

**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.,)

And)

Steven D. Warren, an individual.)

Case No. MC-2009-0020

Respondents.

AFFIDAVIT OF TIM HADEN

STATE OF MISSOURI)
) ss.
COUNTY OF COLE)

TIM HADEN, being first duly sworn, deposes and says:

1. I, TIM HADEN, am employed as an Inspector for the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission ("the Commission"). In the scope of my employment I serve as an authorized Inspector for the Director of the Manufactured Housing and Modular Units Program ("the Director"). All of the facts contained herein were attained in the scope of my employment, pursuant to the exercise of my official duties, and I have personal knowledge of those facts herein set forth.

Exhibit B

General Information

2. In the course of my employment as an Inspector I regularly conduct inspections of manufactured homes certified by the Federal Department of Housing and Urban Development (HUD) and modular units certified by International Residential Code. The purpose of my inspections is to ensure the safety and the proper construction and installation of these manufactured homes and/or modular units and to identify any defects, damages, or alterations.

In the course of my employment I regularly conduct site inspections prior to and following the installation of new manufactured homes. I regularly test soil density in order to ensure the home site is acceptable for home placement and I report any corresponding site deficiencies to the installer, dealer, and/or manufacturer of the manufactured home.

In addition to the duties listed above, I also regularly investigate consumer complaints regarding alleged violations of the building and/or safety codes applicable to manufactured housing units. I evaluate non-compliance issues and determine the severity of any violations.

Furthermore, I also regularly conduct inspections of Commission-registered manufactured home dealers in order to determine compliance with the HUD code and HUD regulations, and to ensure compliance with state licensing requirements, to verify the validity of operating certificates, and to review records of sales, inventory, performance logs, and ledgers.

Pursuant to all of the above-listed duties I prepare and submit inspection, investigation, and dealer lot reports. I also interview complainants, obtain written statements, and collect physical and documentary evidence to be used in legal actions.

Professional Experience

3. Since the year 1994 I have been employed as an Inspector for the Manufactured Housing and Modular Units Program of the Missouri Public Service Commission. In order to perform the duties that correspond to this position I have attended numerous training sessions including, but not limited to, those sponsored by the National Conference of States on Buildings Codes & Standards, the Missouri Association of Code Administrators, and the Missouri Save Coalition. I have received formal training in both current and out-dated versions of the International Residential Code (IRC), on manufactured home installation certification course, on manufactured housing footing and foundation requirements, on the installation of commercial modular units and site management, on engineering-special inspections, on residential building inspections, on electrical code inspections, on plumbing code inspections and on other various aspects of code compliance. I have been trained in the building standards required by the Department of Housing and Urban Development (HUD) and I am also certified by the International Code Council (ICC). I am familiar with the current requirements of "the code," as that term is applied to manufactured homes and to modular units.

General Inspection Process

4. When conducting an inspection of a manufactured home I generally follow the same or similar processes and procedures. To begin, when I am in the field (either at the site of the manufactured home or at the location of a Commission-registered

dealer), I make written notes of any set-up deficiencies, code deficiencies, or other items that do not conform to particular Commission rules or to statutory obligations.

After the initial inspection, I prepare a formal inspection report. In preparing a formal inspection report I review the codes and/or installation manuals applicable to the home that I inspected, in order to confirm violations consistent with my field inspection notes. Upon confirmation, I assign the particular violations to the Commission-registered dealer, the Commission-licensed installer, the manufacturer, or the owner of the home. It is the assignment of these violations to the particular party that creates the obligation to correct any deficiencies.

After I complete the initial formal inspection report, I send it to the dealer, installer, manufacturer, and/or homeowner, along with a letter informing the party of the inspection, the violation, and duty to correct the deficiencies assigned to that party. The party is generally given twenty (20) days in which to correct the deficiency.

After I send the letter and inspection report, I regularly conduct a re-inspection of the home. Although any re-inspection is done at my discretion, before deciding whether to re-inspect a home, I consider the desires of the homeowner, the amount of work-orders and documentation received after sending the letter and inspection report, and the prior history of the parties with whom I am dealing. The re-inspection of the home generally occurs beyond the twenty (20) day period in which the parties were instructed to correct their respective deficiencies.

After the re-inspection, I prepare another formal re-inspection report. This report documents original deficiencies, both corrected and uncorrected. Occasionally, a re-

inspection report will document a violation or deficiency that I did not observe at the time of the original inspection.

After the re-inspection I again send out a letter to the party with a remaining violation or deficiency. I attach the formal re-inspection report to my letter. In my letter I instruct the party to correct any outstanding violations or deficiencies with ten (10) days.

At my discretion, I may make subsequent re-inspections. If I do another re-inspection, I follow the same re-inspection report protocol and deficiency letter process as described above.

The Schmidt Home— Facts Corresponding to the Director’s Count IX

5. On December 4, 2007, I inspected a new manufactured home owned by Steve Schmidt (“the Schmidt Home”).

6. The Schmidt Home was manufactured by Champion Homes.

7. The Schmidt Home was sold by Brookside Homes, Inc. (Brookside), a Commission-registered dealer.

8. The use of a licensed installer is not required for the delivery of a manufactured home from a dealer’s sales lot to the customer site.

9. The Schmidt Home was delivered to the site by Lou Theiss.

10. At the time of the delivery of the Home, Lou Theiss was not licensed by the Commission as an installer.

11. Lou Theiss installed the Schmidt Home.

12. At the time of my December 4, 2007 inspection an installer decal was not displayed on the Schmidt Home.

13. Brookside did not initially arrange for a Commission-licensed installer to install the Schmidt Home.

14. The December 4, 2007 inspection revealed several code violations and setup deficiencies, the responsibility for which I assigned to the Commission-registered dealer (Brookside). A true and accurate copy of my inspection report is attached hereto as Attachment B-1.

15. On December 12, 2007, I mailed Brookside a letter in which I instructed Brookside to repair the Schmidt Home pursuant to Section 700.045(5) RSMo. A true and accurate copy of the letter is attached hereto as Attachment B-2.

16. On March 7, 2008, I mailed Brookside another letter in which I again instructed the Company to repair the Schmidt Home. A true and accurate copy of the letter is attached hereto as Attachment B-3.

17. On March 11, 2008 I re-inspected the Schmidt Home and noted code several violations and setup deficiencies which remained from my December 4, 2007 inspection, as well as several additional code violations and/or setup deficiencies which were not revealed in my December 4, 2007 inspection. A true and accurate copy of my re-inspection report is attached hereto as Attachment B-4.

18. On March 18, 2008, I mailed Brookside another letter in which I again instructed Brookside in writing to repair the Schmidt Home. A true and accurate copy of the letter is attached hereto as Attachment B-5.

19. As of March 11, 2008, the date of my re-inspection, Brookside had failed to repair the following code violations and/or setup deficiencies that were originally assigned by myself to Brookside as a Commission-registered dealer:

- A. The installation work performed to install the home on the foundation was performed by an unlicensed installer. This deficiency is in violation of Sections 700.650 through 700.692, RSMo. This deficiency was noted as dealer item Number 1 in my March 11, 2008 re-inspection report;
- B. The basement foundation installed by Brookside Homes, Inc. is not in compliance with Champion Homes approved design. This deficiency is in violation of page 14 of the manufacturer's installation instructions and Commission Rules 4 CSR 240-120.065(1) 4 CSR 240-120.065(2). This deficiency was noted as dealer item Number 2 in my March 11, 2008 re-inspection report;
- C. During the installation of this home on the basement foundation there were three of the frame cross members and one outrigger cut and removed to allow placement of the home on the foundation. A dealer must apply for an application to alter and submit all necessary documents for the removal and or repair method, which Brookside did not do. This deficiency is in violation of Section 700.025 RSMo. This deficiency was noted as dealer item Number 3 in my March 11, 2008 re-inspection report;
- D. Brookside violated its responsibility to provide a fire separation between the garage and the home and the electrical outlets and lighting required for the garage according to the local codes. This deficiency is in violation of Section 3280.303(A) of the

Manufactured Home Construction and Safety Standards. This deficiency was noted as dealer item Number 4 in my March 11, 2008 re-inspection report;

E. The vent pipe and flashing for the master bath exhaust fan is pulled loose from the roof. This appears to be due to transit damage. This deficiency is in violation of Section 3280.307(b) of the Manufactured Home Construction and Safety Standards. This deficiency was noted as dealer item Number 5 in my March 11, 2008 re-inspection report;

F. The OSB underlayment on the ends of the home is exposed and there appears to be water damage to the underlayment. This deficiency is in violation of Section 3280.307(a) of the Manufactured Home Construction and Safety Standards. This deficiency was noted as dealer item Number 6 in my March 11, 2008 re-inspection report; and

G. The exterior vinyl siding on the front and back sides of the home is loose or has been removed in several areas. This deficiency is in violation of Section 3280.307(a) of the Manufactured Home Construction and Safety Standards. This deficiency was noted as dealer item Number 7 in my March 11, 2008 re-inspection report.

20. More than ninety (90) days have elapsed since Brookside was first instructed to make the repairs to the Schmidt Home.

Exhibit B (cont.)

The Facts set forth herein are based on my personal knowledge and are true to the best of my information, knowledge and belief.


FURTHER AFFIANT SAYETH NOT.



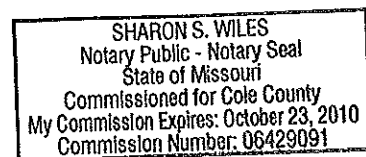
Tim Haden

Inspector – Manufactured Housing
and Modular Units Program
Missouri Public Service Commission

Subscribed to and sworn to before me this 26th day of August, 2009.



Notary Public





Site Inspection Report

Send Work Order To:
Manufactured Housing & Modular Units Program
PO Box 360 Jefferson City, MO 65102
Phone 1-800-819-3180 or Fax to 573-522-2509

CONSUMER INFORMATION

Name: Steve Schmidt
Address: 3101 Willow Lane
City/State/Zip: High Point, MO 63049
Phone: 636-677-1335

HOME INFORMATION

Date of Manufacture: 3/3/06
Model: AR819
HUD Labels: TEN669150/51
Serial Number: 021013288AB
Size: 28 x 60

DEALER

Name: Brookside Homes, Inc.
Address: 2455 US Highway 67 South
City/State/Zip: Festus, MO 63028
Phone: 636-931-2850

INSPECTION INFORMATION

Date of Inspection: 12/4/07
Inspector: Tim Haden & Gene Winn

MANUFACTURER

Name: Champion Homes of Tennessee
Address: PO Box 100
City/State/Zip: Henry, TN 38231
Phone: 731-243-2041

Installer

Name: Brookside Homes / Steve Warren
Address: 2455 US Highway 67 South
City/State/Zip: Festus, MO 63028
Phone: 636-931-2850

RESPONSIBILITIES

Manufacturer to conduct a Subpart I on items: N/A
Dealer to correct items: 1, 2, 3 & 4

Manufacturer has 20 days to conduct a Subpart I per the Manufactured Home Procedural and Enforcement Regulations 3282.401. References to Part 3280 refer to the Manufactured Home Construction and Safety Standards.

SUMMARY OF PROBLEMS

Dealer to correct the following set up deficiencies within 20 days: Items 1 thru 4 refer to the manufacturer's installation set up manual. References to Part 3280 refer to the Manufactured Home Construction and Safety Standards.

SUMMARY OF PROBLEMS

- 1) The installation work performed to install the home on the foundation was performed by an unlicensed installer. Licensed installers are required to be used to install manufactured homes. Chapter 700, section 700.650 thru 700.692 and regulations 4 CSR 240-125.020(1), 4CSR 240-125.070(B). This information had previously been sent to the dealer, Brookside Homes.
- 2) The basement foundation installed by Brookside Homes, Inc. is not in compliance with Champion Homes approved design. Champion Homes approved installation manual provides one method of installation. When the approved design is not followed, Champion Homes requires that a registered professional engineer design and approve the foundation to meet the code requirements. Brookside Homes, Inc. is required to have a registered professional engineer to design and approve the existing basement foundation and any additions or modification to the basement foundation to ensure that this foundation meets Champion Homes requirements to properly support the home as well as securing the home to the foundation to resist uplift and lateral movement. The design must also include proper site and foundation drainage to meet all code requirements. At this time the drain tile installed is incorrect. No other Installation work can be performed on this home until approved engineered plans are prepared by a registered professional engineer. This plan must be submitted to the PSC and to Champion Homes for review and approval before any additional installation work can be initiated. Additionally no other installation work can be performed on this home unless it is performed by a licensed installer pursuant to Chapter 700. Also, see attached copy of 700.671.
- 3) During the installation of this home on the basement foundation there were three of the frame crossmembers and one outrigger cut and removed to allow placement of the home on the foundation. Dealer must apply for and application to alter and submit all necessary documents for the removal and or repair method. According to 3282.254 a distributor or dealer can not sell a manufactured home that has been altered. Further according to Chapter 700.025 no dealer or manufacturer can alter a manufactured home if it takes it out of compliance to the code. In addition to the above alteration the spring hangers brackets were removed from this home and will need to be replaced according to the DAPIA design.
- 4) The dealer is responsible to provide a fire separation between the garage and the home and the electrical outlets and lighting required for the garage according to the local codes.



Commissioners

JEFF DAVIS
Chairman

CONNIE MURRAY

ROBERT M. CLAYTON III

LINWARD "LIN" APPLING

TERRY JARRETT

Missouri Public Service Commission

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

WESS A. HENDERSON
Executive Director

DANA K. JOYCE
Director, Administration and
Regulatory Policy

ROBERT SCHALLENBERG
Director, Utility Services

NATELE DIETRICH
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

December 12, 2007

Steve Warren
Brookside Homes
2455 Us Hwy 67 South
Festus, MO 63028

RE: Steve Schmidt

Dear Mr. Warren:

As authorized inspectors for the Manufactured Housing and Modular Units Program, Tim Haden & Gene Winn inspected a Champion Homes manufactured home (serial number 021013288AB) owned by Steve Schmidt, on December 4, 2007. A copy of the inspection report is enclosed.

Pursuant to Section 700.100.3(6) RSMo, 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.

The inspection conducted by this Department indicated that the referenced manufactured home is not properly set on the foundation. Please refer to those items of the inspection report for specific details. All documents in the enclosed inspection report must be submitted to this department before any work can be performed on this home. According to Section 700.045(5) RSMo, you are required to correct the noted setup deficiencies within 20 days from receipt of this notification. In addition, please submit a work order signed by the homeowner indicating that the setup deficiencies have been corrected. Additionally an unlicensed installer was used to set the home on the foundation. See section 700.650 thru 700.692, specifically 700.671.

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

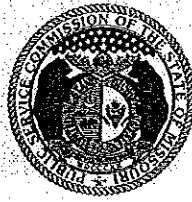
Thank you for your prompt attention to this matter. Should you have any questions, please feel free to contact me at 1-800-819-3180.

Respectfully,

Ron Pleus
Manager
Manufactured Housing
and Modular Units Program

c: FILE

NOTICE: Effective January 31, 2005 a \$200 re-inspection fee will be charged to each dealer, manufacturer or both for re-inspections, if corrections have not been completed by the dealer or manufacturer within 60 days of receipt of the original written complaint from the consumer as filed with the Missouri Public Service Commission. Fee applies to manufactured (HUD) homes and modular units.



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Director, Utility Services

NATELLE DIETRICH
Director, Utility Operations

COLLEEN M. DALE
Secretary/Chief Regulatory Law Judge

KEVIN A. THOMPSON
General Counsel

March 7, 2008

Brookside Homes
2455 US Highway 67 South
Festus, MO 63028

COPY

Re: Steve & Heather Schmidt

Attention: Dealership Owner

Dear Sir or Madam:

This is to inform you that the Department of Manufactured Housing and Modular Units has received a consumer complaint involving a manufactured home purchased from your dealership. The consumer's complaint form 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.

Please investigate this complaint and refer to any items on the complaint form that may indicate setup problems. You are required to correct any noted setup deficiencies you are responsible for and mail or fax a work order to this office within 20 days from receipt of this notification. The work order must be signed by the homeowner, and must list any setup deficiencies that have been corrected.

A Manufactured Housing Inspector will contact this homeowner after 20 days to see if their complaint has been resolved. If necessary, the Inspector will schedule a complete inspection of the home, including setup.

Please note that failure to correct setup deficiencies 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, do not hesitate to contact the Manufactured Housing & Modular Unit Program at 800-819-3180.

Sincerely,

Ron Pleus
Manager
Manufactured Housing and Modular Unit Program

Enclosure



Site Inspection Report

Send Work Order To:
Manufactured Housing & Modular Units Program
PO Box 360 Jefferson City, MO 65102
Phone 1-800-819-3180 or Fax to 573-522-2509

CONSUMER INFORMATION

Name: Steve Schmidt
Address: 3101 Willow Lane
City/State/Zip: High Ridge, MO 63049
Phone: 636-677-1335

HOME INFORMATION

Date of Manufacture: 3/3/06
Model: AR819
HUD Labels: TEN669150/51
Serial Number: 021013288AB
Size: 28 x 60

DEALER

Name: Brookside Homes, Inc.
Address: 2455 US Highway 67 South
City/State/Zip: Festus, MO 63028
Phone: 636-931-2850

INSPECTION INFORMATION

Date of Inspection: 12/4/07, 3/11/08
Inspector: Tim Haden & Gene Winn

MANUFACTURER

Name: Champion Homes of Tennessee
Address: PO Box 100
City/State/Zip: Henry, TN 38231
Phone: 731-243-2041

Installer

Name: Brookside Homes / Steve Warren
Address: 2455 US Highway 67 South
City/State/Zip: Festus, MO 63028
Phone: 636-931-2850

RESPONSIBILITIES

Manufacturer to conduct a Subpart I on items: N/A
Dealer to correct items: 1, 2, 3, 4, 5, 6, 7

Manufacturer has 20 days to conduct a Subpart I per the Manufactured Home Procedural and Enforcement Regulations 3282.401. References to Part 3280 refer to the Manufactured Home Construction and Safety Standards.

SUMMARY OF PROBLEMS

Dealer to correct the following set up deficiencies within 20 days: Items 1 thru 7 refer to the manufacturer's installation set up manual. References to Part 3280 refer to the Manufactured Home Construction and Safety Standards.

SUMMARY OF PROBLEMS

- 1) The installation work performed to install the home on the foundation was performed by an unlicensed installer. Licensed installers are required to be used to install manufactured homes. Chapter 700, section 700.650 thru 700.692 and regulations 4 CSR 240-125.020(1), 4CSR 240-125.070(B). This information had previously been sent to the dealer, Brookside Homes. Re-inspected 3/11/08, Home installation is incomplete. There is no licensed installer decal placed on the home. 700.100(6), 700.656.1
 - 2) The basement foundation installed by Brookside Homes, Inc. is not in compliance with Champion Homes approved design. Champion Homes approved installation manual provides one method of installation. When the approved design is not followed, Champion Homes requires that a registered professional engineer design and approve the foundation to meet the code requirements. Brookside Homes, Inc. is required to have a registered professional engineer to design and approve the existing basement foundation and any additions or modification to the basement foundation to ensure that this foundation meets Champion Homes requirements to properly support the home as well as securing the home to the foundation to resist uplift and lateral movement. The design must also include proper site and foundation drainage to meet all code requirements. At this time the drain tile installed is incorrect. No other Installation work can be performed on this home until approved engineered plans are prepared by a registered professional engineer. This plan must be submitted to the PSC and to Champion Homes for review and approval before any additional installation work can be initiated. Additionally no other installation work can be performed on this home unless it is performed by a licensed installer pursuant to Chapter 700. Also, see attached copy of 700.671. Re-inspected 3/11/08, Approved engineered designs have been received but the corrections to the foundation are incomplete.
 - 3) During the installation of this home on the basement foundation there were three of the frame crossmembers and one outrigger cut and removed to allow placement of the home on the foundation. Dealer must apply for and application to alter and submit all necessary documents for the removal and or repair method. According to 3282.254 a distributor or dealer can not sell a manufactured home that has been altered. Further according to Chapter 700.025 no dealer or manufacturer can alter a manufactured home if it takes it out of compliance to the code. In addition to the above alteration the spring hangers brackets were removed from this home and will need to be replaced according to the DAPIA design. Re-inspected 3/11/08, no corrections have been completed.
 - 4) The dealer is responsible to provide a fire separation between the garage and the home and the electrical outlets and lighting required for the garage according to the local codes. Re-inspected 3/11/08, incomplete. R309.2 IRC
- Re-Inspected 3/11/08, additional items found.
- 5) The vent pipe and flashing for the master bath exhaust fan is pulled loose from the roof. This appears to be due to transit damage.
 - 6) The OSB underlayment on the ends of the home is exposed and there appears to be water damage to the underlayment.
 - 7) The exterior vinyl siding on the front and back sides of the home is loose or has been removed in several areas.

COPY



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Secretary/Chief Regulatory Law Judge
KEVIN A. THOMPSON
General Counsel

March 18, 2008

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

Certified Mail #7004-1350-0003-1351-7145

COPY

Re: Demand Letter and Inspection Report

Attached to this letter is an inspection report of Steve & Heather Schmidt's home sold by your dealership Brookside Homes, Inc., license number 1004701, located in High Ridge, Missouri.

Manufactured HUD code built homes are required to be installed by a licensed installer pursuant to sections 700.650 to 700.692. Additionally, dealers are required to arrange for the proper and initial set-up of manufactured homes pursuant to 700.100.3(6).

Brookside, as the dealer, was required to ensure the proper installation of this home; however, Brookside failed to arrange the proper and initial set up and installation of the home by failing to hire a licensed installer to set up the home.

Therefore, this letter is notification that Brookside Homes, Inc., has twenty (20) days from the date of this letter, or no later than April 7, 2008, to finish the installation of the home and make any required repairs. Signed work orders must be mailed or faxed (573-522-2509) to our office as proof the required installation and repairs have been completed or a formal legal complaint will be filed against your company.

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

c: Tim Haden
General Counsel Office

Enclosure