

1 **BEFORE THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

2
3 **IN THE MATTER OF:**

**NOTICE OF PROPOSED ASSESSMENT
OF A CIVIL PENALTY**

4 **JAMES K. VARDE, AN INDIVIDUAL,**

NOTICE OF FINAL ORDER ON DEFAULT

5
6 **RESPONDENT.**

BCD CASE C2015-0079

7
8 **IF YOU DO NOT REQUEST A HEARING IN WRITING WITHIN 20 DAYS**
9 **OF THE POSTMARK DATE OF THIS NOTICE,**
10 **THIS NOTICE WILL BECOME A FINAL ORDER**

11 **More information about this Notice and how to request a hearing is included below.**

12 Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(b) and Oregon Administrative Rules
13 (OAR) 918-001-0036, the Electrical and Elevator Board of the State of Oregon (Board) proposes to
14 assess a civil penalty totaling \$3,000 against James K. Varde (Respondent) because Respondent
15 violated Building Codes Division (Division) statutes and rules as identified below.

16 **FINDINGS OF FACT**

- 17 1. On or about March 6, 2015, Respondent, purportedly acting on behalf of Bruce Oaks, ABN
18 Harber Lighting (Harber Lighting),¹ entered into a contract to remove existing neon lights,
19 install LED lights, and complete all internal wiring for Costless Market Inc. of 1895 SE
20 Tualatin Valley Highway in Hillsboro, Oregon (Costless Market).
21 2. Respondent signed his own name on the contract.
22 3. Costless Market paid Respondent a deposit of \$2,300.
23 4. At no relevant time did Respondent hold an electrical contractor license.

24 **APPLICABLE LAW**

- 25 1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 455.010(1)-

¹ See related BCD Case C2015-0151.

FINAL ORDER

As of: November 5, 2015

1 (10), ORS 479.530(1)-(23), ORS 479.905(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
2 0010(1)-(11), and OAR 918-251-0090(1)-(43).

- 3 2. Under ORS 479.530(10), "Electrical installations" means the construction or installation of
4 electrical wiring and the permanent attachment or installation of electrical products in or on
5 any structure that is not itself an electrical product.
- 6 3. Under ORS 479.620(1), a person who does not hold an electrical contractor license may not
7 engage in the business of making electrical installations, advertise as or otherwise purport to
8 be licensed to make electrical installations or purport to be acting as a business that makes
9 electrical installations.
- 10 4. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
11 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
12 or solicit, contract or agree to perform, or to perform work for which a license or permit is
13 required under Oregon law, including but not limited to a single instance.

14 **CONCLUSIONS OF LAW**

- 15 1. Under ORS 479.530(10), removing existing neon lights, installing LED lights, and
16 completing internal wiring are electrical installations.
- 17 2. Under ORS 918-030-0010(8), contracting or agreeing to perform the foregoing electrical
18 installations for which a license or permit is required constitutes engaging in the business of
19 making electrical installations.
- 20 3. By engaging in the business of making electrical installations without holding an electrical
21 contractor license, Respondent violated ORS 479.620(1).

22 **ORDER**

23 Pursuant to ORS 455.895(1)(b), the Board assesses a total of \$3,000 in civil penalties for
24 violating ORS 479.620(1).

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1 **NOTICE OF RIGHT TO HEARING**

2 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, ORS
3 chapter 183. If Respondent requests a hearing, the request must be in writing and postmarked no
4 later than 20 days from the date of service of this Notice. If the Notice was served on Respondent in
5 person, the date of service is the date Respondent received the Notice. If the Notice was served
6 through the mail, the date of service is the day the Notice was mailed, not the day it was received by
7 the Respondent. If a request for hearing is not received within the 20-day period, Respondent's right
8 to a hearing shall be considered waived. Mail hearing requests to Building Codes Division,
9 Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

10 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-
11 001-0030, a corporate Respondent may be represented by an authorized representative at the
12 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the
13 hearing. The Division will give Respondent information on the procedures, right of representation,
14 and other rights of parties relating to the conduct of the hearing before the commencement of the
15 hearing.

16 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

17 Active duty servicemembers have a right to stay proceedings under the Federal
18 Servicemembers Civil Relief Act. Contact the Oregon State Bar at 800-452-8260 or the Oregon
19 Military Department at 800-452-7500 for more information. If Respondent needs help finding legal
20 assistance, visit the United States Armed Forces Legal Assistance Legal Services Locator website at
21 <http://legalassistance.law.af.mil/content/locator.php>.

22 **NOTICE OF FINAL ORDER**

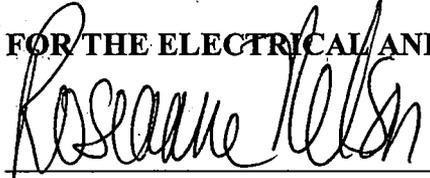
23 This Notice will become a final order by default if Respondent does any of the following:
24 fails to request a hearing in writing within 20 days from the date of service of this Notice;
25 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge

1 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If
2 this Notice becomes a final order by default, the Division's file on the matter, including all
3 materials submitted by Respondent, becomes the record for the purpose of establishing a prima
4 facie case.

5 **RIGHT TO JUDICIAL REVIEW**

6 Respondent is entitled to judicial review of a final order in this matter. Judicial review may
7 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a
8 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in
9 person, the date of service is the date Respondent receives the order. If a final order is served
10 through the mail, the date of service is the day the order is mailed, not the day it is received by the
11 Respondent. If Respondent does not file a petition for judicial review within the 60-day time
12 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of
13 Appeals is 503-986-5555.

14 **FOR THE ELECTRICAL AND ELEVATOR BOARD OF THE STATE OF OREGON**

15 

16 for

15 Date: 8-3-15

17 Chair,
18 Electrical and Elevator Board
19 State of Oregon
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