

ORDINANCE NO. 17-1622

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA AMENDING ARTICLE IV, CHAPTER 7, OF THE CARSON MUNICIPAL CODE RELATING TO MOBILEHOME SPACE RENT CONTROL.

WHEREAS, in 1979, the City Council adopted the Mobilehome Space Rent Control Ordinance, codified at Article IV, Chapter 7, Sections 4700 through 4711, inclusive, of the Carson Municipal Code to protect mobilehome park residents from excessive space rent increases while still allowing the park owners to earn a fair return on their investment; and

WHEREAS, the ordinance has been amended several times since its adoption in 1979. In 1998, City Council Resolution 98-010 adopted Revised Guidelines for the Implementation of the Mobile Home Space Rent Control Ordinance to assist the Mobile Home Park Rental Review Board ("Board" or "MRRB") in implementing the Ordinance; and

WHEREAS, in 2006, City Council Resolution 06-149 amended the Guidelines further to add provisions that clarified and confirmed certain factors the Board may consider in determining an eligible rent increase. The current Guidelines reflect revisions that provide consistency between the numerous amendments to the Ordinance, establish a process to analyze rent increase applications, and clarify implementation issues; and

WHEREAS, since 1979 there have been in excess of 218 general rent increase applications submitted of which 90% were granted; and

WHEREAS, since 1979 there have been in excess of 40 Capital Improvement rent increase applications submitted of which 93% have been granted; and

WHEREAS, beginning with the median Base Rent as of 1979, if a CPI increase methodology had been applied annually to the median space rent it would result in a CPI Indexed space rent today of \$517, an additional increase of \$188 over the current median space rent of \$329; and

WHEREAS, the ordinance has succeeded in protecting the mobilehome park residents from excessive rent increases and in maintaining affordable space rents. Affordability has been maintained for those whose income would be classified as low to moderate pursuant to State Law. Mobilehome park space rents under the ordinance fall into the affordable housing cost range for extremely low, very low, low, and moderate income households that own their homes outright and those with low mortgage payments; and

WHEREAS, since 1979 administration of the ordinance has resulted in multiple legal challenges; some resulting in years of protracted litigation which has placed residents of the affected parks in the unenviable position of not knowing for, in some cases, many years what rents they should be paying to their park owners or whether those rents could be dramatically increased by some decision of a court; and

WHEREAS, in some cases residents have faced the prospect of being exposed to claims for “back rents” that could become due and owing upon the order of a court. This “uncertainty” has produced much anxiety on the part of park residents, which has only been assuaged after years of protracted litigation. For these reasons, many of the City’s mobilehome parks experience highly charged and adversarial relationships between residents and park owners; and

WHEREAS, Municipal Code § 4709 requires that the “City Council shall review the provisions of [the rent control ordinance] . . . in order to consider the following: (c) Whether the provisions of this Chapter should be amended to provide more effective regulations or to avoid unnecessary hardship;” and

WHEREAS, an option for strengthening and “provid[ing] more effective regulations” is to establish a mechanism within the ordinance to calculate rent adjustments based upon changes in the Consumer Price Index (“CPI”). Calculating rent adjustments based on changes to the CPI is a widely utilized mechanism among jurisdictions with mobilehome park rent control; and

WHEREAS, establishing a CPI rent adjustment mechanism within the ordinance will have a salutary impact for residents of the City’s mobilehome parks. As the cost of living goes up relative to rents, the maximum chargeable rent would also go up; as the cost of living goes down, the maximum chargeable rent would also go down. If the cost of living remains constant, then the maximum chargeable rent would remain unchanged; and

WHEREAS, a CPI methodology will increase “predictability” and provide “certainty” to residents in knowing whether and what rent adjustment to expect, thereby “avoid[ing] unnecessary hardship” on park residents. Historically, implementation of the ordinance has resulted in an average increase of between 65% to 75% of the annual CPI in the median Base Rent in the City’s 21 parks; and

WHEREAS, a CPI methodology provides an easy method for residents to “double check” the rent increase being sought by their Park Owner (given that it is a relatively simple mathematical computation to determine base rent, the annual CPI adjustment, and then calculate the percentage of that adjustment that will be allowed as a rent increase); and

WHEREAS, a CPI methodology would reduce the number of lengthy hearings before the Mobilehome Park Rental Review Board because this methodology is largely an administrative process (meaning, no hearing would be required to calculate a CPI rent adjustment); and

WHEREAS, a CPI methodology would be very beneficial for the smaller mobilehome parks who have been unable to afford the cost of the application fee, the necessity of engaging consultants to review lengthy staff reports, and sending a representative (often legal counsel) to a hearing on the rent increase application; and

WHEREAS, other jurisdictions who have employed the CPI methodology have experienced a greatly reduced litigation exposure because of the simplicity of what is an administrative process. Of 96 jurisdictions surveyed with rent control regulations, 68 employ either a CPI methodology or establish a fixed percentage in calculating annual rent increases (or a combination of the two methodologies).

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. The forgoing recitals are true and correct and incorporated herein by this reference.

SECTION 2. Subdivision (e)(2) of Section 4702 of Article IV, Chapter 7, of the Carson Municipal Code is hereby amended to read in its entirety as follows (new text is identified in ***bold & italics***, deleted text in ~~strike through~~):

“(2) The Board shall hear ***and determine*** rent adjustment applications ***seeking either an adjustment for capital improvement expenditures incurred and/or for an adjustment to assure a Park Owner a “fair return” as that term is defined by law,*** and determine whether to approve, modify or disapprove ***such*** a rent adjustment pursuant to the procedures set forth in CMC 4704. ~~4704.020 of this chapter.~~”

SECTION 3. The first sentence of Section 4705 of Article IV, Chapter 7, of the Carson Municipal Code is hereby amended to read in its entirety as follows (new text is identified in ***bold & italics***, deleted text in ~~strike through~~):

“The maximum allowable rent (“MAR”) for any mobilehome space in a park in the City is the last rent ~~approved by the Board~~ ***approved by the Director pursuant to section 4704.010 of this chapter or the last rent approved by the Board for either capital improvements expenditures or seeking a “fair return” rent increase pursuant to section 4704.020 of this chapter.***”

SECTION 4. A new Section 4704.010 is hereby added to Article IV, Chapter 7, of the Carson Municipal Code to read in its entirety as follows (new text is identified in ***bold & italics***):

“§ 4704.010

(a) Except as provided in sections 4704.020 and/or 4706 of this chapter, the maximum rent that a Park Owner may request, demand, or receive for a mobilehome space covered by this chapter shall not exceed the monthly rent charged for such mobilehome space as of the date of approval of the park’s last rent increase under this section or under section 4704.020, whichever is later. Rent increases made pursuant to this section shall not occur more than once during any twelve-month period and shall be the lesser of an eight (8) percent increase or seventy-five percent (75%) of the change in the cost of living since the last rent increase under this section or under section 4704.020, whichever is later, as indicated in the latest available Consumer Price Index (“CPI”).

(b) As used herein, the term “Consumer Price Index” shall mean the All Urban Consumers in the Los Angeles-Riverside-Orange County metropolitan area (commonly known as the “CPI-U”) as provided by the United States Bureau of Labor Statistics (based on 1967 = 100 base).

(c) Computation of any rent increase allowable by this Section shall be according to the following formula:

(1) The allowable percentage rent increase (I), expressed as a decimal figure shall be calculated as follows: $I = (A/B - 1) \times .75$ where A is the latest available CPI as of the date the CPI rent increase application is deemed substantially complete, and B is the CPI as of the date of approval of the park’s last rent increase under this section or under section 4704.020, whichever is later;

(2) Multiply the allowable percentage rent increase by the current rent. The resulting figure is the maximum allowable rent increase.

(d) An application for a CPI rent increase pursuant to this section shall be filed upon a form prescribed by the Department and shall be accompanied by the payment of a fee to be established by resolution of the City Council. The application shall specify the address of the mobilehome park, the space number or numbers for which the CPI rent adjustment is requested, and the amount of the CPI rent adjustment permitted under this section.

(e) A determination of completeness shall be made in the manner and within the time specified in Section 4704.020(c) of this chapter. Homeowners may review the application in the Department and may also obtain copies of the application upon payment of the City’s copying costs

(f) Unless waived by the Park Owner in writing, the Department Director shall, within thirty (30) days of the date that the application is determined to be substantially complete, approve the rent increase as properly calculated under this section. The determination of the Department Director on a CPI rent increase application shall be final.”

SECTION 5. Section 4704 of Article IV, Chapter 7, of the Carson Municipal Code is hereby renumbered to be Section 4704.020, and sub-section (a) thereof is hereby amended to read in its entirety as follows (new text is identified in ***bold & italics***, deleted text in ~~strike through~~):

“(a) A Park Owner ***who, notwithstanding the provisions of section 4704.010 of this chapter, seeks a rent adjustment to assure that the Park Owner is receiving a “fair return,” as that term is defined in law,*** may file with the Department a rent increase application for one (1) or more mobilehome spaces for approval by the Board ***pursuant to CMC 4704.020.*** A Park Owner, a Resident Homeowner or the Department may file an application for a rent adjustment for one (1) or more spaces pursuant to CMC ~~4704(h)~~ ***4704.020(h).***”

SECTION 6. The fourth sentence in Section 4703 of Article IV, Chapter 7, of the Carson Municipal Code is hereby amended to read in its entirety as follows (new text is identified in ***bold & italics***, deleted text in ~~strike through~~):

“No Park Owner shall send a notice containing the specific amount of a proposed rental increase prior to receiving approval of a rent increase from the Board ***or from the Department Director.***”

SECTION 7. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision or application, and to this end the provisions of this ordinance are declared to be severable. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 8. This Ordinance shall be in full force and effect thirty (30) days after its second reading and adoption.

SECTION 9. The City Clerk shall certify to the adoption of this Ordinance, and shall cause the same to be posted and codified in the manner required by law.

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PASSED, APPROVED and ADOPTED at a regular meeting of the City Council on this _____ day of _____, 2017.

MAYOR ALBERT ROBLES

ATTEST:

CITY CLERK DONESIA GAUSE

APPROVED AS TO FORM:

CITY ATTORNEY SUNNY K. SOLTANI