

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on) APPLICATION NO. MODF-1
its own motion, seeking to determine)
the fee amount for the Modular)
Housing Program.) ORDER SETTING FEE
)
)
) ENTERED: JULY 10, 2007

BY THE COMMISSION:

This matter comes before the Commission on its own motion to determine the amount of the fees to be charged in The Modular Housing Program. The fees currently are set at \$140 per modular housing unit. By statute, the fee is to be set by the Commission between \$80 and \$400 per living unit, to be reviewed on an annual basis.

In order to set the fee, the Commission set a hearing on the matter to receive evidence from the industry, the general public, and Commission staff. The hearing was scheduled for June 4, 2007, and was recessed until June 26, 2007.

E V I D E N C E

After discussions of preliminary matters, the first person to testify was Mark Luttich, Director of the Housing and Recreational Vehicle Department for the Commission. Mr. Luttich testified that the present seal fee was established in 1994 and have not been adjusted since that time. For a period of time, the program received more money in fees than was required to fund it and a surplus was built. Over the past few years, however, that surplus has been reduced and the department is set to begin to operate at a deficit beginning at the end of August, 2007.

Director Luttich reviewed the financial calculations for this program. The projected cost of the program is \$285,000 for the calendar year 2007. It was calculated that the current production by the industry will continue to decrease for this time period. The estimate is that the Department will authorize 1,205 modular housing units during this time period, generating \$168,700 in seal fees. This creates a shortfall of \$116,300. If the seal fee were to be kept at one seal per house, the seal fee would need to be set at \$236 to minimally fund the program.

Director Luttich has estimated that the switch to seals being based upon living units rather than modular housing units will result in an average of over two seals per modular housing unit.

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Director Luttich noted that most housing transactions are in the \$150,000 range. The basic price of the house is in the \$60,000 to \$90,000 range, and by the time that a lot is purchased, a basement dug and the house is finished, the total transaction price is around \$150,000. This makes a seal fee of \$280 less than 0.2% of the transaction price.

Charles Pelkey, president of TimberCreek in Stratton, Nebraska, testified next. Mr. Pelkey praised the Housing Department for its effective regulation and assistance. He also reviewed the development of state regulation of building codes that have been developed over the years.

Mr. Pelkey testified in support of the current seal fee structure, and stated that the one fee should be raised to as much as \$300 per modular housing unit if that is what is necessary to keep the program. He would be against a unit assessment due to the method of manufacturing that his company uses. TimberCreek tends to build larger modular housing units with smaller living units than most other manufacturers produce. This would create a larger fee for his units vis-à-vis similar total square foot units made of larger living units.

Robert Phillips, Director of Engineering of Bonnavilla Homes of Aurora, Nebraska, testified next. He stated that timing is critical for his company as they have a major investment in each home and it costs the company money if any delays are experienced. The uncertainty of the seal fee if based on other factors than a unit could create a delay that have an adverse impact on his company and the buyer of the home.

Mr. Phillips stated that his company would want to keep the fee structure of one seal per house the same as it currently is implemented. His company needs the certainty of a set seal fee to ensure the ability to ship the houses from its factory once the house is completed.

Martin Huff, Director of the Nebraska Manufactured Housing Association, testified. He echoed the statements of Mr. Phillips regarding the necessity for efficiency of seal flow for the manufacturers and that any delay in seal issuance is detrimental to his constituents. He stated that if a faster seal issuance system could be developed with the use of e-mail application and the usage of cash accounts that another type a structure may be feasible.

Pursuant to Neb. Rev. Stat. 71-1559 (2006 Cum. Supp.), the Commission must hold an annual hearing to determine the fees for the Modular Housing Program. The fees are subject to a statutory minimum of \$80 and a maximum of \$400 per living unit.

The Commission is addressing an issue in the seal fee for the Modular Housing Program that has many factors and issues. The Program needs to adjust its seal fee structure to meet the requirements of Nebraska State Statute that the fee be charged per living unit.

The past situation has placed an undue burden on the manufacturers and buyer of the smaller homes as compared to the larger homes which paid the same fee despite the larger size, cost, and expense of regulation that the larger homes experience. A move to charging on a living unit basis, while not perfect, adjusts the situation toward a more fair application of costs of the program.

There are many different schedules that are available for application in this situation. Some states use a flat fee per square foot, while others have implemented a stairstep schedule. Colorado, for example, charges \$0.25 per square foot for plan review as well as a fee per living unit.

The Commission is of the opinion that the fee needs to be based upon the square footage of the living unit. In this manner, the buyer will pay a fee commensurate with the size of the housing unit he or she is purchasing.

The Commission finds that a flat fee should be implemented on the basis of the square footage of the gross habitable space (outside wall to outside wall) of the living unit. On the basis of the testimony, it appears that the fee should be fourteen (\$0.14) cents per square foot. This amount, on the basis of the testimony presented to the Commission, is sufficient to produce the necessary income for the department to continue to operate while not building up a surplus as has been experienced in the past.

The Commission finds that this fee schedule should be approved effective July 30, 2007.

The Commission will order the Modular Housing Program to undertake a series of workshops. These workshops will be designed to address fee structure issues, make recommendations as to changes in state statute and Commission Rules and Regulations that are necessary, and to develop a new system if a new system is found to be warranted after the workshops.

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O R D E R

IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that the seal fee in the Modular Housing Unit Program shall be set as follows:

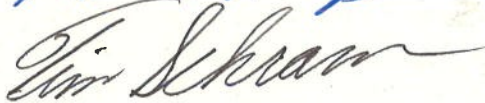

Modular Housing Seal Fee: \$0.14/square foot of gross habitable space per living unit; minimum fee of \$80 per living unit; maximum fee of \$400 per living unit.

IT IS FURTHER ORDERED that the Housing and Recreational Vehicle Department shall hold workshops with industry representatives and other interested parties to examine the seal fee structure, applicable rules and regulations and relevant statutes to determine necessary changes to be made.

MADE AND ENTERED at Lincoln, Nebraska, this 10th day of July, 2007.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



//s// Anne C. Boyle
//s// Frank E. Landis


Vice Chairman

ATTEST:



Deputy Director