

**Governor's Advisory Commission on Manufactured and Mobile Homes  
Finance Issues Sub-Committee**

**Approved Minutes; November 23, 2004**

Present: Dave Adams, Tom Candon, Bob McDonald, Mike Momaney, Caryl Stewart, Erhard Mahnke (by phone), Stuart Bennett

Staff: Jim Saudade, Arthur Hamlin

**Announcements**

Erhard Mahnke suggested inviting Josh Slade to the December 14<sup>th</sup> meeting. Josh is the "Co-op Coordinator" at the Burlington Community Land Trust.

**Meeting minutes October 15, 2004**

The meeting minutes were approved with the corrections suggested by Antonia Bullard.

**Park – Lender Agreements**

The Department did not have copies of the park-lender agreements provided by Stuart Bennett to hand out. Tom Candon said he would like to look at those with Stuart, but Stuart was not present (arrived later). Dave Adams said that VHFA's standard lender agreement includes provisions that private mobile home parks are generally not willing to agree to. The consensus is that it would be good to have a standard agreement because there could be many lenders in one mobile home park.

Jim Saudade pointed out that some agreements are strictly between the lender and park owner, and some are actually contained in the park lease. Jim Saudade said the Department could ask Stuart Bennett to write down the provisions he would want to see in these agreements as a park owner, and also ask lenders for their list. Erhard Mahnke reminded us that resident's rights must also be considered. We may want to ask Chris D'Elia of the Vermont Bankers Association for their input.

Dave Adams suggested holding a public hearing. Caryl Stewart agreed that we need to get all the facts. Erhard Mahnke asked if copies of these agreements could be posted on the Department's website for people to look at.

**New Hampshire**

Arthur Hamlin handed out copies of New Hampshire's "Manufactured Housing Warranty Deed" from their statutes (RSA Title XLVIII, Section 477:44). The NH statute states "buildings situated on land not belonging to the owners of the building, shall be deemed real estate..." The owner of the land has to consent to the transfer of the manufactured

home. There was a discussion of whether or not the NH Warranty Deed actually makes mobile homes “real estate”. Jim Saudade said that the effect is only to certify that no one else has a claim to the manufactured home. He does not think that makes it real estate. Dave Adams and Mike Momaney said they feel that it does clarify the issue of ownership enough to be called real estate. The closer MH can be to real estate the better.

Bob McDonald raised the question of whether just calling mobile homes ‘real estate’ would help mobile home owners (with financing.) For example, would it trigger the HUD-1, RESPA (Real Estate Settlement Procedures Act) statement that applies to mortgage lending? Dave Adams added that it wouldn’t help unless Freddie Mac and Fannie Mae would lend in mobile home parks. Caryl Stewart handed out an article about trends in manufactured housing.

Another issue is change of use or park closing. Bob McDonald said this is a lender issue that might be addressed in a park-lender agreement. Mike Momaney and Jim Saudade discussed the difference between different kinds of leases; long-term, renewable, commercial, capital leases etc. Under Vermont law mobile home park leases effectively renew for periods of 18 months due to the 18-month notice required to close a park. The Department agreed to look at the statute more closely around this issue.

We decided to invite Ignatius MacLellan from Fannie Mae to meet with the subcommittee. The Department will contact him. Caryl Stewart thought we could also get Fannie Mae’s V.P. for Manufactured Housing to meet with the commission. She remarked that VDCU is raising funds for a loan loss reserve that enables them to continue making in house loans until the secondary market is available.

Jim Saudade asked the committee members to look at the NH Warranty Deed and think about the benefits and shortcomings of doing something similar in Vermont. The Department will have its attorney look for any case law in NH on this issue.

### **Vermont Uniform Commercial Code (HUD UCC-1 Financing Statements)**

Arthur Hamlin handed out copies of V.S.A. Title 9A Section 9-311, 9 V.S.A. Chapter 72 (Mobile Homes), and the UCC-1 financing statement and manufactured home addendum. It seems apparent that the exemption for the mobile home bill of sale is an error. Everyone was agreeable to the Department proposing legislation to correct the error.

### **Summary**

Jim Saudade summarized as follows:

- Subcommittee members will review the NH Warranty Deed for the next mtg.
- The Department will solicit input on issues including from the secondary market
- DHCA will look more closely into effects of long terms leases, expiration of leases under Vermont law
- Arthur Hamlin will put more information on the website
- DHCA will look at proposing legislation to correct the UCC error.