

DRAFT MINUTES

**VIRGINIA MANUFACTURED HOUSING BOARD
MEETING**

**VHC Conference Center
4224 Cox Road
Henrico Room 2
Glen Allen, VA 23060
May 13, 2010**

10:00 a.m.

Board Members Present : Michael C. Nickell, Chairman
Ava Lewis, Vice Chairman
James W. Roncaglione
William B. Toombs
Eric Anderson
Gina M. Burgin
Lorenzo E. Dyer, Secretary to the Board

Board Members Absent : Walter K. Hughes, Sr.
William H. Moody
Ben Flores

Public Representation	:	Althea Henry	<u>Staff</u>
		William Galyean	Clinton Wallace
		Rosten King	Larry Brock
		Ron Dunlap	Debra Winston-Bowles
		Eric Olsen	Valrae Negley
		Andrea Bales	Steven Jacks

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

The Virginia Manufactured Housing Board meeting was held in Richmond, Virginia, Thursday, May 13, 2010. Chairman Nickell called the meeting to order at 10:00 a.m. Lorenzo E. Dyer, Secretary to the Board performed the roll call and a quorum was present.

B. Election of Officers.

Election of Officers was removed from the agenda until the Governor makes new appointments and/or reappointments to the Board for expired terms.

C. Approval of the Minutes.

A motion was made by Ava Lewis and seconded by William B. Toombs to accept the minutes from the Board's meeting of January 14, 2010. The Minutes were accepted as written by a unanimous vote.

D. Public Comment.

Ron Dunlap extended an invitation to the Board to attend the Annual Virginia Manufactured and Modular Housing Association Convention in Virginia Beach on July 28 – July 30, 2010. This will be Ron Dunlap's last year with the VMMHA after 30 years of services.

E. Committee Reports.

1. Education Program Committee

The Education Program Committee meeting was held on May 11, 2010 by telecommunications at 11:00 a.m. A report was presented to the Board in regard to discussions of phases to take place by utilizing the following: (1) TV, Radio, PSAs and In-House DVDs (2) What is a manufactured home? (3) The process for filing claims to the State; and (4) The consumer, manufacturer's and dealer's responsibility for complaints.

Further discussion entailed the following:

- Who writes the contents of PSAs?
- Who does the production?
- How soon productions can begin?
- The cost of PSAs?

Recommendations were made in regard to the above questions emphasizing that PSAs must be a source of education to the public and must be maintained and controlled by the SBCAO. The length of strips must be 15-30 seconds. Support can be provided from DHCD and VDOT for the production of the project. Directives of the PSAs need to be obtained concerning cost and the budget.

The board request to review the project before being distributed to the public. A report will be presented to the Board with an update from the Education Program Committee at a later date.

The Chairman recommended the Board to move from Agenda E to Agenda H.

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

1. Manufacturer Installers Class Report:

Staff attended the Virginia Manufactured and Modular Housing Association Board (VMMHA) meeting on May 17, 2010 to discuss and receive feedback concerning the Manufactured Home Installers Training Program. The classes are now being offer twice a year. In the future, the classes will be available on line with the (VMMHA) to offer assistance with the cost of providing additional training for the Manufactured Home Installers Training Program.

2. Champion Homes Report

A report was presented to the Board stating Champion Enterprises has been sold. The new company's name is Champion Home Builders Incorporate. This was a change in name only. Champion Home Builders Incorporate filed bankruptcy but agreed to honor all previously warranties for manufactured homes.

3. Manufacturer's Warranty Report

Staff is reviewing all manufacturer warranties to ensure that they comply with the Virginia Manufactured Housing Licensing and Transaction Recovery Fund Regulations. Staff will continue to update the Board on this issue.

4. FEMA Trailer Report

FEMA Manufactured Housing is being sold in many States. HUD labels are being removed and the units are retailed back to the public. FEMA consider these homes unsafe due to there zero tolerance for formaldehyde. HUD regulations indicate if the FEMA trailers are inhabitable, they are safe per HUD's formaldehyde regulations.

5. VAMMHA Meeting July 28-30, 2010 in Virginia Beach, VA

Due to budget constraints, the office of the SBCAO will not be attending this year's conference.

The Board recommends a plaque for the retirement of Ron Dunlap and Constance Randolph Williams for services provided to the Virginia Manufactured Housing Board.

The Board recommends that Agenda Item 5 be placed on the September 2010 Agenda for Ron Dunlap.

The Board recommends a letter to be written on behalf of the Board for Ron Dunlap's retirement.

6. HUD/State Administration Agencies (SAA) Eastern Region Conference Call

A telephone conference call was held on Wednesday, March 25, 2010 with the HUD BS RGW SAA from the Eastern Region. Topic's discussed, Installation Program, FEMA Trailers and changes at HUD.

7. Resignation of Board Member.

A letter received dated April 26, 2010 from Mr. William B. Toombs, to accept his resignation from the Virginia Manufactured Housing Board to be effective immediately. Mr. Toombs is no longer employed with Clayton Homes, Chester, VA. Mr. Toombs is willing to remain a member until the Governor names a replacement.

G. Old Business.

1. License Applications: John D. Mitchell

Eric Anderson made a motion that a license be issued to John D. Mitchell. Ava Lewis seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

2. License Applications: William Galyean

The license of William Galyean was returned to the SBCAO due to Mr. Galyean resigning and relocating to work at a new company.

Eric Anderson made a motion that a license be issued to William Galyean. Ava Lewis seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

3. Investigation of Salesperson, Theodore R. Ruffin.

The Board requested an investigation of Ada Phillips v Quality Customs Homes. Quality Customs Homes is no longer licensed with the Department of Housing and Community Development. Theodore R. Ruffin was employed with Quality Customs Homes as a salesperson within the dealership. Mr. Ruffin paid \$2,000.00 of the \$2,500.00 that was required by the Board to Ms. Ada Phillips.

H. New Business.

1. Recognition of service record of retired Employee.

The recognition of services will be put on the Agenda for the next meeting.

2. VAMHB vs Virginia Mobile Homes-Case #2009-29 Disciplinary.

As of today, cases will be presented to the Board as a Disciplinary Case and as a Transaction Recovery Fund Case specifying violations violated by regulants.

Based upon the evidence and testimony gathered from the IFF hearing, staff presented the following counts and recommendations to the Board, concerning violations that were broken by the regulant:

Count 1: **13 VAC 6-20-170 (22)** Failing to comply with the regulations of state or federal agencies regarding the financing, titling, taxation or transporting of manufactured homes.

- Documents were presented as part of the complaint indicating the dealer failed to pay money to obtain the title taxes to DMV as required according to applicable provisions.
- It is therefore recommended that Virginia Mobile Homes is found in violation of applicable regulation **13 VAC 6-20-170 (22)** and a monetary penalty of \$500.00 be assessed.

Count 2: **13 VAC 6-20-170 (5)** Failing to comply with the warranty services obligations and claims procedures of this chapter.

- Complaint received December 16, 2009 from Clifford Allen and Dustin Allen stating they have issues with unresolved problems on their home. These items have been competed per the owner Mr. Dustin Allen.

- It is therefore recommended that Virginia Mobile Homes, Inc. is not found in violation of applicable regulation **13 VAC 6-20-170 (5)**.

Count 3: **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.

- Complaint received December 16, 2009 from Clifford Allen and Dustin Allen stating they have not received title to the home.
- Sales contract dated 5-12-2008 for the total of \$50,000.00; home price of \$49,000.00 plus sales tax of \$1,470.00, various fees and insurance \$30.00, and less \$500.00 credits, leaving a balance of \$50,000.00 cash sale price; copy of canceled check as payment to VA Mobile Home Inc. dated 5-23-2008 in the amount of \$50,000.00.
- It is therefore recommended that Virginia Mobile Homes, Inc., is found in violation of applicable regulation **13 VAC 6-20-170 (7)** and a monetary penalty of \$500.00 be assessed.

Count 4: **13 VAC 6-20-170(21)** Failing to comply with the regulations of state or federal agencies regarding the financing, titling, taxation or transporting of manufactured homes.

- Documents presented stating the dealer failed to pay money to obtain the title and taxes as required according to applicable provisions.
- Additional information submitted by e-mail from Monica Lewallen, Loan Officer for BB&T, stating problems obtaining the title.
- The owner and General Manager, Russell G. Fournier, stated the dealership failed to pay the taxes and titling fees to DMV because there was a "cash flow problem" and the money paid to the dealership by the purchaser was paid toward other expenses.
- It is therefore recommended that Virginia Mobile Homes, Inc. is found in violation of applicable regulation **13 VAC 6-20-170 (21)** as further stipulated in 13 VAC 6-20-150 and a monetary penalty of 250.00 be assessed.

Count 5: **13 VAC 6-20-170 (11)** Employing an unlicensed salesperson (s).

- Sales contract documents list George Shoffstall as a salesperson and no record of a salesperson license has been found.
- Licensing records indicate George C. Shoffstall and Virginia Mobile Homes, In. had knowledge of the requirements for licensure.
- During the time of employment, George Shoffstall did therefore knowingly and willfully violate the Licensing Regulations **13 VAC 6-20-130**.
- Virginia Mobile Homes, Inc. purchase agreement lists the name of "George Shoffstall, as the salesperson.

- It is therefore recommended that Virginia Mobile Homes, Inc. is found to be in violation of the applicable regulation **13 VAC 6-20-170 (11)** and a monetary penalty of \$500.00 be assessed.

Count 6: **13 VAC 6-20-170 (21)** Failing to comply with any provisions of this chapter.

- Virginia Mobile Homes, Inc. failed to pay the \$10.00 fee to DHCD as required by **13 VAC 6-20-200 (3),(4)**.
- Review of agency records confirms that the fee of \$10.00 was not paid to DHCD as require.
- It is therefore recommended that Virginia Mobile Homes, Inc. is found to be in violation of the applicable regulation **13 VAC 6-20-170 (21)** and as further stipulated in **13 VAC 6-20-200** and a monetary penalty of \$500.00 be assessed.

James W. Roncaglione made the motion to follow the staff's recommendation on Count 1 that the dealer Virginia Mobile Homes, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (22) and recommend the monetary penalty of \$500.00.

James W. Roncaglione made the motion on Count 2 that the dealer Virginia Mobile Homes, Inc. is not found to be in violation of the applicable regulation 13 VAC 6-20-170 (5).

James W. Roncaglione made the motion on Count 3 that the dealer Virginia Mobile Homes, Inc. violated 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.

James W. Roncaglione made the motion on Count 4 that Virginia Mobile Homes, Inc. be found failing to comply with the provisions of this Chapter **13 VAC 6-20-170 (21)**.

James W. Roncaglione made the motion on Count 5 that Virginia Mobile Homes, Inc. is found in violations of the applicable regulation **13 VAC 6-20-170 (11)** Employing an unlicensed salesperson(s).

James W. Roncaglione made the motion on Count 6 that Virginia Mobile Homes, Inc. is found to be in violation of the applicable regulation **13 VAC 6-20-170 (21)** and as further stipulated in **13 VAC 6-20-200**. Eric Anderson seconded the motions. Chairman Nickell called the question and the motion carried by a unanimous vote.

Discussion was made concerning modifying the recommendations by suspending and revoking the license of Russell Fournier and David L. Campbell. The Board recommends opening cases on the salesperson's licenses for Russell G. Fournier and David L. Campbell.

Eric Anderson made a motion on Count 1 that the Board accepts the recommendation of staff for a monetary penalty of \$500.00 for violation of failing to comply with the regulations of state or federal agencies regarding the financing, titling, taxation or transporting of manufactured homes.

Eric Anderson made a motion on Count 3 to accept staff's recommendation of \$500.00 monetary penalty for violating Regulation 13, VAC 6-20-170 (7).

Eric Anderson made a motion on Count 4 to accept staff's recommendation for a monetary penalty of 250.00 for violations of **13 VAC 6-20-170** (21) as further stipulated in 13 VAC 6-20-150.

Eric Anderson made a motion on Count 5 to accept staff's recommendation of a monetary penalty of \$500.00 for regulation 13, VAC 6-20-170 (11).

Eric Anderson made a motion on Count 6 to accept staff's recommendation of a monetary penalty of \$500.00 for Regulation 13, VAC 6-20-170 (21) as stipulated in 13 VAC 6-20-200. The motion was seconded by James W. Roncaglione.

3. VHMHB vs Virginia Mobile Home-Case #2009-29 Transaction Recovery Fund

Based upon the evidence and testimony gathered from the IFF hearing, staff presented the following counts and recommendations to the Board, concerning violations that were broken by the regulant:

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.

- Complaint received December 16, 2009 from Clifford Allen and Dustin Allen stating they have not received title.
- Sales contract dated October 12, 2008 for the total of \$50,000.00; home price of \$49,000.00 plus sales tax of \$1,470.00, various fees and insurance \$30.00, and less \$500.00 credits, leaving a balance of \$50,000.00 case sale price; copy of canceled check as payment to VA Mobile Home, Inc. dated May 23, 2008 in the amount of \$50,000.
- Documents received from DVM verify that the dealer failed to pay title, taxes and fees as required according to applicable regulations 13 VAC 6-20-200.
- Review of agency records confirms that a fee of \$10.00 was not paid to DHCD as required by applicable provisions.
- Complaint received from Dustin Allen/Clifford Allen, dated January 15, 2010, stating monies were owed to her as reimbursement for titling fees, taxes, and other fees paid to the dealer that the dealer failed to pay.

Recommendations listed below:

- The dealer Virginia Mobile Homes, Inc. is found to be in violation of the applicable regulation 13 VAC 6-20-170 (7).
- The amount of \$1,500.00 be reimbursed to Dustin Allen/Clifford Allen from the Manufactured Housing Transaction Recovery Fund against the license of Virginia Mobile Homes, Inc.
- The dealer license for Virginia Mobile Homes, Inc. be moved to a status of being revoked as a result of the payment from the Manufactured Housing Transaction Recovery Fund.

James W. Roncaglione made a motion that the regulant Virginia Mobile Home, Inc. for Count 1 be found as having violated **13 VAC 6-20-170 (7)** following acts knowingly, failing or refusing to account for or pay over money or other valuables belonging to others which have come into the regulants possession due to the sale of a manufactured home. Eric Anderson seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

James W. Roncaglione made a motion on the following recommendation from staff that the dealer, Virginia Mobile Homes, Inc., is found to be in violation of applicable Regulation 13 VAC 6-20-170 (7) and the amount of \$1,500.00 be reimbursed to Dustin Allen and Clifford Allen from the Manufactured Housing Transaction Fund against the license of Virginia Mobile Home, Inc.

Amend: That the dealer, Virginia Manufactured Homes, Inc. is found in violation and required to pay the \$1,500.00 as reimbursement to Dustin Allen and Clifford Allen within the 30 days. The motion was seconded by Eric Anderson. Chairman Nickell called the question and the motion carried by a unanimous vote.

4. VAMHB vs Virginia Mobile Home-Case #2010-5 Disciplinary

Based upon the evidence and testimony gathered from the IFF hearing, staff presented the following counts and recommendations to the Board, concerning violations that were broken by the regulant:

Count 1: 13 VAC 6-20-170A(11). Employing an unlicensed salesperson(s).

During the Conference, several documents list George Shoffstall as a salesperson or sales manager and no record of a salesperson license have been found. A compiled record verifies George C. Shoffstall was previously licensed by Preferred Brokers, Inc. and that the requirements for licensure were known by the regulant and Mr. Stoffstall during the entire time of employment and therefore knowingly and willfully violated the licensing Regulations.

Recommendation

The dealer, Virginia Mobile Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170A (11) and be assessed a monetary penalty of \$250.00.

Count 2: 13 VAC 6-20-170A (21). Failing to comply with any provisions of this chapter.

- It was presented into the record, during the Conference, that the dealer entered into proceedings of dissolution and went out of business. The dealer failed to surrender the license.

Recommendation

The dealer, Virginia Mobile Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (21) as further stipulated in 13 VAC 6-20-150 and be assessed a monetary penalty or \$250.00.

Count 3: 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 manufacture home.

Complaint received from Althea Henry, dated January 15, 2010, stating monies were owed to her as reimbursement for titling fees, taxes, and other fees Virginia Mobile Home, Inc. failed to pay.

Recommendation

The dealer, Virginia Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (7) and be assessed a monetary penalty \$250.00.

Count 4: 22 Failing to comply with the regulations of state or federal agencies regarding the financing, titling, taxation or transporting of manufactured homes.

Documents were presented as part of the complaint stating the dealer's failure to pay money to obtain the title and taxes as required according to applicable provisions. Additional complaints information submitted to SBCAO by e-mail from Monica Lewallen, Loan Officer for BB&T, stating there were problems obtaining the title. The owner and general manager, Russell G. Fournier stated during the Informal Fact-Finding Conference, the dealership failed to pay the taxes and titling fees to DMV because there was a "cash flow problem" and the money paid to the dealership by the purchaser was paid toward other expenses.

Recommendation

The dealer, Virginia Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (22) and be assessed of a monetary penalty of \$500.00.

Eric Anderson made a motion that Virginia Mobile Homes, Inc. is found in violation of Count 1 Regulation 13 VAC 6-20-170 (11).

Eric Anderson made a motion that Virginia Mobile Home, Inc. is found in violation of Count 2 Regulation 13 VAC 6-20-170 (21).

Eric Anderson made a motion that Virginia Mobile Home, Inc. is found in violation of Count 3 Regulation 13 VAC 6-20-170 (7).

Eric Anderson made a motion that Virginia Mobile Home, Inc. is found in violation of Count 4 Regulation 13 VAC 6-20-170 (22). William B. Toombs seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

James W. Roncaglione made a motion to accept the recommendation of staff on Count 1 that the dealer, Virginia Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (11) and be assessed a monetary penalty of \$250.00.

James W. Roncaglione made a motion to accept the recommendation of staff on Count 2 that the dealer, Virginia Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (21) as further stipulated in 13 VAC 6-20-150 and be assessed a monetary penalty or \$250.00.

James W. Roncaglione made a motion to accept the recommendation of staff on Count 3 that the dealer, Virginia Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (7) and be assessed a monetary penalty \$250.00.

James W. Roncaglione made a motion to accept the recommendation of staff on Count 4 that the dealer, Virginia Home, Inc. is found in violation of applicable regulation 13 VAC 6-20-170 (22) and be assessed of a monetary penalty of \$500.00. The motion was seconded by William B. Toombs. Chairman Nickell called the question and the motion carried by a unanimous vote.

Eric Anderson made a substitute motion for Counts 1, 2, and 3 that the monetary penalties be assessed at \$500.00. Ava Lewis seconded the motion. Chairman Nickell called the question for revisions and the motion carried by a unanimous vote.

Discussion: All motions are set at \$500.00 for Counts 1 – 5. Chairman Nickell called the question and the motion carried by a unanimous vote.

Eric Anderson made a motion that Virginia Mobile Homes, Inc. is found in violation of Count 1 13 VAC 6-20-170 (11) and be assessed a monetary penalty of \$500.00; with an assessment of a monetary penalty of \$500.00 of Count 2 for violation of 13 VAC 6-20-170 (21); and Count 3 assessed a monetary penalty of \$500.00 for violation of 13 VAC 6-20-170 (7); on Count 4 the Board accepts staff recommendation of a monetary penalty of \$500.00 for violation of 13 VAC 6-20-170 (22); and, to revoke the license of Virginia Mobile Home, Inc. Gina M. Burgin seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

5. VAMHB vs VA Mobile Homes-Case #2009-28 Transaction Recovery Fund

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

13 VAC 6-20-170. Prohibited conduct; grounds for denying suspending or revoking license.

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.

A sales contract dated 4/13/2009, for the total amount of \$12,655.00 that includes a Virginia Tax (\$360.00) and a processing fee (\$295.00). Contract documents submitted as part of the compiled record that the manufactured home was sold and cash was paid for the home that included the costs of titling fees, taxes, and others fees to be paid DMV according to applicable provisions as noted.

Receipt documents indicate \$12,700 was received by Virginia Mobile Home, Inc. from Althea Henry. That payment indicates the house was paid for to the expectation of fulfillment of the terms of the contract to include payment of all titling and registration fees in accordance with applicable regulation.

A receipt dated 5/4/2009 from DMV shows payment of \$370 for title issuance, paid for by Althea Henry, DMV customer information form dated 5/04/09 submitted for review stating as follows: "Cust paid sales tax today so needed reimbursement from VA Mobile Home, Inc."

Recommendation

The dealer, Virginia Mobile Home, Inc. is found in violation of 13 VAC 6-20-170 and that Althea A. Henry is reimbursed the \$655.00 she paid to VA Mobile Homes, Inc. from the Virginia Manufactured Housing Fund. The license of the dealer, Virginia Mobile Home, Inc. is recommended to be entered to a revoked status in the records and be assessed a monetary penalty of \$2,500.00

James W. Roncaglione made a motion that the dealer, Virginia Mobile Homes, Inc. is found in violation of Count 1 13 VAC 6-20-170 (7). Eric Anderson seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Discussion: The Board recommended changing the reimbursement amount from \$655.00 to \$665.00 to add the \$10.00 fee Althea A. Henry paid to DMV.

James W. Roncaglione made a motion that the dealer, Virginia Mobile Homes, Inc. reimburses Althea A. Henry in the amount of \$665.00 within 30 days. The motion was seconded by Eric Anderson. Chairman Nickell called the question for revisions and the motion carried by a unanimous vote.

Eric Anderson made a motion to reopen Agenda Item H-4 Disciplinary Phase of this case and relook at the penalties assessed at Virginia Mobile Home, Inc. Gina M. Burgin seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

6. Consent Order – VAMHB v Buckingham Homes-Case #2009-10

By signing of the Consent Order, Mrs. Linda Seay acknowledges an understanding of the charges and admits to the violation(s) of the Counts as outlined in the Report of Findings. Mrs. Linda Seay of Buckingham Homes agrees to complete all work and have it inspected by SBCOA staff for verification of compliance by August 13, 2010.

Eric Anderson made a motion to except Consent Order as written. James W. Roncaglione seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

I. Future Meeting Date and Location.

The next meeting date and location is scheduled for Thursday, July 15, 2010 at 10:00 a.m., VHC Conference Center, 4224 Cox Road, Henrico Room 2, Glen Allen, VA 23060.

J. Adjournment.

The meeting was adjourned a motion made by Eric Anderson and seconded by Ava Lewis. The motion carried by a unanimous vote.