

To: The Clerk of the Board
Re: Rent Increase Arbitration
Nomad Village homeowners
Nomad Village Mobile Home Park

February 5, 2017

Homeowners allege once again prejudicial abuse on the behalf of the arbitrator as set forth below.

THE COUNTY'S RESPONSIBILITY UNDER ORDINANCE 11 & 11A

The County assumed the responsibility and enforcement duties as delineated in Ordinance §§ 11 and 11A. Ord. §11A-1 includes as an overall purpose to “protect the owners and occupiers of mobilehomes from unreasonable rents”. The homeowners have provided the County with ample evidence that management’s ‘rent increase’ violates the County ordinance, includes various instances of fraud, and violates multiple state laws. The County, on the advice of County Council, has decided not to “protect the owners” and their rights to quiet enjoyment and due process, but has taken the position that forestalling management from suing the County, for the third time, is more important than protecting the residents of the County.

AWARD NO. 4 (AMORTIZATION PERIOD AND RATE)

The arbitrator and the County have had ample evidence that charging interest is not allowed by the ordinance and any amortization rate must be based on the capital asset in question. Management, the arbitrator and the county have all ignored the fact that they cannot point to any capital asset in which to make this determination.

County Council will be asked to define the capital asset(s) on which their ‘finding’ is based or the Board of Supervisors must find that the arbitrator abused his discretion by failing to proceed in the manner required by law and not supporting his award with findings, and reverse his award in whole.

AWARD NO. 5 (ESCROW ACCOUNT AND COSTS EXPENDED)

The \$62,145.55 in question was **never noticed**, as required by Civil Code §798.32

Mr. Ballantine (line 18, Page 13 of 9/19/2011 arbitration transcripts): “The third area is the infrastructure, and its \$320,000. Now, let me talk about that. We'll have evidence of exactly what that is. That is a payment made by Lazy Landing into an escrow account. It was paid in in 2008, and it's specifically designated for park infrastructure. None of the money has been spent yet, although it's been paid in.”

Management makes it clear that the \$62,145.55 is not part of the noticed \$320,000. California Civil Code requires written notice of all rent increase amounts in excess of the automatic annual increase.

The \$62,145.55 in question includes **Fraud**.

\$20,760 attributed to Cusac Construction on 11/29/2008 is a refundable deposit (see contract attached). Management knew when including this amount on 9/19/2011 that the money had been returned and no part of the project described in the contract ever took place.

The County is aware that the work described in the Cusac contract was never permitted, no permits were ever requested, and that this project never happened.

\$1,557.49 listed as “permit” is actually a bill from the county for engineering work by Brad Paola, directed by the county to be performed to access and document the electrical health and safety violations (see attached).

Management has changed the description to obfuscate a direct violation of Civil Code §798.39.5, which prohibits charging the homeowners for management’s health and safety violations, including attorney fees associated with those violations.

Most of the remaining line items are related to the health and safety violations issued by your county and are each a violation of Civil Code §798.39.5.

The Board of Supervisors is aware that the \$62,145.55 was never noticed, violating CC §798.32 and depriving the homeowners of their due process rights. They are aware that the \$62,145.55 includes fraud and is in direct violation of CC §798.39.5. The Board of Supervisors must find that the arbitrator abused his discretion by failing to proceed in the manner required by law and not supporting his award with findings, and reverse his award in whole.

AWARD NO. 6 (PROFESSIONAL FEES)

The Board of Supervisors has ample evidence that there is no capital asset associated with these fees and are fully aware that they contain violations of Civil Code §798.39.5.

The Board of Supervisors must find that the arbitrator abused his discretion by failing to proceed in the manner required by law and not supporting his award with findings, and reverse his award in whole.

AWARD NO. 7 (ARCHITECTURE AND ENGINEERING FEES)

Management committed fraud by representing to and charging the homeowners \$90,000 based on documents that they merely copied from the prior management. The homeowners have clearly shown management’s pursuit of the old documents from the previous owner, the fact that there is no transaction in their financial statements, and that there isn’t any document that evidences a monetary transaction of any kind.

The Board of Supervisors is aware that the underlying documents were never submitted for any permits and were never part of any capital project.

The Board of Supervisors must find that the arbitrator abused his discretion by failing to proceed in the manner required by law and not supporting his award with findings, and reverse his award in whole.

AWARD NO. 8 (PAST PAYMENTS BY PARK OWNERS FOR INCREASED REAL PROPERTY TAXES)

Management committed fraud by representing the supplemental tax bills to the owners (the Bell Trust) as \$130,531 when the county bill was \$31,533.96.

The Board of Supervisors are aware that their own bill to the owners was \$31,533.96 and represents the total of all supplemental property taxes.

The Board of Supervisors are aware that it is an undisputed fact that **supplemental property taxes** are **ordinary operating expenses** and, therefore, cannot be passed through to the homeowners as capital expenses. Judge Anderle's decision is clear that supplemental property taxes are ordinary operating expenses that **may be considered** as such, according to the ordinance.

The Board of Supervisors must find that the arbitrator abused his discretion by failing to proceed in the manner required by law and not supporting his award with findings, and reverse his award in whole.

AWARD NO. 11 (LEGAL FEES ASSOCIATED WITH THE CHALLENGE TO THE RENT INCREASE)

The Board of Supervisors is aware that legal fees are an ordinary operating expense that cannot be passed through as a capital asset, as settled by Judge Anderle. County Council is aware that many of the line items in Management's exhibits relate to their interactions with management's attorney regarding health and safety violations and related penalties violating Civil Code §798.39.5.

County Council, charged with making findings in these proceedings, never disclosed the ex parte communications and agreements made with management, which is the direct subject matter of this award.

The Board of Supervisors is aware these fees are a violation of the California Code of Civil Procedure 1284.2: "Unless the arbitration agreement otherwise provides or the parties to the arbitration otherwise agree, each party to the arbitration shall pay his pro rata share of the expenses and fees of the neutral arbitrator, together with other expenses of the arbitration incurred or approved by the neutral arbitrator, not including counsel fees or witness fees or other expenses incurred by a party for his own benefit."

The Board of Supervisors must find that the arbitrator abused his discretion by failing to proceed in the manner required by law and not supporting his award with findings, and reverse his award in whole.

AWARD NO. 12 (TOTAL PERMANENT AND TEMPORARY INCREASE)

The Board of Supervisors is aware that any increase must follow Ordinance §11A-5(i)(1) to §11A-5(i)(6).

§11A-5(i) states: “To determine the amount of any increase in excess of the automatic increase, **the arbitrator shall:**” follow steps 1 through 6 (see ordinance section attached). This is not a mere suggestion, but a requirement of the law.

The Board of Supervisors is aware that the ordinance provides for recuperating **reasonable financing costs**, if any, for capital items only. Nowhere does the ordinance allow the **charging of interest**.

The Board of Supervisors is aware that management has unilaterally bound the homeowners to fraudulent loans, with no loan documentation, predatory lending practices, and usurious terms. Requiring homeowners to dispute these unlawful loan practices in that arbitration setting limits their choice of best forum to resolve disputes and is considered predatory.

The Board of Supervisors must find that the arbitrator abused his discretion by failing to proceed in the manner required by law and not supporting his award with findings, and reverse his award in whole.

CONCLUSION

The County has failed to protect the homeowners, the residents of Santa Barbara County who depend on Ord. §11 and §11A, and the ordinance itself. The outcome is an arbitration ‘award’ that does not “consider all factors” as required by the ordinance. The arbitrator did not consider, nor did he mention once any evidence presented by the homeowners, depriving the homeowners of due process.

Because the County has provided impunity, management has committed fraud, has started a fresh round of huge increases with even larger outrageously false claims, and has stated through their attorney and shown through their actions that they will not follow Ord. §11A-8, regarding collection and credits. Management refuses to adjust rents per §11A-8(c) if they don’t like them, has ignored the written credit notification per §11A-8(b)(2), and has stated that they will control the timing, amount, and occurrence of any credit as they see fit.

The homeowners request that the County enforce the ordinance, and all superior laws, through the office of the District Attorney.

Applicable California codes and Santa Barbara County Ordinances

California Civil Code Section 798.32

798.32. (a) A homeowner shall not be charged a fee for services actually rendered which are not listed in the rental agreement unless he or she has been **given written notice thereof by the management, at least 60 days before imposition of the charge.**

(b) Those fees and charges specified in subdivision (a) shall be separately stated on any monthly or other periodic billing to the homeowner. If the fee or charge has a limited duration or is amortized for a specified period, the **expiration date shall be stated on the initial notice and each subsequent billing to the homeowner while the fee or charge is billed to the homeowner.**

California Civil Code Section 798.39.5

a)(1) The management shall not charge or impose upon a homeowner any fee or increase in rent which reflects the cost to the management of any fine, forfeiture, penalty, money damages, or fee assessed or awarded by a court of law or an enforcement agency against the management for a violation of this chapter or Part 2.1 (commencing with Section 18200) of Division 13 of the **Health and Safety Code, including any attorney's fees and costs incurred by the management in connection therewith.**

Santa Barbara County Ordinance Sec. 11A-5. - Increases in maximum rent schedule.

(g) The arbitrator shall automatically allow a rent increase of **seventy-five percent of the CPI increase (hereinafter "automatic increase").**

(i) To determine the amount of any increase in excess of the automatic increase, **the arbitrator shall:**

(1) First, grant one-half of the **automatic increase** to management as a just and reasonable return on investment. The arbitrator shall have no discretion to award additional amounts as a just and reasonable return on investment;

(2) Next, grant one-half of the **automatic increase** to management to cover increased operating costs. The arbitrator shall have no discretion to award less than this amount for operating costs.

(3) Next, add an amount to cover operating costs, if any, in excess of one-half of the automatic increase. The arbitrator shall have discretion to add such amounts as are justified by the evidence and otherwise permitted by this chapter.

(4) Next, add an amount to cover new capital expenses. Where one-half of the automatic increase is more than the actual increase in operating costs for the year then ending, the arbitrator shall offset the difference against any increases for new capital expenses.

(5) Next, add an amount to cover old capital expenses. Where one-half of the automatic increase is more than the actual increase in operating costs for the year then ending, the arbitrator shall offset the

difference against any increase for old capital expenses unless such difference has already been used to offset an increase for a new capital expense or another old capital expense. The arbitrator shall have discretion to review operating costs and the sufficiency of any offset, but not to redetermine the right of management to reimbursement for an old capital expense.

(6) Finally, add an amount to cover increased costs for capital improvements, if any. The arbitrator shall have discretion to add such amount as is justified by the evidence and otherwise permitted by this chapter.

Cusac Construction Inc.

November 21, 2008

Mr. Ken Waterhouse
Waterhouse Management Corporation
500 Giuseppe Court, Suite 2
Roseville, CA 95678

Subject: Electrical System Upgrade
Nomad Village
4326 Calle Real
Santa Barbara, CA 93110

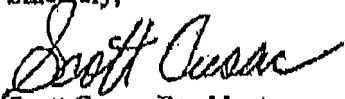
Mr. Waterhouse,

We are pleased to be considered as the contractor for the improvements to the electrical distribution system at the Nomad Village property in Santa Barbara. We have participated in numerous projects similar to this one and are quite confident that our participation on this project will prove to be beneficial to you and your staff. We submit the enclosed proposal for your review. Upon your acceptance of the proposal we are prepared to begin work on the design and permit process immediately. Based on our current commitments we would anticipate construction to begin shortly after permit issuance with an approximate completion date of June 2009.

Should you have any questions or require any additional information, don't hesitate to call.

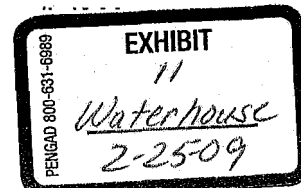
We look forward to this mutually beneficial endeavor as well as a lasting relationship with you and your management team.

Sincerely,



Scott Cusac, President
Cusac Construction, Inc.

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**Cusac
Construction
Inc.**

Proposal and Contract

November 21, 2008

Proposed To: Mr. Ken Waterhouse and
Waterhouse Management Corporation
500 Giuseppe Court, Suite 2
Rossville, CA 95678

Project: Electrical System Upgrade
Nomad Village
4326 Calle Real
Santa Barbara, CA 93110

Cusac Construction, Inc. will provide all labor, equipment, materials and supervision necessary to complete the following scope of work, all in substantial conformance with, State of California (Title 25), the 2004 California Electrical Code and standard industry practices, subject to the terms and conditions include herewith.

SCOPE OF WORK

Item 1 - Plans, Specifications and Permits

- a) Prepare electrical plans and specifications for the installation of the components listed in item 2 of this proposal on the owner provided "AutoCAD" format site plan.
- b) Submit plans and specifications to the County of Santa Barbara Building Department for review, approval and permit issuance.
- c) The fees for plan check and permits are not included in this proposal and are to be paid for separately by the owner
- d) Provide equipment manufacture's data sheets for all proposed new equipment.
- e) Maintain complete record drawings during the installation phase and provide Waterhouse Management a completed set of "As-Built" drawings upon completion
- f) Provide training to Waterhouse Management staff on proper operations and maintenance of new system(s)

Initial CC CCI

Initial kw Owner

Item 2 – Electrical Distribution System

- a) Furnish and install new 4160 volt primary distribution conductors from three existing switches to six new unit substation transformers utilizing a portion of the existing conduit where applicable and installation of new conduits as indicated on the plans.
- b) Furnish and install new 120/240 volt secondary distribution conductors, from six new unit substation transformers to new 100 amp rated concrete pad mounted pedestals for each site using direct bury rated aluminum cable installed in DB60 protective sleeve. Each pedestal to have metering provisions, 1 - 50 amp 240 volt circuit breaker and 1 - 50 amp mobile home receptacle.
- c) Furnish and install new 120/240 volt breaker sized in accordance with existing wiring and connect to existing building feeders.

Item 3 – Street Lighting

- a) Furnish and install new individually photo cell controlled 70 watt high pressure sodium street light fixture mounted on 3 inch diameter 10 foot direct bury pole in locations shown on the plans in order to provide the required minimum average foot candle light throughout the property.
- b) Furnish and install new 15 amp 120 volt unmetereed circuit breaker in new mobile home pedestal located in close proximity to new street light.
- c) Furnish and install new conduit and wiring from street light to pedestal.

Item 4 – Trenching and Backfill for the Above

- a) Provide trenching and backfill for the installation of the new primary distribution conduits including asphalt patching were required
- b) Provide new concrete pads for unit substation transformers as shown on the plans
- c) Provide trenching and backfill for the secondary distributions and street lighting systems utilizing the existing landscaped areas as much as possible.
- d) Provide new concrete pads for new mobile home pedestals as shown on the plans
- e) Waterhouse Management to be responsible for and notification to tenant(s) for the removal and or protection of personal property, tenant owned plants and or correction of park violations.

Initial CC, CCIInitial MO, Owner

Item 5 – Cut Over Existing

- a) Disconnect each mobile home's plug from the existing distribution equipment receptacle and connect to new receptacle in new pedestal.
- b) Remove existing electric meter and install in new pedestal meter socket. Install tamper indicating lead seal to meter ring.
- c) Disconnect power, remove and dispose of existing above ground electrical equipment after cut over to new system
- d) Disconnect, remove and dispose of nine existing transformers

Total Cost for Items 1 through 5 - \$519,000.00

Exclusions: Does not include cost for the following**A. Fees for**

- a. Plan check, construction or encroachment permits, inspections, special inspections or reports.
- b. Engineering, unless specifically mentioned. Surveying/layout, compaction testing/soils reports, utility co. fees of any kind.
- c. Payment, Performance, Guarantee and Encroachment Bonds.

B. Dust Control other than that required while our crews are on site and working.

C. Landscaping and irrigation system(s) and or buildings or structures

D. Abnormal or complicated trenching conditions. Any condition encountered such as but not limited to, ground water, hazardous material of any kind, contaminated soils, rock, cemented soils or unknown buried debris, causing an average construction laborer to dig less than an average of 40 lineal feet per eight hour day of 15" wide by 36" deep trench will be considered to be extra work and will be paid by owner on a pro rated basis using standard published rates.

E. Repairs to or replacement of existing mobile home connector cords or cord plugs

F. Repairs and or modifications to existing mobile home wiring.

G. Delays beyond our direct control.


H. Encounters of any kind with existing hazardous and/or contaminated materials of any kind.

Initial CC, CCI

Initial AW, Owner

TERMS AND CONDITIONS

- 1) All materials and methods of installation shall be selected by Cusac Construction, Inc., unless specifically referred to in the plans and or specifications and shall conform with the State of California, Dept. of Housing and Community development requirements for construction of Mobile Home Parks (Title 25).
- 2) The holding of retention is not included in this proposal. Should the holding of ten percent retention become required then the contract amount shall be increase by adding 4% of the contract amount to the contract amount to establish the new contract amount.
- 3) Four percent (4%) of the contract amount will be required prior to the start of any additional work on this project.
- 4) Progress Payments to be made on the 1st and 15th of the month for the percentage of work completed and/or materials delivered on the previous 1st or 15th of the month, i.e. Invoices submitted on the 1st will be paid on or before the following 15th etc.
- 5) If any payments are past due at any time, Cusac Construction, Inc. may stop with the installation of work until payments become current. Any costs, incurred by Cusac Construction, Inc., resulting from delinquent payments, will be paid for by Owner.
- 6) If in order to collect any part or all of the monies due under this contract, we must resort to legal action, all costs, interest and attorneys fees involved in that action shall be added to any amount remaining unpaid, and claimed by legal action.
- 7) This proposal and the terms hereof, represent the entire agreement between the parties hereto, and shall take precedence over any and all other agreements between the parties hereto and shall not be altered or changed except by agreement in writing.
- 8) LATE PAYMENTS - Any payment not made within ten (10) days after the date on which due, shall be increased by a service charge in an amount equal to 5% (five percent) of the amount of that payment, which is a reasonable amount to compensate for extra bookkeeping and other expenses incurred because of late payment. The extra amount which would be extremely difficult to ascertain, and if that original payment is not paid within thirty (30) days of the date when due, it shall be increased by the additional service charge of 1 1/2 % (one and one half) percent of the amount of that payment, for each month or prorate portion thereof accruing thereafter until paid.
- 9) This proposal and contract shall survive to and bind the respective executors, successors, assigns, beneficiaries and or heirs of each of the parties.

Initial  CCIInitial , Owner

10) ARBITRATION. Any controversy arising out of the construction of the project referred to in this contract or regarding the interpretation of this contract or any, subcontract or sub-contract is subject to arbitration. Owner, contractor, and all subcontractors and sub-contractors are bound, each to the other, by this arbitration clause, provided such parties has signed this contract or signed another contract which incorporates this contract by reference, or signs any other agreement to be bound by this arbitration clause. Arbitration shall be had in accordance with the applicable rules of the American Arbitration Association which are in effect at the time the demand for arbitration is filed. Should any party refuse or neglect to appear or participate in arbitration proceeding, the arbitrator is empowered to decide the controversy in accordance with whatever evidence is presented. The arbitrator is authorized to award any party or parties such sums as he shall deem proper for the time, expense and trouble.

This proposal and contract is offered for acceptance by November 25, 2008 and is based on construction commencing on or about January 24, 2008 with completion of the project expected within approximately six months of actual start of construction.

RESPECTFULLY SUBMITTED:

ACCEPTANCE AND
NOTICE TO PROCEED

Scott Cusac DATE *01/25/08*
 Scott Cusac, President,
 Cusac Construction, Inc

[Signature] DATE *11/25/08*
 Mr. Ken Waterhouse
 & Waterhouse Management Corporation
Lazy Landing, LLC



County of Santa Barbara Planning and Development

John Baker, Director

Dianne Black, Director Development Services

John McInnes, Director Long Range Planning

Statement of Review Time

Re: Nomad Village Mobile Home Park
4326 Calle Real, Santa Barbara, CA 93110

Hours accumulated for review of information and electrical calculations regarding electrical distribution system in park.

Date	Description	Staff	Time
04/07/09	Review of submitted documents	B. Paola	7.5 Hrs.
04/08/09	Review of submitted documents	B. Paola	0.5 Hrs.
04/09/09	Review of submitted documents	B. Paola	0.5 Hrs.
04/14/09	Review of submitted documents	B. Paola	1.0 Hrs.
04/16/09	Review of submitted documents	B. Paola	1.0 Hrs.
05/27/09	Review of submitted documents	B. Paola	1.5 Hrs.
06/14/09	Review of submitted documents	B. Paola	1.5 Hrs.
		Total Hrs.	13.5 Hrs.

The total hours expended by Mr. Paola, Electrical Specialist, in reviewing documents and calculations totals - 13.5 Hours.

As approved by the Santa Barbara County Board of Supervisors, the hourly rate for a Building Engineering Inspector III (Mr. Paola) is \$115.37.

The total amount due is - \$ 1,557.49.

If payment is to be made by check, please make the check payable to: Planning and Development.

Development Review
Building & Safety
Energy, Administration
123 E. Anapamu Street
Santa Barbara, CA 93101
Phone: (805) 568-2000
FAX: (805) 568-2030

Long Range Planning
30 E. Figueroa St, 2nd Floor
Santa Barbara, CA 93101
Phone: (805) 568-3380
FAX: (805) 568-2076

Building & Safety
185 West Hwy 246, Ste 101
Bucilton, CA 93427
Phone: (805) 686-5020
FAX: (805) 686-5028

Development Review
Building & Safety
Agricultural Planning
624 W. Foster Road
Santa Maria, CA 93455
Phone: (805) 934-6250
FAX: (805) 934-6258