

ATTORNEY GENERAL
OF THE STATE OF WASHINGTON

MANUFACTURED HOUSING
DISPUTE RESOLUTION PROGRAM

In the Matter of

Lucila Santiago,

Complainant,

v.

Rainier Vista Mobile Home Park,

Respondent.

NOTICE OF VIOLATION

RCW 59.30.040

MHDRP Complaint No. 390053

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 59.20.¹ 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.

I. INTRODUCTION

Lucila Santiago filed a complaint against Rainier Vista Mobile Home Park (Rainier) with the Manufactured Housing Dispute Resolution Program (MHDRP) alleging that Rainier violated the Manufactured/Mobile Home Landlord-Tenant Act (MHLTA), RCW 59.20, by charging a utility fee in excess of the actual utility cost. MHDRP contacted Rainier 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 MHDRP therefore concluded that an agreement could not be reached between the parties. As a result, the MHDRP conducted a formal investigation pursuant to RCW 59.30.040. As more fully set forth below, the MHDRP concludes that Rainier has violated RCW 59.20.070(6) by charging a utility fee in excess of the actual utility cost.

¹ The issuance of this Notice does not limit the rights of either party to take other legal action.

II. FACTUAL BACKGROUND

1. Rainier is a mobile home park for purposes of RCW 59.20.030(10), and is located in Olympia, Washington.
2. Santiago owns and resides in a manufactured/mobile home located on space rented from Rainier, and therefore is a tenant under RCW 59.20.030(18).
3. Santiago has resided at Rainier since December 2009.
4. Rainier contains 151 spaces for rent, many with multiple tenants. Rainier requests that all tenants/occupants be listed on the rental agreement.
5. Santiago's rental agreement states that, "in addition to the monthly rental and any other charges or fees specified in this Agreement, Tenant agrees to pay to Landlord the following charges: water service." The lease contains no dollar amount or formula for determining the amount of the charge for this "service."
6. Rental spaces do not have separate water meters; instead, the park has a single water meter and receives a monthly bill from the City of Lacey for the entire park.
7. Rainier has maintained its method of billing for water since 1990. Rainier divides the total park water bill up between all park residents based on the number of occupants listed on each tenant's lease. Rainier also changes the number of occupants for each rental space, for purposes of calculating how much to charge a unit, if Rainier believes more or fewer occupants are present in the unit, or if someone notifies Rainier that somebody has moved in, or moved out, of the unit.
8. In each month since January 2010, the landlord has collected more from tenants for water than he has paid. In 2010, the landlord was billed \$106,090.06 for water service from the City of Lacey, but collected \$112,494.48 from tenants. The total over-collection for 2010 was thus \$6,404.42.
9. In 2011, the landlord was billed \$116,022.36 for water service from the City of Lacey, but collected \$131,613.28 from tenants. The total over-collection for 2011 was thus \$15,590.92.
10. In 2012 (through October), the landlord was billed \$124,262.34 for water service from the City of Lacey, but collected \$137,507 from tenants. The total over-collection for 2012 (through October) was thus \$13,244.66.
11. Rainier has failed to provide the MHDRP with the water bill information for April 2012 through the present. The MHDRP investigator and attorney requested that the information be voluntarily produced. When the information was not voluntarily produced, the MHDRP issued a subpoena. The subpoena required Rainier to provide the

information by November 27, 2012. Rainier did not produce the subpoenaed information until December 4, 2012.

III. VIOLATIONS

1. RCW 59.20.060(1) requires written rental agreements to contain:
 - (a) The terms for the payment of rent, including time and place, and any additional charges to be paid by the tenant...
...
 - (i) A listing of the utilities, services, and facilities which will be available to the tenant during the tenancy and the nature of the fees, if any, to be charged.
2. RCW 59.20.070(6) prohibits a landlord from charging "to any tenant a utility fee in excess of actual utility costs." Rainier charged tenants a utility fee in excess of the actual utility cost:
 - a. Rainier's billing practice of basing each space's bill on the number of occupants is subjective, and therefore not based on actual utility cost, because Rainier changes the number of occupants for each rental space based on its belief, or a neighbors belief, of how many persons are residing in each space, and
 - b. Rainier is charging tenants more for water than it is being billed by the City of Lacey. The City of Lacey billed Rainier a total of \$346,374.76 for 2010, 2011, and part of 2012 for water, yet Rainier charged tenants \$381,614.76 for water for the same time period.
3. RCW 59.30.040(4)(b) provides that "[f]ailure to cooperate with the attorney general in the course of an investigation is a violation of this chapter." Rainier failed to cooperate with the MHDRP's investigation when it refused to comply with the subpoena issued on October 26, 2012.

IV. CORRECTIVE ACTION

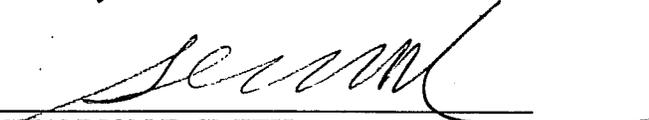
1. Rainier must, within thirty (30) days from receipt of this Notice, reimburse tenants the amount it overcharged for water for the period of 2010, 2011, and part of 2012: \$35,240. Rainier may not pass this expense on to tenants.
2. Rainier must, within forty-five (45) days from receipt of this Notice, submit to the MHDRP copies of the reimbursement checks it distributes to tenants that show the amount refunded.
3. Rainier must, for six (6) months following receipt of this Notice, submit to the MHDRP copies of the water bill from the City of Lacey and copies of the invoices Rainier submits to its tenants for water.
4. Rainier must not charge tenants more than the actual utility cost of water.

5. A failure to take any of the corrective action as set forth above within thirty (30) days from receipt of this Notice will result in the imposition of a \$150 fine per day thereafter, until compliance is achieved.

Signed this 11th day of December, 2012.

MANUFACTURED HOUSING DISPUTE
RESOLUTION PROGRAM

ROBERT M. MCKENNA
Attorney General



SHANNON E. SMITH
Assistant Attorney General
Attorneys for State of Washington

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, MHDRP 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 MHTLA has occurred by a preponderance of the evidence. The administrative law judge's decision will constitute the final agency order of MHDRP. 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

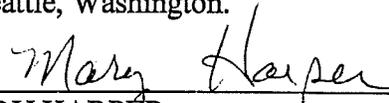
TO:

Rainier Vista Mobile Home Park
Attn: Walt Olsen
Olsen Law Firm
205 S. Meridian
Puyallup, WA 98371

Lucila Santiago
8530 Steilacoom RD #53
Olympia, WA 98513

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

DATED this 11 day of December, 2012, at Seattle, Washington.



MARY HARPER
Legal Assistant II