

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

ES MCDONALD LLC  
License Number: 21-02-165136

and

ERIC S. MCDONALD  
License Number: 21-01-090169

File Numbers: 21-16-328887  
21-16-328888

CONSENT ORDER

On November 4, 2016, the Department of Licensing and Regulatory Affairs (Department) executed a Formal Complaint (Complaint) charging ES McDonald LLC and Eric S. McDonald (Respondents) with violating section 604(c) of the Occupational Code, MCL 339.101 et seq.

Respondents have admitted that the facts alleged in the Complaint are true and constitute violation(s) of the Occupational Code. The Michigan Board of Residential Builders and Maintenance and Alteration Contractors (Board) has reviewed this Consent Order and Stipulation (Order) 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 section 604(c) of the Occupational Code, supra.

Accordingly, IT IS ORDERED that for the cited violation(s) of the Occupational Code, Respondents are FINED \$1,000.00, jointly and severally, 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, Legal 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 **21-16-328887 and 21-16-328888**.

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

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

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

By: \_\_\_\_\_  
Chairperson

Dated: 6-13-17

## STIPULATION

1. The facts alleged in the Complaint are true and constitute violation(s) of section 604(c) of the Occupational Code, supra.

2. 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.

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. Factors considered in the formulation of this Order are as follows:

Respondent stated that he offered to finish the items that were not completed on the inspection report but the home owners refused to let him on their property.

5. 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.

6. 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: 04/10/2017

AGREED TO BY:



Eric S. McDonald  
ES McDonald LLC  
Respondents

Dated: March 17, 2017

WH

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
BUREAU OF PROFESSIONAL LICENSING  
BOARD OF RESIDENTIAL BUILDERS AND MAINTENANCE  
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FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against ES McDonald LLC, and Eric S. McDonald (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 ES McDonald LLC is licensed as a residential builder company.

3. Respondent Eric S. McDonald is licensed as an individual residential builder and is designated as the qualifying officer of Respondent ES McDonald LLC and,

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

4. On June 22, 2015, Respondents entered into a contract with Cory and Steven Josephson (Homeowners) to perform a complete renovation of their home, which included all new electrical, plumbing, HVAC, walls, floors, masonry and garage.

5. On February 18, 2016, a local building inspector verified the following violations of the 2009 Michigan Residential Code, adopted pursuant to the Stille-DeRossett-Hale single state construction act, effective March 9, 2011:

- a) Failed to install handrails, in violation of R311.7.8;
- b) Failed to obtain final inspections after work was completed, in violation of R109.1.6; and
- c) Failed to request final inspections, in violation of R109.3.

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

6. On March 24, 2016, Homeowners filed a Statement of Complaint with Complainant.

#### COUNT I

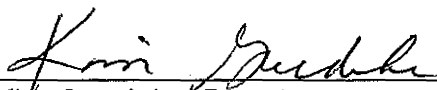
Respondents' conduct, as described above, evidences a failure to maintain standards of construction in accordance with the local building code, contrary to Mich

Admin Code, R 338.1551(5), in violation of section 604(c) of the Occupational Code, supra.

Complainant 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 licenses. 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, 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 Complainant 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 Complainant, Kim Gaedeke, Director, Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, MI 48909. If Respondents fails to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

Dated: 11/09/2018

  
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Kim Gaedeke, Director  
Bureau of Professional Licensing

Attachment

LFM