

District 1 — Justin Lardinois  
 District 3 — Barry Del Buono  
 District 5 — Ruben Navarro  
 District 7 — Victoria Partida  
 District 9 — Julie Quinn  
 Mayor — Nhi Duong

(VC) Alex Shoor — District 2  
 Shavell Crawford — District 4  
 (C) Andrea Wheeler — District 6  
 Vacant — District 8  
 Roberta Moore — District 10  
 Martha O’Connell — CAAC MR  
 Ryan Jasinsky — CAAC ML

*\*Commissioners are appointed by corresponding Council Members, but do not represent the Council District.*

**SPECIAL MEETING AGENDA**  
**THURSDAY, JANUARY 23, 2020, 5:45 PM**  
**CITY COUNCIL CHAMBERS**

<b>APPROX. TIME</b>	<b>AGENDA ITEM</b>
	<i>The time schedule shown below is approximate and intended only to notify the Commission of the approximate amount of time staff expects each item might take. Please note that items may be heard before or after the times shown.</i>
<b>5:45</b>	<b>I. Call to Order &amp; Orders of the Day</b>
<b>5:47</b>	<b>II. Introductions</b>
<b>5:50</b>	<b>III. Consent Calendar</b> A. Approve the Minutes for the Meeting of November 14, 2019 ACTION: Approve the November 14, 2019 action minutes.
<b>5:55</b>	<b>IV. Reports and Information Only</b> A. Chair B. Director C. Council Liaison
<b>6:10</b>	<b>V. Open Forum</b> <i>Members of the Public are invited to speak on any item that does <u>not</u> appear on today’s Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak during Open Forum; however, the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate due to a large number of speaker requests. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.</i>
<b>7:00</b>	<b>VI. Old Business</b>
<b>7:05</b>	<b>VII. New Business</b>

- 7:05**      **A.**      **City-Initiated General Plan Amendments for Mobilehome Parks (J. Hart, Department of Planning, Building and Code Enforcement)**  
ACTION: Review information on proposed addition of a new General Plan Mobilehome Park designation, the application of the designation to the Westwinds and Mountain Springs mobilehome parks, and make possible recommendation to provide comments to staff, and/or the City Council.
- 8:45**      **B.**      **Rent Stabilization Program Quarter 2 Report for Mobilehomes, including the Mobilehome Rent Ordinance (T. Ramos, Housing Department)**  
ACTION: Review the staff report and provide possible recommendations to staff on the Rent Stabilization Program Quarter 2 Report for FY 2019-20.
- 9:10**      **C.**      **Rent Stabilization Program Quarter 2 Report for Apartments, including the Apartment Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance (F. Tran, Housing Department)**  
ACTION: Review the staff report and provide possible recommendations to staff on the Rent Stabilization Program Quarter 2 Report for FY 2019-20.
- 9:25**      **VIII.**      **Open Forum**  
*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak during Open Forum; however, the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate due to a large number of speaker requests. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.*
- 9:35**      **IX.**      **Meeting Schedule**  
The next Commission meeting is scheduled to be held on Thursday, February 13, 2020 at 5:45 p.m. in Wing Rooms 118-120 at San José City Hall, 200 E. Santa Clara St., San José, CA 95113.
- Potential topics include (subject to change):
- Community Plan to End Homelessness
  - Housing Element Annual Report
  - Draft Consolidated Plan 2020-25 and Annual Action Plan 2020-21

**9:40 X. Adjournment**

*The City of San José is committed to open and honest government and strives to consistently meet the community's expectations by providing excellent service, in a positive and timely manner, and in the full view of the public.*

You may speak to the Commission about any discussion item that is on the agenda, and you may also speak during Open Forum on items that are not on the agenda and are within the subject matter jurisdiction of the Commission. Please be advised that, by law, the Commission is unable to discuss or take action on issues presented during Open Forum. Pursuant to Government Code Section 54954.2, no matter shall be acted upon by the Commission unless listed on the agenda, which has been posted not less than 72 hours prior to meeting. Agendas, Staff Reports and some associated documents for the Commission items may be viewed on the Internet at <http://www.sanjoseca.gov/hcdc>.

Correspondence to the Housing & Community Development Commission is public record and will become part of the City's electronic records, which are accessible through the City's website. Before posting online, the following may be redacted: addresses, email addresses, social security numbers, phone numbers, and signatures. However, please note: e-mail addresses, names, addresses, and other contact information are not required, but if included in any communication to the Housing & Community Development Commission, will become part of the public record. If you do not want your contact information included in the public record, please do not include that information in your communication.

All public records relating to an open session item on this agenda, which are not exempt from disclosure pursuant to the California Public Records Act, that are distributed to a majority of the legislative body will be available for public inspection at the Office of the City Clerk, 200 East Santa Clara Street, 14<sup>th</sup> Floor, San José, California 95113, at the same time that the public records are distributed or made available to the legislative body. Any draft resolutions or other items posted on the Internet site or distributed in advance of the commission meeting may not be the final documents approved by the commission. Contact the Office of the City Clerk for the final document.

On occasion, the Commission may consider agenda items out of order.

The Housing & Community Development Commission meets every second Thursday of each month (except for July and sometimes December) at 5:45pm, with special meetings as necessary. If you have any questions, please direct them to the Commission staff. Thank you for taking the time to attend today's meeting. We look forward to seeing you at future meetings.

**To request an accommodation or alternative format under the Americans with Disabilities Act for City-sponsored meetings, events, or printed materials, please call (408) 535-1260 as soon as possible, but at least three business days before the meeting.**

**Please direct correspondence and questions to:**

City of San José  
Attn: Viviane Nguyen  
200 East Santa Clara Street, 12<sup>th</sup> Floor  
San José, California 95113  
Tel: (408) 975-4462  
Email: [viviane.nguyen@sanjoseca.gov](mailto:viviane.nguyen@sanjoseca.gov)

**Para residentes que hablan español:** Si desea mas información, favor de llamar a Theresa Ramos al 408-975-4475.

**Riêng đối với quý vị nói tiếng Việt :** Muốn biết thêm chi-tiết, xin vui lòng tiếp xúc với Viviane Nguyen, Đ.T. 408-975-4462.

**對於說華語的居民:** 請電 408-975-4450 向 Ann Tu 詢問詳細事宜。說粵語的居民則請撥打 408-975-4425 與 Yen Tiet 聯絡。

**Para sa mga residente na ang wika ay tagalog:** Kung kinakailangan pa ninyo ng inpormasyon, tawagan si Shirlee Victorio sa 408-975-2649. Salamat Po.

HOUSING & COMMUNITY DEVELOPMENT COMMISSION

MEETING ACTION MINUTES

NOVEMBER 14, 2019

**MEMBERS PRESENT:** Alex Shoor Vice Chair  
 Barry Del Buono Commissioner  
 Martha O’Connell Commissioner  
 Nhi Duong Commissioner  
 Justin Lardinois Commissioner  
 Victoria Partida Commissioner  
 Ryan Jasinsky Commissioner

**MEMBERS ABSENT:** Andrea Wheeler Chair  
 Roberta Moore Commissioner  
 Ruben Navarro Commissioner  
 Shavell Crawford Commissioner  
 Julie Quinn Commissioner  
 District 8 – VACANT Commissioner

**STAFF PRESENT:** Helen Chapman Council Liaison  
 Kristen Clements Housing Department  
 Selena Copeland Housing Department  
 Theresa Ramos Housing Department  
 Fred Tran Housing Department  
 Korey Richardson Housing Department  
 Robert Lopez Housing Department  
 Viviane Nguyen Housing Department

**(I) Call to Order & Orders of the Day**

**Chair Wheeler called the meeting to order at 6:03 PM.**

**(II) Introductions – Commissioners and staff introduced themselves.**

**(III) Consent Calendar**

- A. Approve the Minutes for the special meeting of October 29, 2019  
 ACTION: Approve the October 29, 2019 action minutes.

**Commissioner Lardinois made a motion to accept the minutes of the special meeting, with a second by Commissioner Del Buono. The motion passed 7-0.**

**Yes: Partida, Lardinois, Jasinsky, O’Connell, Shoor, Duong, Del Buono (7)**

**No: None (0)**

## FINAL

### (IV) Reports and Information Only

**A. Chair:** None.

**B. Director:** Ms. Kristen Clements provided an update on Housing Day on November 5, 2019 on the agendized items, including cost of development, amendments to the Inclusionary Housing Ordinance, and amendments to the Ellis Act Ordinance.

**C. Council Liaison:** Ms. Helen Chapman provided an update on Housing Day on November 5, 2019.

### (V) Open Forum

*Members of the Public are invited to speak on any item that does not appear on today's Agenda and that is within the subject matter jurisdiction of the Commission. Meeting attendees are usually given two (2) minutes to speak on any discussion item and/or during open forum; the time limit is in the discretion of the Chair of the meeting and may be limited when appropriate. Speakers using a translator will be given twice the time allotted to ensure non-English speakers receive the same opportunity to directly address the Commission.*

**Commissioner Partida made a motion to agendize at a future meeting an update on the Tenant Preference policy discussed previously, with a friendly amendment by Commissioner Lardinois to consider the public comments received during open forum on November 14, 2019, with a second by Commissioner O'Connell. The motion passed 6-1.**

**Yes: Partida, Lardinois, O'Connell, Duong, Del Buono, Shoor (6)**

**No: Jasinsky (1)**

### (VI) Old Business

### (VII) New Business

#### **A. Create a New Downpayment Assistance Program for Moderate-income Homebuyers (K. Richardson, Housing Department)**

**ACTION:** Review the staff report and provide possible recommendations to the City Council in response to the proposal to create a new downpayment assistance program.

**Commissioner Lardinois made the motion for staff explore increasing the maximum purchase price, with a friendly amendment by Commissioner O'Connell to potentially include mobilehomes in the program, with a second by Commissioner Jasinsky. The motion passed 6-1.**

**Yes: Lardinois, Del Buono, Shoor, O'Connell, Partida, Jasinsky (6)**

**No: Duong (1)**

#### **B. Accessory Dwelling Unit Forgivable Loan Program to House Moderate-Income Renters (R. Lopez, Housing Department)**

**ACTION:** Review and make possible recommendations to the City Council on the creation of a forgivable loan program for San José homeowners who build a legal accessory dwelling unit and agree to house an income-eligible household for a period of five years, including the possible suspension of business tax collection for qualifying accessory dwelling units during the five-year compliance period.

**Commissioner Lardinois made the motion for staff to explore strategies to discourage the delaying repayment of loans if not forgiven such as penalties and fees, with a second by Commissioner O'Connell. The motion passed 4-3.**

**Yes: Shoor, O'Connell, Jasinsky, Lardinois (4)**

**No: Del Buono, Duong, Partida (3)**

**Vice Chair Shoor made the motion to minimize the financial risk to the City, with a second by Commissioner Jasinsky. The motion passed 7-0.**

**Yes: Partida, Lardinois, Jasinsky, O'Connell, Shoor, Duong, Del Buono (7)**

**No: None (0)**

**C. Rent Stabilization Program Quarter 1 Report for Apartments, including the Apartment Rent Ordinance, Tenant Protection Ordinance, Ellis Act Ordinance, and Housing Payment Equality Ordinance  
(F. Tran, Housing Department)**

**ACTION: Review the staff report and provide possible recommendations on the Rent Stabilization Program Quarter 1 Report for FY 2019-20.**

**Commissioner Del Buono made the motion to accept the staff report, with a second by Commissioner Lardinois. The motion passed 7-0.**

**Yes: Del Buono, Duong, Shoor, O'Connell, Jasinsky, Lardinois, Partida (7)**

**No: None (0)**

**D. Rent Stabilization Program Quarter 1 Report for Mobilehomes, Including the Mobilehome Rent Ordinance  
(T. Ramos, Housing Department)**

**ACTION: Review the staff report and provide possible recommendations on the Rent Stabilization Program Quarter 1 Report for FY 2019-20.**

**Commissioner Jasinsky made the motion to accept the staff report, with a second by Commissioner O'Connell. The motion passed 7-0.**

**Yes: Del Buono, Duong, Shoor, O'Connell, Jasinsky, Lardinois, Partida (7)**

**No: None (0)**

**E. Rent Stabilization Program Rent Registry Implementation Update  
(F. Tran, Housing Department)**

**ACTION: Review the staff report and provide possible recommendations on the Rent Stabilization Program Rent Registry Implementation update for FY 2018-19.**

**Commissioner Del Buono made the motion to accept the staff report, with a second by Commissioner Jasinsky. The motion passed 7-0.**

**Yes: Del Buono, Duong, Shoor, O'Connell, Jasinsky, Lardinois, Partida (7)**

**No: None (0)**

**FINAL**

**F. Completion of the Ratio Utility Billings System Petitions Under the Apartment Rent Ordinance**

**(T. Ramos, Housing Department)**

ACTION: Review the staff report on completion of the Ratio Utility Billing Systems (RUBS) Petitions Under the Apartment Rent Ordinance in FY 2018-19.

**Commissioner Jasinsky made the motion to accept the staff report, with a second by Commissioner Partida. The motion passed 7-0.**

**Yes: Del Buono, Duong, Shoor, O'Connell, Jasinsky, Lardinois, Partida (7)**

**No: None (0)**

**G. Timing for Hearing Commissioner-initiated Items**

ACTION: Discuss the process and order of upcoming Commissioner-initiated items on future agendas.

**This item will be deferred to a future Commission meeting.**

**(VIII) Open Forum**

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**(IX) Meeting Schedule**

The next regular Commission meeting is scheduled to be held on Thursday, January 23, 2019, at 5:45 p.m. at San José City Hall, 200 E. Santa Clara St., San José, CA 95113 in Tower Room 332.

Potential items for January (subject to change):

- Mobilehome Park Land Use General Plan Designations
- Potential Policy/Program on Affordable Housing that Encourages Transportation Mobility

**(X) Adjournment**

**Chair Wheeler adjourned the meeting at 8:51 PM.**





# Memorandum

**TO:** HOUSING AND COMMUNITY  
DEVELOPMENT COMMISSION

**FROM:** Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** January 16, 2020

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Approved

Date

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**SUBJECT: CITY-INITIATED GENERAL PLAN AMENDMENTS FOR  
MOBILEHOME PARKS**

## **RECOMMENDATION**

Review information on proposed addition of a new General Plan Mobilehome Park designation, the application of the designation to the Westwinds and Mountain Springs mobilehome parks, and make possible recommendation to provide comments to staff, and/or the City Council.

## **BACKGROUND**

In 2015, in response to the proposed Winchester Ranch Mobilehome Park conversion, the City Council directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and preserve existing mobilehome parks. Since 2015, the City Council approved Title 20 (Zoning Code) changes to the Municipal Code, General Plan text amendments, and adopted a new City Council Policy 6-33 "Conversion of Mobilehome Parks to Other Uses" to preserve San Jose's mobilehome parks and to protect their residents.

In May 2017, City Council directed staff to return to Council with an analysis of General Plan amendments for mobilehome park sites to either a "Commercial," "Industrial," "Industrial Park" or a (proposed) "Mobilehome Park" land use designation for those sites that currently have a Residential designation.

On March 13, 2018, staff presented City Council with an analysis of potential General Plan land use amendments for mobilehome parks and the associated staffing requirements, and recommended that the City Council refer to the next Council Priority Setting Session consideration of General Plan land use designation amendments for the two mobilehome parks with high density residential land use designations (Westwinds and Mountain Springs mobilehome parks) that are most at risk of redevelopment (see Attachment A). City Council

accepted staff's recommendation and directed staff under the current Mobilehome Conversions Council Policy Priority item (Council Policy Priority #2) to commence work no later than Spring 2019 to create a new Mobilehome Park General Plan land use designation and apply that designation to the Westwinds and Mountain Springs mobilehome parks.

## **ANALYSIS**

To implement the goals and policies of the Envision San Jose 2040 General Plan (General Plan), the General Plan includes a Land Use / Transportation Diagram. This diagram indicates the intended land uses and intensities and development forms for every property in the City; it also designates the intended roadway network to be developed over the timeframe of the General Plan. The General Plan includes approximately 30 land use designations, but does not have a land use designation specifically for mobilehome parks. The 59 mobilehome parks in San José vary in terms of their General Plan land use designations. Some mobilehome parks are located in areas that are designated in the General Plan for industrial or other nonresidential uses and are predominantly surrounded by industrial uses, and others have residential land use designations. Two mobilehome parks have an Urban Residential land use designation, which allows development between 30 to 95 dwelling units per acre. The other mobilehome parks designated for residential uses have a Residential Neighborhood designation, which generally only allows up to eight dwelling units per acre.

Because a General Plan amendment would already be needed or desired prior to redeveloping many of the current mobilehome parks with a non-residential or Residential Neighborhood land use designation, the proposed new Mobilehome Park land use designation is proposed to be applied to the two mobilehome parks (Westwinds and Mountain Springs) that already allow high density residential uses.

This designation and the application to the two parks are only the initial actions in the process. As noted in the March 13, 2018 City Council memorandum, it is possible that in some locations, such as in North San José, a commercial or industrial General Plan land use designation could provide financial incentive to redevelop a mobilehome park. Additionally, a Residential Neighborhood designation on large mobilehome parks could also provide financial incentive to redevelop a mobilehome park.

City-initiated General Plan amendments to change the land use designations of the two mobilehome parks would not directly prohibit mobilehome park owners from closing their parks, but could strengthen the protection of mobilehome park residents by creating an additional transparent public land use entitlement process to redevelop the sites. In addition to existing processes defined in the Municipal Code and City Council Policy 6-33, property owners under this designation wishing to redevelop their mobilehome parks would need City Council approval of a General Plan land use amendment.

*General Plan Text Amendment*

The proposed City-initiated General Plan text amendment to create a new Mobilehome Park land use designation is detailed below, and would be added to Chapter 5 (“Interconnected City”) of the General Plan, in the “Land Use Designations” section.

**Mobilehome Park**

Density: No greater than 25 mobilehome lots (as defined in San José Municipal Code Chapter 20.200) per acre

This designation allows for the construction, use and occupancy of a Mobilehome Park as defined in Section 18214 of the California Health and Safety Code, as amended. The intent of this designation is to preserve existing housing stock and to reduce and avoid the displacement of long-term residents. New residential development in this designation is limited to mobilehome parks and incidental uses for mobilehome park residents such as clubhouses and community rooms, pools, parks, and other common areas.

*General Plan Land Use Amendments*

As stated above, the proposed new Mobilehome Park General Plan land use designation would be applied to the following two sites.

**Westwinds Mobilehome Park**

The Westwinds Mobilehome Park (500 Nicholson Lane) is approximately 83 gross-acres and is comprised of five parcels and includes approximately 723 units. The mobilehome park is surrounded by office buildings, multi-family residential apartments, and restaurants. The entire site has an Urban Residential General Plan land use designation.



**Figure 2: Mountain Springs Mobilehome Park**



**PUBLIC OUTREACH**

On August 8, 2019 Planning staff hosted a community meeting at Alviso Library to provide information and receive input on the proposed City-initiated General Plan amendment to the Westwinds Mobilehome Park. Approximately 144 community members attended the community meeting. Residents and stakeholders expressed their support and concerns. Community members asked questions about the actions proposed by the City and the effective outcome of the proposed General Plan amendments. Residents were specifically concerned about relocation and asked questions related to the intent of the property owners in regards to the existing mobilehome management lease. A second community meeting was conducted on September 3, 2019 at Westwinds Mobilehome Park Community Center. Approximately 60 community members attended the meeting with similar concerns about conversion and displacement. Staff reiterated that the intent of the City was to further the Council’s goals related to the preservation mobilehome parks. However, staff also stated that the proposed General Plan Amendment would not prevent the property owner from proposing to change the land use designation in the future.

On September 5, 2019, Planning staff hosted a community meeting at the Mountain Springs Mobilehome Park to provide information and receive input on the proposed City-initiated General Plan amendment to the Mountain Springs Mobilehome Park. Approximately 38 community members and stakeholders attended the meeting and expressed their support and concerns for the proposal. Residents were specifically concerned about displacement and process. Staff stated the intent of the proposal was to preserve mobilehome parks; staff also reviewed the timeline and General Plan Amendment process. Residents expressed their support for the Mobilehome Park land use designation and were interested in attending the Planning Commission and City Council hearings.

### **NEXT STEPS**

This proposal is expected to be heard by the Planning Commission on February 12, 2020, and City Council for a final decision in March 10, 2020. Should the City Council approve the proposed General Plan amendments, the new Mobilehome Park land use designation would be added to the General Plan, and the Land Use / Transportation Diagram designation would be changed to Mobilehome Park for the Westwinds and Mountain Springs mobilehome parks.

Should the City Council deny the General Plan amendments, the two mobilehome parks would retain their existing Land Use / Transportation Diagram designations.

/s/

ROSALYNN HUGHEY

Director, Department of Planning, Building  
and Code Enforcement Department

For questions, please contact Michael Brilliot, Deputy Director, at 408-535-7831.

### **ATTACHMENT**

A) March 13, 2018 City Council Memo (Analysis of General Plan Amendments for Mobilehome Parks)



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Rosalynn Hughey

**SUBJECT:** SEE BELOW

**DATE:** March 2, 2018

Approved

*D. D. Syl*

Date

*3/2/18*

**SUBJECT: ANALYSIS OF PROPOSED GENERAL PLAN LAND USE OVERLAY AMENDMENTS FOR MOBILEHOME PARKS AND REVIEW OF RECOMMENDATIONS FROM THE LAW FOUNDATION OF SILICON VALLEY REGARDING PROTECTION OF MOBILEHOME PARK RESIDENTS**

## RECOMMENDATION

- a) Accept staff analysis of proposed General Plan land use overlay amendments for mobilehome parks.
- b) Refer to the next Council Priority Setting Session consideration of General Plan land use amendments for the two mobilehome parks with high density residential land use designations that are most at risk of redevelopment.
- c) Accept staff review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, and direct staff to bring to City Council three minor General Plan text amendments identified in the analysis below for consideration as part of a future General Plan hearing cycle.

## OUTCOME

Should the Council refer to the next council Priority Setting Session consideration of General Plan land use amendments for the two mobilehome parks with density residential land use designations, along with staffing and consultant resources, staff would evaluate and undertake the General Plan amendments. Additionally, if directed by City Council, staff will bring forward for consideration as part of a future General Plan hearing cycle, three minor General Plan text amendments recommended by the Law Foundation of Silicon Valley.

## **EXECUTIVE SUMMARY**

The conversion of mobilehome parks to other uses is a land use issue regulated by State Law, by the City under the San José Municipal Code (Municipal Code), and by the City's Envision San José 2040 General Plan (General Plan). In 2015, the City Council directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and to preserve existing mobilehome parks.

Since 2015, the City Council approved Title 20 (Zoning Code) changes to the Municipal Code, General Plan text amendments, and adoption of a new City Council Policy 6-33 "Conversion of Mobilehome Parks to Other Uses" to preserve San José's mobilehome parks and to protect their residents. On May 16, 2017, City Council directed staff to return to Council in August 2017 with an analysis of a General Plan amendment overlay for dozens of mobilehome park sites to either a "Commercial," "Industrial," "Industrial Park" or a (proposed) "Mobilehome Park" land use designation for those sites that currently have a Residential designation, and a review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, with a discussion on which of the recommendations could be incorporated.

The analysis below identifies General Plan tools and alternatives that could be used to preserve mobilehome parks. This includes a General Plan overlay, other land use amendments, and additional text amendments. Staff's assessment on the feasibility of the Law Foundation's comments from their letter dated May 11, 2017, is also included in the analysis below.

## **BACKGROUND**

The conversion of mobilehome parks to other uses is regulated by State law including Planning Law and Mobilehome Residency Law and by the City under the Municipal Code and the General Plan. The City is allowed, but not required, by State law to have a mobilehome park conversion ordinance. In 1986, the City adopted an ordinance now found in Chapter 20.180 of the Zoning Code to regulate, among other items, the conversion of mobilehome parks consisting of four or more mobilehomes to other uses (the mobilehome park conversion ordinance). Such conversions require approval of a Conditional Use Permit (CUP) or a Planned Development (PD) Permit. To date, no mobilehome park conversions have been processed under this ordinance.

In 2014, the City was informed that the owners of Winchester Ranch Mobilehome Park intended to convert the mobilehome park to a new use. The City Council took up the issue of conversion of mobilehome parks as a top priority and included a work plan item in the Housing Element to explore the efficacy of the existing provisions in the Zoning Code regulating conversion of mobilehome parks to other uses. In 2015, the City Council reaffirmed this priority and directed staff to develop a work plan and public process for updating or creating new ordinances and policies to protect current mobilehome park residents and preserve existing mobilehome parks.



March 2, 2018

**Subject: Analysis of General Plan Amendments for Mobilehome Parks and Review of Law Foundation Recommendations**

Page 3

Since 2015, the City has taken the following actions:

1. **Zoning Code Changes.** On February 23, 2016 and May 16, 2017, the Council adopted amendments to the Zoning Code to further protect residents in existing mobilehome parks in the City, that:
  - Made the City Council the initial decision-making body for consideration of all proposed mobilehome park conversions to another use after the Planning Commission considers these proposals for recommendations to Council (previously, the initial decision-making body was the Planning Commission for a CUP or the Planning Director for a PD permit);
  - Added provisions requiring findings of consistency with the General Plan for CUPs;
  - Exempted parcels with mobilehome parks from being eligible for the conforming rezoning process; and
  - Added to consideration of applications for demolition permits for mobilehome and multifamily projects whether those projects met their relocation obligations.
2. **City Council Policy.** On February 23, 2016, the Council adopted a new City Council Policy 6-33 “Conversion of Mobilehome Parks to Other Uses” to help guide the Council in implementation of the conversion ordinance. The Policy provides guidelines for:
  - Good faith negotiations between mobilehome park residents (including mobilehome owners and mobilehome tenants) and mobilehome park owners; and
  - A satisfactory program of relocation and purchase assistance, including but not limited to compensation to residents, purchase price for the existing mobilehomes, relocation impact reports, and relocation benefits.
3. **Moratorium on Conversions and Closures.** On March 1, 2016, the City Council approved a temporary moratorium to prevent submittal of applications for the conversion or closure of mobilehome parks. This was done to allow time for staff to work on a closure ordinance, other changes to the Zoning Code to protect mobilehome park residents, and clarifications to Council Policy 6-33. The moratorium ended on August 24, 2017.
4. **General Plan text amendments (File No. GPT15-006).** On May 16, 2017, the Council adopted General Plan text amendments to:
  - Further enhance goals and policies to protect existing mobilehome parks in the City of San José as a component of housing choice, and a source of existing affordably-

priced housing in established neighborhoods, and to improve protection from conversion to another use; and

- Add General Plan goals, policies, and actions to preserve mobilehome parks and other housing in each Urban Village until the preservation of affordable housing can be comprehensively addressed.

### **Council Direction**

In addition to the Zoning Code and General Plan text amendments approved by Council on May 16, 2017, City Council directed staff to return to Council in August 2017 with:

1. An analysis, including workload, cost, and necessary level of environmental clearance, for a General Plan amendment overlay for dozens of mobilehome park sites to either a “Commercial,” “Industrial,” “Industrial Park” or a (proposed) “Mobilehome Park” land use designation for those sites that currently have a Residential designation; and
2. A review of the recommendations proposed by the Law Foundation of Silicon Valley, in its letter dated May 11, 2017, and presentation of staff’s perspectives on any such recommendations that can be incorporated when the Council returns in August. The Law Foundation of Silicon Valley’s letter is attached to this memo (Attachment B).

## **ANALYSIS**

### **Existing Conditions**

#### *General Plan*

The City of San José has 59 mobilehome parks with approximately 10,836 mobilehomes that house approximately 35,000 residents, which is the largest number of mobilehomes and households in any city in California. Mobilehome parks in San José vary in size, age, location, type of mobilehomes, and composition of residents. The mobilehome parks in San José also vary in terms of their General Plan land use designations. Some mobilehome parks are located in areas that are designated in the General Plan for industrial or other nonresidential uses and are predominantly surrounded by industrial uses, and others are located in areas with residential land use designations. Five mobilehome parks are located in Urban Villages and 17 mobilehome parks are located in other General Plan Growth Areas. Table 1 below shows the distribution of San José’s mobilehome park sites’ General Plan land use designations. A map of San José’s mobilehome park sites and their General Plan designations is also attached to this memorandum as Attachment A.

**Table 1**

<b>General Plan Land Use Designation</b>	<b>General Plan Allowable Density</b>	<b>No. of Mobilehome Parks</b>	<b>No. of Mobilehome Lots</b>
Residential Neighborhood	Typically 8 DU/AC (match existing neighborhood character); FAR Up to 0.7	39	7,452
Urban Residential	30-95 DU/AC; FAR 1.0 to 4.0	1	723
Residential Neighborhood and Urban Residential	RN: Typically 8 DU/AC (match existing neighborhood character) UR: 30-95 DU/AC; FAR 1.0 to 4.0	1	144
Transit Employment Center	FAR Up to 12.0	1	273
Neighborhood/Community Commercial	FAR Up to 3.5	3	372
Combined Industrial/Commercial	FAR Up to 12.0	4	246
Light Industrial	FAR Up to 1.5	1	133
Heavy Industrial	FAR Up to 1.5	5	325
Residential Neighborhood and Combined Industrial/Commercial	RN: Typically 8 DU/AC (match existing neighborhood character) CIC: FAR Up to 12.0	3	957
Residential Neighborhood and Open Space Parklands and Habitat	- See above for RN - OSPH Density = N/A	1	211
<b>TOTAL</b>		<b>59</b>	<b>10,836</b>

Out of the 59 mobilehome parks in San José, 41 parks have full residential General Plan land use designations, four parks have split residential and non-residential land use designations, and 14 parks have non-residential designations. One mobilehome park has a full Urban Residential land use designation, and one park has a split Urban Residential designation/Residential Neighborhood designation. The Urban Residential designation allows 30 to 95 dwelling units per acre, and the Residential Neighborhood designation allows up to eight dwelling units per acre.

### *Zoning*

The City's Zoning Code includes the R-MH Mobilehome Park Zoning District, for the purpose of reserving land for the use and occupancy of mobilehome development. Mobilehome parks and other compatible uses are permitted or conditionally permitted in the R-MH Mobilehome Park Zoning District as enumerated in Table 20-50 of the Zoning Code. Thirty-five of the City's 59 mobilehome parks currently have an R-MH Mobilehome Park Zoning. Nineteen of the City's 59 mobilehome parks currently have a PD Planned Development Zoning for mobilehome park uses. Only five mobilehome parks have underlying zoning districts that do not conform to the

existing mobilehome park use. Redevelopment of any mobilehome park site would require consistency with a site's General Plan designation, regardless of its zoning. Therefore, allowable future uses on mobilehome parks are defined by their General Plan land use designation as well as the applicable zoning district.

## **General Plan Tools to Preserve Mobilehome Parks**

### *General Plan Overlay*

An “overlay” is a land use designation on the General Plan Land Use Map, or a zoning designation on a zoning map that modifies the basic underlying designation in some specific manner. Overlays can establish additional or stricter standards and criteria for covered sites on top of those of the underlying zoning district, or can also be used to promote specific types of projects. Applying a commercial or industrial overlay to mobilehome park sites with residential land use designations would be most appropriate if the intent is to allow or promote a non-residential use as an alternative to the underlying designation. Directly changing the General Plan land use designation of mobilehome park sites would be most appropriate if the intent is to restrict or define an underlying land use.

Given the high land value for residential development, General Plan land use amendments that directly change mobilehome parks’ land use designations to “commercial” or “industrial,” where appropriate, could be used as a mobilehome park preservation tool by restricting future development of those properties to non-residential uses. However, it is possible that in some locations, such as in North San José, a commercial or industrial General Plan land use designation could offer more financial incentive to close and redevelop a mobilehome park than the Residential Neighborhood land use designation, which limits residential development to approximately eight dwelling units per acre.

### *General Plan Land Use Amendments*

In addition to the analysis a “Commercial,” “Industrial,” and/or “Industrial Park” overlay, Council directed staff to analyze the workload, cost, and necessary level of environmental clearance for a (proposed) General Plan “Mobilehome Park” land use designation for those sites that currently have a Residential designation. Establishing a new Mobilehome Park land use designation could promote the goals and policies of the General Plan, particularly as they relate to mobilehome parks. A Mobilehome Park designation could be similar to the R-MH Mobile Home Park Zoning District with the purpose of reserving land for the construction or preservation, and use and occupancy of mobilehome park development.

City-initiated General Plan amendments to change the land use designations of mobilehome parks would not directly prohibit mobilehome park owners from closing their parks, but could strengthen the protection of mobilehome park residents by creating an additional transparent public land use entitlement process to redevelop the sites. In addition to existing processes defined in the Municipal Code and City Council Policy 6-33, property owners wishing to close

and redevelop their mobilehome parks would need City Council approval of a General Plan land use amendment.

A General Plan amendment would already be needed or desired prior to redeveloping many of the current mobilehome parks with residential land use designations, because the Residential Neighborhood land use designation only allows a density of approximately eight dwelling units per acre. Of the 41 mobilehome parks with full residential General Plan land use designations, staff anticipates that at least two-thirds of those parks would require General Plan amendments given current development trends toward denser multifamily housing opposed to less dense traditional single-family homes.

Fourteen (14) parks have industrial or commercial land use designations. The General Plan includes robust policies against converting employment lands, particularly industrial designated lands. As a result, any proposals to redevelop the 14 mobilehome parks with commercial or industrial designations to facilitate residential uses would require a General Plan land use amendment.

#### *General Plan Text Amendments*

Additional General Plan text amendments could be considered to further strengthen displacement avoidance goals and policies focused on preserving mobilehome parks. Any new goals and policies would then need to be considered as part of future development applications or General Plan land use amendments associated with the redevelopment of a mobilehome park.

#### **Alternatives - Workload and Cost Analysis**

City Council could consider directing staff to consider one or a combination of General Plan tools listed above (land use overlay, land use amendments, or text amendments). The following is an estimation of the workload and costs applicable to the different alternatives.

##### *Alternative No. 1: General Plan Overlay and/or Land Use Amendments*

Implementing City-initiated General Plan land use amendments on all or a subset of mobilehome park sites would require significant staff resources. This work would include the following tasks:

Detailed site analysis: Staff would assess the existing conditions of each mobilehome park, including general conditions, access to utilities, and surrounding uses. This would include site visits to all or a subset of the mobilehome parks.

Analysis of General Plan goals and policies: Staff would analyze General Plan major strategies, goals, and policies in the context of mobilehome parks' sizes, locations, and surrounding uses to determine if alternative land use designations would be appropriate. This would include determining where it would be suitable to apply a new (proposed) mobilehome park designation, or other "commercial" or "industrial" land use designation given the context of the site.

Public outreach: In considering General Plan amendments, staff would continue a robust outreach program to gain input from stakeholders, including mobilehome park residents and owners. This would include community meetings, updates to the City webpage dedicated to information regarding mobilehome park preservation policies, and potential presentations to City commissions, such as the Senior Commission and/or Housing and Community Development Commission.

Environmental Analysis (CEQA): Environmental analysis under the California Environmental Quality Act (CEQA) of General Plan land use amendments to all or a subset of mobilehome parks would require preparation of an Initial Study to determine the appropriate document for environmental clearance. As part of the Initial Study, a long-range traffic analysis may need to be prepared to determine whether changing the land use designations of mobilehome park sites would result in a significant impact on the City's transportation network. Completion of the CEQA analysis would require hiring an environmental consultant.

Depending on the level of environmental review required, staff estimates it would take approximately 12 to 18 months, with appropriate staffing and consultant resources, to implement City-initiated General Plan land use amendments on all or a subset of those mobilehome park sites.

#### *Alternative No. 2: General Plan Text Amendments*

Developing new, or revising existing General Plan goals and policies to further strengthen the protection of mobilehome parks in isolation would require less staff and consultant resources than General Plan land use amendments. Staff estimates an approximately six to nine-month processing timeframe to incorporate additional mobilehome park preservation policies into the General Plan. Developing new General Plan text would include the following tasks:

- Analysis of General Plan goals and policies: Staff would evaluate new or revisions to existing General Plan text that could strengthen current displacement avoidance goals and policies focused on preserving mobilehome parks.
- Public outreach: General Plan text amendments require marginally less outreach as described above for land use amendments, if implemented on their own. In considering General Plan text amendments, staff would gain input from stakeholders by holding community meetings and by continuing to update the City's webpage on mobilehome park preservation policies.
- Environmental Analysis (CEQA): Environmental analysis under the California Environmental Quality Act (CEQA) of General Plan text amendments could require lesser environmental review than land use amendments because no land use changes would need to be analyzed. It is possible that the addition of new General Plan policies or the revision of existing policies could be determined to be consistent with the Envision San José 2040 General Plan Final Program EIR and Supplemental EIR.

*Alternative No. 3: No City Action*

Since 2015, the City has implemented several actions to protect current mobilehome park residents and preserve existing mobilehome parks. These include zoning code changes, General Plan text amendments, and adoption of a new City Council Policy as listed above. These actions establish General Plan policies to preserve existing mobilehome parks and strengthen and clarify requirements for future applications for mobilehome park closures and conversions. This alternative would not require additional staffing or other resources.

Staff Workload Analysis

Table 2 below summarizes staff's estimated timeframe, costs, and level of environmental review needed to implement the three alternatives above.

**Table 2**

Alternative	Staff Resources and Costs	CEQA and Consultant Costs	Public Noticing and Outreach Costs	Total Costs	Timeframe
Alternative 1a: General Plan Overlay to "Commercial" or "Industrial"	<ul style="list-style-type: none"> <li>1.0 FTE – Planner III, PBCE (\$188,300 - \$251,100)</li> <li>0.5 FTE – Development Officer, Housing (\$70,300)</li> </ul>	ND or Addendum to the General Plan EIR, or Environmental Impact Report depending on outcome of Initial Study; including Traffic Impact Analysis (\$120,000)	\$15,000 (assumes 10 community meetings)	\$393,600 – 456,400	18 to 24 months
Alternative 1b: General Plan Land Use Amendments to Mobilehome Park Designation	<ul style="list-style-type: none"> <li>1.0 FTE - Planner III, PBCE (\$125,500 – 188,300)</li> <li>0.5 FTE – Development Officer, Housing (\$70,300)</li> </ul>	Negative Declaration, Addendum to the General Plan EIR, or Environmental Impact Report depending on outcome of Initial Study; including Traffic Impact Analysis (\$110,000)	\$13,000 (assumes 8 community meetings)	\$318,800 – 381,600	12 to 18 months
Alternative 2: General Plan Text Amendments	<ul style="list-style-type: none"> <li>0.5 FTE - Planner IV, PBCE (\$97,000)</li> <li>0.25 FTE – Development Officer, Housing (\$35,200)</li> </ul>	Determination of Consistency with the General Plan EIR (\$0)	\$6,000 (assumes 2 community meetings)	\$138,200	9 months
Alternative 3: No Action	N/A	N/A		\$0	N/A

## **Review of Law Foundation of Silicon Valley Recommendations**

The Law Foundation of Silicon Valley (Law Foundation) submitted a letter dated May 11, 2017, related to the actions considered by Council on May 16, 2017. Below is an analysis of the Law Foundation's recommendations and staff's assessment on those that can be implemented.

### ***1) Reject the proposed Mobilehome Park Protection and Closure Ordinance***

On May 16, 2017, City Council considered and voted not to adopt the proposed Mobilehome Park Closure Ordinance.

### ***2) If the proposed Closure Ordinance is not rejected entirely, it must be amended to address crucial flaws.***

On May 16, 2017, City Council considered and voted not to adopt the proposed Mobilehome Park Closure Ordinance. The City currently has an existing Mobilehome Park Conversion Ordinance as established in Section 20.180 of the Zoning Code. The Mobilehome Park Conversion Ordinance is applicable to mobilehome park closures and conversions.

### ***3) Adopt General Plan amendment changes.***

#### Establish a Mobilehome Park General Plan Land Use Designation

The Law Foundation recommended the City adopt a General Plan land use designation for mobilehome parks and apply that designation to all mobilehome parks. As previously stated, because the City Council actions since 2015 achieve significant protection for current mobilehome park residents, staff recommends consideration of General Plan land use designations for the two mobilehome parks with high density residential land use designations. Additionally, most sites would already require a legislative act by the Council (General Plan amendment) to develop at densities over approximately eight dwelling units per acre.

#### Establish a "No Net Loss" Policy of Land Zoned for Mobilehome Use

The Law Foundation recommended that the City amend the General Plan to include a "no net loss" policy restriction similar to the City's former industrial no net loss policy. The difference between San Jose's mobilehome parks and industrial lands is that mobilehome parks in the City are already subject to a number of state and local restrictions, including rent control. Adoption of a "no net loss" policy for mobilehome parks is not recommended due to the potential for a legal challenge.

#### General Plan Text Amendments

The Law Foundation recommended six specific General Plan text amendments as outlined in their May 11, 2017 letter. The recommended text amendments vary in detail and complexity, and focus on preservation of mobilehome parks and adding additional reporting in Urban Village plans related to affordable housing and socio-economics. Staff supports three of the Law Foundation's proposed revisions that incorporate text focused on housing preservation and



rehabilitation because they would be consistent with other General Plan housing policies. If directed by City Council, staff would bring to Council for consideration the three proposed revisions listed below in ~~strikeout~~/underline format as part of a future General Plan hearing cycle.

**Urban Village Planning Policy IP-5.2:** Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine-month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

**Housing – Social Equity and Diversity Policy H-1.3:** Create, preserve, and rehabilitate housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

**Housing – Social Equity and Diversity Policy H-1.9:** Facilitate the development, preservation, and rehabilitation of housing to meet San José's fair share of the County's and region's housing needs.

The other three recommended text amendments by the Law Foundation are not supported by staff because they are overly detailed for General Plan policy and are currently addressed through the City's Mobilehome Park Conversion ordinance. These three recommended text amendments by the Law Foundation are as follows in ~~strikeout~~/underline format:

**Housing – Social Equity and Diversity Policy H-1.20:** Encourage that all proposed Ceonversions of Use or Changes of Use of mobilehome parks to other uses to include mitigation measures that provide displaced residents with housing options that are affordable once any short-term subsidy has elapsed purposes other than the rental, or the holding out for rent, of four (4) or more mobilehome sites or spaces to accommodate mobilehomes used for human habitations, including the cessation of use, to mitigate any adverse impact to enable residents to relocate to replacement housing that is affordable and equivalent, including but not limited to their location and amenities.

**Urban Village Planning Goal IP-5:** Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly "Urban Villages" (also referred to as "Villages" within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods, including existing mobilehome parks. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

**Urban Village Planning Policy IP-5.4:** Prepare and implement Urban Village Plans carefully, with sensitivity to concerns of the surrounding community, residents, and property

owners and developers who propose redevelopment of properties within the Urban Village areas. In furtherance of this policy and San José's obligation to affirmatively further fair housing choice, prepare and report on the number of affordable housing units, including rent stabilized units, and socio-economic characteristics of the of residents who reside in the Urban Village. Urban Village Planning should protect against the displacement of low- and moderate-income tenants and mobilehome park residents who live in the Urban Village, and they must also plan for the mitigation of the loss of any mobilehome housing, rent controlled housing, and other affordable housing options that are lost to the community as a result of redevelopment. As part of the Urban Village Planning process, outreach to and community meetings for residents who face displacement, particularly those in mobilehome communities and multifamily housing, should be conducted. Proceed generally in the order of the following timeline, although some steps may be taken concurrently:

**4) *Uniformly zone all mobilehome parks for this exclusive use.***

Thirty-five of the City's 59 mobilehome parks currently have an R-MH Mobilehome Park Zoning. Nineteen of the City's 59 mobilehome parks currently have a PD Planned Development Zoning for mobilehome park uses. Only five mobilehome parks have underlying zoning districts that do not conform to the existing mobilehome park use. Staff does not recommend City-initiated rezonings, because a majority of mobilehome parks are already zoned for mobilehome park uses, and redevelopment of any mobilehome park site would require consistency with a site's General Plan designation, regardless of its zoning. Additionally, of the five mobilehome parks that have non-conforming zoning districts, two of those parks also have an industrial General Plan land use designation. Rezoning to R-MH on sites with an industrial General Plan land use designation would be inconsistent with major strategies, goals, and policies of the General Plan.

**5) *Amend the Council Policy to further the intent of and clarify the Conversion Ordinance.***

Most of the Law Foundation's requested edits to Policy 6-33 would require the City to extend its role beyond the appropriate scope for the conversion review process. Some comments would result in an increase to the park owner's minimum requirements to engage in good faith negotiations with the City in a way that does not foster a cooperative joint process. Some comments would require that the City establish an entirely new appeal process for various procedures required by the mobilehome conversion ordinance. The amendments already incorporated in Policy 6-33 after months of public meetings and multiple rounds of comments from stakeholders including the Law Foundation are sufficient. The Policy currently contains an appropriate level of additional procedures to supplement the mobilehome conversion ordinance. The current Policy also reflects a robust outreach process and has been approved by City Council.

**Staff Recommendation**

Council actions taken since 2015, including adoption of a new City Council Policy, Zoning Code amendments, and General Plan text amendments achieve significant protection for current mobilehome park residents. Undertaking General Plan land use overlays or amendments would

HONORABLE MAYOR AND CITY COUNCIL

March 2, 2018

**Subject: Analysis of General Plan Amendments for Mobilehome Parks and Review of Law Foundation Recommendations**

Page 13

be a timely and costly process, requiring additional resources as outlined in Table 1. Accordingly, staff recommends that City Council refer to the next Council Priority Setting Session the consideration of General Plan land use amendments for the two mobilehome parks with high density residential land use designations. This would allow City Council to consider where this policy work ranks with other Council priorities led by PBCE and Housing. The most recent (March 2017) Council policy priority list is attached.

In addition, it is recommended that three minor General Plan text amendments recommended by the Law Foundation of Silicon Valley identified above be considered as part of a future General Plan hearing cycle.

### **EVALUATION AND FOLLOW-UP**

If the City Council refers consideration of the General Plan land use designations for the two mobilehome parks with high density residential land use designations, along with the required staffing and consultant resources, to the next Council Priority Setting Session, staff will evaluate and undertake the General Plan amendments.

### **PUBLIC OUTREACH**

Since Council direction was provided on February 23, 2016, City staff has presented policy and ordinance proposals for additional protection of existing mobilehome park residents, and has received public input on these items, at several public hearings and stakeholder forums including community meetings; the Housing and Community Development Commission; and the Senior Commission.

### **COORDINATION**

Preparation of this memorandum was coordinated with the City Attorney's Office and the Housing Department.

HONORABLE MAYOR AND CITY COUNCIL

March 2, 2018

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**CEQA**

Not a Project, File No. PP10-069(a), City Organizational and Administrative Activities, Staff Reports.

/s/

ROSALYNN HUGHEY, ACTING DIRECTOR  
Planning, Building and Code Enforcement

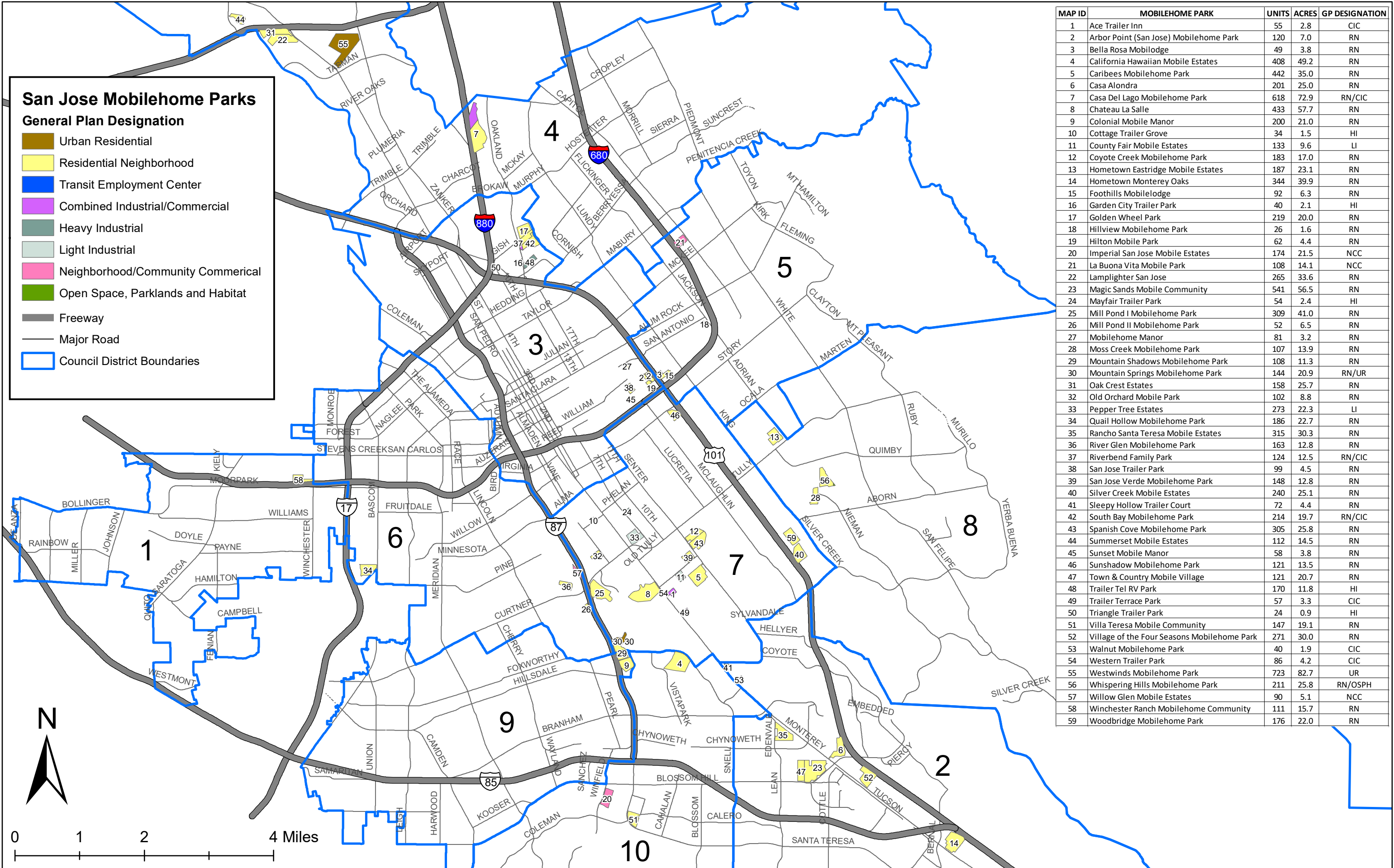
For questions please contact Jared Hart, Supervising Planner, at (408) 535-7896.

Attachments: A) Map of San José Mobilehome Parks with General Plan Designations  
B) Law Foundation of Silicon Valley letter, dated May 11, 2017  
C) Council Policy Priority List from March 7, 2017 (Item 3.3)

# San Jose Mobilehome Parks

## General Plan Designation

- Urban Residential
- Residential Neighborhood
- Transit Employment Center
- Combined Industrial/Commercial
- Heavy Industrial
- Light Industrial
- Neighborhood/Community Commerical
- Open Space, Parklands and Habitat
- Freeway
- Major Road
- Council District Boundaries



MAP ID	MOBILEHOME PARK	UNITS	ACRES	GP DESIGNATION
1	Ace Trailer Inn	55	2.8	CIC
2	Arbor Point (San Jose) Mobilehome Park	120	7.0	RN
3	Bella Rosa Mobilodge	49	3.8	RN
4	California Hawaiian Mobile Estates	408	49.2	RN
5	Caribees Mobilehome Park	442	35.0	RN
6	Casa Alondra	201	25.0	RN
7	Casa Del Lago Mobilehome Park	618	72.9	RN/CIC
8	Chateau La Salle	433	57.7	RN
9	Colonial Mobile Manor	200	21.0	RN
10	Cottage Trailer Grove	34	1.5	HI
11	County Fair Mobile Estates	133	9.6	LI
12	Coyote Creek Mobilehome Park	183	17.0	RN
13	Hometown Eastridge Mobile Estates	187	23.1	RN
14	Hometown Monterey Oaks	344	39.9	RN
15	Foothills Mobilodge	92	6.3	RN
16	Garden City Trailer Park	40	2.1	HI
17	Golden Wheel Park	219	20.0	RN
18	Hillview Mobilehome Park	26	1.6	RN
19	Hilton Mobile Park	62	4.4	RN
20	Imperial San Jose Mobile Estates	174	21.5	NCC
21	La Buona Vita Mobile Park	108	14.1	NCC
22	Lamplighter San Jose	265	33.6	RN
23	Magic Sands Mobile Community	541	56.5	RN
24	Mayfair Trailer Park	54	2.4	HI
25	Mill Pond I Mobilehome Park	309	41.0	RN
26	Mill Pond II Mobilehome Park	52	6.5	RN
27	Mobilehome Manor	81	3.2	RN
28	Moss Creek Mobilehome Park	107	13.9	RN
29	Mountain Shadows Mobilehome Park	108	11.3	RN
30	Mountain Springs Mobilehome Park	144	20.9	RN/UR
31	Oak Crest Estates	158	25.7	RN
32	Old Orchard Mobile Park	102	8.8	RN
33	Pepper Tree Estates	273	22.3	LI
34	Quail Hollow Mobilehome Park	186	22.7	RN
35	Rancho Santa Teresa Mobile Estates	315	30.3	RN
36	River Glen Mobilehome Park	163	12.8	RN
37	Riverbend Family Park	124	12.5	RN/CIC
38	San Jose Trailer Park	99	4.5	RN
39	San Jose Verde Mobilehome Park	148	12.8	RN
40	Silver Creek Mobile Estates	240	25.1	RN
41	Sleepy Hollow Trailer Court	72	4.4	RN
42	South Bay Mobilehome Park	214	19.7	RN/CIC
43	Spanish Cove Mobilehome Park	305	25.8	RN
44	Summerset Mobile Estates	112	14.5	RN
45	Sunset Mobile Manor	58	3.8	RN
46	Sunshadow Mobilehome Park	121	13.5	RN
47	Town & Country Mobile Village	121	20.7	RN
48	Trailer Tel RV Park	170	11.8	HI
49	Trailer Terrace Park	57	3.3	CIC
50	Triangle Trailer Park	24	0.9	HI
51	Villa Teresa Mobile Community	147	19.1	RN
52	Village of the Four Seasons Mobilehome Park	271	30.0	RN
53	Walnut Mobilehome Park	40	1.9	CIC
54	Western Trailer Park	86	4.2	CIC
55	Westwinds Mobilehome Park	723	82.7	UR
56	Whispering Hills Mobilehome Park	211	25.8	RN/OSPH
57	Willow Glen Mobile Estates	90	5.1	NCC
58	Winchester Ranch Mobilehome Community	111	15.7	RN
59	Woodbridge Mobilehome Park	176	22.0	RN



# Memorandum

**TO:** HOUSING AND COMMUNITY  
DEVELOPMENT COMMISSION

**FROM:** THERESA RAMOS

**SUBJECT:** SEE BELOW

**DATE:** January 16, 2020

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Approved

Date

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**SUBJECT: Rent Stabilization Program Quarter 2 Report for Mobilehomes, including the Mobilehome Rent Ordinance**

## **RECOMMENDATION**

Review the staff report and provide possible recommendations to staff on the Rent Stabilization Program Quarter 2 Report for FY 2019-20.

## **BACKGROUND**

The Rent Stabilization Program (Program) is providing a summary of Program activity, including reports and mobilehome call log inquiries, for the second Quarterly Report, FY 2019-20, October 1, 2019 to December 31, 2019, regarding mobilehome issues and trends impacting San José mobilehome park communities.

In addition, this report covers activities highlighting current issues. The Program provides education and information to protect the rights and improve relations between residents and park owners/managers. The Housing and Community Development Commission (HCDC) has requested periodic data from the Program.

## **PROGRAM HIGHLIGHTS**

Major actions taken during the second quarter of FY 2019-20 include community engagement via public outreach and presentations about the Mobilehome Rent Ordinance. Program staff continues to engage the mobilehome community through e-mail, in-person, and telephone assistance, referrals to legal and social services.

**Mobilehome Inquiries**

During the second quarter, the Rent Stabilization Program received 63 mobilehome park inquiries (**Attachment A**).

The chart below is a list of Summary of Issues for Mobilehomes:

<b>SUMMARY OF ISSUES FOR MOBILEHOMES</b>	
Referrals	10
Request for Information	26
Code Enforcement/Maintenance	4
Rent Increases	4
Eviction Information	3
Fees	7
Site Visits	2
Miscellaneous	7
<b>Total</b>	<b>63</b>

**Park Specific Issues**

Below is a summary of on-going park issues during this quarter:

*Magic Sands (541 Spaces)*

There is resident concern about a new water utility charge alleging an illegal rent increase. Program staff is researching the matter with the utility company.

*San Jose Mobilehome and RV Park (Formerly Mobilehome Manor Mobilehome Park) (81 Spaces)*

There is resident concern about a new water utility charge alleging an illegal rent increase. Program staff is continuing to research the matter with the utility company.

*Winchester Ranch Mobilehome Park (111 Spaces)*

The mobilehome park continues to negotiate with the resident Home Owner Association (HOA) as the park owner intends to close and convert. The resident HOA finalized their agreement with the park owner. The park owner is now moving forward to implement the next steps to close and convert.

**Winchester Mobilehome Update**

On October 11, 2019, the Housing and Community Development Commission (HCDC) discussed the Winchester Mobilehome Park Closure process and possible evictions during the closure process. The Commission also requested that Program staff continue to track and monitoring self-reported evictions for mobilehome parks who are considering a conversion.

On December 4 2019, Program staff attended a Planning Commission meeting to provide information about the Mobilehome Rent Ordinance and Mobilehome Conversion Ordinance to the Commission. The Planning Commission reviewed Pulte's filing of their General Plan Amendment which was approved. The General Plan Amendment was approved by City Council on January 14, 2020.

/s/

Theresa Ramos

Senior Analyst, Department of Housing  
Rent Stabilization Program

**ATTACHMENT:**

**A- Call Log Report**





# Memorandum

TO: HOUSING & COMMUNITY DEVELOPMENT COMMISSION (HCDC)  
 SUBJECT: CALL LOG REPORT  
 Total Calls=63

FROM: Theresa Ramos  
 DATE: 1/15/2020

	Date	Requestor	Mobilehome Park	Topic	Resolution Suggested
Oct	10/2/2019	TENANT	LA BUONA VITA MOBILEHOME PARK	Office Information	Information
Oct	10/3/2019	TENANT	LA BUONA VITA MOBILEHOME PARK	Mobilehome Residency Law Violation	Information
Oct	10/4/2019	RESIDENT	WESTERN TRAILER MOBILEHOME PARK	Rights	Information
Oct	10/4/2019	LANDLORD	SUNSHADOW MOBILEHOME PARK	Office Information	Information
Oct	10/4/2019	RESIDENT	COLONIAL MOBILE MANOR MOBILEHOME PARK	Office Information	Information
Oct	10/7/2019	LANDLORD	SUNSHADOW MOBILEHOME PARK	Office Information	Information
Oct	10/7/2019	LANDLORD	SUNSHADOW MOBILEHOME PARK	Office Information	Information
Oct	10/7/2019	LANDLORD	WESTERN TRAILER MOBILEHOME PARK	Office Information	Information
Oct	10/8/2019	LANDLORD	GARDEN CITY TRAILER PARK	Office Information	Information
Oct	10/9/2019	RESIDENT	SPANISH COVE MOBILEHOME PARK	Office Information	Information
Oct	10/9/2019	Property Manager	WESTERN TRAILER MOBILEHOME PARK	Maintenance	Information
			LA BUONA VITA		

Oct	10/10/2019	RESIDENT	MOBILEHOME PARK	Ordinance	Information
Oct	10/10/2019	RESIDENT	WESTERN TRAILER MOBILEHOME PARK	Maintenance	Information
Oct	10/11/2019	Property Manager	FOOTHILLS MOBILELODGE	Office Information	Information
Oct	10/11/2019	Property Manager	WESTERN TRAILER MOBILEHOME PARK	Maintenance	Site Visit
Oct	10/14/2019	RESIDENT	COLONIAL MOBILE MANOR MOBILEHOME PARK	Office Information	Information
Oct	10/15/2019	Property Manager	WINCHESTER RANCH MOBILEHOME COMMUNITY	Fees	Information
Oct	10/21/2019	Property Manager	CASA DEL LAGO	Office Information	Information
Oct	10/21/2019	Property Manager	WINCHESTER RANCH MOBILEHOME COMMUNITY	Office Information	Information
Oct	10/22/2019	Property Manager	WESTWINDS MANUFACTURED HOME COMMUNITY	Office Information	Information
Oct	10/24/2019	RESIDENT	CASA DEL LAGO	Allowable Rent Increase;Rights	Information
Oct	10/24/2019	Property Manager	WINCHESTER RANCH MOBILEHOME COMMUNITY	Office Information	Referral
Oct	10/29/2019	RESIDENT	VILLA TERESA MOBILEHOME PARK	Office Information	Referral
Oct	10/29/2019	RESIDENT	WOODBIDGE MOBILEHOME COMMUNITY	Office Information	Referral
Oct	10/29/2019	OTHER	PEPPERTREE MOBILEHOME ESTATES	Office Information	Information
Oct	10/29/2019	RESIDENT	RIVERBEND MOBILEHOME PARK	Eviction;Maintenance;Fees	Referral
Oct	10/31/2019	RESIDENT	LAMPLIGHTER MOBILEHOME PARK	Office Information	Referral

Oct	10/31/2019	RESIDENT	RIVERBEND MOBILEHOME PARK	Eviction;Rights;Mobilehome Residency Law Violation	Referral
Nov	11/4/2019	RESIDENT	CAL-HAWAIIAN MOBILEHOME PARK	Fees	Information
Nov	11/4/2019	RESIDENT	CAL-HAWAIIAN MOBILEHOME PARK	Fees	Information
Nov	11/5/2019	RESIDENT	COLONIAL MOBILE MANOR MOBILEHOME PARK	Rights	Information
Nov	11/5/2019	RESIDENT	CASA ALONDRA MOBILEHOME PARK	Service	Information
Nov	11/6/2019	RESIDENT	RIVERBEND MOBILEHOME PARK	Maintenance	Information
Nov	11/7/2019	RESIDENT	FOOTHILLS MOBILELODGE	Allowable Rent Increase	Information
Nov	11/7/2019	RESIDENT	RIVERBEND MOBILEHOME PARK	Rights	Information
Nov	11/7/2019	RESIDENT	FOOTHILLS MOBILELODGE	Allowable Rent Increase;Harrasment	Information
Nov	11/7/2019	RESIDENT	FOOTHILLS MOBILELODGE	Allowable Rent Increase	Information
Nov	11/12/2019	RESIDENT	RIVERBEND MOBILEHOME PARK	Office Information	Information
Nov	11/12/2019	RESIDENT	RIVERBEND MOBILEHOME PARK	Code Issue	Site Visit
Nov	11/13/2019	LANDLORD	RIVER GLEN MOBILEHOME PARK	Office Information	Information
Nov	11/13/2019	RESIDENT	MAGIC SANDS	Fees	Referral
Nov	11/14/2019	LANDLORD	RIVER GLEN MOBILEHOME PARK	Office Information	Information
Nov	11/15/2019	RESIDENT	TRAILER TERRACE	Rights	Referral
Nov	11/18/2019	RESIDENT	GOLDEN WHEEL PARK	Office Information	Information
Nov	11/18/2019	RESIDENT	GOLDEN WHEEL PARK	Office Information	Referral
Nov	11/21/2019	Property Manager	MAGIC SANDS	Office Information	Information

Nov	11/22/2019	Property Manager	MAGIC SANDS	Fees	Information
Nov	11/25/2019	RESIDENT	SUMMERSET MOBILEHOME PARK	Fees	Referral
Nov	11/25/2019	LANDLORD	GARDEN CITY TRAILER PARK	Office Information	Information
Nov	11/26/2019	TENANT	ACE TRAILER INN VILLAGE	Mobilehome Residency Law Violation	Information
Nov	11/26/2019	LANDLORD	GARDEN CITY TRAILER PARK	Office Information	Information
Nov	11/27/2019	TENANT	ACE TRAILER INN VILLAGE	Rights	Referral
Dec	12/4/2019	RESIDENT	MOBILEHOME MANOR MOBILEHOME PARK	Eviction;Rights;Service	Referral
Dec	12/4/2019	RESIDENT	VILLA TERESA MOBILEHOME PARK	Office Information	Information
Dec	12/5/2019	RESIDENT	VILLA TERESA MOBILEHOME PARK	Office Information	Information
Dec	12/6/2019	RESIDENT	MAGIC SANDS	Ordinance	Information
Dec	12/9/2019	RESIDENT	VILLA TERESA MOBILEHOME PARK	Office Information	Information
Dec	12/9/2019	OTHER	CHATEAU LA SALLE MOBILEHOME PARK	Office Information	Information
Dec	12/9/2019	RESIDENT	VILLAGE OF THE FOUR SEASONS	Office Information	Referral
Dec	12/11/2019	Property Manager	WOODBIDGE MOBILEHOME COMMUNITY	Office Information	Information
Dec	12/12/2019	Property Manager	HOMETOWN EASTRIDGE ESTATES	Fees	Information
Dec	12/23/2019	LANDLORD	VILLA TERESA MOBILEHOME PARK	Fees	Information
Dec	12/23/2019	RESIDENT	SUNSET MOBILE MANOR	Fees	Information

Brief Synopsis on Disposition of Calls

**10/2/2019 - LA BUONA VITA MOBILEHOME PARK**

Resident's Issue: Resident requested assistance from Program staff for advice on utility issues. Resident agreed to

reach out once more since appropriate program staff was unavailable.

**10/3/2019 - LA BUONA VITA MOBILEHOME PARK**

Resident's Issue: Resident requested City assistance in researching the increased utility and water bills at the mobilehome park. Staff confirmed with resident that research into the issue would be done.

**10/4/2019 - WESTERN TRAILER MOBILEHOME PARK**

Resident's Issue: Resident requesting followup information on the status of receiving trash, recycle bins and replacement posts. Resident lives right next to a liquor store and fence in one area is always getting knocked down. Program staff explained that attempted calls to the property manager were unsuccessful, and that program staff would continue to call property manager.

**10/4/2019 - SUNSHADOW MOBILEHOME PARK**

Landlord Issue: Staff attempted contact with park management regarding a possible mobilehome park purchase. Program staff is waiting for a call back.

**10/4/2019 - COLONIAL MOBILE MANOR MOBILEHOME PARK**

Other: Resident advocate contacted Program staff regarding increased utility charges occurring at several parks. Program staff informed resident advocate that research into the issues would be conducted. Resident advocate requested to be updated with research progress.

**10/7/2019 - SUNSHADOW MOBILEHOME PARK**

Landlord's Issue: Property manager provided staff with new contact information for park management. Program staff will attempt to make contact regarding a Sunshadow MHPark purchase.

**10/7/2019 - SUNSHADOW MOBILEHOME PARK**

Landlord's Issue: Program staff attempted a second contact with park management regarding a possible mobilehome park purchase. Program staff will attempt to make contact with management.

**10/7/2019 - WESTERN TRAILER MOBILEHOME PARK**

Landlord's Issue: Landlord requested a timeline for mobilehome fee invoices. Staff explained to the landlord exemption requirements and allowable pass through.

**10/8/2019 - GARDEN CITY TRAILER PARK**

Landlord's Issue: Landlord inquired about the fee exemption letter timeline. Program staff explained that two letters are sent: one to the park office and one to the park owners. Program staff confirmed park owner's address.

**10/9/2019 - SPANISH COVE MOBILEHOME PARK**

Resident's Issue: Resident inquired about change of title for mobilehome. Program staff provided resident with information to State's Housing and Community Development (HCD) office.

**10/9/2019 - WESTERN TRAILER MOBILEHOME PARK**

Property Manager's Issue: Program staff contacted property manager to inquire about status of recycling bin and fixed posts. Program staff left a voicemail message requesting a call back.

**10/10/2019 - LA BUONA VITA MOBILEHOME PARK**

Resident's issue: Resident provided Program staff with information about a change of park manager. Program staff

noted change.

**10/10/2019 - WESTERN TRAILER MOBILEHOME PARK**

Resident's Issue: Resident informed program staff that fixing the fence was an urgent issue. Program staff updated Resident with the information that a site visit had been conducted, and that property manager anticipated being able to fix the posts soon. Program staff invited the resident to contact staff if property manager did not address the issue.

**10/11/2019 - FOOTHILLS MOBILELODGE**

Property Manager's Issue: Property manager inquired about annual fees. Program staff shared information related to fees and ordinance definition of "owner-occupied". Program staff explained that the ordinance applies to spaces in mobile home parks that are equipped with water and utility access.

**10/11/2019 - WESTERN TRAILER MOBILEHOME PARK**

Other: Program staff conducted a site visit to mobilehome park. Program staff discussed the resident's need for recycle and trash bins, and property manager confirmed that the recycle bin was forthcoming. Property manager informed staff that the repairs to the post would be made. Program staff notified property manager that followup would be conducted.

**10/14/2019 - COLONIAL MOBILE MANOR MOBILEHOME PARK**

Resident's issue: Resident requested clarification regarding pass through of capital improvements and waiver of rights. Program staff referred the resident to the City's Mobilehome Rent Ordinance for assistance.

**10/15/2019 - WINCHESTER RANCH MOBILEHOME COMMUNITY**

Property Manager's Issue: Program staff attempted contact with property manager to discuss annual fee exemptions. The property manager was not available. Program staff scheduled a follow-up phone call with property manager.

**10/21/2019 - CASA DEL LAGO**

Property Manager's Issue: Program manager requested more information about the fee schedule and the Fiscal year dates. Program staff provided the information and referred any further questions to the notice program staff had recently mailed as well as the mobilehome home ordinance.

**10/21/2019 - WINCHESTER RANCH MOBILEHOME COMMUNITY**

Property Manager's Issue: Property manager requesting a secondary copy of the fee exemption letter. Program staff confirmed property manager's address.

**10/22/2019 - WESTWINDS MANUFACTURED HOME COMMUNITY**

Property Manager's Issue: Property manager requested assistance with understanding fee exemptions. Program staff explained fee exemptions.

**10/24/2019 - CASA DEL LAGO**

Resident's Issue: Resident requesting assistance understanding rent increase and lease obligations. Program Manager informed resident rent may be increased by 3.01% and that mobilehome park management could not require Resident to meet with management to sign a new lease.

**10/24/2019 - WINCHESTER RANCH MOBILEHOME COMMUNITY**

Property Manager's Issue: Property manager confirmed receipt of fee letter program staff had mailed out. Property manager requested information related to City services regarding vandalism. Program staff provided the appropriate referrals.

**10/29/2019 - VILLA TERESA MOBILEHOME PARK**

Resident's Issue: Resident requested information related to changing title and registration for mobilehome. Program staff referred further inquiries to Housing and Community Development.

**10/29/2019 - WOODBRIDGE MOBILEHOME COMMUNITY**

Resident's Issue: Resident requested information on how to change title and registration on mobilehome. Program staff referred Resident to Housing and Community Development (HCD) for more information.

**10/29/2019 - PEPPERTREE MOBILEHOME ESTATES**

Other: Resident advocate complained about the park manager locking the club house and laundry room due to homeless people.

**10/29/2019 - RIVERBEND MOBILEHOME PARK**

Resident's issue: Resident requested assistance for a 14-Day notice received, which included an \$85 charge. Program staff referred the resident to legal aid. Resident requested assistance in preparing a letter to legal aid that explained resident's issues, that the resident could then show legal aid for further assistance. Program staff assisted resident draft a letter that explained the resident's issues.

**10/31/2019 - LAMPLIGHTER MOBILEHOME PARK**

Resident's issue: Resident requested information regarding a change of title to mobilehome. Program staff referred the resident to the State's Mobilehome Title Registry for assistance.

**10/31/2019 - RIVERBEND MOBILEHOME PARK**

Resident's Issue: Resident requested Program staff thoroughly review the documents resident brought related to the 14-Day notice. Resident shared that legal services advised resident to not pay the \$85 fee and to reach out to them once more after receiving a 60 Day notice for possible eviction defense. Resident then explained to Program staff that resident has received multiple notices in 2018. Program staff contacted the program manager. Program manager contacted mobilehome park owner and property manager regarding residents' notice. The owner agreed to the following: Resident is to cure the code violations from the Feb. 2019 7-day notice and cooperate with management. Referral was made to the Vietnamese Community Center. Resident was encouraged to reach out to legal services once more and share that resident suffers from an disability.

**11/4/2019 - CAL-HAWAIIAN MOBILEHOME PARK**

Resident's Issue: Resident requesting relief from the high rent price of mobilehome space. Resident requested information of Resident's right to challenge the amount of rent paid. Program staff informed resident that further research would be conducted regarding this issue and that Resident should expect a followup phone call.

**11/4/2019 - CAL-HAWAIIAN MOBILEHOME PARK**

Resident's issue: Program staff conducted the call back. Program staff informed Resident that the landlord is under no obligation to decrease rent. Further explained to Resident that a potential avenue for relief would be considering a roommate or, if Resident was over the age of 55, consider engaging a caregiver. Resident requested the contact information for the owner of the mmobilehome park. Program staff shared owner contact information for corporate office in Chicago.

**11/5/2019 - COLONIAL MOBILE MANOR MOBILEHOME PARK**

Resident's issue: Resident provided Program staff with a letter regarding a possible service reduction claim due to neglected shuffle board and residents payment for upkeep. Program staff noted complaint and previously addressed issue with resident.

**11/5/2019 - CASA ALONDRA MOBILEHOME PARK**

Resident's issue: Resident requested assistance about rent payment to the park manager. Program staff assisted the resident.

**11/6/2019 - RIVERBEND MOBILEHOME PARK**

Other: Program staff contacted Resident to share contents of a letter the mobilehome owner sent to Program manager. Resident did not have any followup questions.

**11/7/2019 - FOOTHILLS MOBILELODGE**

Resident's Issue: Resident left a voicemail requesting assistance with a rent increase and requested a return call from Program Manager. Program staff forwarded the information to the program manager.

**11/7/2019 - RIVERBEND MOBILEHOME PARK**

Resident's Issue: Assisted resident in creating an action plan to respond to owner's notice to fix resident's home.

**11/7/2019 - FOOTHILLS MOBILELODGE**

Resident's Issue: Resident requesting assistance related to a rent increase and alleged harassment in the mobilehome park. Resident requested to speak directly with Program Manager. Program staff informed resident that the message would be forwarded.

**11/7/2019 - FOOTHILLS MOBILELODGE**

Resident's Issue: Resident is calling program staff multiple times, requesting immediate assistance. Program Manager volunteered to speak to owner within the next week in order to address resident's issues.

**11/12/2019 - RIVERBEND MOBILEHOME PARK**

Other: Program staff contacted a community organization assisted the resident with repairs. Program staff confirmed that the resident has an open case.

**11/12/2019 - RIVERBEND MOBILEHOME PARK**

Other: Program staff and program manager conducted a field visit to resident's mobilehome to inspect issues highlighted in resident's 14-Day notice.

**11/13/2019 - RIVER GLEN MOBILEHOME PARK**

Property Manager's Issue: Property Manager requested a copy of the fee exemptions and the allowable rent increase for 2019-2020. Program staff emailed property manager the proper information.

**11/13/2019 - MAGIC SANDS**

Resident's issue: Resident requesting assistance with invoice from Housing and Community Development. Program staff referred resident to state Mobilehome Title and Registry office for further assistance.

**11/14/2019 - RIVER GLEN MOBILEHOME PARK**

Property Manager's Issue: Property Manager requesting information regarding Program notices. Program staff explained program notice timeline and referred any further questions to the flyers program mailed out.

**11/15/2019 - TRAILER TERRACE**



Resident's Issue: Resident requested assistance with mobilehome Title and Registration. Program staff referred the resident to the state Mobilehome Title Registry for assistance.

**11/18/2019 - GOLDEN WHEEL PARK**

Resident issue: Resident left program staff a voicemail requesting assistance for a potential health problem in the park: mobilehome common pool contains dirty water; water is getting increasingly dirty and management has been alerted but no attempt to fix the issue has been made. Resident requesting information about City process in addressing this issue. Program staff will follow up with the resident and make a referral.

**11/18/2019 - GOLDEN WHEEL PARK**

Resident issue: Program staff contacted resident in regards to the health concerns in the pool. Program staff referred Resident to Housing and Community Development as well as Santa Clara County Public Health office. Resident also requesting assistance regarding mobile home titling and registration. Program staff referred the resident to the state Mobilehome Title Registry for assistance.

**11/21/2019 - MAGIC SANDS**

Property Manager's Issue: Property manager left program staff a voicemail requesting information regarding fee exemptions. Program staff will provide assistance.

**11/22/2019 - MAGIC SANDS**

Property Manager's Issue: Property Manager requested information regarding fee exemptions. Program staff informed property manager of the fee invoice schedule.

**11/25/2019 - SUMMERSET MOBILEHOME PARK**

Resident's issue: Resident requesting assistance regarding a substantial water payment due to leaked pipes, and resident's high plumbing bill. Program staff referred resident to Mobilehome Ombudsman for further assistance. Resident further explained that property management did not inspect the pipe before the plumber was called to fix the issue. Program staff requested clarification on whether the leak occurred in the mobilehome itself or outside the mobilehome. Resident clarified that the leak occurred outside the home. Program manager informed resident that this could be a potential legal issue due to the fact that the park management was unable to inspect the pipes before the plumber fixed the issue and referred resident to legal services.

**11/25/2019 - GARDEN CITY TRAILER PARK**

Other: Program staff received a letter from Garden City MH and RV Park. Contents of letter unclear. Program Staff attempted to contact park owners and left voicemail requesting a return call.

**11/26/2019 - ACE TRAILER INN VILLAGE**

Other: Rent Stabilization Program staff transferred call to appropriate staff for mobile home assistance.

**11/26/2019 - GARDEN CITY TRAILER PARK**

Property Manager's Issue: Property manager left a voicemail with Program Staff requesting a call back. Program staff attempted a return call, but property manager was unavailable. Program staff left a voicemail requesting a return call if property manager required further assistance.

**11/27/2019 - ACE TRAILER INN VILLAGE**

Resident's Issue: Resident requesting assistance understanding rights as related to an unregistered automobile on Resident's property. Program staff referred resident to legal services for further assistance.

**12/4/2019 - MOBILEHOME MANOR MOBILEHOME PARK**

Resident's issue: Resident requested information from new park owner regarding no rentals and numerous evictions. Program staff noted complaint.

**12/4/2019 - VILLA TERESA MOBILEHOME PARK**

Resident's Issue: Resident requesting Program staff contact information. Program staff provided contact information.

**12/5/2019 - VILLA TERESA MOBILEHOME PARK**

Resident's Issue: Resident requesting assistance in writing down Program staff's correct contact information. Program staff assisted resident. Staff also noted complaint that many residents are upset about the utility bill increases.

**12/6/2019 - MAGIC SANDS**

Resident's issue: Resident requested information regarding pass through of mobilehome fees. Program staff explained to the resident the Mobilehome Rent Ordinance.

**12/9/2019 - VILLA TERESA MOBILEHOME PARK**

Resident's Issue: Resident inquiry on Program staff's correct contact information. Program staff sent out test email and confirmed receipt with resident.

**12/9/2019 - CHATEAU LA SALLE MOBILEHOME PARK**

Property Manager's Issue: Property manager requesting a copy of Rent Ordinance Summary. Staff emailed a copy to property manager and confirmed receipt.

**12/9/2019 - VILLAGE OF THE FOUR SEASONS**

Resident's issue: Resident requested assistance on Mobilehome title and registration. Program staff referred resident to state Mobilehome Title and Registry for further assistance.

**12/11/2019 - WOODBRIDGE MOBILEHOME COMMUNITY**

Property Manager's Issue: Property Manager requested a copy of the 2019 Fee Invoice for Woodbridge Mobilehome Community. Program staff emailed property manager a copy and confirmed receipt.

**12/12/2019 - HOMETOWN EASTRIDGE ESTATES**

Property Manager's Issue: Property manager requests assistance in updating mailing address for yearly fee invoice. Program staff noted address and will update Program database.

**12/23/2019 - VILLA TERESA MOBILEHOME PARK**

Landlord's Issue: Landlord informed program staff that landlord is available to discuss increased utility bills for Villa Teresa, mobilehome park. Landlord informed Program staff that rising costs of maintenance contributed to increased utility bills. Program staff noted landlord's comments.

**12/23/2019 - SUNSET MOBILE MANOR**

Landlord's Issue: Landlord requested assistance in updating mailing address for yearly fee invoice. Program staff noted address change.

Theresa Ramos  
Rental Rights & Referrals Program  
Analyst II, Policy and Special Projects



# Memorandum

**TO:** HOUSING COMMUNITY  
DEVELOPMENT COMMISSION

**FROM:** FRED TRAN

**SUBJECT:** SEE BELOW

**DATE:** January 16, 2020

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Approved

Date

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**SUBJECT: RENT STABILIZATION PROGRAM QUARTER 2 REPORT FOR APARTMENTS, INCLUDING THE APARTMENT RENT ORDINANCE, TENANT PROTECTION ORDINANCE, AND ELLIS ACT ORDINANCE**

## RECOMMENDATION

Review the staff report and provide possible recommendations to staff on the Rent Stabilization Program Quarter 2 Report for FY 2019-20.

## BACKGROUND

The Rent Stabilization Program is providing a summary of program activities for the second quarter 2019-20 to the Housing Community Development Commission. The Rent Stabilization Program provides education and information of rights for tenants and property owners.

## ANALYSIS

Major actions taken during the second quarter 2019-20 from October 1, 2019 to December 31, 2019 are summarized below by administration of the Apartment Rent Ordinance, Tenant Protection Ordinance, and Ellis Act Ordinance.

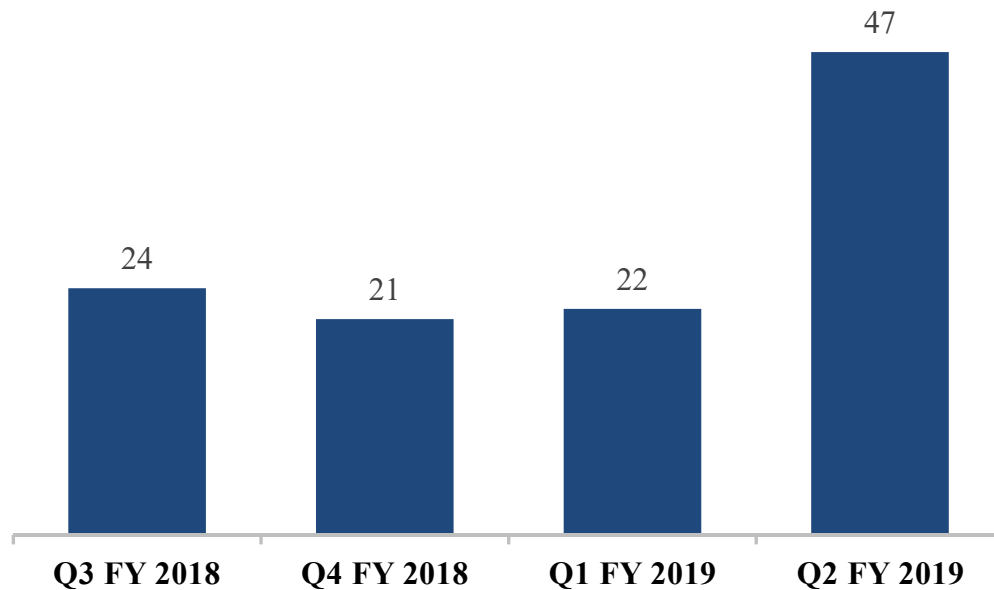
### **A. APARTMENT RENT ORDINANCE**

***Summary of Petitions Filed*** – A summary of petitions filed quarterly is provided in **Table 1**. The most significant action this quarter was the enforcement of the Rent Registry compliance resulting in 37 petitions for non-compliance and 559 inquiries. Tenants were notified by letter to contact the Rent Stabilization Program if the landlord did not register by the deadline of March 2019.

For the quarter, the Program received a total of 47 petitions. The breakdown of the petitions are as follows:

- 10 petitions filed under the Apartment Rent Ordinance:
  - 1 rent increase with service reduction,
  - 4 service reductions only,
  - 4 joint petitions, and
  - 1 ineligible for mediation.
- 37 petitions filed as a result of non-compliance with Rent Registry registration:
  - 16 rent increase with service reduction, and
  - 21 rent increases only.

*Table 1 – Summary of Petitions Filed in the in the Most Recent Four Quarters*

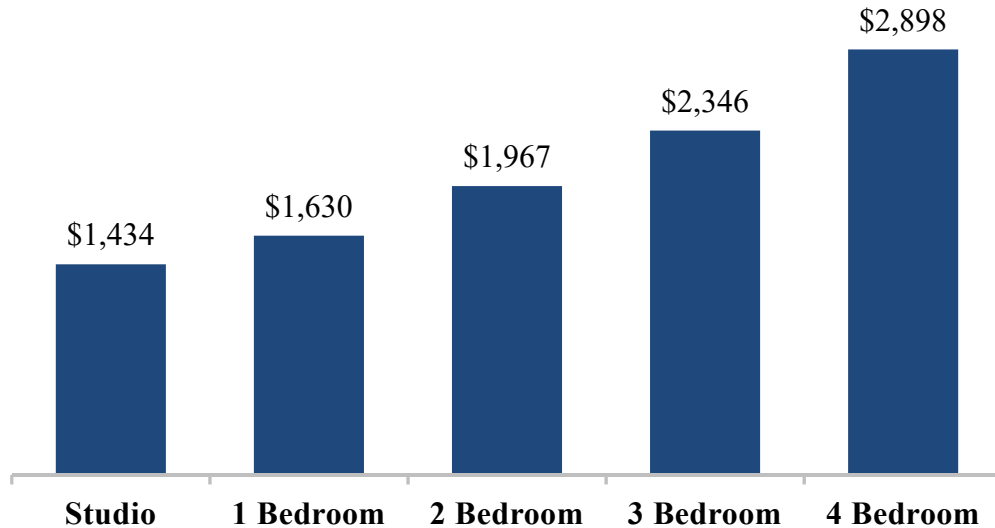


The outcomes of the 47 petitions filed are:

- 5 pending hearing by Hearing Officer (11%),
- 8 resolved voluntarily by Hearing Officer (17%),
- 24 issuance of Administrative Decision (51%),
- 4 pending Decision (9%),
- 1 petition resolved by staff (2%),
- 4 Decision by Hearing Officer (9%), and
- 1 ineligible (2%).

**Rent Registry** – As of December 31, 2019, a total of 34,051 or 88% of all rent stabilized apartments have been registered in the rent registry. There are 2,480 registered owners. **Table 2** summarizes the rental information collected from the rent registry during the registration period. Apartments not registered will be ineligible for general annual rent increases.

*Table 2 – Average Rent Stabilized Rents by Bedroom Size*



## **B. TENANT PROTECTION ORDINANCE**

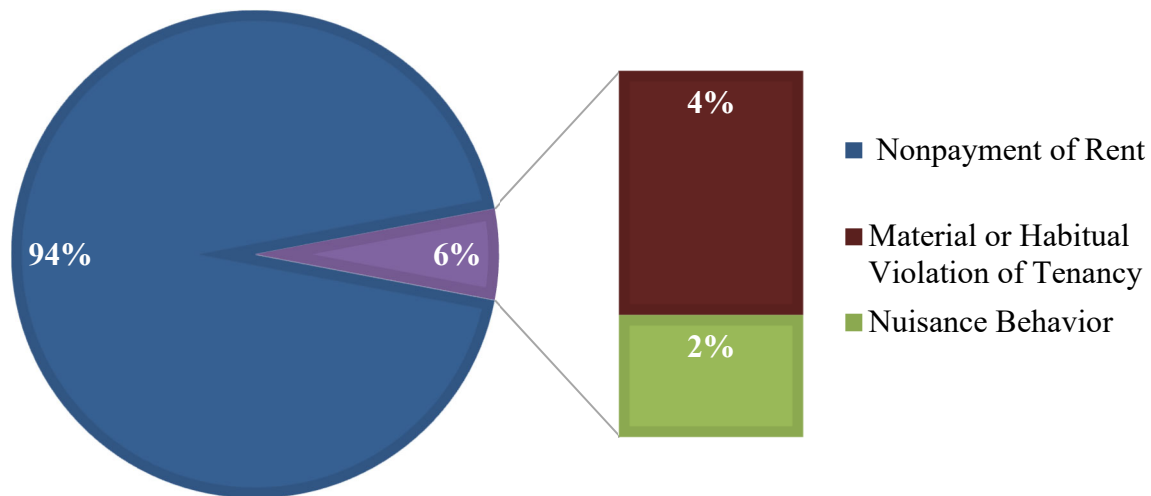
The Program received 2,293 notices of terminations for apartments in the City as required by the Tenant Protection Ordinance. Of the notices received, the most common reasons include:

- **Nonpayment of rent was 2,064 or 94%,**
- **Material or habitual violation of tenancy was 65 or 4%:** The reasons listed on the notice of termination for this just cause includes violating guidelines and having a pet without permission.
- **Nuisance behavior was 24 or 2%:** The reasons listed on the notice of termination for this just cause includes peace disturbance and unit sanitation.

In addition, a total of 211 Unlawful Detainers were submitted. **Table 3** summarizes the notices received in Quarter 2.

*Table 3 – Notices of Terminations Received for Quarter 2*

Inquiries	Oct	Nov	Dec	Total
1. Nonpayment of rent	800	593	671	2,064
2. Material or habitual violation of tenancy	22	28	15	65
3. Substantial damage to the apartment	2	3	1	6
4. Refusal to agree to a similar or new rental agreement	2	1	0	3
5. Nuisance behavior	12	8	4	24
6. Refusing access to the apartment	2	3	0	5
7. Unapproved holdover subtenant	2	3	0	5
8. Criminal Activity	0	0	0	0
9. Substantial rehabilitation of the apartment	0	8	0	8
10. Ellis Act Removal	0	3	0	3
11. Owner move-in	0	0	0	0
12. Order to vacate	0	0	0	0
13. Vacation of unpermitted apartment	0	0	0	0
<b>Exempt from the TPO</b>	<b>15</b>	<b>80</b>	<b>15</b>	<b>110</b>
<b>Total</b>	<b>857</b>	<b>730</b>	<b>706</b>	<b>2,293</b>



### C. ELLIS ACT ORDINANCE

On November 5, 2019, City Council made amendments to the Ellis Act Ordinance, including:

- When a rent stabilized apartment building is demolished, 50% of the new units are subject to re-control, with a cap of 7X the number of demolished units.

- The re-control provision can be waived if the developer builds a certain number of rent-restricted affordable units.
- Displaced tenants may have a right to be placed in other rent stabilized housing and/or have a right to return after construction is complete.
- The process for determining relocation benefits was changed slightly, allowing for owner and tenant negotiations.

Staff will return to the City Council in 2020 to finalize the ordinance amendments.

Since the Ellis Act Ordinance was effective in San José in 2017, there have been four properties with tenants that have received notices to vacate as a result of the Ellis Act Ordinance. The tenant households at three properties received relocation assistance from the Associated Right of Ways Services (ARWS) and the outcomes are summarized in **Table 4**. Of the projects, three are subject to the Apartment Rent Ordinance and subject to the re-control and right to return provisions. A fourth project is exempt from the Apartment Rent Ordinance and proper notification and relocation services were provided.

**Table 4 – Outcomes of Relocation of Tenant Households who Received Ellis Noticing**

Year Served	Types of Property	Outcomes of Tenant Households
<b>Quarter 2</b>		
<b>2019</b>	<b>Subject to ARO – Built before 1979</b> <ul style="list-style-type: none"> <li>• Noticing</li> <li>• ARWS Relocation Services</li> </ul>	<b>3-unit apartment complex</b> <i>Average Rent: \$1,425 for Studio/1 BR</i> <ul style="list-style-type: none"> <li>• 3 received noticing</li> </ul>
<b>Prior Quarters</b>		
<b>2019</b>	<b>Subject to ARO – Built before 1979</b> <ul style="list-style-type: none"> <li>• Noticing</li> <li>• ARWS Relocation Services</li> </ul>	<b>7-unit apartment complex</b> <i>Average Rent: \$1,948 for 1 BR</i> <ul style="list-style-type: none"> <li>• 5 received noticing</li> <li>• 2 vacant</li> </ul>
<b>2018</b>	<b>Subject to ARO – Built before 1979</b> <ul style="list-style-type: none"> <li>• Noticing</li> <li>• Relocation Benefits by Owner</li> <li>• ARWS Relocation Services</li> </ul>	<b>4-unit apartment complex</b> <i>Average Rent: \$913 for 1 BR</i> <ul style="list-style-type: none"> <li>• 2 relocated with benefits to Morgan Hill, San Mateo</li> <li>• 1 relocated without benefits but unknown where due to voluntary vacation</li> <li>• 1 occupied by owner</li> </ul>
<b>2018</b>	<b>Not Subject to ARO – Built after 1979</b> <ul style="list-style-type: none"> <li>• Noticing</li> <li>• ARWS Relocation Services</li> </ul>	<b>5-unit apartment complex</b> <i>Average Rent: \$1,500 for 1 BR</i> <ul style="list-style-type: none"> <li>• 1 relocated to San José</li> <li>• 1 relocated to unknown</li> <li>• 2 vacant</li> </ul>
<b>2017</b>	<b>Subject to the ARO – Prior to Ellis Act</b> <ul style="list-style-type: none"> <li>• Noticing</li> </ul>	<b>215-unit apartment complex</b> <i>Average Rent: \$2,038</i> <ul style="list-style-type: none"> <li>• 60 relocated in San José (28%)</li> </ul>



<ul style="list-style-type: none"> <li>• Relocation Services</li> <li>• Relocation benefits for income-qualified households</li> </ul>	<ul style="list-style-type: none"> <li>• 33 relocated in Santa Clara County (15%)</li> <li>• 22 relocated inside California (10%)</li> <li>• 6 relocated out of State (3%)</li> <li>• 84 relocation unknown (39%)</li> <li>• 10 vacant apartments (5%)</li> </ul>
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Source: Housing Department Records, December 2019

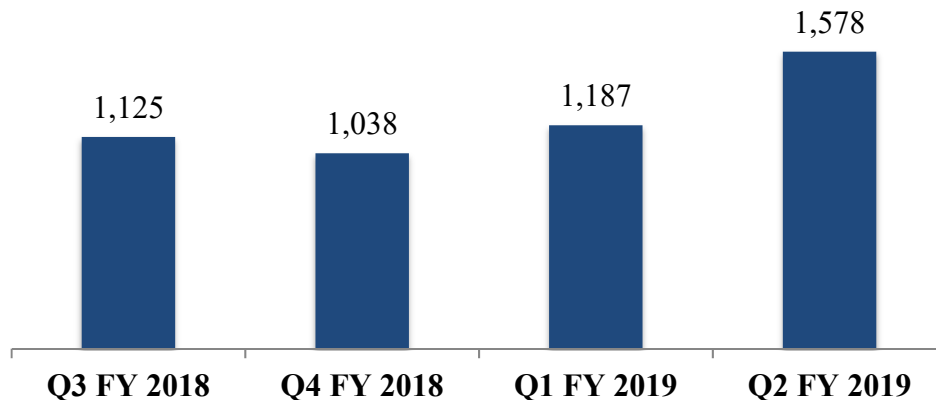
#### D. PROGRAM INQUIRIES RECEIVED

The Program received 1,578 inquiries in Quarter 2. The outreach strategies utilized this quarter include:

- **October:** Rent Registry Compliance mailers sent to approximately 6,500 tenants living at rent stabilized apartments not registered by the deadline,
- **November – December:** Broadcasts on Vietnamese Radio Station KPIX AM 1500 Vietnam Bac Cali with recorded segments including the following topics: Apartment Rent Ordinance, and Tenant Protection Ordinance.

**Table 5** summarizes the inquiries by members of the public received by the Rent Stabilization Program in the past four quarters:

**Table 5 – Summary of Inquiries Received by Members of the Public in the Most Recent Four Quarters**

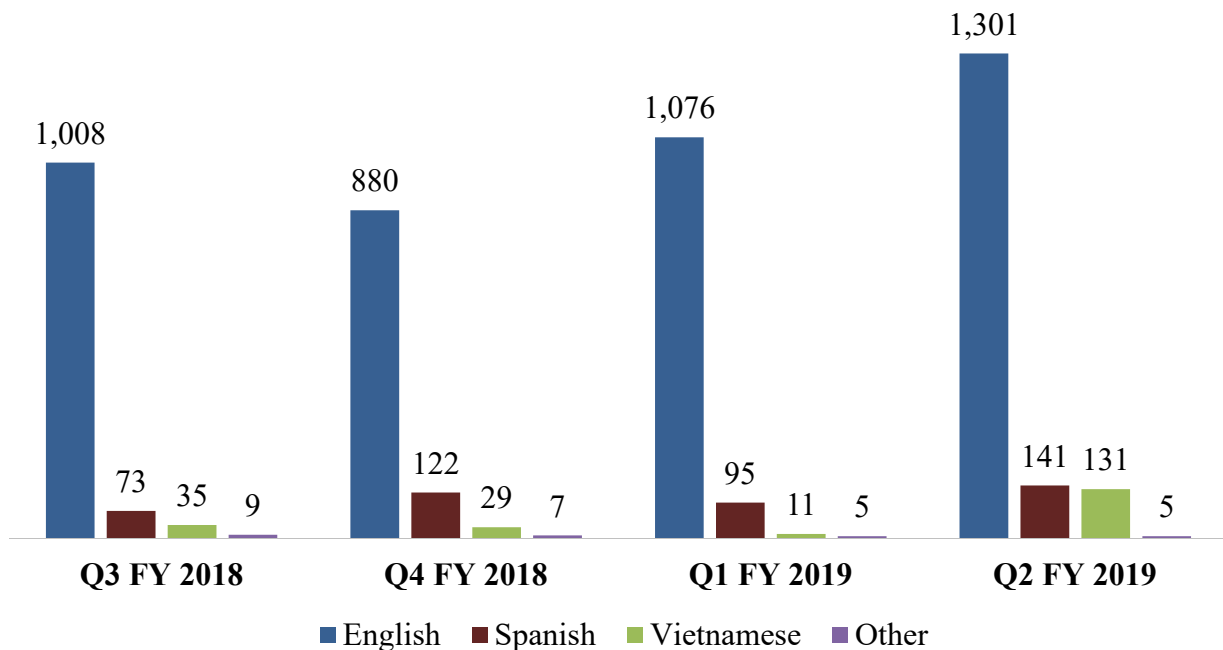


**Summary of Inquiries by Language** – The Rent Stabilization Program received 1,578 inquiries during the second quarter of 2019-20. During the second quarter, the language spoken by individuals making inquiries is provided below in **Table 6**:

- 1,301 inquiries (82%) received in English,
- 141 inquiries (9%) received in Spanish,
- 131 inquiries (8%) received in Vietnamese, and
- 5 inquiries (0.1) % received in other languages.

There was a significant increase in Vietnamese inquiries received as a result of the Rent Registry non-compliance letter and broadcasts on the Vietnamese Radio station. For the past three recent quarters, the average number of Vietnamese inquiries received was 25. For this quarter, there were 131 phone calls, an increase of 424% from the running average.

**Table 6 – Summary of Inquiries by Language in the Most Recent Four Quarters**



**D. ADMINISTRATIVE CITATION PROGRAM**

On December 3, 2019, the Mayor and City Council passed a Resolution providing for a schedule of fines in order for the Housing Department to issue administrative citations for violations of the Apartment Rent Ordinance, Tenant Protection Ordinance, and Ellis Act Ordinance. This will allow the Director of Housing to implement previously approved direction from the City Council to utilize administrative citations to facilitate compliance with the Ordinances. The administrative citation process is a cost-effective method of enforcing the provisions of the Municipal Code. A key provision of the process is the use of compliance notices prior to issuing citations in cases where a violation can be expeditiously resolved. Consistent with SJMC Chapter 1.15, cited parties can file a hearing request to contest a violation.

The Housing Department developed an Administrative Citation Manual (Citation Manual) that outlines the guidelines and requirements for the Department’s issuance of administrative citations. The Citation Manual was developed consistent with other existing City guidance to provide staff with direction on how and when to utilize citations.

The Department will begin the implementation and use of administrative citations in Spring 2020. The Program is developing outreach materials and, based upon Council direction, an education course to be offered for first time violators. Staff will provide annual reports to the Housing and Community Development Commission regarding the use of warning letters and citations.

### **PUBLIC OUTREACH**

Program staff conducted six community meetings, six outreach events, and nine meetings organized by legal agencies through the Legal Services Grant. The outreach included stakeholders of tenants, property owners, and community stakeholders. A summary of all meetings is listed in **Attachment A**.

For any questions, please contact Fred Tran at 408-975-4443.

/s/

Fred Tran

Acting Program Manager

Rent Stabilization Program

### **ATTACHMENT:**

**Attachment A** – Summary of Community Outreach Meetings and Events

## Summary of Community Outreach Meetings October 1, 2019-December 31, 2019

### Community Meetings (6)

• Santee Neighborhood Association Meeting	11/19/2019	Public
• Housing Payment Equality Ordinance Presentation with Santa Clara County Housing Authority	11/6/2019	Landlords
• Housing Payment Equality Ordinance	10/18/2019	Tenants
• Housing Payment Equality Ordinance	10/16/2019	Landlords
• Housing and Community Development Commission	10/10/2019	Public
• Ellis Act Ordinance Meeting	10/15/2019	Public

### Outreach Events (6)

• Santa Visits Alviso	12/14/2019	Public
• Project Hope Fall Festival	10/25/2019	Public
• Healthy Aging and Wellness EXPO	10/16/2019	Public
• Day in the Bay Alviso	10/13/2019	Public
• Day in the Park Fall Family Festival	10/12/2019	Public
• Escuela Popular Health Fair	10/7/2019	Public

### LEGAL SERVICES GRANT

#### Outreach Conducted by Partner Agencies Through the Legal Services Grant (9)

• Senior Adult Legal Assistance	12/17/2019	Tenants/ Landlords
• Project Sentinel	12/15/2019	Tenants/ Landlords
• AB 1482 Roundtable	11/22/2019	Public
• Senior Adult Legal Assistance	11/19/2019	Tenants/ Landlords
• Senior Adult Legal Assistance	11/15/2019	Tenants/Landlords
• Project Sentinel	10/24/2019	Tenants
• Project Sentinel	10/17/2019	Landlords
• Project Sentinel	10/15/2019	Tenants
• Project Sentinel	10/1/2019	Public

**Exhibit A**

*City of San José, California*

**COUNCIL POLICY**

<b>TITLE</b> CONVERSION OF MOBILEHOME PARKS TO OTHER USES	<b>PAGE</b> 1 of 12	<b>POLICY NUMBER</b> 6-33
<b>EFFECTIVE DATE</b>	<b>REVISED DATE</b>	
<b>APPROVED BY COUNCIL ACTION</b> February 23, 2016, Item 4.2(b), Res. No. 77673; Amended May 16, 2017, Item 4.1(c), Res. No. 78166.		

**BACKGROUND**

*“Immobile” Homes on Rented Land*

Mobilehomes may look like single-family detached houses, but in most cases they are manufactured (factory-built) homes installed in mobilehome parks that may or may not be affixed to a foundation. Unlike other homes where the home-owner owns the land or at least the airspace, the land beneath the mobilehome is, typically, not owned by the purchaser of the mobilehome. The mobilehome owner pays space-rent to the mobilehome park owner for the privilege of use of the space. Mobilehomes have purchase prices that are substantially less than single-family detached houses due to mobilehomes’ factory construction and non-ownership of the land. The result is a hybrid type of housing arrangement, where the resident owns the housing unit, but leases or rents the land on which the housing unit is placed. This arrangement might not be so challenging to set up or maintain if the mobilehome owner could easily move to another mobilehome park, but once a mobilehome is installed in one mobilehome park it is extremely difficult to move the mobilehome to another mobilehome park. In particular, older mobilehomes that are not constructed up to current codes cannot be moved into another mobilehome park. Lack of available spaces in mobilehome parks throughout the region could severely limit the ability to relocate mobilehomes. For practical purposes, the immobility of mobilehomes means if a mobilehome park converts to another use, the mobilehome will very likely be destroyed, the mobilehome owner will lose that significant asset, and any compensation that the mobilehome owner recovers will be that provided in accordance with State and local law.

### *Parks in San José and the Surrounding Area*

San José has had mobilehome rent control since 1979. Approximately 10,800 mobilehome park spaces received plumbing, electrical, and sewer permits on or before September 7, 1979 and are thus subject to rent control under San José Municipal Code Chapter 17.22. This rent control ordinance allows automatic annual rent increases of 75% of the Consumer Price Index (CPI), but not less than 3% or more than 7%. San José's rent control ordinance also imposes vacancy control that limits rent increases when a mobilehome is sold, which allows residents to protect their investments. Although according to staff's research in Fall 2015 there were approximately 21,750 mobilehome spaces in the Santa Clara, Alameda, San Mateo and Santa Cruz counties (the four-county area) surrounding (but not including) San José, only approximately 9,700 of them were rent-controlled spaces.

### *Park Residents in San José*

San José's mobilehome parks are occupied by a variety of individuals and families, including low-income or fixed-income seniors and families. Most residents are owners of their mobilehomes. Additionally, since the ordinance regarding mobilehome park conversions (the Ordinance), now in Chapter 20.180, was adopted in 1986 as an ordinance amending Title 20 (the Zoning Code) of the San José Municipal Code, many more mobilehome park residents have limited English proficiency.

### *Decreasing Number of Spaces for Relocation*

No new mobilehome parks have been built in the City of San José in the last 30 years, and few new mobilehome parks have been built in the State during this time. According to data from the State Department of Housing and Community Development in the last 15 years, approximately 900 mobilehome spaces have been lost in the four-county area due to park closure. As housing and land prices increase, it is reasonable to assume these losses may escalate making it more difficult over time to relocate residents to mobilehome parks in San José and even within the four-county area addressed in Chapter 20.180.

### *Inability to Afford Available Mobilehomes*

As housing costs and land values escalate, interest in mobilehome park conversion to other uses increases, as does demand for rent-controlled mobilehome park spaces. Mobilehomes available for sale and vacant spaces in the City of San José rent-controlled mobilehome parks are unlikely to be sufficient to address the demand created by closure of a relatively large mobilehome park, and unless new parks are constructed this imbalance will increase as mobilehome parks close in the four-county area.

Based on the data submitted to the Housing Department over the last several years, space-rents in the City of San José's mobilehome parks are typically between \$550 and

\$1550 per month. Mobilehome owners who have occupied their mobilehome parks for a long period of time are more likely to have lower rent. Thus, even if the lower-income or fixed-income mobilehome park residents are able to find a mobilehome to purchase in another San José mobilehome park, their incomes may not allow them to meet the other mobilehome park's income requirements because space-rent and the mortgage for the purchased mobilehome will be more than their monthly costs were in their previous mobilehome park location. Consequently, it may be challenging to mitigate the economic impact of conversion and relocation on lower-income and fixed-income mobilehome owners.

### *Existing Conversion Ordinance*

Under Section 20.180.630 of Chapter 20.180 of the Zoning Code, when a mobilehome park owner files an application for mobilehome park conversion, the mobilehome park residents become eligible for benefits under the required program of relocation and purchase assistance. Since this Ordinance was adopted in 1986, there has not been a conversion of a mobilehome park to another use in the City that has been subject to the conversion provisions in the Zoning Code. Over the last several years, several questions have arisen regarding mobilehome park conversion requirements and procedures under Chapter 20.180. Staff has concluded that several of the procedures and definitions would benefit by additional clarification.

### *Council Direction*

The City is concerned that conversions of existing mobilehome parks in the City of San José to other uses may result in (a) the permanent displacement of a substantial number of mobilehome residents, (b) the risk of homelessness for lower-income mobilehome residents due to the inability to afford and qualify for available mobilehomes in San José, (c) the loss of a large amount of relatively affordably-priced housing, (d) the reduction of housing-type choice, and (e) the destruction of established residential communities. The City is also concerned that there is a lack of clarity regarding a sufficient program of relocation and purchase assistance.

As land and housing prices have escalated, there have been more questions to staff regarding mobilehome park conversion requirements and procedures. At least one mobilehome park owner has indicated to the residents of that mobilehome park an interest in converting to another use. As a result of this interest, in 2014 many mobilehome park residents expressed concerns about potential displacement from their homes, and asked the City Council to strengthen regulations for the preservation of existing mobilehome parks and the protection of mobilehomes as affordably-priced housing. In response, the City Council directed staff to prepare a Council Policy to further clarify the provisions in Chapter 20.180 and provide additional guidance for the review of applications of mobilehome park conversion to other uses as described herein.

## GUIDING PRINCIPLES

As stated in Chapter 20.180, proposed conversions of mobilehome parks to other uses (conversions), should only be approved when findings can be made that the following guiding principles are furthered by such approval:

1. Make adequate provision for the housing needs of all economic segments of the community;
2. Facilitate resident ownership of mobilehome parks, while recognizing the need for maintaining an adequate inventory of rental space within mobilehome parks;
3. Provide a reasonable balance between mobilehomes and other types of housing;
4. Inform prospective conversion purchasers regarding the physical conditions of the structures and land offered for purchase; and
5. Reduce and avoid the displacement of long-term residents, particularly senior citizens, people with disabilities, those who are of low-income, and families with school-age children, who may be required to move from the community due to a shortage of replacement mobilehome housing.

## PURPOSE

The purpose of this City Council Policy (Policy) is to provide clarification regarding how the above principles should be implemented on a project-specific basis so that the City's decisions on proposed conversions are consistent with these guiding principles.

## POLICY

1. **Clarification of Certain Definitions in Parts 1-4 of Chapter 20.180**
  - a. "Designated Resident Organization" as described in Section 20.180.110 should be interpreted to include any association formed by the residents that has provided the owner or manager of the mobilehome park written notice of the name and address of the organization and the name and address of the representative of the organization to whom all notices under Chapter 20.180 shall be given. An association may be formed at any time, but for the purpose of negotiating to purchase the park, written notice of the exercise of this right shall be provided to the park owner within sixty (60) days of the date of issuance of the notice of intention to convert. There may be more than one such association. If there is at least one Designated Resident Organization representing at least 10% of the spaces, then any association representing less than 10% of the spaces shall not be considered Designated Resident Organizations. "Spaces" for



the purposes of this paragraph should only include spaces that are not owned by the mobilehome park owner or a proposed developer.

- b. "Mobilehome" should be interpreted to include all structures meeting the criteria in California Civil Code Section 798.3 including trailers, motorhomes, recreational vehicles or similar units, as may be amended from time to time.
- c. "Handicapped Mobilehome Owner" should be interpreted to include all persons who are disabled under State disability law and the Americans with Disabilities Act.
- d. "Good Faith Negotiations" should be interpreted to include the following characteristics:
  - i. Sufficient information, including but not limited to a current appraisal should be provided to each Designated Resident Organization so that the value of the mobilehome park as a mobilehome park can be established. The mobilehome park owner may require such information to be held in confidence by a third party.
  - ii. A detailed response by the applicant based on the price and terms in the offer should be provided within the 180-day period to any written offer by any Designated Resident Organization provided within 15 business days.
- e. The definition of "Mobilehome park conversion of use" should not be interpreted to exclude projects described as "park closure" from the requirements of Chapter 20.180.
- f. The statement of the rights of mobilehome owners, mobilehome tenants and residents required to be included in the notice of intention to convert (notice of intention) in Section 20.180.340.B should be interpreted to mean those rights set forth in Sections 20.180.360 and 20.180.370, and the rights of Designated Resident Organization(s) should be interpreted to mean those rights set forth in Section 20.180.380.
- g. "Relocation Impact Report" should be interpreted to mean the report required pursuant to Government Code Section 65863.7 as may be amended from time to time and as may be supplemented pursuant to Chapter 20.180 or this Council Policy.

2. **Clarification of Standards for Program of Relocation and Purchase Assistance**

In evaluating whether a satisfactory program of relocation and purchase assistance has been provided the following considerations should be taken into account:

- a. The appraiser should be selected from a pre-qualified list of appraisers with at least five (5) years of experience provided by the City. When the mobilehome park owner hires an appraiser, the mobilehome park owner should select an appraiser who is acceptable to the Designated Resident Organization(s). The mobilehome park owner should notify the Designated Resident Organization(s) of the mobilehome park owner's proposed appraiser before conducting appraisals and provide an opportunity for the Designated Resident Organization(s) to object to the proposed selection of appraiser. If a Designated Resident Organization(s) rejects the mobilehome park owner's proposed appraiser, the Designated Resident Organization(s) should provide a list of at least three appraisers that are acceptable to the Designated Resident Organization(s) to the mobilehome park owner. In the event more than one such Designated Resident Organization objects, the Designated Resident Organizations must jointly provide a single list of at least three appraisers to the mobilehome park owner.
- b. Appraisals should list in-place value of mobilehomes, both current and prior to any public discussion or communication regarding sale or conversion of the mobilehome park and should contain the elements described in item 3 below.
- c. The mobilehome park owner should hire a relocation specialist selected by the mobilehome park owner from a pre-qualified list provided by the City to prepare the Relocation Impact Report (RIR) who is acceptable to the Designated Resident Organization(s). The mobilehome park owner should notify the Designated Resident Organization(s) of the mobilehome park owner's proposed relocation specialist before the relocation specialist commences work and provide an opportunity for the Designated Resident Organization(s) to object to the proposed selection of the relocation specialist(s). If a Designated Resident Organization(s) rejects the mobilehome park owner's proposed relocation specialist the Designated Resident Organization(s) should provide a list of at least two relocation specialists that are acceptable to the Designated Resident Organization(s) to the mobilehome park owner. In the event more than one such Designated Resident Organization objects, the Designated Resident Organizations must jointly provide a single list of at least two qualified relocation specialists to the mobilehome park owner.

- d. No unjust or unreasonable evictions should have occurred and no residents should have been coerced to sell without relocation benefits.
- e. All sales occurring after the delivery of notice of intention pursuant to Section 20.180.340 but before the application is filed should include a signed statement acknowledging that by selling the unit prior to the filing of the application, the mobilehome owner is waiving the benefits under the program of purchase and relocation assistance. The mobilehome owner may not waive benefits for renters occupying the units.
- f. For any eligible mobilehome owner whose home cannot be relocated to a comparable mobilehome park in the City of San José or relocated to another mobilehome park chosen by the mobilehome owner, the program of relocation and purchase assistance should provide for the purchase of the mobilehome at 100% of its in-place value consistent with Section 20.180.630.2.e as determined by the selected appraiser.
- g. A program of relocation and purchase assistance should provide payments for the costs of relocation and purchase assistance listed in the contents of the RIR as described in item 3 below, as that are applicable in each resident's circumstances. The mobilehome park owner (also referred to as applicant herein) should include a fair and transparent process for appeal of the determination of applicable assistance in the RIR, including but not limited to consideration of appraisals and reports by appraisers who may be hired by the Designated Resident Association and provide advance notice to the residents of such process.
- h. A program of relocation and purchase assistance should provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a housing burden. This City Council Policy incorporates the definition of housing costs resulting in undue burden in the City of San José's Housing Element for 2014-2023; housing costs that do not create a housing burden are housing costs that do not exceed 30% of gross income.
- i. A program of relocation and purchase assistance should provide for payment of the costs to reinstall or replace any accessibility improvements made to a resident's mobilehome and surrounding area such as wheelchair ramps, lifts, and grab-bars. Such payments should be provided to displaced residents who made such accessibility improvements.
- j. A program of relocation and purchase assistance should include relocation specialist services including on-site meetings with the residents to assist them in evaluating, selecting and securing housing in a comparable park or other comparable housing. It should also include technical assistance related to the leasing or purchasing of replacement

housing, referral to affordable housing resources, assistance in making arrangements to move personal property and belongings and transportation of residents who are unable to drive to prospective replacement housing.

- k. It is desirable that conversion projects with proposed residential uses contain housing that is affordable to all income levels of existing residents and provide a first priority opportunity to purchase or rent such units to existing residents. Units with rents and purchase prices restricted by recorded covenants will be considered desirable for mitigation of relocation impacts to lower-income residents.
- l. The above standards may be waived, adjusted, or reduced if an applicant shows, based on substantial evidence, that applying the standards in this Policy would take property in violation of the United States or California Constitutions.

3. **Clarification of Standards regarding Contents of RIR to supplement requirements in Section 20.180.630 of the Zoning Code.**

In evaluating whether the RIR provided is consistent with a satisfactory program of relocation and purchase assistance, the following considerations should be taken into account:

- a. The RIR should identify space vacancies and units for sale, including price and space rent, and required purchaser income (if available) in the Santa Clara, Alameda, San Mateo, and Santa Cruz counties (the four counties) and should indicate which, if any, may be subject to rent stabilization ordinances. The list should also include any mobilehome park specifically requested by a resident mobilehome owner within a 100-mile radius of the subject mobilehome park and for each such mobilehome park, the space-rents, whether the park is rent-stabilized and the qualifications for residency in each mobilehome park (e.g., age restrictions, no pets, minimum income), whether the mobilehome park has any available space and will accept mobilehomes being relocated and, if so, any restrictions such as size and age, on the relocated mobilehomes that would be accepted.
- b. The RIR should indicate number of residents in the following categories: earning less than 30% Area Median Income (AMI), 50% AMI and 80% AMI, disabled under State or Federal definitions or by declaration of the resident; senior citizens; and families with minor children. This information should be obtained via a confidential questionnaire sent by the park owner to each mobilehome owner and resident of the park on a form provided by the City. The questionnaires shall be kept separate from the rest of the RIR materials and shall not be included in the overall RIR sent to each mobilehome owner and resident. The identity of each mobilehome owner

and resident and his or her responses shall be kept confidential and used only to determine the relocation assistance to be provided to a particular mobilehome owner or resident. If a questionnaire contains insufficient information, the City may seek the information directly from the mobilehome owner and resident. The City shall be entitled to reimbursement for any such costs if the park owner failed or refused to obtain such information.

- c. The RIR should discuss space-rent affordable for residents in the above 80% AMI and the various lower-income categories, assuming that space-rent plus typical mobilehome mortgage does not exceed 30% of income.
- d. The RIR should indicate the difference between the actual cost of housing available to the residents in the four counties (actual market rent) and the Federal Department of Housing and Urban Development's (HUD) fair market rent, and if this difference is more than 5%, the RIR should adjust the subsidies to reflect actual market rent. The rent subsidy should be the difference of rent paid by the resident in the mobilehome park and any higher rent for either a space at another mobilehome park if the mobilehome is relocated, or rent for comparable housing if the resident moves to other rental housing.
- e. The RIR should include a discussion of measures available to ensure residents have options to relocate to housing that will be affordable once the rent subsidy is no longer available. Such measures might include provision of affordable housing (rental or for-sale) in the proposed conversion project, provision of additional mileage and other benefits needed for a move outside of the four counties, and phasing of resident relocation to allow residents to find new housing within their means.
- f. The RIR should list the other mobilehome parks that are in the closure/conversion process in the four counties and their size. The RIR should also list the mobilehome parks that have closed in the period commencing six months prior to the notice of intention in the four counties, and the outcomes (e.g., new city of residence, rent and space rent) for the former residents of those closed mobilehome parks.
- g. At a minimum, the RIR should include the following information with monetary values determined by the selected appraiser:
  - i. A description of proposed new use(s) for the subject site including, but not limited to appraisals of the mobilehome park site with the proposed uses on-site, and appraisal of the highest and best use of the mobilehome park site;

- ii. A proposed timetable with phases of relocation of existing residents and development of the new project delineated for conversion of the subject mobilehome park to another use;
- iii. A legal description of the mobilehome park; and
- iv. The number of spaces in the mobilehome park.
- v. For each space in the mobilehome park:
  - 1. The size in square feet, type (e.g., single-wide, recreational vehicle, stick-built), number of bedrooms, manufacturer, and date of manufacture of the mobilehome on the space, or if space is unoccupied indicate date of last occupation;
  - 2. The number of occupants of the mobilehome and their length of residency in the mobilehome park;
  - 3. The total monthly space rent currently charged for each space with detail showing the space rent, utility charges, and any other charges paid by the resident to the park owner;
  - 4. The in-place value the mobilehome would have if the mobilehome park were not being closed;
  - 5. Any improvements to the mobilehome, including but not limited to patios, porches, pop-out rooms and any recent major improvements to the home, including but not limited to a new roof or new siding;
  - 6. Any information available to the mobilehome park owner concerning any disability or special need of the occupants, which may be kept confidential by the City.
  - 7. An appraisal of the mobilehome park site if continued in use as a mobilehome park;
  - 8. An appraisal of the mobilehome park site if used for the highest and best use allowable under the existing General Plan land use designation for the subject site;
  - 9. If the appraiser identifies lack of maintenance, or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the appraiser should determine the value of the home with an upward adjustment

in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.

10. The purchase price of mobilehomes with similar size, age and number of bedrooms in comparable mobilehome parks including rent-controlled mobilehome parks. For this purpose, "comparable mobilehome park" means a mobilehome park that is similar in size, age, condition, and amenities to the mobilehome park that is proposed for closure, is located within a community similar to that in which the subject mobilehome park is located, and has similar access to community amenities such as the job market where a displaced resident is employed, schools, shopping, medical services, recreational facilities, and transportation.
- h. The RIR should also enumerate the costs of obtaining other comparable housing for rent and for sale, including but not limited to the purchase price of comparable condominiums and the costs of moving into a comparable house or comparable apartment, including such items as first months' rent, security deposits and higher mortgage and Homeowner Association fee payments or rent of the comparable housing. The moving costs should include the cost to move furniture and personal belongings, temporary lodging, moving insurance, and the appraised value of personal property that cannot be reasonably relocated. For this purpose, "comparable housing" is defined as housing that meets or exceeds the minimum standards of the Housing Code, and is similar to the subject home in terms of rent, size, number of bedrooms and bathrooms, proximity to the resident's place of employment, amenities, schools, and public transportation.
  - i. The RIR should also include estimates from two moving companies acceptable to the Designated Resident Association that are licensed and bonded to move mobilehomes on public streets and highways, of the cost of moving each mobilehome in the mobilehome park up to a maximum distance of 100 miles, including transportation to the new site identified by the resident, the cost of permits, and tearing down and setting up the mobilehome at the new location, including the cost of any upgrades to comply with applicable Federal, State, and local building, plumbing, electrical, housing, mobilehome park, accessibility, and health and safety regulations, and the cost of moving any improvements, including but not limited to patios, porches and pop-out rooms, reinstallation, replacement or reconstruction of blocks, skirting, shiplap siding, porches, decks and awnings, earthquake bracing if necessary, insurance coverage during transport, and utility hook-ups, and any upgrades required by the mobilehome park or State or local law.

4. **Procedural Guidance.**

- a. ***Pre-application Voluntary Agreement regarding Purchase.*** Prior to submitting an application for conversion of a mobilehome park, mobilehome park owners may enter into a voluntary agreement with the mobilehome owners for relocation-impact and purchase-assistance that best addresses their particular situation. Mobilehome owners should have legal representation in the negotiation of such agreements.
  
- b. ***Translation of Documents related to Notice and Relocation Benefits.*** Consistent with the City Housing Department and State policy, translated notices of intention, notices of rights, mobilehome purchase offers, and descriptions of relocation and purchase assistance benefits should be made available by the mobilehome park owners on request for limited English proficiency mobilehome residents and owners or their representatives. Such translations should be available in Spanish, Vietnamese, Chinese, Korean, and Tagalog. All documents provided in English should provide clear information in those languages on how to obtain translated copies.
  
- c. ***Voluntary Agreement regarding satisfaction of Negotiation Requirements Allowed.*** If the Designated Resident Organization(s) and the mobilehome park owner agree in writing that negotiations required under Section 20.180.390 have occurred, the City may determine that the requirement for negotiations has been met prior to the initiation or completion of the 180-day negotiations period required by Section 20.180.390. Any "Voluntary Agreement regarding satisfaction of Negotiation Requirements" entered into by a Designated Resident Organization and the mobilehome park owner should contain, in 16-point font, an admonishment that the Designated Resident Organization should have legal representation before entering into and in negotiating such an agreement, that by entering into this agreement the Designated Resident Organization is giving up important rights, and that the 60-day period identified in Section 20.180.380 may still be available to another Designated Resident Organization at the mobilehome park.





# LAW FOUNDATION of Silicon Valley

*Fair Housing Law Project*



By Electronic Mail

March 8, 2018

San José City Council  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: City Council Meeting, March 13, 2018  
Opt-In/Stay-in-Business Proposal (Item 4.1) and Proposed General Plan Land Use  
Overlays and Amendments (Item 10.3)**

Dear Mayor, Vice Mayor, and Council Members:

The Law Foundation appreciates this opportunity to provide input on the Mobilehome Opt-In/Stay-In-Business proposal and proposed General Plan land use overlays and amendments. Following is a summary of the actions that we ask the City Council to take at Tuesday's Council meeting:

- I. Opt-in/Stay-in-Business Proposal - Direct staff to cease working on it.
- II. Land Use General Plan Designation –Direct staff to immediately begin the following now, since mobilehome preservation is currently prioritized:
  - a. Create a General Plan Mobilehome Park designation that is exclusively reserved for mobilehome park use;
  - b. Engage in the necessary analysis and evaluation and apply this mobilehome park designation to vulnerable parks, including at the two identified in staff's March 2, 2018, memo; and
  - c. Track their time and costs and analyze how to streamline their processes for future applications of this land use designation.
- III. General Plan Text Revisions – Direct staff to bring minor revisions to the following four planning and housing policies (as underlined on pages 5 and 6 of this letter) before the next General Plan hearing cycle for the Council's consideration:
  - a. Urban Village Planning Policy IP- 5;
  - b. Urban Village Planning Policy IP-5.2;
  - c. Housing – Social Equity and Diversity Policy H-1.3; and
  - d. Housing – Social Equity and Diversity Policy H-1.9.

These recommendations are discussed in more detail below.

Letter to San José City Council

Re: City Council Meeting, March 13, 2018

Opt-In/Stay-in-Business Proposal (Item 4.1) and Proposed General Plan Land Use Overlays and Amendments (Item 10.3)

March 8, 2018

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## **I. Opt-In/Stay-in-Business Proposal (Item 4.1)**

**We urge the Council to follow the Housing and Community Development Commission's (HCDC)'s recommendations<sup>1</sup> that the Council direct staff to cease working on the Opt-In/Stay-in-Business proposal (Opt-In Proposal).** Over the last two-plus years, based on Council direction, staff has engaged the public through various meetings, met with panels of park and mobilehome owner stakeholders, and worked to improve the proposal. Staff has diligently carried out these duties, and, in the process, expended significant resources.

Despite their years of effort, staff has been unable to make the Opt-In Proposal a workable solution for park owners or park residents. For example, after years of work, the Opt-In Proposal does not reconcile conflicts that its adoption would create with the City's other existing ordinances, like the City's Mobilehome Park Conversion to Resident Ownership or to any Other Use Ordinance (Conversion Ordinance). All park conversions, including a slow one under the Opt-In Proposal, must be processed through the Conversion Ordinance. Through the Conversion Ordinance, the City evaluates the mitigation measures proposed to address adverse impacts that such a project creates. Here, **no mitigation measures have been proposed to address the significant loss in equity residents will suffer when they cannot sell their homes in a park that is slowing converting.** If, after two-plus years of analysis, we have been unable to propose a solution to this significant but basic issue, **we must come to the conclusion that the Opt-In Proposal is unworkable** and does not align with our exiting mobilehome-related ordinances. As such, we urge the Council to direct staff to cease working on the Opt-In Proposal.

## **II. Proposed General Plan Land Use Overlays and Amendments (Item 10.3)**

**We urge Council to direct staff to immediately begin the following activities, since mobilehome preservation is currently prioritized:**

- a) Create a General Plan land use designation that is exclusively reserved for mobilehome parks;**
- b) Engage in the necessary analysis and evaluation and apply this mobilehome park designation to vulnerable parks, including at the two identified in staff's March 2, 2018, memo, and**
- c) Track their time and costs and analyze how to streamline their processes for future applications of this land use designation.**

San José relies on a patchwork of General Plan land use designations, like lower density and higher density residential, industrial, and commercial uses, to discourage the conversion of mobilehome parks to other uses. Creating and applying a General Plan Mobilehome Park land use designation will provide our community with important tools to help preserve parks and

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<sup>1</sup> We are informed and believe that HCDC has, on at least three occasions, recommended that the Council direct staff to cease working on the Opt-In Proposal.

Letter to San José City Council

Re: City Council Meeting, March 13, 2018

Opt-In/Stay-in-Business Proposal (Item 4.1) and Proposed General Plan Land Use Overlays and Amendments (Item 10.3)

March 8, 2018

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prevent displacement of low-income and senior mobilehome park residents and will not be an insurmountable bar for developers. **Cost, which includes staff time, is described as a major barrier to taking the requested actions. But, these costs are minimal as compared to the costs that park closures and losing low-income families and seniors from San José will create. Therefore, we must act now,** and, for all of the following reasons, urge the Council to do so.

**San José's General Plan must include a land use designation that is exclusively reserved for mobilehome parks so that it is clear that our mobilehome parks and park residents are part of our City's future.** San José's General Plan is the City's vision and road map for continued growth through 2040. (Envision San José 2040, General Plan, Adopted November 1, 2011, p. 2.) Allowable future uses on mobilehome parks are defined by their General Plan land use designation as well as their applicable zoning districts.<sup>2</sup> (Memorandum from Rosalynn Hughey to the Honorable Mayor and Council, Analysis of Proposed General Plan Land Use Overlay Amendments for Mobilehome Parks, March 2, 2018, p. 6.) **If our City's vision and road map do not include a General Plan land use designation that is specific to mobilehome parks, then we invite park owners and developers to envision a different future for them.** Daily, our local newspaper describes development projects that are changing our City. Over time, this development pressure will magnify and impact our mobilehome parks. We must be clear, and not depend on other land use designations, to preserve our mobilehome parks. We must signal that we intend to preserve our parks by creating and applying a General Plan land use designation that is exclusively reserved for mobilehome parks.

**The Council should direct staff to conduct this General Plan land use designation work, now, instead of referring it to a future Priority Setting Session, since mobilehome preservation work was already prioritized by the Council.** The Council prioritized mobilehome preservation work in 2015, and it subsequently adopted a moratorium to allow staff and our community to explore strategies to preserve our parks. During the course of the moratorium, some important work was accomplished, and we are grateful to the Council and staff for it. But, the Council also approved study of proposals that did not contribute to mobilehome preservation, and this work consumed significant amounts of precious time during the moratorium.<sup>3</sup> The moratorium has expired, and we cannot depend on the adoption of another to preserve our parks. **Staff's March 2, 2018, memo to Council acknowledges that City-initiated General Plan amendments to change the land use designations of mobilehome parks could strengthen the protection of mobilehome park residents by creating an**

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<sup>2</sup> Since 2014, the Law Foundation has urged the City to zone all mobilehome parks as R-MH to reserve parks for mobilehome uses. The Law Foundation continues to advocate for use and application of this zoning at all parks, since some parks have other types of zoning. The Council did not direct staff to conduct this work. As such, apart from this footnote, we do not address this issue in the body of our letter and focus on requesting that the City adopt and apply a General Plan Mobilehome Park land use designation.

<sup>3</sup> For example, the Council authorized study of the Opt-In Proposal, which utilized significant amounts of staff time and resources, which did nothing to preserve parks. Similarly, the Council authorized and directed staff to develop a mobilehome closure ordinance, which also did nothing to preserve our parks. Both of these proposals were authorized and consumer valuable time during the moratorium.

Letter to San José City Council

Re: City Council Meeting, March 13, 2018

Opt-In/Stay-in-Business Proposal (Item 4.1) and Proposed General Plan Land Use Overlays and Amendments (Item 10.3)

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**additional land use entitlement process to redevelop the sites.** (Id., p. 11.) As such, we urge Council to direct staff to conduct this work now, and not while we are scrambling to prevent the conversion of a park that is home to thousands of people.

**The Council should direct staff to engage in the necessary analysis and evaluation and apply this General Plan land use designation to vulnerable parks, including the two that staff identified in their March 2, 2018, memo.** The two mobilehome parks identified by staff, one in Council District 4 and the other in Council District 7, contain 867 homes. Creating and applying a General Plan Mobilehome Park land use designation to these parks could help the City or mobilehome park residents' associations preserve them. A park's General Plan land use designation is a key factor in estimating its value. A General Plan land use designation that specifies a higher future density use than its existing mobilehome park use will make the cost to purchase and preserve the park prohibitively high. Specifying that the park's General Plan land use designation is restricted to mobilehome park use may help the community preserve the park, since its valuation will be in line with what its existing use is. As such, the City should direct staff to engage in work, now, to help preserve vulnerable parks, including the two that staff identified.

**If the Council directs staff to engage in this General Plan land use designation work, the Council should also direct staff to track their time and costs and analyze how to streamline their processes for future applications of this land use designation.** We appreciate staff's analyses and identification of two vulnerable parks in our City. But, San José has more than two parks that are vulnerable to conversion pressures. If directed to track their time and costs and conduct analyses, this could help San José understand how we can streamline Planning's processes in the event that we apply this mobilehome designation in the future. As such, we urge the Council to direct staff to track their time and costs and analyze how to streamline their processes for future application.

**b. Incorporate the Law Foundation's General Plan Text Amendment Recommendations into the General Plan**

**We also urge the Council to direct staff to bring four minor revisions to the General Plan text that the Law Foundation requested for their consideration at the next General Plan hearing cycle.** Although the Law Foundation continues to urge support all of the text amendments we identified in our May 11, 2017, letter to Council, staff has identified three minor amendments to existing General Plan text they would be willing to support and bring before Council for possible incorporation at a future General Plan hearing. These three minor changes would be to the following policies: Urban Village Planning Policy IP-5.2, Housing – Social Equity and Diversity Policy H-1.3, and Housing – Social Equity and Diversity Policy H-1.9. Although staff did not support our recommended amendment for Urban Village Planning Goal IP-5, we ask that the Council direct staff to also bring this amendment to Council for their consideration at a future General Plan hearing.

Letter to San José City Council

Re: City Council Meeting, March 13, 2018

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**Urban Village Planning goal IP-5 expresses a goal of enhancing established neighborhoods.** Although staff did not support bringing this minor change forward, we recommend it to make clear that mobilehome parks and residents are long-standing parts of neighborhoods that are in Urban Villages. **All four of our recommended text amendments, including IP-5, set out to make clear that people who rent mobilehome space and housing units, tenants, are valued neighborhood members and who should not be displaced.**

Certain Urban Villages have benefitted from active mobilehome park residents, particularly when language and disability were not barriers for them and who worked to ensure that their voices and preferences were heard. San José's Council District 5 has an urban village, and within it a senior mobilehome park where 108 senior households live. In all of the meetings the Law Foundation has attended related to mobilehome preservation, we have never encountered any residents from this mobilehome park. **We are concerned that they, like the 216 tenant households at The Reserve Apartments, will not be aware or have the ability, due to language barrier or disability, to participate in future Urban Village planning processes where their rights and park's future will be impacted.** Our General Plan planning goals should make it clear that for the remaining Urban Villages that established neighborhoods include and value mobilehome parks and the people who live there. As such, we urge the Council to direct staff to **bring the four minor amendments**, which includes Urban Village Planning Policy IP-5, to the General Plan text **(as underlined below) to the next General Plan hearing cycle:**

***Urban Village Planning Policy IP- 5***

Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly "Urban Villages" (also referred to as "Villages" within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods, including existing mobilehome parks. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

***Urban Village Planning Policy IP-5.2***

Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

***Housing – Social Equity and Diversity Policy H-1.3***

Create, preserve, and rehabilitate housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

Letter to San José City Council

Re: City Council Meeting, March 13, 2018

Opt-In/Stay-in-Business Proposal (Item 4.1) and Proposed General Plan Land Use Overlays and Amendments (Item 10.3)

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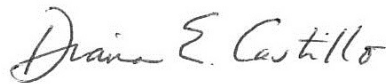
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***Housing – Social Equity and Diversity Policy H-1.9***

Facilitate the development, preservation, and rehabilitation of housing to meet San José's fair share of the County's and region's housing needs.

Thank you for considering the Law Foundation's comments. We welcome the opportunity to discuss our letter with members of the Council. I may be reached at [dianac@lawfoundation.org](mailto:dianac@lawfoundation.org) and 408-280-2448.

Sincerely,

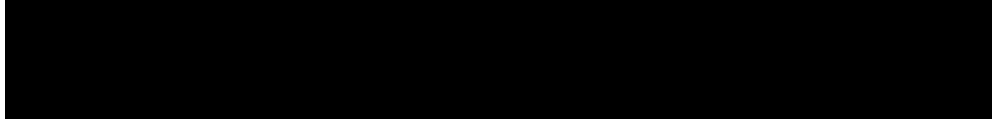
A handwritten signature in cursive script that reads "Diana E. Castillo".

Diana Castillo  
Senior Attorney



# LAW FOUNDATION of Silicon Valley

*Fair Housing Law Project*



By Electronic Mail

January 23, 2020

Housing and Community Development Commission  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: City-Initiated General Plan Amendments for Mobilehome Parks  
Commission Meeting January 23, 2020 Agenda Item VII-A**

Dear Chair, Vice Chair, and Members of the HCDC:

The Law Foundation supports the proposal to add a Mobile Home Park General Plan designation to Mountain Springs and Westwinds Mobile Home Park, but urge HCDC to recommend that this designation apply to *all* parks whose current General Plan designation puts them at risk of redevelopment. Additionally, we recommend that HCDC encourage Council to take additional steps to protect mobile home parks, as outlined in our prior letters (attached).

It is unfortunate that we are here, nearly two years after the City Council declined to move forward with a General Plan designation for all at-risk parks, to move with urgency to protect Westwinds Mobile Home Park. As mobile home parks continue to be at risk of development, this City should **take all necessary steps** to ensure that the over 35,000 mobile home residents, many low-income, seniors, and people of color remain in San Jose. When that many residents are at risk of displacement, the answer should never be that we've done enough as a City, but instead that we will take the most protective steps we can. As the memo admits, the City has chosen staffing concerns over the most expansive protections for our mobile home residents. Let us not wait until yet again another park is at risk of closure before we are back here asking to take further action; let us take the most protective steps now.

Additionally, we encourage the City to consider other protections for mobile home resident, including considering preservation strategies such as community-based and resident-based homeownership models. Thank you for considering the Law Foundation's comments. We welcome the opportunity to discuss our letter.

Sincerely,

Nadia Aziz, Directing Attorney



# LAW FOUNDATION of Silicon Valley

*Fair Housing Law Project*

May 11, 2017

Via Electronic Mail

San José City Council  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: City Council Meeting, May 16, 2017  
Agenda Items 4.1 and 10.1, Mobilehome Park Protection and Closure Ordinance**

Dear Mayor, Vice Mayor, and Council Members:

The Law Foundation appreciates this opportunity to comment on staff's recommendations regarding Mobilehome Park Protection and the Closure Ordinance. Although we appreciate staff's work, their proposed land use policy changes do not go far enough to protect mobilehome park residents and preserve mobilehome parks. We have included recommendations, below, which will help preserve San José's mobilehome parks and protect residents. San José's land use policies must be strengthened particularly in light of Council's upcoming consideration of the Mobilehome Park Closure Projects Ordinance that, unless rejected or substantially amended as we recommend, will threaten to facilitate the displacement of thousands of residents and destruction of thousands of naturally affordable and rent-stabilized homes from San José's housing stock.

The Law Foundation urges the Council to:

1. Reject the unnecessary proposed Closure Ordinance;
2. If the proposed Closure Ordinance is not rejected entirely, amend it to address crucial flaws;
3. Amend the General Plan text amendments proposed by staff as we have recommended;
4. Uniformly zone all mobilehome parks throughout the City; and
5. Amend the Council Policy to further the intent of and clarify the Conversion Ordinance.



## **Policy Recommendations**

### **1. Reject the Proposed Closure Ordinance.**

Although San José originally prioritized study and adoption of policies that would preserve mobilehome parks and protect residents, if adopted, the proposed Closure Ordinance will undermine this duty because it will facilitate the displacement of mobilehome park residents and destruction of affordable homeownership housing units across our city. The proposed Closure Ordinance must be rejected entirely because (1) it is unnecessary under the existing mobilehome Conversion Ordinance, where closure is already covered as a “change of use”; (2) it is unnecessary under state law because mobilehome park owners do not have an unmitigated right to go out of business; and (3) it is harmful to the City and its residents because it prevents the evaluation and mitigation of impacts as authorized and required under state laws.

We agree and hereby incorporate William Constantine’s legal analysis of and objections to the proposed Closure ordinance; Mr. Constantine’s letter of May 9, 2017, explains that the Closure Ordinance is not only *not* required by state law and inconsistent with Housing Element law—as we explain below—but that it itself violates state law.

#### **A. The proposed Closure Ordinance is unnecessary because San José’s existing Conversion Ordinance encompasses all proposals to change the use of a mobilehome park, including closing it.**

The proposed Closure Ordinance is completely unnecessary in light of the existing Conversion Ordinance, which covers closure. The Mobilehome Conversion of Use Ordinance (“Conversion Ordinance”) defines “mobilehome park conversion of use” as a conversion to “*any other use*, excluding mobilehome park conversion to ownership.” (Conversion Ordinance § 20.18.190, emphasis added.) The Conversion Ordinance was enacted to establish requirements and procedures for the control and approval of the conversion of mobilehome parks to other uses, including non-mobilehome park uses. (Conversion Ordinance § 20.180.010(A).) By the plain language of the Conversion Ordinance, it is applicable all changes of use, including closure. The City Attorney supported this position as recently as last summer.

For 30-plus years, the City has maintained that all applications to convert the use of a mobilehome park, including closing it, were to be processed through the Conversion Ordinance. As they have purchased mobile homes, rented homes, raised families, and invested in the improvement of their homes and surrounding parcel, the many residents of the City’s 50-some parks have understood their rights with respect to closure in this context.

In August 2015, the City Attorney issued a memo to the Mayor and City Council that stated that mobilehome park owners seeking to change the use of a park, including closing it, must submit an application and comply with the procedures of the City’s Zoning Code, including the Conversion Ordinance. (Rick Doyle, City Attorney, Memorandum to the Honorable Mayor and Council, August 6, 2015, p. 5.) Council Policy 6-33, which was adopted on February 23, 2016, also made clear that the Conversion Ordinance’s definition of “Mobilehome Park

Conversion of Use” should not be interpreted to exclude projects described as “park closures” and that they are subject to the Conversion Ordinance’s requirements. (Conversion of Mobilehome Parks to Other Uses, Council Policy 6-33, Number 77673, adopted February 23, 2016, 1(e).)

**B. Nothing in State law compels San José to adopt a Closure Ordinance in addition to its existing Conversion Ordinance.**

There is no provision in State law that requires San José to adopt a Closure Ordinance. In fact, nothing in State law prevents San José from continuing to rely on its Conversion Ordinance for park closure projects. The Ellis Act, which applies to the withdrawal of certain types of non-ownership rental property from the housing market, does not apply to the change of use of mobilehome parks, by its own terms. (Cal. Gov’t Code § 7060.7(f)). The Ellis Act does not apply to mobilehome park change of use projects, including those labeled as park closures, and it should not guide San José’s mobilehome preservation policies.

Despite this, two cases, *Levin v. City and County of San Francisco* and *Coyne v. City and County of San Francisco*,<sup>1</sup> which interpret the Ellis Act, are frequently cited by park owners to persuade San José that its ability to review and condition applications to close mobilehome parks is limited. Both *Levin* and *Coyne* concerned limits on mitigation measures San Francisco could impose on landlords, not mobilehome park owners, who sought to withdraw their residential rental units under their local Ellis Act ordinance. Neither of these cases pertains to mobilehome conversions, and as such, neither control San José’s ability to require mitigation related to impacts from the closure of a mobilehome park.

Park owners claim that *Keh v. Walters* made clear that park owners have an absolute right to close their parks. In this case, a park owner attempted to close their park by evicting park residents one at a time. (*Keh v. Walters* (1997) 55 Cal. App. 4th 1522, 1533.) The park owner argued that they had a “fundamental vested right” to go out of business. (*Id.*) The court disagreed. (*Id.*) The court held that the park owner’s practice violated both the letter and the spirit of Civil Code § 798.56, the change of use statute. (*Id.*)

Although the court did state that, in its opinion, “a park owner is entitled to convert property used as a mobilehome park to another use, or even to hold it as vacant land,” the court did not say that this right was unfettered. (*Id.*) In fact, the court stated that despite its opinion, or view, its task was limited to interpreting and applying the law. (*Id.*) The court went on to say that park owners have to comply with both State laws *and local ordinances that govern conversion*, including “disclos[ing] and describ[ing] in detail the nature of the change of use” at the time they issued a notice pertaining to their proposal to change the use of the park. (*Id.* at 1533-34, emphasis added.)<sup>2</sup>

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<sup>1</sup> *Levin*, (2014) 71 F.Supp.3d 1072; *Coyne*, (March 21, 2017, CGC-14-540709, CPF-15-514382), \_\_ Cal.App.4th \_\_ < <http://www.courts.ca.gov/opinions/documents/A145044.PDF>>.

<sup>2</sup> The court also stated that the State Legislature wanted to “protect mobilehome dwellers, not only from arbitrary and capricious conversions but also from the harsh effects of displacement resulting from legitimate conversions,” so this is why it required park owners to [first] provide a detailed description and disclosure about the proposed

We understand the City Attorney's office may rely on the unpublished case of *Traphagen v. City of Dana Point* (2007 Cal. App. Unpub. LEXIS 2650) to justify the need for a closure ordinance. This reliance is misplaced. The case was wrongly decided and it fails to fully recognize the authority granted to local jurisdictions in requiring mitigation of changes of use of mobilehome parks.<sup>3</sup> First, the court in that case incorrectly suggested that the Ellis Act permits mobilehome park owners to simply go out of business (see above—the Ellis Act, by its very terms, does not apply to mobilehome parks). Moreover, the court's statement that mobilehome park closures are "ministerial" in nature, rather than "discretionary" land use decisions was made without analysis, in a different context, and is not citable authority.<sup>4</sup>

As we have identified above, nothing in State law provides park owners with an unfettered right to go out of business. Instead, *Keh v. Walters* makes clear that park owners who seek to change the use of their parks, including closing them, must abide by both State and local change of use ordinances. It also emphasized our State Legislature's intention to protect park residents from arbitrary and capricious conversions. San José's Conversion Ordinance, not the Closure Ordinance, would protect against capricious conversions, since the Council would be able to analyze the host of impacts that such a project would trigger. Therefore, nothing in State law compels San José to adopt a Closure Ordinance in addition to its existing Conversion Ordinance.

**C. The proposed Closure Ordinance should also be rejected because it prevents San José from evaluating and mitigating impacts of park closure as authorized and required under state laws.**

Additionally, San José has the authority to evaluate and mitigate adverse impacts that a proposed mobilehome park closure will generate, since these will not be limited only to the terrible prospect of resident displacement from our City. Whether a park owner intends to convert and redevelop a mobilehome park or close it and wait to redevelop it, there are adverse impacts that affect displaced residents, the City's affordable housing stock, and our environment. All of these impacts must be evaluated and mitigated, even if a park owner only seeks to close the park. Government Code section 65863.7 allows the study and mitigation of adverse impacts

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future use of the park under Civil Code section 798.56. (*Id.*) The court found that a statement about some yet-to-be-determined change of use did not meet the statutory requirement for terminating a tenancy that Civil Code section 798.56 requires. (*Id.*)

Unfortunately, San Jose is on the verge of adopting the proposed Closure Ordinance that likely runs afoul of the requirements of Civil Code section 798.56, since it is poised to allow park owners to simply certify that, at the moment they apply for park closure, that they don't want to be in business any longer. This is not the detailed description that the court in *Keh v. Walters* held that Civil Code section 798.56 requires to prevent arbitrary and capricious conversions.

<sup>3</sup> Government Code section 65863.7(e) grants local legislative bodies the power to "require, as a condition of [a mobilehome change of use], the [party proposing the change] to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation."

<sup>4</sup> California Rule of Court 8.1115 states that opinions of the California Court of Appeal that are unpublished generally "must not be cited or relied on by a court or a party in any other action."

from a park owner's proposal to change the use of a park on park residents when a subdivision is not concurrently sought.

One of the potential impacts of a closure is the diminution of the City's affordable housing stock. San José has a duty to conserve and improve the condition of its existing affordable housing stock, which includes mobilehome housing units. This duty comes from State law, which requires cities to adopt a Housing Element.<sup>5</sup> The Housing Element is a component of the General Plan, and it specifies the actions that a jurisdiction will take to promote the development of new affordable housing units and preserve existing affordable housing units that will be demolished by public or private action.<sup>6</sup> Maintaining San José's existing affordable housing stock is the most efficient way to fulfill the City's duty to conserve and improve the existing affordable housing stock.

Mobilehomes are an important component of the existing affordable housing stock, with nearly 11,000 mobilehomes in 59 parks throughout the City.<sup>7</sup> These parks and mobilehomes provide a vital source of unsubsidized affordable housing to San José's residents. In a city that largely seeks to meet its affordable housing needs through subsidized housing, San José's mobilehome parks provide residents with modest and/or fixed incomes with homeownership opportunities<sup>8</sup> and modest regulated rents<sup>9</sup> relative to most apartments in San José. San José previously estimated that up to 73% of mobilehome owners are low- to extremely-low-income, which means that mobilehomes provide housing for nearly 8,000 of San José's low- to extremely-low income households.<sup>10</sup>

Mobilehome parks are under increasing threat of closure, or have closed, in Santa Clara County. At least two park owners in San José have expressed interest in redeveloping their mobilehome parks.<sup>11</sup> Palo Alto's only mobilehome park, Buena Vista, remains under threat of closure.<sup>12</sup> Since 1991, six mobilehome parks in Sunnyvale have closed.<sup>13</sup> Although Sunnyvale

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<sup>5</sup> Cal. Gov't. Code § 65583(c)(4).

<sup>6</sup> *Id.*

<sup>7</sup> City of San Jose Housing Department, Mobilehome Resource Guide, p. 9, available at <http://www.sanjoseca.gov/DocumentCenter/View/1151>.

<sup>8</sup> *Id.*, pp. 2-11.

<sup>9</sup> Mobilehome Rent Ordinance Summary, Department of Housing, City of San José, January 29, 2014, p.3, available at <http://www.sanjoseca.gov/DocumentCenter/View/32825>

<sup>10</sup>Memorandum from Leslye Corsiglia on Mobilehome Park Conversions to the Rules and Open Government Committee, Apr. 30, 2014, p. 3, available at <http://sanjoseca.gov/DocumentCenter/View/30282>.

<sup>11</sup> City of San Jose, Housing and Community Development Committee, Park Owner's [Winchester Ranch Mobile Home Park's] Proposal for Redevelopment of the Site and Relocation Assistance, October 13, 2016, p. 1, available at <http://www.sanjoseca.gov/DocumentCenter/View/62039>; Letter from Peter Wang, owner, to San Jose staff, regarding Opt-In/Stay in Business Proposal and potential redevelopment of Mobile Home Manor, November 11, 2015, p. 8, available at [http://sanjose.granicus.com/Viewer.php?view\\_id=&event\\_id=2124&meta\\_id=557348](http://sanjose.granicus.com/Viewer.php?view_id=&event_id=2124&meta_id=557348).

<sup>12</sup> City of Palo Alto City Council Action Minutes, Special Meeting, May 26, 2015, available at <http://www.cityofpaloalto.org/civicax/filebank/documents/47521>.

<sup>13</sup>"Possible Revisions to the Mobile Home Park Conversion Process and Requirements," Council Report Outreach Meeting, City of Sunnyvale, p.4., available at <http://sunnyvale.ca.gov/Portals/0/Sunnyvale/CDD/Housing/HUD%20Programs/MOBILE%20HOME%20PARK%20PPT%20presentation.pdf>. In addition to the mobilehome communities identified in this report that closed, Nick's

adopted land use policies that served to protect most of its parks, those that were not designated as mobilehome park uses do not benefit from these preservation measures. One of the last remaining parks that does not contain a mobilehome park land use designation, Blue Bonnet, recently received Council approval to close.<sup>14</sup> Over the last two decades, Mountain View has lost about 240 mobilehome lots.<sup>15</sup>

In furtherance of its duty to preserve affordable housing, San José must adopt policies that preserve mobilehome housing, which is a vital component of our affordable homeownership housing stock. Although San José originally prioritized study and adoption of policies that would preserve mobilehome parks and protect residents, if adopted, the proposed Closure Ordinance will undermine this duty because it will facilitate the displacement of mobilehome park residents and destruction of affordable homeownership housing units across our city.

Although evaluating and mitigating the impacts on park residents relating to a proposed park change of use, including closure, are paramount, nothing in Government Code section 65863.7, which authorizes this evaluation and mitigation, prohibits San José from analyzing other impacts. San José's long-standing Conversion Ordinance should continue to govern all conversion of use projects, even projects labeled as park closures, since San José has obligations to evaluate and mitigate a host of adverse impacts. The proposed Closure Ordinance would prevent San José from doing what State laws mandate it to do, including evaluating a proposal that seeks to permanently remove hundreds of affordable and rent-stabilized homeownership housing from our community and the environmental impacts associated with this action. San José should reject the proposed Closure Ordinance and continue to utilize its Conversion Ordinance for all projects that seek to change the use of a mobilehome park, including closing it.

**2. If the proposed Closure Ordinance is not rejected entirely, it must be amended to address crucial flaws.**

While we disagree that adoption of a Closure Ordinance is necessary, we strongly believe that it should contain terms that prevent a park owner from circumventing the Conversion Ordinance's requirements and provide the same protections for residents as those provided in the City's existing Conversion Ordinance and related Council Policy.<sup>16</sup> The proposed Closure

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Trailer Park also closed. See: <http://www.mercurynews.com/2016/10/28/sunnyvale-closed-trailer-park-will-make-way-for-108-unit-apartment-project/>

<sup>14</sup>San Jose Mercury News, "Sunnyvale: Blue Bonnet mobile park to close soon after conversion report's approval," available at <http://www.mercurynews.com/2017/03/15/sunnyvale-blue-bonnet-mobile-park-to-close-soon-after-conversion-reports-approval/>.

<sup>15</sup> Katie Kramon, Peninsula Press, Mobile Home Parks: A Vanishing Source of Affordable Housing, March 14, 2015. Gina Hall, Silicon Valley Business Journal, Mountain View approves closure of mobile home park, July 10, 2015, available at <http://www.bizjournals.com/sanjose/news/2015/07/10/mountain-view-approves-closure-of-mobile-home-park.html>.

<sup>16</sup> In our letter to the Planning Commission dated March 21, 2017, regarding the March 7, 2017, version of the Closure Ordinance, we identified a substantial number of changes that were required. Although staff incorporated some of the changes we suggested, the present March 21, 2017 version still fails to contain provisions that prevent park owners from utilizing it to circumvent the City's Conversion Ordinance. Further, the relocation assistance benefits afforded under the Closure Ordinance still fall well short of what the Conversion Ordinance requires, which must be corrected. These, and the other deficits we identify above, are most significant problems with the current

Ordinance provides drastically fewer procedural protections than the Conversion Ordinance and Council Policy. It also provides much more limited benefits and relocation payment to displaced residents. Quite simply, it is ridiculous and obviously unfair that mobilehome park residents—the people most negatively impacted by mobilehome park closure and/or conversion—would be deprived of any protections and benefits simply because of a park owner’s administrative course of action. In addition to the significant problems identified below, we describe a list of Closure Ordinance deficiencies in the attachment to this letter.

**A. The Closure Ordinance must follow the existing Conversion Ordinance and Council Policy regarding conversion of use.**

After months of staff work, public input, and public deliberation, the City Council adopted certain changes to its zoning code and the Mobilehome Park Conversion Ordinance “Council Policy.” Among other things, this Council Policy provides guidelines for assessing and mitigating adverse impacts as well as proposing relocation benefits that will enable residents to find comparable replacement housing when their mobilehome community is closed or converted and they are faced with the loss of their homes. Although we urge the Council to adopt procedural changes that we recommend below, the Council Policy’s mitigation and relocation provisions are thoughtful, thorough, and fair. The Council Policy represented a promise to the City’s 35,000 mobilehome park residents, a promise that will be broken should the City adopt the Closure Ordinance because it is deficient in numerous ways.

Moreover, the Council Policy does more than establish guidelines for mitigation of adverse impacts of a park closure on residents. The Council Policy also sets forth principles for approval of a proposed park conversion that take into account important City priorities like the need for adequate housing for all City residents regardless of income, facilitating resident ownership of mobilehome parks when feasible, and reducing and avoiding displacement of particularly vulnerable, long-term residents from our community.

San José must additionally protect mobilehome park residents’ due process rights by requiring that an application to close a mobilehome park be heard by the San José City Council. State law calls for the City’s legislative body or its delegated advisory agency, to review the relocation impact report. (Government Code § 65863.7(e).) However, instead of designating San José’s legislative body, the City Council, to consider applications under the Closure Ordinance, the proposed Closure Ordinance designates the Director of Planning to consider these applications unless a park owner or park resident requests a hearing. (Closure Ordinance § 20.180.760(A).) Park residents are afforded no opportunity to appeal the Planning Directors decision to the Council.

Unfortunately, our community knows that even when large-scale projects, like The Reserve, that seek to redevelop rent-stabilized properties, public participation is often absent. The closure of The Reserve displaced hundreds of San Joséans from their rent-stabilized homes,

and it was obvious that language and employment barriers prevented residents from engaging with staff and the Council about critical adverse impacts that must be mitigated. Similarly, we are concerned that park residents who face similar access barriers will not participate in this public process and that they will be denied important rights.

In contrast to San José's proposed Closure Ordinance, the cities of Palo Alto and Sunnyvale both require hearings on applications to convert parks, including closing parks, and provide appeals processes. (Sunnyvale Conversion Ordinance, 19.72.130(c); Palo Alto Mobilehome Conversion Ordinance, 9.76.040.) Even San José's Zoning Ordinance was specifically amended to ensure that the City Council, and not the Planning Director, would be the decision-maker that considered applications to convert mobilehome parks, and such a significant procedural distinction should exist based on a park owner's decision to simply close rather than convert. State law on the subject provides the bare minimum—San José can and must require a public hearing before the displacement of potentially hundreds of households. Such important land use and displacement issues must be reviewed with greater public scrutiny by appropriate public entities than the proposed Closure Ordinance currently provides.

We understand that some mobilehome park owners have threatened litigation against the City, and that this threat has driven staff to propose this draft Closure Ordinance. We ask that the City not allow itself to be held hostage by threats when the continued stability and well-being of thousands of our city's most vulnerable residents are threatened.

**B. To prevent park owners from circumventing the Conversion Ordinance, San José must limit use of the Closure Ordinance to instances where a park owner cannot make a reasonable return on their investment.**

If San José adopts a Closure Ordinance, it should include a provision that requires a park owner to prove, through the submission of records and a hearing before the Council, that they cannot make a reasonable rate of return on their investment prior to receiving approval to close a park. This requirement is necessary for the City to ensure that it does not allow for the displacement of hundreds, if not thousands, of households and the loss of vital affordable housing stock based on an owner's whim. Moreover, such a requirement is legally permissible so long as it does not interfere with the owner's primary, investment-backed expectations, and it does not render the owner unable to receive a reasonable return on their investment. (*Nash v. City of Santa Monica* (1984) 37 Cal.3d 97, 102.) As stated above, state Ellis Act does not apply to mobilehome parks, and municipalities can require this showing under their power to regulate land use.

Although *Nash v. City of Santa Monica* was superseded as to conversions of rent-stabilized residential real property when the Ellis Act was adopted, this case and its holding still articulates state law allowing jurisdictions to require that a mobilehome park owner show they can no longer make a reasonable rate of return before they can close and displace all their residents. As such, the City of San José should impose such a requirement to prevent park owners from simply circumventing the Conversion Ordinance by closing, displacing low-income

residents, destroying rent stabilized affordable housing units, and seeking to redevelop the property with other uses.

As presently drafted, the Closure Ordinance has no provision that prevents a park owner from misusing the Closure Ordinance to circumvent the Conversion Ordinance. The Closure Ordinance's only attempt to limit its misuse is by requiring a park owner to disclose the nature of the use of the parcel(s) where the park is located after the park is closed or a statement that no new use is contemplated under penalty of perjury.<sup>17</sup> (Closure Ordinance § 20.180.740(E).) While this measure is a positive step, it poses no real barrier to misuse of the proposed Closure Ordinance, since it does not even specify what recourse and remedies displaced park residents or the City have to address a park owner's misrepresentations.

We urge the Council to reject the Closure Ordinance since the City's Conversion Ordinance encompasses projects termed as closure applications. However, if the City elects to adopt a Closure Ordinance, it should require significant changes are made because, among other things, the Closure Ordinance fails to preserve San José's 59 mobilehome parks and requires less rigorous relocation impact analyses and fewer relocation benefits for displaced residents than required by the City's longstanding Conversion Ordinance. More specifically, if a Closure Ordinance is adopted, the City should require that 1) it does not prevent owner from using the Closure Ordinance to circumvent the Conversion Ordinance, 2) does not require that the City Council hear the application to close a park, and, 3) it continues to require an inferior relocation impact analysis and mitigation benefits than what the Conversion Ordinance provides.

### **3. Adopt General Plan Text Amendment Changes.**

Staff has proposed several General Plan text amendments that, if adopted, may help San José maintain an affordable and diverse housing stock, which includes mobilehomes. Again, these changes may become meaningless if the City adopts the present draft of the Closure Ordinance, which facilitates closure of San José's 59 mobilehome parks.

The City should establish a mobilehome park designation in the General Plan if it seeks to preserve its 59 mobilehome parks. Currently, San José has no General Plan designation for mobilehome parks. Although most mobilehome parks are designated as "Residential Neighborhood," some others are designated for industrial and commercial uses. The City should address this problem by adopting and applying this designation to all mobilehome parks, demonstrating that it values mobilehome parks as sources of affordable housing and that it intends to preserve mobilehome parks into the future.

In addition to adopting and applying a mobilehome park designation, the City should also amend the General Plan to establish a policy of "no net loss" of land zoned for mobilehome use.

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<sup>17</sup> We are concerned that even this requirement falls far short of what State law requires. State law requires a park owner who seeks to change the use of a park, including closing it, to "disclose in detail the nature of the change of use." (Government Code § 798.56(g)(2).) The proposed Closure Ordinance seems to authorize the park owner to provide something that does not comply with this State law requirement, since the park owner is not asked to provide a detailed disclosure about the nature of the use. (Closure Ordinance §20.180.740(E).)



There are multiple examples of “no net loss” policies that the City can use to preserve mobilehomes, including San José’s own industrial lands policy, Sunnyvale’s policy of preserving a set number of acres for mobilehomes, and Santa Cruz’s stated policy of preserving a set number of mobilehome units.

First, the City could use San José’s existing industrial lands policy as an example for an effective anti-conversion policy relating to mobilehome parks. This policy enables the City to preserve its valuable employment lands in order to promote economic growth. The vehicle for this policy is a series of clear statements in San José’s General Plan which integrates the industrial lands policy with many of the General Plan’s broad goals and policies. Council should take a similar approach here.

Second, Sunnyvale’s Housing Element and General Plan together take an approach that preserves the amount of mobilehome park acreage within the City through the City’s policy to “maintain at least 400 acres of mobile home park zoning.” Sunnyvale currently has 413.45 acres of mobilehome park zoning, making the “400 acre” policy effectively a no net loss policy.

Third, Santa Cruz implements a “no net loss policy” by preserving its current number of mobilehomes through a similar provision in its Housing Element, which expresses the goal to “Maintain current mobilehome [ . . . ] conversion regulations to preserve 360 mobilehomes in parks in the community.” San José should take a similar approach and amend its General Plan with a policy protecting either mobilehome acreage or units. We thus recommend that the General Plan be amended to include an exclusively mobilehome park designation and “no net loss” policy similar to the City’s industrial no net loss policy to fortify its commitment to preserving mobilehome park lands and this source of affordable housing.

In addition to these changes, staff’s proposed text amendments need to be clarified, expanded and/or strengthened to further strengthen mobilehome preservation efforts. We believe that the additional goals and actions that we include below to help preserve our City’s 59 mobilehome parks. More specifically, in addition to several of staff’s recommended General Plan text amendments (specifically H-1.1, H-1.10, General Land Use Goal LU-2 - Growth Areas, Implementation Policy IP-5.1(2), and Implementation Policy IP-5.7), we ask that the Council support and recommend the following changes. Underlined text is language we recommend adding while struck-through language is that which we recommend deleting.

*Policies - Housing - Social Equity and Diversity*

H-1.3 - Create, preserve, and rehabilitate housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

H-1.9 - Facilitate the development, preservation, and rehabilitation of housing to meet San José’s fair share of the County’s and region’s housing needs.

*Actions - Housing – Social Equity and Diversity*

H-1.16 Encourage that all proposed Ceonversions of Use or Changes of Use of mobilehome parks to other uses to include mitigation measures that provide displaced residents with housing options that are affordable once any short term subsidy has elapsed purposes other than the rental, or the holding out for rent, of four (4) or more mobilehome sites or spaces to accommodate mobilehomes used for human habitations, including the cessation of use, to mitigate any adverse impact to enable residents to relocate to replacement housing that is affordable and equivalent, including but not limited to their location and amenities.

*Implementation Goal IP-5 – Urban Village Planning*

Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly “Urban Villages” (also referred to as “Villages” within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods, including existing mobilehome parks. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

*Implementation Goal IP-5.2 – Urban Village Planning*

Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

*Implementation Policy IP-5.4, Urban Village Planning*

Prepare and implement Urban Village Plans carefully, with sensitivity to concerns of the surrounding community, residents, and property owners and developers who propose redevelopment of properties within the Urban Village areas. In furtherance of this policy and San José’s obligation to affirmatively further fair housing choice, prepare and report on the number of affordable housing units, including rent stabilized units, and socio-economic characteristics of the of residents who reside in the Urban Village. Urban Village Planning should protect against the displacement of low- and moderate-income tenants and mobilehome park residents who live in the Urban Village, and they must also plan for the mitigation of the loss of any mobilehome housing, rent controlled housing, and other affordable housing options that are lost to the community as a result of redevelopment. As part of the Urban Village Planning process, outreach to and community meetings for residents who face displacement, particularly those in mobilehome communities and multifamily housing, should be conducted. Proceed generally in the order of the following timeline, although some steps may be taken concurrently;

**4. Uniformly Zone all Mobilehome Parks for this Exclusive Use.**

San José has an R-MH mobilehome zoning designation which reserves these lands for mobilehome park uses.<sup>18</sup> Currently, at least one third of the City's 59 mobilehome parks are not zoned R-MH.<sup>19</sup> Updating the zoning on mobilehome parks would both demonstrate the City's commitment to mobilehome preservation and enable consistent regulation of R-MH lots. If the City adopts a Closure Ordinance, rezoning all parks so that they were intended for exclusively mobilehome park land use may create at least one barrier that may cause park owners to reexamine their efforts to circumvent the Conversion Ordinance. The City should update every mobilehome park to the R-MH designation to help protect mobilehome parks lands and to help prevent misuse of the proposed Closure Ordinance.

**5. Amend the Council Policy to Further the Intent of and Clarify the Conversion Ordinance.**

We continue to believe that San José can, and should, do more to strengthen its land use regulations to preserve mobilehome communities, especially if the City adopts a Closure Ordinance that permits a park owner to disregard the Conversion Ordinance and Council Policy. However, in light of staff's and the City's present approach, we request that the Council adopt the following changes to the Council Policy.

**A. Do not amend the clarification presently contained in the Council Policy that park closure projects should not be excluded from mobilehome park conversion of use projects.**

When the Council adopted the Council Policy to the Conversion Ordinance, it contained a section that stated that "the definition of 'Mobilehome park conversion of use' should not be interpreted to exclude projects described as 'park closure' from the requirements of Chapter 20.180." (Res. No. 77673, Conversion of Mobilehome Parks to Other Uses, Council Policy 6-33,1(e).) Since Council will consider adopting a Closure Ordinance, staff has proposed amending this language. We continue to argue that a separate Closure Ordinance is not necessary and that every application to change the use of a park, including closing it, should be processed through the Conversion Ordinance. If the Council agrees and does not adopt the Closure Ordinance, we ask that the Council not amend this language to make clear that all changes of use projects, including closures, will be processed through the Conversion Ordinance.

**B. Define the term "sufficient information" to clarify that it includes more than only an appraisal.**

One of the goals of the Conversion Ordinance is to help preserve San José's mobilehome parks by encouraging park owners and residents' associations (called Designated Residents'

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<sup>18</sup> San José Municipal Code § 20.30.010(C)(4).

<sup>19</sup> A table that the zoning for all of the City's mobilehome parks may be found starting at page 19 of the Planning Commission's Memo to Council dated March 28, 2017, which may be accessed at: [http://sanjose.granicus.com/MetaViewer.php?view\\_id=&event\\_id=2679&meta\\_id=626699](http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2679&meta_id=626699).

Organizations (DROs) in the Conversion Ordinance) to negotiate for the sale of the park to DROs so that the affordable homeownership housing in these parks is preserved. To submit a viable offer to purchase the park, the DRO needs records relating to the operation and condition of the park. Although the appraisal of the mobilehome park is an important tool in preparing a purchase offer, it is not the only record that the DRO needs to prepare a viable offer. The DRO needs other records that specify the costs to operate the park, its outstanding financial obligations, its future maintenance obligations, and other relevant records. Staff has proposed to amend subsection d(i) of section 1 by providing more detail about what “sufficient information” the DRO will need to prepare its offer. Although staff’s suggested edit to include a reference to an appraisal is helpful, other examples of what constitutes sufficient information must also be specified.

**C. Council Policy should call for a confidentiality agreement, not a third party, to protect park owner’s proprietary information.**

In line with comments we submitted over a year ago,<sup>20</sup> we suggest that subsection d(i), which enables a park owner to have a third party hold information in confidence that the DRO needs to formulate a viable offer to purchase the park, is unworkable. It is inconsistent for the Council Policy to suggest that the park owner provide the DRO with sufficient information to enable it to make a viable offer and then, in the same section, state that the owner may require that a third party hold this information in confidence so that the DRO cannot access it. This information is absolutely necessary to evaluate whether a resident purchase is viable, for identifying financing, and for composing a credible offer to purchase the park. While we understand park owners’ desire for their financial information not to become public, release of that information to the DRO—or to an agent of the DRO—is an essential prerequisite to the good faith negotiations required by the Ordinance and Council Policy. Instead of the present language, the Council Policy could either require or allow the parties to enter into a confidentiality agreement at the outset of their negotiations.

**D. Clarify that the required Relocation Impact Report should be interpreted to mean that required under either Government Code § 66427.4 and 65863.7.**

Government Code section 66427.4 specifies that a Relocation Impact Report (“RIR”) will be required for conversion of use of mobilehome parks when a the party seeking to convert the park also seeks a map to subdivide the park. Government Code section 65863.7 specifies RIR requirements when conversion, closure or cessation of use of a park is sought without a concurrent subdivision map. As such, and particularly if the Council approves amending the Council Policy to state that the Conversion Ordinance excludes park closure applications, the Council should correct this section to reference the requirements under Government Code section 66427.4

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<sup>20</sup> A copy of our coalition letter dated February 22, 2016, which includes additional recommendations for changes to the Council Policy, can be found starting at page 51 of the following link:  
[http://sanjose.granicus.com/MetaViewer.php?view\\_id=&event\\_id=2124&meta\\_id=557348](http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2124&meta_id=557348).

Letter to San José City Council, May 11, 2017

Re: City Council Meeting, May 16, 2017

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**E. Provide clear guidance regarding how disputes concerning selection of appraisers and RIR Specialists are resolved.**

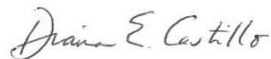
Staff's proposed changes at Sections 2.a. and 2.c. of the Council Policy, which relate to appraiser and RIR Specialist selection, are incomplete and require revision. Section 2.a. discusses the selection of the appraiser that will prepare valuations of mobilehome owners' homes. Section 2.c. discusses selection of the RIR Specialist. Although these two sections allow for parties to select their respective appraisers and RIR Specialists, staff did not provide guidance about how the parties should resolve any disputes regarding the ultimate selection of these professionals, like through mediation that is free of charge to park residents. Therefore, the Council should direct staff to clarify these sections.

**F. State that the City, not a park owner, will provide an appeals process where there is a dispute regarding relocation and purchase assistance.**

The Council should amend section 2.g. of the Council Policy so that the City, not the park owner, provides an appeals process to resolve disputes regarding relocation and purchase assistance. As we stated before the Council Policy was adopted, this dispute resolution process contained in the Council Policy is unacceptable, since any party hearing an appeal will be directly hired by and be an agent of the park owner. Instead, the City should have and govern an appeals process before a neutral fact finder.

Thank you for your attention and consideration. I welcome the opportunity to discuss the Law Foundation's letter with Council Members. I may be reached at 408-280-2448 or [dianac@lawfoundation.org](mailto:dianac@lawfoundation.org).

Sincerely,



Diana E. Castillo  
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## Closure Ordinance Deficiencies Attachment

The Mobilehome Park Closure Projects Ordinance (hereafter “Closure Ordinance”) fails to fulfill the City Council’s directive to preserve mobilehome parks and protect mobilehome park residents. The Closure Ordinance also fails to comply with State law because it prevents the decision maker from requiring the park owner who seeks to close their park from mitigating any adverse impact on the displaced mobilehome park resident to find adequate replacement housing. In 2016, the City adopted Council Policy 6-33, which are thorough and thoughtful guidelines for interpreting requirements under the City’s Mobilehome Conversion Ordinance (hereafter “Conversion Ordinance”). Adoption of an inferior Closure Ordinance, which requires less rigorous Relocation Impact Report (hereafter “RIR”) analysis and relocation benefits, will make the City’s Conversion Ordinance moot and make it impossible for residents to find adequate replacement housing. We note several of the Closure Ordinance’s deficiencies below and urge the Planning Commission to recommend rejection of the Closure Ordinance unless significant changes are made.

- **Does Not Protect Residents Against Park Owners’ Misuse of the Closure Ordinance to Avoid the Conversion Ordinance’s Procedural and Relocation Assistance Provisions.** As drafted, the Closure Ordinance provides fewer relocation benefits to residents than the Conversion Ordinance. There is no part of the Closure Ordinance that requires or penalizes a park owner who truly seeks to redevelop, versus simply closing the park and immediately applying to redevelop it, to actually proceed through the City’s Conversion Ordinance. The only, and narrow, way this issue is addressed in the Closure Ordinance states that the park owner shall disclose “the nature of the use of the Parcel(s) where the Park is located after Closure is approved *or* [provide] a statement under penalty of perjury that no new use is contemplated” in the RIR. Greater procedural protections must be included in the Closure Ordinance to safeguard against abuse.
- **Does Not Provide Residents with an Opportunity to Negotiate for Park Preservation.** The Closure Ordinance does not enable park residents to negotiate with the park owner to preserve their park. An association of residents, if it elects to, should be allowed to try and negotiate with the park owner to preserve the park, like the Conversion Ordinance provides. (Conversion Ordinance § 20.180.380.) The City’s Closure Ordinance does not allow for this.
- **Does No Provide Residents with a First Right of Refusal.** The Closure Ordinance does not provide residents with a first right of refusal to rent or purchase housing in a future residential development (if the resident qualifies). The Council Policy calls for this. (Council Policy 6-33 § 1(j).)

- **Unreasonably Disqualifies Residents from Relocation Assistance Benefits.** The Closure Ordinance, particularly its definitions section, does not reflect residents' real-world homeownership and space rental realities, including the hardship they will face during a closure application. Since most mobilehomes in San José's parks cannot be moved, we are concerned that many mobilehome owners will be disqualified from receiving compensation for the loss of their homes under the Closure Ordinance based on the Closure Ordinance's definition. Although we appreciate that staff amended this definition in its March 21, 2017, Closure Ordinance draft, we note that it is far narrower than the Conversion Ordinance's definition, which encompasses a host of ways that residents can prove that they are, in deed mobilehome owners. (Closure Ordinance § 20.180.705(R); Conversion Ordinance, § 20.180.160.) As such, the Closure Ordinance's definition should be amended to be the same as the Conversion Ordinance's, which is, "a person who has the right to the use of a mobilehome lot within a mobilehome park on which to locate, maintain, and occupy a mobilehome, lot improvements and accessory structures for human habitation, including the use of the services and facilities of the park." (Conversion Ordinance, § 20.180.160.)

Another oversight is that mobilehome owners who are 55 or older qualify to rent spaces in San José's parks, but, under the Closure Ordinance, seniors need to be 62 years or older to qualify for certain relocation benefits. (Closure Ordinance § 20.180.705(Y).) These overly restrictive definitions unreasonably deny residents vital benefits and are contrary to the requirements of State law.

- **Limits Who is Eligible to Receive Certain Benefits, Like a Rent Differential Subsidy.** The Closure Ordinance provides a rent subsidy only if a resident household qualifies as senior (62 and older), disabled, or low-income. (Closure Ordinance § 20.180.730.) *All* displaced residents should qualify for a rent differential, which is what the Conversion Ordinance provides (§ 20.180.630(d).) San José is home to mobilehome parks that contain upwards of 700 mobilehomes. If 700 households were displaced, a majority would be unable to find other rent stabilized housing, whether in or out of a mobilehome park. If households were mere dollars above some low-income threshold, they would be denied the ability to have the soft landing that a rent subsidy is designed to provide. A park owner should not be able to avoid paying for displacement mitigation protections based solely on the type of application they submit.
- **Does Not Require Individualized Assessment of Long-term Housing Solutions.** We thank staff for amending the March 21, 2017, draft of the Closure Ordinance to incorporate our request that the RIR Specialist prepare individualized assessment for comparable housing evaluation. This evaluation should include longer-term housing solutions so that each displaced resident is not displaced, again, once a housing subsidy terminates. The Closure Ordinance does not require any evaluation of long-term housing solutions for individual households like the Conversion Ordinance and Council Policy

specify. (Council Policy 6-33 §§ 1(g)-(j).) These assessment provisions should be the same under the Conversion Ordinance/Council Policy and the Closure Ordinance.

- **Lacks a Housing Burden Assessment.** The Closure Ordinance fails to require that relocation and purchase assistance provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a greater housing burden on a resident. (Closure Ordinance § 20.180.730; Council Policy to the Conversion Ordinance 6-33 §§ 1(g)-(j).)
- **Provides Insufficient Subsidy for Large Households.** Unlike the Conversion Ordinance, the Closure Ordinance does not call for more than one housing subsidy if a large household is forced to split into smaller households. (Conversion Ordinance § 20.180.6302(C); Closure Ordinance § 20.180.730.) If any mobilehome park closes, it is likely that most residents will need to move to smaller households. Because other housing opportunities may limit the number of residents who can live in a housing unit, larger families will need to split up. The Closure Ordinance does not require a rent subsidy for multiple households if they must split up, which will severely disadvantage larger households and substantially limit their ability to find replacement housing.
- **Insufficient Guidance for Appraisers.** The Closure Ordinance fails to provide sufficient direction to appraisers in determining value. (Closure Ordinance § 20.180.740.) Appraisals should list in-place value of mobilehomes prior to any public discussion or communication regarding closure of the mobilehome park because of the downward impact that public knowledge of closure has on value. Moreover, if the appraiser identifies lack of maintenance or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the appraiser should determine the value of the home with an upward adjustment in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.
- **Does Not Require Staff to Obtain Confidential Questionnaires if Incomplete.** The Closure Ordinance mandates that the RIR specialist will analyze residents' confidential responses to a questionnaire in evaluating the relocation assistance they require. (Closure Ordinance, § 20.180.750.) As presently drafted, the Planning Director "may but is not required to seek the information directly from the Mobilehome Owner and/or Resident." (Id.) Already stinging from a park owner's broken promise that their park will remain open, park residents will be reticent to entrust confidential information about themselves to an RIR Specialist. Other barriers may exist, fear or denial over the prospect of losing one's home, language-and employment barriers, and disability, may prevent a park resident from submitting questionnaires. This section must be amended to require City staff to make several attempts to obtain information from park residents if their questionnaires are incomplete or not submitted to the RIR Specialist. As such, we ask that the Closure Ordinance recognize this and mandate that the Planning Director will make several attempts to collect this vital information.



- **Contains a Wholly Inadequate Appraisal Dispute Resolution Process.** The Closure Ordinance resolves a dispute about the valuation of a residents' home by requiring the resident to obtain a costly appraisal report, and then, "may require that the Mobilehome Owner be compensated based on the average of the appraisals obtained by the Park Owner and the Mobilehome Owner." (Closure Ordinance § 20.180.730 (B)(5), emphasis added.) This dispute process is wholly inadequate and will lead park owners, who select their own appraiser, to generate low appraisal amounts. It is unlikely that low-income residents will hire their own appraisers, which means that park owners' appraisers will propose artificially low valuations of residents' homes. Even if a resident hires their own appraiser, they will always receive less than what their expert appraiser determines is the value of their home. Instead, the City should have and govern an appeals process before a neutral fact finder.
- **Does Not Enable Decision-Makers to Comply with State Law nor Require Park Owner to Mitigate Any Adverse Impact on Residents' Ability to Find Adequate Replacement Housing.** The Closure Ordinance fails to make clear that, under State law, the RIR Specialist may propose, and the Planning Director or City Council may require, relocation assistance that mitigates *any* adverse impact on a resident's ability to find adequate replacement housing in a mobilehome park. (Government Code § 65863.7(e), emphasis added.) Such instruction is not provided to the RIR Specialist who will prepare the RIR. (Closure Ordinance §§ 20.180.730 -.740.)

To mitigate any adverse impact, the Planning Director has the ability to require relocation assistance amounts that are more than even the 100% appraised value of a residents' home if it takes more assistance to secure adequate replacement housing in another park. The limit, that mitigation shall not exceed the "reasonable cost of relocation," may include more assistance than the limited categories that the Closure Ordinance specifies. The Closure Ordinance must provide the RIR Specialist, the Director of Planning and the Council with a clear statement that they have the ability to require additional mitigation measures if they are necessary to enable the resident to relocate to adequate replacement housing. Failure to include this provision means that the Closure Ordinance fails to comply with State law.

- **Does Not Require a Public Hearing to Review the Sufficiency of the RIR.** The Closure Ordinance states that a public hearing to review the sufficiency of the RIR would only be scheduled if a resident or park owner requests it. (Closure Ordinance § 20.180.740.) Given the displacement of thousands of vulnerable residents in any potential closure, a City Council hearing assessing the sufficiency of the Relocation Impact Report should be required as a matter of course. This requirement would not contravene State law on the subject, which allows the legislative body, the City Council, to review and evaluate the application.

- **Does Not Require that Notices to Park Residents about the Proposed Closure of a Mobilehome Park be Accessible.** The Closure Ordinance identifies notices that residents will receive related to the park closure application. (Closure Ordinance §20.180.760(B).) It will notify them that they can obtain “information on accommodations and how to obtain interpretation and translated information or other accommodations from the RIR Specialist.” (Id.) However, it fails to specify that these initial notices (about how to obtain accommodations and translated information) will be accessible for residents who are disabled or not proficient in English. Further, it states that “information” will possibly be translated, but it doesn’t say that the RIR will be translated. These are major oversights that must be corrected, since these notices and the RIR contain important rights and information that must be accessible for people who are not English-language proficient or who are disabled. This oversight means that many park residents will be unable to understand and assert their rights.
- **Does Not Require that the RIR Report, and Subsequent Amendments, Be Provided to Residents as Required Under State Law.** Contrary to the requirements under State law, which requires that the park owner provide a copy of the RIR to a resident of each mobilehome at the park, the Closure Ordinance state that each resident will be invited to obtain a copy. (Government Code § 65863.7(b); Closure Ordinance §20.180.760(B).) Further, the Closure Ordinance does not specify that this notice will be accessible for residents who are disabled or who are not fluent in English. (Id.) To comply with State law, the Closure Ordinance must require that the RIR and subsequent amendments be provided to a resident from each mobilehome. (Id.) As such, a resident from each mobilehome should receive these subsequent amendments or clarifying letters and at least 30 days prior to any hearing on or consideration of the RIR by the Planning Director and City Council and these should be accessible.
- **Prevents the Decision-Maker from Denying an RIR While Making Full Compensation for Residents’ Relocation Expenses Optional.** The Closure Ordinance only allows the Planning Director or City Council to approve or conditionally approve an RIR. (Closure Ordinance § 20.180.760(C).) It does not specify that these decision-makers have the ability to deny it. (Id.) This means that residents would be left in limbo for potentially significant periods of time during the application process, especially if the park owner causes unreasonable delay.

Further, the Closure Ordinance is patently unfair and unbalanced in how it treats park residents. For example, even though the decision-maker will be unable to deny the RIR, it does not require the decision-maker to fully compensate a homeowner for the in-place value of their home, provide a rent differential, or cover costs to re-install disability-related improvements the park resident will need at their replacement housing. (Closure Ordinance § 20.180.760(D).) Instead, the decision-maker may require a park owner to compensate residents for something far less than what residents need to obtain adequate replacement housing. (Id.)

- **Does Not Specify that Public Hearings on Conditionally Approved RIRs will be Required.** The Closure Ordinance is silent about whether subsequent hearings will be required if an RIR is conditionally approved. (Closure Ordinance § 20.180.760(C).) The findings relating to the adequacy and approval of the RIR should be evaluated at a public hearing. A closure should not be permitted unless and until an RIR is actually approved subsequent to a public hearing.
- **Lacks a Necessary RIR Appeals Process.** The Closure Ordinance permits the Director of Planning to authorize displacement of potentially thousands of residents, the permanent loss of hundreds of affordable and rent stabilized housing units, and closure of a mobilehome park. (Closure Ordinance § 20.180.760(B).) The Closure Ordinance provides for no appeals process in the event that park residents dispute the accuracy of or sufficiency of their relocation benefits. Neighboring cities provide appeals processes before a neutral fact finder. Although we disagree that the Planning Director should have the ability to unilaterally make a decision on a closure application, at a minimum, the City's Closure Ordinance should contain an appeals process for residents to dispute the Planning Director's decision about the adequacy of the benefits approved under the RIR.

## Nguyen, Viviane

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**From:** Nguyen, Viviane  
**Sent:** Thursday, January 16, 2020 5:45 PM  
**To:** Nguyen, Viviane  
**Subject:** FW: Document for HCDC meeting 1-23-20

**From:** Housing and Community Development Commission MR  
**Sent:** Wednesday, January 15, 2020 5:26 PM  
**To:** Clements, Kristen <[Kristen.Clements@sanjoseca.gov](mailto:Kristen.Clements@sanjoseca.gov)>; Housing and Community Development Commission 6; Housing and Community Development Commission MR; Housing and Community Development Commission 5  
**Subject:** Document for HCDC meeting 1-23-20

Kristen,

Please send to all Commissioners, including me, this document:

Letter from Law Foundation dated 5-11-17  
City Council meeting 5-16-17  
items 4.1 and 10.1  
see pages 1, 9 and 10 of the Law Foundation letter

Please send this message from me as the MR representative to go with the document

Fellow Commissioners

Please see the letter from the Law Foundation dated 5-11-17. This letter was before the City Council on 5-16-17. See page one, nine and ten. It should have been done in 2017. It is now 2020. Time for the City to step up and, to quote the Law Foundation, "demonstrating that it values mobilehome parks as sources of affordable housing and that it intends to preserve mobilehome parks into the future."

Issue: applying a mobilehome park designation in the General Plan to all 58, until yesterday 59 Parks, in San Jose. I intend to put this motion on the floor at our 1-23-20 HCDC meeting. I want the record to reflect that I did this despite whatever opposition may come from Housing, Planning or the current administration.

I have a charge to represent the Park residents and I will so do.

Martha O'Connell  
Housing and Community Development Commission - HCDC  
Mobilehome Resident Representative

**Commissioner O'Connell's Letter  
Information from City Council**

**4. COMMUNITY & ECONOMIC DEVELOPMENT**

4.1 Actions Related to Mobilehome Park Closures.

**Recommendation:** Amendment to Title 20 of the San Jos' Municipal Code (the Zoning Code or Zoning Ordinance), and revisions to City Council Policy 6-33 "Conversion of Mobilehome Parks to Other Uses," to provide for a more comprehensive review of zoning and land use permit applications for the conversion of use of sites with existing mobilehome parks and multi-family housing:

(a) Approve an ordinance amending Title 20 of the San Jos' Municipal Code (the Zoning Code) to add a new Part 5 to Chapter 20.180 regarding Mobilehome Park Closure Projects.

(b) Approve an ordinance amending Chapter 20.120 entitled "Zoning Changes and Amendments" and Section 20.80.460 relating to the evaluation of permit applications for the demolition, removal, or relocation of a building within those sections of the Zoning Code in order to provide for a more comprehensive review of zoning and land use permit applications for the conversion of use of sites with mobilehome parks and existing multi-family housing, and to make other technical, formatting or other non-substantive changes within those sections of the Zoning Code.

(c) Adopt a resolution amending City Council Policy 6-33 "Conversion of Mobilehome Parks to Other Uses," (the Policy), to change and add provisions for consideration of mobilehome park conversions to other uses to facilitate implementation of the requirements in the Zoning Code regarding mobilehome park conversions to another use including:

(1) Defining the term "sufficient information" in Section 1.d. of the Policy to ensure that Designated Resident Organizations (DRO) can make a well-informed assessment of the mobilehome park's value and/or what procedures can be established for a DRO to get access to that information;

(2) Providing clarifying language in Section 1.e. of the Policy; and

(3) Providing additional scenarios for selecting appraisers and consultants under Sections 2.a. and 2.c. of the Policy.

CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making that involves no changes in the physical environment or Exempt pursuant to Section 15061(b)(3). Planning Commission's motion to recommend approval of Director of Planning, Building and Code Enforcement's recommendation failed (2-4-1; Abelite, Allen, Ballard, and Bit-Badal opposed;

Vora absent). (Planning, Building and Code Enforcement/Housing) PP17-023 - Citywide (Deferred from 4/11/17 - Item 4.3) TO BE HEARD JOINTLY WITH ITEM 10.1 AND NOT BEFORE 4:00 P.M.

[Memorandum](#)

[Memorandum from Mayor Liccardo, Vice Mayor Carrasco and CMs Jones, Nguyen and Diep](#)

[Memorandum from Mayor Liccardo](#)

[Ordinance - Part \(a\)](#)

[Ordinance - Part \(b\)](#)

[Resolution - Part \(c\)](#)

[Letter\(s\) from the Public](#)

## 10.1 General Plan Text Amendment: Mobilehome Park Closures.

(a) Open the General Plan Hearing.

(b) Tentative approval of General Plan Text Amendments relating to protection of existing mobilehome parks to: 1) strengthen goals and policies to protect existing mobilehome parks in the City of San José as a component of housing choice, and a source of existing affordably-priced housing in established neighborhoods and to improve protection from conversion to other uses; and 2) add General Plan goals, policies, and actions to preserve mobilehome parks and other housing in each Urban Village until the preservation of affordable housing can be comprehensively addressed by adoption of an Urban Village Plan specific to that Urban Village. CEQA: Not a Project, File No. PP10-068, General Procedure and Policy Making that involves no changes in the physical environment or Exempt pursuant to Section 15061(b)(3). Planning Commission recommends approval (6-0-1, Yob abstained). (Planning, Building and Code Enforcement/Housing)

(c) Continue the General Plan Hearing to June 13, 2017.

GPT15-006 - Citywide (Deferred from 4/11/17 - Item 10.2) TO BE HEARD JOINTLY WITH ITEM 4.1 AND NOT BEFORE 4:00 P.M.

[Memorandum](#)

[Memorandum from Mayor Liccardo, Vice Mayor Carrasco and CMs Jones, Nguyen and Diep](#)

[Memorandum from Mayor Liccardo](#)

[Resolution](#)

[Letter\(s\) from the Public](#)

May 12, 2017

TO: Mayor and Council  
FROM: Martha O'Connell  
RE: Response to MHET submission – utility infrastructure  
Items 4.1 and 10.1 City Council Meeting of 5-16-17

In her 5-3-17 letter, attorney Margaret Nanda, on behalf of the mobilehome park owners who belong to the Manufactured Housing Educational Trust (MHET), sent you a copy of a declaration of Jack Kerin.

A portion of that declaration reads:

13 In my opinion the most environmentally sound approach to utility system maintenance in aging mobilehome parks is to **incentivize capital expenditures to replace aging systems** in a controlled approach as opposed to responding to emergencies or sudden system failures. (My emphasis added.)

For the record, I quote Commissioner Mike Graves, who represents the park owners on the Housing and Community Development Commission, (HCDC). On 8-19-09, he submitted a letter to the Mobilehome Advisory Commission for Item (f)(2)(a). The relevant portion is:

“The fact is that both **PUC and court decisions** have made clear that **all costs** associated with gas and electric systems are ineligible to be passed through to the residents through rent control hearings. Instead, **they are to be covered by the discount that park owners receive since they sell gas and electricity to their residents at retail prices and pay wholesale rates for these services.** (My emphasis added.)

The incentive for upgrading of park electrical systems already exists.





# LAW FOUNDATION of Silicon Valley

*Fair Housing Law Project*

152 North Third Street, 3<sup>rd</sup> Floor

San José, California 95112

Fax (408) 293-0106 • Telephone (408) 280-2435 • TDD (408) 294-5667

May 11, 2017

*Via Electronic Mail*

San José City Council  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: City Council Meeting, May 16, 2017  
Agenda Items 4.1 and 10.1, Mobilehome Park Protection and Closure Ordinance**

Dear Mayor, Vice Mayor, and Council Members:

The Law Foundation appreciates this opportunity to comment on staff's recommendations regarding Mobilehome Park Protection and the Closure Ordinance. Although we appreciate staff's work, their proposed land use policy changes do not go far enough to protect mobilehome park residents and preserve mobilehome parks. We have included recommendations, below, which will help preserve San José's mobilehome parks and protect residents. San José's land use policies must be strengthened particularly in light of Council's upcoming consideration of the Mobilehome Park Closure Projects Ordinance that, unless rejected or substantially amended as we recommend, will threaten to facilitate the displacement of thousands of residents and destruction of thousands of naturally affordable and rent-stabilized homes from San José's housing stock.

The Law Foundation urges the Council to:

1. Reject the unnecessary proposed Closure Ordinance;
2. If the proposed Closure Ordinance is not rejected entirely, amend it to address crucial flaws;
3. Amend the General Plan text amendments proposed by staff as we have recommended;
4. Uniformly zone all mobilehome parks throughout the City; and
5. Amend the Council Policy to further the intent of and clarify the Conversion Ordinance.

## Policy Recommendations

### 1. Reject the Proposed Closure Ordinance.

Although San José originally prioritized study and adoption of policies that would preserve mobilehome parks and protect residents, if adopted, the proposed Closure Ordinance will undermine this duty because it will facilitate the displacement of mobilehome park residents and destruction of affordable homeownership housing units across our city. The proposed Closure Ordinance must be rejected entirely because (1) it is unnecessary under the existing mobilehome Conversion Ordinance, where closure is already covered as a “change of use”; (2) it is unnecessary under state law because mobilehome park owners do not have an unmitigated right to go out of business; and (3) it is harmful to the City and its residents because it prevents the evaluation and mitigation of impacts as authorized and required under state laws.

We agree and hereby incorporate William Constantine’s legal analysis of and objections to the proposed Closure ordinance; Mr. Constantine’s letter of May 9, 2017, explains that the Closure Ordinance is not only *not* required by state law and inconsistent with Housing Element law—as we explain below—but that it itself violates state law.

#### A. **The proposed Closure Ordinance is unnecessary because San José’s existing Conversion Ordinance encompasses all proposals to change the use of a mobilehome park, including closing it.**

The proposed Closure Ordinance is completely unnecessary in light of the existing Conversion Ordinance, which covers closure. The Mobilehome Conversion of Use Ordinance (“Conversion Ordinance”) defines “mobilehome park conversion of use” as a conversion to “*any other use*, excluding mobilehome park conversion to ownership.” (Conversion Ordinance § 20.18.190, emphasis added.) The Conversion Ordinance was enacted to establish requirements and procedures for the control and approval of the conversion of mobilehome parks to other uses, including non-mobilehome park uses. (Conversion Ordinance § 20.180.010(A).) By the plain language of the Conversion Ordinance, it is applicable all changes of use, including closure. The City Attorney supported this position as recently as last summer.

For 30-plus years, the City has maintained that all applications to convert the use of a mobilehome park, including closing it, were to be processed through the Conversion Ordinance. As they have purchased mobile homes, rented homes, raised families, and invested in the improvement of their homes and surrounding parcel, the many residents of the City’s 50-some parks have understood their rights with respect to closure in this context.

In August 2015, the City Attorney issued a memo to the Mayor and City Council that stated that mobilehome park owners seeking to change the use of a park, including closing it, must submit an application and comply with the procedures of the City’s Zoning Code, including the Conversion Ordinance. (Rick Doyle, City Attorney, Memorandum to the Honorable Mayor and Council, August 6, 2015, p. 5.) Council Policy 6-33, which was adopted on February 23, 2016, also made clear that the Conversion Ordinance’s definition of “Mobilehome Park

Conversion of Use” should not be interpreted to exclude projects described as “park closures” and that they are subject to the Conversion Ordinance’s requirements. (Conversion of Mobilehome Parks to Other Uses, Council Policy 6-33, Number 77673, adopted February 23, 2016, 1(e).)

**B. Nothing in State law compels San José to adopt a Closure Ordinance in addition to its existing Conversion Ordinance.**

There is no provision in State law that requires San José to adopt a Closure Ordinance. In fact, nothing in State law prevents San José from continuing to rely on its Conversion Ordinance for park closure projects. The Ellis Act, which applies to the withdrawal of certain types of non-ownership rental property from the housing market, does not apply to the change of use of mobilehome parks, by its own terms. (Cal. Gov’t Code § 7060.7(f)). The Ellis Act does not apply to mobilehome park change of use projects, including those labeled as park closures, and it should not guide San José’s mobilehome preservation policies.

Despite this, two cases, *Levin v. City and County of San Francisco* and *Coyne v. City and County of San Francisco*,<sup>1</sup> which interpret the Ellis Act, are frequently cited by park owners to persuade San José that its ability to review and condition applications to close mobilehome parks is limited. Both *Levin* and *Coyne* concerned limits on mitigation measures San Francisco could impose on landlords, not mobilehome park owners, who sought to withdraw their residential rental units under their local Ellis Act ordinance. Neither of these cases pertains to mobilehome conversions, and as such, neither control San José’s ability to require mitigation related to impacts from the closure of a mobilehome park.

Park owners claim that *Keh v. Walters* made clear that park owners have an absolute right to close their parks. In this case, a park owner attempted to close their park by evicting park residents one at a time. (*Keh v. Walters* (1997) 55 Cal. App. 4th 1522, 1533.) The park owner argued that they had a “fundamental vested right” to go out of business. (*Id.*) The court disagreed. (*Id.*) The court held that the park owner’s practice violated both the letter and the spirit of Civil Code § 798.56, the change of use statute. (*Id.*)

Although the court did state that, in its opinion, “a park owner is entitled to convert property used as a mobilehome park to another use, or even to hold it as vacant land,” the court did not say that this right was unfettered. (*Id.*) In fact, the court stated that despite its opinion, or view, its task was limited to interpreting and applying the law. (*Id.*) The court went on to say that park owners have to comply with both State laws *and local ordinances that govern conversion*, including “disclos[ing] and describ[ing] in detail the nature of the change of use” at the time they issued a notice pertaining to their proposal to change the use of the park. (*Id.* at 1533-34, emphasis added.)<sup>2</sup>

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<sup>1</sup> *Levin*, (2014) 71 F.Supp.3d 1072; *Coyne*, (March 21, 2017, CGC-14-540709, CPF-15-514382), \_\_ Cal.App.4th \_\_ < <http://www.courts.ca.gov/opinions/documents/A145044.PDF>>.

<sup>2</sup> The court also stated that the State Legislature wanted to “protect mobilehome dwellers, not only from arbitrary and capricious conversions but also from the harsh effects of displacement resulting from legitimate conversions,” so this is why it required park owners to [first] provide a detailed description and disclosure about the proposed

We understand the City Attorney's office may rely on the unpublished case of *Traphagen v. City of Dana Point* (2007 Cal. App. Unpub. LEXIS 2650) to justify the need for a closure ordinance. This reliance is misplaced. The case was wrongly decided and it fails to fully recognize the authority granted to local jurisdictions in requiring mitigation of changes of use of mobilehome parks.<sup>3</sup> First, the court in that case incorrectly suggested that the Ellis Act permits mobilehome park owners to simply go out of business (see above—the Ellis Act, by its very terms, does not apply to mobilehome parks). Moreover, the court's statement that mobilehome park closures are "ministerial" in nature, rather than "discretionary" land use decisions was made without analysis, in a different context, and is not citable authority.<sup>4</sup>

As we have identified above, nothing in State law provides park owners with an unfettered right to go out of business. Instead, *Keh v. Walters* makes clear that park owners who seek to change the use of their parks, including closing them, must abide by both State and local change of use ordinances. It also emphasized our State Legislature's intention to protect park residents from arbitrary and capricious conversions. San José's Conversion Ordinance, not the Closure Ordinance, would protect against capricious conversions, since the Council would be able to analyze the host of impacts that such a project would trigger. Therefore, nothing in State law compels San José to adopt a Closure Ordinance in addition to its existing Conversion Ordinance.

**C. The proposed Closure Ordinance should also be rejected because it prevents San José from evaluating and mitigating impacts of park closure as authorized and required under state laws.**

Additionally, San José has the authority to evaluate and mitigate adverse impacts that a proposed mobilehome park closure will generate, since these will not be limited only to the terrible prospect of resident displacement from our City. Whether a park owner intends to convert and redevelop a mobilehome park or close it and wait to redevelop it, there are adverse impacts that affect displaced residents, the City's affordable housing stock, and our environment. All of these impacts must be evaluated and mitigated, even if a park owner only seeks to close the park. Government Code section 65863.7 allows the study and mitigation of adverse impacts

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future use of the park under Civil Code section 798.56. (*Id.*) The court found that a statement about some yet-to-be-determined change of use did not meet the statutory requirement for terminating a tenancy that Civil Code section 798.56 requires. (*Id.*)

Unfortunately, San Jose is on the verge of adopting the proposed Closure Ordinance that likely runs afoul of the requirements of Civil Code section 798.56, since it is poised to allow park owners to simply certify that, at the moment they apply for park closure, that they don't want to be in business any longer. This is not the detailed description that the court in *Keh v. Walters* held that Civil Code section 798.56 requires to prevent arbitrary and capricious conversions.

<sup>3</sup> Government Code section 65863.7(e) grants local legislative bodies the power to "require, as a condition of [a mobilehome change of use], the [party proposing the change] to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation."

<sup>4</sup> California Rule of Court 8.1115 states that opinions of the California Court of Appeal that are unpublished generally "must not be cited or relied on by a court or a party in any other action."

from a park owner's proposal to change the use of a park on park residents when a subdivision is not concurrently sought.

One of the potential impacts of a closure is the diminution of the City's affordable housing stock. San José has a duty to conserve and improve the condition of its existing affordable housing stock, which includes mobilehome housing units. This duty comes from State law, which requires cities to adopt a Housing Element.<sup>5</sup> The Housing Element is a component of the General Plan, and it specifies the actions that a jurisdiction will take to promote the development of new affordable housing units and preserve existing affordable housing units that will be demolished by public or private action.<sup>6</sup> Maintaining San José's existing affordable housing stock is the most efficient way to fulfill the City's duty to conserve and improve the existing affordable housing stock.

Mobilehomes are an important component of the existing affordable housing stock, with nearly 11,000 mobilehomes in 59 parks throughout the City.<sup>7</sup> These parks and mobilehomes provide a vital source of unsubsidized affordable housing to San José's residents. In a city that largely seeks to meet its affordable housing needs through subsidized housing, San José's mobilehome parks provide residents with modest and/or fixed incomes with homeownership opportunities<sup>8</sup> and modest regulated rents<sup>9</sup> relative to most apartments in San José. San José previously estimated that up to 73% of mobilehome owners are low- to extremely-low-income, which means that mobilehomes provide housing for nearly 8,000 of San José's low- to extremely-low income households.<sup>10</sup>

Mobilehome parks are under increasing threat of closure, or have closed, in Santa Clara County. At least two park owners in San José have expressed interest in redeveloping their mobilehome parks.<sup>11</sup> Palo Alto's only mobilehome park, Buena Vista, remains under threat of closure.<sup>12</sup> Since 1991, six mobilehome parks in Sunnyvale have closed.<sup>13</sup> Although Sunnyvale

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<sup>5</sup> Cal. Gov't. Code § 65583(c)(4).

<sup>6</sup> *Id.*

<sup>7</sup> City of San Jose Housing Department, Mobilehome Resource Guide, p. 9, available at <http://www.sanjoseca.gov/DocumentCenter/View/1151>.

<sup>8</sup> *Id.*, pp. 2-11.

<sup>9</sup> Mobilehome Rent Ordinance Summary, Department of Housing, City of San José, January 29, 2014, p.3, available at <http://www.sanjoseca.gov/DocumentCenter/View/32825>

<sup>10</sup>Memorandum from Leslye Corsiglia on Mobilehome Park Conversions to the Rules and Open Government Committee, Apr. 30, 2014, p. 3, available at <http://sanjoseca.gov/DocumentCenter/View/30282>.

<sup>11</sup> City of San Jose, Housing and Community Development Committee, Park Owner's [Winchester Ranch Mobile Home Park's] Proposal for Redevelopment of the Site and Relocation Assistance, October 13, 2016, p. 1, available at <http://www.sanjoseca.gov/DocumentCenter/View/62039>; Letter from Peter Wang, owner, to San Jose staff, regarding Opt-In/Stay in Business Proposal and potential redevelopment of Mobile Home Manor, November 11, 2015, p. 8, available at [http://sanjose.granicus.com/Viewer.php?view\\_id=&event\\_id=2124&meta\\_id=557348](http://sanjose.granicus.com/Viewer.php?view_id=&event_id=2124&meta_id=557348).

<sup>12</sup> City of Palo Alto City Council Action Minutes, Special Meeting, May 26, 2015, available at <http://www.cityofpaloalto.org/civicax/filebank/documents/47521>.

<sup>13</sup>"Possible Revisions to the Mobile Home Park Conversion Process and Requirements," Council Report Outreach Meeting, City of Sunnyvale, p.4., available at <http://sunnyvale.ca.gov/Portals/0/Sunnyvale/CDD/Housing/HUD%20Programs/MOBILE%20HOME%20PARK%20PPT%20presentation.pdf>. In addition to the mobilehome communities identified in this report that closed, Nick's

adopted land use policies that served to protect most of its parks, those that were not designated as mobilehome park uses do not benefit from these preservation measures. One of the last remaining parks that does not contain a mobilehome park land use designation, Blue Bonnet, recently received Council approval to close.<sup>14</sup> Over the last two decades, Mountain View has lost about 240 mobilehome lots.<sup>15</sup>

In furtherance of its duty to preserve affordable housing, San José must adopt policies that preserve mobilehome housing, which is a vital component of our affordable homeownership housing stock. Although San José originally prioritized study and adoption of policies that would preserve mobilehome parks and protect residents, if adopted, the proposed Closure Ordinance will undermine this duty because it will facilitate the displacement of mobilehome park residents and destruction of affordable homeownership housing units across our city.

Although evaluating and mitigating the impacts on park residents relating to a proposed park change of use, including closure, are paramount, nothing in Government Code section 65863.7, which authorizes this evaluation and mitigation, prohibits San José from analyzing other impacts. San José's long-standing Conversion Ordinance should continue to govern all conversion of use projects, even projects labeled as park closures, since San José has obligations to evaluate and mitigate a host of adverse impacts. The proposed Closure Ordinance would prevent San José from doing what State laws mandate it to do, including evaluating a proposal that seeks to permanently remove hundreds of affordable and rent-stabilized homeownership housing from our community and the environmental impacts associated with this action. San José should reject the proposed Closure Ordinance and continue to utilize its Conversion Ordinance for all projects that seek to change the use of a mobilehome park, including closing it.

## **2. If the proposed Closure Ordinance is not rejected entirely, it must be amended to address crucial flaws.**

While we disagree that adoption of a Closure Ordinance is necessary, we strongly believe that it should contain terms that prevent a park owner from circumventing the Conversion Ordinance's requirements and provide the same protections for residents as those provided in the City's existing Conversion Ordinance and related Council Policy.<sup>16</sup> The proposed Closure

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Trailer Park also closed. See: <http://www.mercurynews.com/2016/10/28/sunnyvale-closed-trailer-park-will-make-way-for-108-unit-apartment-project/>

<sup>14</sup>San Jose Mercury News, "Sunnyvale: Blue Bonnet mobile park to close soon after conversion report's approval," available at <http://www.mercurynews.com/2017/03/15/sunnyvale-blue-bonnet-mobile-park-to-close-soon-after-conversion-reports-approval/>.

<sup>15</sup> Katie Kramon, Peninsula Press, Mobile Home Parks: A Vanishing Source of Affordable Housing, March 14, 2015. Gina Hall, Silicon Valley Business Journal, Mountain View approves closure of mobile home park, July 10, 2015, available at <http://www.bizjournals.com/sanjose/news/2015/07/10/mountain-view-approves-closure-of-mobile-home-park.html>.

<sup>16</sup> In our letter to the Planning Commission dated March 21, 2017, regarding the March 7, 2017, version of the Closure Ordinance, we identified a substantial number of changes that were required. Although staff incorporated some of the changes we suggested, the present March 21, 2017 version still fails to contain provisions that prevent park owners from utilizing it to circumvent the City's Conversion Ordinance. Further, the relocation assistance benefits afforded under the Closure Ordinance still fall well short of what the Conversion Ordinance requires, which must be corrected. These, and the other deficits we identify above, are most significant problems with the current

Ordinance provides drastically fewer procedural protections than the Conversion Ordinance and Council Policy. It also provides much more limited benefits and relocation payment to displaced residents. Quite simply, it is ridiculous and obviously unfair that mobilehome park residents—the people most negatively impacted by mobilehome park closure and/or conversion—would be deprived of any protections and benefits simply because of a park owner’s administrative course of action. In addition to the significant problems identified below, we describe a list of Closure Ordinance deficiencies in the attachment to this letter.

**A. The Closure Ordinance must follow the existing Conversion Ordinance and Council Policy regarding conversion of use.**

After months of staff work, public input, and public deliberation, the City Council adopted certain changes to its zoning code and the Mobilehome Park Conversion Ordinance “Council Policy.” Among other things, this Council Policy provides guidelines for assessing and mitigating adverse impacts as well as proposing relocation benefits that will enable residents to find comparable replacement housing when their mobilehome community is closed or converted and they are faced with the loss of their homes. Although we urge the Council to adopt procedural changes that we recommend below, the Council Policy’s mitigation and relocation provisions are thoughtful, thorough, and fair. The Council Policy represented a promise to the City’s 35,000 mobilehome park residents, a promise that will be broken should the City adopt the Closure Ordinance because it is deficient in numerous ways.

Moreover, the Council Policy does more than establish guidelines for mitigation of adverse impacts of a park closure on residents. The Council Policy also sets forth principles for approval of a proposed park conversion that take into account important City priorities like the need for adequate housing for all City residents regardless of income, facilitating resident ownership of mobilehome parks when feasible, and reducing and avoiding displacement of particularly vulnerable, long-term residents from our community.

San José must additionally protect mobilehome park residents’ due process rights by requiring that an application to close a mobilehome park be heard by the San José City Council. State law calls for the City’s legislative body or its delegated advisory agency, to review the relocation impact report. (Government Code § 65863.7(e).) However, instead of designating San José’s legislative body, the City Council, to consider applications under the Closure Ordinance, the proposed Closure Ordinance designates the Director of Planning to consider these applications unless a park owner or park resident requests a hearing. (Closure Ordinance § 20.180.760(A).) Park residents are afforded no opportunity to appeal the Planning Directors decision to the Council.

Unfortunately, our community knows that even when large-scale projects, like The Reserve, that seek to redevelop rent-stabilized properties, public participation is often absent. The closure of The Reserve displaced hundreds of San Joséans from their rent-stabilized homes,

and it was obvious that language and employment barriers prevented residents from engaging with staff and the Council about critical adverse impacts that must be mitigated. Similarly, we are concerned that park residents who face similar access barriers will not participate in this public process and that they will be denied important rights.

In contrast to San José's proposed Closure Ordinance, the cities of Palo Alto and Sunnyvale both require hearings on applications to convert parks, including closing parks, and provide appeals processes. (Sunnyvale Conversion Ordinance, 19.72.130(c); Palo Alto Mobilehome Conversion Ordinance, 9.76.040.) Even San José's Zoning Ordinance was specifically amended to ensure that the City Council, and not the Planning Director, would be the decision-maker that considered applications to convert mobilehome parks, and such a significant procedural distinction should exist based on a park owner's decision to simply close rather than convert. State law on the subject provides the bare minimum—San José can and must require a public hearing before the displacement of potentially hundreds of households. Such important land use and displacement issues must be reviewed with greater public scrutiny by appropriate public entities than the proposed Closure Ordinance currently provides.

We understand that some mobilehome park owners have threatened litigation against the City, and that this threat has driven staff to propose this draft Closure Ordinance. We ask that the City not allow itself to be held hostage by threats when the continued stability and well-being of thousands of our city's most vulnerable residents are threatened.

**B. To prevent park owners from circumventing the Conversion Ordinance, San José must limit use of the Closure Ordinance to instances where a park owner cannot make a reasonable return on their investment.**

If San José adopts a Closure Ordinance, it should include a provision that requires a park owner to prove, through the submission of records and a hearing before the Council, that they cannot make a reasonable rate of return on their investment prior to receiving approval to close a park. This requirement is necessary for the City to ensure that it does not allow for the displacement of hundreds, if not thousands, of households and the loss of vital affordable housing stock based on an owner's whim. Moreover, such a requirement is legally permissible so long as it does not interfere with the owner's primary, investment-backed expectations, and it does not render the owner unable to receive a reasonable return on their investment. (*Nash v. City of Santa Monica* (1984) 37 Cal.3d 97, 102.) As stated above, state Ellis Act does not apply to mobilehome parks, and municipalities can require this showing under their power to regulate land use.

Although *Nash v. City of Santa Monica* was superseded as to conversions of rent-stabilized residential real property when the Ellis Act was adopted, this case and its holding still articulates state law allowing jurisdictions to require that a mobilehome park owner show they can no longer make a reasonable rate of return before they can close and displace all their residents. As such, the City of San José should impose such a requirement to prevent park owners from simply circumventing the Conversion Ordinance by closing, displacing low-income



residents, destroying rent stabilized affordable housing units, and seeking to redevelop the property with other uses.

As presently drafted, the Closure Ordinance has no provision that prevents a park owner from misusing the Closure Ordinance to circumvent the Conversion Ordinance. The Closure Ordinance's only attempt to limit its misuse is by requiring a park owner to disclose the nature of the use of the parcel(s) where the park is located after the park is closed or a statement that no new use is contemplated under penalty of perjury.<sup>17</sup> (Closure Ordinance § 20.180.740(E).) While this measure is a positive step, it poses no real barrier to misuse of the proposed Closure Ordinance, since it does not even specify what recourse and remedies displaced park residents or the City have to address a park owner's misrepresentations.

We urge the Council to reject the Closure Ordinance since the City's Conversion Ordinance encompasses projects termed as closure applications. However, if the City elects to adopt a Closure Ordinance, it should require significant changes are made because, among other things, the Closure Ordinance fails to preserve San José's 59 mobilehome parks and requires less rigorous relocation impact analyses and fewer relocation benefits for displaced residents than required by the City's longstanding Conversion Ordinance. More specifically, if a Closure Ordinance is adopted, the City should require that 1) it does not prevent owner from using the Closure Ordinance to circumvent the Conversion Ordinance, 2) does not require that the City Council hear the application to close a park, and, 3) it continues to require an inferior relocation impact analysis and mitigation benefits than what the Conversion Ordinance provides.

### **3. Adopt General Plan Text Amendment Changes.**

Staff has proposed several General Plan text amendments that, if adopted, may help San José maintain an affordable and diverse housing stock, which includes mobilehomes. Again, these changes may become meaningless if the City adopts the present draft of the Closure Ordinance, which facilitates closure of San José's 59 mobilehome parks.

The City should establish a mobilehome park designation in the General Plan if it seeks to preserve its 59 mobilehome parks. Currently, San José has no General Plan designation for mobilehome parks. Although most mobilehome parks are designated as "Residential Neighborhood," some others are designated for industrial and commercial uses. The City should address this problem by adopting and applying this designation to all mobilehome parks, demonstrating that it values mobilehome parks as sources of affordable housing and that it intends to preserve mobilehome parks into the future.

In addition to adopting and applying a mobilehome park designation, the City should also amend the General Plan to establish a policy of "no net loss" of land zoned for mobilehome use.

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<sup>17</sup> We are concerned that even this requirement falls far short of what State law requires. State law requires a park owner who seeks to change the use of a park, including closing it, to "disclose in detail the nature of the change of use." (Government Code § 798.56(g)(2).) The proposed Closure Ordinance seems to authorize the park owner to provide something that does not comply with this State law requirement, since the park owner is not asked to provide a detailed disclosure about the nature of the use. (Closure Ordinance §20.180.740(E).)

There are multiple examples of “no net loss” policies that the City can use to preserve mobilehomes, including San José’s own industrial lands policy, Sunnyvale’s policy of preserving a set number of acres for mobilehomes, and Santa Cruz’s stated policy of preserving a set number of mobilehome units.

First, the City could use San José’s existing industrial lands policy as an example for an effective anti-conversion policy relating to mobilehome parks. This policy enables the City to preserve its valuable employment lands in order to promote economic growth. The vehicle for this policy is a series of clear statements in San José’s General Plan which integrates the industrial lands policy with many of the General Plan’s broad goals and policies. Council should take a similar approach here.

Second, Sunnyvale’s Housing Element and General Plan together take an approach that preserves the amount of mobilehome park acreage within the City through the City’s policy to “maintain at least 400 acres of mobile home park zoning.” Sunnyvale currently has 413.45 acres of mobilehome park zoning, making the “400 acre” policy effectively a no net loss policy.

Third, Santa Cruz implements a “no net loss policy” by preserving its current number of mobilehomes through a similar provision in its Housing Element, which expresses the goal to “Maintain current mobilehome [ . . . ] conversion regulations to preserve 360 mobilehomes in parks in the community.” San José should take a similar approach and amend its General Plan with a policy protecting either mobilehome acreage or units. We thus recommend that the General Plan be amended to include an exclusively mobilehome park designation and “no net loss” policy similar to the City’s industrial no net loss policy to fortify its commitment to preserving mobilehome park lands and this source of affordable housing.

In addition to these changes, staff’s proposed text amendments need to be clarified, expanded and/or strengthened to further strengthen mobilehome preservation efforts. We believe that the additional goals and actions that we include below to help preserve our City’s 59 mobilehome parks. More specifically, in addition to several of staff’s recommended General Plan text amendments (specifically H-1.1, H-1.10, General Land Use Goal LU-2 - Growth Areas, Implementation Policy IP-5.1(2), and Implementation Policy IP-5.7), we ask that the Council support and recommend the following changes. Underlined text is language we recommend adding while struck-through language is that which we recommend deleting.

*Policies - Housing - Social Equity and Diversity*

H-1.3 - Create, preserve, and rehabilitate housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

H-1.9 - Facilitate the development, preservation, and rehabilitation of housing to meet San José’s fair share of the County’s and region’s housing needs.

*Actions - Housing – Social Equity and Diversity*

H-1.16 Encourage that all proposed Ceonversions of Use or Changes of Use of mobilehome parks to other uses to include mitigation measures that provide displaced residents with housing options that are affordable once any short term subsidy has elapsed purposes other than the rental, or the holding out for rent, of four (4) or more mobilehome sites or spaces to accommodate mobilehomes used for human habitations, including the cessation of use, to mitigate any adverse impact to enable residents to relocate to replacement housing that is affordable and equivalent, including but not limited to their location and amenities.

*Implementation Goal IP-5 – Urban Village Planning*

Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly “Urban Villages” (also referred to as “Villages” within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods, including existing mobilehome parks. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

*Implementation Goal IP-5.2 – Urban Village Planning*

Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

*Implementation Policy IP-5.4, Urban Village Planning*

Prepare and implement Urban Village Plans carefully, with sensitivity to concerns of the surrounding community, residents, and property owners and developers who propose redevelopment of properties within the Urban Village areas. In furtherance of this policy and San José’s obligation to affirmatively further fair housing choice, prepare and report on the number of affordable housing units, including rent stabilized units, and socio-economic characteristics of the of residents who reside in the Urban Village. Urban Village Planning should protect against the displacement of low- and moderate-income tenants and mobilehome park residents who live in the Urban Village, and they must also plan for the mitigation of the loss of any mobilehome housing, rent controlled housing, and other affordable housing options that are lost to the community as a result of redevelopment. As part of the Urban Village Planning process, outreach to and community meetings for residents who face displacement, particularly those in mobilehome communities and multifamily housing, should be conducted. Proceed generally in the order of the following timeline, although some steps may be taken concurrently;

**4. Uniformly Zone all Mobilehome Parks for this Exclusive Use.**

San José has an R-MH mobilehome zoning designation which reserves these lands for mobilehome park uses.<sup>18</sup> Currently, at least one third of the City's 59 mobilehome parks are not zoned R-MH.<sup>19</sup> Updating the zoning on mobilehome parks would both demonstrate the City's commitment to mobilehome preservation and enable consistent regulation of R-MH lots. If the City adopts a Closure Ordinance, rezoning all parks so that they were intended for exclusively mobilehome park land use may create at least one barrier that may cause park owners to reexamine their efforts to circumvent the Conversion Ordinance. The City should update every mobilehome park to the R-MH designation to help protect mobilehome parks lands and to help prevent misuse of the proposed Closure Ordinance.

**5. Amend the Council Policy to Further the Intent of and Clarify the Conversion Ordinance.**

We continue to believe that San José can, and should, do more to strengthen its land use regulations to preserve mobilehome communities, especially if the City adopts a Closure Ordinance that permits a park owner to disregard the Conversion Ordinance and Council Policy. However, in light of staff's and the City's present approach, we request that the Council adopt the following changes to the Council Policy.

**A. Do not amend the clarification presently contained in the Council Policy that park closure projects should not be excluded from mobilehome park conversion of use projects.**

When the Council adopted the Council Policy to the Conversion Ordinance, it contained a section that stated that "the definition of 'Mobilehome park conversion of use' should not be interpreted to exclude projects described as 'park closure' from the requirements of Chapter 20.180." (Res. No. 77673, Conversion of Mobilehome Parks to Other Uses, Council Policy 6-33,1(e).) Since Council will consider adopting a Closure Ordinance, staff has proposed amending this language. We continue to argue that a separate Closure Ordinance is not necessary and that every application to change the use of a park, including closing it, should be processed through the Conversion Ordinance. If the Council agrees and does not adopt the Closure Ordinance, we ask that the Council not amend this language to make clear that all changes of use projects, including closures, will be processed through the Conversion Ordinance.

**B. Define the term "sufficient information" to clarify that it includes more than only an appraisal.**

One of the goals of the Conversion Ordinance is to help preserve San José's mobilehome parks by encouraging park owners and residents' associations (called Designated Residents'

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<sup>18</sup> San José Municipal Code § 20.30.010(C)(4).

<sup>19</sup> A table that the zoning for all of the City's mobilehome parks may be found starting at page 19 of the Planning Commission's Memo to Council dated March 28, 2017, which may be accessed at: [http://sanjose.granicus.com/MetaViewer.php?view\\_id=&event\\_id=2679&meta\\_id=626699](http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2679&meta_id=626699).

Organizations (DROs) in the Conversion Ordinance) to negotiate for the sale of the park to DROs so that the affordable homeownership housing in these parks is preserved. To submit a viable offer to purchase the park, the DRO needs records relating to the operation and condition of the park. Although the appraisal of the mobilehome park is an important tool in preparing a purchase offer, it is not the only record that the DRO needs to prepare a viable offer. The DRO needs other records that specify the costs to operate the park, its outstanding financial obligations, its future maintenance obligations, and other relevant records. Staff has proposed to amend subsection d(i) of section 1 by providing more detail about what “sufficient information” the DRO will need to prepare its offer. Although staff’s suggested edit to include a reference to an appraisal is helpful, other examples of what constitutes sufficient information must also be specified.

**C. Council Policy should call for a confidentiality agreement, not a third party, to protect park owner’s proprietary information.**

In line with comments we submitted over a year ago,<sup>20</sup> we suggest that subsection d(i), which enables a park owner to have a third party hold information in confidence that the DRO needs to formulate a viable offer to purchase the park, is unworkable. It is inconsistent for the Council Policy to suggest that the park owner provide the DRO with sufficient information to enable it to make a viable offer and then, in the same section, state that the owner may require that a third party hold this information in confidence so that the DRO cannot access it. This information is absolutely necessary to evaluate whether a resident purchase is viable, for identifying financing, and for composing a credible offer to purchase the park. While we understand park owners’ desire for their financial information not to become public, release of that information to the DRO—or to an agent of the DRO—is an essential prerequisite to the good faith negotiations required by the Ordinance and Council Policy. Instead of the present language, the Council Policy could either require or allow the parties to enter into a confidentiality agreement at the outset of their negotiations.

**D. Clarify that the required Relocation Impact Report should be interpreted to mean that required under either Government Code § 66427.4 and 65863.7.**

Government Code section 66427.4 specifies that a Relocation Impact Report (“RIR”) will be required for conversion of use of mobilehome parks when a the party seeking to convert the park also seeks a map to subdivide the park. Government Code section 65863.7 specifies RIR requirements when conversion, closure or cessation of use of a park is sought without a concurrent subdivision map. As such, and particularly if the Council approves amending the Council Policy to state that the Conversion Ordinance excludes park closure applications, the Council should correct this section to reference the requirements under Government Code section 66427.4

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<sup>20</sup> A copy of our coalition letter dated February 22, 2016, which includes additional recommendations for changes to the Council Policy, can be found starting at page 51 of the following link:  
[http://sanjose.granicus.com/MetaViewer.php?view\\_id=&event\\_id=2124&meta\\_id=557348](http://sanjose.granicus.com/MetaViewer.php?view_id=&event_id=2124&meta_id=557348).

Letter to San José City Council, May 11, 2017

Re: City Council Meeting, May 16, 2017

Agenda Items 4.1 and 10.1, Mobilehome Park Protection & Closure Ordinance

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**E. Provide clear guidance regarding how disputes concerning selection of appraisers and RIR Specialists are resolved.**

Staff's proposed changes at Sections 2.a. and 2.c. of the Council Policy, which relate to appraiser and RIR Specialist selection, are incomplete and require revision. Section 2.a. discusses the selection of the appraiser that will prepare valuations of mobilehome owners' homes. Section 2.c. discusses selection of the RIR Specialist. Although these two sections allow for parties to select their respective appraisers and RIR Specialists, staff did not provide guidance about how the parties should resolve any disputes regarding the ultimate selection of these professionals, like through mediation that is free of charge to park residents. Therefore, the Council should direct staff to clarify these sections.

**F. State that the City, not a park owner, will provide an appeals process where there is a dispute regarding relocation and purchase assistance.**

The Council should amend section 2.g. of the Council Policy so that the City, not the park owner, provides an appeals process to resolve disputes regarding relocation and purchase assistance. As we stated before the Council Policy was adopted, this dispute resolution process contained in the Council Policy is unacceptable, since any party hearing an appeal will be directly hired by and be an agent of the park owner. Instead, the City should have and govern an appeals process before a neutral fact finder.

Thank you for your attention and consideration. I welcome the opportunity to discuss the Law Foundation's letter with Council Members. I may be reached at 408-280-2448 or [dianac@lawfoundation.org](mailto:dianac@lawfoundation.org).

Sincerely,



Diana E. Castillo  
Senior Attorney



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## Closure Ordinance Deficiencies Attachment

The Mobilehome Park Closure Projects Ordinance (hereafter “Closure Ordinance”) fails to fulfill the City Council’s directive to preserve mobilehome parks and protect mobilehome park residents. The Closure Ordinance also fails to comply with State law because it prevents the decision maker from requiring the park owner who seeks to close their park from mitigating any adverse impact on the displaced mobilehome park resident to find adequate replacement housing. In 2016, the City adopted Council Policy 6-33, which are thorough and thoughtful guidelines for interpreting requirements under the City’s Mobilehome Conversion Ordinance (hereafter “Conversion Ordinance”). Adoption of an inferior Closure Ordinance, which requires less rigorous Relocation Impact Report (hereafter “RIR”) analysis and relocation benefits, will make the City’s Conversion Ordinance moot and make it impossible for residents to find adequate replacement housing. We note several of the Closure Ordinance’s deficiencies below and urge the Planning Commission to recommend rejection of the Closure Ordinance unless significant changes are made.

- **Does Not Protect Residents Against Park Owners’ Misuse of the Closure Ordinance to Avoid the Conversion Ordinance’s Procedural and Relocation Assistance Provisions.** As drafted, the Closure Ordinance provides fewer relocation benefits to residents than the Conversion Ordinance. There is no part of the Closure Ordinance that requires or penalizes a park owner who truly seeks to redevelop, versus simply closing the park and immediately applying to redevelop it, to actually proceed through the City’s Conversion Ordinance. The only, and narrow, way this issue is addressed in the Closure Ordinance states that the park owner shall disclose “the nature of the use of the Parcel(s) where the Park is located after Closure is approved *or* [provide] a statement under penalty of perjury that no new use is contemplated” in the RIR. Greater procedural protections must be included in the Closure Ordinance to safeguard against abuse.
- **Does Not Provide Residents with an Opportunity to Negotiate for Park Preservation.** The Closure Ordinance does not enable park residents to negotiate with the park owner to preserve their park. An association of residents, if it elects to, should be allowed to try and negotiate with the park owner to preserve the park, like the Conversion Ordinance provides. (Conversion Ordinance § 20.180.380.) The City’s Closure Ordinance does not allow for this.
- **Does No Provide Residents with a First Right of Refusal.** The Closure Ordinance does not provide residents with a first right of refusal to rent or purchase housing in a future residential development (if the resident qualifies). The Council Policy calls for this. (Council Policy 6-33 § 1(j).)

- **Unreasonably Disqualifies Residents from Relocation Assistance Benefits.** The Closure Ordinance, particularly its definitions section, does not reflect residents' real-world homeownership and space rental realities, including the hardship they will face during a closure application. Since most mobilehomes in San José's parks cannot be moved, we are concerned that many mobilehome owners will be disqualified from receiving compensation for the loss of their homes under the Closure Ordinance based on the Closure Ordinance's definition. Although we appreciate that staff amended this definition in its March 21, 2017, Closure Ordinance draft, we note that it is far narrower than the Conversion Ordinance's definition, which encompasses a host of ways that residents can prove that they are, in deed mobilehome owners. (Closure Ordinance § 20.180.705(R); Conversion Ordinance, § 20.180.160.) As such, the Closure Ordinance's definition should be amended to be the same as the Conversion Ordinance's, which is, "a person who has the right to the use of a mobilehome lot within a mobilehome park on which to locate, maintain, and occupy a mobilehome, lot improvements and accessory structures for human habitation, including the use of the services and facilities of the park." (Conversion Ordinance, § 20.180.160.)

Another oversight is that mobilehome owners who are 55 or older qualify to rent spaces in San José's parks, but, under the Closure Ordinance, seniors need to be 62 years or older to qualify for certain relocation benefits. (Closure Ordinance § 20.180.705(Y).) These overly restrictive definitions unreasonably deny residents vital benefits and are contrary to the requirements of State law.

- **Limits Who is Eligible to Receive Certain Benefits, Like a Rent Differential Subsidy.** The Closure Ordinance provides a rent subsidy only if a resident household qualifies as senior (62 and older), disabled, or low-income. (Closure Ordinance § 20.180.730.) *All* displaced residents should qualify for a rent differential, which is what the Conversion Ordinance provides (§ 20.180.630(d).) San José is home to mobilehome parks that contain upwards of 700 mobilehomes. If 700 households were displaced, a majority would be unable to find other rent stabilized housing, whether in or out of a mobilehome park. If households were mere dollars above some low-income threshold, they would be denied the ability to have the soft landing that a rent subsidy is designed to provide. A park owner should not be able to avoid paying for displacement mitigation protections based solely on the type of application they submit.
- **Does Not Require Individualized Assessment of Long-term Housing Solutions.** We thank staff for amending the March 21, 2017, draft of the Closure Ordinance to incorporate our request that the RIR Specialist prepare individualized assessment for comparable housing evaluation. This evaluation should include longer-term housing solutions so that each displaced resident is not displaced, again, once a housing subsidy terminates. The Closure Ordinance does not require any evaluation of long-term housing solutions for individual households like the Conversion Ordinance and Council Policy



specify. (Council Policy 6-33 §§ 1(g)-(j).) These assessment provisions should be the same under the Conversion Ordinance/Council Policy and the Closure Ordinance.

- **Lacks a Housing Burden Assessment.** The Closure Ordinance fails to require that relocation and purchase assistance provide sufficient subsidies and other measures to allow residents to find other adequate, safe housing priced at a level that does not create a greater housing burden on a resident. (Closure Ordinance § 20.180.730; Council Policy to the Conversion Ordinance 6-33 §§ 1(g)-(j).)
- **Provides Insufficient Subsidy for Large Households.** Unlike the Conversion Ordinance, the Closure Ordinance does not call for more than one housing subsidy if a large household is forced to split into smaller households. (Conversion Ordinance § 20.180.6302(C); Closure Ordinance § 20.180.730.) If any mobilehome park closes, it is likely that most residents will need to move to smaller households. Because other housing opportunities may limit the number of residents who can live in a housing unit, larger families will need to split up. The Closure Ordinance does not require a rent subsidy for multiple households if they must split up, which will severely disadvantage larger households and substantially limit their ability to find replacement housing.
- **Insufficient Guidance for Appraisers.** The Closure Ordinance fails to provide sufficient direction to appraisers in determining value. (Closure Ordinance § 20.180.740.) Appraisals should list in-place value of mobilehomes prior to any public discussion or communication regarding closure of the mobilehome park because of the downward impact that public knowledge of closure has on value. Moreover, if the appraiser identifies lack of maintenance or deterioration of the subject mobilehome park that negatively affects the value of a mobilehome, the appraiser should determine the value of the home with an upward adjustment in value as needed to eliminate the negative effect in value caused by the lack of maintenance or deterioration.
- **Does Not Require Staff to Obtain Confidential Questionnaires if Incomplete.** The Closure Ordinance mandates that the RIR specialist will analyze residents' confidential responses to a questionnaire in evaluating the relocation assistance they require. (Closure Ordinance, § 20.180.750.) As presently drafted, the Planning Director "may but is not required to seek the information directly from the Mobilehome Owner and/or Resident." (Id.) Already stinging from a park owner's broken promise that their park will remain open, park residents will be reticent to entrust confidential information about themselves to an RIR Specialist. Other barriers may exist, fear or denial over the prospect of losing one's home, language-and employment barriers, and disability, may prevent a park resident from submitting questionnaires. This section must be amended to require City staff to make several attempts to obtain information from park residents if their questionnaires are incomplete or not submitted to the RIR Specialist. As such, we ask that the Closure Ordinance recognize this and mandate that the Planning Director will make several attempts to collect this vital information.

- **Contains a Wholly Inadequate Appraisal Dispute Resolution Process.** The Closure Ordinance resolves a dispute about the valuation of a residents' home by requiring the resident to obtain a costly appraisal report, and then, "*may* require that the Mobilehome Owner be compensated based on the average of the appraisals obtained by the Park Owner and the Mobilehome Owner." (Closure Ordinance § 20.180.730 (B)(5), emphasis added.) This dispute process is wholly inadequate and will lead park owners, who select their own appraiser, to generate low appraisal amounts. It is unlikely that low-income residents will hire their own appraisers, which means that park owners' appraisers will propose artificially low valuations of residents' homes. Even if a resident hires their own appraiser, they will always receive less than what their expert appraiser determines is the value of their home. Instead, the City should have and govern an appeals process before a neutral fact finder.
- **Does Not Enable Decision-Makers to Comply with State Law nor Require Park Owner to Mitigate Any Adverse Impact on Residents' Ability to Find Adequate Replacement Housing.** The Closure Ordinance fails to make clear that, under State law, the RIR Specialist may propose, and the Planning Director or City Council may require, relocation assistance that mitigates *any* adverse impact on a resident's ability to find adequate replacement housing in a mobilehome park. (Government Code § 65863.7(e), emphasis added.) Such instruction is not provided to the RIR Specialist who will prepare the RIR. (Closure Ordinance §§ 20.180.730 -.740.)

To mitigate any adverse impact, the Planning Director has the ability to require relocation assistance amounts that are more than even the 100% appraised value of a residents' home if it takes more assistance to secure adequate replacement housing in another park. The limit, that mitigation shall not exceed the "reasonable cost of relocation," may include more assistance than the limited categories that the Closure Ordinance specifies. The Closure Ordinance must provide the RIR Specialist, the Director of Planning and the Council with a clear statement that they have the ability to require additional mitigation measures if they are necessary to enable the resident to relocate to adequate replacement housing. Failure to include this provision means that the Closure Ordinance fails to comply with State law.

- **Does Not Require a Public Hearing to Review the Sufficiency of the RIR.** The Closure Ordinance states that a public hearing to review the sufficiency of the RIR would only be scheduled if a resident or park owner requests it. (Closure Ordinance § 20.180.740.) Given the displacement of thousands of vulnerable residents in any potential closure, a City Council hearing assessing the sufficiency of the Relocation Impact Report should be required as a matter of course. This requirement would not contravene State law on the subject, which allows the legislative body, the City Council, to review and evaluate the application.

- **Does Not Require that Notices to Park Residents about the Proposed Closure of a Mobilehome Park be Accessible.** The Closure Ordinance identifies notices that residents will receive related to the park closure application. (Closure Ordinance §20.180.760(B).) It will notify them that they can obtain “information on accommodations and how to obtain interpretation and translated information or other accommodations from the RIR Specialist.” (Id.) However, it fails to specify that these initial notices (about how to obtain accommodations and translated information) will be accessible for residents who are disabled or not proficient in English. Further, it states that “information” will possibly be translated, but it doesn’t say that the RIR will be translated. These are major oversights that must be corrected, since these notices and the RIR contain important rights and information that must be accessible for people who are not English-language proficient or who are disabled. This oversight means that many park residents will be unable to understand and assert their rights.
- **Does Not Require that the RIR Report, and Subsequent Amendments, Be Provided to Residents as Required Under State Law.** Contrary to the requirements under State law, which requires that the park owner provide a copy of the RIR to a resident of each mobilehome at the park, the Closure Ordinance state that each resident will be invited to obtain a copy. (Government Code § 65863.7(b); Closure Ordinance §20.180.760(B).) Further, the Closure Ordinance does not specify that this notice will be accessible for residents who are disabled or who are not fluent in English. (Id.) To comply with State law, the Closure Ordinance must require that the RIR and subsequent amendments be provided to a resident from each mobilehome. (Id.) As such, a resident from each mobilehome should receive these subsequent amendments or clarifying letters and at least 30 days prior to any hearing on or consideration of the RIR by the Planning Director and City Council and these should be accessible.
- **Prevents the Decision-Maker from Denying an RIR While Making Full Compensation for Residents’ Relocation Expenses Optional.** The Closure Ordinance only allows the Planning Director or City Council to approve or conditionally approve an RIR. (Closure Ordinance § 20.180.760(C).) It does not specify that these decision-makers have the ability to deny it. (Id.) This means that residents would be left in limbo for potentially significant periods of time during the application process, especially if the park owner causes unreasonable delay.

Further, the Closure Ordinance is patently unfair and unbalanced in how it treats park residents. For example, even though the decision-maker will be unable to deny the RIR, it does not require the decision-maker to fully compensate a homeowner for the in-place value of their home, provide a rent differential, or cover costs to re-install disability-related improvements the park resident will need at their replacement housing. (Closure Ordinance § 20.180.760(D).) Instead, the decision-maker may require a park owner to compensate residents for something far less than what residents need to obtain adequate replacement housing. (Id.)

- **Does Not Specify that Public Hearings on Conditionally Approved RIRs will be Required.** The Closure Ordinance is silent about whether subsequent hearings will be required if an RIR is conditionally approved. (Closure Ordinance § 20.180.760(C).) The findings relating to the adequacy and approval of the RIR should be evaluated at a public hearing. A closure should not be permitted unless and until an RIR is actually approved subsequent to a public hearing.
- **Lacks a Necessary RIR Appeals Process.** The Closure Ordinance permits the Director of Planning to authorize displacement of potentially thousands of residents, the permanent loss of hundreds of affordable and rent stabilized housing units, and closure of a mobilehome park. (Closure Ordinance § 20.180.760(B).) The Closure Ordinance provides for no appeals process in the event that park residents dispute the accuracy of or sufficiency of their relocation benefits. Neighboring cities provide appeals processes before a neutral fact finder. Although we disagree that the Planning Director should have the ability to unilaterally make a decision on a closure application, at a minimum, the City's Closure Ordinance should contain an appeals process for residents to dispute the Planning Director's decision about the adequacy of the benefits approved under the RIR.

May 12, 2017

TO: Mayor and Council  
FROM: Martha O'Connell [REDACTED]  
RE: Response to MHET submission – utility infrastructure  
Items 4.1 and 10.1 City Council Meeting of 5-16-17

In her 5-3-17 letter, attorney Margaret Nanda, on behalf of the mobilehome park owners who belong to the Manufactured Housing Educational Trust (MHET), sent you a copy of a declaration of Jack Kerin.

A portion of that declaration reads:

13 In my opinion the most environmentally sound approach to utility system maintenance in aging mobilehome parks is to **incentivize capital expenditures to replace aging systems** in a controlled approach as opposed to responding to emergencies or sudden system failures. (My emphasis added.)

For the record, I quote Commissioner Mike Graves, who represents the park owners on the Housing and Community Development Commission, (HCDC). On 8-19-09, he submitted a letter to the Mobilehome Advisory Commission for Item (f)(2)(a). The relevant portion is:

“The fact is that both **PUC and court decisions** have made clear that **all costs** associated with gas and electric systems are ineligible to be passed through to the residents through rent control hearings. Instead, **they are to be covered by the discount that park owners receive since they sell gas and electricity to their residents at retail prices and pay wholesale rates for these services.** (My emphasis added.)

The incentive for upgrading of park electrical systems already exists.

# City-Initiated General Plan Amendments for Mobilehome Parks

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Housing & Community Development Commission

January 23, 2020

Item VII-A



*Planning, Building and  
Code Enforcement*

# Background

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## **Actions taken since 2015 to protect mobilehome park residents and preserve existing mobilehome parks:**

- Temporary moratorium on mobilehome park conversions and closures
- Zoning Code Changes
- City Council Policy (Policy 6-33 “Conversion of Mobilehome Parks to Other Uses”)
- General Plan text amendments

# Background

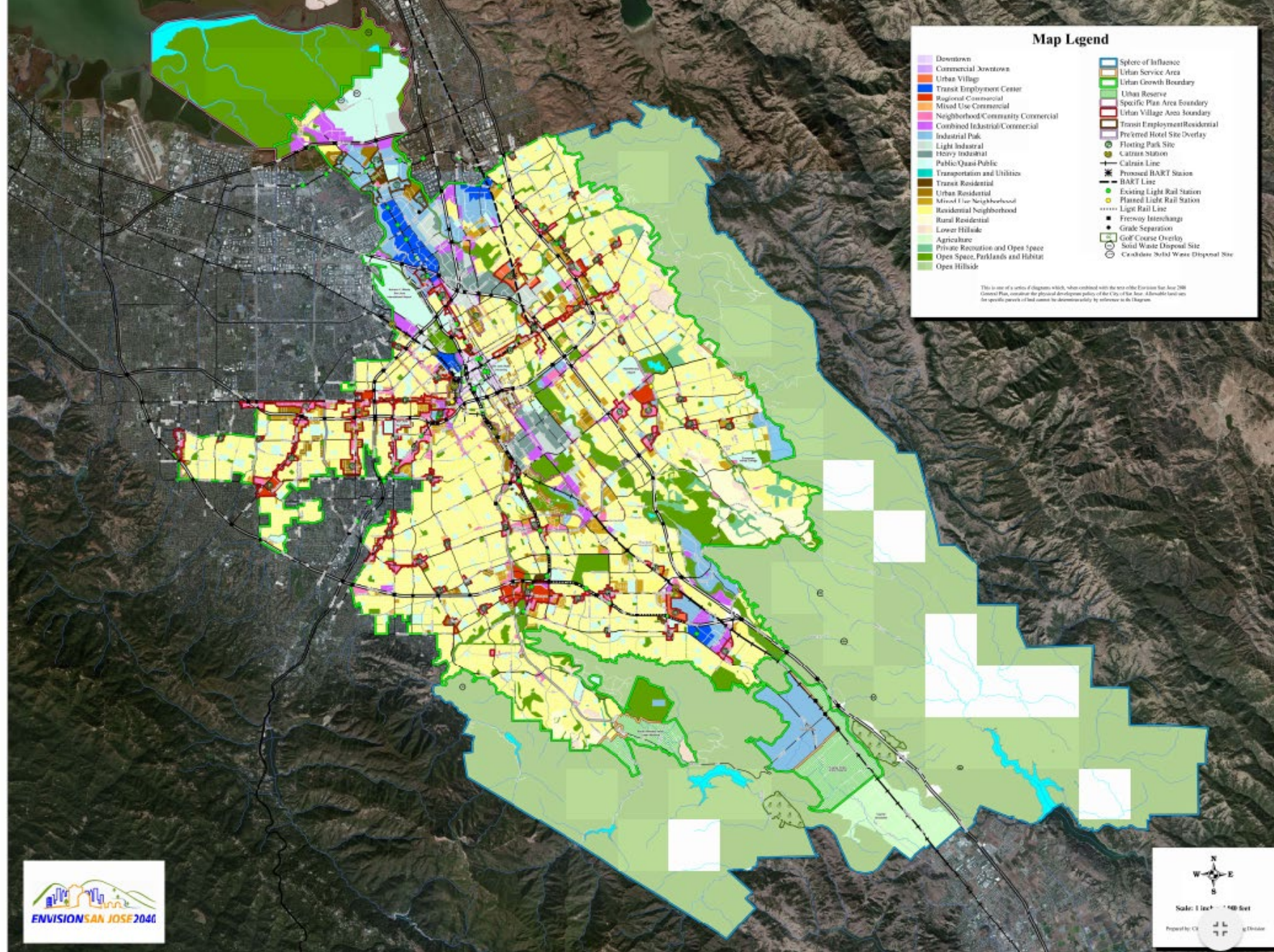
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- Spring 2017 – Council directed staff to analyze General Plan land use amendments for mobilehome parks as a preservation tool
- Winter 2018 – Council directed staff to create a new Mobilehome Park land use designation and apply it to the two (2) mobilehome parks with high-density residential land use designations



# General Plan Land Use / Transportation Diagram

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# GPAAs as a Preservation Tool

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- City-initiated General Plan amendments do not directly prohibit park closures but strengthen protections of mobilehome park residents
- Application of mobilehome park land use designation creates additional land use process for redevelopment
- City Council is decision making body for General Plan amendments

# Permitting Process

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- General Plan Amendment



- Rezoning



- Development Permit



- Building Permit

- Typically one year process
- Environmental review
- Community outreach
- City Council Decision

- Typically 6-9 month process
- Submit Plans
- Interdepartmental Review
- Environmental review
- Community outreach
- Deciding body depends on type of permit

# Proposed Mobilehome Park Land Use Designation

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- Intent of designation is to preserve existing housing stock and to reduce and avoid the displacement of long-term residents
- Density: No greater than 25 mobilehome lots per acre
- Allows for the construction, use and occupancy of a Mobilehome Park

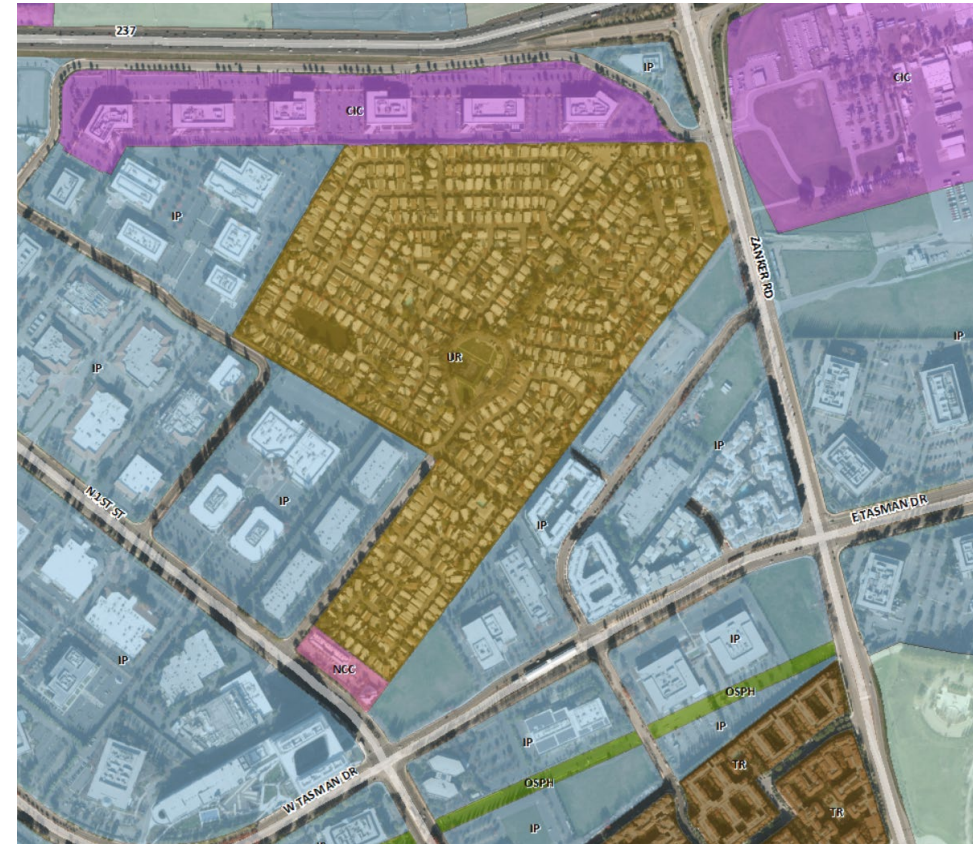
# Proposed Land Use Amendments

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**Mountain Springs Mobilehome Park**

**Urban Residential (and Residential Neighborhood)**  
to  
**Mobile Home Park**



**Westwinds Mobilehome Park**

# Next Steps

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- Planning Commission (February 12, 2020)
  - Provides recommendation to City Council
- City Council (March 10, 2020)
  - Decision-making body



*Housing*

# Rent Stabilization Program Quarter 2 Report for Mobilehomes, including the Mobilehome Rent Ordinance

January 22, 2020  
HCDC  
Item VII-B

**Rachel VanderVeen**  
Deputy Director



# Overview

- Community engagement via public outreach and presentations
- Continued communication with Mobilehome community through e-mail, in-person and telephonic assistance



**59**  
MOBILEHOME  
PARKS



**10,840**  
MOBILEHOME  
SPACES





# Program Highlights

Received 63 inquiries, including:

- 🏠 Resident's Rights
- 🏠 Referral Advice
- 🏠 Utility Charges
- 🏠 Mobilhome Park fee invoices

SUMMARY OF ISSUES	
Referrals	10
Requests for Information	26
Code Enforcement/Maintenance	4
Rent Increases	4
Eviction Information	3
Fees, Lease, Deposits	7
Site Visits	2
Miscellaneous	7
<b>Total Number of Issues Submitted</b>	<b>63</b>



# Recommendation

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Review the staff report and provide possible recommendations to staff on the Rent Stabilization Program Quarter 2 Report for FY 2019-20.





*Housing*

# Rent Stabilization Program Quarter 2 Report for Apartments

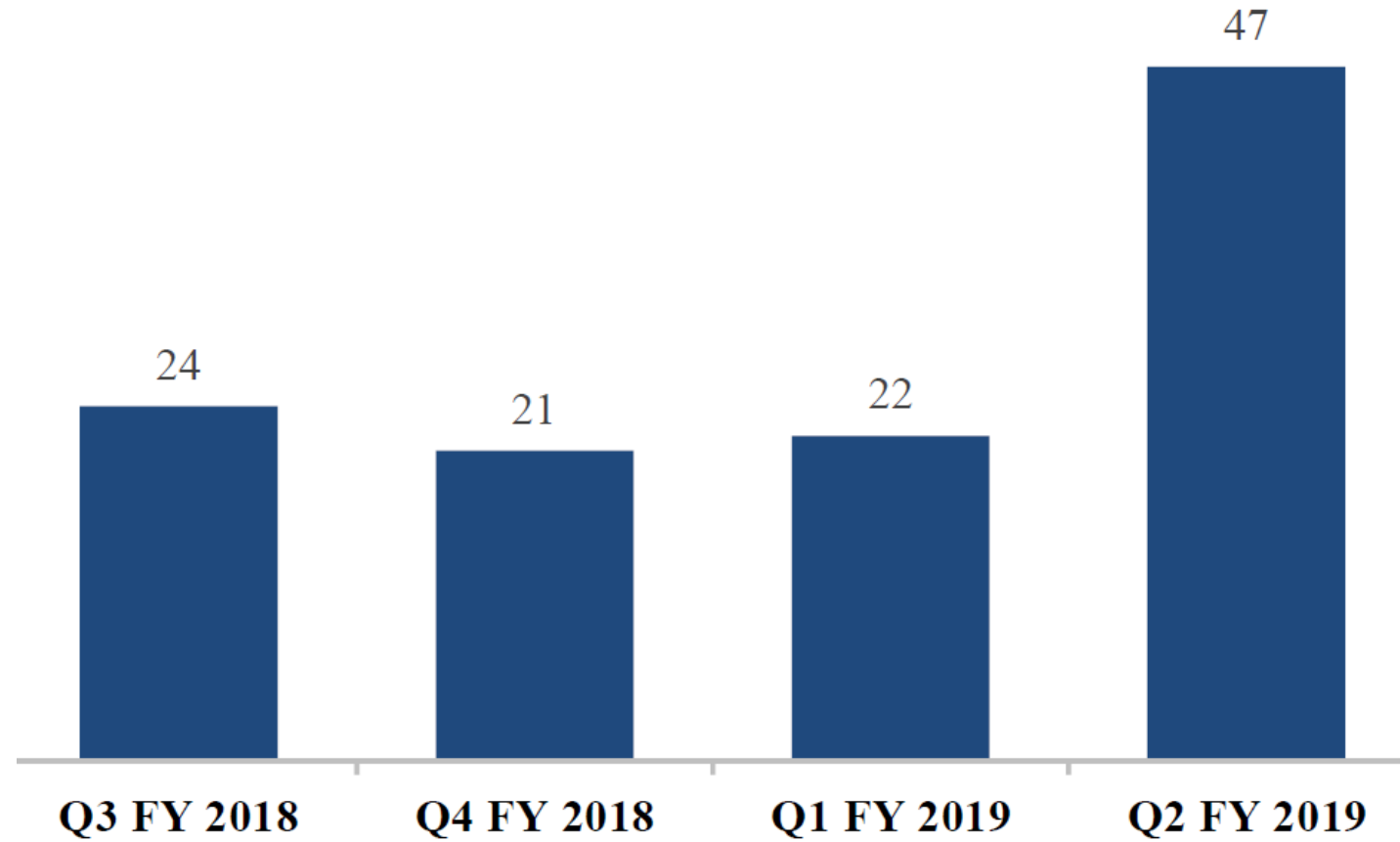
including the Apartment Rent Ordinance,  
Tenant Protection Ordinance, Ellis Act  
Ordinance

January 23, 2020  
HCDC  
Item VII-C

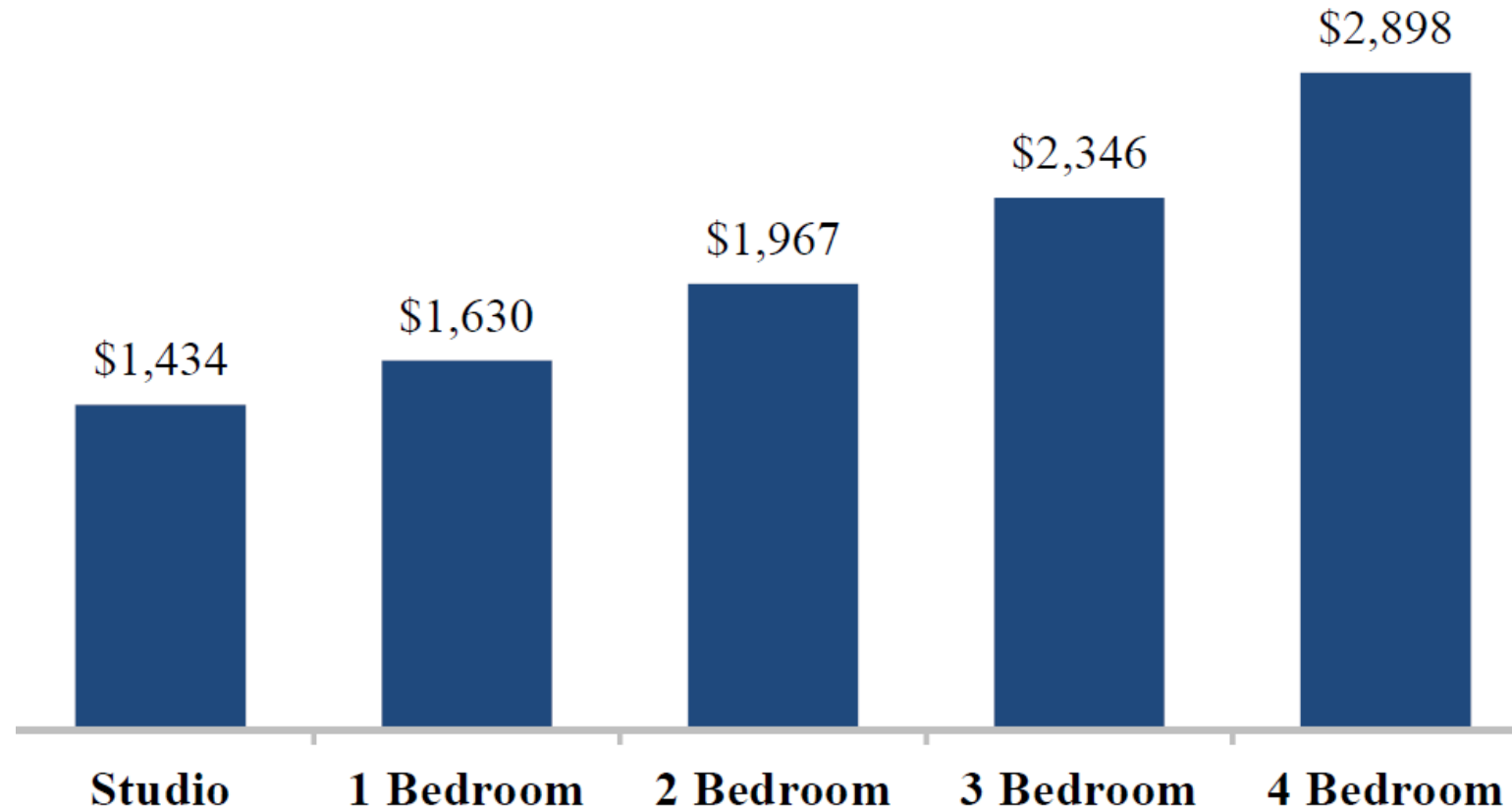
**Fred Tran**  
**Senior Analyst**



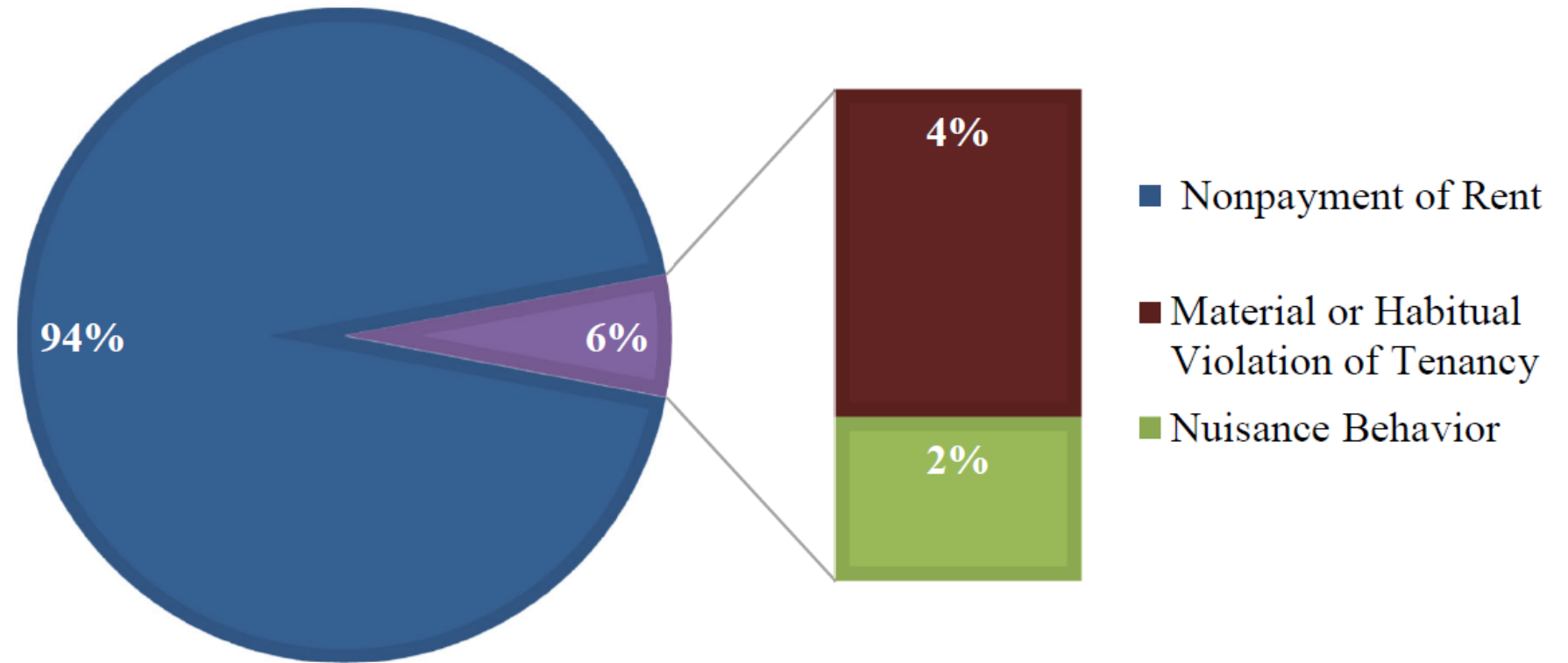
# Summary of 47 Petitions Filed



# Rent Registry – Average Rents for Rent Stabilized Apartments



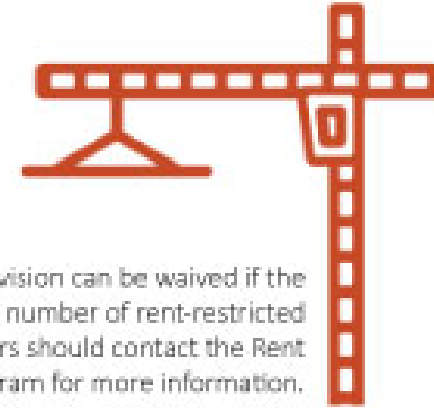
# 2,293 Notices of Terminations Received



# Ellis Act Ordinance Amendments

**When a rent stabilized apartment building is demolished, 50% of the new units are subject to re-control, with a cap of 7x the number of demolished units.**

The re-control provision can be waived if the developer builds a certain number of rent-restricted affordable units. Developers should contact the Rent Stabilization Program for more information.



**Displaced tenants may have a right to be placed in other rent stabilized housing and/or have a right to return after construction is complete.**

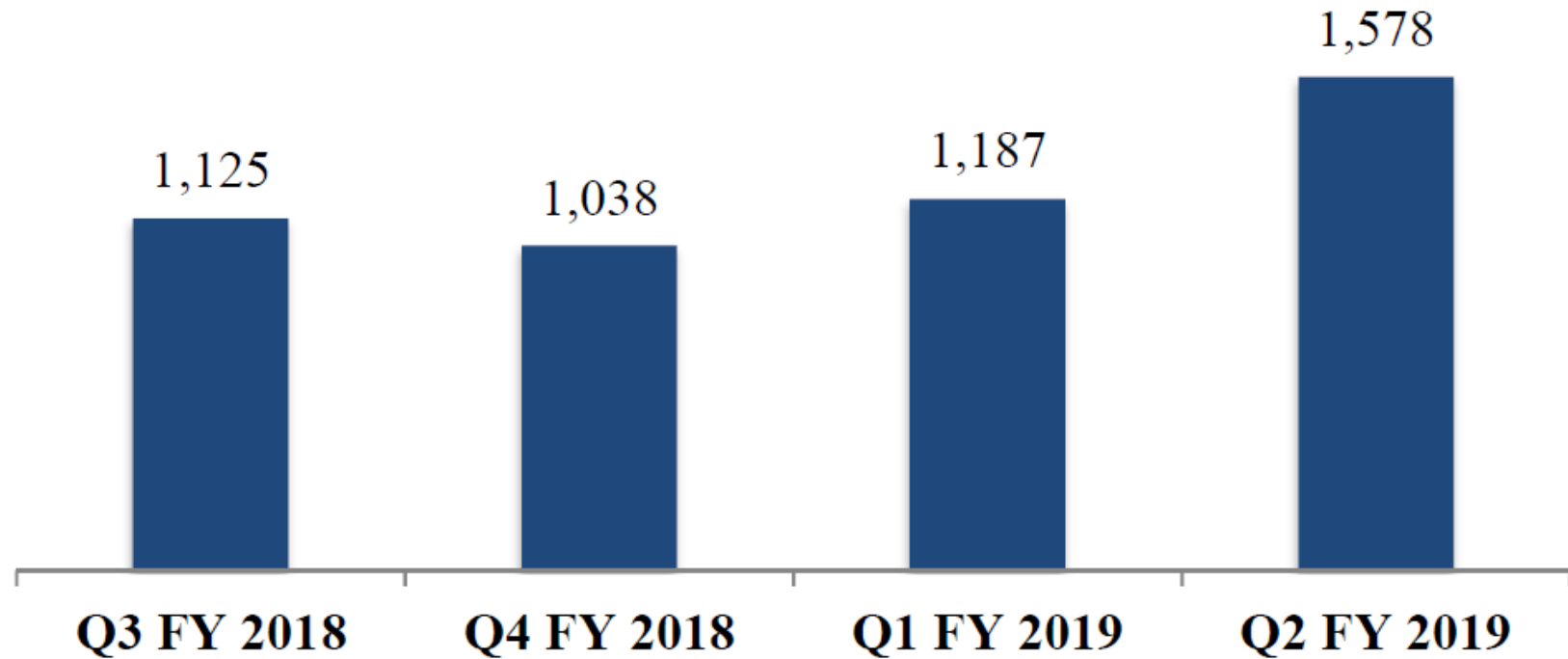
Contact the Rent Stabilization Program for more information.

**The process for determining relocation benefits was changed slightly, allowing for owner and tenant negotiations.**

Contact the Rent Stabilization Program for more information.

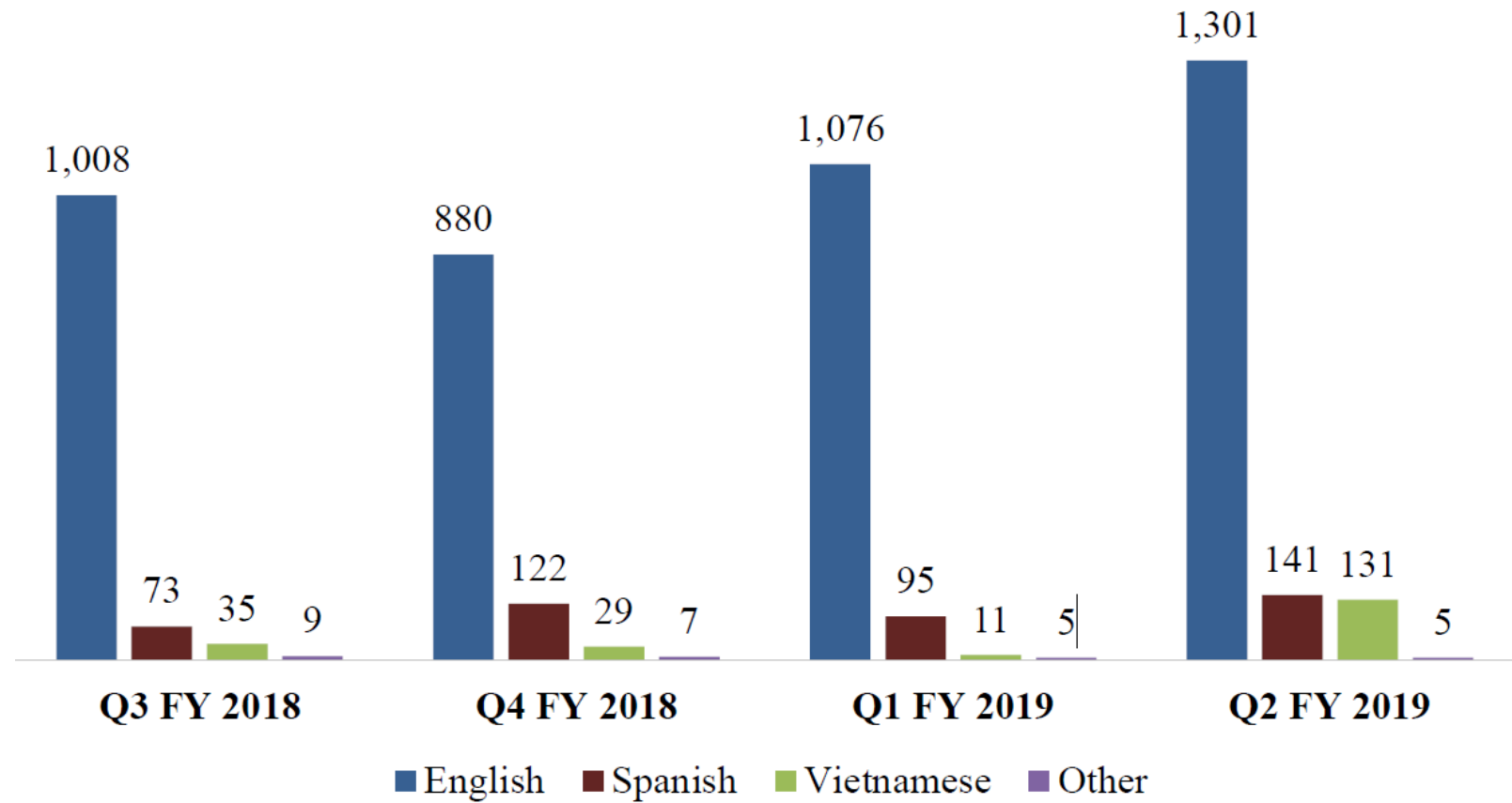


# 1,578 Inquiries Received by Members of the Public





# Inquiries by Language in Most Recent 4 Quarters



# Recommendation

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Review the staff report and provide possible recommendations to staff on the Rent Stabilization Program Quarter 2 Report for FY 2019-20.

