

**THE STATE OF NEW HAMPSHIRE**

**BOARD OF MANUFACTURED HOUSING**

<b>Robin Butruccio</b>	)	
<b>“Complainant”</b>	)	<b>Docket No. 010-01</b>
	)	
<b>v.</b>	)	
	)	
<b>Danville Four Seasons Facility</b>	)	
<b>Paul Annaloro</b>	)	
<b>Lorraine Annaloro</b>	)	
<b>“Respondents”</b>	)	

**Hearing held on October 15, 2001, 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<sup>1</sup>**

1. Robin Butruccio (“Complainant”) is and was at all times relevant to this matter, a lawful tenant of Danville Four Seasons Facility, a manufactured housing community located in Danville, New Hampshire.
2. Danville Four Seasons Facility (“the park”) is a manufactured housing community located in Danville, New Hampshire. The land is owned by a Trust and the park is owned by a corporation with Paul and Lorraine Annaloro as the principals. For convenience, Mr. and Mrs. Annaloro and the park will be referred to as a unified entity by the term “Respondent.”

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<sup>1</sup> The parties dispute whether the Complainant is a “tenant”, whether the unit is “manufactured housing” and whether Danville Four Seasons Facility is a “manufactured housing park”. These issues are discussed below.

## ISSUES PRESENTED

### 3. Complainant seek a determination by this Board with respect to the following sections under 205-A:2 Prohibition. – No person who owns or operates a manufactured housing park shall:

II. Deny any resident of a manufactured housing park the right to sell at a price of such resident's own choosing said resident's manufactured housing within the park or require the resident or purchaser to remove the manufactured housing from the park on the basis of the sale thereof. A resident of a manufactured housing park may place no more than 2 "for sale" signs on or in the manufactured housing for the purpose of selling the home. The park owner or operator may reserve the right to approve the purchaser of the manufactured housing as a tenant, but such approval may not be unreasonably withheld. The park owner or operator may require as a condition of said permission that the purchaser and the purchaser's household meet the current rules of the park. In connection with the sale of a tenant's manufactured housing, the park owner or operator shall not:

(a) Make any rule or enter into a contract, which shall abrogate or limit the tenant's right to place "for sale" signs on or in the tenant's manufactured housing; provided, however, the park owner or operator may by rule or contract provision impose reasonable limitations as to size, quality, registration of such signs, requirements that the posting of such signs be pursuant to bona fide efforts to sell, and removal when the home is no longer being offered for sale. No such limitation as to size or quality shall restrict the use of a painted or printed sign which is 216 square inches or less in size and which contains no more than the words "for sale", along with the name, address and telephone number of the seller, or the name, address, and telephone number of the seller's agent or representative;

IV. Require any tenant to purchase any goods or services, including but not limited to fuel oil, paving, snow plowing, dairy products, laundry services, bakery products, or food products, from any particular person or company. The park owner or operator may require skirting on the manufactured housing and may make rules governing the size and number of out-buildings and additions; but in such case, must provide the tenant with reasonable options as to the type of materials and construction. The park owner or operator may also impose reasonable conditions relating to central fuel and gas metering systems in the park; provided that if such conditions are imposed, the charges for such goods or services shall not exceed the average prevailing price in the locality for similar goods and services.

VIII. Make or attempt to enforce any rule which:

(b) Requires a tenant to get prior permission of the park owner or operator before an overnight guest can stay in the park; provided, however, a park owner or operator may require prior permission for any guest who stays longer than 30 days, which permission shall not be unreasonably withheld.

IX. Charge or attempt to charge a tenant for repair or maintenance to any underground system, such as oil tanks, or water, electrical or septic systems, for causes not due to the negligence of the tenant or transfer or attempt to transfer to a current tenant responsibility for such repair or maintenance to the tenant by gift or otherwise of all or part of any such underground system.

X. Fail to provide each tenant with the name, address and telephone number of a manager or agent who resides within 10 miles of the park, if the park owner or operator does not reside within 25 miles of the park, which manager or agent shall:

(b) Be authorized to make or contract emergency repairs without specific authorization from

the park owner or operator;

XI. Fail to provide each tenant who resides in his park with a written copy of the rules of said manufactured housing park. Said rules shall set forth the terms and conditions of the tenancy and shall contain the following notice at the top of the first page printed in capital typewritten letters or in 10 point bold face print (The actual Notice is intentionally omitted).

XII. Fail to respond to a written request of the consumer protection and antitrust bureau of the department of justice by not mailing or delivering a copy of the current park rules to the bureau within 7 days of receipt of the request. The bureau shall send the request by certified or registered mail. Failure to comply with this paragraph shall not constitute a defense to a possessory action.

## PRELIMINARY MATTERS

4. As preliminary matters Attorney Tom Morgan, representing the park, moved to dismiss these complaints on the following grounds:

A. That the Complainant is not a “tenant” as defined in RSA 205-A:1 IV which defines a tenant to mean “any person who owns or occupies manufactured housing and pays rent or other consideration *to place* said manufactured housing in a manufactured housing park.” (emphasis added); and

B. Danville Four Seasons Facility is not a “manufactured housing park” as defined in RSA 205-A:1 II and the unit that the Complainant resides in is not “manufactured housing” as defined in RSA 205-A:1 I and RSA 674:31.

5. Robin Butruccio rents her unit from Lorraine Annaloro. Lorraine Annaloro owns the unit in her own name and is also one of the representatives of the Trust and the corporation that owns the property that the unit is placed upon.

6. Attorney Morgan argues that because Ms. Butruccio is a renter of the unit she only occupies the unit and pays rent on it but that she does not do so with authority “to place” the unit in the park pursuant to the definition of a “tenant” under RSA 205-A:1 IV and that that authority rests with Lorraine Annaloro not with Robin Butruccio. Thus Ms. Butruccio does not meet all of the prongs in the statutory definition of a “tenant”. Attorney Morgan further argues that while Ms. Butruccio may be afforded the protections under the Landlord Tenant Act, RSA 540, she is not afforded protection under RSA 205-A and hence this Board lacks jurisdiction to hear her complaints.

7. The Board finds these arguments to be unpersuasive. Robin Butruccio clearly is a resident in the park. RSA 205-A:27 IV (a) says that any resident of a park may file a petition with the Board. Further at least some of the sections of RSA 205-A:2 list prohibitions concerning residents. Finally the statutory definitions under RSA 205-A:1, including the definition of a “tenant”, are used “unless the context specifically requires otherwise”. When looking at 205-A as a whole, and the evidence presented at the hearing, the Board finds Robin Butruccio to be a tenant. It would be inconsistent to permit a resident to file a complaint only to have it later dismissed because she was not a tenant. Therefore the context of this complaint requires that she

be considered a tenant and subject to the protections of 205-A:2.

8. Next the owners argue that their community is not a “manufactured housing park” and Ms. Butruccio’s unit is not “manufactured housing”.

9. The Danville Four Seasons Facility according to the evidence presented consists of about 40 “modular homes” and another approximately 40 “recreational vehicles”.

10. Under RSA 205-A:1 I “manufactured housing” is defined as follows:

I. "Manufactured housing" includes, but is not limited to, manufactured housing as defined by RSA 674:31, and also includes any prefabricated dwelling unit which:

- (a) Is designed for long term and continuous residential occupancy;
- (b) Is designed to be moved on wheels, as a whole or in sections; and
- (c) On arrival on the site, is complete and ready for occupancy, except for incidental unpacking, assembly, connection with utilities, and placing on support or permanent structure.

Nothing herein shall be construed to include campers or recreational vehicles within the definition of "manufactured housing".

And RSA 674:31 states:

RSA 674:31 Definition - As used in this subdivision, “manufactured housing” means any structure, transportable in one or more sections, which, in the traveling mode is 8 body feet or more in width and 40 body feet or more in length, or when erected on site, is 320 square feet or more, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, which include plumbing, heating, and electrical heating systems contained therein. Manufactured housing as defined in this section shall not include presite built housing as defined in RSA 674"31-a..

11. From the evidence presented the Danville Four Seasons Facility appears to be of mixed use. There are modular homes. There are recreational vehicles. There are campers. There are manufactured housing units. All units are taxed by the local authorities. Many of the recreational vehicles are without wheels. Many units are occupied year-round. Most are skirted. The unit Ms. Butruccio rents contains approximately 400 square feet. From the photographs admitted into evidence it appears at least part of the community contains manufactured housing. The Board therefore finds that at least in the context of this case that the community contains a manufactured housing park and the unit occupied by the Complainant is manufactured housing thereby vesting jurisdiction of these complaints with this Board.

12. The Complainant began her testimony at the hearing by asking that she wanted to know where she lived. In light of the discussion above it is easy to understand her confusion. As stated the Board finds that she is a tenant living in manufactured housing within the manufactured housing park portion of the Danville Four Season Facility.

## **FINDINGS OF FACT**

13. It has been difficult to sort out the facts in this case, not only because of the definitions of a tenant and manufactured housing discussed above, but also because several issues outside of the Board's jurisdiction were raised at the hearing. These include the fact that an eviction action under RSA 540 against Ms. Butruccio was pending (a District Court hearing had been held, but as of the date of this hearing not decision had yet been announced). The Board heard testimony on alleged retaliation which is a defense to the eviction action. The Board heard testimony on alleged discrimination against the Complainant, litigation between the park owners and the Town, complaints brought before the Selectmen, complaints to the local Health Official and complaints submitted to the Department of Environmental Services. In addition there were over 30 police reports of incidents between the parties. Most of this testimony was irrelevant to the complaints before this Board, but nevertheless they illustrate the acrimony between the parties.

14. The problems between the parties began when Ms. Butruccio's son moved into her unit in the spring and when Paul Annaloro removed her son's four wheel vehicle from the park. This ultimately resulted in a laundry list of complaints filed by Ms. Butruccio as referenced in Paragraph 3 above.

15. Ms. Butruccio's complains that she was denied the right to sell her unit or to place a "for sale" sign under RSA 205-A:2 II and II (a) are dismissed. Ms. Butruccio does not own the unit.

16. The complaint made under RSA 205-A:2 IV concerned mulch that she put in her front yard and was asked to remove by Paul Annaloro for which she claimed she paid \$800. The Board finds that the Complainant failed to meet her burden of proof to find any violation of this section.

17. RSA 205-A:2 VIII (b) involves park owner approval for overnight guests staying longer than 30 days. The Board finds that Ms. Butruccio's son had stayed longer than 30 days and that prior permission of the park owner was never obtained or unreasonably withheld.

18. With regard to RSA 205-A:2 IX (charging for the repair or maintenance of underground systems) the Board finds that no evidence was presented as pertaining to her unit and consequently this complaint is dismissed.

19. With regard to RSA 205-A:2 X (on-site manager) the Board finds that Ms. Butruccio had the address and telephone numbers of the Annaloros during the summer months when they lived in or near the park. Indeed she called Lorraine Annaloro on a frequent basis. The Board also finds that the park had an on-site manager named "Leo" who lived in the park year-round.

20. RSA 205-A:2 XI deals with providing tenants with a copy of written park rules. The Board

finds that the park did provide written park rules entitled “Park Rules For Campers”<sup>2</sup> and that such rules do set forth the terms and conditions of the tenancy. However the Board further finds that said rules do **not** contain on the first page the required notice in capital typewritten letters or 10 point bold face print.

21. With regard to RSA 205-A:2 XII dealing with the failure to respond to a written request of the Consumer Protection and Antitrust Bureau of the Department of Justice the park owner denies ever having received such a request. There was no evidence presented to the contrary and this complaint is dismissed.

### **RULINGS OF LAW**

22. The Complainant is a tenant living in a manufactured housing unit within a manufactured housing park.

23. The complaints raised under RSA 205-A:2 II; II (a); IX; and XII are dismissed for the reasons cited above.

24. The Complainant has failed to meet her burden of showing that she had prior permission from the park owner to have her son stay longer than 30 days; that she did not receive written park rules; that there was no on-site park manager; or that she was required to purchase any goods or services from any particular person or company.

25. The Complainant has met her burden that the park rules provided did not contain the requisite Notice under RSA 205-A: 2 XI.

### **ORDER**

Therefore the Board ORDERS that Respondent shall make a good faith effort to review and revise their park rules for those portions of the community that are a “manufactured housing park” as defined in RSA 205-A:1 IV and to make them consistent with the Notice provision under RSA 205-A:2 XI.

A decision of the Board may be appealed, by either party, by first applying for a rehearing with the Board within thirty (30) 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.

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<sup>2</sup>The word “campers” is a misnomer in light of the Board’s decision that at least part of the facility is a “manufactured housing park”.

**SO ORDERED**

**BOARD OF MANUFACTURED HOUSING**

By: \_\_\_\_\_  
Kenneth R. Nielsen, Esq., Chairman

**Members participating in this action:**

Rep. Robert J. Letourneau  
Kenneth R. Nielsen, Esq.  
Linda J. Rogers  
Florence E. Quast  
Sherrie (Babich-Strang) Keith  
Ashton E. Welch

Steve Baker recused himself from participating in this action.

**CERTIFICATION OF SERVICE**

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to Robin Butruccio, P.O. Box 1022, Haverhill, MA 01830; Tom Morgan, Esq., 369 Main St., P.O. Box 627, Salem, NH; and to Paul and Lorraine Annaloro, P.O. Box 400, Danville, NH 03819.

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

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

**BOARD MEMBERS CONCURRENCE**

**Robin Butruccio v. Danville Four Seasons Facility, Paul Annaloro and Lorraine Annaloro  
Docket No. 010-01**

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REP. ROBERT J. LETOURNEAU

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KENNETH R. NIELSEN, ESQ.

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FLORENCE QUAST

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LINDA J. ROGERS

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ASHTON E. WELCH

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