Maryland Home Improvement Commission

Business Meeting

Meeting Minutes

DATE: December 5, 2024

TIME: 10:00 AM

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

MEMBERS PRESENT: Wm. Bruce Quackenbush, *Chairman*

Robert Altieri, *Commissioner*

 Heather Connellee, *Commissioner*

Lauren E. Lake, *Commissioner*

Chandler Louden, *Commissioner*

 Michael Shilling, *Commissioner*

MEMBERS ABSENT*:* I. Jean White, *Commissioner*

STAFFPRESENT:

David Finneran, *Executive Director*

Deborah Irvin Cromwell, *Assistant Director*

Stanley Appel*, Investigator*

Adowa Lambertis*, Office Assistant*

Kimberly Rosenthal, *Administrative Officer*

Kenneth Sigman*, Assistant Attorney General*

Tenaea Thomas*, Panel Secretary*

# **Meeting Called to Order**

The meeting was called to order at 10:00 a.m.

**Approval of the October 3, 2024 Minutes**

Commissioner Shilling moved to approve the Minutes of the October 3, 2024, meeting, and Commissioner Connellee seconded it. All Commissioners approved the motion.

**Wm. Bruce Quackenbush promoted to Chairman**

Mr. Finneran advised that Mr. Quackenbush was appointed as Chair of the Commission. All attending congratulated Chairman Quackenbush. Chairman Quackenbush looks forward to working with the Commissioners and staff as Chairman.

**Perceived Issues with the Arbitration Process**

Commissioner Lake shared a story relayed to her by an attorney of a homeowner who had a long ordeal in seeking reimbursement for a claim that was sent to arbitration, decided by an arbitrator, affirmed through court challenges, and yet, despite findings from the arbitrator and courts that the homeowners were entitled to an award of $9,975.00 for the contractor’s deficient home improvement work, the homeowner was ineligible for a direct Guaranty Fund award based on the arbitrator’s decision. The homeowner’s attorney requested that the MHIC address a perceived problem where homeowners file a claim with the MHIC, the MHIC directs them to arbitrate their disputes, but when they return with a final arbitration award or court judgment and ask for a fund payment, the MHIC is directing them to an OAH hearing, essentially starting the process over again. The Commission discussed this issue, with Commissioner Altieri asking whether this was a unique situation or whether there were other instances of this issue occurring. AAG Sigman said that it happens often enough because arbitrators and courts are not making the statutorily required findings to allow homeowners to recover from the Fund based on the arbitration award or court judgment alone. Commissioner Lake suggested that we require certain components to be included in a contract by MHIC contractors, such as requiring that if there is an arbitration clause in the contract, it must include language about the specific issues to be decided by the arbitrator, i.e., (1) whether, on the merits, the claimant is entitled to recover under § 8-405 of the Business Regulations Article of the Maryland Code and (2) if so, the amount of the claimant’s actual loss. The commissioners seemed to generally support this suggestion. Mr. Sigman will research the feasibility of requiring additional language in home improvement contracts and the procedure for doing so. Mr. Sigman will consult with Commissioners Lake and Quackenbush and they will explore other potential solutions to address this problem if necessary. Once the feasibility is determined, then they will make a recommendation to Commissioners at a business meeting.

# **Guaranty Fund Activity Report**

The MHIC Guaranty Fund Activity Report dated November 6, 2024, is as follows:

Balance as of July 1, 2023 $ 4,031,651.85

Receipts $ 743,092.12

Disbursements

 Claims ($662,871.34)

 Refunds ($0.00)

Balance as October 31, 2024 $4,111,872.63

Reserve

FMIS Balance $3,932,610.13

Difference $-179.262.50

Please note that the “Receipts” amount of $743,092.12 includes electronic licensing receipts of $179,262.50 for the month of October that were not posted into FMIS until the month of November.

**MHIC Pro Rated Claims Report**

**MHIC – Anticipated Prorated Claims December 5, 2024**

**Expected to exceed $250,000 in Guaranty Fund claims**

**Contractor O**

**October 25, 2021 (GF payout suspension)**

 The MD Consumer Protection Division has initiated administrative actions

 against this contractor in an effort to recover additional funds that may

 reimburse homeowners for their actual loss.

The Baltimore City Office of the Inspector General announced the indictment of this contractor on September 17, 2024.

 65 total MHIC complaints - Latest complaint opened May 8, 2024

 36 criminal charges filed by MHIC

 31 total MHIC claims received

 4 claims denied

 $431,482.00 total potential claims

 Based on potential claim awards, each claimant will receive about 58% of their Guaranty Fund award.

 Prorated claims to be paid out to homeowners on December 9, 2024.

**Contractor U**

**October 17, 2022 (Emergency Suspension)**

The MD Consumer Protection Division is in the early stage of its investigation of this contractor and is developing a strategy to address the large volume of homeowners with possible Guaranty Fund claims.

 161 (+1) total MHIC complaints - Latest complaint opened June 20, 2024

 104 (+8) total MHIC claims received

 2 claims denied

 $2,023,441.04 total potential claims to date

 Claims closing date – December 31, 2024

 Based on potential claim awards, each claimant will receive about 12% of their Guaranty Fund award.

**Contractor V**

**Voluntary Termination February 10, 2023**

Multiple State agencies have initiated investigations against this contractor. The investigations include criminal and financial crimes.

The MD Consumer Protection Division has administrative hearings at OAH on October 9, 2024. The MHIC Executive Director and 29 homeowners are expected to testify.

 36 total MHIC complaints - Latest complaint opened August 3, 2023

 16 criminal charges filed by MHIC

 31 total MHIC claims received

 $911,139.91 total claim exposure to date

 Claims closing date – February 3, 2025

 Based on potential claim awards, each claimant will receive about 27% of their Guaranty Fund award.

**Contractor W**

**Emergency Suspension June 6, 2023**

 25 total MHIC Complaints – Latest complaint opened on January 3, 2024

 19 Claims to date

 One claim denied

 17 Criminal charges filed by MHIC

 $314,921.43 total claim exposure to date

 Based on potential claim awards, each claimant will receive about 79% of their Guaranty Fund award.

**Contractor X**

**Emergency Suspension September 21, 2023**

 50 total MHIC Complaints – Latest complaint opened November 19, 2024

 34 Claims to date

 One claim denied

 22 Criminal charges filed by MHIC

 $256,638.29 total claim exposure to date

Mr. Finneran introduced the Commissioners to Investigator Stanley (Scott) Appel. Investigator Appel briefed the Commission members regarding the status of complaints and subsequent investigations involving Contractor A. Investigator Appel updated the Commissioners on the outcomes of several criminal cases in which Contractor A was charged with offenses ranging from Failure to Complete a Contract without Justification (BR 8-605) as well as Felony Theft (CR 7-104).

Commission members also inquired about the status of Claims filed with the Guaranty Fund by several citizens against “Contractor A”. Of particular concern was the dollar amount of Claims filed, as well as any which may be upcoming. Commission Members asked a variety of questions. Mr. Finneran asked the Commission members if they would like an Investigator to speak at each Commission meeting about certain contractors. The Commissioners look forward to having an Investigator speak at the Commission meetings.

# **Review of MHIC Statistics**

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| **SEPTEMBER 2024**  |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 41,495 |
|  *Contractor/Salesperson* | 20,969 |
|  *Salesperson* | 3,140 |
|  *Contractor/Salesperson (Corp/Part)*  | 16,434 |
|  *Applications Approved* | 196 |
|  |  |
| **COMPLAINTS RECEIVED** |
| **Complaints Received**  | **79** |
|  *Licensed* | 46 |
|  *Unlicensed* | 33 |
| PendingShow Cause Hearings | **9** |
| Waiting to be sent to OAH | **139** |
| Pending Hearing/Decision at OAH | **30** |
| Files sent to Mediation | **1** |
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| **Claims** |
| Total Open Claims | **677** |
| New Claims Received | **28** |
| Small Claims Received | **9** |

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| **OCTOBER 2024**  |
| **LICENSING ACTIVITY** |  |
| **Current Licenses Total** | 41,656 |
|  *Contractor/Salesperson* | 21,037 |
|  *Salesperson* | 3,138 |
|  *Contractor/Salesperson (Corp/Part)*  | 16,528 |
|  *Applications Approved* | 204 |
|  |  |
| **COMPLAINTS RECEIVED** |
| **Complaints Received**  | **146** |
|  *Licensed* | 100 |
|  *Unlicensed* | 46 |
| PendingShow Cause Hearings | **8** |
| Waiting to be sent to OAH | **199** |
| Pending Hearing/Decision at OAH | **51** |
| Files sent to Mediation | **2** |
|  |
| **Claims** |
| Total Open Claims | **633** |
| New Claims Received | **30** |
| Small Claims Received | **2** |

# Mr. Finneran informed the Commissioners that the Commission is now making an effort to collect on surety bonds. In the past the Auditors have made it clear that the Commission hold contractor Guaranty Fund debt for any length of time. The Commission must refer debt to CCU timely and that may hinder Commission efforts to collect on the surety bonds. The Commission is trying to get a deviation from the CCU to be able to hold the cases longer before sending it to CCU but it’s very difficult to get that deviation from CCU.

# **Review of the October 2024 & November 2024 PSI Results**

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| Below are the examination statistics summary for the month of October 2024 & November 2024. October 2024 |
| **Home Improvement** | **Candidates Tested** | **Passed** | **Failed** | **Pass %** |
| Contractor | 189 | 129 | 60 | 68% |
| Contractor Spanish | 106 | 44 | 62 | 42% |
| Salesperson | 106 | 57 | 49 | 54% |
| Salesperson Spanish | 1 | 0 | 1 |  |
| **TOTAL** | **402** | **230** | **172** | **57%** |
| November 2024 |
| **Home Improvement** | **Candidates Tested** | **Passed** | **Failed** | **Pass %** |
| Contractor | 136 | 88 | 48 | 65% |
| Contractor Spanish | 115 | 58 | 57 | 50% |
| Salesperson | 116 | 77 | 39 | 66% |
| Salesperson Spanish | 1 | 0 | 1 |  |
| **TOTAL** | **368** | **223** | **145** | **61%** |

# **Comments from the Chairman**

Chair Quackenbush wished everyone Happy Holidays.

**Comments from the Executive Director**

Mr. Finneran informed the Commission that there are two MHIC staff member positions that are vacant. Interviews are being held for the position of Secretary to the Investigators. Also, there is a position for a licensing staff member. This position will help the licensing staff because applications pick up in January and February.

Mr. Finneran informed the Commissioners that the Commission will move to 100 S. Charles Street, Baltimore, MD 21201 in December or January. Commissioner Shilling asked the Commissioners if they have ever disagreed with an ALJ’s proposed decision. A few of the Commissioners said that they have disagreed with an ALJ’s proposed decision in the past.

# **Adjournment**

The meeting was adjourned at 10:37 a.m.

 **Signature on File December 5, 2024**

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

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