



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

STANLEY "SKIP" PRUSS
DIRECTOR

Complaint No.: 305186 & 305187

DEPARTMENT OF LABOR & ECONOMIC
GROWTH,
BUREAU OF COMMERCIAL SERVICES, ex rel
REBECCA J. GEROR

Complainant,

V

FOREST CREEK DEVELOPMENT PHASE II LLC
TERRANCE W. KELLY, QUALIFYING OFFICER
License No. 21-02-174120

Respondent.

AND

TERRANCE WILLIAM KELLY
D/B/A KELLY CONSTRUCTION
License No. 21-01-071763

FINAL ORDER

WHEREAS, this matter having come before the Board of Residential Builders and Maintenance and Alteration Contractors, and

WHEREAS, Forest Creek Development Phase II, LLC, Terrance W. Kelly, Qualifying Officer, License No. 21-02-174120, and Terrance William Kelly, D/B/A Kelly Construction, License No. 21-01-071763, has agreed with the requirements, conditions and terms set forth with specificity in a Stipulation attached hereto, signed by Respondent on August 19, 2008, William M. Donovan, Attorney for Respondent, on August 19, 2008, Serene Katranji – Zeni, Assistant Attorney General, on December 19, 2008, and approved by Stephen J. Gobbo Esq., Legal Affairs Division Director, on February 4, 2009, on behalf of the Bureau of Commercial Services, Department of Labor & Economic Growth.

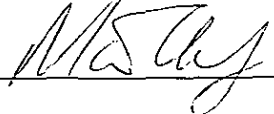
DELEG is an equal opportunity employer/program.
Auxiliary aids, services and other reasonable accommodations are available upon request to individuals with disabilities.

NOW, THEREFORE, IT IS HEREBY ACKNOWLEDGED that the Board of Residential Builders and Maintenance and Alteration Contractors, pursuant to MCL 339.508(3); having considered and found said Stipulation acceptable, does hereby incorporate same by reference thereto in this Final Order.

This Final Order is effective immediately upon its mailing.

Given under our hands at Okemos, Michigan, this 17th day of March, 2009.

Board of Residential Builders and Maintenance and Alteration Contractors

By: 

Chairperson

Date mailed: MARCH 17, 2009

Proof of Compliance Should be Filed With:

Department of Labor & Economic Growth:
Bureau of Commercial Services
Administrative Services Division
P.O. Box 30018
Lansing, Michigan 48909

This is the last and final page of the Final Order in the matter of Forest Creek Development Phase II LLC, Terrance W. Kelly, Q.O., Complaint No. 305186, and Terrance William Kelly, D/B/A Kelly Construction, Complaint No. 305187, before the Board of Residential Builders and Maintenance and Alteration Contractors.

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STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
BUREAU OF COMMERCIAL SERVICES

DEPARTMENT OF LABOR & ECONOMIC GROWTH,
BUREAU OF COMMERCIAL SERVICES, ex rel
(Original Complainant name)

v

FOREST CREEK DEVELOPMENT PHASE II, LLC
TERRANCE W. KELLY, QUALIFYING OFFICER
License No. 21-02-174120

and

TERRANCE WILLIAM KELLY
D/B/A KELLY CONSTRUCTION
License No. 21-01-071762

Docket Nos. 2008-488, 2008-150
Complaint Nos. 305186, 305187

STIPULATION

This matter having been scheduled for hearing before the State Office of Administrative Hearings and Rules on August 20, 2008, pursuant to a Formal Complaint, hereafter "Complaint," filed in accordance with the provisions of the Michigan Occupational Code, 1980 PA 299, MCL 339.101 et seq., against Forest Creek Development Phase II, LLC and Terrance William Kelly d/b/a Kelly Construction, hereafter "Respondents," by the Department of Labor & Economic Growth, and all parties being desirous of reaching an amicable settlement of said Complaint; therefore

1. IT IS HEREBY STIPULATED, by and between the parties hereto, that Respondents admit to the violations set forth in paragraphs 7, 9 and 13 of the Complaint.

2. Respondents admit to a violation of Section 604(c) and 2411(2)(a) & (m) of the Michigan Occupational Code, 1980 PA 299, as amended; MCL 339.604(c) and 339.2411(2)(a) & (m) and Rules 51(2) & (4) of the Residential Builders and Maintenance and Alteration Contractors Board Rules, promulgated thereunder, being 2009 AC, R 338.1551(2) & (4). The allegations contained in Paragraphs 10 and 11 of the Complaint are dismissed without prejudice due to the pending litigation in Circuit Court wherein the validity of the liens filed on the property

at issue have been called into question. The Department reserves the right to reallege Paragraphs 10 and 11 in a new Complaint if the Circuit Court litigation does not resolve the homeowner's exposure to liability and foreclosure on her property.

3. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that Respondents shall pay a FINE in the amount of **Two Hundred and Fifty Dollars (\$250)**. Said fine shall be paid by cashier's check or money order, with Complaint Nos. 30186 & 30187 clearly indicated on the check or money order, made payable to the State of Michigan, within sixty (60) days of the date of mailing of the Final Order in this matter. Said check or money order shall be mailed to the Department of Labor & Economic Growth, Bureau of Commercial Services, P.O. Box 30018, Lansing, Michigan 48909.

4. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that Respondents shall make the correction to the basement leak with a "bubble cover" as agreed to by and between Respondents and Homeowner within sixty (60) days of the date of mailing of the Final Order in this matter.

5. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that failure to comply with the terms set forth in this Stipulation shall result in a suspension of all licenses or registrations of Respondents or in the denial of any license or registration renewal and the denial of future applications for licensure or registration until compliance is made with the terms of this Stipulation.

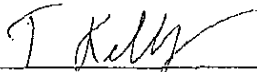
6. Respondents agree to submit written proof of having complied with each requirement of this Stipulation, in a form acceptable to the Department, to the Michigan Department of Labor & Economic Growth, Bureau of Commercial Services, Final Order Monitoring-Administrative Services, P.O. Box 30018, Lansing, Michigan 48909. Respondents, prior to the expiration of the condition date set within this Stipulation, must submit written proof from the person ordered to benefit from restitution to prove that the Respondents timely complied with the ordered corrective action.

7. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that the Director of the Enforcement Division of the Bureau of Commercial Services, or designee, must approve

this Stipulation before it is submitted to the Board for final approval. Should the Enforcement Division Director, or that person's designee, or the Board reject this Stipulation, the Department will schedule a contested case hearing in this matter without prejudice to either party.

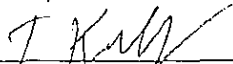
8. Respondent understands and intends that by signing this Stipulation, Respondent is waiving the right, pursuant to the Occupational Code, supra, the rules promulgated thereto, and the Administrative Procedures Act, 1969 PA 306, MCL 24.201 et seq., to a hearing before an administrative law judge, at which the Department would be required to prove the charges set forth in the Complaint by presentation of evidence and legal authority and at which Respondent would be entitled to appear with or without an attorney to cross-examine all witnesses presented by the Department and to present such testimony or other evidence or legal authority deemed appropriate as a defense to said charges.

Agreed to:



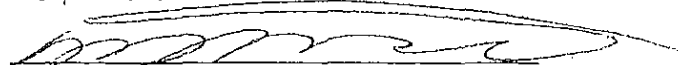
Forest Creek Development Phase II, LLC
Terrance W. Kelly, Q.O.
Respondent

8-19-2008
Date:



Terrance William Kelly
Respondent

8-19-2008
Date:



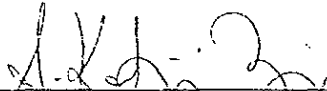
William M. Donovan (P12892)

8-19-2008
Date:

Business Address:

2525 S. TELEGRAPH ROAD, SUITE 100, BLOOMINGDALE HILLS, IN 48302


Bureau of Commercial Services:



Serene Katranji-Zeni (P69460)
Assistant Attorney General

12/19/08
Date:

Approved:



Stephen Gobbo
Law Enforcement Director

2/4/09
Date:



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
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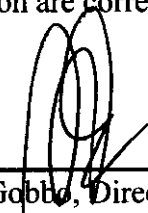
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Respondent.

ERRATA

Please take notice that Final Order's caption, and second paragraph, for the above-referenced complaint numbers erroneously cites the License Number for Terrance William Kelly d/b/a Kelly Construction as: "21-01-071763", which should read: "21-01-071762".

In all other respects this Final Order and Stipulation are correct.



Stephen J. Gobbo, Director
Legal Affairs Division
Bureau of Commercial Services

Date: April 2, 2009