



News for Mobilehome Park Owners

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Proposition 98 Defeated – What Options Exist?

In June Proposition 98 was defeated. If it had passed, rent control on mobilehome parks would have been phased out. Interestingly, most of the money that was collected to defeat Proposition 98 was raised based upon the fact that the measure would have restricted the use of eminent domain by local governments.

Park owners are now studying ways to increase the value of their property and increase the cash flow that is restricted in rent controlled areas.

There are three approaches being considered for implementation. The first is how to maximize rent increases. Many park owners are not taking advantage of the rent control ordinances that permit pass-throughs and other methods to increase rents. Other park owners are looking at long-term leases (longer than one year) as a way to exempt the park from rent control.

A second approach is conversion/subdivision of the park. This method permits the individual lots to be sold to the residents at the fair market value of the lots – not their cash flow value. In addition, for non-low income residents, local rent control is phased out over a four-year period.

The third strategy is to determine whether it is possible to close the park and sell or develop the property for its highest and best use. Many parks in the state were originally built as a “temporary use.” The business plan was always to redevelop the property as the nearby city expanded which made the park land more valuable. In some instances, cities are anxious to see the property redeveloped to maximize the tax revenue to the city and to utilize the land for more productive uses.

With the defeat of Proposition 98, perhaps this is the time for park owners to reevaluate their business plan to maximize the value and profitability of their property.

Coastal Mobilehome Parks – Maximizing Value

In the 1970s many mobilehome parks were developed in the outlying coastal areas of California. Although the properties were “in the middle of nowhere,” they were near the ocean and developing the mobilehome park was an economical way to utilize the property.

Coastal properties are now in high demand and park owners want to know how to maximize their return on investment.

The regulations of the California Coastal Commission make it very difficult to redevelop land for other uses.

Recently, the County of San Luis Obispo approved the conversion/subdivision of a mobilehome park in the Morro Bay area. Richard H. Close, Esq. of Gilchrist & Rutter was able to satisfy the needs of the County concerning affordable housing and protection of the property.

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Maximizing Value, Continued

The conversion represented a win-win-win situation in which residents favored the project, the County had permanent protection for the mobilehome park and the park owner was able to obtain an exit strategy in which he will gradually sell the lots to the residents at their fair market value.

The conversion/subdivision enables those residents who want to buy their spaces to accomplish their goal while allowing the other residents to continue to rent their spaces. The park owner will be able to gradually sell spaces and obtain increasing market value from the future lot sales.

Court Strikes Down City Moratorium

The Santa Barbara Superior Court has invalidated a Moratorium imposed by the City of Goleta on conversion/subdivisions. The Court ruled that the City did not have the power to stop the conversion process by using a Moratorium. Other cities have used this technique in an attempt to delay the process.

Tom Casparian, Esq. and Yen Nguyen, Esq. of Gilchrist & Rutter were successful in this first Court decision in the State concerning a Moratorium. This victory should stop the practice by other cities.

Court Invalidates Conversion Regulation Ordinance

Local ordinances that impose conditions, regulations or undue procedural hurdles with respect to converting parks from rental-only to resident ownership are contrary to state law and can be invalidated. In June, Tom Casparian, Esq. of Gilchrist & Rutter successfully obtained a court order invalidating an ordinance East Palo Alto passed in response to a park owner's subdivision application.

The invalidated ordinance required burdensome and expensive materials to be included as part of the subdivision application, including infrastructure testing and engineering reports, evidence of Title 25 compliance and resident relocation information. Additionally, the court struck requirements that the subdivision be consistent with the city's General Plan, housing policies, zoning and other rules.

Although East Palo Alto's ordinance did not contain an illegal requirement of resident surveyed support for conversion, it was clear the San Mateo Superior Court would have invalidated any such rule.

Are You Getting A "Fair Return" On Your Investment?

Park owners in rent-controlled jurisdictions need to know that whatever formula is used to determine "maximum rents" – CPI, maintenance of net operating income, maintenance of gross profits, or any of the numerous variations and combinations of these methods – they have a right to submit additional information that shows the formula will not provide them with a "fair return".

Rent control must allow owners to earn a "just and reasonable return" on their investment. Although courts have not mandated a formula to determine what constitutes a fair return in any particular case, a few critical factors must be considered by the local authority (and the courts on review), for example, it must:

- Consider investors' incentives. A just and reasonable rate of return is one high enough to encourage good management, reward efficiency, discourage the flight of capital, and which is commensurate with profits in comparable enterprises;
- Permit the property to generate income sufficient to cover the costs of operation and the servicing of financing and to ensure the return of a reasonable profit; and
- Have a rate of return commensurate with returns on investments in other enterprises having corresponding risks. The rate of return has to be greater than that of a risk-free investment such as treasury bonds or Bank CDs.

Even if a city does not provide an express right to a "reasonable rate of return" on your investment, the courts have made it clear that you have that right – but you must seek that special rent increase.

Senate Bill 900 – Post Mortem

Senate Bill 900 has quietly passed away. This bill, authored by State Senator Ellen Corbett is similar to last year's "anti conversion" bill by the Assembly, AB1542, which was ultimately vetoed by the Governor. SB900 was a "light" version of AB1542, but was so light that the author lost support from both residents and local government. The intent of this bill, as with its predecessor, was to add more restrictions and costly requirements to park owners seeking to subdivide their properties through conversion to resident ownership. In June there was a Hearing of the Assembly Housing Committee. With virtually no advocates, Senator Corbett knew the bill would not pass in the Committee. However, she promised to be back next year to try again...