

DATE: October 7, 2010

TO: Chairman and Members of the Manufactured Home Fair Practices Commission

FROM: Neighborhood Services Department

SUBJECT: SCHEDULING HEARING DATE AND HEARING PROCEDURES RE: EXEMPTION FROM RENT CONTROL AS TO CERTAIN SPACES AT MIRA MAR MOBILE COMMUNITY

### SYNOPSIS

Staff recommends that the Manufactured Home Fair Practices Commission (1) schedule a hearing to determine whether Space Numbers 14, 94 and 158 in Mira Mar Mobile Community are exempt from the rental rate restrictions of Chapter 16B of the Oceanside City Code pursuant to Section 16B.16(d)(4) and California Civil Code section 798.21, and (2) establish hearing procedures.

### BACKGROUND

#### Mira Mar Litigation

The owner and manager of Mira Mar Mobile Community (the "Park") are currently involved in litigation with the Mira Mar Mobile Community Homeowners Association, Inc. (the "HOA") and several individual Mira Mar residents. The lawsuit was commenced in January, 2009 by the HOA and Park resident Norm Kelley in response to (among other things) a 90-day rent increase notice delivered October 30, 2008 by Park management to homeowners in over 45 spaces at the Park. The attempted rent increase was based on the Park owner's determination that the affected residents do not occupy their Mira Mar homes as their principal residence and are therefore exempt from rent control pursuant to the "Second Home Exemption" described in California Civil Code section 798.21. Among the matters to be decided in the litigation is whether certain spaces in the Park (including Space Nos. 14, 94 and 158) are exempt from the rent setting provisions of Chapter 16B of the Oceanside City Code pursuant to California Civil Code section 798.21. The City of Oceanside is also a party to the litigation.

#### Park Owner's Request for Hearing

On November 16, 2009, City staff received a copy of a letter to the Chair of the Manufactured Home Fair Practices Commission from the owner and property manager of Mira Mar Mobile Community (the "Park"), requesting that the Commission conduct a

hearing to determine whether Space Numbers 14, 94 and 158 in the Park are exempt from the rental rate restrictions of Chapter 16B of the Oceanside City Code pursuant to Section 16B.16(d)(4) and California Civil Code section 798.21. A copy of the request for a hearing is attached.

#### Prior Commission Action on Park Owner's Request for Hearing

The Commission considered the Park owner/manager's request for a hearing at its January 7, 2010 meeting. The Commission voted 4-1 to approve the request, upon occurrence of the following:

- 1) confirmation that the Park has registered and paid registration fees pursuant to City Code Sections 16B.5 and 16B.6;
- (2) final decision by the Court of Appeal regarding the Park owner's challenge to the trial court's March 13, 2009 order granting preliminary injunction;
- (3) decision by the trial court regarding the residents' motion for summary adjudication; and
- (4) decision by the trial court regarding the City of Oceanside's motion for summary judgment.

#### ANALYSIS

The Oceanside City Council adopted Administrative Procedural Guidelines ("Guidelines") for the Administration and Enforcement of the Manufactured Home Fair Practices Act in accordance with section 16B.4(f)(1) of the Oceanside City Code. Section 9.01(c) of the Guidelines provides that when an interested party requests a hearing, the Commission may order a hearing "only if (1) the matter at issue is not already established by Chapter 16B and/or the Guidelines, and (2) the Commission believes that such a hearing would better enable the Commission to render a proper decision in the matter at issue."

The hearing should be scheduled now, per the Commission's January 7, 2010 action, because (1) the Park has registered and paid registration fees pursuant to City Code Sections 16B.5 and 16B.6; (2) the Court of Appeal has made a decision regarding the Park owner's challenge to the trial court's March 13, 2009 order granting preliminary injunction; (3) the trial court has made a decision regarding the residents' motion for summary adjudication; and (4) the trial court has made a decision regarding the City of Oceanside's motion for summary judgment.

Staff recommends that the Commission establish the following hearing procedures to ensure that all parties have the opportunity to speak.

#### Hearing Procedures:

- a. Chair opens hearing.
- b. Chair asks Commission for disclosure of contacts.
- c. Introduction by Director, Neighborhood Services.

- d. Presentation by Parkowner representatives (up to 30 minutes).
- e. Presentation by Tenant representatives (up to 30 minutes).
- f. Presentation by Commission Staff (up to 30 minutes).
- g. Public comment (up to 3 minutes each speaker).
- h. Rebuttal, if any, by Parkowner representatives (up to 15 minutes).
- i. Rebuttal, if any, by Tenant representatives (up to 15 minutes).
- j. Rebuttal, if any, by Staff (up to 15 minutes).
- k. Discussion by Commission.
- l. Action by Commission.

Staff also recommends that any written materials be submitted to Commission staff no later than thirty (30) days prior to the hearing.

FISCAL IMPACT

There is no fiscal impact to the City at this time. If the Commission determines at a later date that the spaces are exempt from Chapter 16B, revenues from registration fees would be decreased in the amount of approximately \$318 annually for the three spaces.

CONCLUSION

Staff recommends that the Manufactured Home Fair Practices Commission schedule a hearing to determine whether Space Numbers 14, 94 and 158 in Mira Mar Mobile Community are exempt from the rental rate restrictions of Chapter 16B of the Oceanside City Code pursuant to Section 16B.16(d)(4) and California Civil Code section 798.21 and establish hearing procedures. Staff also recommends that the Commission establish Hearing Procedures as outlined in this staff report.

**PREPARED BY:**

**SUBMITTED BY:**

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