



**So Ordered**  
 /s/ Brady, M Jane May 13, 2014

EFiled: May 13 2014 02:14PM  
 Transaction ID 55439814  
 Case No. N14C-03-218 MJB

**IN THE SUPERIOR COURT OF THE STATE OF DELAWARE  
 IN AND FOR NEW CASTLE COUNTY**

<b>STATE OF DELAWARE,</b>	)	
	)	
<b>Plaintiff,</b>	)	
	)	
<b>v.</b>	)	<b>C.A. No. N14C-03-218 MJB</b>
	)	
<b>BON AYRE LAND LLC</b>	)	
<b>BON AYRE HOMES, INC., and</b>	)	
<b>LENAPE PROPERTIES</b>	)	
<b>MANAGEMENT, INC.</b>	)	
	)	
<b>Respondents.</b>	)	

**STIPULATED ORDER**

The Plaintiff, the State of Delaware, has filed a Complaint seeking a cease and desist order, damages and other relief in this matter pursuant to Delaware's Consumer Fraud Act, 6 Del. C. §§ 2511-2527, Delaware's Manufactured Home Owners and Community Owners Act, 25 Del. C. § 7001 et seq., and 29 Del. C. § 2517 et seq, alleging that Respondents Bon Ayre Land, LLC, Bon Ayre Homes, Inc., and Lenape Properties Management, Inc. (collectively "Respondents") committed violations of the aforementioned Acts. While the Respondents deny that they committed the alleged violations, Plaintiff, by the undersigned Deputy Attorney General, and Respondents, by their counsel, have agreed to a resolution or settlement by agreeing to the entry of this Stipulated Order by the Court without trial or adjudication of any issue of fact or law.

**DEFINITIONS**

1. "Attorney General" shall mean the Attorney General of the State of Delaware and his Deputies.

2. "Effective Date" shall mean the date on which a copy of this Judgment/Order, duly executed by Respondents and by the Attorney General, is approved by, and becomes a Judgment/Order of the Court.

3. "MHOCOA" shall mean Delaware's Manufactured Home Owners and Community Owners Act, 25 Del. C. § 7001 *et seq.*

4. "Promotional Conduct" shall mean the act or impression created by Respondents, through any of its agents or employees, that Tenants would not be responsible for any portion of Bon Ayre property taxes.

5. "The Pro Rata Share in any Increase in Property Taxes" shall mean any amount of monies allegedly owed by Tenants pursuant to Paragraph 30 of a Tenant's lease which provides:

In addition to the agreed Base Community Fees, Lessee shall pay as an additional Supplemental Community Fees during this Lease Agreement, an amount representing the Lessee's proportionate share of any increases in real estate taxes on the Community or any portion thereof, environmental impact Fees, license Fees, plus any new costs or charges or assessments subsequent to the date of this Lease Agreement imposed upon the Lessor by any governmental agency in the nature of or in lieu of real estate or other taxes such as a home tax, a leasehold tax, or a tax assessed against the Lessor computed as to either the number of home or homesites in the Community or as to the Base Community Fees collected therefrom. Lessee shall pay any such additional Base Community Fees within fifteen (15) days of being invoiced by Lessor for the same.

6. "Rent Justification Law" shall mean the procedure set forth in 25 Del. C. § 7040 *et seq.*, as well as the regulations set forth by the Manufactured Home Relocation Trust Authority.

7. "Tenant" shall mean any individual who had a leasehold agreement with Respondents during the period alleged in the Complaint.

## RELEVANT FACTS AND CONTENTIONS

8. In promoting the sale of homes Bon Ayre Homes, Inc. in their advertisement in to 2005 Winter edition of *Mature Living Choices*, and for sometime prior, Respondents advertised “NO REAL ESTATE TAXES”,

9. Prior to 2005 Respondents routinely provided prospective purchasers with “information Sheets,” that represented: “[s]ince Bon Ayre is a **Land-Lease Community**, Real Estate or Land Taxes are paid by the owner of the land, and not by the home owners.” While it modified its “Information Sheet” in 2005, the State contends that Respondents have continued to foster the belief that the owner would be responsible for the payment of property taxes: “[s]ince Bon Ayre is a **Land-Lease Community**, the Real Estate or Land Taxes are paid by the owner of the land, (subject to paragraph 30 of the lease).”

10. The State contends Respondents’ Promotional Conduct misrepresented a Tenant’s obligations in light of paragraph 30 of a Tenant’s lease, which required a tenant to pay a Pro Rata share in any increase in real estate taxes. Respondents deny that the above conduct violated 6 *Del. C.* § 2513.

11. The State also contends that the increase in taxes is considered “rent” and is not a “fee” and that Respondents failed to include a stipulation of the total amount of rent due in violation of 25 *Del. C.* § 7006(a)(2). Respondents do not dispute the State’s contention that an increase in taxes is considered rent but Respondents deny that 25 *Del. C.* § 7006(a)(2) was violated.

12. The State also alleges that by demanding payment of the Pro Rata Share in any Increase in Property Taxes, Respondents did raise or attempt to raise the Tenant’s rent more than once in a 12-month period in violation of 12 *Del. C.* § 7021. Respondents deny raising or

attempting to raise the Tenant's rent more than once in a 12-month period and deny that 25 *Del. C.* § 7021 was thereby violated.

13. The State contends by demanding payment of the Pro Rata Share in any Increase in Property Taxes, Respondents did raise or attempt to raise the Tenant's rent without giving 60-days written notice to each affected Tenant in violation of 25 *Del. C.* § 2021. Respondents deny raising or attempting to raise the Tenant's rent without giving 60-days written notice to each affected Tenant and deny that 25 *Del. C.* § 7021 was thereby violated.

**WHEREFORE**, it is hereby stipulated, agreed, and ordered:

1. This Court has jurisdiction over the subject matter of this lawsuit and over all Parties.
2. The terms of this Stipulated Order shall be governed by the laws of the State of Delaware.
3. Entry of this Stipulated Order is in the public interest and reflects a negotiated agreement among the Parties.
4. The Parties have agreed to resolve the issues relating to the allegations made by the Attorney General of the State of Delaware by entering into this Stipulated Order.
5. Respondents are willing to enter into this Stipulated Order regarding the allegations made by the Attorney General in order to resolve the Attorneys General's concerns under Delaware's Consumer Fraud Act and MHOCOA as to the matters addressed in this Stipulated Order and to avoid significant expense, inconvenience, and uncertainty.
6. This Stipulated Order shall be binding on Respondents and its officers, directors, shareholders, members, and employees.
7. Respondents will delete paragraph 30 from all new or renewing Bon Ayre leases

And will not enforce and/or delete paragraph 30 of any current lease. Therefore, no Bon Ayre lease will contain paragraph 30 or any such provision as to real estate taxes.

8. Respondents agree that if they engage in the Promotional Conduct as described in paragraphs 8 and 9 of the Relevant Facts and Contentions, Respondents cannot use any increase in property taxes as a justification to increase Tenants' rent under the Rent Justification Law.

9. As to maintenance fees for services performed in "maintaining, improving, operating and/or equipping the open space and/or community areas including the community Center:" and the maintenance of other areas as are more fully and specifically outlined in the Rider to the Bon Ayre Lease, it is agreed that said fees will be calculated and charged by invoice at the end of the calendar year and collected in the following year with the required 60-days written notice. By way of example, whatever expenses are incurred by the Respondents in 2014 will be collected from the tenants in 2015 following 60-day written notice.

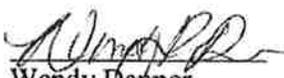
10. Respondents shall refund, by money or credit, any Pro Rata Share in any Increase in Property Taxes amounts paid by Tenants within 60-days of the Effective Date of this Order.

11. Within 90-days of the Effective Date of this Order, Respondents shall report and certify to the Attorney General that all refunds have been issued with the amount of the refund or credit issued by Respondents to each Tenant.

12. This Stipulated Order shall have no affect on any individual cause of action arising from Respondents' conduct as alleged in the Attorney General's Complaint.

13. This Court shall retain jurisdiction for the purpose of enforcing this Stipulated Order.

For the State of Delaware,



Wendy Danner  
Deputy Attorneys General  
Fraud and Consumer Protection Division  
Delaware Department of Justice

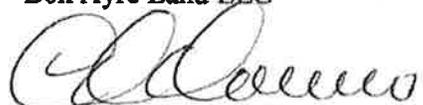
5.8.14  
Date

For Defendants



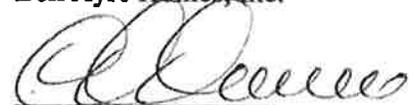
5/7/14  
Date

Bon Ayre Land LLC



5/7/14  
Date

Bon Ayre Homes, Inc.



5/7/14  
Date

Lenape Properties Management, Inc.



5/7/14  
Date

L. Vincent Rammuno,  
Counsel for Defendants

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
Judge

This document constitutes a ruling of the court and should be treated as such.

**Court Authorizer**

**Comments:**

SO ORDERED THIS 12TH DAY OF MAY, 2014 BY BRADY, J.