

STATE OF NEW HAMPSHIRE

BOARD OF MANUFACTURED HOUSING

Jolene and Grinnell Wood	)	
Complainants	)	
	)	
	)	
v.	)	Docket no. 007-99
	)	
	)	
Greenville Estates Tenants	)	
Cooperative, Inc.	)	
Respondent	)	

Hearing held on May 21, 1999 at Concord, New Hampshire.

**FINDINGS 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. Greenville Estates Tenants Cooperative, Inc. ("Greenville Estates" or "the park") is a cooperative manufactured housing community located in Greenville, New Hampshire. For purposes of clarity, the park and its current management shall be referred to in unitary fashion as "Respondent."
2. Jolene and Grinnell Wood, wife and husband, were and are at all times relevant to this matter, lawful tenants of the park. They reside in a manufactured housing unit at 30 Titan Lane, Greenville, New Hampshire.

### ISSUE PRESENTED

3. Complainants seek a determination by this Board of the following issue:

Whether the Respondent's demand that Complainants remove one of their two dogs from the park violates RSA 205-A:2, VIII(d) in that Complainants were granted permission by prior park management to keep two dogs in their home?

### FINDINGS OF FACT

4. Greenville Estates is a cooperative manufactured housing park, that is, a housing park owned and managed by a cooperative association of tenants. At all times relevant to this matter, the governance authority for management of the park was and is vested in a Board of Directors. As a practical matter, the Chairman of the Board of Directors exercises general authority over the day to day management of the park. This authority is often exercised through, or in cooperation with, an on-site manager, who is an employee of the Cooperative.
5. Jolene and Grinnell Wood moved into the park on May 31, 1997.
6. Park Regulation no. 18, which was in effect at the time the Woods moved into the park, limits pet ownership in the park to two pets per home.
7. At the time they moved in, the Woods owned two pets, a cat named Moreta, and a Boxer dog named Zeus. It is clear from the testimony that the Woods understood that this rule applied within the park at the time they moved in.
8. Nevertheless, in or about January of 1998, the Woods sought to acquire a second boxer dog, named Zena.

9. The Woods understood that their proposed acquisition of a second dog would put them in violation of the Park Regulation 18. Accordingly, they spoke with on-site manager Thomas Scraggs and requested information about how to seek a waiver of the rule.<sup>1</sup>
10. Complainants presented as witnesses both Mr. Scraggs and Robert Huard, Chairman of the Cooperative's Board at the time of their request. Both gentlemen testified that Mr. Scraggs consulted with Mr. Huard and communicated back to the Woods that they could acquire their second dog.
11. Relying on Mr. Scraggs' verbal representation, the Woods did in fact acquire a second dog. As of the date of the hearing in this matter, that animal had been resident in their household for approximately fourteen months.
12. In or about March of 1998, counsel for the park presented Ms. Wood with a pet registration form, together with a document entitled pet policy for her signature. The cover letter document requested that the registration form be completed for each pet residing in the tenant's home.
13. The document also clearly stated that "each home is allowed to keep one cat and one dog only." The document further provided that "failure to comply with these requirements is a material breach of your lease agreement and constitutes sufficient grounds for eviction, pursuant to New Hampshire RSA 540:2 (II)(c)."

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<sup>1</sup> Although her testimony was subject to some dispute, Ms. Wood testified that, at the time of her initial conversation with Mr. Scraggs, she was under the impression that waivers of the park's one-dog rule were fairly common in that several homes in the park contained more than one dog.

14. Jolene Wood signed this document and submitted it to the park along with *three* registration forms, one for the Woods' cat, and one for each of the dogs resident in their home.
15. The park appears to have accepted the signed policy document as well as all three registration papers from the Woods without comment or further action.
16. At some time after the Woods' transaction with Mr. Scraggs, Mr. Scraggs was dismissed as an employee of the cooperative and Mr. Huard replaced as Chairman of the Board of Directors. While the testimony was not entirely detailed with respect to these developments, it is apparent to the Board that these dismissals were acrimonious and are currently subject to litigation.
17. An apparently newly constituted Board of Directors has now taken the position that the Woods are in violation of Park Regulation 18 and cannot rely on any alleged oral waiver of the rule by prior management to justify their possession of a second dog.
18. On March 29, 1999, approximately fourteen months after the Woods acquired the second dog, the park notified the Woods by letter that "it has come to the attention of the Board of Directors that you have two dogs."<sup>2</sup> The letter also stated, "You will need to get rid of one of your dogs" pursuant to park regulations.
19. The Woods responded to this letter with a request that the Board reconsider its position.

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<sup>2</sup> The Woods also presented testimony and corroborating evidence in the form of a payment check to establish that current Board Chairman Don Baldinelli was present in their home in or about October, 1998 to hook up a dryer. Ms. Wood testified that, because the dogs were always in the home, Mr. Baldinelli must have been aware of their existence since at least October 1998.

20. The Board responded with a second letter, dated April 8, 1999 and signed by Sheila Soubie, Secretary, which stated that the Board had discussed the Woods' request at an April 6 meeting, and stated, "it was decided that you would have to get rid of one of the dogs."
21. On April 23, 1999, counsel for the Board served a Notice To Quit on the Woods based on their alleged violation of Park Regulation no. 18.<sup>3</sup>

### CONCLUSIONS OF LAW

22. As Board members observed during public deliberations on this matter, this is not a particularly difficult case, or close legal call.
23. The Board finds that Mr. Scraggs as on-site manager and Mr. Huard as Board Chairman clearly gave the Woods permission to acquire and maintain a second dog in their home.
24. The park currently maintains that this verbal assurance was insufficient to establish such permission, and that the Woods were obligated to appear before the full Board or otherwise seek the full Board's permission for a waiver of Park Regulation 18 to be effective.
25. Unfortunately for the Board's position, there is no evidence that anyone ever informed the Woods that more might be required to establish a waiver than the verbal permission they received from a park employee on apparent behalf of the then-Chairman of the Co-operative's Board of Directors.

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<sup>3</sup> The Board notes that it is not divested of jurisdiction over this matter by virtue of the park's presentation of a notice to quit to the Woods. *Hale v. Holiday Acres*, no. 99- E-003 (Merrimack Cty Sup. Ct.).

26. Moreover, in March of 1998, the Board of Directors accepted and maintained in the Co-operative's files registration papers clearly listing two dogs as resident in the Woods' home.
27. Based on this record, the Board finds that the park, acting through its legal representatives, has granted the Woods permission to own and maintain two dogs and a cat in their home.
28. It may be that the present Board of Directors has issues with the informality with which this matter was handled by the prior Board Chairman. However, it would be grossly unfair to allow the Woods to be caught in the crossfire of this dispute, more than a year after they relied on the authority of the prior Board Chairman and on-site manager to acquire their second dog.
29. Therefore, the Board finds that the park's attempt to require the Woods to "get rid of" one of their two dogs for alleged violation of Park Regulation 18 violates RSA 205-A:2, VIII(d) in that Complainants were granted permission by prior park management to keep two dogs in their home.

### **ORDER**

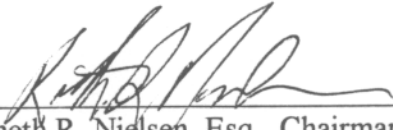
WHEREFORE, the Board hereby enters the following ORDER:

- A. Respondent is hereby enjoined from requiring Complainant to dispose of any of the pets currently resident in their home; and
- B. Respondent is further enjoined from taking any legal action against Complainants based on Respondent's contention that the pets currently in their home

violate that portion of Park Regulation 18 which limits the number of pets which may reside in a home within the park.

A decision of the board may be appealed, by either party, by first applying for a rehearing with the board within twenty (20) business days of the clerk's date below, not the date this decision is received, in accordance with Man 201.27 Decisions and Rehearings. The board shall grant a rehearing when: (1) there is new evidence not available at the time of the hearing; (2) the board's decision was unreasonable or unlawful.

ORDERED, this 4<sup>th</sup> day of August, 1999  
BOARD OF MANUFACTURED HOUSING

  
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Kenneth R. Nielsen, Esq., Chairman


Members participating in this action:

Stephen J. Baker  
Richard R. Greenwood  
Rep. Warren Henderson  
Rep. Robert J. Letourneau  
Kenneth R. Nielsen, Esq.  
Jimmie D. Purselley  
Florence Quast  
Linda Rogers

CERTIFICATE OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid to Jolene and Grinnell Wood, Greenville Estates Tenants Cooperative, Inc., Mary Notaris, Esq. and Sheliah M. Kaufold, Esq.

Dated: Aug. 4, 1999 \_\_\_\_\_

  
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Anna Mae Twigg, Clerk  
Board of Manufactured Housing