

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

**APPROVED MINUTES OF OCTOBER 15, 2004**

Present: Stuart Bennett, Caryl Stewart, Tom Candon, Bob McDonald, Pat Crady (for David Adams), Jim Saudade, Karen Richards, Erhard Mahnke

Staff: Jim Saudade, Arthur Hamlin

Guests: Bill Billado

**Introductions**

Jim Saudade convened the meeting and distributed copies of Dave Adams' email dated October 14 listing issues that he feels the subcommittee should address. Bob McDonald asked the Department for a list of the previous Advisory Commissions recommendations; which have been accomplished; what is left to do. Erhard Mahnke said the financing legislation passed last year was the only change he is aware of. This legislation (included in resource binder) updated the definition of "manufactured home" to be consistent with the UCC chapter and HUD, and eliminated two or three different definitions that had been in law. Tom Candon said this was a step toward getting at the titling issue that he is most concerned about. In Vermont mobile homes are not real estate unless they are on owned land.

**Discussion of issues**

Tom Candon hopes to look at the NH model because of the current situation in Vermont where lenders have to "paper" every mobile home transaction with three different kinds of security. Bill Billado said in NH they actually have a mobile home "warranty deed" that the park owner also signs. In NH mobile homes are called "real estate." Jim Saudade asked how this interacts with park leases – Bill Billado said his understanding is it has more to do with taxation, and leases are enforced.

There was discussion about UCC's (Uniform Commercial Code filings). Per Vermont law, they are not effective to secure a mobile home. UCC's are only filed with the Secretary of State, and the Town Clerk receives the Uniform Vermont Mobile Home Bill of Sale. However, Jim Saudade pointed out they are not required to "record" the Bill of Sale. Arthur Hamlin said it appears that the UCC exemption (making them ineffective) was some kind of mistake, because they are viewed like automobiles, which have a title. Bill Billado added that new manufactured homes have a "certificate of origin" but there is no way to pass that along to someone else when the home is re-sold. Jim Saudade said in California mobile homes still have license plates, but this works because there is a centralized record.

There was discussion about whether mobile homes should be treated under Vermont law as “real property” or “chattel” (i.e. personalty). Bob McDonald said he feels they should be *closer* to real estate. Tom Candon and Jim Saudade both said mobile homes are not real estate because they are moved. Caryl Stewart disagreed stating that new manufactured homes are built as residences, and therefore should be treated as real property.

One of the questions on Dave Adams memo is who is providing mobile home loans in Vermont, and what are their terms? Tom Candon passed out a ‘draft’ list of UCC’s filed in the last 30-days and an interest rate survey conducted by BISHCA in June. The list shows that 36 lenders filed a total of 37 “active” UCC’s and 32 “renewals”. Karen Richards pointed out that park owners making loans for mobile homes through “retail installments” and not filing UCC’s. Tom Candon said BISHCA doesn’t require a license from a person selling a retail product. Pat Crady added that when a lender sells a secured loan, they transfer the UCC, but when a manufactured home rider is added (for 30 years) to the UCC, then a renewal is not required (every five years.) The rate sheet lists 14 banks making fixed or variable rate loans for new manufactured homes as of June 1, 2004; at rates from 6.09 to 13.26%, however, the survey is not reliable and has been discontinued.

Jim Saudade started a discussion of what prevents more lenders from making mobile home loans. Tom Candon suggested some reasons are short-term leases, and the potential for lot rent increases or park closing (with 18 months notice). Bill Billado said there are leftover problems from the loose lending practices of recent years. Lenders view mobile home loans as high risk because they have witnessed loan losses. Mobile home dealers are having a hard time placing loans, and money is not available. Caryl Stewart said they are working with dealers but they keep the loans in-house. Bill Billado said down payment requirements are too high (10 – 20%) and lenders have to ‘margin’ better. However, rent increases are under control due to the State law. Arthur Hamlin talked about the fact that few increases are over the threshold that could trigger a challenge, and few parks have implemented a “capital improvements surcharge.” Stuart Bennett said CUBB is holding off on rent increases because they don’t know what will happen with fuel prices this winter. Another pressure on lot rent is property taxes.

Bob McDonald started a discussion about the two models for resident-controlled ownership; New Hampshire’s cooperative model, and Vermont’s nonprofit system. Erhard Mahnke said Vermont has gone a different route than NH by having nonprofits purchase MH parks while NH has encouraged park residents to create resident-owned cooperatives (that are not 501(c) 3 nonprofits) to purchase parks. VHFA financing is available, in principal for mobile home owners in nonprofit parks. Stuart Bennett asked for clarification of the difference. Pat Crady explained that in a cooperative each co-op member owns a share of the park and has a Propriety Lease with the cooperative. However, the mobile homes are still personal property. Members don’t have any rights to [own their lot], but they can keep the mobile home on the lot to sell it, with their share of the cooperative. VHFA enters an agreement with the nonprofit or cooperative so if they have to foreclose on a mobile home they can keep it in the park to resell it.

A comment was made that lenders sometimes don't work with the park owner when a borrower gets in trouble with their loan payment, and sometimes park owners don't work with the lender if lot rent isn't paid. Jim Saudade said this also applies to home improvement and refinance situations. Caryl Stewart said lenders just assume that mobile home owners are "high risk". Arthur Hamlin asked Pat Crady if it is correct that VHFA's agreements do not work in parks other than the nonprofit and co-ops. This is correct. However, Bill Billado said CUBB Properties often enters "Park Agreements" with lenders, and 80% of the time they work. One sticking point is that the park owners want to be held harmless for rent arrearages, and the lenders don't want to pay them. Jim Saudade brought up the idea of standardizing "park-lender agreements". The committee agreed this sounds like a good idea, but they would still have to be case-by-case, and have provisions that assure decent loan terms are offered. Stuart Bennett commented that this would add stability, even if it doesn't solve the titling issue. Caryl Stewart said they show good willingness of park owners to work with lenders.

Pat Crady added that one reason VHFA agreements don't work with private owners is that they require the park owner to commit to keeping the park open. Private park owners can't agree to this because under Vermont law they can close a mobile home park with 18 months notice. Bob McDonald suggested including in an agreement, a provision that the residents could buy the mobile home park if the owner wanted to close it. Parks close for a variety of reasons, but not usually to build something else (i.e. shopping mall, condo's). The State tries to resolve habitability issues without resorting to park closure. The infrastructure subcommittee will be talking about park closures.

Tom Candon asked the committee to discuss pre-1976 mobile homes. Karen Richards seconded this discussion, saying that mobile home park owners are offering exorbitant rates for 'rent to own' situations on these homes. Mike Momaney stated that Housing Foundation Inc. has been doing rehab work to bring the pre-76 homes up to HUD standards, and then selling them for \$12 - \$14,000 with Vermont Development Credit Union offering financing. One reason older units have to be rehabbed is that new mobile homes often don't fit on small lots in old parks. Independent inspections are important to determine if the unit meets HUD codes. Erhard Mahnke said that HOME funds (thru Vermont Housing & Conservation Board) are available to private owners. HOME funds are used for home improvements including mobile homes.

Erhard Mahnke brought up the fact that park financing is also a problem. Efforts to convert mobile home parks to cooperatives failed due to a lack of blanket financing. Vermont's two cooperatives both benefited from a source of financing and technical assistance that was available to the residents. NH has the New Hampshire Community Loan Fund that provides technical assistance statewide and financing.

Other issues were brought to the table. Bob McDonald raised the issue of HUD's anchoring and tie-down requirements. A law was passed in 2000 that may impose new HUD standards on Vermont. The Department will look into these and get information on what the State of Maine is doing. Jim Saudade talked about Fannie Mae easing up some

of its requirements but not yet offering loans in parks. Caryl Stewart agreed that we have to talk about secondary markets. One problem facing VHFA and VDCU is they are almost the only ones offering decent rates and terms, so when rates fall their customers don't refinance. Over time mobile home loans make up a bigger part of their portfolio. Without any secondary market they will max out their capacity to make new loans. Mike Momaney said the market has changed in the past few years. He thinks the "park-lender agreements" are a good model but some third-party provisions specific to VHFA would have to come out.

## **Summary**

Jim Saudade summarized the discussion and listed the following tasks:

- The subcommittee should look into developing a model park lender agreement
- DHCA will investigate the UCC issue
- DHCA will get information about New Hampshire's manufactured home deeds
- DHCA will get more information about HUD's new foundation / tie down regs.

The next subcommittee meeting will be scheduled at the Commission's regular meeting on October 26.