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Legislation Details (With Text)

File #: 04-00955 **Version:** 3

Type: Agenda Item **Status:** Passed

File created: 9/27/2004 **In control:** BOARD OF SUPERVISORS

On agenda: 12/14/2004 **Final action:** 12/14/2004

Title: HEARING - Consider the Petitions for Review filed by the Homeowners of Nomad Village Mobile Home Park and by Nomad Village Mobile Home Park, as follows: (EST. TIME: 1 HR)

ISSUE #3:

a) Affirm the decision of the Arbitrator that Homeowners did not prove by a preponderance of the evidence that no Meet and Confer was held by Nomad Village Mobile Home Park.

ISSUE #8*:

b) Find that the Arbitrator abused his discretion when he erroneously interpreted and applied County's Mobile Home Rent Control Ordinance (§11A-5) contrary to its plain meaning and in a manner not permitted by law concerning the automatically allowable rent increase; and

c) Reverse the Arbitrator's decision and hold that under Ordinance §11A-5, the Park may automatically increase homeowners' rents by 1.5 %, which represents 75% of the 2.0% increase in the Consumer Price Index over the 12 months immediately preceding January 2004, the month the Park noticed its rent increase.

ISSUE #9*:

d) Find that the Arbitrator abused his discretion when he failed to support his decision to allow the Park to pass through the cost of utility meter replacement to the residents of the park pursuant to Ordinance §11A-5 with the findings that (1) the Park's notice of rent increase complies with state law as a threshold matter, and (2) the replacement of the utility meters is a capital expense "required by a change in governmental law or regulation".

e) Reverse the Arbitrator's decision to allow the Park to pass through the cost of utility meter replacement to park residents, based on the finding that the record before the Arbitrator does not contain substantial evidence to support required findings that (1) the Park's notice of rent increase to cover the cost of replacing utility meters complies with state law; and that (2) the cost of replacement of utility meters was required by change in governmental law or regulation.

ISSUE #6:

OPTION #1:

f) Affirm the Arbitrator's decision and find that it is based on substantial evidence in the record that the Park sought to impose a fee outside of the rent, which was not permitted by the rental agreement drafted by the Park and executed by the parties.

OR

OPTION #2:

g) Find that the Arbitrator elevated form over substance by considering the noticed of the "mandatory fee" to not be a notice of "rent increase" and in so doing abused his discretion by not following the

procedures for reviewing increases above the maximum rent schedule pursuant to County's Mobile Home Rent Control Ordinance §11A-5; and

h) Remand the matter of the recycling fee to the Arbitrator with directions to follow the procedure in §11A-5 for evaluating proposed increases above the maximum rent schedule, and to determine whether the Park's recycling fee is justifiable pursuant to §11A-5, based on substantial evidence, if any, contained in the record of the hearings held on July 26 and July 30, 2004 before the Arbitrator.

* Recommendations concerning Issues #8 and #9 were revised following the Board hearing on November 2, 2004.

COUNTY ADMINISTRATOR'S RECOMMENDATION: POLICY

Sponsors: COUNTY COUNSEL

Indexes:

Code sections:

Attachments: 1. Board Letter

Date	Ver.	Action By	Action	Result
12/14/2004	3	BOARD OF SUPERVISORS	Acted on as follows:	Pass
11/2/2004	2	BOARD OF SUPERVISORS	Acted on and continued, as follows:	Pass
10/5/2004	1	BOARD OF SUPERVISORS	Set for a hearing, as follows:	Pass

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c) Reverse the Arbitrator's decision and hold that under Ordinance §11A-5, the Park may automatically increase homeowners' rents by 1.5 %, which represents 75% of the 2.0% increase in the Consumer Price Index over the 12 months immediately preceding January 2004, the month the Park noticed its rent increase.

ISSUE #9*:

d) Find that the Arbitrator abused his discretion when he failed to support his decision to allow the Park to pass through the cost of utility meter replacement to the residents of the park pursuant to Ordinance §11A-5 with the findings that (1) the Park's notice of rent increase complies with state law as a threshold matter, and (2) the replacement of the utility meters is a capital expense "required by a *change* in governmental law or regulation".

e) Reverse the Arbitrator's decision to allow the Park to pass through the cost of utility meter replacement to park residents, based on the finding that the record before the Arbitrator does not contain substantial evidence to support required findings that (1) the Park's notice of rent increase to cover the cost of replacing utility meters complies with state law; and that (2) the cost of replacement of utility meters was required by change in governmental law or regulation.

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