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House Finance Committee
HB 64 –manufactured home community water systems &
loan originator exemptions provisions

March 26, 2015

CHAIRMAN SMITH, VICE CHAIRMAN SCHURING AND RANKING MEMBER DRIEHAUS, THANK YOU FOR THE OPPORTUNITY TO TESTIFY ON PROVISIONS OF HOUSE BILL 64 DEALING WITH COMMUNITY WATER SYSTEMS. SINCE 1947 THE OHIO MANUFACTURED HOMES ASSOCIATION (OMHA) HAS REPRESENTED ALL SEGMENTS OF THE MANUFACTURED HOUSING INDUSTRY SERVING MANY LOW AND MODERATE INCOME CITIZENS AS WELL AS SENIOR CITIZENS.

MANUFACTURED HOME COMMUNITIES (MHCS) THAT ARE NOT CONNECTED TO MUNICIPAL WATER SYSTEMS BECAUSE SUCH CONNECTION IS NOT AVAILABLE MUST OPERATE THEIR OWN “COMMUNITY WATER SYSTEMS”.

OMHA OPPOSES LANGUAGE PROPOSED BY THE EPA IN ORC 6109.08. (PAGE 2283 BEGINNING AT LINE 70500) REQUIRING



MHC WATER SYSTEMS THAT SERVE LESS THAN 500 CONNECTIONS (*ALMOST EVERY MHC NOT CONNECTED TO A MUNICIPAL SYSTEM*) TO ESCROW 15% OF THE COST OF A NEW OR “SUBSTANTIALLY MODIFIED” SYSTEM NOT TO EXCEED \$250,000. THE EPA’S CURRENT ESCROW AMOUNTS ARE 15% OF SYSTEM COSTS UP TO A MAXIMUM \$50,000. THEREFORE, THE NEW LIMIT REPRESENTS A 400% INCREASE.

PRACTICALLY SPEAKING, REQUIRING A 15% ESCROW OF FUNDS MEANS WHATEVER CONSTRUCTION BIDS A COMMUNITY OPERATOR RECEIVES WILL INCREASE THE PROJECT COST BY ANOTHER 15%.

I FEEL THIS PROPOSED LEGISLATION WILL LIKELY BRING SOME COMMUNITIES TO THE BRINK OF CLOSURE IF THEY CANNOT CONNECT TO A MUNICIPAL SYSTEM, WHILE DISPLACING MANY LOW AND MODERATE INCOME HOMEOWNERS.

ADDITIONALLY, THE VAGUE LANGUAGE BY THE EPA TO “ALLOW” AT ITS DISCRETION AN ALTERNATIVE FINANCIAL ESCROW AMOUNT IN LIEU OF THE 15% REQUIREMENT DOES LITTLE TO ALLEVIATE THESE CONCERNS.

I UNDERSTAND AND AGREE WITH THE INTENT TO PROTECT WATERWAYS. HOWEVER, INADVERTENTLY FORCING POSSIBLE



**CLOSURE OF A COMMUNITY AND DISPLACING RESIDENTS
(*HOMEOWNERS RENT THE LAND BUT OWN THE HOME*) WILL
ACHIEVE THE OPPOSITE RESULT ...NO PROTECTION OF
WATER...AND NO PLACE FOR HOMEOWNERS TO LIVE
WITHOUT INCURRING SUBSTANTIAL HOME RELOCATION
COSTS AS MUCH AS \$10,000.**

**THE SECOND PART OF THE PROPOSED ORC 6109.08. (*P. 2283,
BEGINNING AT LINE 70523*) IS OF EVEN MORE CONCERN.
ACCORDINGLY IF A DEFICIENCY IN THE WATER SYSTEM IS
FOUND AND THERE ARE INADEQUATE FUNDS IN ESCROW,
THEN WITHIN FIVE DAYS OF THE COMMUNITY OWNER
RECEIVING THE NOTICE OF DEFICIENCY– UNBELIEVABLY – THE
EPA CAN REQUIRE THE COMMUNITY OWNER TO DEPOSIT ALL
LOT RENTS WITH THE EPA. THE EPA CAN USE THE RENTAL
INCOME TO FIX THE DEFICIENCY USING AN EPA CONTRACTOR.
THIS ESSENTIALLY REMOVES ALL OF THE OWNER’S
OPERATING FUNDS AND IS NOTHING SHORT OF A
GOVERNMENT “TAKING” AND A VIOLATION OF
FUNDAMENTAL PROPERTY RIGHTS. A COMMUNITY OWNER
COULD QUICKLY FIND THEMSELVES IN DEFAULT OF THEIR
BANK LOAN FORCING COMMUNITY CLOSURE.**



OMHA DOES NOT CHALLENGE THE EPA’S AUTHORITY TO RECTIFY A DEFICIENCY IN COURT; HOWEVER, THE EPA IS ASKING FOR LANGUAGE THAT GRANTS THEM UNPRECEDENTED AUTHORITY TO “TAKE” PROPERTY WITHOUT DUE PROCESS. IN SUMMARY, THE EPA'S DESIRE TO INCREASE CURRENT ESCROW AMOUNT MAXIMUMS BY 400% WILL RESULT IN CLOSURE OF A NUMBER OF REPUTABLE COMMUNITIES, DISPLACE HOMEOWNERS AND IS AN “ARBITRARY TAKING” OF ONE’S PROPERTY.

SEPARATELY AND UNRELATED TO THE WATER ISSUE, I WOULD LIKE TO BRING TO THE COMMITTEE’S ATTENTION A TOPIC THAT IS NOT IN THE BILL AND WAS RAISED BY MY ASSOCIATION MEMBERS WITHOUT SUFFICIENT TIME FOR DISCUSSION WITH THE COMMITTEE. WE HAVE HAD PRELIMINARY DISCUSSIONS WITH THE DEPARTMENT OF COMMERCE. WE SEEK TO CREATE A LOAN ORIGINATOR EXEMPTION FOR “DE MINIMIS” SALES OF MANUFACTURED AND MODULAR HOMES.

STRICT LENDING REQUIREMENTS OFTEN DISQUALIFY FAMILIES WITH MODERATE CREDIT AND INCOME FROM PURCHASING A HOME. AS A RESULT SOME MANUFACTURED



HOME SELLERS ARE WILLING TO ASSUME THE RISK FOR PROVIDING SUCH LOANS.

WE CONTINUE DISCUSSIONS WITH THE DEPARTMENT OF COMMERCE AND INTEND TO SEEK IN THE SENATE AMENDMENTS IN ORC 1321 AND 1322 THAT WOULD ALLOW MANUFACTURED HOME COMMUNITIES AND RETAILERS TO DIRECTLY FINANCE NO MORE THAN 5 HOME SALES ANNUALLY WITHOUT BEING CLASSIFIED AS A LOAN ORIGINATOR LIKE A LARGE LENDING INSTITUTION LOAN OFFICER.

SUCH “DE MINIMIS” SALES WILL CONTINUE TO COMPLY WITH THE FEDERAL SAFE AND DODD-FRANK ACTS AND ALL OTHER LENDING LAWS. OHIO WOULD JOIN 24 OTHER STATES IN CREATING THIS SPECIFIC EXEMPTION, INCLUDING KENTUCKY, INDIANA AND PENNSYLVANIA.

THANK YOU CHAIRMAN SMITH AND MEMBERS OF THE COMMITTEE FOR YOUR CONSIDERATION OF THESE PROVISIONS.