

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Eighty-nine

AN ACT PROVIDING FOR THE ESTABLISHMENT AND ADMINISTRATION OF RENT REGULATIONS AND THE CONTROL OF EVICTIONS IN MOBILE HOME PARK ACCOMMODATIONS IN THE TOWN OF NORTH READING.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Declaration of Emergency.

The general court hereby finds and declares that a serious public emergency exists in the town of North Reading with respect to the housing of a substantial number of the residents of said town, which emergency has been created by the excessive, abnormally high and unwarranted rental increases imposed by some owners of mobile home parks located therein, and by the potential discontinuance of the use of certain mobile home parks by certain owners of said mobile home parks; that unless mobile home park rents and eviction of tenants and discontinuances of the use of mobile home parks are regulated and controlled, such emergency and the further inflationary pressures resulting therefrom will produce serious threats to the public health, safety and general welfare of the residents of said town, and will produce a drastic loss of housing units, will increase homelessness, and will cause many residents loss of their life savings, especially the elderly; that such emergency should be met by the commonwealth immediately and with due regard for the rights and responsibilities of the town of North Reading.

SECTION 2. General Powers.

The town of North Reading may, by by-law, regulate rents for the use or occupancy of mobile home park accommodations in said town, establish a rent board for the purpose of regulating rents, minimum standards for use or occupancy of mobile home park accommodations in the town and evictions of tenants therefrom and may, by by-law, require registration by owners of mobile home park accommodations, under penalty of perjury, or information relating to the mobile home park accommodations. Such rents, standards and evictions may be regulated by the rent board so as to remove hardships or correct inequities

for both the owner and tenants of such mobile home park accommodations. The rent board shall have all powers necessary or convenient to perform its functions. It may make rules and regulations, require registration by owners of mobile home park accommodations, under penalty of perjury, of information relating to the mobile home park accommodations, sue and be sued, compel the attendance of persons and the production of papers and information, and issue appropriate orders which shall be binding on both the owner and tenants of such mobile home park accommodations. Violations of any by-law adopted pursuant to this act or any order of the rent board shall be punishable by a fine of not more than one thousand dollars for any one offense.

SECTION 3. Regulating Rents.

In regulating such rents for such mobile home park accommodations, the rent board established under section two may make such individual or general adjustments, either upward or downward, as may be necessary to assure that rents for the mobile home park accommodations in said town are established at levels which yield to owners a fair net operating income for such units. Said town in its by-laws or said rent board by regulations may establish further standards and rules consistent with this act. If the maximum rent is not otherwise established, it shall be established by the board. Any maximum rent may be subsequently adjusted under this act.

SECTION 4. Incorporation of Administrative Procedure Act.

The provisions of chapter thirty A of the General Laws shall be applicable to the rent board, established under the provisions of section two, as if said rent board were an agency of the commonwealth, including those provisions giving agencies the power to issue, vacate, modify and enforce subpoenas, as well as those provisions relating to judicial review of any agency order.

SECTION 5. Conference of Jurisdiction.

(a) The Woburn district court shall have original jurisdiction, concurrently with the superior court and the housing court departments, of all petitions for review brought pursuant to section fourteen of chapter thirty A of the General Laws.

(b) The superior court and the housing court departments shall have jurisdiction to enforce the provisions of this act, and any by-law adopted thereunder, and may restrain violations thereof.

SECTION 6. Defense to Summary Process for Possession.

The town of North Reading may by by-law regulate the evictions of tenants, and the rent board, established under the provisions of section two, may issue orders which shall be a defense to an action of summary process for possession and such orders shall be reviewable pursuant to sections three and four.

SECTION 7. Discontinuance Permits.

(1) The provisions of this section regarding the discontinuance of the use of part, or all of the land owned and licensed as a mobile home park shall apply to all mobile home parks and mobile home park accommodations.

(2) When used in this act the term "discontinuance" shall include any change of use or discontinuance of the use of part, or all of the land owned and licensed as a mobile home park requiring a two year notice pursuant to subsection eight of section thirty-two L of chapter one hundred and forty of the General Laws. The term "discontinuance" shall include, but is not limited to, the licensee's conversion of the mobile home park, or part thereof, to a condominium or cooperative corporation.

(3) It shall be unlawful for any person to discontinue the use of part or all of the land owned and licensed as a mobile home park without having first obtained a discontinuance permit from the board of selectmen subject to the provisions contained in this act.

(4) (a) The board of selectmen shall consider an application for a discontinuance permit for a mobile home park accommodation upon receipt of an application filed by the licensee or other authorized person. The board of selectmen shall forward said application within fourteen days to the rent control board.

(b) The rent control board shall schedule a public hearing within sixty-five days of receipt of the application. Notice of the time and place of such public hearing, or the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the town of North Reading once in each of two successive weeks, the first publication to be not less than fourteen days before the date of the public hearing and by posting such notice in a conspicuous place in town hall for a period of not less than fourteen days before the day of said hearing. The rent control board shall also notify all tenants living in the affected mobile home park accommodations of the time, place and subject matter of the public hearing. No defect in the

form of any notice under this section shall invalidate any grant or denial of a discontinuance permit unless such defect is found to be misleading.

(c) No vote by the board of selectmen to grant or deny a discontinuance permit shall be taken until a report with recommendations by the rent control board has been submitted to the board of selectmen or twenty-one days after said hearing have elapsed without submission of such report. After such notice, hearing and report, or after twenty-one days shall have elapsed after such hearing without submission of such report, the board of selectmen may vote to grant or deny the discontinuance permit. If the board of selectmen fails to vote on the proposed discontinuance permit within ninety days after such hearing, no action shall be taken thereon until after subsequent public hearing is held with notice and report as above provided.

(d) No discontinuance permit may be granted except by a majority vote of the board of selectmen.

(e) Notwithstanding any other provision of this section, the rent control board may, without holding a hearing, recommend the denial of a discontinuance permit if a decision has been made with regard to the discontinuance of a mobile home park accommodation within the preceding twelve months, and if the park licensee fails, in the new application, to allege a substantial change of circumstances since the previous hearing which would merit the rent control board in hearing new evidence. In addition, the rent control board may recommend denial of the discontinuance permit without holding a hearing if the application is not in conformance with the requirements of this section or other applicable regulations.

(5) In determining whether to recommend that the board of selectmen grant or deny a discontinuance permit the rent control board shall consider the aggravation of the shortage of safe, decent and affordable mobile home park accommodations in the town of North Reading, which may result from the discontinuance, especially for tenants of low and moderate income and handicapped or elderly persons on fixed incomes. In making such determination the rent control board shall make findings of the following factors:

(a) the benefits and detriments to the persons whom this act and this section seek to protect;

(b) the hardships imposed on the tenant residing in the mobile home park accommodations proposed to be discontinued;

seeking a discontinuance permit;

(d) the rate of vacancy of mobile home park accommodations in the town of North Reading at the time the licensee applies for a discontinuance permit and the average rental rates for said available accommodations;

(e) the availability of land zoned and otherwise suitable for development or expansion of mobile home parks.

The rent control board, in its discretion, may also review other relevant factors in making its report and recommendations.

For the purposes of this act, the "vacancy rate" shall be defined as that percentage of the mobile home park accommodations which are empty of mobile homes and are offered for rental to mobile home tenants. Further, to be considered a "vacancy" the rental offer of the mobile home park accommodation must be without entrance fee; without restrictions as to the age, size or character of the mobile home, and; without a requirement that the prospective tenant purchase a mobile home from the park owner.

In its report, the rent control board shall determine the current vacancy rate for comparable mobile home park accommodations in the town of North Reading. Any parties involved may submit evidence presented to the rent control board at the public hearing.

(6) (a) The licensee or applicant seeking a discontinuance permit must make application to the board of selectmen for said permit within thirty days of serving the tenants with the notices required under the provisions of subsection eight of section thirty-two L of chapter one hundred and forty of the General Laws.

(b) Notwithstanding the above, no eviction certificate shall be issued by the rent control board because of the discontinuance of the use of all or a part of a mobile home park unless a discontinuance permit has been issued by the board of selectmen.

SECTION 8. Exemption from Civil Service.

The personnel of the rent board established under the provisions of section two shall not be subject to the provisions of section nine A of chapter thirty or chapter thirty-one of the General Laws.

SECTION 9. The provisions of this act shall not apply to mobile home parks which have sent out notices of a change of use or discontinuance under

the provisions of subsection eight of section thirty-two L of chapter one hundred and forty of the General Laws prior to the effective date of this act.

SECTION 10. This act shall take effect upon its acceptance by the town of North Reading.

House of Representatives, November 2, 1989.

Passed to be enacted,

George Lueman, Speaker.

In Senate, November 6, 1989.

Passed to be enacted,

Walter Breen, President.

, 1989.

Approved,

Governor.