



November 3, 2017

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Mayor Dick Riddell and City Council Members
City of Yucaipa
34272 Yucaipa Boulevard
Yucaipa, CA 92399

GENERAL SERVICES/CITY CLERK'S
DEPARTMENT

Sent via Email

RE: November 6 Agenda Item 1 - Biennial Review of Rent Stabilization Ordinance

Dear Mayor Riddell and City Council Members:

The Manufactured Housing Educational Trust (MHET), on behalf of the mobilehome park owners of Yucaipa, appreciates the opportunity to provide comments on the various issues set out in the staff report regarding the 2017 Biennial Review.

First, it seems clear from the various conversations that have gone on over the last many months and most of the suggestions made to the City for this years' Review, the most important focus of the entire Biennial Review should be on how to limit the number and extent of any MNOI application increases. The mobile home residents have made it clear they would like to limit the number of MNOI applications and decrease the amount of any MNOI increase that might occur. The mobile home park owners agree. The park owners and residents have the same objective.

So, today, let's move forward on a path that actually could meet the joint objective of the residents and park owners. MHET respectfully submits the path to do so is to allow for an annual increase of 100% CPI and vacancy decontrol. As the City's own expert, Dr. Barr, has stated on Pages 81-82 of your agenda package:

"the limit on annual rent increases to 80% of the CPI increase the likelihood that in future years there will be more fair return petitions and that greater fair return increases would be justified." (emphasis added)

Furthermore, Dr. Barr notes that allowing some form of vacancy decontrol could *"reduce fair return applications and rent adjustments."* (emphasis added)

Subject 2 and 4: Annual Adjustments and Rent Adjustments Upon Vacancy

MHET did provide an initial letter to the Rent Review Commission on September 8, 2017. This letter is on Page 48 - 50 of your agenda package. We provided a second letter addressing material in the staff report on October 18, 2017, which is on Page 84 - 87 of your staff report. These letters set out in detail why adopting 100% CPI and vacancy decontrol is the best course of action, especially to limit MNOI applications. I appreciate the Council taking the time to study what is set forth in those letters.

I will not repeat all that is contained in the two prior letters, yet to briefly summarize. The concept of 100% CPI solely keeps park owners even with increasing costs. Treading water so

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to speak. Nothing more. It is respectfully submitted that merely staying even with inflation cannot be seen by anyone as an "excessive" rent increase. But, what only allowing an annual increase of 80% of CPI does is guarantee that each year the rent falls further and further behind the increased costs of operating a park, thereby increasing, not decreasing, the chances that an MNOI application will ultimately be necessary.

Vacancy decontrol helps address the net operating income issue, and it does NOT increase the current residents rent at all; not one cent. Vacancy decontrol merely allows a NEW resident who is considering living in a mobile home park to come to an agreement with the park owner on a rent level that is entirely acceptable and affordable to the new resident. The new residents' choice. And, once moved into the park, any future rent increase for the new resident of the park is fully regulated by the Ordinance, so the objective of protecting all residents, new and old, against any supposed "excessive" rent INCREASES remains completely intact.

Regarding Subject 2, Annual Adjustments, based upon the information before you, and especially taking into consideration the desire of ALL parties to decrease the number of MNOI applications and limit the amount of any legally required increase, MHET respectfully requests the City Council adopt Option 2 set out by the staff to provide for an annual increase of 100% CPI , or by 5%, whichever is less.

Turning to Subject 4, Rent Adjustments Upon Vacancy, MHET fully agrees with staff that the City Council only "consider Options #1-6...which impacts new residents, not current residents..." MHET has made it very clear over several Biennial Reviews that Option 4, market rent adjustments, is the best option. Option 4 will do more toward possibly eliminating MNOI applications than any other option.

Subject 1 – Temporary Rent Adjustment For Application and Hearing Costs

First, it needs to be made clear there was significant opposition to this item when it was before the Rent Review Commission as is set out in the MHET letter of October 18 on pages 86-87, as well as the letters from the Rudderow Law Group and the law firm of Jackson Tidus, pages 88-93 of your staff report. This led the Rent Review Commission NOT to adopt the initially proposed formulaic approach. There was some discussion between the Commission and the staff as to what might be a non-formulaic approach, but no language was drafted and voted upon and the public was not able to comment on this possible different approach. So, the language before you is the first time this has been in print and seen by the public.

While we appreciate staff having made the proposal somewhat better, MHET does not believe the current recommendation is necessary and it still raises legal concerns, and should not be adopted. Section 6.0004(B) of the Ordinance sets out in detail the "Factors to Determine Reasonableness of Fees, Costs, and Other Expenses". Subsection (B)(10) specifically says the City "shall consider" the "relationship of the result obtained to the expenses, fees and other costs incurred..." This is the supposed justification given by YMRA for the request to amend the *Galland* provision. The staff proposal seems to mainly reiterate what the City already clearly

states can and MUST be considered. There are no facts presented to indicate “the relationship of the result obtained to the expenses...” has not been considered in making the legally required *Galland* award.. So, what is set forth in Subject 1 is completely unnecessary.

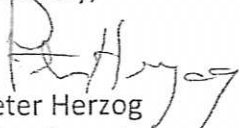
The only example that has been cited is an application used 100% of the CPI in setting out what was felt to be the proper fair return. It is claimed this is not allowed by the Ordinance and so should not be included in an application. This is not a sufficient basis for the proposed changes as Section 6.0004(C), Documentation Required, necessitates very detailed information that must be provided including “...actual hours worked and specific tasks performed...” So, again, the Ordinance, as it is currently written, provides the City with detailed information to evaluate what was done and what it cost. Therefore, the city already receives the information to determine the “costs incurred in presenting all of these proposed methodologies...”.

Unfortunately, on page 5 of the staff report it still references that it “would be appropriate” to limit “the approved Temporary Rent Adjustment to 64% of the professional costs incurred.”, again a formulaic process that was not accepted by the Commission. This is again referenced in the proposed language on page 7 where it specifically calls out “the percentage difference between the Commission approved special rent adjustment and the amount of the Applicant’s claims...” . The letters from the two law firms point out this is inappropriate and raises legal issues.

Therefore, MHET respectfully requests the City Council NOT amend Administrative Rules Sections 6.0002 and 6.0004(B) as the proposed amendments are completely unnecessary due to the current wording of the Rules, and are legally questionable.

The past has proven that to continually deny annual increases of 100% and vacancy decontrol, the park owners will be forced to make MNOI applications, and the law will require such applications to be granted. So, let’s not continue down a road that no one wants to see followed, and instead move forward in charting a course where there are gradual, reasonable increases under the Ordinance and lessen the need for and amount approved under MNOI applications. That opportunity is before you today, so please approve annual increases of 100% CPI and vacancy decontrol.

Sincerely,



Peter Herzog
Inland Empire Representative

Cc: Jennifer Shankland
Tammy Vaughan