

**Manufactured Homes Commission  
Minutes of Meeting Held on April 15, 2025  
Worcester City Hall / Virtual Participation**

**CALL TO ORDER: 10:36 am**

**In Attendance in Person:** Ethan Mascoop (Chair) and Paula Fay.

**In Attendance Virtually:** Jeffrey Hallahan (Vice Chair), Sandra Overlock, Dan Less (Secretary / Attorney General's Office), Attorney Oliver Stark (Executive Office of Housing and Livable Communities)

**Vacancies:** One

It was generally agreed there was a quorum.

**APPROVAL OF MINUTES**

Mr. Mascoop moved to approve the October 29, 2024; January 14, 2025; and February 17, 2025 minutes. Mr. Hallahan seconded. There was no discussion. AAG Less; Messrs. Mascoop and Hallahan; and Ms. Overlook and Fay voted to accept the minutes. Attorney Stark abstained because they were not a member of the commission at the time of these meetings.

**CORRESPONDENCE/COMMUNICATIONS**

Mr. Mascoop said there was nothing new to discuss at this time.

**OLD BUSINESS**

**Status of Annual Reports:** Mr. Mascoop reported that he had not finalized the reports for fiscal years 2023 and 2024 but hopes to have them done by the July 2025 meeting. He also reported that he will draft reports for 2020-2021 and 2021-2022 also for the July 2025 meeting.

**EOHLC MBTA Communities Regulations:** Mr. Mascoop reported that he submitted the letter the commission approved at the special February 17, 2025 meeting to EOHLC on February 20, 2025 (a copy of the submitted letter is attached to the February 17, 2025 minutes). Mr. Mascoop reminded the members that the letter commented on EOHLC's proposed MBTA Communities regulations suggesting that the regulation include provisions to prevent and/or limit discontinuances of manufactured housing communities ("MHC") in favor of housing construction that would comport with the MBTA Communities statute. Mr. Mascoop stated that he has not heard anything from EOHLC and their final regulations have not been released.

**Recording and Posting of Meetings:** Attorney Stark reported that EOHLC had concerns about posting recordings of commission meeting on the commission Website. They explained that the recordings could contain content that is exempt from public disclosure and, as such, could not be redacted from the video. Attorney Stark noted that G.L. c. 4, § 7(26)(c) ("Exemption (c)") of the public records law permits a state agency to withhold records of "... specifically named individual[s], the disclosure of which may constitute an unwarranted invasion of personal privacy." EOHLC is concerned that people who participate in a meeting over Zoom may have unexpected events take place while on video such as a child walking into the frame or private material displayed in the background.

In response, commission members noted that public participation would seem to negate any expectation of

## Manufactured Home Commission

### April 15, 2025 Meeting Minutes

#### Page 2

privacy and anything that occurs while a person is “on camera” is voluntary. Members, consequently, questioned whether Exemption (c) would even apply to a recording of a publicly open meeting.

Other members noted that there is no requirement under the Open Meeting Law (“OML”) that meetings be recorded let alone posted on an agency Website. These members noted that posting videos might “chill” public participation and stated that the OMLs requirement of publicly available minutes is sufficient for the public to know what happened at a meeting. Commission members also pointed out that the OML permits a member of the public to record that meeting if they comply with the law’s requirements. Alternatively, members concerned about posting the videos noted that Zoom can produce a transcript of a meeting and that transcript could be posted and redacted if necessary. Additionally, it was generally agreed that if the commission decided to post video recordings, not only should members of the public be told that the meeting is being recorded but that it will also be made publicly available on the commission’s Website.

Members agreed to delay making a decision to determine whether a video recording of a publicly open meeting could fall within Exemption (c)

**Status of Vacant Position:** There were no updates on filling the vacancy on the commission. Members discussed some ideas for filling the vacancy. The following ideas were suggested:

- A licensed HUD manufactured home installer or inspector;
- A resident who could provide cultural and demographic diversity (e.g., resident from an MHC that is for families (i.e. a community that not a “retirement community” or just for people 55 and over), person of color, or a first generation American); or
- A resident of limited means living in an older park that is at risk for purchase by a national company.

Commission members had the following ideas for recruiting a new member:

- Outreach to HUD-approved installers and inspectors. A list of Massachusetts installers and inspectors is available on HUD’s Website at <https://www.hud.gov/hud-partners/manufactured-home#2>;
- Leverage existing networks or personally reach out to potential candidates; and
- Review the statute to ensure balance between residents and park owners.

**Create New Regular Agenda Item – Legislative Update:** Members generally agreed having an update at each meeting about the status of any bills impacting manufactured housing would be beneficial. Mr. Mascoop suggested that the Attorney General’s representative on the commission should do this. AAG Less disagreed stating that AGO was already doing a considerable amount for the commission and that this would be an opportunity for another commission member to make a presentation at each meeting. AAG Less did state that he would supply the commission with a list of bills that the AGO was aware of. That list is attached to these minutes. Members generally agreed to discuss this further at future meetings.

## NEW BUSINESS

**AGO Update:** AAG Ellen Peterson provided an update on two cases regarding manufactured housing.

***Case v. Parakeet Communities LLC, Worc. Super. Cr. No. 248SCV00740.*** In this Superior Court case residents of American Mobile Home Park and Whispering Pines Estates (both located in Auburn) sued Parakeet which is a Maryland company that owns both communities. The residents allege that Parakeet, among other things, charges its residents an illegal amount of rent. Parakeet moved to dismiss any resident from the case who rents their homes (as opposed to owning their own home) claiming the MHC law only protects home owners. The AGO filed an amicus opposing this

**Manufactured Home Commission April  
15, 2025 Meeting Minutes  
Page 3**

motion to dismiss. While the Court declined to accept the AGO's amicus, it did deny the defendant's motion to dismiss largely for the reasons argued in the amicus. While not an appellate case, and therefore not precedent that trial courts must follow, the decision is important to support renters' rights under MHC law. A copy of the court's decision denying the motion to dismiss is attached.

***Dant v. City of Chicopee Mobile Home Rent Control Board, Appeals Court No. 2024-P-0857.*** In this case the Chicopee Rent Control Board ("RCB") concluded that the AGO's MHC regulations did not apply to the RCB's determination whether to make an adjustment to an MHC's rent. Consequently, it raised residents' rent for an expense the owner incurred despite the fact that the regulations prohibit an owner from passing on this particular expense. The residents appealed and the AGO filed an amicus letter and a supplemental brief arguing that RCBs must follow the regulations in making these decisions. The case was argued before the Appeals Court on April 8, 2025 and taken under advisement. It has yet to issue a decision. The case is important because the AGO's regulations provide extensive safe guards that limit an MHC owner's ability to raise rents. If RCBs are allowed to disregard the regulations, they would have discretion to raise residents' in ways the regulations prohibit. A copy of the AGO's amicus letter and supplemental brief are attached.

**Billing Residents for Utilities:** AAG Less presented an overview of the AGO's regulations concerning residents' payment for utilities. Ms. Fay described a situation at her MHC in which residents were paying for a utility that was being used to maintain a common area of the community and asked if that was violation of the AGO's regulations. AAG Less suggested that Ms. Fay file a complaint with the AGO so the AGO could fully look into the issue.

**Changes in Commission Members Representing the Secretary of EOHLC and the Attorney**

**General:** Attorney Stark announced that they were replacing Tyler Newhall as the Secretary's representative. AAG Less announced that AAG Peterson would replace him as the Attorney General's representative starting at the July 2025 meeting. AAG Less also announced that he was resigning as the Commission's Secretary and a new one would have to be appointed in July. He stated that he would complete these minutes for this meeting and email them to commission members prior to the July meeting so they could review and consider them for approval at the July meeting

**OPEN FORUM**

**Halifax MHC:** Deborah Winiewicz a resident of this resident owned community reported that the town's water department is billing residents for having water meters even though Halifax residents do not have individual water meters on their homes. This is costing the MHC over \$40,000.00 a year. Deborah Winiewicz stated that residents discussed this with the town water department but they declined to stop the practice. Commission members generally agreed that manufactured housing law did not provide a solution for this problem and suggested that the MHC residents escalate the issue to the town select board or the town administrator.

**ADJOURNED** – Mr. Hallahan moved to adjourn the meeting which Ms. Fay seconded. It was approved unanimously and the meeting adjourned at 12:42 pm.

\*\*\*\*\*



Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the MANUFACTURED HOMES COMMISSION. Massachusetts General Laws, Chapter 6, Section 108, establishes the Manufactured Homes Commission. It is the mission of the Manufactured Homes Commission to provide prompt, impartial service to all parties affected by or concerned with matters pertaining to manufactured housing communities, to the maximum extent permitted by law.

## **NOTICE OF MANUFACTURED HOMES COMMISSION QUARTERLY MEETING**

10:30 AM – 12:30 PM Tuesday, April 15, 2025

To attend this hybrid meeting remotely via Zoom, please use the following link:  
<https://us06web.zoom.us/j/81547910610?pwd=HAueAtn56jmY4K8VVgOx3vfnFSXggO.1>

**Meeting ID: 815 4791 0610**

**Passcode: 290023**

To attend this hybrid meeting via telephone, please use one of the following phone numbers:

1-301-715-8592

1-305-224-1968

When asked to enter “meeting ID” dial 81547910610#, for passcode dial 290023#

To attend this hybrid meeting in person, please use the following address:

**Worcester City Hall  
Levi Lincoln Chamber  
455 Main Street  
Worcester, MA 01608**

### **AGENDA**

#### **CALL TO ORDER**

- Attendance and Introductions

#### **VOTE ON OCTOBER 2024, JANUARY 2025, AND FEBRUARY 2025 MEETING MINUTES**

#### **ADMINISTRATIVE MATTERS**

#### **OLD BUSINESS**

- Status of Annual Reports

- EOHLC MBTA Communities Regulations
- Recording and Posting of Meetings
- Status of Vacant Position
- Create New Regular Agenda Item – Legislative Update

#### NEW BUSINESS

- AGO Update
- Water provision and billing to MHCs

#### PUBLIC FORUM

---

*This meeting is open to the public. All persons having business to be brought before the Commission are invited to participate.*

#### Commissioners:

**Ethan Mascoop, Chair**  
**Jeffrey Hallahan, Vice-Chair**  
**Paula Fay, Commissioner**

**Sandy Overlock, Commissioner**  
**Daniel Less, Ex Officio**  
**Tyler Newhall, Ex Officio**

**For further information contact:** Oliver L. Stark, Counsel  
 Executive Office of Housing & Livable Communities  
[oliver.l.stark@mass.gov](mailto:oliver.l.stark@mass.gov)  
 617-573-1521

For reasonable accommodations regarding this meeting, please contact 617-573-1102.

Please contact the Massachusetts Executive office of Housing and Livable Communities at (617) 573-1100 for free language assistance.

Favor de comunicarse con la Oficina Ejecutiva de Vivienda y Comunidades Habitables (Executive Office of Housing and Livable Communities (EOHLC)) de Massachusetts en (617) 573-1100 para ayuda gratis con el idioma.

Entre em contato com o Escritório Executivo de Habitação e Comunidades Habitáveis (Executive Office of Housing and Livable Communities (EOHLC)) de Massachusetts no número (617) 573-1100 para obter assistência gratuita com o idioma.

Tanpri kontakte Biwo Lojman ak Kominote alimantè (Executive Office of Housing and Livable Communities (EOHLC)) Masachousèt la nan (617) 573-1100 pou asistans gratis nan lang.

如果您需要免费的语言翻译帮助，请联络麻州住宅及社区发展部 马萨诸塞州住房和宜居社区执行办公室(The Massachusetts Executive Office of Housing and Livable Communities (EOHLC)),联络方式(617) 573-1100。

Свяжитесь с сотрудником Исполнительное управление жилищного строительства и пригодных для жизни сообществ (Executive Office of Housing and Livable Communities (EOHLC)) Массачусетс на предмет оказания бесплатной помощи по переводу на иностранный язык. ((617) 573-1100)

សូមទំនាក់ទំនងដេផកអភិវឌ្ឍន៍សហគមន៍និងលំនៅដ្ឋានសណ្ឋិត រដ្ឋប្រតិបត្តិការលំនៅដ្ឋានសហគមន៍ដល់ចរាចរណ៍។(Massachusetts Executive Office of Housing and Livable Communities (EOHLC)) មរយៈ (617) 573-1100 ដើម្បីទទួលបានជំនួយ ផកយតតតតតតតតតត។

Vui lòng liên Văn phòng điều hành về nhà ở và cộng đồng đáng sống (Executive Office of Housing and Livable Communities (EOHLC)) Massachusetts tại (617) 573-1100 để được hỗ trợ ngôn ngữ miễn phí.

On April 11, 2025, this notice was posted online to the EOHLC Open Meeting Notices and the Manufactured Homes Commission websites:

- <https://www.mass.gov/info-details/eohlc-open-meeting-notices>
- <https://www.mass.gov/info-details/manufactured-homes-commission>

**2025 BILLS SUBMITTED TO MA LEGISLATURE WITH SEARCH TERM = "MANUFACTURED HOUSING"**

| Number              | Author                                     | Description                                                                                                                                                                                                                                                                                                                                                            |
|---------------------|--------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| H.1556              | Norman J. Orrall                           | Would amend G.L. c. 40B, s. 20 by including MHCs in the definition of "low or moderate income housing" as part of a municipality's affordable housing threshold. Sen Pacheco (ret.) introduced similar bills in the past.                                                                                                                                              |
| H.1504              | Paul K. Frost                              | Similar/Identical to H.1556. Would include MHCs in a municipalities' stock of 40B housing.                                                                                                                                                                                                                                                                             |
| H. 1492             | David F. DeCoste                           | Similar/Identical to H.1556. Would include MHCs in a municipalities' stock of 40B housing.                                                                                                                                                                                                                                                                             |
| H.1513              | James K. Hawkins                           | Would allow municipalities to create rent control boards in those that have MHCs. While municipalities already have this authority, G.L. c. 40P, §§ 1-5, this bill would eliminate the need for legislative approval ( <i>see, e.g.,</i> HD.551, <i>infra</i> (bill seeking the legislature's approval to allow the Town of Athol to establish a rent control board)). |
| S.990               | Paul R. Feeney                             | Similar/Identical to H.1513. Rent Control Bill.                                                                                                                                                                                                                                                                                                                        |
| S.1020              | Jacob R. Oliveira                          | Would establishing a free training program for new and existing members of MHC rent control boards.                                                                                                                                                                                                                                                                    |
| HD.4158             | Aaron L. Saunders                          | Similar/Identical to S.1020. Require training for members of rent control boards.                                                                                                                                                                                                                                                                                      |
| HD.551              | Susannah M. Whipps;<br>Joanne M. Comerford | Seeks legislative approval to permit the Town of Athol to establish a rent control board.                                                                                                                                                                                                                                                                              |
| H.1475              | Tackey Chan                                | Seeks to reverse <i>Blake v. Hometown America Communities</i> , 486 Mass. 268 (2020).                                                                                                                                                                                                                                                                                  |
| H.3201              | David K. Muradian, Jr.                     | Would permit MHC residents to receive a tax credit up to \$1,500 as reimbursement for removing above-ground oil tanks that need replacing                                                                                                                                                                                                                              |
| HD.2739             | Daniel Cahill                              | Would permit individuals to open a "first-time home buyer savings account" to purchase a single-family residence including a manufactured home.                                                                                                                                                                                                                        |
| HD.695              | Thomas W. Moakley                          | Similar/Identical to HD.2739. Would establish first-time home buyer savings account that includes MHs.                                                                                                                                                                                                                                                                 |
| SD.1901             | Bruce E. Tarr                              | Similar/Identical to HD.2739. Would establish first-time home buyer savings account that includes MHs.                                                                                                                                                                                                                                                                 |
| SD.313              | Dylan A. Fernandes                         | Similar/Identical to HD.2739. Would establish first-time home buyer savings account that includes MHs.                                                                                                                                                                                                                                                                 |
| HD.3299             | Erika Uyterhoeven                          | Entitled "An Act relative to prohibiting eviction without good cause," it excludes MH's located in MHC's from the definition of "housing accomodation."                                                                                                                                                                                                                |
| HD.3648             | James Arciero                              | Would permits Senior Citizens (70+) to apply up to a 35% tax valuation exemption to their Class One residence including manufactured homes (would not apply to the land upon which they are located).                                                                                                                                                                  |
| H.1507              | William C. Galvin                          | Appointing a "rental arbitrator" within the AGO who will review and resolve any tenant/landlord complaints (including rent increases) which would include MHCs.                                                                                                                                                                                                        |
| SD.2142             | Julian Cyr                                 | Would amend G.L. c. 175N to regulate the sale of private flood insurance within MA. Lending institutions handling loans secured by real estate or MHs would have tonotify borrowers if their secured residence is located in an area having "special flood hazards."                                                                                                   |
| SD.2543 /<br>S.1019 | Jacob R. Oliveira                          | Would make the Manufactured Home Commission an administrative adjudicatory body that would resolve disputes between MHC residents and owners and outlines process for submitting complaints to the commission. Changes licensing fee sections of MHC Act to provide funding for commission's new function.                                                             |
| HD.1737             | James K. Hawkins                           | Would ammend the MBTA Community Statute (G.L. c. 40A, s. 3A) that would require multi-family housing to be more than .2 miles away from a manufactured home                                                                                                                                                                                                            |

COMMONWEALTH OF MASSACHUSETTS

WORCESTER, ss.

SUPERIOR COURT  
CIVIL ACTION  
No. 2485CV00740

AMY CASE & others<sup>1</sup>

vs.

PARAKEET COMMUNITIES LLC & others<sup>2</sup>

**MEMORANDUM OF DECISION AND ORDER ON DEFENDANTS'  
MOTION TO DISMISS**

137

This case involves a putative class action by the plaintiffs, who are residents of two manufactured housing communities (plaintiffs), against the defendants, Parakeet Communities LLC, Whispering Pines MHC MA LLC, and American MHC LLC (collectively, defendants), a group of related entities that own those communities. The complaint alleges the following claims: (1) violation of G. L. c. 93A, § 9; (2) declaratory judgment pursuant to G. L. c. 231A, § 1; and (3) breach of the implied covenant of good faith and fair dealing. The defendants move to dismiss the complaint for failure to state a claim. The court held a hearing on the motion on January 28, 2025. For the reasons discussed below, the motion to dismiss is **DENIED**.

**BACKGROUND**

The allegations in the complaint are summarized below.

The defendants own and operate two manufactured housing communities (communities) in Auburn, Massachusetts. The communities are largely inhabited by residents living on low and fixed incomes, often due to advanced age and disability.

---

<sup>1</sup> Charles Sveden, Maria Velez, Walter Wassell, and Mark Raymond, on behalf of themselves and others similarly situated

<sup>2</sup> Whispering Pines MHC MA LLC and American MHC LLC

Copies Mailed 3-6-25

Within the communities' population are two sub-groups of tenants: tenants who own their mobile/manufactured home unit and pay the defendants rent to keep the unit on a lot within a community (owner-tenants), and tenants who pay the defendants rent to use and occupy both the unit and the lot on which the unit sits (renter-tenants).

Because mobile homes are virtually unmovable, once an owner-tenant chooses a community and places their unit there, that owner-tenant no longer has the option of moving the unit somewhere else. Renter-tenants are vulnerable, low-income individuals and families who lack the funds to purchase a unit upfront. The legislature passed the Manufactured Housing Act, G. L. c. 140, § 32A et seq. (MHA), to provide additional protection to residents of manufactured housing communities. Among these legal protections are requirements that rules and changes in rent must apply uniformly to residents of a similar class; before amending community rules, community owners must seek and obtain approval from the Attorney General and provide copies to all residents; community owners must make certain written disclosures regarding the terms and conditions of occupancy for prospective and current residents; and unfair or deceptive rules or conditions of occupancy are unenforceable.

In November 2023, the defendants sent the plaintiffs notices that all existing rental agreements would be terminated as of December 31, 2023; this communication also included notices of rent increases, new proposed leases to take effect January 1, 2024, and accompanying documents (collectively, November offers). The plaintiffs allege that these documents violated the MHA. Specifically, they allege that the defendants withheld information and documents that residents were legally entitled to have; refused to provide mandatory five-year lease offers to renewing tenants; imposed non-uniform rent increases on residents within the same tenant class; subjected residents to illegal lease provisions; made false and misleading claims as to the nature

and terms of the lease offer; misrepresented the applicability of rules governing community owners; and charged unconscionable rent rates that far exceed fair market rental rates. The November offers stated that if the defendants did not receive a signed rental agreement by December 31, 2023, the residents' tenancies would be terminated, and they would be required to vacate the premises by that date. In January 2024, the defendants began charging the entire putative class the new rental rates listed in the offers, even where individuals did not sign or agree to the proposed leases.

In March 2024, after counsel sent a letter demanding that the defendants remedy the violations, the defendants sent another round of documents to the owner-tenants only,<sup>3</sup> which included a cover letter, a legal notice, written disclosures, and new proposed leases (March offers). The plaintiffs allege that the March offers also contained misrepresentations and omissions; unfair and deceptive terms including misleading statements designed to make the owner-tenants believe they had no choice but to sign the new proposed leases; false assertions about the amount of rent in the new proposed leases; inadequate disclosures; rent increases vastly exceeding fair market rental rates; and omission of rent amounts for years two through five of a five-year lease option. On April 18, 2024, the class representatives sent a demand letter pursuant to G. L. c. 93A.

In 2024, each class representative either paid the increased rent or withheld the increase in rent each month and set that amount aside. This has caused financial harm, and the defendants have initiated eviction cases against class members to enforce the illegal rent increases. These actions have caused the class members increased stress, fear, and anxiety, including the fear that they will ultimately lose their homes. This has exacerbated mental and physical conditions in the class members and their suffering from those conditions.

---

<sup>3</sup> Renter-tenants received no additional notices or documents after November 2023.

## **DISCUSSION**

To survive a motion to dismiss under Mass. R. Civ. P. 12(b)(6), a complaint must allege “factual allegations plausibly suggesting (not merely consistent with) an entitlement to relief” (quotation and citation omitted). *Iannacchino v. Ford Motor Co.*, 451 Mass. 623, 636 (2008). In considering a motion to dismiss on this basis, the court will “accept[] the facts alleged in the complaint as true and draw[] all reasonable inferences in the plaintiff’s favor.” *Edwards v. Commonwealth*, 477 Mass. 254, 260 (2017). The defendants argue that the complaint fails to state a cognizable claim because (1) the MHA does not apply to renters, and (2) the plaintiffs fail to allege legally cognizable harm.

### **1. Application of Manufactured Housing Act to Renters**

The defendants argue all three claims should be dismissed with respect to the purported class of “renters” because the MHA does not apply to renters.<sup>4</sup> The defendants acknowledge that this specific question—whether the MHA’s provisions apply equally to owners and renters—has not yet been clarified by binding case law.

The court declines to adopt the defendants’ narrow interpretation of the MHA. The plain language of the statute and its relevant subsections apply to “residents,”<sup>5</sup> “tenants,”<sup>6</sup> and occupants. Among the provisions the defendants allegedly violated is § 32P, which requires the community owner to fully disclosure “[a]ll terms and conditions of occupancy” “to any prospective

---

<sup>4</sup> In their memorandum, the defendants focus on G. L. c. 140, § 32J. The court notes that none of the plaintiffs’ claims rely on § 32J.

<sup>5</sup> The MHA empowers the Attorney General to promulgate regulations necessary for the interpretation, implementation, administration, and enforcement of the MHA. G. L. c. 140, § 32S. These regulations define “resident” to mean “any person who normally resides in a manufactured home in a manufactured housing community, regardless of whether or not he or she has an occupancy agreement with the operator.” 940 Code Mass. Regs. § 10.01. This definition plainly is not limited to manufactured home owners.

<sup>6</sup> The relevant regulations define “tenant” as “a person who has an occupancy agreement or oral tenancy agreement with an operator for the use and occupancy of a manufactured homesite, common areas, facilities, and other appurtenant rights.” 940 Code Mass. Regs. § 10.01.

manufactured housing community *resident*” which “shall contain a bona fide, good faith offer to each new *tenant* and to each *person renewing or extending any existing arrangement or agreement for occupancy of premises* in a manufactured housing community . . .” (emphasis added). G. L. c. 140, § 32P. Similarly, section 32L states, among other provisions, “A manufactured housing community licensee may promulgate rules governing the *rental or occupancy* of a manufactured home site but no such rule shall be unreasonable, unfair or unconscionable” (emphasis added). G. L. c. 140, § 32L(1).

By contrast, in another subsection, the statute refers to “the manufactured home owner.” G. L. c. 140, § 32L(4). “Where the Legislature used different language in different paragraphs of the same statute, it intended different meanings.” *Commonwealth v. Williamson*, 462 Mass. 676, 682 (2012), quoting *Ginther v. Commissioner of Ins.*, 427 Mass. 319, 324 (1998). Thus, the court concludes that the plain language of the statute evinces the Legislature’s intent to protect a broader swath of persons than owners of manufactured homes. See *Blake v. Hometown Am. Communities, Inc.*, 486 Mass. 268, 282 n.15 (2020) (interpreting G. L. c. 140, § 32L and concluding “[t]he statute’s use of the term ‘resident’ is meant to be inclusive, not exclusive, providing as much protection as possible to those who bear the actual burden of unfair rent changes”).

Moreover, the Supreme Judicial Court has repeatedly stated that the MHA’s purpose is to enact broad protections, acknowledging that residents of manufactured housing communities are especially vulnerable. See *id.* at 275, quoting *Greenfield Country Estates Tenants Ass’n, Inc. v. Deep*, 423 Mass. 81, 83 (1996) (“Both the Legislature and the courts of the Commonwealth have recognized that manufactured housing communities provide a viable, affordable housing option to many elderly persons and families of low and moderate income, who are often lacking in resources and deserving of legal protection.”). “General Laws c. 140, §§ 32A-32R, establishes a statutory

scheme intended to protect *tenants* of manufactured housing communities . . .” (emphasis added). *Greenfield Country Estates Tenants Ass’n, Inc.*, 423 Mass. at 82-83. “[G]enerally, the act . . . prioritizes maintaining manufactured housing communities as affordable housing options by protecting *residents* from unfair practices or arbitrary distribution of operating costs” (emphasis added). *Blake*, 486 Mass. at 273-274. “The act as a whole protects *residents* against evictions, park closures, and monopolies on services” (emphasis added). *Id.* at 274. The court concludes that the renter-plaintiffs are entitled to protections under the MHA.

## 2. Allegations of Legally Cognizable Harm

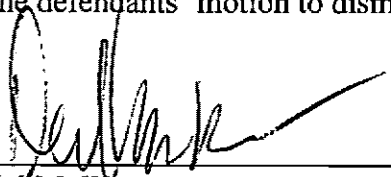
The defendants argue that the plaintiffs have failed to allege legally cognizable harm because their purported damages stem from the November offers, and the defendants have remedied all or substantially all of the claimed breaches or violations contained in the complaint by reimbursing owners for amounts of rent paid in 2024 above the 2023 levels, providing five-year lease options allowing the defendants to raise rent each year according to market conditions, and including the required disclosures.

First, to the extent the March offers remedied any of the alleged deficiencies in the November offers, any such remedy applied only to the owner-plaintiffs, as the renter-tenants did not receive a second offer in March. Second, the complaint alleges that the March offers also contain terms that violate the MHA and constitute unfair and deceptive practices, including imposing non-uniform rent increases and failing to disclose the rental rates that would apply after the second year of a five-year lease. The complaint sufficiently alleges that the plaintiffs have suffered economic harm because the defendants continue to charge the increased rent rates imposed by the November and March offers—rates that are allegedly unlawful and in excess of fair market rental rates. The plaintiffs also allege that the defendants’ actions caused them stress,

fear, anxiety, and emotional distress. See *Casavant v. Norwegian Cruise Line, Ltd.*, 76 Mass. App. Ct. 73, 79 (2009), *aff'd*, 460 Mass. 500 (2011) (severe emotional distress constitutes injury under c. 93A, § 9). The court concludes that the complaint sufficiently alleges legally cognizable harm.

**ORDER**

For the foregoing reasons, it is hereby **ORDERED** that the defendants' motion to dismiss is **DENIED**.

  
\_\_\_\_\_  
Daniel M. Wrenn  
Justice of the Superior Court

DATED: March 5 , 2025



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL  
ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
www.mass.gov/ago

February 14, 2025

By electronic filing

Paul Tuttle, Clerk  
Massachusetts Appeals Court  
John Adams Courthouse  
1 Pemberton Square, Room 1200  
Boston, MA 02108

Re: *Katherine Dant, et al., v. City of Chicopee Mobile Home Rent Control Board, et al.*  
Appeals Court No. 2024-P-0857

Dear Clerk Tuttle:

The Attorney General respectfully submits this letter as *amicus curiae* in the above-captioned case to address the Housing Court's determination that the Attorney General's Manufactured Housing Community Regulations, 940 CMR 10.00, *et seq.*, (the "Regulations") do not apply to manufactured housing communities located in Chicopee or any other municipality that has enacted a rent control ordinance ("rent-controlled MHCs"). This letter provides the Attorney General's interpretation that the Regulations do apply to rent-controlled MHCs. The Attorney General takes no position on any of the other legal or factual issues raised in this appeal.

**Interest of the Attorney General**

Pursuant to § 32S of the Manufactured Housing Act, G.L. c. 140, §§ 32A-32S, (the "Act"), the Attorney General promulgated the Regulations as necessary for the "interpretation, implementation, administration and enforcement" of the Act. These Regulations "must be accorded all the deference due to a statute." *Borden, Inc. v. Commissioner of Pub. Health*, 388 Mass. 707, 723 (1983). Violations of the Act and Regulations are also generally violations of the Consumer Protection Act, G. L. c. 93A, *see* 940 CMR 10.02, which the Attorney General enforces. Accordingly, the Attorney General has a strong interest in ensuring the fair, accurate, and consistent application of the Act and Regulations, and her interpretation of the same is "entitled to substantial deference." *Blake v. Hometown Am. Communities, Inc.*, 486 Mass. 268, 273 (2020) (citation omitted).

**The Regulations Apply to Rent-Controlled MHCs**

The purpose of the Act and Regulations is to protect residents of manufactured housing communities, which provide "a viable, affordable housing option to many elderly persons and families of low and moderate income, who are often lacking in resources and deserving of legal

protection.” *Greenfield Country Estates Tenants Ass’n., Inc. v. Deep*, 423 Mass. 81, 83 (1996) (citations omitted). To maintain affordability and achieve “relatively uniform, stable, long-term lease and community cost-sharing arrangements,” *Blake*, 486 Mass. at 269, the Act and Regulations place numerous procedural and substantive restrictions on rent increases. In the same vein, the Legislature allowed the City of Chicopee (“Chicopee”) to establish rent control to restrain “excessive, abnormally high and unwarranted rental increases imposed by some owners of mobile parks . . .” St. 1977, c. 596, § 1. Pursuant to this enabling act, Chicopee adopted a rent control ordinance. Chicopee Code, Part II, Chapter 195 (the “Ordinance”). The Ordinance limits rent increases to those that would allow an owner to yield a “fair net operating income,” which is defined as “income which will yield a return, after all reasonable operating expenses . . .” Ordinance § 195-5(B).

Together, the Act, Regulations, and Ordinance form a regulatory scheme that protects manufactured housing residents in Chicopee from unfair and excessive rent increases, and should be construed as a “harmonious whole, consistent with the legislative purpose.” *Independence Park, Inc. v. Board of Health of Barnstable*, 403 Mass. 477, 480 (1988). The Regulations incorporate rent control laws such as the Ordinance into their framework and enhance their protections by making “any violation of any applicable . . . rent control laws . . . a violation of M.G.L. c. 93A.” 940 CMR 10.03(3).<sup>1</sup> Indeed, 940 CMR 10.02(7)-(8)(c), upon which the Housing Court relied to conclude the Regulations do not apply to rent-controlled MHCs, simply articulate that non-compliance with rent control laws is one of many ways that an owner can violate the law, and “do[] not encompass let alone ‘permit’ rent increases which violate” the Act and Regulations. *Bartok v. Hometown Am., LLC*, No. CV 21-10790-LTS, 2023 WL 3773106, at \*5, n. 4 (D. Mass. Feb. 27, 2023).

Nothing in the regulatory scheme excludes rent-controlled MHCs from the Regulations, and such a significant exclusion should not be read into the law. *See Chin v. Merriot*, 470 Mass. 527, 537 (2015) (courts do not read provisions into the law that the Legislature did not include). Rather, the Regulations explicitly require compliance with the entire regulatory scheme by making a failure to comply with the “[Act, Regulations], or any other local . . . statute . . . which generally or specifically provides protection to or for residents . . . of manufactured housing communities” a violation of G. L. c. 93A. 940 CMR 10.02(3).

The only instance in which the Act and Regulations *defer* to rent control laws is in their requirement that owners offer residents “fair market rental rates.” *See* G. L. c. 140, § 32P; 940 CMR 10.01, 10.03(5). Generally, the Regulations define “fair market rental rates” as “rates that would be charged in the market between a willing owner . . . and a willing prospective tenant . .

---

<sup>1</sup> *See also* 940 CMR 10.02(3) (requires compliance with rent control laws); 10.02(7)-(8)(c) (prohibit rent increases except as permitted by applicable rent control laws); 10.03(2)(p) (prohibits fees exceeding applicable rent control laws); 10.08(1)(c) (eviction protections of § 32J of the Act apply to rent control board eviction certificates); 10.08(4)(b) (prohibits retaliation against residents who seek to establish rent control); 10.10(1)(b)-(c) (prohibit discontinuances initiated in response to rent control board denying increase or residents seeking to establish rent control).

..,” but in rent-controlled MHCs, they are defined as “the rates established pursuant to [rent control] laws.” 940 CMR 10.01. Accordingly, the Regulations permit an owner of a rent-controlled MHC to meet their obligation under G. L. c. 140, § 32P and 940 CMR 10.03(5) *to offer fair market rental rates* by having the rent control board approve the rent increase.

This limited deference allows Chicopee to determine fair market rental rates based on the “fair net operating income” requirement contained in its Ordinance. It does not, however, “boot strap” the rest of the Regulations to make them inapplicable to rent-controlled MHCs and, consequently, relieve owners from their many other obligations under the Regulations. If an owner seeks the Chicopee rent control board’s approval to pass on expenses that would violate the Regulations, those would not be “*reasonable* operating expenses” under the Ordinance, and the rent control board should not consider them in determining “fair net operating income.” Ordinance § 195-5(B) (emphasis added). *See also Chelmsford Trailer Park, Inc. v. Town of Chelmsford*, 393 Mass. 186, 193 (1984) (advising that rent control boards “must be mindful of” the Act when setting rent).

To read the Regulations as inapplicable to rent-controlled MHCs would produce the absurd result that residents of rent-controlled MHCs could be subject to rent increases that are *prohibited* in *non*-rent-controlled MHCs, contrary to the Legislature’s intent. For example, 940 CMR 10.03(2)(m), the provision the Housing Court declined to consider here, prohibits an owner from increasing rent to recover costs resulting from the owner’s “legal obligation . . . to upgrade or repair sewer . . . systems to meet minimum standards required by law . . . .” This provision protects residents from bearing the high costs of upgrading sewer systems that have fallen into disrepair as a result of the owner’s failure to meet their maintenance obligations.<sup>2</sup> It is unfair and inconsistent with the purpose of the regulatory scheme to nevertheless place this burden on residents of rent-controlled MHCs, who should be among the most insulated from unfair and excessive rent increases.

The Attorney General’s interpretation that the Regulations apply to rent-controlled MHCs is also consistent with *Gates v. Mountain View MHC, LLC*, an unpublished opinion of this Court that addressed similar issues to those presented here. A.C. No. 19-P-0966, 99 Mass. App. Ct. 1112, 2021 WL 710197 at \*1 (Feb. 24, 2021). In *Gates*, as in this appeal, a rent control board increased

---

<sup>2</sup> The Attorney General’s Guide to Manufactured Housing Community Law addresses the important role 940 CMR 10.03(2)(m) plays protecting residents in this situation:

[Owner/operators] may not pass through such costs where the condition of the service or facility in the community that needs replacement or repair is in violation of the applicable law. For example, if your community’s septic system fails to meet an existing legal code or standard and a government agency orders the owner/operator to replace the system, the owner/operator must bear the costs of bringing the system up to code and may not pass along the expense to their tenants.

rents to allow an owner to recover the cost of bringing their sewer system up to code. *Id.* The residents sought a declaratory judgment that the board's rent increase violated 940 CMR 10.03(2)(m). *Id.* at \*1 & n. 5. In *Gates*, the Housing Court agreed with the residents, concluding that 10.03(2)(m) prohibited the owner from passing on these costs. *Id.* On appeal, the owner did not argue that it had not violated 10.03(2)(m), but instead argued that the trial court abused its discretion because the rent control board had previously authorized the increase. *Id.* at \*1. A panel of the Appeals Court rejected this argument:

Although the board approved the rent increases based on the information before it, *it did not have the power to authorize increases that were otherwise illegal*. As the judge stated, the board's approval of the rent increases requested by the appellants in no way excuses them from the obligation to act in accordance with applicable regulations and landlord tenant law.

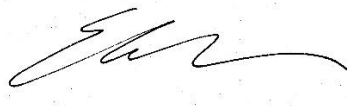
*Id.* at \*5 (emphasis added) (quotation omitted). Here too, the Chicopee rent control board did not have authority to authorize increases that may have been illegal under the Regulations.

For the reasons outlined above, the Attorney General's interpretation, which is entitled to substantial deference, is that the Regulations apply to rent-controlled MHCs.

\*\*\*

Thank you for your consideration of this filing.

Very truly yours,

A handwritten signature in black ink, appearing to read 'E. Peterson', with a long horizontal flourish extending to the right.

Ellen J. Peterson  
Assistant Attorney General

Paul Tuttle, Clerk  
February 14, 2025  
Page 5

cc:

**Counsel for Plaintiffs-Appellants**

Dan Ordorica  
Heisler, Feldman, & Ordorica, P.C.  
293 Bridge Street, #322  
Springfield, MA 01103

**Counsel for Defendant-Appellee**

Timothy J. Ryan  
Egan, Flanagan, & Cohen, P.C.  
67 Market Street, PO Box 9035  
Springfield, MA 01102

**Counsel for Intervenor-Appellee**

Joseph Lange  
Lyon & Fitzpatrick, LLP  
14 Bobala Road, Suite 4  
Holyoke, MA 01040

---

---

COMMONWEALTH OF MASSACHUSETTS

# Appeals Court

HAMPDEN, SS.

No. 2024-P-0857

---

KATHERINE DANT AND CINDY DELONGE,  
*Plaintiff-Appellants,*

v.

CITY OF CHICOPEE MOBILE HOME RENT CONTROL BOARD,  
*Defendant-Appellee*

*and*

M & S BLUEBIRD, INC.,  
*Intervenor-Appellee*

---

ON APPEAL FROM A FINAL JUDGMENT  
OF THE WESTERN DIVISION HOUSING COURT

---

## SUPPLEMENTAL AMICUS BRIEF OF THE ATTORNEY GENERAL

---

ANDREA JOY CAMPBELL  
*Attorney General*

Ellen J. Peterson (BBO No. 710158)  
*Assistant Attorney General*  
Consumer Protection Division  
One Ashburton Place  
Boston, Massachusetts 02108  
(617) 727-2200  
ellen.peterson@mass.gov

---

---

## **TABLE OF CONTENTS**

|                            |    |
|----------------------------|----|
| TABLE OF AUTHORITIES ..... | ii |
| ARGUMENT .....             | 1  |
| CONCLUSION.....            | 8  |
| ADDENDUM .....             | A  |

## **TABLE OF AUTHORITIES**

### **Cases**

|                                                                                                                      |      |
|----------------------------------------------------------------------------------------------------------------------|------|
| <i>Blake v. Hometown Am. Communities, Inc.</i> , 486 Mass. 268 (2020) .....                                          | 5    |
| <i>Care &amp; Prot. of Jaylen</i> , 493 Mass. 798 (2024) .....                                                       | 6    |
| <i>Carleton v. Commonwealth</i> , 447 Mass. 79 (2006) .....                                                          | 1    |
| <i>Chelmsford Trailer Park, Inc. v. Town of Chelmsford</i> ,<br>393 Mass. 186 (1984) .....                           | 5    |
| <i>Commonwealth v. DeCotis</i> , 366 Mass. (1974) .....                                                              | 3    |
| <i>Conservation Comm’n of Norton v. Pesa</i> , 488 Mass. 325 (2021) .....                                            | 4    |
| <i>Fletcher v. Littleton</i> , 68 Mass. App. Ct. 22 (2007) .....                                                     | 3    |
| <i>Greenfield Country Estates Tenants Ass’n., Inc. v. Deep</i> ,<br>423 Mass. 81 (1996) .....                        | 5    |
| <i>Healey v. Commissioner of Pub. Welfare</i> , 414 Mass. 18 (1992) .....                                            | 2    |
| <i>Nercessian v. Bd. of Appeal on Motor Vehicle Liab. Pol’ys &amp; Bonds</i> ,<br>46 Mass. App. Ct. 766 (1999) ..... | 2, 5 |
| <i>Sch. Comm. of Newton v. Newton Sch. Custodians Ass’n, Loc. 454, SEIU</i> , 438<br>Mass. 739 (2003) .....          | 5    |
| <i>Veksler v. Bd. of Registration in Dentistry</i> , 429 Mass. 650 (1999) .....                                      | 1    |

### **Statutes**

|                              |         |
|------------------------------|---------|
| G.L. c. 140, § 32L(7A) ..... | 6       |
| G.L. c. 140, § 32P .....     | 6       |
| G.L. c. 140, § 32S .....     | 3, 6    |
| G.L. c. 93A .....            | 3       |
| St. 1977, c. 596 .....       | 1, 2, 5 |
| St. 1993, c. 145 .....       | 6       |

### **Regulations**

|                        |            |
|------------------------|------------|
| 940 CMR 10.01 .....    | 4          |
| 940 CMR 10.03(2) ..... | 3, 4, 6, 7 |
| 940 CMR 10.03(4) ..... | 6          |
| 940 CMR 10.03(5) ..... | 4          |
| 940 CMR 10.05(4) ..... | 4, 6       |

### **Other Authorities**

|                                                                              |      |
|------------------------------------------------------------------------------|------|
| <i>The Attorney General’s Guide to Manufactured Housing Law</i> (2024) ..... | 6, 7 |
|------------------------------------------------------------------------------|------|

## ARGUMENT

Following oral argument in this appeal on April 8, 2025, the Court granted the Attorney General leave to file a supplemental brief to address two questions:

(1) Do each of the following expenses approved by the Rent Control Board qualify as “operating expenses” under the special legislation, St. 1977, c. 596?

(a) Sewer: \$156,310

(b) Betterment Costs: \$55,000

(2) Assuming there is a conflict between the special legislation for the Chicopee Rent Control Board, which describes a formula for the setting of rents, and the Attorney General’s regulations, in particular 940 Code Mass. Regs. 10.03(2)(m), is there case law that addresses how to resolve such a conflict?

Because the answer to the second question provides important context to the first, the Attorney General takes the two questions in reverse order.

“[R]egulations promulgated pursuant to statutory authority [are] treated with the same deference as statutes.” *Carleton v. Commonwealth*, 447 Mass. 791, 808–09 (2006). Although the Supreme Judicial Court has held that a direct conflict between an agency regulation and a statute should be resolved in favor of the statute, *Veksler v. Bd. of Registration in Dentistry*, 429 Mass. 650, 652 (1999), it has qualified this proposition by stating that such conflicts must be *irreconcilable*, such that application of one precludes application of the other, *Carleton*, 447 Mass. at 809. Otherwise, courts “must strive to construe allegedly inconsistent statutes ‘addressing similar subject matter together in order to make an harmonious whole

consistent with the legislative purpose[.]” *Nercessian v. Bd. of Appeal on Motor Vehicle Liab. Pol’ys & Bonds*, 46 Mass. App. Ct. 766, 770–71 (1999) (quoting *Healey v. Commissioner of Pub. Welfare*, 414 Mass. 18, 25–26 (1992) (alterations omitted). Here, for the reasons discussed below, St. 1977, c. 596 (the “Enabling Act”) and the Attorney General’s Manufactured Housing Community Regulations, 940 CMR 10.00 (the “Regulations”) do not irreconcilably conflict because the plain text of each law permits the application of the other.

The Enabling Act allows the Chicopee Rent Control Board (“RCB”) to adjust manufactured housing community (“MHC”) rents based on a formula designed to provide “a fair net operating income” to community owners, taking into consideration “all reasonable operating expenses.” St. 1977, c. 596, § 3. The Enabling Act is silent as to the definition of “reasonable operating expense.” Indeed, it is not expressly clear from the statutory language what qualifies as an “operating expense,” let alone what is “reasonable.” It is accordingly appropriate to look to the legislative design as a whole—the Manufactured Housing Act (the “Act”), G.L. c. 140, §§ 32A–32S, and its implementing Regulations—to glean the “expressed or presumed intent of the Legislature” in formulating manufactured housing law. *Nercessian*, 46 Mass. App. Ct. at 771.

The Regulations are appropriately read to fill this “gap” in the Enabling Act by defining certain unfair and deceptive acts and practices—*i.e.*, expenses which

would not be “reasonable” to pass onto manufactured homeowners because those practices would violate the Consumer Protection Act, G.L. c. 93A. *See Commonwealth v. DeCotis*, 366 Mass. 234, 240 (1974) (unreasonable manufactured home resale fee was unfair and deceptive). The Regulations do nothing to prevent the RCB from passing on operating expenses incurred in a manner that does not violate c. 93A. Indeed, the Regulations take no position on the meaning of an “operating expense” at all. They simply specify—as the Legislature directed the Attorney General to do, G.L. c. 140, § 32S—practices that would be unfair and deceptive for an MHC owner to engage in. Defining what is and is not “reasonable” in the context of passing on expenses from owners to their residents falls squarely into the Legislature’s express delegation of authority. *See Fletcher v. Littleton*, 68 Mass. App. Ct. 22, 27 (2007) (applying “canon of statutory construction that general language must yield to more specific language”); 940 CMR 10.03(2) (listing unfair and deceptive fees).

Any other reading of the Regulations would produce absurd and untenable results. If rent control boards are not bound to observe the Regulations in determining rent, they are not bound by c. 93A and could approve unfair and deceptive rent increases and fees that they determine to be “operating expenses.” For example, in addition to passing on expenses to correct legally deficient utility systems (as is the case in this appeal), 940 CMR 10.03(2)(m), they could approve

the following: discriminatory increases (*i.e.*, increases that vary among residents) for the costs of capital improvements, even where the possibility of such costs was not disclosed to the residents, 940 CMR 10.03(2)(l); discriminatory charges for the costs of utilities, 940 CMR 10.05(4)(c); hidden or undisclosed fees, 940 CMR 10.03(2)(b), (k); and numerous other fees prohibited by the Regulations, including entrance and exit fees, guest fees, per capita occupant fees, common area usage fees, and pet fees, 940 CMR 10.03(2)(a), (d), (e), (g) & (h). This would produce the absurd and unjust result that residents of rent-controlled communities could paradoxically be subject to rent increases that would never be allowed in *non*-rent-controlled communities. See *Conservation Comm’n of Norton v. Pesa*, 488 Mass. 325, 332 (2021) (courts “must avoid any construction of statutory language which leads to an absurd result, or that otherwise would frustrate the Legislature’s intent”). Because there is no irreconcilable conflict between the Enabling Act and the Regulations discussed above, this Court can and must avoid such a reading.<sup>1</sup> Indeed, the Supreme Judicial Court has advised that rent control boards “must be

---

<sup>1</sup> In the one instance that may have presented a conflict between the Regulations and existing rent control laws—the determination of “fair market rental rates,” which must be offered in a five-year lease—the Regulations resolve this tension by expressly deferring to the rent control law. 940 CMR 10.01; 10.03(5). This limited deference recognizes that rents in rent-controlled communities will generally be less than “rates that would be charged in the market,” as the term “fair market rental rates” is otherwise defined. 940 CMR 10.01.

mindful of” the Act when setting rent. *Chelmsford Trailer Park, Inc. v. Town of Chelmsford*, 393 Mass. 186, 193 (1984).

Lastly, the Enabling Act and the Regulations may be applied harmoniously where both seek to prevent unreasonably high rents in manufactured housing communities and thus have the same legislative purpose. *Nercessian*, 46 Mass. App. Ct. at 771. The Enabling Act sought to protect the welfare of elderly residents of MHCs in Chicopee by regulating rents and evictions. St. 1977, c. 596, § 1. The Act, and by extension the Regulations, are similarly intended “to provide relatively uniform, stable, long-term lease and community cost-sharing arrangements,” *Blake v. Hometown Am. Communities, Inc.*, 486 Mass. 268, 269 (2020), for “elderly persons and families of low and moderate income, who are often lacking in resources and deserving of legal protection.” *Id.* at 275 (quoting *Greenfield Country Estates Tenants Ass’n., Inc. v. Deep*, 423 Mass. 81, 83 (1996)). Moreover, the preamble to the Regulations states that they are “designed to supplement state . . . law,” reflecting an intent to be applied consistently with rent control laws. 940 CMR 10.00. Thus, the Enabling Act and Regulations must be read harmoniously and “not to undercut each other.” *Sch. Comm. of Newton v. Newton Sch. Custodians Ass’n, Loc. 454, SEIU*, 438 Mass. 739, 751 (2003).<sup>2</sup>

---

<sup>2</sup> When the Legislature amended the Act in 1993, it was aware of the Enabling Act and the many other municipalities with rent control by-laws. It is accordingly

Turning to the first question, by defining certain unfair and deceptive practices, the Regulations impose certain limits and requirements on including the costs of utilities and capital improvements in rent. The Regulations permit a community owner to recover utility usage costs “through non-discriminatory rent increases,” 940 CMR 10.05(4)(c), that are permitted by the occupancy agreement, *id.* at 10.02(8)(a); *see also The Attorney General’s Guide to Manufactured Housing Law* (2024) (the “Guide”), p. 28.<sup>3</sup> The \$156,310 sewer fee at issue in this appeal may be reasonably applied by the RCB to the extent that it falls within these lawful parameters.

The Regulations also outline the circumstances under which community owners may and may not pass on the costs of “capital improvements,” 940 CMR 10.03(2)(l)–(m), (4)(b), on which the Attorney General has provided the following

---

reasonable to infer that the Legislature understood the impact of its delegation of authority to the Attorney General to define unfair and deceptive practices across *all* manufactured housing communities. *See Care & Prot. of Jaylen*, 493 Mass. 798, 802 (2024) (courts must assume Legislature was aware of existing statutes); Defendant-Appellee’s Supplemental Appendix (22 of 25 municipalities’ rent control by-laws were in effect by 1993). Indeed, the 1993 amendments to the Act added references to rent control for the first time in the Act’s history. St. 1993, c. 145, §§ 15 & 18 (amending G.L. c. 140, §§ 32L(7A) and 32P). In the same amendments, the Legislature granted the Attorney General authority to issue the Regulations, *Id.* at § 20 (adding G.L. c. 140, § 32S), and nowhere disclaimed the Act’s or future Regulations’ applicability to rent-controlled communities.

<sup>3</sup> The Guide is accessible at <https://www.mass.gov/manufactured-housing>.

guidance:

[Capital improvements are] a major or extraordinary expense -- other than ordinary repairs or maintenance -- to improve or repair a service or facility in the community that benefits the tenants. Examples of capital improvements include *connecting your community to town water or sewer systems....*

Guide, p. 34 (emphasis added). Owners may only pass on the costs of capital improvements if the possibility of capital improvements is disclosed in the occupancy agreement and the cost is amortized over the useful life of the improvement through nondiscriminatory rent increases. 940 CMR 10.03(2)(l).

However, as applicable to the \$55,000 betterment fee in this appeal, “if [a] community’s septic system fails to meet an existing legal code or standard and a government agency orders the owner/operator to replace the system, the owner/operator *must bear the costs of bringing the system up to code and may not pass along the expense to their tenants.*” Guide, p. 35 (emphasis added); 940 CMR 10.03(2)(m). While the Enabling Act allows owners to recover “reasonable operating expenses,” passing on expenses that violate the Regulations is inherently unreasonable because such a practice would violate c. 93A.

## **CONCLUSION**

Because the Attorney General's Regulations apply to rent-controlled MHCs and the Housing Court concluded otherwise, the judgment below should be reversed.

Respectfully submitted,

ANDREA JOY CAMPBELL  
*Attorney General*

/s/ Ellen J. Peterson  
Ellen J. Peterson (BBO No. 710158)  
*Assistant Attorney General*  
Consumer Protection Division  
One Ashburton Place  
Boston, MA 02108  
(617) 727-2200  
ellen.peterson@mass.gov

Date: April 22, 2025

**CERTIFICATION PURSUANT TO MASS. R. APP. P. 16(k)**

I, Ellen J. Peterson, hereby certify that the foregoing brief complies with the rules of court that pertain to the filing of briefs, including, but not limited to:

Mass. R. A. P. 16 (a)(13) (addendum);

Mass. R. A. P. 16 (e) (references to the record);

Mass. R. A. P. 18 (appendix to the briefs);

Mass. R. A. P. 20 (form and length of briefs, appendices, and other documents); and

Mass. R. A. P. 21 (redaction).

I further certify that the foregoing brief complies with the applicable length limitation in Mass. R. A. P. 20 because it is produced in the proportional font Times New Roman at size 14, and contains 1,469, total non-excluded words as counted using the word count feature of Microsoft Word.

/s/ Ellen J. Peterson

Ellen J. Peterson

Date: April 22, 2025

## **CERTIFICATE OF SERVICE**

I hereby certify that on April 22, 2025, I filed with the Appeals Court and served the attached Supplemental Amicus Brief of the Attorney General, through the electronic means provided by the clerk.

### **Counsel for Plaintiffs-Appellants**

Dan Ordorica  
Heisler, Feldman, & Ordorica, P.C.  
293 Bridge Street, #322  
Springfield, MA 01103

### **Counsel for Defendant-Appellee**

Timothy J. Ryan  
Egan, Flanagan, & Cohen, P.C.  
67 Market Street, PO Box 9035  
Springfield, MA 01102

### **Counsel for Intervenor-Appellee**

Joseph Lange  
Lyon & Fitzpatrick, LLP  
14 Bobala Road, Suite 4  
Holyoke, MA 01040

/s/ Ellen J. Peterson  
Ellen J. Peterson

## **ADDENDUM**

### **Statutes**

|                                                              |         |
|--------------------------------------------------------------|---------|
| G.L. c. 140, §§ 32A – 32C: The Manufactured Housing Act..... | 1 - 13  |
| G.L. c. 93A: The Consumer Protection .....                   | 14 - 29 |

### **Legislative Acts**

|                                                                       |         |
|-----------------------------------------------------------------------|---------|
| St. 1977, c. 596: Chicopee Rent Control Enabling Act .....            | 30 - 32 |
| St. 1993, c. 145: Amendments to the Manufactured<br>Housing Act ..... | 33 - 41 |

### **Regulations**

|                                                                       |         |
|-----------------------------------------------------------------------|---------|
| 940 C.M.R. 10.00: Manufactured Housing<br>Community Regulations ..... | 42 – 60 |
|-----------------------------------------------------------------------|---------|

### **Other Sources**

|                                                                                                    |         |
|----------------------------------------------------------------------------------------------------|---------|
| The Attorney General’s Guide to Manufactured<br>Housing Community Law (Pages 1, 28, & 34-35) ..... | 61 - 64 |
|----------------------------------------------------------------------------------------------------|---------|

### **Relevant Excerpts from the Record on Appeal**

|                                                                              |         |
|------------------------------------------------------------------------------|---------|
| Housing Courts Ruling on Cross Motions for<br>Judgment on the Pleadings..... | 65 - 74 |
|------------------------------------------------------------------------------|---------|