

9 ABOVE BOARD

LANDSCAPE CONTRACTORS BOARD (LCB)

July 2009, Issue 59



UNDERGROUND

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Legislative Update

SB 147 has passed through the House and the Senate and is ready for signature by the Governor.

This bill does several things to the law:

1. Created a clear requirement that those businesses that maintain irrigation systems using compressed air (winterization) need to be licensed by the LCB or be a licensed Plumber.
2. Changed the definition of Landscape Construction Professional and Landscape Contracting business to reflect clearly that it is "about the work" performed rather than about the person performing the work.
3. Removed confusion in the current exemptions from licensure about who could advertise as a landscape contracting business and who could not.
4. Created an exemption from licensure for plumbers to install irrigation piping when done per an irrigation design drawn by a licensed landscape architect or licensed landscape contracting business licensed in irrigation.
5. Creates an allowance for landscape contracting businesses to contract out to plumbers to install irrigation piping or repairing or maintaining irrigation piping.
6. Cleaned up statutory language that was in conflict between landscape architect law and landscape contracting law.
7. Created an exemption from licensure for employees of homeowners working on behalf of the owner who contract for landscaping work on the owners property. This has been board policy but is now clearly stated in law.

BOARD MEMBERS

Martin Gascoyne, Cottage Grove,
CHAIR

Lisa Sedlacek, Florence
VICE CHAIR

Steve Carper, Beaverton

Joe Lymp, Sunriver

Annie Robertson, Portland

Larry Thomas, Astoria

Matt Triplett, Portland

Online Profile Management Coming Soon!

All licensees should have received a letter from the board explaining how to log in and change certain information in the licensee record. The licensee will be able to change the mailing address, phone, and email address online. Please check online the current licensee information the board has on record to make sure all is correct and current.

REMEMBER CEH AUDITS START IN 2010

In 2010, those landscape construction professionals (LCP) with an even numbered license will be subject to CEH audit at time of renewal of the LCP license. The requirement in 2010 is for 10 CEH of which a minimum of 2 CEH in Business topics, minimum of 4 in Technical and the remaining 4 in Business, Technical or Other. See the LCB website for approved courses.

POINTS TO PONDER

Green Construction

By Michael A. Snyder, CLP; Administrator



I was reading the OAN Digger, June 2009 issue and found an article on "living walls" written by Miles McCoy. It brought my attention to how construction techniques have changed and how these new techniques are incorporating landscape plantings to provide temperature control, storm water control and purification, enhancement of air quality and sustainability of the environment. Incorporating "green roofs" and "living walls" in the construction of new commercial and residential buildings and the renovation of old construction is on the rise and presents a great opportunity for the landscape industry to become intimately involved in how this work is done. Landscape architecture and engineering firms in the planning and designing of the projects and landscape contracting businesses in the installation and planting. It involves the installation of lawns, trees, shrubs, other nursery stock, drainage and irrigation and thus falls under the jurisdiction of the LCB.

As Miles states: "There may come a day when we cover all our buildings with plants. The most obvious environment advantage is the evaporative cooling effects, which can lower building temperatures in the summer, and with evergreen species, even mitigate winter weather. There is a presumption based upon research that evergreen climber facades would reduce the wind chill factor by 75% and reduce heating demand by 25%. The added green layer acts as extra insulation. Plants also trap carbon dioxide and produce oxygen, so they become a positive in the global warming battle. Other benefits are that the plants in green construction including walls and roofs soak up pollutants such as lead and cadmium; reduce noise as leaves absorb sound; mitigate the heat island effect, lowering the temperatures of cities significantly and provide habitat for all types of wildlife, including birds, insects, spiders and even bats."

What does this mean for the landscape construction industry? I see this as a great opportunity to get in on the ground floor of a technology that will most likely not have an ending point. It is something that I believe will influence the architectural design of new commercial and residential construction in Oregon and influence the remodeling market as well. If people can see that such construction can have a benefit both financially and environmentally, I believe this type of construction will be popular and even mandated at a future time. You will want to be ready to take on this type of work for I believe it is already in demand and this board is going to be asked to either regulate it (for which it has current authority) or "give it up" if there are not qualified landscape contracting businesses available to do the work. Since this technology is relatively new, preparing your business by attending seminars, searching out others in other states and countries that are already implementing such construction may prepare you and put you "ahead of the curve" to enter this field.

Contact the OAN and get a copy of the June 2009 Digger, you may find it interesting reading.

I was also made aware that a lot of storm water management is being addressed by the City of Portland and maybe other cities throughout the state by implementing the construction of "extended curbs" and "permeable paving" in the pathway of street storm water runoff. Such construction is being designed by transportation engineers with the cooperation of landscape architects. This design creates bio-swales and other water absorbing elements in the parking strips and along the water pathway that storm water is forced through before entering the storm drain, thus reducing the amount of water reaching the catch basin. Interesting process, interesting design and definitely the installation of such planning projects is within the scope of the LCB license. Are you ready for this new method of water reclamation? How much do you know about it? Definitely a CEH topic, don't you think?

New Budget and New Fee Schedule Adopted

The Board decided after taking testimony and holding a hearing to adopt the proposed budget for the 2009-2011 Biennium. The budget allows for a maximum expenditure of \$1,346,024 which is \$109,500.00 less than what was proposed for the 2007-2009 biennium when the board approved a budget that expended \$218,000.00 over the projected revenue for the biennium. The main contributor to the deficit spending was the employment of salaried compliance investigators and the removal of contract investigators.

The board decided for the 2009-2011 biennium to reduce the number of salaried investigators and contract with private investigation firms throughout the state to perform contract compliance investigations for the board. With about 50% of the staff time which includes 1 FTE compliance officer and entering into at least 3 contracts with private investigator firms, the board proposes to spend over \$625,000.00 on compliance efforts during the next biennium. The remaining expenses are divided between claims, continued education, consumer education, licensing and administration.

You may view the approved budget on the LCB website at:

http://www.lcb.state.or.us/LCB/docs/Budget/2009-20011_ProposedBudget.pdf

In order to have a balanced budget the board approved an increase in license fees, application fees and other fees, including a reinstatement fee for suspended licenses. This is the first increase in license fees in seven years and the board is hopeful these changes will result in a stable fee structure for the next 4 years.

You may view the new fees on the LCB website at:

http://www.lcb.state.or.us/LCB/docs/Rules/BOARD_APPROVED_FEES.pdf

Trivia Question: SBA is offering loans to viable small businesses with immediate financial hardship up to what amount?

Answer p 5

HEY! I RECEIVED TWO COPIES OF THE MAY NEWSLETTER, WHY?

The LCB received an atypical amount of comments about the "duplicate" mailing of the last newsletter in May 2009; enough so to warrant an explanation to those who thought the same thing but did not take the time to comment.

The newsletter in May also doubled as a "**notice of rule hearing**" for the board. The hearing that was noticed related to the rule amendments for the new proposed 2009-2011 budget and the fee changes required for balancing this budget.

The LCB is required by law to notify **all licensees** of these proposed rule changes and since there are two licenses required for landscaping work in Oregon, sole proprietors and owners of businesses who are licensed will inevitably receive two notices of these hearings, thus two newsletters in this case. Sending out a separate mailing to all licensees in addition to the newsletter was considered a waste of resources and, in fact, mailing the newsletter twice was cheaper than doing another mailing due to the bulk rate used for the newsletter.

The board takes its fiscal responsibility very seriously and whether or not the country is in good or bad economic times we make decisions to remain within our budgetary limits and to not spend unnecessarily. Thank you for voicing your concerns and the board hopes you feel free to create a dialogue on any issue that is pertinent to this agency. Your feedback is important to the board though the final decision of the board may not always agree with your opinion.

ENFORCEMENT ACTIONS APRIL 1, 2009 THROUGH MAY 31, 2009

THESE ACTIONS ARE FOR FINAL ACTIONS ONLY AND ARE NOT THE TOTAL NUMBER OF ACTIONS TAKEN DURING THE PERIOD, SINCE SOME ARE STILL UNDER INVESTIGATION. THIS IS SUMMARY INFORMATION ONLY. FOR DETAILED INFORMATION SEE: WWW.LCB.STATE.OR.US

City	Advertising w/o License	Advertising Outside Scope of License	Conduct that was Dishonest or Fraudulent	Failure to Appear at On-Site Meeting	Failure to Comply with min Standards for Contracts	Failure to Employ Landscape Construction Prof.	Failure to Obtain Required Bond Amount	Failure to Maintain Bond	Failure to Maintain Business Registration	Failure to Maintain Liability Insurance - Gap	Failure to Maintain Workers Compensation	Failure to Notify Board - Address Change	Failure to Obtain a Permit	Failure to Pay Civil Penalty	Failure to Pay License Fees	Failure to Pay Taxes	Failure to Register with the Corporation Division	Failure to Use Business License No in Advertising	Failure to Supervise Landscape Work	Failure to Require Direct Supervision	Operating w/o License	Operating w/o License & Claim Filed	Owes Landscaping Debt	Working Outside Scope of License	Working w/o a Written Contract	Total
ALBANY																					1			1	2	
ALOHA	2																								2	
ASHLAND																					1				1	
ASTORIA																					1				1	
AUMSVILLE						1																			1	
AURORA											1														1	
BAKER CITY												1													1	
BEAVERTON	2																				1				3	
BEND	1									2											1				4	
BROOKINGS																					1				1	
CENTRAL POINT	1									1	1														3	
CLACKAMAS								1															2		3	
CLATSKANIE	1																								1	
COOS BAY	1																				1				2	
CORVALLIS								1																	1	
DURHAM								1																	1	
EAGLE												1													1	
EUGENE	1																								1	
FLORENCE																					1				1	
FOREST GROVE										1															1	
GRESHAM											1														1	
HAMMOND																		1			1				2	
HILLSBORO	1				1	1	1	1	1	1	1										1		1		8	
HOOD RIVER										1															1	
HUBBARD	1																								1	
JACKSONVILLE	1																								1	
LAS VEGAS	1																								1	
MADRAS											1														1	
MEDFORD	1				1				1	1	1				1						1				7	
MILWAUKIE	2																								2	
MINNEAPOLIS												1													1	
MOLALLA						1																			1	
NAMPA	1																								1	
NEWPORT											1														1	
OREGON CITY								1	1	2															4	
PORTLAND	8				1	2	1	1	3	3	2							2			2	1			23	
POWELL BUTTE										1															1	
PRINEVILLE	1									1															2	
REDMOND	1									1	1	1													4	
ROSEBURG							1	1			1	1	1	1	1										5	

ENFORCEMENT CONTINUED

City	Advertising w/o License	Advertising Outside Scope of License	Conduct that was Dishonest or Fraudulent	Failure to Appear at On-Site Meeting	Failure to Comply with min Standards for Contracts	Failure to Employ Landscape Construction Prof.	Failure to Obtain Required Bond Amount	Failure to Maintain Bond	Failure to Maintain Business Registration	Failure to Maintain Liability Insurance - Gap	Failure to Maintain Workers Compensation	Failure to Notify Board - Address Change	Failure to Obtain a Permit	Failure to Pay Civil Penalty	Failure to Pay License Fees	Failure to Pay Taxes	Failure to Register with the Corporation Division	Failure to Use Business License No in Advertising	Failure to Supervise Landscape Work	Failure to Require Direct Supervision	Operating w/o License	Operating w/o License & Claim Filed	Owes Landscaping Debt	Working Outside Scope of License	Working w/o a Written Contract	Total
SALEM	1					1		1		2																5
SCAPPOOSE										1																1
SHERWOOD																		1								1
SPRINGFIELD								1					1													2
STAYTON	1																									1
SUTHERLIN					1																					1
TALENT							1	1	1																	3
TIGARD														1												1
TILLER										1																1
TUALATIN					1		1				1															3
VANCOUVER												1														1
WARRENTON	1																									1
WILLIAMS												1														1
WILSONVILLE								1																		1
WOODBURN																					1					1
Total	30	0	0	0	6	4	3	9	6	22	7	9	1	2	2	0	0	4	0	0	14	0	3	1	1	124

SMALL BUSINESS CAN APPLY FOR ARC LOANS BEGINNING JUNE 15, 2009

Starting June 15, SBA will begin accepting loans for a temporary new program called America's Recovery Capital. ARC loans of up to \$35,000 are designed to provide a bridge for viable small businesses with immediate financial hardship to keep their doors open until they get back on track. See the full article for information on eligibility, how to apply and more. For information on SBA's other Recovery Act programs, visit <http://www.sba.gov/recovery/index.html>.

INFORMATION THAT YOU CAN USE

The LCB website has a lot of information that will help landscape contracting businesses and landscape construction professionals stay in compliance and be informed with the changes that occur. The Home page has information about Continued Education requirements, approved programs and how to comply with this requirement. Also links to forms for record changes, information that is helpful to the clients of the landscape contracting business, low voltage identification cards, and board matters such as meetings, minutes and rule hearings. Take some time to navigate to the different areas of the website and see what's there for your use.



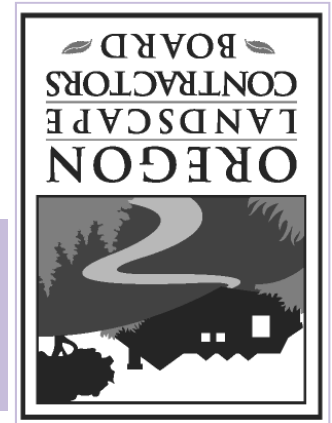
Website: www.lcb.state.or.us



Phone: (503) 378-5909 Fax: (503) 378-5950
 Email: lcb.info@state.or.us Web: www.lcb.state.or.us

Staff:
 Michael A. Snyder, CLP
 Administrator
 Kim Gladwill-Rowley
 Program Manager
 Cindy Clark
 Office Administrator
 Melissa King
 License Coordinator
 Staff Investigators:
 Ken Roth
 Vincent Salomone

Landscape Contractors Board
 2111 Front St. NE
 Suite 2-101
 Salem, OR 97301



MISSION STATEMENT
 Promoting Consumer Protection, Contractor Competency and Fair
 Competition in Oregon's Landscape Construction Industry

MEET YOUR BOARD—New Public Member: Annie Robertson



As of June 2009, the Governor appointed Annie Robertson to serve on the State Landscape Contractors Board as the newest public member. She joins Steve Carper in this capacity and fills the vacancy left by Richard Hollenbeck.

Annie practices business law with the law firm Lane Powell, which has offices in Portland and in other parts of the world. Annie works with a variety of transactional matters including general business and corporate law, with a particular emphasis on mergers and acquisitions, corporate governance, entity formation, equity offerings and debt financings.

She graduated from Central Washington University for her undergraduate studies and received her Juris Doctor degree from Willamette University Law School, graduating *magna cum laude* in 2007.

Annie served as a clerk for the Civil Enforcement Division, Oregon Justice Department before her present employment.

She currently has membership in the following practice groups and specialty teams: Business; Corporate Finance and Securities; Emerging Companies and Venture Investment; Mergers and Acquisitions; and Sustainability and Climate Change.

Annie loves the outdoors and spends her free time backpacking, running, playing tennis, reading and playing frisbee with her dog.

The Board welcomes Annie to the Board and looks forward to her contributions. She provides her expertise, personal perspective and service in evaluating and regulating the landscape construction industry in Oregon. **Thank you Annie.**