



CITY OF HAYWARD
AGENDA REPORT

AGENDA DATE 3/25/03

AGENDA ITEM _____

WORK SESSION ITEM WS 2

TO: Mayor and City Council

FROM: City Attorney

SUBJECT: Amendments to the Mobilehome Space Rent Stabilization Ordinances

RECOMMENDATION:

It is recommended that the City Council review and comment on this supplemental report.

BACKGROUND

On January 28, 2003, the Council conducted a work session in order to consider conceptual changes to the City's mobilehome space rent stabilization ordinance. Please refer to the January 28, 2003 agenda report attached as Exhibit A. During the public comment portion of that session, the residents addressed the Council indicating that the agenda report was incomplete and that it did not completely reflect their views. On February 13, 2003, the City Attorney met with the residents' committee in order to clarify their position on the proposed amendments. The group provided a summary of their position in the February 13, 2003 letter from Mr. Billmire. A copy of that letter is attached to this report as Exhibit B. Additionally, staff sent a copy of the January 28, 2003 agenda report to each of the nine park owners inviting them to comment on the report in writing through the City Attorney's Office or by attending the March 25, 2003 work session.

SUMMARY OF POSITIONS

The Residents' Position

The residents accepted the majority of the concepts contained in the initial agenda report. However, there were proposals contained in the January 28, 2003 agenda report that they either now oppose or wish to have clarified.

The residents now oppose establishing a list of required information which would need to be provided with a particular type of space rent increase notice. They feel that the existing ordinance language is adequate.

The residents are proposing that any rent increase notice should be sent to the City Attorney's Office before going to the residents. The Rent Review Officer would evaluate the application and determine if it is sufficient. There are no proposed guidelines from the residents as to what constitutes a sufficient petition. This proposal is new, and it was not discussed in the original agenda report.

The residents also requested that this supplemental report clarify the “limited scope” of the Council’s review of an appeal from a decision made by the proposed rent review board.

The residents view the proposed amendments as a package creating a rent review mechanism consisting of the following steps:

1. Notice of Rent Increase review by the rent review officer.
2. Mandatory meet and confer session.
3. Petition for Rent Review hearing conducted by a rent review board.
4. Limited Council appeal.
5. Judicial review.

The Park Owner’s Position

As stated in the original agenda report, the park owners support an ordinance amendment that would identify the types of rent increases allowed under the ordinance and provide a detailed list of what information would be required to support such increases. Additionally, this group is in favor of adding the meet and confer provision to the ordinance as a way of resolving minor problems with space rent increase notices and clarifying the calculations used to arrive at the specific amount of space rent increase. The park owners object to the creation of a rent board for the reasons stated in the original agenda report.

DISCUSSION

The January 28, 2003 agenda report correctly identifies the notice deficiency problem and the high costs associated with participating in a hearing in which it is determined that the rent increase notice was found to be deficient. Both the residents and the park owners agree that support documentation for any proposed rent increase should be available for review and a mandatory meet and confer session take place prior to the filing of a petition for rent review. This supplemental agenda report only evaluates the change in the position of the residents. Council should review the original January 28, 2003 agenda report for a complete discussion of the proposed amendment changes.

Notice Support Documentation

The residents believe the language contained in SECTION 4 (b)(2)(iii) of the City’s mobilehome ordinance is adequate to support any type of rent increase. This subsection of the ordinance contains a generic list of financial information kept in the normal course of business by a park owner. The list does not directly correlate to a specific type of rent increase. It is not a complete list of information that might be required for a specific type of rent increase. For example, if a park owner wishes to notice a rent increase based on the comparable rents of other parks located within the city limits containing the same type of amenities, the relevant information needed to support such an increase would contain a list of parks detailing the amenities contained in the park and the current space rent charged by the park owner for spaces covered under the ordinance. No such information is contained in subsection (iii).

The park owners have stated that they must guess as to what information is required to support a specific type of rent increase. They are concerned about the disclosure of confidential financial information that is not directly related to the space rent increase. For example, if a park owner spends \$300,000.00 on road improvements, the relevant information would consist of the cost of the improvement, its useful life, other bids for the work, any history of and costs for prior maintenance of the improvement, a fair rate of return calculation, etc. The park owners do not believe that any information related to the profitability of the park is necessary to determine the proper amount of capital improvement pass through.

An ordinance amendment that clearly defines the types of rent increases and the specific financial information necessary to support each type of space rent increase would greatly reduce the notice deficiency problems park owners are currently experiencing. These notice problems are costly to the park owner who discovers the notice problem for the first time after participating in the rent review hearing. The residents are required to obtain legal representation, file a petition for rent review, and incur significant costs in order to challenge the adequacy of what could be an obvious notice problem. Additionally, an ordinance with a well defined list of required information for each type of rent increase would reduce the need for the residents to obtain subpoenas from the City Clerk in order to obtain information from the park owner which may or may not be relevant to the space rent increase.

Notice of Rent Increase Sufficiency Determination

The residents are proposing that the park owners must first submit a proposed space rent increase notice with all support documentation to the Rent Review Officer for a sufficiency determination prior to the notice being mailed to the residents. While staff would not be required to audit the information for accuracy, they would need to review the information for completeness, e.g., is a summary profit and loss statement without backup documentation sufficient? The attorney staff does not presently possess the financial and accounting background necessary to evaluate the type and depth of information required to support any specific type of space rent increase. Consequently, the rent review officer might need to obtain the expertise of an advisor who could evaluate the financial information provided with the notice of space rent increase. Based on the number of space rent increase notices and the complexity of the increase sought, this process could require additional support staff. Staff believes that it would need to prepare a checklist of required information for each type of space rent increase in order to be consistent in its sufficiency determination process.

The residents feel that the present rent review process does not give them sufficient time to review all of the financial information contained in the notice of space rent increase before the deadline for filing a petition for rent review arrives. The sufficiency determination process would provide the residents with extra time to review the support documentation before being required to file a petition for rent review.

Alternatively, this problem could be resolved by incorporating the meet and confer provision into the ordinance. Rather than requiring fifty one percent of the residents to sign a petition for space rent review thirty days after receiving the notice of space rent increase, the review process could begin by requiring the residents to request a meet and confer session with the park owner within thirty days of receiving the notice of space rent increase from the park owner. The meet and confer session would be held within thirty days of the date of the request to meet. If the residents were not satisfied with the support documentation, they would have thirty days from the date of the meet and confer session to file a petition for rent review under the requirements presently contained in the ordinance. Under this scenario, the residents would have between 60 and 90 days to review the information contained

in the notice before having to appear at a hearing. Providing sufficient time for the residents to review the support documentation before requiring them to file a petition for rent review can be accomplished without a notice sufficiency review by the rent review officer.

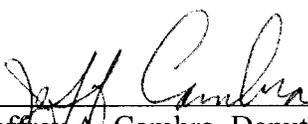
Limited City Council Appeal

The residents have requested staff to clarify the Council's role in the rent review process. The residents are proposing that the Council limit their review to the record of the board and not conduct an additional hearing. The Council would review the record to determine if the evidence presented to the board was sufficient to support the findings of the rent board and decide whether the findings supported the conclusions made by the rent board. While this type of review is not the same as conducting a new hearing, in substance, the Council would still be substituting its judgment in place of the rent board's conclusions.

CONCLUSION:

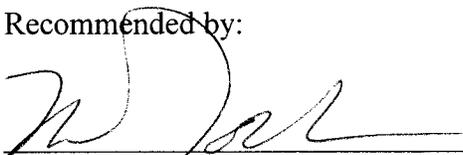
The January 28, 2003 agenda report and this supplemental agenda report reflects the views of the residents and park owners on a variety of issues. Many of the proposed amendments are mutually exclusive and may be discussed and approved individually. For example, consideration of a meet and confer provision does not relate to a decision on the type of hearing used to review the petition for rent review. A review of recent petitions and a request from the residents to change the procedures for hearing Rent Review Petitions necessitates a change to certain provisions of the ordinance so that they can provide an effective, inexpensive method of evaluating rent increases for the benefit of both park owners and residents. Staff requests direction from the Council on what concepts should be evaluated for inclusion in the next amendment to the ordinance.

Prepared by:



Jeffrey A. Cambra, Deputy City Attorney

Recommended by:



Michael O'Toole, City Attorney

Approved by:



Jesús Armas, City Manager



CITY OF HAYWARD
AGENDA REPORT

EXHIBIT A

AGENDA DATE 1/28/03

AGENDA ITEM _____

WORK SESSION ITEM WS 2

TO: Mayor and City Council
FROM: City Attorney
SUBJECT: Amendments to the Mobilehome Space Rent Stabilization Ordinances

RECOMMENDATION:

It is recommended that the City Council review and comment on this report.

BACKGROUND

In 2001, the City conducted two hearings under the Mobilehome Space Rent Stabilization Ordinance. Both hearings involved costly and burdensome legal tactics, which did not serve the resident's or park owner's interests. The City Attorney has met several times with a group of residents representing the nine-mobilehome communities to discuss this situation. In early December, the City Attorney also met with the park owners. As the result of those meetings, the following concerns were identified.

Notice Deficiencies

Park owners are required to send each resident a Notices of Space Rent Increase prior to implementing a space rent increase. The Ordinance provides several bases for a park owner to obtain a space rent increase. However, the residents must be properly noticed of the amount of the increase and *the basis for the increase*. In a previous hearing, a park owner noticed a rent increase based on extraordinary repair expenses and then attempted to obtain and present evidence of comparable rents in order to justify the rent increase. The residents were required to incur the expense of an attorney and participate in a hearing to evaluate a rent increase that had not been properly noticed.

From the park owners view, he or she could notice a space rent increase, secure an attorney, obtain expert witness testimony, participate in the hearing, and be denied the increase on the basis that the original notice of rent increase did not describe the type of space rent increase the park owner was presenting evidence for at the hearing. This is a costly way to identify improper notices of space rent increase.

By far the most common notice deficiency problem seems to be the type and sufficiency of the support documentation for the notice provided by the park owner. In this situation, the residents are forced to submit a Petition for Rent Review just to be able to gain access to what might be considered basic information. This process requires the residents to hire an attorney and incur substantial costs to obtain information from the park owner either voluntarily or by subpoena. Any evaluation of the

support documentation for the proposed space rent increase is not discussed until the hearing. This problem can be resolved by requiring the park owner to clearly identify which type of rent increase he or she is requesting and the specific information to be included with the Notice of Rent Increase.

Burdensome and Expensive Hearings

In 2002, two Petitions for Rent Review under the Mobilehome Space Rent Stabilization Ordinance were heard. Unlike previous hearings, these two hearings involved pre-trial procedures concerning discovery – the method of securing information from one of the parties involved in the hearing. The process became burdensome and costly for both residents and park owners.

In the New England Village Petition for Rent Review, the City Clerk issued a subpoena duces tecum (demand for business records) at the request of the residents' attorney in order to obtain accounting and financial information unrelated to the actual cost of the capital improvement from the park owner. The City was required to conduct a separate hearing. This process resulted in the residents, park owner, and the City incurring additional expenses to resolve an information dispute.

In the Eden Roc Mobilehome Park Petition for Rent Review, the attorney for the park owner requested the City Clerk to issue more than ten subpoenas duces tecum in order to secure records of comparable rents from park owners in Hayward, information from the Public Utilities Commission, and information from Pacific Gas & Electric regarding the discount structure for utility charges in master metered parks. The information regarding comparable rents could have been obtained informally without the expense of an attorney and the resources of the City.

Both park owners and residents are in favor of an ordinance provision that clearly indicates what type of information must be included in each type of notice for space rent increase. A committee made up of park owners and residents could be created to develop the list of required information that would be included in any request for space rent increase.

THE RENT DISPUTE RESOLUTION PROCESS

THE EXISTING PROCEDURE

Presently, the City's ordinance allows a park owner to notice a rent increase by providing the amount of the increase, the time the increase will take effect, and support documentation justifying the amount of the increase. The residents of the park have thirty days from receiving the notice to file a Petition for Rent Review that triggers the formal hearing. If there is no opposition to the rent increase, it automatically goes into effect on the date contained in the notice.

The residents can choose between mediation followed by binding arbitration if the mediation is unsuccessful or non-binding arbitration with the possibility of judicial review. A review of past petitions shows that residents have selected the non-binding arbitration, rather than mediation. Their contention is that park owners would not voluntarily provide the information necessary to evaluate the rent increase proposed by the park owner.

PROPOSED CHANGES

Staff has reviewed approximately fifteen Mobilehome Space Rent Stabilization Ordinances from other cities. Generally, all these ordinances contain a mechanism for initiating a review of the proposed space rent increase, a hearing conducted by a hearing officer, board, or the council to evaluate the proposed increase in accordance with the guidelines provided for in the ordinance, and an appeal process which would end with an independent judicial review. The various phases of reviewing a proposed rent increase and the options available within each phase are outlined below. Staff is asking the Council to review the phases and options and provide Staff with direction regarding how Petitions for Space Rent Increase should be processed, and who should evaluate and authorize such increases. While not specifically discussed below, the same process would be used in order to evaluate requests for decreases in rent due to service reductions.

REQUIRED INFORMATION (PROPOSED)

The residents and the park owners agree that certain types of financial information would be necessary to properly evaluate any proposed rent increase. The City's Ordinance allows a park owner to increase rents to maintain a net operating income (NOI), maintain a return on investment (ROI), match other rents in parks with comparable features and conditions (Comparable Rents), be compensated for capital investments in the assets of the park, (Capital Improvement Pass-through), and annual increases for inflation. A park owner may notice a space rent increase based on one or more of these categories. In some notices, it is not clear which category of space rent increase is being noticed. Additionally, the same financial information may be required to support more than one category of space rent increase.

The residents and park owners have expressed interest in developing a specific list of information for each type of rent increase that would accompany a specific rent increase request. The types of rent increases would be identified and a list of financial information required to be submitted with the request for space rent increase would be incorporated into the ordinance.

MEET AND CONFER PROVISION (PROPOSED)

The residents are proposing that a mandatory meet and confer provision be added to the ordinance. This post-notice of rent increase meeting would provide a forum for the residents to review the space rent increase notice and the support documentation provided by the park owner. Notice deficiencies could be identified prior to any hearing on the merits of the space rent increase. Support documentation could be reviewed without the need for attorneys and a formal hearing.

While this meet and confer provision appears to be similar to the mediation choice provided under the City's current ordinance, the difference in this proposal is that the support documentation required by the ordinance under the proposed Required Information provision discussed above would require the park owner to provide the necessary information prior to any hearing.

The residents and the park owners are in favor of some type of organized face-to-face meeting where the residents could view the support documentation and have the opportunity to ask questions relating to the space rent increase.

Staff believes that a facilitator or mediator should be present during these meet and confer sessions to assist both parties in resolving any disputes. In the event the parties cannot agree, the petition would be scheduled for a formal hearing in order to determine the validity and amount of the space rent increase. The Mediation Board discussed below would perform a similar function to the meet and confer provision, except the meeting would be more formalized and structured.

FORMAL HEARING

In the event the parties do not agree on a space rent increase amount or a dispute arises as to adequacy of financial information supplied, a formal hearing would be scheduled. The City currently provides a hearing officer to hear the Petition for Rent Review. The residents have requested that a rent review board rather than a hearing officer conduct the hearing. Staff has reviewed a number of rent review ordinances from other cities. Generally, there are three broad categories of Rent Review Boards.

RENT REVIEW BOARD (PROPOSED)

The benefits of a board are the availability of a forum to resolve disputes without the need to use an outside service, which may not always be able to provide qualified hearing officers in a timely manner. Based on the qualifications of the board members, the board could be better qualified to understand and evaluate complicated financial information and accounting methods. As the hearing body, the City would not be required to contract with outside sources in order to secure hearing officers. This would save the City the expense of the hearing officer; However, a Rent Board would require additional staff support and legal consultation, which could offset any savings. If the Rent Review Board is independent and its decisions are not subject to Council appeal, the City will be forced to defend all decisions of the board in the event of a judicial appeal.

MEDIATION BOARD

As an alternative to the informal Meet and Confer session proposed above, the Petition for Rent Review can go directly to a Mediation Board. The Mediation Board's ability to hear a rent increase request can be voluntary or mandatory. It can just hear petitions challenging rent increases or it can require any rent increase application to be submitted to it before going into effect. The ordinance creating this type of board can also describe the procedure for reviewing a request for rent increase and the information required for the board to consider an application. The mediation process involves discussions between the parties facilitated by a professional mediator. The mediator assists the parties in coming to an agreement on the disputed issues, which is then memorialized and signed by the parties. Appeals from this board can go to arbitration, the Council, or to judicial review. The residents are in favor of the meet and confer provision rather than a mediation board.

INDEPENDENT BOARD

The Independent Board is mandatory and can either hear petitions from residents challenging a proposed increase or require a hearing for all rent increases whether the petition is challenged or not. The ordinance creating this type of board can also describe the procedure and guidelines for reviewing a request for rent increase and the information required for the board to consider an application. The board's decision is final with no appeal to arbitration or the Council. An appeal would go directly to judicial review.

BOARD with COUNCIL APPEAL

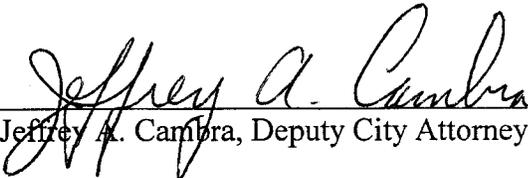
This board is similar to the independent board except that a party can appeal to the council if they do not agree with the decision of the board. The Planning Commission functions in this manner. The ordinance can limit the subject matter the Council can review on an appeal from a rent board determination, or it can provide for a new hearing before the Council. The residents support only a review by the Council of the procedures followed by the Rent Board and the adequacy of its finding. An appeal of the Council's decision would go to judicial review.

The park owners oppose the formation of a rent review board as a burdensome, ineffective procedure that could result in decisions for rent increases being made based on politics rather than the merits of the proposed increase. They would prefer to have the proposed required information and meet and confer provisions implemented and evaluate the effectiveness of those changes before replacing the hearing officer with a board. One park representative stated that the great majority of space rent increase petitions filed in San Jose are resolved using the meet and confer provision in that City's ordinance.

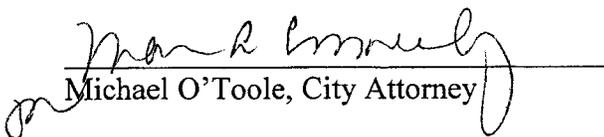
CONCLUSION:

A review of recent petitions and a request from the residents to change the procedures for hearing Rent Review Petitions necessitates the need to change certain provisions of the ordinance so that it can provide an effective, inexpensive method of evaluating rent increases for the benefit of both park owners and residents.

Prepared by:


Jeffrey A. Cambra, Deputy City Attorney

Recommended by:


Michael O'Toole, City Attorney

Approved by:


Jesús Armas, City Manager

EXHIBIT B

February 13, 2003

Michael O'Toole
City Attorney
City of Hayward
777 B. St.
Hayward, Ca., 94541

Subject: Mobilehome Rent Ordinance Amendment Proposals

You will recall that at the Council work session on January 28th last that our amendments committee solicited amplification of some of the materials you submitted. Additionally the Council wished us to submit to them the material we felt illustrated our needs. That along with your meeting with us today to revisit our proposals should enable us both to move ahead with this project.

This particular amendment request focuses on the following changes in the Rent Resolution Process in our ordinance:

1. A mandatory meet and confer meeting concurrent with most requested park owner's rent increases.
2. Establishing a Rent Review Board which has the effect of replacing the use of an arbitrator.
3. Providing Council appeal on a distinctly limited basis.
4. Existing judicial review.

Some specifics relative to the above can be found in the 4 pages of material, copy enclosed, that we discussed with you in detail back on October 9th such as:

1. The mandatory meet and confer process requires park owners to submit required information to support their noticed rent increases directly to your office. When considered complete you send it to us. After a brief period for us to consider, a meet and confer meeting is scheduled. (You proposed we utilize a mediator and we accepted a qualified mediator but wished they be utilized only as a facilitator). Failure to meet and confer and agree would "initiate" the formal petition process in our ordinance. (Our interest in heretofore "laundry lists" of required information that you would provide for in the ordinance we are no longer interested in having. That which is contained in our present ordinance is adequate).

Unsubstantiated delay by the park owner in submitting required information would only cause then to have to renote a rent increase to a subsequent date.

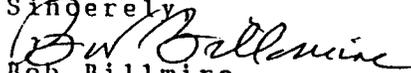
2. A Rent Review Board, composed of 3 or 5 members, preferably 5, selected by the Council, exempting park owners as well as park residents, is quite self explanatory. Hopefully they will not be members of any other city committees.

3. Council appeal, should that occur, is intended to follow in the paths of other cities as well as generate only negligible political concern. Common ordinance provisions elsewhere are as follows..... an appeal shall consist solely of a review of the administrative record and inquiry as to whether or not the Board proceeded without or in excess of its' jurisdiction and whether there was any prejudicial abuse of discretion..... did not proceed in accordance with this ordinance and amendments.....their decision is not supported by the findings or the findings are not supported by the weight of the evidence. Should such occur the council will send the decision back for a subsequent rehearing.

4. Judicial review requires no further comment.

The remaining specifics contained in our October 8th material do not appear in any way controversial and if circumstances warrant we can meet with you at any time.

Sincerely,



Bob Billmire

Amendments Committee Chairman

Hayward Mobilehome Owner's Association

cc: Lou Carnahan, Nellie Kotte, Kathy Morris, Fay Hudson

January 28, 2003

Michael O'Toole
Hayward City Attorney
777 B Street
Hayward, Ca., 94541

Subject: Mobilehome Rent Stabilization Ordinance
Modifications

The Council work session staff report for the above subject for tonight's meeting does not adequately address the previously discussed proposals of the Mobilehome Owner's Association that were held with you and your staff.

The staff report has been carefully reviewed by the HOMOA amendments committee. We originally met with you on September 27, 2001, and again on October 18 and December 6, 2001. It wasn't until our 4th meeting on September 24, 2002 that we agreed to temporarily set aside all other discussed proposed amendments and concentrate exclusively on the subject of a rent review board inasmuch as it was of primary interest to us.

The general cause and effect relationship under the current Ordinance provisions dealing with rent stabilization disputes with its attendant shortcomings has been adequately addressed in tonight's staff report. It need not be repeated herein.

In the staff report are comments subscribed to the park owners recently about which we know little. We need more detail on these given that contrary to our request you chose to meet independently with them.

Of major concern is the fact that some of your rent review board proposals are not included as well as incorrectly included in the staff report. These need to be revisited by both of us asap.

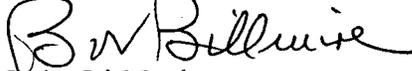
Please be reminded that the HMOA amendments committee represents the primary applicant for this amendment.

In summary, given that the rent review mechanisms in their totality embracing a meet and confer process, rent review process, Council audit process, and ultimately judicial review, needs to be treated specifically in the staff report as we proposed it and made a part of any future staff reports. Only in that way do we feel that our request for these amendment changes can be clearly submitted to the Council for its consideration

Lastly, we need remind you the proposals we submitted to you are, almost without exception, taken from other ordinances within our surrounding cities.

We request a meeting with you and your staff asap.

Sincerely,



Bob Billmire
Chairman,
HMOA Amendments Committee

cc: Mayor Roberta Cooper, Councilpersons Doris Rodriguez, Matt Jimenez, Joe Hilson, Keving Dowling, Olden Henson, Bill Ward.

City Manager Jesus Armas, City Clerk Angie Reyes

Committee: Nellie Kotte, Lou Caranahan, Fay Hudson, Kathy Morris.

October 8, 2002

Permitted rent increases subject to the following:

1. Mandatory Meet and Confer meeting in the style of Cotati. Adequate notice. Reasonability of information required in the style of Milpitas required and certified as complete by the City's Rent Review Officer.
No attorneys.

Failure to resolve subject to the Petition process and subject to a Rent Review Board hearing.

2. A Rent Review Board composed of three members with residents and park owners exempt.

Membership will be for two years with continuity of membership insured. Adequate notice to the parties.

Subject to appeal to the Council on the basis as in Milpitas.

The Council's decision subject to judicial review

3. The referral to the Council is not a recommendation of the committee. However, as in Milpitas the Council is merely reviewing the adequacy of the process. With that in mind the committee does not feel a referral to the Council would not in any way diminish our reciprocal good relationships.

C. Contents of Petition

D. Mobilehome Rent Review Board

1. The Mobilehome rent Review Board shall be appointed by the City Council. Membership will for a period of 2 years. The Board will be composed of 5 members and shall be residents of the City of Hayward. Members of the Board cannot be mobilehome owners, park owners, or park managers. Members of the Board cannot concurrently serve on other city boards, commissions or committees.

2. The purpose of the Mobilehome Park Rent Review Board as established in the Rent Stabilization Ordinance ----- is to hear petitions and make determinations related to mobilehome rent increases and/or reductions in service.

3. Meeting times and places to be held as needed.

4. Conflict of interest requirements will apply to the members.

Section 5. The Rent Resolution Process

A. Mandatory Meet and Confer meeting. Except for rent increases permitted under Section 3 (a) or (b) of the Ordinance, parkowners will submit directly to the city's Rent Review Officer the amount of any requested rent increase petition as well as all relevant information and supporting documentation. Upon the residents written receipt of such information from the city's Rent Review Officer, the tenants and the parkowners must, within fifteen working days meet and confer with each other's layman representatives at city hall. In the event the tenants and parkowner fail to agree on a meeting date within the initial five working days, said meeting date will be set at the convenience of the city's Rent Review Officer. At the meeting, representatives of the parties should be prepared to examine as well as discuss all documentary evidence the parties in good faith then know will be used to later on support their respective positions before the city's Rent Review Board. The parkowner should be prepared to discuss in detail all the financial data which is claimed to support their case.

1. Sanctions. A parkowner's failure to provide the minimum information required by subsection (A) (2) of this section or attend the hearing shall require the Rent Review Officer to suspend further proceedings under this chapter. The parkowner's application for a rent increase under such circumstances shall be deemed defective, without force or effect, and deemed withdrawn. Renoticing of the increase shall be required to reinstate an application for rent increase.

2. Minimum Meet-and-Confer Information. The parkowner has a duty to provide adequate information to the tenants regarding the park's net operating income sufficient for a reasonably sophisticated inquiry into the financial status of the parkowner's business. This will consist of true and accurate book entries or other competent evidence of gross income including, but not limited to, gross rents, interest upon security and cleaning deposits, income from ancillary services (submetering of utilities, laundry facilities, etc.) and true and accurate book entries or other competent evidence of operating expenses including, but not limited to, license fees, property taxes, utilities, insurance, management expenses, landlord performed labor, building and grounds maintenance, legal fees, auto and truck expenses, employee benefits, permits, refuse removal, ground lease payments, and similar additional expenses.

B. Petition. If discussions between parkowner and tenants do not resolve the dispute between them, the tenants or their representative shall file with the Rent Review Officer a petition for space rent review before the city's Rent Review Board, within thirty days following the inability of the parties to resolve the dispute at the Meet and Confer meeting. The Rent Review Officer shall not accept a petition for filing unless it has been signed by at least fifty-one percent of all affected mobilehome spaces. Upon the timely receipt of a valid petition from the residents the Rent Review Officer shall in a timely manner schedule the Rent Review Board for a hearing concerning the dispute between the parties.

*Pleasanton C. 60.080
Milpitas III - 30-19.00*

*Contate 19.14
ATC Concord 490*

*City
Parte*

Section 5 E

~~III-30-19-00~~ Determination and Appeal

~~19.01~~ The determination of the Board shall be appealable to the City Council in accordance with the provisions of Section ~~1-20-5~~ of this Code except that the hearing on Appeal shall consist solely of a review of the administrative record and inquiry as to whether the Board proceeded without or in excess of its jurisdiction and whether there was any prejudicial abuse of discretion. Abuse of discretion is established if the Board did not proceed in accordance with this ordinance and amendments thereto, their decision is not supported by the findings or the findings are not supported by the weight of the evidence.

~~19.02~~ It is the intent of this Section to set forth the manner of appeal from decisions of the Mobile Home Park Rent Review Board. The provisions of Section ~~1-20-6.01~~ shall not govern matters related to decisions of the Board. Any party disputing the final conclusions and findings of the City Council may seek review of them pursuant to Sections 1094.5 and 1094.6 of the California Code of Civil Procedure. (Ord. 224.3 (part), 12/15/92; Ord. 224.2 (part), 8/18/92)