

RECEIVED  
BUILDING CODES

2011 MAR 15 A 9:37

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

**IN THE MATTER OF:**

)  
) **CONSENT ORDER**  
)

**MCCOY PLUMBING, INC., AN OREGON CORPORATION**

)  
) **CASE NO. 2010-0192**  
)

**RESPONDENT**

The Director of the Department of Consumer and Business Services of the State of Oregon (Director) has conducted an investigation of Respondent and determined Respondent violated certain provisions of the Oregon Building Codes statutes, administrative rules, and specialty codes.

The Director and Respondent wish to settle this matter informally. Respondent agrees to conduct all future business in compliance with the applicable statutes, administrative rules, and specialty codes. As evidenced by the authorized signatures on this Order, Respondent hereby consents to the entry of this Order and its following terms:

**FINDINGS OF FACT and CONCLUSIONS OF LAW**

(1) During or about June 2010, at 2965 NW Verde Vista Terrace, Portland, Oregon, Respondent installed a gas water heater, for the account of another, without first obtaining a valid plumbing permit, in violation of OAR 918-785-0200(1)(a).

(2) During or about June 2010, at 2965 NW Verde Vista Terrace, Portland, Oregon, Respondent installed a gas water heater and a draft diverter, for the account of another, without first obtaining a valid mechanical permit, in violation of the 2008 Oregon Residential Specialty Code, Section R105.1.

(3) Installing a gas water heater is a plumbing installation as defined in ORS 447.010(6).

(4) The installations of a gas water heater and draft diverter are regulated by the 2008 Oregon Specialty Code, Chapter 20.

**WHAT THE LAW SAYS**

(1) Under OAR 918-785-0200(1)(a), no person or firm or corporation shall do plumbing or effective October 1, 2001, medical gas systems work in the State of Oregon without first obtaining a plumbing permit or minor label when required and paying the appropriate fees to the authorized permit issuing agency.

1  
2 (2) Under R 105.1, any owner or authorized agent who intends to construct, enlarge,  
3 alter, repair, move, or change the occupancy of a building or structure to erect, install, enlarge,  
4 alter, repair, convert, or replace any electrical, gas, mechanical, or plumbing system, the  
installation of which is regulated by this code, or to cause any such work to be done, shall first  
make application to the building official and obtain the required permit.

5 **ORDER**

6 Under ORS 455.895(2) and OAR 918-001-0036, the Director assesses the following  
7 sanctions:

- 8 (1) a \$1,000 civil penalty for violating OAR 918-785-0200(1)(a).  
9 (2) a \$1,000 civil penalty for violating the 2008 Oregon Residential Specialty  
Code, Section R105.1

10 The civil penalties assessed total \$2,000.

11 **STIPULATED AGREEMENT**

12 Respondent and the Director agrees to resolve this matter without hearing according to  
13 the following terms:

14 (1) Respondent admits to committing the violations as alleged in the Findings of Fact and  
15 Conclusions of Law and agrees the Director will issue an order imposing the proposed civil  
penalties for such violations in order to resolve this matter.

16 (2) The Director agrees to suspend \$500 of the \$2,000 in civil penalties for a period of  
17 five years under the following terms:

- 18 (a) Respondent agrees not to commit further violations of Building Codes  
Division's statutes and/or rules.  
19 (b) Respondent agrees to pay the remaining \$1,500 of the civil penalties *or*  
20 *\$1,000 if full payment is submitted by the due date on the invoice received*  
*with your copy of the order signed by the Director. The additional \$500 will*  
*then be added to the suspended amount.*  
21 (c) If Respondent fails to make a payment within the time period stated on a Final  
22 Demand collection of the entire civil penalties, including any suspended  
amount will be initiated.

23 Payments are to be made to: DCBS Fiscal Services  
24 P.O. Box 14610  
Salem, OR 97309-0445

- 25 (d) Respondent understands and agrees any violation of the terms of this  
Settlement Agreement and Consent Order will result in further enforcement

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

action.

- (e) Respondent understand ands agree that any violations of Building Code Division's statutes and/or rules not alleged in the Findings of Fact above, whether committed before or after the execution of this Settlement Agreement and Consent Order, shall be the basis for further enforcement action.
- (f) Respondent understands the suspended civil penalty will be waived five years after the execution of this Settlement Agreement and Consent Order, provided you comply with its terms and have not committed any further violations of Building Codes Division's statutes and/or rules.
- (g) Respondent has read and fully understand the terms of this Consent Order, freely and voluntarily consent to the entry of this Order without further hearing, without any force or duress, and expressly waives all rights to hearing or appeal in this matter.
- (h) Respondent understands that, upon signature of all parties, this Settlement Agreement and Consent Order will be a FINAL ORDER.
- (i) Respondent understands once this Settlement Agreement and Consent Order become a FINAL ORDER it becomes a public document.

**FOR THE RESPONDENT**

Rebecca Batke

Date: 3-10-2011

REBECCA BATKE  
Registered Agent/President

**FOR THE BOARD**

Elizabeth Broad for

Date: 3-16-11

Director  
Department of Consumer and Business Services  
State of Oregon