

DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY
1979 S. State St.
Dover, DE 19901

This hybrid meeting was held via Zoom. Those who physically attended followed the Governor's COVID-19 restrictions in place by wearing face masks, socially distancing, and not having more than 10 participants in the meeting room.

Minutes of March 11, 2021 Board Meeting

IN-ATTENDANCE:

Authority:	Mitch Crane William Dunn – Via Zoom George Meldrum – Via Zoom Richard Hrycyshyn Andy Strine Pat Malone (Non-Voting Member) – Via Zoom Gregg Sutton (Executive Director) Lorraine Hrycyshyn (Office Assistant)
Legal Counsel:	Melissa Rhoads
Other:	Jennifer Allen – First State Manufactured Housing Association - Via Zoom Jerry Brainard, Treasurer, Village of Cool Branch – Via Zoom Kathleen Bonner & Michael Bonner – Pot-Nets Bayside - Via Zoom

I. Call to Order:

Mr. Crane called the hybrid Zoom meeting to order at 1:35 p.m. He called roll and had everyone attending via Zoom introduce themselves as listed above.

II. Review and Approval of Minutes:

A motion to approve the January 28, 2021 minutes was made by Mr. Hrycyshyn and seconded by Mr. Strine. The motion carried 5-0.

III. Chair's Report:

- The Legislative Committees are back in session. Mr. Crane previously sent email to the members of the Senate Housing Committee and House Manufacturing Housing Committee requesting a time to meet with them to discuss the amendments to Chapter 70 that the DEMHRA Board has come up with. Only Representative Ruth Briggs-King responded. She has not heard from anyone from the committees. Since there were no other committee responses, Mr. Crane proposed meeting with her to discuss the specific legislation discussed during the

DEMHRA work session. Mr. Crane will follow up with her next week. We are aware of another Bill that was filed and passed so apparently things are resuming.

IV. Executive Director's Report:

Mr. Sutton noted that since the last regular Board Meeting on January 28, 2021, the following has occurred:

- A new CPI-U report was received. As of March 10, 2021, it is 1.685%. It has been posted to the DEMHRA website.
- Our Kyocera copier has been jamming. We purchased it in 2015 for \$1,200. The fuser and drum must be replaced, and Kyocera quoted \$600.00 for the repair. The quote we got for a new copier with Kyocera was \$2,300. Our computer tech can repair it for \$300.00. When the Kyocera printer copier is repaired, we will use the smaller new copier for back-up only as it is terribly slow.
- We are in the process of creating a DEMHRA Assistants' Handbook. It is similar to the Executive Director's Handbook and outlines the day-to-day duties of the DEMHRA Assistants
- We have been having issues with our rent payments not being sent in on time. Auto-pay has been set up and we have not experienced any problems since.
- The wide-angle camera that was installed in the conference room for zoom meetings was not working so we called in the gentlemen who set it up initially. Apparently, there was a power surge that damaged the cable and the cable had to be replaced.
- We are finally able to get Financial Reports. We were not able to get them due to new software issues with the Division of Revenue. This issue has been resolved.

V. Legal Counsel Report:

Ms. Rhoads provided an update of the new parks that were referred for legal action last month as follows:

Bowers Mobile Home Park – Complaint filed.

County Seat Gardens – Complaint filed.

Towers MHP – Complaint filed.

Kings Cliffe – Complaint was filed but they have paid. Will be dismissed.

Naaman's Mobile Home Park – Complaint was filed but they have paid. Will be dismissed.

Ms. Rhoads provided an update of the litigation matters that were pending from prior months as follows:

Appleby – We have a default judgment and are working to recoup on the payments.

Forest Park - They have paid. Will be dismissed.

Pine Haven – They have paid. Will be dismissed.

VI. Approval of Financial Matters

- A. Recent Financial Activity and Report (Information Only):** December 2020, January 2021 and February 2021 reports were received and have been posted on the DEMHRA Website.

B. Legal Counsel Invoice:

The Board reviewed the January and February invoices from Tighe and Cottrell in the amounts of \$1,485.35 and \$1,745.00, respectively. A motion to approve both invoices was made by Mr. Strine and seconded by Mr. Hrycyshyn. The motion carried 5-0.

VII. Reports:

A. Compliance Matters (Executive Director):

1. Delinquency Report:

There was no report available for December as the report was not received from The Division of Revenue due to ongoing software integration issues.

2. Compliance Investigator Report:

Per Mr. Crane's request, Mr. Sutton explained why compliance investigators are sent to each park. Mr. Sutton explained that each community is sent a yearly registration form to report the total number of lots, and how many homes on those lots are responsible to pay into the Trust Fund. If the communities do not send back their form, the compliance investigators are sent out to complete the form from their findings. Also, DEMHRA conducts random audits on a quarterly basis, or if a park is sold.

For March, so far eight (8) communities were audited. When there is a discrepancy of plus or minus 5 lots when compared to the last form completed, we will contact the owner for verification. Pine Point Park was not within the margin of error. The owner was contacted and it is now consistent with last year's report.

B. Arbitration:

1. Open Dockets for Arbitration Matters and Status:

Rehoboth Bay vs. Hometown America (Docket 07-2016 & 08-2016 Combined)

The arbitrator was Jeffrey Young. The date of the arbitration was 1/11/2017. The docket was re-opened on 1/20/2021. Stayed pending Supreme Court decision of relevant issues on another case. Decision will be made after briefings. Still pending.

Wild Meadows HOA vs. Wild Meadows MHC (Docket 10-2017 & 04-2019 Combined).

Appealed to the Supreme Court and is pending awaiting the outcome of a decision on other similar cases. Oral argument scheduled for 2/17/21. Pending.

Wild Meadows HOA vs. RHP Wild Meadows MHC (Docket 07-2018)

Still pending court ruling which may affect the case. Mr. Weidman, who was the arbitrator, recused himself from the case. Still pending.

Mr. Crane explained that what we are waiting for from the Delaware Supreme Court is a decision on appeals from the lower courts relative to the authority of arbitrators to make discovery decisions. That is delaying many of these cases because now they are waiting for the court to come down and finally decide what the authority of an arbitrator is. It was previously decided on other issues but not specifically on this one. They are behind schedule due to COVID-19. Pending.

Murray Manor vs. RHP Properties (Docket 03-2019)

Stayed pending decision by the Court. Ms. Rhoads will follow up for update.

Winterset Farms HOA vs. Winterset Farms MHP (Docket 01-2020)

Appealed to Superior Court. Pending.

Murray Manor HOA vs. RHP Properties (Docket 03-2020)

Per Mary Sherlock, this has been stayed pending a decision by the Supreme Court on a similar case. Tentative date for decision is end of March or early April. Pending.

Wild Meadows HOA vs. Wild Meadows LLC (Docket 04-2020)

Briefings requested by both parties are due 3/12/21. Pending.

Shady Park HOA vs Shady Park MHC LLC (Docket 01-2021)

2/18/2020 draft of arbitration agreement received. Pending

2. Open Dockets for Arbitration Costs:

Mr. Sutton reviewed costs incurred to date which was for informational purposes only.

For the benefit of those attendees unaware of the arbitration process, Mr. Crane explained that State law requires that a party filing for arbitration must pay \$250.00, and the responsive party also must pay \$250.00. DEMHRA's Trust Fund pays for all arbitration costs over and above that. This is in the absence of relocation, which we have not had in a few years. This is the largest expense to the relocation Authority and the largest deduction from the Trust Fund. This is the law, and we must follow it.

VIII. Unfinished Business:

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

Bree Street MHP – Sold. We found out from the current owner that all lots are separate tax parcels and no longer fall under the Code. Mr. Crane explained that this is from the research done by DEMHRA's solicitor, and our interpretation is that they do not fall under the Code. Any member of the Board may wish to open discussion on that subject because the opinions could be overruled. This should be addressed in either new or old business at the next Board meeting, wherever it is appropriate.

Dover Air Park – 2/19/21 Mr. Lopes notified us that the sale is probably not happening. He will contact us if he decides to sell in the future.

Lynch's MHP – Park has been sold. It took over a year to sell it. Their attorney contacted Mr. Sutton to find out if the owner had to re-advertise. There is nothing in the statute that says that right of first offer has to be readvertised to the HOA. We are waiting for identification of new owner. Ms. Rhoads checked, and the deed has not been filed yet.

Malone's Bayside Marina – Park sold 12/29/20 and the new owner is Paradise Cove which is owned by Tortella Realty. The new owner was advised to set up a Trust Fund Account with the Division of Revenue. Mr. Crane asked that DEMHRA follow up.

Ridgewood Manor – Sold 11/3/20. New owner must set up their Trust Fund Account with the Division of Revenue. Mr. Strine stated that he thought RHP Properties purchased Ridgewood Manor. Mr. Sutton will follow up.

Silver Oak Trailer Park – 2/26/21 Per Attorney Rago, there are more potential buyers negotiating the purchase.

Vanessa MHP – Chancery court has assigned an attorney and it went for auction since the negotiation for the sale was unsuccessful. Mr. Sutton will follow up for update.

B. Update on Work Session on Clarification of Chapter 70:

Mr. Crane suggested that he and Ms. Rhoads will discuss where we are on this and at next month's meeting, the Board must decide if we want to pursue any of this legislation this year. That would depend on what response, if any, Mr. Crane gets from the two legislative committees.

C. Update on Policies and Procedures:

Mr. Sutton stated this is continuous and on-going. We are developing policies and procedures for the Board's review and determine whether they will require legislative action or if they can be approved by the Board. We will have an update by next month's Board meeting and will discuss at that time.

IX. New Business:

A. Bree Street Tax Parcel Clarification Indicating Exemption from Chapter 70:

Mr. Crane explained that the way the current law is written, Chapter 70 has jurisdiction where a parcel contains 2 or more homes. We do not have jurisdiction when you have a contiguous parcel, each with one home. This was one of the recommendations we had to present to the legislature for clarification and/or changes so that if a person or corporation owns several parcels that are contiguous, it should come under the Authority.

B. Minquadale and Timber Acres – Exclude from HOA List on DEMHRA Website:

Mr. Sutton stated that these are resident-owned communities and should be excluded from our HOA list. This is a different situation and as far as Right of First Offer, they do not qualify because they own their own community, so the question is if they should remain on the registered DEMHRA HOA list. Mr. Crane added that the owners own all the homes there so they should not be an HOA. If someone would form an HOA within those communities, then they could seek registration.

C. Approval of Employee Personnel Policy and Annual and Sick Leave:

Mr. Crane stated that this matter was discussed at last month's Board Meeting's Executive Session. It was proposed that the Executive Director receive an annual evaluation from the Chairman, Mr. Crane, along with the input from the remaining board members. It also was proposed that we give our employees vacation leave, sick leave, and holiday leave. A motion was made by Mr. Meldrum and seconded by Mr. Hrycyshyn to approve the employee personnel policy, annual and sick leave. Mr. Strine asked to review the proposal before casting a vote.

Mr. Sutton went over existing and what was proposed as follows:

Presently:

Title	Sick Days	Vacation Days	Holidays
Executive Director	0	10	9
Part-time Assistants	0	0	0

*No Carry-Over Permitted

Proposed:

Title	Sick Days	Vacation Days	Holidays
Executive Director	10	10	9
Part-time Assistants	3	3	3

*No Carry-Over Permitted

After reviewing Mr. Strine's concerns, the motion passed 5-0.

(After the meeting had adjourned, it was discovered that there was a conflict of interest. Mr. Hrycyshyn's wife is a DEMHRA employee and he should have recused himself. The motion will be re-stated and another vote will be cast at the next board meeting.)

Mr. Crane added that he reviewed the FOIA laws and found that minutes are required at Executive Sessions. Executive sessions are for personnel matters or legal matters, and they are not public. This Board has not kept minutes of Executive Sessions. We need to look into what do they call minutes. We had an Executive Session in which we discussed establishing a personnel policy for sick leave and vacation leave, and if that is sufficient that would be fine. He stated he would not endeavor to do this in the future. It was unintentional and illogical, but we will follow the law when we determine what it is.

D. Proposal for New Copier:

This was previously discussed. Mr. Sutton recommended we repair the Kyocera copier. Mr. Crane did not entertain a motion as repairs do not require a vote.

E. Insurance Renewal Application for Liability Insurance:

Every year we must complete a questionnaire for our Liability Insurance. We were asked to report the amount of money in the Trust Fund.

F. Discussion on HB5:

In an informal discussion with a member of the League of Women's Voters, problems with legislative bills was a topic they discussed. Mr. Crane received an email from this person with the HB5 bill attached. She inquired if this was one of our bills. He

determined it was not. He asked where this bill came from, why no one informed the Authority that this was being considered. What HB5 does is amend the part of Title 25 relative to attendance when a final meeting on rent increases is called. One of the landlords proposed that when a rent increase is above the CPI-U, a meeting must be held with the homeowners and homeowners' associations (if there is one) to discuss why that increase is being proposed, give backup information, etc. After that, if any of the homeowners object to the increase, then they have a right to file for arbitration. We have traditionally looked at these meetings as a private meeting between landowners and affected homeowners that would be receiving the increases. We have requested and have been allowed to send a Board member or our Executive Director to observe. The reason is that we are responsible for overseeing the entire process to of rent justification and one way of overseeing it is to make sure that the presentation is being made in accordance with the law and is being run properly. When a community wishes to have these meetings, the authority is notified when, where, and the time of the meeting. The Authority then approves it. Originally the law was written that DEMHRA is responsible for scheduling these meetings. In 2019, a Manufactured Housing Task Force recommended that the DEMHRA should approve the meetings instead of scheduling them. If a time and date is reasonable, it will be approved. There have been times that the date or time of the meetings were not reasonable, and they had to be modified before approval.

HB5 proposes to add a list of people who are permitted to attend these meetings. The list would be made up of the homeowner's designee, the homeowners attorney, the attorney for the homeowners association, a representative of DMHOA or its successor, and elected Delaware officials (anyone who serves in Federal or State office). What is not on the list is the community owner's designee, so the community attorney is not listed. More important to us is that a representative from DEMHRA is excluded. DMHOA is listed, but it does not specify if it is a community represented by DMHOA.

Mr. Crane would like to have the Board come to a decision as to what position we should take, and he would also like to have a conversation with the sponsor of the bill, Representative Kimberly Williams.

Mr. Crane proposed that DMHOA be permitted to attend these meetings if it is a community that DMHOA is representing. He also proposed that First State Manufactured Housing be able to send a representative if it is a community that is owned by a member organization, and that a representative of DEMHRA be able to attend. The State Representative or State Senator whose district encompasses the community should also be allowed to attend, and that those people in that group be allowed to observe but not participate. Obviously, the homeowners affected can speak and have an attorney there as can the community owner. It is a discussion to explain why an increase is being proposed so that people can decide if they want go along with it or if they choose to go to arbitration without input, pressure or interference from outside organizations.

Mr. Crane discussed this with Mr. Strine previously and turned the meeting over to Mr. Strine to discuss his viewpoint. Mr. Strine agreed with Mr. Crane that people who are permitted to attend the meetings be clarified. It should be the landowner's attorney

and/or designee as well. Also, Mr. Strine thinks it is important that people who attend in a spectator role not be involved in the discussion. Many times, things get stirred up because people are not familiar with or do not understand what is going on. This takes up too much time and does not accomplish what the intent of this law is. At the very least, who can attend should be clarified, limiting those from a legislature standpoint that are in that district, and limiting their role as a spectator and not as a speaker or being involved in the discussions. DEMHRA or First State Manufactured Housing should not be involved in the conversation. It really should be for the parties to work through. Mr. Strine concurs that clarifications and limitations would make this law better and for sure should include the landlord's side of things, because now it is unclear whether they can have legal representation.

Mr. Dunn agreed with Mr. Strine but suggested that it should be at the property owner or community owner's discretion as to who they will recognize or not recognize.

Mr. Crane did not think a vote was necessary from the Board. He will contact the sponsor and indicate our concerns and make suggestions. He assumes it will be on the committee agenda shortly. He will email the committee members and copy all Board members.

G. Action Items:

- Meet with Legislators to update statute. Closed
- Towers MHP – Send letter that they need to register their community - Suit Filed.
- Kings Cliffe – Consistently complicit in paying assessment fees – Ms. Rhoads learned that they are now up to date with their payments.
- Chapter 70 Workshop recommendations – Closed.
- DEMHRA hire of court Reporters – Mr. Crane suggests this service be put out for bids.
- Legality of using “may” or “shall” in the Statute. Ms. Rhoads indicated that “Shall” means it is an affirmative duty that you must do. Mr. Crane questioned the importance of this and that the Board members could do their research on it if they felt it was an issue that should be presented to the legislature.
- Find arbitrator to replace David Weidman who recused himself from Docket 08-2019 – Mr. Sutton requested permission from the Board to find another arbitrator. Mr. Crane stated that no vote is required, and Mr. Sutton should go ahead with finding another arbitrator.

X. Public Comments:

Mr. Crane welcomed any comments or questions from the public.

XI. Executive Session: The Board may discuss, in Executive Session, pending arbitration cases, personal matters, and litigation for the purpose of receiving legal advice relating to such matters.

As there were no items to discuss, the Board did not go into Executive Session.

XII. Next Meeting Date: Adjournment

The Board set the next meeting date as April 29, 2021 1:30 p.m.
The regular meeting was adjourned at 2:40 p.m.

Respectfully submitted,

Gregg Sutton
Executive Director