

DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY

110 N. Main Street, Suite F
Camden, DE 19934

Minutes of November 7, 2019 Board Meeting

IN ATTENDANCE:

Authority: Mitch Crane
William Dunn
Andy Strine
George Meldrum
Jill Fuchs
Dan Daly – Non-Voting Member

Gregg Sutton (Executive Director)
Jane Sabo (DEHMRA Assistant)

Legal Counsel: William Denman

Other Attendees: Jen Allen, First State Manufactured Housing Association
Melissa Rhoads, Tighe & Cottrel, PA
Association (DMHOA) Henry Clum, Delaware Manufactured Homeowner’s Association (DMHOA)
Lillian Reynolds, Delaware Manufactured Homeowner’s Association (DMHOA)
Rich Hrycyshyn, Barclay Farms

I. Call to Order:

Mr. Crane called the meeting to order at 1:30 p.m. All members were present.

II. Review and Approval of Minutes:

A motion to approve the September 17, 2019 minutes was made by Ms. Fuchs and seconded by Mr. Meldrum. The motion carried 5:0.

III. Executive Director’s Report:

Mr. Sutton noted that since the last board meeting, the following has occurred:

- Per the Chair’s request, the list of registered communities has been revised to include the county where the community is located, and it has been posted on the Demhra website.
- The compliance investigators continue random searches for unregistered communities.
- A meeting with the Division of Revenue was held on October 10, 2019. In attendance were Mr. Sutton, Mr. Crane, and Ms. Sabo from Demhra, Ms. Jennifer Hudson and Ms. Christine Hambleton from the Division of Revenue, and Mr. Brian Eng from the Department of Justice. One issue was that DEMHRA Staff didn’t get paid. Regarding the issue of Demhra Staff not being paid, the Division of Revenue explained their process and the problem occurred because the two staff members who handled this were both out of the office at the same time. This should

not happen again. The rest of the meeting was focused on the changes on the payment coupons, the letter to community owners indicating the new assessment fees, and the annual registration form revision to define the assessment fee changes. It was agreed that the fee changes would take effect in January of 2020 for the fees remitted to the Division of Revenue. Mr. Sutton drafted a letter to be sent to the community owners notifying them of what to expect. He contacted the Division of Revenue for their input but they have not responded. Mr. Crane asked that Mr. Sutton follow up with them regarding the letter and new coupons to clearly define the changes.

- Per Representative Kowalko's request, Mr. Sutton and Mr. Dunn attended a rent increase meeting for Maple Square Mobile Home park at the Newark Senior Center. This was the park's first rent increase over the CPI-U. After the meeting the tenants met with Representative Kowalko to discuss their options.
- Mr. Sutton received a phone call from the new owner of Badgers Lair. The Authority had not been notified of the sale. He instructed her to contact the Division of Revenue to set up the Trust Fund Account. She informed Mr. Sutton there are currently two tenants and one will be leaving. She was also informed that once she has only one tenant, she will not have to pay any assessment fees, and when she is down to only one tenant, she should notify the Division of Revenue. Mr. Sutton questioned if there is a penalty for not notifying the Authority of the sale. Mr. Strine's recollection was that it is the seller's responsibility to notify the Authority. If the tenants would want to purchase the community they could go after the seller for damages. .

IV. Chair's Report:

- Mr. Crane stated that at the meeting on October 10th, the Division of Revenue was very accommodating and reasonable, and it appeared they wanted to work with us when we had the meeting.
- He thanked our staff for including the community location on the registered communities list. This brings up another point. If a community is in existence for 10 or more years and they haven't paid into the Trust Fund, would they be eligible for relocation benefits? Mr. Denman stated that in the past, if it was discovered that a community owner was not contributing to the fund, after being notified by the Authority, the community would pay the past due assessment fees for owner and tenants retroactively. Benefits would be denied if they do not pay. Mr. Denman reported that to his knowledge, the hypothetical posed by the Chair has never happened. Regarding the Right of First Offer provisions, Mr. Denman noted that the statute indicates that if a community owner or HOA fail to comply with any provision of the Right of First Offer Statute, either party has standing to seek damages. If intentional, it is considered to be a violation of the Consumer Fraud Statute and the aggrieved party would get treble damages and could be awarded attorney fees. The law contemplates that when a sale takes place, the community owner files an affidavit with the Recorder of Deeds documenting compliance with the Right of First Offer provisions. This is addressed under Right of First Offer Section 7026, Subsections L and M. Mr. Crane would be interested in looking into this further and will work together with Representative Kowalko who agreed to work with us on any remedial legislation.
- Regarding Demhra's attendance at rent increase meetings, Mr. Crane reiterated that Demhra is there to observe only.

V. Approval of Financial Matters:

A. Recent Financial Activity:

Mr. Sutton reviewed the August and September Financial Reports. This was for informational purposes only, and will be posted on the DEMHRA website.

B. Legal Counsel Invoice:

The Board reviewed the September invoice from legal counsel. There was a double payment so there were no payments required for September.

C. Moore & Rutt Invoice:

Docket 07-2018 – Writ of Prohibition – Wild Meadows

D. L&W Liability Insurance Premium

E. Delaware State Bar Association:

Invoices for September and October Ad in Journal for Open Legal Counsel Board Position

F. BDO Invoice for May and June Financial Summaries

A motion was made by Ms. Fuchs to approve all invoices which was seconded by Mr. Meldrum. The motion carried 5:0.

VI. Reports:

A. Compliance Matters:

1. Delinquent Parks:

All were in agreement that the following communities will be sued for delinquent assessment fees: Appleby Trailer Park and J&J Trailer Park.

The following parks will be held over until the next meeting: Countryside Acres, Dackerg MHP, Hecker Properties, Magnolia Crossing, Oakway, Minquadale Trailer Park, THP, Vanessa MHP.

It was agreed that because, as a practical matter, it will not be possible to collect delinquent assessment fees from the previous owners of Layton's Riviera and Pom Run, they should not appear on the delinquent reports going forward.

2. Compliance Investigator Report:

Per Mr. Crane's request, a compliance investigator was sent to Arbore Trailer Park and was informed there are no rented lots.

B. Arbitration Matters & Status:

1. Open Dockets – Arbitration Matters:

Dockets 10-2017 and 07-2018, both Wild Meadows, are still pending.

Docket 02-2019 Southern Meadow – pending arbitration

Docket 03-2019 Murray Manor -pending arbitration

2. Open Dockets – Arbitration Costs:

Dockets 10-2017 and 07-2018 (Wild Meadows) are still pending.

VII. Unfinished Business:

A. White Oak Relocation Plan:

Two lots to be demolished. All tenants have received their benefits.

B. Update on Right of First Offer (Sales, Closings, Change in Use of Land):

Vanessa MHP– Mr. Sutton called for an update and they are anticipating settlement in January 2020.

C. Update on Reimbursements for Minquadale and Timber Acres:

Minquadale was filing for a refund. The Board reviewed the claim at prior meetings, and it was denied. Minquadale was notified to continue paying. Minquadale has been and will continue to pay assessment fees.

D. Update on Board Appointments for Messrs. Meldrum and Daly:

Mr. Strine has been re-appointed and the website has been updated. Mr. Dunn's term expires in December. Mr. Daly's term has no expiration as he is an ex-officio member. Mr. Meldrum received his reappointment letter and the DEMHRA website has been updated.

E. Update on Pursuing the Collection of Prior Owner's Assessment Fees Owed for Pom Run and Layton's Riviera:

This was previously discussed.

F. Glasgow MHP's alleged Failure to Complete Land Use Change in Accordance with Title 25, Chapter 70:

Mr. Denman's understanding is that Mr. Kinnick is requesting the Authority to go after Glasgow MHP to recoup all the money paid for the relocation of the manufactured homes in Phase I. Most, if not all of those homes have been moved off site. The community owner was paid for the demolitions and tenants' were paid relocation costs. As Phase I stands now, it is a blank piece of unimproved land awaiting zoning changes and/or approvals in order for them to develop it. Mr. Kinnick is saying it has been a number of years and nothing has been done with the property and we should seek to recoup all the benefits paid. Mr. Denman stated that there would be an issue if a community owner goes through a change in use of land and all the tenants have left and the community owner starts leasing the property to manufactured home owners as they did before. That is not what is going on here. In a previous case in the Court of Chancery a judge determined that a change of use is when the community owner is no longer operating the land as a manufactured community. There has to be evidence that Glasgow began renting the space to other people. Mr. Strine requested Mr. Sutton have a compliance investigator verify that there are no homes on the Phase I land that went through the change of use. Mr. Crane was in agreement to go ahead with this. Mr. Dunn stated that Glasgow is so far behind on their taxes, and that probably nothing will happen until the taxes are paid.

G. Review Homeowner's Checklist for Relocation Benefits:

Mr. Strine created a chronological checklist of things that should be taken care of from a tenant's perspective such as permit, footers, HVAC, piers, etc. The intention was to assist the homeowner when organizing their move to determine what is and what isn't included. Mr. Crane instructed Mr. Sutton and Mr. Strine work together to come up with the checklist. It was suggested that the checklist be placed on Demhra's website under FAQ's. Mr. Denman suggested that the checklist should also be an attachment to the application. It seems logical since the tenants must complete the application to apply for benefits.

VIII. New Business:

I. Action Items:

There were only two items. The homeowners' checklist which was previously discussed, and Mr. Denman's replacement. There are three interviews scheduled for the Executive Session today.

IX. Public Comments: None

X. Executive Session:

A motion was made by Mr. Dunn to go into Executive Session for the purpose of discussing employment related issues which was seconded by Mr. Meldrum
The motion carried 5:0. Three applicants were interviewed for Mr. Denman's replacement. A motion was made to come out of Executive Session, which was duly adopted.

XI. Hiring of Mr. Denman's Replacement

After brief discussion, a motion was made to offer the position of legal counsel to Melissa Rhoads, Esquire effective January 1, 2020, at an hourly rate of \$300.00. The motion was duly seconded. By a vote of 3:0, the motion was adopted. (Board members Crane, Dunn, and Fuchs voted in favor of the motion. Board members Strine and Meldrum were not present at the meeting at this time, and accordingly, did not vote). Mr. Sutton was requested to prepare a letter to Ms. Rhoads outlining the offer, it being understood that the position was "at will".

XII. Next Meeting Date – Adjournment

The Board set the next meeting date as December 19, 2019 at 1:30 p.m. Mr. Dunn made a motion to adjourn the meeting which was seconded by Mr. Meldrum. The motion carried 5:0.

The meeting was adjourned at 2:37 p.m.

Respectfully submitted,

Gregg Sutton
Executive Director