

RESOLUTION NO. RRB 97-290

A RESOLUTION OF THE MOBILE HOME PARK RENT
REVIEW BOARD OF THE COUNTY OF VENTURA
ESTABLISHING GUIDELINES FOR GRANTING
DISCRETIONARY RENT INCREASES UNDER
SECTIONS 8(c) AND 11

WHEREAS, the Board of Supervisors of the County of Ventura has adopted an Ordinance (hereafter "Ordinance") establishing a Mobile Home Park Rent Regulation system in the County of Ventura; and

WHEREAS, that Ordinance established a Mobile Home Park Rent Review Board with powers to adopt, promulgate, amend and rescind administrative rules relating to mobile home park rent regulation as set forth in said Ordinance; and

WHEREAS, yearly allowable rent increases are required to be approved by the Mobile Home Park Rent Review Board in accordance with section 6 of said Ordinance; and

WHEREAS, in evaluating requests for discretionary rent increases under Ordinance section 8(c), the Mobile Home Park Rent Review Board is required by Ordinance Code section 11 to consider changes in costs to the owner attributable to increases or decreases in master land and/or facilities lease rent, utility rates, property taxes, insurance, advertising, variable mortgage interest rates, governmental assessment and fees, incidental services, employee costs, normal repair and maintenance, and other considerations, including, but not limited to, capital improvements, upgrading and addition of amenities or services and net operating income along with all other factors relevant to permit a just and reasonable return on the owner's property; and

WHEREAS, the Mobile Home Park Rent Review Board desires to establish administrative rules known as guidelines for granting discretionary rent increases under Ordinance sections 8(c) and 11;

NOW, THEREFORE, THE MOBILE HOME PARK RENT REVIEW BOARD OF THE COUNTY OF VENTURA DOES RESOLVE AS FOLLOWS:

1. The following Guidelines are established in order to enable the Board to review requests by mobile home park owners (hereinafter sometimes "owner" or "landlord") for discretionary rent increases under Ordinance section 8(c):

RRB RESOLUTION 97-290
COUNTY OF VENTURA
MOBILE HOME PARK RENT REVIEW BOARD
DISCRETIONARY INCREASE GUIDELINES

GUIDELINES FOR DISCRETIONARY RENT INCREASES UNDER ORDINANCE SECTION 8(c)

Sec. 1. Owners may apply for a discretionary rent increase under section 8(c) in cases where they believe that the facts and circumstances of their particular case are addressed by the discretionary guidelines. Circumstances can vary greatly from owner to owner and will be reviewed on an individual basis. The Board may use County facilities including staff and legal counsel to aid in reviewing discretionary rent increase requests.

Sec. 1.01. The granting of any rent increase by the Board shall not give rise to the inference that prior rents were the minimum required or confiscatory. The Board presumes that all rents received by mobile home park owners both prior and subsequent to all rent increase allowed by the Board were, and are, above the minimum required and not at the confiscatory level, unless there is clear and convincing evidence to the contrary.

The Board presumes that the net operating income received in the base year provided the owner with a just and reasonable return above the required minimum on their property unless there is clear and convincing evidence to the contrary.

Sec. 1.02. The discretionary rent increase guidelines herein are structured to permit continuation of a just and reasonable return on the owner's property above the required minimum. By using the Net Operating Income cost-pass through approach correlated to the Consumer Price Index, the guidelines have the following desirable characteristics, among others:

- a. The standard cannot be manipulated; standards which take into account current mortgage payments and/or purchase price can be manipulated through sales and refinancing.
- b. The standard does not discriminate on the basis of "original" purchase price or financing arrangements.
- c. The analysis is simple to perform and is objective.
- d. The standard is not "circular."
- e. The standard affords the growth in profit levels that is tied to the inflation rate.
- f. The method encourages property maintenance, because it permits landlords to pass through to tenants all reasonable operating expense increases regardless of profit levels.

Sec. 1.03. The method authorized herein to evaluate a discretionary rent increase request is not exclusive but is preferred. Alternate methods may be used by the Board. However, unless clear and convincing evidence is presented that another method is more appropriate, the preferred method will be used. When an alternate method is proposed, the applicant must also use the preferred method and submit all information and calculations required by the preferred method concurrent with the proposed alternate method.

Proposed other methods must fully explain, in writing, the methodology and reasons supporting use of the methodology, and must provide information and documentation adequate to understand and use the suggested method. The methodology information and documentation shall be provided with the application. Failure to provide the mandatory methodology, information and documentation regarding other proposed methods shall be grounds for rejection of the other proposed method, continuation of the hearing, or denial of the requested rent

increase without prejudice. The use of other methods shall be at the discretion of the Board.

Sec. 2. DETERMINATION OF THE NET OPERATING INCOME

Net Operating Income is determined by subtracting the annual Operating Expenses from the annual Gross Total Income.

Sec. 2.01. Gross Total Income is determined by adding the following:

- a. Space Rental Income (Section 2.02)
- b. Storage and Parking Income (Section 2.03)
- c. Adjusted Income for Below Market Rentals (Section 2.04)
- d. Miscellaneous Income (Section 2.05)

Sec. 2.02. Space Rental Income is the total annual income received from all the spaces in the mobile home park.

Sec. 2.03. Storage and Parking Income is additional income received for storage and parking services provided to the tenants of the mobile home park.

Sec. 2.04. Adjusted Income for Below Market Rentals is an amount representing the difference between the actual space rental collected and what the owner could have collected if the spaces had been rented at their full market value. Examples of below market rents may be units occupied by the owner or the owner's family, or the unit of a resident manager, or any rental space where the rent increases permitted by the Ordinance and guidelines adopted thereunder could have been made, but have not been made because of the landlord's rental policies or purposes not in accord with the intent or purpose of the Ordinance or guidelines as amended.

Sec. 2.05. Miscellaneous Income is determined by adding all actual revenues received from such sources as gas and electricity sold to tenants, reading of utility meters, commissions from the sale of mobile homes in the park, telephones, laundry and vending machines, signs on the property of the mobile home park, special charges for the use of amenities, income from oil, gas or other minerals on the mobile home park property, special rental for occasional use of recreation rooms or other common areas, any interest derived from tenant money held as security deposits, tax refunds of any nature and other income derived from the ownership or operations of the mobile home park.

Se. 2.06. Operating Expenses are determined by adding the following:

- a. Management and Administrative Expenses (Section 2.08)
- b. Adjustment for owner performed services (Section 2.09)
- c. Operating Expenses for: (Section 2.10)
 1. Supplies
 2. Heating Expenses
 3. Electricity
 4. Water and Sewer
 5. Gas

- 6. Refuse Removal
- 7. Other Operating Expenses
- d. Maintenance Expenses including: (Section 2.11)
 - 1. Security
 - 2. Grounds Maintenance
 - 3. Maintenance and Repairs
- e. Amortized Capital Expenditures (Section 2.11 (c))
- f. Taxes and Insurance Expenses including: (Section 2.12)
 - 1. Real Estate Taxes
 - 2. Other Taxes, Fees and Permits
 - 3. Insurance
- g. Land Lease Expenses (Section 2.13)
- h. Increases in Mortgage Expense due to Variable Interest Rates (Section 2.14)
- i. Allowable Legal Expense (Section 2.15)

Sec. 2.07. Operating Expense shall not include:

- a. Unreasonable or unnecessary expenditures or expense increases since the base year;
- b. Debt service expense including mortgage principal and interest payments except as provided in Section 2.14;
- c. Any penalties, fees or interest assessed or awarded for violation of this or any other law;
- d. Legal fees except as provided in section 2.15;
- e. Capital improvements or completely new capital improvements approved by tenants; work which constitutes capital improvements must be amortized as described in section 2.11 (c);
- f. Depreciation of the property;
- g. Any expense for which the landlord has been reimbursed by any security deposit, insurance settlement, judgement for damages, settlement or any other method.

Sec. 2.08. Management and Administrative Expenses include: wages of administrative personnel, including agency fees for administrative services and the use value of any mobile home space or dwelling unit offered in compensation for such services, advertising of space rentals, accountant's fees for the operation of the mobile home park, fees and dues in professional property management organizations (except that if the owner owns more than one mobile home park such expenses must be apportioned among the mobile home parks owned), telephone and building office expenses used for rental operations and office supplies. Excluded expense are any advertising for the sale of the mobile home

park in whole or part and accountant or auditing fees for the conversion, purchase or sale of mobile home park property.

Sec. 2.09. An Adjustment for Owner Performed Management Administrative and Maintenance Expenses shall be allowed where the owner performs management or administrative functions of self-labor in operating and/or maintaining the property. In addition to the actual management and administrative expenses listed in section 2.08 above, where the owner performs such services, the owner may calculate an expense figure representing the value of such unpaid management administrative expenses, including the foregoing adjusted expense, to the extent they are management expenses, cannot exceed 5% of the Space Rental Income as defined in section 2.02 above.

Owner-performed maintenance labor shall be compensated at current hourly rates upon documentation being provided showing the date, time and nature of the work performed.

Where the owner has performed substantially similar services in both the base year and the current year, the foregoing adjusted expenses must be calculated for both the base year and the current year at the same percentage of space rental income. When the owner performs different services in the base year and the current year, an adjustment will be allowed for such differences to the extent the owner shall document the amount of such differences.

Notwithstanding the above, for all management and administrative functions and self-labor performed by the owner, in order for such services to be allowed as operating expenses, the owner must provide documentation showing the date, time and nature of the work performed.

Sec. 2.10. Operating Expenses Include all owner paid supplies, including recreational supplies, office supplies, etc., heating expenses, electricity expense, water and sewer expenses, gas expenses, refuse removal expense and other operating expenses.

Sec. 2.11. Maintenance Expenses Include:

- a. Security Expenses such as wages of any security personnel, contracted security expenses.
- b. Grounds Maintenance Expenses such as wages of groundskeepers, gardeners, sidewalk and driveway maintenance costs. Grounds Maintenance Expenses also include the cost of maintaining recreational amenities including, but not limited to saunas, gymnasiums, billiard rooms, pools, jacuzzis, shuffleboard and tennis courts. Such costs include payroll, contractual services, materials and supplies and minor equipment replacement. Improvements qualifying as Capital Improvements must be amortized as described in section 2.11 (c).
- c. General Maintenance and Repairs such as maintenance and repair of the mobile home park, painting, plumbing and electrical services, fire protection and smoke detection servicing, plastering and masonry repair, carpentry, heating repair and roofing. However, capital expenditures are not eligible expenses. Owners who incurred expenses which constitute capital expenditures must capitalize such items over the useful life in accord with Section 2(b) of the Ordinance. Allowable yearly expenses for capital improvements equal the cost divided by the allowable useful life in the year such expense occurred, and a like amount for each succeeding year until the cost has been fully recovered.

- d. Other Maintenance Expenses include any other expenses which do not fit some other category. Expenses listed under this category must be explained and documented.

Sec. 2.12. Taxes and Insurance include:

- a. Real Estate Taxes including all local or state taxes as well as assessments.
- b. Other Taxes, Fees and Permits such as any applicable personal property taxes, franchise and business taxes, sign permit fees, etc., but not including Federal and State income taxes which are part of wages.
- c. Insurance including all one-year charges for fire, liability, theft, boiler explosion, rent fidelity bonds and all insurance premiums except those paid to FHA for mortgage insurance or employee benefit plans. Whenever a premium is multi-year, it must be prorated to all applicable years.

Sec. 2.13. Land Lease Expenses. Allowable operating expenses include only the involuntary increase in land lease expenses for the land on which the mobile home park is located as compared to land lease expenses in the base year. Such expenses are allowable only if the mobile home park was subject to a land lease in the base year. Whenever there is an increase in land lease expenses subsequent to the base year which was not scheduled as part of the terms of the land lease during the base year it shall not be an allowable expense. An increase in land lease expenses based on a flat percentage of gross rents for the term of the lease shall not be allowable as operating expenses.

Sec. 2.14. Increase in Mortgage Interest Expense Due to Variable Rate Mortgage. Allowable operating expenses include only the involuntary increase in mortgage interest expense due to variable interest rates, as compared to the mortgage interest expense in the base year. Such expenses shall be allowable only where the mobile home park was financed with said variable rate mortgage before or during the base year.

Sec. 2.15. Allowable Legal Expenses shall include attorneys' fees and costs incurred in connection with successful good faith attempts to recover rents owing and successful good faith unlawful detainer actions not in derogation of applicable law, to the extent same are not recovered from tenants. Attorneys' fees and costs incurred in criminal proceedings, or in connection with civil actions involving the Ordinance, or against the beneficiaries of said Ordinance, the County of Ventura or Board, are not allowable as operating expenses. Attorneys' fees incurred in connection with the purchase of, sale of, or conversion to other use of mobile home park property are not allowable as operating expenses. Attorneys' fees and costs incurred in proceedings before the Board shall not be allowed as operating expenses.

Sec. 2.16. Operating expenses must be necessary and reasonable. In cases where the Board determines otherwise, the Board shall disallow the expense or adjust the expense to reflect the normal industry range for that year. The Board shall indicate the reason for such disallowance or adjustment in its decision or determination.

Should the Board deem it necessary, it may require the rent increase applicant to provide written, documented information and data to aid the Board in determining the necessity and reasonableness of the operating expense and/or normal industry range of the operating expense in question for the time period in question. Information from the applicant pertaining to the reasonableness of and/or the normal industry range of the operating expense in question is not to

be presumed controlling or conclusive. The Board may consider and use such information from other sources as it sees fit.

Sec. 2.17. Vacancies

Vacancies in both the base year, as that term is defined in section 3 below, and the year for which the application is made are not calculated. However, in cases where the Board finds unusual vacancy patterns, the Board will have the discretion to adjust the Gross Total Income as, for example, where vacancies have been the result of an owner's general administrative and business practices, such as withholding rental units from the market, or due to the owner's practices or activities which have reduced income or made the park unattractive for rental purposes.

Sec. 3. PROCEDURE FOR DETERMINATION OF ELIGIBILITY
DISCRETIONARY RENT INCREASE

Sec. 3.01. The base year for the purpose of these guidelines shall be January 1, 1982 - December 31, 1982. In the event that the owner did not own the mobile home park during the base year, the Operating Expenses for the base year may be determined by one of the following manners, or whatever manner the Board determines to be more reliable in the particular case.

- A. The previous owner's actual Operating Expense as defined in Section 2; or, where unavailable ,
- B. Actual Operating Expenses for the first calendar year of ownership, discounted to the base year by the following Schedule of Increases in Operating Expenses: Where scheduling of rent increases, or other calculations, require projections of income and expenses, it shall be presumed that Operating Expenses, exclusive of Property Taxes, and Management Expenses, increase at 10% per year, that Property Taxes increase at 2% per year, and that Management expenses are 5% of Gross Income.

Sec. 3.02. Determine the base year Net Operating Income by subtracting the annual Operating Expenses from the annual Gross Total Income in accord with section 2 above.

Sec. 3.03. Add to the Net Operating Income for the base year the Price Level Adjustment. Price Level Adjustment shall be calculated as 50% of the increase in the All Urban Consumer Price Index (CPI) for the Los Angeles, Long Beach, Anaheim area, provided by the U.S. Bureau of Labor Statistics or a successor index, over December of the Base Year. The calculation shall be made as follows:

- a. The CPI index for December 1982 is 285.3.
- b. Determine the CPI index number for the most recently reported month at the time the application for discretionary rent increase is filed.
- c. Divide the index number determined in (b) by the index number determined in (a) and subtract 1.0.
- d. Multiply the result obtained in (c) by .5 (50%).
- e. Multiply the base year Net Operating Income by the percentage obtained in (d) to obtain the Price Level Adjustment.

Sec. 3.04. Determine the current year Operating Expenses in accordance with the provisions of Sec. 2-2.17 (i.e., the latest calendar year or the latest fiscal year used by the landlord for accounting purposes.).

Sec. 3.05. DETERMINATION OF DISCRETIONARY RENT INCREASE GROSS AMOUNT

The applicant is entitled to a gross discretionary rent increase in the amount by which his current Gross Total Income is exceeded by the total of his current annual Operating Expenses plus the base year net operating income plus the Price Level Adjustment.

Sec. 4. DETERMINATION OF DISCRETIONARY RENT INCREASE FOR EACH INDIVIDUAL RENTAL UNIT

Sec. 4.01 Calculate what percentage the gross discretionary rent increase is of the current gross total income. Multiply the current individual space rents by the percentage to obtain the amount by which each current individual space rent may be increased. Add the result to the current individual space rent to obtain the new individual space rent.

Sec. 4.02. Rent increases granted pursuant to the above shall be set to take effect by the Board pursuant to Ordinance provisions.

Sec. 5. SUMMARY OF PROCEDURES RE APPLYING FOR A JUST AND REASONABLE DISCRETIONARY RENT INCREASE

Landlords should also examine carefully these guidelines, the Ordinance, and Board resolutions. The conditions covering eligibility and procedure for a just and reasonable discretionary rent increase are set forth in greater detail therein.

Sec. 5.01. Before a mobile home park may increase rents on the basis of these discretionary rent increase guidelines, the owner must first obtain the written approval of the Board.

Sec. 5.02. The owner may request written approval by completing an application form obtained from the County and mailing it to the county of Ventura at the address listed on the application. The application form is titled "Application Form. DISCRETIONARY RENT INCREASE."

Sec. 5.03. The owner may not collect any rent increase based on a Just and Reasonable Discretionary Rent Increase application until such time as the Board approves the request. Such increase may not go into effect until after compliance with the following notice requirements:

1. State Requirements. Section 798.30 of the California Civil Code requires that mobile home park tenants be given at least 90 days notice of any increase in rent. The County's Ordinance does not alter this requirement.
2. County Ordinance Requirements. Section 8 (a and d) of the Ordinance requires that the tenants be notified that a request for approval for a discretionary rent increase is being filed with the Rent Review Board. The State required Notice of Request of Rent Increase will fulfill the county requirement if the appropriate information required by the County Ordinance is included. The County Ordinance permits rents to be increased only once per year; therefore, notices should not schedule a rent increase sooner than 12 months after the previous increase under the ordinance. Proof of service of these notices must be submitted. Such service must be made either personally, or by the U.S. Mail to each affected tenant. A Proof of Service form is attached to the application form.

Sec. 5.04. Submission to Board

After notification to the tenants, the owner should submit a complete set of application documents to the Rent Review Board as follows:

- a. seven (7) copies of the application documents and forms for a just and reasonable Discretionary Rent Increase;
- b. one (1) copy of the Notice of Request for Rent Increase;
- c. one (1) copy of the Proof of Service of the Request for Rent Increase;
- d. seven (7) copies of the allowable section 7 rent increase documents parts 1 through 7.

Sec. 5.05. Invalid Applications

In the event that an application lacks the required documents, lacks required information or there are errors in the mathematical computations showing the individual rent increases, the application may be returned to the landlord with an explanation as to why the application cannot be accepted, or the case may be suspended prior to the hearing for a 30-day period commencing upon the date of the mailing the notification to the landlord of the additional documentation and/or information needed. If at the end of this 30-day period the requested information has not been supplied, the time periods stated in the Ordinance will continue to run, and a hearing will be scheduled.

If an application and materials attached to the application must be certified by the applicant and a certified public accountant as accurate and computed in the same manner as books and records kept for income tax purposes. The application and materials will not be returned to the owner. The owner must, upon request by the Board, staff, or review accountant show to the Board, staff or review accountant the original document from which any photocopy was made and all documents, papers or written memoranda which support or are evidence of claimed expenses of any nature.

In those instances where the owner or owners' relatives performed management services or labor being claimed as housing service costs, or claim reimbursement for housing services costs or expenses, a record of the date, time and nature of the service, labor or expenditure must be kept and submitted with the application. Services, labor, or expenditures by the owner or owners' relatives must be identified as such in the application or supporting documents. Failure to submit such records may result in the requested cost or expense being disallowed. The Board may request evidence of any individual's background, knowledge, training or experience qualifying such individual to perform management services or labor as claimed in the application or supporting documents.

Sec. 5.07. Board Review

The Board will set a hearing on a valid application in accord with Section 8(d) of the Ordinance.

Sec. 6. Severability

If any provision or clause of this Resolution or the application thereof to any person or circumstances is held to be unconstitutional or to be otherwise invalid by a final judgement of any court of competent jurisdiction, such invalidity shall not affect other provisions or clauses or applications thereof which can be implemented without the invalid provision or clause or application

and to this end, the provisions and clauses of this Resolution are declared to be severable. These guidelines shall be liberally construed to achieve the purposes of these Guidelines and to preserve their validity.

Phil Lettice
Chair
MOBILE HOME PARK RENT REVIEW BOARD

ATTEST:

Kim Hooley 4/25/97
Staff

Date: April 28, 1997

KH:ka

(Former Resolution 83-3)KH:ka

NET OPERATING INCOME WORKSHEET

	1980 Base Yr.	Current Year	1982 Base Yr.	Current Year
A. <u>GROSS TOTAL INCOME</u>				
1. Space Rental Income	_____	_____		
2. Storage and Parking Income	_____	_____		
3. Adjusted Inc. for Below Market Value	_____	_____		
4. Miscellaneous Income (Itemize and Attach)	_____	_____		
5. SUB-TOTAL GROSS TOTAL INCOME (Add lines 1 through 4)			_____	_____
B. <u>PERMITTED EXPENSES</u>				
6. Management and Administration	_____	_____		
7. Adjustment for Landlord Services	_____	_____		
8. Operating Expenses (add lines 9-15)	_____	_____		
	<u>Base</u>	<u>Current</u>		
9. Supplies	_____	_____		
10. Heating	_____	_____		
11. Electric	_____	_____		
12. Water/Sewer	_____	_____		
13. Gas	_____	_____		
14. Refuse Removal	_____	_____		
15. Other (Itemize)	_____	_____		
16. MAINTENANCE EXPENSES (add lines 17-21)	_____	_____		
17. Security	_____	_____		
18. Ground Maintenance	_____	_____		
19. Maintenance and Repairs	_____	_____		
20. Other (Itemize)	_____	_____		
21. Am. Capital Imp. (Attach explanation)	_____	_____		
22. TAXES AND INSURANCE (sub-total 23-26)	_____	_____		
23. Real Estate	_____	_____		
24. Other Taxes	_____	_____		
25. Fees, Permits	_____	_____		
26. Insurance	_____	_____		
27. LAND LEASE EXPENSE	_____	_____		
28. V.I.R. EXPENSE INCREASE	_____	_____		
29. ALLOWABLE LEGAL EXPENSE	_____	_____		
30. SUB-TOTAL OPERATING EXPENSE (add lines 6,7, 8, 16, 22, 27, 28, 29)			_____	_____
C. <u>NET OPERATING INCOME</u>				
31. (Subtract line 30 from line 5)			_____	_____
NOTE: From this point on, identify and show all calculations on attached sheets or below.				
32. Price level adjustment. Base year net operating income multiplied by .50 of the increase in the C.P.I. (per Sec. 3.03).			_____	_____
33. Gross Discretionary Increase equal to amount Base Year N.O.I. plus price level adjustment plus current Annual Operating Expenses exceed current Gross Total Income (per Sec. 3.05).			_____	_____
34. Percentage of individual space rent increase (per Sec. (4.01).			_____	_____

NOTE: APPLICANT DOES NOT NEED TO ANSWER NUMBER 35 AND 36 UNLESS APPLICANT IS REQUESTING THE BOARD USE AN ALTERNATE METHOD FOR DETERMINING A DISCRETIONARY RENT INCREASE AS PROVIDE FOR UNDER SEC. 1.03 OF THE DISCRETIONARY INCREASE GUIDELINES.

NET OPERATING INCOME WORKSHEET
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35. Owner's Original Investment in Park

- a. Original Purchase Date and Price
- b. Down Payment _____
- c. Amount Financed _____
- Date First Mortgage and Terms
- Date Second Mortgage and Terms
- d. Current Interest Rate
- Date First Mortgage and Terms
- Date Second Mortgage and Terms
- e. Amount Paid on Mortgage(s) to Date
- Principal 1st 2nd
- Interest _____ _____
- TOTAL: _____ _____
- f. Assessed Value _____
- g. Should the above requested information fail to completely set forth the financing history of the Park since purchase, please add further information as necessary to complete the financing history to date.

36. History of Rental Increases since January 1, 1978

Please list chronologically each rent increase for each park space since January 1, 1978. Should a number of space rents have been raised equally at the same time, it will be sufficient to list the number of spaces and corresponding rent increase without listing each space and rent increase individually.

CERTIFICATION BY CERTIFIED PUBLIC ACCOUNTANT

I hereby declare under penalty of perjury and certify that all accounting information presented in connection with this application is accurate and computed in the same manner as books and records kept for income tax purposes and is true and correct to the best of my knowledge.

C.P.A. Signature _____
 Print Name _____
 Address and Phone _____

KH:ka