

N.D.A.G. Letter to Olson (May 7, 1985)

May 7, 1985

Honorable John Olson
State Senator
1835 N. 21st St.
Bismarck, North Dakota 58501

Dear Senator Olson:

Thank you for your letter of April 19, 1985, in which you inquired whether federal preemption applies to construction and safety standards with respect to manufactured homes.

The United States Congress, by enactment of 42 U.S.C. § 5403(d), has provided for federal preemption in the area of safety and construction standards applicable to manufactured homes. Specifically, this federal statute requires state and political subdivisions which have construction or safety standards as to manufactured homes to be identical to those standards of the federal government as found in 24 C.F.R. § 3280.1, et. seq. This federal preemption was recently acknowledged in Babcock v. State, 668 S.W.2d 857 (Tex. Civ. App. 1984). However, state and local regulations which are ancillary to and in harmony with the general scope and purpose of the federal regulations issued as to safety and construction standards applicable to manufactured homes are acceptable. City of Brookside Village v. Comeau, 633 S.W.2d 790, 796 (Tex. 1982).

Therefore, it is my opinion that federal law does preempt state law and local ordinances providing for construction or safety standards applicable to manufactured homes. It must be pointed that this federal preemption applies only to construction or safety standards.

Sincerely,

Nicholas J. Spaeth

dfm