

**From:** "Jim Varco" <Jim@VarcoConsulting.com>  
**To:** CCTF Dcbs <Dcbs.Cctf@state.or.us>  
**Date:** Tue, Nov 1, 2005 6:35 AM  
**Subject:** FW: Construction Woes

The Hamilton's stated:

"The CCB, OAH, and the BCD are nothing more than "feel good" organizations created to give the illusion that the consumer is being protected. All the while the crooked contractors know very well how to work the system. And the system itself seems to "wink" at the contractor's behavior by supplying nothing more than a sham of a consequence."

I would like to add to this that it has been our experience that the DCBS and BCD support negligent behavior on the part of building inspectors and building departments. The top administrators in both agencies were fully aware of what had happened to us, and they still determined that Lane County had done an "appropriate" job of inspecting our home. And by supporting negligence, they are encouraging it.

"But, because our claim was "small potatoes", we were told that the BCD would rather save their money and go after the bigger fish (even though our contractor was a repeat offender)! When we persisted, we were told that even though the contractor was at fault and they felt they could win a judgment, the contractor had dissolved his corporation so they had no one to serve or to mail a judgment to!"

I was told by the Administrator of the BCD that one situation such as ours, no matter how bad it was, was not enough to warrant any action from the BCD. At what point does negligent construction and inspections warrant attention from the BCD? How many Oregon families must be financially and emotionally destroyed before anyone will take an interest in what is being done to these "small potatoes"?

The problems that you are looking into start at the top with the state agencies charged with enforcing the building code and providing consumer protection.

Regards,

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From: Jack [mailto:sparrow@cablespeed.com]  
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Subject: Construction Woes

The Construction Contractors Board currently requires that each contractor carry a \$10,000 bond. We would suggest (and it would seem logical) to require the contractor to have a bond equal to the contract price of the project upon which he is working. This would at least offer the consumer some form of protection.

We would suggest that, in the event the consumer prevailed in any legal proceeding, reasonable attorney fees be awarded the consumer and paid by the offending contractor and/or his bonding company.

If a building code infraction is observed by an inspector that was either missed by a previous inspector or altered

after a previous inspection, force the county to note the infraction or become liable.

As to our story, it consists of a two-story addition. The 2nd story was to be attached to the existing structure at one end and be partially supported by four posts at the far end. Both the 2nd story and the 1st were to be totally enclosed.

This foundation is woefully inadequate for a two-story structure and would never pass inspection. Lincoln County's point of view was that "they had never been called to inspect this "new" foundation" and therefore, had no culpability, even though they came out to the site on several occasions and performed a subsequent framing and insulation inspection. Yet no inspector ever questioned why their computer records had recorded no foundation/forms/stem wall inspection. One inspector did come out and look at our leaky foundation and tried to convince us that it was poured correctly even when it lacked footers and stem walls that were contained in the approved county plan on file.

Our house is in a seismic zone 4. In addition, it is routinely exposed to high coastal winds in excess of 90 MPH. Brace panels are required by code for structural integrity for both lateral earth movement and wind shear. The county inspectors require that they be installed. However, the county does not inspect to see if they were installed. There were no brace panels installed in our addition.

The existing structure is sided in clear beveled cedar. The contractor installed siding with knotholes missing that were larger than a quarter. In documenting this, a siding expert was hired and he discovered that all the new siding was installed improperly as well as being below grade.

The new roof and the old were joined improperly, the underlayment was cut in many places when installing the shingles, and the new shingles were not weaved properly with the old in order to prevent water intrusion. The shingles were not applied per the manufacturer's specifications in spite of being printed on the outer wrapping. Consequently, there were numerous leaks and, over the course of over 18 months that Construction Contractors Board process required, there was rot and carpenter ant infestation in both the new addition and the existing structure.

There were numerous other deficiencies such as load bearing walls not being properly supported and the new roof being improperly supported.

The bottom line is, of the work this contractor did; only the 2nd story framing and the insulation exist today. Everything else of this 800 sf addition had to be torn down and replaced: meaning the foundation, sheetrock, roof & siding.

We had to go through two separate hearings at Office of Administrative Hearings due to CCB regulations and this extended the process to over 18 months. We appeared before an administrative law judge twice, armed with documents and testimony from a structural engineer, the Lincoln County Building Official, his inspectors, a cedar siding expert, and a licensed home inspector, all supporting our position.

The contractor had no documents or experts of any kind to contradict our evidence or the testimony of our experts. His own worker would not even appear to testify on his behalf.

Yet, we received a net award of only approximately \$12,000. We would have been awarded more but the administrative law judge awarded the contractor over \$2,000 for an increase in size of the 2nd story even though the contractor testified under oath that he only requested \$300 and had submitted a change order in that amount. The irony of this is the contractor not only got paid more than he asked and the structure was uninhabitable and deemed unsafe by a structural engineer!

During the second hearing, the ALJ stated that he was not going to go through any of the transcribed testimony or certified tapes of the first hearing. Throughout the 2nd hearing, the judge "forgot" to turn on his tape recorder, laughed and joked with the contractor, and allowed the contractor to call the one of the complainants a bitch. Justice is supposed to be blind. Unfortunately for us, it was also deaf and dumb.

Throughout the process, the CCB was billed as "consumer friendly". Unfortunately, the CCB has no "enforcement" arm. That is referred to the Office of Administrative Hearings and there was nothing "Consumer Friendly" about the OAH. You have entered the convoluted legal system with all its traps and pitfalls. You are told both orally and in writing, "You don't have to have a lawyer.but you may want to consult with one

At the Building Codes Division, we were told that the contractor had built our home "out of sequence" since we had never had a real live foundation inspection and the building and been built nonetheless. But, because our claim was "small potatoes", we were told that the BCD would rather save their money and go after the bigger fish (even though our contractor was a repeat offender)! When we persisted, we were told that even though the contractor was at fault and they felt they could win a judgment, the contractor had dissolved his corporation so they had no one to serve or to mail a judgment to!

Respectfully,

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