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Missouri Public
Service Commission

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July 1, 2003

Secretary Dale Hardy Roberts
Public Service Commission
P.O. Box 360
Jefferson City, MO 65102

MX-2003-0187

Re: **SUPPLEMENTAL STATEMENT IN OPPOSITION**
PROPOSED RULE-- 4 CSR 240-120.085 Inspection Fee

Dear Mr. Roberts:

Please consider this supplemental statement in addition to the previous statement submitted, dated June 27, 2003.

Federal Law Preemption

Federal law occupies and preempts Missouri proposed rules CSR 240-120.085 & 121.065. No inspection fee, other than that which is already paid to the Missouri State Administrative Agency, can be imposed for the inspection of manufactured housing unless HUD specifically approves that fee.

24 CFR 3282.307 states in pertinent part:

- (a) Each approved State shall establish a monitoring inspection fee in an amount required by the Secretary.

* * *

- (d) To assure that a state devotes adequate funds to carry out its State Plan, a State may impose an additional reasonable inspection fee to offset expenses incurred by that State in conducting inspections. Such fee shall not exceed that amount which is the difference between the amount of the funds distributed to the State [under] this section and the amount necessary to cover the cost of inspections. Such fee shall be

part of the State Plan pursuant to §3282.302(b)(11) and (12) and shall be subject to the approval of the Secretary pursuant to §3282.305.

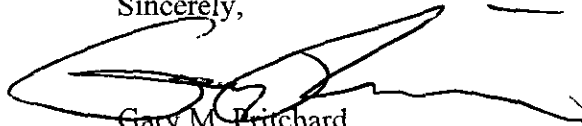
Accordingly, Federal legislation already exists that occupies and preempts the imposition of inspection fees for manufactured housing. The proposed Missouri rule has neither been submitted to HUD, nor approved by HUD. Moreover, there hasn't been any showing that the proposed fee constitutes "an additional reasonable inspection fee to offset expenses incurred by that State in conducting inspections."

In conclusion, the proposed Missouri rule is directly in conflict with Federal law, and proposes State legislation in an area of the law completely occupied by Federal legislation. Additionally, the proposed rule must fail because:

- (1) The proposed rule has not been submitted to HUD;
- (2) The proposed rule has not been approved by HUD;
- (3) There has been no showing that the amount of the additional inspection fees are reasonable;
- (4) There has been no showing that the proposed inspection fees offset the actual expenses incurred by the state in conducting inspections.

If you have any questions regarding this supplemental letter, please don't hesitate to contact me to discuss them.

Sincerely,

A handwritten signature in black ink, appearing to read 'Gary M. Fritchard', with a long horizontal flourish extending to the right.

Gary M. Fritchard
Assistant General Counsel

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cc:

Joyce Baker

Missouri Manufactured Housing Association

Executive Director

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