ATTORNEY GENERAL
OF THE STATE OF WASHINGTON

MANUFACTURED HOUSING
DISPUTE RESOLUTION PROGRAM

In the Matter of the	**NOTICE OF VIOLATION**
Complaint of Kathleen L. David Against Spanaway Village Mobile Home Park.	**RCW 59.30.040**
	MHDRP Complaint No. 502239

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 a 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 March 23, 2017, Kathleen L. David filed a complaint against Spanaway Village Mobile Home Park (Spanaway Village) with the Manufactured Housing Dispute Resolution Program (the Program). Kathleen L. David alleged that Spanaway Village violated the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), RCW 59.20 by failing to repair a broken streetlight within Spanaway Village. The Program contacted Spanaway Village in an attempt to facilitate negotiation between the parties and resolve the dispute through an informal dispute resolution process. However, the parties were not able to negotiate a resolution to this matter and the Program therefore concluded that an agreement could not be reached between the parties. As a result, the Program conducted a formal investigation pursuant to RCW 59.30.040. As more fully set forth

below, the Program concludes that Spanaway Village has violated RCW 59.20.130(3) by failing to keep any shared or common premises… safe from defects to reduce the hazards of… accident.

II. FACTUAL BACKGROUND

2.1 Spanaway Village Mobile Home Park (Spanaway Village) is a mobile home park for purposes of RCW 59.20.030(10), and is located in Spanaway, Washington.

2.2 Kathleen L. David owns and resides in a manufactured/mobile home located on space rented from Spanaway Village, and therefore is a tenant under RCW 59.20.030(18).

2.3 Paul Loncar owns Spanaway Village.

2.4 Spanaway Village contains only one streetlight within the entire park, which has been has been broken since approximately March 2016.

2.5 A working streetlight is necessary to reduce the hazards of an accident by providing light to residents during the night. For example, David has almost slipped and fallen walking from her carport to her home and tripped over a speed bump because she was unable to see at night due the lack of light caused by the broken streetlight.

2.6 This is a recurring problem. In approximately July 2012, David submitted a complaint to the Program regarding this same broken streetlight. The owner of Spanaway Village at that time had the streetlight repaired through Tacoma Power.[1]

2.7 Prior to David filing the current complaint, she requested in writing at least two times to Paul Loncar that he repair the broken streetlight.

2.8 Loncar is aware of the broken streetlight but discontinued attempts to resolve the issue because he was unable to locate the source of the power to the streetlight.

2.9 Loncar can contact Tacoma Power if he is unable to locate the source of the power to the streetlight.

III. VIOLATIONS

3.1 RCW 59.20.130(3) requires a landlord to "Keep any shared or common premises reasonably clean, sanitary, and safe from defects to reduce the hazards of fire or accident."

3.2 The streetlight is part of the shared or common premises of Spanaway Village.

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[1] Tacoma Power is not the owner of the streetlight and not responsible for repairs, but inspected and performed the repairs on the streetlight at that time.

3.3 The streetlight is broken and therefore defective.

3.4 The defective streetlight increases the hazards of accident.

3.5 Spanaway Village has violated RCW 59.20.130(3) by failing to keep any shared or common premises safe from defects to reduce the hazards of accident by not repairing the broken streetlight.

IV. CORRECTIVE ACTION

4.1 Spanaway Village must, within fifteen (15) business days of receipt of this Notice repair the streetlight.[2] Spanaway Village may not pass this expense on to David.

4.2 Failure to take the corrective action set forth above within fifteen (15) business days of receipt of this Notice will result in the imposition of a $100 fine per day thereafter, until compliance is achieved.

Signed this 5th day of December, 2017.

MANUFACTURED HOUSING DISPUTE RESOLUTION PROGRAM

ROBERT W. FERGUSON
Attorney General

SHANNON E. SMITH
Senior Counsel
Division Chief, Consumer Protection Division

[2] Loncar states he does not have immediate plans to repair the inoperable streetlight because of his long term plan to work with Tacoma Power to install more streetlights within Spanaway Village. However, this does not absolve Loncar of his duty to repair the defective streetlight that is currently within Spanaway Village.

APPEAL RIGHTS

Either party may appeal this Notice by requesting a hearing before an administrative law judge. If neither party appeals this Notice, the Notice of 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 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 the MHLTA 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 on this day, I caused to be served a copy of this document on the following parties via the method indicated:

Spanaway Village Attn: Paul Loncar 2820 Benjamin Ct SE Olympia, WA 98501 Kathleen L. David 20512 13th Ave E #11 Spanaway, WA 98387	☐Legal Messenger ☒First-Class Mail, Postage Prepaid ☒Certified Mail, Receipt Requested ☐Facsimile ☐Email

I certify under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

DATED this 5 day of December, 2017, at Seattle, Washington.

Michelle Ferazza

MICHELLE FERAZZA
Legal Assistant

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**.