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February 6, 2017

BY E-MAIL: jrichardson@co.santa-barbara.ca.us

Jennifer Richardson, Esq.
Deputy County Counsel
County of Santa Barbara

**Re: February 7, 2017 Board of Supervisors Hearing
Agenda Item #2017 - 00067
Homeowners' Appeal of Arbitration Award
Nomad Village Mobilehome Park**

Dear Ms. Richardson:

As you know, this office represents Park Management of Nomad Village Mobilehome Park in the above-referenced matter, which is an appeal filed by the Park residents to the Arbitration Award issued by the Arbitrator appointed by the County pursuant to its Mobilehome Rent Control Ordinance.

As I discussed with you last Thursday, I have reviewed the Board letter for the above-referenced hearing and I find its recommendation to remand Award numbers 5, 7, 8 (Award numbers are per the Arbitrator's August 28, 2016 Remand Award "Remand Award")) to be troubling.

First, as you know, these proceedings are already six years old. The County has engaged in conduct which has substantially delayed the resolution of this matter, including not even addressing Judge Anderle's Writ Order for over one year after it was entered. The California Supreme Court in *Galland v. Clovis* (2001) 24 Cal.4th 1003, 1027-1028, has made it clear that municipal administrative mobilehome rent control proceedings that subject Park Management to undue delay and expense are confiscatory and violate Park Management's constitutional rights, and can give rise to a claim for damages by Park Management.

Second, the suggestion that the Award Number 5, dealing with amortization be remanded for further consideration ignores both the Court order and this Board's prior ruling. The Court affirmed the Arbitration Award as to the amortization as being supported by substantial evidence. Staff's suggestion that the schedule referenced by the Court, Exhibit 3, is outdated is incorrect; the schedule remains fully applicable, since all

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of the items currently subject to the schedule were part of the proceedings at the time of the schedule. Moreover, the Board has already specifically upheld the amortization schedule in its July 12, 2016 Order.

Third, the suggestion in the Board letter that Award Numbers 7 and 8 contain insufficient findings ignores the idea that the rent control arbitration proceedings afford a relatively prompt and informal resolution of rent issues in a mobilehome park, and ignores the standards governing findings already acknowledged by the County.

In both cases, the Arbitrator's findings referenced testimony and evidence in the record supporting his conclusions. These matters were expressly remanded by the Court for the Arbitrator to consider in the context of his consideration of Award Number 6, which he has done. As to Award Number 7, the Arbitrator specifically referenced the costs of plans which the evidence in the record shows costs in excess of the amount awarded. (Exhibits J & L) As to Award Number 6, the Arbitrator specifically referenced two exhibits, one of which summarizes work related to capital items, the other which shows the costs of work for these items. (Exhibit K, second page, Exhibit Q.) The law does not require the Arbitrator to articulate further detail, if the information can be referenced in the record, which it can, and particularly considering the nature of these Arbitration proceedings.

The County's "Opposition to Petition for Writ of Administrative Mandamus," filed in the pending case, Santa Barbara Superior Court Case No. 11403358, on March 10, 2014, set forth a standard for findings that would require that the Remand Award be upheld.

"However, findings need not be stated with the precision required in judicial proceedings, may be formal or informal, must simply 'expose the mode of analysis, not expose every minutia', and are 'sufficient if they apprise interested parties and the courts of the bases for the administrative action.'"

(p. 17, line 26 - p. 18, line 3, quoting *Topanga Assn. for a Scenic Community v. County of Los Angeles* (1974) 11 Cal.3d 506; and *Mountain Defense League v. Board of Supervisors* (1977) 65 Cal.App.3d 723.)

"The need for the Board to make findings 'does not preclude a reviewing court from looking to the record to determine the findings upon which the decision is based.' (*Lindborg-Dahl, supra*, 179 Cal.App.3d at 963.) The Board may properly incorporate matters by reference and even omissions may sometimes be filled by such relevant references as are available in the record. (*McMillan supra*, 60 Cal.App.3d at 183-184.) Under the substantial evidence test, it is presumed that the findings and actions of the administrative agency were supported by substantial evidence." (*Desmond, supra*, 21 Cal.App.4th at 335.)
(p. 18, line 23 - p. 19, line 7.)

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Here the Arbitrator (hearing officer) “articulated findings sufficient to bridge the gap between the record and final decision that were supported by substantial evidence in the record.”

Sincerely yours,



JAMES P. BALLANTINE

JPB/lp

cc: Clerk, Santa Barbara Mobilehome Rent Control Ordinance
Michael C. Ghizzoni, County Counsel
Rachel Van Mullem, Chief Deputy County Counsel