

# **Petition for Review of the Mobile Home Rent Control Arbitration Ruling and Award, as Corrected**

**Nomad Village Mobilehome Park**



**Skip Grey, Assistant Director  
General Services Department**



# **Petition for Review of the Mobile Home Rent Control Arbitration Ruling and Awards**

- March 31, 2016, Park Management delivered to Homeowners a Notice of Increase in Monthly Rent, set to take effect on July 1, 2016.
- Notice attempts to recoup expenses incurred by Park Management, including increased operating expenses, capital improvements and expenses for the Park's common area roads and common area electrical system, and professional fees incurred by Park Management related to past and ongoing rent proceedings.
- October 17, 2017, Board of Supervisors affirmed Awards 5, 7, 8, and 13, settling the issues associated with a Petition for Arbitrations filed by the Homeowners on February 28, 2011.



# **Petition for Review of the Mobile Home Rent Control Arbitration Ruling and Awards**

- May 13, 2016 Homeowners of the Nomad Village Mobilehome Park filed a Petition for Arbitration pursuant to County Code Chapter 11A (Mobilehome Rent Control) in response to Park Management's March 31, 2016 Notice of Monthly Rent Increase.
- Petition verified by Clerk of the Ordinance; hearing date set and arbitrator selected pursuant to the process set out by the Mobilehome Rent Control Ordinance and the Mobilehome Rent Control Rules for Hearings.
- Hearings were held on November 18, 2016 and February 10, 2017.



# Petition for Review of the Mobile Home Rent Control Arbitration Ruling and Awards

- June 16, 2017, Judge Long issued his Arbitration Ruling and Awards.
- Park Management issued a Comment on the Arbitration Award, requesting arbitrator correct certain mathematical and typographical errors in the Award. Homeowners objected to Park's comment.
- July 10, 2017, Judge Long issued this Corrections to Arbitrator's Ruling and Awards, which corrects certain mathematical and typographical errors in the Award.
- August 1, 2017, Homeowners submitted a lengthy Petition for Review of the Arbitration Ruling and Awards to the Board of Supervisors.



# **Petition for Review of the Mobile Home Rent Control Arbitration Ruling and Awards**

Today's review of the Arbitrator's Ruling and Awards occurs pursuant to the Mobilehome Rent Control Rules for Hearing.

## **County Code Chapter 11A (Mobilehome Rent Control)**

Creates an arbitration process for rent control disputes in mobilehome parks within the unincorporated area whenever a proposed rent increase exceeds 75% of the Consumer Price Index as described within Chapter 11A.

## **The Parties**

*Park Management:* Lazy Landing, LLC and Waterhouse Management, Inc.

*Homeowners:* Residents of Nomad Village Mobilehome Park.

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## Mobilehome Rent Control Rules for Hearings

Under Rule 23, Board reviews the Arbitrator’s Opinion and Award under an “abuse of discretion”, which is established only if the Arbitrator:

- Failed to proceed in the manner required by law;
- Made a finding not supported by substantial evidence; or
- Made a decision not supported by the findings.



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## Arbitrator's Awards and Staff's Recommendations:

**Award #1:** “The HOA’s (*Nomad Village Park Homeowners Association*) motion, styled as a Motion for Summary Judgment was and is denied.”

**Staff’s Recommendation for Award #1:** Find that the Arbitrator did not abuse his discretion and affirm this Award.

**Award #2:** “The HOA’s objection to Management’s Reply Brief on Attorney Fees was and is denied.”

**Staff’s Recommendation for Award #2:** Find that the Arbitrator did not abuse his discretion and affirm this Award.

**Award #3:** “The Meet & Confer requirement of the Santa Barbara County Mobilehome Rent Control Ordinance was properly complied with by Respondent by a preponderance of the evidence not even considering the “Admission” of such by the Petitioner HOA, as noted, supra.”

**Staff’s Recommendation for Award #3:** Find that the Arbitrator did not abuse his discretion and affirm this Award.



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**Award #4:** “The arbitrator finds that the Notice of Increase in Monthly Rent Effective July 1, 2016 was timely.”

**Staff’s Recommendation for Award #4:** Find that the Arbitrator did not abuse his discretion and affirm this Award.

**Award #5:** “The Automatically Allowed rent increase based upon 75% of the CPI increase, per Section 11A-5(g) of the Rent Control Ordinance, an increase of 1.725% (*Corrected*), is granted. The award of this “...Automatic Increase...” portion of this award is pro rata based upon the individual currently existing rents for the respective 150 spaces in the park. This award is retroactive to July 1, 2016.”

**Staff’s Recommendation for Award #5:** Find that the Arbitrator did not abuse his discretion and affirm this Award.



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**Award #6:** “The requested increase based upon Rule 11A-5 (i) (1) (2) in the total amount of \$29.31 as set forth in the Notice of Increase in Monthly Rent served March 31, 2016 is granted. This award is “per space” not “pro rata” and is retroactive to July 1, 2016” to be capitalized at 9% and amortized over a period of 15 years.

**Staff’s Recommendation for Award #6:** Find that the Arbitrator did not abuse his discretion and affirm this Award.

**Award #7:** “The amounts claimed for capital improvements for Common Area Paving, Common Area Electrical Work and Related Engineering Costs are awarded as set forth in the Notice of Increase in Monthly Rent served on March 31, 2016, which has been capitalized at 9%, an amount the arbitrator finds reasonable, supported by the only expert testimony presented, and is to be amortized over 15 years as set forth therein the amount of \$23.01. This portion of the award is also retroactive to July 1, 2016.”

**Staff’s Recommendation for Award #7:** Find that the Arbitrator did not abuse his discretion and affirm this Award.



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**Award #8:** “On the issue of Attorney fees and costs incurred since the last arbitration hearing in defending the multiple appeals and writ petitions arising from the 2011 arbitration, the arbitrator finds in favor of the Respondent and against the Petitioner and awards the rent increase requested in the March 31, 2016 Notice of Monthly Rent Increase in the amount of \$56.30 per space retroactive to July 1, 2016.”

**Staff’s Recommendation for Award #8:** Find that the Arbitrator did not abuse his discretion and affirm this Award.

**Award #9:** “The Respondent’s post-hearing request for attorney fees and costs in the current litigation as well as the request for expert fees for the same time period is granted.”

**Staff’s Recommendation for Award #9:** Find that the Arbitrator did not abuse his discretion and affirm this Award.



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## **CEQA Recommendation:**

Determine that the proposed action is an administrative activity of the County which will not result in direct or indirect physical changes in the environment and is therefore not a “project” as defined for purposes of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15378(b)(5).

## Nomad Village Arbitration - DECEMBER, 2017

| Award |  | Homeowners Position | Park Mgt Position | Board Alternatives |                            |
|-------|--|---------------------|-------------------|--------------------|----------------------------|
| 1     | HOA's Motion for Summary Judgement is denied   | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 2     | HOA's objection to Management's Reply Brief on Attorney Fees is denied.  | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 3     | Meet & Confer requirement was properly complied with.  | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 4     | Notice of Increase in Monthly Rent Effective July 1, 2016 was timely   | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 5     | Automatically Allowed rent increase based upon 75% of CPI increase, increase of 1.725% (Corrected), is granted   | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 6     | Requested increase of \$29.31 is granted. Award is "per space" not "pro rata" and is retroactive to July 1, 2016 to be capitalized at 9% and amortized over a period of 15 yrs.  | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 7     | The amounts claimed for capital improvements for paving, electrical work and engineering costs are awarded, capitalized at 9% and amortized over a period of 15 yrs. This portion of the award is also retroactive to July 1, 2016.              | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 8     | Rent increase of \$56.30 per space covering attorney fees and costs incurred since the last arbitration hearing in defending the multiple appeals and writ petitions arising from the 2011 arbitration, retroactive to July 1, 2016, is awarded. | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |
| 9     | Respondent's post-hearing request for attorney fees and costs in the current litigation as well as the request for expert fees for the same time period is granted   | Disagree            | Agree             | Affirm Award       | Remand Award to Arbitrator |



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## **Recommended Procedural Motion:**

In accordance with Rules 13 and 23(b) of the Mobilehome Rent Control Rules for Hearings, the Board limits its review of the Arbitrator's decision to the paper record alone attached to the Board Agenda Letter dated December 5, 2017 as further detailed in that Board Agenda Letter, which consists of portions of Attachment 1, Exhibits A through Y. The Board will not consider any new evidence, and receives oral argument and Brown Act public comment as argument that focuses on evidence that is already contained in the record, rather than as new evidence.

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## The order for today's hearing will be as follows:

Ex parte disclosures

Staff presentation (7-8 min)

Presentation by Homeowners (10 min)

Presentation by Park Management (10 min)

Public Comment

Staff response to public comment

Rebuttal by Homeowners (5 min)

Rebuttal by Park Management (5 min)

Board deliberation and vote