

## **MHIC Problems and What Legislators Can Do to Fix Them**

Here are the problems that I believe need to be fixed with the functioning of the MHIC and Maryland Laws and Regulations:

1. Contractors should not be allowed to escape responsibility for their bad work by suing homeowners. The cost to defend yourself is prohibitive for homeowners when taking into consideration the costs of litigation. This gives an incentive to contractors to sue. If I had had any idea what it would cost me I should have simply paid off the contractor and walked away. This is not right.

2. Contractors should not be allowed to avoid any investigation by the MHIC by suing homeowners. It is ridiculous for the MHIC to delay any action against a contractor for litigation to play out. As in my case it can take years. In the meantime the homeowner has no money from the Guaranty Fund to make repairs to their house. And the contractor can continue to operate and cause further damage to the citizens of Maryland. It is absolutely astonishing that a contractor who says, "Building codes are bullshit" and acts out that statement, should be allowed by the MHIC to continue to operate in the State of Maryland.

3. The MHIC needs to hold contractors accountable. It appears that the MHIC believes that in most cases the paltry Guaranty Fund payouts are sufficient to protect homeowners. The MHIC seems to have little interest in investigating bad contractors or enforcing their own rules and regulations. When I raised the issue of numerous building code violations on my house I was told that correcting that was up to the County. Of course the County had no interest in enforcing building codes that I found as that was an indictment of their own inspectors. In any event County officials do not have the ability to remove an MHIC license.

4. The MHIC seems to have neither the manpower nor the interest in actually protecting the homeowners of Maryland. They have few investigators and little interest in investigating. I gave them evidence of numerous infractions of Maryland and MHIC law, rules, and regulations by Ovadia, many of which have MHIC fines and penalties associated with them, yet they have never taken any action. They know that Ovadia thinks building codes are bullshit and they know that he does not follow building codes. Yet they do nothing to protect Marylanders.

5. The max payment under the Guaranty Fund of \$20,000 is totally insufficient. Perhaps this was a significant amount many, many years ago when the MHIC was founded, but now, many if not most home improvement jobs are worth far more. \$50,000 for a new kitchen is average. Legal fees alone can quickly wipe any payment from the Fund.

6. The MHIC requires that contracts include a clause notifying homeowners that they can request that contractors offer insurance (a bond) to homeowners. However my contractor left this out of the contract, and there was no penalty from the MHIC for leaving it out. A bond would have saved me. But the contractor doesn't really need to include this because the MHIC does not penalize them for doing so. Again, no teeth. The MHIC should push harder with this clause and make leaving the clause out of any contract an instant loss in any dispute with a contractor and a heavy fine. Or they should make leaving this clause out a cause for immediate loss of license.

7. Home improvement contractors can easily jump from one home improvement entity to another. They can operate under anyone else's MHIC license including that of friends and family members. Ovadia investigated both in anticipation of losing his license. He never lost his license so he did not have to do this. This is well known in the home improvement industry.

8. The MHIC should accept the judgement of a Maryland court and not require that homeowners also go through an administrative hearing. This should be illegal under the doctrine and principle of Res Judicata enshrined in the 7<sup>th</sup> amendment of the U.S. Constitution. Besides, it's just and unfair burden on homeowners. I mean a jury in Maryland can't be trusted to make a fair judgement? An additional OAH hearing is necessary? That's ridiculous and illegal.

9. The administrative hearing process is not fair. In my case I was up against an experienced attorney. Yet the judge in the case, continually cited me for not following proper legal procedures and at times even threatened to throw out my case. If a homeowner is going to have to represent themselves then there needs to be a process that does not require counsel, or counsel should be appointed. In addition, the MHIC was also represented by counsel and they also fought me in an attempt to keep the Guaranty Fund from being charged. Why is the MHIC allowed to have their own attorney fighting the citizens of Maryland when they try to get restitution? This is 2 attorneys against my none. There is no circumstance under which it would make sense for a homeowner to hire an attorney when the limit of any claim is \$20,000. A couple of phone calls = \$1000 with most attorneys.

10. The Mechanic's Lien law needs to be changed. It is simply too easy for a contractor to sue a homeowner and not worth it to fight. I would never do it again. I would simply pay the contractor anything they demand instead of losing thousands in a court fight. You may win, but you will lose.

11. A contractor should not be able to escape any penalty from the MHIC by declaring bankruptcy. First the MHIC could fight the contractor in bankruptcy court. Second, the MHIC could explicitly change the nature of the Guaranty Fund re- payment by the contractor into something more in the nature of a fine which would make it impossible for a contractor to get it removed by bankruptcy court. The MHIC is only encouraging contractors to declare bankruptcy and allowing them to escape all responsibility for their misdeeds. In my case the contractor payed no penalty, no fine, and was not cited at all by the MHIC.

12. Fines for violations of MHIC regulations are tiny. And they are never, as far as I can tell, ever enforced. These should be much, much higher and they should be enforced.

Unfortunately there is no organized lobby for homeowners. I expect that nothing will ever be done to help us. I am sure that I am not the only one.

This story only touches the surface of what is wrong with the home improvement industry in the State of Maryland. I have discovered many more problems, too numerous to even be mentioned here, where my goal is to address the problems with the MHIC.

Sincerely,  
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