

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

DON HOYT, JR.
License No. 21-01-155747
Respondent.

File No. 21-17-331739

CONSENT ORDER

On August 15, 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). 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).

IT IS ORDERED that pursuant to the attached Stipulation, Count III of the Complaint that charged Respondent with violating MCL 339.2411(2)(e) is DISMISSED.

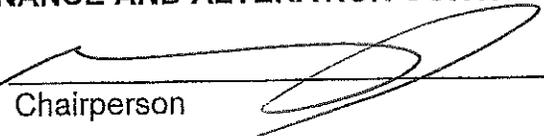
IT IS FURTHER ORDERED that for the cited violation(s) of the Occupational Code, Respondent is FINED \$1,500.00 to be paid to the state of Michigan within 60 days of the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Enforcement Division, 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 **21-17-331739**.

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: 3/13/18

STIPULATION

1. Respondent and the Department agree that Count III of the Complaint which charged Respondent with violating MCL 339.2411(2)(e) is DISMISSED by the Board.

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

3. 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.

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 15.231 *et seq.*

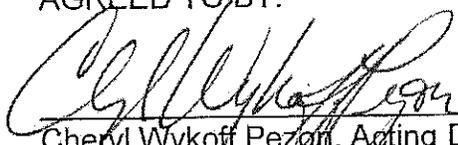
5. Factors taken into consideration in the formulation of this order include the following:

Respondent had a building permit pulled for the work performed.

6. 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.

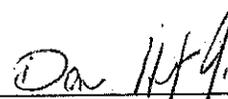
7. This proposal is conditioned upon acceptance by the Board. Respondent and the Department expressly reserve the right to further proceedings without prejudice should this Order be rejected.

AGREED TO BY:


Cheryl Wykoff Pezon, Acting Director
Bureau of Professional Licensing
Department of Licensing and
Regulatory Affairs

Dated: 11/29/17

AGREED TO BY:


Don Hoyt, Jr.
Respondent

Dated: 11-21-17

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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

DON HOYT, JR.

License Number: 21-01-155747

File Number: 21-17-331739

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Department), by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Don Hoyt, Jr. (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, supra, the Board is empowered to penalize licensees for violations of the Occupational Code.

2. Respondent Don Hoyt, Jr. is licensed as an individual residential builder in the state of Michigan, doing business as Bear Construction.

3. On December 14, 2015, Respondent entered into a contract with (Homeowner) to build a deck. Respondent failed to provide his license information as part of the contract. Respondent also failed to include the type and quality

of materials to be used. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. On May 12, 2016, the building inspector for Summit Township inspected the deck and resulted it as partially approved. The inspector noted the following problems:

- a. Ledgerboard needs to be bolted not nailed
- b. Lags on post need to be through bolts with washers
- c. Wrong joist hangers
- d. Hand and guard rails loose
- e. Stair stringers nailed too close to edge and have split
- f. Material seems to be cracking more than it should

5. In June 2016, Respondent returned to Homeowner's residence in an attempt to make repairs to the deck.

6. On July 12, 2016, the building inspector inspected the deck and resulted it as disapproved. The inspector noted the following problems:

- a. Poor workmanship
- b. No bolts on ledger
- c. No bolts and washers on posts
- d. Hand and guard rails loose
- e. Boards are splitting badly

7. On August 29, 2016, Homeowner sent Respondent a letter requesting that Respondent refund her money and that Respondent remove the deck.

8. On September 23, 2016, Homeowner allowed Respondent to return to her residence to attempt to repair the problems with the deck.

9. On November 10, 2016, the building inspector inspected Homeowner's deck, resulted it as disapproved, and noted that the guardrails will not hold under pressure.

10. On February 1, 2017, Homeowner filed a Statement of Complaint with the Department, which included allegations of problems with the deck Respondent built and that it cannot pass a building code inspection.

11. On March 20, 2017, the building inspector cited the following violations of the 2015 Michigan Residential Code:

- a. Deck ledger and post not properly connected, contrary to R507.2
- b. Wrong size joist hangers installed, contrary to R507.7
- c. Hand and guard rails not able to support load, contrary to R311.7.8-R312.1.3

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

COUNT I

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

COUNT II

Respondent's conduct, as described above, evidences a failure to make certain that the written agreement clearly states the terms of the transaction, including the type and quality of materials to be used, contrary to Mich Admin Code, R 338.1533(2), in violation of section 604(c) of the Occupational Code, supra.

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

COUNT IV

Respondent's conduct, as described above, evidences a failure to correct, within a reasonable time, a complaint justified by a local building inspector, contrary to Mich Admin Code, R 338.1551(4), in violation of section 604(c) of the Occupational Code, supra.

COUNT V

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 604(c) of the Occupational Code, supra.

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 license. If compliance is not shown, the Department further requests that formal proceedings be commenced pursuant to the Occupational Code, the rules promulgated thereunder, and the Administrative Procedures Act, 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 the 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: 8-15-17



Kim Gaedeke, Director
Bureau of Professional Licensing

Attachments

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