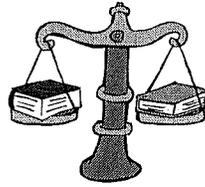


Straight Talk - Not Chatter



RECEIVED
San Jose City Clerk

2016 FEB -2 PM 2:21

cc 2/9/16
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.

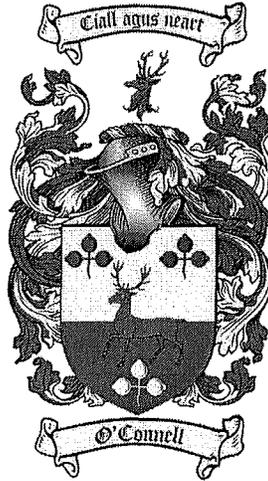
I now address what I call “the 20 years” myth. **It is a total untruth that the park owners have agreed to keep the parks open for “20 years” or “20+ years” as slides prepared by the Housing Department claim.** I was present at all the focus groups. Not all the owners even want Opt In. Of those that 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



RECEIVED
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.