STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
JOHN O. PASTORE CENTER
1511 PONTIAC AVENUE
CRANSTON, RHODE ISLAND 02920

IN THE MATTER OF:	:	
	:	
WAKAMO PARK HOMEOWNERS ASSOC., PETITIONER,	:	
AND	:	
	:	**DBR No. 09-L-0090**
SHORELINE REALTY CO., INC., d/b/a WAKAMO PARK, RESPONDENT.	:	
	:	
REQUEST FOR DECLARATORY RULING	:	
	:	

DECISION

Hearing Officer: Richard Berstein, Esq.

Hearing Held: July 23, 2009

Appearances:

For Petitioner: Charles D. Wick, Esq.

For Respondent: George A. Comolli, Esq.

I. INTRODUCTION

This matter came before the Department of Business Regulation ("Department") as the result of a petition filed by the Wakamo Park Homeowners Association ("Petitioner[s]"), requesting a declaration that Shoreline Realty d/b/a Wakamo Park ("Respondent" or "Wakamo Park") is operating a mobile home park for which licensing and regulation is required under R.I. Gen. Laws §§ 31-44-1 and 31-44.1-1 *et seq.*

(Petitioner's Petition dated May 7, 2009, page 1). The Department's Director accepted the petition under the provisions of R.I. Gen. Laws § 42-35-8 and the Department's Central Management Regulation ("CMR") 3, entitled *Declaratory Rulings and Petitions*.

II. JURISDICTION OF THE DEPARTMENT

The Department has jurisdiction in this matter pursuant to R.I. Gen. Laws § 42-35-8, which provides, in pertinent part, that each administrative agency shall have a procedure for issuing a declaratory ruling regarding statutes within that agency's jurisdiction. The Department's CMR 3 provides the process for petitioning the Department for a declaratory ruling.

The Department also has jurisdiction to interpret R.I. Gen. Laws § 31-44-1 *et seq.* granted expressly by the Rhode Island General Assembly ("Legislature") in R.I. Gen. Laws §§ 31-44-1.4(a)(1), which provides that "the Department may: [i]nterpret and implement the provisions of this Chapter and the applicable provisions of Chapter 44.1 of this Title." The Legislature also provided in R.I. Gen. Laws § 31-44-16(a) that the Department has jurisdiction to "hear matters involving mobile and manufactured housing park rules, excluding only "issues relative to rent increases or… evictions." In light of the preceding, the present matter is properly before the Department to determine the meaning of R.I. Gen. Laws § 31-44-1(9) and to issue a declaratory ruling in accordance therewith.

III. FACTS & TRAVEL

Wakamo Park, an area currently occupied by twenty-nine (29) manufactured mobile homes, is located at 697 Succotash Road, South Kingstown, Rhode Island, as stated in Petitioner's brief. The property is currently zoned as commercial waterfront, the

designation of which prohibits mobile home parks. Wakamo Park, however, has an allowance for a nonconforming use, permitting Respondent to operate Wakamo Park (License No. 11,983; "for purpose of: Trailer Parks 30 Spaces," issued by the town of South Kingstown on July 9, 2009). Petitioner's brief contains affidavits from twenty-one (21) mobile and manufactured home owners who are Wakamo Park lessees, of which twelve (12) affidavits are from lessees with stick-built mobile homes. The affidavits also contain lease agreements, entered into by the affiants and Respondent, the specifics of which are not at issue. However, it is relevant to note that some lease agreements evidence Wakamo Park being described as a "mobile home park" by Respondent. Although noteworthy of its own accord, what Respondent wishes to label Wakamo Park is neither at issue, nor is it relevant to the ultimate determination of this matter. Rather, it is sufficient for the matter at bar to note that the executed leases are representative of permission granted by Respondent, to the affiants, to occupy the property.

The affidavits contained within Petitioner's Brief, Exhibit A, provide that their respective mobile and manufactured homes are designed for long term occupancy and that some owners have resided, at least seasonally, in their mobile and manufactured homes from two (2) to fifteen (15) years. The affidavits also establish that the homes meet the statutory definition of a "mobile and manufactured home" as defined by R.I. Gen. Laws § 31-44-1(8). This statutory provision will be discussed in Section VII below. Petitioner's Brief provides on page 5 that "many of their homes were transported to Wakamo [Park] on their own wheels or flatbed trucks from Auto Showcase, Inc., d/b/a Allstate Showcase of Homes in Norwich, Connecticut; which is owned and operated by the principals of [Respondent]." Petitioner's affidavits finally provide that their

respective mobile and manufactured homes can be moved, complete and ready for occupancy, to a pad, piers, or blocks with tie-down.

IV. ISSUE PRESENTED

The issue presented is whether a seasonally occupied mobile and manufactured home, located within a seasonally operated park, falls within the statutory definition of "mobile and manufactured home park" contained in R.I. Gen. Laws § 31-44-1(9). To be a "park" within the statutory definition of "mobile and manufactured home park, Respondent must maintain: (1) a plot of ground; (2) upon which four or more mobile or manufactured homes are located; and (3) are occupied for residential purposes. These three (3) requirements will be discussed below. All parties agree that Respondent is currently not licensed as a mobile home park pursuant to Rhode Island statutes and regulations.

There is no dispute that the Respondent owns a plot of ground. In addition, four (4) or more mobile or manufactured homes are located therein. Thus, the key issue is whether these manufactured homes located on Respondent's land are occupied for residential purposes.

V. STANDARD OF REVIEW

As the present matter is before the Department in a statute that is silent as to whether a mobile home park includes seasonal residential occupation, the Department must necessarily turn to the rules of statutory construction in determining the meaning of R.I. Gen. Laws § 31-44-1(9).

In construing statutes, the Department must "...examine[s] the entire statute to ascertain the intent and purpose of the Legislature." *Cummings v. Shorey*, 761 A.2d 680,

684 (R.I. 2000). The statute should be interpreted "...as a whole, making every effort to effectuate the legislative intent." *Smiler v. Napolitano*, 911 A.2d 1035 (R.I. 2006). In construing the intent of the Legislature, the enactment must be considered "...in its entirety and by viewing it in light of circumstances and purposes that motivated its passage." *Brennan v. Kirby*, 529 A.2d 633, 637 (R.I. 1987). The statute should not be construed to "render sentences, clauses, or words surplusage." *State v. Gonsalves*, 476 A.2d 108, 110-11 (R.I. 1984). Accordingly, the rules of statutory construction, as explained in the aforementioned cases, will be used to determine whether the regulation of mobile home parks excludes parks that provide only seasonal residential occupation.

VI. INTENT OF THE LEGISLATURE

Applying these principles to R.I. Gen. Laws § 31-44-1(9), we begin with the plain language of the statute to determine the legislative intent behind its enactment. At the crux of the matter is the definition and use of "for residential purposes". *Black's Law Dictionary* (Seventh Edition, 1999) defines "residence" to "usually just mean bodily presence as an inhabitant in a given place." As such, the question presented is whether the words "for residential purposes" connote a durational aspect of the specific length of time necessary to constitute "residence." The only clear indication of the Legislature's intended meaning of the term "Resident" is the definition of the term provided in R.I. Gen. Laws § 31-44-1(15) providing that a "Resident" is "an owner or renter occupying a mobile and manufactured home in a mobile and manufactured home park with the consent of the owner as defined in R.I. Gen. Laws § 31-44-1(11)." The statute thus plainly indicates that anyone occupying a (mobile home) residence falls within the protection of mobile home park regulation, regardless of the specific amount of time

spent there. Moreover, *Black's Law Dictionary* distinguishes "residence" from "domicile" which requires both bodily presence and an intention to make the place one's home. As such, a person may have more than one residence at a time, but only one domicile.

Pursuant to the rules of statutory construction, the entire statute must be considered, as a whole, to ascertain and effectuate the intent of the Legislature in the enactment thereof. *Cummings*, 761 A.2d 680, 684; *Smiler*, 911 A.2d 1035. A full and careful reading of R.I. Gen. Laws § 31-44-1 *et seq.*, indicates a clear intent and concern on the part of the Legislature as to the need to regulate the operation of mobile and manufactured home parks, and to provide protection for the tenants thereof. This clear intent is evidenced by the enumerated protections provided: specifically protecting mobile and manufactured home park tenants' rights to peaceably assemble; the proscribing of landlord reprisals against tenants; and the unique rules for evictions. *See* R.I.Gen. Laws §§ 31-44-13; 31-44-5; and 31-44-2. In light of the full title and chapter at issue, it is clear the Legislature intended to confer a certain degree of protection upon mobile and manufactured home park tenants, without regard for the time frame spent at the residence.

In order to further aid in the determination of legislative intent, the Department shifts its focus to consider the enactment, in its entirety, in light of the circumstances and purpose that motivated its passage. *Brennan*, 529 A.2d 633, 637. The motivation of the Legislature in its passage of R.I. Gen. Laws § 31-44-1 *et seq.* is not a matter of first impression; rather, the matter was rightly considered and enumerated by the Supreme Court of Rhode Island as recently as 2001. In its decision, the Rhode Island Supreme

court determined that "the legislative intent [in passing the Mobile and Manufactured Home Act] of affording special protection to residents of mobile home parks, who often are low and moderate income citizens, and the elderly" was the underlying reason for the passage of the statute now at issue. *Kingstown Mobile Home Park v. Strashnick*, 774 A.2d 847, 857 (R.I. 2001). To be certain, for reasons to be discussed *supra,* the Court did not intend its statement of the legislative intent to apply to only low income individuals; rather, those were simply the facts at bar. As the Court's focus in *Strashnick* was to examine the interpretation and application of the eviction process of R.I. Gen. Laws § 31-44-2, the applicability of the Court's analysis to the facts of the present inquiry ends there. *Id.* As the Department is not in a position to adopt an interpretation contrary to that of the Rhode Island Supreme Court in its determination of the Legislature's motives for passing R.I. Gen. Laws § 31-44-1 *et seq.*, the Department shall heed the opinion of the learned Justices to the extent it applies to the present matter.

In light of the Legislature's intent to provide special protections for the residents of mobile and manufactured home parks, the Department is still left to determine whom the Legislature intended to confer the statutory benefits and protections upon. Respondent urges the Department to interpret "for residential purposes," as used in § 31-44-1(9), to mean year-round occupancy. To adopt such an interpretation would necessarily restrict the application of R.I. Gen. Laws § 31-44-1 *et seq.*, bifurcating the classes of mobile and manufactured home park occupants to those year-round occupants worthy of the statutory protections, and those seasonal occupants who should be shuttered from the legislative protections in R.I. Gen. Laws § 31-44-1 *et seq.* Accordingly, the Department must necessarily give weight to the plain reading of the

statute, which evidences the legislative intent of protecting the tenancy rights of all mobile and manufactured home park residents, regardless of durational factors. The Department does not accept that the statutory protections of R.I. Gen. Laws § 31-44-1 *et seq.* should be interpreted to apply only to non-seasonal residents absent specific direction to do so. The Department notes specifically the use of the words "resident" and "occupying" by the Legislature. Had the Legislature intended a strict interpretation, it is likely that the Legislature would have used the terms "domiciliary," or "permanent resident" to effectuate its intent.

In reaching this interpretation, the Department notes and relies upon its unwillingness to confer upon the Legislature a seeming denial of equal protection, drawing a distinction between seasonal and non-seasonal residents that is neither present in the plain language of the statute, nor evidenced by the legislative intent. The Department is further compelled to reach this conclusion in light of the Department's duty in interpreting a statute to "avoid inconsistency and... unreasonable results." *Goff*, at 416-17. If the Legislature wished to bifurcate statutory protections between classes of mobile and manufactured home park occupants depending upon the duration of occupancy, then it is the provenance of the Legislature and not this Department to make this intention evident. It is not, nor can it be, the duty of the Department to circumvent the intention and statutory provisions adopted by the Legislature, as they are written, so as to create different classes of residents, some who are protected, and some who are not.

In light of the foregoing, it is clear that the meaning of "for residential purposes" as used in the definition of "mobile and manufactured home park," as adopted and intended by the Legislature in R.I. Gen. Laws § 31-44-1(9), does not patently exclude

seasonal occupants from the protections afforded year-round occupants. Respondent, in its brief, makes the argument that the Legislature, in enacting mobile and manufactured home park regulations, sought to protect low income individuals and provide only for affordable housing. As such, Respondent reasons that a seasonal "resort" mobile and manufactured home park should not fall under the statutory authority, citing *Brown v. Shumpert*, an unpublished Rhode Island Superior Court case from 2003. For reasons stated previously, the Department is unwilling to draw such an economic distinction among residents of mobile and manufactured home parks in the absence of clear statutory language directing this disparate treatment, as to do so would create an unreasonable interpretation of the existing statutory language. The Department further finds *Brown v. Shumpert* to not be on point for the facts of the present inquiry, as although the opinion does state that the legislative intent behind the enactment of R.I. Gen. Laws §§ 31-44-1 *et seq*. was to provide protections for mobile and manufactured home park tenants, many of whom are low income individuals, the opinion does not stand for the proposition that the Legislature only intended to confer the statutory protections upon such low income individuals.

VII. APPLICATION OF THE INTERPRETED STATUTE

A "mobile and manufactured home" as defined by R.I. Gen Laws. § 31-44-1(8) is "a detached residential unit designed: (i) [f]or a long term occupancy and containing sleeping accommodations, a flush toilet, and a tub or shower, bath, and kitchen facilities, and having both permanent plumbing and electrical connections for attachment to outside systems; (ii) [t]o be transported on its own wheels or on a flatbed or other trailer or detachable wheels; and (iii) [t]o be placed on pads, piers, or tied down, at the site where it

is to be occupied as a residence complete and ready for occupancy, except for minor and incidental unpacking and assembly operations and connection to utilities systems. The statute next defines in § 31-44-1-(9) that a "mobile and manufactured home park" is "a plot of ground upon which four (4) or more mobile and manufactured homes, occupied for residential purposes are located." It flows from the preceding that for Wakamo Park to be considered a "mobile and manufactured home park" under the relevant statutes, the preceding definitions must first be satisfied.

Wakamo Park is located in South Kingstown, Rhode Island appearing on the corresponding Tax Assessor's map as Plat 87-3, Lots 2 and 5, owned by Shore Line Realty Co. d/b/a Wakamo Park, and upon such plot of ground there are presently located more than 30 "residential structures." As Petitioner's brief in this matter describes "at least 9 mobile/manufactured homes" along with at least "12 stick built homes... on blocks for easy removal by trailer" the Department is satisfied that the statutory minimum of four (4) mobile and manufactured homes has been satisfied, so long as the homes meet the remaining statutory requirements [Petitioner's Brief, Page 2]. Applying the above referenced statutory requirements that define a mobile and manufactured home under R.I. Gen. Laws § 31-44-1(8); the Department is satisfied that the Wakamo Park properties fall within the statutory requirements for the regulation of mobile home parks.

The Department has reached the above conclusion in light of the following, supported by the owner affidavits contained within Exhibits A and B of Petitioner's Brief, and uncontroverted by Respondent. Sufficient documentation has been submitted upon which the Department can reasonably conclude that the structures located within Wakamo Park meet the statutory definition of a mobile and manufactured home, pursuant

to R.I. Gen. Laws § 31-44-1(8). Each home is a detached residential unit that: (i) contains sleeping accommodations, a flush toilet, a tub or shower, bath, and kitchen facilities and has both permanent plumbing and electrical connections for attachment to outside systems; (ii) can be transported on its own wheels, or on a flatbed or other trailer, and (iii) can be placed on pads or piers, or tied down at the site where it is to be occupied as a residence, complete and ready for occupancy except for minor and incidental assembly operations and connection to utilities systems. The brief of the Petitioner clearly supports the assertion that there are a sufficient number of such structures to invoke the statutory protections.

Respondent contends that this conclusion is in error to the extent that the utility services, as applied to water, are not permanent on part of the lessor's property, since the pipes are not located sufficiently deep below ground, necessitating the termination of water service during the winter months to the majority of the units. The Department is not swayed that seasonal water supply necessarily precludes the statutorily described permanent utilities connections. Rather, the Department reads this requirement, in light of the plain meaning of the statutory text, applying to the utilities provisions existing within the dwelling unit, up to and including the exterior termination of those utilities, where such termination is designed for permanent connection to an external hookup located appurtenant thereto. In a prior decision of the Department (In the Matter of Parkside Terrace Mobile Home Park, DBR No. 00-L-0005, April 24, 2002), reference was made to R.I. Gen. Laws § 31-44-7(1)(vii), which states, in relevant part, that the licensee must:

> "Maintain all utilities provided to mobile and manufactured home within the park up to and including the connection to the individual mobile/manufactured home, and all water and sewage lines and connections in good working order, and in the event of any emergency

make necessary arrangements possible for the provision of service on a temporary basis."

This statutory protection requires mobile home park licensees to maintain all utilities up to and including the connection to the individual mobile and manufactured home, and all water and sewage lines and connections in good working order. Accordingly, the *Parkside* case concluded that it is the responsibility of the park owner to maintain utilities, water and sewer lines. As such, the pipes within the mobile home are the responsibility of the tenant, but outside water and sewer pipes are a part of the infrastructure of the park, and must be maintained by the park owner.

Respondents contentions to the contrary are disingenuous at best. The entire statutory scheme regulating mobile home parks is permeated with an important legislative concern for public health, safely, and welfare. For example, R.I. Gen. Laws §31-44-1.7 provides, in pertinent part, that approved certifications are necessary before the Department can issue a license. Such required certifications relate to (1) compliance with land use regulations; and (2) adequate and operational sewage disposal systems from the DEM's ISDS licensed designers. In addition, R.I. Gen. Laws § 31-44-1.8 authorizes the Department of Health to conduct periodic surveys of mobile home parks. Accordingly, it would be specious for Respondent to assert that seasonal occupancy removes it from these important public health, safety, and welfare concerns.

As at least four (4) of the structures located within Wakamo Park, for occupancy by tenant lessees, fall within the statutory definition of mobile and manufactured homes contained in R.I. Gen. Laws § 31-44-1(8), the Department next moves to determine whether Wakamo Park falls under § 31-44-1(9), the definition of a mobile and manufactured home park. The statute provides that a mobile and manufactured home

park is a plot of ground upon which four (4) or more mobile and manufactured homes, occupied for residential purposes are located. *Id.* As the number and the classification of the structures has been satisfied, the last remaining requirement involves the key issue referenced in Section IV herein. The application of the specific facts will determine if Wakamo Park tenants occupy their mobile and manufactured homes for "residential purposes." As examined above, in determining the intent of the statute, the Department arrived at the conclusion that "residential purposes" does not patently exclude seasonal occupancy, as the Legislature did not directly evidence this intent.

Petitioner and Respondent have submitted various arguments for consideration that indirectly implicate "residential purposes," including past seasonal or year-round occupancies, language of lease agreements, and economic classifications by the Legislature. From these arguments, the Department finds no merit in Respondent's position that Wakamo Park is akin to a resort property, and as such, is exempt from regulation by this Department. Clearly, if the Department were to accept this conclusion, it would indicate a departure from the public interest that the Department is bound to uphold, subject to statutory requirements. Though it is true that at present, the residents of Wakamo Park do not physically occupy their leasehold interests year-round, they cannot be said to not occupy them for residential purposes when they are physically present. Any other determination would be contrary to the reality of the situation. Respondent urges the Department to adopt the rule that the nature of vacation property is such that it cannot be occupied for residential purposes. The tenant lessees of Wakamo Park may only be present on a seasonal basis; however, when they are present at Wakamo Park, they reside there with access to permanently connected utilities, in satisfaction of all other aspects of

the mobile and manufactured home park definition, further occupying the structures as residential houses. Moreover, they must necessarily be entitled to the same public health, safety, and welfare concerns mandated by statutory requirements. It is clear that the Legislature intended to protect mobile home owners occupying leased ground, at least in part, due to the inherent unequal relationship which exists between the mobile home park owner and the mobile home owner. Further, interpreting seasonal occupancy as being "for residential purposes" as the Department now does, assures that additional protections will be afforded to the occupants of such seasonal leaseholds, benefiting the public interest and well-being.

Respondent Shoreline Realty Co., the owners of Wakamo Park, assert that if seasonal occupancy constitutes "residential purposes" in light of the statute, Wakamo Park is exempt from the requirements of licensure because at the present time it cannot meet the statutory predicates upon which issuance of a license to operate a mobile home park is based. This contention is without merit, as the non-fulfillment of the requirements upon which a license shall issue cannot be said to obviate the need itself for licensure. Stated differently, it is Respondent's contention that since Wakamo Park would stand to be in likely violation of the statutory requirements placed upon mobile home park operator licensees, pursuant, inter alia, to the requirements of R.I. Gen. Laws § 31-44-1.7, Wakamo Park can therefore not be a mobile and manufactured home park. On this matter, the statute is clear and unambiguous; R.I. Gen. Laws § 31-44-1(9) defines a mobile or manufactured home park as "a plot of ground upon which four (4) or more mobile and manufactured homes, occupied for residential purposes are located." The statute does not define a mobile and manufactured home park as one capable of satisfying

R.I. Gen. Laws § 31-44-1(9) *and* the other substantive requirements affecting licensure and violations appurtenant thereto; thus, neither shall the Department import such a meaning. As previously explained, there is no doubt that Shoreline Realty d/b/a Wakamo Park is the owner and operator of a mobile and manufactured home park, and must comply with all of the statutory requirements imposed on park owners in R.I. Gen. Laws § 31-44-1 *et seq.*, including but not limited to securing a license with approved certifications as required by R.I. Gen. Laws § 31-44-1.7.

To conclude, it is clear from the preceding that in light of the proper interpretation of R.I. Gen. Laws § 31-44-1 *et seq.*, the Wakamo Park property owned and operated by Shoreline Realty is a mobile and manufactured home park falling under the Department's regulatory authority.

VIII. FINDINGS OF FACT

Pursuant to the requirement of R.I. Gen. Laws § 31-44-18(a) the Department issues the following findings of fact:

1. Wakamo Park is located at 607 Succotash Road, South Kingstown, Rhode Island.
2. Respondent maintains land on which four (4) or more mobile and manufactured homes are sited.
3. The mobile and manufactured homes are occupied as residences during certain times of the year.

IX. CONCLUSIONS OF LAW

1. The seasonally occupied structures located at Wakamo Park are mobile and manufactured homes as defined in R.I. Gen. Laws § 31-44-1(8)

2. The seasonally occupied structures located at Wakamo Park are occupied for residential purposes as intended by R.I. Gen. Laws § 31-44-1(9).
3. Wakamo Park, owned and operated by Shoreline Realty, is subject to the requirements of licensure and other regulatory requirements contained in R.I. Gen. Laws §§ 31-44-1 *et seq.*, and 31-44.1-1 *et seq.*

Accordingly, Wakamo Park is forthwith subject to the regulatory authority of the Department of Business Regulation, pursuant to R.I. Gen. Laws § 31-44-1.4.

X. RECOMMENDATION

Based on the above analysis, the Hearing Officer recommends that the Director of the Department of Business Regulation find that R.I. Gen. Laws §§ 31-44-1 *et seq.* and 31-44-1-1 *et seq.* be interpreted as applying not only to year-round mobile home parks, but also to seasonally operated mobile and manufactured home parks This finding includes Respondent Shoreline Realty Co., Inc., d/b/a Wakamo Park, which shall comply with all licensing and other regulatory requirements forthwith.

It is further recommended that Respondent be given until July 15, 2010, to fully comply with all required mandates imposed upon mobile home operators, including, but not limited to:

A. Licensing requirements as set forth in R.I. Gen. Laws § 31-44-1.7;
B. The promulgation of reasonable rules and regulations as mandated by R.I. Gen. Laws § 31-44-3;
C. Compliance with the sale of mobile and manufactured homes pursuant to R.I. Gen. Laws § 31-44-4;
D. Prohibition against reprisals by a licensee as set forth in R.I. Gen. Laws § 31-44-5

E. Lease requirements under R.I. Gen. Laws § 31-44-7;

F. Security deposit requirements pursuant to R.I. Gen. Laws § 31-44-7.1;

G. Notice requirements as set forth in R.I. Gen. Laws § 31-44-8; and

H. Notification and cooperation required pursuant to R.I. Gen. Laws § 31-44-9; and

I. Statutory requirements pertaining to lot rental increases pursuant to R.I. Gen. Laws § 31-44-1 *et seq.*

Accordingly, Respondent shall further ensure that at all times relevant to any tenant at Wakamo Park, all such lessees have the protections provided in R.I. Gen. Laws §§ 31-44-1 *et seq.* and 31-44-1-1 *et seq.* Respondent shall also, within thirty (30) days, submit a Compliance Plan to the Department with all actions to be taken to comply with the terms of this Decision. Any subsequent violation(s) of statute may result in: (1) the commencement of an investigation pursuant to R.I. Gen. Laws § 31-44-9.2; (2) the application of remedies as contained in R.I. Gen. Laws § 31-44-9.1; and (3) the imposition of administrative penalties pursuant to R.I. Gen. Laws § 31-44-10.

Dated: May 18, 2010

Richard W. Berstein
Hearing Officer

I have read the Hearing Officer's Decision and Recommendation in this matter, and I hereby

__✓__ ADOPT
_____ REJECT
_____ MODIFY

the Decision and Recommendation.

A. Michael Marques
Director

NOTICE OF APPELLATE RIGHTS

THIS DECISION AND DECLARATORY RULING CONSTITUTES A FINAL ORDER OF THE DEPARTMENT OF BUSINESS REGULATION PURSUANT TO R.I. GEN. LAWS § 42-35-12. PURSUANT TO R.I. GEN. LAWS § 42-35-15, THIS ORDER MAY BE APPEALED TO THE SUPERIOR COURT SITTING IN AND FOR THE COUNTY OF PROVIDENCE WITHIN THIRTY (30) DAYS OF THE MAILING DATE OF THIS DECISION. SUCH APPEAL, IF TAKEN, MUST BE COMPLETED BY FILING A PETITION FOR REVIEW IN SUPERIOR COURT. THE FILING OF THE COMPLAINT ITSELF DOES NOT STAY ENFORCEMENT OF THIS ORDER. THE AGENCY MAY GRANT, OR THE REVIEWING COURT MAY ORDER, A STAY UPON THE APPROPRIATE TERMS.

CERTIFICATION

I hereby certify on this 18th day of May, 2010, that a copy of the within Decision was sent by first class mail, postage prepaid to:

Charles D. Wick, Esq.
1050 Main Street, Suite 23
East Greenwich, Rhode Island 02818

George A. Comolli, Esq.
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And by electronic mail to the following personnel of the Department of Business Regulation, 1511 Pontiac Avenue, Cranston, Rhode Island 02920:

Richard Berstein, Esq.
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