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February 2, 2016

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RE: MOBILE HOME PARK OWNERS' COMMENTS TO DRAFT COUNCIL
POLICIES

Dear Mayor Liccardo and Honorable San Jose Housing and Planning Staff:

On behalf of the association of San Jose mobile home park owners that I represent, thank you for our meeting last week and for your consideration of the enclosed revisions to the proposed policy guidelines for conversion of mobile home parks to other uses. My clients submit these comments and revisions while reserving any and all rights under law. Specifically, to the extent the proposed policy guidelines exceed the City's

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authority under state law, the United States and California constitutions and various provisions of local law, my clients reserve their legal rights.

We look forward to our meeting tomorrow morning.

Very truly yours,

ZACKS & FREEDMAN P.C.



Andrew M. Zacks

Encl.

City of San José, California

COUNCIL POLICY

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| EFFECTIVE DATE | REVISED DATE | |
| APPROVED BY COUNCIL ACTION | <u>DRAFT</u> | |

BACKGROUND

“Immobile” Homes on Rented Land

Mobilehomes may look like single-family detached houses, but in most cases they are manufactured (factory-built) homes installed in mobilehome parks that may or may not be affixed to a foundation. Unlike other homes where the home-owner owns the land or at least the airspace, the land beneath the mobilehome is, typically, not owned by the purchaser of the mobilehome. The mobilehome owner pays space-rent to the mobilehome park owner for the privilege of use of the space. Mobilehomes have purchase prices that are substantially less than single-family detached houses due to mobilehomes’ factory construction and non-ownership of the land. The result is a hybrid type of housing arrangement, where the resident owns the housing unit, but leases or rents the land on which the housing unit is placed. This arrangement might not be so challenging to set up or maintain if the mobilehome owner could easily move to another mobilehome park, but once a mobilehome is installed in one mobilehome park it is extremely difficult to move the mobilehome to another mobilehome park. In particular, older mobilehomes that are not constructed up to current codes cannot be moved into another mobilehome park. Lack of available spaces in mobilehome parks throughout the region could severely limit the ability to relocate mobilehomes. For practical purposes, the immobility of mobilehomes means if a mobilehome park converts to another use, the mobilehome will very likely be destroyed, the mobilehome owner will lose that significant asset, and any compensation that the mobilehome owner recovers will be that provided in accordance with State and local law.

Parks in San José and the Surrounding Area

San José has had mobilehome rent control since 1979. Approximately 10,800 mobilehome park spaces received plumbing, electrical, and sewer permits on or before September 7, 1979 and are thus subject to rent control under San José Municipal Code Chapter 17.22. This rent control ordinance allows automatic annual rent increases of 75% of the Consumer Price Index (CPI), but not less than 3% or more than 7%. San José’s rent control ordinance also imposes vacancy control that limits rent increases when a mobilehome is sold, which allows residents to protect their investments. Although according to staff’s research in Fall 2015 there were approximately 21,750 mobilehome spaces in the Santa Clara, Alameda, San Mateo and Santa Cruz counties (the four-county area) surrounding (but not including) San José, only approximately 9,700 of them were rent-controlled spaces.

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Park Residents in San José

San José's mobilehome parks are occupied by a variety of individuals and families, including low-income or fixed-income seniors and families. Most residents are owners of their mobilehomes. Additionally, since the ordinance regarding mobilehome park conversions (the Ordinance), now in Chapter 20.180, was adopted in 1986 as an ordinance amending Title 20 (the Zoning Code) of the San José Municipal Code, many more mobilehome park residents have limited English proficiency.

Decreasing Number of Spaces for Relocation

No new mobilehome parks have been built in the City of San José in the last 30 years, and few new mobilehome parks have been built in the State during this time. According to data from the State Department of Housing and Community Development in the last 15 years, approximately 900 mobilehome spaces have been lost in the four-county area due to park closure. As housing and land prices increase, it is reasonable to assume these losses may escalate making it more difficult over time to relocate residents to mobilehome parks in San José and even within the four-county area addressed in Chapter 20.180.

Inability to Afford Available Mobilehomes

As housing costs and land values escalate, interest in mobilehome park conversion to other uses increases, as does demand for rent-controlled mobilehome park spaces. Mobilehomes available for sale and vacant spaces in the City of San José rent-controlled mobilehome parks are unlikely to be sufficient to address the demand created by closure of a relatively large mobilehome park, and unless new parks are constructed this imbalance will increase as mobilehome parks close in the four-county area.

Based on the data submitted to the Housing Department over the last several years, space-rents in the City of San José's mobilehome parks are typically between \$550 and \$1550 per month. Mobilehome owners who have occupied their mobilehome parks for a long period of time are more likely to have lower rent. Thus, even if the lower-income or fixed-income mobilehome park residents are able to find a mobilehome to purchase in another San José mobilehome park, their incomes may not allow them to meet the other mobilehome park's income requirements because space-rent and the mortgage for the purchased mobilehome will be more than their monthly costs were in their previous mobilehome park location. Consequently, it may be challenging to mitigate the economic impact of conversion and relocation on lower-income and fixed-income mobilehome owners.

Existing Conversion Ordinance

Under Section 20.180.630 of Chapter 20.180 of the Zoning Code, when a mobilehome park owner files an application for mobilehome park conversion, the mobilehome park residents become eligible for benefits under the required program of relocation and purchase assistance. Since this Ordinance was adopted in 1986, there has not been a conversion of a mobilehome park to another use in the City that has been subject to the conversion provisions in the Zoning Code. Over the last several years, several questions have arisen regarding mobilehome

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park conversion requirements and procedures under Chapter 20.180. Staff has concluded that several of the procedures and definitions would benefit by additional clarification.

Council Direction

The City is concerned that conversions of existing mobilehome parks in the City of San José to other uses may result in (a) the permanent displacement of a substantial number of mobilehome residents, (b) the risk of homelessness for lower-income mobilehome residents due to the inability to afford and qualify for available mobilehomes in San José, (c) the loss of a large amount of relatively affordably-priced housing, (d) the reduction of housing-type choice, and (e) the destruction of established residential communities. The City is also concerned that there is a lack of clarity regarding a sufficient program of relocation and purchase assistance.

As land and housing prices have escalated, there have been more questions to staff regarding mobilehome park conversion requirements and procedures. At least one mobilehome park owner has indicated to the residents of that mobilehome park an interest in converting to another use. As a result of this interest, in 2014 many mobilehome park residents expressed concerns about potential displacement from their homes, and asked the City Council to strengthen regulations for the preservation of existing mobilehome parks and the protection of mobilehomes as affordably-priced housing. In response, the City Council directed staff to prepare a Council Policy to further clarify the provisions in Chapter 20.180 and provide additional guidance for the review of applications of mobilehome park conversion to other uses as described herein.

GUIDING PRINCIPLES

As stated in Chapter 20.180, proposed conversions of mobilehome parks to other uses (conversions), should **only** be approved when findings can be made that the following guiding principles are considered as part **are furthered** of such approval:

1. Make adequate provision for the housing needs of all economic segments of the community;
2. Facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks; **and acknowledging owners' fundamental right to cease operations as a mobile home park and/or convert to other conditionally permitted uses as provided by in the Zoning Code, General Plan and/or state law. This policy clarifies certain provisions in Chapter 20.180 of the Zoning Code, but does not modify, expand, limit or give new meaning to the purposes, intent or express provisions stated therein. In the event any provision of this policy conflicts with the ordinance, the ordinance shall prevail.**
3. Provide a reasonable balance between mobilehomes and other types of housing;
4. Inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase; and

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5. Reduce and avoid the displacement of long-term residents, particularly senior citizens, people with disabilities, those who are of low-income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

PURPOSE

The purpose of this City Council Policy (Policy) is to provide clarification regarding how the above principles should be implemented on a project-specific basis so that the City's decisions on proposed conversions are consistent with these guiding principles.

POLICY

1. Clarification of Certain Definitions in Chapter 20.180

- a. "Designated Resident Organization" as described in Section 20.180.110 should be interpreted to include any association formed by the residents that has provided the owner or manager of the mobilehome park written notice of the name and address of the organization and the name and address of the representative of the organization to whom all notices under Chapter 20.180 shall be given. An association may be formed at any time, but for the purpose of negotiating to purchase the park, written notice of the exercise of this right shall be provided to the park owner within sixty (60) days of the date of issuance of the notice of intention to convert. There may be more than one such association. If there is at least one Designated Resident Organization representing at least 10% of the spaces, then any association representing less than 10% of the spaces shall not be considered Designated Resident Organizations. "Spaces" for the purposes of this paragraph should only include spaces that are not owned by the mobilehome park owner or a proposed developer.
- b. "Mobilehome" should be interpreted to include all structures meeting the criteria in California Civil Code Section 798.3 including trailers, motorhomes, recreational vehicles or similar units, as may be amended from time to time.
- c. "Handicapped Mobilehome Owner" should be interpreted to include all persons who are disabled under State disability law and the Americans with Disabilities Act.
- d. "Good Faith Negotiations" should be interpreted to include the following characteristics:
 - i. Sufficient information provided to each Designated Resident Organization so that the value of the mobilehome park as a mobilehome park can be established. The mobilehome park owner may require such information to be held in confidence by a third party of the park owner's choosing in its sole and absolute discretion.
 - ii. A detailed response by the applicant based on the price and terms in the offer should be provided within the 180-day suspension of the conditional use or planned development period to any written offer by any Designated Resident

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Organization provided within 45 business days. Notwithstanding the objective of encouraging preservation of mobilehome parks by good faith negotiated sale to Designated Resident Organization, park owners shall be under no obligation to accept an offer from a Designated Resident Organization.

- e. The statement of the rights of mobilehome owners, mobilehome tenants and residents required to be included in the notice of intention to convert (notice of intention) in Section 20.180.340.B should be interpreted to mean those rights set forth in Sections 20.180.360 and 20.180.370, and the rights of Designated Resident Organization(s) should be interpreted to mean those rights set forth in Section 20.180.380.
- f. “Relocation Impact Report” should be interpreted to mean the report required pursuant to Government Code Section 65863.7 as may be amended from time to time and as may be supplemented pursuant to Chapter 20.180 or this Council Policy.

2. **Clarification of Standards for Program of Relocation and Purchase Assistance**

In evaluating whether a satisfactory program of relocation and purchase assistance has been provided the following considerations should be taken into account:

- a. Mobile Home Park Owner may hire an appraiser of its choosing and notify the DRO of its selected appraiser. If the DRO objects to the owner’s selection of an appraiser, DRO may designate an alternate appraiser for consideration within 15 days of notification by the park owner. If the DRO’S selected appraiser is not acceptable to the owner, the owner may reject that appraiser within 15 days of designation by the DRO. In such circumstance, the appraisers selected by each side shall meet and confer and jointly select a third appraiser who shall be responsible for conducting any appraisals required under a Program of Relocation and Purchase Assistance.
- b. Appraisals should list in-place value of mobilehomes, both current and prior to any public discussion or communication regarding sale or conversion of the mobilehome park and should contain the elements described in item 3 below.
- c. Mobile Home Park Owner may hire a consultant of its choosing to prepare a Relocation Impact Report (“RIR”) and notify the DRO of its selected consultant. If the DRO objects to the owner’s selection of consultant, DRO may designate an alternate consultant for consideration within 15 days of notification by the park owner. If the DRO’S selected consultant is not acceptable to the owner, the owner may reject that consultant within 15 days of designation by the DRO. In such circumstance, the consultants selected by each side shall meet and confer and jointly select a third consultant who shall be solely responsible for conducting any RIR required under a Program of Relocation and Purchase Assistance.

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- d. No unjust or unreasonable evictions should have occurred and no residents should have been coerced to sell without relocation benefits.
- e. All sales occurring after the delivery of notice of intention pursuant to Section 20.180.340 but before the application is filed should include a signed statement acknowledging that by selling the unit prior to the filing of the application, the mobilehome owner is waiving the benefits under the program of purchase and relocation assistance. The mobilehome owner may not waive benefits for renters occupying the units.
- f. For any eligible mobilehome owner whose home cannot be relocated to a comparable mobilehome park in the City of San José or relocated to another mobilehome park chosen by the mobilehome owner, the program of relocation and purchase assistance **may** provide for the purchase of the mobilehome at 100% of its in-place value consistent with Section 20.180.430.1.e-20.180.630.2.e as determined by the selected appraiser.
- g. A program of relocation and purchase assistance **may** provide payments for the costs of relocation and purchase assistance listed in the contents of the RIR as described in item 3 below, as that are applicable in each resident's circumstances. The mobilehome park owner (also referred to as applicant herein)applicant should provide include a fair and transparent process for appeal of the determination of applicable assistance in the RIR and provide advance notice to the residents of such process.
- h. A program of relocation and purchase assistance should provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a housing burden. Pursuant to This City Council Policy incorporates the definition of housing costs resulting in undue burden in the City of San José's Housing Element for 2014-2023; housing costs that do not create a housing burden are housing costs that do not exceed 30% of gross income.
- i. A program of relocation and purchase assistance should provide for payment of the costs to reinstall or replace any accessibility improvements made to a resident's mobilehome and surrounding area such as wheelchair ramps, lifts, and grab-bars. Such payments should be provided to displaced residents who made such accessibility improvements.
- j. It is desirable that conversion projects with proposed residential uses contain housing that is affordable to all income levels of existing residents and provide a first priority opportunity to purchase or rent such units to existing residents. Units with rents and purchase prices restricted by recorded covenants will be considered desirable for mitigation of relocation impacts to lower-income residents.
- k. The above standards may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that applying the standards in this Policy would take property in violation of the United States or California Constitutions.

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3. **Clarification of Standards regarding Contents of RIR to supplement requirements in Section 20.180.630 of the Zoning Code.** In evaluating whether the RIR provided is consistent with a satisfactory program of relocation and purchase assistance, the following considerations should be taken into account:

- a. The RIR should identify space vacancies and units for sale, including price and space rent, and required purchaser income (if available) in the Santa Clara, Alameda, San Mateo, and Santa Cruz counties (the four counties) and should indicate which, if any, may be subject to rent stabilization ordinances. If the number of available rent-stabilized mobilehome park spaces in the four counties is fewer than the number of mobilehomes in the subject mobilehome park that are eligible for relocation, then a list should be provided of comparable mobilehome parks within a 100-mile radius of the subject mobilehome park and for each such mobilehome park, the space-rents, whether the park is rent-stabilized and the qualifications for residency in each mobilehome park (e.g., age restrictions, no pets, minimum income), whether the mobilehome park has any available space and will accept mobilehomes being relocated and, if so, any restrictions such as size and age, on the relocated mobilehomes that would be accepted.
- b. The RIR should indicate number of residents in the following categories: earning less than 30% Area Median Income (AMI), 50% AMI and 80% AMI, disabled under State or Federal definitions or by declaration of the resident; senior citizens; and families with minor children.
- c. The RIR should discuss space-rent affordable for residents in the above 80% AMI and the various lower-income categories, assuming that space-rent plus typical mobilehome mortgage does not exceed 30% of income.
- d. The RIR should indicate the difference between the actual cost of housing available to the residents in the four counties (actual market rent) and the Federal Department of Housing and Urban Development's (HUD) fair market rent, and if this difference is more than 5%, the RIR should adjust the subsidies to reflect actual market rent. The rent subsidy should be the difference of rent paid by the resident in the mobilehome park and any higher rent for either a space at another mobilehome park if the mobilehome is relocated, or rent for comparable housing if the resident moves to other rental housing.
- e. The RIR should include a discussion of measures available to ensure residents have options to relocate to housing that will be affordable once the rent subsidy is no longer available. Such measures might include provision of affordable housing (rental or for-sale) in the proposed conversion project, provision of additional mileage and other benefits needed for a move outside of the four counties, and phasing of resident relocation to allow residents to find new housing within their means.

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- f. The RIR should list the other mobilehome parks that are in the closure/conversion process in the four counties and their size. The RIR should also list the mobilehome parks that have closed in the period commencing six months prior to the notice of intention in the four counties, and the outcomes (e.g., new city of residence, rent and space rent) for the former residents of those closed mobilehome parks.

- g. At a minimum, the RIR should include the following information with monetary values determined by the selected appraiser:
 - i. A description of proposed new use(s) for the subject site including, but not limited to appraisals of the mobilehome park site with the proposed uses on-site, and appraisal of the **most profitable highest and best** use of the property. **mobilehome park site;**
 - ii. A proposed timetable with phases of relocation of existing residents and development of the new project delineated for conversion of the subject mobilehome park to another use;
 - iii. A legal description of the property **mobilehome park;** and
 - iv. The number of spaces in the property **mobilehome park.**
 - v. For each space in the mobilehome park:
 - 1. The size in square feet, type (e.g., single-wide, recreational vehicle, stick-built), number of bedrooms, manufacturer, and date of manufacture of the mobilehome on the space, or if space is unoccupied indicate date of last occupation;
 - 2. The number of occupants of the mobilehome and their length of residency in the mobilehome park;
 - 3. The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other charges paid by the resident to the park owner;
 - 4. The in-place value the mobilehome would have if the mobilehome park were not being closed; and
 - 5. Any improvements to the mobilehome, including but not limited to patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to a new roof or new siding.
 - 6. Any information available to the mobilehome park owner concerning any disability or special need of the occupants, which may be kept confidential by the City.
 - 7. An appraisal of the mobilehome park site if continued in use as a mobilehome park; and
 - 8. **An appraisal of the mobilehome park site if used for the highest and best use allowable under the existing General Plan land use designation for the subject site; and**
 - 9. If the appraiser identifies lack of maintenance, or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the

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appraiser should determine the value of the home with an upward adjustment in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.

10. The purchase price of mobilehomes with similar size, age and number of bedrooms in comparable mobilehome parks including rent-controlled mobilehome parks. For this purpose, “comparable mobilehome park” means a mobilehome park that is similar in size, age, condition, and amenities to the mobilehome park that is proposed for closure, is located within a community similar to that in which the subject mobilehome park is located, and has similar access to community amenities such as the job market where a displaced resident is employed, schools, shopping, medical services, recreational facilities, and transportation.
- h. The RIR should also enumerate the costs of obtaining other comparable housing for rent and for sale, including but not limited to the purchase price of comparable condominiums and the costs of moving into a comparable house or comparable apartment, including such items as first months’ rent, security deposits and higher mortgage and Homeowner Association fee payments or rent of the comparable housing. The moving costs should include the cost to move furniture and personal belongings, temporary lodging, moving insurance, and the appraised value of personal property that cannot be reasonably relocated. For this purpose, “comparable housing” is defined as housing that meets or exceeds the minimum standards of the Housing Code, and is similar to the subject home in terms of rent, size, number of bedrooms and bathrooms, proximity to the resident’s place of employment, amenities, schools, and public transportation.
- i. The RIR should also include estimates from two moving companies acceptable to the Designated Resident Association that are licensed and bonded to move mobilehomes on public streets and highways, of the cost of moving each mobilehome in the mobilehome park up to a maximum distance of 100 miles, including transportation to the new site identified by the resident, the cost of permits, and tearing down and setting up the mobilehome at the new location, including the cost of any upgrades to comply with applicable Federal, State, and local building, plumbing, electrical, housing, mobilehome park, accessibility, and health and safety regulations, and the cost of moving any improvements, including but not limited to patios, porches and pop-out rooms, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups, and any upgrades required by the mobilehome park or State or local law.

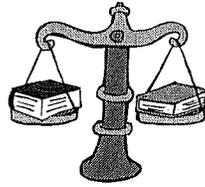
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4. **Procedural Guidance.**

- a. ***Pre-application Voluntary Agreement regarding Purchase.*** Prior to submitting an application for conversion of a mobilehome park, mobilehome park owners may enter into a voluntary agreement with the mobilehome owners for relocation-impact and purchase-assistance that best addresses their particular situation. Mobilehome owners should have legal representation in the negotiation of such agreements.
- b. ***Translation of Documents related to Notice and Relocation Benefits.*** Consistent with the City Housing Department and State policy, translated notices of intention, notices of rights, mobilehome purchase offers, and descriptions of relocation and purchase assistance benefits should be made available by the mobilehome park owners on request for limited English proficiency mobilehome residents and owners or their representatives. Such translations should be available in Spanish, Vietnamese, Chinese, Korean, and Tagalog. All documents provided in English should provide clear information in those languages on how to obtain translated copies.
- c. ***Voluntary Agreement regarding satisfaction of Negotiation Requirements Allowed.*** If the Designated Resident Organization(s) and the mobilehome park owner agree in writing that negotiations required under Section 20.180.390 have occurred, the City may determine that the requirement for negotiations has been met prior to the initiation or completion of the 180-day negotiations period required by Section 20.180.390. Any “Voluntary Agreement regarding satisfaction of Negotiation Requirements” entered into by a Designated Resident Organization and the mobilehome park owner should contain, in 16-point font, an admonishment that the Designated Resident Organization should have legal representation before entering into and in negotiating such an agreement, that by entering into this agreement the Designated Resident Organization is giving up important rights, and that the 60-day period identified in Section 20.180.380 may still be available to another Designated Resident Organization at the mobilehome park.

Straight Talk - Not Chatter



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San Jose City Clerk

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LFP:

H.O.M.E.

Homeowners Organized To Maintain Equity

February 2, 2016

Dear Mayor Liccardo and City Council,

RE: **Council Meeting 2-9-16
Items 4.2 and 10.2 and 4.1**

HOME, Homeowners Organized to Maintain Equity, urges you to stop the further exploration of Opt In (Item 4.1, Council agenda 2-9-16) and pass the various proposals to preserve and protect mobilehomes as an inherent and important part of affordable housing stock in San Jose (4.2 and 10.2).

Founded in 2005, HOME is an advocacy group for mobilehome owners. Because of the volume of material you already have and will receive on these issues, our letter focuses on item 4.1: Should the Housing Department continue to work with stakeholders to further refine and analyze this concept or cease work on this item. We join with the Housing and Community Development Commission (HCDC), the Senior Commission, the overwhelming majority of manufactured home owners, and other housing advocates, such as the Law Foundation, and urge **you to vote to end exploration of this Opt In concept.**

Opt In is the brainchild of some of the Park owners. It does not further the goals of protecting and preserving mobilehomes but instead does the exact opposite.

In sum and substance, **Opt In is in direct conflict with provisions of the already existing Mobilehome Rent Control Ordinance Chapter 17.22 (hereafter Chapter 17.22) as well as the Mobilehome Rent Program Regulations (hereafter Regulations).** The cites from the Opt In proposal are taken from the draft document dated November 11, 2015. The following is not meant to be an all inclusive review of these direct conflicts but rather a highlight of some of the more important ones.

Opt In changes the definition of "capital improvement" from the one clearly delineated in Chapter 17.22 at 17.22.090 to one "consistent with the IRS code." As has been pointed out in numerous focus meetings by realtors and tax experts, this would allow park owners to shelter their profits and take other accounting actions which are to their benefit but are to the disadvantage of homeowners.

Opt In would substitute a new method of pass throughs of capital improvements for the one already established by the City in the Regulations. The Regulations is a quite lengthy document and provides for such rules as burden of proof being the responsibility of the park owner (Regulations at 1.04.01 and 1.04.02), the right to representation at any such hearing (Regulations at 2.01.01), the right to review and respond to any evidence and testimony (Regulations at 2.01.02), the right to submit service reduction claims to the Hearing Officer to offset any proposed capital improvement pass through (Regulations 2.02 et al). This list is not all inclusive but rather illustrative. Additionally, before any rent raise or capital improvement can be made, a full hearing takes place before a Hearing Officer who bases her or his decision on the calculation of a "fair return" based on the mathematical formula used in the Ordinances. See Chapter 17.22 (17.22.470, 17.22.480, 17.22.490, 17.22.495, **17.22.510**).

Instead of the procedures contained in the lengthy and extremely detailed Regulations as well as in Chapter 17.22 (Part 4, citations above), the park owners would substitute "an administrative review by a City official qualified to evaluate capital improvement expenditures." **To define this sentence and flush out the proposed administrative procedure, which is in direct conflict with provisions of the Regulations and Chapter 17.22 as cited above, would be a costly and time consuming process. City money and time is better spent elsewhere. Park owners should be responsible for carrying their own water.**

The reason that the park owners do not want to use the existing ordinances is patently simple: they do not want to open their financial records to show they are not making a fair return (defined by ordinance and mathematical formula), they do not want to rebut counterclaims of service reductions that could offset any capital improvement pass throughs, and they do not want to have to face the attorney hired and/or the representative(s) selected by the residents who under the current Regulations and Chapter 17.22 have multiple administrative and procedural rights.

Now let us turn to the issue of vacancy decontrol. For decades the park owners have wanted to eliminate vacancy control. In the Opt In proposal at 3 b ii, the park owner would have the right to raise the base rent above the allowable annual rent increase set by the City if a mobilehome is sold. The devil is in the details. **Such increases would reduce the affordable housing stock. This is beyond argument.** Additionally it would drastically impact **Seniors**, the working poor, and **families trying to get a foot in the door of owning their own home.** The current standard used industry wide for someone to purchase a mobilehome is that their income must be three times the space rent. If vacancy control is lifted and, for example, a \$100 per month rent increase is placed on any new owner, their qualifying monthly income would need to increase by \$300. $100 \times 3 = \$300$.

For Seniors on fixed incomes, such an increase would be catastrophic. Furthermore, the turnover in Senior parks tends to be higher due to death or the need to move into assisted care. Senior parks and Seniors would be the hardest hit by the vacancy decontrol proposal. San Jose is already in a housing crisis. Vacancy decontrol will only exacerbate that very real crisis.

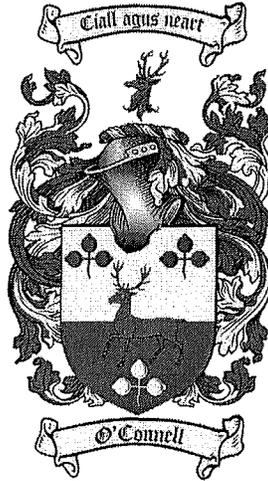
I now address what I call “the 20 years” myth. **It is a total untruth that the park owners have agreed to keep the parks open for “20 years” or “20+ years” as slides prepared by the Housing Department claim.** I was present at all the focus groups. Not all the owners even want Opt In. Of those that do, not all agreed to either twenty, ten years, or five years. I asked the Housing Department to correct the record and change their slides. To date, they have not done so. Furthermore, folks are still moving into homes in the parks and some are accruing mortgages of more than twenty years!

The “capital improvement assistance program” contained at 3 c of the Opt In proposal is incredibly insulting to homeowners. The park owners do not want to disclose their finances in order to prove they are not receiving a fair return as required by Chapter 17.22 (17.22.470, 17.22.480, 17.22.490, 17.22.495, **17.22.510**) but they propose to require that very thing from homeowners in order to qualify for “assistance.” There was support from the park owners that the number of those “assisted” be capped at 10% and that applications be accepted on a “first come, first served” basis. In many parks, the overwhelming majority of residents would be eligible for assistance, not just 10%. **A “first come, first served” methodology raises the specter of discrimination based such things as language and disability.** Furthermore, what income threshold is going to be used to qualify – the State Department of Community and Development Income Limits as set, and readjusted annually, or some other unknown, and perhaps arbitrary, formula? Figuring this part of the Opt In proposal out would be a nightmare.

You gave direction to the staff to preserve and protect mobilehomes. The policies, clarifications, and amendments in Items 4.2 and 10.2 support those goals and should be supported. The Opt In proposal, Item 4.1, does the exact opposite and should be rejected.



Martha O'Connell
HOME, Homeowners Organized to Maintain Equity



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San Jose City Clerk

2016 FEB -3 PM 4: 07

Ciall agus neart – Reason and Strength

February 3, 2016

TO: Mayor and Council

FROM: Martha O'Connell

RE: **Translation of Opt In Proposal, Conversion Ordinance, Text Amendment et al**

It has become clear to me in the last few weeks that the City of San Jose should provide more documents relating to mobilehome issues in Spanish and Vietnamese. It is critical that these folks, who represent a huge percent of the mobilehome park demographics, are provided a more level playing field. Recently I have been in a park where I believe most of the residents are Spanish. A translator is necessary there.

I have only been able to find on line documents in English at the Housing Department website relative to Opt In, Conversion, Text Amendment, etc. I am struck by the fact that I attended all of the Opt In meetings, and most of the other Housing public meetings in the last year, but none of the numerous park residents who testified were native Hispanic or Vietnamese folks who used a translator. Given their large numbers in the parks in San Jose, this does not pass the smell test of disparate impact.

We need to work to ensure that these folks who either do not speak or read English, or do so at a very minimal level, are provided documents in at least Spanish and Vietnamese as their lives will be greatly impacted. They also are not navigating to an English website and many of the ones I have spoken to do not have a computer or easy access to the Internet.

February 7, 2016

The Honorable Mayor Sam Liccardo and Members of the San Jose City Council
City Hall
City of San Jose
200 East Santa Clara Street,
San Jose, CA 95113

Re: Winchester Mobilehome Proposal

Dear Mayor, Vice mayor and members of the City Council:

I have been relying on the professionals and consultants to come up with many different plans and to speak for me, but I have now been asked by staff members to set forth my ideas in writing.

This is the 90th year that my family has owned the property at the corner of Winchester and Highway 280. At one time this property went all the way to Moorpark Ave. My grandfather farmed 32 acres in walnuts and prunes until the highway was built in the early 60's. At that time eminent domain took half of the property (16 acres). We were told for the good of the community. My grandfather tried to stay in business farming the remaining 16 acres, but due to an increase in costs and decrease in revenue it was no longer feasible to operate the farming business. The trees were removed and the land lay fallow for about 10 years.

Through the efforts of my uncle and my mother various options were considered, but all of them came to a dead end. The idea of a mobile home park was presented to them in the mid 70's. At the time it was the only option available to hold onto the property for a better use in the future. When the project was finished, there was no rent control or conversion ordinance. Winchester Ranch Mobile Home Park was open in 1976. From its inception to the initial announcement of the Urban Village, I don't think there has been one complaint from us or our residents. We have treated our residents with respect and provided a great quality of life.

Over the past three years we have attempted to work with both the residents and the City to come up with a win-win scenario for all involved. When I first spoke to my councilman I was told that he would support a conversion of the park if we treated the residents fairly. I represented to him that I would follow the City's conversion ordinance and provide other concessions. I also told him that we wanted to be the example of how this process should and could work being that the conversion ordinance has yet to be tested.

Every idea/option that we have discussed with the residents and the City, to my surprise, has been rejected without any apparent consideration. The residents and the City have voiced their concerns which are listed below:

1. Nowhere to go if park closes
2. Can't afford to live in San Jose
3. Want to stay in the area for doctors and relatives
4. Would like to be able to walk to Santana Row
5. Want to stay as a community; and

6. Desire to protect their equity.

I would like to share my idea and proposal that addresses all the above concerns. With the support of the residents and the City, we propose an equity exchange project, outlined in general terms as follows:

The front portion of the property would be the first phase. Each remaining mobile home will be appraised by a qualified agreed upon appraiser to establish the equity exchange amount. This equity (no matter how small or large) will be the basis in the new apartment/condominium. For example: Even if a mobile home appraises for 200k and it cost us 300k to build the new residence, the residents will be able to move in without paying the difference. The monthly rent will stay the same with the same increases. At the time of the residents' departure they will receive the appraised value of their mobile home and we the property owners will have the right to rent/sell the apartment/condominium for market rate. In this first phase, we will build a three-story apartment/condominium community to create a new and improved senior housing community for our residents that wish to participate. This will be a number of units that will satisfy our residence needs. The residents would stay in their mobile home or if their mobile home has to be removed for construction of the first phase, those residents will be relocated to a vacant mobile home on another location on the property. With the cooperation of the City in expediting the approval of this phase of the project, the residents will have the security of a definitive plan and at no time will they have to vacate the park. When the new apartment/condominium project is completed the residents will move directly into the new structure. Our family sincerely believes this proposal meets or exceeds all the concerns addressed above.

Our vision for our property includes a new park, a conversion to a commercial component, such as a hotel or office building, new homes and most importantly a new community for our residents. There will also be walking paths for the surrounding neighbors to provide access to Santana Row. This proposal also addresses the City's fiscal responsibility to all of San Jose's many residents through the increase of approximately two million in property and occupancy taxes, plus the creation of many new jobs.

My grandfather's barn, while not an original Sara Winchester structure, is very special to our family and was converted into the clubhouse for the mobile home park. I propose that with the help of the project developer and the City that we relocate the barn and incorporate into a prominent location within the newly proposed development.

I would like to meet with you in the next few days to further discuss the proposal including graphic representations. I am also scheduling a meeting in our clubhouse with the residents to share this proposal. I encourage the Mayor, the City Council members and staff to attend the meeting so they can hear first-hand the residents' questions and our responses.

I hope you will consider this proposal and help us work with the residents to make the ultimate closure of the park a positive and productive experience.

Sincerely,
Lee Arioto