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City Manager's Office

Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: SEE BELOW

DATE: December 5, 2013

Approved

Date

12/10/13

INFORMATION

SUBJECT: COLONIAL MOBILE MANOR MOBILEHOME PARK PETITION FOR RENT INCREASE DECISION

On February 26, 2013, the park owner of the Colonial Mobile Manor Mobilehome Park (Colonial), located at 3300 Narvaez Avenue (Council District 9), filed a rent increase petition with the Rental Rights and Referrals Program ("RRRP") requesting to increase monthly space rents by \$85.01. Attached is an information memo, dated May 8, 2013, that provides more information about the petition.

The San José Municipal Code—Chapter 17.22 Mobilehome Rent Ordinance (Ordinance) -- details the amount park owners may increase mobilehome space rent each year and the process for requesting increases above the allowed amount. The Ordinance allows for an annual increase of 75% of the Consumer Price Index, with a minimum increase of 3% and a maximum increase of 7%. When a park owner seeks higher rent increases, he/she must submit a rent petition and pursue the increase through an administrative hearing process.

In the case of Colonial, the requested change would have resulted in rent increases of between 6.9% to 17.8% per space, depending on the resident's base rent. Current base rents range from \$477.85 to \$1,236 per month. This was the second rent increase petition filed for this park in two years. In their petition, the park owner claimed that the costs associated with the general operations of the park, including legal costs, justified the proposed rent increase.

The City's contract Administrative Hearing Officer (AHO) assigned to the case, Mr. Michael Lowy, conducted a Pre-Hearing conference on May 17, 2013, a walk-through at the Park, and then a series of administrative hearings in June and July.

During the hearings, the AHO heard testimony and reviewed evidence submitted by the park owner and its witnesses in support of their claim that the proposed rent increase was needed in

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order to receive a fair and reasonable return. The AHO also heard testimony and reviewed evidence from park residents, both those represented by counsel and unrepresented, and their witnesses in rebuttal to the park owner's claims. Closing brief submissions from the park owner and residents were submitted on August 30, 2013.

On December 4, 2013, the AHO rendered a decision denying any rent increase in excess of the 3% already allowed by the Ordinance. The RRRP staff has mailed the decision to all involved parties.

According to the Ordinance, the AHO's decision is final and binding unless any party to the petition submits a claim alleging mathematic or clerical inaccuracies within 15 days of the decision date. Under the Ordinance, any party seeking to challenge the decision must seek judicial review in a court of law as governed by the provisions of California Code of Civil Procedure Section, 1094.6.

/s/

LESLYE CORSIGLIA
Director of Housing

Attachment

For questions, please contact Jacky Morales-Ferrand, Assistant Director of Housing, at 408-535-3855.



Memorandum

TO: HONORABLE MAYOR
AND CITY COUNCIL

FROM: Leslye Corsiglia

SUBJECT: COLONIAL MOBILE MANOR
MOBILEHOME PARK PETITION
FOR RENT INCREASE

DATE: May 8, 2013

Approved

Date

5/10/13

INFORMATION

Since 1979, the City has had some form of mobilehome rent control. The current Mobilehome Rent Ordinance is found in Chapter 12.22 of the San José Municipal Code—Mobilehome Rent Ordinance (“Ordinance”). Adopted in 1986, the Ordinance regulates the rents assessed by mobilehome park owners to park residents. The purpose of this ordinance is “to prevent excessive and unreasonable rent increases to park residents, to prevent an exploitation of the shortage of available mobilehome lots in the city, to permit park owners to receive a fair and reasonable return, and to establish a process for rent dispute resolution.”

The Ordinance limits annual mobilehome space rent increases to 75% of the Consumer Price Index (CPI) with a minimum increase of 3% and a maximum of 7%. Any rent increase in excess of this amount must be approved through an administrative hearing process. Owners must file a petition for a rent increase to initiate the hearing process. In the past 25 years, only 14 owners have filed a petition to increase rents in excess of the allowed increase. Only three petitions have been filed since 2002.

On February 26, 2013, the owners of the Colonial Mobile Manor Mobilehome Park, located at 3300 Narvaez Avenue in City Council District 9, filed a petition with the City’s Rental Rights and Referrals Program (“RRRP”) seeking to increase mobilehome space rents by \$85.01 a month effective June 1, 2013 on top of the 3% increase that is allowed for 2013. The proposal would increase residents’ space rents by 6.9% to 17.8% depending on their base rent, which ranges from \$478 to \$1,236 per month. This action is particularly significant because in 2012 the same park owner petitioned for and a hearing officer granted a rent increase of \$46.30 on top of the annual allowed increase (3% for 2012). This represented a 3.9 % to 11 % increase for residents. The decision can be found at: www.sanjoseca.gov/DocumentCenter/View/11386.

The impact of two consecutive, substantial increases (11% to 29%) likely poses significant financial hardships for many of the low-income park residents. Understandably, residents are very concerned. Several Council members have recently been contacted by impacted

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individuals. This memorandum provides information about the City's Mobilehome Rent Ordinance and the process by which these rents are established for Parks within the City.

Mobilehome Parks in San José

With 58 Mobilehome parks encompassing 10,649 spaces, San José has the largest number of mobilehome units of any California city. Mobilehome parks provide a large source of affordable housing for San José residents, particularly for senior citizens on fixed incomes. Most residents own their units and pay monthly space rent to the park owner. These residents are not like homeowners because they must pay space rent and they are not like renters because they cannot simply leave the park if the rent is increased beyond their means. After initial installation, mobilehomes are not truly moveable and must be sold "in place." Additionally, if the park rent increases, the value of the units typically decrease so a rent increase can result in residents having to leave the park and losing their investment in the mobilehome.

Unlike real property, the mobilehome itself is not considered real estate and is a depreciating asset. Repairs to mobilehomes are often left untended due to the owner's inability to finance the repair. Until recently, the City had a grant program to help fund such repairs. Due to the elimination of redevelopment funding and a reduction in federal funding, the Department recently suspended the Mobilehome Repair Program.

Oversight for the health and safety of mobilehome park infrastructure is a State responsibility. However, there is only one inspector in Northern California assigned to address these issues. The City has no authority to address issues such as park infrastructure.

As mentioned above, the City established a Mobilehome Rent Ordinance in 1986 that sets limits on annual rent increases, but allows for an administrative hearing process to enable a park owner who believes a higher increase is needed to make a case for such increase.

Administrative Hearing Process

An Administrative Hearing Officer (AHO) conducts each hearing. The AHOs are hired by the City based on criteria in the Ordinance and provided with regular training on the Ordinance and regulations. Per the Ordinance, the park owner is entitled to a fair return, however, the presumption under the Ordinance is that the annual allowed increase provides a fair return. Thus, in the hearing, the burden is on the petitioning owner to rebut that presumption and to prove that they are entitled to a rent increase in order to obtain a fair return. At the hearing, the Park owner presents evidence to support his or her claim that an increase is required to provide a fair return under the Ordinance. Evidence that is typically submitted includes documentation of increased operating costs, capital infrastructure expenses, and costs of rehabilitation. Mobilehome residents may challenge the rent increase by showing that the expenses are beyond what is allowed under the Ordinance, and rebutting the claim that the park owner has not received a fair return. Additionally, Mobilehome park residents may also make claims for reduction in services. An example of a service reduction could be the loss of a pool or other common facility that was previously available for use by the residents. If substantiated, service

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reductions are applied by the AHO toward any potential rent increase. According to the Ordinance, the AHO's decision is final and binding. Under the Ordinance any party seeking to challenge the decision must seek judicial review in a court of law.

Colonial Mobile Manor Petition Status

In their petition, the park owners claimed that the costs associated with making capital improvements and conducting the general operations of the park justified the proposed rent increase. Because the proposed increase is greater than that allowed annually under the Ordinance, the park owners' request was subject to an administrative hearing. Housing Department staff reviewed the petition, and on March 8, 2013, sent a letter to the park owner stating that there was an error in the petition and that the park owner could submit new schedules that included the CPI required by the petition instructions. On March 13, the owner's representative responded that the CPI was not an error. As staff is not authorized to require a correction, this issue will have to be resolved by the hearing officer.

A pre-hearing conference has been set for May 17, 2013 and an administrative hearing has been set for May 30, 2013. The conference and hearing had to be rescheduled due to the withdrawal of the assigned hearing officer and the need to assign a new hearing officer. As required by the Ordinance, the park owners for Colonial Mobile Manor noticed all impacted residents that a petition was filed on February 26, 2013. After being notified of the new petition, park residents contacted Housing Department staff for additional information. Staff attended two informational meetings on March 6 and 7. At these meetings, staff answered questions and distributed copies of the Ordinance, Regulations, and forms regarding the administrative process to park the residents.

/s/

LESLYE CORSIGLIA
Director of Housing

For questions, please contact Leslye Corsiglia, Director of Housing, at 408-535-3851.