

Huntington Beach Mobile Home Resident Coalition Candidate Survey for City Attorney

MHRC received a response from one of the two candidates for City Attorney, **Mr. Scott Field**. Questions are shown below, followed by his response. Background information for Question #6 is found at the end of this document. Contact information on both candidates is available at https://www.huntingtonbeachca.gov/files/users/city_clerk/Candidate-Contact-List-2022.pdf.

Question #1 – Many in the manufactured housing community feel that mobile homes should be considered affordable housing. What is your stand on this issue and what do you think needs to be done to achieve this outcome? (See H.B. MHP – Comparison of Space Rents, 2012, 2022)

Answer #1 – The Question asks for the City Attorney’s position whether mobile homes should have a special status as affordable housing.

The question misunderstands the role of the City Attorney. It is the City Council that decides whether to adopt a policy giving mobile homes special status as “affordable housing.” If the Council makes such a determination, the City Attorney, working together with Planning and the other relevant City Departments, advises the Council how to accomplish that goal.

If the Council determined that mobile homes should be treated as affordable housing, I would likely offer rent control, the most common means to restrain price increases for mobile home lots in mobile home parks. For example, Santa Ana recently adopted a rent control ordinance that applies to both apartments and mobile home parks.

However, H.B. City Charter Section 803 prohibits rent control; as a result, the rent control option is unavailable.

Based upon my experience working with the several homeownership housing projects the City manages, I’ve learned that another effective method to provide affordable housing is when the government intervenes in the market and sets the maximum sales price for resident- owned homes at affordable, below market prices. Notably, City Charter Section 803(c) (2) carves out from the rent control prohibition programs where the owner and the City have agreed to regulate prices.

However, the City typically has only obtained affordable housing as a condition for development of a larger project, or where the City has access to a special funding source for developing affordable housing. It is very likely that the City would ever be in a position to be able to negotiate a reduced rental rate for units in mobile home parks.

Question #2: What can the City Attorney do to further consideration of manufactured housing communities as affordable housing and what needs to be done to further this outcome?

Answer #2: The City Charter grants the City Attorney no power to make mobile homes “affordable.” As explained above, rent control is prohibited under the City Charter, and as a result, the City Attorney lacks any power to make mobile homes “affordable.”

Question #3: What is your professional view on the City Council’s prerogative to have an independent, second opinion on issues upon which the Council votes?

Answer #3: The Question suggests that if it is unusual for the governing body of a corporate entity such as a City to retain outside consultants to advise the governing body. The practice of hiring consultants to advise City Council is very common, and can be an effective tool to assist and encourage the Council to reach a consensus on a difficult issue.

Question #4: What is your expertise and knowledge in areas of gender, age, and sexual harassment cases? In what ways should the City Attorney’s office be involved in the Huntington Beach Housing Element and its efforts to increase affordable housing of all income levels?

Answer #4: Part 1 – While I have 40 years of experience as a municipal attorney, there are many areas of law where I have little or no experience. At the same time, I have always been able to learn a new area of law in a few weeks to a month when necessary. I have virtually no expertise and knowledge regarding gender, age, and sexual harassment law.

As is commonly known, Neal Moore and I filed an age and disability lawsuit against the City of Huntington Beach and its City attorney, Michael Gates. We were represented by an excellent attorney in that case. The suit was settled on very favorable terms to Neal and I. During the course of that case, I learned a bit about age and disability law.

Part 2 – The City Attorney should be working closely with the Planning Department throughout the process of obtaining State review and approval of the City’s Housing Element. As is well-known, after several years of litigation, the non-profit Kennedy Commission was successful in forcing Huntington Beach to permit more affordable housing, as required by state law. As a result, the Commission was awarded more than \$3.5 million in attorney fees. Once I am elected City

Attorney, you can be sure that I and my staff will closely assist the Planning Department in the next round of updating the Housing Element.

Question #5: What lawsuits for the City have you been involved in and what were the results?

Answer #5: Over a 40 year career, I've represented cities in over a 100 trial and appellate cases, in both State and Federal Courts. A brief sampling of these cases is as follows:

- After the Court of Appeal found the City's property tax did not comply with Proposition 13, I set up a program of property tax refunds to HB homeowners in 2003-2004.
- I stopped cell phone companies from building a huge network of unsightly aerial lines, and instead enforced the City's requirement that new lines shall be installed underground.
- I again reined in the cell phone companies by stopping them from building antenna towers in the city's parks. This case actually gave not just Huntington Beach but cities and counties throughout the United States the right to decide where cell towers can be placed.
- I won a case that ensured that affordable housing stays affordable, by eliminating profiteering that threatened to destroy that promise.

Question #6: How should the City Attorney's office be involved in determining the appropriateness of candidates for City Commissions and Boards? (See Background Information at the end of the responses.)

Answer #6: This question concerns who may be appointed to the Huntington Beach Mobile Home Advisory Board ("MHAB"). City Code Section 2.112.030 states that the nine member board shall include: three Huntington Beach mobile home park owners or their designated nominees (who may or may not reside in Huntington Beach). According to the survey question, there was a past practice that "park owner representatives to the MHAB must be a mobile home park owner, an on-site park manager, or a representative from a property management company with duties related to an H.B. mobile home park." However, in a 2021 Opinion, the City Attorney concluded that the City could dispense with the past practice.

The Survey now asks if the City Attorney correctly opined that the City Council could ignore the past practice, and allow the Park Owners to select anyone as their representative to the Board.

Courts will sometimes use past practice to interpret otherwise ambiguous language of an agreement. At the same time, by itself, the Code does allow the Park Owners broad discretion to select their representatives. Given the language in the Code, it cannot be said that the City Attorney's opinion is clearly wrong. However, I have not been provided with the City Attorney Opinion. Without an opportunity to read the Opinion, and access legal research tools, I cannot determine whether I agree or disagree with the City Attorney Opinion.

Additional Information

Question #6: The City Attorney's office provided a legal opinion in 2021 that the H.B. Municipal Code allowed the City to place an applicant on the Mobile Home Advisory Board (MHAB) that defied the previous norms of the code (which had interpreted that park owner representatives to the MHAB must be a mobile home park owner, an on-site park manager, or a representative from a property management company with duties related to an H.B. mobile home park). The City Attorney's opinion allowed park owners to appoint a representative to the MHAB who qualified in none of these areas and who did not live in H.B. nor have a business office in the city. The city named a representative of a lobbying organization that provides donations to City officials and offers training on MHC issues from a management perspective, thus giving undue influence on the MHAB to the property owners at the expense of MHC residents.