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June 14, 2023

Via Email

[jgoldstein@ci.capitola.ca.us](mailto:jgoldstein@ci.capitola.ca.us)

[Szutler@bwslaw.com](mailto:Szutler@bwslaw.com)

Jamie Goldstein (City Manager)  
Samantha Zutler (City Attorney)  
City of Capitola  
420 Capitola Ave  
Capitola, CA 95010

Re: Proposed Amendment To Rent Control Ordinance

Dear Mr. Goldstein and Ms. Zutler,

Following up on our phone call, I am writing on behalf of the owners of Surf and Sand to propose an amendment to the recently adopted rent control ordinance that would exempt parks which offered long term leases in compliance with amended rent control ordinance adopted in 2011.

Without belaboring the points at great length, we contend the recently adopted rent control ordinance is inconsistent with the settlement agreement between the City and Surf and Sand and denies Surf and Sand a substantial portion of the benefit bargained for in that agreement. It is not an exaggeration to state that Surf and Sand has forgone hundreds of thousands of dollars in space rents it could have collected over the past 12 years based on the promise of deregulation when the leases expire. Surf and Sand has met its part of the bargain but the City has adopted re-regulation. Surf and Sand believes it can state claims against the City for breach of the agreement and/or seek to rescind the 34 year leases it offered in compliance with the agreement.

In addition, we believe if the ordinance is maintained in its current form, it will lead to Surf and Sand increasing rents at a higher rate than it has for existing tenants out of fear of more stringent regulation and it may ultimately lead to the Park being subdivided, thereby ultimately removing the property entirely from the rental market.

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It is important to emphasize that the rent issues that have arisen in Capitola over space rents have nothing to do with Surf and Sand. As your staff confirmed, there have been no complaints about space rents at Surf and Sand in recent years and, as we mentioned, residents who leave the park have continued to sell their homes in place for prices that substantially exceed their inherent value because Surf and Sand has remained conservative in setting rents. Unfortunately, the City's decision to re-adopt rent control undoes an extremely hard fought and extremely successful settlement agreement.

In order to avoid this dispute and restore to the parties what was bargained for, Surf and Sand proposes the following change to the recently adopted ordinance. Surf and Sand proposes that the City amends Chapter 2.18 of the Capitola Municipal Code (establishing mobile home rent stabilization) to include an additional exemption in 2.18.031(F) as follows:

F. This ordinance shall not apply to any Mobile Home Spaces located in a mobile home park which offered long term leases in compliance with formerly adopted Section \_\_\_\_<sup>1</sup> of the Capitola Municipal Code.

I do not believe this proposed amendment raises any serious equal protection issues because any park owner had the opportunity to offer leases in compliance with the amended ordinance. Even if this would be viewed as treating Surf and Sand differently from other park owners, there is substantial reason for that because adoption of the proposed amendment would be, in part, to avoid a breach of contract and other claims Surf and Sand may otherwise be able to pursue against both the City and existing residents.

We request that the City place this proposed amendment (or an alternative in substantially this form) at the next regularly noticed meeting. Please feel free to contact me should you have any questions. Thank you for your consideration.

Dated: June 14, 2023

Gregory Beam and Associates, Inc.

By: 

Mark D. Alpert

Cc: Randy Reed via email

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<sup>1</sup> This was left blank because I am not certain of the correct reference to 2011 ordinance.