

June 30, 2014

From: David Grabill

To: Lynn Goldberg

It's wonderful that Calistoga is moving forward with this much-needed housing for farmworkers.

With respect to the housing element update, I hope the city will include at least some of the programs outlined in the attached letter to Sonoma County from Will Constantine, a lawyer who represents residents' groups in mobilehome parks around the state.

Protecting mobile home park residents and maintaining affordability levels in the parks are prime objectives of state housing element laws. We'd urge the City to adopt an ordinance incorporating SB510. It's troubling that the survey mentioned recently in the newspaper found that some mobile homes in the City are actually second homes or vacation rentals. We'd like the city to put restrictions on this practice before it becomes more widespread. Adopting Mr. Constantine's first and fourth recommendations as "Objectives" would certainly help. And his fifth recommendation would also help reduce or eliminate any financial incentive which a park owner may seek by closing his/her mobile home park and converting the land to other uses.

We've heard rumblings that a number of park owners in Napa County are looking at closing down their parks. The Hall Winery is in the process of closing a small mobile home park that they purchased adjacent to their winery just south of St. Helena. Their plan, as I understand it, is to replace the mostly older single-wide units with very expensive modular units. Another park was closed several years ago on the site of what's now the Carneros Inn. So it's something that could happen in Calistoga. We hope the City will take steps to insure that residents are fully protected financially and otherwise if an owner should try to close a park.

Jane Riley at Sonoma County PRMD may have some additional ideas about preserving mobile home parks as an important source of affordable housing. Please feel free to call or email me if you have questions.

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June 4, 2014

Sonoma County Planning Commission

(c/o Jane.Riley@sonoma-county.org)

**Re: 2014 Housing Element Update, Planning Commission**

**Hearing Date: June 5, 2014.**

Dear Honorable Planning Commissioners:

The Sonoma County Mobile Home Owners' Association (SCMHOA) has asked my office to review and make suggestions for several simple additions to the sections of Sonoma County's May 15, 2014 - Housing Element Update (HEU) that relate to the preservation of the low income housing located in the County's mobile home parks.

This is a significant issue for the HEU as it reports that there are 11,045 mobile homes located in Sonoma County with 5,097 of them being located in the unincorporated area of the County. (HEU at p. 89) Although I could not locate any discussion in the HEU of the number of people who reside in those mobile homes who are low and moderate income, other communities' housing elements routinely report that it is as close to all of them. Thus, the low income housing provided by Sonoma County's mobile homes dwarfs all other sources of low income housing in the County, requiring the special additional protections that SCMHOA is advancing below.

Below, on behalf of SCMHOA, this letter is requesting that several additional, "objectives," "policies" and "programs" be added to the HEU that directly relate to the preservation of the low income housing that is located in the County's mobile home parks, as those provisions in other communities' housing elements have been crucial in preserving that housing. Additionally, this letter is also requesting the adoption of several supporting programs, which must be adopted by the Board of Supervisors outside of the County's Housing Element, to support these objectives and policies, including a SB510-implementing resolution, mobile home park exclusive zoning and a revision of the County's mobile home park conversion/ closure ordinance. In light of the recent upsurge of mobilehome park conversions into higher priced developments in other jurisdictions (see below), these three local enactments are also going to be crucial for preserving the County's mobilehome housing opportunities.

**1. Adopt an Additional Objective of Retaining the Existing Affordable Housing Stock Located in Mobile Home Parks.**

Goal 1 of the HEU's "Housing Goals Objectives and Policies" is to "Sustain Existing Affordable Housing Programs and Affordable Units" (HEU p. 21). Five "Objectives" (Objective HE-1.1 to Objective HE-1.5, at HEU pp 22 – 23) are listed for achieving that Goal, and twelve "Policies" are then listed for accomplishing those objectives. (Policy HE-1a to Policy HE-1l, at HEU pp. 23 – 24) Although two of those twelve policies relate to preserving the affordable housing stock located in mobile home parks, none of the five objectives relates to mobile home park housing. Thus, it is inaccurate to state that these two policies protecting mobile home - affordable housing are being "used to accomplish the above objectives." (HEU p. 23)

This oversight can be easily corrected by simply adding the additional "Objective" under "Goal 1" of preserving the affordable housing located in Sonoma County's mobile home parks as follows:

"Objective HE-1.6 "Retain existing affordable housing stock located in mobile home parks."

This is an important modification because, in litigation that I have been involved in down in Southern California, one Superior Court Judge invalidated one of another city's housing element's mobile home housing preservation policies because it was not clearly connected to an adequately defined "objective" of preserving the affordable housing located in that city's mobile home parks.

**2. Modify Policy HE-1h and Housing Element Program 3 to Include Adopting a Resolution Implementing the Provisions of SB 510.**

Policy HE-1h of the HEU states that the County will continue to apply state law to mobile home park conversions to resident ownership, including implementation of SB510. (HEU at p. 24) Likewise, "Housing Element Program 3: Mobilehome Parks" repeats this commitment to apply those state statutes and to also implement SB 510. (HEU at pp. 36-37).

However, several local jurisdictions in Southern California have interpreted SB510 to contain an unintentional legislative oversight that would require a local jurisdiction to adopt either an implementing ordinance or an implementing resolution in order to be

entitled to enforce the new provisions of SB 510. In that regard, the cities of Riverside and Carson have adopted identical resolutions implementing the provisions of SB 510 to protect them against the possibility of this interpretation (See Attachments A and B). Although, this interpretation and concern may turn out to be unfounded, an “abundance of caution” has convinced these cities to adopt their attached SB 510 - implementing resolutions. Particularly, they have done this because there is no downside to adopting these resolutions but, if it turns out that the resolutions are required as a prerequisite to enforcing the new provisions of SB 510, and they were not adopted, then the local jurisdictions would be prohibited from enforcing the new provisions of SB 510. (See Report to Mayor and City Council, City of Carson Re: Consider Adoption of Resolution Implementing State Senate Bill 510, dated February 18, 2014, attached as Attachment C). Thus, not adopting such a resolution could result in park owner litigation to test this ambiguity and, even worse, it could also result in the forced conversion of a mobilehome park that is opposed by its homeowners.

For these reasons, and in an abundance of caution to avoid possible park owner litigation, SCMHOA urges that Policy HE1h and Housing Element Program 3 be amended to call for the adoption of an SB 510-Implementing Resolution and that the County adopt such a resolution.

**3. Adopt an Additional Policy, Which Is Consistent with State Statutes and Constitutional Law, of Preventing the Conversion of Mobile Home Parks to Other Uses That Would Result in the Elimination or Reduction of the Existing Affordable Housing Stock Located in those Mobile Home Parks.**

HEU Policy HE-1h only concerns itself with the conversion of mobile home parks to resident ownership, which may result in the loss of affordable housing. However, an even greater threat, since the passage of SB 510 has now effectively eliminated that threat, is the conversion of mobile home parks to other uses. State statutory law (Government Code Sections 65863.7 and 66427.4) and Constitutional law (see *Laurel Park Community LLC v. City of Tumwater*, cited below) allow the County to adopt both mobile home park conversion ordinances and exclusive mobile home zoning to regulate and help preserve the affordable housing stock located in mobile home parks from being converted to other uses. These two programs, and their consistency with state statutes and constitutional law, will be addressed below. However, since they do not fall under Policy HE-1h, they should be supported by an additional separate policy statement such as the following:

“Policy HE-1m. Update and continue to enforce Section 26–92-090 of the County Code regarding the conversion, closure or cessation of use of mobile home parks and consider the adoption of mobile home park exclusive zoning in order to preserve the affordable housing located in mobile home parks.”

#### **4. Enact A Mobile Home Park Exclusive Zoning Program to Preserve the Affordable Housing Units Located in Mobile Home Parks.**

Although Section 26–92–090 of the County Code (the County’s current mobilehome park conversion ordinance) may help protect some of the low income housing located in mobile home parks from being converted to other uses, its main purpose is to ensure that the homeowners who will lose their homes due to a conversion are adequately compensated and able to find alternative housing in the County. I have been informed by County staff that, in the past, this has also had the effect of preserving that housing from being converted at all by discouraging such conversions. However, recently, in other jurisdictions, due to rapidly rising market values of new developments, similar statutes have become unsuccessful in preventing these conversions since those developments are profitable enough to make it financially feasible for the developers to fully compensate the homeowners for their lost homes and still make a substantial profit on the development that is replacing the affordable housing that will be lost in the converted mobile home park. Over the last year this has already occurred, or is in the process of occurring, in the cities of Palo Alto, San Jose, Santa Monica and Glendora.

On the other hand, in order to completely preserve the affordable housing located in mobile home parks (i.e., rather than just compensating the displaced homeowners for their losses), California law not only permits but encourages zoning mobile home parks exclusively for mobile home park use. In that regard, California’s General Plan Guidelines’ provision on implementing Government Code Section 65583 (c)(4) specifically lists changing the zoning of mobile home parks to exclusive mobile home zoning in order to preserve that housing as a state-sanctioned conservation program<sup>1</sup>:

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<sup>1</sup>See FN 6 in *Corona-Norco Unified School Dist. v. City of Corona* (1993) 17 Cal.App.4th 985, at 994, which held that “although the General Plan Guidelines are advisory only, they assist in determining compliance with general plan laws” citing *Twain Harte Homeowners Assn. v. County of Tuolumne* (1982) 138 Cal.App.3d 664, 702 [188 Cal.Rptr. 233]; *Bownds v. City of Glendale* (1980) 113 Cal.App.3d 875, 886 [170 Cal.Rptr. 342].)

“Conservation

- Provide stable zoning to preserve affordable housing. For example, change underlying zoning for a mobile home Park from commercial to mobile home Park.” (See p 72 of state of California, General Plan Guidelines, 2003, Governor’s Office of Planning and Research, See Attachment D)

Zoning that restricts the areas in which mobile home parks are located to mobile home park exclusive use is used throughout California to protect the affordable housing located in those mobile home parks. The provisions of the City of Santa Monica’s “R-MH Residential Mobile Home Park District” zoning designation does this, and it is attached as an example of a simple and adequate zoning designation to accomplish this protection. (See Attachment E). Use of this type of restrictive zoning to protect the affordable housing located in mobile home parks has recently been approved as constitutional by the Federal Ninth Circuit Court of Appeals in the published opinion of *Laurel Park Community LLC v. City of Tumwater*, United States Court of Appeals for the Ninth Circuit Case No. 11-35466 D.C. No. 3:09-cv-05312 – BHS, Opinion filed October 29, 2012 (See Attachment F)

**5. Update Section 26-92-090 of the County Code to Bring It into Consistency with the Current Provisions of Government Code Section 65863.7 (e) Regarding the Mitigation Benefits That May Be Required to Be Provided to Homeowners Who Are Displaced Due to a Mobile Home Park Conversion or Closure.**

The Sonoma County Code already contains Section 26-92-090, governing the closure or conversion of mobile home parks. Thus, it is an existing program that would be implementing the new proposed Policy HE -1m, which SCMHOA is recommending be adopted above. However, subsection 26-92-090(b)(1) of that provision limits the mitigation benefits that may be required to be given to homeowners to those benefits that would be needed to enable them to “find adequate space” in another mobile home park. This limits the mitigation benefits to the costs of moving a mobile home into an empty space in another mobile home park. This limitation is likely based on a previous version of Government Code Section 65863.7 (e), which had required that limitation. However, now Government Code Section has been amended to expand the permitted mitigation benefits to the amount that would be needed in order to enable displaced homeowners to “find adequate housing” in another mobile home Park. (See Government Code Section 65863.7 (e)). The significance of this change is that Section 65863.7(e)’s new limitation allows a local jurisdiction to require the payment of the cost of purchasing a comparable mobile home in another mobile home park when it is determined that there are no spaces

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available in other mobile home parks. The previous version of Government Code Section 65863.7(e), and current Section 26-92-050 (b)(1) of the County Code, would **not** permit those benefits to be paid.

Accordingly, SCMHOA strongly urges Sonoma County to update Section 26-92-050 by replacing it with an updated conversion ordinance that allows for the payment of in-place market value for mobile homes that cannot be moved into spaces in other mobile home parks. Currently, there are 44 other local jurisdictions in California that provide for this in-place market value mitigation benefit under these circumstances. (See attachment G). In that regard, Santa Cruz County has a simple and adequate mobile home park conversion ordinance that accomplishes this that can be a model for an updated ordinance for Sonoma County (See attachment H)

For the above reasons, the Sonoma County Mobile Home Owners' Association respectfully requests that the Commission recommends the above additions to the 2014 - Housing Element Update and also the adoption of the above supporting programs to the Board of Supervisors.

Sincerely,

*Will Constantine*

William J. Constantine

cc: client  
attachments