Maryland Home Improvement Commission

Business Meeting

Meeting Minutes

DATE: August 4, 2022

TIME: 10:00 AM

LOCATION: ***(Teleconference via Google Meet)***

MEMBERS PRESENT: Joseph Tunney, *Chairman*

Robert Altieri, *Commissioner*

Heather Connellee, *Commissioner*

Lauren E. Lake, *Commissioner*

Chandler C. Louden, *Commissioner*

Michael A. Newton, *Commissioner*

W. Bruce Quackenbush, Jr., *Commissioner*

Michael Shilling*, Commissioner*

I. Jean White*, Commissioner*

STAFF PRESENT: David Finneran, *Executive Director*

Deborah Irvin Cromwell, *Assistant Director*

Kimberly Rosenthal, *Administrative Officer*

Kenneth Sigman*, Assistant Attorney General*

Tenaea Thomas*, Panel Secretary*

Danielle Anderson, Web Content and Outreach Coordinator

# **Meeting Called to Order**

The meeting was called to order at 10:01 a.m.

# **Approval of the June 2, 2022 Minutes**

Commissioner Quackenbush moved to approve the Minutes of the June 2, 2022 meeting and Commissioner Shilling seconded it. All approved.

# **Homeowners who file a claim against the Guaranty Fund then use an unlicensed Contractor to correct the work of the licensed Contractor**

Mr. Finneran informed the Commission that MHIC will be modifying the complaint form. The MHIC will add a check box for the homeowner to initial that states they have been notified that the contractor that submits an estimate or proposal to support the claim must be licensed. Chair Tunney said that MHIC should add an initial box to the claim form with a similar notification in order to file a claim against the Guaranty Fund. Mr. Finneran will work with the staff of MHIC to update the complaint and claim forms. Mr. Sigman would like to take a look at the updated form. Commissioner White said that in order for the homeowner to recover any monies from the Guaranty Fund, the homeowner would have to initial the notice that they are aware that they have to hire a licensed contractor to complete the job. Commissioner White would like to know if the Commission is addressing the instances where the first contractor was fired or dismissed by the homeowner and the homeowner hires an unlicensed contractor that they know is unlicensed. Ms. White asked if the Commission will penalize the unlicensed contractor? Chair Tunney said that if the homeowner uses a licensed contractor the Commission will honor the claim. If they use an unlicensed contractor the Commission does not honor the claim. This lets the first contractor off the hook without penalty. Chair Tunney asked Mr. Sigman if the homeowner had to have the work completed to file in order to file a Guaranty Fund claim? If the homeowner has an estimate from a licensed contractor to correct the work, they can go to the Guaranty Fund in an effort to be made whole. Chair Tunney said that the homeowner could take that funding from the Guaranty Fund and still use an unlicensed contractor. The notice on the complaint form will put the homeowner on notice that even though a contractor has walked off of a job, they still have to hire a licensed contractor to complete or correct the job.

# **Power Washing**

Mr. Finneran informed the Commission that Delegate Johnson is not present at the meeting. Mr. Finneran asked the Commission if they wanted to proceed with this topic without the Delegate being present? Commissioner White said that because Power Washing is so expensive, powerful and dangerous, a license should be required. Commissioner White said that when the decision to take power washing off the list of requiring a home improvement license, there were not many power washing machines available and they were not as powerful as the power washing machines they have out on the market today. She believes homeowners don’t realize the damage that these powerful machines can do to their homes. Commissioner Quackenbush asked Mr. Finneran if MHIC were to license power washing companies, how many people would be asking MHIC to license them and what would that do to MHIC staff’s workload? He believes that there will be a lot more power washers who work under the radar because it’s a seasonal job. Commissioner Quackenbush noted that MHIC cannot compensate for consequential damages caused by power washing. Mr. Sigman agreed. Commissioner Quackenbush asked if MHIC is prohibited from giving a homeowner compensation because the power washing contractor damaged the deck in the process? Mr. Sigman believes it’s a gray area as whether damage caused by a power washer would constitute consequential damages. Commissioner Quackenbush said that if a homeowner hires a contractor to do a $500 job and ends up with a $20,000.00 deck replacement because the Power Washer damaged the deck will the MHIC reimburse the homeowner or would it be considered consequential damages? Mr. Sigman said that Guaranty Fund awards are limited to the amount the homeowner paid to the contractor. Mr. Shilling asked how many think that these power washing contractors have a signed contract? Mr. Finneran will reach out to Delegate Johnson to see if he could attend the next Commission meeting to resolve the issues with power washing. The Commissioners Agreed. Chair Tunney suggested asking the two licensed contractors that were here with Delegate Johnson to attend the next Commission meeting. Mr. Sigman said they were supposed to provide information to the Commission. Mr. Altieri asked Mr. Finneran if the Commission ever had a claim against a power washer? Mr. Finneran was unsure. Commissioner White said that they did have claims against power washers. Mr. Tunney said if they are applying sealant or stain they have to be licensed with the Commission.

## **Impact of Recession**

The Commissioners talked about how, during a previous recession, the Guaranty Fund dropped down to $250,000 to $300,000.00. Commissioner White said at that time the Guaranty Fund was not as healthy as it is now. In the past, the legislature raised the Guaranty Fund award limits from $15,000.00 to $20,000.00. The Guaranty Fund is healthy and the legislature raised the limit from $20,000.00 to $30,000.00. The Commission is doing a better job at keeping the fund healthy. Commissioner Altieri stated that he would like to know when the fund anticipates the upcoming $100,000 prorated payouts so the Commission has a better idea where the fund is. Commissioner Altieri stated that the Commission is doing a good job on the anticipated large claims loss. Commissioner Altieri asked whether the $30,000 increase on single claims also increased the maximum amount that can be awarded against a single contractor? Mr. Finneran said that the $100,000 per contractor cap still applies. Mr. Finneran said the small claims award is still at a maximum of $7,500.00. Commissioner Altieri asked the Commissioners work as contractors for their prospective. Commissioner Shilling was not impacted during the last recession because he does restoration work. Chair Tunney said the industry is very busy at this time. If we go into a recession it may go into a scenario of; I can wait to replace my windows but I can’t wait to replace my roof. Commissioner Louden’s business has not slowed down. He did state that during the recession the wants and needs shift does happen. Commissioner Quackenbush agrees that his business has not slowed down yet.

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# **Guaranty Fund Activity Report**

The MHIC Guaranty Fund Activity Report dated July 25, 2022 is as follows:

Balance as of July 1, 2021 $ 4,270,440.31

Receipts $ 1,807,225.81

Interest -0-

Disbursements

Claims ($1,625,695.47)

Refunds ($995.20)

Balance as of June 30, 2022 $4,450,975.45

Reserve

Anticipated Large Claims $900,000.00

FMIS Balance $4,450,975.45

Difference $0

**Anticipated Pro Rated Claims**

**Contractor Suspended date**

**Contractor A June 9, 2015**

Payout completed on March 27, 2018

**Contractor B June 16, 2016**

Payout completed on December 6, 2018

**Contractor C February 1, 2017**

Payout completed on October 4, 2018

**Contractor D June 29, 2017**

Payout completed on October 24, 2019

**Contractor E June 29, 2017**

Payout completed on November 2, 2020

**Contractor F December 21, 2017**

Payout completed on September 3, 2019

**Contractor G May 8, 2019 (Voluntary Termination)**

8 – Complaints Expected Payout early 2022-4 cases

under appeal

**Contractor H June 24, 2019 (Emergency Suspension)**

7– Complaints Expected Payout Fall 2022-one appeal pending

1-Criminal Complaint Criminal charges filed in one case

**Contractor I March 8, 2019 (License Expired)**

6 – Complaints Payout completed March 24, 2022.

**Contractor J** **Dec. 16, 2019 (Emergency Suspension)**

19 – Complaints Latest complaint opened January 7, 2021. Claims date to close July 7, 2022.

**Contractor K Jan. 16, 2020**

8 – Complaints Payout completed on July 11, 2022

**Contractor L March 12, 2020 (Emergency Suspension)**

10--Complaints Latest Licensed Complaint opened

March 24, 2021

3-Criminal Complaints Criminal Charges filed in 2 cases

A third criminal complaint received January 28, 2022

**Contractor M Dec. 5, 2019 (Show Cause Suspension)**

12-Complaints Latest complaint opened March 3, 2021

**Contractor N**

13-Complaints **April 19, 2021** **(Emergency Suspension)**

Latest complaint opened May 13, 2021

**Contractor O** **Oct. 25, 2021 (GF Payout Suspension)**

27-Complaints Latest complaint opened April 28, 2022

**Contractor P May 7, 2022 (Show Cause Suspension)**

9- ComplaintsLatest complaint openedMay 8, 2022

**Contractor Q April 5, 2022 (Emergency Suspension)**

20-ComplaintsLatest complaint opened March 21, 2022

Contractor K was paid out 100 Percent

Contactor K had two homeowners who had claim denials and one homeowner withdrew their claim which allowed all remaining homeowners to receive their full Guaranty Fund awards. There was no pro-rated needed.

Two contractors were added on the last report so there is a total of nine contractors anticipated to have payouts greater than $100,000 each. Mr. Finneran hopes two prorated groups are paid out before the next Commission meeting so they can reduce the amount by $200,000.

There were no questions about the Guaranty Fund Activity Report.

# **Review of the MHIC State Stats**

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| --- | --- |
| **MAY 2022** | |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 35,170 |
| *Contractor/Salesperson* | 18,500 |
| *Salesperson* | 2,428 |
| *Contractor/Salesperson (Corp/Part)* | 13,396 |
| *Applications Approved* | 141 |
|  |  |
| **COMPLAINTS RECEIVED** | |
| **Complaints Received** | **111** |
| *Licensed* | 66 |
| *Unlicensed* | 45 |
| PendingShow Cause Hearings | **49** |
| Waiting to be sent to OAH | **11** |
| Pending Hearing/Decision at OAH | **238** |
| Mediation | 15 |
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| **Claims** | |
| Total Open Claims | **489** |
| New Claims Received | **36** |
| Small Claims Received | **2** |

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| **JUNE 2022** | |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 35,567 |
| *Contractor/Salesperson* | 18,642 |
| *Salesperson* | 2,472 |
| *Contractor/Salesperson (Corp/Part)* | 13,605 |
| *Applications Approved* | 187 |
|  |  |
| **COMPLAINTS RECEIVED** | |
| **Complaints Received** | **126** |
| *Licensed* | 82 |
| *Unlicensed* | 44 |
| PendingShow Cause Hearings | **39** |
| Waiting to be sent to OAH | **66** |
| Pending Hearing/Decision at OAH | **267** |
| Mediation | 18 |
|  | |
| **Claims** | |
| Total Open Claims | **499** |
| New Claims Received | **21** |
| Small Claims Received | **6** |

Commissioner Quackenbush asked if the OAH claims are behind because the numbers seem to be getting higher? Mr. Finneran said no, OAH is asking the Commission for claims. Several will be sent to OAH this week. When MHIC records show there are open claims, they are actually open at OAH awaiting a decision. OAH is not slow to put a claim on the docket; OAH does take up to 90 days to draft a decision and get them back to the Commission.

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# **Review of the June PSI Results**

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| --- | --- | --- | --- | --- |
| Below is the examination statistics summary for the month of June 2022  June 2022 | | | | |
| **Home Improvement** | **Candidates Tested** | **Passed** | **Failed** | **Pass %** |
| Contractor | 165 | 117 | 48 | 71% |
| Contractor Spanish | 123 | 56 | 67 | 46% |
| Salesperson | 105 | 66 | 39 | 63% |
| Salesperson Spanish | 2 | 1 | 1 | - |
| **TOTAL** | **395** | **240** | **155** | **61%** |

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# **CITATION REPORT**

There were no citations for June or July 2022

# **Comments from the Chairman**

Chair Tunney wished Commissioner White and her husband a speedy recovery. Chair Tunney also wished everyone a great rest of the summer.

Commissioner Altieri asked if there would be a benefit to having a spreadsheet starting from January to the present showing the statistics instead of just having May and June? Chair Tunney believes there would be a benefit to having a spreadsheet. Mr. Finneran will work with the staff to create a chart and possibly get it out by the next Commission meeting.

Commissioner Shilling asked when the Guaranty Fund cap went from $20,000 to $30,000 and Mr. Sigman said the cap changed on July 1, 2022. Mr. Shilling stated that the website still shows $20,000. Mr. Finneran will work on getting that number changed on the website.

# **Comments from the Executive Director**

The Building is having Air Conditioning problems which has caused the staff to move to the basement of the building. Also due to excessive heat in the building, the elevators have failed. All of this is being addressed as quickly as possible. The Assistant Director and Executive Director have been relocated to a location near the airport. It is a challenge to check up on the staff daily but they are working through it. Hopefully these problems don’t take too long to work out and the staff and Directors can get back into the office on the 3rd Floor.

# **Adjournment**

The meeting was adjourned at 10:45 a.m.

Signature on File October 6, 2022

### Chair’s Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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