

ATTORNEY GENERAL
OF THE STATE OF WASHINGTON

MANUFACTURED HOUSING
DISPUTE RESOLUTION PROGRAM

In the Matter of the

Complaint of Catherine Hildebrand
Against Parkwest Manufactured Home
Community.

NOTICE OF VIOLATION

RCW 59.30.040

MHDRP Complaint No. 512035

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 August 10, 2017, Catherine Hildebrand filed a complaint against Parkwest Manufactured Home Community (Parkwest) with the Manufactured Housing Dispute Resolution Program (the Program). Hildebrand alleged that Parkwest violated the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), RCW 59.20, by unlawfully attempting to commence eviction proceedings and not offering a written rental agreement. The Program contacted Parkwest in an attempt to facilitate negotiations between the parties to resolve the dispute. 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 more fully set forth below, the Program concludes that Parkwest has violated: (1) RCW 59.20.050(1) by failing to offer

Hildebrand a written rental agreement; and (2) RCW 59.20.090(2) by increasing Hildebrand's rent without providing the proper notice.

II. FACTUAL BACKGROUND

- 2.1 Parkwest Manufactured Home Community is a mobile home park for purposes of RCW 59.20.030(10), and is located in Pullman, Washington.
- 2.2 Catherine Hildebrand owns and resides in a manufactured/mobile home located on space rented from Parkwest, and therefore is a tenant under RCW 59.20.030(18).
- 2.3 Hildebrand purchased her manufactured home from private owners renting a lot located in Parkwest. The closing date of the purchase was July 31, 2017.
- 2.4 As part of the purchase, the manager of Parkwest, Kevin Zakarison, completed a Community Certification for Hildebrand's lender, 21st Mortgage Corporation. In that Certification, Zakarison certified the "standard total monthly expense" (monthly rent) as \$340 per month with the term of the lease as "from purchase date to 12-31-18." Zakarison signed the Certification and dated it June 2, 2017. This certification allowed Hildebrand to secure financing for her home through 21st Mortgage Corporation.
- 2.5 Parkwest mailed Hildebrand and her partner, Sam Fleischer, a sample lease, lot description, tenant applications, Parkwest's Rules and Regulations, and Acknowledgment of Receipt of Parkwest's Rules and Regulations.
- 2.6 Hildebrand and Fleischer signed the Acknowledgment of Receipt of Parkwest's Rules and Regulations dated June 3, 2017, and returned the applications.
- 2.7 Although Zakarison previously provided a sample lease during the application process, Zakarison did not offer Hildebrand or Fleischer a written rental agreement reflecting the terms Zakarison certified to 21st Mortgage Corporation for their signatures prior to the move in date of August 1, 2017. Instead, Zakarison states he was waiting "to see if anyone... would come sign a lease." Hildebrand and Fleischer were unaware Zakarison was waiting for them to actively seek out the rental agreement for signature.
- 2.8 The Program repeatedly requested that Zakarison provide the Program with the original rental agreement reflecting the terms certified to 21st Mortgage Corporation. Zakarison never provided this rental agreement to the Program.
- 2.9 Shortly after August 1, 2017, Zakarison learned that Hildebrand and Fleischer had two dogs in their home, allegedly in violation of Parkwest's Rules and Regulations.
- 2.10 On August 8, 2017, Zakarison served Hildebrand with a Three Day Notice to Quit (Eviction Notice) under RCW 59.12.030(6) (possession without permission). The Eviction Notice did not identify a park rule violation as the reason for the Notice. Rather, the Eviction Notice identified a violation of RCW 59.20.073 (transfer of rental

agreements) and that “based on RCW 59.20.073(5) the landlord is hereby disapproving the transfer” of the rental agreement for the space that Hildebrand’s home occupies. The Eviction Notice stated judicial proceedings for the eviction would be commenced pursuant to “RCW 59.12.030(6), if you fail to surrender possession of the premises within (3) days.”¹

- 2.11 On August 9, 2017, Hildebrand spoke to Zakarison regarding the Eviction Notice. Zakarison indicated that the reason for the Notice was a violation of rules related to pets. Hildebrand explained that one of the dogs was a comfort animal to help Fleischer with a medical condition and the other dog a pet. Under the threat of eviction, Hildebrand rehomed one of the dogs. Hildebrand asked to sign the rental agreement but Zakarison refused to offer the rental agreement for signature based on the alleged rules violation.²
- 2.12 On August 10, 2017, Hildebrand filed a complaint with the Program. The Program initiated dispute resolution services, including investigating Hildebrand’s complaint, communicating with the parties, and attempting to negotiate a resolution in compliance with the MHLTA.
- 2.13 In January 2018, Parkwest offered Hildebrand a written rental agreement back-dated to commence on August 1, 2017 and going through December 31, 2018. The rental agreement identified the monthly rent as \$340; however, Parkwest included an addendum stating the monthly rent beginning February 1, 2018 would be \$460. Parkwest also included an addendum that Hildebrand would be responsible for the restoration of a concrete slab located on her lot covering the main line water valve, when the valve is replaced (water valve addendum).
- 2.14 In April 2018, Parkwest offered Hildebrand a written rental agreement back-dated to commence on August 1, 2017, but only going through July 31, 2018. The rental agreement identified the monthly rent as \$340, and included the water valve addendum.
- 2.15 Hildebrand refused to sign these rental agreements because they included terms contrary to Zakarison’s original representations, and certification to her lender, regarding length of tenancy, monthly rent and tenant responsibilities.
- 2.16 The Program requested that Zakarison provide the Program with documentation indicating Hildebrand and Fleischer were informed of and agreed to be responsible for the cost of restoring the concrete slab, as identified in the water valve addendum. Zakarison did not provide this documentation to the Program

¹It does not appear Parkwest is attempting to enforce the Eviction Notice and therefore the Program declines to make a determination regarding the validity of the Notice. Although, the Program refers the parties to RCW 59.20.080 relating to grounds for termination and notice requirements for alleged violations of park rules.

²Parkwest did not identify a park rule violation in the Eviction Notice, nor did Parkwest issue a written notice of a rules violation. Therefore, the Program declines to make a determination regarding the enforceability of the park rule as it relates to comfort animals and pets and whether there was a violation of the rule. *See* RCW 59.20.045, 59.20.080, 59.20.130, 59.20.140.

- 2.17 Hildebrand has paid, under protest, a monthly rent of \$460.
- 2.18 For some of the months between August 2017 through January 2018, Hildebrand inadvertently paid a monthly rent of \$360, instead of \$340.

III. VIOLATIONS

- 3.1 RCW 59.20.050(1) requires that “No landlord may offer a mobile home lot for rent to anyone without offering a written rental agreement for a term of one year or more.”
- 3.2 RCW 59.20.090(2) requires that “A landlord seeking to increase the rent upon expiration of the term of a rental agreement of any duration shall notify the tenant in writing three months prior to the effective date of any increase in rent.”
- 3.3 Parkwest’s actions indicate that it intended to enter into a rental agreement with Hildebrand, for Hildebrand and Fleischer’s occupancy of the lot, for the term August 1, 2017 through December 31, 2018 at a monthly rent of \$340:
 - 3.3.1 Zakarison certified to Hildebrand’s lender, 21st Mortgage Corporation, that her “standard total monthly expense” (monthly rent) would be \$340 per month “from purchase date to 12-31-18.”
 - 3.3.2 Zakarison mailed Hildebrand and Fleischer a sample lease, lot description, tenant applications, Parkwest’s Rules and Regulations, and Acknowledgment of Receipt of Parkwest’s Rules and Regulations.
 - 3.3.3 Hildebrand and Fleischer signed the Acknowledgment of Receipt of Parkwest’s Rules and Regulations and returned the applications.
 - 3.3.4 Zakarison did not object to or attempt to prohibit Hildebrand or Fleischer from moving into the home or occupying the lot prior to or at the time of move in, August 1, 2017.
- 3.4 Parkwest has the duty to offer Hildebrand a written rental agreement under RCW 59.20.050(1).
- 3.5 Parkwest cannot comply with RCW 59.20.050(1) by waiting for Hildebrand (or Fleischer) to request the rental agreement.
- 3.6 Parkwest violated RCW 59.20.050(1) by not offering a written rental agreement to Hildebrand.
- 3.7 Parkwest cannot include the water valve addendum as part of the rental agreement for the term of August 1, 2017 through December 31, 2018 because the parties did not agree to this addendum as a condition to Hildebrand and Fleischer’s tenancy for this period.

- 3.8 The expiration of the term of Hildebrand's rental agreement is December 31, 2018. Parkwest cannot seek to raise Hildebrand's rent upon the expiration of the term of her rental agreement, unless Parkwest provides written notice to Hildebrand three months prior to the effective date of the increase.
- 3.9 Parkwest increased Hildebrand's rent from \$340 to \$460 effective February 1, 2018.
- 3.10 Parkwest violated RCW 59.20.090(2) because it increased Hildebrand's rent prior to expiration of the term of her rental agreement and without providing the required three months written notice.

IV. CORRECTIVE ACTION

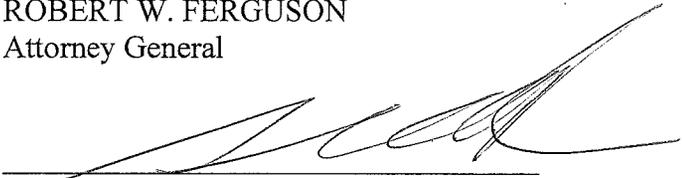
- 4.1 Parkwest must, within fifteen (15) business days of receipt of this Notice:
 - 4.1.1 Offer Hildebrand a written rental agreement that complies with the MHLTA for the term August 1, 2017 through December 31, 2018 with a monthly rent of \$340, and that does not include the water valve addendum.
 - 4.1.2 Fully reimburse Hildebrand \$20 for each month Hildebrand inadvertently overpaid rent for the months August 2017 through January 2018.
 - 4.1.3 Fully reimburse Hildebrand \$120 for each month Hildebrand overpaid rent for the months February 2018 through the present.
 - 4.1.4 Submit to the Program records of Hildebrand's rent payments for the months August 2017 through January 2018 identifying the months that Hildebrand paid \$360 in rent.
 - 4.1.5 Submit to the Program records of Hildebrand's rent payments for the months February 2018 through the present identifying the months that Hildebrand paid \$460 in rent.
 - 4.1.6 Submit to the Program a copy of the reimbursement check provided to Hildebrand pursuant to Parkwest's compliance with 4.1.2 and 4.1.3.
 - 4.1.7 For any months from August 2017 through the present where Hildebrand submitted a monthly rent payment, and including her initial security deposit, but Parkwest did not deposit or cash those payments, Hildebrand shall re-submit and Parkwest shall accept, a security deposit payment of \$250, if applicable, and monthly rent payments of \$340 for any of the applicable months August 2017 through the present.
- 4.2 Parkwest shall not seek to increase Hildebrand's rent without complying with RCW 59.20.090(2).

- 4.3 Parkwest shall not attempt to seek reimbursement from Hildebrand.
- 4.4 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 \$150 fine per day thereafter, until compliance is achieved.

Signed this 7th day of August, 2018.

MANUFACTURED HOUSING DISPUTE
RESOLUTION PROGRAM

ROBERT W. FERGUSON
Attorney General



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

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

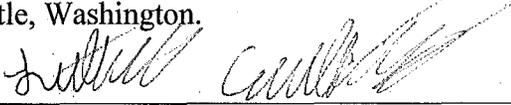
Certified and Regular US Mail

TO:

Parkwest Manufactured Home Community 306 NW Park W Dr Pullman, WA 99163	<input checked="" type="checkbox"/> Certified Mail, Receipt Requested <input checked="" type="checkbox"/> First-Class Mail, Postage Prepaid
Catherine Hildebrand 6805 Douglas Blvd #23 Granite Bay, CA 95746	<input checked="" type="checkbox"/> Certified Mail, Receipt Requested <input checked="" type="checkbox"/> First-Class Mail, Postage Prepaid

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

DATED this 7th day of August, 2018, at Seattle, Washington.



LUTHER CAULKINS
Legal Assistant