

THE STATE OF NEW HAMPSHIRE
BOARD OF MANUFACTURED HOUSING

Michael Velasquez)
)
) Docket No. 003-96
 v.)
)
 Everett Ashton, Inc., d/b/a)
 Howards Park)
 (Mark Tay))

Complaint Review conducted in Public Session on June 25, 1996

Order

The Board of Manufactured Housing ("the Board") issues the following Order with respect to the Complaint of Michael Velasquez ("the Complainant"):

1. Complainant, Michael Velasquez, submitted his complaint on June 6, 1995. A response was submitted in accordance with Board rules on June 14, 1996.
2. In essence, Mr. Velasquez complains that a rule change within the park permitting the use and installation of recreational devices, including trampolines and basketball hoops is unreasonable, in that the use of those devices -- in particular, a trampoline by the Velasquez' next door neighbor's daughter -- is constituting a nuisance. Mr. Velasquez also maintains that the use of the trampoline next door to his home poses a health hazard to his wife and other neighbors who suffer from health problems unrelated to, but allegedly aggravated by, the disturbing use of trampolines and other recreational devices.
3. Complainant relies on RSA 205-A:2, vii (d) which permits park owners to make and enforce rules requiring a tenant to dispose of personal property which the tenant had prior permission to possess, if such a rule is necessary to protect the health and safety of tenants. Presumably, Complainant seeks an order of this Board compelling park management to require Mr. Velasquez' neighbors to remove their daughter's trampoline from their premises; and/or to rescind the referenced rule change and any prior permission granted by management to Mr. Velasquez' neighbors to own and use a trampoline.
4. Unfortunately, the Board is unable to grant the relief requested. Mr. Velasquez' complaint simply does not state a cause of action cognizable by the Board or within the Board's

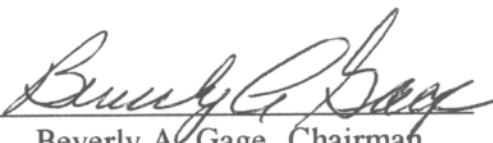
statutory jurisdiction. See, RSA 205-A: 27, I. (Supp. 1995). That statute limits the Board's jurisdiction to matters involving specified park rule provisions, RSA 205-A:2 (1994), security deposit violations, RSA 205-A:7 (1994), and mandatory purchase requirements, RSA 205-A:8 (1994).

5. Here, by contrast, Mr. Velasquez essentially asks this Board to order park management to eliminate an alleged nuisance, arising from his neighbor's use of a permitted recreational device, to which Mr. Velasquez objects. This is not a situation which the Board is empowered to address.
6. It may be that Mr. Velasquez has other legal options with respect to this matter under RSA 205-A: 15 (1994), landlord-tenant law, or the common law of nuisance. However, those options, if they exist, must be pursued by action in the Superior Court. The Board notes that on the submitted record, it appears that park management is making good-faith efforts to accommodate Mr. Velasquez' concerns, as well as the legitimate interests of his neighbors. The Board encourages all parties to this matter to continue to make such efforts.

THEREFORE, and in light of the foregoing, the Complaint in this matter is hereby DISMISSED.

ORDERED, this ^{July} 23rd day of ~~June~~, 1996

BOARD OF MANUFACTURED HOUSING

By: 
Beverly A. Gage, Chairman

Members participating in this action:

Beverly A. Gage
Rosalie F. Hanson
Kenneth R. Nielsen, Esq.
Jimmie D. Purselley
Florence E. Quast
Eric Rodgers
Edward A. Santoro

CERTIFICATION OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to Michael Velasquez and Mark Tay.

Dated:

July 23, 1996

Anna Mae Mosley

Anna Mae Mosley, Clerk
Board of Manufactured Housing