

VIRGININA MANUFACTURED HOUSING BOARD
DRAFT MEETING MINUTES
November 12, 2020
Virtual Meeting

<https://vadhcd.adobeconnect.com/lbbca/>

Members Present

Mr. Walter S. Cleaton, Chairman
Mr. David C. Bridges, Vice-Chairman (*arrived during public comment*)
Ms. Shawna J. Cheney
Mr. Stephan Geiser
Mr. Keith Hicks
Mr. Scott Montgomery
Mr. James W. Roncaglione (*Only observed the meeting due to technical issues; no votes cast*)
Mr. James Trepinski

Members Absent

Mr. Sean D. Hicks

Call to Order

The meeting of the Manufactured Housing Board (“Board”) was called to order at approximately 10:20 a.m. by Secretary Travis Luter.

Roll Call

The roll was called by Mr. Luter and a quorum was present. Mr. Justin I. Bell, legal counsel for the Board from the Attorney General’s Office, was not present.

Approval of Minutes

The draft minutes of the July 9, 2020 meeting in the Board members’ agenda package were considered. Mr. K. Hicks moved to approve the minutes as presented. The motion was seconded by Mr. Montgomery and passed unanimously.

Public Comment

Chair Cleaton opened the meeting for public comment. Mr. Luter advised that no one had contacted him to speak. With no one requesting to speak, requesting to be acknowledged to speak by use the raised hand feature of the Adobe Connect meeting platform, or requesting to speak in the chat box section of the Adobe Connect meeting platform, Chair Dawson closed the public comment period.

Chair Cleaton allowed Mr. Grumbine to provide an industry update during the public comment portion of the meeting.

New Business

Discussion of Technical Errors/Corrections related to the 2009 Regulation Adoption:

Jeff Brown, Director of the State Building Codes Office for DHCD, provided an overview of the inconsistencies between the law and the current Manufactured Housing Licensing and Transaction Recovery Fund Regulations related to the retention amounts, the minimum balance amount of the Transaction Recovery Fund, and the maximum amount a claimant can claim against the Transaction Recovery Fund because of a single or multiple violation(s). These inconsistencies were intended to be addressed during the adoption of the 2009 Manufactured Housing Licensing and Transaction Recovery Fund Regulations; however, they were missed. He explained the need to ensure the regulations match the law. He further explained that at the last meeting, staff presented information to the Board and explained the changes that were being proposed, but staff only provided the Board with the current law, rather than the proposed changes to the regulations, which was why the item was brought back to the Board. Lastly, he indicated that by doing this, the APA regulations were followed and if approved by the Board, staff would move forward with the fast track process to get the changes implemented.

After a brief discussion, Mr. Bridges moved to accept the corrections to the regulations as presented. The motion was seconded by Mr. Trepinski and passed unanimously.

Use of the Transaction Recovery Funds by the SBCO:

Mr. Brown, Director of the State Building Codes Office for DHCD, provided an overview of the permission granted to SBCO in a previous state law to use up to five percent (5%) of the balance of the Transaction Recovery Fund per fiscal year for the *“purposes of providing educational programs to consumers, code officials, and the manufactured housing industry and to pay department staff expenses for conducting investigations and preparing reports and findings for the Board.”* Mr. Brown shared with the Board that the provision to utilize the funds expired July 1, 2011. He further explained the need for the funds to help SBCO administer the manufactured housing program. Mr. Brown outlined the department expenditures for the three previous fiscal years. He also outlined specifically how the funds would be used, if approved by the Board. He further clarified that SBCO would not annually pull over the allowable 5%, rather only access what was needed up to the 5% to administer the manufactured housing program when licensing fees were not enough to cover the expenses for administering the program. Mr. Brown asked the Board to grant the department access to the funds as indicated for the purposes indicated on an annual basis.

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After a brief discussion, Mr. Bridges moved to grant permission to DHCD to use up to five percent (5%) of the balance of the Transaction Recovery Fund per fiscal year for the *“purposes of providing educational programs to consumers, code officials, and the manufactured housing industry and to pay department staff expenses for conducting investigations and preparing reports and findings for the Board.”* as was allowed previously in state law. The motion was seconded by Mr. K. Hicks and passed unanimously.

Dealer responsibility to collect sales tax and title fee and deliver to Virginia Department of Motor Vehicles (DMV):

Chair Cleaton lead a discussion pertaining to the responsibilities of manufactured housing dealers to the collect sales tax and title fees for each manufactured home sold, in accordance with the Transaction Recovery Fund (TRF), and the new policy of DMV not to allow dealers to enter DMV branches to conduct the transaction. He further clarified that DMV is utilizing third party agencies to accept and process the payments for DMV. Chair Cleaton expressed his concern with being held responsible for providing payments to DMV pursuant to the TRF; although, not being allowed to ensure the payments are received by DMV. He further expressed his concern with submitting new home titles through the mail to a third party agency to be processed for DMV when the dealer is responsible for ensuring it is done properly.

During discussions, Board members discussed several options to address the issue such as having SBCO staff meet with a DMV representative, drafting a letter from the MHB and sending it to the MVDB outlining the issues with the changes in their policy and the concerns of the MHB due to the unforeseen circumstances and/or consequences, and SBCO staff drafting a letter and sending it to DMV.

Cindy Davis, Deputy Director of BFR suggested the possibility of including a notarized document in each new home sale package indicating that the owner has received the funds to make the tax and titling transaction and that the responsibility is theirs to ensure the transaction is completed or the creation of best practice guidelines to be shared with other dealers.

SBCO staff agreed to follow up with DMV on the issue and report back to the MHB at a subsequent meeting.

Lenders asking dealers to add outside options into the price of new homes:

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Chair Cleaton suggested a meeting with Cindy Davis, Deputy Director of BFR; Justin Bell, Attorney General's Office representative for the Board; and him to discuss the legal aspects of the issue of lenders asking dealers to add outside options into the price of new homes.

Old Business

None

Committee Reports

None

Secretary's Report

Mr. Luter provided the Board an updated FY 2020 revenue report for the Transaction Recovery Fund. He also provided a revenue report for the Transaction Recovery Fund ending September 30, 2020.

Mr. Luter provided the Board a current balance report for the Transaction Recovery Fund.

Mr. Luter provided the Board a Debtor's balance report for the Transaction Recovery Fund provided by the AG's Office.

Mr. Luter informed the Board of the current caseload and that the next meeting was scheduled for February 11, 2021.

Adjournment

There being no further business, the meeting was adjourned by proper motion at approximately 11:50 a.m.

Approved: February 11, 2021

Chair, Virginia Manufactured Housing Board

Secretary, Virginia Manufactured Housing Board