

**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.)	Case No. MC-2009-
)	
Brookside Homes, Inc.,)	
2455 US Highway 67 South)	
Festus, MO 63028)	
)	
Respondent.)	

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 386.240, 700.045 and 700.100 RSMo 2000 and rule 4 CSR 240-120.110 and for its Complaint against Brookside Homes, Inc. (Brookside) states as follows:

**STATEMENT OF THE CONTROLLING LAW AND PROCEDURAL
BACKGROUND**

1. The Commission has jurisdiction over manufactured homes and manufactured home dealers pursuant to Chapter 700 RSMo 2000¹.

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

2. Brookside is a manufactured home dealer as defined in Section 700.010(4).

3. Any dealer that fails to arrange for the proper initial setup of a new manufactured home is subject to having its registration not renewed, revoked, suspended, or placed on probation by the Commission pursuant to Section 700.100.3(6).

4. Any dealer that engages in conduct that is in violation of Section 700.045 is subject to having its license not renewed, revoked, suspended, or placed on probation by the Commission pursuant to Section 700.100.3(9).

5. A dealer that fails to correct a code violation in a new manufactured home within a reasonable period of time not to exceed ninety days after being ordered to do so in writing by the Director has engaged in conduct that is defined as a misdemeanor in Section 700.045(5).

6. The Commission issued a certificate of registration to Brookside in January, 2007.

7. In December 2007, Brookside applied to renew its registration with the Commission.

8. In January 2008, the Director did not process or approve Brookside's renewal application because the Director deemed that Brookside:

a) failed to arrange for the proper initial setup of three manufactured homes in violation of Section 700.100.3(6) and,

b) engaged in conduct in violation of Section 700.045(5) by failing to correct code² violations in three manufactured homes within a reasonable period of time after being ordered to do so by the Director, in violation of section 700.100.3(9).

See Exhibit A.

FACTS SUPPORTING NON-RENEWAL AND REVOCATION OF REGISTRATION

COUNT I

The Dement Home

9. The Director hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-8.

10. On July 26, 2007, the Director inspected a new manufactured home sold by Brookside to Jeremy and Casey Dement.

11. The inspection revealed several code violations and setup deficiencies.

12. On August 13, 2007, the Director ordered Brookside in writing to repair the home pursuant to Section 700.045(5).

13. The Director re-inspected the home on September 25, 2007.

14. On October 2, 2007, the Director again ordered Brookside in writing to repair the home pursuant to Section 700.045(5).

15. On December 18, 2007, the Director again ordered Brookside in writing to complete the repairs.

16. Finally, on March 28, 2008, the Director again ordered Brookside in writing to repair the home.

² The “code” is defined by rule 4 CSR 240-120.100 as the federal standards found at 24 CFR Part 3280 and the manufacturer’s installation instructions.

17. Brookside has yet to complete the ordered repairs.

18. More than ninety days have elapsed since Brookside was first ordered to make the repairs to the Dement home.

19. Brookside failed and refused to arrange for proper initial setup of the Dement home.

20. Brookside failed and refused to correct code violations within a reasonable period of time.

COUNT II

The Cook Home

21. The Director hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-8.

22. On June 27, 2007, the Director inspected a new manufactured home sold by Brookside to Bill Cook.

23. The inspection revealed several code violations and setup deficiencies.

24. On July 6, 2007, the Director ordered Brookside in writing to repair the home per Section 700.045(5).

25. Again on December 18, 2007, the Director ordered Brookside in writing to repair the home.

26. The Director re-inspected the home again on February 20, 2008.

27. At the February 20, 2008 inspection the inspector again noted code violations and setup deficiencies.

28. The Director again ordered Brookside in writing to repair the home on February 22, 2008.

29. Finally, the Director ordered Brookside in writing to repair the home on March 28, 2008.

30. More than ninety days have elapsed since the director first ordered Brookside to make repairs to the Cook home.

31. As of the date of this pleading, Brookside has yet to complete the ordered repairs.

32. Brookside failed and refused to arrange for proper initial setup of the Cook home.

33. Brookside failed and refused to correct code violations within a reasonable period of time.

COUNT III

The East Carter School Classroom

34. Petitioner hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-8.

35. On July 11, 2007, the Director inspected a new manufactured home sold by Brookside to East Carter County R-2 School District.

36. The inspection revealed several code violations and setup deficiencies.

37. On July 23, 2007, the Director ordered Brookside in writing to repair the home per Section 700.045(5).

38. The Director re-inspected the home on January 16, 2008, and noted code violations and setup deficiencies.

39. After the January 16, 2008 re-inspection, the Director again ordered Brookside in writing to repair the home on February 4, 2008.

40. A final inspection on March 21, 2008, noted that all deficiencies were corrected.

41. Brookside failed and refused to arrange for proper initial setup of the East Carter school classroom.

42. Brookside failed and refused to correct code violations within ninety days of first being ordered by the Director to fix the home.

**RELIEF SOUGHT
NON-RENEWAL AND REVOCATION**

43. Petitioner hereby re-alleges and incorporates herein the allegations contained in paragraphs 1-42.

44. Non-renewal and revocation of Brookside's registration are appropriate because Brookside has a) failed to arrange for the proper initial setup of manufactured homes in violation of Section 700.100.3(6) and b) engaged in conduct in violation of Section 700.045(5) by failing to correct code violations in new manufactured homes within a reasonable period of time after being ordered to do so in writing by the Director, in violation of Section 700.100.3(9).

45. Pursuant to Section 700.115.2, each day's violation of Sections 700.100.3(6) and 700.100.3(9) is a separate offense and renders Brookside liable for a penalty of up to \$1,000 for each offense.

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 revoke Brookside's dealer registration, and authorize the General Counsel to seek penalties in Circuit Court.

Respectfully submitted,

/s/ Steven C. Reed

Steven C Reed

Missouri Bar No. 40616

Jennifer Heintz

Missouri Bar No. 57128

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Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

January 10, 2008

Brookside Homes
Steven Warren
2455 US Highway 67 South
Festus, MO 63028

Re: 2008 Missouri Dealer License Renewal

Dear Mr. Warren,

This letter is in response to the 2008 Missouri dealer license renewal application received by the Commission from your company on January 7, 2008.

Your renewal application cannot be processed or approved, at this time, until the requested repair documents or work orders have been received by the Commission for the homes/units listed below sold by Brookside.

Jeremy Dement's Home - Items #19 & 20 need to be corrected by the dealer as sent to you in previous correspondence.

East Carter County R-2 School District Modular Classroom - Item #14 was not on the work order you submitted. This is the dealer's responsibility to correct as submitted to you in previous correspondence.

Billy Cook's Home - In your recent correspondence, it states an FHA inspector said the site work was okay. This is not relevant to the current installation requirements for the home. This item is listed on the inspection report as an installer item and must be corrected.

This license denial is being sent to Brookside pursuant section 700.100; copy attached.

Additionally, the requested repair documents or work orders have not been submitted within the statutory time limits as required under section 700.045.(5), copy attached.

Exhibit A

Brookside Homes
Mr. Steven Warren
January 11, 2008
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Your immediate response is requested as your 2007 license expires January 15, 2008. Submit the requested information to the address listed above or you may fax the required documentation to 573-522-2509.

If you have any questions, please feel free to contact me at your convenience at 800-819-3180.

Sincerely,

A handwritten signature in cursive script that reads "Ron Pleus".

Ron Pleus – Program Manager
Manufactured Housing & Modular Units Program

Enclosure

c: David Freeman
General Counsel's Office

Missouri Revised Statutes

Chapter 700 **Manufactured Homes (Mobile Homes)** **Section 700.045**

August 28, 2005

Certain acts declared misdemeanors.

700.045. It shall be a misdemeanor:

- (1) For a manufacturer or dealer to manufacture, rent, lease, sell or offer to sell any manufactured home or modular unit after January 1, 1977, unless there is in effect a registration with the commission;
- (2) To rent, lease, sell or offer to sell any new manufactured home or new modular unit or used modular unit used for educational purposes manufactured after January 1, 1974, which does not bear a seal as required by sections 700.010 to 700.115;
- (3) To affix a seal or cause a seal to be affixed to any manufactured home or modular unit which does not comply with the code;
- (4) To alter a manufactured home or modular unit in a manner prohibited by the provisions of sections 700.010 to 700.115;
- (5) To fail to correct within a reasonable time not to exceed ninety days after being ordered to do so in writing by an authorized representative of the commission a code violation in a new manufactured home or new modular unit or used modular unit used for educational purposes owned, manufactured or sold if the same is manufactured after January 1, 1974; or
- (6) To interfere with, obstruct, or hinder any authorized representative of the commission in the performance of his or her duties.

(L. 1973 H.B. 98 § 9, A.L. 1976 H.B. 1393, A.L. 1978 S.B. 739, A.L. 1982 S.B. 648, A.L. 1994 S.B. 589, A.L. 1999 S.B. 19, A.L. 2001 S.B. 317)

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Missouri General Assembly

Missouri Revised Statutes

Chapter 700 **Manufactured Homes (Mobile Homes)** **Section 700.100**

August 28, 2005

Refusal to renew, grounds, notification to applicant, contents--complaints may be considered.

700.100. 1. The commission may refuse to register or refuse to renew the registration of any person who fails to comply with the provisions of section 700.090 or this section. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be delivered to the applicant within thirty days from date it is received by the commission. Notification of unfavorable action by the commission on any application for registration or renewal of registration must be accompanied by a notice informing the recipient that the decision of the commission may be appealed as provided in chapter 386, RSMo.

2. The commission may consider a complaint filed with it charging a registered manufacturer or dealer with a violation of the provisions of this section, which charges, if proven, shall constitute grounds for revocation or suspension of his registration, or the placing of the registered manufacturer or dealer on probation.

3. The following specifications shall constitute grounds for the suspension, revocation or placing on probation of a manufacturer's or dealer's registration:

- (1) If required, failure to comply with the provisions of section 301.280, RSMo;
- (2) Failing to be in compliance with the provisions of section 700.090;
- (3) If a corporation, failing to file all franchise or sales tax forms required by Missouri law;
- (4) Engaging in any conduct which constitutes a violation of the provisions of section 407.020, RSMo;
- (5) Failing to comply with the provisions of Sections 2301-2312 of Title 15 of the United States Code (Magnuson-Moss Warranty Act);
- (6) As a dealer, failing to arrange for the proper initial setup of any new manufactured home or modular unit sold from or in the state of Missouri, unless the dealer receives a written waiver of that service from the purchaser or his or her authorized agent;
- (7) Requiring any person to purchase any type of insurance from that manufacturer or dealer as a condition to his being sold any manufactured home or modular unit;
- (8) Requiring any person to arrange financing or utilize the services of any particular financing service

7004 1350 0003 1351 6902

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PS Form

BROOKSIDE HOMES
STEVEN WARREN
2455 US HWY 67 SOUTH
FESTUS, MO 63028

Reverse for Instructions

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

BROOKSIDE HOMES
STEVEN WARREN
2455 US HWY 67 SOUTH
FESTUS, MO 63028

2. Article Number

(Transfer from service label)

7004 1350 0003 1351 6902

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

[Signature]

☐ Agent

☐ Addressee

B. Received by (Printed Name)

William Connel

C. Date of Delivery

D. Is delivery address different from item 1?
If YES, enter delivery address below:

☐ Yes

☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☒ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes