

ATTACHMENT 1, EXHIBIT G - FINDINGS

Finding for Award No. 5 (previously 4) - Amortization Period and Rate

The Mobilehome Rent Control Rules for Hearings require that the Arbitrator's decision shall include the findings of fact on which the decision is based and that the decision be supported by the evidence. (Rule 18.) For this Award, the Arbitrator's decision included the finding "Line 18 of Exhibit C and the expert testimony of Michael St. John regarding the same supported a finding that all temporary increases noted in the document should be amortized at 9% for seven (7) years. The reduction in temporary expenses in these various line items both in this award or in earlier finding were to the amounts only and did not change their original characterization as capital expense and improvement items."

County Code Section 11A-6, subdivision (a)(2) provides for capital improvements "Any notice of a rent increase which is in excess of seventy-five percent of CPI and includes costs for capital improvements shall contain a payment plan showing the cost of the improvement per mobilehome space and the time period required to amortize the cost of the improvement, e.g., ten dollars per space for seventy-two months." Subdivision (b)(2) provides for capital expenses "Any notice of a rent increase which is in excess of seventy-five percent of CPI and includes costs for capital expenses shall contain a payment plan which shows the amount needed per month to amortize the cost of the capital item(s) over the useful life of the item(s)."

The Arbitrator cites in evidence an amortization schedule in Line 18 of Arbitration Exhibit C and the expert testimony of Management's expert (St. John) who testified that amortization of 9% and 7 years was the result of his professional judgment and is a reasonably average time period (Attachment 5, Exhibit L, Transcript page 69, lines 12-15). The Attachment to the Arbitration Opinion and Award shows a payment plan updated from the one originally reflected in Arbitration Exhibit C. The nature of the amortized costs as capital improvements and/or expenses is reflected in the findings for each Award below.

The Arbitrator included findings of fact that are supported by substantial evidence in the record. The Board of Supervisors determines that the Arbitrator did not abuse his discretion and affirms Award 5.

Finding for Award No. 7 (previously 6) - Professional Fees

The Mobilehome Rent Control Rules for Hearings require that the Arbitrator's decision shall include the findings of fact on which the decision is based and that the decision be supported by the evidence. (Rule 18.) For this Award, the Arbitrator's decision included the finding "Per Waterhouse's testimony, the \$50,973 itemized in Exhibit Q represented professional fees and expenses incurred and paid by the Respondent. As correctly acknowledged by a further itemization in the Respondent's last brief, not all of charges noted in Exhibit Q were related to capital items making a reduction to \$25,000 reasonable and appropriate." And "The homeowner's own consultant agreed that professional fees could be amortized and that they were analogous to a capital expense item."

County Code Section 11A-6, subdivisions (a)(1) and (b)(1) provide for the passing through the “costs of” capital improvements and capital expenses. “Costs” are not defined specifically to include or to exclude professional fees. Thus, where Professional Fees may be correctly categorized as a cost of either a capital improvement or capital expense, such fees may be passed on. County Code Section 11A-2, subdivision (a) defines “Capital improvement” as “any addition or betterment made to a mobilehome park which consists of more than mere repairs or replacement of existing facilities or improvements and which has a useful life of five or more years.” County Code Section 11A-2, subdivision (b) defines “Capital expense” as “a repair or replacement of existing facilities or improvements which has an expected life of more than one year.”

The Arbitrator cites as evidence Exhibit Q which shows \$50,973 in legal expenses for the period August 12, 2008 to November 30, 2010 from Mr. Ballantine, attorney for Management. Mr. Waterhouse testified that the \$50,973 of expenses in Exhibit Q represented professional fees and expenses that were reviewed, incurred, and paid by Management (Attachment 5, Exhibit M, Transcript page 145:6-14). Cited by the Arbitrator, Respondent’s Remand Arbitration Hearing Brief dated February 23, 2017 includes as Attachment 6 certain pages of Exhibit Q with \$32,020 worth of line items highlighted from the total of \$50,973. The highlighted items include professional fees associated with capital improvements and expenses, for example, related to inspections of electrical systems, park infrastructure, permitting with the County, water district test results, etc. The Arbitrator concluded that this demonstrates that not all of the charges in Exhibit Q are related to capital items; therefore, a reduction of the requested \$50,973 to \$25,000 is appropriate.

Management’s expert (St. John) testified that professional fees are an appropriate expense to be included in the rent increase (Attachment 5, Exhibit L, Transcript page 85:7-25). Homeowners’ expert (Baar) testified that he did not object to professional fees being amortized (Attachment 5, Exhibit L, Transcript page 236:4-8; Attachment 5, Exhibit L, Transcript page 174:15-175:4).

The Arbitrator included findings of fact that are supported by substantial evidence in the record. The Board of Supervisors determines that the Arbitrator did not abuse his discretion and affirms Award 7.

Finding for Award No. 8 (previously 7) - Architecture and Engineering Fees

The Mobilehome Rent Control Rules for Hearings require that the Arbitrator’s decision shall include the findings of fact on which the decision is based and that the decision be supported by the evidence. (Rule 18.) For this Award, the Arbitrator’s decision included the finding “All the Architecture and Engineering fees for services provided by Penfield & Smith, Mechanical engineering Consultants, JMPE, plan review, and permit fees, as listed in Exhibit J, were properly categorized as capital improvement expenses. Waterhouse testified those plans and drawings purchased by the Respondents had value in evaluating and moving forward with capital improvements for the park. Given the amount of time that has passed since their purchase, some of this work, such as the permits, are most likely stale and now have less utility. A more reasonable amount for the total of such items would be \$40,000.” And “The homeowner’s own

consultant agreed that professional fees could be amortized and that they were analogous to a capital expense item.”

County Code Section 11A-6, subdivisions (a)(1) and (b)(1) provide for the passing through the “costs of” capital improvements and capital expenses. “Costs” are not defined specifically to include or to exclude professional fees. Thus, where Architecture and Engineering Fees may be correctly categorized as a cost of either a capital improvement or capital expense, such fees may be passed on. County Code Section 11A-2, subdivision (a) defines “Capital improvement” as “any addition or betterment made to a mobilehome park which consists of more than mere repairs or replacement of existing facilities or improvements and which has a useful life of five or more years.” County Code Section 11A-2, subdivision (b) defines “Capital expense” as “a repair or replacement of existing facilities or improvements which has an expected life of more than one year.”

The Arbitrator cites to invoices from particular providers from Exhibit J. Total expenses incurred from 2008-2011 (the timeframe of the requested rent increase) in Exhibit K total \$100,907.14. The line items from the providers identified by the Arbitrator total \$54,056.75, which the Arbitrator further reduced to \$40,000 based on the amount of time that had passed and that some of the work would now have less utility than when the expense was originally incurred. The invoices supporting the line entries in Exhibit J are included in Exhibits K and L and include professional fees associated with capital improvements and expenses, for example, permitting costs, inspections, engineering, drafting, plan revisions, sewer extension, etc.

Management’s expert (St. John) testified that professional fees are an appropriate expense to be included in the rent increase (Attachment 5, Exhibit L, Transcript page 85:7-25). Homeowners’ expert (Baar) testified that he did not object to professional fees being amortized (Attachment 5, Exhibit L, Transcript page 236:4-8; Attachment 5, Exhibit L, Transcript page 174:15-175:4).

The Arbitrator included findings of fact that are supported by substantial evidence in the record. The Board of Supervisors determines that the Arbitrator did not abuse his discretion and affirms Award 8.

Finding for Award No. 13 (previously 12) - Total Permanent and Temporary Increase

The Board finds that the Arbitrator did not abuse his discretion in calculating the total Permanent and Temporary increases. This Award was previously remanded by the Board on February 7, 2017 for recalculation in light of other remanded Awards (7 and 8); however, the Board now affirms all Awards made by the Opinion and Award (Revised on Remand) dated March 13, 2017, therefore the total Permanent and Temporary increases do not need to be recalculated. The total increase is supported by a calculation sheet attached to the Opinion and Award.

The Arbitrator included findings of fact that are supported by substantial evidence in the record. The Board of Supervisors determines that the Arbitrator did not abuse his discretion and affirms Award 13.