

HKC DEFEATS REQUIREMENT TO PAY “IN-PLACE VALUE” FOR PARK CLOSURE

Just this month, the Ventura County Superior Court overturned a City of Thousand Oak's requirement that a park owner pay “in-place value” to mobilehome owners in order to close its park. In-place value refers to the anticipated sales price of mobilehomes within the park, assuming that the park was to continue in operation and in good condition.

Given the City's draconian mobilehome park rent control ordinance, sales prices for mobilehomes in Thousand Oaks have exceeded the value of the coach in some instances by more than \$100,000. A significant component of in-place value is the present value of below market rent under the City's rent control ordinance.

The Court's Statement of Decision explained that California law limits the mitigation payments that can be required for park closure to the reasonable costs of relocation to another mobilehome park. The legislative intent behind that State law was to prevent substantial hardship on park owners resulting from park closure. The Court concluded that in-place value is not a reasonable cost of relocation.

The Court's Judgment resulted in reducing the City's staff recommendation for closure mitigation by more than a million dollars. The client, 1200 Newbury LLC, had purchased the Conejo Mobile Home Park in 2005 with the intent to close the Park, which had outlived its useful life by more than 20 years.

After more than two years of delay by the City on Newbury's park closure application, including a moratorium, a land use designation change, and an initiative ordinance requiring payment of in-place value, Newbury brought in HKC in January 2009. HKC immediately filed suit seeking more than \$5 million in damages for taking of Newbury's property and violation of Newbury's civil rights, and requesting an immediate hearing on Newbury's closure application.

The Court agreed with the HKC interpretation of California law based on the statutory language and legislative history. Immediately following trial, the City Council approved the HKC appeal and Newbury's closure application, removing more than \$1 million of in-place value mitigation payments that it previously sought to impose. HKC is currently seeking to recover Newbury's attorneys fees and still has pending its lawsuit for Newbury's damages.

1200 Newbury LLC is represented by Robert Coldren and Boyd Hill of Hart, King & Coldren. Mr. Coldren has approximately 30 years of experience in representing mobilehome park owners. Mr. Hill has approximately 20 years of land use experience. For copies of the Court's Statement of Decision and City of Thousand Oaks Staff Report on Newbury's closure application, please contact Karen Koenes of Hart, King & Coldren at kkoenes@hkclaw.com.