

FINAL ORDER

As of: 11-14-2013 *to*

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

IN THE MATTER OF:

**AXIS ELECTRICAL CORPORATION , AN
INACTIVE OREGON CORPORATION**

RESPONDENT

) **NOTICE OF PROPOSED ASSESSMENT**
) **OF A CIVIL PENALTY AND**
) **REVOCAION OF ELECTRICAL**
) **CONTRACTOR LICENSE NO. C870**
)
) **FINAL ORDER ON DEFAULT**
)
) **CASE NO. 2013-0173**
)

Under ORS 455.895(2) and OAR 918-001-0036, the Director of the Department of Consumer and Business Services (Director) proposes disciplinary action against Respondent in the form of civil penalties totaling \$13,000, and under ORS 455.125(1)(a), the Director proposed to revoke Respondent's electrical contractor license, no. C870, because Respondent violated Building Codes Division (BCD) statutes or rules as follows:

FINDINGS OF FACT

(1) During all relevant times, Respondent was a licensed electrical contractor, holding license no. C870.

(2) During or about the period of August 2, 2012 through May 6, 2013, Gary R. West, holding electrical license no. 2408S was the designated signing supervising electrician for Axis Electrical Corporation.

(3) Beginning approximately October 1, 2012 through August 6, 2013, at the following locations and for the account of another, Respondent allowed Charles W. Degraffenreed to perform electrical installations requiring licensure under ORS 479.620(3).

a. Installation of underground electrical feeder to pump house at 13925 S. Carus Road, Oregon City, Oregon, on or about November 5 through November 8, 2012.

b. Installation of electrical lighting circuit from panel to front door, one receptacle, one doorbell transformer, and one front garage light fixture at 226 SW Forest Cove Road, West Linn, Oregon, on or about December 13, 2012.

c. Installation of a 200 Amp electrical panel at 7906 SE Bush Street, Portland, Oregon on or about December 17, 2012 through January 7, 2013.

d. Installation of electrical feeder to shed, including lights and plugs at 425 E. Exeter Street, West Linn, Oregon, on or about January 2 through January 14, 2013.

e. Installation of electrical wiring for a remodel at 1924 SW Broadway Avenue, Portland, Oregon, on or about January 16 through April 1, 2013.

f. Installation of new electrical service, re-wiring of 4-plex basement and storage at 3324 SE 11th Avenue, Portland, Oregon, on or about January 23 through May 13, 2013.

1 g. Installation of new electrical meter and electrical panel at 18176 S. Fernwood Road,
Molalla, Oregon, on or about January 23 through February 11, 2013.

2 h. Installation of electrical service and electrical panel at 28099 SE Gerber Street, Eagle
Creek, Oregon, on or about March 11 through March 12, 2013.

3 i. Installation of electrical meter base and electrical sub panel at 4573 Exeter Street, West
Linn, Oregon, on or about April 15 through June 13, 2013

4 j. Installation of electrical service and five electrical circuits at 18901 E. Burnside Street,
Portland, Oregon, on or about June 3, 2013.

5
6 (4) On or about May 6, 2013, Gary West notified the division that he was no longer
Respondent's signing supervising electrician.

7 (5) During or about June 3, 2013, at 18901 E. Burnside Street, Portland, Oregon,
Respondent installed an electrical service and five electrical circuits without a continuously
8 employed, full time supervising electrician, as required by OAR 918-282-0015.

9 (6) The installations of circuits, electrical panels, electrical feeders, electrical wiring, light
10 fixtures, electrical services, and electrical meter bases, as described above, are electrical
installations as defined in ORS 479.530(10).

11 **ULIMATE FINDINGS OF FACT**

12 (1) Respondent allowed Charles W. Degraffenreed to perform electrical work for which
13 he was not properly registered or licensed.

14 (2) Respondent failed to assure electrical work was made by, or under the direct
15 supervision of a continuously employed full-time signing supervising electrician.

16 **CONCLUSIONS OF LAW**

17 (1) By allowing individuals to perform electrical work for which they were not properly
registered or licensed, as outlined in the Findings of Fact and Ultimate Findings of Fact,
18 Respondent violated OAR 918-282-0120(1).

19 (2) By failing to assure that electrical work was made by, or under the direct supervision
or control of, a continuously employed full-time signing supervising electrician, as outlined in
20 the Findings of Fact and Ultimate Findings of Fact, Respondent violated OAR 918-282-0015.

21 (3) By failing to comply with rules adopted under ORS 479.510 to 479.945, as outlined
22 above, the Director may revoke Respondent's electrical contractor license, no. C870.

23 **APPLICABLE LAW**

24 (1) Under OAR 918-282-0015, electrical contractors must assure that electrical work is
25 made by, or under the direct supervision or control of, a continuously employed full-time signing
supervising electrician.

1 (2) Under OAR 918-282-0120(1), no person or entity shall allow any individual to
2 perform electrical work for which they were not properly registered or licensed.

3 (3) Under ORS 455.125(1)(a), the Director may revoke a license if the holder fails to
4 comply with a provision of ORS 479.510 to 479.945 or with any rule adopted under those
5 statutes.

6 ORDER

7 Under ORS 455.895(2) and OAR 918-001-0036, the Director assesses the following:

8 (1) a \$3,000 civil penalty for violating OAR 918-282-0015 for failing to assure that all
9 electrical installations were done under the direct supervision of a continuously
10 employed full-time signing supervising electrician; and

11 (2) Five \$2,000 civil penalties for violating OAR 918-282-0120(1), on at least five
12 occasions, for allowing Charles W. Degraffenreed to perform electrical installations
13 while not properly licensed; and

14 The assessed civil penalties total \$13,000.

15 Under ORS 455.125(1)(a), the Director revokes Respondent's electrical contractor
16 license, no. C870, for failing to comply with the provisions of OAR 918-282-0015 and OAR
17 918-282-0120(1).

18 NOTICE OF RIGHT TO HEARING

19 Respondent is entitled to a hearing as provided by the Administrative Procedures Act,
20 Oregon Revised Statutes, Chapter 183. If Respondent requests a hearing, the request must be in
21 writing and filed with the Division no later than 20 days from the service date. If this Notice was
22 served to Respondent in person, the service date is the date Respondent received this Notice. If
23 this Notice was served through the mail, the service date is the day the Notice was mailed, not
24 the day Respondent received it.

25 If a request for hearing is not received within 20 days, Respondent's right to a hearing is
considered waived unless the failure to request a hearing was beyond Respondent's reasonable
control. Mail hearing requests to Building Codes Division, Enforcement Section, P.O. Box
14470, Salem, Oregon, 97309.

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

1 hearing before it begins.

2 **NOTICE TO ACTIVE DUTY SERVICE MEMBERS**

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

8 **NOTICE OF FINAL ORDER**

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

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

22 Dated this 16 day of October, 2013

23 Andrea Simmons for

24 Director
25 Department of Consumer and Business Services
State of Oregon