

CITY OF ESCONDIDO

MOBILEHOME RENT CONTROL HISTORY

(Updated January 2008)

I. INTRODUCTION

Mobilehome rent control has been a controversial subject for the City of Escondido since it was adopted by initiative measure in 1988. The decade following the adoption of rent control saw two other initiative measures relating to rent control and nearly 100 court cases, one of which reached the United States Supreme Court. Literally hundreds of hours have been spent on rent increase hearings.

Recent years have seen both controversy and litigation subside, but not vanish entirely. While some rent increase hearings can be difficult, others are concluded efficiently with consensus among those involved.

After briefly reviewing the history of the mobilehome, this paper talks about the different types of mobilehome parks, the number of spaces and parks in Escondido, the regulatory history of mobilehomes, and then discusses California's Mobilehome Residency Law and Escondido's Rent Protection Ordinance (Proposition K). Following that, various specific issues that have come up in the last two decades are discussed, including the subject of vacancy control, long-term leases, park living conditions, and the more recent short-form process.

The purpose of this paper is to provide a sense of historical perspective to those involved with mobilehome rent control. This historical perspective will educate about issues which have been confronted and resolved in the past, and perhaps, provide those involved with rent control a sense of appreciation for that which has gone on before.

II. THE HISTORY OF THE MOBILEHOME

The first mobilehomes, which were typically homemade and most frequently used for camping, were trailers of a few hundred square feet that could easily be hitched to vehicles. To accommodate these trailers, many municipalities built camps during the 1920's hoping to encourage tourism. While long-term occupancy of such camps was not uncommon, it was not until the Depression of the 1930's that use of these trailers, as a form of permanent housing, became widespread. During the next decade, numerous additional mobilehome parks were built to meet immediate and temporary housing needs, particularly near military bases. These origins helped foster the early perception of "trailer parks" as a form of "slum" housing inhabited by indigent and rootless members of society. This image, together with hostility from real estate interests, hotels and tourists camps, initially fostered local land use regulations designed to exclude mobilehome parks or restrict their development.

Beginning in the 1950's however, mobilehomes began a gradual transformation to broadly accepted permanent residences. Larger, standardized and sectionalized mobilehomes were manufactured which could be moved only by trucks. As homes of 1,400 square feet or more became increasingly common, the larger units permitted more conventional floor plans. Mobilehomes started to become accepted as permanent living quarters.

The trend toward physical immobility and permanence coincided with extensive efforts to improve the quality of mobilehome parks. Parks evolved from small, unplanned facilities to larger, carefully designed communities that often featured amenities such as clubhouses, swimming pools, greenbelts and landscaping, and extensive social programs. Many senior citizens and younger families have been attracted to mobilehome park living by these amenities and by the relatively low housing cost.

Recognizing the valuable contribution they made to the nation's stock of affordable housing, the federal government, beginning in the late 1960's and early 1970's adopted a number of measures that spurred the growth and social acceptability of mobilehomes. Congress, for example, extended insurance for mobilehome park constructions and purchases of mobilehomes. Congress also authorized the adoption of uniform federal standards that both promoted mobilehome safety and preempted diverse and conflicting local design specification standards that had hindered mobilehome production. By 1982, these efforts and a number of demographic trends had combined to make mobilehomes a significant source of affordable housing for American families, particularly first-time homebuyers, the elderly, and low and moderate-income families.

The manufactured home has evolved as a single-family house constructed entirely in a controlled factory environment, built to the federal Manufactured Home Construction and Safety Standards. These standards regulate the home's design and construction, strength and durability, transportability, fire resistance, energy efficiency and quality control. There are performance standards for the heating, plumbing, air-conditioning and electrical systems. Construction costs per square foot for manufactured homes are approximately one-third less than site-built houses.

Because moving and installing such homes entails substantial costs, and because spaces in mobilehome parks are often scarce, most mobilehomes make but one trip – from factory or showroom to an installation site. Modern mobilehomes, despite their name, have become a form of immobile, prefabricated housing.

III. TYPES OF PARKS

There have historically been two basic ownership structures for mobilehome parks. In Escondido, the majority of the parks are rental parks, owned as an investment by an individual or a group of investors. Other parks in the City are resident-owned and held by the residents in a variety of ownership structures.

In the rental parks, the owner of the land rents the space on which a mobilehome is placed. In exchange for the space rent, the park owner maintains the common areas and related amenities, and monitors the rules and regulations of the park. Some rental parks provide certain utilities

and other services to the residents. Other common amenities may be available such as a clubhouse, swimming pool, shuffleboard courts, or laundry facilities.

In a resident-owned park, the owner of the mobilehome generally holds a fee-simple, condominium, or corporate share interest in the park. The owners share equally in the ownership and use of the common areas. There is homeowners' group made up of the individual owners that governs the upkeep of the common areas and monitors the rules and regulations of the park. Residents pay a monthly fee for the upkeep and maintenance of the common areas. Spaces owned by the homeowners' association that are rented may be subject to the Rent Protection Ordinance if they are not subject to a long-term lease.

A third type of ownership structure has evolved, perhaps largely in response to rent control. In this third form of ownership structure, the park owner not only owns the space, but has also acquired the mobilehome. Because the space itself is regulated by the Mobilehome Rent Control Ordinance, but the coach is not, this became an effective means for park owners to avoid the effects of rent control. Likewise, one of the core policy arguments behind mobilehome rent control (the problems caused by a home located on the land of another) vanishes when the ownership of land and mobilehome are merged. In this form of ownership, the tenant is free to re-locate if rents become onerous, and there is little difference between this type of tenancy and that which exists in an apartment setting. As of 2007, approximately 315 spaces in the city were occupied by mobilehomes belonging to park owners.

IV. PARKS IN ESCONDIDO

There are 24 mobilehome parks in the City with a total of approximately 3405 spaces. Five parks in the City are resident-owned.

At the end of 2007, about 1603 spaces were reported as being subject to the Escondido Rent Protection Ordinance versus the 2749 spaces that were subject to rent control in 1990. This trend is in part due to parks requiring residents moving in to sign a long-term lease, which exempts them from rent control. The remainder of the rental spaces exempt from the Rent Control Ordinance in the City are vacant, or are spaces occupied by park-owned homes. In 1990 there were a total of nineteen (19) Senior Parks and ten (10) all age parks. Since that time, five parks have closed, and the number of Senior Parks has declined to nine (9); the other Senior Parks converted to all age parks. This trend is due in part to the fact that in the 1990's many Senior Parks had vacancies they were unable to fill. Once the parks were converted to all age, this dilemma for the park owner quickly disappeared. Although nine parks in the City are designated for senior residency only, many seniors live in the family parks as well. Mobilehomes in the parks range from small, older, single-wide "trailers" to newer triple-wide "manufactured" homes. Rents for spaces in the rental parks range from approximately \$200 to over \$1,100.

V. REGULATORY HISTORY

As mobilehomes have become more permanent, the relationship between park owners and homeowners has shifted from a strict landlord-tenant relationship (similar to that in residential apartments) to a relationship more similar to co-investors in a joint venture. In this relationship, the park owner provides investment in the site, utilities, and other amenities. The homeowner provides concurrent investment in the mobilehome and its appurtenances. Both parties to this relationship have obligations: The homeowner is obligated to pay rent and abide by the rules of the park; the park owner is obligated to provide space amenities, and a safe and sanitary park. The homeowner receives a location for his home investment and the park owner receives a return on his park investment through space rent.

Where there is a shortage of available spaces, however, the park owner will have the upper hand in the relationship. Even when there are other spaces available, the park owner may be able to charge excessive rents because it is extremely expensive to move a “mobile” home. In these situations, individual homeowners may have no choice—they must pay the rent demanded or lose their entire investment.

A. Mobilehome Residency Law

In 1978, the state legislature enacted the California Mobilehome Residency Law (Cal. Civ. Code Section 798 et seq.) (hereafter, “MRL”). The MRL limits the ability of a park owner to terminate a mobile home owner's tenancy. In enacting the MRL, the legislature commented that “because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.” (Civil Code Section 798.55(a)).

The MRL limits evictions to cases which include the mobilehome owner's nonpayment of rent, violation of law or park rules, or the park owner's desire to change the use of his land (Civil Code Section 798.56). While a rental agreement is in effect, the park owner generally may not require the removal of a mobilehome when it is sold (Civil Code Section 798.73). The park owner may neither charge a transfer fee for the sale, (Civil Code Section 798.72), nor disapprove of the purchaser, provided that the purchaser has the ability to pay the rent and charges of the park unless the management reasonably determines that, based on the purchaser's prior tenancies, he or she will not comply with the rules and regulations of the park. (Civil Code Section 798.74).

The MRL also contains a number of detailed provisions affecting the amount of fees the park owner may charge mobilehome owners, rules and regulations for park management, and limitations on the content that may be included in rental agreements. None of the MRL's provisions limits the amount of rent the park owner may charge. However, the MRL makes express recognition of the applicability of local rent control laws to agreements for tenancies of less than 12 months in duration.

In the wake of the MRL, various communities in California adopted mobilehome rent control ordinances. In Escondido, the voters approved Proposition K in 1988.

B. Proposition K

In the late 1970's and 1980's, Escondido mobilehome owners became concerned about space rent increases and sought protection. In 1988, the rent protection initiative (Proposition K) was placed on the ballot and approved by the voters of Escondido. The initiative was designed to protect mobilehome residents from too frequent or unfair increases, while providing an avenue for approval of the park owners' periodic need for increases.

The City of Escondido's initial response to concerned tenants had been not to impose rent control. Instead, the City encouraged homeowners and park owners to engage in negotiations. These negotiations yielded a Mobilehome Park Accord Ordinance in 1983 (Escondido Ordinance No. 83-34) that established a mechanism for resolving disputes. However, rents continued to escalate, as did frustrations, and a sufficient group of residents became organized enough to promote an initiative measure. On June 8, 1988, the voters of Escondido approved the initiative Ordinance (Proposition K) by a margin of 11,148 votes for to 7,850 against.

In a free market, a landlord may impose or increase rents on their property freely with notice to their tenant. Under Proposition K, if a park owner wants to increase rent, he must first obtain approval from the Mobilehome Park Rental Review Board. As prescribed by the Ordinance, the Escondido City Council sits as the Rent Review Board. To request an increase, the park owner must file an application with the City. Once a rent increase application is determined to be complete, a notice of the application is mailed to the affected homeowners. The homeowners have a right to submit written material in response to the application, as well as appear at the public hearing. Normally the Board must commence a hearing on a completed application within 60 days. At the hearing, the park owner and the affected homeowners may offer any evidence that is relevant to the requested rent increase. Following the hearing, the Board applies various factors and "shall determine such rent increase as it determines to be just, fair and reasonable" (Escondido Municipal Code Section 29-104(g)).

The nonexclusive list of factors is as follows: (1) changes in the Consumer Price Index; (2) the rent charged for comparable mobilehome spaces in Escondido; (3) the length of time since the last rent increase; (4) the cost of any capital improvements related to the spaces at issue; (5) changes in property taxes; (6) changes in any rent paid by the park owner for the land; (7) changes in utility charges; (8) changes in operating and maintenance expenses; (9) the need for repairs other than for ordinary wear and tear; (10) the amount and quality of services provided to the affected tenant; and (11) any lawful existing lease. (Escondido Municipal Code Section 29-104(g)).

The Board's determination is final and notice of its decision is mailed to the park owner and the affected homeowners.

C. Administrative Procedures Under Proposition K

Over the past twenty (20) years, Escondido has developed and implemented various administrative procedures and regulations to support the rent review hearing process as prescribed by the Ordinance. The City's Community Services Department originally monitored the Ordinance. During the early years, Rent Review Board hearing guidelines and application forms were developed. The Guidelines spell out the staff review requirements, the hearing process, resident notice requirements, policies governing the Board's review of the application, define capital improvements to be considered, and require health and safety inspections of the parks as part of the hearing process.

Initially, internal City staff was responsible for analyzing and verifying financial information that was submitted by the park owners in support of their requests for an increase. This issue became one of the most difficult, as residents were extremely concerned about the validity of the financial information being reviewed. On several occasions through the years, the Board considered requiring audited financial statements from the Parks, but rejected that requirement as a costly burden that would eventually be passed on to the residents.

After several years of struggling with the difficult financial review of the applications, an outside Certified Public Accounting firm was hired to analyze the applications and prepare the staff report for the Rent Review Board. At that time, the administration of the Ordinance was assigned to the City Clerk. This procedure, while somewhat more effective as to the financial analysis of an application, did not provide an avenue to consider other issues affecting the application or provide direct communication with the park residents. As well, the Board continued to struggle with the various decision-making formulas and guidelines, at one time considering analyses on all eleven factors of the Ordinance, as well as several rate of return formulas, before making a decision.

Near the end of 1994, in part due to the amount of litigation involving the Ordinance, it was determined to assign the administration of the application and hearing process to the City Attorney's office. At that time a full-time staff person was hired to analyze application increase requests and coordinate the administration of the Ordinance. During that transition, additional and more specific guidelines for financial analysis and review were considered and adopted by the Rent Review Board. While continuing to consider the various factors of the Ordinance, the Board identified two specific formulas to use for rate of return analysis and began contracting with outside consultants for preparation of those analyses when it is considered appropriate.

In keeping with the improved guidelines over the past two years, staff and the outside economic consultants have made more specific recommendations to the Board based on the residents' input and the review and financial analysis of the park owner's application and request.

In 1997, the Board adopted changes to the Guidelines that allow for a short-form application that focuses on the change in the Consumer Price Index (CPI). The short-form process is discussed more fully in Section E. Since 1997, the Board has held hearings on one hundred and eighteen (118) separate applications, one hundred eight (108) of which were short-form hearings.

By 2006, the use of short form had become routine and litigation involving the validity of the Ordinance had all but vanished. Administration of the rent control program was moved from the City Attorney's Office to the City's Housing Division. The program is still supported and administered by a full time employee, but with the support and assistance of the entire Housing Division.

D. Vacancy Control/Decontrol

The subject of "vacancy control" is simply whether or not rents are regulated for a mobilehome space that is vacant. Park owners have frequently argued for the ability to raise rents to market levels, free from rent control, any time a space became vacant. A main argument in favor of doing this was that raising rents for a vacant space did not harm any existing tenant, and any new tenant did not have to accept the rental arrangement if the price was too high.

During the early 1990's, the City applied Proposition K as including vacancy control.

However, early in 1996, the Fourth District Court of Appeal determined that the Escondido Rent Protection Ordinance did not intend to protect prospective purchasers of mobilehomes and therefore, does not have vacancy control. (*Thomsen v. City of Escondido*, 4th Dist. Ct. of App. No. DO25853). Subsequent City appeals of that decision were unsuccessful.

In an attempt to neutralize the effects of the courts' decisions on future mobilehome tenants, the City Council placed an initiative, Proposition O, on the ballot in November of 1996. Proposition O would have clarified that the language of the rent control measure applied even upon a vacancy. The initiative would have also reinstated the City's ability to monitor long-term leases. That Proposition failed by a vote of 15,368 against to 14,093 in favor.

In November of 1998, the Council again placed an initiative, Proposition T, on the ballot that would have reinstated vacancy control in the City. That measure also failed by a vote of 13,064 against to 12,647 in favor. Therefore, at the present time, park owners in the City may increase the base rent to new tenants coming into their parks in any amount they determine to be appropriate.

E. Short-Form Application Process

Because of the lengthy and contentious rent hearings, as well as large increases that sometimes occurred under the long-form type of hearing process, a mobilehome task-

force was formed during the fall of 1997 to study the possibility of creating a short-form hearing process. After a series of meetings, guidelines were developed and a short-form hearing process was adopted by the City Council in December 1997. Since the rent control initiative can only be amended by a subsequent initiative under California law, the guidelines were developed to apply and implement rent increases within the parameters of Proposition K. Notice and public hearings are still required. All of the factors must be considered, but the focus is on CPI: to qualify for a short-form hearing, a park owner may only request up to 75% of the change in the Consumer Price Index (“CPI”) for a maximum of a two-year period.

From the inception of the Short-form process, 96 applications have been approved. Short form hearings are popular with park owners because certain fees are waived and there is substantially less administrative burden associated with the process. Both owners and residents benefit because as a rule, the public hearings associated with the short-form applications are considerably shorter and less controversial. While short form processes have produced smaller rent increases, the adjustments occur more frequently and residents are not faced with large increase requests covering several years.

F. Long-Term Leases

The California Mobilehome Residency Law exempts rental agreements in excess of 12 months duration that meet specific requirements from rent control (California Civil Code Section 798.17). Therefore, local mobilehome park tenants entering into lease agreements for more than 12 months are not subject to the Escondido Rent Protection Ordinance.

Perhaps inevitably, after passage of Proposition K, disputes arose whether mobilehome park owners could require residents or prospective residents to sign long-term leases that were exempted from rent control under Civil Code Section 798.17. In August 1988, the City Council enacted Ordinance No. 88-50, prohibiting mobilehome park owners from requiring either existing or prospective homeowners to enter into long-term leases that were exempt from rent control.

A 1990 legislative amendment to Civil Code Section 798.17 (SB 2009) appeared to permit mobilehome park owners to require prospective homeowners to sign long-term leases that were exempt from rent control. In response, Escondido repealed Ordinance No 88-50. However, SB 2009 was short-lived. In 1991, by further amendment to Civil Code Section 798.17, the Legislature repealed SB 2009 with the intent to reinstate state law existing before enactment of such bill to avoid any unintended preemption effect. Escondido’s City Council then adopted as an urgency matter, Ordinance No. 91-19, essentially reenacting Ordinance No. 88-50. Ordinance 91-19 was later “codified” by Ordinance 94-22.

But in May of 1995, the Fourth District Court of Appeal concluded that Ordinance No. 91-19 constituted an improper “legislative” amendment by the City Council of a municipal initiative Ordinance adopted by the voters (*Mobilepark West Homeowners*

Assn. v. Escondido Mobilepark West, 35 Cal.App.4th 32 (1995)). The Court also held that with respect to existing homeowners, Ordinance No. 91-19 was preempted by Civil Code Section 798.17, which covered conditions on the right of a park owner and existing homeowners to enter into rent control-exempt leases. When the court invalidated Ordinance 91-19, it therefore invalidated Ordinance 94-22, because they were both the same ordinance.

VI. LITIGATION HISTORY

Litigation resulting from the adoption of rent control in Escondido has been lengthy and complex. At one point, litigation status reports on lawsuits related to mobilehome rent control showed approximately forty-one (41) litigated mobilehome cases!

As noted earlier, the voters of the City of Escondido enacted Proposition K on June 8, 1988. The very next day, two mobilehome park owners brought suit against the City seeking a declaratory judgment that certain provisions of Proposition K were illegal, seeking a preliminary injunction against its enforcement, and requesting attorney fees and costs.

Certain park owners also took the position that they might be able to avoid rent control by requiring any purchaser of a mobilehome to sign a long-term lease, because certain long-term leases are by state law exempt from local rent control ordinances. The City adopted Ordinance No. 88-50 as an urgency ordinance on August 11, 1988, to clarify Proposition K by indicating that its protections extended to new and prospective tenants as well as existing homeowners. By October of 1988, three park owners brought suit against the City seeking a declaration that Ordinance No. 88-50 was preempted by or in violation of state laws.

In December of 1988, the first of the "*Yee*" cases (named after the first case, *Yee v. City of Escondido*, San Diego Superior Court Case No. N42268) was filed claiming that Proposition K and Ordinance No. 88-50 constituted a taking of the park owner's property under the state and federal Constitutions. The theory of these cases was based on a panel decision of the United States Court of Appeals for the Ninth Circuit in *Hall v. City of Santa Barbara*, 833 F.2d 1270 (9th Cir. 1996), *cert denied*, 485 U.S. 940, 108 S.Ct. 1120, 99 L.Ed.2d 281 (1988) that a mobilehome rent control ordinance could constitute a taking of a park owner's property.

The *Yee* plaintiffs also attempted to seek review from the federal courts, and filed separate lawsuits in the District Court for the Southern District of California.

Between May, 1989 and June, 1989, an additional eleven (11) *Yee/Hall*-type suits were filed, all alleging that the Rent Protection Ordinance constituted a taking, and seeking damages and other relief.

In October, 1989, another park owner brought suit against the City charging that because of the alleged bias of three Board members, it could not receive a fair hearing on its application, contending also that the failure of the Ordinance to provide for vacancy de-control was a violation of due process, and seeking damages. Yet another park owner sued in December of 1989, alleging that the failure of the Ordinance to permit vacancy de-control was a violation of

due process and seeking damages. A third park owner filed a similar lawsuit in U.S. Bankruptcy Court in November 1989.

Additionally, in December of 1989, two park owners brought Writs of Mandate against the City challenging the amount of rent increases given to them by the Board as an insufficient rent increase and also challenging the rent rollback provisions of Proposition K.

The *Yee/Hall* cases were ultimately consolidated and resolved by the United States Supreme Court in its landmark decision *Yee v. City of Escondido*, 503 U.S. 519, 112 S.Ct. 1522, 118 L.Ed.2d 153 (1992) which was handed down on April 1, 1992.

While the United States Supreme Court made it absolutely clear that the Rent Protection Ordinance could not be viewed as a physical taking of a park owner's property, the Court's opinion indicated the possibility that a challenge could be based on a regulatory taking theory under the Fifth Amendment. Two park owners promptly sought to pursue this avenue by filing additional lawsuits in both state courts and federal courts. These were ultimately dismissed.

The City has prevailed on every single case challenging the basic framework of the Ordinance and challenging the Ordinance under the Fifth Amendment to the United States Constitution. Ordinance No. 88-50 was invalidated as being preempted by state law, and in a 1995 case, the courts determined that the Rent Protection Ordinance provided for vacancy de-control, which enabled park owners to raise space rents to market levels when a space became vacant. The City has also experienced mixed results in cases challenging the amount of rent increase given by the Board, generally losing the earlier cases but winning most cases filed later.

In recent years, only two litigated cases have involved mobilehome rent control. Neither case challenged the basic framework of rent control, but rather, both cases were based on the park owner's dissatisfaction with the final decision of the Board. Such cases tend to be difficult, because the court process and the possibility of a remand from the court to the Board for a new hearing can take several years. The Board, residents, and park owners face the very difficult task of making a correct decision on the prior rent increase application, all the while considering current economic factors and an appropriate level of current rent.

VII. MOBILEHOME PARK LIVING CONDITIONS ISSUES

Many of the common problems found in mobilehome parks are related to health and safety issues that are governed by the California Civil Code, Title 25 of the California Health and Safety Code state regulations and local regulations. Ongoing issues include street lighting, tree removal and trimming, driveway maintenance and lot-line issues. Additionally, residents may have landlord/tenant problems that often fall under federal and state fair housing laws.

A. LOT LINE ISSUES

Lot line issues may arise when a new home is moved in on a space. If lot lines need to be moved, the City follows procedures provided in Title 25. The City's Code Enforcement Division monitors new home set-ups and performs the building permit inspections. The

City of Escondido does an on-site physical inspection prior to issuing permits for new set-ups and accessory structures to assure that the lot lines are set correctly.

B. TREE AND DRIVEWAY MAINTENANCE

Disputes often arise between Mobilehome park residents and Park owners as to the responsibility of fixed improvements on the rental spaces, especially in regards to large trees and driveways. The California Department of Housing (HCD) in its "Forest Gardens" opinion of December 14, 1992 (revisited August 10, 1993) stated that HCD's 'policy' has been "to require the mobilehome owner who planted the tree to be responsible for maintaining it and subsequent problems the tree might cause (e.g. damage to driveways), but the subsequent occupants of the same space can demand that the mobilehome Park management perform such maintenance." However, the HCD opinion goes on to state that through a lease or rental agreement, a resident can contractually agree to perform maintenance which is initially the Park owner's responsibility. Generally, the maintenance responsibility of these fixed improvements is spelled out in a park's rental agreement and resolution of disagreements is governed by the agreement.

These types of repairs can be costly and beyond the financial ability of many residents. Several attempts have been made at the state level to introduce legislation that would shift the responsibility for the maintenance of capital items within a mobilehome park to the park owner. Legislation was passed in the fall of 2000 that requires Park management, not mobilehome owners, to be responsible for paying costs of removing or trimming Park-owned trees and the repairing of driveways where there is a health and/or safety issue involved. As of January 1, 2001, AB 862 went into effect; stating Park management will have the sole responsibility for trimming, pruning, and removing any tree which poses a health and safety hazard. (Section 798.37.5 of the Mobilehome Residency Law). Park management will not be able to "pass on" responsibility for tree maintenance to tenants of an individual space, unless an applicable long term rental agreement is in effect beyond January 1, 2001. Once it is determined that tree maintenance is required to correct a health and safety violation, there is nothing in the legislation which prevents a Park owner from cutting down the entire tree to avoid future maintenance issues. Section 798.37.5 (c) states "Park management shall be solely responsible for the maintenance, repair, replacement, paving, sealing, and the expenses related to the maintenance of all driveways installed by park management including, but not limited to, repair of root damage to driveways and foundation systems and removal. Homeowners shall be responsible for the maintenance, repair, replacement, paving, sealing, and the expenses related to the maintenance of a homeowner installed driveway."

C. STATE MANDATED INSPECTIONS

The City of Escondido contracts with the State of California Department of Housing and Community Development ("HCD") to inspect the parks and the exterior of the homes in the parks for State code compliance which is required by law every eight years. Additionally, each time a park files a rent increase application, the park must submit to an inspection of its common areas. Any health and safety-related violations found in the

common areas of a park must be corrected before any rent increase granted by the Board may be implemented.

D. CAPITAL IMPROVEMENTS

The City has enacted an Ordinance that clarifies residents' rights regarding capital improvements. Ordinance No. 90-12 prohibits a park owner from requiring the installation of capital improvements on a space as a condition of residency in a mobilehome park by an existing or prospective tenant. The Ordinance defines capital improvements as driveways, garages, sheds, curbs, gutters, sidewalks, or any other improvement that results in permanent alteration to the property and that is not subject to removal, or that is not removable at the time the tenancy in the mobilehome park terminates.

E. PUBLIC UTILITIES ISSUES

The Public Utilities Commission ("PUC") regulates the rates that submetered mobilehome parks may charge their space tenants for gas and electric service. In 1997, the PUC confirmed that its ruling applies to a mobilehome park which is subject to rent control and ruled that to the extent that a rent commission had ordered a rent increase to cover the cost of replacing a submetered natural gas system, the rent commission was impermissibly intruding into the jurisdiction of the PUC. Adhering to the PUC regulation, the Escondido Rent Review Board's decision to withhold a requested capital improvement rent increase from Lake Bernardo Mobile Estates to recover expenditures on improvements to its submetered gas and electric system was upheld by the courts in *Rainbow Disposal Company Inc., v. Escondido Mobilehome Rent Review Board*, 64 Cal.App.4th 1159, 1165-70 (1998).

The PUC has investigated mobilehome parks and other multiple residential units with submetered water and sewer systems, after receiving complaints that tenants had been overcharged, and a preliminary investigation discovered that several complexes were over charging for water and sewer service. The City of Escondido has addressed this subject with Ordinance No. 89-39, which regulates water charges by master meter users in multi-dwelling residential environments. The Ordinance prohibits providers of water services to tenants of a mobilehome park, or similar residence complexes, from imposing a surcharge that exceeds the rate set by the City which would apply if the user were receiving such service directly, except as approved by application to the City.

F. LANDLORD/TENANT ISSUES

There are often tenant/landlord-related issues that fall outside the jurisdiction of the City that may eventually require mediation or civil litigation action between the parties to achieve resolution. Most such issues are related to the implementation and/or enforcement of rules and regulations in the park or eviction procedures. The City contracts with the Center for Social Advocacy, and often refers residents with landlord problems and/or fair housing issues to the center.

When residents contact City staff about issues over which the City has no jurisdiction, they are referred to the Center for Social Advocacy which offers free services covering mediation of housing disputes, discrimination monitoring and low-cost rental listings. Their trained counselors can answer questions about rental agreements, deposits, repairs, rules, eviction and fair housing law. The counselor that receives a call may direct the party to the appropriate resource within the organization, supply the resident with any forms required for mediation services or discrimination monitoring, contact a landlord on behalf of the resident or arrange a meeting between the parties if appropriate.

VIII. CHANGING DEMOGRAPHICS

Many of the fundamental demographics which existed in Escondido when mobilehome rent control was adopted in 1988 have changed significantly. In 1988, there were 29 mobilehome parks in Escondido but over time, the Pinetree, Palomar, and Hidden Vale parks were closed and replaced with permanent housing projects and commercial development, reducing the total number of mobilehome spaces from about 3631 in 1988 to about 3465 in 2006. In 2006, two other parks, Bellview and Mobile Haven went through the process of resident relocation in contemplation of being replaced by permanent affordable housing projects. Bellview was replaced by Las Ventanas Village, an affordable family rental community which began accepting applications for tenancy in January of 2008. Mobile Haven is scheduled to be replaced by a senior affordable housing rental project.

As park owners implemented vacancy decontrol, adapted to short form, purchased spaces, and utilized long form leases, the number of spaces subject to mobilehome rent control has dropped dramatically. In 1988, approximately 2749 spaces were subject to the Rent Protection Ordinance, however by 2008, that number has dropped to 1603, with corresponding increases in the number of spaces under vacancy decontrol, long term leases, or park ownership.