IN THE MATTER OF THE CLAIM	*	**BEFORE DANIEL ANDREWS,**
OF REGIS AND PAULA WALTER,	*	**AN ADMINISTRATIVE LAW JUDGE**
CLAIMANTS	*	**OF THE MARYLAND OFFICE**
AGAINST THE MARYLAND HOME	*	**OF ADMINISTRATIVE HEARINGS**
IMPROVEMENT GUARANTY FUND	*	
FOR THE ALLEGED ACTS OR	*	
OMISSIONS OF VICTOR	*	
LOURENCO, T/A DAN PRI	*	**OAH No.: LABOR-HIC-02-21-10626**
CONSTRUCTION, INC.,	*	**MHIC No.: 19 (75) 1260**
RESPONDENT	*	

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PROPOSED DECISION

STATEMENT OF THE CASE
ISSUES
SUMMARY OF THE EVIDENCE
PROPOSED FINDINGS OF FACT
DISCUSSION
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RECOMMENDED ORDER

STATEMENT OF THE CASE

On March 12, 2020, Regis and Paula Walter (Claimants)[1] filed a claim (Claim) with the Maryland Home Improvement Commission (MHIC) Guaranty Fund (Fund), under the jurisdiction of the Department of Labor (Department), for reimbursement of $19,425.00 in actual losses allegedly suffered as a result of a home improvement contract with Victor Lourenco, trading as Dan Pri Construction, Inc. (Respondent).[2] Md. Code Ann., Bus. Reg.

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[1] Unless it is necessary to refer to an individual Claimant, I collectively refer to both Regis and Paula Walter as the "Claimants" throughout this decision.
[2] Unless otherwise necessary, "Respondent" includes any employee or subcontractor of the Respondent.

§§ 8-401 through 8-411 (2015).[3] On May 4, 2021, the MHIC transmitted the matter to the Office of Administrative Hearings (OAH) for a hearing.

I held a hearing on November 3, 2021 at the OAH's regional office located in Rockville, Maryland.[4] Bus. Reg. §§ 8-407(a), 8-312. Robert Scanlon, Esquire, represented the Claimants. Krishan Zaveri, Esquire, represented the Respondent. Justin Dunbar, Assistant Attorney General, Department, represented the Fund.

The contested case provisions of the Administrative Procedure Act, the Department's hearing regulations, and the Rules of Procedure of the OAH govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2021); Code of Maryland Regulations (COMAR) 09.01.03; and COMAR 28.02.01.

ISSUES

1. Did the Claimant sustain an actual loss compensable by the Fund as a result of the Respondent's acts or omissions?

2. If so, what is the amount of the compensable loss?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibits on the Claimants' behalf:

Clmt. Ex. 1 - Contract for Major Home Repairs or Remodeling between the Claimants and Respondent, dated May 18, 2018

Clmt. Ex. 2 - Change Order, dated August 10, 2018

Clmt. Ex. 3 - Architectural Drawing, undated

Clmt. Ex. 4 - Claimants personal check number 2219, dated May 18, 2018, Claimants personal check number 3321, dated August 13, 2018, Bank Record of check processing, dated October 1, 2018

[3] Unless otherwise noted, all references hereinafter to the Business Regulation Article are to the 2015 Replacement Volume of the Maryland Annotated Code and will be referred to as "Bus. Reg."
[4] Previous hearing dates of June 24 and September 24, 2021 were postponed.

Clmt. Ex. 5 - State of Florida, Home Inspection Licensing Record for Richard VanDusen, print dated June 2, 2021

Clmt. Ex. 6 - HDC Remodeling Inc. Contract for Kitchen Work, dated October 19, 2018

Clmt. Ex. 7 - MHIC Home Improvement Claim Form, dated March 10, 2020

Clmt. Ex. 8 - Estimate of Cost for Re-Done Work, HDC Remodeling Inc., dated February 12, 2020; Email between Claimants and Richard VanDusen, regarding estimate for replacing drywall work, dated February 18, 2020

Clmt. Ex. 9 - Photograph of work performed by Respondent as of September 4, 2018

Clmt. Ex. 10 - Photograph of unleveled ceiling

Clmt. Ex. 11 - Photograph of electrical box installed by Respondent

Clmt. Ex. 12 - Photograph of electrical box installed by Respondent

Clmt. Ex. 13 - Photograph of electrical box installed by Respondent

Clmt. Ex. 14 - Photograph of electrical box installed by Respondent

Clmt. Ex. 15 - Photograph of exposed kitchen ceiling and electrical wiring installed by Respondent

Clmt. Ex. 16 - Photograph of loose hanging electrical wires

Clmt. Ex. 17 - Photograph of cabinetry beginning with corner of kitchen, including view of window

Clmt. Ex. 18 - Detailed kitchen design plan by Kelly Tenorio

Clmt. Ex. 19 - Photograph of lower kitchen cabinet drawer, adjacent kitchen wall and door trim for kitchen entry door[5]

Clmt. Ex. 20 - Photograph of lower kitchen cabinet drawer, adjacent kitchen wall and door trim for kitchen entry door, with comments between Claimants and Ms. Tenorio

Clmt. Ex. 21 - Photograph of unfinished kitchen island installed by Respondent, with floor vent

Clmt. Ex. 22 - Photograph of wall cabinets

Clmt. Ex. 23 - Photograph of kitchen window insulation

Clmt. Ex. 24 - Photograph of insulation

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[5] Claimants testified that this photograph was taken on or about October 1, 2018.

Clmt. Ex. 25 – Photograph of insulation

Clmt. Ex. 26 - Not Offered[6]

Clmt. Ex.27 - Photograph of kitchen entry door, with adjacent unfinished cubby area and unfinished wall electrical switch, installed by the Respondent (exposed framing)

Clmt. Ex. 28 - Photograph of kitchen entry door, with adjacent unfinished cubby area, unfinished wall electrical switch, and unfinished electrical switch on exterior cubby wall, installed by the Respondent (with drywall)

Clmt. Ex. 29 - Photograph with view of installed upper and lower kitchen cabinet toward kitchen entry door

Clmt. Ex. 30 - Two photographs of installed kitchen island and opposing wall of installed kitchen appliances showing access distance between each

Clmt. Ex. 31 - Emails between the Claimants and Jose Alvarenga, dated July 20, September 4, and September 20, 2021[7]

Clmt. Ex. 32 - Photograph of kitchen floor at base of kitchen island showing repaired hole and the length of installed finished floor board to repair a hole in the floor created by the Respondent

Clmt. Ex. 33 - Photograph of hole in kitchen floor at base of kitchen island from the basement area under the kitchen with a view toward kitchen floor

I admitted the following exhibits on the Respondent's behalf:

Resp. Ex. 1 - Montgomery County, On-Line Services, Inspection Requests for the Claimant's residential property, print dated June 22, 2021

Resp. Ex. 2 - Montgomery County, On-Line Services, Data Search for the Claimant's residential property, print dated October 25, 2021

Resp. Ex. 3 - Not Offered[8]

Resp. Ex. 4 - Not Offered[9]

Resp. Ex. 5 - Washington Suburban Sanitary Commission, undated

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[6] This proposed exhibit was an installation guide for Owens Corning Light Density Fiberglass Building Insulation, undated.
[7] Mr. Alvarenga was an employee of the Respondent.
[8] Department of Labor search records of active home improvement licenses, print dated November 2, 2021.
[9] Department of Assessments and Taxation corporate records for HDC, print dated November 2, 2021.

I admitted the following exhibits on the Fund's behalf:

Fund Ex. 1 - Notice of Hearing for June 24, 2021, dated May 13, 2021

Fund Ex. 2 - Hearing Order, dated April 22, 2021

Fund Ex. 3 - Home Improvement Claim Form, received dated March 12, 2020

Fund Ex. 4 - Letter from MHIC to Respondent, dated April 28, 2021, with copy of HIC Claim Form, February 24, 2021

Fund Ex. 5 - MHIC registration and license information for Respondent, print dated June 15, 2021

Testimony

The Claimants testified on their own behalf and presented the testimony of the following witnesses:

- Christopher Linthicum, a master electrician with RCR Electrical LLC, who was accepted as an expert in electrical contracting.
- Kelly Tenorio, a kitchen and bathroom designer with K. Tenorio Designs, who was accepted as an expert in kitchen designs and cabinetry installation.
- Brian Bramel, a forensic civil and mechanical engineer, who was accepted as an expert in residential construction costs and local building codes.

The Respondent testified and did not present other witnesses.

The Fund did not present any witnesses.

PROPOSED FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. At all times relevant, the Respondent was a licensed home improvement contractor under MHIC individual registration number 01-97506, and corporate registration number 05-13053.[10]

[10] Fund Ex. 5.

2. On May 18, 2018, the Claimants and Respondent entered a home improvement contract (Contract) to remodel the Claimants' kitchen according to an architectural drawing provided by the Claimants.[11]

3. The Contract specifically described the work to be performed by the Respondent. In addition to requirements of the architectural drawings, the Respondent was required to:

- remove one load-bearing wall and properly secure
- remove two non-load bearing walls
- remove and dispose of kitchen cabinets and appliances
- install new kitchen appliances and cabinetry
- install backsplash in kitchen
- install plumbing
- remove existing carpet, and vinyl, and hardwood flooring on first floor and replace with hardwood floor
- remove and replace front and kitchen doors
- remove and replace all windows on first floor
- remove carpet on staircase from first to second floor and second floor hallway and refinish existing wood floor
- wire two areas of first floor for cable television (kitchen and living room)
- provide and install wall mount for television in kitchen and possibly living room
- replace baseboard and window trim and remove any existing crown molding and add cove molding throughout first floor
- remove all existing wallpaper and finish, repair, and paint with two coats of wall, ceiling, doors on first floor, stairwell, and second floor hallway with Benjamin Moore
- secure all necessary permits
- make and install table base in kitchen
- make and install curio built-in shelves in dining room[12]

4. The contract price was $42,000.00. At the time of contract execution, the parties, however, included additional work to be completed at a cost of $2,000.00. As a result, the total contract price was $44,000.00.[13]

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[11] Clmt. Exs. 1 and 3.
[12] Clmt. Ex. 1.
[13] *Id.*

5. The additional work under the Contract was to install wood flooring in the Claimants' living and dining room areas.[14]

6. The total contract price included all labor and rough-in materials. All cabinetry, appliances, sinks, countertops, lighting, and special-order items were to be provided by the Claimants.[15]

7. The Respondent began to perform work required by the Contract on June 7, 2018 and was to be completed in five to six weeks.[16] The Contract also provided that time was of the essence.[17]

8. On May 18, 2018, the Claimants paid the Respondent $15,000.00.[18]

9. On August 10, 2018, the Claimants and Respondent entered into another change order (Change Order) to the Contact.[19]

10. The Change Order required the Respondent to install twenty-eight sheets of quarter-inch subfloor plywood to building code and to prepare for hardwood installation and the sistering of thirteen two-by-ten inch floor joists in accordance with the architectural drawings.[20]

11. The Change Order cost was $2,950.00.[21]

12. The total cost of the Contract and Change Order was $46,950.00.

13. On August 13, 2018, the Claimants paid the Respondent $2,950.00 by personal check.[22]

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[14] *Id.*
[15] *Id.*
[16] The Contract provided that work would begin on June 14, 2018 and proceed for five or six weeks. Six weeks from June 7, 2018 was July 19, 2018.
[17] *Id.*
[18] Clmt. Ex. 4.
[19] Clmt. Ex. 2.
[20] *Id.*
[21] *Id.*
[22] Clmt. Ex. 4.

14. On July 20, 2018, by email, the Claimants informed the Respondent that the Contract required the work to be completed five to six weeks after it began and that the work was far from completion. The Claimants informed the Respondent that they needed the work completed or at least ninety percent completed by September 4, 2018.[23]

15. On the same date, by reply email, the Respondent agreed September 4, 2018 was a reasonable deadline to have the work 100 percent completed.[24]

16. On September 4, 2018, the work was still not near completion. The kitchen area had plywood wall and floor coverings, with loose electrical wiring hanging from the ceiling. There was no island or other structures, no installed plumbing, no appliances, and no cabinetry. In essence, the kitchen was substantially unfinished.[25]

17. On September 4, 2018, the Claimants reminded the Respondent that the work was to be completed by September 4, 2018, but also complained that the work was far from complete. The Claimants requested that the work be completed by September 30, 2018 or they may consider other options.[26]

18. On September 21, 2018, the Claimants paid the Respondent $10,000.00. As of this date, the Claimants had paid the Respondent a total of $27,950.00.[27]

19. On or about October 2, 2018, the Respondent began to install the upper and lower kitchen cabinetry, which took approximately three days.

20. On October 5, 2018, the Claimants told the Respondent to stop working and to not return to work because the Claimants were dissatisfied with the extent of delay to complete

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[23] Clmt. Ex. 31
[24] *Id.*
[25] Clmt. Ex. 9.
[26] Clmt. Ex. 31.
[27] Clmt. Ex. 4. This exhibit includes a bank statement as documentation of the amount paid. This documentation, however, indicates the date of the payment as October 1, 2018. The Claimants testified that the payment was made on September 21, 2018. Since there is no dispute that the payment was made, the exact date of payment is not significantly relevant.

the Contract and several workmanship issues regarding the installation of a kitchen island, kitchen cabinets, and a Cubby area, and related electrical work. The Claimants had lost confidence that the Respondent could timely complete the Contract without additional costs to do so.

21. On October 6, 2018, the Respondent was at the work site to collect his tools. On this date, the Respondent told the Claimants that he wanted to finish the Contract and would offer a discount to the Claimants.

22. Based on the amount of delay in completing the Contract and work performed by the Respondent, which was inadequately performed, the Claimants did not unreasonably reject the Respondent's offer to complete the Contract.

23. As of contract termination, the Respondent had left the Contract incomplete.

24. As of contract termination, the Respondent had performed inadequate and unworkmanlike home improvements because aspects of the kitchen remodel were not done in accordance with the architectural drawings or a kitchen design plan, including the placement of a kitchen island, the construction of a Cubby area, and the installation of a kitchen upper and lower cabinets.

25. The Respondent also inadequately and in an unworkmanlike fashion performed electrical work and insulation installation.

26. On October 19, 2018, the Claimants entered a home improvement contract with Rick VanDusen, HDC Remodeling Inc. (HDC), to complete the project and/or to repair the Respondent's work.[28]

[28] Clmt. Ex. 6.

27. The HDC contract required the following work be performed:

- Remove the new cabinets and put them in the living room and cover
- Demolish the drywall on the ceiling and sink wall as well as in the mudroom area
- Reframe the mudroom wall to fit the refrigerator at thirty-six inches per plans
- Supply and install all new electrical wiring to code and recessed cans in ceiling to plan detail
- Supply and install furring strips to make ceiling a flat transition to existing ceiling.
- Supply and install new half-inch drywall on ceiling and sink wall, finish and make paint ready.
- Patch all holes on first and second floor hallway and make paint ready
- Supply and install new five and one-quarter inch base trim to match second floor bathroom. Install two new door units, a front door and a side door, ` supplied by homeowner
- Install the cabinets and trim work to plan detail
- Supply and paint the ceilings, wall, and trim work on first floor, stairwell, and second floor hallway on one side. Paint new front door and porch door, and side door
- Supply and install all need materials to hook up two sinks with new shutoff valves and drains and icemaker line to refrigerator
- Install owner supplied backsplash
- Sand all new hardwood floors smooth on the first-floor stairway and second floor hallway and apply two finish coats of clear, with quarter-round molding at the base trim
- Install all homeowner supplied appliances
- Clean up and haul away all debris[29]

28. The total cost of the HDC contact was $36,528.00.[30]

29. On October 26, 2018, HDC began work to complete the Claimants home improvement (the kitchen remodel) including repairing work performed by the Respondent. HDC completed all work just before December 25, 2018.

30. The total cost to repair the unworkmanlike, inadequate and incomplete work performed by the Respondent was $19,425.00.

31. The amount of the Claimants' actual loss is $17,528.00.

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[29] Clmt. Ex. 6.
[30] *Id.*

DISCUSSION

In this case, the Claimant has the burden of proving the validity of the Claim by a preponderance of the evidence. Bus. Reg. § 8-407(e)(1); Md. Code Ann., State Gov't § 10-217 (2021); COMAR 09.08.03.03A(3). To prove a claim by a preponderance of the evidence means to show that it is "more likely so than not so" when all the evidence is considered. *Coleman v. Anne Arundel Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002).

An owner may recover compensation from the Fund "for an actual loss that results from an act or omission by a licensed contractor." Bus. Reg. § 8-405(a); *see also* COMAR 09.08.03.03B(2) ("The Fund may only compensate claimants for actual losses . . . incurred as a result of misconduct by a licensed contractor."). "'[A]ctual loss' means the costs of restoration, repair, replacement, or completion that arise from an unworkmanlike, inadequate, or incomplete home improvement." Bus. Reg. § 8-401. Additionally, the MHIC may deny a claim if the MHIC finds that the claimant unreasonably rejected good faith efforts by the contractor to resolve the claim. Bus. Reg. § 8-405(d). For the following reasons, I find that the Claimants have established an actual loss compensable by the Fund.

The Claimants pursued their actual loss claim based on an incomplete, inadequate, and/or unworkmanlike home improvement performed by the Respondent. During the hearing, the focus of the Claimants' case was on the inadequate or unworkmanlike work performed by the Respondent because aspects of the kitchen remodel were not done in accordance with the architectural drawings, including the placement of a kitchen island, the construction of a Cubby area, and the installation of a kitchen upper and lower cabinets. The Contract contained specific language regarding performing the Contract in accordance with these plans. Additionally, as to the kitchen cabinets, the Claimants obtained a kitchen design plan, which explained in detail the specifications for installing the custom ordered cabinetry. The Claimants also presented

evidence regarding the inadequate or unworkmanlike work by the Respondent regarding electrical and insulation work. Based on all these issues, as well as some significant delay in completing the Contract, on October 5, 2018, the Claimants terminated the Contract with the Respondent and hired another home improvement contractor, HDC, to complete the contract and to repair the Respondents work. As a result, the Claimants seek an actual loss claim from the Fund in the amount of $19,425.00.

The Respondent explained that between June and October he had completed the demolition work, installed an I-Beam, and did other work for the Claimants. The Respondent further explained that subcontractors had installed the electric and plumbing. After the subcontractors did their work, the Respondent acknowledged a delay occurred to obtain inspection approval from the Washington Suburban Sanitary Commission.[31] However, by the time the Respondent was removed from the Contract, the work performed had passed Montgomery County inspections, and he had installed framework, installed electrical, installed plumbing, and installed insulation. After the inspections, the Respondent had installed the drywall. The Respondent also explained that he had installed the kitchen cabinetry towards the end of the job.

The Respondent testified that when he was removed from the Contract, he had to complete the floors by the installing finish molding, secure the cabinetry and install the doors, and install appliances after the countertop was installed by another contractor. The Respondent also indicated that that to complete the electrical work he had to install all the switch plates and outlet covers and to fix any code violations. The Respondent stated that he was not done with the cabinets or Cubby. The Respondent also agreed that a worker had drilled a hole in the kitchen floor at the base of the kitchen island that need to be repaired. Finally, when he was

[31] *See* Resp. Ex. 5.

fired from the job, the Respondent estimated that there was at least twenty to thirty percent of the Contract left to perform.

The Incomplete Contract

There is no question that when the Claimants terminated the Contract, the work was left incomplete. The Respondent admitted as much during his testimony, however, he asserts that he did not willingly leave the Contract incomplete or abandon the Contract and offered to complete the Contract with a discount on the cost for the Claimants. The Claimants did not accept the Respondent's offer. Later in this decision, I will explain why the Claimants did not unreasonably reject the Respondent's offer to complete the Contract. But as explained next, the Respondent is not completely without responsibility because the work was not in accordance with the architectural or kitchen designs plans and it was inadequate or unworkmanlike. For those reasons, the Claimants reasonably terminated the Contract with the Respondent, causing the home improvement to be left incomplete.

The Inadequate or Unworkmanlike Work

The Respondent installed the kitchen island, which contained a stove, that was too close to a refrigerator, in a location directly opposite of the island. The architectural plans required that the distance between the island and refrigerator be 3 feet and 7 7/8th inches.[32] The Respondent installed the island a little over 3 feet from the refrigerator, which was about 7 inches less than required by the plans.[33] The placement of the island in relation to the refrigerator caused traffic flow issues between the refrigerator and the island stove area. The Claimants, however, explained that the cost of correcting this issue was too costly and that they did not pursue to repair this issue with another contractor. For this reason, the Claimants did not include this issue in the actual loss

[32] Clmt. Ex. 3.
[33] Clmt. Ex. 30.

claim with the Fund. However, the island placement is an example of the workmanship issues that the Claimants experienced with the Respondent.

Other inadequate or unworkmanlike issues occurred in a Cubby area of the kitchen.[34] This area was located at a kitchen door which led to a car port. The Cubby area was to be used as a place to hang coats, put baskets on a shelf, and to place shoes at the bottom. The Cubby was to be installed perpendicular to the kitchen's exterior wall. Just behind the back wall of the Cubby was a location for a refrigerator. To install the Cubby, the Respondent built a two-by-four wood frame of the Cubby but the Cubby was not placed in the area required by the architectural plan. The problem with the Respondent's placement was that it was too close to the kitchen door and impacted the traffic flow in and out of the kitchen and car port. The Respondent's placement of the Cubby also impacted the refrigerator area because it created a space too wide for the refrigerator resulting in an unacceptable gap of space between the adjacent walls the refrigerator area. Another problem with the Respondent's work in the Cubby area involved electrical work. The Respondent installed an electrical wall switch area on the kitchen's exterior wall immediately adjacent to the kitchen door but the plans required the electrical switch to be on the outside wall of the Cubby. This wall switch was also to be a single switch to operate the car port light. The Respondent, however, installed a "three gang" box in error.

The Respondent agreed that the Cubby was installed with a change in the architectural plans. He also explained that he installed the Cubby to make it more even with the kitchen door trim. The Respondent further explained that he narrowed the dimensions of the Cubby to make the opening for the refrigerator wider so it could be used, implying the refrigerator door would have required more space to open. As to the rough-in placement of the Cubby next to the kitchen door trim, the Respondent explained that he simply mocked-up its location and after

[34] *See* Clmt. Exs. 27 and 28.

observing how the placement impeded the traffic flow, he would have moved the Cubby. The Respondent also testified that moving the Cubby a short distance to the right of the door, to correct it's placement would be for convenience only and not necessary nor was it unworkmanlike.

The Respondent admittedly and without any reasonable explanation installed the Cubby not in accordance with the architectural plans, including the electrical switch box. The Respondent's opinion about convenience and moving the Cubby to correct its position not being necessary is self-serving and is inconsistent with other statements he made during his testimony, that he only mocked up its position, meaning he temporarily built the Cubby and would have moved it later if it impeded the traffic flow. Why build anything two times, especially when there are specific plans detailing a proper placement? If something was not necessary to move in the first place, why temporarily build it with the option to move it later?

I found the Respondent's testimony regarding the Cubby to be inconsistent and illogical. The Claimants designed the Cubby's location to be functional in the use of the car port and the path into the kitchen as well as to create a built-in space for the refrigerator. The improper installation of the Cubby in accordance with the architectural plans, including improperly placing electrical switch boxes, established inadequate and unworkmanlike work by the Respondent.

The Contract required the Respondent to install upper and lower cabinets along a wall of the kitchen extending from one corner of the kitchen and progressing along an exterior wall which also contained a window. The design and placement of the cabinetry was created by Kelly Tenorio, a kitchen designer.[35] The Respondent installed a lower cabinet, which contained a drawer, in manner which prevented that drawer to fully open because it was blocked by the trim of a door frame on the immediately adjacent wall.[36] Because of this problem, the Claimants

[35] *See* Clmt. Ex. 18.
[36] *See* Clmt. Ex. 19.

discussed the issue with Ms. Tenorio. After viewing a photograph of the drawer issue, Ms. Tenorio informed the Claimants that a cabinet trim filler was required to be installed by the Respondent to create the necessary space for the drawer to fully open. The trim-filler was included on the kitchen design for both the upper and lower cabinets and is noted by a UF3 code. However, to install the trim-filler the work required that the cabinets be uninstalled and moved approximately one-inch. Another issue with the placement of the cabinets was that the upper cabinets to the left of the window were lower than the upper cabinets to the right of the window, and the window was not centered between the cabinets, as called for in the design.

The Respondent explained that he installed the upper and lower cabinets as a "mock-up" with two screws, which took about three days of work. The Respondent also indicated that prior to installing the cabinets he placed markings on the wall to indicate where each cabinet would go to determine how the cabinets would fit on the wall. He explained that he installed the cabinets in this manner because the Claimants' home was older and the walls were not plumb. By temporarily installing the cabinets, the Respondent explained that he could show the Claimants how the cabinets would not match the design plans. He added that he installed the cabinets in this mocked up fashion so the Claimants could determine what they preferred in how the cabinets lined-up with the widows and the end of the cabinet row.

Again, the Respondent's testimony makes no sense. It is illogical to work for three days to temporarily hang cabinets to make a point about how the cabinets may not fit the wall as anticipated by a design plan. The Respondent agreed that with the use of a level, a tape measure, and a pencil he could mark on the wall how the cabinets would line-up, which would require much less work. He also agreed that he could achieve the same demonstrative effect by temporarily installing a few sets of cabinets, again requiring less work.

Instead, the Respondent allegedly temporarily installed the whole wall of upper and lower cabinets. He also installed the cabinets without the trim-filler causing the placement of every cabinet to be off by at least one-inch. As result, he installed the entire row of cabinets that were, as a result, out of alignment with the wall and in relation to the window because he did not install the first cabinet with the trim filler. It is simply not credible that the Respondent would work for three days to improperly install cabinets to show how the cabinets would not fit on a wall according to design plans only then to install them correctly, and work for another three days to hang them correctly. The placement of these upper and lower cabinets in a manner which was not consistent with the design plans, including without the trim filler, established inadequate and unworkmanlike work by the Respondent.

The cabinet issue is what finally brought the Claimants to a position to cancel the Contract with the Respondent on October 5, 2018. After terminating the Contract, the Claimants contracted with another home improvement contractor, HDC, which was owned by Rick VanDusen at the time. HDC was hired to complete the Claimant's home improvement and to repair any work done by the Respondent. In October of 2018, Mr. VanDusen and his company were licensed by the MHIC as a home improvement contractor. However, in 2019, Mr. VanDusen had dissolved his business and moved to Florida. Nevertheless, before dissolving his company, and ending MHIC licensure, HDC started the work to complete and repair the work performed by the Respondent on October 26, 2018 and completed the work by December 25, 2018.

HDC hired Chris Linthicum, a master electrician, to inspect and repair the electrical work performed by the Respondent. After the inspecting the electrical work, Mr. Linthicum found that the Respondent's work was improperly done, which he described as "gross negligence." As an example of the improperly performed electrical work, Mr. Linthicum explained that the

Respondent installed a plastic electrical box with several code violations.[37] In this box, the Respondent installed a metal electrical conductor, which acts as a ground to protect humans from fault current. Mr. Linthicum further explained that a metal conductor should never be placed in a plastic box because it will lose the conductivity of the ground, anything within the box also loses grounding. In essence, this electrical box is ungrounded, which is dangerous and exposed anyone who touched the electrical box to the fault current.

The Respondent installed another set of electrical boxes without strapping the connecting wires within six inches of the box.[38]

In another electrical box for the kitchen oven, current code required this box to be a four-wire connection, meaning three insulated conductors and one uninsulated. In this box, the Respondent only installed a two-wire connection.[39]

In a line of electrical receptacles installed by the Respondent over the lower kitchen cabinets and near a kitchen sink, the receptacles were installed at different heights, which is not to code and unworkmanlike.[40] Additionally, in 2018 and currently, the code required alternating currents for these several receptacles, which the Respondent failed to provide.

The Respondent also installed electrical wiring in the kitchen ceiling or wall, without proper conductors or wire size; improperly mixed old and new wiring; and left wiring in an unsecure hanging fashion, all of which is considered improper and unworkmanlike.[41]

As an expert in electrical work and master electrician, Mr. Linthicum offered two important opinions related to the work performed by the Respondent. First, Mr. Linthicum explained that to repair the electrical work, he needed to obtain electrical permits. He further

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[37] *See* Clmt. Ex. 11.
[38] *See* Clmt. Ex. 13.
[39] *See* Clmt. Ex. 14.
[40] *See* Clmt. Ex. 17.
[41] *See* Clmt. Ex. 15.

explained that after observing the unworkmanlike electrical work and to take responsibility for all electrical work at the work site, required him to redo all the electrical work done by the Respondent.

Mr. Linthicum also explained that HDC wanted to try and save the installed drywall in the kitchen area but after observing the Respondent's electrical work, Mr. Linthicum opined that it became necessary to remove all the drywall and to repair all the electrical work. He emphasized that once the grounding issue was observed, which indicated that someone who did not understand electrical work performed the work, removal of the drywall was necessary to expose the improperly installed work and to correct it. After correction, new drywall was required.

The Respondent did not seriously contest Mr. Linthicum's testimony. If fact, the Respondent testified that he himself relies on the expertise of a licensed electrician to make sure work is done properly and also relies on licensed electricians to estimate the cost of electrical work. The Respondent also agreed that his subcontracted electricians did not properly install the electrical boxes or wiring to meet code requirements as discussed in Mr. Linthicum's testimony. However, as the Respondent demonstrated, it should be noted that Montgomery County inspectors had inspected and approved the electrical work as meeting code. Nonetheless, the Respondent agreed with Mr. Linthicum that the electrical work was inadequate and did not meet code. In essence, the Respondent agreed that the work was unworkmanlike.

When drywall was removed from the kitchen's exterior wall, which also contained a window, it was discovered that insulation installed on this wall and around the window was inadequate. Brian Bramble, a licensed civil and mechanical engineer, and an expert in residential construction cost, testified that, based on the architectural plans, remodeling the Claimants' kitchen included work on an exterior wall, and building codes require that an exterior

wall to be properly insulated. Relying on a series of photographs, Mr. Bramble testified that insulation on the exterior wall was installed with the paper vapor barrier facing toward the interior space or conditioned area. He explained that in Montgomery County, Maryland, which experiences lots of humid weather during the warm months, the proper method of insulation is to have the paper vapor barrier facing the exterior wall. This would prevent moisture from condensing in the insulation. Additionally, Mr. Bramble explained that the insulation installed on the exterior wall, including the window, was too thin and/or was altered and would not adequately provide insulation according to the building code. Mr. Bramble also explained that the Respondent did not use spray foam insulation around the kitchen window, instead the Respondent used traditional batt style insulation, which would not provide a proper air-tight seal around the window.

The Respondent testified that he was not contracted to install insulation. He admitted that he did remove and install insulation on the exterior wall. The Respondent agreed that spray-foam insulation around a window is customary to make the window air-tight. He further explained, however, that he changed the insulation because of the existing framing for that window. As to the insulation of the rest of the kitchen exterior wall, the Respondent disagreed with the testimony of Mr. Bramble. The Respondent explained that the paper barrier of insulation is always facing the conditioned space (the interior space) not the exterior wall.

As to the paper vapor barrier, there may be a difference of opinion as to the proper method of installation. However, the Respondent's testimony was unpersuasive and contradictory. The Respondent admits that spray foam insulation around a window more adequately insulates a window but, without explanation, admits he improperly installed batt insulation against the customary practice in the industry. As a general contractor perhaps having a general knowledge of residential construction is helpful. But I am more persuaded by Mr.

Bramble's experience as a civil and mechanical engineer, and his specific testimony regarding humidity issues in Maryland, that that by placing the vapor barrier toward the exterior wall was the proper method to install insulation. Additionally, Mr. Bramble's testimony regarding the condition of the insulation installed by the Respondent being too thin to provide proper insulation according to the building code was not weakened by any evidence from the Respondent. Accordingly, I am persuaded that the Respondent installed insulation in an inadequate or unworkmanlike manner.

Rejection of Offer to Complete Contract

As noted earlier, the MHIC may deny a claim if the MHIC finds that the claimant unreasonably rejected good faith efforts by the contractor to resolve the claim. Bus. Reg. § 8-405(d). The Respondent testified that he had never been fired from a job before and wanted to finish the Contract for the Claimants. To do so, on October 6, 2018, while the Respondent was at the Claimants home, he offered a discount on the Contract if he was allowed to complete the Contract. The Claimants, however, did not accept the offer. The Claimants agreed that the Respondent wanted to complete the Contract and offered the discount but by this time, the delay to complete the Contract had been extensive and they believed that work done by Respondent had several workmanship issues, which would need correcting. For this reason, the Claimants explained that they rejected the Respondents offer because they had lost confidence in the Respondent's ability to timely complete the Contract without additional costs.

It is clear the delay to complete the Contract was significant. Work began in early June 2018 and was to be completed in five to six weeks. The Respondent indicated that there were good reasons for the delay and that the estimated time in the Contract was dependent if nothing unusual in the project was discovered. However, the Claimants communicated by emails in July and September 2018 to complain about the delay and to get assurances that the Contract could be

timely completed. The Respondent gave an assurance that work could be completed by the end of September but it was not. By October 5, 2018, the Contract was not completed and, according to the Respondent, still had about thirty percent of the work to be done. Additionally, as discussed above, there were several issues with the manner and quality of work performed by the Respondent. After considering the entire context of this case, I find that the Claimants did not unreasonably reject the Respondents offer to complete the Contract.

Actual Loss

As discussed, I am persuaded by the Claimants evidence that the Respondent performed an incomplete, inadequate, and unworkmanlike home improvement. The Claimants hired Mr. VanDusen and HDC to complete the kitchen remodel and to repair the Respondent's work. However, before I begin an analysis regarding the amount of any actual loss, I need to address to a few issues.

The Respondent contends that when the Claimants filed the claim in March 2020, the Claimants supported the claim with a document created to Mr. VanDusen which estimated the cost to repair the Respondents work. In 2020, the Respondent asserts that neither Mr. VanDusen nor HDC was a MHIC licensed home improvement contractor. In support of this position, the Respondent presented evidence that Mr. VanDusen had dissolved his business in 2019 and had moved to Florida. Since Mr. VanDusen was not a licensed home improvement contractor when the MHIC claim was filed, the Respondent argues that the actual loss claim should be denied. To support this position the Respondent relies on language on the MHIC Claim Form, which requires a claimant only submit estimates to complete or repair work from licensed home improvement contractors. The Respondent's position misunderstands what the form intends to communicate.

First, the MHIC will only compensate a claim for an actual loss that results from an act or omission by a licensed contractor. Bus. Reg. § 8-405(a); *see also* COMAR 09.08.03.03B(2). In other words, the MHIC will not compensate a claimant for an actual loss that results from an act or omission of an unlicensed contractor. Similarly, as a matter of policy, the MHIC will only compensate an actual loss if work to complete or repair a home improvement is performed by a licensed contractor.[42] In 2018, when the work was performed by Mr. VanDusen and HDC, he was a licensed contractor. Neither the Respondent nor the Fund contest this fact. The fact that in 2020, Mr. VanDusen was no longer a licensed contractor is not significant.

Next, the analysis of the amount of the actual loss became complicated by the Claimants' testimony on cross-examination by the Fund. Based on questions by the Fund's attorney, Mr. Walter explained that Claimants Exhibit 8 were the costs by HDC to repair the Respondent's work, which totaled $19,425.00. Mr. Walter also stated that the remainder of the HDC contract, which totaled $36,528.00, was for work outside of the original contract with the Respondent. Mr. Walter also clearly testified that the Claimants were not seeking an actual loss based on the total contract cost with HDC.

However, after considering all the evidence presented, including Mr. Walter's testimony, I conclude that he misstated the nature of the Claimants actual loss claim After reviewing the terms of the HDC contract, it is clear that the HDC was to complete the kitchen remodel and to repair the Respondent's work. I heard much testimony regarding the need to repair the work done by the Respondent and the related cost but almost no evidence on the work that had to be completed and the cost to do so, although much of that work was obvious from the photographic evidence. Additionally, the Respondent testified that about 20 to 30 percent of the Contract was

[42] The Fund will not reimburse a claimant for money paid to an unlicensed home improvement contractor to correct or complete work performed that is the subject of the claim. *See* https://www.dllr.state.md.us/license/mhic/mhicfaqgf.shtml#costs (last visited January 31, 2022).

to be completed when he was fired from the job. So, it is clear that not only was there work to be completed but there was work to be repaired. Accordingly, I do not accept the Fund's argument to calculate the Claimant's actual loss by only using the estimated cost to repair in the amount of $19,425.00. Instead, I find it more appropriate to use the total cost of the HDC contract in the amount of $36,528.00 to determine the Claimant's actual loss.

I must also address the reasonable cost to repair the Respondent's work. The Claimants presented a detailed estimate of costs by HDC to repair the inadequate and unworkmanlike work of the Respondent. The total estimated cost to repair all the Respondents work was $19,425.00. Again, the total estimated cost was all contained within HDC's total contract to complete the kitchen remodel and to repair the Respondent's work. As discussed earlier, the Claimants also presented expert testimony of several witnesses to explain why the Respondent's work was inadequate and unworkmanlike. Based on the work done by the Respondent and the work required by HDC to repair that work, those same witnesses also opined that the estimates provided were fair and reasonable costs. Based on the detailed and professional experience of the Claimants' witnesses, I found their opinions of the estimated costs by HDC to perform the repair work to be persuasive.

The Respondent testified that if he was allowed to stay on the job, he could have corrected the work that he had performed at a much lower cost than estimated by HDC. For example, HDC estimated that the cost to replace the kitchen drywall was $3,075.00. The Respondent estimated his total cost to remove and replace the dry wall in the kitchen was under $1,000.00. As another example, HDC estimated that the cost removing and replacing all electrical work done by the Respondent was $5,850.00. The Respondent explained that if he had stayed on the job, the electrical repair work would have cost at least $1,000.00, including drywall patch work. As third example, to remove and reinstall the kitchen cabinets in accordance with

the plans, HDC estimated the cost was $3,775.00. The Respondent estimated that he could have done the work for $1,000.00.

After considering all his testimony, I found the Respondent testified with a bias toward a desire to finish the job and to establish that the work to be corrected was not that difficult or complicated. In essence, the Respondent offered estimates of repair work that were significantly lower than the HDC estimates. As a result, the Respondents estimated costs to repair lack credibility.

The amount of the Claimants actual loss is determined based certain factors and by regulation. The Respondent performed some work under the Contract, and the Claimant has retained another contractor, HDC, to complete or repair the Respondents work. Accordingly, the following formula appropriately measures the Claimant's actual loss:

> If the contractor did work according to the contract and the claimant has solicited or is soliciting another contractor to complete the contract, the claimant's actual loss shall be the amounts the claimant has paid to or on behalf of the contractor under the original contract, added to any reasonable amounts the claimant has paid or will be required to pay another contractor to repair poor work done by the original contractor under the original contract and complete the original contract, less the original contract price. If the Commission determines that the original contract price is too unrealistically low or high to provide a proper basis for measuring actual loss, the Commission may adjust its measurement accordingly.

COMAR 09.08.03.03B(3)(c).

Amount paid under the original Contract:	$27,950.00
Plus reasonable amounts paid to repair work or complete the original contract:	$36,528.00
	$64,478.00
Less the original contract price:	($46,950.00)
Actual Loss:	$17,528.00

The Business Regulation Article caps a claimant's recovery at $20,000.00 for acts or omissions of one contractor and provides that a claimant may not recover more than the amount

paid to the contractor against whom the claim is filed. Bus. Reg. § 8-405(e)(1), (5); COMAR 09.08.03.03B(4), D(2)(a). In this case, the Claimant's actual loss is less than the amount paid to the Respondent and less than $20,000.00. Therefore, the Claimant is entitled to recover his actual loss of $17,528.00.

PROPOSED CONCLUSIONS OF LAW

I conclude that the Claimant has sustained an actual and compensable loss of $17,528.00 as a result of the Respondent's acts or omissions. Md. Code Ann., Bus. Reg. §§ 8-401, 8-405 (2015); COMAR 09.01.03.08C(2); COMAR 09.08.03.03B(3)(c). I further conclude that the Claimant is entitled to recover that amount from the Fund. COMAR 09.01.03.08C(3); COMAR 09.08.03.03B(3)(c).

RECOMMENDED ORDER

I **RECOMMEND** that the Maryland Home Improvement Commission:

ORDER that the Maryland Home Improvement Guaranty Fund award the Claimant $17,528.00; and

ORDER that the Respondent is ineligible for a Maryland Home Improvement Commission license until the Respondent reimburses the Guaranty Fund for all monies disbursed under this Order, plus annual interest of ten percent (10%) as set by the Maryland Home Improvement Commission;[43] and

ORDER that the records and publications of the Maryland Home Improvement Commission reflect this decision.

Daniel Andrews

February 1, 2021
Date Decision Issued

Daniel Andrews
Administrative Law Judge

DA/dlm
#195186

[43] *See* Md. Code Ann., Bus. Reg. § 8-410(a)(1)(iii) (2015); COMAR 09.08.01.20.

PROPOSED ORDER

WHEREFORE, this 27th day of April, 2022, Panel B of the Maryland Home Improvement Commission approves the Recommended Order of the Administrative Law Judge and unless any parties files with the Commission within twenty (20) days of this date written exceptions and/or a request to present arguments, then this Proposed Order will become final at the end of the twenty (20) day period. By law the parties then have an additional thirty (30) day period during which they may file an appeal to Circuit Court.

Lauren Lake

Lauren Lake
Panel B
MARYLAND HOME IMPROVEMENT COMMISSION

IN THE MATTER OF THE CLAIM OF REGIS AND PAULA WALTER AGAINST THE MARYLAND HOME IMPROVEMENT GUARANTY FUND FOR THE ACTS OR OMISSIONS OF VICTOR LOURENCO AND DAN PRI CONSTRUCTION, INC.	* * * * * * *	**MARYLAND HOME IMPROVEMENT COMMISSION** **MHIC CASE NO. 19(75)1260** **OAH CASE NO. LABOR-HIC-02-21-10626**

* * * * * * *

FINAL ORDER

This matter was originally heard before an Administrative Law Judge ("ALJ") of the Office of Administrative Hearings ("OAH") on November 3, 2021. Following the evidentiary hearing, the ALJ issued a Proposed Decision on February 1, 2021, concluding that the homeowners, Regis and Paula Walter ("Claimants") suffered an actual loss as a result of the acts or omissions of Victor Lourenco and Dan Pri Construction, Inc. (collectively, "Contractor"). *ALJ Proposed Decision* p. 26. In a Proposed Order dated April 27, 2022, the Maryland Home Improvement Commission ("MHIC" or "Commission") affirmed the Proposed Decision of the ALJ to grant an award from the Home Improvement Guaranty Fund. The Contractor subsequently filed exceptions to the MHIC Proposed Order.

On November 17, 2022, a three-member panel ("Panel") of the MHIC held a remote hearing on the exceptions filed in this matter. Robert Scanlon, Esq., represented the Claimant. Krishan Zaveri represented the Contractor. Assistant Attorney General Hope Sachs appeared at the exceptions hearing on behalf of the Guaranty Fund. The Commission entered the following preliminary exhibits as part of the record of the exceptions hearing without objection: 1) hearing notice; 2) transmittal letter, ALJ Proposed Decision, and MHIC Proposed Order; and 3) Contractor's exceptions. Neither the Claimant nor the Contractor produced a copy of the transcript of the hearing before the ALJ. Therefore, the Panel's review of the record was limited to the preliminary exhibits for the exceptions hearing, the OAH Proposed Decision, and the exhibits

offered as evidence at the OAH hearing. COMAR 09.01.03.09(G) - (I).

The claim in this proceeding relates to a contract between the parties for the renovation of the Claimants' kitchen and other areas of their home. The ALJ found that the Contractor's performance under the contract was unworkmanlike, incomplete, and inadequate, and that the Claimants were reasonable to terminate the Contractor before he completed the contract and reject the Contractor's offer to complete the contract for a discounted price because of the Contractor's poor performance and delays in the Contractor's performance. *ALJ's Proposed Decision* pp. 13-21.

On exception, the Contractor argued that the ALJ erred in finding that the Claimants did not unreasonably reject his good faith offer to resolve their Claim by completing their project for a discounted price.

The Contractor argued that the delay in his performance did not justify the rejection of his offer because the Claimant did not complain of the delays until July 20, 2018, which was one day after the completion date set forth in the contract, and because the Claimants requested a change order for subfloor and joist work on August 10, 2018, which caused further delay. The Commission disagrees. The record demonstrates that the contract, which provided that time was of the essence, called for the completion of the project by July 19, 2018, that on July 20, 2018, the parties agreed to extend the deadline to September 4, 2018, that on September 4, 2018, the project was not close to completion, that the Claimants unilaterally extended the deadline until September 30, 2018, and that the Contractor had not completed the project on October 5, 2018, when the Claimants terminated him. The absence of complaints about the Contractor's delay prior to the expiration of the completion deadline and a change order entered into after the Contractor agreed to a new deadline but that did not provide for a revised deadline, are irrelevant to whether the

Claimants were reasonable to reject the Contractor's offer to complete their project at a discount because of timeliness concerns. The Commission agrees with the ALJ that the Claimants had good reason to doubt that the Contractor was capable of completing their project promptly.

The Contractor argued that the ALJ erred in finding that the poor quality of its performance justified the Claimants' rejection of its offer to complete the project at a discount because the Claimants complemented its "fine work" in an email sent on July 20, 2018, and did not register any complaints about the quality of its work before rejecting the Contractor's offer to complete the project. The Commission agrees with the ALJ. There is extensive evidence of the Contractor's incompetence, and that the Claimants were aware of such incompetence, at the time the Claimants rejected the offer to complete the project at a discount, including the installation of the kitchen island, the construction of a cubby area, and the installation of a light switch in the wrong locations, contrary to the plans incorporated in the parties' contract. In addition, the Contractor failed to install a filler piece in the kitchen cabinet area, resulting in a drawer being blocked from opening by a trim piece and causing all of the cabinets to be in the wrong location, requiring that they be removed and reinstalled. Accordingly, the Claimants were reasonable to reject the Contractor's offer to complete the project, regardless of whether they were satisfied with his work more than two months prior.

The Contractor argues that the ALJ erred in recommending an award to the Claimants because, in their claim and testimony, they alleged that the cost to correct and complete its deficient performance was $19,425.00, and because the contract from HDC Remodeling, Inc., relied upon by the ALJ to calculate the Claimant's actual loss included work beyond the scope of the parties' contract. The Commission finds no error with the ALJ's calculation of the actual loss.

Regarding the Claimant's claim form, it is clear on its face that the Claimants

misunderstood the form and calculated their alleged actual loss utilizing the formula for calculating actual loss when a claimant is not hiring a new contractor to correct and complete the respondent's work, or when the respondent did not do any work for the claimant. Moreover, a claimant need not accurately calculate their alleged actual loss in their claim form to be eligible for an award. Rather, the amount of the claim stated in a claim form establishes the maximum award that a claimant can recover absent an amendment to the claim.

Regarding the Claimant's testimony that the cost to correct and complete the Contractor's performance was $19,425.00, the ALJ found that this was again the result of confusion by the Claimants and rejected that testimony. The Contractor did not provide the Commission with a transcript of the hearing to aid in the Commission's assessment of the ALJ's decision to decline to accept the Claimant's testimony as fact. However, the Commission owes deference to the demeanor-based credibility determinations of the ALJ. Moreover, the Claimants' confusion evident on the face of their claim form that $19,425.00 was the cost to correct and complete the project when it clearly was a calculation of the value of the labor and materials provided by the Contractor demonstrates to the Commission that the Claimant's testimony does not establish that $19,425.00 was the cost to correct and complete the project.

Regarding the HDC contract, the Contractor alleges that it includes the following work beyond the scope of the original contract: air switches for garbage disposers, installing furring strips, panting exterior window trim, installing missing base trim, and installing two sinks with new shutoff valves and a water line to the new refrigerator. The Commission agrees with the ALJ that the HDC contract is consistent with the scope of the parties' contract and finds that the $36,528.00 price of the HDC contract is the Claimant's cost to correct and complete the Contractor's performance. The Commission finds that the alleged additional items in the HDC

contract were, more likely than not, implicitly included in and necessary for the completion of the original contract. The original contract does not call for any switches for the garbage disposers, much less specify the type of switches to be used for the disposers, but, obviously, the disposers, which the Contractor agreed to install, required switches. Similarly, the original contract does not specify that the new ceiling is to be even with the existing ceiling, much less state whether furring strips should be used to achieve evenness, but, obviously, the Claimants' ceiling should be flat. The original contract called for the replacement of all the windows, which the Commission finds more likely than not includes the painting of the window trim. The original contract requires the installation of new sinks and a new refrigerator, which the Commission finds, in the context of the complete kitchen remodel, includes installing new shut off valves and a water line to the refrigerator. Finally, the original contract calls for the replacement of "baseboard and window trim with new trim," which the Commission finds is consistent with the line item for the installation of "base trim" in the HDC contract.

Having considered the parties' arguments, the evidence contained in the record, and the ALJ's Recommended Decision, it is this 12th day of December 2022, **ORDERED:**

A. That the Findings of Fact of the Administrative Law Judge are **AFFIRMED**;

B. That the Conclusions of Law of the Administrative Law Judge are **AFFIRMED**;

C. That the Proposed Decision and Recommended Order of the Administrative Law Judge is **AFFIRMED;**

D. That the Claimant is awarded $17,528.00 from the Maryland Home Improvement Guaranty Fund;

E. That the Contractor shall remain ineligible for a Maryland Home Improvement Commission license until the Contractor reimburses the Guaranty Fund for all monies

disbursed under this Order plus annual interest of at least ten percent (10%) as set by the Commission, *Md Code Ann.*, Bus. Reg. §§ 8-410(a)(1)(iii), 8-411(a);

F. That the records and publications of the Maryland Home Improvement Commission shall reflect this decision; and

G. Any party has thirty (30) days from the date of this Final Order to appeal this decision to Circuit Court.

Bruce Quackenbush
Chairperson –Panel
Maryland Home Improvement Commission