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November/December 2009

See Page Two

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#### THE CALIFORNIAN (USPS 898-320)

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#### About the Cover ....

As briefly reported in the previous issue of the Californian, the U. S. Ninth Circuit Court of Appeal has ruled against the City of Goleta's Rent Stabilization Ordinance. In many respects, the case proceeded to the Federal Court below our "radar". The alarming decision by the Federal Court has thrust this case onto the center of our radar screen because of the potential impacts of the decision. The following report on the case is written by GSMOL Corporate Counsel Bruce Stanton.

### MOBILEHOME RENT PROTECTIONS UNDER ATTACK

GOLETA MOBILEHOME RENT ORDINANCE RULED A "TAKING" BY 9TH CIRCUIT FEDERAL COURT GSMOL AND CALIFORNIA LEAGUE OF CITIES FILE BRIEFS IN SUPPORT CITY OF GOLETA'S REQUEST FOR RE-HEARING BE-FORE ENTIRE APPEALS COURT PANEL

#### BY BRUCE STANTON, GSMOL CORPORATE COUNSEL

Mobilehome rent ordinances are under extreme attack once again, thanks to a Federal court decision issued on September 28, 2009 by the U.S. Ninth Circuit Court of Appeal. By a 2-1 majority, a three-judge panel of the Court has held that the City of Goleta's mobilehome ordinance constitutes an unlawful "taking" under the Fifth Amendment to the U.S. Constitution, thereby entitling the park owner to claim potentially millions of dollars in compensation. If left to stand, the decision is sure to open the door for attacks on virtually every mobilehome ordinance throughout California, and will serve as great propaganda for park owners in jurisdictions without rent protections to argue that no new ones should be adopted. The mobilehome community has not seen this degree of threat to rent regulation since the infamous 1989 decision in Hall v. Santa Barbara. That case was unanimously overruled three years later by the United States Supreme Court in the case of Yee v. City of Escondido. GSMOL was a prominent force in the effort to throw out Hall, raising \$100,000.00 to support the Supreme Court fight. If this latest attack is to be averted, similar mobilization will need to occur from all California mobilehome owners. GSMOL is already acting to organize opposition to this decision, and has begun working with a top-notch legal team to support the City. An emergency request to submit an Amicus (friend of the Court) brief in support of the City was prepared and submitted to the 9th Circuit on October 19th, and permission to file was granted by the court on October 26th. GSMOL will thus have a voice in any upcoming review by the 9th Circuit, should the court choose to do so.

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### President's Report



Tim Sheahan, GSMOL State President

#### Battling in the Capitol, in the Courts and in the trenches

I hope the cover story in the Sep/Oct issue of the Californian was a wake-up call for members without creating too much anxiety. We wanted to demonstrate how some community owners have no scruples whatsoever and that no matter how comfortable we might feel in our current situation, if our communities were to sell to an unscrupulous money-hungry owner, that comfort level could change overnight. It should also remind most of us that we have much for which to be thankful and much to continue to fight to preserve. In addition to our members, the Californian is distributed to all State Legislators and many other elected officials throughout the State who we are constantly trying to educate and make aware of why homeowners need and deserve special governmental protections. The outrageous rent increases we reported should have opened some eyes and illustrated that there is no limit to the greed of some real estate speculators/owners.

As I have reported before, the days of "Mom and Pop" ownership of our communities are rapidly giving way to ownership by wealthy real estate moguls and corporate conglomerates. Their pockets run deep! When they are willing to spend millions trying to defeat local rent stabilization ordinances and pay their hiredgun experts \$650 per hour, as was the case with UC Berkeley professor John M. Quigley PhD, who testified in the Guggenheim v. Goleta case, we realize we need to expand our resources to combat these threats. To remind you, park owners were the interest group to give

the most money to support Proposition 98 last year, contributing over \$4,000,000. One park owner alone contributed nearly one million dollars. Much of that money no doubt started as our rent payments to them. Whether at the Capitol, in the Courts or in individual MH communities, we need to be proactive in standing up for our rights and forming stronger alliances with others who support our position.

### How important is preserving MH rent protections in California to YOU?

Promoting membership is a bit like fund-raising and I feel uncomfortable doing either. As a member, you probably feel bombarded with repeated appeals for support. I ask you to ponder the question, though, especially if you live in one of over 100 jurisdictions with some form of rent control in California, "What does preserving rent "control" mean to me?" I've asked myself the same question and considering I recently received a 90-day notice for a rent increase of \$212.85 per month, or 42.8%, I am very grateful to live in an area subject to rent regulation. Others in my community are facing rent increases as high as \$282.63 per month, or 78.6%, despite a negative inflation rate during the past year in San Diego County. In 2010 alone, if I were to receive the full rent increase of \$212.85/month, I would pay \$2554.20 MORE in lot rent than I paid in 2009. How about you if your rent were to go up by 25%, 50% or 75%? That's what you and your neighbors could be facing if the Guggenheims and the park owner coalition are successful and we lose our rent protections! You would also lose equity in your home with every jump in rent. Park landowners deserve a fair profit but they don't deserve windfall profits. Even homeowners who currently live in areas without rent ordinances would likely see large rent increases if the Guggenheim case is not overturned.

#### Homeowner Defense Fund

The mounting threats in the Capitol and in the Courts mean we need to bolster our financial resources to combat these threats. GSMOL collected roughly \$100,000 to help fight the lawsuit, Yee v. Escondido, in the early nineties that went to the U.S. Supreme Court, where homeowners and rent stabilization ordinances prevailed with a unanimous decision by the Justices. The Guggenheim v. Goleta case might take the same path to the Supreme Court and require a similar level of financial resources to support our position. We will also be facing AB 761 and AB 481 at the Capitol in 2010, which would also affect rents and home values. It takes money to mount resistance to attempts by park landowners to strip us of our protections.

I want to thank the many groups and individuals who have already contributed to this dedicated effort. If you haven't given yet, please give \$5 or more if you can. Remember, consider what you will likely be paying in rent increases if we are not successful in this fight! Just like with membership dues, these contributions are a form of "insurance" to help protect the value of your property and your way of life. If you can't afford to give, identify neighbors or others who can donate and also get them to join GSMOL. They don't have to live in a mobile/manufactured-home community to donate and they can join GSMOL as an Associate member.

If you normally give to our Political Action Committee (PAC), we suggest this year, you use that contribution, and more, for our HOMEOWNER DE-FENSE FUND. The PAC fund is at a sufficient level to serve our needs through the end of next year. We also encourage you to get creative in raising funds. Many of our members collect bottles and cans in their communities and donate that money to GSMOL. Others hold White Elephant sales. We encourage homeowner associations and GSMOL chapters to hold special fund-raisers to generate extra donations to support this effort. Try to get media coverage of your event to explain why captive homeowners/investors need protection.

Finally, I want to wish you all a Merry Christmas, happy holiday season and a great 2010!

### Capitol Report

Lessons Learned in 2009 By Jim Burr, GSMOL Legislative Chair

While reflecting recently on the 2009 legislative year, we thought it might be useful to write another periodic column on our lobbying strategy, wins and losses, and the challenges we face in 2010.

The Governor's veto in September of AB 566 (Nava) was a bitter loss, although not wholly unexpected. Our hand-to-hand combat over legislators' votes to put the bill on the Governor's desk gave us a graphic understanding of the brutal fight that would ensue in the Governor's office over this bill. Outside of the state capitol, we know it seemed ridiculous to support a bill that would simply give mobilehome owners a seat at the table when local governments consider conversions of mobilehome parks to condo ownership, would be so controversial. But the park owners' enormous economic advantage if converting without homeowner's objecinvolvement tions or was overwhelming incentive.

But mobilehome owners had a major incentive too - protecting our homes from condo conversions and the economic evictions after the conversion. So, for the first time in many years, regional and statewide mobilehome owner groups and renter groups banded together. They quickly agreed on a strategy for the Governor's office, chipped in the money to make it happen and implemented the plan immediately. The result was the hand-delivery of more

than 7,000 postcards and pieces of mail to the Governor, urging him to sign AB 566. This was a record after years of comparatively minimal communication. This outpouring of mail put our issue on the radar of the Governor's inner circle of advisors.

At the end of the day, we did not win. The Governor turned his back on us again. But - and this is very important - although we did not win, we positioned ourselves for the fights this year, and announced our refusal to buckle. Our legislative advocacy team heard from many corners of the capitol and the Governor's office about their surprise at our unified and relentless efforts. We did not mail once, call once or appear at hearings only once. We were fighting at each juncture in the legislative process.

Next year, AB 761(Calderon) will require the same level of coordinated work or possibly even more. As nearly all of you know, AB 761 would override local rent control ordinances. And it dictates in state law that mobilehome park spaces are decontrolled at the time the homeowner sells their home. As more and more of us are engaged in local efforts to adopt rent control ordinances, the park owners are attempting to pull the rug out from under us with AB 761.

Last year, the park owners managed to gain sufficient votes to move AB 761 through the Assembly and over to the Senate. AB 761 was eligible to move in the Senate last year, but was not assigned to its policy committee(s) for hearing. We understand from legislative staff that it is unlikely to be heard until the Spring. This schedule provides time for our statewide and regional groups to again organize a concerted effort to kill AB 761 in the Senate. The recent dangerous federal court opinion, which found that mobilehome rent control, is illegal because it "takes" a por-

tion of the value of the park owner's property, will make our fight against AB 761 even more difficult.

2009 has been beneficial in preparing us for the fight that lays before us in 2010. Join us! It's your home. It's your fight!

#### Enforcement Legal Fund (ELF) Success

We are very pleased to report a satisfactory settlement in a law-suit filed on behalf of homeowners at Rancho Grande in Rohnert Park who had been denied use of the clubhouse to host GSMOL and Sonoma County Mobilehome Owners Association (SCMOA) meetings. The ELF paid \$20,000 in legal fees and SCMOA also contributed financially to support the homeowners.

Santa Cruz attorney Will Con-

stantine filed the lawsuit, which was recently settled, allowing homeowners to host meetings and allowing GSMOL to recover the money spent in attorney fees, plus some extra cash. Access to clubhouses so homeowners can assemble and freely communicate is an important right (M.R.L. 798.50, 798.51) and the GSMOL Board of Directors has already authorized the use of additional ELF monies in another instance of denying use of the clubhouse for GSMOL meetings in Dunnigan, CA. If

sistance, let us know and we will assist you.

you are experiencing similar re-

# HOMEOWNERS SCORE BIG WINS IN RECENT COURT CASES



By: Bruce Stanton, MH Specialist Attorney and GSMOL Corporate Counsel

With the announcement this fall of yet another veto by the Governor, a Federal Court decision invalidating the Goleta mobilehome rent ordinance and the prospect of a bitter legislative fight in 2010 to invalidate vacancy control throughout California, the news has been rather grim for mobilehome residents these last few months. But there are some rays of hope and pieces of good news to be shared, as homeowners have recently scored some significant victories in local courts.

#### Fremont Residents Defeat Huge Rent Increase Petition

Besaro Mobilehome Park in Fremont has long been a vibrant and loyal Chapter for GSMOL. Its members have faced a series of rent increase petitions over the past decade, as the park owner both threatens to close the park and has engaged in a systematic legal attack on the Fremont Ordinance. In early 2009, after its most recent Federal Court attack was denied, the park owner noticed a rent increase that would increase all rents in the park to \$895.00. This would amount to a whopping 40% rent increase for some

residents. The residents geared up to fight back, and hired Will Constantine and Bruce Stanton to represent them. They also retained a noted rent control expert and a qualified appraiser to combat the park owner's experts.

The park owner advanced new theories in support of its petition, which was heard over three days in an administrative rent hearing before a judge hired by the City of Fremont. Among them were that only "market" rents (i.e. what park owners could be charging to new residents without rent control) and not actual rents should be used as comparison to determine if the new increase was warranted. But the Ordinance required that existing rents be the measuring stick, and the residents' appraiser was able to establish that the current rent levels were very comparable to other local parks. The park owner next advanced a theory that it should be entitled to a fair return based upon the highest and best use of its property assuming that it was developed as something other than a mobilehome park. But this is never the standard to be used when determining a "fair return on investment", and the residents were able to show that (a) the park's own expert had never used this theory before and (b) that a previous rent increase petition brought by the same park owner in 2001 had only based fair return upon the actual amount invested in the property. Thus, instead of the 2001 investment amount of some \$6 million dollars that was used to find fair return in that case, the park owner was now seeking to base its request for a "fair return" upon an estimated 22 million dollar land value if the park was sold or developed for another use. Then park owner also argued that

its increase was supported by a complex shelter value equivalent theory involving apartments which is too complex to even mention.

Thankfully the hearing officer did not buy any of these theories. She held that the park owner had failed to meet its burden of proving a rent increase under the Ordinance, and found that the rent increase should be exactly zero, zilch, nada...i.e. \$0.00. The decision represents a complete and total victory for the Besaro resieents. Unfortunately, the park owner shall probably go back to court against the City of Fremont, this time trying to use the recently decided Contempo Marin and Goleta cases to overturn the Fremont Ordinance. And so the war in Fremont is probably not over. But a significant battle has been won by residents who organized well, raised a war chest of funds to retain legal help and put on their case. Congratulations to them for their hard work and dedication to protect their rights.

#### Tuolumne County Couple Wins Right to Sell their Mobilehome "In Place"

For Conley and Phyllis Hoofman, the reality that they would not be able to sell their home in the Columbia park where they lived was not even a thought when they decided to relocate to Visalia. At age 84, they needed to be closer to their children. When they found a firm buyer for \$30,000.00 they thought the move would be simple. But their park owner had other ideas. He blocked the sale, and told them that their home was too old to stay in his park.

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### **HOMEOWNERS SCORE BIG WINS IN** RECENT COURT CASES

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Even though termite and health and safety inspections showed that the home was in good shape, the park owner argued that it was a "fire hazard" because it was manufactured before the 1975 Federal HUD manufacturing standards took effect. This position, if correct, would mean that every resident living in a home manufactured before 1975 would ipso facto not be able to sell their home "in place" in the park, and that all such homes could be categorized as "fire hazards". This would have changed the entire industry.

The Hoofmans went to Court to enforce their right to sell "in place" as guaranteed by Civil Code section 798.73 (d). This important section of the Mobilehome Residency Law requires the park owner to bear the burden of showing that the mobilehome in question is "significantly rundown or in disrepair". The residents hired a top notch expert who testified that the 1975 HUD standards were not applicable when the Hoofmans' 1971 home was built, and that it was built to all required standards. The expert also found that their home was well built and in no way a fire hazard. Evidence also showed that the park owner had reached his conclusion on his own. without getting any inspections or expert opinions, had falsely assumed that the home did not have copper wiring, and had actually sold an even older home which he owned in his own park some 14 months earlier without any objection. The residents also obtained the full legislative history of 798.73, which established how the legislature had enacted the "in place" sale protections to prevent what amounted to "resale evictions" of homeowners and their significant investments.

The Superior Court Judge ruled in favor of the Hoofmans, finding that their home was not significantly rundown or in disrepair, that the park owner had failed to meet its burden of showing this, and that the sale of the Hoofmans' home had been interfered with. The court ordered \$30,000.00 to be paid plus all rent and other costs to maintain, improve and sell the home, together with attorney's fees. It is not known if the park owner shall appeal. Although still an unreported case, this decision nonetheless represents an important victory for all mobilehome residents, and is precedent for 798.73 protections.

Tuolumne County Couple Wins Right to Sell their Mobilehome "In Place"

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# MOBILEHOME RENT PROTECTIONS UNDER ATTACK

Continue from page 2

The Goleta decision represents a radical departure from previous Federal Court decisions. These two judges found that when Goleta incorporated as a City in 2002 and adopted the existing 1979 Santa Barbara County mobilehome ordinance, the park owner who purchased the park in 1997 subject to the County ordinance still had "standing" to challenge the City law. This despite previous park owner challenges which were thrown out by the same court when park owners who recently purchased parks tried to challenge rent control laws which had existed before the park was purchased. In addition, the court ruled that even though the park owner was getting a "fair return" on investment, a "taking" of the park owner's property could still occur. Contrary to several established Supreme Court cases, the court found that "whether compensation is adequate is a separate inquiry from whether there has been a taking." The court also ruled that even though the investment expectation of the park owner at the time of purchase was that they were purchasing a park already subject to rent control, the court unfairly "singled out" the park owners by forcing them to bear a burden of supporting affordable housing that should otherwise be spread out to the entire citizenry. The court used the park owner's "premium" argu-

ment as a basis for its decision, ruling that rent control allows residents
to sell their homes at inflated values
which "takes" profits away from the
park owners that they should otherwise be realizing. The lower rents
required by the ordinance, together
with the "captured" profits that residents can thus obtain are the hallmarks of the "premium" argument
that has been used for years. The
role of "scarcity" and supply and
demand in determining home price
was curiously ignored in the court's
analysis.

The Goleta decision is the latest in a history of park owner challenges to local mobilehome rent ordinances. During the 1970's, Cities and Counties began adopting rent control ordinances to protect their vulnerable 'immobilehome' residents. Today over 100 have been adopted. Park owner challenges began in the 1980's with cases which argued that mobilehome ordinances caused a "physical taking" of the park owner's property. This argument was ultimately defeated by the 1992 Yee case. But in recent years a new type of challenge on a theory known as a "regulatory taking" theory has surfaced, and Goleta represents the second time that a court has attempted to rule on the merits of such a claim. A few years ago the 9th Circuit was required to throw out a rent control challenge in the case of Cashman v. City of Cotati, after the Supreme Court ruled that the test upon which the court

was relying to invalidate rent control was not a proper test to be used in a "takings" analysis. Unlike Cashman, the Goleta decision does not rely upon that test, and thus must be defeated on different grounds. But just as the Hall physical taking theory was defeated some 17 years ago, GSMOL is committed to ensure that this latest regulatory taking challenge is also overturned.

GSMOL's brief argues that "captive" mobilehome residents are worthy of the unique protection provided by local rent ordinances, and that they too are entitled to a return on their investments. Rent ordinances, and especially vacancy control protections which limit rent increases upon resale, are reasonable and necessary mechanisms for protecting mobilehome owners. Legislatures must be accorded latitude to protect their vulnerable citizens.

GSMOL noted that the court's analysis "improperly accepts an economic theory with which a legislature is free to disagree and fails to consider the obvious economic impact of no vacancy control which would allow a landlord to completely destroy any potential for equity in mobilehomes." And park owners are appropriately "singled out" by necessity, since there is good reason to protect mobilehome owners.

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# MOBILEHOME RENT PROTECTIONS UNDER ATTACK

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The strategy to overturn the Goleta ruling is two-fold. First, the City of Goleta must petition the 9th Circuit Court for a re-hearing, this time in front of the entire 9th Circuit panel (i.e. "en banc"), rather than before only three judges. That petition was filed on October 12th. with GSMOL's Amicus Brief now filed in support. The League of California Cities has also quickly organized a top notch filing in support of the City. GSMOL is proud to announce that the prestigious San Francisco law firm of Cooley Godward Kronish has been retained to co-sponsor its brief, and add great credibility to GSMOL's arguments in support of a re-hearing. By granting permission for GSMOL to participate, the Court is acknowledging that all voices affected by this ruling should be heard. In another hopeful sign, the court has requested that the park owner file written opposition to the re-hearing request, which means that it will not reject the City's petition without considering both sides of the argument. If re-hearing is granted, GSMOL intends to file another brief in support of the City. That having been said, petitions for rehearing at the 9th Circuit are not typically granted, and we thus need to be prepared for the court denial of the petition. If that occurs, the next step is to petition for review at

the United States Supreme Court. Once again, GSMOL will file an Amicus Brief in support of this effort if required.

The extreme danger to all mobilehome residents posed by this decision cannot be understated, and can best be stated from the conclusion which appears in GSMOL's brief: "It seems undeniable that, if the Panel's decision is allowed to stand, the owners of manufactured home parks across California will use it to sue each and every one of the 100 jurisdictions with similar laws, city-by-city and park-by-park. Such litigation will not only clog the courts and tax the financial resources of cash-strapped cities but, if successful, will also result in wiping out the investments of the thousands manufactured-home owners on whose behalf GSMOL has been advocating for the last 47 years, leaving them with little more than salvage value of their homes." No jurisdiction will be immune from some type of attack, and political pressure will also mount.

An entire generation of homeowners are at risk from this decision. Maximum effort is required to overturn it. How can you help? If you are not a member, join GSMOL today. Network with your fellow residents and neighbors. if you are a GSMOL member, help recruit more members, and donate to the legal fund. JOIN THE FIGHT TO SAVE RENT PREOTECTIONS! BE-COME A GSMOL MEMBER TODAY! HELP SIGN UP A NEW MEMBER! DONATE TO THE GSMOL LEGAL FUND TODAY!

Our next GSMOL state board meeting is tentatively scheduled to be held in the Sacramento area and all GSMOL members are welcome to attend. Check with the GSMOL home office prior to the meeting to verify time and location.

Board of Directors
Meeting
Golf Green Estates
8665 Florin Road
Sacramento, CA 95828
Thursday January 21,
2010
10:00 AM

Golf Green Estates is
located south of
downtown Sacramento.
Take the Florin Road exit
off Hwy 99 and go East
3.4 miles. Golf Green
Estates will be on your
left. Thank you to the
homeowners at Golf
Green for their generous
hospitality!

### MORE ELTH LEGAL SUCCESSES

#### RESIDENTS OF ORANGE MOBILEHOME PARK WIN SLAPP SUIT RULING AGAINST PARK OWNER

CASE: Tatum-Kaplan Financial Group v. Ryan Davis

The residents of the Orange Mobile Home Park located in Orange County won a significant battle in their lawsuit against the Park owner. Shortly after the residents filed suit over the substandard conditions at the mobilehome park, the Park owner retaliated by suing one of the plaintiffs, Ryan Davis, for Malicious Prosecution.

The Orange County Superior Court held the Malicious Prosecution lawsuit was a SLAPP Suit (Strategic Litigation Against Plaintiff) and threw the case out of court.

"The Malicious Prosecution suit filed by the Orange Mobile Home Park management had one purpose – to scare off the residents from participating in the Failure to Maintain lawsuit. When a park owner tries to retaliate against one of our clients in such a manner, we defend them free of charge", said Jim Allen of Endeman, Lincoln, Turek & Heater, LLP.

In addition to throwing the lawsuit out of court, the Judge awarded the resident \$15,247.50 in attorneys' fees. "This lawsuit filed by the Park owner had absolutely no merit. It claimed Mr. Davis never lived in the Park and therefore could not sue the Park. However, Mr. Davis has lived in the Park since 2004 and paid rent every month."

"We do not let park owners retaliate against our clients", said Allen.
"If they try, we defend our client and hold the park owner accountable for their conduct. In this case, the mere filing of this groundless case cost the Park owner \$15,247." It should be noted that when the Park owner sued Mr. Davis, none of the other residents were intimidated. They continued to prosecute their failure to maintain case. The court's recent ruling has only strengthened their resolve to see justice done.

#### RESIDENTS OF 14 HOMES AT THE TUOLUMNE RIVER RESORTRECEIVE \$983,400 IN SETTLEMENT OF THEIR FAILURE TO MAINTAIN SUIT

CASE: Elizabeth Baker, et al. v. Tuolumne River Resort, LLC

Tuolumne River Resort is a small mobilehome park located in Stanislaus County. The park owner long ago stopped maintaining the Park. The residents complained to the owner and the Health Department but nothing changed. Finally, a health inspector responded and visited the Park. The inspector found third world living conditions. Sewage collected in open pits because the septic tanks no longer functioned properly. Fallen electric lines lay on the ground or were tied with a rope to trees. The restrooms, pool and clubhouse were all closed. The weeds were so high they were a fire danger.

The Health Department ordered repairs but instead of doing the repairs, the Park owner tried to evict the remaining residents. Six months later when the Health Department returned, nothing had changed except the weeds had caught fire, burning several cars and scorching some homes. The next day, the Park's license to operate was revoked and the residents contacted Endeman, Lincoln, Turek & Heater, LLP to represent them and sue the Park owner over the conditions in the Park and the illegal evictions.

"When we were contacted.

there were very few residents left in the Park, so the lawsuit only represented 14 homes," said attorney, Jim Allen. Liability was never an issue in this case, the problem was finding a source of money to compensate the plaintiffs. The Park was owned by a corporation which had no assets except the mobilehome park and it was worthless. There was very little insurance on the Park.

The Park owner was given a choice, face a jury or find the money necessary to fairly compensate the residents. The Park owner agreed to pay \$983,400 to settle the lawsuit. "These residents deserve every penny," stated Allen. "They will receive enough money to leave the Park, start over and be compensated for what they have been through. This is how our justice system is supposed to work."

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#### IMPORTANT ANNOUNCEMENT

The GSMOL Board of Directors has made the difficult decision to raise membership dues effective January 31, 2010. You can renew prior to January 31 at the current one-year rate of \$20 or the three-year rate of \$55. Early renewal does not affect time remaining on your existing membership; those with two years remaining on a three-year membership can add another three years at the existing rate, if done prior to the deadline.

New Rates (Effective 2/01/2010): Regular members: One-year: \$25 Three-year: \$70

Associate members:

One-year: \$50

We also want to remind you that membership in the Enforcement Legal Fund needs to be renewed each year. Get into the habit of renewing at the end of each year so your coverage doesn't lapse. The ELF membership remains at \$10 per year.

### MORE ELTH LEGAL SUCCESSES

Continued from page 9

#### RESIDENTS OF THE Mossdale MHP ACHIEVE JUSTICE

CASE: Marilyn A. Rush, et al. v. Applegate Properties, Inc.; Sacramento County Superior Court Case No. 03AS03046

The residents of the Mossdale Mobile Home Park located in Lathrop, California settled their lawsuit against the park owner for \$2,300,000. The residents were represented by the San Diego law firm Endeman, Lincoln, Turek & Heater LLP.

The residents complained for years over the poor condition of the park. The water was contaminated with excessive amounts of iron and manganese, causing the water to look like mud. The sewer system was in a state of complete failure. Sewage spilled down their streets on a weekly basis. The electrical system was old and in poor shape.

The State health department ordered the defendant to filter the water. The park owner ignored these orders. In 2006, the park was evacuated due to a flood of an adjacent river. When the water receded the State would not allow any of the residents to return to their homes until the water system met the State drinking water standards. The park owner refused to make the necessary repairs. As a result, the residents had to move their homes out of the park. Most of the residents could not sell or relocate their homes.

"This was a tragic case", stated resident lawyer Jim Allen. "Most of these residents were very poor and were devastated when they lost their homes."

"However, this settlement forced the park owner to pay for the lost homes and the damage he inflicted. This is a case where justice prevailed."

### (Letter of Interest, gratefully received)

10/23/2009

To: Tim Sheahan, President, GSMOL

Dear Mr. Sheahan:

We would like to donate \$100.00 for the legislative effort in Sacramento to help save our homes from Condo Conversion and loss of Rent Control. We hold no office with GSMOL, but we are loyal members and feel the need to help.

With GSMOL being the only Manufactured Home owner organization with a presence in Sacramento, we would like to support your efforts with our donation.

If other members feel the same, we urge them to donate what they can. \$5.00 or \$500.00 or anything in between.

With the Park Owners attacking our lifestyle and the threat of losing our homes, we feel that the year 2010 will be the biggest year yet in our fight to save our homes.

Respectfully, Roger and Nancy McConnell Santa Rosa, CA

## Donate to the HOMEOWNER DEFENSE FUND

in the application on the back cover

### 2010 Convention Coming Soon!

Time is running out for you to reactivate your GSMOL chapter to qualify delegates for our April convention in Ontario, CA. If you live near other MH parks without chapters, form a "Super Chapter" to qualify delegates for the convention. Call the GSMOL home office at 1 (800) 888-1727 to verify your chapter is active and qualified to name a delegate(s) or for information about forming a Super Chapter.



John Tennyson, Principle Consultant to the California State Senate Select Committee on Manufactured Homes and Communities (center), receives a Senate resolution from current Committee Chairman, Senator Lou Correa, and former Chairman, Joe Dunn. Mr. Tennyson is retiring this year, having served the Committee since 1983. While this is bad news for homeowners, we wish John well and are pleased to report that Joe Dunn recently announced he is reviving his legal practice in Orange County and looks forward serving homeowners in that capacity.

### Moving Forward Following the Governor's Veto of AB 566

Despite Gov. Schwarzenegger's Veto of AB 566, We Still Have Two Good Shots at Ending the "Forced" Conversions of Mobilehome Parks in California for Good

By mobilehome owners' attorney, William J. Constantine

Over the past few years mobilehome park owners have been using a quirk in one of California's laws designed to allow residents to purchase their parks (i.e., in Government Code section 66427.5) to force mobilehome owners to purchase their subdivided lots at prices that are unaffordable and result in the loss of the equity that they have invested in their mobilehomes and, often, in the loss of their housing. Several years ago AB 930 enacted subsection 66427.5(d) into the law to require a vote of support of the homeowners of a park to be converted to prevent these "forced" conversions. The Intent of AB 930 was to allow cities and counties to reject conversions based on the residents of a mobilehome park voting against them in a resident support survey. However, several trial courts have ruled that conversions cannot be rejected on that basis. AB 566 was then introduced to respond to this confusion and to clarify that local jurisdictions could reject conversions on the basis of the section 66427.5(d) required resident support surveys demonstrating that the conversions lacked resident support.

Unfortunately, after passing both houses of the Legislature, Gov. Schwarzenegger vetoed AB 566. However, the Governor's veto of AB 560 is not fatal because there are no binding appellate decisions that state that a conversion cannot be turned down based on its resident support survey rejecting it. The only appellate decision interpreting section 66427.5(d) is Sequoia v. Sonoma County but it only holds that local conversion ordinances are preempted by

Government Code section 66427.5 from adding their own implementing regulations. On the other hand, Sequoia did not directly answer the question of whether or not a conversion could be rejected based on the required resident support survey rejecting it.

The County of Sonoma has a conversion ordinance that allows their planning department to reject a conversion based on a formula tied to the level of resident support from the results of the resident support surveys. The owner of Sequoia Mobilehome Park sued the County arguing that Sonoma County's ordinance was preempted by Government Code section 66427.5. County defended by arguing that the ordinance merely set reasonable local implementing regulations that were required to enforce Government Code section 66427.5. The local court agreed with the County and ruled in their favor. The Park owner appealed. Unfortu-

nately, the First District Court of Appeal then agreed with the park owner, overruled the local court, and ruled that section 66427.5 preempted all local regulations, even those that logically appeared necessary to implement section 66427.5(d)'s resident support survey requirement or that merely only required compliance with section 66427.5(d).

The Sequoia appellate ruling is a very broad ruling that flies in the face of past decisions that had allowed local jurisdictions to adopt ordinances to provide the local regulations that are needed to enforce state statutes that they are mandated to enforce. California's cities and counties are concerned about the Sequoia decision because it goes far beyond its impact on mobilehome parks since it would invalidate dozens of planning, land use and other ordinances that are required to implement the mandates

of other state statutes. Accordingly, Sonoma County has filed a petition to the Supreme Court to overturn the ruling and also has filed an alternate request for the Supreme Court to de-publish the decision. The League of Cities, the California Association of Counties, the City of Carson and the APA have filed supporting amicus letters, all focusing on the Sequoia decision's broad preemption that could invalidate dozens of other local planning and land-use ordinances.

At the request of Sonoma County, GSMOL has filed both an amicus letter in support of their Petition and an alternate request to de-published the decision. GSMOL's filings with the Supreme Court focus on two issues that are not fully covered in Sonoma County's Petition or in the other supporting amicus letters but are so critical importance to mobilehome owners and are complementary to the County's issues. GSMOL's first issue asks the Supreme Court to clarify the confusion caused by the Sequoia's decision contradictory analysis, which first states that the purpose of section 66427.5(d)'s resident support survey is to require park owners to demonstrate resident support for proposed conversions but then states both that the statute does not require any threshold minimum level of support and that local jurisdictions cannot adopt implementing regulations to guide their planning commissions in making the determination of when the level of opposition from a resident support survey justifies rejecting a conversion based on its lack of resident support.

Continued on page 12

### Moving Forward Following the Governor's Veto of AB 566

Continue from page 11

GSMOL's second issue asks the Supreme Court to overturn or de-publish the Sequoia's decisions broad preemption of all mobilehome ordinances,

even those unrelated to subdivision conversions, because it is inconsistent with the Supreme Court's own precedents that allow those other local mobilehome regulations.

If the Supreme Court either grants Sonoma County's Petition for Review and then subsequently, rules in favor of the County or, alternately, de-publishes the appellate decision, then Gov. Schwarzenegger's veto of AB 560 will be moot since the original intent of AB 930 will be clarified and restored. Supreme Court is likely to decide on Sonoma County's Petition and de-publication request in the next 1 to 2 months. However, even if the Supreme Court fails to act there is still hope from litigation in Santa Cruz County. The Sequoia decision came down several months after Santa Cruz County rejected the conversion of Alimur Mobilehome Park on the basis that its resident support survey demonstrated that 119 of the Park's residents opposed that conversion and only two supported it. In response to Sequoia, the County has decided to repeal their Ordinance and rescind their rejection of Alimur's conversion application since it was based on applying the implementing provisions of their Ordinance, which would be preempted under Sequoia. Instead, the County has now re-set the conversion Alimur application for a new hearing where it will apply the provisions of Government Code section 66427.5(d) to Alimur's conversion application directly. Santa Cruz County's position is that the Sequoia decision only states that local conversion ordinances are preempted but that it contains no binding precedent on whether or not the results of a resident

support survey can be used to reject a

conversion. The County believes that by

applying section 66427.5(d), directly, that

it can reject Alimur's conversion since the 119 to two vote against it clearly demonstrates that it does not have the required resident support and that it is, therefore, a "non-bona fide" conversion under section 66427.5(d), even without applying their own implementing ordinance. The park owner of Alimur has filed a writ of mandate asking the court to prevent the County from doing this and to, instead, rule that the conversion is automatically approved. The Park owner argues that section 66427.5 does not allow the County to turn down a conversion based on the results of the resident support survey and, therefore, that it should not be allowed to set a new hearing.

If Santa Cruz County wins in Superior Court on this issue the Park owner will, undoubtedly, appeal it. If Santa Cruz County then wins at the appellate level, then we will have won the war against forced conversions regardless of either Governor Schwarzenegger's veto of AB 566 or the confusing Sequoia decision. The first court hearing for Santa Cruz County on this issue in Santa Cruz Superior Court will be on December 3, 2009.

Accordingly, despite Gov. Schwarzenegger's disappointing veto AB 566 and despite the disappointing and confusing Sequoia appellate decision, hope is not lost for stopping the "forced" conversions of mobilehome parks in California. We still have two good shots left at achieving this goal! We will achieve this goal if either Sonoma County and GSMOL convince the Supreme Court to either overturn or de-publish the appellate court's decision in Sequoia or if Santa Cruz County ultimately prevails in enforcing Alimur Mobilehome Park's homeowners' 119 to two rejection of its applying conversion. by 66427.5(d)'s provisions directly. So mobilehome owners should keep their fingers crossed and have hope during the coming holiday season.

#### GSMOL MEMBERSHIP ACTION TEAM (MAT) SEEKS MORE MEMBERS

by Bob Markley, Chairman, Membership Action Team

GSMOL's Membership Action Team (MAT) strives to increase GSMOL's membership ranks. We are seeking new MAT members, who can live anywhere in California, to help us with our efforts.

The MAT provides all GSMOL members throughout the state with ideas on how they can recruit and retain new GSMOL members. We also create and supply materials to help in recruiting and retention efforts. The MAT does not do all the membership recruiting itself.

We need volunteers who:

- Sincerely want to see GSMOL prosper,
- Have ideas on how to increase membership, and
- Have some time available to help with these efforts (I estimate an average of only about one hour per week – some weeks less, some weeks more.)

Because our MAT members live all over the state, we communicate mainly by e-mail, and do not have inperson meetings, thereby minimizing expenses. You will need an internet connection and an e-mail address to participate. High-speed internet access such as cable or DSL will help, but is not required.

If you would like to join us, or if you just want more information, please send an e-mail message stating your interest and/or asking your questions to: gsmol.membership@yahoo.com. Thank you.

#### **ENFORCEMENT REPORT FROM DONNA MATTHEWS**

#### Report from Donna Matthews, Special Assistant to the President for Enforcement Help (SATPFEH)

- A.) Purpose of this new position: To help GSMOL members enforce the mobile home laws of the State of California
- B.) Procedure for providing enforcement help: Any member needing enforcement help must present their problem in written form.
- · Attach copies of any documentation available
- · Pictures are always good
- · Witness statements are helpful
- If a member receives a notice from the park manager or owner claiming the member has violated a park rule or some provision of the Mobilehome Residency Law

Members must promptly answer in writing any written notice of any violation they receive from the park manager or owner. Therefore, in such case, they should immediately first contact their area's GSMOL Associate Manager with written documentation supporting their case. If there is no Associate Manager for the member's area, the member should immediately contact their Region Manager. If there is no Associate Manager or Region Manager in place, the member should immediately directly contact the Vice President of Enforcement Help.

If a member receives a notice from the park's attorney

Members should send a copy to the Vice President of Enforcement Help immediately, along with written documentation supporting their case. The member should also send a copy to their GSMOL Associate Manager. If there is no Associate Manager for the member's area, the member should send the copy to their Region Manager.

 If a general notice to all park residents is distributed, and GSMOL members feel it is unfair

Members should send all information to the Vice President of Enforcement Help immediately, along with written documentation supporting their case. The member should also send a copy to their GSMOL Associate Manager. If there is no Associate Manager for the member's area, the member should send the copy to their Region Manager. (All information will be held in confidence within GSMOL unless released by the member.)

For each situation resulting in the providing of help, the incumbent SATPFEH will write a report describing

- · the initial circumstances.
- · what action GSMOL took, and
- what resulted. And send the report to

- . the GSMOL President,
- each member of the GSMOL Board of Directors, and
- · the editor of The Californian.
- C) Actions allowed within the scope of this position:
- Write letters and make phone calls to members, park managers, park owners, etc.
- Refer members to attorneys (preferably those who are willing to give no-charge initial consultations)
- Pay for an initial letter from an attorney to a park manager or owner. Cost limit: \$300 each.
- Attend meetings, hearings, lawsuits, etc. with other GSMOL members when possible and necessary

My message to GSMOL members is WAKE UP, so many of us no longer have park owners who built the parks and with whom we contracted to place our home investments. We agreed to, pay the base rent for the use of the park utilities and facilities, with the justification that our home investments would be protected under the unique Mobilehome park Laws. These park owners did their contractual duty to provide and maintain the standards and requirement of their Permit to Operate a rental mobilehome park. It was a wonderful way of life for seniors, they had a home of their own, as much social life as they liked, had neighbors who would help each other, and felt reasonably safe. It was a good working co-investment affordable way of life.

Now things seem to be different, we seem to have large money investors and conglomerates who have purchased mobilehome parks, knowing the residents are economic captives and do not have equal bargaining power or the finances to fight for their rights under the protective laws. Many of these park owner distance themselves from any contact with the park residents by hiring management companies and dictatorial managers, never caring how the residents are treated, the bottom line seems to be money. Regardless of whether or not an owner resides on his/her property, that owner is responsible for activities taking place there. This is why I feel it more important than ever to have a large GSMOL membership in every park, working together and helping members protect their home investments. There is a strength in numbers!

Over the years I have had to help members who have received unfair park notices, are being discriminated against, management retaliation when they stood up for their rights, harassment, managers using selective enforcement of the park rules and regulations, management not enforcing the park rules and

regulations, members being charged tree trimming bills they were not responsible for, receiving termination of tenancy notices not in accordance with the Mobilehome Residency Termination of Tenancy Law, etc. I am sure other GSMOL managers throughout the state have come across these same park problems, and helped, GSMOL members. With this new position, GSMOL hopes to coordinate our efforts to more effectively address violations of the M.R.L. occurring throughout the State.

What to do? Don't procrastinate because you don't want to get involved. You are involved! You have a big investment and your rights to protect. HOW?

Organization + Education + Action = Justice Donna Matthews, Special Assistant to the President for Enforcement Help

#### Reducing Membership Dropoffs by Bob Markley, Chairman, Membership Action Team

All chapters wish to retain members and reduce the number of dropoffs (members who do not renew). It is impossible to reduce dropoffs to zero, because there will always be a few members who move out of the park or pass away. There are a few actions you can take to minimize your dropoffs. Here is one we use in our own park, with good success. When a member is due for renewal, the normal practice is for the home office to mail the member a reminder notice. If they do not renew within a month or two, the home office mails them a follow-up notice, printed on pink paper.

Here is what we do to minimize our dropoffs. Each month, the home office mails all our upcoming renewal notices to our chapter's Membership Chairman, instead of mailing them directly to the members who are due for renewal that month. Our Membership Chairman then distributes the notices among our Board of Directors members who are responsible for membership in various sections of the park. The Board of Directors member then approaches members in his or her section due for renewal, personally, and solicits their renewal. We have had a very high renewal rate with this approach, which is much more personal than the member receiving a letter in the mail (which is easy to ignore).

Any park can use this system, but you will have to set it up with the home office to have the renewal letters sent to a chapter officer rather than the individual members. Just call the home office at (800) 888-1727 between 9 AM and 4 PM to set this system up in your park.

### who's WHO

#### BOARD of DIRECTORS

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VICE PRESIDENT ZONE D LANIER HARPER Holden Springs Crity. Club 15500 Bubbling Wells Rd. #205 Desert Hot Springs, CA 92240 Phone: (760) 288-7175 things:rsk./ff86@yelnocom

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REGION 1 COUNTIES: Alameda, San Mateo. Contra Costa. Santa

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REGION 2 COUNTIES: Del Norte, Humboldt, Lake, Marin, Mendocino, Napa, Solano and Sonoma

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REGION 4 COUNTIES: Buttle, Glenn, Shaste, Siskiyou, Tehama and Trinity REGION MANAGER Vacant

REGION 11
COUNTIES: Amador, El
Dorado, Lassen, Modoc,
Nevada, Placer, Plumas and
Sierra

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Kenneth (Ken) McNutt Golden Palms MH Estates 8181 Foleom Blvd. #243 Sacramento, CA 95826 Phone: (916) 383-1820 kmcnutt@uodavis.edu

ZONE B (REGIONS 8,10,12,13)

REGION 8 COUNTIES: San Luis Obispo, Santa Barbara and Vantura

CO-REGION MANAGERS Marie Pounders (North) Sea Calss 1675 1675 tos Osos Vy. Rd. #205 Los Osos, CA 93402 Phone (805) 528-0825 grenyrrip@boglobal.net

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Pat Brown Royal Palms Mobile Park 205 Driffili Blvd. # 11 Ownerd, CA 98030 Phone: (805) 483-7575

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REGION MANAGER Richard Halterman Caste Mbl Estates 1099 38th Ave., #16 Santa Cruz, CA 95062 Phone: (831) 478-0337

REGION 12 COUNTIES: Fresno, Inyo, Kern, Kings, Madera and Tulare

REGION MANAGER
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REGION 13
COUNTIES: Alpine, Merced,
Calaveras, Mariposa, Morio,
San Joaquin, Stanislaus and
Tuolumne

ASSOCIATE MANAGER Bill Toth Sonora Estates 22466 S. Airport Rd. #53 Sonora, CA96370 Phone: (209) 588-9146

ZONE C (REGIONS 3, 5, 6) REGION 3 Los Angeles County Vacant

REGION 5 Orange County Vacant

REGION 6 San Bernardino County Vacant

ZONE D (REGIONS 7, 9)

REGION 7 COUNTIES: San Diego and Imperial

REGION MANAGER Frankie Bruce Village Green M-P 10771 Black Min. Rd. #100 San Diego, CA 52125 Phone (619) 804-0735 trancestruce@att.net

Frank Merrifield Rancho San Luis Ray 200 N. El Carrino, #52 Oceanside, CA 92054 Phone: (760) 754-8420 drt3@coxnet

Pat La Pierre Otay Lakes Lodge 1925 Otay Lakes Rd. #111 Chula Vista, CA 91913 Phone: (619) 421-9749

REGION 9
Riverside County

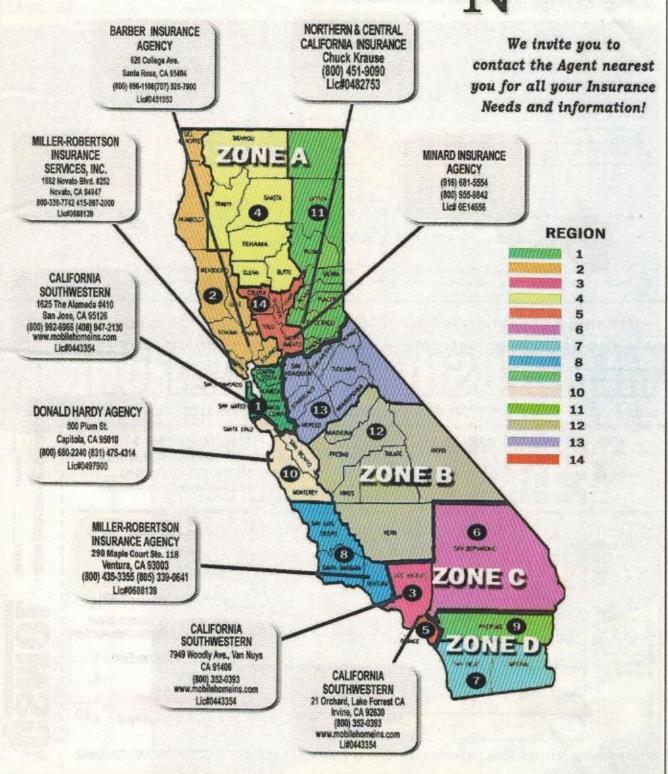
ASSISTANT MANAGER Donna Matthews Plantation On The Laka 10961 Desert Lawn Dr., #109 Calimesa, CA 92320 Phone: (900) 785-4557 matthewedd17@jshoc.com

ASSOCIATE MANAGERS Ivan McDermott County Lakes M+P 21100 Hw., 79, #122 Sen Jacrito, CA 92583 Phone: (961) 654-7297 Urk/7828@ss.com

Gail Mertz Riverside Meadows 4000 Pieroe St. #346 Riversida, CA 92505 Phone: (961) 359-4619 g.mertz@sboglobal.net

Grant Yoders Sun Meadows 27250 Muniete Rd. #205 Sun City, CA 92586 Phone: (951) 679-7030 With DECADES of experience as MOBILE HOME INSURANCE SPECIALISTS, we are here to ADVISE you of what is AVAILABLE and ASSIST you in obtaining WHAT IS BEST for YOU personally. Contact the nearest agent and see for yourself!

# I AGENTS B DUCATION ETWORK



### **FIVE FOR FIVE REWARDS PROGRAM**

#### APPLICATION FOR REWARD

(New members only - no renewals) Mail or fax completed form to the home office, Fax No. (714) 826-2401

Please fill in new members' names, park, space number, and when they joined, below and mail or fax to the home office. After verifying by the home office, a \$5 reward check will be mailed to the individual or chapter named at the bottom of this form. Please send in all new membership applications as soon as you receive them. Do not hold them for this program. This program only requires that you keep track of who they are, and list them on this form.

(More than one person living in the same home and paying one membership dues count as one member for this program.)

#### PLEASE PRINT LEGIBLY

NEW MEMBERS' NAMES	PARK NAME	SPACE NO. MONTH AND YEAR JOINED
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Please send \$5 reward check to:		
name		eddress

(Note: If the reward is going to a chapter's treasury and the chapter does not have a bank account, the check should be made out to and mailed to a chapter officer. The officer can then cash the check and put the money into the chapter treasury.)

use this Application to give a "Gift of Membership" to a non-member!

GOLDEN STATE MANUFACTURED-HOME OWNERS LEAGUE, INC. 800/888-1727 714/826-4071



Comments (For Office Use)

- **ONE-YEAR GSMOL MEMBERSHIP for \$20** THREE-YEAR GSMOL MEMBERSHIP for \$55
- ONE-YEAR ASSOCIATE MEMBERSHIP for \$40 (Associate members do not own manufactured homes. They do not have voting rights and cannot hold office in GSMOL.)

First Name Initial Last Name Spouse/ Second Occupant Park Name Street Address Space Number Zip Code Daytime Phone Number Alternate Phone Number Email Address Signature Membership Recruiter (if applicable)

☐ New Member

Renewing Member

GSMOL Chapter #,

/ CASH Check #

You can also contribute to any of the following GSMOL dedicated funds:

Homeowner Defense Fund

PAC Fund

Disaster Relief Fund

Enforcement Legal Fund

\$10

FILL OUT AND RETURN THIS FORM ALONG WITH YOUR CHECK TO: GSMOL, PO. BOX 876, GARDEN GROVE, CA 92842

ETACH AND KEEP FOR YOUR RECORDS

