

PARK WATCH®

A LEGAL DEVELOPMENTS NEWSLETTER

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A COURTESY FOR OUR FRIENDS AND CLIENTS

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THIS NEWSLETTER CONVEYS GENERAL INFORMATION, NOT LEGAL ADVICE: CONSULT AN ATTORNEY BEFORE RELYING HEREON

Fountain Valley Estates Acquired by Affiliate of Kort and Scott for \$33,375,000.00

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● Long Held Family Ownership Transitions to Experienced Owners

Fountain Valley Estates, a beautiful manufactured housing community of 193 spaces located in the upscale community of Fountain Valley, California, has been acquired by an affiliate of Kort and Scott Financial Group.

The acquisition closed on time and within 60 days, at **\$33,375,000.00**. First American Title and Express Escrow of Huntington Beach facilitated the closing. Sierra Corporate Management, Inc., will property manage the park on behalf of the new owner.

The resident announcement states that: *“Sierra's team is committed to responsive service and you may rest assured*

that the door is always open, and that your concerns will be heard. Sierra will work hard to earn your trust and confidence and will continue to make residents proud to live in Fountain Valley. You may look forward to an enthusiastic and smooth transition in ownership and management.”

Terry R. Dowdall, Esq., of Dowdall Law Offices, A.P.C., structured the peer-to-peer acquisition and provided legal representation. The purchase and sale transaction proceeded smoothly and on time. Congratulations to the parties and participants!

Resident Subdivision Bill Dies Amid Furious Lobbying Efforts

By: Terry R. Dowdall, Esq.

● Upshot:

Resident and local municipality efforts to stifle the property right of subdividing have once again failed in their all-out barrage of special interest lobbying. Despite the fervent efforts of 20 or more lobbyists, they failed to convince the legislature that thwarting the liberties inherent in the ownership of property was a responsible legislative action.

Caveat: it is a safe bet that these efforts will continue next year, and the next after that. It is also clear that the current Governor will sign it if given the opportunity—this is the *same* Governor that signed away the 17-year rule.

● What Happened?

There were actually two rounds of assault on the park owners. The first day, last Thursday June 1st, the measure failed by a 16-15 vote (passage requiring 21). The WMA legislative committee had made offers of compromise which would have clarified the existing law, but to date these offers

had been rebuffed by the radical lobby of the residents and municipalities. The next day, June 2nd, the measure again failed with a couple of more votes in favor. This is a very important victory for owners throughout California.

● Impact If It Passes:

The real life impact of any future iteration of this bill, if it ever passes, is unmistakable. In essence, such a bill would authorize residents to hold the park owner hostage to dictated price demands for subdivided lots. Residents would be empowered to veto subdivision unless the owner capitulates to a demanded price fix!

● What Next?

The California Supreme Court has agreed to hear *Pacific Palisades Bowl Mobile Estates, LLC, v. City of Los Angeles*. This decision may shed light on the continuing viability of important precedents of the lower appellate courts

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rightly upholding the park owner's rights to subdivide without the interference of residents and municipalities.

Specifically, what happens when a subdivision is sought for a park located in the coastal zone? The *Palisades* decision holds that a park owner must also seek the blessing of the California Coastal Commission and comply with the Mello Act.

The City of Los Angeles rejected the application of Pacific Palisades Bowl Mobile Estates for conversion of its mobilehome park. The wrinkle in this case is that the park is located at the beach – in the coastal zone. The City denied the application to subdivide for among other things, the owner failed to include an application for clearance under the Mello Act (a requirement of replacing dislocated residential housing with new substitute housing) and an application for a coastal development permit under the Coastal Act.

The trial court found that the City abused its discretion by requiring compliance with the Mello Act and requiring Palisades Bowl to apply to the City for a coastal development permit.

On appeal, the court held that despite the subdivision law, the Mello Act and Coastal Act all apply to a mobilehome park conversion within the coastal zone, and the local authority must ensure compliance with all those laws.

Until now, it was believed that the Mello Act did not apply to a coastal conversion.

● **The Mello Act**

Provides in part:

"The conversion or demolition of existing residential dwelling units occupied by persons and families of low or moderate income, . . . shall not be authorized unless provision has been made for the replacement of those dwelling units with units for persons and families of low or moderate income. Replacement dwelling units shall be located within the same city or county as the dwelling units proposed to be converted or demolished. The replacement dwelling units shall be located on the site of the converted or demolished structure or elsewhere within the coastal zone if feasible, or, if location on the site or elsewhere within the coastal zone is not feasible, they shall be located within three miles of the coastal zone."

Comment: *The Mello Act should not apply to the subdivision of the mobilehome park, because no one is displaced. The housing continues to be occupied by the incumbent residents without any change at all. The cost of the housing is not going to change at all, either. The Court refers to the fact that eventually, the housing cost will increase. However, the housing cost is already at market, due to the exaction of premium value (i.e., selling the leasehold at full market value appurtenant to the purchase of the mobilehome on the lot). If anything at all, a shift between the value-elements of a mobilehome purchase may occur as the adjustment between cost of the mobilehome balanced against space rent takes place. The total cost of housing is not likely to change at all as a result of the factors integral to subdividing.*

● **The Coastal Act**

"Development" in the coastal zone must be approved by the Coastal Commission. Many feel that the Coastal commission is a byzantine complexity of rules, regulations and pitfalls, governed by misguided bureaucrats.

A project that involves a subdivision under the Subdivision Map Act is however, caught up in the definition of "development" for the purposes of the Coastal Act:

"There is no question that the conversion of a mobilehome park to resident ownership is a subdivision under the Subdivision Map Act. Government Code section 66427.5, which governs such conversions, is part of the Subdivision Map Act, and the statute itself refers to the 'subdivision to be created from the conversion of a rental mobilehome park to resident ownership.'"

In light of the "paramount concern" for protecting coastal resources by regulating development as expressed in the Coastal Act, the court concluded that state law does not preclude the City from imposing conditions and requirements mandated by the Coastal Act on a park subdivider.

Comment: *Approval from the Coastal Commission is required when there is development in the coastal zone. Is a change in the nature of ownership a "development"? Does the renter, as homeowner, change any aspect of the manner in which the existing park or its environment is impacted? Of course not. Clearly, this contention is an exaltation of 'distinctions without differences' to inconceivable heights.*

● **Conclusion**

Home ownership was once the center-focus of the Golden State Mobilehome Owner's League: The end game was to successfully morph mere renters into a collective ownership of the park.

In some cases, a mutual effort by owners and residents produces positive results: the park converts, the homeowners can purchase their spaces and finance at conventional rates, and never again worry about park closures, rent increases, or the array of other assorted anxieties claimed to be faced by residents who rent. Incumbent residents are protected under state controls on rent; and low income residents remain insulated from unregulated rents.

Where are subdivision applications filed? In areas subject to confiscatory rent controls. While municipalities drone on about the fairness of rent controls, that disingenuous platitude has worn through. In the real world, rent controls are killing the industry, driving down housing opportunity, stultifying development of new parks, and strangling the manufactured housing industry. Rent-controlled owners subject to decades of abuse are sick of the confiscation of their properties. In the real world, parks are disappearing. And rent control is the fuel driving owners out. Efforts to subdivide represent an effort to achieve a fair, real world, return. The kind of return on property not subject to rent controls. In cities with draconian rent laws, it is little wonder that the park owners, en masse, have sought to subdivide.

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Please feel free to contact our offices for further information and questions.

Southern Cal.: 714.532.2222 Northern Cal.: 916.444.0777

Congratulations!

to:
Seller and Buyer, an affiliate of Kort and Scott Financial Group,
on the acquisition of:

FOUNTAIN VALLEY ESTATES

A Manufactured Housing Community
Fountain Valley, California

\$33,375,000.00

193 Homesites

A Principal-to-Principal Acquisition
Introductions and Legal Representation by:

TERRY R. DOWDALL, ESQ.

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