



CONTRACTOR LICENSING BOARD

NOEL GRIFFITH, CHAIRMAN; M.J. GERTSCH, VICE-CHAIRMAN; JOE PATTERSON, MIKE METZLER, JASON STEPHEN, MARK ARCHER, PAUL POMEROY, BRENT GROESBECK AND DENNIS HUMPHREY



Contractor Licensing Board Meeting Minutes November 12, 2019

CALL MEETING TO ORDER: Board member M.J. Gertsch called the meeting to order at 9:00 a.m.

ROLL CALL: Board Member Noel Griffith asked for the roll call. The following members were present: Paul Pomeroy, Dennis Humphrey, Brent Groesbeck, M.J. Gertsch, Mike Metzler, Mark Archer, Absent Noel Griffith, Joe Patterson, Jason Stephen. Also, in attendance was Bruce Trembath, Chief Building Official, Amanda Barto, Recording Secretary to the Licensing Board, Trudy Kiolbasa, Jeff Trefren, Gable Painter, Megan Hays, Jack Hays, Jerry Bevis, Angel Trujillo

MINUTES:

The Minutes of the October 8, 2019 meeting were approved with Paul Pomeroy making the motion, Mike Metzler seconding the motion. The minutes were approved with all members voting "yes".

***STOP WORK ORDER/RED TAG LISTING: There was 1 Red tag for October 2019**

ATTACHMENT: The Non-Tested License Listing for October 2019 was attached for the board's review. Mark Archer made the motion to approve the non-tested licenses and Dennis Humphrey seconded the motion. Motion passed with all members voting "yes".

CONTRACTOR LICENSES:

CLASS A CONTRACTOR LICENSE(S):

Johnston, Kristopher L., Qualified Supervisor working for Westport Group Inc. Mr. Johnston detailed his experience and answered any questions they asked and presented his test. Paul Pomeroy made the motion to approve, and Brent Groesbeck seconded the motion. Upon motion duly made and seconded, the license was approved as presented.

Fasciano, Anthony C., Qualified Supervisor working for GE Johnson. Mr. Fasciano was tabled Paul Pomeroy made the motion to approve, and Brent Groesbeck seconded the motion. Upon motion duly made and seconded, the license was approved to table the license for January 14, 2020 board hearing.

Bemis, Jerry L., Qualified Supervisor working for Spectrum Services Inc. Mr. Bemis detailed his experience and answered any questions they asked and presented his test. Paul Pomeroy made the motion to approve, and Dennis Humphrey seconded the motion. Upon motion duly made and seconded, the license was approved as presented.

CLASS R CONTRACTOR LICENSE(S):

Killpack, Joseph F., Qualified Supervisor working for New Peak Construction Company. Mr. Killpack detailed his experience and answered any questions they asked. Mark Archer made the motion to approve, and Dennis Humphrey seconded the motion. Upon motion duly made and seconded, the license was approved as presented.

CLASS R CONTRACTOR LICENSE(S):

Painter, Gable, Qualified Supervisor working for GP Construction & Remodeling. Mr. Gable detailed his experience and answered any questions they asked. M.J. Gertsch made the motion to approve Dennis Humphrey seconded the motion. Upon motion duly made and seconded, the license was approved with proper testing.

CLASS C-1 MASTER PLUMBING W/ GAS LICENSE(S):

Wann, Levi B., A Master of Mechanical Systems Inc. Mr. Wann was denied for no show. Dennis Humphrey made the motion to approve, and Brent Groesbeck seconded the motion. Upon motion duly made and seconded, the license was denied.

Pena, Leonard, A Master of Sys-Co Plumbing & Heating Mr. Pena was denied for no show. Dennis Humphrey made the motion to approve, and Brent Groesbeck seconded the motion. Upon motion duly made and seconded, the license was denied.

CLASS C-1 MASTER HVAC LICENSE(S):

Trefren, Jeff T., A Master working for Rocky Mountain Trane. Mr. Trefren detailed his experience and answered any questions they asked. Mike Metzler made the motion to approve, and Brent Groesbeck seconded the motion. Upon motion duly made and seconded, the license was approved as presented.

HEARINGS: Affordable Concrete VS. Megan Hays

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

This contested case matter came before the City of Cheyenne Contractor Licensing Board (the "Board") for a Contested Case Hearing on November 12, 2019, at 9:00 a.m. on the Complaint filed by Megan Hayes ("Complainant"). Angel Trujillo, owner of licensee Affordable Concrete (a "Respondent") appeared on behalf of the company, and licensee Christopher Montoya (also a "Respondent, and together along with Affordable Concrete "Respondents") failed to appear. The Board heard testimony and argument from the Complainant, and accepted her exhibits in to evidence. The Board heard testimony from Angel Trujillo on behalf of Respondent Affordable Concrete. Respondents did not offer any exhibits into evidence. The Board, having heard and considered the evidence and argument of the Complainant, and the evidence and argument of Respondents, and being fully advised in the premises, voted unanimously that Complainant has articulated a valid Complaint which is supported by the facts and the law, and that the licenses of Respondents Affordable Concrete and Christopher Montoya should be, and hereby are, suspended for a period of six months from the date of this Order. In support hereof, the Board enters the following Findings of Fact, Conclusions of Law, and Order.

Findings of Fact

1. Respondent Affordable Concrete currently holds a Class C-2 Flatwork license, both as issued/renewed by the Board.
2. Respondent Christopher Montoya holds a Class C-2 Flatwork license and is listed as the qualified supervisor for Affordable Concrete.
3. Complainant and Respondents entered into a contract with Affordable Concrete whereby Affordable Concrete agreed to tear out old concrete work and install new concrete at Megan Hayes' property at 804 Emerald Drive, Cheyenne, Wyoming 82009.
4. The concrete work included removing and replacing curb, gutter, and sidewalk areas.
5. The concrete work also included removing and replacing a driveway.
6. The concrete work to the curb, gutter, and sidewalk failed to pass city inspection.
7. The concrete work to the driveway did not allow for proper drainage and caused rain water to pool on the driveway and in Complainant's garage.
8. Complainant testified that she filed a claim with Respondents' insurance company, which claim was paid in full. Therefore, Complaint suffered no monetary loss on account of Respondents' concrete work.
9. A photograph of a Correction Notice issued by the City of Cheyenne for the curb, gutter, and sidewalk concrete work was accepted into evidence and is incorporated herein as further evidence relied upon in this matter.

10. The Contractor Complaint, with attachments, is incorporated herein as further evidence relied upon in this matter.

11. A letter from Angel Trujillo to Chief Building Official Bruce Trembath II in which Ms. Trujillo responded to the Contractor Complaint, with attachments, is incorporated herein as further evidence relied upon in this matter

12. Any Conclusions of Law set forth below is also incorporated as a Finding of Fact herein.

Conclusions of Law

1. The Board has jurisdiction in this matter and over the parties pursuant to Cheyenne City Code 2002, Chapter 5.44, and City of Cheyenne Contractor Licensing Regulations. Proper notice of the contested case hearing was provided to the parties, and no objection was stated concerning timeliness of the notices, and the parties were willing and prepared to proceed. The contested case hearing was conducted pursuant to City of Cheyenne Contractor Licensing Regulations, and the Wyoming Administrative Procedures Act, Wyoming Statutes §§ 16-3-101 et seq.

2. Pursuant to Cheyenne City Code 2002, Chapter 5.44, and Board Regulations 3.1, no person or entity may perform construction services in the City of Cheyenne without obtaining the applicable license required by the Cheyenne City Code, and the City of Cheyenne Contractor Licensing Regulations.

3. Pursuant to Board Regulation 1.2.3, the holder of a contractor license must employ a person who holds a master or qualified supervisor license in the appropriate building trade.

4. Pursuant to Board Regulation 9.1, the Board may discipline a licensee for various violations, including, as found at Board Regulation 9.1.4, violation of any provision of the Board Regulations.

5. Board Regulation 8.1(b) request that a contractor be responsible and account for all funds or property received in connection with any work performed requiring a permit

6. Board Regulation 8.1(i) requires, *inter alia*, that a contractor must construct and complete all work performed as a contractor in a workmanlike manner, and in compliance with industry and local standards.

7. The Board concludes that the evidence submitted to the Board supports the allegation that Respondents Affordable Concrete and Christopher Montoya violated the following regulations of the Contractor Licensing Board: 8.1(b), and 8.1(i).

8. The Board concludes that the evidence presented, based upon a clear and convincing standard in this matter, supports Complainant's allegations.

9. Any Finding of Fact set forth above is also incorporated as a Conclusion of Law herein.

10. Board Regulations 11.6 and 30 provide for appeals from Board Orders to the District Court. Board Regulation 11.7 provides for procedures related to requests for reinstatement of licenses after discipline.


Order

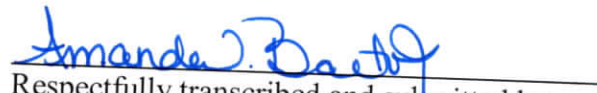
WHEREFORE, THE BOARD HEREBY ORDERS THAT that the license Affordable Concrete, License No. CT-19-39308, and the license of Christopher Montoya, License No. CT-19-39309, should be, and hereby are, suspended for a period of six months from the date of this Order, for their violations of the Rules and Regulations of the Contractor Licensing Board.

OLD BUSINESS:

Meeting Adjourned: M.J. Gertsch, adjourned the meeting at 10:06 a.m.

A complete audio recording of this meeting can be located on the City of Cheyenne website (www.cheyennecity.org)


Vice Chairman M.J. Gertsch, Date
Contractor Licensing Board


Respectfully transcribed and submitted by:
Amanda I. Barto, Secretary to the Board