

**MEMO**

FROM: HUSSEIN SAFFOURI

TO: TOM DAVIS

RE: COURT OF APPEAL DECISION

Re: *Contempo Marin Homeowners Assn. v. Manufactured Home Communities, Inc.*  
Our File No. 999985.49

On Friday, May 28, 2004 we received the California Court of Appeal's favorable ruling in *Contempo Marin Homeowners Assn. v. Manufactured Home Communities, Inc.*, rejecting MHC's appeal.

The Court of Appeal ruled that the arbitrator's award, permitting MHC to charge only \$3.72 for the Phase 2 Lagoon Transfer Project rent increase, was binding. The Court of Appeal rejected all of MHC's arguments that the proceedings were not an arbitration and concluded that MHC knowingly and voluntarily agreed to participate in, and be bound by, the arbitration. The Court of Appeal also ruled that MHC could not sue the City of San Rafael as a result of its participation in the arbitration proceedings.

This decision is the latest in the series of victories that the Homeowners Association has achieved in this case. Those victories include: successfully defeating MHC's cross-claims against the Homeowners Association; obtaining the ruling that the arbitrator's award limiting the Phase 2 rent increase to \$3.72 a month is binding on MHC and defending it against several attacks by MHC including this latest appeal; and obtaining certification of the Park residents as a class with respect to the claim for damages and penalties under the San Rafael Rent Control Ordinance as a result of MHC's violation of the arbitration ruling by demanding a \$7.50 Phase 2 rent increase.

The case will go back to the trial court in late July 2004. At that time the residents will receive notices asking them to stay in or opt out of the class. The case will then proceed to trial. We expect that the only issues for determination at trial will be the amount of damages and penalties that MHC owes the residents, and the amount of attorneys' fees that may be recovered on the residents' behalf. We intend to explore the possibility of a settlement with MHC between now and trial, and will advise the homeowners of any proposed settlement before it is finalized.

If anyone has any questions about the case or wishes to discuss it further either to obtain or to provide information relating to these issues in litigation, they should feel free to call Hussein Saffouri at Hanson, Bridgett, Marcus, Vlahos, & Rudy, LLP at (415) 995-5095.