

THE STATE OF NEW HAMPSHIRE

BOARD OF MANUFACTURED HOUSING

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|---------------------------------------|---|--------------------------|
| Casey and Carrie Pearl |) | |
| Complainants |) | Docket No. 020-99 |
| |) | |
| v. |) | |
| |) | |
| Green Meadows Mobile Home Park |) | |
| James Grappone, President |) | |
| Kathy Grappone |) | |
| Respondents |) | |

Hearing held on January 10, 2000, 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. Casey and Carrie Pearl (Complainants) are and were at all times relevant to this matter, lawful tenants of Green Meadows Mobile Home Park, a manufactured housing community located in Concord, New Hampshire.
2. Green Meadows MHP (the park) is a manufactured housing community located in Concord, New Hampshire. James and Kathy Grappone, 24 Boanza Drive, Concord, NH 03303 are the owners and operators of the park. For convenience, Mr. and Mrs. Grappone and the park will be referred to as a unified entity by the term Respondent.

ISSUES PRESENTED

3. Complainants seek a determination by this Board with respect to the following issue:
4. Whether park management made or attempted to enforce any rule which requires a tenant to sell or otherwise dispose of any personal property, which the tenant had prior permission from the park owner or former owner to possess and use pursuant to RSA 205-A:2 VIII (d).¹

FINDINGS OF FACT

5. Casey Pearl entered into a Purchase Agreement on April 4, 1987 to purchase a manufactured home at 69 Skyline Drive, Concord, NH on the condition of obtaining park approval to keep equipment (plow spreader) 1600 loadstar, 1-ton Ford dump and personal vehicles on premises.
6. On April 10, 1987 the park owner granted permission for Casey Pearl to keep that equipment in a specified area of the park adjacent to his manufactured home, signed by Thomas Grappone on behalf of Green Acres Mobile Homes, Inc.
7. In 1987 the park was owned by Robert Grappone through a corporation called Green Acres Mobile Homes Inc. Thomas Grappone, his son, helped manage the park.
8. Thomas Grappone testified at the hearing that his father was aware of the equipment and knew that Casey Pearl was in the landscaping business and using his manufactured home as his base of operations. He further testified that upon the signing of the permission letter the park owner understood that the equipment would eventually need to be replaced with equivalent equipment and had no problem with that and said that that was part of the understanding between the parties in 1987.
9. For the next several years Casey Pearl used his equipment to plow and sand the park roads and do other landscaping work for the park.
10. Casey Pearl did replace the worn out 1600 Loadstar in 1994. He also replaced the one-ton dump truck in 1994. He replaced the plow and spreader in 1995.
11. Robert Grappone died in 1995 and the park was inherited by his other son, James Grappone. James Grappone is the President of Green Meadows Mobile Home Park, Inc., the current owner of the park.
12. In late 1997 Casey Pearl expanded the amount of equipment stored in the specified area of the park by adding a pickup truck, a bobcat on a trailer, another plow and mowers. In 1998 he registered his

¹Complainants also raised violations of RSA 205-A:2 XI on their Complaint Form dated November 10, 1999, but presented no testimony on those issues and at the conclusion of the hearing withdrew them from consideration by the Board.

business name Diversified Landscaping with the Secretary of State and advertised in the Yellow Pages.

13. In 1998 Casey Pearl also occasionally allowed his crew to park their vehicles in the park. He testified that he agreed that such a practice exceeds his authority and that practice has ceased..

14. James Grappone continued to use Casey Pearl, under his business name of Diversified Landscaping, to plow and sand the park roads until October 20, 1998 when he notified Mr. Pearl that he had retained another firm to perform that work.

15. On July 9, 1999 and July 13, 1999 the park through its attorney Mark Puffer withdrew any permission for Casey Pearl to store any equipment in the park and requested that all equipment be removed from the park.

16. In the fall of 1999 the park owner contacted the City of Concord Housing Inspector concerning the storage of commercial vehicles and equipment in the park. The City conducted an on-site inspection on October 28, 1999 and found Mr. And Mrs. Pearl in violation of the Concord Zoning Ordinance by letter dated November 8, 1999. Storage of more than one commercial vehicle is not permitted in the BR zone.²

17. Casey Pearl never had permission to use the premises for a commercial use other than as a base of operations (i.e., a telephone number, billing address, office paperwork and files within his manufactured home) and as a location to store the four items of equipment and their equivalent replacements in the specified area adjacent to his home in the park. These permissions were granted by the former park owner.

18. Casey Pearl conducts all other activities of his commercial enterprise outside the park.³

19. James Grappone testified at the hearing that he had no problem with allowing the Pearls to continue to store the amount and types of equipment (and their equivalent replacements) as was originally permitted in 1987, but that he had not given permission to expand that to include additional equipment..

RULINGS OF LAW

20. This matter is controlled by RSA 205-A:2, VIII (d) which provided that no manufactured housing park owner may make or attempt to enforce a rule which:

Requires a tenant to sell or otherwise dispose of any personal property, fixture, or pet which the

²The Pearls have appealed that decision and have applied for a special exception before the Concord Zoning Board of Adjustment. That appeal is pending.

³Except, of course, during the time periods when he plowed the park roads and when his crew drove their vehicles into the park, both of which have discontinued.

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.

21. Here, the Complainants have met their burden of showing that that they had permission of the former park owner to store a plow, spreader, one ton dump truck and 1600 loadstar, their personal property, on the park premises in a specified area and that they had permission of the former park owner to use their manufactured home as a base of operations of their landscaping business.

22. The Complainants have failed to meet their burden of showing they had permission from either the former parker owner or the present park owner to store any additional equipment or to allow work crews to perform any work within the park or to park their vehicles in the park premises.

23. On the basis of the evidence presented, the Board finds that Respondent has established no reasonable basis to require removal of Mr. Pearl's equipment and their equivalent replacements as the Complainants had permission from the former owner and any attempt to have said equipment removed shall be deemed unlawful under RSA 205-A:2 VIII (d).⁴

24. On the basis of the evidence presented, the Board finds that Respondent has established a reasonable basis to require removal of Mr. Pearl's additional equipment beyond that enumerated in the original grant of permission.

ORDER

Therefore the Board **ORDERS** that Respondent shall not unreasonably interfere with the Pearl's possession and use of the original equipment and their equivalent replacements stored in the specified area of the park and shall not require the said equipment to be removed from the park unless Respondent can demonstrate in good faith and on the basis of objective evidence that the said equipment or its storage is unsafe or unsanitary.

Further the Board **ORDERS** the Pearls to remove any additional equipment from the park unless they can demonstrate in good faith and on the basis of objective evidence that that they have obtained permission from the park owner to store said additional equipment in the park.

The Requests of Findings of Fact and Rulings of Law submitted by Attorney Stephen Goldman on behalf of the Respondent are **GRANTED** for numbers: 10, 11 (and equivalent replacements), 15, 16 (base of operations only), 17, 20, and 24 and **DENIED** for all others.

A decision of the Board may be appealed, by either party, by first applying for a rehearing with

⁴The Board is mindful of the matters pending before the Concord Zoning Board of Adjustment and specifically declines to rule on any issues within that board's jurisdiction.

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.

SO ORDERED

BOARD OF MANUFACTURED HOUSING

By: _____
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.
Linda J. Rogers
Jimmie D. Purselley
Florence E. Quast
Sherrie Babich-Strang

CERTIFICATION OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to Casey and Carrie Pearl 69 Skyline Drive, Concord, NH 03301; Steven Goldman, Esq., 46 North State St., Concord, NH 03301; and to James Grappone, President, Green Meadows Mobile Home Park, 24 Boanza Dr., Concord, NH 03303.

Dated: _____

Anna Mae Twigg, Clerk
Board of Manufactured Housing

BOARD MEMBERS CONCURRENCE

**Casey and Carrie Pearl v. Green Meadows MHP
CASE**

**January 10, 2000
DATE**

STEPHEN J. BAKER

RICHARD R. GREENWOOD

REP. WARREN HENDERSON

REP. ROBERT J. LETOURNEAU.

SHERRIE BABICH-STRANG

LINDA J. ROGERS

JIMMIE D. PURSELLEY

FLO:RENCE E. QUAST