

BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON

IN THE MATTER OF:

BERENGER R. CONSTANTINO,
AN INDIVIDUAL,

RESPONDENT.

NOTICE OF PROPOSED ASSESSMENT
OF A CIVIL PENALTY

NOTICE OF FINAL ORDER ON DEFAULT

FINAL ORDER

As of: March 1, 2016

BCD CASE C2015-0158

**IF YOU DO NOT REQUEST A HEARING IN WRITING WITHIN 20 DAYS
OF THE POSTMARK DATE OF THIS NOTICE,
THIS NOTICE WILL BECOME A FINAL ORDER.**
More information about this Notice and how to request a hearing is included below.

Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(a) and Oregon Administrative Rules (OAR) 918-001-0036, the State Plumbing Board of the State of Oregon (Board) proposes to assess civil penalties totaling \$2,000.00 against Berenger R. Constantino (Respondent) because Respondent violated Building Codes Division (Division) statutes and rules as identified below.

FINDINGS OF FACT

1. In or around March, 2015, Respondent performed the following work at a residence located at 756 Santa Anita Court, Eugene, Oregon (Santa Anita property):
 - a. Installation of water and drain pipes beneath the flooring of the home; and
 - b. Installation of PEX tubing within the home, through which Respondent connected the water and drain pipes to a sink and shower basin in the master bathroom suite.¹
2. At no relevant time did Respondent hold a journeyman plumber license.

APPLICABLE LAW

1. The terms used in this Notice may be defined in ORS 183.310(1)-(10), ORS 447.010(1)-(6),

¹ See related Division case number C2016-0016.

1 ORS 455.010(1)-(10), ORS 693.010(1)-(5), OAR 918-001-0005(1)-(4), OAR 918-030-
2 0010(1)-(11), and OAR 918-690-0420(1)-(14).

3 2. 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 3. Under ORS 693.030(1), a person may not engage in the trade of journeyman plumber
7 without a journeyman plumber license.

8 CONCLUSIONS OF LAW

9 1. The following constitute plumbing under ORS 447.010(6):

10 a. Installation of water and drain pipes; and

11 b. Installation of PEX tubing connecting water and drain pipes to fixtures.

12 2. By engaging in the trade of journeyman plumber without a journeyman plumber license,
13 Respondent violated ORS 693.030(1).

14 ORDER

15 Pursuant to ORS 455.895(1)(a) and OAR 918-001-0036, the Board assesses a total of
16 \$2,000.00 in civil penalties for violating ORS 693.030(1).

17 NOTICE OF RIGHT TO HEARING

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

1 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-
2 001-0030, a corporate Respondent may be represented by an authorized representative at the
3 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the
4 hearing. The Division will give Respondent information on the procedures, right of representation,
5 and other rights of parties relating to the conduct of the hearing before the commencement of the
6 hearing.

7 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

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

13 **NOTICE OF FINAL ORDER**

14 This Notice will become a final order by default if Respondent does any of the following:
15 fails to request a hearing in writing within 20 days from the date of service of this Notice;
16 withdraws a hearing request; notifies the Building Codes Division or the administrative law judge
17 that Respondent will not appear at a scheduled hearing; or fails to appear at a scheduled hearing. If
18 this Notice becomes a final order by default, the Division's file on the matter, including all
19 materials submitted by Respondent, becomes the record for the purpose of establishing a prima
20 facie case.

21 **RIGHT TO JUDICIAL REVIEW**

22 Respondent is entitled to judicial review of a final order in this matter. Judicial review may
23 be obtained by filing a petition for review with the Oregon Court of Appeals within 60 days after a
24 final order is served upon Respondent. See ORS 183.482. If a final order is served on Respondent in
25 person, the date of service is the date Respondent receives the order. If a final order is served

1 through the mail, the date of service is the day the order is mailed, not the day it is received by the
2 Respondent. If Respondent does not file a petition for judicial review within the 60-day time
3 period, Respondent will lose the right to appeal. The phone number for the Oregon Court of
4 Appeals is 503-986-5555.

5 **FOR THE STATE PLUMBING BOARD OF THE STATE OF OREGON**

6 Andrea Simmons for Date: 2/9/16
7 Chair
8 State Plumbing Board
9 State of Oregon

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