

# California Government Code Section 65852.3: Legislature Prohibits Exclusion of Mobile Homes on Single-Family Lots

*In 1980, the California Legislature enacted a statute permitting the placement of mobile homes on lots zoned for single-family dwellings. The statute is intended to provide Californians with an opportunity to purchase affordable housing. This comment analyzes the statute and explains why it will not increase the supply of affordable housing by any appreciable amount, and proposes an alternative plan that will allow greater access for mobile homes in California communities.*

## INTRODUCTION .

Home ownership is an impossible dream for many Californians today. Soaring housing prices and record-high interest rates have created a critical shortage of moderately priced housing in the state.<sup>1</sup> A recent study indicates that fewer than one in ten state residents can afford to

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<sup>1</sup> During the 1970's, the average cost of a new single-family dwelling in the United States rose from \$23,400 to \$64,600, a 176% increase. By contrast, the Consumer Price Index rose only 112% during this period. U.S. PRESIDENT'S COMMISSION ON HOUSING, THE REPORT OF THE PRESIDENT'S COMMISSION ON HOUSING 180 (1982). The table below compares the approximate cost breakdown for a new single-family dwelling in 1970 and 1980:

Approximate Cost Breakdown for New Single-Family Homes

	1970		1980		Percent Change 1970—80
	Cost	Percent	Cost	Percent	
Land	\$4,450	19%	\$15,500	24%	248.3%
On-Site Labor	4,500	19	10,350	16	130.0
Materials	8,650	37	22,000	34	154.3
Financing	1,600	7	7,700	12	381.3
Overhead, Profit, Other	4,200	18	9,050	14	115.5
Total	\$23,400	100%	\$64,600	100%	176.1%

*Id.* at 181. These figures illustrate that the greatest increases occurred in the areas of land and financing.

In May 1977, the median sales price of an existing single-family dwelling in California was \$60,356. By May 1982, the median price had increased to \$110,236. California Association of Realtors, CALIFORNIA REAL ESTATE TRENDS 1 (May 1982).

buy a home.<sup>2</sup>

In an effort to increase the supply of affordable housing, the California Legislature passed Senate Bill 1960 (SB 1960) in 1980, adding Section 65852.3 to the California Government Code.<sup>3</sup> The statute modifies prior law and allows mobile homes<sup>4</sup> to be placed on lots zoned for sin-

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<sup>2</sup> W. Brown, M. Roos, & J. Costa, *Curing California's Housing Ills: A Democratic Prescription 2* (Mar. 24, 1982) (copy on file at U.C. Davis Law Review office).

<sup>3</sup> CAL. GOV'T CODE § 65852.3 (West Supp. 1982) provides:

A city, including a charter city, county, or city and county shall not prohibit the installation of mobilehomes certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.) on a foundation system, pursuant to Section 18551 of the Health and Safety Code on lots zoned for single-family dwellings. However, a city, including a charter city, county, or city and county may designate lots zoned for single-family dwellings for mobilehomes as described in this section, which lots are determined to be compatible for such mobilehome use. A city, including a charter city, county, or city and county may subject any such mobilehome and the lot on which it is placed to any or all of the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking and architectural, aesthetic requirements, and minimum square footage requirements. However, any architectural requirements imposed on the mobilehome structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. In no case may a city, including a charter city, county, or city and county apply any development standards which will have the effect of totally precluding mobilehomes from being installed as permanent residences.

Three other states have adopted similar statutes. These states are Indiana (IND. CODE ANN. § 36-7-4-1106 (West 1981)), Minnesota (1982 Minn. Sess. Law Serv., ch. 490 (West)), and Vermont (VT. STAT. ANN. tit. 24, § 4406(4) (1982)).

In addition, Florida permits local jurisdictions to impose architectural or aesthetic requirements on mobile homes, but the requirements may only pertain to roofing and siding materials. 1982 Fla. Sess. Law Serv., ch. 82-66 § 12 (West). Nebraska requires each municipality to create at least one zoning district for "mobile home subdivisions and individually-owned lots in such mobile home subdivisions." NEB. REV. STAT. § 14-402 (1981). Moreover, cities must create at least one district providing for the use of land for "mobile home courts and individually-owned lots in mobile home courts." NEB. REV. STAT. § § 15-902, 19-902 (1981). New Hampshire prohibits municipalities from excluding manufactured housing completely from a city by regulation, zoning ordinance, or by any other police power. 1982 N.H. LAWS, ch \_\_\_\_\_. Kansas law provides that counties may not regulate the occupancy or location of dwelling units in such a way as to effect an arbitrary exclusion of manufactured housing. KAN. STAT. ANN. § 9-2938 (1981).

<sup>4</sup> A mobile home is a movable dwelling that is constructed for year-round living.

gle-family dwellings.<sup>5</sup> The Legislature believes that permitting mobile

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Mobile homes, designed without a permanent foundation, are towed to a site on their own foundation and connected to utilities. Mobile homes are transportable in one or more sections that are designed to be joined into one integral unit at the site. Each unit is 10, 12, or 14 feet wide and 45 to 60 feet long. Hence, a "double wide" mobile home, consisting of two basic units and measuring 24 by 60 feet, has 1,440 square feet of interior space, or an area the size of many conventional single-family dwellings. H. DAVIDSON, *HOUSING DEMAND: MOBILE, MODULAR, OR CONVENTIONAL?* 21 (1973).

A "mobile home" is legally defined in California as a "structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system." CAL. HEALTH & SAFETY CODE § 18008 (West Supp. 1982). Mobile homes do not include recreational vehicles, commercial coaches, or factory-built housing as defined in Section 19971 of the Health and Safety Code. *Id.* A "recreational vehicle" is "a motorhome, travel trailer, truck camper, or camping trailer, with or without motive power, designed for human habitation for recreational or emergency occupancy, with less than 320 square feet." CAL. HEALTH & SAFETY CODE § 18010 (West Supp. 1982). A "commercial coach" is a "structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional, or commercial purposes . . ." CAL. HEALTH & SAFETY CODE § 18218 (West Supp. 1982). Section 19771 of the Health and Safety Code describes factory-built housing as "a residential building . . . manufactured in such a manner that all concealed parts . . . cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part . . . which is either wholly . . . or . . . in substantial part manufactured at an offsite location to be wholly or partially assembled onsite . . ." CAL. HEALTH AND SAFETY CODE § 19971 (West Supp. 1982).

Traditionally, mobile homes were characterized by their rectangular shape, metal siding, and metal roofs. Modern mobile homes, however, no longer exhibit these characteristics. The use of double wide units permits mobile homes to be shaped more like conventional site-built homes. Sections of varying lengths may be combined to add architectural interest to the structure so that it more closely resembles a conventionally built home. The use of hardboard siding and composition shingle roofs also make mobile homes appear more like site-built homes. Additionally, more expensive models may include special window treatments, a variety of roof slopes, wider roof overhangs, wood or stucco sidings, and wood shingle or tile roofs. R. Anderman, *The Manufactured Housing Alternative 13* (May, 1981) (unpublished report by the Director of Community Development, City of Salinas, California) (copy on file at U.C. Davis Law Review office).

One commentator has observed that exterior design advancements make mobile homes "scarcely distinguishable from site built single family homes." 2 A. RATHKOPHF, *THE LAW OF ZONING AND PLANNING* § 19.02, at 19-5 (4th ed. 1982). Similarly, in *Robinson Township v. Knoll*, 410 Mich. 293, 316, 302 N.W.2d 146, 152 (1981), the Michigan Supreme Court noted: "It appears that mobile homes can be designed or modified to compare favorably in appearance to many site-built homes. There is no longer reason to presume that mobile homes will fail to live up to a community's aesthetic standards." *See also* note 5 *infra*.

<sup>5</sup> Mobile homes have also been permitted on lots zoned for single-family dwellings by judicial decree. For example, in *Robinson Township v. Knoll*, 410 Mich. 293, 302

homes on individual lots will lower housing prices<sup>6</sup> because mobile homes are built in factories using cost-efficient construction methods.<sup>7</sup> Theoretically, then, the supply of affordable housing should increase, thereby offering more Californians the opportunity to purchase their own home.

Part I of this comment sets forth the basic purpose and provisions of Section 65852.3 and analyzes several of its weaknesses. Part II focuses on the constitutional issues presented by the statute. Part III analyzes Section 65852.3's potential for increasing the supply of reasonably priced housing in California. Finally, Part IV discusses several changes that are needed to further the statute's purpose, and proposes an alternative plan to Section 65852.3, which may more effectively increase the availability of affordable housing in California.

### I. PURPOSE AND PROVISIONS OF SECTION 65852.3

Senate Bill 1960<sup>8</sup> added Section 65852.3 to the California Govern-

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N.W.2d 146 (1981), the Michigan Supreme Court invalidated an ordinance limiting mobile homes to mobile home parks and excluding them from other residential zones. The court concluded that "[t]he per se exclusion of mobile homes from all areas not designated as mobile home parks has no reasonable basis under the police power, and is therefore unconstitutional." *Id.* at 310, 302 N.W.2d at 149. In so holding, the court overruled previous decisions upholding ordinances restricting mobile homes to mobile home parks. The court explained that the reasoning on which those cases were based was no longer valid because of improvements in the size, quality and appearance of mobile homes. It added, however, that a municipality need not permit all mobile homes in all residential neighborhoods without regard to the size, appearance, quality of manufacture, or manner of on-site installation of the mobile home. Localities may still exclude mobile homes that fail to satisfy "reasonable standards designed to assure favorable comparison of mobile homes with site-built housing which would be permitted on the site . . . ." *Id.*; see also note 72 *infra*. But see *City of Brookside Village v. Comeau*, \_\_\_ Tex. \_\_\_, 633 S.W.2d 790 (1982) (ordinance restricting mobile homes to mobile home parks bears substantial relation to public health, safety, morals or general welfare).

<sup>6</sup> 1980 CAL. STAT. 3690, ch. 1142, § 1 provides: "The Legislature finds and declares that manufactured housing, which includes mobilehomes, offers Californians an additional opportunity to own and live in decent, safe, and affordable housing on a permanent basis."

<sup>7</sup> A. BERNHARDT, *BUILDING TOMORROW: THE MOBILE/MANUFACTURED HOUSING INDUSTRY* 100, 135 (1980).

<sup>8</sup> Senate Bill 1960 was signed by Governor Edmund G. Brown, Jr. on September 26, 1980 and became operative on July 1, 1981. The bill was sponsored by the California Department of Housing and Community Development and was supported by the California Manufactured Housing Association, the Western Mobilehome Association, the Recreational Vehicle Dealer Association, the Golden State Mobilehome Owners League, the Western Center on Law and Property, and California Rural Legal Assis-

ment Code. The Legislature viewed Section 65852.3 as a measure that would help alleviate the serious shortage of moderately priced housing in California.<sup>9</sup> The statute allows state residents to purchase less expensive housing while enjoying the advantages of the typical single-family neighborhood.<sup>10</sup> Section 65852.3 precludes cities and counties<sup>11</sup> from prohibiting mobile homes<sup>12</sup> on permanent foundations on lots

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tance. CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, ENROLLED BILL REPORT: SB 1960 1 (Sept. 4, 1980) (copy on file at U.C. Davis Law Review office). The Housing and Community Development Department sponsored the bill because, in its opinion: (1) mobile homes represent an affordable alternative to the conventional single-family home; (2) the near-zero vacancy rate among mobile home parks in California creates a serious placement problem for people wishing to buy a mobile home; (3) the vacancy rate problem is exacerbated by local governments that exclude mobile homes on private lots; and (4) modern mobile homes are aesthetically compatible with other forms of single-family housing. *Id.* at 2. For a discussion of improvements in the appearance of mobile homes, see note 4 *supra*.

Opposing SB 1960 were lobby groups and local interest organizations such as the League of California Cities and the California chapter of the American Planning Association. Opponents preferred the alternative approach of Assembly Bill 2698 (AB 2698). League of California Cities, LEGISLATIVE BULLETIN 5 (Sept. 5, 1980) (copy on file at U.C. Davis Law Review office); American Planning Association, APA NEWSLETTER, Oct. 1980, at 6 (copy on file at U.C. Davis Law Review office). Assembly Bill 2698 also would have allowed certain mobile homes in areas zoned for single-family dwellings. Unlike SB 1960, however, AB 2698 permitted local agencies to establish separate zones for mobile homes installed on permanent foundation systems. In addition, the architectural requirements that a government could impose on a mobile home were not as limited as those requirements under SB 1960. Assembly Bill 2698 also allowed local governments to impose specified requirements and standards on these homes provided the requirements did not exceed those placed upon conventionally constructed homes. Although approved by the Legislature, AB 2698 did not become law because a provision in the bill provided that AB 2698 would not take effect if SB 1960 passed. *Id.* at 1.

<sup>9</sup> The median resale price of a California home was \$97,656 when SB 1960 was passed by the Legislature in September 1980. Jones, *Home Sales Climb Despite Loan Costs*, L.A. Times, Oct. 30, 1980, § 4, at 1, col. 1.

<sup>10</sup> Historically, regulatory bodies relegated mobile homes to undesirable areas where others did not wish to live (e.g. industrial or commercial areas). Despite considerable improvement in the appearance of mobile homes over the years, see note 4 *supra*, this disfavored treatment remains. The current animosity toward mobile homes may be attributed to fears that such homes will depress property values and detrimentally affect neighborhood aesthetics. Additionally, some argue that mobile homes will not return in taxes what their occupants cost in governmental services such as education. A. BERNHARDT, note 7 *supra*, at 331.

<sup>11</sup> Section 65852.3 applies to all cities and counties, including charter cities, charter counties, and charter city and counties. CAL. GOV'T CODE § 65852.3 (West Supp. 1982), set forth in note 3 *supra*.

<sup>12</sup> Section 65852.3 applies only to mobile homes certified under the National Mobile

zoned for single-family dwellings.<sup>13</sup> Previously, local governments could not only prohibit mobile homes from areas zoned for single-family dwellings, but could also ban mobile homes from a community.<sup>14</sup> Furthermore, even if mobile homes were permitted in a community, they were generally restricted to mobile home parks.<sup>15</sup> There, the owner of a unit could rent space for his home, but could not attach the unit permanently to the land.<sup>16</sup> Therefore, Section 65852.3 is a significant change because it not only allows mobile homes on lots zoned for single-family dwellings, but also permits them to be permanently attached to the owner's land.

Although the statute prohibits the exclusion of mobile homes from areas zoned for single-family dwellings, it includes provisions for local agency control over the placement and appearance of mobile homes in these areas.<sup>17</sup> First, communities may limit mobile homes to lots that are determined to be "compatible" for mobile home use,<sup>18</sup> for this reason, mobile homes might not be permitted on every lot zoned for single-family residential use. Second, a city or county may subject mobile homes (and the lots on which they are placed) to the same development standards applicable to a conventional site-built house on the same lot.<sup>19</sup> However, local governments may not subject a mobile home to development standards that would preclude its installation as a permanent residence.<sup>20</sup> These provisions are intended to afford local agencies limited control over mobile home placements while assuring greater access for

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Home Construction and Safety Standards Act of 1974. CAL. GOV'T CODE § 65852.3 (West Supp. 1982), set forth in note 3 *supra*. Thus, Section 65852.3 pertains only to mobile homes constructed and/or purchased new after June 15, 1976, the date on which a uniform national construction and safety standard code went into effect. The uniform code is essentially a performance code that permits the use of a variety of materials and techniques in constructing a mobile home, provided that the structure "can meet engineered performance standards and can resist the maximum forces and loads expected for the type and location of the home." R. Anderman, note 4 *supra*, at 6.

<sup>13</sup> CAL. GOV'T CODE § 65852.3 (West Supp. 1982), set forth in note 3 *supra*.

<sup>14</sup> *Mobilehomes Go Mainstream*, CALIFORNIA COMMUNITIES 7 (Oct. 1980) (copy on file at U.C. Davis Law Review office).

<sup>15</sup> R. Anderman, note 4 *supra*, at 20.

<sup>16</sup> *Id.*

<sup>17</sup> CAL. GOV'T CODE § 65852.3 (West Supp. 1982), set forth in note 3 *supra*.

<sup>18</sup> *Id.*

<sup>19</sup> These standards include, but are not limited to, architectural, aesthetic, minimum square footage, side and rear yard requirements and standards for buildings setbacks, enclosures, access, and vehicle parking. Architectural requirements that may be imposed on mobile homes are limited to the home's roof overhang, roofing material, and siding material. *Id.*

<sup>20</sup> *Id.*

mobile homes in California communities.

Section 65852.3 can be interpreted in several ways because the terminology of the statute is not defined. The statute does not explain the term "compatible" nor does it describe how lots are to be determined "compatible" for mobile home use. In the absence of any clear direction from either the Legislature or the courts,<sup>21</sup> the California Department of Housing and Community Development (HCD) issued a memorandum in 1981 interpreting the statute.<sup>22</sup> HCD believes that local governments may use their own judgment in determining "compatibility," provided there is a rational basis for the determination.<sup>23</sup> According to the memorandum, compatible lots would include those on which mobile homes would meet existing zoning and subdivision requirements.<sup>24</sup>

Another vague provision of Section 65852.3 is the allowance of mobile homes "on lots zoned for single-family dwellings."<sup>25</sup> It is uncertain whether the allowance applies solely to zoning districts in which single-family dwellings are the principal permitted use. Arguably, mobile homes should be permitted in other residential zones in which single-family dwellings are allowed, but are not the principal permitted use.<sup>26</sup> Some communities have interpreted the provision as applying only to single-family residential zones, and have restricted mobile homes to

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<sup>21</sup> Currently, there are no reported cases interpreting Section 65852.3.

<sup>22</sup> CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, MEMORANDUM REGARDING DEPARTMENT'S LEGAL INTERPRETATION OF SB 1960 (Jan. 23, 1981) (copy on file at U.C. Davis Law Review office).

<sup>23</sup> *Id.* at 2.

<sup>24</sup> *Id.* The Housing and Community Development Department states that architectural and historical considerations might be used to determine whether a lot is compatible. For example, a mobile home in a historic preservation district might conflict with the architectural and historical character of the area. *Id.* If communities can show a rational basis for their compatibility decision, they will meet the equal protection requirement set forth in *Village of Euclid v. Ambler Realty Co.*, 272 U.S. 365, 395 (1926), that a valid land use restriction bear a substantial relation to the public health, safety, morals or general welfare. See also *Nectow v. City of Cambridge*, 277 U.S. 183, 188 (1928) (zoning regulations must bear substantial relation to public health, safety, morals or general welfare); *Associated Home Builders v. City of Livermore*, 18 Cal. 3d 582, 604, 557 P.2d 473, 485, 135 Cal. Rptr. 41, 53 (1976) (ordinance restricting use of land constitutionally valid when reasonably related to public welfare); *Miller v. Board of Pub. Works*, 195 Cal. 477, 490, 234 P. 381, 385 (land use restriction valid when it bears a real or substantial relation to public health, safety, morals or general welfare), *error dismissed*, 273 U.S. 781 (1927).

<sup>25</sup> CAL. GOV'T CODE § 65852.3 (West Supp. 1982), set forth in note 3 *supra*.

<sup>26</sup> For example, single-family dwellings might be permitted in higher density residential zones where the principal permitted use is apartments, condominiums, or duplexes.

these zones.<sup>27</sup> Other communities, however, have amended their zoning ordinances to allow mobile homes in all residential zones in which single-family dwellings are a permitted use.<sup>28</sup>

## II. CONSTITUTIONAL ISSUES

### A. Spot Zoning/Equal Protection

Section 65852.3 poses an important constitutional question of whether the section requires local governments to violate the equal protection clauses of the United States and California constitutions by forcing communities to spot zone.<sup>29</sup> Spot zoning occurs when a small area of land is classified to allow uses that are either more or less restrictive than those permitted in the immediate surrounding area.<sup>30</sup> Spot zoning is valid only when it advances the public health, safety, morals, or general welfare of the community.<sup>31</sup> Therefore, cities and counties may permit additional uses on selected lots located amid more restrictively zoned areas when it reasonably furthers the public welfare.<sup>32</sup>

Section 65852.3 authorizes local governments to specify certain lots for mobile home use. Although the owners of these lots benefit because they may devote their land to a use that is denied others, this does not

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<sup>27</sup> Donabed, *Zoning: Mobilehome, Options and Opportunities*, 57 WESTERN CITY 6, 7 (July 1981).

<sup>28</sup> *Id.*

<sup>29</sup> U.S. CONST. amend. XIV, § 1 provides: "No state shall . . . deny to any person within its jurisdiction the equal protection of the laws." CAL. CONST. art. I, § 7(a) provides that "A person may not be . . . denied equal protection of the laws."

<sup>30</sup> Spot zoning generally arises when a lot or small area is granted benefits or additional land uses that are not extended to other properties in the same zoning district. A. RATHKOPHF, note 4 *supra*, § 26.02, at 26-3. The term, however, is sometimes used to describe the reverse proposition, i.e., when more restrictions are placed on a lot or small area than on other surrounding properties. *Id.* at 26-4; e.g., *Wilkins v. City of San Bernardino*, 29 Cal. 2d 332, 340-41, 175 P.2d 542, 548-49 (1946) (spot zoning occurs when a small parcel is restricted and given fewer rights than surrounding properties).

<sup>31</sup> E.g., *Feraut v. City of Sacramento*, 204 Cal. 687, 696, 269 P. 537, 541 (1928) (permitting small areas scattered throughout residential sections to be zoned for business uses did not constitute invalid system of zoning); *Harris v. City of Piedmont*, 5 Cal. App. 2d 146, 152, 42 P.2d 356, 359 (1st Dist. 1935) (creating small zones throughout the city frequently consisting of a single lot did not invalidate zoning ordinance). See also A. RATHKOPHF, note 4 *supra*, at 26-2.

<sup>32</sup> A. RATHKOPHF, note 4 *supra*, at 26-2; see also *Hamer v. Town of Ross*, 59 Cal. 2d 776, 783, 382 P.2d 375, 380, 31 Cal. Rptr. 335, 340 (1963) (spot zoning valid when the zoning classification bears a reasonable relation to public welfare); *Kissinger v. City of Los Angeles*, 161 Cal. App. 2d 454, 460, 327 P.2d 10, 15 (2d Dist. 1958) (spot zoning invalid when rezoning of property is arbitrary and discriminatory).



constitute illegal spot zoning. The mobile home designation does not render a lot inconsistent with surrounding land uses. The designation does not intensify or change the use of a parcel, but merely allows the parcel to be occupied by a single-family dwelling of either conventional or mobile home design.<sup>33</sup> Moreover, specifying some lots for mobile home use arguably will advance the public welfare by providing a less expensive alternative to site-built single-family housing.<sup>34</sup> For these reasons, cities and counties may lawfully designate some, but not all, single-family lots for mobile home use.

Additionally, the statute does not sanction discrimination against owners whose lots are not designated for mobile homes. Equal protection is not denied when there are rational differences between the lots to justify the differential treatment.<sup>35</sup> For example, a lot might not be designated for mobile home use because a mobile home could not be placed on it without violating the setback requirements of a community.<sup>36</sup> Prohibiting mobile homes on these lots does not constitute discrimination because the prohibition is based upon some distinction or rational difference that makes these lots unsuited for mobile home use.

### B. Restrictive Covenants

A second constitutional question is the effect of Section 65852.3 on restrictive covenants that prohibit mobile homes or trailers on lots within a subdivision.<sup>37</sup> Private deed restrictions prohibiting uses normally allowed under less restrictive zoning ordinances have been upheld by the courts of California and other states.<sup>38</sup>

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<sup>33</sup> Modern mobile homes may be built to resemble conventionally built homes in both appearance and design. See note 4 *supra*.

<sup>34</sup> See note 54 *infra*.

<sup>35</sup> See *Reynolds v. Barrett*, 12 Cal. 2d 244, 251, 83 P.2d 29, 33 (1938) (city may not restrict property to residential use when property consists of a single lot surrounded by business property and no rational basis exists for the residential classification).

<sup>36</sup> CALIFORNIA DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT, note 22 *supra*, at 4.

<sup>37</sup> Under California law, a building restriction in a deed constitutes property. Therefore, the owner benefited by the restriction is entitled to compensation whenever damage results from a violation of the restriction. *Southern Cal. Edison Co. v. Bourgerie*, 9 Cal. 3d 169, 171, 507 P.2d 964, 965, 107 Cal. Rptr. 76, 77 (1973).

<sup>38</sup> See, e.g., *Seaton v. Clifford*, 24 Cal. App. 3d 46, 52, 100 Cal. Rptr. 779, 782 (2d Dist. 1972) (maintenance of home for six mentally retarded persons permitted by zoning but enjoined because property was subject to restrictive covenant limiting it to residential purposes); *Mullally v. Ojai Hotel Co.*, 266 Cal. App. 2d 9, 12, 71 Cal. Rptr. 882, 884 (2d Dist. 1968) (construction of tennis courts permitted by zoning but enjoined because property was subject to restrictive covenant limiting it to single-family

Although Section 65852.3 should have no effect on valid covenants prohibiting mobile homes in a subdivision, these covenants may not necessarily preclude mobile homes. Courts will not enforce restrictive covenants when conditions within and around the subdivision have so changed as to make it impossible to achieve the goals or benefits originally sought by the covenant.<sup>39</sup> The classic example involves a residential area that evolves into a business district; in such a case, a covenant restricting a tract to residential use will not be enforced.<sup>40</sup> Therefore, a covenant prohibiting mobile homes should be unenforceable when a substantial number of mobile homes have been placed within or around a subdivision. Under these circumstances, it would be unfair to enforce the covenant because the benefit of the restriction would have been previously destroyed.

In addition, restrictive covenants are unenforceable if they violate constitutional provisions or public policy.<sup>41</sup> In California, however, this

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dwellings); *Rice v. Heggy*, 158 Cal. App. 2d 89, 92, 322 P.2d 53, 54-55 (2d Dist. 1958) (rezoning property to allow sanitariums did not permit establishment of the same because property was subject to private restriction prohibiting sanitariums). For cases from other jurisdictions, see 20 AM. JUR. 2D *Covenants, Conditions, and Restrictions* § 277 nn.1-16 (1965).

<sup>39</sup> *E.g.*, *Wolff v. Fallon*, 44 Cal. 2d 695, 284 P.2d 802 (1955) (covenant which restricted property to single-family dwellings not enforced because of changed conditions of commercial encroachment and increased traffic within and around residential tract); *Hurd v. Albert*, 214 Cal. 15, 23, 3 P.2d 545, 548 (1931) (covenant which restricted property to residential purposes not enforced because of changed conditions of increased traffic within the restricted tract and altered character of adjacent area).

<sup>40</sup> *See, e.g.*, *Hurd v. Albert*, 214 Cal. 15, 23, 3 P.2d 545, 548 (1931). In *Hurd*, a covenant restricting a tract to residential purposes was not enforced because changes had occurred in the area since the covenant was imposed upon the tract. The changes included an increase in vehicular traffic within the tract and alterations in the character of the area surrounding the tract from residential to business, apartment house, and flat-building section. The California Supreme Court concluded that:

[E]quity courts will not enforce restrictive covenants by injunction in a case where, by reason of a change in the character of the surrounding neighborhood, not resulting from a breach of the covenants, it would be oppressive and inequitable to give the restriction effect, as where the enforcement of the covenant would have no other result than to harass or injure the defendant, without benefiting the plaintiff.

*Id.*; see also note 39 *supra*.

<sup>41</sup> *E.g.*, *Cummings v. Hokr*, 31 Cal. 2d 844, 845, 193 P.2d 742, 743 (1948) (courts will not enforce covenants restricting use of property to Caucasians as enforcement would deny to non-Caucasians equal protection of the laws); *Los Angeles Terminal Land Co. v. Southern Pac. R.R. Co.*, 136 Cal. 36, 42, 68 P. 308, 310 (1902) (buyer and seller of real estate, in absence of fraud or mistake, are bound by their personal covenant prohibiting use of property as a ferry landing if the covenant is not against

principle has been applied mostly in cases involving racially discriminatory deed restrictions.<sup>42</sup> There are no reported California decisions in which a covenant has been held unenforceable because it violated a state policy.<sup>43</sup> Thus, it is unlikely that a California court, on public policy grounds, would invalidate restrictive covenants entered into before the effective date of Section 65852.3.<sup>44</sup>

### III. THE POTENTIAL OF SECTION 65852.3 FOR INCREASING THE SUPPLY OF AFFORDABLE HOUSING

Section 65852.3 became operative on July 1, 1981.<sup>45</sup> Despite numerous inquiries from interested parties, local governments have received few applications to install mobile homes on single-family lots.<sup>46</sup> Un-

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public policy); *Barrows v. Jackson*, 112 Cal. App. 2d 534, 538, 247 P.2d 99, 102 (2d Dist. 1952), *aff'd*, 346 U.S. 249, *reh'g denied mem.*, 346 U.S. 841 (1953) (court enforcement of covenant restricting property to use by Caucasians denies non-Caucasians equal protection of the laws).

<sup>42</sup> See, e.g., *Cumings v. Hokr*, 31 Cal. 2d 844, 193 P.2d 742 (1948); *Barrows v. Jackson*, 112 Cal. App. 2d 534, 247 P.2d 99 (2d Dist. 1952), note 41 *supra*. In 1961, the California Legislature invalidated racially restrictive covenants in deeds by adding Section 53 to the California Civil Code.

<sup>43</sup> In November 1980, The Legislative Counsel of California stated: "In no instance have we found a reported decision in California where a restrictive covenant was not enforced because it was inconsistent with an articulated state policy." LEGISLATIVE COUNSEL OF CALIFORNIA, *MOBILEHOMES: ZONING: RESTRICTIVE COVENANTS* 5 (Nov. 17, 1980) (copy on file at U.C. Davis Law Review office). Since that time, there have been no reported California cases in which a covenant was invalidated for violating state policy.

<sup>44</sup> One commentator concludes that covenants entered into before July 1, 1981 should not be affected by Section 65852.3 because there is no clearly enunciated public policy or constitutional provision in the statute that would void covenants prohibiting mobile homes. Keiser, *Mobilehomes and Residential Zoning — A Review of 1980 Legislative Revisions: SB 1960 (Rains)*, in LEAGUE OF CALIFORNIA CITIES, *PROCEEDINGS, CITY ATTORNEYS' DEPARTMENT, ANNUAL CONFERENCE* 8 (Oct. 1981) (copy on file at U.C. Davis Law Review office). Moreover, covenants entered into on or after July 1, 1981 should be valid because the statute affects only the zoning authority of local agencies and does not purport to preclude private prohibitions against the placement of mobile homes. Hence, covenants entered into before and after July 1, 1981 should not be affected. *Id.*

<sup>45</sup> 1980 CAL. STAT. 3690, ch. 1142, § 3.

<sup>46</sup> In a survey conducted during August 1981 of 30 randomly selected California cities, only two of the 23 responding cities reported applications to place a mobile home in a residential zone under the authority of Section 65852.3. The two cities were Santa Rosa and Vacaville. The other responding cities included: Anaheim, Barstow, Burbank, Carlsbad, Chula Vista, Concord, Costa Mesa, El Monte, Fairfield, Fresno, Fullerton, Hayward, Palm Springs, Petaluma, Pomona, Redding, Redwood City, Sacramento,

doubtedly, high mortgage interest rates are partly responsible for this inactivity (and for the declining home construction market generally).<sup>47</sup>

It is unlikely, however, that lower interest rates will substantially increase the number of applications. In fact, several indicators suggest that the statute will not appreciably increase the supply of moderately priced housing in California. First, statistics demonstrate that Californians have shown little interest in factory-built housing<sup>48</sup> appropriate for installation on single-family lots. In 1980, when localities largely restricted mobile homes to mobile home parks,<sup>49</sup> over 14,000 new mobile homes were purchased compared to only 368 new factory-built homes.<sup>50</sup> One can infer from these statistics that Californians would rather buy a mobile home and rent space in a mobile home park than buy a lot and install a similarly priced factory-built home.<sup>51</sup> For this reason, the additional land made available by Section 65852.3 for mobile homes will not in itself cause Californians to become interested in permanently installed mobile homes. Second, mobile homes on permanent foundations may not provide a real opportunity to own "affordable" housing. A medium quality 1,430 square foot mobile home sells for about \$35,000.<sup>52</sup> Higher quality units with more floor space sell for \$60,000 to \$70,000.<sup>53</sup> Moreover, these figures do not include all of the costs that comprise the final purchase price and that ultimately make the cost of a mobile home closer to that of a conventional site-built home.<sup>54</sup>

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Salinas, San Diego, and Stockton. Keiser, note 44 *supra*, at B-1, B-2 app.

<sup>47</sup> For a discussion of the high interest rates and the decline in housing construction during the late 1970's and early 1980's, see U. S. PRESIDENT'S COMMISSION ON HOUSING, THE REPORT OF THE PRESIDENT'S COMMISSION ON HOUSING, xx-xxii (1982).

<sup>48</sup> Factory-built houses are generally produced by the same manufacturers who build mobile homes. Differences in construction standards generally add \$1,000 to \$5,000 to the price of a factory-built home over that of a mobile home. R. Anderman, note 4 *supra*, at 6.

<sup>49</sup> See text accompanying note 15 *supra*.

<sup>50</sup> R. Anderman, note 4 *supra*, at 9.

<sup>51</sup> On the other hand, the small number of factory-built houses installed in California communities conceivably could be due to local prohibition against factory-built homes.

<sup>52</sup> R. Anderman, note 4 *supra*, at 26.

<sup>53</sup> *Id.*

<sup>54</sup> The mobile home buyer must also pay for the cost of the land, foundation, garage, on-site and off-site improvements, development fees and other miscellaneous expenses. An illustration of the difference in price between a site-built home and a similar size mobile home on the same lot is given below.

## IV. NEEDED CHANGES AND AN ALTERNATIVE APPROACH

Several changes are needed if Section 65852.3 is to increase the supply of affordable housing. First and foremost is a reduction in the costs associated with placing a mobile home on an individual lot. One method for reducing costs is to further restrict local government's authority to regulate the design of mobile homes.<sup>55</sup> In this way, the added expense caused by regulations requiring architectural additions would be reduced and an owner would pay less for his home. Such an amendment, however, would probably be resisted by local governments who would oppose further restriction of their authority to regulate mobile homes.<sup>56</sup>

Comparative Cost for a 1,430 Square Foot Home  
(3-Bedroom, 2-Bath) on a Permanent Foundation  
Located on a 6,000 Square Foot City Lot  
In a New Subdivision

	<u>Mobile Home</u>	<u>Site-Built Home</u>
Land	\$10,000	\$10,000
Off-Site Improvements	8,000	8,000
Site Improvements	2,500	2,500
Foundation System	2,500	n/a
House (delivered to site)	35,000	57,200
Financing and Overhead	2,500	3,000
Set Up	2,500	n/a
Garage (site-built)	5,000	Included
Permit and Development Fees	2,100	2,500
Developer Profit*	<u>5,000</u>	<u>5,000</u>
Total	\$75,100	\$88,200

\*In addition to mark-up included in land, improvement, and house costs.

R. Anderman, note 4 *supra*, at 27.

Although the difference between total costs in the above illustration is significant, it seems doubtful that mobile homes represent "affordable housing," particularly for many urban areas where lot prices greatly exceed the \$10,000 figure used in the illustration. Land cost, profit, development fees and other expenses may vary widely between areas. *Id.* at 26. One expert, for example, estimates that in the Sacramento metropolitan area a permanently attached mobile home will cost only \$3,000 to \$5,000 less than a similar size site-built home. Address by Lester Smith, City Planner, League of California Cities Annual Conference (Oct. 1981) (copy on file at U.C. Davis Law Review office). Moreover, assuming a 90%, thirty year mortgage at 16%, the monthly payment for the mobile home in the above illustration would be about \$909 versus \$1,067 for the site-built home. R. Anderman, note 4 *supra*, at 27. It seems unlikely that the demand for mobile homes placed upon single-family lots will increase unless the cost can somehow be reduced.

<sup>55</sup> See notes 19-20 and accompanying text *supra*.

<sup>56</sup> See note 8 *supra*.

Another change involves clarifying an ambiguous provision of the statute, which provides that cities and counties may not prohibit mobile homes "on lots zoned for single-family dwellings."<sup>57</sup> This language has been interpreted in several ways.<sup>58</sup> It is unclear whether it refers to all zones in which single-family dwellings are allowed or only to those zones in which single-family dwellings are the principal permitted use. Section 65852.3 should be amended to apply to all zones in which single-family dwellings are either a primary or secondary permitted use. A broader reading of the statute, which would allow mobile homes in all zones permitting single-family dwellings, would further the statute's objective of offering affordable housing to Californians by making more land available for mobile homes.<sup>59</sup> In this way, communities that have narrowly interpreted the statute<sup>60</sup> would be required to amend their zoning ordinances to allow mobile homes in all zones permitting single-family dwellings.

A third change consists of eliminating private deed restrictions that prohibit mobile homes or trailers in a subdivision.<sup>61</sup> Although this could be remedied by legislation invalidating such restrictions, the legislation would raise several constitutional questions. First, both the United States and California constitutions contain provisions prohibiting the state from passing laws that impair the obligations of contracts.<sup>62</sup> Second, both constitutions prohibit deprivation of property without due process of law.<sup>63</sup>

A statute invalidating private deed restrictions against mobile homes can be sustained only if the impairment of contractual obligations and property rights is reasonable and necessary to serve an important public purpose.<sup>64</sup> An invalidation statute would seek to increase the supply of

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<sup>57</sup> CAL. GOV'T CODE § 65852.3 (West Supp. 1982), set forth in note 3 *supra*.

<sup>58</sup> See notes 25-28 and accompanying text *supra*.

<sup>59</sup> See note 6 *supra*.

<sup>60</sup> See notes 27-28 and accompanying text *supra*.

<sup>61</sup> See notes 37-44 and accompanying text *supra*.

<sup>62</sup> U.S. CONST. art. I, § 10 provides: "No state shall . . . pass any . . . Law impairing the Obligation of Contracts . . ." CAL. CONST. art. I, § 9 (formerly CAL. CONST. art. I, § 16) provides "A . . . law impairing the obligation of contracts may not be passed."

<sup>63</sup> U.S. CONST. amend. XIV, § 1 provides: "No State shall . . . deprive any person of life, liberty, or property, without due process of law . . ." CAL. CONST. art. I, § 7(a) provides: "A person may not be deprived of life, liberty, or property without due process of law . . ." Under California law, a building restriction in a deed constitutes property. See note 37 *supra*.

<sup>64</sup> Both the United States and California Supreme Courts have upheld statutes that impair contractual obligations as valid exercises of the police power. In *Home Bldg. &*

moderately priced housing by removing the restrictions that reduce the effectiveness of Section 65852.3. The issue, then, is whether this purpose would be sufficiently important to justify the invalidation of these restrictions. In deciding this issue, a court balances the public benefit to be derived from invalidation against the harm that would befall covenant holders.<sup>65</sup> If the public benefit outweighs the harm to covenant

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*Loan Ass'n v. Blaisdell*, 290 U.S. 398 (1934), the United States Supreme Court upheld a Minnesota statute permitting state courts to extend the period of redemption from a mortgage foreclosure. The Court concluded that the statute did not violate the contract clause of the federal Constitution. The Court explained that the contract clause does not proscribe all impairment of contract. The constitutional provision is not absolute and is "not to be read with literal exactness like a mathematical formula." *Id.* at 428. The state's police power remains supreme because a legislative body "cannot bargain away the public health or the public morals." *Id.* at 436.

Similarly, in *Donlan v. Weaver*, 118 Cal. App. 3d 675, 683, 173 Cal. Rptr. 566, 570 (4th Dist. 1981) a California court of appeal upheld a statute allowing unilateral termination of a leasehold right by the owner of land on which there is an oil and gas lease. Under Section 772.030 of the California Civil Procedure Code, the owner may terminate the lessee's right of entry to, or occupation of, the surface area of the leasehold land. The court held that the statute did not unconstitutionally impair the obligations of contracts because the impairment was small and the state interest substantial. Termination was permitted only on a showing that it would not significantly interfere with the lessee's right to conduct operations for the continued production of oil beneath the surface. Moreover, the state's interest in encouraging the proper development and use of fallow land in urban areas and of eliminating attendant social and economic blight greatly outweighed the interference with the lessee's vested rights. *Id.*

The courts, however, have recognized that the police power is sometimes not enough to justify contractual impairment. In *Sonoma County Org. of Pub. Employees v. County of Sonoma*, 23 Cal. 3d 296, 591 P.2d 1, 152 Cal. Rptr. 903 (1979), the California Supreme Court invalidated a statutory provision that cancelled certain agreements between local public agencies and their employees. The statute, Section 16280 of the Government Code, nullified agreements providing for employee cost of living increases in excess of that given to state employees. The court concluded that the provision was invalid as an impairment of contract in violation of both federal and state constitutions. *Id.* at 314, 591 P.2d at 11, 152 Cal. Rptr. at 913. The court held that the impairment was severe and that the state had not met its burden of establishing the existence of a fiscal crisis on which it relied for justification of impairment. *Id.* at 309, 311, 591 P.2d at 7, 8, 152 Cal. Rptr. at 909, 911.

California courts have recognized a similar limitation on the due process clause, which does not completely preclude interference with vested property rights. Interference is permitted under the police power whenever reasonably necessary to protect the public health, safety, morals or general welfare. This principle was recognized and applied in *In Re Marriage of Bouquet*, 16 Cal. 3d 583, 593, 546 P.2d 1371, 1376, 128 Cal. Rptr. 427, 432 (1976) (state's interest in equitable dissolution of marriage relationship justifies divestiture of wife's property rights) *Id.* at 594, 546 P.2d at 1378, 128 Cal. Rptr. at 434.

<sup>65</sup> See, e.g., *State v. Marin Mun. Water Dist.*, 17 Cal. 2d 699, 706, 111 P.2d 651,

holders, the court will uphold the invalidation statute as a reasonable exercise of the police power.<sup>66</sup> Here, the harm to covenant holders would be minimal because recent advancements in the design of mobile homes make them aesthetically compatible with site-built homes.<sup>67</sup> The potential harm to covenant holders is further reduced by the imposition of development and architectural standards on mobile homes under Section 65852.3.<sup>68</sup> Thus, the harm to covenant holders is slight, and is outweighed by the public purpose which an invalidation ordinance seeks to serve. Therefore, a statute invalidating private deed restrictions against mobile homes is constitutional and should be sustained.

The problem posed by covenants against mobile homes may be resolved in still another way, without legislative intervention. In a 1975 opinion, the California Attorney General concluded that when a mobile home is permanently attached to a foundation and modified to conform to all applicable building and land use requirements for residential buildings, it ceases to be a mobile home.<sup>69</sup> Similarly, in the recent case of *Heath v. Parker*,<sup>70</sup> the New Mexico Supreme Court concluded, as have the courts of other states,<sup>71</sup> that a permanently installed mobile home did not violate a restrictive covenant prohibiting "trailers" in a certain subdivision.<sup>72</sup> Therefore, in the absence of legislation that would

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655 (1947).

<sup>66</sup> *Id.*

<sup>67</sup> See note 4 *supra*.

<sup>68</sup> CAL. GOV'T CODE § 65852.3 (West Supp. 1982), set forth in note 3 *supra*.

<sup>69</sup> 58 Op. Cal. Att'y Gen. 660, 663 (1975); see also 61 Op. Cal. Att'y Gen. 309, 311 (1978).

<sup>70</sup> 93 N.M. 680, 604 P.2d 818 (1980).

<sup>71</sup> See note 72 *infra*.

<sup>72</sup> In *Heath*, defendant Parker purchased two lots in a subdivision and installed a new, double wide mobile home on a permanent foundation. The 3-bedroom, 2-bath home included 1,440 square feet of floor area. Parker added a conventional style asbestos shingle roof and aluminum siding to the structure. In addition, he constructed a patio, porch, garage, and sidewalks. *Id.* at 680-681, 604 P.2d at 818-819.

Twelve subdivision lot owners sued Parker, seeking to enforce the restriction against "trailers" in the subdivision. The sole issue before the court was whether the mobile home was a "trailer." In a unanimous decision, the court concluded that the mobile home was "substantially the same as a conventional one-family dwelling" and therefore did not violate the covenant. The court explained that the covenant was obviously designed to preserve the residential character of the neighborhood by preventing the use of temporary structures as homes, and that the covenant did not specifically prohibit the type of home that Parker placed upon his lots. The court observed that it was difficult to conceive of Parker's mobile home as a temporary structure or trailer; the mobile design of the home was not controlling. The court commented further that with modern equipment and ingenuity, even brick buildings could be removed and transported to



invalidate deed restrictions against mobile homes, the courts can decide when a mobile home installed on a foundation ceases to be a mobile home. Legislative action, however, is preferable because it would give a property owner advance notice of his right to install a mobile home on a lot before he actually does so, thereby eliminating the risk and expense of having to remove the home later.

An alternative to Section 65852.3 would focus on increasing the availability of land for mobile home parks. Generally, a mobile home is most affordable when it is placed in a mobile home park with a low monthly space rent.<sup>73</sup> Living in low rent parks is less expensive than living in mobile homes on single-family lots because park residents often are not required to comply with development and design standards imposed in areas zoned for single-family dwellings.<sup>74</sup> Additionally, residential densities are generally higher in mobile home parks than in single-family residential zoning districts,<sup>75</sup> thereby allowing more cost-efficient use of comparably priced land.

The current shortage of mobile home parks in California<sup>76</sup> may be remedied by legislation encouraging or requiring local governments to zone more land for mobile home parks. Furthermore, the Legislature could require cities and counties to adopt local rent control ordinances for mobile home parks. In this way, additional spaces at reasonable

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another site. *Id.* at 682, 604 P.2d at 820. See also *Your Home, Inc. v. City of Portland*, 432 A.2d 1250, 1258 (Me. 1981) (dictum) (mobile home used as residence could come within definition of "one-family dwelling"); *Manley v. Draper*, 44 Misc. 2d 613, 615-17, 254 N.Y.S.2d 739, 740-43 (1963) (mobile home installed on foundation and equipped with water and electricity from external sources did not violate deed restriction prohibiting trailers); *Hussey v. Ray*, 462 S.W.2d 45, 47-48 (Tex. Civ. App. 1970) (mobile home completely converted into permanent residence and equipped with all conveniences and attributes of modern single-family dwelling did not violate deed restriction prohibiting trailers and temporary structures).

<sup>73</sup> R. Anderman, note 4 *supra*, at 28.

<sup>74</sup> Mobile home parks have not been subject to the various controls such as density standards and setback requirements typically placed on conventional single-family dwellings. A. BERNHARDT, note 7 *supra*, at 346.

<sup>75</sup> The typical number of single-family dwellings per acre is three. This compares to a typical figure of six mobile homes per acre. *Id.* at 249.

<sup>76</sup> The shortage of mobile home parks was recognized by the California Legislature in 1981 when it adopted Senate Bill No. 484 (SB 484). Section 1 of SB 484 states: "The Legislature finds and declares that an intensifying shortage of mobilehome park spaces in many areas of the state degrades the quality of life of many Californians now living in mobilehome parks, and narrows the housing options open to many other Californians who cannot afford conventional-single-family homes." 1981 Cal. Stat. 3588, ch. 974, § 1. For a discussion of SB 484, see text accompanying note 78, and notes 79-80 and accompanying text *infra*.

rates would be available to mobile home owners. Until more land is made available for mobile home parks, many Californians will be excluded from home ownership and its attendant benefits: appreciation,<sup>77</sup> potential tax advantages, and the intangible satisfaction that accompanies home ownership.

The Legislature is aware of the need for additional mobile home parks. Indeed, in 1981 it passed Senate Bill 484 (SB 484)<sup>78</sup> which permits mobile home parks on all land planned and zoned for residential use, subject only to local use permit requirements.<sup>79</sup> Thus, applications for mobile home parks may no longer be summarily dismissed without a hearing.<sup>80</sup> Although SB 484 falls short of requiring communities to allow mobile home parks in residential zones, it may ultimately prove to be a stepping stone to that end.

In summary, the supply of affordable housing can be increased by: (1) reducing the costs associated with placing a mobile home on an individual lot; (2) amending Section 65852.3 to apply to all residential zones in which single-family dwellings are either a primary or secondary permitted use; (3) adopting legislation that would invalidate restrictive covenants prohibiting mobile homes and trailers in a subdivision; and, (4) requiring local governments to zone more land for mobile home parks within their boundaries. These proposals will further the statute's objective by eliminating barriers that currently prevent the placement of more mobile homes in California communities.

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<sup>77</sup> Between 1977 and 1980, the average mobile home in California appreciated 11% per year. R. Anderman, note 4 *supra*, at 31.

<sup>78</sup> Senate Bill 484 added § 65852.7 to the California Government Code and § 18551.1 to the California Health and Safety Code. In addition, it amended, repealed, and added portions to § 18300 of the Health and Safety Code. See note 76 *supra*, and notes 79-80 and accompanying text *infra*.

<sup>79</sup> Local governments, however, may choose to allow mobile home parks in residential zones without a use permit. Senate Bill 484 adds that a city, including a charter city, county, or city and county, may not require the average density of a new mobile home park to be less than that permitted by the zoning ordinance for "other affordable housing forms." CAL. HEALTH & SAFETY CODE § 18300(h)(1) (West Supp. 1982). The statute added by SB 484, however, fails to define the phrase "other affordable housing."

Senate Bill 484 also adds that a city, including a charter city, county, or city and county, shall not require a new mobile home park to include a clubhouse. CAL. HEALTH & SAFETY CODE § 18300(h)(2) (West Supp. 1982). Recreational facilities and improvements, however, may be required, but only to the extent that they are required in other types of residential developments containing a like number of units. *Id.* Sections 18300(h)(1) and 18300(h)(2) are in effect until January 1, 1988 unless extended by the Legislature.

<sup>80</sup> CAL. GOV'T CODE § 65901 (West Supp. 1982).

## CONCLUSION

No one can expect Section 65852.3 to be a panacea for California's housing ills. During the past decade, various factors have contributed to the dramatic surge in housing prices: the cost of land, labor, materials, and financing have all increased.<sup>81</sup> The housing problem cannot be adequately addressed by simply making more land available for mobile homes in areas zoned for single-family dwellings. Local governments must be encouraged or required to provide more land for mobile home parks charging low monthly rent.<sup>82</sup> In this way, mobile homes may provide more Californians with affordable housing.

Section 65852.3 will not increase the supply of affordable housing in California by an appreciable amount. It does, however, indicate that the Legislature is aware of the shortage and that the lawmakers are willing to address the problem. For this reason, Section 65852.3 and other legislation<sup>83</sup> may be viewed as indicators of further activity by the Legislature as it struggles with California's worsening housing problem.

*Gerald L. Hobrecht*

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<sup>81</sup> See note 1 *supra*.

<sup>82</sup> See notes 73-76 and accompanying text *supra*.

<sup>83</sup> See text accompanying notes 78-80 *supra*.

