

STATE OF FLORIDA  
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

<b>FILED</b>	
Department of Business and Professional Regulation Deputy Agency Clerk	
CLERK	<b>Evette Lawson-Proctor</b>
Date	<b>2/23/2012</b>
File #	

~~DEPARTMENT OF BUSINESS AND~~  
PROFESSIONAL REGULATION,

Petitioner,

v.

Case No. 2011-027871

GARY KONICEK,

Respondent.

ADMINISTRATIVE COMPLAINT

The Department of Business and Professional Regulation (Petitioner), files this Administrative Complaint before the Board of Building Code Administrators and Inspectors, against Gary Konicek (Respondent), and alleges:

1. Petitioner is the state agency charged with regulating the practice of building code administration and inspection pursuant to Section 20.165, Florida Statutes, and Chapters 455 and 468, Part XII, Florida Statutes.

2. Respondent is a licensed Standard Inspector in the State of Florida, having been issued license number BN 5024.

3. Respondent's address of record is 4654 25<sup>th</sup> Avenue SE, Naples, Florida 34116.

MATERIAL FACTS

4. On or about September 16, 2002, the City of Marco Island hired Respondent as a plumbing and mechanical inspector.

5. On or about September 20, 2002, Respondent began conducting plumbing and mechanical inspections for the City of Marco Island.

6. On or about December 3, 2002, Respondent applied for plumbing inspector and mechanical inspector provisional licenses.

7. On or about March 11, 2003, Respondent received his provisional plumbing inspector license.

8. On or about September 16, 2003, Respondent received his provisional mechanical inspector license.

9. Respondent performed mechanical and plumbing inspections without first obtaining the required license to perform these inspections.

10. Section 468.621(1)(a), Florida Statutes, subjects a licensee to discipline for "[v]iolating or failing to comply with any provision of this part, or a valid rule or lawful order of the board or department pursuant thereto."

11. Section 468.609(4), Florida Statutes, states "[n]o person may engage in the duties of a building code administrator, plans examiner, or building code inspector pursuant to this part after October 1, 1993, unless such person

possesses one of the following types of certificates, currently valid, issued by the board attesting to the person's qualifications to hold such position: A standard certificate, A limited certificate, A provisional certificate."

12. Based on the facts set forth above, Respondent violated Section 468.621(1)(a), Florida Statutes, through a violation of Section 468.609(4), Florida Statutes, in one or more of the following ways:

- a. By conducting mechanical inspections without the required license;
- b. By conducting plumbing inspections without the required license.

WHEREFORE, Petitioner respectfully requests the Building Code Administrators and Inspectors Board enter an order imposing one or more of the following penalties: suspension or permanent revocation or of Respondent's license, restriction of Respondent's practice, imposition of an administrative fine not to exceed \$5,000 for each count or separate offense, issuance of a reprimand, placement of Respondent on probation subject to specified conditions, corrective action, assessment of costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time or any other relief that the Florida Board of Building Code Administrators

and Inspectors is authorized to impose pursuant to Chapters 455 and 468, Florida Statutes, and the rules promulgated thereunder.

Signed this 22nd day of February, 2012.

KEN LAWSON, Secretary  
Department of Business and  
Professional Regulation

By: LeChea C. Parson

LeChea C. Parson  
Assistant General Counsel  
Florida Bar No. 0016869  
Office of the General Counsel  
1940 N. Monroe Street, Ste. 42  
Tallahassee, FL 32399-2202  
(850) 488-0062 Telephone  
(850) 414-6749 Facsimile

PC Found: 2/8/12  
PC Found By: McCormick and Kymalainen

LP/pjm

NOTICE OF RIGHTS

PLEASE BE ADVISED that mediation under Section 120.573, Florida Statutes, is not available for administrative disputes involving this type of agency action.

PLEASE BE FURTHER ADVISED that Respondent has the right to request a hearing to be conducted in accordance with Sections 120.569 and 120.57, Florida Statutes, to be represented by counsel or other qualified representative, to present evidence and argument, to call and cross-examine witnesses and to have subpoenas and subpoenas duces tecum issued on his or her behalf if a hearing is requested. Rule 28-106.111, Florida Administrative Code, provides in part that if Respondent fails to request a hearing within 21 days of receipt of an agency pleading, Respondent waives the right to request a hearing on the facts alleged.

NOTICE REGARDING ASSESSMENT OF COSTS

Respondent is placed on notice that Petitioner has incurred costs related to the investigation and prosecution of this matter. Pursuant to Section 455.227(3)(a), Florida Statutes, the Board, or the Department when there is no Board, may assess costs related to the investigation and prosecution of the case excluding costs associated with an attorney's time, against the Respondent in addition to any other discipline imposed.