

## Conversion of Mobilehome Parks to Subdivisions or Condominiums February 28, 2007 Hearing

### Background Paper

**Synopsis of Issue:** Within the last few years, a growing number of mobilehome park owners have been utilizing a special provision of the state's Subdivision Map Act to convert their parks to so-called resident owned condominiums or subdivisions, which thereby exempts the parks from local mobilehome rent control. Condominium interests in mobilehome park spaces must be offered to renting homeowners, and low-income homeowners who cannot afford to buy can continue to rent their spaces under the statute which limits annual rent increases, including “pre-conversion” pass-through fees, to the Consumer Price Index (CPI). However, non-purchasing residents who are not low income no longer have rent control protection upon the conversion and may have their rents increased to higher so-called “market levels” over four years.

**Park owners argue** this is a property rights issue and that “park condo conversion” – as it is known in the vernacular - is one of the few methods by which they can recapture the market value of their parks in rent control jurisdictions, as well as bring rents for non-buying non-low income residents, who they say are usually able to pay a greater share of their rental housing costs, up to “market.”

**Residents claim** the state law in question was not originally intended to be used by park owners to convert parks to resident ownership and is now being adapted to allow parks to circumvent local rent control, gentrify affordable housing and economically evict low-moderate income homeowners, many of whom cannot afford the asking prices for their spaces or “condo” interests.

This is fast becoming a major issue in the housing “arena” in many areas of the state and involves the interplay of a number of different laws or regulations, both state and local.

**Mobilehome Parks:** In California, there are 4,822 mobilehome parks and manufactured housing communities listed on the California Department of Housing and Community Development’s Mobilehome & RV Park website, not including parks owned by public entities. The Select Committee conservatively estimates there are about 700,000 residents living in these parks. In the vast majority of parks, mobilehome residents own their homes but rent the spaces on which their homes are installed from the park on a month-to-month or long-term lease arrangement. Most of the 4,822 listed parks are owned by private investor groups, operators or owners, but an estimated 150 parks are owned by resident organizations or by non-profit organizations.

**Local Rent Control:** Many mobilehome owners are long-time park residents, often seniors on low or moderate incomes. Since 1977, due to complaints from residents in some parks about high rent increases, and local governments’ concerns about the need to preserve affordable housing in their communities to meet general plan requirements, 102 local agencies (mostly cities), according to figures compiled by the Select Committee from various sources, have enacted some form of mobilehome park rent control in

California. Provisions of these ordinances vary by jurisdiction but all allow some form of annual rent increase, usually based on the CPI or a percentage of the CPI for the region. A slight majority of rent control jurisdictions have a vacancy decontrol feature, meaning that upon a vacancy or change of tenancy for a space in a park, the space is 'decontrolled' from the rent ordinance. The others have so-called vacancy control, which does not permit the decontrol of a space from the ordinance upon a change in tenancy but may, under some ordinances, allow an additional one-time rental adjustment, such as up to a 10% increase of the current rent. Park residents may feel rent control is the only protection they have from economic eviction, while park owners believe it inhibits the profitability of their investment and resale of their parks. There have been a number of legislative and legal battles over the years. State legislation passed in 1985 (SB 1352 [Leroy Greene]) provides that parks may offer leases to residents with a term of more than one year that are exempt from local rent control. Since SB 1352, there have been several unsuccessful legislative attempts by resident groups to prevent parks from requiring that new residents sign such exempt leases as a condition of tenancy. In 1996 park owners campaigned to pass Proposition 199, a statewide ballot initiative designed to phase out mobilehome park rent control, but the measure was rejected by the voters. Some park owners have successfully sued local governments over their rent ordinances, but in other cases the local governments have prevailed or the issue has been settled. As park rents climb in non-rent control jurisdictions, the rent control controversy continues.

**Resident Park Ownership:** In the mid-1980's, as an alternative to problems of increasing park rents for low and moderate income residents or the closure of some parks and displacement of residents, the concept of resident owned parks (ROP), where residents form a homeowners association to purchase a park for sale and convert it to a mobilehome subdivision, condominium, stock co-operative or non-profit ownership, gained in popularity. Between 1984 and 1996, the Legislature, responding to this issue, enacted a number of laws to encourage resident ownership, including a property tax freeze on the initial sale assessed value of parks converted and sold to resident owners, and the Mobilehome Park Resident Ownership Program (MPROP) (SB 2240 [Seymour] 1984), a limited loan program with funding to assist homeowner associations and low-income residents in purchasing their parks. According to figures from HCD, MPROP, with about \$3 million in annual funding from a surtax on mobilehome owner registration fees and loan paybacks, has assisted homeowner associations and low-income residents in 75 park conversions since 1985. The Legislature has also enacted various changes to the Subdivision Map Act, exempting or simplifying the ROP conversion process.

**Subdivided Lands Act:** Due to concerns about the fraudulent marketing of subdivided lands, the Legislature over the years has enacted various provisions of the Subdivided Lands Act, administered by the Department of Real Estate (DRE), to assure that offers to buyers include what was agreed to at the time of purchase. (Business & Professions Code Section 11000 et seq.) The Act applies to most subdivisions and common interest developments, including condominium conversions. These provisions do not address land use, rent or relocation issues, but rather provide a DRE approved public report containing

disclosures to prospective buyers of covenants, conditions and restrictions which govern the use of property, assessments and reserves necessary for maintaining homeowners' associations and common areas, and other related disclosures. After the last remaining subdivided interest is sold, DRE's jurisdiction ceases.

**Subdivision Map Act:** Like zoning and use permits, the subdivision map process is a local land use planning tool. Although the original state Subdivision Map Act dates from 1907, the Act was significantly strengthened by the Legislature in the 1970's to include, among others, lot-splits and condominium conversions. In 1980, the Legislature enacted a provision specifically giving local governments the power to regulate the subdivision of a mobilehome park to another use, including requirements that the displacement of mobilehome residents be mitigated (Government Code Section 66427.4) (SB 1722 [Craven]). Therefore, before individual lots in a park could be sold and converted to a resident-owned subdivision or condominium, the Subdivision Map Act required a subdivision map to be filed and approved by the local jurisdiction, which could impose its various own conditions on the map to mitigate economic displacement of non-purchasing residents, such as relocation assistance, assurance that a majority of residents supported the conversion, etc. But park conversion consultants contended that by imposing "unreasonable" conditions on the subdivision map, some local governments were actually hampering ROP conversions by making it more expensive for residents to buy and operate the park. Hence, the Legislature enacted Government Code Section 66428.1 in 1991, exempting, with certain exceptions, a park conversion where two-thirds of the mobilehome owners in a park support it from parcel, tentative or final map requirements (AB 1863 [Hauser]). Due to continuing concerns from some resident groups and conversion consultants, in 1995 the Legislature further diluted the power of local governments to regulate the conversion of parks to resident-owned condominiums or subdivisions with the enactment of Government Code Section 66427.5 (SB 310 [Craven]). This provision did not have a homeowner support requirement but established a minimum state standard for mitigation of the economic displacement of non-purchasing residents, as previously described. (See Government Code Section 66427.5, attached). By establishing a state rent formula for low-income residents, Section 66427.5 thereby pre-empted a local rent ordinance from regulating rents in a converted ROP park. This is the provision, now being used by park-owner driven resident conversions, which is the center of debate on the "park condo" issue.

**El Dorado Case:** In 1993, the park owner of the El Dorado Mobile Country Club, a 377-space mobilehome park in Palm Springs, filed a tentative subdivision map with the city as a first step in converting his park to resident ownership. This was the first known case of a park converted to resident ownership by a park owner, as contrasted with most ROP conversions, which had been initiated by resident homeowner associations. The City of Palm Springs, concerned about allegations that the conversion was a "sham" driven by a park owner whose motive, according to some park residents at the time, was to sell a few lots in the park to circumvent the city's rent control and other local regulations, imposed several conditions on the map. These included, among others, that the map would not be

effective (meaning the park would not be exempt from city rent control) until 50%-plus-1 of the lots were sold to residents. The El Dorado park owner sued the city, claiming the effective date of conversion was when one lot was sold and that the city had exceeded its authority under the state's Subdivision Map Act to impose more stringent requirements for a park conversion, as it might do for other kinds of conversions, such as conversion of an apartment to a condominium. Although the city won the first round, the park appealed, and the 4th District Court of Appeal reversed (El Dorado Palm Springs, Ltd., v. City of Palm Springs, 2001). The appellate court ruled that the city was limited by the state's Subdivision Map Act and opined that the question of whether there should be more protections in the statute to prevent "sham" resident conversions by park owners was a legislative, not legal, issue.

**The Keeley Bill:** As a result, AB 930 (Keeley, 2002) was introduced to permit local governments to impose additional requirements on the conversion of a mobilehome park to a ROP subdivision or condominium. The bill was heavily lobbied and debated, with mobilehome owners, housing advocates and local governments supporting the bill and park owners opposing it. As finally passed and signed by the Governor, the Keeley bill allowed local governments to require park owners as part of the map act process to provide the city with "a survey of support" indicating resident support for a proposed ROP conversion and included un-codified language stating the bill was intended to assure such conversions were "bona fide" in accordance with the El Dorado case. Because the language was not clear, there are differing views on whether a city can deny a "park condo conversion" if the survey showed little or no resident support for the conversion. (See un-codified language as an addendum to Section 66427.5, attached)

**Epilogue:** Within the last year and a half, a number of mobilehome parks have either notified their residents of the park's intent to convert or have actually applied to local governments for a map to convert their rental parks to a park condominium under Government Code Section 66427.5. The Select Committee has been able to document 12 such parks to date statewide, although a newspaper article has quoted Sheila Dey, Executive Director of the Western Manufactured Housing Communities Association (WMA), a park owner industry association, as using the figure of 30 parks (WMA members) that are planning such conversions (*Daily Breeze*, [Torrance, CA], Sunday, January 28, 2007 article by Gene Maddus). To date, park-owner initiated conversions appear to be taking place in Buellton, Carson, Ojai, Vallejo, Sonoma County, Santa Rosa, Healdsburg, Rohnert Park, and San Luis Obispo County. Some local governments have placed temporary moratoriums on these conversions, although at least one jurisdiction is reportedly being sued by a park owner over the moratorium.

###

## **Attachment I**

### **Section 66427.5 of the Government Code:**

66427.5. At the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a rental mobilehome park to resident ownership, the subdivider shall avoid the economic displacement of all nonpurchasing residents in the following manner:

- (a) The subdivider shall offer each existing tenant an option to either purchase his or her condominium or subdivided unit, which is to be created by the conversion of the park to resident ownership, or to continue residency as a tenant.
- (b) The subdivider shall file a report on the impact of the conversion upon residents of the mobilehome park to be converted to resident owned subdivided interest.
- (c) The subdivider shall make a copy of the report available to each resident of the mobilehome park at least 15 days prior to the hearing on the map by the advisory agency or, if there is no advisory agency, by the legislative body.
- (d) (1) The subdivider shall obtain a survey of support of residents of the mobilehome park for the proposed conversion.  
(2) The survey of support shall be conducted in accordance with an agreement between the subdivider and a resident homeowners' association, if any, that is independent of the subdivider or mobilehome park owner.  
(3) The survey shall be obtained pursuant to a written ballot.  
(4) The survey shall be conducted so that each occupied mobilehome space has one vote.  
(5) The results of the survey shall be submitted to the local agency upon filing of the tentative or parcel map, to be considered as part of the subdivision map hearing prescribed by subdivision (e).
- (e) The subdivider shall be subject to a hearing by a legislative body or advisory agency, which is authorized by local ordinance to approve, conditionally approve, or disapprove the map. The scope of the hearing shall be limited to the issue of compliance with this section.
- (f) The subdivider shall be required to avoid the economic displacement of all nonpurchasing residents in accordance with the following:
  - (1) As to nonpurchasing residents who are not lower income households, as defined in Section 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent to market levels, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards, in equal annual increases over a four-year period.
  - (2) As to nonpurchasing residents who are lower income households, as defined in Sec. 50079.5 of the Health and Safety Code, the monthly rent, including any applicable fees or charges for use of any preconversion amenities, may increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event shall the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.

### **AB 930 (Keeley, 2002), Un-codified Intent Language:**

SEC. 2. It is the intent of the Legislature to address the conversion of a mobilehome park to resident ownership that is not a bona fide resident conversion, as described by the Court of Appeal in *El Dorado Palm Springs, Ltd. v. City of Palm Springs* (2002) 96 Cal.App.4th 1153. The court in this case concluded that the subdivision map approval process specified in Section 66427.5 of the Government Code may not provide local agencies with the authority to prevent non-bona fide resident conversions. The court explained how a conversion of a mobilehome park to resident ownership could occur without the support of the residents and result in economic displacement. It is, therefore, the intent of the Legislature in enacting this act to ensure that conversions pursuant to Section 66427.5 of the Government Code are bona fide resident conversions.

## Attachment II

### **Some Issues for Possible Discussion relating to “Park Condo Conversion”:**

- 1) Is there a need to change the statute – Government Code Section 66427.5?
- 2) How can the interests of park owners in selling their parks and making a reasonable return on investment be reconciled with the need to prevent the loss of affordable housing for low and moderate income park residents?
- 3) When Section 66427.5 was enacted in 1995 to limit local discretion, were park owner driven conversions contemplated by the Legislature? Should the statute be clarified to apply only to resident-owned driven conversions?
- 4) If the Keeley language relating to the “survey of support” requirement is not clear, should the statute provide that local governments may require a certain percentage of resident support be evidenced in the survey as a condition of granting a map?
- 5) Does the current statute sufficiently protect mobilehome park residents, who cannot afford to purchase a condo “interest,” from eventual economic eviction? Do residents who are not defined as low-income but who are below the region’s median income need to be protected?
- 6) One of the concerns voiced about park-owner initiated conversions is how the homeowners’ association is set up. Does the park owner have a controlling interest in the association until homeowners or park residents actually purchase a majority of the condo interests?
- 7) Doubts heard about park condo conversions also stem from the fact that parks in most cases will not disclose prices of the spaces or condo interests to residents until the process is approved by DRE. This may be due to a State Subdivided Lands Act requirements that prices cannot be provided to prospective buyers until the DRE public report is released, which is often at the end of the conversion process. Should the law be changed to allow at least disclosure of tentative prices at the front end or local map approval stage?
- 8) Some low-income residents in the El Dorado Park in Palm Springs have been able to obtain MPROP loans to purchase condo interests. Proponents of condo conversion contend MPROP loans may be available to assist low-income residents in future “park condo conversions.” Is there enough MPROP funding to assist low-income residents in up to 30 or more parks that may convert to the condominium form of resident ownership?

###