

**CITY OF SANTA PAULA
MOBILE HOME RENT REVIEW COMMISSION STAFF REPORT**

To: Mobile Home Rent Review Commission

From: James Mason, Rent Administrator
John M. Natalizio, Assistant City Attorney

Subject: Appeal of the Notice of Determination for Rent Increase Based on the Cost of Completed Capital Improvements at the Oaks Mobile Estates

Date: December 7, 2021

RECOMMENDATION:

Staff recommends that the Mobile Home Rent Review Commission adopt Resolution No.3830 (Attachment “A”) approving a rent increase based on the cost of completed capital improvements at the Oaks Mobile Estates.

I. SUMMARY:

This meeting results from an application (“Application”)¹ and revised application (“Revised Application”)² for rent adjustments based on capital improvements submitted by Oaks Santa Paula, LLC (“Owner”), which owns the Oaks Mobile Estates (“Park”).

Owner filed the Application for a rent increase based upon completed capital improvements made to the Park’s various utility systems (gas, water, electric) and common areas such as the clubhouse. The City approved the Application and issued a Notice of Determination for Rent Increase authorizing rental increases (the “Determination”).³

Resident Barry Cooper (“Resident”) filed an appeal of the Determination.⁴ The appeal sets forth two challenges to the Determination: (1) that the City improperly permitted the pass-through of sub-metered gas and electric repair costs prohibited by law; and, (2) that clubhouse related repair costs were not properly identified or amortized.

Starting in January 2020, the parties agreed to toll the hearing procedure and timeline in order to engage in settlement discussions. Ultimately, the Owner and Resident reached

¹ Attached hereto as Attachment “B.”

² Attached hereto as Attachment “C.”

³ Attached hereto as Attachment “D.”

⁴ Attached hereto as Attachment “E.”

a resolution regarding the appeal and entered into an agreement, the primary terms of which are discussed herein.

The Commission must now consider whether the rent increases resulting from the Application and the settlement agreement conform to the Santa Paula Municipal Code's mobile home rent stabilization ordinance (SPMC §152 *et seq.*) and, if so, adopt Resolution No. 3830 to approve the space rent increase.

II. PURPOSE AND DUTIES:

The purpose of the City's Rent Stabilization Ordinance ("RSO") is twofold: to protect residents of mobile home parks from excessive rent increases, while at the same time providing a just and reasonable return to park owners.⁵ A part of ensuring a just and reasonable return includes the recovery of permissible capital improvements.

The Commission is tasked with oversight of the RSO. Relevant to this meeting, the Commission has the power and duty to "review and determine rent adjustment applications pursuant to the provisions of this subchapter, to adjust maximum rents either upward or downward or maintain rents upon completion of its hearings and investigations."⁶ Therefore, the Commission has the power to approve the rent increases resulting from the Application and as set forth in the parties' agreement.

III. RENT ADJUSTMENTS:

The Owner cannot charge, demand, accept or retain rent exceeding the lawful rent in effect on December 31, 1991, except as provided otherwise within the RSO.⁷ One way in which the Owner can adjust the rent is by filing an application based on the cost of completed capital improvements. Capital improvements are defined as "the installation of new improvements and facilities and/or the replacement or reconstruction of existing improvements and facilities which consist of more than ordinary maintenance or repairs and have a useful life of at least five years. Keeping the streets and common areas in good repair and/or replacing them shall not be considered capital improvement."⁸

If an application for a rent increase based upon completed capital improvements satisfies the definition of capital improvements in the RSO and any criteria for capital improvements adopted pursuant to regulations, then it must be approved. Any increase granted shall be amortized over the useful life of the improvement and apportioned equally among all rental spaces in the mobile home park.⁹

Further, rent may not be increased in excess of 12% in any 12-month period.¹⁰

⁵ SPMC section 142.01(B).

⁶ SPMC section 152.06.

⁷ SPMC section 152.04(A).

⁸ SPMC section 152.02.

⁹ SPMC section 152.07(B).

¹⁰ SPMC section 152.10.

IV. RELEVANT FACTUAL BACKGROUND:

A. Configuration of Park & Metering

The Oaks Mobile Estates Park (“Park”) consists of 92 spaces, 14 of which are Park-owned or on long term leases and therefore exempt from the RSO. Thus, 78 spaces are governed by the RSO and subject to the rent increase. According to the Application (from 2019), the average space rent in the Park is \$470.83.

The Park is “master metered” where utility services, such as electric, natural gas, and water, are delivered by the applicable utility service to a single meter in the Park. That service is then delivered by the mobile home park owner to the residents through a private distribution system, which is sub-metered. This means that the Owner is responsible for reading and collecting the utility amounts, and ultimately billing each resident separately for their utility usage. Effectively, the Owner is stepping into the shoes of the utility. Because of this utility set up, the Owner receives what is called a “discount” as recognition for the elimination of the utility provider (discussed in more detail below). The California Public Utilities Commission (“CPUC”) establishes the utility rates that can be charged to the Owner and what rates the Owner can charge the residents. The difference between the rates charged results in a “discount” that is intended to compensate the Owner for the costs of servicing the sub metered tenants.

B. Application

Owner submitted the Application on June 27, 2019, which included Park information, a rent roll, proposed rent increase calculation and capital improvement calculation spreadsheet, checks, an HCD Final Permit, and applicable accounting standards. The Application states that “the Property has recently invested \$2,036,676.11 to complete the upgrade of the Property's utility system (electricity, gas and water), clubhouse and common area improvements and necessary street repairs/replacements associated with the completed utility system work.” The Owner stated that the property contained a 50 year old utility system that was severely aged and in critical need of updating.

Owner requested a monthly rent increase of, per space, of \$220.98. Owner identified this as a 9.39% increase compared to existing base rent.

On November 26, 2019, the City approved the Application. The City issued a Notice of Determination for Rent Increase to the residents and provided notice of the appeal procedure and requirements in conformance with the RSO.¹¹

C. Appeal

On December 11, 2019, Resident submitted a timely appeal of the Notice of Determination for Rent Increase. The appeal sets forth two challenges to the Application: (1) that the City improperly permitted the pass-through of sub-metered gas and electric

¹¹ SPMC sections 152.07(E) & 152.09.

repairs prohibited by law; and, (2) that clubhouse related repairs were not properly identified or amortized.

D. Revised Application

On November 24, 2020, Owner submitted a revised application. In relevant part, this revised application eliminated various costs related to electrical and gas infrastructure and infrastructure-related costs, which were ultimately covered by the discount. The Revised Application ultimately decreased the total amount sought by Owner by \$289,452.93. The original amount sought was \$2,036,676.11 (\$220.98 per space, per month) and the new amount sought \$1,747,223.18 (\$218.83 per space, per month). Resident contended the revised application did not cure all of the issues in the appeal.

E. Settlement Discussions

Starting in January 2020, the parties agreed to toll the hearing procedure and timeline in order to engage in settlement discussions. Ultimately, the Owner and Resident reached a settlement regarding the appeal and entered into an agreement, the primary terms of which are discussed herein.

F. Revised Application

On November 24, 2020, Owner submitted the Revised Application. In relevant part, this revised application eliminated various costs related to electrical and gas infrastructure and infrastructure-related costs, which were ultimately covered by the discount. The Revised Application ultimately decreased the total amount sought by Owner by \$289,452.93. The original amount sought was \$2,036,676.11 (\$220.98 per space, per month) and the new amount sought \$1,747,223.18 (\$218.83 per space, per month).

V. SETTLEMENT:

Owner and the Resident request that the Commission implement the following rent increase based on the agreements made regarding the Application as follows:

1. The Residents have been divided into three categories:
 - “(a)” those Residents who are on the Southern California Edison and/or SoCalGas CARE Programs;¹²
 - “(b)” those Residents who are not on the Southern California Edison and/or SoCalGas CARE Programs; and,

¹² This program permits qualified applicants to receive a certain discount on their gas bill. There are two ways to qualify: (1) if a person receives benefits from various public programs (e.g. Medi-Cal/Medicaid, CalFresh (food stamps), supplemental security income, etc.); and, (2) if a person meets a certain maximum household income depending on the size of the household.

- “(c)” those persons who were Residents as of May 2021, who cannot pay the CARE or non-CARE rent increase, or any rent increase, and who apply for and are approved for need-based rental assistance from Owner.
2. Owner will provide a list of the spaces that fall into Category (a) to the City on or before September 1 of each year for Years 2 through 15, and any Resident who wishes to confirm whether his or her space is on the list may obtain that information from the City.
 3. Whether a given Resident applies and is approved for rental assistance is a confidential matter between the Resident and Owner, and approval or denial of such application is at the sole discretion of Owner.
 4. The rent increases for the Residents who fall into Category (a), not including annual CPI increases per Section 152.07 of the RSO, are as follows:

Year	Annual Increase	Cumulative Increase
1	\$30/month	\$30/month
2	\$30/month	\$60/month
3	\$20/month	\$80/month
4	\$20/month	\$100/month
5-15	\$0/month	\$100/month

5. The rent increases for the Residents who fall into Category (b), not including annual CPI increases per Section 152.07 of the RSO, are as follows:

Year	Annual Increase	Cumulative Increase
1	\$45/month	\$45/month
2	\$45/month	\$90/month
3	\$35/month	\$125/month
4	\$0/month	\$125/month
5-15	\$0/month	\$125/month

6. The rent increases, if any, for any Resident who falls into Category (c) will be determined by Owner and the Resident on a case-by-case basis.
7. The monthly statements for each person who was a Resident as of May 2021 will show the rent for his or her space, minus a “settlement credit” equal to the difference between \$155 and the rent increases to date. Any person who is a Resident as of May 2021 will not be required to repay his or her settlement credits upon sale or transfer of his or her mobile home, or at any time, but the rent on his or her space will increase upon sale or transfer as follows:

- Upon any sale or transfer of a mobile home where a person who was a Resident as of May 2021 does not remain on title to the mobile home, the rent for the new resident will increase by \$155 minus the rent increases to date.

VI. ANALYSIS

The rent increases identified in the settlement agreement, and identified in this staff report, comply with the requirements of the RSO. If an application for a rent increase based upon completed capital improvements satisfies the definition of capital improvements in the RSO and any criteria for capital improvements adopted pursuant to regulations, it must be approved. (SPMC section 152.07). Any increase granted shall be amortized over the useful life of the improvement and apportioned equally among all rental spaces in the mobile home park. (SPMC section 152.07).

Specifically, the governing provision for capital improvements is set forth in SPMC section 152.07(B). The capital improvements considered for the settlement agreement comply with Section 152.07(B), as follows: (1) they are based upon permissible improvements which qualify as capital improvements as defined in SPMC section 152.02; (2) they are amortized over the useful life of the improvements; and, (3) they are apportioned equally among all qualifying rental spaces in the Park. Therefore, because the capital improvements comply with the RSO's requirements, the corresponding rent increases must be approved.

Second, the rent increases meet the purpose of the RSO, to protect residents of mobile home parks from excessive rent increases, to regulate the size of an allowable space rent increase upon the vacation, either by sale or otherwise, of a resident from a mobile home space in a park, while at the same time providing a just and reasonable return to park owners.

Third, the rent increases do not result in any charge, demand, acceptance or retention of any rent exceeding the lawful rent. Additionally, the rent increases do not result in an increase in excess of 12% during a twelve-month period.

Fourth, Owner has demonstrated each capital improvement cost approved herein properly falls within the permissible cost categories of the law. And, the capital improvement costs approved herein may be passed through to the Resident rents and are not prohibited by any law or regulation.

Therefore, because the capital improvements comply with the requirements of the RSO and relevant governing regulations relating to public utilities, the Commission must approve the rent increases.

VII. CONCLUSION:

Staff believes that in light of facts and evidence in the record, the Owner is entitled to a rent increase based on the cost of completed capital improvements. As such, staff recommends approving the rent increases and adopting Resolution No. 3830:

VIII. ATTACHMENTS:

- A – Resolution No. 3830
- B – Application
- C – Revised Application
- D – Notice of Determination for Rent Increase
- E – Appeal of the Notice of Determination for Rent Increase