Article 9. Mobile Home Rent Control

Note

*** Editor's note—**Article 9 entitled "Mobile Home Park Review Board," consisting of Sections 2-2.901 through 2-2.911, codified from Ordinance No. 380, as amended by Ordinance Nos. 386, 393, and 405, effective April 16, 1980, amended in its entirety by Ordinance No. 412, effective December 5, 1980.

Article 9 entitled "Mobile Home Park Review Committee," consisting of Sections 2-2.901 through 2-2.909, as added by said Ordinance No. 412, as amended by Ordinance Nos. 423, effective May 5, 1981, 425, effective August 6, 1981, 427, effective July 21, 1981, and 430, effective October 1, 1981, repealed by Ordinance No. 439, effective November 3, 1981.

Article 9 entitled "Mobile Home Park Review Committee," consisting of Sections 2-2.901 through 2-2.906, as added by Ordinance No. 439, as amended by Ordinance Nos. 456, effective June 3, 1982, 492, effective September 6, 1983, 507, effective May 3, 1984, 526, effective January 3, 1985, 545, effective July 18, 1985, 602, 613, and 715, amended in its entirety by Ordinance No. 795, effective June 6, 1997.

Sec. 2-2.901. Findings.

The Council finds and determines that:

(a) There is presently, within the City and the surrounding areas, a shortage of spaces for the location of mobile homes, resulting in a low vacancy rate and rising space rents.

(b) Mobile home owners have invested substantial sums in their mobile homes and appurtenances.

(c) Alternative sites for the relocation of mobile homes are difficult to find, and the moving and installation of mobile homes are expensive, with possibilities of damage to the units.

The Council, accordingly, does find and declare that it is necessary to protect the residents of mobile homes from unreasonable space rent increases, recognizing the need of mobile home park owners to receive a fair, just, and reasonable return. (Ord. No. 795, § 1)

Sec. 2-2.902. Definitions.

For the purposes of this article, unless otherwise apparent from the context, certain words and phrases used in this article are defined as follows:

(a) "Assessment" shall mean the entire allocation of the cost of installing, improving, repairing, or maintaining any capital improvement benefiting the resident.

(b) "Committee" shall mean the Housing Advisory Committee established under Title 2, Chapter 2, Article 2 of this Code.

(c) "Consumer Price Index" shall mean the Consumer Price Index for all urban consumers (CPI-U) published for the Los Angeles-Long Beach-Anaheim area.

(d) "Maximum allowable increase" shall mean the maximum allowable increase in mobile home space rent an owner may charge, unless a higher increase is approved by the City after a petition and hearing as provided in this article. The maximum allowable increase shall be provided in this subsection (d) and shall be determined by either of the following formulae an owner may choose to apply:

(1) Take the operating expenses of the park for the twelve (12) month period immediately preceding the date upon which notification of any rent increase is to be made; multiply that sum by the percentage of increase in the CPI-U appearing in the latest published Consumer Price Index to arrive at the maximum allowable annual increase in rent for the entire park; and divide the number of units in the park to compute the maximum allowable annual rent increase (in dollars) for each space; or

(2) Secure the percentage of annual increase in the CPI-U for the calendar year immediately preceding the one in which the rental adjustment is being made; multiply that figure by the rent to be adjusted to arrive at the maximum allowable rent increase percentage per year; and apply that product to each space rent.

(3) Effective April 1, 1988, the maximum allowable increase for rental adjustments occurring under this subsection shall be based upon the percentage of annual rise in the CPI-U for the previous calendar year. Any rental increase occurring between

October 1, 1987 and March 31, 1988 shall be subject to the maximum allowable increase computed with the annual rise of the CPI-U for the 1986 calendar year.

(4) The percentage increase computed by either of the methods set forth in this subsection shall be applied to each space and shall not be applied to the park's mean rent. Moreover, there shall be no more than one increase in space rents within a park during any twelve (12) month period without the prior approval of the City.

(5) The occurrence of a vacancy in either a space within a park or a mobile home unit on a space within a park shall not result in a space rental increase in excess of the percentage increase allowed once during any twelve (12) month period by this subsection, unless it results from a petition duly heard and approved pursuant to Section 2-2.903.

(e) "Owner" shall mean the owner, lessor, or designated agent of a park.

(f) "Park" shall mean a mobile home park which rents spaces for mobile home dwelling units.

(g) "Rent" shall mean the consideration charged solely for the use and occupancy of a mobile home space in a park and shall not include any amount paid for the use of the mobile home dwelling unit or for facilities or amenities in a park, other than a mobile home space, or any other fees or charges regulated by a governmental agency and charged to residents on an actual usage and/or cost basis.

(h) "Resident" shall mean any person entitled to occupy a mobile home dwelling unit pursuant to the ownership thereof or a rental or lease arrangement with the owner of the subject dwelling unit. (Ord. No. 795, § 1)

Sec. 2-2.903. Petition and hearing process regarding rent increases.

(a) Petition and hearing procedure. Upon the filing with the secretary of a written petition concerning a proposed or actual increase in rent filed by an owner or by residents who reside in and represent more than fifty (50) percent of the inhabited spaces within a park, excluding management, a hearing thereon shall be conducted by a Hearing Officer within sixty (60) calendar days, or as soon thereafter as is reasonably practicable, after the filing of the petition.

In the event that the park owner has proposed a rent increase for one or more residents (e.g., based upon one year anniversary dates) but less than the total number of residents in the park, then only one hearing process shall be conducted by the same hearing officer where the rent increases proposed for all residents in the park for that year are based upon the same factual justification. Any such rent increase shall be subject to a protest petition when filed by a majority of total park residents. The filing of one petition protest shall be sufficient to place all similar rent increases for that year at issue under the hearing review process.

The hearing shall be conducted only in the event the petition is filed with the secretary thirty (30) calendar days following the effective date of the rent increase which is the subject of the petition.

The Hearing Officer shall be chosen and a hearing conducted in accordance with the Hearing Officer procedure established by the Council.

(b) Purpose of hearings. At the hearing on such petition, the Hearing Officer shall conduct an investigation to determine if the rent increase in question exceeds the maximum allowable increase as defined in subsection (d) of Section 2-2.902 of this article. If the Hearing Officer concludes that the rent increase exceeds the maximum allowable increase, the Hearing Officer shall then continue the hearing by receiving all relevant evidence for the purpose of rendering findings and conclusions as to the propriety of the rent increase in accordance with the criteria set forth in subsection (g) of this section.

The Hearing Officer may require either party to a hearing on the petition to provide any books, records, and papers deemed pertinent, in addition to that information previously set forth by the parties.

(c) Hearing Officer recommendations. Within thirty (30) days after concluding the hearing, the Hearing Officer shall render written findings and conclusions as to the propriety of the rent increase to the Housing Advisory Committee. The Hearing Officer recommendations shall not be binding.

(d) Committee reviews of Hearing Officer findings. The Housing Advisory Committee shall review the findings and conclusions of the Hearing Officer at its next available meeting. Its scope of review shall be limited to the written record consisting of the evidence received by the Hearing Officer, written arguments of the parties, findings of the Hearing Officer, other relevant matters as compiled by the secretary of the Committee, and additional oral or written arguments the parties may wish to make. However, the Committee shall not receive or consider any additional evidence.

The Housing Advisory Committee shall give ten (10) days prior written notice of its meeting to the parties.

(e) Council reviews. The Council shall review the findings of the Hearing Officer and the recommendations of the Housing Advisory Committee as soon as reasonably practicable. The Council shall not reopen the hearing held by the Hearing Officer for the purpose of receiving new evidence unless, in the discretion of the Council, it is necessary to do so.

The Council may affirm, modify, or reverse the rent increase in question, but in no case require a reduction lower than the maximum allowable increase.

The Council shall render written findings in support of its conclusions within thirty (30) days after its meeting, and the decision of the Council shall be final.

(f) Return of excess rents collected. Any rent increases which are collected by an owner pursuant to an increase which is the subject of a petition for hearing, and which later is determined by the Council to exceed the maximum allowable increase, or such greater increase as the Council approves, shall be either returned to the residents or credited to future space rents; provided, however, no increase collected prior to December 5, 1980, shall be returned.

(g) Criteria to be utilized in rent increase reviews.

(1) Purpose of reviews. The Hearing Officer, the Housing Advisory Committee, and the Council shall review the rent increase to determine whether the increase is, or is not, fair and reasonable. Such review shall be conducted by applying the nonexclusive criteria set forth in subsection (g)(2) of this section to the facts submitted to the Hearing Officer.

(2) Nonexclusive criteria. The Hearing Officer, the Committee, and the Council shall consider all relevant factors, including, but not limited to, increased or decreased costs to the mobile home park owner attributable to utility rates, property taxes, insurance, advertising, governmental assessments, cost-of-living increases attributable to incidental services, normal repairs and maintenance, capital improvements, except those defined in subsection (h) of this section, the upgrading and addition of amenities for services, except as defined in subsection (h) of this section, and a fair rate of return on the property.

(3) Fair rate of return on property criteria. The Council finds and declares that the following principles shall be applied in utilizing the fair rate of return on property standard as a criterion in the review process:

(i) All the provisions of this article shall be applied with the overall purpose of eliminating the imposition of excessive rents while at the same time providing park owners with a just and reasonable return on property.

(ii) The reasonableness of rent increases is not to be determined solely by the application of a fixed or mechanical accounting formula, such as “return on investment” or “return on market value” of the property; in particular, recent court decisions have discouraged the use of a “return on market value” test.

(iii) The fair rate of return on property is but one of a number of nonexclusive factors to be taken into account in reviewing the fairness of rent increases; it is to be given weight, but not to dominate other relevant criteria in arriving at a final determination.

(iv) The Hearing Officer, the Committee, and the Council shall impartially consider all relevant evidence in relation to the application of the nonexclusive criteria. The extent to which the criteria are considered in the review process, that is, the amount of weight given to any one of the several criteria, ultimately falls within the wisdom and best judgment of said three (3) bodies.

(v) In conducting the entire process, guidance should be taken from leading California case law decisions dealing with rent control issues and in particular, rent control in mobile home parks. Such cases include: Birkenfeld v. City of Berkeley (1976), 17 C.3d 165; Gregory v. City of San Juan Capistrano (1983), 142 C.A.3d 8; Cotati Alliance for Better Housing v. Cotati (1983), 143 C.A.3d 296; Palisades Shores v. City of Los Angeles (1983), 143 C.A.3d 369; Oceanside Mobile Home Park Owners Association v. City of Oceanside (1984), 157 C.A.3d 887; and Carson Mobile Home Park Owners Association v. City of Carson (1983), 35 C.3d 184.

(h) Rent increases and capital improvement upgrade costs.

(1) Capital improvement upgrade costs. Only those capital improvement costs incurred to upgrade through additions, alterations or replacements, park facilities, assets, or amenities, shall not be recouped from residents through rent increases, or any other special assessment, unless the following procedure is first followed:

(i) The park owner shall first inform by first-class mail all park residents of the exact nature, approximate cost, billing method, and billing duration of the proposed capital improvement upgrade by written notice.

(ii) After allowing the residents a reasonable period of time (of not less than thirty (30) days) to consider whether the capital improvement cost is one the residents believe is necessary and desirable, the park owner shall then obtain formal written consent on a form approved by the City from a simple majority of the total number of residents in the park. The simple

majority shall be calculated on the basis of one vote per coach space.

(iii) The costs of the capital improvement upgrade shall be prorated and billed in a method mutually acceptable to the park owner and the residents.

For the purposes of this subsection, “to upgrade” shall mean to raise to a substantially higher quality, or to substantially improve, the existing level of service. Examples of capital improvement upgrades include, but are not limited to, swimming pools, spas, tennis courts, clubhouses, clubhouse additions, fencing, children’s play equipment, and other similar improvements.

(2) Exceptions for governmentally mandated costs. Capital improvement upgrade costs incurred because of the application of current day Building Codes, such as, but not limited to, City Building Codes, Health and Safety Codes, and State, Federal, and Fire Codes, shall be exempted from the resident consent provision set forth in subsection (h)(1) of this section. The park owner shall obtain a written statement from the Building Official verifying that the subject capital improvement upgrade arose from the more stringent current day Building Code requirements before the exception set forth in this subsection may be utilized by the park owner.

(i) Leasehold agreement exemptions. Notwithstanding any provision of this article to the contrary, leasehold agreements (that is, leases other than tenancies at will or month-to-month) entered into between mobile home park owners and their residents shall be exempted from the operation of the petition and hearing review process.

(ii) Forms. The City Manager is authorized and directed to develop and require the completion of forms by interested parties at the time a petition is received by the secretary. Until such forms are completed to the satisfaction of the City Manager, or designated representative, the petition and hearing process shall proceed no further. (Ord. No. 795, § 1; Ord. No. 902, § 1)

Sec. 2-2.904. Hearing Officer costs: Fee reimbursement.

(a) Administrative fee. There is hereby instituted a one thousand dollar ($1,000.00) fee to be paid to the City for costs incurred in invoking the Hearing Officer procedure set forth in Section 2-2.903.

(b) Five hundred dollar ($500.00) deposit. At the time the park residents file a petition in protest of a proposed increase, the petitioners shall simultaneously post a five hundred dollar ($500.00) deposit with the Secretary to the Housing Advisory Committee. The Secretary shall find that the petition is incomplete if the five hundred dollar ($500.00) deposit is not posted. Further, the statute of limitation period of thirty (30) days from the effective date of a rent increase shall continue to run in the event that the petition has been found to be incomplete.

If the petition is in order and the deposit has been posted, the City shall promptly notify the park owner that the hearing procedure will be invoked and that the park owner shall, within ten (10) days of receipt of notice, post a five hundred dollar ($500.00) deposit equal to the petitioners’ deposit. Should the park owner not post the five hundred dollar ($500.00) deposit within the ten (10) day time limit, the residents shall be under no legal obligation to pay the proposed rent increase.

(c) Responsibility for payment of administrative fee. At the conclusion of the administrative hearing, the Hearing Officer, as a part of his or her responsibility to make findings, shall make a recommendation as to the percentage that each party is to pay in satisfying the one thousand dollar ($1,000.00) administrative fee. The City Council shall make a final decision regarding the Hearing Officer’s determination based upon the final rent award.

(d) Remedies for nonpayment of administrative fee. Should any party refuse to pay his or her portion of the required administrative fee, the City may pursue any civil remedy available, or in the alternative, refuse to process a future petition by the same petitioners. In the case of park owner nonpayment, park tenants shall not be obligated to pay proposed rent increases until the administrative fee debt has been satisfied. (Ord. No. 795, § 1)
