

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SCOTT SMITH, on behalf of himself and other  
similarly situated individuals, X  
X

Plaintiffs, X

vs. X

CHELMSFORD GROUP, LLC, X  
a Delaware limited liability company and X  
NEWBURY MANAGEMENT COMPANY, X  
a Michigan corporation X

Defendants. X

SUPERIOR COURT  
CIVIL ACTION  
NO:

**RECEIVED**

4/1/2021

**CLASS ACTION COMPLAINT  
FOR INJUNCTIVE RELIEF AND DAMAGES**

**INTRODUCTION**

1. Sections 32A through 32S of General Laws Chapter 140, (the “Manufactured Housing Act”) “prioritizes maintaining manufactured housing communities as affordable housing options by protecting residents from unfair practices or arbitrary distribution of operations costs” (273-74) and “prioritize[s] distributing manufactured housing fees and costs evenly.” Blake v. Hometown Am. Cmty’s, Inc., 485 Mass. 268, 273-74 (2020).

2. Chelmsford Commons is a manufactured housing community, or mobile home park, that offers affordable homeownership opportunities in the desirable Boston suburb of Chelmsford, Massachusetts – affordability which is rooted in the fact that, while residents typically own their manufactured or mobile homes, they lease the land on which those homes sit, land that is also called a home-site, from Defendants.

3. As expected in any landlord-tenant relationship, for each occupied home-site of Chelmsford Commons' about 255 available home-sites, at least one person pays rent to the community owner.

4. While the homeowner, resident, and rent-payer are often the same individual, there are many circumstances where this may not be true, including, but not limited to, when there is a sub-tenancy, there is an assignment, there are roommates, or someone else gratuitously pays the rent.

5. Regardless of who pays rent to the community owner, Section 32L(2) of the Manufactured Housing Act requires that a community owner charge uniform rent for similarly situated home-sites.

6. Prior to January 1, 2021, the home-site rents were, in part, determined by a "Master Lease" agreed to in 1990 as part of a negotiated settlement involving the prior community owners.

7. The terms of the "Master Lease" expired on December 31, 2020.

8. Yet, Defendants continue to charge non-uniform rents, where the disparity is based upon the purchase date of the home on each home-site.

9. Based on this practice, the home-site rents have differed throughout Defendants' management over the community and have ultimately led to rent disparities of over \$200 between home-sites that are effectively the same.

10. While Defendants are given much flexibility in establishing rent, all rents charged still must meet the uniformity standard required by Section 32L(2).

11. On November 24, 2020, the Supreme Judicial Court released its Decision in Blake which left no doubt as to Defendants' obligations with respect to Section 32L(2).

12. Yet, even after this decision was published, Defendants have continued to charge and collect different rents for similar home-sites based on the purchase date of the home on each home-site – a disparity specifically prohibited by the Blake Decision.

13. Plaintiff Scott Smith is a long-term resident and manufactured home owner in Chelmsford Commons who has resided in the community for over twenty years and during this time has paid home-site rent to Defendants – a rent that is higher than one or more of his neighbors who rent a similar home-site, simply because of the date Mr. Smith purchased his home.

14. By this action, Mr. Smith, on behalf of himself and other similarly-situated current and former rent-payers of Chelmsford Commons, seeks damages from Defendants to compensate him and other rent-payers for the economic harms they have suffered as a result of Defendants' unlawful charging and collecting of disparate rents from January 1, 2021 onward and seeks injunctive relief requiring Defendants to discontinue this practice.

#### JURISDICTION & VENUE

15. Mr. Smith invokes the jurisdiction of the Court pursuant to Section 9(1) of General Laws Chapter 93A – insofar as Mr. Smith seeks to hold Defendants liable for their violations of the Consumer Protection Act – and pursuant to Section 1 of General Laws Chapter 214 – insofar as Mr. Smith seeks equitable redress for Defendants' misconduct.

16. Venue before the Court is proper pursuant to Sections 1 and 8 of Chapter 223, as Defendants maintain their usual place of business within the Commonwealth in Chelmsford, within the County of Middlesex.

PARTIES

17. Plaintiff Scott Smith has lived in a mobile home site at Chelmsford Commons and paid home-site rent for more than twenty years.

18. Defendant Chelmsford Group, LLC (“CG”) is the owner of the land leased to Chelmsford Commons residents and holds the applicable licensure which permits Chelmsford Commons to operate as a manufactured housing community in the Commonwealth.

19. Defendant Newbury Management Company (“Newbury”) is responsible for managing operations at Chelmsford Commons.

FACTS

I. GENERAL ALLEGATIONS

20. Chelmsford Commons is a manufactured housing community located in Chelmsford, Massachusetts.

21. There are about 255 home-sites within Chelmsford Commons available to rent.

22. All Chelmsford Commons home-sites come with similar services, amenities, and lot sizes.

23. In 1990, a “Master Lease,” which purported to provide a rent-setting structure, was signed as part of a settlement agreement.

24. After thirty years, by its own terms, the “Master Lease” expired on December 31, 2020.

25. In 2011, Defendants bought and began their management of Chelmsford Commons.

26. Since then, Defendants have operated the community, including charging and collecting rent, managing day-to-day activity, and offering occupancy agreements.

27. Defendants have charged disparate rents for similarly situated home-sites since 2011, rents which differ based upon the purchase date of the home on each home-site – pursuant to the “Master Lease,” which expired at the end of 2020.

28. Following the expiration of the “Master Lease,” Defendants continue to not only inexplicably charge disparate home-site rents, but have made no attempts to lessen the vast differences.

29. In or around November and December of 2020, Defendants circulated a letter and enclosed documents to Mr. Smith and others in Chelmsford Commons (the “Lease Package”).

30. This letter was entitled “Termination of Tenancy As Master Leases Comes to an End on December 31, 2020 And Offer to Establish New Tenancy Pursuant to GL c. 140 §§ 32 et seq. 940 CMR 10.00 et seq and GL c. 186, §12.”

31. Enclosed with this letter was an occupancy agreement offering three lease duration options: at-will, five-year, or ten-year.

32. The Lease Package required a signed return of the Occupancy Agreement, indicating which lease option the recipient chose.

33. If no signed return was made, the Lease Package states Defendants “shall treat [the recipient] as a tenant-at-will.”

34. Even though all of the home-sites in Chelmsford Commons are similar and the terms of the tenancies offered in each of the Lease Packages were essentially the same, the monthly rental amounts offered in each Lease Package varied greatly.

35. The Lease Package received by Mr. Smith offered a monthly rent of \$679.40.

36. The Lease Package received by Mr. Smith’s neighbor residing at Site No. 157 (“Mr. Layes”) offered a monthly rent of \$626.52.

37. Mr. Layes accepted for the term of a ten-year lease.

38. Lease Packages received by other neighbors of Mr. Smith offered a monthly rent of over \$800.

39. On January 1, 2021, Defendants implemented and began charging and collecting rent pursuant to the terms of the Lease Packages.

40. Mr. Smith, through counsel and on behalf of all similarly situated current or former rent-payers of Chelmsford Commons, sent a letter to Defendants, pursuant to Chapter 93A of the General Laws, demanding that Defendants charge uniform rent to all rent-payers within the community, that the rents charged should be no higher than the rent offered to and accepted by Mr. Layes, and that Defendants reimburse Mr. Smith and all similarly situated rent-payers for any and all overpaid rent.

41. This letter was sent on or about January 8, 2021.

42. To date, Defendants have not responded with a reasonable settlement offer.

43. By this action, Mr. Smith, on behalf of himself and all similarly situated current and former rent-payers of Chelmsford Commons, seeks damages to compensate all rent-payers for injuries they have suffered as a result of Defendants' unlawful charging of disparate rents since January 1, 2021 and seeks injunctive relief requiring Defendants to start charging uniform rents – no higher than \$626.52 per month – in accordance with Section 32L(2).

## II. CLASS ALLEGATIONS

44. Mr. Smith brings his Consumer Protection Act claim on behalf of himself and a putative class of current and former rent-payers of Chelmsford Commons that includes, at a minimum, a majority of rent-payers of the about 255 Chelmsford Commons home-sites

(“Putative Class”), insofar as most – if not all – rent-payers at Chelmsford Commons have been charged and have paid rents higher than the rent charged to and paid by Mr. Layes.

45. Mr. Smith is similarly situated to all members of the Putative Class insofar as Mr. Smith and all such members have paid disparate home-site rent to Defendants that is unlawfully based on the purchase date of the home on each home-site.

46. This unlawful rent practice has caused Mr. Smith to suffer an injury similar to the injury suffered by all members of the Putative Class insofar as both Mr. Smith and all such class members have overpaid rent to Defendants.

47. Mr. Smith and undersigned counsel have demonstrated that they can, and will, both fairly and adequately protect the interests of the Putative Class members in pursuing this action.

48. Specifically, Mr. Smith has a demonstrated track-record of civic involvement at Chelmsford Commons, is committed to obtaining a just resolution to this dispute to the benefit of all Putative Class members, and lacks any reason because of which he may fail to vigorously seek the same.

49. Specifically, the undersigned counsel is an attorney of a civil legal aid organization, an organization which has experience litigating class actions including matters involving both the Manufactured Housing Act as well as the Consumer Protection Act, is also committed to obtaining a just resolution of this dispute to the benefit of all Putative Class members, and similarly lacks any reason because of which he may fail to vigorously seek the same.

FIRST CAUSE OF ACTION  
BY SCOTT SMITH ON BEHALF OF HIMSELF AND THE CLASS  
GL. C. 93A § 9

50. Paragraphs 1 through 49 are incorporated herein, as if fully restated below.

51. Mr. Smith and each similarly situated current or former rent-payer of Chelmsford Commons is a person, as that term is used in Section 9(1) of Chapter 93A.

52. Defendants are each a person engaged in the conduct or a trade of commerce, as those terms are used in Sections 2(a) and 9(1) of Chapter 93A – specifically as either an operator or licensee, as those terms are used in Section 10.01 of the Code of Massachusetts Regulations Title 940.

53. Defendants' unlawful charging of disparate rent to Mr. Smith and other rent-payers of Chelmsford Commons was an unfair or deceptive act or practice, pursuant to Section 2 of Chapter 93A and Section 32L of Chapter 140 of the General Laws.

54. Defendants knew, or should have known, that their failure to implement such policies and procedures violated the Manufactured Housing Act and their repeated failure to do so was willful.

55. To date, Defendants have not responded with a reasonable settlement offer.

56. Defendants' unlawful charging of disparate rent injured Mr. Smith and numerous other similarly situated rent-payers of Chelmsford Commons by over-charging and collecting unlawful rent.

57. The continued unlawful conduct of Defendants will irreparably harm Mr. Smith and each member of the Putative Class if not stopped by the Court, insofar as the lack of judicial intervention will require Smith and each Class member to file a multiplicity of lawsuits to ensure that his or her respective monthly rent is charged and collected in a lawful manner.

58. Equitable relief requiring Defendants to charge uniform rents simply requires that Defendants follow the law and will substantially benefit Mr. Smith and each member of the Putative Class.

REQUESTED RELIEF

WHEREFORE, Scott Smith respectfully requests that the Court:

A. Enter an order against all Defendants, jointly and severally, awarding Scott Smith and members of the Putative Class the actual, incidental, consequential, and multiple damages suffered by them as a result of Defendants' unlawful conduct or the maximum amount of statutory damages provided by law;

B. Issue a class-wide injunction ordering Defendants within thirty days to charge uniform rents to all rent-payers of Chelmsford Commons no higher than \$626.52 per month;

C. Enter an order against all Defendants, jointly and severally, awarding to Mr. Smith and the members of the Putative Class the litigation costs and reasonable attorney's fees associated with the prosecution of this action;

D. Enter an order against all Defendants, jointly and severally, awarding to Mr. Smith and the members of the Putative Class pre- and post-judgment interest on all applicable amounts awarded by the Court; and

E. Enter any further order the Court deems necessary for the just and proper resolution of this matter.

Respectfully submitted,  
SCOTT SMITH,  
By his attorney,

This 31st day of March, 2021

/s/ Brian J. O'Donnell

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