



COUNTY OF SANTA CRUZ

OFFICE OF THE COUNTY COUNSEL
701 OCEAN STREET, SUITE 505, SANTA CRUZ, CA 95060-4068
(831) 454-2040 FAX: (831) 454-2115

DANA McRAE, COUNTY COUNSEL

Chief Assistant

Rahn Garcia
Marie Costa
Jane M. Scott
Tamyra Rice
Julia Hill

Assistants

Shannon M. Sullivan
Miriam L. Stompler
Jason M. Heath
Christopher R. Cheleden
Betsy L. Allen
David Brick
Jessica C. Espinoza
Sharon Carey-Stronck

Special Counsel

Dwight Herr
Deborah Steen
Samuel Torres, Jr.

August 1, 2007

Agenda: August 7, 2007

Board of Supervisors
County of Santa Cruz
701 Ocean Street, Room 500
Santa Cruz, CA 95060

**Re: PUBLIC HEARING TO CONSIDER ADOPTION OF URGENCY
ORDINANCE REGULATING THE CONVERSION OF
MOBILEHOME PARKS TO RESIDENT OWNERSHIP PURSUANT
TO GOVERNMENT CODE § 66427.5**

Dear Members of the Board:

On March 6, 2007, your Board adopted an interim ordinance establishing a temporary moratorium on the conversion of mobilehome parks to resident ownership pursuant to Government Code §66427.5, and subsequently authorized an extension of the interim ordinance on April 17, 2007. That extension allowed time for the County to study and consider appropriate changes to the County Code regarding the processing and consideration of mobilehome park conversion applications consistent with the requirements of Government Code §66427.5. Staff now recommends that your Board consider adoption of an ordinance establishing permanent regulations consistent with §66427.5 for the processing and consideration of these applications to ensure that they result in bona fide resident conversions.

BACKGROUND

In California today there are over 4,800 mobilehome parks housing some 700,000 residents. Mobilehomes have traditionally provided affordable housing to people such as seniors on fixed incomes or working families that would otherwise be priced out of any type of home ownership. Typically, mobilehome park residents own their mobilehomes and rent the spaces on which the homes are placed on a month-to-month or long-term lease basis. Mobilehomes once placed in a park are difficult to relocate, as it may be

physical impractical or cost-prohibitive to do so. Furthermore, there is a lack of mobilehome parks in the region with space available to receive a relocated mobilehome, particularly if it's an older model. For these reasons and more, 102 local governments have enacted some form of mobilehome park rent control.

The County's 49 mobilehome parks contain some 2,314 mobilehome spaces whose rents are regulated under the Mobilehome Rent Adjustment Ordinance (see Chapter 13.32 of the Santa Cruz County Code). As they are statewide, mobilehomes comprise a critical component of the County's stock of affordable housing particularly with respect to the needs of the elderly. State law requires each Housing Element analyze and plan for meeting the housing needs of special population groups such as the elderly. The County's adopted Housing Element notes that most seniors have very low fixed and/or limited incomes with minimal cost of living adjustments, and states that affordability is this population's most important housing need (see Santa Cruz County 2000-2007 Housing Element, November 7, 2006, at page 52). The Housing Element identifies mobile homes as a significant housing resource for seniors and sets the following objective in order to achieve the goal of preserving the County's affordable housing:

Conserve the County's existing stock of mobile homes by continuing to enforce County ordinances that protect mobile home parks from conversion and provide rent stabilization protections. (Objective 3.6, Santa Cruz County 2000-2007 Housing Element, November 7, 2006, at page 147.)

1. Conversion to Resident Ownership under the Subdivision Map Act

The Subdivision Map Act governs the division of real property into parcels or condominiums and requires that a subdivider file a tentative map for review and approval by a local agency, which may in its discretion impose conditions on the conversion. Historically, when mobilehome parks have converted to resident ownership, the residents have initiated the process and enlisted the help of a nonprofit organization. The nonprofit organization typically buys the entire park and sells lots to individual owners.

Under current state law, conversions of mobilehome parks to resident ownership are generally governed by Government Code §66427.5. This statute requires that the park owner seeking the conversion:

- o Obtain County approval of the conversion pursuant to the Subdivision Map Act including approval of a map (unless waived by a vote of two-thirds of the park's residents).
- o Submit a report on the impact of the conversion.

- o Offer existing tenants an option to buy the lot on which their mobile home is located.
- o “Survey” each tenant to assess resident support for the conversion.
- o Limit the amount of any increase in rent to tenants not opting to purchase as provided in the statute. Annual rent increases for lower income residents (approximately \$62,800 for a family of four) are capped at the CPI (Consumer Price Index). Tenant households with incomes above low income would be transitioned to “market-level” rents after four years.

The County’s rent control protections would cease and the statute’s rent provisions would apply after the conversion is approved and the first lot is sold. Once a low-income household vacates the space they rent, all rent protections cease for that space.

In *El Dorado Palm Springs, Ltd., v. City of Palm Springs* (2001) 96 Cal.App.4th 1153, the court ruled that when a local government acts on a conversion application under 866427.5, they are not authorized to impose mitigations for the economic displacement of residents beyond those provided by the statute. In *El Dorado*, the park owner filed a tentative subdivision map with the City of Palm Springs as a first step in converting his park to resident ownership. To ensure that the conversion was a “bona fide” effort aimed at resident ownership and not a sham meant to circumvent the city’s rent control regulations, the city imposed several conditions on the map. One condition specified that the conversion would not take effect (meaning the park would not be exempt from city rent control) until 50%-plus-1 of the lots in the park were sold to residents. The 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. Although the city won in the trial court, the park owner appealed and the 4th District Court of Appeal reversed. The appellate court ruled that the city’s attempt to add such a condition was preempted by 566427.5 and that the conversion took effect upon the sale of the first lot.

In direct response to the ruling in *El Dorado*, Assembly Bill 930 (Keeley, Stats. 2002, ch. 1143) was enacted requiring park owners to conduct a survey indicating resident support for a proposed conversion. The survey results must be considered when the local government holds a hearing on the conversion application. Significantly, the bill also included uncodified language stating a legislative intent to ensure that a mobilehome park subdivision carried out pursuant to §66427.5 is a “bona fide” resident conversion.

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 nonbona 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. (Stats. 2002, ch. 1143, § 2, p. 3324; emphasis added.)

Some mobilehome park residents have asserted that 866427.5 was not originally intended to be used by park owners to convert parks to resident ownership and the statute is now being adapted to allow owners 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. For a resident forced to move who is elderly, relocating outside his or her existing park and disrupting the important social ties and critical support networks would be a daunting task at best. In addition, the impracticalities and costs of moving a mobilehome once sited, as well as the lack of spaces available in other mobilehome parks willing to receive an older mobilehome make moving to another mobilehome park unrealistic.

PROPOSED ORDINANCE

As proposed, the ordinance seeks to implement the requirements of Government Code 866427.5 in a number of ways. For example, while the statute mandates the filing of a report on the impact of the conversion upon residents (see subdivision (b) of §66427.5), it is silent on what information must be contained in the report. Proposed new County Code § 14.08.050 specifies the information that is to be contained in the impact report prepared by the owner. Furthermore, §66427.5 requires that a survey of resident support for the proposed park conversion be conducted, but it doesn't make clear that residents be given information before the survey is taken. To assure that residents would have sufficient information to thoughtfully consider their choice of whether to support the conversion, § 14.08.040 of the proposed ordinance clarifies that the information and disclosures be provided to each resident in advance of the survey, and not after.

In order to ensure that each application meets the specific requirements of §66427.5 and carries out the express intent of the Legislature in enacting Assembly Bill 900 that it result in a "bona fide resident conversion", proposed County Code § 14.08.070 establishes criteria for the approval of a mobilehome park conversion application. When considering whether to approve an application, the project shall be presumed to be a bona-fide resident conversion where 50% or more of the resident survey vote favors

conversion to resident ownership. Where the survey shows that less than 50% of the residents support the conversion to resident ownership, the proposed conversion shall be presumed to not be a bona-fide resident conversion. An applicant subdivider would then have the burden of demonstrating that the proposed conversion is actually bona-fide. Either presumption may be overcome through the submission of substantial evidence either at or prior to the hearing.

Finally, to implement the requirements of subdivision (f) of §66427.5, proposed County Code § 14.08.080 requires the subdivider to provide notice to each mobilehome park tenant of his or her statutory right to purchase their unit of space or alternatively, to remain as a tenant.

Section V of the ordinance describes several factors justifying your Board taking action on an urgency basis in order to have the ordinance immediately go into effect. Urgency adoption of the ordinance requires at least four affirmative votes for adoption.

IT IS THEREFORE RECOMMENDED that the Board adopt the attached urgency ordinance repealing Ordinance No. 4872, then enacting Chapter 14.08 of the Santa Cruz County Code establishing permanent regulations consistent with Government Code 566427.5 for the processing and consideration of mobilehome park conversion applications.

Very truly yours,

DANA McRAE, COUNTY COUNSEL

By 
RAHN GARCIA
Chief Deputy County Counsel

cc: County Administrative Office, Planning Department, Mobile Home Commission
Attachment

RECOMMENDED:



SUSAN A. MAURIELLO
County **Administrative Officer**

45

ORDINANCE NO. _____

URGENCY ORDINANCE ADDING CHAPTER 14.08 TO THE SANTA CRUZ COUNTY CODE ESTABLISHING INFORMATION, DISCLOSURE AND SUBMISSION REQUIREMENTS FOR CONVERSION OF MOBILEHOME PARKS TO RESIDENT OWNERSHIP AND REQUIREMENT FOR BONA FIDE CONVERSIONS

The Board of Supervisors of the County of Santa Cruz ordains as follows:

SECTION I

The Santa Cruz County Code is hereby amended by adding Chapter 14.08 to read as follows:

Chapter 14.08

CONVERSION OF MOBILEHOME PARKS TO RESIDENT OWNERSHIP

Sections:

- 14.08.010** Purpose and intent.
- 14.08.020** Definitions.
- 14.08.030** Applicability.
- 14.08.040** Information and disclosure requirements for resident survey.
- 14.08.050** Information and disclosure requirements for impact report.
- 14.08.060** Application submittal requirements.
- 14.08.070** Criteria for approval of conversion application.
- 14.08.080** Tenant notification.

14.08.010 Purpose and intent. The purpose of this chapter is to establish requirements and procedures that are necessary and appropriate to comply with state laws related to the conversion of mobile home parks to resident ownership. The County of Santa Cruz further declares that the purposes of these provisions are also as set forth below:

- A. To ensure that conversions of mobile home parks to resident ownership are bona fide resident conversions in accordance with state law;
- B. To balance the need for increased homeownership opportunities with the need to protect existing affordable housing opportunities;
- C. To ensure that park residents receive appropriate and timely information to assist them in fully understanding their rights and obligations under the statute; and
- D. To ensure the public health and safety in converted parks.

14.08.020 Definitions. For the purpose of this chapter, the following words, terms and phrases shall be defined as follows:

A. “Mobile Home Park Conversion to Resident Ownership” means the conversion of a mobile home park composed of rental spaces to a condominium or common interest development, as described in and/or regulated by Government Code §66427.5 and/or §66428.1.

B. “Resident” or “Tenant” means the person or persons owning a mobilehome in a space within a mobilehome park pursuant to a rental agreement.

14.08.030 Applicability. The provisions of this chapter shall apply to all conversions of mobile home parks to resident ownership, except those conversions for which mapping requirements have been waived pursuant to Government Code §66428.1. These provisions do not apply to the conversion of a mobile home park to an alternate use pursuant to Government Code 865863.7 and 866427.4.

14.08.040 Information and disclosure requirements for resident survey. To assist the residents in determining how to respond to the resident survey required by subdivision (d) of Government Code §66427.5, the following information and disclosures shall be provided by the park owner to each tenant household sufficiently in advance of the survey to allow its consideration:

A. A statement describing the effects that the mobilehome park conversion will have on the application of the rent control provisions of Chapter 13.32 for both lower income households and for other households who continue residency as tenants. The statement shall specifically describe the effects that the conversion will have on the application of the vacancy control provisions of Chapter 13.32 of this Code, and a statement describing the effects of vacancy decontrol under Government Code §66427.5 on the resale value of mobilehomes of both lower income households and of other households who continue residency as tenants. Included with this statement shall be a separate statement prepared by the County summarizing the major provisions of the County’s mobilehome park rent adjustment Ordinance (Chapter 13.32 of the County Code.)

B. A statement specifying the income level that is applicable pursuant to subdivision (f)(2) of Government Code §66427.5, to determine whether households in the mobilehome park qualify as a lower income household or are not a lower income household, and requesting that the households identify whether they are a lower income household, or are not a lower income household.

C. A statement specifying whether the subdivider will begin the phase-in of market level rents pursuant to subdivision (f)(1) and the rent adjustment provisions of subdivision (f)(2) of Government Code §66427.5 upon the sale of one lot, upon the sale of more than 50% of the lots, or upon the sale of some other percentage of lots.

D. A statement specifying the method by which the fair market rent levels authorized by subdivision (f)(1) of Government Code §66427.5 will be established, or in the alternative, the specification of the range of rent levels that will be applicable to the subdivided units in the mobilehome park, including, but not limited to, the inclusion of any inflation adjustment formula to be utilized.

E. A statement specifying how space rents will be set for purchasers of mobilehomes owned by lower income households and by other households (who continue residency as tenants under subdivision (f) of Government Code §66427.5).

F. A statement specifying the method by which the sales prices of the subdivided units will be established, or in the alternative, the specification of a range of purchase prices that will be applicable to the subdivided units in the mobilehome park, including, but not limited to, the inclusion of any inflation adjustment formula to be utilized.

G. A statement specifying the method for determining and enforcing the controlled rents for non-purchasing households pursuant to Government Code §66427.5(f) (2), and, to the extent available, identification of the number of tenant households likely to be subject to these provisions.

H. Identification of the potential for non-purchasing residents to relocate their homes to other mobile home parks within Santa Cruz County, including the availability of sites and the estimated cost of home relocation.

I. An engineer's report on the type, size, current condition, adequacy, and remaining useful life of each common facility located within the park, including but not limited to water systems, sanitary sewer, fire protection, storm water, streets, lighting, pools, playgrounds, and community buildings. A pest report shall be included for all common buildings and structures. "Engineer" means a registered civil or structural engineer, or a licensed general engineering contractor.

J. If the useful life of any of the common facilities or infrastructure is less than thirty (30) years, an engineer's estimate of the cost of replacing such facilities over their useful life, and the subdivider's plan to provide funding for same.

K. An estimate of the annual overhead and operating costs of maintaining the park, its common areas and landscaping, including replacement costs as necessary, over the next thirty (30) years, and the subdivider's plan to provide funding for same.

L. A maintenance inspection report conducted within the previous twelve (12) calendar months demonstrating compliance with Title 25 of the California Code of Regulations ("Title 25 Report"). Proof of remediation of any Title 25 violations or deficiencies shall be confirmed in writing by the California Department of Housing and Community Development (HCD).

M. A detailed description of the County and State procedures to be followed for the proposed conversion, including, but not limited to, a tentative timeline.

N. The phone number and address of an office designated by the County Board of Supervisors that can be contacted for further information relating to the proposed mobilehome park conversion.

O. The subdivider shall attach a copy of this chapter to each survey form.

14.08.050 Information and disclosure requirements for impact report. The report by the subdivider on the impact of the mobilehome park conversion required by subdivision (b) of Government Code §66427.5 shall include, but not be limited to, the

following disclosures:

- A. That information specified by subsections A through M of § 14.08.040, required to be provided to park tenants for purposes of the resident survey.
- B. A statement specifying the number of mobile home spaces in the park and the rental rate history for each such space over the four years prior to the filing of the application.
- C. A statement specifying the method and timetable for compliance with Government Code 566427.5 (a), and, to the extent available, an estimate of the number of existing tenant households expected to purchase their units within the first four (4) years after conversion including an explanation of how the estimate was derived.
- D. An estimate of the number of residents in the park who are lower income households pursuant to subdivision (f)(2) of Government Code 566427.5, including an explanation of how the estimate was derived.
- E. An estimate of the number of residents in the park who are seniors (62 years of age or older) or disabled, including an explanation of how the estimate was derived.

14.08.060 Application submittal requirements. The following information shall be submitted as part of the resident survey results with any subdivision application for conversion to a resident owned mobilehome park pursuant to Government Code §66427.5:

- A. A statement of the total number of spaces occupied by residents (excluding any spaces occupied by the subdivider, a relative of the subdivider, or employee of the subdivider); and the total number of votes of such residents in favor of the conversion and the total number of votes of such residents in opposition to the conversion, with no more than one vote allocated for each mobilehome space.
- B. The subdivider shall demonstrate that the procedures and timing used to conduct the survey were in accordance with an agreement between the subdivider and an independent resident homeowners association, if any. In the event that more than one resident homeowners association purports to represent residents in the park, the agreement shall be with the resident homeowners association which represent the greatest number of tenant homeowners in the park.
- C. A written statement signed by the authorized representative(s) of an independent resident homeowners' association verifying that the survey form was approved by the association in accordance with the requirements of subdivision(d)(2) of Government Code 566427.5.
- D. A copy of the information and disclosures provided to tenant households pursuant to § 14.08.040.
- E. A copy of the tenant impact report required pursuant to § 14.08.050.
- F. A Tentative Subdivision and Final Map or Parcel Map unless waived pursuant to Government Code § 66428.1. A parcel map shall be required for all projects that contain less than five parcels and do not create more condominium units

or interests than the number of rental spaces that exist prior to conversion. If additional interests are created or if the project contains more than 5 parcels a Tentative and Final map shall be required. The number of condominium units or interests to be created shall not determine the type of map required unless additional condominium units or interests are created over and above the number of rental spaces that exist prior to conversion.

14.08.070 Criteria for approval of conversion application. An application for the conversion of a mobile home park to resident ownership shall be approved only if the decision maker finds that:

A. A survey of resident support has been conducted and the results filed with the County in accordance with the requirements of Government Code §66427.5 and this Chapter.

B. A tenant impact report has been completed and filed with the County in accordance with the requirements of Government Code §66427.5 and this Chapter.

C. The conversion is a bona-fide resident conversion. For purposes of determining whether a proposed conversion is a bona-fide resident conversion, the following presumptions shall be applied based on the results of the survey of resident support conducted in accordance with Government Code §66427.5 and with this Chapter. The presumptions created by this subsection may be overcome through the submission of substantial evidence either at or prior to the hearing.

1. Where the survey of resident support shows that 50% or more of the resident survey vote supports the conversion to resident ownership, the proposed conversion shall be presumed to be a bona-fide resident conversion. Any interested person opposing the conversion shall have the burden of demonstrating that the proposed conversion is not a bona-fide resident conversion.

2. Where the survey of resident support shows that less than 50% of the resident survey vote supports the conversion to resident ownership, the proposed conversion shall be presumed to not be a bona-fide resident conversion. The subdivider shall have the burden of demonstrating that the proposed conversion is a bona-fide resident conversion.

D. Applications meeting the presumption established by subsection C. 1. of this section shall be processed at Level VI. Applications meeting the presumption established by subsection C.2. of this section shall be processed at Level VII.

14.08.080 Tenant notification. The following tenant notifications are required:

A. If the application for conversion is approved, the subdivider shall give each resident household written notice of its exclusive right to contract for the purchase of the unit of space it occupies at the same or more favorable terms and conditions than those on which such unit of space shall be initially offered to the general public. The right shall run for a period of not less than ninety (90) days from the issuance of the subdivision public report ("white paper") pursuant to California Business and Professions Code § 11018.2, unless the subdivider received prior written

notice of the resident's intention not to exercise such right.

B. If the application for conversion is approved, the subdivider shall give each resident household written notice of its right to continue residency as a tenant in the park as required by Government Code §66427.5 (a).

SECTION II

This ordinance is hereby found to be categorically exempt from environmental review pursuant to CEQA Guidelines § 15061 (b) (3) in that the Board of Supervisors finds and determines that there is nothing in this ordinance or its implementation that could foreseeably have any significant effect on the environment, in that the adoption of this ordinance will not result in any physical change to the environment.

SECTION III

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason declared to be unconstitutional and/or invalid, such decision shall not affect the validity of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and every section, subsection, sentence, clause or phrases thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared unconstitutional or invalid.

SECTION IV

Ordinance No. 4872 is hereby repealed.

SECTION V

This ordinance shall take effect upon its introduction, passage and adoption in order to preserve the public peace, health, and safety. The facts constituting the urgency are as follows:

A growing number of mobilehome park owners have been converting their parks to so-called resident owned condominiums or subdivisions. The conversion exempts the parks from local rent control. Non-purchasing low-income mobilehome owners, who cannot afford to buy their space, may continue to rent their spaces under the State rent control law that limits annual rent increases. However, non-purchasing residents who are not low-income lose their local rent control protection and may have their rents raised to market levels over four years. Significant concerns exist about deferred maintenance of the infrastructure and interior of the mobilehome parks and the burden of future maintenance and expense that will become the responsibility of the park residents and homeowners' associations. Additionally, many mobilehome owners have made substantial investments in their homes. The physical removal of a

mobilehome from a mobilehome park is problematic and can only be accomplished at substantial cost to the resident owners. There is also limited ability to find another location, which is now being exacerbated by parks being converted from rentals to resident-owned.

A large number of people living in mobilehomes are elderly and/or live on fixed incomes. They expend a large portion of their income on rent and may not be able to afford other housing within the County. While some mobilehome parks may be converted to true resident-owned parks, it appears that some of the parks are being converted merely 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 condominium interests.

The County of Santa Cruz has received one application to convert **an** existing mobilehome park to resident ownership. There is no current ordinance in place that implements the mandatory provisions of Government Code sections 66427.5.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz this _____ day of _____, 2007, by the following vote:

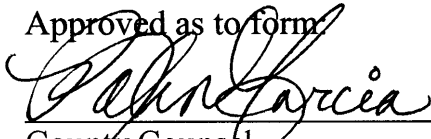
AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS
ABSTAIN: SUPERVISORS

Chair, Board of Supervisors

Attest:

Clerk of the Board

Approved as to form:



County Counsel