



STATE OF KANSAS

*Office of the Attorney General*

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CURT T. SCHNEIDER  
Attorney General

March 11, 1975

Opinion No. 75- 111

Mr. Louis J. Krueger, Director  
Division of Architectural Services  
Department of Administration  
12th Floor - State Office Building  
Topeka, Kansas 66612

Attn: Mr. Charles Beardmore

Dear Mr. Krueger:

Mr. Beardmore, as secretary of the Mobile Home and Recreation Vehicle Commission, inquires in your behalf concerning the composition of the Commission.

K.S.A. 1974 Supp. 75-1219 states in pertinent part thus:

"The mobile home and recreational advisory commission is hereby abolished and there is hereby created a mobile home and recreational vehicle commission consisting of nine (9) members. The director of health or his authorized representative shall serve as a member of such commission and the remaining members shall be appointed by the governor and shall be representative of the following interests: Mobile home manufacturing, mobile home dealers, recreational vehicle manufacturing, city or county building inspectors, city or county electrical inspectors, engineering or architectural profession, gas or electric utilities and the public at large."

You enclose a copy of a release dated October 23, 1974, in which Governor Docking announced the appointment of members of the Commission. Mr. Dwight Metzler, Secretary of Health and Environment, was appointed to serve at the pleasure of the Governor.

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In the list of members set forth in your letter, you advise that one member, Gial Kaegi of McPherson, Kansas, is a mobile home manufacturer, but is reported to have changed employment, although you do not suggest that any such change impairs his representation of mobile home manufacturers. The October 23 announcement states that Mr. Kaegi was at that time with Kit Manufacturing Sierra Homes Division, in McPherson. You advise that others appointed include a mobile home dealer, recreational vehicle manufacturer, an electric inspector, and a utilities officer, but state that no member is active or employed as a city or county building inspector, and that no member is representative of the engineering or architectural profession. You identify three members of the Commission as not being otherwise affiliated and who represent the public at large, as W. O. Williams, John C. Bottenberg, and Marcine W. Renollet. Thus, according to your letter, no member of the Commission represents, at least in terms of active employment at the time of appointment or since, two of the interests required to be represented, those of city or county building inspectors, and of the engineering or architectural profession.

You inquire, thus, whether the Commission is legally constituted and whether any action taken by the Commission as presently constituted is valid or vulnerable to legal challenge by reason of the absence of representatives of two of the eight interests, including the public at large, required to be represented on the commission. So far as appears, the sole function of the commission is to approve or disapprove regulations proposed to be adopted by the director of architectural services pursuant to K.S.A. 1974 Supp. 75-1220 (e), which commences thus:

"Subject to approval by the mobile home and recreational vehicle commission, the director shall have the authority to adopt such rules, and regulations as are necessary to administer the provisions of K.S.A. 1973 Supp. 75-1211 or 75-1224, inclusive . . . ."

The Commission is composed of nine members, eight of whom are required to represent enumerated interests or fields, one being the public at large. Apparently two interests are not represented, and three members rather than one have no affiliation with a special interest, occupation or field required to be represented

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than the public at large. So long as any action taken by the commission is taken by a majority of a quorum, which majority includes no more than one of these three and includes other members representing the specified special interest, occupational and professional groups, that action is in our opinion neither void nor voidable. However if, for example, at a meeting of the commission at which only a quorum of five were present, affirmative action were taken by three of these five, and this group of three was composed of the three members apparently representing the public at large, whereas only one member is authorized by statute to be representative of the public at large, that action could be subject to question.

If any regulations adopted by the director pursuant to K.S.A. 1974 Supp. 75-1220(e) have been approved by unanimous action of the commission, or by a majority thereof composed as stated above, there exists in our view no basis whatever for a conclusion that such approval is either void or voidable.

Yours very truly,



CURT T. SCHNEIDER  
Attorney General

CTS:JRM:kj

cc: Mr. W. Keith Weltmer, Secretary  
Department of Administration  
2nd Floor - State Capitol Building  
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