

The Complainant testified that she had not received park rules. That the rules had changed and that she was not notified of the changes. She testified that before 2010 there were problems with the water lines and that there was sludge coming through the lines. The water distribution lines in the park needed to be replaced and were replaced in 2010. She testified that in 2011 she had water coming out of the ground in her yard and the problem was fixed. She testified that the next day there was a break in the water line which was repaired the following day. In 2012 the Respondent took trees down in her yard claiming that the roots were getting into the leach field. She testified there were no roots in any lines and furthermore the trees were 290 feet away from the water lines. At the time they took the trees, no water lines were being fixed, according to her testimony. In 2014 there was more water line work after which a 5 foot deep hole was left in her back yard filled with water. She described her yard as being filled with sand and loam and her yard muddy. She described sinking into the ground and her lawnmower sinking into the ground. She testified that she is still having problems with her water pressure. She testified that "8 or 9 years ago" she had a problem with the septic system; she called the Respondent's son and spoke with his wife; a broken pipe was promptly repaired.

She further testified that the Respondent is still working to replace water lines in the park and in 2015 a weeping cherry tree and weeping willow tree were taken during construction which she claims was unnecessary.

She had planted flowers and the neighbor kept mowing them down. So she then planted bushes.

On cross-examination she denied the bushes were a spite fence, In response to questions from board members she clarified that the problem with the trees was her leach field. She stated she had recently called the respondent's son. She claimed that the cable was cut in 4 places and she surmised that the Respondent had not called dig safe when he was doing the work that caused the cable to break. She also indicated that she had the Respondent's son's cell phone number that she has called him at least 7 times through the years and spoken with him twice. She denied having the Respondent's son's address. She acknowledged that she has cable TV service although she claims it is still intermittent. She admitted that she has not asked for park rules "recently."

The Respondent testified that he receives one complaint after another from the Complainant. He removed the bushes from the lot because they were encroaching into the road. This also addressed the problem of roots encroaching into the septic system. He testified that his son is the maintenance manager of the park. He is a contractor. He took trees out while he was installing lines under the Complainant's home and that the lines were running through the bushes on the property. He also acknowledged that the cable line was broken but that his son spliced it back together. He testified that the weeping cherry tree was planted 7 years ago over the water line. At the time it was planted the Respondent's son talked to the Complainant's husband about its location and objected to it--- he was informed it was a mother's day present and it was not moved. The Respondent claimed the bushes were interfering with the septic lines and there was no record that the Complainant sought or received written permission to plant the same. He stated the rules had changed a number of years ago regarding the age limit of the park from 45 and older to 62 and older. There was also a change regarding pets which is not in issue. He testified that each tenant was provided with a copy of the rules. He complained

that the Complainant installed a satellite dish without first checking with the park as to location.

In closing remarks, the Complainant continued to object to underage people living next door to her. In response to a question from the board she stated that the children next door are in their 30s. They cause her problems and slam doors. She does not call to complain—she goes into her house from the driveway side. She stated that the septic system had not been pumped since it was last repaired and that the tree was not interfering with the system.

In his closing the Respondent was upset with what he termed “verbal abuse” from the Complainant and her husband and their abuse of other residents that cause them “problems.”

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 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). For the reasons set forth below, the Board unanimously finds for the Respondent and DISMISSES the Complaint and Amended Complaint against him.

The Board previously ruled that the issue of the Respondent’s alleged lack enforcement of the rules against third parties relative to the age requirement in the park was without merit as the alleged violation does not affect the Complainant. We see no reason after hearing all of the evidence to change the ruling. The fact that the aged 30-something residents next door slam doors and otherwise “cause her problems” is not related to the age requirement of the park. We have said that we will not substitute the judgment of the Board for that of the park owner in the regulation of community affairs by park rule unless the facts of a specific case warrant a determination of reasonableness or whether in violation of the above-enumerated statutes. Because there is no nexus here between the rule and the lack of enforcement thereof and the complaint, the Board reaffirms the order of 9-25-2015.

The Board finds and rules that there is no violation of RSA 205-A:2, VIII.(d). The Respondent testified that she planted the weeping cherry tree without permission in a spot that was likely to and did interfere with park infrastructure. Likewise the Respondent’s testimony that other bushes on the property encroached into the street and otherwise interfered with park infrastructure is credible. The Complainant failed to sustain her burden of proof to support her claim of violation under RSA 205:A:2, VIII.(d).

The Complainant’s claim that she has not received park rules in violation of RSA 205-A:2, XI is found to be not credible. We note there is no written request for the same in her correspondence to the Respondent filed with the Board. We note further that the Respondent testified that she had not asked for park rules “recently.”

Finally, she has failed to make out a claim under RSA 205-A:2, X. The purpose behind the rule is to afford park residents prompt attention should there arise a maintenance problem in the park. While the Complainant’s testimony that she has called through the years and left messages to discuss various matters, and her calls were not returned, the statute addresses the need for *emergency repairs* in the park. Her testimony

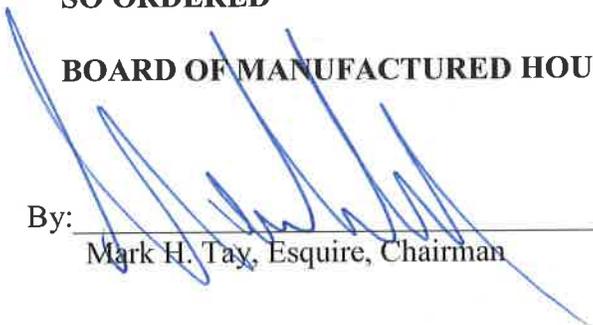
is that when repairs were needed, such as a septic system repair in 2011, they were promptly responded to. While the Complainant testified she is not aware of the Respondent's son's address, it along with his telephone number appears at the close of a July 21, 2015 letter to the Board to which the Complainant is directed. While the Respondent is not relieved of his statutory duty under RSA 205-A:2, X to provide all of this information directly to the residents, the Complainant has not met her burden of proof.

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: 2-12-2016

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
Rep. Catherine Cheney
Kenneth Dame
Lois Parris
Rep. Franklin Sterling
Judy Williams

Mague v. Burley d/b/a

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: 2-19-16



Rick Wisler, Clerk
Board of Manufactured Housing