

Greetings Delegate Wilson,

My name is Sabin Swickard, in **September 2019**, my husband, (William Booz) and I hired a licensed contractor to renovate our main floor bathroom. A few days in, we began to find the work subpar and the crew unqualified. After numerous attempts to address several problems with the contractor, things only got worse. Each attempt to correct an issue only served to leave our bathroom in a worse state of repair than before. This lasted roughly two weeks before we'd finally had enough. Thus, at the risk of further damage to our home and bathroom supplies, we halted the project and requested a full refund. When this was denied, we filed claims with the Maryland Home Improvement Commission and their Guaranty Fund, followed by a complaint to the Office of the Attorney General.

The recent events have severely shaken our trust in societal integrity. Unethical practices often go unchecked, with those in power exploiting legal loopholes to evade responsibility, unfairly shifting financial burdens onto others. This has left us feeling increasingly manipulated and exploited amid complex bureaucratic processes.

Our dealings with the MHIC, the Attorney General's Office, and the judicial system revealed a troubling reality for many homeowners. The vague language in the Maryland Business Code and inconsistent interpretations by officials have led the MHIC to ignore the courts' discretion in restitution, even when homeowners secure favorable judgments for compensation.

Despite arbitrators and judges believing they have adequately compensated homeowners; their awards often fall short due to ambiguous language and misinterpretations. The MHIC continues to deny reimbursement from the Guaranty Fund, even when damages are clearly linked (but not limited to) the direct consequences of defective projects based on inadequate workmanship and/or unskilled labor. The MHIC will still withhold reimbursement from the Guaranty Fund.

Homeowners are unjustly left as "middlemen," shouldering burdens without authority. Its unfair to be held accountable for vague legal language we did not create, nor be responsible for restarting a lengthy process due to conflicting interpretations between unrelated parties that refuse to agree on definitions. We've already incurred court costs, legal fees, and property damage (caused by unqualified licensed contractors). Our due diligence has been satisfied, and many homeowners lack the financial means to pursue this process a second time. Forcing homeowners to start over if they want the MHIC to pay for reimbursement of funds while potentially adding more years to the process as it allows for appeals to begin anew, undermines the ethical principles of our legal system.

The misuse of our system prevents homeowners from receiving their rightful awards, leading to frustration and abandoned claims. If the MHIC truly cared for homeowners, it would push for better-trained arbitrators, propose legislative changes for easier access to funds after favorable rulings, and address repeat contractor offenses. Instead, the core issue remains unresolved, seemingly benefiting certain parties. Homeowners face significant financial losses due

to denied claims over minor technicalities, while the MHIC retains contractor fund deposits. Dishonest contractors continue to exploit homeowners, leaving them feeling powerless and forced to choose between accepting injustice or incurring high legal fees, ultimately resulting in unrecoverable expenses despite valid claims.

For over a year, an investigator at the MHIC obstructed our efforts to secure a hearing with the Office of Administrative Hearings regarding our Guaranty Fund Claim. He incorrectly cited a non-existent "arbitration" clause in our contract, claiming it barred us from a hearing and required arbitration instead. Despite our attempts to clarify this misunderstanding, he continued to impede the rightful process, causing significant delays and forcing us into unwanted arbitration. We had already incurred losses exceeding \$13,000 and were still without a primary bathroom, so we urgently needed reimbursement.

The Office of the Attorney General became involved after the MHIC mentioned available arbitrators. I engaged in documented email exchanges with both the MHIC and O.A.G., expressing our intent to pursue arbitration for reimbursement. However, scheduling was complicated by COVID-19 lockdowns, resulting in an eight-month delay before an arbitrator was appointed. By then, we hoped the arbitrator would understand the issues and her role in delivering a judgment.

Counsel was hired one month prior to arbitration as we couldn't afford one earlier. She quickly highlighted a lacking arbitration clause and inquired as to why we pursued this path. I responded, "We didn't pursue it; we were forced by an investigator who misinterpreted our contract and compelled us here".

- On **07-13-2021**, one year, 8 months and 19 days after initially filing we arbitrated.
 - We won arbitration but judgement verbiage would come back to haunt us.
 - A judgment was presented, but the Investigator and Assistant States Attorney for the MHIC advised that we "couldn't proceed with filing until all rights to appeal were exhausted and "FINAL" judgment rendered".
- Between **09-2021** and **02-2024** we endured the following, initiated by our former contractor and his counsel.
 - An appeal of the initial arbitration decision
 - A "Petition to Vacate" with the Circuit Court for Baltimore City.
 - The submission of a Civil Appeal Information Report for the Court of Special Appeals garnering a mediation order due to the report's false information that claimed no mediation efforts took place.
 - A hearing with the Court of Special Appeals following unsuccessful mediation.
 - A Petition for Writ of Certiorari filing with the Maryland Supreme Court.
- At each stage, the results were consistent: the Arbitrator, Circuit Court, Special Court of Appeals, and Supreme Court of Maryland (which declined to hear the case) unanimously found the appeals meritless and agreed the modification we obtained did not change the essence of the award.

- We won our counter arbitration modification request, to incorporate specific terms aligning with the definitions used in the original judgment. Our damages were classified as "DIRECT," and the monetary compensation designated as an "ACTUAL LOSS."
- We won the "Motion for Summary Judgement and Attorney Fee's" in response to the "Petition to Vacate".
- The Court of Special Appeals clarified the changes to the original judgment to prevent future disputes over the award's legitimacy and its acceptable adherence to the MHIC Fund reimbursement criteria based on MD Business Code Guidelines. Noting, **the original arbitration judgment was sufficient for disbursement from the MHIC Guaranty Fund, and while a modification was granted, it was unnecessary.** Further stating **"the term "actual loss" in the award WAS NOT REQUIRED for the MHIC recovery, and the original award in this case would have satisfied BR § 8-409" citing the case of (Brzowski vs. MHIC).**
- In **02-2024** After four years, three months, and twenty-two days, we procured a favorable "final judgment" and filed for a Guaranty Fund Payment.
- In **03-2024** The contractor's legal representative filed an appeal with the MHIC contending that our final judgement was baseless, lacking legal merit, and made in bad faith. Reiterating the same rhetoric presented in previous appeals.
- On **06-2024**. In what seems to be a clear disregard for our legal framework, believing their power exceeds that of the Maryland judiciary, the Assistant Attorney General informed us that the Commission **"is not able to order a direct payment from the Guaranty Fund"** based on the arbitration award! Concluding that **"there is no finding that [homeowners] are entitled to recover under BR § 8-405,"**

Our current options are:

- Take the offer the MHIC gave to start anew with the O.A.H. (after admitting they wrongfully interpreted our contract, and we never had to arbitrate). Thus, allowing the O.A.H. to determine if we suffered an "actual loss" and are entitled to a Guaranty Fund Payment. This also restarts the case, allowing for all rights of appeal to renew.
- Take legal action against the MHIC for not accepting our legally obtained judgement, which stated that certain terms don't need explicit mention for payment, as cited by another winning case against the MHIC.
- Accept defeat and quit. But how can I after learning that our attorney recently represented another client sent to arbitration, won, and was forced to restart the process with the O.A.H. This inconsistent interpretation of codes raises concerns about constituents incurring additional legal costs to enforce court rulings without allowing for reimbursement, thus allowing the MHIC to evade accountability when they want to disregard judgements by the courts. This widespread issue raises the possibility of a lurking class action lawsuit spanning decades of eligible individuals with millions, if not billions in countless types of damage. Consider our situation alone..... with just a small 5ft x 8ft bathroom remodel

- Our legal fees tripled the cost of damages we were seeking
- We couldn't afford to fix our bathroom while we litigated due to litigation costs.
- We were denied a HELOC to fix our bathroom on the grounds our home was an investment risk! You need at least one working bathroom above grade for insurability. Our only working bathroom was in the basement due to the damaged one above grade.
- The cost we paid to repair our bathroom 6 years after it was damaged totaled \$25,000.00 more (due to inflation and rising costs of materials) than the average contract price we received when originally starting the work.
- Add in our litigation costs - we spent roughly \$50,000.00 and 6+ years on a fund claim of roughly \$13,000.00 (reduced to an original award judgement of \$9,975.00) All to be told the MHIC doesn't have to adhere to the courts, and we need to start over.

Over the course of our endeavor, extensive research uncovered the following, which makes the MHIC's actions, and the legal systems loopholes even more reprehensible.....

- It's concerning that a lawyer can submit false information without accountability
- How can individuals submit meritless appeals without accountability, especially after two prior rulings found them unfounded? This wastes court resources and burdens defendants financially. Why not require appellants to deposit any owed damages to proceed with appealing. If the appeal is deemed meritless, the funds go to the rightful party. This allows for continued appeals while deterring those exploiting the system.
- I discovered 20 cases (including ours) against this contractor with three distinct business names. Every case was either through the MHIC and O.A.H., OR arbitration and the court system. With judgments against him totaling over half a million dollars.
- The MHIC continued allowing this man to carry a fully endorsed license, thus contributing to the complicity of deception among Maryland homeowners that he was a reliable contractor.
- During our case, the contractor dissolved his business, preventing those with judgments against him from collecting. While it's true he was licensed and insured, meaning the MHIC "should" reimburse through their guaranty fund after a final favorable judgment, they DO NOT cover legal fees, something we (and other's) had been awarded as part of our judgements which the company was responsible for paying. Our only recourse: filing a personal lawsuit aimed at piercing the corporate veil, thereby holding him personally liable for fraud. Thus, resulting in additional upfront legal expenses, which we couldn't be assured of recovering.
- After our contractor's business dissolved, the MHIC allowed him to transfer the same license number from his defunct company to his new one. This allowed for the evasion of legal responsibilities attached to his previous company, and gave his new company a fresh start, thus making the MHIC a willing, complicit participant in aiding his behaviors.

Consider the implications of a complete home overhaul, not just a minor bathroom project. Homeowners can't trust these agencies to fulfill their duty in protecting them. Thus, our advocacy for change, AND our ultimate acceptance to begin anew despite the significant, unrecoverable legal costs we'll incur and adding more years moving through the appeal process. We've urged the MHIC to reconsider their position and resolve this matter before the hearing begins NEXT MONTH, but they refuse. This situation transcends our personal circumstances as the fight has now become about every homeowner in our rearview mirror deserving of a better system, and someone willing to fight for it!

I end on this quote, "The act of silence in the face of evil, is itself evil! Not to act IS to act, not to speak IS to speak".