

Tuesday, May 9, 2006 - 10:00 AM
110 Centerview Drive
Kingstree Building Suite 201-03
Columbia, South Carolina

MEMBERS PRESENT

Ralph Camp (Chairman)
Randall Altman (Vice Chairman)
Paul Laurent
Clarence Strickland
Timothy Holt
Michael Levy
Mr. Wayne Iseman
Jane Ballagh
Vanessa Gardner
Michael Platt

STAFF

David Bennett
Angela Scott
Rick Wilson
Kent Lesesne
Lesia Kudelka
Jim Knight

OTHERS PRESENT

Mark Dillard Bruce Kelly
Con Eargle Eric Gore
Cathy Stricklin Kevin McIver

NOTE: Public Notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the 1976 South Carolina Code of Laws, as amended, relating to the Freedom of Information Act.

Call to Order

On May 9, 2006, Chairman Ralph Camp called the Manufactured Housing Board meeting to order at approximately 10:00 a.m.

Approval of Agenda

Chairman Camp called for the approval of the agenda as previously noted. After review, Mr. Iseman made a motion, seconded by Mr. Strickland, to approve the agenda adding under new business, application review, Mrs. Kathy Stricklin. The motion was unanimously carried.

Approval of Minutes

Chairman Camp called for the review and approval of the February 14, 2006, minutes. After review, Mr. Holt made a motion, seconded by Ms. Ballagh, to approve the minutes. The motion was unanimously carried.

Excused Members

Chairman Camp informed the Board that Ms. Johnson was not able to attend the meeting. Mr. Isman made a motion, seconded by Mr. Altman, to excuse member absences. The motion was unanimously carried.

Progress Report

Status Report-Manufactured Housing

The status reports for February, March and April 2006 were reviewed. Chairman Camp asked whether any dealer lots were inspected in April. Mr. Bennett stated yes, the status report reflects a typographical error and the correction will be made on the June 2006 meeting. Copies of the corrected status reports are attached and hereby become part of the record.

New Licenses

Reports listing the licenses issued for February, March and April 2006 for Dealers, Manufacturers, Multi-Lot Salespersons, Contractors, Installers and Repairers were reviewed. Copies of the new reports are attached and hereby become part of the record.

Administrative Hearings

Reports of Administrative Hearings for February, March and April 2006 were reviewed. Copies of the administrative hearing reports are attached and hereby become part of the record.

Unfinished Business

Real Estate Exemption

Mr. Bennett informed the Board that on June 1, 2005, the General Assembly passed a provision §40-29-200(C) that was presented by Representative Duncan and supported by the Real Estate Association and opposed by the Manufactured Housing Board. The provision exempts licensed real estate salesperson or licensed real estate brokers who sell manufactured homes from being licensed by the Manufactured Housing Board.

Recently staff was received information that indicated Mr. William "BoBo" Hudson was buying and selling manufactured homes, placing the homes on property owned by him, purchasing land home packages, purchasing manufactured homes from tax auctions and moving them to his property in Walterboro, South Carolina. He stated that the Board revoked Mr. Hudson's license in 1992 and denied his salesperson license application in June 2003.

After speaking with Office of General Counsel, staff was advised that based on §40-29-200(C) Mr. Hudson could buy and sell used manufactured homes and could negotiate for a legal entity. Therefore, staff could not present a case against Mr. Hudson. Mr. Bennett stated that he did not think it was the intent of the legislation, but this is not the first legislation that was passed that went beyond the intent, and as it stands any real estate agent or broker can be in the manufactured housing business, if they are selling only used homes and property. Mr. Bennett stated that if the Board did not want this to happen again, they would have to present an amendment to this provision and it has to be filed by January 2007, when the General Assembly comes back into session.

After review and discussion of §40-29-200(C), Mr. Strickland made a motion, seconded by Mr. Iseman, for staff along with the Office of General Counsel to draft an amendment to §40-29-200(C) and present it to the Board for review at an appropriate time. The motion was unanimously carried.

New Business

Bond Claim

After review and discussion of the bond claim presented, Mr. Levy made a motion, seconded by Mr. Platt, to approve the bond claims submitted. The motion was unanimously carried.

Application Review

Mrs. Cathy Stricklin

The Board reviewed the retail dealer application of Mrs. Cathy Stricklin. Mr. Altman swore in Mrs. Cathy Stricklan. Mrs. Stricklin waived her right to counsel.

Mr. Bennett informed the Board that Mrs. Stricklin applied for a retail dealer license and, upon staff review of the application, questions arose regarding Mrs. Stricklin's credit report and the sufficiency of her financial responsibility.

Mrs. Stricklin testified that she has been in the manufactured housing business for several years and would like to go into business as a retail dealer. She has paid ten thousand (\$10,000) for a bond and is bondable and has several companies willing to provide financial backing.

After review and discussion, Mr. Iseman made a motion, seconded by Mr. Altman, to approve Mrs. Stricklin's application, provided that she file a letter of credit from Aiken Homes for one hundred thousand (\$100,000.00) dollars. The motion carried with 2 nay votes.

(Official transcripts of the aforementioned person's appearance before the Board are available upon request for a thirty-day time period.)

Administrative Hearings

Mr. Henry F. Curtiss

The Board reviewed the complaint against Mr. Henry F. Curtiss. Mr. Kent Lesesne advised the Board that Mr. Henry F. Curtiss has agreed to voluntarily surrender his license to practice as a manufactured home retail salesman in this State in lieu of a disciplinary proceeding and it shall be permanently revoked, effective immediately. Also, Mr. Curtiss agrees that he shall not be eligible to reapply for a license at any time in the future.

After review and discussion of Mr. Curtiss agreement, Mr. Iseman made a motion, seconded by Mr. Levy to accept the Mr. Curtiss' voluntary surrender of license. The motion was unanimously carried.

(Official transcripts of the aforementioned person's appearance before the Board are available upon request for a thirty-day time period.)

Beach Homes Corp Randy Conner, Owner

The Board reviewed the complaint against Beach Homes Corp, Randy Conner, Owner. Mr. Lesesne advised the Board that the Respondent has agreed to enter into a Consent Agreement with the following terms and conditions;

1. Beach Homes Corp is licensed Retail Dealer. Randy Conner is the owner of the retail dealership;
2. On March 14, 2006, a consumer complaint was filed. The Board alleged that the Respondent had engaged in certain conduct that violates various provisions of the Board's Practice Act and the rules and regulations of the Board. The Board alleged through its complaint that the Respondent, acting through its agents, violated S.C. Code Ann.§40-29-80(A)(4), (6), (9) and (10) (Supp 2002) involving allegations of misrepresentation or omission of a material fact in a manufactured home transaction, failure by a manufacturer or dealer to transfer good and sufficient title to the purchaser of

a manufactured home, employment of fraudulent devices, methods, or practices in connection with compliance with the requirements of this chapter, and using unfair methods, or practices in connection with compliance with the requirements of this chapter, and using unfair methods of competition or deceptive acts or practices;

3. Respondent timely received the Complaint in the matter and is familiar with the particulars of the allegations therein;
4. Respondent understands that by entering the Consent Agreement, it is waiving its rights to present evidence to the Board in defense of the Complaint. In that regard, Respondent admits that there exists evidence which, if believed by the Board and not refuted by the Respondent, could support the allegations of the Complaint;
5. Respondent admits that upon investigation, it was determined that Respondent's place of business on record with the Board had been closed without notification to the Board and that Randy Conner, owner of Beach Homes, Corp., was operating the business from his home;
6. Respondent admits that on or about February 25, 2004, he sold a 1999 Pioneer Manufactured Home that was not set up and located at 8647 Laurel Wood Drive, Myrtle Beach, South Carolina to Edward L. Hudzik. At the time of the sale, Respondent failed to transfer good and sufficient title of the manufactured home to Mr. Hudzik;
7. Respondent admits that in May of 2004, Billy and Susan Watts purchased a 2001 Redman Manufactured Home from Respondent that was set up and located at 8161 woodland Drive, Myrtle Beach, South Carolina. Although Respondent was selling the home, New Century Venture Homes (NCV) of Myrtle Beach, South Carolina, in fact owned the home and land;
8. Respondent admits that at the time of the sale Respondent failed to transfer good and sufficient title of the manufactured home to Mr. and Mrs. Watts;
9. While Respondent disputes the charges that they omitted or otherwise misrepresented a material fact in a manufactured housing transaction and that they employed fraudulent and deceptive devices in a manufactured housing transaction, they understand that the Board could make such a determination were this matter to be adjudicated, and they enter into a Consent Agreement solely for the purpose of resolving this matter; and

10. Respondent hereby waives any further finds of fact with respect to this matter.

Respondent admits that the conduct alleged in this matter constitutes sufficient grounds for corrective action under §40-29-5, et seq. Respondent further understands that the Board has a duty to enforce the laws under the Act and freely enters into the Consent Agreement and waives any further conclusions of the law. It is also Ordered with the Respondent's consent that:

1. Respondent shall sell, transfer, or otherwise dispose of its current inventory of manufactured homes to other licensed persons or entities within sixty (60) days of the execution of this Consent Agreement. It is agreed and understood that the respondent cannot make any sales or transfers to any member of the public, nor can the Respondent purchase or otherwise acquire any new inventory during this period. Failure to comply with this requirement within the permitted time shall automatically result in the immediate temporary suspension of Respondent's license until further Order of the Board;
2. Upon the disposition of said inventory, Respondent shall immediately and permanently surrender its license to the Board. Neither Respondent nor its owner shall be eligible for licensure at any time in the future, absent further Order of this Board.
3. Respondent shall maintain a copy of all transactions for Board inspection. It is understood that Respondent's sales records shall be subject to inspection by the Board during this time period in which its inventory is being disposed;
4. Respondent has full knowledge of the right to a hearing and to be represented by counsel in this matter. Respondent understands and agrees that by entering into the Consent Agreement it voluntarily relinquishes any right to judicial review of this or any other Board action(s) which may be taken concerning this and any related matters. Respondent understands and agrees that the Consent Agreement will not become effective unless and until approved by the Board. Respondent understands and agrees that a representative of the General Counsel's Office and Respondent may be present during presentation of the Consent Agreement to the Board and that

the Board shall have the authority to review portions of the investigative file and all relevant evidence in considering the Consent Agreement. Respondent understands and agrees that if the Consent Agreement is not approved, it shall not constitute an admission against interest in the proceeding or prejudice the right of the Board to adjudicate the matter;

5. It is further understood and agreed that, pursuant to the South Carolina Freedom of Information Act, the Consent Agreement is a public document; and
6. The Consent Agreement shall take effect immediately upon receipt by Respondent or their counsel.

After review and discussion, Mr. Iseman made a motion, seconded by Mr. Strickland to accept the Consent Agreement adding that staff must investigate within thirty (30) days the sales records of the Respondent to verify compliance with this consent agreement. The motion was unanimously carried.

(Official transcripts of the aforementioned person's appearance before the Board are available upon request for a thirty-day time period.)

Charles M. Roy

The Board reviewed the complaint against Mr. Charles M. Roy. Mr. Kent Lesesne advised the Board that Mr. Charles M. Roy has agreed to voluntarily surrender his license to practice as a manufactured home retail salesman in this State in lieu of disciplinary proceeding and it shall be permanently revoked, effective immediately. Mr. Roy agrees he shall not be eligible to reapply for a license at any time in the future.

After review and discussion of Mr. Roy's agreement, Mr. Altman made a motion, seconded by Mr. Iseman to accept the Mr. Roy's voluntary surrender of license. The motion was unanimously carried.

(Official transcripts of the aforementioned person's appearance before the Board are available upon request for a thirty-day time period.)

Public Comments

Mark Dillard

Mark Dillard from the Manufactured Housing Institute of South Carolina commended staff for a job well done on the cases presented. Also, he expressed the following concerns and points:

1. The media present would report on how well the Board has worked to keep the industry clean;
2. How well staff and the association have worked together to present and pass good legislation;
3. The majority of the dealers that are licensed in this state are very responsible and really concerned about what happened in Horry County and wished the media would report on that case.
4. How important it is for this Board or Agency to be more proactive when dealing with situations where individuals who have serious violations with the Manufactured Housing Board go to another licensing board under the same agency and get a license. For example there was a situation where there was an individual who not only lost a Manufactured Housing Board License, but was convicted by the Federal Government, who in turn received an appraisers license with the Appraisers Board, who is now working for someone who is licensed with the Real Estate Commission, all who are under the same agency and not taking any action. This makes it harder to police the industry because; you have individuals coming back into the industry under other license. There is either an internal communication issue or some of the other Boards are not as strict or responsible as this Board;
5. The agency, staff and the Board would talk and work this out and wish this would be an agenda item for this Board;
6. The concept of making people whole came up in one of the hearings and giving someone a break so they can take care of the consumer. That is a good concept, but the Board needs to be very cautious, because there is at least one dealer that is in business today that should not be. The dealer received their license by stating they would take care of the consumer we will give them the heat pumps. That was taking care of five years ago and the person is still in the industry causing problems. Giving people a break do not always help; and

7. Terminology is very important so please, refrain from using “mobile home;” the correct term is manufactured home.

Date of Next Meeting

Tuesday, June 13, 2006 Room 108

Adjournment:

There being no further business, Mr. Altman made a motion, seconded by Mr. Iseman, to adjourn. The motion was unanimously carried. The meeting was adjourned at 11:22 a.m.