

Attachment to Agenda Item Nos. 11 and 12



Western
Manufactured Housing Communities
Association

January 26, 2009

The Honorable Dick Riddell
City of Yucaipa
34772 Yucaipa Boulevard
Yucaipa, CA 92399

Re: Moratorium on Conversions of Mobile Home Communities to All Age—Agenda Item 11 and 12.

Dear Mayor Riddell:

The Western Manufactured Housing Communities Association opposes Agenda Item 11 and 12 to extend the City of Yucaipa's moratorium on all age conversions of mobile home communities within the city.

Industry attorneys agree that local jurisdictions do not have the legal authority to prohibit a manufactured housing community to convert from "senior only" to "family" or all age. Last year, AB1111 was introduced in the California State Legislature to give local jurisdictions the ability to oversee approval of all age conversions. It was defeated handedly on the Senate Floor. Arguably, there was no local jurisdiction more active to pass AB 1111 than the City of Hemet and they too have allowed their moratorium on conversions to all age to expire.

One of the major reasons for AB 1111 defeat were the arguments made that it conflicts with Federal Law. Certainly, this area of unsettled law is ripe for litigation and owners are confident of their standing.

We would hope that the City of Yucaipa recognizes that manufactured housing communities are a valuable stock of affordable housing for all residents of Yucaipa and explore other alternatives to promote senior housing rather than at the expense of mobile home park owners' property rights. We respectfully request you allow the moratorium to expire.

Sincerely,

Julie Paule, Regional Representative

Attachment to Agenda Item Nos. 11 and 12



January 26, 2009

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Mayor Dick Riddell and City Councilmembers
City of Yucaipa
34772 Yucaipa Boulevard
Yucaipa, CA 92399

Via fax and US Mail

Re: January 26, 2009 City Council Meeting -- Agenda Items 11 and 12

Dear Mayor Riddell and City Councilmembers:

Happy New Year to you. It is unfortunate that 2009 is starting out just like 2008; a discussion of a moratorium and additional regulation being considered on mobile home parks.

Attached are copies of the previous letters MHET submitted on the issues of the moratorium. Nothing has changed, and MHET strongly opposes these unnecessary and, at best, questionable legal actions. There is no reason for extending the moratorium and the Council should not do so.

Agenda Item 12 is a study session about whether to move forward with more regulations. MHET would hope the City Council would take note of the actions of your neighboring city of Hemet, which has a large senior population. They let the moratorium expire and took no further action. Additionally, your staff has pointed out on page 96 that there are serious issues that weigh against proceeding any further. One would think that the very costly litigation experience this City Council had in losing its litigation battles in 2008 would cause you to pause.

Over the years in various staff reports and in comments from the Council dias, there have been references that mobile home parks are an important component of the housing stock of Yucaipa. That the parks provide such an important part of the housing element of the City. Yet, there does not seem to be any recognition that these parks exist due to the efforts of the PARK OWNERS. The park owners are not the enemy. This constant us versus them attitude is not productive and does nothing to improve the quality of life for the residents, which should be the objective of the City. It only creates costly bureaucracies, fees and litigation.

I hope in 2009 this approach can change. If the Council really wants to continue looking into the real issues and facts, then work WITH the park owners. Let's make sure all sides are heard and understood. MHET is ready to work with the City Council and City staff in moving forward. Let's do so in 2009.

Sincerely,

Peter Herzog
Inland Empire Representative

25th Anniversary

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January 25, 2008

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Mayor Dick Riddell and City Councilmembers
City of Yucaipa
34772 Yucaipa Boulevard
Yucaipa, CA 92399

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Re: Agenda Item 7- Moratorium on Senior Only Mobilehome Parks

Keith Casadehor
Craig Houser
Lara McAdoo
Gary Huff

Dear Mayor Riddell and City Councilmembers:

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We at MHET want to wish all of you and the City of Yucaipa a Happy New Year, and we hope 2008 is an excellent year for the City and its residents.

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I have read the staff report regarding Agenda Item 7. It appears that the underlying issue is that the City would like to examine the issues surrounding a possible "senior only" mobilehome park zoning ordinance. That can readily be accomplished without enacting any moratorium, and there is plenty of time to do so. The City was previously advised by the WMA that they are not aware of any efforts to change any of the senior parks. MHET is also not aware of any such efforts. There are no notices of any intent to change any of the senior parks. No facts have been presented to the contrary. Thus, there is no "current" or "immediate" threat of any of the senior parks changing to all age. No other basis for the supposed urgency need is provided, and therefore, it would not seem there are any facts upon which to legally justify the proposed moratorium.

Lifetime Achievement Award Recipients

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As mentioned at the outset, the City can look into the zoning issue without the moratorium. Not enacting the moratorium does not effect your ability to analyze the true issue. Any analysis of a zoning change should include as an active participant the property owner, in this case, the park owners. I am sure if the City was considering a zoning change to your property, you would want to be included in any analysis of the need and consequences, both intended and unintended, of a zoning change. Thus, it is respectfully requested that MHET be part of any effort to evaluate the various issues that surround the concept of a senior only zoning ordinance.

Above and Beyond Award Recipients

Willis Miller
Stan Magill
Don Jacobs
Paul Westwick
C. Brent Simmons
Jim Martin
James Jones
Chela Tavaris
Keith Casadehor

In conclusion, it is respectfully submitted there is no need or factual basis to enact the moratorium. MHET and the park owners do look forward to working closely with your staff in any future analysis of a senior only zoning ordinance

Sincerely,


Peter Herzog
Inland Empire Representative

Executive Director
Vickie Falta

March 10, 2008

Mayor Dick Riddell and City Councilmembers
City of Yucaipa
34772 Yucaipa Boulevard
Yucaipa, CA 92399

Via Fax and US Mail

Re: Agenda Item 14 – Moratorium on Senior Only Parks

Dear Mayor Riddell and City Councilmembers:

Unfortunately, I will not be able to appear at your meeting this evening. MHET is submitting this correspondence for the record on Agenda Item 14 and the entire moratorium and zoning discussion.

First, MHET has previously stated its opposition to the moratorium. To enact a moratorium does require findings of fact to support the moratorium. In fact, this City Council has not made any findings of fact, only provided speculation. The facts remain clear that no property owner has indicated any intent to transition a possible senior park to an all age park. Nothing has been published, no notices or policies have been set forth, nothing has occurred to allow this City Council to legally make the required findings that there is any "current" or "imminent" threat to legally justify this moratorium. Thus, the moratorium should not be extended.

Additionally, there are numerous legal barriers to the City trying to discriminate against families. To note just one, the staff reports make reference to an Attorney General's opinion to supposedly justify the City's efforts. That opinion is clearly suspect because it did not even attempt to address the Federal Fair Housing Act. This is a glaring omission since 42 U.S.C. Section 3615 specifically states that any jurisdiction that "purports to require or permit any action that would be discriminatory housing practice under this subchapter shall to that extent be null and void." Congress specifically has indicated they want to prohibit discrimination based on familial status, and it is well known the Supremacy Clause of the United States Constitution precludes local jurisdictions from overriding Federal law. Furthermore, the courts have consistently held the Fair Housing Act does apply to municipal zoning powers.

This blatant error in the opinion being relied upon is very glaring since the Federal Courts have indicated the Fair Housing Act exclusively grants to the owner of the property, not a city, the authority to decide if the housing is to be senior or family. The Federal Courts have indicated they will not adopt a rule

Page 2

that would deprive the landowner of that choice. Thus, a city cannot compel the decision.

There has been reference to a concern about housing for seniors. Yet, doesn't this City Council also feel a concern about providing housing to families, especially in a City where the median age is 36 -37 years old? The legislative history shows Congress did take into account the needs of both seniors and families when they banned actions that discriminate against families. Yet, Congress found it appropriate to protect the family. The goal of the Fair Housing Act is to make more, not less, housing opportunities available to families with children. I would hope this City Council would join Congress in promoting and protecting the family.

As mentioned, there are several other legal issues. MHET once again implores this City Council not to take legally questionable actions. This does not lead to anything positive. Therefore, MHET respectfully submits the moratorium is not needed, is illegal, and is not the best way to address the needs of the community. Let's move forward in a cooperative manner instead of confrontation. MHET has not been contacted yet on this issue, but remains fully willing to work with your staff on this or any other matter of concern within the mobile home community.

Sincerely,

Peter Herzog
Inland Empire Representative