

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

TransInfo:210156 20160904-1 10/20/17
CEN#: 2011675033 Date: 10-20-17
ID: 16330890

In the Matter of

DALE EDWARD KILBOURNE
d/b/a HEIGHTS CONSTRUCTION
License No. 21-01-156202
Respondent.

File No. 21-16-330890
Consent Order and Stipulation

CONSENT ORDER

On March 6, 2017, the Department of Licensing and Regulatory Affairs executed a Formal Complaint charging Respondent with violating the Occupational Code, MCL 339.101 *et seq.*

Respondent has admitted that the facts alleged in the Complaint are true and constitute violation(s) of MCL 339.604(c), 339.2411(2)(e) and (2)(j). 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 are true and constitute violation(s) of MCL 339.604(c), 339.2411(2)(e) and (2)(j).

IT IS ORDERED that for the cited violation(s) of the Occupational Code, Respondent is FINED \$6,500.00 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 number 21-16-330890.

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 Respondent 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 on the date signed by the Board, as set forth below.

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

By: 
Chairperson

Dated: 12/12/12

STIPULATION

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

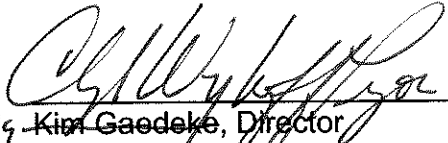
2. Respondent understands and intends that by signing this Stipulation Respondent is waiving the right, pursuant to the Occupational Code, the rules promulgated thereunder, and the Administrative Procedures Act, MCL 24.201 *et seq.*, to require the Department to prove the charges set forth in the Complaint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

3. 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 15.231 *et seq.*

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

5. This proposal is conditioned upon acceptance by the Board. Respondent and the Department expressly reserve the right to further proceedings without prejudice should this Order be rejected.


AGREED TO BY:

Acting


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

Dated: 11/6/17
wh

AGREED TO BY:



Dale Edward Kilbourne
d/b/a Heights Construction
Respondent

Dated: 10/12/17

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

DALE EDWARD KILBOURNE
d/b/a HEIGHTS CONSTRUCTION
License Number: 21-01-156202

File Number: 21-16-330890

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Department) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Dale Edward Kilbourne d/b/a Heights Construction (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, MCL 339.101 et seq. Pursuant to section 602 of the Occupational Code, the Board is empowered to penalize licensee for violations of the Occupational Code.

2. Respondent is licensed as an individual residential builder.

3. On July 1, 2014, Del Kilbourne, an unlicensed individual, on behalf of Respondent, entered into a contract with Andrew and Christiana (Homeowners) for renovation work on Homeowners' home. A copy of the contract marked Exhibit A, is attached and incorporated.

4. On October 17, 2016, Homeowners filed a Statement of Complaint with the Department alleging Respondent failed to properly perform the terms under the contract which resulted in additional costs.

5. On or about January 13, 2017, a building inspector for the City of Three Rivers verified the following violations of the 2015 Michigan Residential Code, adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective March 9, 2011:

- a. Insulation installed in rim joist and crawl space had the paper vapor barrier left exposed which does not meet the flame spread and smoke developed index (warning on facing of insulation states must not be left exposed) (R302.10.1).
- b. Electrical wiring installed without a permit and work completed by a person who is not a licensed electrician. Electrical code violations exist (R105.1).
- c. Alteration/repairs have occurred which requires a permit and smoke detectors must be installed as required for new dwellings. Smoke detectors were not installed (R314.2.2).
- d. Roof repair done without a permit or inspections (R105.1).

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

COUNT I

Respondent's conduct, as described above, evidences the failure of all agreements between a builder, or contractor, and the customer to be in writing and signed

by the parties, contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Occupational Code.

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.

COUNT III

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.

COUNT IV

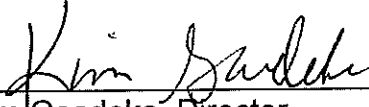
Respondent's conduct, as described above, evidences aiding or abetting an unlicensed person to evade Article 24, in violation of section 2411(2)(j) of the Occupational Code.

The Department 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 licenses. 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, MCL 24.201 et seq.

Pursuant to section 508(2) of the Occupational Code, Respondent has 15 days from the date of receipt of this Complaint to notify Department 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 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: 03/06/2017



Kim Gaedeke, Director
Bureau of Professional Licensing

Attachment

MFV