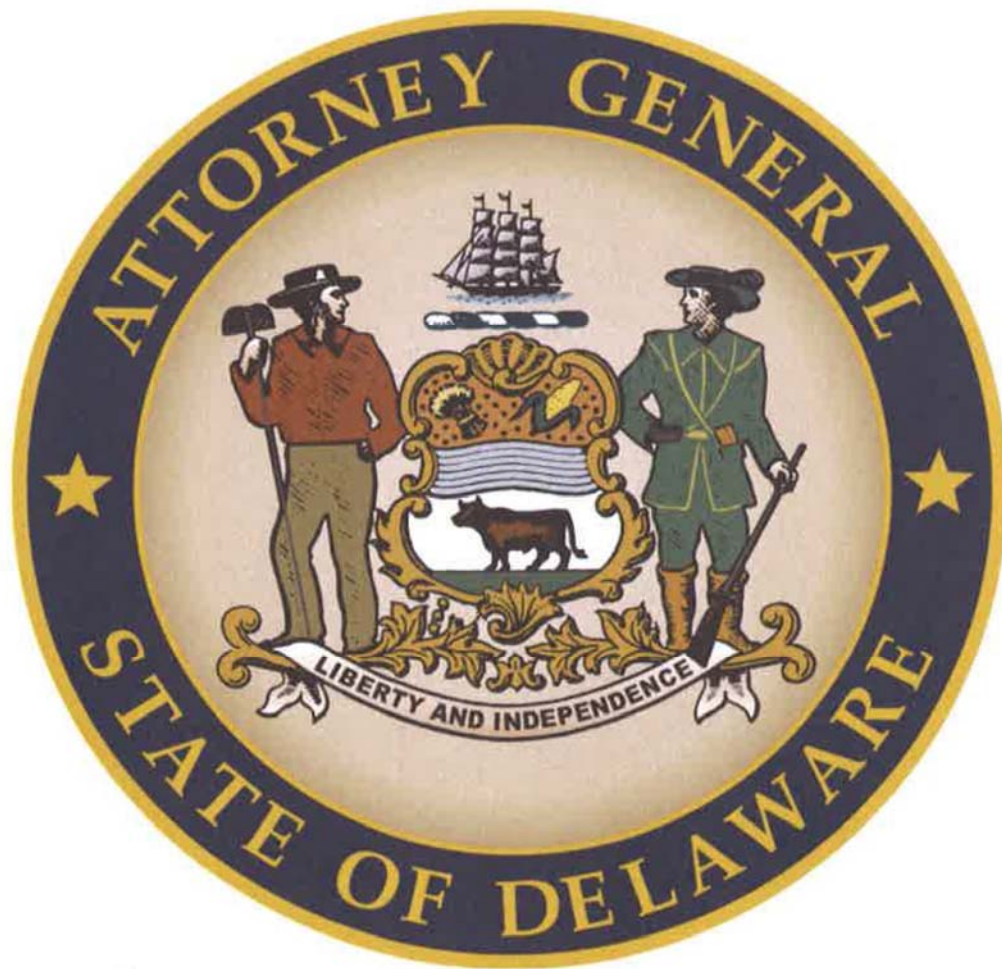


**DELAWARE DEPARTMENT  
OF JUSTICE**  
OFFICE OF THE MANUFACTURED  
HOUSING OMBUDSPERSON



Annual Report

July 1, 2022 through June 30, 2023

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 homeowners and community owners about relevant laws and their rights and responsibilities thereunder; (2) resolve disputes between homeowners 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, 2022 and June 30, 2023.

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

The MHO serves homeowners and community owners in leased-land manufactured home communities. In these communities, manufactured homes are owned by the individual homeowners 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 homeowners, 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 homeowners;
- 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 homeowners in manufactured home communities. The ongoing COVID-19 pandemic has continued to present challenges in this area, and the MHO is investigating ways to provide community education through virtual events.

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 homeowners 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' Community 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 homeowner, the MHO attempts to resolve the complaint informally through communications or meetings with the homeowner 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 of informal dispute resolution efforts can be found in the Statistics section of this report.

## **Complaint Investigation:**

The MHO receives complaints from homeowners via the complaint form available on the MHO website. In addition, the MHO will send printed copies of the complaint form to homeowners who request them. The form can be returned to the MHO in a variety of ways. In addition, the MHO accepts complaints regarding manufactured home communities that have been filed with other units of divisions of the DOJ.

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:

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. The MHO provides general information about the Residential Landlord/Tenant Code and provides referrals to appropriate agencies.

When requested, the MHO also consults with teams from other units with the DOJ (generally the CPU)

This legislative session included multiple bills affecting both residential landlord/tenant matters in general and manufactured housing in particular. When requested, the MHO provides analysis of bills and proposed bills. The MHO also testifies on behalf of the DOJ in support of bills when appropriate. The bills that the MHO reviewed, provided comment or analysis, or was otherwise involved with included:<sup>1</sup>

SB 1: Tenants' right to counsel.

SB 172: Providing DOJ with additional tools to address health and safety violations in manufactured home communities.

HB 212: Changes to rent increase procedures in manufactured home communities

HB 61: Authorizing payment for members of the Delaware Manufactured Home Relocation Authority.

HB 191: Permitting tenants to escrow their rent in response to threats to their health or safety.

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<sup>1</sup> The inclusion of a bill on this list is not an endorsement of the bill by the MHO or the DOJ.

## **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:

**Interference with Lot Lease Transfers:** The MHO received multiple complaints about community owners interfering with homeowners' rights to transfer their leases when they sell their homes. The primary method of such interference involves the use of the community owner's right to purchase a home for 1% more than the contracted price when the homeowner attempts to sell the home. After receiving notice of the sale, the community owner contacts the buyer and threatens to purchase the home out from under them unless the buyer agrees to higher rent. Problems arise when community owners make such threats outside the statutorily-permitted period to invoke their right to purchase the home or when the community owner invokes the right to purchase but attempts to make that right contingent on the buyer being approved as a resident in the community or attempts to back out of its offer to purchase the home if the buyer backs out of the deal. The MHO's investigation into this matter is ongoing.

**Change in Land Use:** The MHO received multiple complaints from homeowners in a mixed-use community (i.e., manufactured homes, seasonal camper-trailer residents, and permanent camper-trailers residents) in which a new community owner attempted to terminate the leases of residents without complying with Chapter 70. When efforts to educate the community owner on their obligations under the law failed, the MHO referred the matter to CPU. In order to protect the residents, CPU issued a cease-and-desist order. As of the date of this report, litigation before an administrative hearing officer is ongoing.

**Trees and Other Community Conditions:** The MHO continues to receive complaints about poor conditions in communities, and trees to continue to be a major complaint. Homeowners complain about community owners failing to properly maintain trees and failing to take responsibility when falling tree limbs create a risk of damage to homes or other property. In some complaints, trees have caused damage to homes and other homeowner property. The MHO addresses these complaints in various ways as they arise, but homeowners are frustrated that the law does not clarify the rights and responsibilities of homeowners and community owners in this area. Homeowners hope that the General Assembly will take up the issue and clarify the law.

# Statistics:

## Community Events:

The statistics on the community events that the MHO participated in 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	2	50	25
Kent	2	65	32.5
Sussex	2	16	8
<b>Total</b>	<b>6</b>	<b>131</b>	<b>21.8</b>

## Informal Requests for Information:

Contacts from homeowners, community owners, and other parties requesting information from the MHO are tracked by the office. These contacts include homeowners making complaints who are then directed to complete a complaint form as well as homeowners, 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 133 requests for information by email and phone. Approximately 84% 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 regularly addresses.

**Homeowner Complaints:**

The MHO opens a “complaint” once it receives a complaint form from a homeowner. 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 43 Complaints During This Reporting Period.**

**Table 2: Geographic Distribution of Complaints**

<b>County</b>	<b>Number of Complaints</b>
<b>New Castle</b>	6
<b>Kent</b>	12
<b>Sussex</b>	25
<b>Total</b>	43

**Table 3: Services Provided to Complainants by the MHO (Closed complaints only):**

<b>Services Provided</b>	<b>Number of Complaints</b>
<b>Education only</b>	21
<b>Education and Informal Mediation only</b>	4
<b>Education, Informal Mediation, and Investigation*</b>	4
<b>Education, Informal Mediation, Investigation and Referral to CPU</b>	4
<b>Total</b>	33

\*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

**The MHO had 10 open complaints as of the end of this reporting period.**

#### **Case Resolutions:**

Of the 8 complaints resolved 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: 4\*\*
2. Parties were unable to resolve dispute with MHO assistance, but the matter was not appropriate for referral to CPU: 4

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