

DELAWARE MANUFACTURING HOME RELOCATION AUTHORITY

1675 S. State Street
Dover, Delaware

Minutes of October 6, 2010 Meeting

IN ATTENDANCE:

Authority: Richard Lemire, Chairman
Terri Rock
Ken Fuchs
Joanne Agostarola
Fred Neil
Derek Strine
Charles Clark
Brian Posey

Excused: Caron Thompson

Legal Counsel: William Denman

Other Attendees: Ed Speraw, Code Investigator
Marion Fedderman, Reybold
Pat Weyl, Bay City HOA
Steve Class, Citizen
Jerry Heisler, Citizen
Jim Grygiel, Reybold

I. CALL TO ORDER:

Mr. Lemire called the meeting to order at 1:05 p.m.

II. REVIEW AND APPROVAL OF MINUTES:

Mr. Neil made a motion to accept the minutes from the July 14, 2010 meeting. Mr. Fuchs seconded the motion.

Unanimous approval was given by all members present by voice vote.

III. OLD BUSINESS:

A. CODE INVESTIGATOR REPORT:

Mr. Speraw gave his report.

Mr. Lemire stated that one of the items talked about in the past was compliance. Ms. Sisco and Christine Hambleton in the Division of Revenue have compiled a list of those communities in arrears. Some are only a few quarters and some are several quarters over several years.

Mr. Lemire suggested that the Board needs to provide staff and legal counsel with guidance in terms of when to take legal action against delinquent parks. A dollar limit as never been agreed upon so he feels the decision should be about compliance. The Board could put a time limit on delinquencies, such as if a park does not comply within a year the RTA should take action on it. It is not fair to those parks that are compliant and paying in.

Mr. Denman outlined the procedure that is being followed now. Over all the collection of past due amounts has been very good. However, there are those parks which completely ignore the fact that they owe money to the RTA. This affects the tenants and their ability to apply for benefits.. If they are displaced from their park and no money has been contributed to the fund, they would not be eligible for benefits.

Mr. Denman stated the issue of compliance is not just collecting money. It is having the landowner make the assessment and collect the assessment and file a report with the Division of Revenue. In addition to seeking collection of funds, the Board should consider going into the Delaware Court of Chancery and seeking a court order directing the community owner to collect the assessments, fill out the quarterly reports, and file the reports with the DOR.

Mr. Denman stated it is something the Attorney General's office could do if they had the time. Someone should do it and his firm could handle it. Maybe taking a few parks to court, getting an injunction and issuing a press release letting owners know that if they don't comply with the statute, the RTA is going to come after them will encourage compliance.

Ms. Agostarola suggested that letters be sent out after a quarterly report is received. When the next quarterly report is issued, it would be reviewed and if no response is received to the letter sent and the account does not reflect any payments being made, the compliance requirement should be taken to the next level.

Discussion followed.

Mr. Lemire stated that compliance efforts should be directed at all delinquent parks and the Board should not pick and choose who to go after.

Mr. Neil inquired if a park closes and contributions have not been made to the trust fund where does that leave the tenants?

Mr. Lemire stated we are sending out letters now and in many cases no response is received and no payments or attempt at payments is being made. If a letter was sent out from the Attorney General's office it would show that more than the RTA is involved and it could be an issue of criminality or legality.

Mr. Denman stated in reply to Mr. Neil's question, the statute is very clear, whether a landlord or tenant, tenants are not entitled to benefits under our act if the tenant has failed to pay the tenant's share into the trust fund.

Mr. Denman stated there is no provision in the statute that states the RTA is entitled as a matter of law to recover attorney fees in connection with any lawsuit.

Mr. Strine recommended the Financial Oversight Committee prepare a revised draft of the fee schedule and present it by email prior to the next meeting.

Mr. Denman stated that while the can adopt regulations through the public hearing process, enacting fines and penalties for failure to comply with the act would have to be done through legislation. The Board can adopt regulations but not write the law.

Mr. Heisler stated this would mean the Board would have to go back to the Legislature to have the late fee changed.

Mr. Lemire recommended that the committee bring this together, keep him informed and have Mr. Denman review it and see what possibilities the Board has while keeping in compliance and move it forward.

Mr. Strine asked if a public hearing needs to be held before they adopt revised regulations.

Mr. Denman repeated that he does not think the Board can adopt a regulation that gives the Authority the right to recover fines, penalties or attorney fees and have that hold up in court. He recommends that the Board go to the Legislature, keeping the changes simple. It will only take a simple provision that says if the Authority has to retain counsel or incurs costs in collecting any sums due here under or requiring compliance, the Authority shall have the right in addition to recovering any sums due to recover reasonable attorney's fees from the other party.

Mr. Lemire stated this needs to be done soon and ready for the January board meeting so the board can vote on it and go forward from that point to the Legislature.

Mr. Denman will draft a very simple amendment regarding the penalties, attorney fees, etc. and send it to all board members.

C. FINANCIAL REPORT:

Mr. Sipple gave his report.

Mr. Sipple reported that the annual audit will be done in November.

Mr. Lemire advised the Board the current lease for the RTA office space was due for renewal in November. No changes have been made to the lease and the monthly rent remains the same.

Mr. Clark made the motion to renew the RTA office space lease. Ms. Rock seconded the motion.

Unanimous approval was given by all members present by voice vote with an abstention by Mr. Strine.

B. AMINISTRATIVE REPORT:

Ms. Sisco reported that the website is up to date on posting of meeting minutes.

The quarterly report was sent to everyone this morning.

Ms. Sisco stated that approximately 47 delinquent account letters were sent out to community owners the beginning of September.

Also, Community Registration Forms with a cover letter were sent out the beginning of September to all community owners. About 90 have been returned.

C. NEW BUSINESS;

Mr. Lemire introduced Ms. Pat Weyl, President of the Bay City Homeowner's Association, who had requested that she be allowed to address the Board.

Ms. Weyl's read a prepared statement that addressed her internal disagreements regarding access to the records of DMHOA and other internal operational matters involving DMHOA.

The Board advised Ms. Weyl that her presentation related to matters beyond the scope of the Authority. The Authority cannot get in the middle of any ongoing dispute involving the internal operations of DMHOA.

Ms. Weyl also expressed concern regarding the employment of Mr. Speraw by the Authority and a possible conflict of interest between DMHOA and the Authority.

The Board advised Ms. Weyl that when the Authority made its decision to retain Mr. Speraw on a part time basis, it did so with full knowledge of Mr. Speraw's relationship with DMHOA. Additionally, Mr. Speraw is not a member of the Authority and his contract makes it clear that in the performance of his duties for the Authority, he is not permitted to engage in any activities related to DMHOA or any activity that could constitute a conflict of interest.

At the end of Ms. Weyl's presentation, Chairman Lemire requested that Ms. Weyl provide the Authority with a copy of her prepared statement to be included with the Authority's final minutes of the meeting for completeness purposes. Ms. Weyl agreed.

Ms. Weyl requested a copy of the Employment Contract of Mr. Speraw. Mr. Denman stated he would forward a copy to her.

V. ADJOURNMENT:

As there was no further business before the Board, the motion was made for adjournment by Mr. Fuchs and seconded by Mr. Neil. After unanimous approval from the members present, the meeting was adjourned at 3:25 p.m.

Respectfully submitted,

Susan Sisco
Administrator