

Mobile home residents stage rally

*Revival of new-tenant
rent control sought
by San Marcos group*

By John Berhman
STAFF WRITER

SAN MARCOS — About 200 mobile home park residents rallied outside the City Council chambers late yesterday, requesting that a regulation preventing park owners from raising rents on new residents of mobile home parks be resurrected.

The park residents, some carrying signs that said "bring back vacancy control," also signed a petition asking council members to reinstate that provision of the city's 21-year-old rent-control ordinance. The ordinance controls rents in mobile home parks, where residents typically own the mobile home but rent the land it sits on.

"We had this ordinance before and it protected park residents, and we believe we should have it again," Tim Sheahan, president of the San Marcos Mobilehome Residents Association, said before the rally.

The 5:15 p.m. rally was held to coincide with a rent review issue that the council, sitting as the city's Rent Review Commission, was scheduled to hear at 5:30. The council was considering an appeal from six residents of the Villa Vista mobile home park who were objecting to a rent increase there. No decision was made on that matter, but a final decision is expected Dec. 14.

When the council scrapped the rule preventing park owners from raising rents on new tenants, Sheahan said, it hurt not only the new

tenants but also those trying to sell their mobile homes.

When a prospective mobile home buyer was told by a park owner that his space rent would be higher than that paid by the person selling him the mobile home, Sheahan said, "he would have to go back to the home owner and say, 'I can't pay you as much for your home.'"

Sheahan said he got caught in that trap when he moved into his mobile home in Villa Vista in 1995 and had to pay \$100 a month more

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*Tim Sheahan, president of the
San Marcos Mobilehome
Residents Association*

in rent than he anticipated.

"But now we see rents going up as much as \$200 a month" for new tenants, he said.

City Manager Rick Gittings said council members are sympathetic to the park residents' plight, but added there have been court rulings that have declared so-called "vacancy-control" provisions of rent-control ordinances illegal.

Gittings said the council adopted its mobile home park rent review ordinance, which included estab-

lishing the council as the review commission, in 1978. It added the vacancy-control provision in the mid- to late 1980s.

"But the council repealed it in the early 1990s, based in large part on a case involving the city of Santa Barbara, which had a vacancy-control provision very similar to ours," Gittings said.

"The residents have a legitimate concern, but I'm not sure the city can do anything about it. The courts have ruled. The residents might consider trying to do something statewide."

SM mobile-home residents rally

KATHERINE MARKS
STAFF WRITER

SAN MARCOS — It may be the mobile home that's up for sale, but too often it's the piece of land beneath it that ends up making the seller pay, Tim Sheahan said Monday night after a mobile-home rally outside city hall.

Sheahan, president of San Marcos Mobile Home Residents Association, said it's not uncommon for landlords to raise the rent on land a mobile home is sitting on after the owner puts his home on the market, scaring off potential buyers and forcing the homeowner to lower the

selling price.

Sheahan and other mobile-home residents would like to see the city adopt vacancy control measures that would limit a landlord's ability to raise rent.

Sheahan said that before this year the city had enforced a measure that allowed landlords just one increase a year.

"Now they're not enforcing anything," he said. "We hope they'll either reinstate that provision or adopt a new one."

Some 130 mobile-home residents signed a petition to implement vacancy controls. The rally took place shortly before a rent review commission meeting in which residents of Villa Vista

were asking the commission to review their landlord's request to raise the monthly rents of six tenants by \$8 to \$10 each. A decision on the request is expected in December.

Councilman Hal Martin said there's little the commission can do to implement vacancy controls thanks to a 1992 California Supreme Court ruling that found such controls unconstitutional.

He said he understands that many mobile-home residents are on fixed incomes and that they want the city to help.

"It's not an issue we can ever deal with," he said. "The law of the land says we can't do that."

San Marcos Mobilehome Residents Association

P.O. Box 4104 • San Marcos, CA 92069

December 14, 1999

SAN MARCOS CITY COUNCIL
1 CIVIC CENTER DRIVE
SAN MARCOS, CA 92069

RE: MOBILEHOME VACANCY CONTROL

Dear Council Members:

Please take note of the attached letter from Richard Singer regarding mobilehome vacancy control. Mr. Singer is a mobilehome specialist attorney and his firm drafted the Escondido "Prop T" vacancy control ballot measure last year. He is very well versed on mobilehome law and the position of the Courts on mobilehome litigation. Clearly, he feels that vacancy control is an enforceable protection for mobilehome residents.

We hope that Mr. Singer's letter along with other recent information we have sent you will give you the confidence to readopt mobilehome vacancy control in San Marcos. We ask that you either reconsider the 1992 repeal of the vacancy control provision of the ordinance, or work with our group to adopt a mutually satisfactory alternative provision.

Please put this matter on the earliest possible Council agenda so that action can be taken to protect the residents of the mobilehome community in San Marcos.

Sincerely,

SAN MARCOS MOBILEHOME RESIDENTS ASSOCIATION

Tim Sheahan, President

RICHARD I. SINGER
ELVI J. OLESEN

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November 29, 1999

Tim Sheahan
President, SMMRA
Villa Vista Homeowners Association
P. O. Box 4104
San Marcos, CA 90269

Ed Nagorski
COMPAC
1925 Otay Lakes Road, #80
Chula Vista, CA 91913-3107

Re: Sheahan; Our file 99/001/G

Dear Mr. Sheahan:

Elvi Olesen has delivered your November 10, 1999 letter to me for reply. The letter included Union Tribune and North County Times quotes of comments by Rick Gittings and Councilman Hal Martin. Both City Manager Gittings and Councilman Hal Martin are wrong. Vacancy control is not illegal and has in fact been held to be entirely legal by the California Court of Appeal. See Sandpiper Mobile Village v. City of Carpinteria (1992) 10 Cal.App.4th 542, copy attached. At Page 550, the court states:

Vacancy control precludes park owners from raising rents immediately to new tenants. It is a form of rent control which courts have held to be a legitimate economic regulation.

That is the law today. City Manager Gittings and Councilman Martin are just not well informed.

Very truly yours,


RICHARD I. SINGER

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Enclosure

[No. B058435. Second Dist., Div. Six. Oct. 15, 1992.]

SANDPIPER MOBILE VILLAGE, Plaintiff and Appellant, v.
CITY OF CARPINTERIA, Defendant and Respondent.

SUMMARY

A mobilehome park owner challenged a city's rent control ordinance which prevented the raising of rents to market levels upon the sale or other transfer of a unit. The owner claimed that "vacancy control" resulted in an impermissible transfer of wealth from landowners to tenants, such that the tenants could obtain a premium upon the sale of their units due to the controlled rents which would otherwise accrue to the landowner. The trial court granted a judgment on the pleadings denying the challenge. (Superior Court of Santa Barbara County, No. 177809, Bruce W. Dodds, Judge.)

The Court of Appeal affirmed. The court held that the ordinance was not a "physical taking" giving the owner a right to compensation, since it merely regulated the use of the land and did not require a physical invasion of the property. The court also held that the owner's challenge to the ordinance as applied was not ripe for adjudication, since the owner did not allege that it had attempted to change the use of the park or to apply for rent increases. Although the court held that a facial challenge to the ordinance was ripe, the court also held that the ordinance substantially advanced a legitimate state interest, and did not effect an unconstitutional regulatory taking. The court held that even if the owner's profit was severely reduced, there is no compensable taking unless a regulatory ordinance denies an owner substantially all economically viable use of the land. (Opinion by Gilbert, J., with Stone (S. J.), P. J., and Yegan, J., concurring.)

HEADNOTES

Classified to California Digest of Official Reports

- (1) Appellate Review § 127—Scope of Review—Function of Appellate Court—Judgment on Pleadings.—An appellate court reviews a judgment on the pleadings by the same standards used to review a judgment entered after the sustaining of a demurrer without leave to amend. The