

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING
CHAPTER 9.50 OF THE CHULA VISTA MUNICIPAL CODE BY
ADDING AND AMENDING SPECIFIC SECTIONS OF SAID CHAPTER
RELATING TO MOBILEHOME PARK SPACE RENT MEDIATION

The City Council of the City of Chula Vista does ordain as follows:

SECTION I: That the second paragraph of Section 9.50.010 of Chapter 9.50 is amended to read as follows:

The procedures contained herein are intended to provide a mechanism for the resolution of disputed increases and rents by making it advantageous for mobilehome owners and mobilehome park owners to establish a better understanding for each other's positions through a negotiation process which will result in agreement on the amount of rent to be charged. The procedures of the ordinance are established with the intent of allowing a negotiation process, which can be accomplished in a timely fashion. The Council would hope that the participating parties would commit to the goal of completing a negotiation process within sixty (60) days of the serving of a petition to the owner/manager.

SECTION II: That Section 9.50.010 is hereby added to Chapter 9.50 to read as follows:

CHAPTER 9.50 MOBILEHOME PARK SPACE RENT MEDIATION

Sec. 9.50.010 Applicability.

This chapter shall apply to a mobilehome that requires a permit to be moved on a street or highway.

SECTION III: That Section 9.50.020 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.020 Created.

Each mobilehome park in the City is authorized to create its own mobilehome park negotiation commission.

SECTION IV: That Section 9.50.030 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.030 Definitions.

Words used in this Chapter shall have the meaning described to them in this section:

- (1) "Negotiation Commission" means a mobilehome commission created within a mobilehome park in the City for the purpose of resolving a dispute covered by this ordinance.
- (2) "Commissioners" means ~~commissioners~~ members of the ~~mobilehome~~ negotiation commission created within a mobilehome park in the City.
- (3) "Space rent" means the consideration, including any bonus, benefits, or gratuity demanded or received in connection with the use and occupancy of the mobilehome space in a mobilehome park, or for the transfer of the lease for parkspace, services, owner-provided utilities, and amenities, subletting and security deposits, but exclusive of any amounts paid for the use of the mobilehome dwelling/ or of major capital improvement pass-throughs as defined in this Ordinance.
- (4) "Mobilehome" means a mobilehome as defined in the California Mobilehome Home Residency Law.
- ~~141~~ (5) "Mobilehome park owner" or "Owner" means the owner, lessor, operator, manager of a mobilehome park within the purview of this ordinance.
- ~~151~~ (6) "Mobilehome resident" or "Resident" means any person occupying a mobilehome and entitled to occupy a mobilehome dwelling unit by virtue of ownership thereof.
- ~~161~~ (7) "Dispute" or "controversy" means a disagreement or difference between the residents of more than 50 percent of a park's spaces and the owner regarding a proposed space rent increase.
- ~~171~~ (8) "Consumer Price Index" shall mean the ~~residential/rent~~ all urban consumers/all items component of the San Diego Metropolitan Area U (broader base) consumer price index.
- ~~181~~ "Pass-throughs" will be defined as liability/insurance, ground/lease/costs, utilities, government mandated costs, capital improvements and replacements, and expenses over which the park owner has no control. Documentation of charges for pass-throughs shall be provided by park owners to mobilehome owners as they occur.
- (9) "Major Capital Improvement Pass-Through" means a separately identified monthly charge to residents which represents the repayment of a cost for a major capital improvement with the following characteristics:

- (a) Said improvement shall have a cost of more than \$10,000.
- (b) Said improvement shall be exclusive of maintenance or replacement of existing facilities.
- (c) Said improvement shall have been approved in concept by more than fifty percent (50%) of the mobilehome spaces within the mobilehome park after all spaces in the park have been informed of the nature, general design, timing, and overall cost of said improvement, and the amount and duration of the related pass-through.

~~(10) "Base Rent" means rent before pass-throughs are added to the residents' monthly bill.~~

- (10) "Decision" will be defined as the majority opinion of a negotiation commission regarding resolution of the space rent dispute.

SECTION V: That Section 9.50.040 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.040 Negotiation Commission - Membership.

The mobilehome negotiation commission in each mobilehome park shall consist of five (5) members. The commission shall be formed within a mobilehome park in the City in response to a particular dispute within fifteen (15) days of the date the owner receives a written petition of the residents of more than fifty percent (50%) of the mobilehome spaces within the owner's mobilehome park requesting that the commission be formed. Said petition must be given to the park owner or park manager within thirty (30) days after a notice of rental increase per Civil Code Sections 798.30 or 798.32 is given.

- (1) Two members shall be residents of the mobilehome park within which the commission is being formed and they shall be elected by a majority vote of the other owner/occupant residents of the mobilehome park.
- (2) Two members shall be designated by the owner of the mobilehome park.

- (3) The fifth member shall be appointed by the unanimous vote of the other four members and shall be selected from a list of candidates promulgated by the City's Mobilehome Issues Committee, who, to the knowledge of the Mobilehome Issues Committee, have no specific involvement in the mobilehome community or the mobilehome industry. It is preferable that the fifth member have some financial or accounting background.
- (4) A chair shall be selected by the majority vote of the members of the commission. ~~The fifth member shall serve as chair of the commission.~~
- (5) Alternates may be appointed in each classification for items (1), (2), and (3) to serve when needed and shall ~~shall be required to~~ attend all meetings of the commission to be fully informed of the activities thereof, but shall be non-voting observers.
- (6) Commissioners shall serve at the pleasure of the parties who elected or appointed them.
- (7) Three (3) members shall constitute a quorum provided that one resident member and one owner member are present. Three (3) affirmative votes are required for a ruling or a decision.

SECTION VI: That Section 9.50.050 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.050 Functions of ~~the~~ a Negotiation Commission.

- (1) To provide a representative forum for the purpose of facilitating and carrying out impartial and objective negotiations between the mobilehome park owner and the residents of a particular mobilehome park within which the commission has been formed. It is the objective of this ordinance to create such a forum within each mobilehome park in the City whereby the persons who are actually concerned and who are knowledgeable of the actual facts relating to their particular mobilehome park can resolve their differences and concerns regarding space rent increases without the interference of government or other persons who are not residents or owners of the particular mobilehome park. By creating this forum, and the mediation procedures provided for by this ordinance, the policies and objectives of the Mobilehome Residency Law of the State of California, specifically those of Section 798.15(g), which require the owner to meet and consult with residents regarding matters of concerns to residents, will be best served and implemented.

- (2) To make or conduct such independent hearings or investigations as may be appropriate to obtain such information as is necessary to carry out their duties. Said hearings shall be taped by City staff and the tapes of said hearings delivered to the City Clerk of the City of Chula Vista who shall maintain the tapes until any particular disputed rental increase matter has been concluded.
- (3) To provide written minutes prepared by City staff to the City Council concerning their activities, actions, results of hearings, and all other matters pertinent to this ordinance which may be of interest to the Council.
- (4) To maintain and keep at City Hall hearing files and dockets listing the time, date, and place of hearings, the parties involved, the addresses involved, and the final disposition of the matter.

SECTION VII: That Section 9.50.060 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.060 Powers of ~~the~~ a Negotiation Commission.

- (1) To mediate all disputes regarding rental rate adjustments, including the mediation of refund amounts due to mobilehome residents where ~~established~~ appropriate, and to make its recommendation to the residents and owner after appropriate hearings ~~and presentation of files.~~ The A commission's decision shall be advisory only.
- (2) Advisory capacity to the City Council: ~~The A~~ A commission shall hold such hearings, receive evidence both oral and documentary, as it deems appropriate, and advise the City Council on all matters relating to the rent space situation in its particular mobilehome park that may be referred to it by the City Council from time to time.

SECTION VIII: That Section 9.50.070 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.070 Initiation of Negotiation Commission Review and Hearing Process.

In any situation where the space ~~base~~ rent increases in a ~~calendar/year~~ twelve month period exceed cumulatively the increase of the Consumer Price Index as defined herein for the year preceding the rent increase, the following procedures shall apply:

- (1) Upon the written petition of the residents of more than fifty percent (50%) of the spaces in the mobilehome park (who will be or have been within a sixty (60) day period, subject to a rental or service charge increase), the commission shall hold a hearing no sooner than ~~five (5)~~ ten (10) days and no later than ~~fifty (50) / (15)~~ thirty (30) days at a place and time to be set by the commission, to determine whether or not the rental or service charge increase is warranted. A reasonable continuance may be granted if stipulated to by both parties or at the commission's discretion. The Commission's first order of business shall be the selection of the fifth member.
- (2) All hearings of ~~the~~ a commission shall be open to the other residents of the particular mobilehome park and to other residents of the City, provided, however, that the commission shall have the power to approve and control the attendance of persons who do not live in their particular mobilehome park in order to ensure that residents of the particular mobilehome park can attend the hearing. Persons who do not live in the particular mobilehome park shall not be permitted to speak or participate in the hearings unless they are being called as witnesses or they are assisting one of the parties to the hearing as provided for in paragraph ~~(5)~~ (3) below.
- (3) All parties to a hearing may have assistance in presenting evidence or in setting forth by argument their position, from such persons as may be designated by said parties.

SECTION IX: That Section 9.50.080 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.080 Mediation of Negotiation Commission's Decision.

- (1) In the event that ~~at~~ the park owner, or the residents of more than 50 percent of a park's spaces, are dissatisfied with a decision of ~~the~~ a negotiation Commission, either party may elect to have the issue submitted to mediation for the purpose of attempting to reach agreement on the issue in contention.
- (2) The mediation process may be commenced by the party who has elected to mediate the dispute by giving the other party written notice of this election, within ten (10) days of the date of the Commission's decision. The cost of mediation will be shared equally by both parties. Mediators shall be compensated as may be agreed upon by the parties and the mediators themselves.

- (3) A total of three (3) mediators shall be appointed for purposes of conducting the mediation, one mediator to be appointed by the residents and one mediator to be appointed by the owner. The two mediators shall appoint the third mediator.
- (4) In order to achieve objectivity and the maximum benefit from the mediation process, the mediators shall be selected from a list supplied by the City Council of qualified citizens with backgrounds in accounting, business ownership, and/or economics. None of the three mediators shall be persons who, either in the past or presently, have been or are directly associated with the mobilehome park industry.
- (5) The mediators shall determine the procedures which are to be followed in conducting the mediation.
- (6) Each party shall submit such evidence as they feel is necessary to support their respective positions in the disputed rent increase. A majority of the mediators may, however, make the determination to include or exclude any testimony or other evidence which is not germane and material to the dispute.
- (7) The three mediators shall, individually or jointly, as they decide, meet separately with the parties for the purpose of finding a basis for mutual agreement upon the rent increase which is in dispute and any refund amounts which might be appropriately due to mobilehome residents. The mediators recommendation shall be advisory only. The mediators shall, however, be empowered to make recommendations and take all other action which is reasonably necessary and prudent to achieve the mutual agreement of the parties as to a fair and equitable resolution of the disputed rent increase.
- (8) With respect to any dispute upon which the parties have reached agreement, they shall, upon the request of either of them, enter into a written contract which embodies the terms of the agreement.

(9) The negotiation commission hearings and mediation process are not intended to supersede or contradict the laws of the State of California or the United States generally, or as as they pertain specifically to mobilehome parks, mobilehome park rents, and otherwise, as they are now enacted or may be enacted in the future. In the event the issue in dispute is not resolved to either party's satisfaction by either the commission hearings or the mediation process described above, then each party shall retain all legal rights which they would otherwise have had if this ordinance had not been enacted. *Specifically, neither the a park owner nor residents shall give up any rights which they may have under any law which is now enacted or may be enacted in the future to pursue any legal, equitable, or other remedy which they may have as to the another or any other party or person. The foregoing includes, without limitation, the right of residents to pursue any right or remedy which they may have under the Mobilehome Residency Law of the State of California.*

(10) The mediators shall submit a written report to the City Council concerning their activities, actions, results of the mediation efforts, and all other matters pertinent to this ordinance which may be of interest to the Council.

(11) Written reports submitted to the City Council by the mediator shall be maintained at City Hall.

SECTION X: That Section 9.50.090 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.090 Deferral of Rent Increases.

In any case where a disputed rent increase exceeding the CPI, as provided herein, is subject to dispute, said increase shall not become effective until the full mediation process has been completed with accordance with the provisions of Section 9.50.080 provided, however, an increase in the amount of the CPI may take effect immediately and only the amount in excess thereof shall be deferred until the completion of the negotiation or mediation process.

Sec. 9.50.090 Adjustment of Rental Amounts Paid

In any case where a disputed rent increase is adjusted downward as a result of the mediation procedures of this ordinance, and that downward adjustment is agreed upon in a written agreement by the

parties to mediation process, the park owner shall make timely refund to the affected residents of the excess amount of rent paid from the effective date of the disputed rent increase to the date of the rent adjustment agreement. That refund may be in cash or in the form of a future rent credit as mutually agreed upon by the park owner and each affected resident.

SECTION XI: That Section 9.50.100 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.100 Severability.

If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional, such portion shall be deemed a separate and independent provision and such decision shall not affect the validity of the remainder.

SECTION XII: That Section 9.50.110 of Chapter 9.50 is amended to read as follows:

Sec. 9.50.110 Enforcement.

- (1) The failure of either the mobilehome park residents or park owners to adhere to the procedures established herein shall not constitute a crime, but the City Council may, upon petition of either party and after conducting a public hearing thereon, and making a finding of a violation of the terms of this ordinance, direct the City Attorney to seek judicial enforcement in a court of competent jurisdiction of the mediation procedures contained herein. Such enforcement shall not extend to the failure or refusal of either party to accept the final determination reached by the mediation process.

~~(2) An individual resident, or two or more residents, or a residents' association may at any time bring an action in the State or Federal Courts alleging a violation by the owner, two or more owners, or an owners' association of any legal, equitable or other rights which the resident or residents or their association may have under the law as now enacted or under laws enacted in the future.~~

- (2) Notwithstanding any provisions in this chapter to the contrary, an individual resident, individual owner, two or more residents, or two or more owners, may at any time bring an action in the state or federal courts alleging a violation of any legal, equitable or other rights which the plaintiff may have. Said action may include, but not be limited to, breach of contract, violation of applicable state laws relating to mobilehomes, and landlord and tenant relationships.

(3) An individual owner or two or more owners, or an owners' association may at any time bring an action in the State or Federal Courts alleging a violation by an individual resident or two or more residents or a residents' association of any legal, equitable, or other right which the owner or owners or owners' association may have under the law as now enacted or under laws enacted in the future.

SECTION XIII: This ordinance and Ordinance 1997 shall be deemed to be repealed and be of no further force and effect from and after August 18, 1987.

Presented by

Approved as to form by

David Gustafson
For Paul Desrochers
Community Development Director

Charles R. Gill
Charles R. Gill
Assistant City Attorney

1839a

FIRST READ AT A REGULAR MEETING OF THE CITY COUNCIL OF THE
CITY OF CHULA VISTA, CALIFORNIA, HELD August 5, 19 86, AND
FINALLY PASSED AND ADOPTED AT A REGULAR MEETING THEREOF HELD August 12,
19 86, BY THE FOLLOWING VOTE, TO-WIT:

AYES: Councilmen : COX, MOORE, CAMPBELL, McCANDLISS
NAYES: Councilmen : NONE
ABSTAIN: Councilmen : NONE
ABSENT: Councilmen : MALCOLM

Gregory A. Cox

Mayor of the City of Chula Vista

Jennie M. Fulasz

ATTEST _____
City Clerk

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) ss.
CITY OF CHULA VISTA)

I, JENNIE M. FULASZ, CMC, CITY CLERK of the City of Chula Vista, California,
DO HEREBY CERTIFY that the above and foregoing is a full, true and correct copy of
ORDINANCE NO. 2163, and that the same has not been amended or repealed.

DATED _____



CITY OF
CHULA VISTA

City Clerk

ORDINANCE NO. 2163

AN ORDINANCE OF THE CITY OF CHULA VISTA AMENDING CHAPTER 9.50 OF THE CHULA VISTA MUNICIPAL CODE BY ADDING AND AMENDING SPECIFIC SECTIONS OF SAID CHAPTER RELATING TO MOBILEHOME PARK SPACE RENT MEDIATION

By a unanimous vote of the City Council (Councilman Malcolm absent), on August 5, 1986, the Ordinance was placed on second reading and adopted.

Generally, the ordinance amends Ordinance 1997 clarifying the language and improving its effectiveness, and incorporates the following changes:

1. The addition of major capital improvement pass-throughs,
2. the use of the Consumer Price Index-All Urban Consumers/All Items for the San Diego Metropolitan Area as the triggering mechanism;
3. language to further explain the next step in the process if mediation is not successful, and
4. other changes proposed by the Mobilehome Issues Committee and the City Attorney's Office that clarify language in the Ordinance.

Copies of the ordinance are available in the Office of the City Clerk, City Hall, 276 Fourth Avenue, Chula Vista.

Jennie M. Fulasz, CMC
City Clerk

Dated: 8/18/86

*OK, 8/18/86
Cuy*