

BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON

BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

CONSENT ORDER

**SQUARE DEAL CONSTRUCTION
COMPANY, LLC,
A DOMESTIC LIMITED LIABILITY
COMPANY,**

RESPONDENT.

BCD CASE C2015-0246

INTRODUCTION

The Building Codes Division (Division) conducted an investigation on behalf of the Electrical and Elevator Board of the State of Oregon and State Plumbing Board of the State of Oregon (Boards) and determined that Square Deal Construction Company, LLC (Respondent) violated certain provisions of the Division's statutes and administrative rules as identified below.

The parties agree to resolve this matter without a hearing. Respondent understands that Respondent has the right to a contested case hearing under the Administrative Procedures Act, Oregon Revised Statutes (ORS) chapter 183, and Respondent fully and finally waives the right to a hearing and any judicial review therefrom by the signing of this Consent Order.

FINDINGS OF FACT

1. In or about January 2015, Respondent entered into a contract with the owners of a residential property located at 20250 Cherry Blossom Lane in Amity, Oregon (Cherry Blossom property) for the purposes of accomplishing a full remodel of the residence. The original contract amount was \$79,000 and the final amount invoiced upon completion of the project was \$130,000.
2. Respondent performed the remodel of the Cherry Blossom property during or about March

1 through April 2015.

2 3. At all relevant times, Respondent has employed Dan Slimick (Slimick).¹

3 4. Slimick, acting on behalf of Respondent, performed the following electrical work as part of
4 the renovation of the Cherry Blossom property:

- 5 a. Installation of under-mount cabinet lighting fixtures in the kitchen.
- 6 b. Installation of a new LED motion sensor security light installed above the front of
7 the garage.
- 8 c. Installation of a new LED motion sensor light above the front steps of the home.
- 9 d. Installation of a four-foot LED ceiling light fixture in the kitchen.
- 10 e. Installation of can lights over a bar.
- 11 f. Installation of a ceiling fan and light fixture in the living room.
- 12 g. Installation of three new electrical receptacles.
- 13 h. Replacement of all light switches in the home with new rocker style switches.
- 14 i. Installation of an exhaust fan in the kitchen.
- 15 j. Installation of Panasonic exhaust fans in the main and basement bathrooms along
16 with LED night lights, multispeed sensors and override switches.

17 5. Slimick, acting on behalf of Respondent, performed the following plumbing work as part of
18 the renovation of the Cherry Blossom property:

- 19 a. Installation of plumbing water lines for an icemaker.
- 20 b. Installation of a new sink and the plumbing for an additional sink in the first floor
21 bathroom with complete plumbing for water and drain lines to the new sink.
- 22 c. Installation of a new Fiber-Fab fiberglass bathtub in the basement bathroom with
23 included plumbing.
- 24 d. Installation of a new stainless steel sink and faucet in the kitchen.

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¹ See related Division case C2016-0017. Respondent no longer employs Slimick, but did at all times relevant to this matter.

- e. Installation of new Cadet toilets in all three bathrooms.
 - f. Relocation of the hot water heater.
6. Between December 2014 and January 2016, Respondent performed electrical and plumbing work at various locations throughout Oregon, including the following:
- a. Electrical work, including but not limited to installing receptacles, relocating switches and boxes, and installing electrical wiring and fixtures, on ten (10) separate occasions; and
 - b. Plumbing work, including but not limited to installing water supply and drain pipes and plumbing fixtures, on eight (8) separate occasions.
7. At no relevant time did any of Respondent's employees who performed electrical work at various locations throughout Oregon hold a supervising or journeyman electrician license.
8. At no relevant time did any of Respondent's employees who performed plumbing work at various locations throughout Oregon hold a journeyman plumber license.
9. At no relevant time did Slimick hold a supervising or journeyman electrician license in Oregon.
10. At no relevant time did Slimick hold a journeyman plumber license in Oregon.
11. At no relevant time did Respondent hold an electrical contractor license in Oregon.
12. At no relevant time did Respondent hold a plumbing contractor license in Oregon.
13. Respondent did not obtain an electrical permit prior to performing any of the foregoing work.
14. Respondent did not obtain a plumbing permit prior to performing any of the foregoing work.²

APPLICABLE LAW

1. The terms used in this Consent Order may be defined in ORS 183.310(1)-(10), ORS

² For certain projects, Respondent did subcontract out electrical and plumbing work to properly licensed subcontractors. Such work is not part of this matter.

1 447.010(1)-(6), ORS 455.010(1)-(10), ORS 693.010(1)-(5), ORS 479.530(1)-(23), ORS
2 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-0010(1)-(11), OAR 918-251-
3 0090(1)-(43), and OAR 918-690-0420(1)-(14).

- 4 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
5 electrical wiring and the permanent attachment or installation of electrical products in or on
6 any structure that is not itself an electrical product.
- 7 3. Under ORS 479.550(1), no person shall work on any new electrical installation for which a
8 permit has not been issued.
- 9 4. Under ORS 455.450(2) a person may not engage in, or procure or assist any other person to
10 engage in, any conduct or activity for which a permit, label, license, certificate, registration,
11 or other formal authorization is required by any specialty code, any provision of ORS
12 chapters 447 and 693 or any rule adopted or order issued for the administration and
13 enforcement of those provisions, without first having obtained such permit, label, license,
14 certificate, registration, or other formal authorization.
- 15 5. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
16 engage in the business of making electrical installations, advertise as or otherwise purport to
17 be licensed to make electrical installations or purport to be acting as a business that makes
18 electrical installations.
- 19 6. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
20 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
21 or solicit, contract or agree to perform, or to perform work for which a license or permit is
22 required under Oregon law, including but not limited to a single instance.
- 23 7. Under ORS 479.620(3), a person may not make any electrical installation without a
24 supervising or journeyman electrician's license.

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- 1 8. Under OAR 918-282-0120(1), no person or entity shall allow any individual to perform
2 electrical work for which the individual is not properly registered or licensed.
- 3 9. Under ORS 447.010(6), plumbing is defined as the art of installing, altering, or repairing
4 pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and
5 water-carried waste.
- 6 10. Under OAR 918-780-0065, no person, firm, or corporation shall do plumbing work in the
7 State of Oregon without first obtaining a plumbing permit or minor label when required and
8 paying the appropriate fees to the authorized permit issuing agency.
- 9 11. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
10 purport to be a plumbing contractor, without having obtained a plumbing contractor license.
- 11 12. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber
12 without a journeyman plumber license.

13 CONCLUSIONS OF LAW

- 14 1. The following constitute electrical installations under ORS 479.550(10):
- 15 a. Installation of under-mount cabinet lighting fixtures in the kitchen.
- 16 b. Installation of a new LED motion sensor security light installed above the front of
17 the garage.
- 18 c. Installation of a new LED motion sensor light above the front steps of the home.
- 19 d. Installation of a four-foot LED ceiling light fixture in the kitchen.
- 20 e. Installation of can lights over a bar.
- 21 f. Installation of a ceiling fan and light fixture in the living room.
- 22 g. Installation of three new electrical receptacles.
- 23 h. Replacement of all light switches in the home with new rocker style switches.
- 24 i. Installation of an exhaust fan in the kitchen.
- 25 j. Installation of Panasonic exhaust fans in the main and basement bathrooms along

1 with LED night lights, multispeed sensors and override switches.

- 2 2. Contracting to perform and performing the foregoing installations constitutes engaging in
3 the business of making electrical installations under OAR 918-030-0010(8).
- 4 3. By engaging in the business of making electrical installations at the Cherry Blossom
5 property without holding an electrical contractor license, Respondent violated ORS
6 479.620(1).
- 7 4. By making the foregoing electrical installations at the Cherry Blossom property without
8 holding a journeyman or supervising electrician license, Slimick violated ORS 479.620(3).
- 9 5. By allowing Slimick to perform the foregoing electrical work at the Cherry Blossom
10 property for which Slimick was not properly licensed, Respondent violated OAR 918-282-
11 0120(1).
- 12 6. By working on the foregoing electrical installations at the Cherry Blossom property for
13 which a permit had not been issued, Respondent violated ORS 479.550(1).
- 14 7. The following constitute electrical installations under ORS 479.550(10):
 - 15 a. Installing receptacles.
 - 16 b. Relocating switches and boxes.
 - 17 c. Installing electrical wiring and fixtures.
- 18 8. Contracting to perform and performing the foregoing installations constitutes engaging in
19 the business of making electrical installations under OAR 918-030-0010(8).
- 20 9. By engaging in the business of making electrical installations without holding an electrical
21 contractor license, Respondent violated ORS 479.620(1).
- 22 10. By making the foregoing electrical installations throughout Oregon without holding a
23 journeyman or supervising electrician license, Respondent's employees violated ORS
24 479.620(3).

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1 11. By allowing its employees to perform the foregoing electrical work throughout Oregon for
2 which they were not properly licensed, Respondent violated OAR 918-282-0120(1).

3 12. By working on the foregoing electrical installations throughout Oregon for which a permit
4 had not been issued, Respondent violated ORS 479.550(1).

5 13. The following constitute plumbing under ORS 447.010(6):

6 a. Installation of plumbing water lines for an icemaker.

7 b. Installation of a new sink and the plumbing for an additional sink in the first floor
8 bathroom with complete plumbing for water and drain lines to the new sink.

9 c. Installation of a new Fiber-Fab fiberglass bathtub in the basement bathroom with
10 included plumbing.

11 d. Installation of a new stainless steel sink and faucet in the kitchen.

12 e. Installation of new Cadet toilets in all three bathrooms.

13 f. Relocation of the hot water heater.

14 14. Contracting to perform and performing the foregoing plumbing installations constitutes
15 engaging in the business of plumbing under OAR 918-030-0010(8).

16 15. By working as a plumbing contractor at the Cherry Blossom property without having
17 obtained a plumbing contractor license, Respondent violated ORS 447.040(1).

18 16. Performing the foregoing plumbing requires a journeyman plumber license under ORS
19 693.030(1).

20 17. By engaging in the trade of a journeyman plumber at the Cherry Blossom property without a
21 journeyman plumber license, Slimick violated ORS 693.030(1).

22 18. By procuring or assisting Slimick to engage in the foregoing plumbing work at the Cherry
23 Blossom property, for which a journeyman plumber license and a plumbing permit is
24 required under ORS chapters 447 and 693, without having first obtained such a license or
25 permit, Respondent violated ORS 455.450(2).

1 19. By doing the foregoing plumbing work at the Cherry Blossom property without first
2 obtaining a plumbing permit or minor label, Respondent violated OAR 918-780-0065.

3 20. The following constitute plumbing under ORS 447.010(6):

- 4 a. Installation of plumbing water lines for an icemaker.
- 5 b. Installing water supply and drain pipes.
- 6 c. Installing plumbing fixtures.

7 21. Contracting to perform and performing the foregoing plumbing installations throughout
8 Oregon constitutes engaging in the business of plumbing under OAR 918-030-0010(8).

9 22. By working as a plumbing contractor throughout Oregon without having obtained a
10 plumbing contractor license, Respondent violated ORS 447.040(1).

11 23. The foregoing plumbing work requires a journeyman plumber license under ORS
12 693.030(1).

13 24. By engaging in the trade of a journeyman plumber throughout Oregon without a journeyman
14 plumber license, Respondent's employees violated ORS 693.030(1).

15 25. By procuring or assisting its employees to engage in the foregoing plumbing work, for
16 which a journeyman plumber license and a plumbing permit is required under ORS chapters
17 447 and 693, without having first obtained such a license or permit, Respondent violated
18 ORS 455.450(2).

19 26. By doing the foregoing plumbing work throughout Oregon without first obtaining a
20 plumbing permit or minor label, Respondent violated OAR 918-780-0065.

21 **ORDER**

22 1. The Boards hereby assess a total civil penalty of \$24,000 against Respondent as follows:

- 23 a. \$3,000.00 for violating ORS 479.620(1) at the Cherry Blossom property;
- 24 b. \$3,000.00 for violating ORS 479.620(1) at locations other than the Cherry Blossom
25 property in Oregon through January 2016;

- c. \$2,000.00 for violating OAR 918-282-0120(1) at the Cherry Blossom property;
- d. \$2,000.00 for violating OAR 918-282-0120(1) at locations other than the Cherry Blossom property in Oregon through January 2016;
- e. \$1,000.00 for violating ORS 479.550(1) at the Cherry Blossom property;
- f. \$1,000.00 for violating ORS 479.550(1) at locations other than the Cherry Blossom property in Oregon through January 2016;
- g. \$3,000.00 for violating ORS 447.040(1) at the Cherry Blossom property;
- h. \$3,000.00 for violating ORS 447.040(1) at locations other than the Cherry Blossom property in Oregon through January 2016;
- i. \$2,000.00 for violating ORS 455.450(2) at the Cherry Blossom property;
- j. \$2,000.00 for violating ORS 455.450(2) at locations other than the Cherry Blossom property in Oregon through January 2016;
- k. \$1,000.00 for violating OAR 918-780-0065 at the Cherry Blossom property; and
- l. \$1,000.00 for violating OAR 918-780-0065 at locations other than the Cherry Blossom property in Oregon through January 2016.

2. The \$24,000 of civil penalties shall be paid as follows:

- a. \$16,000.00 of the total civil penalty will be suspended for a period of five years if there is compliance with all other terms of this Consent Order.
- b. Respondent agrees to pay the remaining \$8,000.00 of the civil penalty. Respondent's payment shall be postmarked no later than the 25th day of the month following the month in which this Consent Order becomes a final order. ***(An invoice will be included with Respondent's copy of the final order after the Director signs it. Respondent understands timely payment must be made even if no invoice is ever received.)*** Payment shall be mailed to Department of Consumer and Business Services, Fiscal Services Section, P.O. Box 14610, Salem, OR 97309-0445.

1 c. Respondent understands the suspended civil penalty (\$16,000.00) will be considered
2 satisfied five years after this Consent Order becomes a final order, provided
3 Respondent complies with its terms and has not committed any further violations of
4 the Division's statutes and rules within that five-year period. Respondent
5 understands and agrees that if Respondent does not comply with the terms of this
6 Consent Order or if Respondent commits any further violations of the Division's
7 statutes or rules within the five-year period, then the entire civil penalty, including
8 any suspended amount, will become immediately due and payable. Failure to comply
9 with this Consent Order includes, but is not limited to, failure to pay the civil penalty
10 amount due by the due date.

11 3. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases
12 that rely on the facts underlying this case. Cooperation may include, but may not be limited
13 to, making sworn statements or testifying in administrative hearings.

14 4. Respondent understands that further enforcement action may be taken for any violation of
15 the Division's statutes or rules not alleged in this Consent Order, whether committed before
16 or after the execution of this Consent Order, and/or for any violation of the terms of this
17 Consent Order.

18 5. Respondent understands that failure to comply with this Consent Order may be used as a
19 basis for the denial of future license, certificate, registration, or other applications, or for the
20 refusal to renew the same; for the suspension, revocation, or conditioning of a license,
21 certificate, or registration issued by the Division or other state agencies; and/or for any other
22 reason provided for in law.

23 6. Respondent understands that this Consent Order is a public record.

24 7. Respondent has read and fully understands the terms of this Consent Order, freely and
25 voluntarily consents to the entry of this Consent Order without any force or duress, and

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expressly waives all rights to hearing or judicial review in this matter.

8. Respondent understands that, upon signature of all parties, this Consent Order will be a Final Order.


_____ It is so agreed this 16 day of May, 2016.
Terry Hall
Member and authorized representative
Square Deal Construction Company, LLC


_____ for It is so agreed this 13 day of May, 2016.
Chair
Electrical and Elevator Board
State of Oregon


_____ for It is so agreed this 18 day of May, 2016.
Chair
State Plumbing Board
State of Oregon