



# LAW FOUNDATION of Silicon Valley

*Fair Housing Law Project*

By Electronic Mail

March 8, 2018

San José City Council  
San José City Hall  
200 East Santa Clara Street  
San José, CA 95113

**Re: City Council Meeting, March 13, 2018  
Opt-In/Stay-in-Business Proposal (Item 4.1) and Proposed General Plan Land Use  
Overlays and Amendments (Item 10.3)**

Dear Mayor, Vice Mayor, and Council Members:

The Law Foundation appreciates this opportunity to provide input on the Mobilehome Opt-In/Stay-In-Business proposal and proposed General Plan land use overlays and amendments. Following is a summary of the actions that we ask the City Council to take at Tuesday's Council meeting:

- I. Opt-in/Stay-in-Business Proposal - Direct staff to cease working on it.
- II. Land Use General Plan Designation –Direct staff to immediately begin the following now, since mobilehome preservation is currently prioritized:
  - a. Create a General Plan Mobilehome Park designation that is exclusively reserved for mobilehome park use;
  - b. Engage in the necessary analysis and evaluation and apply this mobilehome park designation to vulnerable parks, including at the two identified in staff's March 2, 2018, memo; and
  - c. Track their time and costs and analyze how to streamline their processes for future applications of this land use designation.
- III. General Plan Text Revisions – Direct staff to bring minor revisions to the following four planning and housing policies (as underlined on pages 5 and 6 of this letter) before the next General Plan hearing cycle for the Council's consideration:
  - a. Urban Village Planning Policy IP- 5;
  - b. Urban Village Planning Policy IP-5.2;
  - c. Housing – Social Equity and Diversity Policy H-1.3; and
  - d. Housing – Social Equity and Diversity Policy H-1.9.

These recommendations are discussed in more detail below.

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## **I. Opt-In/Stay-in-Business Proposal (Item 4.1)**

**We urge the Council to follow the Housing and Community Development Commission's (HCDC)'s recommendations<sup>1</sup> that the Council direct staff to cease working on the Opt-In/Stay-in-Business proposal (Opt-In Proposal).** Over the last two-plus years, based on Council direction, staff has engaged the public through various meetings, met with panels of park and mobilehome owner stakeholders, and worked to improve the proposal. Staff has diligently carried out these duties, and, in the process, expended significant resources.

Despite their years of effort, staff has been unable to make the Opt-In Proposal a workable solution for park owners or park residents. For example, after years of work, the Opt-In Proposal does not reconcile conflicts that its adoption would create with the City's other existing ordinances, like the City's Mobilehome Park Conversion to Resident Ownership or to any Other Use Ordinance (Conversion Ordinance). All park conversions, including a slow one under the Opt-In Proposal, must be processed through the Conversion Ordinance. Through the Conversion Ordinance, the City evaluates the mitigation measures proposed to address adverse impacts that such a project creates. Here, **no mitigation measures have been proposed to address the significant loss in equity residents will suffer when they cannot sell their homes in a park that is slowing converting.** If, after two-plus years of analysis, we have been unable to propose a solution to this significant but basic issue, **we must come to the conclusion that the Opt-In Proposal is unworkable** and does not align with our exiting mobilehome-related ordinances. As such, we urge the Council to direct staff to cease working on the Opt-In Proposal.

## **II. Proposed General Plan Land Use Overlays and Amendments (Item 10.3)**

**We urge Council to direct staff to immediately begin the following activities, since mobilehome preservation is currently prioritized:**

- a) Create a General Plan land use designation that is exclusively reserved for mobilehome parks;**
- b) Engage in the necessary analysis and evaluation and apply this mobilehome park designation to vulnerable parks, including at the two identified in staff's March 2, 2018, memo, and**
- c) Track their time and costs and analyze how to streamline their processes for future applications of this land use designation.**

San José relies on a patchwork of General Plan land use designations, like lower density and higher density residential, industrial, and commercial uses, to discourage the conversion of mobilehome parks to other uses. Creating and applying a General Plan Mobilehome Park land use designation will provide our community with important tools to help preserve parks and

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<sup>1</sup> We are informed and believe that HCDC has, on at least three occasions, recommended that the Council direct staff to cease working on the Opt-In Proposal.

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prevent displacement of low-income and senior mobilehome park residents and will not be an insurmountable bar for developers. **Cost, which includes staff time, is described as a major barrier to taking the requested actions. But, these costs are minimal as compared to the costs that park closures and losing low-income families and seniors from San José will create. Therefore, we must act now,** and, for all of the following reasons, urge the Council to do so.

**San José's General Plan must include a land use designation that is exclusively reserved for mobilehome parks so that it is clear that our mobilehome parks and park residents are part of our City's future.** San José's General Plan is the City's vision and road map for continued growth through 2040. (Envision San José 2040, General Plan, Adopted November 1, 2011, p. 2.) Allowable future uses on mobilehome parks are defined by their General Plan land use designation as well as their applicable zoning districts.<sup>2</sup> (Memorandum from Rosalynn Hughey to the Honorable Mayor and Council, Analysis of Proposed General Plan Land Use Overlay Amendments for Mobilehome Parks, March 2, 2018, p. 6.) **If our City's vision and road map do not include a General Plan land use designation that is specific to mobilehome parks, then we invite park owners and developers to envision a different future for them.** Daily, our local newspaper describes development projects that are changing our City. Over time, this development pressure will magnify and impact our mobilehome parks. We must be clear, and not depend on other land use designations, to preserve our mobilehome parks. We must signal that we intend to preserve our parks by creating and applying a General Plan land use designation that is exclusively reserved for mobilehome parks.

**The Council should direct staff to conduct this General Plan land use designation work, now, instead of referring it to a future Priority Setting Session, since mobilehome preservation work was already prioritized by the Council.** The Council prioritized mobilehome preservation work in 2015, and it subsequently adopted a moratorium to allow staff and our community to explore strategies to preserve our parks. During the course of the moratorium, some important work was accomplished, and we are grateful to the Council and staff for it. But, the Council also approved study of proposals that did not contribute to mobilehome preservation, and this work consumed significant amounts of precious time during the moratorium.<sup>3</sup> The moratorium has expired, and we cannot depend on the adoption of another to preserve our parks. **Staff's March 2, 2018, memo to Council acknowledges that City-initiated General Plan amendments to change the land use designations of mobilehome parks could strengthen the protection of mobilehome park residents by creating an**

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<sup>2</sup> Since 2014, the Law Foundation has urged the City to zone all mobilehome parks as R-MH to reserve parks for mobilehome uses. The Law Foundation continues to advocate for use and application of this zoning at all parks, since some parks have other types of zoning. The Council did not direct staff to conduct this work. As such, apart from this footnote, we do not address this issue in the body of our letter and focus on requesting that the City adopt and apply a General Plan Mobilehome Park land use designation.

<sup>3</sup> For example, the Council authorized study of the Opt-In Proposal, which utilized significant amounts of staff time and resources, which did nothing to preserve parks. Similarly, the Council authorized and directed staff to develop a mobilehome closure ordinance, which also did nothing to preserve our parks. Both of these proposals were authorized and consumer valuable time during the moratorium.

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**additional land use entitlement process to redevelop the sites.** (Id., p. 11.) As such, we urge Council to direct staff to conduct this work now, and not while we are scrambling to prevent the conversion of a park that is home to thousands of people.

**The Council should direct staff to engage in the necessary analysis and evaluation and apply this General Plan land use designation to vulnerable parks, including the two that staff identified in their March 2, 2018, memo.** The two mobilehome parks identified by staff, one in Council District 4 and the other in Council District 7, contain 867 homes. Creating and applying a General Plan Mobilehome Park land use designation to these parks could help the City or mobilehome park residents' associations preserve them. A park's General Plan land use designation is a key factor in estimating its value. A General Plan land use designation that specifies a higher future density use than its existing mobilehome park use will make the cost to purchase and preserve the park prohibitively high. Specifying that the park's General Plan land use designation is restricted to mobilehome park use may help the community preserve the park, since its valuation will be in line with what its existing use is. As such, the City should direct staff to engage in work, now, to help preserve vulnerable parks, including the two that staff identified.

**If the Council directs staff to engage in this General Plan land use designation work, the Council should also direct staff to track their time and costs and analyze how to streamline their processes for future applications of this land use designation.** We appreciate staff's analyses and identification of two vulnerable parks in our City. But, San José has more than two parks that are vulnerable to conversion pressures. If directed to track their time and costs and conduct analyses, this could help San José understand how we can streamline Planning's processes in the event that we apply this mobilehome designation in the future. As such, we urge the Council to direct staff to track their time and costs and analyze how to streamline their processes for future application.

**b. Incorporate the Law Foundation's General Plan Text Amendment Recommendations into the General Plan**

**We also urge the Council to direct staff to bring four minor revisions to the General Plan text that the Law Foundation requested for their consideration at the next General Plan hearing cycle.** Although the Law Foundation continues to urge support all of the text amendments we identified in our May 11, 2017, letter to Council, staff has identified three minor amendments to existing General Plan text they would be willing to support and bring before Council for possible incorporation at a future General Plan hearing. These three minor changes would be to the following policies: Urban Village Planning Policy IP-5.2, Housing – Social Equity and Diversity Policy H-1.3, and Housing – Social Equity and Diversity Policy H-1.9. Although staff did not support our recommended amendment for Urban Village Planning Goal IP-5, we ask that the Council direct staff to also bring this amendment to Council for their consideration at a future General Plan hearing.

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**Urban Village Planning goal IP-5 expresses a goal of enhancing established neighborhoods.** Although staff did not support bringing this minor change forward, we recommend it to make clear that mobilehome parks and residents are long-standing parts of neighborhoods that are in Urban Villages. **All four of our recommended text amendments, including IP-5, set out to make clear that people who rent mobilehome space and housing units, tenants, are valued neighborhood members and who should not be displaced.**

Certain Urban Villages have benefitted from active mobilehome park residents, particularly when language and disability were not barriers for them and who worked to ensure that their voices and preferences were heard. San José's Council District 5 has an urban village, and within it a senior mobilehome park where 108 senior households live. In all of the meetings the Law Foundation has attended related to mobilehome preservation, we have never encountered any residents from this mobilehome park. **We are concerned that they, like the 216 tenant households at The Reserve Apartments, will not be aware or have the ability, due to language barrier or disability, to participate in future Urban Village planning processes where their rights and park's future will be impacted.** Our General Plan planning goals should make it clear that for the remaining Urban Villages that established neighborhoods include and value mobilehome parks and the people who live there. As such, we urge the Council to direct staff to **bring the four minor amendments**, which includes Urban Village Planning Policy IP-5, to the General Plan text **(as underlined below) to the next General Plan hearing cycle:**

***Urban Village Planning Policy IP- 5***

Use new proposals for residential, mixed use, or employment development to help create walkable, bicycle-, and transit-friendly "Urban Villages" (also referred to as "Villages" within the Envision General Plan) at strategic locations throughout the City, and to enhance established neighborhoods, including existing mobilehome parks. In new Village development, integrate a mix of uses including retail shops, services, employment opportunities, public facilities and services, housing, places of worship, and other cultural facilities, parks and public gathering places.

***Urban Village Planning Policy IP-5.2***

Develop and use an Urban Village Planning process so that each Urban Village Plan can be successfully completed within an approximately nine month planning period, followed by completion of environmental review as required for adoption of the Plan. Engage Urban Village area property owners and residents to the fullest extent possible, along with representatives of adjacent neighborhood areas, potential developers and other stakeholders in the Urban Village Planning process.

***Housing – Social Equity and Diversity Policy H-1.3***

Create, preserve, and rehabilitate housing opportunities and accessible living environments that allow seniors to age in place, either in the same home, assisted living facilities, continuing care facilities, or other housing types within the same community.

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*Housing – Social Equity and Diversity Policy H-1.9*

Facilitate the development, preservation, and rehabilitation of housing to meet San José's fair share of the County's and region's housing needs.

Thank you for considering the Law Foundation's comments. We welcome the opportunity to discuss our letter with members of the Council. I may be reached at

[REDACTED]

Sincerely,

[REDACTED]

Diana Castillo  
Senior Attorney

March 13, 2018

To: San Jose City Council

On behalf of the older mobile home parks and trailer parks located throughout the City of San Jose, I ask the City Council to please consider the current and future land use issues that face the twenty or so older communities located throughout the city. I believe that there are some creative solutions that could be a win-win-win; for residents, park owners, and the City of San Jose.

Some of the older mobile home parks in San Jose are reliant upon gas, electric, water, and sewer systems that are 50-70 years old. Even the newest mobile home parks in San Jose are over 30 years old. Moving forward, I believe that the current objective of “preserve and maintain” will lead to big problems that could be avoided should be considered. Simply stated, any community will deteriorate over time if it is not updated and upgraded. Mobile home parks and trailer parks have not shown to be an exception to this rule. With the removal of the infrastructure replacement component of the “Opt In” concept and the restrictive nature of the current rent control ordinance, some older community owners are finding it difficult to plan for the future.

Please understand, the large majority of mobile home park owners in San Jose want to own and operate clean and safe communities that are attractive to good people who want to live, raise families, and retire within their communities. It is understood and acknowledged that mobile home owners also have a vested interest in their mobile homes and community. I hope that the City of San Jose will reach out to mobile home park owners to forge viable solutions for community upgrades and/or a streamlined process to redevelopment.

Thank you for your consideration!

Sincerely,

Grover Phillips  
San Jose Trailer Park