

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

The Manager of the Manufactured Homes)
and Modular Units Program of the)
Missouri Public Service Commission,)
)
Complainant,)
)
v.)
)
Stephen L. Johnson d/b/a Colony Cove, Inc.)
and/or Sequiota Investments, Inc.,)
3951 S. Mentor Ave., Lot 54)
Springfield, MO 65804,)
)
Respondent.)

Case No. MC-2025-0108

**STAFF’S RESPONSE TO RESPONDENT’S MOTION TO DISMISS
THE FIRST AMENDED COMPLAINT FOR FAILURE TO STATE A CLAIM
FOR WHICH RELIEF CAN BE GRANTED**

COMES NOW the Manager of the Manufactured Homes and Modular Units Program of the Missouri Public Service Commission (“Manager”), by and through the Office of Staff Counsel (“Staff”) of the Missouri Public Service Commission (“PSC” or Commission”), and in response to Respondent’s *Motion to Dismiss the First Amended Complaint for Failure to State a Claim for Which Relief Can Be Granted* (“*Motion to Dismiss*”), states as follows:

FACTUAL BACKGROUND

1. On September 23, 2024, Staff filed a formal *Complaint* against Stephen L. Johnson d/b/a Colony Cove, Inc., and/or Sequiota Investments, Inc. (“Respondent”), and on October 17, 2024, Staff filed a *Motion for Leave and First Amended Complaint* against Respondent in the above-captioned case.

2. On November 21, 2024, Respondent filed an *Answer* to the *First Amended Complaint*.

3. In his *Answer*, Respondent admits the allegations in the *First Amended Complaint* stating, *inter alia*, that the manufactured homes placed on Lots 26, 29, 30, 46, and in Hollister, Missouri were delivered to Sequiota Investments, Inc.,¹ a business entity for which Respondent is the Registered Agent, and through which he is doing business.

4. A Prehearing Conference was held on December 20, 2024, between the attorneys for the parties and the judge. No action was taken by either the parties or the judge to set the matter for hearing, and no motions were filed or otherwise made at that time.

5. Respondent filed the above-referenced *Motion to Dismiss* pursuant to 20 CSR 4240-2.070(7) on February 26, 2025.

6. By its February 28, 2025, *Order Directing Responses*, the Commission ordered Staff to respond to *Respondent's Motion to Dismiss* no later than March 18, 2025.

STANDARD OF REVIEW

7. Commission Rule 20 CSR 4240(7) states, "The commission, ... on the motion of a party, may after notice dismiss a complaint for failure to state a claim on which relief may be granted or failure to comply with any provision of these rules or an order of the commission, or may strike irrelevant allegations."

8. "Rule 55.05 delineates what pleadings must include to set forth a claim for relief: '(1) a short and plain statement of the facts showing that the pleader is entitled to relief and (2) a demand for judgment for the relief to which the pleader claims to be

¹ Respondent's *Answer*, paragraphs 16, 22, 28, 35, and 41.

entitled.’ The party seeking relief need only plead ultimate facts, not evidentiary facts.” *Barrett v. Cole Cnty.*, 687 S.W.3d 685, 695 (Mo.App.W.D., 2024), citing, *R.M.A. by Appleberry v. Blue Springs R-IV Sch. Dist.*, 568 S.W.3d 420, 425 (Mo. banc 2019).

9. “A motion to dismiss for failure to state a claim is solely a test of the adequacy of the plaintiff’s petition.” *Banks v. KC Area Transport. Auth.*, 637 S.W.3d 431, 436 (Mo.App. W.D. 2021), citing, *Wyman v. Mo. Dept. of Mental Health*, 376 S.W.3d 16, 18 (Mo. App. W.D. 2012).

10. A court reviews the petition “to determine if the facts alleged meet the elements of a recognized cause of action, or of a cause that might be adopted in th[e] case.” *Barrett*, at 695, citing *Matthews v. Harley-Davidson*, 685 S.W.3d 360, 364–66 (Mo. banc 2024). “We ‘accept all properly pleaded facts as true, giving the pleadings their broadest intendment, and construe all allegations favorably to the pleader.’” *Id.*

ARGUMENT

Respondent Stephen L. Johnson d/b/a Colony Cove, Inc., and/or Sequiota Investments, Inc. Violated the Manufactured Housing Laws

11. In order to state a claim under §§ 386.390.1, and 700.115.2, RSMo, against Respondent, the Manager must allege facts that allow the Commission to find that he violated the law with respect to manufactured housing.

12. Section 700.010(10), RSMo, defines a “person” as “an individual, partnership, corporation or other legal entity.”

13. A corporation cannot act but through its agents or representatives – “unless some individual does so on its behalf.” *Naylor Senior Citizens Housing LP, et al. v. Sides Construction Co., Inc.*, 423 S.W.3d 238, 244 (Mo.banc 2014). In this case, and in each

instance alleged herein, with respect to each manufactured home purchased and installed, it was Mr. Johnson, acting as the principal and representative of and/or on behalf of Colony Cove, Inc. and/or Sequiota Inc., which is named in the *First Amended Complaint*. See, *Johnson v. Usera*, 695 S.W.3d272, 284 (Mo.App.W.D. 2024).

14. Respondent, as the term is defined in the *First Amended Complaint*, fits that definition. He is an individual, doing business as Colony Cove, Inc. and/or Sequiota Investments, Inc. Both entities, which are registered with the Missouri Secretary of State as for profit corporations list Stephen Johnson as their registered agent. Furthermore, on Sequiota Investment’s Biennial Registration Report filed with the Missouri Secretary of State, Mr. Johnson is listed as President, Secretary, and Board Member for the corporation. On Colony Cove, Inc.’s Registration, he is listed as the Registered Agent.

15. In this case, Respondent admits that the manufactured homes were “purchased by Sequiota Investments, Inc.” and that Chris Williams of Statewide Transport ... installed each of the manufactured homes referred to in the *Fist Amended Complaint*.”² Therefore, an action lies against Respondent, acting as an agent and representative and doing business as Colony Cove, Inc., and/or Sequiota Investments, Inc.

Count I
§§ 700.065 and 700.076, RSMo,
Failure to Properly Anchor New Manufactured Homes

16. Under §§ 700.065, .076.1, and 683.1 RSMo, and 20 CSR 4240-127.010, Respondent had the responsibility to anchor and install the manufactured homes in

² See, Respondent’s *Answer to First Amended Complaint*, Paragraph 1.

accordance with “standards promulgated by the commission” in a manner fit for safe habitation of those homes.

17. Staff’s *First Amended Complaint* alleges and lists, in detail, several ways in which Respondent failed to do so. Specifically, the deficiencies noted on the Inspector’s Site Inspection Reports for each manufactured home set forth in the First Amended Complaint specifically lists problems with the homes’ anchoring system, including, *inter alia* “the use of cross drive anchors ... is improper; There are no anchors within 2’ of the end of the home. The anchor straps are not protected where in contact with the frame. There have been no tie down systems installed as required.”³

18. Such anchoring requirements are specifically required by the manufacturer and by the Federal Regulations of the Housing and Urban Development Department (HUD), adopted by the Commission, specifically 24 USC §§ 3280, 3282, 3285, and 3286. See, 20 CSR 4240-120.021 and 20 CSR 4240-120.100.

19. Furthermore, Respondent purchased the manufactured homes directly from a manufacturer to be used as rental units. Therefore, under §§ 700.015 and 700.656, RSMo, he had the obligation, under law, to hire a licensed installer to set and anchor the homes in accordance to manufacturer specifications and state and federal code. He failed to do so.

Count II
§ 700.015, RSMo,
Code Compliance Required

20. Section 700.015.1, RSMo, forbids anyone from offering for rent a new manufactured home unless that home “complies with the code and bears the proper seal.”

³ See, *Amended Complaint*, Paragraph 18.d.

21. A “new” manufactured home is defined as one which is “being sold or offered for sale to the first purchaser for purposes other than resale.” § 700.010(9), RSMo.

22. Each of the manufactured homes at issue in this case are considered “new,” in that Respondent purchased the homes directly from the manufacturer, namely Champion Home Builders, for the specific purpose of renting each of them out to potential renters at the Colony Cove Mobile Home Park⁴ located in Springfield, Missouri, and at 112 Matthews St., Hollister, Missouri.⁵ At the time of the purchase of the manufactured homes by Respondent from the manufacturer, the potential renters were unknown to Respondent.

23. Being new manufactured homes, Respondent had a duty to make sure each home was installed and otherwise set up by a licensed installer in accordance with the manufacturer’s installation manual, Commission and HUD codes and standards, and had an installer’s decal affixed to it “upon completion of the installation.” See, §§ 700.010(9) and 700.683, RSMo, and 20 CSR 4240-120.065(1)(B).

24. The *First Amended Complaint* lists specifically the deficiencies noted by the Inspector for the Manufactured Housing and Modular Units Program (“Inspector”) for each home inspected and how each home’s set up failed to meet state code and manufacturer installation requirements.

25. Respondent was responsible for hiring a licensed installer to set the homes, and he failed to do so, in violation of §§ 700.656 and 700.671, RSMo, in that at no time

⁴ Specifically onto Lots #s 26, 29, 30, and 46.

⁵ Neither Mr. Johnson, nor any of this family members were going to live in any of the manufactured homes being rented out by Respondent.

had the installer been issued an installer license by the Commission pursuant to § 700.659, RSMo.

26. Furthermore, none of the manufactured homes described in the *First Amended Complaint* had an installers' decal affixed to it after it was installed by the individual Respondent hired to set the homes, in violation of §700.683.3, RSMo.

Count III
§ 700.671, RSMo,
Misdemeanor Engaged in the Business of Installer Without a License

27. Under § 700.656, RSMo, unless a person is installing a manufactured home on his or her own personal property, or “is a direct agent of a licensee, working under a licensee’s supervision and within a licensee’s job scope,” that person may not install a manufactured home on a piece of real property without a valid installer license issued by the Commission.

28. If a person is not a licensed installer, as Respondent in this case, he must make sure that the person hired or contracted/subcontracted to install the manufactured home is a licensed installer. § 700.656.3, RSMo. Under that statute, generally, the licensed installer is “responsible for supervising all such agents for their competent and proper performance.”

29. Here, Respondent was neither a licensed installer, nor the homeowner of the manufactured homes being installed, nor a licensed dealer or manufacturer contracting or subcontracting with a licensed installer to install any of the manufactured homes described in the *First Amended Complaint*.

30. Under § 700.656, RSMo, a person cannot hold someone else out as a one who engages in the business of an installer or acts in the capacity of an installer without being duly licensed by the Commission.

31. As alleged in the First Amended Complaint, Respondent used the services or otherwise employed an unregistered installer(s) to perform the installations of each one of the five homes described above, in violation of §§ 700.656 and 700.671, RSMo. At no time had the installer used by Respondent to set up and install each of the homes described above been issued an installer license by the Commission pursuant to or in accordance with § 700.659, RSMo.

Count IV
§ 700.045, RSMo,
Misdemeanor Failure to Correct Defects Within 90 Days

32. Failing to correct code violations in a new manufactured home within 90 days “after being ordered to do so in writing by an authorized representative of the commission” is considered a misdemeanor, according to § 700.045(5), RSMo.

33. As outlined in the *First Amended Complaint*, the Inspector inspected each of the five manufactured homes on either May 28, 2024, or July 15, 2024, and noted over 10 deficiencies, or code violations for each of the homes. Following the inspections, he provided Respondent a Site Inspection Report for each of the homes, notifying Respondent that all deficiencies were “to be corrected within 30 days.”

34. To the best of the Manager’s knowledge and belief, as of the filing of this *Response*, no deficiencies, other than those noted in the *First Amended Complaint*, have

been corrected by Respondent within 90 days of the date of the inspection of any of the homes described herein⁶.

WHEREFORE, Staff prays this Commission deny Respondent's *Motion to Dismiss the First Amended Complaint for Failure to State a Claim for Which Relief Can Be Granted* for the reasons set forth above, set this matter for hearing, grant the Staff the relief prayed for in its *First Amended Complaint*, and for any other relief as this Commission deems just and appropriate under the circumstances.

Respectfully submitted,

/s/ Carolyn H. Kerr

Missouri Bar Number 45718

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Missouri Public Service Commission

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was served by electronic mail, or First-Class United States Postal Mail, postage prepaid, on this 18th day of March, 2025, to all parties of record.

/s/ Carolyn H. Kerr

⁶ Lot #30 has been sold, but otherwise, no changes or corrections have been made to the other homes relative to the deficiencies noted by the Inspector.