

ATTORNEY GENERAL
OF THE STATE OF WASHINGTON

MANUFACTURED HOUSING
DISPUTE RESOLUTION PROGRAM

**In the Matter of the Complaints of Ronald
McFarland and Jennifer Stone, Against
Woodland East Manufactured Home
Community.**

NOTICE OF VIOLATION

RCW 59.30.040

**MHDRP Complaint Nos.
523023 and 526517**

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 November 27, 2017 and February 12, 2018, Ronald McFarland and Jennifer Stone, respectively, filed a complaint against Woodland East Manufactured Home Community (Woodland East) with the Manufactured Housing Dispute Resolution Program (the Program). Complainants alleged that Woodland East violated the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), RCW 59.20, by failing to transfer the prior owners' rental agreement. The Program contacted Woodland East 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 Woodland East has violated RCW 59.20.073.¹

¹ RCW 59.20.073 was amended July 28, 2019. This Notice of Violation applies the language of RCW 59.20.073 in effect prior to the July 28, 2019 amendment.

II. FACTUAL BACKGROUND

- 2.1 Woodland East Manufactured Home Community (Woodland East) is a mobile home park for purposes of RCW 59.20.030(10), and is located in Woodland, Washington.
- 2.2 Ronald McFarland owns and resides in a manufactured/mobile home located on space rented from Woodland East, and therefore is a tenant under RCW 59.20.030(18).
- 2.3 Jennifer Stone owns and resides in a manufactured/mobile home located on space rented from Woodland East, and therefore is a tenant under RCW 59.20.030(18).

A. Ronald McFarland (Complaint No. 523023)

- 2.4 On October 11, 2017, Ronald McFarland and his wife, Patricia McFarland closed on their home in Woodland East, purchased from Wendy Cassidy.
- 2.5 As part of the sale, McFarland paid \$300.10 for prorated rent owing from October 11, 2017 through October 31, 2017. The prorated rent paid by McFarland as part of the sale indicates Cassidy's monthly rent was \$442.
- 2.6 McFarland informed the Program that at the time of signing the rental agreement, Woodland East told McFarland that rent was going to increase for the current residents on March 1, 2018 to \$685.00 per month, but anybody purchasing prior to this date would be required to pay the rent increase starting the date of moved in.
- 2.7 McFarland also informed the Program that Woodland East never discussed assignment of the prior owner's lease, and that McFarland only became aware of his right to lease assignment after receiving an email from Cassidy's realtor.
- 2.8 Woodland East did not disapprove of, in writing, the assignment of Cassidy's lease to McFarland.
- 2.9 Woodland East did not offer McFarland or his wife a rental agreement for a term of one year or more. Instead, Woodland East required McFarland and his wife, to sign a month to month rental agreement commencing October 12, 2017 for a monthly rent of \$685.
- 2.10 McFarland and his wife, did not waive, in writing, their right to a term of one year or more.
- 2.11 Although McFarland already paid October's prorated rent as part of the sale (Section 2.5), Woodland East required McFarland to pay an additional amount of prorated rent for October 2017. On October 11, 2017, McFarland paid \$442 to Woodland East for prorated rent from October 12, 2017 through October 31, 2017. The prorated rent paid by McFarland to Woodland East indicates a monthly rent of \$685.

- 2.12 McFarland paid Woodland East \$685 in rent for the months of November 2017 through February 2018.
- 2.13 McFarland signed a one-year rental agreement commencing March 1, 2018 with a monthly rent of \$685.
- 2.14 From October 2017 through February 2018, McFarland paid excess rent of \$1,414.

B. Jennifer Stone (Complaint No. 526517)

- 2.15 On October 13, 2017, Jennifer Stone closed on her home in Woodland East, purchased from Melissa Hill. This was Stone's first purchase of a home governed by the MHLTA.
- 2.16 As part of the sale, Stone paid \$271.52 for prorated rent owing from October 13, 2017 through November 1, 2017. The prorated rent paid by Stone as part of the sale indicates Hill's monthly rent was \$443.
- 2.17 Hill's realtor informed the Program that prior to listing Ms. Hill's home, she confirmed with Woodland East that monthly rent should be listed as \$443. Hill's realtor provided the Program with a copy of the Multiple Listing Service details for Ms. Hill's home, which identifies a monthly rent of \$443.
- 2.18 Prior to purchasing her home, Stone spoke to the managers of Woodland East. The managers informed Stone that all buyers must pay an increased rent of \$685 per month and did not give Stone the option of assuming Hill's lease. Stone did not learn, until after purchasing her home, of her right under the MHLTA to have Hill's rental agreement assigned to her.
- 2.19 Woodland East did not disapprove of, in writing, the assignment of Hill's lease to Stone.
- 2.20 Woodland East did not offer Stone a rental agreement for a term of one year or more. Instead, Woodland East required Stone to sign a month to month rental agreement commencing November 1, 2017 for a monthly rent of \$685.
- 2.21 Stone did not waive, in writing, her right to a term of one year or more.
- 2.22 Stone paid Woodland East \$685 in rent for the months of November 2017 through February 2018.
- 2.23 Stone signed a one-year rental agreement commencing March 1, 2018 with a monthly rent of \$685.
- 2.24 From November 2017 through February 2018, Stone paid excess rent of \$968.

III. LEGAL AUTHORITY

- 3.1 The MHLTA imposes a duty of good faith on tenants and landlords. RCW 59.20.020 (every duty under the MHLTA and every act which must be performed as a condition precedent to the exercise of a right or remedy under the MHLTA imposes an obligation of good faith in its performance or enforcement).
- 3.2 Any rental agreement shall be assignable by the tenant to any person to whom the tenant sells or transfers title to the manufactured home. RCW 59.20.073(1).
- 3.3 RCW 59.20.073(2) requires that the selling tenant must, “notify the landlord in writing of the date of the intended sale and transfer of the rental agreement at least fifteen days in advance of such intended transfer and shall notify the buyer in writing of the provisions of this section. The tenant shall verify in writing to the landlord payment of all taxes, rent, and reasonable expenses due on the mobile home, manufactured home, or park model and mobile home lot. The tenant shall notify the buyer of all taxes, rent, and reasonable expenses due on the manufactured/mobile home or park model and the mobile home lot.”
- 3.4 RCW 59.20.073(3) requires a landlord to “notify the selling tenant, in writing, of a refusal to permit transfer of the rental agreement at least seven days in advance of such intended transfer.”²
- 3.5 Any disapproval by the landlord of the assignment of a rental agreement must be in writing, and consent to an assignment must not be unreasonably withheld. RCW 59.20.073(5).
- 3.6 A landlord can disapprove of transfer of the rental agreement if (1) the selling tenant fails to comply with RCW 59.20.073(2); (2) the buying tenant fails to “make a good faith attempt to arrange an interview with the landlord to discuss assignment of the rental agreement;” or (3) the selling or buying tenant fails to obtain written approval of the landlord for assignment of the rental agreement.” RCW 59.20.073(6).
- 3.7 The MHLTA does not impose a burden of proof on the selling tenant to prove compliance with RCW 59.20.073. *Ethridge v. Hwang*, 105 Wn. App. 447, 456 20 P.3d 958 (2001) (trial court did not err in refusing to give instruction that MHLTA imposes burden of proof on selling tenant proving compliance with RCW 59.20.073 as this is a misstatement of the law). Moreover, a landlord waives their right to object to a sale of a mobile home based on the selling tenant’s noncompliance with the assignment provisions of RCW 59.20.073, if the landlord does not use such noncompliance as a basis for the objection. *Id.* at 454.
- 3.8 The notice requirements of RCW 59.20.073(2) only applies to a selling tenant. *Country Manor MHC, LLC v. Doe*, 176 Wn. App. 601, 610, 308 P.3d 818 (2013) (plain language of RCW 59.20.073(2) only applies to seller of a mobile home). Therefore, grounds for

² Citing to RCW 59.20.073(3) in effect prior to July 28, 2019 amendment.

disapproval under RCW 59.20.073(6) cannot be based on a buying tenant's failure to comply with RCW 59.20.073(2). *Id.*

- 3.9 A buying tenant's failure to obtain approval from the landlord under RCW 59.20.073(6) is not dispositive to denial of a transfer of the rental agreement. *Country Manor MHC, LLC*, 176 Wn. App. at 610-11. Rather, the landlord must have a reasonable basis to deny the transfer, as provided in RCW 59.20.073(5), in order for that denial to be enforceable. *Id.* (the reasonableness standard in RCW 59.20.073(5) is relevant in assessing a landlord's decision to withhold consent to a transfer).
- 3.10 The MHLTA provides that landlords may not offer a mobile home lot for rent without offering a written rental agreement for a term of one year or more. RCW 59.20.050(1). If the tenant prefers a month-to-month tenancy, the tenant must waive, in writing, the right to a term of one year or more. *Id.*; *See also, Holiday Resort Cmty. Ass'n v. Echo Lake Associates, LLC*, 134 Wn. App. 210, 225, 135 P.3d 499 (2006), *review denied*, 160 Wn.2d 1019 (2007) (requiring the waiver to be in writing separate from the rental agreement). A tenant who waives the right to a one-year term can require the landlord to offer a written rental agreement for the term of one year at any anniversary date of the tenancy. *Id.*

IV. VIOLATIONS

- 4.1 Woodland East violated RCW 59.20.020 and 59.20.073 by not acting in good faith when it (1) failed to inform McFarland and Stone of their right to assignment of the prior owners' rental agreements or otherwise allow transfer of these agreements, (2) did not provide any reasonable basis for disapproving the lease assignment, and (3) required McFarland and Stone to pay rent in excess of the amount required by the prior owners.
- 4.2 Woodland East violated RCW 59.20.050(1) by requiring McFarland and Stone to pay the increased rent of \$685 through a month-to-month rental agreement without obtaining written waiver of the right to a one-year rental agreement.

V. CORRECTIVE ACTION

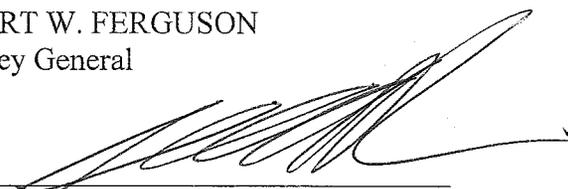
- 5.1 Woodland East must, within fifteen (15) business days of receipt of this Notice reimburse \$1,414 to Ronald McFarland.
- 5.2 Woodland East must, within fifteen (15) business days of receipt of this Notice reimburse \$968 to Jennifer Stone.
- 5.3 Woodland East must, within thirty (30) days of receipt of this Notice submit to the Program a copy of the reimbursement checks provided to the Complainants pursuant to Sections 5.1 and 5.2.

- 5.4 A failure to take the corrective action set forth in Sections 5.1 and 5.2 within fifteen (15) business days of receipt of this Notice will result in the imposition of a \$50 per violation per day, for each day that a violation remains uncorrected.

Signed this 12th day of November, 2019.

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 on this day, I caused to be served a copy of this document on the following parties via the method indicated:

Woodland East Manufactured Home Community 16500 SE 1st St #144 Vancouver, WA 98684	<input checked="" type="checkbox"/> Certified Mail, Receipt Requested
Mark G. Passannante Broer & Passannante, P.S. 1001 SW Fifth Ave, Ste. 1220 Portland, OR 97204	<input checked="" type="checkbox"/> Certified Mail, Receipt Requested
Ronald McFarland 369 Gun Club Rd #91 Woodland, WA 98674	<input checked="" type="checkbox"/> Certified Mail
Jennifer Stone 369 Gun Club Rd #102 Woodland, WA 98674	<input checked="" type="checkbox"/> Certified Mail

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

DATED this 13th day of November, 2019, at Seattle, Washington.



KRISTINA WINFIELD
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.