

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

2 **BEFORE THE STATE PLUMBING BOARD OF THE STATE OF OREGON**

3 **IN THE MATTER OF:**

**NOTICE OF PROPOSED ASSESSMENT
OF CIVIL PENALTIES**

4
5 **BEAR VALLEY CONSTRUCTION LLC,
6 A DOMESTIC LIMITED LIABILITY
7 COMPANY,**

NOTICE OF FINAL ORDER ON DEFAULT

8
9 **RESPONDENT.**

BCD CASE C2016-0085

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

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

14 Pursuant to Oregon Revised Statutes (ORS) 455.895(1)(a) and (1)(b) and Oregon
15 Administrative Rule (OAR) 918-001-0036, the Electrical and Elevator Board of the State of Oregon
16 and the State Plumbing Board of the State of Oregon (Boards) propose to assess civil penalties
17 totaling \$8,000.00 against Bear Valley Construction LLC (Respondent) because Respondent
18 violated Building Codes Division (Division) statutes and rules as identified below.

19 **FINDINGS OF FACT**

- 20 1. At all relevant times, Respondent was owned by Steven Belden (Belden).
21 2. In or around March 2016, Belden, acting on Respondent's behalf, performed the following
22 work at a commercial property located at 2795 Anderson Ave., in Klamath Falls, Oregon
23 (Anderson property):
24 a. Installation of a sink and toilet in the bathroom; and

FINAL ORDER

As of: June 23, 2016

- 1 5. OAR 918-030-0010(8) states that for purposes of ORS 447.040, 479.620, 480.630, and any
2 other license regulated by ORS chapter 455, "engaging in the business" means to advertise
3 or solicit, contract or agree to perform, or to perform work for which a license or permit is
4 required under Oregon law, including but not limited to a single instance.
- 5 6. Under ORS 447.010(6), plumbing is defined as the art of installing, altering, or repairing
6 pipes, fixtures, and other apparatus for bringing in the water supply and removing liquid and
7 water-carried waste.
- 8 7. Under OAR 918-780-0065, no person, firm, or corporation shall do plumbing work in the
9 State of Oregon without first obtaining a plumbing permit or minor label when required and
10 paying the appropriate fees to the authorized permit issuing agency.
- 11 8. Under ORS 447.040(1), a person may not work as a plumbing contractor, or advertise or
12 purport to be a plumbing contractor, without having obtained a plumbing contractor license.

13 CONCLUSIONS OF LAW

- 14 1. The following constitute plumbing under ORS 447.010(6):
 - 15 a. Installation of a sink and toilet; and
 - 16 b. Installation of new water and waste lines.
- 17 2. By performing the foregoing plumbing work at the Anderson property, without first
18 obtaining a plumbing permit, Respondent violated OAR 918-780-0065.
- 19 3. By performing the foregoing plumbing work at the Anderson property, Respondent engaged
20 in the business of plumbing contractor under OAR 918-030-0010(8).
- 21 4. By working as a plumbing contractor without a plumbing contractor license, Respondent
22 violated ORS 447.040(1).
- 23 5. Installing a light fixture constitutes an electrical installation under ORS 479.530(10).
- 24 6. By performing the foregoing electrical installation at the Oregon property, without having
25 been issued an electrical permit, Respondent violated ORS 479.550(1).

- 1 7. By performing the foregoing electrical installation at the Oregon property, Respondent
2 engaged in the business of making electrical installations under OAR 918-030-0010(8).
3 8. By engaging in the business of making electrical installations without an electrical
4 contractor license, Respondent violated ORS 479.620(1).

5 **ORDER**

6 Pursuant to ORS 455.895(1)(a) and (1)(b) and OAR 918-001-0036, the Boards assess a total
7 of \$8,000.00 in civil penalties as follows:

- 8 1. \$1,000.00 for violating OAR 918-780-0065;
9 2. \$3,000.00 for violating ORS 447.040(1);
10 3. \$1,000.00 for violating ORS 479.550(1); and
11 4. \$3,000.00 for violating ORS 479.620(1).

12 **NOTICE OF RIGHT TO HEARING**

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

21 Respondent may be represented by legal counsel. Pursuant to ORS 183.457 and OAR 918-
22 001-0030, a corporate Respondent may be represented by an authorized representative at the
23 hearing. If Respondent requests a hearing, Respondent will be notified of the time and place of the
24 hearing. The Division will give Respondent information on the procedures, right of representation,
25 and other rights of parties relating to the conduct of the hearing before the commencement of the

1 hearing.

2 **NOTICE TO ACTIVE DUTY SERVICEMEMBERS**

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

8 **NOTICE OF FINAL ORDER**

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

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1 **RIGHT TO JUDICIAL REVIEW**

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

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

11 Andrea Simmons for Date: 6/1/16
12 Chair
13 Electrical and Elevator Board
14 State of Oregon

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

16 Andrea Simmons for Date: 6/1/16
17 Chair
18 State Plumbing Board
19 State of Oregon
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