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Decision 96-03-002 March 13, 1996

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Judd M. Bradley,)
)
 Complainant,)
)
 vs.)
)
 Pismo Beach Mobile Home Park, Inc.,)
)
 Defendant.)

Case 95-04-031
(Filed April 7, 1995)

ORIGINAL

ORDER OF DISMISSAL

On April 7, 1995, Judd M. Bradley (Bradley) filed a complaint against Pismo Beach Mobile Home Park, Inc. (Park). The Park assessed Bradley and each of 202 park residents a surcharge of \$5.15 for 12 months to cover maintenance and repair of its submetered electric distribution system. Bradley contends that the Park is in violation of Public Utilities (PU) Code § 739.5, which states:

"739.5.(a) The commission shall require that, whenever gas or electric service, or both, is provided by a master-meter customer to users who are tenants of a mobilehome park, apartment building, or similar residential complex, the master-meter customer shall charge each user of the service at the same rate which would be applicable if the user were receiving gas or electricity, or both, directly from the gas or electrical corporation. ..." (PU Code § 739.5(a), emphasis added.)

In its response to the complaint, the Park states:

"Pismo Beach Mobile Home Park is a Senior park, and was purchased by a majority of the residents in 1985. As of this date 30 spaces in the park are still occupied by renters who pay rent on the spaces they occupy. Only those 30 spaces are under the jurisdiction of our local rent control ordinance. The other 202

spaces are occupied by resident-owners, each of them with an equal and undivided interest in the ownership of the entire park. Complainant Judd M. Bradley is one of those owners.

* * *

"We are not in violation of any CPUC ruling. Decision 95-02-090 is addressed to the concerns of mobilehome park renters (emphasis added) and not to the affairs of mobilehome park residents who are also owners of the park. A renter is identified as '...one who pays to a landlord.' In this case the complainant is actually one of the owners of the park, and pays no rent. Further, as one of the owners of the park Mr. Bradley is also a landlord." (Park's response dated May 16, 1995).

Bradley, in his reply, states:

"I own one share of stock in the corporation, shares are currently valued by the corporation's Board of Directors at approximately \$60,000 each. A share of stock in the corporation entitles the owner of that share of stock to the exclusive use, for perpetuity, of one of the 232 corporate owned mobilehome spaces, subject also to monthly payments for corporate provided sub-metered utilities, mandated television, maintenance fee and the optional use of certain other amenities. Payment for a share of stock is in reality, a form of advance rental payment, an event neither prohibited by PUC Code 739.5 nor excluding a tenant from protection against excessive sub-metered utility service charges such as those specified in my complaint. ..."
(Letter dated September 29, 1995.)

Discussion

We agree with the Park that Bradley is a resident-owner and not a "tenant" as that term is used in PU Code § 739.5. Therefore, the complaint should be dismissed.

Finding of Fact

Bradley is one of 202 resident corporate owners of the mobile home park corporation.

Conclusions of Law

1. Bradley is not a "tenant" as prescribed in PU Code § 739.5(a).
2. The complaint should be dismissed for lack of Commission jurisdiction over mobile home parks and their owners as described in this Decision.

ORDER

IT IS ORDERED that the complaint of Judd M. Bradley against Pismo Beach Mobile Home Park, Inc. is dismissed.

This order is effective today.

Dated March 13, 1996, at San Francisco, California.

DANIEL Wm. FESSLER
President
P. GREGORY CONLON
JESSIE J. KNIGHT, JR.
HENRY M. DUQUE
JOSIAH L. NEEPER
Commissioners