

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI

FILED²

APR 17 2000

Missouri Public
Service Commission

Director of the Division of Manufactured
Homes and Modular Units of the Public
Service Commission,

Complainant,

v.

Discount Manufactured Housing, Inc.,

Respondent.

Case No. MC-2000-660

COMPLAINT

COMES NOW the Director of the Division of Manufactured Homes and Modular Units of the Public Service Commission ("Director"), by and through the Missouri Public Service Commission's ("Commission") Office of General Counsel, pursuant to section 700.100 RSMo (Supp. 1999)¹ and for his Complaint against Discount Manufactured Housing, Inc. (Discount) states as follows:

1. The Commission has jurisdiction over manufactured homes and manufactured home dealers pursuant to Chapter 700 RSMo 1994.

2. In Commission Rule 4 CSR 240-120.031, the Commission delegated to the Director all of its powers pertaining to new manufactured homes under Chapter 700 RSMo 1994, except the powers to revoke, deny, refuse to renew or place on probation a registration under section 700.090, which are retained by the Commission.

¹ All references to the Revised Statutes of Missouri will be to RSMo (Supp. 1999) unless otherwise stated.

3. On January 18, 2000, Larry J. Meyer filed an Application for Manufactured Homes Certificate of Dealer Registration for Discount (Appendix A). The Director issued Certificate of Dealer Registration No. 861901 to Discount on January 19, 2000 (Appendix B). The certificate is valid until January 15, 2001.

4. Section 700.025 provides that:

No person shall alter or cause to be altered any manufactured home or modular unit to which a seal has been affixed, if such alteration or conversion causes the manufactured home or modular unit to be in violation of the code.

5. Section 700.115.1 provides that "a violation of the provisions of sections 700.010 to 700.115 shall constitute a violation of the provisions of section 407.020."

6. Section 700.100.3(4) provides that "any conduct which constitutes a violation of the provisions of section 407.020" is "grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration."

7. Section 700.115.2 further states that anyone who violates section 700.025:

shall be liable to the state of Missouri for a civil penalty in an amount which shall not exceed one thousand dollars for each such violation. Each violation of this chapter shall constitute a separate violation with respect to each manufactured home or with respect to each failure or refusal to allow or perform an act required by this chapter[.]

8. Section 700.045(4) declares that it shall be a misdemeanor "to alter a manufactured home . . . in a manner prohibited by the provisions of sections 700.010 to 700.115."

9. Section 700.045(5) declares that it shall be a misdemeanor "to fail to correct a code violation in a manufactured home . . . within a reasonable time not to exceed ninety days after being ordered to do so in writing by an authorized representative of the commission."

10. In December 1998, William Tague purchased from Discount a home manufactured by Manufactured Housing Enterprises, Inc., bearing serial number MO-31377-2 ("Tague home").

11. Discount did not obtain a valid application to alter the Tague home.

12. On September 1, 1999, Mr. Tague filed a consumer complaint with the Director.

13. Ronnie Mann, an authorized inspector of the Department, conducted an inspection of the Tague home on September 29, 1999.

14. As a result of the inspection, Mr. Mann prepared a Field Inspection Report citing several setup deficiencies. (Appendix C).

15. Mr. Mann also cited an unauthorized alteration of the home in that the chassis frames and cross members have been cut off.

16. On October 8, 1999, Mr. Mann sent a letter to Discount, enclosing a copy of the Field Inspection Report dated September 29, 1999, and directed that Discount correct the setup deficiencies and the unauthorized alteration within 30 days (Appendix D).

17. On December 21, 1999, Mr. Mann re-inspected the Tague home.

18. As a result of the inspection, Mr. Mann verified that all of setup deficiencies in the Tague home had been corrected.

19. As a result of that same inspection, however, Mr. Mann verified that the unauthorized alteration of the frame had not been corrected.

20. On January 6, 2000, the Director sent a letter to Discount noting that the altered frame had not been corrected, and directed that Discount correct the unauthorized alteration within 15 days (Appendix E).

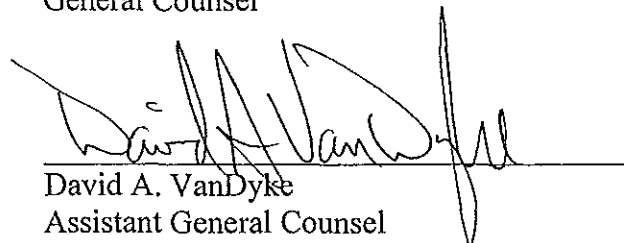
21. As of the date of this Complaint, the Director has received no work orders or other evidence indicating that the unauthorized alteration has been corrected.

WHEREFORE, the Director respectfully requests that the Commission:

- a. Find that Discount has violated section 700.025 by altering a manufactured home to which a seal has been affixed, causing that manufactured home to be in violation of the code.
- b. Find that Discount failed to correct a code violation within ninety days after being ordered to do so in writing by an authorized representative of the Commission.
- c. Suspend the Dealer Registration of Discount under the authority provided the Commission in section 700.100.3(4) until such time as the unauthorized alteration of the frame is corrected, or a period of 14 days, whichever is longer.
- d. Authorize the Office of General Counsel to seek civil penalties from Discount pursuant to section 700.115.2.
- e. Issue other findings and orders as are just and reasonable.

Respectfully submitted,

DANA K. JOYCE
General Counsel

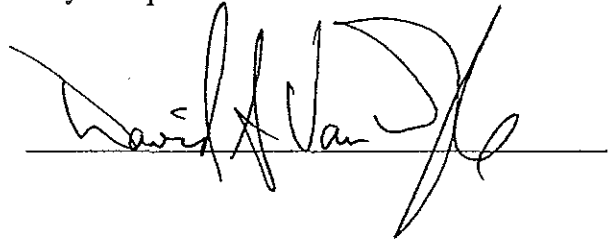


David A. VanDyke
Assistant General Counsel
Missouri Bar No. 46377

Attorney for the Director of the Division of
Manufactured Homes and Modular Units of
the Missouri Public Service Commission
P. O. Box 360
Jefferson City, MO 65102
(573) 751-7485 (Telephone)
(573) 751-9285 (Fax)

Certificate of Service

I hereby certify that copies of the foregoing have been mailed or hand-delivered to all counsel of record as shown on the attached service list this 17th day of April 2000.

A handwritten signature in black ink, appearing to read "David H. Van Dyke", is written over a horizontal line. The signature is stylized with large, sweeping loops.



Missouri Public Service Commission

TN: 4193080152

CN: 21073

CA: \$50

Application for Manufactured Home or Modular Unit Certificate of Dealer Registration

(Any false statement in this application is a violation of the law and may be punished by fine or imprisonment or both)

<input type="checkbox"/> New Application	If Renewal, Registration Number: 8619-01	<input checked="" type="checkbox"/> Manufactured Home Dealer
<input checked="" type="checkbox"/> Renewal		<input type="checkbox"/> Modular Unit Dealer
DEALERSHIP INFORMATION		CORPORATE ADDRESS
Dealership Name Discount Manufactured Housing, Inc.		Corporate Name Discount Manufactured Housing, Inc.
Street Address of Bona Fide Established Place of Business (Not P.O. Box) 1601 N Outer Rd E 50 Hwy		Address P.O. Box 738
City WARRENSBURG	State MO	Zip Code 64093
Phone 660-747-8108	Fax 660-429-6056	County Johnson
Zip Code 64093-0738		State MO
City WARRENSBURG		Zip Code 64093
Phone 660-747-8108		Fax 660-747-8108
ADDITIONAL LOCATIONS - Please list additional locations to be registered below:		
Dealership Name	Address	City, State, Zip Code
JAN 19 2000		
MANUFACTURED HOUSING DEPARTMENT		
IMPORTANT: Pursuant to Chapter 700 RSMo, all books, records, files and other matters required and necessary to conduct the business shall be kept and available for inspection during normal daytime business hours at the bona fide established place of business listed above.		
Type of Ownership: <input type="checkbox"/> Individual <input type="checkbox"/> Partnership <input checked="" type="checkbox"/> Corporation		If a Corporation, State of Incorporation Missouri
IF A CORPORATION, YOU MUST ATTACH		<ul style="list-style-type: none">Certificate of Good Standing (Call 573-751-4153 to obtain.)Statement of No Taxes Due (Call 573-751-9268 to obtain.)
LIST ALL OWNERS BELOW		If a partnership, list name & address of each partner. If a corporation, list names & addresses of principal officers.
Name (Last, First, MI)	Home Address	City
1. Meyer, Larry J.	1701 N Outer Rd	WARRENSBURG
2.		
3.		
4.		
State	Zip Code	Social Security #
MO	64093	498-42-1506
UNITS SOLD - Number of units sold in prior 12 months: New: 43 Used: 24		
List Manufacturers Redman, Fortune Home of Legend		
FELONY INFORMATION		
Has owner (or any partner, if partnership, or officer, if corporation) within the preceding ten (10) years been convicted in any Federal or State court of a felony relating to the acquisition or transfer of a manufactured home or any other form of property? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
If yes, provide the following:	Date	Court
		Conviction
		Sentence
MISDEMEANOR INFORMATION		
Has owner (or any partner, if partnership, or officer, if corporation) within the preceding five (5) years been convicted in any Federal or State court of a misdemeanor relating to the acquisition or transfer of a manufactured home or any other form of property? <input checked="" type="checkbox"/> No <input type="checkbox"/> Yes		
If yes, provide the following:	Date	Court
		Conviction
		Sentence
CERTIFICATION		
I do solemnly affirm and verify that the concern named herein is a bona fide dealer and I have the authority to make the statements contained herein and to sign this application.		
Signature of Owner, Partner or Corporation Officer Larry Meyer, President		Date JAN 18 2000
		1-14-00

Missouri Public Service Commission
MANUFACTURED HOUSING DEPARTMENT

2000

Certificate of Dealer Registration

TO WHOM IT MAY CONCERN: The dealer shown below has complied with the requirements of Sections 700.090 and 700.455 RSMo, and therefore is registered in the State of Missouri as a Dealer of Manufactured Homes. This certificate is valid until January 15, 2001.

Issued To

DISCOUNT MANUFACTURED HOUSING, INC
PO BOX 738, 1601 N OUTER RD E 50 HWY
WARRENSBURG, MO. 64093

DBA

DISCOUNT MANUFACTURED HOUSING, INC
PO BOX 738, 1601 N OUTER RD E 50 HWY
WARRENSBURG, MO. 64093

Steve Jungmeyer

Steve Jungmeyer, Director
Department of Manufactured Housing,
Recreational Vehicles, and Modular Units

THIS CERTIFICATION MUST BE PROMINENTLY DISPLAYED

Registration Number: 861901

Issue date: 1/19/2000

Consumer: Tague, William
 Address: 191 NW 251 Rd., Warrensburg, MO 64093
 Telephone Number: 660-747-3205
 Manufacturer: MANUFACTURED HOUSING ENTERPRISES, 09302 STATE ROUTE #6, BRYAN, OH 43506 Phone #: (419) 636-4511
 Dealer: DISCOUNT MANUFACTURED HOUSING, INC, PO BOX 738, 1601 N OUTER RD E 50 HWY, WARRENSBURG, MO 64093
 Installer:
 Inspector's Name: RONNIE MANN MO PUBLIC SERVICE COMMISSION
 Serial Number: MO 31377-2 HUD Label Number PFS 550195-96
 Date of Manufacture: 11/4/1998 Date of Installation: 12/10/1998
 Date Inspected: 9/29/1999 Size: Multi-Wide

Item:	Findings:	Location:
1	3000.00 REGULATORY/REGULATORY/ MANUFACTURER TO DO A SUBPART I ON THE FOLLOWING ITEMS.	
2	0606.04 INTERIOR WALLS/MOLDING/TRIM/ATTACHMENT There is loose and mismatched trim in this home.	
3	1515.00 FURNACE (HEATING)/REGISTERS / GRILLES/ The access panel above the furnace door is too long to allow the furnace door to be removed.	
4	0704.02 EXTERIOR SIDING/VINYL/INSTALLATION There is vinyl siding on the front side of the home above the bay window that is not secured.	
5	0802.04 ROOF/SHINGLE/INSTALLATION The roof shingles have some high staples that will not let the shingles seal down. 3280.307 (a)	
6	1003.00 INTERIOR DOORS/INSTALLATION/ There are interior doors that do not open and close properly. 1) The basement stairwell door is hard to open. 2) The back bedroom door is not square in the opening.	
7	0604.01 INTERIOR WALLS/WALL/ATTACHMENT / ANCHORING The wall beside the stairwell (kitchen side) is not secured to the ceiling. 3280.305 (f) (2)	
8	0903.00 EXTERIOR DOORS/INSTALLATION/ The back door leaks air. 3280.405 (d) The front storm door does not fit the opening and leaks air. 3280.405 (d) The front door does not close properly. 3280.405 (d)	
9	3100.00 SETUP/SETUP/	

SET UP DEFICIENCIES.

- 1) The column support posts are not in the proper locations. See manufacturer drawing for the proper spacing and locations.
- 2) There are no support columns under the stairwell.
- 3) The trim out at the marriage line has materials installed other than manufacturer supplied trim out kit.
- 4) The electric cross over connections are not up and protected as required.
- 5) The sewer drain lines do not have enough fall.
- 6) The sewer drain lines are not supported every 4 feet as required.
- 7) The air conditioner lines are not firestopped in the furnace compartment.
- 8) The air conditioner electric supply wiring is not up and in conduit as required.
- 9) The vinyl siding on the ends is not properly installed. Some is not secured and some is nailed too tight.

Home has been altered.

- 1) The chassis frames and cross members have been cut off.

Dealer will need to obtain an Application to alter a Manufactured Home.

Action Requested:

Manufacturer to correct item(s): 1, 2, 3, 4, 5, 6, 7, 8

Dealer to correct item(s): 9

Notification:

Notification to Manufacturer: MANUFACTURED HOUSING ENTERPRISES,
BRYAN, OH

Notification to Dealer: DISCOUNT MANUFACTURED HOUSING, INC.
WARRENSBURG, MO

Notification to Installer: N/A

Time Allowed:

20 days

☒ 30 days ☐ 15 days ☐ — days

☐ 30 days ☐ 15 days ☐ — days



Commissioners

SHEILA LUMPE
Chair

HAROLD CRUMPTON

CONNIE MURRAY

ROBERT G. SCHEMENAUER

M. DIANNE DRAINER
Vice Chair

Missouri Public Service Commission

POST OFFICE BOX 360
JEFFERSON CITY, MISSOURI 65102
573-751-3234
573-751-1847 (Fax Number)
<http://www.ecodev.state.mo.us/psc/>

October 8, 1999

GORDON L. PERSINGER
Acting Executive Director
Director, Research and Public Affairs

WESS A. HENDERSON
Director, Utility Operations

ROBERT SCHALLENBERG
Director, Utility Services

DONNA M. KOLILIS
Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Attn: Larry Meyer
Discount Manufactured Housing
P.O. Box 738
1601 N Outer Rd
E 50 Hwy
Warrensburg, MO 64093

RE: William Tague

Dear Sir:

As an authorized inspector for the Department of Manufactured Housing, Recreational Vehicles and Modular Units, I inspected a Manufactured Housing Enterprises manufactured home (serial number MO 31377-2) owned by William Tague, on September 29, 1999. A copy of the inspection report is enclosed.

Pursuant to Section 700.100.3(6) RSMo 1994, manufactured home dealers are responsible to arrange for the proper initial setup of any manufactured home or modular unit purchased from their dealership, unless the dealer receives a written waiver of that service from the purchaser or his authorized agent and an amount equal to the actual cost of the setup is deducted from the total cost of the manufactured home or modular unit.

The inspection conducted by this Department indicated that the referenced manufactured home is not properly setup. Please refer to those items of the inspection report for specific details.

Further, it is the finding of this Department that this home has been altered in violation of state law. Section 700.025 RSMo 1994, states that no person shall alter or cause to be altered any manufactured home, recreational vehicle, or modular unit to which a seal has been affixed, if such alteration or conversion causes the manufactured home, recreational vehicle or modular unit to be in violation to the code. Please refer to the specific items of the inspection report for specific details. According to Section 700.045(5) RSMo 1994, you are required to correct the noted setup and alteration deficiencies within 30 days from receipt of this notification. In addition, please submit a work order signed by the homeowner indicating that the noted deficiencies have been corrected.

Please note that failure to correct the deficiencies within the specified time period could result in a formal complaint being brought before the Public Service Commission for enforcement measures.

Thank you for your prompt attention to this matter. Should you have any questions, please feel free to contact me at 660-684-6835

Respectfully,

Ronnie Mann
Field Inspector
Department of Manufactured Housing,
Recreational Vehicles and Modular Units

cc: File



Commissioners

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Director, Utility Services

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Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

January 6, 2000

Larry Meyer
Discount Manufactured Housing, Inc.
P. O. Box 738
1601 N. Outer Rd. E. 50 Hwy
Warrensburg, MO 64093

Dear Mr. Meyer:

This is in response to the inspection conducted on December 21, 1999, of Mr. William Tague's manufactured home. It was verified during the inspection that all set up deficiencies listed on the original inspection report had been corrected, with the exception of the altered frame.

You will be required to repair the altered frame in conformance with the DAPIA approved method within fifteen (15) days from the receipt of this letter. Please submit a work order to this office signed by the homeowner once the repair is completed. If the repairs have not been made within the 15-days, this complaint file will be forwarded to the Public Service Commission's General Counsel for the preparation of a formal complaint. Should there be any reason you cannot comply with the 15-day period, you should contact me immediately at 573-751-7119.

For your information, I have enclosed a copy of a memorandum from Peter Race, General Counsel for the Department of Housing and Urban Development (HUD), that addresses the removal of a portion of the chassis from a manufactured home. As you know, a manufactured home must remain transportable as required by HUD regulations, therefore, the chassis must remain intact.

If you have any questions or comments, feel free to call me.

Sincerely,

Steve Jungmeyer
Director, Department of Manufactured Housing and
Modular Units

Enclosure

cc: General Counsel
Ronnie Mann
Gene Winn

Service List for
Case No. MC-2000-____
April 17, 2000

Office of the Public Counsel
P.O. Box 7800
Jefferson City, MO 65102

Larry J. Meyer, President
Discount Manufactured Housing, Inc.
1601 N. Outer Rd. East 50 Hwy.
Warrensburg, MO 64093



Commissioners

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Director, Administration

DALE HARDY ROBERTS
Secretary/Chief Regulatory Law Judge

DANA K. JOYCE
General Counsel

Information Sheet Regarding Mediation of Commission Formal Complaint Cases

Mediation is process whereby the parties themselves work to resolve their dispute with the aid of a neutral third-party mediator. This process is sometimes referred to as "facilitated negotiation." The mediator's role is advisory and although the mediator may offer suggestions, the mediator has no authority to impose a solution nor will the mediator determine who "wins." Instead, the mediator simply works with both parties to facilitate communications and to attempt to enable the parties to reach an agreement which is mutually agreeable to both the complainant and the respondent.

The mediation process is explicitly a problem-solving one in which neither the parties nor the mediator are bound by the usual constraints such as the rules of evidence or the other formal procedures required in hearings before the Missouri Public Service Commission. Although many private mediators charge as much as \$250 per hour, the University of Missouri-Columbia School of Law has agreed to provide this service to parties who have formal complaints pending before the Public Service Commission at no charge. Not only is the service provided free of charge, but mediation is also less expensive than the formal complaint process because the assistance of an attorney is not necessary for mediation. In fact, the parties are encouraged not to bring an attorney to the mediation meeting.

The formal complaint process before the Commission invariably results in a determination by which there is a "winner" and a "loser" although the value of winning may well be offset by the cost of attorneys fees and the delays of protracted litigation. Mediation is not only a much quicker process but it also offers the unique opportunity for informal, direct communication between the two parties to the complaint and mediation is far more likely to result in a settlement which, because it was mutually agreed to, pleases both parties. This is traditionally referred to as "win-win" agreement.

The traditional mediator's role is to (1) help the participants understand the mediation process, (2) facilitate their ability to speak directly to each other, (3) maintain order, (4) clarify misunderstandings, (5) assist in identifying issues, (6) diffuse unrealistic expectations, (7) assist in translating one participant's perspective or proposal into a form that is more understandable and acceptable to the other participant, (8) assist the participants with the actual negotiation process, (9) occasionally a mediator may propose a possible solution, and (10) on rare occasions a mediator may encourage a participant to accept a particular solution. The mediator will not possess any specialized knowledge of the utility industry or of utility law.


In order for the Commission to refer a complaint case to mediation, the parties must both agree to mediate their conflict in good faith. The party filing the complaint must agree to appear and to make a good faith effort to mediate and the utility company against which the complaint has been filed must send a representative who has full authority to settle the complaint case. The essence of mediation stems from the fact that the participants are both genuinely interested in resolving the complaint.

Because mediation thrives in an atmosphere of free and open discussion, all settlement offers and other information which is revealed during mediation is shielded against subsequent disclosure in front of the Missouri Public Service Commission and is considered to be privileged information. The only information which must be disclosed to the Public Service Commission is (a) whether the case has been settled and (b) whether, irrespective of the outcome, the mediation effort was considered to be a worthwhile endeavor. The Commission will not ask what took place during the mediation.

If the dispute is settled at the mediation, the Commission will require a signed release from the complainant in order for the Commission to dismiss the formal complaint case.

If the dispute is not resolved through the mediation process, neither party will be prejudiced for having taken part in the mediation and, at that point, the formal complaint case will simply resume its normal course.

Date: January 25, 1999



Dale Hardy Roberts
Secretary of the Commission