

Date of Hearing: June 19, 2013

ASSEMBLY COMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT
Ed Chau, Chair

SB 510 (Jackson) – As Amended: April 30, 2013

SENATE VOTE: 21-16

SUBJECT: Land use: subdivisions: rental mobilehome park conversions.

SUMMARY: Allows local agencies to consider the level of support among existing homeowners when deciding whether to approve a subdivision map for the conversion of a rental mobilehome park to resident ownership. Specifically, this bill:

- 1) Makes clear that a local agency may disapprove a subdivision map for the conversion of a rental mobilehome park to resident ownership if it finds that the results of the survey of resident support for the conversion have not demonstrated the support of at least a majority of the park's homeowners.
- 2) Makes clear that cities and counties may implement Subdivision Map Act requirements for the conversion of rental mobilehome parks to resident ownership by ordinance or resolution.
- 3) Includes Legislative findings specifying that the bill does not constitute a change in, but rather is declaratory of, existing law.

EXISTING LAW

- 1) Requires the subdivider of a mobilehome park to another use, at the time of filing a tentative or parcel map for the subdivision, to also file a report on the impact of the conversion upon the displaced residents of the mobilehome park to be converted. The report must address the availability of adequate replacement space in other mobilehome parks (Government Code §66427.4).
- 2) Allows the local legislative body authorized to approve or disapprove a tentative or parcel map for the conversion of a mobilehome park to another use to require the subdivider to take steps to mitigate any adverse impact of the conversion on the ability of displaced residents to find adequate space in another mobilehome park (Government Code §66427.4).
- 3) Authorizes local agencies to enact more stringent measures for the regulation of conversions of mobilehome parks to other uses (Government Code §66427.4).
- 4) Exempts the conversion of rental mobilehome parks to resident ownership from the above provisions (Government Code §66427.4).
- 5) With respect to the conversion of a rental mobilehome park to resident ownership, requires the subdivider to offer existing tenants the option to purchase their subdivided unit or to continue residency as a tenant in the park if they decide not to purchase their lot (Government Code §66427.5).

- 6) Requires the subdivider of a mobilehome park to resident ownership to file a report on the impact of the conversion upon residents and to make the report available to all residents 15 days prior to the hearing on the tentative or parcel map before the local legislative body (Government Code §66427.5).
- 7) Requires the subdivider to conduct a survey of support of the residents of the mobilehome park for a proposed conversion to resident ownership that meets the following conditions:
 - a) Be conducted in accordance with an agreement between the subdivider and a resident homeowners association if one exists, that is independent of the subdivider;
 - b) Be obtained pursuant to a written ballot; and
 - c) Be conducted so that each occupied mobilehome space has one vote.(Government Code §66427.5)
- 8) Requires that the results of the survey of support be submitted to the local legislative body upon the filing of the tentative or parcel map to be considered as part of the subdivision map hearing (Government Code §66427.5).
- 9) Limits the scope of the hearing of the legislative body on the tentative or parcel map to the subdivider's compliance with the procedures to avoid the economic displacement of non-purchasing residents (Government Code §66427.5).
- 10) Establishes the following method for avoiding the economic displacement of non-purchasing residents:
 - a) Allows the monthly rent for non-purchasing residents who are not low-income to increase from the preconversion rent to market rents, as defined in an appraisal conducted in accordance with nationally recognized professional appraisal standards, in equal annual increases over four years;
 - b) Allows the monthly rent for non-purchasing, low-income residents to increase from the preconversion rent by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, except that in no event may the monthly rent be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index for the most recently reported period.(Government Code §66427.5)
- 11) Waives the requirement for a parcel map or a tentative and final map with limited exceptions in cases where at least two-thirds of the owners of mobilehomes who are tenants in the mobilehome park sign a petition, the language of which is specified in statute, indicating their intent to purchase the mobilehome park for purposes of converting it to resident ownership (Government Code §66428.1).

FISCAL EFFECT: None

COMMENTS:

Background: In the vast majority of California's nearly 5,000 mobilehome parks, mobilehome residents own their homes but rent the spaces on which their homes are installed. Contrary to their name, mobilehomes generally are not mobile. Once installed in a park, they generally cannot be moved. In the mid-1980s, as a result of increasing park rents for low- and moderate-income residents and the closure of some parks and displacement of residents, the concept of resident-owned parks, where residents form a homeowners association to purchase a park and convert it to a mobilehome subdivision, condominium, stock co-operative, or non-profit ownership, gained popularity. Between 1984 and 1996, the Legislature enacted a number of laws relative to conversions to resident ownership.

Legislative History: The Subdivision Map Act vests in cities and counties the power to regulate and control the design and improvement of subdivisions within their boundaries. Conversions of mobilehome parks to other uses are considered to be subdivisions pursuant to the Subdivision Map Act. Prior to 1991, the Map Act required a subdivision map to be filed and approved by the local jurisdiction before individual lots in a park could be sold and converted to a resident-owned subdivision or condominium, and allowed the local government to impose its own conditions on the map. Subsequently, resident groups and conversion consultants complained that by imposing "unreasonable" conditions, some local governments were actually hampering conversions to resident ownership.

In 1991, AB 1863 (Hauser), Chapter 745, exempted from subdivision map requirements a conversion where two-thirds of the residents were in support and intended to purchase their lots. In 1995, the Legislature passed SB 310 (Craven), Chapter 256, which amended Government Code (GC) §66427.5 to establish statewide standards for avoiding the economic displacement of non-purchasing residents in the event of a conversion of a park to resident ownership. Under the provisions of SB 310, rents for lower-income non-purchasing households can only increase by the average monthly increase in the four years preceding conversion and shall not exceed the most recent increase in the Consumer Price Index. For all other non-purchasing residents, rents can increase to market levels in equal amounts over four years. By establishing a state rent control formula for low-income residents who do not purchase their lots, SB 310 preempted any local rent control ordinance from regulating rents in a park converted to resident ownership. SB 310 also specified that the scope of the local hearing on a conversion to resident ownership shall be limited to the issue of compliance with GC §66427.5.

El Dorado Palm Springs, LTD. v. City of Palm Springs et al.: In 1993, the owner of the El Dorado Mobile Country Club, a 377-space mobilehome park in Palm Springs, filed a tentative subdivision map as a first step to converting the park to resident ownership. The Palm Springs City Council, concerned that this was a "sham" conversion to circumvent its local rent control ordinance, approved the map subject to several conditions, including that the effective map date would be the date escrow closed on 120 lots in the park. Under this condition, the park would cease to be subject to the city's mobilehome space rent control ordinance after 120 of its lots had sold. At that point, the formula for mitigating economic displacement under SB 310 bill would be applicable.

El Dorado's owner filed a lawsuit in superior court to compel approval of the subdivision map without the conditions, including the condition delaying the effective date of the map.

El Dorado's owner argued that the effective date of the conversion was when one lot sold, and that pursuant to GC §66427.5, the city council did not have the power to impose more stringent requirements. The lower court denied the park owner's petition, but in 2002, the 4th District Court of Appeal reversed that decision, ruling in favor of the park owner.

The appellate court ruled that the city was limited to the scope of assuring that El Dorado's owner had complied with the requirements of §66427.5. The court ruled that §66427.5 takes effect as soon as one unit is sold, and therefore, its rent formulas supersede a local rent control ordinance as soon as that first lot is sold. The Appellate Court opined that the question of whether or not there should be more protections in the statute to prevent "sham" conversions by a park owner was a legislative one and not a legal one.

The proponents of SB 310 did not foresee instances in which mobilehome park owners, rather than residents, would pursue conversions using the provisions of §66427.5. Since the El Dorado conversion, many more mobilehome park owners have pursued this type of conversion. This has set up a conflict between park owners and park residents over the use of existing state law for conversion of parks to resident ownership.

Survey Requirement: In an attempt to respond to the *El Dorado* case, in 2002, the Legislature passed AB 930 (Keeley), Chapter 1143. AB 930 required a subdivider to obtain a survey of support of existing residents in a mobilehome park for a proposed conversion to resident ownership. The survey must be conducted in accordance with an agreement between the subdivider and a homeowners' association and must be obtained as a written ballot with each occupied mobilehome space having one vote. Once completed, results of the survey must be submitted to the local agency to be considered as part of the subdivision map hearing. AB 930 included uncodified language stating the bill was intended to assure that such conversions were "bona-fide resident conversions"

Since the survey requirement was added to the provision of the Map Act governing conversions to resident ownership, some local governments have enacted local ordinances to define "bona fide resident conversion," including a requirement that a certain percentage of residents indicate an interest in purchasing their lots. Park owners have challenged several of these ordinances in court.

In 2010, the 2nd District Court of Appeal, in *Colony Cove Properties, LLC v. City of Carson*, invalidated the City of Carson's ordinance, which depended on certain percentages of support in the resident survey to make presumptions about whether a conversion was bona fide or not. While the court invalidated the ordinance, it did leave open the possibility that a local government could consider the survey in its action at the hearing on the map application. In 2012, the 4th District Court of Appeal concluded in *Chino MHC, LP v. City of Chino, et. al.*, that "a local agency is entitled to deny a conversion based on the survey results. However, it may only do so if the survey results show that the conversion is a sham." The court noted that "a sham conversion is one that is *merely* intended to avoid rent control and *not* to transfer ownership to residents." Also in 2012, the 6th District Court of Appeal in *Paul Goldstone v. County of Santa Cruz* upheld that county's authority to deny a conversion application due to near unanimous opposition to a conversion from park residents.

Need for the Bill: In both *Colony Cove Properties* and another decision, *Palisades Bowl Mobile Estates*, the 2nd District Court of Appeal expressed "hope that the Legislature will recognize the

dilemma faced by local agencies illustrated by [these cases] ... and act to clarify the scope of their authority and responsibility.” The 6th District Court of Appeal made a similar plea in *Paul Goldstone v. County of Santa Cruz* last year when it urged the Legislature to instruct local agencies on how to consider the results of the resident survey. SB 510 addresses that hope by making clear that local governments have authority to consider the results of the resident survey and to deny an application to convert to resident ownership based on a lack of majority support. It does not prohibit local governments from approving a conversion with less than majority support, but rather gives cities and counties the ability to weigh the results of the survey as part of their decision-making process. The bill additionally specifies that local governments may implement Subdivision Map Act requirements for conversions of rental parks to resident ownership by ordinance or resolution.

Arguments in Support: Writing in support of the bill, Fred Keeley, who currently serves as the Santa Cruz County Treasurer but who authored the bill that placed the survey requirement into law, writes:

"In 2002, I was the author of AB 930, which enacted [the] current resident support survey requirement. The purpose of that resident support requirement, as expressed in my letter to Governor Davis asking him to sign AB 930, was to restore the Legislature's intent that such conversions should proceed only 'if residents favored conversion and acquisition of the park, if the conversion would provide certainty and affordability to the residents' and 'where the conversion provides benefit to the residents' (i.e., that they should be approved only if they were 'bona fide resident conversions').

We never intended that a park owner would have to demonstrate that all of a park's residents would be happy with their proposed conversion or that the results of a resident survey would give the residents of a park absolute 'veto power' to bind a local jurisdiction to always have to reject a conversion at any specific level of resident support. However, our intent was clear that a local jurisdiction, in making their decision on conversion approval, was to consider whether or not the support survey results demonstrated that the conversion was truly a 'bona fide resident conversion' that was supported by and benefitted the residents of the park rather than simply being a scheme by their park owner to make a huge profit that benefitted almost none of the park's residents."

Arguments in Opposition: The Western Manufactured Housing Communities Association (WMA) and others oppose this bill because they believe that it would severely limit park owners' ability to subdivide their land and sell it to the individuals residing in the community. They assert that the current law, written by former Senator Bill Craven, has worked well over the past 18 years by balancing the needs of the residents and park owners in the community. The benefits for the residents are affordable home ownership or statewide rent control for low-income residents who opt not to purchase (even in communities that do not have rent control) and a gradual phase in of market rents for non-low income residents who elect not to purchase. The benefit to the park owners is a long-term exit strategy to put the land to alternative use and realize reasonable economic value for their investment under one uniform statewide law rather than hundreds of different rules and regulations in hundreds of different jurisdictions across the state. They further argue that giving park residents a say in land use decisions involving the park infringes on the property rights of the park owner.

Related legislation: AB 253 (Levine) extends to floating home marinas the same subdivision requirements that apply to the conversion of mobilehome parks. The language in AB 253 is identical to the language proposed in this bill. AB 253 passed this committee on May 1, 2013, by a vote of 7-0.

Last session, SB 444 (Evans) would have permitted a local government to subject an application to convert a mobilehome park to resident ownership to all relevant state laws, including the Subdivision Map Act. That bill failed on the Senate floor in June 2011.

In 2009, AB 566 (Nava) would have allowed a local government to consider the level of support that a subdivider's survey demonstrates when approving or disapproving a mobilehome park conversion to resident ownership. That bill passed this committee by a 4-2 vote on April 29, 2009, but Governor Schwarzenegger vetoed it.

In 2007, AB 1542 (Evans) would have increased a local jurisdiction's authority over a mobilehome park conversion and maintained or imposed rent control on spaces that were not purchased when a mobilehome park converts to resident ownership. That bill passed this committee on a 5-2 vote on April 11, 2007, but Governor Schwarzenegger vetoed it.

SB 900 (Corbett) from the 2007-08 session would have repealed the existing special process from the Subdivision Map Act for the conversion of mobilehome parks to resident ownership and made the mitigation of impacts on non-purchasing residents from these conversions subject to conditions for approval imposed by local governments. That bill passed out of the Senate but was never voted upon in this committee.

Double referred: If SB 510 passes this committee, it will be referred to the Committee on Local Government.

REGISTERED SUPPORT / OPPOSITION:

Support

California Rural Legal Assistance Foundation (co-sponsor)
Golden State Manufactured Home Owner's League (GSMOL) (co-sponsor)
Western Center on Law and Poverty (co-sponsor)
Bay Federal Credit Union
California Alliance for Retired Americans
California State Association of Counties
Chateau Calistoga Homeowner's Organization
Cities of Carson, Goleta, and San Marcos
Contempo Marin Homeowners Association
Counties of Lassen, Santa Cruz, Santa Barbara, Sonoma, and Ventura
Fairness for Mobile Home Owners
GSMOL Super Chapter 256
Fred Keeley, Santa Cruz County Treasurer
Housing California
Las Palmas de La Quinta Homeowners Association
League of California Cities
National Manufactured Home Owners Association, Inc.

San Marcos Mobilehome Residents Association
Santa Cruz County Manufactured/Mobile Homeowners Association
Santa Cruz County Mobile and Manufactured Home Commission
Sierra Homeowners Association
Ventura Manufactured-Home Residents' Council
Vista Del Lago Homeowners' Association
171 Individual letters

Opposition

California Association of Realtors
California Mobilehome Parkowners Alliance
Gilchrist and Rutter
Western Manufactured Housing Communities Association

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