

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

Minutes of the September 5, 2024 Board Meeting

Authority: Jerome Rogers
Richard Hrycyshyn
George Meldrum
Andy Strine
Patrick Malone (Non-Voting Member)

Legal Counsel: Melissa Rhoads

Gregory Sutton – Executive Director
Jane Sabo (Assistant to the Executive Director)

Other: Jen Allen - FSMHA
Dietmar Panzig – Southern Meadow Community

I. Call to Order:

Mr. Rogers called the meeting to order at 1:30 p.m. Mr. Dunn was absent. There was a quorum.

II. Review and Approval of Minutes:

The July 25, 2024 minutes were reviewed. A motion to accept the minutes as written was made by Mr. Meldrum and seconded by Mr. Strine. The motion passed 4-0. The minutes will be posted on the DEMHRA website.

III. Chair's Report:

Mr. Rogers opted to defer his report until later in the meeting when the legal matters are discussed.

IV. Executive Director's Report:

Since the last meeting, the following has occurred:

- Mr. Sutton contacted Savant, our auditor, to follow up on why we have not received their proposal. He was informed that the delay was due to the transition from Book & Associates (previous auditor) to Savant. They will send their proposal soon and the fees will be consistent with what Book & Associates charged last year.
- Mr. Sutton followed up with the Division of Revenue regarding updating the MHR-Tax forms (payment coupons) with the new Trust Fund assessment fees. He was assured that the MHR-Tax forms will be updated in time so that they can be posted on the DEMHRA website before January 1, 2025. Our Policies and Procedures have also been updated to reflect the new Trust Fund assessment fees.
- After reviewing Chapter 70 and our Policies and Procedures, Mr. Sutton stated that mobile home communities having two or more rented lots must register with DEMHRA. There is no requirement to register every year; however, they should inform DEMHRA of any changes in the number of rented lots.

V. Legal Counsel Report:

Countryside Hamlet is still delinquent. The owner was having difficulty applying his credit balance to his account. Ms. Rhoads referred him to Ms. Hambleton at the Division of Revenue for assistance and it appears he will bring his account up to date. He was also given instructions by Ms. Hambleton to complete the form that lists the tenants that are not paying their portion of the assessment fees. Mr. Strine added that this could be looked into, but most landowners opt to pay for those tenants who have not paid.

Dackerg MHP – Has not paid, nor responded.

J&J & Countryside MHP – Owner said he has paid. He was referred to Ms. Hambleton to track down payment.

Kelly's Trailer Court – Owner has agreed to send payment.

Naaman's – Paid

The Crossings at Oak Orchard – Paid

Sussex Manor – the old owner (KAMM Properties) is a void LLC and owes for Q2 2019. The new owner has not paid this quarter. It may be worthwhile contacting the new owner informing them of the outstanding balance. Otherwise, the amount is insignificant and it may not be financially feasible to pursue any further.

Ms. Rhoads also discussed rent increases, and noted that DEMHRA only certifies rent increases requests pursuant to Section 7051A. Parks that are requesting rent increases in accordance with Section 7052B do not obtain certification from DEMHRA, but must comply with the requirements of this section. Sections 7053 and 7054 provide for the arbitration and appeal process if there is any dispute as to whether a park complied with Section 7052B.

Ms. Rhoads also discussed the definition of parcel under Chapter 70. Mr. Eng spoke to Ms. Rhoads and expressed concern over the Board's reading and longstanding application of Chapter 70 to only parks defined in Chapter 70 as having two or more lots for rent on one tax parcel. This is how the Board has interpreted and applied Chapter 70. 2022. This issue was researched in 2021 (with regard to the commonality of ownership of individuals who had some ownership interest in multiple properties). Since then, we have addressed this issue a few times in relation to specific parks and in our efforts to get legislative changes to clarify this in Chapter 70. She added that she is providing this information only because she was contacted by Mr. Eng. It is subject to the Board's decision but we may also want to request the DOJ's opinion so that the Board is aware of his concerns and how the DOJ suggests that it can be resolved.

The DOJ's concern is about reading and applying Chapter 70 broadly to protect tenants and to ensure that those who thought they were protected by Chapter 70 because their lease says so, and they have been paying into the fund, etc., remain protected. Also, Mr. Eng is concerned about the ability to evict pursuant to the Landlord-Tenant code, because if it is determined that the park doesn't fall under Chapter 70, it forces a landlord to go to Superior Court instead of JP court for the eviction

VI. Approval of Financial Matters:

A. Recent Financial Activity & Report:

Mr. Sutton reviewed the July report. This report is for informational purposes only and will be posted on the DEMHRA website.

B. Approval of Invoices:

The following invoice was presented for approval:

Tighe & Cottrell for legal services for July in the amount of \$955.35.

The WSFS Credit card in the amount of \$52.27 was presented for information and transparency only. Invoices above \$500 require board approval.

A motion was made by Mr. Hrycyshyn and seconded by Mr. Strine to approve the Tighe & Cottrell invoice. The motion carried 4-0.

VII. Reports:

A. Compliance Matters (Executive Director):

1. Compliance Investigator Report:

No report.

2. Delinquent Parks Report:

The following parks are now two quarters late and are being referred for legal action: Country Acres MHP, Forest Park, Lakeside Homes, Martita Court, Spring Creek Rentals, Sylvelinc Management, and THP, Inc. A motion was made by Mr. Strine and seconded by Mr. Meldrum to begin legal action against the above parks. The motion passed 4-0.

3. Community Owner Annual Registration Forms Returned:

This was previously discussed.

B. Arbitration:

Docket 04-2019 (Wild Meadows HOA vs. Wild Meadows LLC):

As of 8/29/24, parties have apparently resolved their differences with an agreement in principle. He is waiting for definite confirmation and presumes that his services will no longer be required.

Docket 02-2021 (Ridgewood Manor vs. Ridgewood Manor II LLC):

As of 8/27/24, Mr. Sharp conferred with attorneys and is still waiting for a complete transcript.

Docket 03-2021 (Canterbury Crossing):

As of 8/27/24, this case is still in Superior Court and we are awaiting their decision.

C. Rent Increase Certification Requests (July and August):

There were 73 rent increase certifications processed during the months of July and August. Staff checks the rent increase requests to be sure the communities are using the correct Trust Fund assessment amounts beginning in January, 2025.

Mr. Hrycshyn questioned if House Bill 212 that addresses the new formula to calculate rent increases was signed by the Governor. It is his understanding that if a bill is presented to the Governor for signature and more than 10 days pass and it is not signed, that it automatically becomes a law. Mr. Sutton will follow-up with Ms. Gottschalk works for the Delaware Attorney's office.

VIII. Unfinished Business:

A. Update on Parks for Sale:

Country Acres - As of 8/29/24, park is still for sale.

Dalton's MHP – As of 8/26/24, park is still for sale.

Hedgerow Hollow was sold. New owner was notified that they must register their account with the Division of Revenue.

Mt. Pleasant MHP – as of 8/21/24, park is still for sale.

B. Update on Parks Going Through Change in Use Update:

1. Timberlane – There are 2 remaining

2. Pine Haven – There are 17 remaining

We received notification of a change in use for Lazy Pines Retreat. There are six tenants. Three are permanent residents and three are seasonal.

C. Approval of Applications:

Timberlane: There were no new applications received.

Pine Haven: There were no new applications received.

D. Follow-up on Audit Proposal (Savant Tax & Consulting):

This was previously discussed.

E. Continue Discussion on Streamlining Operational Functions (Before Sending Rent Increase Notices to Tenants, They Must Notify DEMHRA and the DOJ):

The communities must notify DEMHRA and the DOJ when a rent increase is submitted. If they do not, an email is sent to them to comply.

F. Legislative Update:

Mr. Hrycshyn discussed House Bill 442, that addresses affordable housing in Delaware. A number of sub-committees were created to include a manufactured housing sub-committee consisting of DMHOA, DEMHRA, and First State Manufactured Home Authority. Their reports will be presented by March of 2025. Mr. Sutton expressed an interest in becoming involved.

Ms. Allen from the First State Manufactured Home Authority added that more information on this bill can be found on the Delaware General Assembly Website.

If a member from DEMHRA is required to serve on the manufactured housing sub-committee, Mr. Rogers would like Mr. Sutton to be DEMHRA's representative.

G. Increase Appraisal Fee from \$200 to \$300:

This was discussed at the last meeting but since it was not on the agenda, no vote could be taken. There has been no increase in the allowance in a number of years. A motion was made by Mr. Meldrum and seconded by Mr. Hrycshyn to increase the allowance to \$300. The motion passed 4-0.

At last month's meeting, there was an application approved for a resident of Pine Haven with a reimbursement for the appraisal fee for \$200. It was discussed that if the appraisal fee was increased, she would be compensated the additional \$100. Mr. Strine made a motion that was seconded by Mr. Meldrum to compensate this resident an additional \$100. The motion passed 4-0.

IX. New Business:

A. Update MHR-Tax Forms and Information with New Assessment Payments on DEMRA's Website:

This was previously discussed.

B. Mixed Use Communities and ROC's as Outlined in Chapter 70 (Clarify whether ROC's are Required to Register with DEMHRA Annually):

There are several communities that have both permanent and seasonal residents. Seasonal residents are not required to pay into the Trust Fund and year-round residents are. Per Mr. Strine, leases are for either year-round or seasonal. Resident-owned communities pay into the Trust Fund, but are not subject to rent justification. The tenants that are not included in ownership are eligible for right of first offer and change in use benefits, and are subject to rent justification. There are currently two resident owned communities. In the past one community wanted to continue paying into the trust fund and the other did not. It was decided at that time that the owners and the tenants who don't own the community and have a lease, would continue to pay into the Trust Fund. Chapter 70 states that resident owned communities are only subject to rent justification. This was discussed in the past and it was decided at that time that the owners of the two communities could continue to pay into the Trust Fund. Chapter 70 states that resident owned communities are only subject to rent justification. As of now, both communities are paying into the Trust Fund, making them eligible for relocation benefits if there is a change in use.

Mr. Rogers questioned if there is a need to make a legislative change so that the resident owned communities would not be a part of Chapter 70, and if so, a legislative change must be drafted and solicited. A motion was made by Mr. Strine to suggest a clarification of the law excluding resident owned communities from relocation authority collection fees as well as application for relocation benefits. A motion was made by Mr. Strine and seconded by Mr. Meldrum to draft and solicit a legislative change to exclude resident owned communities from relocation authority collection fees as well as application for relocation benefits. The motion passed 4-0. Mr. Strine added that non-owners are already paying into the Trust Fund and are eligible for relocation benefits. The legislation should also address non-owners of resident owned communities. Mr. Rogers requested that an Executive Session be convened at the next meeting and that the agenda should reflect the same.

C. Possibility of Communities Providing DEMHRA with Mailing Labels for Affected Residents when a community is for Sale and there is no HOA:

When there is no HOA, DEMHRA mails the notification of right of first offer to the tenants of the sale. Mr. Strine suggested informing the communities that it is a requirement for them to send DEMHRA an electronic list of names and addresses for DEMHRA to print and use. This will be incorporated into our Policies and Procedures.

D. Cedar Crest Community Clarification on Status on Exemption of Payments into the Trust Fund:

Mr. Sutton received a phone call from an attorney from Legal Aide that Cedar Crest Community tenants were complaining about the landowner. The community is on separate tax parcels and does not fall under DEMHRA.

E. Sandhill Acres and Driftwood Communities on Status of Exemption from Payments into the Trust Fund:

Mr. Sutton was discussed with Mr. Eng that these two communities have been paying into the Trust Fund, and should not have been since the lots are on separate tax parcels. Ms. Rhoads added that until the right party comes before us, there is nothing to resolve. Ms. Rhoads and Mr. Eng discussed this matter and she disagrees with him. Creating sub-divisions would cause many problems per Mr. Strine.

When the law was written in 2002, per Mr. Strine, it read that in order to fall under Chapter 70, there must be two or more rented lots on a tax parcel, and it was carried on from that point.

Mr. Rogers is of the opinion that we should not become involved in this and that if Mr. Eng wants to pursue this matter further, he can provide his opinion to the Board. There is nothing before us that we can act on at this time. The Board members concurred with Mr. Rogers.

This was previously discussed.

F. Rent Increase Justification:

1. Section 7052(b) – Increase of Rent Due to Allowable Expenses

2. Section 7053 – Rent Increase Dispute Resolution

This was previously discussed. In addition, Mr. Sutton discussed that DEMHRA certifies rent increases based on 7051A, compensation violations, and 7052(b) which is the formula we use. Ms. Faries found a loophole in Sections 7053 and 7054 that address additional expenses incurred that are not covered under Section 7051A, and would have to be arbitrated.

There are two different rent justifications: 1) follow formula, and 2) if there are additional expenses, such as a substantial increase in property taxes, DEMHRA doesn't have to certify these requests if they fall under Sections 7052 or 7053. However, the landowner must still certify that there are no violations.

X. Public Comment

Ms. Allen checked the DE Assembly website, and provided information on the task force committees:

The members are elected. There are two senate and two house members, and the rest are public members within the housing sector as public members from either the president pro tem and such. The first meeting of the Delaware Assembly can be viewed on the Delaware Assembly website. Their next meeting is October 3, 2025. Reference the Delaware Assembly website for additional/updated information.

XI. Executive Session:

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

There were no additional comments or suggestions from the Board.

XII. Next Meeting - Adjournment:

The Board set the next meeting for Thursday, October 17, 2024, at 1:30 PM. A motion to adjourn the meeting was made by Mr. Hrycshyn and seconded by Mr. Meldrum. The meeting was adjourned at 2:47 p.m.

Respectfully submitted,

Gregory Sutton
Executive Director

Pursuant to 29 Del. Code Section 10004(e), this agenda may be changed to include additional items (including executive sessions) or the deletions of items (including executive sessions) which arise at the time of the Authority's meeting.