

TO: CHR
FROM: MOLLY

Following is a brief summary of the issue raised by Hal Hunnicutt.

Issue: Whether Federal manufactured housing standards preempt state and local laws requiring sprinklers in manufactured homes

Background: Since 1974, HUD's manufactured housing code has covered construction and safety standards, and preempts state and local laws for the "same aspect of performance" (covering the same thing).

Manufactured housing have a long history of easily and often going up in flames.

Today: A recent decision (interpretation of the law) by HUD says that the code covers fire safety (resistance), but not suppression (e.g. sprinklers). Therefore, states and localities can require manufactured housing to have sprinklers in them.

The Association for Regulatory Reform (ARR) -- Hal Hunnicutt's friends -- are suing HUD on 2 grounds:

- 1) HUD is abandoning federal preemption standard
-HUD: Congress didn't intend the law to cover the entire field of regulation for manufactured housing; only state and local laws covering the same thing. The federal code covers fire safety (reducing fire hazards, providing measures for early detection), but not fire extinguishment (sprinklers).
- 2) the decision was made procedurally improperly
-HUD: the decision was a legal interpretation and did not require comment.

In making the decision/interpretation, HUD was responding to an inquiry from a community.

DOJ is defending HUD and is confident we will win.

Please let me know if you have any questions, or want me to do any follow up.

dismissed as having no standing

San Rosen 5/8
major industry
MITI w/kg w/ HUD

ARR got Rep. McIntosh to intro a contr amendment

+ consume sps
to create
consensus comm to help devlpt stds
improve
Quayle staff - anti-reg; compiness council
to intro a contr amendment
full + exhaustive
fed i pre-emph

amend to pub hsg bil
informally - no SAP

Repubs + HUD oppose; opposite of trend toward delegating authority

- voted on tonight
= lawsuit -> no status

= Sarah Rosen $\Rightarrow$ in bed w/ Jerry Conners, MHI

5/15

Sarah Rosen 708-3600

H Bill: Authorizes HUD to enter into agt ^{of priv body} ^{who'll set up} ^{comm}
Process ^{the} $\rightarrow$ whatever body ^{entered into agt w/} (Council of Am Bldg Officials)

would be resp for many ppl

qualifications: public officials inspection agency
- ^{ment} balance industry reps. special interest

balance that gives private sector a lot of authy -

but const'ly Congress appears to have accepted

5 categories of ~~the~~ consumers, st + local, govt off's manufacturers

HUD would approve selection

 remain that HUD would disapprove ARR
- HUD

~~Robb~~

Likely $\rightarrow$ Mack: 5 MHI, 5 ARR

Senate would like to accept, but if conferees grows...

= ARR objecting

Repts in Congress have said $\leftarrow$ trying to get large for full + exhaustive
can't consider who apply for pre-emption passed
things

- Attached to Pub hsg on H side - not in Senate

- Conf issue $\Rightarrow$ Senate prepared to accept concept

- conciliations for MHI + ARR

(any req'g HUD to report to Congress on Review

- Process

- HUD doing Review of stds for pre-emption

- HUD using bullypulpit to speak out agst discrim agst manufa
hsg $\rightarrow$ don't have legal authority to prevent

- AARP - Dan Redfoot

Commission $\Rightarrow$ AARP + MHI walked out because consumer gps
too powerful

- Fleetwood, Glen Coome - CEO, MHI

AARP

- wants to be on a level playing field w/ MHI
AARP: small builders

- clout w/ ^{Joe}Venture (Lazio's person)

- Joe now wants to kill the provision

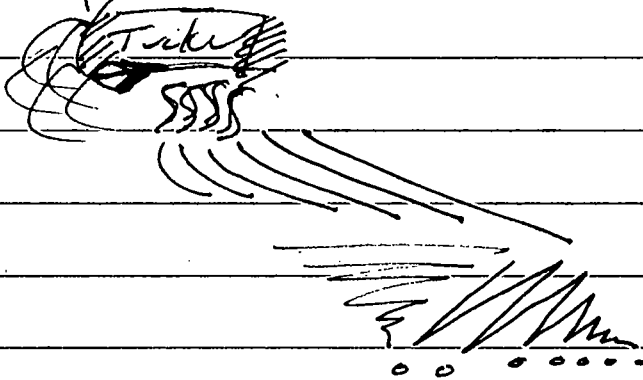
- MHI - active leader
member of leadership strategy

- AARP fights anything HUD does to look @ quality

- consumer thinks HUD don't do any qual. control

$\Rightarrow$ Placating them would be harmful + difficult

= Johnny Allison - another AARP member



THE ~~WHITE~~ HOUSE
OFFICE OF DOMESTIC POLICY

CAROL H. RASCO
Assistant to the President for Domestic Policy

To: CHR Mally-fize

Draft response for POTUS
and forward to CHR by: _____

Draft response for CHR by: _____

Please reply directly to the writer
(copy to CHR) by: _____

Please advise by: _____

Let's discuss: _____

For your information: _____

Reply using form code: _____

File: _____

Send copy to (original to CHR): _____

Schedule ? : ☐ Accept ☐ Pending ☐ Regret

Designee to attend: _____

Remarks: _____

*I'll depend on you
to let me know if
anything we
should do
at any point.*

MAY 24 1996



FAX COVER SHEET

DATE: 5-22-96

TO: CAROL RASCO

COMPANY:

FROM: HAL HUNNICUTT -

NUMBER OF PAGES INCLUDING COVER SHEET: 4

^{Carol}
I'm not trying to be one of those vainglorious idiots -
No one here or anywhere else knows you & I
communicate at all - I hope your people can
read what Roemer Amendment has done -
Could you know VETO this? Do an
economic impact study - please stop it if
possible - At least give us a fighting chance
otherwise - it could literally kill us, because
it really puts power in the govt's hands
on an industry that gets - 0 - zero subsidies

CONFIRMATION REQUESTED: _____ YES _____ NO

**MAXIMUM-MINIMUM IMPROVEMENTS REQUIRED FOR INDUSTRY SUPPORT OF
CURRENT ROEMER AMENDMENT AT HOUSE-SENATE CONFERENCE COMMITTEE**

EXISTING LAW	ROEMER AMENDMENT	RECOMMENDATION
Section 602 - <u>Statement of Purposes</u>: States that one of Congress' purposes is to "improve the quality and durability of manufactured homes."	Deletes "improvement" provision, makes consensus standards-development and interpretation a purpose of the Act.	No change.
Section 604 - <u>Standards</u>: (a) <u>Authority</u>: Requires standard to meet "highest standard of protection."	(a)(1) No change.	Delete reference to "highest standard of protection." Add language requiring standards to be reasonable, practicable and performance-based.
(a) <u>Standards-development</u>: HUD develops standards, ostensibly pursuant to consultation with advisory council.	(a)(2) HUD contracts or establishes relationship with a consensus committee administrator -- may be replaced upon a finding of "need."	* Require full and fair competition for administration contract. Delete termination for "need" provision.
(b) <u>Adoption of Standards</u>: Standards to be adopted pursuant to notice and comment rulemaking.	(a)(4) Consensus Committee recommendations published for notice and comment.	Partial rejection should either be prohibited, or subject to notice and comment rulemaking.
	If Secretary: (i) <u>adopts</u> recommendation, there is no further rulemaking; (ii) <u>rejects</u> all or part of a recommended standard, there is no further rulemaking; (iii) <u>modifies</u> a recommended standard, there would be notice and comment rulemaking on the modification.	Consider prohibiting modification i.e., require Secretary to either accept or reject (in whole) recommended standards. Prohibit partial rejection without rulemaking.

EXISTING LAW	ROEMER AMENDMENT	RECOMMENDATION
<u>Interpretative Bulletins:</u> No <u>statutory</u> provision in the 1974 Act regarding interpretation. Administrative Procedure Act does <u>not</u> require rulemaking for interpretations. HUD's <u>Procedural and Enforcement Regulations</u>, however, at Section 3282.113, require notice and comment for interpretations unless deemed by HUD not to be "in the public interest."	(a)(6) Allows HUD to issue interpretations subject to review and comment by the <u>consensus committee</u>. No <u>provision</u> for public notice and comment. Committee may propose interpretations for review by HUD. If approved, become law without rulemaking.	Require all interpretations to be made by the committee except for <u>bona fide</u> emergencies supported by a written finding. Require rulemaking for all interpretations subject to emergency exception.
<u>Committee Membership:</u> No provision.	(7)(B): Administrator appoints subject to HUD approval.	* Delete HUD approval provision.
	(7)(b)(ii) Prohibits "domination by any interest category."	Is invitation to litigation. Delete.
	(7)(b)(iii) Lists and <u>modifies</u> ANSI "interest" categories.	* Refer to ANSI procedures without listing or modifying categories.
	(F) <u>Staff:</u> The committee administrator <u>must</u> provide "technical support" to any interest group upon a showing of "need" and subject to approval by Secretary.	Delete "lobbying welfare" provision.

EXISTING LAW	FORMER AMENDMENT	RECOMMENDATION
Section 620 - <u>FERS</u>: HUD may impose fees to offset "inspection" costs. No provision regarding fee rulemaking.	HUD may impose fees to conduct inspections and developmental standards. Fee changes would be pursuant to notice and comment rulemaking. Fee usage would be specifically exempted from appropriations review.	No change. Delete and insert McIntosh appropriations review language. * Or, at minimum, delete appropriations review exemption.

* Denotes suggested minimum improvement necessary to obtain ARR support.



FAX COVER SHEET

DATE: 5-21-96

TO: CAROL RASCO

COMPANY:

FROM: HAL HUNNICUTT

NUMBER OF PAGES INCLUDING COVER SHEET: 4

CAROL-

This is the kind of stuff that's been going on. Ed Hussey is a member of our Assn. (ARR) & he is not going to participate in the underhanded crap, as you can see - The ARR group represents in excess of 50% of all homes manufactured. Not MHI - the back door, bureaucratic bull crap has got to stop. Fleetwood controls MHI & they are about 25% of homes manufactured - You can't believe the number people joining ARR, now the MHI's hand has been exposed. Please, don't let BC get caught asleep on this deal. Cisneros is either bought off or not really aware of who he is in bed with - It's the frigging enemy.

05/22/96 WED 13:54 FAX

05/15/96 WED 10:38 FAX 2195330438

LIBERTY HOMES

--- HAL HUNNICUT

002

--- ARR D RBANI

001

**LIBERTY HOMES, INC.****Corporate Office**

May 15, 1996

Mr. Jerry Connors, President
Manufactured Housing Institute
Suite 610
2101 Wilson Blvd.
Arlington VA 22201-3062

Dear Mr. Connors:

RE: June 26, 1996 Subpart I Meeting

I am in receipt of a memorandum from you dated May 13, 1996, indicating that "telephone arrangements" have been made with me to "participate in the second Subpart I dialogue," to be held at MHI's headquarters on June 26, 1996.

Please be advised that I do not intend to participate in any such meeting or "dialogue." While informal contacts between the Industry and HUD regulators might be appropriate in some contexts, I do not believe that this is the case here. The issues involved with Subpart I are complex and an informal dialogue cannot and should not take the place of appropriate rulemaking procedures.

Simply put, HUD's procedural regulations set forth the proper process for the proposal and promulgation of rules, and I do not believe that the Industry or any of its trade groups should assist HUD in circumventing those rules.

- continued -

05/22/96 WED 13:58 FAX

05/15/96 WED 10:38 FAX 2195330438

LIBERTY HOMES

--- HAL HUNNICUT

003

--- ARR D GHORBANI

002

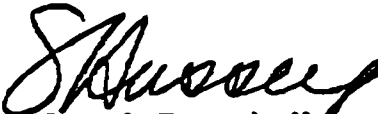
Mr. Jerry Connors, President
May 15, 1996
Page 2

If HUD wants to do something about Subpart I, it should initiate rulemaking proceedings, rather than convene unofficial, unsanctioned and arguably exclusionary advisory committees.

Subpart I is a serious matter affecting the entire industry and all parties would be well advised to follow the proper, official procedures.

Very truly yours,

LIBERTY HOMES, INC.



Edward Joseph Hyssey
Vice President

pkm

cc: John Boyer
Deborah Chapman
George Gaber Lavadge
Sam Weidner
Emelda Johnson



MEMORANDUM

TO: John Boyer, Co-chair, COSAA ?
Deborah Chapman, President National Foundation of Manufactured Home Owners ?
George Gaberlavage, AARP ?
Ed Hussey, Jr., Liberty Homes
Sam Weidner, Patriot Homes

FROM: Jerry C. Connors, President 

DATE: May 10, 1996

SUBJECT: Subpart I Working Group Dialogue - June 26

MAY 13 1996

We are pleased to confirm the telephone arrangements we have made with each of you to participate in the second Subpart I dialogue to address concerns with that portion of the Federal Manufactured Home Procedural and Enforcement Regulations. MHI will sponsor the next meeting in our conference room, at the address listed below, on June 26, from 10 am to 4 pm EDT.

In the near future, Frank Walter from our staff will contact each of you to obtain your recommendations for the June 26 meeting agenda. We will prepare a proposed agenda and circulate it to you before finalizing the document.

A record of the Subpart I dialogue at HUD on April 23 has been prepared by our staff and a copy is enclosed. We hope it will be helpful to you as you approach the June 26 meeting. If you have any suggested revisions to the summary of the meeting we prepared, please send them to us at your convenience.

We expect that three additional persons will join the five of you for the June 26 meeting. John Boyer tells us that COSAA will name a second State SAA to participate in the meeting. In addition, we have asked Emelda Johnson to permit two HUD representatives to join you for this dialogue.

As we approach the June 26 meeting, please call either me or Frank Walter at any time, when we can be of further assistance.

Enclosure

THE WHITE HOUSE
WASHINGTON

Carol - How ~~would~~ you
like to handle this
latest request?

Molly -

Another missile...

Let's talk early

week of May 6.

Call me or bring
up at close

of morning

Call me

day Thanks.

CRK

fricker



MAY 3 1996

FAX COVER SHEET

DATE: 5-2-96

TO: CAROL RASCO

COMPANY:

FROM: HAL HUNNICUTT

NUMBER OF PAGES INCLUDING COVER SHEET: 9

CAROL - PLEASE READ THIS ENTIRE NEWSLETTER. WHAT IS

THE DEAL AT HUD? WHO CONTROLS THEM?

NOTE THE %'S OF MANUFACTURED HOMES

IN USA & ARK! ^{50%} OUR ASSN REPRESENTS ABOUT60% OF ALL ^{MFD} HOMES BUILT. THE PEOPLE
JERKING HUD'S CHAIN HAVE NEVER SUPPORTED
B.C. Note THE MONITOR - IT'S A BAG OF CRAP.

CONFIRMATION REQUESTED:

YES

NO

CAROL - YA'LL PLEASE DON'T FEED US TO
THE SHARKS. YOU'VE GOT SOME STODGES @ HUD.

Thanks Hal

MANUFACTURED HOME SALES REACH 20-YEAR HIGH

Nearly 25% of All New Single-Family Housing Starts

Americans purchased 339,601 manufactured homes last year - the highest single-year total in more than 20 years. And manufactured homes represented nearly one of every four new homes produced in 1995, according to data from the National Conference of State Building Codes and Standards (NCSBCS) and MHI.

The number of new manufactured homes sold is up 11.7% from 1994 and nearly double the 170,000 homes purchased as recently as 1991.

In several states - Oregon, Missouri and Texas, for example - manufactured homes have accounted for more than 30% of all new housing starts. In Arkansas, according to the NCSBCS/MHI data, manufactured homes accounted for 50.3% of all new single-family housing starts.

"Manufactured homes clearly fill an important need in the housing marketplace," said Joe Owens, MHI Vice President - Finance. "They're very often the most affordable housing available, and the quality is high."

It's not unusual for the purchase price of a new manufactured home to be as much as 40% less than the price of a similar site-built home, Owens said.

"Manufactured homes clearly fill an important need in the housing marketplace..." Joe Owens, MHI

The cost per square foot for a manufactured home averages just over \$25, where the average cost per square foot for a site-built home is almost \$55.

According to Owens, affordability is not the only factor in the surge of popularity currently being enjoyed by the manufactured home industry. Increased quality as a result of consumer demands for safety and value, coupled with the requirements of the HUD building code have resulted in what Owens calls "a newly exciting architectural diversity".

This unique combination of affordability and quality has made manufactured housing more attractive to a larger group of potential homebuyers.

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ARR Washington Update

The Association for Regulatory Reform is a Washington, D.C. based national trade association representing the views and interests of producers of manufactured housing

IN THIS REPORT

May 1, 1996

- * NATIONAL LEGISLATION UPDATE
- * SUBPART I MEETING INCONCLUSIVE
- * HUD'S MONITORING CONTRACT UP FOR BID SOON
- * MORE ON SPRINKLER ISSUE

NATIONAL LEGISLATION TAKES CENTER STAGE

Events suddenly have begun to move quite rapidly in the effort to introduce and pass Title VI reform legislation this year.

At its annual meeting in early April, the ARR Board of Directors voted to draft and advance a reform bill that would create a powerful consensus committee to develop and interpret the federal standards, as well as strengthen federal preemption -- two issues of key concern to the industry. ARR chose to focus on these two important matters because of the lack of an appropriate legislative vehicle, this session, for a comprehensive Title VI reform bill, among other factors.

Now, though, just before the press deadline for this issue of the Update, MHI has released its own version of consensus committee legislation, which apparently enjoys the support of program officials and others at HUD. }

With two proposed bills now being considered by the industry's allies in Congress, industry members should carefully analyze what would or would not be accomplished by the proposals, and be prepared to voice their opinion(s) to Congress.

At the most basic level, both the MHI and ARR bills would establish a standards-development consensus committee. The similarities between the bills, however, ends there. The MHI proposal, among other things, would:

- (i) Give the Secretary of HUD veto power over the appointment of consensus committee members;
- (ii) Allow the Secretary to replace the consensus committee's administering organization upon a mere finding of "need;"
- (iii) Require the administering organization to provide staff resources (at industry expense) to any "interest" group on the consensus committee without limit;

- (iv) Allow committee proposals to become final rules after 12 months of inaction by HUD, but would allow the Secretary to reject or modify standards proposed by the committee that he deems to be "inconsistent with the purposes" of Title VI, which would remain in their current, negative form;
- (v) Continue to permit the Secretary to issue Interpretative Bulletins while totally removing the current notice and comment requirement;
- (vi) Allow the committee to recommend interpretations, but would allow the Secretary to modify or reject such interpretations for any reason or no reason; and
- (vii) Mandate the inclusion of a non-voting HUD member on the consensus committee.

In addition, the MHI bill would expand HUD's label fee collection and expenditure authority to include consensus committee activities -- including the provision of "staff resources" to any interest represented on the committee without annual Congressional oversight through the appropriations process. The issue of preemption however, is not addressed by the HUD-MHI proposal.

ARR's proposed legislation, by contrast, would, among other things:

- (i) Require standards to be both "reasonable" and performance based;
- (ii) Establish a consensus committee with primary jurisdiction over the development, modification, revocation and interpretation of the federal standards;
- (iii) Preserve all existing notice and comment requirements;
- (iv) Require full and fair competition for the consensus committee administration contract;
- (v) Allow committee recommendations to become final after 180 days of inaction by HUD;
- (vi) Clearly establish the broad preemptive character of the Act;
- (vii) Subject all program expenditures to the Congressional appropriations process; and
- (viii) Require rulemaking proceedings for all fee changes.

ARR's proposed language has been drafted and presented to industry allies in Congress. It has also been presented to the industry, as well as at industry gatherings in several key states, where many participants indicated that it was not only acceptable, but should go even further in reigning-in HUD after 20 years of regulatory abuses. Given this positive early response, ARR feels that it is on the correct track with its narrowed, more focused and more stringent approach.

Industry members, though, should now compare the merits of the

two proposed bills. The MHI bill would address some of the industry's concerns, but, in order to garner HUD's support, would result in a very weakened consensus committee that could readily be bypassed or ignored by HUD -- potentially just a glorified advisory council. ARR's bill, on the other hand, would result in a true, independent consensus process that could not be subverted or dominated by HUD or any of its contractors. In addition, it would eliminate the current confusion and uncertainty regarding federal preemption, and bring the law back to its originally intended purpose -- to create a uniform system of federal standards.

The industry's Congressional allies will be looking for industry input. The industry should certainly seek reform now -- but it should seek real reform that brings about real change, not just a move to rearrange the furniture. The climate in Congress has never been more favorable. The industry, accordingly, should spare no effort to promote its goals for a better federal program. ARR believes that those goals are best reflected in its legislative package.

With two legislative proposals now before Congress, the industry should work with its allies on Capitol Hill to sort out the differences between these approaches and proceed with one bill that will ensure both a functional consensus committee and full-fledged federal preemption. This is do-able, but time is of the essence, as there are only approximately 34 legislative days left on Congress' calendar.

SUBPART I MEETING ENDS WITHOUT COMMITMENT BY HUD

The first -- and perhaps only -- meeting of HUD's Subpart I Working Group was held on April 23, 1996 and concluded without any commitment by the Agency to reform Subpart I or even to hold further meetings.

The gathering featured brief introductory remarks by Emelda Johnson, HUD's Deputy Assistant Secretary for Single Family Housing and David Williamson, Director of HUD's Office of Consumer and Regulatory Affairs. From the tenor of their remarks, it is apparent that the Department's present leadership has little understanding of the intricacies of Subpart I and the burdens that it routinely places on producers -- with little or no benefit to the consumer.

Following the introductory comments, more formal presentations were made by industry representatives, including a panel of ARR manufacturers. The ARR representatives first noted that HUD's Interpretative Bulletin I-1-94, issued on December 12, 1994, made significant changes to Subpart I and its procedures without any

type of rulemaking activity. ARR's President, accordingly, restated the Association's consistent position -- that the Interpretative Bulletin should be withdrawn, and that any future changes to Subpart I should be accomplished through proper notice and comment procedures.

The ARR panel next presented comments demonstrating the inherent inefficiency of Subpart I procedures. In particular, they noted that Subpart I invariably deals with items that have already been corrected pursuant to warranty. They stated that the various requirements of Subpart I, accordingly, provide virtually no additional consumer repair or replacement benefits that are not already available under state law. (The single exception being the exceedingly rare situation of a home that contains an imminent safety hazard and is out of warranty). The panel pointed out, however, that the cost of Subpart I -- to consumers -- is substantial, and demonstrated how a "class search" of ten correction items on a typical consumer's work list for one home would require some 10,000 items of information to be checked and analyzed by the manufacturer, and 210 copies of a class determination form to be placed in various files. The producers observed that in order to deal with this analysis and paperwork burden, at least one full-time staff person is needed, together with sophisticated (and costly) computer technology. The manufacturers noted, moreover, that many smaller producers simply cannot afford such equipment and, therefore, face an even a greater proportional burden.

In addition to these comments, one manufacturer pointedly observed that it had consistently received acceptable audits for Subpart I performance before the December 12, 1994 Interpretative Bulletin, but was found not to be in compliance immediately thereafter -- with absolutely no change in its relevant procedures.

In the face of these problems, all the industry representatives agreed that Subpart I, in its present form, is highly inefficient and needs to be restructured, at a minimum, to focus on serious defects and imminent safety hazards, instead of wasting time and resources on minor "non-conformances" that are routinely repaired by the manufacturer in any event.

Not surprisingly, the overwhelming response to this call for a leaner more cost-effective Subpart I from the non-industry participants -- HUD, AARP, COSAA, and the National Federation of Manufactured Home Owners was not only an endorsement of the status quo, but suggestions for an even more bureaucratized system. These suggestions included:

- Standardized (i.e., government-approved) Subpart I forms (HUD);
- Standardized computer software (HUD);

- Formation of a working group to deal with compliance questions (AARP); and
- The development of Subpart I record-keeping "guidelines" by HUD, among others (AARP)

Although the reliance on "big government" that is inherent in these suggestions is hardly surprising, it is somewhat difficult to fathom the unwillingness of certain groups to recognize that Subpart I represents a net loss for consumers -- with the vast majority paying dearly for an inefficient system that benefits virtually no one.

Perhaps most disappointing, though, was COSAA's abandonment of any pretense of objectivity on Subpart I, noting, in part:

[COSAA] support[s] ... HUD's issuance of the Interpretive Bulletin IB-I-94, which we believe simply restates, clarifies and reemphasizes the meaning and importance of Subpart I. We remain committed to this belief.

* * *

COSAA firmly believes that Subpart I requirements are nothing more than an integral and inextricable aspect of the Quality Assurance Process....

* * *

COSAA believes that without adequate recordkeeping and action as defined in Subpart I, this Performance Code to which we build lacks the essentials of accountability and validity. In the absence of accountability, the position of National Preemption becomes untenable.

(Emphasis in original).

Significantly, COSAA's presentation was said to represent a "consensus" view, but ARR is aware of at least half a dozen SAAs, and possibly more, that do not support COSAA's ringing endorsement of Subpart I.

Ultimately, the Working Group presentations were concluded without any firm commitment by HUD to either take concrete action or even hold further meetings. Unfortunately, the disappointment with the meeting expressed by many industry participants simply confirms ARR's view that little, if anything, is to be gained by attempting to "negotiate" with HUD over Subpart I, and that if genuine reform is to be achieved, it will need to come via other avenues. Quite simply, real reform cannot be expected from the source of the problem.

~~VERY IMPORTANT~~

QUESTIONS REMAIN AS MONITORING RESOLICITATION NEARS

In December 1996, HUD is expected to issue a Request for Proposals ("RFP") for its manufactured housing monitoring contract. The monitoring contract was last solicited in 1992, and has been held by the National Conference of States on Building Codes and Standards ("NCSBCS") since the inception of the program in 1976.

ARR has long been concerned that the solicitations for these contracts have not promoted full and fair competition, in part because the solicitations and review process seem to be tilted in favor of the incumbent contractor. In some respects, the successive contracts seem to be, effectively, sole source procurements without any of the safeguards required by federal law for sole source contracts.

In order to investigate these concerns, ARR filed an FOIA request with HUD that ultimately led to litigation in Federal Court. Although that litigation has yet to be resolved, ARR has obtained access to certain information that, at first blush, appears to validate its concerns.

Specifically, although the 1992 solicitation appeared to be tilted toward the incumbent contractor -- leading at least one organization -- CABO -- not to bid, the solicitation did draw one non-incumbent bid. That proposal as reported by HUD's Source Evaluation Board was significantly lower in price than NCSBCS' proposal, but was nevertheless rejected by HUD after a number of completely subjective "adjustments" to the bid figures.

With another solicitation nearing, this information should be of concern not only to the industry but to Congress as well, particularly in light of NCSBCS' often repeated claim that it is virtually "entitled" to the monitoring contract.

If HUD is conducting this procurement as a "sole source," it should at least be honest about it and observe all the requirements of law. Otherwise, HUD should stop stifling competition for the monitoring contract through its subjective requirements and evaluations.

As the December solicitation approaches, ARR will keep a watchful eye on this issue and will take action as appropriate.

FIRE SPRINKLERS
MANDATORY? BS! DO PEOPLE @ HUD
HAVE ORGASMS REGULATING
US TO DEATH?

HUD-USFA EXPECT SPRINKLER RECOMMENDATIONS IN 12 TO 18 MONTHS

In a response to ARR's withdrawal from the HUD-U.S. Fire Administration ("USFA") Fire Safety Partnership, the Department has

indicated that it expects to "move forward with recommendations within the next twelve to eighteen months." Although the response, from HUD Deputy Assistant Secretary for Single-Family Housing, Emelda Johnson, does not specifically state whether these "recommendations" will address the use of fire sprinklers, sprinklers were the single dominant area of discussion at the "partnership" meetings that ARR attended prior to its withdrawal.

Similarly, although Ms. Johnson denies that the partnership "singles out" manufactured housing, pointing out that a CABO representative attended its last meeting, this denial is less than convincing. First, CABO's participation proves nothing vis-a-vis other types of housing. CABO has been active with respect to manufactured housing regulatory issues for years. Second, where is NAHB, or any other similar organization? ARR is not aware of any effort by HUD or USFA to bring such organizations into the "partnership." Third, why have manufactured housing office personnel been virtually the only HUD employees to attend the partnership meetings? The answer is clear -- this initiative is directed against manufactured housing and only manufactured housing. Any other participation is incidental at best.

ARR, accordingly, plans to pursue its sprinkler-preemption lawsuit, while carefully monitoring the "partnership's" activities. If necessary, ARR will take further action to thwart the promulgation of any sprinkler "recommendations" that would discriminate against manufactured housing.

MIHI & FLEETWOOD
ARE A BUNCH OF
F---G REPUBLICANS
THEY SUPPONE
DO IT

THE WHITE HOUSE
OFFICE OF DOMESTIC POLICY 2/13/96

CAROL H. RASCO
Assistant to the President for Domestic Policy

To: Molly per CHR

Draft response for POTUS
and forward to CHR by: Add this

Draft response for CHR by: to give CHR

Please reply directly to the writer
(copy to CHR) by: Site

Please advise by: still haven't

Let's discuss: decided here

For your information: to respond

Reply using form code: to respond

File: to respond

Send copy to (original to CHR): _____

Schedule ? : ☐ Accept ☐ Pending ☐ Regret

Designee to attend: _____

Remarks: _____



APR 3 1996

FAX COVER SHEET

DATE: 4-2-96

TO: CAROL RASCO

COMPANY:

FROM: HAL HUNNICUTT

NUMBER OF PAGES INCLUDING COVER SHEET: 2

RE: JERRY CONNERS & MHI -

THEY ARE THE ENEMY -

BC DOESN'T NEED TO GET IN

BED WITH THEM - CONNERS HAS

HAD SECRET MEETINGS WITH

KEY PEOPLE AT HUD -

BEWARE OF THE DEVIL IN DISGUISE

CONFIRMATION REQUESTED: YES NO

Hal

hy Manager Shirley Visser
 James Visser, Jr.
 Melissa Self

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..... Danny Ghorbani
 Association for Regulatory Reform and
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club course on Tues-
 day, April 9th. The wel-
 coming reception is
 held that evening from
 6:30 to 8:30 PM in the
 exhibit area. The pro-
 gram continues all day
 Wednesday and Thurs-
 day, April 10 & 11th.
 The 1996 Manufactured
 Housing Industry National
 Awards will be presented
 at a luncheon in the main

manufactured housing plays a key role,"
 Connors said. "He is counting on the industry
 to meet this challenge."

Secretary Cisneros will also challenge the
 industry to pool resources and assistance to
 form partnerships at the state and local levels.
 He has already commended the industry for its
 work in several urban infill demonstration
 projects, for its efforts with several Native
 American tribes, and for the industry's inter-
 est in responding to the housing needs of those
 living in "Colonias" developments along the
 Texas/Mexico border.

Connors Meets With President Clinton

Manufactured Housing Industry Seen As Important Partner

In a meeting on
 March 6, 1996 at the
 White House, Jerry
 Connors, president of
 the Manufactured
 Housing Institute
 (MHI), met with Presi-
 dent Clinton to discuss
 key issues that will play
 a major role in the up-
 coming presidential
 election.

A handful of leaders
 from different indus-
 tries were asked to at-
 tend the meeting where
 Clinton discussed the
 business and economic
 environment and its
 impact on his reelection
 strategies. Connors
 was selected as one of
 these leaders in recog-
 nition of the role
 manufactured housing
 plays in reaching
 Clinton's goal of a
 record 67.5 percent

homeownership rate by
 the year 2000. MHI has
 been an integral part-
 ner in the President's
 National Homeowner-
 ship initiative which
 was launched in the
 summer of 1995.

This meeting is one
 of a series of meetings
 MHI has held at the
 White House over the
 last few months. Last
 fall, Connors met with
 Vice President Al Gore
 to discuss the Vice
 President's "Reinvent-
 ing Government" initia-
 tive and how this down-
 sizing initiative may
 impact the manufactur-
 ed housing indus-
 try.

"It is important for
 the industry to formu-
 late strategies that keep
 in mind the political
 pulse of Washington,

and assure that this
 strategy is integrated
 with the industry's leg-
 islative, regulatory and
 marketing goals. I feel
 the best way to do this
 is by maintaining our
 relationships with key
 decision-makers so
 that we can be confi-
 dent our legislative and
 regulatory agenda is on
 target," said Connors.

As a follow-up to the
 meeting, Clinton has
 asked Connors to pro-
 vide additional infor-
 mation about manu-
 factured housing and
 its vital role in the
 American housing
 strategy, as well as the
 Manufactured Housing
 Institute's role as the
 representative voice for
 the manufactured
 housing industry.

Sarah Rosen, 708-3600

Issue: Whether Fed'l Stds preempt
local laws reg'g sprinklers
in manuf'd homes

HUD's manuf'd hsg code - single fed'l code / ~~preemption~~
since 1974 not fed'l stds

Sprinklers

Many communities reg'g for manuf'd hsg

HUD covers fire safety - resistance vs suppression

Issue: Dec to not pre-empt state + local laws abt sprinklers

ARR says "HUD abandoning fed'l pre-emption / incurring ^{stability}

2) - also say, ^{dec} made procedurally improperly
[HUD: dec didn't require comment → legal interpret]

- DOJ defending HUD → confident

• in past, pre-empted sprinklers - ^{pol. rhetoric}
now, legal decision

HUD resp'g to an inquiry from community
Industry split b/w 2 trade assoc's:

- ARR - smaller producers - very good @ getting a then
- wearing out welcome even on Hill

- Manuf'd Hsg Inst - part of homeownership str, meet w/ Sec'y



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410-8000

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

FAX TRANSMISSION

DATE: 3/27/96

NUMBER OF PAGES (including this page) 1

TO: Molly Brostrom

FROM: Sarah Rosen

PHONE: 456-5561

PHONE: 708-3600

fax 456-7028

The phone number of this fax machine is (202)708-2580.



U. S. Department of Housing and Urban Development
Washington, D.C. 20410-8000

DEC 19 1995

OFFICE OF THE ASSISTANT SECRETARY
FOR HOUSING-FEDERAL HOUSING COMMISSIONER

Mr. Danny D. Ghorbani
President
Association for Regulatory Reform
1331 Pennsylvania Avenue
Suite 508
Washington, D.C. 20004

Dear Mr. Ghorbani:

Thank you for your letter and Petition for Reconsideration ("Petition") of the Department's letter to the Michigan Mobile Home Commission dated July 6, 1995. Neither the National Manufactured Housing Construction and Safety Standards Act of 1974 ("Act") nor the Manufactured Home Procedural and Enforcement Regulations provide authority for a petition to reconsider and withdraw such a letter. However, the Department has reviewed a number of the issues that you raised in the Petition and, after this review, has decided not to withdraw the letter.

The Department's July 6, 1995, letter merely provides the Department's view of the preemptive provisions of the Act and is, at best, an "interpretative rule" under the Administrative Procedure Act ("APA"). As an interpretative rule, the letter is not subject to the APA's rule making requirements. It is consistent with the reasoning in the West Stockbridge letters and does not adversely affect the rights of manufacturers.

7 | Manufacturers continue to have the right to seek injunctive relief against any locality to stop the imposition of a requirement for sprinklers that they think is unauthorized by the Act. For these reasons, we believe the July 6, 1995, letter is not procedurally defective. We also believe that the letter is merely an explanation of Section 604(d) of the Act, 42 U.S.C. § 5403(d), and is substantively correct in that it reflects Federal case law¹ in the area of preemption of state safety laws.

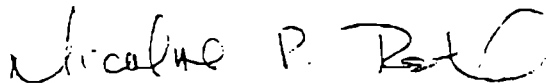
¹ See the First Circuit case of Chrysler Corp. v. Rhodes and the Second Circuit case of Chrysler v. Tofany. The Liberty Homes v. DILHR Wisconsin State Court case discussed in the Petition can be distinguished from one that would involve sprinklers. In that case, the Department's standards were clearly intended to cover the same aspect of performance--the indoor level of formaldehyde emissions in manufactured homes.

- 2 -

Moreover, it reflects what appears to be the favored trend in this Country and in Congress--a deference of power by the Federal Government to State Government when it is unclear that the power in question is vested in the Federal Government. Without the Department's clear authority over this aspect of performance, the decisions on sprinklers in homes should be made by states and localities based on their perceived needs for the health and safety of their citizens, not on rules imposed by the Federal Government.

We do, however, find it appropriate to better explain the basis of the Department's position. Accordingly, we have sent the Michigan Mobile Home Commission a follow-up letter providing a more detail explanation for the Department's interpretation. A copy of that letter is enclosed for your information.

Sincerely yours,



Nicolas P. Retsinas
Assistant Secretary for Housing -
Federal Housing Commissioner

Enclosure

Mr. Richard A. VanderMolen
Executive Director
Mobile Home Commission
Department of Commerce
Corporation & Securities Bureau
P.O. Box 30222
Lansing, MI 48909

Dear Mr. VanderMolen:

On July 5, 1995, I sent you a letter providing the U.S. Department of Housing and Urban Development's ("HUD's") interpretation of the preemptive provisions of the National Manufactured Housing Construction and Safety Standards Act of 1974 ("Act") as they relate to local laws requiring sprinklers in manufactured homes. That letter indicated that the Manufactured Home Construction and Safety Standards ("Federal Standards") do not preempt such local laws because the Federal Standards set forth requirements that "assure reasonable fire safety to occupants by reducing fire hazards and by providing measures for early detection." 24 C.F.R. § 3280.201. The Federal Standards do not cover mechanical devices, such as sprinklers, which retard the spread of fire in a home.

✓ Since that letter was issued, HUD has received criticism that the letter failed to adequately explain the basis for this position. Accordingly, this letter will provide additional reasons HUD has taken the position that, in our opinion, the Federal Standards do not preempt local laws requiring sprinklers in manufactured homes. This position is consistent with prior letters issued October 29, 1991, and January 23, 1992, concerning West Stockbridge, Massachusetts, and the letter issued October 22, 1992, concerning a state-wide sprinkler law in California. All these letters relied on the same Federal case law and legal principles. However, the letters relating to West Stockbridge were in response to questions about a specific locality and its specific ordinance. Your letter, like the letter received from California, asked a more general question about the effect of the preemptive provisions of the Act on any state or locality's sprinkler requirements.

-2-

In Section 604(d) of the Act, 42 U.S.C. § 5403(d), Congress explicitly defined the extent to which it intended the Federal Standards to preempt state standards. From the language in Section 604(d), it is clear that Congress did not intend to occupy the entire field of regulation for manufactured housing. Instead, a state construction and safety standard relating to manufactured housing is preempted only where there exists a non-identical Federal Standard applicable to the "same aspect of performance."

No Federal court cases involving the Act have addressed what constitutes the "same aspect of performance." However, Federal courts, in two important cases, have interpreted the term "aspect of performance" as used in the National Traffic and Motor Vehicle Safety Act of 1966, 15 U.S.C. § 1381 et seq. ("NTMVSA"). The NTMVSA was the statute from which the National Manufactured Housing Construction and Safety Standards Act of 1974 was modeled and contains the same preemption language. See 15 U.S.C. § 1392(d). The cases involving preemption under the NTMVSA are Chrysler Corp. v. Rhodes, 416 F.2d 319 (1st Cir. 1969) and Chrysler Corp. v. Tofany, 419 F.2d 499 (2nd Cir. 1969).

By analogy to the NTMVSA as interpreted by Rhodes and Tofany, a conclusion can be drawn on the effect of the term "aspect of performance" in the preemption section of the Act. 24 C.F.R. § 3280.201 of the Federal Standards provides the "scope" of the standards relating to fire safety by stating the following:

The purpose of [the] subpart is to set forth requirements that will assure reasonable fire safety to occupants by reducing fire hazards and by providing measures for early detection.

Even though the stated purpose of the subpart is to set forth requirements to "assure reasonable fire safety," the rest of Subpart C, which contains the fire safety standards, has no provisions directly addressing sprinkler systems. Moreover, the fire safety standards fail to contain even a category that could be interpreted to include sprinkler systems such as "fire extinguishing equipment." Instead of extinguishing or subduing fires, the Federal Standards, as noted above, are concerned with "reducing fire hazards" and "providing measures for early detection." Because the Federal Standards fail to contain specific requirements or categories relating to sprinklers and because the Federal Standards basic concern is with reducing fire hazards and providing measures for early detection instead of fire extinguishment, it is HUD's opinion that the Federal Standards would not preempt a state requirement for sprinklers under the tests set forth in Rhodes and Tofany.

-3-

In addition to the explicit limits of preemption set by Congress in the Act, Congress stated that the purpose of the Act is "to reduce the number of personal injuries and deaths and the amount of insurance costs and property damage resulting from manufactured home accidents. . . ." 42 U.S.C. § 5401. A state requirement for sprinklers in manufactured homes would not frustrate that purpose or stand as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress under the Act. Nor would it be impossible for a manufacturer to comply with both the Federal Standards and a state requirement for sprinklers in manufactured homes. Accordingly, HUD believes that such a state requirement is not preempted by the Federal Standards.

I hope this clarifies the basis for the interpretation of Section 604(d) of the Act set forth in my July 6, 1995, letter. You should be advised, however, that HUD's opinion with regard to the preemption of local sprinkler laws in no way affects the rights of private parties. Regardless of this letter or my July 6, 1995, letter, manufacturers continue to have the right to sue any locality for injunctive relief to stop the imposition of a requirement for sprinklers that they think is unauthorized by the Act. This letter merely provides HUD's interpretation of Section 604(d) of the Act.

Sincerely,

is |
David C. Nimmer
Director
Office of Manufactured Housing
and Regulatory Functions

THE WHITE HOUSE
OFFICE OF DOMESTIC POLICY

CAROL H. RASCO

Assistant to the President for Domestic Policy

To: ① CHR FYT
② Molly

Draft response for POTUS
and forward to CHR by: ↓

Draft response for CHR by: We need to

Please reply directly to the writer
(copy to CHR) by: discuss all of

Please advise by: this next

Let's discuss: week. Please

For your information: bring it up

Reply using form code: w/mo.

File: _____

Send copy to (original to CHR): _____

Schedule ? : ☐ Accept ☐ Pending ☐ Regret

Designee to attend: _____

Remarks: Julie: tickler ✓



MAR 25 1996

FAX COVER SHEET

DATE: 3-25-96

TO: CAROL RASCO

COMPANY:

FROM: HAL HUNNICUTT

NUMBER OF PAGES INCLUDING COVER SHEET: 4

CAROL -

PLEASE READ THIS LETTER - I COULDN'T WORD

IT ANY BETTER THAN CONGRESSMAN MCINTOSH

HENRY CISNEROS IS NOT INTERESTED IN

HELPING ANYBODY BUT THE RICH & FAMOUS -

IF THIS IS THE BEST HUD SECTY BILL CUNTON
CAN FIND - HEAVEN HELP US!

CONFIRMATION REQUESTED: _____ YES

NO

Regards
Hal

DAVID M. MCINTOSH

2D DISTRICT, INDIANA

GOVERNMENT REFORM AND
OVERSIGHT COMMITTEESUBCOMMITTEE CHAIRMAN
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NATURAL RESOURCES AND
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March 20, 1996

The Honorable Rick Lazio
 Chairman, Subcommittee on Housing
 and Community Opportunity
 Committee on Banking
 and Financial Services
 314 Cannon House Office Building
 Washington, D.C. 20515

Re: HUD Regulation of Manufactured Housing

Dear Rick:

During 1995, the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs, which I chair, held a series of regional hearings around the United States in order to observe and assess the impact of governmental regulation upon the lives of ordinary Americans.

One of these hearings was held in Tampa, Florida on July 17, 1995. Among the participants at this hearing was the owner of a small company, based in Bartow, Florida, which produces manufactured homes. As you know, pursuant to the National Manufactured Housing construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, *et seq.*, the construction, design, transportation and safety of such homes are regulated by the Department of Housing and Urban Development, which is under your Subcommittees' jurisdiction.

In his testimony, this witness indicated that HUD, in the wake of Hurricane Andrew and its attendant publicity, rushed into effect a new wind resistance rule for manufactured housing, based on an academic "model" that is so stringent and so unrealistic that it has not been adopted for any other type of housing anywhere in the country. He further testified that because of this regulation, the cost of manufactured housing in "coastal" areas, such as portions of Florida had been driven up substantially and that sales of such homes, conversely, had declined dramatically, as contrasted with sales of manufactured homes in other parts of the country.

In light of this testimony, I wrote to HUD Secretary Henry G. Cisneros on November 29, 1995, posing five specific questions regarding the manufactured housing wind rule, and the manner in which it was formulated. Both my inquiries and Secretary Cisneros' response, dated March 13, 1996 are attached.

Unfortunately, the Secretary's reply does little to allay my concerns regarding the federal manufactured housing program -- concerns that are based not only on the testimony that the Subcommittee heard in Florida, but on my own experience with this program as a member of the Bush Administration.

In reviewing the Secretary's March 13, 1996 response I note that he cites an 11th Circuit Court of Appeals decision which apparently upheld HUD's procedures in adopting the wind rule. While this ruling no doubt pleases HUD, it is not germane to the issue presented to the Subcommittee. While the issue before the court was whether HUD adhered to certain minimal standards in adopting the new rule -- such as whether the rule was arbitrary or capricious -- the issue before Congress is whether HUD's choice in this matter (and others) constitutes sound public policy. I would submit that it does not.

The Secretary does not deny that manufactured housing sales in Florida and other coastal zones have declined since the rule was adopted. While HUD may believe that this reduction has something to do with a "reduced level of consumer confidence in manufactured homes," its reliance on this argument is ironic, insofar as one of its economic assumptions in favor of the wind rule was that coastal zone residents would be attracted to the "safer" homes produced under the rule.

The Secretary does not explain why the same wind standard, that applies to all other types of homes in the southeast, could not have been adopted for manufactured homes. While the rule chosen may well provide the "highest standard of protection," the 1974 Act is clear that reasonableness and cost must be balanced against protection. There is nothing in the Secretary's response which would indicate that cost to consumers was ever considered. This lack of concern with real world factors, such as cost and affordability, is reflected in the sales statistics presented to the Subcommittee.

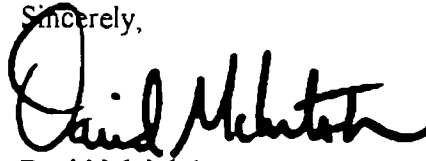
More importantly, though, HUD's decision regarding wind safety should not be viewed in isolation. It needs to be seen in the context of a program that has stunted the growth of manufactured housing as an unsubsidized, affordable housing option for middle and low income Americans. Given the Secretary's concerns for affordable housing, the manufactured housing program should be one of HUD's showpieces. Yet, the program has been a constant source of controversy. It has been the subject of numerous lawsuits, with more on the way, and was even dissected by a blue-ribbon "national commission." Now, it is being downgraded by HUD, with almost all of its functions being delegated to contractors and other entities.

At a time when the Secretary is predicting a "crisis" in affordable housing (see, Washington Post, March 15, 1996), and is criticizing "cuts" in housing subsidies, it is both ironic and disconcerting to see HUD's treatment of manufactured housing. Manufactured homes are an unsubsidized source of affordable housing that could play a much more significant role in the housing market were it not saddled with discriminatory HUD regulations and a federal enforcement system that lacks accountability or oversight.

In view of these concerns, as well as the potential of manufactured housing to provide affordable, unsubsidized home ownership to millions of middle and low income Americans, I believe that Congress should carefully review the operation of this program. This review could identify problem areas and develop specific legislative solutions which would enhance the operation of the program. I would be happy to assist you in any way possible in formulating such a review.

With best regards,

Sincerely,

A handwritten signature in black ink, appearing to read "David McIntosh". The signature is fluid and cursive, with the first name "David" and last name "McIntosh" clearly distinguishable.

David M. McIntosh
Member of Congress

Enclosures

NEWS

MAR 7 1996
(PRESERVING THE AMERICAN
DREAM OF HOME OWNERSHIP
THROUGH REGULATORY REFORM

FOR IMMEDIATE RELEASE

Contact: Lynn Hamrick
202/783-4087

ARR SUES HUD ON FEDERAL PREEMPTION

Washington, D.C. February 28, 1996 -- The Association for Regulatory Reform ("ARR"), a national trade association representing the rights and interests of American producers of manufactured housing, has filed suit against the Department of Housing and Urban Development ("HUD") seeking to enforce a 1974 law that reserves the regulation of manufactured home construction and safety issues to the federal government. Manufactured homes are the nation's premier source of affordable, unsubsidized homeownership.

Under the 1974 law -- the National Manufactured Housing Construction and Safety Standards Act -- state and local governments may not adopt or enforce standards concerning any aspect of manufactured housing performance that is regulated by HUD. This concept, known as "federal preemption," is specifically enshrined in the constitution. Its purpose, in the context of the 1974 Federal Manufactured Housing Law, is to ensure that manufactured homes are regulated in a uniform manner, and that any home, built in conformance with HUD's federal standards, can be shipped for sale anywhere in the country. Of course, such uniformity promotes construction efficiency, and contributes significantly to the affordability of manufactured housing.

ARR's suit, filed in the United State District Court in South Bend, Indiana, specifically concerns federal preemption over state and local laws which could require the installation of costly fire sprinkler systems in manufactured homes. Current HUD regulations specifically address "fire safety" in manufactured homes, and set forth comprehensive safety requirements. This led HUD, in 1989, to issue an opinion stating

-2-

that state and local laws requiring sprinklers dealt with an aspect of manufactured home performance that was already regulated by HUD, and were, therefore, preempted. In late 1995, however, HUD totally reversed this position, and waived preemption over state and local fire sprinkler laws without any type of public notice or comment, and without any real explanation of its sudden about-face. ARR's suit, accordingly, challenges both the procedures utilized by HUD in waiving its power of preemption, as well as the substance of its decision, which flies in the face of Congress' intent in passing the 1974 law, and would expose manufactured housing producers and consumers to a myriad of costly and potentially conflicting fire sprinkler laws.

Significantly, HUD's waiver of preemption comes against a backdrop of numerous other actions by the Agency that have negatively impacted both the small businesses that comprise the manufactured housing industry and its consumers -- mostly middle and lower income families seeking affordable, unsubsidized homeownership. These actions include the Agency's adoption of an unrealistic and unnecessary wind resistance regulation for coastal areas -- that has not been imposed on other kinds of housing -- that has virtually dried up the market for manufactured housing in the important state of Florida; a recent drive to turn nearly all enforcement functions over to contractors and state-based entities; and onerous new "complaint" reporting requirements, among others. Together with HUD's recent waiver of preemption, these actions (and others) threaten to undermine the three basic components of the 1974 law that have ensured the continuing affordability of manufactured housing for more than 20 years: (i) preemptive, uniform standards; (ii) performance-based (as contrasted with prescriptive) construction and safety requirements; and (iii) uniform federal enforcement.

-3-

In Washington, D.C., ARR President Danny D. Ghorbani said that "HUD's waiver of preemption and other recent actions will seriously harm the multitude of small businesses that comprise the manufactured housing industry, and will deprive hundreds of thousands of middle and low income Americans of the benefits of homeownership by needlessly driving up the cost of manufactured homes that have already been proven to be high-quality and fire-safe." In addition, he noted, "HUD's entire course of conduct in recent months represents both a betrayal of Congress' intent in passing the 1974 Manufactured Housing Law and a unilateral, unauthorized rearrangement of the priorities and principles incorporated into the Act by Congress, necessitating forceful action, including, but not limited to the suit filed today. Ultimately, however, Congress will need to address this issue, as well as fundamental reform of the 1974 Manufactured Housing Law."

The Association for Regulatory Reform is a Washington, D.C. based national trade association representing the views and interests of producers, as well as numerous small businesses, of manufactured housing.

-30-

Association For Regulatory Reform

1331 Pennsylvania Avenue, N.W., Suite 508 • Washington, D.C. 20004 • 202/783-4087 • FAX 202/783-4075

February 14, 1996

Honorable Henry G. Cisneros
Secretary
U.S. Department of Housing
and Urban Development
Room 10000
451 Seventh Street, S.W.
Washington, D.C. 20410

Re: Exclusionary HUD Meetings Concerning Aspects of
Manufactured Housing Regulation

Dear Secretary Cisneros:

As you are aware, under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. § 5401, et seq., HUD is responsible for the operation of a federal regulatory program for manufactured housing. The Association for Regulatory Reform ("ARR"), for its part, represents a substantial number of the producers that are subject to such regulation. In particular, ARR's members tend to be small to medium-sized manufacturers -- the type of business enterprises that are most adversely affected by inappropriate or excessive regulation.

It has come to ARR's attention that HUD, in recent months, has held a series of ex parte meetings with one segment of the industry, regarding specific regulatory issues -- such as HUD's recent interpretation of its Subpart I requirements, its recent disavowal of federal preemption, the creation of a consensus committee, and state enforcement authority -- that are currently under consideration by the Department. These issues, obviously, concern not only the continued affordability of manufactured housing, but the very structure of HUD's program -- matters that are of vital concern to the entire manufactured housing industry.

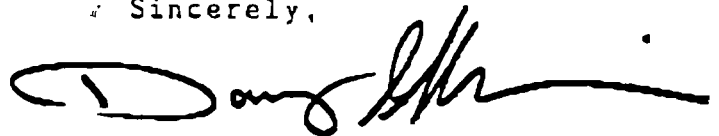
Needless to say, ARR believes that HUD, like other executive-branch agencies, should use existing administrative procedures for obtaining input from interested and affected parties regarding pending regulatory issues. Unfortunately, however, HUD, in this instance, has forsaken these procedures, in favor of an arbitrary and exclusionary approach that is of questionable legality and, arguably, infringes upon the constitutional rights of industry members not represented in the meetings.

These meetings, moreover, have come at a time when HUD appears to be consciously downgrading the entire manufactured housing program. In recent months, HUD has taken actions which have effectively undermined the three fundamental principles underlying the federal manufactured housing law -- uniform enforcement, federal preemption, and uniform performance-based standards. Through these and other actions, HUD is unilaterally changing the face of the program contrary to the expressed intent of Congress.

Furthermore, as you are well aware, manufactured housing is the only source of unsubsidized, affordable home ownership for millions of middle and lower-income American families. Sadly, HUD's recent actions, including the drastic downgrading of this program, make it all the more difficult for those seeking to meet this pressing need for affordable housing with minimal involvement of taxpayer funds.

In summary, then, ARR strenuously objects to HUD's current course of action regarding manufactured housing. Indeed, the Agency's conduct, in disregard of the rights and concerns of a substantial portion of the industry, and the general public merely underscores the need for comprehensive legislation to reform the entire federal program.

Sincerely,



Danny D. Ghorbani
President

cc: Honorable Connie Mack
Honorable Rick Lazio
Members, House and Senate Housing Subcommittees

DDG/11h

Association For Regulatory Reform

1331 Pennsylvania Avenue, N.W., Suite 508 • Washington, D.C. 20004 • 202/783-4087 • FAX 202/783-4075

March 8, 1996

Mr. David C. Nimmer
Deputy Director
HUD Office of Consumer
and Regulatory Affairs
U.S. Department of Housing
and Urban Development
490 L'Enfant Plaza
Suite 3214
Washington, D.C. 20410

RE: Participation in HUD - USFA Partnership Meetings

Dear Mr. Nimmer:

As you know, representatives of the Association for Regulatory Reform have been attending meetings of the HUD - U.S. Fire Administration ("USFA") "Partnership", and have been receiving materials generated within the context of the partnership. In view of certain recent events, however, ARR has decided to terminate its participation in this activity. My purpose in writing, accordingly, is both to notify you of ARR's withdrawal, and to explain the bases for its decision.

First, as you know, ARR strongly objects to HUD's 1995 decision to waive federal preemption over state and local fire sprinkler laws. ARR cannot help but believe that information presented during the course of the HUD - USFA initiative -- outside the course of any regular rulemaking proceeding -- had some impact upon this decision.

Second, although ARR and its members are certainly cognizant of the importance of fire-safety, we believe that the activities of the partnership rest on a false premise -- that manufactured homes are somehow less fire-safe than other types of homes. Data developed by Foremost Insurance Company shows that post HUD - Code Manufactured Homes are every bit as fire-safe as other types of housing, and perhaps more so. In our view, this information -- developed by an insurer responsible for paying fire-related claims -- has a higher indicia of reliability than information developed by an industry association.

Third, ARR is concerned that manufactured housing, in particular, is being targeted for this exercise as a result of a political agreement between HUD's Secretary and USFA's administrator. The very fact that the "partnership" is limited solely to manufactured housing, as opposed to firesafety in all homes -- an issue that has never once been raised --

undermines the "partnership's" credibility and legitimacy as a purely "safety-related" initiative. ARR simply cannot, in good conscience, participate in an activity that targets the manufactured housing industry for disparate treatment on the basis of political considerations.

Although this is, by no means, a complete listing of ARR's concerns, it constitutes a sufficient basis for its refusal to participate further in the activities of the partnership. Moreover, ARR objects to the continuation of any partnership activity for the reasons stated above, and reserves its right to take further action with respect thereto.

Sincerely,



Danny D. Ghorbani
President

cc: Mr. Nicholas P. Retsinas
Ms. Emelda Johnson
Mr. David Williamson
Manufacturers ✓

bcc: Affiliate States ✓

DDG/11h

THE WHITE HOUSE
OFFICE OF DOMESTIC POLICY

CAROL H. RASCO
Assistant to the President for Domestic Policy

To: Molly

Draft response for POTUS
and forward to CHR by: _____

Draft response for CHR by: _____

Please reply directly to the writer
(copy to CHR) by: _____

Please advise by: _____

Let's discuss: _____

For your information: _____

Reply using form code: _____

File: _____

Send copy to (original to CHR): _____

Schedule ? : ☐ Accept ☐ Pending ☐ Regret

Designee to attend: _____

Remarks: _____

*CHR asked me
to give to
you*



MAR 12 1996

FAX COVER SHEET

DATE: 3-12-96

TO: CAROL RASCO

COMPANY:

FROM: HAL HUNNICUTT

NUMBER OF PAGES INCLUDING COVER SHEET: 3

CAROL-

JUST ONE MORE STEP IN THE WRONG DIRECTION

B.Y. CISNEROS. IS HE REALLY OF MEXICAN DESCENT?

WHO OR WHAT LOBBY IS TRYING TO BUY HIM?

I AM NOT FOR SALE - & NEITHER IS

BILL CLINTON - PLEASE HELP US - WE CAN'T
SURVIVE WITHOUT YOUR HELP! THANKS

CONFIRMATION REQUESTED:

YES

NO

THE WHITE HOUSE
OFFICE OF DOMESTIC POLICY

CAROL H. RASCO

Assistant to the President for Domestic Policy

To:

CHR

Draft response for POTUS
and forward to CHR by:

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Please reply directly to the writer
(copy to CHR) by:

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For your information:

Reply using form code:

File:

Send copy to (original to CHR):

Schedule ? :

☐ Accept

☐ Pending

☐ Regret

Designee to attend:

Remarks:

~~FILE Molly
is handling
a letter from
Mr. Hannon
we received 3/12
(in Tittler).
~~FILE~~
Does she need to
do anything with this?
Molly - another - 3/12
piece of the
puzzle.~~



MAR 14 1996

FAX COVER SHEET

DATE: 3-14-96

TO: CAROL RASCO

COMPANY:

FROM: HAL HUNNICUTT

NUMBER OF PAGES INCLUDING COVER SHEET:

WE HAVE HEARD THIS!

SARAH ROSEN - SPECIAL ASST TO ASST SECTY FOR
HSG - NICK
RETSINAS

SHE HAS BEEN CONDUCTING SECRET MEETINGS

W/ JERRY CONNER - MHI - A SEGMENT
THAT REPRESENTS [LARGE] MANUFACTURERS.DO WE HAVE A CHANCE FOR THE
SMALL PEOPLE AT ALL? Truly

CONFIRMATION REQUESTED:

YES

NO



Molly - let's talk.
FEB 26 1996

FAX COVER SHEET

DATE: 2-26-96

TO: CAROL RASCO

COMPANY: _____

FROM: HAL HUNNICUTT

NUMBER OF PAGES INCLUDING COVER SHEET: _____

CAROL -

THIS LETTER IS SELF EXPLANATORY - WHAT IS WRONG
WITH CISNEROS. HOW CAN CLINTON'S PEOPLE TURN
THEIR BACKS ON AN INDUSTRY THAT RECEIVES
" 0 " ZERO FEDERAL SUBSIDIES & REPRESENTS
NEARLY 1/3 OF ALL NEW SINGLE FAMILY STARTS
IN 1995? THANKS/ Hal
CONFIRMATION REQUESTED: Hal YES _____ NO _____