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October 11, 2007

City of San Diego
Land Use and Housing Committee
Attn: Elyse Lowe

Re: Tenant's Right of First Refusal to Purchase a Mobile Home Park.

Dear Committee:

Your question about the possible right of first refusal possessed by tenants of a mobile home park to purchase the park site is controlled by California statutory law. Specifically the inquiry received by this office was concerned with the possible rights of tenants in the mobile home park to receive an opportunity to purchase the land before a deal is concluded with a developer. The information provided indicated that the query was prompted by concerns with the Mission Valley Village mobile home park located within the City of San Diego at 6850 Mission Gorge Road, just east of Qualcomm Stadium and between Friar's Road and the San Diego River. The park was recently sold without any notice to the tenants of the impending sale. Prior to the sale some tenants had expressed to the owner's manager an interest in purchasing the property. It is unknown whether a formal tenant's organization exists, who expressed an interest in purchasing the land (individual tenant vs. resident organization) and whether the contact expressing an interest in the purchase was verbal or written. This office has been generally informed that the sale of the park was between its private party owner to another private development company. No details of the transaction have been provided and, therefore, this response is necessarily general. This letter is not intended to be specific legal advice nor a substitute for formal legal consultation.

Before a mobile home park is listed for sale, or offered for sale to a third party, the owner is required by law to provide any "resident organization" at least 30 days notice of the intent to sell pursuant to California Civil Code §798.80. Failure to provide the notice does not invalidate the sale but makes the owner liable for damages in an action at law. (Civil Code §798.84)

The notice need only be given to a park's "resident organization". A bona fide resident organization is generally formed as a nonprofit corporation pursuant to Revenue and Tax Code §23701. The nonprofit can be formed specifically for the purpose of acquiring a mobile home park. (Civil Code §798.80a)

Once a “resident organization” is formed it must give written notice to the owner of the mobile home park of its desire to receive notice of any intent to sell and their right to exercise a right of first refusal as to any sale. To be able to receive notice of an impending sale, and receive an opportunity to exercise a right of first refusal to buy the park, the resident organization must notify the park owner of the identities and contact information for its President, Secretary and Treasurer. This information must be kept current.

The written request for notice that a mobile home park is to be sold must be given to the owner before a real estate listing contract for the sale is signed or an offer to sell the park is made. The request for notice of any proposed sale must be renewed every year to remain in effect (Civil Code §798.80(b)2).

Under State law, in the absence of a notice informing the owner of the existence of a “resident organization” and the delivery of a written request for notice of any proposed sale, the owner of a mobile home park may sell the property without notice to the tenants and without first offering them an opportunity to purchase.

If there are any further questions, please do not hesitate to contact this office.

MICHAEL J. AGUIRRE, City Attorney

By

John H. Serrano
Deputy City Attorney

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