

**IN THE MATTER OF THE CLAIM
OF LESLIE WALKER AND RICHARD
RILEY**

*** MARYLAND HOME IMPROVEMENT
COMMISSION**

**AGAINST THE MARYLAND HOME
IMPROVEMENT GUARANTY FUND
FOR THE ACTS OR OMISSIONS
OF CRAIG REVAI
t/a BACKYARD PARADISE OF
EDGEWOOD, INC.**

*** MHIC CASE NO. 14(75)561**

*** * * * ***

FINAL ORDER

On this 10th day of May, 2019, the Maryland Home Improvement Commission ORDERS that:

1) Pursuant to Annotated Code of Maryland, Business Regulation Article, § 8-408(b)(3)(i) and 8-409(a)(2), Leslie Walker and Richard Riley (“Claimants”) provided the Commission with documentation of a civil action, with all rights of appeal exhausted, in which the Circuit Court for Harford County entered two judgments in favor of the Claimants against Backyard Paradise of Edgewood, Inc. The first was in the amount of \$20,500.00 for consequential damages, and the second for \$23,931.50 in attorney fees.

2) On September 17, 2018, the Commission sent a letter to Craig Revai t/a Backyard Paradise of Edgewood, Inc. (“Contractor”) stating that the Claimants provided the Commission with two civil judgments through which they sought an award from the Guaranty Fund. The letter further set forth the grounds on which the Commission could make an award based on a civil judgment. Pursuant to Code of Maryland Regulations (“COMAR”) 09.08.03.02(F), the Contractor was provided twenty-one days to submit in writing any reasons why the Commission should not pay \$20,000.00 from the Guaranty Fund to the Claimant. On September 19, 2018, the Commission received a response from the Contractor asserting that an award could not be made on the civil

judgments because they were based on consequential damages and attorney fees.

3) On March 13, 2019, the Commission sent the Claimants a letter dismissing the claim because it was legally insufficient. The letter explained that pursuant to Annotated Code of Maryland, Business Regulation Article, § 8-405(e)(3), the Commission is not permitted to award from the Guaranty Fund for attorney fees or consequential damages. Pursuant to COMAR 09.08.03.02(D)(3)(a)(ii), the Claimants were permitted thirty days to submit a written response to the dismissal.

4) On March 27, 2019, the Commission received the Claimants' response. The Claimants ask the Commission to base its decision not on the judgments entered by the Circuit Court, but allow them to prove their claim as it was originally filed with the Commission.

5) Pursuant to Annotated Code of Maryland, Business Regulation Article § 8-405(e)(3), the Commission may not award from the Guaranty Fund "an amount for *attorney fees, consequential damages*, court costs, interest, personal injury damages, or punitive damages." (emphasis added). The judgment obtained by the Claimants in the amount of \$23,931.50 is based solely on attorney fees. As for the judgment in the amount of \$20,500.00, when the question of damages was put to the jury in the civil action, the jury returned with a verdict of \$0 in compensatory damages and \$20,500.00 in consequential damages.

6) The same facts and circumstances that form the basis of the Claimants' Guaranty Fund claim have already been adjudicated in the civil action brought by the Claimants in the Circuit Court for Harford County. The civil action resulted in a finding that the damages of the Claimants' were consequential and not compensatory. Unfortunately for the Claimants, the Commission is bound by the findings of the Circuit Court, and cannot disregard these findings in a new administrative hearing on the claim. Therefore, because the nature of the Claimants' damages was

already decided in the civil action, the Commission must uphold the dismissal on the grounds that pursuant to Annotated Code of Maryland, Business Regulation Article § 8-405(e)(3) it is barred from awarding from the Guaranty Fund for attorney fees and consequential damages.

7) The records and publications of the Maryland Home Improvement Commission shall reflect this decision.

8) Any party may file a petition for judicial review of this decision to Circuit Court within thirty (30) days of the issuance of this order.

Joseph Tunney
Chairperson
Maryland Home Improvement
Commission