



Contempo Marin fights ruling on rent control

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Residents of the rent-controlled mobile home park Contempo Marin once again find themselves fearful the law that keeps their neighborhood affordable may protect them no more.



Dick Heine of San Rafael, president of the Contempo Marin Homeowners Association, says people are getting very worried that the park's owner could raise rents to nearly \$2,000 a month, two to three times what residents pay now. (IJ photo/Alan Dep)

More than 100 homeowners who rent space at the San Rafael park gathered this week to hear from their lawyer after U.S. District Judge Vaughn Walker in San Francisco issued findings of fact late last month declaring San Rafael's rent-control ordinance unconstitutional.

"I think reality is setting in, and people are getting very worried," said Dick Heine, president of the Contempo Marin Homeowners Association.

Talk abounds that the park's owner, MHC Financing Ltd., now known as Equity LifeStyle Properties Inc., plans to more than double the rent. Homeowners lease the land from the Chicago-based property owner.

MHC sued the city of San Rafael and the homeowners association in October 2000, challenging the constitutionality of the city's ordinance, passed in 1989 to keep the 396-unit park affordable.

The city and the association plan to appeal. A stay of the order will be sought to bar a rent increase until the lawsuit is resolved, attorneys said.

"In terms of the residents, it means a lot of uncertainty right now," said Craig Daniel, a San Francisco attorney representing the homeowners. "MHC has threatened to raise rents to as high as \$1,925 per month. That's in the order of two to three times the current rents, and many residents will not be able to afford it."

An appeal means it could be another year or longer before the case is concluded, attorneys said.

"It has loomed for seven years now, and it unfortunately still looms now," Daniel said.

City officials, who said protecting affordable housing is a priority, expect to win.

"Respectfully to Judge Walker, we think he got it wrong, and we expect to get his order reversed at the next level," City Attorney Rob Epstein said. "A similar law was upheld in the same court in Cotati. If it's legal in Cotati, it's legal in San Rafael."

The outcome of the San Rafael case could be far-reaching, Epstein said.

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"It could affect over 100 cities in California that have similar parks and laws, and San Rafael is leading that fight," he said.

Residents of the mobile home park just off Smith Ranch have endured years of legal back-and-forth. A settlement was reached in July 2001, but residents convinced the City Council to back out, prompting MHC to add to the suit accusations that the city breached the settlement agreement, according to Judge Walker's findings of fact.

In November 2002, a jury ruled in favor of the city on the settlement issue, but it held off on other matters pending a U.S. Supreme Court ruling on a case involving the oil industry, the document said.

Based on the Supreme Court ruling, MHC amended its complaint to change its theory of the constitutional violations alleged. Judge Walker's decision is based on evidence presented in 2002 and in the amended complaint, heard by the court last spring.

David Bradford, attorney for MHC, said he's scratching his head over why the city continues the fight.

"The judge, after very extensive trial proceedings, heard from many affordable housing experts and found that this law does not make housing a penny more affordable, and people trying to get into the park are paying up to \$100,000 more for the homes than they're worth because of the ordinance," he said.

"It's really mystifying to us the city would waste millions of dollars of taxpayer money to defend a law that has been found to be counter-productive," Bradford said. "It serves to benefit only a handful of people."

Heine, 72, who is retired from the telecommunications and computer business, said a jump in his rent from \$790 per month would be a hardship. But he remains optimistic.

"You can take the viewpoint that the law is the law and it doesn't have a heart and compassion, and that's probably the correct interpretation," he said. "But most of us feel there is an injustice here, so we're hoping for the best and exploring all the opportunities we can."

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