

DELAWARE MANUFACTURING HOME RELOCATION AUTHORITY

1675 S. State Street
Dover, Delaware

Minutes of March 7, 2013

IN ATTENDANCE:

Authority: Rick Lemire
Mitch Crane
Andy Strine
Susanne Lantz (Administrative Assistant)
Kevin Carroll

Absent: George Meldrum

Legal Counsel: William Denman (from 1 p.m. – 3.40 p.m.)

Compliance Investigator: Ed Speraw (2 p.m. – 2.20 p.m.)

Other Attendees: Michael Morton, Esquire, Attorney for Mason Dixon Court
Robert Tunnell III, Owner of Baywood
Jerry Heisler, Reybold Group
Fred Neil, Tenant Wild Meadows

I. CALL TO ORDER:

Mr. Crane called the meeting to order at 1.05 p.m.

IIa. PRESENTATION BY MICHAEL MORTON, ESQUIRE FOR MASON DIXON COURT:

Mr. Crane introduced Michael Morton, Esquire, who attended the meeting to present the request of Mason Dixon Court to be determined a seasonal park. Mr. Crane stated that the Board had not taken a formal position on this issue. Mr. Crane further noted that the Board would come to a conclusion, after hearing the cases presented by the representatives for Mason Dixon Court and Baywood, respectively later in the agenda.

Mr. Morton thanked the Board for allowing him to present the request by Mason Dixon Court to be a seasonal park. Mr. Morton received a letter in December from Ms. Lantz on behalf of the Authority considering Mason Dixon Court a seasonal park. Mr. Morton further stated that they had had an ongoing litigation with a three-Judge panel of the District Court. Mr. Morton stated that they had been successful on the first level and Ms. Romano, a tenant in Mason Dixon Court, appealed and last week they received a final decision. The Court decided that Mason Dixon Court and Annex is a seasonal park. Mr. Morton handed out a copy to each Board Member. Mr. Crane questioned if this could be appealed. Mr. Morton denied that this was possible and stated the Justice of the Peace System in the State of Delaware was set up for possession cases in the following manner. In the first trial you have one judge and a jury trial. You can appeal this and in the second trial you have a three-Judge Panel which is the final decision by the JP Court. Mr. Crane questioned if this would

apply to the Authority? Mr. Morton believed that it should. Mr. Crane stated the Authority was trying to determine if the park was seasonal whereas the Court decision was a possession decision which had nothing to do with the Authority. Mr. Morton stated that the subject of the lawsuit was repossession of storage charges because it was a seasonal park and the issue before the Court was, is it covered by Chapter 70 or is it not? If it is, all the Code applies, if not, nothing applies. Mr. Morton stated they won two times on both levels. Mr. Morton stated that his client sent in faithfully year after year the required registration form and payments. Mr. Morton stated that his client is a quite elderly lady. She has not asked him at this time to press for a refund of payments made into the Trust Fund. Mr. Crane stated that the Authority needed a bit more than just the representation. Mr. Morton said the Court decided on a motion without a trial that the Court found that the park was a seasonal park and that the tenants had to have a primary residence elsewhere. Mr. Morton was more than willing to give the Authority more documentation. Mr. Morton said the tenants were notified and the consensus among the tenants was that they knew it was a seasonal park and did not understand why they received the letter. Mr. Morton further said the Authority would receive the certification in the mail. Mr. Strine questioned the second paragraph on the second page regarding the leases. Mr. Morton stated yes, up until 2012, when the issue with Ms. Romano came up and revisions were made, the leases were all the same. Mr. Morton stated Ms. Romano had no agreement at all and hasn't paid either. The foundation of the case is that it is a seasonal park and none of the provisions of Chapter 70 apply. Mr. Lemire asked are there other people living there year round? Mr. Morton stated only Ms. Romano lived there year round. Mr. Lemire stated that he would have liked to have seen documentation that shows that the tenants have another primary address and looking at the statute the utilities would have to be shut off during the winter months, so how can Ms. Romano live there year round? Mr. Morton stated that only in Ms. Romano's case as she refused to move and the court had decided that Mason Dixon Court could not turn anything off until there was a final decision. Mr. Morton stated the Court saw all the agreements and the nature of the community cannot be changed and therefore ruled that it was a seasonal park. Mr. Crane thanked Mr. Morton for his presentation and stated that the Authority would discuss this in Executive Session and then make a decision. Mr. Morton decided that he would stay around.

IIb. PRESENTATION BY ROBERT TUNNELL, III FOR BAYWOOD:

Mr. Crane introduced Mr. Tunnell who attended the meeting to present the request from Baywood stating that they were not a Mobile Home Park. Mr. Tunnell stated that under the Code of Manufactured Homes there are two definitions, one under Title 21 DMV and the other one under Title 25 Chapter 70. Mr. Tunnell believed that during the drafting of Chapter 70 a few years ago the intent was not to include modular homes and the sticking point is "other applicable codes". The construction of manufactured homes is governed by HUD, whereas modular homes are governed by the International Building Code which applies in Sussex County. Other applicable codes can mean how water and utilities are hooked up to the house. There are no HUD-Code homes in Baywood. Mr. Crane asked how old Baywood was? Mr. Tunnell stated that Baywood was started in March or May of 2000. Mr. Tunnell said in 2000 when Baywood was started they had leases that were governed by Chapter 70; since then two things happened: In 2008 or 2009 tenants started protesting that they should not be included in the Trust Fund assessment because their homes are not moveable. Mr. Tunnell handed out copies of the those letters to the Board. Mr. Crane questioned how did Baywood end up falling under Chapter 70? Mr. Tunnell stated that the lease was originally drafted by Mr. George Zirkowik. Mr. Crane wondered if that was why they assumed that they would fall under Chapter 70? Mr. Crane asked how many homes were in the initial phases of Baywood? Mr. Tunnell stated 190 and they started paying into the Trust Fund.

Mr. Crane asked when did the leases change? Mr. Tunnell stated that in 2008 they met with the homeowners of Baywood after receiving those letters and a lease addendum was sent out. The amendment changed the lease to be governed by the residential code 51 – 57 and changed the term of the lease. Mr. Tunnell handed out a copy of the current lease and stated that the change of use cannot be changed and the leases have changed to 40 year leases that are renewable. Mr. Crane asked if the leaseholders can purchase their land and do they fall under rent increases? Mr. Tunnell stated the tenants cannot purchase the land and yes, the rent does increase from time to time. Mr. Tunnell stated that the homes are all modular homes that cannot be moved. Mr. Tunnell showed pictures of homes in the community and again emphasized that the homes are all factory built.

Mr. Crane thanked Mr. Tunnell for his time and presentation and stated that the Board would discuss this matter further in Executive Session.

III. REVIEW AND APPROVAL OF MINUTES:

Mr. Crane asked the Board to approve the January 30, 2013 meeting minutes. Mr. Lemire asked that the date of the next Board Meeting needed to be changed in the minutes. Ms. Lantz commented she had done so in the meantime. Mr. Lemire made the motion to accept the minutes. The Board approved the January 30, 2013 meeting minutes unanimously.

IV: REPORTS:

A. Compliance Matters

1. Annual Registration Report:

Ms. Lantz stated that she had not received any registrations for Hilltop MHP, Noble's Pond MHP, Lowes MHP and Baywood Communities.

Hilltop MHP: Mr. Denman stated that it is up to the Authority to decide if action needs to be taken. Mr. Speraw stated that he had gone there a few years ago and states that the tenants do pay into the Trust Fund, the owner has not submitted payments into the Trust Fund. The Board decided to discuss this further in Executive Session.

Mr. Lemire made the motion after Executive Session that legal counsel pursue Hilltop MHP.

Mr. Crane seconded the motion. Mr. Strine abstained as he did not agree. Mr. Crane stated the motion carried 2:0.

2. Investigators Report:

Mr. Speraw stated that he had gone to Lowes Campground on his own and took pictures. There are 3 tenants. Ms. Lantz stated that two years ago the tenants were supposed to go down to two. Mr. Speraw stated that they are doing work in the park right now and it looks like the park is expanding. The tenants are there year round and the tenants own the homes.

Mr. Speraw stated he went to Burtons Edgewater Park and talked not only to the caretaker, but also to two tenants. Mr. Speraw stated there is no one there during the winter time and the utilities are shut down except for the caretaker.

Mr. Crane questioned if Burton should be taken off the list? Mr. Lemire stated that in the past we just suspended action. Mr. Crane asked so we just send them a letter stating that we consider the park a seasonal park and if there are any changes, then the park needs to notify us? The Board

agreed to that and requested Ms. Lantz send out a letter.

Mr. Speraw stated he went to Satterfield MHP and the park is not seasonal. There are 6 tenants year round. Mr. Strine asked so the owner is paying? Ms. Lantz stated that she pays for 5 tenants in winter and then it increases throughout the summer she pays for 29. Mr. Crane thought we need to send her a letter and ask her to comply and give her 30 days and then wait and see what Ms. Lantz reports.

3. Park Compliance Report:

i. Judgments Filed & Unsatisfied:

A & A Trailer Park: Ms. Lantz stated that Mr. Denman had filed a Discovery Request. Mr. Denman received documents that confirmed the owner is not leasing the land and owns all the homes in the park. Mr. Crane stated if no one objects the Authority will suspend action and close out the file. The Board agreed unanimously.

M&S and Grandview MHP: Ms. Lantz had received a request from the Property Manager to agree to a payment plan to pay for the arrears and for the owed attorney's fees. The Collection Committee, comprised of Mr. Crane and Mr. Lemire, had agreed. The park has submitted the first payments of the payment plan promptly.

Pine Ridge: Ms. Lantz reported that Mr. Denman had sent another letter asking the park to comply with registration, which she finally received a registration. The park owner, Ms. Hastings, has not send payments, but promised to send out by Friday. Ms. Lantz will keep tabs on this. Ms. Hastings seems to have trouble with the tenants paying their share and Ms. Lantz told Ms. Hastings that she at least needs to send her obligation. Ms. Lantz will keep the Board informed.

The Crossings at Oak Orchard: Ms. Lantz stated that Mr. Testa had requested financial documents from the park owner due to their request of paying what they owed in \$200 installments. The financial statement have been received and submitted to the Board. Mr. Crane stated that this records are not to be made public. Mr. Lemire suggested we could destroy them. Mr. Denman suggested to put them in an extra file. Mr. Strine made the motion to accept the financial statements as valid and the payment plan as originally assigned. Mr. Lemire second the motion.

ii. Former Park Compliance Issues Pending:

Lowes Campground: Ms. Lantz stated that she had found out that the park is going through bankruptcy proceedings and Mr. Denman had tried to find out if the Authority was named unsuccessfully. Mr. Denman stated that he doesn't know a lot about bankruptcy proceedings, but knows that if bankruptcy has been filed there is an automatic stay on debt and explained what the Authority could do. Mr. Strine suggested for Ms. Lantz to do a property search to find out who owns the houses. Ms. Lantz confirmed the park has neither registered nor paid into the Trust Fund.

iii. Recent Park Compliance Issues Arising & Resolved:

Briarwood MHP: According to the tenants the park has been put up for sale. Ms. Lantz could not verify that but heard that NCALL was involved. Mr. Speraw stated there were two parks and they were not in compliance as they had not notified the Authority. Mr. Strine commented the Board was not going to do anything there. Mr. Crane stated the Authority had a lot on the agenda and

was going to move on for now.

Canterbury Crossing: Ms. Lantz stated that the park sale went through in December 2012. The new park owner has registered and she expected them to start paying the quarterly contributions.

Enchanted Acres: Ms. Lantz stated the sale of the park went through last month. The new owner has set up an account with DOR and has registered.

Granada MHP: Ms. Lantz stated they finally registered after Mr. Denman got involved and have submitted the missing 2011 and 2012 payments to DOR. Ms. Lantz is waiting for confirmation from Ms. Hambleton and will inform Mr. Denman. The Board decided that Mr. Denman could go ahead and request from Granada MHP the reimbursement for legal action, which is around \$300.

HK Lingo: The Collection Committee approved its removal from the list as the park went down to one leased lot. The Committee decided to send the Compliance Investigator out in the future to check up on the park.

Scottsdale MHP: The same situation applies as for Briarwood.

V. EXECUTIVE SESSION:

Mr. Crane made the motion to go into Executive Session at 2.40 p.m. Mr. Strine seconded the motion. Unanimous approval was given by all members present by voice vote.

Mr. Crane made the motion to come out of Executive Session at 3.15 p.m. Mr. Lemire seconded the motion. Unanimous approval was given by all members present by voice vote.

Mr. Strine made the motion that in light of the testimony with regards to the types of homes which clearly are not intended to ever be removed and long term leases and potential ramifications to the detriment of all the residents with financing, Baywood does not fall under the RTA. Mr. Lemire seconded the motion. The Board approved the motion unanimously.

Mr. Lemire made the motion that Mason-Dixon Court be deemed seasonal per their request. Mr. Strine seconded the motion. The Board approved the motion unanimously.

VI. UNFINISHED BUSINESS:

1 Upcoming Joint Sunset Review Session:

Mr. Crane stated that the Authority's hearing has been rescheduled for 2 April, 2012 starting at 5.30 PM. Mr. Crane stated that Mr. Denman had been asked to attend the meeting and anyone that was interested to attend was invited to. The Authority is set to sunset next year and the Joint Sunset Committee is a fairly new committee.

2. Burton Edgewater Seasonal Park Request: Mr. Strine made the motion to accept the request to approve that the park is indeed a seasonal park as investigated by Mr. Speraw and that we

discontinue any additional enforcement action on it. Mr. Lemire seconded the motion. The Board approved the motion unanimously.

3. Satterfield MHP: Mr. Lemire made the motion that the park was not a seasonal park and that the park needs to comply with the law. Mr. Strine seconded the motion. The Board approved the motion unanimously.

4. Noble's Pond: Mr. Strine made the motion in regards to Noble's Pond that per the information that the Authority has gotten and based on past precedence, where individual lot parcels with one home on it by definition of the code Section 7003 Item 12 these are not deemed a mobile home park and therefore Noble's Pond does not fall under the RTA. See page 31 – 39. Mr. Lemire seconded the motion. Ms. Lantz asked should she inform the park? Mr. Crane stated she can send it to the park and copy the tenants' attorney.

VII. New Business

B. Other New Business:

1. Approval of financial matters:

Mr. Crane stated that the financial matters needed to be approved. Mr. Strine and Mr. Meldrum had approved the January 2013 invoice from Mr. Denman. Mr. Crane stated it needed to be formally approved. Mr. Crane made the motion to approve the last invoice from Mr. Denman. Mr. Lemire seconded that motion. The Board approved unanimously.

Ms. Lantz stated that the timesheet and mileage for Mr. Speraw needed to be approved. Mr. Strine made the motion to approve Mr. Speraw's timesheet and mileage. Mr. Lemire seconded the motion.

VIII. PUBLIC COMMENTS :

Mr. Jerome Heisler introduced himself as a managing member of the Reybold Group who owns 6 mobile home parks.

Mr. Heisler stated that he was part of writing Chapter 70 in 2003. When Chapter 70 was not written to include land lease communities, such as Arden. Mr. Heisler stated that they were trying to expand mobile home communities, they were not trying to include all land-lease communities.

Manufactured Home Communities are generally regulated by Deldot and are considered chattel communities. Fannie Mae and Freddie Mac do not finance those types of communities.

Manufactured Homes have an extra frame that Modular Homes do not have. Mr. Heisler stated that when the Noble's Pond issue came up he had conversations with Ian McConnell from the AG's office. The AG's office was not interested in prosecuting Ascot Landing because it was a Capital Lease. The purpose of the Chapter 70 was to protect tenants if there is a Change of Use. Mr. Crane questioned what was the intent of interpreting the law liberally, this is very unusual. Mr. Heisler stated that is what they are trying to get changed. Mr. Heisler stated the discussion with Mr. O'Connell lead to the bill they tried to pass last year which scuttled. Mr. Heisler stated they will re-introduce the bill again this year to get clarity on the issue. Mr. Heisler stated that if the Authority tried to include this type of community, the tenant's Fanny Mae or Freddy Mac mortgage would be cancelled. This becomes a very complicated issue according to Mr. Heisler. Mr. Heisler believed the Board understands this and understands that a manufactured home might last 40 years versus a modular home which lasts much longer. Mr. Heisler stated that when you put all the components together it was never intended for the RTA to capture a modular land-lease community. Mr. Crane thanked Mr. Heisler for his comments.

Mr. Morton made the comment that he sees Noble's Pond mentioned on the agenda. He stated that he is counsel for the owners of Noble's Pond and has received no notice of it. Mr. Crane stated that it keeps appearing as unfinished business, legal counsel has conflict, the Authority has the opinion of the AG's office and the purpose on the agenda is to discuss action.

Mr. Morton stated that a lawsuit was filed and it was successfully dismissed by the Supreme Court. Mr. Crane stated that the Authority will decide if anything further needed to be done and if so, Mr. Morton will receive notice.

Mr. Heisler made the comment that the RTA needed to set the caps for abandoned homes. Mr. Heisler stated they tried a few years ago and failed by one vote. Mr. Crane stated the Authority has not made a decision yet. Mr. Heisler stated that there were studies done by himself, one by an outside person he paid for and one by a University of Delaware Professor who was paid by the Authority. In all cases it was recommended that the monthly rates were increased. Mr. Heisler stated it was a limited assistance program and is asking the Authority to put this on the agenda and get it done as soon as possible. A discussion ensued with Mr. Heisler. Mr. Heisler stated the action needed to come from the Authority and he is more than willing to help to get this worked out. Mr. Crane stated that it would not be addressed today, but the Authority would put it on the next agenda.

Mr. Neil stated that Noble's Pond was a complicated issue. The community now offers the tenants to purchase the land through Fee-Simple. There are still others that do not own the land the home is standing on.

Mr. Neil commented on Mr. Morton's remarks. Mr. Morton stated there is no appeal regardless of what Mr. Schaeffer has told Mr. Neil. Mr. Denman questioned why there was no appeal. Mr. Morton stated there is no appeal after a three-Judge Panel rules.

Mr. Heisler made the comment that they were working on an internship program that would be funded by the Authority and this might come up at the Sunset Review. Mr. Crane stated that the Board recognizes that the money is for the tenants, but he does not agree with this.

IX. ADJOURNMENT:

The Board will meet next April 18, 2013 at 1 p.m.

As there was no further business before the Board, the motion was made for adjournment by Mr. Crane and seconded by Mr. Strine. After unanimous approval from the members present, the meeting was adjourned at 3.40 p.m.

Respectfully submitted,

Susanne Lantz
Administrative Assistant