

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

Director of the Manufactured Housing and) Modular Units Program of the Missouri) Public Service Commission,))	
Complainant,))	
v.))	
Brookside Homes, Inc.,) 2455 US Highway 67 South) Festus, MO 63028)	Case No. MC-2009-0127
)	
And))	
Steven D. Warren, an individual) 2455 US Highway 67 South) Festus, MO 63028))	
Respondents.))	

SECOND AMENDED COMPLAINT

COMES NOW the Director of the Manufactured Homes and Modular Units Program of the Missouri Public Service Commission (Director), by and through the Missouri Public Service Commission's ("Commission") Office of General Counsel, pursuant to Sections 386.390, 700.040, 700.098, 700.470 and 4 CSR 240-2.070 and 120.060 and for his Complaint against Brookside Homes, Inc. and Steven D. Warren states as follows:

ALLEGATIONS COMMON TO ALL COUNTS

1. The Commission has jurisdiction over manufactured homes and manufactured home dealers pursuant to Chapter 700 RSMo 2000.¹

2. Respondent, Brookside Homes, Inc., (Brookside) was a manufactured home dealer as defined in Section 700.010(4) until January 15, 2008.

3. Steven D. Warren is an individual and the sole shareholder, officer and director of Brookside exercising complete domination and control over the affairs of Brookside.

COUNT I – PENALTIES FOR REFUSAL TO ALLOW INSPECTIONS

4. Section 700.040 provides that the Commission shall inspect dealer premises to ensure dealer compliance with the Code, defined by rule 4 CSR 240-120.100 as the federal standards found at 24 CFR Part 3280 and the manufacturer's installation instructions.

5. Rule 4 CSR 240-120.060 provides that the books, records, inventory and premises of manufacturers and dealers shall be subject to inspection by the Director to determine compliance with Chapter 700, the Code, and Commission rules.

6. On July 24, 2008, the Director sent authorized representatives to inspect the premises of Brookside Homes, Inc. located at 2455 US Highway 67 South, Festus, MO 63028. Inspectors Tim Haden and Gene Winn requested to review the files relating to the following homes sold by Brookside between January 2007 and July 24, 2008. The homes were sold to or identified as:

¹ All references to the Revised Statutes of Missouri will be to RSMo 2000 as currently supplemented unless otherwise noted.

Winston and Edna Albert

Billy M. Cook

Charles and Leigh Skiles

Jeremy and Casey Dement

Michael and Nancy Daugherty

Steve and Heather Schmidt

Patricia Naïve

Sylvia Walton

Fleetwood serial numbers 2562N and TNFL527

Champion serial numbers 14224 and 14168.

7. On July 24, 2008, Brookside and Steven D. Warren failed and refused to allow the Director's representatives to review and inspect the records requested.

8. On July 24, 2008, the Director issued the attached letter demanding access to the requested records. See Exhibit A.

9. Brookside and Warren again failed and refused to provide the requested records.

10. On July 28, 2008, the attorney for the Director issued the attached letter again demanding to review the records. See Exhibit B.

11. Brookside and Warren failed and refused to allow the Director to inspect the requested records until December 30, 2008, when Respondents partially complied in response to formal discovery in this case.

12. Every violation of Chapter 700 and Chapter 120 constitutes a separate violation with respect to each manufactured home or refusal to allow or perform an act

required by Chapter 700. Section 700.115. Brookside's and Warren's refusal to provide access to books and records calls for a civil penalty against each of them up to \$1000 per day since July 24, 2008, per manufactured home identified in paragraph 6 above. In addition and alternatively, section 386.570 provides for penalties of up to \$2000 per day per occurrence for Brookside's and Warren's violations of the law.

**COUNT II – REFUSAL, NON-RENEWAL AND REVOCATION OF
REGISTRATION AND PENALTIES**

13. The Director realleges the allegations set forth in paragraphs 1 through 3 above.

14. Brookside's registration expired on January 15, 2008, and was not renewed by the Director.

15. Since January 15, 2008, Brookside and Warren have been holding forth as a dealer by selling and offering for sale new manufactured homes.

16. Section 700.450 to 700.470 was in effect until August 28, 2008, when repealed by Senate Bill 788, effective August 28, 2008. Section 700.098 supplanted section 700.450 to 700.470. In addition, Senate Bill 788 changed the definition of a "dealer" found at Section 700.010(4) by redefining "dealer" as anyone who sells one or more new manufactured homes in any consecutive twelve month period. Prior to August 28, 2008, a "dealer" was defined as a person who sells four or more manufactured homes in any consecutive twelve month period.

17. Under Section 700.470, in effect until August 28, 2008, and 700.098(2), effective August 28, 2008, it is unlawful for any person to hold forth as a dealer who is not currently registered as a dealer with the Commission.

18. Under 700.045(1) it is unlawful for a dealer to sell or offer for sale any manufactured home unless it has a registration in effect with the Commission.

19. Refusal to register, non-renewal of registration, and revocation of registration are authorized when an applicant or dealer violates section 700.045 or fails to comply with sections 700.450 to 700.470 (prior to August 28, 2008) and 700.010 to 700.115 (after August 28, 2008).

20. Pursuant to section 700.115.2, each violation of a provision of chapter 700 is a separate offense and renders Brookside and Warren liable for a penalty of up to \$1,000 per day since January 15, 2008.

COUNT III – REFERRAL FOR PROSECUTION UNDER 386.580

21. The Director realleges and incorporates herein paragraphs 1 through 19 above.

22. Steven D. Warren's actions violating the law and aiding and abetting Brookside's violations of the law constitute a crime under section 386.580.

23. Steven D. Warren's interference with and obstruction of the Director and his authorized representative's performance of the Director's duties constitutes a crime under section 700.045(6).

24. Brookside and Warren's violation of section 700.045(1) by selling and offering manufactured homes for sale is criminal behavior.

WHEREFORE, the Director prays that the Commission provide notice to the Respondent of this action and, after hearing, affirm, authorize, and approve the Director's actions and formally refuse to register, refuse to renew, and revoke Brookside's dealer

registration, authorize the General Counsel to seek penalties in Circuit Court, and direct the General Counsel to refer this matter for prosecution.

Respectfully submitted,

/s/ Steven C. Reed

Steven C Reed
Missouri Bar No. 40616

Eric Dearmont
Missouri Bar No. 60892

Attorneys for the Director of the Manufactured
Housing and Modular Units Program of the
Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-3015
(573) 751-9285 (Fax)