thirty (30) days at a place and time to be set by the commission, to determine whether or not the rental increase is so great as to be unconscionable or an unreasonable increase. A reasonable continuance may be granted if stipulated to by both parties or at the commission's discretion.

B. The petition shall be accompanied by a cash deposit in the sum of three hundred dollars (\$300.00), all or any part of which may be assessed against the petitioners pursuant to Section 2.50.050(h). The balance, if any, shall be refunded upon the conclusion of the hearing and submission of findings by the commission.

C. Upon receipt of the petition, the commission shall notify the park owner, operator and manager, in writing, of the petition and shall require from the respondents a like cash deposit in the sum of three hundred dollars (\$300.00), all or part of which may be assessed against the respondents for costs pursuant to Section 2.50.050(h). The balance, if any, shall be refunded upon the conclusion of the hearing and submission of findings by the commission.

In the event respondents fail to post the cash deposit not less than three (3) days prior to the hearing date set by the commission, there shall operate at that hearing a conclusive presumption that any increase in rent sought by the respondents is unreasonable.

D. All rent review hearings shall be open to the public.

E. All parties to a hearing may have assistance in presenting evidence or in setting forth by argument their position from an attorney or such other person as may be designated by such party. All costs incurred for such assistance shall be paid by the party requesting the assistance, and shall not be included as any part of the assessment defined in Section 2.50.050(h).

F. In the event that either the petitioner or the respondent should fail to appear at the hearing at the specified time and place, the commission may hear and review such evidence as may be presented and make such decisions just as if both parties had been present.

G. The commission shall make a final decision no later than ten (10) days after the conclusion of its hearing on any petition. No rent adjustment shall be granted unless supported by the preponderance of evidence submitted at the hearing. The respondents shall have the initial burden of presenting such evidence. All parties to a hearing shall be sent a notice of the commission's decision and a copy of the findings upon which the decision is based.

H. Pursuant to the findings, the commission shall require the mobile home park owner, operator or manager to:

1. Reduce the rental charge to a rate to be determined by the commission;
2. Continue the rental charge as it existed under the former lease or rental agreement, written or implied;
3. Increase the rental charge to a rate set by the commission or to the rate requested by the park owner.

I. Any rental increases which have been collected by a mobile home park owner pursuant to an increase which is later determined by the commission to have been excessive shall be returned to the tenants with sixty (60) days after such determination.

J. In evaluating the rent increase proposed or effected by the mobile home park owner, the commission shall consider the increased operating costs to the owner attributable to,

and including but not limited to, increases in utility rates and property taxes, insurance, advertising, governmental assessments, capital improvements, incidental services, normal repair and maintenance, minor upgrading of amenities and services, or the deletion of amenities or services, plus a fair rate of return on investment.

K. A rent increase which is the subject of a petition for hearing under this chapter may be denied in full upon submission of substantial evidence that the mobile home park owner, operator or manager has threatened punitive actions of any kind against any park tenant or petitioner for seeking relief under this chapter.

L. The conclusions and findings of the commission shall be final and there shall be no appeal rights to the Merced city council.

M. Should the commission rule that a rent increase is warranted or allow a lesser increase than requested by the park owner, then no additional increase of rent shall be allowed by the commission in the mobile home park for a period of six (6) months from the date of filing of the written petition.

(Ord. 1441 § 1 (part), 1982).

2.50.070 Disallowed increases.

Any rent increases which have been collected by an owner pursuant to an increase which is the subject of a written petition and which is determined by the commission to have been excessive shall be either returned to the tenant or credited to future rental, provided that no increases collected prior to April 5, 1982 shall be returned. (Ord. 1441§ 1 (part), 1982).

2.50.080 Enforcement.

A. Violation of the provisions of this chapter shall be a misdemeanor.

B. A mobile home tenant(s) may at any time bring an action in the courts of this state alleging a violation by an owner of any of the terms of this chapter, including, but not limited to, the existence of a level of rents in excess of that allowed and may seek a court order requiring compliance with the provisions of this chapter.

C. An owner may at any time file an action in the courts of this state alleging a violation by a tenant of the provisions of this chapter, and may seek a court order directing compliance with the provisions hereof.

D. The owner may not enforce a rent increase in excess of that allowed by the procedures set forth in this chapter. In the event an owner increases rents without complying with the provisions of this chapter, such an increase shall be deemed null and void, mobile home tenants shall not be required to pay such increase. Any mobile home tenant who is sought to be excluded from the park through an unlawful detainer action brought by the owner to enforce eviction for nonpayment of increase shall have a right to assert the invalidity of such increase as a defense to the unlawful detainer proceedings. (Ord. 1441 § 1 (part), 1982).

BERKELEY PROGRAM ON HOUSING AND URBAN POLICY

Berkeley Program on Housing and Urban
Policy
UC Berkeley

Title:

The Curious Institution of Mobile Home Rent Control: An Analysis of Mobile Home Parks in California

Author:

[Mason, Carl](#), University of California, Berkeley
[Quigley, John M.](#), University of California, Berkeley

Publication Date:

06-01-2006

Series:

[Working Papers](#)

Publication Info:

Working Papers, Berkeley Program on Housing and Urban Policy, Institute of Business and Economic Research, UC Berkeley

Permalink:

<http://escholarship.org/uc/item/44d7h9hs>

Abstract:

This paper analyzes the implications of rent control as applied to dwellings located in mobile home parks. This form of regulation differs from apartment rent control in that: it is applied selectively to a small portion of the housing stock, and; it regulates the site rents paid to the park owner, not the selling prices of mobile homes. We present a detailed case study of the effects of this institution in three mobile home parks in different cities and regions in California, documenting the capitalization of regulatory rules into the selling prices of housing, and raising questions about the legality as well as the efficacy of the institution.



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WORKING PAPER SERIES

WORKING PAPER NO. W04-007

**THE CURIOUS INSTITUTION OF
MOBILE HOME RENT CONTROL:
AN ANALYSIS OF MOBILE
HOME PARKS IN CALIFORNIA**

By

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June 2006

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UNIVERSITY OF CALIFORNIA, BERKELEY

**The Curious Institution of Mobile Home Rent Control:
An Analysis of Mobile Home Parks in California***

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June 2006

Abstract

This paper analyzes the implications of rent control as applied to dwellings located in mobile home parks. This form of regulation differs from apartment rent control in that: it is applied selectively to a small portion of the housing stock, and; it regulates the site rents paid to the park owner, not the selling prices of mobile homes. We present a detailed case study of the effects of this institution in three mobile home parks in different cities and regions in California, documenting the capitalization of regulatory rules into the selling prices of housing, and raising questions about the legality as well as the efficacy of the institution.

Key words: capitalization
JEL codes: L51, K2, L85

*The research on which this paper is based benefited from the comments of Mark Alpert, James Brabant, David Bradford, William Dahlin, Ellen Kelleher, Paul Regan, Liza Scrugs, and Benjamin Weinberg. We are grateful for data supplied by Marguerite Nader, John Neet and Peter Underhill and for the assistance of Sarah Dunn. The usual caveats apply.

I. Introduction

Although economists disagree on many things, there seems to be a clear consensus within the dismal science on the effects of rent control: these regulations lead to reductions in the quality and quantity of housing available to consumers (Alston, Kearn, and Vaughn, AKV, 1992). Recent scholarly work (e.g., Turner and Malpezzi, 2003) only reinforces the survey of opinions reported by AKV a decade earlier. Arbitrarily fixing rents below their market-clearing levels throughout a housing market induces three kinds of economic effects:

First, those tenants who manage to locate and occupy rent-controlled dwelling units clearly benefit. However, these benefits are typically not distributed to those whom policy makers intend to help. “Lucky” consumers, disproportionately long-term residents and those with connections within the local real estate market, benefit at the expense of new households and immigrants from other regions. (Basu and Emerson, 2000.) The capricious distribution of benefits means that dwellings are not allocated to those who value them the most.¹

Second, housing suppliers see the economic value of their properties decline, and they react by reducing maintenance expenditures. Other potential suppliers of housing invest their capital elsewhere; the incentive to invest capital to produce new housing is inexorably reduced. Reduced supply makes housing more difficult to obtain, and it makes alternative housing more costly. These costs are borne diffusely by consumers at large. When supply is reduced, the individuals who would have resided locally choose

¹ Glaeser and Luttmer, 1997, 2003, emphasize that these social costs are quite large.

other towns or regions. And those who do live locally face higher costs because housing is scarce.

Third, artificially low rents lead to excess demand for housing, to the hoarding of rent controlled units, and to reduced household mobility. The popular literature is replete with anecdotes describing how rent control leads to housing which is hoarded by the “wrong” people.²

We analyze the economics of rent control when these regulations are applied to mobile homes or manufactured housing located in mobile home parks. These price controls are common in several states, notably California (where approximately ninety cities impose them and where, with few exceptions, it is the only form of local rent regulation not prohibited by state law). These regulations mandate a base rent which is often permitted to increase over time according to some formula (typically based on variations in the consumer price index). Upon vacancy, the park owner may be allowed to reset the rent to a new base to reflect current market conditions (“vacancy decontrol”), or the current rent may be continued for the incoming resident (“vacancy control”).

In section II below we outline the salient characteristics of these regulations in comparison with rent control imposed on apartment buildings. The principal issue noted in section II is the potential for the capitalization of any rent reductions mandated by the legislation. Section III provides a detailed case study evaluating rent control regulations

² See Glaeser (1996). For example, the journalist Ken Auletta (1979) describes the “Tobacconist to the World” Nat Sherman who rented a six room apartment on Central Park West at the controlled rent of \$335 a month. Sherman said of the apartment, “it happens to be used so little that I think [the rent] is fair.” This choice dwelling was allocated to someone who valued it *so little* that it was worth no more to him than its low regulated cost.

in three mobile home parks in three different cities and regions in California. Section IV is a brief conclusion.

II. Apartment Rent Control and Mobile Home Rent Control

There are two important differences in the institution of rent control when it is selectively applied to manufactured housing in mobile home parks rather than apartments.

First, the rent control regulations are imposed on only a small portion of the local housing market, namely those dwellings in mobile home parks. Prices in the larger housing market are set by supply and demand, not by regulation, and units in mobile home parks compete with apartments, condominiums, and owner-occupied dwellings whose prices are unregulated. This distinction is crucial in evaluating the economic consequences of the regulations.

Second, the form of the price control differs between apartment regulation and mobile home regulation, reflecting the divided ownership of mobile home living space. The owner of the dwelling, manufactured housing or a mobile home typically owns only the housing unit, while she rents a site in a mobile home park on which the coach is situated. This separation of ownership ensures that the cost of residing in a mobile home depends, not only upon the economic value of the structure, but also upon the site rent charged by the owner of the mobile home park. When rent control is applied to a mobile home park, the regulated price applies only to the site on which the manufactured home is placed. Under “vacancy control,” the right to rent the site at this regulated price is transferred to the incoming resident when the mobile home is sold.

These two factors, the divided ownership of land and structure and the imposition of rent regulation on only a small fraction of the local housing market, have important implications for the economic consequences of rent regulation as applied to manufactured homes in mobile home parks.

The fact that mobile homes are usually a small portion of the local housing market means that rent control rules have little or no impact on the level of regional housing prices. As price takers, the owner occupants of mobile homes sell their units at market-determined prices -- prices that reflect the operation of supply and demand across a large number of substitutable dwellings. If there is an increase in demand for housing in a local market, there will be upward pressure: on mobile home prices as well as the prices of condominiums; on the prices of owner-occupied housing as well as apartments. The fact of divided ownership also implies that the right to occupy a mobile home site at a regulated rent in a mobile home park may have intrinsic economic value. A dwelling owned by a resident is affixed to land rented under well-defined terms from another entity, the mobile home park owner. If the site is rented under a “vacancy control” regulatory environment and if prices that potential new renters would willingly pay are above the regulated rent, then the right to occupy the site will certainly be valuable. Analogous variations in the intrinsic value of rental contracts arise quite routinely in the commercial real estate market when assignable leases for fixed terms at below-market rents are transferred among tenants in return for economic considerations.³

³ Within the housing market, the capitalization of contractual terms is not uncommon either. For example, it has been found that the favorable terms of assumable mortgages at below market interest rates are capitalized into the selling prices of single family houses. (See, for example, Durning and Quigley, 1985.)

In the mobile home market, transfer of the lease for site rental is accomplished only when the dwelling is sold by one resident to another. The tied sale of the coach together with the right to occupy a site is analytically equivalent to the transfer of rental rights together with a payment of “key money” in apartment rent control.⁴ In the case of mobile home rent control, the price paid by a prospective resident when she purchases a coach may include “key money” (i.e., the capitalized value of the rent control contact). These tied transactions are invariably illegal under rent control ordinances adopted for apartments, but tied transactions are *inevitable* under mobile home rent control ordinances.

This perspective on mobile home rent control is very difficult to reconcile with the stated objectives of the rent control ordinances adopted by many local jurisdictions. Indeed, capitalization makes it logically impossible for these regulations to increase “affordability of housing” at the time of enactment any time or in the future.

Other related objectives are sometimes invoked by local jurisdictions enacting mobile home rent control.⁵ Consider for example, the broadly related objective of “increasing the supply of housing that is affordable” to middle income households. With capitalization, the tied sale of a regulated rent contract and a physical structure completely frustrates the attempt to achieve this objective through rent control on mobile homes. In a competitive market, these individuals selling manufactured homes are price takers, charging the market price for the structure and the rental contract they offer in a tied sale. The small number of mobile home sellers in the large market for housing

⁴ In apartment rent control, “key money” is typically paid to the landlord or her agent, while in mobile home rent control the value of the regulated site rent is paid to the vacating tenant. Analytically this makes no difference.

services will thus obtain the full benefit of any reduced rents mandated by the regulation. The cost of housing to subsequent consumers is completely unaffected by the rent regulation, and housing is no more “affordable” afterwards than it was before the ordinance was adopted. In the limit, *all the benefits* are enjoyed by the lucky people who were mobile home owners at the time the ordinance was enacted.

Consider the objective of remedying a “shortage of manufactured home park space” relative to its demand. Sometimes this objective is characterized as remedying a condition of “low vacancy rates” in mobile home parks. The regulation of rents which can be charged by park owners can hardly further these objectives. Housing suppliers compete in the market for housing services, but also in the market for capital. Price regulation discourages the investment of capital in supplying mobile home parks. Indeed, it is hard to imagine that the imposition of price controls would have *any* impact on mobile home park space, except to *reduce* the amount of available space. When price goes down, demand goes up, and supply decreases.

Consider the broader objectives of protecting tenants because of the “difficulty and expense of relocating” their manufactured homes or of “facilitating fair bargaining between landlords and tenants” in mobile home parks. If the owners of mobile home parks were able to exert market power to extract higher prices from tenants, then the protection of consumers from monopoly power would justify a variety of regulations.

But mobile home park owners compete broadly in the market for housing services, not narrowly in a market defined as the renting-of-mobile-home-spaces-to-consumers-who-already-own-mobile-homes. Consumers freely choose among types and

⁵ The related objectives discussed below are noted in the preamble to rent control ordinances adopted in a number of cities in California.

quantities of housing, and no consumer is compelled to reside in one form of housing or another.

Nevertheless, in choosing housing accommodations, transactions and moving costs are certainly relevant, and these costs are unquestionably higher for those consumers who *already own* mobile homes. It may seem that a mobile home park owner could behave as a monopolist when bargaining with a tenant once that tenant's manufactured home has been placed in the owner's park. It may seem that the park owner could increase rents subsequently to extract any equity the coach owner had developed – for example, by owner investments in landscaping, in carports, and accessories. As a monopolist, the park owner could increase rents above the market level, up to the considerable cost of moving the dwelling to another site.

But consider the implications of this behavior for the economic health of the park owner. The consequences of engaging in this activity could be observed quite easily -- by other owners of mobile homes in the park, but also by other housing consumers in the region. The overwhelming majority of these other consumers are not currently owners of manufactured housing. If these consumers observed this form of rent gouging by the park owner, they would be far less likely to choose a mobile home as a form of housing. Those who did choose this form of shelter would be far less likely to locate in the park owned by the rent gouger. Together, these reactions would increase the vacancy rates in the park, and the forces of competition between owners of the mobile home parks and other suppliers of housing services would make this form of rent gouging behavior unprofitable. If fears of rent gauging were wide-spread, we should expect that the dominant type of mobile home contract would be the long-term lease. Although long-

term leases are written in the mobile home market, they are not the usual form of contract.

III. Empirical Analysis of Mobile Home Rent Control

A. Preliminaries

There is only limited empirical evidence on the economics of mobile home rent control, but the fragmentary evidence is consistent with the reasoning described above. For example, there is weak evidence that, *ceteris paribus*, the average selling prices of mobile homes are higher in jurisdictions which have imposed mobile home rent control (Hirsch, 1988). There is also evidence that the supply of mobile homes declines with the imposition of mobile home rent control. This evidence is based upon variations in shipments of new mobile homes to California during 1977-1992 as the mobile home regulatory environment varied (See Hirsch and Rufolo, 1999).

In this paper, we present new evidence based on a detailed case study analyzing the economic consequences of mobile home rent control in three mobile home parks in three different cities and regions in California. The locations chosen, Marin County, Santa Barbara County, and San Diego County, contain both breathtakingly high priced housing and more modest accommodations. Site rentals in these mobile home parks are regulated under a system of “vacancy control” rules imposed by the cities. These rules fixed rents on a given date, and they permit regular increases from the base rent equal to a

fixed percent of any increase recorded in the local cost of living index.⁶ No other direct forms of housing price controls are in effect; mobile home dwellings are bought and sold by housing consumers at unregulated prices, but imbedded in each sale of a mobile home is the right to occupy the land to which it is affixed in return for payment of the regulated rent.

We consider the consequences of mobile home rent control on the consumers of mobile homes in these three cities. Table 1 reports the number of dwellings in these cities and in the counties in which they are located. In the larger county housing markets, mobile homes represent very small fractions of the available housing stock: 0.5 percent in Marin County; 5.4 percent in Santa Barbara County; 4.3 percent in San Diego County. Within the three cities which impose rent control, mobile homes represent 1.8 percent, 7.7 percent, and 13.1 percent of the housing stock respectively.

B. Indirect evidence from Price Trends

The right to a rent controlled parcel of land may have economic value if the regulated rent is significantly lower than the market rent set by competition among the other dwellings in the each city and county housing market. We explore two bits of indirect evidence on this point: (1) a comparison of mobile home rents over time in one of the three regulated mobile home parks with the selling prices of condominium units in a complex immediately adjacent; and (2) a comparison of the regulated mobile home site

⁶ In the city in Marin County, for example rents are permitted to increase at three quarters of the increase recorded in the previous year in the Consumer Price Index for all Urban Consumers (CPI-U) for the San Francisco CMSA. In the city located in Santa Barbara County, rents are permitted to increase at three quarters of the increase in the CPI-U for Los Angeles-Long Beach-Anaheim.

rents in another of these mobile home parks with price trends of single family homes in the surrounding area.

A complex of town homes lies immediately adjacent to the entry to the mobile home park in Marin County. In fact, the entrance to the mobile home park bisects the townhouse complex. Figure 1 presents a scatter diagram indicating all sales recorded from April 1998 through June 2002 for these townhouses. All townhouse sales are dwellings with two bedrooms and one bathroom, and all recorded sales involved one of three designs. Figure 1 also reports the course of regulated site rents at the mobile home park directly adjacent. Both data series are normalized to a value of 100 in April 1998. As the figure indicates, the rate of appreciation in the private market has been substantial. The increase in prices for townhouses was more than 70 percent through December of 2001. In contrast, the increase in site rents in the mobile home park, as permitted by the rent

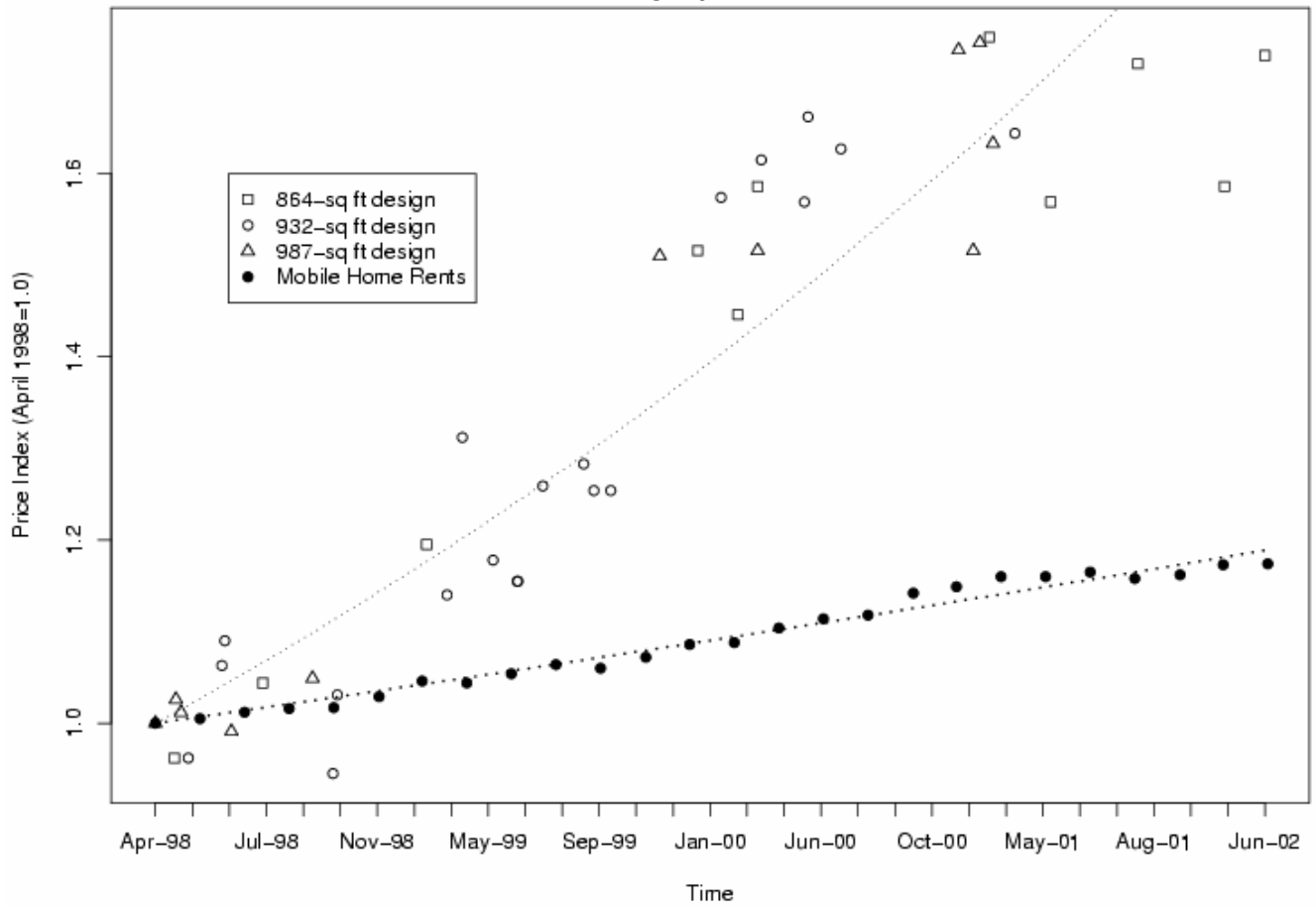
Table 1

Number of Dwellings in Three Cities Imposing Rent Control and in their Surrounding Housing Markets

Dwellings	Marin		Santa Barbara		San Diego	
	County	City	County	City	County	City
Total units	104,990	22,960	142,901	20,442	1,040,149	18,833
Single detached	63,666	10,490	79,751	12,125	530,430	10,609
Single attached	8,452	1,992	9,300	1,740	98,101	1,619
Mobile homes	542	413	7,774	1,578	44,234	2,474
Owner-occupied	5,519	9,795	76,579	13,778	552,461	13,120
Renter-occupied	36,221	10,348	60,043	6,082	443,126	5,350
Unspecified	13,650	2,817	6,279	488	45,472	363

Source: U.S. Census Bureau, *Census 2000*, Summary file 3.

Figure 1
Townhouse Sale Prices and Regulated Mobile Home Site Rents
in Marin County: April 1998 – June 2002



control regulation, was considerably more modest. Through December of 2001, regulated increases amounted to about 16 percent, or less than one-fifth of the price increases in the unregulated housing market.⁷

The figure also presents semi log regression estimates of the course of town house sales and mobile home rents. For the unregulated townhouses, the estimated price gradient is almost four times the gradient for mobile home rents.⁸ Using these regression models, the estimated price increase in town homes was 94 percent during the April 1998-2004 period. The increase was 19 percent for mobile home rents.

Using methods reported in detail in Appendix B (a standard Box-Cox hedonic price model), we estimated a price index for sales of single family census tracts surrounding the mobile home park in San Diego County. Figure 2 presents

⁷ The course of regulated rents increased by 17.4 percent from April 1998 through June 2002 while the national consumer price index increased by 10.7 percent during the same period.

⁸ The lines presented in Figure 1 are based upon regressions of condominium sales prices (P) and regulated rents (R)

$$\text{Log P} = -0.009 + 4.538T - 0.025S + 0.010L$$

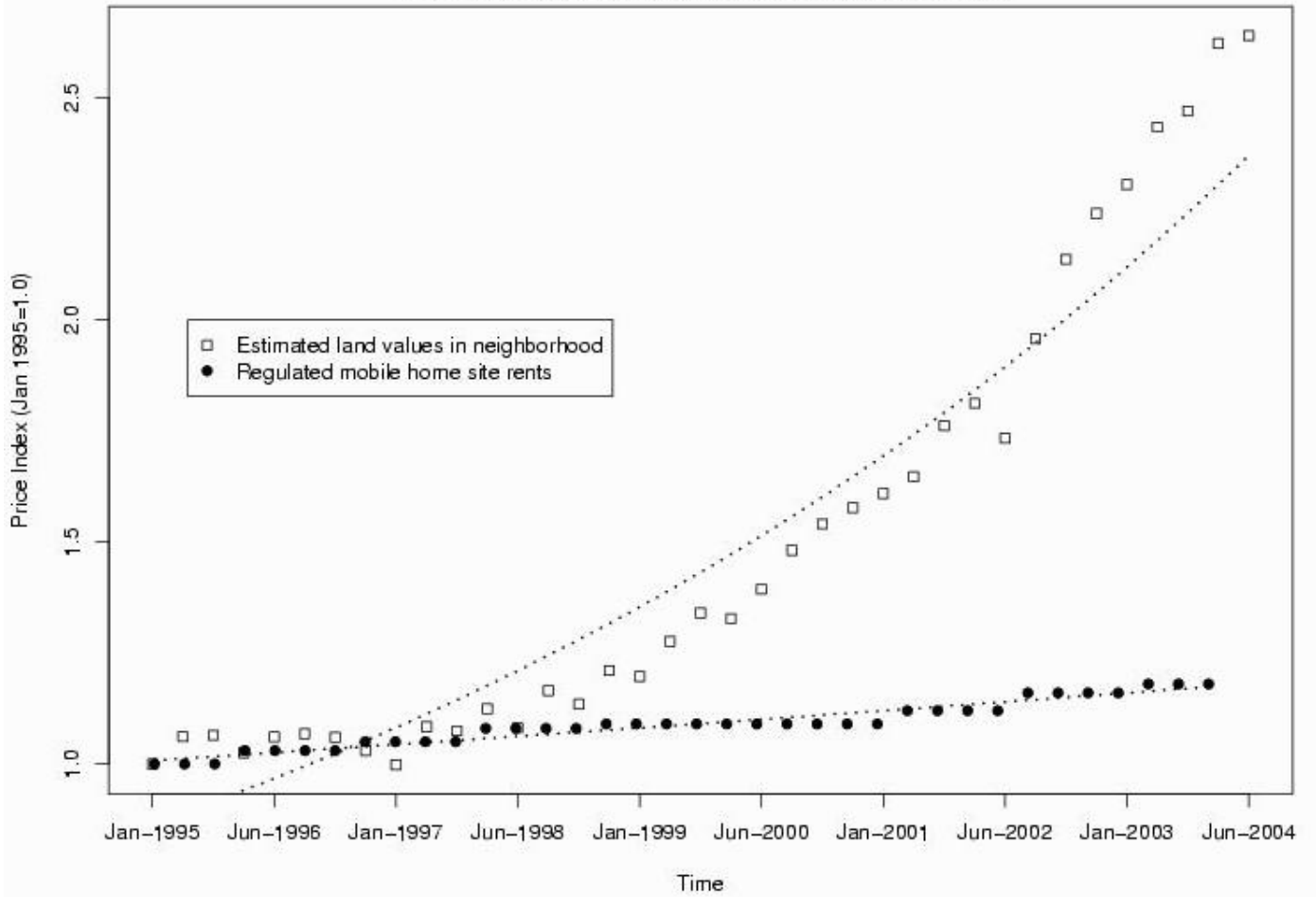
(0.37) (15.76) (0.81) (0.36)

$$\text{Log R} = -0.003 + 1.170T$$

(1.05) (33.87)

where T is time (in days X 10⁴) from April 1, 1998 and S and L are dummy variables for small and large condominium designs, respectively. t-ratios are reported in parentheses.

Figure 2
Regulated Mobile Home Site Rents and Unregulated Land Values
In San Diego County: January 1995 – December 2003



these estimated prices together with the course of regulated mobile home rents during the period 1995-2003. As the figure indicates, the rate of price appreciation for properties in the surrounding area has been substantial. Prices increased to more than 220 percent of the initial level through March 2003, while regulated site rents had been permitted to rise by only about 20 percent.⁹

C. The Capitalization of Contractual Terms

The wide divergence between the price gradient for regulated site rents of mobile homes and the price gradient for the adjoining housing units creates some presumption that the favorable terms enjoyed by current mobile home owners will be capitalized, in some part, into the selling prices of mobile homes. The comparison of sale prices for single family homes not subject to rent control reinforces this presumption.

To analyze the capitalization of contractual terms, we only need note the link between the flow of the benefits of occupancy and the value of the stock. Recall that the value, V , of property yielding an annual return, R , in perpetuity is

$$(1) \quad V = \frac{R}{(1+i)} + \frac{R}{(1+i)^2} + \dots + \frac{R}{(1+i)^\infty} = (1/i)R ,$$

where i is the interest rate.

⁹ The lines presented in Figure 2 are based upon regressions of the index of single family sales prices (S) and regulated rents (R)

$$\text{Log } S = -0.131 + 2.859T$$

(4.71) (18.83)

$$\text{Log } R = -0.007 + 0.488T$$

(1.91) (24.68)

Where T is time (in days $\times 10^4$) from January 1, 1995. t -ratios are reported in parentheses.

Suppose that rents are expected to remain constant; then from (1), the annual rent on property value at V is:

$$(2) \quad R = iV .$$

This formulation emphasizes i as the “user cost of capital,” the annual cost of using one dollar’s worth of real property.

The sale of a single family home at the price of V^s , implies the transfer of a structure with a value of S^s and the right to use, and to dispose of, a plot land with market value of L .

$$(3) \quad V^s = S^s + L .$$

From equation (2) the annual cost of occupancy of a property valued at V^s , the implicit rent, R^s , consists of two parts,

$$(4) \quad R^s = iV^s = iS^s + iL ,$$

the user cost of the structure, iS^s , and the market rental rate of the lot on which the structure is built, iL . In contrast, when we observe the sale of a mobile home under rent control at a price of V^m , it consists of the transfer of a coach with the value of S^m and the right to use a plot under specified conditions. Under vacancy control price regulation, the purchaser receives the right to rent the site upon which the mobile home is placed in return for some regulated annual rent of Q . The purchaser also enjoys the opportunity to transfer that right by selling the mobile home to a subsequent purchaser. In general, the annual benefit of holding this right is the difference between the market rent for the lot (iL) and the regulated rent, Q , paid to the park owner,

$$(5) \quad rZ = iL - Q .$$

Equation (5) relates the annual benefit of controlled rent to the annual cost, rZ , of that right. In equation (5), r represents the interest rate at which the mobile home buyer can finance her purchase, and Z represents the cost of acquiring the right to occupy the mobile home site at the regulated rent. The left side of equation (5) is thus the “user cost” of the right to the consumer, and the right hand side is the annual benefit to the consumer of enjoying this right, $iL-Q$. If the rent is regulated in perpetuity at the level of Q and if market land rents are constant, then from equation (1), the market value of the benefit, Z , is

$$(6) \quad Z = (1/r)[iL - Q].$$

If interest rates for land rent and mobile home finance are equal, $r=i$, then

$$(7) \quad Z = (1/i)[iL - Q].$$

If the currently regulated rent is assumed to remain in force forever and if $r=i$, then the annual benefit from the rent regulation will be “fully capitalized” into the market value of the right of Z .

More generally, if there is some uncertainty about the duration of regulation, or if interest rates for mobile home finance r and land rent i are not identical, the annual benefit may be capitalized at some fraction k

$$(8) \quad Z = k(i/r)(1/i)[iL - Q] = k(i/r)[L - Q/i].$$

Note that if $i=r$ and $k=1$, the expression is again identical to equation (1).

In any event, when we observe the sale of a mobile home at a price of V^m , the transaction includes the transfer of a coach whose value is S^m , and also the transfer of the right to use the site, which has a market value of Z ,

$$(9) \quad V^m = S^m + Z.$$

If Z and L were observed, then we could infer the rate of capitalization, k , directly from equation (8).

D. Data Assembly

As indicated in equation (8), the capitalization of rent control benefits depends upon:

- $V^m - S^m$ the difference between the selling price of the mobile home and the value of the coach, which is equal to Z ;
- Q the rent to the park owner stipulated in the rent control regulation;
- L the market value of the land on which the mobile home is sited;

as well as the interest rates r and i .

Of the four variables, two are available directly from a sample of mobile sales -- the transaction price, V^m , and the regulated rent at the time of sale, Q . It may be surprising to note that an estimate of the value of the coach, S^m , is also routinely available for mobile home sales.

The year, make, and model of a manufactured home are sufficient to identify an estimate of its value in the *National Automobile Dealers' Association Mobile/Manufactured Housing Appraisal Guide* or from the *Kelley Blue Book*. These estimates are analogous to the "blue book" values reported for used cars.¹⁰ For mobile homes, the guides report an average valuation for the structure in average condition with no specific reference to the location or siting of that structure. The estimate of value for any specific coach is thus subject to error. But it should also be noted that the *Kelley Blue*

¹⁰ Indeed, *NADA* as well as *Kelley's Blue Book* produce regular valuation guides for automobiles, trucks, and limousines, as well as mobile homes.

Book and the *NADA Appraisal Guide* are widely used by public officials in assessing manufactured housing for property taxes.¹¹ Indeed the California Revenue and Tax Code (Section 5803) directs assessors to consider the *NADA Appraisal Guide* and/or the *Kelley Blue Book* valuations when assessing mobile homes for local property taxes.

The methodology underlying these appraisal guides is, understandably, proprietary. Thus there is no published evidence on the properties of either guide as an estimator of the market prices for mobile homes. In Appendix A we present independent evidence that the *NADA* prices are unbiased. We gathered data on all sales of mobile homes in three parks subject to vacancy control rent regulations, one in a city located in each county during time intervals spanning 1999-2004. Sale prices of these mobile homes, together with *Appraisal Guide* and *Blue Book* estimates of the value of coaches, permit us to estimate the economic value of rent regulations.

Table 2 reports the economic value of the right to rent control based upon 245 sales of mobile homes in these three parks during the period of 1999-2004. Given the high housing and land costs in California, it is not surprising that the benefits of rent control are quite large, averaging almost \$24,000 in each sale in the park located in a modest neighborhood in San Diego County, up to \$105,000 in each sale in the park located in exclusive Santa Barbara County. On average, this right represents between 48 and 88 percent of the value exchanged in the transactions on manufactured housing in these parks. The implied value of this right, per square foot of land included in each transaction, varies between \$6.50 and \$41.00 on average. The markups over the

¹¹ See <http://www.saccounty.net/assessor> for but one example of the use of the *NADA Guide* for assessment.

Table 2
 Estimated Value of the Right to Occupy Mobile Home Sites at
 Regulated Rents at Three Mobile Home Parks in Different California Counties
 1999-2004

Estimated Value of Contractual Right (Z)	Marin	Santa Barbara	San Diego
At the time of sale			
Mean	\$60,677	\$105,054	\$24,014
Median	55,295	100,363	23,605
Standard Deviation	28,112	35,411	14,722
As Percent of Selling Price			
Mean	67%	88%	48%
Median	73%	88%	57%
Standard Deviation	12%	4%	47%
Estimated Value per Square Foot (Z/sqft)			
Mean	\$14.06	\$40.90	\$6.52
Median	14.10	38.96	6.19
Standard Deviation	6.09	15.64	4.08
As Percent of Coach Value (Vm/Sm)			
Mean	340%	919%	256%
Median	366%	842%	231%
Standard Deviation	107%	352%	135%

Notes: For the mobile home park located in Marin County, the estimates are based upon 40 sales of mobile homes during the period 1992-2002. The value of the coach was estimated using the *NADA Guide* for the time of sale.

For the mobile home park located in Santa Barbara County, the estimates are based upon 64 sales of mobile homes during the period 1999-2004. The value of the coach was estimated using the *Kelley Blue Book* estimate for the time of sale.

For the mobile home park located in San Diego County, the estimates are based on 141 sales of mobile homes during the period 2000-2004. The value of the coach was estimated using the *NADA Guide* for the time of the sale.

appraisal guide values of the coaches in these transactions average between 250 and 900 percent.

These averages conceal a wide dispersion of individual estimates. As the table indicates, the estimated value of the premium paid to enjoy the right to regulated rents has a large variance. Of course, many factors other than the value of the structures and the right to regulated rents affect the sale price of individual dwellings.

In equation (8), the benefits enjoyed under rent control depend upon the difference between the market value of the land associated with the mobile home and the controlled rent which is actually paid each year. Unfortunately, direct evidence on the value of land is difficult to obtain in heavily developed areas. Data on sales of unencumbered land or building lots in the built-up neighborhoods surrounding the mobile home parks were unavailable.

Of course, residential land in the local area is traded daily – but as a component of the transactions in single family housing. We investigated the value of land in the housing market surrounding these mobile home parks using hedonic methods applied to all sales of single family housing in the area surrounding the mobile home park. This analysis, using Box-Cox hedonic models to estimate local land values, is reported in Appendix B.

Table 3 summarizes the estimates of the land values obtained from the hedonic regressions reported in Appendix B. It summarizes estimates of the land values associated with the parcels containing the mobile homes in each of the three parks for which we have observed transactions. The table presents the mean value per parcel and per square foot. Also presented are the standard deviations and the range of the

Table 3

Estimated Value of Land per Parcel and per Square Foot at the Time of Sale in
 Three Regulated Mobile Home Parks in Different California Counties
 1999-2004

Land Value	Marin	Santa Barbara	San Diego
All Properties			
Mean	\$212,569	\$211,605	\$145,101
Median	206,366	204,059	141,570
Standard Deviation	39,102	74,731	26,403
All Properties per Square Foot			
Mean	\$49.17	\$77.97	\$39.34
Median	48.94	73.15	37.34
Standard Deviation	6.64	18.20	6.46
Mean Value by Year			
1999	\$171,085	\$161,055	NA
2000	226,058	165,111	\$113,719
2001	223,803	209,997	129,527
2002	218,312	212,879	152,864
2003	NA	282,392	178,117
2004	NA	288,377	NA
Standard Deviation by Year			
1999	\$17,728.6	\$42,881.0	NA
2000	39,150	47,555	\$9,888.7
2001	30,663	56,554	9,971
2002	52,297	72,403	16,044
2003	NA	68,746	14,723
2004	NA	68,787	NA

estimates. The table also summarizes the estimates of the land values of mobile homes sold at different time periods.

As estimated by the hedonic model, the average market value of mobile home land parcels in the neighborhoods surrounding the mobile home parks was quite large -- \$145,000 in the park located in San Diego County, and more than \$200,000 in Santa Barbara and Marin Counties.

The land values reported in Table 3 allow us to estimate the annual value of the reduction in land rents arising from the rent control regulation. This is merely the market rental value of a land parcel minus the regulated rent paid to the park owner. These regulated rents are public records. Table 4 summarizes estimates of this reduction in land rents at the date of each sale. Using the Freddie Mac mortgage interest rate for the month of the sale, the rent reduction averaged about \$2,300 in San Diego County, up to \$11,000 in Santa Barbara County. The reduction in land rents averages \$0.60 per square foot in San Diego County and \$4.00 per square foot in Santa Barbara County.

D. Mobile Homes Finances and Capitalization: Results

The link between the annual benefits from lower land rents and the annual costs for mobile home occupancy also depends upon the relationship between mobile home finance interest rates and market interest rates. The large consumer investments in mobile homes are often amortized by long-term loans originated by banks or other

Table 4
 Estimates of Reduction in Annual Site Rents Arising from
 Rent Control at Three Regulated Mobile Home Parks in
 Different California Counties
 1999-2004

Rent Reduction	Marin	Santa Barbara	San Diego
(iL -Q)			
Mean	\$8,144	\$11,128	\$2,253
Median	7,437	11,668	2,079
Standard Deviation	3,337	3,972	908
(iL -Q)/ per sqft			
Mean	\$1.81	\$4.03	\$0.60
Median	1.94	4.15	0.57
Standard Deviation	0.47	0.68	0.18

financial institutions. These loans differ from conventional home mortgages.¹² In general, loans for mobile homes are more similar to other personal property loans (e. g., automobile and boat loans) than to loans for real property (e. g., mortgages for single family housing).

Thus, mobile home loans are made at higher interest rates and for shorter terms than are housing loans, and they are often made with higher down-payment requirements. As a result of these features, there is no central source of data describing new mobile home loans. Table 5 reports a sample of rates and terms advertised in August 2002 (when home mortgage interest rates reported by Freddie Mac were 6.75 percent for 360 months for 80 percent loan-to-value, LTV, mortgages), and in March 2004 (when home mortgage rates were 5.50 percent for the same terms). In 2002, mobile homes loans were advertised at 48 months to 120 months, with interest rates quoted at 9 to 17.5 percent, and LTV ratios varying between 70 and 85 percent. The advertised rates averaged 1.81 times the mortgage interest rates at the time.

In an identical web survey in March 2004, it appeared that fewer institutions advertised mobile home loans, and fewer listed their terms on their website. The rates

¹² One important difference is that there is little secondary market for these loans. Freddie Mac and Fannie Mae seldom purchase these loans at all. The FHA program is quite small, and it is confined to mobile homes permanently affixed to land owned by the borrower. Some pools of mobile home loans are securitized by banks (often with a guarantee of some form). This securitization is similar to techniques sometimes used for automobiles, credit card debt, or accounts receivable.

Table 5

Web Advertised Financing Terms for Used Mobile Homes: August 2002 and March 2004

Date	Source	Term	Rate	Financing
August 2002 (mortgage interest rate 6.75%)				
	http://www.ziacu.org	48 mos.	11.00-16.00%	80% LTV
		60 mos.	12.00-17.00%	80% LTV
		120 mos.	12.50-17.50%	80% LTV
	http://www.calcoastcu.org	-	14.25%	80% LTV
	http://www.fsource.org	84 mos.	12.50%	70% LTV
	http://www.stockbridgestatebank.com	84 mos.	9.62%	80% LTV
	http://www.firstfinancial.org	78 mos.	9.00%	85% LTV
	http://www.csecu.org	60 mos.*	9.00%	80% LTV
		84 mos.*	10.25%	80% LTV
		120 mos.*	11.00%	80% LTV
March 2004 (mortgage interest rate 5.50%)				
	http://www.stockbridgestatebank.com	120 mos.	8.16%	80% LTV
	http://www.jcfin.com	-	12.24%	80% LTV
	http://www.refi.net	#	7.99-9.74%	-
	http://colonialfundinggroup.com	240 mos.#	9.50%	90% LTV
	http://allmanufacturedhomes.com	360 mos.	11.75%	-

Source: <http://www.google.com>, keywords "mobile home financing loans," August 14 2002 & March 3 2004

Notes: *Qualification includes a variety of credit union restrictions.

Terms offered for refinancing only.

advertised averaged 1.80 times the mortgage interest rate in March 2004. This evidence is hardly systematic, but it does suggest that the interest rates for used mobile home finance are at least 1.5 times the rates charged for home mortgages. Since LTVs are higher and terms are shorter for mobile home loans, this suggests that the ratio of adjusted interest rates is higher still.

The observations on sales of mobile homes, “blue book” appraised values, land values, and some assumptions about the relationship between mortgage interest rates and mobile home interest rates permits the capitalization rate to be estimated from equation (8).

Table 6 presents alternative regression estimates of the fraction of annual benefits from rent control which are capitalized into higher annual housing payments. The estimates of capitalization are, of course, sensitive to the relationship between interest rates on mobile home loans and market interest rates. The most conservative, and clearly unrealistic, assumption is that the two interest rates are identical ($r=i$). Under these assumptions, the point estimates of capitalization are 53-69 percent, in the three mobile home parks with 95 percent confidence intervals of 46-74 percent. If borrowing rates for mobile home finance are 1.5 times market interest rates (See Table 5), the capitalization rate is estimated to be 80-102 percent in the three parks with a 95 percent confidence intervals from 69 to 115 percent. The numerical results are quite similar if interest rates on mobile home loans are assumed to be 350 basis points higher than the market rates.

Although the capitalization parameter is precisely estimated, its interpretation is sensitive to the differential in interest rates. For any reasonable differential, a substantial fraction of the mandated reduction in rents is simply reflected in increased prices and

hence carrying cost for purchases of mobile homes. Although the fraction could be as low as 0.8, it may easily be as high as 1.0.

IV. Affordability

The high rates of capitalization of the benefits of vacancy control rent regulation, in this circumstance at least, means that the rent control regime has a negligible effect upon the affordability to consumers of the dwellings so regulated. Despite this, the regulations have an inhibiting effect upon the supply of housing suitable for moderate income households in the region.

Incoming tenants to the park pay the market price for housing. Through the operation of the housing market, the capitalized values of the below-market site rents mandated by the ordinance are reflected in increased prices when leases and rental rights to sites are transferred among housing consumers. Increased sale prices, in turn, lead to higher carrying costs for the purchase of mobile homes.

Table 6
 Regression Estimates of the Fraction (k) of Annual Benefits
 Capitalized into Higher Annual Housing Payments in Regulated
 Mobile Home Parks in Different California Counties

	Estimate of k	95 percent Confidence Interval		R-squared
		Lower	Upper	
Assuming: $r = 1.5 \times i$				
Marin	0.80	0.69	0.91	0.84
San Diego	0.94	0.83	1.05	0.67
Santa Barbara	0.90	0.83	0.97	0.92
Assuming: $r = 1.5 \times i$ (normalized by lotsize)				
Marin	0.86	0.74	0.97	0.86
San Diego	1.00	0.88	1.11	0.68
Santa Barbara	1.03	0.95	1.11	0.91
Assuming: $r = i + 0.035$				
Marin	0.78	0.67	0.88	0.84
San Diego	0.96	0.85	1.07	0.67
Santa Barbara	0.92	0.85	0.99	0.91
Assuming: $r = i + 0.035$ (normalized by lotsize)				
Marin	0.84	0.73	0.95	0.85
San Diego	1.02	0.90	1.14	0.68
Santa Barbara	1.05	0.97	1.13	0.91
Assuming : $r = i$				
Marin	0.53	0.46	0.60	0.84
San Diego	0.63	0.55	0.70	0.67
Santa Barbara	0.60	0.55	0.65	0.92
Assuming: $r = i$ (normalized by lotsize)				
Marin	0.57	0.50	0.65	0.86
San Diego	0.67	0.59	0.74	0.68
Santa Barbara	0.69	0.63	0.74	0.91

The net effects of the regulatory regime on the affordability of these dwellings in the local market can be estimated, at least roughly. For each observed mobile home transaction, we can estimate the household income required to make the purchase in the absence of rent control. This estimate of required household income can then be compared to the required household income at the observed sale price.

A. Housing Affordability Under Rent Control

To calculate the household income required for mobile home purchase under rent control for an eighty percent LTV mortgage, we compute the monthly mortgage payment using the interest rate at the time of sale to amortize a loan 80 percent of the observed sale price of each mobile home. We add to this payment the mandated monthly rent. According to federal guidelines, housing is considered “affordable” if monthly housing payments are less than thirty percent of monthly income. So the required household income is 3.33 times the level of housing payment.

B. Housing Affordability in the Absence of Rent Control

If rent control were not in effect, the purchase price of mobile homes would fall, reflecting elimination of the capitalized benefit of below-market site rents, while the monthly rents would rise to the market level. The monthly mortgage payment would therefore be lower, but this would be offset, at least in part, by a higher rent. Using the same assumptions as above, but with a purchase price equal to that reported in the appraisal guide as the valuation in the absence of rent control, and with a rent equal to the estimated market rent for each parcel at the time of sale, we can compute the housing cost

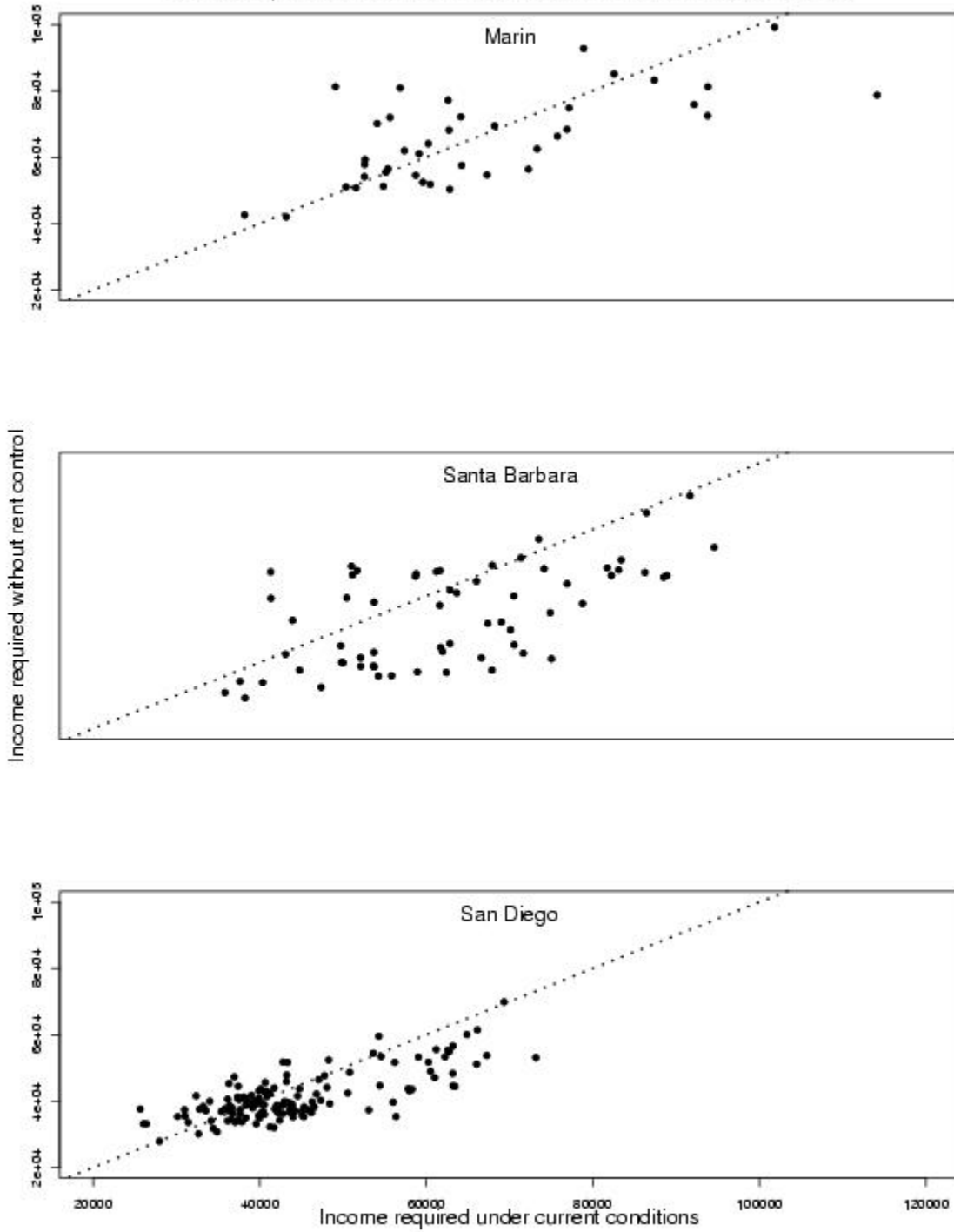
and hence the required income in the absence of rent control to purchase each mobile home.

In Figure 3, the abscissa measures the income required to purchase each mobile home in the current rent-controlled environment. The ordinate reports the corresponding estimate in the absence of rent control. The 45 degree line separates the diagram into two regions. Above the line, the income required to purchase a mobile home is higher in the absence of rent control. Below the line, the income required to purchase a mobile home is higher in a rent-controlled environment.

In constructing Figure 3, we assume that the interest rate at which buyers can finance used mobile home purchases is 1.5 times the prevailing rate at the time of sale for conventional home mortgages. We further assume that mobile home loans are for twenty year terms. These financing assumptions clearly affect the results shown in Figure 3. (But from Table 5, they are clearly conservative.) The more stringent financing terms for mobile home purchases raises the income required for purchase. Since rent control forces buyers to pay higher capital costs, rent control increases costs more with more stringent financing terms. The less favorable the financing terms, the less favorable is rent control.

Figure 3 illustrates that the income required to purchase a used mobile home is not affected very much by the presence of rent control. Most of the observations are below the 45 degree line where the income required to purchase a mobile home is greater

Figure 3
Income Required to Purchase Mobile Homes with and without Rent Control



under rent control. But there is substantial variability across the mobile homes. There is certainly no evidence that the institution of rent control, in any of these markets, has made mobile homes more affordable to consumers. Any benefits of below-market rents mandated for residents are simply undone by the capitalization of these benefits in the marketplace.

V. Conclusion

This paper presents an economic analysis of mobile home rent control and a detailed empirical assessment of vacancy decontrol rent regulation in three mobile home parks in three different housing markets in California. The analysis indicates that the benefit enjoyed by tenants from lower rents leads to increased prices when dwellings are transferred among tenants. These higher transactions prices lead to higher annual payments made by tenants to retire the debt incurred in purchasing a dwelling and in purchasing the right to a controlled rent.

Estimates of the magnitudes of these effects are obtained from observations on the arms-length sales of samples of manufactured housing home sales in three parks subject to rent control in California. Estimates of land values were obtained from the statistical analysis of single family housing sales in neighborhoods surrounding each of the mobile home parks.

The empirical analysis documents: that the average mobile home sale in all three markets includes a substantial payment of for the right to enjoy a regulated rent at quite

favorable terms; and that the market value of the land exchanged with the mobile home is very substantial.

Reasonable assumptions about the financing of mobile home purchases lead to the conclusion that virtually all of the annual economic benefits from lower regulated rents are paid out annually to finance the higher sales prices commanded by those dwellings in each of the three mobile home parks subject to rent control. The precise estimates of the fraction of benefits paid out vary, depending upon the statistical model and the economic assumptions employed. Based upon regression estimates, most or all of the benefits are capitalized.

Using reasonable financing assumptions, we find that the effect of a regime of vacancy control rent regulation in these three markets increases the variance in the costs of occupying mobile homes, but no systematic effect upon the average monthly costs of housing to consumers. Specific individual mobile homes might be more or less “affordable” as a result of the regulation, but on balance, the effect of lower mandated rents to consumers is offset by the higher purchase prices of mobile homes.

References

- Alston, Richard M., J. Kearl and M. Vaughn, "Is There a Consensus Among Economists in the 1990s?" *American Economic Review*, 82(2), 1992: 203-209.
- Arnott, Richard, "Rent Control," *The New Palgrave Dictionary of Economics and the Law*, New York: MacMillan and Co., 1998
- Auletta, Kenneth, *And the Streets Were Paved with Gold*, New York: Random House, 1979.
- Basu, Kaushik and Patrick M. Emerson, "The Economics and Law of Rent Control," *The Economic Journal*, 110(466), 2000: 939-962.
- Box, G. E. P., and D. R. Cox, "An Analysis of Transformations," *Journal of the Royal Statistical Society*, Series B, 1964: 26.
- Cummings, Jean L. and Denise DiPasquale, "The Low-Income Housing Tax Credit: An Analysis of the First Ten Years," *Housing Policy Debate*, 10(2), 1999: 251-307.
- Durning, Dan and John M. Quigley, "On the Distributional Implications of Mortgage Revenue Bonds and Creative Finance," *National Tax Journal*, 38(4), 1985: 513-524.
- Englund, Peter, John M. Quigley, and Christian Redfean, "Improved Price Indexes for Real Estate: Measuring the Course of Swedish Housing Prices," *Journal of Urban Economics*, 44, 1998: 171-196.
- Glaeser, Edward L., "The Social Costs of Rent Control Revisited," National Bureau of Economic Research Working Paper 5441, January 1996.
- Glaeser, Edward L. and Erzo F. P. Luttmer, "The Misallocation of Housing Under Rent Control," National Bureau of Economic Research Working Paper 6220, October 1997.
- Glaeser, Edward and Erzo F. P. Luttmer, "The Misallocation of Housing Under Rent Control," *American Economic Review*, 93(4), 2003:1027-1046.
- Griliches, Zvi, *Price Indexes and Quality Change: Studies in New Methods of Measurement*, Cambridge, MA: Harvard University Press, 1971.
- Hirsch, Werner Z., "An Inquiry into Effects of Mobile Home Park Rent Control," *Journal of Urban Economics*, 24, 1998: 212-226.

- Hirsch, Werner Z., and Anthony M. Rufolo, "The Regulation of Immobile Housing Assets Under Divided Ownership," *International Review of Law and Economics*, 19, 1999: 383-397.
- Kain, John F. and John M. Quigley, "Note on Owners' Estimates of Housing Values," *Journal of the American Statistical Association*, 67(340), 1972: 803-806.
- Oates, Wallace E., "The Effects of Property Taxes and Local Spending on Property Values," *Journal of Political Economy*, 77, 1969: 957-971.
- Quigley, John M., "The Taxation of Owner-Occupied Housing," *The Encyclopedia of Housing*, Sage Publications, 1998: 579-581.
- Sheppard, Stephen, "Hedonic Analysis of Housing Markets," in *Handbook of Regional and Urban Economics*, Eds. Paul Cheshire and Edwin S. Mills, New York and Amsterdam: Elsevier, 1999: 1595-1636.
- Turner, Bengt and Stephen Malpezzi, "A Review of Empirical Evidence on the Costs and Benefits of Rent Control," *Swedish Economic Policy Review*, 10, 2003: 11-56.

Appendix A

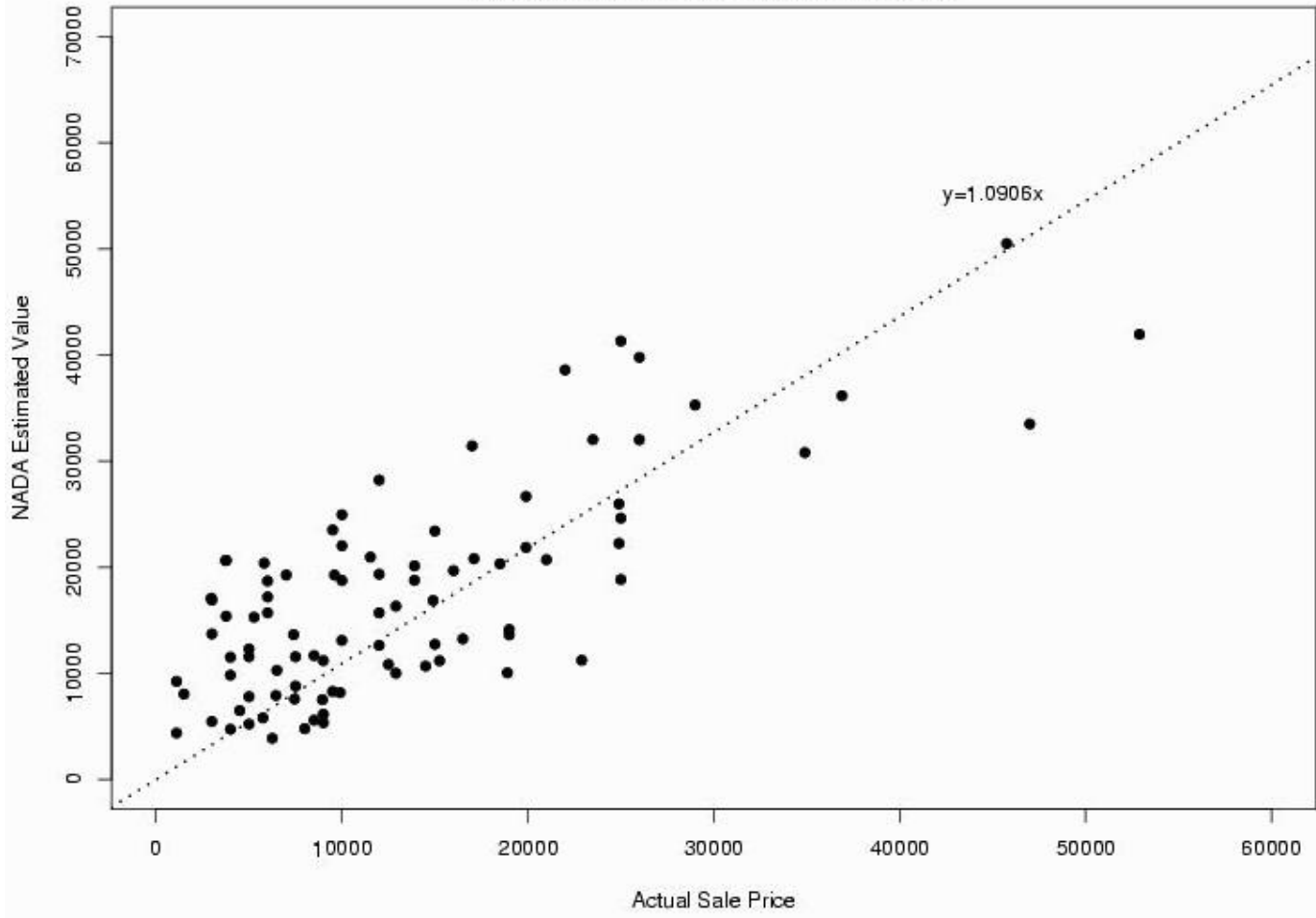
To investigate the properties of the *Appraisal Guide*, we gathered observations on mobile home sales in another state (Arizona) in which rent control is illegal. For a sample of 89 mobile home sales in Arizona in 2000-2003, we obtained the selling price, as well as the year, make and model of the coach. This information, together with the date of sale, is sufficient to identify the estimate of value reported in the appropriate edition of the *NADA Appraisal Guide*.

Figure A1 reports the relationship between the appraised values and the transaction prices of these mobile homes, sold in jurisdictions where there are no rights to reduced rents which could be transferred. A simple regression of sale price on the NADA appraisal yields a coefficient of 1.0906, insignificantly different from one ($t=0.45$), and explains 58 percent of the variance in selling prices.

The results indicate that the appraisals provide an unbiased estimate of the observed market price of used coaches. The sampling variance is high, presumably because there are a host of other important factors affecting the circumstances of any particular property sale -- the urgency of buyer and seller, their negotiating skills, etc.

However, these results indicate that data on the sales prices for a sample of mobile homes transferred under rent control, together with these published appraised values of the mobile homes, yield unbiased estimates of the market value of the right to enjoy the site at the controlled rent. These estimates can be computed for a sample of mobile home sales from the year, make, model, and the date of sale.

Figure A1
NADA Estimates Versus Actual Sale Prices for
89 Mobile Home Transactions in Arizona



Appendix B

The land values reported in Table 3 and in the text are derived from an analysis of all sales of single detached houses in the neighborhoods of the three mobile home parks. In all cases the data are drawn from the same municipal jurisdiction as the mobile home park; in two of the three data sets, the census tract of each dwelling was available and was used to control for variations in neighborhood amenities. Data on interior area, the number of bathrooms, the year of construction, the date of observed sale, and the size of the lot were available for all three cities. These data were available from multiple listing files for dwellings in Marin County and from Data Quick Information Systems for San Diego and Santa Barbara Counties.

Table B1 reports descriptive information about housing sold in the three areas. Table B2 reports regression estimates of a price function relating the selling prices of dwellings to their hedonic characteristics. The hedonic relationship is a Box-Cox (1964) transformation of the dependent variable, selling price per square foot of lot size. The hedonic measures include the characteristics of the structure, the lot size, and the neighborhood, together with a set of indicator variables corresponding to time intervals. If S represents the selling price per square foot of lot area and X is the vector of dwelling characteristics, neighborhood amenities and indicator variables defining the time of the sale, the Box-Cox power series model is:

$$S^\lambda = \alpha + \beta X$$

Where λ , α , and β are parameters, estimated by grid search.

The estimate of the price per square foot of each parcel of land is the fitted value of the hedonic regression equation at the time of sale with all of the dwelling characteristics set to zero. As Table B2 indicates, all three sets of regression coefficients have the expected signs and the standard errors are quite small.

Table B1
 Descriptive Statistics for Sales of Single Family Houses Sold in Three
 Housing Markets

	Marin	Santa Barbara	San Diego
Number of Sales	551	1340	1895
Mean Values			
Lot Size (sqft)	8,354	7,747	7,308
Interior Space (sqft)	1,682	1,498	1,366
Bathrooms	2.13	2.03	1.95
Median Values			
Selling Price	\$498,796	\$350,696	\$218,909
Year Built	1959	1964	1970
Frequency of Sales by Year			
1990	0	54	0
1991	0	83	0
1992	0	89	0
1993	0	77	0
1994	0	98	0
1995	0	78	118
1996	0	97	165
1997	0	115	174
1998	0	131	210
1999	136	123	232
2000	194	92	194
2001	156	89	232
2002	65	78	236
2003	0	93	324
2004	0	43	10

Table B2
Regression Coefficients from Box-Cox
Model

Variable	Marin			Santa Barbara			San Diego		
	estimate x 10 ³	std. error x 10 ³	t ratio	estimate	std. error	t ratio	estimate	std. error	t ratio
Intercept	11.171	0.25	43.92	39.161	2.57	15.23	22.113	0.76	28.99
Number of Bathrooms	-0.460	0.12	-3.89	2.033	0.59	3.42	0.307	0.18	1.73
Lot Size (SqFt)	0.001	0.00	46.66	-0.003	0.00	-19.07	-0.002	0.00	-37.08
Bldg Size (SqFt)	-0.001	0.00	-9.36	0.002	0.00	4.36	0.002	0.00	4.36
Newer Bldg	-0.390	0.10	-4.07	1.366	0.57	2.40	1.366	0.57	2.40
Lambda	-0.543			0.869			0.869		

Notes: For Marin County, the model also includes 12 indicator variables representing equally spaced intervals between January 1, 1999 and August 6, 2002.

For Santa Barbara County, the model also includes 58 indicator variables representing quarter years beginning in January 1990. The model also includes indicator variables for 8 nearby census tracts.

For San Diego County, the model also includes 34 indicator variables for quarter years beginning in 1995, as well as indicator variables for 8 nearby census tracts.

CITY OF ESCONDIDO

MOBILEHOME RENT CONTROL HISTORY

(Updated January 2008)

I. INTRODUCTION

Mobilehome rent control has been a controversial subject for the City of Escondido since it was adopted by initiative measure in 1988. The decade following the adoption of rent control saw two other initiative measures relating to rent control and nearly 100 court cases, one of which reached the United States Supreme Court. Literally hundreds of hours have been spent on rent increase hearings.

Recent years have seen both controversy and litigation subside, but not vanish entirely. While some rent increase hearings can be difficult, others are concluded efficiently with consensus among those involved.

After briefly reviewing the history of the mobilehome, this paper talks about the different types of mobilehome parks, the number of spaces and parks in Escondido, the regulatory history of mobilehomes, and then discusses California's Mobilehome Residency Law and Escondido's Rent Protection Ordinance (Proposition K). Following that, various specific issues that have come up in the last two decades are discussed, including the subject of vacancy control, long-term leases, park living conditions, and the more recent short-form process.

The purpose of this paper is to provide a sense of historical perspective to those involved with mobilehome rent control. This historical perspective will educate about issues which have been confronted and resolved in the past, and perhaps, provide those involved with rent control a sense of appreciation for that which has gone on before.

II. THE HISTORY OF THE MOBILEHOME

The first mobilehomes, which were typically homemade and most frequently used for camping, were trailers of a few hundred square feet that could easily be hitched to vehicles. To accommodate these trailers, many municipalities built camps during the 1920's hoping to encourage tourism. While long-term occupancy of such camps was not uncommon, it was not until the Depression of the 1930's that use of these trailers, as a form of permanent housing, became widespread. During the next decade, numerous additional mobilehome parks were built to meet immediate and temporary housing needs, particularly near military bases. These origins helped foster the early perception of "trailer parks" as a form of "slum" housing inhabited by indigent and rootless members of society. This image, together with hostility from real estate interests, hotels and tourists camps, initially fostered local land use regulations designed to exclude mobilehome parks or restrict their development.

Beginning in the 1950's however, mobilehomes began a gradual transformation to broadly accepted permanent residences. Larger, standardized and sectionalized mobilehomes were manufactured which could be moved only by trucks. As homes of 1,400 square feet or more became increasingly common, the larger units permitted more conventional floor plans. Mobilehomes started to become accepted as permanent living quarters.

The trend toward physical immobility and permanence coincided with extensive efforts to improve the quality of mobilehome parks. Parks evolved from small, unplanned facilities to larger, carefully designed communities that often featured amenities such as clubhouses, swimming pools, greenbelts and landscaping, and extensive social programs. Many senior citizens and younger families have been attracted to mobilehome park living by these amenities and by the relatively low housing cost.

Recognizing the valuable contribution they made to the nation's stock of affordable housing, the federal government, beginning in the late 1960's and early 1970's adopted a number of measures that spurred the growth and social acceptability of mobilehomes. Congress, for example, extended insurance for mobilehome park constructions and purchases of mobilehomes. Congress also authorized the adoption of uniform federal standards that both promoted mobilehome safety and preempted diverse and conflicting local design specification standards that had hindered mobilehome production. By 1982, these efforts and a number of demographic trends had combined to make mobilehomes a significant source of affordable housing for American families, particularly first-time homebuyers, the elderly, and low and moderate-income families.

The manufactured home has evolved as a single-family house constructed entirely in a controlled factory environment, built to the federal Manufactured Home Construction and Safety Standards. These standards regulate the home's design and construction, strength and durability, transportability, fire resistance, energy efficiency and quality control. There are performance standards for the heating, plumbing, air-conditioning and electrical systems. Construction costs per square foot for manufactured homes are approximately one-third less than site-built houses.

Because moving and installing such homes entails substantial costs, and because spaces in mobilehome parks are often scarce, most mobilehomes make but one trip – from factory or showroom to an installation site. Modern mobilehomes, despite their name, have become a form of immobile, prefabricated housing.

III. TYPES OF PARKS

There have historically been two basic ownership structures for mobilehome parks. In Escondido, the majority of the parks are rental parks, owned as an investment by an individual or a group of investors. Other parks in the City are resident-owned and held by the residents in a variety of ownership structures.

In the rental parks, the owner of the land rents the space on which a mobilehome is placed. In exchange for the space rent, the park owner maintains the common areas and related amenities, and monitors the rules and regulations of the park. Some rental parks provide certain utilities

and other services to the residents. Other common amenities may be available such as a clubhouse, swimming pool, shuffleboard courts, or laundry facilities.

In a resident-owned park, the owner of the mobilehome generally holds a fee-simple, condominium, or corporate share interest in the park. The owners share equally in the ownership and use of the common areas. There is homeowners' group made up of the individual owners that governs the upkeep of the common areas and monitors the rules and regulations of the park. Residents pay a monthly fee for the upkeep and maintenance of the common areas. Spaces owned by the homeowners' association that are rented may be subject to the Rent Protection Ordinance if they are not subject to a long-term lease.

A third type of ownership structure has evolved, perhaps largely in response to rent control. In this third form of ownership structure, the park owner not only owns the space, but has also acquired the mobilehome. Because the space itself is regulated by the Mobilehome Rent Control Ordinance, but the coach is not, this became an effective means for park owners to avoid the effects of rent control. Likewise, one of the core policy arguments behind mobilehome rent control (the problems caused by a home located on the land of another) vanishes when the ownership of land and mobilehome are merged. In this form of ownership, the tenant is free to re-locate if rents become onerous, and there is little difference between this type of tenancy and that which exists in an apartment setting. As of 2007, approximately 315 spaces in the city were occupied by mobilehomes belonging to park owners.

IV. PARKS IN ESCONDIDO

There are 24 mobilehome parks in the City with a total of approximately 3405 spaces. Five parks in the City are resident-owned.

At the end of 2007, about 1603 spaces were reported as being subject to the Escondido Rent Protection Ordinance versus the 2749 spaces that were subject to rent control in 1990. This trend is in part due to parks requiring residents moving in to sign a long-term lease, which exempts them from rent control. The remainder of the rental spaces exempt from the Rent Control Ordinance in the City are vacant, or are spaces occupied by park-owned homes. In 1990 there were a total of nineteen (19) Senior Parks and ten (10) all age parks. Since that time, five parks have closed, and the number of Senior Parks has declined to nine (9); the other Senior Parks converted to all age parks. This trend is due in part to the fact that in the 1990's many Senior Parks had vacancies they were unable to fill. Once the parks were converted to all age, this dilemma for the park owner quickly disappeared. Although nine parks in the City are designated for senior residency only, many seniors live in the family parks as well. Mobilehomes in the parks range from small, older, single-wide "trailers" to newer triple-wide "manufactured" homes. Rents for spaces in the rental parks range from approximately \$200 to over \$1,100.

V. REGULATORY HISTORY

As mobilehomes have become more permanent, the relationship between park owners and homeowners has shifted from a strict landlord-tenant relationship (similar to that in residential apartments) to a relationship more similar to co-investors in a joint venture. In this relationship, the park owner provides investment in the site, utilities, and other amenities. The homeowner provides concurrent investment in the mobilehome and its appurtenances. Both parties to this relationship have obligations: The homeowner is obligated to pay rent and abide by the rules of the park; the park owner is obligated to provide space amenities, and a safe and sanitary park. The homeowner receives a location for his home investment and the park owner receives a return on his park investment through space rent.

Where there is a shortage of available spaces, however, the park owner will have the upper hand in the relationship. Even when there are other spaces available, the park owner may be able to charge excessive rents because it is extremely expensive to move a “mobile” home. In these situations, individual homeowners may have no choice—they must pay the rent demanded or lose their entire investment.

A. Mobilehome Residency Law

In 1978, the state legislature enacted the California Mobilehome Residency Law (Cal. Civ. Code Section 798 et seq.) (hereafter, “MRL”). The MRL limits the ability of a park owner to terminate a mobile home owner's tenancy. In enacting the MRL, the legislature commented 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.” (Civil Code Section 798.55(a)).

The MRL limits evictions to cases which include the mobilehome owner's nonpayment of rent, violation of law or park rules, or the park owner's desire to change the use of his land (Civil Code Section 798.56). While a rental agreement is in effect, the park owner generally may not require the removal of a mobilehome when it is sold (Civil Code Section 798.73). The park owner may neither charge a transfer fee for the sale, (Civil Code Section 798.72), nor disapprove of the purchaser, provided that the purchaser has the ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. (Civil Code Section 798.74).

The MRL also contains a number of detailed provisions affecting the amount of fees the park owner may charge mobilehome owners, rules and regulations for park management, and limitations on the content that may be included in rental agreements. None of the MRL's provisions limits the amount of rent the park owner may charge. However, the MRL makes express recognition of the applicability of local rent control laws to agreements for tenancies of less than 12 months in duration.

In the wake of the MRL, various communities in California adopted mobilehome rent control ordinances. In Escondido, the voters approved Proposition K in 1988.

B. Proposition K

In the late 1970's and 1980's, Escondido mobilehome owners became concerned about space rent increases and sought protection. In 1988, the rent protection initiative (Proposition K) was placed on the ballot and approved by the voters of Escondido. The initiative was designed to protect mobilehome residents from too frequent or unfair increases, while providing an avenue for approval of the park owners' periodic need for increases.

The City of Escondido's initial response to concerned tenants had been not to impose rent control. Instead, the City encouraged homeowners and park owners to engage in negotiations. These negotiations yielded a Mobilehome Park Accord Ordinance in 1983 (Escondido Ordinance No. 83-34) that established a mechanism for resolving disputes. However, rents continued to escalate, as did frustrations, and a sufficient group of residents became organized enough to promote an initiative measure. On June 8, 1988, the voters of Escondido approved the initiative Ordinance (Proposition K) by a margin of 11,148 votes for to 7,850 against.

In a free market, a landlord may impose or increase rents on their property freely with notice to their tenant. Under Proposition K, if a park owner wants to increase rent, he must first obtain approval from the Mobilehome Park Rental Review Board. As prescribed by the Ordinance, the Escondido City Council sits as the Rent Review Board. To request an increase, the park owner must file an application with the City. Once a rent increase application is determined to be complete, a notice of the application is mailed to the affected homeowners. The homeowners have a right to submit written material in response to the application, as well as appear at the public hearing. Normally the Board must commence a hearing on a completed application within 60 days. At the hearing, the park owner and the affected homeowners may offer any evidence that is relevant to the requested rent increase. Following the hearing, the Board applies various factors and "shall determine such rent increase as it determines to be just, fair and reasonable" (Escondido Municipal Code Section 29-104(g)).

The nonexclusive list of factors is as follows: (1) changes in the Consumer Price Index; (2) the rent charged for comparable mobilehome spaces in Escondido; (3) the length of time since the last rent increase; (4) the cost of any capital improvements related to the spaces at issue; (5) changes in property taxes; (6) changes in any rent paid by the park owner for the land; (7) changes in utility charges; (8) changes in operating and maintenance expenses; (9) the need for repairs other than for ordinary wear and tear; (10) the amount and quality of services provided to the affected tenant; and (11) any lawful existing lease. (Escondido Municipal Code Section 29-104(g)).

The Board's determination is final and notice of its decision is mailed to the park owner and the affected homeowners.

C. Administrative Procedures Under Proposition K

Over the past twenty (20) years, Escondido has developed and implemented various administrative procedures and regulations to support the rent review hearing process as prescribed by the Ordinance. The City's Community Services Department originally monitored the Ordinance. During the early years, Rent Review Board hearing guidelines and application forms were developed. The Guidelines spell out the staff review requirements, the hearing process, resident notice requirements, policies governing the Board's review of the application, define capital improvements to be considered, and require health and safety inspections of the parks as part of the hearing process.

Initially, internal City staff was responsible for analyzing and verifying financial information that was submitted by the park owners in support of their requests for an increase. This issue became one of the most difficult, as residents were extremely concerned about the validity of the financial information being reviewed. On several occasions through the years, the Board considered requiring audited financial statements from the Parks, but rejected that requirement as a costly burden that would eventually be passed on to the residents.

After several years of struggling with the difficult financial review of the applications, an outside Certified Public Accounting firm was hired to analyze the applications and prepare the staff report for the Rent Review Board. At that time, the administration of the Ordinance was assigned to the City Clerk. This procedure, while somewhat more effective as to the financial analysis of an application, did not provide an avenue to consider other issues affecting the application or provide direct communication with the park residents. As well, the Board continued to struggle with the various decision-making formulas and guidelines, at one time considering analyses on all eleven factors of the Ordinance, as well as several rate of return formulas, before making a decision.

Near the end of 1994, in part due to the amount of litigation involving the Ordinance, it was determined to assign the administration of the application and hearing process to the City Attorney's office. At that time a full-time staff person was hired to analyze application increase requests and coordinate the administration of the Ordinance. During that transition, additional and more specific guidelines for financial analysis and review were considered and adopted by the Rent Review Board. While continuing to consider the various factors of the Ordinance, the Board identified two specific formulas to use for rate of return analysis and began contracting with outside consultants for preparation of those analyses when it is considered appropriate.

In keeping with the improved guidelines over the past two years, staff and the outside economic consultants have made more specific recommendations to the Board based on the residents' input and the review and financial analysis of the park owner's application and request.

In 1997, the Board adopted changes to the Guidelines that allow for a short-form application that focuses on the change in the Consumer Price Index (CPI). The short-form process is discussed more fully in Section E. Since 1997, the Board has held hearings on one hundred and eighteen (118) separate applications, one hundred eight (108) of which were short-form hearings.

By 2006, the use of short form had become routine and litigation involving the validity of the Ordinance had all but vanished. Administration of the rent control program was moved from the City Attorney's Office to the City's Housing Division. The program is still supported and administered by a full time employee, but with the support and assistance of the entire Housing Division.

D. Vacancy Control/Decontrol

The subject of "vacancy control" is simply whether or not rents are regulated for a mobilehome space that is vacant. Park owners have frequently argued for the ability to raise rents to market levels, free from rent control, any time a space became vacant. A main argument in favor of doing this was that raising rents for a vacant space did not harm any existing tenant, and any new tenant did not have to accept the rental arrangement if the price was too high.

During the early 1990's, the City applied Proposition K as including vacancy control.

However, early in 1996, the Fourth District Court of Appeal determined that the Escondido Rent Protection Ordinance did not intend to protect prospective purchasers of mobilehomes and therefore, does not have vacancy control. (*Thomsen v. City of Escondido*, 4th Dist. Ct. of App. No. DO25853). Subsequent City appeals of that decision were unsuccessful.

In an attempt to neutralize the effects of the courts' decisions on future mobilehome tenants, the City Council placed an initiative, Proposition O, on the ballot in November of 1996. Proposition O would have clarified that the language of the rent control measure applied even upon a vacancy. The initiative would have also reinstated the City's ability to monitor long-term leases. That Proposition failed by a vote of 15,368 against to 14,093 in favor.

In November of 1998, the Council again placed an initiative, Proposition T, on the ballot that would have reinstated vacancy control in the City. That measure also failed by a vote of 13,064 against to 12,647 in favor. Therefore, at the present time, park owners in the City may increase the base rent to new tenants coming into their parks in any amount they determine to be appropriate.

E. Short-Form Application Process

Because of the lengthy and contentious rent hearings, as well as large increases that sometimes occurred under the long-form type of hearing process, a mobilehome task-

force was formed during the fall of 1997 to study the possibility of creating a short-form hearing process. After a series of meetings, guidelines were developed and a short-form hearing process was adopted by the City Council in December 1997. Since the rent control initiative can only be amended by a subsequent initiative under California law, the guidelines were developed to apply and implement rent increases within the parameters of Proposition K. Notice and public hearings are still required. All of the factors must be considered, but the focus is on CPI: to qualify for a short-form hearing, a park owner may only request up to 75% of the change in the Consumer Price Index (“CPI”) for a maximum of a two-year period.

From the inception of the Short-form process, 96 applications have been approved. Short form hearings are popular with park owners because certain fees are waived and there is substantially less administrative burden associated with the process. Both owners and residents benefit because as a rule, the public hearings associated with the short-form applications are considerably shorter and less controversial. While short form processes have produced smaller rent increases, the adjustments occur more frequently and residents are not faced with large increase requests covering several years.

F. Long-Term Leases

The California Mobilehome Residency Law exempts rental agreements in excess of 12 months duration that meet specific requirements from rent control (California Civil Code Section 798.17). Therefore, local mobilehome park tenants entering into lease agreements for more than 12 months are not subject to the Escondido Rent Protection Ordinance.

Perhaps inevitably, after passage of Proposition K, disputes arose whether mobilehome park owners could require residents or prospective residents to sign long-term leases that were exempted from rent control under Civil Code Section 798.17. In August 1988, the City Council enacted Ordinance No. 88-50, prohibiting mobilehome park owners from requiring either existing or prospective homeowners to enter into long-term leases that were exempt from rent control.

A 1990 legislative amendment to Civil Code Section 798.17 (SB 2009) appeared to permit mobilehome park owners to require prospective homeowners to sign long-term leases that were exempt from rent control. In response, Escondido repealed Ordinance No 88-50. However, SB 2009 was short-lived. In 1991, by further amendment to Civil Code Section 798.17, the Legislature repealed SB 2009 with the intent to reinstate state law existing before enactment of such bill to avoid any unintended preemption effect. Escondido’s City Council then adopted as an urgency matter, Ordinance No. 91-19, essentially reenacting Ordinance No. 88-50. Ordinance 91-19 was later “codified” by Ordinance 94-22.

But in May of 1995, the Fourth District Court of Appeal concluded that Ordinance No. 91-19 constituted an improper “legislative” amendment by the City Council of a municipal initiative Ordinance adopted by the voters (*Mobilepark West Homeowners*

Assn. v. Escondido Mobilepark West, 35 Cal.App.4th 32 (1995)). The Court also held that with respect to existing homeowners, Ordinance No. 91-19 was preempted by Civil Code Section 798.17, which covered conditions on the right of a park owner and existing homeowners to enter into rent control-exempt leases. When the court invalidated Ordinance 91-19, it therefore invalidated Ordinance 94-22, because they were both the same ordinance.

VI. LITIGATION HISTORY

Litigation resulting from the adoption of rent control in Escondido has been lengthy and complex. At one point, litigation status reports on lawsuits related to mobilehome rent control showed approximately forty-one (41) litigated mobilehome cases!

As noted earlier, the voters of the City of Escondido enacted Proposition K on June 8, 1988. The very next day, two mobilehome park owners brought suit against the City seeking a declaratory judgment that certain provisions of Proposition K were illegal, seeking a preliminary injunction against its enforcement, and requesting attorney fees and costs.

Certain park owners also took the position that they might be able to avoid rent control by requiring any purchaser of a mobilehome to sign a long-term lease, because certain long-term leases are by state law exempt from local rent control ordinances. The City adopted Ordinance No. 88-50 as an urgency ordinance on August 11, 1988, to clarify Proposition K by indicating that its protections extended to new and prospective tenants as well as existing homeowners. By October of 1988, three park owners brought suit against the City seeking a declaration that Ordinance No. 88-50 was preempted by or in violation of state laws.

In December of 1988, the first of the "*Yee*" cases (named after the first case, *Yee v. City of Escondido*, San Diego Superior Court Case No. N42268) was filed claiming that Proposition K and Ordinance No. 88-50 constituted a taking of the park owner's property under the state and federal Constitutions. The theory of these cases was based on a panel decision of the United States Court of Appeals for the Ninth Circuit in *Hall v. City of Santa Barbara*, 833 F.2d 1270 (9th Cir. 1996), *cert denied*, 485 U.S. 940, 108 S.Ct. 1120, 99 L.Ed.2d 281 (1988) that a mobilehome rent control ordinance could constitute a taking of a park owner's property.

The *Yee* plaintiffs also attempted to seek review from the federal courts, and filed separate lawsuits in the District Court for the Southern District of California.

Between May, 1989 and June, 1989, an additional eleven (11) *Yee/Hall*-type suits were filed, all alleging that the Rent Protection Ordinance constituted a taking, and seeking damages and other relief.

In October, 1989, another park owner brought suit against the City charging that because of the alleged bias of three Board members, it could not receive a fair hearing on its application, contending also that the failure of the Ordinance to provide for vacancy de-control was a violation of due process, and seeking damages. Yet another park owner sued in December of 1989, alleging that the failure of the Ordinance to permit vacancy de-control was a violation of

due process and seeking damages. A third park owner filed a similar lawsuit in U.S. Bankruptcy Court in November 1989.

Additionally, in December of 1989, two park owners brought Writs of Mandate against the City challenging the amount of rent increases given to them by the Board as an insufficient rent increase and also challenging the rent rollback provisions of Proposition K.

The *Yee/Hall* cases were ultimately consolidated and resolved by the United States Supreme Court in its landmark decision *Yee v. City of Escondido*, 503 U.S. 519, 112 S.Ct. 1522, 118 L.Ed.2d 153 (1992) which was handed down on April 1, 1992.

While the United States Supreme Court made it absolutely clear that the Rent Protection Ordinance could not be viewed as a physical taking of a park owner's property, the Court's opinion indicated the possibility that a challenge could be based on a regulatory taking theory under the Fifth Amendment. Two park owners promptly sought to pursue this avenue by filing additional lawsuits in both state courts and federal courts. These were ultimately dismissed.

The City has prevailed on every single case challenging the basic framework of the Ordinance and challenging the Ordinance under the Fifth Amendment to the United States Constitution. Ordinance No. 88-50 was invalidated as being preempted by state law, and in a 1995 case, the courts determined that the Rent Protection Ordinance provided for vacancy de-control, which enabled park owners to raise space rents to market levels when a space became vacant. The City has also experienced mixed results in cases challenging the amount of rent increase given by the Board, generally losing the earlier cases but winning most cases filed later.

In recent years, only two litigated cases have involved mobilehome rent control. Neither case challenged the basic framework of rent control, but rather, both cases were based on the park owner's dissatisfaction with the final decision of the Board. Such cases tend to be difficult, because the court process and the possibility of a remand from the court to the Board for a new hearing can take several years. The Board, residents, and park owners face the very difficult task of making a correct decision on the prior rent increase application, all the while considering current economic factors and an appropriate level of current rent.

VII. MOBILEHOME PARK LIVING CONDITIONS ISSUES

Many of the common problems found in mobilehome parks are related to health and safety issues that are governed by the California Civil Code, Title 25 of the California Health and Safety Code state regulations and local regulations. Ongoing issues include street lighting, tree removal and trimming, driveway maintenance and lot-line issues. Additionally, residents may have landlord/tenant problems that often fall under federal and state fair housing laws.

A. LOT LINE ISSUES

Lot line issues may arise when a new home is moved in on a space. If lot lines need to be moved, the City follows procedures provided in Title 25. The City's Code Enforcement Division monitors new home set-ups and performs the building permit inspections. The

City of Escondido does an on-site physical inspection prior to issuing permits for new set-ups and accessory structures to assure that the lot lines are set correctly.

B. TREE AND DRIVEWAY MAINTENANCE

Disputes often arise between Mobilehome park residents and Park owners as to the responsibility of fixed improvements on the rental spaces, especially in regards to large trees and driveways. The California Department of Housing (HCD) in its “Forest Gardens” opinion of December 14, 1992 (revisited August 10, 1993) stated that HCD’s ‘policy’ has been “to require the mobilehome owner who planted the tree to be responsible for maintaining it and subsequent problems the tree might cause (e.g. damage to driveways), but the subsequent occupants of the same space can demand that the mobilehome Park management perform such maintenance.” However, the HCD opinion goes on to state that through a lease or rental agreement, a resident can contractually agree to perform maintenance which is initially the Park owner’s responsibility. Generally, the maintenance responsibility of these fixed improvements is spelled out in a park’s rental agreement and resolution of disagreements is governed by the agreement.

These types of repairs can be costly and beyond the financial ability of many residents. Several attempts have been made at the state level to introduce legislation that would shift the responsibility for the maintenance of capital items within a mobilehome park to the park owner. Legislation was passed in the fall of 2000 that requires Park management, not mobilehome owners, to be responsible for paying costs of removing or trimming Park-owned trees and the repairing of driveways where there is a health and/or safety issue involved. As of January 1, 2001, AB 862 went into effect; stating Park management will have the sole responsibility for trimming, pruning, and removing any tree which poses a health and safety hazard. (Section 798.37.5 of the Mobilehome Residency Law). Park management will not be able to “pass on” responsibility for tree maintenance to tenants of an individual space, unless an applicable long term rental agreement is in effect beyond January 1, 2001. Once it is determined that tree maintenance is required to correct a health and safety violation, there is nothing in the legislation which prevents a Park owner from cutting down the entire tree to avoid future maintenance issues. Section 798.37.5 (c) states “Park management shall be solely responsible for the maintenance, repair, replacement, paving, sealing, and the expenses related to the maintenance of all driveways installed by park management including, but not limited to, repair of root damage to driveways and foundation systems and removal. Homeowners shall be responsible for the maintenance, repair, replacement, paving, sealing, and the expenses related to the maintenance of a homeowner installed driveway.”

C. STATE MANDATED INSPECTIONS

The City of Escondido contracts with the State of California Department of Housing and Community Development (“HCD”) to inspect the parks and the exterior of the homes in the parks for State code compliance which is required by law every eight years. Additionally, each time a park files a rent increase application, the park must submit to an inspection of its common areas. Any health and safety-related violations found in the

common areas of a park must be corrected before any rent increase granted by the Board may be implemented.

D. CAPITAL IMPROVEMENTS

The City has enacted an Ordinance that clarifies residents' rights regarding capital improvements. Ordinance No. 90-12 prohibits a park owner from requiring the installation of capital improvements on a space as a condition of residency in a mobilehome park by an existing or prospective tenant. The Ordinance defines capital improvements as driveways, garages, sheds, curbs, gutters, sidewalks, or any other improvement that results in permanent alteration to the property and that is not subject to removal, or that is not removable at the time the tenancy in the mobilehome park terminates.

E. PUBLIC UTILITIES ISSUES

The Public Utilities Commission ("PUC") regulates the rates that submetered mobilehome parks may charge their space tenants for gas and electric service. In 1997, the PUC confirmed that its ruling applies to a mobilehome park which is subject to rent control and ruled that to the extent that a rent commission had ordered a rent increase to cover the cost of replacing a submetered natural gas system, the rent commission was impermissibly intruding into the jurisdiction of the PUC. Adhering to the PUC regulation, the Escondido Rent Review Board's decision to withhold a requested capital improvement rent increase from Lake Bernardo Mobile Estates to recover expenditures on improvements to its submetered gas and electric system was upheld by the courts in *Rainbow Disposal Company Inc., v. Escondido Mobilehome Rent Review Board*, 64 Cal.App.4th 1159, 1165-70 (1998).

The PUC has investigated mobilehome parks and other multiple residential units with submetered water and sewer systems, after receiving complaints that tenants had been overcharged, and a preliminary investigation discovered that several complexes were over charging for water and sewer service. The City of Escondido has addressed this subject with Ordinance No. 89-39, which regulates water charges by master meter users in multi-dwelling residential environments. The Ordinance prohibits providers of water services to tenants of a mobilehome park, or similar residence complexes, from imposing a surcharge that exceeds the rate set by the City which would apply if the user were receiving such service directly, except as approved by application to the City.

F. LANDLORD/TENANT ISSUES

There are often tenant/landlord-related issues that fall outside the jurisdiction of the City that may eventually require mediation or civil litigation action between the parties to achieve resolution. Most such issues are related to the implementation and/or enforcement of rules and regulations in the park or eviction procedures. The City contracts with the Center for Social Advocacy, and often refers residents with landlord problems and/or fair housing issues to the center.

When residents contact City staff about issues over which the City has no jurisdiction, they are referred to the Center for Social Advocacy which offers free services covering mediation of housing disputes, discrimination monitoring and low-cost rental listings. Their trained counselors can answer questions about rental agreements, deposits, repairs, rules, eviction and fair housing law. The counselor that receives a call may direct the party to the appropriate resource within the organization, supply the resident with any forms required for mediation services or discrimination monitoring, contact a landlord on behalf of the resident or arrange a meeting between the parties if appropriate.

VIII. CHANGING DEMOGRAPHICS

Many of the fundamental demographics which existed in Escondido when mobilehome rent control was adopted in 1988 have changed significantly. In 1988, there were 29 mobilehome parks in Escondido but over time, the Pinetree, Palomar, and Hidden Vale parks were closed and replaced with permanent housing projects and commercial development, reducing the total number of mobilehome spaces from about 3631 in 1988 to about 3465 in 2006. In 2006, two other parks, Bellview and Mobile Haven went through the process of resident relocation in contemplation of being replaced by permanent affordable housing projects. Bellview was replaced by Las Ventanas Village, an affordable family rental community which began accepting applications for tenancy in January of 2008. Mobile Haven is scheduled to be replaced by a senior affordable housing rental project.

As park owners implemented vacancy decontrol, adapted to short form, purchased spaces, and utilized long form leases, the number of spaces subject to mobilehome rent control has dropped dramatically. In 1988, approximately 2749 spaces were subject to the Rent Protection Ordinance, however by 2008, that number has dropped to 1603, with corresponding increases in the number of spaces under vacancy decontrol, long term leases, or park ownership.