



HOME ON THE ROAD

Voice of West Virginia's factory-built housing



WEST VIRGINIA HOUSING INSTITUTE, INC.

DECEMBER, 2007

WVHI issues legislative proposals

CHARLESTON – The factory-built housing industry plans to seek additional representation on the state regulatory board in the upcoming legislative session.

The West Virginia Housing Institute Inc. board of directors also supports repeal of this year's dual licensing law, which it deems unnecessary, burdensome and costly.

As currently constituted, the West Virginia Manufactured Housing Construction and Safety Standards Board includes only one retailer among its six members. The others are from outside the industry.

Legislation creating the board said only that two of the six members must represent consumers. Although it does not limit who the other members are, the Division of Labor has taken the position that no industry members can sit on the board.

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Return to Glade, Aug. 4-6

Rethinking the 10b forms

By Johnnie E. Brown

Partner: Pullin, Fowler & Flanagan, PLLC

I believe each of us would agree customer satisfaction is the most important challenge we face in selling our homes.

If a customer is satisfied, he will be a return customer and will generate new business by word of mouth. If dissatisfied, you will face headaches, criticism, and possibly lawsuits.

I want to help you avoid much friction, while providing the strongest safeguards for you and your customers.



Brown

10b forms are your friends, not a headache

In representing retailers and manufacturers in West Virginia, I find here is a common misconception about the proper use of West Virginia 10(b) forms.

While these regulations came into effect about 2000, I still see common mistakes. I hope this helps dealers

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and retailers use the forms in their intended manner: as

\$20 fee Jan. 1

CHARLESTON – The state is imposing a new \$20 fee on the sales of factory-built houses and stick-built housing transfers as of Jan. 1 in a plan designed to help find housing for low- to moderate-income state residents. (See W. Va. Code § 11-15-4c.) The fee also applies to modulars.

The fee is designed to support the Affordable Housing Trust Fund, which will make the money available for housing loans. Kevin Wilfong of Fairmont, co-president of the West Virginia Housing Institute Inc., is a member of the Affordable Housing Trust Fund.

WVHI supported the change to promote additional sales within the factory-built housing industry. The amount of money returned to the industry in sales is expected to eclipse the amount collected from the industry. Wilfong's membership on the board will assure the industry's voice will be heard.

The state Tax Department was provided a list of licensed dealers from the Division of Labor and will mail a "Mobile Factory-Built Home Fee Return" (Form WV/MFH-100) prior to its due date.

(Continued on p. 5)

THE PODIUM

2008 convention at Glade Springs



Kevin Wifong

Please mark your calendars! We look forward to seeing you at the 2008 West Virginia Housing Institute Inc. convention.

We are pleased to announce your board of directors has chosen The Resort at Glade Springs as the meeting place for our 2008 convention.

The 2008 event is scheduled for Aug. 4-6, which is a Monday through Wednesday.

Our keynote speaker is Barry McCabe, recently re-elected chairman of MHI in Washington. He heads Hometown America of Chicago, which is the nation's largest operator of manufactured housing communities. Barry will speak Aug. 5. Barry has done a splendid job in running our national organization for a year and we look forward to the work he plans in the next year.

Also invited to speak are Gov. Joe Manchin and U.S. Sen. Jay Rockefeller, D-W.Va. Both Democrats are seeking reelection in 2008.

We, as an industry, are committed to the re-election of Governor Manchin and Senator Rockefeller, each of whom has been highly supportive of our efforts and both are important to the development of our industry on a state and national scale respectively.

Governor Manchin and I have been longtime friends. He is also a friend of Co-President Steve Brown of Hurricane. We both work well with the governor. Senator Rockefeller enjoys the strongest support of MHI and is not only a member of our Senate caucus, but has been a longtime supporter of our industry.

Last year's convention had outstanding support from members of our industry and those with close ties to manufactured housing. We have every confidence the 2008 convention will meet with that same fine support. We hope to build on what we have had in the past. We are returning to Glade Springs because that is what you told us to do. In a survey completed by those who participated at the event in 2007, Glade Springs received a perfect rating as a convention location.

The food and service also received high ratings from the participants. The only thing that put a damper – pun intended – on last year's events was that the golf tournament was rained out. We hope to avoid that problem this year. Since our formation in 2004, our organization has solidified unity within the industry. I have been proud to be your co-president, but I must say without the superb effort of all of you in supporting WVHI, and without the excellent work done by your 14-member board of directors, our industry would not find itself in the excellent situation where it now is.



Want to keep up on the latest with the factory-built housing industry in West Virginia? Want to be listed on our website or linked to it?

The West Virginia Housing Institute Inc. is at www.wvhi.org. Take a look at what we have on the site. Tell us what you want added or improved.

The inside scoop is in the members-only section. And you only have to call Andy Gallagher at (304) 346-8985 to join.

Type of new tax form (See story on page 1)



MOBILE FACTORY-BUILT HOME FEE		
Period: 3/31/2008	Account ID #	1. NUMBER OF MOBILE FACTORY-BUILT HOMES SOLD
Due: 4/21/2008	9806-1251	
SAVE THE SEALS, INC. 1253 QUARRIER ST CHARLESTON WV 25301-1809		2. TOTAL FEE DUE \$ (Line 1 x \$20.00)
S A M P L E		SIGNATURE

protection for them instead of seeing them as another burdensome additional closing document.

Who needs to use?

All retailers that sell homes that are sited within the state have to follow the West Virginia Regulations concerning manufactured housing. This includes the West Virginia 10(b) forms. Retail lots in border states also sometimes have forgotten to use the West Virginia 10(b) forms to sell a house into West Virginia. The West Virginia Regulations are very clear that the West Virginia Manufactured Housing Construction and Safety Standards Board governs all homes sold into the state, regardless of whether the retailer is located in another state.

Additionally, I have seen retail lots in West Virginia use 10(b) forms for modular housing. They are not required on modulars. The West Virginia Manufactured Housing Construction and Safety Standards Board does not govern the sale of modulars. While 10(b) forms can be used to clarify the responsibilities of the consumer and the retailer, if not filled out properly, they only add to the confusion and paint a picture the retailer was sloppy by using paperwork that obviously did not apply to modular homes

Proper dating and obtaining of signatures.

I strongly recommend you not have the consumer sign and pre-date the 10(b) forms at the time of the closing. I strongly advise against such activity since the forms are intended to be used at different times along with the closing and installation process. The consumer must be given the opportunity to agree or disagree with what is written on the 10(b) forms, and acknowledge that they were filled out at a contemporaneous time and place. Also, by pre-dating and obtaining signatures on all 10(b) forms at the time of closing, the dealer sets himself up for allegations the latter activities were never conducted, and that the dealer signed the documents at his lot without going to the home site to do follow-up inspections as required in the 10(b)(4), 10(b)(5) and 10(b)(6) forms.

Completeness.

It is crucial all forms be filled out completely. Please do not mark "not applicable," on any form. Either the consumer or the seller is responsible for any and all parts of the 10(b)(3) forms. Specific examples that I have seen are marking final grade and water control as not applicable when the retailer believes that the consumer is responsible, and simply marks "not applicable." Obviously, this is an incorrect use of the form, and should have been clarified to indicate that the consumer was responsible for the final grade and water control. In addition, all lines on the 10(b)(4), 10(b)(5) and 10(b)(6) forms should be filled out to include the name and address and all information required on the lines. Not only does one open oneself to administrative fines for improper completeness of the 10(b) form, but it looks like sloppy paperwork if a lawsuit arises.

Timing of 10(b)(6) forms.

Remember all 10(b)(6) forms have to be completed within a certain time frame, which is 60-180 days from the date the home is turned over to the consumer. Do not complete the form prior thereto, or a retailer could be liable in court for failing to perform certain aspects of the set-up and installation even if the homeowner agreed to perform the act initially in the 10(b)(3) form. This is a simple task, but one commonly missed

Identification of soil load capacity.

West Virginia Regulations require retail lots to perform a site inspection and a test to determine the soils' pounds per square inch ("psi") capability for the proper installation of the home, but I rarely see evidence of the reading obtained within the retail file. I suggest the soil PSI be recorded on the 10(b)(4) form so that evidence can be later used to show the home was properly installed in accordance with the Manufacturer's Installation Manual.

While not required by the West Virginia Regulations, I have experienced situations in which issues arose concerning the spacing of the piers under the home, which is significantly controlled by the soil's PSI, and there was no evidence to show the retailer or set-up contractor took this into account when installing the piers

Do not be timid of the 10(b)(6) form.

All retail employees who perform the 10(b)(6) inspection should be very clear and direct about their findings on the form. I believe it better protects the retailer if he were to mark something improper or if there is any question about his findings. By doing so, there can be no argument that the homeowner was placed upon notice of a problem. Sometimes retail employees can be timid in filling out the 10(b)(6) forms because they want to maintain good relationships with the homeowners. However, I suggest that you may have damaged the relationship with the homeowner if he was not advised of something that later could harm the enjoyment of the home

(Continued on p. 5)

New location, but plenty of experience at Crown Homes



Vickie Jenkins, Stephanie Hill, Mark Hill.

KINGWOOD – They have it all at Crown Homes or is it Vickie Jenkins Real Estate and Associates? Actually, it is both, and then add in Jack Jenkins’s business – Break-A-Way, which is an excavating company.

If they had an appraiser, they would have it all.

Looking for a HUD-code home, modular, want to purchase a home-and-lot, need excavation done? Whew! Stephanie Hill has it all at her fingertips.

The owner of one of the newest factory-built housing retailers in the state, Stephanie, and her husband, Mark, expect Crown Homes, just west of the

Preston County seat of Kingwood, to do very well, especially with a new retail lot next door to the new Wal-Mart.

Steeped in experience, the Hills and their partners, Vickie and Jack Jenkins, come from a rich history in manufactured housing. Mark and Vickie are siblings and their uncle and grandfather started a manufactured housing sales business in 1967 and Mark bought it and operated it for several years before selling out.

Mark most recently worked for an international lumber sales firm in Oakland, Md.

Stephanie, meanwhile, worked for Town and Country Homes of Kingwood for the past 13 ½ years. Town and Country is a well-established firm in Kingwood.

The Hills and the Jenkinses decided it was time for them to open their own retail housing business again, and they got their license in August.

“We’ve got a good location with room to expand. We are getting a lot of people looking at our lot models.

“We are very pleased with the amount of traffic we are getting since we just opened up,” Stephanie said.

Stephanie directs Mark to look at sites, meet appraisers, buy land, and work on developments. Jack does all the site work, including utilities and concrete.

Speaking of developments, they should soon open their 30-lot modular development known as Chapel Brooke between Masontown and Reedsville. They also are planning a 15-lot development at Bruceton Mills.

Down the hallway from the Crown offices, Vickie, a real estate broker, has her own real estate firm to help Crown customers find land to build on.

“It’s kind of one-stop shopping,” Stephanie said.

Home on the Road Newsletter

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WVHI

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Advertising rates

Full page: \$200

Half page: \$100

Quarter page: \$60

Classified: \$30 for each 3 lines

10Bs continued

Site evaluation and preparation.

While not specific to the 10(b)(6) forms, I encourage all retailers to be meticulous with proper site evaluation and preparation, particularly to avoid water running underneath the home. It goes without saying that setting up a manufactured home in West Virginia can be a significant challenge, and the retail pressures to sell the home have always existed. However, I strongly urge retailers to evaluate whether a site can be properly prepared to handle a home purchased by a homeowner. I understand that retailers may be attempting to satisfy a homeowner and place them in a new home, but I have little doubt that if the site is improper for the home, that it will not be long before the consumer is unhappy with your product and is seeking legal counsel to assist them against you. Consequently, I encourage retail centers to learn to say “no” when necessary. This can save the homeowner from being unable to enjoy his home, and save you from a lawsuit.

I hope that these suggestions help. The goal is to always provide the homeowner with a home to his or her satisfaction and to avoid any misunderstandings that could lead to something less than an optimal buying experience for all our customers. By following these suggestions, we can lessen the chance of such misunderstandings and reduce legal claims.

Johnnie Brown is a partner in the Charleston law firm of Pullin Fowler, Flanagan, Brown & Poe, and provides legal advice to the industry and WVHI.

Fee from p. 1

The “mobile factory-built home fee” is required to be reported on the same reporting period as the Consumers Sales and Service Tax.

If more than \$50 a month in sales tax is collected, the return must be remitted by the 20th day of the succeeding month. If less than \$50 in sales tax is collected, the return must be remitted quarterly.

Quarterly returns are due by the 20th day of the month following the close of the quarterly report period.

The fee is not required to be collected on brokered sales where the licensed dealer “brokers” or arranges the sale of a factory-built home for an individual owner of a manufactured home and obtains only a commission on the sale. However, the broker’s commission paid to the licensed dealer for the brokering service is subject to the Consumers Sales and Service Tax and Use Tax.

Additional information regarding the Mobile Factory-Built Home Fee may be found in Publication TSD-315 on the Tax Department website, www.state.wv.us/taxdiv or by calling (1-800) 982-8297.



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Victor Flanagan, Responsible Attorney

Expo 2008 Hershey, PA

HERSHEY, Pa. – More than 60 manufactured and modular home setups are expected at the March 26-28, 2008, HOMEexpo at the GIANT Center in Hershey, Pa., not far from the capital city of Harrisburg, Pa.

“The 26 different manufacturers that display their homes in Hershey know the industry displays will bring buyers so they pull out all stops to showcase their homes to their best advantage,” said Mary Gaiski, executive vice president of the Pennsylvania Manufactured Housing Association. “The result is a dazzling display of the best we have to offer each year.”

The home interiors are fully decorated and the units are set up as if they had been sold. “These companies go to exceptional lengths to present their homes in the best possible conditions for public review,” Gaiski said.

Thousands of people visit the show yearly.

Inside the nearby two-story GIANT Center, suppliers, contractors and others exhibit their extensive wares that are available to complete a home on the inside and the outside and to make the connections to make those homes habitable.

An all-industry reception is scheduled for March 27 at the show’s headquarters hotel, the Sheraton Harrisburg-Hershey.

The annual event, which draws manufacturers and exhibitors from across the nation, is sponsored by PHMA and the Pennsylvania Propane Association.

Legislative from p. 1

“That is a position we utterly reject,” said WVHI Co-President Steve Brown.

“It does not make sense to have a board made up completely of nonindustry representatives.”

“It seems clear some of the board members do not fully understand our industry, so we need industry members on the board,” agreed WVHI Co-President Kevin Wilfong.



Brown

Industry wants representation on the industry regulatory board; seeks repeal of dual licensing act

In the past, the industry has dominated the board, but in recent years has lost its position on the panel.

WVHI wants to restore a balance so the industry issues can be fairly presented, discussed and acted upon.

WVHI also wants to repeal the law enacted at the DOL’s request earlier this year to require contractors to be licensed both by the industry regulatory board and the Contractor Licensing Board. “We fear this new law opens retailers up to a new level of unforeseen legal liability,” said WVHI general counsel John Teare.

John Teare ...

“I fear that retailers and manufacturers will face an almost automatic liability in civil court if our member is punished for using an ‘unlicensed’ contractor, even when using a qualified and experienced contractor with a license issued by the Contractor Licensing Board.”

“The old law made us fully responsible and we ought to move back to it.

“Retailers and manufacturers have always been legally responsible for their choice of contractors and generally for the errors or misconduct of those contractors” said Teare.

“Now that the DOL takes the position that even a well-qualified contractor cannot be used without a dual license



Teare

“I fear that retailers and manufacturers will face an almost automatic liability in civil court if our member is punished for using an ‘unlicensed’ contractor, even when using a qualified and experienced contractor with a license issued by the Contractor Licensing Board. There is no sound factual or legal basis to require dual licensing and we should overturn this unnecessary and ill conceived legislation.”

come for a ^{free} cup of coffee
and a donut
then stay to see the show



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sponsored by PA Manufactured Housing and the PA Propane Foundation

Dispute Resolution Feb. 8

All homes, including those on lots, will be subject to new federal dispute resolution standards that come into effect on Feb. 8, the U.S. Department of Housing and Urban Development says.

At that time, consumers must be informed in writing about the availability of the program and federal dispute resolution professionals.

Federal law required HUD to establish a program to resolve disputes in the manufactured housing industry and also to set guidelines for state dispute resolution programs.

Mitch Woodrum, director of the manufactured housing section in the West Virginia Division of Labor, said the notification given to consumers currently under state law meets the federal standards. As a result, retailers in West Virginia will not have to change what they are currently providing consumers.

The federal rule says both manufacturers and retailers must provide manuals to consumers to explain their rights under the dispute resolution process.

"Once the state gets approved, it runs the program as it sees fit," said William W. Matchneer III, associate deputy assistant HUD secretary for regulatory affairs and manufactured housing.

Meanwhile, Matchneer said new installation standards being worked on by HUD are expected to be implemented Oct. 20, 2008.

Danny D. Ghorbani, president of the Manufactured Housing Association for Regulatory Reform. Has been critical of the program. "... Dispute resolution -- designed to be a quick and inexpensive method for the voluntary resolution of disputes -- could easily become a conduit for funneling complaints into HUD's Subpart I enforcement system," he complained.

(See: http://www.hudclips.org/sub_nonhud/cgi/pdf/2363a.pdf; or call Woodrum at (304) 558-7890 x 237.

PROMOTE seeks help in E. Panhandle impact fee struggle

MARTINSBURG – An increasing number of Morgan and Berkeley County residents are determined to keep their counties free of zoning and costly impact fees.

This sentiment is mirrored by groups such as PROMOTE (Property Rights Organization of Morgan County on Taxes and Ethics) and the West Virginia Property Rights Coalition, both of which oppose the idea that a handful of political appointees can control how and when citizens may use their homes and land.

PROMOTE's secretary is **Portia Henry** of Berkley Springs, office manager for retailer **Randy Waugh's Waugh Mobile Home Sales** of Berkeley Springs. One of the founding members of the group is Ruben Darby of Berkeley Springs.

"It is important we organize properly to protect the ability of individuals to not only buy a home, but to be able to afford to locate it in our county and not be shut out by enormous impact fees," Henry said.

Impact fees started in nearby Jefferson County at \$7,122 per single family home in 2004. Now they are \$12,144. Jefferson County officials said only those in the factory-built housing industry have complained about the fees.

Pointing out that impact fees in neighboring Jefferson County exceed \$12,000, and by definition fall hardest on first-time homebuyers and others of modest income, these groups are energized, serious and engaged.

The realization of the true cost of impact fees, higher taxes and the adverse effect on individual rights cuts across socio-economic lines in the Eastern Panhandle. "Stay Free

Stop Zoning" banners and bumpers are as likely to be on SUVs as pickup trucks.

High-gloss billboard opposing zoning and impact fees also are being implemented. The message is

crystal clear: "We are fed up with government control in our lives."

PROMOTE treasurer, Eric Prichard of Berkeley Springs, believes the efforts have been effective in Morgan County. "One of the county commissioners said that as soon as the signs went up, it was obvious to him that the Planning Commission was going to get in the middle of a war and he wasn't going to put them in that situation," Prichard said.

"We're getting better organized," he added, but so is the other side. "Those folks are going to be back."

Impact fees once \$7,000 are now \$12,000 in three years. What's next? Zoning may be implemented by a county commission or by a public vote. The Berkeley County Commission in 1994 passed a zoning ordinance, but the issue was force to a referendum by an outraged public, where the proposition lost by 76

percent of the vote.

However, Berkeley County once again has prepared a new zoning ordinance, which will be subject to hearings and a vote on May 13, 2008. Because of stiff opposition, Morgan County has no such plans.

PROMOTE may be contacted at (304) 258-4771; the property rights coalition is at (304) 258-5001.



Henry



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DUES STRUCTURE:

MANUFACTURER: Dues shall be Fifty Dollars (\$50.00) per floor for each home shipped within the State of West Virginia to dealers, contractors, retailers or sales locations in West Virginia. These dues shall be remitted to the West Virginia Housing Institute, Inc. on a monthly basis.

_____ We will send \$50.00 per floor shipped to West Virginia on a monthly basis.

RENTAL COMMUNITY AND CONTRACTORS:- Per Annum

_____ \$100.00

ALL OTHER CATEGORIES: - Per Annum

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_____ Title _____ Signature

Please Remit To:

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