

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

CUSTOM UPGRADES LLC
License Number: 21-02-206620

and

ROGER LEE KINGMA II
License Number: 21-01-201408

File Numbers: 21-16-330857
21-16-330858

CONSENT ORDER

On February 24, 2017, the Department of Licensing and Regulatory Affairs executed a Formal Complaint charging Custom Upgrades LLC and Roger Lee Kingma II (Respondents) with violating the Occupational Code, MCL 339.101 *et seq.*

Respondents neither admit nor deny the facts alleged in the Complaint but agree that for purposes of this Order, the allegations shall be accepted as true and constitute violation(s) of MCL 339.604(c), 339.604(h), and 339.2411(2)(e). The Michigan Board of Residential Builders and Maintenance and Alteration Contractors has reviewed this Consent Order and Stipulation and agrees that the public interest is best served by resolution of the outstanding Complaint.

Therefore, IT IS FOUND that the facts alleged in the Complaint constitute violation(s) of MCL 339.604(c), 339.604(h), and 339.2411(2)(e).

IT IS ORDERED that for the cited violations of the Occupational Code, Respondents are FINED \$3,000.00 to be paid to the State of Michigan within 60 days of 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 numbers 21-16-330857 and 21-16-330858.

IT IS FURTHER ORDERED that failure to comply with the terms of this Order shall result in SUSPENSION of all licenses or registrations held by Respondents under Article 24 of the Occupational Code and in the denial of any license or registration renewal until compliance with this Order.

IT IS FURTHER ORDERED that this Order shall be effective 30 days from the date signed by the Board, as set forth below.

MICHIGAN BOARD OF RESIDENTIAL BUILDERS AND
MAINTENANCE AND ALTERATION CONTRACTORS

By: 
Chairperson

Dated: 12/12/17

STIPULATION

1. Respondents neither admit nor deny the alleged violations but agree that the alleged violations shall be accepted as true for purposes of this Order.

2. The facts alleged in the Complaint constitute violation(s) of MCL 339.604(c), 339.604(h), and 339.2411(2)(e).

3. Respondents understand and intend that by signing this Stipulation Respondents are waiving the right, pursuant to the Occupational Code, the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in the Complaint by presentation of evidence and legal authority, and Respondents are waiving the right to appear with an attorney and such witnesses as Respondents may desire to present a defense to the charges.

4. This matter is a public record required to be published and made available to the public pursuant to the Michigan Freedom of Information Act, MCL 24.231 *et seq.*

5. Factors taken into consideration in the formulation of this Order are as follows:

The Department has confirmed that the project was completed and approved by the City of Grand Rapids.

Respondent Kingma has been licensed since 2011 with no prior disciplinary action. Respondent Custom Upgrades has been licensed since 2014 with no prior disciplinary action.

6. This Order is approved as to form and substance by Respondents and the Department and may be entered as the final order of the Board in this matter.

7. This proposal is conditioned upon acceptance by the Board. Respondents and the Department expressly reserve the right to further proceedings should this Order be rejected.

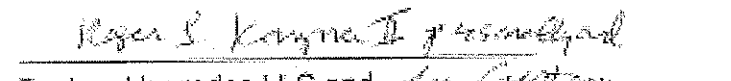
AGREED TO BY:



Kim Gaedeke, Director
Bureau of Professional Licensing
Department of Licensing and
Regulatory Affairs

Dated: 09/25/2017

AGREED TO BY:


Custom Upgrades LLC and *for Custom*
Roger Lee Kingma II *Upgrades LLC,*
Respondents *member.*

Dated: 9/20/2017

APPROVED AS TO FORM:



Robert S. Hackett (P49968)
Attorney for Respondents

Dated: 9/15/17

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FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Department) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Custom Upgrades LLC and Roger Lee Kingma II (Respondents) as follows:

1. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) is an administrative agency established by the Occupational Code, 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 Custom Upgrades LLC is licensed as a residential builder company. Respondent Roger Lee Kingma II is licensed as an individual residential builder, is designated as the qualifying officer of Custom Upgrades LLC, and, therefore,

pursuant to section 2405(1) the Occupational Code, supra, is responsible for exercising the supervision or control of the building or construction operations necessary to secure full compliance with Article 24 of the Occupational Code and the rules promulgated thereunder.

3. In June of 2016, Respondents entered into a contract with Peter and Rosemary Hess (Homeowners) to construct a deck and storage shed. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. On December 14, 2016, a building inspector for the City of Grand Rapids cited the following violations of the 2015 Michigan Residential Code (building code), adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective March 9, 2011:

- a. Failed to obtain permit before starting/finishing construction of deck, contrary to R105.1.
- b. Failed to submit plans for review prior to commencing work, contrary to R106.1.
- c. Failed to call for inspections prior to completing construction of deck, contrary to R109.1.
- d. Failed to call for footing/foundation inspections, contrary to R109.1.1.
- e. Failed to install footings/foundation for the purpose of supporting the deck, contrary to R507.8.1.

A copy of the Building Inspection Report, marked Exhibit B, is attached and incorporated.

5. On October 4, 2016, the Homeowners filed a Statement of Complaint.

COUNT I

Respondents' 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 II

Respondents' conduct, as described above, evidences a willful violation of the building laws of this state or political subdivision of this state, in violation of sections 2411(2)(e) and 604(h) of the Occupational Code, supra.

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

Pursuant to section 508(2) of the Occupational Code, supra, Respondents have 15 days from the date of receipt of this Complaint to notify the Department of Respondents' 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 Respondents selection shall be submitted to Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondents fail to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

Dated: 02/24/2017



Kim Gaedeke, Director
Bureau of Professional Licensing

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