



CONSTRUCTION CONTRACTORS BULLETIN BOARD

HELPING TO PREVENT AND RESOLVE PROBLEMS IN THE CONSTRUCTION INDUSTRY

July 2006

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How to reach us:

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Required Residential Construction Notices

Part two of two

The April 2006 issue of the Bulletin Board explained the Consumer Notification Form and the Owner's Duty to Contractor in the Event of a Residential Construction Dispute. This issue covers the two lien notices in residential construction.

In residential construction and improvements, there are two notices that provide homeowners with information concerning construction liens and preserve contractor lien rights. The *Information Notice to Owner (about Construction Liens)* is required by the CCB to be given to the homeowner. The *Notice of Right to a Lien* protects your lien rights, although it isn't required under CCB statute.

Information Notice to Owner (about Construction Liens)

This notice is required by ORS 87.093 and adopted by the CCB under OAR 812-001-0200 (1).

The purpose of the notice is to inform the property owner about important provisions in Oregon's lien law. It describes steps that a homeowner can take to avoid making multiple payments for the same materials and labor, their right to file a complaint against a licensed contractor, and their right to request a statement of the reasonable value of materials, services, labor or equipment from the subcontractors.

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The Renovation Business

"Flipping" houses may require a CCB license

"Renovation game pays in hot market" June 24, 2005, Portland Business Tribune

"Remodeling pros tell how to 'flip' houses" May 13, 2006, Oregonian

Then there was the March 23, 2006 article in the Oregonian's Neighborhood section which told

about a couple's faith in a three and a half inch statue of St. Joseph placed in the yard to sell the home. In reading the story, it revealed the home was being "flipped".

Flipping* houses is the term used to describe buying a home, often with the intent to fix it up and then sell it for a

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Renovation Business

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profit. It's big business. And it is a "business", a regulated business as defined by laws passed by legislature.

The Construction Contractors Board (CCB) is the state agency which protects consumers by regulating the construction industry. Oregon law defines a contractor as a person who for compensation or with the intent to sell, arranges, undertakes, offers to undertake or submits a bid to construct, alter, repair, or improve any building or structure attached to real property. Contractors must be licensed with the Oregon Construction Contractors Board (CCB).

The following are a few of the people exempt from the licensing requirement:

Construction Contractors Bulletin Board, Issue #65

This newsletter, an official publication of the Oregon Construction Contractors Board, gives Oregon contractors information on laws, policies and activities of the CCB and better business practices.

CCB mission:

The CCB protects the public's interest relating to improvements to real property. The Board regulates construction contractors and promotes a competitive business environment through education, contractor licensing, dispute resolution and law enforcement.

Board members:

*Cliff Harkins, Canby
 **Walt Gamble, West Linn
 Chuck Crump, Salem
 Jim Fairchild, Dallas
 Dennis Schad, Coos Bay
 Tom Skaar, Portland
 Sandy Trainor, Sherwood
 *Chair, **Vice-chair

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In compliance with the Americans with Disabilities Act, this publication is available in alternative formats by contacting the editor.

- A person who works on their own home. (ORS 701.010 (1))
- A person who furnishes the materials, supplies or equipment and does not for compensation, install or arrange to have them installed. (ORS 701.010 (3))
- An owner who arranges for the work to be done by a licensed contractor. But this exemption does not apply to a person who in the pursuit of an independent business, does the work themselves or arranges for the work with the intent of offering the structure for sale before, upon or after completion. It is considered prima facie evidence that it was the intent to offer the structure for sale if the owner does not occupy the structure after completion. (ORS 701.010 (5))
- A person who performs work on property they own even if they do not live there. And an owner's employee can perform work. (ORS 701.010 (6))
- A real estate licensee who performs work on the structure that the real estate licensee manages under contract. (ORS 701.010 (12))

Contractors in the business of flipping homes can be licensed as a Licensed Developer as long as they do not



perform any of the work themselves. For more information, go to www.oregon.gov/CCB and click on Licensing. You can also call the CCB at 503-378-4621.

Flipping can also be used to describe the purchase of real estate, holding for a short time, and reselling it for a profit because it was purchased below market value or market value has appreciated so rapidly. If **no improvements or repairs are done to the real estate, this action does not fall under the jurisdiction of the CCB.*

Metro implements new construction excise tax July 1

Submitted by Ken Ray of Metro

Metro has instituted a temporary construction excise tax to pay for planning in new areas brought into the Portland metropolitan urban growth boundary (UGB) since 2002. This takes effect July 1.

Although more than 20,000 acres have been added to the UGB, much of this cannot be developed due to a lack of funding for required planning. Many in the construction industry worked with Metro to develop a temporary fund-

ing solution – an excise tax related to building permits issued in the Metro region – to cover planning costs.

The tax is equal to 0.12 percent of the value of construction as stated in the permit. Permits with construction values of \$100,000 or less will be exempt from the tax, as will development of affordable housing units and other buildings constructed to serve low-income populations. For projects over

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Required notices
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Here are some examples of when the notice must be given:

You are a general contractor. You own a piece of property and have decided to build a home on it to sell. It's a beautiful home and it hasn't even been finished for three days when you get an offer. As the original contractor you are required to give the first purchaser of the residential property the Information Notice to Owner if the sale is before or within the 75-day period immediately following completion of the construction.

You are a general contractor that has contracted directly with the owner of the residential property (or the owner designated an agent to make the direct contracting decision) to make improvements on the residential structure and the contract is for \$1000 or more. You must provide to the owner (or agent) the Information Notice to Owner at the time the contract is signed.

As the general contractor, when you first contracted with the owner (or agent) the price of the contract was less than \$1000 but during the course of the project it exceeds the \$1000. You must provide the Information Notice to Owner no later than five working days after you know or should reasonably know the contract price will exceed \$1000.

The Information Notice to Owner is given at the time of the written contract or when a sales agreement is signed. If it is an oral contract, you must mail or deliver the notice no later than five working days after making the oral agreement.

The CCB doesn't require any specific method of delivering the notice. Some contractors have made it their policy to always give the notice regardless of the amount of the contract. Some have also made it their policy to bring two copies, get one signed for their records and give the owner the other copy.

Failure to give the notice, or prove that you gave the notice, may cause you to lose your lien rights, your license may be suspended and you may be fined a civil penalty of up to \$1000.

You can download copies of the Information Notice to Owners from the CCB website at www.oregon.gov/CCB, or you can call 503-378-4621 to have the notice mailed to you.

Notice of Right to a Lien

The Notice of Right to a Lien is part of Oregon's lien law. (ORS 87.021) Though required by Oregon's lien law, it isn't a required notice of the CCB.

ORS 87.021 says that if you furnish

material, equipment, services or labor to be used in construction or improvements at the request of a contractor who is not the owner, and you have no direct contract with the owner of the property, you must send a Notice of Right to a Lien.

This notice may be given at any time before the construction is completed, **HOWEVER**, the notice only protects the right to perfect the lien for materials, equipment, labor and services beginning with the date that is eight days prior to the date the notice was given (not including Saturdays, Sundays and holidays).

If you fail to provide the Notice of Right to a Lien, you lose your right to perfect a lien.

ORS 87.023 is very clear on what must be contained in the Notice of Right to a Lien. It informs property owners of the subcontractor's right to file a lien and what property owners can do to protect themselves from having a situation in which they must pay twice.

While the Notice of Right to a Lien is currently available to download from the CCB website at www.oregon.gov/CCB, or by calling 503-378-4621, you are encouraged to consult an attorney for more information.

Enforcement investigations in house

The CCB no longer contracts with private investigators for regional enforcement services. All reports of illegal activity can be made by calling the CCB at 503-378-4621 or online at www.oregon.gov/CCB.

The CCB is committed to the enforcement of construction contractor laws. The agency concentrates its enforcement resources on allegations of unlicensed

activity, theft by deception (fraud) and identity theft.

Report illegal activity
503-378-4621
or
www.oregon.gov/CCB

Liability Insurance: Lack of Proof, Immediate Suspend

Licensed contractors know that they are required to have liability insurance and a surety bond to keep their CCB license active.

Equally important for contractors to understand is that the CCB requires evidence that the bond and insurance is in effect. If the CCB has no evidence, the license must be immediately suspended.

At this moment you may be shaking your head, or rereading the two above statements wondering what the difference is.

Usually, there isn't any difference.

As a busy contractor, maybe you have delegated the task to an employee to renew the insurance, or you have contacted your agent for renewal, and the employee or agent "takes care of the rest".

Though "taking care of the rest" generally includes providing the evidence of insurance or bond to the CCB, if there is a failure in the process (whether it be post office, agent, employee, etc.) you as the contractor are ultimately responsible. And the CCB suspends more than 200 licenses a month for lack of proof of insurance or bond.

Attention All Chimney Sweeps

By Jim Gillam, *Chimney Sweep News*
www.chimneysweepnews.com

While the Construction Contractors Board (CCB) clarified the license requirements for chimney and flue cleaning in June 2005, it is important to note that contractors performing chimney inspection or repair (most chimney service businesses) must have a license.

It is not uncommon that during routine chimney cleaning a chimney sweep or contractor of a chimney service business will identify the need to repair or replace something such as a burner, connector pipe, gaskets, liner, or chimney crown. Performing the inspection and/or performing this work constitutes construction activity and requires a CCB license..



Consumers and contractors questioning whether a construction activity requires a license can call the CCB licensing section at 503-378-4621 to get current information concerning a specific construction related activity.

The CCB is a state agency licensing more than 43,000 contractors. Approximately 240 actively licensed businesses have identified that they perform chimney and other structural cleaning (SIC code 7349). Anyone who is paid to inspect, repair, improve or build a home must be licensed by the CCB.

For more information:

e-Proof
www.oregon.gov/CCB

Click on liability insurance in the
 "For Contractors" box

e-Watch
www.oregon.gov/CCB
 Click on CCB "My License"
 to register

Or call the CCB at
503-378-4621

To help prevent this problem or to quickly recognize it if it occurs, the CCB has developed two tools for contractors and agents:

- CCB e-Proof is an on-line submission of proof of insurance by registered agents. Agents can register with the CCB for this easy method of providing proof of insurance. Ask your agent if they use e-proof.
- CCB e-Watch is a license monitoring tool within the CCB "My License" on-line feature. Licensed contractors can set up one or more licenses to monitor. An email is sent immediately if the status of that watched license changes. While e-watch is useful for contractors to monitor the license status of subcontractors, it can also help you monitor your own license status. There is no charge for this service.

For more information, visit www.oregon.gov/CCB or call the CCB at 503-378-4621.

ODOT Program for Small Businesses Seeks Qualified Participants

By Jan Hurt, GCAP Program Manager

The Oregon Department of Transportation's Emerging Small Business program continues seeking qualified small businesses that want to contract with the state. The Emerging Small Business program (or ESB) recently extended its agreement with the non-profit Government Contract Assistance Program (GCAP) to assist companies in securing those contracts. GCAP provides on-going training and counseling for small businesses throughout the state so they can better compete for government contract work. GCAP will focus on Oregon-based emerging and small businesses, women and minority-owned small businesses, and businesses located in rural and distressed areas of the state.

Each year, ODOT sets aside specific contracts for Emerging Small Businesses in an effort to help them grow, add jobs and support the local economy. These contracts are competed only among ESB certified

businesses and bonding has been waived.

Oregon businesses seeking to contract for work on bridge, highway and construction jobs around the state are encouraged to take advantage of GCAP's assistance. Oftentimes, the process of becoming a certified Emerging Small Business and then competing for contracts can seem overwhelming. GCAP's goal is to recruit qualified businesses into the program by helping them navigate the process.

GCAP offers training in ODOT's Emerging Small Business Program, obtaining Emerging Small Business Certification, Construction Contract Administration, Understanding the State's Procurement System (ORPIN), and Cost Estimation Basics. Training sessions are being planned and will be posted at GCAP's website at www.gcap.org. The assistance

program will also provide one-on-one counseling to business representatives free of charge, and a bid-matching service that links businesses with contract opportunities (free for seven northwest states.)

For more information about ODOT's Emerging Small Business program, contact Jerry Hoffman at 503-986-3016. For more information about GCAP or for assistance, contact their Springfield office at 800-497-7551 or 541-736-1088, their Portland office at 800-803-7175 or 503-635-3921, or their North Bend office at 800-970-4227 or 541-756-5596.

On July 11, 2006 1:00 - 5:00 pm, GCAP will host a free training in Portland. Call 800-497-7551 or 541-736-1088 for more information.



Rule Amendment Update

At the May CCB board meeting, board members approved the following rules effective June 1, 2006.

ORAR 812-001-0160 was amended to delete criteria no longer used to answer public records requests since the information is available on the website.

ORAR 812-002-0260 was amended to add ORS 701.135 (a) (D) definition of dishonest and fraudulent conduct giving the agency the ability to emergency suspend a license.

ORAR 812-003-0180 was amended to allow a cancellation of a bond to go into effect more than 30 days from the date of receipt of the cancellation notice from the bonding company.

Other amendments were passed to correct cite references and clarity.

Complete information of rule changes are available at www.oregon.gov/CCB and click on Statutes and Rules.

Information about Rule Notices

As required by law, the CCB notifies certain members of the Oregon legislature on proposed amendments or adoptions of rule at least 49 days prior to the rulemaking hearing.

The CCB website posts this information at least 21 days prior to the hearing date. Individuals may request to be on an email or mailing list to receive these notices as well as additional board information.

Civil Penalties Issued January 1, 2006 – March 31, 2006

Submitted by Rich Blank, CCB Enforcement Manager

The Oregon Construction Contractors Board (CCB) recently announced final orders assessing civil penalties issued to Oregon contractors for violation of the Construction Contractors Law (ORS 701). Oregon law requires all construction contractors to be licensed with the CCB before they advertise, bid on or perform construction, remodeling or repair work.

The CCB issued 78 penalties from January 1, 2006 to March 31, 2006. The most common type of violation was operating as a contractor while not licensed. Contractors receiving penalties include:

Contractor	Doing Business	City Where Violation Occurred	Penalty Amount	Violation
Central Oregon				
ADR Construction, Inc.		Prineville	\$1,000	Had employees while licensed as an exempt contractor
Anthony W. Bennett & Justin M. Haller		Bend	\$1,000	Had employees while licensed as an exempt contractor
Areliano-Gomez, Juan Carlos		Bend	\$1,000	Operated as a contractor while not licensed
Blackstone Contractors, Inc.		Bend	\$5,000	Operated as a contractor while not licensed
Blessing, Joshua		Bend	\$1,000	Had employees while licensed as an exempt contractor
Bolzern, Christopher		Bend	\$1,000	Operated as a contractor while not licensed
Callaghan, Kevin Patrick		Prineville	\$1,000	Operated as a contractor while not licensed
Chaney, Donald Frederic		Prineville	\$1,000	Had employees while licensed as an exempt contractor
Darryl Storey Construction, Inc.		Sisters	\$1,000	Had employees while licensed as an exempt contractor
Hartman, Tracy Edward		Bend	\$1,000	Operated as a contractor while not licensed
Malitz, Bryon Lee		Redmond	\$5,000	Operated as a contractor while not licensed
USA Steel Buildings, Inc.		Bend	\$1,000	Operated as a contractor while not licensed
Wood, Roger T. Jr.		Bend	\$1,000	Operated as a contractor while not licensed
Central Willamette Valley				
Blagg, Michael Oliver		Albany	\$5,000	Operated as a contractor while not licensed
Daly, Timothy John		Sublimity	\$5,000	Operated as a contractor while not licensed
Grude, Thomas L.		Independence	\$1,000	Operated as a contractor while not licensed
Punches, Floyd James		Corvallis	\$700	Offered a bid as a contractor while not licensed
Ruark, Kirk		Aumsville	\$5,000	Operated as a contractor while not licensed
Sump, David E.		McMinnville	\$5,000	Operated as a contractor while not licensed
Coastal Oregon				
Freitag, Kurt		Lincoln County	\$30,000	Operated as a contractor while not licensed
Mead, Timber		Depoe Bay	\$5,000	Operated as a contractor while not licensed
Eastern Oregon				
Martinez, Angel B.		Vale	\$1,000	Operated as a contractor while not licensed
Rodriguez, Juan		Baker City	\$1,000	Operated as a contractor while not licensed
Eugene/Lane County Area				
Armstrong, William Gregory		Junction City	\$5,000	Operated as a contractor while not licensed
Bowen, Shelley L.		Creswell	\$1,000	Had employees while licensed as an exempt contractor
Burkhouse, Dale Alan		Eugene	\$5,000	Operated as a contractor while not licensed
Frank & Georgia Vargas Family Trust		Vida	\$1,000	Operated as a contractor while not licensed
Langehennig, Raymond and Tom		Springfield	\$1,000	Operated as a contractor while not licensed
Northern Oregon				
Hyatt, Travis R.		Pendleton	\$5,000	Operated as a contractor while not licensed
Johnson, Randy Lee		Scappoose	\$1,000	Had employees while licensed as an exempt contractor
Langston, Jason Lee		Pendleton	\$5,000	Operated as a contractor while not licensed
Mulligan, Dan		Stanfield	\$5,000	Operated as a contractor while not licensed
Portland Metropolitan Area				
Acar, Metin		Portland	\$5,000	Operated as a contractor while not licensed

Aisea, Sione M.	Portland	\$1,000	Had employees while licensed as an exempt contractor
Araz, Inc.	Beaverton	\$5,000	Operated as a contractor while not licensed
Bennett, Timothy A.	North Plains	\$5,000	Operated as a contractor while not licensed
BJ Rex Construction LLC	Portland	\$1,000	Had employees while licensed as an exempt contractor
Blakeney, Michael Allen	Portland	\$5,000	Operated as a contractor while not licensed
Blakeney, Michael Allen	Portland	\$5,000	Operated as a contractor while not licensed
Bomotti, David	Aloha	\$1,000	Operated as a contractor while not licensed
Brown, Chandler Bradley	Portland	\$1,000	Operated as a contractor while not licensed
Campbell, John Charles	Clackamas	\$1,000	Hired an unlicensed subcontractor
Design Resource Group LLC	Portland	\$1,000	Operated as a contractor while not licensed
Edelweiss Construction LLC	Portland	\$1,000	Had employees while licensed as an exempt contractor
Friedman, Nicholas Jerome	Estacada	\$1,000	Had employees while licensed as an exempt contractor
Gritzmacher, Daniel Charles	Portland	\$5,000	Operated as a contractor while not licensed
Herold, Lee	Beaverton	\$5,000	Operated as a contractor while not licensed
Lay, Kelly Eugene	Beaverton	\$5,000	Operated as a contractor while not licensed
Lewis, John	Gresham	\$5,000	Operated as a contractor while not licensed
Meridian Village LLC	Beaverton	\$5,000	Operated as a contractor while not licensed
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Moorman, Paul Leroy	Portland	\$5,000	Operated as a contractor while not licensed
Mott, Douglas Earl	Portland	\$5,000	Operated as a contractor while not licensed
Paramount Construction Services LLC	Portland	\$700	Operated as a contractor while not licensed
Parkins, Dan	Oregon City	\$5,000	Operated as a contractor while not licensed
Prak, Sokhom	Hillsboro	\$5,000	Operated as a contractor while not licensed
Prior, John K.	Portland	\$5,000	Operated as a contractor while not licensed
Pro Mark Finishes, Inc.	Tigard	\$5,000	Operated as a contractor while not licensed
Ryan, John Thomas	Portland	\$1,000	Operated as a contractor while not licensed
Stanley, Karen Lee	Portland	\$1,000	Had employees while licensed as an exempt contractor
Stanley, Karen Lee	Gresham	\$1,000	Had employees while licensed as an exempt contractor
Tankersley, Robert Bige	Forest Grove and Portland	\$2,000	Had employees while licensed as an exempt contractor
Tapeuleulu, Viliami	Lake Oswego	\$5,000	Operated as a contractor while not licensed
Tapueluelu, Viliami	Portland	\$1,000	Operated as a contractor while not licensed
TJ Homebuilders, Inc.	Portland	\$1,000	Operated as a contractor while not licensed
Valdez, Peter	Aloha	\$1,000	Operated as a contractor while not licensed
Wolff, Tom	Portland	\$5,000	Operated as a contractor while not licensed
Southern Oregon			
Bradd, Peter Joseph	Merlin	\$5,000	Operated as a contractor while not licensed
Dewitt, Dennis Lee	Cave Junction	\$1,000	Operated as a contractor while not licensed
Fletcher, John	Grants Pass	\$5,000	Operated as a contractor while not licensed
John Chmelirs Sons LLC	Grants Pass	\$1,000	Hired an unlicensed subcontractor
Lindsey, Ray Michael	Tenmile	\$1,000	Operated as a contractor while not licensed
Lindsey, William Aaron	Roseburg	\$10,000	Operated as a contractor while not licensed
Matney, Lilly Jo	Able Fencing Roseburg	\$1,000	Had employees while licensed as an exempt contractor
Newton, Roger Allen	Grants Pass	\$1,000	Operated as a contractor while not licensed
R & R Kids, Inc.	Roseburg	\$1,000	Operated as a contractor while not licensed
Richardson, Stuart	Reedsport	\$1,000	Had employees while licensed as an exempt contractor
Williams, Kimberly Lavan	Grants Pass	\$1,000	Operated as a contractor while not licensed

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Excise tax

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\$10 million in value, the tax will be capped at \$12,000 per structure.

The tax will expire after \$6.3 million is collected, which is expected to take three years. The tax will apply only to projects on property located within Metro's jurisdiction. The tax is due when application is made for a building permit.

More information can be found on Metro's Web site at www.metro-region.org/constructiontax or by contacting Metro's Finance department at 503-797-1620.

What's the buzz?

Corrections and Clarifications Required residential construction notices

The April 2006 issue of the CCB Bulletin Board began the two-part series titled Required Residential Construction Notices. Some clarification may be needed. Only two of the construction notices — the Consumer Notification Form (April 2006 issue) and the Information Notice to Owner about Construction Liens (current issue) are required under CCB statute.

These two forms are specifically addressed in

Oregon Revised Statute as notices that are regulated under CCB authority. The CCB takes action against contractors for failure to comply with giving these notices to Oregon homeowners.

The Owner's Duty to a Contractor in the Event of a Construction Dispute (April 2006 issue) and the Notice of Right to a Lien (current issue) are required under Oregon law. Failing to give these two forms do



not result in CCB agency sanctions. Failure to give the Notice of Right to a Lien relinquishes your right to perfect a lien.

Statute covering these notices can be found on the CCB website at:

www.oregon.gov/CCB

Click on Statutes and Rules.