

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS  
Pre-Hearing Conference  
October 12, 2011  
Jefferson City, Missouri  
Volume 1

Director Of The Manufactured                    )  
Housing And Modular Units Program            )  
Of The Missouri Public Service                )  
Commission,                                        )  
Complainant,                                      )  
vs.    ) Case No. MC-2011-0319  
Burkhart Mobile Homes, Inc.                    )  
Respondent.                                        )

DANIEL JORDAN, Presiding,  
SENIOR REGULATORY LAW JUDGE

REPORTED BY:  
Kristy B. Bradshaw, CCR No. 1269  
TIGER COURT REPORTING, LLC

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## P R O C E E D I N G S

JUDGE JORDAN: The Commission is calling File No. MC-2011-0319. This is Daniel Jordan; I'm the regulatory law judge assigned to this case. We're here for a pre-hearing conference on the complaint of Director of Manufactured Housing and Modular Units Program of the Missouri Public Service Commission versus Burkhart Mobile Homes, Incorporated. We'll begin with entries of appearance. We'll start with the complainant.

MR. THOMPSON: Thank you, your Honor. Kevin A. Thompson and Meghan McCloy for the Director of the Commission's Manufactured Units and Modular Housing Program; Post Office Box 360, Jefferson City, Missouri 65102.

JUDGE JORDAN: All right. And for Respondent?

MS. KIRKBRIDE: And I'm Kelly Kirkbride for Respondent, Burkhart Mobile Homes, Inc.; Leritz, Plunkert & Bruning, P.C., 555 Washington Avenue, Suite 600, St. Louis, Missouri 63101.

JUDGE JORDAN: Thank you. And I don't see any representatives of the Modular Units Program in the hearing room. I don't see any representatives of the Office of Public Counsel in the hearing room. I see that Staff counsel has cocounsel. Will you enter an appearance,

1 please?

2 MR. THOMPSON: I did enter her appearance.

3 JUDGE JORDAN: Oh, I didn't hear that.

4 MR. THOMPSON: Meghan McClowry.

5 JUDGE JORDAN: Oh, you did it both at the  
6 same time.

7 MR. THOMPSON: I did.

8 JUDGE JORDAN: Very good. And is there any  
9 representative of Burkhardt Mobile Homes, Incorporated on  
10 the line?

11 MS. KIRKBRIDE: Yes, your Honor. I just  
12 entered my appearance.

13 JUDGE JORDAN: Right. I meant a  
14 representative of the client, not the advocate. Is there  
15 someone from the corporation there?

16 MS. KIRKBRIDE: Not someone, per se, from  
17 the corporation, no. I'm just the attorney for the  
18 corporation.

19 JUDGE JORDAN: I understand.

20 MS. KIRKBRIDE: Right. But no one's here  
21 from Burkhardt Mobile Homes.

22 JUDGE JORDAN: Okay. That's fine. That's  
23 fine. Here's what we're going to do today. We're going to  
24 have part of this conference on the record; we'll discuss  
25 procedure. We will then go off the record so that the

1 parties may discuss possibilities for settlement. They can  
2 do that. It will be off the record. I'll be out of the  
3 room. The court reporter will pack up and leave. And I'll  
4 leave this phone line open for the parties to feel free to  
5 share information that may be sensitive, they may not want  
6 me to hear.

7 And I hope that they will explore the  
8 possibilities for resolving this case without a Commission  
9 decision, because it is my experience that the parties can  
10 often come to a resolution better than a third party, an  
11 outsider like the Commission, can impose.

12 I will also remind the parties that  
13 mediation is available, should they reach in impasse in  
14 settlement negotiations. And that all the regulatory law  
15 judges are trained in civil mediation. We've found that to  
16 be a productive process.

17 When we're done with the on-the-record  
18 portion, and the parties are done with their off-the-record  
19 portion, I will ask Staff to turn off the lights and hang  
20 up the phone. And I will also ask Staff to file a brief --  
21 very brief report of the progress made during the  
22 conference, focusing on the likelihood of settlement or the  
23 likelihood of going to hearing.

24 MR. THOMPSON: We'll do, Judge.

25 JUDGE JORDAN: Thank you very much. Any

1 questions so far?

2 MS. KIRKBRIDE: No, your Honor.

3 JUDGE JORDAN: Okay. Then, as I recall,  
4 there is a pending motion. It is a motion for leave to  
5 file an Amended Complaint. By my schedule, response to  
6 that was due yesterday. So what I'm planning to do is  
7 issue an order granting leave to file that Amended  
8 Complaint, and then that will frame the issues for the  
9 parties.

10 I will want also a response from Burkhart  
11 Mobile Homes, Incorporated. We're coming up fairly close  
12 to the hearing. I think that's at the end of this month.

13 MS. KIRKBRIDE: Yes.

14 JUDGE JORDAN: I'm correct.

15 MS. KIRKBRIDE: Yes.

16 MR. THOMPSON: It's in early November.

17 JUDGE JORDAN: Early November, very good.  
18 So I will set a ten-day date for an Answer to that  
19 Complaint, if that will be sufficient for Respondent.

20 MS. KIRKBRIDE: Yes, your Honor.

21 JUDGE JORDAN: Okay. Thank you very much.  
22 Well, since everyone here is represented by counsel, I  
23 think there's a lot that I don't have to go through. You  
24 understand that the Complaint and the Answer will  
25 circumscribe the issues for hearing; that it will be an

1       evidentiary hearing, subject to the provisions of  
2       Section 536.070 in the Revised Statutes of Missouri.

3                   MS. KIRKBRIDE: I'm sorry. Could you repeat  
4       that, 536--

5                   JUDGE JORDAN: 536.070.

6                   MS. KIRKBRIDE: Thank you.

7                   JUDGE JORDAN: You're quite welcome. That's  
8       the section that I tell everyone, lawyer and nonlawyer, to  
9       focus on because it informs us of the degree to which the  
10      law relaxes the rules of evidence for the evidentiary  
11      hearing.

12                  MS. KIRKBRIDE: Okay.

13                  JUDGE JORDAN: I will probably want opening  
14      statements at that hearing as well, and the parties will  
15      have the right to make closing statements and to file  
16      written arguments afterwards. And the parties have the  
17      right to have the Commissioners read those arguments before  
18      the Commission makes its decision. I will be drafting a  
19      recommendation for the Commission, but the Commissioners  
20      make the final decision in these cases.

21                  I will also remind the parties that I'm just  
22      a government lawyer. I'm not an accountant and I'm not an  
23      engineer, or anything specialized like that. So if the  
24      parties have some specialized information, bear in mind  
25      that they're talking to a nonexpert. That will be helpful

1       for everyone.

2                       Is there any question from any party at this  
3       point?

4                       MS. KIRKBRIDE:  No.

5                       MR. THOMPSON:  None, Judge.

6                       JUDGE JORDAN:  Well, I think that's all I  
7       have for the parties then.  So I will leave this telephone  
8       line open, but I will leave the room, leave the parties to  
9       their discussions.  And if there is nothing else -- and I'm  
10      not hearing anything else --

11                      MS. KIRKBRIDE:  No.

12                      JUDGE JORDAN:  -- we'll go off the record.

13                      (Off the record.)

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## 1 CERTIFICATE OF REPORTER

2  
3 I, Kristy Bradshaw, CCR No. 1269, within the State  
4 of Missouri, do hereby certify that the testimony  
5 appearing in the foregoing matter was taken by me to the  
6 best of my ability and thereafter reduced to typewriting  
7 under my direction; that I am neither counsel for, related  
8 to, nor employed by any of the parties to the action in  
9 which this hearing was taken, and further, that I am not a  
10 relative or employee of any attorney or counsel employed  
11 by the parties thereto, nor financially or otherwise  
12 interested in the outcome of the action.

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16 Kristy Bradshaw, CCR  
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