APPENDIX F: DETAILS FOR PROPOSED CHANGES

In light of the stakeholder input to date, the mobile home rent stabilization ordinances of the surrounding jurisdictions, as well as the data regarding local space rents and FMR, the proposed draft ordinance includes the following provisions:

Standard Rent Increase
The draft proposed ordinance includes a phased approach to the maximum allowable amount for annual rent control.

- Through December, 2020, the park owner may impose a yearly standard rent increase equal to 100% of the percent change in the Consumer Price Index (CPI), provided that the standard rent increase totals no more than 3% of the base monthly rent.
- From January 2021, onward, the park owner may impose a yearly standard rent increase equal to 100% of the percent change in the CPI; provided that the standard rent increase is between 3% and 5% of the base monthly rent.

This approach utilizes both the CPI and the space rent, a common approach in many nearby jurisdictions.

The draft proposed ordinance includes the codification of a detailed process for the consideration of a major rent increase at the initiation of the park owner, if the owner is able to demonstrate that this annual increase is insufficient.

Capital Improvement Pass-through
Capital improvement pass-through allows park owners to pass on all or a portion of the costs of a park capital improvement to the residents, typically as a monthly fee amortized over the life of the improvement. Of the jurisdictions that allow capital improvement pass-through, the types of improvements that qualify to be passed through, the percentages of improvements allowed to pass through to the residents, and the amortization schedules, vary by jurisdiction. Some jurisdictions allow park owners to pass through only new improvements; some allow pass-through of both new and repair or replacement capital improvements.

During the stakeholder meetings, both owner and resident expressed support for a capital improvement pass-through. Staff recommends codifying a capital improvement pass-through with the following limitations:

(1) no more than 50% of the amortized capital improvement cost may be passed on to the mobile home owners;
(2) the individual mobile home owner’s pro-rata share will not exceed 5% of the then-existing base rent;
(3) the capital improvement will be amortized over the life of the improvement; and

(4) new capital improvements, as opposed to repair and replacement activities, will only be passed through if a vote of the mobile home owners is taken and more than 50% of the mobile home owners support the new improvement.

Providing park owners the ability to pass through some of the capital improvement costs to the park residents, amortized over the life of the improvement, provides assurances to residents that the improvements are taking place and allows the park owners some financial relief if a more restrictive rent control measure is enacted. At the same time, providing that no more than 50% of the capital improvement cost may be passed on to the residents, and requiring that these costs total no more than 5% of the monthly space rent, restricts a park owner's ability to make unnecessary, expensive improvements and passing those costs wholesale to the residents. Finally, requiring a vote of the residents for all new capital improvements ensures that the residents are not financially responsible for new improvements to the park they do not want.

However, it is important to note that by passing through the cost of the capital improvement to the residents, the park owners experience a potentially significant financial gain as they are able to improve the value of their park without personally paying for that improvement. Park residents are financially impacted by the cost of the capital improvement, which, while offset potentially by more stringent rent control, will need to be disclosed and passed on to any future purchasers of the coach if such sale occurs during the amortization period. This additional "fee" potentially impacts the purchase price of the coach.

It is important to note that if a park owner successfully petitions for capital improvement rent increases and/or major rent increases, the park residents' monthly rent increase may significantly exceed their annual CPI-based standard rent increase.

Vacancy Control

To have vacancy control in a rent stabilization ordinance provides that rent increase limitations remain in force even when a mobile home coach is sold. Currently, Alameda County has vacancy control for mobile home spaces. In contrast, vacancy decontrol allows park owners to raise space rents without limitation upon the sale of a coach.

There are several financial implications that stem from vacancy control/decontrol. First, since vacancy decontrol has the potential to effectively move space rents to market rate when the coach is sold, there are possible implications for the value of the coach because an increase in space rent could lower the sale price of the coach as a potential buyer must consider both financial aspects of the sale. Vacancy decontrol could also result in the loss of mobile home coaches as relatively affordable housing stock. As coaches turn over, and their rents have the potential of returning to market value, over time, significantly controlled rents are depleted.

Additionally, questions remain about how to ascertain what market value of a space rent actually is. Since a mobile home coach cannot be moved and the resident cannot "walk away" from his or her mobile home without losing a significant investment, it is important to ensure that a potential return to space rent "market value" through vacancy decontrol does not amount to a park owner's de facto refusal to allow the resident to sell the coach by pricing the space rent so high as to be financially unfeasible for potential buyers.

Some jurisdictions employ modified vacancy control by allowing park owners to raise space rents upon a vacancy higher than the annual rent increase limitation allows but not up to market rate. For example, upon a vacancy, some jurisdictions allow rents to be raised by a percentage of space rent, typically higher than that allowed for the standard rent increase, or by the percentage that the CPI increased between times of transfer. Modifications to vacancy decontrol can assist in alleviating concerns regarding how to ascertain market rent, the significant impact to the coach sale price, or potential manipulation of setting the space rent so high as to impede the coach sale.

The draft proposed ordinance does not include any changes to the current vacancy control requirements in the ordinance.

Administrative

The draft proposed ordinance includes additional administrative provisions. Specifically, most of the owners and residents expressed a desire to have the ordinance provide more specificity regarding what factors would be taken into account in reviewing requests for rent increases over the maximum amount allowed by a standard increase. Changes of this nature are considered administrative, and are considered separately from those that are financial in nature. These procedural recommendations will provide additional information and certainty of process to park owners and residents, as well as provide critical information to HCD to keep it informed regarding status and changes in the park. These administrative recommendations include notification requirements, codification of the rent review officer and standard of review recommendations. Both owners and residents expressed general support for these administrative recommendations during stakeholder meetings.

Finally, the draft proposed ordinance allows for an administrative fee to be levied by the county to the park owners. It further allows the park owners to pass on 50% of the fee to the residents of the parks. This fee would be determined on actual staff time, and proposed to the Board of Supervisors annually through the MOE budget process. The County will not charge a fee for the first year, but it will account for staff time to administer the ordinance in calendar year 2016. In 2017, during the MOE Budget process, HCD will establish the amount of time spent during 2016, and propose a pro-rata fee per space, and assign the fee to each park. The fee will be established for the 2017/2018 fiscal year.