Construction Contractors Board
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Jim Denno, Administrator

State of Oregon
Honorable Kate Brown, Governor

DRAFT
6/16/2016

NOTICE OF PUBLIC MEETING
CCB Board Meeting

Wednesday, June 29, 2016
9:30 a.m. – 12:30 a.m.
201 High St SE, 1st Floor, Hearings Room, Salem, Oregon

		Page
Meeting Called to Order		
Approval of the Agenda……	**ACTION ITEM**	(pg 1)
Approval of the Minutes (5/25/16)……	**ACTION ITEM**	(pg 2)
Board Calendar:		
Next Meeting: July 27, 2016 (Teleconference, Board Room, Beardsley Building, 6th floor).....		(pg 7)
Introduction of New Board Member (Eric Olson, Home Inspector).....		(no attachment)
Public Comment		
Agency Reports		
1. Agency Update (Jim Denno)		(no attachment)
2. Year 1 Contractor Update (Cheryl Martinis).		(no attachment)
3. Enforcement Update.....		(pg 8)
Old Business		
1. Responsible Managing Individuals (Laurie Hall).		(pg 11)
New Business		
1. 2017-19 Budget Review (Cindy Mora, Stan Jessup).		(pg 20)
2. Reconsideration of Final Order (Stan Jessup).		(pg 22)
3. Appointment of Program Liaisons (Jim Patrick).		(no attachment)
Adjournment		

The Board may meet in executive session under authority of ORS 192.660 from time to time. The specific statutory basis for the executive session will be announced on the record prior to the commencement of the executive session. Executive sessions are closed to the public.

The Board may recess the public meeting, in order to deliberate privately, under authority of ORS 192.690(1). The public meeting will then reconvene for the purpose of decision-making.

The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Leslie Culpepper (503) 934-2228.

DRAFT
6-16-15

MINUTES OF THE MAY 25, 2016
CONSTRUCTION CONTRACTORS BOARD MEETING

The Construction Contractors Board (CCB) met in teleconference on Wednesday, May 25, 2016, in the Board Room on the 6th floor at 201 High Street SE, Salem, Oregon.

Attendees:

Board members present: Board Chair, Kimberly Wood and Sandi Warren.

Board members appearing by phone: Kurt Bolser, Jim Kitchin, Susan Steward, Vice Chair Jim Patrick & Jerry Jones, Jr.

Staff: Administrator Jim Denno, Communications & Education Manager Cheryl Martinis, Enforcement Manager Stan Jessup, Licensing Manager Laurie Hall, Assistant Attorney General Susan Bischoff, Cathy Dixon, Angie Warkentin, Eric Risner, Cindy Mora, Tori Garcia.

Guests: Bonnie Sullivan, Kirsten Adams

A. MEETING CALLED TO ORDER:
Chair Wood called the meeting to order at 9:30 a.m.

B. APPROVAL OF AGENDA AND ORDER OF BUSINESS:

MOTION: Board Member Sandi Warren moved to approve the agenda.
Motion carried unanimously.

C. APPROVAL OF MINUTES:

CHANGES: A typo was corrected on the April 27 minutes, page 3: "there are policies available *the* cover…" should be "there are policies available **that** cover."

MOTION: Sandi Warren moved to accept the April 27 board meeting minutes as amended.
Motion carried unanimously.

D. DATE OF NEXT REGULARLY SCHEDULED MEETING: The next meeting is scheduled for June 29, in the Hearings Room on the first floor at 201 High Street SE, Salem, Oregon.

E PUBLIC COMMENT:

1. **There were no public comments.**

F. AGENCY REPORTS:

1. Agency Update

Administrator Jim Denno

Over the past 18 months there have been about a half dozen new hires at CCB. We are excited that the caliber of the new employees is very high.

a. Business services section: For the time being, management of the business services section will be shared. Mr. Denno is managing the admin services (accounting, cashiering, budgeting and procurement) employees, while Cheryl Martinis is managing the IT employees. It has become clear that an IT professional is needed to help coordinate the updating of the agency's systems. DCBS is assisting the CCB with the efforts to craft a job description that will meet the needs of the agency. In addition, there is an IT temp person helping with the short-term programming needs, but this person will not be available long-term.

b. New Licensing System: The agency continues to work with BCD and DCBS on the joint licensing system project. Because of problems with new IT systems or upgrades to systems in state government in the recent past, DAS is exercising more oversight over IT projects. There are IT staff from DCBS and DAS involved in laying the groundwork for the CCB/BCD project, setting system requirements and security requirements, working through the procurement process, and working with the potential vendor. This causes the process to move slower than originally anticipated, but the goal is to end up with a system that serves the needs of the public, licensees, and the state's requirements as completely as possible.

c. Business and Labor Committee meeting: At the strategic planning meeting, there was discussion about employment in the construction industry. Mr. Denno watched the recent hearing of the Business and Labor Committee, where employment challenges in construction and other industries were discussed. Mr. Denno will send the link to the board members.

d. Contact with Legislators: Mr. Denno responded to inquiries from legislators about continuing ed, licensed electricians and the "handyman exemption" from licensure.

2. Licensing

Licensing Manager, Laurie Hall

a. Statistical Reports: Ms. Hall reviewed the Licensing Program 2015-17 Third Quarter Report. Licensing numbers continue to slowly tick upwards. Over 60% of all renewals are being completed online, which reduces the amount of manual processing that must be done by staff. There are ongoing IT issues that need to be addressed but the age of the existing system makes it very challenging if not impossible to make changes. The document management system (Questys) is also in need of upgrading. We are working through the procurement process to upgrade that system.

b. Phones: The state negotiated a new phone contract with IBM. CCB will be required to replace the phones and move into the new system. The changeover is scheduled for August.

c. Personnel changes: One of the licensing employees is retiring and a new person has been hired.

d. Questions about the Third Quarter, 2015-17 Licensing Report from Board Members:

- Chair Wood, Question from page 12 of the packet: what is a BOU bond?
  - This should read "BOLI."
- Chair Wood, Question from page 8: There were a substantial number of abandoned calls. Why?
  - This has to do with staffing and workload. Workload spiked and there was also a problem with absences among staff members.
- Chair Wood, Question from page 13: Surveys returned are down. Is there a reason why?
  - The survey is in paper format and must be mailed or faxed to the agency. An online survey process would likely increase responses, but this is not possible with existing IT systems.
- Chair Wood Question: One of the comments said that partnerships are not allowed to renew online. Is this correct?
  - Partnerships are the most difficult to manage in the electronic renewal format. This is another IT project, and CCB hasn't had the staff time to devote to the project. Effective this week, "light" endorsements will be able to renew online, leaving partnerships as the last remaining group.
- Question from Board member Jim Patrick: What is a BOLI bond?
  - A BOLI bond is required for public works project and the holder may or may not be required to be licensed with CCB. You must have a bond to work on a public works job. Cleaning, interior decorations, flaggers, etc.
  - CCB handles the BOLI bond claims.

e. "Day in the Life" report, Angie Warkentin, Licensing: Angie Warkentin distributes mail (300-500 pieces each day) to licensing staff, monitors incoming paperwork (renewals, applications), monitors phones, runs the phone reports, enters all of the phone reports into Excel, backups the front counter, processes applications, works with enforcement people on suspensions, answers questions from staff, trains new staff, works on various paperwork and works with IT on licensing issue. She is busy every minute of every day. She enjoys working on the phones and at the front counter.

3. Communication & Education

Communication and Education Manager, Cheryl Martinis

a. Spring Outreach: Education section just finished several classes in eastern Oregon, the Dalles, southern Oregon, etc. It's good for contractors to have a chance to ask questions of CCB staff in person. Ms. Martinis showed pictures of the classes.

Trade show season finished as well. Education attended as many trade shows as ever, as well as association conferences when possible and, for the first time, attended the chimney sweeps conference in K-Falls.

Staff are continuing to distribute many publications and have issued a new Fraud and Scam brochure. They've also written a "how to get your license" brochure, and invite board member feedback about it.

b. Automating Audits: Staff have been working to streamline audits of commercial contractor continuing education. Ms. Martinis said that she will be providing information in the next newsletter in July. She will also be sending an email. The agency is very liberal in its acceptance of documentation of CE, from invoices, minutes, lists of key employees attended, training records, etc.

c. IT Needs: Ms. Martinis reiterated that CCB needs qualified IT programming help badly. Finding the right help is difficult because jobs are very competitive and people in IT are not widely available.

d. "Day in the Life," Tori Garcia, Education: Tori Garcia described a recent CCB class and trade show. He discussed the issues that came up during that experience. The class and trade show were both a success. The class was well rated among students. Contractors had many questions that Tori was able to answer.

A typical day at the office for Tori includes publication and print design, web design, videography, video editing, audio editing and photography.

4. Enforcement
Stan Jessup, Enforcement Manager

a. Enforcement Update
New compliance officers are doing very well. By the end of the month, they will be fully integrated into the compliance system.

Enforcement is recruiting for an eastern Oregon field investigator position. Mr. Jessup has been focusing on more efficient deployment of mediators to ensure better coverage over the entire state. He will be creating a map to show the old coverage vs. new coverage of the state.

A sweep in southern Oregon was just completed.

b. "Day in the Life," Eric Risner, Enforcement: In a typical day, Eric will start out by identifying areas of complaint from consumers, stakeholders, etc. They look for unlicensed contractors, statute violations, etc. All Field Investigators have specific geographic regions they cover. He also meets with local building officials, who sometimes need help with enforcement.

The most common problems encountered on job site checks are contractors who aren't maintaining their workman's comp insurance, and unlicensed contractors. Often a lack of education is the problem. Unlicensed contractors sometimes don't know they're breaking the law.

He also develops relationships with other agencies: BCD, Workers Comp, Department of Revenue, etc.

c. Questions/Requests from Board Members
Board Member Patrick wanted to know if a contractor wanted a consultation on lead paint requirements, who should he call? Mr. Jessup said that contractors can call him. They will send the local field investigator to schedule a time to go meet on a job site.

5. Administrative Services

a. Budget, Cindy Mora: CCB is currently in budget development, which is moving forward nicely. The report features a snapshot of actual revenue and expenditures for the last few months. CCB is 9 months into the biennium, $1.1 million ahead of projected revenue and about $180,000 below projected expenses. CCB has 5.3 months of operating cash.

b. "Day in the Life," Cindy Mora: Cindy is responsible for the accounting program activities at CCB. Cindy checks her emails and calendar, cashiers money that the CCB brings in, checks invoices to ensure they're valid and accurate, creates payment vouchers for those invoices, creates spreadsheets for more detailed invoices, answers questions about travel reimbursements, refunds duplicate or inaccurate online credit card payments, reconciles daily deposits with the treasury account, updates the budget report monthly, completes and submits civil penalty transfers, completes quarterly allotments, obtains document numbers to prep for scanning, creates access cards, assists with mail, processes credit card payments, stores documents electronically, enters and submits office max orders, and tries to find ways to streamline duties. She is involved in agency budget development and works closely with the DAS budget analyst. She serves as SABRS coordinator and resolves IT challenges dealing with transactions refunds. Cindy is also the Fun Committee facilitator. The Fun Committee plans retirement parties, birthday parties and other Governor's fund raising events for the agency.

G. OLD BUSINESS

1. No old business.

H. NEW BUSINESS

1. No new business.

I. ADJOURNED:

The meeting adjourned at 10:45 a.m.

2016 5-25 mins.docx

CCB Board Meeting Calendar, 2016

MONTH	MEETING TYPE	NOTED ITEMS	LOCATION
27-Jan	Teleconference Board Meeting		6th Floor Board Room
24-Feb	Board Meeting	Ethics training	1st Floor Hearings Room
23-Mar	Teleconference Board Meeting		6th Floor Board Room
27-Apr	Board Meeting	Election of officers	1st Floor Hearings Room
16-May	Board Meeting	Strategic planning session	1st Floor Hearings Room
25-May	Teleconference Board Meeting		6th Floor Board Room
29-Jun	Board Meeting	New officers terms begin, Budget review	1st Floor Hearings Room
27-Jul	Teleconference Board Meeting		6th Floor Board Room
24-Aug	Board Meeting	KPM 10 – Best practices survey finalized	1st Floor Hearings Room
28-Sep	Teleconference Board Meeting		6th Floor Board Room
26-Oct	Board Meeting		1st Floor Hearings Room
7-Dec	Board Meeting	Stakeholder meeting	1st Floor Hearings Room

*Board meetings begin at 9:30 a.m.

**Unless otherwise stated, board meetings are held at 201 High St. SE, Salem, OR 97301

CONSTRUCTION CONTRACTORS BOARD

201 High Street SE, Suite 600
PO Box 14140
Salem, OR 97309-5052
503-378-4621
503-373-2007 FAX

Memorandum

To: Construction Contractors Board

From: Stan Jessup, Enforcement Manager

Date: June 13, 2016

Subject: Enforcement Update

The recruitment for a replacement Field Investigator/Mediator has been completed and CCB will again have a full time presence in Eastern Oregon. The new Field Investigator/Mediator will begin training in early July and will reside in La Grande, Oregon.

Most regulatory agencies are familiar with the complaint of “not enough enforcement”. Because this is an ambiguous statement and often not exactly representative of reality, I decided to illustrate what we have been doing to improve the perception as well as the realities of enforcement over the last couple of years.

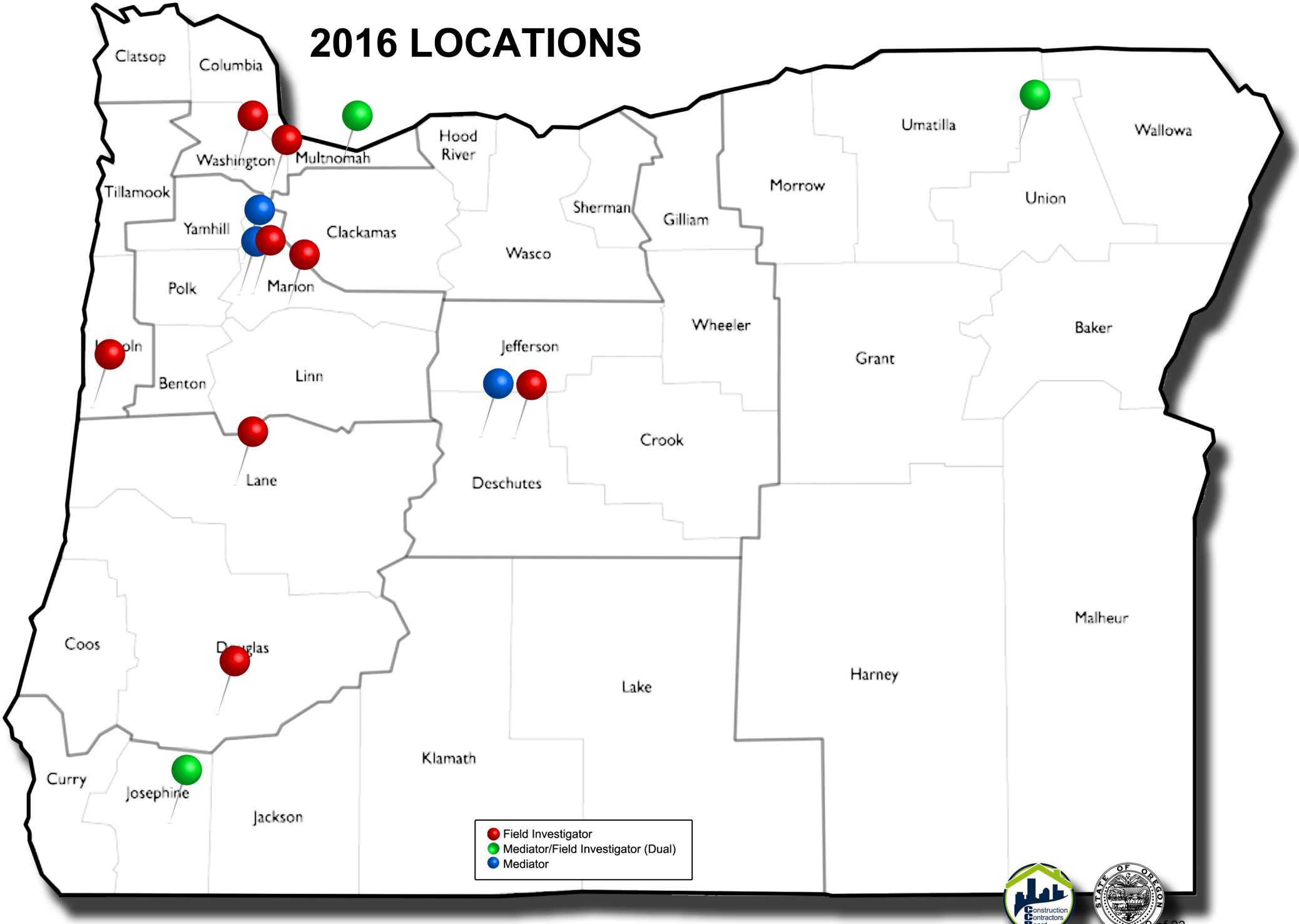
First, we began looking for ways to better position the agency for faster and more effective responses to complaints. This involved evaluating where the complaints are generated, especially when looking outside the major population areas.

We also reviewed potential changes in mediation coverage around the state in order to incorporate Dispute Resolution Services coverage into our location/strategic plan. All new Field Investigators are evaluated for the potential ability to train and conduct dispute resolution mediations as well as field investigations. This gives CCB the ability to perform mediations in remote areas with personnel that are already located nearby and thereby reduce response time and cost to the agency.

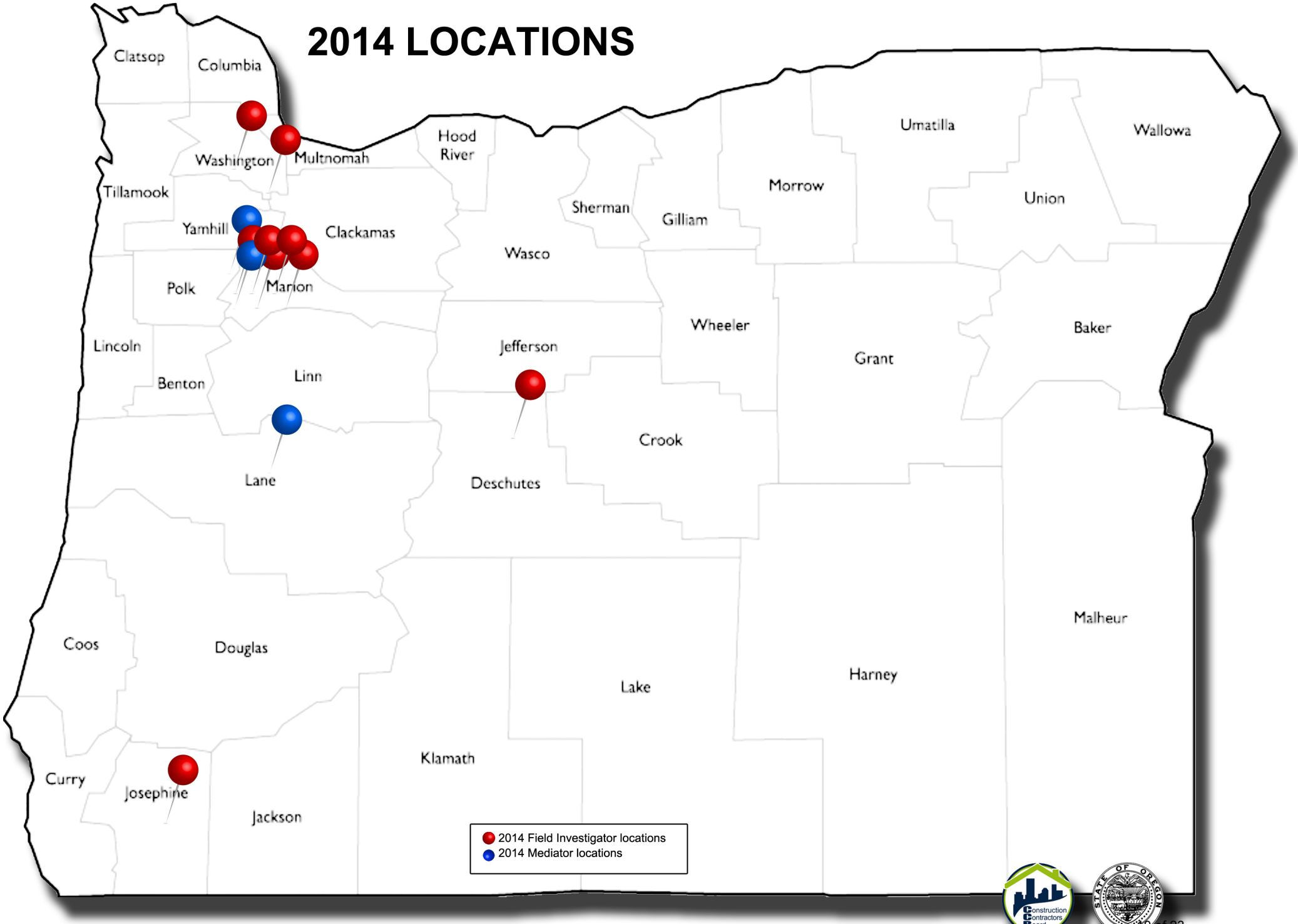
These changes are already proving to be successful. We recently moved a dual trained employee to southern Oregon to cover mediations in that region replacing a retiring Mediator. The new Field Investigator/Mediator in La Grande will cover the northeast portion of the state. A part-time retiree/trainer will remain in central Oregon and two full time Mediators cover the northwest portion of the state where the major population exists.

To better illustrate these changes, I’m including two maps. The first one shows the general location of the Field Investigators (red pin) and Mediators (blue pin) in 2014. The second map shows the current locations of each plus the dual trained staff which are indicated with green pins.

2016 LOCATIONS



2014 LOCATIONS



CONSTRUCTION CONTRACTORS BOARD

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Memorandum

To: Construction Contractors Board

From: Kathleen Dahlin, Policy Analyst
Laurie Hall, Licensing Manager

Date: June 15, 2016

Subject: Contractors that Lose their Responsible Managing Individual (RMI)

Factual Background

At the April 27, 2016, board meeting, the board asked staff what happens if a contractor's RMI suddenly leaves the business. Laurie Hall responded that the Construction Contractors Board (CCB) sends a letter notifying the business that it needs to appoint a replacement RMI. The board stated they would like to see a mechanism in place for a company to appoint an "emergency RMI." Agency staff indicated they would look into the matter and report back to the board.

In its spring newsletter, the CCB published an article titled, "Why should I have more than one RMI?" *The* Toolbox, pg. 1, Laurie Hall. The article suggests that contractors should consider having more than one RMI on their staff. Good reasons for this practice include: (1) if an RMI leaves suddenly, the business still has an RMI; (2) the business is risking a license suspension without an RMI; and (3) the training for the RMI likely qualifies as continuing education.

Statutes And Rules – RMIs

A. Statutes

An RMI is an individual who: (1) is an owner or employee of the business; (2) exercises management or supervisory authority; and (3) has successfully completed the training and testing required for licensing. ORS 701.005(16). With a few exceptions (e.g., developers), residential contractors and commercial contractors must have an RMI. ORS 701.081; 701.084. A licensed contractor must have at least one RMI <u>at all times</u>**.** ORS 701.091(1), (emphasis added). A contractor must immediately notify the CCB of any change regarding its RMI. ORS 701.114(1).

B. Rules

When first applying for a license, a contractor must designate at least one individual as its RMI. OAR 812-006-0100(2). The RMI must: (1) have completed the pre-licensure training and passed the test; or (2) document that the RMI has worked as a contractor since June 30, 2000. OAR 812-006-0100(2)(a),(b); 812-006-0150; 812-006-0450. When an RMI leaves the business, the business shall immediately appoint another RMI and notify the CCB – in writing – of the new RMI. OAR 812-006-0150(5). The newly appointed RMI must document completion of the pre-licensure training and passage of the test. OAR 812-006-0150(6).

Problem: Enforcement

If a contractor no longer has an RMI, CCB may suspend the contractor's license. ORS 701.098(1)(a).

There are two "flavors" of license suspension – a standard suspension and an immediate suspension. The standard suspension requires notice and an opportunity for a hearing in advance of the suspension. *See* ORS 183.310(2)(a)(C); 183.413; 183.415. An immediate suspension allows the agency to first suspend a license – then grant a hearing. ORS 183.430(2). An immediate suspension is only justified if the agency finds a serious danger to public health or safety. *Id.*

Under Oregon law, there are numerous circumstances where CCB may propose a standard license suspension. ORS 701.098(1). Included is suspending a license for violating a (general) provision of ORS chapter 701. ORS 701.098(1)(a). In contrast, there are only six listed acts that cause such a serious danger to public welfare as to justify an immediate suspension. These are: (1) lack of a surety bond; (2) lack of liability insurance; (3) hiring employees while classed as exempt; (4) utilizing workers supplied by a worker leasing company while classed as exempt; (5) conduct that is dishonest or fraudulent; and (6) failure to pay a construction debt. ORS 701.098(4)(a).

If CCB learns that a contractor did not replace its RMI, the agency may issue a notice of intent to suspend the license. The contractor has an opportunity for a hearing before CCB suspends the license.[1]

AGENCY PRACTICE

Although not in policy or rule, CCB's practice is to notify a contractor as soon as it learns the contractor no longer has an RMI. CCB gives the contractor 30 days in which

[1] The Spring 2016 article states that, "If your RMI leaves your business unexpectedly, by choice or otherwise, your license technically becomes invalid on the date we are notified." This is not entirely accurate – CCB must take an affirmative act to suspend the license. This does not happen automatically.

to appoint a qualified, replacement RMI. If the contractor does not appoint a new RMI, CCB sends the contractor a notice of its intent to suspend the contractor's license.

Given that a suspension proceeding takes longer than 30 days (including notice, request and hearing), it is reasonable for the agency to attempt to resolve the matter informally, before initiating the contested case process. This is akin to a settlement.

Possible Solutions

One option is to continue the agency's current practice – allow 30 days to replace the RMI and then issue a notice to suspend the license. The agency might consider adopting rules to formalize its practice.[2]

Another option is to seek a statutory amendment, outlining the process to replace an RMI who leaves suddenly. Such an amendment might authorize a short-term, "emergency" RMI who has yet to take the training and test.

[2] The agency may wish to consult counsel about this practice. Counsel should also be consulted before adopting rules to formalize the practice.

RESPONSIBLE MANAGING INDIVIDUAL

What the Statutes Provide (Summary):

A responsible managing individual (RMI) is an individual who: (1) is an owner or employee of the business; (2) exercises management or supervisory authority; and (3) has successfully completed the training and testing required for licensing. ORS 701.005(16). The board establishes training requirements by rule. ORS 701.122(1). The board, by rule, approves a test. ORS 701.122(2). With a few exceptions, residential contractors and commercial contractors must have an RMI. ORS 701.081; 701.084. A licensed contractor must have at least one RMI at all times. ORS 701.091(1), (emphasis added). If a business changes its RMI, it must immediately notify CCB of the change. ORS 701.114(1).

Relevant Statutes:

ORS 701.005(16) (excerpt)

701.005. As used in this chapter:

(16) "Responsible managing individual" means an individual who:
(a) Is an owner described in ORS 701.094 or an employee of the business;
(b) Exercises management or supervisory authority, as defined by the board by rule, over the construction activities of the business; and
(c)(A) Successfully completed the training and testing required for licensing under ORS 701.122 within a period the board identifies by rule;
(B) Demonstrated experience the board requires by rule; or
(C) Complied with the licensing requirements of ORS 446.395.

ORS 701.081 (excerpt)

701.081 Residential contractors; bond; insurance; responsible managing individual. (1) A residential general contractor shall:
(a) Obtain a surety bond under ORS 701.068 in the amount of $20,000;
(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than $500,000; and
(c) Have a responsible managing individual who meets the requirements of ORS 701.091.
(2) A residential specialty contractor shall:
(a) Obtain a surety bond under ORS 701.068 in the amount of $15,000;
(b) Obtain general liability insurance under ORS 701.073 in an amount not less than $300,000; and
(c) Have a responsible managing individual who meets the requirements of ORS 701.091.
(3) A residential limited contractor shall:
(a) Obtain a surety bond under ORS 701.068 in the amount of $10,000;
(b) Obtain general liability insurance under ORS 701.073 in an amount not less than $100,000; and
(c) Have a responsible managing individual who meets the requirements of ORS 701.091.
(4) A residential developer shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of $20,000; and

(b) Obtain general liability insurance under ORS 701.073 in an amount not less than $500,000.

(5) A residential locksmith services contractor shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of $10,000;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than $100,000; and

(c) Have a responsible managing individual for the business who is certified as a locksmith under ORS 701.485.

(6) A home inspector services contractor shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of $10,000;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than $100,000; and

(c) Have a responsible managing individual for the business who is certified as a home inspector under ORS 701.350.

ORS 701.084 (excerpt)

701.084 Commercial contractors; bond; insurance; responsible managing individual; key employees. (1) A commercial general contractor level 1 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of $75,000;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than $2 million;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least eight years of experience described in ORS 701.050.

(2) A commercial specialty contractor level 1 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of $50,000;

(b) Obtain general liability insurance under ORS 701.073 in an amount not less than $1 million;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least eight years of experience described in ORS 701.050.

(3) A commercial general contractor level 2 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of $20,000;

(b) Obtain general liability insurance under ORS 701.073 in an amount of not less than $1 million;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least four years of experience described in ORS 701.050.

(4) A commercial specialty contractor level 2 shall:

(a) Obtain a surety bond under ORS 701.068 in the amount of $20,000;

(b) Obtain general liability insurance under ORS 701.073 in an amount not less than $500,000;

(c) Have a responsible managing individual who meets the requirements of ORS 701.091; and

(d) Have one or more key employees with a combined total of at least four years of experience described in ORS 701.050.

ORS 701.091

701.091 Responsible managing individual. (1) A business licensed under this chapter must at all times have at least one responsible managing individual.

(2) Subsection (1) of this section does not apply to a business licensed with endorsement solely as a residential or commercial developer.

ORS 701.114

701.114 Change in responsible managing individual or persons exercising control of contractor. (1) Except as provided in this subsection, a contractor licensed under this chapter shall immediately notify the Construction Contractors Board of any change in the identity, name or address of a person who holds a position with the contractor that is described in ORS 701.046(1)(h), (i) or (j) or of a responsible managing individual for the contractor as defined in ORS 701.091. A contractor described in ORS 701.046(2) is not required to report a change in the identity, name or address of a person described in ORS 701.046(1)(h), (i) or (j).

(2) Except as provided in this subsection, if a partner or joint venturer departs from a contractor that is a partnership or joint venture, the contractor must obtain a new license before continuing to conduct activities that require a license under this chapter. A contractor described in ORS 701.046(2) that is a partnership or joint venture is not required to obtain a new license upon departure of a partner or joint venturer.

ORS 701.122

701.122 Training requirements for individuals and businesses; testing of business license applicant; exception; rules. (1) The Construction Contractors Board, by rule, shall impose training requirements for individuals and businesses seeking to be licensed under this chapter. The training required by the board must relate to business practices and laws affecting construction contractors. The board shall adopt standards for programs that provide training that meets the requirements of this subsection.

(2) In establishing training requirements under subsection (1) of this section, the board shall take into consideration the availability of training programs within the state and shall encourage training providers to use the most up-to-date technology. The board shall recognize and grant credit for training provided by private organizations if the training program meets the standards established by the board under subsection (1) of this section. The board periodically shall review the qualifications of private organizations and instructors to determine compliance with the program standards. The board shall develop and make available to the public a list of public and private programs that provide training that meets the training requirements established by the board under subsection (1) of this section.

(3) The board, by rule, shall approve a test for applicants for licensing under ORS 701.046. The test shall measure the applicant's knowledge regarding business practices and laws that are the subject of the training required under subsection (1) of this section.

(4) Subsections (1) and (3) of this section do not apply to an applicant for licensing with endorsement solely as a residential or commercial developer.

What the Rules Provide (Summary):

When first applying for a license, a contractor must designate at least one individual as an RMI. OAR 812-006-0100(2). The RMI must have: (A) completed the 16 hour pre-licensure training and passed the test; or (B) document that the RMI has worked as a contractor since June 30, 2000. OAR 812-006-0100(2)(a), (b); 812-006-0150; 812-006-0450. An individual who is not an owner may not be designated as the RMI of more than one licensee. OAR 812-006-0100(3). When an RMI leaves the business, the business shall immediately appoint another RMI and notify the CCB – in writing – of the new RMI. OAR 812-006-0150(5). The newly appointed RMI must document completion of the pre-licensure training and passage of the test. OAR 812-006-0150(6).

Relevant Rules:

<u>OAR 812-006-0100</u>

812-006-0100
Responsible Managing Individual

(1) As used in these rules, a responsible managing individual (RMI) has that meaning as provided in ORS 701.005(16).

(2) Upon initial application, an applicant for a contractor's license shall designate at least one individual as the applicant's RMI and;

(a) Provide evidence that the applicant's RMI has completed the pre-licensure training and passed the test, as provided for in ORS 701.122, OAR 812-006-0150 and 812-006-0300; or

(b) Document that the applicant's RMI has experience as required by OAR 812-006-0450.

(3) An individual who is not an owner may not be designated as the RMI of more than one licensee.

(4) An RMI may not be an approved pre-licensure training provider or the principal of an approved pre-licensure training provider or an approved pre-licensure trainer, as provided in OAR 812-006-0200, while serving as an RMI for a licensee. For purposes of this rule, the principal of an approved pre-licensure training provider includes any owner, partner, officer, member, manager or trustee of the provider.

(5) When an RMI leaves a business, the business shall:

(a) Immediately appoint another RMI; and

(b) Immediately notify the agency in writing of the name of the individual and the date the individual joined the business.

(6) An RMI appointed under section (5) of this rule must:

(a) Document completion of the pre-licensure training and testing requirements under ORS 701.122, OAR 812-006-0150 and 812-006-0300; or

(b) Document that the RMI has experience as required by OAR 812-006-0450.

OAR 812-006-0150

812-006-0150
Pre-Licensure Training Requirements

(1) The pre-licensure training required in ORS 701.122 shall cover the subjects listed in OAR 812-006-0250.

(2) Pre-licensure training shall consist of at least 16 hours.

(3) Pre-licensure training must be provided by a Pre-licensure training provider approved by the agency as provided in OAR 812-006-0200.

(4) A person seeking to take the pre-licensure training shall:

(a) Pay any fees required by the pre-licensure training provider; and

(b) Provide approved government-issued picture identification to the pre-licensure training provider.

OAR 812-006-0400

812-006-0400
Pre-Licensure Training and Testing Period

(1) The pre-licensure training and testing required under ORS 701.122 (1) and (3) shall be valid for 24 months from the date the pre-licensure training was completed. Pre-licensure training and testing that is past the 24-month period from the date of the completed pre-licensure training will not be considered for the purposes of fulfilling the requirements set forth in ORS 701.091.

(2) An RMI may satisfy the requirements of ORS 701.091 provided that the RMI:

(a) Has completed the pre-licensure training and passed the test;

(b) Has been the RMI of a licensee within two years of the date of application by the new applicant; and

(c) The license of the licensee that was previously owned by or that previously employed the RMI has not lapsed or, if lapsed, has lapsed for not more than 24 months.

(3) Sections (1) and (2) of this rule do not apply to an RMI that meets the experience requirements under 812-006-0450.

OAR 812-006-0450

812-006-0450
Pre-Licensure Experience

In order for a responsible managing individual to demonstrate experience under ORS 701.005(16)(c)(B):

(1) The individual must be listed on the agency's license records before July 1, 2000, as having been a sole proprietor, partner, venturer, member, corporate officer, trustee, or responsible managing individual of a business licensed under ORS chapter 701 before July 1, 2000;

(2) (a)The license of the business described in section (1) of this rule has not lapsed, or if lapsed, has lapsed for not more than the 24 month period prior to the date of the application; or

(b)(A) If the individual is listed on multiple license records as a sole proprietor, partner, venturer, member, corporate officer, trustee or responsible managing individual, the licensed business with which the individual is currently associated must not have lapsed for more than the 24-month period prior to the date of the application; and

(B) The individual must have been similarly and continuously associated with one or more licensed contractors during the time period beginning before July 1, 2000, until the date of the application.

(3) The individual must have been listed as a sole proprietor, partner, venturer, member, corporate officer, trustee, or responsible managing individual of the business described in section (1) or (2)(b) of this rule within the 24 month period prior to date of the application.

CONSTRUCTION CONTRACTORS BOARD

201 High Street SE, Suite 600
PO Box 14140
Salem, OR 97309-5052
503-378-4621
503-373-2007 FAX

Memorandum

To: Construction Contractors Board

From: Cindy Mora, Fiscal Analyst

Date: June 17, 2016

Subject: 2017-19 Agency Budget

State agencies are in the process of developing budgets for the 2017-19 biennium. The budget is developed in stages. We have just submitted the Continuing Service Level (CSL) budget for the CCB. The CSL is basically the current budget with standard inflation calculations added. It represents what it will cost for the agency to continue operating its existing services and programs over the next biennium.

The CSL budget will be analyzed by our DAS budget analyst. Sometimes the budget analyst recommends changes or adjustments to the CSL. Once the CSL passes the audit phase, and any program reductions or enhancements have been made, it becomes the Agency Request Budget (ARB). The Governor then has the opportunity to recommend changes to the ARB. The ARB is then rolled into the Governor's Recommended Budget (GRB), which includes all of the budgets of Executive Branch agencies. The GRB version of our budget is the one voted on by the legislature.

Attached is a copy of the CSL for the agency.

Orbits Input Form
91500 Construction Contractors Board
017-01-00-00000 CCB

	Acct #	2015-17 Approved	17-19 Base	PKG 010	PKG 31	2017-19 CSL
Beginning Balance		3,080,877	7,706,929			7,706,929
						-
Revenue Categories						-
Business License and Fees	*0205*	11,610,408	12,116,436			12,116,436
Total Licenses and Beginning Balance		14,691,285	19,823,365	-	0	19,823,365
Total Charges for Services	*0410*	105,420	104,551	-	0	104,551
Total Fines/Forfeits	*0505*	1,418,640	1,013,327			
				-	0	1,013,327
Total Donations and Contributions	*0605, 0705*	9,700	4,627	-	0	4,627
Total Transfers-in	*0975*	1,726,315	542,822	-	0	542,822
Total Transfers out	*2060*	(1,080,000)	(734,607)	-	0	(734,607)
Total Available Revenues		16,871,360	20,754,085	0	0	20,754,085
Personal Services						
Total Salaries and Wages		6,642,688	7,100,557	1,324	0	7,101,881
Total Other Payroll Expense		4,031,154	4,389,205	39,753	0	4,428,958
Total Personal Services		10,582,841	11,399,006	52,105	0	11,451,111
Total Services and Supplies		4,468,823	4,468,823	0	407,707	4,876,530
Total Expenditures		15,051,664	15,867,829	52,105	407,707	16,327,641
Ending Fund Balance			4,886,256			4,426,444

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Memorandum

To: Construction Contractors Board
From: Stan Jessup, Enforcement Manager
Date: May 26, 2016
Subject: Reconsideration of Final Order 111011

In November 2015, CCB Dispute Resolution Section received a consumer complaint against C & K Custom Homes LLC (License 197714) for bad workmanship. The investigation revealed that the new home was actually sold by Red Gap Holdings LLC (Red Gap) and not C & K Custom Homes LLC (C & K), therefore the consumer did not have a direct contractual relationship with a Licensee. C & K built the dwelling but Red Gap held title to the property and was the seller. Both C & K and Red Gap are registered LLC's in the state of Oregon and the members are the same in both companies.

Because the seller (Red Gap) was unlicensed we issued a Notice of Intent which became a Final Order by Default for a violation of 701.021(1), working without a license, with a civil penalty of $5,000 because they had arranged for construction work and there was a consumer complaint.

Red Gap Holdings LLC has two prior violations for working without a license resulting in a warning on one of the violations and a civil penalty on the other, which was paid.

Red Gap member Jared Kinne has asked for reconsideration of the civil penalty on the basis that they believed they had responded to the Notice of Intent and had asked for a reduction of the civil penalty. The agency did receive a settlement request from C & K for the Notice of Intent issued to C & K for assisting an unlicensed contractor but not from Red Gap.

Because the Final Order against Red Gap was ratified by the board, the agency does not have the authority to offer a settlement agreement after Final Order. This memo is a request to consider whether to enter into a settlement agreement with Red Gap in which CCB would suspend a portion of the civil penalty as long as there are no further violations for a period of one year.

On May 25, 2016, I interviewed the consumer that filed the complaint to evaluate whether they had been satisfied with the remedy of the workmanship issues that were part of the original complaint, the consumer reported that they were very happy with how CCB handled the issue and the on-site mediation process was successful in reaching a resolution to their satisfaction.

During my discussions with Mr. Kinne, I was very clear that the board had no obligation to make any changes when an Order becomes final. However, Mr. Kinne explained that originally he believed they were in compliance by using C & K for the construction since C & K is actively licensed.

He went on to explain that C & K was formed after Red Gap received the first violation in March 2012. The C & K license was first issued in September 2012.

In summary, I believe that the consumer has received proper compensation for the workmanship issues and I believe Red Gap members now understand the importance of the seller of real property being licensed when buying and selling homes or building new homes because the consumer must have a direct contractual relationship with a licensee in order to file complaints for damages.

In this unusual instance, I recommend that the board authorize the agency to insert a negotiated settlement agreement into Enforcement file 111011 and ratify the action.