

Final Minutes  
HUD Manufactured Housing Consensus Committee  
Conference Call  
June 7, 2004

1. Chairman Roberts called the meeting to order at 11:00 a.m. Mr. Solomon called the roll; a quorum was present. Mr. Matchneer indicated that the MHCC member appointments are forthcoming. Mr. Roberts asked the guests to introduce themselves.

Mr. Roberts reviewed the agenda and it was approved.

There were no opening remarks from the DFO.

There were no requests to present public testimony.

2. Mr. Cunningham began the discussion of his May 7, 2004 letter concerning the working relationship between the MHCC and HUD and Section 604(b) of MHIA 2000 by noting the appreciation the Department and Commissioner Weicher have for the efforts and insights of the MHCC. The Commissioner encourages the MHCC to continue to make recommendations to HUD on any subject at any time.

Mr. Cunningham noted that the May 7, 2004 letter addresses the provisions of MHIA 2000 regarding required 120-day MHCC prepublication review of procedural or enforcement regulations or interpretative bulletins related to construction and safety standards and other actions specified in the Act. He noted that HUD staff has involved the MHCC on actions outside these parameters, e.g., dispute resolution, Subpart I, on-site construction, preemption, but has not been bound by the formal 120-day review provision of the Act. He indicated that he looks forward to his first face-to-face meeting with the MHCC in August and expects the MHCC to continue to provide substantive views and not become bogged down in procedural issues.

Mr. Ghorbani noted that the MHARR has a fundamental disagreement with the HUD interpretation of MHIA 2000 regarding the required MHCC 120-day review and comment period. He noted that industry continues to want to work cooperatively with the Department, however, MHARR felt compelled to respond to the May 7, 2004 letter in writing. He asked that HUD consider the MHARR letter carefully.

Mr. Cunningham indicated that HUD intends to work with the MHCC with every good faith and believes that this commitment has been demonstrated not only on construction and safety standards but also other areas, Subpart I, for example. He noted, however, if the 120-day review period were observed where it was not required by MHIA 2000, progress would be considerably slowed. He reiterated HUD's commitment to share with the MHCC.

Mr. Stinebert noted that MHI had worked with MHARR on the response and believes it is a fine legal analysis of the issue and hopes HUD gives it every consideration. He

noted that MHI does appreciate the open dialogue. He also noted that MHI believes that Congress intended that the MHIA provide a broad umbrella for MHCC review. He noted that the HUD analysis is very restrictive.

Mr. Matchneer noted that the MHCC had been given the on-site rule for a 120-day review. He noted that the May 7, letter only addresses those instances where a 120-day review is required by the MHIA. In fact, HUD has supported the establishment of Subcommittees for areas outside the scope of the 120-day review requirement.

Mr. Youse indicated that he appreciated Mr. Cunningham's letter and the MHARR response. He noted that a consumer review of the MHIA requirements and MHCC role is missing. He noted that consumers cannot fully participate without all the necessary information. He indicated certain information that had been requested has not been provided, e.g., budget, number of complaints, what the outcome was and how long it took to resolve.

Ms. Cocke indicated that HUD would work with the AO to put together information available to HUD. She noted, however, that the 38 states with programs did not have to provide that type of information to HUD. Ms. Draughn indicated that HUD has asked the seven largest state programs to provide information. Mr. Youse suggested that the same request be made of manufacturers. Ms. Cocke indicated that the request to the manufacturers would be better if it came from the MHCC rather than HUD.

Mr. Cunningham indicated that Commissioner Weicher, Mr. Matchneer and he had met with Chairman Roberts and Vice Chairman Leven and agreed to pull available information for the August meeting.

Mr. Lagano indicated general agreement with Mr. Ghorbani's concerns. He suggested that some sponsors of the legislation be invited to the August meeting to hear their view of the intent.

Mr. Weinert indicated that he agreed with the HUD letter and expressed a caution that the MHCC discussions were being dominated by industry's concerns. He recommended that the MHCC move on. Mr. Ghorbani noted that the MHARR letter was intended to support the role of the MHCC rather than be an industry position. Mr. Weinert noted that as a regulator he had to interpret rules on occasion and once that was done the issue was closed and everyone moved on.

Mr. Ghorbani indicated that the role of the MHCC is very important in providing input to the Department on finances, implementation of Section 620, contractors, etc.

Mr. McHale indicated that most problems are due to a lack of sufficient understanding especially because of the different government agencies and rules that come into play. Mr. Braun indicated that he hears the discussions but is at a loss as to how consumers can help.

Mr. Farish noted that HUD would still listen to MHCC's concerns and input so the MHCC doesn't need to change its mode of operating.

Mr. Cunningham indicated that HUD will try to respond to the MHARR letter as soon as it reasonably can. HUD will continue to work collaboratively, even on those areas not subject to the 120-day review requirement. HUD will work with the Subcommittees so there are no surprises and hopes that 90% or more of the issues have been agreed upon in advance of publication of proposals in the Federal Register.

Mr. Roberts noted that his experience in dealing with HUD indicates that HUD has a genuine interest in making the program work. Some issues run up against the limits of manpower and priorities.

Mr. Ghorbani asked what the MHCC should do about the May 7 letter. Mr. Walter moved, McHale seconding, that the issue be tabled until the August meeting. Motion carried.

3. Mr. Cunningham reported on the status of the first 20 standards submitted to HUD. The Department is not accepting the proposal to remove the formaldehyde notice. No new scientific information has been submitted to justify the deletion. He noted the data cited in the original rule making. Ms. Cocke will provide the 1983 and 1984 Federal Register notices to the AO for posting on the MHCC website.

Mr. Weinert noted that there have been changes in the industry since then but the MHCC was remiss in not providing data to support its recommendation. Mr. Berger indicated that he is rethinking his support for the proposal. Mr. Ghorbani noted that because many changes have been made the notice is no longer necessary. Mr. Roberts noted that the change had gone through the entire NFPA code development process without an objection from HUD. Mr. Farish noted that the original notice had been instituted to protect the industry as well as consumers. Mr. Weinert noted that Section 604 (e) appears to permit HUD to consider actions by the NFPA 501 committee. Ms. Cocke indicated that there is a "different level of proof" for a federal regulation. She noted that an argument has to be articulated to support the change. Mr. Mendlen noted that the original rule was supported by NAS studies. It was noted that the proposal did not propose to change the levels of formaldehyde exposure but only eliminates the notice requirement since it was no longer necessary because of the changes that have occurred since the original rule was published. Mr. Farish moved that the Standards Subcommittee review the issue and develop substantiation for the proposal for consideration at the August meeting. Motion seconded and carried unanimously.

Mr. Zieman reviewed the modifications HUD was making on five proposals.

- Accepting the ASTM E-84 test method is fine, as the method is virtually identical to NFPA 255.
- Mr. Walter noted that during transportation it is possible that cellulose insulation might shift. Mr. Nunn noted that the cellulose insulation manufacturers are looking

at the question but have not yet issued a report. Mr. Mendlen indicated that there have been reports of shifting or settling. Mr. Weinert noted that the testing is performed horizontally whereas some installation is vertical. It was moved, seconded and carried that the Standards Subcommittee review the issue.

- The HUD modification regarding the one-piece metal roofing footnote was referred to the Standards Subcommittee for review.
- The HUD modification regarding moisture barriers was also referred to the Standards subcommittee. The proposal, as submitted, appears to have some parts missing.
- Regarding the modification to the drip pan discharge proposal, Mr. McHale recommended that the AHJ should have the authority to decide what was acceptable. Mr. Weinert agreed with the HUD modification. Mr. Tomasbi noted that there may be odor issues if a P-trap is used. Mr. Youse stated that no water should be permitted to accumulate under the house. It was moved, seconded and carried to accept the HUD modification.

Mr. Zieman asked whether HUD had received and incorporated the editorial corrections he submitted. HUD staff will check.

4. Mr. Vogt reported that he had sent the draft proposed rule on increased payments to states to several state contacts for comments. Feedback was that the proposal actually would decrease some payments. Some states felt that it was a state issue not an MHCC issue.

Mr. Vogt noted that he did not have a complete list of Task Group members, however, he had sent out to several members some ideas for possible comments (ed. note – subsequently sent to the full MHCC). Mr. Roberts noted that the 120-day comment period ended before the August meeting.

Mr. Cunningham noted that this proposal and the earlier proposed rule on payment to states were meant to be considered together. He noted that the latter rule was intended to remove inequities in funding. HUD is now considering the comments received on that rule. Mr. Stinebert noted that during the development of MHIA 2000, states had been ensured that payments to the states would not be reduced. Mr. Matchneer indicated that payment rates have been frozen. Mr. Stinebert noted that no one expected production levels to fall as they have. Mr. Roberts noted the discrepancy of effects on states that have manufacturing facilities and those that are “receiving” states. The only source of funding for the latter is from HUD.

It was moved, seconded and carried that the Task Group should continue working on comments to the draft proposed rule. The Task Group members were confirmed – Mr. Vogt, chair, and Messrs. Berger, Ghorbani, Walter Weinert, and Youse. Mr. Matchneer was added to the Task Group. Mr. Vogt, with the AO and HUD, will arrange a Task Group conference call.

5. Mr. Zieman indicated a desire to move on the additional outstanding standards on which there is no disagreement; approximately 10 – 12 need further discussion. Mr. Cunningham noted that justifications need to accompany the proposals. Mr. Race indicated that in lieu of a preamble, a short justification for each proposal would suffice. Mr. Bryant noted that this is a change from the direction given earlier about form of recommendations to be submitted to HUD. Ms. Cocke agreed, noting that this has been learning process. Mr. Solomon noted that the NFPA ROP and ROC contained justifications for each change in NFPA 501. It was noted that future proposals for changes to 3280 would come directly to the MHCC and would contain a justification for the proposed change.

The Standards Subcommittee was charged to develop justifications for the proposed changes and to further discuss those proposals on which agreement had not been reached. Mr. Solomon will provide the NFPA 501 ROP and ROC justifications. Mr. Zieman moved that those proposed standards with which HUD has agreed to in the Subcommittee be “blessed”. Motion seconded and carried.

Mr. Solomon reported that the second group of standards has been held by the AO for processing until the next option period beginning June 1, 2004 for budgetary reasons.

6. Mr. Nunn asked about the status of the outline for an installation program. Mr. Solomon indicated that it has been sent to HUD. Ms Cocke confirmed receipt. Mr. Solomon will post it on the website.

Mr. Solomon reported that the next MHCC meeting will be August 10 – 12, 2004, in Alexandria, VA.

Mr. Cunningham thanked the MHCC for its comments and thanked HUD staff for its efforts to work with the MHCC.

The call adjourned at 2:45 p.m.

***HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE***  
**ATTENDANCE SHEET**  
**TELECONFERENCE**  
**June 7, 2004**

STATUS: M=MEMBER; NVM=NON VOTING MEMBER; AO= ADMINISTERING ORGANIZATION *SEC=SECRETARY*

NAME	STATUS	ORGANIZATION
Dana Roberts	M	Oregon Manufactured Homeowners Assoc.
Karl Braun	M	NAMH – MHOAA
Ed Bryant	M	Champion Enterprises
William Farish	M	Fleetwood Homes
Danny Ghorbani	M	MHARR
Doug Gorman	M	Home – Mart, Inc.
William J. Lagano	M	Commonwealth Consulting Corp.
Ronald V. LaMont	M	Alpine Engineering Products
Jerome L. McHale	M	Federation of Manufactured Home Owners of Florida
Nader Tomasbi	M	Liberty Homes, Inc.
Randy Vogt	M	State of Minnesota
Frank Walter	M	MHI
Richard Weinert	M.	State of CA
Alan Youse	M	Oregon Department of Agriculture
Mike Zieman	M	RADCO
William Matchneer III	NVM/DFO	HUD
Pat Toner	AO/SEC	NFPA
Robert Solomon	AO	NFPA

***HUD MANUFACTURED HOUSING CONSENSUS COMMITTEE***  
**TELECONFERENCE**  
**June 7, 2004**  
**GUEST ATTENDANCE SHEET**

<b>NAME</b>	<b>ORGANIZATION</b>
Sue Brenton	Self
Elizabeth Cocke	HUD
Gary Cunningham	HUD
Elsie Draughn	HUD
Nick Hluchyj	HUD
Joan Kayagil	HUD
Bert Kessler	Palm Harbor
Andy Kochera	AARP
Bill Matchneer	HUD
Mike McGuinness	Senator Conrad Burns Office
Rick Mendlen	HUD
Mark Nunn	MHI
Peter Race	HUD
Chris Steinbert	MHI