

Protesting a C.P.I. Rent Increase Application under the Oxnard Mobile Home Rent Stabilization System

*City of Oxnard Housing Department
November 2020*

What this Presentation covers:

- 1. Park Owners' right to apply for an annual C.P.I. rent increase**
- 2. How the Rent Increase amount is calculated; and what the permissible increases are in 2020 and 2021**
- 3. Homeowners' Protests of rent increase applications:**
 - (a) Reasons for which a protest can be filed**
 - (b) How to write a protest**
 - (c) When and how to collect signatures**
- 4. Hearing on the Rent Protest: how the Hearing Process works, and what homeowners must prove in the evidentiary hearing.**

SECTION ONE:

*The right of Park Owners to
apply for an annual C.P.I.
rent increase*

Annual C.P.I. Increase

Chapter 24-9 of the City Code permits parks to apply for a C.P.I. formula rent increase every twelve months. The City Code sets forth the formula for calculating the amount of the rent increase that parks can apply for.

SECTION TWO:

How the amount of the annual C.P.I. increase is calculated.

What is the Formula for Calculating the Annual C.P.I. Rent Increase Amount?

The percent change in the Consumer Price Index (C.P.I.) for Southern California from one August to the next August will be the permissible rent increase for the following calendar year.

Example: the inflation rate from August of 2019 to August of 2020 was 2.02%. Parks may apply for a 2.02% rent increase for the year 2021.

C.P.I. Rent Increase Applications in 2020

- ▶ The amount of the calendar year 2020 C.P.I. increase was 2.97%
- ▶ Eighteen of the 20 parks in the City had filed for their calendar year 2020 CPI rent increases by April of 2020 (most filed before the full impact of the pandemic was felt)
- ▶ One park then decided not to file for a 2020 increase; one park filed for a smaller increase amount than what it was entitled to; one park delayed its rent increase date
- ▶ No homeowner protests of C.P.I. rent increases were filed in 2020

SECTION THREE:

Homeowners' Protests of CPI Rent Increase Applications

Sec. 3(a): REASONS FOR PROTESTING A C.P.I. RENT INCREASE APPLICATION

- ▶ If a park has eliminated or reduced the services provided to homeowners by the park, the homeowners may file a legal challenge to the park's rent increase application.
- ▶ **That legal challenge is called a "Protest"**
- ▶ Filing a Protest results in an evidentiary hearing before an independent Hearing Officer, at which the homeowners must present evidence to prove their case

ARE THERE ANY OTHER LEGAL REASONS FOR HOMEOWNERS TO PROTEST A RENT INCREASE?

- ▶ **ANSWER:** *No. The sole legal basis for challenging a rent increase through a protest is because of an elimination or reduction of services.*

SECTION 3(b): HOW TO WRITE A PROTEST

- ▶ In order to file a Protest, the homeowners must write up a Protest Petition and obtain signatures from homeowners who represent at least 25% of the spaces in the mobile home park
- ▶ The Protest Petition must state, in writing, the specific services which the homeowners claim have been reduced or eliminated in the past year

REQUIREMENTS FOR THE PROTEST PETITION

- ▶ The Protest petition must also state in writing the remedy that the homeowners seek from the Hearing Officer. This is usually a request that the Hearing Officer deny the park's application for part or all of the proposed rent increase.
- ▶ The Protest petition must also specify the name and contact information of the person chosen by the homeowners to represent them in the Protest hearing.
- ▶ That representative can be an individual homeowner, a member of the HOA Board, or an attorney or some other representative who does not live in the park

SEC. 3(C): WHEN AND HOW TO COLLECT SIGNATURES

- ▶ Parks submit an application for a rent increase to the City's Housing Department. The City then sends out, to each affected homeowner, a "Notice of CPI Formula Rent Adjustment"
- ▶ Signatures can be collected on the Protest Petition **AFTER** homeowners receive the Notice that is mailed out by the City
- ▶ Homeowners have 30 days from the date the Notice is mailed to write up the Protest Petition, collect sufficient signatures, and submit the Protest Petition

HOW TO COLLECT SIGNATURES ON A PROTEST PETITION

- ▶ Each homeowner signing the petition should clearly print his/her name and address (or space number) after the signature, along with the date he/she signed the petition
- ▶ Only one signature per household can be counted, and it must be from the homeowner
- ▶ Some parks have spaces which are exempt from the rent stabilization system. Signatures from households which are not covered by the park's rent increase application cannot count towards meeting the 25% minimum number of signatures.

WHAT INFORMATION MUST BE ON THE PROTEST PETITION THAT HOMEOWNERS SIGN?

- ▶ Homeowners should know what they are signing; it should not be just a sheet of paper with signatures on it that is stapled to the Protest Petition.
- ▶ It is recommended that each homeowner sign a copy of the actual Protest Petition page which lists in writing the specific claims of service level reductions
- ▶ If someone speaks a language other than English, then that homeowner should sign a version of the Protest Petition that is written in a language they understand.

DOES THE CITY PROVIDE A PROTEST PETITION FORM?

No. There is no specific format for Protest Petitions. A Protest Petition will be accepted as long as it includes the required information:

1. A list of the services which the homeowners claim have been eliminated or reduced;
2. A written statement of what the protesting homeowners are requesting from the Hearing Officer;
3. The name and contact information of the person who will be representing the homeowners in the hearing; and
4. The required number of signatures.

SECTION FOUR:

*How the Rent Increase
Protest Hearing Works*

Who Conducts the Hearing?

An independent Hearing Officer (who is not a City employee) conducts the evidentiary hearing. The responsibility of the Hearing Officer is to conduct an administrative hearing - much like a trial - at which he receives testimony and evidence from both sides. After the hearing, he issues a written Decision with Findings of Fact and his ruling on whether or not the proposed rent increase can go into effect.

Is an “Evidentiary Hearing” the same as a “Public Hearing?”

- ▶ **No.** In a “Public Hearing” (such as the ones that are conducted by City Council), any citizen can go to the microphone and give their opinion.
- ▶ An evidentiary hearing is more like a trial - it is not an “open microphone” where anyone can speak. There are two parties (the Protesting Homeowners and the Park Owner), each of whom has a representative who presents their side’s case from a table with a microphone. The Hearing Officer presides, just like a Judge presides at a trial.

How do Witnesses present testimony?

- ▶ The representative of the protesting homeowners decides who will testify and in what order. That representative calls witnesses, who take an oath to answer truthfully. Witnesses do not just talk or make a statement; they answer questions which are asked by the representative.
- ▶ All witnesses can be cross-examined by the other party's representative and by the Hearing Officer. The only people who can give testimony or evidence are the witnesses.
- ▶ When the homeowners are done presenting their witnesses and evidence, the park owner can present its own rebuttal witnesses and its own testimony.
- ▶ The Hearing Officer evaluates the evidence and decides which testimony to believe or accept

What does the Protestor's designated Representative do?

- ▶ The Protest petition must designate one person to act as the representative of the homeowners for the purpose of the evidentiary hearing
- ▶ That person represents protestors in pre-hearing discovery and motions; may file requests for Subpoenas for Production of Records; and presents the homeowners' case during the evidentiary hearing before the Hearing Officer
- ▶ The representative organizes the presentation of the homeowners case; decides which witnesses will testify and in what order; and asks the questions to the witnesses when they are testifying under oath in the hearing. The representative does not have to be a lawyer, but he or she must be prepared and must know how to present a case and how to question witnesses

What do the Protesting Homeowners have to prove in order to win their case?

In order to prevail, the protesting homeowners must present persuasive evidence in the hearing on two points:

1. Since the last rent increase the park owner has reduced or eliminated services that were previously provided by the park; *and*
2. The amount of dollar savings which accrued to the park as a result of the service level reductions

What types of service reductions can be proven?

Here are some examples of the types of reductions in services that homeowners have presented in Protest hearings in past years:

- ▶ Closures of swimming pools, clubhouses, tennis courts, car-washing facilities
- ▶ Restrictions on hours of availability (or institution of fees) for swimming pools, clubhouses, and other common areas
- ▶ Reductions in park office hours
- ▶ Reductions in maintenance of streets, delays in repairing and re-paving, and reductions in maintenance of other common areas in the parks

How Can Homeowners Prove that a Park reduced Services?

Protesting homeowners usually try to prove that a park reduced or eliminated services through **testimony, documents, and photographs**. Here are some examples from actual hearings:

1. **Witness testimony:** a homeowner testifies that the swimming pool used to be open seven days a week last year, but now is only open two days a week.
2. **Documentary evidence:** the homeowners present a memo that the park sent out advising homeowners that the office or clubhouse hours had been reduced; or present a written pavement evaluation report from a licensed contractor who inspected the condition of the park's streets
3. **Photographs:** homeowners have presented photographs of park streets which show cracking or broken pavement or asphalt. If a photograph is presented as evidence, the homeowners need to provide information as to who took the photograph, and on what date it was taken.

How can Homeowners find out how much money a park saved by reducing services?

- ▶ Evidence of cost savings accruing to park must usually be obtained through the “Discovery process.” The phrase “Discovery process” is the legal term that refers to one party requesting information from the other party, with the Judge or Hearing Officer determining what documents have to be given to the requesting party.
- ▶ The homeowners’ Representative may file, prior to the hearing, Motions for Hearing Officer to issue a Subpoena for Production of Records. These motions must be filed well BEFORE the date of the hearing.
- ▶ Examples from previous hearings: Hearing Officer ordered a park to turn over to the homeowners’ representative copies of three years worth of bills for pool service, water, heater, etc., to show the amount of money that the park saved when the pool was out of operation

Which side has the burden of proof in the Hearing?

- ▶ **Answer: the Protesting homeowners have the burden of proving that services were reduced, and that the park saved money.**
- ▶ **The Park does not have to prove it needs the rent increase; the homeowners have to prove that the Park should not be granted the rent increase due to having reduced services.**

What is the role of City staff in the protest hearing process?

- ▶ The City is neutral; staff provides information, but cannot help either party present case
- ▶ Staff assists the Hearing Officer, and coordinates exchange of documents, hearing logistics, scheduling
- ▶ City Attorney provides legal counsel to independent Hearing Officer

What are the responsibilities of the hearing officer?

- ▶ The Hearing Officer must decide whether the homeowners proved that a specific service or amenity was reduced or eliminated
- ▶ If the Hearing Officer finds that a park did reduce or eliminate a specific service, he then must determine whether the homeowners presented persuasive evidence that a cost savings was enjoyed by the park due to the service reduction, (and if so, what is the dollar value of that savings)

What is the authority of the Hearing Officer?

- ▶ If the Hearing Officer finds that the protesting homeowners have met their burden of proof on both issues, the sole remedy he can impose is this: *reduce the prospective rent increase by a dollar amount equal to the savings enjoyed by the park due to the service level reductions*
- ▶ Hearing Officer has **no** authority to reduce rents below current levels, and has no authority to order a park to restore a service that has been reduced to eliminated.

Decision of the Hearing Officer

- ▶ The Hearing Officer must issue a written decision following the closure of the hearing
- ▶ That written Decision must include Findings of Fact upon which the Hearing Officer's decision is based
- ▶ The Hearing Officer's Decision can be appealed to the full Mobile Home Park Rent Review Board.

Appeals of Hearing Officer Decisions

- ▶ If the Hearing Officer's Decision is appealed, the Rent Review Board does NOT conduct a new trial, and does not receive more evidence or hear more testimony.
- ▶ The Rent Review Board reviews the written record of the hearing (the transcript of the testimony, documentary or other written evidence, photographs) and also reviews the Hearing Officer's Decision.
- ▶ The Board has the authority to uphold or modify the Hearing Officer's Decision, or to send the case back to the Hearing Officer with direction to seek more evidence

Appealing a Rent Review Board Decision

- ▶ The Decisions of the Mobile Home Park Rent Review Board become the final administrative decision of the City
- ▶ **The Board's Decision can NOT be appealed to City Council**
- ▶ If either party wishes to appeal a decision of the Rent Review Board, that party must file their appeal in the Ventura County Superior Court
- ▶ **Since 1998, only one Board decision has been appealed to the Courts.**

QUESTIONS?

The background features abstract, overlapping geometric shapes in various shades of green, ranging from light lime to dark forest green. These shapes are primarily located on the right side of the slide, creating a modern, layered effect. The rest of the slide is a plain white background.