



Thomas W. Casparian, Esq.

## The road (blocks) to El Dorado: Court ruling is a victory for resident-ownership

In a unanimous landmark decision, the California Court of Appeals has ruled that a city may not impose expensive or burdensome conditions to the conversion of a manufactured home community from a rental community to a resident-owned or condominium community. The recently published decision clears roadblocks that municipalities often impose on such conversions in an effort to exact concessions from a manufactured home community owner, and which can make conversion to resident-ownership economically impossible. These ultimately undermine the state Legislature's goal of encouraging resident ownership of not just the home, but of the community itself.

### El Dorado Palm Springs

In *El Dorado Palm Springs, Ltd. v. City of Palm Springs*, 96 Cal.App.4<sup>th</sup> 1153 (2002), the Court ruled that the city of Palm Springs acted beyond its authority in imposing three conditions to its approval of the tentative subdivision map filed by El Dorado, an early step in the conversion pro-

cess. The city conditioned its approval on (1) a definition of the conversion date as the close of escrow of at least 120 lots, (2) a requirement of significant financial assistance by El Dorado for the purchase of their lots to all community residents, and (3) imposition of a specific appraisal firm to establish the sale price (and further required that El Dorado pay the appraisal costs). The cost to the community owner of the latter two conditions would have exceeded \$1 Million.

The first condition, moreover, is particularly significant, as the community comes under state rent control and ceases to be subject to any local rent control upon "conversion." Market rents can then be phased in over four years.

The city argued that it had the statutory authority to impose economic displacement-mitigating conditions on a conversion to prevent an abuse of the conversion process by a developer who would implement a sham or fraudulent transaction to avoid local rent control. Yet, the court stated that prior precedent had already held that courts will not apply the conversion statute to sham or failed conversions.



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The court also ruled that discretion to impose mitigating measures was not in the city's power. Rather, the applicable code section itself carries out that purpose by requiring the subdivider to offer all existing residents the option to either purchase their lot or to remain as a resident. In addition, the subdivider must prepare a report detailing the impact of the conversion on the residents and provide a copy of the report to each resident prior to any hearing on approval of the subdivision map.

Finally, the subdivider is required to avoid any economic displacement of residents by increasing rents to market level only over a four-year period for non-purchasing residents who are not lower-income households. Monthly rent for non-purchasing residents who qualify as lower income households, as defined in a separate statute, may increase only by an amount equal to the average monthly increase in rent in the four years immediately preceding the conversion, and may not be increased by an amount greater than the average monthly percentage increase in the Consumer Price Index (CPI) for the most recently reported period. This results in long-term fixed protections for low-income residents.

Furthermore, the Legislature also created the Mobilehome Park Purchase Fund to assist and encourage community residents to purchase manufactured home communities and convert them to resident ownership by providing supplemental funding for that purpose. The state fund provides low-interest loans to resident organizations with which to finance conversion costs. The fund also provides low-interest loans with flexible repayment terms to low-income residents to reduce their monthly housing costs.

#### Resident association responds

The community's resident association argued to the court that conversion does not occur until more than 50% of the units are sold. The city, on the other hand, arbitrarily chose a particular number of lots that must first be sold. The court rejected both those contentions. It found the city has no authority beyond determining if El Dorado had complied with the statutory requirements of the applicable state subdivision code, and could impose neither economic mitigation conditions nor set the point at which conversion occurs.

The court also rejected the resi-



dent association's contention as one that would effectively give a community homeowner's association the ability to unilaterally block a proposed conversion unless the community owner agreed to a favorable purchase price. Giving this power to the homeowners would clearly conflict with the explicit legislative intent "to encourage and facilitate the conversion of mobilehome parks to resident ownership."

In fact, the resident association had even contended that the subdivision application must be rejected if a majority of the residents did not consent to the conversion. Yet, as the court noted, the law made other provision

for conversions with resident consent. Where two-thirds of manufactured home owners commit to purchase their lots upon conversion, the requirement of subdivision map approval is waived entirely.

Accordingly, a lack of resident consent does not mean conversion is impossible, but only that the statutory subdivision procedures, including the economic displacement mitigation measures, must be complied with.

Furthermore, the resident association's interpretation would actually eliminate the economic displacement provisions provided by the Legislature for any residents who were displaced prior to the sale of more than 50% of the lots. As the court noted, this was certainly not the Legislature's intent. Rather, the court observed, several cases hold that condominium conversion occurs when the first unit is sold.

After the local government's limited review, approval of the conversion then moves to the state level under the auspices of the Department of Real Estate (DRE). It is at this point the subdivider must disclose a tentative purchase price to the residents, and file a notice of an intention to sell with the DRE. ■

Thomas W. Casparian practices real estate trial and appellate litigation at Gilchrist & Rutter Professional Corporation, lead counsel for El Dorado Palm Springs, Ltd. Contact: Thomas W. Casparian, Esq., Gilchrist & Rutter Professional Corp., 1299 Ocean Avenue, Suite 900, Santa Monica, CA 90401; (310) 393-4000 phone; (310) 394-4700 fax.