

Battle shaping up over city's hard line on mobilehome rent

By BOB SMITH

Mobile home park residents in Capitola got some good news Thursday night from the City Council.

The Council finally ruled on a rent increase for the Brookvale mobile home park, setting the annual increase at 8 percent, far less than the 40 percent increase sought by the park owners.

The owner of Pacific Cove Mobile Home Park was given 120 days to complete repairs to the park's electrical system and retaining walls or face the loss of an already approved 8 percent rent hike. Residents there won a minor victory when the council said the repairs would be paid for from the 8 percent rent increase instead of from an added rent surcharge.

The three months of hearings on the Brookvale application amount to the most extensive testing of the rent control ordinance since its enactment four years ago.

The Brookvale Mobile Home Park owners served park residents with rent increase notices in June, announcing they planned to increase the monthly rents from an average \$180 to \$250 on Aug. 1 — subject to approval by the city's mobile home rent review board.

The board, however on a 3-2 vote, cut the rent increase from 38.8 percent to just 8 percent, and the owners, represented by Abraham Keh and Bruce Davis, appealed to the City Council.

The hearings before the rent review board and the City Council have been some of the most costly in the city's history.

They were recorded word for word by a court stenographic reporter and the resulting transcript is 1,000 pages long.

Capitola accountant Everett Meisser Jr., the city's auditor, was called in to analyze the financial data presented by the owners and the residents.

City Manager Steve Burrell and City Attorney Richard Manning have devoted hundreds of hours on the case.

Altogether, costs for the case are approaching \$10,000, Burrell said Friday, and those costs will escalate rapidly if the council's decision is challenged in court as some observers expect.

The case is a precedent-setting one in

another way. The city's rent stabilization ordinance promises park owners a fair rate of return, but does not spell out what that means.

In approving an eight percent rent increase last Thursday night, the council seemed to be saying that it accepted an 11.4 percent "internal rate of return" for the owners on their initial investment as defined by Meisser. The computations include the income tax brackets of the investors in the park, the price paid for the park and the appreciation of the park subsequently according to Burrell.

The use of the internal rate of return, although originally suggested by the park owners, was denounced by Keh and Davis.

"It was not intended to be applied to this situation," Davis told the council before walking out of the council chambers.

Davis argued that the city should be computing the rate of return based on the market price of the park, which was purchased in October, 1981, for \$1,915,000 — of which \$615,000 was cash.

Keh argued that the council had to provide business incentives. "Unless there are some incentives for business,

why stay in business, why keep the place in shape?" Councilmembers didn't buy their arguments, and quickly agreed that an eight percent increase was all they would allow.

"They are attempting to tell us now how to figure a rate of return," Mayor Ron Graves said, leading off the council discussion.

"I believe it is the applicant's responsibility to prove that their way of computing the rate of return is the right one," the mayor added.

"I think Mr. Meisser is right."

The other council members quickly agreed, accepting Meisser's report, and backing the rent control board's decision.

Councilman Dennis Beltram added: "There is no guarantee that a business concern will profit as much as they would like to. The economic times do not warrant a rent increase. A fair rate of return depends on all factors and I feel that the rent board gave them consideration.

"If we were to grant the kind of increase that are seeking," Beltram said, referring to the 38.88 percent average hike, "it would subvert

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the entire ordinance. It would allow the sale of a park to determine the rent. It would be tantamount to tearing up our ordinance."

Davis managed to irk the councilmembers with his reference to the two members of the rent board who voted against the 8 percent increase as the "intelligent" members of the board.

Councilman Michael Routh made a point of saying he was siding with "the dummies" on the board, and Graves said that "to call the rent board unintelligent or dummies is a cheap shot."

The eight percent increase, retroactive to Aug. 1, is now effective. Burrell said after the meeting, although the council still must formally approve its "findings of fact" that support the eight percent decision. Those are expected to be presented in final form at the Nov. 9 meet-

ing of the council.

Pacific Cove owner Kermit Knopf agreed last month when the City Council approved an 8 percent rent increase for residents in his park to complete emergency repairs in the park to broken or weakened retaining walls and anything else a city inspection showed was a public health and safety hazard.

The results of City Building Official Mark Knittle's inspection showed the need for new retaining walls at several points in the park plus repairs or modifications to the park's electrical system. Knittle estimated that the cost would be in the range of \$75,000, but Knopf told the council in a letter that the repairs would run an estimated \$10,600.

To pay for those repairs, he asked for permission to raise space rents in the park by \$2.94 a month over the next five years — a move opposed by park residents.

Councilmembers sided with the residents and told Knopf that he would have to pay for the repairs out of the already approved eight percent increase.

He was also given 30 days to start work on the repairs and 90 days to complete the work.