



**ALAMEDA COUNTY COMMUNITY DEVELOPMENT AGENCY
HOUSING & COMMUNITY DEVELOPMENT DEPARTMENT**

STAFF REPORT

TO Members of the Planning Commission
HEARING DATE March 7, 2016
RE Mobile Home Park Rent Stabilization Ordinance

GENERAL BACKGROUND

The proposed Mobile Home Rent Stabilization Ordinance is returning to your Commission, having been initially heard at your December 7, 2015 meeting, and continued to this meeting.

The State allows local governments the ability to regulate mobile home space rents. The County's current adopted Ordinance was adopted by the Board of Supervisors in 1990. The current adopted Ordinance is a simple two-page document which limits the annual increase in rent payable for use or occupancy of any mobile home space in unincorporated Alameda County to no more than 5% each year, without review, has strict vacancy control, and allows owners to request additional increases in rent by application to the Board of Supervisors, if approved by the Board. The current adopted Ordinance has not been updated since its original adoption.

As stated in the current adopted Ordinance, the Board's original intent was to *"protect the owners and occupiers of mobile homes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service and utility government assessments."*

Over the years, staff have received a significant number of complaints by residents of mobile home parks concerning the allowable 5% maximum space rent increases under the current adopted Ordinance. These complaints have suggested that 5%, when instituted annually and compounded year over year, are unreasonable and not related to increases in a park owner's operating costs.

PROCESS TO DATE

During 2015, following direction from the Board of Supervisors, staff gathered data, reviewed the ordinances of surrounding jurisdictions and held community stakeholder meetings to elicit feedback regarding the Ordinance and possible changes from both owners and residents of the mobile home parks. During this time, public comment on the current ordinance was also taken at the Housing and Community Development Advisory Committee, the Castro Valley Municipal Advisory Committee ("Castro Valley MAC"), and at the Board of Supervisors Transportation & Planning Committee and Unincorporated Services Committee. Attached for your review is *Exhibit C, Background Research Report*, providing more details on information gathered during this process.

Staff presented a draft revised Mobile Home Rent Stabilization Ordinance to the Unincorporated Services Committee and to the Castro Valley MAC in September 2015. As a result of feedback

received at those meetings, staff and Supervisor Miley met with owner and resident stakeholder groups again. During those meetings, the terms of a proposed Ordinance were discussed. Staff then drafted a significantly revised proposed Ordinance, which was initially reviewed by your Commission on December 7, 2015.

At the December hearing, your Commission took public testimony regarding the proposed draft Ordinance and continued the item to the next meeting. Your Commission requested additional information on possible options to consider regarding vacancy control, as well as background information on other local jurisdictions' mobile home rent stabilization ordinances on the key issues in the proposed ordinance.

Subsequent to the December 7th Planning Commission meeting, Supervisor Miley held additional meetings with each of the stakeholder groups at their request:

- December 8, 2015: The park owners indicated their preference for complete vacancy decontrol, in addition to the ability to bank unused annual rent increases, which could then be levied on a current resident or his/her heirs or successors at any time. A limited banking provision had been included in the current proposed Ordinance as a form of modified vacancy decontrol, but park owners requested that full vacancy decontrol and banking be included as separate provisions.
- December 9, 2015: The park residents expressed concerns that even at 4%, the maximum allowable annual rent increase currently exceeds the annual change in Consumer Price Index ("CPI"), as well as annual Social Security increases. Some residents for whom Social Security is their only source of income questioned how they would be able to absorb a 4% rent increase. Further, residents were concerned about the impact to the sales prices of their coaches if park owners were allowed an unlimited ability to raise the space rents at coach sale (full vacancy decontrol), as both space rent and coach price are financial considerations for a purchaser of a coach.

On December 10, 2015, the Board of Supervisors Transportation & Planning Committee heard the proposed draft Ordinance. The Committee decided that after the Planning Commission takes action on the proposed draft Ordinance, it should be heard by the Board's Unincorporated Services Committee, before action by the full Board of Supervisors.

On January 13, 2016, staff received correspondence from the Castro Valley MAC, requesting that this item be brought to the Council prior to further consideration by the Planning Commission. As a result, this item was heard at the Castro Valley MAC meeting on February 4, 2016 and continued to your Commission's March 7, 2016 meeting.

PROPOSED ORDINANCE

The current proposed Ordinance is attached as Exhibit A, including a cover sheet listing the changes made to the draft version that was presented to your Commission in December. After your Commission meeting, County Counsel and staff agreed that confusion remained regarding the intent of the vacancy control and the banking provision. Changes were made that removed the banking provision. In addition, under the Administrative Fee section, language was added

that clarified the park owners' responsibility to pay any fee imposed, and their ability to pass on 50% of the fee to residents. The key provisions of the proposed draft Ordinance are summarized below:

1. Annual Standard Rent Increase: The maximum allowable annual space rent increase is a flat rate of 4% of the space rent with no banking allowed.
2. Vacancy Control:
 - a. Full vacancy decontrol allowed in instances of eviction, abandonment or voluntary removal.
 - b. Modified vacancy decontrol allowed for in-place transfers, of not more than three times the annual standard rent increase each calendar year.
3. Capital Improvement Pass-through: A capital improvement pass-through is not separately allowed.
4. Non-Standard Rent Increases: A non-standard rent increase above the annual standard rent increase may be allowed, if approved, through a park owner's petition and demonstration of need at a hearing. Capital improvements may be considered as part of this.
5. Administration Fee: The County may charge an administrative fee at the Board of Supervisors' discretion, but charging a fee is not mandated. This fee must be paid by the park owners, but the cost may be split 50/50 between park owners and residents.

Vacancy Control/Decontrol Options

Staff recommends modified vacancy decontrol that allows an increase in space rent upon in-place transfer of up to three times the allowable annual rent increase, and no banking provision. This is presented in the current proposed Ordinance attached to the Staff Report as Exhibit A

Pursuant to your Commission's request at your December 7, 2015 meeting, below are various vacancy control options for review. Please refer to Exhibit B for further details regarding these options.

- **Option 1** – Full Vacancy Decontrol. Rents may be increased up to market rate whenever a vacancy occurs.
- **Option 2** – Modified Vacancy Decontrol. Rents may be increased above the maximum allowable annual standard increase in space rent but with a cap on the percent or amount. Two variations of Modified Vacancy Decontrol are:
 - **Option 2-A:** Rents may be increased an additional amount of up to three times the allowable annual rent increase, no banking (presented in the current version of the draft proposed Ordinance and staff's recommendation).
 - **Option 2-B:** No banking, with rents allowed to increase to the average of the three highest space rents (based on most the recent year's annual report).
- **Option 3** – Strict Vacancy Control with Banking allowed– maintain the current adopted Ordinance's strict vacancy control, but allow for 'banking' of up to three years of the

standard annual rent increase if not imposed annually, taken at the time of in-place transfer to a new resident. (Option presented at the December 7th Planning Commission meeting)

- **Option 4 – Strict Vacancy Control** – Rent may not be increased more than the maximum allowable annual space rent increase due to in-place transfer unless a request for a Non-Standard Rent Increase is approved.

Staff recommends Option 2 because this option allows a park owner to raise space rents closer to the current market rate, but does not tie this allowable increase to rents in other parks in the Unincorporated County, a factor which may not be applicable to the park where the vacancy is taking place. An allowable space rent increase of three times the annual space rent also permits the rent to get closer to market rate without overly adversely impacting the mobile home sale price.

INFORMATION REQUESTED BY YOUR COMMISSION

At the December 7th Planning Commission meeting, your Commission requested additional information on common key issues from other jurisdictions' mobile home rent stabilization ordinances. The following charts lay out the policy of the current adopted Ordinance in the Unincorporated County, and compare it to ordinances in other Bay Area jurisdictions. These are presented to your Commission as possible alternatives for consideration and discussion.

Limits on Annual Rent Increases: the amount that park owners can increase space rents annually without approval or application (by right). More information on the maximum amount of rent increases by jurisdiction can be found in Exhibit C. Below is a summary of Bay Area jurisdictions' mobile home rent stabilization ordinances on this issue:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>5% of rent annually; no banking.</i>
Fremont	Greater of 60% of CPI, 3% of rent or \$10/month; no banking.
Union City	Lesser of 90% of CPI or 7% of rent, no banking.
Hayward	60% of CPI, with a floor and a ceiling, no banking.
Pleasanton	100% of CPI with a floor and a ceiling, no banking.
Concord	Lesser of 80% of CPI or 5% of rent; no banking.
Contra Costa County	Greater of 75% of CPI or 2% of rent; no banking.
Gilroy	Lesser of 80% of CPI or 5% of rent; no banking.
Milpitas	Lesser of 50% of CPI or 5% of rent; no banking.
San Jose	75% of CPI with a floor and a ceiling; banking allowed for two years only within those two years.
Sonoma County	Lesser of 100% of CPI or 6% of rent; no banking.
<i>Proposed Alameda County Ordinance</i>	<i>4% of rent annually, no banking *</i>

* Note: Banking rent increases was introduced by staff in the version of the draft proposed Ordinance proposed to the Planning Commission on December 7th as part of a modified vacancy decontrol proposal. It was not intended to be a separate item. One of the vacancy control options presented in Exhibit B provides for banking, but banking as a separate concept is not included in the proposed draft.

Vacancy Control: Strict vacancy control occurs when the park owner is not allowed to raise rents beyond the annual by-right rent increase at unit turnover. Full vacancy decontrol would allow the park owner to raise rents above the annual amount without limitation. Modified vacancy decontrol allows some increases in rent at sale, but places limits on the amounts. Below is a summary of Bay Area jurisdictions' mobile home vacancy control provisions:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>Strict control.</i>
Fremont	Modified decontrol: 15% increase allowed until 2019. After 2019, CPI change between times of transfer allowed, not to exceed 15%.
Union City	Strict control.
Hayward	Strict control.
Pleasanton	Strict control.
Concord	Modified decontrol: 10% increase allowed; no more than every 24 months.
Contra Costa County	Strict control.
Gilroy	Full decontrol.
Milpitas	Strict control.
San Jose	Strict control.
Sonoma County	Full decontrol.
<i>Proposed Alameda County Ordinance</i>	Modified decontrol: Allowed at unit turnover, capped at three times annual rent increase.

There are not many variations on modified vacancy control in the Bay Area for comparison purposes. As an alternative example, Los Angeles allows space rents to increase to the highest rent for a comparable space in the park or a 10% increase, whichever is less, upon in-place sale.

Capital Improvement Pass-through: Some mobile home rent stabilization ordinances allow for the pass-through of some or all of capital improvement costs, especially when the annual increase allowed is minimal or limited. Below is a summary of Bay Area jurisdictions' mobile home rent stabilization ordinance provisions regarding capital improvement pass-through:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>Not included as a separate item (may be considered under major rent increase).</i>
Fremont	Only for new improvements. Pro-rata share with residents cannot exceed 5% of space rent.
Union City	Not included as a standalone provision
Hayward	Not included as a standalone provision.
Pleasanton	Not included as a standalone provision
Concord	Not included as a standalone provision
Contra Costa County	Included as a separate provision, upon petition and by approval.
Gilroy	Not included as a standalone provision.

Milpitas	Not included as a standalone provision.
San Jose	Not included as a standalone provision, but specifically allowed as part of major rent increase
<i>Proposed Alameda County Ordinance</i>	<i>Not included as a standalone provision, but specifically allowed as part of major rent increase</i>

Non Standard Rent Increase (formerly Major Rent Increase): Some mobile home rent stabilization ordinances allow for an additional increase in rent, if approved, to address extraordinary cost increases. These are generally by petition and must demonstrate the need for the additional increase. Below is a summary of the major rent increase provisions of Bay Area jurisdictions' ordinances:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>Allowed by petition.</i>
Fremont	Allowed by petition.
Union City	Allowed by petition.
Hayward	Allowed by petition.
Pleasanton	Allowed by petition.
Concord	Allowed by notice. May be challenged by resident petition.
Contra Costa County	Allowed by petition.
Gilroy	Allowed by petition.
Milpitas	Allowed by petition.
San Jose	Allowed by petition.
<i>Proposed Alameda County Ordinance</i>	<i>Allowed by petition, and may include capital improvement as a justification.</i>

Administrative Fee: Some mobile home rent stabilization ordinances allow for an annual administrative fee to be passed through to park owners and/or residents. Below is a summary of the administrative fee provisions of the surrounding jurisdictions' ordinances:

Jurisdiction	Ordinance Provision
<i>Current Alameda County Ordinance</i>	<i>Not included</i>
Fremont	Imposed; 35% may be passed to residents.
Union City	Not included.
Hayward	Imposed; up to 50% may be passed to residents.
Pleasanton	Imposed; up to 50% may be passed to residents.
Concord	May be imposed; 50% may be passed to residents.
Contra Costa County	Imposed; 35% may be passed to residents.
Gilroy	Not included
Milpitas	Not included
San Jose	Imposed; 50% may be passed to residents.
Sonoma County	May be imposed; 50% may be passed to residents.
<i>Proposed Alameda County Ordinance</i>	<i>May be imposed; 50% may be passed to residents. *</i>

* Note: The draft proposed Ordinance presented in September included a 50% pass-through for any fee imposed to the residents. The proposed ordinances presented to your Commission (almost completely re-written) omitted that concept. The version before your Council tonight added it back in.

As the park owner and resident stakeholder groups did not constitute a seated body, no formal recommendation from those groups is presented. However, both groups have expressed concerns with various aspects of the current proposed Ordinance. Residents in attendance at the stakeholder meetings continue to be concerned that the annual increase is excessive. Ms. Alikian, manager of the Wishing Well Mobile Home Park, has submitted a redlined version of the December 7th version of the proposed draft Ordinance (attached as Exhibit D).

CASTRO VALLEY MAC RECOMMENDATION

At its February 4, 2016 Castro Valley MAC meeting, the Council voted 6-1 (Sandoff opposed) to recommend adoption of the current version of the proposed draft Ordinance, with the following modifications and additions:

- (1) Full vacancy decontrol in all circumstances (the proposed draft Ordinance includes a modified vacancy decontrol, with a cap of three times the annual rent increase);
- (2) Any administrative fee structure goes through the public process for discussion;
- (3) The adopted Ordinance should be reviewed after one year;
- (4) Recording and tracking of all complaints to HCD, specifically to include the type of complaint.

Councilmember Sandoff opposed the motion, stating that there was no indication that mobile home park owners would not raise rents to the maximum extent in all circumstances, and that regarding vacancy decontrol, he preferred a modified form of vacancy control to full decontrol.

ATTACHMENTS TO STAFF REPORT

Attached to this Staff Report are Exhibit A (draft proposed Ordinance, redlined from December 7th Planning Commission Meeting with a summary of proposed changes), Exhibit B (Vacancy Control Options), Exhibit C (Background and Research Report), and Exhibit D (Ms. Alikian's proposed changes to the December 7th Planning Commission version of the draft Ordinance).

STAFF RECOMMENDATION

Staff recommends the Planning Commission discuss and make a recommendation on the proposed Ordinance to the Unincorporated Services Committee.

PREPARED BY:	Michelle Starratt, Assistant Housing Director
REVIEWED BY:	Linda Gardner, Housing and Community Development Director

Exhibit A - Redline of Staff-proposed Changes to the Ordinance from 12/7/15 Planning Commission meeting

The following changes to the proposed ordinance made subsequent to the December 7, 2015 Planning Commission meeting are highlighted below:

- (1) “Event of Vacancy” definition removed. This definition was determined to be superfluous and unnecessary.
- (2) “Major Rent Increase” title changed to “Non Standard Rent Increase”. The terminology change is intended to remove any perceived statutory bias regarding any rent increase that is not the standard annual rent increase.
- (3) 3.32.080 was augmented to include voluntary removal of a mobile home as a circumstance under which vacancy decontrol is allowable. This change was made to allow full vacancy decontrol in one additional scenario, voluntary removal of the mobile home by a mobile home owner who is moving out of the park.
- (4) 3.32.090 was revised so that the modified vacancy decontrol may be taken upon an in-place transfer regardless of whether the annual standard rent increases had been imposed in prior years.
- (5) 3.32.150 administration fees section was amended to clarify that park owners would pay the fee annually if imposed, but would be allowed to pass-through 50% of the fees to the mobile home owners, apportioned equally among the spaces in each park. This change clarifies the original staff intent to allow park owners to share the administration fee burden with mobile home owners.

Chapter 3.32 - MOBILEHOME PARK RENT REVIEW PROCEDURES

Sections:

3.32.010 Findings and purpose.

There is presently within the unincorporated area of Alameda County and the surrounding areas a shortage of space for location of mobilehomes. This has resulted in a low vacancy rate and rents have been and are presently rising rapidly and causing concern among a substantial number of residents. Because of the high cost of moving mobilehomes and the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile-home owners, and the substantial investment of mobilehome owners in such homes, the Board of Supervisors finds and declares it necessary to protect the owners and occupiers of mobilehomes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service and utility-government assessments.

3.32.020 Definitions.

"Base Rent" means the Space Rent charged and allowed pursuant to this chapter on the effective date of this section plus any increase in Space Rent allowed thereafter pursuant to this chapter.

"Capital Improvements" means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses and which may be amortized over the useful life of the improvements in accordance with the Internal Revenue Code.

"Commercial Purchaser" means a person or entity including, but not limited to, an individual, a limited liability company, corporation, partnership or any form of association engaged in Mobile Home sales as a business.

~~"Event of Vacancy" means a change in ownership of the Mobile Home, removal and replacement of the Mobile Home on the Mobile Home space or any vacancy of the Mobile Home space. A change in ownership shall not constitute an Event of Vacancy if the prior owner continues to reside in the Mobile Home as his or her primary residence.~~

~~"Hearing Officer" means the person designated by the Rent Review Officer pursuant to Section 3.32.040.~~

"Housing Director" means the Director of the Housing and Community Development Department of the Community Development Agency, acting either directly or through his/her assigned deputies and employees.

"Housing Services" means services provided by the owner related to the use or occupancy of a Mobile Home Space, including but not limited to insurance, repairs, replacements, maintenance, painting, lighting, heat, water, refuse removal, laundry facilities, recreation facilities, parking security and employee services.

~~"Major Non Standard Rent Increase" means an increase in rent pursuant to Section 3.32.060.~~

"Mobile Home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Cal. Veh. Code § 35790, including but not limited to a manufactured

home, as defined in the California Health and Safety Code, "Mobile home" does not include a recreational vehicle, as defined in Cal. Civ. Code § 799.24, a commercial coach, as defined in Cal. Health & Safety Code § 18001.8, or factory-built housing as defined in Cal. Health & Safety Code § 19971.

"Mobile Home Owner" means a person who has an ownership interest in a Mobile Home and has a tenancy in a Park under a rental agreement, having the right to the use of a Mobile Home space on which to locate, maintain and occupy a Mobile Home, including any fractional interest therein and who is not a Commercial Purchaser.

"Park" means a Mobile Home park which rents or leases spaces for Mobile Home dwelling units in the unincorporated area of Alameda County.

"Park Owner" means the owner, lessor, operator or manager of a Park.

"Rent Review Procedures" means the written procedures adopted by the Housing Director pursuant Section 3.32.160.

"Space Rent" means the money or other consideration charged or received by a Park Owner for the use or occupancy of a Mobile Home space and the nonexclusive use of common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered as of the effective date of this section.

"Standard Rent Increase" means an increase in rent pursuant to Section 3.32.050.

3.32.030 Rent Review Officer

The Housing Director, or a person or persons designated by the Housing Director, shall serve as the Rent Review Officer to administer and enforce the provisions of this chapter. The Rent Review Officer shall have the power and duty to receive, investigate, hold hearings on, and make findings and decisions regarding the petitions for rent adjustment.

3.32.040 Hearing Officer

The Rent Review Officer may designate a Hearing Officer to conduct a hearing or hearings pursuant to this chapter. The minimum qualifications of the Hearing Officer shall be as established by the Rent Review Procedures. A person shall not be appointed as a Hearing Officer if the Rent Review Officer determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a Mobile Home Owner, a Park Owner or an immediate family member of a Mobile Home Owner or Park Owner shall be ineligible to serve as a Hearing Officer.

3.32.050 Standard Rent Increase.

The annual Space Rent shall not be increased by more than four percent (4%). Section 3.32.090 herein governs the maximum increase in Space Rent allowable upon an Event of Vacancy.

3.32.060 ~~Major~~ Non Standard Rent Increase.

- A. If dissatisfied with the maximum Space Rents permitted by Section 3.32.050 of this chapter, a Park Owner may request an adjustment in Space Rents according to the provisions of this section. However, no Park Owner may request more than one adjustment to Space Rents during the

twelve (12) month period following the first full day the Space Rent increase authorized by Section 3.32.050 is put into effect.

- B. A Park Owner may request an adjustment in excess of the Space Rent increase authorized by Section 3.32.050 by conforming to the procedures set forth in this section, and any further procedures as established in the Rent Review Procedures.
- C. A hearing will be held upon receipt of a complete application and submission of such additional information as may be requested by the Hearing Officer or Rent Review Officer.
- D. In any Space Rent increase proceeding pursuant to this section, the burden shall be upon the Park Owner to prove the justification for a Space Rent increase by clear and convincing evidence.
- E. In evaluating the request, the Hearing Officer shall consider, among other factors:
 - 1. Unavoidable increases in maintenance and operating expenses;
 - 2. The substantial rehabilitation or the addition of Capital Improvements by the Park Owner seeking the Major Rent Increase;
 - 3. The rental history of the affected Mobile Home spaces and the Park, for the immediately preceding thirty-six (36) months, including prior rent increases, reductions in Housing Services, and the occupancy rate;
 - 4. The physical condition of the affected Mobile Home Spaces and Park;
 - 5. Existing Space Rents for comparable Mobile Home spaces in other comparable Parks in the area;
 - 6. Current and historic net operating income;
 - 7. A fair return on the property pro-rated among the Mobile Home spaces of the Park;
 - 8. Whether any expense is clearly excessive, given the industry standard for the same item; and
 - 9. Other financial information that the Park Owner is willing to provide.
- F. The Hearing Officer shall consider the evidence presented and the factors set forth above to determine what level of Space Rent increase, if any, is just, fair and reasonable. The Hearing Officer may approve or deny the requested Major Rent Increase, or may approve the request with modifications. The Housing and Community Development Department will notify the affected Mobile Home Owners of the Hearing Officer's determination.
- G. This section does not place a cap on the amount of a Space Rent increase that may be requested or approved via a Major Rent Increase. However, the Hearing Officer may place a cap on the allowable Space Rent increase approved in response to a request for a Major Rent Increase or deny the request.
- H. If a Major Rent Increase is approved that is based in whole or in part on a Capital Improvement cost, then that portion of the increase attributable to the Capital Improvement cost shall not

form a part of the Base Rent. In addition, that portion of the increase shall be charged only during the useful life of the Capital Improvement in accordance with IRS regulations.

3.32.070 Notices Required

Rent increases pursuant to this chapter shall not be effective and shall not be charged, accepted, received or retained until the Park Owner has given all notices required by state law (see e.g. Civil Code Section 798.30), this chapter, and the Rent Review Procedures.

Park Owners shall maintain a current paper copy of the California Mobilehome Residency Law (Civil Code Sections 798 et seq.) and of this Chapter in the on-site management office in an area readily accessible for review by Mobile Home Owners. If the copy cannot be made readily available in an on-site management office, the Park Owner shall immediately notify the Housing Director who may permit the copy to be stored in an alternate location. Each notice of a rent increase shall state the on-site location where the Mobilehome Residency Law may be reviewed.

3.32.080 Vacancy Decontrol-Evictions-~~of~~, Abandoned Mobile Homes or Voluntary Removal

I. A Park Owner may increase Space Rent by any amount when renting a Mobile Home space after obtaining a judgment of unlawful detainer (an eviction) or a judgment of abandonment for an “abandoned mobilehome” as defined by and pursuant to ~~Section 798.61 of~~ the Mobilehome Residency Law. The new Space Rent established for the Mobile Home space shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated.

J. A Park Owner may also increase Space Rent by any amount upon a vacancy of the Mobile Home space arising from the voluntary removal of a Mobile Home by the owner who will no longer be a resident of the park. A removal of the Mobile Home from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the Mobile Home with a newer mobile home shall not constitute a voluntary removal of the Mobile Home under this section.

3.32.090 Modified Vacancy Control/~~De-Control~~

~~If the Park Owner has not implemented the maximum annual Standard Rent Increases allowed for a particular Mobile Home space, following an Event of Vacancy for that Mobile Home space, the Space Rent may be increased to the level that would have been allowed had the Park Owner implemented annual Standard Rent Increases to the extent permitted by this chapter~~

After an In-place Transfer (sale, transfer or other conveyance of a Mobile Home with the Mobile Home remaining on the Mobile Home space following the sale, transfer or conveyance) the Park Owner may increase the Space Rent for the space underlying the Mobile Home up to a maximum of three times the annual Standard Rent Increase, in any given calendar year. A transfer of title whereby the Mobile Home Owner adds or removes one or more co-owners and continues to reside in the Mobile Home as his or her primary residence shall not constitute an In-place Transfer.

~~—increase is implemented.—~~

~~3.32.110~~ 3.32.100 Mobile Home Park Registration

Park Owners must register their Park(s) with the Rent Review Officer within sixty (60) days from the effective date of this ordinance. The registration must include, in a form acceptable to the County, the following information:

- A. A list of the Park Owner's Parks and all associated Park Owners, including a list of the managers and operators, if any;
- B. Appropriate contact information for all Park Owners;
- C. The number of Mobile Home spaces in each Park;
- D. Mailing address of each Mobile Home space;
- E. A list of all Mobile Home spaces covered by this chapter;
- F. A list of all spaces within the Park not covered by this chapter and the reasons therefor (e.g., spaces with a lease term longer than 12 months);
- G. The amount of and descriptions for all other rent, charges and fees charged to the Mobile Home Owners by space; and
- H. The Space Rent for each Mobile Home space as of the effective date of this section.

Any changes in the information provided in subsections A through G shall be reported to the Rent Review Officer within thirty (30) days of the change.

~~3.32.120~~3.32.110 Conduct of proceedings, hearings.

- A. Within ten (10) working days of the filing of a complete petition for a Major Rent Increase the Rent Review Officer shall set a date for the hearing and shall have notified all affected parties by mail of the date and time of the hearing.
- B. The hearing shall be set for a date not less than twenty (20) nor more than thirty (30) working days after the Rent Review Officer has received all required documentation pursuant to Section 3.32.60.
- C. The Rent Review Officer shall designate a Hearing Officer not less than ten (10) working days prior to the hearing.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.
- E. In the event that either the Park Owner or the Mobile Home Owner or both should fail to appear at the hearing, the Hearing Officer may hear and review such evidence as may be presented and make such decisions just as if both parties had been present or continue the hearing or dismiss the petition for Major Rent Increase.
- F. Materials received in conjunction with a petition for Major Rent Increase shall be maintained in the Housing and Community Development Department for five (5) years and shall be available for review by the public during normal working hours.

~~3.32.130~~3.32.120 Decision of the Hearing Officer.

- A. The Hearing Officer shall adopt findings and a decision no later than ten (10) working days after the conclusion of the hearing on any petition for a Major Rent Increase. All parties shall be sent a copy of the findings and decision.
- B. Based on the findings, the Hearing Officer shall deny the request, grant the request, or set the Major Rent Increase at an amount less than requested.

~~3.32.140~~3.32.130 Mobile Home Owner's Right of Refusal.

A Mobile Home Owner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a Mobile Home space or to collect the rent increase.

~~3.32.150~~3.32.140 Five-year review.

The Housing Director will provide a report regarding the administration of this ordinance for consideration by the Board of Supervisors at least once in a five (5) year period.

~~3.32.160~~3.32.150 Administration Fees

The Board of Supervisors may establish a fee payable by the Park Owners to reimburse the County for the general costs incurred by the County in administering this chapter. One hundred percent of this fee shall be paid by Park Owners to the County. The costs shall be apportioned equally to all Mobile Home spaces in the County. Park Owners may pass through 50 percent of the administrative fees assessed against them to the Mobile Home Owners. The portion of the fee to be passed through shall be apportioned equally among the affected Mobile Home spaces.

~~3.32.170~~3.32.160 Direct Cost Fees

The direct costs incurred in the processing of a request for a Major Rent Increase shall be borne directly by the Park Owner involved in the request and may not be passed through in any manner to the Mobile Home Owners unless otherwise apportioned by the Hearing Officer. Direct costs include all costs incurred by the County in processing the request pursuant to this chapter including but not limited to the cost of staff time, hearing costs, and appeals costs. The Rent Review Officer may collect a deposit from a Park Owner prior to processing an application for a Major Rent Increase.

~~3.32.180~~3.32.170 Implementing Rent Review Procedures

The Housing Director shall establish written Rent Review Procedures consistent with this chapter to effectuate the purposes of this chapter, including but not limited to establishing timelines for the notices and actions described herein, hearing procedures, requirements for written submissions, and factors to be considered by the Rent Review Officer and Hearing Officer in making determinations pursuant to this chapter.

~~3.32.190~~3.32.180 Appeals

A decision by a Hearing Officer may be appealed to the Rent Review Officer. A decision by the Rent Review Officer may be appealed to the Housing Director. A decision by the Housing Director may be appealed to the Board of Supervisors. The appeal may be taken by any Mobile Home Owner, Park Owner or other person aggrieved or by an officer, department, board, or commission affected by

the order within ten (10) working days of the decision, by filing with the Housing Director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. The action of the Board of Supervisors shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

~~3.32.200~~3.32.190 Severability

This chapter shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity.

~~3.32.210~~3.32.200 No Takings

This chapter should not be interpreted and shall not be applied in a manner that would effectuate a taking of private property.

~~3.32.220~~3.32.210 Consistency with State and Federal Law

This chapter should not be interpreted and shall not be applied in a manner that would be inconsistent with the rights and responsibilities of Park Owners and Mobile Home Owners as established by the Mobilehome Residency Law or as otherwise provided by state or federal law.

Exhibit B – Vacancy Control Options

The current adopted Ordinance includes strict vacancy control. This means that the space rent remains the same and does not increase more than the standard amount allowed annually, except when a mobile home has been abandoned or the owner has been evicted. The current adopted Ordinance also does not allow for banking any ‘by right’ rent increases to be taken later, should a mobile home park owner not impose the maximum ‘by right’ rent increase each year.

As briefly described in the Staff Report, there are a range of options concerning vacancy control. For example, full vacancy decontrol would allow park owners to raise space rents above the standard annual amount without limitation. Modified vacancy decontrol allows some increases in rent at transfer, but places limits on the amounts.

Stakeholders have differing opinions regarding vacancy control. Park owners have requested full vacancy decontrol as well as the ability to bank standard annual rent increases that they choose not to levy. Mobile home owners have requested that strict vacancy control be maintained and no ability to bank annual increases be allowed.

At the December 7th Planning Commission hearing, the Commission asked for information about vacancy control sections in other ordinances as a comparison of possible options. Within Alameda County, three jurisdictions (Hayward, Union City and Pleasanton) maintain strict vacancy control. Fremont’s ordinance contains modified vacancy control, which allows a 15% space rent increase at time of transfer until 2019 and after 2019 allows for a rent increase equal to the percent of CPI change between times of transfer, not to exceed 15%.

Outside of Alameda County, Contra Costa County and the cities of Milpitas and San Jose maintain strict vacancy control, while Sonoma County and Gilroy allow full vacancy decontrol in all circumstances. The City of Concord’s ordinance contains modified vacancy control, which allows for a 10% increase at time of transfer, no more than once every 24 months.

These jurisdictions’ vacancy control provisions, as well as other provisions in their mobile home rent stabilization ordinances, are detailed in tables contained within the staff report.

Presented below are a number of possible vacancy control options for your Commission’s consideration.

Option 1 Full Vacancy Decontrol

Full vacancy decontrol would allow park owners to raise space rents above the standard annual amount without limitation. Sample ordinance language for this option is:

A mobile home park owner shall be permitted to charge a new space rent for a mobile home space whenever a lawful space vacancy occurs. The new space rent shall become the base rent upon which future rent increases pursuant to this chapter will be calculated. For purposes of this chapter, a lawful space vacancy is defined as follows:

A. An In-place Transfer;

B. A vacancy occurring because of eviction or other termination of the tenancy of the affected Mobile Home Owner in accordance with the Mobilehome residency law, California Civil Code Sections 798.55 through 798.60, as amended;

C. A vacancy of the mobile home space arising from the voluntary removal of a mobile home by the owner who will no longer be resident of the park. A removal of the mobile home from the space for the purpose of performing rehabilitation or capital improvements to the space or for the purpose of upgrading the mobile home with a newer mobile home shall not constitute a voluntary removal of the Mobile Home under this section; or

D. Abandonment of the mobile home as determined by a judgment of abandonment pursuant to Section 798.61 of the Mobilehome Residency Law.

This option allows park owners to bring the mobile home space up to market rent when a new owner buys the mobile home, while helping preserving the affordability of the mobile home space for the current resident. This option has the potential of significantly impacting the sale price of the mobile home, as a prospective buyer must consider both the space rent and the mobile home sale price when determining whether to make a purchase. It also impacts the affordability of the space over time.

Option 2 Modified Decontrol

Modified decontrol allows a park owner to raise the space rent higher than the standard annual increase upon unit transfer, but places a cap on that additional rent increase. Below are two examples of modified vacancy decontrol for your Commission to consider, along with sample ordinance language for each.

Option 2- A: Modified Decontrol with No Banking (Current Version of Proposed Ordinance)

This option allows for the space rent to be increased at unit turnover by up to three times the annual standard rent increase.

Sample ordinance language for this option is:

Upon closure of an in-place transfer of a mobile home, the park owner may increase the space rent for the space underlying the mobile home by up to three times the annual standard rent increase. (No banking allowed).

This option allows a park owner to raise rents more than the standard annual rent increase upon vacancy, does not tie the allowable increase to rents in other parks in the Unincorporated County, and puts a cap on the increase. . An allowable space rent increase upon vacancy of three times the annual space rent permits the rent to get closer to market rate without impacting the current resident's current rent or overly adversely impacting the mobile home sale price. The limit of three times the space rent may be considered arbitrary. Further, this option might be considered overly restrictive by the park owners because it restricts space rent increases at time of transfer, while not allowing banking.

Option 2 –B: Modified Decontrol with Average of Three Highest Space Rents in the Unincorporated County

This option allows the space rent to be increased at unit turnover by the average of the highest three space rents in mobile home parks in the Unincorporated County.

Sample ordinance language for this option is:

Upon closure of an in-place transfer of a mobile home, the park owner may increase the space rent, up to the average of the highest three space rents in the unincorporated areas of the County, based on the most recent year's annual reports to the County.

This option potentially does not impact the sale price of the coach to the extent that full decontrol may, as there is an upper limit placed on the maximum rent the owner is allowed to charge a new tenant. However, given the differences between mobile home parks in the Unincorporated County, a modified decontrol that hinges on space rents in parks other than the one in which a transfer is occurring may not be a limit that is relevant or fair to the park owner. Further, similar to Option 2, this option might be considered overly constrictive by the park owners because it limits space rent increases at time of transfer, while not allowing banking.

Option 3 Strict Vacancy Control (Current Adopted Ordinance) And Allow Banking

This option does not allow the space rent to be increased at unit turnover beyond the annual allowable standard increase, but allows the park owner to bank untaken standard space rent increases and recapture any amount of those untaken increases at the time of vacancy.

Sample ordinance language for this option is:

If a park owner has not implemented the maximum annual standard rent increases allowed for a particular mobile home space, the space rent may be increased to the level that would have been allowed had the park owner implemented annual standard rent increases to the extent permitted by this chapter. Such rent increase may be implemented on the mobile home owner or his/her heirs or successors at any time, provided that no other rent increase has been imposed within the prior twelve (12) months. Notwithstanding the foregoing, a rent increase pursuant to this section following an in-place transfer may take place within twelve (12) months of a prior rent increase.

This option responds to park owner desire to be able to recapture any amount of annual standard rent increases that they choose voluntarily not to impose in any given year. In stakeholder meetings, park owners have maintained that at times they have foregone imposing all or some of the annual increases for various reasons and do not want to feel that they must impose the standard annual increases every year, or else they will lose the ability to recover that rent. Option 3 allows park owners to recover those untaken space rents at the time of vacancy, while maintaining affordability for the current coach owner. However, park owners have argued that this option is not modified vacancy decontrol at all; rather, it is simply a banking provision, which should be considered separately from vacancy decontrol.

Option 4 Strict Vacancy Control (Current Adopted Ordinance)

This option does not allow the space rent to be increased at unit turnover beyond the annual allowable standard increase.

Alameda County's current adopted Ordinance provides for strict vacancy control in all circumstances. Simply put, park owners can only impose a maximum 5% annual space rent increase yearly, regardless of whether the mobile home is transferred to a new owner or a new mobile home is brought into the park.

Option 5 maintains the relative affordability of the mobile home space permanently. It provides for the maximum sale price of the mobile home, as space rents will be maintained at a relatively low level even at time of transfer. However, in doing so, park owners argue that it transfers the value of the park wholly to the residents for they are able to secure a higher sales price if the space rent is kept artificially low in perpetuity.

Exhibit C - Mobile Home Rent Stabilization Ordinance - Background and Research Report

Background

In response to concerns raised by mobile home residents in the Unincorporated County about space rents becoming increasingly unaffordable, Alameda Housing and Community Development Department (HCD) was asked to review the County's Mobile Home Space Rent Stabilization Ordinance ("Ordinance"). Staff reviewed provisions of other mobile home space rent ordinances locally and statewide, took public testimony in a series of presentations at Advisory and Board of Supervisor Committees, and held a series of informal stakeholder meetings: three with mobile home park owners and three with mobile home park residents. These meetings were held between February and July 2015. In early 2015, staff also conducted surveys of park owners and residents to elicit data regarding current space rents, rates of rent increases, and other pertinent park information in the Unincorporated County.

The current Ordinance was adopted in 1990 and has not been updated since. It is short, without specificity or details about how to implement it. The Ordinance allows for a 5% annual increase in rents each year. It further allows for park owners to apply for higher than 5% increase, but does not specify the factors that will be taken into account when considering such a request.

Research

There are more mobile home parks in the Unincorporated County than in any other city in the County. County parks have fewer spaces in each park on average than those in other jurisdictions. Alameda County has 19 parks, with an average size of 33 spaces. As a comparison, Hayward has the second largest number of parks: 10 parks with an average park size of 213 spaces. The following chart provides detail regarding mobile home parks within Alameda County:

Alameda County Jurisdictions with Mobile Home Parks		Rent Stabilization Ordinance?	Number of Parks	Total Number of Spaces	Smallest Park	Largest Park	Average Size
1	Unincorporated	Yes	19	622	8	86	33
2	Hayward	Yes	10	2131	37	462	213
3	San Leandro	No	8	837	30	366	105
4	Livermore	No	7	443	14	159	63
5	Pleasanton	Yes	4	404	14	208	101
6	Fremont	Yes	3	732	165	331	244
7	Oakland	No	3	49	10	26	16
8	Union City	Yes	2	896	352	544	448

Research on mobile home rent stabilization ordinances throughout the State of California revealed that there are a total of 95 jurisdictions in the State that have rent stabilization ordinances governing their

mobile home parks. Of these 95, the majority of them utilize a combination of a Consumer Price Index (CPI) and a flat rate percentage to govern rent increases. Alameda County is the only jurisdiction in California which calculates its allowable space rent increase solely as a percentage of the current space rent (flat 5% as opposed to being tied to the CPI).

Briefly, these differences can be illustrated by an example utilizing the February, 2015 CPI rate for the San Francisco – Oakland – San Jose area of 2.5% and the average reported mobile home space rent in the unincorporated county of \$624/month.¹ Under Alameda County's current Ordinance allowing up to a 5% increase, the rent could be increased by \$31.20/month, the highest in the Bay Area.

Jurisdiction	Increase Allowed Based on:	Amount of Increase
Unincorporated	5% of the Space Rent	\$31.20
Fremont	60% of CPI or 3% of Space Rent or \$10/month	\$18.72
Hayward	60% of CPI or 3% of Space Rent	\$18.72
Pleasanton	100% of CPI	\$15.60
Union City	90% of CPI	\$14.04

In Alameda County, if the space rent were raised by the maximum 5% per year between the adoption of the Ordinance in 1990 through 2014, the space rent would be increased by 120% over that period. Over that same time period, other jurisdictions allowable rent increases were significantly less:

Year	Alameda County Max. Increase	Fremont Max. Increase	Hayward Max. Increase	Union City Max. Increase	Annual Average CPI
Cumulative Increase	120.0%	86.4%	74.6%	61.3%	65.6%

Staff reviewed actual mobile home space rents in neighboring jurisdictions by researching single wide mobile homes for sale in Hayward and San Leandro in Spring 2015, and determining their space rents. For context, the City of Hayward has a mobile home rent stabilization ordinance; the City of San Leandro does not. For more detail on rents at County parks and comparison of rents in other jurisdictions, please see pages 5 and 6 of this report.

From the seven owner surveys received, mobile home space rents in the Unincorporated County at the higher end of the rent spectrum are comparable to those in Hayward and San Leandro. However, the Hayward and San Leandro mobile home parks contain significantly more amenities than any mobile

¹ \$624/month average space rent was calculated utilizing the average space rents reported by park owners through HCD's survey, weighted by the number of spaces in each park.

home park in the Unincorporated County, despite comparable space rents. It should be noted that these parks have more spaces than those in the Unincorporated County, and therefore can spread the costs of amenities over more spaces due to the economies of scale.

Standard Economic Indicators

To compare the maximum rent increase allowed under the Alameda County Mobile Home Rent Stabilization Ordinance, staff looked for other widely used economic indicators that can be tracked over time. The three most relevant include the Consumer Price Index, Contract Rent from the US Census, and the published HUD Fair Market Rents. The key information is the change over time, in comparison to the allowed change over time in allowed mobile home rent increases. The below chart shows the change in these economic indicators from 1990 through 2014.

Maximum Allowable Rent Increases Against Standard Economic Indicators				
1991-2014	Alameda County Max. Increase	Consumer Price Index	Alameda County Median Rent Increases (Census Data)	Fair Market Rents
Cumulative Increases	120.0%	65.0%	75.6%	83.0%

The maximum allowable increase to mobile home space rents referenced above, do not take into account the compounding nature of year over year increases, and therefore this is the straight increase, and not the actual increase, which is higher.

Summary of Resident and Owner Issues from Stakeholder Meetings

Six stakeholder meetings, held between March 2015 and July 2015, were facilitated by HCD staff. There are 19 mobile home parks in the Unincorporated County. Residents or owners of 11 of those parks participated in the stakeholder meetings. Meetings were held separately with park residents and park owners in order to encourage candid discussion of stakeholder concerns. Both groups of stakeholders expressed general agreement that the stakeholder meetings were productive and respectful. Complete summary notes from these stakeholder meetings can be found on HCD's website at:

www.acgov.org/cda/hcd/mobilehome/index.htm .

Mobile home park residents at the stakeholder meetings expressed a preference for lower limits on annual rent increases, even if that meant vacancy decontrol and capital improvement pass-through are also allowed.

It is important to note that not all Alameda County parks have the same characteristics nor are they run in the same manner. As a result, not every park resident's concerns are the same, nor were all the residents' concerns expressed in these meetings. Concerns raised by the residents included excessive

rent increases, inadequate park maintenance and insufficient communication with park management. In some cases, residents also reported that park owners refused to disclose to the current coach owner what the new rent will be if the unit sells, so that the current owner can factor that information into the listing. Some residents expressed historical reticence to discuss concerns with park management for fear of retribution.

Residents want to see maximum allowable rent increases lowered, though some residents expressed concern with a maximum tied to a calculation of the CPI increase unless HCD calculates the percentage and provides that determination to both the owners and the residents annually. Generally, residents liked the idea of tying increases to improvements at the park, although they would prefer to have input into the capital improvement through a vote. Residents are supportive of regulations which provide them with additional information regularly, including tenant grievance and appeal procedure, as well as State and local mobile home regulations.

Most park owners attending the stakeholder meetings expressed that if more stringent rent increase limits are imposed, they desire the ability to pass through costs of necessary capital improvements in addition to rent increases, in order to pay for the cost of those improvements. The owners also expressed a strong preference for partial to total vacancy decontrol. Concerns raised by park owners included the need for space rents to adequately cover the costs of park operations, as well as for capital improvements and maintenance. Overall, owners expressed a preference for completely eliminating the Ordinance and, short of that, having no change to the current annual rent increase limit. If there is a change to a CPI model, owners prefer a minimum annual increase, regardless of the CPI level. If the current maximum rent increase limit is maintained, owners do not feel a capital improvement pass-through is necessary; but if the ordinance maximum annual rent increase is lowered, the ability to have a capital improvement pass-through is desired. Owners do not want resident votes on capital improvements, but if necessary, owners believe residents should only be able to vote on new and optional improvements, rather than on capital improvements necessary for maintenance or substantial health and safety-related repairs.

Survey Results Regarding Rents and Rent Increases

The current adopted Ordinance does not require that owners report to the County actual rents charged, or that they provide any information to the County when they raise rents, therefore actual rents were difficult to establish. Lack of data from the mobile home parks has been a significant challenge in this process.

To gather data, surveys were distributed electronically and/or by hard copy to residents and owners from February to April, 2015 in order to ascertain rent data and other pertinent information from park owners and residents. Responses from park owners or their representatives from seven out of nineteen

mobile home parks were received. Seventy-four residents from ten mobile home parks were represented in the resident survey.

Through the surveys, mobile home park residents or owners reported the following annual rent increases during the years 2010-2014:

Mobile Home Park	City	Yearly Rent Increase	Years
Avalon	Castro Valley	5%	All
Chetwood Crest	Castro Valley	5%	All
Fuchsia Court	San Leandro	3-5%	All
Paradise	San Leandro	5%	All
Tra Tel	Castro Valley	5%	All
Wishing Well	Castro Valley	5%	All
Wagon Wheel	Castro Valley	2-5%	2010, 2011, 2012, 2014
Vaughn's	Castro Valley	5%	2013

The mobile home park owner survey also collected information regarding average, highest and lowest space rents, and utilities for resident-owned mobile homes, as indicated in the chart below. Not all owners responded, and therefore data was not available for all parks.

Mobile Home Park	City	Average Rent	Highest Rent	Lowest Rent	Utilities Extra
Avalon	Castro Valley	\$427.00	\$490.00	\$380.00	No
Chetwood Crest	Castro Valley	\$658.00	\$848.00	\$559.00	Yes
Fuchsia Court	San Leandro	\$555.00	\$555.00	\$555.00	Yes
Paradise	San Leandro	\$698.00	\$835.34 (double space)	\$692.00	Yes
Tra Tel	Castro Valley	\$550.00	\$550.00	\$491.00	Yes
Wishing Well	Castro Valley	\$672.49	\$760.88	\$584.10	Yes
Wagon Wheel	Castro Valley	\$670.00	\$697.00	\$643.00	Yes

Of the park owners that responded to the survey (7 of 19), the majority reported increasing rents in all of the last five years, while a few did not. Residents in those same parks reported rents raised every year that the current owner owned the park.

Comparison with Other Jurisdictions' Space Rents:

Staff researched mobile homes currently for sale in nearby jurisdictions in order to compare the average space rents in the Unincorporated County to those of nearby municipalities and was able to ascertain

some current space rents in Hayward and San Leandro. For context, the City of Hayward has vacancy control within its Mobile Home Rent Stabilization Ordinance; the City of San Leandro does not.

Mobile Home Park	# of Spaces	City	Rent	Double Wide vs. Single Wide	Amenities
Spanish Ranch I	462	Hayward	\$720-\$722	Double	Clubhouse, pool, spa,
Spanish Ranch II	187	Hayward	\$659-\$680	Double	Clubhouse, pool
New England Village	415	Hayward	\$732-\$819	Mix, mostly Double	Clubhouse
Mission Bay	366	San Leandro	\$795-\$966	Double	Clubhouse, gym, exercise facility, pool, spa
Sandev RV Park	71	San Leandro	\$910	Double	Clubhouse, pool
Chetwood Crest	85	Castro Valley	\$559-\$848	Single	Clubhouse
Wishing Well	35	Castro Valley	\$584-\$760	Single	None
Wagon Wheel	53	Castro Valley	\$643-\$697	Single	None

As the chart above illustrates, mobile home parks in the Unincorporated County at the higher end of the rent spectrum have space rents comparable to those in Hayward and San Leandro. The Hayward and San Leandro mobile home parks contain significantly more amenities than any mobile home park in the unincorporated county, despite comparable space rents. Parks in these cities also have significantly more spaces per park, and therefore when amenities are offered, the cost is spread over a larger number of spaces (economy of scale), which parks in the Unincorporated County cannot match.

EXHIBIT D – HERA ALIKIAN’S COMMENTS TO 12/7/15 DRAFT PROPOSED ORDINANCE

Outline of Changes to Rent Stabilization Ordinance:

- 1) **Event of Vacancy Definition** – further clarified, see comments. Includes other ways of vacancy
- 2) **Housing Services Definition** – further clarified, see comments. Clears up services that are actually provided by Parks
- 3) **Rent Review Procedures are references throughout the document** – a copy to be provided for review as part of this process
- 4) **3.32.030 Position of Rent Review Officer** – a neutral 3rd party, such as Echo Housing. Rent Review Officer shall not be the independent arbiter of petitions.
- 5) **3.32.040 Hearing Officer** – a neutral 3rd party, such as an Administrative Law or Superior Court Judge or an individual with a Juris Doctorate with formal course and training in arbitration
- 6) **3.32.050 Standard Rent Increase** – definition clarified
- 7) **3.32.060 Major rent Increase** – suggested name change to “Non-Standard Increase”
- 8) **3.32.060 Major Rent Increase** – further clarification on why a Park Owner may ask for this increase
- 9) **3.32.060(C)** – Request further clarification of items to be included in a completed application and to define complete application
- 10) **3.32.060(D)** – Change to Preponderance of the evidence. This is the customary legal standard
- 11) **3.32.060(E)** – section 3 and 5 amended with small changes
- 12) **3.32.070 Notices Required** – all notice requirement should be in this document for simplicity. Not all parks have onsite offices should have other alternatives as spelled out to web links or ability to request for hard copy of documents
- 13) **3.32.080 Vacancy Decontrol** – section amended as discussed
- 14) **3.32.090 Vacancy Control / De-Control** – changed to Rent Banking
- 15) **3.32.100 MH Park Registration** – points (A & B) amended. (H) to read information provided to remain confidential not shared with public

16) **3.32.150 Administration Fees** – inserted from first draft ordinance as discussed to reflect 50/50 shared costs between Mobile Home Owners and Park Owners in the event they are established.

17) **3.32.160 Direct Cost Fees** – request a deposit amount that is reasonable to be stated in the document

18) **3.32.170 Housing Director** – shall provide this Rent Review Procedure as part of this process for review and public comment

Chapter 3.32 - MOBILEHOME PARK ~~RENT REVIEW PROCEDURES~~ RENT STABILIZATION ORDINANCE

Sections:

3.32.010 Findings and purpose.

There is presently within the unincorporated area of Alameda County and the surrounding areas a shortage of space for location of mobilehomes. This has resulted in a low vacancy rate and rents have been and are presently rising rapidly and causing concern among a substantial number of residents. Because of the sometimes relatively high cost of moving mobilehomes and the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, including permits, landscaping and site preparation, the lack of alternative homesites for mobile-home owners, and the sometimes substantial investment of mobilehome owners in such homes, the Board of Supervisors finds and declares it necessary to protect the owners and occupiers of mobilehomes from unreasonable rent increases, while at the same time recognizing the need of the park owners to receive both a fair return on their property and increased rental income sufficient to cover increasing costs of repair, maintenance, insurance, employee service and utility-government assessments.

3.32.020 Definitions.

"Base Rent" means the Space Rent charged and allowed pursuant to this chapter on the effective date of this section plus any increase in Space Rent allowed thereafter pursuant to this chapter.

"Capital Improvements" means those improvements that materially add to the value of the property and appreciably prolong its useful life or adapt it to new uses and which may be amortized over the useful life of the improvements in accordance with the Internal Revenue Code.

"Commercial Purchaser" means a person or entity including, but not limited to, an individual, a limited liability company, corporation, partnership or any form of association engaged in Mobile Home sales as a business.

"Event of Vacancy" means a change in ownership of the Mobile Home, removal ~~and replacement~~ of the Mobile Home, abandonment of the mobile home on the Mobile Home space, termination of tenancy

of the mobile home space, or any other vacancy of the Mobile Home space. ~~A change in ownership shall not constitute an Event of Vacancy if the prior owner continues to reside in the Mobile Home as his or her primary residence.~~

"Hearing Officer" means the person designated by the Rent Review Officer pursuant to Section 3.32.040.

"Housing Director" means the Director of the Housing and Community Development Department of the Community Development Agency, acting either directly or through his/her assigned deputies and employees.

"Housing Services" means services provided by the ~~P~~ark Owner related to the use or occupancy of a Mobile Home Space, which may include ~~ing~~ but not limited to insurance, repairs, replacements, maintenance, ~~painting, lighting, heat,~~ water, refuse removal, laundry facilities, recreation facilities, ~~parking security~~ and employee services.

"Major Rent Increase" means an increase in rent pursuant to Section 3.32.060.

"Mobile Home" means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to Cal. Veh. Code § 35790, including but not limited to a manufactured home, as defined in the California Health and Safety Code, "Mobile home" does not include a recreational vehicle, as defined in Cal. Civ. Code § 799.24, a commercial coach, as defined in Cal. Health & Safety Code § 18001.8, or factory-built housing as defined in Cal. Health & Safety Code § 19971.

"Mobile Home Owner" means a person who has an ownership interest in a Mobile Home and has a tenancy in a Park under a rental agreement, having the right to the use of a Mobile Home space on which to locate, maintain and occupy a Mobile Home, including any fractional interest therein and who is not a Commercial Purchaser.

"Park" means a Mobile Home park which rents or leases spaces for Mobile home dwelling units in the unincorporated area of Alameda County.

"Park Owner" means the owner, lessor, operator or manager of a Park.

~~"Rent Review Procedures"~~ means the written procedures adopted by the Housing Director pursuant Section 3.32.17~~60~~.

"Space Rent" means the money or other consideration charged or received by a Park Owner for the use or occupancy of a Mobile Home space and the nonexclusive use of common area facilities, but excluding separately billed utilities or reasonable charges for services actually rendered as of the effective date of this section.

"Standard Rent Increase" means an increase in rent pursuant to Section 3.32.050.

3.32.030 Rent Review Officer

The Housing Director, or a person or persons designated by the Housing Director, shall serve as the Rent Review Officer to administer and enforce the provisions of this chapter. ~~The Rent Review Officer shall have the power and duty to receive, investigate, hold hearings on, and make findings and decisions regarding the petitions for rent adjustment.~~

3.32.040 Hearing Officer

Commented [A1]: This is a problem. Mobile Home Owners change title to their homes without the prior notifications to Management and continue to live on site. When they pass, the new owner takes over without the qualification process with Management. In most cases this is a violation of Park Rules but difficult to follow through. If a person continues to live in the home they need to be the owner on title for the home with no changes in ownership.

Commented [A2]: Park Owners do not provide services such as heat, lighting, and paint to homes that are owned by residents. They are responsible to paint their homes, pay for gas and electric sub-metered through the park or direct to PG&E. We are not required to offer security services, laundry facilities, recreation facilities, parking security, employee services, etc. Many parks do not have laundry, and or recreation facilities, etc.

Commented [A3]: Rent Review Procedures referenced herein to be incorporated as part of the public process and not solely created at the discretion of the Housing Director. Please provide for review.

Commented [A4]: The position of "Rent Review Officer" shall be a neutral 3rd party such as Echo Housing.

Commented [A5]: This statement was not in the first draft ordinance. Annual rent increase up to 4% of the rents as of the effective date are allowed under this chapter and shall not be petitioned. Would defeat the standard rent increase.

Commented [A6]: The position of "Hearing Officer" shall be a neutral 3rd party such as the case in other ordinances where a Hearing Officer is a retired administrative law judge or retired Superior Court judge, or an individual who has a completion of a Juris Doctorate or equivalent degree from a school of law and completion of a formal course of training in arbitration which provides that person with the knowledge and skills to conduct a major rent increase hearing in a professional and prudent manner.

The Rent Review Officer may designate a Hearing Officer to conduct a hearing or hearings pursuant to this chapter. The minimum qualifications of the Hearing Officer shall be as established by the Rent Review Procedures. A person shall not be appointed as a Hearing Officer if the Rent Review Officer determines that the person has an actual or potential conflict of interest in the matter or if such appointment would have the appearance of a conflict of interest in the matter. For example, a person who is a Mobile Home Owner, a Park Owner or an immediate family member of a Mobile Home Owner or Park Owner shall be ineligible to serve as a Hearing Officer.

3.32.050 Standard Rent Increase.

The ~~annual~~ Space Rent shall not be increased by more than four percent (4%) ~~annually. Base rents increased per this section cannot be petitioned for decrease when raised pursuant to this chapter. Section 3.32.090 herein governs the maximum increase in Space Rent allowable upon an Event of Vacancy.~~

3.32.060 Major Rent Increase.

- A. If ~~a Park Owner demonstrates the necessity for an increase beyond the Standard Annual Increase with the maximum Space Rents as~~ permitted by Section 3.32.050 of this chapter ~~for reasons such as Maintenance of Net Operating Income, Historically Low Rents, Catastrophic Loss, etc.-, or is dissatisfied with the Standard Rent Increase~~ a Park Owner may request an adjustment in Space Rents according to the provisions of this section. However, no Park Owner may request more than one adjustment to Space Rents during the twelve (12) month period following the first full day the Space Rent increase authorized by Section 3.32.050 is put into effect.
- B. A Park Owner may request an adjustment in excess of the Space Rent increase authorized by Section 3.32.050 by conforming to the procedures set forth in this section, and any further procedures as established in the Rent Review Procedures.
- C. A hearing will be held upon receipt of a ~~complete application~~ and submission of such additional information as may be requested by the Hearing Officer or Rent Review Officer.
- ~~D. In any Space Rent increase proceeding pursuant to this section, the burden shall be upon the Park Owner to prove the justification for a Space Rent increase by a preponderance of the evidence. clear and convincing evidence.~~
- E. In evaluating the request, the Hearing Officer shall consider, among other factors:
 1. Unavoidable increases in maintenance and operating expenses;
 2. The substantial rehabilitation or the addition of Capital Improvements by the Park Owner seeking the Major Rent Increase;
 3. The rental history of the affected Mobile Home spaces and the Park, for the immediately preceding thirty-six (36) months, including prior rent increases, ~~additions and/or~~ reductions in Housing Services, and the occupancy rate;

Commented [A7]: Suggest to change the name of this to "Non-Standard Increase" instead of "Major" for consistency. This way there is "standard" and "non-standard."

Commented [A8]: These reasons would typically be why a park owner would go through a process not because they are dissatisfied.

Commented [A9]: There should be clarity as to what will define a "complete application."

Commented [A10]: This is the highest standard to allowable in a civil lawsuit, but it is not the customary standard of proof in civil matters. The clear and convincing standard is too high a standard here. Replace with the customary legal standard of "Preponderance of the Evidence," i.e. more likely true than not true.

4. The physical condition of the affected Mobile Home Spaces and Park;
 5. Existing Space Rents for comparable Mobile Home spaces in other comparable -Parks in the area and surrounding non-rent controlled areas;
 6. Current and historic net operating income;
 7. A fair return on the property pro-rated among the Mobile Home spaces of the Park;
 8. Whether any expense is clearly excessive, given the industry standard for the same item; and
 9. Other financial information that the Park Owner is willing to provide.
- F. The Hearing Officer shall consider the evidence presented and the factors set forth above to determine what level of Space Rent increase, if any, is just, fair and reasonable. The Hearing Officer may approve or deny the requested Major Rent Increase, or may approve the request with modifications. The Housing and Community Development Department will notify the affected Mobile Home Owners of the Hearing Officer's determination.
- G. This section does not place a cap on the amount of a Space Rent increase that may be requested or approved via a Major Rent Increase. However, the Hearing Officer may place a cap on the allowable Space Rent increase approved in response to a request for a Major Rent Increase or deny the request.
- H. If a Major Rent Increase is approved that is based in whole or in part on a Capital Improvement cost, then that portion of the increase attributable to the Capital Improvement cost shall not form a part of the Base Rent. In addition, that portion of the increase shall be charged only during the useful life of the Capital Improvement in accordance with IRS regulations.

3.32.070 Notices Required

Rent increases pursuant to this chapter shall not be effective and shall not be charged, accepted, received or retained until the Park Owner has given all notices required by state law (see e.g. Civil Code Section 798.30), and this chapter, and the Rent Review Procedures.

Park Owners shall maintain a current paper copy of the California Mobilehome Residency Law (Civil Code Sections 798 et seq.) and of this Chapter in the on-site management office, if available, in an area readily accessible for review by Mobile Home Owners. If the copy cannot be made available in an on-site management office, a Mobile Home Owner can request a hard copy of this chapter from Park Owner. The Park Owner shall immediately provide a copy within (7) days of the request notify the Housing Director who may permit the copy to be stored in an alternate location. Each notice of a rent increase shall state the on-site location where the Mobilehome Residency Law and this chapter may be reviewed, website, or instructions for a mobile home owner to make a written request for a paper copy.

3.32.080 Vacancy Decontrol ~~Evictions or Abandoned Mobile Homes~~

Commented [A11]: What is the expected timeframe or agreed upon timeframe for said notification?

Commented [A12]: Please provide a complete set of notice requirements herein in this chapter not as a separate document for simplicity.

Commented [A13]: Not all parks have onsite offices. This would be an option to allow Park Owners the opportunity to provide the website link to the ordinance on their notices or a method by which a Mobile Home Owner can make a request for a hard copy to be provided by Park Owner. This is how the MRL allows the MRL to be distributed annually.

~~The maximum rent increases established by this chapter shall not apply following an Event of Vacancy. The new Space Rent established for the Mobile Home space shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated.~~

Commented [A14]: Inserted as discussed at the last Supervisor's meeting with Park Owners

~~A Park Owner may increase Space Rent by any amount when renting a Mobile Home space after obtaining a judgment of unlawful detainer or a judgment of abandonment for an "abandoned mobilehome" as defined by and pursuant to Section 798.61 of the Mobilehome Residency Law. The new Space Rent established for the Mobile Home space shall become the Base Rent upon which future rent increases pursuant to this chapter will be calculated.~~

3.32.090 Rent Banking ~~Vacancy Control/De Control~~

~~If the Park Owner has not implemented the maximum annual Standard Rent Increases allowed for a particular Mobile Home space, following an Event of Vacancy for that Mobile Home space, the Space Rent may can be increased to the level that would have been allowed had the Park Owner implemented annual Standard Rent Increases to the extent permitted by this chapter for up to the past three calendar years (up to 12%) for an in-place mobile home owner with a rental agreement. The Park Owner shall provide appropriate documentation and reporting to the County if such an increase is implemented.~~

Commented [A15]: A suggestion for rent banking.

~~3.32.103~~ 3.32.100 Mobile Home Park Registration

Park Owners must register their Park(s) with the Rent Review Officer within sixty (60) days from the effective date of this ordinance. The registration must include, in a form acceptable to the County, the following information:

- A. ~~A list of the The Park's name and Park Owner's Parks and all associated~~ Park Owners, including a list of the managers and operators, if any;
- B. Appropriate contact information for ~~all~~ Park Owner(s);
- C. The number of Mobile Home spaces in each Park;
- D. Mailing address of each Mobile Home space;
- E. A list of all Mobile Home spaces covered by this chapter;
- F. A list of all spaces within the Park not covered by this chapter and the reasons therefor (e.g., spaces with a lease term longer than 12 months);
- G. The amount of and descriptions for all other rent, charges and fees charged to the Mobile Home Owners by space; and
- H. The Space Rent for each Mobile Home space as of the effective date of this section.

Commented [A16]: In the case of a "Commercial Purchaser," the name of such entity and the manager of said entity shall satisfy this requirement.

—Any changes in the information provided in subsections A through G shall be reported to the Rent Review Officer within thirty (30) days of the change. Any information provided in subsections A through G shall remain confidential and not shared with the public.

~~3.32.130~~ 3.32.110 Conduct of proceedings, hearings.

- A. Within ten (10) working days of the filing of a complete petition for a Major Rent Increase the Rent Review Officer shall set a date for the hearing and shall have notified all affected parties by mail of the date and time of the hearing.
- B. The hearing shall be set for a date not less than twenty (20) nor more than thirty (30) working days after the Rent Review Officer has received all required documentation pursuant to Section 3.32.60.
- C. The Rent Review Officer shall designate a Hearing Officer not less than ten (10) working days prior to the hearing.
- D. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.
- E. In the event that either the Park Owner or the Mobile Home Owner or both should fail to appear at the hearing, the Hearing Officer may hear and review such evidence as may be presented and make such decisions just as if both parties had been present or continue the hearing or dismiss the petition for Major Rent Increase.
- F. Materials received in conjunction with a petition for Major Rent Increase shall be maintained in the Housing and Community Development Department for five (5) years. and shall be available for review by the public during normal working hours.

~~3.32.140~~ 3.32.120 Decision of the Hearing Officer.

- A. The Hearing Officer shall adopt findings and a decision no later than ten (10) working days after the conclusion of the hearing on any petition for a Major Rent Increase. All parties shall be sent a copy of the findings and decision.
- B. Based on the findings, the Hearing Officer shall deny the request, grant the request, or set the Major Rent Increase at an amount less than requested.

~~3.32.150~~ 3.32.130 Mobile Home Owner's Right of Refusal.

A Mobile Home Owner may refuse to pay any increase in rent which is in violation of this chapter. Such refusal to pay shall be a defense in any action brought to recover possession of a Mobile Home space or to collect the rent increase.

~~3.32.160~~ 3.32.140 Five-year review.

The Housing Director will provide a report regarding the administration of this ordinance for consideration by the Board of Supervisors at least once in a five (5) year period.

~~3.32.170~~ 3.32.150 Administration Fees

Commented [A17]: The information made available for the use and the administration of this ordinance shall remain confidential and not made available to the public and or made available to mobile home owners. This was previously agreed to during the review of the first draft ordinance.

Commented [A18]: Please provide the definition of a "complete petition"

Commented [A19]: The information made available for the use and the administration of this ordinance shall remain confidential and not made available to the public and or made available to mobile home owners. This was previously agreed to during the review of the first draft ordinance.

Commented [A20]: This was taken from the previous first draft of the ordinance and is based on the discussions had with Supervisor Miley concerning a return to a 50/50 pass through of administration fees to mobile home owners.

The Board of Supervisors may establish a fee payable by the Park Owners to reimburse the County for the general costs incurred by the County in administering this chapter. In the event that the Board of Supervisors establishes a fee, the following shall apply:

A. A Park Owner may pass through up to 50 percent (50%) of the Administration Fees assessed against them to the Mobile Home Owners. The portion of the Administration Fee to be passed through shall be apportioned equally among the Affected Mobile Home Spaces. A minimum of fifty percent (50%) of the Administration Fee must be borne by the Park Owners and may not be passed through in any manner to the Mobile Home Owners.

B. Once every twelve (12) months a Park Owner may increase the Mobile Home Owner's rent based on the Mobile Home Owner's pro-rata share of the Administration Fee. The Administration Fee Rent Increase, if any, shall be charged in equal monthly installments over the twelve- (12-) month period following its implementation.

C. An Administration Fee Rent Increase does not comprise a part of the Base Rent and shall not be included as part of the Base Rent upon which future rent increases are calculated. An Administration Fee Rent Increase is a rent increase separate from, and may be charged in addition to, a Standard Rent Increase, or Major Rent Increase.

D. An Administration Fee Rent Increase, if any, shall be noticed and implemented at the same time as any Standard Rent Increase during the twelve- (12-) month period.

E. An Administration Fee Rent Increase shall cease to be charged or collected as rent once the Mobile Home Owner's pro-rata share of the Administration Fee has been collected.

~~3.32.1903.32.160~~ 32.160 Direct Cost Fees

The direct costs incurred in the processing of a request for a Major Rent Increase shall be borne directly by the Park Owner involved in the request and may not be passed through in any manner to the Mobile Home Owners unless otherwise apportioned by the Hearing Officer. Direct costs include all costs incurred by the County in processing the request pursuant to this chapter including but not limited to the cost of staff time, hearing costs, and appeals costs. The Rent Review Officer may collect a reasonable deposit from a Park Owner prior to processing an application for a Major Rent Increase.

Commented [A21]: Please state a deposit amount. Existing 1990 Ordinance mentions a fee of \$300

~~3.32.1903.32.170~~ 32.170 Implementing Rent Review Procedures

The Housing Director shall establish written Rent Review Procedures consistent with this chapter to effectuate the purposes of this chapter, including but not limited to establishing timelines for the notices and actions described herein, hearing procedures, requirements for written submissions, and factors to be considered by the Rent Review Officer and Hearing Officer in making determinations pursuant to this chapter.

Commented [A22]: This procedure needs to be determined and included in this chapter as it is being referenced throughout the document.

~~3.32.2003.32.180~~ Appeals

A decision by a Hearing Officer may be appealed to the Rent Review Officer. A decision by the Rent Review Officer may be appealed to the Housing Director. A decision by the Housing Director may be appealed to the Board of Supervisors. The appeal may be taken by any Mobile Home Owner, Park Owner or other person aggrieved or by an officer, department, board, or commission affected by the order within ten (10) working days of the decision, by filing with the Housing Director a notice of appeal specifying the grounds for such appeal. Filing such notice shall stay all proceedings in furtherance of the order appealed from. The action of the Board of Supervisors shall be subject to judicial review pursuant to Code of Civil Procedure Section 1094.5.

~~3.32.2103.32.190~~ Severability

This chapter shall be liberally construed to achieve its purpose and preserve its validity. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable and are intended to have independent validity.

~~3.32.2203.32.200~~ No Takings

This chapter should not be interpreted and shall not be applied in a manner that would effectuate a taking of private property.

~~3.32.2303.32.210~~ Consistency with State and Federal Law

This chapter should not be interpreted and shall not be applied in a manner that would be inconsistent with the rights and responsibilities of Park Owners and Mobile Home Owners as established by the Mobilehome Residency Law or as otherwise provided by state or federal law.