

# STAFF REPORT



ITEM NO. 24  
CITY OF OCEANSIDE

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DATE: November 15, 2006

TO: Honorable Mayor and City Councilmembers

FROM: City Attorney's Office

SUBJECT: **REPEAL OF SUBSECTION 16B.16(e) OF THE OCEANSIDE CITY CODE REGARDING NOTICE REQUIREMENTS FOR PROPOSED LONG-TERM LEASES IN MOBILEHOME PARKS**

## **SYNOPSIS**

Staff recommends that the City Council adopt an ordinance of the City Council of the City of Oceanside amending Chapter 16B of the Oceanside City Code by the repeal of Subsection 16B.16(e) regarding notice requirements for proposed long-term rental agreements in mobilehome parks.

## **BACKGROUND AND ANALYSIS**

Chapter 16B of the Oceanside City Code, adopted in 1982, sets forth a procedure for the establishment and periodic adjustment of space rents in mobilehome parks in Oceanside. State law (California Civil Code section 798.17) provides that mobilehome space rental agreements meeting certain criteria are exempt from local rent control provisions such as Oceanside's Chapter 16B. In order to be exempt from rent control under this state law, the agreement: (1) must be for a term exceeding twelve months, (2) must be entered into between the park management and a homeowner for the homeowner's personal and actual residence, (3) must provide the homeowner with at least thirty days from the date the rental agreement is first offered to the homeowner to accept or reject the rental agreement, and (4) must provide the homeowner with the ability to void the rental agreement by notifying management in writing within seventy-two hours of the homeowner's execution of the agreement.

California Civil Code subsection 798.17(f) requires that at the time such a long-term rental agreement is first offered to a mobilehome owner, the park management must provide written notice to the homeowner of the homeowner's right (1) to have at least thirty days to inspect the rental agreement, and (2) to void the rental agreement by notifying management in writing within seventy-two hours of the acceptance of a rental agreement. If this notice is not provided to the homeowner at the statutorily prescribed time, the agreement is voidable at the homeowner's option upon the homeowner's discovery of the management's failure to provide the written notice.



Subsection 16B.16(e) of the Oceanside City Code requires that a mobilehome park owner claiming a Civil Code Section 798.17 exemption provide certain specific notices to prospective tenants who have been offered long-term leases that would fall under the rent control exemption. The notices required by Subsection 16B.16(e) are generally designed to ensure that the mobilehome owner understands that by signing the lease being offered, the homeowner is waiving the right to a rent-controlled space in the park, for the term of the lease. Although the notices required by Subsection 16B.16(e) include the notices to mobilehome owners required by state statute, the City also requires notices in addition to those set forth in the state law. A copy of Subsection 16B.16(e), specifying the particular requirements, is attached to this staff report as Exhibit A.

In 1995, the California Court of Appeal (in a case entitled *Mobilepark West Homeowners Ass'n v. Escondido Mobilepark West*, 35 Cal.App.4<sup>th</sup> 32) considered an Escondido ordinance that placed additional requirements beyond those established by state law for entry into rent-control-exempt leases. The court decided that the provisions of the California Civil Code section 798.17 "occupy the field" of the rules applicable to the execution of rent-control-exempt leases. As such, the ordinance at issue in the *Mobilepark West* was held to be preempted by Civil Code section 798.17.

Because Oceanside City Code Subsection 16B.16(e) contains notice requirements regarding proposed rent-control-exempt leases, which requirements are in addition to those specified in the California Civil Code, Subsection 16B.16(e) is subject to challenge on preemption grounds, pursuant to the *Mobilepark West* decision. Although the City has not taken action to enforce the specific requirements of subsection 16B.16(e), staff recommends that this subsection be repealed in order to acknowledge and clarify to the public that the provisions of Subsection 16B.16(e) are preempted by state law.

Repeal of this subsection will not change the status quo, since, as noted above, the City has not been enforcing the notice requirements of Subsection 16B.16(e). The proposed repeal of Subsection 16B.16(e) will not affect any other provisions of Chapter 16B of the City Code, which will remain in full force and effect.

### **FISCAL IMPACT**

No fiscal impact is anticipated from the proposed amendment repealing Subsection 16B.16(e) of the Oceanside City Code.

### **COMMISSION OR COMMITTEE REPORT**

The Manufactured Home Fair Practices Commission has been advised that Subsection 16B.16(e) is subject to challenge on grounds that it is preempted by state law.

**RECOMMENDATION**

Staff recommends that the City Council adopt an ordinance of the City Council of the City of Oceanside amending Chapter 16B of the Oceanside City Code by the repeal of Subsection 16B.16(e) regarding notice requirements for proposed long-term rental agreements in mobilehome parks.

**PREPARED BY:**

  
\_\_\_\_\_  
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**SUBMITTED BY:**

  
\_\_\_\_\_  
Barry E. Martin  
Interim City Manager

**REVIEWED BY:**

*for* Michelle Skaggs Lawrence, Assistant to the City Manager  
John P. Mullen, City Attorney

  
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**ATTACHMENTS**

- A. Text of Subsection 16B.16(e) of the Oceanside City Code
- B. Proposed Ordinance

EXHIBIT A

Text of Subsection 16B.16(e) of the Oceanside City Code

(e) *Notice requirements.*

(1) The mobilehome park owner claiming an exemption based upon Civil Code Section 798.17 shall provide the following notices to the persons and in the manner specified in this section.

a. A statement of actual cost to the mobilehome park owner of utilities and of services actually provided to the tenants shall be posted in a conspicuous place in an area of the mobilehome park accessible to all residents.

b. A notice which conforms to the following language and printed in bold letters of the same type size as the largest type size used in the rental agreement shall be presented to the resident or prospective resident at the time of presentation of a rental agreement creating a tenancy with a term greater than twelve (12) months:

**"IMPORTANT NOTICE TO HOMEOWNER REGARDING THE PROPOSED RENTAL AGREEMENT FOR \_\_\_\_\_ MOBILEHOME PARK. PLEASE TAKE NOTICE THAT THIS RENTAL AGREEMENT CREATES A TENANCY WITH A TERM IN EXCESS OF TWELVE MONTHS. BY SIGNING THIS RENTAL AGREEMENT, YOU ARE EXEMPTING THIS MOBILEHOME SPACE FROM THE PROVISIONS OF THE CITY OF OCEANSIDE MANUFACTURED HOME FAIR PRACTICE ACT FOR THE TERM OF THIS RENTAL AGREEMENT. THE CITY OF OCEANSIDE'S ACT AND THE STATE MOBILEHOME RESIDENCY LAW (CALIFORNIA CIVIL CODE SECT. 798 et seq.) GIVE YOU CERTAIN RIGHTS. BEFORE SIGNING THIS RENTAL AGREEMENT YOU MAY CHOOSE TO SEE A LAWYER. UNDER THE PROVISIONS OF STATE LAW, YOU HAVE A RIGHT TO BE OFFERED A RENTAL AGREEMENT FOR (1) A TERM OF TWELVE MONTHS, OR (2) A LESSER PERIOD AS YOU MAY REQUEST, OR (3) A LONGER PERIOD AS YOU AND THE MOBILEHOME PARK MANAGEMENT MAY AGREE. YOU HAVE A RIGHT TO REVIEW THIS AGREEMENT FOR 30 DAYS BEFORE ACCEPTING OR REJECTING IT. IF YOU SIGN THE AGREEMENT YOU MAY CANCEL THE AGREEMENT BY NOTIFYING THE PARK MANAGEMENT IN WRITING OF THE CANCELLATION WITHIN 72 HOURS OF YOUR EXECUTION OF THE AGREEMENT. IT IS UNLAWFUL FOR A MOBILEHOME PARK OWNER OR ANY AGENT OR REPRESENTATIVE OF THE OWNER TO DISCRIMINATE AGAINST YOU BECAUSE OF THE EXERCISE OF ANY RIGHTS YOU MAY HAVE UNDER THE CITY OF OCEANSIDE MOBILEHOME FAIR PRACTICES LAW, OR BECAUSE OF YOUR CHOICE TO ENTER INTO A RENTAL AGREEMENT WHICH IS SUBJECT TO THE PROVISIONS OF THAT LAW."**

c. The notice shall contain a place for the resident or prospective resident to acknowledge receipt of the notice and shall also contain an acknowledgment signed by park management that the notice has been given to the tenant according to this section. A copy of the notice executed by park management shall be provided to the tenant. Park management shall file the notice containing the executed acknowledgements with the Oceanside Housing Department within fifteen (15) days following the date of execution of the rental agreement to which it relates.

(2) Park management shall provide the acknowledgement of notification of rights specified by paragraph a. of this subsection, at the time and in manner specified by paragraph b. of this subsection, to each resident or prospective resident of the park.  
 a. The form of the acknowledgement of notification of rights shall be substantially as follows:

ACKNOWLEDGEMENT OF NOTIFICATION OF RIGHTS UNDER CITY OF OCEANSIDE MANUFACTURED HOUSING RENT CONTROL ORDINANCE  
 EACH PERSON SIGNING THIS ACKNOWLEDGEMENT AS TENANT OR PROSPECTIVE TENANT HEREBY CERTIFIES THAT BEFORE I SIGNED THE RENTAL OR LEASE AGREEMENT FOR SPACE NO. \_\_\_\_\_ IN THE \_\_\_\_\_ MOBILEHOME PARK, THE OWNER OR MANAGER OF THE MOBILEHOME PARK DID ALL OF THE FOLLOWING THINGS:

TABLE INSET:

_____ initials	1. TOLD ME THAT OCEANSIDE HAS AN ORDINANCE REGULATION RENTS WHICH MAY BE CHARGED IN THE MOBILEHOME PARK.
_____ initials	2. TOLD ME THAT I HAD A CHOICE TO SIGN A RENTAL OR LEASE AGREEMENT THAT WOULD KEEP THE SPACE SUBJECT TO RENT CONTROL OR A RENTAL OR LEASE AGREEMENT THAT WOULD EXEMPT THE SPACE FROM RENT CONTROL.
_____ initials	3. TOLD ME THAT IT WAS ILLEGAL FOR THE PARK OWNER OR MANAGER TO DISCRIMINATE AGAINST ME BECAUSE OF MY CHOICE TO ENTER INTO A RENTAL OR LEASE AGREEMENT THAT WOULD KEEP THE SPACE SUBJECT TO RENT CONTROL.
_____ initials	4. TOLD ME THAT IF I SIGNED A RENTAL OR LEASE AGREEMENT THAT WOULD KEEP THE SPACE SUBJECT TO RENT CONTROL I HAD CERTAIN RIGHTS UNDER THE CALIFORNIA MOBILEHOME RESIDENCY LAW AND THAT I COULD NOT BE EVICTED UNLESS I FAILED TO PAY RENT, VIOLATED THE RULES OF THE PARK OR FOR CAUSE UNDER THE MOBILEHOME RESIDENCY LAW.
_____ initials	5. TOLD ME THAT I HAD A RIGHT TO DISCUSS THE RENTAL OR LEASE AGREEMENT WITH A LAWYER OR ANY OTHER PERSON BEFORE SIGNING THE AGREEMENT.
_____ initials	6. EXPLAINED TO ME THE AMOUNT OF THE INITIAL RENT UNDER EACH RENTAL OR LEASE AGREEMENT AVAILABLE, INCLUDING A MONTH-TO-MONTH AGREEMENT, AND HOW MY RENT WOULD BE ADJUSTED EACH YEAR UNDER THE CITY'S RENT CONTROL LAW AND UNDER EACH RENTAL OR LEASE AGREEMENT PROVIDED BY THE PARK OWNER OR MANAGER.
_____ initials	7. GAVE ME THE TIME TO READ THE RENTAL OR LEASE AGREEMENT, THE NOTICE OF MY RIGHTS UNDER THE OCEANSIDE MANUFACTURED HOMES FAIR PRACTICES ORDINANCES, THE

	CALIFORNIA MOBILEHOME RESIDENCY LAW, AND THIS ACKNOWLEDGEMENT.
_____ initials	8. TOLD ME THAT THE OCEANSIDE ORDINANCE REQUIRES THAT I SIGN THIS ACKNOWLEDGEMENT AND ALSO THAT THE PARK OWNER IS REQUIRED TO FILE THIS ACKNOWLEDGEMENT WITH THE OCEANSIDE HOUSING DEPARTMENT.
_____ initials	9. THE PARK MANAGER HAS PROVIDED ME WITH THE NAME AND PHONE NUMBER OF THE PARK'S TENANT REPRESENTATIVE (IF THE PARK HAS ONE) AND OF THE NAME AND PHONE NUMBER OF THE CITY'S HOUSING DIRECTOR SHOULD I DESIRE TO CONTACT HIM OR HER PRIOR TO SIGNING A RENTAL OR LEASE AGREEMENT.

I READ, INITIALED EACH PARAGRAPH AND EXECUTED THIS ACKNOWLEDGEMENT BEFORE I WAS REQUIRED TO SIGN THE RENTAL OR LEASE AGREEMENT.

TABLE INSET:

_____ Tenant or prospective tenant	_____ Date
_____ Tenant or prospective tenant	_____ Date

Filed: City of Oceanside Housing Department (619) 966-4585

TABLE INSET:

_____ Signature of City Employee	_____ Date
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b. The acknowledgement of notification of rights shall be given to each resident or prospective resident before the resident or prospective resident is presented with a new or renewed rental agreement and shall be executed by the resident or prospective resident is requested to execute the rental agreement.

c. Park management shall file each acknowledgement of notification of rights executed by a resident or prospective resident with the Oceanside Housing Department within fifteen (15) days following the execution of the rental agreement to which it relates. Park management shall keep a copy of the executed acknowledgement with the rental agreement to which it relates.

(3) Each notice shall be printed on the reverse side with, or accompanied by, a Spanish language translation approved by the housing department.



1 ordinance, or the title hereof as a summary, pursuant to state statute, once within fifteen (15)  
2 days after its passage in the North County Times, a newspaper of general circulation published  
3 in the City of Oceanside.

4 SECTION 3. This ordinance shall take effect and be in force on the thirtieth (30<sup>th</sup>) day  
5 from and after its final passage.

6 INTRODUCED at a regular meeting of the City Council of the City of Oceanside,  
7 California, held on the \_\_\_ day of \_\_\_\_\_, 2006, and, thereafter,

8 PASSED AND ADOPTED at a regular meeting of the City Council of the City of  
9 Oceanside California, held on the \_\_\_ day of \_\_\_\_\_, 2006, by the following vote:

10 AYES:

11 NAYS:

12 ABSENT:

13 ABSTAIN:

14 MAYOR OF THE CITY OF OCEANSIDE

15  
16 ATTEST:

APPROVED AS TO FORM:

17  
18 \_\_\_\_\_  
19 CITY CLERK

20  
21   
22 \_\_\_\_\_  
23 CITY ATTORNEY

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