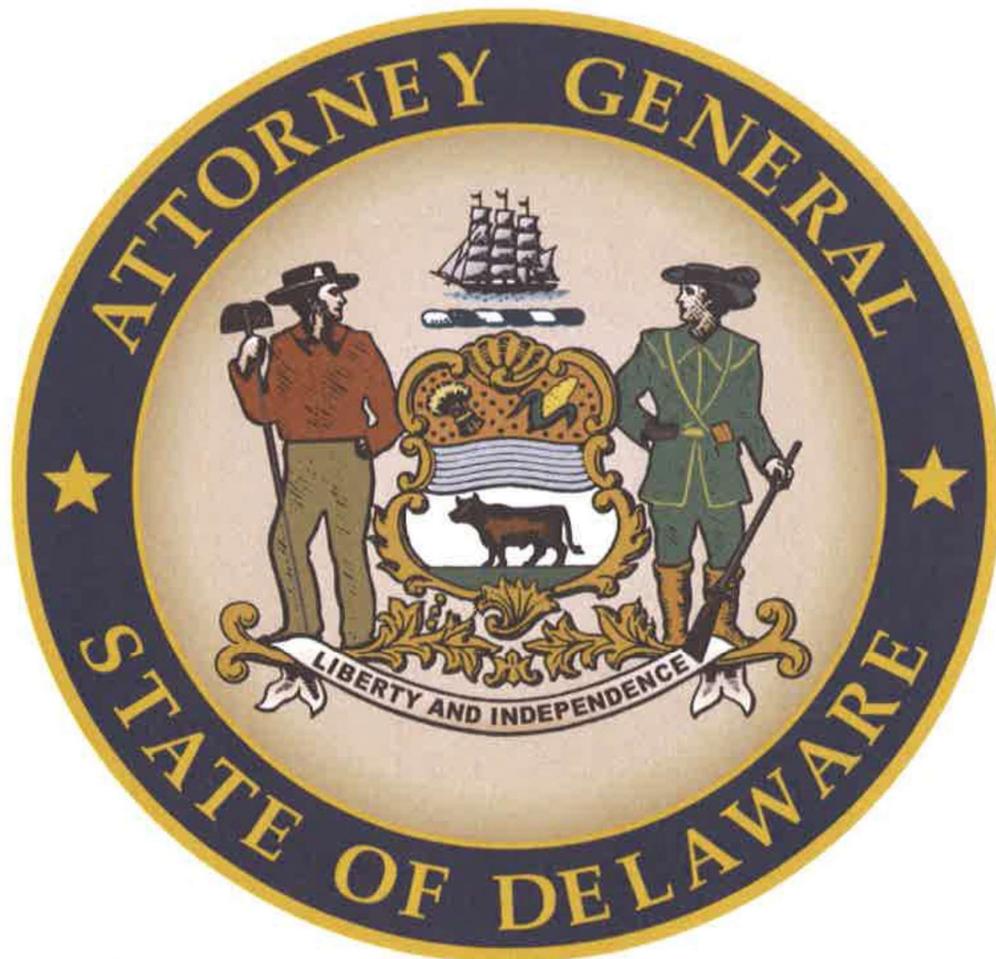


**DELAWARE DEPARTMENT  
OF JUSTICE**  
OFFICE OF THE MANUFACTURED  
HOUSING OMBUDSPERSON



*Annual Report*

June 1, 2019 through June 30, 2020

The Manufactured Housing  
Ombuds[person] must . . . make an  
annual report of the Manufactured  
Housing Ombuds[person]’s activities to  
the Governor, the Attorney General, and  
the General Assembly.”

*81 Del. Laws, c. 280, § 101 (2018).*

# Table of Contents:

- Introduction..... 1
  - Communities Served by the MHO..... 1
  - Duties of the MHO..... 1
- Education ..... 2
  - Online and Written Materials..... 2
  - Community Events..... 2
  - Individual Education ..... 2
- Dispute Resolution..... 4
  - Formal Dispute Resolution ..... 4
  - Informal Dispute Resolution..... 4
- Complaint Investigation..... 5
- Other Work ..... 6
- Statistics ..... 7
  - Community Events..... 7
  - Informal Requests for Information ..... 7
  - Home Owner Complaints ..... 8
  - Case Resolutions..... 9
- Commonly Seen Sources of Complaints and Inquiries ..... 10
  - Feral Cats ..... 10
  - Rent Increases ..... 10
  - Lot Rental Assistance Program..... 10
  - Lease Transfers ..... 10
  - Conditions in the Community..... 11

## **List of Tables:**

Table 1: Community Events by County.....	7
Table 2: Geographic Distribution of Complaints.....	8
Table 3: Services Provided to Complainants by the MHO.....	9

## **Introduction:**

The General Assembly created the Office of the Manufactured Housing Ombudsperson (“MHO”) in the Department of Justice (“DOJ”) in June 2018. The first ombudsperson was appointed in May 2019, and the office formally launched in October 2019. The purpose of the office is to (1) provide information to home owners and community owners about relevant laws and their rights and responsibilities thereunder; (2) attempt to resolve disputes between home owners and community owners; and (3) ensure that parties abide by Delaware law by investigating complaints and, where appropriate, referring matters to the Consumer Protection Unit (“CPU”) for potential enforcement actions.

Although formally launched in October 2019, the MHO’s “soft launch” started earlier. For this reason, this annual report covers the period from June 1, 2019 through June 30, 2020. Subsequent reports will cover July 1 through June 30 of the relevant years.

### **Communities Served by the MHO:**

The MHO serves home owners and community owners in leased-land manufactured home communities. In these communities, manufactured homes are owned by the individual home owners who rent the land on which the home sits from the community owner. The MHO also provides information about manufactured housing law to other parties when appropriate.

### **Duties of the MHO:**

As required by the General Assembly in 81 *Del. Laws*, c. 280, § 101 (2018), the MHO must:

- (1) “provide information in writing, online, and through meetings to manufactured home owners and community owners about the services available through the [MHO] and regarding the relevant law, including rights and responsibilities of home and community owners;”
- (2) “provide meetings, mediation, or other forms of alternative dispute resolution as by manufactured home owners or community owners;”
- (3) “receive and investigate complaints from manufactured home owners;”
- (4) “refer meritorious violations of existing Delaware law to the Consumer Protection [Unit]; and”
- (5) “make an annual report of the [MHO’s] activities to the Governor, the Attorney General, and the General Assembly.”

The MHO has grouped these duties into three broad categories: Education, Dispute Resolution, and Complaint Investigation. A single matter handled by the MHO can involve all three of these categories over the course of its life.

**As part of the DOJ, the MHO cannot provide legal advice or representation to home owners, community owners, or any other party.**

# **Education:**

## **Online and Written Materials:**

The primary repository of educational resources for the MHO is the MHO website:

<https://attorneygeneral.delaware.gov/fraud/cpu/manuhousing/>

Among the MHO's first tasks during the soft launch period was drafting the material for the website and drafting or updating various educational materials and forms. The MHO has continued to produce online materials. These materials included:

- The text of the website.
- The DOJ summary of the Manufactured Homes and Manufactured Home Communities Act.
- "Frequently Asked Questions" documents for home owners.
- Various forms for use by parties requesting assistance or services from the MHO.
- Open letters on various topics relevant to home owners and community owners to educate parties about the law.

## **Community Events:**

The MHO has prepared multiple presentations for use in community events. The presentations cover a variety of topics relevant to home owners in manufactured home communities. After the formal launch of the office in October 2019, the MHO hoped to begin regular presentations at communities across the state starting in the late winter and early spring. Unfortunately, the COVID-19 pandemic has made it impossible to have in person community events. Because recent trends suggest that the COVID-19 pandemic is likely to make it impractical to hold in person events for the foreseeable future, the MHO is exploring ways to provide the same information remotely.

Information about the community events in which the MHO was able to participate is included in the Statistics section of this report

## **Individual Education:**

The MHO routinely fields calls and emails from home owners, community owners, and other parties with questions about manufactured housing law. These contacts are sometimes part of a formal complaint that the MHO has received. Other times they are not. Whenever possible, the MHO provides these parties with relevant information on the subject of their inquiries. While the MHO cannot and does not provide legal advice, the MHO provides general information about the Manufactured Homes and Manufactured Home Communities Act, information about other relevant areas of law, and information about other services available in the state. When the MHO is contacted regarding matters not relating to manufactured housing or for which the MHO

cannot provide assistance, the MHO attempts to direct the party to resources or agencies that may be of assistance to the party. A significant fraction of matters that come to the MHO are resolved after the MHO educates the party on the relevant laws.

Information about the number of contacts with the public wherein the MHO provided individual education is included in the Statistics section of this report.

# **Dispute Resolution:**

## **Formal Dispute Resolution:**

The MHO offers mediation services to assist home owners and community owners in resolving disputes. Mediation is voluntary and must be agreed to by both parties prior to the MHO becoming involved. The goal of mediation is to determine whether there is a negotiated agreement to which all parties can agree. Mediation does not determine who is right and who is wrong.

The MHO can conduct mediations in-house or can refer matters to the Court of Common Pleas' mediation program. There is no charge for mediations conducted in-house by the MHO.

The MHO did not receive any requests for formal mediation during this reporting period.

## **Informal Dispute Resolution:**

Whenever the MHO receives a complaint from a home owner, the MHO attempts to resolve the complaint informally through communications or meetings with the home owner and the community owner. If the parties are able to resolve the matter with the MHO's assistance, the MHO will close the complaint without further action.

The MHO attempts informal resolution with all complaints prior to moving forward with investigation. Many complaints are resolved through this process.

Information about the number of complaints where the MHO attempted informal dispute resolution can be found in the Statistics section of this report.

## **Complaint Investigation:**

The MHO receives complaints from home owners via the complaint form available on the MHO website. In addition, the MHO will send printed copies of the complaint form to home owners who request them. The form can be returned to the MHO in a variety of ways. In addition, the MHO accepts complaints from manufactured home owners that were filed with the CPU.<sup>1</sup>

After receiving the complaint, contacting the complainant, and making an initial determination as to whether the matter is something that falls within the MHO's purview, the MHO attempts to resolve the dispute between the parties. If the initial attempts to resolve the dispute are not successful, the MHO proceeds with investigation of the complaint. The investigation may include interviews, requests for documents, site visits, or other processes that the MHO deems appropriate. When possible, the MHO will continue to attempt to resolve the dispute between the parties while the investigation continues.

If the MHO determines that there have been violations of Delaware law, the MHO will make one final attempt to resolve the matter between the parties before referring the matter to the CPU with a recommendation that the CPU file an enforcement action. If the matter is not appropriate for referral to the CPU but may be appropriate for another enforcement agency, the MHO may assist the complainant contacting the appropriate enforcement agency or may make the referral directly.

Information about the number complaints investigated and the resolution of those complaints can be found in the Statistics section of this report.

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<sup>1</sup> Prior to the creation of the MHO, complaints from home owners in manufactured home communities went to the CPU. When the MHO first launched, some home owners continued to send their complaints to the CPU. Rather than require the home owners to refile their complaints, the CPU sends the complaints directly to the MHO. The number of manufactured housing complaints filed through the CPU has decreased as community awareness of the MHO has increased.

## **Other Work:**

In addition to the duties required by the legislature, the MHO takes on additional work as required by the DOJ. These are generally discrete projects to assist other offices within the DOJ such as:

- Updating the DOJ's summary of the Residential Landlord/Tenant Code.
- Providing analyses of proposed or recently passed statutes for other offices within the DOJ.
- Providing information to other offices in the DOJ about manufactured housing law, landlord/tenant law, and other areas of law in which the MHO has expertise.

In addition, the COVID-19 pandemic and associated emergency orders from the Office of the Governor created a dramatic increase in the number of inquiries and requests for assistance that involved landlord/tenant law and other related areas of law. The MHO assisted the Consumer Protection Unit in responding to these inquiries and requests and continues to do so as necessary.

# Statistics:

## Community Events:

The COVID-19 pandemic cut off the MHO’s ability conduct in person community events. The statistics on the community events that the MHO was able to conduct during this reporting period are as follows:

**Table 1: Community Events by County**

<b>County</b>	<b>Number of Events</b>	<b>Total Attendance (Estimated)</b>	<b>Average Number of Attendees per Event</b>
<b>New Castle</b>	1	30	30
<b>Kent</b>	3	57	19
<b>Total</b>	4	87	22

In addition, the MHO participated in the CPU’s recognition of Consumer Protection Week in Wilmington on March 2-6, 2020. The MHO provided staff for the CPU’s Consumer Protection Week Table on “Housing Day” on March 3, 2020 and had written materials available for the public throughout the week.

## Informal Requests for Information:

Contacts from home owners, community owners, and other parties requesting information from the MHO are tracked by the office. These contacts include home owners making complaints who are then directed to complete a complaint form as well as home owners, community owners, real estate agents, and other parties seeking information about the laws affecting manufactured home communities. The MHO’s practice is to return emails and voicemails requesting information within 2 business days of the inquiry and is often able to respond on the same day.

Most requests for information are resolved with one or two phone calls. Other requests are more involved. If responding to the request involves more than providing information to the party, the MHO informs the party that they should file a complaint form.

- **During this reporting period, the MHO addressed approximately 160 requests for information by email and phone. Approximately 90% of the requests were made by phone.**

### **Home Owner Complaints:**

The MHO opens a “complaint” once it receives a complaint form from a home owner.<sup>2</sup> The MHO then contacts the complainant to gather additional information to determine if the matter is one in which the MHO can be of assistance and to determine whether the MHO may be able to work with the complainant and community owner to find an amicable resolution to the dispute. It is MHO policy to respond to the complainant within two business days of receiving the complaint form unless extenuating circumstances make this impractical.

### **The MHO Received 70 Complaints During This Reporting Period.<sup>3</sup>**

**Table 2: Geographic Distribution of Complaints**

<b>County</b>	<b>Number of Complaints</b>
<b>New Castle</b>	12
<b>Kent</b>	17
<b>Sussex</b>	41
<b>Total</b>	70

The MHO receives a small number of complaint forms on issues for which the MHO has no jurisdiction because they are not related to manufactured housing. The complainants in these cases are provided with information about the services provided by the MHO, the limits to those services, and the contact information for agencies or organizations that may be able to assist the complainant with their problem. Because these complainants are provided with education about the MHO and manufactured housing law, they are included as complaints closed after providing educational services. This inclusion notwithstanding, they are also tracked separately, and:

### **The MHO Received 5 Complaints that Were Not Related to Manufactured Housing during this reporting period.**

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<sup>2</sup> Prior to the creation of the MHO, manufactured housing complaints were handled by the CPU. During the MHO’s startup period, some complaints came through the CPU’s intake process and were then referred to the MHO. All manufactured complaints are now sent directly to the MHO even if the complainants initially send their complaint to the CPU.

<sup>3</sup> Includes complaints transferred from CPU when MHO began operations.

**Table 3: Services Provided to Complainants by the MHO:**

<b>Services Provided</b>	<b>Number of Complaints</b>
<b>Education only</b>	39
<b>Education and Informal Mediation only</b>	5
<b>Education, Informal Mediation, and Investigation*</b>	10
<b>Education, Informal Mediation, Investigation and Referral to CPU</b>	16
<b>Total</b>	70

\*The MHO considers the investigation phase to be commenced once the MHO sends staff to investigate the matter or requests information or documents from a party other than the complainant

**Case Resolutions:**

Of the 15 complaints received where the MHO provided more than educational services but did not refer the case to the CPU, the cases were resolved as follows:

1. Dispute resolved after MHO became involved in the case: 7\*\*
2. MHO provided information or education about the law to the complainant: 3
3. Parties were unable to resolve dispute with MHO assistance, but the matter was not appropriate for referral to CPU: 1
4. Unresolved cases as of the end of the reporting period: 4

\*\*Includes cases where the MHO assisted parties in reaching an agreement and cases where community owners voluntarily brought their communities into compliance with the law after being informed of their obligations.

## Commonly Seen Sources of Complaints and Inquiries:

Although the MHO receives complaints and inquiries on a wide variety of topics within manufactured housing law and related areas of law, the office has seen certain issues recur in complaints and inquiries. These are often the result of parties misunderstanding their rights and obligations under the law. Commonly seen areas of inquiry and complaint can be opportunities for community education. Some of the prominent areas are:

**Feral Cats:** Multiple manufactured home communities and the areas around them are home to feral cat colonies. In 2018, the General Assembly passed HB 235 (2017-2018). In relevant part, the bill changed the definition of “custody” so that persons providing care to feral cats (called “free-roaming” cats in the bill) are not considered to have care, custody, or control of such cats. This change has created some confusion amongst home owners and community owners as to whether the law requires communities to allow home owners to feed or provide care to feral cats.

**Rent Increases:** The MHO routinely receives questions about rent increases and the Rent Justification Act. *25 Del. C. §§ 7050-7056*. The Rent Justification Act is a rent control statute that allows home owners to challenge rent increases that exceed the statutorily defined rate of inflation. It has been amended multiple times since its passage in 2013 and has also been a source of ongoing litigation. The MHO routinely receives requests for information about the Rent Justification process and questions about whether rent increases are justified. The MHO answers questions about the Rent Justification process but does not weigh in on whether specific rent increases may be considered justified.

**Lot Rental Assistance Program:** The MHO has received multiple inquiries and complaints regarding the Lot Rental Assistance Program (“LRAP”). *25 Del. C. § 7022*. Although called a “rental assistance program,” LRAP is a rent control statute that limits the lot rent for eligible home owners. The questions and complaints about LRAP are focused on the meaning of the program’s eligibility requirements, the amount of the rent reduction, and how eligibility and the amount of rent reduction are calculated.

**Lease Transfers:** Home owners in manufactured home communities who sell their homes (“Sellers”) have the right to transfer their lot leases to the purchasers of their homes (“Buyers”). *25 Del. C. § 7013*. The MHO has received multiple complaints about community owners allegedly failing to properly transfer leases to Buyers. In some cases the underlying issues were misunderstandings of the rights and responsibilities of Buyers, Sellers, and community owners during the lease transfer process. In other cases there is a disagreement between home owners and community owners as to what it means to transfer a lease (i.e., whether it means that the Buyers are entitled to the Sellers’ current rent level until the end of the current lease term and can

then have their rent increased by any amount or whether Buyers “step into the shoes” of the Sellers and are entitled to all of their rights under the lease including automatic renewal of the lease and protections under the Rent Justification Act). The MHO has published guidance on this issue on the MHO website.

**Conditions in the Community:** The MHO receives regular complaints about conditions in communities. Some of the more common complaints include the condition of trees (especially trees overhanging homes) and roads as well as problems with poor drainage and standing water. The complaints tend to arise when home owners experience conditions that they feel are unsafe or are otherwise unacceptable and are unable to have the conditions corrected by the community owner. There is often significant disagreement between home owners and community owners as to the nature and extent of the community owners’ obligations under the lease.