

**Manufactured Homes Commission
Minutes of Virtual Meeting May 14, 2024¹**

CALL TO ORDER: 10:36 am

In Attendance: Ethan Mascoop (Chair), Jeffrey Hallahan (Vice Chair), Assistant Attorney General Dan Less (Secretary / Attorney General's Office), Sandra Overlock, and Paula Fay

Absent: Tracey Sharkey, Tyler Newhall (Executive Office of Housing and Livable Communities)

Present: Chris Jee (Deputy General Counsel, EOHLC), Lois Martin (Paralegal / AGO)

It was generally agreed there was a quorum present.

Mr. Mascoop introduced new commission member Paula Faye. Ms. Faye is a resident of the Oak Point manufactured housing community (MHC) located in Middleboro which is owned and operated by Hometown America. Ms. Faye has been a long standing and passionate advocate not only for the residents of her MHC but for MHC residents across the Commonwealth.

APPROVAL OF MINUTES

Mr. Mascoop noted a typo on page 2, under the CDI's list of communities noting that that the date should be 2022 instead of 2002. Mr. Mascoop also noted that on page 5 the language regarding space heaters stating that space heaters were not a substitution for a heat source and that heat must be restored within 24 hours of the notification of the violation to the community owner. AAG Less made those changes contemporaneously. Mr. Mascoop asked if the members had any other issues with the minutes. Ms. Overlock said she had not had time to read them, so approval of the minutes was tabled until the next meeting. AAG Less said he would recirculate the corrected minute prior to the next meeting

CORRESPONDENCE/COMMUNICATIONS

Mr. Mascoop said there was nothing new to discuss at this time.

OLD BUSINESS

Mayflower MHC, Plymouth (Parakeet): There was a discussion that lasted about one hour concerning the status and updates regarding this MHC. While it was acknowledged that a new home had been brought into the community for the family whose home had experienced a substantial oil leak, there was concern that that the home was not transported into the community properly and was improperly installed. It was reported that the installation was done by a licensed HUD installer. Ms. Overlock noted that she is in communication with Mike Henrity a noted expert on HUD home installation requirement to follow up on these problems. It was also reported that roads still had potholes, a pile of oil contaminated earth had not been removed, the oil spill itself had not yet been remediated, and there were still exposed wires at meters and other locations. AAG Less noted that at this point, there was nothing more the AGO or the commission could do about the situation. The home had been delivered and the family was going to be compensated for their share of the old home. Installation issues were the province of HUD. DEP oversaw the oil remediation, and the town Board of Health and/or Building Department was responsible for the potholes, exposed wires, and other building or sanitary code

¹ This meeting was originally scheduled to hybrid / in-person meeting to be held at the Chicopee City Hall on April 16, 2024 at 10:30am. While Mr. Mascoop and AAG Less attended the meeting in-person, there was not a quorum of commission members and, therefore, it was rescheduled to be held virtually on this date and time.

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violations. He noted that neither the AGO nor the commission had any authority over any of these entities to enforce or compel any of them to address the residents' complaints. Residents and advocates reiterated their complaints. Members acknowledged, understood, and were sympathetic to their complaints and would asked them to continue to provide updates on any progress (or lack thereof) they experienced. Mr. Mascoop observed that there appears to have been a lack of thoroughness of the LSP in handling the oil leak and also the response of DEP and local Board of Health in reviewing the LSP's findings.

NEW BUSINESS

New AAG Ellen Peterson: AAG Less introduced AAG Peterson to the commission even though she was unable to attend the meeting to introduce herself personally. AAG Peterson had recently joined the AGO and would be working on MHC matters with AAG Less as well as other matters in the AGO's Consumer Protection Division. AAG Less stated he hoped she would be able to attend future meetings. In the meantime, AAG Less told the commission that she was previously an attorney at the Northeast Justice Center where she worked on a number of cases on behalf of indigent people. She represented residents of the MAC MHC before the City of Peabody in opposing that MHC's owner's attempt to discontinue their community.

Crown Communities, LLC v. Austin: AAG Less stated that AAG Peterson had already made an impact in the office drafting and submitting an amicus brief to the Appeals Court in the *Crown Communities, LLC v. Austin*. At trial, the court concluded that the residents failed to properly exercise their right of first refusal (ROFR) to purchase their MHC, as dictated under G.L. c. 140, § 32R once Crown had made an offer to purchase it. Consequently, the trial court ordered that Austin (the owner of the MHC) to sell it to Crown. The Attorney General's amicus argued that not only had the trial court erred in finding that residents had failed to provide the owner with "reasonable evidence" that a sufficient number of them intended to exercise their ROFR, but the trial court also imposed an improperly high burden on residents that they had to verify the authenticity of their signatures on a petition to the owner indicating a sufficient number of them approved of using their ROFR. The case was argued before the Appeals Court on April 17, 2024 and the matter was taken under-advisement. AAG Less said he would update the commission once the Appeals Court issued a decision.

There was a follow up discussion suggesting the AGO amend its regulation to prevent the courts from misapplying § 32R. AAG Less noted that 940 CMR 10.09(3)(a) already provided a specific definition of "reasonable evidence" but the trial court just ignored it. AAG Less suggested that the legislature should amend § 32R because it creates an overly cumbersome and confusing ROFR process that Crown took advantage of this case. Nora Goslin from the Community Development Institute noted that CDI had submitted a proposed bill to Senator Marc Pacheco to amend § 32R to simplify and clarify the process to prevent this situation from reoccurring.

Blackmans Point Homeowners Association v. Call: AAG Less explained that this was another Appeals Court case the Attorney General filed an amicus brief in the fall of 2023. The case concerned the MHC's owners' attempt to do an "end run" around the residents' ROFR by notifying the residents they were discontinuing the MHC and that their future use of the MHC was to sell it once the residents were removed from the community. The Attorney General argued that under the statute, owners have only two options to remove themselves from operating an MHC – (1) they can sell it under § 32R triggering the residents ROFR or (2) discontinue its operation pursuant G.L. c. 140, §§ 32L (7A) – (9), and then use the land for something else. Given these two statutory options, the Attorney General's amicus

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argued that the trial court erred in finding that it was a proper alternative use of the land for the owners to sell it. The amicus explained that since the statute created these two separate processes, selling it *after* discontinuing wrongfully deprived the residents of exercising their ROFR.

The Appeals Court issued a published opinion finding the trial court erred but on grounds not raised in the Attorney General's amicus. The Appeals Court remanded the matter back to the trial court to reconsider its decision on these other grounds. There is a possibility that this ROFR issue may be raised again during the remand. AGO will continue to monitor the matter.

As a follow up, Mr. Mascoop asked AAG Less if there was a list of appellate decisions regarding MHCs. Mr. Less said there was and that he would circulate it after the meeting. The list is attached to these minutes.

OPEN FORUM

Bob Costa of Royal Crest, Wareham –:

Mr. Costa said the parks with the most problems are usually the investor-owned parks because these owners are indifferent to their residents and do not follow Massachusetts's manufactured housing laws. He asked if new legislation imposing a \$10,000 to \$15,000 fines for problems like the ones at Mayflower that might spur owners to be more compliant with the law.

Mr. Hallahan noted the statute does allow local boards of health to revoke MHCs' license for violations and then impose fines for being unlicensed. Commission members acknowledged the statute but noted boards of health do not use this authority.

Mr. Hallahan stated that he and the Massachusetts Manufactured Housing Association take the industry seriously. He calls owners who are not following the statutory and regulatory requirements to try and resolve issues. The huge influx of out-of-state owners are not familiar with Massachusetts's "pro-resident" laws and he tries to educate them and correct their erroneous decisions.

AAG Less reminded the commission that every year for at least eight years Senator Marc Pacheco has introduced legislation that would empower the Manufactured Home Commission to act as an alternative dispute body for residents to submit complaints, hear evidence, and issue decisions and orders requiring owner compliance if the commission found the owner was in violation. AAG Less noted that this could be a recommendation the commission could include in an annual report to the legislature which was overdue. AAG Less also noted that these Annual Reports could be the best mechanism the commission has to effectuate change and make suggestions and recommendations to address and fix several of the complaints and problems it hears from residents at almost every meeting.

ANNUAL COMMISSION REPORT

Mr. Mascoop agreed that the annual report had the potential to be an effective tool for the commission to make recommendations for changes not only in the statute but in other areas that cover manufactured housing. He noted that he has been working on a draft of a report but was not yet complete. Consequently, he did not want to submit it to the commission for discussion.

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He mentioned that it would be helpful to form a subcommittee to help identify issues and make recommendations regarding the issues the commission has encountered that could be included in a draft the report. A motion was made and approved (unanimously) to create such a subcommittee and Ms. Faye and Ms. Overlook volunteered to be on it with Mr. Mascoop.

FUTURE MEETINGS

Members discussed how often and where future meetings should be held. Ms. Overlook noted that there seemed to be greater participation from the public with virtual meetings. AAG Less stated that with the advent of virtual meetings and the number issues and recommendations the commission could be addressing, it would be easy to meet more than quarterly. The commission decided to form a subcommittee to meet from time-to-time between the quarterly meetings to draft proposals for an annual report that could be submitted to the entire commission for review and approval. As discussed above, the commission voted unanimously to form a subcommittee.

Members discussed the efficacy of continuing to have in-person meetings. Having held four straight in-person meetings, it was noted that they were sparsely attended. One person attended the Worcester meeting in July 2023, 15-20 people attended the October 2023 meeting in Plymouth, 5 to 10 people attended the meeting in Taunton in January 2024, and no people attended the Chicopee meeting in April 2024 (and was not held because there was not a quorum of commission members). Moreover, the only commission members to attend any of these meetings in-person were Mr. Mascoop and AAG Less.

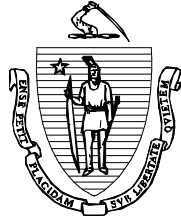
The concern was that switching to all virtual meetings would deprive those members of the public who lacked the technology to attend virtually. It was also pointed out that virtual participation included a phone-in option in addition to video which would likely include those people who did not have the technology to appear on video.

It was generally agreed the commission would attempt one more in-person meeting to see how that was attended. If there was no or scarce attendance, the commission would consider future meetings be conducted virtually.

Scheduling of July 2024 meeting:

Mr. Mascoop said this meeting is scheduled for July 9, 2024 in Peabody but he would like to change it to later in the month because he will be out of the country at that time. A motion was made to move the July 9 meeting to July 23 and it was approved unanimously. Mr. Mascoop stated that he will reach out to the boards of health in the area and encouraged them to attend the July 23 Peabody meeting. AAG Less volunteered to find a venue in Peabody that could host a hybrid virtual / in-person meeting on July 23.

ADJOURNED – AAG Less made a motion to adjourn the meeting and it was unanimously. The meeting adjourned at 12:51 pm.



Pursuant to the Massachusetts Open Meeting Law, G.L. c. 30A, §§ 18-25, notice is hereby given of a meeting of the MANUFACTURED HOME COMMISSION. Massachusetts General Laws, Chapter 6, Section 108, establishes the Manufactured Homes Commission. It is the mission of the Manufactured Homes Commission to provide prompt, impartial service to all parties affected by or concerned with matters pertaining to manufactured housing communities, to the maximum extent permitted by law.

NOTICE OF MANUFACTURED HOME COMMISSION QUARTERLY MEETING

Taking Place on Tuesday, May 14, 2024 at 10:30 AM to 12:30 PM

To attend the meeting through **video access**, please join the meeting by clicking on the following link: [Join the meeting now](#) Meeting ID: 273 307 004 276 Passcode: b38C5q

To attend the meeting through **audio access** only, please join the meeting by dialing 1-857-327-9245 and use Conference ID: 934 106 413#

AGENDA

- 10:30** **CALL TO ORDER**
- Attendance
 - Introduction of Paula Fay – new commission member
- 10:35** **APPROVAL OF January, 2024 MINUTES**
- 10:40** **CORRESPONDENCE/COMMUNICATIONS**
- 10:45** **OLD BUSINESS**
- Mayflower MHC, Plymouth
- 11:15** **NEW BUSINESS**
- Introduction AAG Ellen Peterson
 - Blackmans Point Homeowners Association v. Call
 - Royal Crest, Wareham – Bob Costa
 - Annual Commission Report
 - Scheduling of July, 2024 meeting
- 12:00** **PUBLIC FORUM**
- 12:30** **ADJOURN**

This meeting is open to the public. All persons having business to be brought before the Commission are invited to participate either in person or remotely.

Commissioners:

Ethan Mascoop, Chair
Jeffrey Hallahan, Vice-Chair
Tracy Sharkey Commissioner
Paula Fay, Commissioner

Sandy Overlock, Commissioner
Dan Less, Ex Officio
Tyler Newhall, Ex Officio

For further information contact: Chris Jee, EOHLIC
christopher.jee@mass.gov
617-573-1313

For reasonable accommodations regarding this meeting, please contact 617-573-1102.

Please contact the Massachusetts Executive office of Housing and Livable Communities at (617) 5731100 for free language assistance.

Favor de comunicarse con la Oficina Ejecutiva de Vivienda y Comunidades Habitables (Executive Office of Housing and Livable Communities (EOHLC)) de Massachusetts en (617) 573-1100 para ayuda gratis con el idioma.

Entre em contato com o Escritório Executivo de Habitação e Comunidades Habitáveis (Executive Office of Housing and Livable Communities (EOHLC)) de Massachusetts no número (617) 573-1100 para obter assistência gratuita com o idioma.

Tanpri kontakte Biwo Lojman ak Kominote alimantè (Executive Office of Housing and Livable Communities (EOHLC)) Masachousèt la nan (617) 573-1100 pou asistans gratis nan lang.

如果您需要免费的语言翻译帮助，请联络麻州住宅及社区发展部 马萨诸塞州住房和宜居社区执行办公室(The Massachusetts Executive Office of Housing and Livable Communities (EOHLC)),联络方式(617) 573-1100。

Свяжитесь с сотрудником Исполнительное управление жилищного строительства и пригодных для жизни сообществ (Executive Office of Housing and Livable Communities (EOHLC)) Массачусетс на предмет оказания бесплатной помощи по переводу на иностранный язык. ((617) 573-1100)

សូមទំនាក់ទំនងផ្នែកអភិវឌ្ឍន៍សហគមន៍និងលំនៅឋានសណ្ឋូសត រល្យបតិបតិសលំនៅ និងសហគមន៍ដល់ចរស៍។(Massachusetts Executive Office of Housing and Livable Communities (EOHLC)) មរយៈ (617) 573-1100 ដើម្បីទទួលបានជំនួយ ផកយគតតិតៃថ។

Vui lòng liên Văn phòng điều hành về nhà ở và cộng đồng đáng sống (Executive Office of Housing and Livable Communities (EOHLC)) Massachusetts tại (617) 573-1100 để được hỗ trợ ngôn ngữ miễn phí.

On May 9, 2024 this notice was posted at EOHLC Open Meeting Notices:
<https://www.mass.gov/service-details/dhcd-open-meeting-notices>

MANUFACTURED HOUSING CASES

Case	Year	Court	Summary / Points / Quotes
<i>Alenci v. Hometown Am. Mgmt, LLC</i> , No. CV 19-12244-LTS, 2020 WL 2515872 (D. Mass. May 15, 2020)	2020	D. Mass	No violation of AGO Regs if water company water meter is on resident's home, resident pays water company directly, and this arrangement is disclosed in the occupancy agreement
<i>Bartok v. Hometown Am, LLC</i> , No. CV 21-10790-LTS, 2023 WL 3773106, at *2 (D. Mass. Feb. 27, 2023)	2023	D. Mass	Application of <i>Blake</i> vis a vis a prior decision of an RCB.
<i>Blackman's Point Homowners' Ass'n v. Call</i> , 103 Mass. App. Ct. 711 (2024)	2024	AC	Do terms of a settlement agreement between the MHC owner and the MHC residents prohibit the MHC owners from discontinuing the community as opposed to selling the community and providing residents with an ROFR? (AGO Filed an amicus brief on whether the MHC owner properly notified their residents that they were discontinuing the MHC. See fn 10 - court does not reach this issue but does quote the AGO brief).
<i>Chelmsford Trailer Park v. Chelmsford</i> , 393 Mass. 183 (1984)	1984	SJC	Legality of municipality creating RCBs
<i>Commonwealth v. DeCotis</i> , 366 Mass. 234, 238 (1974)	1974	SJC	"Many of the prospective tenants are retired or near retirement age, living on fixed incomes. Once a mobile home has lost a substantial portion of its mobility by its placement on a foundation with utility connections and associated landscaping, the expense of moving the home for the purposes of sale are substantial in relation to its market value. The market value of such a home in place is significantly greater than its market value as a mobile home to be moved."
<i>Commonwealth v. Gustafsson</i> , 370 Mass. 181 (1976)	1976	SJC	MHC residents are in an "ineffective bargaining position" and have "no reasonable alternative" but to agree to their owners' demands.
<i>Craw v. Hometown Am, LLC</i> , No. CV 18-12149-LTS, 2019 WL 1298588, at *10 (D. Mass. Mar. 21, 2019)	2019	D. Mass	In most manufactured housing communities, residents own their homes but must rent their lots from the community owner. As a result, community owners have "the opportunity to exert substantial control" over residents. Excellent overview of the MHC Act, AGO's Regulations, and AGO's Guide. Owner's obligations to maintain cement slab under manufactured home.
<i>Greenfield Country Estates Tenants Ass'n v. Deep</i> , 423 Mass. 81 (1996)	1996	SJC	"manufactured housing communities provide a viable, affordable housing option to many elderly persons and families of low income." Carefully tailored statutory requirements were aimed at improving the residents' ineffective bargaining position while preserving and protecting the legitimate interests of community owners.
<i>Halifax v. Commonwealth</i> , 13-CV-00674 (MA HC SE Div. (Mar. 14, 2016)	2016	Housing	Specific performance of having the current MHC owner sell the MHC to the residents is the remedy when prior owner fails deprives residents of their ROFR by not following s. 32R's requirements.
<i>Laves v RHP Properties</i> , 95 Mass. App. Ct. 804 (2019)	2019	SJC	Superior Court denied MHC owner's DJ action challenging AGO's objection to owner's proposed community rule.
<i>Mac's Homeowner's Ass'n v. Gebdo</i> , 92 Mass. App. Ct. 453 (2017)	2017	AC	Pursuant to AGO's regulations MHC owner is responsible for installing, maintaining, repairing, replacing, and disposing of MHC resident's external oil tanks. (AGO Filed an Amicus Brief). Failure to follow s. 32R ROFR requirements - residents may maintain a s. 93A action against prospective buyers if present owner failed to follow s. 32R requirements.
<i>Quinn v Peabody RCB</i> , 45 Mass. App. Ct. 357, Fur. App. Rev. Denied, 428 Mass. 1109 (1998)	1998	AC	RCB process, following discontinuance requirements under s. 32L.
<i>Blake v Hometown America</i> , 486 Mass. 268 (2020)	2020	SJC	the "time of entry into an occupancy agreement does not create a dissimilar class under s. 32L(2)." Therefore, unless there is some other fact that would create a dissimilar class (e.g. different services, lot sizes, etc.), residents should be charged the same amount of rent regardless of when they began living in the MHC as they are in a similar class. (AGO Filed an Amicus Brief).

MANUFACTURED HOUSING CASES

Case	Year	Court	Summary / Points / Quotes
		Eminent Domain / Rent Control.	
<i>Yee v City of Escondido</i> , 503 U.S. 519 (1992)	1992	SCOTUS	"The term "mobile home" is somewhat misleading. Mobile homes are largely immobile as a practical matter, because the cost of moving one is often a significant fraction of the value of the mobile home itself. They are generally placed permanently in parks; once in place, only about 1 in every 100 mobile homes is ever moved. Hirsch & Hirsch, Legal-Economic Analysis of Rent Controls in a Mobile Home Context: Placement Values and Vacancy Decontrol, 35 UCLA L.Rev. 399, 405 (1988). A mobile home owner typically rents a plot of land, called a "pad," from the owner of a mobile home park. The park owner provides private roads within the park, common facilities such as washing machines or a swimming pool, and often utilities. The mobile home owner often invests in site-specific improvements such as a driveway, steps, walkways, porches, or landscaping. When the mobile home owner wishes to move, the mobile home is usually sold in place, and the purchaser continues to rent the pad on which the mobile home is located."
<i>Ellis v. Board of Assessors</i> , 358 Mass. 473 (1970)	1970	SJC	Exception to G.L. 140, s. 32G that MH owner whose MH is in an MHC does not pay real estate taxes is where the MH was permanently affixed to a poured concrete foundation, with a full cellar .
<i>Assad v Longo</i> , 62 Mass. App. Ct. 1105, 2004 WL 2309977 (2004)	2004	AC (1:28)	Owner/operator not responsible for pay for water if water company has individual meter on the home and bills residents directly for water.
<i>Crown Communities v. Austin</i> , --- Mass. App. Ct. -- (2024)	2024	AC	Under advisement. AGO filed an amicus brief arguing the Superior Court failed to apply the "reasonable evidence" standard to determine whether a sufficient number of residents wanted to exercise their ROFR and it was improper for the court to require the residents verify their signatures to be considered as evidence of their intent to purchase the community.