

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

ED'S NORTH COUNTRY BUILDERS, INC.
License Number: 21-02-185388

File Numbers: 21-15-327541
21-15-327542

EDWARD THOMAS PANKE
License Number: 21-01-118402

CONSENT ORDER AND STIPULATION

CONSENT ORDER

On March 16, 2016, the Department of Licensing and Regulatory Affairs (Department) executed a Formal Complaint (Complaint) charging Ed's North Country Builders, Inc. and Edward Thomas Panke (Respondents) with violating section(s) 604(c) and 2411(2)(e) 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(s) 604(c) and 2411(2)(e) of the Occupational Code, supra.

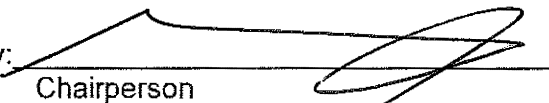
Accordingly, IT IS ORDERED that for the cited violation(s) of the Occupational Code, Respondents are FINED \$500.00 to be paid to the State of Michigan within 60 days of the effective date of this Order.

IT IS FURTHER ORDERED that the fine shall be mailed to the **Department of Licensing and Regulatory Affairs, Legal Affairs 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 **21-15-327541 and 21-15-327542**.

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 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 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: 9/13/16

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STIPULATION

1. The facts alleged in the Complaint are true and constitute violation(s) of section(s) 604(c) and 2411(2)(e) 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 taken into consideration in the formulation of this Order are as follows:

In 2012, Respondents built Homeowners a retaining wall, without a permit, that is 7 ft. on the high end and tapered down to 3 ft. on the low end. This wall was plus or minus, 25 ft. in overall length with an estimated cost of \$7,000.00.

Following Homeowners complaints that the wall was shifting and bowing, Respondents offered Homeowners a 10 year warranty on the retaining wall's workmanship and to conduct annual wall inspections

by Respondents and building official. Additionally, if the wall was to move more than one horizontal inch away from the home during the warranty period, Respondents agreed to replace the retaining wall.

Homeowners rejected the offer.

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.

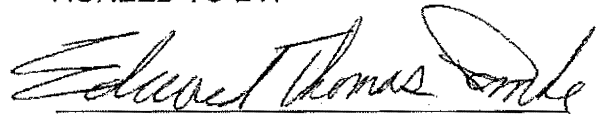
6. ~~This proposal is conditioned upon acceptance by the Board.~~
Respondents and the Department expressly reserve the right to further proceedings should this Order be rejected.

AGREED TO BY:



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

AGREED TO BY:



Edward Thomas Panke
Ed's North Country Builders, Inc.
Respondents

Dated: 8/12/2016

Dated: 8-09-16

This is the final page of a Consent Order and Stipulation in the matter of Ed's North Country Builders, Inc., and Edward Thomas Panke, File Numbers 21-15-327541 and 21-15-327542, before the Michigan Board of Residential Builders and Maintenance and Alteration Contractors, consisting of four pages, this page included.

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
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In the Matter of

ED'S NORTH COUNTRY BUILDERS, INC
License Number: 21-02-185388

and

EDWARD THOMAS PANKE
License Number: 21-01-118402

File Numbers: 21-15-327541
21-15-327542

FORMAL COMPLAINT

The Michigan Department of Licensing and Regulatory Affairs (Complainant) by Kim Gaedeke, Director, Bureau of Professional Licensing, files this Complaint against Ed's North Country Builders, Inc. and Edward Thomas Panke (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, 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. Respondents are licensed as residential builders in the state of Michigan.

3. On April 16, 2012, Respondents entered into a contract with Philip and Nancy Hoover (Homeowners) to build a new home in the amount of \$606,442.00. A copy of the contract, marked Exhibit A, is attached and incorporated.

4. On October 1, 2012, Respondents issued Change Order No. 3, part of which called for masonry work to build retaining walls and steps (\$14,000.00) and the excavation and hauling of 30 yards of fill sand for backfilling around the retaining walls (\$225.00). A copy of Change Order No. 3, marked Exhibit B, is attached and incorporated.

5. On November 5, 2012, Respondents issued Change Order No. 4, part of which called for fill sand and stone for backfill around retaining walls (\$756.00). A copy of Change Order No. 4, marked Exhibit C, is attached and incorporated.

6. On August 31, 2015, Homeowners filed a Statement of Complaint with Complainant alleging Respondents did not obtain a building permit to construct the retaining walls on their property, and the retaining walls were not inspected during the construction process. Homeowners further alleged that the retaining walls were shifting, bowing, and losing sand and gravel.

7. On October 2, 2015, Marquette County Building Inspector Matt Aho, verified that the retaining walls constructed on two sides of Homeowners' walkout basement at heights up to seven feet were installed with no permit, contrary to section 105 of the 2009 Michigan Residential Code, adopted pursuant to the Stille-DeRossett-

Hale single state construction act, effective March 9, 2011. A copy of the inspection report, marked Exhibit D, is attached and incorporated.

COUNT I

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

COUNT II

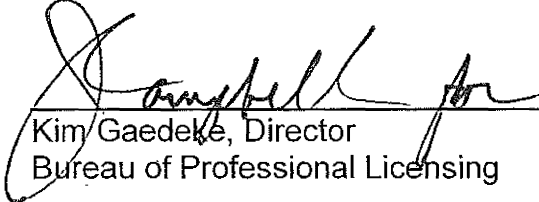
Respondents' conduct, as described above, evidences a willful violation of the building laws of this state or a political subdivision of this state, contrary to 2411(2)(e) of the Occupational Code, supra.

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 of 1969, 1969 PA 306, as amended; 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 fail to submit written notification within 15 days, this matter shall proceed to an administrative hearing.

DATED: 3/16/16



Kim Gaedeke, Director
Bureau of Professional Licensing

This is the final page of a Formal Complaint in the matter of Ed's North Country Builders, Inc., File Number 21-15-327541 and Edward Thomas Panke, File Number 21-15-327542, before the Michigan Board of Residential Builders and Maintenance and Alteration Contractors, consisting of four pages, this page included.

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