

1 **BEFORE THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS**
2 **SERVICES OF THE STATE OF OREGON**

3 **OREGON BUILDING CODES DIVISION**

4 **IN THE MATTER OF:**)
5 **LYCHE PROPERTIES, LLC, A LIMITED**) **NOTICE OF PROPOSED ASSESSMENT**
6 **LIABILITY COMPANY**) **OF A CIVIL PENALTY AND FINAL**
7) **ORDER ON DEFAULT**
8) **CASE NO. 2010-0164**
9 **RESPONDENT**)
10)
11)

12 Pursuant to ORS 455.895(2) and OAR 918-001-0036, the Director of the Department of
13 Consumer and Business Services (Director) proposes to impose civil penalties against
14 Respondent, Lyche Properties, LLC, totaling \$4,000.

15 **FINDINGS OF FACT**

16 1. Respondent is the owner of real property located at 2149 S. Franklin Street, Seaside,
17 Oregon (the "Seaside property") and 1245 W. Marine Drive, Astoria, Oregon (the "Astoria"
18 property). Both properties are residential apartment complexes where individual apartments are
19 available for rent.

20 2. During or about the period July 2004 through July 2010, at the Seaside property and the
21 Astoria property, Respondent permitted or suffered Michael A. Dean, to install electrical wiring,
22 light fixtures, electrical outlets, electrical switches, electrical junction boxes, and electrical fuse
23 boxes. At the time, Dean was not licensed as an Oregon journeyman or supervising electrician
24 as required by ORS 479.620(3).

25 3. During or about the period July 2004 through July 2010, at the Seaside property and the
Astoria property, Respondent permitted or suffered Michael A. Dean, to repair or replace potable
water supply and drain piping, toilets and shower heads. At the time, Dean was not licensed as an
Oregon journeyman plumber as required by ORS 693.030(1) nor was he Respondent's regular
employee as defined in ORS 693.0209(1)(e)(A).¹

APPLICABLE LAW

1. Pursuant to ORS 479.620(6) and subject to ORS 479.540, a person may not permit or
suffer any electrical installation on property which the person owns, controls, manages or
supervises to be made by a person not licensed to make such an installation.

¹ ORS 693.010 provides an exemption from plumbing licensing requirements for a person who owns,
leases or operates residential property and who repairs, or uses regular employees to repair, existing
plumbing on property owned, leased or operated by the person, regardless of whether the person or
employee holds a license under ORS Chapter 693.

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2 Pursuant to ORS 455.450(3), a person may not violate, or procure or assist in the
3 violation of, any standard, specification, requirement, prohibition or other technical provision set
4 forth in the state building code or an applicable local building code or in any rule or order of the
5 Department of Consumer and Business Services, an advisory board, a local governing body or
6 local building official.

7 **CONCLUSIONS OF LAW**

8 1. The installations of electrical wiring, light fixtures, electrical outlets, electrical switches,
9 electrical junction boxes, and electrical fuse boxes, as outlined in the Findings of Fact, are
10 electrical installations under ORS 479.530(10).

11 2. By permitting or suffering Michael A. Dean to perform electrical installations, as outlined
12 in the Findings of Fact, Respondent violated ORS 479.620(6).

13 3. The repair or replacement of potable water supply and drain piping, toilets and shower
14 heads, as outlined in the Findings of Fact, are plumbing installations under ORS 447.010(6).

15 4. By permitting or suffering Michael A. Dean to perform plumbing installations, as
16 outlined in the Findings of Fact, Respondent violated ORS 455.450(3).

17 **ORDER**

18 Pursuant to ORS 455.895(2) and OAR 918-001-0036, the Director finds Respondent
19 violated ORS 479.620(6) and is assessed a \$2,000 civil penalty.

20 Pursuant to ORS 455.895(2) and OAR 918-001-0036, the Director finds Respondent
21 violated ORS 455.450(3) and is assessed a \$2,000 civil penalty.

22 The civil penalties assessed total \$4,000.

23 **NOTICE OF RIGHT TO HEARING**

24 Respondent is entitled to a hearing as provided by the Administrative Procedures Act, Oregon
25 Revised Statutes, Chapter 183. If Respondent requests a hearing, the request must be in writing
and filed with the Division no later than 20 days from the date of service. If the Notice was
served on Respondent in person, the date of service is the date Respondent received the Notice.
If the Notice was served through the mail, the date of service is the day the Notice was mailed,
not the day it was received by the Respondent. If a request for hearing is not received within the
20-day period, Respondent's right to a hearing shall be considered waived unless the failure to
request a hearing was beyond Respondent's reasonable control. Hearing requests shall be mailed
to Building Codes Division, Enforcement Section, P.O. Box 14470, Salem, Oregon, 97309.

Respondent has the right to be represented by legal counsel. ORS 183.457 provides that a
corporation may be represented by an authorized representative at the hearing. If Respondent

1 requests a hearing the Director will notify Respondent of the time and place of the hearing. The
2 Director will give Respondent information on the procedures, right of representation and other
rights of parties relating to the conduct of the hearing before commencement of the hearing.

3 **NOTICE OF FINAL ORDER**

4 If Respondent does not request a hearing within 20 days, this citation will become a final order,
5 effective 21 days after it was served on Respondent. If Respondent does not request a hearing or
fails to appear at a scheduled hearing, the Division's file on the matter becomes record.

6 Respondent is entitled to judicial review of this Order. Judicial review may be obtained by filing
7 a petition for review with the Oregon Court of Appeals within 60 days after the final order is
served upon Respondent. See ORS 183.482. If the Order was served on Respondent in person,
8 the date of service is the date Respondent received the Order. If the Order was served through
9 the mail, the date of service is the day the Order was mailed, not the day it was received by the
Respondent. If Respondent does not file a petition for judicial review within the 60 day time
10 period, Respondent will lose the right to appeal. The informational phone number for the
Oregon Court of Appeals is (503) 986-5555.

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12 Dated this ____ day of _____, 2010

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Director
16 Department of Consumer and Business Services
State of Oregon
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