

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

Jimmie D. and Vivian I. Purselley)	Docket 009-99
Joseph E. Beauregard)	Docket 010-99
Albert D. and M. Jeanne Charpentier)	Docket 011-99
Elizabeth A. Cleary)	Docket 012-99
John C. and Patricia Decknick)	Docket 013-99
Lester J. Henry and Alice v. Theriault)	Docket 014-99
)	(Consolidated)
v.)	
)	
JMK & Son, Inc., and)	
Beverly Kilmartin-Marino, President)	

ORDER

This matter having come before the Board of Manufactured Housing (“the Board”) for hearing on September 17, 1999, and upon review of the Complaints submitted by the Complainants, and a letter dated September 10, 1999 from JMK & Son, Inc. (“JMK”) to Ms. Anna Mae Twigg, Board Clerk, the Board issues the following *ORDER sua sponte*:

- 1) The Complaints herein have each been submitted by Jimmie Purselley, a public member of the Board.
- 2) Only one complaint is submitted by Mr. Purselley in his personal capacity. Each of the other complaints appear to have been submitted by Mr. Purselley as purported “agent” for the other complainants. The complaints were submitted to this Board by Mr. Purselley in a unified package, with the filing fee for all complaints paid by a single check in the amount of \$150.00 drawn on the account of the “Medvil Association.” The Board understands the Medvil Association to be an association of

tenants residing at the park. The check was signed by Vivian Purselley as treasurer of the Association.

- 3) Mr. Purselley and all other Complainants assert that they are current tenants of The Village at Glen Falls Park (“the park”) , a manufactured housing community located in Goffstown, New Hampshire. For purposes of this order only, the Board accepts that assertion as uncontested.
- 4) JMK & Son, Inc. is the owner and operator of the park. The record before the Board does not establish that Beverly Kilmartin Marino is President of JMK.
- 5) Each of the submitted complaints is essentially identical. *See, Complaint Form Attachment 1*, to each submitted complaint; *Letter*, Jimmie D. Purselley to JMK & Son, Inc. (August 12, 1999) attached to each submitted complaint.
- 6) Each complaint raises three identical issues:
 - a) That the park owner has instituted a policy of charging new tenants a fee for home number signs in purported violation of RSA 205-A:2, XI.
 - b) That the park owner has installed dead bolts on a community clubhouse door, thus limiting access to the clubhouse in purported violation of RSA 205-A:2, XI.
 - c) That the park owner padlocked a designated parking area for recreational vehicles in purported violation of RSA 205-A:2, XI.
- 7) With respect to the first issue, the Board sought testimony from the Complainants and was informed that only John and Patricia Decknick have actually been charged a fee with respect to a home numbering sign. The other complainants all seek to assert this claim on behalf of all tenants in the park.

- 8) Similarly, no complainant could assert any direct injury as a result of the park's alleged decisions to padlock the community center or recreational vehicle storage area.
- 9) For this reason alone, the Board is constrained to find that no case or controversy exists between the Complainants and the park, with the exception of the Decknick's claim with respect to the fee charged for a house numbering sign.
- 10) Moreover, the Board further finds that, whatever policy decisions may be implicated by park management's decisions to charge fees for provision of a house number sign, and to limit access to a community center and a vehicle storage area, there is no clear nexus between that conduct and the board's jurisdiction over disputes involving park rules under the specific provisions of RSA 205-A:2
- 11) Complainants, through Mr. Purselley, appear to argue that the parks rules and regulations constitute the terms of the Complainants' tenancies within the park, *see* RSA 205-A:2, XI.. Under this reading, any change in park policy which affects the residents' rights as tenants is, *ipso facto*, a rule change subject to the requirement of RSA 205-A:6 that rule changes be preceded by a ninety day notice; and further subject to scrutiny by this Board for reasonableness. RSA 205-A:2, XI.
- 12) The Board is not persuaded that, on the facts alleged in these Complaints, the conduct of the park owner amounts to a rule change which falls within the jurisdiction of the Board. Indeed, to hold otherwise would effectively subject any management decision in a Manufactured housing park to Board oversight.

- 13) Accordingly, the Board finds that the matters raised in the complaint with respect to the clubhouse and vehicle parking area are beyond its jurisdiction and therefore DISMISSES all Complaints with respect to those issues.
- 14) In addition, the Board holds that the issue of charges for home number signs is not appropriate for adjudication with respect to any complainant except the Decknicks. All complaints except that of the Decknicks are therefore DISMISSED with respect to this issue.¹
- 15) Finally, the Board rules that, to the extent the Decknick's claim survives, it may not be brought before this Board with a sitting Board member as their designated representative. To allow such an appearance would be to sanction a clear conflict of interest. The Board can no more entertain argument from a sitting member as an advocate than could any Court permit a member of the bench to appear before it as an advocate for private interests.² See, e.g. RSA 502-A:21
- 16) Accordingly, and in view of the Decknick's apparent lack of preparation to proceed in this matter as their own advocate, the Board hereby DISMISSES their complaint with respect to the house number sign issue, but does so without prejudice and with

¹ In view of the posture of this matter, the Board does not hold that the house numbering issue necessarily falls within its jurisdiction. Rather, we observe only that the Decknick's Complaint make a *prima facie* showing that the conduct alleged may contravene a specific rule of the park. The Board reserves for further adjudication, if necessary, the question of whether the conduct is properly actionable under RSA 205-A:XI or any other provision of 205-A:2, 7 or 8.

² This situation is different from that presented when one of the Board's park owner or operator members is the subject of a complaint. In that case, which has occurred in two instances in the history of the Board, the member appears in his or her own capacity under pain of default. The Board has previously ruled that such an appearance does not necessarily amount to a conflict of interest. However, we reserve for future consideration on an individual basis any such issues which may arise from time to time.

leave to refile on their own or with an advocate of their choice other than Mr. Purselley.³ 123512

ORDERED, this 27th day of October, 1999

BOARD OF MANUFACTURED HOUSING

By: _____
Kenneth R. Nielsen, Chairman

Members participating in this action:

Stephen J. Baker
Richard R. Greenwood
Rep. Robert J. Letourneau
Kenneth R. Nielsen, Esq.
Florence E. Quast
Sherrie Babich-Strang

³ This ruling shall apply only as long as Mr. Purselley chooses to retain his seat on the Board. He could of course, appear before the Board as an advocate should he resign from his position as a member with adjudicatory powers. There is no prohibition against a former member of a tribunal appearing before it; and the Board has no reason at this time to suppose that it could not fairly adjudicate cases in which Mr. Purselley were to appear as a complainant's representative if the present conflict of interest were eliminated.