

CABINET FOR HEALTH AND FAMILY SERVICES  
Department for Public Health  
Division of Public Health Protection & Safety  
Environmental Management Branch

# Conference Report:

**Ashley Pointe Mobile Home Park,  
Louisville, KY 40272**





**CABINET FOR HEALTH AND FAMILY SERVICES  
DEPARTMENT FOR PUBLIC HEALTH**

Steven L. Beshear  
Governor

Division of Public Health Protection & Safety  
Environmental Management Branch HS 1C-D  
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Audrey Tayse Haynes  
Secretary

14 January 2014

Matt Rhodes, Deputy Director  
Louisville Metro Department of Health and Wellness  
P.O. Box 1704  
Louisville, KY 40202

Dear Mr. Rhodes,

This is in reference to the conference held at the Louisville Metro Department of Health and Wellness located at 400 East Gray Street, Louisville, Kentucky on 7 January 2014. Enclosed you will find the conference report for Ashley Pointe SSK, LLC, owner of Ashley Pointe Mobile Home Park located in Louisville, Kentucky.

In this report is the recommendation for your review and conclusive decision on this matter. Upon your authorized signature, a copy of this report will need to be submitted by the Louisville Metro Department of Health and Wellness to Ashley Pointe SSK, LLC, owner of Ashley Pointe Mobile Home Park. As indicated in the health department's files, Ashley Pointe SSK, LLC's mailing address is 1300 Penile Road, Louisville, KY 40272.

It is with sincere hope my recommendation will be of assistance to you and your staff in resolving this case. If you should need further information, please feel free to contact me at my office.

Respectfully,

A handwritten signature in cursive script that reads "Erica L. Brakefield, R.S.".

Erica L. Brakefield, R.S.  
Conference Officer  
Environmental Health Program Evaluator, Facilities Section  
Environmental Management Branch  
Office # (502) 564-4856

C: Kelly Monahan, Environmental Health Manager, Louisville Metro Department of Health and Wellness

## **CONFERENCE REPORT**

In the matter of:

Ashley Pointe Mobile Home Park  
1300 Penile Road  
Louisville, KY 40272  
Permit No.: 28993

**PETITIONER**

and

Louisville Metro Department of Health and Wellness  
P.O. Box 1704  
Louisville, KY 40202

**RESPONDENT**

### **INTRODUCTION:**

A conference was held on 7 January 2014, at 10:10 a.m., at the Louisville Metro Department of Health and Wellness, Louisville, Kentucky, for the purpose of allowing representatives of Ashley Pointe Mobile Home Park ("Petitioner"), the opportunity to respond to an official notice issued by the Louisville Metro Department of Health and Wellness ("Respondent"), regarding violations of KRS 219.310 to 219.410 Kentucky Manufactured Home, Mobile Home and Recreational Vehicle Community Act of 2002 and 902 KAR 15:010 Manufactured and Mobile Homes Regulation noted during complaint inspections.

**Those attending the conference were:**

### **PETITIONER(S):**

Kurtis D. Keeney, Managing Member SSK Company, LLC  
Nathan Smith, Managing Member SSK Company, LLC  
Dennis Williams, Counsel for SSK Company, LLC

### **RESPONDENT(S):**

Kelly D. Monahan, Environmental Health Manager, Louisville Metro Department of Health and Wellness  
Tim Wilder, Environmental Health Supervisor, Louisville Metro Department of Health and Wellness  
Dan Emmons, Environmentalist, Louisville Metro Department of Health and Wellness

### **CONFERENCE OFFICER:**

Erica L. Brakefield, R.S., Cabinet for Health and Family Services-Department for Public Health, Environmental Health Program Evaluator, Conference Officer

### **OBSERVERS:**

Vonia Grabeel, Environmental Health Section Supervisor, Cabinet for Health and Family Services-Department for Public Health  
Jeff Gosser, Environmental Health Program Evaluator, Cabinet for Health and Family Services-Department for Public Health  
Chris Edwards, Environmental Health Program Evaluator, Cabinet for Health and Family Services-Department for Public Health

The Conference Officer requested that all witnesses be sworn in, explained the purpose of the conference, confirmed that notice of conference was mailed to the Petitioner at least ten (10) days prior to the scheduled conference date, advised the parties that the conference would be recorded and advised the Petitioner of the right to be represented by an attorney.

**Respondent's Comments:**

After the preliminary remarks, Mr. Emmons began by submitting a listing of surfacing sewage complaints that the health department had investigated beginning in December 2012 at Ashley Pointe Mobile Home Park. Mr. Emmons explained that a complaint regarding surfacing sewage had first been received by the health department on 6 December 2012. Upon inspection, Mr. Emmons observed that the complaint was valid and issued an "Order to Correct". Upon conducting a follow-up inspection, it was acknowledged that the violation had been corrected. An additional complaint was received by Ms. Monahan regarding surfacing sewage on 23 December 2012. Ms. Monahan contacted the park manager at that time who indicated that the complaint was valid and that repairs were in process at that time. Mr. Emmons explained that a follow-up inspection was conducted on 4 January 2013, and at that time corrections had been made. Another sewage complaint was received by the health department on 3 June 2013 regarding the manhole behind lot 1814. Mr. Emmons indicated that this was a valid complaint, and that he went back to the park to conduct a follow-up on 10 June 2013. The complaint had not been corrected at that time, and Mr. Emmons issued an "Order to Correct". An office hearing had been set for 14 June 2013, however, corrections were made to the sewage issue on 10 June 2013, and no violations were observed at the time of the inspection. Mr. Emmons added that on 14 June 2013, no representatives from the park came to the scheduled office hearing. Mr. Emmons then went on to say that another inspector at the health department, Mike Humphries, received a sewage complaint on 21 June 2013. At this time, Mr. Emmons submitted to the conference Officer a map of the park which had all manhole locations indicated for clarification. Mr. Emmons commented on the inspection performed by Mike Humphries regarding the aforementioned sewage complaint on lots 1308 and 1000. An "Order to Correct" was issued at the time of the inspection. Mr. Emmons went on to add that another follow-up was conducted on 26 June 2013, at which time the sewage at lots 1308 and 1000 had been corrected, however lot 1814 was again observed to be surfacing sewage. Mr. Emmons indicated that another office hearing was set for 11 July 2013, which, again, no representatives

of the park attended. The hearing was rescheduled for 8 August 2013. An office hearing was eventually held on 15 August 2013. Mr. Emmons commented that vandalism was discussed at the 15 August 2013 hearing as a reason for the sewage issues within the park. It was also suggested by the park representatives that the manholes be locked to prevent further vandalism. The locks were not installed until 19 December 2013 according to Mr. Emmons. After the office hearing in August, another complaint was received by the health department 11 October 2013. This complaint was investigated by Mr. Emmons and sewage was not observed to be surfacing at the time behind lot 1814, however evidence was observed that an overflow had taken place. Mr. Emmons indicated that he had spoken to the park manager by telephone regarding the issue, and would follow up on 17 October 2013. On that date, Mr. Emmons performed a follow up at which time sewage was again observed to be surfacing at lot 1814. Mr. Emmons issued an "Order to Correct" the violation by 25 October 2013. On that date, Mr. Emmons performed a follow up inspection regarding sewage as well as a regular inspection and again observed sewage overflowing from the manhole at lot 1814. Mr. Emmons then remarked that another follow up was conducted on 28 October 2013 at which time sewage was still overflowing at lot 1814. On 29 October 2013, Mr. Emmons performed yet another follow up inspection and found the sewage issue to be corrected. The Louisville Metro Department of Health and Wellness then issued a "Notice of Intent to Suspend Permit" as well as a "Request for Conference" on 31 October 2013. After this date, Mr. Emmons went on to include that another complaint regarding a sewage overflow was received by the health department on 12 November 2013. This was observed to be an issue regarding a particular lot, however and not on one of the manholes.

The Conference Officer then asked questions regarding the date of the "Enforcement Notice" issuance and requested a copy of it. The health department was unable to produce a copy of the "Enforcement Notice" or the "Request for Conference". The Conference Officer then directed the Petitioner to begin their testimony.

**Petitioner's Comments:**

Mr. Williams began by asking Mr. Emmons the identity of the complainants. Mr. Emmons indicated that they were anonymous complaints and he would not be able to provide the information. Mr. Williams then asked Mr. Emmons if he suspected there would be any reason that the petitioners would be untruthful with regard to suspected vandalism as a cause for the consistent sewage issues within the park. Mr. Emmons responded that he had no reason to disbelieve that vandalism was the reason for the problems within the park. Mr. Williams inquired as to the timeliness of the park managers in correcting the issues that were cited on the inspections. Mr. Emmons added that the park had not always been immediately responsive when notified of a sewage violation within the park. Mr. Williams questioned Mr. Emmons at that point regarding if it was known

whether or not sewage issues had been corrected and had occurred again in the time between issuance of an "Order to Correct" and a follow-up inspection. Mr. Emmons indicated that he could not know the answer to that question. He went on to add that he had asked for receipts or a log for repairs to prove that they had documented work on the manholes but it had not been provided by the park. Mr. Williams asked Mr. Emmons if he would have any reason to disbelieve that someone living in the park was consistently and intentionally clogging the manholes as an act of vandalism, and that that person or persons had been identified by the park managers. Mr. Emmons added that he had no reason to disbelieve that to be the situation.

The Conference Officer then stopped the petitioner to ask for clarification regarding the suspected vandalism. Mr. Keeney began by explaining the locations of the manholes as well as the two lift stations located within the park. Mr. Keeney disclosed that after several of the complaints had occurred, the park managers began to suspect a former manager was vandalizing the property to intentionally cause problems for the park. Mr. Smith added that vandalism was suspected, as during the course of their ownership of the park, routine problems had occurred regarding sewage, however nothing with the magnitude of the complaints which had come in over the previous twelve months. Mr. Keeney and Mr. Smith then noted that locks were installed on the lift stations. Many items were found in the lift stations, including toys, brooms, clothing, towels and other items which are not items that are able to be flushed down toilets and should therefore not routinely be found in the sewage system. Mr. Keeney went on to discuss the continuance of the investigation into the identity of who was vandalizing the property. He continued by noting that the park was not perfect, but that they had responded in a timely manner every time the health department had notified them of an issue. Mr. Keeney further explained that the vandalism had damaged the pump at the lift station and had had to be replaced. He also noted that the locks had been installed at that time as well, along with securing the manhole lids. A discussion was then held regarding the appropriate pump for the lift station.

**Discussion:**

The Conference Officer then asked the health department if the park had been responsive when a complaint inspection had been performed and was found to be valid. Mr. Emmons replied that on a couple of occasions the issues had not been corrected by the time he had performed the follow up inspection. He could not say whether or not the issues had been repaired and had re-occurred during the ten day time period, however. The Conference Officer then asked if either party had any further comments or questions to make, neither party did. The Conference Officer then began to clarify the position of the health department by notifying the park managers that the health department is required to perform a complaint inspection any time a complaint is received by their office. She added that these complaints can be anonymous and the health department is still required to perform the inspections. She went on to explain that it is the purpose

of the health department to protect public health, and unfortunately if vandalism is what is occurring, the only thing the health department can do is to issue a "Notice to Correct" to the park. It was then asked if the police had been contacted regarding the alleged vandalism, but they had not. The park owners indicated that they were going to try to evict problem tenants. The Conference Officer then observed that many mobile home parks regularly evict tenants that intentionally cause problems within a park. The Conference Officer added that she would consider everything presented during the conference and would check to ensure the health department had acted appropriately and that the park had responded appropriately to the health department. She noted that she had five business days to finish the report at which point her recommendations would be sent to Mr. Matt Rhodes, Deputy Director at the Louisville Metro Department of Health and Wellness, and that he would issue his conclusive decision from that point.

The Conference Officer concluded the conference as no further comments or objections were made.

**FINDING OF FACTS:**

1. Ashley Pointe SSK LLC, Owners of Ashley Pointe Mobile Home Park, located at 1300 Penile Road, Louisville, KY 40272, Permit No.: 28993 is currently operating a Mobile Home Community in Jefferson County, Kentucky.
2. Complaint inspection dated 6 December 2012 revealed sewage overflows at lots 1814 and 1900.
3. "Order to Correct" with "Request for Conference" issued on 7 December 2012 to Ashley Pointe Mobile Home Park.
4. Follow-up inspection dated 14 December 2012 revealed that the violation had been corrected.
5. Complaint inspection dated 3 June 2013 revealed sewage overflows at lots 1814 through 900.
6. "Order to Correct" with "Request for Conference" issued on 4 June 2013 to Ashley Pointe Mobile Home Park.
7. Follow-up inspection dated 10 June 2013 revealed that the violation had not been corrected.
8. "Notice of Administrative Conference" dated 10 June 2013 issued to Ashley Pointe Mobile Home Park.

9. Follow-up inspection dated 14 June 2013 revealed that the violation had been corrected.
10. Complaint inspection dated 19 June 2013 revealed recent sewage overflows which were partially corrected.
11. Request for Conference received from Counsel representing Ashley Pointe Mobile Home Park on 11 November 2013.
12. The "Notice of Conference" was issued on 19 November 2013.

**CONCLUSIONS OF LAW:**

1. The purpose of the statute and regulations for Kentucky Manufactured Home, Mobile Home and Recreational Vehicle Community Act of 2002 (KRS 219.310 to 219.410) and 902 KAR 15:010 is to establish standards for community construction and layout; sanitary standards for operation and other matters necessary to ensure a safe and sanitary manufactured and mobile home community operation.
2. The Louisville Metro Department of Health and Wellness is mandated by state law to ensure that all manufactured and mobile home communities operate in strict compliance with KRS 219.310 to 219.410 and 902 KAR 15:010.
3. 902 KAR 15:010, Section 6. (1)(a) Sewage and waste matter shall be disposed of into a public sewer system, if available.
4. 902 KAR 15:010, Section 11. The person to whom a permit to operate a community is issued shall: (1) Maintain the community, its facilities and equipment in good repair and in a clean and sanitary condition.
5. 902 KAR 15:010, Section 14. (3) The Cabinet shall notify, in writing, a permit holder or operator who fails to comply with a written notice issued under the provisions of this section, that the permit shall be suspended at the end of ten (10) days following service of the notice.

After listening to all responses and comments and having reviewed all pertinent data, the following recommendations are being submitted to Mr. Matt Rhodes, Deputy Director of the Louisville Metro Department of Health and Wellness.

It is to be understood that these recommendations are being made by the Conference Officer in regard to the Notice / Order issued by the Health Authority and that a final decision on this matter will be issued by Mr. Matt Rhodes, Deputy Director of the Louisville Metro Department of Health and Wellness.



**RECOMMENDATIONS:**

Due to the lack of documentation received by the Louisville Metro Department of Health and Wellness, it is difficult to ascertain the actual timeline of events that has occurred with Ashley Pointe Mobile Home Park. According to actual documentation received, a complaint inspection was performed on 6 December 12, with a follow-up performed prior to the standard critical follow-up time period of ten days. This violation was corrected, however, at the time of the follow-up. Another complaint inspection was documented 3 June 2013, which again had a follow-up inspection performed sooner than the ten day window ordinarily given for a critical violation. "A Notice of Conference" was issued with no documented "Request for Conference". However, the violation was corrected by the time of an inspection conducted 14 June 2013, which should have been the date of the initial follow-up. Another complaint inspection is documented from 19 June 2014 revealing a partially corrected sewage overflow. The remaining documentation received regarding this ongoing issue is a "Request for Conference" and "Notice of Conference" issued 11 November 2013 and 19 November 2013 respectively, with no accompanying "Enforcement Notice". Therefore, it is the recommendation of the Cabinet that Ashley Pointe Mobile Home Park be placed on a routine inspection interval with complaint investigations as necessary. It is further recommended that the park work toward a permanent solution for the suspected vandalism within the park. It is also recommended that the Louisville Metro Department of Health and Wellness follow program recommendations with regard to appropriate intervals for follow-up inspections which are ten (10) days for critical violations and thirty (30) days for non-critical violations.

The above recommendations are respectively submitted to the Louisville Metro Department of Health and Wellness on 14 January 2014 by Ms. Erica Brakefield, R.S., Department for Public Health, Conference Officer.

- ( ) Recommendations disapproved.
- ( ) Recommendations approved as submitted.
- ( ) Recommendations approved with the following modifications:

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\_\_\_\_\_, Deputy Director of the Louisville  
Metro Department of Health and Wellness

Date: \_\_\_\_\_ 20 \_\_\_\_

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NOTICE: The Petitioner is advised that upon entry of a final decision by the Louisville Metro Department of Health and Wellness, an appeal may be filed with the Cabinet for Health and Family Services within ten (10) days of receipt of the final decision, by mailing a letter of appeal to the Commissioner for Public Health, Department for Public Health, 275 East Main Street, Frankfort, KY 40621.

Respectfully Submitted,



Erica L. Brakefield, R.S., Conference Officer

C: Ms. Kelly Monahan, Environmental Health Manager, Louisville Metro  
Department of Health and Wellness