



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
June 12, 2009

Michael H. Bray, Chair

Devora D. Mitchell, Member

Pablo Schneider, Member

Sheila M. Vallés-Pankratz, Member

Donnie W. Wisenbaker, Member

**Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting**

June 12, 2009

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Michael H. Bray, Chair	_____	_____
Devora D. Mitchell, Member	_____	_____
Pablo Schneider, Member	_____	_____
Sheila M. Vallés-Pankratz, Member	_____	_____
Donnie W. Wisenbaker, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

MANUFACTURED HOUSING BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
Rusk State Office Building, 208 E. 10th Street, Room 227
Austin, Texas 78701
June 12, 2009 10:00 a.m.

AGENDA

CALL TO ORDER, ROLL CALL Chair

CERTIFICATION OF QUORUM Chair

The Board of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA) will meet to consider and possibly act upon:

ACTION ITEMS

- Item 1. Consideration and action to approve the minutes of the board meeting on May 8, 2009.. Chair
- Item 2. Presentation, discussion and action concerning the reconsideration of SOAH Proposal for Decision: In the Matter of the Complaint of TDHCA vs. Southwest Mobile Homes F/K/A Lonestar Liquidators, Retailer License No. RBI-36097, Docket Number: 332-08-4283. Amy Morehouse
The Board may go into executive session for consultation with attorney on the above order pursuant to Sec. 551.071, Texas Government Code.
- Item 3. Presentation, discussion and action to consider approving relocation of the Manufactured Housing Division's Austin Headquarters. Joe Garcia
- Item 4. Presentation, discussion and action to consider approval of expanding the educational components. Joe Garcia

REPORT ITEMS

- 1. Summary of FY 2009 Operating Budget and Proposed Moving Expenses Kassu Asfaw

PUBLIC COMMENT Chair

EXECUTIVE SESSION Chair

Note: The Board may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

- (a) If necessary, the Board will go into executive session to discuss Personnel Matters pursuant to Sec. 551.074, Texas Government Code.
- (b) If necessary, the Board will go into executive session for Consultation with Attorney pursuant to Sec. 551.071, Texas Government Code.

RECONVENE Chair

Reconvene in public session and take action on any matters coming out of Executive Session.

ADJOURN Chair

To access this agenda or request information, please visit our website at www.tdhca.state.tx.us or contact Sharon Choate, TDHCA, 221 E. 11th Street, Austin, Texas 78701, 512-475-2206, sharon.choate@tdhca.state.tx.us.

Individuals who require auxiliary aids, services or translators for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Agenda Action Item No. 1

**MINUTES OF THE REGULAR MEETING OF THE
MANUFACTURED HOUSING BOARD**

On Friday, May 8, 2009, at 10:01 a.m., there was a regular meeting of the Manufactured Housing Board (the "Board") in Room 227 of the Rusk State Office Building, 208 East 10th Street, Austin, Texas. Michael Bray presided. Devora Mitchell, Sheila Vallés-Pankratz, and Donnie Wisenbaker, constituting a quorum, attended. Pablo Schneider was absent. The following Manufactured Housing Division (the "MHD") staff were present: Joe Garcia, Amy Morehouse, Kassu Asfaw, Jim Hicks, Cindy Bocz, Heidi Maldonado, Janice Babbitt, Cheryl Hearne, Ysa Cavazos, Ebony Cleveland, Jennifer Dillard, and Sharon Choate.

Michael Bray called the roll, confirmed the presence of a quorum, and asked for a motion to approve the minutes from the board meeting on March 20, 2009. Upon motion of Sheila Vallés-Pankratz, duly seconded by Donnie Wisenbaker, the minutes of the previous meeting were unanimously approved.

Amy Morehouse presented for discussion and action the State Office of Administrative Hearings Proposal for Decision and the Division's final order in the Matter of the Complaint of TDHCA vs. Southwest Mobile Homes F/K/A Lonestar Liquidators, Retailer License No. RBI-36097, Docket Number: 332-08-4283 and consideration of Brian Wilson's Motion for Rehearing for SOAH Docket Number: 332-09-0739.

At 11:25 a.m., the Board went into Executive Session for Consultation with Attorney relating to the SOAH's Proposal for Decision in the matter of TDHCA vs. Southwest Mobile Homes F/K/A Lonestar Liquidators, Retailer License No. RBI-36097, Docket Number: 332-08-4283 and Brian Wilson's Motion for Rehearing for SOAH Docket Number: 332-09-0739 pursuant to Sec. 551.071, Texas Government Code. The board reconvened in open session at 12:49 p.m.

Donnie Wisenbaker made a motion to instruct the staff to prepare an order on the terms discussed in the matter of TDHCA vs. Southwest Mobile Homes F/K/A Lonestar Liquidators, Retailer License No. RBI-36097, Docket Number: 332-08-4283, duly seconded by Sheila Vallés-Pankratz, the motion was unanimously approved.

Sheila Vallés-Pankratz made a motion to deny Brian Wilson's Motion of Rehearing relating to Docket Number: 332-09-0739, duly seconded by Devora Mitchell, the motion was unanimously approved.

Joe Garcia presented and discussed for approval the adoption of proposed amendments to 10 TAC, Chapter 80 for publication as adopted in the Texas Register. Upon motion of Sheila Vallés-Pankratz, duly seconded by Donnie Wisenbaker, the approval to publish the rules in the Texas Register as adopted was unanimously approved.

Joe Garcia delivered the Executive Director's Report.

At 1:40 p.m., the Board went into Executive Session to discuss personnel matters relating to the evaluation and merit increase for the Executive Director of the Manufactured Housing Division

pursuant to Sec. 551.074, Texas Government Code. The board reconvened in open session at 2:10 p.m.

Sheila Vallés-Pankratz made a motion to increase the Manufactured Housing Division's executive director's salary by 6 percent, based on outstanding performance, duly seconded by Devora Mitchell, the motion was unanimously approved.

The next board meeting was tentatively set for Friday, June 12, 2009, at 10:00 a.m.

There being no further business to come before the board, the meeting was adjourned at 2:23 p.m.

Sharon Choate, Secretary

Approved:

Michael Bray, Presiding Chair



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MANUFACTURED HOUSING DIVISION

Rick Perry
GOVERNOR

Joe A. Garcia
EXECUTIVE DIRECTOR

Board Members

Presiding Officer, Michael H. Bray
Devora Denise Mitchell
Donnie W. Wisenbaker
Pablo Schneider
Sheila M. Valles-Pankratz

TO: Governing Board of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs

FROM: Amy Morehouse, Director of Enforcement

THROUGH: Joe A. Garcia, Executive Director

SUBJECT: Reconsideration of Proposal for Decision regarding violation of the Texas Occupations Code by Southwest Mobile Homes L.L.C., F/K/A Lonestar Liquidators

Respondent: Southwest Mobile Homes L.L.C., F/K/A Lonestar Liquidators
License type/number: Retailer/Broker/Installer-License No. RBI-36097
Docket Number: 332-08-4283
Complaint Number: MHD2008000193-LRV

Prior Board Meeting

At the May 8, 2009, Board meeting it was determined that the board would allow a settlement with Southwest Mobile Homes where restitution would be paid through the homeowner's recovery trust fund and reimbursed by Southwest Mobile Homes L.L.C. bond. On May 14, 2009, a Consent Order was mailed to the Respondent's attorney allowing 10 days for the Consent Order to be signed and returned. The Consent Order proposed by the Department has not been signed and returned by the Respondent; and the First Indemnity of America Insurance Company, the bond company, is disputing the claim.

Recommendation

The Department recommends that the Board reconsider the prior decision and approve the following administrative order. Respondent should be ordered to pay a \$2,000.00 penalty for violations of TEX. OCC. CODE ANN. §§ 1201.153, 1201.206, 1201.451 and 1201.455 and refund \$25,500 to the consumer.

Background

On April 30, 1996, Terry R. Gentle and Kathy J. Gentle became the owners of record of a Patriot HUD Home with HUD label numbers NTA0543955/56 (HUD Home) with a lien held by Green Tree Financial Servicing Corporation (Green Tree). On December 14, 2006 Green Tree repossessed

the HUD Home from the Gentles.

On January 26, 2007, Dwayne Herring of Southwest Mobile Homes L.L.C collected \$7,000.00 from Mary Crawford at her mobile homes sales office on behalf of the consumer for the purchase of the HUD Home. Mary Crawford is the mother of Shaleigh Hurst, the consumer who was attempting to purchase the HUD Home. The \$7,000.00 was Ms. Hurst's money.

Shaleigh Hurst borrowed the remainder of the purchase price for the HUD Home from James Thomason. On January 26, 2007, Mr. Thomason wired \$18,500.00 to Mr. Herring for the purchase of the HUD home.

Mr. Herring did not provide Ms. Hurst, Ms. Crawford, or Mr. Thomason on January 26, 2007, or any later time, with a Retailer/Broker Disclosure Statement, Warranty and Disclosure for a Used Manufactured Home, Site Preparation Notice, Consumer Disclosure Statement, or a formaldehyde health notice.

Between January 26, 2007 and January 29, 2007, Southwest Mobile Homes L.L.C sent a crew to attempt to pick up the HUD Home for delivery and installation at 121 Rommel Court, Springtown, Texas. The land owner would not allow the home to be removed from his property without being paid \$10,000.00.

On February 22, 2007, Green Tree's representative signed a Release of Lien (Form B) for the HUD home. On March 10, 2007, Ms. Bradford, a representative of Southwest Mobile Homes L.L.C, signed the Form B on behalf of Southwest Mobile Homes L.L.C, as the purchaser of the repossessed HUD Home.

On September 10, 2007 Mr. Herring and Ms. Hurst signed a Statement of Ownership and Location application at separate times before two different notaries. A completed Statement of Ownership and Location application was never received by the Department.

As of November 14, 2008, Mr. Herring had not delivered the HUD Home to Ms. Hurst or refunded her purchase price.

Violations

The Administrative Law Judge found that the Respondent had committed the following violations of the Act and the Rules:

1. Southwest Mobile Homes L.L.C, violated TEX. OCC. CODE ANN. § 1201.153 by transferring ownership of a HUD –code manufactured home to a consumer without delivering to the consumer a formaldehyde health notice.
2. Southwest Mobile Homes L.L.C, violated TEX. OCC. CODE ANN. § 1201.206 by failing to file a completed application for the issuance of a Statement of Ownership and Location with the Department to transfer ownership of the HUD home to Ms. Hurst.
3. Southwest Mobile Homes L.L.C, violated TEX. OCC. CODE ANN. § 1201.451 by attempting to sell, exchange, or lease purchase a used manufactured home without transferring a good and marketable title.

4. Southwest Mobile Homes L.L.C, violated TEX. OCC. CODE ANN. § 1201.455 by selling a used manufactured home to a consumer as a dwelling without providing a written disclosure describing the condition of the home and a written warranty that the home will remain habitable until the 60th day after the later of the installation date or the date of the purchase agreement.

Hearing before the State Office of Administrative Hearings

After proper notice, an administrative hearing was held on November 14, 2008. An Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) issued the attached Proposal for Decision (PFD) on February 17, 2009, as a result of that hearing. The Department disagreed with a portion of the PFD and the attached exceptions were filed by the Department on March 4, 2009. On April 6, 2009, the ALJ issued the attached letter in response to the parties' exceptions. The ALJ accepted all of the 6 exceptions recommended by the Department.

Proposal for Decision

The Proposal for Decision dated February 17, 2009, combined with the amendments made to the Proposal for Decision made on April 6, 2009, recommends that the Department issue a penalty in the amount of \$3,000.00 for the above listed violations and that the respondent refund the purchase money for the manufactured home in the amount of \$25,500.

Recommendation

The Department recommends that the Board reconsider the prior decision to allow for a settlement; and instead proceed by approving the following administrative order. Respondent should be ordered to pay a \$2,000.00 penalty for violations of TEX. OCC. CODE ANN. §§ 1201.153, 1201.206, 1201.451 and 1201.455 and refund \$25,500 to the consumer.

Agenda Action Item No. 3

There are no documents for this action item regarding approving relocation of the Manufactured Housing Division's Austin Headquarters.

Agenda Action Item No. 4

There are no documents for this action item regarding consideration to approve expanding the educational components.