

**VIRGINIA MANUFACTURED HOUSING BOARD
MEETING
Virginia Housing Center
4224 Cox Road
Glen Allen, VA 23060
July 16, 2009
10:00am**

Board Members Present : Michael C. Nickell, Chairman
Ava Lewis, Vice Chairman
James W. Roncaglione
Walter K. Hughes, Sr.
Eric Anderson
Gina M. Burgin
Lorenzo E. Dyer, Secretary to the Board

Board Members Absent : William B. Toombs
William H. Moody
Ben Flores

Public Representation :

Barbara Williams	<u>Staff</u>
Samuel Pearce	Clinton Wallace
Doug Stroller	Larry Brock
Sharon Rose	Richard Potts
Esterbond Ciblus	Constance Randolph-Williams
Ron Dunlap	Debra Winston-Bowles
Emory Rodgers	Steven Jacks

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

The Virginia Manufactured Housing meeting was held in Richmond, Virginia, Thursday, July 16, 2009. 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.

Chairman Nickell suggested discussing items on the agenda in the following order: Agenda F-2, F-1 and G-1.

B. Approval of the Minutes.

A motion was made by Eric Anderson and seconded by Vice-Chairman Ava Lewis to accept the Minutes from the Board's meeting of May 14, 2009. The Minutes were accepted as written by a unanimous vote.

C. Public Comment.

Walter K. Hughes, Sr. announced Fleetwood Homes of Virginia last day of operation is September 1, 2009, unless there is a buyer.

D. Committee Reports.

1. Educational Program Committee.

An update of assessments and review of the Educational Program will be presented to the Board at a later date.

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

1. Licenses and Recovery Fund Reports.

An update of the Licenses and Recovery Fund Reports will be presented at the next scheduled Board meeting.

2. Budget Report.

An update of the Budget Report will be presented at the next scheduled Board meeting.

3. Update of proposed changes to the Manufactured Housing Licensing and Transaction Recovery Fund Regulations.

An update will be presented at the next scheduled Board meeting.

4. HUD's Manufactured Home Installation Program.

An update of the HUD's Manufactured Home Installation Program will be presented at the next scheduled Board meeting.

F. Old Business.

1. Case-David and Sarah Burlison v Fleetwood Homes of Virginia.

There were problems to the steel support system that needed replacement that were identified by the third-party inspector. The third-party inspector provided reports and identified those items that needed to be corrected or replaced. Once the structural system of the house is corrected and is in compliance based on the third-party assessment, they will move to the upper portion of the house. The timetable for all services and related requirements are completed within 45 days from the date of initiation. Additional information will be provided at the next scheduled Board meeting.

2. Case-Larry Hefner.

After much discussion, the Heffner's indicated certain items that were never discussed and requested for the information to be presented before the Board. Vice-Chairman Lewis made a motion to send this case back to informal fact finding on all the issues in the complaint and have it presented back to the Board in order to obtain additional information from the Heffner's (including estimates for the doors and the roof). The motion was seconded by Eric Anderson. Chairman Nickell called the question and the motion carried by a unanimous vote.

G. New Business.

1. Case Samuel L. Pearce.

Samuel L. Pearce gave statement to the Board to surrender his Dealer's License as of today, July 16, 2009. Eric Anderson made a motion to accept the surrender of licenses and gave directives for Mr. Pearce to also write a letter to the Board for the surrendering of the license and to have staff present a Consent Agreement to Samuel L. Pearce. Vice-Chairman Lewis seconded the motion.

After discussion, Eric Anderson withdrew the first motion. Vice-Chairman Lewis withdrew the second motion.

Walter K. Hughes, Sr. recused himself for the Samuel L. Pearce's case.

It was decided by the Board to hear each Count and make a ruling after the facts are presented.

Count 1. 13VAC 6-20-170 Prohibited conduct;
11. Employing an unlicensed salesperson.

A sales contract, Exhibit 1, dated August 4, 2008 shows Barbara W. Williams as the salesperson for the sale of a Fleetwood Crownpoint home to John Patrick Dowdy. Barbara W. Williams was unlicensed at the time of this sale, as her license expired 12/3/2007. Samuel N. Pearce, Jr. continued to employ Barbara W. Williams as a manufacturer housing salesperson after her license has expired. Recommendation of a monetary penalty of \$350.00 is assessed.

Eric Anderson made a motion for Count 1 that we except staff's findings and recommendations. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Count 2. 13VAC 6-20-170, Prohibited Conduct:
22. Failing to comply with the regulations of state or federal agencies regarding the financing, titling, and taxation or transporting of manufactured home.

A call to DMV revealed that a title has never been issued for VIN #VAFL819A/B64061-PX13. DMV advises that pursuant to Article 46.2-653 of the Code of Virginia and as referenced in VLIC-102C of the Manuals and Procedures Licensing Guide, every new manufacturer home is required to be titled prior to being converted to real estate. Testimony during the IFF revealed that Samuel N. Pearce, Jr. was aware of the fact that title fees and taxes were to be paid to DMV.

This is a violation to 13VAC 6-20-80E. Dealer responsibility for inspections. Samuel N. Pearce, Jr. failure to comply with this regulation is a disregard for the laws and regulations

Ron Dunlap - A piece of personal property can be put on private property but it does not make the personal property real property. The procedure for a manufactured home is the titling tax has to be paid at 3% and then the title is returned to DMV. Therefore, the titling fee has to be paid and the title is returned to DMV at which time it is considered real property.

James W. Roncaglione made a motion that there is a violation. Eric Anderson seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Count 3. 13VAC 6-20-170. Prohibited Conduct (Four Violations).

21. Failing to comply with any provisions of this chapter.

Item 1: Dealer records indicate copies of advertisements have not been kept on file as required. Failure of dealer to retain copies of all advertisements for a period of not less than 60 days is a violation of 13VAC 6-20-280.

Eric Anderson made a motion, no charge for this violation because a copy is retained on the computer in a file. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Item 2: Warranty and Service Policy, Exhibit 2, does not meet requirements set forth by regulations. Failure to provide a manufactured home warranty, to the buyer, in writing, that set forth the terms as required by the regulations is a violation of 13VAC 6-20-310(B)

Eric Anderson made a motion to except staff's recommendation that there is a violation. Vice-Chairman Lewis seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Item 3: Page 2 of the Home Buyer Disclaimer Information, Exhibit 3, lists inflated amounts to be retained by dealer. Failure to provide a disclosure that listed correct amounts to be retained is a violation of 13VAC 6-20-400.

Eric Anderson made motion to accept staff's recommendation and find a violation on Count 3, Item 3. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Item 4: Elizabeth B. Cox, salesperson, license number S-2008-000559 was terminated. During a dealer lot inspection, it was noticed that her license was still posted in public view.

Failure to notify the department of the salesperson's termination of employment is a violation of 13VAC 6-20-150.

Eric Anderson made motion to accept staff's findings and recommendations and there is a violation. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Count 4. 13VAC 6-20-170. Prohibited conduct;
19. Failing to comply with the Statement of Compliance.

The dealer license was renewed on March 26, 2006 and the Statement of Compliance that accompanied that renewal states (paraphrased) that Samuel N. Pearce, Jr., as the responsible party, was familiar with the Manufactured Housing Licensing and Transaction Recovery Fund Regulations and other laws which govern the manufactured housing industry, and that he is in compliance with all such laws and regulations, 13 VAC 6-20-70, is a disregard for the rules and regulations set forth by the Board. A violation of the Statement of compliance is grounds for suspension of the license. It is recommended the dealer license be suspended and a monetary penalty of \$500.00 be assessed. Samuel N. Pearce, Jr. also has a salesperson licensed and the Board may desire to take action against that license.

Eric Anderson made a motion to accept the staff's recommendation for Count 4. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by a unanimous vote.

Samuel L. Pearce gave testimony.

After much discussion, the Board made it rulings on all counts against Samuel L. Pearce:

Count 1.

Eric Anderson made a motion change the amount of the penalty from \$350.00 to \$175.00. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by unanimous vote.

Count 2.

Eric Anderson made a motion that no monetary penalty will be charged but agreed to have a Consent Order with Mr. Pearce to include the titling fees and taxes. If Mr. Pearce does not pay within 90 days, the Board will assess a penalty of \$1,500. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by unanimous vote.

Count 3 (Item 2, Item 3 & Item 4).

Eric Anderson made a motion to assess a fine of \$100.00 for Item 3-2, assess a fine of \$50.00 for Items 3-3 and 3-4 assess a fine of \$50.00. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by unanimous vote.

Count 4.

Eric Anderson made a motion to charge a monetary penalty of \$425.00 for Count 4. Gina Burgin seconded the motion. Chairman Nickell called the question and the motion carried by unanimous vote.

Eric Anderson withdrew his motion. Gina Burgin withdrew the second motion.

Gina Burgin amended and reduced the monetary penalty charged for Count 4 from \$425.00 to \$250.00. Eric Vice-Chairman Lewis seconded the motion. Chairman Nickell called the question and the motion carried by unanimous vote.

Samuel L. Pearce gave a statement.

Emory Rodgers announced to the Board, in the future, there will be fewer Board meeting but the meetings will last longer.

Identification photos need to be taken before the next Board meeting.

H. Future Meeting Date and Location.

The next meeting date and location of the Virginia Manufactured Housing Board is scheduled for Thursday, September 17, 2009 at 10:00 a.m., Department of Housing and Community Development, Main Street Centre, 600 East Main Street, Suite 300, Richmond, VA 23219.

I. Adjournment.

The Virginia Manufactured Housing Board Meeting adjourned at 1:50 p.m. on a motion made by Gina Burgin and seconded by Eric Anderson. The motion carried by a unanimous vote.