

Housing Boon

By Thomas W. Casparian

Last week, a veto by Gov. Arnold Schwarzenegger preserved a law that creates an incentive for mobile home park owners to sell rental spaces to residents and encourages the residents to buy. Although this same law contains provisions limiting rent increases for low-income residents, an alliance of wealthier residents and power-hungry local officials nearly succeeded in its drive to stop conversions to resident ownership. Worse still, the bill's proponents cynically claimed they were acting to protect disadvantaged residents, despite the iron-clad rent protection afforded by current law.

AB 1542, which the governor vetoed Friday, sought to amend Government Code Section 66427.5 to allow local governments to impose conditions on the conversion of mobile home parks to resident ownership. It removed a key provision of current law, which properly limits the scope of local government approval to issues concerning compliance with a uniform set of requirements and conditions. Current law prevents local governments from conditioning approval on expensive or burdensome extractions, such as land dedications, construction of public or park improvements, price setting and discounts, and other demands. *El Dorado Palm Springs, Ltd. v. City of Palm Springs* (2002) 96 Cal. App. 4th 1153.

Current law also prevents local governments from denying the park owner's right to offer the lots to the residents. Several local governments recently tried to block park conversions by denying approval, imposing impossible or impractical conditions, or passing local regulations that conflict with the state statutory scheme. Some of these cities and counties improperly claim mobile home spaces as "affordable housing units" in order to meet certain quotas, even though the spaces are not

deed restricted and were never entitled as affordable housing. Moreover, no compensation or other benefit has ever been provided to the landowner in exchange.

Others have denied approval because of the opposition of residents who claim not to want the opportunity to buy their spaces. If they live in a rent-controlled locale, they may be content paying rents far below market. They can also sell their home, or "coach", for \$100,000 to \$200,000, even though its book value is a tenth of that, because they sell with it the right to rent the space for ridiculously low amounts.

These individuals hope to collectively withhold their support for a conversion unless the park owner will agree to sell the lots to them at steep discounts, offer great financing terms, construct park improvements and upgrades, or all of the above. Current law is intended to prevent local officials from using a park conversion as leverage to extract valuable concessions, thereby squelching the incentive to offer renters the opportunity to become property owners.

Government Code Section 66427.5 was enacted in recognition of the advantages of homeownership over renting. Its intent is to create affordable purchase housing by encouraging residents to buy their mobile home spaces as condo-style units, together with an undivided interest in common areas and facilities.

A resident-controlled homeowners association — not an absent landlord — manages all park operations. Residents pay towards mortgage costs and HOA dues at roughly the same rate as their previous rent, as mortgage rates for improved real property are much better than the auto-loan type terms for a mobile home — as well as being tax deductible.

Residents reap the equity appreciation of the property over time instead of throwing away

money on rent. Property tax rolls increase. Local rent control bureaucracy and the accompanying litigation become obsolete. Low and moderate income households can afford to own homes in communities where surrounding home prices would otherwise make ownership impossible.

In order to encourage such conversions, Section 66427.5 limits the scope of local government's review authority when deciding whether to approve or disapprove a conversion application to simply making a determination as to whether the statute's requirements have been complied with by the applicant.

It was enacted with the recognition that allowing local government to create and impose new and additional conditions would often result in politically expedient conditions being imposed on a conversion. Such conditions discourage or halt conversions by making them uneconomic, either by resulting in increased prices for the lots or eliminating all profit incentive for the park owner to sell them.

Current law requires:

- That applicants obtain local approval of a subdivision map;
- That each current resident has a choice of whether to purchase his or her lot or to continue to rent;

Continued on back



Thomas W. Casparian is a partner at Gilchrist & Rutter in Santa Monica, where he heads its mobile home park litigation practice group.

- That there are state-wide uniform economic protections for park residents, in order to ensure that all California park residents are afforded the same rights;

- And that rent for low-income residents who choose not to buy their lots have permanent uniform rent-control — their rent never increasing faster than inflation, even in jurisdictions that do not currently have rent control.

In addition, the law slowly phases in market rents for non-low-income residents in rent-controlled jurisdictions over four years, limits local authority to enforcing the statute's provisions and mandates that a survey of the residents' support be conducted, although this provision's legislative history makes clear that it is not intended as a resident veto of a park owner's choice to convert the park.

AB 1542 was intended to do exactly the opposite. Its proponents made little effort to hide their hostility to conversions unless residents and local governments could unilaterally set the terms and conditions of sales to their liking. Worse still, they did so at the expense of low-income residents, who obtain rent control better than that provided by their local jurisdiction if they choose to remain as renters, and who are eligible for low-interest loans and purchase assistance to provide them an opportunity to become homeowners.

Despite the fact that thousands of park residents have taken the opportunity to own their lots and run their parks over the last 12 years, the bill's proponents claimed current law threatened a parade of horrors, from the elderly being "forced into the street" to "sham" conversions

where a park owner sells only a handful of lots merely to escape local rent control.

Yet, the current system already prevents these and other bad results so well that the proponents could never cite a single example of any actually occurring. No resident of a converted park testified in support of the bill at state hearings. To the contrary, residents of parks that have been converted to resident ownership are not merely content, they are happier and wealthier now than they were as renters.

The governor wisely looked at the facts instead of the unfounded ills invented by special interests and preserved this unique opportunity for home ownership. For that he should be applauded.