

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

<b>Barbara Crawford-Mientus</b>	)	<b>Docket No. 001-09</b>
<b>“Complainant”</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>James Grappone and</b>	)	
<b>Green Meadows Mobile Homes, Inc.</b>	)	
<b>“Respondents”</b>	)	

Hearing held on March 27, 2009 at Concord, New Hampshire.

**DECISION**

This matter came on for hearing before the Board of Manufactured Housing (hereinafter referred to as the Board) on the complaint of Barbara Crawford-Mientus (hereinafter referred to as the Complainant) against James Grappone and Green Meadows Homes, Inc., (hereinafter referred to collectively as the Respondent, unless specifically separately referenced) alleging the Respondent’s conduct to be in violation of RSA 205-A:2 II. At the hearing, both parties were represented by counsel. After careful consideration of all the evidence presented, including the exhibits offered and the testimony adduced, the Board finds the following facts and makes the following rulings:

**FINDINGS OF FACT**

The Complainant purchased her 1971 manufactured housing unit located in the Respondent’s manufactured housing community in September, 1999. She listed her home for sale with a realtor (Glen Wasp) on December 11, 2007 at a selling price of \$ 17,900. The price was reduced to \$ 10,000 on July 7, 2008 and further reduced to \$ 9,990 on September 23, 2008. The selling price was reduced again to \$ 7,000 on December 8, 2008 and once more to \$ 3,000 on March 26, 2009. Among the Respondent’s requirements for a successful applicant is a credit score of at least 700. The Respondent historically has required strict compliance, although Respondent’s representative testified that in some cases the Respondent has worked with individuals to get their credit scores improved so that they would meet the 700 point threshold. Complainant’s realtor Glen Wasp testified that people would call inquiring about the listing and 7 to 10 customers decided not to apply for the reason that they did not have credit scores of 700 or better. He testified that three of those individuals purchased homes in other communities. None of these individuals made actual application to the Respondent for residency. Mr. Wasp

testified that he spoke with buyers' realtors about the 700 credit score requirement but none of the other requirements for prospective applicants were discussed. Mr. Wasp also testified that he never spoke with the Respondent concerning the requirements. He testified that there were approximately 25 showings but that none of the individuals who looked at the unit were among the 7-10 individuals who had learned of the 700 credit score requirement. The Complainant testified that she had vacated the premises at some point during pendency of the listing agreement but that her children who were barely of majority continued to reside in the property. No rent has been paid since November, 2008. She also testified that she never spoke with the Respondent concerning the 700 credit score requirement. The Respondent submitted photographs of the manufactured housing as an exhibit for the Board's consideration. Those photographs depict a home with scattered debris including tires, a portable pet kennel, a window air conditioning unit on the ground, what appears to be a pile of discarded carpeting and in short, items that would not enhance the curb-appeal of the unit. Mr. Wasp testified that no written offers were presented. The Complainant offered into evidence a "Statement of Roger D. Colton" which purports to be an expert opinion on the issue of the use of commercial credit scores with respect to manufactured housing park applications. This exhibit was admitted over the objection of Respondent. Additional exhibits offered by the Complainant include internet documents from "Credit Source on line" and from "myFico." An additional document entitled "Did Credit Scores Predict the Subprime Crisis" authored by Yuliya Demyanyk and taken from the internet was submitted by the Complainant. The Board has carefully considered and noted all exhibits offered by the Parties. The Board notes that Park Rules state, "Any applicant for site rental must provide two (2) references, including current or last landlord, before being accepted as a tenant or resident. Landlord also reserves the right to conduct a credit check to determine financial responsibility of all prospective tenants before admission to the Park." (Rule 1) The Park also provides a written supplement to this rule which sets forth certain Financial Criteria to be met for tenancy, viz; Emperica score of 700 or higher; Income to Debt ratio of .32 or higher; no bankruptcy; no placed for collection accounts; no P & L write-offs.

### **RULING**

The Board is charged with hearing and determining matters involving manufactured housing park rules, specifically RSA 205-A:2, RSA 205-A:7, & RSA 205-A:8. ( See RSA 205-A:27 I) The Board finds and rules that the Respondent's requirement of a consumer credit score of 700 or higher for an applicant to be allowed entry is a park rule.

The Board is further vested with the authority to determine whether a rule is reasonable as applied to the facts of a specific case. (See RSA 205-A:27 I-a.)

RSA 205-A:2 II provides that no park owner shall make any rule that would "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 the instant case the Board finds and rules that no offer to purchase was submitted to the Complainant and consequently no application was submitted to the Respondent. In fact no discussion regarding the application requirements took place between the Respondent and the Complainant or the realtor. Therefore there is no specific case as required by RSA 205-A:27 I-a and implied by RSA 205-A: 27 I-b for the Board to consider whether the application of the consumer credit score requirement of the Respondent as applied to the facts is unreasonable, and that the Respondent unreasonably withheld approval of a purchaser in violation of RSA 205-A:2 II because there was no such purchaser.

All rules of a manufactured housing park are required to be reasonable. RSA 205-A:2, XI. The Complainant argues that the requirement of a consumer credit score of at least 700 is per se unreasonable and that the presence of the rule casts a chill on the prospect of any prospective purchaser applying to the Respondent and paying the application fee where the applicant feels he/she would be unable to meet that rule. While the Board is not statutorily empowered to issue advisory opinions concerning the reasonableness of a rule, there was testimony that potential buyers became discouraged and refused to apply because of the existence of the credit score requirement. The Board agrees with the Complainant that it is within the purview of the Board to consider a rule that may be so patently unreasonable so as to unreasonably restrict a manufactured housing resident/seller from selling his/her home in place at a price of his/her choosing to another and in violation of the reasonableness requirement expressed in RSA 205-A:2 XI. If the rule were so patently unreasonable as to drive off any potential sales before they materialize and thereby deprive the Board of a specific case to consider, that rule could stand with profound negative consequences to a manufactured housing resident and perpetually escape review. Therefore the Board considers the question of whether the requirement of a consumer credit score of at least 700 is per se unreasonable and concludes that the Complainant has not sustained her burden of proof.

The thrust of Complainant's exhibits is essentially that consumer credit scores are not a reliable indicator of probable default rates, and are not an appropriate measure of the likelihood of a prospective resident to pay lot rent. The Colton statement "conclude[s] that imposing the requirement for an Empirica credit score as a necessary precondition for entry into the park, and thus for the purchase of a mobile home in the park, is not reasonable." The Demyanyk article posits that FICO scores have essentially become irrelevant as an indicator of probable default on mortgage loans but suggests that, "The subprime mortgage crisis is still a black box, and it requires more analysis to fully understand how developments in the subprime mortgage market and a subsequent crisis have 'subprimed' so many issues that used to be considered fundamental, like credit scoring." As noted the Colton statement was admitted over the objection of the

Respondent and the Respondent was precluded from cross-examining Mr. Colton. However, the standard for admitting evidence is if it has reasonable probative value and if in the opinion of the Board it is evidence that is not immaterial, irrelevant, or unduly repetitious. RSA 205-A:27 IV (c), Man 210.04 (c). The exhibits from “Credit Source on line” and from “myFico” purport to establish what the average American credit score is and how it is calculated. Among the assertions are that late payments will lower a score but establishing or re-establishing a good track record of making payments on time will raise a credit score. The Colton report argues that a consumer credit score is irrelevant to a determination relative to the purchase of manufactured housing. However, the Board takes notice that consumer credit scores are routinely used in a determination by a lender of whether to advance a loan to a manufactured home buyer. It is not prepared to substitute its judgment for the Respondent’s to find therefore that the Respondent’s use of a credit score is unreasonable to determine credit worthiness of an applicant to this manufactured housing community and rejects Mr. Colton’s assertion that such a requirement is unreasonable. None of the exhibits offered sustain the Complainant’s burden of proof with respect to whether a requirement of 700 is reasonable. The Board finds these exhibits to be inherently unreliable and without any foundation established to support their probative value. As noted by Demyanyk , the issue may require more study. Additionally no persuasive evidence has been offered to support the Complainant’s argument that the Respondent’s requiring a higher standard than the average cited in the Complainant’s exhibits is unreasonable. There is no prohibition against the owner of a manufactured housing community to set out in writing and uniformly enforce standards that may be above average, and there is no probative evidence to indicate that the Respondent’s requirement is so far above the average as to be unreasonable. And while many rules and requirements of a manufactured housing community may impact the marketability of a home, the issue for this Board’s determination is whether such a rule, if not directly proscribed by statute, is unreasonable. The Board concludes that the opinions expressed in these exhibits are conflicting and inherently unreliable and do not support a finding that the Respondent’s use of a consumer credit score cutoff of 700 is unreasonable in violation of RSA 205-A: 2, XI as applied to RSA 205-A:2:II. It should be noted that the Board finds only that the Complainant failed to sustain her burden of proof. Accordingly the Board finds and rules in favor of the Respondent Green Meadows Mobile Homes, Inc. With respect to Respondent James Grappone, no evidence was introduced to establish that he acted in his individual capacity and therefore the complaint against him is dismissed with prejudice.

The Complainant’s requests for findings of fact and rulings of law are granted and denied consistent with this decision.

**Man 211.01 Motions for rehearing, reconsideration or clarification or other such post hearing motions shall be filed within 30 days of the date of the Board's order or decision. Filing a rehearing motion shall be a prerequisite to appealing to the superior court in accordance with RSA 205-A:28 II.**

**SO ORDERED  
BOARD OF MANUFACTURED HOUSING**

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

By: \_\_\_\_\_  
Mark H Tay, Esquire, Chairman

**Members participating in this action:**

Peter J. Graves  
Rep. Larry Brown  
Juanita J. Martin  
Rep. David H. Russell  
Mark H. Tay, Esquire  
George Twigg, III

**Members not participating in this action:**

Kenneth R. Nielsen, Esquire

**Also Present :**

Constance N. Stratton, Esquire, Assistant Attorney General

**BOARD MEMBERS CONCURRENCE**

**Barbara Crawford-Mientus v. James Grappone and Green Meadows Mobile Homes, Inc., Docket No. 001-09**

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REP. LARRY BROWN

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PETER J. GRAVES

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JUANITA J. MARTIN

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REP. DAVID H. RUSSELL

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GEORGE TWIGG, III

**CLERK'S NOTICE**

I hereby certify that a copy of the foregoing Decision of the Board of Manufactured Housing has been mailed this date, postage prepaid, to Barbara-Crawford Mientus, 197 Main Street, Apt. E, Pembroke, NH 03275, Dan Feltes, Esquire, New Hampshire Legal Assistance, 117 North State Street, Concord, NH 03301, James Grappone and Green Meadows Mobile Homes, Inc, 28 Bonanza Drive, Concord, NH 03303, and Mark H. Puffer Esquire, Preti, Flaherty, Beliveau & Pachios, PO Box 1318, Concord NH 03301.

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

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Anna-Mae Twigg, Clerk  
Board of Manufactured Housing

OrderMientus-Grappone May 15, 2009