

STATE OF NEW MEXICO
OFFICE OF THE ATTORNEY GENERAL



HECTOR H. BALDERAS
ATTORNEY GENERAL

November 30, 2022

Eddy County Commission
101 W. Greene Street
Carlsbad, NM 88220

Re: Opinion Request – Applicability of the Eddy County Subdivision Ordinance to RV Parks or Man Camps

Dear Commissioners:

Former Eddy County Commissioner Stella Davis requested our advice as to whether Eddy County Subdivision Ordinance O-13-76 (hereafter “the Ordinance”) applies to RV Parks or Man Camps. As discussed below, based on our review of the applicable law and the information available to us at this time, we conclude that the Ordinance does apply.

The definition of a subdivision in the Ordinance is almost identical to the one found in the New Mexico Subdivision Act, NMSA 1978, § 47-6-2(M) (2013).¹ For the purposes of the New Mexico Subdivision Act, our office has consistently maintained that mobile home parks are subdivisions. *See* N.M. Att’y Gen. Op. 76-09 (1976) (finding that “the division of land for lease or rental” of trailer spaces qualified as a subdivision); N.M. Att’y Gen. Op. 74-37 (1974) (finding that the “leasing of trailer spaces” constitutes a subdivision); and N.M. Att’y Gen. Op. 70-84 (1970) (concluding that mobile home parks required prior approval from counties pursuant to the New Mexico Subdivision Act but not municipalities). Since our office’s last opinion on the subject, the New Mexico Court of Appeals has ruled definitively that a “mobile home park is a ‘subdivision’ as contemplated by the... New Mexico Subdivision Act.” *Sandoval Cty. Bd. of Comm'rs v. Ruiz*, 1995-NMCA-023, ¶ 13, 119 N.M. 586, 893 P.2d 482. As a result, we again conclude that mobile home parks are subdivisions for the purposes of the Ordinance.

Other states that have considered this issue have similarly concluded that RV parks and mobile home communities constitute subdivisions. *See, e.g., Sizemore v. Madison Cty. Fiscal Court*, 58 S.W.3d 887, 890 (Ky. Ct. App. 2000) (finding that a planned development of a mobile home park with plats for rent qualified as a subdivision for the purposes of the applicable state statute and local regulations), *City of Weslaco v. Carpenter*, 694 S.W.2d 601, 603 (Tex. App. 1985) (holding that a park being developed to rent spaces to mobile homes and recreational vehicles constituted a subdivision), and *Cowboy Country Estates v. Ellis County*, 692 S.W.2d 882, 886–87 (Tex. App. 1985) (holding that a mobile home park was a subdivision and noting that, “public

¹ The only difference between the two definitions, not relevant here, is an added exemption in the Ordinance for property conveyed to a governmental entity. *See* Eddy County Subdivision Ordinance O-13-76, art. 2.

problems and concerns are just as great in the case of mobile home parks where the spaces are leased as in the case where lots are subdivided for purpose of sale”). *See also Barre Mobile Home Park, Inc. v. Town of Petersham, Worcester Cty., Mass.*, 592 F. Supp. 633, 636 (D. Mass. 1984), *aff’d*, 767 F.2d 904 (1st Cir. 1985) (upholding the town’s prohibition of mobile home parks and noting that “[a] mobile home park is really a subdivision, requiring all of the services and attention of a subdivision”).

If you have any remaining questions or if you require a more in-depth review of the Ordinance, we urge you to contact the Eddy County Attorney. Although we are providing our brief legal interpretation in the form of a letter rather than an Attorney General’s Opinion, we believe this letter is also a public document, not subject to the attorney-client privilege. Therefore, we may provide this letter to the public.

Sincerely,



Sally Malavé
Director, Open Government Division

cc: Cas Tabor, Esq., Eddy County Attorney