



Texas Department of Housing and Community Affairs
Manufactured Housing Board Meeting
January 19, 2024

Ronnie Richards, Chair

Jason R. Denny, Member

Joe Gonzalez, Member

Sylvia L. Guzman, Member

Keith C. Thompson, Member

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

January 19, 2024

ROLL CALL

	<u>Present</u>	<u>Absent</u>
Ronnie Richards, Chair	_____	_____
Jason R. Denny, Member	_____	_____
Joe Gonzalez, Member	_____	_____
Sylvia L. Guzman, Member	_____	_____
Keith C. Thompson, Member	_____	_____
Number Present	_____	
Number Absent		_____

_____, Presiding Officer

MANUFACTURED HOUSING BOARD MEETING
TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS
1100 Congress, Capitol Extension Committee Room E2.028
Austin, Texas 78701
January 19, 2024 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 September 22, 2023.	Chair
Item 2.	<p>Presentation, discussion and action concerning the consideration of SOAH Proposal for Decision: In the Matter of the complaint of <i>TDHCA v. Legacy Housing Corporation</i>, Docket Number: 332-23-23452.MHD.</p> <p style="text-align: center;"><i>The Board may go into executive session for consultation with attorney on the above order pursuant to Sec. 551.071, Texas Government Code.</i></p> <p style="text-align: center;"><i>Public Comment (Speakers limited to 3 minutes per person)</i></p>	Amy Jones
Item 3.	<p>Presentation, discussion and action to approve adoption of amendments to 10 Texas Administrative Code, Chapter 80 for publication as adopted in the Texas Register.</p> <p style="text-align: center;"><i>Public Comment (Speakers limited to 3 minutes per person)</i></p>	Jim Hicks
Item 4.	<p>Presentation, discussion and action to approve proposed amendments to 10 Texas Administrative Code, Chapter 80 for publication as proposed in the Texas Register for public comment.</p> <p style="text-align: center;"><i>Public Comment (Speakers limited to 3 minutes per person)</i></p>	Jim Hicks

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.

REPORT ITEMS

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

Jim Hicks

PUBLIC COMMENT (Speakers limited to 3 minutes per person)

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.

- If necessary, the Board will go into executive session to discuss Personnel Matters relating to the executive director's compensation pursuant to Sec. 551.074, Texas Government Code.
- 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, 1801 Congress, Suite 11.400, 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 Sharon Choate, at 512-475-2206 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, September 22, 2023, at 10:55am, there was a regular meeting of the Manufactured Housing Board (the "Board") held at the Capitol Extension Hearing Room E02.028, 1100 Congress Avenue, Austin, Texas. Keith Thompson presided. Joe Gonzalez and Jason Denny constituting a quorum, attended. Ronnie Richards' flight was delayed, so he later joined on a conference call. Sylvia Guzman was absent. The following Manufactured Housing Division (the "MHD") staff attended: Jim Hicks, Amy Morehouse, Eric Franklin, Kassu Asfaw and Sharon Choate. Amber Wodraska attended from the Office of Attorney General.

Keith Thompson called the roll and confirmed the presence of a quorum.

Keith Thompson asked for a motion to approve the minutes from the board meeting on September 9, 2022. Upon motion of Joe Gonzalez and duly seconded by Jason Denny, the motion was unanimously approved.

Kassu Asfaw presented the FY 2024 Operating Budget to the board and recommended approval. Upon motion of Jason Denny and duly seconded by Joe Gonzalez, the FY 2024 Operating Budget was unanimously approved.

Kassu Asfaw presented the FY 2024 Administrative Services Agreement between the Manufactured Housing Division and TDHCA and recommended approval. Upon motion of Joe Gonzalez and duly seconded by Jason Denny, the agreement was unanimously approved.

Jim Hicks presented and discussed for approval of the proposed amendments to 10 Texas Administrative Code, Chapter 80 for publication as proposed in the Texas Register for public comment. Upon motion of Joe Gonzalez and duly seconded by Jason Denny, the proposed amendments were unanimously approved.

Amy Morehouse presented and discussed for approval the SOAH Proposal for Decision: In the Matter of the Complaint of TDHCA v. Jтар Properties, LLC d/b/a Repo Homes, Docket Number: 332-23-16818.MHD. Upon motion of Jason Denny and duly seconded by Joe Gonzalez, the Proposal for Decision was unanimously approved.

Jim Hicks delivered the Executive Director's Report.

At 12:25pm the Board went into an Executive Session to discuss Personnel Matters relating to the executive director's compensation pursuant to Sec. 551.074, Texas Government Code.

At 12:40pm the Board reconvened following the conclusion of the closed session. No action was taken in the closed session.

Upon motion of Keith Thompson to increase the executive director's classification to Director VI at \$198,522 per year and duly seconded by Jason Denny, the motion was unanimously approved.

The next board meeting to address adopting the proposed rules is Friday, November 10, 2023.

There being no further business to come before the board, the meeting was adjourned at 12:45pm.

Sharon Choate, Secretary

Approved:

Keith Thompson, Acting 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.

Action Item No. 2



TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS MANUFACTURED HOUSING DIVISION

Greg Abbott
GOVERNOR

Jim R. Hicks
EXECUTIVE DIRECTOR

Board Members
Presiding Officer, Ronnie Richards
Jason R. Denny
Joe Gonzalez
Sylvia L. Guzman
Keith C. Thompson

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

FROM: Amy Jones, General Counsel

THROUGH: Jim R. Hicks, Executive Director

SUBJECT: Summary of Proposal for Decision regarding Docket No. 332-23-23452

Respondent: Legacy Housing Corporation
License No: MHDMAN00000456
Docket Number: 332-23-23452.MHD

Background:

1. Legacy Housing Corporation (Respondent) holds a Manufacturer's License (License No. MHDMAN00000456), which was originally issued by the Department on July 19, 2005. Kenny Shipley is listed as the President on this license.
2. On September 12, 2022, the Department received a warranty complaint, identified by complaint # MHD2023000009-W, from Veronica Altamirano and Alfred Campoz. The Department inspected the home, identified by HUD Label # NTA2037933, on September 21, 2022 and found (7) seven deviations. On September 28, 2022, the Department issued a 30-day warranty order to Respondent via regular and certified mail. The deadline to make all corrections was November 6, 2022.
3. On November 15, 2022, the Department re-inspected the home and found that (2) two items had not been corrected.
4. On January 4, 2023, the Department re-inspected the home again and determined that the same (2) two items had still not been brought into compliance.
5. On January 22, 2023, the Department re-inspected the home again and found (1) one item still had not been brought into compliance.

6. On January 24 2023, the Manufactured Housing Division held a Director's Disciplinary Meeting pursuant to TEX. OCC. CODE § 1201.357 (b) to discuss the above complaint. The Executive Director of the Manufactured Housing Division directed Respondent to correct the (1) one item by February 10, 2023.
7. On February 23, 2023, the Department re-inspected the home once again and determined that the (1) one item had still not been brought into compliance.
8. On March 10, 2023, the Executive Director made the determination that the (1) one outstanding non-compliance would be re-assigned to another license holder to bring the home into compliance with the original warranty order, and a violation of the warranty order had been committed by Legacy Housing Corporation.

Violation History:

- 1 Warning Letter
- 1 Closing Letter
- 1 Consent Order with 3 violation

Violation of Law:

1. Respondent violated TEX. OCC. CODE § 1201.356 (e), which states the manufacturer, retailer, or installer shall comply with the report and order of the director.

Hearing before the State Office of Administrative Hearings

After proper notice, an administrative hearing was held on August 24, 2023. 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 hearing. The Department staff is in agreement with the Findings of Fact in this PFD.

Proposal for Decision

The Proposal for Decision dated November 9, 2023, recommends that Legacy Housing Corporation pay a \$2,000.00 fine.

Recommendation

The Department agrees with the Administrative Law Judges Proposal for Decision and recommends that Legacy Housing Corporation pay a \$2,000.00 fine.

Agenda Action Item No. 3

Preamble for Adoption of Manufactured Housing Rules

*Administrative Rules of the Texas Department of Housing and Community Affairs
10 Texas Administrative Code, Chapter 80*

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") adopts amendments 10 Texas Administrative Code, Chapter 80, §80.41 and adopts repeal of §80.92 relating to the regulation of the manufactured housing program. The rules are revised to comply with House Bill 2706 (88th Legislature, 2023 regular session) that amends the Manufactured Housing Standards Act and for clarification purposes. The amendments to §80.41 and repeal of §80.92 are adopted without changes to the proposed text as published in the October 6, 2023, issue of the *Texas Register* (48 TexReg 5795). The rule and repeal will not be republished.

The adoption of the rules are effective thirty (30) days following the date of publication in the *Texas Register*.

The rules as proposed on October 6, 2023, are adopted as final rules.

No comments were received and there were no request for a public hearing to take comments on the rules.

The following is a restatement of the rules' factual basis:

10 Texas Administrative Code §80.41(c)(2)(A) - (C) is adopted without changes to assist in enforcement of §1201.551(a)(7) when an individual attempts to cheat or assist an individual with cheating on any of the Manufactured Housing Division Licensing exams.

10 Texas Administrative Code §80.41 (g)(1) and (2) is adopted without changes to update the requirements for an exemption for a retailers license and the circumstances under which an exemption is granted.

10 Texas Administrative Code §80.92 is adopted as repealed because the inventory finance liens are no longer required to be submitted to the Department.

The amendments and repeal are adopted under §1201.052 of the Texas Occupations Code, which provides the Director with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and §1201.053 of the Texas Occupations Code, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statutes, codes, or articles are affected by adoption of the amended rules.

The agency hereby certifies that the adoption has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

Manufactured Housing Adoption of Rules

*Administrative Rules of the Texas Department of Housing and Community Affairs
10 Texas Administrative Code, Chapter 80*

SUBCHAPTER D. LICENSING

§80.41. License Requirements.

(a) - (b) No change.

(c) Education.

(1) (No change.)

(2) Each test to be administered in connection with the course(s) will consist of a representative selection of questions from an approved set of questions approved by the Director. The test(s) will be open-book. A score of 70% correct is required to pass each test.

(A) Cheating on the Manufactured Housing Division licensure examinations will not be tolerated. Evidence of cheating on an examination shall be a cause for disciplinary action. The executive director shall be informed of such instances of suspected cheating at the earliest possible opportunity and will determine appropriate action.

(B) If the executive director determines that an examinee cheated on the Manufactured Housing Division exam, an examinee may have exam results invalidated and may be barred from taking the Manufactured Housing Division examination in Texas for a period of up to two years. Any application for licensure pending or approved for examination may be denied and will be evaluated or re-evaluated on that basis. Any examination taken and passed while barred from taking an examination in Texas will not be acceptable for licensure purposes in Texas.

(C) A licensee or applicant suspected of cheating, or a licensee assisting others with cheating may be charged with violating §1201.551 of the Act and applicable Manufactured Housing Division rules, which may result in the denial, suspension, or revocation of their license.

(3) - (8) (No change.)

(d) - (f) (No change.)

(g) Exemption for Retailer's License Requirement.

- (1) Application for Exemption of Retailer's License Requirement.
 - (A) A person requesting exemption from the Retailer's licensing requirement of §1201.101(b) of the Occupations Code, shall submit the required application outlining the circumstances under which they are requesting exemption from licensure.
 - (B) Applications should identify the HUD label or serial number(s); ~~of up to three (3) homes being sold under the exemption;~~
 - (i) of up to 3 homes being sold under the exemption found in Tex. Occ. Code §1201.1025(a); or
 - (ii) of all homes sold under the exemption Tex. Occ. Code §1201.1025(a-1).
 - (C) Applications will be processed within seven (7) business days after receipt of all required information.
- (2) The circumstances under which this exemption is granted are:
 - (A) One-time sale of up to three (3) manufactured homes in a 12-month period as personal property;
 - (B) Non-profit entity transferring ownership of up to three (3) manufactured homes in a 12-month period; ~~and/or~~
 - (C) No other manufactured homes have been purchased and resold in the previous twelve (12) months, even with a previous exemption; ~~or-~~
 - (D) All manufactured homes for sale or offered to be sold by the person are located in a manufactured home community, and for sale or offered for sale to the same purchaser in connection with a sale of the real property of the community.
- (3) (No change).

SUBCHAPTER G. STATEMENTS OF OWNERSHIP

§80.92. Inventory Finance Liens.

- ~~(a) A lien and security interest on manufactured homes in the inventory of a retailer, as well as to any proceeds of the sale of those homes, is perfected by filing an inventory finance security form approved by this Department and in compliance with these sections. The required form is set forth on the Department's website.~~
- ~~(b) A separate form must be filed for each licensed sales location and must include a summary of homes by label or serial number, that are secured with the form.~~

Agenda Action Item No. 4

**Preamble for Proposed Manufactured Housing Rules
*Administrative Rules of the Texas Department of Housing and Community Affairs
10 Texas Administrative Code, Chapter 80***

The Manufactured Housing Division of the Texas Department of Housing and Community Affairs (the "Department") proposes to amend 10 Texas Administrative Code, Chapter 80, §80.41 relating to the regulation of the manufactured housing program.

10 Texas Administrative Code §80.41(c)(2)(D) and (E) adds that the Department may enter into an agreement with a third party to administer the licensing education exam(s) required under §1201.104 of the Manufactured Housing Standards Act. If required to be taken with the assistance of a third party, the applicant shall pay the cost of the exam.

Jim R. Hicks, Executive Director of the Manufactured Housing Division of the Texas Department of Housing and Community Affairs, has determined that for the first five-year period that the proposed rules are in effect there will be no fiscal implications for state or local government as a result of enforcing or administering these sections. There will be no effect on small or micro-businesses because of the proposed amendments. The amendments will not cause the loss of any business opportunities or have an adverse effect on the businesses. There may be a slight economic costs to persons who are required to comply with the proposed rules, if the third party charges a fee to take the exam at their facility.

Mr. Hicks also has determined that for each year of the first five years that the proposed rules are in effect the public benefit for enforcing the amendments will be to maintain the necessary resources required to improve the general welfare and safety of purchasers of manufactured housing in this state as per §1201.002 of the Manufactured Housing Standards Act.

Mr. Hicks has also determined that for each year of the first five years the proposed rules are in effect there should be no adverse effect on a local economy, and therefore no local employment impact statement is required under Administrative Procedure Act (APA), Texas Government Code §2001.022.

Mr. Hicks has also determined that for each of the first five years the proposed rules are in effect would not have a large government growth impact. The proposed rules do not create or eliminate a government program. Implementation of the proposed rules does not require the creation of new employee positions or the elimination of existing employee positions. Implementation of the proposed rules do not require the increase or decrease in future legislative appropriations to the agency. The proposed rules do not create a new regulation. The proposed rules do not expand, limit, or repeal an existing regulation. The proposed rules do not increase or decrease the number of individuals subject to the rules applicability. The proposed rules do not positively or adversely affect this state's economy. This statement is made pursuant to the Administrative Procedures Act, Texas Government Code, §2001.0221.

If requested, the Department will conduct a public hearing on this rulemaking, pursuant to the Administrative Procedure Act, Texas Government Code §2001.029. The request for a public hearing must be received by the Department within 15 days after publication.

Comments may be submitted to Mr. Jim R. Hicks, 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 at mhproposedrulecomments@tdhca.state.tx.us. The deadline for comments is no later than 30 days from the date that these proposed rules are published in the *Texas Register*.

The amendments are proposed under §1201.052 of the Texas Occupations Code, which provides the Director with authority to amend, add, and repeal rules governing the Manufactured Housing Division of the Department and §1201.053 of the Texas Occupations Code, which authorizes the board to adopt rules as necessary and the director to administer and enforce the manufactured housing program through the Manufactured Housing Division.

No other statutes, codes, or articles are affected by the proposed rule.

10 Tex. Admin. §80.41. License Requirements.

(a) - (b) No change.

(c) Education.

(1) The Standards Act requirement for an initial eight (8) hour course of instruction in the law, including instruction in consumer protection regulations; four (4) hour retailer education course; and/or four (4) hour installer education course shall be offered quarterly by the Department. Subject to limitations on Department resources, the Department will make special licensing classes available upon written request.

(2) Each test to be administered in connection with the course(s) will consist of a representative selection of questions from an approved set of questions approved by the Director. The test(s) will be open-book. A score of 70% correct is required to pass each test.

(A) Cheating on the Manufactured Housing Division licensure examinations will not be tolerated. Evidence of cheating on an examination shall be a cause for disciplinary action. The executive director shall be informed of such instances of suspected cheating at the earliest possible opportunity and will determine appropriate action.

(B) If the executive director determines that an examinee cheated on the Manufactured Housing Division exam, an examinee may have exam results invalidated and may be barred from taking the Manufactured Housing Division examination in Texas for a period of up to two years. Any application for licensure pending or approved for examination may be denied and will be evaluated or re-evaluated on that basis. Any examination taken and passed while barred from taking an examination in Texas will not be acceptable for licensure purposes in Texas.

(C) A licensee or applicant suspected of cheating, or a licensee assisting others with cheating may be charged with violating §1201.551 of the Act and applicable Manufactured Housing Division rules, which may result in the denial, suspension, or revocation of their license.

(D) The Department may enter into an agreement with a third party to administer each test.

(E) The applicant shall pay the cost of the test, if required to be taken with the assistance of a third party.

(3) - (8) (No change.)