BIG CA SUPREME COURT DECISION

A GREAT VICTORY FOR GSMOL! THE SUPREME COURT HAS NOW PROVIDED A SECOND LINE OF DEFENSE AGAINST FORCED CONVERSIONS

By Attorney Will Constantine

Up until now, the only tool available to cities and counties for stopping manufactured home park conversions that are not in the interest of or supported by a park's homeowners has been Government Code Section 66427.5's resident support survey balloting requirement. However, now the CA Supreme Court's Pacific Palisades decision has provided manufactured homeowners with a significant victory, which may have statewide significance in opening the door to a second ground for rejecting those untenable conversions.

Pacific Palisades does not directly address the resident support issue. So it does nothing to resolve the current dispute between the *Goldstone* (CA 6th Appellate District) and *Chino* (CA 4th Appellate District) appellate decisions regarding the circumstances under which the results of a resident support survey justify rejection of a conversion for lack of resident support. That is the primary issue of the current Petition for Review by the CA Supreme Court that I recently filed in the *Chino* case and it still remains our first line of defense against park owner driven conversions that would be financially devastating to a park's homeowners.

However, *Pacific Palisades* appears to have opened the door for a second ground for rejecting those untenable conversions in its ruling that Section 66427.5 does not supersede other California laws, particularly the Coastal Act and the Mello Act, and that a conversion can be rejected if it fails to comply with those other laws. Although *Pacific Palisade's* rulings on the Coastal Act and the Mello Act only affect parks in the coastal zone, its rationale for why the Mello Act's preservation of affordable and moderate income housing requirements must be enforced opens the door for a statewide argument that conversions can be also rejected, under California's Housing Elements Law, when it is demonstrated that a conversion will result in the loss of the low and moderate income housing that is located in a park that is proposed to be converted (*i.e., the lots will be sold at unaffordable prices*). Since California's Housing Elements Law covers all of the State, it would protect all manufactured home parks rather than just those in the coastal zone.

The *Pacific Palisades* CA Supreme Court decision opens the door to expanding this protection by ruling that the goals of the Housing Elements Law are of "vital statewide importance" and that its goal of the protection of "decent housing and a suitable living environment for every Californian … is a priority of the highest order." Citing Government Code Section 65580, subd. (a), it then also states that Section 65583 requires programs in the housing elements of general plans for the "preservation" of such housing. *Pacific Palisades* then uses these policies and provisions of the Housing Elements Law to support its subsequent conclusions regarding the Mellow Act, which it states "supplements the housing elements laws."

After providing the above background analysis of California's Housing Elements Law and Subdivision Map Act, the CA Supreme Court then opens the door to rejecting conversions for failure to comply with the low-income housing preservation requirements of a local community's general plan by then stating that "the subdivision map act cites a number of circumstances that require denial of a map" and then, in a footnote, it cites Government Code 66474 listing the reasons that a "city or county **shall deny** approval of a tentative map" and the very first reason that it lists is Section 66474 subd. a, which states that a map application shall be denied when it is determined **"that the proposed map is not consistent with the applicable general or specific plans."**

Following that reasoning from *Pacific Palisades*, if a manufactured home park's homes are being counted as part of a community's low-income housing supply to meet its regional mandates under California's Housing Elements Law (*which is almost always the case*) and the park owner refuses to demonstrate that the conversion will not result in the subdivided lots and manufactured homes becoming unaffordable (*i.e., the park owner refuses to guarantee their affordability*), then the conversion can be denied under subd. a of Government Code 66474. GSMOL should receive a lot of credit for the CA Supreme Court adopting this position because it was presented to them in my amicus brief that I filed with the Supreme Court on behalf of GSMOL.

Another very helpful aspect of the *Pacific Palisades* decision is that the CA Supreme Court also adopted GSMOL's amicus brief's argument that clarifies that Government Code Section 66427.5's temporary post-conversion rent controls are only intended to protect current residents and that they do not preserve affordable housing units. It then states that those are two different goals with Section 66427.5 protecting current residents and the Mello Act preserving the affordable housing supply, that those goals are not in conflict and that both of those statutes must, therefore, be equally enforced.

So, our first line of defense against untenable park owner driven conversions is still the effective enforcement of Government Code section 66427.5's resident support survey balloting requirement. This means that we still must work to have the *Chino* appellate decision's ruling that conversions can only be rejected when it is shown that only a "trivial handful" of homeowners support the conversion overturned and the Goldstone appellate decision's ruling (*which gives local jurisdictions more discretion in rejecting conversions when they fail to demonstrate adequate resident sup- port*) affirmed. But the *Pacific Palisades* Supreme Court decision now seems to also give local jurisdictions a viable second method of protecting affordable housing in manufactured home parks under California's Housing Element Law.