

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

In the Matter of

RODEO HOMES INC.
Salvatore Pansera, Qualifying Officer
License No. 21-02-148169

Complaint No. 24-16-329772

and

SALVATORE PANSERA,
License No. 21-01-148805

Complaint No. 24-16-329773

CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaints were filed on November 15, 2016 charging Rodeo Homes Inc and Salvatore Pansera (Respondents) with having violated sections 604(h) and 2411(2)(e) of the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq.*; Mich Admin Code, R 338.1533(1), R 338.1551(5) and R 338.1551(4); and Rules 310.1, 311.7.4.1, and 703 of the 2009 Michigan Residential Code.

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the Formal Complaints are true and constitute a violation of Rule 310.1 of the 2009 Michigan Residential Code, Rules 338.1551(4) and (5) of the Mich Admin Code, and sections 604(h) and 2411(2)(e) of the Occupational Code. The Board has reviewed the stipulation contained in this document and agrees that the public interest is best served by resolution of the outstanding complaints.

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED Five Hundred and 00/100 Dollars (\$500.00) to be paid by check, money order or cashier's check made payable to the State of Michigan (with complaint numbers 24-16-329772 and 24-16-329773 clearly indicated on the check or money order), and shall be payable within thirty (30) days. The timely payment of the fine shall be Respondent's responsibility. Respondent shall mail the fine to: Sanction Monitoring, Bureau of Professional Licensing, Legal Affairs Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30189, Lansing, Michigan 48909.

Within thirty (30) days of the effective date of this order, Respondent shall perform RESTITUTION for the homeowner by undertaking to add an egress widow for the basement bedroom.

Respondent shall submit satisfactory written proof of timely restitution to the Department by mail, or other method acceptable to the Department.

Paragraphs 10, 11(b) and 11(c) of the Formal Complaint are WITHDRAWN and Counts I, III and IV of the Formal Complaint are DISMISSED.

Respondent shall direct any communications to the Department that are required by the terms of this order to: Sanction Monitoring Unit, Bureau of Professional Licensing, Legal Affairs Division – Compliance Section, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan 48909.

Respondent shall be responsible for all costs and expenses incurred in complying with the terms and conditions of this consent order.

Respondent shall be responsible for the timely compliance with the terms of this consent order, including the timely filing of any documentation. Failure to comply within the time limitations provided will constitute a violation of this order.

If Respondent violates any term or condition set forth in this order, Respondent will be in violation of section 604(k) of the Occupational Code.

This order shall be effective on the date signed by the Chairperson or the Chairperson's designee, as set forth below.

Signed on 6-13-17

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS MAINTENANCE &
ALTERATION CONTRACTORS

By _____
Chairperson,

STIPULATION

The parties stipulate as follows:

1. Respondent does not contest the allegations of fact and law in the complaint. Respondent understands that, by pleading no contest, he does not admit the truth of the allegations but agrees that the Board may treat the allegations as true for resolution of the complaint and may enter an order treating the allegations as true.

2. The Director of the Bureau of Professional Licensing, or her designee, must approve this consent order and stipulation before it is submitted to the Board for final approval.

3. Respondent understands and intends that, by signing this stipulation, he is waiving the right under the Occupational Code, rules promulgated under the Occupational Code, and the Administrative Procedures Act of 1969, 1969 PA 306, as amended, 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 to present a defense to the charges. Should the Board reject the proposed consent order, the parties reserve the right to proceed to hearing.

4. This matter is a public record required to be published and made available to the public pursuant to section 11(1)(a) of the Michigan Freedom of Information Act, 1976 PA 442, as amended.

5. The Board may enter the above Consent Order, supported by Board conferee Mark Wahl. Mr. Wahl or an attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

6. Mr. Wahl and the parties considered the following factors in reaching this agreement:

A. At the compliance conference, Respondent Salvatore Pansera explained that the Building Inspector issued a Certificate of Occupancy for the house before work on it was complete.

B. Evidence was submitted at the compliance conference showing that the change orders were approved by both parties by exchanges of emails.

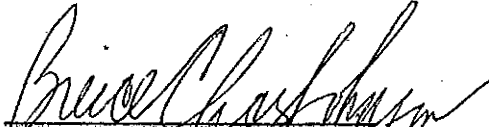
C. The variance in the height of the stair risers was the result of floor work performed by others and which the parties specifically agreed in the Building Contract was not Respondent's responsibility.

D. Respondents have now caulked the exterior siding and stone.

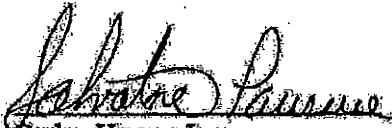
E. When the plans for the house were drawn up, Respondents did not realize that the basement room for which no egress window was supplied was a bedroom. Respondents agree to provide an egress window for this room, provided that the homeowners allow them access to the residence to do so.

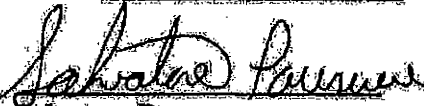
By signing this stipulation, the parties confirm that they have read, understand and agree with the terms of the consent order.


AGREED TO BY:


Bruce Charles Johnson (P02645)
Assistant Attorney General
Attorney for Complainant
Dated: March 27, 2017

AGREED TO BY:


Rodeo Homes Inc.
Salvatore Pansera, Qualifying Officer
Respondent.
Dated: 3-22-2017


Salvatore Pansera
Respondent
Dated: 3-22-2017


Kenneth Beams
Attorney for Respondent
Dated: 3-22-17

Bureau of Professional Licensing
Approved by:


Kim Gaedeke, Director

04/06/2017
Date

LR: 2016-014787-B/Pansera, Salvatore, 829778 (Res Bldg) Consent - Order and Stipulation - 2017-03-22

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
BUREAU OF PROFESSIONAL LICENSING

DEPARTMENT OF LICENSING AND
REGULATORY AFFAIRS, BUREAU
OF PROFESSIONAL LICENSING,

Complainant,

v

RODEO HOMES INC.,
Salvatore Pansera, Qualifying Officer
License No. 21-02-148169

Complaint No. 24-16-329772

Respondent.

**BOARD: Residential Builders
Maintenance & Alteration
Contractors**

FORMAL COMPLAINT

NOW COMES Attorney General Bill Schuette, through Assistant Attorney General Bruce Charles Johnson, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Complainant, pursuant to MCL 339.101-605 of the Occupational Code, 1980 PA 299, as amended, MCL 339.101 *et seq.*, and its rules promulgated thereunder, and files this Formal Complaint against Rodeo Homes Inc., Respondent, alleging upon information and belief as follows:

1. Respondent has, at times relevant to the Complaint, been licensed as a residential builder under the Occupational Code, 1980 PA 299, as amended, Article 24; MCL 339.240-2412. Salvatore Pansera is its Qualifying Officer.

2. A Complaint against Respondent and against Salvatore Pansera, conforming to the requirements of section 501 of the Occupational Code, has been filed with the Michigan Department of Licensing and Regulatory Affairs.

3. Section 2411(2)(e) of the Occupational Code requires the Board to penalize a licensee for a willful violation of the building laws of this state or of a political subdivision of this state.

4. Sections 602 and 604(c) of the Occupational Code requires the Board to penalize a licensee for a violation of a rule of conduct of an occupation.

5. Sections 602 and 604(h) of the Occupational Code requires the Board to penalize a licensee for a violation of a provision of the Occupational Code or of a rule promulgated under the Occupational Code for which a penalty is not otherwise prescribed.

6. Mich Admin Code, R338.1533(1) requires that all agreements and change orders to agreements between a residential builder and a customer be in writing and be signed by both parties.

7. Mich Admin Code, R 338.1551(5) requires a licensee to comply with the local building code, or in the absence of a local building code, that of the nearest political subdivision having one.

8. Mich Admin Code, R 338.1551(4) requires that when the local building inspector finds there has been a building code violation, the builder must correct the violation within a reasonable time.

FACTUAL ALLEGATIONS

9. On February 21, 2015, Respondent, on behalf of Rodeo Homes Inc., entered a Building Agreement to construct a residence for

located at _____ Michigan.

10. Respondent performed work on construction of the residence pursuant to a number of change orders which were not signed by the parties to the Building Agreement.

11. Building Inspector Lonnie Hayes of the Hadley Township Construction Codes Authority performed inspection on the residence on June 20, 2016 and June 28, 2016 and issued a report stating that Respondent had committed the following violations of the 2009 Michigan Residential Code:

- a. Failing to provide an egress window for the basement bedroom, in violation of R 310.1;
- b. Installing stair risers which, at a height of 9", exceeded the maximum allowable height of 8 ¼" by more than the permitted 3/8", in violation of R 311.7.4.1; and
- c. Failing to caulk the residence's exterior siding and stone as required by R 703.

12. On August 22, 2016, Inspector Hayes reported that the building code violations set out in his inspection report had not been corrected.

COUNT I

13. Respondent's conduct as described above constitutes performing work on change orders to a Building Agreement without having the change orders signed by the parties to the Building Agreement, in violation of Mich Admin Code, R 338.1533(1) and of section 604(h) of the Occupational Code.

COUNT II

14. Respondent's conduct as described above constitutes a violation of R 310.1 of the 2009 Michigan Residential Code, in violation of Mich Admin Code, R 338.1551(5) and section 2411(2)(e) of the Occupational Code.

COUNT III

15. Respondent's conduct as described above constitutes a violation of R 311.7.4.1 of the 2009 Michigan Residential Code, in violation of Mich Admin Code, R 338.1551(5) and section 2411(2)(e) of the Occupational Code.

COUNT IV

16. Respondent's conduct as described above constitutes a violation of R 703 of the 2009 Michigan Residential Code, in violation of Mich Admin Code, R 338.1551(5) and section 2411(2)(e) of the Occupational Code.

COUNT V

17. Respondent's conduct as described above constitutes a failure to correct building code violations found by the local building inspector within a reasonable time, in violation of Mich Admin Code, R 338.1551(4) and of section 604(h) of the Occupational Code.

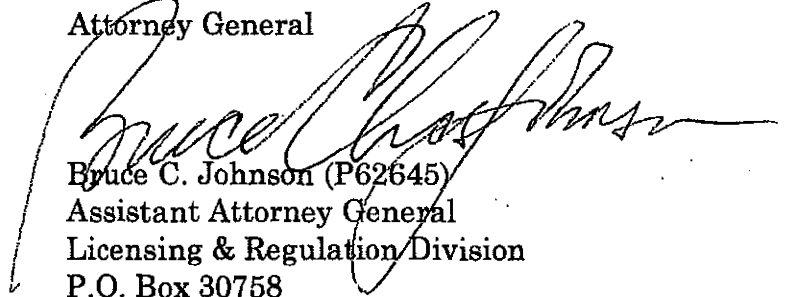
Based upon the conduct above, Respondent has acted contrary to the Occupational Code, 1980 PA 299, as amended, constituting grounds for the assessment of a penalty as defined in §§ 602 and 604 of the Occupational Code.

WHEREFORE, Complainant, Michigan Department of Licensing and Regulatory Affairs, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, 1969 PA 306, as amended, MCL 24.201-328 and the

Occupational Code, *supra*, to determine whether disciplinary action should be taken by the Department of Licensing and Regulatory Affairs, pursuant to the Occupational Code, for the reasons set forth herein. The written response shall be submitted to the Bureau of Professional Licensing, Department of Licensing and Regulatory Affairs, P.O. Box 30670, Lansing, Michigan, 48909, with a copy to the undersigned assistant attorney general.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Bruce C. Johnson (P62645)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, Michigan 48909
(517) 373-1146

Dated: November 15, 2016