

DELAWARE MANUFACTURING HOME RELOCATION AUTHORITY

1675 S. State Street
Dover, Delaware

Minutes of January 19, 2011

IN ATTENDANCE:

Authority: Richard Lemire, Chairman
Terri Rock
Ken Fuchs
Derek Strine
Caron Thompson

Excused: Joanne Agostarola
Brian Posey
Fred Neil

Legal Counsel: William Denman

Other

Attendees: Ed Speraw, Code Investigator
Scott Sipple, Accountant
Richard Schott, Tenant, Noble's Pond
Jonas Madaczewski, Tenant, Noble's Pond
John A. Ceci, Tenant-Noble's Pond
Anthony Spinelli, Tenant-Noble's Pond
Theodore Butler, Tenant-Noble's pond
Bill & Cathy Pastewaitt, Tenants-Noble's Pond
Peter Schaeffer, Esq., Legal Counsel, Noble's Pond tenants

I. CALL TO ORDER:

Mr. Lemire called the meeting to order at 1:04 p.m.

II. REVIEW AND APPROVAL OF MINUTES:

Ms. Thompson made a motion to accept the minutes from the October 6, 2010 meeting. Mr. Strine 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.

Discussion followed on a park, Swann Keys, discovered by Mr. Speraw. The board agreed that research to get information on the park/owner will be given to M. Harvath who has done previous research for the RTA.

Discussion followed on Pine Ridge, MHP, a delinquent account which the RTA has filed a lawsuit against.

Discussion followed on Noble's Pond and it's non-contribution to the trust fund.

Mr. Denman stated that in the past his law firm through George Gardner, who is now deceased, was legal counsel for the owner's of Noble's Pond. When the issue of Noble's Pond came up as to whether the Authority's assessment applied, the Board was advised of this and it was decided to refer the matter to Attorney General's Office. The Attorney General's opinion was that Noble's Pond was subject to the RTA assessment and Noble's Pond and the tenants should be paying the assessment.

Mr. Denman stated he understood the issue on the table and that several residents of the community would like to contribute funds directly to the Authority. Their concern is that the owner is not paying the assessment as required by the Attorney General's opinion. If the statute applies to Noble's Pond, as stated by the Attorney General's office, then the Noble's Pond community owner is responsible for making that assessment to each and every tenant in that community. The owner is required to collect that assessment in trust and quarterly submit that assessment directly to the Authority along with the landlord's portion and the tenant's portion.

Mr. Denman stated if all the residents of the community start sending checks to the Division of Revenue, they are just going to get lost since no account has been set up by the community owner to apply these payments to.

Mr. Denman stated that the residents could each send separate checks quarterly to Noble's Pond, making sure it is documented with a cover letter. Noble's Pond would be put in the situation where they have to decide if they want to challenge the Attorney General's opinion and return the checks or acquiesce in the Attorney General's opinion and send the funds with the return to the Authority.

The question was raised if Noble's Pond does not recognize the Authority and does not pay, what would happen. Mr. Denman stated, since he has a conflict, the Authority through the Attorney General's Office would have to initiate a

lawsuit in the appropriate court in Delaware to have it determined whether or not Noble's Pond is subject to the Authority's assessment. In that case, the Delaware Chancery Court or the Delaware Supreme Court would make a decision.

Mr. Peter Schaeffer, attorney for Noble's Pond tenants, stated that \$18 a year to the RTA is good insurance for the tenants, but now it looks like the owner is trying to go to a co-op or a condominium structure. There looks like there is a change in use coming and the tenants don't have RTA protection.

Mr. Schaeffer stated that in the statute referenced earlier, it shows the burden is on the landowner to collect the fees and send them to the RTA.

Mr. Strine asked if wouldn't the JP court system have jurisdiction over landlord/tenant, specifically add a clause that might be required to be included in a lease as versus not.

Mr. Denman stated the JP court has jurisdiction over a landlord/tenant matters. The issue is whether Noble's is subject to the assessment.

Mr. Schaeffer stated the letters that have come out from Noble's Pond have been very fuzzy about what type of ownership and if there are going to be common areas involved.

A resident of Noble's Pond asked what the Authority is going to do since the owner of Noble's Pond has not contributed and does not recognize the RTA.

Mr. Lemire stated he initiated the opinion from the Attorney General's office that Chapter 70 does apply to Noble's Pond. The next step is the Board has to decide if they want to expend funds to pursue this and have the Attorney's General's office pursue litigation against the owner of Noble's Pond.

Mr. Denman stated the residents have legal counsel and he can advise the tenants on what steps and options the tenant has. The Authority has to decide if they want to engage separate legal counsel at their expense to fight this battle or encourage the Attorney General's office to file an appropriate legal action on behalf of the Authority.

Ms. Rock stated there is an opinion from the Attorney General's Office. We have to follow the judicial procedure. If the Attorney General's office is involved, the best thing to do is work with them.

Mr. Schaeffer stated one thing the tenants can do is file for an injunction so that any change in use of the land can be stopped. If the Attorney General's Office is willing to pursue this, it won't cost the tenants anything.

Discussion followed on what type home is considered manufactured housing.

Mr. Schaefer stated the Attorney General's office gave their opinion regarding the homes in Noble's Pond. This would be a strong point should the case be heard in court.

Ms. Rock stated if they are now building the homes on the land in Noble's Pond, what kind of deed are the people getting? That is something that needs to be checked into.

Mr. Lemire stated he felt a letter should be sent to the Attorney General's Office requesting they pursue litigation against the owner of Noble's Pond. The board agreed with this recommendation.

Ms. Rock stated the Attorney General's office should also be made aware that tenants of Noble's Pond attended this board meeting and are very concerned and if possible, to have this request expedited.

Mr. Denman is to draft a letter from the Authority regarding Noble's Pond and Mr. Lemire will sign it.

Mr. Lemire advised the tenants that the Authority will do what it can and patience might be in order as it takes time to get a response.

Mr. Lemire stated the issue with Noble's Pond is going to have to be addressed in a different way. It is not that the RTA does not want to accept the Noble's Pond tenant's money; it is just that the Authority has to resolve how they will do this and what the appropriate process to take is.

C. FINANCIAL REPORT:

Mr. Sipple gave his financial report and an update on the annual audit.

Mr. Sipple stated that by the April meeting, the Board will have a clear picture of all the account receivables.

Discussion followed on the annual audit findings and also the cost of it.

Mr. Strine and Mr. Sipple are to arrange a meeting with Tom Wagner, Auditor, to review and discuss the state audit report.

Ms. Rock stated that the Financial Committee had requested to have fees broken down under the Administrative Fees category as to enforcement expenses, etc. This has not been done yet.

Discussion followed.

B. AMINISTRATIVE REPORT:

Ms. Sisco reported that the website is up to date on posting of the meeting minutes. The quarterly report was sent to everyone via email this morning.

Ms. Sisco stated that approximately 47 delinquent account letters were sent to community owners the beginning of September. Twenty-one (21) owners have brought their accounts up to date. 26 are still outstanding.

Ms. Sisco handed out a report to each board member which breakdowns the status of each delinquent account and a list of those we have filed a lawsuit against.

190 Community Registration Forms with a cover letter were sent out the beginning of September to all community owners. A second letter was sent out on December 16, 2010. Only 16 have not been returned.

All contributing parks have been inspected once by Mr. Speraw. The community inspection log is now complete.

Bon Ayre Community Association (HOA) registered with the RTA. They will be forwarding the necessary documents to our office.

C. EXECUTIVE SESSION:

At 3:05 p.m. Mr. Strine made the motion to go into Executive Session to discuss personnel issues. Mr. Fuchs seconded the motion.

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

At 3:15 p.m. Ms. Thompson made the motion to come out of Executive Session. Mr. Fuchs seconded the motion.

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

V. ADJOURNMENT:

As there was no further business before the Board, the motion was made for adjournment by Ms. Rock and seconded by Mr. Fuchs. After unanimous approval from the members present, the meeting was adjourned at 3:40 p.m.

Respectfully submitted,

Susan Sisco
Administrator