THE STATE OF NEW HAMPSHIRE
BOARD OF MANUFACTURED HOUSING

Michael Frigon "Complainant"	)	
v.	)	Docket No. 15-03
Trailer Home Village Co-Operative, Inc. "Respondent"	)	

Hearing held on July 10, 2015, at Concord, New Hampshire.

DECISION AND ORDER

The Board of Manufactured Housing ('the Board") heard a complaint filed by the Complainant, Michael Frigon, who resides in a manufactured home which is situated at 4 Trailer Home Drive, Salem, New Hampshire alleging that Respondent, Trailer Home Village Co-Operative, Inc. has violated RSA 205-A:2, VII, VIII(d) and XI. At the hearing, the Complainant was present and was represented by Cindy Beaulac, Esquire and the Respondent was represented by Thomas Morgan, Esquire, Dave Beaudin (President of Co-Op Board) and Bernard Dolan (Vice President of Co-Op Board). After careful consideration of all the evidence presented, including exhibits offered and testimony adduced, the Board finds the following facts and makes the following rulings:

FINDINGS OF FACT

The Complainant Michael Frigon lives in a manufactured home previously owned by his father that has been on the site for over 25 years. He is not a member of the board of the Respondent, but has resided in the community for over 17 years. The Complainant received notices from the Respondent issued on May 3, 2013, July 8, 2013 and August 27, 2013 regarding debris in the Complainants yard including boards, blocks and a canoe. He also received notices dated September 24, 2013, October 25, 2013, November 10, 2013, December 5, 2013 and March 3, 2014 related to performing work on a vehicle in this driveway, excessive vehicle noise, overnight parking in the street and failure to control his pets. Additionally, non-members, including the Complainant, are subject to a higher rent than members. The Complainant contests that he has violated the rules cited by the Respondent and asserts that the rules are unreasonable as applied. He also asserts that the "non-membership fee" was not properly disclosed and is unreasonable as applied.

The Respondent's May 3, 2103 notice to the Complainant cited Community Rule Article IV, page 8, paragraphs 3-4 and stated, "Yard should be kept neat and free of debris" and "Canoe should not be stored on lawn." The July 8, 2013 notice to the Complainant stated, "You have not taken action to remove your Canoe from your lawn" and "Debris has not been fully cleared from your yard." The August 27, 2013 notice stated "You have not taken action to remove your Canoe into your driveway" and "You have not fully cleared the debris from your yard."

Article IV, paragraph 3 and 4 of the applicable Community Rules read, respectively, as follows:

> 3) Yards are to be kept neat and free of debris. Lawns are to be kept trimmed and mowed. If a lot is neglected, the cooperative reserves the right to have the lot cleaned and paid for at the owner's expense.
>
> 4) Appliances, large containers, motors, auto body parts, building supplies, chemicals, drums, tires, and other discarded items may not be left on lawns or around homes. No furniture of any kind except lawn furniture may be kept outside the home.

The Complainant disposed of the boards and blocks which he believed to be the "debris" identified by the Respondent. He moved the canoe from his yard to the driveway in accordance with the August 27, 2013 notice. Eventually, the Complainant disposed of the canoe because he was unsure where he was permitted to keep it.

The Respondent's September 24, 2013 notice to the Complainant cited Community Rule Article V, page 9, paragraph 1 and stated, "For two days (9-18-13 and 9-19-13), Vehicle repairs (brake work) were performed in your driveway. This activity is not considered a minor automotive action."

Article V, page 9, paragraph 1 of the applicable Community Rules reads as follows:

> 1) Only one unregistered and/or uninspected motor vehicle is allowed in the community. No vehicle repair or fluid changing is to be performed in the community. Tire changes and minor actions such as adding windshield fluid are permitted.

The Complainant did, in fact, repair the brakes on his motor vehicle in this driveway. This took a relatively short period of time. He asserts that it was a minor action similar to changing tires.

Two of the Respondent's October 25, 2013 notices to the Complainant cited Article II, page 6, paragraph 8, Article VI, page 9, paragraph 4 and Article II, page 7, paragraph 9 and stated, "Failure to control pet. Animal has been observed damaging car cover and vehicle of neighbor" and "Failure to control pet. Animal has been observed defecating on property of neighbors." One December 5, 2013 notice also cited Article II, paragraphs 8-9 for "Failure to

control pet." The November 10, 2013 and March 3, 2014 notices reiterated the aforementioned alleged violations.

The Articles of the applicable Community Rules read as follows:

> Article II, paragraph 8: All homeowners are responsible for the actions of their guests, members of their household and their pets. Community Rules apply to all guests and invitees, as well as the homeowner household.
>
> Article VI, paragraph 4: Cats are allowed to roam free provided they are not damaging property any property of another homeowner. Should this occur, the homeowner will remove the pet or confine it to the inside of the home.
>
> Article II, paragraph 9: Adults, children, pets and their guests are not to be on the lot or property of others.

The Complainant disputed whether his cats damaged any property; however, he sent at least one of his cats to live elsewhere as a result of the issued raised by the Respondent.

Another October 25, 2013 notice cited Article II, page 7, paragraph 11 and stated, "Excessive vehicle noise during quiet hours" and "Disturbing neighbors with vehicle noise." Article II, paragraph 7 reads, "A moderate noise level from radios, electronic equipment, vehicles and parties is expected at all times. Quiet hours are from 10 PM to 8 AM."

The Complainant's grandson had a car on site that had louder than normal exhaust pipes installed and was operated in the community. The Complainant asserts that other tenants also have loud cars.

The Respondent's other December 5, 2013 notice to the Complainant cited Article V, page 9, paragraph 2 and alleged, "Overnight parking on street on 11-23-2013. There is no parking on the street during quiet hours (10 pm to 8 am)."

Article V, paragraph 2 reads, in relevant part, as follows:

> Overnight parking on the street is not allowed, and there not parking on the streets allowed during quiet hours (10 pm – 8 am).

The Complainant admitted that on the date in question he had two cars parked in his driveway and that part of one of those cars was sticking out into the street.

Although the parties are in dispute regarding numerous Community Rules, none of the alleged violations require a particularly complex analysis.

RULINGS AND ADDITIONAL FINDINGS

The Board is charged with hearing and determining matters involving manufactured housing parks, specifically RSA 205-A:2, RSA 205-A:7 and RSA 205-A:8. (See RSA 205-A:27, I.) 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:7, I(a).)

The Board finds the following:

Pursuant to RSA 205-A:2, VII, no person who owns or operates a manufactured housing park shall:

> Fail to disclose to each prospective tenant, in writing and a reasonable time prior to the entering into of any rental agreement, all terms and conditions of the tenancy, including rental, utility, entrance and service charges.

The Complainant identified only one action by the Respondent that he believed to have violated this statute. According to the Complainant, when the cooperative was formed, Article II, paragraph 2 of the Community Rules stated, "Non-members will pay one hundred ($100.00) dollars above the prevailing member lot rent." The Complainant further alleged that in 2013, this fee was doubled to $200.00 per month. The Respondent did not dispute that such charges were instituted; however, it presented evidence that these fees were properly disclosed and argued that the fees were reasonable. With regard to RSA 204-A2, VII, we find that the non-membership fees were disclosed through revised rules voted on and approved by the membership on December 3, 2013.

Pursuant to RSA 205-A:2, VIII(d) no person who owns or operates a manufactured housing park shall:

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

Through notices to the Complainant, the Respondent took actions that led to the Complainant disposing of wood, cinder blocks, a canoe and at least one cat. Although the Respondent indicated that the Complainant was not required to dispose of these items or his pets, the multitude of alleged violations and repeated warnings gave the Complainant little choice. None of the actions he took to resolve the issues appeared to resolve the issues raised by the Respondent. Because there was no evidence presented that the health and safety of other tenants in the park were threatened by these items or pets, we find that the Respondent's application of the rules regarding debris and pets was unreasonable.

Regarding the non-membership fees, the evidence presented indicated that there existed legitimate reasons for the implementation of such fees, including additional potential costs and expenses to the cooperative resulting from the actions of non-members. We find that the non-membership fees charged in this particular case were reasonable.

Pursuant to the relevant portion of RSA 205-A:2, XI , no person who owns or operates a manufactured housing park shall fail to provide each tenant who resides in his park with a written copy of the rules of said manufactured housing park. The Complainant in this case did not sufficiently contradict the assertions of the Respondent that he received written copies of the applicable Community Rules. In fact, the Complainant demonstrated a knowledge of the rules but, for the most part, based his arguments on his assertion that the rules were unreasonable. We find that the Respondent did provide written copies of the applicable rules to the Complainant in this matter.

Although the Complainant was on notice of the restrictions on excessive noise and parking in the street during quiet hours, he admitted that his grandson was operating a car with louder pipes in the park during these times and that he had a car parked in his driveway that was partly in the street. We find that the Community rules applied in these instances were reasonable.

The requests for findings of facts and rulings of law are granted and denied consistent with this decision.

OTHER MATTERS:

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 motions shall be a prerequisite to appealing to the superior court in accordance with RSA 204-A:28, II.

SO ORDERED
BOARD OF MANUFACTURED HOUSING

By: _____
Robert Hunt, Esq., Board Secretary