

DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY

Statutory Authority: 25 Del.C. §7011(f) and 7013(c)(2)

FINAL

ORDER NO. 3

AND NOW, this 11th day of June, 2008, the Delaware Manufactured Home Relocation Authority (the "Authority"), issues the following Order which shall be effective ten (10) days after the publication of this Order in the *Delaware Registrar of Regulations*:

1. Pursuant to its statutory authority, the Authority has proposed for adoption proposed revisions to the Authority's Regulations that would set the maximum payment available to a landlord for a single section home and a multi-section home that has been abandoned or that has been determined to be non-relocatable at \$500.00 and \$1,000.00 respectively (the "Proposed Regulations"). Ralph Durstein, Deputy Attorney General (the "Hearing Examiner") was designated as the Hearing Examiner to conduct a public hearing for the purpose of receiving comments from the public on the Proposed Regulations.

2. The public hearing was held on Monday, December 10, 2007. A copy of the Proposed Regulations and notice of the public comment session was published in the *Delaware Register* on November 1, 2007, and notice of the hearing was published in both the *Delaware State News* and the *News Journal* on November 9, 2007.

3. The public hearing was presided over by the Hearing Examiner. On or about May 19, 2008, the Hearing Examiner submitted his Report.

4. The Authority considered the Proposed Regulations and Report of the Hearing Examiner at its regularly scheduled Board meeting held on June 11, 2008. At its June 11, 2008 Board meeting, the Authority adopted a resolution pursuant to which the Authority adopted the proposed regulation as a final regulation.

5. A summary of the evidence and public comments submitted on the Proposed Regulations is set forth in the Report of the Hearing Examiner attached hereto as Exhibit A.

6. For the reasons set forth herein, the Authority, by this Order, adopts as final regulations the Regulations attached to this Order as Exhibit B.

7. At the public hearing, no members of the public voiced any significant opposition to the proposed regulation. While several speakers did not believe landlords should be entitled to any benefits, by statute, a landlord is entitled to benefits, at a maximum rate to be set by the Authority.

8. The Authority believes that the maximum benefits set forth in the Proposed Regulations are reasonable under the circumstances. The Authority reaffirms its decision to set the maximum landlord reimbursement rate at \$500.00 for single section homes and \$1,000 for multi-section homes, as reflected in the Proposed Regulations.

NOW THEREFORE, for the reasons set forth above, **IT IS ORDERED**:

1. That the Amendment to "Delaware Manufactured Home Relocation Trust Fund Regulations" attached hereto as Exhibit B is adopted pursuant to 25 Del.C. §7011, *et. seq.* The Proposed Regulations adopted herein shall become effective ten (10) days after their publication in the *Delaware Register of Regulations*.

2. That pursuant to 29 Del.C. §1134, the Authority shall transmit a copy of this Order and the Regulations to the *Delaware Register of Regulations* for publication in the next issue of the *Delaware Register of Regulations*.

3. That a copy of this Order and the Regulations shall be mailed to each entity or persons that previously filed written comments to the Proposed Regulations and to each person who has made a timely request for advance notice of the Authority's regulation making proceedings.

4. That the Authority reserves the right to hereafter alter, amend, or waive the Regulations adopted herein to the extent that the same may be allowed by law.

5. That the Authority reserves the jurisdiction and power to enter such further orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE AUTHORITY:

Stevan D. Class, Chairperson

Terri Rock, Vice Chairperson
Derek Strine, Board Member
William Reed, Board Member
Ken Fuchs, Board Member
Raymond L. Paylor, Board Member
Edwin Speraw, Board Member
Dated: June 11, 2008

201 Delaware Manufactured Home Relocation Trust Fund Regulations

The Authority is granted authority to establish rules and regulations and establish criteria for the disbursement of benefits available to landlords and tenants under the provisions of 25 **Del.C.** §7011, et. seq. (the "Act"). The regulations set forth below establish criteria for benefits eligibility, pursuant to the statute, application procedures, application review procedures, and payment procedures.

1.0 Criteria for Tenant Benefits

- 1.1 Only "Tenants", as defined under the Act, are entitled to benefits under the Act. A Tenant is defined to mean an owner of a manufactured home who has tenancy of a lot in a manufactured home community. A manufactured home community refers to a parcel of land where two or more lots are rented or offered for rent for the placement of manufactured homes. Notwithstanding anything stated herein to the contrary, a Tenant shall not be entitled to any of the benefits described herein unless all of the statutory requirements set forth in the Act have been met.
- 1.2 A Tenant is entitled to relocation benefits under the Act if the Tenant is required to move due to a change in use or conversion of the land in a manufactured home community. A Tenant is not entitled for compensation for relocation if:
 - 1.2.1 the Landlord (at the Landlord's expense) moves the Tenant's manufactured home by mutual consent to another lot in the manufactured home community or to another manufactured home community; or
 - 1.2.2 the Tenant is vacating the manufactured home community and so informed the Landlord before notice of the change in use was given by the Landlord; or
 - 1.2.3 the Tenant abandons the manufactured home; or
 - 1.2.4 the Tenant has failed to pay the Tenant's share of the Relocation Trust Fund assessment during the course of his or her tenancy.
- 1.3 The maximum relocation payment available to a Tenant is \$4,000.00 for a single section home or \$8,000.00 for a multi-section home.
- 1.4 If a Tenant is required to move due to a change in use and complies with the statutory requirements of 25 **Del.C.** §7013, the Tenant is entitled to payment from the Relocation Trust Fund of the lesser of:
 - 1.4.1 the actual relocation expenses of moving the manufactured home and existing appurtenances to a new location within a 25 mile radius of the vacated manufactured home community, or
 - 1.4.2 the maximum benefits available under Section 1.3.
- 1.5 Moving expenses which are eligible for reimbursement include the cost of taking down, moving and setting up the manufactured home in the new location.
- 1.6 In certain circumstances, a manufactured home may be considered non-relocatable. If, based upon the criteria described herein, a Tenant's manufactured home is determined by the Authority to be non-relocatable, the Tenant may qualify for compensation to reimburse the Tenant for the value of the non-relocatable home subject to the limitations set forth in the Act.
- 1.7 Whether or not a home can or cannot be relocated will be determined by the Authority based upon the following criteria:
 - 1.7.1 the availability of a replacement home site within a 25 mile radius of the vacated manufactured home community;

- 1.7.2 the feasibility of physical relocation, including the ability of taking down, moving and setting up the home in a new location without causing significant structural damage to the manufactured home in the process;
- 1.7.3 the appraised value of the manufactured home in comparison to the projected cost of relocating the manufactured home to a new location.
- 1.8 If the Authority determines that the Tenant's manufactured home cannot be relocated, the Tenant shall obtain, at the Tenant's expense, an appraisal prepared by a certified manufactured home appraiser for purposes of determining the fair market value of the home and any existing appurtenances. The appraisal shall exclude the value of the underlying land. The maximum benefits available to the Tenant under such circumstances shall be determined by the Board for a single section home and a multi-section home following the completion of an actuarial study to be performed under the direction of the Authority. Subject to the maximum limits, the amount of compensation that will be paid to the Tenant will be equal to the fair market value of the home based upon the appraisal.
- 1.9 To be eligible for compensation for a non-relocatable home, in addition to the application provided for in Section 3 hereof, the Tenant must deliver to the Authority a current State of Delaware title to the home, duly endorsed by the owner or owners of record, with valid releases of all liens shown on the title, and a tax release.
- 1.10 In lieu of the foregoing benefits, a Tenant may elect to abandon the manufactured home in the manufactured home community and collect from the Trust Fund, in lieu of any other benefits available under the Act, the sum of \$1,500 for a single section home or \$2,500 for a multi-section home. To qualify for this payment, the Tenant must deliver to the Authority a current State of Delaware title to the manufactured home duly endorsed by the owner or owners of record, valid releases of all liens shown on the title, and a tax release.

2.0 Criteria for Landlord Benefits

- 2.1 If pursuant to the Act and these regulations, a manufactured home is determined to be non-relocatable or a Tenant abandons the home, upon application by the Landlord duly submitted to the Authority, a Landlord of a manufactured home community is entitled to receive from the Relocation Trust Fund payment in an amount determined by the Authority to be sufficient to remove and/or dispose of the manufactured home. The maximum relocation payment available to a Landlord is ~~\$4,000.00~~ \$500.00 for a single section home or ~~\$8,000.00~~ \$1,000.00 for a multi-section home. To qualify for this benefit, the Landlord must submit an application pursuant to the provisions of Section 3. Notwithstanding anything stated herein to the contrary, a Landlord shall not be entitled to any of the benefits described herein unless all of the statutory requirements set forth in the Act have been met.
- 2.2 Upon receipt of the title documents from the Tenant for the manufactured home that is considered to be non-relocatable or abandoned pursuant to the Act, the Authority will relinquish the title to the Landlord to facilitate the removal and/or disposal of the home from the manufactured home community. Within ten (10) calendar days after the removal and/or disposal of the manufactured home by the Landlord, the Landlord shall notify the Authority in writing of the amount of funds received by the Landlord, if any, from any subsequent sale or disposal of the manufactured home, and a copy of all documents relating to the removal and/or disposal shall be provided to the Authority, including documents relating to any expenses incurred by the Landlord in removing and/or disposing of the home.
- 2.3 Within thirty (30) days after receipt of the information and documents required under the Act and these regulations, the Authority shall cause a voucher to be issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the Landlord which amount shall represent the amount determined by the Authority to be sufficient to cover the cost of the removal and/or disposal of the manufactured home, less any profit realized by the Landlord from the removal and/or disposal of the home, subject to the maximum relocation payment set forth in Section 2.1 hereof.
- 2.4 A Landlord shall not be entitled to any payment from the Trust Fund if the Landlord has failed to pay the Landlord's share of the total Trust Fund assessment during the course of the tenancies relating to

the manufactured home community or if the Landlord has failed to remit the Tenant's share of said assessment.

3.0 Application Procedures

- 3.1 The Authority will provide application forms (Appendix A and Appendix B) on which applicants for benefits under the Act may apply for benefits.
- 3.2 In the case of an application for benefits under the Act by a Tenant, the application shall be in the form of Appendix A and shall contain the following information:
 - 3.2.1 name of the Tenant;
 - 3.2.2 mailing address of the Tenant;
 - 3.2.3 telephone number of the Tenant;
 - 3.2.4 manufactured home community park name and address;
 - 3.2.5 space number for the manufactured home;
 - 3.2.6 a description of the manufactured home, including its size, year, manufacturer, and whether the manufactured home is a single-wide or a double-wide;
 - 3.2.7 a copy of the title or ownership documents relating to the manufactured home;
 - 3.2.8 a copy of the notice of termination or non-renewal of the Tenant's rental agreement due to a change in use of land;
 - 3.2.9 in the case of an application for relocation assistance, a copy of the contract between the Tenant and a licensed moving or towing contractor for the moving expenses for the home;
 - 3.2.10 in the case of any requests for compensation for a manufactured home considered by the Tenant to be non-relocatable, a description of the facts which the Tenant relies upon in support of the Tenant's contention that the manufactured home is in fact non-relocatable based upon the criteria provided for in the Act and these regulations, together with any and all documents relating to the purchase of the manufactured home and any improvements made to the manufactured home by the Tenant;
 - 3.2.11 a certification by the Tenant that the Tenant has paid the Tenant's share of the Trust Fund assessments during the course of the Tenant's tenancy.
- 3.3 In the case of an application for benefits under the Act by a Landlord, the application shall be in the form of Appendix B and shall contain the following information:
 - 3.3.1 the name of the Landlord;
 - 3.3.2 the name of the manufactured home community;
 - 3.3.3 the mailing address of the Landlord;
 - 3.3.4 the telephone number of the Landlord and if the Landlord is not an individual, the name of the designated representative of the Landlord;
 - 3.3.5 a description of each manufactured home for which the Landlord is seeking financial assistance;
 - 3.3.6 a copy of the notice of termination or non-renewal of the rental agreement due to a change in use of land;
 - 3.3.7 a contract with a licensed moving or towing contractor for the removal and/or disposal of the manufactured home;
 - 3.3.8 an itemization of all expenses, other than the expenses reflected in the contract between the Landlord and the moving or towing contractor, together with associated documents, which the Landlord anticipates will be incurred in removing and/or disposing of the manufactured home from the manufactured home community;
 - 3.3.9 a certification by the Landlord that the Landlord has paid the Landlord's share of the total Trust Fund assessment during the course of the tenancies for the manufactured home community and has remitted to the Authority the Tenant's share collected by the Landlord.

4.0 Assistance and Data Gathering

- 4.1 When requested, the Authority shall provide assistance to Landlords and Tenants in completing application forms.
- 4.2 The Authority's staff may conduct on-site inspections and/or phone interviews with the applicants to acquire data necessary to enable the Authority to carry out its duties under the Act.

5.0 Application Review Procedures

- 5.1 The Authority has the power to approve applications pursuant to the Act.
- 5.2 The Authority or the Authority's staff will review applications and determine whether or not the procedural requirements under the Act and these regulations have been met. The Authority shall not be required to render a decision on any application unless and until the Applicant has submitted a completed application prepared in accordance with the Act and these regulations, and the Authority shall have the right to reject any application that does not comply with the procedural requirements of the Act or these regulations.
- 5.3 The Board of Directors of the Authority, or a committee of the Board designated to make such decisions (if authorized by the Board of Directors) shall endeavor to render a decision with respect to each application no later than thirty (30) days after receipt by the Authority of a completed application prepared in accordance with the Act and these regulations.
- 5.4 If the Authority approves an application, benefits available under the Act shall be made in the form of a voucher issued to the Division of Revenue of the Department of Finance, directing the Division to issue a check in a designated amount to the Applicant. Before any payment will be made by the Authority to the Applicant, the Applicant must provide the Authority with documentary evidence showing that the expenses for which the Applicant seeks reimbursement have been paid by the Applicant. Notwithstanding the foregoing, if an Applicant can demonstrate that due to financial hardship the Applicant cannot make such payments in advance of the payment of any benefit available under the Act, the Authority may issue a two-party check made payable to the Applicant and the contractor. Under such circumstances, the original check will be mailed to the Applicant and a copy will be mailed to the contractor.
- 5.5 If at the time the application is approved, the Trust Fund does not have sufficient monies to make a payment to an Applicant, the Authority shall issue a written promissory note to the Applicant for funds due and owing. Promissory Notes shall be redeemed in order of issuance of the notes as additional monies come into the Trust Fund.
- 5.6l If based upon the information submitted in a Tenant's completed application, the Authority determines that the Tenant's manufactured home cannot be relocated based upon the criteria set forth herein, the Tenant shall be directed to obtain, at the Tenant's expense, an appraisal prepared by a certified manufactured home appraiser, for purposes of determining the fair market value of the home and any existing appurtenances as sited, exclusive of the value of the underlying land. Within thirty (30) days after receipt of the appraisal, the Authority shall advise the Tenant of the benefits that the Authority will pay to the Tenant for the non-relocatable home. Payment shall be made to the Tenant in the manner described herein, within ten (10) days after the Tenant provides the Authority with all the documents required, including the current title to the home. Upon receipt of the title, the Authority will relinquish the title to the Landlord to facilitate the removal and/or disposal of the home from the manufactured home community.
- 5.7 With respect to applications submitted by the Landlord for costs associated with the removal and/or disposal of non-relocatable or abandoned manufactured homes, within thirty (30) days after the receipt of the completed application and all necessary documents and information, including the documents described in Section 5.4 hereof, the Authority shall determine the cost of removing and/or disposing of the manufactured home and shall (subject to the maximum limits set forth in Section 2.1 hereof) issue payment for said amount to the Landlord, less any profit realized by the Landlord from the removal and/or disposal of the home.
- 5.8 If an Applicant disagrees with the Authority's decision with respect to any application, the Applicant may petition the Authority to reconsider its decision by requesting an administrative review with the

Authority no later than fourteen (14) calendar days after the Authority's initial decision on the application. The request:

- 5.8.1 must be in writing;
 - 5.8.2 must be received by the Authority within the aforesaid fourteen (14) day period; and
 - 5.8.3 must include reasons and documentation in support of the Applicant's position.
- 5.9 After receipt of the Applicant's letter, the Authority will schedule an administrative review of the application at a regularly scheduled meeting of the Board of Directors of the Authority. Notice of the administrative review meeting will be sent to the Applicant at least seven (7) days in advance of the meeting. At the administrative review meeting, the Applicant shall present information or documentation to support the Applicant's position. At the administrative review meeting, the Authority will render a decision and notify the Applicant of its decision and the reason for the Authority's decision. The decision of the Authority shall be final and conclusive.

6.0 Moving and Towing Contractors

- 6.1 It shall be the responsibility of the Tenant and/or Landlord to enter into a contract with a towing or moving company for purposes of relocating, removing and/or disposing of a manufactured home. The contractor must be duly licensed to engage in said business in Delaware. The Authority shall not be responsible for the performance of the contractor, or have any obligation to the contractor, financial or otherwise.

7.0 Certified Manufactured Home Appraisers

- 7.1 The Authority shall maintain a list of certified manufactured home appraisers who are authorized and qualified to appraise manufactured homes in Delaware.
- 7.2 The appraiser shall be an independent appraiser who is qualified to appraise manufactured homes in Delaware.
- 7.3 Any appraisal required under the Act shall include the certified manufactured home appraiser's opinion as to the fair market value of the manufactured home as sited, and any existing appurtenances, but shall exclude the value of the underlying land. The appraisal shall take into consideration the replacement cost of the manufactured home, together with the age, physical condition and appearance of the home.
- 7.4 Any appraisal submitted by the appraiser shall include the appraiser's professional qualifications, a summary of the salient facts and conclusions of the appraiser, a description of the manufactured home, its condition, and the appraiser's analysis and conclusions.
- 7.5 The appraiser shall provide at least one original and three copies of each report to the Authority.

8 DE Reg. 1418 (04/01/05)

APPENDIX A

**DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY
TENANT APPLICATION FOR RELOCATION ASSISTANCE**

I hereby request assistance from the Delaware Manufactured Home Relocation Trust Fund as set forth in 25 **Del.C.** §7012. By signing this form, I certify that I am a tenant as defined in 25 **Del.C.** §7003(u) and that I have paid my share of the total Trust Fund assessment during the course of my tenancy. I understand that it is a class A misdemeanor for a tenant or a tenant's agent to file any notice, statement, or other document required hereunder which is false or contains a material misstatement of fact.

(Signature of Tenant) _____
(Date)

(Social Security No.)

TENANTS NAME _____

(Please Print)

PARK NAME _____

UNIT ADDRESS: _____

Space No.

CITY/STATE/ZIP CODE: _____

Mailing Address if different from where unit is:

PHONE NUMBER: _____ SINGLE-WIDE ___ DOUBLE-WIDE ___

UNIT SIZE: _____ YEAR: _____ MANUFACTURER: _____

Please attach: (a) a copy of your title or a notarized document showing ownership; (b) a copy of the notice of termination or non-renewal of your rental agreement due to a change in use of land; (c) if you are seeking relocation expenses, you must submit a copy of your contract with a licensed moving or towing contractor for the moving expenses for your home; (d) if you believe that your home is non-relocatable, provide a brief description of the reason for your belief. (If the Authority determines that your home is in fact non-relocatable, you must obtain at your expense, an appraisal prepared by a certified manufactured home appraiser. A list of qualified appraisers may be obtained by contacting the Authority). If you elect to abandon your home, please so note below. Under the Act, the maximum benefit payable to a Tenant who elects to abandon his or her home is \$1,500.00 for a single section home and \$2,500.00 for a multi-section home.

Type of Benefits Applied For: (Check the Appropriate Benefit and Amount Requested)

A. Relocation Expenses of Moving Home _____ \$ _____

B. Abandonment Payment _____ \$ _____

C. Non-Relocatable Home Payment _____ \$ _____

This form must be completed and returned along with the required documents to:

Delaware Manufactured Home Relocation Authority
Dover, Delaware 19901

APPENDIX B

**DELAWARE MANUFACTURED HOME RELOCATION AUTHORITY
APPLICATION FOR REMOVAL AND DISPOSAL ASSISTANCE SUBMITTED BY
MANUFACTURED HOME COMMUNITY OWNER**

The undersigned Applicant, a manufactured home community owner, hereby requests assistance from the Delaware Manufactured Home Relocation Trust Fund pursuant to 25 Del.C. §7014. By signing this form, Applicant certifies that Applicant is the owner of a manufactured home community, as defined in 25 Del.C. §7003(l), and that

Applicant has paid Applicant's share of the total Trust Fund assessment during to course of the tenancies and has remitted to the Authority the tenant's share as required by law. Applicant agrees that if Applicant realizes a profit from the removal and/or disposal of a home included in this Application, Applicant will notify the Authority in writing and will reimburse the Trust Fund for any profit gained by the Applicant pertaining to that home. Applicant understands that it is a class A misdemeanor for a landlord or a landlord's agent to file any notice, statement, or other document required under Section 7014 which is false or contains a material misstatement of fact.

(Signature of Landlord) (Date)

(Social Security or E.I. Number)

LANDLORD NAME _____
(Please Print)

PARK NAME _____

PARK ADDRESS: _____
Space No.

CITY/STATE/ZIP CODE: _____

Mailing Address if different from where park is located:

PHONE NUMBER: _____ Total Spaces in Park: _____

TOTAL HOMES LOCATED IN PARK: _____

DATE TERMINATION/NONRENEWAL NOTICE MAILED TO TENANTS: _____

DATE RELOCATION PLAN FILED WITH AUTHORITY: _____

Please attach: (a) a copy of the Relocation Plan and all quarterly updates to the Plan; (b) a copy of the notice of termination or non-renewal due to a change in use of land; (c) if you are seeking recovery of removal/disposal expenses, you must submit a copy of your contract with a licensed moving or towing contractor for the moving and disposal expenses for each home that is being removed or disposed of; (d) for each non-relocatable or abandoned home for which compensation is sought, complete the attached summary form and submit with this Application.

Total Removal/Disposal Expenses Claimed:\$ _____

This form must be completed and returned along with the required documents to:

Delaware Manufactured Home Relocation Authority
Dover, Delaware 19901

**NON-RELOCATABLE OR ABANDONED HOME DESCRIPTION FORM
HOME OWNER INFORMATION CURRENT LOCATION OF MANUFACTURED HOME**

Name: _____ Address & Space Number: _____
Address: _____
City/State/Zip Code: _____
Phone Number: _____

DESCRIPTION OF HOME

Single or Multi-Wide: _____
Size: _____
Manufacturer: _____
Serial Number: _____
Year Manufactured: _____
HUD Label if any: _____

Listing of Appurtenances attached to the home, including estimate of Size:
(Awnings, Skirting, Coolers or Air Conditioners, Sheds, Porches, Carport, etc.)

DETAIL OF WORK TO BE PERFORMED AND CHARGES:

NOTE: Must include all disassembly, transportation and disposal costs.

Contractor Information:

Name: _____
Address: _____

IF APPLICANT REALIZES A PROFIT FROM THE REMOVAL AND/OR DISPOSAL OF THE HOME, APPLICANT MUST REIMBURSE THE TRUST FUND FOR ANY PROFIT GAINED BY APPLICANT PERTAINING TO THAT HOME.