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13 **UNITED STATES DISTRICT COURT**
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 MHC FINANCING LIMITED
16 PARTNERSHIP, an Illinois limited
17 partnership, and GRAPELAND VISTAS,
18 INC., an Illinois corporation,

19 Plaintiff,

20 v.

21 CITY OF SAN RAFAEL, a municipal
22 corporation, and CONTEMPO MARIN
23 HOMEOWNER'S ASSOCIATION, a
24 California corporation,

25 Defendants.

Case No. C 00-03785 VRW

**CONTEMPO MARIN HOMEOWNERS
ASSOCIATION'S MEMORANDUM OF
POINTS AND AUTHORITIES AND
STATEMENT OF JOINDER IN DEFENDANT
CITY OF SAN RAFAEL'S MEMORANDUM
OF POINTS AND AUTHORITIES RE:
SEVERABILITY OF THE 1999
AMENDMENTS**

Hon. Vaughn R. Walker

**FILED PER COURT ORDER DATED JULY
26, 2007; NO HEARING DATE HAS BEEN
SET IN CONNECTION WITH THIS ISSUE**

1 testified that in 2006 unregulated market rent for spaces in the park would be as high as \$2,100.⁸
2 When these figures are compared to the average monthly rent for 2006 of \$675,⁹ it becomes clear
3 that the elimination of rent and vacancy control will result in defaults and evictions of poor,
4 elderly, fixed-income residents: precisely the outcome the Ordinance was designed to avoid.

5 Moreover, in 1993 the City enacted vacancy control in part to preserve the liquidity of the
6 market for mobilehomes and, in turn, protect the low- and fixed-income families living in the
7 park from losing substantially all the equity in their homes.¹⁰ Yet, if vacancy control is
8 eliminated, and if MHC makes good on its promise to raise rents threefold or more for incoming
9 tenants, liquidity in the mobilehome market will be sharply reduced and a portion of San Rafael's
10 low- and fixed-income citizens will lose significant equity in their homes.¹¹ Indeed, MHC's
11 expert Dr. Quigley opined that if vacancy control is eliminated and MHC demands too much rent
12 from incoming tenants, homeowners will be unable to sell their homes.¹²

13 Moreover, the resulting drop in equity values will hit both longtime residents and recent
14 purchasers of homes in the park, who, according to the Court's findings, paid a higher price for
15 their homes based on the capitalization of rent stability. Yet nothing in the legislative history
16 suggests that the City of San Rafael ever intended to impose an extreme economic hardship on
17 *any* park resident, long-term or recent, for any reason or at any time. To the contrary, the
18 Ordinance was designed to protect vulnerable residents from eviction and/or loss of equity.

19 In sum, declaring the entire rent control statute to be unconstitutional or severing the
20 vacancy control provisions would directly contravene the City's purpose in enacting the 1989
21 statute and 1993 amendments in the first place. Because, as discussed more fully in the City's
22 brief, basic rent and vacancy control are constitutional, that outcome should be avoided and the
23 residents should retain at least some of the protections afforded them under the Ordinance.

25 ⁸ Ex. DU; Tr. Transc. 4/11/2007 pp. 376:3-10, 394:24-395:4, 417:4-8.

26 ⁹ Exs. AJ, CQ.

27 ¹⁰ Ex. AE (City Attorney's January 27, 1993 Report to the City Council and Mayor) pp. 1, 3, 4.

28 ¹¹ If this Court's finding that at least some portion of future rent stability is capitalized into the selling price of existing homes is accepted, the inverse is necessarily true: if vacancy control is stricken from the statute, significant equity will simply vanish overnight.

¹² Tr. Transc. 11/27/2002 p. 47:16-24; 4/24/2007 p. 602:22-25.

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Respectfully submitted,

Dated: August 23, 2007

COOLEY GODWARD LLP



Craig C. Daniel
Attorneys for Defendant
Contempo Marin Homeowners Association

PROOF OF SERVICE
(FRCP 5)

I am a citizen of the United States and a resident of the State of California. I am employed in San Francisco County, State of California, in the office of a member of the bar of this Court, at whose direction the service was made. I am over the age of eighteen years, and not a party to the within action. My business address is Cooley Godward Kronish LLP, 101 California Street, 5th Floor, San Francisco, California 94111-5800. My e-mail address is lowra@cooley.com. On the date set forth below I served the documents described below in the manner described below:

CONTEMPO MARIN HOMEOWNERS ASSOCIATION'S MEMORANDUM OF POINTS AND AUTHORITIES AND STATEMENT OF JOINDER IN DEFENDANT CITY OF SAN RAFAEL'S MEMORANDUM OF POINTS AND AUTHORITIES RE: SEVERABILITY OF THE 1999 AMENDMENTS

- (BY ELECTRONIC MAIL) I am personally and readily familiar with the business practice of Cooley Godward LLP for the preparation and processing of documents in portable document format (PDF) for e-mailing, and I caused said documents to be prepared in PDF and then served by electronic mail to the parties listed below.
- (BY U.S. MAIL) I am personally and readily familiar with the business practice of Cooley Godward LLP for collection and processing of correspondence for mailing with the United States Postal Service, and I caused such envelope(s) with postage thereon fully prepaid to be placed in the United States Postal Service at San Francisco, California.

on the following part(ies) in this action:

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Executed on August 23, 2007 at San Francisco, California.



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