



**Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
June 15, 2012**

Michael H. Bray, Chair

Anthony G. Burks, Member

Bob R. McCarn, Member

Sheila M. Vallés-Pankratz, Member

Donnie W. Wisenbaker, Member

**Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting**

June 15, 2012

ROLL CALL

| | <u>Present</u> | <u>Absent</u> |
|-----------------------------------|----------------|---------------|
| Michael H. Bray, Chair | _____ | _____ |
| Anthony G. Burks, Member | _____ | _____ |
| Bob R. McCarn, Member | _____ | _____ |
| Sheila M. Vallés-Pankratz, Member | _____ | _____ |
| Donnie W. Wisenbaker, Member | _____ | _____ |
| Number Present | _____ | |
| Number Absent | | _____ |

_____, Presiding Officer

**MANUFACTURED HOUSING BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
1500 N. Congress, Capitol Extension Committee Room E2.030**

Austin, Texas 78701

June 15, 2012 10:30 a.m.

AGENDA

CALL TO ORDER, ROLL CALL

Chair

CERTIFICATION OF QUORUM

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. Consideration and action to approve the minutes of the board meeting on March 23, 2012. Chair
- Item 2. Presentation, discussion and action concerning the consideration of SOAH Proposal for Decision: In the Matter of the Complaint of TDHCA/MHD vs. Wholesale Homes, Inc., Docket Number: 332-12-3974.MHD. Amy Morehouse

The Board may go into executive session for consultation with attorney on the above order pursuant to Sec. 551.071, Texas Government Code.

REPORT ITEMS

1. Executive Director's Report to include issues relating to operations, budget and performance of the Manufactured Housing Division. Joe Garcia

PUBLIC COMMENT

Chair

EXECUTIVE SESSION

Chair

Note: The Board may go into executive session (close its meeting to the public) on any agenda item if appropriate and authorized by the Open Meetings Act, Texas Government Code, Chapter 551.

- (a) If necessary, the Board will go into executive session to discuss Personnel Matters pursuant to Sec. 551.074, Texas Government Code.
- (b) If necessary, the Board will go into executive session for Consultation with Attorney pursuant to Sec. 551.071, Texas Government Code.

RECONVENE

Chair

Reconvene in public session and take action on any matters coming out of Executive Session.

ADJOURN

Chair

To access this agenda or request information, please visit our website at www.tdhca.state.tx.us or contact Sharon Choate, TDHCA/MHD, 1106 Clayton Lane, Suite 270W, Austin, Texas 78723, 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.

**MINUTES OF THE REGULAR MEETING OF THE
MANUFACTURED HOUSING BOARD**

On Friday, March 23, 2012, at 10:41 a.m., there was a regular meeting of the Manufactured Housing Board (the “Board”) at 1701 N. Congress Ave., William B. Travis Building, Room 1-100. Michael Bray presided. Anthony Burks, and Donnie Wisenbaker constituting a quorum, attended. Sheila Vallés-Pankratz was absent. The following Manufactured Housing Division (the “MHD”) staff were present: Joe Garcia, Amy Morehouse, Kassu Asfaw, and Sharon Choate. Veena Mohan, Office of Attorney General, was present.

Michael Bray called the roll and confirmed the presence of a quorum.

Michael Bray asked for a motion to approve the minutes from the board meeting on February 10, 2012. Upon motion of Anthony Burks, duly seconded by Donnie Wisenbaker, the minutes of the previous meeting were unanimously approved.

Amy Morehouse presented for discussion and action the State Office of Administrative Hearings Proposal for Decision and the Division’s final order in the Matter of the Complaint of TDHCA/MHD vs. Maria Avalo, Docket Number: 332-12-2909.MHD. Upon motion of Donnie Wisenbaker, duly seconded by Anthony Burks, the motion was unanimously approved.

The Board did not go into an Executive Session.

Joe Garcia delivered the Executive Director's Report.

The next board meeting was tentatively set for Friday, July 20, 2012.

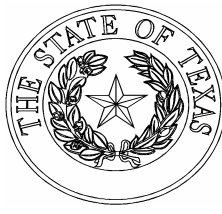
There being no further business to come before the board, the meeting was adjourned at 11:12 a.m.

Sharon Choate, Secretary

Approved:

Michael Bray, Presiding Chair

Pursuant to Sec. 551.022 of the Texas Government Code, a copy of the transcript of the above mentioned meeting is public record and is available for inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
MANUFACTURED HOUSING DIVISION

Rick Perry
GOVERNOR

Joe A. Garcia
EXECUTIVE DIRECTOR

Board Members

Presiding Officer, Michael H. Bray
Anthony G. Burks
Bob R. McCarn
Sheila M. Vallés-Pankratz
Donnie W. Wisenbaker

Agenda Action Item No. 2

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

FROM: Amy Morehouse, Director of Enforcement

THROUGH: Joe A. Garcia, Executive Director

SUBJECT: Summary of Wholesale Homes, Inc. Disciplinary Case

Respondent: Wholesale Homes, Inc.
License type/number: Retailer/Broker/Installer License MHDRET00034625
Docket Number: 332-12-3974.MHD
Complaint Number: Complaint No. MHD2011000350-LRV
Complaint No. MHD2011000367-LRV
Complaint No. MHD2012000052-LRV

Background

Wholesale Homes, Inc., (Wholesale Homes) License No. RBI-34625, is licensed by the Manufactured Housing Division of the Texas Department of Housing and Community Affairs (Department). The Department is seeking the revocation of this license based on the following facts and violations:

Complaint No. MHD2011000367-LRV

From August 28, 2010, to April 13, 2011, Eric and Joanna Stotts made payments to Wholesale Homes toward a deposit in the amount of \$4,715.45, but they requested a refund in writing on April 30, 2011. Wholesale Homes failed to refund the \$4,715.45 deposit.

Complaint No. MHD2011000350-LRV

Wholesale Homes sold a manufactured home on January 29, 2011, to Russell Grubb without first submitting the paperwork to place the manufactured home in Retailer Inventory.

Wholesale Homes also failed to file a completed Application for Statement of Ownership

and Location within 60 days of the date of the sale to Russell Grubb. Wholesale Homes failed to provide proof that the previous taxes on the home sold to Mr. Grubb had been paid in full, and it wrote on the sales contract that Mr. Grubb was responsible for the 2010 taxes.

On June 24, 2011, Wholesale Homes mailed proof to the Department that a refund for the 2010 tax liens along with the Application for Statement of Ownership and Location was mailed to Mr. Grubb. Wholesale Homes submitted paperwork necessary for the placement of the manufactured home in Mr. Grubb's name 146 days after the date of the sale.

Complaint No. MHD2012000052-LRV:

On May 27, 2011, and September 7, 2011, Sherman Ganaway and Danielle Norton paid a total of \$2,500.00 and \$2,000.00, respectively, to Wholesale Homes toward the purchase of a manufactured home.

On September 19, 2011, Sherman Ganaway requested from Wholesale Homes, in writing, a full refund of the full \$4,500.00 deposit. Wholesale Homes has not refunded any of the deposit.

Violation History:

Wholesale Homes has been the subject of four previous enforcement orders in which numerous violations were found.

Violations

1. Wholesale Homes violated TEX. OCC. CODE § 1201.151(a) by failing to refund a customer's deposit within 15 days of receiving a written request for a refund from the customer.
2. Wholesale Homes violated TEX. OCC. CODE § 1201.451(a) by failing to provide a good and marketable title to a home.
3. Wholesale Homes violated TEX. OCC. CODE § 1201.206(c) by failing to provide to the Department within 60 days after the date of sale or transfer of a manufactured home, the completed application for the issuance of a new Statement of Ownership and Location.
4. Wholesale Homes violated TEX. FIN. CODE § 393.101 by failing to register with the secretary of state as a credit services organization.
5. Wholesale Homes knowingly and willingly violated a chapter, rule, or order issued under Tex. Occ. Code ch. 1201 in violation of TEX. OCC. CODE § 1201.551(a)(1).
6. Wholesale Homes unlawfully retained or converted money, property, or another thing of value from a consumer in the form of a down payment, sales or use tax, deposit, or insurance premium in violation TEX. OCC. CODE § 1201.551(a)(2).

Hearing before the State Office of Administrative Hearings

After proper notice, an administrative hearing was held on March 28, 2012. Wholesale Homes

Inc. failed to appear at the hearing. An Administrative Law Judge (ALJ) at the State Office of Administrative Hearings (SOAH) issued the attached Proposal for Decision (PFD) as a result of the hearing. The Department filed exceptions requesting additional violation citations to be added to the Conclusions of Law. The Administrative Law Judge agreed with the Department's Exceptions. (See attached PFD, Exceptions and ALJ's Response)

Proposal for Decision

The SOAH Administrative Law Judge's Proposal for Decision dated May 18, 2012, and response to the Department's Exceptions dated June 6, 2012, recommends that the Department permanently revoke Wholesale Homes, Inc. License (MHDRET00034625) for violations of TEX. OCC. CODE §§ 1201.151, 1201.206, 1201.451 and 1201.551(a)(1) or (2); and TEX. FIN. CODE § 393.101.

Department Recommendation

The Department recommends accepting the Administrative Law Judge's Proposal for Decision, including the Findings of Fact, Conclusions of Law, and the amendments requested in the Exceptions filed by the Department, which were agreed to by the Administrative Law Judge. The Department would recommend permanently revoking Wholesale Homes Retailer Broker Installer License (License No. MHDRET00034625) with the initiation of a Final Order.