

**DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY**

1675 S. State Street  
Dover, Delaware

Minutes of January 7, 2014

**IN ATTENDANCE:**

Authority: Mitch Crane  
Andy Strine  
Bill Dunn  
John Morris  
George Meldrum  
Susanne Lantz (Executive Director)  
Kevin Carroll (via telephone)

Legal Counsel: William Denman (left 2.25 PM)

**I. CALL TO ORDER:**

Mr. Crane called the meeting to order at 1.30 p.m.

**II. UNFINISHED BUSINESS:**

**1. Consider publication of proposed regulations for implementation of SB 33**

Mr. Crane stated that this was a special meeting in regards to making changes to the Emergency Regulations before publishing them in the Delaware Register and request comment by the public. Mr. Crane asked Mr. Denman to explain the proposed final regulations.

Mr. Denman said he hoped that everyone had seen the redlined copy that was sent to everyone, which would be published for comments in the Delaware Register on February 1, 2014.

Mr. Denman stated the regulations would be guidelines to the involved parties to help them make the Rent Justification Dispute work.

Mr. Denman suggested he would like to go through the regulations by Section number, Section 2: Definitions, was just for the purpose of clarification, which was self explanatory.

Section 3: Notification of Rent Increase Dispute Resolution Provisions, there were no changes made.

Section 4 Rent Increase Notice Procedures: The Community Owner has to submit a Summary Letter which has to identify the affected homeowners by lot number and name. Mr. Denman stated he believed the Chair wanted this in the Summary Letter, but Mr. Strine believed the statute did not require that. Mr. Denman had suggested that when it came to arbitration, the arbitrator would have to be informed of the tenants that would be impacted.

Section 5 Scheduling Meetings when Proposed Rent Increase Exceeds CPI-U: Mr. Denman stated there was just a stylistic change made.

Section 6 Meeting Procedures: Mr. Denman stated there was a discussion in regards to who could be represented by the HOA and the change made was that the HOA could represent all

affected homeowners, as long as homeowners submitted that in writing. Also the affected tenants were allowed to be present at the initial hearing.

Mr. Denman further stated that the Authority would be provided with a sign-in sheet upon request. Mr. Denman said that at the meeting the homeowner could request all relevant material in regards to the rent increase notice.

Section 7 Arbitration Procedures: Mr. Denman stated that Section 7a was changed to request only one copy of a petition, as Ms. Lantz stated that 5 copies of a petition were too much due to limited filing space. Mr. Denman suggested adding the names of the affected homeowners to the petition. Mr. Denman stated that it was eliminated to post the list of arbitrators on the website per the Chair's suggestion. Mr. Denman clarified that the \$250.00 filing fee, there is only one payment required if your rent increase has the same effective date. The other change was made that the Authority can, but does not have to attend the arbitration hearing.

Mr. Denman requested the Board discuss and come to a consensus in regards to the proposed final regulations.

Mr. Strine stated that Section 2 was fine; did the Board need to vote on that? Mr. Crane explained that if changes were made, then yes, the Board needed to vote on that.

Mr. Strine further addressed Section 4, instead of getting an abundance of rent increase notices, it seemed to be logical to have a summary letter with a copy of a letter, would that address the issues Ms. Lantz had? Ms. Lantz stated everyone does it differently; she has had parks that indeed sent in 60 letters to each individual tenants. Mr. Crane stated that if the reasons are the same, then one letter was sufficient. Mr. Strine stated that the wording was changed to "shall" from "may" provide the Authority with a letter. Ms. Lantz stated that was good, because she had had issues with Riverdale Park in regards to required information due what the park considered privacy issues, she had passed it on to Greg Strong, but it was never resolved.

Mr. Crane thought that if the park had different increases, then a letter for each was required.

Mr. Strine said in all his increases, where there were multiple increases, they would round up to have an even sum and the summary letter would show the range of increases. Mr. Strine stated he used the same reason; he just rounded it up or down. Mr. Morris asked if it was above the CPI-U? Mr. Strine confirmed this. Mr. Dunn questioned why Mr. Strine didn't use a median? Mr. Crane stated the Authority wants to determine how it would like to be informed. Mr. Strine thought that even if there is a variation in percentages, he didn't think a letter for each was required. The Board discussed how Mr. Strine was writing the letters. Ms. Lantz stated in some cases she did receive letters that stated that rent increase notices had gone out and a spreadsheet was attached that showed either the tenants name, address or lot number and the rent amount either above or consistent with the CPI-U, she thought that was fine. Ms. Lantz thought the change of the wording to "shall" should makes it easier for her, as she would not have to argue with Community Owners that they wouldn't have to inform the Authority. Mr. Strine stated the intention of the landlord was to have a clear sheet, the Authority would get 2 - 3 pages per increase and it was done. Mr. Crane asked if anyone had a problem with the proposed language. Mr. Denman stated there was an issue with disclosing the name and that is not what we have here. Mr. Strine and Mr. Crane agreed that the language from the law should be used. Mr. Crane confirmed that the Legislature was aware of inconsistencies with the law and they either will address them or they won't. Mr. Crane stated you can't expand on the law.

Mr. Strine confirmed that scheduling the meeting was fine.

Mr. Strine stated there were issues with the Meeting Procedures. Most HOA's do not include everyone. Mr. Strine said if a couple of tenants wanted to form a HOA, by default, they don't automatically sweep everyone else into it. Mr. Crane stated that this was a compromise. Mr. Crane said in one arbitration the arbitrator ruled that the HOA only represents its members who have paid; no one else was included in the arbitration. Another arbitrator decided that the HOA represented everyone in the community that got an increase. Mr. Carroll had the concern in promoting the unauthorized practice of law. Mr. Crane asked if he meant having the President of the HOA representing the plaintiffs? Mr. Carroll confirmed that. Mr. Denman didn't think the Authority needed to be concerned with this as the statute clearly contemplates a HOA will be involved in the process. Mr. Carroll thought it was a slippery slope people filing claims against other people about behavior done in arbitration or during the appeal. Mr. Crane thought it was a valid concern, if it becomes an issue it would be addressed by legislature; the tenants were representing themselves, in a way it was like JP Court. Mr. Dunn didn't think that a legal representation was mandated. Mr. Denman stated that the process here was an informal meeting, if the issues are not resolved, it goes to the non-binding arbitration, and you are still not in the Delaware Judiciary. Mr. Denman thought if an appeal is filed, then the Courts would have to deal with the legal representation issue. Mr. Crane stated having observed arbitrations; the communities did not know how to handle this and couldn't get their point across without legal representation. Mr. Denman said all that was being said in the regulations was that anyone who wanted to be part of the HOA in regards to arbitration had to confirm this in writing. Mr. Carroll asked in regards to 6a, do we bind people to that representation or can they be separate from the HOA? Mr. Crane thought that they can either sign off on the rent increase; otherwise the statute designates the HOA as the representative. Mr. Dunn wondered if they could establish an independent representation on their own? Mr. Crane confirmed that the tenant could negotiate on their own or agree to the increase. Mr. Dunn questioned if they then had to pay an additional \$250.00? Mr. Crane stated they did not. Mr. Strine stated it all came back to the same arbitration event. Mr. Denman addressed Mr. Carroll stating the appeals process gives the individual homeowner the chance to appeal. Mr. Denman said in larger communities with 200 tenants and each individual one at the arbitration hearing with their own viewpoint would create chaos. Mr. Carroll understood that and said he did not want to force an attorney for both sides; it was a decision a homeowner or HOA had to make on their own, he just wanted to make sure the Authority was not writing an ethical issue with this. Mr. Strine said at the moment we were discussing the meeting with the landlord, nothing else. Mr. Carroll confirmed he was more concerned with the arbitration. Mr. Crane stated per the statute if there was more than a certain number of affected tenants they would have to designate a representative. Mr. Strine stated going back to 6a; they did not automatically have to mail the sign-in sheet, unless requested. Mr. Crane confirmed they had to keep it and provide it upon request.

Mr. Strine stated that in 6b, from his experience, he has all the documentation, but no one shows up and then wants to arbitrate or someone shows up at the meeting and he tries to explain the rent increase and the tenant just says, oh, okay. This was just a cover for the landlord in case someone comes back later and says he did not get to see it.

Mr. Strine referred to item 7 and asked Mr. Denman to add that the petition must include the homeowners being affected? Should it be homeowners that are affected or homeowners that are covered by it? Mr. Morris thought all affected homeowners. Mr. Denman suggested the petition should state all homeowners affected by the proposed rent increase. Mr. Carroll wondered if there were 100 homes in the community, does it include all of them? Mr. Strine thought that was

what Mr. Denman was saying. Mr. Carroll's concern was if out of 100 people only 50 go to arbitration it phases out the remainder of the tenants from further steps. Mr. Carroll thought to include everyone as much as possible to give them a say if they want to exercise that. Mr. Strine stated that a landlord gives the option of 1, 3 and 5 year leases. Mr. Strine asked Mr. Carroll if he would include everyone if the person that signs the one year lease does not like it? Mr. Dunn questioned you state in a 5 year lease that the person is subject to an annual rent increase and they sign on for 5 years? Mr. Strine confirmed that. Mr. Strine explained that you give the tenant the option, sign on for 5 years and the rent increases by 2.5 % each year. Mr. Strine stated that the tenant gets the option and the landlord is happy with either one. As a landlord having to go through the arbitration process and finding it to onerous or too expensive, you give the tenant a lower rate, it makes it easier as you have to do the rent increase every 5 years. Mr. Dunn thought then you don't have to incorporate the CPI-U. Mr. Strine said this was correct. Mr. Dunn didn't think they would be a participant in the issue at all. Mr. Morris stated when you offer them multiple year leases at a certain rate and the tenant signs off on that, they are excluded. Mr. Strine thought the petition doesn't affect everybody. Mr. Crane it affects those who are affected by the CPI-U and have not agreed to. Mr. Dunn thought if someone signs a 5 year lease with a fixed rate of increase every year, they are completely separate from the whole situation. Mr. Crane stated that if you sign a 5 year lease, then you opted out and are not included in the rent increase process. Mr. Strine stated then let's say that. Mr. Dunn stated that people with a multiple year lease receive a completely different letter than the ones with an annual rent increase. Mr. Strine thought that there needed to be a caveat excluding people with long-term leases from this, but did not know how to phrase it, there should be some flexibility. Mr. Crane thought this would be addressed by legislation; there was no intent to have long-term leases affected by the rent increase. Mr. Strine did not think there was any legislation drafted yet to clarify that. Mr. Morris stated he just signed a 10 year lease that was strictly governed by the CPI-U. Mr. Morris stated that everyone in his community that signed this lease will have to accept if it goes up 8% next year. Mr. Crane thought what Mr. Strine tried to be clear on was that tenants with a 5 year lease, for example, would not be able to arbitrate if the rent increases above the CPI-U. Mr. Strine stated to be clear on that different arbitrators have looked at the same issue and ruled differently. Mr. Crane confirmed that. Mr. Crane stated that what Mr. Strine was proposing was above and beyond of what the law states; he didn't think the Authority had the right to say people are excluded. Mr. Denman believed as an arbitrator you want to know the names of everyone that will be impacted by my decision. People that have separately agreed to leases and that are not impacted by my decision; I don't really want to know about. Mr. Denman believed that the language of the law did not require the names of all tenants, including the ones that have a separate agreement, and thus removed from the context of this process. Mr. Strine asked then the petition must include the names of all the homeowners' party to this arbitration? Mr. Denman stated affected by the proposed rent increase; you have to identify who they are. Mr. Strine stated he was confused by what Mr. Denman was saying. Mr. Strine stated then the petition must include the names of all homeowners that are affected by the rent increase? Mr. Denman stated correct this to proposed rent increase. Mr. Crane stated the problem was where the language says the lease shall renew annually. Mr. Crane asked if the Board wanted to discuss this further or move on? Mr. Strine had no problem moving on. Mr. Denman said the language in 7a could be amended to the party filing the petition include the names of the homeowners affected by the proposed rent increase. Mr. Crane stated that that change had already been made.

Mr. Strine stated 7b the Authority would not post the arbitrator list on the website.

Mr. Strine said 7g needed a minor clarification to make it clear what we are doing, a proposed rent increase and allow grouping them when they have the same effective date. Mr. Strine stated that let's say you have a rent increase on January 1<sup>st</sup> and one in February, the letters going out are different. Mr. Crane stated, but you don't have to do that? Mr. Strine stated, no. Mr. Crane said you could send out rent increase letters stating that these leases renew the next 11 months and do it for everybody? Mr. Strine stated, yes, he could do that, but you are not forced to do that. Mr. Dunn remarked he has an issue with you have a group of people who come up in February and one in March. The CPI-U comes out at the end of February and changes. If the tenants are dissatisfied and choose arbitration, you could end up having a community owner with for example 5 arbitration cases open simultaneously. Mr. Crane stated that was happening right now. Mr. Dunn thought he knew there were limitations with the law. Mr. Strine stated for him it made sense to send it out twice a year, that way he has 2 meetings instead of 12. Mr. Strine stated the only way to comply with the law is if it is the same effective date.

Mr. Crane suggested moving to 7s. Mr. Strine thought that was the last change and it was very simple.

Mr. Strine thought with the proposed changes, should the Board vote on that? Mr. Crane stated one issue has come up that he wanted to discuss. Yesterday an issue was brought to Ms. Lantz's attention by an aide to a legislator where a tenant did not attend the meeting. Mr. Crane was not sure if that would exclude that person from arbitrating? Mr. Crane thought it didn't, but it does not say that clearly anywhere. Mr. Crane thought you do not have to attend a meeting to be able to petition for arbitration. Mr. Morris thought we did. Mr. Crane stated the homeowner did not know that he still had the right to arbitrate; do we need to address that? Mr. Denman thought to stay away from this and let legislation take care of that. Mr. Crane said there was no HOA in this case and most communities have no HOA.

Mr. Strine made the motion to accept the modified regulations to be published on February 1, 2014 to comply with our deadline when the existing regulations expire.

Ms. Lantz intercepted and asked, in Section 8, when an appeal is filed, there is nothing in the regulations that requires the Authority to be informed. Mr. Crane stated the Authority had to be notified, does not say that in the regulations? Mr. Morris thought there was something in there? Mr. Strine looked it over and confirmed that there was nothing in there. Mr. Crane confirmed that the way the statute was written, if no appeal was filed, the Authority would certify that this is a decision that the rents may or may not go into effect, which is the final step for this process and the decision becomes binding.

Mr. Denman said a provision could be put in there that the party filing the appeal will send a copy of the appeal to the Authority. Mr. Denman stated this does not have an impact on them not being able to file an appeal. Mr. Crane thanked Ms. Lantz for bringing up this issue.

Mr. Crane made the motion to accept the proposed changes to the final regulations. The Board agreed unanimously.

### **III. Other Matter's that may come before the Board:**

Ms. Crane directed Ms. Lantz to bring up the matter of the invoices received by the Authority since the last Board Meeting.

Ms. Lantz stated she received invoices for the Court Reporters and arbitrators for the Angola Beach and Bon Ayre arbitrations. Mr. Strine wondered why would it have to be approved again, since it was preapproved. Mr. Crane thought the Committee made the preliminary approval as a

recommendation and the Board made the final approval as money could not be spend on a minority vote, that is where the Committee comes in. The Board just adopts the recommendation by the Committee. Mr. Strine made the motion to approve all the invoices received for the arbitrations. The Board agreed unanimously.

Ms. Lantz stated the last invoice needed to be approved was the Compliance Investigators time and mileage from the last meeting. Ms. Lantz recommended approval. Mr. Morris made the motion to accept and approve the Compliance Investigators time and mileage. Mr. Morris asked do we have a written agreement? Mr. Crane confirmed that. Mr. Morris asked should there ever be a conflict as to what he should be charging? Mr. Crane stated to keep it general as not to have to go into Executive Session, the Executive Director has to authorize and recommend the approval and the charges are reasonable. The Board approved the reimbursement for the Compliance Investigator unanimously.

#### **IV. NEXT MEETING DATE - ADJOURNMENT:**

The Board discussed the next meeting date and decided not to meet in February, but on March 6, 2014 instead. Mr. Crane directed Ms. Lantz to make the appropriate change on the Authority's website. Ms. Lantz confirmed that.

As there was nothing else before the Board the meeting was adjourned at 2.35 PM.

Respectfully submitted,

Susanne Lantz  
Executive Director