



County of Santa Cruz⁰²¹³

BOARD OF SUPERVISORS

701 OCEAN STREET, SUITE 500, SANTA CRUZ, CA 95060-4069

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JANET K. BEAUTZ
FIRST DISTRICT

ELLEN PIRIE
SECOND DISTRICT

MARDI WORMHOUDT
THIRD DISTRICT

TONY CAMPOS
FOURTH DISTRICT

JEFF ALMQUIST
FIFTH DISTRICT

AGENDA: 4/24/01

April 17, 2001

BOARD OF SUPERVISORS
County of Santa Cruz
701 Ocean Street
Santa Cruz, CA 95060

RE: SENATE BILL 691 - PAYMENT OF PUBLIC
AGENCY DEFENSE COSTS RELATIVE TO
MOBILE HOME RENT STABILIZATION ORDINANCES

Dear Members of the Board:

As Board members will recall, Supervisor Beautz added an item to the County's 2001 Legislative Program requesting that legislation be introduced that would allow a public agency to recover their legal costs associated with defending a jurisdiction's mobile home rent stabilization or rent control ordinance. In response, Senator Bruce McPherson introduced Senate Bill 691, a copy of which is attached.

In a letter to Senator McPherson from Supervisor Jan Beautz, who serves as our Board's liaison to the County Mobile Home Commission, Supervisor Beautz states: "Since the inception of our ordinance, Santa Cruz County estimates that over a half million dollars has been spent on legal defense costs to uphold the County's ordinance. It is very likely that the lack of any reimbursement for these defense costs could result in jurisdictions abandoning their mobile home rent stabilization ordinances because they are just too costly to defend." In response to these concerns, Senate Bill 691 would require a court to award reasonable attorney's fees to the prevailing party in an action brought with respect to a mobile home rent control ordinance. Clearly, this would provide a critical measure of fairness to public agencies and a means to ensure ongoing protection for mobile home residents.

BOARD OF SUPERVISORS
April 17, 2001
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Accordingly, I recommend that the Board of Supervisors take the following actions:

1. Adopt the attached resolution supporting Senate Bill 691.
2. Direct the Clerk of the Board to distribute the resolution as indicated.
3. Direct the County Administrative Officer to place the Bill in our legislative tracking system.

Sincerely,

Handwritten signature of Tony Campos in cursive script.

TONY CAMPOS, Chairman
Board of Supervisors

TC:ted
Attachments

cc: Senator Bruce McPherson
Santa Cruz County Mobile Home Commission
Victor Wright, Region 10, Golden State Mobilhome Owners
League, Inc.
County Administrative Office

2512A6

BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF SANTA CRUZ, STATE OF CALIFORNIA

RESOLUTION NO.

On the motion of Supervisor
duly seconded by Supervisor
the following resolution is adopted

RESOLUTION URGING PASSAGE OF SENATE BILL 691

WHEREAS, Santa Cruz County has requested that legislation be introduced that would allow a public agency to recover their legal costs associated with defending a jurisdiction's mobile home rent stabilization or rent control ordinance; and

WHEREAS, in response, Senator Bruce McPherson has introduced Senate Bill 691 into the California State Senate; and

WHEREAS, since the inception of Santa Cruz County's Mobile Home Rent Control Ordinance, Santa Cruz County estimates that over a half million dollars has been spent on legal defense costs to uphold the County's ordinance; and

WHEREAS, it is very likely that the lack of any reimbursement for these defense costs could result in jurisdictions abandoning their mobile home rent stabilization ordinances because they are just too costly to defend; and

WHEREAS, Senate Bill 691 would require a court to award reasonable attorney's fees to the prevailing party in an action brought with respect to a mobile home rent control ordinance; and

WHEREAS, the provisions of Senate Bill 691 would provide a critical measure of fairness to public agencies and a means to ensure ongoing protection for mobile home residents.

NOW, THEREFORE, BE IT RESOLVED that the Santa Cruz County Board of Supervisors hereby urges the passage of Senate Bill 691.

PASSED AND ADOPTED by the Board of Supervisors of the County of Santa Cruz, State of California, this _____ day of _____, 2001, by the following vote:

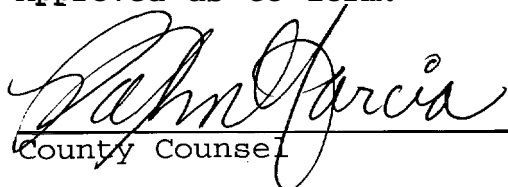
AYES: SUPERVISORS
NOES: SUPERVISORS
ABSENT: SUPERVISORS

TONY CAMPOS, Chairman
Board of Supervisors

ATTEST: _____
Clerk of said Board

RESOLUTION URGING PASSAGE OF SENATE BILL 691
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Approved as to form:


County Counsel

DISTRIBUTION: Senator Bruce McPherson
Assembly Member Fred Keeley
Assembly Member Simon Salinas
Santa Cruz County Mobile Home Commission
Victor Wright, Region 10, Golden State Mobilhome
Owners League, Inc.
County Counsel

2512A6

AMENDED IN SENATE MARCH 28, 2001

INTRODUCED BY Senator McPherson

FEBRUARY 23, 2001

An act to amend Sections 1021.5 and 1036 of the Code of Civil Procedure, and to amend Section 800 of, and to add Section 814.4 to, the Government Code, relating to attorney's fees.

LEGISLATIVE COUNSEL'S DIGEST

SB 691, as amended, McPherson. Governmental liability: attorney's fees.

Existing law permits a court to award attorney's fees to a successful party in an action that has resulted in the enforcement of an important right affecting public interest, but does not allow an award of attorney's fees in favor of public entities, except in limited specified circumstances. Existing law requires the court to determine and award or allow to a successful plaintiff in an inverse condemnation proceeding, certain costs, disbursements, expenses, and fees, as provided. Existing law permits a complainant to collect specified attorney's fees in a civil action to appeal or review any administrative proceeding where the proceeding was the result of arbitrary or capricious action or conduct by the public entity or officer.

This bill additionally would permit, in the actions described above, when brought by the owner of a mobilehome park, the award of attorney's fees, and, in some cases, other litigation expenses to a local governmental entity, if the local governmental entity is determined to be the prevailing party unless the court finds that the park owner had reasonable grounds to bring the litigation.

Existing law provides for civil actions against a state or local entity according to specified procedures.

This bill would require a court to award reasonable attorney's fees to the prevailing party in such an action brought with respect to an ordinance or other law regarding mobilehomes, manufactured homes, mobilehome parks, or manufactured housing communities.

Note: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1021.5 of the Code of Civil Procedure is amended to read:

1021.5. (a) Upon motion, a court may award ~~attorneys'~~ attorney's fees to a successful party against one or more opposing parties in any action which has resulted in the enforcement of an important right affecting the public interest if: ~~(a)~~ (1) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, ~~(b)~~ (2) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and ~~(c) such~~ (3) the fees should not in the interest of justice be paid out of the recovery, if any. ~~With~~ Except as provided in subdivision (b), with respect to actions involving public entities, this section applies to allowances against, but not in favor of, public entities,

and no claim shall be required to be filed therefor, unless one or more successful parties and one or more opposing parties are public entities, in which case no claim shall be required to be filed therefor under Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code.

0218

Attorneys' fees awarded to a public entity pursuant to this section shall not be increased or decreased by a multiplier based upon extrinsic circumstances, as discussed in *Serrano v. Priest*, 20 Cal. 3d 25, 49.

(b) In an action brought by the owner of a mobilehome park, as defined in Section 798.4 of the Civil Code, to challenge the validity or application of an ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which regulates space rent or is otherwise intended to benefit or protect residents in the park, if the local governmental entity is determined to be the prevailing party, and the action meets the criteria of subdivision (a), the court shall award attorney's fees to the local governmental entity unless the court finds that the park owner had reasonable grounds to bring the litigation.

SFC. 2. Section 1036 of the Code of Civil Procedure is amended to read:

1036. (a) In any inverse condemnation proceeding, the court rendering judgment for the plaintiff by awarding compensation, or the attorney representing the public entity who effects a settlement of that proceeding, shall determine and award or allow to the plaintiff, as a part of that judgment or settlement, a sum that will, in the opinion of the court, reimburse the plaintiff's reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of that proceeding in the trial court or in any appellate proceeding in which the plaintiff prevails on any issue in that proceeding.

(b) In an inverse condemnation proceeding brought by the owner of a mobilehome park, as defined in Section 798.4 of the Civil Code, to challenge the validity or application of an ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which regulates space rent or is otherwise intended to benefit or protect residents in the park, if the local governmental entity is determined to be the prevailing party, the court shall award attorney's fees to the local governmental entity unless the court finds that the park owner had reasonable grounds to bring the litigation.

SFC. 3. Section 800 of the Government Code is amended to read:

800. (a) In any civil action to appeal or review the award, finding, or other determination of any administrative proceeding under this code or under any other provision of state law, except actions resulting from actions of the State Board of Control, where it is shown that the award, finding, or other determination of the proceeding was the result of arbitrary or capricious action or conduct by a public entity or an officer thereof in his or her official capacity, the complainant if he or she prevails in the civil action may collect reasonable attorney's fees, computed at one hundred dollars (\$100) per hour, but not to exceed seven thousand five hundred dollars (\$7,500), where he or she is personally obligated to pay the fees, from the public entity, in addition to any other relief granted or other costs awarded.

This section is ancillary only, and shall not be construed to create a new cause of action.

Refusal

(b) Refusal by a public entity or officer thereof to admit liability pursuant to a contract of insurance shall not be considered arbitrary or capricious action or conduct within the meaning of this section.

(c) In any civil action brought by the owner of a mobilehome park, as defined in Section 798.4 of the Civil Code, pursuant to this section, to challenge the validity or application of an ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which regulates space rent or is otherwise intended to benefit or protect residents in the park, if the local

governmental entity is determined to be the prevailing party, the court shall award attorney's fees and other litigation expenses to the local governmental entity unless the court finds that the park owner had reasonable grounds to bring the litigation.

SEC. 4. Section 814.4 is added to the Government Code, to read:

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814.4. The court shall award reasonable attorney's fees to the prevailing party in any action brought pursuant to this division with respect to an ordinance or other law regarding mobilehomes, manufactured homes, mobilehome parks, or manufactured housing communities.

GOLDEN STATE MOBILHOME OWNERS LEAGUE, INC.



11021 MAGNOLIA BOULEVARD, GARDEN GROVE, CALIFORNIA
P.O. BOX 876, GARDEN GROVE, CALIFORNIA 92642
(714) 826-4071 1 (800) 888-1727

March 28, 2001

"A Homeowners Association"

Re: Request for Support for SB 691 (McPherson)

Subject: City and County Recovery of Attorney's Fees when Defending Mobilehome Ordinances

Dear Board of Supervisors,

As a mobilehome owner and resident of this city and county, I am requesting that you support SB 691 by Senator Bruce McPherson, now pending in the State Senate. The bill has been officially sponsored by Golden State Manufactured-Home Owners League, Inc. (GSMOL), and is supported by many cities and counties.

The primary beneficiaries of this legislation will be cities and counties throughout the state that under present law cannot recover their attorney's fees when they defend a mobilehome ordinance. Secondary beneficiaries will be retired seniors on fixed incomes and first-time home buyers. In an effort to protect and preserve a dwindling supply of affordable housing, many cities and counties have adopted mobilehome rent ordinances to protect residents from exorbitant and unjustified rent increases. If such ordinances are challenged in court, the city or county cannot under current law recover their attorney's fees even if they win.

SB 691 would amend state law to provide that a Court could award a prevailing city or county their attorney's fees and costs if certain requirements have been met. Amendments have been made by the author to assure that cities and counties are not exposed to any increase in liability under the bill, but that they are at least entitled to recover attorney's fees to the same extent as a successful challenger to the ordinance can now recover against cities and counties under existing law.

I have enclosed for your consideration a copy of the recent amendments to the bill as drafted by Legislative Counsel. Time is of the essence as the first policy hearing will probably be held on April 17, 2001 in the Senate Judiciary Committee chaired by Senator Martha Estutia.

On behalf of GSMOL, and particularly your own constituents, we urge you to adopt a resolution urging passage of SB 691 by Senator Bruce McPherson, and that you send a letter to the League of California Cities and CSAC, urging those associations to support the bill.

Sincerely,

Name: Victor Wright
Address: 144 Holm Rd
City, State & Zip: Watsonville
Phone: 831-768-1005

GOLDEN STATE MOBILHOME OWNERS LEAGUE, INC.

(831) 768-1003



GSMOL VOLUNTEER
VICTOR WRIGHT
REGIONAL MANAGER

Region 10
Monterey Vista Estates
144 Holm Road, #82
Watsonville, CA 95076

AMENDMENTS TO SENATE BXLL NO, 691

Amendment 1

In line 1 of the title, after the first "to" insert:

amend Sections 1021.5 and 1036 of the Code of Civil Procedure, and
to amend Section 800 of, and to

Amendment 2

In line 1 of the title, after the second "to" insert a

comma

Amendment 3

On page 1, line 1, after "SECTION 1." insert:

Section 1021.5 of the Code of Civil Procedure is amended to read:
1021.5. (a) Upon motion, a court may award attorneys' fees to a successful party in any action which has resulted in the enforcement of an important right affecting the public interest if: (1) a significant benefit, whether pecuniary or nonpecuniary, has been conferred on the general public or a large class of persons, (2) the necessity and financial burden of private enforcement, or of enforcement by one public entity against another public entity, are such as to make the award appropriate, and (3) the fees should not in the interest of justice be paid out of the recovery, if any. With Except as provided in subdivision (b), with respect to actions involving public entities, this section applies to allowance against, but not in favor of, public entities, and no claim shall be required to be filed therefor, unless one or more successful parties and one or more opposing parties are public entities, in which case no claim shall be required to be filed therefor under Part 3 (commencing with Section 900) of Division 3.6 of Title 1 of the Government Code.

Attorneys' fees awarded to a public entity pursuant to this section shall not be increased or decreased by a multiplier based upon extrinsic circumstances, as discussed in *Serrano v. Priest*, 20 Cal. 3d 25, 49.

(b) In an action brought by the owner of a mobilehome park, as defined in Section 798.4 of the Civil Code, to challenge the validity or application of an ordinance, rule, regulation, or

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initiative measure adopted by any local governmental entity which regulates space rent or is otherwise intended to benefit or protect residents in the park, if the local governmental entity is determined to be the prevailing party, and the action meets the criteria of subdivision (a), the court shall award attorney's fees to the local governmental entity unless the court finds that the park owner had reasonable grounds to bring the litigation.

SEC. 2. Section 1036 of the Code of Civil Procedure is amended to read:

1036. (a) In any inverse condemnation proceeding, the court rendering judgment for the plaintiff by awarding compensation, or the attorney representing the public entity who effects a settlement of that proceeding, shall determine and award or allow to the plaintiff, as a part of that judgment or settlement, a sum that will, in the opinion of the court, reimburse the plaintiff's reasonable costs, disbursements, and expenses, including reasonable attorney, appraisal, and engineering fees, actually incurred because of that proceeding in the trial court or in any appellate proceeding in which the plaintiff prevails on any issue in that proceeding.

(b) In an inverse condemnation proceeding brought by the owner of a mobilehome park, as defined in Section 798.4 of the Civil Code, to challenge the validity or application of an ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which regulates space rent or is otherwise intended to benefit or protect residents in the park, if the local governmental entity is determined to be the prevailing party, the court shall award attorney's fees to the local governmental entity unless the court finds that the park owner had reasonable grounds to bring the litigation.

SEC. 3. Section 800 of the Government Code is amended to read:

800. (a) In any civil action to appeal or review the award, finding, or other determination of any administrative proceeding under this code or under any other provision of state law, except actions resulting from actions of the State Board of Control, where it is shown that the award, finding, or other determination of the proceeding was the result of arbitrary or capricious action or conduct by a public entity or an officer thereof in his or her official capacity, the complainant if he or she prevails in the civil action may collect reasonable attorney's fees, computed at one hundred dollars (\$100) per hour, but not to exceed seven thousand five hundred dollars (\$7,500), where he or she is personally obligated to pay the fees, from the public entity, in addition to any other relief granted or other costs awarded.

This section is ancillary only, and shall not be construed to create a new cause of action.

~~Refusal~~

(b) Refusal by a public entity or officer thereof to admit liability putoutant to a contract of insurance shall not be

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Substantive

considered arbitrary or capricious action or conduct within the meaning of this motion.

(c) In any civil action brought by the owner of a mobilehome park, as defined in Section 798.4 of the Civil Code, pursuant to this section, to challenge the validity or application of an ordinance, rule, regulation, or initiative measure adopted by any local governmental entity which regulates space rent or is otherwise intended to benefit or protect residents in the park, if the local governmental entity is determined to be the prevailing party, the court shall award attorney's fees and other litigation expenses to the local governmental entity unless the court finds that the park owner had reasonable grounds to bring the litigation.

SEC. 4.

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