



# PARK WATCH <sup>TM</sup> LEGAL DEVELOPMENTS NEWSLETTER

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## SB 510 Signed by Gov. Brown! *Hopes and Dreams of Homeownership Vanquished With One Stroke of the Governor's Pen*

By Terry R. Dowdall, Esq.

### ■ UPSHOT

SB 510 says that if the results of a tenant survey fail to show the support of at least a majority of the tenants, local government is justified in denying subdivision of mobilehome spaces.

The dream of every American family is to own a home. But California land values frustrate that dream for most. And hence our state is amid a housing crisis. However, the ability to convert a mobilehome park into a homeownership opportunity is one facet of the promotion of home-ownership opportunity in a state amid a housing crisis. Park owners have provided this opportunity for many years. And tenants could buy or not as they may wish.

Now, tenants have control over price: if the owner does not capitulate to tenant demands, they can squelch conversion altogether. Typically these tenants enjoy rent controls too and in a real sense, already control the economic relation with the owner. SB 510 makes it official. It bestows a financially-adverse party with a power to kill housing opportunity, and dictate future land use based on greed and selfish interest. SB 510 codifies the power of your competitor to tell City fathers what they should do with your land.

The embrace of such a patent conflict of financial interest is troubling. It portends the rejection of all manner of land use based on the mob-like voting blocs in local government. Indeed, it is a roadmap for displays of the underbelly of bigotry and hate. It is very likely that this bill will not pass constitutional muster when tested in the courts.

### ■ SB 510

The Subdivision Map Act (SMA) allows for a park owner to subdivide a park and sell off the spaces as individual land interests. It creates home ownership. Well, it used to.

The SMA requires a subdivider such as a park owner, at the time of filing a tentative or parcel map for a subdivision to be created from the conversion of a rental mobilehome park to resident ownership, to avoid the economic displacement of all non-purchasing residents by following specified requirements relating to the conversion, including the requirements that:

- (1) the park owner obtain a "survey" of support of residents for the conversion,
- (2) the results of the survey be submitted to the local agency for consideration, and
- (3) there be a hearing by the local agency to approve or disapprove the map.

SB 510 requires the local agency to consider the results of the survey.

**The conversion may be denied if the results of the survey do not show at least a majority of the tenants in support.**

SB 510 makes it possible for tenants to hold the property owner hostage to price demands of tenant leaders. Now we have legislation that codifies this *de facto* extortion and frustrates the abilities of a park owner to provide single family housing opportunities at reasonable cost.

### ■ WE KNEW IT WAS COMING

In 2009, a similar measure was passed and vetoed. Governor Schwarzenegger vetoed Pedro Nava's AB566. If the bill had

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#### In this Issue:

- SB 510 SIGNED INTO LAW. TAKES EFFECT JANUARY 1, 2014.

#### *Coming Events:*

**WMA Convention**  
 Reno: Oct. 14-15.

**Owner Legal Seminar**  
 (Benefitting WMA & MHET)  
 Yorba Linda, Oct. 30

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become law, it would have likewise authorized tenant groups to hold park owners hostage to coercive price demands for purchase of lots. In short, SB 510 is another of several efforts to pass a law to allow tenants to kill subdivisions. And this time, the nod to the mobilehome tenant voting *bloc* is given: the exercise of unfettered whim of tenants elevates them to the position of the new "gatekeepers" of subdivision approval.

#### ■ HOME OWNERSHIP WAS A GOOD TENANT IDEA.

Marie Malone, past GSMOL President and visionary, advanced "resident ownership" as the centerpiece of her philosophy. The end of the conflict between landlord and tenant was the purchase of the property and acquiring ownership of the property. The Vista Cascade ground lease was an early manifestation of her vision. Many other conversions have been very successful. Now, it is clear that it is a good idea if on their terms. *Hard to believe tenants would prefer to stay landless without ownership of the land beneath their homes.*

#### ■ THE END OF RELEVANCE FOR THE HOUSING ELEMENT.

Since local voter blocs can now persuade local leaders to pass ordinances which allow land use to be dictated by the mentality of the local mob-advocate-group-politically-interested, or "magpies," the housing element of the general plan is irrelevant. The legitimization of magpie groups will also stifle land uses deemed unpopular, but socially laudable, such as group homes, day care centers, schools, places of worship, all manner of unpopular uses.

#### ■ "MAGPIES" FAR MORE DANGEROUS THAN "NIMBYS."

The magpie is not just an *advocate*, but a *participant* in land use decision-making (based on direct selfish financial interest). More than just a NIMBY's first amendment advocacy opposing obnoxious prospective land uses, magpies can now achieve exclusionary successes based on a badge of legitimacy provided by local ordinance, all stemming from SB 510's recognition of empowerment. Tenants are not just interested neighbors, but are contractually, economic *competitors* in *occupation of the adversary's land*. The NIMBY ("*not in my back yard*") is a vocal group seeking to repel a *prospective* adversary without vested rights—but the magpie is already entangled in a financial conflict and direct contractual relationship, while also in occupation of the land as a tenant, seeking to squelch the exercise of local governmental interests.

#### ■ REPRESENTATIVES WORKING HARD

WMA representatives worked very hard on this bill. Extraordinary measures were taken to stop this bill. Of course, the industry strongly opposed SB 510 and many worked diligently to get out the truth about the measure and what it really intended to accomplish. But in the currently badly lop-sided legislature, important public policy is sacrificed on the altar of political expediency. Concern about legality is "kicked down the road" to the courts. Today, the power of the legislature to pass anything it wants, proper or not, can even trump a veto if obtained. It is also surprising that some legislators thought to be property rights minded and fair, abandoned the cause of respect for property rights and did not oppose this bill.

#### ■ CONCLUSION

Subdividing simply gives tenants a chance at the American dream of home ownership. Thwarting that opportunity, on the other hand, perpetuates economic repression of residents, makes them perpetual rent-payers, and deprives them and their heirs an asset to sell or occupy later. Renting merely burdens survivors with a new rent obligation they could have avoided had the lot been purchased. What a shame. All for pursuit of a little short-sighted selfish greed today.

Authorizing frustration of a conversion effort, when at the hands of the very financially-conflicted interests affected, is an invalid delegation of power over local land use decision-making. When the decision makers are "free to withhold consent arbitrarily or for selfish reasons, and could subject the plaintiff to their will or caprice," the law is unconstitutional as the United States Supreme Court has already held. I guess legislators do not care about case law when their individual careers are concerned.

Further, one may suppose that the leaders of advocacy groups are better served with SB 510. Membership is a real problem. Home ownership would, after all, dilute the voting bloc of landless tenants who feel dependant on local government for a perceived need for protection against landlords. The diminution of rental housing, as lots are deeded to the residents, creates wealth and reduces dependency. By suppressing resident empowerment, tenant groups can better demonstrate need for membership, to curry favor for enlistment of new members. Politicians can instill fear to garner votes and protect against erosion of support.

As for the average resident, inexplicably supporting barriers to economic advancement is baffling: squelching a chance at home ownership seems a patently myopic response to a golden opportunity.

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