

1 THIS DOCUMENT IS PROVIDED TO THE CONSTRUCTION CLAIMS TASK FORCE FOR THE SOLE
2 PURPOSE OF IDENTIFYING THE LAWS REFERRED TO IN THE COVER-EMAIL IN WHICH THIS
3 DOCUMENT HAS BEEN ATTACHED TO. THE NAMES OF INDIVIDUALS HAVE BEEN STRUCK FROM
4 THIS DOCUMENT TO PREVENT USE OF THIS DOCUMENT AS A LEGAL TOOL AGAINST ANY
5 AGENCY NAMED WITHIN. IT IS FOR EDUCATIONAL PURPOSES ONLY. THIS DOCUMENT HAS
6 BEEN FILED WITH THE OFFICE OF ADMINISTRATIVE HEARINGS AND IS ON PUBLIC FILE
7 FOR THE CURRENT CASE 159904-001. ALL INFORMATION CONTAINED WITHIN IS SOLELY
8 FOR USE BY THE CONSTRUCTION CONTRACTOR'S BOARD SUBDIVISION CONSTRUCTION
9 CLAIMS TASK FORCE TO HELP IDENTIFY LAWS THAT ARE IN NEED OF REVIEW. ANY
10 FURTHER USE OF THIS DOCUMENT OUTSIDE OF THOSE PARAMETERS OR BY THE OFFICE OF
11 ADMINISTRATIVE HEARINGS IN THE CONTEXT IN WHICH IT WAS SUBMITTED TO THEM IS
12 INAPPROPRIATE.

13 [REDACTED]
14 [REDACTED]

15 Office of Administrative Hearings

16 [REDACTED] [REDACTED]
17 [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED]
19 [REDACTED] [REDACTED]
20 [REDACTED] [REDACTED]
21 [REDACTED] [REDACTED]
22 [REDACTED] [REDACTED]
23 [REDACTED] [REDACTED]
24 [REDACTED] [REDACTED]
25 [REDACTED] [REDACTED]

26 In the above referenced matter, it was the understanding of Claimant that the
27 appropriate insurance information must be presented to the Construction
28 Contractor's Board, convincing them that Claimant should have had a license
29 suspension on March 1st thereby putting the original claim filed with the CCB
30 within its jurisdiction. This information was to then be sent to the
31 Administrative Law Judge by September 1st for review.

32 As of this date, September 1, 2005, the insurance company, [REDACTED]
33 [REDACTED], has acknowledged their mistake and made the insurance active from

1 February 3 2005, to February 3, 2006. A copy of the COI and a letter from
2 [REDACTED] the CCB have been sent in to verify this. [REDACTED] did
3 mention the concern over renewing our license within 90 days of filing the
4 claim, however, she did make our license active throughout the entire period
5 covered by the insurance, which would mean that at no time, was any work,
6 whether as part of the claim or not, perfected on the improvement at [REDACTED]
7 [REDACTED]
8 [REDACTED], for [REDACTED] done so without a valid license and insurance.
9 We believe this to satisfy the request by [REDACTED]
10 [REDACTED] and should allow our case to be returned to the CCB for processing
11 without further delay.

12 In the event the suspension on our license had not been lifted effective back
13 until March 1, 2005, and the insurance issue rectified accordingly, we were
14 prepared to argue several other points over laws contained within the Oregon
15 Revised Statutes. This is now a moot point. We would though, like to submit
16 the following documentation into evidence though so that it may be on record
17 and help give credence to our efforts to help change the State Laws that
18 caused this entire matter of a Contested Case Hearing. The following is
19 documentation that was prepared in the event we could not have met the
20 requests by the Administrative Law Judge:

21 Section 1:

22 We would like to make two requests at this time. The first request we are
23 making is to have our case reviewed in reference to the Oregon Revised
24 Statutes Chapter 701.065. Under Subsection two of this section, there are
25 certain exceptions which can be made by the courts in regards to the
requirements of section one. There is a clause that states we would be exempt

1 from section one if at any time during the requirements stated in section one
2 we were not licensed. To me, this would indicate that if we had entered into
3 a contract without a valid license and performed the work in its entirety
4 without a valid license, that we would be exempt from the requirements in
5 section one. However, we were trying to abide by the laws and even though in
6 Chapter 701.010 Subsection 5, as the general contractor is also the owner and
7 is constructing the home without intent to sell it, we were not required to
8 maintain a licensure status as referred to in Chapter 701.065.

9 Under Subsection 2 of this section, parts B, C and D indicate that as long as
10 we were licensed by the board at the time we submitted the claim, that if the
11 requirements of subsection 1 of this section would create a serious injustice
12 to the contractor (which I will refer to the injustices created further on in
13 this document) and within a maximum of 90 days we renewed our license, that
14 we would not be required to fall under the provisions of subsection 1. As
15 mentioned above, we currently have no reason for the exceptions to be applied
16 to us as both the license and the insurance are without a suspension or
17 lapse. And, as was offered by the Administrative Law Judge, we had until
18 September 1, 2005, to rectify the issue. What we feel is important here is
19 the terminology and the contradicting laws. I believe there to be enough
20 substantial evidence as to the contradiction of terminology and contradicting
21 laws that would make our case specialized, requiring a judicial decision to
22 interpret these laws accordingly. The fact is, we are licensed with the
23 Construction Contractor's Board (CCB), even if our license, since March 1st,
24 had been in a state of suspension. It is defined by the CCB on their website
25 and in their documentation providing their interpretation of the Oregon
Revised Statutes, that we can 'reinstate' our license, thereby making it

1 active. Nowhere in Chapter 701.065 does it discuss the active or inactive
2 status of a license, but rather a valid and current license. We understand it
3 to be against the law to commence work if we have an inactive license. But,
4 this is a matter of licensure status rather than being about whether we do,
5 or do not have a license (a suspension versus an inactive license). Another
6 contradicting law is in Chapter 701.140 Subsection 6, where the types of
7 allowable claims can result by a subcontractor against a contractor due to
8 unpaid material, labor or supplies. Why is there a distinction to a
9 subcontractor in this matter and not in 701.065 where the generalized term of
10 contractor is used. Perhaps it is the intent of the Oregon Revised Statutes
11 to place both parties under one category, but I believe the specialized
12 designation in Chapter 701.140 subsection 6 does separate a specialty,
13 residential subcontractor from a general contractor. Nowhere in the Section
14 does it discuss or describe the licensure status of the subcontractor as part
15 of the requirement for filing a claim, although this is the section indicated
16 in the Oregon Revised Statutes that define the claim process.

17 Under Chapters 701.146 and 701.145, the process against filing a claim
18 against a contractor's bond as described in 701.139 does not include the
19 licensure status of the claimant. They also do not refer to the provisions
20 indicated in 701.065 in regards to licensure status.

21 In the matter of injustices caused as stated in 701.065 subsection 2(C) and
22 referred to previously in this document; there are several injustices that we
23 can find. This includes the requirement to abide by the Oregon Revised
24 Statutes 701.620 to 701.640 in which a subcontractor (again, defined
25 separately from contractor) is required to pay all of their subcontractors,
material suppliers, labor and other related expenses from the moneys received

1 by the general contractor as defined in a construction contract. But, without
2 having received the moneys owed as per the existing contracts, we are still
3 required to follow the laws that force us to pay our expenses, then from our
4 own pockets, contrary to the existing laws. It specifically says in 701.630:
5 (1) Performance by an original contractor, subcontractor or material supplier
6 in accordance with the provisions of a construction contract entitles the
7 original contractor, subcontractor or material supplier to payment from the
8 party with whom the original contractor, subcontractor or material supplier
9 contracts. This would indicate to me that we have a right, based on the fact
10 there are written and signed contracts and verbal contracts that can be
11 proven or disputed accordingly, that we have a right to be paid by the
12 contractor. The injustice created by 701.065 in regards to licensure status
13 contradicts this law and creates contrasting arguments that I feel can only
14 be decided upon then, through the judicial process. The next injustice
15 created to us as a direct result of a violation of our rights under Chapters
16 701.620 to 701.640 is the loss of our business as a result of not being able
17 to pay all the expenses without great, personal, financial sacrifice. For one
18 business to cause another business to close its doors due to failure to pay
19 for services fully, and properly rendered is our exact definition of an
20 injustice.

21 Another injustice in this matter has been the complication in the filing
22 status of our taxes. We cannot file for a business loss in this matter even
23 though the laws do require ██████████ to file a monetary amount for services
24 gained as is referred to in both State and Federal tax laws, any monies
25 received as a result of tips or other unaccounted for amounts must be listed.
Without the ability to file and report a loss of over \$12,000.00, our

1 financial position is unjustly compromised as the case would be otherwise
2 dismissed by the CCB in accordance with the provisions of 701.065 and we
3 would have no recourse for compensation or proof of moneys lost or owed to
4 us.

5 Another injustice that would be incurred, had we not been able to remove the
6 suspension on our license back to the date of March 1, 2005 and if the
7 provisions of Chapter 701.065 subsection 1 were enforced; is the timeframe
8 for the renewal of our license following the filing of claim. Given that we
9 still do not see the lifting of a suspension to be in any way similar to the
10 renewal of a license, we submitted our claim to the CCB accordingly. It was
11 not until a date of court had been set and our case heard that we would know
12 whether or not there could or would be the appropriate modification to the
13 dates of suspension. And, not knowing until we had been in court over this
14 matter could we know that the documentation we possessed from the insurance
15 company would not be satisfactory. Therefore, our case being scheduled in
16 July naturally put us beyond the 90 day limitation imposed by the Oregon
17 Revised Statutes making it impossible for us, even with proof, to have the
18 dates of suspension modified. Fortunately, the option to have until September
19 1, 2005 to rectify this resolved this injustice.

20 I feel the greatest injustice in this matter, in my own personal opinion, not
21 being a legal counsel and lacking a full, working knowledge of the Oregon
22 State Laws, that both [REDACTED] are abusing the existing
23 contradiction in the State Statutes to their benefit with full knowledge they
24 are violating other statutes and our rights. I make this claim based on two
25 factors: The first one being that [REDACTED] had made an offer of \$4000.00 to
'buy' us [as claimants in this matter] off believing we were desperate for

1 money and would allow [REDACTED] to get away without paying the money he
2 owed. The second basis for my claim is the way in which both [REDACTED]
3 [REDACTED] have acted in this matter. The way this entire matter should have
4 been dealt with is that [REDACTED] paid his bill, and that any financial
5 injustices he felt were caused to him could be rectified by filing a claim or
6 lawsuit against our company to reclaim moneys he felt were not owed. However,
7 the Respondent [REDACTED] and his legal representative in this matter] have
8 fought extremely hard, using the contradicting provisions in the Oregon
9 Revised Statutes to keep the claim from being heard by the CCB. If, in fact,
10 [REDACTED] felt he was in the right and we were owed no moneys, then he
11 would have no difficulty in allowing the CCB to hear this matter. Instead, I
12 believe it is his full knowledge and understanding that he owes this money,
13 does not wish to pay out and his attorney, even as a member of the Oregon
14 State Bar who defines a high quality of ethics amongst their registered
15 members, has decided to use the contradiction of laws as they exist in the
16 Oregon Revised Statutes to assist [REDACTED] in not paying moneys he owes.
17 In Summary of my first request as I referred to in paragraph 3 of this
18 document:

19 Given the contradiction of laws that continually state that as contracted
20 agents under [REDACTED] we were to be paid, but
21 the provisions of ORS Chapter 701.065 that make it impossible to reclaim the
22 moneys owed to us; and as provided in the exceptions included in that
23 chapter, knowing our license was suspended, not revoked or cancelled so that
24 a renewal was not necessary in our matter versus a lifting of a suspension,
25 and the continual contradictions in Chapter 701 both in regards to verbage,

1 references to contractor versus subcontractor and laws that create a
2 precedence both for and against us, that;

3 A judicial decision be made to clarify the laws that exist to protect our
4 right to an impartial hearing of our claim by the CCB regardless of the
5 status of our license or insurance at any time in this case in regards to the
6 lack of licensure requirements as stated in Chapter 701.010, the ORS laws
7 governing the enforcement of contracted agreements, the facts regarding our
8 active license and insurance through 90 percent of the construction performed
9 for ██████████, the complications arising due to insurance issues that are
10 also recognized by the Oregon State Legislature as a current problem for the
11 construction industry and the Oregon State and Federal laws regarding payment
12 for services rendered as they pertain to Chapter 701 so that this matter may
13 be turned back over to the CCB with the ruling that our claim is within their
14 jurisdiction to process thereby entitling us to a fair and impartial review
15 of our claim by the CCB.

16 This comes mainly from our concern that if our case is dismissed and we are
17 prevented from refiling, that the contradicting laws will have created a new
18 precedence in the State of Oregon that will permit all General Contractors to
19 use the same methods applied by ██████████ to extend our work period with
20 change orders and addendums to the original contracts and architectural
21 plans, without paying subcontractors in a timely fashion as to complicate
22 their right and time to deal with issues that may arise from a variety of
23 sources including insurance companies as happened with us, and receive free
24 contractual labor without any method of compensation or avenue for the
25 subcontractors to protect their rights.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

Dated this September 1, 2005

