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Agenda Item#12.3
Meeting of: January 29, 2013

January 29, 2013

The Honorable Chief Justice Tani G. Cantil-Sakauye
and Honorable Associate Justices
Supreme Court of California
350 McAllister Street
San Francisco, CA 94102

**Re: *Chino MHC, LP v. City of Chino*
Supreme Court Case No. S206855
Amicus Curiae Letter in Support of Petitions for Review**

Dear Chief Justice Cantil-Sakauye and Associate Justices:

Pursuant to Rule 8.500(g) of the California Rules of Court, the City of Santa Rosa expresses its support for the Petitions for Review filed by the City of Chino and the Lamplighter Chino Homeowners Association in the case of *Chino MHC, LP v. City of Chino*, Case No. S206855.

Interest of the City of Santa Rosa

The City of Santa Rosa is a charter city that has 15 mobilehome parks within its city limits of which 14 are governed by a city rent control ordinance. Recently, Santa Rosa was subjected to a Petition for a Writ of Mandate after it denied a park owner's conversion application on the grounds that the proposed conversion had a lack of resident support and was not in compliance with Government Code Section 66427.5. (See *Country Mobile Investments v. City of Santa Rosa, et al.*, Sonoma Superior Court Case No. SCV-247980) The Superior Court denied the petition largely relying upon the decision of *Goldstone v. County of Santa Cruz* (2012) 207 Cal. App. 4th 1038.

Grounds for Review

Review is warranted under Rule 8.500(b)(1) of the California Rules of Court to secure uniformity of decisions. The decision in the *Chino* case conflicts with the Second District Court of Appeal in *Colony Cove Properties, LLC v. City of Carson* (2010) 187 Cal. App. 4th 1487 and

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the Sixth District Court of Appeal in *Goldstone v. County of Santa Cruz*. These two decisions leave discretion to the local jurisdiction to determine whether resident survey results demonstrate sufficient resident support to meet, or fail to meet, the resident support survey requirement of Section 66427.5(d). The conclusion in *Chino* is that the local jurisdiction can only reject the subdivision conversion application if the resident survey results demonstrate a “sham” conversion – one that is merely intended to avoid rent control and not to transfer ownership to residents. 210 Cal. App. 4th at 1069. This conclusion imposes a more severe limitation on a local jurisdiction’s discretion than required by *Goldstone* and *Colony Cove*.

Under *Goldstone* and *Colony Cove*, local municipalities are given the discretion to deny a subdivision conversion application if it lacks sufficient resident support. Both decisions recognize that Section 66427.5(d) requires the municipality to consider the survey results while acknowledging that the Legislature did not provide specific direction on how the results were to be weighed. *Goldstone*, 207 Cal. App. 4th 1038, 1054; *Colony Cove*, 187 Cal. App. 4th 1487, 1508. The *Chino* decision, that essentially requires a finding that the conversion is a sham to support a denial, goes beyond the statute. Section 66427.5 does not contain this limitation. Furthermore, *Chino*’s conclusion that the failure of a majority of residents to return the survey is affirmative evidence that the conversion was not a sham portends greater difficulty for local jurisdictions to exercise their discretion in considering the survey results. See 210 Cal. App. 4th 1049, 1074. The unambiguous use of this discretion is necessary to ensure that local municipalities fulfill the goal of Section 66427.5(d) to prevent conversions from occurring without the support of the residents and result in the economic displacement of a park’s current homeowners.

In conclusion, the City of Santa Rosa respectfully requests that the Court grant the petitions in this case. Resolution of this issue is critical in order to protect the large population of this State’s low and moderate income mobilehome park households from the economic displacement that will be caused by conversions lacking resident support.

Very truly yours,

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