

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING
BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

In the Matter of

TOM JOSEPH GIANNOSA
License No. 21-01-080569,
Respondent.

Docket No. 17-010676
File No. 21-15-326779

FINAL ORDER

On April 29, 2016, the Department of Licensing and Regulatory Affairs executed a Formal Complaint charging Respondent with violating the Occupational Code, MCL 339.101 *et seq.*

An administrative hearing was held in this matter before an administrative law judge who, on September 28, 2017, issued a Hearing Report setting forth Findings of Fact and Conclusions of Law.

The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board), having reviewed the administrative record, considered this matter at a regularly scheduled meeting held in Lansing, Michigan on December 12, 2017, and received the administrative law judge's Findings of Fact and Conclusions of Law in the Hearing Report.

IT IS ORDERED that for violating MCL 339.604(c), 339.604(h), and

339.2411(2)(e), Respondent is FINED \$1,000.00 to be paid to the State of Michigan within 60 days from the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Enforcement Division, Compliance Section, P.O. Box 30189, Lansing, MI 48909**. The fine shall be paid by check or money order made payable to the State of Michigan, and the check or money order shall clearly display file number **21-15-326779**.

IT IS FURTHER ORDERED that in the event Respondent fails to pay the fine within 60 days as set forth above, Respondent's license to practice as an individual residential builder will be SUSPENDED.

IT IS FURTHER ORDERED that, in accordance with MCL 339.411(3)(c), 339.602(c) and 339.604(k), no application for licensure, renewal, relicensure, or reinstatement shall be granted until all final orders of the Board have been satisfied in full.

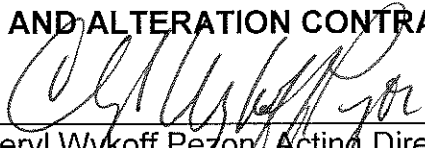
IT IS FURTHER ORDERED that in the event Respondent violates any provision of this Order, the Board may proceed to take disciplinary action pursuant to MCL 339.604(k).

This Final Order is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 15.231 *et seq.*

IT IS FURTHER ORDERED that this Order shall be effective on the date signed by the Chairperson of the Board or authorized representative, as set forth below.

Dated: 1/11/18

**MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS**

By: 
Cheryl Wykoff Pezon, Acting Director
Bureau of Professional Licensing

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In the Matter of

TOM JOSEPH GIANNOSA

License Number: 21-01-080569

File number: 21-15-326779

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Tom Joseph Giannosa (Respondent) as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code, 1980 PA 299, as amended; MCL 339.101 et seq. Pursuant to section 602 of the Occupational Code, supra, the Board is empowered to penalize licensees for violations of the Occupational Code.

2. Respondent is licensed as a residential builder in the state of Michigan.

3. On October 31, 2013, (Homeowner) signed two estimates from Respondent, dated October 21, 2013, totaling \$6,525.00, to resolve water infiltration from a leaky roof and other needed repairs due to water related damages. Also on October 31, 2013, Homeowner endorsed a \$3,000.00 check to Respondent.

According to Homeowner, Respondent indicated the \$3,000.00 deposit was a 50 percent down payment on the project and along with the two signed estimates, would serve as the contract for the needed repairs. The two estimates were not signed by Respondent and did not contain any information relating to his individual builder's license. Later, Respondent sent Homeowner invoices totaling \$11,237.87.

4. On May 4, 2015, Homeowner filed a Statement of Complaint with Complainant alleging that Respondent failed to prepare and sign a proper contract, failed to resolve water infiltration and related water damages, and failed to get prior approval for change orders which dramatically increased the total project cost.

5. On August 18, 2015, a building inspector verified the following violations of the 2009 Michigan Residential Code, adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective March 9, 2011:

- a) No building permit, R105.1;
- b) Openings in second-floor deck guards (railings) exceed allowed dimensions, R312.3
- c) Roof leaking, R903;
- d) Insulation not installed properly, no permit, R104;
- e) Drywall not installed properly, R702;
- f) No permit for HVAC work, R105.1;
- g) No permit for repairs on gas fireplace, R105.1;

A copy of the inspection report, marked Exhibit A, is attached and incorporated.

COUNT I

Respondents' conduct, as described above, evidences a failure to reduce all agreements and changes to the agreements between a builder, or contractor, and customer to writing and have the agreement signed by all parties, contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Occupational Code, supra.

COUNT II

Respondent's conduct, as described above, evidences a failure to maintain standards of construction in accordance with the local building code, contrary to Mich Admin Code, R 338.1551(5), in violation of section 604(c) of the Occupational Code, supra.

COUNT III

Respondent's conduct, as described above, evidences a failure to provide, as part of a contract, information relating to the licensee's individual license, contrary to section 2404a of the Occupational Code, supra, in violation of section 604(h) of the Occupational Code, supra.

COUNT IV

Respondent's conduct, as described above, evidences a willful violation of the building laws of this state or of a political subdivision of this state contrary to section

2411(2)(e) of the Occupational Code, supra, in violation of section 604(h) of the Occupational Code, supra.

Complainant requests that this Complaint be served upon Respondent and that Respondent be offered an opportunity to show compliance with all lawful requirements for retention of the license. If compliance is not shown, Complainant further requests that formal proceedings be commenced pursuant to the Occupational Code, rules promulgated thereunder, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended; MCL 24.201 et seq.

Pursuant to section 508(2) of the Occupational Code, supra, Respondent has 15 days from the date of receipt of this Complaint to notify Complainant of Respondent's decision to either negotiate a settlement of this matter, to demonstrate compliance with the Occupational Code, or to request an administrative hearing. Written notification of Respondent's selection shall be submitted to Complainant, Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondent fails to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

DATED: 4/29/16
Attachment



Kim Gaedeke, Director
Bureau of Professional Licensing

This is the final page of a Formal Complaint in the matter of Tom Joseph Giannosa, File Number 21-15-326779, before the Michigan Board of Residential Builders and Maintenance and Alteration Contractors, consisting of four pages, this page included.
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