

**IN THE MATTER OF THE CLAIM
OF JUDITH A. FORD
AGAINST THE MARYLAND HOME
IMPROVEMENT COMMISSION
GUARANTY FUND
ON ACCOUNT OF ALLEGED
MISCONDUCT OF DAVID B. CALIMER
t/a KALMAR CONSTRUCTION**

*** MARYLAND HOME
* IMPROVEMENT COMMISSION
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* CASE NO. 772 - 2013
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FINAL ORDER OF DISMISSAL

On February 1, 2013, the Claimant, Judith A. Ford (“Ford”), filed a claim for financial compensation with the Maryland Home Improvement Guaranty Fund against contractor David B. Calimer, t/a Kalmar Construction, (“Calimer”).

This claim arose as a result of a contract entered into, on or about May 28, 2004, between Ford and Calimer. The contract was for removal and replacement of the shingles on the roof of Ford’s home. In her claim form, Ford stated that Calimer installed the new shingles on August 3, 2004, and that “[w]ithin the following week I expressed my concern to him that the roof did not seem to be installed properly.” Ford further stated in her claim that “[o]n or about the third week of October I again expressed to Mr. Calimer my concern with the appearance of the roof as the tiles were curling.” According to Ford’s own account, she was aware during the summer and fall of 2004 of alleged improper installation of the roof and, in particular, alleged “curling” of shingles installed by Calimer. However, Ford did not file a Guaranty Fund claim with the Commission until February 1, 2013, which was more than eight (8) years after Ford first became aware of alleged defects in Calimer’s workmanship.

On March 29, 2013, the Commission dismissed Ford's Guaranty Fund claim as legally insufficient, based upon the claimant's failure to file within the three (3) year period of limitations under Business Regulation Article, §8-405(g), Annotated Code of Maryland.

By letter dated March 12, 2014, Ford requested reconsideration of the dismissal of her claim. Ford's request for reconsideration states that, on August 16, 2011, a licensed contractor (Pat Pfeiffer) inspected the roof and offered the opinion that "the roof did not lie flat and the shingles were curling ..." However, Ford did not obtain the inspection of the roof until 2011, approximately seven (7) years after she first noticed similar problems in 2004.

The statute, Business Regulation Article, §8-405(g), allows a reasonable period of time, three (3) years, for diligent investigation and the filing of a claim, once a claimant discovers alleged defects in a contractor's work. *See, Lumsden v. Design Tech Builders, Inc.*, 358 Md. 435 (2000). The Commission finds that the three (3) year period of limitations for the filing of a Guaranty Fund claim by Ford began to run as of October 2004, when Ford first observed "curling" shingles on the roof. Consequently, the Commission finds that Ford's Guaranty Fund claim, which was received on February 1, 2013, was not timely filed under the statute.

Therefore, on this 17th day of February, 2015, the Maryland Home Improvement Commission hereby

ORDERS that the Claimant's claim against the Home Improvement Guaranty Fund was not filed within the three year period of limitations under Business Regulation Article, §8-405(g), Annotated Code of Maryland, and is **DISMISSED** as legally insufficient pursuant to Business Regulation Article §8-407(c)(2)(ii), Annotated Code of Maryland.

This Order shall become effective thirty (30) days from this date, to allow time for any party to file an appeal of this Order to the Circuit Court.

Joseph Tunney _____
Chair