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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:

Laurelwood Valley Mobile Home Park,

Appellant.

Docket No. 2009-AGO-0005

MHDRP Complaint No. 328342
(Pamela Mead)

FINDINGS OF FACT, CONCLUSIONS
OF LAW AND ORDER

Hearing: On Wednesday, September 09, 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, Laurelwood Valley Mobile Home Park (Landlord), appeared through John Boswell, property manager. The Office of the Attorney General Manufactured Housing Dispute Resolution Program appeared and was represented by Jason Bernstein, assistant attorney general. The Complainant, Pamela Mead, appeared. In addition, testimony was received from Amanda Philips, MHDRP compliance specialist.

STATEMENT OF THE CASE

On July 01, 2009, the Office of the Attorney General Manufactured Housing Dispute Resolution Program (MHDRP) issued a Notice of Violation In Re: Complaint No. 328342 - Pamela Mead. 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 Pamela Mead states in her complaint that she, "would like 2 pine trees taken down at owners expense -- 1 tree leaning towards my home & 1 tree causing its roots to lift my sidewalk up." The Complainant rents a mobile home lot from the Laurelwood Valley Mobile Home Park (Landlord). After investigating this complaint wherein the

Complainant requested that the Landlord should be required to have two trees removed at the owner's expense, the MHDRP in its Notice of Violation does not order the Landlord to take corrective action to remove trees as requested by Complainant, but rather ordered that, "Laurelwood Valley shall make immediate repairs of the concrete walkway in such manner that will significantly reduce the risk of tripping over the raised slab of concrete. Additionally, Laurelwood shall maintain the walkway in the future." Laurelwood Valley Mobile Home Park appealed said Notice of Violation.

FINDINGS OF FACT

1. On November 10, 2008, the Complainant, Pamela Mead, filed a MHDRP Complaint against Laurelwood Valley Mobile Home Park (Landlord) stating that she, **"would like 2 pine trees taken down at owners expense -- 1 tree leaning towards my home & 1 tree causing its roots to lift my sidewalk up."** (Complaint, Exhibit 4). The Complainant rents a mobile home lot from the Landlord. The mobile home, the trees and Complainant's sidewalk ("my sidewalk" as she referenced in her complaint) were present on mobile home Lot [REDACTED] as of the time the Complainant purchased the mobile home and entered into her lease of the lot in 2002.

2. The MHDRP conducted an investigation. The investigator prepared a report which was referenced and relied upon in the July 01, 2009 Notice of Violation (Exhibit 7). Laurelwood Valley Mobile Home Park disagreed with the report and conclusions reached and thereupon filed an appeal. The MHDRP did not offer the report into evidence at the hearing. The MHDRP did not offer the testimony or the declaration of the MHDRP investigator into evidence at the hearing.

3. In the Notice of Violation, the MHDRP stated, in relevant part, that, "Because the concrete walkway was built on and affixed to Ms. Mead's rented lot, owned by Laurelwood, and because Laurelwood produced no evidence that a tenant built the walkway, we conclude that Laurelwood constructed it. Therefore, Laurelwood is responsible for maintaining the concrete walkway...", see Notice of Violation, Exhibit 7, page 3, sec. g & h. The MHDRP did not present any evidence supporting its conclusion that the landlord constructed the walkway.

4. The Landlord presented evidence from its file on the lot in question (Lot #1) showing that the prior tenant (Hazel Knapton - now deceased) applied to rent the lot in January 1985 (Exhibit 20) and move her mobile home onto Lot [REDACTED]. The Landlord required nine improvements the tenant was to make (improvement items 1 through 9 of the Improvement Package, Exhibit 21, typed portion). According to the document, the Landlord did not require a walkway, but the prior tenant apparently contracted with builder C & C Ventures to build the walkway, which was added as an "extra" to the improvement package (Exhibit 21, handwritten portion). The MHDRP objected to Exhibit 21 as being undated and not signed by the prior tenant. The Landlord acknowledged this, but pointed out that it was signed by the contractor who also signed the application for a building permit for Lot [REDACTED] with the county dated March 1, 1985, see Exhibit 28. The landlord also provided a copy of the invoice made out to the original

tenant (Hazel Knapton) for the improvements to Lot [REDACTED] showing the \$4,800.00 Improvement Package charge and the extra charge to the tenant for the walkway (sidewalk), Exhibit 22. As set out above, it was still the conclusion and argument of the MHDRP at the time of hearing that the landlord built the walkway and that the landlord should be responsible to maintain the walkway.

5. The Appellant/Landlord's testimony was consistent with the documentary evidence referenced in Finding of Fact No. 4 that the Landlord does not require walkways and that the Landlord does not build walkways on tenants' lots. Also, the Landlord does not plant trees or shrubs for tenants and does not maintain landscaping on tenants' lots. No testimony or evidence was presented on this record disputing the Appellant/Landlord's testimony or the documentary evidence. The testimony of the Appellant/Landlord is found to be credible.

6. In 2002, the Complainant purchased the mobile home that was already on Lot [REDACTED] at the Laurelwood Valley Mobile Home Park. The Complainant entered into a rental agreement (lease) with the Landlord for the rental of Lot [REDACTED] on September 12, 2002, Rental Agreement, Exhibit 1. Though the Complainant testified on this record that she "assumed" that the Landlord would be responsible to maintain her walkway, Complainant's "assumption" was not substantiated by any evidence of record. Contrary to such "assumption", the Complainant specifically agreed that she, the lessee, was responsible for the maintenance of all landscaping and improvements on the lot, see Rules and Regulations also signed by Complainant on September 12, 2002, Exhibit 24.

7. The rental agreement provides for Complainant's rent of Lot [REDACTED] from the Landlord. The Rental Agreement does not provide for a walkway to the Complainant as an amenity under the lease, Exhibit 1.

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. As stated by the Complainant in her MHDRP complaint, she **"would like 2 pine trees taken down at owners expense -- 1 tree leaning towards my home & 1 tree causing its roots to lift my sidewalk up."** See Complaint, Exhibit 4. After conducting an investigation, the MHDRP did not rule on the tree removal request, but rather concluded that Landlord Laurelwood constructed the walkway (sidewalk) on Lot [REDACTED] and the MHDRP ordered Landlord Laurelwood to make immediate repairs to the walkway and to maintain the walkway in the future.

6. The question before the Administrative Law Judge is whether this Attorney General's MHDRP finding is supported by the preponderance of the evidence of record. The undersigned Administrative Law Judge concludes that the preponderance of the evidence of record does not support the Attorney General finding. The cited basis for finding that Landlord Laurelwood built the walkway was, "because Laurelwood produced no evidence that a tenant built the walkway". On this record, the Landlord presented some evidence that the prior tenant apparently contracted to have the walkway built. Granted, the Landlord did not have the best evidence, but it did have some evidence—such evidence was consistent with the credible testimony of the current property manager that the Landlord does not require walkways, nor does it build walkways on tenants' lots. Further, the Landlord does not plant trees and shrubs on tenants' lots, nor does the Landlord maintain trees and shrubs on tenants' lots. The Complainant in this case specifically agreed that she, the lessee, was responsible for the maintenance of the landscaping and improvements on the lot, though she chose to later "assume" otherwise.

7. Upon viewing all of the evidence presented on this record, the Administrative Law Judge concludes the preponderance of the said evidence does not support the Attorney General's MHDRP finding. It is also noted that the walkway was not provided by the mobile home park owner to the tenant as an amenity in the lease, Rental Agreement, Exhibit No. 1. Based on the preponderance of the evidence, the Administrative Law Judge concludes that the walkway on Lot [REDACTED] at Laurelwood Valley Mobile Home Park is not considered 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 violated RCW 59.20.135 will be set aside.

ORDER

The July 01, 2009 Notice of Violation Re: Complaint No. 328342 - Pamela Mead, is SET ASIDE. The preponderance of the evidence of record does not support the Attorney General finding that there was a violation by Laurelwood Valley Mobile Home Park of RCW 50.20.135 of the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA).

Dated and Mailed at Olympia, Washington this 29th day of September, 2009.



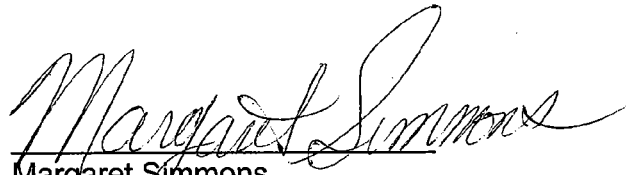
Elmer Canfield
Administrative Law Judge
Office of Administrative Hearings
PO Box 9046
Olympia, WA 98507-9046

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 29th day of September, 2009 at Olympia, Washington.


Margaret Simmons
Legal Secretary

Pamela Mead


Laurelwood Valley Mobile Home Park
c/o John Boswell


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