

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

TRANSCRIPT OF PROCEEDINGS

Public Hearing

December 17, 2007  
Jefferson City, Missouri  
Volume 1

In the Matter of Proposed                    )  
Amendments to Commission Rule    )Case No. MX-2008-0033  
4 CSR 240-123, Modular Units    )

COLLEEN M. DALE, Presiding  
CHIEF REGULATORY LAW JUDGE

ROBERT M. CLAYTON, III,  
COMMISSIONER

REPORTED BY:                   Monnie S. VanZant, CCR, CSR, RPR  
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## 1 A P P E A R A N C E S

2 For Staff of the Missouri Public Service Commission:

3 Mr. Keith R. Krueger  
4 Missouri Public Service Commission  
5 200 Madison Street  
Jefferson City, MO 65101  
(573) 751-3350

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

2 JUDGE DALE: Okay. Let's go on the record. We  
3 are here today In the Matter of Proposed Amendments to  
4 Commission Rule 4 CSR 240-123, Modular Units, Case No.  
5 MX-2008-0033.

6 It's December 17th, 2007, at 1:00. I'm Colleen  
7 Dale, the presiding officer in this matter. And we will  
8 now take entries of appearance.

9 MR. KRUEGER: My name is Keith R. Krueger. I  
10 represent the Staff of the Missouri Public Service  
11 Commission in this proceeding. My address is P.O. Box  
12 360, Jefferson City, Missouri, Jefferson City, Missouri,  
13 65102.

14 JUDGE DALE: As there are no other parties  
15 present to enter their appearance, you may call your  
16 witness, Mr. Krueger.

17 MR. KRUEGER: Gene Winn.

18 GENE WINN,  
19 being first duly sworn to testify the truth, the whole  
20 truth, and nothing but the truth, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. KRUEGER:

23 JUDGE DALE: Thank you. Please be seated. You  
24 may inquire.

25 Q (By Mr. Krueger) State your name and address

1 for the record, please?

2 A Gene Winn, P.O. Box 360, Jefferson City,  
3 Missouri, 65102.

4 Q By whom are you employed, and in what capacity?

5 A By the Missouri Public Service Commission,  
6 Manufactured Housing Department. And I'm the Inspector  
7 Supervisor.

8 Q All right. Did you participate in the drafting  
9 and preparation of these proposed rules?

10 A Yes, I did.

11 Q And does the Staff support the proposed rules as  
12 published in the Missouri Register?

13 A Yes, sir.

14 MR. KRUEGER: That's all my questions, your  
15 Honor.

16 JUDGE DALE: Thank you. We'll now recess, go  
17 off the record.

18 (Break in proceedings.)

19 JUDGE DALE: Go back on the record.

20 CROSS-EXAMINATION

21 BY COMMISSIONER CLAYTON:

22 Q Hi, good afternoon. And I apologize for being  
23 20 minutes late here. And I am embarrassed and apologize  
24 for the delay in the proceedings.

25 Can you just very briefly touch on what aspect

1 of manufactured housing regulatory scheme that we're  
2 dealing with here today?

3 A This is on the rules for the modular units,  
4 classrooms, modular commercial and residential.

5 Q Okay. And why -- why are the -- just refresh my  
6 recollection. Why are we doing the mods now, I mean, when  
7 the HUDs, the H-U-D, HUDs, have been in place for some  
8 time? Is this the set-up -- the -- the set-up mechanism?

9 A No, sir. This is the rules as to which the  
10 modular units have to be built to. The Commission has  
11 been regulating these now since 1974.

12 And what we're doing is just updating the code  
13 from the 2000 IRC to the 2006 mostly is what this is  
14 doing, keeping up with the current building codes.

15 Q Okay. So -- so this is just an update. This  
16 isn't -- this isn't something significantly new?

17 A No, sir.

18 Q Okay. Where do we stand right now with the  
19 set-up reg -- regulation of set-up folks on modular homes?

20 A Set-up is -- the dealer is responsible on  
21 modular homes for the property set-up or arranging for --

22 Q We don't regulate any of the aspect of the  
23 set-up on mods, correct?

24 A We don't as far as in slices and installers.  
25 But we do regulate the set-up on modulars. If a dealer

1 sets a modular up, we can inspect it, and he has to set  
2 them up.

3 Q You can deal with the dealer through his  
4 certification, but --

5 A Yes.

6 Q Okay. We need legislative change to get  
7 authority over set-up?

8 A Yes, sir.

9 Q Set-up contractors for modular homes; is that  
10 true?

11 A That's correct.

12 Q And do we have legislation that's pending this  
13 year to do that? Do you know?

14 A We have legislation pending, and I believe that  
15 part of that in there is to try to get installer set-up.

16 Q Where does the industry stand with regard to  
17 regulation of the set-up contractors on modular homes? Do  
18 you know?

19 A I'm not sure.

20 Q Okay. They were in agreement -- the industry  
21 was in agreement on set-up -- the regulation of set-up  
22 contractors on HUD homes?

23 A That's correct. Yes.

24 Q And how long has that been in place?

25 A A little over two years.

1           Q     This is what -- I've got my mind on something  
2     else this afternoon.  So -- and I'm sorry.  What was that  
3     date again that you --

4           A     June -- as far as licensed installers, it was  
5     July of '05 was when --

6           Q     July of '05?

7           A     Yes, sir.

8           Q     Okay.  Okay.  Now, do you know what percentage  
9     of manufactured houses that are sold in Missouri, what  
10    percent in Missouri are modular homes and what percent are  
11    HUD homes?

12          A     Today.  No, sir.  I don't know.

13          Q     Could you give me an approximation?  60/40?  
14    70/30? 80/20?  Ballpark guess?

15          A     I would say that probably 80 percent are  
16    manufactured homes, 20 percent modular.  And that, again,  
17    is a rough guess because there are some dealers I know  
18    that sell strictly modulars.  But I think probably overall  
19    there is more manufactured homes.

20          Q     But they're all manufactured homes, aren't they?

21          A     Well, yes, they are.

22          Q     They're all manufactured homes.  The 80 percent  
23    would be the traditional, kind of trailer type of home,  
24    the HUD home?

25          A     The HUD home, yes.

1           Q     So 80 percent sales, you believe still today is  
2 HUD homes?

3           A     I believe so. 60 to 80 percent, yes.

4           Q     Can you tell me how does the Department stand  
5 right now with regard to its funding with the fees that it  
6 derives from licensure of dealers, licensure of  
7 manufactured housing manufacturers and with -- you also, I  
8 think, have some fees coming in from set-up contractors  
9 now. Are you aware of how your budgets looks right now?

10          A     I don't know exactly how it -- I think it is  
11 fine today. I don't think we have any budget problems.

12          Q     Ron hasn't threatened to lay you off or anything  
13 like that?

14          A     No.

15          Q     So you've still got a job.

16          A     I will say, sir, the budget is well enough I  
17 know that we have had a fee that is being discontinued at  
18 the end of this year. And I don't believe that would have  
19 been done had we had any budget problems.

20          Q     Which fee is that that's being discontinued?

21          A     That's for the HUD home sales that manufacturers  
22 had to pay a shipment fee for each HUD home that is  
23 shipped in Missouri. December is the last month they've  
24 have to pay that.

25          Q     Did -- is that a -- did we repeal a rule?

1           A     Yes.

2           Q     Well, repealed or are you waiving it?

3           A     I don't know if it was repealed or if it was  
4     just put on hold or -- or whatever. But I know the  
5     shipment fees end at the end of this month.

6           Q     I don't remember -- I don't remember why that is  
7     -- why that occurs. Not that I'm opposed to it. I just  
8     don't recall that happening. Do you know if we were told  
9     that?

10           COMMISSIONER CLAYTON: Keith, do you remember?

11           MR. KRUEGER: My recollection is that there's  
12     not a need for the revenue and that it's been  
13     discontinued. I'm not sure what procedurally exactly was  
14     done.

15           Q     (By Commissioner Clayton) Do you know why that  
16     fee was chosen to do away with as opposed to licensure  
17     fees, set-up fees, et cetera?

18           A     Not that I know of. But I'd be happy to check.

19           Q     Yeah. As far as rule-making goes. It's beyond  
20     the scope of this rule-making. Okay. What is the biggest  
21     problem that the manufactured housing department faces in  
22     terms of complaints, consumer dissatisfaction when dealing  
23     with modular homes? Is it the set-up? Is it service? Is  
24     it repair?

25           A     The set-up.

1 Q It is the set-up?

2 A Yes.

3 Q And your department has the responsibility to go  
4 out and investigate those complaints and then come in?

5 A That's correct.

6 Q You'll go out and have -- you have a checklist  
7 to see if the set-up contractor followed certain  
8 responsibilities?

9 A Yes, sir.

10 Q Okay. Is there a -- within that -- that -- the  
11 idea of the bad set-up, where do you normally see or where  
12 -- which type of problem makes up the majority of those  
13 complaints? Is it anchoring? Is it gutters? Is it bad  
14 skirting? Is it popping?

15 A For the most part in the modular stuff, it will  
16 be the fastening down to the basement, secure and also in  
17 the roof section where there are king post installation,  
18 rafters, things like that. That's our biggest problem we  
19 find.

20 Q And what do you normally do? Since we don't  
21 regulate the set-up contractor, what do you normally do?  
22 You issue a notice to the dealer today?

23 A That's correct.

24 Q And is it the dealer's responsibility to address  
25 the set-up shortcomings?

1           A     Yes, sir.

2           Q     It is? Now, today, if a dealer sells the home,  
3 can you actually go back and force the dealer to take some  
4 action?

5           A     On the modulars, yes, sir.

6           Q     On the modulars?

7           A     You can.

8           Q     And then you have an amendment to that rule that  
9 relates to the dealer err, enforcement of set-up relating  
10 to modular homes. Help me understand this new language  
11 that's coming in. How will this help you?

12          A     This new language is -- for the installation  
13 part there, if a dealer goes out of the business. Some  
14 manufacturers do the set-up for the dealers. Okay? But  
15 the statute says it's the dealer's responsibility to  
16 properly set up.

17                   We have manufacturers that will do set-up for  
18 the dealers, and then sometimes the dealer goes out of  
19 business, and we get an inspection, and we find out that  
20 the manufacturer that was setting it up didn't set it up  
21 correctly.

22                   So then we go back to the manufacturer. Since  
23 we can no longer go back to the dealer, we go back to the  
24 manufacturer to get the corrections made.

25          Q     How many instances have you had in recent --

1 recent years where a dealer has gone out of business and  
2 has not been able to fulfill its obligation under the  
3 statute?

4 A The -- I don't know exactly on numbers how many  
5 dealers, but I do know that we did get involved in  
6 probably 60 houses, all modulars, where the dealer went  
7 out of business and the manufacturer had set these houses  
8 up for the dealership.

9 And we went back to the manufacturer because  
10 they had set them up for the dealership, and they were  
11 making the corrections on the work that they did wrong.

12 Q So the dealers associated with those 60 sales or  
13 those 60 problem set-ups, are any of those dealers in  
14 operation today?

15 A No, sir. That was -- that was one dealer.

16 Q Oh, that was 60 set-ups with one dealer?

17 A Yes, sir.

18 Q Is that dealer still in operation in Missouri?

19 A No, sir.

20 Q Do you believe we have a problem with either too  
21 many dealers that are not being responsible or not being  
22 attentive to the needs of consumers?

23 A I don't believe we have a big number of dealers.  
24 There are just a few dealers that -- for the most part  
25 that we have problems with.

1           Q     Do you believe that your department has the  
2     statutory tools necessary to effectively deal with those  
3     problem dealers, if there are any?

4           A     Yes, sir.

5                     COMMISSIONER CLAYTON:  I don't think I have any  
6     other questions.  Thanks for your patience.

7                     MR. WINN:  Thank you, sir.

8                     JUDGE DALE:  Mr. Krueger, do you have anything  
9     else?

10                    MR. KRUEGER:  Nothing further, your Honor.

11                    JUDGE DALE:  Thank you.  Then in that case,  
12     we'll go off the record and conclude this proceeding.  
13     Thank you.

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## 1 REPORTER'S CERTIFICATE

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3 STATE OF MISSOURI )  
 ) ss.  
4 COUNTY OF OSAGE )

5

6 I, Monnie S. VanZant, Certified Shorthand Reporter,  
7 Certified Court Reporter #0538, and Registered  
8 Professional Reporter, and Notary Public, within and for  
9 the State of Missouri, do hereby certify that I was  
10 personally present at the proceedings as set forth in the  
11 caption sheet hereof; that I then and there took down in  
12 stenotype the proceedings had at said time and was  
13 thereafter transcribed by me, and is fully and accurately  
14 set forth in the preceding pages.

15

16 IN WITNESS WHEREOF, I have hereunto set my hand and  
17 seal on December 29, 2007.

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21 \_\_\_\_\_  
Monnie S. VanZant, CSR, CCR #0539

22 Registered Professional Reporter

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