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November 6, 2017

VIA EMAIL AND U.S. MAIL

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

Re: November 6 Agenda item -- Comments on Biennial Review

Dear Mayor and Council Members,

I am writing on behalf of Peter Wang who, as you know, owns two mobilehome parks in the City of Yucaipa, to offer comments on the proposed changes to the City of Yucaipa rent control ordinance ("Ordinance"). As you may be aware, I have been representing park owners under rent control in rent increase hearings for more than 15 years. I have participated in at least four special adjustment applications in Yucaipa.

Initially, it is important to correct the staff report, which, by omission, gives the false impression there is no opposition to staff's proposed changes to the provisions for recovery of costs in junction with special adjustments. MHET submitted a letter in opposition to changes, as did I on behalf of my client. Staff also received letters from WMA and another park owner addressing the subject.

As to the proposed new language, any provision which allows or encourages the City to reduce the amount of fees recovered based on a comparison of the amount requested versus the amount awarded is inconsistent with the California Supreme Court decision in *Galland*, referenced in the staff report. Unless the fees incurred are not a legitimate park expense, i.e. there is a finding that they were incurred for some purpose other than advancing the park owner's business interests, the park owner must be allowed to recover such fees in some fashion. If the City effectively converts the fees awarded to a contingency award, it would also violate the constitutionally protected right of petition with such a punitive measure forfeiting the right to recover legitimate business expenses.

As a practical matter, the example of "abuse" cited by staff, the request for indexing MNOI at 100 percent of CPI, adds very little to the expense of the hearing process. In addition, as staff has itself recognized, this request is made under the auspices of the Constitutional requirement that the Ordinance assure the park owner a "fair return" on investment, by not allowing the returns to be eroded by inflation. In some cases, courts have found indexing at 100 percent of CPI is required. See *Searle v. City of Berkeley Rent Stabilization Bd.* (1990) 222 Cal.App.3d 131. The park owner has the right to assert methodologies which the park owner legitimately believes are either justified under the Ordinance or may be required by law.

As to the applications I have worked on, I do not believe staff nor the City's consultant Dr. Baar has found that the fees and costs requested were unreasonable. Indeed, I'm aware that Dr. Baar has cited the fees and costs requested by me as evidence of what he believes are reasonable application costs. The City is proposing a solution for a problem that does not exist, but will likely result in creating litigation and ultimately higher costs to both the City and residents if there is an attempt to reduce and eliminate legitimately incurred fees and costs. The Ordinance language should remain the same.

As to the other specific items, I will not repeat discussions contained in prior correspondence that is in the staff report. However, as the attorney for many special adjustments in Yucaipa, I think I can offer some insight as to advancing the goal of reducing special adjustments. The solution is not to find ways to punish or discourage such applications. Inevitably, they are brought by park owners who simply cannot operate under unreasonably low rents. Even if such efforts could "succeed" they will result in mobile home parks which are not adequately maintained. Instead, the City should take steps to allow the rents to increase on vacancy and allow rents to increase at 100 percent of CPI. If park owners are allowed to raise rents on vacancy and CPI is allowed to keep up with actual inflation, the existing residents will continue to enjoy affordable rents, while the park owners will have sufficient resources to maintain the property.

Yucaipa is not Berkeley. Its voters understand that the community as a whole is served when investment is encouraged, not punished. The City should be pursuing improvements in the Ordinance that will encourage investment along with protecting tenants. The current ordinance does not achieve that balance.

Sincerely

RUDDEROW LAW GROUP



Mark Alpert

Cc: (via email) Peter Wang