

MEMORANDUM

TO: RANM Members

FROM: George Lowes,
RANM 2009 President

DATE: May 20, 2009

SUBJECT: Update on Manufactured Housing requirements for sale by REALTORS®

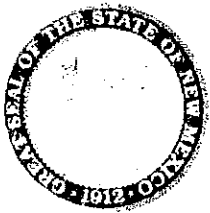
REALTORS® selling real property may once again sell the manufactured homes located on the property without the requirement of specific foundations or inspections.

A little more than a year ago, the Manufactured Housing Division (MHD) announced a new interpretation of the law governing the circumstances under which a REALTOR® could sell a manufactured home. Its new interpretation placed the burden on the owner of a manufactured home to have the home assessed as real property, the title deactivated, and the home placed on a permanent foundation. MHD also announced that it would be stringently enforcing the law as interpreted by the MHD, which would result in REALTORS® being fined and homes being "red-tagged" if these provisions were not satisfied prior to listing. In an effort to keep our members from being sanctioned, RANM notified members of the MHD's position.

Simultaneously, RANM's Manufactured Housing Task Force was diligently working to have the MHD reconsider its interpretation of the law on point. MHD did just that and issued yet another "new" interpretation of the law approximately three months ago. That interpretation required an installation inspection prior to a REALTOR® being permitted to sell a manufactured home. Again, MHD threatened fines and "red-tags" for non-compliance.

Again, RANM educated its members and again, RANM pushed to have the MHD reconsider its position. Thanks to the hard work of RANM's Manufactured Housing Task Force, the Regulation and Licensing Division (RLD), the division that oversees MHD, became involved. After discussions with RANM, the RLD issued the following letter which reverses MHD's earlier interpretations.

On behalf of our membership, I would like to convey our sincere appreciation to all of the members of the Manufactured Housing Task Force for their efforts in bringing us to this point.



Bill Richardson
GOVERNOR

Kelly O'Donnell, Ph.D.
SUPERINTENDENT

Julie Ann Meade
DEPUTY
SUPERINTENDENT

Benito J. Martinez Jr.
DIRECTOR

New Mexico Regulation and Licensing Department MANUFACTURED HOUSING DIVISION

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5200 Oakland Ave. NE • Albuquerque, NM 87113 • (505) 222-9870 • Fax (505) 856-2045
505 S. Main St., Suite 150 • Las Cruces, NM 88004 • (505) 524-6320 • Fax (505) 524-6319
www.rld.state.nm.us/mhd

Manufactured Housing Listing Guidelines for Real Estate Brokers/Agents

Dear Realtors,

Based on concerns voiced by the real estate industry, the New Mexico Manufactured Housing Association and the Realtors Association of New Mexico, the Manufactured Housing Division (MHD) of the Regulation and Licensing department (RLD) has revisited its recent interpretation of the laws governing the listing and selling of manufactured homes by Realtors®.

The following guidance pertains to MHD requirements *only* and should not be interpreted to replace or void anything that may be required by FHA, other government housing insurance agencies or any other lender, appraiser or GSE with regard to real property, MH inspections or permanent foundations.

Upon thorough review by our legal department RLD has determined that inspection of pre-owned manufactured homes prior to listing or sale, while advisable, is not required. Installation inspections **are** required when a new house is first installed or when an existing home is moved to a new location. Thus, a pre-owned home that remains in its original location is assumed to have been inspected when it was first installed and no additional inspections are necessary. That said, to ensure safety, MHD encourages Realtors® to obtain proof that an installation inspection occurred when the home was originally installed. If the home was installed after January 2004, MHD should have record of the inspection through the Kiva Online Permit Tracking System. Realtors® can verify inspection by contacting MHD, but, again, they are not required to do so.

TO CHECK ON AN INSPECTION

Santa Fe and northern area: 505-476-4770

Albuquerque area: 505-222-9870

Las Cruces and southern area: 575-524-6321 x.107

Please note however, that Realtors® may only sell manufactured homes that are located on real property. The homes do not have to be permanently affixed to the real property with a permanent foundation to be sold by a Realtor®, but they must be located on, and sold with, real property.

Anyone, Realtors® included, who sells more than one manufactured home per year as chattle (personal property), must be licensed by MHD.

Realtors® may lease and/or serve as property managers of manufactured homes.

Alcohol and Gaming Division
(505) 476-4875

Boards and Commissions Division
(505) 476-4600

Construction Industries Division
(505) 476-4700

Financial Institutions Division
(505) 476-4885

Manufactured Housing Division
(505) 476-4770

Securities Division
(505) 476-4580

Administrative Services Division
(505) 476-4800

MHD recommends that Realtors® obtain inspections of manufactured homes they list because inspections enhance consumer protection and can provide valuable information about the home. MHD inspectors are trained to look for common problems and hidden dangers in MH installations.

For a \$65 permit fee, MHD will inspect a manufactured home. MHD inspectors are the sole authority for inspections of MH's in the state. MHD can usually conduct an inspection within one week of issuing a permit. Realtors ® can find download a permit application at: www.rld.state.nm.us/mhd > Forms on the left hand side of the page > Other Applications > Permit Application.

In closing, it was through a dialogue with representatives from your industry that Regulation and Licensing Department was made aware of the issues regarding Realtors® and the sale of manufactured homes. Please feel free anytime to contact our department on issues, problems or concerns that need to be addressed.

Sincerely,

Superintendent Kelly O'Donnell, Ph.D.
Regulation and Licensing
505-476-4500