

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

Jerrilynn King)	Docket Nos. 17-02
Ona Rannacher)	17-03
Deborah Ford)	17-04
John Kelley)	17-05
Joanne Osgood)	17-06
Lee Latham)	17-07
Mary-Jane Anthony)	17-08
)	
“Complainants”)	
)	
v.)	
)	
)	
Woodstock Co-Operative Inc.)	
)	
“Respondent”)	

Hearing held on September 23, 2016 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 complaints of Jerrilynn King, Ona Rennacher, Deborah Ford, John Kelley, Joanne Osgood, Lee Latham, and Mary-Jane Anthony (hereinafter referred to as the Complainant) against Woodstock Co-Operative Inc. (hereinafter referred to as the Respondent) alleging the Respondent’s conduct to be in violation of RSA 205-A:2 IX. Each complaint was separately filed and consolidated pursuant to MAN Regulation 208.07(c). Prior to the hearing, Complainants Ona Rannacher (Case 17-03), Deborah Ford (Case 17-04), and Joanne Osgood (Case 17-06) withdrew their complaints for various reasons. Said withdrawals are deemed to be without prejudice to refile at some point in the future. At the hearing, the Complainants appeared on their own behalf and Richard Lambert, a member of the Respondent’s Board of Directors appeared for the Respondent. 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 Complainants Mary-Jane Anthony and Jerrilyn King presented facts relative to their septic systems on the issue of whether there was misuse or whether their systems had in fact failed. The systems had been the subject of more frequent pumpings than the Respondent board alleged was required for systems that were being properly cared for. Some of these systems served one unit and others served two units raising the issue of whether one or both households might have been improperly disposing of certain identified items that should not be flushed. There was also evidence to indicate that the systems were failed through no negligence of the Complainants and that frequent pumpings were an indication of a failed septic system and rather than indicative of misuse or tenant negligence. The Complainants point to the language contained in a letter to one of the Complainants from the Respondent's board of directors, "B]e advised that future self caused [sic] problems outside the EPA standard may well be at your expense. That expense can expected to be approximately \$300 each or \$600." In another letter the Respondent board informed all the Complainants that future pumpings due to their abuse of the septic systems may be at their expense. The Complainants raised a subsidiary issue that they were members of the previous board of directors and asserted that they had been removed and their cooperative memberships terminated. They believe they are being treated unfairly by the Respondent's board and, with no voting power, have little opportunity for redress. They assert that they have essentially been stripped of their ability to participate in park governance and have no redress within the cooperative structure.

The Respondent's representative did not testify.

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 by unanimous vote of participating members that the Complainants' claim is not ripe for decision and is therefore DISMISSED without prejudice to refileing at some point in the future for the reasons set forth below.

The Board is 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 IX provides that no park owner shall "[c]harge 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."

RSA 205-A:13-c II provides "Cooperative housing parks shall be subject to the provisions of RSA 205-A."

The Board UNANIMOUSLY finds and rules that the Respondent has not charged or attempted to charge the Complainants for the maintenance of their septic systems. They have not been billed for any pumpings or other expenditures related to the septic systems. At this juncture, the Respondent has issued a warning that on its face does not violate the above-cited statutory provision. Should the Respondent bill any of the Complainants for future repairs or maintenance to their septic systems, the Complainants who are aggrieved by the Respondent's actions may again petition the Board. The dismissal of these complaints shall not act as a bar to a refileing.

The issue of the Complainant's membership status in the cooperative is not before the Board and the Complainants did not seek to amend their complaints. This is not to say that even if the complaints were amended the Board would have had jurisdiction to decide the issue. We do not consider that issue and make no findings. The Respondent is reminded that it must adhere to the provisions of RSA 205-A regardless of whether the Complainants are members of the cooperative.

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: Oct 21, 2016

By: 

Mark H Tay, Esquire, Chairman

Members participating in this action:

Mark H. Tay, Esq., Chairman
Peter J. Graves, Vice-Chairman
Robert Hunt, Esq., Secretary
Kenneth Dame
Lois Parris
Glenn Ritter
Honorable Franklin Sterling
Judy Williams

CLERK'S NOTICE

I hereby certify that a copy of the foregoing Ruling of the Board of Manufactured Housing has been mailed this date, postage prepaid, to the parties.

Dated: 10-25-16



Rick Wisler, Clerk
Board of Manufactured Housing