

BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

**M. MURRAY PLUMBING & HEATING,
INC., A DOMESTIC BUSINESS
CORPORATION,**

RESPONDENT.

CONSENT ORDER

BCD CASE C2015-0120

The Building Codes Division (Division) conducted an investigation on behalf of the State Plumbing Board of the State of Oregon (Board) and determined that M. Murray Plumbing & Heating, Inc. (Respondent) violated certain provisions of the Division's statutes and administrative rules as identified below.

The parties agree to settle 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. Respondent received plumbing contractor license number 32-15PB on June 23, 1998.
2. Respondent's plumbing contractor license expired on July 2, 2014.
3. From July 8, 2014, through May 2015, Respondent applied for and was issued eight plumbing permits from Wallowa County.
4. On May 27, 2015, Respondent installed under-slab drain/waste/vent piping at 4 Valley Heights Drive, Enterprise, Oregon.

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APPLICABLE LAW

1. ORS 447.010(6) defines plumbing as the art of installing, altering or repairing in or adjacent to or serving building pipes, fixtures and other apparatus for bringing in the water supply and removing liquid and water-carried waste, including the water supply distributing pipes.
2. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or purport to be a plumbing contractor, and a member or employee of a firm, partnership or corporation may not engage in the layout or superintending of plumbing installations, without having obtained the plumbing contractor license.
3. Oregon Administrative Rules (OAR) 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any other license regulated by ORS chapter 455, "engaging in the business" means to advertise or solicit, contract or agree to perform, or to perform work for which a license or permit is required under Oregon law, including but not limited to a single instance.

CONCLUSIONS OF LAW

1. Installing piping is plumbing as defined in ORS 447.010(6).
2. By engaging in the business of plumbing contracting without having an active plumbing contractor license, Respondent violated ORS 447.040(1) on two occasions.

ORDER

1. The Board hereby assesses a total civil penalty of \$6,000 against Respondent for violating ORS 447.040(1) as follows:
 - a. \$5,750 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 \$250 of the civil penalty. Respondent's payment shall be postmarked no later than July 25, 2015. *(An invoice will be included with Respondent's copy of the final order after the Director signs it.)*

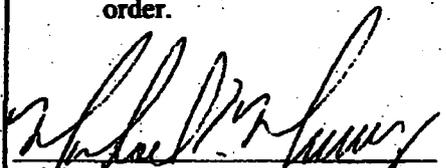
1 Payment shall be mailed to Department of Consumer and Business Services,
2 Revenue Services Section, P.O. Box 14610, Salem, OR 97309-0445.

- 3 **3. Respondent understands the suspended civil penalty (\$5,750) will be considered satisfied**
4 **three years after this Consent Order becomes a final order, provided Respondent complies**
5 **with its terms and has not committed any further violations of the Division's statutes and**
6 **rules within that three-year period. Respondent understands and agrees that if Respondent**
7 **does not comply with the terms of this Consent Order or if Respondent commits any further**
8 **violations of the Division's statutes or rules within the three-year period, then the entire civil**
9 **penalty, including any suspended amount, will become immediately due and payable.**
10 **Failure to comply with this Consent Order includes, but is not limited to, failure to pay the**
11 **civil penalty amount due by the due date.**
- 12 **4. Respondent agrees to make timely renewals of its plumbing contractor license.**
- 13 **5. Respondent agrees to fully cooperate with the Division's enforcement efforts in other cases**
14 **that rely on the facts underlying this case. Cooperation may include, but not be limited to,**
15 **making sworn statements or testifying in administrative hearings. Respondent understands**
16 **and agrees that further enforcement action may be taken for any violation of the Division's**
17 **statutes or rules not alleged in this Consent Order, whether committed before or after the**
18 **execution of this Consent Order, and/or for any violation of the terms of this Consent Order.**
- 19 **6. Respondent understands that failure to comply with this Consent Order may be used as a**
20 **basis for the denial of a future license, certificate, registration, or other application, or for the**
21 **refusal to renew the same; for the suspension, revocation, or conditioning of a license,**
22 **certificate, or registration issued by the Division or other state agencies; and/or for any other**
23 **reason provided for in law.**
- 24 **7. Respondent understands that this Consent Order is a public record.**
- 25 **8. Respondent has read and fully understands the terms of this Consent Order, freely and**

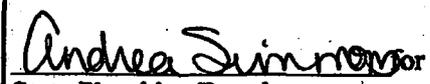
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voluntarily consents to the entry of this Consent Order without any force or duress, and expressly waives all rights to hearing or judicial review in this matter.

8.9 Respondent understands that, upon signature of all parties, this Consent Order will be a final order.


Michael T. Murray, President
M. Murray Plumbing & Heating, Inc.

It is so agreed this 1 day of July, 2015.


Andrea Simmons
State Plumbing Board
State of Oregon

It is so agreed this 1 day of July, 2015. Chair,