

<p><b>IN THE MATTER OF THE CLAIM</b></p> <p><b>OF THOMAS GEDDES,</b></p> <p><b>CLAIMANT</b></p> <p><b>AGAINST THE MARYLAND HOME</b></p> <p><b>IMPROVEMENT GUARANTY FUND</b></p> <p><b>FOR THE ALLEGED ACTS OR</b></p> <p><b>OMISSIONS OF JAMES THOMPSON,</b></p> <p><b>T/A BALTIMORE WOODWORKS</b></p> <p><b>&amp; CONSTRUCTION LLC,</b></p> <p><b>RESPONDENT</b></p>	<p>* <b>BEFORE JENNIFER M. CARTER JONES</b></p> <p>* <b>AN ADMINISTRATIVE LAW JUDGE</b></p> <p>* <b>OF THE MARYLAND OFFICE</b></p> <p>* <b>OF ADMINISTRATIVE HEARINGS</b></p> <p>*</p> <p>*</p> <p>*</p> <p>* <b>OAH No.: LABOR-HIC-02-23-29564</b></p> <p>* <b>MHIC No.: 23 (75) 280</b></p> <p>*</p>
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**PROPOSED DECISION**

STATEMENT OF THE CASE  
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SUMMARY OF THE EVIDENCE  
PROPOSED FINDINGS OF FACT  
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RECOMMENDED ORDER

**STATEMENT OF THE CASE**

On April 24, 2023, Thomas Geddes filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC)<sup>1</sup> Guaranty Fund (Fund) on behalf of himself and his wife, Amy Geddes (the Claimants)<sup>2</sup> for reimbursement of \$294,689.31 for actual losses allegedly suffered as a result of a home improvement contract with James Thompson, trading as Baltimore Woodworks and Construction, LLC (Respondent). On November 15, 2023, the MHIC issued a

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<sup>1</sup> The MHIC is under the jurisdiction of the Department of Labor (Department).

<sup>2</sup> Only Mr. Geddes' name appears on the Claim, but both Mr. and Mrs. Geddes are Claimants in this matter. I refer to them, individually, as Claimant Amy Geddes and Claimant Thomas Geddes.

Hearing Order on the Claim. On November 15, 2023, the MHIC forwarded the matter to the Office of Administrative Hearings (OAH) for a hearing.

On February 7, 2024, I held a hearing at the OAH in Hunt Valley, Maryland.<sup>3</sup> Assistant Attorney General Ernie Dominguez, Department, represented the Fund. The Claimants were self-represented. Jeffrey Skolnick, Esquire represented the Respondent, who was present.

The contested case provisions of the Administrative Procedure Act, the Department's hearing regulations, and the Rules of Procedure of the OAH govern procedure.<sup>4</sup>

### **ISSUES**

1. Did the Claimants sustain an actual loss compensable by the Fund as a result of the Respondent's acts or omissions?
2. If so, what is the amount of the compensable loss?

### **SUMMARY OF THE EVIDENCE**

#### **Exhibits**

I admitted the following exhibits offered by the Claimants:

- Clmt. Ex. 1 - Photographs of the Claimants' property and home (Property) before renovations, December 2021
- Clmt. Ex. 2 - Photographs of the Property after the Claimant stopped working on renovations, April 2022
- Clmt. Ex. 3 - Emails between the Claimants and the Respondent, invoices, and copies of checks, various dates
- Clmt. Ex. 4 - Invoices from the Respondent for various dates and amounts
- Clmt. Ex. 5 - Contract between the Claimants and the Respondent, November 28, 2021
- Clmt. Ex. 6 - Letter from the Claimants' attorney, Charles S. Hirsch, Esquire, to the Respondent, April 11, 2022

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<sup>3</sup> Bus. Reg. §§ 8-407(a), 8-312.

<sup>4</sup> Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021 & Supp. 2023); Code of Maryland Regulations (COMAR) 09.01.03; COMAR 28.02.01.

Clmt. Ex. 7 - Letter from the Claimants to the Consumer Protection Division, Office of the Attorney General, August 31, 2022

Clmt. Ex. 8 - Spreadsheet of amounts paid for dates including December 10, 2021 through March 30, 2022

The Respondent did not offer any exhibits for admission into evidence.

I admitted the following exhibits offered by the Fund:

Fund Ex. 1 - OAH Notice of Hearing, December 19, 2023

Fund Ex. 2 - MHIC Hearing Order, November 15, 2023

Fund Ex. 3 - Claim Form, November 3, 2022, received by the Fund on April 24, 2023

Fund Ex. 4 - The Respondent's licensing history, printed on February 5, 2024

#### Testimony

The Claimants testified and did not present other witnesses.

The Respondent neither testified nor offered the testimony of any witnesses.

The Fund did not present the testimony of any witnesses.

#### **PROPOSED FINDINGS OF FACT**

I find the following facts by a preponderance of the evidence:

1. At all times relevant to the subject of this hearing, the Respondent was a licensed home improvement contractor under MHIC license number 01-97008.

2. In fall 2021, the Claimants purchased the Property, which is located in Baltimore, Maryland. The Property required extensive renovations, so the Claimants remained in their then-current home with the intent to move into the Property after it was fully renovated.

3. On or about November 20, 2021, the Claimants and the Respondent entered into a contract providing that the Respondent would substantially renovate the Property (Contract).

4. The Claimants had worked with the Respondent on other home improvement projects before the Contract and considered him a friend.

5. The agreed-upon Contract price was \$853,587.00.
6. The Contract did not provide a date the renovation would begin but stated that the project would be completed within approximately twenty-two to twenty-four weeks.
7. The Contract provided that the Respondent would provide the Claimants with periodic invoices as the renovation moved forward and that the project budget would be adjusted to reflect the actual costs associated with aspects of the project.
8. The Respondent began working on the renovations in December 2021 and worked consistently until approximately March 2022.
9. Per the Contract, the Respondent periodically provided the Claimants with invoices and the Claimants paid the Respondent the full amount of those invoices.
10. The Claimants sold their original home on March 21, 2022, and began renting an apartment until the Respondent completed the Property renovations and the Claimants and their family could move into the property.
11. In March 2022, the Claimants and their family went on vacation for spring break. When they returned, the Respondent had not completed much work on the renovation.
12. After March 2022, the Respondent stopped working on the renovation. As of that date, the Claimants had paid the Respondent a total of \$413,012.86.
13. Despite receiving the money from the Claimants, the Respondent did not pay subcontractors and laborers for the some of the work they had completed.
14. The Claimants went to the Property in April 2022 and spoke to the renovation project manager. The project manager advised the Claimants that he, the subcontractors, and laborers for the project quit because the Respondent failed to pay them for their work.
15. By letter dated April 11, 2022 from their attorney, the Claimants notified the Respondent that they were terminating the Contract.

16. Although the Claimants had already paid the Respondent for the work completed by the subcontractors and laborers, the Claimants also paid the subcontractors and laborers the Respondent had failed to pay to make them whole.

17. The Claimants hired a different contractor, Highview, to complete the renovations to the Property. The Claimants paid Highview \$1,034,324.60 to complete the project.

### DISCUSSION

The Claimant has the burden of proving the validity of the Claim by a preponderance of the evidence.<sup>5</sup> To prove a claim by a preponderance of the evidence means to show that it is “more likely so than not so” when all the evidence is considered. *Coleman v. Anne Arundel Cnty. Police Dep’t*, 369 Md. 108, 125 n.16 (2002).

An owner may recover compensation from the Fund “for an actual loss that results from an act or omission by a licensed contractor.”<sup>6</sup> “[A]ctual loss’ means the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or incomplete home improvement.”<sup>7</sup> For the following reasons, I find that the Claimants have proven eligibility for compensation.

By statute, certain claimants are excluded from recovering from the Fund altogether. In this case, there are no such statutory impediments to the Claimants’ recovery. The Claim was timely filed, there is no pending court claim for the same loss, and the Claimants did not recover the alleged losses from any other source.<sup>8</sup> The Claimants reside in the home that is the subject of the Claim and do not own more than three dwellings.<sup>9</sup> The parties did not enter into a valid

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<sup>5</sup> Bus. Reg. § 8-407(e)(1); State Gov’t §.10-217 (2021); COMAR 09.08.03.03A(3).

<sup>6</sup> Bus. Reg. § 8-405(a) (Supp. 2023); *see also* COMAR 09.08.03.03B(2) (“The Fund may only compensate claimants for actual losses . . . incurred as a result of misconduct by a licensed contractor.”).

<sup>7</sup> Bus. Reg. § 8-401.

<sup>8</sup> Bus. Reg. §§ 8-405(g), 8-408(b)(1) (2015 & Supp. 2023).

<sup>9</sup> *Id.* § 8-405(f)(2) (Supp. 2023).

agreement to submit their disputes to arbitration.<sup>10</sup> Neither Claimant is a relative, employee, officer, or partner of the Respondent, and they are not related to any employee, officer, or partner of the Respondent.<sup>11</sup>

There is no dispute that the Respondent abandoned the renovation project provided for in the Contract. Claimant Thomas Geddes testified that the Respondent began working on the renovations in December 2021 and continued to work on aspects of the project until March 2022. However, when he and his family returned from a spring break vacation, the Respondent had made very little progress. In April 2022, once the Claimants learned from the Respondent's project manager that the Respondent had stopped working on the project and had failed to pay subcontractors and laborers, it became apparent to the Claimants that the Respondent did not intend to complete the work called for in the Contract. Accordingly, the Claimants terminated the Contract with the Respondent.

The Claimants presented ample evidence to support their claim that they paid the Respondent \$413,012.86. The Claimants also proved that of the amount they paid the Respondent, \$294,689.31 represents funds the Respondent received for which he performed no work and funds the Claimants had to pay to the Respondent's subcontractors and laborers after the Respondent failed to pay them. Specifically, Claimant Amy Geddes provided a detailed spreadsheet with cross-references to photographs depicting the substantial amount of work left incomplete when the Respondent abandoned working on the renovation project, invoices, and other proof of expenditures.

The Claimants testified that the Respondent's actions left them extremely frustrated. They had worked with the Respondent on various other home improvement projects before

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<sup>10</sup> *Id.* §§ 8-405(c), 8-408(b)(3) (2015 & Supp. 2023).

<sup>11</sup> *Id.* § 8-405(f)(1) (Supp. 2023).

hiring him to complete the renovations to their new home and they considered him a friend. The Respondent's actions resulted in the Claimants having to rent an apartment for over one year at an expense of \$50,000.00, they were compelled to withdraw funds from their children's college savings,<sup>12</sup> and they were required to pay a different contractor, Highview, \$1,034,324.60 to complete the renovation project. To that end, the Claimant Amy Geddes testified that Highview charged a nineteen percent mark-up, which accounts for the difference in the amount they would have paid the Respondent and the amount charged by Highview.

The Claimants' presentation of their case was extremely thorough and the Respondent, who was present and represented by counsel did not dispute any aspect of the Claimants' case. Indeed, the Respondent, through his attorney, expressed only regret and an apology for the unfortunate circumstances related to this matter. Ultimately, it is clear that the Respondent charged the Claimants for work he did not perform or for work he did not pay the relevant subcontractors and laborers who performed the work. The preponderance of the evidence also supports the conclusion that, as of April 2022, the Respondent had abandoned the work called for in the Contract.

I thus find that the Claimant is eligible for compensation from the Fund. Having found eligibility for compensation I must determine the amount of the Claimant's actual loss and the amount, if any, that the Claimant is entitled to recover. The Fund may not compensate a claimant for consequential or punitive damages, personal injury, attorney fees, court costs, or interest.<sup>13</sup> MHIC's regulations provide three formulas to measure a claimant's actual loss, depending on the status of the contract work.

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<sup>12</sup> The Claimants do not seek reimbursement from the Fund for these expenses.

<sup>13</sup> Bus. Reg. § 8-405(e)(3) (Supp. 2023); COMAR 09.08.03.03B(1).

The Respondent performed some work under the Contract, and the Claimant retained another contractor to complete or remedy that work. Accordingly, the following formula appropriately measures the Claimant's actual loss:

If the contractor did work according to the contract and the claimant has solicited or is soliciting another contractor to complete the contract, the claimant's actual loss shall be the amounts the claimant has paid to or on behalf of the contractor under the original contract, added to any reasonable amounts the claimant has paid or will be required to pay another contractor to repair poor work done by the original contractor under the original contract and complete the original contract, less the original contract price.<sup>14</sup>

Therefore, the Claimants' actual loss should be calculated as follows:

Amount Claimant paid to Respondent:	\$413,012.86
Plus reasonable amounts Claimant paid to complete the original contract:	\$1,034,324.60
	<b>\$1,447,337.46</b>
Less original contract price:	\$853,587.00
Actual Loss:	<b>\$593,750.46</b>

Effective July 1, 2022, a claimant's recovery is capped at \$30,000.00 for the acts or omissions of one contractor, and a claimant may not recover more than the amount paid to the contractor against whom the claim is filed.<sup>15</sup> As the Claimants' actual loss of \$593,750.46 far exceeds the \$30,000.00 cap, their actual loss compensable by the MHIC Fund is \$30,000.00.

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<sup>14</sup> COMAR 09.08.03.03B(3)(c).

<sup>15</sup> Bus. Reg. § 8-405(e)(1), (5) (Supp. 2023); COMAR 09.08.03.03B(4). On or after July 1, 2022, the increased cap is applicable to any claim regardless of when the home improvement contract was executed, the claim was filed, or the hearing was held. *See Landsman v. MHIC*, 154 Md. App. 241, 255 (2002) (explaining that the right to compensation from the Fund is a "creature of statute," these rights are subject to change at the "whim of the legislature," and "[a]mendments to such rights are not bound by the usual presumption against retrospective application").



**PROPOSED CONCLUSIONS OF LAW**

I conclude that the Claimants have sustained a compensable loss of \$30,000.00 as a result of the Respondent's acts or omissions.<sup>16</sup> I further conclude that the Claimants are entitled to recover that amount from the Fund.<sup>17</sup>

**RECOMMENDED ORDER**


I **RECOMMEND** that the Maryland Home Improvement Commission:

**ORDER** that the Maryland Home Improvement Guaranty Fund award the Claimants \$30,000.00; and

**ORDER** that the Respondent is ineligible for a Maryland Home Improvement Commission license until the Respondent reimburses the Guaranty Fund for all monies disbursed under this Order, plus annual interest of ten percent (10%) as set by the Maryland Home Improvement Commission;<sup>18</sup> and

**ORDER** that the records and publications of the Maryland Home Improvement Commission reflect this decision.

April 30, 2024  
Date Decision Issued

  
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Jennifer M. Carter Jones  
Administrative Law Judge

JCJ/at  
#211565

<sup>16</sup> Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015 & Supp. 2023).

<sup>17</sup> Bus. Reg. § 8-405(e)(1), (5) (Supp. 2023); COMAR 09.08.03.03B(4).

<sup>18</sup> See Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.

**PROPOSED ORDER**

***WHEREFORE, this 15<sup>nd</sup> day of July, 2024, Panel B of the Maryland Home Improvement Commission approves the Recommended Order of the Administrative Law Judge and unless any parties files with the Commission within twenty (20) days of this date written exceptions and/or a request to present arguments, then this Proposed Order will become final at the end of the twenty (20) day period. By law the parties then have an additional thirty (30) day period during which they may file an appeal to Circuit Court.***

***Joseph Tunney***

***Joseph Tunney***

***Chairman***

***Panel B***

***MARYLAND HOME IMPROVEMENT  
COMMISSION***