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Delaware General Assembly
411 Legislative Avenue
Dover, Delaware 19901

RE: Delaware Manufactured Homeowner Attorney Fund Annual Report

Members of the Delaware General Assembly:

In accordance with 25 *Del. C.* § 7046(d), the Department of Justice shall file an annual report with the General Assembly providing information for the Manufactured Homeowner Attorney Fund. This report includes information for the period of July 1, 2023 through June 30, 2024.

As of June 30, 2024, the amount in the Attorney Fund was \$30,648.30. The amount spent between July 1, 2023 and June 30, 2024 was \$126,890.00. During this same period, the fund brought in \$125,134.89. The annual expenditure does not include expenditures by the contractor, Community Legal Aid Society, Inc. (CLASI), for work done during the second quarter of the reporting year because invoices are sent after the end of the relevant quarter. For the same reason, these totals include expenditures for the second quarter of the prior year.

From July 1, 2023 through June 30, 2024, CLASI worked on 207 cases and represented 193 homeowners and HOAs. These cases included:

1. CLASI's rent justification case on behalf of Shady Park Homeowner's Association regarding above-inflation lot rent increase for 2021 was appealed to the Delaware Supreme Court. The community owner based the increased the rent for 2021 on costs incurred relating to the addition of a new onsite sales office for the community owner. The HOA disputed that this cost was directly related to operating, maintaining, or improving the community and alleged that the homeowners did not receive proper notices of the rent increase. The case went to arbitration in 2022, and the arbitrator ruled in favor of the Community Owner. CLASI appealed the case to the Superior Court, and the Superior Court affirmed the arbitrator's ruling. Both the arbitrator and the Superior Court held that it did not matter that the community owner's profits improved with the increased expenditure to build a sales office. CLASI appealed to the Delaware Supreme Court, which affirmed the Superior Court's decision without additional explanation. The result of this decision is that the rent increase, which was as high as a 65% rent increase for some homeowners, will be permanent. (Supreme Court Case No. 111, 2023. Superior Court Case No.: S21A-11-001)

It should be noted that changes to the Manufactured Homes and Manufactured Home Communities Act in 2022 have changed the rent increase process in manufactured home communities. (SB 317, 2022) As a result, the number of new rent justification cases has reduced dramatically, allowing CLASI to focus on other types of cases.

2. CLASI represented a manufactured homeowner who was evicted for a late rent payment following a stipulated agreement that was negotiated prior to CLASI's involvement in the case. The community owner alleged that the homeowner missed the agreed-upon payment. The homeowner claimed she had attempted to use the community owner's online payment portal and did not receive any notification that the payment did not go through. She did not find out about the error until the community owner informed her that she had breached the agreement. Despite explaining that she had gone on to the portal and done everything correctly, the community owner moved forward with the writ of possession and eviction. CLASI was contacted by the homeowner the day before the writ was to be executed. The writ was executed, but the court reversed the eviction several days later and gave possession of the home and lot back to the homeowner pending a hearing on the merits. After the hearing, the court found the homeowner did not breach the agreement because she was led to believe she had successfully paid on time. The court dismissed the case. (JP16-23-004024)
3. CLASI was a key member of the team advocating for residents of the Pine Haven mobile home park when the community owner attempted to close the park and evict the residents without following proper procedures. The Consumer Protection Unit ("CPU") filed an administrative complaint to address alleged violations of Delaware consumer protection laws. Because the Department of Justice cannot provide legal advice or representation to individuals, CLASI was instrumental in providing advice and assistance to the residents of Pine Haven as they navigated their individual situations and the eventual closure of the park by the community owner. The administrative hearing officer ruled in favor of the CPU and assessed significant penalties against the community owner. The case has been appealed to the Superior Court. (S24A-01-001).

It is worth noting that several of the Pine Haven residents targeted for eviction by the community owner were only protected by the law due to the 2022 expansion of the Manufactured Homes and Manufactured Home Communities Act to include some immobile homes that do not meet the classical definition of a manufactured home. HB 374 (2022). Without this protection, these residents would have been made homeless in a matter of weeks and with no recourse or resources. With this protection, they were provided with time to find new homes and resources to assist with moving expenses.

If you have any questions, please do not hesitate to contact me.

Sincerely,

/s/Brian S. Eng

Brian S. Eng
Manufactured Housing Ombudsman

cc: Owen Lefkon, Director, Fraud and Consumer Protection Division