

VALERIE J. LONGHURST
MAJORITY WHIP
Fifteenth District



HOUSE OF REPRESENTATIVES
STATE OF DELAWARE
LEGISLATIVE HALL
DOVER, DELAWARE 19901

COMMITTEES
Manufactured Housing, Chair
Agriculture
Ethics
House Administration
House Rules
Revenue & Finance

Manufactured Housing Committee
Meeting Minutes
May 5, 2010

Chairwoman Longhurst called the meeting to order at 1:16 p.m. Members present included Representatives Atkins and Carson. For a list of guests present, please see attached.

After calling the meeting to order, Chairwoman Longhurst choose to address **HB 392, AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOME COMMUNITIES**. Chairwoman Longhurst explained that the bill requires community centers to be made available to tenant groups for meetings. Currently, there are three buildings in which these meetings are not allowed.

Chairwoman Longhurst recognized Mary Field, of Wild Meadows, who explained that this bill stems from a complaint filed in 2008 with the Attorney General's office. During a routine insurance check for the community, the management was notified that certain meetings would not be covered under the community's current liability insurance. Over the years, issues have been raised with the scheduling of the club house. The Deputy Attorney General dismissed the case against the community. Chairwoman Longhurst asked if all of the homeowners pay a clubhouse fee, to which Ms. Field responded yes. She explained that under the current insurance policy, social events are permitted. Additionally, the community does not want a homeowners association to be able to preempt other community groups for usage of the clubhouse.

Rep. Carson asked if the clubhouse events are scheduled month-to-month. Ms. Field was unsure because she is not involved with the scheduling process; but, she is aware that there have been complaints about the homeowners association monopolizing the clubhouse. Rep. Carson asked for clarification on other types of community meetings and groups that use the clubhouse and for a description of the clubhouse rules. Ms. Field explained that there are multiple types of groups who are entitled and encouraged to use the clubhouse. She stated that a resident of the community can use the facility for any social event. Rep. Atkins asked if a homeowner throws a party, does the entire community need to be invited in order for it to be covered by insurance. Ms. Field explained that if a person wants to use the facility for a private party, they would need to pay a rental fee. Rep. Atkins remarked that the insurance company seems to be picking and choosing what to insure.

Next, Chairwoman Longhurst recognized John Walsh, of the Delaware Manufactured Home Owners Association (DMHOA), who agreed with Rep. Atkins' assessment that the insurance company is being very selective in the insurance coverage. Mr. Walsh explained that there are two separate organizations being discussed: a homeowners association, which by law must allow all members of the community to join, and an incorporated association, which is created to handle any situation that might arise from the sale of the community. Additionally, the insurance issue was only brought to the attention of the community after meetings were being held. In a Sussex County community, members are not allowed to use the clubhouse for meetings and are prohibited from distributing any solicitation.

Jim Grygiel, of Reybold, was recognized next. He stated that this bill does not have a huge impact for his clients because they do not currently maintain any clubhouses. Mr. Grygiel did point to the fact that this bill forces owners of private property to make the property available, which could result in issues. He offered a solution, stating that the bill could prevent discrimination in meeting scheduling, not mandate that a meeting should be allowed. If the facility is to be available to the homeowner or public, it should be made available for the homeowners association as well.

Chairwoman Longhurst recognized D. Benjamin Snyder, of Prickett, Jones, & Elliott, P.A., who stated that from a technical perspective, there are issues surrounding the community's ability to limit a tenant association: If only two tenants want to meet, will the community be forced to make the facility available? A broader concern is that his clients, who own communities that this bill would affect, were not consulted on this issue. Chairwoman Longhurst apologized for this oversight, asking for Mr. Snyder's contact information for future discussions. Mr. Snyder asked for clarification in a situation where the police are called due to a fight that breaks out within the homeowners association meeting. Chairwoman Longhurst explained that the community guidelines would dictate the steps that need to be taken but that this bill is not being used to address that issue. Rep. Atkins also stated that Mr. Snyder's situation would fall under criminal statutes. Mr. Snyder asked if the bill would change the community's ability to ban tenants who fight on the premises, to which Chairwoman Longhurst stated that the community rules will remain intact.

Then, Chairwoman Longhurst recognized Scott Kidner, of First State Manufactured Housing Association of Delaware (FSMHA), who agreed with Mr. Snyder in regards to the issues surrounding the forcing of owners of private party to allow certain meetings. He predicts that this bill will lead to a lawsuit between the tenant and the property owners. In addition, Mr. Kidner recommends that "group of tenants" be defined so as to remove any ambiguity and for a "reasonable" amount of time be explained. Reasonable could mean different time lengths to different parties involved in a situation. Chairwoman Longhurst stated that she had discussed these issues with FSMHA before the meeting, and they had not raised these issues at that time.

Next, Robert Tunnell, park owner, was recognized. Mr. Tunnell explained that there is ambiguity in the bill in regards to a reasonable time period and ambiguity that might

allow homeowners associations to have precedence over other groups in using a community center. Chairwoman Longhurst responded that the bill does not mandate that homeowners associations will receive precedence; it mandates that this group be given the option to hold a meeting at the facility. In regards to a reasonable time period, the homeowners association will still be subject to the rules and regulations of the community. Rep. Carson stated that if a group submits a schedule for the entire year, the homeowners association will need to schedule meetings around those previously scheduled. Mr. Tunnell stated that the original draft of the bill is unclear.

Next, Chairwoman Longhurst recognized Brian Posey, of the American Association of Retired People (AARP). Mr. Posey expressed his support for the bill, explaining that the bill adds fairness in access to a community facility for people paying a community fee. The homeowners association will be treated like other clubs, scheduling meetings according to the community's policies. In addition, the homeowners association should welcome non-members in an effort to increase their membership.

Finally, Chairwoman Longhurst recognized Fred Neil, of the Delaware Manufactured Homeowners Association, who stated that the first group to request a time slot should get the time slot. Each community is run differently, but the community groups should be allowed to bring in guests. Mr. Neil is strongly in support of this bill.

Rep. Carson stated that it is incredible that some community centers are allowed to invite outside guests, such as himself, but all of sudden, an issue of insurance is raised and the homeowners association members can not meet.

Rep. Carson moved to release the bill from committee; Rep. Atkins seconded the motion. The bill was released from committee on a 0-3-0 vote.

Next, Chairwoman Longhurst choose to address **HB 391, AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOME COMMUNITIES**, and explained that the amendment was created after discussions with various landowners. The amendment narrows the scope of prerequisites required by the bill. This bill mandates the disclosure of tenants' rights and guidelines be given to a tenant before he or she signs a lease.

Chairwoman Longhurst recognized Jerry Heisler, of Reybold, who supported the amendment. The hope is that the Attorney General will work with homeowners to create pamphlets. Mr. Heisler stated that in situations where time is an issue, tenants can waive their right to this full disclosure. Years ago, the Attorney General's office created an apartment rental guide. Chairwoman Longhurst stated that this disclosure would be a big step forward.

Next, the committee recognized Tim Mullaney, Sr., Director of the Consumer Protection Unit. Mr. Mullaney remarked that this was his first viewing of the bill, but he wanted to clarify that the Attorney General's office is not responsible for making copies of the pamphlet. After some discussion amongst the committee members, it was clear that the

intent was to have the Attorney General's office create the pamphlets. Mr. Mullaney stated that this would need to be decided for financial purposes. After additional discussion, Chairwoman Longhurst called for a decision from the committee.

Rep. Atkins motioned to release the bill from committee; Rep. Carson seconded the motion. The bill was released on a 0-3-0 vote.

Finally, Chairwoman Longhurst asked Mr. Mullaney to describe **HB 247, AN ACT TO AMEND TITLE 6, TITLE 25 AND TITLE 29 OF THE DELAWARE CODE RELATING TO CONSUMER PROTECTION**, a bill that had passed both the House and Senate and was waiting for the Governor to sign. This bill empowers consumer protection to define the methods for handling complaints and adds clarification in the complaint process. In the event that a violation or complaint of a violation occurs, notification will be sent out to the park owner, giving the owner an opportunity to respond to the violation. In most situations, the parties involved in the situation resolve the issue before reaching the point of needing alternative dispute resolutions (ADR). This bill will allow for a smoother process, thereby decreasing the amount of complaints that go into the court system. Many of the procedural aspects included in **HB 311, AN ACT TO AMEND TITLE 25 OF THE DELAWARE CODE RELATING TO MANUFACTURED HOME COMMUNITIES**, are already included within HB 247. Chairwoman Longhurst stated that the bill is being closely examined and that section D and E of HB 311 will be stricken from the bill.

Chairwoman Longhurst adjourned the meeting at 2:06 p.m.

Respectfully submitted by,

Jordan L. Fischer