April 4, 1990

REPORT TO THE COMMITTEE ON PUBLIC FACILITIES AND RECREATION
SB 399 - SENATOR CRAVEN BILL RELATING TO MOBILEHOME PARKS

At the Public Facilities and Recreation Committee meeting on February 28, 1990, this office was requested to review SB 399 which is proposed legislation relating to proposed closings of mobilehome parks.

A review of the bill indicates that the bill will not create a substantial additional burden on the City. A copy of the bill is attached for reference.

The only changes which result from the bill are as follows:

Subsection (e) of Government Code section 65863.7 was expanded to read as follows:

> (e) The legislative body, or its delegated advisory agency, shall review the report, prior to any change of use, and may require, as a condition of the change, the person or entity to take steps to mitigate any adverse impact of the conversion, closure, or cessation of use on the ability of displaced mobilehome park residents to find adequate housing in a mobilehome park. The steps required to be taken to mitigate shall not exceed the reasonable costs of relocation. As used in this section, the reasonable costs of relocation may include:
>
> (1) The cost of relocating a displaced park resident's mobilehome, accessories, and possessions to a comparable mobilehome space in another park within the same jurisdiction or within 50 miles, including removal, transportation, and reinstallation of the mobilehome and accessories at the new site, indemnification for any damage to personal property of the resident caused by the relocation, reasonable living expenses of displaced park residents from the date of actual displacement until the date of occupancy at the new site, payment of any security deposit required at the new site and

> the difference between the rent paid in the existing park and any higher rent at the new site for the first 12 months of the relocated tenancy. (New language underlined.)

In addition, subsection (f) was added to read as follows:

> (f) The legislative body or delegated advisory agency may, in addition to the reasonable costs of relocation, require the person or entity proposing the change of use to offer displaced mobilehome owners and residents the right of first refusal to purchase, lease, or rent any mobilehome spaces or other dwelling units which may be constructed on the existing park property or the first right of refusal to purchase the existing park.

You will note that the added language merely clarifies what the City Council may include in "determining reasonable costs of relocation" in connection with the proposed closing of a mobilehome park.

As a related matter, however, it is pointed out that the following language was added to section 65863.7 in 1988, effective January 1, 1989:

> (j) This section is applicable when the closure, cessation, or change of use is the result of a decision by a local governmental entity or planning agency not to renew a conditional use permit or zoning variance under which the mobilehome park has operated, or as a result of any other zoning or planning decision, action, or inaction. In this case, the local governmental agency is the person proposing the change in use for the purposes of preparing the impact report required by this section and is required to take steps to mitigate the adverse impact of the change as may be required in subdivision (e). (Emphasis ours.)

The language in subsection (j) was apparently enacted without any significant input from the City of San Diego or the League of California Cities. You will note that the language may create a substantial problem for cities in that, if interpreted literally, any time a mobilehome park is forced to close as a result of noncompliance with a city's regulations, or as a result of

failure by a mobilehome park to comply with zoning or conditional use permit requirements, a city could be forced to assume the relocation costs of the park tenants.

Subsection (j) is also the section which has been quoted in connection with the De Anza Mobilehome Park as potentially requiring the City to pay for relocation costs when the De Anza lease expires in 2003. This office would strongly recommend that the City sponsor a clarifying statute to indicate that subsection (j) would not require a city to pay relocation costs in the event a mobilehome park is forced to close as a result of failing to comply with conditional use permit or zoning regulations. Furthermore, subsection (j) should be modified to make it absolutely clear that it is not applicable in a situation where a mobilehome park lease of property owned by a city expires by its own terms.

While this office has concluded that the present language of subsection (j) would not, in fact, require the City to pay relocation costs upon expiration of the De Anza leasehold, the above specified clarification is desirable to avoid any potential costly and time consuming litigation.

Respectfully submitted,
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City Attorney

HOV:ps:551.1.1(x043.1)
Attachment
cc Kathryn Rees
RC-90-24