



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
on November 16, 2004

Cary Yates, Chair

Michael H. Bray, Member

Valeri Stiers Malone, Member

Clement "Pete" Moreno, Member

Frances Shannon, Member

Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
November 16, 2004

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Cary Yates, Chair	_____	_____
Michael H. Bray, Member	_____	_____
Valeri Stiers Malone, Member	_____	_____
Clement "Pete" Moreno, Member	_____	_____
Frances Shannon, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

MANUFACTURED HOUSING BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
507 Sabine, 4th Floor Boardroom, Austin, Texas 78701
November 16, 2004 9:00 a.m.

AGENDA

CALL TO ORDER, ROLL CALL
CERTIFICATION OF QUORUM

Chair
Chair

The Board of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (TDHCA) will meet to consider and possibly act upon:

ACTION ITEMS

- | | | |
|---------|--|-----------------|
| Item 1. | Presentation, discussion and consideration to approve minutes of board meeting of August 10, 2004. | Chair |
| Item 2. | Presentation, discussion and consideration of possible approval of the State Office of Administrative Hearings (SOAH) Proposal for Decision:
Approval of Manufactured Housing Case:
In the Matter of the Complaint of TDHCA vs Honey Homes of Texas, Inc., Docket Number: 332-04-2717. | Jim Hicks |
| Item 3. | Presentation, discussion and possible approval of the All Star Professional Training, Inc. request for approval as a Continuing Education Provider. | Heidi Maldonado |
| Item 4. | Presentation, discussion and possible approval to propose review of existing rules for public comment. | Tim Irvine |
| Item 5. | Presentation, discussion and possible approval to propose and publish for comment new and amended rules to 10 TAC, Chapter 80. | Tim Irvine |

REPORT ITEMS

- | | | |
|---------|-----------------------------|------------|
| Item 1. | Executive Director's Report | Tim Irvine |
|---------|-----------------------------|------------|

PUBLIC COMMENT

Chair

ADJOURN

Chair

To access this agenda or request information, please visit our website at www.tdhca.state.tx.us or contact Sharon Choate, TDHCA, 507 Sabine, Austin, Texas 78701, 512-475-2206, sharon.choate@tdhca.state.tx.us.

Individuals who require auxiliary aids, services or translators for this meeting should contact Gina Esteves, ADA Responsible Employee, at 512-475-3943 or Relay Texas at 1-800-735-2989 at least two days before the meeting so that appropriate arrangements can be made.

Agenda Action Item No. 1

MINUTES OF THE BOARD OF DIRECTORS

MANUFACTURED HOUSING DIVISION

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

On Tuesday, August 10, 2004, at 9:00 a.m. the Department held the regular meeting of the Board of Directors (the “Board”) of the Manufactured Housing Division (“MHD”) of the Texas Department of Housing and Community Affairs (“TDHCA”) in the TDHCA board room on the 4th floor at 507 Sabine, Austin, Texas. Cary Yates presided. The following members, constituting a quorum, were present: Cary Yates, Presiding Officer, Valeri Malone and Pete Moreno. The following members of MHD staff were present: Tim Irvine, Cindy Bocz, Joe Garcia, Kassu Asfaw, Heidi Maldonado, John Gonzales, Piper Smith, and Sharon Choate.

The chairman called roll and declared the presence of a quorum. The minutes of the previous meeting were approved unanimously upon motion by Valeri Malone and second by Pete Moreno.

Tim Irvine presented to the Board, for discussion and consideration to approve a memorial resolution regarding Mr. Davis. This was unanimously approved upon motion by Valeri Malone and second by Pete Moreno.

Kassu Asfaw presented to the Board, for discussion and consideration to approve revisions to the Operating Budget for FY 2005. This was unanimously approved upon motion by Valeri Malone and second by Pete Moreno.

Kassu Asfaw presented to the Board, for discussion and consideration to approve the FY 2006 – 2007 Legislative Appropriations Request. This was unanimously approved upon motion by Valeri Malone and second by Pete Moreno.

Tim Irvine presented to the Board, for discussion consideration to approve the FY 2005 administrative agreement between the Manufactured Housing Division and TDHCA. This was unanimously approved upon motion by Valeri Malone and second by Pete Moreno.

Tim Irvine presented to the Board, for discussion consideration to approve Bobbie Hill as an instructor for continuing education provided by Living Singles Ministries. This was unanimously approved upon motion by Valeri Malone and second by Pete Moreno.

Tim Irvine presented to the Board, for discussion and consideration to approve PSIA’s online continuing education course, which is in addition to their previously approved classroom course. This was unanimously approved upon motion by Pete Moreno and second by Valeri Malone.

Tim Irvine presented to the Board, for discussion and consideration to approve adoption of amendments to §§80.201 and 80.209. This was unanimously approved upon motion by Pete Moreno and second by Valeri Malone.

Tim Irvine presented to the Board, for discussion and consideration to approve publication of a proposed rule for public comment to address the handling of Statements of Ownership and Location (SOL) on homes that are real property and are conveyed as real property. This was unanimously approved upon motion by Valeri Malone and second by Pete Moreno.

Tim Irvine presented the Executive Director's report and discussed the following accomplishments and challenges during the past fiscal year:

- Major budgetary cutbacks resulted in many staffing adjustments.
- The division implemented a major piece of legislation (SB 521) during the last year.
- There is a seven-day processing time for SOLs, which is within the statutory time of ten-days.
- The division is revising its Standard Operating Procedures and restructuring its operations to streamline the organization.
- The Consumer Protection section is reducing the amount of time to resolve complaints and reducing the number of administrative actions and assessment of penalties by working with the industry to improve voluntary compliance.
- We have created a State Administrative Agency (SAA) team to provide training to newer inspectors so that there will be no delay in providing SAA functions when the long-standing inspectors retire.
- A couple of manufacturers have expressed interest in possibly utilizing the division as their In-Plant Primary Inspection Agency (IPIA). We are issuing a Request for Proposal for contract for engineering services, since engineering services are required to be an IPIA.
- We are looking at providing more information through digital and automated technology to reduce paper usage and costs.
- The division and working group are continuing to work on revising the Manufactured Housing rules.

Cindy Bocz, Federal Standards Administrator, presented an update of the SAA program, which is a cooperative agreement with the United States Department of Housing and Urban Development (HUD). She informed the Board that HUD conducted an audit in March 2004 (HUD conducts audits every two years) and a member from HUD and a member from the Institute for Building Technology and Safety (IBTS) audited our program to review our inspectors, and to verify our program was effective according to our state plan and our cooperative agreement. HUD rated the program as effective, which means we passed. HUD's grading scale is either pass (effective) or fail (non-effective).

At 9:56 a.m., the meeting was adjourned to executive session and reconvened at 10:25 a.m.

Items discussed in executive session:

- To give a one-time merit increase to all members and staff or an increase in salary.
- Human Resources will post two operational supervisory positions and one administrative supervisory position immediately.

- To increase the executive director's salary by a one-time merit increase, based upon an immediate performance appraisal.

The items discussed in executive session were unanimously approved upon motion by Pete Moreno and second by Valeri Malone.

There being no further business to come before the Board, the meeting was adjourned at 10:40 a.m.

Sharon Choate
Secretary

Approved:

Cary Yates, Presiding Officer

Agenda Action Item No. 2



MANUFACTURED HOUSING DIVISION

Rick Perry
GOVERNOR

Timothy K. Irvine
EXECUTIVE DIRECTOR

TO: Governing Board of the Manufactured Housing
Division of the Texas Department of Housing and Community Affairs

FROM: Jim R. Hicks, Consumer Protection Supervisor

THROUGH: Timothy K. Irvine, Executive Director

SUBJECT: Summary of Proposal for Decision

Honey Homes of Texas, Inc. ("Respondent")

Docket Number: 332-04-2717

Complaint Numbers: MHD2004000178-T, MHD2004000358-DT, MHD2004000638-T,
MHD2004000916-IV

Background

It was found and determined by the staff of the Manufactured Housing Division that:

1. MHD2004000178-T
On or about October 2, 2002, Respondent sold a new manufactured home to Jesus Castillo without surrendering the original Manufacturer's Certificate of Origin as a part of the title application, on Serial Number TC02TX0303045/A, HUD Label Number NTA1178322, as required by Sections 7(j)(3) (requirement to deliver title to consumer)(currently found at Section 1201.551(a)(3) of the Occupations Code) and 19(c) (requires retailer to surrender original Manufacturer's Certificate of Origin)(currently found at 1201.206(a) of the Occupations Code) of the Act, and Section 80.204(b)(3) of the Rules (requires original Manufacturer's Certificate of Origin).

TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS

P. O. Box 12489 ♦ Austin, Texas 78711-2489

512-475-2200 800-500-7074

www.tdhca.state.tx.us/mh.htm

2. MHD2004000358-DT

On or about April 17, 2003, Respondent sold a used manufactured home without the appropriate, timely transfer of a good and marketable title to Bonnie Kathryn Spaulding for HUD Label Number PFS0499807/08, as required by Sections 7(j)(3) (currently found at Section 1201.551 (a)(3) of the Occupations Code) and 8(d) (currently found at Section 1201.451 of the Occupations Code) of the Act. Specifically, Respondent offered to sell Bonnie Kathryn Spaulding the home for the cash price of \$30,189.00 as evidenced by a purchase agreement provided by Respondent to Ms. Spaulding. Ms. Spaulding submitted documentation in her complaint that she was required to pay a portion of the delinquent taxes owed (\$3,832.00 of \$7,356.67) to Respondent in addition to the cash price of \$30,189.00. Additionally, Respondent never used the \$3,832.00 paid by Ms. Spaulding to pay off the delinquent taxes nor did the Respondent pay any of the \$7,356.67 in delinquent taxes.

3. MHD2004000638-T

Respondent also violated Sections 7(j)(3) (currently found at Section 1201.551(3) of the Occupations Code) and 8(d) (currently found at section 1201.451(a) of the Occupations Code) of the Act by selling a used manufactured home on or about December 31, 2002, without the appropriate, timely transfer of a good and marketable title to Robert Stout for the used manufactured home identified by HUD Label Number NTA-1053595/596. Specifically, Respondent sold the home to Robert Stout for a total cash price of \$29,500.00 and failed to disclose to Mr. Stout the home had delinquent property taxes owing to Bexar County, (totaling \$1,809.74 as of February 9, 2004). Although Mr. Stout was able to obtain an original title from The Texas Department of Housing & Communtiy Affairs, Manufactured Housing Division in 2003, he later received official notice from Bexar County that the home has outstanding tax delinquencies due for the year(s) prior to the home being owned by Mr. Stout.

4. MHD2004000916-IV

Honey Homes Of Texas, Inc. also violated Sections 1201.255, 1201.303(b), 1201.357(a), 1201.358, 1201.354, and 1201.356 of the Occupations Code and Sections 80.54(a) 80.131(b) and 80.132(3) of the Administrative Rules by not properly installing the home, by not complying with the initial report and warranty orders of the Director and by not providing this Department with copies of completed work orders, in a timely manner, on the home owned by William and Karen Howard, HUD Label NTA1225050/51, as required by Sections 1201.255, 1201.303(b), 1201.357(a), 1201.358, 1201.354, and 1201.356 of the Occupations Code and Sections 80.54(a) (Compliance Standards) 80.131(b) (40-day allowance for warranty service) and 80.132(3) (requirement for completed warranty service orders) of the Administrative Rules. The chronology of events involving this case is as follows:

A. The home owned by William and Karen Howard, HUD Label NTA1225050/51, was inspected by the Department on October 9, 2003, and a Warranty Order was issued outlining corrective action required.

Summary of Proposal for Decision

Honey Homes of Texas, Inc.

Page 3 of 3

- B. Honey Homes Of Texas, Inc. received the Warranty Order on October 25, 2003. The deadline for warranty service work to be performed was December 4, 2003. The deadline for submitting warranty service orders to the Department was December 14, 2003.
- C. Honey Homes Of Texas, Inc. did not fully comply with the Warranty Order by December 4, 2003. Additionally, Honey Homes Of Texas, Inc. did not submit warranty service orders by December 14, 2003.
- D. The Department has not received warranty service orders from Honey Homes Of Texas, Inc., as of today's date.

After proper notice, an administrative hearing was held on September 14, 2004. An Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) issued the attached Proposal for Decision (PFD) as a result of that meeting.

Proposal for Decision

The Proposal for Decision dated September 23, 2004, recommends that the Respondent be assessed an administrative penalty of Two Thousand Five Hundred Dollars (\$2,500.00). The Proposal for Decision also recommends that the Respondent's license number RBI-33542 be revoked.

Recommendation

It is recommended that the Board approve the following administrative action with respect to the Respondent, as supported by the record and the PFD.

Respondent be assessed an administrative penalty of Two Thousand Five Hundred Dollars (\$2,500.00).

Additionally, please note that the attached Final Order is in two parts and contains two separate orders. The first part is the order revoking Retailer/Broker/Installer License (RBI-33542) signed by the Executive Director. The Executive Director is authorized to revoke a license pursuant to Section 1201.551 of the Act. The second part of the attached order is the Board's order to pay an administrative penalty, which is authorized by TEX. GOV'T CODE ANN. § 2306.604(b).

DOCKET NO. 332-04-2717
COMPLAINT NO. MHD2004000358-DT, MHD2004000638-T, MHD2004000178-T,
MHD2004000916-IV

THE MANUFACTURED HOUSING	§	BEFORE THE
	§	
DIVISION OF THE TEXAS	§	GOVERNING BOARD OF THE
	§	
DEPARTMENT OF HOUSING AND	§	MANUFACTURED HOUSING DIVISION
	§	
COMMUNITY AFFAIRS	§	OF THE TEXAS DEPARTMENT OF
	§	
vs. HONEY HOMES OF TEXAS, INC.	§	HOUSING AND COMMUNITY AFFAIRS

FINAL ORDER

I. PREAMBLE

CAME ON TO BE CONSIDERED, the matter of the enforcement action identified as MHD2004000358-DT, MHD2004000638-T, MHD2004000178-T, MHD2004000916-IV, *In the Matter of the Complaint of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs vs. Honey Homes of Texas, Inc.*, pursuant to the Texas Manufactured Housing Standards ACT, previously TEX. REV. CIV. STAT. ANN. art. 5221f (“Act”) re-codified effective June 1, 2003, as under the Occupations Code, Section 1201; Chapter 2306 of the TEX. GOVT. CODE ANN. ch. 2306 (“Ch. 2306”); and the Administrative Procedures Act, TEX. GOVT. CODE ANN. ch. 2001 (“ch. 2001”). The Governing Board issues this Final Order based on the Findings of Fact and Conclusions of Law set forth in the Proposal for Decision of the Administrative Law Judge in this case which is hereby adopted in its entirety (a copy of which is attached). The Board’s vote in this case(s) was _____ for _____ against, and _____ abstention(s).

II. ORDER

NOW, THEREFORE, IT IS ORDERED BY THE GOVERNING BOARD OF THE MANUFACTURED HOUSING DIVISION OF THE TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS THAT:

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Final Order

In the Matter of Honey Homes of Texas

Docket No. 332-04-2717

Complaint No. MHD2004000358-DT, MHD2004000638-T
MHD2004000178-T, MHD2004000916-IV

1. Respondent be assessed an administrative penalty of two thousand five-hundred dollars (\$2,500.00) for violations of the Act and Rules as detailed in the Proposal for Decision;
2. Respondent shall pay the penalty to the Texas Department of Housing and Community Affairs within thirty (30) days of the date of this FINAL ORDER. The penalty payment shall be mailed to Texas Department of Housing and Community Affairs, PO Box 12489, Austin, TX 78711-2489;
3. **In the event the final decision is appealed by the Respondent, the full cost of the preparation of the transcript and all administrative costs authorized by Ch. 2001, are hereby assessed against the Respondent; and**
4. The determination of the Texas Department of Housing and Community Affairs in the above-captioned matter is approved. The Respondent **SHALL CEASE AND DESIST** from violating the Act and Rules of the Texas Department of Housing and Community Affairs.

SIGNED AND ENTERED this _____ day of _____, 2004.

Cary P. Yates, Presiding Officer
Governing Board of the Manufactured Housing Division
Texas Department of Housing and Community Affairs

CERTIFICATION

I certify that a true and correct copy of the forgoing has been sent by U.S. certified mail (Number 7003 2260 0003 2769 4005), return receipt requested, to Honey Homes of Texas, Inc., 1620 SE Loop 410, San Antonio, Texas 78220 on this the _____ day of _____, 2004.

Jim R. Hicks, Consumer Protection Supervisor

State Office of Administrative Hearings



Shelia Bailey Taylor
Chief Administrative Law Judge

September 23, 2004

Edwina P. Carrington
Executive Director
Texas Department of Housing and Community Affairs
507 Sabine, Ste. 400
Austin, Texas 78711-3941

VIA HAND DELIVERY

**RE: Docket No. 332-04-2717; Texas Department of Housing and Community Affairs
Manufactured Housing Division v. Honey Homes Of Texas, Inc.**

Dear Ms. Carrington:

Please find enclosed a Proposal for Decision in this case. It contains my recommendation and underlying rationale.

Exceptions and replies may be filed by any party in accordance with 1 TEX. ADMIN. CODE § 155.59 (c), a SOAH rule which may be found at www.soah.state.tx.us.

Sincerely,

/s/

Suzanne Formby Marshall
Administrative Law Judge

SFM/laa
Enclosure

xc: Docket Clerk, State Office of Administrative Hearings - **VIA HAND DELIVERY**
Jim R. Hicks, TDHCA, P.O. Box 12489, Austin, TX 78711-2489 - **VIA HAND DELIVERY**
Honey Homes of Texas, Inc., 1620 SE Loop 410, San Antonio, TX 78220 - **VIA REGULAR MAIL**

William P. Clements Building

Post Office Box 13025 ♦ 300 West 15th Street, Suite 502 ♦ Austin, Texas 78711-3025
(512) 475-4993 Docket (512) 475-3445 Fax (512) 475-4994

DOCKET NO. 332-04-2717

TEXAS DEPARTMENT OF HOUSING	§	BEFORE THE STATE OFFICE
AND COMMUNITY AFFAIRS	§	
MANUFACTURED HOUSING	§	
DIVISION,	§	
Petitioner	§	OF
	§	
V.	§	
	§	
HONEY HOMES OF TEXAS, INC.	§	
Respondent	§	ADMINISTRATIVE HEARINGS

PROPOSAL FOR DECISION

I. INTRODUCTION

The Staff of the Texas Department of Housing and Community Affairs Manufactured Housing Division (TDHCA) brought this action against Honey Homes of Texas, Inc. (Respondent), for alleged violations of the Texas Manufactured Housing Standards Act (the Act), TEX.OCC.CODE ANN. ch.1201. Despite proper notice, Respondent did not appear at the hearing to contest the allegations. The Administrative Law Judge (ALJ) granted Staff's motion for default pursuant to 1 TEX. ADMIN. CODE (TAC) § 155.55 and recommends that TDHCA revoke Respondent's license¹ and assess an administrative penalty of \$2,500.00.

II. NOTICE AND JURISDICTION

TDHCA has jurisdiction over this matter pursuant to the Act and TEX. GOV'T CODE ANN. §2306.6023. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.

¹ The hearing in this case was held on September 14, 2004; Respondent's license expired on September 16, 2004. At the time of the hearing, Respondent held an active license. There is no evidence in the record indicating whether Respondent's license has been renewed. This Proposal for Decision does not address the issue of the agency's jurisdiction over Respondent's license after September 16, 2004.

The notice of intention to institute disciplinary action and of the hearing met the notice requirements imposed by statute and rule. The details about notice to Respondent are set forth in the findings of fact and conclusions of law without further discussion here.

III. PROCEDURAL HISTORY

On September 14, 2004, the undersigned ALJ convened a hearing in this matter at the State Office of Administrative Hearings, 300 West 15th Street, Austin, Texas. Jim R. Hicks, Consumer Protection supervisor, represented Staff. Respondent did not appear and was not represented. After introducing into evidence exhibits related to notice, jurisdiction, and the substantive allegations, Staff moved for entry of a default under 1 TAC § 155.55. Based on Respondent's failure to appear, the ALJ granted the motion and deemed the factual allegations admitted by Respondent. The record closed at the conclusion of the hearing.

IV. RECOMMENDATION

Staff requested that Respondent's license be revoked and that it be ordered to pay a \$2,500 administrative penalty. Based on the deemed admissions, the ALJ concludes that Respondent violated numerous statutes and rules as set out in the Conclusions of Law. The ALJ also concludes, based on a maximum penalty of \$1,000 per violation as provided in TEX. GOV'T CODE ANN. §2306.604, that TDHCA should assess a total administrative penalty of \$2,500 and should revoke Respondent's license pursuant to §1201.551 of the Act.

V. FINDINGS OF FACT

1. Honey Homes of Texas, Inc. (Respondent) holds License No. RBI-33542, issued by the Texas Department of Housing and Community Affairs (TDHCA), effective September 17, 1997 through September 16, 2004.

2. On January 28, 2004, TDHCA Staff sent the original notice of an administrative hearing to Respondent at its last known address of 1620 S.E. Loop 410, San Antonio, Texas 78220 by regular mail and certified mail, return receipt requested.
3. An amended notice of hearing was sent by TDHCA Staff to Respondent on August 18, 2004, by regular mail and certified mail, return receipt requested at the address listed in Finding of Fact No. 3 and to 1752 West Court St., Seguin, Texas 78155. TCHCA had previously received a request from Respondent to forward materials to the Seguin address. The return receipt for the San Antonio address has not been returned. A United States Post Office return receipt green card, showing receipt of the notice, was signed by Brandy Pena at the Seguin address. Neither notice sent by regular mail has been returned to TDHCA.
4. Both notices informed Respondent of the time, place, and nature of the hearing; the legal authority and jurisdiction for the hearing; the particular sections of the statutes and rules violated; and a short, plain statement of the matters asserted.
5. The hearing notices advised Respondent in 12-point bold-face type that a failure to appear at the hearing would result in the factual allegations in the notice of hearing being admitted as true and the relief sought in the notice being granted by default.
6. The scheduled hearing convened on September 14, 2004. Respondent did not appear and was not represented at the hearing.
7. Staff appeared at the hearing and requested that a default be entered against Respondent. The ALJ granted Staff's request.

MHD200400358-DT

8. On or about April 17, 2003, Respondent sold a manufactured home, identified by HUD Label Number PFS 0499807/08, to Bonnie Kathryn Spaulding.
9. Respondent offered to sell Ms. Spaulding the manufactured home for the cash price of \$30,189.00.
10. Respondent failed to disclose to Ms. Spaulding that the home had delinquent taxes owed in the amount of \$7,356.67.
11. After Ms. Spaulding agreed to purchase the home for \$30,189.00, Respondent required her to pay an additional \$3,832.00 as a portion of the delinquent tax amount.

12. Respondent required the \$3,832.00 payment referenced in Finding of Fact No. 11 from Ms. Spaulding before transferring a good and marketable title to the home.
13. Respondent did not use the \$3,832.00 paid by Ms. Spaulding to pay the delinquent taxes.
14. Respondent has not paid the \$7,356.67 owed in delinquent taxes, as of the date of the hearing.

MHD2004000638-T

15. On or about December 21, 2002, Respondent sold a manufactured home, identified by HUD Label Number NTA-1053595/596, to Robert Stout.
16. Respondent offered to sell Mr. Stout the manufactured home for the cash price of \$29,500.00.
17. Respondent did not disclose to Mr. Stout that the home had delinquent taxes owed in the amount of \$1,809.74.
18. Respondent failed to appropriately and timely transfer a good and marketable title to the home to Mr. Stout.
19. Mr. Stout subsequently obtained an original title from the Department.
20. Mr. Stout was notified by Bexar County that the home had outstanding tax delinquencies due for the year(s) prior to his ownership.
21. Respondent failed to pay the delinquent taxes.

MHD2004000178-T

22. On or about October 22, 2002, Respondent sold a new manufactured home, identified by HUD Label NTA1178322, to Jesus Castillo without surrendering the original Manufacturer's Certificate of Origin as part of the title application.

MHD2004000916-IV

23. On October 9, 2003, TDHCA inspected a home owned by William and Karen Howard, identified by HUD Label NTA1225050/5.
24. The inspection referenced in Finding of Fact No. 23 revealed that the home had not been properly installed. A Warranty Order was issued that outlined the corrective action required by Respondent.
25. Respondent received the Warranty Order on October 25, 2003. The deadline for warranty service work to be performed was December 4, 2003. The deadline for submitting warranty service orders to TDHCA was December 14, 2003.
26. Respondent did not fully comply with the Warranty Order by December 4, 2003, and did not submit warranty service orders by December 14, 2003.
27. TDHCA had not received warranty service orders from Respondent as of August 18, 2004, the date of the notice of hearing.

VI. CONCLUSIONS OF LAW

1. TDHCA has jurisdiction over this matter pursuant to the Texas Manufactured Housing Standards Act (the Act), TEX. OCC. CODE ANN. § 1201.001 *et seq.* and has authority to discipline and assess an administrative penalty against Respondent pursuant to § 1201.551 of the Act and TEX. GOV'T CODE ANN. ch. 2306.
2. The State Office of Administrative Hearings has jurisdiction over matters related to the hearing in this proceeding, including the authority to issue a proposal for decision with proposed findings of fact and conclusions of law, pursuant to TEX. GOV'T CODE ANN. ch. 2003.
3. Notice of the hearing was provided to Respondent pursuant to TEX. GOV'T CODE ANN. ch. 2001 and ch. 2306; 1 TEX. ADMIN. CODE (TAC) § 155.55; and 10 TAC § 80.126 and §1.21(c).
4. Based on Respondent's failure to appear at the hearing, Staff's motion for default was granted and the factual allegations contained in the notice of hearing were deemed admitted. 1 TAC § 155.55; and 10 TAC § 1.12(c).

5. Based on Findings of Fact Nos. 8-14 and Conclusion of Law No. 4, Respondent violated TEX. BUS .AND COMM. CODE ANN. § 17.46(b)(23) and § 1201.451 of the Act.
6. Based on Findings of Fact Nos. 15-21 and Conclusion of Law No. 4, Respondent violated § 1201.451 of the Act.
7. Based on Findings of Fact No. 22 and Conclusion of Law No. 4, Respondent violated § 1201.206(a) of the Act.
8. Based on Findings of Fact Nos. 23-27 and Conclusion of Law No. 4, Respondent violated §§ 1201.255, 1201.357(a), 1201.354, and 1201.356 of the Act and 10 TAC §§ 80.54(a), 80.131(b) and 80.132(3).
9. Based on Findings of Fact Nos. 1, 8-27 and Conclusion of Law Nos. 5-8, Respondent's license should be revoked and Respondent should be ordered to pay an administrative penalty of \$2,500. §§ 1201.358(a), 1201.551, and 1201.605(b) of the Act; TEX.GOV'T CODE ANN. 2306.6023(b).

SIGNED September 23, 2004.

/s/

**SUZANNE FORMBY MARSHALL
ADMINISTRATIVE LAW JUDGE
STATE OFFICE OF ADMINISTRATIVE HEARINGS**

Agenda Action Item No. 3

To: Board of Directors
Cary Yates
Michael H. Bray
Valeri Malone
Pete Moreno
Frances Shannon

From: Heidi Maldonado

Re: All Star Professional Training, Inc. Request for Approval as a Continuing Education Provider

Date: October 29, 2004

All Star Professional Training, Inc., an educational institution, has submitted a request that addresses all requirements set forth in Section 80.123(o) of the rules for approval of continuing education providers. The request included payment of the required processing fee, a course description and outline, a copy of the course materials, and the resume and credentials of the proposed instructor, Billy Bruce Harris, who is the current Education Director and Senior Instructor.

Management has reviewed the documents submitted by All Star Professional Training, Inc. and recommends that the request be approved. The courses would be offered in Grand Prairie only and are proposed to begin in January 2005.

Agenda Action Item No. 4

Proposed Rule Review

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (Department) proposes the review of 10 TAC Chapter 80, Manufactured Housing, pursuant to the Texas Government Code, §2001.039.

As required by the Texas Government Code, §2001.039, the Department will accept comments as to whether the reasons for adopting 10 TAC Chapter 80 continue to exist. The comment period begins with the publication of this notice and must last a minimum of 30 days.

Comments or questions regarding this rule review may be submitted to Mr. Timothy K. Irvine, Executive Director of the Manufactured Housing Division, of the Texas Department of Housing and Community Affairs, P. O. Box 12489, Austin, Texas 78711-2489 or by e-mail to tim.irvine@tdhca.state.tx.us.