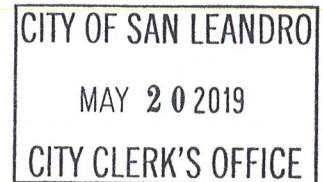


Original Signatures
W.A.

Memorandum



May 20, 2019

To: San Leandro City Council / Mayor Cutter, Vice-Mayor Lopez and Councilmembers Cox, Hernandez, Aguilar, Lee and Ballew.

CC: Tom Liao, Director and MaryAnn Sargent, Housing Specialist

From: Mission Bay Homeowners Assn. *(do)*

RE: Mobilehome Rent Stabilization Ordinance, 1st Reading

Mission Bay Mobilehome Owners Assn. is urgently requesting the following changes to the proposed Rent Ordinance. To support this request, **we are attaching a petition signed by 155 Mission Bay Mobilehome Owner / Residents** collected by volunteers going door-to-door over the past 2 weeks.

1. [4-39-212] Annual Rent Increases :

- a. "... A Mobilehome Park Owner may impose a Rent Increase for a Mobilehome Space that shall be equal to the lesser of **CPI-W¹ or three (3) percent** of the Rent charged for the Space in the preceding year....."

2. [4-39-220] Method to Determine a Fair Return

- a. Financial information provided to support Park Owner appeal must be, at minimum, CPA compiled, preferably CPA audited.

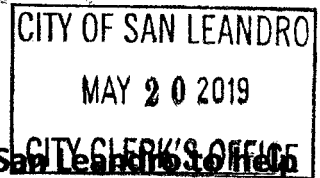
3. [4-39-255] Rent Stabilization Administration, Fees

- a. Fees should be assessed with maximum transparency to Mobilehome Owners. Ordinance allows for 50% passthrough to Mobilehome Owners – we need to ensure that pass-throughs do not exceed this amount.

Failure to adopt the requested CPI-W index will increase Mission Bay space rents beyond the annual 3% increases we currently receive in most years. We need your help to decrease the impacts of annual rent increases, not make our situation worse.

Thank you.

¹ Bureau of Labor Statistics publishes the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) on a monthly basis. CPI-W is used to annually adjust benefits paid to Social Security Beneficiaries and Supplemental Security Income recipients.



We, the residents of Mission Bay Park, ask the Mayor and City Council of San Leandro to help us control escalating Mission Bay Space Rent costs!

We ask that the following changes are made to the proposed Mobilehome Rent Stabilization Ordinance:

Annual Space Rent Increase

- **Limit maximum increase to 3% annually:** Right now the City is proposing that lot rents shouldn't be able to go up more than 4% a year. We need the City to limit that increase to 3% a year.
- **Lot rents must not go up faster than our Social Security checks:** If the amount that Social Security is raised is less than 3% in any year, we don't want our lot rents to go up by 3%. We want the amount of our rent increase to match the amount that Social Security payments are increased. In other words, let's say that in 2020 people on Social Security are going to get paid 1% more than they did in 2019. We want our lot rent to only go no more than 1% that year.
- **To Summarize:** The ordinance should be revised as follows: *Annual space rent increases may not exceed the lesser of the increase to the Consumer Price Index-W (CPI-W) or 3%.*

So whatever is the lower increase, 3% or the percent Social Security goes up, that's the increase we want.

Method to Determine a Fair Return

The proposed ordinance provides Park Owners the option of requesting an annual rent increase **above** the maximum-allowed if financial hardship can be proved. There is no requirement for an independent review of these statements before submission to the City.

We insist the Mobilehome Ordinance be revised to require that Park Owners submit financial statements reviewed or audited by a qualified, independent Certified Public Accountant (CPA).

Rent Stabilization Administration, Fees

Park owners will be charged a fee by the City of San Leandro to administer the Rent Stabilization Program. The owners can pass half of these fees on to us, their tenants. We request that the amounts of these fees be made transparent to the Mobilehome Owners who are tenants of the Park. It's important to be able to hold both the City and the Park Owners accountable for any fees passed through to us.

This flyer left by a Mission Bay Neighbor on behalf of Mission Bay Mobilehome Owners Assn. For more information, email us at mbhoasl@gmail.com .

Santa Susana

Patty

MISSION BAY PARK RENT CONTROL SURVEY

CITY OF SAN LEANDRO

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

MAY 20 2019

CITY CLERK'S OFFICE

Homeowner's Name (Print)	Street Address	Signature
ROBERT BELL	201 SANTA SUSANA A	<i>Robert M. Bell</i>
XIANG Y. LI	202 SANTA SUSANA	<i>Xiang Y. Li</i>
Maxine Zedan	204 Santa Susana	<i>Maxine Zedan</i>
Robert Parn	205 Santa Susana	<i>Robert Parn</i>
Marie Gonsalves	206 Santa Susana	<i>Marie Gonsalves</i>
PATRICIA SHEPPARD	208 Santa Susana	<i>Patricia Sheppard</i>
Ronald J. Burski	210 Santa Susana	<i>Ronald J. Burski</i>
WINEENT CRABILL	211 SANTA SUSANA	<i>Wineent Crabill</i>
Stephan Lopez	214 SANTA SUSANA	<i>Stephan Lopez</i>
S. Pietronave	213 SANTA SUSANA	<i>S. Pietronave</i>
Debra Mallette	215 Santa Susana	<i>Debra Mallette</i>
Edward Strucke	218 Santa Susana	<i>Edward Strucke</i>
JING KWOK / ANGELA LIAN	220 SANTA SUSANA (A. 945T9)	<i>Jing Kwok</i>
Dina Amaral	221 Santa Susana	<i>Dina Amaral</i>
Ilge Ierandis	224 Santa Susana	<i>Ilge Ierandis</i>
Bruce Imai	223 Santa Susana	<i>Bruce Imai</i>
IRINA VISIN	225 Santa Susana	<i>Irina Visin</i>
Rick Zano	232 Santa Susana	<i>Rick Zano</i>
Pat Lee	238 Santa Susana	<i>Pat Lee</i>
JM Santos	250 Santa Susana	<i>JM Santos</i>
Edyone J. Miller	253 Santa Susana	<i>Edyone J. Miller</i>
Kristiana Brown	254 Santa Susana	<i>Kristiana Brown</i>
ZAO VOSSUR	261 SANTA SUSANA	<i>Zao Vossur</i>
Hasdang Hu	262 Santa Susana	<i>Hasdang Hu</i>
Betti Queen	267 Santa Susana	<i>Betti Queen</i>
Ruby Sinclair	278 Santa Susana	<i>Ruby Sinclair</i>
SAM CHUK	281 Santa Susana	<i>Sam Chuk</i>

Santa Paula

Santa Paula
CITY OF SAN LEANDRO

MISSION BAY PARK RENT CONTROL SURVEY

MAY 20 2019

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

CITY CLERK'S OFFICE

blank signature =
no one home

Homeowner's Name (Print)	Street Address	Signature
	337 Santa Paula	
SHEILA BICKERTON	333	Sheila Bickerton
JUDITH JOHNSON	331 SANTA PAULA	Judith Johnson
GERALD R. JOHNSON	331 SANTA PAULA	Gerald Johnson
ANDY MOSER	329 SANTA PAULA	Andy Moser
Collette Hartell	327 Santa Paula	Collette Hartell
Edgar Rowden	323 Santa Paula	Ed Rowden
	321	
ANTHONY CANCHES	319 SANTA PAULA	Anthony Canches
	317	
MIKE & LINDA SIEGFRIED	314	Michael & Siegfried
	313	
Josefin Moud	305	Josefin Moud
	303	
PAM SCHWAB	301	Pam Schwab
MARGARET TSUI	52 Santa Margareta	Margaret Tsui
	54	
Lennis March	58 Santa Margareta	Lennis March
PETRA BAYER	60 Santa Margarita	Petra Bayer
	62 Santa Margarita	
	66 Santa Margarita	
RHODORA JUSTO	68 Santa Margarita	Rhoda Justo
AARON MENESSES	185 SANTA TERESA	Aaron Meneses
PATRICIA COFFEY	70 SANTA MARGARITA	Patricia Coffey
	72 Santa Margarita	
JEFF STERLING	255 Santa Susana	Jeff Sterling
ERLINDA T. REYES	311 Santa Paula	Erlinda T. Reyes

Santa Paula

CITY OF SAN LEANDRO
 MAY 20 2019
 CITY CLERK'S OFFICE

MISSION BAY PARK RENT CONTROL SURVEY

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

Homeowner's Name (Print)	Street Address	Signature
	338 Santa Paula	
Doh Dela Rami	336 Santa Paula	Allen B. Guthrie
Allen Guthrie	334 Santa Paula	
Rhonda Owens	332 Santa Paula	Rhonda Owens
	330	
	328	
DAVE REYMUENDO	326	D. Reymundo
POT CURTIS	320	P. Curtis
	318	
	316	
	312	
	310	
	308	
	306	ETI -
	304	
	302	
	366	
Beth Krueger	352	Beth Krueger

Santa Paula

CITY OF SAN LEANDRO

MAY 20 2019

MISSION BAY PARK RENT CONTROL SURVEY

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here

CITY CLERK'S OFFICE

Homeowner's Name (Print)	Street Address	Signature
Clarina Pan	381 Santa Paula	Clarina Pan
EVA INGRAM	384 Santa Paula	Eva B. Ingram
E	385 Santa Paula	
	382	
Melvin Johnson	383 Santa Paula	Melvin Johnson
THOMAS JOSEPH	361 SANTA PAULA	Thomas Joseph
Dale Hirschhorn	361 Santa Paula	Dale Hirschhorn
RONALD CLICK	374 SANTA PAULA	Ronald Click
	375	
	372	
JACQUELINE HEGARTY	373 Santa Paula	Jacqueline Hegarty
LINDA WRIGHT	373 Santa Paula	Linda Wright
	371	
	368	
	350	
	351	
	353	
	352	
	354	
	355	
Alex Garcia	356	Alex Garcia
La Tanya HARRISON	357 Santa Paula	La Tanya Harrison
DANIEL SULLIVAN	358	Daniel Sullivan
	359	
	380	
	381	
	377	

Santa Paula

CITY OF SAN LEANDRO
MAY 20 2019
CITY CLERK'S OFFICE

MISSION BAY PARK RENT CONTROL SURVEY

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

Homeowner's Name (Print)	Street Address	Signature
Carolyn Wiltshire	360 Santa Susanna 360 Santa Paula 362	Carolyn Wiltshire
	363	
	365	
Elizabeth GRIFITHS	364 367	Elizabeth Griffiths
	366	
	370	

Santa Teresa

MISSION BAY PARK RENT CONTROL SURVEY

blank signature =
no CITY OF SAN LEANDRO
MAY 20 2019
CITY CLERK'S OFFICE
Signature

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

Homeowner's Name (Print)	Street Address	Signature
Peggy Herrera	164 Santa Teresa	Wanda [unclear]
	165 Santa Teresa	
Stan + Shiluy McColm	163 Santa Teresa	
	162 " "	
RIMANANG CHO	159 Santa Teresa	K.C
	161 " "	
ANNE Wildermeth	157 Santa Teresa	A.D.W
	156 Santa Teresa	
DORIEEN LEAKY	156 SANTA TERESA	[Signature]
MARLENE	154 Santa Teresa	
→ QUEZADA	155 Santa Teresa	Marlene Quezada
F. CAMPBELL	153 Santa Teresa	Fritz Campbell
ROSA CAMPBELL	153 SANTA TERESA	
	152 Santa Teresa	
	150 Santa Teresa	
	144 Santa Teresa	
	145 " "	
	142 " "	
JULIE CAMPERO	143 " "	J. Camero
ASAD HUSSAIN	140 " "	[Signature]
ELIZABETH PEEL	141	Elizabeth Peel
	138 Santa Teresa	
	139 Santa Teresa	
	136 Santa Teresa	
	137	
	134	
Not done yet →	135 Santa Teresa	

Return to Lana
257 Santa Susana

CITY OF SAN LEANDRO
MAY 20 2019
CITY CLERK'S OFFICE

MISSION BAY PARK RENT CONTROL SURVEY

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

Homeowner's Name (Print)	Street Address	Signature
SUSANA SANCHEZ	171 Santa Teresa	Susana Sanchez
DOROTHY STEVENS	169 SANTA TERESA	Dorothy STEVENS
SANDRA CODELL	166 SANTA TERESA	Sandi Covell
RICHARD CODELL	166 SANTA TERESA	Richard Covell
JUNYI CHAI	162 SANTA TERESA	Junyi Chai
Junyi Yua CHAI	"	Junyi Yua Chai
Mary Litvinchuk	168 Santa Susanna	Mary E. Litvinchuk
Mark Litvinchuk	168 Santa Susanna	Mark Litvinchuk
Patricia Wright	54 Santa Margarita	Patricia Wright
Fritz Campbell	153 SANTA TERESA	Fritz Campbell
Maria Campbell	153 Santa Teresa	Maria Campbell
Hung Huynh	151 Santa Teresa	Hung Huynh
NGAI PHAM		Ngai Pham
Raelene Anderson	136 Santa Teresa	R. Anderson
Ricardo Campero	143 Santa Teresa	Ricardo Campero
SCOTT PHAM	135 Santa Teresa	Scott Pham
ehloris Huynh	135 Santa Teresa	ehloris Huynh
VICENTA PICO	130 SANTA TERESA	Vicenta Pico
DAVID KWOK	125 SANTA TERESA	David Kwok
WUN KAI LEUNG	125 SANTA TERESA	Wun Kai Leung
THOMAS SCHUEER	101 SANTA TERESA	Thomas Schueer
Lynn Lobbree	209 Santa Susana	Lynn Lobbree
HUNG HO	145 SANTA TERESA	Hung Ho
ARTURO SANCHEZ	171 SANTA TERESA	Arturo Sanchez
Peter Choe	190 Santa Teresa	Peter Choe
Lana M Fash	257 Santa Susanna	Lana M Fash

Santa Teresa

MISSION BAY PARK RENT CONTROL SURVEY

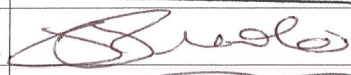
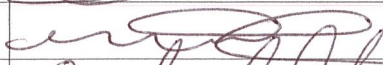
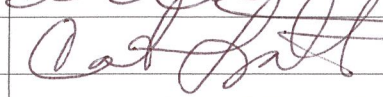
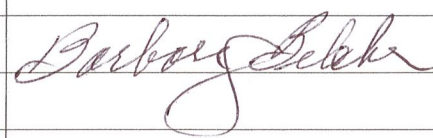
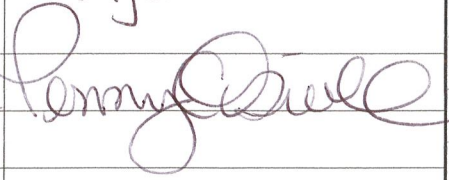
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I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

CITY OF SAN LEANDRO

MAY 20 2019
Signature

CITY CLERK'S OFFICE

Homeowner's Name (Print)	Street Address	
	175 Santa Teresa	
Joyce Prado	177 Santa Teresa	
Michael Habedank	179 Santa Teresa	
CAT SMITH	179 Santa Teresa	
	174 Santa Teresa	
	181 Santa Teresa	
	176 Santa Teresa	
	183 Santa Teresa	
	178 Santa Teresa	
	185 Santa Teresa	
	180 Santa Teresa	
	187 Santa Teresa	
	182 Santa Teresa	
Barbara Bekker	189 Santa Teresa	
	184 Santa Teresa	
	191 Santa Teresa	
	186 Santa Teresa	
	188 Santa Teresa	
Denise Music	193 Santa Teresa	Denise Music
	190 Santa Teresa	
	195 Santa Teresa	no flyer or answer
	197 Santa Teresa	
Penny (Oswill)	170 Santa Teresa	
	173 Santa Teresa	
	168 " "	
	169 " "	
	167 " "	

MISSION BAY PARK RENT CONTROL SURVEY

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

Homeowner's Name (Print)	Street Address	Signature
Jeffrey Wardrobe	541 Santa Ynez	Jeff Wardrobe
ANA Z Wardrobe	541 Santa Ynez	ANA Z Wardrobe
CARY BRANCHAUD	537 STA YNEZ	Cary Branchaud
Deborah Acosta	537 Sta Ynez	Deborah Acosta
Adriana Riter	537 Santa Ynez	Adriana Riter
Lorn Riter	535 Santa Ynez	Lorn Riter
Brenda Gianni	531 Santa Ynez	Brenda Gianni
Bob Gianni	531 Santa Ynez	Bob Gianni
John J. Gianni	525 Santa Ynez	John J. Gianni
Cross Creek Farm	519 Santa Ynez	Cross Creek Farm
Terry Ching	519 Santa YNEZ	Terry Ching
Yuriy Umanskiy	507 Santa Ynez	Yuriy Umanskiy
ANTHONY M. CONN	32 SANTA ANITA	Anthony M. Conn
Wanda Hills	19 Santa Anita	Wanda Hills
deprey	7 Santa Anita	deprey

MISSION BAY PARK RENT CONTROL SURVEY

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

Homeowner's Name (Print)	Street Address	Signature
DAVID LEUNG	532 SANTA YNEZ ✓	David Leung
MAN SUN LEE	376 SANTA PAULA	[Signature]
Dorothy Himango	231 Santa Susana	Dorothy Himango
PETER GAULICK	477 SANTA MONICA	Peter Gaulick
Ray Griffiths	364 Santa Paula	Ray Griffiths
CARMEN YU	272 SANTA SUSANNA	Carmen Yu
Carl P. Basolino	239 SANTA SUSANA	Carl Basolino
Rosita Gee	273 Santa Susana	Rosita Gee
Shu Fan Lee	17 Santa Anita	Shu Fan Lee
Dympna ING	62. SANTA MARGARITA	Dympna Ing
CARMELITA SCHUBERT	108 SANTA JESUSA	Carmelita Schubert
DANCETE P. CANTARON	407 SANTA MONICA	Dancete P. Cantaron
Lorraine Hales	409 Santa Monica	Lorraine Hales
VICTOR CIESLAK	515 " YNEZ ✓	Victor Cieslak
Rubet Domingo	276 Santa Susana	Rubet Domingo
Bill Thompson	276 Santa Susana	Bill Thompson

CITY OF SAN LEANDRO
MAY 20 2019
CITY CLERK'S OFFICE

MISSION BAY PARK RENT CONTROL SURVEY

I, as a Resident of Mission Bay Park, support the Requested Ordinance Amendments attached here.

Homeowner's Name (Print)	Street Address	Signature
JOAN Cirillo	456 SANTA MONICA	<i>Joan Cirillo</i>
GLORIA PAUTA LEON	251 SANTA SUSANNA	<i>Gloria Pata Leon</i>

CITY OF SAN LEANDRO
MAY 20 2019
CITY CLERK'S OFFICE

Hello,

I'm your neighbor at Mission Bay Park. I live on Santa Susana (e.g. Santa Susana).
I'm part of the Homeowners Association at Mission Bay.

I knocked on your door today to ask you to sign a petition that we want to send to the San Leandro Mayor and City Council.

The petition asks the Mayor and City Council to help us keep our annual rent increases under control. We cannot afford to have our rents going too high. Right now, every year we get an increase of 3%.

If you want to keep your lot rent down, please help us try to do that.

We need to give this to the Mayor and City Council as soon as possible. They will decide on this by May 20 but we need to show them this petition much sooner than that.

I will knock on your door again today or tomorrow. I will only take a few minutes of your time. I will show you the petition and ask you to sign it if you agree.

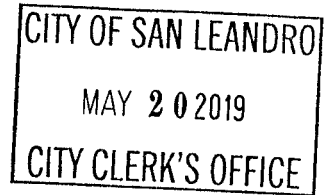
Your opinion counts! Thank you.

Lana

Volunteer's First Name (optional)

Sorry, I have lived here
~~23~~ years - Increase has
always been 3% - if
city of San Leandro gets
control we may loose out!
they may go 4% I am against
connecting w/ city
Bonnie
Worring

MEMORANDUM



To: City Council of San Leandro

From: Andrew F. Pierce

Date: May 20, 2019

RE: Initial Analysis of Proposed Regulation of Hosted Short Term Rentals.

I. INTRODUCTION

Pierce & Shearer LLP has been retained by a group of San Leandro homeowners who host short-term rentals. Our firm has previously been involved in this and similar issues in other cities, perhaps most notably in South Lake Tahoe where we successfully obtained an injunction against the voter passed Measure T initiative.

Since we were just retained last week, we have not had time to comprehensively analyze the ordinance under consideration in San Leandro that will regulate hosted short-term rentals. As an initial observation, the current draft seems extreme, as though the interests of all stake holders were not being considered, only those of enemies of short-term rentals. It takes an unwarrantedly punitive approach in such areas as 1) prohibiting hosted short-term rentals in secondary dwelling units; 2) limiting the number of calendar days in an arbitrary fashion; 3) requiring notification regarding advertising; 4) restricting parking in public areas; 5) taxation; and 6) the permit approval, renewal and allocation procedures, all of which are draconian.

II. LEGAL ISSUES

The following are some excerpts from the brief we presented to the courts in El Dorado County which resulted in an ongoing injunction against enforcement of the South Lake Tahoe Initiative Ordinance.

Under California law a property owner may gain vested rights under the common law if the party has performed substantial work and incurred substantial liabilities in good faith reliance on a permit issued by the government. *Avco Community Developers, Inc. v. South Coast Regional Commission* (1976) 17 Cal.3d 785, 791. Recently in *Stewart Enterprises, Inc. v. City of Oakland* (2016) 248 Cal.App.4th 410, the Court of Appeal held that the city could not impose new conditional use permit requirements after a land owner had obtained a building permit.

Clauses regulating conditional use permits that do not reasonably relate to the property itself are non-enforceable. The Court of Appeals has found that the local zoning authority did not have the power to condition use permits upon non-transferability. *Anza Parking Corp. v. City of Burlingame* (1987) 195 Cal.App.3d 855, 858-860. They concluded that a conditional use permit creates a right which does not attach to the permittee but rather runs with the land. *Id.*; *See also, Olevson v. Zoning Board of Review* (1945) 71 R.I. 303, 44 A.2d 720, 722 (which held that after issuing a permit allowing a property to operate a boarding and rooming house in an area zoned for residential use, the city cannot impose a condition that the property owner must remain the owner).

It has long been the case in California that existing uses cannot be outlawed by zoning laws. *Jones v. City of Los Angeles* (1930) 211 Cal. 304. The California Supreme Court held that where “a retroactive ordinance causes substantial injury and the prohibited business is not a nuisance, the ordinance is to that extent an unreasonable and unjustifiable exercise of police power.” *Id.* at 321. Here my clients are engaged in the use which the City now seeks to outlaw. As the court noted in *Anderson v. The City Counsel of The City of Pleasant Hill* (1964) 229 Cal.App.2d 79, 88-89, “[t]he activity of the owner in the use of his property at the time it becomes subject to a zoning ordinance ... determines the scope of the nonconforming use excepted from the restrictions imposed by the ordinance ... [t]he property owner acquires a vested right to continue a use ‘actually instituted’ ...”; *See also, County of San Diego v. McClurken* (1951) 37 Cal.2d 683, 690 (recognizing “the rule that a lawful use existing at the time a zoning ordinance becomes effective cannot be prohibited when it is not a public nuisance.”)

In *Goat Hill Tavern v. City of Costa Mesa* (1992) 6 Cal.App.4th 1519, the court concluded the owner’s right to continue operation of the business was a fundamental vested right. It added that “the right to continue an established business ... is sufficiently personal, vested and important to preclude its extinction by a nonjudicial body.” *Id.* at 1529.

In the present case, property owners have invested a great deal in their property to make improvements and alterations that would allow their properties to be rented.

There is also a plethora of case law holding that local laws purporting to limit occupancy are unconstitutional.

Article I Section I of the California Constitution is a statewide constitutional right of privacy adopted by the voters. As interpreted in the leading case of *White v. Davis* (1975) 13 Cal.3d 757, “[t]he right of privacy is the right to be left alone. It is a fundamental and compelling interest. It protects our homes, our families, our thoughts, our emotions, our expressions, our personalities, our freedom of communion and our freedom to associate with the people we choose ... [the] right should be abridged only when there is a compelling public need.” *Id.* at 774-775.

The ballot argument for the initiative that enacted Article I Section I of the California Constitution indicated the voters’ intent to ensure the right of privacy not only to one’s family but also one’s home. *See, City of Santa Barbara v. Adamson* (1980) 27 Cal.3d 123, 130. “In general, zoning ordinances are much less suspect when they focus on the use than when they command inquiry into who are the users.” *Id.* at 133.

In states, such as California, with a state constitutional right of privacy there is a strong presumption against laws that regulate the occupants in a discriminatory manner. In *Chula Vista v. Pagard* (1981) 115 Cal.App.3d 785, the court found that a zoning ordinance that limited the number of unrelated individuals in a residence had only a tenuous relationship to the government interests articulated in support of the ordinance and therefore was invalid. The court found that restrictive limitations on population density may be constitutional but only if they do not distinguish between traditional and unrelated groups or interfere with their constitutional rights.

Similar efforts to bar tourists and visitors from renting properties through the use of occupancy restrictions have been struck down as unconstitutional in other states. In *Kirsch Holding Company v. The Borough of Manasquan* (1971) 59 N.J. 241, 281 A.2d 513, the New Jersey Supreme Court found

that a restrictive definition of family enacted for the purpose of restricting summer resort properties was overbroad. The court noted that where the intensity of use was a problem consideration might be given to limiting the number of occupants in reasonable relation to sleeping and bathroom facilities or habitable floor space, but the court did not permit the imposition of strict and discriminatory numerical limits on rentals that is not applicable to residential family in the same zoning districts. In *Larson v. The Mayor and Council of The Borough of Spring Lake Heights* (1968) 99 N.J. Super. 365, 240 A.2d 31, an ordinance which prohibited occupancy by groups of unrelated persons enacted to deter the rental of summer units to groups of unrelated persons was found to be overbroad. The court held that the ordinance bore only a tenuous relationship to the problem sought to be eradicated and that it barred many kinds of occupancies which did not cause a threat to the public order. In *Gabe Collins Realty, Inc. v. City of Margate City* (1970) 112 N.J. Super 341, 271 A.2d 430, the court noted that dwelling units of a size sufficient to accommodate a family were also of sufficient size to accommodate more than two unrelated persons without any accompanying threat to the public welfare.

In *McMinn v. Oyster Bay* (1984) 482 NYS 2d 773, Aff'd 66 N.Y.2d 544, a New York court found that occupancy limits that were not based on any investigation by the city could not be supported. In *Holy Name Hospital v. Montroy* (1977) 153 N.J. Super 181, 379 A.2d 299, the court held that any numerical limitation would have to be of general applicability and reasonably related to the habitable floor area or sleeping and bathroom facilities.

Case law has also recognized that laws affecting land use may not be arbitrary or discriminatory separate and apart from the state right to privacy. *Arnel Development Company v. City of Costa Mesa* (1981) 126 Cal.App.3d 330.