



SENATE SELECT COMMITTEE ON MOBILEHOMES

Transcript of Hearing II
ADULT ONLY MOBILEHOME PARKS

August 1, 1983
San Diego, California

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Senate Select Committee on Mobilehomes

SENATOR WILLIAM A. CRAVEN
CHAIRMAN

TRANSCRIPT

ADULT ONLY MOBILEHOME PARKS

HEARING II

AUGUST 1, 1983

STATE BUILDING
1350 FRONT STREET
SAN DIEGO, CALIFORNIA

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BACKGROUND PAPER

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III.

BACKGROUND PAPER

AUGUST 1, 1983

SAN DIEGO

ISSUE: ADULT ONLY MOBILEHOME PARKS

The Mobilehome Residency Law (Civil Code Section 798 et. seq.), recognizes the unique relationship between mobilehome park owners and mobilehome owners residing in the park by providing for the statutory, although not complete, regulation of mobilehome park residency.

Park owners usually adopt park rules to regulate tenant conduct in the park, and to some extent the Mobilehome Residency Law governs the creation and alteration of such rules. Rules and regulations are designed to serve both the needs of the owner, as well as current and prospective residents, by establishing a standard of conduct expected of all such residents living in the close proximity of a mobilehome community.

Park rules may cover a wide variety of subjects, including the use of recreational facilities, rules with regard to pets, use

of the common area facilities such as swimming pools, and, often, restrictions on residency to adults only.

In fact, a provision of the Mobilehome Residency Law, Civil Code Section 798.76, specifically provides that:

"The management may require that a purchaser of a mobilehome which will remain in the park, comply with any rule or regulation limiting residents to adults only."

Adult only residency requirements may often exist as a condition of the rental of residential units or as part of the covenants, conditions and restrictions (CC&R's) in the sale of residential property in a condominium or community project.

With escalating prices of residential property, high interest rates, and the recent recession which has diminished the number of residential units available, many people, younger persons as well as retired people, have found the cost of conventional housing beyond their reach. In the past, families with children have usually lived in rental units or single-family residential homes. But with the availability or affordability of residential housing restricted in some areas, a growing number of younger people, including families with children, have sought to move into mobilehome parks, traditionally the haven of older residents.

Where mobilehome parks limit residency to adults by virtue of park rules, families with children cannot move in. Where adults already living there have a baby or otherwise bring children in to live with them, they usually face eviction.

Aggrieved tenants or prospective buyers of condominiums have already pressed their case to abolish "adult only" rules,

and the State Supreme Court has responded. In 1982, in Marina Point v. Wolfson, the state's highest court ruled that "adult only" rules in apartment or rental complexes were tantamount to discrimination against families with children and that such was in violation of the Unruh Civil Rights Act, prohibiting discrimination in the sale or rental of housing based on sex, race, color, religion, ancestry or national origin. The court, broadly construing the Act, included age.

In a footnote to the case, however, the Supreme Court did recognize an exception for mobilehome parks which were designed for adults and the needs of retired persons as enacted by the Legislature in Civil Code Section 798.76.

In May of this year the court again ruled on this issue with regard to the covenants, conditions and restrictions of a condominium development limiting residency to persons over the age of 18. In O'Connor v. Village Green Owners Assn., the court concluded that such "adult only" CC&R's likewise violated the Unruh Civil Rights Act.

Hence, the stage was now set for the challenge of "adult only" rules or restrictions in mobilehome parks. Several cases have been pending at the lower court level in this regard. Steven and Barbara Zipp are appealing a decision last year by a West Los Angeles Municipal Court Judge, who ruled that owners of the Point Dume Mobilehome Park in Malibu could rightfully evict them after they had a baby, because they were in violation of the park's "adult only" rules. The case is now on appeal.

In San Jose, the William Dubovsky's were evicted in 1981

from the Sunshadow Mobilehome Community in that city after Mrs. Dubovsky gave birth to a child. The appellate division of the Santa Clara Superior Court overruled the previous decision in their case and held that "adult only" rules in the park were unconstitutional. The decision was, however, reversed on technical grounds in April by the State Court of Appeal in San Francisco. Several other cases involving "adult only" mobilehome park rules are pending in California.

There is an important distinction between these cases and those involving "adult only" rules in apartments and condominiums, where the state's highest court has already ruled. In the latter cases, the court ruled purely on statutory grounds, choosing to avoid ruling on the constitutional question. The Unruh Civil Rights Act is so written and construed, in the view of the court, as to prohibit discrimination on the basis of age and thus prohibits restrictions on limiting residency to adults only in apartments and condominiums. But as aforementioned, Civil Code Section 798.76 specifically authorizes a mobilehome manager to establish "adult only" rules as a condition of residency in the park. Hence, there is one statutory enactment, the Unruh Civil Rights Act, in conflict with another, the Mobilehome Residency Law. It would appear that Section 798.76 can thus only be overcome by constitutional challenge, which the mobilehome cases would attempt.

The constitutional issue revolves around the claim that "adult only" rules discriminate against children or families with children and thus deny them the equal protection of the laws under Article I, Section 7, of the California Constitution.

Additionally, they say the state has no compelling interest, under Civil Code Section 798.76, in the exclusion of children from living in mobilehome parks. It is not clear what direction the State Supreme Court may go if confronted with this issue, should one of the mobilehome cases now pending at the lower level be appealed that far.

Although there have been several bills introduced in the Legislature which deal peripherally or otherwise with the "adult only" issue, no action on any of these measures has been taken to date.

SB 1184 by Senator Craven would reaffirm existing provisions of the Civil Code authorizing mobilehome park owners or managers to establish "adult only" rules which recognize the special needs of retired persons and where the physical facilities of the park are so designed as to be appropriate only for such persons.

AB 2073 by Assemblyman Farr deals with the problem of changing a mobilehome park from a family to an adult park or from an adult to a family park, by requiring that before an owner or manager can make such a change in the rule, a majority of the residents of the park must so approve it.

AB 2184 by Assemblyman Naylor has just recently been introduced to deal specifically with the O'Connor v. Village Green Owners Assn. case by effectively reversing the holding of that case. The bill would provide an exception to the Unruh Act by stating the legality and the enforceability of "adult only" rules as provided in the covenants, conditions and restrictions (CC&R's) of the deed of a condominium development. The bill may soon be

amended to include an Unruh Act exception for mobilehome park "adult only" rules as well.

In the meantime, it is the purpose of this committee to take testimony from those concerned with the "adult only" issue to see what, if any, resolution can be made of the problems surrounding the issue, as it affects mobilehome parks.

Of course, some see the problem in terms of retaining the status quo or abolishing adult rules altogether, but within the context of "adult only" rules and restrictions, there are particular problems which could be addressed:

(1) Arbitrary Age Distinctions: Although the Mobilehome Residency Law authorizes park managers to adopt adult rules restricting residency to adults only, some mobilehome parks, rather than establishing "adult only" rules for those 18 years of age or older, the legal age of majority in California, have chosen to establish age limits at 35, 45, 50 or provide that the mobilehome park is reserved for senior citizens. Although a rationale can be established for retirement or senior citizen parks, the rationale is less apparent for a park excluding persons, say, under 45, 40 or 35 years of age. Some parks which previously adopted an all-inclusive "adult only" policy, have since changed the rules to increase the age to 40 or 45, thereby placing existing younger residents in violation of the rules, requiring that they either move or, upon sale of their mobilehome, sell to a person meeting the age requirements. The witnesses and the committee may wish to consider the advisability of a more uniform "adult only" age limitation, such as 18 years of age or older, and, or senior only.

(2) Conversion: Mobilehome parks are established, and often spaces within the parks promoted and leased to prospective residents, on the basis that the park is a "family" or "adult" park, catering to their needs. The park owner or subsequent new owner may then decide at a later date to convert the park from a family to an adult park, or from an adult to a family park. Although existing residents are normally allowed to stay, new residents moving in must meet the new rules.

Two problems are encountered in this regard. Original residents, especially seniors, feel that parks changing from adult to family parks are changed in abrogation of the original understanding that the park remain adult only. Secondly, when an original owner decides to sell the mobilehome, it either can't be sold or can't be sold for what it should be worth. Adults or seniors usually don't want to move into a family park, and families normally find mobilehomes in a previously adult park to be too small to meet their needs. The committee may wish to consider how some of these problems may be resolved.

(3) Protection of the Retired Lifestyle: Mobilehome parks have traditionally catered to the needs of retired persons and senior citizens. Physically, many such mobilehome parks are designed around a central clubhouse with a swimming pool, shuffleboard courts, and the like. Spaces between the mobilehomes are small and there are little or no yards.

Many retired persons sought out "adult only" mobilehome parks to begin with. Having raised their own and experiencing the exuberance of children, many of them look forward to a less

exciting and more restful lifestyle in a mobilehome park where they can enjoy relaxed and recreational pursuits with persons of their own age, without the presence of children. Some retired citizens would not have moved into a mobilehome park if it had not originally been adult only.

Where parks have been established and physical facilities designed to accommodate the needs of seniors and not children, some provisions of law may be necessary to ensure that the already-established living patterns of seniors or retired persons in a mobilehome park setting are not uprooted.

TESTIMONY

SENATOR CRAVEN: First of all, as the Chairman, I am certainly happy that you are here and welcome you on behalf of all of us from Sacramento. I would like to take a moment to introduce to you the members of the Committee. On my right is Senator Presley from Riverside County, who is a member of this Committee, and next to him is John Tennyson, who is the Consultant to the Committee. On my left is Mickey Bailey, who is Committee Secretary, and to her left is Senator Wadie Deddeh of San Diego, who is not a member of the Committee but because of a deep and abiding interest in the mobilehome problem is sitting in with us here today.

In the audience we have Greg Winterbottom, who is with Senator Paul Carpenter's office out of Orange County. That is Greg over there on the left. And Rich Ledford from Assemblyman Bob Frazee's office in the rear, seated with Carol Cox, who is with my office. So we may have some others join us as the morning progresses. Who else? Oh, I'm sorry, Carol. I couldn't see with the light in my eyes. Thank you. Carol Bentley from Senator Jim Ellis's office.

Now, I think we've covered all of them and let me tell you that the issue of "adult only" mobilehome parks is not recent, but rather a continuing matter on which we have already heard much debate and controversy.

Mobilehome parks are somewhat different than conventional apartments in terms of the landlord/tenant relationship.

In essence you have two sets of owners, the mobilehome park owner, who owns the land, and the mobilehome coach owner, who rents space in the park from the landowner. Hence, you have two owners, one a tenant of the other.

This creates a unique relationship which, to some extent, is governed by the Mobilehome Residency Law, part of the California Civil Code. Mobilehome park owners normally adopt numerous rules and regulations for the operation of the park, as well as the standard of expected behavior of park residents. Often, in a closely-knit community such as a mobilehome park, it is essential to have good rules, and rules which are fairly enforced, to ensure that everyone follows the rules to the benefit of all concerned.

Park owners adopt rules which may run the gamut from the hours of operation of the swimming pool, to the keeping of pets in the mobilehome park, to rules limiting residence in the mobilehome park to persons of adult age.

The Mobilehome Residency Law governs some of these rules and regulations. With regard to "adult only," for example, Civil Code Section 798.76 specifically authorizes the management of a mobilehome park - at their option - to condition residency in the park to adults only.

The concept of the mobilehome park, as developed in the 1940's and 1950's, and expanded in the 1960's and 1970's, is a way of life for approximately a million people in California today. Most of these people are senior citizens, as mobilehome parks have particularly catered to the retired lifestyle, a less expensive

form of living within a closely-knit community, where recreational and other facilities, such as the clubhouse, can provide a unity of interest.

In more recent years, however, as younger persons, including those with children, have found it more difficult to buy into the conventional housing market, mobilehomes or manufactured homes have become a desirable alternative, including, for some, mobilehomes located in mobilehome parks.

The problem which has arisen is that the majority of mobilehome parks in California have some form of "adult only" residency limitation. Hence, many families seeking to move into mobilehome parks find that they are prohibited from doing so, and younger persons already living in such "adult only" parks may find themselves facing eviction if they have a baby. In fact, this is just what happened in two prominent cases now pending in the courts concerning mobilehome park rules, the Zipp and Dubovsky cases.

These aggrieved mobilehome residents have sued park owners to enjoin them from enforcing eviction notices and are requesting the courts to declare "adult only" rules invalid or unconstitutional. These cases and others like them have been given impetus by the rulings of the State Supreme Court in two recent cases, Marina Point v. Wolfson, a case decided in 1982 declaring "adult only" rules in conventional apartments unlawful, and O'Connor v. Village Green Owners Assn., a case decided in May of this year prohibiting adult limitations in the conditions, covenants and restrictions (CC&R's) of the deed of a condominium project.

Although the court held "adult only" restrictions in apartments and condominiums violate anti-discrimination laws, as was pointed out in the Marina case, mobilehome park adult rules are specifically authorized by law, and, as the court reasoned, the Legislature must have meant to make an exception for mobilehome park adult rules.

Hence, mobilehome cases now pending seek to go a step further. Since mobilehome park adult rules are not unlawful, plaintiffs are seeking to get the courts to rule on constitutional grounds - that rules against children living in mobilehome parks amount to discrimination in violation of the equal protection and due process clauses of the state and federal constitutions. This is the bigger issue on which the Appellate and State Supreme Court have yet to rule.

In February of this year this committee held a hearing in Sacramento delving into this issue. Many points were made on both sides of the controversy.

The purpose of this - our second hearing on this issue - is two-fold: to give persons in the southern part of the state some input into this issue, on which we heard mainly from northern Californians earlier this year.

Secondly, we would like to focus in on certain aspects of "adult only" rules to gather suggestions for possible resolution of these problems short of abolishing the lifestyle for which so many existing mobilehome residents have sought and established.

Some of these points are covered in the background paper which was distributed earlier. If you do not have a copy, check

with our secretary after the meeting, and she can arrange to have one forwarded to you.

With the background on this issue in mind, let us proceed with those who have been scheduled and those who wish to testify before this meeting today.

Now, when you come up to testify, if you will, please, state your name and then make your presentation. As always, we would ask that you keep in mind being concise and as succinct as you possibly can, and we want to limit the testimony to as short a period of time as you can. We don't mean to cut you off, but sometimes people have a tendency to get up and harangue the issue a little more than we really need, and you will find that there may be a certain thread of redundancy as we will move along so try to avoid that wherein you can. With that in mind, if there is no other business to be handled from this side, let us call first upon Loyd Zimmerman, representing the Golden State Mobilhome Owners League. Mr. Zimmerman is - Loyd, are you still the President or are you - he is the President of GSMOL statewide.

LOYD ZIMMERMAN: (inaudible)

SENATOR CRAVEN: Well, I know. You're on your second term, I think, aren't you? That's the indication of a good job.

MR. ZIMMERMAN: Senator Craven and Committee, it is a pleasure to be here to try to tell you I represent the Golden State Mobilhome Owners League. My name is Loyd Zimmerman; you've already said that. I'm the President of the League. I live at 1650 San Marcos, Hemet, California, and it's hot up here today. I think we should go back, probably to the reason for mobilehome parks.

As an example, I didn't think of moving into a mobilehome park until the taxes on my house got up to \$2500 a year, and I thought, well, if I'm ever to retire, I've got to do something about these costs. In investigating mobilehome parks, I found this sort of thing. We had activities for seniors. We had no playgrounds for children. We had all the things that the ordinary person might like. For instance, the one I picked didn't have any pets at that particular time, which was a disturbing factor, and, of course, no children. However, during the summer months you were allowed to have your grandchildren there and most of us were glad when they came and we were also glad when they left. But, I think that the basis for a mobilehome park for seniors should be based on the fact that it is not housing. True, we own a mobilehome and we rent the land, but I don't believe the rental of land is considered housing. Therefore I think the decisions on several of them, based on the Unruh Act, which said race, color or creed didn't say anything about age. They interpreted age to be in there, but I don't believe that that applies to a residence that is on leased land. The average mobilehome park does not lease housing, per se. In other words, they don't have a whole row of mobilehomes in there to be rented by the month or whatever period of time they want. You rent a piece of ground. You move your mobilehome in. You are responsible for landscaping that ground so actually you are a homeowner and in no way are you a renter as we normally interpret the term of renting. If you would bring in children into the average adult park the way it is laid out, there isn't any place to play except in the street or

in the neighbor's parking area. Those are about the only places for facilities for children. You find that out when your grandkids visit. Thank goodness, for most places you have a swimming pool, but then, too, in most places that is limited to a certain number of hours that children can use it. The rest of the time it is for the people who reside in that mobilehome park. I think it should be very clear that in the beginning of mobilehome parks that when they are laid out for activities designed for senior or older people, they should be kept that way. Now at the same time they have this, there are other parks. There were parks where they had families. Fine. They had parks which were half for adults, the other half for families, and that is fine. But I don't believe that in any case where you are mixing the two you are going to have any harmonious activities in any living condition. And I think it is up to the park owners. I think it is up to the homeowners within that park to set up adequate rules to protect themselves in their way of life. In other words, shouldn't we have rights? I mean I know children have rights, but shouldn't older citizens have rights? I don't believe in taking the right away from one to give it to another is any way the basis for the freedom of our country. I think we have to have it firmly established that you can have a park and a place to live for seniors, and you can have a place to live for children. And I believe somehow - and your idea maybe on 1184 - that we can arrive at a just settlement of this problem. I know today that the threat of children moving into adult parks has done a great deal of damage to many people. They are upset

emotionally because they have lived there for years and have had their activities, and they don't want kids running down and sliding down the shuffleboard ways and such as that, and I think that you have to consider their emotional upheaval with this attitude that is being taken today. And with that, I will close and I will hope that this committee will find a way that is equitable for both adults and children. The only way that you can help children is to see that mobilehome parks for children are established. In many cases that can't be done because of the fees they charge for land and school fees and so forth, but I think a way must be found to protect the rights of those seniors and older people who have moved into a lifestyle that they enjoy. Thank you very much.

SENATOR CRAVEN: Thank you, Loyd, very much for your testimony.
(applause)

SENATOR CRAVEN: Although I'm sure Mr. Zimmerman appreciates the round of applause which you have just given him, it is not necessary to applaud because sometimes if certain elements applaud, you can expect others to boo so (laughter) we try to do away with both sides of that particular issue. Next we are going to call on Floris Gunner of Escondido for her testimony. I might say that Mr. Zimmerman took about 8 minutes, and that was fine.

FLORIS GUNNER: Is that the limit?

SENATOR CRAVEN: No, dear, you just keep going.

MS. GUNNER: I'll try to be as brief as possible.

SENATOR CRAVEN: That's fine. Take your time.

MS. GUNNER: I understand what he is saying and that some

of these parks have been established for senior citizens. However, I want to approach it from a little different angle. In 1974 we moved into a mobilehome park and we had a 13-year old daughter at the time. At that particular time there were four parks available in Escondido for children. There was no problem whatsoever moving into it. However, and during the four years that children were permitted in the park, there was no problem when anyone needed to move - job transfers or wanted to move into a house or whatever - there was no problem in moving and selling their coaches. Most of them were sold at a profit. However, in 1978 we were told that children would no longer be admitted to the park. Since that time there have been a number of coaches for sale for one reason or another and they have not been able to be sold because there are children still living in the park, there will continue to be children living in the park because they cannot be evicted, and yet those who want to be in an all adult park will not move in where there are children. So those of us who invested in a mobilehome are stuck. We cannot move; we cannot do anything. I'm going to read a letter which was written by a lady who could not be here today.

"To Whom It May Concern: In 1978 my parents-in-law died within five months of each other. Their mobilehome was up for sale for one and a half years because of the park changing over from family to adults only. At the time there were 35 mobilehomes in Mt. Shadows to sell (which is the park we live in, by the way) and they couldn't sell them because of the changeover. My parents-in-law home was 60-ft. long and 24-ft. wide. It was very

nice. They were trying to sell it for \$18,500. It was a steal for this price, but no buyers because no one who did not have children would move into a park where there were children. We lost about \$5,000 because of the park's new policy. The estate could not be settled until the home was sold. This was an inconvenience and a crime."

SENATOR CRAVEN: Mrs. Gunner, may I interrupt you for just a minute?

MRS. GUNNER: Fine.

SENATOR CRAVEN: What year was that, does it say?

MRS. GUNNER: I think they died about the time of the changeover which was 1978.

SENATOR CRAVEN: 1978?

MRS. GUNNER: Yes.

SENATOR CRAVEN: Thank you.

MRS. GUNNER: And it says, "Thank you. Mrs. J. S. Ferguson." All right. She could not be here today so she. . .

SENATOR CRAVEN: I understand.

MRS. GUNNER: We experienced a similar thing when my step-mother had to move into a 24-hour care facility. We had four months of paying space rent. As you understand, space rent was paid all during the year and a half for a home no one could use. The purchaser could not move into it because they had children. They could not sell it because no one would want to move into it who didn't have children because there were children there. This is the problem we have. This has made our home almost unsalable. Now, I want to speak from another angle, and I'll just take a

minute. As a real estate agent, I have received many, many calls from young couples who cannot find a place to live - not just can't find a place to buy - they can't find a place to live. They cannot qualify for a house; there is no mobilehome available for them, and the apartment vacancy in Escondido is less than 1%. They have no place to go. Therefore we feel that there should be room for children in the mobilehome parks, particularly the parks that were built to admit children to begin with. But we feel also that in the future any new parks that are built, if it's a family community, if it's a retirement community, that's one thing. Escondido is not. It is partially, but not altogether. Unless it is a retirement community, we believe that new parks should make space available for children.

SENATOR CRAVEN: When you say "unless it is a retirement community," could you tell me specifically what you mean when you say that?

MRS. GUNNER: OK. There are communities - I'm thinking of one particularly, Yucca Valley, where there just aren't that many children. There are not many children; it's retirement. There's not industry to support them. . .

SENATOR CRAVEN: You mean the community itself rather than the community of the mobilehome park?

MRS. GUNNER: Right.

SENATOR CRAVEN: I see. It's like we talk about Jesmond Dean with which you would be familiar, all right?

MRS. GUNNER: Yes. I feel there should be room for children in the future mobilehome parks and it should be required.

SENATOR CRAVEN: Your thought then basically is that the design of new parks should be such that it can accommodate both elements of the problem, if you will?

MRS. GUNNER: Right.

SENATOR CRAVEN: And would you envision that to have the adults only sequestered from the families with children or would you commingle them?

MRS. GUNNER: Well, this would not be my preference, but that is up to the individuals. I believe - and maybe I'm talking out of turn here - but probably these adults who want to be by themselves and be away from children may be wondering why the grandchildren never come to visit them.

SENATOR CRAVEN: And then again maybe they're happy that they are not coming.

MRS. GUNNER: They are not welcome in their park. Maybe they are welcome in their home, but they are not welcome in their park. Like the gentleman said awhile ago, they are glad when they come, but they are glad when they leave. You know, because there is no place for them. I had a grandson just visiting me. He had all kinds of kids to play with.

SENATOR CRAVEN: When you went into the park to which you referred with your 13-year old daughter, I think you said, was that park designed with the amenities we would normally associate with children?

MRS. GUNNER: Yes.

SENATOR CRAVEN: Was there space for them to play and what have you?

MRS. GUNNER: Yes. Besides the swimming pool, there was a basketball court, tennis court and a baseball field.

SENATOR CRAVEN: I see.

MRS. GUNNER: And there was also a playground at that time.

SENATOR CRAVEN: In those days did it provide any great degree of discomfort for the residents? Did they all get along well together?

MRS. GUNNER: Most of them did. I know - I realize from the park owners' viewpoint there have been some problems with children. I think the problems children create could be eliminated by a little better screening of admission to begin with.

SENATOR CRAVEN: Well, of course, you run into a little bit of sketchy problem there, you see. . .

MRS. GUNNER: I realize that.

SENATOR CRAVEN: Passing on the worthiness of an applicant. You might find yourself in court. . .

MRS. GUNNER: . . .past records of homes they have lived in. You know, . . .

SENATOR CRAVEN: Do you live in a park now, Mrs. Gunner?

MRS. GUNNER: Yes.

SENATOR CRAVEN: Is it an adult only park?

MRS. GUNNER: Well, it's a mixture right now because it was converted. The problem is that it cannot be completely converted. There are children who have been born since it was converted, but born to people who lived there before it was converted so they can't evict them.

SENATOR CRAVEN: And they have allowed them to stay?

MRS. GUNNER: They can't do anything else. They can't make them leave.

SENATOR CRAVEN: I see.

MRS. GUNNER: Now, new young couples coming in now have to sign an agreement that if they have a baby, they will move out. Now how are they supposed to move out if they can't sell their coaches? This is the problem we have.

SENATOR CRAVEN: I understand.

MRS. GUNNER: Any questions.

SENATOR CRAVEN: No, mam. Thank you very much for your testimony. Next is Mary Hough from Escondido.

MARY HOUGH: Good morning.

SENATOR CRAVEN: Good morning, Mary.

MRS. HOUGH: I live in the same park as Floris Gunner. When we moved in, it was a family park. Then several months later it was converted to an adult-only park. OK? My husband is military personnel stationed in this area. We moved in in 1978. We did not qualify for a \$52,000 home with what we had for our life's savings. Now some older people out there, their life savings were accumulated over a long time. I'm saying a life savings for us was accumulated. My husband had bonds that were given to him as a child. He had bonds that we received when he was working as a paperboy. I had stock in a major company that I worked for, so we did have \$6,000, which was life savings, to put down on a home. We didn't qualify. Houses were going up \$1,000 a day at the time, plus apartments were saying they would take

one child, and I have two. Which child do I get rid of?

SENATOR CRAVEN: That's a Solomonic decision.

MRS. HOUGH: Right. I'd like to discuss this discrimination problem. Our park was changed on us. Since that time, many parks have been changed from family parks to adult parks. A friend of mine recently came from Boston. Before she came, she called a toll-free number that gave you mobilehome listings. She was told there were two parks that involved families in San Diego. One allowed three; one had no limit. She had three children. She had no choice in the matter. It's very sad. When I worked at elections a couple of months ago - it was in February - I saw a young girl come. I knew she lived in an adult-only park. She was pregnant so I asked her, "How can you live in that park when you are pregnant?" She told me that she had to sneak in here to vote because her manager had been here earlier and she had to go home until they left so that she can turn around and vote. That's not a lifestyle. That's scare tactics.

SENATOR CRAVEN: In other words, she was. . .

MRS. HOUGH: She couldn't vote at that time because her manager was there and she was afraid the manager would see her pregnant. People who move into our park owned by our owner have to sign waivers, young couples, saying they won't get pregnant or have children. I don't think that's very moral.

SENATOR CRAVEN: No, I don't think it says they won't get pregnant.

MRS. HOUGH: If a young couple moves into our park, right

now, they have to sign a waiver saying that if they have children, they have to move out.

SENATOR CRAVEN: That's different than getting pregnant.

MRS. HOUGH: That's basically saying you can't have children while you are living in our park.

SENATOR CRAVEN: I think we know what you mean.

MRS. HOUGH: OK. If we couldn't qualify for a \$56,000 home or a \$52,000 home five years ago, with the way the economy is going, where do young people have to turn to get a home as a starter?

SENATOR CRAVEN: It's difficult.

MRS. HOUGH: The gentleman pointed out that senior citizens can't live with young people. I take care of my neighbors. My neighbor was sick in the hospital, and I drove his wife to the hospital because she couldn't drive. I watch out for my neighbors against burglars because they don't hear as well as I do. They don't see as well as I do. I keep an eye out for them. My dog barks and my neighbors know why he is barking; they know that somebody is in the yard; they know he's just lonely or what. They appreciate his barking. I mean we live in harmony together. Granted, some people don't. We have another neighbor who doesn't, but he moved in after us knowing there were children across the street. If he can't tolerate children's laughter or playing, he never should have moved in there in the first place. It is a transitional park, and it is extremely hard. I have two other military friends who have tried to sell a coach - who have had orders - who have literally had to give them away because

they have had orders and they have had to leave. Many coaches are left vacant because young people can't sell their coaches. But the primary thing is trying to live as a human being. When we first came here, San Diego said you could not put your coaches on your own property. There were no vacancies in the parks so you had to buy existing coaches in existing parks. We had no other choice. I definitely would like to have my own coach on my own land when I came in here in the beginning, but they're not going to build coaches; they're not going to build parks for families. Let's face it. They're just not going to. I don't think very many young people are going to move into senior citizen parks because of the fact they won't feel comfortable, but why can't we have parks that were already family parks change back? Why were they taken away from us? I mean, this is not fair. The landowners scream they have to have a fair value on their homes. We can't sell our homes. They want a fair return on their property. What about a fair return on our property? Don't we have a right? When I was a kid and other kids wouldn't play with me, I felt ostracized by society, and that's the way I'm beginning to feel now with a family and I think the family structure should be looked into more. I think we need more help instead of deteriorating the family.

SENATOR CRAVEN: Very good. Thank you very much, Mary. We appreciate your testimony. Next is Mr. Joe Sarno, who is also from Escondido.

JOE SARNO: Good morning. My name is Joseph Sarno. I live in Moonglow Mobilehome Park at 900 Howard Avenue, Space 82,

Escondido. "Adults only" sounds exclusive to those not familiar with the mobilehome lifestyle. Many misapplications have caused problems for every mobilehome owner throughout the state. We have become victims of semantics due to the ignorance of others concerning our lifestyle. This issue of "adults only" is no different than many of the issues we have been forced to face. When the many adults involved calmly face this issue, and intelligently address the issue, there will be no need for homeowner to be pitted against homeowner. We are here to testify solely concerning those "family parks" switched to "adults only" and the ramifications which issued as a result. The majority of "adults only" parks were incepted, built, and operated as such because they served the needs and wants of the elderly. No discrimination was intended at that time. California was once a retirement state. Growth has seen a different need, and a younger age group migrated to where industry is settling. The "adults only" parks have not kept abreast of the changes growth brings. A simple reclassification from "adults only" to senior citizen villas, retirement haven, or whatever name desired to convey a specific age group, might solve the problem being faced by the true "adults only" parks. This committee can save time, friction, taxpayers' money by concentrating upon those parks built, incepted, and operated as family parks and then switched to adults only because it was to the economic advantage of the park owners. Our testimony deals specifically with family parks switched to adult parks. Before we entered Moonglow in Escondido and invested our money in a home, we were assured by management:

1. It was a good family park.
2. It would always be a family park.
3. It was a memorial built by the owner in memory to his father and sons killed in an airplane tragedy.

Based upon these assurances and the immediate needs of our 12-year old son, we entered the park on May 4, 1979, and became mobilehome owners. A few months later we were handed a notice by management stating after October 1, 1980, we would no longer be a "family park" but would be an "adult only" park. We protested. The following excuses were given:

1. This will rid the park of an undesriable element.
2. This will control child population.
3. Health laws dictated the policy.
4. We wish to attract older couples without children.

The policy forced upon us states we cannot sell to families. We can, however, sell to childless couples and they can procreate as many times as they wish after they enter the park. There are currently 95 children in a park containing 95 homes, including newly born babies. Yet we are classified "adults only" and cannot sell to families. We are neither "family" nor "adult" and all the residents are in limbo as a result. With the switch the following evolved:

1. Our homes depreciated in value.
2. Our resale market became limited.
3. Our economic advantages were interfered with.
4. We became entrapped.

With entrapment came (1) increases in monthly fees with diminished services and maintenance, and (2) coercion to buy the pads our homes sit on. The approximate price quoted by the condo conversion attorney ranged from \$25,000 to \$50,000. Our pad measures approximately 54 ft. x 70 ft. We fought that vigorously by standing upon Senator Craven's and Chet Wray's enacted subdivision law. Thank you.

SENATOR CRAVEN: You're welcome.

MR. SARNO: That growth we mentioned earlier had increased land values in the area. Conversion to another usage would realize an inflated return for land which had already supplied a fair rate of return and a steady profit throughout the years of operation of the park. Our economic advantages have been grossly affected as a result of this so-called "adults only" policy. There are families willing to buy our homes, but "adults only" has closed the door to them. Four years ago our son was 12 years old when we relocated in California. Apartments and "adult only" mobile-home parks would not accept him. We encountered discrimination against children firsthand. That discrimination in housing had a tremendous impact on his life and ours. Now we are being forced to practice the very thing we encountered and have to refuse families and children. It goes against our moral convictions and it makes the six years of service I rendered to this country to keep basic freedoms and human rights safe a mockery. Human rights of foreigners are presently being protected by the saber rattling in El Salvador and the Mid-East. How can we claim to be so humanistic and protect the rights of others when discrimination

is so blatantly being practiced here and now? We have encountered misrepresentation at the time of sale, breach of contract, bait and switch, entrapment and coercion. Now we are being forced to practice discrimination against children and families because of "adults only." We have spoken out in the hope this committee and the lawmakers can see the real ramifications of discrimination. Discrimination is dangerous. It leads to many things creating many problems. It benefits no one. We are one nation under God with liberty and justice for all, to discriminate against any sector of our society is to eventually discriminate towards all and deny what our Constitution and our flag represents in essence and truth. Thank you. Any questions?

SENATOR CRAVEN: Thank you, Mr. Sarno. Senator Presley, Senator Deddeh, do you have any questions of Mr. Sarno?

SENATOR DEDDEH: May I ask a question?

SENATOR CRAVEN: Certainly. Senator Deddeh:

SENATOR DEDDEH: Mr. Sarno, the decision to change from a family park to an adult only park was made on a unilateral basis by the park owner, or how was it reached?

MR. SARNO: In the back of my speech you'll find the way it came to us. . .

SENATOR DEDDEH: I know, but who decides that? The owner, not by a vote of the occupants, or. . .

MR. SARNO: By the owner. We were told there would be a policy change; we objected to the fact there would be a policy change and it's one of those things that you don't object to to a park owner today.

SENATOR DEDDEH: Thank you. Thank you, Mr. Chairman.

SENATOR CRAVEN: Thank you. Thank you, Mr. Sarno,
very much. Next is Sophie Howard, GSMOL, San Marcos.

SOPHIE HOWARD: Good morning.

SENATOR CRAVEN: Good morning, Sophie.

MS. HOWARD: I'm Sophie Howard. I live at 150 South Rancho Santa Fe Road, San Marcos. I represent the mobilehome owners of San Diego and Imperial Counties for the Golden State Mobilhome Owners League, GSMOL. At the present time park owners are changing the rules in mid-stream. A mobilehome owner has a buyer for his home. Now comes the time to introduce the potential homebuyer to management. Here the homeowner learns that age requirement has been changed, and the potential buyer is too young. Another case, a potential homebuyer meets management; management told the people that the husband's age was fine but the wife was one year too young; no sale. Many mobilehome owners are unaware of recent age changes within the park or have never been aware - always thinking themselves to be in an "adult only" park. This mid-stream change also applies to the family parks. Management is advising the family parks are being changed over to adults only. So in selling the in-park mobilehomes, the buyer must be an adult. These family parks do have the facilities for children, playgrounds and whatever else is required for the improvement of the children there. Here the family feels trapped as they moved into a family park and are now told that they can only sell to an adult. Here I have seen in family parks the only few land spaces available. That's due to people not wanting to come in and buy in a family park, and that doesn't mean there aren't

families out there that would love to buy into the family park. Mobilehome owners are finding, due to physical changes along with the added years, a live-in assistant is needed. In many cases family members are offering assistance. The aid is available, but due to age restrictions plus, in some cases, numbers, management is denying the homeowner the aid that is needed. A recent bill passed which will become law January, 1984, shared housing, a very much needed bill to help those who need the financial and physical assistance. I have a case here of a mother in her 90's who has been sharing her household with her daughter in her 60's. Recently the daughter has gone blind. The mother needs a live-in assistant. Management has said no due to the numbers in the coach. We are homeowners and our only crime is in renting the ground space our home rests on. Please, those of us who wish should be allowed to live in adult parks, 18 and up, and those who want and need the family park should also be allowed to remain and be kept as such. Facilities should be the basis. Children need play areas. The present adult parks lack the additional requirements. Thank you.

SENATOR CRAVEN: Thank you very much, Ms. Howard. Next we'll call upon Craig Biddle who represents the Western Mobilehome Association and who serves as general counsel for that organization.

CRAIG BIDDLE: Thank you very much, Mr. Chairman, and Senator Deddeh, it is a pleasure to have you with the Senate Select Committee here today. Let me just make a couple of introductory comments and generalities as a result of our last hearing we had in February or March. As indicated on the program, we

have with us Brent Swanson, who is one of the attorneys very active in our Association, who is the attorney in one of the two cases you referred to in your opening comments, the Dubovsky case up in Santa Clara County. I think it's important though for the committee to consider exactly what the issue is before the Legislature. I think that's important in this area. I think the white paper the consultant put together is an excellent background paper for this subject matter and is well prepared, but I think the real issue is - and I think you should hone in on it in your consideration and your deliberations here today - whether or not mobilehome parks in the State of California are going to be able to continue to have some, whatever they are, "adult only" rules in the State of California. Both of the cases that are referred to, the Wolfson case and the O'Connor case, don't deal directly with mobilehome parks but really attack that very question though. They really say in essence that under the law, because of the Unruh Act, and as a result of that law that you cannot have any rules dealing with adults only. In other words, all condominiums or all apartment houses must be family units. If the Supreme Court extends that over to mobilehome parks or the Legislature extends it over to mobilehome parks, what you are saying is, in essence, all mobilehome parks in the State of California must be family mobilehome parks. And that's really the issue before you. In the Mobilehome Residency Law many years ago, we placed a provision in there which has been referred to that says in our mobilehome parks we may have "adult only" rules. Whether that is to be retained and whether it is to be preserved by the courts or

the Legislature really, I think, is the issue before this committee. But it's not only before this committee. It's before the courts and that is why we asked Mr. Swanson to come to talk to you today. The two cases that are involved in the Appellate Court are the Zipp case - Walter Talley is the attorney handling that case and he testified before the committee earlier this year and we asked him to come and talk about that case. Just for the committee's information, it is on appeal as indicated in your background paper. They're putting together the appellate process and the documentation and it will be before the appellate department of Superior Court in Los Angeles County some months from now. The second case, which is the Dubovsky case, which is up in Santa Clara County, was on appeal at that time and is now back in trial courts. Mr. Brent Swanson is the attorney who has been handling that case on behalf of the park management, and I'd like him to come forward now and at least talk about the update on that case, exactly where it is, and also some of the legal problems involved because I think our decisions before this committee are two-fold: some political decisions and some legal decisions, and if the court rules on the constitutionality of this issue, it may take it out of our hands completely, both from the legal standpoint with the Unruh Act or the political decisions as far as any legislation. So let me ask Mr. Swanson to come forward and we'll answer any questions after his presentation.

SENATOR CRAVEN: Craig, either you or Mr. Swanson, before you finish your testimony, if you could address some comment to the conversion problem.

MR. BIDDLE: He is going to talk about the conversion problem.

SENATOR CRAVEN: Very good.

MR. BIDDLE: And I might from our Association standpoint, and Mr. Tennyson's background paper talks about the difference between senior citizen parks and 18-year old parks, our Association policy is that you should have either 18-year old or senior citizen. You should not have any between, 35-40 and those things. Although many of our parks have had those in the rules, it is our Association's policy not to do this. It either should be senior citizen, family or 18. There shouldn't be these ages in between. I can't give you any statistics on how many are changing, but we are recommending that those in the Association either go senior citizen or 18; that they not have the ages in between, and you mentioned that in your paper, John.

SENATOR PRESLEY: Before your witness comes up, may I ask you a couple of questions on, I guess, the economics of parks. I gather from listening to the earlier testimony here this morning that there are more parks switching over from family parks to adult parks. It seems to be a trend, and if that is the case, I would assume that it is more economical, I guess, to run an "adults only" park. Would that be. . .

MR. BIDDLE: Well, let Mr. Swanson talk about that because we believe there may be an over-emphasis of what is actually going on in the whole state. He has some better views on that than I do.

SENATOR PRESLEY: Then the other kind of economic question again is if the court ultimately upholds the right to have an "adults only" park, then are the economics not there to have a certain number of "adults only" parks and a certain number of "family only" parks?

MR. BIDDLE: We'll have testimony on that. Brent.

BRENT SWANSON: Senator and members of the committee, my name is Brent Swanson. I'm a partner in the firm of Lazof and Swanson in Santa Ana. Our firm, including myself, has the responsibility for representing park owners throughout California. We have been involved in a number of these adult only cases at the trial level and, as Craig mentioned, are the attorneys for the park owners in the Dubovsky case. The Dubovsky case, as your background paper notes, is now back in the trial court after being reversed by the Court of Appeal in San Francisco on some technical grounds. In effect that reversal undid an adverse decision for my client which occurred at the appellate department level of the Superior Court. There has not been a hearing set or any action taken since the case was referred back to trial court. It is just sitting there at this juncture. There is a variety of things that could happen: a trial, another motion for summary judgment which would then begin the appellate process over once again, or perhaps just leaving the case sit and allow the Zipp case, which is further along, to wind its way through the appellate courts and ultimately be the case on which these issues are decided. The background paper also correctly points out that the Wolfson and O'Connor cases have turned essentially on an interpretation of the Unruh Act.

There is an exception in the Mobilehome Residency Law for mobilehome parks, both as to rental parks and subdivision condominium type parks that do permit us to have "adult only" requirements. Under the normal rules of statutory interpretation, since that is a very specific statute, it is an exception to the more generalized, broader Unruh Act, but really where we are finding the legal issues today, they center in the courts on the constitutional issues. I am very optimistic and hopeful that on a constitutional basis the courts will ultimately decide in favor of the validity of an "adult only" restriction. I believe that would be an appropriate ruling by the courts. I would again point out one issue on which both the residents and the park owners agree is the necessity of being able to maintain this "adult only" status for the industry as a whole. I do think, however, that - speaking to questions that Senators Craven and Presley have raised - it is essential from an economic standpoint and by the ability of this industry that the park owners retain the right to convert from either adult to family or in reverse from family to adult or to have a park that is a mix of adult and family, which is not an uncommon situation. In the latter circumstances there is typically one area of the park that is adult only versus another area that is family. We have had a number of clients who have made these types of conversions. They have been occurring now for any number of years throughout California. They have occurred, in our experience, in both metropolitan areas and more sparsely populated remote areas in all types of parks, ages, quality, size. What we have found is that what you have heard expressed here today, some of the concerns

by the residents about the salability of their homes, the impact upon their lifestyle, really have not occurred. The salability of homes is a common concern. Will the family want to buy the typical adult only home or will an adult only couple want to buy the larger number of bedrooms, family type of home? That does not seem to have been, in fact, an impediment. We have seen some of these parks now where the conversion occurred three, four or five years ago, and both in terms of the immediate effect and the long-run effect, we have seen over a period of, let's say, five years complete attrition in the parks so that essentially no families remained. They have been replaced entirely by adults. Where you had a population of two or three children per home, perhaps on the average of, in its earlier family status, it is now, the population of those children is down essentially to perhaps 20 or 30 in the entire park. Those homes have sold for prices which are comparable to homes that would sell, of the same quality and size, in "adult only" parks that have not experienced any conversion. So it is a myth, I believe, that is being perpetuated unnecessarily by residents. And out of ignorance, obviously not through any deliberate intention to misstate the fact. What we have seen that has been a problem these last two years that I think has brought on a great deal of the political impetus, if you will to examine this whole area, has been the fact that mobilehomes, like the rest of the real estate market, suffered and suffered substantially during the last two years. The salability of these homes was affected because of the bad financing. People who were traditionally candidates for residency in mobilehome parks

who were selling their stick-built, single family, residence and moving into a mobilehome park could not sell their original residence so the demand diminished somewhat in that respect. It also impacted the building of additional parks. This recession, which is virtually, as I think The Times pointed out yesterday, is the worse we have had since World War II, had an impact in this respect. What we found before the recession is that the "adult only" problem was essentially non-existent. When a young couple had a child in an "adult only" park, their home was readily salable. They could move, and the problem resolved itself in that fashion. With the change in the economy which we are seeing happen now throughout all the parks in California, the sale of homes is picking up, the financing is much better, and we anticipate there will be a significant lessening in the concerns that residents have expressed these past few years. The insufficiency of family spaces is, in part, myth. I have clients who are building parks, who would like to build parks, who are able to build parks, they do not build family parks because, in their opinion, the demand is not there and I think that to a large extent that is true. That there is not this overwhelming demand by younger families for family-type parks that one might be led to believe in listening to today's testimony. I would also say that I think - I've been deeply involved in this industry now for many years in many, many capacities, both as attorney as adviser to WMA and participant at all levels of activities, including the legislative committee of WMA - there are, as is true in any industry, very, very few park owners who do not behave as they should. The vast, vast

majority of them are good-intentioned people who obey the law, who have the interest of the residents at heart and try to run a mobilehome park the way it should be run. So to have legislation or action taken out of Sacramento as the result of a few situations would be most regrettable, particularly where you're dealing with a situation where you are dealing with some very complex legal issues that are not well understood and where misunderstanding by the residents is very easy. I heard one lady say a man was turned down for residency because he was one year too young. The problem is that if you don't adhere to these age restrictions that are set, you can create legal waiver problems that would in effect wipe out all your age restrictions in their entirety and preclude you from having any type of age restrictions. This is a difficult area of the law for residents to relate to and understand and does contribute to misunderstanding.

SENATOR CRAVEN: May I ask you why do owners of family parks convert to adult parks? Is there a principal reason or are there several reasons for that?

MR. SWANSON: Any number of reasons. Part is economics. The operation of a family park can be significantly more expensive than the operation of an "adult only" park. It will vary depending upon the age of the children and the particular locale you are in. I can recall a family park in Anaheim, a type of family park that has been subsequently converted, where the property manager called one day and said he had just finished installing \$3,000 worth of sprinkler heads - this was about five years ago - and the kids kicked them all over the day after they were installed so I've got

another \$3,000 expenditure to go through in order to maintain the common area. Unfortunately, in some parks conduct problems by the teenagers are a real problem, and they add significantly to the expense of management of the park. You have limited parking facilities in some parks. Teenagers, of course, have their automobiles and that creates traffic and parking and safety problems. Any number of different reasons.

SENATOR CRAVEN: Now, am I correct in assuming that, based on the way I understood you, there are parks that have converted in both directions? In other words, adults only have opened up to families and family parks have closed in and become adult? So in other words what you said is that we have had occasions representing both sides? Is that right?

MR. SWANSON: Yes.

SENATOR CRAVEN: Is one more peculiar than the other?

MR. SWANSON: The more prevalent situation is converting from family to adult only. The other direction more commonly occurs where market conditions simply demand that it be opened up to families in that area because of the weak demand. Consequently, in outlying geographic areas business spaces will not fill. I've seen park owners open new parks that were to be adult only, then have to convert to family simply because of any number of economic reasons affecting demand and their inability to fill the spaces.

SENATOR CRAVEN: Well, let me ask you a question on, I suppose this is a question involving economics, but with an obvious demand for mobilehome spaces in a family park, why then

have not investors built family parks if there is such a clamor to utilize that type of living?

MR. SWANSON: I don't think that demand is as strong as it is represented to be. Mobilehome park owners are like other business people. They are in business to make money.

SENATOR CRAVEN: Obviously.

MR. SWANSON: If you can make money by providing a product that is in very short supply; i.e., family spaces, then you can fill your park faster. Presumably if it's in high demand, you can charge more rent and so you can make more money. If those factors offset the additional cost of operating the park as they could in many instances, then these kinds of parks would be built. Oh, I'm not convinced that the demand is really there. My clients are astute business people for the most part.

SENATOR CRAVEN: Don't you think there is a tendency among most of us, and particularly in an investment situation where you go with the given? In other words, we have almost an assurance that if we went adults only, we would probably fill it quite well and since there is very little experience in a new sense on family parks, it is perhaps in the minds of the would-be investor a little tenuous, a little risky. Do you think that could enter into it? In other words, we don't really have the history or the experience in coming in and building that family park.

MR. SWANSON: We've been building family parks - in fact building family parks from scratch - for years and years and years in this state. I mean there have been family parks that were opened 20 years ago. . .

SENATOR CRAVEN: Well, 20 years ago I would probably be willing to stipulate, but I cannot think in my particular area or Wadie and myself in our environs, and Bob has a county that is full of mobilehomes, I can't think of any new installations in the San Diego community which would be family type parks. Now, perhaps they have done it in Anaheim, but down here for one reason or another - Wadie, you correct me if you know of any. Bob, how about yourself? See our experience has not indicated that to us.

MR. SWANSON: I think that in part the answer is that most mobilehome parks get built by people who are experienced in the industry. It is not the drag-a-bunch-of-investors-off-the-street and get them in a mobilehome park type of situation that you see more commonly in apartments or other types of real property so you are dealing with people who do have a great deal of experience in the industry, including a knowledge of the operation of family parks. They have either operated them themselves or they have close associates who have. There is a difference in the economics of operating parks and, quite frankly, the ever-present threat of rent control throughout this state has had, I think, an impact upon the park owners in wanting to build new family parks because they say will I be able to meet the increased requirements for rent increases in the future as readily in a family park? My costs are more stable and known and manageable with an adult only park and if I get trapped with rent control, then it creates a problem. The other aspect of it is that there are, frankly, just a number of people who because of the pressures of rent control and the fear of rent control say I am not willing to take on the

additional management hassles that come from family parks. If you are dealing with a bunch of small children, the under teenage level, then your conduct situation is quite different. But when you get into parks that are heavily populated with teenagers, for example, your legal expenses go up significantly because our clients who have those kinds of parks have to call us all the time because there are drug problems and all sorts of conduct problems that are substantial. They are not just nitpicking types of things, but they are substantial. You have difficulty getting management people to stay. You certainly can take no pride of ownership in your park because, in many instances, these family parks just look like the devil to tell you the truth.

SENATOR CRAVEN: Well, I'm sure there are problems, but there are probably problems on either side of the issue. Persons being senior such as I am, some of us may be inclined to create problems by virtue of excess drinking. We have a lot of time on our hands and may spend that time drinking and creating problems. So I can understand there are problems on the family side, but I don't know that the adults are necessarily so sacrosanct that they don't create a few problems themselves.

MR. SWANSON: We also see problems from local government. This is. . .

SENATOR CRAVEN: Well, you don't have to tell any of us about that. We're very aware of that. You did touch on one thing though, Mr. Swanson, and you talked about the ominous looming of a veritable Sword of Damocles in the form of rent control, and I understand that, although that sword really does not recognize

families versus adults. The same situation would exist. The common denominator being the control, and the control is something that you really fear, and I understand that. I don't quarrel with that at all. I would not attribute it more to family parks though than I would to adult parks.

MR. SWANSON: I think only because the family park's cost of operation is less defined and less controlled than you would find in an adult park.

SENATOR CRAVEN: I see. Adults are more static in their operation.

MR. SWANSON: Yes, sir.

SENATOR CRAVEN: Well, I guess we can understand that. Does Senator Presley or Senator Deddeh have any questions of Mr. Swanson? Senator Deddeh?

SENATOR DEDDEH: With your permission, even though I am not a member of the committee. I'm crashing the committee because I want to learn. Following the Chair's observation on rent control, definitely rent control happens when you really seriously have acute shortage of housing and rents go up, is that true?

MR. SWANSON: That is not the experience.

SENATOR DEDDEH: Not the experience?

MR. SWANSON: The City of Riverside. . .

SENATOR DEDDEH: Let me then attack it from a different point of view. When you take San Diego County where, it is my understanding, our vacancy factor is about 1% or 1½%, which technically - am I wrong?

MR. SWANSON: It's higher.

SENATOR DEDDEH: What is it?

MR. SWANSON: I've forgotten what the number was. The county recently did a partial vacancy study. It has been within the last six months or so, and I recall seeing the figures and, as I recall, they were significantly higher than 1%.

SENATOR DEDDEH: My understanding is that they may be higher in certain segments of the county, but there are parts of this county where the vacancy factor is 1%. I can tell you. Believe me. When you talk about 1%, you are talking about full occupancy, really. What is a couple to do whether they are adult, young, with or without children? What are they to do when only last Friday, just two or three days ago, VA and FHA went up on their loans for special borrowers 1 point, 13½%, which means that the commercial lender could conceivably be going about 13½% or 14%. We're back where we were. Nobody is going to build because nobody is going to borrow money at that rate to build, and so housing, which is as important as food and clothing to all of us, is going to be in a more serious, acute situation unless a major miracle happens. What are you and your clients prepared to do for those who need housing and yet, if I believe half of what I've heard this morning, it's impossible for them to rent anymore.

MR. SWANSON: I could talk for days on the subject. . .

SENATOR DEDDEH: I could too.

MR. SWANSON: But let me just hit on a couple of points very quickly. A vacancy factor when judged in terms of empty vacant spaces is an extremely misleading, incorrect number to use in the mobilehome industry. The reason it is incorrect and misleading is because a typical park throughout the state, on an average throughout the state, traditionally over the years you

have a 10% to 15% turnover rate of existing homes in a park. In other words, in any given park on the average, 10% to 15% of those mobilehomes resell each year to someone else so you have a vast supply, if you will, of available housing. You have a 10% to 15% vacancy factor being created through those homes themselves. Mobilehomes. . .

SENATOR DEDDEH: Can they easily sell or resell?

MR. SWANSON: With the exception of this disastrous recession that we have had, mobilehomes, and all the studies show this, we've done studies with reputable experts throughout the state, the Foremost Insurance Company which is the largest insurer of mobilehomes in the whole country, and California as well, their statistics will bear this out, will show that typically a mobilehome appreciates at a fraction of a 1/10th of 1% less than the stick-built housing in the area. So the mobilehome resident is realizing a significant appreciation factor, and in most instances the appreciation that he realizes is in excess of the amount of monthly rent or approximately comparable at any rate, the amount of monthly rent that he has paid. So he has lived there, in many cases, rent free. Because of this high turnover and because you have, in all areas of the state, parks where the rents run from \$100 a month to \$400 a month with everything in between with all sorts of different amenities. Now none of them are swamped. If a resident says that he can't afford \$250 a month rent, he can go find a park where the rent is significantly lower; he can sell his home at a profit at his old park; buy another home of comparable quality in the new park; pay less rent and not upset in any significant way his living standards. The new park still

has a swimming pool and a clubhouse. It may not be as nice, but it is nonetheless there. Now, another factor, and you talk about the cost of housing, is that if you look at local government's regulations, we find in Orange County - and I don't know what it is in San Diego County, but I assume it is typical - you'll find restrictions that say five per acre. When you are paying the kind of money that you pay per acre for raw land in San Diego and Orange Counties, that makes a significant difference in your ability to offer housing at a certain price versus fifteen to the acre. Yet it is perfectly feasible to build in a density of fifteen and - I have clients who had parks that were built in the late 1940's and in the 1950's with a density of twenty to the acre - so they don't have lavish green belts and recreational facilities but they provide decent, adequate, safe housing at a very reasonable price. If local government would do these kinds of things so my clients could afford to realize some of the economics that come from this density, you would have housing being produced at a much, much cheaper price than you see today.

SENATOR DEDDEH: What is the rate of return on your clients' investments, Mr. Swanson?

MR. SWANSON: It would vary all the way from. . .

SENATOR DEDDEH: What is a ballpark figure?

MR. SWANSON: I don't think you can ballpark it. I think what you can say today is that if you look at the current fair market value of that piece of property, appraised, reasonable, without exaggerated value, reasonable value, that on the average a typical mobilehome park is earning a rate of return which is

less than you can earn on a passbook bank deposit in your local savings and loan.

SENATOR DEDDEH: And they are doing this for charity?

MR. SWANSON: No, sir. They have found themselves in the last seven years the subject of a great deal of effort in terms of rent control, and that has caused most of them to take action to moderate their rent far below the rental rate that they should charge -out of fear of stimulating the passage of rent control. That is a fact, in fact.

SENATOR DEDDEH: Thank you.

SENATOR CRAVEN: You're welcome. You did make mention of one thing and you said there was an appreciation to the mobilehome owner and that appreciation would offset the increases that they may be subject to within the park.

MR. SWANSON: It would offset, in fact, the total monthly rent in many instances that they pay.

SENATOR CRAVEN: I can understand the appreciation as I probably have an appreciation for my property as you do for yours, but if I have to pay more payment, that appreciation is a very ethereal situation since it really doesn't come into play until I choose to sell the property - if I can sell the property - so I find that argument to be a little porous.

MR. SWANSON: But you have to put it in this perspective. It gives the residents an option which is not recognized or appreciated. If you were an individual who purchased in Orange County in the early or mid-50's when - and I can remember being at Cal State Long Beach in the early 60's and driving to Santa Ana

and Anaheim and there were bean fields, tomato fields and orange groves, and there weren't any homes. Now you can't see a bean field except very rarely and very few citrus trees at that. You could purchase a home in a park in Orange County in those days when the demand and the economics were quite different, and now you find yourself subject to the normal economic consequences of "This is now a much more desirable place to live and therefore rent is higher." You have that accumulated appreciation that you can sell and realize and take the benefit of, and you can find in other areas in California - you don't have to go to Timbuctoo, it's in San Diego, which has not changed as rapidly as Orange County but you'll be there very soon - but today you can rent property, mobile-home spaces here in San Diego County in comparable parks for far less and you can buy that mobilehome for far less than you'll be able to sell it for in Orange County. So those residents do have a lot of options which I think need to be recognized and taken into account in this whole process.

SENATOR CRAVEN: Very well. Well, I think perhaps we've digressed a little bit from our main subject area and perhaps that is the fault of the chairman more than anyone else, but if you have made those comments you have chosen to make, why. . .

MR. SWANSON: I'd be happy to answer any other questions.

SENATOR CRAVEN: Fine. Senator Presley, do you have any comment?

SENATOR PRESLEY: Yes. On the question of appreciation, which surprised me a little bit as I felt it was kind of the other way, that they tended to depreciate. Is that something of recent origin?

MR. SWANSON: Sir, it's been going on for any number of years now.

SENATOR PRESLEY: Even prior to the switchover to the property tax?

MR. SWANSON: Yes, sir. Oh, yes. Prior to that.

SENATOR PRESLEY: I guess that's a plus. I'm a little surprised.

MR. SWANSON: The Foremost Insurance Company has a tremendous data bank because as they insure homes, the sales price comes into play and you can track through their statistics this appreciation factor in almost any community in California.

SENATOR PRESLEY: Have you seen any change on the part of local government in terms of zoning for mobilehome parks since the switchover to the property tax? Has it been, like everybody thought, they would zone more property more easily?

MR. SWANSON: Some is getting better, but it certainly has not been a rush. My experience with getting into that kind of detail with my clients is fairly limited, but it's not my impression that we have seen a significant change since the property tax situation.

SENATOR PRESLEY: Is the zoning of new parks still a problem with local governments, cities and counties?

MR. SWANSON: Yes - not in every county, but it does tend to be. It tends to be not only a problem of getting them approved, but the requirements that are placed on them so the cost of construction, either through density or other requirements, you know, it inhibits.

SENATOR PRESLEY: Do they still use the excuse that they don't pay for themselves?

MR. SWANSON: I have not. . .

SENATOR PRESLEY: You know, in terms of city or county services?

MR. SWANSON: I have not heard that being used since the change in the property tax situation.

SENATOR PRESLEY: So that's one difference since the change-over.

MR. SWANSON: Yes, sir. Changing the legislation certainly did help.

SENATOR PRESLEY: See, the argument always was that when the switchover was made to property taxes in - July 1, 1980, I believe it was - that then they would tend to appreciate rather than depreciate but you're saying they were appreciating even before that?

MR. SWANSON: Yes, sir.

SENATOR PRESLEY: The other argument was that local governments would tend to zone more easily, be more cooperative because they would get more of the local property tax base.

MR. SWANSON: But you had converging at the same time the local government's tax base because of Proposition 13 and you see an attempt to play catch-up through increased fees. These fees are a big deterrent to any kind of construction, including a home, where the economics are not the same, not as desirable in many instances if you're selling the product that you build.

SENATOR PRESLEY: I thought Jarvis said something about not going to affect people who were renting. Didn't work.

SENATOR CRAVEN: I remember him. Let us get you off with one question. One more. Do you see a legislative solution to maintaining "adult only" rules whether in parks, or apartments or condominiums, or do you think it's a matter that should be left to the courts, best left to the courts?

MR. SWANSON: Well, from the standpoint of mobilehome parks, I think the issue now centers on whether or not any type of age restriction is or is not constitutional. We would seem to have sufficient statutory authority to provide the exemption to Unruh. That is where our two California Superior Court cases come in so I don't see the need for legislative action at this juncture with regard to mobilehome parks. In other forms of housing it is my understanding there is a bill in now to, in effect, undo O'Connor with respect to CC&R's. I can certainly understand that and appreciate the fact that there are going to be a number of people who own their homes who are going to want to be able to have age restrictions. If the Legislature sees fit to pass that bill, then I guess they find themselves along with us on the question now on the issue of constitutionality.

SENATOR CRAVEN: Very good. Thank you very much, Mr. Swanson. We appreciate the testimony of both you and Mr. Biddle. Next, Marion Hamner from El Cajon. - Marion Hamner - She's evidently not here. Is Bob Carpenter here? Bob represents Assemblyman Bob Naylor, and he would like to make some comment relative to something that was just touched upon, I believe. Briefly. Bob.

BOB CARPENTER: Thank you, Senator Craven, and members. I just want to touch briefly on AB 2184 which, in effect, would overturn

the O'Connor decision relating to business establishments and whether condominium associations, mobilehome parks and others fall within the Unruh Act, Civil Code Section 51, dealing with business establishments. Mr. Naylor has introduced this legislation and we do plan to pursue it vigorously. We appreciate your principal coauthorship.

SENATOR CRAVEN: Thank you.

MR. CARPENTER: As well as the coauthorship from various members of the Assembly. We feel that the court erred as to a number of attorneys who have contacted us throughout the state in determining that business establishments, or that condominium association, mobilehome parks, etc. were business establishments, and our bill would take that out of the purview of the Unruh Act. I really just wanted to make that statement. If you have any questions, I'd be more than happy to answer them.

SENATOR CRAVEN: Fine. I don't think there are any here from the committee. Are you going to be here, Bob, for a little bit?

MR. CARPENTER: Yes, I am.

SENATOR CRAVEN: Mr. Carpenter, who represents Assemblyman Naylor who has introduced a bill which would seek to overturn a court decision, will be here and if you have any questions that you would like to ask of Mr. Carpenter relative to that bill, I'm sure he would be most delighted to give you what information he can. Thank you, very much. I don't imagine that Mr. Tilford is he, is he, at this time? All right, we have several others we might pick up. Steve Balkam? Steve?

STEVE BALKAM: Chairman Craven and members of this fine committee. I want to commence by saying I'm Steve Balkam, an Associate Director-at-Large of GSMOL. I live at the Highlands in Santee, San Diego County. I first want to commend this committee for the fine work you have been doing, and I know you will continue to be doing. In behalf of those of us who have chosen this particular mode of living, I think I will repeat what I said before the Senate Judiciary Committee on August 25, 1977, when I appeared before them in opposition to AB 450, a statewide rent control bill. I had reasons for the opposition, but stated that I indeed could not oppose such a measure if I did not have a viable alternative. That alternative was, and it is today even more importantly, that it is up to us at the local jurisdictions to promote, to assist in the development of more good mobilehome communities. Here in San Diego County we are fortunate to have good cooperation from the Board of Supervisors, the Planning Commission and throughout the planning and land use. I am happy to see that our good friend, Mike Fagan, is here today with us, who is a senior planner for mobilehome development here in this county. At the present time Mike's list of potential - and I underline twice potential - new spaces in this county runs 10,887. If half of those in the next two years could come through the pipeline for approval, we'd indeed be very happy. However, the sad part of that statement is that something around only 25% or approximately 2500 of those spaces are indicated to be family parks. As much as old goats, like me, need more mobilehome spaces, the need for the younger generation is far greater, as you all know. It is indeed true

that perhaps less than 5% of our population and the younger generation can anticipate being able to realize the dream of owning their own home. So that are we today talking about adults only? And I fully support it, but we must also get to work and get new, good communities that will be for families. Now my experience thus far in those relatively few parks that are family and adult has not been good. I think of parks that are twelve or fifteen years old that I know of where they started out with an adult section and a family section, but through the natural course of events of sales and resales, they are now completely mixed together. It is not right for youngsters in those families to be held up close, one home to another, with an elderly little lady - I know of one 89 years old, living alone, and determined that she is going to stay alone, but on both sides of her are three kids in the family next door and two in the other, young kids. They must be able to play. They must be allowed to yell and scream when so moved. That isn't right for the children, and indeed it is not comfortable for the elderly who live there with them. So we must, must develop parks. The last two years I've been working with developers, Mike Fagan here, and others attempting to persuade developers who are now coming into the line for approval that they seriously consider, and we have been able in three instances to convert the developer to a family park. And in each case they have agreed that the amenities will be designed for the proper and good use of children. We have one down - Bonita, actually - 584 spaces, I believe is contemplated, and I think, Senator, you know that one - family park. That's going to be great. We do have some trouble

with the main thoroughfare going through that park; we haven't sold that yet. But we simply must. Now I spoke of my opposition to rent control in 1977. I'm still not supportive. However, I say to you people and to our good friends in WMA that we are living as hostages to a monopoly in the mode of living that we have chosen. No one has forced us into a mobilehome park. We've gone of our own volition and what we see there, the good life that it is. We are responsible citizens, I do believe, and my own City of Santee at our last election had mobilehome people turn out 94.8% in their vote against a 57% for the community as a whole, including those of us in the mobilehome parks. That's one example of citizenship responsibility. There are a great many of our people, retired as we may be, and tired perhaps, but we are active in civic activities, be it work at the hospitals or whatever that volunteer may be. We do enjoy a comradery within our homes, our parks, that you don't find in any conventional, stick-built neighborhood. Ah, yes, I'm happy to see that we have three bills - take this out to be sure I'm right - Senator Craven's bill, SB 1184. These bills, each of them, are on the peripheral of the question today of adults only, to be sure. That we simply support, Senator Craven, and we will give you all the help we possibly can.

SENATOR CRAVEN: Thank you.

MR. BALKAM: AB 2073 by Farr. That requires in the change of rules - that will require in the change of rules a majority approval of all mobilehome owners in a given park. I have not taken the time to research, but I ask this question, "What happened to AB 901 that was signed by Governor Brown on September 25, 1977?"

That bill called for exactly that. I don't know what happened to it. Now AB 2184 is very important, very important, for it will enforce and show it to be legal that CC&R's may be for "adult only" or "family only." Why is that important? It is because if we are going to secure our future destiny, the only way we can do it is to have ownership-management mobilehome communities that we may own and control ourselves. Indeed, I think we must agree that many, many of the rent increases are obscene, and the only way you can control that is to own and control it. As Marie Malone has suggested, we should be talking about BLB. It's no kind of a drink. That's buy, lease or build; and that we are making a real effort to do. Now our friend, Brent Swanson, got up here and spoke about market values. I have met with some of the owners in groups as well as individually, and they have said, "Steve, don't you think we should earn 10% to 11% on our investment?". . .

SENATOR CRAVEN: Steve, if I may interrupt you?

MR. BALKAM: Time?

SENATOR CRAVEN: I understand the points that you want to make and you make them very articulately. However, we want to try to move it along as quickly as we can and try to stay to the issue for which we were convened, and I guess you've made some of those but I don't want to say, "That's it." You sum up as best you see fit.

MR. BALKAM: Senator Craven, you are exactly right. I'm not staying on "adults only." However, to secure that mode of living, we must own our own parks in the longer term. We must build more communities. And we're going to be coming to Sacramento

to assist in any way we can in some form of financing that will assist in the development of our own communities. Thank you very much for all you've been doing and thank you for this time this morning.

SENATOR CRAVEN: I want to thank you, Steve, for all you've been doing because you've been in the forefront of mobilehome activities, not only here in this county but statewide. We appreciate all of your efforts and thank you very much. We have three ladies who have indicated a desire to speak. One wishes to talk about a revision of the Mobilehome Residency Law. Let's hold one and pick up first on Betsy Schreiber. I think she understands what our problem is here.

BETSY SCHREIBER: Thank you, Mr. Craven. My name is Betsy Schreiber and I'm here not as a resident of a mobilehome park, however, I recently moved my mother into a mobilehome park, and as you have read, in your district and through some of your efforts legislatively, they are in the process of converting their park through your map waiver process and buying their park. Before I go on to the residency issue, I would like to raise one issue and that is after listening to the mobilehome park owners' representative, I can see that there is a very fine line of tenant/mobilehome owner relationship, and one of the things that I do think needs to be done legislatively before we go into the age thing is that the mobilehome tenant should be noticed when the park is for sale, and there should be a right of first refusal either through state legislation or local jurisdiction clause in the legislation so that the park tenant could have the opportunity to try to buy their own park. Now to go

on to the age restriction, I'm going to speak basically from my mother's park issue. If, in fact, the age limit were at 65, I think we would have a problem as far as financing that park. Right now the age limit is 40 and over, and with no problem at all they are being able to do not only the interim loan while the Department of Corporations acts on their purchasing of their park so that they can buy their individual lot - as you know, we're doing a single lot subdivision - but the interim loan was not hard to come by and neither has the take-out loan been difficult to accomplish because the age limit was not such that the banks weren't willing to finance. When I was discussing this with my husband before I came here today, he said that the federal government recognizes the age of 55 to allow tax credit for people selling their house, and I would like to point out to you that probably that is what the state should do. They should be looking at a limitation for the "adult only" mobile-home park. The other thing is the state should recognize through legislation the existence of senior citizen mobilehome parks and family mobilehome parks and allow the local jurisdictions with guidelines from the line, probably like you did with granting housing legislation, saying by a certain time you either adopt legislation to accomplish this or you'll take the state's legislation and that way when they convert a family park, then they would have to inform the tenants and they would have to have hearings, those kinds of things, so that the kind of thing we are hearing today wouldn't take place, if you would let the local jurisdictions have some legislation to accomplish that. And the other thing is I've heard in the discussion today - and I'm on

the Planning Commission for San Diego County - and I heard talk about dwelling units fifteen to the acre. That's not a mobilehome park. That's a trailer park. Mobilehome parks cannot be accomplished at much more than eight dwelling units per acre. So the overall cost for a mobilehome park is going to be about the same because what we're talking about twenty years ago is a single-wide trailer park. We're not talking about that today. We're talking about a residential community, a homogeneous community where people in mobilehomes - it doesn't matter whether they are family park or adults parks - they still take care of themselves, across the street. On the street my mother lives on everybody knows what's going on. If one is sick, they are all concerned. So the overall cost is not going to change because, in order to develop a mobilehome park, you have to have at least seven to eight dwelling units per acre.

SENATOR CRAVEN: Thank you, Betsy. We appreciate the work that you've done as a Planning Commissioner for the County of San Diego and I know of your intense interest in this problem. Regina Ash? Dear, can you be your usual concise self?

REGINA ASH: I hope so.

SENATOR CRAVEN: Good.

MS. ASH: I'm Regina Ash. I live at 444 North El Camino Real, Space 22, Encinitas, which is Park Encinitas, which Betsy was referring to as being in the process of a condo conversion. However, I'm also on the Triple A, the Area Agency on Aging Housing Committee. I'm an Advisory Board member. Mrs. Hinkley, who was sitting by me, had to leave so I'm the co-chairman, so

to speak. We got our notice of this meeting in our Triple A Bulletin last Friday at the Housing Committee meeting so we do not have any recommendation from the Advisory Board, only from the Housing Committee. We have an executive meeting next Wednesday, and we would like to speak for the mobilehome park residents in a little bit different area, maybe? We have a lot of interest in housing for seniors and shared housing and in housing for the frail and elderly so they are not institutionalized. And this can be done, you know, in mobilehome parks. Mobilehome park people take very good care of their 86-year old neighbor. As one person said, she hears better than her 86-year old neighbor. In our park we have residents who are receiving in-home support care and we know from experience that mobilehome living is one of the very best ways of keeping elderly people in the community, which is one of the things that Triple A is working on constantly. So people are not institutionalized. So I would say to you that mobilehome parks with elderly people such as that should be adult parks. I talked to one lady who told me she lived in a very large park in northern California. I asked her how many coaches there were. She didn't know. The reason is because the park is so large that it is in sections. She lives in the section of the park that allows pets so it's family and adult both because they have pets. There is one section of the park that is family only. She said the playgrounds and everything are just wonderful, and one section of the park is just for adults. I don't see why this can't be carried out in all of the state. It would also help seniors - I think you will find the Area Agency on Aging is interested in housing

for seniors and in mobilehomes particularly. Thank you.

SENATOR CRAVEN: Thank you, Regina. Marie Malone. Marie, please. Good morning, Marie.

MARIE MALONE: Good morning, Senator, and members of the committee. I'm Marie Malone and live at 1600-44 East Vista Way, Vista, California, and am Vice President of Golden State Mobilhome Owners League. As I am listening to all of the input to the committee, some of which I feel has been very fine, some of which I feel has been very much off track, a question has crossed my mind that perhaps our basic premise has truly not been examined. Before we look at the adult and family part of the mobilehome parks, have we solved the question of, "Is a mobilehome in a park an individual home or is it rental property under the law?" Basically, I think that's the question we must face and answer before we go on to answer the adult and family park, which, of course, within our present day rental parks is one of our greatest problems. I don't believe that it really should have become the great problem it has except through lack of direction and law, we have allowed some things to slip by the way. Each one of these parks that are built in the State of California, to my knowledge, a local conditional use permit must be acquired from local government. Most of these conditional use permits spell out exactly what the person building or developing a piece of property is going to do. It seems to me that if the man who went in, or the man and woman who went in, to get a conditional use permit for a family park should not be changing that family park down the line without having to return to that local government to make a decision. And to me it is the responsibility

of local government to look at their over-all picture of housing within their community before they grant that permit to change from family to adult. I think that is one matter of control that is not being exercised to the full extent today. Now, we have had testimony up here as to why we are not building family parks. Ladies and gentlemen, we are not building rental parks of any kind, whether they are family or adult. Steve Balkam talked about the parks being built in San Diego, and I know from a conference in San Francisco the other day that we are leading throughout this state in that area. But those parks are not rental parks. Those parks are the condominium or own-your-own lot, and why are we not building rental parks? Because there isn't any market for them, whether they are adult or family. And the reason there isn't any market for them is, as a banker at that same conference the other day said when one of the researchers said to him - and this is not GSMOL; this is a national committee - when one of our researchers said to him, "Well, they tell me that they have to sell these parks and go out of business because they can't profit." This banker, who is the vice president of the bank that loans to mobilehomes from coast to coast in the United States said, "Name me one. Name me one that ever went out of business because they couldn't make a profit." Now, why are not the people rushing out to build the rental parks? What the gentleman said is true. There is no great market for them, and there is a reason there is no great market for them. They have killed the goose that laid the golden egg. They have rented themselves, escalated their rents, out of the marketplace. I have just returned from

a two-month trip that took me through five states, and I visited a number of mobilehome parks. I also talked to a number of people who are in the real estate business, and they tell me that California money from the mobilehome people who bought mobilehomes in California is leaving here and coming into their areas. Their areas, ladies and gentlemen, throughout all five of these states, the rents in mobilehome parks - now I'm not talking about trailer parks, I'm talking about very fine upstanding mobilehome parks - range \$130 to \$150 a month. That would be hog heaven in California. But California money came in. Why, they were shocked; this was impossible; the rents were too low; they gave two in one year and they were kicked out. Not by the people in the mobilehome parks, but by the people in local governments who said they would not allow quickie in, quick cash, and quickie out. That was their community. They didn't operate that way there. They get a rent increase about once in three years. But back to the adult issue. I think perhaps there is a solution to our problem. No. 1, can we solve our, are we truly under this law or are we truly homeowners? I think that may be one approach. No. 2, I think our conditional use permits, local government should have a handle in this, but I think perhaps No. 3 is the state has set criteria for mobilehome parks, the physical criteria, the standards that must be set for all mobilehome parks for adults, and I think it would solve 90% of our problem if the state sets the standards for the family park, the standards that a park must have before they can be family, the amenities and that. And No. 4, if I may say something and then you may throw me out, we may be

stirring a cauldron that shouldn't be stirred so much. We have just converted our park to an 18-year land lease. We had about 16 vacancies in that park due to eviction and that in the past and due to the fact nobody would come in. We have all of those filled in two months with the exception of two. It shows you what can happen. However, out of all the applicants we had, we have had only one inquiry from one family. Very nice young couple. Now, we immediately wiped out all age limits down to 18, that was the first thing we did, and all people coming into our park today have been below what our age limit was before which was 45. Now, there is a market for that but the family that came in that had two children said, "You know, we could take you to court." They told the Board of Directors this. We said, "We think you certainly could because we cannot keep you out as far as we know, nor do we particularly want to, but we do not want to punish you by bringing you into this park." They asked what we meant so we told them to go out and look at all the crushed rock, all around that is so beautifully diagrammed and everything. "Can you imagine how many times a day you are going to have to yell at your children to stay off of those things? Stay out of people's yards; only allow them in the swimming pool four hours a day; can you see how unhappy your children are going to be, and we don't believe being good parents that you would want to bring them in." So what I'm saying is this. You know, we old duffers think that we're the God-given people of this nation, and that children shouldn't disturb us. But let's switch it around. How are our egos so great that we think that they even want to come and live with us? Thank you.

SENATOR CRAVEN: Thank you very much, Marie. We appreciate your comments, as always. I'd like now to call on Amy Kruglak to make her presentation if she will.

AMY KRUGLAK: Thank you, Senator Craven, and Senator Presley. Are you sure you want to shift gears at this point because. . .

SENATOR CRAVEN: Dear, we're right at the tail end and since you want to talk about a little different phase of this, we saved you to the last.

MS. KRUGLAK: I would like to introduce Klotilda Anton, who is the President of the Oceanside Mobilehome Owners Association.

SENATOR CRAVEN: Fine. It's nice to have you here.

MS. KRUGLAK: My address is 520 South Pacific, Oceanside.

KLOTILDA ANTON: And I'm Klotilda Anton, 200 North El Camino Real in Oceanside.

SENATOR CRAVEN: Very good.

MS. KRUGLAK: Since you have so kindly allowed us to insert ourselves on your agenda, I will be as brief as possible.

SENATOR CRAVEN: Thank you, Amy.

MS. KRUGLAK: And get right down to the point. For at least a year and a half now a small committee of people who are made up from Klo's committee have been working with me at my home. We started attacking or going over the Mobilehome Residency Law and we would come in and go piecemeal over them and sift words here and delete words there. About six months later at some point it struck us all at the same time that this was patently absurd. There is no way to redo this law piecemeal, so what we are trying to focus on, and hope you will consider it very seriously, because

it embraces so many implications that it is no longer consistent, even with the present legislation that many of you people have been responsible for passing. We feel a committee should be established by this committee, a subcommittee, who will sit down and redo the Mobilehome Residency Law from the beginning to the end. This really will take a very different attitude on the part of the Select Committee because you are used to handling things as they come up. You're here today for a specific thing. Even it is not addressed presently in the Mobilehome Residency Law. What Mr. Swanson was talking about, the most important thing almost that keeps ordinances in place and has been unable to do so, is the rent control issue which is not addressed in the Mobilehome Residency Law. In fact, we believe that after studying this that that is where the control of what now is being used as the guideline for everybody should come from the mobilehome laws themselves, and the awful reliance now on the irrelevancies of the Birkenfeld decision which apply only to apartment house dwellers, not to homeowners such as live in parks. It does not address the mutual property ownership between the park owner and the mobilehome owner so, consequently, no ordinance can stay in place. Nothing can stay in place that will protect the people that the Residency Law is designed to protect. I'm not going to go any further. I think if you have any questions to ask Klo, she is a very good person to ask. I just want to close my portion by saying I do hope the committee will see fit to bring the Residency Law into the 20th Century. Thank you very much.

KLOTILDA ANTON: I just want to give some reasons why we feel this is important. The provisions of the present California Civil Code no longer protect owners of manufactured homes. That's No. 1. No. 2, they do not address the needs of owners of manufactured homes who own their own lots of land in cooperative parks. No. 3, they do not address the needs of owners of manufactured homes who are leasing their spaces due to a conversion of park ownership. No. 4, they fail to clarify by terminology which is no longer consistent due to the recent changing of the Mobilehome Residency Law. The term tenant to homeowner is such an example. The rental agreement, tenancy, they pervade the whole California Civil Code and they are antiquated terms now. No. 5, they fail to recognize that owners of manufactured homes as well as the park owners have not only property rights, but also equity rights. Therefore the courts have no guidance for their decisions relative to the property and equity rights of both parties. The provisions of the California Civil Code encompassing the Mobilehome Residency Law must be changed in toto, not piecemeal, as has been formerly done. In the past, the emphasis on the real estate market was to sell mobilehomes to the retired and the elderly. Today, because of the scarcity of affordable housing, a broader cross section of the population is affected so the focus by the real estate market now is upon the single, the military, the disabled and families with children. Unless a thorough revision is undertaken, all owners of manufactured homes will have inadequate protection from a Mobilehome Residency Law that will become increasingly ineffectual and that title "Mobilehome

Residency Law" is out now. It's "Manufactured Homes Residency Law". So we urge you from our constituents in the mobilehome section, we urge you to consider the possibility of buckling down to work, accepting a challenge, and we will help and participate and do whatever we can to change the whole Manufactured Home Residency Law under the California Civil Code. Thank you.

SENATOR CRAVEN: Thank you very much, Ms. Anton. We appreciate your comments as well as those of Amy. Senator Presley has one comment.

SENATOR PRESLEY: You said - the other lady, I think - said that you spent a lot of time yourselves rewriting that. . .

MS. ANTON: Yes.

SENATOR PRESLEY: Do you have a copy of it you could furnish the committee? You don't have to have it with you, but could you. .

SENATOR CRAVEN: What Senator Presley is suggesting is that you send your work or what you have accomplished to the committee, we'd be delighted to have it.

MS. ANTON: Thank you.

SENATOR CRAVEN: Thank you. We appreciate your very fine comments as well as the Yankee sounds which you have brought into the hearing today. Now, I should tell you that all of these proceedings have been recorded and there will be a transcript of this hearing which, I presume, Mr. Tennyson would be available, will it not, in time? We don't really turn out these transcripts too rapidly because, obviously, it takes a lot of work to do that. But it time it will be done, and it will be available to the Select Committee on Mobilehomes, and you can address us by

addressing me at my office, and that's just Bill Craven, State Capitol, Sacramento, and that will get to me and I in turn will turn it over to Mr. Tennyson. Senator Presley, who is also a member of this committee, will be made privy to any communication which you desire to have with us, and we appreciate not only what you have done today by being here and offering your testimony, but many of the things which the last two ladies have suggested, we've thought about a great deal and, as they say, they would like us to meet the challenge. We recognize some of the failings and inadequacies of existing statutes and, chances are, we will try to make some changes along that line.

In this area of mobilehome legislation it is, as you well know, sort of one step at a time, and we are virile, I suppose, to a degree, but we are somewhat feeble at the same time unless we have you to assist us in taking even that first step. That's why it is so important that you keep in touch with us; that you give us the benefit of your experience which is considerably closer to the problem than ours since none of us lives in a mobilehome community, and we do appreciate anything you can do for us and we want to try to reciprocate by doing what you think is appropriate. I think that if you look back during the past few years, we've made a lot of changes, and I think generally speaking the mobilehome community has recognized that they are steps in the right direction. They could not have been made unless we had the total cooperation which you have displayed, and for that we are very grateful. Senator Presley, do you have anything further that you would like to say?

SENATOR PRESLEY: Only, Mr. Chairman, that I've been impressed with the quality of the testimony here this morning. I think people came prepared, and I think they had something to say. I know I found it very helpful. This is a very important area of the law. A lot of people are involved in living in mobilehomes so it's a very important aspect, I think, to our work in the Legislature to deal with and I, frankly, found this hearing very helpful and the information we received very helpful. I hope that we can over the next few months try to do something to make life a little better with this particular style of living.

SENATOR CRAVEN: Thank you very much, Senator Presley. I should tell you that Senator Presley is one of the very fine Democratic Senators in the State Senate, Wadie Deddeh being another, both of whom have shown a great interest in the legislation which has come out of the committee, most of which I have carried, but they are stalwarts not only in this field, but in every legislative endeavor in the State Senate, and I am very delighted that Senator Presley is a member of this committee. He coincidentally comes from a county, recently his new district, that encompasses a tremendous amount of mobilehomes. Believe me. I used to have them; Bob now does so he's really in it right up to his chin. We thank you very much, and with that, we will adjourn.

APPENDIX

Introduced by Senator Craven

March 4, 1983

An act to add Section 798.29 to the Civil Code, relating to mobilehome parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, as introduced, Craven. Mobilehome parks: residency: adults.

There is in existing law the Mobilehome Residency Law which deals with the substantive and procedural rights of and limitations upon tenants in a mobilehome park.

This bill would authorize a mobilehome park owner or manager to adopt, by reason of the purpose of operation and physical design of a mobilehome park, and in special recognition of the needs of retired citizens, reasonable rules and regulations which limit residency to adults or retired persons.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 798.29 is added to the Civil
- 2 Code, to read:
- 3 798.29. A mobilehome owner or manager may adopt,
- 4 by reason of the purpose of operation and physical design
- 5 of a mobilehome park and in special recognition of the
- 6 needs of retired citizens, reasonable rules and regulations
- 7 which permit only adults or retired persons to reside in
- 8 the park.

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Introduced by Assemblyman Farr

March 7, 1983

An act to amend Section 798.25 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

AB 2073, as introduced, Farr. Mobilehome parks: rules and regulations.

Existing law authorizes the management of a mobilehome park to amend a rule or regulation of the park at any time with the consent of a homeowner, or without his or her consent upon written notice to him or her of not less than 6 months, except for regulations applicable to recreational facilities which may be amended without his or her consent upon written notice to him or her of not less than 60 days.

This bill would authorize the management, at any time, to amend a rule or regulation of the park which would limit or set the age restriction of tenants in the park with the consent of a majority of the homeowners.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 798.25 of the Civil Code is
2 amended to read:
3 798.25. *A (a) Except as provided in subdivision (b),*
4 *a rule or regulation of the park may be amended at any*
5 *time with the consent of a homeowner, or without his or*
6 *her consent upon written notice to him or her of not less*
7 *than six months, except for regulations applicable to*

1 recreational facilities which may be amended without his
2 *or her* consent upon written notice to him or her of not
3 less than 60 days. Written notice to a new homeowner
4 whose tenancy commences within the required period of
5 notice, of a proposed amendment shall constitute
6 compliance with this section where the written notice is
7 given to him or her before the inception of his *or her*
8 tenancy.

9 *(b) A rule or regulation which limits or sets an age*
10 *restriction on the park may be amended at any time with*
11 *the consent of a majority of the homeowners.*

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AMENDED IN ASSEMBLY AUGUST 15, 1983

CALIFORNIA LEGISLATURE—1983-84 REGULAR SESSION

ASSEMBLY BILL

No. 2184

Introduced by Assemblymen Naylor, Allen, *Bader*, Baker, *Bergeson*, Bradley, Filante, Frazee, Frizzelle, Herger, Hill, Kelley, Konnyu, Leonard, McClintock, *Mojonnier*, Mountjoy, *Nolan*, Rogers, Sebastiani, Statham, and Wright
(Principal coauthor: Senator Craven)

July 8, 1983

An act to add Section 51.1 to the Civil Code, relating to ~~condominiums~~ *housing*, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2184, as amended, Naylor. ~~Condominiums~~ *Housing*: age restrictions.

~~Existing law, as codified in Section 51 of the Civil Code and interpreted judicially in O'Connor v. Village Green Owners Association, 1111 Cal. 3d 1111 (1983), prohibits restrictions in the covenants, conditions, and restrictions of a condominium development that limit residency to persons over the age of 18.~~

~~This bill would specifically provide that with respect to the validity of recorded covenants, conditions, and restrictions limiting residency in a condominium to persons over the age of 18, the provisions of Section 51 of the Civil Code would not apply, and would state the Legislature's intent to abrogate the holding in O'Connor v. Village Green Owners Association.~~

~~This bill would take effect immediately as an urgency statute.~~

~~(1) Existing statutory law prohibiting unreasonable discrimination by business establishments was interpreted in O'Connor v. Village Green Owners Association, 33 Cal. 3d 790,~~

to prohibit the enforcement by a condominium homeowners' association of restrictions in the covenants, conditions, and restrictions of a condominium development that limited residency to persons 18 years of age or older. Existing statutory law allows adult-only age requirements in the rules and regulations of mobilehome parks and of subdivisions, cooperatives, and condominiums for mobilehomes. Existing law does not state whether stock cooperatives may limit residency in their housing to adults only.

This bill would provide that in enforcing age restrictions limiting residency to persons 18 years of age or older, a condominium homeowners' association or condominium project owner, the management or ownership of a mobilehome park or of a subdivision, cooperative, or condominium for mobilehomes, and a stock cooperative or its management body would not be acting as a business establishment within the meaning of the statutory provision prohibiting unreasonable discrimination by business establishments.

(2) The bill would state the intent of the Legislature to abrogate the holding in *O'Connor v. Village Green Owners Association*.

(3) The provisions of the bill would take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 51.1 is added to the Civil Code,~~
 2 SECTION 1. Section 51.1 is added to the Civil Code,
 3 to read:
 4 51.1. The term "business establishments" as used in
 5 Section 51, with respect to the enforceability or validity
 6 of recorded covenants, conditions, and restrictions, or
 7 rules or regulations, or articles of incorporation or bylaws
 8 limiting residency in a condominium or project, or
 9 mobilehome park, or subdivision, cooperative, or
 10 condominium for mobilehomes, or stock cooperative to
 11 persons 18 years of age and older, shall not include the

1 following:

2 (1) The owner of a project, as the term "project" is
3 defined in Section 1350.

4 (2) A condominium homeowners' association or
5 similar management body of the type authorized
6 pursuant to Section 1355 to enforce the project
7 restrictions and equitable servitudes contemplated by
8 Section 1355.

9 (3) The management of a mobilehome park, as the
10 term "management" is defined in Section 798.2.

11 (4) The ownership or management of a subdivision,
12 cooperative, or condominium for mobilehomes, as the
13 term "ownership or management" is defined in Section
14 799.

15 (5) A stock cooperative, as the term "stock
16 cooperative" is defined in Section 11003.2 of the Business
17 and Professions Code, or the board of directors or other
18 management body thereof.

19 SEC. 2. It is the intent of the Legislature by this act
20 to abrogate the holding of *O'Connor v. Village Green*
21 *Owners Association*, 33 Cal. 3d 790.

22 SEC. 3. This act is an urgency statute necessary for
23 the immediate preservation of the public peace, health,
24 or safety within the meaning of Article IV of the
25 Constitution and shall go into immediate effect. The facts
26 constituting the necessity are:

27 An immediate need exists to remove the impediments
28 to the quiet enjoyment by condominium owners of their
29 respective dwellings, which dwellings were in numerous
30 instances purchased in reasonable reliance on the validity
31 and enforceability of adult-only age restrictions on
32 condominium project residents; to ensure that existing
33 statutes enabling mobilehome parks and mobilehome
34 subdivisions, cooperatives, and condominiums to
35 maintain adult-only communities remain valid and
36 enforceable; and to allow stock cooperatives to limit
37 occupancy in their improved real property to adults
38 only.

39 to read:

40 ~~51.1.~~ The term "business establishments" in Section

1 51, with respect to the enforceability or validity of
2 recorded covenants, conditions, and restrictions limiting
3 residency in a condominium or project to persons over
4 the age of 18, shall not include the following:

5 (1) The owner of a condominium, as the term
6 "condominium" is defined in Section 783.

7 (2) The owner of a project, as the term "project" is
8 defined in Section 1350.

9 (3) A condominium homeowners' association or
10 similar management body of the type authorized
11 pursuant to Section 1355 to enforce the project
12 restrictions and equitable servitudes contemplated by
13 Section 1355.

14 SEC. 2. It is the intent of the Legislature by this act
15 to abrogate the holding of *O'Connor v. Village Green*
16 *Owners Association*, Cal. 3d (1983).

17 SEC. 3. This act is an urgency statute necessary for
18 the immediate preservation of the public peace, health,
19 or safety within the meaning of Article IV of the
20 Constitution and shall go into immediate effect. The facts
21 constituting the necessity are:

22 An immediate need exists to remove the impediments
23 to the quiet enjoyment by condominium owners of their
24 respective dwellings, which dwellings were in numerous
25 instances purchased in reasonable reliance on the validity
26 and enforceability of adult/only age restrictions on
27 condominium project residents.

ASSEMBLY BILL

No. 2186

Introduced by Assemblymen Bergeson, Allen, Kelley,
La Follette, Leonard, and Naylor

July 18, 1983

An act to add Section 51.2 to the Civil Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2186, as introduced, Bergeson. Condominiums: age restriction.

Existing statutory law prohibiting unreasonable discrimination by business establishments was interpreted in *O'Connor v. Village Green Owners Association*, 33 Cal. 3d 790, as prohibiting the enforcement by a condominium homeowners' association of restrictions in the covenants, conditions, and restrictions of a condominium development that limited residency to persons 18 years of age and older.

This bill would permit the enforcement of recorded covenants, conditions, and restrictions limiting residency in a condominium development to persons 50 years of age and older.

This bill would take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 51.2 is added to the Civil Code,
- 2 to read:
- 3 51.2. Neither the provisions of Section 51 nor those of

1 any other provision of law shall be construed to impair
2 the enforceability or validity of recorded covenants,
3 conditions, and restrictions limiting residency in a
4 condominium or project to persons 50 years of age and
5 older.

6 As used in this section, "condominium" means a
7 condominium, as defined in Section 783, and "project"
8 means a project, as defined in Section 1350.

9 SEC. 2. This act is an urgency statute necessary for
10 the immediate preservation of the public peace, health,
11 or safety within the meaning of Article IV of the
12 Constitution and shall go into immediate effect. The facts
13 constituting the necessity are:

14 In order to ensure the validity and the enforceability of
15 recorded covenants, conditions, and restrictions limiting
16 residency in condominium developments to persons 50
17 years of age and older, it is necessary that this act go into
18 immediate effect.

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Senate

California Legislature

July 26, 1983

HENRY J. MELLO
SEVENTEENTH SENATORIAL DISTRICT

Senate Majority Whip

Ms. Zona Hargiss



Dear Ms. Hargiss:

Thank you for giving me the background material on Santa Cruz County's proposal to differentiate between mobilehome parks for families, seniors, and adults. In particular, I appreciate you taking the time to talk to my staff about the upcoming hearings.

I am sure that the Board of Supervisors will do their best to make sure that all the people in Santa Cruz will have an opportunity to live in mobilehome parks.

The Senate Select Committee on Mobilehomes will be having additional hearings concerning "adult only" rules in mobilehome parks. Although the meeting is in San Diego, I thought you would be interested in it. The meeting is scheduled for August 1 at the State Building Auditorium, 1350 Front Street, San Diego, starting at 9:30 a.m..

The Consultant for the Select Committee is John Tennyson. He can be reached at (916) 324-4282, or at Room 249, 1127 11th Street, Sacramento, 95814.

Of course, if you need any help please feel free to contact me or my staff at the Santa Cruz office.

Thanks, again, for your help.

Sincerely,

A handwritten signature in black ink that reads "Henry J. Mello".

HENRY J. MELLO
Senator, Seventeenth District

HJM/fcc



Carefree Living Homes

1405 41st Avenue, Capitola, CA 95010 (408) 476-2122
2024 Freedom Blvd. Suite 4, Freedom, CA 95019 (408) 728-0344

August 1, 1983

Senate Select Committee on Mobile Homes
1127 - 11th Street
Sacramento, CA 95814

My name is Zona Hargiss. I own a mobile home dealership in Santa Cruz County--Carefree Living Homes.

I would like to report to you today regarding the situation in Santa Cruz County with regard to mobile home parks. I have included, in written testimony, a list of 78 parks in this County in which the number of spaces and the minimum age for tenancy is shown. Twenty-one (21) parks have recently set a minimum age of 55 years for tenancy (a Post-Wolfson decision). Other minimum ages established for approval of tenancy are: Three (3) - minimum age 50 years, three (3) - age 62 and above, one (1) - age 60 and at age 65 "on approval only" (further discrimination of senior adult status), thirteen (13) parks have established a minimum age of 45, three (3) - age 40, four (4) - age 35, six (6) - age 21, and seven (7) - age 18. Two other "18 and up" parks switched to age 55 and subsequently rescinded notice to residents back to age 18 because residents "en masse" protested. One "age 18" park switched to age 55, then rescinded their notice "until the



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Courts decide". This park recently attempted to evict a couple expecting a baby, by written notice and rescinded said notice after the couple retained an attorney. After having their home on the market for many months, they subsequently sold their home to a couple with a baby; however, the buyer was advised by the park owner that they will have to move if the Courts decide the park can be adult only or senior adult. This couple purchased the mobile home with this understanding and were forced to obtain the services of an attorney as a result of their tenuous residency in the park. This park was originally established as a family park, then changed the rule to limit residency to persons 18 years of age and above, then issued a "post-Wolfson Decision" notice to limit residency to persons 55 years and older (said notice violated Section 798.25 of the Civil Code which requires not less than six months written notice of a rule change). The park owner subsequently rescinded said notice back to age 18 until the Courts decide what they can or cannot do with respect to age limits.

The average age in mobile home parks in Santa Cruz County of adult and senior adult tenancy is 44! Only five parks allow children (a total of 285 spaces).



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To my knowledge, of the 21 parks with a stated minimum age of 55 years, 19 switched to age 55 (a post Wolfson decision)--- an obvious attempt to avoid the implications of the Wolfson decision.

Seventy-eight percent (78%) of the population in Santa Cruz County is between the ages of 0 and 54 years;- Fifty four percent (54%) is between the ages of 18 and 54 (1980 Census).

I have attended several meetings with the Housing Advisory Commission, Mobile Home Commission and the Board of Supervisors for Santa Cruz County to try to get them to see the issue clearly and to convince them that something needs to be done to ensure that affordable housing is available for all of the population within the County. The average listed price of real estate in Santa Cruz County, according to the President of the Board of Realtors, for week #29 is \$165,109.00 for all residential homes. The average selling price is \$134,950.00.

A County ordinance was proposed well over a year ago by the Housing Advisory Commission of Santa Cruz County to prohibit discrimination in rental housing against families with children.



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This ordinance was subsequently amended to add "And on the Basis of Age" as a result of testimony regarding age limits in mobile home parks. Amendments to the proposed ordinance are as follows:

1. "Units in mobile home parks where the mobile home park was completely occupied by "senior adults" prior to January 1, 1981 and the park continues to be maintained exclusively for senior adults." (Units and spaces in mobile home parks where a limitation to adult tenancy has been established in accordance with State law was originally included in the proposed ordinance.)
2. Also added was a definition of an adult as follows: "Adult tenancy refers to tenancy limited to persons who are over the age of 18 years. Adult tenancy does not include or authorize restrictions based on a minimum age other than 18 years".

At its' hearing on July 26, 1983, the Board of Supervisors voted to DELETE ANY REFERENCE TO MOBILE HOMES from the proposed ordinance upon the recommendations of the Mobile Home Commission. (The Mobile Home Commission is comprised of seven members--four reside in mobile home parks, one owns several parks, one is a mobile home dealer and one is an attorney.) The Housing Advisory Commission voted to recommend the ordinance as amended including the references to mobile homes and mobile home parks.



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The Board of Supervisors maintained the basis of their decision was that the State Law was not clear on this issue and that it was "up to the Courts" to decide the issue.

The proposed ordinance would have protected existing senior parks and preserved adult parks. The decision of the Board of Supervisors to eliminate any reference to mobile homes from the ordinance now places them under General Law. Their decision was placed on the consent agenda for tomorrow (August 2nd) and will presumably go into effect 30 days hence.

I would like to recommend additions to Senator Craven's bill (SB1184) adding Section 798.29 to the Civil Code relating to adult and senior parks as follows:

- (1) Define adult tenancy as a person 18 years or older and adult tenancy does not include or authorize restrictions based on a minimum age other than 18 years.
- (2) A senior adult is a person 55 years of age or older.
- (3) To maintain a senior adult park, the park must be designed to meet the special needs of the elderly and in order to change an existing park from family or adult tenancy to a senior adult park, the park owner must apply for a change of use permit.



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-6-

This would eliminate the practice of setting arbitrary and capricious age limits in mobile home parks and more clearly define the existing law which, as you can see from my earlier testimony, has been ignored and, in my opinion, corrupted in Santa Cruz County.

I have also included in written testimony numerous copies of letters and other correspondence plus all of the newspaper publicity with regard to this issue in Santa Cruz County and respectfully request your perusal of these enclosures.

Thank you for your attention and consideration with regard to this important issue.

Respectfully submitted,

Zona M. Hargiss
Zona M. Hargiss, Owner
Carefree Living Homes
Capitola, CA

cc: Board of Supervisors
Santa Cruz County

RAY K. WHITAKER
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CHRISTOPHER ZIP
DEPUTIES

APR 20 1983

Sacramento, California
April 21, 1983

Honorable Sam Farr
Assembly Chamber

Mobilehome Parks - #610

Dear Mr. Farr:

QUESTION

You have asked whether a regulation of the management of a mobilehome park which limits residency in the park to those persons 55 years of age or older would be permissible under the Unruh Civil Rights Act.

OPINION

If a particular mobilehome park is designed to meet the special needs of the elderly, which, among other things, includes insuring an age-homogeneous environment, a restriction on the eligibility for residence in a mobilehome park to persons 55 years of age or older would be reasonable and would not constitute arbitrary discrimination under the Unruh Civil Rights Act.

ANALYSIS

The Unruh Civil Rights Act (Sec. 51, Civ. C.) prohibits arbitrary discrimination by all business establishments of every kind whatsoever (In re Cox, 3 Cal. 3d 205, 216). It is well established that this act encompasses the business of selling housing (Burks v. Poppy Construction Co., 57 Cal. 2d 463), regardless of the number of units of housing involved; and also applies to real estate developers (Burks, p. 468); to real estate

brokers (Lee v. O'Hara, 57 Cal. 2d 476); to the owner of a triplex dwelling unit who rents all of the units (Swann v. Burkett, 209 Cal. App. 2d 685); and to a landlord renting residential units (Flowers v. John Burnham & Co., 21 Cal. App. 3d 700).

It is our view that the operation of a mobilehome park, which involves the renting of space to owners of mobilehomes, also qualifies as a business establishment for purposes of the application of the Unruh Civil Rights Act. Accordingly, a mobilehome park involved in a housing transaction may not arbitrarily discriminate in selecting purchasers or tenants.

Section 798.76 of the Civil Code, a part of the Mobilehome Residency Law, permits the park management to require the prospective tenants to comply with any rule or regulation of the park limiting residency within the park to adults. This section applies, however, only where the prospective tenants are prospective purchasers of mobilehomes located within the park that are to remain within the park. Section 799.5 of the Civil Code similarly provides that the ownership or management of a subdivision, cooperative, or condominium for mobilehomes is permitted to require a purchaser of a mobilehome which will remain in the subdivision, cooperative, or condominium for mobilehomes to comply with any rule or regulation limiting residence therein to adults only.

In our opinion, however, these statutes do not preclude the imposition of further limitations upon tenancy based upon the age of prospective tenants, where those limitations are established by park rule or regulation and are reasonable in content (see subd. (c), Sec. 798.56, Civ. C.).

We point out that neither the United States Constitution nor the California Constitution specifically prohibits discrimination on the basis of age (O'Connor v. Village Green Owners Assn., 132 Cal. App. 3d 178, 184).

However, in Marina Point, Ltd. v. Wolfson, 30 Cal. 3d 721, the California Supreme Court held that a blanket exclusionary policy barring children from rental housing constitutes arbitrary discrimination and is impermissible under the Unruh Civil Rights Act. The court specifically distinguished these exclusionary policies from age-limited admission policies of retirement communities or housing complexes reserved for older citizens (Marina Point, supra, at p. 742). The court stated, at pp. 742 and 743:

"Such facilities are designed for the elderly and in many instances have particular appurtances [sic] and exceptional arrangements for their specified purposes. The special housing needs of the elderly in contemporary American society have been extensively chronicled, and both the state and federal governments have enacted specific 'age-conscious' legislative measures addressed to this problem. (See, e.g., Health & Saf. Code, §51230 (reserving proportion of state-financed low income housing for occupancy by elderly); 12 U.S.C. §1701q (federal loan program for housing for elderly families); 42 U.S.C. §1485 (same).)

"In light of the public policy reflected by these legislative enactments, age qualifications as to a housing facility reserved for older citizens can operate as a reasonable and permissible means under the Unruh Act of establishing and preserving specialized facilities for those particularly in need of such services or environment. (See, e.g., Taxpayers Ass'n. of Weymouth Tp. v. Weymouth Tp., supra, 71 N.J. 249 [364 A.2d 1016, 1026-1030]; 58 Ops. Cal. Atty. Gen. 608, 613 (1975).) . . ."

The court, in Marina Point, supra, specifically cited Sections 798.76 and 799.5 of the Civil Code with approval and stated, in footnote 11, on page 743, as follows:

"In light of the housing special needs of older citizens, the New Jersey Supreme Court, in the Weymouth case quoted at length in footnote 10, upheld the validity of a municipal zoning ordinance setting aside a portion of land for use as a mobile home park for older citizens. In reaching its conclusion, the court observed: 'The role which mobile home developments can play in satisfying the special needs of the State's senior citizens is evident. First, mobile homes provide a relatively inexpensive form of housing at a time when the demand for such housing is great and its availability is limited... . Second, mobile home developments afford the elderly the age-homogeneous

environments which many older persons now seek and desire. Finally, the size of mobile homes is ideal for older persons with both physical and financial limitations... ." (364 A. 2d at p. 1029.)

"These special features of mobile home parks, which correlate closely with the special needs of older citizens, may well explain the fact that mobile home parks constitute the only housing facilities in which the California Legislature has explicitly authorized 'adult only' restrictions. (See Civ. Code, §§ 798.76, 799.5.)"

The court's discussion of the suitability of mobilehome developments to the housing needs of the aged and the specific reference to Sections 798.76 and 799.5 indicate, in our opinion, that the adults-only restriction which may be imposed by the management of a mobilehome park would be reasonable and permissible with respect to mobilehome parks which are designed for the elderly.

Thus, it is at least clear that Sections 798.76 and 799.5 would permit adults-only restrictions with respect to retirement communities or mobilehome parks reserved for older citizens. These sections, however, do not specifically pertain to age restrictions which go beyond an adults-only policy; that is, restrictions which are not merely designed to insure a child-free environment but to also distinguish between classes of adults on the basis of age in order to insure an age-homogeneous environment for the elderly.

The court's discussion of these sections in Marina Point, supra, is pertinent to the issue of whether a restriction on the purchase of a mobilehome situated in a mobilehome park to persons 55 years of age and older would constitute arbitrary discrimination under the Unruh Civil Rights Act, in that the court emphasizes and supports the public policy reasons for age qualifications for housing facilities reserved for older citizens. In Marina Point, supra, at footnote 10 on page 742, the court quotes Taxpayers Ass'n. of Weymouth Tp. v. Weymouth Tp., (N.J.) 364 A. 2d 1016, at length with regard to the importance of age-homogeneous communities which meet the special

social, psychological, and physical needs of the elderly. In light of the legitimate objective of providing special housing facilities for the elderly, the question, then, is whether the specific age limitation is reasonable and "rationally related to the services performed and facilities provided" (see In re Cox, supra, at p. 212).

The terms "elderly" and "older person" are susceptible to varying definitions. For example, Section 39026.5 of the Health and Safety Code defines elderly person, for the purposes of provisions relating to air resources, to mean persons over 62 years of age; Section 9103 of the Welfare and Institutions Code defines these terms for the purposes of the Older Californians Act (Div. 8.5 (commencing with Sec. 9000), W. & I.C.), to mean persons 60 years of age or older; Section 1437a of Title 42 of the United States Code (low-income housing) refers to persons at least 62 years of age; Section 8002 (congregate housing services) refers to persons 62 years of age or over; Section 2012 of Title 7 of the United States Code (food stamp program) refers to persons 60 years of age or over. In comparison to these definitions and provisions, we think that 55 years of age would be a reasonable age limitation with respect to regulations which apply to the elderly.

Thus, it is our opinion that if a particular mobilehome park is designed to meet the special needs of the elderly, which, among other things, includes insuring an age-homogenous environment, a restriction on the eligibility for residence in the mobilehome park to persons 55 years of age or older would be reasonable and would not constitute arbitrary discrimination under the Unruh Civil Rights Act.

Very truly yours,

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