

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

Kirk and Renee Palladino)	
“Complainants”)	
)	
v.)	Docket No. 19-04
)	
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, VIII. (d) for requiring the Complainants to remove trees the Respondent previously approved. At the hearing, Complainants, Kirk and Renee Palladino, 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. They moved into the park in March of 2014. The Complainants presented evidence that the Respondent never provided them with the location of boundary lines for their lot.

In May of 2018, the Complainants planted several trees (purchased for \$700.00) within the area they believed was their lot. According to the Complainants’ evidence, the park president, Robert Cook, came to the Complainants’ lot at the time of the planting and instructed them on where to plant the trees. Kirk Palladino testified that he ran a string along the line for the planting while Mr. Cook watched. He also called Dig Safe prior to preparing the site. Mr. Palladino also testified that the park vice president, Kathy Seaman, viewed the trees soon after they were planted and complimented them.

On April 11, 2019, Renee Palladino submitted a letter to the cooperative board complaining about another tenant’s son cutting through the trees because she was concerned about damage to the trees. That tenant was Melanie Seaman, a relative of Kathy Seaman. Ms.

Palladino followed-up with another letter the following day. On May 1, 2019, in response to Ms. Palladino's letters, the Respondent sent a letter to the Complainants stating, in relevant part, as follows:

In reference to complaints submitted on 4/11/2019 and 4/12/2019 concerning bushes that you planted in 2018 not 2017. Lots are not to be redefined. Therefore remove the row of bushes that you have placed on lot 66 and restore the lawn to its former state within thirty days. After thirty days the board will hire someone to do the work and you will be billed the cost.

At the hearing, the Respondent asserted that the Complainants' trees were on the Complainant's neighbor's lot. That neighbor was Melanie Seaman. The Respondent provided no credible explanation for waiting almost a year to demand removal of the trees, nor did it provide any documentary evidence demonstrating the location of the lot boundary lines. Moreover, the Respondent and its agents were aware that the Complainants had planted the trees in 2018 as evidenced by the Respondent's letter of May 1, 2019 correcting the Complainants.

The Board finds that there was sufficient evidence presented establishing that the Respondent violated RSA 205-A:2, VIII. (d) by requiring the Complainants to remove trees the Respondent previously approved. The Complainants' evidence supports their assertion that the Respondent approved the location of the planting. Since May of 2018, the Respondent took no action against the Complainants for allegedly having planted the trees on the wrong lot. The Respondent waited almost a full year to raise the issue. The Complainants' evidence that Robert Cook provided assistance to the Complainants in placing the trees, and that Kathy Seaman complimented the trees soon after they were planted, was persuasive. It is also notable that the Respondent demanded removal of the trees only after the Complainants raised the issue about Melanie Seaman's son, and then, at the hearing, claimed that the trees were planted on Melanie Seaman's lot.

RULING

The Board is charged with hearing and determining matters involving manufactured housing parks 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, VIII. (d) prohibits any person who owns or operates a manufactured housing park from requiring a tenant to sell or otherwise dispose of any personal property, fixture, or pet which the tenant had prior permission from the park owner or former park owner to possess or use; provided, however, that such a rule may be made and enforced if it is necessary to protect the health and safety of other tenants in the park.

The Respondent and its agents were aware that the Complainants were planting trees in May of 2018. The Respondent took no action regarding the trees for almost a full year. One of the Respondent's agents was present when the trees were planted, and another complimented the trees soon after they were planted. The Respondent presented no documentary evidence of the

lot boundary lines at issue. The Respondent acted against the Complainants regarding the trees only after the Complainants made a complaint to Respondent. The Respondent attempted to require the Complainants to remove trees owned by the Complainants after having provided permission to the Complainants to plant the trees where the trees were located. Additionally, there was no clear evidence that the trees were not located on the Complainants' lot.

Accordingly, the Board UNANIMOUSLY finds and rules that Respondent is in violation of RSA 205-A:2, VIII. (d).

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