**THE STATE OF NEW HAMPSHIRE**
**BOARD OF MANUFACTURED HOUSING**

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| **Kirk and Renee Palladino** | ) | |
| **"Complainants"** | ) | |
| | ) | |
| **v.** | ) | **Docket No. 19-03** |
| | ) | |
| **Souhegan Valley Manufactured** | ) | |
| **Housing Cooperative, Inc.** | ) | |
| **"Respondent"** | ) | |

Hearing held on August 2, 2019, at Concord, New Hampshire.

## DECISION

This matter came before the Board of Manufactured Housing (hereinafter referred to as the Board) on the complaint of Kirk and Renee Palladino (hereinafter referred to as the Complainants) against Souhegan Valley Manufactured Housing Cooperative, Inc. (hereinafter referred to as the Respondent) alleging Respondents to be in violation of RSA 205-A:2, XI by unreasonably restricting the number of vehicles in tenants' driveway in contrast to Park Rules. At the hearing, the Complainants appeared and represented themselves. Attorney Jeffrey C. Christensen appeared and represented the Respondent. After careful consideration of the evidence presented, including the exhibits offered and the testimony presented, the Board finds the following facts and makes the following rulings:

## FINDINGS OF FACT

The Complainants are residents of the Souhegan Valley Manufactured Housing Cooperative in Milford, New Hampshire (herein the "park"). The Complainants presented evidence that, since March of 2014, the Respondent had permitted them to park up to 5 vehicles in the area in front of their home. The Complainants also presented uncontradicted evidence that they had parked 5 vehicles in their driveway since they moved into the park in 2014. The Respondent's exhibits included satellite photographs of the driveway showing sufficient space for 5 vehicles. The Respondent also presented the Board with the park's rules; these rules contained no restriction on the number of vehicles allowed in a tenant's driveway.

The Respondent presented handwritten notes from a cooperative board meeting of March 20, 2019 including the statement, "Lot 63 parking issue resolved with 3 car parking for them and 3 car parking for #66." On March 22, 2019, the Respondent sent a letter to the Complainants stating that it would start a disciplinary process against the Complainants unless Complainants complied with the 3-car limit noted in the March 20, 2019 board minutes.

During the hearing, the Respondent asserted that the Complainants' driveway was a "common area" adjacent to, or part of a "fire lane," "emergency access" or "common access;" however, no documentation was provided to support these claims, nor were any historic examples of such use presented. The Respondent further asserted that it had designated part of this area as a "turn-around spot," alleging that the Complainants' neighbor had been blocked in by vehicles parked in the Complainants' driveway. The Respondent's indicated that, in this shared parking area and common access lane, there was room for only 6 vehicles to park. The cooperative board had, therefore, determined that the Complainant should be permitted to park 3 vehicles and the Complainants' neighbor should be permitted 3 vehicles. In essence, the Respondent purported that this determination would allow the alleged "fire lane" to be kept clear and would be more equitable.

The Board finds that there was sufficient evidence presented establishing that the Respondent violated RSA 205-A:2, XI by unreasonably restricting the number of vehicles in tenants' driveway despite no such a restriction being in the park's rules. Since March of 2014, the Respondent took no action while the Complainants parked 5 vehicles in the driveway. The Respondent waited 5 years and only then decided at a cooperative board meeting to restrict the Complainants' parking to 3 vehicles. Moreover, the park rules do not provide for such a restriction. Although the Respondent asserted safety and equity issues, it failed to present adequate evidence to demonstrate that any safety issues had arisen during those 5 years or that any other tenant was adversely affected in a way that could not have been addressed by less severe means.

## RULING

The Board is charged with hearing and determining matters involving manufactured housing park rules, specifically RSA 205-A:2, RSA 205-A:7 and RSA 205-A:8. (See RSA 205-A:27, I.) The Board is further vested with the authority to determine whether a rule is reasonable as applied to the facts of a specific case. (See RSA 205-A:7, I-a.)

RSA 205-A:2, XI prohibits any person who owns or operates a manufactured housing park from failing to provide each person who applies to be a tenant of the park with a written copy of the rules of said manufactured housing park. Further, the law requires posting a notice that no rule may be changed without either a tenant's consent or ninety days advance notice of the change.

The Respondent's park rules do not restrict the number of vehicles a tenant may park in that tenant's driveway. Even if the handwritten notes from the park's cooperative board meeting or the Respondent's March 22, 2019 letter were to be considered an additional "park rule" its application is not reasonable as applied to the facts of this case. Although the Respondent presented some evidence regarding its concerns about the number of vehicles parked in the Complainants' driveway, the park rules did not provide any notice to the Complainants that such a restriction would, or could, be imposed. The Complainants reasonably relied on the park rules, and on the Respondent's acquiescence for 5 years, to conclude that they could park 5 vehicles in their driveway.

Accordingly, the Board UNANIMOUSLY finds and rules that Respondent is in violation of RSA 205-A:2, XI as the Respondent failed to provide the Complainants a written copy of park rules restricting the number of vehicles a tenant can park in that tenant's driveway and did not adopt such a rule with consent or ninety days advance notice. To the extent that the handwritten notes from the cooperative board meeting or March 22, 2019 letter purport to be a park rule, the Board rules that Respondent's application of this alleged park rule is unreasonable as applied to these Complainants.

In accordance with Man 211.01, a motions for rehearing shall be filed within 30 days of the date of the Board's order or decision. Filing a rehearing motion shall be a prerequisite to appealing to the superior court in accordance with RSA 204-A:28, II.

**SO ORDERED**
**BOARD OF MANUFACTURED HOUSING**

By:_____
Robert Hunt, Esq., Vice Chair

**Members participating in this action:**

Mark Tay, Chair
Kenneth Dame
Adam Gidley
Robert D. Hunt, Esq.
Anna Mae Twigg
Judy Williams
Rep. Thomas Laware

**Members not participating in this action:**

Lois Parris

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to the parties.

Dated: 11-1-19

Rick Wisler, Clerk
Board of Manufactured Housing