

MINUTES

**VIRGINIA MANUFACTURED HOUSING BOARD
MEETING
Department of Housing and Community Development
Main Street Centre
600 East Main Street
Richmond, VA 23219
11th Floor – Conference Room 11-133
July 21, 2011**

10:00 A.M.

Board Members Present : James W. Roncaglione, Chairman
Walter K. Hughes, Sr., Vice Chairman
Michael C. Nickell
Earl T. (Tom) Satterwhite
Eric C. Anderson
Lorenzo E. Dyer, Secretary to the Board

Board Members Absent : William H. Moody
Ben Flores
Gina M. Burgin
Jim Carver

Public Representation :	Tyler Craddock	<u>Staff</u>
	Ralston King	Emory Rodgers
	Lula S. Curtis	Steve Jacks, AAG
	Violet Liles	Debra Winston-Bowles
		Eric Leatherby
		Valrae Negley
		Jennifer Reeves
		Jim Davidson

A. Call to Order/Roll/Determination of a Quorum.

The Virginia Manufactured Housing Board meeting was held in Richmond, Virginia, Thursday, July 21, 2011. Chairman Roncaglione called the meeting to order at 10:00 a.m. Lorenzo Dyer, Secretary to the Board, performed the roll call and a quorum was present.

B. Approval of the Minutes.

A motion was made by Eric C. Anderson to approve March 17, 2011 Minutes as written except for corrections to be applied to Section F-1 and Walter K. Hughes, Sr seconded the motion. Chairman Roncaglione called the question and the motion was carried by unanimous vote.

By-Laws. After reviewing the Board's By-Laws Article 12 states, "These by-laws may be amended by a two-thirds vote of the voting membership at any regular meeting provided that all of the members are notified of the nature and effect of any proposed amendment at least ten (10) days in advance of the meeting."

In our last meeting there were discussions about how the minutes are to be prepared; what information is required and/or requested to be included. After discussing Roberts Rules of Order, the minutes are to be a record of action. Further discussion of Roberts Rules of Order led to some members stating their preference to include the summaries of discussions being attached to the minutes. For the next meeting, a proposed amendment to the by-laws, Article 11 will be submitted to the Secretary, which talks about parliamentary procedure to add certain discussions to the minutes to cover the summaries of discussions for two purposes: 1) for historical contacts and 2) for the benefit of members who were not able to attend a particular meeting. Members of the Board would then be more capable of following discussions of what was talked about during previous meeting(s). The proposed amendment will be submitted to the Secretary ten (10) days prior to the next Board meeting in order that members of the Board may receive the notification, review the information to be acted on as necessary during the next scheduled meeting.

C. Public Comment.

Tyler Craddock, Executive Director of the Virginia Manufactured/Modular Housing Association.

- Made public comment concerning the legislation of the financial side of the industry in regard to manufactured homes.

Walter K. Hughes, Sr. made a motion to move Agenda Item D and Agenda Item E to the end of the meeting and Michael C. Nickell seconded the motion. Chairman Roncaglione called the question and the motion was carried by a unanimous vote.

D. Committee Reports.

1. PSA's reported to new Media Relations person, Amanda Pearson.

A meeting will be scheduled with Amanda Pearson and the Committee concerning the continued development of PSA's.

2. Report of the Committee that was formed to discuss Policies and Procedures of the Board.

A memo will be submitted to the Committee for review on policies and procedures for Formal/Informal Fact-Finding Conferences. A copy of policies and procedures for Formal/Informal Fact-Finding Conferences was requested from the Attorney General's Office by the next scheduled Board meeting.

E. Report of the Secretary/Associated Director/Deputy Director Reports.

1. HB 2277 State boards, commissions and other collegial bodies, compensation paid to citizen members.

- Legislative information on HB 2277 was presented to the Board.

2. A report of the Manufactured Housing Installers Training classes was presented to the Board.

The Board recommended staff to prepare an article for the Virginia Manufactured/Modular Housing Association Newsletter concerning dealers being licensed as installers.

3. The Chairman turned the handling of the meeting over to Vice-Chairman Walter K. Hughes, Sr.

F. Old Business.

1. Salesperson License - Sherry Moorefield.

During the previous Board meeting, additional information regarding Sherry Moorefield's application for a salesperson's license was requested by the Board. Information was received by letter from Timothy Kallam; Probation and Parole Officer, stating Sherry Moorefield's probationary status was satisfactory.

Eric Anderson made a motion that Ms. Sherry Moorefield be granted her license and Michael C. Nickell seconded the motion. Vice-Chairman Hughes called the question and the motion was carried by a unanimous vote.

2. Virginia Mobile Home, Inc. Transaction Recovery Fund Cases Final Orders.

Corrections need to be made to the Agenda Item F-2 as reflected on page 24 concerning the date of execution of the first Final Order against the license of Virginia Mobile Homes, Inc., as previously presented, and dated May 16, 2010 to be modified to May 26, 2011. According to the Regulations, the date of the signing of the first Final Order, as required according to the Virginia Transaction Recovery Fund Regulations, that is the beginning of the one-year holding period, to withhold payments from the Fund on those cases has lapsed. The Final Orders have matured to the required one year mandate and are being submitted to the Board for action to have the payments authorized to be reimbursed from the Transaction Recovery Fund be issued according to applicable regulation.

James W. Roncaglione made a motion to have the money paid from the Transaction Recovery Fund totaling \$15,578.80, as regards the eight (8) complainants reflected in the compiled record. Board member Earl T. Satterwhite seconded the motion. Vice-Chairman Hughes called the question and the motion was carried by a unanimous vote.

G. New Business.

1. IFF Conference 2011-5 (D) – Lula S. Curtis v Creative Homes, Inc.

The Report of Findings indicates Ms. Lula S. Curtis agreed to purchase a used two-section manufactured home from Violet Liles, Creative Homes, Kenbridge, VA. The total price of the home including tax, delivery and set-up was listed at \$41,200.00. The sales contract was signed on December 21, 2010. Ms. Curtis made payments of \$10,000.00 on December 21, 2010, \$5,000.00 on January 5, 2011 and \$3,000.00 on February 11, 2011 totaling \$18,000. The sales contract did not specify the year of the home nor the Serial Number. Ms. Curtis states that Ms. Liles told her on several occasions that the home was built in 2005. On March 1, 2011, Creative Homes faxed information to the local Building Inspections Department to obtain the Building Permit as required to set the home. The information indicated that the home was manufactured in 1998 by Oakwood Homes, Serial Number HONC07710783. Upon discovering that the date of manufacture of the home was older than was represented at the time of the sale, Ms. Curtis sent a

letter of complaint to Creative Homes dated March 17, 2011 requesting to withdraw from the sales contract. Ms. Violet Liles, Creative Homes submitted a written response to the complaint dated April 20, 2011, stating that Ms. Curtis was told at the time of sale that she thought the home was manufactured around 2000. Ms. Liles' response also states that Creative Homes "fully intend to give Ms. Curtis a refund". Ms. Liles stated that she does not have the funds to pay Ms. Curtis until she re-sells the home or sells another home.

Violet Liles and Lula S. Curtis gave testimony to the Board.

After much discussion, Eric Anderson made a motion to accept staff's recommendation.

Count 1: That Creative Homes, Inc. be found in violation of **Board Regulation 13 VAC 6-20-170**, "Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home."

Count 2: That Creative Homes be found in violation of that Creative Homes be found in violation of **Board Regulation 13 VAC 6-20-170 (A) (10)**, "Defrauding any buyer to the buyer's damage, and any other person in the conduct of the regulant's business."

Michael C. Nickell seconded the motion. Vice-Chairman Hughes called the question and the motion was carried by a hand count of 4 voting yes and 1 voting no.

Discussion: In addition, the Board stated that an itemized list of expenses may be submitted for the Board's review concerning damages incurred by the dealer and a determination entered by the Board regarding the regulations limitation on damages.

Michael C. Nickell made a motion on the penalty phase of Count 1 that the Board assess a \$250.00 penalty against the regulant; also that a \$250.00 penalty be assessed against the regulant for Count 2. The condition was stated concerning Count 1 and Count 2 of staff's recommendation, that if restitution is made within thirty (30) days as ordered, the Board may reduce or eliminate the fine altogether. James R. Roncaglione seconded the motion. Vice-Chairman Hughes called the question and the motion was carried by 3 voting yes, 1 voting no, and 1 abstained.

In a matter of interest, Michael C. Nickell made a motion to reconsider what was proposed on Count 1 and Count 2 totally and Eric Anderson seconded the motion. Vice-Chairman Hughes called the question and the motion was carried by a unanimous vote.

Eric Anderson made a motion, since we have already found Creative Homes in violation of **Board Regulation 13 VAC 6-20-170 (A) (7)** "Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home," it is moved that the recommendation of staff be set aside and that Creative Homes be assessed a penalty in the amount of \$100.00 on Count 1.

It was further moved by Eric Anderson that Creative Homes has been found in violation of Count 2, **Board Regulation 13 VAC 6-20-170 (A) (10)** "Defrauding any buyer to the buyer's damage, and any other person in the conduct of the regulant's business," and that staff's recommendation to assess a penalty against the regulant of \$250.00 be set aside and that Creative Homes is assessed a penalty in the amount of \$100.00. Earl T. Satterwhite seconded the motion. Vice-Chairman Hughes called the question and the motion was carried by 3 voting yes and 2 opposed.

2. IFF Conference 2011-9 (T) – Lula S. Curtis v Creative Homes, Inc.
There was a discussion with the regulant regarding Itemized Expenses.

Question to Ms. Liles – Are you prepared today to present to the Board a complete list of itemized expenses or will you need more time to come with a written list of those things for the Board to consider?

Violet Liles: I only have one thing that I consider an expense and that is the storage unit.

Question to Ms. Liles - Do you have everything at this point of time that you want to present to the Board as an itemized expense for this transaction?

Violet Liles: Yes.

Eric Anderson made a motion not to accept the list for the storage of the unit and go with what is in the record and instruct Creative Homes to pay Ms. Lula Curtis the amount of \$18,000 within 30 days and Earl T. Satterwhite seconded the motion. Vice-Chairman Hughes called the question and the motion carried by four 4 voting yes and 1 voting no.

3. IFF Conference 2010-34 (D) - Diane Rouleau v Colony Factory Crafted Homes

On June 9, 2011 an Informal Fact-Finding Conference was convened at the Department of Housing and Community Development.

The following acts by regulants are prohibited and may be considered by the board as grounds for action against the regulant:

13 VAC 6-20-170(5) “Failing to comply with the warranty service obligations and claims procedures required by this chapter.”

According to the complaint information, it is alleged that water lines in the home of Ms. Diana Rouleau were blocked with debris and had to be corrected by a plumber she hired and paid to do the corrections. There is no documentation that the manufacturer was contacted and given an opportunity to correct any problems that may have been present prior to the corrective work being done. There is no clear documentation to support the argument that the manufacturer was responsible for the damage that may have occurred.

Count 1: It is recommended that no action be taken against the manufacturer regarding this issue; that there are no violations of the Manufactured Housing Regulation by this regulant concerning this issue; and, also that the owner failed to provide proper notification regarding the proposed issues of this complaint.

Eric Anderson made a motion that Colony Factory Crafted Homes be found in violation of 13 VAC 6-20-170 “Failing to comply with the warranty service obligations and claims procedures required by this chapter;” to reject staff’s recommendation and find Colony Factory Crafted Homes in violation of the regulations. The reason for the motion is because it was found there was blockage in the pipes and it was determined that it was done during the set up period; and that the owner did have an expense to correct this problem and base upon that, is why staff’s recommendation is rejected.

The motion failed for a lack of a second.

James W. Roncaglione made a motion to accept staff's recommendation and seconded by Michael C. Nickell. Vice-Chairman Hughes called the question and the motion carried by 4 voting yes and 1 opposed.

4. IFF Conference 2011-11 (T) – Diane Rouleau v Colony Factory Crafted Homes

Based upon staff's findings in the disciplinary case, the Board accepts staff's recommendation that there is no requirement to hear a Transaction Recovery Fund case related to issues concerning this matter.

James W. Roncaglione made a motion to accept staff's recommendation and the motion was seconded by Michael C. Nickell. Vice-Chairman Hughes called the question and the motion carried by 4 voting yes and 1 opposed.

5. IFF Conference 2011-13 (T) – Diane Rouleau v Tri-State Housing

According to **Board Regulation 13 VAC 6-20-170 (A)(7)**, Prohibited conduct, grounds for denying, suspending, or revoking license.

A. The following acts by regulants are prohibited and may be considered by the Board as grounds for action against the regulant:

Count 1 7. "Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home."

Recommendation: Based upon the evidence and the IFF, the following is staff recommendation regarding the Counts as outlined in the Report of Findings:

Count 1 7 "Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home."

It is staff's recommendation that no action be taken against the license of the regulant, Tri-State Housing regarding this claim. According to the information received regarding the case and testimony from the buyer, there is no documentation the dealer, Tri-State Housing violated the Regulations "failing or refusing to account for or pay over money or other valuables belonging to others" regarding this transaction.

Count 1: It is therefore staff's recommendation that no action to be taken against the dealer license of Tri-State Housing regarding this claim.

Eric Anderson made a motion that we disregard staff's recommendation and fine Tri-State Housing in violation of Count 1:

13 VAC 6-20-170 (7), "Knowingly failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulant's possession due to the sale of a manufactured home."

Earl T. Satterwhite recused himself.

The motion failed for a lack of a second.

James W. Roncaglione made a motion to accept staff's recommendation and that no action be taken against the dealer in reference to **13 VAC 6-20-170(7)**. Michael C. Nickell seconded the motion. Vice-Chairman Hughes called the question and the motion carried by 3 voting yes and one abstaining.

6. IFF Conference 2011-13 (T) – Diane Rouleau v Tri-State Housing

The recommendation regarding the findings of the Disciplinary case resolves that there is no requirement on the part of the Board to hear a Transaction Recovery case.

James W. Roncaglione made a motion to accept staff's recommendation and Michael C. Nickell seconded the motion. Vice-Chairman Hughes called the question and the motion carried by 4 voting yes and 1 voting no.

H. Future Meeting Date and Location.

The next meeting date and location is scheduled for Thursday, September 15, 2011 at 10:00 a.m., VHC Conference Center, 4224 Cox Road, Henrico, Glen Allen, VA 23060.

I. Adjournment.

The Virginia Manufactured Housing Board Meeting adjourned at 1:33 p.m.