STATE OF NEW HAMPSHIRE

BEFORE THE

NEW HAMPSHIRE PUBLIC UTILITIES COMMISSION

Docket No. DW 09-267

Lamplighter Mobile Home Park

Investigation as to Whether it is a Public Utility

PETITIONERS' BRIEF

Introduction

This Petition arose as a result of the owner ("Park Owner" or "LMHP") of the Lamplighter Mobile Home Park in Conway, New Hampshire ("Park") notifying the residents of the Park that it was mandated to install a new sewer system and telling the residents that they were going to be subject to three increases in their monthly rental payments of $30 each on January 1, 2010, January 1, 2011, and January 1, 2012 to pay for this sewer system. Concerned about what they considered to be unjust, unfair, and unreasonable rates associated with sewer services, the Petitioners filed a petition with this Commission in December of 2009 ("the Petition") asking the Commission to determine that the Park Owner is a public utility. LMHP raised the rent for park residents by $30 on January 1, 2010. LMHP subsequently filed a Motion to Dismiss the Petition in February, to which the Petitioners filed an Objection in March. There was a public hearing in July 2010 and the Parties submitted a stipulation of facts in August 2010 ("Stipulation"). In September the parties jointly recommended that the docket be put on hold for two months in an effort to resolve the underlying issues; when that effort did not prove fruitful, the parties reactivated the procedural schedule, which required briefs to be submitted by November 29, 2010. On November 24, 2010 the Petitioners' counsel received the attached Supplemental Responses to Petitioners' Data Requests, which contain some relevant factual updates, from LMHP.

The Petitioners have no other options when it comes to either water or sewer service; they must take water from LMHP and if LMHP goes ahead with the sewer project, and they live in the portion of the Park that will be served by it, they will have no choice but to take sewer service from the Park Owner. Stipulation, § 3. All residents of

the park are currently paying the increase in rent that is going to pay for the sewer conversion, and all residents of the park, whether or not they are able to take the sewer service in the future, will have to pay for it. All residents of the park currently use septic systems owned and maintained by the Park Owner. Stipulation, § 2.

As the Commission said in the Order of Notice issued on March 19 in this docket: "This filing raises, inter alia, issues related to RSA 362:2 and 362:4 and whether the park is a regulated public utility and whether the Commission has jurisdiction over utility-related costs included in park rents." Those costs currently include the costs of the conversion to a sewer system, which are already being charged to customers, as well as the costs of providing water to the residents through the LMHP-owned distribution system and individual meters, that are billed to residents as separate items on their monthly bills.

The Park Owner serves 220 homes. LMHP owns the land; the residents lease the land, but they own the homes placed on the land and hook their dwellings up to various services. The Park Owner purchases water from the Conway Village Fire District ("CVFD"), which is then run through a master meter; LMHP then distributes the water to the tenants through pipes owned by LMHP on its property. Stipulation, §1. Each home is separately metered; each home pays a flat monthly fee and a metered rate for the water it uses during the month. The water charges are a separate line item on each customer's bill. Stipulation, § 5. The Park Owner is preparing to construct an interconnection with CVFD's sewer system pursuant to an agreement it was not compelled to enter into by any rule, statute or regulation or by any local, state or federal agency or other entity. Stipulation, § 7. LMHP freely entered into the purchase and sale agreement with CVFD in 2008; it started charging residents an additional $30 in January of 2010 for the conversion to this new sewer system, an increase that will bring in about $79,200 in additional funds annually. Stipulation, § 9. LMHP has spent about $4600 of that increase for expenses related to the sewer project. Stipulation, § 9. There are about 85 homeowners on the east side of the Park who will not be served by the sewer project but who are already paying for it through the increase in rates. Stipulation, § 12. The other homeowners who will be served by the sewer system if it is built are also already paying for the proposed sewer project.

What the Park Owner said about the sewer construction project before the Petition was filed is substantially different than what it has said since the filing of the Petition. In a September 2009 newsletter to the residents LMHP said that there was a guarantee that there would be another rent increase in 2010 to cover a number of things, including "the *mandated* sewer connection effort ($1.1 million capital improvement... that's $30/$30/$30 over three years by itself)." [Emphasis added.] Attachment D to the Petition. On October 23, 2009 the owner sent a legally required notice of rent increase to the tenants – that notice said: "you are undoubtedly aware that Conway Village Fire District is in the process of installing a sewer system upgrade and wastewater treatment plant expansion. Lamplighter is *obligated* to connect the front (western) half of the Park (133 existing units plus 1 existing community building) to the Conway Village Fire District municipal sewer." [Emphasis added.] Attachment C to the Petition. At a meeting in December a representative of the owner, Gary Beers, told the tenants that the $30 increase starting January 1, 2010 was intended to pay for the sewer project and that there would be monthly increases of $30 more in 2011 and $30 more in 2012 all due to the cost of the sewer project. After the Petition was filed with the PUC in December of 2009, Mr. Beers sent a letter to the residents dated February 5, 2010 saying the rent increase that started in January of 2010 was not exclusively a result of the sewer work completed or planned and also said that they did not yet know the full amount of what the sewer system will cost or what the impact will be on the future rent. The Park Owner's attorney, Mr. Bianco, sent a letter to the residents dated March 29, 2010, in which he said "...the park's owners have asked us [Bianco Associates] to convey that it may not be necessary to increase the rents in the next year." It has become clear since then that this sewer project was not mandated, despite the clear representations made in the September newsletter and the October letter to residents. What is unclear is what is being done with the revenues currently being collected, at least in part, based on the company's recent representations, to pay for the conversion to the sewer project. As noted above, the Park Owner has not incurred many expenses to date related to the conversion to the sewer project, though it has collected a significant amount of money from the residents for this purpose.

As the attached responses to data requests point out, since the filing of this petition LMHP has undertaken efforts to try to transfer responsibility for billing water service to CVFD, presumably to avoid regulation, though such efforts have not been completed and it is unclear whether this transfer will be accomplished and, if so, when. The situation with sewer service, which is also unresolved, is even more complicated by virtue of the fact that the Park Owner is already collecting money from the residents to pay for the conversion, an action that is inconsistent with the requirements of RSA 205-A:6 as noted below.

Argument

By its provision of water service and collection of money from residents for sewer service, the Park Owner meets the definition of a public utility and should be subject to regulation by this Commission. It would be in the public interest for the Commission to take jurisdiction over this Park. As a matter of law and fairness, the residents of the Park are entitled to regulation by this Commission in order to protect their rights. Because the Park Owner is showing the attributes of a monopoly the residents deserve the protections of regulation of the Park Owner as a public utility.

The Park Owner's motion to dismiss cites to the *Zimmerman* decision of the NH Supreme Court, as well as the *Interlakes* and *Holiday Acres* decisions issued by this Commission. While these decisions raise legal questions about the Commission's jurisdiction, it is clear that each one of these decisions is very fact specific and can be distinguished from this case. The *Zimmerman* decision involved telephone service, and hinged on certain facts specific to that case, as well as the "to the public" language in RSA 362:2. That case involved a landlord/tenant relationship where the tenants were businesses located in a cluster of buildings owned by one landlord who "offered" shared tenant telecommunications services. As the Supreme Court decision in that case noted, "[t]enants *may* lease premises equipment, including telephones and facsimile machines, from Zimmerman." *Appeal of Zimmerman*, 141 N.H. 605,606 (1997) [Emphasis added.] Tenants in the *Zimmerman* case were thus not required to take telecommunications service from the landlord, as compared with tenants here who are required to take water and sewer service from the landlord.

Tenants in the case at hand do not have any option when it comes to water and sewer; as noted above their only choice for water and sewer is the Park Owner. This is clearly a "monopoly" situation ripe for regulation as a means of protecting a group of "captive customers" from unreasonable charges by a park owner. Absent the Commission taking jurisdiction, the Park Owner has unfettered discretion to raise charges for services (water and sewer) that are specifically enumerated under the law as ones that should be subject to regulation in order to protect the customers. The Petitioners appeal to the Commission to exercise its most fundamental authority, i.e. to be the arbiter between the interests of the customer and the utility. RSA 363:17-a.

The Park Owner also cites the Commission's Order in *Interlakes Water and Sewer Company*, 81 NH PUC 281 (1996). In that case a park owner filed a petition for a franchise and rates for water and sewer service for a mobile home park. The Commission granted an interim franchise. The park owner had installed meters on each unit and intended to charge for water on an individually metered basis, separate from the monthly rent. The park owner later decided not to base its billing on water consumption and withdrew its petition. Staff in that case took the position that "the language of RSA 362:2 would appear to place such parks under the Commission's jurisdiction". 81 NH PUC at 283. One other important change took place before the Commission's order, the town started serving park tenants with town water. As the Commission noted, "Clearly the language [of the statute] would bring within our purview Interlakes and other park owners who provide water to their tenants. *Interlakes owns and operates plant for the furnishing of water and sewer service to the public, that is, its tenants.*" 81 NH PUC at 284. [Emphasis added.] In that case clearly the Commission correctly saw the tenants of the park as members of the public. The Commission went on to say, however, that it was justified in not regulating the particular park because it was not charging for water separately from the monthly rent and it saw "no need to assert jurisdiction" given the withdrawal of the petition. 81 NH PUC at 284. It seems fair to conclude that the result was due in part to the fact that there were no parties arguing that the Commission should regulate the park.

Another case cited by the Park Owner is *Community Water and Wastewater Services, L.P. and Holiday Acres Joint Venture Trust*, 90 NH PUC 331 (2005). In the

Order in that docket the Commission approved a settlement agreement among Staff and all of the parties to the docket. In fact the company had been regulated as a public utility prior to the settlement approved by the Commission "based on its circumstances at the time." 90 NH PUC at 335. In the Settlement Agreement the parties explicitly requested an exemption from regulation and the settlement agreement was approved by the Commission. When a company feels obligated to seek an exemption it suggests that absent the exemption the company would be subject to regulation. The Settlement in that case referred to "the unique factual circumstances" that justified an exemption from regulation pursuant to RSA 362:4. Under the terms of the settlement agreement tenants were to pay for water and sewer as part of their rent, in contrast to the billing that had been done prior to that. The Commission explicitly approved the settlement agreement in the Holiday Acres case. The case at hand is obviously distinguishable from the Holiday Acres case in that LMHP is billing for water based on individual meters and as a separate line item on the customers' bills, and billing for the conversion to a proposed sewer project, for which residents have been billed since January 1, 2010.

If in fact the Park Owner is a public utility, by charging the residents for costs associated with the construction of this sewer project before it is completed and providing service to customers, it would be violating RSA 378:30-a, the anti-CWIP statute. The underlying premise of that statute is that it is unfair to expect customers to pay for the construction of a project until it is used and useful, until it is providing service to customers. That is exactly what is happening here and what has given rise to this Petition. The Petitioners submit that this particular issue, combined with the others noted herein, provide the Commission with a basis for asserting jurisdiction and putting a stop to the unreasonable charges that residents are experiencing from an entity that unabashedly exhibits the attributes of a public utility.

The Petitioners submit that LMHP clearly meets the definition of a public utility under RSA 362:2 in that it does own and operate equipment for the furnishing of and conveyance of water, including the underground water distribution system and the individual meters at each residence, and that it intends to own similar equipment for the furnishing and conveyance of sewage for members of the public who reside in Lamplighter Park.

Even if the Commission were to determine that the residents of the Park do not qualify as "the public" under RSA 362:1, that is not the end of the analysis. The Commission must look very carefully at the language in RSA 362:4[1], the statute specifically cited by the Commission in the Order of Notice in this docket. This statute says that every company by reason of the ownership or operation of any water or sewage disposal system or part thereof shall be deemed to be a public utility. This statute does not say that the company has to be serving "the public" to qualify as a public utility. The plain meaning of RSA 362:4, I thus clearly supports the Petitioners' request for relief in this docket. Moreover, the number of customers being served water by the Park Owner currently and the number that it is proposing to serve as sewer customers both exceed the limits that the Commission has for a discretionary exemption under this statute (less than 75). The Petitioners submit that when the Commission reviews the plain language of the law and applies that language to the specific facts of this case, it is clear that a company that owns and operates a water and/or sewage disposal system that serves the number of customers in this Park must be regulated. This case, which involves the regulation of water and sewer, is thus clearly distinguishable from the relevant law and facts involved with the *Zimmerman* case, a case involving regulation of telecommunications services that were "offered" to tenants.

Moreover, the Petitioners wish to note that RSA 362:4 explicitly gives the Commission the authority to exempt certain entities (certain municipal corporations and entities serving fewer than 75 customers) that provide water or a sewage disposal system and explicitly excludes other such entities (a homeowners association, including a condominium unit owners association) from being considered a public utility. At no point does this statute exclude or give the Commission the authority to exempt a manufactured housing park that serves the number of residents being served here. If the Legislature had intended to exclude manufactured housing parks providing water and sewage disposal service from regulation by the Commission it certainly knew how to do

[1] RSA 362:4,I: "Every corporation, company, association, joint stock association, partnership, or person shall be deemed to be a public utility by reason of the ownership or operation of any water or sewage disposal system or part thereof. If the whole of such water or sewage disposal system shall supply a less number of consumers than 75, each family, tenement, store, or other establishment being considered a single consumer, the commission may exempt any such water or sewer company from any and all provisions of this title whenever the commission may find such exemption consistent with the public good."

that. As a matter of statutory construction it would be inappropriate to add words that the Legislature did not see fit to include, i.e. either an exclusion or exemption of manufactured housing parks . See *N.H. Dep't of Envtl. Servs. V. Marino*, 155 N.H. 709, 713 (2007).

The Petitioners understand that the Commission must take into account all of the relevant statutes and thus that it must consider the provisions of RSA 205-A, which concerns the regulation of manufactured housing parks. In so far as RSA 205-A is concerned, however, the Petitioners submit that by collecting increased rent from park residents effective January 1, 2010 for the express purpose of converting to a new sewer system and not paying for the conversion costs itself, the Park Owner has already exhibited by its actions an intent that is contrary to this statute. The Park Owners therefore can not rely on this provision in the law to support its position in this case. RSA 205-A:6,II [2] requires the park owner who intends to shift responsibility for payment of water or sewer to the tenant to "be responsible for the costs incurred in the conversion". As noted in the facts outlined above and explicitly stated in the Stipulation agreed to by LMHP, the Park Owner is already collecting money from the residents for this conversion. It refuses to credit or refund any portion of the increased rent that by its own admission is being used and will be used to financially support the costs of the conversion to sewer service that it claims will ultimately be the responsibility of the tenants; the Park Owner's actions are therefore not consistent with the requirements of RSA 205-A:6. The Park Owner can not have it both ways; it can not argue that it should not be regulated because it intends to shift responsibility of payment of sewer over to the tenants, while at the same time increasing and keeping the revenues from rent and using that revenue for the express purpose of converting to the sewer system. See *Schiavi v. City of Rochester*, 152 N.H. 487 (2005), where the case was remanded to the trial court to determine what steps were necessary to effectuate the billing change and to "determine if Schiavi has taken the proper actions to both accomplish and pay for those reasonable

[2] RSA 205-A:6,II: II. "In the event that a park owner or operator shifts responsibility for payment of water, sewer, or any other utility service to the tenant, the park owner or operator shall be responsible for the cost incurred in the conversion, including the cost of installation of utility meters, if any, on each manufactured home in the park, except as permitted by the public utilities commission pursuant to RSA 374 and RSA 378. After such a conversion, manufactured housing park tenants shall be billed directly by the utility for the use of such services."

steps." 152 N.H. at 490. Certainly the actions that the Park Owner has taken here are not reasonable steps toward converting responsibility for payment of the sewer system to the tenant by virtue of the specific provision in RSA 205-A:6, II that requires the Park Owner to accept responsibility for the cost of the conversion. The Park Owner has clearly articulated on a number of occasions that it is already charging such costs to the tenants. In fact the steps which the Park Owner has taken, particularly the step of charging the residents for the conversion to a sewer system that is not even close to being constructed, exhibits exactly the opposite intent, an intent that is consistent with the regulation of this entity as a public utility.

Finally, LMHP argued in its Motion to Dismiss that because the water charges are "part of the rental fees charged for each lot" that the Commission's administrative rules Puc 602.13 and Puc 602.09 recognize that these services are exempt from the definition of "public utility" set out in RSA 362:2 and 362:4. First of all, the water charges are not included in the rent, they are a separate item on the bills. Secondly, Puc 602.13, which is only a definition, by its own specific terms only applies to "water", not to sewer. Moreover, as noted above the specific language of RSA 362:4 makes it clear that service "to the public" is not required in the case of water and sewer service. Therefore, an administrative rule can not create an exemption that would be contrary to the statute. Furthermore, Puc 602.09, which is a definition of "service connection", does not seem to have any relevance to the argument made by LMHP. For all of these reasons the administrative rules cited by the Park Owner do not support its position.

Conclusion

For the reasons articulated above the Commission should determine that Lamplighter Mobile Home Park is and will be a public utility in its provision of both water and sewer. The Commission should order the Park Owner to escrow all revenues received since January 1, 2010 as a result of the $30 increase that took effect on that date pending a review of its operations. The Commission should further prohibit the Park Owner from raising the rent to cover any additional costs related to water or sewer until the Commission has conducted a thorough review of the Park Owner's operations as required for it to be regulated as a public utility. Finally, the Commission should open a

new proceeding to establish the parameters of the Park Owner's operation as a public utility for the provision of water and sewer service.

Respectfully submitted,
Petitioners in DW 09-267
By Their Attorneys
ORR & RENO, P.A.
One Eagle Square
Concord, NH 03302-3550
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Douglas L. Patch

November 29, 2010

Certificate of Service

I hereby certify that on this 29th day of November, 2010 a copy of the foregoing brief was sent by electronic mail or first class mail, postage prepaid to the Service List.

Douglas L. Patch

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THE STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

Investigation to Determine if Lamplighter Mobile Home Park, LP is a Public Utility

DW-09-267

LAMPLIGHTER MOBILE HOME PARK, LP'S SUPPLEMENTAL RESPONSES TO PETITIONERS' DATA REQUESTS

NOW COMES Lamplighter Mobile Home Park, L.P. (hereinafter "LMHP"), and provides the following Supplemental Responses to Petitioners' Data Requests. These Responses are submitted subject to, and without waiving, LMHP's objection to the jurisdiction of the Public Utilities Commission in this matter and, further, remain subject to the objections previously asserted.

With regard to each response, the witness listed is the individual who provided the response. In many instances there are multiple other individuals who have the same knowledge regarding the information in question and LMHP reserves the right to produce alternative individuals with such knowledge at any hearing where testimony is required.

Respectfully submitted,

Lamplighter Mobile Home Park, LP
By its Attorneys

Bianco Professional Association

Dated: November 24, 2010

Anna Goulet Zimmerman, Esquire
NH Bar No. 18407
18 Centre Street
Concord, NH 03301
603-225-7170

CERTIFICATE OF SERVICE

I hereby certify that I have, on this 24th day of November, forwarded electronically a copy of the Respondent's Supplemental Responses to Petitioners' Data Requests to the following individuals:

Librarian, NHPUC
Mark Naylor, NHPUC
Marcia Thunberg, NHPUC
Amanda Noonan, NHPUC
Gary Beers, The Hynes Group
Steven Hynes, The Hynes Group
Thomas F. Moughan
Douglas L. Patch, Esquire

Anna Goulet Zimmerman, Esquire

Lamplighter Mobile Home Park, L.P.

DW 09-267

Data Requests of Petitioners

Date Request Received: 07/21/2010	Date of Supp. Response: 11/24/2010
Request No. Petitioners 1-23	Witness: Blaine Burnett, Hynes Group U.S. Area Manager

Request: Please provide copies of any and all correspondence and other documents related to the Project with CVFD.

Response: LMHP objects to this Data Request as it is irrelevant and not reasonably calculated to lead to the discovery of relevant information. Specifically, this Data Request has no relevancy to the immediate issue of whether the PUC has jurisdiction over this matter. LMHP further objects as this Data Request seeks information that is proprietary, confidential and/or privileged.

Notwithstanding the foregoing objection, but expressly subject thereto, LMHP answers as follows:

Attached hereto is a copy of the Purchase & Sales Agreement as well as recent correspondence between counsel and the CVFD.

Supplemental Response: Attached hereto are copies of more recent communications between counsel and CVFD.

Lamplighter Mobile Home Park, L.P.

DW 09-267

Data Requests of Petitioners

Date Request Received: 07/21/2010	Date of Supp. Response: 11/24/2010
Request No. Petitioners 1-32	Witness: Blaine Burnett, Hynes Group U.S. Area Manager

Request: What are LMHP's future plans for the Project ?

Response: LMHP objects to this Data Request as it is irrelevant and not reasonably calculated to lead to the discovery of relevant information. Specifically, this Data Request has no relevancy to the immediate issue of whether the PUC has jurisdiction over this matter. LMHP further objects as this Data Request seeks information that is proprietary, confidential and/or privileged.

Notwithstanding the foregoing objection, but expressly subject thereto, LMHP answers as follows:

LMHP has not yet made any decisions in this regard.

Supplemental Response: At this time it is LMHP's intention to proceed with connecting the front-half of the park to the municipal sewer system.

Lamplighter Mobile Home Park, L.P.

DW 09-267

Data Requests of Petitioners

Date Request Received: 07/21/2010	Date of Supp. Response: 11/24/2010
Request No. Petitioners 1-35	Witness: Blaine Burnett, Hynes Group U.S. Area Manager

Request: If LMHP proceeds with the Project, please explain in detail which lots in the Park will be hooked up to the sewer system, when that is likely to occur, and which lots will remain on septic systems.

Response: LMHP objects to this Data Request as it is irrelevant and not reasonably calculated to lead to the discovery of relevant information. Specifically, this Data Request has no relevancy to the immediate issue of whether the PUC has jurisdiction over this matter. LMHP further objects as this Data Request seeks information that is proprietary, confidential and/or privileged.

Notwithstanding the foregoing objection, but expressly subject thereto, LMHP answers as follows:

No determination has yet been made in this regard.

Supplemental Response: The current intent is to connect at least the front half of the park (133 lots) to the municipal sewer system. The time-frame for this project has not yet been determined. Similarly, it has not yet been determined whether additional lots within the park will be connected to the municipal sewer system or remain on septic systems.

Lamplighter Mobile Home Park, L.P.

DW 09-267

Data Requests of Petitioners

Date Request Received: 07/21/2010 Date of Supp. Response: 11/24/2010

Request No. Petitioners 1-36 Witness: Blaine Burnett, Hynes Group U.S. Area Manager

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Request: What plans are in place for sewer outflow charges?

Response: LMHP objects to this Data Request as it is irrelevant and not reasonably calculated to lead to the discovery of relevant information. Specifically, this Data Request has no relevancy to the immediate issue of whether the PUC has jurisdiction over this matter.

Notwithstanding the foregoing objection, but expressly subject thereto, LMHP answers as follows:

No determination has yet been made in this regard.

Supplemental Response: If residents are billed on a metered basis (rather than having sewer included in the monthly rental amount) CVFD would be asked to take over the responsibilities of billing pursuant to RSA 205-A:6.

****

Blaine Burnett

11/24/2010
Date

THE STATE OF Utah
COUNTY OF Weber

On this 24 day of November, 2010, Blaine Burnett personally appeared before me and made oath that the foregoing responses for which he is listed as the witness are true to the best of his knowledge and belief.

NOTARY PUBLIC
CHERYL BINGHAM
1344 West 4675 South
Riverdale, Utah 84405
My Commission Expires
APRIL 16, 2011
STATE OF UTAH

Justice of the Peace/Notary Public
My Commission Expires: 4-16-11

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August 4, 2010

Carl J. Thibodeau, Chairman
Conway Village Fire District
Board of Commissioners
128 West Main Street
Conway, NH 03818

Re: Lamplighter Mobile Home Park, LP- Water service

Dear Chairman Thibodeau:

As you may know from our earlier correspondences, our office represents Lamplighter Mobile Home Park, Limited Partnership (LMHP). I write at this time in regard to water service for LMHP residents. As you may know, there is a statute in New Hampshire that allows manufactured housing park operators that are currently being billed for a utility service for the entire park to install utility meters on the individual homes and shift responsibility for billing the park tenants to a utility, such as the Conway Village Fire District (CVFD). See RSA 205-A:6, II, and the NH Supreme Court case captioned: Schiavi v. City of Rochester, 152 NH 487 (2005). A copy of this statute and Court decision is enclosed for your ready reference.

Pursuant to that statute and Court case, please accept this correspondence as notice that LMHP intends to shift responsibility for billing of water service to CVFD. The statute requires my client to perform and pay for all steps reasonably necessary to effectuate the conversion in billing. Accordingly, we would like to set up a meeting with the CVFD Commissioners or their designee in order to determine what steps need to be taken in order to have CVFD initiate billing the LMHP residents directly for their water service.

For reference, LMHP has already installed individual water meters and curb-stop shutoff valves on each lot within the park, and can provide information on the location of these fixtures at your request. In our experience, this typically fulfills

the majority of the "steps reasonably necessary" to effect the conversion. In addition, we can provide you with a mailing list for the residents in the park if this is helpful. If there are additional steps that are reasonably necessary in order to implement this request, we look forward to discussing them with you.

In anticipation of your potential concern regarding the possibility that CVFD might be compelled to take responsibility for the water infrastructure or maintenance within the park, please be aware that this is not what we are requesting, nor what the statute allows. LMHP will continue to own and maintain the park's water infrastructure. All that the statute requires is that the CVFD bill the individual residents for their water service, instead of billing the LMHP.

Please contact me at your convenience regarding this request. I look forward to hearing from you regarding a time and date that we can meet with you or a representative of the CVFD in order to begin this process, and complete it as expeditiously as possible.

Sincerely yours,

FOR

James J. Bianco, Jr.

JJB/ rlb
Enclosures
cc: Janine Bean, CVFD Commissioner
Joseph Quick, CVFD Commissioner
Greg Quint, CVFD Superintendent
Blaine Burnett, LMHP, LP

TITLE XVII
HOUSING AND REDEVELOPMENT

CHAPTER 205-A
REGULATION OF MANUFACTURED HOUSING PARKS

Section 205-A:6

205-A:6 Fees, Charges, Assessments. –

I. A manufactured housing park owner or operator shall fully disclose in writing all terms and conditions of the tenancy including rental, utility and service charges, prior to entering into a rental agreement with a prospective ter No charges so disclosed may be increased by the park owner or operator without an explanation for the increase an specifying the date of implementation of said increase, which date shall be no less than 60 days after written notice the tenant. Nothing in this section, however, shall be construed to permit a park owner or operator to vary the terms written or oral rental agreement without the express written consent of the tenant.

II. In the event that a park owner or operator shifts responsibility for payment of water, sewer, or any other utilit service to the tenant, the park owner or operator shall be responsible for the cost incurred in the conversion, includi the cost of installation of utility meters, if any, on each manufactured home in the park, except as permitted by the public utilities commission pursuant to RSA 374 and RSA 378. After such a conversion, manufactured housing par tenants shall be billed directly by the utility for the use of such services.

III. Any park owner or operator who is billed as a single entity for any utility service shall be prohibited, on and the effective date of this paragraph, from charging manufactured housing park tenants an administrative fee in relat to such utility service, except as permitted by the public utilities commission pursuant to RSA 374 and RSA 378.

Source. 1973, 291:1. 1983, 230:18. 1994, 314:2, eff. Aug. 7, 1994. 1996, 127:1, eff. July 20, 1996.

NOTICE: This opinion is subject to motions for rehearing under Rule 22 as well as formal revision before publica in the New Hampshire Reports. Readers are requested to notify the Reporter, Supreme Court of New Hampshire, (Noble Drive, Concord, New Hampshire 03301, of any editorial errors in order that corrections may be made befor opinion goes to press. Errors may be reported by E-mail at the following address: reporter@courts.state.nh.us. Opi are available on the Internet by 9:00 a.m. on the morning of their release. The direct address of the court's home pa is: http://www.courts.state.nh.us/supreme.

THE SUPREME COURT OF NEW HAMPSHIRE

Strafford

No. 2004-805

JOHN SCHIAVI & a.

v.

CITY OF ROCHESTER & a.

Argued: June 22, 2005

Opinion Issued: July 29, 2005

Bianco Professional Association, of Concord (James J. Bianco, Jr. and Melinda E. Dupre on the brief, and Mr. Bian orally), for the petitioners.

Wensley, Wirth & Azarian, P.L.L.C., of Rochester (Danford J. Wensley and Dianna J. Parker on the brief, and Mr. Wensley orally), for the respondents.

Galway, J. The petitioners, manufactured housing park owner John Schiavi and housing park residents James Barke and William Watson, appeal an order of the Superior Court (Mohl, J.) denying their petition for a writ of mandamus requiring the respondents, the City of Rochester (City) and Melodie Esterberg, Commissioner of Public Works, to: (comply with RSA 205-A:6, II and begin direct billing for each individual housing park resident's water and sewer usage; and (2) make available all appropriate deductions and exemptions to the individual residents' water and sewe bills. We vacate and remand.

Tara Estates housing park, a community in Rochester for persons fifty-five years of age and older, was licensed as a manufactured housing park in 1986. Schiavi has owned and operated Tara Estates since 1991. The residents own th homes but rent the lots upon which the homes are placed.

During the approval process for establishing Tara Estates, Schiavi's predecessors in interest entered into an agreeme with the City for the extension of municipal water and sewer lines to the park. The attorney representing the park sta during the application process that all work done off-site, leading up to the park, would be under the auspices of the City. Specifically, the City would have the right to review the design, inspect the work, and take final acceptance an title to it, and have a bond to make sure that the work was done properly. In addition, the attorney represented that onsite improvements, including sewer and water lines, would be the responsibility of Tara Estates or its successors a of the individual lot lessees. Further, onsite improvements would be designed according to the City's standards. The

City granted a license to Tara Estates, which constituted a contract with the City, in 1986.

Pursuant to RSA chapter 38, the City established and operates a "municipal water utility" called Water Supply Wc (Utility), as part of the Rochester Department of Public Works. The Utility provides water and sewer services to it customers, and City residents receive quarterly bills for water services.

The City automatically discounts the water bills of any residential customer who qualifies for an "elderly exemptic under the customer's real estate taxes. Additionally, the City offers a deduction meter, which reduces the amount charged to a customer for water that does not enter the sewer system, such as water used for watering lawns and gardens, washing cars, and filling swimming pools.

Tara Estates has received water service from the Utility measured by a single master meter since 1986. The City bi Schiavi directly for the water services for the entire park. In 2001, Schiavi, at his own expense and without permis from the City or the Utility, installed individual meters on each manufactured house in the park. Schiavi requested the City directly bill the residents individually, but it has continued to send him a single bill for water usage, requir Schiavi to determine each resident's share of the bill. The City's refusal to bill the residents directly resulted in the filing of this petition for writ of mandamus.

The petitioners contended below that the residents have a legal right to be billed directly by the utility provider afte conversion pursuant to RSA 205-A:6, II has occurred. RSA 205-A:6, II (2000) provides:

> In the event that a park owner or operator shifts responsibility for payment of water, sewer, or any other utility service to the tenant, the park owner or operator shall be responsible for the cost incurred in the conversion, including the cost of installation of utility meters, if any, on each manufactured home in the park, except as permitted by the public utilities commission pursuant to RSA 374 and RSA 378. After such a conversion, manufactured housing park tenants shall be billed directly by the utility for the use of such services.

The trial court concluded that "the statute, as intended by the legislature, is meant to regulate solely the relationship between mobile home park tenants and owners, and has no effect on utility providers, municipal or private." We disagree.

To the extent that a dispute raises a new issue of statutory interpretation, we begin our inquiry with the examination statutory language. Appeal of Pinetree Power, 152 N.H. ___, ___, 871 A.2d 78, 81 (2005). In matters of statutory interpretation, we are the final arbiter of the intent of the legislature as expressed in the words of the statute consider as a whole. In the Matter of Jacobson & Tierney, 150 N.H. 513, 515 (2004). We ascribe the plain and ordinary meanings to the words the legislature used. Nilsson v. Bierman, 150 N.H. 393, 395 (2003). Because interpretation o statute is a question of law, we review the trial court's decision de novo. Town of Acworth v. Fall Mt. Reg. Sch. Dis 151 N.H. 399, 401 (2004).

Pursuant to RSA 205-A:6, II, a park owner has the ability and the right to shift responsibility for the payment of cert utilities from himself to the tenants. Once the right to shift payment responsibility has been exercised, the park owne esponsible for the cost incurred in the steps reasonably necessary for the utility to implement that shift. Those easonably necessary steps constitute the "conversion" from the utility's billing the park owner to its direct billing of he housing park tenants. Once the steps reasonably necessary for the shift in billing have been identified, it is the pa wner's burden to effectuate and pay for those steps. When the park owner has met that burden, the "manufactured ousing park tenants shall be billed directly by the utility for the use of such services." RSA 205-A:6, II (emphasis dded). Generally, the use of the word "shall" in a statutory provision is a command, requiring mandatory enforceme ranklin v. Town of Newport, 151 N.H. 508, 510 (2004). We disagree, therefore, with the trial court's conclusion th ie legislature intended the statute to regulate only the relationship between the manufactured housing park tenants a

the owner.

The trial court also erred in reasoning that because Schiavi currently pays the utilities bills, he has not shifted the payment responsibility to the residents. Our review of the record indicates that Schiavi does, in fact, determine eac tenant's share of the total utility bill by his own reading of the installed meters. He then, for a charge, submits this information to a third party, which processes it, and he then charges each tenant accordingly. Although Schiavi continues to make final payment of the utility bill, it is simply because of the City's refusal to bill the tenants direc not because Schiavi has failed to shift responsibility.

The trial court's interpretation of the statute was an error of law. As such, we vacate its denial of the petitioner's w and remand.

Although the statute defines neither a shift in payment responsibility nor a conversion, the language clearly empov the park owner or operator to shift the payment responsibility to the tenants. See RSA 205-A:6, II. In addition, the statute states that "the park owner or operator shall be responsible for the cost incurred in the conversion, including cost of installation of utility meters, if any, on each manufactured home in the park." Id. (emphasis added). As the installation of utility meters is not identified as the sole cost that may be involved in the conversion to individual te billing, the statute establishes that there may be other costs. See id.

On remand, the trial court must determine, pursuant to Schiavi's decision and right to shift responsibility for payme the utility bill to the individual tenants, what steps are reasonably necessary for the City to effectuate this billing change, or "conversion." The trial court must then determine if Schiavi has taken the proper actions to both accomp and pay for those reasonable steps. If so, then the City must bill the park tenants individually. If not, Schiavi shoulc afforded the reasonable opportunity to do so.

Vacated and remanded.

BRODERICK, C.J., and NADEAU, DALIANIS and DUGGAN, JJ., concurred.

Conway Village Fire District
A Village District in the Town of Conway, NH
128 West Main Street.
Conway, NH 03818
Phone: 447-5470 Fax: 447-3271

September 23, 2010

SEP 27 2010

Mr. James J. Bianco, Jr.
Bianco Professional Association
Attorneys At Law
18 Centre Street
Concord, NH 03301-6315

Re: Lamplighter Mobile Home Park, LP – Water Service

Dear Mr. Bianco:

Please be advised that after review and discussion, The Board of Commissioners is in agreement that Conway Village Fire District will not direct bill the residents of Lamplighter Mobile Home Park. This decision was made due to the fact that the meters currently on the homes in the Lamplighter Mobile Home Park are not compatible with our system. Our meter reader would not be able to read the meters. Therefore, Conway Village Fire District will continue billing Lamplighter Mobile Home Park for all usage, and not the individual residents.

Please note that Janine Bean is now the Chairman of the Board – not Carl Thibodeau. Also, Edward Alkalay (Alkalay and Smillie Law Firm) is now the District's attorney – not Thomas Dewhurst.

Sincerely,

Gregg Quint
Superintendent

Cc: Edward Alkalay

BIANCO PROFESSIONAL ASSOCIATION
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September 28, 2010

Gregg Quint, Superintendent
Conway Village Fire District
128 West Main Street
Conway, NH 03818

Re: Lamplighter Mobile Home Park, LP, water service.

Dear Mr. Quint:

Thank you for your correspondence of September 23, 2010, in regard to billing for the water service at Lamplighter Park. It appears that we may have come to a misunderstanding regarding the water service billing. When I wrote to you and the CVFD Commissioners on August 4, 2010, I proposed that we meet in order to discuss the steps that the park must undertake in order to facilitate the billing conversion called for in RSA 205-A:6. To the extent that an issue exists regarding the compatibility of the water meters, we had hoped to discuss it, and any other requirements to facilitate the billing change at such a meeting. However, because no response to our meeting request has been received, Lamplighter Mobile Home Park, LP has been stymied in its effort to exercise its rights under the statute.

I appreciate the issue you raised regarding the possible incompatibility of the metering equipment, however, resolving such a compatibility issue, if one exists, is merely one of the steps reasonably necessary to implement the billing conversion. As you know from my earlier correspondence, my client is responsible for taking such reasonably necessary steps before the CVFD must effectuate the billing change. However, we are prevented from taking such steps, unless we know more about what incompatibility issues may exist, or what other steps might be reasonably necessary to effectuate the change.

To that end, we again request a meeting to discuss the steps that are reasonably necessary to effectuate such a billing change. Please contact me at your earliest convenience regarding such a meeting. As I indicated in my second correspondence, dated September 20, 2010, we hope to effectuate the billing

change as soon as possible, but in any case, not later than January 1, 2011. Although we had hoped to have met with the CVFD by now, obviously the sooner we begin the discussion, the sooner we can proceed.

Please let me know if you have any questions.

Sincerely,

James J. Bianco, Jr.

JJB/rlb

Cc: Jeanine Bean, Chair, CVFD Board of Commissioners
Carl Thibodeau, CVFD Commissioner
Joseph Quick, CVFD Commissioner
Edward Alkalay, Esq.
Blaine Burnett, LMHP, LP

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October 25, 2010

VIA FACSIMILE & USPS

Ms. Janine Bean, Chair
Conway Village Fire District Board of Commissioners
128 West Main Street
Conway, NH 03818

Re: Lamplighter Mobile Home Park, LP – Sewer Connection

Dear Chairperson Bean:

Initially, I want to thank you, the other members of your committee, Stephen Solomon, Conway Fire Chief, and Gregg Quint, Superintendent, for meeting with Attorney Bob Best and me on Thursday, October 21, 2010. We appreciate your willingness to establish a meaningful dialogue which we believe will lead to the resolution of several issues which have been outstanding for some time.

In order to proceed, I will address the issues which we discussed and the action plan to which we agreed. In no particular order, I believe the major issues which we discussed are as follows:

1. Meters.

We discussed the process by which Conway Village Fire District would assume responsibility for the reading, billing of the meter, and contact with the individual residents of Lamplighter Mobile Home Park ("Lamplighter").

As we discussed, Lamplighter is responsible for installing radio-read meters that are compatible with the equipment used by the Conway Village

Fire District (BSMI Software). The cost of the meters and the installation of such meters is the responsibility of Lamplighter.

We also discussed sharing information particularly names and addresses of the residents of the park to assist the town with its billing of the residents.

We discussed other details which will be incorporated in a letter from the Commission to the Hynes Group which we anticipate receiving shortly.

Finally, the time-frame which we discussed in order to carry out the transfer of responsibilities from Lamplighter to the Commission would be by December 31st or by March or April of 2011.

2. Discrepancies over billing.

We discussed that the Commission believes that it is owed approximately $11,743.80, and that Lamplighter believes it is owed approximately $16,924.15. While we did not discuss the issue in detail, we agreed that Chairman Bean and Attorney Best would schedule a mutually agreed upon date and time in order to meet and resolve this issue.

3. Sewer.

As of the date of our meeting, Lamplighter will proceed to install a sewer system in the park. While this position is subject to change based on various factors, such as a potential sale of the park to the residents, Lamplighter is interested in knowing what date the Phase 1 Water and Wastewater Improvements Project will be complete and operational.

It is my understanding that the system will be operational by the end of 2010 or the beginning of 2011. The agreement between the District and Lamplighter allows Lamplighter up to 1 year from the initial operational capability of the Phase 1 Water and Wastewater Improvements Project to connect to the municipal sewer. We discussed, given the inexact date of the operation of the system and the difficulty in performing engineering in the

winter, that the time-frame which was established in the agreement may be extended.

We also discussed that the capacity of your system is about 25,000 gallons per day which corresponds to the approximately 133 homes which would be initially hooked up to the system. We did discuss the possibility of hooking up additional units within the 25,000 GPD limitation, or in the future as the system expands its capacity.

4. Fire Hydrants.

Finally, Chief Solomon raised an issue about private hydrants which are located in Lamplighter and the need to maintain these hydrants in order to be certain they are operative. We discussed ways in which Lamplighter could work cooperatively with the Fire Department to ensure the effective operation of the private hydrants located in Lamplighter.

I believe I have recounted the essence of our discussion, but if I have not, I welcome any additions or clarifications. We look forward to working with you. Although we may disagree on matters from time to time, we hope to proceed in a mutually cooperative manner and with a minimum of rancor.

Please contact me or Attorney Best should you have questions or issues.

Sincerely yours,

James J. Bianco, Jr.

/jmg

Cc: Blaine Burnett

Alkalay & Smillie, P.L.L.C.
53 Technology Lane
Suite 107
Conway, NH 03818
(603)447-8994 (phone)
(603)452-0294 (fax)

OCT 29 2010

EDWARD D. ALKALAY *
PAMELA L. SMILLIE
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*ADMITTED TO PRACTICE IN NH, NY & ME

October 28, 2010

James J. Bianco, Jr.
18 Centre Street
Concord, NH 03301-6315

RE: Lamplighter Mobile Home Park, LP
CVFD Water Service

Dear Attorney Bianco:

This office represents the Conway Village Fire District (CVFD) with respect to the above referenced matter. This letter is intended to address your request to shift the responsibility for billing of water service from Lamplighter Mobile Home Park (LMHP) to CVFD. As you state in your letter of August 4, 2010, the statute requires that LMHP perform and pay for all steps reasonably necessary to effectuate the conversion in billing. The following are the steps that CVFD has determined LMHP needs to take in order for CVFD to take over billing the residents of LMHP directly:

1. Each home must have a T10 Neptune 5/8th meter installed to CVFD's specifications by a licensed meter installer to include a corner horn with check valve at LMHP's expense.
2. Each meter will have a radio reader R900 installed to CVFD's specifications at LMHP's expense.
3. Once the meters are installed, CVFD personnel must inspect each hook up and wire radio frequency at the service call out rate in effect at the time of inspection at LMHP's expense and be satisfied with the results of such inspection.
4. LMHP must explain to all residents the conversion in billing directly by CVFD including any additional costs to the residents, and the benefits of installing an expansion tank. (Please note that CVFD does not install expansion tanks.)
5. LMHP shall provide CVFD with a mailing list of residents including names and house numbers and the names and addresses of all grantees thereafter.
6. LMHP shall provide CVFD with a plan or map of all locations of shutoff curbstops and waterlines and all such infrastructure shall be in working order.
7. The existing 8" fire meter and 2" service meter must remain in service and LMHP shall pay the difference between the total water gallons as metered by these meters

distributed to LMHP and the total water gallons used by residents according to the individual meters.

8. LMHP shall provide CVFD with an easement for water acceptable to CVFD to access all shut off curbstops, meters and waterlines.
9. CVFD does not assume any responsibility to insulate, monitor, maintain, repair or improve the infrastructure or to pay for any such repairs or improvements to any of the infrastructure including but not limited to the meters, insulation of meters, curbstops and/or water lines located on LMHP property, except as otherwise provided.
10. LMHP shall pay for all costs incurred by CVFD to convert its billing directly to residents of LMHP including its attorney's fees.

In the event you have any questions regarding any of the above, please do not hesitate to give me a call.

Sincerely,

Pamela L. Smillie

PLS/abm
Pc: Gregg Quint
CVFD

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November 23, 2010

Pamela M. Smillie, Esquire
Alkalay & Smillie, PLLC
53 Technology Lane, Suite 107
Conway, NH 03818

Re: Lamplighter Mobile Home Park, LP

Dear Attorney Smillie:

Thank you for your correspondence of October 28, 2010, regarding the water service at Lamplighter Mobile Home Park (LMHP). We have reviewed the steps that the Conway Village Fire District (CVFD) outlined as being reasonably necessary to effectuate the RSA 205-A:6 billing conversion. Although most of the steps are clear, and appear to be reasonable, we have a few questions regarding some of the listed items. Following the same order that the items were listed in your letter, here are our questions:

1. In regard to installation of the T10 Neptune 5/8 inch meters we have several questions. First, your letter indicates that the meters are to be installed to CVFD's specifications, however, we don't have a copy of the specifications. We have no objection to installing meters that meet the established specifications, however, can you supply a copy of whatever ordinance, policy, manual or other official document establishes the CVFD's specs? Second, your letter specifies that the meters are to be installed by a licensed meter installer. We are unaware of a professional license or licensing body for meter installers. Can you provide additional information as to what is required? We assume that LMHP is being held to the same standard as would any other residential water installation, and to that end, perhaps the simplest way to answer this question is to provide a copy of whatever ordinance, policy, manual, or other document applies to other residences in Conway. Lastly, we have been able to confirm that all of the homes in LMHP have check valves, or back-flow preventers,

however, we are unfamiliar with the "corner horn" requirement. Can you provide more detail as to what is required and whether the "corner horn" is standard procedure in the District?

2. In regard to the requirement for the installation of the R900 radio readers, we have no objection to installing whatever equipment is standard throughout the CVFD. However, before we can advise our client to undertake the significant expense of radio read meters, we are respectfully obliged to verify the requirement. To that end, can you provide a copy of whatever ordinance, policy, manual, or other official document sets forth the requirement for radio-read meters, and let us know whether this requirement has been applied to all other residential water meters in the District.

3. In regard to meter inspections, we have no objection to inspections if that is the requirement that is applicable to all other residential service in Conway. Can you confirm the ordinance, policy, procedure, manual, or other official document that sets forth this requirement for residential connections in Conway?

4. We have no objection to educating residents as to the effects of back-flow preventers and the benefits of expansion tanks. As we indicated, back-flow preventers have been in place in the park for a number of years, and as a result, we don't expect anyone to be impacted by the change. However, we do want to make sure that whatever information we are to provide is acceptable to the CVFD. Does the CVFD have a document that it uses for this purpose, or would the CVFD review information that we develop for this purpose, before it is sent out?

5. We have no objection to providing a mailing list of the current tenants in the park. In regard to future grantees, we would anticipate that the transfer of ownership of a home in LMHP would be handled the same as a transfer anywhere else in Conway. Specifically, we would expect the seller and buyer to handle that change directly with CVFD. If there is a reason to develop a unique procedure for LMHP we would consider it, however, our inclination is to have LMHP residents treated the same as anyone else in the District.

6. In regard to a plan or map of the waterlines, curb-stops and water meters, we have no objection to providing a copy of whatever we have, which will at least show the location of the meters and curb-stops.

7. We have no objection to the comparison of the main meters to the sum of the residential meters. LMHP would agree to be responsible for any discrepancy, at the established water rates.

8. We have no objection to providing CVFD with a documented right to enter the park to access curb-stops and meters. As you know, the water lines remain the responsibility of the park to maintain, and as a result, we do not see the necessity to grant access to water lines. Also, we are reluctant to recommend to our client that easements be granted to CVFD. We have no objection to providing CVFD with a contractual right to enter the park for the reasons specified, however, granting a recordable interest in the real estate seems extreme, and it seems likely to create other future problems if the park owners ever wish to sell or refinance the park. Please let me know if the CVFD is willing to accept a contractual right of access instead of an easement, and if not, please provide a copy of the ordinance, policy, manual, or other official document that imposes this requirement on residential property in Conway.

9. In regard to ongoing maintenance and repair, we agree with paragraph 9 of your letter.

10. In regard to the costs incurred in effectuating the billing conversion, we have no objection to paying the costs required by the statute, which have been interpreted by the Supreme Court to include costs that are reasonably necessary to effectuate the change. In order for us to advise our client regarding the costs listed in item 10 of your letter, more information is needed. Can you provide more detail regarding the costs that CVFD anticipates incurring?

Please let me know if you have any questions regarding these issues. LMHP would like to begin performing its obligations to effectuate the billing conversion as soon as possible. To that end, we would appreciate hearing back from you as soon as possible. Also, in our experience with other municipalities, the provisions outlined in paragraphs 7-10 of your letter, and this response, typically form the substantive provisions of a written agreement between a park and the municipality.

In order to move ahead as expeditiously as possible, we've taken the liberty of preparing the attached draft of such an agreement for your review and consideration. This draft is modeled after agreements similar to what we've seen in other municipalities. Please let me know what you think.

Thank you for your attention to this matter.

Sincerely yours,

James J. Bianco, Jr.

JJB/rlb
Enclosure
cc: Mr. Blaine Burnett
Ms. Risa Kennedy

AGREEMENT

WHEREAS, the undersigned, as owner of the manufactured housing park known as Lamplighter Mobile Home Park (LMHP), located on White Mountain Highway, Conway, New Hampshire, requests that individual accounts be established for each home owner located in the park; and

WHEREAS, the undersigned, Conway Village Fire District (CVFD), agrees to read meters of homes located in said park and to send water bills to the owner of homes within said park.

We understand and agree to the following:

1. The CVFD agrees to read the individual meter of each home and to mail bills to the name and address of each homeowner. The CVFD will also process billing and payments in the ordinary course of its business.

2. CVFD may enter the property to access the residential water meters and shut-off valves for the same reasons and under the same conditions as are applicable to any other residential water connection within the jurisdiction of CVFD. In the event of non-payment of any individual account owed to the CVFD, the CVFD may enter the property and, following procedures which the CVFD has established for the collection of fees owed to it, may shut-off the water service to the non-paying residence.

3. The CVFD shall maintain a master meter for LMHP. On a quarterly basis, the consumption recorded on the master meter will be compared by the CVFD to the sum of the individual home's consumption in the park. If the master meter reading is higher than the sum of the individual meter readings, LMHP shall be responsible to pay the difference between the two readings. The individual meters and the master meter shall be read on the same day.

4. If a problem occurs with the water infrastructure, LMHP shall be responsible to repair any problems in order to ensure potable water to the homeowners. If LMHP is unable to repair the infrastructure within a reasonable period of time, the CVFD, in its sole discretion, may, directly or indirectly, repair any problem with the infrastructure and may charge the reasonable and customary costs of such repairs to LMHP.

5. LMHP agrees to reimburse the reasonable costs incurred by CVFD which are necessary to effectuate this billing conversion. CVFD has estimated those costs to be $_____. Prior to incurring costs that exceed this estimate by greater than 10%, CVFD shall provide advance notice to LMHP and shall not thereafter incur costs without the written approval of CVFD.

6. This Agreement shall remain in effect for as long as LMHP elects to exercise its right to the billing conversion pursuant to RSA 205-A:6.

Dated:

_____
Lamplighter Mobile Home Park, LP
By: Blaine Burnett, Its President

Dated:

_____
Conway Village Fire District
By: Janine Bean, Its Chairperson, duly authorized