

THE STATE OF NEW HAMPSHIRE
BOARD OF MANUFACTURED HOUSING

Kevin Poole and Tanya Poole)
“Complainant”)
)
v.)
)
Briar Ridge Estates)
“Respondent”)

Docket No. 14-03

Hearing held on June 13, 2014 at Concord, New Hampshire.

DECISION AND ORDER

The Board of Manufactured Housing (“the Board”), reviewed the complaint filed on May 19, 2014 by the home owners, Kevin Poole and Tanya Poole (“Complainants”), of a manufactured home which is situated at 34 Briar Drive, Rochester, NH under MAN 203.03. The Board determined that it has jurisdiction to hear the complaint which alleges that the Complainants have owned a swimming pool for the last seven years and maintained it on their homesite with prior permission of the former park owner; that the new owner doing business as Briar Ridge Estates changed its rule and is requiring the Complainants to remove their swimming pool from the park. The Complainants further allege in their complaint that the park owner is in violation of RSA 205-A:2 IX (d) which prohibits a park owner or operator from making or attempting to enforce a rule which, “Requires 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.”

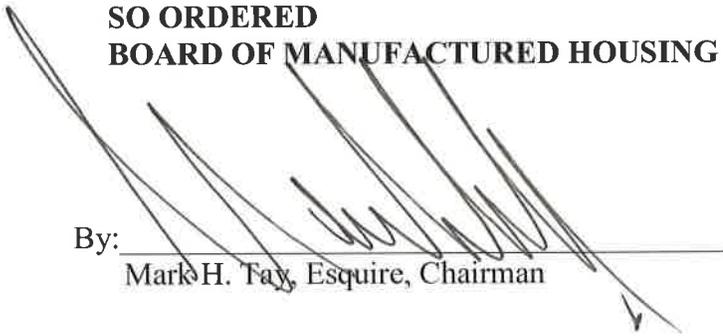
MAN 203.02 (a) (1) requires the Respondent to file the response within 14 days of receipt of the complaint. The Complainants provided evidence of their compliance with MAN 203.01 (a) and MAN 203.01 (c) (2) and certified that they mailed a copy of the same to the Respondents on the date they filed with the Board which was May 16, 2014. The Complaint is date stamped by the Board May 19, 2014. More than 14 days have elapsed since the filing of the complaint. Accordingly, the Board determined that the Respondent failed to file a timely response and is DEFAULTED.

Based upon the Complaint filed and the supporting documentation, the Board ruled that the Respondent has violated RSA 205-A:2 IX (d) as applied to the Complainants. The Complainants are therefore permitted to keep their pool and the park rule relative to swimming pools is not enforceable against them. See *Hynes v. Hale*, 146 N.H. 533 (2001).

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**

Dated: June 27, 2014

By: 
Mark H. Fay, Esquire, Chairman

CERTIFICATION OF SERVICE

I hereby certify that a copy of the forgoing Order has been mailed this date, postage prepaid, to, Kevin Poole and Tanya Poole, 34 Briar Drive, Rochester, NH 03867, and Lilac Community LP, 40 Lilac Drive, Rochester, NH 03867, James Mastaw, 40 Lilac Drive, Rochester, NH 03867 and Donald R. Routhier, Esquire P.A., 217 High Street, P.O. box 671, Somersworth, NH 03878.

Dated: 7-2-14


Rick Wisler, Clerk
Board of Manufactured Housing