

**PLEASE NOTE:** The following is a brief summary of the minutes of the North Carolina Manufactured Housing Board meeting of January 20, 2004. (The official record is recorded and maintained on tape.)

**MINUTES OF THE**  
**NORTH CAROLINA MANUFACTURED HOUSING BOARD**  
**JANUARY 20, 2004**

**RALEIGH, NORTH CAROLINA**

Tim Bradley chaired the January 20, 2004 meeting. Members of the North Carolina Manufactured Housing Board present were: Wesley Layton, Troy Brickey, Clark Crowther, Linda Willey, and Danny Chandler. J. P. Cauley and Dennis Jones were not present. Others in attendance were as follows:

Bill Latham, Attorney for Fleetwood Home Center  
Emery Young, Fleetwood Home Center  
Anthony Day, Respondent  
Lanny Corriher, Witness for Anthony Day  
Frank Gray, Attorney representing NC Manufactured Housing Institute (NCMHI)  
Steve Zamiara, NCMHI  
Gail Brown, NCMHI  
Alfred Ripley, NC Justice Center (NCJC)  
Hilda Garrett, NC Dept of Insurance (DOI)  
Chris Estes, NC Low Income Housing Coalition (LIHC)  
Bill Rowe, NCJC  
Tony Kiser, DOI

1. Chairman Bradley called the meeting to order.
2. Chairman Bradley informed the Board of the resignation of Board Member Owen Tharrington. Chairman Bradley offered congratulations to Danny Chandler and Clark Crowther on their reappointment as Board Members.

Chairman Bradley introduced a new employee of the Manufactured Building Division. Tony Kiser is a field inspector and has been assigned to a portion of the western part of North Carolina.

Secretary Pat Walker advised copies of the new 2004 Edition of the Manufactured Housing Regulations was provided to the Board members and advised the effective date of this new code would be March 1, 2004.

3. **Special Matters:**
  - A. **Public Hearing on Continuing Education Rules for Mandatory Law and Administration Course to be taken not less than once every five years.** A copy of the rules were provided in the package for all Board members. The rules have been posted and advertised according to the administrative procedural requirements. The purpose of this public hearing is to take comments from the

**Minutes of January 20, 2004 Manufactured Housing Board Meeting**

**Page 2 of 8**

public on the proposed administrative rules. Present and offering comments was Frank Gray, Legal Counsel for the North Carolina Manufactured Housing Institute.

On behalf of NCMHI, Mr. Gray advised NCMHI fully supports and endorses the proposed rules Public Hearing for continuing education for Mandatory Law and Administrative Course were closed.

- B. Public Hearing on Continuing Education Rules to include Approved Distance Education Course.** A copy of the rules were provided in the package for all Board members. The rules have been posted and advertised according to the administrative procedural requirements. The purpose of this public hearing is to take comments from the public on the proposed administrative rules. Present and offering comments was Frank Gray, Legal Counsel for the North Carolina Manufactured Housing Institute. On behalf of NCMHI Frank Gray, Attorney for NCMHI supports and endorses rules. No other comments were offered from the public. Public hearing for continuing education by distance was closed.

Chairman Bradley advised the public comment period for both of these rule changes will remain open until March 2, 2004. At that time, if no changes are requested, they will be filed with the Rules Review Commission on March 22, 2004. This would allow the rule changes to be effective May 1, 2004.

**4. Minutes:**

Minutes of the October 21, 2003 meetings were reviewed. Motion was made and seconded to accept these minutes as written. Motion passed.

**5. Hearings:**

- A. NCMHB vs Fleetwood Home Center, License #6470 and Anthony Day, License #10550 (MHB FB 7 & 8-2003) – Falsifying Certificate of Occupancy.** Continued until January 20, 2004. Hazel Stephenson introduced licensing file and a synopsis of the case. The case was originally scheduled to heard on April 15, 2003 and has been continued since that time for various reasons. The basis for the hearing is the allegations that a falsified certificate of occupancy was provided to allow power to be turned on to the home of a purchaser. These allegations were presented to the Manufactured Building Division by Mr. Thomas Young of Greystone Mortgage. Inspector Lane Pethel completed an investigation of the allegations and provided a statement along with a statement from the Iredell County Inspector. Anthony Day was the salesperson involved. Anthony Day was called to the stand and sworn in. Mr. Day testified that he was instructed by his manager that a fax would be received in the office and that Day was to fax to Thomas Young so the loan could be funded. Day testified that he did in fact fax the document but he was not aware the document had been forged. Mr. Day testified that Mr. Young was known for a variety of things and feels Young was responsible for causing this hearing. Mr. Day responded to questions from the Board. Mr. Lanny Corriher, a witness for Mr. Day was called to the stand and sworn in. Mr. Corriher testified that he heard the manager tell Mr. Day that the

document was coming. Mr. Corriher testified that he has never seen Mr. Day do anything illegal and he heard Mr. Day advise the manager that he had faxed the document as requested. Mr. Corriher testified that Mr. Day simply did what he was told to do. Mr. Corriher testified that the fax machine in the dealer's office was not set up to provide a record of faxes received or sent. Mr. Corriher indicated Greystone continued to do business with this dealership. Mr. Corriher responded and answered questions from the Board. Bill Latham, Attorney for Fleetwood Home Center testified that Fleetwood Home Center takes these allegations very serious. Fleetwood requires sales representative take a course on Ethics each year. Mr. Latham testified that Greystone Mortgage never relied on the forged document and the deal closed in March 2003. A statement from Thomas Young was provided to the Board. Mr. Latham testified that manager denied any knowledge of this transaction. Mr. Day was terminated and lot was closed. Mr. Latham testified that the manager involved was terminated for unrelated issues. Mr. Emory Young of Fleetwood Homes testified that Fleetwood Home Center takes these charges seriously and will act aggressively. The Board advised they would meet in Executive Session and all parties would be notified as to their decision.

- B. NCMHB vs. Timothy David Walker, License #18080 (MHB FB 1-2004) – Request for transfer of sales license. Bond Claims filed against dealer's bond.** Hazel Stephenson testified that Mr. Walker was in a car accident on his way to the Hearing today. She advised Mr. Walker that she could have it continued or present the information we have on file on his behalf. Hazel Stephenson testified that dealership has two cases filed against the bond of Best Value Homes of Asheboro. Of the two cases filed, the Manufactured Housing Division filed one claim for warranty repairs and the other claim was filed by the consumer themselves for a deposit. The Division has contacted the bonding company and received information that they are waiting for information from the claimants prior to making settlement of claims individual not the consumer we filed the claim for. Hazel Stephenson testified that Mr. Walker cannot pay any money or make any repairs as he is prohibited from doing so by the bankruptcy. Mr. Walker's sister faxed a copy of the Bankruptcy to the staff. Mr. Walker has filed personal and business bankruptcy. Hazel Stephenson testified that Mr. Walker only wants to sell manufactured home and does not want a dealership. Hazel Stephenson introduced the file. Chairman advised will discuss further in Executive Session.

**6. Old Business:**

- A. Implementation of the Criminal History Check – Effective January 1, 2004 Section 8-12 of Ratified House Bill 1006 – Proposed APA Rules and SBI Contract.** A copy of the Proposed APA Rule Changes for the Criminal History Record Check Requirement is included in the packages for the Board members. Pat Walker reported these proposed rules have been submitted to the front office for comments. The process for these rule changes will be the same as the Law and Administration and Distance Continuing Education changes. We will file the text with the office of Administrative Hearings. The text is then published in the State Register. The Board will hold another public hearing to receive comments. After that, the rules will be filed with the Rules Review Committee and then the rules will go into effect sometime after that date. One of the comments received from the front office is that the criminal history record check fee must be established and posted within the rules. Prior to submitting the rules to the Rules Review

Committee the Board must establish and approve a fee for the criminal history record check. This recommended fee must also be submitted to and approved by the Governmental Operations Committee prior to submitting the rules to the Rules Review Committee. Mr. Walker provided a handout to the Board members which included the estimated steps that would be involved in this criminal record review process and an estimate of the additional cost. We receive approximately 1000 applications per year. The requirement is for new applications only. The fee charged by the SBI for the state and federal criminal history check is \$38.00 and the estimated cost of the Division's time to process the criminal history checks is \$17.00. The total estimated expenses are \$55.00. Motion was made and seconded to move forward with the rules with the criminal history record check fee established at \$55.00. Motion passed.

**B. Development of the Consumer's Disclosure Notice to be posted at Retail lots and provided to consumers – Effective October 1, 2003 - Section 6(b) of Ratified House Bill 1006 – Committee Report – Committee Chairman, Wesley Layton**

Committee Chairman Layton reported the committee has met three times. The last two meetings were November 12, 2003 and January 7, 2004. The meetings involved representatives from Low Income Housing Coalition (LIHC), North Carolina Manufactured Housing Institute (NCMHI) and members of the Division staff. During the January 7<sup>th</sup> meeting, a consensus was not reached and the meeting ended with the agreement with both the NCMHI and LIHC proposed notices being presented to the full Board. Board members were provided copies of both proposals. Chairman Layton pointed out the differences between the proposals. Board Chairman Bradley requested additional information with regards to the concerns of the industry with the language as presented on the poster. NCMHI has concerns with some language on the LIHC proposed poster, the size of the poster, color of poster and the location of the display of the poster. LIHC has concerns with the omission of language on the proposed NCMHI poster, proposed size of the poster, color of poster and location of poster. Board Member Linda Willey asked for the names of the individuals appointed to the committee. It was noted that Chairman Bradley had appointed Board Member Wesley Layton as chairman of the committee. It was also indicated that Chairman Bradley had requested representatives from LIHC, manufactured housing industry, and Division staff to serve on the committee. Chairman Bradley reminded the Board that it is the Board's responsibility not that of the committee, industry, or LIHC, to produce this consumer notice. He indicated that the Board was unable to do that as a Board, tried the committee approach and it appears we are unable to do it in that fashion. Bradley stated that the law requires us to have this consumer notice available and effective by January 1<sup>st</sup>. We haven't even started the rule process or developed a consumer notice; we are already 4 months in the hole. The Chairman expressed concern that the current problems the committee is having with developing the poster are such minor problems. Board Member Troy Brickey requested answers as to what is the problem with the verbiage of the poster. Frank Gray, legal counsel of NCMHI, expressed that NCMHI has no interest in delaying the poster. He indicated NCMHI felt some of the language included in the poster would be unnecessary since this information is already printed on the purchase agreement. NCMHI felt by concentrating on the 1-800 number to advise consumers to contact the Division with problems would certainly satisfy the requirements of the statute. Al Ripley, Attorney with the North Carolina Justice Center (NCJC) representing LIHC, feels the poster identifies the main points of the statute and to take language from the poster is simply an attempt to give less information to the consumer. Mr. Ripley indicated that LIHC has worked to accommodate the concerns of the industry while

providing the protection to the consumer. Chris Estes, Executive Director of the LIHC, feels the poster is a statement and that it is not a threat to the industry but a plus for the industry to provide this information to purchaser.

Motion was made to accept the LIHC proposed poster and handout with the green highlighted area. Motion was seconded. Motion failed.

Motion was made to accept the LIHC proposed poster and handout with the removal of the green background color and removing the last 2 sentences of the #4 bullet. Motion was seconded. Motion carried.

Chairman Bradley advised the law states the poster is to be prominently displayed in the dealership and the Board needs to address this portion of the law. Motion was made to require the poster be displayed in the lobby area of each dealership. Motion was seconded. Motion carried.

**C. Development of the Consumer Deposit Rules – Effective October 1, 2003 - Section 7(f) of Ratified House Bill 1006 – Committee Report – Committee Chairman, Danny Chandler**

Chairman Chandler reported all parties have agreed to disagree. He indicated that North Carolina Manufactured Housing Institute (NCMHI) is developing proposed language and when that is completed, hopefully we can move forward. Chairman Chandler stated that this is a tough issue and that in the development of the law, the language which included the word escrow was removed from the bill. Chairman Bradley requested that a copy of the memo dated December 17, 2003 from LaShawn Strange, Assistant Attorney General regarding the Board's authority in drafting rules pursuant to the mandate in House Bill 1006, be provided to all board members. Board Member Linda Willey asked for the names of the individuals appointed to the committee. It was noted that Chairman Bradley had appointed Board Member Wesley Layton as chairman of the committee. Chairman Bradley had also requested that representatives from the manufactured housing industry, Low Income Housing Center (LIHC), and Division staff to serve on the committee. Chairman Bradley advised that House Bill 1006 required action by the Board and that the Committee needs to take action on this issue. Al Ripley, Attorney with the North Carolina Justice Center (NCJC) representing LIHC, advised the Board that they are in agreement with the proposed language submitted by Pat Walker with a minimal amount of change. This matter is continued until the next Board meeting for proposed rules to be completed by the committee and presented to the Board.

**D. Administrative Procedures Act Proposed Changes**

A copy of proposed rule changes which are general clean up of the existing rules was provided to the Board members. These changes included address changes for the Division, as well and make the name of the Division uniform throughout the rules. Chairman Bradley advised the Board members that the changes must be approved by the Board. Motion made to move forward with these changes through the rules process. Motion seconded. Motion carried.

**E. Discussion as to whether or not Manufactured Housing Retailers should also be licensed as a Set-Up Contractor if they set-up homes which they sell - G.S. 143-143.11 License Required; Application for License – Article has been written and will be submitted for publication in NCMHI Newsletter** Pat Walker advised the staff had been instructed to write an article to retailers and set up contractors

## Minutes of January 20, 2004 Manufactured Housing Board Meeting

### Page 7 of 8

regarding dealers setting up homes that they sold. The article has been written and submitted to the front office of DOI for their approval prior to publication.

#### Other Issues

- F. **Late filing fee report** – Hazel Stephenson gave a report of late filing fees from other States. Chairman Bradley requested staff to provide this information to Board members in writing for their review. Staff to research what statutes and rules would need to be changed to include a late filing fee. Staff is to draft language regarding any changes necessary.

#### 7. **New Business**

- A. Linda Willey addressed the Board with regards to not hearing consumer cases as much as we did in the pass since the Pre-Hearing Conferences started. Chairman directed Hazel Stephenson to start providing list of Pre-Hearing Conference report to the Board. This report should include type of cases (warranty or deposit); results of Conference and copies of the complaint and inspection report.
- B. Hazel Stephenson reported that Diane Miller and she were in court in Bolivia, NC regarding Family Value Homes disbursements of funds from the dealer bonds. Hazel Stephenson advised that the checks were being cut and all consumers were paid. The Judge was most complimentary of the Manufactured Building Division and the assistance provided to the court.

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C. Patrick Walker, P. E.  
Secretary, N.C. Manufactured Housing Board

**BOARD'S DECISION**  
**January 20, 2004**

Hearings:

- A. **NCMHB vs NCMHB vs Fleetwood Home Center, License #6470 and Anthony Day, License #10550 (MHB FB 7 & 8-2003) – Falsifying Certificate of Occupancy.**

**Motion:** was made and second to revoke the license of Anthony Day. No action is to be taken against Fleetwood Home Center.

**Motion** carried.

- B. **NCMHB vs. Timothy David Walker, License #18080 (MHB FB 1-2004) – Request for transfer of sales license. Bond Claims filed against dealer's bond.**

**Motion** was made and seconded to issue sales license with one year stipulation that if any violations he must appear before the Board.

**Motion** carried.