

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Commission,) APPLICATION NO. MODF-3
on its own motion, seeking to)
determine the seal fee amount) ORDER SETTING FEE
for the Modular Housing Program.)
)
) ENTERED: September 29, 2009

BY THE COMMISSION:

The above-captioned proceeding was opened by the Commission, on its own motion, to determine the appropriate seal fee for the Modular Housing Program. The Commission is charged by statute to hold an annual public hearing to determine the amount of seal fee necessary to carry out the provisions of the Modular Housing Program pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, Neb. Rev. Stat. §§ 71-1555 to 71-1568.01 (2008 Cum. Supp.). The fees are subject to a statutory minimum of One Hundred dollars (\$100.00) and maximum of One Thousand dollars (\$1000.00) per modular housing unit.¹ The fee is currently set at nineteen-cents (\$.19) per square foot.

Notice of the proceeding appeared in The Daily Record, Omaha, Nebraska, on September 3, 2009. The order opening the above-captioned docket and setting the hearing was entered on September 1, 2009, and mailed to all interested parties. A Public hearing was held on September 22, 2009 in the Commission Hearing Room.

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

Mark Luttich, Director of the Commission's Housing Department, testified on behalf of the Staff. Director Luttich testified that based on his review of the program's expenses and revenues, the revenue generated by the present seal fee is not meeting the expense of the program. The Department has made efforts to reduce costs by reducing staff. The decrease in the production of modular houses has continued to decrease seal fee revenues. The net effect is that the decrease in revenue and the reduction in costs are insufficient to fund the program. Therefore, Director Luttich recommended that the seal fee for the Modular Housing Program should be increased to forty-cents (\$.40) per square foot.

Director Luttich further testified that a workshop was held on August 25, 2009, with industry representatives to discuss the financial situation of the industry and the Modular Housing

¹ Neb. Rev. Stat. § 71-1559(4) (2008 Cum. Supp.).

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

APPLICATION NO. MODF-3

PAGE 2

Program. Director Luttich reported that the industry representatives at the meeting appeared to be in agreement with a seal fee increase. Based on his understanding from conversations with industry members, Director Luttich reported that the industry wants the program to continue and supports increasing modular housing seal fees to keep the Modular Housing Program viable. He went on to explain that roughly eighty percent (80%) of homes manufactured in Nebraska are shipped out of state. The receiving jurisdictions, whether states or cities, accept the inspections of the Nebraska program, without such inspection program at the state level, the factories in Nebraska would be required to hire the services of a third party inspection agency at a significant cost.

Director Luttich further testified to the benefits received by the State of Nebraska and the local communities from the modular housing industry. The factories employ large numbers of people in Nebraska and pay very competitive salaries and benefits to their employees. Millions of dollars annually are generated by the manufacture and sale of homes in Nebraska factories.

Finally, Director Luttich stated even with the recommended increase to seal fees, Nebraska's fee will still be significantly lower than some of its neighboring states, namely Colorado and Montana.

Mr. Curt Wilkerson, the general manager of Bonnavilla Homes in Aurora, Nebraska, testified in support of the proposed increase in seal fees. Mr. Wilkerson stated that Bonnaville Homes currently employs around 125 employees in the Aurora area, as well as patronizing other local businesses for materials. Mr. Wilkerson testified that the cost of using a private third party inspector would be significantly higher than the proposed seal fees even with the proposed increase, running approximately Fifteen Hundred dollars (\$1500.00) per inspection. Therefore, Bonnavilla is in support of the increase to enable the Modular Housing Program to continue to operate in Nebraska.

Mr. Bob Phillips, also of Bonnavilla Homes, Aurora, Nebraska, further testified in support of the proposed increase in seal fees. Mr. Phillips pointed out that having one standard inspection agency for the entire state provided a uniformity of housing throughout the state which would be lost if the state program was abandoned and third party inspection agencies from other areas had to be hired by the factories. A uniform inspection program allows for consistency and quality assurance that would be otherwise lost.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

APPLICATION NO. MODF-3

PAGE 3

The Commission also received letters in support of the proposed increase from Quality Homes, Inc. of Summerfield, Kansas, Timber Creek Homes, Inc., of Stratton, Nebraska, Magnolia Homes out of Gering, Nebraska, and Heritage Homes of Nebraska, Inc., of Wayne, Nebraska.

The Department has made efforts to reduce costs in the program by reducing staff. The revenues of the program continue to be insufficient to meet the needs of the program. Due to the continued economic slowdown in the housing industry in Nebraska and nationally, the production of modular housing units has continued to slow. The slowdown has resulted in a reduced number of seals issued and inspections performed. Even with the efforts to reduce costs in the program, the reduction in revenue resulting from the slowdown in the industry statewide has rendered the current seal fee insufficient to fund the program.

The Commission does not take such a significant fee increase lightly, and does not usually contemplate such increases absent extreme circumstances. However, in light of the current financial situation in the industry and the Modular Housing Program, the economic benefit gained by the state of Nebraska from the housing industry, the industry's expressed desire to keep the Modular Housing Program viable and operating, and the industry's support of the proposed increase, the Commission finds that the seal fee should be increased.

The Commission further finds that it will continue to closely monitor the financial situation of the industry and the Department, and in the event that the industry shows signs of economic recovery and Housing Department's revenues begin to recover, the Commission will reevaluate the seal fee and make adjustments accordingly.

Therefore, the Commission finds that the recommendation of Director Luttich is reasonable and the seal fee for the Modular Housing Program should be increased to forty-cents (\$.40) per square foot effective October 12, 2009.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that, pursuant to the Nebraska Uniform Standards for Modular Housing Units Act, the Modular Housing Program seal fee should be forty-cents (\$.40) per square foot of gross space per modular housing unit; minimum fee of One Hundred dollars (\$100.00) per modular housing unit and maximum fee of One Thousand dollars (\$1000.00) per modular housing unit, effective October 12, 2009.

SECRETARY'S RECORD, NEBRASKA PUBLIC SERVICE COMMISSION

APPLICATION NO. MODF-3

PAGE 4

MADE AND ENTERED at Lincoln, Nebraska, this 29th day of
September, 2009.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:

Gerald L. Vep

John Sueder
Chairman

Bob Johnson

Tim Schram

//s// Frank E. Landis

ATTEST:

Miss R. J. S.
Executive Director