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STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

DIRECTOR OF THE MANUFACTURED HOUSING AND MODULAR UNITS  
PROGRAM OF THE MISSOURI PUBLIC SERVICE COMMISSION  
VS.  
BROOKSIDE HOMES, INC. AND  
STEVEN D. WARREN, AN INDIVIDUAL

Case No. MC-2009-0020

TRANSCRIPT OF PROCEEDINGS

PREHEARING CONFERENCE

VOLUME 2

MAY 19, 2009

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STATE OF MISSOURI

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PUBLIC SERVICE COMMISSION

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TRANSCRIPT OF PROCEEDINGS

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Prehearing Conference

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May 19, 2009

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Jefferson City, Missouri

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Volume 2

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10	Director of the Manufactured Housing	)	
	and Modular Units Program of the	)	
	Missouri Public Service Commission,	)	
11		)	
	Complainant,	)	
12		)	
	vs.	)	Case No.
13		)	MC-2009-0020
	Brookside Homes, Inc.	)	
14	2455 US Highway 67 South	)	
	Festus, Missouri 63028	)	
15		)	
	AND	)	
16		)	
	Steven D. Warren, an individual	)	
17	3936 Falcon View Lane	)	
	St. Louis, Missouri 63129	)	
18		)	
	Respondents.	)	
19		)	

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NANCY DIPPELL, presiding,  
DEPUTY CHIEF REGULATORY LAW JUDGE

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REPORTED BY:

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Patricia A. Stewart, RMR, RPR, CCR 401

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1 P R O C E E D I N G S

2 JUDGE DIPPELL: All right. Let's go ahead  
3 and go on the record. This is Case No. MC-2009-0020,  
4 Director of the Manufactured Housing and Modular Units  
5 Program of the Missouri Public Service Commission versus  
6 Brookside Homes, Inc. and Steven D. Warren.

7 My name is Nancy Dippell. I'm a regulatory  
8 law judge assigned to this matter, and we've come here  
9 today for a prehearing conference.

10 I'll begin by asking for entries of  
11 appearance, and let's start with Staff.

12 MR. DEARMONT: On behalf of Staff -- excuse  
13 me -- on behalf of the Director of the Manufactured  
14 Housing and Modular Units Program of the Commission, I'm  
15 Eric Dearmont at P. O. Box 360, Jefferson City, Missouri  
16 65102.

17 JUDGE DIPPELL: And Brookside Homes.

18 MR. BILBREY: For Brookside -- for both  
19 Brookside Homes, Incorporated, as well as Steven D.  
20 Warren, this is Bob Bilbrey.

21 JUDGE DIPPELL: Would you go ahead and give  
22 us your address, Mr. Bilbrey?

23 MR. BILBREY: Oh, I'm sorry.

24 It is P. O. Box 800, 301 Main Street,  
25 Hillsboro, Missouri 63050.

1 JUDGE DIPPELL: All right. Like I say,  
2 basically this prehearing conference was made so that you-  
3 all could discuss settlement. I realize this case has  
4 been sort of dragging on for a while.

5 We now have an Amended Complaint and answers  
6 to that Amended Complaint, and mainly I had asked that you  
7 all come together to talk about the procedural schedule to  
8 follow and to file a proposed procedural schedule by  
9 May 26th.

10 So I will hope that you-all will look at  
11 your calendars and try to figure some dates out.

12 But while I have you all here, I wanted to  
13 kind of find out what procedures -- since this case has  
14 had sort of an interesting procedure so far, I wanted to  
15 find out -- I know that you-all have kind of discussed  
16 this in the background, but I wanted to find out what  
17 procedure you were kind of expecting out of the  
18 Commission.

19 Mr. Dearmont, do you have some enlightenment  
20 for me?

21 MR. DEARMONT: Well, I assume that we'd want  
22 an evidentiary hearing of some sort.

23 JUDGE DIPPELL: Okay. You had sort of teed  
24 this up to talk about the change in the law or --

25 MR. DEARMONT: Well, we had, yeah. I don't

1 know if that's still -- that is still the case or . . .

2 JUDGE DIPPELL: Mr. Reed, would you like to  
3 make your entry.

4 MR. REED: Sure.

5 I know that when we initially filed this  
6 case, we were headed on one path, and as we got into it,  
7 Mr. Bilbrey and I determined that it appeared that it was  
8 a pretty significant issue here that was sort of bigger  
9 than the case against Brookside.

10 And I think in the interim Brookside has --  
11 are they out of business, Bob?

12 MR. BILBREY: I don't know that the  
13 corporation has completely wrapped up.

14 MR. REED: But they were headed in that  
15 direction?

16 MR. BILBREY: They were headed -- they are  
17 not operating on a day-to-day basis. The entity I believe  
18 is still in existence.

19 MR. REED: So when the case began, I think  
20 the director was really headed toward revoking the  
21 registration or disciplining the registration that  
22 Brookside had.

23 But as we got into the case, we saw that  
24 there was a bigger issue with regard to the  
25 responsibilities between installers and dealers upon

1 installation of a home.

2 And so Mr. Bilbrey and I talked about that,  
3 and we -- I wanted to amend the Complaint, and his clients  
4 agreed that, yeah, we'll accept the Amended Complaint and  
5 file the answer.

6 So I think it could be where we are now  
7 that -- I mean, there may not be many facts at issue. And  
8 I think Mr. Bilbrey and I will have to talk about that,  
9 with Eric as well.

10 We can talk about that this morning in terms  
11 of whether there are enough facts that could be stipulated  
12 to present in the legal issue to the Commission.

13 JUDGE DIPPELL: And that's, I guess, what I  
14 was getting at is I thought that it was possible that you  
15 might be able to stipulate to at least the basic facts and  
16 determine if there were any facts at issue that needed to  
17 be decided.

18 MR. REED: And I think that when we -- we  
19 actually did depositions earlier, and, I mean, there may  
20 be -- there may be more we need to get into.

21 I don't think we intend to depose Mr. Warren  
22 anymore. I think we probably have what we want, probably  
23 have the information that we need.

24 Bob, do you think there are a lot of facts  
25 at issue here?

1                   MR. BILBREY: I think with regard to  
2 Brookside Homes, I think we're probably pretty close on  
3 the facts. I think where we would have an issue is with  
4 Steve Warren individually. Obviously, that's going to  
5 entail piercing the corporate veil to reach Mr. Warren  
6 individually.

7                   Mr. Warren has never had a license in his  
8 name individually. He is the owner of Brookside Homes.

9                   So what we could agree on or stipulate to as  
10 far as, you know, facts that either would or would not  
11 tend to -- would either tend to prove the Commission's  
12 claim or tend to prove our claim that he had no individual  
13 liability here. I think that might be an issue.

14                  JUDGE DIPPELL: Okay. And this is Judge  
15 Dippell again.

16                  I was just looking at that with regard to  
17 your affirmative defenses that you filed in the answer,  
18 and that was another question that I had was, I mean, you  
19 basically made a failure to state a claim and I wasn't  
20 sure if, you know, you were going to kind of expect the  
21 Commission to rule on that prior to a hearing or if that  
22 was the kind of thing because it involved piercing the  
23 corporate veil and we might not have enough facts  
24 actually.

25                  MR. BILBREY: And I would tend to agree with



1     that latter statement.

2                   JUDGE DIPPELL:   Okay.   So you would see that  
3     sort of being followed up -- that would come out of the  
4     hearing, that would be the kind of thing --

5                   MR. BILBREY:   Probably.   Or, you know, maybe  
6     if there -- if there was more discovery or pretrial  
7     procedure done, you know.

8                   JUDGE DIPPELL:   All right.

9                   MR. BILBREY:   Maybe we could submit it at  
10    that point.

11                  JUDGE DIPPELL:   Okay.   I just wanted to get  
12    that clarified because we don't have a lot of those legal  
13    arguments here at the Commission.   We usually, you know,  
14    know who the parties are and so forth.   So just for my  
15    clarification because it's a new issue to me then.

16                  MR. REED:   What I think that I'd probably  
17    suggest is that we set a period of time for dispositive  
18    motions, because I think that Mr. Bilbrey also had -- as  
19    one of his affirmative defenses, he referred to a statute.

20                  I think he suggested maybe mandates, some  
21    sort of procedure prior to the Complaint or in the place  
22    of a Complaint, and then we could consider filing a motion  
23    for summary judgment, at least on our part, and maybe  
24    Mr. Bilbrey could as well.

25                  So we'd set a period of time for those kind

1 of motions and then -- and maybe that's the first step,  
2 and maybe we wait to set the evidentiary hearing until  
3 after those motions are determined.

4 And I say that because although we might  
5 file the motions in 60 days, I'm not sure how long it  
6 would be before the Commission decided that, because there  
7 are five of them who have to come to some consensus.

8 MR. BILBREY: Right.

9 JUDGE DIPPELL: Okay. Well, I like to sound  
10 it out because that kind of tees it up for me more clearly  
11 as to what is expected on this side.

12 So is there anything else that you need to  
13 bring up while we are on the record?

14 Okay. Seeing nothing else, then I will  
15 leave you-all to further discussions in private and we can  
16 conclude the on-the-record portion of the hearing.

17 We can go off the record.

18 WHEREUPON, the on-the-record portion of the  
19 prehearing conference was concluded.

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## CERTIFICATE OF REPORTER

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I, Patricia A. Stewart, RMR, RPR, CCR, a

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Certified Court Reporter in the State of Missouri, do

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any attorney or counsel employed by the parties thereto,

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nor financially or otherwise interested in the outcome of

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the action.

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Patricia A. Stewart

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