

STATE OF NEW HAMPSHIRE

BOARD OF MANUFACTURED HOUSING

Linda Arriaga	)	
	)	Docket No. 002-98
	)	
v.	)	
	)	
Stephen Hynes, Trustee of	)	
Holiday Acres Joint Venture	)	
Trust d/b/a Holiday Acres	)	
Mobile Home Park	)	

Hearing held on June 15, 1998, at Concord, New Hampshire.

**FINDING OF FACT, CONCLUSIONS OF LAW AND ORDER**

The Board of Manufactured Housing (“the Board”) makes the following findings of fact and conclusions of law and issues the following order in the above-referenced matter.

**PARTIES**

1. Linda Arriaga (“Complainant”) resides at 30 Marilyn Drive in the Holiday Acres MHP, a manufactured housing community located in Allenstown, New Hampshire.
2. Holiday Acres MHP (“Holiday Acres” or “the park”) is a manufactured housing community located in Allenstown, New Hampshire. Steven Hynes is Trustee of Holiday Acres Joint Venture Trust d/b/a Holiday Acres MHP. The Trust is owner and operator of the park. For all purposes Mr. Hynes, the Holiday Acres Joint Venture Trust and Holiday Acres MHP shall be treated in this order as a unified entity and shall be identified as “Respondent.”

**MATTERS AT ISSUE**

Ms. Arriaga seeks the following determination from this Board:

- (a) That the Respondent has unreasonably objected to the presence of overnight or occasional guests at Complainant’s home in violation of RSA 205A:2, VIII (b).
- (b) That the Respondent has unreasonably objected to the presence of more than two automobiles in her lot.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

3. Respondent has promulgated a set of rules and regulations ("Park Rules") which Ms. Arriaga acknowledges receiving.

4. The Board finds that the following Park Rules are directly relevant to the matter at issue:

(a) Park Rule 1 (c) which provides that: "all residents of any home must be named in and sign the Rules, Regulations and Lease Agreement. Failure to comply with this rule is cause for eviction."

(b) Park Rule 9 (b) which provides that: no more than two vehicles may be kept at any mobile home space without written permission from management. Permission may be refused and will only be given if resident provides, at his/her expense, a third paved parking space."

5. Ms. Arriaga resides in her home with her mother, Beatrice Jones, her 13 year old daughter, Angela Arriaga, and an infant grandchild.

6. Ms. Arriaga testified that she has resided in the park since approximately 1995. At the time of her entry into the park, she executed a lease with the prior park owner, in which she named as residents, herself, her mother, her minor daughter and another daughter, Marilyn Arriaga, who was at the time a minor but is now emancipated and no longer lives with Ms. Arriaga.

7. Ms. Arriaga further testified that her mother suffers from a medical condition which requires around the clock oxygen administration and monitoring. Ms. Arriaga testified that she is not able to provide such monitoring herself because she works and attends school in Boston and commutes to Boston on a daily basis by commuter bus. From time to time, because of inclement weather or other reasons, she may spend nights in Boston.

8. During Ms. Arriaga's absences from home, she has arranged to have her mother attended by her brother, Charles Durfey of Concord and/or her sister, Ida Blackstone of Hillsborough. According to Ms. Arriaga, these family members have also been called on to stay overnight with their mother at Ms. Arriaga's home. This situation occurred frequently during December, 1997 and January, 1998.

9. Ms. Arriaga also testified that each of these family members owns an automobile which he or she parks in Ms. Arriaga's driveway or lot while they are visiting for the purpose of attending to their mother.

10. At various times, when Ms. Arriaga has stayed overnight in Boston, family members have also retrieved Ms. Arriaga's car from a nearby commuter parking lot, with the result that

on some occasions her automobile and other automobiles may all be parked in her lot simultaneously.

11. Marcia Heath, Park Manager for the Respondent, testified that she has never been notified by Ms. Arriaga regarding the identity of visitors described above, or the purpose for their visits. She testified that at least two specific automobiles were present overnight for extended periods of time at Ms. Arriaga's home during the months of December and January of 1997-98. However, Ms. Heath was not able to identify the automobiles by license number or to cite specific dates during which those automobiles were present at Ms. Arriaga's home.

12. The Board further notes that, acting through counsel, Respondent sought to evict Ms. Arriaga from the park for, among other reasons, violation of Park Rules regarding the presence of unlisted or unregistered residents within Ms. Arriaga's mobile home. By Order dated 6/9/98, the Hooksett District Court ruled that the park was unable to satisfy its burden of proof that Ms. Arriaga violated Park Rules as alleged or failed to cure any violation upon being notified of the same. The Court therefore rendered judgment for Ms. Arriaga.

13. Ms. Heath has further testified that at the time of the hearing in this matter, Ms. Arriaga appears to have cured all alleged violations including any potential violation caused by overnight guests and that there have been no incidents of apparent extended stays by guests at her home in the recent past.

### **CONCLUSIONS OF LAW**

14. It is apparent that central to this matter are disputes of fact regarding the identity of residents in Ms. Arriaga's home, and regarding nature and duration of visits to Ms. Arriaga's home by her guests, including family members. It is not necessary for the Board to resolve these disputes by factual finding and the record before the Board does not provide a basis for resolving such disputes.

15. Rather, the Board finds that neither Ms. Arriaga nor park management appear to have taken the steps necessary to establish the propriety of their conduct and/or the validity of their claims in this matter.

16. Thus, while Ms. Arriaga is under no specific legal obligation to inform park management of overnight guests, it is clearly appropriate for her to provide such information to park

management when such guests are likely to be on the premises for extended periods of time, which might reasonably be perceived by management as amounting to, or exceeding 30 days.

17. At the same time, the Board notes Ms. Heath's admission that she did not bother to speak with Ms. Arriaga or to seek any explanation from her regarding the presence of unknown persons in her residence before instructing counsel to institute an eviction action.

18. In this context, it is important that both Ms. Arriaga and park management understand their legal and practical relationships and obligations as, respectively, residents in, and management of, a manufactured housing park pursuant to RSA 205-A and other relevant law.

19. At hearing, Mr. Arriaga expressed the opinion that, as a homeowner, she has the unfettered right to have guests in her home whenever and under whatever circumstances she wishes. In fact, under RSA 205-A and the contractual relationship governing her residence within a mobile home park, this is not the case. Rather, Ms. Arriaga's rights as a homeowner are limited by reasonable rules and regulations of the park in which she resides and from which she leases the lot on which her home is situated.

20. On the evidence before it, the Board cannot find that Park Rule 1 (c) requiring that all actual residents be listed on a lease is unreasonable. Nor is the Board prepared to state that an attempt to enforce that rule, where the park has not been accorded the common courtesy of notice that a resident will be having guests for an extended period of time, is unreasonable.

21. Moreover, the Board cannot find that Park Rule 9 (b) which establishes a limit of two parked vehicles per residential lot is unreasonable on its face, or has been unreasonably applied to the Complainant on the basis of the record before the Board.

22. In fact, the Board finds that Ms. Arriaga appears to have been in violation of Park Rule 9 (b) at various times in December and January, 1997-98, by permitting multiple automobiles to remain parked in her lot for extended periods of time without notifying, or obtaining permission of park management for this deviation from the Park Rules.

23. Accordingly, the Board cannot find on the basis of the current record that Respondent has acted unreasonably with respect to the issues raised by the Complainant.

24. We note however, that, in the Board's view, it would be presumptively unreasonable for park management to seek to restrict occasional visits -- even those of extended duration -- by family members for the purpose of attending to Ms. Arriaga's mother's medical needs, or to

strictly enforce an otherwise reasonable a two-car per lot rule with respect to such visits, provided Ms. Arriaga notifies park management in advance of the identity of her visitors, the registration numbers of any such vehicles, and the nature and duration of such projected visits.

**ORDER**

WHEREFORE, the Board makes the following order:

Complainant has failed to sustain her burden of proving that management's rules or actions under those rules are unreasonable. Therefore, the Complainant's action is hereby DISMISSED.

ORDERED, this day of , 1998

BOARD OF MANUFACTURED HOUSING

By: \_\_\_\_\_  
Ken Nielsen, Esq., Chairman

Members participating in this action:

Hon. Warren Henderson  
Hon. Robert J. Letourneau  
Kenneth R. Nielsen, Esq.  
Jimmie D. Purselley  
Florence E. Quast  
Linda J. Rogers

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to Linda Arriaga and Denis Robinson, Esq., counsel for Stephen Hynes as trustee for Holiday Acres Joint Venture Trust, D/B/A Holiday Acres Mobile Home Park.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Anna Mae Twigg, Clerk  
Board of Manufactured Housing

