

1 **BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS**  
2 **SERVICES FOR THE STATE OF OREGON**

3 **IN THE MATTER OF:** )  
4 **WAYNE GINTER, AN INDIVIDUAL,** ) **CONSENT ORDER**  
5 **RESPONDENT.** ) **CASE NO. 2014-0256**

6 The Building Codes Division (BCD) conducted an investigation on behalf of the Director of the  
7 Department of Consumer and Business Services (Director) and determined that Respondent violated  
8 certain provisions of the Oregon Building Codes statutes, administrative rules, and specialty codes.

9 The Respondent and the Director desire to settle this matter informally through the entry of this  
10 Consent Order. Respondent understands that he has the right to a hearing under the Administrative  
11 Procedures Act, Oregon Revised Statutes (ORS), chapter 183, and fully and finally waives the right to  
12 a contested case hearing and any appeal therefrom by the signing and entry of this order in the  
13 Director's record. Respondent agrees to conduct all future business in compliance with the applicable  
14 statutes, administrative rules, and specialty codes. Respondent understands that this Consent Order is a  
15 public record.

16 **FINDINGS OF FACT**

- 17 1. At all relevant times, Respondent has been employed by the City of Woodburn Building  
18 Department as a plans examiner and building inspector.
- 19 2. Respondent was initially issued an Oregon Inspector Certification (OIC) number OIC 191 on  
20 January 30, 2006. Respondent held his OIC in good standing until November 1, 2013, when  
21 OIC191 expired.
- 22 3. Building Codes Division renewed Respondent's OIC191 on December 17, 2014.
- 23 4. From November 2, 2013, through December 16, 2014, Respondent performed the duties of a  
24 building inspector and plans examiner for the City of Woodburn without possessing a valid  
25 Oregon Inspector Certification.
5. The following licenses held by Respondent received 'inactive' status upon the expiration of  
Respondent's OIC license:

License Type	License #	Issue Date
Manufactured Structure Installation Inspector	3275MHI	6/16/2005
Residential Structural Inspector	2135CAS	7/8/2005
Residential Plans Examiner	2124CAX	7/08/2005
Residential Mechanical Inspector	1952CAM	8/19/2005
Park and Camp Inspector	483PCI	12/27/2006
Residential Plumbing Inspector	1794CAP	4/17/2006

## 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:
    - (A) Two years of construction or inspection-related experience or its equivalent;
    - (B) An approved one year inspection-related education program and one year of construction or inspection-related experience;
    - (C) A degree from an approved two year inspection-related education program or its equivalent; or
    - (D) Be a registered Oregon architect, a certified Oregon professional engineer, or have a Bachelor's or Master's degree in architecture or civil or structural engineering.
2. Under OAR 918-098-1470(1)(a) and (b), persons who hold an Oregon Inspector Certification or an Oregon Code Certification must act in the public interest in performing their duties as a building official, inspector, or plans examiner, including but not limited to obtaining and maintaining appropriate national or Oregon Code Certification prior to performing their duties, and not performing any inspections or plan reviews without holding the appropriate valid certification for the inspection or plan review being performed.
3. Under ORS 455.129(2)(d), the Department of Consumer and Business Services (Department) may deny a license, certificate, registration, or application or may suspend, revoke, condition or refuse to renew a license, certificate or registration if the Department finds that the licensee, certificate holder, registrant or applicant has performed work without appropriate licensing, certification or registration or has employed individuals to perform work without appropriate licensing, certification or registration.

## CONCLUSIONS OF LAW

1. By working for the City of Woodburn Building Department as a plans examiner and inspector without having a valid Oregon Inspector Certification (OIC), as outlined in Findings of Fact paragraph 2, Respondent violated OAR 918-098-1010(1) and 918-098-1470(1)(a) and (b).
2. By failing to comply with OAR 918-098-1010(1), Respondent's certifications listed in Findings of Fact (2) and (3) may be suspended under ORS 455.129(2)(d) for up to one year.

## SETTLEMENT AGREEMENT

1 Respondent and the Director of the Department of Consumer and Business Services (Director)  
2 agree to resolve this matter without a hearing with the entry of this Consent Order subject to the  
3 following terms and conditions:

- 4 1. The Director hereby assesses a \$1,000 civil penalty for violating OAR 918-098-1010(1) and  
5 918-098-1470(1)(a) and (b), of which \$750 will be suspended for a period of five (5) years  
6 under the following terms and conditions:
  - 7 1.1. Respondent agrees to pay the remaining \$250 of the civil penalty. *(An invoice will be*  
8 *included with Respondent's copy of the Final Order after it is signed by the Director.)*
  - 9 1.2. If Respondent fails to make a payment or otherwise defaults on any terms of this  
10 Consent Order, then the case will be turned over to the Department of Consumer and  
11 Business Services collections unit for collection of the entire \$1,000 civil penalty, along  
12 with interest and applicable fees.
  - 13 1.3. If Respondent fails to comply with the terms of this Consent Order, which includes but  
14 is not limited to failing to make full payment, Respondent's Oregon Inspector  
15 Certification number OIC191 may be suspended by the Director.
- 16 2. The Director agrees to issue Respondent his Oregon Inspector Certification number OIC191,  
17 and proposes to condition all of Respondent's existing and future certifications and  
18 authorizations until November 1, 2016, when OIC191 expires, under the following condition:
  - 19 2.1 Respondent shall attend the next Building Codes Division's Building Official Training  
20 scheduled for April 22 and 23, 2015. In the event that the Building Official Training  
21 scheduled for April 22 and 23, 2015, is cancelled or postponed, Respondent will attend  
22 the Building Official Training the next time it is scheduled to occur.
- 23 3. Respondent understands that a single failure to comply with any of the terms of this Consent  
24 Order could result in the entire civil penalty, including the suspended amount, becoming  
25 immediately due and immediate suspension of Respondent's Oregon Inspector Certification  
number OIC191.
4. Respondent understands that failure to comply with this Consent Order may result in the denial  
of future certification and licensing applications and/or suspension of licensing or certifications  
issued by the division and/or other state agencies.
5. Respondent agrees not to commit further violations of the Building Code Division's statutes  
and rules.
6. Respondent understands and agrees that any violation of the terms of this settlement agreement  
will result in further enforcement action.

- 1 7. Respondent understands and agrees that any violation of the Building Code Division's statutes  
2 or rules not alleged in this Consent Order, whether committed before or after the execution of  
3 this order, may be the basis for further enforcement action.
- 4 8. Respondent understands the suspended civil penalty will be waived five (5) years after the  
5 execution of this Consent Order, provided Respondent complies with the order's terms and has  
6 not committed any further violations of Building Code Division's statutes or rules.
- 7 9. Respondent agrees to cooperate with the Building Codes Division in any other cases related to  
8 the Respondent's case.
- 9 10. Respondent has read and fully understands the terms of this Consent Order, freely and  
10 voluntarily consents to the entry of this order without further hearing, without any force or  
11 duress, and expressly waives all rights to hearing or appeal in this matter.
- 12 11. Respondent understands that, upon signature of all parties, this Consent Order will be a FINAL  
13 ORDER.

14 **FOR THE RESPONDENT**

15 Wayne Ginter  
16 Wayne Ginter

17 Date: March 26, 2015

18 **FOR THE DIRECTOR**

19 Rebecca Nelson for  
20 Director  
21 Department of Consumer and Business Services  
22 State of Oregon

23 Date: 4-7-, 2015