

**Attachment CC**

**Nomad Village Hearing Transcript February 17,  
2016**

**In The Matter Of:**  
*NOMAD VILLAGE MOBILE HOME PARK ARBITRATION*

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*February 17, 2016*

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ARBITRATION PROCEEDINGS UNDER THE SANTA BARBARA COUNTY  
MOBILEHOME RENT CONTROL ORDINANCE

IN RE: NOMAD VILLAGE )  
MOBILE HOME PARK ) HEARING BEFORE  
 )  
 ) STEPHEN BIERSMITH, ARBITRATOR  
 )  
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TRANSCRIPT OF PROCEEDINGS, taken in the  
above-captioned matter, commencing at 9:15 a.m.,  
Wednesday, February 17, 2016, at 105 East Anapamu Street,  
4th Floor, Santa Barbara, California, before MARK  
McCLURE, CSR No. 12203, Certified Shorthand Reporter in  
the County of Santa Barbara, State of California.

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SANTA BARBARA, CALIFORNIA

9:15 A.M., WEDNESDAY, FEBRUARY 17, 2016

ARBITRATOR: We're on the record. Good morning, everyone. Good to see everyone again.

My name is Steve Biersmith. I'm the arbitrator in this matter, In Re Nomad Village Mobile Home Park.

Please state your appearances for the record.

MR. GRIFFIN: Good morning, your Honor. My name is Tom Griffin, and I'm the attorney for the homeowners and the homeowners representatives, Debra Hamrick, Tony Allen.

ARBITRATOR: Thank you.

MR. BALLANTINE: Good morning, your Honor. I'm James Ballantine. I represent the park management. With me today is Mr. Ken Waterhouse, Mr. Ruben Garcia and Dr. Michael St. John, all three of whom testified the last time around.

ARBITRATOR: Thank you.

And do we have an appearance from the County?

MR. GRADY: Yes, good morning. Don Grady. I'm the real property division manager for the County, acting as clerk of the ordinance, and this is Natalie Dimitrova, from our real property division, acting as my designee.

ARBITRATOR: Thank you.

1           Let me explain briefly what's going to happen  
2 today. We're going to allow the parties to have some  
3 oral argument. I have received from each of them a brief  
4 last night and I have read those briefs.

5           There will be no new evidence entered into this  
6 hearing. I will allow, if the parties want to move some  
7 document, try to move it in, I will allow that to  
8 complete the record, and then I'll rule appropriately,  
9 but I'm going to define the record as all of those  
10 documents, written notices, papers filed prior to the  
11 original proceeding, all exhibits admitted and rejected  
12 as evidence during the original proceeding, a list of  
13 participants present, the reporter's transcript, a  
14 statement of all materials officially noticed in the  
15 original proceeding, the ruling on each exception or  
16 objection during the original proceeding, if any, and all  
17 findings and decisions and orders of the original  
18 proceeding. So that will be the record.

19           How we're going to do this today is we'll have  
20 opening arguments from each side, and then undoubtedly  
21 both sides will hear things they don't like, and I  
22 understand that, so what we'll do is we'll take a break  
23 and allow the homeowners and the park operators to meet  
24 with their counsel and discuss what they want to discuss,  
25 and then we come back and we have rebuttal and then we'll

1 close the hearing.

2 So with that, let's go off the record just a  
3 second.

4 (Discussion off the record.)

5 ARBITRATOR: We'll allow the exhibits to be  
6 marked, if you have anything.

7 We'll start with the homeowners first. Do you  
8 have any additional documents, sir, beyond your brief?

9 MR. GRIFFIN: No, not beyond my brief. I was  
10 going to ask about that, too. Thank you.

11 ARBITRATOR: And about what in your brief --  
12 ask about your brief? About what?

13 MR. GRIFFIN: I'm saying the brief I submitted  
14 is being recognized by the arbitrator as part of the  
15 record.

16 ARBITRATOR: Yes, both briefs have been handed  
17 to the reporter and they will be part of the record.

18 Mr. Ballantine, do you have any exhibits, sir,  
19 that need to be marked in at this time?

20 MR. BALLANTINE: Yes, sir.

21 ARBITRATOR: You may approach.

22 MR. BALLANTINE: Thank you.

23 ARBITRATOR: Mr. Ballantine, I believe the next  
24 in order is Exhibit U.

25 MR. BALLANTINE: Yes, your Honor. I marked



1 them U and V because the last one that I saw that was in  
2 the record was T.

3 ARBITRATOR: Do you want to identify these  
4 briefly.

5 MR. BALLANTINE: Yes, your Honor.

6 Exhibit U is entitled "Nomad Village Rent  
7 Schedule Calculations Pursuant to Arbitration Award." It  
8 tracks Exhibit T that was attached to the arbitration  
9 award in the initial hearing, and it has some updated  
10 figures and I plan to discuss them in my opening  
11 statement or argument or whatever. In other words, I'll  
12 go through this exhibit, go through the concept of the  
13 exhibit, in any event.

14 ARBITRATOR: All right. And the next?

15 MR. BALLANTINE: Then the next exhibit is  
16 Exhibit V, entitled "Nomad Mobile Home Park, Post-2011  
17 Capital Expenses." The first page is a spreadsheet, the  
18 following pages are all numbered, and they constitute the  
19 support for those figures. They are invoices and proof  
20 of payment and documentation of work done.

21 ARBITRATOR: We'll mark those two exhibits as  
22 noted, U and V, but they will not be admitted into the  
23 record.

24 (Exhibit U and V were marked  
25 for identification.)

1 MR. BALLANTINE: Thank you.

2 MR. GRIFFIN: Thank you, your Honor.

3 ARBITRATOR: And I would ask as we go forward  
4 in our arguments to stay within the parameters of the  
5 evidence I just gave you, so I don't want to talk about  
6 anything prospective or what has happened since.

7 For those who are present, I'm sure things have  
8 changed in the last four years, things have happened, but  
9 none of that is relevant for today's meeting. This is  
10 like a time warp, if you will. This goes back to when  
11 the hearing was originally closed some four years ago.  
12 Okay?

13 With that, we will have the arguments,  
14 beginning with the homeowner.

15  
16 ARGUMENT BY MR. GRIFFIN

17 MR. GRIFFIN: Thank you, your Honor. I'm not  
18 going to recite the history of what has happened. That  
19 would take, maybe, 20 minutes to half an hour.

20 What I'm going to do is get into briefly  
21 discuss each of the items that are in the findings of the  
22 County.

23 Finding 2 is the incurred cost of \$62,145.53,  
24 and I'm going to have the CPA who lives in the park  
25 address those issues that we have outlined in my brief.

1           And then again, the Finding 3 is the \$25,000  
2 award, and Mr. Allen will also address that.

3           And Award 4, the professional arbitration fees  
4 of \$40,000, he will do the same there.

5           With respect to Award 5, roughly \$130,000, that  
6 is for an increased payment by the homeowners.

7           In Award 6, No. 11 -- excuse me, Finding 6,  
8 Award 11, he'll address the \$110,000 fees as being  
9 requested there.

10           And then we'll address -- as you indicated, we  
11 will only address things that are in the record already  
12 with respect to what he found. Thank you.

13           ARBITRATOR: Mr. Ballantine, I assume you have  
14 something to say right now.

15           MR. BALLANTINE: Yes. I guess I'm not quite  
16 clear what the homeowners are doing at this point. I'm a  
17 little confused. I heard the Court's ruling of how we're  
18 proceeding and counsel's opening statement. I thought we  
19 will were just going to have solely argument from  
20 counsel, and counsel's opening statement seems to be that  
21 he's presenting a witness and a homeowner.

22           Regardless of that fact, either the parties are  
23 coming to speak or not. My understanding is that this is  
24 argument that's being addressed through counsel for the  
25 parties. I'm prepared to make the park owner's argument, 9

1 but I'm not sure, counsel's opening statement seemed to  
2 be that he is going to turn it over to a homeowner to do  
3 something.

4 ARBITRATOR: Before you respond, let me make a  
5 comment.

6 Both parties received a letter, I believe, a  
7 copy of the letter from the County, is that correct,  
8 letting them know ahead of time that both sides were  
9 represented by attorneys, and those attorneys would be  
10 the spokespersons. Then if there's no attorney, that the  
11 parties could have their representatives speak.

12 Mr. Ballantine, I would ask, though, sir, if  
13 you can, we can have this --

14 Sir, it's got to be really clear here, whoever  
15 the witness is, that it's only going to be argument  
16 within the parameters of the written document that I  
17 received this morning, no new evidence whatsoever, no  
18 comment about any new evidence. If so, I'll cut it off.

19 MR. BALLANTINE: And moreover, then, if I  
20 understand it, the Court is suggesting that the  
21 homeowners' representative, this individual could  
22 essentially speak as a representative, it would surely be  
23 argument, not treated as a witness, and nothing that the  
24 homeowner would say would be treated as evidence.

25 ARBITRATOR: Yes, sir, that's correct.

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MR. BALLANTINE: Fair enough.

ARBITRATOR: Can you live with that?

MR. BALLANTINE: Yes.

ARBITRATOR: All right.

MR. GRIFFIN: But insofar as what Mr. Allen is going to speak about, he's going to speak about only things that are in the record, and that's appropriate, is my understanding.

ARBITRATOR: Well, you're probably going to drift into that area and I'll allow some of that, but we're not here to reargue what I heard four years ago.

MR. GRIFFIN: Of course not, but it's a different approach in looking at the same evidence.

ARBITRATOR: All right, here's how we're going to do it. If he wants to speak to the numbers, which is what the issues seem to be, each of your demands, I'll allow that.

MR. GRIFFIN: Yes, your Honor.

ARBITRATOR: Mr. Ballantine, give us some latitude, sir, but if you hear something that's gone too far or if I hear something that's gone too far, I'll cut it off.

MR. BALLANTINE: That's fine.

MR. GRIFFIN: Thank you, your Honor.

Mr. Allen, I'm going to ask you to speak to the 11

1 arbitrator, address the arbitrator.

2 ARBITRATOR: Mr. Allen, you understand, for the  
3 record, sir, that we're talking about argument, we're not  
4 talking about new evidence -- what's been said, what's  
5 happened since then. Anything beyond the record that's  
6 already entered is out of line.

7 MR. ALLEN: Okay.

8

9 ARGUMENT BY MR. ALLEN

10 MR. ALLEN: So start with Finding 2, Award 5,  
11 which is \$62,000 and change, which was in excess of the  
12 original 320 that was on the original rent increase. The  
13 rent increase does not contain the \$62,145, and the  
14 \$62,045 does not contain -- hold on a second.

15 The \$62,145 is not capital in nature. It  
16 contains items that were well past the rent increase  
17 letter going up to the end of July 2011. Contrary to  
18 what was stated at the original, the amount, the  
19 numbers -- or the documents in evidence show that these  
20 were repairs and maintenance, outside services, repairs  
21 and maintenance, outside services. Some of them were  
22 permits that were -- that -- no evidence as to purchase.  
23 These were billed to the Bells regarding the building  
24 violation. Same with license and permits.

25 So none of these were ever coded to a capital

12

1 item. They don't relate to any capital items and they  
2 weren't treated as capital items.

3 ARBITRATOR: Okay. Next in order, go ahead.

4 MR. ALLEN: I think the professional fees that  
5 were supposedly attached to a capital item, there's no  
6 asset in Award 5 of these fees to attach to. Incurred  
7 costs must be a functionally interdependent component of  
8 an asset in order to become part of that capital asset.  
9 There is no capital asset; there's nothing to attach to.

10 The fees were treated as an expense by  
11 management, Attachment F, Exhibit K. They are in an  
12 expense category. They show up in their expenses.

13 These fees include case 1264917, the  
14 homeowners' failure to maintain. The case was settled in  
15 favor in the homeowners and a hearing was held on 11/29  
16 on legal fees. This was addressed in the post-closing  
17 brief by Mr. Stanton.

18 No. 4, Award 7, the architecture fees. Again,  
19 there's no asset in Award No. 5 for these fees to attach  
20 to. The incurred costs be must be a functionally  
21 interdependent component of an asset in order to become  
22 part of that asset. There's no financial transaction.  
23 These documents, it was presented to the homeowners as  
24 \$90,000 and it's been said that these were purchased  
25 apparently at face value, at least that's how they were

1 represented, but there's no documents in evidence that  
2 shows any financial transaction.

3 ARBITRATOR: Any financial transaction  
4 regarding the purchase of the permits?

5 MR. ALLEN: That's correct.

6 ARBITRATOR: All right, go ahead.

7 MR. ALLEN: Finding 5, the property taxes. The  
8 ordinance does not allow ordinary operating expenses to  
9 be passed through as 11A-6 capital expenses. That's how  
10 these were treated. Judge Anderle stated: "Thus the  
11 supplemental assessments reflect an increase in property  
12 taxes within the meaning of section 11A-5(f)(1) of the  
13 ordinance."

14 It was clear throughout Judge Anderle's  
15 statement that he was talking about the supplemental  
16 income taxes. "Management represented to the homeowners  
17 that the supplemental taxes were \$130,531 when the actual  
18 supplemental tax bills equalled \$31,533.96. Attachment  
19 O.

20 The ground lease clearly shows that this  
21 financial -- that this is a financing activity related to  
22 cost of possession. Rent, No. 3, Attachment F, Exhibit  
23 H.

24 According to federal regulations, CFR 1 .162-11  
25 clearly shows that this is rent. Acquisition of a



1 leasehold taxpayers -- taxes paid by a tenant to or for a  
2 landlord for business property are additional rent and  
3 constitute deductible item to the tenant and taxable  
4 income to the landlord. In this case, Waterhouse is the  
5 tenant and the landlord is the Bell Estate.

6 Finding 6, Award 11, legal fees. The ordinance  
7 does not allow ordinary operating expenses to be passed  
8 through as 11A-6 capital, Attachment M, page 172, Stanton  
9 to Waterhouse:

10 "Finally, the anticipated professional fees in  
11 item 6 that appear on Exhibit C on the schedule of  
12 \$125,000, you're familiar with that category, correct?

13 "ANSWER: Yes, I am.

14 "QUESTION: Can you tell me how much, if any,  
15 of that amount has been paid to date by the park  
16 operator?

17 "ANSWER: No, none of it."

18 So management's basis in this is zero.  
19 Management began charging, in May of 2011, interest on  
20 these monies not spent.

21 And finally, I don't see the rent roles in  
22 evidence. In order for to you to have followed section  
23 11A-5(i), the calculation to grant a rent increase, you  
24 would have had to have needed the rent roles, the actual  
25 dollar amounts, not the percentages, so you could have

1 followed 11A-5(i).

2 ARBITRATOR: Is that it, sir?

3 MR. ALLEN: Yes.

4 ARBITRATOR: Does the homeowners' association  
5 have anything else to say at this point in time?

6 MR. GRIFFIN: No, your Honor.

7 ARBITRATOR: Thank you.

8 We'll move now to the operators.

9 Mr. Ballantine, go ahead, sir.

10

11 ARGUMENT BY MR. BALLANTINE

12 MR. BALLANTINE: Thank you, your Honor. Thank  
13 you for the opportunity to address you on this.

14 I think I'd like to go through the various  
15 items that are basically in the arbitration award that  
16 are at issue here, potentially at issue today before you  
17 on this remand proceeding. Just for clarity, I'm going  
18 to go through each item that was in your arbitration  
19 order, just so we stay in order.

20 First of all, the CPI increase was No. 1, and  
21 that's not at issue.

22 No. 2 was the ground lease percentage increase.  
23 That's not at issue.

24 Third was the property tax increase. That's  
25 not at issue both because when it was remanded back to

16

1 your Honor some years ago, your Honor upheld that and,  
2 secondly, that was set forth in the writ of mandate  
3 ruling not at issue, so that has not been remanded.

4 No. 4, the amortization has been remanded, and  
5 my comment on that is essentially Judge Anderle found  
6 that there was substantial evidence to support the ruling  
7 on that. We think that's a good ruling. The remand, he  
8 indicated, was solely to the degree that, on  
9 consideration of any of the other items, that had to be  
10 adjusted for any reason. I'd suggest there's no reason  
11 it has to be adjusted, that the court has already ruled  
12 substantial evidence supported the arbitration award in  
13 that matter and it's not something that needs to be  
14 revisited.

15 Item 5 is capital improvements. Let me talk  
16 about that because it's got, as Judge Anderle indicated,  
17 two components. First of all, there was a total sum that  
18 was noticed in the rent increase notice and request,  
19 which was the \$320,000. That, of course, was not  
20 requested and the arbitrator did not find that the park  
21 operator was entitled to that amount simply because it  
22 was in an escrow fund, that was just the anchor number.

23 The reason for that request was there were  
24 actual capital items, both expended already and that were  
25 anticipated in the future. The ones that were expended

1 already was the \$62,000 and change. That's in evidence  
2 before your Honor in Exhibits J and K. They discuss that  
3 in the arbitration brief a little bit, but Exhibit J is  
4 the itemization to make it a little easier to look at  
5 that and track that, and K are the actual invoices that  
6 support that.

7           We had testimony from both Mr. Waterhouse and  
8 Mr. Garcia on that, and the testimony was very clear that  
9 those were all capital items that were actually incurred  
10 by the park operator for the operation of the park. They  
11 all fell within the capital improvement definition of the  
12 code, either a capital expense or a capital improvement,  
13 so those are clearly in evidence and it's the \$62,000 and  
14 change.

15           We would also make a proffer that since the  
16 time of the arbitration hearing, the \$320,000 or the --  
17 what is in evidence is the bids for two types of work,  
18 electrical work and roadwork, and those have been done  
19 and we proffered an exhibit, Exhibit V, as in Victor,  
20 that shows that information with a spreadsheet and the  
21 supporting documentation for that.

22           We believe under the terms of the remand order  
23 by the court and the governing law that the arbitrator  
24 could accept that evidence because that was relevant to  
25 the first proceeding, it was referenced in the first

1 proceeding. The only issue that Judge Anderle had with  
2 those bids was he didn't feel that it was sufficiently  
3 definite and certain as to when and whether those would  
4 be incurred and how much. We believe that Exhibit V  
5 basically answers the evidentiary issue by providing  
6 definite and certain numbers. And again, this isn't  
7 something that's coming out of the blue, it's something  
8 that is the two exact types of work that were put forth  
9 in Exhibit M as proposed work that has actually been  
10 done.

11           And one thing I would note about the timing on  
12 that is that I don't think there's any dispute by  
13 anyone -- by the homeowners, by the park owner, by the  
14 court -- that the ordinance allows a prospective rent  
15 increase; that is, that it could be noticed and it could  
16 be noticed for work that's contemplated in the future,  
17 and the requirement is that it's got to be done within --  
18 it's got to be started within six months after the  
19 arbitration award becomes final. That was essentially  
20 your Honor's ruling. We agreed with that ruling. I  
21 would note that the arbitration has never become final,  
22 that essentially what happened well before the six-month  
23 period elapsed, the homeowners appealed and so the  
24 arbitration award has essentially been a moving target.

25           There's a history to that. It went to the

1 Board of Supervisors and then went over to writ of  
2 mandate, and now we're back here. We don't have the  
3 final arbitration award. The time period hasn't started  
4 running. Nevertheless, the park went ahead for various  
5 reasons and did that work. So that's why we proffer  
6 Exhibit V, why we think it's within the parameters of the  
7 remand order by the court.

8           Item No. 6 are professional fees incurred, and  
9 let me address two things about that. The arbitration  
10 award basically awarded about half of what was requested.  
11 About \$50,000, almost \$51,000 was requested, and there  
12 was a detailed invoice that was submitted that documented  
13 what that was. And it may be and I think it was the case  
14 that perhaps that the argument by which it was submitted  
15 by park management, by me, maybe wasn't crystal clear.  
16 We talked about the idea that those were for capital  
17 expenses, but that wasn't entirely the basis for that  
18 request. The request was, and I have cited in the  
19 arbitration brief Dr. St. John's testimony, the exhibit,  
20 and the code, but really the code allows, I think, for  
21 the park operator to recover fees, attorney fees and  
22 other fees, professional fees and other items, either as  
23 an operating expense or as a capital expense. It's an  
24 expense related to the operation of the mobile home park,  
25 by either doing capital items and capital improvements or 20

1 as ordinary operating expenses.

2 I think it was perhaps suggested that this  
3 solely related to capital items and the reason for the  
4 arbitration award of awarding \$25,000 out of the \$50,000  
5 requested is that your Honor found about \$25,000 could be  
6 clearly allocated towards capital. I think the exhibit  
7 well supports that finding, well supports that finding.

8 Xx xx

9 But I think it's also the case that the full  
10 \$51,000 could be awarded under the idea that it's not  
11 necessarily just capital, but it could also be operating.

12 Now let me also talk about the treatment of  
13 this because the homeowners have commented on that, using  
14 an ordinary expense, treating that as a capital item.  
15 There's some confusion on that point. I think the  
16 homeowners have confused that point, but they've also  
17 conceded the point in the arbitration hearing. The  
18 expenses don't have to be capital in nature to be treated  
19 analogous to a capital item. The capital treatment of an  
20 item is essentially a temporary increase, and we had both  
21 Dr. Baar and Dr. St. John at the original hearing talk  
22 about that and talk about the fact that actually the  
23 treatment of something as a temporary increase, as  
24 opposed to a permanent increase, is actually more  
25 favorable for the homeowners.

1           It was agreed by the homeowners that an  
2 extraordinary item of expense that's out of the ordinary,  
3 perhaps, in one year or even a couple of years -- like,  
4 for example, legal fees incurred in this rent control  
5 proceedings are appropriately handled as a temporary  
6 expense where it's amortized and goes for several years  
7 and then it stops. That's similar to how a capital  
8 expense is treated, but it's not the same thing. It's  
9 for a different purpose, and there's no dispute by the  
10 homeowners or the park owners that certain expenses,  
11 extraordinary expenses, call them capital, call them  
12 operating, can be treated as a temporary rent increase  
13 that is passed through, amortized, it starts and then it  
14 stops. And that's what we are talking about here with  
15 these temporary expenses.

16           The trial court upheld that treatment and they  
17 cited the case, the Carson case, that speaks to that  
18 issue and basically says even if an ordinance doesn't  
19 specifically say that ordinary expenses can be treated as  
20 a temporary expense, that it provides sufficient  
21 flexibility to do that. And again we had both experts  
22 agreeing that that was appropriate and we had both  
23 experts agreeing that that was more favorable for the  
24 homeowners. Because the alternative is you have an  
25 extraordinary year, you have a bunch of expenses that are 22



1 non-recurring and that can form the basis of the  
2 significant permanent rent increase, but it's not  
3 appropriate to treat it that way, or at least it's more  
4 favorable for the homeowners not to treat it that way so  
5 that that -- whatever supports the rent increase, you  
6 have the rent increase and then it stops after a period  
7 of time. So that's really what we're talking about,  
8 about the treatment of Item 6 for those professional  
9 fees.

10           And I note that the court upheld the treatment  
11 of that. The remand was simply for the findings as to  
12 why that number was \$25,000. I believe on remand -- your  
13 Honor can look at that -- and our argument is that in  
14 looking at it, should consider both from the operating  
15 and the capital standpoint and we believe that through  
16 the invoice that we submitted -- I forget what exhibit  
17 number it is but I've referenced it in the brief -- that  
18 well supports that the \$50,000 and change as being an  
19 appropriate matter for rent increase.

20           No. 7 is the architectural and engineering  
21 fees. \$90,000 was requested, \$40,000 was awarded. And I  
22 think I have two types of comments about that, your  
23 Honor. The first goes to the number, the second goes to  
24 the character of it.

25           Your Honor found that out of the \$90,000,

1 \$40,000 was awarded, because the concern was that there  
2 were a number of permit fees that were incorporated into  
3 that and your Honor's feeling was that those were stale,  
4 that once the permit had expired because it was old and  
5 so it was inappropriate to pass through. So the question  
6 is the evidence in support of the \$40,000. We think that  
7 was an appropriate finding and we think the evidence is  
8 well in the record to support the \$40,000 because there  
9 was in evidence about \$50,000 in costs for the plans and  
10 drawings of the entire park by Penfield & Smith, so  
11 that's awarded about 80 percent of that. We had  
12 Mr. Waterhouse testify that those were valuable to him as  
13 the operator to have those drawings. They included  
14 computerized CAD drawings for the entire park, and I  
15 think based on that testimony and just a logical review  
16 of that testimony, it's obvious that the owner of the  
17 mobile home park would find quite valuable having these  
18 expensive plans and drawings, especially in the CAD form,  
19 for ongoing operations. He also testified that he had an  
20 agreement, he made an agreement with the prior operator  
21 and paid the \$90,000, approximately \$90,000 that was  
22 itemized in the exhibit. The testimony well supports  
23 your Honor's finding for awarding \$40,000 for that  
24 matter.

25 Item No. 8, I suppose it's before your Honor,

1 but I think under the terms of the court's written  
2 mandate order it's really not. The court simply found  
3 that the Board of Supervisors' action in reversing that  
4 award was wrong as a matter of law, that clearly the park  
5 was entitled to recover the costs of the increased  
6 property taxes, that clearly the park had incurred those  
7 based on the evidence presented, and that it was  
8 appropriate for the arbitrator, your Honor, to find that  
9 the park was entitled to recover those.

10 I don't believe that that matter is properly  
11 before your Honor, but if your Honor feels that it is, as  
12 set forth in our arbitration brief, we think that the  
13 evidence and the record well supports the fact of those  
14 costs were incurred and it was appropriate to pass those  
15 through. The homeowners' objection was solely -- at the  
16 original hearing to that item was solely on kind of the  
17 regulatory lag issue, saying that, well, you know, you're  
18 not supposed to get these property taxes because they  
19 went back in time, although, as the evidence showed, that  
20 although the liability for the taxes started in August of  
21 2008, when the lease started, the old lease terminated  
22 and the new lease started, that the park owner wasn't  
23 billed well into the following year for that, and then  
24 went through a process of enquiry and investigation about  
25 why that had happened and the appropriate of that.

1           Really, the homeowners position is essentially  
2 that we should have a lot of these hearings because the  
3 park owner should run and notice a rent increase really  
4 quick, at the first hint that they get that there might  
5 be some kind of increased cost, and that's really not  
6 very workable. There was a practical resolution that the  
7 arbitration award provided for that, and it should be  
8 upheld. And it was upheld, frankly.

9           No. 10 is the anticipated professional fees  
10 related to the property tax appeal. Your Honor made an  
11 appropriate finding on that. It found that park  
12 management was entitled to recover that as rent increase,  
13 but that the homeowners should have the opportunity to  
14 weigh in on that and whether or not they wanted the park  
15 management to pursue the appeal or not because ultimately  
16 it would inure to their benefit or their expense, the  
17 property tax, and that's not before your Honor.

18           Finally, the legal fees regarding this space  
19 rent increase, and I have two types of comment on that.  
20 One was what's in the award and secondly, prospectively.

21           First of all, as to what was in the award,  
22 under Judge Anderle's written mandate order was clear  
23 that that was upheld. I don't think that's appropriately  
24 back before your Honor, based on the written mandate  
25 ruling on that. The objection that the homeowners have

1 apparently raised in their argument now to that is for  
2 treating it as capital, essentially, when it's not is the  
3 mistaken for the reasons that I explained earlier, and I  
4 would note on that particular point, and we've cited the  
5 transcript for you in a number of places, the homeowners,  
6 through their counsel and their experts, specifically  
7 agreed with that treatment, they agreed that it should be  
8 a temporary increase, they agreed it should be amortized  
9 over a period of time, they didn't disagree with the  
10 seven years and 9 percent that it was amortized over for  
11 that particular item, so the treatment of that as a  
12 temporary amortized increase is agreed to by the  
13 homeowners, and Judge Anderle upheld that. I don't think  
14 that's properly before your Honor at this point in time  
15 and certainly should not be changed.

16 Now, that's the amount that was awarded, and I  
17 would note it's also supported by the invoices that were  
18 submitted and in evidence at the time that your Honor  
19 looked at it as a basis to make that award.

20 The second area is the prospective fees, and we  
21 put in our brief Dr. Baar's commentary on how he thought  
22 this should work, and what he said was that we've got a  
23 hearing up until now, we know what the costs and the  
24 professional fees would be through the hearing, what  
25 should be done is an application for fees, and in fact

1 there was an agreement that there would be an application  
2 for fees and a briefing, schedule, and we followed that.  
3 The homeowners had a chance to comment on that.

4 Dr. Baar also said, look, if anything happens  
5 in the future, if there's future proceedings like a writ  
6 of mandate proceeding, then what happens is it comes  
7 back, or the if the park owner prevails, which we did, it  
8 will come back to the arbitrator, and the appropriate  
9 time for those fees would be an application to the  
10 arbitrator at that point in time. That's what Dr. Baar  
11 said.

12 I think it was very clear and I think what that  
13 clearly means is that now is the time for that  
14 proceeding, because we're back in front of your Honor,  
15 this is the arbitration proceeding, this is exactly what  
16 Dr. Baar was talking about, and we would request that  
17 your Honor set the exact same procedure that your Honor  
18 set before to give the park owner an opportunity to  
19 present an application for the fees incurred to date, to  
20 give the homeowners an opportunity to review that and  
21 respond on some agreed time schedule that works for them,  
22 and then your Honor can make a ruling on that point.

23 I think that that was indicated by the  
24 homeowners as the appropriate way to proceed. I think  
25 that the basis of why the park owner proceeded the way it 28

1 did and the arbitrator proceeded the way your Honor did  
2 at the time of the first hearing was based on Dr. Baar's  
3 testimony about that, that if there were any other  
4 proceedings in the future, that the park owner was  
5 entitled to recover the cost of those. There no dispute  
6 by the homeowners that the park owner is entitled to  
7 recover the cost of the legal proceedings related to  
8 their rent increase, and so based upon the homeowners'  
9 testimony, through Dr. Baar, and the counsel's agreement,  
10 we believe that matter is properly before your Honor and  
11 we would request the opportunity to present that.

12 Then finally, Item 12 is essentially the  
13 recalculation to the degree that's necessary. I've  
14 presented Exhibit U. Exhibit U has, we think, some  
15 updated numbers. It also includes the capital  
16 improvement number that we would proffer through Exhibit  
17 V. But anyway, it sets forth the scheme of doing this.

18 Exhibit -- I think it's Exhibit T that's  
19 attached to your Honor's arbitration award is a similar  
20 spreadsheet and we would make the offer that if your  
21 Honor wanted the park management to plug in numbers we'd  
22 be glad to do that as we did before, but I think your  
23 Honor has all the information on how that was prepared as  
24 well to do so yourself, if you wanted to.

25 With that, I thank you very much for your time 29

1 and attention.

2 ARBITRATOR: Thank you.

3 Let's take a 20-minute break and give the  
4 parties a chance to do what they need to do.

5 (A short recess was taken.)

6 ARBITRATOR: We're back on the record.

7 We'll have some rebuttal argument at this point  
8 in time, beginning with the homeowners.

9 MR. GRIFFIN: Yes, your Honor.

10 Your Honor, the homeowners would like to add an  
11 exhibit and I guess that would be W, and it is a  
12 spreadsheet re Finding 5, the taxes. It's already in the  
13 record.

14 MR. BALLANTINE: I didn't hear what counsel  
15 said. I apologize.

16 ARBITRATOR: Something about the taxes. I  
17 couldn't hear, either.

18 MR. GRIFFIN: Sorry. I want to put in another  
19 exhibit in addition to those exhibits you already brought  
20 in to give to the arbitrator and you had Exhibit V as  
21 your last exhibit, and I want to present Exhibit W.  
22 Exhibit W is the tax bill spreadsheet re Finding 5, or  
23 should I say a tax bill spreadsheet.

24 ARBITRATOR: Well, again I'll take it into  
25 evidence with the same ruling. I'll make it part of the 30



1 record, but it will not be considered by me.

2 MR. GRIFFIN: Unless it's already in the  
3 record.

4 ARBITRATOR: Well, if it's in the record I've  
5 seen the document.

6 MR. GRIFFIN: All right. I think this is to  
7 help you to see where we might be going with this.

8 ARBITRATOR: Show it to counsel first.

9 MR. BALLANTINE: Just one total housekeeping or  
10 administrative comment. To mark it -- I want to be clear  
11 about this, to mark it as W wouldn't be appropriate. I  
12 think we get the letters. It's not our exhibit. Ours  
13 would be -- our next one may be W but his is not. I can  
14 check to see what his would be.

15 ARBITRATOR: If you would. So you have next in  
16 order from the homeowners would be, I think, a number, if  
17 I recall.

18 MR. BALLANTINE: Yeah, let's see.

19 Your Honor's final arbitration award for the  
20 first proceeding very clearly identified all of the  
21 exhibits by everyone. For petitioners it indicated there  
22 were Exhibits 1 through 8, so I guess it would be Exhibit  
23 No. 9, Petitioner's 9.

24 ARBITRATOR: We'll mark Exhibit 9 as previously  
25 identified by counsel.

1 (Exhibit 9 was marked for identification.)

2 ARBITRATOR: If you would give opposing counsel  
3 a copy as well myself, I'd appreciate it.

4 MR. GRIFFIN: Yes, your Honor.

5 ARBITRATOR: And before we leave, get the  
6 reporter a copy as well.

7 MR. GRIFFIN: Sure.

8 ARBITRATOR: With that, sir, you may proceed.

9

10 REBUTTAL ARGUMENT BY MR. GRIFFIN

11 MR. GRIFFIN: Let me start with beginning with  
12 respect to the meet and confer. Ten days after the  
13 notice of the meet and confer, the park owners are  
14 required to present a detailed statement of income and  
15 expenses. And as we go down the road with these things,  
16 all of a sudden it comes out is that there are literally  
17 hundreds of pages more in documentation than what was  
18 presented to the homeowners required by the ten-day meet  
19 and confer -- excuse me, by the ten-day requirement of  
20 presentation of the detailed list of income and expense.  
21 I say a couple hundred. It's probably about 250 that  
22 were presented that were presented to, I believe, you at  
23 the time of the arbitration, and I think the majority of  
24 them literally had been seen prior to that by the  
25 homeowner.

1           MR. BALLANTINE: Your Honor, I'm sorry, I have  
2 to object to this. A, it sounds like testimony that he's  
3 attempting to proffer which I think is inappropriate.  
4 That's not in the record. In fact, one of my concerns is  
5 that -- and I'll try to find the citation for this, but  
6 when there was a little bit of discussion at the original  
7 hearing about a meet and confer, there was a stipulation  
8 between Mr. Stanton and myself that the meet and confer  
9 had proceeded, and properly. There were no issues  
10 regarding the meet and confer and that's a stipulation in  
11 the record that I'd be glad to hunt down and find. But I  
12 think it's inappropriate of counsel to start claiming new  
13 evidence of what he claims was and was not given at the  
14 meet and confer.

15           ARBITRATOR: Your response?

16           MR. GRIFFIN: Your Honor, the administrative  
17 record speaks for itself. If you look at the  
18 administrative record in Volume II, it sets out the  
19 documents that were presented at the arbitration and  
20 those are the numbers that I'm using and I've discussed  
21 with you.

22           MR. BALLANTINE: Again --

23           MR. GRIFFIN: You can literally pick out the  
24 pages, is what you can do.

25           ARBITRATOR: Let me comment. I can check the

1 record as well, but I do recall how I start these things  
2 out procedurally, get some stipulations. If I recall,  
3 the parties had agreed that notice had been adhered to,  
4 the notice requirements.

5 MR. GRIFFIN: I understand. My predecessor  
6 apparently -- looks to me like he agreed to let that  
7 happen, but what I'm trying to say is this, that this is  
8 something that's -- here we're looking at, now, going  
9 into possibly another hearing on these things, and  
10 today -- you know, last night I got a 28-page brief, as  
11 you probably did, and there was simply no time to prepare  
12 for that, and I'm objecting to this last-minute stuff  
13 that seems to happen in these arbitration situations.

14 ARBITRATOR: Well, that's an objection and I'm  
15 going to rule. That's why this morning when I saw the  
16 closing arguments come last night from Mr. Ballantine,  
17 and yours I received this morning, that I thought it  
18 would be appropriate and make the process fair to both  
19 sides to allow some extended oral argument this morning,  
20 and so that's partly why we're going through this  
21 process.

22 Going head.

23 MR. GRIFFIN: Thank you, your Honor.

24 I think what you're required to do is follow  
25 the -- in giving an award, you're required to follow

1 1185-1, and I ask you to review that in your  
2 consideration.

3 Let's go straight to the findings of Award 5.  
4 The \$62,145.53 are expenses for repairs and maintenance  
5 and not are be capital improvements or capital expenses  
6 that can be passed on, pursuant to the ordinance.  
7 Irrespective of what the experts have said, the ordinance  
8 just doesn't say that.

9 No. 2, argument 2, of the \$62,000 number, some  
10 of the expense included in the \$62,145.53 are expenses  
11 that were not incurred until after the meet and confer on  
12 February 16, 2011. I suggest you see the Board of  
13 Supervisors letter for January 5, 2016, referencing  
14 Attachment F, Exhibit J, referencing Exhibit K.

15 MR. BALLANTINE: I have a concern about, I  
16 think, counsel referencing things that are in the Board  
17 of Supervisors record, my understanding are not  
18 necessarily in this record, so I don't think that's an  
19 appropriate reference to the exhibits or the evidence in  
20 this proceeding.

21 ARBITRATOR: Well, let's do this. Counsel, I'm  
22 just starting to follow your argument. I'm following  
23 your argument as we go, and I notice the two items that  
24 you just mentioned are in your written brief. I have  
25 that before me and it's well written, so you can move

1 along and get past that.

2 MR. GRIFFIN: All right. The arguments I set  
3 out in my brief are the ones I'm following now.

4 So then with respect to the \$25,000, that is in  
5 reference to Attachment F, Exhibit Q, and what seems to  
6 me that the round numbers that are thrown out in these  
7 situations are not definite and certain. I think we need  
8 more specificity.

9 With respect to the architectural and  
10 engineering fees of \$40,000, given the age of the  
11 supporting documents, and some of these appear to be  
12 prior to 2008, these items have little or no value as of  
13 the arbitration date of 2011. Again, they were not  
14 identified as the cost of capital improvement, a capital  
15 expense so as to be passed on to the homeowners.

16 These professional fees are not identified as  
17 to which capital asset they attach to, together with any  
18 other information upon which an increase is based.

19 With respect to Finding 5, Award 8, the  
20 findings of the fact by the arbitrator for past payments  
21 by park owners for increased taxes are conclusionary in  
22 stating the, quote, "\$130,531 spent by the park owners  
23 can be included in the temporary increase."

24 The parties were unsure whether or not such  
25 fees could be awarded as part of any favorable tax

1 appeal. If there is such an award, judgment or  
2 settlement in the future, those amounts should be  
3 credited to homeowners.

4 Findings of fact must be made that are  
5 supported by preponderance of the evidence. The nature  
6 of the payments does not include a breakdown of the  
7 amounts owed by homeowners upon change of ownership of  
8 mobile homes as to amounts owed by past owners and  
9 amounts owed by the new owners that purchased the  
10 property, and it should be broken down. The amounts to  
11 each homeowners, old or new, are not definite and  
12 certain.

13 The supplemental tax increase was treated as an  
14 ordinary expense under 1185, it passed through under  
15 1186, which is strictly not allowed by the ordinance but  
16 which appears that the experts indicated that that's what  
17 they wanted to do.

18 The nature of the payment through the ground  
19 lease wherein the petitioners agreed to pay real property  
20 taxes, in the revised remand the Board used the phrase  
21 "nature," and in addressing the phrase "nature," I'm  
22 saying the nature of the payment was through the ground  
23 lease wherein the petitioners agreed to pay the real  
24 taxes. In other words, it was a cost of the lease, it  
25 wasn't a charge that should be allowed, it was a

1 negotiation for the lease.

2           With respect to the last award, Finding 6,  
3 Award 11, the attorney's fees, for this award the  
4 arbitrator's decision, your decision, and I'm quoting  
5 from the Board here, don't take this personally, "The  
6 arbitrator's decision concluded that, after reviewing the  
7 itemization submitted by the park owners for legal  
8 services expended in this matter, Exhibits R and S" -- I  
9 think "R" is for the perhaps Mr. St. John, and the "S" is  
10 probably for Mr. Ballantine -- "the homeowners' response  
11 to a reasonable amount to be paid by the latter would be  
12 \$110,000." That sentence is a little funny. What it  
13 really means is that the homeowners are not agreeing to  
14 the \$110,000, but it almost could be read that way if you  
15 read the Board of Supervisors finding.

16           Findings for this award are especially  
17 important because legal fees are not expressly identified  
18 in the ordinance as an allowable operating expense.  
19 These legal fees were treated as an operating expense  
20 under 1185 but passed through as though a capital  
21 improvement or capital expense under 11A-6(a)2,  
22 amortization of improvements and capital expenses in  
23 which there is no provision for passing through operating  
24 expenses. The Board remands this award to the arbitrator  
25 to make findings of fact on which the arbitrator's



1 decision is based.

2 And the argument here is that there are no  
3 documents showing the \$110,000 in attorney's fees is  
4 related to rent increase. The documentation actually  
5 shows that these attorney's fees are largely related to  
6 Health and Safety Code violations and other items. And  
7 my reference there is to see Board of Supervisors agenda  
8 letter for agenda dated January 5, Attachment F, Schedule  
9 S.

10 These fees were never paid, and that should  
11 have shown that these attorneys fees were never paid, and  
12 that's shown at Attachment M of the arbitration  
13 transcript, page 172. I think that was Mr. Waterhouse's  
14 testimony. Interest is being paid by the homeowners on  
15 these attorneys fees that were never paid by the park  
16 owners, if that's the case. See Board of Supervisors  
17 agenda letter for agenda dated January 5, 2016,  
18 Attachment F, Exhibit C.

19 Legal fees should not be allowed. Legal fees  
20 associated with the challenge to the rent increase in the  
21 sum of \$110,000 are treated as an ordinary expense under  
22 ordinance 11A-5 but cannot be expended under 11A-6(a)(2)  
23 as a pass-through, and thus legal fees should not be  
24 allowed.

25 I think the ordinance, in essence, your Honor, 39

1 leaves some gaps in how to treat these items and how they  
2 are paid for.

3 Thank you.

4 ARBITRATOR: Thank you, sir.

5 Mr. Ballantine?

6 MR. BALLANTINE: Thank you, your Honor.

7

8 REBUTTAL ARGUMENT BY MR. BALLANTINE

9 MR. BALLANTINE: A brief rebuttal to a few  
10 points, your Honor. With the first point, pursuant to my  
11 objection regarding the meet and confer, I found the  
12 stipulation and, your Honor, I would cite the transcript,  
13 the second transcript -- that is, the second day of the  
14 hearing because they both started with 1, page 1, page  
15 188, line 2, and I'll actually just read it.

16 It was Mr. Stanton, the homeowners' attorney,  
17 said: "I'll object to all of this."

18 And I'll note for the transcript there was a  
19 question about the meet and confer process and  
20 homeowners' objection was "I'll object to all of this. I  
21 don't know how it's relevant. The meet and confer issue  
22 had never been made a subject of the hearing and it's  
23 hearsay."

24 And then there's a little bit of dialog, but  
25 starting on line 10, same page, your Honor said "But with 40

1 that, do we have a stipulation for the due process in  
2 this matter and get past all this?

3 "MR. STANTON: We'll stipulate to that."

4 Mr. Ballantine stipulated as well.

5 I think there was a clear stipulation that meet  
6 and confer wasn't going to be an issue, otherwise --  
7 we're relying on that stipulation. Otherwise, there  
8 could have been other evidence. So I think counsel's  
9 argument about something not being subject to the meet  
10 and confer presented at a meet and confer is covered by  
11 that stipulation and the park owner is prejudiced by  
12 being subjected to that at this point in time, having  
13 already stipulated that the meet and confer wasn't an  
14 issue here.

15 To comment on a few of the comments made by  
16 counsel, it sounds like the homeowners are still trying  
17 to argue the property tax issue, and that's simply not at  
18 issue in this hearing. That's already been adjudicated.

19 With respect to Exhibit 9, counsel indicates  
20 it's in evidence. I don't know whether it's in evidence,  
21 I don't recognize it, I don't see it in evidence. Maybe  
22 some of the information is in evidence, but the one thing  
23 I would note that may be in evidence is that references  
24 after August 2008, the next property tax payment was  
25 December 8, 2009, and it showed a \$60,000 payment.

1 That's actually consistent with the evidence in the  
2 record, that it was well over a year after the August  
3 transfer date, new lease date, that the park found out  
4 about and then paid the supplemental property tax issue.

5 That goes to the regulatory lag issue. Payment  
6 was actually made in December of 2009 and the rent  
7 increase notice asking for the supplemental repayment of  
8 the supplemental property taxes was January of 2011.  
9 That was a year later, so it was really only a year after  
10 the expense was incurred that it was paid, so the degree  
11 that Award No. 8, the supplemental property tax issue is  
12 at issue, I note that even from what's been proffered and  
13 what's in evidence, that it was really about a year later  
14 that the notice came up.

15 Counsel argued that certain items that  
16 appear -- I guess he's referencing Exhibit J, that are  
17 capital expenses were somehow not booked as a capital  
18 item or as an expense, and I would point out that -- he  
19 didn't cite what books were so I don't know what the  
20 reference is, but that's kind of apples and oranges  
21 whether or not what books and records may show as to  
22 whether or not something was capitalized or expensed  
23 really is irrelevant to -- or at least not dispositive as  
24 to what the ordinance says is treated as a capital item  
25 or expense.

1           In order to determine a capital item, we look  
2 at what the ordinance says. And we look at what the  
3 ordinance says, and I think if we track the ordinance  
4 back to Exhibit J and then Exhibit K, all of those items,  
5 the \$62,000 and change items clearly fall within capital  
6 items and were actually paid. The testimony is that they  
7 were paid.

8           With respect to the -- counsel argued, if I  
9 understood correctly, with respect to the attorney's  
10 fees, I think he's confusing a couple of points. First  
11 of all, he argued there was no documentation to support  
12 the arbitrator's award of \$110,000 in attorney and  
13 professional fees related to the rent control  
14 proceedings, and that's just inaccurate. There is  
15 documentation. There's Exhibits R and S, which are  
16 detailed statements from Dr. St. John and from my office  
17 that show the work that was done that add up to more than  
18 that.

19           He also argued that there's no evidence that it  
20 was ever paid, and that's not true, there is evidence it  
21 was paid, and in fact all of those items were in fact  
22 paid. To whatever degree that things may have been paid  
23 after the billing, because generally you pay bills after  
24 you get them, as the court has indicated, the record  
25 closed on October 19, so it's unfair to argue that if

1 there were payments made after the billing statement went  
2 out in October of 2011, that somehow there's evidence  
3 that they weren't paid. In any event, they were, but  
4 regardless, that's not the appropriate standard for this  
5 proceeding.

6 He also said is that the work shows things like  
7 dealing with regulatory agencies and other things.  
8 Counsel is confusing a different exhibit, Exhibit Q.  
9 Exhibit Q in evidence was the statement that backs up the  
10 \$50,000, approximately \$50,000 bill, and it indeed does  
11 show legal work related to dealing with regulatory  
12 agencies and dealing with the land owner and other things  
13 that you would expect a mobile home park to have legal  
14 issues to have to address, and that was Exhibit Q, and  
15 that's a totally different line item than Exhibits R and  
16 S, which relate to the rent control proceedings.

17 And again, I won't reiterate what I've said,  
18 but just observed that counsel has again argued that  
19 attorney's fees should be operating expenses but instead  
20 they're being treated as capital, and that's just  
21 absolutely contradicted by their opening statement and --  
22 that is, in the initial proceeding, and their agreement  
23 that the fees should be in fact treated as a temporary  
24 expense.

25 Counsel indicates the ordinance leaves a gap,

1 and I think that's exactly the point that the Carson case  
2 talks about, says these rent control ordinances such as  
3 this have sufficient flexibility for the arbitrator, as  
4 this arbitrator found and as Judge Anderle found, to  
5 treat certain items like this as a temporary rent  
6 increase, and it was again appropriately treated and Item  
7 11 really is not back before this Board -- or this  
8 arbitrator by virtue of Judge Anderle's ruling and the  
9 written mandate proceeding.

10           The final point that I make is with respect to  
11 Item 12, the calculations. I would note that one thing  
12 that your Honor did in your initial arbitration award  
13 that we appreciated was the retained jurisdiction to  
14 essentially kind of enforce the -- effectuate the terms  
15 of the order because the rents may be a moving target.  
16 There may be -- depending on how the numbers come out,  
17 there may be adjustments to the rents and those will have  
18 to be handled in some way. I would note that as it  
19 stands now, some residents have paid the rent increases  
20 ordered by the arbitrator previously, some have not.

21           The park has forborne on doing anything about  
22 those who haven't out of courtesy to them, but at some  
23 point I think when you redo calculation 12 or redo the  
24 calculation pursuant to Award No. 12, some thought should  
25 be given to if there's -- if there's an adjustment, how

1 that is treated and might suggest that I think it was a  
2 good idea to reserve jurisdiction to address that  
3 because, as I said and I think Mr. Stanton said at the  
4 last arbitration hearing, we're hoping to get a complete  
5 resolution of all the issues before this arbitration.  
6 And because of that, that's one of the reasons, the basis  
7 for our request that the arbitrator consider the capital  
8 expenses actually incurred are Exhibit V, to try to get a  
9 complete resolution, because the alternative is that the  
10 park essentially noticed the new rent increase based upon  
11 those, and hopefully not, but potentially start another  
12 lengthy process like this.

13 We think it's in everyone's interest to get  
14 this resolved now in this proceeding rather than in  
15 another proceeding, and the same would go for the reason  
16 for our request to, as the park owners had suggested,  
17 address the issue of legal fees and professional fees  
18 incurred in connection with these proceedings now by way  
19 of, essentially, a noticed motion proceeding so that this  
20 arbitration addresses those and we try to work towards a  
21 complete resolution of all of the issues that are really  
22 before the arbitrator.

23 So anyway, I thank again for your time and  
24 attention to all of this.

25 ARBITRATOR: Thank you.



1           A couple more comments. You know, I always  
2 encourage parties -- my decision is going to be due 30  
3 days from today. I think that's per the ordinance. The  
4 court reporter will have a transcript available within  
5 ten business days. No additional briefing will be  
6 required or will be accepted.

7           So we will close this hearing today.

8           I want to thank both sides for being very  
9 professional. Again I would ask that because, you know,  
10 I have 30 days to get this back, I always encourage  
11 parties that once they've heard the other side of the  
12 story, to talk things over, and if you reach an  
13 agreement, that's great. If you do, let me know. It'll  
14 save me some work.

15           With that, thank you all and this hearing is  
16 closed.

17           (The proceedings concluded at 10:41 a.m.)

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REPORTER'S CERTIFICATE

STATE OF CALIFORNIA )  
 ) SS  
COUNTY OF SANTA BARBARA )

I, MARK McCLURE, CSR NO. 12203, a Certified Shorthand Reporter for the County of Santa Barbara, State of California, do hereby certify:

That said proceedings were taken down by me in stenotype at the time and place therein named, and thereafter reduced to typewriting by computer-aided transcription under my direction.

I further certify that I am not interested in the event of the action.

WITNESS my hand this 25<sup>th</sup> day of February, 2016.

Mark Mc Clure

Certified Shorthand Reporter  
State of California  
CSR No. 12203

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