



**MOBILE HOME PARK OVERSIGHT PROGRAM
CASE # 2020-1059**

WRITTEN DETERMINATION AND NOTICE OF VIOLATION

IN RE: RIVER WALK VILLAGE, LLC d.b.a. COUNTRY MEADOWS
Mobile Home Park Registration # MHP-000185
c/o Jared Hemmert, Owner
6638 W. Ottawa Ave.
Littleton, CO 80128
Respondent;

**ASSOCIATION OF HOMEOWNERS AND RESIDENTS AT
COUNTRY MEADOWS, on behalf of [REDACTED HOMEOWNERS]**
Complainant(s).

To:

River Walk Village, LLC
c/o Jared Hemmert, Owner
6638 W. Ottawa Ave.
Littleton, CO 80128

River Walk Village, LLC
c/o Brian Meegan, Registered Agent
3900 E. Mexico Ave., Suite 820
Denver, CO 80210

[REDACTED HOMEOWNERS]



WRITTEN DETERMINATION

The Division of Housing (“Division”) is making a written determination and issuing a Notice of Violation in connection with complaint case 2020-1059.

On May 10, 2020, the Division received a complaint pursuant to § 38-12-1105(1), C.R.S., from the Association of Homeowners and Residents at Country Meadows on behalf of 32 home owners alleging River Walk Village, LLC (the “Park”), Jared Hemmert (“Owner”), and Adam Hamilton (“Manager”) violated the Mobile Home Park Act, part 2 of article 12 of title 38 (“Act”), or the Dispute Resolution and Enforcement Program, part 11 of article 12 of title 38 (“DREP”). The Division received testimonial and photographic evidence with the complaint.

Between January and March 2020, prior to the filing of the complaint, the Division corresponded with Owner and residents of the Park regarding improper lease terminations. In April 2020, the Division corresponded with Owner regarding an improper rent increase for the residents of the Park. The Division conducted a walk-through of the Park on May 5, 2020. The correspondence from March through April and any photos taken during the walk-through were incorporated into the investigation after the complaint was filed as they related to the allegations in the complaint.

The Division opened an investigation into the allegations on or about May 13, 2020. On December 4, 2020, the Division sent an initial letter to Owner with requests for information and documentation on ten alleged violations of the Act. Owner responded with testimonial evidence, with no accompanying documentation, on or about December 31, 2020. The Division corresponded with Tim Mobley, a resident and member of the Home Owners’ Association at the Park, who provided testimonial evidence in response to Owner’s information on or about February 22, 2021.

The Division sent a subpoena for information, documents, and site access to the mobile home park to Owner by certified mail on July 21, 2021, with requests for answers and information on eight alleged violations of the Act, and a request for



site access. Owner responded with testimonial evidence, with no accompanying documentation, to the subpoena on August 16, 2021.¹ In his response, Owner granted Gunnison County employees access to the Park. The Division reviewed the testimonial evidence provided by Owner. Per the site access granted, Gunnison County employees visited the Park on September 1, 2021, and provided the Division with photographic and testimonial evidence on or about September 3, 2021.

Based upon the investigation conducted by the Division, the Division hereby issues a **WRITTEN DETERMINATION**, pursuant to the authority granted to the Division in § 38-12-1105, that one or more violations of the Mobile Home Park Act, part 2 of article 12 of title 38, or of the Dispute Resolution and Enforcement Program, part 11 of article 12 of title 38 occurred.

¹ Owner provided a typed-up version of the policies in response to the request for “copies of any relevant park policies on employee conduct, including any policies related to preventing or addressing harassment.” The Division considers this testimonial, not documentary, evidence because Owner provided a version created for the subpoena response, not a copy of the original policies.



NOTICE OF VIOLATION

You are hereby notified that Division issues this **NOTICE OF VIOLATION** in Case # 2020-1059, pursuant to the authority granted in § 38-12-1105, for one or more violations of the Mobile Home Park Act, part 2 of article 12 of title 38, or of the Dispute Resolution and Enforcement Program, part 11 of article 12 of title 38, based upon the following specific grounds:

1. **Failure to maintain utility services lines and related connections**, pursuant to § 38-12-212.3(1)(a)(I) (in effect on 5/10/2020) and § 38-12-212.3(1)(a)(II)-(III) (effective 6/30/2020):
 - a. **Basis for determination:**
 - i. Allegations from home owners.
 - ii. List of hazards and code violations viewed during safety inspections on May 5, 2020 and June 19, 2020 by Dustin Behounek, Electrical Inspector, State Electrical Board.
 - b. **Action required to cure violation and time within which the action must be taken:** None. Dustin Behounek, Electrical Inspector for the State Electrical Board, confirmed that all electrical work was completed for the recognized deficiencies as of August 11, 2021, prior to this written determination and Notice of Violation.
 - c. **Penalty that will be imposed if the action is not taken within the specified time period:** Not applicable.
2. **Failure to maintain the roads and other pavement owned by the landlord by failing to properly remove snow**, pursuant to 38-12-212.3(1)(a)(III) (in effect on 5/10/2020) and § 38-12-121.3(2)(b)(II) (effective 6/30/2020):
 - a. **Basis for determination:**
 - i. Testimonial evidence from multiple witnesses of roads with an improper amount of snow.
 - ii. Photographic evidence of the conditions of the roads.



- iii. Owner provided testimonial evidence of the method and frequency of snow plowing on the roads within the Park. Owner failed to provide any documentary or photographic evidence, including failing to provide policies for plowing roads or non-testimonial evidence that the roads were successfully plowed after snowfall.
- b. Actions required to cure violation and time within which the actions must be taken:** To cure this violation, Respondent must:
- i. Submit a payment of **\$4,800, or \$150 for each home owner** named in the complaint, to be distributed by the Division to Complainants. The payment should be made by check or money order made out to the “Colorado Division of Housing” and mailed to: CO Division of Housing, ATTN: MHPOP Case 1059, 1313 Sherman St. #320, Denver, CO 80203; *and*
 - ii. Provide documentation of either:
 1. A contract with an outside service to plow the snows based upon snow fall at the Park; *or,*
 2. New policies requiring the Respondent’s agent plow the roads on a more consistent basis, and without impeding access to home owners’ driveways.
 - iii. Respondent must complete these actions within **seven days** of the notice of violation becoming a final agency order. § 38-12-1105(5).
- c. Penalty that will be imposed if these actions are not taken within the specified time period:** Respondent will be responsible to remit a penalty of **\$1,000, per day**, to the Division.
- 3. Failure to maintain the roads and other pavement owned by the landlord by failing to ensure adequate drainage and maintain pavement above water lines,** pursuant to 38-12-212.3(1)(a)(III) (in effect on 5/10/2020) and § 38-12-121.3(2)(b)(II) (effective 6/30/2020):



a. Basis for determination:

- i. Photographic evidence of poor drainage and the accumulation of stagnant water on the roads from home owners.
- ii. Testimonial and photographic evidence of poor grading and graveling of the road from the Gunnison County site inspection.
- iii. Owner provided testimonial evidence of and receipts for the purchase of gravel to cover the roads. Owner failed to provide testimonial or photographic evidence that the roads were maintained to ensure adequate drainage, including failing to provide policies for where to place gravel.

b. Actions required to cure violation and time within which the actions must be taken: To cure this violation, Respondent must:

- i. Within **seven days** of the notice of violation becoming a final agency order (§ 38-12-1105(5)), submit an additional payment of **\$4,800, or \$150 for each home owner** named in the complaint, to be distributed by the Division to Complainants. The payment should be made by check or money order made out to the “Colorado Division of Housing” and mailed to: CO Division of Housing, ATTN: MHPOP Case 1059, 1313 Sherman St. #320, Denver, CO 80203;
- ii. Within **seven days** of the notice of violation becoming a final agency order (§ 38-12-1105(5)), provide documentation of either:
 1. A contract with an outside service to grade and add gravel to the roads at the Park; *or*,
 2. New policies requiring the Respondent’s agent grade and add gravel to the roads on a more consistent basis, and without impeding access to home owners’ driveways; *and*
- iii. Within **90 days** of the notice of violation becoming a final agency order, provide the Division with photographic evidence that all roads owned by the park have been graded to ensure adequate drainage.



- c. **Penalty that will be imposed if the actions are not taken within the specified time periods:** Respondent will be responsible to remit a penalty of **\$1,000, per day**, to the Division.
4. **Failure to maintain the trees on the premises in a manner that protects the safety of the residents of the park and their property**, pursuant to § 38-12-212.3(1)(a)(III) (in effect on 5/10/2020), 8 CCR 1302-15, Rule 6.1 (effective 4/30/2020), and § 38-12-212.3(2)(b)(IV) (effective 6/30/2020):
 - a. **Basis for determination:**
 - i. Testimonial evidence from home owner of the lack of tree maintenance.
 - ii. Photographic evidence of at least one fallen tree, as well as other trees requiring maintenance.
 - iii. Photographic evidence of the conditions of the trees from the Gunnison County site inspection.
 - iv. Owner provided testimonial evidence of the method and frequency of tree maintenance within the Park. Owner failed to provide any documentary or photographic evidence, including failing to provide policies for maintaining trees or non-testimonial evidence that the trees were maintained within the Park.
 - b. **Actions required to cure violation and time within which the actions must be taken:** To cure this violation, Respondent must:
 - i. Send a letter to each home owner, with a copy to the Division, soliciting home owners' tree maintenance requests, within **seven days** of the notice of violation becoming a final agency order. § 38-12-1105(5);
 - ii. Provide Division with a policy regarding the retention of records of correspondence with home owners related to maintenance requests, within **seven days** of the notice of violation becoming a final agency order. § 38-12-1105(5);



- iii. Provide the Division with a list of all tree maintenance requests received from home owners, along with a schedule for addressing any and all tree maintenance requests that are necessary to protect the safety of residents of the park and their property, within **60 days** of the notice of violation becoming a final agency order; *and*
 - iv. Complete all requested tree maintenance that is necessary to protect the safety of residents of the park and their property, and provide the Division with photographic evidence of the tree maintenance that has been completed, within **180 days** of the notice of violation becoming a final agency order.
 - c. **Penalty that will be imposed if the actions are not taken within the specified time periods:** Respondent will be responsible to remit a penalty of **\$1,000, per day**, to the Division.
5. **Failure to properly provide notice to residents prior to water service disruption**, pursuant to § 38-12-212.3(1)(c) (in effect on 5/10/2020) and § 38-12-212.3(1)(b)(II) and (1)(c) (effective 6/30/2020):
- a. **Basis for determination:**
 - i. Testimonial evidence from home owner of the lack of notice.
 - ii. Photographic evidence of the white board notice on May 10, 2020.
 - iii. Owner provided testimonial evidence that letters were sent out, and that the white board was used to provide at least partial notice. Owner failed to provide any documentary or photographic evidence to show all home owners received accessible and timely notice of water service disruptions, including home owners who do not live near the white board or live in the back portion of the park.
 - b. **Actions required to cure violation and time within which the actions must be taken:** To cure this violation, Respondent must:



- i. Submit an additional payment of **\$480, or \$15 for each home owner** named in the complaint, to be distributed by the Division to Complainants. The payment should be made by check or money order made out to the “Colorado Division of Housing” and mailed to: CO Division of Housing, ATTN: MHPOP Case 1059, 1313 Sherman St. #320, Denver, CO 80203;
 - ii. Provide the Division with a policy regarding the retention of records of correspondence between Respondent and any home owner; *and*
 - iii. Provide the Division with a policy regarding how accessible and timely notice will be provided to all home owners of water service disruptions, including home owners who do not live near the white board or live in the back portion of the park.
 - iv. Respondent must complete these actions within **seven days** of the notice of violation becoming a final agency order. § 38-12-1105(5).
 - c. **Penalty that will be imposed if the actions are not taken within the specified time period:** Respondent will be responsible to remit a penalty of **\$100, per day**, to the Division.
6. **Improper lease termination and request for home owners to sign a new lease upon threat of eviction or other improper actions**, in violation of § 38-12-203:
 - a. **Basis for determination:**
 - i. Documentation and testimonial evidence of correspondence dated January 31, 2020 terminating the home owners’ leases and requiring home owners sign a new lease, under the threat of eviction.
 - ii. Documentation of correspondence dated April 30, 2020, from Respondent to an unspecified number of home owners, stating the home owners were not required to sign the new leases.



- iii. Testimonial evidence of persons attempting to coerce home owners into signing new leases, despite the correspondence from the Division prohibiting this.
- b. **Action required to cure violation and time within which the actions must be taken:** To cure this violation, Respondent must:
 - i. Provide the Division with a list of each home owner who signed the new lease, with any available contact information for the home owner; *and*,
 - ii. Send correspondence to each home owner who signed the new lease, with copies to the Division, that provides the home owner the opportunity to revert to their previous lease.
 - iii. Respondent must complete these actions within **seven days** of the notice of violation becoming a final agency order. § 38-12-1105(5).
- c. **Penalty that will be imposed if the actions are not taken within the specified time period:** Respondent will be responsible to remit a penalty of **\$100, per day**, to the Division.

NOTIFICATION OF PENALTIES

The Division considered the severity and duration of the violations and the impact of the violations on other community residents when determining the penalties above. If Respondent fails to take the actions required to timely cure the violations set forth above, and the Division has not received a timely request for an administrative hearing, as described below, **the Division will assess the per violation, per day penalties described above.** § 38-12-1105(5) and 8 CCR 1302-15 Rule 4.4.



COLORADO
Department of Local Affairs
Division of Housing

SO ISSUED this 24th day of February, 2022
FOR THE DIVISION OF HOUSING

Christina Postolowski
Program Manager

Office of Regulatory Oversight
Mobile Home Park Oversight Program
MHPOP@state.co.us
1-833-924-1147 (toll free)

Department of Local Affairs
Division of Housing
1313 Sherman St. #320
Denver, CO 80203



**EXPLANATION OF HEARING RIGHTS AND THE HEARINGS PROCESS FOR
AN ADMINISTRATIVE HEARING – NOTICE OF VIOLATION**

Introduction

This information is provided as required by section 38-12-1105(4). It is not intended to be legal advice.

You are not required to have or get an attorney to appeal this decision. Please note, though, if you choose to represent yourself, you are presumed to have knowledge of the applicable statutes and rules and must be prepared to accept the consequences of any mistaken understandings, even if the case is not litigated. Also, you will be bound by the same rules of procedure and evidence as attorneys who are licensed to practice law.

The staff of the Division and the Program are prohibited by law from giving legal advice. Staff members may provide information about a procedure, but they are not permitted to advise you as to how to proceed.

If you would like to consult with an attorney, you may contact any attorney of your choosing at your own expense.

For more information on how to file a request for an administrative hearing, please contact the Office of Administrative Courts at:

General Services Answer Line: (303) 866-5626

Email: OAC-GS@state.co.us

Fax: (303) 866-5909

Website: <https://oac.colorado.gov/>

Options for Respondents and Complainants Following a Written Determination and Notice of Violation

Option A: Take No Action to Challenge the Division’s Decision. Where neither Respondent nor Complainant files a written request for hearing pursuant to § 38-



12-1105 within 15 business days of receipt of this Notice of Violation, then this Notice of Violation becomes a Final Agency Order. If this Notice of Violation requires Respondent to submit payment to the Division or take other actions to cure the violation(s), Respondent must make the required payment(s) or take the required action(s) within seven (7) calendar days of the Notice of Violation becoming a Final Agency Order to avoid penalties, unless a different time period(s) is specified in the Notice. A request for a hearing for any associated Notice of Non-violation will not constitute a request for hearing on this Notice of Violation.

Option B: File a Request for an Administrative Hearing. Respondent or Complainant may request an administrative hearing before an administrative law judge (“ALJ”) to contest this Notice of Violation issued under § 38-12-1105(4). § 38-12-1105(5) and (7). You may request a hearing by emailing or mailing a written request within **fifteen (15) business days of receipt** of this Written Determination and Notice of Violation. § 38-12-1105(7)(b). If either party requests a hearing, Respondent does not have to take the actions in the Notice of Violation until the resolution of the hearing, at which point, the parties must comply with the order issued by the ALJ.

The written request for a hearing must be submitted to the Office of Administrative Courts, 1525 Sherman Street, 4th Floor, Denver, CO 80203, OAC-GS@state.co.us. To ensure a speedy resolution, Respondent or Complainant should also mail or email a copy of such request to the Division of Housing, Mobile Home Park Oversight Program, at:

Colorado Division of Housing
Mobile Home Park Oversight Program
ATTN: Case 2022-1059
1313 Sherman St., #320
Denver, CO 80203
Email: MHPOP@state.co.us

The written request for a hearing must be **received** by the Office of Administrative Courts no later than the close of business (5:00 PM, Mountain Time) on the 15th



day. If the 15th day falls on a weekend or on a Colorado State holiday, you will have until the next business day to submit your hearing request. If your request is “late,” your request for a hearing may be denied, unless you demonstrate good cause.

If you decide to hire an attorney to represent you in the hearing, he or she must file an Entry of Appearance, either simultaneously with filing a request for an administrative hearing or shortly thereafter.

The Administrative Hearing Process

If you submit a request for an administrative hearing, the Division (through its counsel) will file a **Notice for Respondent to Appear**. (You are the “Respondent” at the administrative hearing, even if you were originally called the complainant or the respondent when the Division was investigating the complaint.) The Division employs an attorney from the Colorado Attorney General’s Office to represent it (the “AG”). The AG will email or mail you a copy. The Notice for Respondent to Appear will list the factual and legal basis for the Division’s Written Determination and Notice of Violation. The Notice for Respondent to Appear will include the date and time for the setting conference. At this setting conference, the parties will set the date, time, and location of the evidentiary hearing. If you do not attend, the date, time, and location of the evidentiary hearing may be set without you. *If you cannot attend the setting conference, contact the AG (the attorney listed on the Notice for Respondent to Appear) as soon as possible.*

You must file a written **Answer within 30 days** after the service or mailing of the Notice for Respondent to Appear, responding to the allegations in the Notice for Respondent to Appear. You must also send this Answer to the AG (the attorney listed at the bottom of the Notice for Respondent to Appear). The Answer must address each of the numbered paragraphs in the Notice for Respondent to Appear, whether you are disputing the factual or legal allegation. For more information, *see* Colorado Rule of Civil Procedure Rule 12(b). If you do not file a written Answer within 30 days, the ALJ may enter a default judgment against you.



You must file a **Prehearing Statement at least 30 days** before the date of the administrative evidentiary hearing. You must also send the Prehearing Statement to the AG (the attorney listed at the bottom of the Notice for Respondent to Appear). The AG will also file a Prehearing Statement at least 30 days before the date of the administrative hearing and will mail or email you a copy. The required outline for the Prehearing Statement can be found in Appendix A, at: https://oac.colorado.gov/sites/oac/files/GenRulesofProcedure-GS_0_0.pdf. If you do not have access to a computer or reliable internet, please contact the AG (the attorney listed at the bottom of the Notice for Respondent to Appear).

You may have the opportunity to file other motions and the Division may file other motions not referenced in this information. This is only a brief summary of the process before the administrative hearing occurs. For more information, please contact the Office of Administrative Courts or visit their website: <https://oac.colorado.gov/other-cases/all-other-rules-faq>.

What Happens at the Administrative Evidentiary Hearing

Your hearing will be very similar to a trial in court, with witnesses and exhibits presented by all parties. The Division employs an attorney from the Colorado Attorney General's Office to represent it (the "AG"). You may have an attorney represent you, at your expense, or you may appear and represent yourself. If you represent yourself, you are responsible for being familiar with the Colorado Rules of Evidence and the Office of Administrative Courts Rules of Procedures for General Services Cases. At the hearing, you must be able to respond to objections from the other side. Remember, the ALJ must remain neutral and cannot help you present your case or respond to objections for you.

1. Opening Statements. After everyone in attendance has identified themselves for the record, the ALJ will give both you and the AG the opportunity to make Opening Statements. A party's Opening Statement is usually a summary of the case that party intends to present through evidence and argument during the hearing. It is your choice whether to make or waive an Opening Statement.



2. Presentation of Evidence. Each side is given the opportunity to introduce evidence and argument in the hearing. The AG will proceed first so that the reasons for the Written Determination and Notice of Violation frame the issues for the hearing. The parties introduce evidence into the hearing by means of witnesses and exhibits. You may be a witness for yourself, and you may also be called as a witness by the Division. Both you and the AG can bring other witnesses to present evidence and introduce exhibits. The ALJ will administer an oath to all witnesses before they can testify. You and the AG are responsible to organize your own presentations and to call witnesses and introduce exhibits in the order you desire. You and the AG can object to the introduction of exhibits or certain testimony and the ALJ will rule on any objection. You and the AG can cross-examine each other's witnesses. The ALJ will occasionally ask questions of witnesses if the ALJ needs further clarification or explanation in order to understand the facts and properly rule in the case.

3. Burden of Proof / Preponderance of the Evidence. The ALJ will decide whether the evidence supports the Division's finding of Violation by a preponderance of the evidence.

4. Closing Arguments. After both you and the AG have introduced all of the evidence in your case, the ALJ will give each of you the opportunity to make a Closing Argument. A Closing Argument provides an opportunity to argue facts and law to the ALJ. Closing arguments can only address facts brought out in testimony of the witnesses or in exhibits received into evidence. Closing argument is not a chance to testify and you may not mention things that were not previously received into evidence through testimony or exhibits. At the ALJ's discretion, the ALJ occasionally requests parties make a closing argument in writing after the hearing. It is your choice whether to make a Closing Argument.

5. The Conclusion of the Hearing. The ALJ officially notes the end of the hearing on the record. The ALJ does not rule on the case on the day of hearing and will not give the parties any "preview" of his or her thoughts. The ALJ must carefully sort through the testimony and exhibits to ascertain all of the relevant facts, make determinations of the credibility of witnesses, apply the relevant facts to the correct



laws and regulations, and reach the appropriate conclusions. The ALJ will enter an order **within thirty days** after the completion of the hearing.

What if You Fail to Appear at the Administrative Hearing

If you fail to appear at the scheduled administrative hearing without having obtained a continuance from the ALJ, the ALJ may proceed with the hearing in your absence and may issue the order without input from you. The ALJ may also grant a default judgment against you, which may become a final agency order.