

Mobilehome Parks and Mobilehome Space Tenancies

In Marina

Supplemental Report Response to Report of Michael St. John

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This report was commissioned by the City of Marina. The opinions and conclusions herein are those of the authors and do not necessarily represent the views of the City.

I. Introduction

The City of Marina has commissioned two consultants with a background in mobilehome park rent control issues and diverse views to present reports and to present responses to the other consultant's report.

This supplemental report is a response to the report of Michael St. John.

In order to produce their factual analyses about mobilehome ownership in Marina, the consultants largely relied on common sets of data (mobilehome sales data based on reports to the California Department of Housing and Community Development (HCD) and a survey of mobilehome park residents). St. John's report provides detailed analysis and tables based on this data.

In addition, St. John comments extensively on the reasonability of the outcomes that have occurred and whether rent regulation would be a wise and just policy. This response critiques various comments and conclusions that St. John reaches regarding the outcomes that have occurred in regards to rents, mobilehome values, and it discusses his comments in regards to rent regulations and the future place of mobilehome parks in Marina. St. John's comments address broad policy issues and his views about what policies would be most equitable. A complete discussion of the issues raised by his comments would require a very lengthy report. The comments in this response are an attempt to address the most salient points.

II. Trends in Rents

St. John notes that space rents have increased by less than the CPI since 1988 and provides a chart showing average move-in rents and the CPI from 1988 to 2008. (St. John report, p. 29) It should be noted that space rents barely increased from 1988 to 1997, a period during which house prices in California increased at the rate of 2.8% per year. From 1997 to 2008, the rate of increases in rents equaled or slightly exceeded the rate of increase in the CPI, a period during which there was an exceptional surge in house prices, followed by the nosedive of the past two years.

Subsequent to the submission of each consultant's original report, 2002 rent rolls were obtained from the management of four mobilehome parks. This data was more precise than the data provided in the report of the City's task force on mobilehome rent issues in 2002.

From October 2002 to August 2008, increases in park space rent substantially exceeded the increase in the CPI. While the CPI increased by 16%, in two park rents increased by approximately 26 to 28%, in two parks the rent increased by approximately 40%, and in another park the rent increased by 63.3%

Comparison of Rent Levels in 2002 and 2008

Park	Average Rent October 2002	Average Rent August 2008	Pct Increase in rent Oct 2002-August 2008 (Increase in CPI 16%)
Cypress Square	357	451	26.3%
El Camino	295	418	41.6%
El Rancho	267	354	41.3%
Lazy Wheel	373	609	64.3%
Marina del Mar	266	353	28.6%

Sources: Rent rolls provided by mobilehome parks.

III. Mobilehome Values and Rates of Appreciation

This author’s report and the St. John report set forth information on trends in average purchase prices of mobilehomes.

St. John’s report (but not this author’s analysis) used the data on average prices in each year in order to compute the rate of appreciation in mobilehomes. However, this data should be distinguished from data on trends in mobilehome values, and, in turn, the rate of appreciation in mobilehome investments. The average prices of all mobilehomes purchased in each year reflect both the prices of newly installed mobilehomes and purchases of older mobilehomes, rather than just appreciation of “pre-existing” mobilehomes. Also, in considering appreciation in investments it is necessary to consider capital replacements and new capital improvements to mobilehomes.¹ It is likely that most older mobilehomes have had capital replacements during their life.

IV. Comments on the Assumptions and Conclusions of St. John

St. John’s conclusions reach into issues related to the values and assumptions that underlie U.S. land use systems. Parts of his analysis subjects policies which benefit mobilehome owners to types of tests that are not standardly applied when public evaluations are undertaken of land use policies that benefit middle and upper income households and/or provide for large appreciation in property values.

¹ If the resident survey questionnaire had included questions about the cost of capital replacements and/or improvements and when they were performed, the complexity of the survey would have been increased dramatically. Furthermore, the costs of improvements of prior owners would not have been known by current owners.

A. Comment on St. John's Conclusions about the Role of Mobilehome Parks and Future Land Uses of Mobilehome Parks

St. John notes that:

the City seems to be moving forward on the plan to freeze existing mobilehome space in perpetuity ... Nothing is forever in this world.(St. John report, p.3 , underlining added)

However, in our land use systems there have also been traditions of protecting investments by homeowners. Single-family neighborhoods are standardly protected from uses that would adversely effect or even change their character. Also, zoning systems standardly “grandfather” the rights of preexisting business and residential uses that become non-conforming when land use regulations are amended. Preservation of mobilehome park uses and the investments of mobilehome owners would parallel other zoning customs designed to protect pre-existing uses.

The difference between the mobilehome park situation and other land use situations is the peculiar circumstance that typically the tenants (mobilehome owners) have made larger investments that are tied to the land as a practical matter than the land owners (park owners) have made in order to obtain and improve the land.

St. John comments that mobilehome parks are “by accident” in the sense that park owners did not intend to create permanent uses. Instead, park owners expected to be able to “further develop” their land in the future. His report states:

Some mobilehome parks in California were built intentionally as mobilehome parks, but many are parks by accident, so to speak. These parks were originally developed for mobilehomes as a transitional use, much as vacant land in cities is often used for car and truck parking while development plans are in process. It was assumed in these cases that the land would be used for mobilehome housing for a time and then further developed at some point in the future. (St. John report, p.6)

The foregoing may be true. However, in contrast to the other “transitional” uses that St. John notes, such as developing land into spaces for car or truck parking, the investment strategy of mobilehome park owners was hinged upon an expectation of substantial investments by tenants in permanent (“non-transitional”) residences on the parkowners’ park spaces. This strategy offered the advantage of creating a highly secure (“captive”) income stream for the park owner.

In any case, no matter what the expectation of the original investors in mobilehome parks might have been, by the time that three out of the five park owners in Marina purchased their parks in the period from 2002 to 2007, public policy had moved in the direction of preserving mobilehome parks. The purpose of this policy is to conserve the affordable housing and protect the investments of lower income households.

The foregoing comments are not designed to set forth a single answer about what land use policy is right or wrong, but rather to indicate that land use regulations are the outcome of competing values, customs, and public purposes, which change over time.

B. Comment on St. John's Conclusions about the Reasonability of Increases in Rents and the Values of Mobilehomes

St. John sets forth what he believes to be reasonable rates of increases in rents and mobilehome values.

“Over long periods, the value of mobilehomes should increase by no more than the inflation rate.” (St. John report, p. 12)

While St. John considers whether values of mobilehomes have exceeded their “intrinsic” value, he did not consider trends in the values of mobilehome parks or whether the value of mobilehome parks should increase by no more than the inflation rate.

In any case, it should be understood that appreciation in mobilehome values is largely a consequence of the steep increases in the costs of alternative forms of housing (homeownership and renting), which in turn are determined by a host of factors, including but not limited to, land use restrictions, construction costs, mortgage interest rates, and overall economic (employment) trends.

V. Conclusions about the Reasonability of Rent Controls

St. John states that rent regulations are “not necessary”, “heavy handed”, and “one-sided,” and makes numerous claims about the failings of rent regulations. (St. John report, p. 13).

Apart from any determination of what is “heavy handed” or “one-sided” it should be noted that there are significant variations among the mobilehome space rent control ordinances. The most significant differences are:

- 1) Some ordinances do not provide for automatic annual increases, some permit annual increases tied to a fraction of the percentage increase in the CPI and some permit annual increases tied to 100% percent of the percentage increase in the CPI.

2) Upon in-place sales of mobilehomes, most ordinances do not allow any increases, some allow limited increases (e.g. 10%), and some allow unlimited increases.

All ordinances permit owners to petition for rent increases in order to obtain a “fair return”, based on a claim that the allowable annual rent increases do not permit a fair return. Furthermore, the right to a fair return is a constitutional right, independent of any requirement in a local rent control ordinance. St. John indicates that rent regulations deter needed park improvements. However, under the fair return standards needed system and infrastructure replacements are an allowable cost.

VI. The Extent of Mobilehome Park Space Rent Regulations

In support of his conclusions, St. John notes that most jurisdictions in California have not adopted mobilehome park space rent regulations and that most park spaces in California are not subject to rent regulations. As he notes, approximately 105 jurisdictions have adopted mobilehome park space rent regulations, which cover approximately 39% of the mobilehome park spaces in the state. (St. John report, p. 13) While these sums may be seen as small, they also may be seen as very substantial in light of local traditions of not adopting price controls.

St. John presents great detail about one city (Ceres) that recently decided not to adopt mobilehome park space rent regulations (St. John report, p. 24). However, faced with very similar circumstances at virtually the same time, two of the neighboring cities (Modesto and Riverbank) felt that it was necessary to adopt such regulations and one hundred cities preceded them in adopting ordinances.

VII. St. John’s Criticism that Rent Regulations Are Not Targeted

St. John criticizes rent regulations on the basis that they are not targeted (limited to low-income households in need of protection.) (St. John report, p. 14) Several points should be made in regards to this comment.

1) An underlying rationale of rent regulations is that they are necessary due to the captive nature of the mobilehome park space rental market. In this case, it may be reasoned that the rent of all spaces in a jurisdiction should be regulated because exploitation of captive markets should not be permitted, whether or not the consumers have low or high incomes.

2) If mobilehome space rent regulations were only applicable to low income households, park owners would have an economic incentive to prevent low-income households from moving into their parks.

3) While some housing policies use means tests (e.g. eligibility for subsidized housing), the most significant policies do not (e.g. mortgage interest deductions for homeowners, limiting of property tax increases to 2% a year, resulting in exceptionally low property taxes for long-term owners).

VIII. St. John's Conclusion that Rent Regulations do not Promote Future Housing Affordability

St. John raises the oft-repeated claim that mobilehome park rent regulations do not advance the cause of future housing affordability, because increases in mobilehome values offset rent savings resulting from a rent control ordinance. While this objection to mobilehome park space rent controls has been repeatedly raised by park owners and experts employed by park owners, as a rule it has not been raised by affordable housing advocates.

In the absence of rent regulation any future investment in a mobilehome in a mobilehome park becomes highly speculative in the sense that an extraordinary rent increase can drastically reduce or even wipe out the value of the mobilehomes in park and, therefore, the mobilehome owners' investments. Under these circumstances, affordability may be further advanced by a system that provides for security (and possible appreciation) of mobile homeowners investments than by a system that may provides for a lower "entry" cost, but with no security that the "entry" cost could ever be recaptured.

IX. St. John's Conclusion that Rent Regulations "Burden" a Few Owners

Virtually all land owners are "burdened" by land use restrictions. Land use restrictions provide benefits, as well as burdens, by restricting development of neighboring land and restricting densities (and, therefore, competition).

St. John states: "rent control ... burdens a few individuals (park owners) with subsidies that should be paid for by the entire community." (St. John report, p.15). His comment raises the question of whether a restriction on rent increases to a "reasonable" level is a "subsidy."

X. The Cost of Administering Rent Regulations

St. John states that "Leaving aside the costs of litigation, a rent control program in Marina would cost something like \$250,000 in administrative costs each year." (St. John report, p. 14).

Information obtained by this author in the course of extensive consulting to numerous jurisdictions with mobilehome space rent control ordinances and inquiries of jurisdictions in Monterey and Santa Cruz counties indicates that administrative efforts and costs are largely limited to the part time costs of one City staff person. The staff person is generally responsible

for performing information functions, providing notices of automatic annual increases, and setting up administrative hearings.

Costs for administrative hearings, which are usually for rent increases in excess of the automatic annual increase, are largely dependent on whether the hearing is before a volunteer rent commission or a paid arbitrator and whether the City employs outside counsel to advise and represent the City and/or the staff. In the case of fair return applications some jurisdictions require the parties to cover part or all of the cost of employing experts in order to conduct the hearings.

In any case, the total administrative costs of mobilehome park space rent control programs are generally small. In Santa Cruz County, staff indicated that about .15 FTE were devoted to administering the program, which covers approximately 3,000 mobilehome park spaces, and up to \$9,000 is provided to Legal Services each year. The County's program is funded by an annual registration fee.

Gilroy has four mobilehome parks with 350 spaces and Watsonville has six mobilehome parks with 892 spaces. Staff for both of those cities indicated that only a nominal amount of staff time was used for administering its rent control program. Watsonville requires that park owners cover the cost of expert analysis of a fair return rent increase application, which in turn can be allowed as an amortized operating cost if the application is granted.

Litigation costs vary substantially between jurisdictions. Santa Cruz County, Gilroy, Salinas, Watsonville, and Scotts Valley have not had any litigation costs in recent years. Capitola has had litigation costs totaling \$550,000 in the past few years. Up to now, Capitola has recovered \$235,000 of that cost through an administrative services fee of \$20/month/mobilehome space. The City has prevailed in four lawsuits filed by the same park owner and one lawsuit filed by a different owner. The courts have clearly ruled that mobilehome park space rent control ordinances are constitutional. However, issues related to local ordinances covering park conversions and park closures are still unresolved.

A significant portion of cities with mobilehome park rent controls assess an annual space fee for the purpose of covering administration costs. Typically these fees range from one to five dollars per month per space.

XII. A Memorandum of Understanding (MOU)

St. John presents the use of a memorandum of understanding (MOU) as an alternative to rent regulations. The number of cities that have MOU's is small relative to the number of cities that have adopted rent regulations. As indicated, in this author's original analysis, this approach may provide residents with security and provide the City with security against legal challenges. The issue in considering an MOU is whether park owners will agree to provide protections under an MOU that are a satisfactory.

The terms that St. John proposes for an MOU allow for much greater increases than the increases generally permitted under rent ordinances and would allow for annual rent increases that exceed the annual increase in the CPI.

Most ordinances allow annual rent increases equal to 60% to 100% of the percentage increase in the CPI. Some ordinances authorize additional pass-throughs for increases in government fees and taxes and/or capital replacements. St. John also proposes that rent increases will be authorized to provide for percentage rent increases equal to the difference between percentage increase in the CPI and in the percentage increase in the rent since 2000. This type of provision would not have a significant impact in Marina.

St. John also proposes that park owners be allowed rent increases upon in-place sales of mobilehomes which are equal to 3% times the number of years since the seller purchased the mobilehome. These increases, especially if they are in addition to annual CPI increases, could be very substantial.

XIII. Public or Non-Profit Ownership of Mobilehome Parks

St. John provides an example of an extremely costly park acquisition by the City of Santa Cruz in support of the proposition that such an approach is very costly. (St. John report, p. 14) In fact, numerous cities have undertaken purchases of parks or arranged for transfers of ownership to a non-profit entity. Unfortunately, there have not been systematic reports on the costs of such projects.

However, as one “counter-example” to the example above, it may be noted that the City of Palmdale purchased three substantially sized mobilehome parks through bond funding, which is covered by the rent, without the use of city general funds or any city subsidy. The Santa Cruz County Redevelopment Agency has participated in arranging resident purchases of several mobilehome parks with grants and/or low cost loans in the range of a few thousand dollars per space to over \$10,000 per space.

XIII. Conclusion

A variety of criteria and measures can be used to analyze mobilehome park issues in Marina (or any other city.)

If rent regulations are adopted they will not alter the past. Instead, they would regulate rent increases in the future. St. John acknowledges that excessive rent increases are not an acceptable outcome and that residents need security from such increases. The underlying conditions that have led over one hundred cities to adopt rent regulations are that facts that mobilehome owners have no bargaining power due to the immobility of their mobilehomes and that they have

substantial investments in those homes.