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CITY OF CALISTOGA

SEP 07 2010

CITY MANAGER

Communication "A"
September 7, 2010
Calistoga City Council Meeting
Item 7: Rent Stabilization Ordinance

September 7, 2010

VIA FACSIMILE, EMAIL AND U.S. MAIL
(707) 942-0732

The Honorable Mayor Jack Gingles
Vice Mayor Michael Dunsford
Council Member Karen Slusser
Council Member Gary Kraus
Council Member Placido Garcia
City Hall, City of Calistoga
1232 Washington Street
Calistoga, California 94515

Re: Rancho de Calistoga Mobilehome Park /
November 1, 2010 Rent Increase and
Proposed Amendment to Rent Control Ordinance

Dear Mayor Gingles and City Council Members:

This office represents the owner of Rancho de Calistoga Mobilehome Park, which is located at 2412 Foothill Boulevard in the City of Calistoga. It is my understanding that the agenda for tonight's September 7, 2010 City Council Meeting includes a discussion of the Parkowner's November 1, 2010 rent increase notice.

The Parkowner's November 1, 2010 rent increase notice is based on rights guaranteed to it under the state and federal constitutions. As I am sure you are aware, the ordinance may not be amended in a manner that interferes with the Parkowner's constitutional rights. Buchanan v. Warley (1917) 245 U.S. 60, 74.

My client does not believe the City of Calistoga can require it to offer mobilehome spaces at below market rates in perpetuity. Rather than attempting to force parkowners to subsidize a select group of tenants for all time, my client respectfully requests the City of Calistoga to adopt its own subsidy program, whereby tenants at the Calistoga mobilehome

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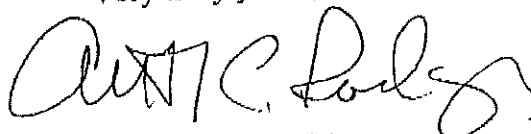
parks may obtain a grant from the City of Calistoga, for the difference between the "rent control rate" and the "fair market rate."

Under my client's proposal, any tenant residing at the Calistoga mobilehome parks would be eligible for the subsidy, regardless of his or her ability to pay the fair market rent. However, my client would also support a government sponsored program based on each individual tenant's ability to pay the fair market rate.

My client's proposal is set forth at page three of this letter. In the event the City Council would prefer a program based on each individual tenant's ability to pay, I am also enclosing a copy of the rent credit program recently offered by my client to all tenants at Rancho de Calistoga. As you can see, under my client's rent credit program, qualifying tenants are not required to pay the difference between the "rent control rate" and the "fair market rate," if doing so would cause their monthly rental obligation to exceed one third of their monthly income.

My client hereby requests the City Council to adopt a fair market rent and a public subsidy program at the earliest possible time. Thank you for your consideration of my client's request.¹

Very truly yours,



Anthony C. Rodriguez

cc: Administrator of Mobile Home Space Rent Stabilization Program
c/o Erik V. Lundquist

William C. Norton, Interim City Manager
Bruce Stanton, Tenant Representative
All Calistoga Parkowners
John Waters Jr., Weekly Calistogan
Dean Moser

¹ See also Armstrong v. United States (1960) 364 U.S. 40, 49 [government may not force "some people alone to bear public burdens which, in all fairness and justice, should be borne by the public as a whole."]

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[Proposed] Amendment to City of Calistoga Mobilehome Rent Stabilization Ordinance Establishing Fair Market Rent and Rent Subsidy Program

[Proposed Section 2.22.260A] Nothing herein shall preclude any parkowner from charging fair market rents, in compliance with the provisions of this section. In order to charge fair market rents, a parkowner must obtain an appraisal at its own expense from an independent appraiser, establishing the fair market rent for the property. Said appraisal shall be prepared in compliance with standards that may reasonably be relied upon by an appraiser for determining fair market rent, including the Standards of Appraisal Practice of the Appraisal Institute and/or California Evidence Code Section 814, et. seq.

[Proposed Section 2.22.260B] Any parkowner opting to charge fair market rents pursuant to this section shall first provide the City Clerk with a certified copy of the appraisal establishing the fair market rent for the park. In the event market conditions change, a parkowner may submit a revised appraisal, setting forth the new fair market rent. Unless fair market rents have increased or decreased by more than five percent since the date of the previous appraisal, no parkowner may submit a revised appraisal more than once every twelve months.

[Proposed Section 2.22.260C] Any homeowner/resident residing in a mobilehome park within the Calistoga city limits shall have the right to apply to the City of Calistoga for a rent subsidy. In order to apply for a rent subsidy, the homeowner/resident shall provide the City Clerk with proof of residency in a mobilehome park within the Calistoga city limits.

[Proposed Section 2.22.260D] The amount of the rent subsidy shall not exceed the difference between the fair market rate established by the aforementioned appraisal and the rent control rate in effect on September 1, 2010. For purposes of this subsection, the rent control rate may be increased on September 1 of each year by one hundred percent (100%) of the increase in the Consumer Price Index for San Francisco-Oakland-San Jose, All Urban Consumers, during the preceding twelve months.

[Proposed Section 2.22.260E] The City of Calistoga's rent subsidy program shall be funded solely by the City of Calistoga. In the event the City of Calistoga does not fund the rent subsidy program, nothing herein shall preclude any parkowner from charging fair market rent, as determined herein.

RANCHO DE CALISTOGA
2412 FOOTHILL BOULEVARD
CALISTOGA, CALIFORNIA 94515
(707) 942-6565

July 15, 2010

Homeowner/Resident
Rancho de Calistoga Mobile Home Park
2412 Foothill Boulevard
Calistoga, California 94515

Re: **"RENT CREDIT" PROGRAM FOR QUALIFYING TENANTS
WITH GROSS INCOME OF LESS THAN \$1,875 PER MONTH**

Dear Homeowner/Resident:

The average rents at Rancho de Calistoga are more than \$150 below the fair market rate of \$625, resulting in a loss to the Parkowner of approximately \$340,000 per year. In an attempt to rectify this inequity, the Parkowner requested the City of Calistoga to consider several amendments to its mobilehome rent control ordinance, including allowing rents to be increased to the fair market rate when a tenant sells his or her mobilehome and moves out of the park.

Although there is no evidence of excessive or above market rents at Rancho de Calistoga, the City of Calistoga has decided not to amend its ordinance. As a result, the Parkowner has no choice other than to apply to have the current rents at all spaces increased to the fair market rate.

The Parkowner understands that some tenants at the park may be living on a low or fixed income. Accordingly, the Parkowner has decided to offer a rent credit program. Under that program, qualifying tenants can receive a credit for all or part of the proposed rent increase, pursuant to the following terms and conditions:

If the requested rent increase causes a qualifying tenant's monthly rental obligation to exceed one third of the gross monthly income of all persons residing at the qualifying tenant's space, a qualifying tenant shall receive a rent credit for all or part of the requested rent increase. The amount of the rent credit shall be calculated by the Parkowner, with the goal of enabling any qualifying tenant to be excused from paying

all or part of the requested rent increase, if such payment would cause the qualifying tenant's total rental obligation to exceed one third of the gross monthly income of all persons lawfully residing at the qualifying tenant's space. However, in no event shall the amount of the rent credit exceed the difference between the qualifying tenant's current rent and the new rent. In addition, in no event shall a qualifying tenant receive a rent credit with respect to all or part of his or her current rent.

For example, assume that a tenant is currently paying space rent of \$450 per month, with an income of \$1,500 per month. One third of such a tenant's monthly income would be \$500. ($\$1,500 \div 3 = \500). Under the rent credit program, such a tenant could apply for a rent credit for the \$125 difference between \$500 and the fair market rate of \$625.

In other words, although the rent for such a tenant's space would be increased to the fair market rate of \$625 per month, that tenant would receive a credit of \$125 per month, based on that tenant's current monthly income. Moreover, that tenant could receive that \$125 per month credit each month that he or she continues to reside at the park. Unlike some other programs, the tenant would not be required to reimburse the Parkowner for those rent credits when he or she stops residing at the park.

If you currently have gross income of less than \$1,875 per month you may be eligible to receive a rent credit for all or part of the difference between your current rent and any rent increase the Parkowner may be awarded pursuant to its proposed rent increase application. If you are interested in applying for such a rent credit, please complete the enclosed form and return it to management on or before September 10, 2010.

Finally, I must stress that the proposed rent credit program will only be provided to qualifying tenants, and only if the Parkowner is awarded a rent increase with respect to the application it intends to file with the City of Calistoga during the next few months. I must also stress that the rent credit program would only apply to the proposed rent increase, so a qualifying tenant will remain responsible for any other rent increases implemented pursuant to the ordinance during the term of his or her tenancy.

Rancho de Calistoga Mobile Home Park

By: Dean J. Moser, General Manager
HCA Management Co., LLC for
Rancho de Calistoga MHC

RANCHO DE CALISTOGA LOW INCOME RENT CREDIT PROGRAM

In order to qualify for the Rancho de Calistoga Low Income Rent Credit Program a Tenant must meet each of the following criteria:

1.) The Tenant's monthly rental obligation must exceed one third of the total monthly income of all persons residing at the Tenant's space;

2.) The total value of the assets of all persons residing at the Tenant's space, including all stocks, bonds, cash and property (*but excluding the mobilehome at the Tenant's space, its furnishings and the Tenant's vehicles*) may not exceed \$75,000;

3.) The Tenant must be a current full-time resident at Rancho de Calistoga Mobilehome Park and must have been a party to a written rental agreement with the Parkowner as of July 1, 2010;

4.) All applications for the Low Income Rent Credit Program must be received by the Parkowner by September 10, 2010;

5.) All applications for the Low Income Rent Credit Program must be accompanied by copies of the Tenant's personal financial statement, federal tax returns for the past two years and authorization for the Parkowner to perform a credit check;

6.) The Parkowner must be granted all or part of any rent increase application it may file with the City of Calistoga during the next six months; and

7.) The Low Income Rent Credit will only apply to any rent increase granted with respect to a rent increase application filed by the Parkowner within the next six months. In no event will a Tenant receive a rent credit with respect to his or her current rent or any other rent increase allowed by law at the Tenant's space.

If a Tenant is accepted for the Low Income Rent Credit Program the Tenant shall be eligible for a rent credit on his or her monthly rent statement pursuant to the following terms and conditions:

If the requested rent increase causes a qualifying Tenant's monthly rental obligation to exceed one third of the gross monthly income of all persons residing at the qualifying Tenant's space, a qualifying Tenant shall receive a low income rent credit for all or part of the requested rent increase. The amount of the low income rent credit shall be calculated by the Parkowner, with the goal of enabling any qualifying Tenant to be excused from paying all or part of the requested rent increase, if such payment would cause the qualifying Tenant's

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total rental obligation to exceed one third of the gross monthly income of all persons lawfully residing at the qualifying Tenant's space. In no event shall the amount of the rent credit exceed the difference between the qualifying Tenant's current rent and the new rent. In no event shall a qualifying Tenant receive a rent credit with respect to all or part of his or her current rent.

EXAMPLES

Example No. 1: Assume that a qualifying Tenant currently is paying rent of \$471.39 per month, which is the approximate average rent at the park. If the qualifying Tenant has income of \$1,414.17 per month, one third of the Tenant's gross monthly income would be \$471.39 per month. In that situation, if the rent is increased by \$153.61 per month, from \$471.39 to \$625, a qualifying Tenant would receive a rent credit of \$153.61 per month, so that his or her monthly income would remain one third of the amount actually paid by the qualifying Tenant. In other words, such a tenant would not be required to actually pay any part of the \$153.61 rent increase.

Example No. 2: Assume that a qualifying Tenant currently is paying rent of \$471.39 per month. If the qualifying Tenant has income of \$1,500 per month, one third of the Tenant's gross monthly income would be \$500 per month. In that situation, if the rent is increased by \$153.61 per month, from \$471.39 to \$625, a qualifying Tenant would receive a rent credit of \$125 per month, so that his or her monthly income would remain one third of the amount actually paid by the qualifying Tenant. In other words, such a tenant would be required to actually pay only \$500 per month, or \$28.61 of the \$153.61 rent increase.

Example No. 3: Assume that a tenant currently is paying rent of \$471.39 per month. If the tenant has income of \$1,875 per month, one third of the tenant's gross monthly income would be \$625 per month. In that situation, if the rent is increased by \$153.61 per month, from \$471.39 to \$625, the tenant would not qualify for a rent credit, as the \$625 rent would equal only one third of the tenant's monthly income.

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APPLICATION

In order to apply for the Rancho de Calistoga Low Income Rent Credit Program please complete this form and forward it, together with the financial documents described below, to Dean Moser addressed as follows:

Dean Moser
P.O. Box 7
Novato, California 94948

I am a full-time resident of Rancho de Calistoga Mobilehome Park and I am the legal and/or registered owner of the mobilehome at my space

Yes No

The total value of the assets of all persons residing at my space (not including the mobilehome at the Tenant's space, its furnishings and the Tenant's vehicles) is less than \$75,000.

Yes No

Current Monthly Income of all persons residing at my space

- 1. Wages, salaries, tips \$ _____
- 2. Interest \$ _____
- 3. Dividends \$ _____
- 4. Alimony Received \$ _____
- 5. Business Income \$ _____
- 6. Capital Gains \$ _____
- 7. Other Gains \$ _____
- 8. IRA Distributions \$ _____
- 9. Pensions and Annuities \$ _____
- 10. Rental Real Estate, royalties \$ _____
- 11. Partnerships, S Corporations \$ _____
- 12. Trusts \$ _____
- 13. Unemployment Compensation \$ _____
- 14. Social Security Benefits \$ _____
- 15. Government Benefits/Section 8 \$ _____
- 16. Other Income \$ _____
- TOTAL \$ _____

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Current Asset Value for all persons residing at my space (not including the mobilehome at the Tenant's space, its furnishings and the Tenant's vehicles)

- 1. Cash-Bank and Account No. \$ _____
- 2. Stocks/Bonds \$ _____
- 3. Property - Real Estate \$ _____
- 4. Trust Assets \$ _____
- 5. Other \$ _____
- TOTAL \$ _____

I understand that in order to qualify for the Rancho de Calistoga Low Income Rent Credit Program, I must provide the Parkowner with copies of federal income tax returns for all persons residing at my space for the past two years, plus copies of the most recent checking, savings and stock statements for all such persons. Copies of those documents are attached hereto.

I understand that in order to maintain my participation in the Rancho de Calistoga Low Income Rent Credit Program I may be required to periodically update and/or verify the above information. I further understand that if I qualify for the Rancho de Calistoga Low Income Rent Credit Program, I may not transfer or assign my rental credit to any other person or entity. I further understand that if the monthly income of all persons residing at my space changes so that I no longer qualify for the Rancho de Calistoga Low Income Rent Credit Program, my participation in that program may be terminated. I further understand that should I terminate my tenancy at Rancho de Calistoga Mobile Home Park, any successor Tenant shall not be entitled to the above rent credit, but shall be required to pay the full rent allowable by law for the space, including any amount awarded pursuant to any rent increase application the Parkowner may file with the City of Calistoga during the next six months.

I declare under penalty of perjury under the laws of the state of California that the information I have supplied in this application is true and correct and that this declaration was executed this _____ day of _____, 2010, at Calistoga, California.

Print Name

Sign Name

Print Address/Space No.

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