



Bulletin

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Events on the Horizon

All General Contractors Licenses Expire

December 31, 2000

New Year's Day/Board Office Closed

January 1, 2001

Martin Luther King, Jr.'s Birthday

January 15, 2001

Regular Board Meeting

January 17, 2001

Regular Board Meeting

April 11, 2001

Good Friday/Board Office Closed

April 13, 2001

Memorial Day/Board Office Closed

May 28, 2001

Independence Day/Board Office Closed

July 4, 2001

Board Proposes Rules Changes for 2001

The Licensing Board has begun rule-making proceedings for the adoption of proposed rules that could become effective in 2001. The Board conducted a public hearing in Raleigh on October 11, 2000 for the purpose of receiving comment on proposed rules.

The Board proposes to adopt rules cited as 21 NCAC 12.0202 (Classification), a repeal of .0300 (Filing Deadline), and .0901 Homeowners Recovery Fund (Definitions). Proposed .0202 includes the construction of septic systems activity as classified under the current Building Contractor, Residential Contractor, Public Utilities Contractor, and PU (Water Purification and Sewage Disposal) descriptions. The Board proposes to repeal “.0300 Filing Deadline,” as applicants are no longer subject to filing deadlines pursuant to scheduled quarterly exams; the Board now administers computer-based examinations on a daily basis. Proposed changes to .0901(4) redefine the meaning of “Owner or former owner” regarding claims for reimbursement from the Homeowners Recovery Fund.

The text of the proposed rules is printed in the adjacent column. The portion of the text with the strike-through is deleted; new text is underlined.

SECTION .0200 LICENSING REQUIREMENTS 21 NCAC 21.0202 CLASSIFICATION

(a) A general contractor must be certified in one of five classifications. These classifications are:

- (1) Building Contractor. This classification covers all types of building construction activity including but not limited to: commercial, industrial, institutional, and all types of residential building construction; covers parking decks; all site work, grading and paving of parking lots, driveways, sidewalks, ~~curbs and gutters~~ curbs, gutters, and septic systems which are ancillary to the aforementioned types of construction; and covers the work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), S(Metal Erection), and S(Swimming Pools).
- (2) Residential Contractor. This classification covers all types of construction activity pertaining to the construction of residential units which are required to conform to the residential building code adopted by the Building Code Council pursuant to G.S. 143-138;

(continued on page 8)

Hopkins, White Reappointed to Licensing Board

Governor James B. Hunt, Jr. has reappointed current Chairman Robert P. Hopkins and Vice Chairman, Stan M. White to the Licensing Board. Mr. Hopkins and Mr. White were reappointed for five-year terms, which expire on December 31, 2005.

Mr. Hopkins is the Professional Engineer appointee to the Board and graduated from North Carolina State University with a B.S. in Civil Engineering. Mr. Hopkins obtained a Master of Civil Engineering (Structural) from

North Carolina State in 1967. A Raleigh native, Mr. Hopkins is a partner with Lasater-Hopkins-Chang, PC, a consulting structural engineering firm in Raleigh.

Mr. White, a residential construction contractor member, is a home builder and developer from Nags Head. Mr. White is originally from Manns Harbor, North Carolina and graduated from East Carolina University in 1970. Mr. White owns Stan White Realty & Construction and also currently serves as Chairman of the Dare County Commissioners.

NCLBGC Bulletin

Published semi-annually as a service to general contractor licensees to promote a better understanding of the General Contractors Law (N.C.G.S. §§87-1 to 87-15.9) and to provide information of interest to all construction professionals.

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LICENSING BOARD for
GENERAL CONTRACTORS**

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James B. Hunt, Jr., Governor

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Planning a Relocation or Move?

Please mail or fax your new address and telephone number to the Licensing Board (include your license number) at:

P.O. Box 17187
Raleigh, NC 27619
Fax: (919) 571-4703

2001 License Renewal Information

Our office will process nearly 30,000 license renewal applications for the year 2001—a sizable increase compared with the total number of renewals processed five years ago—16,000. With the increased number of licenses to process and records to maintain, we're asking that you keep the following in mind during the current license renewal period:

Certification Signatures

Read the Renewal Instructions enclosed with your renewal application; The **Certification Signatures** section (page one) lists the name(s) of your qualifier(s). If after reading the requirements for a responsible managing employee you determine that your qualifier is still fulfilling the necessary requirements, qualifiers must sign beside their printed name on the form. If your qualifier is no longer fulfilling the requirements,

please provide the termination/departure date on the form. Remember, all printed names under **Certification Signatures** must have a signature or termination/departure date listed next to the the printed name.

Financial Statements

Financial statements are usable for up to 12 months from the date of the financial information for the license. Many contractors are renewing early by using their financials from prior year end. Financials dated December 31, 1999 are valid or usable until December 31, 2000. As of January 1, 2001, financials dated December 31, 1999 are not valid for renewal purposes.

If you have questions concerning your renewal application, please call our **Renewal Help Line at (919) 571-4183** and press "1" at the main menu on our phone system. The next available renewal specialist will answer your call.

Structural Certifications—Who Can Provide Them?

Many banks and lending institutions have been requesting certifications from various individuals attesting to the structural integrity of a building before approving loans. This has raised the question "Who can legally provide such a certification?"

The North Carolina Board of Examiners for Engineers and Surveyors was recently requested by Augustine Stasi, PE, Executive Director of the North Carolina Licensed Home Inspector Association, to render an opinion on this matter. In his request, Mr. Stasi cited "Most home inspectors will not provide such a letter, but some do who are also licensed general contractors. It is my understanding that only licensed Professional Engineers are qualified to make such evaluations and statements."

In a response, the Board of Examiners agreed with Mr. Stasi's position and further provided that an all-purpose statement such as "... the structural integrity of the building has not been compromised," could only be made by a Professional Engineer with the appropriate expertise in civil/structural engineering. In

making this determination, the Board of Examiners recognized the ability for a licensed home inspector or general contractor to report on observations made as the result of an inspection of a building utilizing that individual's own area of professional expertise. However, a general statement concerning the structural properties of a building implies an assumption based on circumstances and conditions which can only be fully evaluated and certified to by a qualified Professional Engineer.

The Board of Examiners suggested that the phraseology "the structural integrity of the building has not been compromised" be eliminated from any certifications or reports on termite/water damage that was noted during the inspection of a building or residence. Such an action should help eliminate any confusion on the part of the general public as to the professional qualifications of the individual making such a statement.

Jerry T. Carter, Executive Director
North Carolina Board of Examiners for
Engineers and Surveyors

FUNDS AID INSTITUTE'S DEVELOPMENTAL ACTIVITIES

Licensing Board Supports New Institute of Construction

An Institute of Construction has been under development in the Civil Engineering Department at North Carolina State University in recent years. The Institute has now received the help of the North Carolina Licensing Board for General Contractors. Each year, residual funds of the Board are directed by general statute to the North Carolina Engineering Foundation. The Foundation is making these funds available for development activities by the Institute of Construction. In developing construction education programs, the Institute also plans for joint efforts and involvement in the future by the Construction Management programs at East Carolina University and North Carolina A & T in Greensboro.

The mission of the Institute of Construction will be to provide opportunities for North Carolina industry and government to identify training and research needs relating to the building, civil infrastructure, and housing segments of the construction industry and to enhance the University's ability to focus upon activities that respond to these needs. Construction is one of the largest sectors of the North Carolina economy. In addition, the citizens of North Carolina have recently approved a \$3.1 billion construction program for university and community college buildings. In order to remain cost effective in constructed facilities, a key element in the economic development of North Carolina, it is essential to maintain a technologically advanced construction industry and a responsive and effective regulatory system of codes

and standards. However, construction contractors and many state agencies, either as owners of facilities or as regulators of the construction process, do not have sufficient training or research capabilities. The Institute can support industry and government by utilizing many NC State capabilities including those of the new Constructed Facilities Laboratory building.

NC State has a long history of supporting construction education. Construction became a track in the Civil Engineering degree in the 1920s. In 1952, NC State developed the first accredited construction degree in the nation, and in 1964, it was first to implement a construction extension program. In recent years, the Institute has participated with the NC State Industrial Extension Service (IES) in presenting about 75 workshops to about 4,000 construction industry participants annually, many through industry associations such as Carolinas AGC. These training efforts have previously been led by one Construction Extension Specialist. However, due to the success of these programs, the IES and the Civil Engineering Department, with backup funding of the Institute, have established a second Construction Extension Specialist position to expand these activities.

At present, the Institute is facilitating training and research with funding from individual gifts, external contracts, and other industry support. Dr. David Johnston, Director of the Institute, notes that "the funding from the Licensing Board is providing important opportunities for construction

education program equipment matching in response to challenge grants, for development of industry training programs, and for seed support to potential construction research studies." For example, workshops have recently been developed and presented on the new *Standard for Bracing Masonry Walls Under Construction* and on *What Engineers and Architects Should Know About OSHA*.

A long-term goal of the Institute is to obtain base funding, possibly as a continuing budget allocation from the State of North Carolina. The State funds budgeted would be used to accomplish a training and research agenda set by a public sector Research Council composed of state agency personnel. Private sector membership fees would be used to accomplish an agenda set by a private sector Research Council representing member companies and organizations. Interaction between the two Research Councils could provide synergism for jointly sponsored activities. Notes Johnston, "we would like to assist contractors and the regulating agencies, and in doing so serve the eventual needs of public and private owners. Imagine the benefits that could have resulted from a study of synthetic stucco in housing when problems first surfaced over six years ago and before large quantities had been put in place."

DEFINITIONS

Consent Order: An order of the Board resulting from an agreement between the Board and a licensee regarding the revocation or suspension of the license to practice general contracting, or the conditions, limitations or restrictions placed on that license. This is a method of resolving or settling disciplinary or contested cases in lieu of a disciplinary hearing.

Revocation: A Board action which permanently terminates a license by effectively withdrawing that license to practice general contracting.

Suspension: A Board action which inactivates a license to practice general contracting for a set period of time.

Dismissal/Voluntary

Dismissal: A Board action dismissing a contested case, resulting in no disciplinary action against the licensee or Respondent.

Voluntary Surrender:

A licensee's relinquishing or tendering of the license to practice general contracting, pending an investigation or other action by the Board.

Admission of Violation: A document signed by a licensee who admits to the stated violations, agrees not to repeat them, but acknowledges that the Board will use the document against the licensee prospectively should such action become necessary.

Injunction: A Superior Court order entered against an unlicensed contractor who is illegally practicing general contracting. Such an order stops the illegal practice and can be obtained by consent of a cooperating contractor or by default judgment; violation of the injunction is contempt of court.

Code: Provisions of the North Carolina State Building Code (Residential/Vol. VII and previous editions; General Construction/Vol. I).

Disciplinary Action

(The following Board Orders and other Board disciplinary actions reported here are not a complete summary of all activity or a full representation of each case. Every effort is made for accuracy, but such is not guaranteed. Questions or requests for additional information about specific cases should be referred to the Board's Legal Section.)

Revocations or Surrenders of License

Coordico Construction, Inc. (Brunswick County; 00C162) License No. 28810. On August 11, 2000, David Livingston, President of Coordico Construction, Inc., voluntarily surrendered the corporate license to the Board. The Board considers surrender of license as permanent revocation.

Emerson Bass General Contractor, Inc. (Gates County; 00C321) License No. 29313. On September 26, 2000, Emerson Bass, President of Emerson Bass General Contractor, Inc., voluntarily surrendered the corporate license to the Board. The Board considers surrender of license as permanent revocation.

Down East Coastal Developers, Inc. (New Hanover County; 99C338) License No. 43280. On November 6, 2000, Yuzo Ito, President of Down East Coastal Developers, Inc., voluntarily surrendered the corporate license to the Board. The Board considers surrender of license as permanent revocation.

Scott T. Teubner (Catawba County; 00C426) License No. 40922. On November 20, 2000, Scott T. Teubner voluntarily surrendered his license to the Board. The Board considers surrender of license as permanent revocation.

Consent Orders (Licensees)

Nash Locklear, Jr. (Robeson County; 99C89) License No. 27670. On June 29, 2000, a Consent Order was entered in

which Mr. Locklear agreed to a 12-month stayed suspension and an 18-month probation period. Failure to abide by his Consent Order shall result in Mr. Locklear's surrender of his license to the Board for 12 months. Mr. Locklear agreed that he had violated §87-11(a).

Arne Thorsland t/a Thorsland Construction Co. (Henderson County; 98C141) License No. 9020. A Consent Order was entered on August 3, 2000 in which Mr. Thorsland agreed to a 6-month license suspension, conditionally restored following a 2-month active suspension, and an 18-month probation. A violation would be followed by Mr. Thorsland's additional 4-month surrender of his license to the Board. Mr. Thorsland further agreed that in 1997 he entered into a contract for an amount of money which exceeded his license limitation at the time. In 1999 Mr. Thorsland increased his limitation to Unlimited.

Edward Winslow-Quality Builders, Inc. (Pasquotank County; 99C359) License No. 32374. On September 13, 2000, a Consent Order was entered in which Edward Winslow, on behalf of Edward Winslow-Quality Builders, Inc., agreed to a 6-month license suspension, conditionally restored for 18 months following a 2-month active suspension. A Consent Order violation would be followed by a 4-month surrender of license to the Board at that time. Mr. Winslow further agreed to allegations that the company had submitted a final bill which exceeded its license limitation in the construction of a single-family dwelling.

S. Edward Winslow (Pasquotank County; 99C358) License No. 6442. A Consent

Order was entered on September 13, 2000 by which Mr. Winslow agreed to a 6-month suspension of his personal license, conditionally restored for 18 months following a 2-month active suspension. A Consent Order violation would be followed by a 4-month surrender of license at that time. Mr. Winslow further agreed to allegations that on his 1999 renewal he failed to answer "yes" to Board question No. 4 regarding his involvement in liens, lawsuits, judgments or lis pendens not previously disclosed to the Board.

Richardson Contracting Services, Inc. (Cumberland County; 98C146) License No. 34038. On October 16, 2000, a Consent Order was entered in which Mr. William Richardson, in behalf of Richardson Contracting Services, Inc., agreed to a 6-month license suspension, to be immediately conditionally restored, pending a 12-month probation period. Additionally, Mr. Richardson agreed to write a letter of apology to the Cumberland County Inspections Department. A Consent Order violation would be followed by a 6-month surrender of license to the Board at that time. Mr. Richardson further agreed to allegations that Richardson Contracting failed to obtain required building permits and call for inspections in the renovation and construction of an addition at a commercial site.

Hawks' Brothers (Robeson County; 99C60) License No. 7503. A Consent Order was entered on October 30, 2000 in which Howard Hawks agreed to a 90-day license suspension, conditionally restored for 6 months following a 60-day active suspension. A violation of this Consent Order would be followed by a 30-day surrender of license to the Board at that time.

Mr. Hawks further agreed with allegations that Hawks' Brothers' license number was on a building permit application for a church, and as the construction project had been awarded to someone else, Hawks' Brothers did not actually perform the work for that project.

Douglas M. Holloway t/a Doug Holloway & Sons Construction Co. (Catawba County; 98C110) License No. 18563. On October 3, 2000 a Consent Order was entered in which Mr. Holloway agreed to a 6-month license suspension, conditionally restored for 12 months following a 4-month active suspension. A Consent Order violation would mean an additional 2 months of active suspension. Mr. Holloway further agreed with allegations of violations of the State Building Code and failing to reveal information to the Board on renewal applications.

Eric Bradley Holloway (Catawba County; 99C153) License No. 23808. A Consent Order was entered on December 18, 2000 in which Mr. Holloway agreed to a 12-month license suspension, conditionally restored for 18 months following a 6-month active suspension. A violation of his Consent Order would be followed by an additional 6 months of active suspension. Mr. Holloway further agreed with allegations of violations of the State Building Code and failing to reveal information to the Board on renewal applications.

Nancy K. Isaac t/a Isaac & Co. (Avery County; 99C46) License No. 23808. On December 18, 2000, a Consent Order was entered suspending License No. 23808 for 12 months, 6 months of which were active, followed by a 12-month conditional restoration. A violation of this Consent Order would result in an additional 6 months of active suspension. Ms. Isaac agreed with

allegations of violations of the State Building Code.

Admissions of Violation (Licensees)

Tim D. Gilchrist (Guilford County; 97C184 and 99C64) License No. 12999. On June 20, 2000, an Admission of Violation was filed in which Mr. Gilchrist admitted failing to disclose liens and judgments on license renewals with the Board for 1996, 1997 and 1998.

Butch Heatherly t/a Heatherly Construction (Henderson County; 00C120) License No. 44537. An Admission of Violation was entered on August 4, 2000 in which Mr. Heatherly admitted submitting a bid in excess of his license limitation for the construction of a residence.

David H. Wysocki (New Hanover County; 98C91) License No. 16251. On August 15, 2000, an Admission of Violation was entered in which Mr. Wysocki admitted allowing his personal license number to be used on a building permit application, designated as owner/builder, for the construction of a single-family dwelling for which an unlicensed company partially owned by Mr. Wysocki was the actual contractor. The home was sold for an amount far in excess of Mr. Wysocki's license limitation.

David L. Southard (Rockingham County; 99C365) License No. 26922. An Admission of Violation was filed on September 11, 2000 in which Mr. Southard admitted beginning construction of a room addition to a home without first obtaining the required building permit.

Shea Homes, L.L.C. (Mecklenburg County; 00C128) License No. 34272. On September 13, 2000, an Admission of Violation was filed in which

John Shea, on behalf of Shea Homes, L.L.C., admitted failing to disclose lawsuits not previously disclosed to the Board on 1999 and 2000 renewal applications.

Patton General Contracting (South Carolina; 00C126) License No. 33550. An Admission of Violation was filed on September 13, 2000 in which Jill A. Patton admitted entering into a contract and beginning construction of a sunroom addition and a deck in North Carolina without first obtaining the required building permit.

Gary R. Cutler Builders, Inc. (Beaufort County; 99C251) License No. 38074. On September 20, 2000, an Admission of Violation was filed in which Mr. Cutler, on behalf of Gary R. Cutler Builders, Inc., admitted failing to disclose liens and a judgment not previously disclosed to the Board on 1998 and 1999 renewal applications.

Charles David Higginbotham (Transylvania County; 00C28) License No. 37954. An Admission of Violation was filed on October 30, 2000 in which Mr. Higginbotham admitted obtaining a building permit for the construction of a single-family dwelling, but abandoning the project prior to completion.

Unlicensed Contractor Cases—Injunctions

Default Judgment: Permanent Injunctions were obtained by entry of a Default Judgment in Wake County Superior Court against each of the unlicensed contractors listed below for practicing general contracting in an amount of \$30,000 or more, in violation of N.C.G.S. §87-13. In some instances, the Sheriff was unable to locate the contractors and/or Certified Mail was not delivered, but the Board effected service either by newspaper publication or through the Office of the Secretary of State; nevertheless,

the contractors were enjoined from further practice of general contracting (including bidding) in an amount of \$30,000 or more until such time as he/she becomes licensed by the Board.

Richard A. Mandrino d/b/a Richard A. Mandrino Company (Mecklenburg County; 99C175) Mr. Mandrino entered into a contract to renovate an existing home for an amount of \$32,630 but misrepresented the cost of the project on a building permit application as \$26,500. Default Judgment was entered on May 22, 2000.

Lorraine Thomas Construction, L.L.P. (Wake County; 99C19) Lorraine Thomas Construction, L.L.C. entered into a contract to construct a home for a price of \$228,000. Default Judgment was entered on October 13, 2000.

Brendan O'Neill d/b/a Celtic Construction, Inc. (Durham County; 99C227) Mr. O'Neill contracted to upfit an existing structure into a day spa for an amount of \$66,400. Default Judgment was entered on October 13, 2000.

Jerry Lumsden d/b/a Majestic Construction (Surry County; 00C03) Mr. Lumsden contracted to build an addition to a single-family dwelling for a price of \$41,543.41. Default Judgment was entered on October 13, 2000.

Darren Kaplan d/b/a Structurally Sound (Guilford County; 99C248) Mr. Kaplan contracted to construct an addition to an existing home for a price of \$35,900. Default Judgment was entered on October 13, 2000.

Christopher Morrison d/b/a Jetta Enterprises, Inc. (Wake County; 99C217) Mr. Morrison contracted to build an addition and to remodel an existing home for a price of \$38,500. Default Judgment was entered on October 13, 2000.

Royal Builders, Inc. (Union County; 99C204) Royal Builders, Inc. contracted to build a single-family dwelling for the price of \$124,600. Default Judgment was entered on October 13, 2000.

J. Randy Davis (Davidson County; 99C333) Mr. Davis contracted to construct a house for the price of \$70,000. Default Judgment was entered on October 13, 2000.

Joel Patrick d/b/a Marva Construction & Design (Alamance County; 99C97) Mr. Patrick contracted to construct an addition to an existing home for a price of \$41,600. Default Judgment was entered on October 27, 2000.

Harmony Homes of North Georgia, Inc. (Georgia; 00C32) Harmony Homes of North Georgia, Inc. contracted to construct a sunroom and to undertake renovations to an existing home for a price of \$33,560. Default Judgment was entered on November 7, 2000.

Shawn E. Harr (Pennsylvania; 00C22) Mr. Harr obtained a building permit as owner/builder for the construction of a commercial building, but sold the property prior to completion. Default Judgment was entered on November 7, 2000.

Gary D. Poff d/b/a Poff Construction (Guilford County; 00C23) Mr. Poff contracted to construct an addition to an existing home for a price of \$42,075. Default Judgment was entered on November 7, 2000.

Robert McKee d/b/a Storm Troopers Disaster Relief Team (Edgecombe County; 00C66) Mr. McKee contracted to reconstruct a home that had been destroyed by Hurricane Floyd for a price of \$60,000. Default Judgment was entered on November 7, 2000.

Welcon, Inc. (Cabarrus County; 00C34) Welcon, Inc. bid on and undertook to remodel a commercial building for a price of \$287,236.32. Default Judgment was entered on November 7, 2000.

George A. Pass, Sr. d/b/a P&B Interprise (Guilford County; 00C56) Mr. Pass entered into three contracts to renovate and add an addition to the same existing home for a total price of \$64,925.22. Default Judgment was entered on November 8, 2000.

Coastal Builders Constructors, Inc. (Beaufort County; 00C119) Coastal Builders Constructors, Inc. contracted to

repair a flood damaged home for a price of \$42,890. Default Judgment was entered on November 9, 2000.

Consent Orders of Unlicensed Contractors: Permanent Injunctions were obtained by entry of a Consent Order in Wake County Superior Court concerning each of the following unlicensed contractors who practiced general contracting in an amount of \$30,000 or more, in violation of N.C.G.S. §87-13, but who admitted to their wrongdoing, paid court costs and service fees and cooperated with the Board in the matter.

New Tech Builders, Inc. (Wake County; 99C288) New Tech Builders, Inc. submitted several proposals to renovate and construct an addition to a house for a total price of \$45,320. A Consent Order was entered on June 14, 2000.

Queen City Pool and Spa, Inc. (Mecklenburg County; 99C350) Queen City Pool and Spa, Inc. contracted to install a swimming pool for a price of \$32,000. At the time of bidding on the project, the company was relying on misinformation that "cost of the undertaking" meant the builder's cost of the project—not including the builder's profit. Pursuant to *Fulton v. Rice*, NC Court of Appeals; (1971), "cost of the undertaking" means "the cost of the promise or undertaking"—or in most cases, the contract price. A Consent Order was entered on June 20, 2000.

Circle Ridge, Inc. and Edward Tanny (Jackson County; 99C215) Mr. Tanny obtained a building permit as owner/builder to construct his personal residence but failed to reside there for 12 months prior to selling the home. A Consent Order was entered on June 20, 2000.

Center Construction, Inc. (Orange County; 99C274) Center Construction, Inc. contracted in 1997 to renovate a school basement for a price of \$59,755. A Consent Order was entered on June 20, 2000.

Hash Enterprises, Inc. (Guilford County; 00C48) Hash Enterprises, Inc. contracted to construct two homes, one for a price of \$323,000 and the other for a price of \$260,000. A Consent Order was entered on July 5, 2000.

Allen Wayne Jarrell (Cabarrus County; 00C21) Mr. Jarrell obtained a building permit as owner/builder for the construction of a single-family dwelling. On the same day the Certificate of Occupancy was issued, Mr. Jarrell sold the house for approximately \$110,000. A Consent Order was entered on July 5, 2000.

Flanagan Clean Care and Restoration, L.L.C. (Craven County; 99C322) In December of 1997, Flanagan Clean Care and Restoration, L.L.C. applied for a building permit in an amount below \$30,000, based on an insurance company estimate, but in January of 1998, submitted a proposal to repair fire damage for a price of \$43,975.61. A Consent Order was entered on July 19, 2000.

Randall Oakley d/b/a Oakley & Son Construction (Person County; 99C182) Mr. Oakley contracted to construct an addition to a home for a price of \$33,500. A Consent Order was entered on July 19, 2000.

Telesis, Incorporated of North Carolina (Moore County; 00C154) Telesis, Incorporated of North Carolina contracted to construct a pre-engineered metal building for a price of \$200,000 and submitted a false license certificate in attempting to secure a building permit. A Consent Order was entered on August 14, 2000.

Prescott Brothers, Inc. (Pamlico County; 00C84) Prescott Brothers, Inc. submitted a bid in the amount of \$64,300 to perform a maintenance dredging project and then contracted to perform the work. They were unaware that bidding and contracting constituted general contracting. A Consent Order was entered on August 17, 2000.

Moore's Glass Service, Inc. (New Hanover County; 00C135) Moore's Glass Service, Inc. submitted a bid to replace windows for a price of \$75,300 and was unaware that its actions violated North Carolina law. A Consent Order was entered on August 21, 2000.

Atlantic Glass, Inc. (New Hanover County; 99C134) Atlantic Glass, Inc. submitted a bid to replace windows for a price of \$87,625.20 and was unaware that its actions violated North Carolina law. A Consent Order was entered on August 23, 2000.

Coble Plastering & Wall Systems, Inc. (Guilford County; 00C13) Coble Plastering & Wall Systems, Inc. submitted a proposal to remove and replace an existing stucco system on a home for a price of \$42,700. A Consent Order was entered on August 23, 2000.

Blue Sky Log Homes, Inc. (Franklin County; 00C122) Blue Sky Log Homes, Inc. contracted to construct a log home for a price of \$162,211. A Consent Order was entered on August 23, 2000.

Leo Irby d/b/a Rainbow Contractors (Virginia; 99C341) Mr. Irby submitted an estimate and undertook to repair fire damage to an existing home for a price of \$58,861.63. A Consent Order was entered on September 18, 2000.

Carson Construction Corp. (Florida; 00C140) Carson Construction Corp. submitted a proposal to complete a tenant buildout for a price of \$85,161 and was unaware that its actions constituted the practice of general contracting. A Consent Order was entered on September 20, 2000.

Blue Ridge Property Services, Inc. d/b/a The Craftsman (Watauga County; 00C110) Blue Ridge Property Services, Inc. d/b/a The Craftsman inadvertently falsely advertised itself as a licensed general contractor and has attempted to withdraw all misleading advertisement from circulation. A Consent Order was entered on September 20, 2000.

WEPS, Inc. (New Hanover County; 00C131) An employee of WEPS, Inc. was a licensed general contractor, so the corporation's officers mistakenly believed that they could practice general contracting in North Carolina and submitted a bid/cost estimate of \$95,583.84 to remodel and construct an addition to a home. A Consent Order was entered on October 3, 2000.

Michael D. Sheen & Assoc., Inc. (Wake County; 00C104) Michael D. Sheen & Assoc., Inc. contracted to construct a single-family dwelling where the cost of the undertaking exceeded \$30,000. A Consent Order was entered on October 3, 2000.

Mike Hart (Randolph County; 00C161) Mr. Hart contracted to construct a home for a price of \$123,000. A Consent Order was entered on October 3, 2000.

Matthew Frank d/b/a Matt Frank Construction (Henderson County; 00C85) Mr. Frank contracted to construct a single-family dwelling for a price of \$103,400. The homeowners obtained the building permit, and Mr. Frank believed that the homeowners were acting as the general contractor on the job. A Consent Order was entered on October 19, 2000.

Leonard Beaver Realty & Construction, Inc. (Cabarrus County; 99C230) Leonard Beaver Realty & Construction, Inc. contracted to construct one home for an estimated cost of \$440,000 and contracted to construct another home for a price of \$398,650. A Consent Order was entered on October 23, 2000.

Amy L. Leonard d/b/a Homes by Amy (Iredell County; 00C60) Ms. Leonard contracted to construct a home for a price of \$225,060. A Consent Order was entered on October 27, 2000.

W.L. Crawford Construction, Inc. (Watauga County; 00C20 and 00C194) W.L. Crawford Construction, Inc. contracted to renovate a home for a price of \$26,317.75. It is the Board's contention that subsequent work expanded the scope of the project to a billed cost in excess of \$30,000. A Consent Order was entered on November 14, 2000.

Harry Thomas (Lee County; 00C76) Mr. Thomas obtained a building permit, undertook and completed construction as owner/builder of a single-family dwelling. The day after receiving his Certificate of Occupancy, Mr. Martin sold the house for a cost in excess of \$120,000. The Consent Order was entered on November 20, 2000.

Hapa Weather Type Systems, Inc. (Virginia; 00C130) Hapa Weather Type Systems, Inc. submitted an estimate to replace a roof for a price of \$110,123.40. Hapa Weather Type Systems, Inc. did not ultimately perform the work, and officials of the company say they were unaware that submitting an estimate was a violation of G.S. § 87-13. A Consent Order was entered on December 7, 2000.

Erick James Antoine d/b/a Diversified Framing Contractors (Mecklenburg County; 00C63) Mr. Antoine contracted to construct an addition to a home for a price of \$74,280 and was unaware that his actions violated North Carolina law. A Consent Order was entered on December 7, 2000.

Injunction by Other Court Order: A permanent Injunction was obtained by entry of an Order in Wake County Superior Court for the following unlicensed contractor who practiced general contracting in an amount of \$30,000 or more, in violation of N.C.G.S. §87-13.

Rick L. Nealen d/b/a R.L. Building & Contracting (Rockingham County; 99C277) Mr. Nealen contracted and undertook to construct an addition to an existing home for a price of \$38,000. In his Answer to the Board's Complaint, Mr. Nealen admitted all allegations, and the Court ruled to allow the Board's Motion for Judgment on the Pleadings

Unlicensed Contractor Jailed for Contempt of Court

On November 5, 1998, the Wake County Superior Court enjoined **Merlin Jerome Smith** from the further practice of general contracting. Despite the injunction, Mr. Smith contracted with St. Stephens United Church of God in Troy, North Carolina; the Good News Revival Center in Dunn, North Carolina; and the Holy Way Church of the Living in Eagle Springs, North Carolina to construct additions for amounts or costs exceeding \$30,000. Following an investigation, the Board filed a Motion asking the Court to hold Mr. Smith in contempt.

On December 5, 2000, the Wake County Superior Court found **Merlin Jerome Smith** guilty of criminal contempt of the Court's November 5, 1998 Order that enjoined him from the further practice of general contracting. The Court imposed two 30-day sentences of imprisonment and ordered that Mr. Smith be incarcerated for 60 days in the Wake County jail.

North Carolina's New Web Site Provides Services, Information

Citizens and businesses now have access to State services simply by visiting North Carolina's web site, "**NC@YourService**." The site is the first government "web portal" created by Yahoo!, which recently began developing Internet and Intranet sites for corporations and other groups.

Richard C. Webb, North Carolina's Chief Information Officer, says the new site allows citizens, business owners and State employees to find information based on the service they need. "People want to get on and get in quick," Webb says. "They want a simple and straightforward site."

The site (www.ncgov.com) contains four portals—one each for citizens, businesses, State employees, and local and State governments. Each section opens up to a page that links to agencies relevant to each portal. In the future, citizens will be able to renew vehicle registrations or other licenses, and pay fees or taxes on line by using credit or debit cards.



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Board Proposes Rules Changes for 2001

(continued from page 1)

covers all site work, ~~driveways and sidewalks~~ driveways, sidewalks, and septic systems ancillary to the aforementioned construction; and covers the work done as part of such residential units under the specialty classifications of S(Insulation), S(Masonry Construction), S(Roofing), and S(Swimming Pools).

(3) Public Utilities Contractor. This classification includes those whose operations are the performance of construction work on septic systems and on the subclassifications of facilities set forth in G.S. 87-10(3). The Board may issue a license to a public utilities contractor that is limited to any of the subclassifications set forth in G.S. 87-10(3) for which the contractor qualifies. Within appropriate subclassification, a public utilities contractor license covers work done under the specialty classifications of S(Boring and Tunneling), PU(Communications), PU(Fuel Distribution), PU(Electrical-Ahead of Point of Delivery), and S(Swimming Pools).

(H) PU(Water Purification and Sewage Disposal).
Covers the performance of construction work on septic systems, water and wastewater treatment facilities and covers all site work, grading and paving of parking lots, driveways, sidewalks, and curbs and gutters

which are ancillary to such construction of water and wastewater treatment facilities. Covers the work done under the specialty classifications of S(Concrete Construction), S(Insulation), S(Interior Construction), S(Masonry Construction), S(Roofing), and S(Metal Erection) as part of such work on water and wastewater treatment facilities.

SECTION .0300—APPLICATION PROCEDURE

21 NCAC 12.0306 FILING DEADLINE

~~The applicant who wishes to be admitted to a particular examination must file a completed application no later than 45 days preceding the scheduled date of the desired examination in order to be assured of being admitted to that examination. Examinations are given in March, June, September and December of each year.~~

SECTION .0900—HOMEOWNERS RECOVERY FUND

21 NCAC 12.0901 DEFINITIONS

The following definitions shall apply to the Board's administration of the Homeowners Recovery Fund established pursuant to Article 1A, Chapter 87 of the General Statutes:

- (1) "Constructing or altering" includes contracting for the construction or alteration of a single-family residential dwelling unit.
- (2) "Dishonest conduct" shall not include a mere breach of a contract.
- (3) "Incompetent conduct" is conduct which demonstrates a lack of ability or

fitness to discharge a duty associated with undertaking to construct or alter a single-family residential dwelling or the supervision of such construction or alteration.

- (4) "Owner or former owner" includes ~~the owner or former owner of real property~~ a person who contracted with a general contractor for the construction or purchase of a single-family residential dwelling unit. "Owner or former owner" shall not include a person who is a spouse, child, parent, grandparent, sibling, partner, associate, or employee of a general contractor whose conduct caused a reimbursable loss. In addition, the term shall not include general contractors or any financial or lending institution, or any owner or former owner of a single-family residential dwelling unit which has been the subject of an award from the Homeowners Recovery Fund resulting from the same dishonest or incompetent conduct. "Owner or former owner" shall not include the owner of real property who constructed or contracted for construction of a single-family residential dwelling unit without intending to occupy the single-family residential dwelling unit.
- (5) "Substantial completion" means that degree of completion of a project, improvement or specified area of portion thereof whereupon the owner can use the same for its intended use.
- (6) "Separately owned residence" means a building whose construction is governed by Volume VII of the North Carolina State Building Code.