

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



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STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JODY ESKER,
RESPONDENT.

:
:
: FINAL DECISION AND ORDER
:
:

0004720

Division of Legal Services and Compliance Case No. 14 COM 016

The parties to this action for the purpose of Wis. Stat. § 227.53 are:

Jody Esker
202C Emmonsville Road
Hatley, WI 54440

Wisconsin Department of Safety and Professional Services
P.O. Box 8366
Madison, WI 53708-8366

Division of Legal Services and Compliance
Wisconsin Department of Safety and Professional Services
P.O. Box 7190
Madison, WI 53707-7190

An appeal of the Department of Safety and Professional Services Order Number 0004720 was filed in this matter on July 5, 2016. Prior to hearing, the parties agreed to the terms and conditions of the attached Stipulation as the final disposition of this matter, subject to the approval of the Wisconsin Department of Safety and Professional Services (Department). The Department has reviewed this Stipulation and considers it acceptable.

Accordingly, the Department adopts the attached Stipulation and makes the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. Respondent Jody Esker is certified in the State of Wisconsin as a Dwelling Contractor, having license number 936276, first issued on February 2, 2015, and current through February 24, 2017, and as a Dwelling Contractor Qualifier, having license number 936276, first issued on September 25, 2007 and current through September 25, 2017. Jody Eskers most recent address on file with the Department is 202C Emmonsville Road, Hatley, Wis. 54440.

2. On June 26, 2012, Respondent Jody Esker pulled a building permit to construct a dwelling at 2213 Meadow Drive, Kronenwetter, Wis. 54455. Respondent was listed as the owner and the dwelling contractor on the permit. The permit listed the dwelling as having a finished first floor and an unfinished basement.

3. On February 26, 2013, the Village of Kronenwetter Inspector, S. Scott Tatro conducted a final inspection of the dwelling. Ten violations were found.

4. On February 28, 2013, Inspector Tatro reinspected the dwelling and found only one violation remained, relating to the exterior stonework, which could not be remedied until warmer temperatures existed.

5. On March 26, 2013, Inspector Tatro issued a temporary occupancy certificate, valid until April 25, 2013, due to Respondent Jody Esker having a buyer for the property and only one known violation existing for the property.

6. On April 26, 2013, Inspector Tatro went to the dwelling for a reinspection. He examined the remaining violation, the exterior stone. He did not go to the rear of the dwelling nor did he go inside, as the other areas had passed inspection previously. He issued a full occupancy certificate on May 1, 2013.

7. During the time period from the end of February to May 2, 2013, Respondent Jody Esker performed the finishing work in the basement and extended the deck at the rear of the dwelling. A new permit was not pulled for this alteration to the base dwelling.

8. Complainant Olson closed on the house on May 2, 2013.

9. On May 19, 2014, Complainant Olson requested an inspection of her dwelling and Inspector Tatro was sent to reinspect. Inspector Tatro found several violations.

10. Inspector Tatro found that the deck had been extended and lacked footings designed to transmit and safely distribute the loads to the soil.

11. Inspector Tatro found that the basement contained a sleeping area and that a proper egress window had not been installed. Additionally, Inspector Tatro found that there was not 24 inches of clearance for service around the water heater. The basement also contained plumbing violations.

12. Inspector Tatro searched for a permit for the work and was unable to find one. He also called the plumber listed on the original building permit and discovered they had never been to the jobsite. Inspector Tatro stated that due to the poor nature of the plumbing, that he suspected Respondent Jody Esker had installed it.

13. On December 30, 2014, Inspector Tatro contacted the electrician listed on the original building permit and found that he had never installed electrical wiring at the dwelling.

14. Respondent Jody Esker stated that he did not perform the plumbing at the dwelling. He produced invoices from Best-1 Plumbing and Heating for the upstairs plumbing.

However, he stated a friend of a friend installed the plumbing in the basement, but acknowledges that he has no paperwork or means of contacting this individual to verify his statements. He cannot remember the name of this individual as well.

15. The electrical wiring was completed by Respondent Jody Esker, before the state electrical licensing requirements took effect. The Village of Kronenwetter did not have an electrical licensing requirement.

16. Respondent Jody Esker obtained a permit for the work performed on the basement on February 17, 2015. He paid a double fee due to working without a permit, totaling \$635.00.

17. As of August 11, 2016, Respondent Jody Esker completed repair work on the deck. However, the egress violations remain in the basement, and the water heater continues to have insufficient clearance, and the plumbing violations remain.

18. In resolution of this matter, Respondent Jody Esker consents to the entry of the following Conclusions of Law and Order.

CONCLUSIONS OF LAW

1. The Wisconsin Department of Safety and Professional Services has jurisdiction to act in this matter pursuant to Wis. Admin. Code § SPS 305.10(1) and is authorized to enter into the attached Stipulation pursuant to Wis. Stat. § 227.44(5).

2. By the conduct described in the Findings of Fact, Respondent Jody Esker violated Wis. Admin. Code § SPS 320.04(2) by altering an existing dwelling built after June 1, 1980 without a permit.

3. Respondent Jody Esker violated Wis. Stat. § 145.06(1)(a) and Wis. Admin. Code § SPS 305.90(1)(a) by installing plumbing without a license.

4. Respondent Jody Esker violated Wis. Admin. Code § SPS 321.15(1)(a) by not providing footings designed to transmit and safely distribute the loads to the soil on the deck expansion.

5. Respondent Jody Esker violated Wis. Admin. Code § SPS 323.17(2) by not providing 24 inches of clearance for service on the water heater.

6. Respondent Jody Esker violated Wis. Admin. Code § SPS 321.03(5) and (6) by not installing a proper egress window in a basement used for sleeping.

7. As a result of the violations noted in the Conclusions of Law, Respondent Jody Esker is subject to discipline pursuant to Wis. Admin. Code § SPS 305.10(1)(a) 3. and 8.

ORDER

1. The attached Stipulation is accepted.

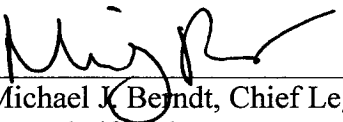
2. Respondent Jody Esker is SUSPENDED for 90 days. This suspension shall commence 30 days after the date of signing of this order.

3. Within 90 days from the date of reissuance of Respondent Jody Esker's certifications, he shall earn a total of nine additional credits of continuing education on construction codes and report these credits to the Department. The credits shall be in addition to the annual continuing education required by the Department.

4. Violation of any of the terms of this Order may be construed as conduct imperiling public health, safety and welfare and may result in a summary suspension of Respondent Jody Esker's certifications. The Department in its discretion may in the alternative impose additional conditions and limitations or other additional discipline for a violation of any of the terms of this Order. In the event Respondent Jody Esker fails to complete the additional continuing education as ordered and as set forth above, Respondent Jody Esker's license (no. 936276) may, in the discretion of the Department, be SUSPENDED, without further notice or hearing, until Respondent Jody Esker has complied with this Order.

5. This Order is effective on the date of its signing.

WISCONSIN DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

By: 
Michael J. Berndt, Chief Legal Counsel
On Behalf of the Department

9/26/16
Date

STATE OF WISCONSIN
BEFORE THE DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

IN THE MATTER OF DISCIPLINARY
PROCEEDINGS AGAINST

JODY ESKER,
RESPONDENT.

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:
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:
:

STIPULATION

0004720

Division of Legal Services and Compliance Case No. 14 COM 016

Respondent Jody Esker and the Division of Legal Services and Compliance, Department of Safety and Professional Services stipulate as follows:

1. This Stipulation is entered into as a result of a pending investigation by the Division of Legal Services and Compliance. Respondent consents to the resolution of this investigation by Stipulation.

2. Respondent understands that by signing this Stipulation, Respondent voluntarily and knowingly waives the following rights:

- the right to a hearing on the allegations against Respondent, at which time the State has the burden of proving those allegations by a preponderance of the evidence;
- the right to confront and cross-examine the witnesses against Respondent;
- the right to call witnesses on Respondent's behalf and to compel their attendance by subpoena;
- the right to testify on Respondent's own behalf;
- the right to file objections to any proposed decision and to present briefs or oral arguments to the officials who are to render the final decision;
- the right to petition for rehearing; and
- all other applicable rights afforded to Respondent under the United States Constitution, the Wisconsin Constitution, the Wisconsin Statutes, the Wisconsin Administrative Code, and other provisions of state or federal law.

3. Respondent is aware of Respondent's right to seek legal representation and has been provided an opportunity to obtain legal counsel before signing this Stipulation.

4. Respondent agrees to the adoption of the attached Final Decision and Order by the Wisconsin Department of Safety and Professional Services (Department). The parties to the Stipulation consent to the entry of the attached Final Decision and Order without further notice, pleading, appearance or consent of the parties. Respondent waives all rights to any appeal of the Department's Order, if adopted in the form as attached.

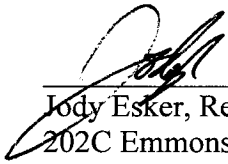
5. If the terms of this Stipulation are not acceptable to the Department, the parties shall not be bound by the contents of this Stipulation, and the matter shall then be returned to the

Division of Legal Services and Compliance for further proceedings. In the event that the Stipulation is not accepted by the Department, the parties agree not to contend that the Department has been prejudiced or biased in any manner by the consideration of this attempted resolution.

6. The parties to this Stipulation agree that the attorney or other agent for the Division of Legal Services and Compliance may appear before the Department, without the presence of Respondent, for purposes of speaking in support of this agreement and answering questions that the Department may have in connection with deliberations on the Stipulation.

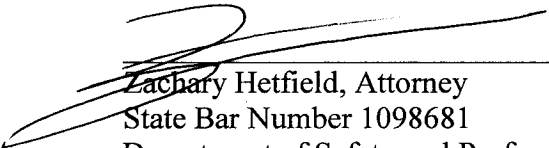
7. Respondent is informed that should the Department adopt this Stipulation, the Department's Final Decision and Order is a public record and will be published in accordance with standard Department procedure.

8. The Division of Legal Services and Compliance joins Respondent in recommending that the Department adopt this Stipulation and issue the attached Final Decision and Order.



Jody Esker, Respondent
202C Emmonsville Road
Hatley, WI 54440

9-20-16
Date



Zachary Hetfield, Attorney
State Bar Number 1098681
Department of Safety and Professional Services
Division of Legal Services and Compliance
P.O. Box 7190
Madison, WI 53707-7190
Tel. (608) 266-9814
zachary.hetfield@wisconsin.gov

9/26/16
Date