

IN THE MATTER OF THE CLAIM OF \* MARYLAND HOME  
TRINA PARKER \* IMPROVEMENT COMMISSION  
AGAINST THE MARYLAND HOME \*  
IMPROVEMENT GUARANTY FUND \* MHIC CASE NO. 22(75)1006  
FOR THE ACTS OR OMISSIONS OF \* OAH CASE NO. LABOR-HIC-  
HUGH WILSON T/A \* 02-22-28165  
HG WILSON CONTRACTING \*  
\* \* \* \* \*

**FINAL ORDER**

This matter was originally heard before an Administrative Law Judge (“ALJ”) of the Office of Administrative Hearings (“OAH”) on February 3, 2023. Following the evidentiary hearing, the ALJ issued a Proposed Decision on April 27, 2023, concluding that the claim of homeowner Trina Parker (“Claimant”) was untimely. *ALJ Proposed Decision* p.10. In a Proposed Order dated June 26, 2023, the Maryland Home Improvement Commission (“MHIC” or “Commission”) affirmed the Proposed Decision of the ALJ to dismiss the Claimant’s claim. The Claimant subsequently filed exceptions to the MHIC Proposed Order.

On August 17, 2023, a three-member panel (“Panel”) of the MHIC held a remote hearing on the exceptions filed in this matter. The Claimant and Contractor participated without counsel. Assistant Attorney General Jessica Kaufman appeared at the exceptions hearing on behalf of the Guaranty Fund. The Commission entered the following preliminary exhibits as part of the record of the exceptions hearing without objection: 1) hearing notice; 2) transmittal letter, ALJ Proposed Decision, and MHIC Proposed Order; and 3) Claimant’s exceptions. Neither the Claimant nor the Contractor produced a copy of the transcript of the hearing before the ALJ. The Claimant sought to present new evidence, but failed to demonstrate that the proposed new evidence was not, and, through the exercise of ordinary diligence, could not have been discovered before the evidentiary hearing on this matter. Therefore, the Panel’s review of the record was limited to the preliminary exhibits for the exceptions hearing, the OAH Proposed Decision, and the exhibits offered as

evidence at the OAH hearing. COMAR 09.01.03.09(G) - (I).

The claim in this proceeding relates to a contract between the parties for repairs to the roof of the Claimant's home. The ALJ found that the Claimant's claim was untimely because she was aware of her actual loss on or before March 28, 2019, and did not file her claim until July 18, 2022. *ALJ's Proposed Decision* pp. 10-11.

On exception, the Claimant argued that the ALJ erred in finding that her claim was untimely. She argued that she sent her claim to the Commission in June or July 2022, via certified mail and that the Commission's receipt of the claim must have been delayed because the Commission's employees were teleworking. The Claimant did not identify evidence in the record in support of her position. The Commission finds no error.

The record reveals that the Claimant discovered the purported deficiency in the Contractor's performance on or before March 24, 2019, when she texted him to report a problem with her roof. (OAH Hearing Claimant's Exhibit 3.) Md. Code Ann., Business Regulation § 8-405(g) requires that claims against the Home Improvement Guaranty Fund be filed within three years of when the claimant discovered, or by use of ordinary diligence, should have discovered their loss or damage. Therefore, the Claimant had until March 24, 2022, to file a claim. The Claimant filed her claim on July 18, 2022. Even assuming that the Claimant sent her claim to the Commission in June 2022 as she alleged at the exceptions hearing, her claim would have been untimely. Accordingly, the Commission finds that the Claimant's claim is barred by the three-year statute of limitations.

Having considered the parties' arguments, the evidence contained in the record, and the ALJ's Recommended Decision, it is this 31<sup>st</sup> day of August 2023, **ORDERED:**

A. That the Findings of Fact of the Administrative Law Judge are **AMENDED**;

- B. That the Conclusions of Law of the Administrative Law Judge are **AFFIRMED**;
- C. That the Proposed Decision and Recommended Order of the Administrative Law Judge is **AFFIRMED**;
- D. That the Claimant's claim is **DISMISSED**;
- E. That the records and publications of the Maryland Home Improvement Commission shall reflect this decision; and
- F. Any party has thirty (30) days from the date of this Final Order to appeal this decision to Circuit Court.

*Robert Altieri*  
**Chairperson –Panel  
Maryland Home Improvement  
Commission**

<p>IN THE MATTER OF</p> <p>THE CLAIM OF TRINA PARKER,</p> <p>CLAIMANT,</p> <p>AGAINST THE HOME</p> <p>IMPROVEMENT GUARANTY FUND</p> <p>FOR THE ALLEGED ACTS</p> <p>OR OMISSIONS OF HUGH WILSON,</p> <p>TRADING AS</p> <p>H G WILSON CONTRACTING,</p> <p>RESPONDENT</p>	<p>* BEFORE ROBERT F. BARRY,</p> <p>* AN ADMINISTRATIVE LAW JUDGE</p> <p>* OF THE MARYLAND OFFICE</p> <p>* OF ADMINISTRATIVE HEARINGS</p> <p>*</p> <p>*</p> <p>* OAH No.: LABOR-HIC-02-22-28165</p> <p>* MHIC FILE No.: 22 (75) 1006</p> <p>*</p> <p>*</p>
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**PROPOSED DECISION**

STATEMENT OF THE CASE  
ISSUES  
SUMMARY OF THE EVIDENCE  
FINDINGS OF FACT  
DISCUSSION  
CONCLUSION OF LAW  
RECOMMENDED ORDER

**STATEMENT OF THE CASE**

On July 18, 2022, Trina Parker (Claimant) filed a claim with the Maryland Home Improvement Commission (Commission) against the Home Improvement Guaranty Fund (Guaranty Fund or FUND) for compensation for an actual loss resulting from the acts or omissions of a licensed home improvement contractor, Hugh Wilson, trading as H G Wilson Contracting, (Respondent). Md. Code Ann., Bus. Reg. §§ 8-405(a); 8-406 (2015 & Supp. 2022).<sup>1</sup>

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<sup>1</sup> All references to section 8-405 of the Business Regulation Article are to the 2022 Supplement. All other references to the Business Regulation Article are to the 2015 Replacement Volume.

On October 26, 2022, the Commission issued a Hearing Order. On November 7, 2022, the Commission transmitted the case to the Office of Administrative Hearings (OAH). Md. Code Ann., Bus. Reg. § 8-407(c)(2)(i).

On February 3, 2023, I conducted a hearing at the OAH in Hunt Valley, Maryland. *Id.* The Claimant represented herself. The Respondent, who received notice of the hearing by certified mail, did not appear. Andrew Brouwer, Assistant Attorney General, Department of Labor (Department), represented the Guaranty Fund.

The contested-case provisions of the Administrative Procedure Act; the Department's and the Commission's hearing regulations; and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021); Code of Maryland Regulations (COMAR) 09.08.02.01B, COMAR 09.01.03, and COMAR 28.02.01.

### ISSUES

1. Did the Claimant file her claim against the Guaranty Fund within three years after she discovered or, by use of ordinary diligence, should have discovered the relevant loss or damage?
2. Did the Claimant sustain an actual loss arising from the Respondent's unworkmanlike or inadequate performance of a home improvement contract?
3. If so, what, if any, compensation may the Claimant recover from the Guaranty Fund?

### SUMMARY OF THE EVIDENCE

#### Exhibits

I admitted eleven exhibits into evidence for the Claimant:

CLAIM. #1 - Summary of Claim, November 5, 2021

CLAIM. #2 - Photo Sheet, with photocopies of photographs of the Claimant's home, taken March 6, 2019

CLAIM. #3 - Photocopies of text messages between the Claimant and the Respondent, March 23, 2019, through March 28, 2019

CLAIM. #4 - Photocopies of photographs of the roof of the Claimant's home

CLAIM. #5 - Invoice, March 26, 2019

CLAIM. #6 - Photocopies of text messages between the Claimant and the Respondent, August 5, 2020

CLAIM. #7 - Insurance claim documents, Allstate Insurance Company

CLAIM. #8 - Photocopies of photographs of the interior of the Claimant's home

CLAIM. #9 - Photocopies of photographs of the Claimant's roof (Cousin Clinton photos)

CLAIM. #10 - Proposal and Contract, On Top Roof Repairs, December 13, 2021

CLAIM. #11 - Invoice, PuroClean Emergency Restoration LLC, March 14, 2022

I admitted four exhibits into evidence for the Guaranty Fund:

FUND #1 - Hearing Order, October 26, 2022

FUND #2 - Notice of Hearing, issued December 7, 2022

FUND #3 - Letter from the Commission to the Respondent, July 22, 2022, with Home Improvement Claim, received by the Commission on July 18, 2022

FUND #4 - Commission Licensing History for the Respondent, January 26, 2023

### Testimony

The Claimant was the only witness at the hearing.

### FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. The Commission has licensed the Respondent as an individual home improvement contractor under registration number 01-115753 since September 6, 2018. The Respondent's current license expires on September 6, 2024.

2. The Respondent trades as H G Wilson Contracting.

3. The Claimant owns a rowhome on Ilchester Avenue in Baltimore.
4. In March 2019, the Claimant noticed leaks in the ceilings of her second-floor bedroom and bathroom.
5. On March 6, 2019, an Allstate insurance adjuster inspected the flat roof of the Claimant's rowhome and documented in photographs extensive deterioration of sealing materials around the firewalls separating the Claimant's rowhome from adjoining rowhomes, a skylight, and some exhaust pipes.
6. The Allstate insurance adjuster concluded that the Claimant's roof did not need to be replaced because it could be repaired for \$1,300.00.
7. On March 18, 2019, the Claimant contacted HomeAdvisor, an online service providing referrals to home improvement contractors.
8. On March 18, 2019, the Claimant and the Respondent agreed that the Respondent would repair the Claimant's roof for \$1,000.00.
9. The Respondent did not provide the Claimant with a written contract.
10. The Claimant believed that the Respondent had agreed to apply Ruberoid membrane along the firewalls, skylight, and exhaust pipes, and apply fibered aluminum roof coating on the rest of the roof.
11. On March 19, 2019, the Respondent (actually his workers) applied fibered aluminum roof coating on the roof, but did not apply Ruberoid membrane along the firewalls, skylight, and exhaust pipes.
12. On March 21, 2019, the Claimant met with the Respondent's nephew and paid him \$1,000.00.
13. On March 24, 2019, the Claimant sent the Respondent a text expressing her concern about a portion of the fibered aluminum coating.

14. On March 26, 2019, the Respondent sent the Claimant two photographs of the roof and provided the Claimant a receipt for her \$1,000.00 payment.
15. In response to a text from the Claimant complaining about the condition of her roof, the Respondent applied additional fibered aluminum coating on the Claimant's roof on March 28, 2019.
16. The Respondent did not at any time apply Ruberoid membrane along the firewalls, skylight, and exhaust pipes on the Claimant's roof.
17. Between March 26, 2019, and August 5, 2020, the Claimant continued to experience leaks in the ceilings of her second-floor bedroom and bathroom.
18. In August 2020, in response to a call from the Claimant, HomeAdvisor posted a review about the Claimant's dissatisfaction with the Respondent's work.
19. On August 5, 2020, the Respondent returned to the Claimant's home and performed unspecified additional work on the Claimant's roof.
20. On November 5, 2021, the Claimant filed a claim with Allstate for mitigation of water damage and repairs to her bedroom and bathroom.
21. On December 13, 2021, On Top Roof Repairs provided the Claimant an estimate of \$1,250.00 to install Ruberoid skirts on the fire walls and to reseal pipes and skylight on the Claimant's roof.
22. On March 14, 2022, the Claimant paid PuroClean \$751.05 for mitigation of water damage.
23. On March 16, 2022, the Claimant filed a complaint with the Commission against the Respondent.



24. On July 18, 2022, the Claimant filed a claim against the Guaranty Fund for reimbursement for an actual loss allegedly suffered due to the Respondent's unworkmanlike, inadequate, or incomplete work on the Claimant's roof.

25. On December 7, 2022, the OAH sent a Notice of Hearing to the Respondent by certified mail at the business address on record with the Commission.

26. On December 27, 2022, the United States Postal Service returned to the OAH a receipt of certified mail delivery signed by the Respondent or someone on his behalf.

### DISCUSSION

#### The Respondent's Notice of Hearing

The procedures for notice and hearings for disciplinary actions against home-improvement contractors also apply to proceedings to recover compensation from the Guaranty Fund. Bus. Reg. § 8-407(a). Section 8-312 of the Business Regulation Article requires the Commission to give the person against whom disciplinary action is contemplated an opportunity for a hearing. Bus. Reg. § 8-312(a). The Commission is required to send a hearing notice to the person against whom disciplinary action is contemplated at least ten days before the hearing by certified mail to the business address on record with the Commission. *Id.* § 8-312(d). If, after due notice, the person against whom disciplinary action is contemplated does not appear, the Commission (or by delegation the OAH) "may hear and determine the matter." *Id.* § 8-312(h).

In this case, the OAH sent a Notice of Hearing to the Respondent by certified mail at the business address on record with the Commission. The United States Postal Service returned to the OAH a receipt of certified mail delivery signed by the Respondent or someone on his behalf. Therefore, it is appropriate for me to hear and determine this claim against the Guaranty Fund even in the Respondent's absence.

Guaranty Fund Claim/Statute of Limitations

A homeowner “may recover compensation from the Guaranty Fund for an actual loss that results from an act or omission by a licensed contractor.” Bus. Reg. § 8-405(a). An “actual loss” means the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or incomplete home improvement.” *Id.* § 8-401. The Commission may not award from the Guaranty Fund an amount for consequential damages, which are losses that result indirectly from any unworkmanlike, inadequate, or incomplete home improvement. Bus. Reg. § 8-405(e)(3). The Commission may deny a claim if it finds that “the claimant unreasonably rejected good-faith efforts by the contractor to resolve the claim.” *Id.* § 8-405(d). As to the statute of limitations for a claim against the Guaranty Fund, a claim shall be brought within three years from when the claimant discovered or, by use of ordinary diligence, should have discovered the loss or damage. *Id.* § 8-405(g); COMAR 09.08.03.02G.

The Claimant’s claim against the Guaranty Fund is barred by the statute of limitations. On July 18, 2022, the Claimant filed a claim against the Guaranty Fund for compensation of \$1,250.00 for an actual loss allegedly suffered due to the Respondent’s unworkmanlike, inadequate, or incomplete work on the Claimant’s roof. The Claimant based the amount of her request on On Top Roof Repairs’ estimate of \$1,250.00 to install Ruberoid skirts on the fire walls and to reseal pipes and skylight on the Claimant’s roof. Any award from the Guaranty Fund to the Claimant would be limited to the \$1,000.00 that the Claimant paid the Respondent. Bus. Reg. 8-405(e)(5); COMAR 09.08.03.03B(4) (the Commission may not award from the Guaranty Fund an amount more than the amount the claimant paid the contractor against whom the claim is filed).

The Claimant, however, may not recover compensation from the Guaranty Fund because she filed her claim more than three years from when she discovered or, by use of ordinary diligence, should have discovered the relevant loss or damage – the Respondent’s inadequate repair of her roof.

On March 18, 2019, the Claimant and the Respondent agreed that the Respondent would repair the Claimant’s roof for \$1,000.00. The Respondent did not provide the Claimant with a written contract, but the Claimant testified that she believed that the Respondent had agreed to apply Ruberoid membrane along the firewalls, skylight, and exhaust pipes, and apply fibered aluminum roof coating on the rest of the roof. On March 19, 2019, the Respondent applied fibered aluminum roof coating on the roof. On March 24, 2019, three days after the Claimant paid \$1,000.00 for the Respondent’s work, the Claimant sent the Respondent a text expressing her concern about a portion of the fibered aluminum coating. On March 26, 2019, the Respondent sent the Claimant two photographs of the roof. On March 28, 2019, in response to a text from the Claimant complaining about the condition of her roof, the Respondent applied additional fibered aluminum coating on the Claimant’s roof. The Respondent did not at any time apply Ruberoid membrane along the firewalls, skylight, and exhaust pipes on the Claimant’s roof.

Between March 26, 2019, and August 5, 2020, the Claimant continued to experience leaks in the ceilings of her second-floor bedroom and bathroom. In August 2020, in response to a call from the Claimant, HomeAdvisor posted a review about the Claimant’s dissatisfaction with the Respondent’s work. On August 5, 2020, the Respondent returned to the Claimant’s home and performed unspecified additional work, which did not include application of Ruberoid membrane.

On March 16, 2022, the Claimant filed a complaint with the Commission against the Respondent, which could have resulted in the Commission pursuing regulatory charges and penalties against the Respondent. *See* Bus. Reg. § 8-311. The Commission ultimately declined to pursue regulatory charges and penalties against the Respondent. The Claimant completed a Home Improvement Claim Form, which she signed and dated on June 13, 2022. The Commission indicated on the claim form that it received the Claimant's claim against the Guaranty Fund on July 18, 2022.

The Guaranty Fund argued that the Claimant, who testified that she continued to experience leaks in the ceilings of her second-floor bedroom and bathroom after March 26 or 28, 2019, knew no later than the latter date of the deficiencies with the Respondent's work. The Claimant asserted that she filed her claim against the Guaranty Fund when she filed her complaint against the Respondent on March 16, 2022, just a few days before the statute of limitations ran out. But the statute provides that a claim, not a complaint, shall be brought within three years from when the claimant discovered or, by use of ordinary diligence, should have discovered the loss or damage. Bus. Reg. § 8-405(g). The relevant date is the date of the Claimant's claim against the Guaranty Fund. The credible evidence established that the Claimant did not complete the Home Improvement Claim Form until June 13, 2022, and the Commission did not receive the claim form until July 18, 2022. Using either June 13, 2022, or July 18, 2022, as the date the Claimant filed her claim against the Guaranty Fund, the claim is barred by the applicable three-year statute of limitations. The Respondent's work on the Claimant's roof in August 2020 does not affect the analysis because the Claimant was aware of the underlying deficiencies in the Respondent's work in March 2019.<sup>2</sup>

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<sup>2</sup> The Guaranty Fund conceded that the Claimant would be entitled to compensation of \$1,000.00 for the Respondent's incomplete, inadequate, or unworkmanlike home improvement if her claim were not barred by the statute of limitations.

**CONCLUSION OF LAW**

Based upon the foregoing Findings of Fact and Discussion, I conclude that the Claimant's claim against the Guaranty Fund is barred by the statute of limitations because she did not file her claim within three years after she discovered or, by use of ordinary diligence, should have discovered the relevant loss or damage. Bus. Reg. § 8-405(g); COMAR 09.08.03.02G.

**RECOMMENDED ORDER**

I **RECOMMEND** that the Maryland Home Improvement Commission dismiss the Claimant's claim against the Maryland Home Improvement Guaranty Fund; and **ORDER** that the records and publications of the Maryland Home Improvement Commission reflect this decision.

April 27, 2023  
Date Decision Issued

*Robert F. Barry*

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Robert F. Barry  
Administrative Law Judge

RFB/sh  
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PROPOSED ORDER

*WHEREFORE, this 26<sup>th</sup> day of June, 2023, Panel B of the Maryland Home Improvement Commission approves the Recommended Order of the Administrative Law Judge and unless any parties files with the Commission within twenty (20) days of this date written exceptions and/or a request to present arguments, then this Proposed Order will become final at the end of the twenty (20) day period. By law the parties then have an additional thirty (30) day period during which they may file an appeal to Circuit Court.*

*Lauren Lake*

*Lauren Lake*

*Panel B*

**MARYLAND HOME IMPROVEMENT  
COMMISSION**