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Ron Wyden
United States Senator
151 W. 7th. Avenue
Eugene, OR 97401

Dear Mr. Wyden:

We have a situation that appears to be impossible to resolve, and are hoping that you might take an interest in it. I have been told that interest from someone in your position can really help to motivate the bureaucracies involved towards helping to resolve the problem.

My wife and I decided to build our dream home on a five-acre parcel of land that we owned West of Elmira. After researching house plans for over a year we settled on a plan, had modifications made to it by the original architect and submitted the plans to the Lane County Building Department (LCBD) for approval and permits. During the course of the plans's review they determined that the house needed to have engineering work done. I arranged to have this work done. It was approved by the LCBD and made part of the approved plans. In many places on the plans they noted the special requirements in red ink. It was very obvious.

We contracted with a local builder to construct the house, and this man promised us he would do a good job for us. During the course of the framing I noticed that he had not done part of what the engineering required, and we argued about it. In the end he tore down some of the work, apparently fixed the wall in question to conform to the engineering and proceeded with the rest of the project. Unknown to me, he had totally failed to follow any of the engineering requirements, a problem that only became apparent later.

One day the builder, my wife, and I were standing in what would become the kitchen and talking. I raised the question as to where the plumber would run the vent pipe for

the kitchen sink, and the builder responded "one thing is for sure, he had better not bore through that beam." He was referencing a large 4 x 12 Trus Joist Parralam beam that carried the second floor of the house. Imagine my shock when I came to the site soon afterwards and found that the plumber had done just that. He bored a full 2 ½" diameter hole top to bottom through this 3 ½" wide beam, almost cutting it in half. I immediately called the builder and had him look at it, his reaction was that it should not have been done, but as it was done we would have to live with it as it is.

I got nowhere trying to work with the builder on these concerns, and pinned my hopes on the LCBD inspector failing the work. I was sure this would happen, as the LCBD had required the engineering in the first place. I was shocked when during the framing inspection I walked the inspector over and specifically showed him some of the failures to follow the engineering, and he passed it anyway. I then showed him the large hole in the beam, and he passed that. The entire framing inspection for this 3000 square foot house took no more than five minutes or so, nor did he ever refer to the approved plans during the inspection. At this point I was actually having self doubts, that perhaps I was being concerned about something that was not real issues after all.

The fireplace in this house is a free standing unit that rises a full two stories high through the high vaulted center section of the home, and was to be covered with stonework. The plans specified that it was to have a large foundation pad, which was done. The plans also required it to have a block wall built up through to the first floor, and then heavy 2 x 6 framing the rest of the way, through the roof to the top of the chimney. When our builder placed the floor joists, he cut out a section around the fireplace to allow for the block wall, and framed in cross pieces to support the section he had cut out. These cross pieces, or headers, did not connect to the foundation at all, only the adjacent floor joists.

One day I came to the site and found that the opening in the floor had been covered with the sub floor plywood, and assumed that the necessary work underneath had been done. Imagine my surprise when I went under the house and found no support at all for the fireplace. He had taken a 2 x 8 and spanned it across the opening where he had taken out the floor joist, and attached this 2 x 8 to the ends using a 2 x 6 joist hanger. I later learned that these types of hangers are rated for around 150 pounds each. Knowing that the fireplace would weigh in at around five tons (10,000 pounds), this was totally inadequate support. I got together with him and explained my concerns, and he had someone reinforce the area. When I checked on this work I found that they had taken a 2 x 6, on end, and wedged it under the 2 x 8 to help carry the load. This was still completely inadequate, and about this time the mason was starting to apply the stonework to the fireplace. I gave up and went under the house and built walls reaching from the foundation to the sub floor, and reinforced them as well as I could. He also cut corners by replacing the heavy 2 x 6 framing for the fireplace with 2 x 4's, and only a

portion of the number of them the plans specified. Please note that all of this had already passed the LCBD inspections.

Still having concerns about the engineering on the back wall, as well as the hole in the beam of the kitchen area, I arranged to have the engineer I was working with take a look at the house. He told me we were at real risk of the house collapsing on us. I talked to Trus Joist about the hole in their beam. They had never even considered someone doing such a thing and told me it had to be fixed or replaced.

While all of this was going on construction continued and the LCBD gave us a final inspection, by definition meaning that all other inspections had been performed and were satisfactory, as well as their final inspection.

I filed a complaint with the Oregon State Building Codes Division about the hole in the beam, which is a clear code violation. They decided to forward my complaint to the LCBD. I met with the building official, and then with a plans examiner. I presented these people with a letter from the engineer stating that the beam needed to be fixed. The plans examiner told me that the engineer was wrong and that the house would be fine as it is, and the complaint died right there. I later submitted that same complaint to the BCD again, again it was referred to the County and died.

I had continued to discuss this beam with the builder, and he finally told me that he did not believe my engineer and insisted on bringing a “real” engineer out to look at the situation. The builder, his engineer, my engineer, and I all met one evening and reviewed the situation. At one point we discussed the back wall of the house, and the other engineer acknowledged to my engineer and myself that it was a real problem. I do not recall him saying as much to his client. As far as the hole in the beam, he said he thought it would be fine, and wanted to run the calculations before committing to it. When I received a copy of his report it stated that the wall was fine as it was, indeed it still had several times the strength that it needed. This was diametrically opposite the opinion of the original engineer.

When we had met, I made it clear to both of them that if they had a significant difference of opinion I expected them to work together and try to sort out why they had differences. If they did not do this, I would be filing a complaint with the Board of Examiners for Engineering and Land Surveying (OSBEELS). The new engineer declined to cooperate, so I filed the complaint. After waiting almost a year for a decision, I learned that the staff of the OSBEELS after conducting their investigation had determined that this engineer’s license should be revoked. It finally went in front of the Board, and they determined that my complaint was “allegations unfounded.” They further decided that he had not violated their rules because he had commented to myself and my engineer about the back wall needing to be fixed. Please note that these

comments were made to the same people that brought these issues to his attention.

The OSBEELS rule 820-020-0015 (1) states “*Registrants shall at all times recognize that their primary obligation is to protect the safety, health, property and welfare of the public”.*

The mission statement of the OSBEELS states “*The mission of the Oregon State Board of Examiners is to regulate the practice of engineering and the practice of land surveying in the State as they relate to the welfare of the public in safeguarding life, health and property.”*

These words sound very good, however I have little evidence to support that the Board is actually very concerned about the safety of the public, they appear to be far more concerned about protecting their sole source of funding, the engineers and surveyors. How is it possible to be a regulatory agency over the very people who pay for your support?

About this time I invited the Lane County Building Official, Roger McGuckin, to come to my home and look at some of these issues for himself. I showed him the back wall, the damage to the beam in the kitchen, the support for the fireplace, and much more. He told me and my engineer that my efforts under the home in building support for the fireplace saved my home from serious damage. He informed me that my final inspection was revoked effective that moment. He left and mailed me a letter detailing his findings. Imagine my surprise when he failed to comment on any of the real structural issues, instead he focused on largely cosmetic issues such as all of the siding not being on the house. Please note that the house had more siding on it at this time than it did when the LCBD gave us our original final inspection. I wrote back and specifically asked about these issues, and he did then address some of them. When he failed to answer many of the questions I asked, I resubmitted them and insisted on a response.

The County decided I was planning to take action against them and required me to have all dealings with them go through an attorney, to the county attorney, and then finally to the LCBD. This really complicated the process of getting my final inspection again, and it cost almost \$5000 in attorney fees to do nothing other than to deal with the County on the day to day things that needed to be addressed to get the final reinstated. At one point the county attorney threatened to deny us any final until we signed a document that we had no additional complaints with the LCBD.

Mr. McGuckin tried to claim that no final had ever been issued, and indeed several of the other inspections had never been made. I had to provide proof to him, in the form of the approved plans being signed off on by the inspector, that most of these inspections, including the final, had taken place. He still claimed one inspection, for the gas piping had never been done. I still had the green sticker that the inspector attached to the pipe to indicate to the gas company that the system had passed inspection, and he still would not believe it had been passed. Apparently they have a poor system in place for

tracking these things, or have some other reason to have made this difficult for me. Even the county attorney agreed that a final had been issued, he noted it must have been as it was later revoked.

One day Mr. McGuckin met with my engineer, the contractor doing the repairs, and myself. We had just discovered how badly the original contractor had failed to follow the engineering and were facing a great deal of work to get it corrected. Mr. McGuckin told all of us that if that was the only open issue he would issue us a "conditional final" When we went and asked for this final shortly thereafter, the County attorney told us that they had not found anything in the law that granted Mr. McGuckin that authority and the County attorney declined to issue it to us. We had spent a lot of money to expedite things to allow us to get that conditional final, money that was now wasted because of the change of position the County took.

We did finally get the "final" issued again, at great expense and a lot of trouble. Now we shifted gears from trying to get the County out of our hair to trying to get some recovery for the unnecessary expense we had incurred as a result of what we viewed to be negligence on their part. After much negotiating, they made us an offer that was a mere pittance compared to the expenses we had incurred. They further stated that because I was aware of the issues during the construction, they had no obligation or responsibility to me.

We have now learned that the foundation itself was not made to meet even minimum code requirements, and is far short of what the plans specified. The cost to fix this has been estimated at \$250,000. We do not have that kind of money, and so have not brought this to the County's attention. Does it not seem a bit odd that a homeowner would find themselves in the position of repeatedly needing to show the County inspector's code violations that happened on our home? I thought that is what they are supposed to be looking for themselves.

How is it possible for a government agency that is under mandate from the state to provide these inspections and make sure that structures meet state code requirements, then claim they have no obligation to us? If I did not know enough about construction to have picked up on some of these issues, we would be living in this house in blissful ignorance, until we had a strong wind storm or earthquake and the house collapsed and killed us. How many other homes in Lane County have had as poor a quality inspections as I have experienced? I doubt if my situation is unique. I have been told that most of my complaint should be with the contractor, however why should these contractors perform better if they know that whatever they do it will be approved by the LCBD? Is the sole function of the LCBD to collect as much permit revenue as it can, and provide no other real service? They have always held themselves out as the final authority, and if you asked any contractor they would tell you they had done a

satisfactory job if it passed the County inspection. Homeowners would have little recourse in this situation, the contractor would stand up and proudly tell the world his work had to be good, as the County had passed it.

This house started out to be our dream home, with all the excitement and high hopes that go with actually building your dream home. Any good feelings we have about this house have long since been dashed, and it is now the House from Hell for us. My wife spends a lot of her time crying and stressing over what has been done to us. The cost to make the repairs has put us in severe financial distress and has placed a tremendous strain on our marriage. All of this brought on because a contractor and a bureaucracy would not do what they were entrusted to do.

I invite you to discuss my situation with the following people:

- Ed Graham, Executive Secretary with the OSBEELS, he can be reached at 503-362-2666.
- Katharine Wentzel in the Governors Office, at 503-378-3111 whom I have been working with on these issues and issues with the OSBEELS.
- Owen Grover, of Owen Grover Engineering, at 541-688-3020
- Max Hanson, of Ehlers Construction, who did most of the repair work, at 541-689-6177
- Joe Brewer, Administrator, at the Oregon State Building Codes Division, at 503-378-4133
- Ana Morrison, Lane County Commissioner, at 541-682-4203

Please let me know if you desire any additional documentation or information. There is much more to this story, however I hope I have provided you with some of the highlights of it.

Sincerely,

A handwritten signature in cursive script that reads "Jim Varco".

Jim Varco