

1 Brenda Barnes  
2 406 Broadway, Ste. 332F  
3 Santa Monica, CA 90401  
4 (310) 795-3762

5 Plaintiff-Petitioner in pro per

**CONFORMED COPY**  
OF ORIGINAL FILED  
Los Angeles Superior Court

DEC 24 2012

John A. Clarke, Executive Officer/Clerk

By M. Vandeman, Deputy

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA FOR THE  
8 COUNTY OF LOS ANGELES, WEST DISTRICT

10 BRENDA BARNES, an Individual; )

Case No.

**SC119545**

11 Plaintiff-Petitioner, )

**EXHIBITS IN SUPPORT OF COMPLAINT FOR  
INJUNCTIVE RELIEF AND PETITION FOR  
WRIT OF MANDATE**

12 v. )

13 TRACY CONDON, etc., et al., )

14 Defendants-Respondents. )

15 \_\_\_\_\_ )  
16 VILLAGE TRAILER PARK, INC., etc., )  
17 et al.; )

18 Defendants-Real Parties in Interest.)  
19 \_\_\_\_\_ )  
20

**EXHIBIT A**

1 DECLARATION OF BRENDA BARNES IN SUPPORT OF COMPLAINT FOR INJUNCTIVE RELIEF  
2 AND PETITION FOR WRIT OF MANDATE

3 BRENDA BARNES declares and says:

4 I am the Plaintiff-Petitioner in this Case and make this Declaration of my own  
5 personal knowledge. If called as a witness I could and would testify competently as  
6 stated herein.

7 1. As I have done several times over the past year, on Sunday, December 23,  
8 2012, as I was finishing the Complaint-Petition in this case, I checked the website for the  
9 Santa Monica Rent Control Board, at [www.smgov.net/summary\\_of\\_regulations.aspx](http://www.smgov.net/summary_of_regulations.aspx), to  
10 determine what it said about removal permit regulations. As it has stated each and  
11 every time I have checked in the past year, today it stated in a box on the upper right-  
12 middle side, below listings of links for chapters of the SMRCB regulations Chapter 1  
13 through 4 and 6 through 17 and 20, the following:

14 Chapter 5 - Removal Permits: Regulation has been suspended. See Charter  
15 Amendment Section 1803(t)

16 Chapters 18 and 19 - Reserved for future use

17  
18  
19 The website calls Chapter 5, which was a chapter of regulations about removal permits,  
20 merely a "regulation." (The entire chapter of regulations is attached hereto as Exhibit  
21 F.) The underlining in "See Charter Amendment Section 1803(t)" constitutes a hyperlink  
22 to City Charter Section 1803(t), which is quoted and referred to repeatedly in the  
23 Complaint-Petition and is part of Chapter 18, which is Exhibit A in the Request for  
24 Judicial Notice. SMRCB consistently refers to Chapter 18 of the City Charter as the "Rent  
25 Control Charter Amendment," and abbreviates that as RCCA. However, like Chapters 19  
26 and 20 of the City Charter, which were passed after the original passage of the Charter,  
27  
28

1 and like many sections of the Charter that have been amended during the Charter's  
2 existence, Chapter 18 is part of the City Charter. After its date of passage, which was  
3 April 10, 1979, it is and was no less and no more a part of the governing law of the City  
4 of Santa Monica than any other part of the Charter is and was.

5  
6 2. I have called the SMRCB offices numerous times in the past year framing  
7 questions of where I can get papers showing SMRCB policies on issues raised by the  
8 RPIs' removal permit applications, the current one being the third, the other two having  
9 been withdrawn by RPIs soon before scheduled SMRCB hearings. I first called asking if  
10 the SMRCB has all its papers on removal permit applications somewhere in the office so  
11 I could review them prior to the Staff Report. After receiving the answer no, I then  
12 narrowed down my question more and more, to be sure they did not have some papers  
13 somewhere. Were there papers on removal cases involving mobilehome parks? Were  
14 there papers about removal permit cases involving trailers? Trailer spaces? Mobile  
15 homes? Mobile home spaces? I worked as an attorney and department manager for the  
16 SMRCB in the 80s, so I knew of my own personal knowledge there was no attempt to put  
17 papers by issue somewhere in the office then. My increasingly narrow questions this  
18 year all were answered, by several different people, with varying degrees of being  
19 mystified at why anyone would ask. Clearly the Charter's requirement of putting all  
20 documents by issue somewhere in the office so the public can know its rights and duties  
21 under rent control has never even been broached with the Information Services  
22 department, as it had not been when I was managing a different department. It so  
23 happened two people had been moved from a mobile home park to Village Trailer Park,  
24 and they told me there was a removal permit case where they used to live, so that is  
25  
26  
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28

1 the only way I learned anything I know about what the SMRCB has done on mobilehome  
2 park removal cases.

3           3.       On December 11, 2012, I was present at a public hearing held by the Santa  
4 Monica City Council in the Council Chambers on the second floor of Santa Monica City  
5 Hall at 1685 Main Street, Santa Monica, California and heard MARC L. LUZZATTO state  
6 to the Council that he had “negotiated for months and months with the Rent Control  
7 Board” to agree to the terms of the MOU attached to the Complaint/Petition as Exhibit  
8 D, before he entered into it in 2007. In the same sentence he said he had also  
9 negotiated for months and months about the MOU with “City staff.” I do not know if he  
10 meant he had negotiated with the actual SMRCB as contrasted to its staff, but since he  
11 used different terminology about the two agencies, he may have meant that, or he may  
12 have meant he negotiated with the staffs of both agencies. In any event, I am not  
13 aware of any exception to the Brown Act requirement of decisions of the SMRCB having  
14 to be made in public hearings that would have allowed even SMRCB staff to negotiate  
15 with a developer about what the SMRCB would approve. Never when I worked for the  
16 SMRCB was such an idea ever contemplated in the slightest degree. Cases are  
17 adversarial and administrative, quasi-judicial, at the SMRCB, not legislative as  
18 development agreements are at the Council, so in my opinion and from everything I  
19 observed when I worked for SMRCB, it is unlawful for anyone who works for SMRCB to  
20 help either side of a case. This was also the first time I had ever heard any such  
21 admission by LUZZATTO. He had claimed earlier that SMRCB agreed to the MOU—which  
22 it clearly did not do by signing on to it, as Exhibit D herein shows. Therefore, until he  
23 claimed this month that he had negotiated for months and months with the SMRCB in  
24  
25  
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1 2007, earlier when he had said the SMRCB agreed to the MOU I had believed he was just  
2 telling another of what I have become familiar with from him, lie after lie after lie.

3 4. I recently read in the press that Defendant TRACY CONDON stated the  
4 SMRCB would consider the instant removal permit application "early in the new year."  
5 Until that time I believed the hearing would be in February, since the SMRCB has 120  
6 days to decide such an application. Therefore, the combination of the two pieces of  
7 knowledge coming to me related in this and the last paragraphs required rushing to  
8 prepare these papers before Christmas, as soon as possible, which I did.

9  
10  
11 I declare under penalty of perjury that the foregoing is true and correct and that  
12 this Declaration was executed at Santa Monica, California on December 23, 2012.

13  
14  
15 \_\_\_\_\_  
16 Brenda Barnes  
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1.9 Do you request exemption for some or all of the units being registered?

Yes  No

WILL REQUEST RENT TO APPEAR FOR EXEMPT

Reason for Exemption: (Check one box)  
A.  Owner Occupied (3 Units or Less)  
B.  Hotel, Motel or Boarding House (Occupied 14 Days or Less)

(SEE ATTACHED LETTER FROM TENANTS)

1.10 Did you give a Proposition 13 rebate to your tenants?

Cash . . . . . Yes  No   
Improvements . . . . . Yes  No

\* PROMISED TENANTS NOT TO REAPPEAR FOR AT LEAST ONE YEAR

1.11 In renting your units do you place any age restrictions on tenants?

Yes  No

THIS IS AN ADULT'S MOBILE HOME PARK.  
MANY OLDER RESIDENTS

PROCESSED

JUL 18 1979

*A*

31 26

(Continued - Over)

D. P. DIVISION

APPLICATION FOR INITIAL UNIT REGISTRATION

FORM 2 - FINANCIAL STATEMENT

Read instructions on reverse side of this page. Please type or print. Use ballpoint pen. Complete one form for each lot you own.

2.1 Name of Owner(s)  
 (Last Name) (First Name)  
MURAMATSU MIKE  
SHAPIRO MARION

2.2 Address(es) of Building Being Registered  
 (No.) (Street Name) (Zip Code)  
2930 COLORADO AVE, 90404

2.3 Business License - 1978  
 Number 2441.00 Amount 2441.00

2.4 Date Property Purchased  
 Month 1 Day 1 Year 1950

2.5 Date Property Refinanced  
 Month 1 Day 1 Year 1971

2.6 INCOME

	1977	1978
Total Gross Income on Property:		
Rental	\$ 13113.5	\$ 14741.6
Other (Specify):	\$ 1379.9	\$ 1577.6
Laundry	\$ 13016.88	613
Deposits		
Garage	\$ 2523.90	1483
UTILITIES	\$ 1771	1190
	<b>13799</b>	<b>1796</b>

2.7 EXPENSES

	1977	1978
Mortgage Costs:		
Principal	\$ 15975	\$ 18281
Interest	\$ 22245	\$ 19939
Management Costs:		
Professional	\$ 9350	\$ 10775
Owner	\$ 30000	\$ 49800
Utilities:		
Gas	\$	\$
Electricity	\$	\$
Water/Trash	\$	\$
	<b>TOTAL \$ 14499</b>	<b>\$ 16926</b>
Maintenance Costs	\$ 9907	\$ 5574
(May include plumbing, electrical, painting costs, etc.)		
Capital Improvements	\$	\$
(May include new room, repiping, building, landscaping, etc.)		
Legal and Accounting Costs	\$ 2475	\$ 2825
Insurance Costs	\$ 899	\$ 1485
Property Taxes	\$ 23134	\$ 15950
Other Costs (Specify Below):	1977 1978	
DUES	\$ 475	\$ 502
TEL.	\$ 431	\$ 388
	<b>972</b>	<b>1240</b>

Maintenance Costs . . . . .	\$ 9907	\$ 5574
(May include plumbing, electrical, painting costs, etc.)		
Capital Improvements . . . . .	\$	\$
(May include new room, repiping, building, landscaping, etc.)		
Legal and Accounting Costs . . . . .	\$ 2475	\$ 2825
Insurance Costs . . . . .	\$ 899	\$ 1485
Property Taxes . . . . .	\$ 23734	\$ 15952
Other Costs (Specify Below):	1977 1978 9112	\$ 41097
DUES	\$ 475.- 562. 972	1240
TEL.	\$ 436.- 388.	
OFFICE	\$ 61.- 300.	
OTHER TAXES & LIC.	\$ 9112.- 11040.	

PROCESSED  
JUL 16 1979

I declare under penalty of perjury that the foregoing is true and correct.  
 Executed on 6-11-79 at Los Angeles  
 (Date) (Location)

INFORMATION WAS COMPILED BY THE DIVISION  
 AND IS SUBMITTED UNDER THREAT OF  
 STATUTORY PUNISHMENT

Morton W. Shapiro  
 (Signature)

THE FOLLOWING INFORMATION IS REQUIRED ON ALL RENTAL UNITS IN THE CITY OF SANTA MONICA. EXEMPTIONS WILL BE ISSUED WHERE APPLICABLE AFT  
 See Instruction Sheet for Explanation of Each Column Page

1.12 One Line Per. Unit Letter	1.13 Rental Rate in effect on		1.14 4/10/79	1.15 Total Deposits Held	1.16 No. Bedrooms, Dens and Family Rooms	1.17 No. of Baths	1.18 Square Footage Estimated	1.19 Type of Rental Agreement	1.20 No. of Days Vacant from 4/10/78 to 4/10/79	1.21 If Request- ing Exemption List Reason from 1.9	Apar Select fro enter lett
	4/10/78	4/10/79									
A-1	105.	110-		None				ALL monthly			
A-2	100.	115-									
A-3	100	110-			1 1/2	1					
A-4	95.	105-									
A-5	103.	110-									
A-6	95.	110-									
A-7	100.	110-									
A-8	107.	117-									
A-9	107.	117-									
A-10	102.	112-									
A-11	107.	107-									
A-12	97.	100-									
A-13	102.	115-									
A-14	102.	114.									
A-15	107.	117.									
A-16	102.	112.									
A-17	105.	115-									
A-18	102.	112.									
A-19	107.	117.									
A-20	102.	112.									
A-21	107.	112.									
A-22	107.	112.									
A-23	107.	112.									
A-24	107.	112.									
A-25	107.	117.									
A-15A	90.	90.									
B-1	108.	118.									
B-2	108.	118.									
B-3	113.	123.									
B-4	113.	123.									

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_  
 (Date) (Location) (Signature)

ISSUED WHERE APPLICABLE AFTER RECEIVING THIS DATA.

Page 1 of 4

1.21 If Requesting Exemption List Reason from 1.9	1.22 Apartment Amenities Select from list on right and enter letter in column on left.
	a. Utilities
	b. Carpets
	c. Drapes
	d. Screens
	e. Storage
	f. Furniture
	g. Parking Space
	h. Garage
	i. Cooking Facilities
	j. Fireplace
	k. Ocean View
	l. Built-in Appliances
	m. Balcony
	n. Two-story or Split
	o. Other
	1.23 Building Amenities (Check if available 4/10/78)
	p. Elevator
	q. Laundry <input checked="" type="checkbox"/>
	r. Pool <input checked="" type="checkbox"/>
	s. Jacuzzi
	t. Recreation Room <input checked="" type="checkbox"/>
	u. Other
	What Apt. or Bldg Amenities added since 4/10/78? List letter or describe "Other".

NON-EX-20CT

THE FOLLOWING INFORMATION IS REQUIRED ON ALL RENTAL UNITS IN THE CITY OF SANTA MONICA. EXEMPTIONS - BE ISSUED WHERE APPLICABLE  
 See Instruction Sheet for Explanation of Each Column.

1.12 One Line Per Unit or Letter	1.13 Rental Rate in effect on		1.14 4/10/79	1.15 Total Deposits Held	1.16 No. Bedrooms, Dens and Family Rooms	1.17 No. of Baths	1.18 Square Footage Estimated	1.19 Type of Rental Agreement	1.20 No. of Days Vacant from 4/10/78 to 4/10/79	1.21 If Request- ing Exemption List Reason from 1.9	A Select enter 1
	4/10/78	4/10/79									
1. B-5	108.	110.		NONE				ALL MONTHLY			ALL
2. B-6	113.	123									
3. B-7	108.	114.									
4. B-8	113.	123									
5. B-9	113.	123									
6. B-10	113.	123									
7. B-11	108.	123									
8. B-12	108.	123									
9. B-13	108.	118									
10. B-14	110.	120									
11. B-14A	95.	100									
12. B-15	113.	123									
13. B-16	108.	120									
14. B-17	113.	123									
15. B-18	108.	120									
16. B-19	113.	123									
17. B-20	108.	120									
18. B-21	108.	120									
19. B-22	113.	123									
20. B-23	108.	120									
21. B-24	113.	120									
22. C-1	118	123									
23. C-2	113	123									
24. C-3	111.	123									
25. C-4	113.	123									
26. C-5	113.	123									
27. C-6	113.	120									
28. C-7	108.	118									
29. C-8	108.	120									
30. C-9	113.	123									

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_

(Signature)



THE FOLLOWING INFORMATION IS REQUIRED ON ALL RENTAL UNITS IN THE CITY OF SANTA MONICA. EXEMPTIONS WILL BE ISSUED WHERE APPLICABLE AND  
 See Instruction Sheet for Explanation of Each Column

1.12 One Line Per Unit or Letter	1.13 Rental Rate in effect on 4/10/78	1.14 Rental Rate in effect on 4/10/79	1.15 Total Deposits Held	1.16 No. Bedrooms, Dens and Family Rooms	1.17 No. of Baths	1.18 Square Footage Estimated	1.19 Type of Rental Agreement	1.20 No. of Days Vacant from 4/10/78 to 4/10/79	1.21 If Request- ing Exemption List Reason from 1.9	Ap Select f enter le
1. C-10	113.	123	NONE				ALL monthly			ALL
2. C-11	128.	123	}				}			}
3. C-12	113.	123								
4. C-12A	95.	100								
5. C-12B	105.	115								
6. C-13	113.	123								
7. C-14	113.	123								
8. C-15	128.	120								
9. C-16	113.	123								
10. C-17	113.	123								
11. C-18	125.	120								
12. C-19	108.	120								
13. D-1	128.	118								
14. D-2	95.	110								
15. D-3	108.	118								
16. D-4	92.	102								
17. D-5	128.	118								
18. D-6	128.	118								
19. D-7	108.	118								
20. D-8	108.	118								
21. D-9	103.	113								
22. D-10	125.	118								
23. D-11	128.	118								
24. D-12	108.	118								
25. D-12A	95.	95								
26. D-13	128.	118								
27. D-14	128.	118								
28. D-15	125.	115								
29. D-16	128.	118								
30. D-17	105.	115								

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_ (Location) \_\_\_\_\_ (Signature)



UNITS IN THE CITY OF SANTA MONICA. EXEMPTIONS WILL BE ISSUED WHERE APPLICABLE AFTER RECEIVING THIS DATA SHEET. See Instruction Sheet for Explanation of Each Column

Page 3 of 4

1.16 Bedrooms, Bathrooms and Dining Rooms	1.17 Sq. Ft. Estimated	1.18 Square Footage Estimated	1.19 Type of Rental Agreement	1.20 No. of Days Vacant from 4/10/78 to 4/10/79	1.21 If Request- ing Exemption List Reason from 1.9	1.22 Apartment Amenities Select from list on right and enter letter in column on left.
			ALL MONTHLY		None	a. Utilities b. Carpets c. Drapes d. Screens e. Storage f. Furniture g. Parking Space h. Garage i. Cooking Facilities j. Fireplace k. Ocean View l. Built-in Appliances m. Balcony n. Two-story or Split o. Other
						1.23 Building Amenities (Check if available 4/78)
						p. Elevator q. Laundry r. Pool s. Jacuzzi t. Recreation Room u. Other
						What Apt. or Bldg Amen. added since 4/10/78? & letter or describe "Other"

4/10/78 - 4/10/79

Nothing is true or correct.

(Signature)

(Signature)

THE FOLLOWING INFORMATION IS REQUIRED ON ALL RENTAL UNITS IN THE CITY OF SANTA MONICA. EXEMPTIONS WILL BE ISSUED WHERE APPLICABLE. See Instruction Sheet for Explanation of Each Column

1.12 One Line Per Unit or Letter	1.13 Rental Rate in effect on		1.14 4/10/79	1.15 Total Deposits Held	1.16 No. Bedrooms, Dens and Family Rooms	1.17 No. of Baths	1.18 Square Footage Estimated	1.19 Type of Rental Agreement	1.20 No. of Days Vacant from 4/10/78 to 4/10/79	1.21 If Request- ing Exemption List Reason from 1.9	Ap Select f enter le
	4/10/78	4/10/79									
D-18	108.	118		NONE				ALL MONTHLY			AP
D-19	108.	118		}							}
D-20	106.	118									
D-21	108.	118									
D-22	108.	118									
E-9	108.	120									
E-10	105.	117									
E-11	108.	120									
E-12	105.	120									
E-13	103.	115									
E-14	100.	105									
E-15	75.	80									
F-9	108.	118									
F-10	108.	118									
F-11	105.	108									
F-12	106.	118									
F-13	103.	113									
F-14	108.	118									
F-15	80.	90									

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_ (Date) (Location) \_\_\_\_\_ (Signature)

PROCESSED  
JUL 18 1979  
D. P. DIVISION



**EXHIBIT C**

RECEIVED

CHANGE OF OWNERSHIP REGISTRATION FORM  
for  
Ownership held by Trust, Partnership, Corporation  
or Limited Liability Company

AUG 02 2006

SANTA MONICA  
RENT CONTROL

for office use only

MPP#

4268-002-006

Property Address: 2930 COLORADO AVE., S.M. 90404 # of Units: 109

Complete a separate form for each parcel you own.

List the business name & address in the first three lines. Next, list the name and address of the responsible party (Trustee, Managing Partner, C.E.O., or manager). Use additional sheet to list names and addresses of all other owners.

Please Print

VILLAGE TRAILOR PARK, LLC AS TENANT IN COMMON  
Business Name (Trust, Partnership, Corporation or LLC)  
2700 PENNSYLVANIA AVE., SUITE 1100  
Principal Place of Business - (Street Address Required - No Post Office Boxes)  
SANTA MONICA, CA 90404 (310) 829-9355  
City State Zip Phone Number

WELK REAL ESTATE, INC., MANAGER  
Name & Title of Responsible Party (i.e., Trustee, Managing Partner, CEO or LLC)  
2700 PENNSYLVANIA AVE SUITE 1100  
Residence or Principal Place of Business - (Street Address required - No Post Office Boxes)  
SANTA MONICA CA 90404 (310) 829-9355  
City State Zip Phone Number

Authorized Agent or Property Management Company (if any):  
J & H Property Management, Inc.  
Company Name  
First Name Last Name  
22815 SAUL RANCH PARKWAY, SUITE A  
Number and Street  
YORBA LINDA CA 92887 (714) 974-0397  
City State Zip Phone Number

Name of RESIDENT Manager (if any):  
First Name Last Name Unit Number Phone Number

Note: Check one of the boxes  above to designate the person to receive all Rent Control notices and bills. If no box is checked, notices will be sent to the responsible party named above.

DATE Property Purchased: 4/28/06 From Whom? VILLAGE TRAILOR PARK, INC.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: 7-26-06

By [Signature]  
Signature\*  
Marc L. Lozzatto Pres  
Type or Print Name and Title



## MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("MOU") is made and entered into as of the 27 day of November, 2007 (the "Effective Date") by the City of Santa Monica ("City") and Village Trailer Park, LLC ("VTP").

### RECITALS

A. VTP is the owner of the mobile home park, known as the Village Trailer Park, located at 2930 Colorado Avenue, Santa Monica, California ("the Property").

B. On July 10, 2006, VTP gave notice to mobile home residents that the mobile home park would close on July 31, 2007 ("Notice of Closure"). In response, Santa Monica Rent Control Board and City representatives notified VTP that the notice was defective. Among other things, City representatives notified VTP that before giving notice of termination of tenancies for the purpose of closing the park under the Mobilehome Residency Law, Civil Code §§ 798 *et seq.*, the park owner was first required to obtain a removal permit from the Rent Control Board for the controlled units in the park pursuant to City Charter §1803(t).

C. VTP disagreed with the opinion of City and Santa Monica Rent Control Board representatives, and threatened litigation.

D. In order to defer and potentially avoid initiation of litigation over the validity of the pending Notice of Closure, VTP has extended the Closure Date to January 31, 2008, which has provided the time necessary for VTP to obtain direction from the City Council on whether to pursue formal review of a Development Agreement Application pursuant to Santa Monica Municipal Code ("SMMC") §9.48.

E. Reserving their positions on the Notice of Closure, the parties hereto desire to provide a protocol for the submittal and review of a Development Agreement Application, during which the time running on the pending Notice of Closure would be tolled, for the development of the Property in a manner that could qualify for a removal permit from the Santa Monica Rent Control Board and satisfy the requirements of the Mobilehome Residency Law and Government Code §65863.7 and §65863.8.

NOW, THEREFORE, the parties agree as follows:

1. Tolling of Notice of Closure. In consideration of the City Council's direction to staff to process a Development Agreement Application pursuant to SMMC §9.48 for the Property, VTP agrees that the time running on the pending Notice of Closure shall be tolled as of October 9, 2007. At any time, VTP may withdraw its Development Agreement project application by providing 30 days written notice of its intent to withdraw the application to the Director of Planning & Community Development and the Santa Monica City Attorney. Upon the expiration of the 30 day period, the Development Agreement project application shall be deemed withdrawn and the tolling would cease

and the remaining balance of the notice period (114 days) for the park closure would resume running. Except for the tolling terms provided herein, nothing in this MOU shall be deemed to be a waiver of VTP's position that it has the right to close the mobile home park pursuant to the Notice of Closure, as amended.

2. Project Application Review. Subject to VTP's right to withdraw its Development Agreement project application as provided in paragraph 1 above, VTP agrees that the Development Agreement Application review shall require the preparation of an Environmental Impact Report (EIR), which would review a reasonable range of alternatives including, but not limited to, a resident owned mobile home park subdivision, and alternative rezones and projects (including reduced scale projects that would avoid or substantially lessen potentially significant environmental impacts as required by CEQA). VTP agrees that the commencement of the project EIR may await development of goals, objectives and policies for the area surrounding the Property in the City's proposed Land Use and Circulation Element (LUCE) and consider alternatives that are consistent with key land use policies of the LUCE vision.

3. Reservation of Police Power. This MOU is entered into by the parties only to provide a protocol and structure for the submission and review of a Development Agreement Application by VTP, during which the time running on the pending Notice of Closure shall be tolled. This MOU does not create in VTP any entitlements, rights or approvals for the use of the Property. The processing of the Development Agreement Application will be separate and apart from the approval of this MOU and will require complete and legally sufficient environmental analysis as well as compliance with all applicable laws. The City cannot and does not prejudice or make any commitments regarding ultimate approval of the Development Agreement Application, which shall be processed in accordance with all applicable ordinances, resolutions, policies and statutes. Nothing herein shall be deemed to be a waiver or infringement of the City's police power, nor shall any part or all of this MOU be construed on the part of the City as an obligation to grant any permits, entitlements or approvals.

4. General Provisions. California law shall govern the construction and interpretation and enforcement of this agreement.

a. Captions. The captions of the sections of this agreement are for convenience and reference only, and shall not affect in any way the meaning or interpretation of this MOU.

b. Further Assurances. Each party agrees to perform any further acts and execute any documents that may be reasonably necessary to effect the purpose of this agreement.

c. Entire Agreement. This writing constitutes the entire understanding of the parties as to the matter set forth herein. No modification of this agreement shall be valid or binding unless executed in writing by the parties and none of the parties shall be bound by any representations, warranties, provisions and



statements as to the matter set forth herein unless such matters are specifically set forth.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed as of the Effective Date.

Date: \_\_\_\_\_

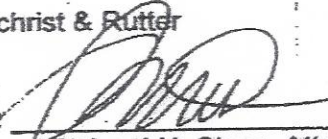
Village Trailer Park, LLC

By:   
Marc L. Luzzatto, President

APPROVED AS TO FORM:


Date: 12/10/07

Gilchrist & Rutter

By:   
Richard H. Close, Attorney for  
Village Trailer Park, LLC

Date: \_\_\_\_\_

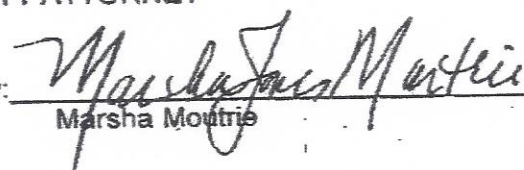
City of Santa Monica

By:   
Richard Bloom, Mayor

APPROVED AS TO FORM:

Date: \_\_\_\_\_

MARSHA MOUTRIE  
CITY ATTORNEY

By:   
Marsha Moutrie

**EXHIBIT E**

SANTA MONICA RENT CONTROL BOARD  
1685 Main Street, Santa Monica, CA 90401  
(310) 458-8751

**NOTICE OF FILING OF REMOVAL PERMIT APPLICATION**  
**CASE NO. 450 R-D**

This notice is to inform you that an application for a removal permit has been filed with the Santa Monica Rent Control Board for the properties located at:

**2930 Colorado Avenue, Santa Monica, CA 90403**

A hearing will be held within one-hundred-twenty (120) days to determine whether or not the applicant named below may be issued the removal permit for the unit(s) located at the above address pursuant to Rent Control Law (Art. XVIII, S.M. Charter) §1803(t). You will be mailed notice of the date, time and place ten (10) days prior to the hearing. A staff report and recommendation to the Board will be available at that time.

Your testimony and written comments are invited by the Santa Monica Rent Control Board. Written communications must be received prior to the time set for the hearing to be considered. The complete file on the application for removal permit is available for public inspection at the office of the Santa Monica Rent Control Board, City Hall, 1685 Main Street, Santa Monica, California.

APPLICANT(S): Village Trailer Park, LLC and Village Trailer Park, a California Corporation, as Tenants in Common

AUTHORIZED REPRESENTATIVE: Marc Luzzatto

**TYPE OF DEVELOPMENT FOR WHICH A PERMIT IS SOUGHT:**

Demolish existing units at 2930 Colorado Ave. and build multifamily rental dwelling units with at least fifteen percent (15%) of the controlled rental units to be built affordable to persons of low income by deed restriction.

For further information, contact the Santa Monica Rent Control Board at (310) 458-8781.

**SI USTED DESEA UN INTERPRETACION AL ESPANOL DE ESTA CARTA. POR FAVOR**  
**LLAME (310) 458-8751**

SANTA MONICA RENT CONTROL BOARD  
1685 Main Street, Santa Monica, CA 90401  
(310) 458-8751

RECEIVED

NOV 07 2001

SANTA MONICA  
RENT CONTROL

Application for Removal Permit

No. 450R-D

(If the basis for your application is that you cannot make a fair return by retaining the controlled rental units, include Petition for Increase No. \_\_\_\_\_.)

Application is hereby made for a permit to remove a controlled rental unit from the residential rental market pursuant to the Santa Monica City Charter Section 1803(t), and City Ordinance No. 4.24.030.

In order to constitute a valid application, this form must be completed in its entirety. Applications should attach a separate sheet where necessary in order to provide complete answers. Full information is required notwithstanding the space limitations of this form.

(PLEASE PRINT OR TYPE.)

I. Applicant:

Village Trailer Park, LLC and Village Trailer Park, a California Corporation,  
(Name of Applicant) as Tenants in Common

3110 Main Street, Suite 200

(Street Address)

Santa Monica, CA

90405

(City and State)

(Zip)

310

829-7181

(Area Code)

(Telephone Number)

II. Authorized representative (if any):

Marc Luzzatto

(Name of Representative)

3110 Main Street, Suite 200

(Street Address)

Santa Monica, CA

90405

(City and State)

(Zip)

310

829-7181

(Area Code)

(Telephone Number)

8/01/02

III. Location of Property for which Application is Filed:

2930 Colorado Avenue, Santa Monica, CA 90403  
(Street Address)

Assessor's Description:

Map Book: 4268

Page: 002

Parcel: 006/009

Age of Building: Varies (1950)

IV. Existing Property Description:

Property Zoning: SMRMH

Total Number of Units on Property: 109 Spaces

Number of Structures: 3 (approximately 2,000 square feet)

Present Use of Property: Trailer Park

V. Ownership of Property:

Is the applicant the owner of the property? Yes

If, not, please state the name and address of the owner of the property, and his/her relationship to applicant. (If applicant is owner of the lot only, or of the improvements on the lot only, please so state, and provide the name of the owner(s). If there is multiple ownership of the whole property, please provide the names and addresses of all other owners, the form of ownership, and the percentages of interests in property, if applicable).

\_\_\_\_\_  
(Identity of Owner)

\_\_\_\_\_  
(Relationship)

\_\_\_\_\_  
(Street Address)

\_\_\_\_\_  
(City and State)

VI. Current Occupancy:

Has the property ever been rented?  Yes  No

Is the property currently occupied?  Yes  No  
\*partially occupied

If the property is vacant, when did the last tenant vacate the property? \_\_\_\_\_

For each rental unit, please provide the following information on the unit and the last tenant to occupy the rental unit. This information should be as complete as possible.

Unit No.	Name of Occupant (or date unit vacated)	Monthly Rent	No. of Occupants	No. of Bedrooms	Square Footage of Unit	Tenant Monthly Income (If known)
<b>SEE EXHIBIT A</b>						

Briefly state your plans for this removal: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



VII. Basis for Removal Permit :

A removal permit is sought for the following reasons:

- A.  The current MAR for the unit does not provide a fair return and the landlord cannot rent the unit at that rent necessary to provide the landlord with a fair return.

YOU MUST ALSO FILE A PETITION FOR RENT INCREASE IN CONJUNCTION WITH THE APPLICATION.  
Rent Control Charter Amendment section 1803(t)(1).

- B.  The controlled rental unit is uninhabitable and cannot be made habitable in an economically feasible manner.

COMPLETE PAGES 8 THROUGH 12 - ADDENDUM TO APPLICATION.  
Rent Control Charter Amendment section 1803(t)(2)(i).

- C.  The permit is being sought so that the property may be developed with multifamily rental dwelling units and the permit applicant agrees as a condition of approval that the units will not be exempt from the provisions of Santa Monica City Charter §1801(c) and that at least fifteen percent (15%) of the controlled rental units to be built will be at rents affordable by persons of low incomes by deed restriction.

COMPLETE ADDENDUM TO APPLICATION PAGES 6 AND 7.  
Rent Control Charter Amendment section 1803(t)(2)(ii).

VIII. Additional Information:

Please provide any additional information that you believe will assist the Board in making its determination:

\_\_\_\_\_  
See attached page for additional information  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_





IX. Certification :

I hereby declare under penalty of perjury that the foregoing and any following addendums submitted with this application are true and correct.

Executed on November 6, 2012, at

Santa Monica, California.

By [Signature]  
(Signature of Applicant)

### VIII. Additional Information:

A memorandum of understanding ("MOU") was negotiated between the Applicant, the Rent Control Board, and the City of Santa Monica (and executed by the Applicant and the City of Santa Monica) that allowed tenants to continue to live at the Village Trailer Park while project entitlements were sought by the Applicant pursuant to a DA application. The Applicant has kept the Village Trailer Park open for the last five years based on the MOU negotiated during 2007 and dated November 27<sup>th</sup>, 2007.

At its June 20<sup>th</sup>, 2012 hearing, the Santa Monica Planning Commission recommended on a 5-0 vote that the City Council approve the Applicant's proposed project subject to certain considerations. Based on the Planning Commission's recommendations, Applicant made significant revisions to the proposed project, including, among other things, adding green space and reducing the number of residential units by 48.

After a July 24<sup>th</sup>, 2012 City Council hearing, the Applicant made additional significant changes to the proposed project to incorporate feedback from the community, including reducing the project by an additional 61 units, retaining a ten-pad portion of the Village Trailer Park (the "Residual Parcel"), and providing the City or its designee an opportunity to acquire the Residual Parcel at essentially no cost to the City.

ADDENDUM TO APPLICATION FOR REMOVAL PERMIT SOUGHT ON THE BASIS OF DEVELOPMENT OF RENT CONTROLLED MULTI FAMILY UNITS PURSUANT TO RENT CONTROL LAW SECTION 1803(t)(2)(ii)

X. Description of Proposed Development

Projected date of demolition of existing rentals: Approximately September 2013

Projected date of commencement of new construction: Winter 2013

Number of units to be demolished: 99 Spaces

Total number of units to be built: Approximately 377 apartments and condominiums

Projected date that new units will be ready for occupancy: Fall 2015

A. Number of units proposed for residential rentals: Approximately 161

B. Number of units proposed for other use: 216\*  
\*Potentially initially placed in the rental market depending on market conditions

C. Address of new development: 2930 Colorado Avenue

D. Number of units to be controlled: No fewer than 99

If the new development is to consist of mixed usage, i.e., condo/rental or commercial/residential rental, please describe development.

Please see attached for a description of the mixed-use development being proposed.

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Have plans been developed for the proposed project? Yes. Please see Exhibit B for plans being proposed to City Council by Applicant.  
If yes, please attach copy for staff use.

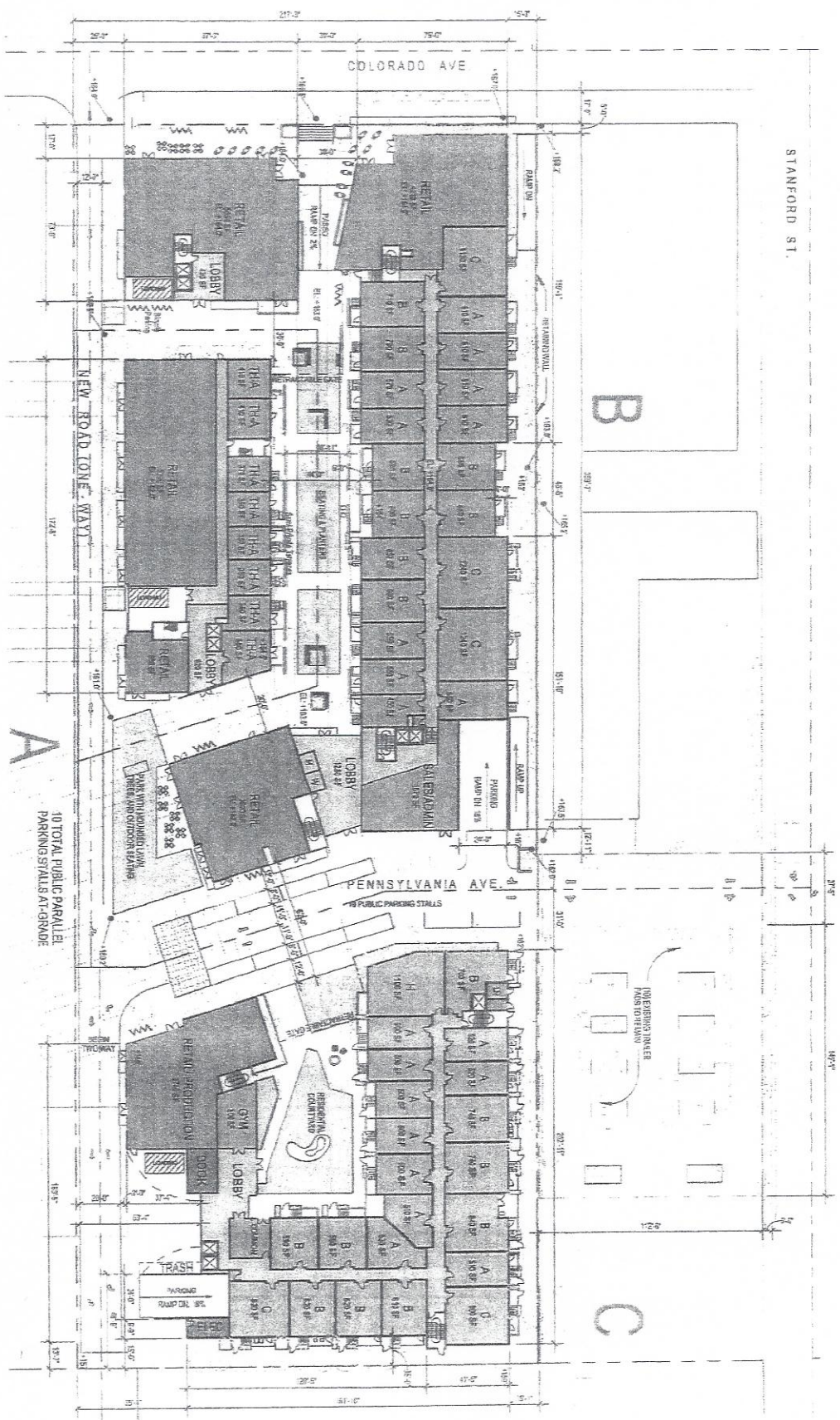
EXHIBIT B (attached)

If the new development is to consist of mixed usage, i.e./ condo/rental or commercial/residential rental, please describe development:

The project being proposed is a mixed-use development consisting of 161 apartments, 216 condominiums, and 24,940 gross square feet of retail and production space. At least 99 of the apartments will be subject to rent control, with no fewer than nine of those apartments to be deed-restricted at very low income affordability levels and no fewer than seven to be deed-restricted at extremely low income affordability levels. The City, or an entity designated by the City, will have an opportunity to acquire the Residual Parcel at essentially no cost to the City. The Residual Parcel will house ten trailer pads that will be available to current Village Trailer Park residents.

# EXHIBIT B

**SITE PLAN**  
1" = 80'-0"



DATE: October 18, 2012  
201

SITE PLAN

**CUNNINGHAM**  
GROUP  
**EAST VILLAGE**  
Village  
Trailer Park,  
L.L.C.





# PROJECT SUMMARY

## NET FLOOR AREA

Commercial Area Summary			
Name	Type	Use	Area
<b>BUILDING A</b>			
A101	RETAIL	M	5,290 SF
A102	RETAIL	M	890 SF
			6,170 SF
<b>BUILDING B</b>			
B101	RETAIL	M	4,210 SF
B102	RETAIL	M	5,050 SF
B103	RETAIL	M	3,690 SF
			12,950 SF
<b>BUILDING C</b>			
RETAIL/PRODUCTION		M	3,740 SF
			3,740 SF
			22,850 SF
<b>Grand total</b>			

## EXHIBIT C

Residential Unit Summary - By Building			
Name	Comments	Unit Count	Area
<b>BUILDING A</b>			
A	Studio Condo	22	12,170 SF
B	1 Bedroom Condo	8	6,470 SF
C	2 Bedroom Condo	8	7,530 SF
THA	1 Bedroom Townhouse Condo	8	8,040 SF
		46	34,210 SF
<b>BUILDING B</b>			
A	Studio Condo	66	36,280 SF
B	1 Bedroom Condo	67	45,730 SF
C	2 Bedroom Condo	33	34,080 SF
H	3 Bedroom Condo	4	8,200 SF
		170	121,290 SF
<b>BUILDING C</b>			
A	Studio Apartment	69	34,460 SF
A	Studio Apartment (Affordable - Extremely Low)	6	2,910 SF
A	Studio Apartment (Affordable - Very Low)	3	1,450 SF
B	1 Bedroom Apartment	52	33,580 SF
B	1 Bedroom Apartment (Affordable - Very Low)	6	3,730 SF
C	2 Bedroom Apartment	20	17,440 SF
C	2 Bedroom Apartment (Affordable - Very Low)	1	900 SF
H	3 Bedroom Apartment	4	4,390 SF
		161	98,900 SF
<b>Grand total</b>		377	254,400 SF

Residential Unit Summary - Total Project						
Name	Comments	Unit Count	Area	% Total	Avg. Unit Area	
<b>Residential - Condo</b>						
A	Studio Condo	88	48,450 SF	23%	551 SF	
B	1 Bedroom Condo	75	52,200 SF	20%	698 SF	
C	2 Bedroom Condo	41	41,610 SF	11%	1,015 SF	
H	3 Bedroom Condo	4	5,200 SF	1%	1,300 SF	
THA	1 Bedroom Townhouse Condo	8	8,040 SF	2%	1,005 SF	
		216	155,500 SF	57%	4,586 SF	
<b>Residential - Apartment</b>						
A	Studio Apartment	69	34,460 SF	18%	499 SF	
A	Studio Apartment (Affordable - Extremely Low)	6	2,910 SF	2%	484 SF	
A	Studio Apartment (Affordable - Very Low)	3	1,450 SF	1%	483 SF	
B	1 Bedroom Apartment	52	33,580 SF	14%	646 SF	
B	1 Bedroom Apartment (Affordable - Very Low)	6	3,730 SF	2%	631 SF	
C	2 Bedroom Apartment	20	17,440 SF	5%	872 SF	
C	2 Bedroom Apartment (Affordable - Very Low)	1	900 SF	0%	897 SF	
H	3 Bedroom Apartment	4	4,390 SF	1%	1,098 SF	
		161	88,900 SF	48%	5,610 SF	
<b>Grand total</b>		377	254,400 SF	100%	10,176 SF	

## GROSS FLOOR AREA

GROSS FLOOR AREA - Total Project		
Building	Total Gross Area	
BUILDING A	48,570 SF	
BUILDING B	167,290 SF	
BUILDING C	125,420 SF	
<b>Grand total</b>	341,280 SF	

GROSS FLOOR AREA - By Use		
Level	Area	
<b>Commercial</b>		
BUILDING A	7,280 SF	
L 01	7,280 SF	
<b>BUILDING B</b>		
L 01	13,420 SF	
<b>BUILDING C</b>		
L 01	4,250 SF	
	4,250 SF	
	24,940 SF	
<b>Commercial</b>		
<b>Residential</b>		
<b>BUILDING A</b>		
L 01	4,200 SF	
L 02	11,650 SF	
L 03	11,650 SF	
L 04	11,690 SF	
L 05	2,100 SF	
	41,300 SF	
<b>BUILDING B</b>		
L 01	22,250 SF	
L 02	38,310 SF	
L 03	38,320 SF	
L 04	29,940 SF	
L 05	26,070 SF	
	153,880 SF	
<b>BUILDING C</b>		
L 01	19,180 SF	
L 02	27,000 SF	
L 03	26,850 SF	
L 04	28,430 SF	
L 05	21,620 SF	
	121,170 SF	
<b>Residential</b>		
<b>Grand total</b>	341,280 SF	

**EAST VILLAGE**

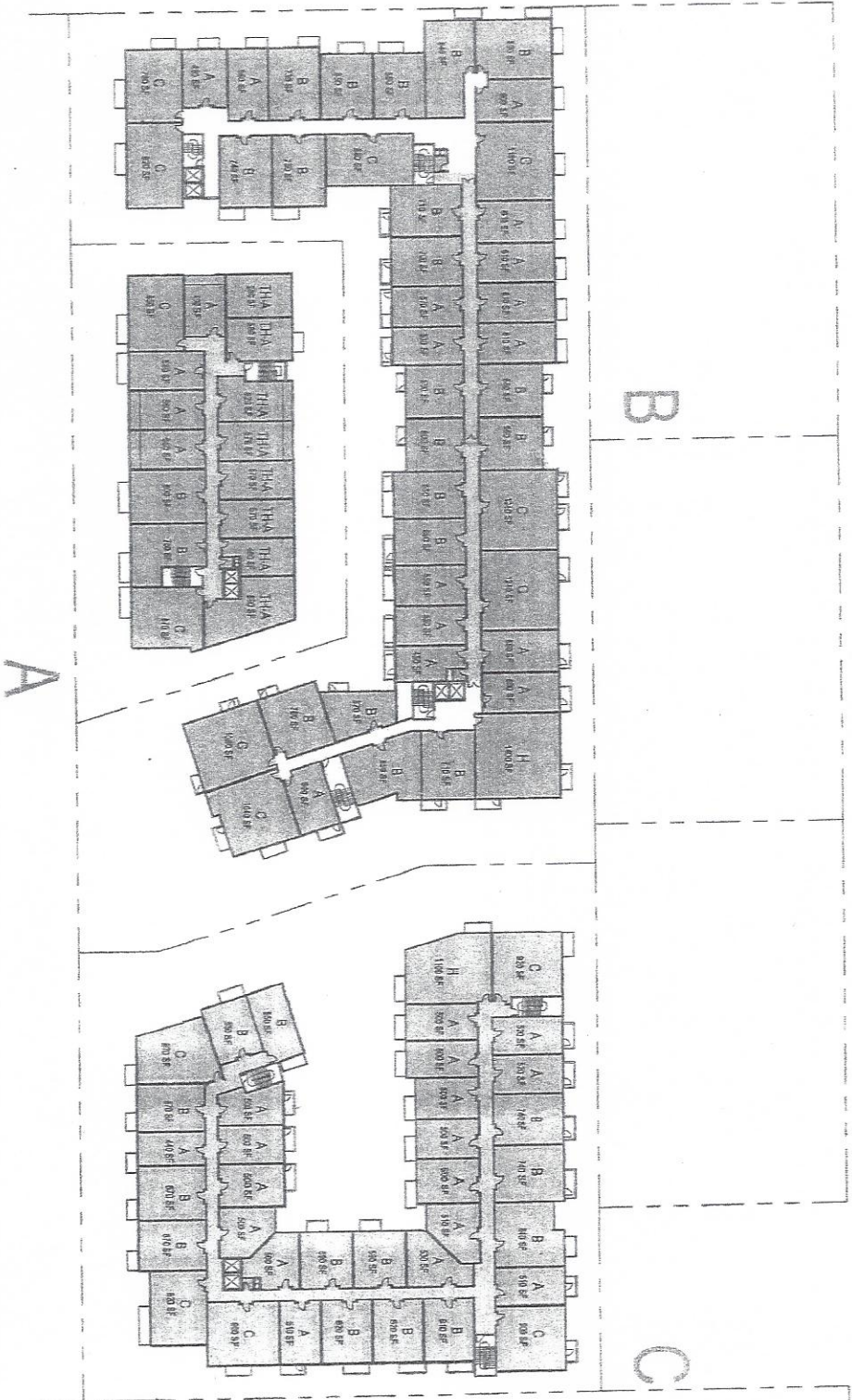
PAIWA KONGA, CALIFORNIA  
Village  
Trailer Park,  
L.L.C.

SUMMARY -  
SCHEDULES

DATE: October 18, 2017  
2017A



EXHIBIT C



LEVEL 02 FLOOR PLAN  
1" = 50'-0"



DATE: 08/09/12, 2012  


0 25 50  
 LEVEL 02

**CUNNINGHAM**  
 GROUP  
**EAST VILLAGE**  
 Village  
 Trailer Park,  
 L.L.C.



XHIBIT C



CUNNINGHAM GROUP

EAST VILLAGE

BAY AREA, CALIFORNIA

Village Trailer Park, L.L.C.

DATE: 04/18/12  
BY: [Signature]  
LEVEL 03



LEVEL 03 FLOOR PLAN  
1" = 30'-0"

IBIT C



CUNINGHAM GROUP

EAST VILLAGE

SANTA MONICA, CALIFORNIA

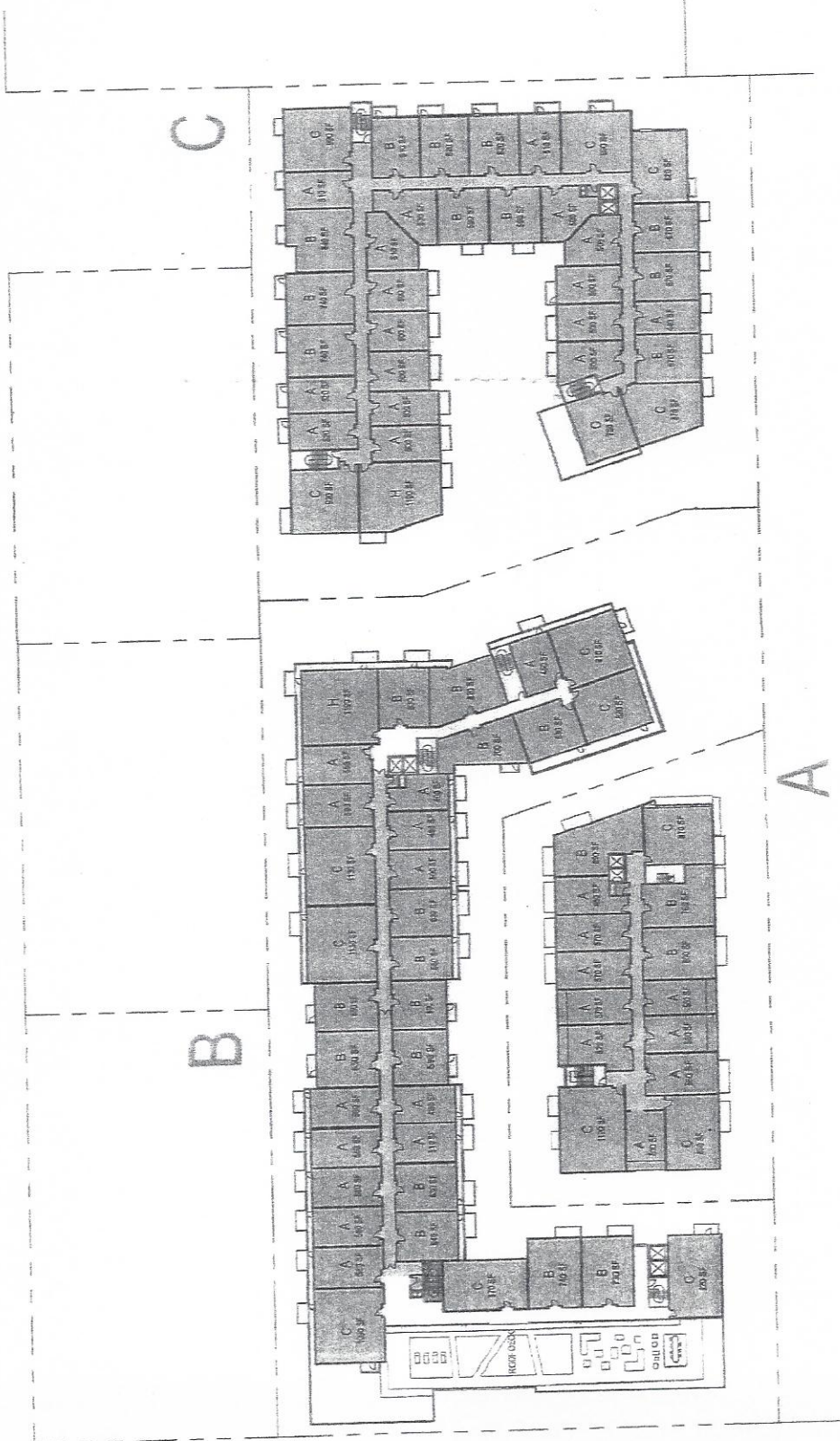
Village Trailer Park, L.L.C.

DATE: 04/28/12

LEVEL 04



DATE: 04/28/12  
204



LEVEL 04 FLOOR PLAN

1" = 60'-0"



CUNINGHAM GROUP

# EAST VILLAGE

EMERYVILLE, CALIFORNIA

Village Trailer Park, L.L.C.

0' 25' 50'

LEVEL 03



DATE: October 12, 2012  
**203**

HIBIT C



LEVEL 03 FLOOR PLAN  
1" = 30'-0"

EXHIBIT C

CUNINGHAM GROUP

EAST VILLAGE

SANTA MONICA, CALIFORNIA

Village Trailer Park, L.L.C.

0 25 50

LEVEL 06

Date: October 12, 2017

205



EXHIBIT C



CUNINGHAM GROUP

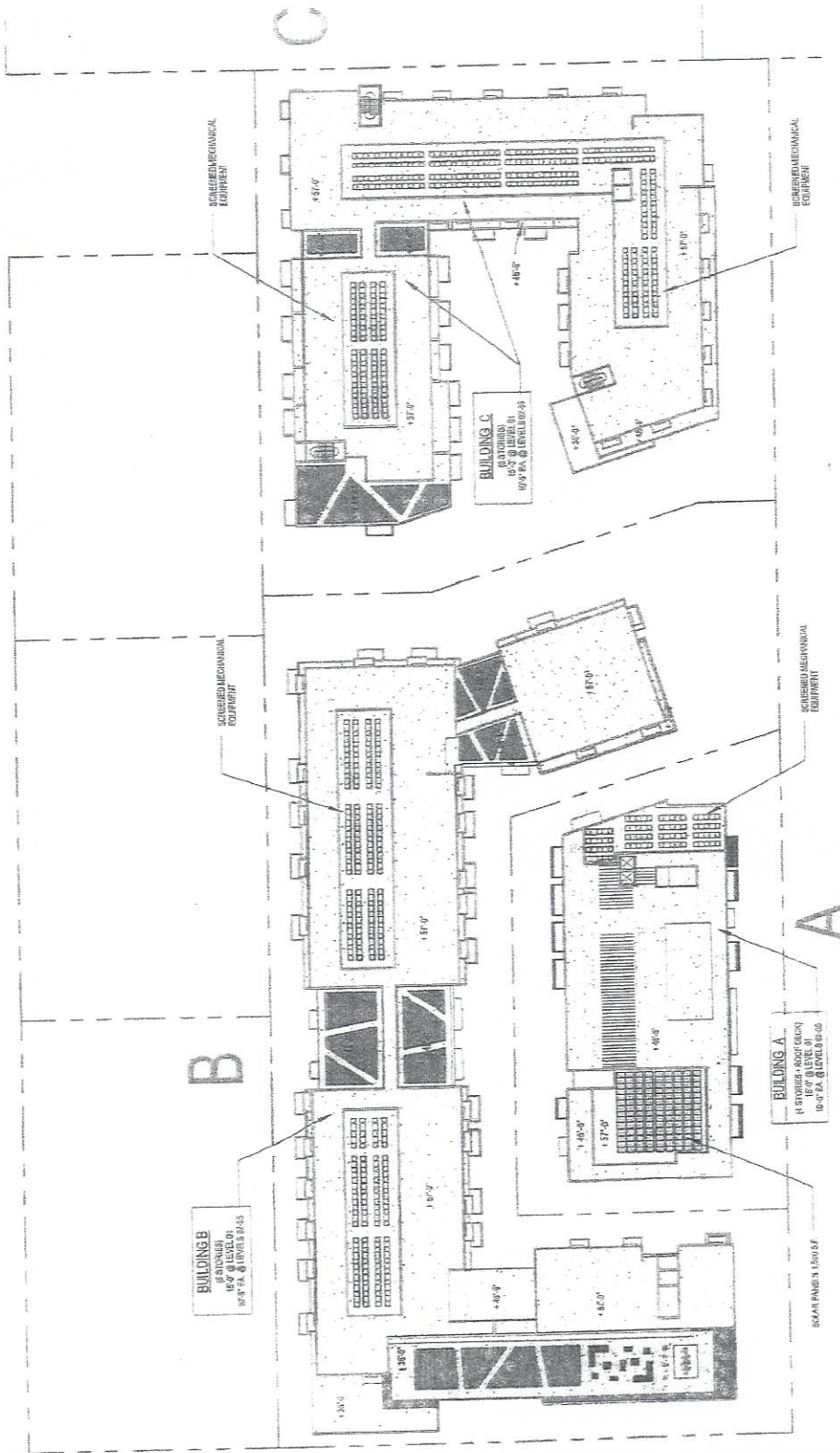
EAST VILLAGE

SPRINGFIELD, ILLINOIS

Village Trailer Park, L.L.C.

DATE: 04/18/12  
SCALE: 1/8" = 1'-0"

211



ROOF PLAN  
1" = 60'-0"







CHAPTER 5  
REMOVAL PERMITS

**5000.        Scope of Regulations**

Any person seeking a removal permit must file an application under this chapter. In such a proceeding, the person seeking the removal permit shall have the burden of proof.

SUBCHAPTER A  
**PROCEDURES**

**5001.        Obligation To File**

Any person who seeks a removal permit must file an application for a permit and obtain approval under this chapter.

**5002.        Application Forms**

Application forms shall be approved by the Board. Any person seeking a removal permit under this chapter must do so on the form approved by the Board. An application for a removal permit shall be filed only after the claimant has provided all the information called for by the form.

**5003.        Determination**

As soon as practicable after the filing of an application, and in no event later than 120 days from the date of filing, the Board shall hold a hearing as hereinafter provided to determine whether to grant or deny the application for a removal permit.

**5004.        Notice of Hearing**

At least ten days prior to the hearing, notice shall be mailed to claimant, and to any residents of the property for which the application for a removal permit is sought, of the date and time of the hearing. The applicant shall post notice of the hearing on the property at least five days prior to the hearing. The notice shall be provided on a form approved by the Board.

**5004A.      Continuances**

Continuances for any hearing conducted under this chapter shall be granted only for good cause by a majority of the Board or by the Administrator. Requests for continuances shall be made as soon as possible. A written request and the reasons for it must be received by the Board at least 72 hours prior to the scheduled hearing, unless good cause is shown for a later request. The written request must contain acceptable alternative dates and an explanation of what efforts were made to ascertain the position of the other parties regarding the request for a continuance. Copies of this written request must be sent immediately to all other parties and proof of such service must accompany the written request filed with the Board.

[5004A Adopted 5/1/80; Effective 5/8/80]

[5004A Amended 7/17/82; Effective 7/28/82]

**5005.      Staff Report**

At least ten days prior to the hearing, a staff report shall be prepared on the application for a removal permit. The staff report shall contain a written recommendation as to whether to grant or deny the application for a removal permit and all pertinent facts upon which the recommendation is based. The staff report, application, and other supporting documents will be available for public inspection and copying at the office of the Board.

**5006.      Conduct of Hearing**

The Board's public hearing on an application for a removal permit shall be conducted in a manner deemed most suitable to ensure fundamental fairness to all parties concerned, and with a view toward securing all relevant information and material necessary to render a decision without unnecessary delay.

**5007.      Evidence Rules**

The hearing need not be conducted according to technical rules of evidence and witnesses. Any relevant evidence shall be considered if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Unduly repetitious or irrelevant evidence shall be excluded upon order by the Chairperson.

**5008.      Order of Proceedings**

- (a) The Board's public hearing on an application for a removal permit shall ordinarily proceed in the following order:
- (1) Staff Report.
  - (2) Presentation by or on behalf of applicant, if the applicant wishes to expand upon material contained in the application for a removal permit.
  - (3) Other speakers for the application.
  - (4) Speakers against the application.
  - (5) Rebuttal by the applicant.
  - (6) Motion to close the public hearing (or to continue it to a subsequent meeting).
- (b) Questions by Commissioners will be in order at any time following a speaker's presentation.

**5009.      Speaker's Presentation**

Each speaker's presentation shall be to the point and shall be as brief as possible; visual and other materials may be used as appropriate. The Board may establish reasonable time limits for presentations, which time limits will be made known prior to any hearing. The Board encourages any interested person to submit written evidence and communication prior to the date of the hearing.

5010. Board Action

If the Board finds that the application for a removal permit is substantiated, it shall grant the application. Three affirmative votes are necessary to grant the application for a removal permit. In the event that three affirmative votes to grant the application for a removal permit are not obtained, the application shall be denied.

5011. Findings

All decisions of the Board shall be supported by written findings. If the Board adopts the staff recommendation, the staff recommendation shall constitute the findings of the Board unless the Board determines otherwise. If the Board rejects the staff recommendation, the Board may adopt its findings at the next subsequent meeting of the Board.

**SUBCHAPTER B**  
**STANDARDS FOR DECISION**

5012. Basic Standards

The Board may issue a permit to remove a controlled rental unit from the rental housing market in any of three categories:

(a) Repealed

(b) Category B.

The Board shall grant a removal permit if it finds that the current MAR for the unit does not provide a fair return and that the landlord cannot rent the unit at that rent necessary to provide the landlord with a fair return.

(c) Category C.

The Board shall grant a removal permit if it finds that the controlled rental unit is uninhabitable and cannot be made habitable in an economically feasible manner.

(1) Category CQ. The Board shall grant a removal permit if, as a result of the Northridge earthquake, a controlled rental property has been damaged to a point where the Board finds that the controlled rental unit(s) is uninhabitable and cannot be made habitable in an economically feasible manner.

(d) Category D.

The Board may grant a removal permit if the permit is being sought so that the property may be developed with multifamily rental dwelling units and the permit applicant agrees as a condition of approval that the units will not be exempt from the provisions of Santa Monica City Charter §1801(c) and that at least fifteen percent (15%) of the controlled rental units to be built will be at rents affordable to persons of low income by deed restriction.

(1) Category DQ: The Board may grant a removal permit if the permit is being sought to reconstruct a controlled rental property damaged during the January 17, 1994 Northridge earthquake and the permit applicant agrees as a condition of approval that the same number of units as currently exist will be reconstructed, that the units will not be exempt from the provisions of Santa Monica City Charter Section 1801(c) and that at least fifteen percent (15%) of the controlled rental units to be built will be at rents affordable to persons of low income by deed restriction.

(e) Multiple Unit Rental Structures.

The Board shall grant a Category B or C removal permit with respect to a rental unit if it finds that the MAR's of individual units which the landlord owns on the same property cannot be adjusted so as to enable the landlord to collect an overall fair return and further finds that the landlord has otherwise complied with these regulations.

[5012(a) Repealed 5/5/94; Effective 5/18/94]

**5013. Removal**

A removal permit is required under this chapter if the landlord seeks to remove the controlled rental unit from the housing market by demolition, conversion or other means. A removal permit is also required if the reconstruction of a building damaged in the Northridge earthquake or its immediate aftershocks requires an Earthquake Recovery Permit from the City.

A removal permit is not required in order to have a controlled rental unit remain vacant, provided that during the period of vacancy the landlord does not use the controlled rental unit for any purpose (e.g., office space, storage, etc.). A controlled rental unit that remains vacant does not lose its character as a controlled rental unit because of the vacancy. A landlord may not apply for a removal permit because of vandalism to a controlled rental unit during the period of its vacancy.

**5014. Standards for Category B and C Permits**

(a) Repealed.

(b) Category B.

A landlord shall be entitled to a removal permit for a controlled rental unit if the landlord proves that the current MAR for the unit does not provide a fair return and that the landlord cannot rent the unit at that rent necessary to provide the landlord with a fair return.

- (1) The landlord shall, concurrent with the application for a removal permit under this subsection, file a petition for rent increase. The Board shall refer the petition for rent increase to a hearing examiner for hearing and a recommended decision.
- (2) Upon receipt of the recommended decision regarding the petition for rent increase, the Board shall review the recommendation of the hearing examiner and determine the increased MAR, if any, to which the landlord is entitled in order to provide the landlord with a fair return. Concurrently the Board shall hold a hearing on the landlord's application for removal. At such hearing, the landlord must prove the maximum collectible rent for the unit. If the landlord thereby proves that the MAR which would give the landlord a fair return is not collectible, the Board shall grant the application for removal permit. Whether the Board grants or denies an application for a removal, it shall make a finding as to the maximum collectible rent for the unit.

(c) Category C.

A landlord shall be entitled to a removal permit for a controlled rental unit which the landlord proves is uninhabitable and cannot be made habitable in an economically feasible manner.

- (1) It shall be considered economically unfeasible to make a controlled rental unit habitable if the costs of the improvements necessary to make the unit habitable, amortized over the useful life of the improvements, would require that the rent for the controlled rental unit be at a level in excess of the rent that the landlord reasonably could be expected to collect for the unit. In determining economic feasibility, the Board shall not consider the

costs of making those repairs or improvements necessitated by a landlord's conduct as described in subsection (e) below.

- (2) A rental unit is not uninhabitable merely because of the existence of housing code violations. The housing code violations must be of such a nature as to cause a serious threat to the continued health, safety and well-being of the occupants.
- (d) When a landlord seeks to remove a rental unit the landlord must also prove that the MAR's of individual units which the landlord also owns on the same property cannot be adjusted so as to enable the landlord to collect an overall fair return. Upon such proof, and provided the landlord has otherwise complied with these regulations, the landlord shall be entitled to a removal permit. The Board shall have the authority to adjust rents on the property so as to enable the landlord to collect an overall fair return.
- (e) A landlord shall not be entitled to a removal permit for a unit if the landlord is unable to collect the MAR:
  - (1) As a result of the landlord's failure to maintain the unit, or the property of which the unit is a part, in good repair.
  - (2) As a result of an action intended to render a rental unit unmarketable as rental housing or otherwise incapable of earning a fair return.

[5014(a) Repealed 5/5/94; Effective 5/18/94]

#### **5015. Standards for Category CQ Permits**

A landlord shall be entitled to a removal permit for a controlled rental unit which the landlord proves is uninhabitable and cannot be made habitable in an economically feasible manner.

This special category of removal is only available to owners of buildings damaged in the January 17, 1994 Northridge earthquake or its immediate aftershocks which are red-tagged and/or yellow-tagged by the City Building and Safety Department as of the date of application under this category.

The purpose of this category of removal is to facilitate a streamlined process which will assist in a rapid recovery from the Northridge earthquake, maintain affordable housing, and preserve the residential character of the city.

- (a) Uninhabitability is defined as a serious threat to the health, safety or continued well-being of the occupants. Units which are red or yellow tagged by the city are considered uninhabitable for purposes of this category of removal.
  - (1) Where more than one structure exists on a property and less than all of the buildings are red- and/or yellow-tagged, the owner shall be entitled to pursue a removal pursuant to this section for the units in those buildings which are so designated. In such cases, Regulation 5014(d) will not apply.
- (b) It shall be economically unfeasible if the amount of the cost of repairs necessary to make the unit(s) habitable, amortized over the useful life of the improvements, would require that the rent for the controlled rental unit(s) be at a level in excess of the rent that the landlord reasonably could be expected to collect for the unit(s).
  - (1) Costs of Repairs will be calculated after reviewing the cost estimates and reports submitted to the Planning and Zoning Division, as required by City Ordinance CSS 1736.
    - (A) If a property contains more than one structure and less than all of the structures are quake-damaged, then the costs of repairs determination shall be made solely for the structure which is currently red and/or yellow tagged.

- (2) Collectible Rents are presumed to be within the ranges set forth below. The unique characteristics of the property or the unique circumstances set forth in the application may lead to the conclusion that an individual market rent study is necessary in a particular instance.
- (A) Because the majority of controlled residential rental properties damaged by the earthquake were located in zones F and G, as defined in Regulation 3300(c), ranges for the collectible rents in those areas are presumed.

Rents for units of a size not noted below, or located in other zones of the city, may be determined either by an adjustment to the range listed below or by individual market rent study. This determination shall be made on a case-by-case basis. If the range is utilized, the staff report will recommend placement within the ranges based on the individual characteristics of the unit. The figures listed below assume parking is provided.

	Area F	Area G
<u>1-Bedroom, 1-Bath</u>		
500 - 600 sf	\$600 - \$725	\$550 - \$650
601 - 700 sf	\$725 - \$850	\$650 - \$775
701 - 800 sf	\$850 - \$975	\$775 - \$900
801 - 900 sf	\$950 - \$1,100	\$875 - \$1,000
901 - 1,000 sf	\$1,050 - \$1,200	\$975 - \$1,100
<u>2-Bedroom, 2-Bath</u>		
700 - 800 sf	\$850 - \$975	\$775 - \$900
801 - 900 sf	\$950 - \$1,100	\$875 - \$1,000
901 - 1,000 sf	\$1,075 - \$1,225	\$975 - \$1,125
1,001 - 1,100 sf	\$1,175 - \$1,350	\$1,075 - \$1,225
1,101 - 1,200 sf	\$1,275 - \$1,450	\$1,175 - \$1,325

- (3) For properties where the cost of repairs is less than the minimum amount allowed by the city for the processing of an Earthquake Recovery Permit, this category of removal is not available. Owners of those properties should file requests for increases to recover the costs of repairs and reasonable financing pursuant to Regulation 4113.
- (4) Completeness of Application. To be considered complete any application for removal pursuant to this category shall include at least two cost estimates from licensed contractors, any and all reports from structural engineers, geologists, soil engineers or other construction professionals obtained since January 17, 1994, any and all reports from insurance adjustors, and any documents from FEMA/SBA outlining the damage that occurred and/or any recommendations for repairs and the estimated costs thereof. The application will not be deemed filed until it is determined by staff to be complete.

**5016. Standards For Category D Permits**

- (a) A Category D removal permit will only be granted if the site on which the controlled rental units sought to be removed will be developed with multifamily rental units that will not be exempt from the provisions of Article XVIII of the Santa Monica City Charter pursuant to §1801(c).
- (b) A Category D removal permit will only be granted if 15 percent (15%) of the rental units to be built on site on which the controlled rental units sought to be removed will be rented to low income persons at rents that they can afford.
- (c) As a condition of approving a Category D removal permit, the Board shall require that the applicant enter into an agreement with the Board that will:

- (1) Provide that the applicant agrees that the rental units to be built on the site will be subject to the provisions of Article XVIII of the Santa Monica City Charter and not be exempt pursuant to §1801(c).
  - (2) Provide that the applicant shall record a Declaration of Restrictions (deed restrictions) and such other covenants and conditions as the Board deems necessary to ensure that 15 percent (15%) of the units will be continuously rented to low income persons at rents that they can afford.
  - (3) Provide that construction of the new rental units shall commence within 180 days of the date of demolition of the rental units for which the removal permit is granted.
  - (4) Provide that existing tenants will have a right of first refusal for the new rental units.
  - (5) Provide that the new rental units will be of comparable size, including number of bedrooms, and offer comparable amenities to the units removed from the site.
- (d) In determining whether to grant a Category D removal permit, the Board will consider the overall impact on the rental housing market that will result from granting the removal permit and the impact of the removal on the existing tenants. The Board will not approve a Category D removal permit that results in a net decrease of the number of rental units on the site.

[5016 (b)(d) Amended 1/8/98; Effective 1/25/98]

**5017. Standards for Category DQ Permits**

This special category of removal is available to owners of buildings damaged in the January 17, 1994 Northridge earthquake or its immediate aftershocks which are red tagged and/or yellow tagged by the City Building and Safety Department as of the date of application under this category.

The purpose of this category of removal is to facilitate a streamlined process which will assist in a rapid recovery from the Northridge earthquake, maintain affordable housing and preserve the residential character of the city.

- (a) **Eligibility.** Any owner of a property damaged in the January 17, 1994 Northridge earthquake or its immediate aftershocks, where all or some of the structures on the property are red and/or yellow tagged by the City Department of Building and Safety as of the date of application may apply for this permit. If controlled rental units are contained in more than one structure on a property and less than all of the structures sustained damage, an application under this category concerning the units in the damaged structure may be made.
- (b) A Category DQ removal permit will only be granted if the site on which the controlled rental units sought to be removed will be reconstructed with multifamily rental units that will not be exempt from the provisions of Article XVIII of the Santa Monica City Charter pursuant to §1801(c).
- (c) A Category DQ removal permit will only be granted if at least 25 percent (25%) of the total number of rental units to be reconstructed on the site will be rented to low income persons at rents that they can afford.
- (d) A Category DQ removal permit will only be granted if the unreimbursed earthquake related damage exceeds \$5,000.00 per unit.
  - (1) "Earthquake related damage" is limited to the actual costs of repair or reconstruction of damage caused by the January 17, 1994 earthquake and its aftershocks, exclusive of any expenses or costs related to the "retrofitting" of potentially hazardous structures as required by City Ordinance 1748(CCS).
  - (2) "Unreimbursed" expenses are those repair or reconstruction costs which are or will be paid for by the owner or for which the owner is responsible to repay. These expenses do not include insurance proceeds, government grants or other non-reimbursable assistance related to the repair or reconstruction of earthquake damaged properties.

Earthquake insurance proceeds paid to prior owners shall be imputed to applicants who obtained ownership subsequent to January 17, 1994.

- (e) As a condition of approving a Category DQ removal permit, the Board shall require that the applicant enter into an agreement with the Board that will:
- (1) Provide for reconstructing the damaged building to the original configuration plus up to 15 percent (15%) additional square footage as permitted by City Ordinance No. CSS 1736.
  - (2) Provide that the applicant agrees that the rental units to be reconstructed on the site will be subject to the provisions of Article XVIII of the Santa Monica City Charter and not be exempt pursuant to §1801(c).
  - (3) Provide that the applicant shall record a Declaration of Restrictions (deed restrictions) and such other covenants and conditions as the Board deems necessary to ensure that 25 percent (25%) of all the reconstructed units will be continuously rented to persons or families with incomes of no greater than 80 percent (80%) of the HUD Median Income adjusted for household size, at rents that they can afford. The deed restricted units may not vary significantly in size or amenities from the original units. Specifically, the number of bedrooms of any unit may not be decreased.
  - (4) Provide that the base rents for the remaining 75 percent (75%) of the reconstructed units shall be set as a result of good faith bargaining between landlord and tenant at the first rent charged as confirmed by the Rent Control Board.
    - (A) Good faith bargaining is defined as negotiations between a landlord and a prospective tenant who bargain at arm's length about the terms and conditions of the rental of a unit, including the rent level, and reach a voluntary agreement on the terms of the tenancy.
    - (B) In determining whether a base rent was set as a result of good faith bargaining, the Board shall take into consideration the following conditions:
      - (i) Whether the first rent charged was conditioned upon the right to continue to occupy in exchange for a reduction in the sale price;
      - (ii) whether the first rent charged is set as a result of a relationship other than that of landlord and tenant (e.g. buyer-seller);
      - (iii) whether the amount collected for the first month or first few months was set at an artificially high rate and is thereafter is reduced. Any installment payments made to cover the cost of a security deposit shall be excluded from the amount considered as the base rent; and
      - (iv) whether there is a personal or familial relationship where the rent is discounted due to the special relationship between landlord and tenant.
  - (5) Provide that tenants, or other persons who had the right to occupy, as of January 17, 1994, the units subject to a Category DQ removal will have a right of first refusal for the new rental units under the same terms and conditions of the original tenancy.
    - (A) It shall be the responsibility of the owner to maintain a list of tenants and their current addresses and telephone numbers. The list shall be provided to the Board upon request.
    - (B) It shall be the responsibility of the tenants to advise the owner of the property and the Board in writing of any change in the address where they wish to receive a notice indicating the units are ready for reoccupancy.
    - (C) Tenant households or those persons who had the right to occupy the property as of January 17, 1994 who had income at or below 80 percent (80%) of the HUD



Median Income, adjusted by household size, must be offered the units with rents affordable to low income persons. Income levels will be determined at the time of re-rental of the reconstructed units.

- (D) If there are more low income tenants who seek to exercise their right of first refusal than there are available low income affordable units at the reconstructed building, the priority shall be to provide the low income unit(s) first to households with minor children, then seniors and then the disabled.
- (6) Provide that the newly constructed building will provide the same number of rental units.
- (7) Provide that construction will occur in accordance with the time requirements set forth in City Ordinance CSS 1736.
- (f) This regulation is applicable to all DQ removal permit applications filed on or after March 10, 1995. All DQ applications filed prior to March 10, 1995 shall be processed pursuant to the terms and conditions of Regulation 5017 in effect as of the date of filing.

[5017 Amended 3/30/95; Effective 4/12/95]

### SUBCHAPTER C

#### REMOVAL OF THREE UNITS OR LESS OWNER OCCUPIED STRUCTURES

[Previous Section 5017 repealed 5/27/88]

#### **5018. Standards for Decision for Removal Permit Applications Pending With the Board**

With respect to any removal permit application on file with the Board and pending final decision as of April 14, 1994, if the application is for a Category C removal and the building is red or yellow tagged by the City Building and Safety Department, the application shall be processed as a Category CQ application. Any removal permit application pending under Category A of Chapter 5 as of May 5, 1994 shall be processed under the former regulation 5012(a) and 5014(a).

[§5018 Adopted 8/26/82; Effective 9/3/82; Repealed]

[Section 5018 readopted 5/5/94; Effective 5/18/94]

#### **5200. Administrative Dismissal of Application for Removal Permit**

- (a) The Board shall dismiss an application for removal permit and shall not schedule a hearing or grant a removal permit in any of the following circumstances:
  - (1) Where the property in question is not properly registered with the Board as specified in Regulation §13002;
  - (2) where registration fees or penalty fees are due and owing;
  - (3) where the application submitted has not been completed;
  - (4) where the application is for a Category B permit, and the petition for rent increase filed with the application is dismissed under §4200 of these regulations;

- (5) Where the application is for a Category CQ or DQ permit and the cost of repair is less than required by the city to allow the owner to reconstruct under an Earthquake Recovery Permit.
- (b) Prior to dismissal of an application for removal permit, Rent Control staff shall mail to the applicant a written notice of intention to dismiss stating the applicable reasons for such dismissal. The applicant shall have thirty (30) days from the date of mailing of the notice to cure the defects in the application prior to dismissal. Rent Control staff shall be available to any applicant who needs assistance in amending an application during that thirty (30) day period.
- If an applicant amends an application following receipt of a notice of intention to dismiss, the 120 days for the final Board decision specified in Regulation 5003 shall be tolled for the period from the day of the notice of intention to dismiss to the date when an amended petition is accepted for filing, or for thirty (30) days, whichever is shorter.
- (c) Any of the following persons may make an administrative determination to dismiss an application for removal permit:
- (1) A majority of the Rent Control Commissioners;
  - (2) the Administrator; or
  - (3) the General Counsel.
- (d) A copy of a notice of administrative determination to dismiss an application for removal permit containing the applicable reasons for dismissal shall be mailed to the parties within 30 days of the date of filing the application.
- (e) The applicant may appeal dismissal of an application by the Administrator or the General Counsel to the Board within 10 days of the date of dismissal. However, if the board grants the appeal, the 120 days for final Board decision specified in Regulation §5003 shall be tolled for the period from the date of dismissal to the date the Board grants the appeal, or for 30 days, whichever is shorter.

[5200 Adopted 4/23/83; Effective 5/15/83]

[5200 Amended 10/27/83; Effective 11/5/83]

[Chapter 5 Adopted 7/28/79; Effective 8/3/79]

[Chapter 5 Amended 8/12/82; Effective 8/12/82]

[Chapter 5 Amended 5/5/94; Effective 5/18/94]

[Chapter 5 Amended 3/30/95; Effective 4/12/95]

[5016 (b)(d) Amended 1/8/98; Effective 1/25/98]