

Layers of Complexity

Mobile Home Park Acquisitions

BY MICHAEL F. YOSHIBA, ESQ.

You're probably familiar with the process. Conceptualize a public project, create a design, identify the right of way requirements, appraise and then acquire. It's simple most of the time. But one property in a state freeway widening project needed only a part-take acquisition from a mobile home park property. The mobile home park contained 44 park spaces with the "part-take area" affecting 25 of the 44 park spaces occupied by mobile home trailers. Mobile home park acquisitions offer unique challenges because these homes are a combination of real and personal property. The trailers are considered permanently affixed to the real property but can also often be deemed personalty because they can be detached and are movable.

Initial Offers

Mobile home trailers can be purchased and owned outright or they can be financed long-term through lenders that recognize the hybrid of real and personal property. The 25 mobile homes in this instance occupied spaces that were leased from the property's fee-interest owner. The mobile home trailers were separately owned and maintained by the lessee occupants. The space leases included access to utilities and to some common area park amenities such as the pool, recreation room and picnic bench area. The part-take property was appraised considering the separate property interests and the unique bifurcated ownership.

The part-take area bisected the mobile home trailers. There was no practical way to cut and reface the individual trailers nor was there space to relocate the trailers within the remainder property. Thus, the State determined that each of the separately-owned 25 mobile home trailers would be irreparably damaged and a complete loss. After appraising the part-take interests, separate offers were made to (1) the underlying fee owner and (2) the owners of the mobile home trailers. Rather quickly, each of the 25 mobile home trailer owners accepted the State's offer to purchase the mobile home trailers in addition to relocation assistance benefits. Escrows closed on the mobile home acquisitions, and the trailer owners moved out and into replacement housing.

Complications Begin

At that point, the State owned the trailers that remained on the property. The property owner refused a State-tendered rental agreement to leaseback the properties that the trailers occupied. The State offered to pay the amount of rent that the last tenant was paying, but the property owner refused to accept the tendered rent amount. Instead, the property owner sought to unilaterally increase the rental rate and began eviction and unlawful detainer proceedings.

Next, the State attempted to enter, remove and demolish the mobile home trailers, but they were denied access to the park by the property owner. The property owner claimed



that the State was trespassing. The State was therefore not able to inspect the trailers to verify vacancy or the existing condition of the trailers. Nor could the State enter the trailer park to secure the trailers to prevent vandalism and theft. Several questions were presented to legal counsel with the following answers provided:

(1) Is the State obligated to pay rent to the owner of a mobile home park for rent based on precondemnation-acquired mobile homes/units remaining on the site?

Yes. Damages for loss of rentals attributable to the State's precondemnation activities constituted a part of just compensation and a potential damage award to be negotiated or decided in a condemnation proceeding.

(2) Can the mobile home park property owner charge any amount of rent for property occupied by State-owned vacant trailers acquired through the State's exercise of its power of eminent domain?

No. Rent shall be determined through an establishment of the measure of just compensation for the taking of property based on the fair rental value of the property taken. The fair rental value can be established either through the voluntary negotiation or the condemnation process.



(3) Is the property owner entitled to interest on past due rents from the State as the post-acquisition tenant?

Yes. Interest accrues on the compensation or rental value from the date of possession. However, the rate must be the legal statutory rate of interest, not an arbitrary amount calculated by the property owner or the State. The date of possession will be a factual determination.

(4) Does the State have the right of entry onto the premises to remove the State-owned trailer units once the trailer acquisitions were completed?

Maybe. The property owner cannot deny the owner of the mobile homes access to remove the trailers as long as the entry does not substantially interfere with the operation of the remaining mobile home park and results in only trivial or inconsequential damage to the park. There were arguments to be made by both parties on this issue. This issue was decided at a court hearing whereby the court issued an order for prejudgment possession to the State.

(5) Were there any existing mobile home laws and or regulations which controlled or restricted the transfer of ownership of the trailer units from private parties to the State through their exercise of power of eminent domain?

No. The controlling authority regarding the State's exercise of the power of eminent domain includes the authority to acquire any interest in property necessary for state highway uses.

(6) Can the property owner of the mobile home park summarily deny access to the trailer park by State right of way personnel?

No. Guests invited by the resident of the mobile homes are not required to register with the park management or owner. Right of way agents can arrange to meet with the mobile home trailer owners to discuss the acquisition and inspect units without permission from the property owners. It would be wise in most situations, however, to provide notice to the property owner of the ongoing acquisition and relocation assistance process and requirements to head off complaints of interference with contract.

Most mobile home park acquisitions are fraught with complex legal issues occurring within the right of way process. These acquisitions were certainly no exception. ★



Michael Yoshida is a shareholder in the Eminent Domain and Litigation Departments of the Los Angeles law firm, Richards, Watson & Gershon.