

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

SUNSET HOMES, LLC
Paul A. Esposito, Qualifying Officer
License No. 21-02-210844

Complaint No. 21-15-328057

_____/ CONSENT ORDER AND STIPULATION

CONSENT ORDER

A formal complaint was filed on October 20, 2016, charging Sunset Homes, LLC (Respondent) with conduct contrary to sections 601(1) and 2411(2)(h) of the Occupational Code, MCL 339.101 *et seq.*, in violation of section 604(h) of the Code; and conduct contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

The parties have stipulated that the Board may enter this consent order and that the facts alleged in the formal complaint are true and constitute a violation of sections 604(c) and (h) 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 complaint.

Accordingly, for these violations, IT IS ORDERED:

Respondent is FINED \$7,500.00 to be paid by check, money order, or cashier's check made payable to the State of Michigan (with complaint numbers 21-15-328057 and 21-15-328058 clearly indicated on the check or money order)

within 90 days of the effective date of this order. The timely payment of the fine shall be Respondent's responsibility. Respondent is jointly and severally liable for paying the \$7,500.00 fine with Paul A. Esposito, Respondent's owner and qualifying officer (see related complaint number 21-15-328058). This \$7,500.00 fine satisfies both complaint numbers 21-15-328057 and 21-15-328058. Respondent shall mail the fine to: Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing, Legal Affairs Division, Compliance Section, P.O. Box 30189, Lansing, Michigan 48909.

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 30 days from the date signed by the chairperson or the chairperson's designee, as set forth below.

Signed on 9/12/17

MICHIGAN BOARD OF RESIDENTIAL
BUILDERS AND MAINTENANCE AND
ALTERATION CONTRACTORS

By _____
Chairperson

STIPULATION

The parties stipulate as follows:

1. The facts alleged in the complaint are true and constitute a violation of the Occupational Code.

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, Respondent is waiving the right under the Occupational Code, rules promulgated under the Occupational Code, and the Administrative Procedures Act of 1969, 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, MCL 15.231 *et seq.*

4. The Board may enter the above consent order, supported by Board conferee John F. Kelly. Mr. Kelly or an attorney from the Licensing and Regulation Division may discuss this matter with the Board in order to recommend acceptance of this resolution.

5. Mr. Kelly and the parties considered the following factors in reaching this agreement:

- A. During an in-person compliance conference between the parties, Paul A. Esposito, owner and qualifying officer for Sunset Homes, was forthright about the matter, indicated he has learned from this situation, and expressed regret for a serious lapse in professional judgment. Mr. Esposito was cooperative and wished to resolve this matter without the need for and expense of an administrative hearing.

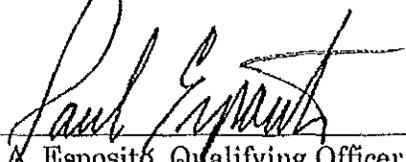
- B. Although Sunset Homes was not licensed at the time of the allegations at issue, the company became licensed before the formal complaint was issued.
- C. Restitution was not awarded due to a concurrent civil action by the homeowners against Mr. Esposito and Sunset Homes. Mr. Esposito and Sunset Homes agreed to complete specified repairs to the home in order to resolve the civil matter.

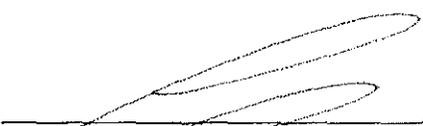
By signing this stipulation, the parties confirm that they have read, understand, and agree with the terms of the consent order.

AGREED TO BY:


 Erika N. Marzorati (P78100)
 Assistant Attorney General
 Attorney for Complainant
 Dated: 5-26-17

AGREED TO BY:


 Paul A. Esposito, Qualifying Officer
 on behalf of Sunset Homes, LLC
 Respondent
 Dated: 5-26-17


 Cecil D. St. Pierre, Jr. (P36262)
 Attorney for Respondent
 Dated: 5/26/17

Bureau of Professional Licensing
 Approved by:


 Kim Gaedeke, Director

06/05/2017
 Date

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

SUNSET HOMES, LLC
Paul A. Esposito, Qualifying Officer
Residential Builder
License No. 21-02-210844

Complaint No. 21-15-328057

Board of Residential Builders
and Maintenance and
Alteration Contractors

Respondent.

FORMAL COMPLAINT

Attorney General Bill Schuette, through Assistant Attorney General Erika N. Marzorati, on behalf of the Department of Licensing and Regulatory Affairs, Bureau of Professional Licensing (Complainant) files this complaint against Sunset Homes, LLC (Respondent) under the Occupational Code, MCL 339.101 *et seq.*, and rules promulgated thereunder, alleging upon information and belief as follows:

1. Respondent currently holds a residential builder license under Article 24 of the Code.
2. Section 601(1) of the Code provides that a person shall not engage in the practice of an occupation regulated under the Code unless the person possesses a license or registration issued by the department for the occupation.

3. Section 2411(2)(h) of the Code provides that a licensee who fails to deliver to the purchaser the entire agreement of the parties including any finance or other charge arising out of or incidental to an agreement that involves repair, alteration, or addition to, subtraction from, improvement of, wrecking of, or demolition of a residential structure is subject to the penalties set forth in Article 6.

4. Mich Admin Code, R 338.1533(1) provides that all agreements and changes to the agreements between a builder or contractor and the customer shall be in writing, signed by the parties, and provided to the customer.

5. Section 604(c) of the Code provides that a licensee who violates a rule of conduct of an occupation is subject to the penalties prescribed in section 602.

6. Section 604(h) of the Code provides that a licensee who violates any other provision of the Code or a rule promulgated thereunder for which a penalty is not otherwise prescribed is subject to the penalties prescribed in section 602.

7. Section 602 of the Code provides that a person, school, or institution that violates the Code or a rule promulgated thereunder shall be assessed one or more of the penalties enumerated under this section.

FACTUAL ALLEGATIONS

8. In or around June 2014, Respondent entered into a contract with _____ to perform services regulated under the Code. Specifically, Respondent agreed to renovate the _____ home on Clarke Drive in East China, Michigan.

9. Neither Respondent nor its owner, Paul A. Esposito, was licensed at the time Respondent entered into the contract.

10. Respondent was first issued a license on October 20, 2015. Esposito is the qualifying officer for the company.

11. Esposito previously held a license, which lapsed on May 31, 2007. The license later was suspended and then revoked as the result of disciplinary action. Esposito's license was returned to active status on September 18, 2015.

12. Respondent failed to provide a written agreement to the F

13. A crew hired by Respondent began work on the house in June 2014.

14. Respondent failed to pull any permits for the project.

15. From June through August 2014, the made six payments totaling \$79,000 to Respondent for the renovation project.

16. Respondent provided a cost analysis to the reflecting the amounts received by the homeowners and a detailed breakdown of expenses incurred and/or paid from June 2014 through early January 2015.

17. Respondent ceased work on the project in or around December 2014, claiming the work provided exceeded the amount paid by the Bauers.

COUNT I

18. Respondent's conduct as described above constitutes unlicensed practice as a residential builder, contrary to section 601(1) of the Code, in violation of section 604(h) of the Code.

COUNT II

19. Respondent's conduct as described above constitutes a failure to deliver to the purchaser the entire agreement of the parties, contrary to section 2411(2)(h) of the Code, in violation of section 604(h) of the Code.

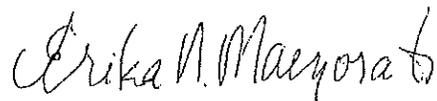
COUNT III

20. Respondent's conduct as described above constitutes failure to provide a signed, written agreement to the customer, contrary to Mich Admin Code, R 338.1533(1), in violation of section 604(c) of the Code.

WHEREFORE, Complainant hereby commences proceedings under the Occupational Code and Administrative Procedures Act of 1969, MCL 24.201 *et seq.*, to determine whether the Department should take disciplinary action pursuant to the Occupational Code for the reasons set forth herein.

Respectfully submitted,

BILL SCHUETTE
Attorney General



Erika N. Marzorati (P78100)
Assistant Attorney General
Licensing & Regulation Division
P.O. Box 30758
Lansing, Michigan 48909
(517) 373-1146

Dated: October 20, 2016