

BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES OF THE STATE OF OREGON

IN THE MATTER OF:

**STEPHEN KRIEG,
AN INDIVIDUAL,**

RESPONDENT.

)
) **NOTICE OF PROPOSED ASSESSMENT**
) **OF A CIVIL PENALTY AND FINAL**
) **ORDER ON DEFAULT**
)
) **CASE NO. C2014-0301**
)
)

Under Oregon Revised Statutes (ORS) 455.895(2) and Oregon Administrative Rules (OAR) 918-001-0036, the Director of the Oregon Department of Consumer and Business Services (Director) proposes disciplinary action against Respondent in the form of civil penalties totaling \$500 for violations of Building Codes Division statutes or rules as follows.

FINDINGS OF FACT

1. At all relevant times, Respondent has been the Building Official for the City of Woodburn, Oregon.
2. On July 1, 2013, the City of Woodburn hired Wayne Ginter (Ginter) as a full-time, building inspector and plans examiner. Mr. Ginter continues to work for the city. Respondent supervises Ginter.
3. Ginter was initially issued an Oregon Inspector Certification (OIC) number OIC191 on January 30, 2006, and continued to hold that certification in good standing until November 1, 2013, when OIC191 expired.
4. Building Codes Division renewed Ginter's OIC191 on December 17, 2014.
5. From November 2, 2013 through December 16, 2014, Ginter performed the duties of a building inspector and plans examiner for the City of Woodburn without possessing a valid Oregon Inspector Certification.

APPLICABLE LAW

1. Under OAR 918-098-1010(1), every person who performs building official duties, building code inspections, or plan reviews must possess a valid Oregon Inspector Certification and either:
 - (a) A valid appropriate Oregon Code Certification for the work being performed, or
 - (b) A valid appropriate International Code Council certification for the work being performed and the minimum level of experience as follows:

1 (A) Two years of construction or inspection-related experience or its equivalent;

2 (B) An approved one year inspection-related education program and one year of
3 construction or inspection-related experience;

4 (C) A degree from an approved two year inspection-related education program or its
5 equivalent; or

6 (D) Be a registered Oregon architect, a certified Oregon professional engineer, or
7 have a Bachelor's or Master's degree in architecture or civil or structural
8 engineering.

- 9 2. According to OAR 918-098-1480(1), in addition to the responsibilities stated in OAR
10 918-098-1470, all certified individuals who are performing the duties of the building
11 official shall also ensure a person is properly certified under those rules and meets the
12 minimum experience requirements prior to allowing the individual to perform plan
13 reviews and inspections.

14 **CONCLUSIONS OF LAW**

- 15 1. Performing the duties of a building inspector and plans examiner for the City of
16 Woodburn required the individual to be properly certified, which under OAR 918-098-
17 1010(1) includes the requirement that the individual hold a valid Oregon Inspector
18 Certification.
- 19 2. When Ginter performed the duties of a building inspector and plans examiner for the City
20 of Woodburn without possessing a valid Oregon Inspector Certification from November
21 2, 2013 through December 16, 2014, Ginter violated OAR 918-098-1010(1).
- 22 3. By failing to ensure Ginter was properly certified to perform the duties of a building
23 inspector and plans examiner prior to allowing the individual to perform plan reviews and
24 inspections for the City of Woodburn, Respondent failed to fulfill his responsibility
25 required by OAR 918-098-1480(1).

ORDER

Under ORS 455.895(2) and OAR 918-001-0036, the Director assesses Respondent with a
\$500 civil penalty for violating OAR 918-098-1480(1).

NOTICE OF RIGHT TO HEARING

Respondent is entitled to a hearing as provided by the Administrative Procedures Act,
Oregon Revised Statutes, chapter 183. If Respondent requests a hearing, the request must be in
writing and postmarked no later than 20 days from the service date. If this notice was served to
Respondent in person, the service date is the date Respondent received this notice. If this notice
was served through the mail, the service date is the day the notice was mailed, not the day
Respondent received it.

1 If a request for hearing is not received within 20 days, Respondent's right to a hearing is
2 considered waived. Mail hearing requests to Building Codes Division, Enforcement Section,
3 P.O. Box 14470, Salem, Oregon, 97309.

4 Respondent has the right to be represented by legal counsel. ORS 183.457 provides that a
5 corporation may be represented by an authorized representative at the hearing. If Respondent
6 requests a hearing, Respondent will be notified of the time and place of the hearing and be given
7 information on procedures, right of representation and other rights of parties relating to the
8 hearing before it begins.

6 NOTICE TO ACTIVE DUTY SERVICE MEMBERS

7 Active duty service members have a right to stay proceedings under the federal
8 Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon
9 Military Department at 800-452-7500 for more information. If you need help finding legal
10 assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator
11 website at <http://legalassistance.law.af.mil/content/locator.php>.

10 NOTICE OF FINAL ORDER

11 If Respondent does not request a hearing within 20 days, withdraws a hearing request,
12 notifies the Director of the Department of Consumer and Business Services (Director) or the
13 administrative law judge that they will not appear, or fails to appear at a scheduled hearing, the
14 Director will issue a Final Order by Default. If the Director issues a Final Order by Default, it
15 designates the file, including any materials submitted by Respondent that relate to this matter, as
16 the record for purpose of proving a prima facie case.

17 Respondent is entitled to judicial review of any final order issued in the matter of this
18 Notice of a Proposed Assessment of a Civil Penalty. Judicial review may be obtained by filing a
19 petition for review with the Oregon Court of Appeals within 60 days after the Final Order is
20 served. See ORS 183.482. If the order was served in person, the service date is the date
21 Respondent received the order. If the order was served through the mail, the service date is the
22 day the order was mailed, not the day it was received by Respondent. If Respondent does not file
23 a petition for judicial review within 60 days, Respondent will lose the right to appeal. The phone
24 number for the Oregon Court of Appeals is 503-986-5555.

20 Dated this 30 day of January 2015

21 Andrea Simmons for
22 Director
23 Department of Consumer and Business Services
24 State of Oregon
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