

MAINE MANUFACTURED HOUSING BOARD

IN RE: Westgate Villa Mobile Home Park) DECISION AND ORDER
Complaint #2007-MFG-4147)

I. PROCEDURAL HISTORY

Pursuant to the authority found in 10 M.R.S. Sec. 9009, *et seq.*, 10 M.R.S. Sec. 8003 (5), *et seq.*, and 5 M.R.S. Sec. 9051, *et seq.* the Maine Manufactured Housing Board (Board) met in public session at 9:30 a.m. on December 3, 2008 at the hearing room located at the Department of Professional and Financial Regulation, Gardiner Annex, Gardiner, Maine. The purpose of the Board meeting was to conduct an adjudicatory hearing to determine whether grounds exist for the Board to take disciplinary action against the Respondent's Manufactured Housing Community license. A quorum of the Board was in attendance during all stages of the proceedings. Participating and voting Board members were Chairman Roger Timmons, Theresa DesFosses, John Verrier (public member), Albert Hodsdon, Dana Skinner (public member), Carol Roberts (public member), and Harvey Wallingford. The Respondent did not appear and was not represented by legal counsel. Service of the Notice of Hearing was timely made by both certified mail and first class mail on or about October 22, 2008. The State was represented by Christopher Mann, Assistant Attorney General. James E. Smith, Esq. served as Presiding Officer.

The Board convened the hearing and first determined that there were no conflicts of interest or bias on behalf of any Board member. The Board then admitted into evidence State's Exhibits 1-10. Following the State's opening statement, taking of testimony, admission of exhibits, and closing argument, the Board deliberated and made the following findings of fact by a preponderance of the credible evidence regarding the alleged violations of Board statutes and Rules.

II.

FINDINGS OF FACT

Westgate Villa Mobile Home Park (Westgate), located in Caribou, Maine and owned by Mojave Property Management, LLC, was first licensed as a Maine Housing Community on January 10, 1996. The current license expires on March 31, 2009.

On August 15, 2007, a Board inspector performed an inspection of the licensee's Housing Community. At that time, seven violations of the Board's Rules were listed, including three of the National Electrical Code. The latter were cited since the electrical wires from 3 of the meters to the homes were not encased in plastic or other suitable conduit material and buried underground, thereby potentially exposing the public to serious harm.

Westgate was subsequently informed of the violations on August 23, 2007 and required to make the necessary repairs by November 23, 2007. The electrical repairs, when corrected, were to be certified as such by a licensed electrician. The repairs were not made in a timely fashion, and the Board's Executive Director caused the subject complaint to be filed on December 14, 2007.

Westgate subsequently responded by letter dated January 29, 2008, that the four non-electrical violations had been corrected. The licensee on that date also informed the Board that the electrical repairs had been made and that an electrician would be certifying that fact. However, no certification was received by April 4, 2008, and therefore the Board notified Westgate that it had seven days to comply with certification of the corrections. The electrical corrections were eventually made in May 2008, but not certified. Subsequently, the Board made several phone calls and sent e-mails and correspondence to Westgate regarding the lack of certification until June 2008, at which time the Board received the certification from Westgate.

III.

CONCLUSIONS OF LAW

The Board, by a vote of 7-0, found and concluded, based on the exhibits, testimony, and the Board's expertise in this matter, that Westgate Villa Mobile Home Park violated the provisions of Board Manufactured Housing Community Rules, Chapter 860(1) by not submitting the certification by an electrician that the corrections had been made, within 90 days of receipt of the Order of Corrections. Therefore, the Board, by a vote of 7-0, ordered that:

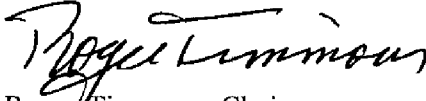
1. Westgate Villa Mobile Home Park shall pay the **costs of the hearing which total \$321.75¹** (Hearing officer conducting the hearing-1 hour, write the Decision-1.15 hours= 2 hours and 15 mins. @ \$115 per hour = \$258.75; and costs of printing the documents for the hearing-12 copies x 21 pp. = 252 pp.@ \$.25=\$63.) The check or money order shall be made **payable to the Maine Board of Manufactured Housing** and mailed to Robert LeClair, Executive Director, Manufactured Housing Board, Department of Professional and Financial Regulation, Office of Licensing and Registration, 35 State House Station, Augusta, Maine 04333-0035. Payment shall be made within 30 days of the signing of this Decision and Order.

The costs are ordered due to the seriousness of the violation, the Board's past practice in this regard, and the opinion of the Board that costs of the hearing should be borne by the violator rather than the profession as a whole.

2. Westgate Villa Mobile Home Park shall pay a **fine of \$1,500** by check or money order within 30 days of the signing of this Decision and Order made **payable to the Treasurer, State of Maine** and mailed to Robert LeClair, Executive Director, Manufactured Housing Board, Department of Professional and Financial Regulation, Office of Licensing and Registration, 35 State House Station, Augusta, Maine 04333-0035. The maximum fine is assessed based on the time consuming efforts (2 inspections, several phone calls, correspondence, scheduling and holding this hearing) when all that was required of the licensee was a simple timely certification which would have resolved the matter.

SO ORDERED.

Dated: January 7, 2009


Roger Timmons, Chairman
Maine Board of Manufactured Housing

IV. APPEAL RIGHTS

Pursuant to the provisions of 5 M.R.S.A. Sec. 11001.1-11008, any person who is aggrieved by this Decision and Order must file a Petition for Review within 30 days of the date of receipt of this Order with the Superior Court for the county where: One or more of the petitioners reside or

¹ The Board originally voted at hearing to assess costs not to exceed \$300 The final vote added \$21.75 to that amount

have their principal place of business; the agency has its principal office; or the activity or property which is the subject of the proceeding is located. The Petition for Review shall specify the person(s) seeking review, the manner in which they are aggrieved and the final agency action which they wish reviewed. It shall also contain a concise statement as to the nature of the action or inaction to be reviewed, the grounds upon which relief is sought and a demand for relief, which may be in the alternative. Copies of the Petition for Review shall be served by Certified Mail, Return Receipt Requested upon the Maine Board of Manufactured Housing, all parties to the agency proceedings, and the Attorney General.