



STATE OF MICHIGAN

JENNIFER M. GRANHOLM
GOVERNOR

DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH
LANSING

STANLEY "SKIP" PRUSS
DIRECTOR

Complaint Nos.: 30508~~X~~⁵

DEPARTMENT OF ENERGY, LABOR &
ECONOMIC GROWTH,
BUREAU OF COMMERCIAL SERVICES, ex rel
SAM AND SHARON LOCRICCHIO

Complainant,

V

BATTAGLIA BUILDERS INC.
JOSEPH C. BATTAGLIA, QUALIFYING OFFICER Respondent,
License No. 21-02-119657

FINAL ORDER

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

WHEREAS, Battaglia Builders Inc., Joseph C. Battaglia, Q.O., License No. 21-02-119657, has agreed with the requirements, conditions and terms set forth with specificity in a Stipulation attached hereto, signed by Respondent on March 12, 2009, Kelly A. Underwood, Notary, on March 12, 2009, and approved by Stephen J. Gobbo Esq., Legal Affairs Division Director, on April 6, 2009, on behalf of the Bureau of Commercial Services, Department of Energy, Labor & Economic Growth.

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.

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

This Final Order is effective immediately upon its mailing.

Given under our hands at Okemos, Michigan, this 12th day of May, 2009.

Board of Residential Builders and Maintenance and Alteration Contractors

By: [Signature]

Chairperson

Date mailed: May 12, 2009

Proof of Compliance Should be Filed With:

Department of Energy, Labor, & Economic Growth
Bureau of Commercial Services
Legal Affairs Division - Final Order Monitoring
P.O. Box 30018
Lansing, MI 48909
Telephone: (517) 241-9272
Fax: (517) 241-9296

This is the last and final page of the Final Order in the matter of Battaglia Builders Inc., Joseph C. Battaglia, Q.O., Complaint No. 305085, before the Board of Residential Builders and Maintenance and Alteration Contractors.

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

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

DEPARTMENT OF ENERGY, LABOR & ECONOMIC GROWTH,
BUREAU OF COMMERCIAL SERVICES, ex rel
SAM AND SHARON LOCICCHIO,
Complainants,

v

BATTAGLIA BUILDERS, INC.,
JOSEPH C. BATTAGLIA, QUALIFYING OFFICER
License No. 21-02-119657
Respondent.

Docket No. 2007-1064
Complaint No. 305085
Board: Residential Builders' &
Alteration & Maintenance Contractors'
Board

STIPULATION

This matter having been scheduled for hearing before the State Office of Administrative Hearings and Rules on February 25, 2009, 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 Battaglia builders, Inc., Joseph C. Battaglia, Qualifying Officer, hereafter "Respondent," by the Department of Energy, 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 Respondent admits to the violation set forth in paragraph 7 of the Complaint.
2. Respondent admits to that it failed to comply with § R 687.2.1.1, R 903.4.1, R 702.4.1, R 703.1 and R 613 of the 2003 Michigan Residential Code, which was adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective February 29, 2004, contrary to 1979 AC, R 338.1551(5) and 2006 AACS, R 338.1551(5). All other charges in the Complaint are hereby dismissed.

3. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that Respondent shall pay a FINE in the amount of **One Thousand Dollars (\$1,000.00)**. Said fine shall be paid by cashier's check or money order, with Complaint No. **305085** 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 failure to pay the full FINE amount as designated above within 60 days of the date of mailing of the Final Order in this matter shall result in a suspension of all licenses or registrations of Respondent 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.

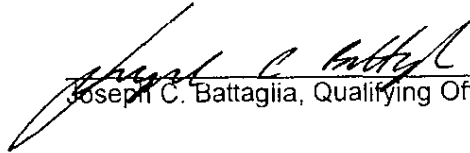
5. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that failure of Respondent to pay the full FINE amount as designated above within SIX MONTHS of the date of mailing of the Final Order in this matter shall result in revocation of the Respondent's builder's license.

6. **IT IS FURTHER STIPULATED**, by and between the parties hereto, that the Director of the Legal Affairs 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 Legal Affairs 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.

7. 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:

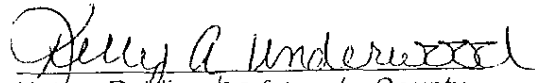

Joseph C. Battaglia, Qualifying Officer

3/12/09
Date:

State of Michigan)

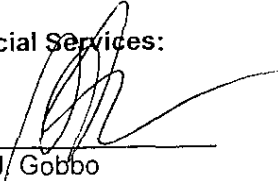
County of Macomb)

On March 12, 2009, I observed Joseph C. Battaglia sign this stipulation.


Notary Public, Macomb County
State of Michigan
My commission expires: 11-5-2010

Bureau of Commercial Services:

Approved: _____


Stephen J. Gobbo
Legal Affairs Division Director
Bureau of Commercial Services
Department of Energy, Labor & Economic Growth

Date: _____

3/6/2009

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

DEPARTMENT OF LABOR
& ECONOMIC GROWTH,
BUREAU OF COMMERCIAL SERVICES, ex rel
SAM AND SHARON LOCICCHIO

Complaint Nos. 305085 & 305087

Complainant,

v

BATTAGLIA BUILDERS, INC.
JOSEPH C. BATTAGLIA, QUALIFYING OFFICER
License No. 21-02-119657

Respondent.

and

JOSEPH C. BATTAGLIA
License No. 21-01-102366

Respondent.

FORMAL COMPLAINT

NOW COMES the Department of Labor & Economic Growth, Bureau of Commercial Services, ex rel Sam and Sharon Locricchio, Complainant, pursuant to MCL 339.101-605, and its rules promulgated thereunder, upon information and belief alleges as follows:

1. Battaglia Builders, Inc., Joseph C. Battaglia, Qualifying Officer (Respondent), has, at all times relevant to this Complaint, been licensed as a residential builder under the Occupational Code, 1980 PA 299, as amended, Article 24; MCL 339.2401-2412.
2. Joseph C. Battaglia (Respondent), has, at all times relevant to this Complaint, been licensed as a residential builder under the Occupational Code, 1980 PA 299, as amended, Article 24; MCL 339.2401-2412.

3. A Complaint against Respondents, conforming to the requirements of § 2411 of 1980 PA 299, as amended; MCL 339.2411 has been filed with the Michigan Department of Labor & Economic Growth and is attached hereto as Exhibit 1.

4. An authority charged with the enforcement of the laws governing construction of residential or residential and commercial buildings in the political subdivision in which the building is located, has submitted an evaluation of the Complaint submitted. This evaluation is attached hereto as Exhibit 2.

5. Respondent Joseph C. Battaglia, on behalf of Respondent Battaglia Builders, Inc., entered into a contract to perform services regulated by 1980 PA 299, as amended, with Sam A. and Sharon Locricchio on or about May 14, 2005, as evidenced by Exhibit 3.

6. Respondent Battaglia Builders, Inc. has failed to perform the requirements of the contract in a workmanlike manner, contrary to MCL 339.2411(2)(m).

7. Respondent Battaglia Builders, Inc., in performance of the contract, failed to comply with § R687.2.1.1, R903.4.1, R702.4.1, R703.1 and R613 of the 2003 Michigan Residential Code, which was adopted pursuant to the Stille-DeRossett-Hale single state construction code act, effective February 29, 2004, contrary to 1979 AC, R 338.1551(5) and 2006 AACS, R 338.1551(5).

8. Respondent Battaglia Builders, Inc., without consent of Sam and Sharon Locricchio, has failed to complete the contract in accordance with the plans and specifications contemplated in the contract, contrary to MCL 339.2411(2)(d).

9. Respondent Battaglia Builders, Inc. has violated a rule of conduct in practicing an occupation, contrary to MCL 339.604(c).

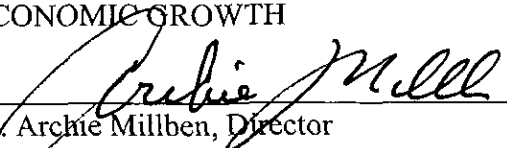
10. Respondent Joseph C. Battaglia was a party to the acts and omissions alleged hereinabove and was in a position to ensure compliance with the Occupational Code or otherwise prevent the violations that are the subject of this complaint but failed to do so.

Based upon the conduct as aforesaid, Respondents have acted contrary to §§ 604(c) and 2411(2)(d) & (m) of the Occupational Code, 1980 PA 299; as amended; MCL 339.604(c) and MCL 339.2411(2)(d) & (m) and rule 51(5) of the Residential Builders and Maintenance and Alteration Contractors Board Rules, promulgated thereunder, being 1979 AC, R 338.1551(5) and 2006 AACCS, R 338.1551(5), constituting grounds for the assessment of a penalty as defined in § 602 of the Occupational Code.

WHEREFORE, Complainant, Michigan Department of Labor & Economic Growth, hereby commences proceedings pursuant to the Administrative Procedures Act of 1969, PA 306, as amended, MCL 24.201-328 and the Occupational Code, *supra*, to determine whether disciplinary action should be taken by the Department of Labor & Economic Growth, pursuant to the Occupational Code, for the reasons set forth herein. Pursuant to MCL 339.2405(3), a suspension, revocation, or denial of a license of an individual shall suspend, revoke, or deny any other license held or applied for by that individual. This includes a corporation, partnership, or other association. The suspension, revocation or denial, of a license by the department may suspend, revoke, or deny any other license held or applied for by the qualifying officer of the corporation under Article 5 of the Occupational Code, *supra*.

MICHIGAN DEPARTMENT OF LABOR
& ECONOMIC GROWTH

BY


G. Archie Millben, Director
Commercial Enforcement Division

Dated: 4/19/07

Responsive Pleadings Should Be Filed With:

Department of Labor & Economic Growth
Bureau of Commercial Services
Commercial Enforcement Division
P.O. Box 30018
Lansing, MI 48909