

HART | KING

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VIA E-MAIL ONLY

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Kim Prillhart
Denice Thomas
Franca Rosengren
The County of Ventura
Planning Division
800 South Victoria Avenue, L# 1740
Ventura, California 93009

RE: Ojai Valley Estates

Dear Ms. Prillhart, Ms. Thomas and Ms. Rosengren:

I am in receipt of your correspondence dated May 17, 2017, which was sent to my office electronically on Thursday, May 18, 2017.

Please allow me to further respond. First, and perhaps most importantly, you are continuing to ask for the mobilehome park's management to provide copies of all paid invoices for all capital improvements and all expenses listed in the application. Indeed, your most recent correspondence goes to some lengths to set forth your position on why the requested documentation is reasonable, required and absolutely critical for reviewing the subject application. Again, with all due respect, I must vehemently disagree.

Please allow me to address a number of the comments set forth in your correspondence about the documentation. On April 24, 2017, almost a month ago, we provided to you, in electronic format, the entire general ledger for the park for calendar year 2016. Your correspondence asserts that my client is required to go back and find every receipt for every expense. For example, you want my client to find the receipt to Ace Hardware on or about February 19, 2016 for supplies purchased as part of a maintenance project that day. You are asking my client, as a further example, to provide a copy of the billing from the gas company on or about February 19, 2016. I submit that that type of request is, per se, unreasonable. There is certainly no rational means of asserting that any of the examples of an operating expense, as just given, would potentially be a capital expense. Thus, to ask for those receipts, without some probable cause or reason, with an articulated basis, as to why the entry in the general ledger could be "fraudulent", or otherwise somehow be inappropriate or wrong is overreaching.

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A Professional Corporation
County of Ventura
Mobilehome Park Rent Review Board
Agenda Item No. 5
**Exhibit 23 – Applicant's May 19, 2017
Letter to Staff**

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In that correspondence of April 24 we offered to make all of those receipts available for your staff to review. That suggestion has, apparently, fallen on deaf ears. Why?

In your correspondence you quote from county guidelines indicating why you believe the staff can make the forgoing request. However, the very language of the guideline you have quoted states: "The owner must, upon the request of the board, staff or review accountant show to the board, staff or review accountant the original document from which any photocopy was made, and all documents, papers or written memorandum which support or are evidence of claimed expenses of any nature." (emphasis added)

The suggestion made, for one or more of your staff persons to come to the management company's office and review the documents is 100% consistent with that request in the guidelines and is reasonable. The ongoing request that copies of each and every receipt or invoice be made, especially in view of the frame of reference being utilized by staff, means that you can next ask to see the "original". That very issue and concern is solved by having staff come and review the records. I have not heard or seen or been advised of any reason the suggestion is an unreasonable way of proceeding. Assuming the Guideline is a permissible rule under the governing ordinance and does not exceed the legal scope for a rule, the suggestion allows the requested activity [corroboration of claimed expenses] to take place. And this method preserves some minor semblance of privacy for the applicant as your office clearly asserts that any paper or electronic submission is per se a public record open for anyone and everyone to review.

The applicant, and this office, certainly understand that the Board does not want boxes of documents being introduced and reviewed, for the first time, at a public hearing. That is the point of preliminary review. However, the suggested corollary that every scrap of paper, or electronic entry, must be produced and reviewed by staff before the application can be reviewed presented to the Board is also incorrect.

Notwithstanding the foregoing, and under protest, the park will make copies of the documents requested and provide them to your office next week. I expect Tuesday will be the soonest date the materials can be physically supplied and delivered to your office. We will send them by Federal Express or other one day shipping service.

Your correspondence asserts that the ordinance allows for annual increases tied to the consumer price index. That is partially correct. What you have omitted [intentionally?] is that the annual permitted rent increase is not equal to 100% of the change in the consumer price index. Thus, for the past 30+ years the park has been falling slowly but surely further and further behind the economic return the park earned before the imposition of the country's draconian rent control ordinance.

You've also asserted that the purpose of a rent increase above the annual increase is to allow recovery of cost expenses through increases in rent to the tenants. That is also

only partially correct. The constitutional underpinning of the ordinance, and a primary reason for the discretionary methodology in the ordinance is to make sure that a park owner and operator is receiving a just and reasonable return. The entire point and purpose of this application is because the park owner has suffered a debilitating loss of revenue and return over the course of 30+ years.

Your correspondence also notes that due to the nature of the rent increase process the rent increase would be ongoing. That is correct. Your implied assertion that a one-time "cost" recovery would be better ignores constitutional law and the very means the ordinance is being interpreted and applied by the county and staff. Indeed, I should not need to remind you that the park sought a capital improvement cost recovery (which would have been temporary) from the county before this application was filed and the county asserted there was no such procedure allowed and that the only means of ever recovering the costs of capital expenses was to go through this discretionary rent increase application process.

My most recent correspondence did, indeed, set forth that the "all receipts" request being made was insulting. That conclusion and assertion remains. Indeed, you have not pointed to a single line item in the general ledger that you question or believe is inappropriate. From the very beginning, despite the many hours of staff time, not a single expense or category of the park's expenses has been actually questioned.

In the third paragraph of page 3 of your correspondence you note that staff reserves the right to continue the hearing if there is insufficient time for meaningful consideration and review of any additional data by staff, the board and Park residents in advance of the hearing. That is, of course, a shared concern. Moreover, that observation leads back to why the requests are unreasonable. The county's position is that every document provided to the county becomes, per se, a public record open to review by the residents or any other person. That is an additional reason why the prior suggestion for county staff to review the original receipts, to the extent desired, in the office of the management company was a reasonable alternative. That methodology would have preserved some measure of privacy and confidentiality. Production of the general ledger, which itself has significant privacy issues, has already been made public.

Today's date is May 19, 2017. I am out of office, and out of the state as of this evening, until Sunday, May 28, 2017. The following week, due to Memorial Day, is a four day business week. The hearing is presently set for Monday, June 5, 2017. Given the foregoing issues, and our apparent difference of opinion, I am very concerned about whether the hearing can or will proceed, on a substantive basis, on June 5, 2017.

Please do not misunderstand the foregoing. My office, and my client, is more than willing to appear and proceed on the merits on June 5, 2017. However, because the staff's position is that it must review every receipt and invoice noted in the general ledger I am worried there is no way that task can or will be accomplished by your staff

between Tuesday of next week and June 5, 2017. Thus, if your office shares that opinion, I would suggest we discuss whether or not to reschedule the June 5, 2017 hearing.

I have several other concluding comments. As a public records request, I would respectfully ask that your office provide me the hourly billing rate for each and every staff person who held a position comparable in title and responsibility to be present staff reviewing this application for the timeframe of 1980 to 1985. The present staff people are billed at rates of \$129-\$159 per hour. I would like to know the hourly rates of those same or comparable staff positions billings in the 1980-1985 timeframe.

Your most recent correspondence continues to absolutely ignore one of the underlying objections and point of earlier correspondence. The application process in this matter is exorbitantly time-consuming and expensive. An ordinance that operates in such a fashion is, by California Supreme Court, and United States Supreme Court decisions being unlawfully applied. This is a small mobilehome park with a net operating income, where operating expenses exclude debt service, of just over \$200,000 over the past several years. The rent increase application methodology, as it has been applied, seeks to have the park owner spend literally 10% of its entire net operating income on the application costs being charged by the county. With all due respect that is outrageous.

I, individually, and my office, have assisted numerous mobilehome park owners submit rent increase applications to multiple jurisdictions throughout California, as well as in other states. The present application process, as interpreted and applied by staff, is one of the most onerous and cost consuming I have ever seen.

I would suggest and request that we take time to meet and discuss, in person, with county counsel present, during the week of May 29 to June 2, 2017 how this matter can best proceed expeditiously. Given the present status I am worried as to how a meaningful meeting/hearing can take place on June 5, 2017.

My client, and this office, want to see this matter continue to a proper and lawful conclusion. I look forward to working with your office to facilitate such a result.

Sincerely yours,

HART | KING



C. William Dahlin

CWD:mld