

May 13, 2004

Mr. Mark Brunner  
Minnesota Manufactured Housing Association  
1540 Humboldt Ave., Suite 205  
West St. Paul, MN 55118-3481

RE: Manufactured Home Installations

Dear Mr. Brunner:

The Minnesota Building Codes and Standards Division has received your associations letter dated May 6, 2004, which expresses concerns of manufactured home installations and the foundation types that are to be accepted to support manufactured homes. The following paragraphs explain the items reviewed in making determinations concerning the installation of manufactured homes in Minnesota.

Minnesota State Building Code (MSBC), Chapter 1350.2600 states in part:

Each manufactured home shall have its stabilizing system installed according to the manufactured home manufacturer's installation instructions. The manufacturer's instructions shall include a typical support system designed by a registered professional engineer or architect to support the anticipated loads that the manufacturer's installation instructions specify for design zone, including climate, of installation. These instructions shall be left with the manufactured home following installation. Foundation systems shall be in compliance with the State Building Code.

The Department of Housing and Urban Development (HUD) has required manufacturer's to provide typical instructions with labeled units constructed to the HUD Code of Federal Regulations (CFR) 3280 since the 'The Act of 1974.'

This division issued Manufactured Home Bulletin #31 on June 7, 2000, in an effort to clarify some areas of codes concerning installation. The major issue of Bulletin #31 was to restate the requirement that all newly installed or re-installed HUD labeled manufactured homes were required to be anchored as per CFR 3280.306. The other item in Bulletin #31 was to remind licensed installers and dealers that if a manufacturer's HUD labeled units Design Approval Primary Inspection Agency (DAPIA) approved installation instructions state shall or must go below local frost conditions with support footings, then that is what is required to be completed for the installation. Prior to Bulletin #31 issuance, this division was aware that some manufactures would issue for in-park installations of manufactured homes, a written waiver of frost depth foundation requirements in lieu of the manufacturer's DAPIA approved installation instructions, which used shall or must go below local frost conditions with support footings.

Recent changes to Federal Laws and Rules and review of existing Federal and State Laws and Rules has indicated that this state should not have allowed the waivers from manufacturer's to manufacturer's installation instructions for installation of the HUD labeled units.

1. Section 622 of “The Act of 2000” states, The rights afforded manufactured home purchasers under this title may not be waived, and any provision of a contract or agreement entered into after the enactment of this title to the contrary shall be void. Also reference 42USC5421 for prohibition on waiver of rights to consumers/purchasers. Note, the same language existed in the original “Act of 1974”. The HUD office of general counsel has also stated that transfer of liability to consumers via waivers for installation of HUD labeled homes is not allowable.
2. Section 623 of “The Act of 2000” requires states wishing to become fully approved State Administrative Agencies (SAA’s) must by December 31, 2005, have an installation program established by State law that meets the requirements of section 605(c)(3). Section 605 requires that a state program must equal the model manufactured home installation standards established by the Secretary of HUD. Manufacturer’s installation manuals are also required by December 31, 2005, to equal the model installation program.
3. Section 602 of “The Act of 2000” states in part, “The purposes of this title are to protect the quality, durability, safety, and affordability of manufactured homes”, and it also includes, “to protect residents of manufactured homes with respect to personal injuries and the amount of insurance costs and property damages”. Similar language existed in the original “Act of 1974.”
4. In December of 2003, the Manufactured Housing Consensus Committee (MHCC) submitted a proposed model manufactured home installation standard to HUD for review in accordance with Section 605 of “The Act of 2000”. The proposed standard states that the installation standard is to serve as a model that each state and manufacturer must equal or exceed. The proposed standard allows the local authority having jurisdiction (Minnesota Building Codes and Standards) to determine frost line depth for the state to set footing depth requirements. The current MSBC Chapter 1303.1600 and proposed HUD model installation standard do allow for slab on grade designs if done by a registered professional engineer competent in soil mechanics in lieu of frost depth footing designs.
5. Minnesota Laws and Rules require installation according to manufacturer’s instructions when available as per Minnesota Statute (MS) 327.33 and MSBC 1350.2600 and MSBC 1350.2700. HUD CFR requires manufacturers to provide installation manual indicating acceptable installation method with each home.

This division has heard from Minnesota manufactured home dealers that following required manufacturer’s installation instructions when they indicate shall or must go below frost line is expensive and defeats the statement of affordable as per “The Act of 1974 and 2000”. Both “The Act of 1974 and 2000” also state safe, durable, and reduce amount of insurance costs and property damage. Current waivers issued by some home manufacturers and manufactured home dealers do not explain future cost involved to consumer/purchasers by their signing such an installation waiver (re-leveling the home on yearly basis because of frost movement and possible

loss of extended material suppliers warranties for products such as shingles, windows, and siding. Current waiver practices used by some home manufactures and manufactured home dealers is for the first consumer/purchaser of the home only and does not inform future consumer/purchaser of the home that the home is not installed according to approved installation procedures and that it may cause them to re-level the home yearly, effect the durability of the home, effect the materials warranties of home products, and may result in increased insurance cost to them.

This division as a fully approved SAA is authorized to handle HUD CFR Subpart I consumer complaint investigations of manufactured homes. In recent years with the increased sizes of the homes, designs of homes, and type of materials used this division has noticed an increase in consumer complaints about failures that may be attributed to installation of manufactured homes caused by frost movement (drywall damages, floor system movement, window and door operation, and siding movement). Minnesota Statutes 327B.02 mandates implied warranties of fitness for particular purpose and merchantability (MS 327B.01 subdivisions 9 & 10) on new manufactured home sales to consumers. Items listed that are caused by frost movement would appear to fall into the warranty requirements for the manufactured homes.

If a manufactured home dealer includes the installation in the sale price of a new manufactured home and the installation is not completed to required standards there is a violation of CFR 3282.252 (b) created by the dealer. In Minnesota failing to follow installation rules is a violation of MS 327.34 for new and used manufactured homes installed in this state.

This division is willing to discuss this issue with your association and other persons or groups that may not be members of your association to see if there are other options that may be amicable in solving problems incurred by installing frost depth foundation in manufactured home parks in Minnesota. However, beginning July 1, 2004, this division will no longer be allowed to accept installation waivers for manufactured homes installed in violation of the manufacturers approved installation manuals.

Please contact us if you wish to discuss this division's determination or to arrange a meeting.

Yours truly,  
BUILDING CODES AND STANDARDS DIVISION



Stephen P. Hernick  
Assistant Director

C: Amy V. Kvalseth, Special Assistant, Attorney Generals Office