

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission, on its own motion, seeking to determine the fee amount for the Manufactured Housing Program. ) APPLICATION NO. MANF-1  
)  
) ORDER SETTING FEE  
)  
)  
) ENTERED: JULY 15, 2008

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 Manufactured Housing Program. The fees currently are set at \$35.00 per seal.

On May 13, 2008, the Commission ordered that a hearing be scheduled on June 24, 2008 to receive evidence from the industry, the general public, and Commission staff to set the fee. Notice of this hearing was sent to all interested parties on May 14, 2008. The hearing was scheduled for June 24, 2008.

EVIDENCE

Testimony was presented by Mark Luttich, Director of the Housing Department for the Commission. Mr. Luttich testified that the present seal fee had not been changed since 1994. 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, the program has been operating at a deficit as the fees charged did not cover operating costs. The surplus has thereby been reduced to a level insufficient to maintain program operations.

Director Luttich reviewed financial calculations for the Modular Housing program. His analysis of the program shows that it is currently running a deficit of around \$6,500 per month. This is occurring despite a reduction in staffing of one and one-half persons in the department which was made in an effort to reduce the expenses in the program.

One difficulty that the program experience is that it is a federally mandated program. There are numerous mandated obligations that the program must undertake regardless of production levels or seal income. These are fixed costs that cannot be adjusted in economically difficult times such as now.

The fee amount of \$35.00 per seal was established in 1994. Due to the size of the cash reserve fund it was difficult to adjust the fee amount. The last few years has experienced operations, with the related fixed costs, that were not supported by seal fee income. The cash reserve fund has been largely depleted, necessitating an increase in the fee.

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Another factor that led to the current situation is that the production of manufactured homes has decreased dramatically even as the production of modular homes has increased. This reduced the fee income that has been received. It is not anticipated when or if the manufactured housing production issues may improve in the future.

Director Luttich reviewed some other states funding methods for their manufactured home programs. Some states have a higher seal fee, other states have additional charges such as mileage fees or hourly charges for inspections. Some programs also receive some level of general funds from their state also.

The seal fee currently is set at \$35.00 per seal. The statutory maximum is \$75.00. Director Luttich estimated that the seal fee would need to be raised to \$262.53 in order for the program to fund itself.

On questioning by Commissioner Landis, Director Luttich stated that the program does not receive any additional funding for in-state inspections. The seal fee is to cover all the operating expenses of the program at this time. When asked for a recommendation, Director Luttich stated that the seal fee is the only charge that is currently allowed by statute and that the fee should be increased to the statutory maximum to alleviate the situation.

Commissioner Vap noted that there may be a necessity to combine the modular and manufactured housing program funds so that they would be able to assist each other as economic conditions change. Director Luttich said that current statute requires that the funds be maintained separately.

Director Luttich answered in response to an inquiry by Commissioner Vap that the modular housing industry looks to remain dominant for the foreseeable future and that the manufactured housing industry may have a difficult time in rebounding. Director Luttich also noted that many homes built in Nebraska are delivered to other states.

Discussion was held about the possibility of eliminating the program. Director Luttich said that the elimination of the program would probably result in the reduction in Commission staff of one-half a person. He also believed that the manufactured housing industry would be greatly affected by its elimination. The industry would have to retain private inspection companies to do the inspections with a resulting cost that would in all likelihood increase. The Department would also lose some efficiency that it currently has as it currently can do factory inspections of both types of homes at the same time.

On questioning by Commissioner Schram, Director Luttich gave examples of Minnesota and Missouri as states that have a private inspection programs. Consumers having problems in states that have the private programs refer any problems discovered directly to the state's agency for resolution as it is in Nebraska.

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Commissioner Landis commented that any statutory fix is one year away and that steps need to be taken now to ameliorate the situation. Director Luttich noted that the only option at the present time is to raise the seal fee to the statutory maximum of \$75 per seal. While this will not resolve the situation finally, it would give the program the ability to survive until legislative changes can be made.

Jack Henry from Bonnavilla Homes stated that the Manufactured Housing inspection program as run by the Housing Department is very important to Bonnavilla and that it needs to be maintained in the state. Mr. Henry said that the Commission should do "whatever is necessary to do that". Mr. Henry said that his company has experience working with private inspection companies and that they are more expensive and thus cost the consumer more.

Mr. Henry also stated that it may be necessary for the department to combine funds in an effort to keep both programs (Modular and Manufactured Housing) running until adjustments can be made to the relevant fee structures.

On questioning by Commissioner Landis, Mr. Henry said that ideally the programs should stand on their own without one program supporting the other. He noted that the production of manufactured homes and modular homes has shifted dramatically in the last ten years from manufactured to modular. He also reiterated that the manufactured housing program needs to be maintained. Commissioner Landis said that there may be a necessity in the short-run to run both programs out of one fund but that each program ultimately must stand on its own.

On questioning by Commission staff, Mr. Henry said that his company does continue to produce both manufactured and modular housing. To his knowledge, most manufacturers still produce both types of homes.

Jerry Haggadone of Champion Homes testified next. Mr. Haggadone stated his support for the Manufactured Housing program in Nebraska. He thinks that the manufactured housing industry will rebound in the future as the need for that type of housing is still present. One issue is that financing availability for modular housing tilted the production towards modular housing and away from manufactured housing.

On questioning by Commissioner Vap, Mr. Haggadone said that he would support an increase in the fee to the statutory maximum if that is what was necessary to maintain the program. The increased cost of a private inspector would hurt the ability of his company to compete with other state's production. The inspection fees that his company sees in other states range from \$1,700 to \$3,000 for an inspection of one unit. The amount of these inspection fees would be a competitive burden for his company.

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Martin Huff, the Director of the Nebraska Manufactured Housing Association testified. He stated that the Association is willing to support legislative changes that would allow both the manufactured and modular housing programs to continue.

Mr. Huff stated that it is apparent that the seal fee needs to be raised to the statutory maximum. He also stated that receiving general funds to assist the program may be necessary as opposed to "seeing the plants close up, go elsewhere" out of state along with the employment that those factories provide.

A letter was received from Magnolia Homes. The letter stated that Magnolia was very supportive of the program. It stated that the loss of the program would "cost this Company dearly". Magnolia believes that some general funding of the program is necessary due to the economically hard times currently being experienced. They stated that it would be relatively easy for them to move their operations 25 miles (to Wyoming) and take the jobs with them if the manufactured housing program were to be eliminated or drastically changed.

O P I N I O N   A N D   F I N D I N G S

Pursuant to Neb. Rev. Stat. 71-4604.01(2) (2006 Cum. Supp.), the Commission must hold an annual hearing to determine the fees for the Manufactured Housing Program. The fees are subject to a statutory minimum of \$10 and a maximum of \$75 per seal. They are currently set at \$35.00 per seal.

The Department has made efforts to reduce costs by reducing staff. The revenue of the program has not been sufficient to meet the needs of the program. The drastic decrease in the production of manufactured homes has resulted in a dramatic decrease in seal fee revenue. The net effect is that the decrease in revenue and the reduction in costs are insufficient to fund the program.

A \$75 seal fee is still substantially less than comparable fees in other state programs. The seal fees, even at the statutory maximum level of \$75, still will not put the program in a solvent position.

The funding problems experienced in this program are also being experienced in the manufactured home and in the recreational vehicle programs administered in the Commission's Housing and Recreational Vehicle Department. The economic conditions currently existing in the housing industry has an impact on all three programs. They require that the Commission take substantial steps to ensure the viability of these programs, which are very important to the factories, employees and citizens of the state of Nebraska.

From the evidence received, it is apparent that the Manufactured Housing Program is very important to the factories and the numerous employees and residents of the state. Numerous witnesses stated that the program is important to them and to the economy of Nebraska. There is substantial employment provided by manufactured housing

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factories in Nebraska, and the loss of the program may jeopardize these factories. The witnesses stated that the Commission needs to do whatever is necessary to maintain the programs.

In determining the amount of the fees, the Commission must analyze not only the expenses of the program and the related revenues, but also look at the fee as it compares to other state's fees and the impact of the economy on the program and the industry. The fee needs to be raised to account for these factors and to place the program in a firm and stable financial position while being cognizant of the impact of the fees on the industry and consumers.

The Manufactured Housing Program and the Housing and Recreational Vehicle Department must look at legislative and rule and regulation changes that will permit the program to be self-supporting. The structure of the fee program needs to be changed with the increase in the statutory maximum and also other potential revenue streams that may be necessary. The Department also needs to look at the combination of the manufactured and modular housing program funds. These changes need to be developed and pursued in as expeditious a manner as possible.

On the basis of the testimony presented, the Commission finds that the fee should be set at \$75 per seal. While this amount will not make the program solvent, it is all the Commission can do at this time to address the program's needs.

The Commission finds that this fee schedule should be approved effective August 1, 2008.

O R D E R

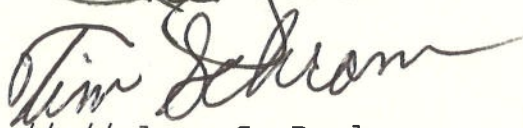
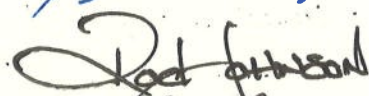
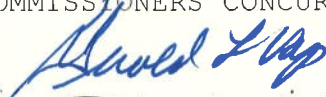
IT IS, THEREFORE, ORDERED by the Nebraska Public Service Commission that the seal fee in the Manufactured Housing Unit Program seal fee shall be set as follows:

Manufactured Housing Seal Fee: \$75.00 per seal. This seal fee schedule will take effect on August 1, 2008.

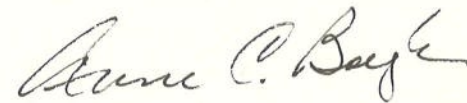
MADE AND ENTERED at Lincoln, Nebraska, this 15<sup>th</sup> day of July, 2008.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:



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



Chair

ATTEST:



Executive Director

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