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STATE OF WASHINGTON
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE OFFICE OF THE ATTORNEY GENERAL
MANUFACTURED HOUSING DISPUTE RESOLUTION PROGRAM

ATTORNEY GENERAL'S OFFICE
CONSUMER PROTECTION
SEATTLE

In Re:

Katharine Gonzales,

Appellant.

Docket No. 2009-AGO-0003

MHDRP Complaint No. 325910

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

Hearing: On Monday, June 29, 2009, Administrative Law Judge Elmer Canfield of the Office of Administrative Hearings conducted an administrative hearing in the above-entitled matter upon due and proper notice to all interested parties. The hearing was held by Telephone.

Persons Present: Appellant, Katharine Gonzales appeared. The Office of the Attorney General Manufactured Housing Dispute Resolution Program appeared and was represented by Jason Bernstein, assistant attorney general. In addition to testimony from the Appellant, Katharine Gonzales and from co-tenant Kurt Stockinger, testimony was received from Richard LaMonica, AGO investigator, Amanda Philips, MHDRP compliance specialist, and Debra Goethals, owner of West Anchor Mobile Home Park (Landlord).

STATEMENT OF THE CASE

On March 25, 2009, the Office of the Attorney General Manufactured Housing Dispute Resolution Program (MHDRP) issued a Notice of Non-violation In Re: Complaint No. 325910 - Katharine Gonzales. This is a proceeding under Chapter 59.30 RCW, the Manufactured Housing Dispute Resolution Program. The complaint, filed pursuant to RCW 59.30.040, alleges a violation of Chapter 59.20 RCW, the Manufactured/Mobile Home Landlord-Tenant Act. Specifically, complainant Katharine Gonzales alleges that West Anchor Mobile Home Park (Landlord) should be responsible for the maintenance of a shed on the mobile home lot the applicant is renting from the Landlord. The Manufactured

Housing Dispute Resolution Program found there was no violation by the Landlord; the complainant, Katharine Gonzales, appealed said Notice of Non-violation.

FINDINGS OF FACT

1. The Appellant, Katharine Gonzales, filed a MHDRP Complaint dated September 27, 2008 with the Office of the Attorney General requesting that the West Anchor Mobile Home Park (Landlord), be responsible for the maintenance of a shed on mobile home lot [REDACTED] the applicant is renting from the Landlord (Complaint, Exhibit 3). The shed was present as of the time the Appellant first rented mobile home lot [REDACTED] in September 2000.
2. The MHDRP conducted an investigation and determined there was no violation by the Landlord and that the Landlord was not required to maintain the shed. The MHDRP issued a Notice of Non-violation on March 25, 2009 (Exhibit 2).
3. The Appellant appealed the Notice of Non-violation and a hearing was conducted by the Office of Administrative Hearings (OAH) on June 29, 2009 upon due and proper notice to all interested parties. After the hearing was commenced, the Appellant mentioned for the first time that a witness was not there. It is noted that the hearing was conducted by telephone and no telephone number of such witness was even supplied by the Appellant. The Appellant had agreed to the hearing date well in advance and had not made any timely request for postponement. The Appellant agreed to proceed with the hearing.
4. Upon initially being contacted by the investigator from the Office of the Attorney General, the Appellant and co-tenant both told the investigator that the shed in question was built by Ralph Tubbs, the prior tenant of the rented mobile home lot [REDACTED] though they later alleged otherwise, based on hearsay statements.
5. The Appellant also provided hearsay testimony that the Landlord acknowledged ownership of the shed, though this was refuted by the sworn, credible testimony of the Landlord. Upon considering the witnesses' demeanor and motivation, this Tribunal finds the testimony of the Landlord to be more credible.
6. In August 2000, the Appellant purchased a mobile home that was already on mobile home lot [REDACTED]. The Appellant (Tenant) then entered into a lease with the owner of the mobile home park (Landlord). The manufactured home lot rental agreement (the lease) provides for Appellant's rent of lot [REDACTED] from the Landlord. In the space on the lease for additional facilities to be listed, there is a zero written in, see Exhibit 5.
7. Over the years, the Appellant and co-tenant did some repair work on the shed at their own expense. Recently, the Appellant requested the Landlord to do some repair work, but the Landlord advised the Appellant that it was the Appellant's responsibility to maintain the shed.

8. The Landlord confirmed that the Landlord did not build the shed on lot [REDACTED] or any of the other sheds at the mobile home park and that the individual tenants built their own sheds. The sheds at the mobile home park varied in style and construction, which was consistent with sheds being individually built by tenants, as opposed to a Landlord building standardized sheds; this has historically been the case in the experience of the investigator in this matter. West Anchor Mobile Home Park rules provide that the resident (tenant) is responsible for the maintenance and repair of storage buildings (i.e., sheds) [Exhibit 6, paragraph (7) (e)]. The Landlord and documentation of record established that the Landlord did not provide the shed to the Appellant as an amenity under the lease.

CONCLUSIONS OF LAW

1. The undersigned has jurisdiction over the parties and subject matter herein pursuant to Chapter 59.30 RCW, Chapter 59.20 RCW, Chapter 34.05 RCW and Chapter 10-08 WAC.

2. Pursuant to RCW 59.30.030, the Attorney General is authorized to administer a Manufactured/Mobile Home Dispute Resolution Program to provide manufactured/mobile home community tenants and Landlords with a process to resolve disputes regarding alleged violations of the Manufactured/Mobile Home Landlord Tenant Act.

3. The Attorney General is to investigate the alleged violations and make a written determination on whether or not a violation of Chapter 59.20 RCW has occurred. If it finds that a violation has not occurred, the Attorney General issues a Notice of Non-violation from which a complainant may request an Administrative Hearing before an Administrative Law Judge under Chapter 34.05 RCW. The Administrative Law Judge appointed under Chapter 34.12 RCW hears and receives pertinent evidence and testimony and decides whether the evidence supports the Attorney General finding by a preponderance of the evidence. See RCW 50.30.040.

4. Though a mobile home park owner is responsible for the maintenance of its permanent structures that it provided as amenities to the tenant, the definition of "permanent structure" in the Manufactured/Mobile Home Landlord-Tenant Act specifically provides that, "A permanent structure does not include structures built or affixed by a tenant. A permanent structure includes only those structures that were provided as amenities to the park tenants." See RCW 59.20.135(3).

5. The preponderance of the evidence of record supports the Attorney General finding that the shed in question on mobile home lot [REDACTED] was a structure built by a tenant and that the shed was not provided by the mobile home park owner to the tenant as an amenity. The Landlord provided "zero" facilities to the tenant under the lease, see Rental Agreement, Exhibit No. 5. Therefore, the shed is not a "permanent structure" under the provisions of the Manufactured/Mobile Home Landlord-Tenant Act and the mobile home park owner is not responsible for the maintenance thereof. The Attorney General finding that the mobile home park owner did not violate RCW 59.20.135 will be affirmed.

ORDER

The March 25, 2009 Notice of Non-violation Re: Complaint Number 325910 - Katharine Gonzolas is **AFFIRMED**. The preponderance of the evidence supports the Attorney General finding that there was no violation by West Anchor Mobile Home Park of RCW 50.20.135 of the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA).

Dated and Mailed at Olympia, Washington this 21st day of July, 2009.



Elmer Canfield
Administrative Law Judge
Office of Administrative Hearings
PO Box 9046
Olympia, WA 98507-9046

NOTICE OF APPEAL RIGHTS

This order is the final agency order of the Attorney General Manufactured Housing Dispute Resolution Program and may be appealed to the Superior Court under Chapter 34.05 RCW. See RCW 59.30.040(10)(c). Such petition for judicial review must be filed within thirty (30) days of the mailing date of this order. The petition for review must be served on the agency, the office of the attorney general, and on all parties of record. RCW 34.05.514 and RCW 34.05.542.

Certificate of Service

I assert that true and exact copies of the Findings of Fact, Conclusions of Law and Order were mailed by Certified Mail to the following parties on the 21st day of July, 2009 at Olympia, Washington.


Margaret Simmons
Legal Secretary

Katharine Gonzales



West Anchor Mobile Home Park
Debra Goethals



Cathie Caldwell
Program Manager
Manufactured Housing Dispute Resolution
Program
800 - 5th Ave., Suite 2000
Seattle, WA 98104-3188

Jason Bernstein
Assistant Attorney General
Office of the Attorney General
800 - 5th Ave., Suite 2000
Seattle, WA 98104-3188