



THE COMMUNITY OWNERS' ADVOCATE

Denial of Subdivision Application Reversed

By Robert S. Coldren, Esq. & Mark D. Alpert, Esq.

Cavalier Mobile Estates is one of 18 mobilehome parks in the City of Oceanside. The mobilehome park owners in Oceanside, including Cavalier, have been suffering under a confiscatory regime of rent control, whereby space rents are half of fair market value.

Cavalier filed an application for a subdivision map so the park could convert to resident ownership. A subdivision allows the park owners to sell the lots to the tenants at fair market value. The law also allows for rents to be raised to market value over time on lots which have not yet sold.

These "conversions" are protected by state law which limits the scope of the local governments' review of such applications. Sadly, state law has not stopped cities that are politically motivated from attempting to block subdivisions. The Oceanside City Council voted to deny the applications

because a majority of residents opposed the subdivision.

Cavalier filed suit in San Diego County Superior Court, challenging the City's decision. On November 4, 2011, Superior Court Judge Stern reversed the City's decision and held that the City could not deny the subdivision application based on resident opposition and that the City had to comply with government code.

Cavalier is owned by a large group of family investors, managed by Brian Alex with support of Lillian Chang. These long time owners will hopefully very soon be able to realize the value of their investment and, in the process, help other owners in Oceanside do the same.

Lillian kindly expressed her appreciation for the work of Mark Alpert and the guidance of Rob Coldren. We appreciate their confidence in Hart, King & Coldren. However, there have been "bumps in the road" to get to this point. We know that progress is only made

because park owners are willing to risk precious, limited resources in an effort to protect their property rights. The next time you see Brian or Lillian at an industry meeting, be sure to congratulate them and thank them for their efforts!

Rob Coldren is a founding partner of Hart, King & Coldren, a professional law firm in Santa Ana, California. For thirty years, Mr. Coldren's practice has emphasized representation of manufactured housing and recreational vehicle communities, as well as other community owners, throughout the State of California. Mark D. Alpert is a partner with HK&C and his practice has an emphasis on property rights. He edits and is a major contributor to California Property Rights Journal (www.calpropertyrights.com) a property rights and land use blog published by Hart, King & Coldren. Both may be reached at 714-432-8700 or email at rcoldren@hkclaw.com or malpert@hkclaw.com

Capitola Amends - Then Ends - Rent Control!

By Robert S. Coldren, Esq. & Mark D. Alpert, Esq.

On October 13, 2011, the City Council voted 3-2 to repeal its rent control ordinance. Park residents simply could not accept the loss of what they apparently believed was an entitlement to space rents of under \$300 a month for a space perched on ocean front bluffs overlooking the town of Capitola, one of the most beautiful and most expensive towns

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in the county. It all came to an end, when one of the most radical and vehement rent control jurisdictions in the county repealed rent control. The City recognized that repeal was the only way to serve the interests of the community as a whole. Councilman Sam Story explained "I'd like to point out that the council and staff have an obligation to the entire city and have to look out for the well-being of the entire city."

From 1979 to March 2011, the City of Capitola in Santa Cruz County, California, was a strong supporter of mobilehome rent control. The City has been the subject of numerous lawsuits over the years. The City had nine investor-owned mobilehome parks when rent control was adopted. Over the years, the confiscatory rent control regime, combined with the City's resistance to allowing any change of use for the parks, facilitated tenant and City acquisition of park after park, from investors. By 2009, there were only four park rental mobilehome park's left in the City. One of them is owned by the City and slated for closure.

The City's success at confiscating investor-owned mobilehome parks for the benefit of park residents, contributed to the amendment and ultimate end of rent control. In tough economic times, the City could no longer justify the cost of rent control to protect so few residents. The final and perhaps most important ingredient, was the willingness and determination of the three remaining private park owners to undertake costly litigation to protect their property rights. Their success in pushing litigation toward trial on the merits was decisive.

In March, 2011, when the City agreed to amend its rent control ordinance, it was facing three separate trials on

the merits by the owners of Surf and Sand Mobilehome Park, the Reed family, and Abraham Keh, the owner of Castle Mobilehome Park. In addition, the owner of third privately owned park Cabrillo, Albert Vieira, initiated a rent increase application. In public comments, the City Council made much of the legal fees that they were paying in defense of the litigation. Now, the City was facing the reality of potential damage claims it simply could not pay. The City Council agreed to a settlement with Surf and Sand utilizing approved long term leases that allowed immediate substantial increases, including increases to market for many spaces, allowing for no rent control on a change in tenancy. The City also resolved its litigation with the owners of Castle Mobilehome Park by agreeing to assist in an acquisition at a favorable price for the owner.

The settlement did not go over very well with certain park residents, who had apparently concluded they were entitled not only to lifetime rents at a fraction of fair market, but also the right to sell their mobilehomes at a price that reflected buyer's expectation of lifetime rent controlled rents. After a referendum effort failed,

the residents have filed three separate lawsuits raising various challenges to the settlement with Surf and Sand.

While it was a team effort involving three different park owners, the repeal is a victory earned by the Reed family. Ron and Randy Reed and their families persevered through years of battles with the City of Capitola. Ron Reed helped build Surf and Sand Mobilehome Park decades before rent control was adopted, only to have his property temporarily confiscated in the name of affordable housing. Don't believe for a minute that the politicians who will politically exploit rent control for votes, will go away. The example of Capitola demonstrates how those decisions can backfire politically and economically.

It took over 30 years, but rational thought finally returned to Capitola.

Surf and Sand, Castle and Cabrillo Mobilehome Park are represented by Rob Coldren and Mark Alpert of Hart, King & Coldren.

For more information please contact Rob Coldren or Mark Alpert at HK&C at 714-432-8700 or email at rcoldren@hkclaw.com or malpert@hkclaw.com.

**HK&C New Law Seminar
for the Manufactured Housing Industry**

MARK YOUR CALENDARS!

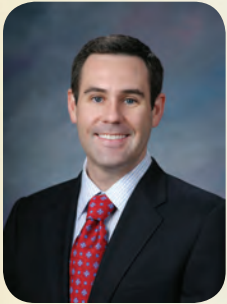
FRIDAY, FEBRUARY 24, 2012

8:30AM - NOON

DOUBLE TREE HOTEL IN SANTA ANA

Come join Rob Coldren at HK&C's popular New Laws Annual Seminar. This will be an interactive seminar designed to provide you with valuable information on simple and practical ways to efficiently and effectively run your park in today's legal environment. New laws for 2012 will be discussed and how they may impact the manufactured housing industry. Watch your email/mail in January for more information!

Manufactured Housing Group Expands with Addition of New Associate



Hart, King & Coldren is pleased to announce **Justus Britt** has recently joined the firm as an associate in the manufactured housing group where he will assist with unlawful detainer actions, abandonment proceedings and warehouse liens, among other real estate-related issues.

Mr. Britt specializes in real estate, land use and environmental law. Prior to joining Hart, King & Coldren, Mr. Britt worked for another Southern California firm where he primarily practiced Environmental Litigation and helped participate in a successful defense of a lawsuit by a Fortune 500 company that alleged ground contamination under the Comprehensive Environmental Response, Compensation, and Liability Act. Mr. Britt has also spent approximately two years working as an attorney for the National Rifle Association, helping to protect the use of traditional lead-based ammunition.

Mr. Britt earned his B.A. degrees from the University of Southern California and his J.D. from Chapman University School of Law in Orange, California. He may be reached at 714-432-8700 x. 336 or via email at jbritt@hkclaw.com.

HK&C Announces the Availability of Complimentary Unlawful Detainer forms

By Robert S. Coldren, Esq.

In keeping with the firm's thirty-year tradition to protect the interests of our clients and industry friends, and provide cost-effective solutions, HK&C is now providing complimentary Unlawful Detainer forms that apply to California manufactured housing communities.

The forms can be found on the firm's website at <http://www.hkclaw.com/publications/unlawful-detainer-forms> and will assist park owners and managers with the process of evicting a tenant.

For HK&C clients, should you have a simple question when completing these forms, please call us at 714-432-8700 and we will answer it over the phone at no cost. Unfortunately, ethical and insurance rules prohibit us from extending this phone call service to "industry friends" that are not current clients of HK&C.

HK&C Helps Restore Needed Balance to Draconian Rent Control Ordinance

Robert S. Coldren, Esq. and Boyd Hill

HK&C recently worked with the City of Thousand Oaks, local park owners and residents to obtain substantial changes in the rent control ordinance for the City of Thousand Oaks. The City had boasted for years that its mobilehome rent control ordinance was "one of the most restrictive in all California." HK&C and local park owners led by Bill Schweinfurth of Vedder Community Management and David Evans of WMA, participated in what the City deemed a "historic" mediation session which ended the economic ruin caused by the draconian ordinance and resulted in the creation of a more favorable rent control ordinance for the City's seven park owners. The mediation followed a 2008 tenant initiative which further

eroded park owner rights, a series of successful litigation challenges to a City mobilehome park ordinance and that initiative, and a series of rent adjustment applications prepared by HK&C that forced the City to "gut" (according to rent control advocates) its draconian rent control ordinance. As a result, a phase-in of substantial catch-up rent increases for all park owners is now being implemented, and rents are going up.

The ordinance previously used a base year of 1986 and only 75% of the rate of inflation for annual rent control adjustments. As a result, average park rents in the City were at least \$200 below rents in other Ventura County cities. As a result of HK&C action, one park owner has been able to raise rental rates about \$200 already. The City, having lost to HK&C several times in court over rent control and subdivision ordinance issues, decided to accept the park owners' invitation to negotiate. The City sponsored a city-wide mediation process involving all of the park owners and tenant representatives. HK&C represented the park owners during the eight month mediation process. The mediation resulted in a completely new ordinance with major changes favoring park owners. These changes included a "catch up" increase up rent increase (phased in), the use of a more recent base year that adjusts forward five years every fifth year, a fair capital improvements pass through process, annual adjustments at 100% of the rate of inflation, and the enactment of vacancy decontrol.

This City is historically one of the most "pro rent control" jurisdictions in the state, and the park owner victory there paves the way for park owners in other rent control cities for relief.

For more information please contact Rob Coldren or Boyd Hill at HK&C at 714-432-8700 or email at rcoldren@hkclaw.com or bhill@hkclaw.com.

*All of us at Hart, King, & Coldren
wish you a very Happy Holiday Season
and a New Year filled with
good health, happiness and prosperity!*



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