

Public Comments

PUBLIC INTEREST LAW FIRM
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October 20, 2015

SENT VIA E-MAIL: ealanis@sunnyvale.ca.gov

Patti Evans, Chair
Housing and Human Services Commission
PO Box 3707
Sunnyvale, CA 94088-3707

Re: Comments on the Nick's Trailer Court Conversion Impact Report

Dear Ms. Evans and Members of the Housing and Human Services Commission:

Public Interest Law Firm, a program of the Law Foundation of Silicon Valley,¹ writes to comment on the proposed Conversion Impact Report for Sunnyvale Park ("Park") pending before the Human and Housing Services Commission on October 14, 2015. PILF has experience with mobile home park closures, and represents the resident associations at Buena Vista Mobile Home Park in Palo Alto and Winchester Ranch Senior Mobile Home Park in San Jose through both their respective closures.

We are currently not representing any individual residents of the Park, but have been asked by Park residents to provide comments about the Conversion Impact Report. We strongly recommend that the Housing and Human Services Commission recommend significant amendments to the mitigation packages offered in the Conversion Impact Report (CIR), dated August 2015.² The proposed packages are inadequate under local and state law. Most critically, these packages will fail to provide Park residents with meaningful assistance to find and afford adequate replacement housing in and around Sunnyvale.

1. Background on Mobile Homes and the Mobile Home Park Closure Processes

Both state law and the Sunnyvale Conversion Ordinance recognize the importance of mobile home parks as an important source of affordable housing.³ Significantly, owning a mobile home provides the resident with similar benefits to owning a traditional "built-in-place" home. Mobile homes, although the name suggests otherwise, are not in fact mobile; they are costly and difficult to move.⁴ Mobile home owners own their actual physical coach, but rent space from a mobile home park. In high-income communities like Silicon Valley, mobile homes are one of the only means of home-ownership for low-income families. Many mobile home owners have difficulty finding housing after a mobile home closure, given the shortage of mobile home parks.

¹ PILF seeks to protect the human rights of individuals and groups in the Silicon Valley area who face barriers to adequate representation in the civil justice system, using impact litigation and advocacy

² Nick's Trailer Court, Conversion Impact Report, City of Sunnyvale, submitted August 2015 ("CIR").

³ Sunnyvale Municipal Code §19.72.0101(a)(1).

⁴ See *Yee v. City of Escondido*, 503 U.S. 519 (1992).

Sunnyvale, in enacting its ordinance, recognized the shortage of parks in Sunnyvale, and the difficulty residents face in attempting to relocate within Sunnyvale.⁵

In recognizing this, California law requires that before a mobile home park can close, a park owner must mitigate the negative aspects of the park closure, and such mitigation measures must be assessed by a legislative body.⁶ Sunnyvale, like many other cities, has enacted even stronger protections to protect its mobile home park residents, and specifically lists the **minimum** relocation assistance that a resident (which includes tenants that rent from the Park Owner) shall be entitled to. This includes:⁷

- a. A moving allowance – moving costs, first and last month's rent, security deposit and temporary lodging in if necessary;
- b. Accessibility improvements for disabled tenants;
- c. A rent subsidy, which is the difference between rent at the housing the resident has moved to and the rent at Nick's Trailer Par for up to 24 months;
- d. The cost to move mobile home if it could be moved within 100 miles;
- e. The cost of 100% of the in place value of the mobile home for residents whose mobile homes cannot be moved.'

There are about 40 units at Nick's Trailer Park. The overwhelming majority of residents are low-income Latino families who moved to Sunnyvale to have access to good schools, public transportation, and close commutes to work. Many families at the Park are long term residents who have lived there for more than 20 years. The loss of the Park will undoubtedly mean the loss of the ability of many families to own a home, and will mean the displacement of these families from Sunnyvale.

2. The Commission Should Recommend that the Park Owner Amend the Relocation Assistance Prior to Approving the Park Closure

While Sunnyvale has specific requirements prior to a park closing, the CIR falls short of these requirements. Moreover, the Housing and Human Services Commission can make recommendations to the City Council regarding the CIR, including recommending that the Park Owner provide additional mitigation assistance.⁸ We encourage the Commission to recommend that the Park Owner amend the relocation assistance provided as it will not be adequate for residents to mitigate the devastating effects of the park closure.

a. The Commission Should Require that the Park Owner or the City Assist Residents to Pay for Alternative Appraisals

The main relocation assistance that the homeowners will receive is the appraised value of the mobile home. The Sunnyvale Ordinance allows homeowners to get an independent appraisal

⁵ Sunnyvale Municipal Code §19.72.0101(a)(3).

⁶ Cal. Government Code §65863.7.

⁷ Sunnyvale Municipal Code §19.72.080(d).

⁸ Id.

and receive the average between the independent appraisal and the appraised value proffered by the Park Owner.⁹

While it is our understanding that appraisals have yet to be submitted, we have concerns about the appraiser that the Park Owner is using. The appraiser, Beccaria and Weber, has been consistently used by park owners seeking to close parks. In that context, Beccaria and Weber have faced criticism by park residents that its appraisals are low and do not take into consideration the in-place value of the mobile home being in a particular city, which Sunnyvale's Ordinance requires. In fact, in approving the closure of Buena Vista Mobile Home Park, the Palo Alto City Council required that an independent appraiser conduct a peer review of the appraisals done by Beccaria and Weber.¹⁰ We are greatly concerned that Beccaria and Weber will discount the fact that the mobile homes are in Sunnyvale.

Given the fact that all of the residents of the Park are low-income, the City should either pay for the alternative appraisals or assist residents with finding assistance to pay for such appraisals. For example, the City could work with Sunnyvale Community Services or another non-profit to assist residents with receiving assistance to pay for appraisals. We encourage the Commission to recommend that either the Park Owner or the City pay for alternative appraisals, or find a way for residents who need assistance paying for appraisals to receive financial assistance.

b. The Commission Should Recommend that the Park Owner Compensate Residents for Actual Moving Costs

Sunnyvale's Ordinance requires that the Owner pay residents for moving costs.¹¹ The CIR proposes a limited moving cost of \$750 for residents in an RV, \$900 in single Wide mobile home, and \$1100 for a double wide mobile.¹² We request that the Commission recommend, per the Ordinance which simply states "the cost to move furniture and personal belongings"¹³, that the Park Owner pay for *actual* moving costs that residents incur.

c. The Rent Subsidy Is Inadequate

As part of the relocation package, low-income residents, which the CIR admits likely includes all residents, are entitled to a rent subsidy for 24 months, which is the difference between the rent residents currently pay at Nick's Trailer Park and rent at the future unit for 24 months.¹⁴ The CIR proposed two alternatives for the rent subsidy:¹⁵

1. A rent subsidy based on the difference between actual rent in a new unit and the rent at Nick's Trailer Park;

⁹ Sunnyvale Municipal Code §19.72.080.

¹⁰ *City of Palo Alto Action Minutes*, May 26, 2015, available at <http://www.cityofpaloalto.org/civicaax/filebank/documents/47521>.

¹¹ Sunnyvale Municipal Code §19.72.080(i).

¹² CIR, 34-35.

¹³ Sunnyvale Municipal Code 19.72.080(d)(1)(A)

¹⁴ Sunnyvale Municipal Code §19.72.080(2)(B).

¹⁵ CIR, 37-39.

2 A lump sum of 80% of the difference between fair market rent in Sunnyvale and the rent at Nick's Trailer Park

There are several issues with the rent differential that the Park Owner has proposed. First, the base rent from which the Park Owner bases the rent calculation is \$969.00.¹⁶ From our understanding, this amount includes more than just the base rent, and includes utilities. The Commission should recommend that the rent differential should be based on the actual rent that the tenants pay.

Second, there is no description of how average rents in Sunnyvale are calculated for residents who choose the "lump sum option," nor how the Park Owner will determine what unit size to pay the family. Moreover, while the Ordinance requires that the Park Owner reimburse residents for the difference in rent between the current rent at the Park, and the new unit, the Park Owner is only willing to reimburse residents up to its own specific calculation of average rents in Sunnyvale.¹⁷ The Commission should require the Park Owner to update the rents to reflect the market closer to the date that the relocation assistance will be provided, and to provide more detailed information about how the average rents will be calculated. Moreover, the Commission should require the park owner to reimburse residents based on the actual rent in their new units, without any ceiling.

Third, the park owner will provide the lump sum relocation for most residents based on the size of the mobile home, and not based on family size.¹⁸ What this means is that for most families, the lump sum relocation payment will be based on a studio unit regardless of the actual size of the home. This ignores the fact that many mobile home units have additions to the unit, which, because they may be unpermitted, will not be counted by the owner towards determining the size of the unit. Moreover, larger families will undoubtedly be disadvantaged as families will only be reimbursed at the rate of a studio unit, but will be forced to rent larger units big enough for their larger families. Most studio units are limited to two or fewer individuals. We encourage the Commission to require the Park Owner to reimburse residents who chose the lump sum payment based on the family size, rather than unit size.

Lastly, the Park Owner's proposal would only allow for residents to receive 80% of the value of the rent differential should they choose to use the lump sum option.¹⁹ There is no justification for the Park Owner lowering the amount of reimbursement should residents decide to take a lump sum option. The Ordinance specifically requires a rent differential based on actual rents. Should the Commission permit the Park Owner to offer a lump sum payment, it must be based on 100% of the rents that the residents will be paying, or a 100% of the average rents in Sunnyvale.

d. The City Should Set Aside BMR Units in Any New Development

Sunnyvale's Ordinance gives the right of first refusal to residents of Nick's Trailer Park to purchase or rent new homes at the new site, including nay BMR units developed on the new

¹⁶ CIR, 38.

¹⁷ Id.

¹⁸ CIR, 39.

¹⁹ Sunnyvale Mun. Code 19.72.080(e).

site.²⁰ While we understand that there is no pending development proposal, should one be approved either before or after residents vacate Nick's Trailer Park, the residents should be informed of and given the first right of refusal for any new units.

3. Conclusion

Given the many issues with the Park's closure and Conversion Impact Report, we request that the Commission *not* approve the CIR or Planned Community Permit in its current form, without additional amendments to the relocation packages.

We would happy to speak with you, as well as with City staff, to discuss these comments further. If you have any questions, please feel free to contact me at (408) 280-2453 or by e-mail at nadia.aziz@lawfoundation.org.

Sincerely,



Nadia Aziz, Senior Attorney

CC: Margaret Ecker Nanda, via e-mail to menanda@infogain.com.
Mayor Jim Griffith and Members of City Council, City of Sunnyvale, via e-mail to mayor@sunnyvale.ca.gov; council@sunnyvale.ca.gov.
Suzanne Ise, Housing Department, via e-mail to sise@sunnyvale.ca.gov.

²⁰ Sunnyvale Mun. Code 19.72.070(e).



October 21, 2015

Housing and Human Services Commission
City of Sunnyvale
P.O. Box 3707
Sunnyvale, CA 94088

Re: **Hearing Date: October 28, 2015**

Nick's Trailer Court

Response to Comments by Public Interest Law Firm to the Conversion Impact
Report regarding Nick's Trailer Court

Dear Housing and Human Services Commission Members:

The undersigned attorney writes on behalf of the Owner of Nick's Trailer Court to respond to certain comments by Nadia Aziz, Senior Attorney from the Public Interest Law Firm regarding the Conversion Impact Report (hereinafter "CIR"), which was prepared in relation to the closure of Nick's Trailer Court. At the outset, please note that the Public Interest Law Firm does not in fact represent a single resident in the Park as noted in the second paragraph of the letter

First, the City of Sunnyvale has a comprehensive Mobilehome Conversion Ordinance (hereinafter "Ordinance") which was substantively amended in 2011/2012, and which specifies the requirements for closure of a mobilehome park. The CIR was prepared with painstaking care and attention, in concert with staff members from the Department of Community Development and other City departments to ensure that the Ordinance was followed.

The Public Interest Law Firm states that the Rent Subsidy is inadequate. The CIR relocation assistance follows the Sunnyvale Ordinance. The CIR relocation assistance package covers *all requirements listed in the ordinance: Rent Subsidy, Moving Allowance, In- Place Appraised Value for the Homes, Cost to Move the Home, Temporary Lodging, etc.* There are two options available to residents in the CIR specifically applicable to the rent subsidy, a lump sum option or an actual or "fully verified" option, which residents are free to choose between. The difference in the two options is primarily related to the rent subsidy, where residents can choose to receive a lump sum rent subsidy payment without providing any verification paperwork about their new rent amount. The lump sum option uses a discounted average market-rate rent amount to base the rent subsidy on. Alternatively, residents can choose to receive a rent subsidy based upon the actual rent at their new location using a new lease to confirm the new rent or other similar verification. **Residents have the option to receive a 100% rent subsidy based on their new rent amount.** The lump sum option was offered as a convenient choice for residents so that their transition could be as hassle-free as possible during this transition. Residents are still free to choose the full subsidy option.

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Rent Subsidy Explained for both options:

The rent subsidy is calculated by taking the resident's current rent in the park minus the new rent at a new location, multiplied by twenty-four, per the requirement of the Ordinance.

Ex. \$950 (Nick's rent) - \$1655 (cost of new apartment rent per lump sum estimate)
 = \$705 (monthly subsidy). $\$755 \times 24 = \underline{\$16,920}$ (which is the rent subsidy amount offered to the tenant under the lump sum option).

The lump sum is slightly discounted because the tenants do not have to provide any verification of a new lease, which would show an actual new rent amount to base the rent subsidy on. The lump sum uses average market-rate rents that were gathered from multiple sources including Craigslist and Real Facts rent data sources¹. The lump sum rent subsidy offers 80% of the average market-rate rents; however, residents can capture 90% of the average market-rate rent subsidy as an additional "incentive bonus" if they choose the lump sum option and relocate at least sixty days after the CIR is approved. The actual option offers a 100% rent subsidy, which is based on the rent listed in new lease that the resident obtains. The residents are free to choose between the 100% actual rent subsidy or the lump sum option which is based on up to 90% of average rents when it includes an incentive bonus.

Again, Residents have the option to receive a rent subsidy of 100% their new rent under the actual or fully verified option. Residents do not have to choose to receive the lump sum option and are free to choose the actual or fully verified option.

The Public Interest Law Firm contends the appraisals will be inadequate and too low. The Public Interest Law Firm challenges the appraisals without having yet seen the appraisals, and indeed without knowing that the appraisals have already been completed. The appraisals were prepared by an independent appraiser, David Beccaria who has extensive experience in appraising mobilehome parks and homes. **The Park's Residents have had their appraisals since August and have overwhelmingly responded positively to the appraised values offered.** Additionally, the appraisals take into account the "in-place value" not the "actual value" of the units. The "in-place" value is the value of the unit where it is situated in Sunnyvale, at Nick's Trailer Court. In all cases the actual value is far lower than the in-place value because the "actual value" represents the off-site or intrinsic value of the unit. Because many of these units are fifth-wheel trailers or other similar vehicles that are decades old, the actual value can literally be zero. Thus, the appraisals state two values: in-place value and actual value, but the park owner, per the terms of the Ordinance, will pay the substantially higher, in-place value.

The Public Interest Law Firm's unsubstantiated and highly unprofessional allegation that David Beccaria only appraises homes only for park owners who are closing parks is factually untrue, and impugns the reputation of a highly competent and experienced mobilehome appraiser. Further David Beccaria was chosen with the input and recommendation of City Staff as Mr. Beccaria is on the list of the City's approved mobilehome appraisers.

¹ See Appendix 28 of the CIR for the rent data.

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Further, the rent subsidy is correctly based upon the actual number of bedrooms as the unit was originally manufactured. Ms. Aziz writes without having seen the appraisals. The vast majority of units are, as originally manufactured, and are not modified.

Additionally, this situation is far different than that of Palo Alto and the comparison by the Public Interest Law Firm is at best disingenuous. Palo Alto has no other mobilehome parks, neither do the cities in its immediate vicinity: Los Altos, Menlo Park, or Los Altos Hills. Sunnyvale has many mobilehome parks as does its neighbor city, Mountain View. The appraisal Peer Review process adopted by the Palo Alto City Council in late May 2015 was due to the fact that there was no process set forth in the Palo Alto Mobilehome Park Conversion Ordinance for a homeowner to appeal or challenge the appraised value of their home. The Sunnyvale Ordinance is extensive and provides clear guidelines and a process for residents who are unhappy with their appraisals to challenge the appraisals.

The Public Interest Law Firm states that the Park Owner is not compensating residents for actual moving costs. The figures used for moving costs in the CIR and proposed for payments to the residents were obtained from actual estimates from movers. If a tenant disagrees with those moving cost estimates then the tenant can obtain two other bids from movers and present them to the Housing Relocation Specialist. The Housing Relocation Specialist must approve the cost estimates as being reasonable and legitimate.

Conclusion: The Park Owner has done its utmost to follow and comply with the Sunnyvale Ordinance by providing a generous and fair relocation assistance package. The Park Owner recognizes that this is a time of transition for residents and after careful thought has provided a simpler way for residents to relocate. The Park Owner and its representatives have worked closely with City staff throughout this process. The residents have had the CIR and their appraisals since August 2015 and many are already in the process of relocating to new homes. The Housing Relocation Specialist is fully engaged and working with the residents, and responding to those residents who wish to move as soon as possible. Thus far, the comments from the residents about the mitigation assistance proposed in the CIR have been overwhelmingly positive. The Park Owner looks forward to responding to the comments and questions of the Housing and Human Services Commission members at next weeks' hearing.

Sincerely,


MARGARET ECKER NANDA

cc: Mayor Jim Griffith and Members of the Sunnyvale City Council
Nadia Aziz, Public Interest Law Firm
Suzanne Ise, Housing Department
Sunnyvale Park, LLC
All via electronic mail