



CITY of CALABASAS
CITY COUNCIL AGENDA REPORT

DATE: OCTOBER 18, 2021

TO: HONORABLE MAYOR AND COUNCILMEMBERS

FROM: MAUREEN TAMURI, AICP, COMMUNITY DEVELOPMENT DIRECTOR
MICHAEL KLEIN, A.I.C.P., SENIOR PLANNER *MAK*

SUBJECT: CONSIDERATION OF RESOLUTION NO. 2021-1759, APPROVING A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF CALABASAS AND CALABASAS CREST LTD., THE OWNERS OF THE CALABASAS VILLAGE

MEETING DATE: OCTOBER 27, 2021

SUMMARY RECOMMENDATION:

Consideration of Resolution No. 2021-1759 (attachment A), approving a Memorandum of Understanding (MOU, attachment B) between the City of Calabasas and Calabasas Crest Ltd., the owners of Calabasas Village.

BACKGROUND:

On October 12, 2020, staff provided the City Council with a comprehensive overview of options for rent stabilization ordinances, including options for mobile home parks. Prior to that meeting, Mike Murchison, a representative of Calabasas Crest Ltd., submitted a draft MOU to the City for consideration. Subsequent to receiving the draft MOU, staff provided a copy to the City Manager and the City Council mobile home task force. Staff has participated in meetings with the task force, residents and Calabasas Crest Ltd. to discuss the MOU.

On April 28, 2021, the City Council discussed the draft MOU at an open meeting. The Council took public comment and directed staff to continue working with

Calabasas Crest Ltd. to formalize a final MOU for consideration. The City Council further directed the property owner, Calabasas Crest Ltd, to work with the HOA and hold a communitywide meeting to allow residents to provide input on the MOU. On August 31, 2021, staff and the task force attended a virtual meeting hosted by the property owner to discuss the MOU with residents of Calabasas Village. Approximately 30 residents joined the meeting, of which 12 spoke and provided comments. At the conclusion of the meeting, Mayor Bozajian stated that consideration of the MOU would be scheduled for City Council consideration at the October 27, 2021, City Council meeting.

The City Attorney's Office has reviewed the Resolution and the MOU and modified the MOU to meet statutorily acceptable language and format for the City Council to adopt. The revised MOU has been reviewed by Calabasas Crest Ltd. and the HOA, both of which agree to the content and terms of the MOU. Now is the appropriate time for the City Council to consider approving the MOU.

DISCUSSION:

An MOU is an agreement negotiated between two parties. In the context of mobile home parks, an MOU may be agreed upon between the property owner and the residents, with the City's assistance and oversight, and may set boundaries on space rent increase and pass through costs. In this particular case, the property owner has proposed an MOU with the City. While an MOU does not have the same legal status as a rent stabilization ordinance, it is a binding agreement between the City and the property owner and could offer the residents security beyond an executed lease agreement. It is important to note that the execution of an MOU does not prevent a future City Council from approving a rent stabilization ordinance or one being approved by initiative. As a result, a rent stabilization ordinance approved by initiative or a future City Council would supersede an executed MOU. Nevertheless, park owners may contend that MOUs create contractual property rights, which could be subject to a takings analysis if a later rent stabilization ordinance were to be enacted.

The Mobile Home Residency Law^a does not impose a rent ceiling or limit rent increases for mobile home tenants. However, State law does require a 90-day advance written notice to mobile home tenants before a rent increase for all rental agreements. Under new State law (Assembly Bill 2782, set to take effect January 1, 2021 and lasting until January 1, 2025 unless extended, but applying retroactively to certain leases), leases signed before February 13, 2020 and lasting more than one year are exempt from any local rent control ordinance now in

^a Civil Code § 798 et seq.

existence or enacted in the future, if certain specified conditions are met.^b For leases signed on or after February 13, 2020, under AB 2782, any such waiver of the protections of any local rent control ordinance will be invalid and preempted by statute.^c Subject to potential court confirmation for any given lease, the new law's preemption of local rent control protection waivers in a long-term lease signed on or after February 13, 2020 does not automatically invalidate the lease itself, as the remainder of the lease would remain enforceable, minus the preempted provisions.^d

Under State law, a city may enact a mobile home space rent stabilization law, subject to the following state-required exceptions: 1) if a mobile home space within a mobile home park is not the principal residence of the homeowner and the homeowner has not rented the mobile home to another party, it shall be exempt; 2) new construction shall be exempt; and 3) rental agreements in excess of 12 months entered into before February 13, 2020 and meeting certain other conditions would be exempt. In adopting a mobile home rent stabilization law, the City would need to adopt defined limits on rent increases, create a hearing process (by a commission or board) to allow mobile home park owners to apply for variances or exceptions, ensure that the stabilized rent rates still provide mobile home park owners a reasonable rate of return on their documented investments into the park, and can create an ombudsperson for mobile home tenants to seek redress under the ordinance. If so desired, additional City staff would be required to establish and administer such a program.

In a previous report, staff noted that establishment and operation of a rent stabilization program is a substantial undertaking, with many moving parts and legal issues. Consequently, such an endeavor may be expensive. For example, the City of Burbank previously explored rent stabilization citywide -- an initiative was on the local ballot for voter consideration on November 3, 2020 (the initiative was not approved). The analysis of that proposed program, prepared by Burbank city staff and a consultant, yielded an estimate of the potential costs to the City of Burbank as high as \$1,800,000 for program start-up and \$4,000,000 per year for operation. Although such a program in the City of Calabasas would be substantially smaller in scale, with correspondingly lower costs, initiating a rent stabilization program in Calabasas would nonetheless be costly. Furthermore, a rent stabilization program would be nearly 100% cost burdened to the city, with very few potential revenue components.

As stated above, a draft MOU was submitted to City on October 12, 2020, by Mike Murchison, a representative of Calabasas Crest Ltd. The MOU has been

^b Civil Code § 798.17.

^c Civil Code section 798.17, as amended by Assembly Bill 2782, § 2, to take effect on January 1, 2021, with retroactive effect back to February 13, 2020.

^d Civil Code, §§ 798.19 and 798.77.

reviewed and updated by the City Attorney's Office. The primary benefits of the proposed MOU is to provide the following protections for the community residents:

1. The property owner agrees to honor and cooperate in assuring respectful communications with any stakeholder and shall maintain an open door policy with residents.
2. Continued commitment to provide financial assistance to income qualified tenants via the City's Rental Assistance Program. To date, the property owner has contributed more than \$425,000 in financial assistance, and currently contributes \$38,304 annually plus cost of living increases.
3. The property owner agrees to waive reimbursement of ALL capital improvements while the MOU is effective. This means that space rent will be fixed and not subject to unexpected increases for reimbursement of capital improvements.
4. The property owner shall communicate annually with the Calabasas Village Homeowners Association regarding any plans for park maintenance, repair, or capital improvements.

While the MOU stipulates that the City will not impose a rent control ordinance on the mobile home property during the term of the MOU, there are adequate clauses that allow the City to terminate the MOU in order to enforce a rent control ordinance enacted by the City Council or voters. As a result, the proposed MOU is not in conflict with any state law, including AB 2782.

REQUESTED ACTION:

Consideration of Resolution No. 2021-1759 (attachment A), approving a Memorandum of Understanding (MOU, attachment B) between the City of Calabasas and Calabasas Crest Ltd., the owners of Calabasas Village.

ATTACHMENTS:

- Attachment A: City Council Resolution No. 2021-1759
- Attachment B: Proposed MOU
- Attachment C: Letter from the HOA
- Attachment D: Public Comment