

Exhibit C – Vacancy Control Options

The current adopted Ordinance includes strict vacancy control. This means that 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, a range of options exist 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 Committee’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 Committee 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.

Park owners would like the ability to raise rents all the way up to what the market will bear, however modified vacancy control allows park owners to recover a portion of the previously-restricted space rents without impact to the current owner, while preserving mobile home parks as necessary affordable housing stock in this era of skyrocketing housing prices.

Further, the mobile home sale price can be impacted by rent increases as the unique nature of a mobile home necessitates that a potential mobile home purchaser must consider both the space rent and the purchase price of the mobile home when considering whether to buy an existing home in a park. Theoretically, a lower space rent allows for the financial ability to absorb a higher purchase price; the opposite is also true.

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 4 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.