

Musser Family Response to Proposed Ordinance Amending Chapter 9.28
September 1, 2023

GENERAL COMMENTS

We thank the Sebastopol City Council members for their attention and are sensitive to Fircrest Mobile Home Park residents' concerns regarding the inflation of 2022 and the financial implications of the subsequent rent increases. We as owners have been affected individually by the inflation as well.

Throughout the discussion that follows, it's critical that the Council members keep clearly in mind that the Park is two things: (a) a place providing residents with a desirable and affordable place to live and (b) a business which must function in an economically sustainable manner. Like all businesses, the Park must be able to cover its expenses with revenue, and if the former (which are not capped in any way) rise with inflation, revenue must rise as well. The only source of revenue available to Fircrest is rental—the Park receives no subsidy from local government nor non-profit entities..

While we appreciate the Council's interest in helping residents cope with the problems of 2022, we think that the proposed ordinance as written, particularly including the 75% cap on SF/Oakland Consumer Price Index (CPI) increase, is a poorly conceived response to what was a short-lived spike in inflation, something which has now resolved. The Council is surely aware that while the CPI increase was as high as 6.8% in June of 2022, the level has recently greatly moderated, having fallen to an annual rate of 4.2% in April, with further rapid decline in June to 2.9% (the most recent figures available). This last level will create the basis for much more nominal and historically consistent rent increases over the next year.

It's also important to note that the inflation of last summer was quite atypical and in part attributable to responses to the COVID-19 pandemic; as for the future, it's quite clear that the Federal Reserve remains committed to controlling inflation. In the past, over the lifetime of the current ordinance (adopted in 1994), the annual level of CPI increase has only twice (2001 and 2022) exceeded 5% and once (2022) 6%. Fircrest rent increases between 2013 and 2021 have averaged 2.9%, and have been as low as 1.6%. The inflation adjustments in the current ordinance have worked well over decades, providing mobile home park residents the desired protection; the now-resolving events of a few months provide no justification for change.

REGARDING THE PROPOSED REDUCTION IN CAP FROM 6% to 4%

The 6% rent increases which residents were subjected to 2022 were understandably shocking to them. In its recitals appended to the proposed ordinance amendment they are referred to as "excessive and unreasonable."

Council members and residents should note that this 6% level was created by the Sebastopol City Council as the cap on inflation-related rent increases (likely to protect residents from such inflation levels as 15% [1980] and 13% [1981]) and was maintained for nearly thirty years-no change was ever recommended by staff nor altered by the Council at the time of other amendments.

Other Sonoma County municipalities have recently amended their Rent Control Ordinances. These changes should have no relevance to what the Council members do in Sebastopol. Those actions occurred earlier and were responding to events of last summer, events which have now resolved. Though Mr McLaughlin has expressed a preference that the Sebastopol ordinance mirror those of other cities, we believe that staff responding to questions regarding rents (eg, at the Sonoma County Community Development Commission) would be quite capable of dealing with rental ordinances which vary among municipalities.

The proposed ordinance recitals make much mention of evictions (Pg 3, numbers 26-30). [Our park has had only one (a very special case) having occurred in recent years, an event not related to rent level.] Certainly sustained annual rent increases of 6% would be of great concern in this regard. This level however represents a singular event with very low probability of recurring in the foreseeable future. The currently low and declining CPI increase has little or no relevance to the probability of evictions. Of note is that no resident of Fircrest completed an application for COVID-related rent forbearance. The Council may be sure that our family shares the City's goal of avoiding homelessness and evictions.

We think the Council's appropriate action is to maintain the current cap of 6% annual rent increase, noting that current forecasts of inflation level remain well below 6%. If the 4% cap is enacted and significant inflation were to recur there's certainly a risk of major financial losses to the Park.

REGARDING THE PROPOSED CAP OF 75% OF CPI INCREASE

When the current ordinance was adopted in 1994, among the goals was to "...provide mobile home park owners with a guaranteed rate of annual space rent increase which ACCURATELY REFLECTS THE RATE OF INFLATION AND INCREASES IN THEIR EXPENSES;" [emphasis added]. We think, and believe the Council will agree, that this remains an appropriate goal which is based on a clearly defined quantitative source and is accomplished by allowing rent increases of 100% of CPI increase. While renters understandably wish to pay less rent, there is no rationale for an arbitrarily lower level (50%; the "compromise of 70%; nor the proposed 75%). While note is made that rent expenses and park revenues increase when the figure of 100% is used, PARK EXPENSES ALSO RISE [with apologies for the emphasis] with inflation, the original and current rationale for using the 100% figure.

Reducing allowable rent changes to less than CPI increases is directly counter to Sebastopol Policy B-4: "Sebastopol will encourage continued operation of the privately-owned Fircrest Mobile Home Park.." as by producing an imbalance between revenue and expenses ownership of the park could no longer be a viable business proposition—this is an example of the laudable desire to do good smashing into economic reality. No business can continue to exist if it is unable to respond to increases in its expenses by increasing revenue. Especially if the Council elects to enact a 4% cap on rent increases it makes no sense to add a % cap on CPI.

REGARDING VACANCY DECONTROL

The proposed 10% rate increase at the time of an in-place transfer as proposed in the ordinance amendment will be of some help in maintaining site rental rates at market level, and is an improvement over the current ordinance. Its effect is limited by the low Park resident turnover rate (average 14.2 year residence) and would be further limited if rent increases of 100% of CPI increase aren't allowed.

REGARDING THE APPENDED RECITALS

The Council states in its Findings "...that all of the above Recitals are true and correct and incorporated herein by reference." Members should be aware that many of the Recitals contain errors, are in places historically inaccurate, and make sweeping unsupported generalizations and markedly outdated statements. The Council may wish to alter its Recitals. Referring to numbers of (the unnumbered) Recitals:

- (5) There are not "approximately thirty-seven (37) spaces located within the City limits." Fircrest has 87 spaces and Park Village approximately 26.
- (10) The changes in CPI are NOT "...still very high"
- (11) Inflation is NOT "..at its highest rate in forty (40) years."
- (12) "appeal appears to be a misprint
- (14)(15) Generalizations with no data as to their applicability to Fircrest MHP
- (21) "...residents of mobile home parks are [NO LONGER—edit added] facing the highest rent increase since the Ordinance was adopted,.."—the current increase is 2.9%. The "...excessive and unreasonable.." increases of 2022 were those allowed by the Council in its 1994 ordinance.
- (24) There's no indication that using the 75% figure, rather than retaining the 100% figure, would prevent "..immediate and irreparable harm..."
- (26) The period of "..historically high inflation.." would more accurately be describe as "recent" rather than "historically" and in any event has passed. There's no evidence to support the concept that using 75% vs

100% would prevent homelessness nor evictions, the latter having been vanishing rare at Fircrest.

- (32) The 4% absolute cap arguably protects renters from “large” (a level in the eye of the beholder) rent increases and if enacted makes anything other than allowing 100% of lesser CPI increases inappropriate.

The Council should be aware of events occurring in Petaluma. Excessive regulation of rent levels has led to ugly consequences and could eventually lead to sale to another entity, such as a private equity firm, something now occurring throughout the country and often accompanied by restrictive rules, price changes and evictions. Alternatively, some parks may in this situation close and convert the land to other uses.

Fircrest is a family-owned Park, has been so since 1985, and we earnestly hope to keep it that way. We have deep roots in Sonoma County-our parents relocated to Petaluma in 1947 and resided in a mobile home park between 1974 and their deaths. The Council should note that our family has been careful stewards of the Park and good Sebastopol business citizens, and we share the Council’s concern for the welfare of our tenants. We voluntarily waived rent increases during the early months of the COVID-19 pandemic. In 2010, then-Mayor Sarah Glade Gurney expressed the City’s appreciation for our “... cooperation, community spirit, and understanding...” for our assistance resolving a City water problem.

We think that because the reasons for creating the inflation limitations in the current ordinance remain valid the Council’s best action is to leave the allowable rent increases unchanged: absolute cap of 6% of CPI increase or 100% of CPI, whichever is less. The proposed 10% increase at vacancy should be added.

If the Council elects to amend the ordinance cap, we request that the Council return the draft Ordinance Amendment to staff for changes:

1. Eliminate the proposed 75% cap on CPI increase and maintain the 100% value, relying on the proposed 4% annual cap (if eventually enacted) as providing adequate tenant protection.
2. Carefully review the recitals, removing those in error and/or without adequate substantiation;
3. Regarding vacancy decontrol note should be made:
If significantly higher levels of inflation occur or the 75% cap enacted rental levels may be well below relevant market levels. While the 10% increase allowed in the proposed ordinance may help to move to market levels, they may prove to be insufficient and possibly represent unconstitutional taking and lead to arbitration.
4. If a coach is removed and replaced, the rental rate should be the market.

Musser Family