

UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF FLORIDA
FT. PIERCE DIVISION

MICHAEL NOEL KATHLEEN
WIKSTEN, and CLAIRE LADOUCHER
on behalf of themselves and all others
similarly situated,

CASE NO: 2:21-CV-14492-DMM

Plaintiffs,

v.

MHC HERITAGE PLANTATION LLC,
and EQUITY LIFESTYLE PROPERTIES,
INC., f/k/a MANUFACTURED HOME
COMMUNITIES, INC.

Defendants.

ANSWER AND AFFIRMATIVE DEFENSES

Pursuant to the Federal Rules of Civil Procedure Defendants MHC Heritage Plantation LLC and Equity Lifestyle Properties, Inc., f/k/a Manufactured Home Communities, Inc., files their Answer and Affirmative Defenses as follows:

INTRODUCTION

1. Admitted that Florida Mobile Home Act (hereinafter referred to as "FMHA") provides obligations both on the part of the homeowner and park owner otherwise Denied.
2. Denied.
3. Admit that Plaintiff's are homeowners of the Park and the FMHA provides specified obligations; otherwise Denied.
4. Denied.
5. Denied.

6. Denied.

7. Without knowledge of Plaintiff's intent and the Complaint speaks for itself; otherwise, Denied.

II. PARTIES

8. Admit.

9. Admit.

10. Admit.

11. Admit.

12. Admit.

13. Admit.

14. Admit.

15. Without knowledge.

16. Admit that MHC Heritage Plantation LLC (hereinafter referred to as "MHC Heritage") is inactive; otherwise Denied.

17. Admit.

18. Admit.

19. Admit.

20. Denied.

21. Admit.

22. Admit.

23. Deny first sentence; accept last sentence for ease of reference.

III. JURISDICTION AND VENUE

24. Denied.

25. Admit.

IV. FACTUAL ALLEGATIONS

A. Background

1. The Heritage Plantation Prospectus

26. Admit.

27. Admit.

28. Admit that the Exhibit is a park prospectus, without knowledge when it was accepted.

29. Admit.

30. Admit that the Exhibit is a park prospectus, without knowledge when it was accepted.

31. Admit.

32. Admit the lot rental amount; without knowledge concerning the remaining allegations.

33. Admit.

34. Denied.

35. Denied.

36. Admit that MHC Heritage is the park owner; otherwise Denied.

37. Admit.

38. Admit.

39. Admit.

2. The Longstanding Flooding Problems

40. Without knowledge.

41. Denied.
42. Denied.
43. Denied.
44. Denied.
45. Denied.
46. Without knowledge. Deny “Ordinary” rainfall.
47. Without knowledge. Deny “Ordinary” rainfall.
48. Without knowledge. Deny “Ordinary” rainfall.
49. Without knowledge. Deny “Ordinary” rainfall.
50. Without knowledge. Deny “Ordinary” rainfall.
51. Without knowledge.
52. Without knowledge.
53. Without knowledge.
54. Without knowledge.

3. Homeowners Have Complained to Defendants about the Flooding, but no Steps have been taken to remedy the problem.

55. Without knowledge.
56. Without knowledge.
57. Without knowledge.
58. Without knowledge.
59. Denied. The communication, if genuine, speaks for itself.
60. Without knowledge.
61. Denied.
62. Denied. Any genuine communications speaks for itself.

63. Denied that the storm water system is involved. The Code Enforcement action is admitted and related documents speak for themselves.

4. Defendant MHC Heritage Plantation LLC was found in Violation of Municipal Code by Discharging Stormwater into the County's Sewer System and has failed to Remediate the Violation, Incurring a fine over \$132,000 that Mounts Daily.

64. Admit.

65. Denied.

66. Denied. The Order speaks for itself.

67. Denied. The Code Enforcement documents speak for themselves.

68. Without knowledge.

69. Denied.

5. The Residents Homes and Personal Property have been Damaged Because the Flooding, Moisture and Mold.

70. Denied.

71. Without knowledge.

72. Without knowledge.

73. Without knowledge.

74. Without knowledge.

75. Denied.

76. Without knowledge.

77. Without knowledge.

6. The Residents Have Suffered Personal Injuries Due to Defendants' Lack of Maintenance After Flooding.

78. Denied.

79. Denied.

7. The Defendants Also Fail to Maintain the Park's Common Areas.

- 80. Without knowledge.
- 81. Without knowledge.
- 82. Denied.
- 83. Without knowledge.
- 84. Without knowledge.
- 85. Without knowledge.
- 86. Without knowledge.
- 87. Without knowledge.

8. Dangerous Electrical Conditions Exist.

- 88. Denied. Hazardous electrical conditions exist; without knowledge concerning the remaining allegations.
- 89. Without knowledge. Any Notices speak for themselves.
- 90. Without knowledge. Any Notices speak for themselves.

9. Defendants Retaliate Against Residents for Complaining about the Park's Maintenance.

- 91. Admit.
- 92. Any allegation of retaliation is Denied. Defendants are without knowledge concerning the remaining allegations.
- 93. Denied.
- 94. Denied.

V. CLASS ALLEGATIONS

- 95. Denied.
- 96. Denied.

97. Without knowledge.

98. Admit that there are 436 lots. The remaining allegations are Denied.

99. Denied.

100. Denied.

101. Denied.

102. Denied.

103. Denied.

**VI. CLAIMS FOR RELIEF
COUNT I – BREACH OF CONTRACT**

104. Defendants re-allege and re-incorporate responses to ¶’s 1-103 as if fully set forth herein.

105. Admit.

106. Denied.

107. Denied.

108. Denied.

109. Denied.

110. Denied.

COUNT II – BREACH OF COVENANT OF QUIET ENJOYMENT

111. Defendants re-allege and re-incorporate responses to ¶’s 1-103 as if fully set forth herein.

112. Denied.

113. Denied.

114. Denied.

115. Denied.

COUNT III – NEGLIGENCE

116. Defendants re-allege and re-incorporate responses to ¶’s 1-103 as if fully set forth herein.

117. These are allegations of law to which no response is required.

118. These are allegations of law to which no response is required.

119. These are allegations of law to which no response is required.

120. Denied.

121. Denied.

122. Denied.

123. Denied.

124. Denied.

125. Denied.

COUNT IV – PRIVATE NUISANCE

126. Defendants re-allege and re-incorporate responses to ¶’s 1-103 as if fully set forth herein.

127. Denied.

128. Denied.

129. Denied.

130. Denied.

131. Denied.

132. Denied.

133. Denied.

COUNT V – TRESSPAS

134. Defendants re-allege and re-incorporate responses to ¶’s 1-103 as if fully set forth herein.

135. Admit.

136. Denied.

137. Denied.

138. Denied.

139. Denied.

140. Denied.

141. Denied.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Statute of limitations. Each cause of action, claim, and item of damages, did not accrue within the time prescribed by law for them before this action was brought.

SECOND AFFIRMATIVE DEFENSE

Laches. Plaintiffs’ claims are barred by the doctrine of laches. Laches may be applied before the statute of limitations expires when strong equities appear. Plaintiffs make strong claims of flooding issues dating back to 2011.(See, DK 1 pg. 10). Yet plaintiffs failed to timely assert their claims when they had actual or constructive knowledge of the same, contributing to any alleged damages suffered.

THIRD AFFIRMATIVE DEFENSE

Facts common the Affirmative Defenses Three, Four, And Five .

Heritage Plantation (the “Community”) is a rental mobile home park. The land/tenant relationship is governed by the Mobile Home Act, Chapter 723, Florida Statutes (the “FMHA”). The FMHA has extensive alternative dispute resolution procedures based on a collective bargaining process. The FMHA appoints the mobile home owners association as the statutory representative of all homeowners, whether or not they are members of the association. Heritage Village Homeowners Association, Inc. (the “Association”) is the mobile home owners association for the Community. In each year, 2015, 2018 and 2021, the Community owner and the Association negotiated over rents and rent increases. The Community owner compromised on its rental amounts, and, in return, the Association reached long term agreements (“LTAs”), each of which compromised on the rents for a three (3) year term (a total of 9 annual rental agreements for the three LTAs). Copies of the LTA’s are attached as Exhibits 1, 2 and 3. Each LTA contained a release covenant. For example, the current LTA which covers the current annual rental agreement and two other states:

8. Mutual Release: The Association, on its behalf and on behalf of each Homeowner as such Homeowner’s representative, hereby releases Owner, Equity Lifestyle Properties, Inc., Manufactured Home Communities, Inc., MHC Operating Limited Partnership, MHC Property Management, L.P. and their parents, affiliates, subsidiaries, officers, directors, agents, stockholders, members, attorneys, successors and assigns, and Owner hereby releases the Association, its officers, directors, agents and attorneys from any and all claims, actions or causes of action of any kind whatsoever (“Claims”), whether legal, equitable, administrative, or otherwise, including, but not limited to, Claims involving or relating to the subject matter of this Agreement, services, maintenance, or Owner’s compliance with or delivery of the Community’s prospectuses, rental

agreements, as well as any other alleged violation of Chapter 723, Florida Statutes. With the exception of Claims involving the subject matter of this Agreement, this release shall address only Claims existing on the Effective Date. This release shall not apply to any Homeowner's failure to pay rent or a rules violation.

Each LTA also contained a covenant for the Parties (the Association and the Negotiating Committee) to punctually notify if the other "the other Owner in violation of this Agreement, the prospectus or rental agreement governing if any Homeowner's tenancy, or Chapter 723, Florida Statutes" Parties must give the other notice and an opportunity to cure. The required notice was not given. All homeowners including plaintiffs paid the negotiated rents for the period of their occupancy, ratifying the LTAs. See, *Nagymihaly v. Zipes*, 353 So. 2d 943, (Fla. 3rd DCA 1978) holding that a court may find as a matter of law that one who accepts the benefits of a settlement or compromise agreement, ratifies the settlement even if it was not authorized by him.

FOURTH AFFIRMATIVE DEFENSE

Estoppel. The Association agreed that all matters existing or predating the execution of the LTA were waived; the park owner and operator relied upon such representations and offered a compromise in rents; the plaintiffs as homeowners represented by the Association accepted and paid the reduced rents but have attempted to change their position and now assert claims waived by the LTA. They are estopped to bring their claims.

FIFTH AFFIRMATIVE DEFENSE

Waiver. At the time the LTA was executed, the plaintiffs have alleged that they had a right, claim or benefit which may be waived; plaintiffs had actual or constructive knowledge of the right; the homeowners (including plaintiffs) were represented by the Association in negotiating rents for

the Community; in return for a compromise on the rents the Association of its behalf and on behalf of all homeowners (including plaintiffs) waived all past claims.

SIXTH AFFIRMATIVE DEFENSE

Compromise and Settlement. The LTAs are valid, binding contracts made by a statutorily authorized representative of the homeowners, including plaintiffs. Plaintiffs accepted the benefits of the LTAs and ratified the same. The mutual general release provisions apply and bar plaintiffs' claims.

SEVENTH AFFIRMATIVE DEFENSE

Limitations On Duty . The FMHA is preemptive and establishes Defendants' duties under the landlord/tenant relationship. See, Section 723.004, Florida Statutes. Defendants' responsibilities for the storm water drainage system are stated in Section 723.022(4), Florida Statutes. Defendants are obligated to "[M]aintain utility connections and systems for which the park owner is responsible in a proper operating condition." Defendants have no duty to prevent flooding caused by hurricanes or tropical events. Defendants' responsibilities are to maintain the storm drainage system in a proper operating condition as originally designed and constructed. Periodic flooding is inevitable. The limited duty of a park owner is to assure that the drainage system operates properly to dissipate the flood waters. No park owner has a duty to prevent flooding from Hurricane Irma (as photographs in complaint paragraph 47 depict, or from a gale that produced 8.3 inches of rain in a day, and 21.93 inches for the month as the photographs in paragraph 46 show.).

EIGHTH AFFIRMATIVE DEFENSE

Installation Codes. The installation codes referred to in paragraph 118 of the complaint did not apply when plaintiffs' homes were installed.

Respectfully Submitted,

LUTZ, BOBO & TELFAIR, P.A

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Fax: (813) 227-8598
Co-Counsel for Defendants

Dated: February 1, 2022

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon Robert C. Gilbert, Esq., Daniel E. Tropin, Esq., Kopelowitz, Ostrow Ferguson, Weiselberg & Gilbert, 2800 Ponce de Leon Blvd, Suite 1100, Coral Gables, Florida 33134 gilbert@kolawyers.com, tropin@kolawyers.com, Elizabeth A. Fegan, Esq., Fegan Scott LLC, 150 S. Waker Drive, 2th Floor, Chicago, IL 60606 beth@feganscott.com, Lynn A. Ellenberger, Esq., Fegan Scott LLC, 500 Grant Street, Suite 2900, Pittsburgh, PA 15219 lynn@feganscott.com via the Southern District Court E-portal on this 1st day of February, 2022.

J. Allen Bobo

J. Allen Bobo

A G R E E M E N T

This Agreement (the "Agreement") is made this 20 day of May, 2021 (the "Effective Date"), by and between MHC OPERATING LIMITED PARTNERSHIP and MHC HERITAGE PLANTATION, L.L.C. ("Owner") and HERITAGE VILLAGE HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the "HOA") and its negotiating committee created pursuant to Section 723.037(4), Florida Statutes, (the "Negotiating Committee") (the HOA and the Negotiating Committee collective the "Association") (the HOA, the Negotiating Committee and the Owner collectively (the "Parties").

R E C I T A L S

- A. Owner owns and operates Heritage Plantation, a manufactured housing community located in Indian River County, Florida (the "Community").
- B. In April of 2021, Owner properly served upon the homeowners of the Community (each a "Homeowner" and collectively, the "Homeowners") and the board of directors of the HOA, a legally sufficient notice of lot rental increase (the "Notice") providing for an increase in lot rental amount effective August 1, 2021.
- C. The HOA created the Negotiating Committee pursuant to Section 723.037(4), Florida Statutes, to meet and negotiate with Owner concerning the Notice and other matters. Following good faith negotiations between the Parties, an Agreement was reached as specified below. The Parties intend that this Agreement shall be considered a contract between the Parties within the meaning of Section 723.038(6), Florida Statutes. This Agreement shall be binding upon the Parties and all Homeowners on the Effective Date (the "Included Homeowners") subject to any limitations stated below. Any Homeowner who has executed a lease, an agreement, an assignment and assumption, or an acknowledgement for market lot rental amount

EXHIBIT 1

different from the lot rental amounts stated herein, shall be bound by the Homeowner's existing agreement shall not be considered an Included Homeowner subject to this Agreement.

Now, therefore, in consideration of the foregoing recitals (which are accurate, material and incorporated into this Agreement), the mutual promises and covenants set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Base Rent Increases:** The annual increases in base rent for the period August 1, 2021 through July 31, 2023 shall be as follows:

- a. For the annual lease term beginning August 1, 2021 and ending July 31, 2022 (the "2021-2022 Lease Term"), base rents shall be increased by 3.5% per site per month over the previous year's base rents.
- b. For the annual lease term beginning August 1, 2022 and ending July 31, 2023 (the "2022-2023 Lease Term"), base rents shall be increased by 3.75% per site per month over the previous year's base rents.
- c. For the annual lease term beginning August 1, 2023 and ending July 31, 2024 (the "2023-2024 Lease Term"), base rents shall be increased by 3.95% per site per month over the previous year's base rents.

The foregoing amounts shall be payable without set-off or escrow whatsoever.

2. **Other Charges:** The limitations on base rent increases specified in numbered paragraph 1 above shall not affect any fees, charges or assessments other than base rent. Owner reserves the right to charge, increase or decrease any other fees, charges and/or assessments (collectively "Fees") available under the Community's prospectuses and any other Fees

permitted by law. Such Fees may include, but shall not be limited to, special use fees, government and utility charges, pass through charges and pass on charges.

3. **Ad Valorem and Non-Ad Valorem Assessments:** Ad valorem taxes and non-ad valorem assessments shall be separately charged in addition to base rent as part of each Homeowner's lot rental amount. Ad valorem taxes and non-ad valorem assessments may be determined and charged based upon the sum of all the maximum tax charges estimated on all of the annual TRIM Notices issued to the Community pursuant to Section 200.069, Florida Statutes, (each a "TRIM Notice" and collectively the "TRIM Notices"). If the sum of the ad valorem taxes and non-ad valorem assessments billed to all the Homeowners based on the sum of the maximum tax charges stated on all the TRIM Notices differs by more than one-half percent (1/2%) from the sum of the ultimate ad valorem taxes and non-ad valorem assessments, a revised Notice shall promptly be served adjusting the ad valorem tax and non-ad valorem assessment charges to coincide with the ultimate amounts charged in the final tax bill or bills.

4. **Waiver and Notice:** If either Owner or the Association contends that the other is in violation of this Agreement, the prospectus or rental agreement governing any Homeowner's tenancy, or Chapter 723, Florida Statutes, (any or all of which a "Non-Compliance"), the Party alleging default (the "Notice Party") shall notify the Party alleged to be in default (the "Recipient Party") of any such alleged Non-Compliance, including the particulars of the facts giving rise to and constituting such alleged Non-Compliance, within ninety (90) days of the date the Notice Party receives reasonable notice of such facts. The Recipient Party shall have forty-five (45) days from receipt of any such notice to cure the alleged Non-Compliance and, upon completion of any such cure, the Recipient Party shall be deemed not to have been in default or in violation. Notice shall be sent by certified mail or trackable overnight delivery service to:

As to Owner:

- (A) The Community Manager at the Community office;
- (B) With a copy to: Equity Lifestyle Properties, Inc.
ATTN: David P. Eldersveld
Executive Vice President/General Counsel,
Corporate Secretary
2 North Riverside Plaza
Chicago, IL 60606

As to the Association:

- (A) To the then current President of the Homeowners' Association at the address shown on the Secretary of State website;
- (B) With a copy to: the Registered Agent of the Homeowners' Association at the address shown on the Secretary of State website

The Notice and opportunity to cure provisions stated herein shall be a condition precedent to any legal, equitable or administrative action concerning the alleged Non- Compliance.

5. Attorneys' Fees; Litigation; Integrity of Agreement: In the event of any litigation between Owner and the Association relating to or arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses of any nature, including, but not limited to, attorneys' fees, expert fees, and other taxable and non-taxable costs and expenses, both at the trial and appellate levels; provided, however, the foregoing shall not apply to any statutory meeting with Owner, subsequent mediation or to any proceeding by or on behalf of any former or current Homeowner seeking to invalidate or otherwise dispute the validity of this Agreement. The Association and Owner agree to mutually enforce this Agreement and cooperate fully in the event the validity or integrity of this Agreement is attacked or disputed by any such Homeowner.

6. **Dispute Resolution: Waiver of Jury Trial:** Any controversy or claim arising out of or relating to this Agreement, its interpretation, construction, breach or enforcement hereof, shall first require non-binding mediation pursuant to either Section 723.038 or Chapter 44, Florida Statutes. In any proceeding arising out of or relating to this Agreement, the parties waive trial by jury.

7. **Homeowners Affected by This Agreement: Transferees:** (a) This Agreement shall apply to Included Homeowners. If, during the term of this Agreement, any Included Homeowner transfers or sells any legal or equitable interest in such Homeowner's mobile home to any transferee or resale purchaser (collectively, a "Transferee"), the Transferee shall be permitted to assume such Included Homeowners rental agreement but only for the remainder of the annual lease term then in effect between the Included Homeowner and Owner. Upon the expiration of such annual lease term the Transferee's rent shall be adjusted to the Community's then prevailing market rate, as determined by Owner in its discretion, which shall be deemed such Transferee's base rental amount, as that term is used in paragraph 1 of this Agreement, for the year in which such initial increase occurs. Owner may, but shall not be required to, redeliver a prospectus to the Transferee. Any Included Homeowner who sells or transfers any legal or equitable interest in such Homeowner's mobile home shall be responsible for redelivering such Homeowner's prospectus to such Homeowner's Transferee at the time of the initial transfer. (b) Any Included Homeowner who relocates during the term of this Agreement to a home owned by Owner shall pay the then prevailing market rate for the site on which such mobile home is located. Owner may offer incentive arrangements for the sale or rental of new or used homes in amounts or structures at Owner's sole discretion and nothing contained herein shall affect or apply to these incentive arrangements.

8. **Mutual Release:** The Association, on its behalf and on behalf of each Homeowner as such Homeowner's representative, hereby releases Owner, Equity Lifestyle Properties, Inc., Manufactured Home Communities, Inc., MHC Operating Limited Partnership, MHC Property Management, L.P. and their parents, affiliates, subsidiaries, officers, directors, agents, stockholders, members, attorneys, successors and assigns, and Owner hereby releases the Association, its officers, directors, agents and attorneys from any and all claims, actions or causes of action of any kind whatsoever ("Claims"), whether legal, equitable, administrative, or otherwise, including, but not limited to, Claims involving or relating to the subject matter of this Agreement, services, maintenance, or Owner's compliance with or delivery of the Community's prospectuses, rental agreements, as well as any other alleged violation of Chapter 723, Florida Statutes. With the exception of Claims involving the subject matter of this Agreement, this release shall address only Claims existing on the Effective Date. This release shall not apply to any Homeowner's failure to pay rent or a rules violation.

9. **Applicability of Prospectus, Rental Agreement and Chapter 723, Florida Statutes:** Each Homeowner's tenancy shall be governed by his or her prospectus and rental agreement. In the event of any conflict between a Homeowner's prospectus or rental agreement and this Agreement, this Agreement shall control.

10. **Entire Agreement; Modification:** This Agreement constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof. This Agreement supersedes all prior and contemporaneous discussions, negotiations, conditions or understandings relating to the subject matter hereof. This Agreement may not be amended or modified except by an instrument in writing signed by all Parties hereto.

11. **Further Assurances:** The Parties shall, at any time and from time to time following the execution hereof, confirm the validity of this Agreement, and execute and deliver all such further instruments and documents and take all further actions as may be reasonably necessary or appropriate in order to carry out or more effectively satisfy the intent and purposes of this Agreement.

12. **Representations: Binding Effect:**

a. **By Owner:** Owner represents that it is authorized to enter into this Agreement. This Agreement shall be binding upon Owner, its successors and assigns.

b. **By the Association:** The Association represents that it is a duly incorporated Homeowners' Association and Negotiating Committee created and maintained pursuant to Sections 723.075 through 723.079, Florida Statutes. The Association represents that the negotiating committee was created in strict compliance with Section 723.037(4), Florida Statutes. The Association enters into this Agreement on its behalf and on behalf of each Homeowner of the Community as such Homeowner's representative pursuant to Sections 723.075(1) and 723.079(1), Florida Statutes.

13. **Execution in Counterparts:** This Agreement may be executed in counterparts.

OWNER



By: Everett Butler _____

Its: Vice President

Date: 5/21/2021

HOA

William H. Shield

By: William H. Shield

Its: PRESIDENT

Date: May 20, 2021

NEGOTIATING COMMITTEE

Corrine Glew

Sandra Arp

Al Luky

Dick Bruce (WHS)

Richard Lockwood sec

Date: May 20, 2021

A G R E E M E N T

This agreement (the "Agreement") is made this 14th day of June, 2018 (the "Effective Date"), by and between MHC OPERATING LIMITED PARTNERSHIP and MHC HERITAGE PLANTATION, L.L.C. ("Owner") and HERITAGE VILLAGE HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation (the "HOA") and its negotiating committee created pursuant to Section 723.037(4), Florida Statutes, (the "Negotiating Committee") (the HOA and the Negotiating Committee collectively the "Association") (the HOA, the Negotiating Committee and the Owner collectively the "Parties").

R E C I T A L S

A. Owner owns and operates Heritage Plantation, a manufactured housing community located in Indian River County, Florida (the "Community").

B. In April of 2018, Owner properly served upon the homeowners of the Community (each a "Homeowner" and collectively, the "Homeowners") and the board of directors of the HOA, a legally sufficient notice of lot rental increase (the "Notice") providing for an increase in lot rental amount effective August 1, 2018.

C. The HOA created the Negotiating Committee pursuant to Section 723.037(4), Florida Statutes, to meet and negotiate with Owner concerning the Notice and other matters. Following good faith negotiations between the Parties, an Agreement was reached as specified below. The Parties intend that this Agreement shall be considered a contract between the Parties within the meaning of Section 723.038(6), Florida Statutes. This Agreement shall be binding upon the Parties and all Homeowners on the Effective Date (the "Included Homeowners") subject to any limitations stated below. Any Homeowner who has executed a lease, an agreement, an assignment and assumption, or an acknowledgement for market lot rental amount

EXHIBIT 2

different from the lot rental amounts stated herein, shall be bound by the Homeowner's existing agreement shall not be considered an Included Homeowner subject to this Agreement.

Now, therefore, in consideration of the foregoing recitals (which are accurate, material and incorporated into this Agreement), the mutual promises and covenants set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Base Rent Increases:** The annual increases in base rent for the period August 1, 2018 through July 31, 2021 shall be as follows:

- a. For the annual lease term beginning August 1, 2018 and ending July 31, 2019 (the "2018-2019 Lease Term"), base rents shall be increased by 3.50% per site per month over the previous year's base rents.
- b. For the annual lease term beginning August 1, 2019 and ending July 31, 2020 (the "2019-2020 Lease Term"), base rents shall be increased by 3.75% per site per month over the previous year's base rents.
- c. For the annual lease term beginning August 1, 2020 and ending July 31, 2021 (the "2020-2021 Lease Term"), base rents shall be increased by 3.95% per site per month over the previous year's base rents.

The foregoing amounts shall be payable without set-off or escrow whatsoever.

2. **Other Charges:** The limitations on base rent increases specified in numbered paragraph 1 above shall not affect any fees, charges or assessments other than base rent. Owner reserves the right to charge, increase or decrease any other fees, charges and/or assessments (collectively "Fees") available under the Community's prospectuses and any other Fees

permitted by law. Such Fees may include, but shall not be limited to, special use fees, government and utility charges, pass through charges and pass on charges.

3. **Ad Valorem and Non-Ad Valorem Assessments:** Ad valorem taxes and non-ad valorem assessments shall be separately charged in addition to base rent as part of each Homeowner's lot rental amount. Ad valorem taxes and non-ad valorem assessments may be determined and charged based upon the sum of all the maximum tax charges estimated on all of the annual TRIM Notices issued to the Community pursuant to Section 200.069, Florida Statutes, (each a "TRIM Notice" and collectively the "TRIM Notices"). If the sum of the ad valorem taxes and non-ad valorem assessments billed to all the Homeowners based on the sum of the maximum tax charges stated on all the TRIM Notices differs by more than one-half percent (1/2%) from the sum of the ultimate ad valorem taxes and non-ad valorem assessments, a revised Notice shall promptly be served adjusting the ad valorem tax and non-ad valorem assessment charges to coincide with the ultimate amounts charged in the final tax bill or bills.

4. **Waiver and Notice:** If either Owner or the Association contends that the other is in violation of this Agreement, the prospectus or rental agreement governing any Homeowner's tenancy, or Chapter 723, Florida Statutes, (any or all of which a "Non-Compliance"), the Party alleging default (the "Notice Party") shall notify the Party alleged to be in default (the "Recipient Party") of any such alleged Non-Compliance, including the particulars of the facts giving rise to and constituting such alleged Non-Compliance, within ninety (90) days of the date the Notice Party receives reasonable notice of such facts. The Recipient Party shall have forty-five (45) days from receipt of any such notice to cure the alleged Non-Compliance and, upon completion of any such cure, the Recipient Party shall be deemed not to have been in default or in violation. Notice shall be sent by certified mail or trackable overnight delivery service to:

As to Owner:

- (A) The Community Manager at the Community office;
- (B) With a copy to: Equity Lifestyle Properties, Inc.
ATTN: David P. Eldersveld
Executive Vice President/General Counsel,
Corporate Secretary
2 North Riverside Plaza
Chicago, IL 60606

As to the Association:

- (A) To the then current President of the Homeowners' Association at the address shown on the Secretary of State website;
- (B) With a copy to: the Registered Agent of the Homeowners' Association at the address shown on the Secretary of State website

The Notice and opportunity to cure provisions stated herein shall be a condition precedent to any legal, equitable or administrative action concerning the alleged Non-Compliance.

5. Attorneys' Fees; Litigation; Integrity of Agreement: In the event of any litigation between Owner and the Association relating to or arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses of any nature, including, but not limited to, attorneys' fees, expert fees, and other taxable and non-taxable costs and expenses, both at the trial and appellate levels; provided, however, the foregoing shall not apply to any statutory meeting with Owner, subsequent mediation or to any proceeding by or on behalf of any former or current Homeowner seeking to invalidate or otherwise dispute the validity of this Agreement. The Association and Owner agree to mutually enforce this Agreement and cooperate fully in the event the validity or integrity of this Agreement is attacked or disputed by any such Homeowner.

6. **Dispute Resolution; Waiver of Jury Trial:** Any controversy or claim arising out of or relating to this Agreement, its interpretation, construction, breach or enforcement hereof, shall first require non-binding mediation pursuant to either Section 723.038 or Chapter 44, Florida Statutes. In any proceeding arising out of or relating to this Agreement, the parties waive trial by jury.

7. **Homeowners Affected by This Agreement; Transferees:** (a) This Agreement shall apply to Included Homeowners. If, during the term of this Agreement, any Included Homeowner transfers or sells any legal or equitable interest in such Homeowner's mobile home to any transferee or resale purchaser (collectively, a "Transferee"), the Transferee shall be permitted to assume such Included Homeowners rental agreement but only for the remainder of the annual lease term then in effect between the Included Homeowner and Owner. Upon the expiration of such annual lease term the Transferee's rent shall be adjusted to the Community's then prevailing market rate, as determined by Owner in its discretion, which shall be deemed such Transferee's base rental amount, as that term is used in paragraph 1 of this Agreement, for the year in which such initial increase occurs. Owner may, but shall not be required to, redeliver a prospectus to the Transferee. Any Included Homeowner who sells or transfers any legal or equitable interest in such Homeowner's mobile home shall be responsible for redelivering such Homeowner's prospectus to such Homeowner's Transferee at the time of the initial transfer. (b) Any Included Homeowner who relocates during the term of this Agreement to a home owned by Owner shall pay the then prevailing market rate for the site on which such mobile home is located. Owner may offer incentive arrangements for the sale or rental of new or used homes in amounts or structures at Owner's sole discretion and nothing contained herein shall affect or apply to these incentive arrangements.

8. **Mutual Release:** The Association, on its behalf and on behalf of each Homeowner as such Homeowner's representative, hereby releases Owner, Equity Lifestyle Properties, Inc., Manufactured Home Communities, Inc., MHC Operating Limited Partnership, MHC Property Management, L.P. and their parents, affiliates, subsidiaries, officers, directors, agents, stockholders, members, attorneys, successors and assigns, and Owner hereby releases the Association, its officers, directors, agents and attorneys from any and all claims, actions or causes of action of any kind whatsoever ("Claims"), whether legal, equitable, administrative, or otherwise, including, but not limited to, Claims involving or relating to the subject matter of this Agreement, services, maintenance, or Owner's compliance with or delivery of the Community's prospectuses, rental agreements, as well as any other alleged violation of Chapter 723, Florida Statutes. With the exception of Claims involving the subject matter of this Agreement, this release shall address only Claims existing on the Effective Date. This release shall not apply to any Homeowner's failure to pay rent or a rules violation.

9. **Applicability of Prospectus, Rental Agreement and Chapter 723, Florida Statutes:** Each Homeowner's tenancy shall be governed by his or her prospectus and rental agreement. In the event of any conflict between a Homeowner's prospectus or rental agreement and this Agreement, this Agreement shall control.

10. **Entire Agreement; Modification:** This Agreement constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof. This Agreement supersedes all prior and contemporaneous discussions, negotiations, conditions or understandings relating to the subject matter hereof. This Agreement may not be amended or modified except by an instrument in writing signed by all Parties hereto.

11. **Further Assurances:** The Parties shall, at any time and from time to time following the execution hereof, confirm the validity of this Agreement, and execute and deliver all such further instruments and documents and take all further actions as may be reasonably necessary or appropriate in order to carry out or more effectively satisfy the intent and purposes of this Agreement.

12. **Representations; Binding Effect:**

a. **By Owner:** Owner represents that it is authorized to enter into this Agreement. This Agreement shall be binding upon Owner, its successors and assigns.

b. **By the Association:** The Association represents that it is a duly incorporated Homeowners' Association and Negotiating Committee created and maintained pursuant to Sections 723.075 through 723.079, Florida Statutes. The Association represents that the negotiating committee was created in strict compliance with Section 723.037(4), Florida Statutes. The Association enters into this Agreement on its behalf and on behalf of each Homeowner of the Community as such Homeowner's representative pursuant to Sections 723.075(1) and 723.079(1), Florida Statutes.


13. **Execution in Counterparts:** This Agreement may be executed in counterparts.

OWNER



By: Eric Zimmerman

Its: Regional Vice President

Date: 8/14/18


HOA

Nina M. Clay

By: Nina M. Clay

Its: President

Date: 06/09/18

NEGOTIATING COMMITTEE

Richard D. Hutchison
[Signature]
Rebecca M. Rickard
William H. Skeld
name

Date: 06/09/18

A G R E E M E N T

This agreement (the "Agreement") is made this 8th day of October, 2015 (the "Effective Date") by and between MHC OPERATING LIMITED PARTNERSHIP and MHC HERITAGE PLANTATION, L.L.C. ("Owner") and HERITAGE VILLAGE HOMEOWNERS ASSOCIATION, INC., a Florida not-for-profit corporation, (the "HOA") and its negotiating committee created pursuant to Section 723.037(4), Florida Statutes, (the "Negotiating Committee") (the HOA and the Negotiating Committee collectively the "Association") (the HOA, the Negotiating Committee and the Owner collectively the "Parties").

R E C I T A L S

A. Owner owns and operates Heritage Plantation, a manufactured housing community located in Indian River County, Florida (the "Community").

B. In April of 2015, Owner properly served upon the homeowners of the Community (each a "Homeowner" and collectively, the "Homeowners") and the board of directors of the HOA, a legally sufficient notice of lot rental increase (the "Notice") providing for an increase in lot rental amount effective August 1, 2015.

C. The HOA created the Negotiating Committee pursuant to Section 723.037(4), Florida Statutes, to meet and negotiate with Owner concerning the Notice and other matters. Following good faith negotiations between the Parties, an Agreement was reached as specified below. The Parties intend that this Agreement shall be considered a contract between the Parties within the meaning of Section 723.038(6), Florida Statutes. This Agreement shall be binding upon the Parties and all Homeowners on the Effective Date (the "Included Homeowners") subject to any limitations stated below.

EXHIBIT 3

Now, therefore, in consideration of the foregoing recitals (which are accurate, material and incorporated into this Agreement), the mutual promises and covenants set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **Base Rent Increases.** The annual increases in base rent for the period August 1, 2015 through July 31, 2018 shall be as follows:

- a. For the annual lease term beginning August 1, 2015 through July 31, 2016 (the "2015 Lease Term"), base rents shall be increased by 3% per site per month over the previous year's base rents.
- b. For the annual lease term beginning August 1, 2016 through July 31, 2017 (the "2016 Lease Term"), base rents shall be increased by 3.25% per site per month over the previous year's base rents.
- c. For the annual lease term August 1, 2017 through July 31, 2018 (the "2017 Lease Term"), base rents shall be increased by 3.5% over the previous year's base rental amount.

Provided however, notwithstanding paragraphs 1a. - 1c. above, the difference in monthly base rent between premium sites and standard sites shall not exceed \$10 per month during the three annual rental agreements subject to this Agreement. If application of any of the increase percentages referenced above produces a difference in base rent of in excess of \$10 per month between premium sites compared with standard sites for any year subject to this Agreement, the monthly base rent for the premium sites shall be reduced to an amount \$10 per month more than the monthly base rent charged for a standard site.

The foregoing amounts shall be payable without set-off or escrow whatsoever. Upon the expiration of this Agreement base rents shall be increased to the prevailing market rate.

2. **Other Charges.** The limitations on base rent increases specified in numbered paragraph 1 above shall not affect any fees, charges or assessments other than base rent. Owner reserves the right to charge, increase or decrease any other fees, charges and/or assessments (collectively, "Fees") available under the Community's prospectuses and any other Fees permitted by law. Such Fees may include, but shall not be limited to, special use fees, government and utility charges, pass through charges and pass on charges.

3. **Ad Valorem and Non-Ad Valorem Assessments.** Ad valorem taxes and non-ad valorem assessments shall be separately charged in addition to base rent as part of each Homeowner's lot rental amount. Ad valorem taxes shall be charged on a pro rata basis for all sums exceeding a base tax amount of \$56,119.85. All non ad valorem taxes or assessments shall be charged on a pro rata basis (there is no base amount for non ad valorem taxes or assessments). Ad valorem taxes and non-ad valorem assessments may be determined and charged based upon the sum of all the maximum tax charges estimated on all of the annual TRIM Notices issued to the Community pursuant to Section 200.069, Florida Statutes, (each a "TRIM Notice" and collectively the "TRIM Notices"). If the sum of the ad valorem taxes and non-ad valorem assessments billed to all the Homeowners based on the sum of the maximum tax charges stated on all the TRIM Notices differs by more than one-half percent (1/2%) from the sum of the ultimate ad valorem taxes and non-ad valorem assessments, a revised Notice shall promptly be served adjusting the ad valorem tax and non-ad valorem assessment charges to coincide with the ultimate amounts charged in the final tax bill or bills. This provision shall survive the termination or lapse of this Agreement.

4. **Waiver and Notice.** This Agreement shall be deemed sufficient legal notice of the lot rental amounts and increases in the lot rental amounts specified herein. As a material inducement to Owner's limitation of base rent increases as specified in paragraph 1 above, the Association expressly acknowledges that the form, content or service of any notice of any annual lot rental increase may, as a result of circumstances, not be in technical compliance with the form, content, or service provisions set forth in Section 723.037, Florida Statutes, and agrees that notwithstanding any non-compliance by Owner with Section 723.037, Florida Statutes, the lot rental amounts and lot rental amount increases set forth in this Agreement shall be valid and payable as prescribed by this Agreement. Owner is also authorized to serve a 90-day notice for an anniversary date other than the start of a lease term if Owner deems necessary to cure a technical compliance defect with Section 723.037, Florida Statutes. If the Association contends that Owner is in violation of this Agreement, the prospectus or rental agreement governing any Homeowner's tenancy, or Chapter 723, Florida Statutes, (any or all of which a "Non-Compliance"), the Association shall notify Owner of any such alleged Non-Compliance, including the particulars of the facts giving rise to and constituting such alleged Non-Compliance, within sixty (60) days of the date the Association receives reasonable notice of such facts. Owner shall have fifteen (15) days from receipt of any such notice to cure the alleged Non-Compliance and, upon completion of any such cure, Owner shall be deemed not to have been in default or in violation. Association shall provide to Owner any such notice of alleged Non-Compliance by certified mail properly addressed to the community manager at the community office with a copy sent by certified mail to Owner, c/o Equity Lifestyle Properties, Inc., Attention: Legal Department, 2 North Riverside Plaza, Suite 800, Chicago, IL 60606. The

Notice and opportunity to cure provisions stated herein shall be a condition precedent to any legal, equitable or administrative action concerning the alleged Non-Compliance.

5. **Attorneys' Fees; Litigation; Integrity of Agreement.** In the event of any litigation between Owner and the Association relating to or arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all costs and expenses of any nature, including, but not limited to, attorneys' fees, expert fees, and other taxable and non-taxable costs and expenses, both at the trial and appellate levels; provided, however, the foregoing shall not apply to any statutory meeting with Owner, subsequent mediation or to any proceeding by or on behalf of any former or current Homeowner seeking to invalidate or otherwise dispute the validity of this Agreement. The Association and Owner agree to mutually enforce this Agreement and cooperate fully in the event the validity or integrity of this Agreement is attacked or disputed by any such Homeowner.

6. **Dispute Resolution; Waiver of Jury Trial.** Any controversy or claim arising out of or relating to this Agreement, its interpretation, construction, breach or enforcement hereof, shall first require non-binding mediation pursuant to Chapter 44, Florida Statutes. In any proceeding arising out of or relating to this Agreement, the parties waive trial by jury.

7. **Homeowners Affected by this Agreement; Transferees.** (a) This Agreement shall apply to Included Homeowners. If, during the term of this Agreement, any Included Homeowner transfers or sells any legal or equitable interest in such Homeowner's mobile home to any transferee or resale purchaser (collectively, a "Transferee"), the Transferee shall be permitted to assume such Included Homeowners rental agreement but only for the remainder of the annual lease term then in effect between the Included Homeowner and Owner. Upon the

expiration of such annual lease term the Transferee's rent shall be adjusted to the Community's then prevailing market rate, as determined by Owner in its discretion, which shall be deemed such Transferee's base rental amount, as that term is used in paragraph 1 of this Agreement, for the year in which such initial increase occurs. Owner may, but shall not be required to, redeliver a prospectus to the Transferee. Any Included Homeowner who sells or transfers any legal or equitable interest in such Homeowner's mobile home shall be responsible for redelivering such Homeowner's prospectus to such Homeowner's Transferee at the time of the initial transfer. (b) Any Included Homeowner who relocates during the term of this Agreement to a home owned by Owner shall pay the then prevailing market rate for the site on which such mobile home is located. Owner may offer incentive arrangements for the sale or rental of new or used homes in amounts or structures at Owner's sole discretion and nothing contained herein shall affect or apply to these incentive arrangements.

8. Association Release. The Association, on its behalf and on behalf of each Homeowner as such Homeowner's representative, hereby releases Owner, Equity Lifestyle Properties, Inc., Manufactured Home Communities, Inc., MHC Operating Limited Partnership, and their parents, affiliates, subsidiaries, officers, directors, agents, stockholders, members, attorneys, successors and assigns from any and all claims, actions or causes of action of any kind whatsoever ("Claims"), whether legal, equitable, administrative, or otherwise, which the Association now has or ever had including, but not limited to, Claims involving or relating to rents, services, maintenance, or Owner's compliance with or delivery of the Community's prospectuses, rental agreements, as well as any other alleged violation of Chapter 723, Florida Statutes. As part of the consideration for this release, Owner agrees to complete the electrical

pedestal repairs specified in Exhibit A by March 31, 2016; failing which, this release shall not encompass or be deemed to release Owner or others from the repairs specified in Exhibit A.

9. **Applicability of Prospectus, Rental Agreement and Chapter 723, Florida Statutes.** Each Homeowner's tenancy shall be governed by his or her prospectus and rental agreement. In the event of any conflict between a Homeowner's prospectus or rental agreement and this Agreement, this Agreement shall control.

10. **Entire Agreement; Modification.** This Agreement constitutes the entire agreement of the Parties hereto with respect to the subject matter hereof. This Agreement supersedes all prior and contemporaneous discussions, negotiations, conditions or understandings relating to the subject matter hereof. This Agreement may not be amended or modified except by an instrument in writing signed by all Parties hereto.

11. **Further Assurances.** The Parties shall, at any time and from time to time following the execution hereof, confirm the validity of this Agreement, and execute and deliver all such further instruments and documents and take all further actions as may be reasonably necessary or appropriate in order to carry out or more effectively satisfy the intent and purposes of this Agreement.

12. **Representations; Binding Effect.**

a. **By Owner.** Owner represents that it is authorized to enter into this Agreement. This Agreement shall be binding upon Owner, its successors and assigns.

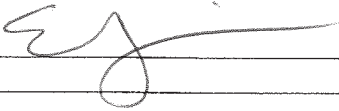
b. **By the Association.** The Association represents that it is a duly incorporated Homeowners' Association and Negotiating Committee created and maintained

pursuant to Sections 723.075 through 723.079, Florida Statutes. The Association represents that the negotiating committee was created in strict compliance with Section 723.037(4), Florida Statutes. The Association enters into this Agreement on its behalf and on behalf of each Homeowner of the Community as such Homeowner's representative pursuant to Sections 723.075(1) and 723.079(1), Florida Statutes.

13. **Execution in Counterparts.** This Agreement may be executed in counterparts.

[signatures on the following page]

OWNER

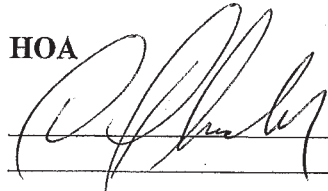


By: Eric Zimmerman

Its: Regional Vice President

Date: 10-8-15

HOA



By: DENNIS FLUCKIGER

Its: PRESIDENT

Date: 9-27-15

NEGOTIATING COMMITTEE

Joseph Streeter

Richard D. Hutchins

Ann F. Judd

William Hopf

[Signature]

Date: 9-27-15

EXHIBIT A

Schlitt Electrical Contracting, Inc.

Estimate

P.O. Box 7151
 Vero Beach, FL 32961

Date	Estimate #
9/1/2015	2417

Name / Address
Countryside at Vero Beach 8775 20th St Lot 501 Vero Beach, FL 32966

Project
Heritage Estates - Pedestals

Description	Total
<p>Estimate for pedestal repair at Heritage Estates</p> <p>I have reviewed all of the meter photos and believe that most of these problems can be resolved with the manufacturing of new cover plates and latch clips</p> <p>I have noted more severe damage on several units as follows:</p> <ul style="list-style-type: none"> 1112 F. Ship: Replace rusted panel 834 Concord: Fix damaged conduit 460 Union: Replace and raise meters 324 N. Blvd.: Replace damaged meter bank 422 Union: Replace rusted panel \$850X2 422 Union: Fix hole in side of meter 711 Justice: Replace rusted panel 228 Liberty: Fix pipe at base of meter 208 Liberty: Fix conduit at base of meter 157 Congress: Remove shrubs and straps (by others) 143 Congress: Resupport meter base 133 Congress: FPL problem and new clip 131 Congress: FPL problem 101 Congress: Remove shrubs (by others) and new cover 	

All estimates good for 30 days and may change due to material price increases.

Total

Phone #
(772) 978-9066

Fax #
(772) 299-0132