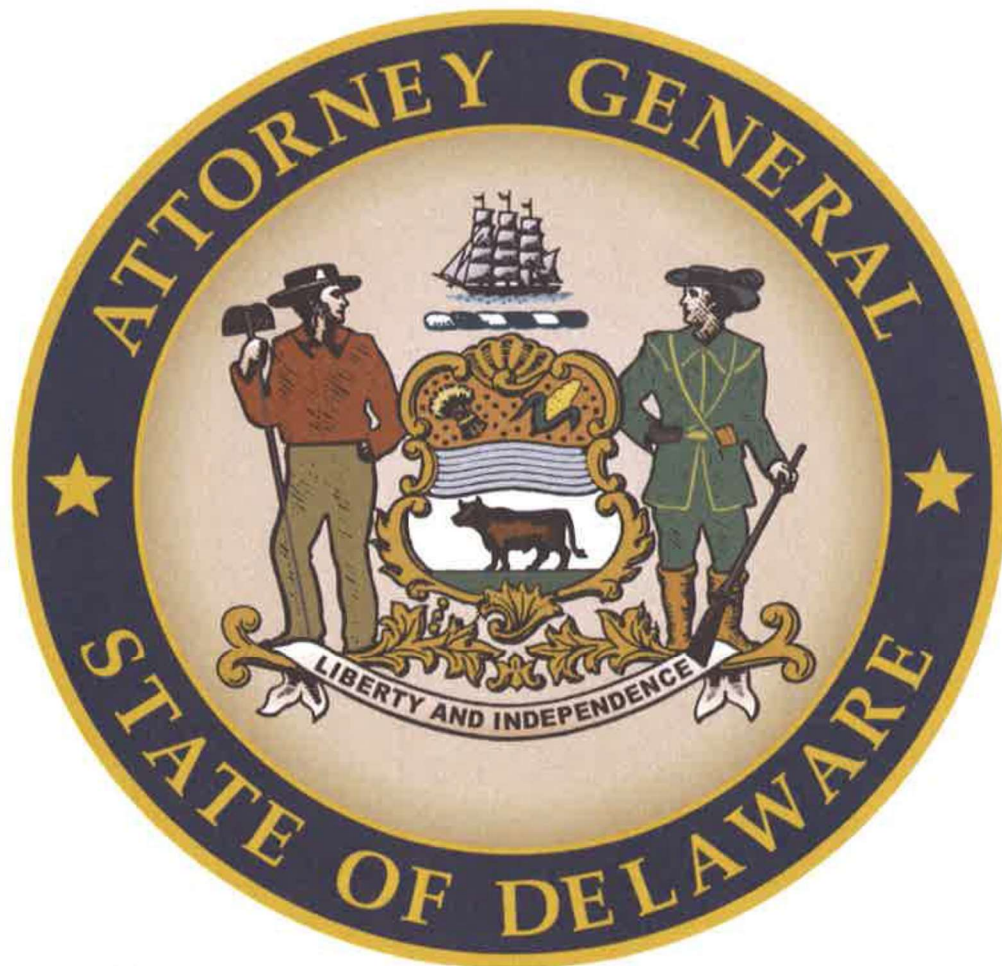


**DELAWARE DEPARTMENT  
OF JUSTICE**  
OFFICE OF THE MANUFACTURED  
HOUSING OMBUDSPERSON



*Annual Report*  
July 1, 2020 through June 30, 2021

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).*

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## **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 MHO was one of the offices moved into the newly created Consumer Mediation Unit in August 2020. The MHO seeks to (1) provide information to home owners and community owners about relevant laws and their rights and responsibilities thereunder; (2) 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.

This report covers the period between July 1, 2020 and June 30, 2021.

### **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 categories.

**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/>

Information available on the website includes:

- General information;
- A 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; and
- Open letters on various topics to educate parties about the law.

## **Community Events:**

The MHO attends community events and presents on a variety of topics relevant to home owners in manufactured home communities. The ongoing COVID-19 pandemic continues to make in-person community events impractical, but the MHO presented at numerous virtual events during this reporting period.

Information about the community events in which the MHO participated is included in the Statistics section of this report

## **Individual Education:**

The MHO primarily provides education in response to calls and emails from individuals and entities with questions about manufactured housing law and related areas of law (*e.g.*, landlord/tenant law as applied to manufactured housing communities). 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. While the MHO cannot and does not provide legal advice, the office provides general information about the Manufactured Homes and Manufactured Home Communities Act, other relevant areas of law, and other services available. A significant fraction of matters are resolved after the MHO educates the complainant on the relevant laws.

Information about the number of such contacts with the public is included in the Statistics section of this report.

# **Dispute Resolution:**

## **Formal Dispute Resolution:**

The MHO offers formal mediation services to assist home owners and community owners in resolving disputes. Mediation is voluntary and must be agreed to by both parties. In mediation, the MHO seeks 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 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 informal dispute resolution efforts 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 or other unit within the DOJ if the subject of the complaint relates to manufactured housing.

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 to investigate 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 consider taking 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 of complaints investigated and the resolution of those complaints can be found in the Statistics section of this report.



## **Other Work:**

With the ongoing COVID-19 pandemic, the MHO continues to serve as the *de facto* resource for tenants and landlords contacting the Department of Justice with questions about landlord/tenant matters and how the pandemic and the associated emergency orders affected their rights and responsibilities. The MHO provides general information and directs parties to the Residential Landlord/Tenant Code and information about the relevant emergency orders.

## 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:

**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 continues to receive 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 published guidance on this issue on the MHO website last year but continues to receive complaints.

**Problems with Trees:** The MHO has received multiple complaints from home owners in communities with large trees. The most common complaints are (1) limbs falling from trees that cause damage to homes and vehicles and (2) roots from large trees pushing up on homes from underneath and causing damage as they do. Manufactured home lot leases must contain a provision requiring community owners to maintain large trees, but the Manufactured Homes and Manufactured Home Communities Act does not specifically address responsibility for falling limbs and growing roots.

**Other Conditions in the Community:** The MHO continues to receive regular complaints about conditions in communities (in addition to the complaints about trees discussed above). Some of the more common complaints include problems with poor drainage and standing water and poor conditions on community roads. The complaints arise when home owners experience conditions that they feel are unsafe or are otherwise unacceptable, and they are unable to have the conditions addressed 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.

# Statistics:

## Community Events:

The COVID-19 pandemic severely limited 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 (all events virtual. Location based on location of community)**

County	Number of Events	Total Attendance (Estimated)	Average Number of Attendees per Event
New Castle	0	0	0
Kent	1	30	30
Sussex	2	23	12
<b>Total</b>	3	53	17

In addition to the events in the table, the MHO participated in a Facebook Live event discussing, in part, the services of available in the office and presented at a Delaware State Bar Association Continuing Legal Education program on the Landlord/Tenant Code.

## 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 130 requests for information by email and phone. Approximately 75% of the requests were made by phone.** This number does not include requests for information on non-manufactured housing landlord/tenant matters that the MHO received as part of the assistance being rendered during the pandemic.

**Home Owner Complaints:**

The MHO opens a “complaint” once it receives a complaint form from a home owner. 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>1</sup>**

**Table 2: Geographic Distribution of Complaints**

<b>County</b>	<b>Number of Complaints</b>
<b>New Castle</b>	5
<b>Kent</b>	11
<b>Sussex</b>	19
<b>Total</b>	35

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:

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<sup>1</sup> Includes complaints transferred from CPU when MHO began operations.

The MHO Received NO Complaints that were not related to manufactured housing during this reporting period.

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

<b>Services Provided</b>	<b>Number of Complaints</b>
<b>Education only</b>	11
<b>Education and Informal Mediation only</b>	2
<b>Education, Informal Mediation, and Investigation*</b>	19
<b>Education, Informal Mediation, Investigation and Referral to CPU</b>	3
<b>Total</b>	35

\*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 21 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: 12\*\*
2. MHO provided information or education about the law to the complainant: 2
3. Parties were unable to resolve dispute with MHO assistance, but the matter was not appropriate for referral to CPU: 5
4. Unresolved cases as of the end of the reporting period: 2

\*\*Includes cases where the MHO assisted parties in reaching an agreement and cases where community owners voluntarily resolved the problem after MHO involvement.