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10 VILLAGE MOBILEHOME ASSOCIATION, INC.

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**

12 **SAN DIEGO COUNTY—CENTRAL DIVISION**

13 MISSION VALLEY VILLAGE
14 MOBILEHOME ASSOCIATION, INC., a
15 California non-profit corporation, on behalf of
16 itself and all others similarly situated,

17 Plaintiff,

18 v.

19 ASN MISSION GORGE, LLC, a Delaware
20 limited liability company;
21 NEWPORT PACIFIC CAPITAL COMPANY,
22 INC., a California corporation; and
23 DOES 1 to 50, inclusive,

24 Defendants.

Case No. **37-2010-00090665-CU-BT-CTL**

[REPRESENTATIVE ACTION]

PLAINTIFF'S COMPLAINT FOR
DECLARATORY RELIEF, INJUNCTIVE
RELIEF, AND DAMAGES:

1. DECLARATORY RELIEF
2. NEGLIGENT MISREPRESENTATION
3. NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE
4. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE
5. RESCISSION (CIV. CODE §§ 1688 *et seq.*)
6. UNJUST ENRICHMENT
7. CONVERSION
8. UNFAIR BUSINESS PRACTICES (BUS & PROF. CODE §§ 17200 *et seq.*)
9. VIOLATION OF THE MOBILEHOME RESIDENCY LAW (CIVIL CODE §§ 798 *et seq.*)
10. FRAUD AND INTENTIONAL DECEIT
11. FINANCIAL ABUSE (ELDER ABUSE)

[REQUEST FOR JURY TRIAL]

1 Plaintiff MISSION VALLEY VILLAGE MOBILEHOME ASSOCIATION, INC. alleges the
2 following against Defendants ASN MISSION GORGE, LLC, NEWPORT PACIFIC CAPITAL
3 COMPANY, INC., and DOES 1 to 50:

4 5 **Procedural Allegations**

6 1. Plaintiff MISSION VALLEY VILLAGE MOBILEHOME ASSOCIATION, INC. (“MVV
7 ASSOCIATION”) a California non-profit corporation, is and at all relevant times was a corporation
8 duly organized under the laws of the State of California, and conducting business and residing in
9 the City of San Diego, County of San Diego, State of California. MVV ASSOCIATION was
10 formed to pursue and protect the legal rights of its members, as well as the rights of all
11 homeowners, residents, and occupants of the 119 lots located at Mission Valley Village
12 Mobilehome Park, (“Park”) located at 6950 Mission Gorge Road in San Diego, California. MVV
13 ASSOCIATION brings this action on behalf of its members, and all present and former
14 homeowners, residents and occupants of the 119 lots at the Park from April 23, 2007 through date
15 of judgment herein.

16 2. MVV ASSOCIATION has a common interest with the homeowners, residents, and
17 occupants of the 119 lots at the Park in enforcing the State and local mobilehome park laws,
18 property rights, as well as the causes of action stated herein. The members of MVV
19 ASSOCIATION, the homeowners, residents, and occupants of the 119 lots at the Park are so
20 numerous that it would be impracticable to bring them all before the court. Plaintiff brings this
21 action in its representative capacity on behalf of these homeowners, residents, and occupants of the
22 Park both in the public interest and in the interests of necessity, convenience, and justice.

23 3. Plaintiff is informed and believes that Defendant ASN MISSION GORGE, LLC
24 (“ARCHSTONE”) is and was at all relevant times a Delaware limited liability company conducting
25 business in the City of San Diego, County of San Diego, State of California. ARCHSTONE owns
26 the Mission Valley Village Mobilehome Park. As referred to herein, “ARCHSTONE” shall
27 include any and all of ARCHSTONE’S agents and/or assigns including, but not limited to, Newport
28 Pacific Capital Company, Inc. (“NEWPORT PACIFIC”).

1 4. Plaintiff is informed and believes that Defendant NEWPORT PACIFIC is and was at all
2 relevant times a California corporation conducting business in the City of San Diego, County of
3 San Diego, State of California as an entity specializing in mobilehome property management.
4 Plaintiff is informed and believes that at all relevant times herein, NEWPORT PACIFIC managed
5 the Park on behalf of ARCHSTONE.

6 5. DOES 1 to 50, inclusive, are sued herein under fictitious names. Their true names and
7 capacities are unknown to Plaintiff. When their true names and capacities are ascertained, Plaintiff
8 will amend this complaint by inserting their true names and capacities. Plaintiff is informed and
9 believes and thereon alleges that each of the fictitiously named defendants is responsible in some
10 manner for the occurrences herein alleged, and that Plaintiff's damages were proximately caused by
11 those defendants. Each reference in this complaint to "Defendant," "Defendants," or a specifically
12 named defendant refers to all named defendants and those sued under fictitious names.

13 6. Plaintiff is informed and believes, and thereon alleges, that at all times material hereto and
14 mentioned herein, each Defendant was the agent, servant, employer, joint venturer, partner,
15 division owner, subsidiary, division, alias, and/or alter ego of each of the remaining Defendants and
16 was, at all times, acting within the purpose and scope of such agency, servitude, employment,
17 ownership, subsidiary, alias and/or alter ego and with the authority, consent, approval, control,
18 influence and ratification of each Defendant.

19 7. This Court is the proper venue and has jurisdiction because the Park is in the City of San
20 Diego. Further, at all material times herein, Plaintiff's injuries occurred in San Diego, and
21 Defendant's acts and omissions occurred in San Diego. Defendant benefited financially from
22 profits generated within the City and County of San Diego. The damages suffered by Plaintiff and
23 those it represents exceeds the jurisdictional minimum of this Court.

24 **Representative Action Allegations**

25
26 8. Although MVV ASSOCIATION brings this action in its representative capacity, the
27 representative claims herein, including those for unfair business practices (Bus. & Prof. Code
28 sections 17200 *et seq.*), meet class action requirements pursuant to Code of Civil Procedure section

1 382.

2 9. Numerosity. The members of MVV ASSOCIATION, homeowners, residents, and
3 occupants of the 119 lots located at the Park are so numerous that joinder of them would be
4 impracticable, and would cause tremendous problems in terms of case management, cost, delay,
5 and confusion.

6 10. Typicality. The MVV ASSOCIATION membership is comprised exclusively of
7 homeowners, residents, and other occupants of the Park. The MVV ASSOCIATION has a
8 common interest with its members, homeowners, residents, and occupants of the 119 lots located at
9 the Park in enforcing the applicable state and local laws, and has a community of interest in the
10 determination of questions of law and fact, causes of action, and damages as further alleged in this
11 Complaint. Plaintiff's claims are typical of the claims of its members, homeowners, residents, and
12 occupants of the 119 lots located at the Park because all were similarly affected and damaged as a
13 result of ARCHSTONE'S improper conduct and acts and omissions.

14 11. Adequacy. MVV ASSOCIATION will fairly and adequately represent the interests of its
15 members, homeowners, residents, and occupants of the 119 lots located at the Park. MVV
16 ASSOCIATION'S interests are coincident with, and not antagonistic to, those of its members,
17 homeowners, residents, and occupants of the 119 lots located at the Park. MVV ASSOCIATION
18 will prosecute the claims herein aggressively and has retained counsel who are competent and
19 experienced in the prosecution of complex, multi-party cases involving class action, mass tort
20 actions, property claims, eminent domain, landlord/tenant disputes and tortious acts.

21 12. Commonality. There are questions of law and fact common to all of MVV
22 ASSOCIATION'S members, the homeowners, residents, and occupants of the 119 lots located at
23 the Park which predominate over any issues that may affect only individual members. These
24 common issues include, but are not limited to:

- 25 • Whether ARCHSTONE has violated the Mobilehome Residency Law and other laws,
26 by, among other things, informing residents that if they sell their mobilehomes, both
they and the buyer lose all rights to relocation benefits;
- 27 • Whether ARCHSTONE has violated the Mobilehome Residency Law and other laws,
28 by, among other things, denying relocation benefits to the heirs and/or estates of
deceased Park residents;

- 1 • Whether ARCHSTONE has violated the Mobilehome Residency Law and other laws,
2 by, among other things, causing the market values of mobilehomes in the Park to
3 plummet and acting in a manner which has caused the market values of the
4 mobilehomes in the Park to remain depressed by indefinitely delaying Park closure;
- 5 • The appropriate measure of damages sustained by MVV ASSOCIATION'S
6 members, the residents, homeowners, and occupants of the 119 lots in the Park;
- 7 • The availability of injunctive relief;
- 8 • The availability of declaratory relief;
- 9 • The availability of rescission of contracts for the conveyance of mobilehomes to
10 ARCHSTONE since April 23, 2007;
- 11 • The appropriate measure of damages for ARCHSTONE'S interference with
12 mobilehome owners' prospective economic gain which would have flowed from sales
13 of mobilehomes absent ARCHSTONE'S interference;
- 14 • The appropriate measure of damages for ARCHSTONE'S conversion of mobilehome
15 owners' personal property;
- 16 • The appropriate measure of damages for ARCHSTONE'S intentional and/or
17 negligent misrepresentations regarding Park closure.

18 13. A representative action which meets the requirements of a class action under Code of Civil
19 Procedure section 382 is superior to any other available method to ensure the fair and efficient
20 adjudication of this controversy because it will permit a large number of similarly-situated persons
21 to prosecute their claims efficiently and without duplication of effort and expense that hundreds of
22 multiple individual actions would entail. There are no difficulties likely to be encountered in the
23 management of this action that would preclude its maintenance as a representative action which
24 meets the requirements of a class action under Code of Civil Procedure section 382. No superior
25 alternative exists for the fair and efficient adjudication of this dispute.

26 14. Given the sheer number of potential claimants that would be forced to proceed on their
27 own in the absence of class representation, a representative action that meets the requirements of a
28 class action avoids an otherwise high risk of prejudice resulting from separate actions, conflicting
judgments, incompatible standards, and inconsistent declaratory relief. Moreover, declaratory and
injunctive relief will benefit the members of MVV ASSOCIATION, the homeowners, residents,
and occupants of the 119 lots in the Park as a whole.

15. Plaintiff reserves the right to request bifurcation of claims, or to utilize other procedural

1 devices, as necessary, to facilitate the propriety of MVV ASSOCIATION as representative of the
2 claims of its members, the homeowners, residents, and occupants of the 119 lots in the Park in this
3 representative action.

4 16. Defendant has acted on grounds generally applicable to the members of MVV
5 ASSOCIATION, the homeowners, residents, and occupants of the 119 lots in the Park, hereby
6 making it appropriate for the court to consider permanent injunctive relief or corresponding
7 declaratory relief with respect to those individuals as a whole.

8 9 **General Allegations**

10 17. Mission Valley Village Mobilehome Park opened in 1959, and is located on a 10.45 acre
11 parcel at 6850 Mission Gorge Road, in San Diego, California. The Park is divided into
12 approximately 119 lots, which lots are rented by residents and/or mobilehome owners who are 55
13 years of age or older. Although the lots are rented, the homes are owned by the respective
14 homeowners.

15 18. In February 2007, ARCHSTONE purchased the Park. ARCHSTONE employed Newport
16 Pacific Capital Company to manage the Park.

17 19. On or about April 23, 2007, ARCHSTONE served Park residents with a Frequently Asked
18 Questions memorandum related to ARCHSTONE'S closure of the Park. The memorandum stated
19 "The Owners will cease operating Mission Valley View Mobilehome Park as a mobilehome Park.
20 Therefore the Park will be closed and the tenancies (right to occupy the spaces) will be terminated."

21 20. On or about April 26, 2007, ARCHSTONE served Park residents with a "One Year Notice
22 of Intent to Cease Operating the Mobilehome Park [California Civil Code § 798.56(g)(2)]; Notice
23 of Intent to Cease Operating the Mobilehome Park and the Filing of An Application with the City
24 of San Diego [City of San Diego Ord. §§ 143.0610-0640]." ARCHSTONE stated it intended to
25 cease operations as a mobilehome park on April 26, 2008, and intended to cease business on April
26 26, 2008 or six months after the approval of the Final Relocation Plan, whichever occurred last.

27 21. On or about April 26, 2007, ARCHSTONE served Park residents with a "Sixty-Day
28 Notice to Existing Tenants of Filing Tentative Map or Parcel Map or Certificate of Compliance and

1 such other related applications and documents and /or Application to Cease Business as a
2 Mobilehome Park.” This notice stated that ARCHSTONE planned to file a tentative/parcel map or
3 certificate of compliance to close the Park.

4 22. As soon as ARCHSTONE sent these notices of closure to Park residents, the market value
5 of the residents’ mobilehomes and other personal property located in the Park dropped because,
6 among other reasons, the public became aware that the Park faced imminent closure.

7 23. On or about May 17, 2007, ARCHSTONE served Park residents with a notice titled
8 “Procedures for Residents who Wish to Sell Their Mobile Homes Prior to the Date of Park
9 Closure.” This notice instructed Park residents in the procedures to sell their home to
10 ARCHSTONE/Newport Pacific before the Park closed.

11 24. On or about June 29, 2007, ARCHSTONE served Park residents with a notice titled
12 “Withdrawal/Clarification of Closure Notice,” purporting to retract the Notices sent on or about
13 April 26, 2007. ARCHSTONE’S correspondence alleged that the “One Year Notice of Intent to
14 Cease Operating the Mobilehome Park” and “Notice of Intent to Cease Operating the Mobilehome
15 Park and the Filing of an Application with the City of San Diego” were “informational only” and
16 that they purportedly did not constitute notice of Park closure. However, ARCHSTONE’S
17 “Withdrawal/Clarification of Closure Notice” also stated that “the park does remain subject to
18 closure at some time in the near future.”

19 25. ARCHSTONE’S June 29, 2007 “Withdrawal/Clarification of Closure Notice” also
20 instructed any resident who sells or otherwise transfers a home in the Park to give a copy of the
21 “Disclosure Notice” attached thereto regarding the potential impact of Park closure to any
22 prospective buyer or transferee. The lengthy, two-page “Disclosure Notice” warns that the Park
23 may commence a change in use and termination of tenancy process at any time. It further states
24 that ARCHSTONE’S position is that no owner is entitled to any recovery for “in place” value of a
25 mobilehome in the Park, and that ARCHSTONE makes no representation that the Park will be a
26 mobilehome park for any period of time into the future.

27 26. On or about August 16, 2007, ARCHSTONE submitted an initiation letter to the City
28 Planning and Community Investment Department of the City of San Diego for an amendment to

1 remove the Mobilehome Park Overlay Zone related to Mission Valley Village so that the Park
2 could be closed, demolished, and replaced with an apartment/condominium complex.

3 27. On or about September 11, 2007, ARCHSTONE served Park residents with another letter
4 informing them that ARCHSTONE would once again re-initiate the Park closure process, and
5 enclosing ARCHSTONE'S August 16, 2007 initiation letter to the City Planning and Community
6 Investment Department.

7 28. In ARCHSTONE'S September 11, 2007 letter, ARCHSTONE promised not to raise the
8 space rent for existing residents while the Park moved towards closure.

9 29. ARCHSTONE prepared and submitted a Relocation Impact Report with a set of proposed
10 benefits to which Park residents would be entitled due to ARCHSTONE'S closure of the Park.
11 These proposed benefits included relocation of a resident's mobilehome where feasible at
12 ARCHSTONE'S expense. If relocation was not feasible, ARCHSTONE would pay the resident a
13 48-month rent differential, based on the difference between current space rent (\$725) and rent for a
14 comparable apartment unit according to the current HUD Fair Market Rents as on the date of
15 displacement.

16 30. On or about November 18, 2008, the San Diego City Council voted to allow for
17 ARCHSTONE'S application to discontinue and demolish the Park to construct a condominium
18 complex, but only after mandating several enhancements to ARCHSTONE'S Relocation Impact
19 Report and benefits owed to the Park's homeowners and residents. The first enhancement gave
20 Park residents a choice between receiving a lump sum rent differential paid by ARCHSTONE or, in
21 the alternative, the relocation of their mobilehome unit without regard to the feasibility of
22 relocating the resident's home. The second enhancement increased the amount of rent differential
23 that ARCHSTONE owed each resident to 84 months paid in one lump sum, and clarified that
24 comparable unit rent would be determined using bedroom size. The third enhancement removed
25 the necessity of ARCHSTONE to determine feasibility of relocation of a home, and restricted any
26 relocation to within the San Diego County area should a resident select the relocation option.

27 31. On or about December 2, 2008, the San Diego City Council approved the Ordinance
28 related to ARCHSTONE'S projected Park closure and redevelopment project. The City Council

1 also added two provisions related to Park closure. The first was to require the San Diego Housing
2 Commission to monitor mobile home space rental rates at the Park and provide a report to the City
3 Council on those rates until the Park closed. The second provision was to allow any resident who
4 chose the rent differential option—as outlined in the City Council meeting on November 18,
5 2008—the election to either remove their home at their own expense, or to convey title to
6 ARCHSTONE, which would then be responsible for the home removal at ARCHSTONE’S
7 expense.

8 32. On or about January 7, 2009, a prospective resident visited the business office at the Park
9 to inquire whether he could bring a new mobilehome into the Park. ARCHSTONE told the
10 prospective resident that no new homes could be brought into the Park because the Park was
11 closing.

12 33. On or about March 26, 2009—after ARCHSTONE had sent multiple notices of closure
13 and the City had issued final approval of Park closure—ARCHSTONE sent Park residents a letter
14 which stated that ARCHSTONE intended to continue to operate the Park, but if and/or when
15 ARCHSTONE decided to close the Park, residents would receive an additional 6-month notice of
16 closure. This letter also detailed **ARCHSTONE’S position that any resident who left the Park
17 before its next notice of closure issued would lose their rights to relocation benefits.
18 ARCHSTONE gave no indication of when it would close the Park.**

19 34. Then, despite ARCHSTONE’S promise not to raise rent, and a plummeting nationwide
20 real estate market, ARCHSTONE sent letters to Park residents in May 2009 that their rent would
21 *increase.*

22 35. ARCHSTONE’S rent increase is ARCHSTONE’S surreptitious attempt to try to reduce
23 the amount of relocation benefits ARCHSTONE would have to pay if ARCHSTONE uses the
24 increased rent amount to calculate the rent differential option when it closes the Park.

25 36. Attached to ARCHSTONE’S rent increase letter was a rent deferral agreement. The
26 agreement allowed the rent increase to be deferred and offset against future relocation benefits—
27 effectively asking Park residents to pay their relocation benefits over time out of their own pockets.
28 The agreement also required any resident who wished to defer the rent increase to waive any and all

1 claims against ARCHSTONE. According to the agreement, if an individual or the Homeowners'
2 Association took legal action against ARCHSTONE, the deferred rent would immediately become
3 due.

4 37. On or about August 28, 2009, NEWPORT PACIFIC sent a letter to the President of the
5 Mission Valley Village Homeowners Association which stated ARCHSTONE decided to delay the
6 effective date of the rent increase until December 1, 2009, and would prepare a revised rent deferral
7 agreement. To date, ARCHSTONE has not provided a revised rent deferral agreement. But
8 ARCHSTONE raised all residents' rents!

9 38. Highlighting ARCHSTONE'S efforts to crush the values of the Park's homeowners is the
10 manner in which ARCHSTONE has misrepresented to heirs that subsequent homeowners have no
11 rights to relocation benefits upon Park closure. On November 11, 2009, Sam Solana—a Park
12 resident—passed away. Sam Solana had set up a Trust for his estate, and designated his
13 granddaughter as the beneficiary. The funds from the Trust are to be used to pay for Solana's
14 granddaughter's college education.

15 39. On February 9, 2010, Manny Solana—Sam Solana's nephew and Trustee for the Sam
16 Solana Trust—wrote a letter to NEWPORT PACIFIC regarding Sam Solana and the Estate's rights
17 to relocation benefits. Manny Solana wrote that his uncle had told him before his passing that he
18 wanted to receive his relocation benefits in the form of the lump-sum rent differential option.
19 Therefore, Manny Solana valued his uncle's assets of the trust based on the rent differential option
20 in ARCHSTONE'S approved Relocation Plan with the City's enhancements. Manny Solana wrote
21 that he had—since his uncle's passing—been informed by ARCHSTONE that he could neither sell
22 nor rent Sam Solana's home, but that he was required to continue paying rent on the space. In the
23 letter, Manny Solana asked ARCHSTONE to either: (a) pay relocation benefits to his uncle or
24 uncle's estate in exchange for transfer of title of the home to ARCHSTONE, or (b) agree to allow
25 the home to remain at the Park until ARCHSTONE paid Sam Solana's relocation benefits.

26 40. On February 19, 2010, ARCHSTONE wrote back to Manny Solana that ARCHSTONE
27 would not prohibit the sale of Solana's home to an acceptable resident, but would prohibit any
28 rental of the home, and ARCHSTONE would continue to require rent on Solana's space, even if the

1 home were being marketed for sale. ARCHSTONE agreed to abate \$2,325 of rent which
2 ARCHSTONE alleged had become due since Sam Solana's passing, but only if Solana transferred
3 title to the home to ARCHSTONE, or removed the home from the Park and terminated the lease.
4 ARCHSTONE then asserted that Sam Solana's rights to relocation benefits do not pass to his heirs,
5 his Trust, or otherwise to his Estate. In essence then ARCHSTONE would benefit exclusively
6 every time someone at the Park died—the longer ARCHSTONE put off the Park closure, the better
7 for ARCHSTONE.

8 41. On or about March 3, 2010, Manny Solana wrote back to ARCHSTONE that the effect of
9 ARCHSTONE'S position was to crush the value of Sam Solana's estate. Solana explained that it
10 would be nearly impossible to find a buyer for his uncle's home due to imminent Park closure.
11 Solana quoted Councilmember Madaffer in the December 8, 2008 City Council meeting on the
12 Park closure: "I would just suggest that nobody else would want to buy or move in there knowing
13 that the park is going to close."

14 42. On March 12, 2010, ARCHSTONE asserted without citation to any supporting legal
15 authority, that owners of a home who do not reside at the Park do not have relocation rights, and
16 reiterated that ARCHSTONE'S position is that Sam Solana's Trust is not entitled to any relocation
17 benefits.

18 43. On March 19, 2010, MVV ASSOCIATION wrote a letter to ARCHSTONE requesting
19 clarification on rights and issues related to the Park closure. The letter asked ARCHSTONE to
20 address Park residents' concerns and clarify ARCHSTONE'S position on the following issues:
21 (1) whether rights to relocation benefits could be assigned/transferred to a buyer or transferee of a
22 mobilehome, (2) whether rights to relocation benefits would transfer to a deceased resident's heirs
23 or estate, (3) whether market rate rent increases or decreases above or below the \$725 per month
24 rental rate in effect at the time of the City's approval of Park closure would be used to determine
25 the amount of rent differential owed to the residents, (4) whether ARCHSTONE would pay
26 relocation benefits within 30 days of service of its 6-month notice of closure, (5) whether
27 ARCHSTONE would pay relocation benefits within 30 days of a resident's transfer of his or her
28 home to ARCHSTONE and termination of lease, and (6) whether ARCHSTONE'S and residents'

1 rights and obligations apply to their respective successors-in-interest. The March 19, 2010 letter is
2 attached as Exhibit 1 hereto and is incorporated by this reference as though fully set forth herein.

3 44. On March 23, 2010, ARCHSTONE responded by simply concluding that “ASN Mission
4 Gorge, LLC has complied with its legal obligations,” but utterly failed to clarify or even address
5 any of the residents’ concerns. ARCHSTONE’S March 23, 2010 letter is attached as Exhibit 2
6 hereto and is incorporated by this reference as though fully set forth herein.

7 45. Since April 2007, at least 11 Park residents have passed away, and many other Park
8 residents have been forced to move out of the Park due to illness or incapacity. ARCHSTONE
9 maintains it does not owe relocation benefits to these individuals and/or their estates. To date,
10 ARCHSTONE has not disbursed any relocation benefits it owes Park residents under the approved
11 Relocation Plan, and ARCHSTONE has not indicated when or if it intends to do so. And yet,
12 through its misrepresentations of fact and law, and other improper acts and omissions,
13 ARCHSTONE has caused great diminution in value of the residents’ homes, has tricked elderly
14 homeowners into transferring their homes to ARCHSTONE for pennies on the dollar, and has
15 sought to diminish the relocation benefits it owes to the residents. ARCHSTONE, without any
16 legal authority, has been affirmatively misrepresenting to the park’s homeowners that upon death or
17 sale of a home, the homeowners’ rights to relocation benefits neither transfer to the next lawful
18 owner, nor do they remain with the original owner or heirs. ARCHSTONE seems to be wishing for
19 an absolutely unjustified windfall profit for itself—that through sheer force of its self-made
20 proclamations, ARCHSTONE’S legal obligations to pay relocation benefits magically vanish.
21 Archstone’s actions certainly give the dubious appearance that ARCHSTONE is preying on the
22 hope that as people in this retirement community die, ARCHSTONE will one-by-one reduce its
23 obligation to pay relocation benefits.

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1 **First Cause of Action**

2 **(Declaratory Relief)**

3 **(Against ARCHSTONE, NEWPORT PACIFIC and DOES 1-50)**

4 46. Plaintiff realleges and incorporates herein by reference each and every allegation set forth
5 in all preceding and succeeding paragraphs as though fully set forth herein.

6 47. Pursuant to California Code of Civil Procedure sections 1060 *et seq.*, MVV
7 ASSOCIATION seeks a declaration of rights and/or duties related to and arising out of
8 ARCHSTONE’S purported closure of the Park.

9 48. An actual and present controversy exists relating to the legal rights and duties of MVV
10 ASSOCIATION, former and current Park residents and their heirs and/or assigns, and
11 ARCHSTONE. Specifically, a controversy exists as to the legal rights and duties with regard to the
12 following:

- 13 • Whether rights to relocation benefits transfer to a deceased homeowner’s heirs or
14 estate.
- 15 • Whether rights to relocation benefits can be assigned/transferred to a buyer or
16 transferee of a mobilehome.
- 17 • Whether ARCHSTONE has violated the Mobilehome Residency Law and other laws,
18 by, among other things, causing the market values of mobilehomes in the Park to
19 plummet and acting in a manner which has caused the market values of the
20 mobilehomes in the Park to remain depressed by indefinitely delaying Park closure.
- 21 • Whether homeowners and residents who have been forced to leave the Park since
22 ARCHSTONE’S April 26, 2007 Notice of Park closure are entitled to relocation
23 benefits or loss of value of their home, whichever is greater.
- 24 • Whether the conveyance of mobilehomes to ARCHSTONE since April 2007 was
25 based on mistake, fraud, duress, menace, and ARCHSTONE’S connivance, requiring
26 rescission of all such transfers and/or contracts.
- 27 • Whether ARCHSTONE may indefinitely delay Park closure despite final approval of
28 closure over 16 months ago.
- Whether ARCHSTONE must use the \$725 rent amount in effect at the time of Park
closure approval to determine rent differential when it disburses relocation benefits;
- Whether ARCHSTONE can raise the rent above \$725 per month for the duration of
this lawsuit and through the Park’s closure.

49. A declaration of the rights and duties with respect to the controversies herein is necessary
and proper at this time because Park residents face imminent harm in that they are unable to take

1 any action with regard to the sale or transfer of their homes and/or plan for their future either living
2 at the Park or elsewhere. Additionally, as a group of individuals aged 55 years and older, Park
3 residents are unable to plan for their estates at death. Furthermore, Park residents' ability to
4 alienate property is restricted because ARCHSTONE refuses to confirm that it will pay relocation
5 benefits to transferees, leaving residents unable to determine the value of their homes for sale or
6 transfer purposes. In effect, ARCHSTONE has crushed all home values at the Park and the
7 residents are being forced to wait indefinitely until ARCHSTONE decides to close the Park in
8 order to receive their relocation benefits.

9 50. Therefore, because of the actual and present controversy alleged herein, MVV
10 ASSOCIATION requests the Court to declare the following:

- 11 • A homeowner's rights to relocation benefits transfer to a deceased homeowner's heirs
or estate.
- 12 • A homeowner's rights to relocation benefits can be assigned/transferred to a buyer or
transferee of a mobilehome.
- 13 • ARCHSTONE has violated the Mobilehome Residency Law and other laws, by,
14 among other things, causing the market values of mobilehomes in the Park to
plummet and acting in a manner which has caused the market values of the
15 mobilehomes in the Park to remain depressed by indefinitely delaying Park closure.
- 16 • Homeowners and residents who have been forced to leave the Park since
ARCHSTONE'S April 26, 2007 Notice of Park closure are entitled to relocation
17 benefits or loss of value of their home, whichever is greater.
- 18 • Homeowners' conveyance or transfer of title of mobilehomes to ARCHSTONE since
April 2007 are rescinded based on mistake, fraud, duress, menace, and
19 ARCHSTONE'S connivance.
- 20 • For all homes conveyed or transferred to ARCHSTONE, ARCHSTONE owes those
homeowners all relocation benefits or value of their home, whichever is greater.
- 21 • ARCHSTONE may not indefinitely delay Park closure despite final approval of
22 closure over 16 months ago.
- 23 • ARCHSTONE must use the \$725 rent amount in effect at the time of Park closure
approval to determine rent differential when it disburses relocation benefits;
- 24 • ARCHSTONE cannot raise the rent above \$725 per month for the duration of this
25 lawsuit and through the Park's closure.

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1 **Second Cause of Action**

2 **(Negligent Misrepresentation)**

3 **(Against ARCHSTONE, NEWPORT PACIFIC, and DOES 1-50)**

4 51. Plaintiff realleges and incorporates herein by reference each and every allegation set forth
5 in all preceding and succeeding paragraphs as though fully set forth herein.

6 52. A cause of action for negligent misrepresentation arises when a party to a contract makes
7 an unwarranted and untrue assertion, intending to induce another party to enter into a contract.

8 53. As generally described herein, ARCHSTONE and Does 1-50 made affirmative
9 misrepresentations of material facts to the Park homeowners and residents, suppressed and
10 concealed material facts from the Park homeowners and residents, and did so with the intent to
11 induce the Park homeowners and residents' reliance on the representations. ARCHSTONE had no
12 reasonable grounds for believing those representations to be true. The Park homeowners and
13 residents justifiably relied on ARCHSTONE'S misrepresentations and concealed facts, which
14 caused and induced the Park homeowners and residents to sign ARCHSTONE'S Rent Deferral
15 Agreement or conveyance/title transfer agreement.

16 54. ARCHSTONE made affirmative misrepresentations of past or existing material fact which
17 ARCHSTONE had no reasonable ground for believing were true, including, but not limited to:

- 18 • Misrepresenting that rights to relocation benefits do not transfer to a deceased
19 homeowner's heirs or estate.
- 20 • Misrepresenting that rights to relocation benefits cannot be assigned/transferred to a
21 buyer or transferee of a mobilehome.
- 22 • Misrepresenting that homeowners and residents who have been forced to leave the
23 Park since ARCHSTONE'S April 26, 2007 Notice of Park closure are not entitled to
24 relocation benefits or loss of value of their home.
- 25 • Misrepresenting that ARCHSTONE would not raise the rent above \$725 per month
26 for the duration of this lawsuit.
- 27 • Misrepresenting that future purchasers of mobilehomes within the Park are not
28 entitled to relocation benefits, thereby making it nearly impossible for mobilehome
owners to sell or transfer their homes.

55. ARCHSTONE intended Park homeowners and residents—the individuals MVV
ASSOCIATION was formed to represent—to rely on its misrepresentations.

1 56. As a direct and proximate result of ARCHSTONE'S negligent misrepresentations, the
2 Park's homeowners and residents suffered injuries and damages, which include, but are not limited
3 to, general and special damages, consequential and compensatory damages, and other damages
4 according to proof, attorneys' fees and costs, prejudgment interest, as well as all other forms of
5 relief allowed by law. The Park's homeowners and residents further seek rescission of the
6 conveyance/title transfer agreements and any Rent Deferral agreements and complete relief,
7 including restitution of benefits, as a result of the transaction and any consequential damages to
8 which the Park homeowners and residents are entitled and/or compensatory damages which justice
9 may require.

10
11 **Third Cause of Action**

12 **(Negligent Interference with Prospective Economic Advantage.)**

13 **(Against ARCHSTONE and DOES 1-50)**

14 57. Plaintiff realleges and incorporates herein by reference each and every allegation set forth
15 in all preceding and succeeding paragraphs as though fully set forth herein.

16 58. An existing and/or prospective ongoing economic relationship exists between mobilehome
17 owners in the Park on the one hand and prospective purchasers of mobilehomes on the other, which
18 contains a reasonably probable future economic benefit to the mobilehome owners.

19 59. ARCHSTONE owed a duty of care and/or has a special relationship to the mobilehome
20 owners because, among other things: (a) ARCHSTONE'S actions and/or omissions related to the
21 Park directly affect mobilehome owners and could not have been performed without a direct effect
22 on mobilehome owners; (b) an adverse impact to the mobilehome owners' prospective economic
23 gain through sale of their mobilehome was a foreseeable result from ARCHSTONE'S acts and/or
24 omissions; (c) ARCHSTONE'S acts and/or omissions directly and negatively impacted the
25 mobilehome owners' prospects of economic benefit through sale of their homes; and
26 (d) ARCHSTONE acted and continues to act in a manner which interferes with the mobilehome
27 owners' prospective economic benefit from sale of their mobilehomes. Moreover, public policy,
28 such as that embodied in the Mobilehome Residency Law, the San Diego Municipal Code, and

1 other statutes and policy related to mobilehome Parks supports finding ARCHSTONE owes
2 mobilehome owners a duty of care.

3 60. ARCHSTONE has wrongfully interfered—and continues to wrongfully interfere—with
4 mobilehome owners’ prospective economic advantage or benefit which would result from the sale
5 of their mobilehomes. ARCHSTONE’S interference includes, but is not limited to: acts which
6 have caused the value mobilehomes in the Park to drop, acts and/or omissions which have caused
7 the value of mobilehomes in the Park to remain depressed since April 2007, misrepresentations as
8 to the loss of the rights to relocation benefits upon death or transfer of one’s home, and the acts
9 and/or omissions set forth throughout this Complaint.

10 61. ARCHSTONE knew or should have known that its acts and/or omissions related to Park
11 closure would interfere with mobilehome owners’ prospective economic advantage or benefit.

12 62. As a direct and proximate result of ARCHSTONE’S acts and/or omissions related to Park
13 closure, mobilehome owners have suffered a foreseeable loss in economic advantage or benefit.
14 Therefore, Plaintiff seeks economic damages, including, but not limited to, diminution in value of
15 their homes, all consequential and compensatory damages, lost economic benefit suffered due to
16 ARCHSTONE’S interference with mobilehome owners’ ability to sell their homes, and injunctive
17 relief. Moreover, due to ARCHSTONE’S willful and conscious disregard of Plaintiff’s rights,
18 Plaintiff seeks punitive damages against Defendants under Gov. Code section 3294.

19
20 **Fourth Cause of Action**

21 **(Intentional Interference with Prospective Economic Advantage.)**

22 **(Against ARCHSTONE and DOES 1-50)**

23 63. Plaintiff realleges and incorporates herein by reference each and every allegation set forth
24 in all preceding and succeeding paragraphs as though fully set forth herein.

25 64. An existing and/or prospective ongoing economic relationship exists between mobilehome
26 owners in the Park on the one hand and prospective purchasers of mobilehomes on the other, which
27 contains a reasonably probable future economic advantage or benefit to the mobilehome owners.

28 65. ARCHSTONE wrongfully interfered—and continues to wrongfully interfere—with the

1 mobilehome owners' prospective economic advantage or benefit which would result from the sale
2 of their mobilehomes. This interference includes, but is not limited to: acts which have caused the
3 value of owners' mobilehomes to drop, acts and/or omissions which have caused the value of
4 owners' mobilehomes to remain depressed since April 2007, misrepresentations as to the loss of the
5 rights to relocation benefits upon death or transfer of one's home, the acts and/or omissions set
6 forth throughout this Complaint, and violation of the Mobilehome Residency Law, the San Diego
7 Municipal Code, and other statues and policy related to mobilehome Parks.

8 66. ARCHSTONE knew of and intended to interfere with mobilehome owners' existing and
9 prospective economic advantage or benefit which would result from the sale of their homes, and
10 acted with oppression, fraud, and/or malice.

11 67. As a direct and proximate result of ARCHSTONE'S wrongful interference, mobilehome
12 owners have suffered a foreseeable loss in economic advantage or benefit. Therefore, Plaintiff
13 seeks economic damages, including, but not limited to, diminution in value of their homes, all
14 consequential and compensatory damages, lost economic benefit suffered due to ARCHSTONE'S
15 interference with mobilehome owners' ability to sell their homes, and injunctive relief. Moreover,
16 due to ARCHSTONE'S willful and conscious disregard of Plaintiff's rights, Plaintiff seeks punitive
17 damages against Defendants under Gov. Code section 3294.

18 **Fifth Cause of Action**

19 **(Rescission)**

20 **(Against ARCHSTONE, NEWPORT PACIFIC and DOES 1-50)**

21 68. Plaintiff realleges and incorporates herein by reference each and every allegation set forth
22 in all preceding and succeeding paragraphs as though fully set forth herein.

23 69. Plaintiff brings this cause of action, among other things, under Civil Code sections 1688 *et*
24 *seq.* Plaintiff gave Defendants notice of rescission in accord with Civil Code section 1691 via this
25 Complaint, and offers to restore everything of value received under the contracts upon the condition
26 that ARCHSTONE does likewise. (Civil Code § 1691.)

27 70. Pursuant to Civil Code sections 1688 *et seq.*, a contract may be rescinded when consent
28

1 was given by mistake, fraud, menace, undue influence, or with the connivance of the party as to
2 whom rescission is sought.

3 71. Since April 2007, many mobilehome owners in the Park conveyed their mobilehomes to
4 ARCHSTONE in connection with sales contracts wherein the mobilehome owners' consent to the
5 conveyance was given because of mistake, or by ARCHSTONE'S acts amounting to fraud,
6 menace, undue influence or connivance. Under these circumstances, the public interest will be
7 prejudiced if those sales contracts/transfers are permitted to stand.

8 **Mistake of fact**

9 72. Mobilehome owners were ignorant of a past or present fact material to the contract, or
10 believed in the present existence of something material to the contract that does not exist or in the
11 past existence of something that never existed. (See, e.g., Civil Code § 1577.) A contract is subject
12 to unilateral rescission by a party whose consent to the contract was given by mistake. (See Civil
13 Code § 1689(b)(1).)

14 73. For example, Park homeowners and residents—who are elderly, seriously infirm, or their
15 heirs—were told that ARCHSTONE would not pay relocation benefits to the heirs and/or estate of
16 a deceased mobilehome owner. ARCHSTONE also instructed owners that upon sale of the home
17 to a third party, both the original owner and new owner lost all rights to relocation benefits at the
18 time of ARCHSTONE'S Park closure. In reliance on this information, owners conveyed title to
19 their mobilehomes to ARCHSTONE for an amount significantly lower than the amount
20 ARCHSTONE owes them and/or their estates in relocation benefits. ARCHSTONE'S
21 representations of fact were false, and pennies on the dollar compared to the fair market value but
22 for ARCHSTONE'S actions.

23 74. Based on these and other mistakes of fact, mobilehome owners were induced to convey
24 title to their mobilehomes to ARCHSTONE. As a direct and proximate result of the mistake of
25 fact, Plaintiffs seek rescission of those contracts conveying title, and complete relief, including
26 restitution of benefits, as a result of the transaction and any consequential damages to which
27 Plaintiffs are entitled and/or compensatory damages which justice may require. (See Civil Code §
28 1692.)

1 **Mistake of Law**

2 75. Mobilehome owners had a mistaken belief as to the legal consequences of the facts at the
3 time they conveyed title to their mobilehomes to ARCHSTONE. The mobilehome owners and
4 ARCHSTONE either thought they knew and understood the law—all parties thereby making
5 substantially the same mistake as to the law; or, alternatively, mobilehome owners misunderstood
6 the law at the time of contracting and ARCHSTONE knew the law but did not rectify the owners’
7 misunderstanding. (See Civil Code § 1578.) A contract is subject to unilateral rescission by a party
8 whose consent to the contract was given by mistake. (See Civil Code § 1689(b)(1).)

9 76. For example, ARCHSTONE instructed owners that their rights to relocation benefits do
10 not transfer to their heirs and/or estates at death, and that ARCHSTONE would not be required by
11 law to pay relocation benefits to heirs and/or estates at death. ARCHSTONE also instructed
12 owners that upon sale of the home to a third party, both the original owner and new owner lost all
13 rights to relocation benefits at the time of ARCHSTONE’S Park closure. ARCHSTONE’S
14 representations of law were false.

15 77. Based on these and other mistakes of law, owners were induced to convey title to their
16 homes to ARCHSTONE for a price significantly lower than the amount of their relocation benefits,
17 and pennies on the dollar compared to the fair market value but for ARCHSTONE’S actions. As a
18 direct and proximate result of the mistake of law, Plaintiff seeks rescission of the conveyances and
19 complete relief, including restitution of benefits, as a result of the transaction and any consequential
20 damages to which owners are entitled and/or compensatory damages which justice may require.
21 (See Civil Code § 1692.)

22 **Undue Influence**

23 78. ARCHSTONE, holding a real and apparent authority over elderly mobilehome owners,
24 took unfair advantage of mobilehome owners’ weakness of mind, and/or took a grossly oppressive
25 and unfair advantage of mobilehome owners’ necessities or distress. ARCHSTONE’S undue
26 influence was seen in its misrepresentations and withholding of relocation benefits, amounting to
27 pressure that works on mental, moral, or emotional weakness of mobilehome owners to such an
28 extent that it approaches the boundaries of coercion. A contract is subject to unilateral rescission

1 by a party whose consent to the contract was obtained through duress, fraud, or undue influence.
2 (See Civil Code § 1689(b)(1).)

3 79. For example, ARCHSTONE repeatedly sent notices of imminent Park closure to residents,
4 purported to retract the notices, then sent out closure notices over again so that mobilehome owners
5 never knew—and still do not know—when the Park was going to close and when or if they would
6 receive their relocation benefits. Moreover, ARCHSTONE has acted in a manner which has
7 rendered the homes in the park unmarketable to the public. Effectively, residents who wish to
8 receive the relocation benefits to which they are entitled by law are trapped in the Park.

9 80. Based on ARCHSTONE’S undue influence, mobilehome owners were induced to convey
10 title to their homes to ARCHSTONE. As a direct and proximate result of ARCHSTONE’S undue
11 influence, Plaintiff seeks rescission of the transfers to ARCHSTONE, and complete relief,
12 including restitution of benefits, as a result of the transaction and any consequential damages to
13 which owners are entitled and/or compensatory damages which justice may require. (See Civil
14 Code § 1692.)

15 **Economic Duress**

16 81. As generally described herein ARCHSTONE did wrongful acts which were sufficiently
17 coercive to cause mobilehome owners—reasonably prudent persons who were faced with no
18 reasonable alternative—to convey title of their homes to ARCHSTONE. Thus, the homeowners’
19 consent was obtained under economic duress. (See Civil Code § 1689(b)(1).)

20 82. For example, ARCHSTONE repeatedly sent notices of imminent Park closure to residents,
21 purported to retract the notices, then sent out closure notices over again so that mobilehome owners
22 never knew—and still do not know—when the Park was going to close and when or if they would
23 receive their relocation benefits. Moreover, ARCHSTONE has acted in a manner which has
24 rendered the homes in the park unmarketable to the public. Effectively, residents who wish to
25 receive the relocation benefits to which they are entitled by law are trapped in the Park.

26 83. As a direct and proximate result of ARCHSTONE’S economic duress, Plaintiff seeks
27 rescission of transfers to ARCHSTONE, and complete relief, including restitution of benefits, as a
28 result of the transaction and any consequential damages to which mobilehome owners are entitled

1 and/or compensatory damages which justice may require. (See Civil Code § 1692.)

2 **Unconscionability**

3 84. Unconscionability is generally recognized as including an absence of meaningful choice
4 on the part of one of the parties, together with contract terms that are unreasonably favorable to the
5 other party.

6 85. ARCHSTONE took unfair advantage of the elderly mobilehome owners and their heirs.
7 The mobilehome owners who conveyed title of their homes to ARCHSTONE since April 2007
8 reasonably believed that they did not have any meaningful choice with regard to the disposition of
9 their home if the mobilehome owner chose, or was forced, to leave the Park due to illness or death.
10 The mobilehome owners relied on ARCHSTONE'S misrepresentations and therefore believed
11 conveyance of their homes to ARCHSTONE would render the most economic benefit to the owner
12 and/or his or her heirs and/or estate at death. Furthermore, ARCHSTONE'S acts regarding Park
13 closure depressed the market value of homes in the Park so that owners reasonably thought the
14 transfer of their homes to ARCHSTONE would render the best economic benefit.

15 86. As a direct and proximate result of ARCHSTONE'S unconscionable transfer agreements,
16 Plaintiff seeks rescission and complete relief, including restitution of benefits as a result of the
17 transaction and any consequential damages to which owners are entitled and/or compensatory
18 damages which justice may require. (See Civil Code § 1692.) Plaintiff further seeks all applicable
19 remedies, both equitable and statutory (see Civil Code § 1670.5), that the Court deems appropriate.

20 **Fraud**

21 87. Fraud is an affirmative misrepresentation, or suppression of a fact, or promise made
22 without the intent to keep it, of a material fact with knowledge of falsity or effect of concealment of
23 material fact; actual and justifiable reliance, which causes damages. A contract is subject to
24 unilateral rescission by a party whose consent to the contract was obtained through duress, fraud, or
25 undue influence. (See Civil Code § 1689(b)(1).)

26 88. As described in this Complaint and specifically in the Tenth Cause of Action for Fraud and
27 Deceit, ARCHSTONE made affirmative misrepresentations of material facts to mobilehome
28 owners, suppressed and concealed material facts from mobilehome owners, and did so with

1 knowledge of falsity and/or through concealment. Mobilehome owners justifiably relied on
2 ARCHSTONE'S representations and concealed facts, which caused and induced mobilehome
3 owners to convey title of their homes to ARCHSTONE.

4 89. As a direct and proximate result of ARCHSTONE'S fraudulent conduct and
5 misrepresentations, Plaintiff seeks rescission of the transfer agreements, and complete relief,
6 including restitution of benefits, as a result of the transaction and any consequential damages to
7 which mobilehome owners are entitled and/or compensatory damages which justice may require.
8 (See Civil Code §§ 1689(b)(1), 1692.)

9 **Contract Against Public Policy**

10 90. A contract is also subject to an action for rescission if the contract violates public policy or
11 where its enforcement would be prejudicial to the public interest. (See Civil Code § 1689(b)(6).)

12 91. As described herein, ARCHSTONE acted in a manner contrary to the public policies
13 which protect mobilehome residents and other low-income and elderly groups. The purpose of
14 mobilehome Park discontinuance procedures and regulations is to minimize the adverse impact on
15 the mobilehome residents who will be displaced. (Civil Code §§ 798.55, 798.56; San Diego
16 Municipal Code § 143.0610). ARCHSTONE violated these and other public policies by, among
17 other things, obtaining title to mobilehomes in the Park for amounts substantially lower than the
18 amount of relocation benefits owed to residents who were forced to leave the Park due to illness or
19 incapacity. ARCHSTONE also informed residents that their rights would not pass to their estates
20 at death in contravention of the Mobilehome Residency Law (Civil Code §§ 798 *et seq.*), so elderly
21 or infirmed residents reasonably believed they had no better option to benefit their estates than to
22 convey title to ARCHSTONE. It is in the public's interest to ensure that the rights of low-income,
23 elderly, infirmed, and mobilehome owners and residents are protected.

24 92. Plaintiff seeks rescission of the transfer agreements and complete relief, including
25 restitution of benefits, as a result of the transaction and any consequential damages to which
26 Plaintiff is entitled and/or compensatory damages which justice may require. (See Civil Code
27 § 1692.)

28 ///

1 **Lack of capacity**

2 93. To determine whether a valid contract even comes into existence, the first element that
3 needs to be proven is “parties capable of contracting.” (Civil Code § 1550.) Thus, a contract is
4 void if a party did not understand the nature, purpose, and effect of the contract he signed.

5 94. Certain of the mobilehome owners—through age or mental or other disabilities—lacked
6 the capacity to understand the nature, purpose, and effect of the transfer agreements regarding
7 conveyance of their mobilehomes to ARCHSTONE. Accordingly, any such transfer agreement is
8 void as it never came into existence since those mobilehome owners were not capable of
9 contracting.

10 95. In accordance with the foregoing, Plaintiff seeks the rescission of the transfer agreements
11 regarding conveyance of mobilehomes to ARCHSTONE since April 2007 based on: mistake of
12 fact, mistake of law, undue influence, economic duress, unconscionability, fraud, contract against
13 public policy, and lack of capacity. Plaintiff further prays for all lawful remedies and damages
14 allowed by law and equity, including but not limited to restitution of benefits as a result of the
15 transactions and any consequential damages to which the mobilehome owners are entitled and/or
16 compensatory damages which justice may require. (See, e.g., Civil Code §§ 1670.5, 1689(b)(1),
17 1692.)

18
19 **Sixth Cause of Action**

20 **(Unjust Enrichment)**

21 **(Against ARCHSTONE and DOES 1-50)**

22 96. Plaintiff realleges and incorporates herein by reference each and every allegation set forth
23 in all preceding and succeeding paragraphs as though fully set forth herein.

24 97. By misrepresenting the facts and law, using its acts and omissions to crush the values of
25 the mobilehomes, ARCHSTONE has obtained an economic benefit, and has unjustly retained this
26 benefit, at the expense and to the economic detriment of MVV ASSOCIATION and those it was
27 formed to represent. This includes, but is not limited to, the retention of relocation benefits
28

1 ARCHSTONE owes Park residents, and has owed Park residents since the City of San Diego
2 granted final approval of Park closure over 16 months ago.

3 98. Under these circumstances, it is unjust for ARCHSTONE to retain the economic benefits it
4 has obtained at Park residents' expense.

5 99. As a result, MVV ASSOCIATION seeks restitution of the economic benefit obtained and
6 retained by ARCHSTONE at the expense of Park residents, including, but not limited to, the
7 amount of relocation benefits owed to Park residents or the loss in value of the homes, whichever is
8 greater, plus interest thereon.

9
10 **Seventh Cause of Action**

11 **(Conversion)**

12 **(Against ARCHSTONE and DOES 1-50)**

13 100. Plaintiff realleges and incorporates herein by reference each and every allegation set
14 forth in all preceding and succeeding paragraphs as though fully set forth herein.

15 101. Mobilehome owners in the park have the right to ownership and possession of their
16 personal property, including, but not limited to their mobilehomes, appurtenances, improvements,
17 and landscaping.

18 102. ARCHSTONE wrongfully interfered with mobilehome owners' right to possession and
19 ownership of their personal property with the intent to exercise dominion and control over that
20 property in a manner inconsistent with mobilehome owners' rights, and did so with fraud,
21 oppression, and/or malice. This interference includes but is not limited to, interference with the
22 right to sell and/or transfer their mobilehomes and other personal property for a fair market price by
23 the acts and/or omissions described throughout this Complaint.

24 103. As a direct and proximate result of ARCHSTONE'S wrongful interference, mobilehome
25 owners have suffered damages. Plaintiff seeks compensatory damages in the amount of the fair
26 market value of the property at the time of conversion plus interest. Plaintiff will also seek
27 injunctive relief to halt ARCHSTONE'S interference with mobilehome owners' property rights and
28 punitive damages in an amount to be proven.

1 **Eighth Cause of Action**

2 **(Violation of Unfair Competition Law, Bus. & Prof. Code §§ 17200 et seq.)**

3 **(Against ARCHSTONE, NEWPORT PACIFIC, and DOES 1-50)**

4 104. Plaintiff realleges and incorporates herein by reference each and every allegation set
5 forth in all preceding and succeeding paragraphs as though fully set forth herein.

6 105. The statutes cited in this Complaint which ARCHSTONE has violated are intended for
7 the protection of Plaintiff, its members, and those individuals that MVV ASSOCIATION was
8 formed to represent.

9 106. ARCHSTONE violated, among other laws, the Mobilehome Residency Law (Civil
10 Code §§ 798 et seq.) As such, ARCHSTONE engaged in unlawful business practices to the
11 detriment of the individuals Plaintiff was formed to represent. Moreover, ARCHSTONE has acted
12 in a manner which offends established public policies and/or is immoral, unethical, oppressive,
13 and/or is substantially injurious to consumers, and in a manner which is detrimental to those
14 Plaintiff was formed to represent, and ARCHSTONE has engaged in fraudulent business practices
15 likely to mislead the public.

16 107. ARCHSTONE'S unlawful, unfair, and fraudulent business practices have injured those
17 individuals that MVV ASSOCIATION was formed to represent.

18 108. Due to ARCHSTONE'S unfair business practices, Plaintiff, its members, the
19 homeowners, residents, and occupants of the 119 lots at the Park have suffered injury in fact and
20 have lost money or property as a result. Therefore, Plaintiff seeks as against ARCHSTONE and
21 DOES 1-50, restitution, including profits unfairly obtained, and injunctive relief.

22
23 **Ninth Cause of Action**

24 **(Violation of Mobilehome Residency Law (Civil Code §§ 798 et seq.)**

25 **(Against ARCHSTONE and DOES 1-50)**

26 109. Plaintiff realleges and incorporates herein by reference each and every allegation set
27 forth in all preceding and succeeding paragraphs as though fully set forth herein.

1 110. Civil Code section 798 *et. seq.* (the Mobilehome Residency Law) (“MRL”) mandates
2 that, among other things, any heir who gains ownership of a mobilehome in a mobilehome park
3 through the death of the owner of the mobilehome shall have the right to sell the mobilehome. The
4 MRL also forbids Park management from prohibiting the sale of a mobilehome within the Park.

5 111. ARCHSTONE has violated the MRL by, among other things, informing Manny Solana
6 that Sam Solana’s estate could not sell Sam Solana’s mobilehome after his death.

7 112. In addition, ARCHSTONE has violated the MRL by prohibiting Park residents from
8 selling their mobilehomes by, among other things, the following: (1) repeatedly notifying the
9 residents and the public of Park closure and approval of its Relocation Plan—while at the same
10 time—indefinitely delaying distribution of relocation benefits; (2) refusing to clarify its position on
11 whether relocation benefits are transferable to purchasers of mobilehomes in the Park, effectively
12 denying residents the ability to value their home for sale; (3) distributing disclosure notices and
13 advising Park residents on numerous occasions that any sale or transfer of a mobilehome requires a
14 disclosure notice which repeatedly emphasizes the Park could be closed at any time; (4)
15 maintaining that any resident who leaves the Park before ARCHSTONE decides to distribute
16 relocation benefits have no rights to relocation benefits.

17 113. As a direct and proximate result of the above-referenced conduct, Plaintiff suffered
18 property-related and/or economic injuries and damages in an amount subject to proof.

19 114. As against ARCHSTONE and Does 1-50, Plaintiff seeks statutory and compensatory
20 damages as authorized under the MRL, attorneys fees as applicable, and punitive damages and
21 fines.

22
23 **Tenth Cause of Action**

24 **(Fraud and Intentional Deceit)**

25 **(Against ARCHSTONE, NEWPORT PACIFIC and DOES 1-50)**

26 115. Plaintiff realleges and incorporates herein by reference each and every allegation set
27 forth in all preceding and succeeding paragraphs as though fully set forth herein.

28 116. Fraud is an affirmative misrepresentation, or suppression of a material fact, or promise

1 made without the intent to keep it, with knowledge of its falsity, or effect of concealment of
2 material fact; actual and justifiable reliance, which causes damages. Actual fraud, consists in any
3 of the following acts, committed by a party to the contract, or with his connivance, with intent to
4 deceive another party thereto, or to induce him to enter into the contract:

- 5 1. The suggestion, as a fact, of that which is not true, by one who does not
6 believe it to be true;
- 7 2. The positive assertion, in a manner not warranted by the information of the
8 person making it, of that which is not true, though he believes it to be true;
- 9 3. The suppression of that which is true, by one having knowledge or belief of
10 the fact;
- 11 4. A promise made without any intention of performing it; or,
- 12 5. Any other act fitted to deceive. (Civil Code § 1572.)

13 117. Constructive fraud consists of: “1. In any breach of duty which, without an actually
14 fraudulent intent, gains an advantage to the person in fault, or any one claiming under him, by
15 misleading another to his prejudice, or to the prejudice of any one claiming under him; or, 2. In any
16 such act or omission as the law specially declares to be fraudulent, without respect to actual fraud.”
17 (Civil Code § 1573.)

18 118. As described herein, ARCHSTONE made affirmative misrepresentations of material
19 facts to Park homeowners and residents, fraudulently suppressed and concealed material facts from
20 Park homeowners and residents, and did so with a knowledge of falsity of those representations,
21 and/or through concealment. ARCHSTONE intended to deceive Park homeowners and residents.
22 Park homeowners and residents justifiably relied on ARCHSTONE’S representations and were
23 unaware of the concealed facts, which caused and fraudulently induced Park homeowners and
24 residents to sign ARCHSTONE’S conveyance/title transfer agreement or Rent Deferral agreement.

25 119. ARCHSTONE made affirmative misrepresentations of material fact, and/or concealed
26 information of material fact in a manner likely to mislead others, and/or made false promises—
27 promises without any intent of performing them regarding Park closure. These include, but are not
28 limited to:

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- Misrepresenting that rights to relocation benefits do not transfer to a deceased homeowner’s heirs or estate.
- Misrepresenting that rights to relocation benefits cannot be assigned/transferred to a buyer or transferee of a mobilehome.
- Misrepresenting that homeowners and residents who have been forced to leave the Park since ARCHSTONE’S April 26, 2007 Notice of Park closure are not entitled to relocation benefits or loss of value of their home.
- Misrepresenting that ARCHSTONE would not raise the rent above \$725 per month for the duration of this lawsuit.
- Misrepresenting that future purchasers of mobilehomes within the Park are not entitled to relocation benefits, thereby making it nearly impossible for mobilehome owners to sell or transfer their homes.

120. ARCHSTONE had knowledge of the falsity of its misrepresentations or reckless disregard for the truth, and/or knowledge of the effect its concealment of fact would have, and acted with fraud, oppression, and/or malice.

121. ARCHSTONE intended to induce reliance upon its misrepresentations and/or concealment of material fact, and intended to induce Park residents and those individuals MVV ASSOCIATION was formed to represent to alter their position based on ARCHSTONE’S misrepresentations and/or concealment of material fact.

122. Park residents and those individuals MVV ASSOCIATION was formed to represent justifiably and reasonably relied on ARCHSTONE’S misrepresentations and/or omissions of material fact, and residents materially changed their positions based on ARCHSTONE’S misrepresentations and/or omissions.

123. As a direct and proximate result of ARCHSTONE’S misrepresentations and/or omissions, those individuals MVV ASSOCIATION was formed to represent suffered damages in an amount to be proven, and Plaintiff seeks compensatory and consequential damages plus prejudgment interest thereon. Plaintiff will also seek punitive damages in an amount to be proven.

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1 **Eleventh Cause of Action**

2 **Financial Abuse (Elder Abuse)**

3 **(Against ARCHSTONE, NEWPORT PACIFIC and DOES 1-50)**

4 124. Plaintiff hereby incorporates by reference all preceding and succeeding paragraphs of
5 this Complaint as though fully set forth herein.

6 125. Financial abuse of an elder occurs when any person or entity takes, secretes,
7 appropriates, or retains real or personal property of an elder adult to a wrongful use or with an
8 intent to defraud, or both; a “wrongful use” is defined as taking, secreting, appropriating, or
9 retaining property in bad faith, which occurs where the person or entity knew or should have known
10 that the elder had the right to have the property transferred or made readily available to the elder or
11 to his or her representative. Further, financial abuse of an elder or dependent adult occurs when a
12 person or entity does any of the following:

13 (1) Takes, secretes, appropriates, obtains, or retains real or personal property of an
14 elder or dependent adult for a wrongful use or with intent to defraud, or both.

15 (2) Assists in taking, secreting, appropriating, obtaining, or retaining real or
16 personal property of an elder or dependent adult for a wrongful use or with
17 intent to defraud, or both.

18 (3) Takes, secretes, appropriates, obtains, or retains, or assists in taking, secreting,
19 appropriating, obtaining, or retaining, real or personal property of an elder or
20 dependent adult by undue influence, as defined in Section 1575 of the Civil
21 Code.

22 (b) A person or entity shall be deemed to have taken, secreted, appropriated,
23 obtained, or retained property for a wrongful use if, among other things, the
24 person or entity takes, secretes, appropriates, obtains, or retains the property and
25 the person or entity knew or should have known that this conduct is likely to be
26 harmful to the elder or dependent adult.

27 (c) For purposes of this section, a person or entity takes, secretes, appropriates,
28 obtains, or retains real or personal property when an elder or dependent adult is

1 deprived of any property right, including by means of an agreement, donative
2 transfer, or testamentary bequest, regardless of whether the property is held
3 directly or by a representative of an elder or dependent adult. (See Welf. & Inst.
4 Code § 15610.30.)

5 126. The Park homeowners and residents herein are elderly or dependent adults. As
6 generally described herein, Defendants made affirmative misrepresentations of material facts to
7 Park homeowners and residents, suppressed and concealed material facts from Park homeowners
8 and residents, and took, secreted, appropriated, or retained the real or personal property of these
9 Park homeowners and residents for a wrongful use or with an intent to defraud, or with undue
10 influence. ARCHSTONE directly and proximately induced Park homeowners and residents to sign
11 ARCHSTONE'S Rent Deferral Agreement or conveyance/title transfer agreement, and to suffer
12 injuries and damages, which include, but are not limited to, general and special damages,
13 consequential and compensatory damages, and other damages according to proof, attorneys' fees
14 and costs, prejudgment interest, as well as all other forms of relief allowed by law. Plaintiff further
15 seeks rescission of the conveyance/title transfer or Rent Deferral agreements and complete relief,
16 including restitution of benefits, as a result of the transaction and any consequential damages to
17 which Park homeowners and residents are entitled and/or compensatory damages which justice
18 may require.

19
20 **Prayer**

21 127. WHEREFORE, Plaintiff prays for judgment against Defendants, and each of them, on
22 all causes of action pleaded herein as follows:

23 128. For declaratory relief, a declaration that:

- 24
- 25 • A homeowner's rights to relocation benefits transfer to a deceased homeowner's heirs
or estate;
 - 26 • A homeowner's rights to relocation benefits can be assigned/transferred to a buyer or
transferee of a mobilehome;
 - 27 • ARCHSTONE has violated the Mobilehome Residency Law and other laws, by,
28 among other things, causing the market values of mobilehomes in the Park to

1 plummet and acting in a manner which has caused the market values of the
2 mobilehomes in the Park to remain depressed by indefinitely delaying Park closure;

- 3 • Homeowners and residents who have been forced to leave the Park since
4 ARCHSTONE'S April 26, 2007 Notice of Park closure are entitled to relocation
5 benefits or loss of value of their home, whichever is greater;
- 6 • Homeowners' conveyance or transfer of title of mobilehomes to ARCHSTONE since
7 April 2007 are rescinded based on mistake, fraud, duress, menace, and
8 ARCHSTONE'S connivance;
- 9 • For all homes conveyed or transferred to ARCHSTONE, ARCHSTONE owes those
10 homeowners all relocation benefits or value of their home, whichever is greater;
- 11 • ARCHSTONE may not indefinitely delay Park closure despite final approval of
12 closure over 16 months ago;
- 13 • ARCHSTONE must use the \$725 rent amount in effect at the time of Park closure
14 approval to determine rent differential when it disburses relocation benefits;
- 15 • ARCHSTONE cannot raise the rent above \$725 per month for the duration of this
16 lawsuit and through the Park's closure;

17 129. Rescission of the conveyance/title transfer of homes to ARCHSTONE and of the Rent
18 Deferral Agreement based on mistake of fact, mistake of law, undue influence, economic duress,
19 unconscionability, fraud, contract against public policy, and lack of capacity. Plaintiff further prays
20 for all lawful remedies and damages allowed by law and equity, including but not limited to
21 restitution of benefits as a result of the transactions and any consequential damages to which the
22 mobilehome owners are entitled and/or compensatory damages which justice may require;

23 130. Payment of relocation benefits per the approved relocation plan, or the diminution in
24 value of the home, whichever is greater, for every Park homeowner from April 2007 until final
25 judgment is entered herein;

26 131. Restitution, including but not limited to restitution of all space rental rent paid by all
27 homeowners from April 2007 until final judgment is entered herein;

28 132. For general, special, compensatory, consequential, and incidental damages, according to
proof;

133. Punitive damages and/or statutory penalties;

134. Temporary and permanent injunctive relief, including but not limited to an injunction
capping monthly space rent at \$725 per home through this litigation and until park closure;

1 135. For Plaintiff's attorneys' fees and costs incurred herein as allowed by law and according
2 to proof;

3 136. For other fees and costs of suit incurred herein;

4 137. For prejudgment interest on all applicable monetary amounts at the maximum legally
5 permissible rate; and

6 138. For such other and further relief as the court may deem just and proper.
7

8 Respectfully Submitted,

9 DATE: April 23, 2010

10 TATRO & ZAMOYSKI, LLP

11 By: 
12

13 Peter A. Zamoyski, Esq.
14 Attorneys for Plaintiff Mission Valley
15 Village Mobilehome Association
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27
28

Exhibit 1



Tatro & Zamoyski

BUSINESS • REAL ESTATE • PERSONAL INJURY • ATTORNEYS

March 19, 2010

Sender's e-mail address:
Peter@sdRealEstateLaw.com

Via E-mail and U.S. Mail

Kenneth Keefe
Archstone
3 MacArthur Place, Suite 600
Santa Ana, CA 92707

Mark D. Alpert, Esq.
Hart, King & Coldren
200 Sandpointe, Fourth Floor
Santa Ana, CA 92707

Re: *Mission Valley Village Mobilehome Park / Archstone (ASN Mission Gorge, LLC)*
Our File No. 07-121

Dear Mr. Keefe and Mr. Alpert:

As you may recall, our office represents the homeowners association at Mission Valley Village Mobilehome Park and the members of the association. Our representation includes Mr. Manny Solana, with whom I understand you have been corresponding. This letter is our attempt to get clarification and definitive answers from Archstone on certain questions of paramount importance to the homeowners and residents of Mission Valley Village so they can confirm their legal rights and move forward with their lives knowing what to expect now and into the future.

Archstone owns Mission Valley Village Mobilehome Park and, back in 2007, initiated plans to close the park in order to develop new apartments on the land. When Archstone notified homeowners in 2007 that it intended to close Mission Valley Village, home values plummeted. Although the park's homeowners and residents were unaware of their legal rights, Archstone was keenly aware of the minimum relocation benefits that are statutorily mandated to be paid homeowners and residents before park closure under California's Mobilehome Residency Law (Civil Code §§ 798 et seq.; Gov't Code § 65863.7), San Diego's Municipal Code (S.D.M.C. §§ 143.0610-0640), and the City's administrative guidelines to relocation procedures (S.D. Housing Comm'n Policy PO 300.401). By December 2008—after many hearings with concerned homeowners, Archstone representatives, and the City Council—the City of San Diego approved the closure of the park and ordered Archstone to provide relocation benefits and assistance in accord with the Relocation Impact Report and Housing Commission Policy (such as Rent Differential, Moving Expenses, Lodging, and proceeds from the sale of the home) but with, among other items, the following significant provisions and/or amendments:

///

1. Rent differential of 7 years (84 mos.) rather than 4 years, paid in lump sum.
2. Tenant's choice of either relocating the mobilehome at Archstone's expense or receiving a lump-sum rent-differential payment from Archstone regardless of the feasibility of moving the home.
3. For tenants who choose the option of receiving a lump-sum rent-differential payment from Archstone, the tenant then had the further choice of either removing the home at the tenant's expense or else conveying title of the home to Archstone, and then Archstone would take all responsibility for the home including home-removal costs.
4. Monitoring of space rental rates by the San Diego Housing Commission until the park closes to ensure no rent increases by Archstone that do not comport with market rental rates. (See Memoranda of the San Diego Housing Commission dated Dec. 1, 2008 and Dec. 12, 2008, attached herewith as Exhibits A and B, respectively.)

As detailed in the City's Ordinance and Memoranda, the City required Archstone to compensate homeowners with 84 months of rent differential plus other relocation benefits, in lump sum, prior to park closure. Archstone is well aware that for this particular inland park location, the rent differential is calculated by using the HUD Fair Market Rent for San Diego for the year of closure per unit bedroom, then subtracting the space rent of \$725 at the time of the City's approval of the closure. (See Mem. of S.D.H.C., Exs. A and B.) For example, the 2009 HUD Fair Market Rent for San Diego for a two-bedroom unit is \$1418 so, had Archstone proceeded to close the park in the Summer of 2009 as it had previously announced, Archstone would be obligated to pay a homeowner of a two-bedroom unit a lump sum of no less than **\$58,212 in rent differential compensation** prior to Park closure. Archstone would be obligated to pay a homeowner of a three-bedroom unit no less than **\$112,728 in rent differential compensation** prior to Park closure.

After receiving the City's approval in late 2008, however, Archstone soon thereafter elected not to close the park in 2009 and not to pay the relocation benefits. Archstone's decision—apparently to indefinitely postpone park closure, coupled with the lack of definitive answers from Archstone and disinformation and rumors from park managers and other Archstone representatives—has left the homeowners hand-cuffed, in limbo, and unable to confirm their legal rights and make plans for the future.

For example, a number of homeowners have died since Archstone unilaterally decided that it would indefinitely postpone park closure. Under California real estate law, all rights of the deceased homeowner pass to the lawful heirs. And, among other rights and obligations, California's Mobilehome Residency Law ("MRL") permits homeowners to freely sell and transfer their homes (Civil Code §§ 798.70-798.83), and prohibits any waiver of the rights conferred to homeowners and residents under the MRL. (Civil Code §§ 798.19, 798.77.) But Archstone informed Mr. Solana—in writing no less—that although his uncle has passed away, the lawful heirs allegedly have no right to receive the relocation benefits that Archstone owed to his uncle. And to compound the situation, Archstone has also informed Mr. Solana that even if he were to sell his uncle's home, Archstone's position is that the new owner will also have

absolutely no right to relocation benefits when and if Archstone one day decides to close the mobilehome park. Obviously, Archstone's position would obliterate the resale value of the Solana home. But nowhere in the MRL (which reaffirms the rights of heirs in Civil Code section 798.78), is there anything supporting Archstone's stated position. Archstone, without citing any valid legal authority, has been affirmatively misrepresenting to the park's homeowners that upon death or sale of a home, the homeowners' rights to relocation benefits neither transfer to the next lawful owner, nor do they remain with the original owner or heirs. Archstone seems to be wishing for an absolutely unjustified windfall profit for itself—that through sheer force of its self-made proclamations, Archstone's legal obligations to pay relocation benefits magically vanish. Archstone's actions certainly give the dubious appearance that Archstone is preying on the hope that as people in this retirement community die, Archstone will one-by-one reduce its obligation to pay relocation benefits.

Certainly, if Archstone's position were lawful—that the right to relocation benefits vanish upon death of a homeowner or sale of a home, and thereafter do not transfer to the heirs or the new owner—Archstone would have citations to the code section within California's Mobilehome Residency Law to that effect. Or perhaps case law citations that likewise interpret California's Mobilehome Residence Law in the manner that Archstone wishes. But no such provisions exist within the MRL and no such cases interpret the MRL like Archstone has misinformed our clients.

Now it's time for all of us to set aside Archstone's past actions and try to move forward in a manner that is as amicable as possible whereby we re-declare Archstone's legal obligations and the homeowners' legal rights, and Archstone agrees to rectify and provide relief to those homeowners affected by Archstone's past actions.

Here are some examples of key rights and obligations that need to be affirmatively addressed. For example, when homeowners want to sell their homes in the future, they must know unequivocally whether Archstone will pay them all relocation benefits owed upon park closure or if Archstone will pay those benefits to the new owner. Unequivocally determining that obligation ensures that the price for the sale of the home can correctly reflect who will receive no less than \$60,000 in relocation benefits once Archstone closes the park.

Similarly, if a homeowner moves to an assisted-living facility or is forced to sell their home—they too need to know if Archstone will pay the new owners the relocation benefits or if Archstone will pay the original owner. And, like in Mr. Solana's situation, when a loved-one passes away, the heirs need to confirm that Archstone will pay the relocation benefits to them or to the person to whom they choose to sell the home. The park's homeowners must have the security of knowing their rights and Archstone's obligations.

There are other concerns that need to be addressed, such as Archstone's recent decision to increase homeowners' space rent. Our clients are worried that one of the consequences of Archstone's decision to raise their rents is Archstone's attempt to reduce its obligation to pay the rent differential component of the relocation benefits owed to the homeowners. Homeowners are also concerned that Archstone will continue such rent increases in order to economically force some of the homeowners out of the park.

We'd like to reach agreement with Archstone without the need for Court intervention, as we're sure that Archstone would. Here's what we propose in general, with the need for the parties to prepare and formalize their agreement:

1. A homeowner shall have the right to sell or otherwise transfer or bequeath his/her home to a new homeowner. All relocation benefits and other compensation (such as the 84 months rent differential) will be automatically assigned or otherwise transferred to the new homeowner and Archstone will owe those benefits and compensation to the new homeowner as though the new homeowner had owned and resided at the Park pre-2007 (before any notice of potential park closure). The selling/transferring homeowner would then have no right to any future relocation benefits or any other amounts when the Park closes.
2. If a homeowner passes away, Archstone's obligation to pay all relocation benefits and other compensation automatically transfers and inures to the benefit of the homeowner's heirs.
3. Any "market-rate" rent increase or decrease above or below the \$725 per month rental rate will not be used for purposes of determining rent differential at the time of park closure. The \$725 per month rental rate and the current-year HUD Fair Market Rent for San Diego at the time of expected park closure will be used to determine the rent differential owed by Archstone. For example, using 2009 as the park-closure date, Archstone is obligated to pay a homeowner of a two-bedroom unit a lump sum of no less than \$58,212 in rent differential compensation and to pay a homeowner of a three-bedroom unit no less than \$112,728 in rent differential compensation. (Archstone also owes other relocation benefits in addition to rent differential as approved by the City.)
4. Archstone will pay full relocation benefits and the like to the then-existing homeowner within 30 days after it serves the 6-month notice of closure.
5. Rather than selling their home to a third-party, homeowners may elect to terminate their tenancy and transfer title to the home to Archstone. In that event, homeowners would no longer be responsible for the home or paying space rent and the like. Archstone takes full responsibility for the home, and Archstone will pay all relocation benefits and other compensation to that homeowner within 30 days after the transfer.
6. All such rights and obligations apply to Archstone's successors-in-interest, and to the homeowners' successors-in-interest.

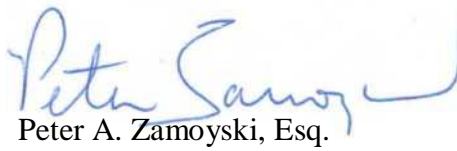
Also, as to Mr. Solana's situation, I look forward to working with you gentlemen to reach an acceptable termination agreement in line with the above. Kindly reply to me, preferably by phone, as soon as possible and no later than within the next week so that we can roll up our proverbial sleeves and meaningfully discuss ways over the phone and/or in-person to find a mutually agreeable resolution.

Letter to Mr. Keefe and Mr. Alpert
March 19, 2010
Page 5 of 5

If you have any questions, please feel free to call or e-mail me anytime.

Sincerely,

TATRO & ZAMOYSKI, LLP



Peter A. Zamoyski, Esq.

Exhibit 2

March 23, 2010

Our File Number: 38020.001/4851-5060-9413v.1

VIA EMAIL AND MAIL

Peter A. Zamoyski, Esq.,
Tatro & Zamoyski, LLP
12780 High Bluff Drive, Suite 270
San Diego, CA 92130

Re: Mission Valley Village MHP / Closure Letter March 19, 2010

Dear Mr. Zamoyski:

I have reviewed your letter of March 19, 2010. It does not accurately state either the terms under which the closure of Mission Valley Village was approved or the requirements of the Mobilehome Residency Law (Civil Code 798 et seq), the state relocation law (Government Code § 65863.7) and the San Diego Municipal Code and administrative guidelines. ASN Mission Gorge, LLC has complied with its legal obligations.

Sincerely,

HART, KING & COLDREN



Mark D. Alpert

MDA/sm

cc: Ken Keefe
Paul Robinson, Esq.
Mike Shumo, Esq.