ATTORNEY GENERAL
OF THE STATE OF WASHINGTON

MANUFACTURED HOUSING
DISPUTE RESOLUTION PROGRAM

In the Matter of the **Complaints of Adela Brambia, et al. Against Kenmore Village Mobile Home Park.**	**NOTICE OF NON-VIOLATION** **RCW 59.30.040** **MHDRP Complaint Nos. 466439, 466440, 466441, 466454, 466442, 466437, 466436, and 466434**

Following an investigation into the above-entitled matter pursuant to RCW 59.30.040, the Manufactured Housing Dispute Resolution Program of the Office of the Attorney General of Washington has found there to be NO VIOLATION of the Manufactured/Mobile Home Landlord-Tenant Act, RCW 59.20. If you disagree with this decision, your attention is directed to the section entitled APPEAL RIGHTS at the end of this Notice, which outlines the procedures under RCW 59.30.040 for filing an appeal.

This Notice does not limit the rights of any party to take other legal action.

I. INTRODUCTION

1.1 On May 20, 2015, Adela Brambia and seven other tenants (hereinafter collectively referred to as "the Tenants") each filed complaints against Kenmore Village Mobile Home Park (Kenmore Village) with the Manufactured Housing Dispute Resolution Program (the Program). The Tenants each alleged that Kenmore Village violated the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), RCW 59.20, by improperly billing for the utility of water. The Program contacted Kenmore Village in an attempt to facilitate negotiations between the parties and resolve the disputes through an informal dispute resolution process. However, the parties were not able to negotiate a resolution to this matter and the Program concluded that an agreement could not be reached between the parties. Therefore, the Program conducted a formal investigation pursuant to RCW 59.30.040. As more fully set forth below, the Program concludes that Kenmore Village did not violate the MHLTA.

II. CONSOLIDATION

2.1 Because the Tenants complained about the same issue, the Program consolidated the complaints into this single Notice. Each complainant has a separate right to appeal this Notice.

III. FACTUAL BACKGROUND

3.1 Kenmore Village is a mobile home park for purposes of RCW 59.20.030(10), and is located in Kenmore, Washington.

3.2 The Tenants each own and reside in a manufactured/mobile homes located on space rented from Kenmore Village, and therefore are tenants under RCW 59.20.030(18).

3.3 In 2013, Kenmore Village installed individual water meters on each lot within the park.

3.4 On March 1, 2013, Kenmore Village sent tenants a letter informing them that beginning June 1, 2013 each tenant would be responsible for paying the water and sewer costs for their individual home.

3.5 On April 1, 2013, Kenmore Village sent a second letter to tenants informing them that the implementation date was moved to July 1, 2013. The letter stated that tenants would be responsible for paying for water and sewer costs to their individual homes.

3.6 Since 2013, Kenmore Village has billed tenants for water based on the individual water meters.

3.7 Northshore Utility District, a special purpose water and sewer utility, provides the water to Kenmore Village and bills Kenmore Village for total water usage for the entire park.

3.8 Kenmore Village uses an independent sub-metering company, Guardian, to read the individual meters and invoice the tenants based on the individual usage.

3.9 A comparison of the billing from Guardian and Northshore shows consistency in billing rates.

IV. NON-VIOLATIONS

4.1 RCW 59.20.070(6) provides that landlords may not "[c]harge to any tenant a utility fee in excess of actual utility costs."

4.2 Kenmore Village is not charging tenants a utility fee in excess of actual utility costs.

Signed this 24 day of March, 2017.

MANUFACTURED HOUSING DISPUTE RESOLUTION PROGRAM

ROBERT W. FERGUSON
Attorney General

SHANNON E. SMITH
Senior Counsel
Chief, Consumer Protection Division

APPEAL RIGHTS

Any party may appeal this Notice by requesting a hearing before an administrative law judge. If neither party appeals this Notice, the Notice of Non-Violation becomes a final order of the Attorney General and is not subject to review by any court or agency.
RCW 59.30.040 governs the parties' appeal rights. **A copy of RCW 59.30.040 is attached**. An appeal of this Notice requesting a hearing must be:

- In writing, stating the basis for the appeal and the specific remedy sought;
- Signed by the appealing party;
- Received by Manufactured Housing Dispute Resolution Program within fifteen (15) business days of the party's receipt of this notice;
- Mailed or delivered to:
  Attorney General's Office
  Manufactured Housing Dispute Resolution Program
  800 Fifth Avenue, Suite 2000, TB-14
  Seattle, WA 98104-3188

If a timely appeal is received, the Manufactured Housing Dispute Resolution Program (the Program) will coordinate with the Office of Administrative Hearings to schedule a hearing. In an appeal you will bear the cost of you own legal expenses. An administrative law judge will hear and receive pertinent evidence and testimony and decide whether a violation of chapter 59.20 RCW has occurred by a preponderance of the evidence. The administrative law judge's decision will constitute the final agency order of the Program. A final order may be appealed to superior court according to instructions included in a decision.

PROOF OF SERVICE

I certify that I served a copy of this document on all parties or their counsel of record on the date below as follows:

☒ Certified and First-Class Mail, Postage Prepaid

TO: Adela Brambila
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Kenmore Village Mobile Home Park
c/o Tony Branson
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I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

DATED this 24th day of March, 2017, at Seattle, Washington.

P. JOSEPH DROUIN
Legal Assistant

ATTACHMENT

RCW 59.30.040

Dispute resolution program—Complaint process.

(1) An aggrieved party has the right to file a complaint with the attorney general alleging a violation of chapter **59.20** RCW.

(2) Upon receiving a complaint under this chapter, the attorney general must:

(a) Inform the complainant of any notification requirements under RCW **59.20.080** for tenant violations or RCW **59.20.200** for landlord violations and encourage the complainant to appropriately notify the respondent of the complaint; and

(b) If a statutory time period is applicable, inform the complainant of the time frame that the respondent has to remedy the complaint under RCW **59.20.080** for tenant violations or RCW **59.20.200** for landlord violations.

(3) After receiving a complaint under this chapter, the attorney general shall initiate the manufactured/mobile home dispute resolution program by investigating the alleged violations at its discretion and, if appropriate, facilitating negotiations between the complainant and the respondent.

(4)(a) Complainants and respondents shall cooperate with the attorney general in the course of an investigation by (i) responding to subpoenas issued by the attorney general, which may consist of providing access to papers or other documents, and (ii) providing access to the manufactured/mobile home facilities relevant to the investigation. Complainants and respondents must respond to attorney general subpoenas within thirty days.

(b) Failure to cooperate with the attorney general in the course of an investigation is a violation of this chapter.

(5) If after an investigation the attorney general determines that an agreement cannot be negotiated between the parties, the attorney general shall make a written determination on whether a violation of chapter **59.20** RCW has occurred.

(a) If the attorney general finds by a written determination that a violation of chapter **59.20** RCW has occurred, the attorney general shall deliver a written notice of violation to the respondent who committed the violation by certified mail. The notice of violation must specify the violation, the corrective action required, the time within which the corrective action must be taken, the penalties including fines, other penalties, and actions that will result if corrective action is not taken within the specified time period, and the process for contesting the determination, fines, penalties, and other actions included in the notice of violation through an administrative hearing. The attorney general must deliver to the complainant a copy of the notice of violation by certified mail.

(b) If the attorney general finds by a written determination that a violation of chapter **59.20** RCW has not occurred, the attorney general shall deliver a written notice of nonviolation to both the complainant and the respondent by certified mail. The notice of nonviolation must include the process for contesting the determination included in the notice of nonviolation through an administrative hearing.

(6) Corrective action must take place within fifteen business days of the respondent's receipt of a notice of violation, except as required otherwise by the attorney general, unless the respondent has submitted a timely request for an administrative hearing to contest the notice of violation as required under subsection (8) of this section. If a respondent, which includes either a landlord or a tenant, fails to take corrective action within the required time period and the attorney general has not received a timely request for an administrative hearing, the attorney general may impose a fine, up to a maximum of two hundred fifty dollars per violation per day, for each day that a violation remains uncorrected. The attorney general must consider the severity and duration of the violation and the violation's impact on other community residents when determining the appropriate amount of a fine or the appropriate penalty to impose on a respondent. If the respondent shows upon timely application to the attorney general that a good faith effort to comply with the corrective action requirements of the notice of violation has been made and that the corrective action has not been completed because of mitigating factors beyond the respondent's control, the attorney general may delay the imposition of a fine or penalty.

(7) The attorney general may issue an order requiring the respondent, or its assignee or agent, to cease and desist from an unlawful practice and take affirmative actions that in the judgment of the attorney general will carry out the purposes of this chapter. The affirmative actions may include, but are not limited to, the following:

(a) Refunds of rent increases, improper fees, charges, and assessments collected in violation of this chapter;

(b) Filing and utilization of documents that correct a statutory or rule violation; and

(c) Reasonable action necessary to correct a statutory or rule violation.

(8) A complainant or respondent may request an administrative hearing before an administrative law judge under chapter **34.05** RCW to contest:

(a) A notice of violation issued under subsection (5)(a) of this section or a notice of nonviolation issued under subsection (5)(b) of this section;

(b) A fine or other penalty imposed under subsection (6) of this section; or

(c) An order to cease and desist or an order to take affirmative actions under subsection (7) of this section.

The complainant or respondent must request an administrative hearing within fifteen business days of receipt of a notice of violation, notice of nonviolation, fine, other penalty, order, or action. If an administrative hearing is not requested within this time period, the notice of violation, notice of nonviolation, fine, other penalty, order, or action constitutes a final order of the attorney general and is not subject to review by any court or agency.

(9) If an administrative hearing is initiated, the respondent and complainant shall each bear the cost of his or her own legal expenses.

(10) The administrative law judge appointed under chapter **34.12** RCW shall:

(a) Hear and receive pertinent evidence and testimony;

(b) Decide whether the evidence supports the attorney general finding by a preponderance of the evidence; and

(c) Enter an appropriate order within thirty days after the close of the hearing and immediately mail copies of the order to the affected parties.

The order of the administrative law judge constitutes the final agency order of the attorney general and may be appealed to the superior court under chapter **34.05** RCW.

(11) When the attorney general imposes a fine, refund, or other penalty against a respondent, the respondent may not seek any recovery or reimbursement of the fine, refund, or other penalty from a complainant or from other manufactured/mobile home tenants.

(12) All receipts from the imposition of fines or other penalties collected under this section other than those due to a complainant must be deposited into the manufactured/mobile home dispute resolution program account created in RCW **59.30.070**.

(13) This section is not exclusive and does not limit the right of landlords or tenants to take legal action against another party as provided in chapter **59.20** RCW or otherwise. Exhaustion of the administrative remedy provided in this chapter is not required before a landlord or tenants may bring a legal action. This section does not apply to unlawful detainer actions initiated under RCW **59.20.080** prior to the filing and service of an unlawful detainer court action; however, a tenant is not precluded from seeking relief under this chapter if the complaint claims the notice of termination violates RCW **59.20.080** prior to the filing and service of an unlawful detainer action.

[**2007 c 431 § 4.**]

NOTES:

Implementation—2007 c 431: See note following RCW **59.30.010**.