



Home on the Road

Voice of West Virginia's factory-built housing industry April 2009



WVHI scores win in antidiscrimination case

NEW HAVEN – The Mason County town of New Haven is the latest to agree to the placement of a manufactured home in its town limits.

Town official balked at giving final approval to a doublewide manufactured home in a residential area of town until approached by the West Virginia Housing Institute Inc.

WVHI officials, including General Counsel John R. Teare Jr., told town officials a 2006 law made it unlawful to discriminate against the placement of our homes simply because they are factory-made.

WVHI was called into the situation by Kevin Ross, general manager of Luv Homes of Gallipolis, OH. The outlet sold the home to a customer who sought to place it in New Haven.

Town officials balked at approving the final permits when some town residents objected to the home's placement, but after WVHI appeared at a meeting of the town council, the objections were set aside and the proper permits granted.

WVHI recently won approval from reluctant officials in Nitro to place a home in that Kanawha-Putnam border town after the 2006 antidiscrimination law was cited.



Embassy Suites Hotel Charleston

2009 convention Aug. 4-6 in Charleston

CHARLESTON – Baseball, hot dogs and your favorite beverages highlight the opening night of the West Virginia Housing Institute Inc. convention in 2009.

The three-day event is being held at the Embassy Suites Hotel Charleston Aug. 4-6.

Professional baseball is on tap for the first night at Appalachian Power Park not far from the hotel.

This is the first time the convention will be held in West Virginia's capital city. Charleston was chosen because it has easy airlines access and is the hub of three interstate highways.

The downtown attractions are impressive from the gold-domed state Capitol to the Clay Center for the Arts and the baseball field. Shopping is adjacent to the hotel at the Town Center Mall and nearby along the Kanawha River is a superb trail for walking, jogging or biking.

The Embassy Suites Charleston is an impressive structure with a massive atrium ringed by guest rooms. It is one of Charleston's newest hotels.

(Continued on p. 5)

Fran Cook, head of state regulatory board, dies

BECKLEY -- Deputy Division of Labor Commissioner Frances Elaine "Fran" Cook, 63, of Beckley, died Jan. 3 after a struggle with cancer.

Cook, who was born in Sophia, Raleigh County, was buried in Beckley.



At the time of her death, Cook was chair of the West Virginia Manufactured Housing Construction and Safety Standards Board, which regulates the industry.

The State Board came into operation under her watch and she was intimately involved in all operations of the board and the way it ran.

"Fran was a knowledgeable regulator, who knew the

(Continued on p. 5)

THE PODIUM

The convention needs you now more than ever Aug. 4-6

By Steve Brown
WVHI Co-President



Steve Brown
Co-President
Board Member

To My colleagues in the West Virginia Housing Institute Inc.:

I certainly know as well as anyone the perils our industry faces this year.

And I want to tell you this is not the time to give up. It is not the time to give up on your business and it is not the time to give up on your industry and it is not the time to give up on our customers.

My appeal to you today is broader than that, too. I want to encourage you to come to the convention we are planning this year. Many of you are understandably tied up with your own concerns. But as we have repeated often in these columns, our power is in our strength and our strength is in our numbers.

Your board of directors of the WVHI designed this year's convention to be in Charleston for your convenience. Charleston is nearly at the center of the state and it has an abundance of good hotels. We picked the best this year in choosing the Embassy Suites Hotel in downtown Charleston.

Not only are we planning an excellent program — as we always provide — but this year's location will put you in the middle of nearly everything in Charleston — the cultural aspects of the Clay Center, the state Capitol, excellent shopping downtown and a walkway along the river that will take your breath away.

So, consider coming this year.

Your industry needs your input and your association needs your membership.

Our revitalized association has been able to do much on your behalf over the years and we will continue to do so as long as you stand with us.

WVHI needs you more than ever.

I hope you feel the same way about your trade association.

We are calling upon all of you not only to participate in the Aug. 4-6 convention (you can get all of the forms in this publication or at our website at www.wvhi.org), but also to renew your membership this year and encourage your bankers, lawyers, suppliers and contractors to join our association.

Now, more than ever, is the time to join in and participate in WVHI.



Want to keep up on the latest with the factory-built housing industry in West Virginia? Want to be listed on our website or linked to it?

The West Virginia Housing Institute Inc. is at www.wvhi.org. Take a look at what we have on the site. Tell us what you want added or improved.

The inside scoop is in the members-only section. And you only have to call Andy Gallagher at (304) 346-8985 to join.

Golfing for the PAC

The West Virginia Housing Institute Inc.'s golf tournament takes place Aug. 5 at one of Charleston's foremost golf courses. We look forward to having you participate.

The tournament funds our political action committee. As a result, we can take only personal checks that are made out to HousingPAC.

We cannot accept corporate checks.

We are asking each participant to make a donation of \$125 for the PAC fund this year, a figure we have tried to maintain at the same level over the years.

Please let us know if you plan to participate

Name _____

Company _____

Email _____

Handicap _____

Industry news

State regulatory board action

CHARLESTON – State regulators issued retail manufactured housing sales licenses to three companies, fined 11 manufactured housing industry firms a total of \$5,000 and issued cease and desist orders against seven others.

The West Virginia Manufactured Housing Construction and Safety Standards Board (State Board) also levied \$2,100 in fines against 28 others for failing to file quarterly reports on time and ordered the industry-created fund formed to protect consumers to aid seven families hurt when three companies went out of business.

Retail licenses were issued to: Express Homes, doing business as Willow Home Brokers of 1586 Winchester Ave., Martinsburg; Boone Homes, Inc., of PO Box 56, Madison; and T&C Investments, LLC, doing business as Tri County Manufactured Homes of 2106 Middleway Pike, Bunker Hill, Jefferson County.

Most fines were levied against companies that have gone out of business, are inactive or are in bankruptcy. The largest fine – \$1,000 – was against Oakwood Mobile Homes, Inc., which has not been operational for some time. The fines were mostly for failing to make proper installations or failing to fulfill warranty obligations.

The board spent considerable time discussing Smith and Jones Mobile Home Movers, Inc., of Belle. The State Board issued a cease and desist order against the company and fined it \$1,000 for operating without a state license.

Mitch Woodrum, director of manufactured housing for the state Division of Labor, said this is the fifth cease and desist order issued against the firm, which previously was convicted in Fayette County of violating state law. Woodrum said his agency has been unable to close down the company, but would continue its efforts to force Smith and Jones to halt its unlicensed operations.

Others told to halt operations in West Virginia included: Daily Electric & Heating of East Liverpool, OH; J. Dalton Co., Inc., of Minerva, OH; Luv Homes of Bristol, VA; Roger Myers of Weston; Paul Gillispie of Madison; and Kevin Gillispie of Foster.

Of the seven cases sent to the recovery fund for assistance to consumers, five were the result of Adkins General Repair Service of Eleanor, Putnam County, going out of business. The others were Rock Solid Sets of Harper; and Four Seasons Housing, Inc., of Middlebury, IN. Woodrum said the recovery fund has \$1.5 million.

The State Board meets against at 10 a.m. June 18.

Formaldehyde case has potential national interest

By John R. Teare Jr.

General Counsel WVHI

Bowles Rice McDavid Graf & Love

CHARLESTON – A case with national interest that seeks to determine a manufacturer's exposure to legal action over allegations of formaldehyde in a manufactured home is before the West Virginia Supreme Court.

The lawsuit has nationwide interest because few decisions have been made elsewhere on this matter and the rulings that have occurred have not been consistent.

In the legal action against Skyline Corp., a member of the West Virginia Housing Institute Inc., the company is represented by John R. Teare Jr. of the Charleston law firm of Bowles Rice McDavid Graf & Love.

The question the court has been asked is whether a manufacturer that complied with HUD formaldehyde standards in constructing a home can be subject to a later claim for damages based on the amount of formaldehyde in the home.

Skyline constructed the home using materials supplied by Georgia-Pacific Corp. and sold it in 1995.

A decade later, the homeowners sued Skyline and Georgia-Pacific, saying exposure to formaldehyde forced them to leave the home.

The lower court made various rulings in the case, then asked the state Supreme Court to determine the formaldehyde question.

"If the Supreme Court decides that compliance with this standards does not prevent such lawsuits, we could see different manufacturing standards adopted on a state-by-state basis instead of a single HUD standard," Teare said.

WVHI's board has authorized Charleston attorney Johnnie Brown to file a brief with the court on behalf of WVHI in support of Skyline's position.

No argument date has been set.

HUD acts on hinged roofs

By Jeff Inks

MHI vice president for regulatory affairs

WASHINGTON -- HUD has approved a generic AC Letter for certain hinged-roof/ridge-box assemblies that if followed, will not require costly field inspections, MHI Vice President Jeff Inks reported.

This letter is intended to serve as a template for use by all manufacturers to streamline the administrative process for manufacturers choosing to construct homes using these roof assemblies. Visit www.wvhi.org for more help.

While it is limited, the letter does cover most hinged-roof/ridge-box assemblies in common use. This a significant "win" for industry and for manufactured home buyers saving both very significant construction and installation costs, said Inks, head of regulatory affairs.

This achievement is the product of several meetings with HUD.

WVHI board seeks to fill Peterson vacancy

CHARLESTON — The board of directors of the West Virginia Housing Institute Inc. is seeking to fill a vacancy on the 14-member panel.

Rob Peterson of Fort Thomas, KY, who served an at-large position as a representative of Tammac Holding Corp., resigned earlier and has left the industry.

Peterson's position and those of a third of the current board will be up for a vote when the WVHI holds its convention in Charleston Aug. 4-6.

The board members are expected to run as a slate for re-election to the panel.

Home on the Road Newsletter

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Advertising rates

Full page: \$200

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These rate are double for nonmembers.

Industry scores win in dismissal of Fleetwood case

BY BRYAN N. PRICE

Pullin, Fowler, Flanagan, Brown & Poe, LLC

PRINCETON - Industry won a major lawsuit after a Mercer County judge dismissed a case against a manufactured housing plant.

Farm Family Casualty Insurance Co. of Glenmont, NY, sued Fleetwood Homes of Tennessee, Inc. after the insurance company paid out more than \$125,000 to its insured for a fire that destroyed the insured's manufactured home.

Charleston attorney Bryan Price of the law firm of Pullin, Fowler, Flanagan, Brown & Poe defended Fleetwood before Mercer County Circuit Court Judge William J. Sadler. The law firm is a member of the West Virginia Housing Institute Inc. and partner Johnnie E. Brown is associate general counsel to WVHI.

Trial had been set for Jan. 27 when Sadler dismissed the lawsuit.

The homeowner purchased the home in 1999 from a Virginia retailer. It was delivered and set in Mercer County, West Virginia. In 2005 the home burned and was a total loss.

Farm Family retained two experts to investigate the fire. These experts determined the fire was electrical in nature, and attempted to relate the electrical failure to either a manufacturing defect or negligent set-up/installation.

Shortly after suit was filed, the retailer filed bankruptcy. The retailer was dismissed from the lawsuit, and the plaintiff proceeded against Fleetwood.

The plaintiff sought to hold Fleetwood responsible for the fire claiming a manufacturing defect. Alternatively, the plaintiff claimed that the retailer was the agent of Fleetwood, and asserted that Fleetwood was responsible for any acts/omissions of the retailer in delivering/setting the home that may have caused the fire.

Fleetwood was never put on notice of the fire loss until the suit was filed. By the time suit was filed, the manufactured home had been salvaged and the home site cleared. Consequently, Fleetwood was not afforded the opportunity to conduct its own investigation of the fire, and thus could not present evidence of some other possible cause of the fire, Price said.

The court ruled that Fleetwood should not be required to defend the plaintiff's claims when the only evidence upon which Fleetwood could build its defense was the limited evidence plaintiff's experts retained. Additionally, the court held that the plaintiff failed to produce evidence that the acts/omissions of Fleetwood actually caused the fire.

"The important lesson for the manufactured housing industry to take here is that if one is given notice of a fire loss, it is imperative that an investigation of the fire be undertaken," Price said. "Otherwise, the evidence may be destroyed and you will not be able to assert the fire was actually caused by something different than what the plaintiff alleges. Additionally, one must also give notice to other potentially interested parties. If not, a claim that they actually caused the fire instead of you may be thrown out. If someone is given notice of a fire loss, I would encourage them to contact me or their attorney promptly."



Price

WVHI makes progress on SAFE Act

CHARLESTON — Legislation to preclude manufactured and modular housing staff from having to become licensed mortgage brokers has passed the West Virginia Senate.

The measure (SB 532) parallels state law to the federal SAFE Mortgage Licensing Act. The measure crosses over to the House of Delegates.

As envisioned originally, sales persons who took loan applications at retail outlets would have been expected to go through a lengthy licensing process to become mortgage bankers.

But working in close cooperation with the state Division of Banking, WVHI was able to arrange an amendment to exclude sales staff that simply take the application.

“We very much appreciate the way new state Banking Commissioner Sally Cline treated our industry in this important issue,” said WVHI Co-President Steve Brown.

“The commission’s general counsel, Bob Lamont, was a tough but fair negotiator with our industry and we very much respect him for his help,” said WVHI Co-President Kevin Wilfong of Fairmont.

The bill is expected to pass the House of Delegates.

AG’s office says \$385-an-hour is cool

CHARLESTON — The attorney general’s office has waded into a payment dispute that involves the manufactured housing industry.

At issue is a case about whether it is reasonable for a lawyer to collect more than \$400,000 in legal fees for a case that generated a \$29,000 award for his clients.

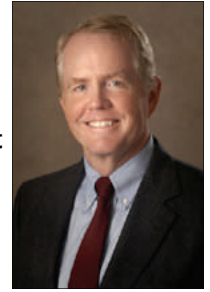
Fleetwood Homes of North Carolina, represented by Charleston attorney Johnnie E. Brown, associate general counsel to the West Virginia Housing Institute Inc., is appealing the 2004 ruling.

Charleston attorney David Grubb, a former deputy attorney general for Attorney General Darrell V. McGraw Jr., believes a billing rate of \$385-an-hour is justified.

The court told Fleetwood to pay Grubb’s legal fees.

In a filing with the court to support Grubb’s petition, the attorney general’s office said such fees are necessary for these types of consumer-protection cases to be handled by competent attorneys.

No date has been set for arguments.



Grubb

Why is this man still smiling?

(Cook from p. 1)
industry well and she will be missed,” said WVHI Co-President Steve Brown of Hurricane.

“Those of us in the industry who knew Fran know we have lost a good friend and a good supervisor,” agreed WVHI Co-President Kevin Wilfong of Fairmont.

“Fran was someone I could call and ask questions without the fear of it being used against me,” said Judy Ritchie of Elkins, director of enforcement for The Home Show. Ritchie was frequently in contact with Cook. “She was tough and believed in the rules, but compassionate and understanding.”

Cook enjoyed reading and working with scrap books. She was a member of the MacArthur Church of God. She was a co-founder and vice president of Hammonds Coal Co.

She recently received the Distinguished West Virginians Award from Gov. Manchin.

(Convention from p. 1)

Golfing can be found close to the hotel at one of the many private golf courses that ring Charleston.

“We look forward to our usual mix of a strong educational element combined with a high level of enjoyment that are the hallmarks of our conventions,” said Steve Brown, co-president of the WVHI.

“Charleston is a fun city and we look forward to our members fully partaking of the city and enjoying their convention,” said WVHI Co-President Kevin Wilfong of Fairmont.

Application and sponsor forms are available within this publication, or by going to the WVHI website at www.wvhi.org.

Belasco and two others are up for a vote in the Senate

CHARLESTON — Bridgeport retailer Tom Belasco II and two others are up for a vote in the state Senate to sit on the regulatory board that oversees the manufactured housing industry in West Virginia.

Gov. Manchin named the 48-year-old businessman to the West Virginia Manufactured Housing Construction and Safety Standards Board last year to a six-year term.

Belasco, of Belasco Inc., also serves on the West Virginia Housing Institute Inc. board.

His name now goes before the state Senate for a confirmations vote by the Senate Confirmations Committee and then the Senate.

Two previous board members, Bob Miller of Charleston and Jack Albert of Cross Lanes, were reappointed.



Belasco

For tickets call 344-BATS

Home of the 2009 South Atlantic League All-Star Game



This is Appalachian Power Park in Charleston, where we will attend an evening baseball game Aug. 4 to see the West Virginia Power play

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The Officers, Board of Directors and Members of the West Virginia Housing Institute Inc. applaud your success and continued support.

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Please send your check today and become a valued member of the 2009 Convention Team that's working hard to make sure this year's annual event at The Embassy Suites Charleston Aug. 4-6 is not only possible but exciting, educational and fun for all those attending. WVHI is a nonprofit organization.

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DUES STRUCTURE:

MANUFACTURER: Dues shall be Fifty Dollars (\$50.00) per floor for each home shipped within the State of West Virginia to dealers, contractors, retailers or sales locations in West Virginia. These dues shall be remitted to the West Virginia Housing Institute, Inc. on a monthly basis.

_____ We will send \$50.00 per floor shipped to West Virginia on a monthly basis.

RENTAL COMMUNITY AND CONTRACTORS:- Per Annum

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