

2014 MAR 31 A 9:46
BUILDING CODES

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

IN THE MATTER OF:) **CONSENT ORDER**
)
GARY R. WEST, AN INDIVIDUAL,)
)
RESPONDENT) **CASE NO. 2013-0187**
)
)

The Director of the Department of Consumer and Business Services of the State of Oregon conducted an investigation and determined that Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules, and specialty codes.

The parties wish to settle this matter informally. Respondent understands that Respondent has the right to a hearing under the Administrative Procedures Act (chapter 183), Oregon Revised Statutes (ORS), and fully and finally waives the right to a contested case hearing and any appeal therefrom by the signing and entry of this Order in the Director's records. Respondent agrees to conduct all future business in compliance with the applicable statutes, administrative rules (OAR), and specialty codes. Respondent understands that, once final, this order is a public record.

FINDINGS OF FACT

1. During all relevant times, Respondent was the designated general supervising electrician for Axis Electrical Group.
2. At no relevant time did Charles Degraffenreed possess a valid Oregon journeyman electrician license or a general supervising electrician license.
3. During or about the period of October 1, 2012 through May 6, 2013, at the following locations in Oregon and for the account of another, Respondent failed to ensure Charles W. Degraffenreed was licensed to perform electrical installations requiring licensure under ORS 479.620(3):

- 1 a. Installation of “underground electrical feeder to pump house” at 13925 S. Carus
2 Road, Oregon City, Oregon, on or about November 5, 2012 through November 8,
3 2012.
- 4 b. Installation of “electrical lighting circuit from panel to front door, one receptacle,
5 one doorbell transformer, and one front garage light fixture” at 226 SW Forest Cove
6 Road, West Linn, Oregon, on or about December 13, 2012.
- 7 c. Installation of “200 amp electrical panel” at 7906 SE Bush Street, Portland, Oregon,
8 on or about December 17, 2012 through January 7, 2013.
- 9 d. Installation of “electrical feeder to shed, including lights and plugs” at 425 E. Exeter
10 Street, West Linn, Oregon, on or about January 2, 2013 through January 14, 2013.
- 11 e. Installation of “electrical wiring for a remodel” at 1924 SW Broadway Avenue,
12 Portland, Oregon, on or about January 16, 2013 through April 1, 2013.
- 13 f. Installation of “new electrical service, re-wiring of 4-plex basement and storage” at
14 3324 SE 11th Avenue, Portland, Oregon, on or about January 22, 2013 through May
15 13, 2013.
- 16 g. Installation of “new electrical meter and electrical panel” at 18176 S. Fernwood
17 Road, Molalla, Oregon, on or about January 23, 2013 through February 11, 2013.
- 18 h. Installation of “electrical service and electrical panel” at 28099 SE Gerber Street,
19 Eagle Creek, Oregon, on or about March 11, 2013 through March 12, 2013.
- 20 i. Installation of “electrical meter base and electrical feeders to electrical sub panel” at
21 4573 Exeter Street, West Linn, Oregon, on or about April 15, 2013 through June 13,
22 2013.
- 23 4. The installations of circuits, electrical panels, electrical feeders, electrical wiring, light
24 fixtures, electrical services, and electrical meter bases, as described above, are electrical
25 installations as defined in ORS 479.530(10).

1
2
3
4
5
6
7
8
9

APPLICABLE LAW

1. Under ORS 479.620(3), a person may not make any electrical installation without a supervising or journeyman electrician's license.
2. Under OAR 918-282-0140(2)(f), the general supervising electrician must ensure electricians have proper licenses for the work performed, and may not either by assent or by failure to prevent an individual to perform work for which they are not properly licensed.
3. Under ORS 455.125(1)(a), the Director may revoke a license if the holder fails to comply with a provision of ORS 479.510 to 479.945 or with any rule adopted under those statutes.

CONCLUSIONS OF LAW

1. By failing to ensure electricians have proper licenses for the work performed, as outlined in the Findings of Fact, Respondent violated OAR 918-282-0140(2)(f).
2. By failing to comply with rules adopted under ORS 479.510 to 479.945, as outlined above, the Director may revoke Respondent's supervising electrician license No. 2408S.

SETTLEMENT AGREEMENT

15 The Respondent and the Director agree to resolve this matter without a hearing according to
16 the following terms:

- 17 1. The Director hereby assesses \$27,000 in total civil penalties for nine violations of OAR 918-
18 282-0140(2)(f), of which \$21,000 will be suspended for a period of five year under the
19 following terms:
 - 20 1.1. Respondent agrees to pay \$6,000 of the assessed civil penalties. *(An invoice will be*
21 *included with Respondent's copy of the Final Order after the Director signs it.)*
 - 22 1.2. Respondent agrees to pay \$350 postmarked by the 25th day of each month once the
23 Consent Order becomes final, continuing for 17 months. The final, 17th payment
24 will be \$400. As long as the payments remain timely, there shall be no interest
25 added to Respondent's balance.

1 1.3. If Respondent fails to make a payment or otherwise defaults on any term of this
2 Settlement Agreement, including failure to make a timely monthly payment, the case
3 will be turned over to the Department of Consumer and Business Services
4 collections department for collection of the entire \$27,000 civil penalty, along with
5 interest and applicable fees.

6 1.4. Respondent agrees to the revocation of his General Supervising Electrician license,
7 effective April 1, 2014, and agrees to submit his current General Supervising
8 Electrician identification card to the Building Codes Division 1535 Edgewater Street
9 NW, Salem, Oregon, by April 1, 2014.

- 10 2. Respondent agrees not to commit violations of the Building Code Division's statutes and
11 rules.
- 12 3. Respondent understands and agrees that any violation of the terms of this Consent Order
13 will result in further enforcement action.
- 14 4. Respondent understands and agrees that any violation of the Building Code Division's
15 statutes or rules not alleged in this order, whether committed before or after the execution of
16 this Consent Order, may be the basis for further enforcement action.
- 17 5. Respondent understands that failure to comply with this settlement agreement may result in
18 the denial of future licensing applications and/or suspension of licensing or certification
19 issued by the Division and/or other state agencies.
- 20 6. Respondent understands the suspended civil penalty will be waived five years after the
21 execution of this Consent Order, provided Respondent complies with its terms and has not
22 committed any further violations of the Building Code Division's statutes and rules.
- 23 7. Respondent has read and fully understands the terms of this Consent Order, freely and
24 voluntarily consents to the entry of this order without further hearing, without any force or
25 duress, and expressly waives all rights to hearing or appeal in this matter.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

9. Respondent understands that once this Settlement Agreement and Consent Order becomes a FINAL ORDER, it becomes a public document.

FOR THE RESPONDENT

 Date: 3-28-14
Gary R. West

FOR THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES

 for Date: 4/1/14
Director
Department of Consumer and Business Services
State of Oregon