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FILED

AUG 28 2018

Clerk of the Court
Superior Court of CA County of Santa Clara
BY M. J. [Signature] DEPUTY

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA**

MARIEL BOLHOUSE and TIM LARSON,

Petitioners,

v.

RENTAL HOUSING COMMITTEE, a municipal
body, CITY OF MOUNTAIN VIEW, and Does 1
through 50, inclusive

Respondents.

V.O. Limited Partners, a California limited
Partnership, and V.G. Investments, a California
Limited Partnership,

Intervenors.

Case No. 18CV325875

ORDER RE: PETITION FOR
ALTERNATIVE WRIT OF MANDATE

Petitioners Mariel Bolhouse and Tim Larson's ("Petitioners") petition for alternative writ of mandate came on for hearing before the Honorable Mark Pierce on August 21, 2018, at 9 a.m. in Department 2. The matter having been submitted, the Court orders as follows:

The petition for an alternative writ of mandate filed by Petitioners pursuant to Code of Civil Procedure section 1085 is DENIED.

With the instant petition, Petitioners request that the Court compel respondent Rental Housing Committee (the "RHC") to (a) establish rules and regulations necessary to apply the protections of the Community Stabilization and Fair Rent Act (the "CSFRA" or the "Act") to

1 mobile homes and mobile home lots, (b) rescind the February 26, 2018 resolution of the RHC
2 providing that the CSFRA does not apply to mobile homes and mobile home lots and (c) vacate
3 the denial of Petitioners' February 12, 2018 Petition for Downward Rent Adjustment.
4 Petitioners, however, fail to meet the required standard which entitles them to the relief that they
5 seek.
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7 In order to obtain writ relief, a petitioner seeking traditional mandamus must show "(1) A
8 clear, present and usually ministerial duty on the part of the respondent ...; and (2) a clear,
9 present and beneficial right in the petitioner to the performance of that duty" (*Santa Clara*
10 *County Counsel Attys. Assn. v. Woodside* (1994) 7 Cal.4th 525, 539-540 [internal citation and
11 quotations omitted].) A ministerial act is an act that "a public officer is required to perform in a
12 prescribed manner in obedience to the mandate of legal authority and without regard to his own
13 judgment or opinion ... when a given set of facts exist." (*People ex rel, Fund American*
14 *Companies v. California Insurance Company* (1974) 43 Cal.App.3d 423, 431.) The court may
15 not issue a writ of mandate to control the respondent's exercise of discretion, but *only* to ensure
16 that the respondent's ministerial duties have been fulfilled. (See *Citizens for Odor Nuisance*
17 *Abatement v. City of San Diego* (2017) 8 Cal.App.5th 350, 365-366.) Mandate may not be issued
18 to compel action unless it is shown that the duty to take this action is plain and unmixed with
19 discretionary power or the exercise of judgment. (*California High-Speed Rail Auth. v. Superior*
20 *Court* (2014) 228 Cal.App.4th 676, 715.)
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24 The Court agrees with Respondents that whether the CSFRA applies to mobile homes
25 and mobile home lots is, based on the text of the Act, at best ambiguous. It was therefore within
26 RHC's discretion to determine whether or not the CSFRA so applied and to establish rules or
27 regulations where applicable. RHC exercised such discretion in February 2018, ultimately
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1 declining to apply CSFRA to mobile home residents. Consequently, the Court's review of
2 RHC's determination as to the scope of the CSFRA is limited to an inquiry into whether the
3 foregoing determination was arbitrary, capricious, or entirely lacking in evidentiary support.
4 (See *Walker v. City of San Clemente* (2015) 239 Cal.App.4th 1350, 1369.) When reasonable
5 minds can differ as to the wisdom of an agency's action, the court must uphold its determination.
6 (*Marlton Recovery Partners, LLC v. County of Los Angeles* (2015) 242 Cal.App.4th 510, 517.)
7 Consequently, as respondents RHC and the City of Mountain View maintain, Petitioners cannot
8 succeed on their petition merely by offering a reasonable alternative interpretation of the
9 CSFRA. Instead, they must demonstrate that RHC's interpretation is so fundamentally flawed
10 that it is "palpably unreasonable and arbitrary." (*San Francisco v. Boyd* (1943) 22 Cal.2d 685,
11 690.) Here, they fail to do so, and the Court finds that RHC's interpretation of the CSFRA as not
12 applying to mobile home renters is reasonable, based on review of the plain language of the Act
13 (particularly its definition of "Rental Units"), the absence of express references therein to mobile
14 home renters and conflicts between portions of the Act and California Mobilehome Residency
15 Law. Accordingly, there is no basis to award Petitioners the relief they seek and their petition is
16 denied.
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21 AUG 28 2018

22 Date: _____

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23 Mark Pierce
24 Judge of the Superior Court
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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA
DOWNTOWN COURTHOUSE
191 NORTH FIRST STREET
SAN JOSÉ, CALIFORNIA 95113
CIVIL DIVISION

RE: **Mariei Bolhouse et al v. Rental Housing Committee, et al**
Case Number: **18CV325875**

PROOF OF SERVICE

Order on Submitted Matter was delivered to the parties listed below the above entitled case as set forth in the sworn declaration below.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line (408) 882-2690 or the Voice/TDD California Relay Service (800) 735-2922.

DECLARATION OF SERVICE BY MAIL: I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on August 28, 2018. CLERK OF THE COURT, by Mai Jansson, Deputy.

cc: Armen Necess Necessian 801 California St Mountain View CA 94041
Margaret Rose Prinzing 1901 Harrison St Ste 1550 Oakland CA 94612
Anthony Charles Rodriguez 1425 Leimert Blvd #101 Oakland CA 94602