



PARK WATCH

™ LEGAL DEVELOPMENTS NEWSLETTER

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AB2351 DEAD! -LEASE ATTACK OVER, FOR NOW!

By Terry R. Dowdall, Esq.

■ Upshot

For the second time in 3 years, Roger Hernandez has sought a state-wide nuclear solution –killing leasing– to address a local scrape with one El Monte owner.

Ending the security of leasing would end long term-financing, planning and plunge the industry into a medieval darkness. If that happens, we (trial lawyers) would move in with expert witnesses and economists. Rent hearings would flourish. The penny counting and maintenance cut backs would proliferate. The rank park conditions of rent control parks would emerge. Value of homes would plummet. A return to the “trailer parks” of yesteryear would be the future.

But, this myopic blunder was exposed, again, for what it is: a gross injustice to manufactured housing as *the* future of moderate cost housing in California.

■ **The Bill Died in Committee** The Bill died in Assembly Housing. But make no mistake, Hernandez (or others of similar stripe) will be back. It is a common pattern. And historically, such persistence pays off. This is the case with, e.g., subleasing, trees, and driveways. Current laws were initial misfires until, one day, workable iterations emerged which the industry could not stop.

The current endeavor to stop long term leases is the same dynamic. If history repeats itself, there will come a day when leases will be gutted, eviscerated or at least marginalized by being subject to rent control ceilings. Based on history, this evolution is inevitable.

■ So what do I do? No, what do you have a duty to do?

Park owners in and out of rent control are cautioned to undertake one critical function owing to themselves, their families and fiduciaries. Develop a lease program; extend existing leases. Offer leases on new tenancy, to existing tenants with incentives, and extensions to leases where leases are in place. The lease is safely implemented for a 30 year term. Too long? Draft “early outs.” But get protected.

There may come a day when the question is asked: “*why weren’t leases offered like the xyz park next door? We’re under rent control but not them? Whose responsible for that?*”

Without leases the park is exposed to rent controls. Parks under lease have no rent control problems. So an essential duty of prudent management is: lease up. Given the ongoing direction of legislative action, rent control is coming if not already in your jurisdiction. Leasing insulates you from that action. Examples of the prudent approach are everywhere. Imprudence (rent controls) morphs a park into a stream of cash without appreciation, reduced maintenance, and a festering hotbed of rent applications quibbling about a fraction of the CPI.

This leasing strategy is *so elementary and basic, that it is, arguably, a standard of professional care for professional management*. I can envision any number of expert witnesses who would so testify. If the owner nixes leasing efforts, get that in writing and store it in a vault. In short, use all your creative powers and get leased up.

Creative Solutions for Efficient, Fast Results: Practical Strategy for Profit

Coming Events:

- ★ **WMA Convention & Expo**
Green Valley Ranch Resort & Spa in Henderson, NV: Oct. 10 - 13, 2016
- ★ **CMPA Park Symposium**
Caesars Palace, Las Vegas, NV
June 5-6, 2016

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