THE STATE OF NEW HAMPSHIRE
BOARD OF MANUFACTURED HOUSING

Ms. Regina Snuffer	)	
"Complainant"	)	
	)	
v.	)	**Docket No. 011-01**
	)	
George Hast and Sherryland, Inc.	)	
"Respondent"	)	

Hearing on held on June 10, 2002, at Concord, New Hampshire.

DECISION

The Board of Manufactured Housing ("the Board") makes the following orders in the above-referenced matters.

PARTIES

1. Sherryland Park MHB ("Sherryland Park" or "the park") is a manufactured housing community located in Tilton, NH. Sherryland, Inc. is the owner and operator of Sherryland Park, and George Hast is president of Sherryland Inc. Mr. Hast has acted at all times relevant to this order as the manager of the park. For purposes of clarity, the park and its management shall be referred to in unitary fashion as "Respondent."[1]

2. Regina Snuffer ("Ms. Snuffer or Complainant") is at all times relevant to this matter, a lawful resident of the park.

ISSUES PRESENTED, PRELIMIARY MATTERS AND PROCEDURAL HISTORY

1. On September 14, 2001 the Board received a complaint from Regina Snuffer raising four issues:

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[1] This unified treatment should not be construed to apply to or bind Mr. Hast in any capacity other than as President of Sherryland, Inc.

a. Removal of a garden contrary to RSA 205-A:2, VIII (d);
b. Removal of a rain barrel contrary to RSA 205-A:2, VIII (d);
c. Parking cars on the lawn as a violation of park rules; and
d. Having an unauthorized occupant or guest contrary to RSA 205-A:2, VIII (b) and park rules.

2. On September 24, 2001 the Board sent a copy of the complaint to Sherryland's attorney from another proceeding, Charles Russell, because the Respondent had failed to pick up a certified letter for Sherryland, Inc.

3. On September 27, 2001 Attorney Russell responded that he would be filing a Response to the Complaint within 14 days of his receipt. (See MAN 402.01).

4. On October 4, 2001 Attorney Russell filed a Special Appearance along with a ***Motion to Dismiss*** on behalf of the Respondent alleging that the Complainant had also filed an action in Belknap County Superior Court *(Regina Snuffer v. Sherryland, Inc and George Hast Individually and as President of Sherryland, Inc. Docket Number 01-E-0196)* on August 31, 2001, which had the effect of waiving jurisdiction to pursue the matter before the Board.

5. On October 12, 2001 the Board received the Complainant's ***Objection to Motion to Dismiss*** and ***Complainant's Motion for Default*** alleging that the Respondent had failed to file any pleadings within the 14 day period in MAN 201.15. Ms. Snuffer contended that she had to pursue an action in equity to the Belknap County Superior Court because the Board does not have injunctive powers nor does it have jurisdiction over evictions.

6. At its meeting on October 15, 2001 the Board determined that Regina Snuffer had properly filed a new complaint. A copy had been sent to George Hast, President of Sherryland, Inc. on September 14, 2001 with a response due by September 28, 2001. When no response was received by September 24, 2001, the Clerk sent a second copy of the complaint to Attorney Russell and Mr. Hast on September 24, 2001. The letter to Attorney Russell was a "heads up" reminder in order to avoid a default by Mr. Hast. In subsequent correspondence dated September 27, 2001, Attorney Russell indicated he would file a Response to the Complaint by October 9th. The Board received no Response to the Complaint other than the motion to dismiss. The Board voted to grant ***Complainant's Motion for Default***.

7. On October 18, 2001 the Board sent a Final Default Order to George Hast, President of Sherryland, Inc. and Attorney Russell.

8. On November 1, 2001 the Board received from the Respondent a ***Motion for Rehearing and to Vacate, October 15, 2001 Default*** that was subsequently amended on November 6, 2001. Respondent alleged that his attorney has sent a Special Appearance and Motion to Dismiss on October 2, 2002 and the Board had failed to rule on that pending motion. On October 31, 2001 the Board received ***Complainant's Objection to Motion for Rehearing and to Vacate October 15, 2001 Default*** and the Board scheduled the matter for a hearing on December 4, 2001.[2]

9. On November 19, 2001 the Board received Attorney Russell's ***Request to Schedule Motion Hearing*** to allow for oral argument on the pending issues.

10. On November 30, 2001 the Board received the Response to the Complaint from Sherryland, Inc.

11. At the December 4, 2001 meeting the Board voted to grant the Respondent's ***Motion for Rehearing and to Vacate October 15, 2001 Default***. The Board also deferred ruling on the Respondent's ***Motion to Dismiss*** until after a hearing on the merits had been held.

12. On February 8, 2002 the parties were notified that the hearing on the merits would held on March 8, 2002.

13. On March 5, 2002 the Board received Respondent's ***Motion to Dismiss (60 Day Rule)***, claiming that the Board had failed to schedule a timely hearing within 60 days. The Complainant filed a timely objection to the motion on March 7, 2002, and then filed an amendment thereto on March 8, 2002.

14. On March 8, 2002 the Board received Respondent's ***Motion to Defer Action***, Respondent's Sherryland Inc.'s Position on Complainant's Four Claims, Respondent's Supporting Exhibits, and Respondent's Supporting Memorandum of Law to Motion to Dismiss.

15. After argument and discussion at the March 8, 2002 Board meeting the Board determined that the Garden issue had been decided by the Belknap County Superior Court by order issued on November 21, 2001. In that order, the Belknap County Superior Court held that the issue of the Rain barrel had been removed rendering that issue moot. The court left the issues of parking of cars on the lawn and the unauthorized guest for the Board to decide. The Board voted to deny the Respondent's ***Motion to Dismiss (60 Day Rule)*** because Respondent caused the delay, there had been no prejudice due to the delay and dismissal was not the proper remedy. *See*, *Appeal of Concord Natural Gas*, 121 N.H. 685, 690-691 (1981). The Board

[2] During this time period correspondence was sent to the Board by Attorney Russell care of the Attorney General's Office, which delayed the receipt of the correspondence by several days to the Board's Office.

also denied the Respondent's ***Motion to Defer Action***, as it was untimely filed the same day as the hearing and it does not appear that the complainant had received notice of the motion before the hearing. The Respondent raised the issue that since he had a right to know law case pending in the Merrimack County Superior Court against the Board he did not feel he could get a fair and impartial hearing at that time before the Board. However, the Complainant agreed to a continuance and the Board rescheduled the hearing on the merits of the two remaining issues to April 22, 2002.

16. In April the parties concurred in a further continuance. The matter was re-scheduled for June 10, 2002.

17. On June 3, 2002 the Board received a ***Motion to Continue*** by Regina Snuffer, which was duly Objected to by the Respondent on June 6, 2002.

18. On June 10, 2002 at the Board meeting the Board voted 3-3 on the issue of whether to grant the continuance and thus the motion did not carry and the complaint hearing was held on June 10, 2002.

HEARING

This order addresses the remaining two of the four allegations made by Regina Snuffer in her complaint dated September 24, 2001 against Sherryland, Inc. As set forth above, two of the four allegations were previously resolved. At the hearing on the merits held on June 10, 2002, both parties contended that the only issues now before the Board are:

A. Ms. Snuffer's alleged parking cars on the lawn in violation of Park Rule III(c) and

B. Ms. Snuffer's alleged failure to secure the park owner's permission to have an overnight guest for a period exceeding 30 days in violation of RSA 205-A:2, VIII and § VIII of the park rules.

Parking Issue

The rule at issue pertaining to the allegation that Ms. Snuffer parked cars on the lawn at her site, is Rule III(c) which provides:

C. Parking

1. Parking of two (2) automobiles for each Manufactured Housing site will be permitted. Any additional vehicles may only be parking at a

site with the community owner's written consent and only if the homeowner, at his expense, provides a paved parking area for the vehicle. There shall be no parking of any vehicles on lawns.

2. Except as hereinafter provided, reasonable on-street parking which does not interfere with community traffic is permitted during daylight hours only. There shall be no on-street parking from dusk to daylight. There shall be no on-street parking during periods of snow removal. Visitors or guests must utilize on-site parking consistent with this provision.

3. All boats, trailers, campers, snow mobiles, motorcycles or any such vehicle will, with the permission of the community owner, shall be allowed to park on the site. Homeowners must provide their own on-site parking location for these vehicles with the permission of the community owner. All storage areas must be kept neat, orderly and safe.

4. Vehicles parked in the street or other unauthorized places may be towed away at the homeowner's expense without notice.

5. A penalty charge of Ten Dollars ($10.00) per month shall be assessed for each month or part thereof, that violation of this section is permitted by the homeowner to exist. However, the assessment of said penalty shall not be deemed a waiver by community owner of his right to have the vehicles(s) towed at homeowner's expense, said expense to constitute additional rental or, in the alternative, to proceed with eviction proceedings.

Ms. Snuffer testified that she has been parking two vehicles on the property the same way for six years and that it was not until a dispute developed with Mr. Hast about the park's septic system in 2000 and 2001 that Mr. Hast raised this issue of parking. To her knowledge, the driveway has always been wide enough to fit four cars, two side by side and two behind. An additional car could fit in the garage. The photographs submitted by Ms. Snuffer corroborate her claim that the cars are parked

on what appeared to be a discernable driveway that, if it ever did consist of lawn it has not for a good number of years. She also submitted other photographs of other tenants parking on lawns, corroborating her testimony to that effect. Ms. Snuffer knows of no prior complaints by Mr. Hast regarding the number of cars she has or regarding when she parked.

Mr. Hast alleged that at the time Ms. Snuffer first moved into the property about ten years ago the driveway was the same width as the garage door and could only fit two cars one behind the other. He asserts that Ms. Snuffer's continuing parking on the lawn wore the lawn away and widened the driveway. Ms. Snuffer denied the assertion saying that her driveway has always been big enough to fit four cars so that if she had company two guest cars could fit in her driveway. Ms. Snuffer parked one car at one point across the street without permission for approximately two days, assuming that because Mr. Hast had allowed her to park her boat there for about six years that it would be okay. When Mr. Hast advised her in writing that she could not park there, she removed the car to her garage. Mr. Hast acknowledged that when he advised Ms. Snuffer that she should not be parking her car across the road from her lot, in Lot #30, she promptly removed the car.

Ms. Snuffer was questioned about why her driveway was partly hot topped gravel and partly dirt. She responded that it was because Mr. Hast does not maintain the driveways. She pointed to her photographed exhibits indicating that other tenants parked on the grass because the driveways were not maintained. Mr. Hast testified that other driveways in the lot are grassy because he used a different construction technique than in Ms. Snuffer's driveway. Mr. Hast also testified that there is cold patch along the edge of Ms. Snuffer's driveway because of a contractor's repair after correcting a drainage problem but that he had cautioned Ms. Snuffer regularly about not parking on the grass. He had no documentation of the alleged cautions and Ms. Snuffer denied that Mr. Hast had ever raised the issue until the septic problem arose. Mr. Hast stated that he spent considerable sums on demarcating edges of some driveways with railroad ties, although there was no evidence of any such action pertaining to Ms. Snuffer's driveway.

Factual Findings

On review of all of the evidence submitted and the testimony of the parties, the Board finds that Ms. Snuffer did not violate Sherryland, Inc.'s park Rule III(c). Based on the evidence presented, Ms. Snuffer's driveway was designed and built for two cars side by side. Ms. Snuffer promptly complied with the written request by Mr. Hast to remove her car from the prohibited parking area across the street and Mr. Hast did not raise his alleged concern with multiple car parking during the ten years that Ms. Snuffer lived there until Mr. Hast started experiencing trouble with the septic system.

Park Rule III(c)(2) addresses a limitation of two vehicles per site, but in no way restricts the number of parking spaces allowed per site. In fact, Rule III(c)(2) provides that guests should park on the street except at night or during snow removal periods where guests should park on-site. Thus, the park rules contemplate that more than two on-site parking spaces are appropriate to accommodate guest parking. The evidence presented by Sherryland, Inc. focused on the size of the driveway and whether it invaded the lawn as opposed to how many vehicles Ms. Snuffer had. Although Mr. Hast testified that he spent a considerable amount of money on railroad ties to limit the size of the driveway, there is no evidence that he made any effort whatsoever to demarcate Ms. Snuffer's driveway from the lawn.

The preponderance of evidence leads the Board to conclude that Ms. Snuffer did not violate Rule III(c)(1). Also, the park rule permitting tenants to only two cars was not uniformly enforced and there were waivers to allow three vehicles. The alleged parking problem appears to be an issue of convenience for Mr. Hast rather than a meritorious assertion that Ms. Snuffer violated park rules. It appears to the Board that the parking on the lawn issue was raised by Mr. Hast as part of his attempt to evict Ms. Snuffer and her house guest so that he would not have to repair the septic system. *See* RSA 205-A:2, IX (it is so owner's responsibility to repair septic system).

<u>Unauthorized Occupant or Guest</u>

Ms. Snuffer alleges that Sherryland, Inc. without justification seeks has accused her of non-compliance with RSA 205-A:2, VIII(b) and Sherryland Park Rule VIII(B)(3). She alleges that Sherryland is alleging non-compliance in an attempt to evict her and her house guest from the park. RSA 205-A:2, VIII(b) allows a park owner or operator to "require prior permission for any guest who stays longer than 30 days, which permission shall not be unreasonably withheld." Park Rule VIII(B) provides:

> 1. Homeowners may have permanent guests. However, in no case shall the total occupancy of any Manufactured House exceed that as established in paragraph VIII(a.)(7).
>
> 2. No guest or occupant who moves into and resides in a home already occupied by the established occupant number shall stay for a period in excess of thirty (30) days without the approval of the community owner.
>
> 3. For each adult guest or additional occupant resident who moves into a home already occupied by the established number for the period of thirty (30) days or more, a fee of $10.00 per person/week will be

> assessed. This $10.00 fee per guest/week is due and payable on the first of each month along with the regular monthly rental payment.

Mr. Hast testified that the reference in Park Rule VIII(B)(1) to paragraph VIII(a.)(7) is a typographical error. The reference should be to Rule IV(a)(1) which provides as follows:

> <u>Residence</u>:
>
> Commencing on the effective date of this rule and applicable to current residence of the community as of that date, a maximum of four (4) people shall be permitted to reside in a Manufactured House, provided the home is designed and lot approved to accommodate at least four people. In the event that more than four (4) people should reside in a Manufactured House, the rental term shall terminate and the parties shall vacate the site as hereafter provided.

In her complaint, Ms. Snuffer alleged that Sherryland, Inc. has falsely maintained that she violated RSA 205-A:2, VIII(b) and Sherryland Park Rule VIII(B)(2) by not securing Mr. Hast's approval for one or more guests that stayed with her for more than three days. Her complaint states that "there is no one at the present time that qualifies under this statute." At the time the complaint was filed, she had not been informed by Sherryland as to the name of the person whom Sherryland, Inc. considered being a "unauthorized guest or occupant." At the hearing on June 10, 2002, it became evident that Sherryland, Inc.'s present concern about unauthorized guests pertained to Ms. Snuffer's current house guest, Mr. Vernal Drake, although a former house guest, Mr. Drake's 87 year old mother, was formerly at issue prior to her death.

It is uncontested that at the time Ms. Snuffer moved into Sherryland Park her lot was designed for and lot approved to accommodate four people.

Mr. Hast asserted that Ms. Snuffer never requested nor received his approval for either house guest in violation of RSA 205-A:2, VIII(b) and Park Rule VIII(B)(2). Mr. Hast submitted into evidence a copy of a letter dated January 9, 2001 from Ms. Snuffer informing him that "Vernal Drake's Mother Lucy Drake is residing with us do (sic) to severe health problems." Ms. Snuffer enclosed a check for $10 as a fee for an extra guest. Mr. Hast responded to Ms. Snuffer by letter dated February 1, 2001 returning her $10 check and refusing permission to allow Vernal Drake's mother to remain on the property. His stated reason for the refusal was "connected with the use and I believe abuse and overuse of the septic system. Reasonable use of the appliances require water which feeds into the system, is necessary and extra

occupants can add to an already heavily taxed system." Sherryland Exhibit 2, Letter dated February 1, 2001. The same letter advised Ms. Snuffer that "Vernal Drake, in order to be properly admitted as a guest, must fill out an application and be approved, pursuant to RSA 205-A, VIII(b)." At the hearing, Mr. Hast clarified that he was not alleging that Ms. Snuffer or her guests were abusing or overusing the septic system, but that the septic system was in need of repair because occupants other than Ms. Snuffer had previously excessively taxed and damaged the system.

Ms. Snuffer took in Vernal Drake's mother, Lucy, in about October of 2000 because she had just had a pacemaker put in and was suffering from congestive heart failure. Ms. Snuffer took a leave of absence from work to take Lucy into her home so that Lucy would not have to go into a nursing home, and cared for her until Lucy passed away on May 11, 2001. By letter dated August 16, 2001 (Sherryland Exhibit 5) Sherryland advised Ms. Snuffer that, among other things, she had an unapproved guest who continued to reside on her property and indicated that Sherryland "wants these violations of park rules to cease." Lucy Drake having passed on in May of 2001, this letter must have been referring to Vernal Drake, unless Mr. Hast did not know of Lucy's passing.

Ms. Snuffer contended, and Mr. Hast did not contest, that Mr. Hast was aware that Mr. Drake was residing with her since 1996, the year that he moved in. Ms. Snuffer and Mr. Drake testified that Mr. Drake did complete an application requesting Sherryland's authorization for him to stay beyond 30 days at some time in 1996, and Mr. Drake left the application at the Sherryland office. They received no response from Sherryland and Mr. Hast knew of Mr. Drake's residency and never commented in any way as to whether further authorization was required. In fact, Mr. Hast acknowledged socializing with Mr. Drake, over the six years he resided with Ms. Snuffer, including having coffee with Mr. Drake and Ms. Snuffer in Ms. Snuffer's home. It was uncontested that Mr. Hast did not raise the issue about not having received the required authorization during any of these encounters. Mr. Hast denied having received any application from Mr. Drake but offered no explanation, other than his own negligence, as to why he did not raise the issue of unauthorized occupancy for Mr. Drake until the problems with his septic system arose.

Ms. Snuffer claimed that Mr. Hast's allegations against her were a ruse to enable him to evict her so that he would not have to fix the septic system. Sherryland has initiated various eviction proceedings in the Franklin District Court against Ms. Snuffer. To date these attempts have been unsuccessful and in one instance, in a case cited by both parties, has been termed by the Franklin District Court as constituting "a continuous pattern of harassment and selective application (or non-application) of the park rules." Franklin District Court Order dated May 7, 2002, *Sherryland, Inc. v. Regina Snuffer*, docket number 00-LT-00226. Attorney Russell filed an appeal of the Franklin District Court's order to the NH Supreme Court *Sherryland, Inc. v. Regina Snuffer*, Case No. 2002-0420. Appellee's Motion to Dismiss is pending.

Ms. Snuffer testified that the septic system was there 10 years ago when she moved in and had never been serviced since then. Ms. Snuffer does not have a copy of any approval for Mr. Drake to stay but she knows of a neighbor whose boyfriend has been staying with her and who has never been sent a notice of approval. Mr. Hast did not provide any evidence that he was in the practice of sending out formal notices of approval and the rule does not require that authorization be in writing. Mr. Hast acknowledged that his perception of Ms. Snuffer's violating park rules took on added importance when his septic system failed and he felt the need to restrict usage. However, Mr. Hast came over and visited on many occasions without raising any of these issues.

Mr. Hast testified that the subdivision was created in 1987 or 1988 with six (6) lots. He stated that he had orally asked Mr. Drake to file an application in 2001 because he wanted to know about Mr. Drake's "credit" and whether he is running a business from Sherryland Park. He has never received the $10 per month payment that he would have received had Mr. Drake applied and been approved pursuant to RSA 205-A:2, VIII(b). He said he also had to ascertain the "character of the people living in the community, and to control the environment to keep it a pleasurable and nice residential neighborhood." However, he offered no explanation why Mr. Drake's credit and character suddenly became an issue in 2001, four to five years after Mr. Drake moved into Sherryland Park.

Mr. Hast refused to answer a question from the Board on how old the septic system was but testified that the system was flooded by an abutter in the winter of 1999-2000 by running excess water to waste. Mr. Hast testified that he did not follow through with any certified mail or other action regarding Mr. Drake for a period of at least five (5) years because he was busy with other things and because he was negligent. Mr. Hast offered no indication that Mr. Drake was not of good character or was in any way objectionable except for what Mr. Hast called the circumstances of an "emergency situation." He acknowledged that in April or March of the year 2000, Sherryland developed a septic system problem caused by tenants other than Snuffer and Drake. Rather than fix the septic problem, Mr. Hast has chosen to restrict residents, such as Mr. Drake. Thus, if Mr. Drake were to apply, his application would be refused. He even testified that if an unmarried tenant wanted to get married, he or she would have to move from the park, solely because of the septic situation. Mr. Hast acknowledged that Ms. Snuffer has no restriction in the rental agreement or any prior advice from him or notice from him that occupancy of her home was to be limited to one person. He acknowledged that he knew that Mr. Drake was residing with Ms. Snuffer for several years prior to the flooding of the septic system although he asserted that it was not with his express approval. Subsequently, however, Mr. Hast testified that all he wants Mr. Drake to do is supply an application with the three required references on it.

Mr. Drake testified that he filled in an application with his name and address in 1996 or early 1997 but that he did not include the three references that were requested on the application form. He testified that relations with Mr. Hast were fine until problems with the septic system developed, after which Mr. Drake saw Mr. Hast's August 29, 2001 letter indicating that Ms. Snuffer had an unauthorized guest. Because his mother Lucy had previously passed away, Mr. Drake did not who Mr. Hast could be referring to since he, Mr. Drake, had previously filed an application and had not heard anything from Mr. Hast regarding its inadequacy or incompleteness. Mr. Drake and Ms. Snuffer assumed that Mr. Hast wanted another application so that he could now turn it down and evict Mr. Drake to avoid having to fix the septic system.

Findings of Fact re: Unauthorized Guests

The Board finds that Mr. Drake applied for authorization to stay as Ms. Snuffer's guest beyond 30 days in 1997 in conformance with RSA 205-A:2, VIII(b) and Park Rule VIII(B)(2). The fact that Mr. Drake may not have filled in the application completely by leaving out the three requested references, is immaterial at this point as Mr. Hast has come to know Mr. Drake quite well over the five years of his residency with him and Mr. Hast was able to cite no concerns relating to character, financial responsibility or conduct which would justify evicting Mr. Drake. Mr. Hast is requesting a new application from Mr. Drake at this time as a ruse to evict him from the premises so that Mr. Hast does not have to fix the defective septic system. Such a rationale is not a reasonable basis for denying an application as an overnight guest. It is the landlord's obligation to repair and maintain underground systems, including septic systems, for the tenants, unless the damages are attributable to the negligence of the tenant. RSA 205-A:2, IX.

When Ms. Snuffer moved into Sherryland in 1990, and when Mr. Drake joined her in 1996, the Sherryland rules provided, as they do today, that Ms. Snuffer has a right to have up to four (4) residents in her home. Park Rule IV(a)(1). The fact that some other tenant damaged the septic system and Mr. Hast is unwilling to effect the necessary repairs, is no excuse for forcing Mr. Drake to reapply for residency or to deny Ms. Snuffer her right under the park rules to have at least four residents. Accordingly, the Board finds that Ms. Snuffer and Mr. Drake have substantively complied with park rules and RSA 205-A:2, VIII(b) and that any attempt by Mr. Hast to deny Mr. Drake's continued residency with Ms. Snuffer without additional and reasonable justification, would be unreasonable and unlawful.

Absent any evidence to the contrary, the passage of approximately five (5) years since Mr. Drake first submitted his application, moots the need to assess Mr. Drake's financial responsibility and character at this late stage. To allow otherwise would unreasonably prejudice tenants and their guests, who would never be assured

of their approval status. The issue of an overnight guest once the four (4) person per residence level is met, would potentially make the septic system a legitimate concern. That is not the case under the facts before us now. In fact, Mr. Hast's pursuit of Mr. Drake and Ms. Snuffer on the issues now before us borders on harassment rather than legitimate action. Furthermore, the park rules do not allow the owner to request new references over time of its tenants. Thus whatever references Mr. Drake would provide now would be outdated and would not pertain to the time of his initial residency.

Motion to Dismiss and Motion to Defer

On March 5th, Sherryland filed a motion to dismiss based on the Board's alleged failure to schedule a hearing on the complaint within the 60 day timeframe mandated by RSA 205-A:27, IV(a). On March 8th at a scheduled meeting on the merits, Sherryland, Inc. filed a motion to defer action because Sherryland has brought suit against the Board on various unrelated right to know law issues. At the hearing on March 8, 2002, the Board denied both motions. The Board does its best to meet the statutory timeframes and to address all matters that come before it efficiently and expeditiously. In this particular case, the complaint was received on September 14, 2001. That same week, a copy of the complaint was sent to Sherryland, Inc. by certified mail which, as of September 24, 2001, had not been claimed. Sherryland, Inc. contacted Ms. Snuffer's attorney informing her that Mr. Hast would not accept any certified mail. Accordingly, the Board sent a certified letter enclosing another copy of the complaint to Sherryland's attorney on September 24, 2001 ordering a response by September 28, 2001.

After other communications with Sherryland, Inc., the Board received from Sherryland, on October 4, 2001 a motion to dismiss citing that Sherryland will defer answering the allegations in the complaint until such time as a ruling has been made on the motion to dismiss by the Board. On October 12, 2001, Mr. Snuffer objected to the motion to dismiss. Sherryland had represented that a response would be filed by October 9, 2001, however the Board did not receive a response at that time. The Board accordingly issued a notice of default to Sherryland, Inc. On November 1, 2001, Sherryland, Inc. filed a motion for rehearing and to vacate the default order indicating that it did not have to respond to the complaint unless or until the Board ruled on its motion to dismiss. On November 19, 2001, Sherryland filed a request to schedule a motion hearing and, on November 30, 2001 Sherryland filed a response to the complaint. Sherryland having finally responded to the complaint, the Board, on December 4, 2001 granted its motion for rehearing and to vacate the prior default order. At that time, the Board deferred ruling on the motion to dismiss until the hearing on the merits.

In the motion to dismiss, Sherryland alleged that Ms. Snuffer was barred from pursuing this complaint because having filed suit against Sherryland in Superior Court, she could not bring now similar issues before the Board of Manufactured Housing. This matter has been resolved by the Belknap County Superior Court, as set forth above in paragraph 15, in its order dated November 20, 2001 which provided:

> . . . the other complaints advanced by her [Ms. Snuffer] may well be the subject of the hearings before the proper forum such as the Board of Manufactured Housing . . .

November 20, 2001 Order at pp. 5-6.

These issues having not been addressed in any other court proceedings, the motion to dismiss is hereby denied. Ms. Snuffer initiated the Belknap County Superior Court action to prevent her eviction because the Board lacks injunctive powers and jurisdiction over evictions.

The motion to defer action is likewise denied as set forth above in paragraph 15 and is essentially moot, Sherryland having requested that the hearing take place on June 10, 2002. Also given the substantial contribution by Sherryland to the delays in this proceeding, its assertion of a statutory right to a hearing within 60 days is misplaced. Finally, even had the Board inexcusably missed the 60 day timeframe, dismissal would not be the proper remedy. *See Appeal of Concord Natural Gas*, 121 N.H. 685, 690-691 (1981).

<u>Conclusion of Law</u>

Accordingly, the Board finds that Ms. Snuffer did not violate Park Rule III(c).

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.

WHEREFORE, the Board, for the above-cited reasons, finds in favor of the complainant.

SO ORDERED

BOARD OF MANUFACTURED HOUSING

By: ___________________________________
Rep. Robert J. Letourneau

By: ___________________________________
Linda J. Rogers

By: ___________________________________
Florence E. Quast

By: ___________________________________
Sherrie Keith

By: ___________________________________
Rep. Warren Henderson

NOTE: Chairman Kenneth R. Nielsen did not participate.

CERTIFICATION OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to Regina Snuffer, George Hast and Charles Russell, Esquire, counsel for George Hast, Sherryland Park, Inc.

Dated:__________________________ ______________________________

Anna Mae Twigg, Clerk
Board of Manufactured Housing

OrderSnuffer011-01 Oct. 7, 2002