

CONSUMER PROTECTION COMMITTEE

of the

SUFFOLK COUNTY LEGISLATURE

Minutes

A regular meeting of the Consumer Protection Committee of the Suffolk County Legislature was held in the Rose Y. Caracappa Legislative Auditorium of the William H. Rogers Legislature Building, Veterans Memorial Highway, Smithtown, New York, on Wednesday, August 2, 2006.

MEMBERS PRESENT:

Legislator Cameron Alden • Chairman

Legislator Jon Cooper • Vice • Chair

Legislator Wayne Horsley

Legislator Jack Eddington

Legislator Lynne Nowick

Legislator Tom Barraga

Legislator Kate Browning

ALSO PRESENT:

George Nolan • Counsel to the Legislature

Warren Greene • Aide to Legislator Alden

Charles Gardner • Director of Consumer Affairs

Richard Baker • Deputy Clerk of the Legislature

Joe Muncey • Budget Review Office

Kevin Rooney • Oil Heat Institute

MINUTES TAKEN BY:

Donna Catalano • Court Stenographer

(* THE MEETING WAS CALLED TO ORDER AT 1:18 P.M. *)

CHAIRMAN ALDEN:

Good afternoon. Welcome to the Consumer Protection Committee Meeting. We will start with the Pledge led by Legislator Nowick.

SALUTATION

CHAIRMAN ALDEN:

I'd also ask for a moment of silence for those that are serving, just remember their commitment and also to remember those that have given their lives for this country.

MOMENT OF SILENCE

CHAIRMAN ALDEN:

Thank you. Charlie, we have only two resolutions on. I'm just going to ask you to give us a quick, you know, sum up of how we're looking on gasoline stocks. Are we having a problem with gauging or any of that type of nonsense?

DIRECTOR GARDNER:

I distributed •• the latest survey that we did was Monday, both home heating oil and gasoline. It's leveled off to slightly decrease over the past two weeks, but still, we are still up there. We're ranging, the gasoline, the low right now, actually as of last night was 3.15.9 that we know about, self service regular to 3.99.9. But it has gone down about four cents in the last two weeks. Heating oil dropped a couple of cents.

CHAIRMAN ALDEN:

Are we seeing any shortage in stock piles?

DIRECTOR GARDNER:

Not from our sources, no. Nobody has indicated any problem with inventory or getting supply.

CHAIRMAN ALDEN:

Anything we should be aware of on the contractor front?

DIRECTOR GARDNER:

Well, a couple of ••

CHAIRMAN ALDEN:

We're still running sting operations and things like that, right?

DIRECTOR GARDNER:

Yeah. There are a couple of operations coming on now that, obviously, I wouldn't discuss in public. Some of the more publicized ones are two of the larger companies around, For Sale By Owner and Island Recreational. I mean, that's public knowledge. But some pretty egregious violations in both cases. For Sale By Owner has been settled. We had over 40 complainants come forward. The settlement was a little •• not unique, but a little bit unusual in that we were able to instead of having a penalty that in total went to the General Fund, the actual penalty was \$2300, we got another \$10,000 of it that's going to be reimbursement to consumers. A drop in the bucket compared to what some of the consumers spent, but better than nothing. At least they got something back.

Island Recreational, there's a hearing scheduled. Again, we have many, many complainants. I don't want to comment ahead of time in anticipation of the hearing, but suffice it to say that the complaints run •• there's a pattern throughout the complaints of poor management, poor customer response, overselling jobs, etcetera. We will see what happens in the hearing.

CHAIRMAN ALDEN:

Just the other question, so we keep on monitoring. How are you doing on staff?

DIRECTOR GARDNER:

Fine. We have a couple of vacancies, but another one just got filled. We're hoping that that home improvement vacancy gets filled. We are doing fine. The caseload has dropped from an average of about 120 per investigator to as of the end of last week, the average caseload in home improvement is about 95. So that's dropped down considerably. The ideal target is like 80 to 85. We are getting •• we're in a good neighborhood. And our time period of responses, I think, is falling pretty well. Any other questions? Presiding Officer Lindsay.

P.O. LINDSAY:

Charlie, we have a couple other industries coming on board soon for licensing, limousines. We are waiting for that legislation to come back from the state. And we have a [bill|Bill] before us about scrap metal dealers.

DIRECTOR GARDNER:

Correct.

P.O. LINDSAY:

Right. Which I know we worked out an arrangement where you'll license and the police will enforce.

DIRECTOR GARDNER:

That's correct. Very similar to the precious metals and the second-hand dealers. We've been told by the PD to expect maybe 40 to 50, so that's a manageable number.

P.O. LINDSAY:

But my question is you just went through your field inspectors. How about personnel that mans the desk at the office?

DIRECTOR GARDNER:

The good news there is the most recently filled position was our clerk typist out in the Certification Unit. She just started two weeks ago. So that's going to help. We had a great summer intern this year, freshman •• actually she'll be a sophomore now at Notre Dame. She's in her last week, and it was just a terrific boost for the office. She did a great job. And it's example of a good program that really worked, really worked out well for us. It was just like having additional staff member for the past six weeks.

P.O. LINDSAY:

So my point is, thought, within another month or so we're going to start looking at the Operating Budget needs for '07. You don't anticipate the need for any additional people at the desk at the counter?

DIRECTOR GARDNER:

Not if we are able to proceed with our personnel schedule for '06. In other words, if we finish what we're anticipating getting in '06, we will be fine for '07. In other words, there are no requests for new positions in the '07 budget based on the assumption that we'll get the three.

P.O. LINDSAY:

So you have vacant [possession|position]s in '06 that you're looking to get filled?

DIRECTOR GARDNER:

That's correct.

P.O. LINDSAY:

So you don't need any more positions. The only thing we can help you with is positions, we cannot help you with filling them.

DIRECTOR GARDNER:

If we get those three this year, we won't need anything new in '07.

P.O. LINDSAY:

Okay.

CHAIRMAN ALDEN:

Legislator Nowick.

LEG. NOWICK:

Hi, Charlie. What •• you were talking about a For Sale By Owner, what was that about? I don't understand what that was.

DIRECTOR GARDNER:

It turned out to be a problem really with one employee of an company that other than that employee had we had no complaints, has been in business for a while. We had over 40 consumer complaints. Every single one of them mentioned the same employee. So it became apparent as the investigation continued, and in fact, at the hearing that the problem wasn't really with the company, it was with the employee.

LEG. NOWICK:

That's a company called For Sale By Owner?

DIRECTOR GARDNER:

That's correct.

LEG. NOWICK:

And they sell homes?

DIRECTOR GARDNER:

Well, they basically take ads. They will take your money, in this case whatever they can get out of you, I don't mean •• I'm not being flip, in other words, there's real set schedule here. It depends on your home and how many ads you want to take and how many weeks you want to run in their little •• it's kind of like a Penny Saver type of newspaper, how much extra •• there were certain guarantees made to a lot of people that fell by the way side, were denied. But, again, it became clear that there was a certain employee that was making outlandish promises •• making promises that were not fulfilled over and over and over again. That employee has been terminated, by the way. We don't have any other complaints since, and we had no complaints that didn't mention that employee.

CHAIRMAN ALDEN:

Their employment's been terminated, or they were terminated?

DIRECTOR GARDNER:

The employment of that particular employee.

CHAIRMAN ALDEN:

In some cases, you know, the later would be ••

DIRECTOR GARDNER:

Believe me, there were some pretty upset people, and they had a right to be very upset. There was a lot of money taken, and in some cases little to no work was done.

LEG. NOWICK:

Island Recreational is a franchise. Is that pools and ••

DIRECTOR GARDNER:

Swimming pools.

LEG. NOWICK:

Pool stuff. There's one over in Lake Grove.

DIRECTOR GARDNER:

Installation and sales.

LEG. NOWICK:

Thank you.

DIRECTOR GARDNER:

Basically, the problem at the hearing that they have to address, the problem is basically •• I'm just going to use a number •• they sold 400 jobs, they had people to do 100. So one out of four people were taken care of, and you had 300 people •• in some cases people who paid in full last September, October, November for pools to be installed this year, and in June still didn't have their pool. There is no excuse for that. You want to be number one, that's fine. You want to sell a lot, that's fine, but you better have the people to back up what you're supposed to be doing.

LEG. NOWICK:

Absolutely. One last question. Is there a list somewhere of the different products and items that sales tax is imposed on?

DIRECTOR GARDNER:

Oh, yes.

LEG. NOWICK:

Where could I get that?

DIRECTOR GARDNER:

New York State Taxation and Finance and our own people within audit and Control have a list. But I think the best one is •• we have it, we try to keep up with it, and by the way, you need that if you're going to make any kind of sensible determination as to which products to tax. And it's also why we don't like to answer those questions, because, you know, Orange Ade is taxable, orange juice isn't. You know up to 10% fruit juice is tax, over that is not. Certain talcum powers are not taxed certain ones are, certain shampoos, if it's medicated it's not taxed, if it's non taxed, it's not supposed to be taxed.

CHAIRMAN ALDEN:

Two slices of bread and some sliced meat is not taxed, but if you put it all together, it gets taxed.

LEG. NOWICK:

Is that true?

DIRECTOR GARDNER:

Mini marshmallows, mini marshmallows, not taxed. Regular marshmallows, taxed.

LEG. NOWICK:

Is there an answer to that?

DIRECTOR GARDNER:

The reason, because mini marshmallows are assumed for the most part that they are being used as a baking product and as a supplement to. Marshmallows are considered candy.

LEG. NOWICK:

So it's a needed item. Like coffee is taxed, right, because you don't need it?

CHAIRMAN ALDEN:

What's more necessary than M&Ms?

DIRECTOR GARDNER:

Yes. There is a list. We do •• again, if people call our office and start asking questions, we do not answer those questions, we refer them to New York State Sales Tax because of all the permutations.

LEG. NOWICK:

New York State Sales Tax. And you get the list there?

DIRECTOR GARDNER:

Yes.

CHAIRMAN ALDEN:

Call your Assemblyman.

LEG. NOWICK:

Thank you.

CHAIRMAN ALDEN:

We'll go right in the agenda. Tabled resolutions.

1391, Adopting a Local Law to ensure proper storage of toxic pesticides in retail stores.

LEG. COOPER:

Motion to table.

CHAIRMAN ALDEN:

Motion by Legislator Cooper, seconded by Legislator Nowick. All in favor? Opposed? That's **tabled (VOTE:7•0•0•0)**

1791, adopting a Local Law to require gasoline service stations to install emergency generators for fuel pumps.

CHAIRMAN ALDEN:

I have to make a motion to table because the public hearing was recessed, not closed, seconded by Legislator Cooper. All in favor? Opposed? **Tabled (VOTE:7•0•0•0).**

Anybody else have any concerns or want to address the committee? We standard adjourned.

(* THE MEETING WAS ADJOURNED AT 1:29 P.M. *)

{ } DENOTES BEING SPELLED PHONETICALLY