

**VIRGINIA MANUFACTURED HOUSING BOARD
MEETING
Department of Housing and Community Development
Main Street Centre
600 East Main Street
First Floor Board Room
Richmond, VA 23219
December 2, 2010**

10:00 A.M.

Board Members Present : James W. Roncaglione, Chairman
Eric Anderson
Ben Flores
Gina M. Burgin
Jim Carver
Lorenzo E. Dyer, Secretary to the Board

Board Members Absent : Walter K. Hughes, Sr., Vice Chairman
Michael C. Nickell
William H. Moody
Earl T. (Tom) Satterwhite

Public Representation	:	Tyler Craddock	<u>Staff</u>
		Roy Lee Hill, Sr.	Clinton Wallace
		Shelia Hill	Larry Brock
		Kurt C. Herring	Debra Winston-Bowles
		Ralston King	Valrae Negley
		Thomas W. Nesbitt	Jim Davison
			Eric Leatherby
			Emory Rodgers

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

The Virginia Manufactured Housing Board meeting was held in Richmond, Virginia, Thursday, December 2, 2010. 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.

Corrections need to be made to page one of the minutes of September 9, 2010, to be revised for "Section B" to reflect the actual way the election occurred. Mr. Anderson delayed the approval of the minutes until the next Board meeting scheduled for January 20, 2011. Ben Flores seconded the motion. Chairman Roncaglione called the question and the motion carried by a unanimous vote.

C. Public Comment.

A discussion was held and it was decided that Agenda Item C. Public Comment be moved to Agenda Item G 5. Eric Anderson made a motion to move Agenda Item C. Public Comment to Agenda Item G- 5. Ben Flores seconded the motion. Chairman Roncaglione called the question and the motion carried by a unanimous vote.

D. Committee Reports.

1. Education Program Committee.

Ben Flores was appointed as the Chairman of the Education Program Committee. Chairman Roncaglione appointed Gina Burgin, William H. Moody, Tyler Craddock and himself to serve on the committee.

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

None.

F. Old Business.

1. Final Order Number 2010-7.

There has been no reimbursement by the regulant within 30 days concerning this case which brings this case back to the Virginia Manufactured Housing Board. The Final Order 2010-7, Case Number 2010-11 Transaction Recovery, Ellen O. Pierce and Richard M. Pierce will be included with all cases held against Virginia Mobile Home, Inc. for up to one year. If the payout for all cases exceeds the maximum allowable amount of the Transaction Recovery Fund, the payment amounts will be prorated for the Virginia Mobile Home cases..

Ben Flores made a motion to withhold payment from the Fund for Final Order 2010-7, Case Number 2010-11 for up to one year until all Virginia Mobile Home cases have been reviewed and heard by the Board concerning the Transaction Recovery Fund. Jim Carver seconded the motion. Chairman Roncaglione called the question and the motion carried by a unanimous vote.

G. New Business.

1. Salesperson license – Joseph E. Franklin.

After discussion of the application, Eric Anderson made a motion to grant a license to Joseph E. Franklin. Jim Carver seconded the motion. Chairman Roncaglione called the question and the motion carried by a unanimous vote.

2. Salesperson license – Matthew C. Foster.

After discussion of the application, Eric Anderson made a motion to postpone review of the license and move Agenda Item G.2 to the next Board meeting to have Matthew C. Foster have the opportunity to come before the Board and be heard concerning certain issues regarding his salesperson application. Ben Flores seconded the motion. Chairman Roncaglione called the question and the motion carried by a unanimous vote.

Discussion: The Board recommends consistency on how to handle cases, so that everyone gets a fair treatment.

3. IFF Conference – Case Number 2010-13 Disciplinary Roy and Shelia Hill.

A Consent Order was presented from Staff and submitted to the Board for approval for a payment by the Regulant in the amount of \$37,500 to be paid to Roy and Shelia Hill; and \$4,000.00 to be retained by Golden Rule Homes as actual damages. In addition, Kurt C. Herring agrees to pay the Board \$500 in administrative costs incurred as the result of processing and administrative fees.

Discussion:

Eric C. Anderson: Was the Consent Order drawn at the request of the two parties?

Clinton Wallace: No. The Administrative Process Act allows Staff and/or the Board to enter into a Consent Order or an agreement with a Regulant. A decision made to offer a Consent Order to the Regulant and present the Consent Order to the Board for approval, rejection or amending.

Thomas W. Nesbitt, Assistant Attorney General: Proper Procedures. If the Board is not comfortable agreeing to the terms of the Consent Order on what appears in the Consent Order submitted by staff; then, the Board should take a vote on accepting, rejecting or amending the Consent Order. If rejecting the Consent Order, proceed to hear the case.

Thomas W. Nesbitt, Assistant Attorney General: If the Board takes the case out and makes a determination about whether or not there was a violation or not of the Regulations and the Board determines, yes, there was a violation, the Board will consider what the actual damage will be resulted from the violation. It would be relevant if the complainant and the regulant had reached some sort of reconciliation; then, that would reduce the damages that resulted from the violations itself. The Board has the authority to consider whether the regulant is in violation of Regulations.

The Board is not in agreement with the Consent Order because a complaint was made to the State; therefore, the Board is now involved. A question was made to the Board and asked for a motion to except or reject the Consent Order. Ben Flores made a motion to accept the Consent Order and for purposes of conversation on this issue, Eric Anderson seconded the motion.

Discussion:

Issue of returning the money and violations:

Lorenzo E. Dyer: If the Board accepts the Consent Order, does that mean the case is no longer available to be acted upon for the issues that are presented in the case?

Thomas W. Nesbitt, Assistant Attorney General: If the Board accepts the Consent Order, this case is closed. Those are the terms and the Board will not act on it further.

Gina M. Burgin: Are we putting ourselves into any kind of bad position by taking the position that we will not necessarily enforce a Regulation in exchange for or return of money to a consumer? I think that is a piece that gotten lost in the Consent Order, the actual reprimand should be placed on the Regulant. It appears that Staff opted not to have the Resultant's return the money to the consumer. However, Burgin stated that have we not dispensed our duty as a Regulatory Board by accepting that type of action?

Thomas W. Nesbitt, Assistant Attorney General: The Board has complied with its Powers. It authorizes answer to this Consent Order. This Consent Order would be lawful for the Board to use. The Department of Professional and Occupational Regulation, for instance, enters into these kinds of action all the time and this Board is in the same position to enter into like actions. What the Board wants to do as a matter of policy is up to the Board. This is a lawful way of dealing with a matter that has come before the Board.

Gina M. Burgin: Policy Consideration. Is this a policy that this Board is interested in pursuing?

Chairman James W. Roncaglione: All cases are different.

Gina M. Burgin: This Board needs to be very consistent in dispensing penalties, fines, and results.

Discussion:

Lorenzo E. Dyer: On behalf of staff and in consideration of the case and the Consent Order, there is only one statement of violation that was made; "Knowingly failing or refusing to pay over money or other valuables belonging to others which has come into the regulants' possession due to the sale of a manufactured home." That is the full scope of the case that Staff had to review and make a decision. The conditions were met under the Consent Order in regards to the monies that were withheld by the regulant.

Clinton Wallace: On behalf of staff's regarding this Consent Order in attempting to offer a resolution in this case, "It's not an agreement among those parties; it's an agreement between the Board and the regulant."

Eric C. Anderson: How does the Consent Order handle the violations of the Regulations?

After much discussion, Eric Anderson made a substitute motion that the Board offer the two parties a Substitute Consent Order and reject or revise this one. No second motion was made; therefore, the motion was lost.

Discussion:

Clinton Wallace: Staff will consult with the Attorney General Office concerning the process and standard policy of a Consent Order.

Chairman Roncaglione: All in favor or accepting the Consent Order by hand vote? The motion carried by a vote of three voting “yes” and two voting “no”.

Eric C. Anderson requested that he wanted it to be entered into the record that he was “not happy” with this Consent Order and in the future, the Board should be consulted about Consent Orders in advance.

4. IFF Conference – Case Number 2010-26 Transaction Recovery Fund.

None.

5. Public Comment.

1. Comment was heard by the Board by Kurt C. Herring, President, Golden Rule Homes, Inc.

2. Comment was made by Roy L. Hill, Sr., Mt. Sidney, VA.

H. Future Meeting Date and Location.

The next meeting date and location is scheduled for Thursday, January 20, 2011 at 10:00 a.m., VHC Conference Center, 4224 Cox Road, Henrico Room 2, Glen Allen, VA 23060.

I. Adjournment.

The Virginia Manufactured Housing Board Meeting adjourned at 11:40 A.M.