

MEMORANDUM

To: Utah Residence Lien Recovery Fund Advisory Board
From: Lien Recovery Fund Staff
Date: May 2, 2016
Subject: Information Packet for Upcoming Board Meeting

Enclosed please find the application reports and other documents for the upcoming Board meeting. That meeting is scheduled to begin at **8:15 am on Wednesday, May 11, 2016** in the **North Conference Room**, on the first floor of the Heber M. Wells Building - **160 East 300 South, Salt Lake City, Utah**. We anticipate the meeting will last until 9:30 a.m.

We appreciate your service on the Board - see you at the meeting.

Agenda

Utah Residence Lien Recovery Fund Advisory Board

Wednesday, May 11, 2016 8:15 am
North Conference Room, First Floor
Heber M. Wells Building
160 E. 300 S. Salt Lake City, Utah

This agenda is subject to change up to 24 hours prior to the meeting.

ADMINISTRATIVE BUSINESS

1. Review and approve minutes from previous board meeting
2. Travel reimbursement

HOMEOWNER APPLICATIONS FOR REVIEW

1. Recommended for Approval with Explanation Required
 - a) Thomas & Julie Hardman v Chris Jensen Landscaping Inc.
 - b) Steve Nuttall v Constructions Pros LLC
 - c) Darron & Jana Davis v Kodiak America LLC

CLAIMS FOR REVIEW

1. **Recommended for Approval and No Explanation Required**
 - a) LRF-2016-0321-01 Staker & Parson Companies dba Western Rock Products v Alpha Crete Inc (Gray, Trustee)

NEXT SCHEDULED MEETING: Wednesday, June 8, 2016

Note: In compliance with the Americans with Disabilities Act, individuals needing special accommodations (including auxiliary communicative aids and services) during this meeting should notify, Dave Taylor, ADA Coordinator, at least three working days prior to the meeting. Division of Occupational & Professional Licensing, 160 East 300 South, Salt Lake City, Utah 84115, 801-530-6628 or toll-free in Utah only 866-275-3675

MINUTES

**UTAH
RESIDENCE LIEN RECOVERY FUND
ADVISORY BOARD
MEETING
April 13, 2016**

**North Conference Room– 8:15 a.m.
Heber Wells Building
Salt Lake City, UT 84114**

CONVENED: 8:17

ADJOURNED: 9:38

Board Members Present:

Bradley Stevens, Chair
DeAnna Leahy
Wayne Jarvis
Jeff Park

Board Members Absent:

Douglas Darrington
Calvin Bowen

DOPL Staff Present:

Tracy Naff, Program Manager
Tyler Brklacich, Board Secretary
Sterling Corbett, AG
Mike Osiek, DOPL Investigator

Guests:

Thomas & Lori Holmoe, Homeowner
Shelley Strauser, DOPL employee
Lisa Keller, Peterson Plumbing
Mark Stubbs, Attorney
Chris & Carolyn Norman, Homeowner
Steve & Lucinda Howes, Homeowner

TOPICS FOR DISCUSSION

DECISIONS AND RECOMMENDATIONS

ADMINISTRATIVE BUSINESS:

Review and approve minutes from the March 9, 2016 Board meeting.

Ms. Leahy made a motion to approve the March 9, 2016 Board minutes. Mr. Park seconded the motion. Motion passed by unanimous vote.

Review Open & Public Meetings Act Ms. Naff gave a brief overview of Utah's Open and Public Meetings Act.

- Homeowner Applications for Review
1. Recommended for Denial and Explanation Required
 - a) HIVHOW001 Steve & Lucinda Howes v Hive Construction dba GJ Gardner Homes Lehi, or PGL Construction, LLC — Ms. Naff gave an explanation of the application. Mr. Osiek informed the board of his findings regarding the licensure of the Contractors involved. Mr. & Mrs. Howes summarized their interactions with Reggie Pendleton Jr. and Reggie Pendleton Sr. Mr. Corbett asked if there was evidence proving that Reggie Pendleton Sr. had knowledge of the contract between Reggie Pendleton Jr. and the Howes. Ms. Leahy suggested that the Affidavit of Reggie Pendleton Sr. provides the necessary connection between the companies used on the contract. Mr. Park made a motion to approve the application based on the evidence provided. Mr. Jarvis seconded the motion. Motion passed by unanimous vote. Ms. Naff emphasized that recommendations from the board are not final until signed by the Division Director.
 - b) HIVNOR001 Chris & Carol Norman v Hive Construction dba GJ Gardner Homes Lehi — Ms. Naff explained the application. Mr. Stubbs chronicled the history between the Normans, Hive Construction, and PGL Construction. Mr. & Mrs. Norman provided their account of the experience with Reggie Pendleton Jr. and Regalan Sr. The board had open discussion regarding the evidence provided. Mr. Park made a motion to deny the application. Ms. Leahy seconded the motion. Motion passed by unanimous vote.
 - c) LTTHOL001 Thomas & Lori Holmoe v LTT Construction, LLC — Ms. Naff provided an explanation of the application. Mr. & Mrs. Holmoe recounted their experience with LTT Construction LLC. Mr. Park made a motion to deny the application. Mr. Jarvis seconded the motion. Motion passed by unanimous vote.

Claims for Review

1. Recommended for Denial & Explanation Required
 - a) LRF-2016-0106-01 Premier Building Supply, LLC v Advanced Contractor Services, Inc — Ms. Naff gave a an explanation of the application. Ms. Leahy made a motion to deny the application. Mr. Jarvis seconded the motion. Motion passed by unanimous vote.

Meeting adjourned 9:38

Note: These minutes are not intended to be a verbatim transcript but are intended to record the significant features of the business conducted in this meeting. Discussed items are not necessarily shown in the chronological order they occurred.

Date Approved

(ss) Brad Stevens
Chairperson, Residence Lien Recovery Fund
Advisory Board

Date Approved

(ss) Tracy Naff
Program Manager, Division of Occupational &
Professional Licensing

Claim Disposition Report

May 2, 2016

Processing Status	Active Pending Action By	Disposition	Number of Claims	
Active	Board		1	0.0%
Active	Claimant		6	0.2%
Active	LRF		3	0.1%
Closed		Denied	566	19.7%
Closed		Dismissed	244	8.5%
Closed		Paid	2,055	71.5%
Prolonged	Claimant		1	0.0%
Total Claims Filed			2,876	

Applications for Certificate of Compliance Disposition Report

May 2, 2016

Processing Status	Active Pending Action By	Disposition	Number of Apps	
Active	Board		3	0.2%
Active	Director		1	0.1%
Active	Homeowner		2	0.1%
Active	LRF		59	3.1%
Closed			1	0.1%
Closed		Approved	1202	62.4%
Closed		Denied	567	29.5%
Closed		Withdrawn	87	4.5%
Prolonged			3	0.2%
Total Applications Filed			1,925	

Summary of Payments

Sorted by Claimant Type

May 2, 2016

Claimant Type	Number of Paid Claims	Total Payments	
Contractor	888	5,263,342.49	40.3%
Laborer	10	17,070.17	0.1%
Other	1	3,001.75	0.0%
Supplier	1156	7,769,587.87	59.5%
Total Paymen	2055	\$13,053,002.28	100.0%

Summary of Payments

Sorted by Nonpaying Party Type

May 2, 2016

Nonpaying Party Type	Number of Paid Claims	Total Payments	
Home Builder	1226	7,902,327.88	60.5%
Other	25	179,357.47	1.4%
Real Estate Developer	72	462,183.51	3.5%
Specialty Contractor	732	4,509,133.42	34.5%
Total Payments	2055	\$13,053,002.28	100.0%

CERTIFICATE OF COMPLIANCE

RECOMMENDED FOR APPROVAL

- EXPLANATION REQUIRED-

Application Report
Property ID: CHRHAR001
Application Examined by: Tracy

Homeowner Application
April 25, 2016

Homeowner: Thomas & Julie Hardman
Original Contractor: Chris Jensen Landscaping Inc.
License Number: 7898005 Type: Contractor
License Issue Date: 02/09/2011 License End Date: 11/30/2015
Original Contractor's Attorney: N/A

Abstract and Recommendation

Division's Recommendation: Approve

The Division finds the applicants have satisfied the Certificate of Compliance requirements, and recommends the application be approved, however written contract and payment in full are not easily resolved.

Factual Review and Analysis

The homeowners submitted an application on February 26, 2011 (**Exhibit A**). At the time the application was submitted the contractor services had not been completed. The homeowners requested, and were granted, prolonged status in order to allow time to provide a completion date (**Exhibit B**). On March 14, 2016, the homeowners submitted an updated application and a request to be removed from prolonged status (**Exhibit C**). The completion date provided on the updated application is February 22, 2016, the date in which the original contractor was terminated.

WRITTEN CONTRACT:

In order to qualify for protection from mechanics' liens, a homeowner must enter into a written contract with an original contractor. UTAH ADMIN. CODE R156-38a-102 (15) defines written contract as follows:

"Written contract", as used in Subsection 38-11-204(4)(a)(i), means one or more documents for the same construction project which collectively contain all of the following:

- (a) an offer or agreement conveyed for qualified services that will be performed in the future;*
- (b) an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and*

(c) identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

The original signed proposal is dated September 17, 2014 (**Exhibit D**). Additionally, the homeowners have provided a revised proposal which outlines remaining work (**Exhibit E**). This revised proposal is not dated or signed. However, the homeowners have provided evidence of an email dated August 4, 2015 which contains a PDF titled "Hardman-revised up to date remain.doc", sent from ChrisJensenLandscaping1@gmail.com, and emailed to Hardman_hjh@yahoo.com (**Exhibit F**). A canceled check, written to Chris Jensen, dated August 5, 2015 for \$5,000.00 was provided in which "3rd deposit-for bark, fabric, lights" is written in the memo (**Exhibit G**). In addition, the homeowners have provided a thread of text messages on or about August 6, 2015, which appear to be discussion and acceptance to the revised proposal (**Exhibit H**). It is the Divisions opinion that the date of the revised proposal is August 4, 2015 and acceptance of the revised proposal is indicated by the check dated August 5, 2015 and further demonstrated by the text messages on or about August 6, 2016, Therefore meeting the requirement of written contract, in accordance with UTAH CODE ANN §38-11-204-(4) (a)(i) and as defined in UTAH ADMIN CODE R156-38a-102 (15).

PAYMENT IN FULL:

UTAH CODE ANN. § 38-11-204 (4) (b): To qualify for protection from mechanics' liens, a homeowner must pay the original contractor in full according to the terms of the written contract and any modifications to those terms.

The *original* contracted amount agreed upon was \$32,745.00. The homeowners have provided canceled checks that total the amount of \$29,750.00. (**Exhibit I**), a difference of \$2,995.00 owing. The *revised contract* puts the total contracted amount at \$32,707.84, with a difference of \$2,957.84 owing. The homeowners have provided an explanation of the deficiency in the payment amount (**Exhibit J**), wherein they list the items not completed "at all" in accordance with the contract. These two remaining items total \$3,000.00. The homeowner states that they have not included the items from the contract that were only "partially completed" by Chris Jensen Landscaping. It is the Divisions opinion the homeowners have satisfied the requirement of payment in full as described in UTAH CODE ANN §38-11-204-(4) (b).

It is the Division's opinion that based on the totality of the evidence submitted, Applicants paid the original contractor in full for services performed. Therefore, the Division recommends that the application be approved.

Exhibit A

Application

Date: _____
Receipt Number: 5915357
Amount Paid: 330.00

APPLICATION FOR CERTIFICATE OF COMPLIANCE

Applicant:

Name: Julie and Thomas Hardman

Address of Property against which Lien was filed: 776 E. Kamber Cove

City: Draper State: Utah Zip: 84020

Telephone: (801) 947-7643 Email: hardman@austin-rapp.com

Is the address listed above the same as your mailing address? Yes No

If "no," please provide your complete mailing address: _____

Tax Parcel Number (*found on your annual property tax notice*): 28-32-353-021-0000

Legal Description or Lot Number (*found on the Notice of Lien*): _____

Lot 754, Bellevue PH 7B 10226-6859, Salt Lake County, State of Utah

Applicant's Attorney or Other Representative (*if applicable*):

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____ Email: _____

RECEIVED

FEB 24 2015

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

Original Contractor/Factory Built Housing Retailer/Real Estate Developer:

Company Name: Chris Jensen Landscaping

Address: 2425 W. Victorian Way

City: Riverton State: Utah Zip: 84065

Telephone: (801) 718-5001 Email: chrisjensenlandscaping1@gmail.com

**Original Contractor/Factory Built Housing Retailer/Real Estate Developer's Attorney
(if applicable):**

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____ Email: _____

Mechanics' Lien Holders: Attach a copy of all notice of liens filed on your property. List all companies or individuals who have filed a mechanics' lien on your residence.

Company or Individual Name: Mountain States Supply, LLC

Company or Individual Name: _____

Company or Individual Name: _____

Company or Individual Name: _____

Company or Individual Name: _____

*Note you are required to send a copy of this application and all attachments by certified mail, return receipt requested, to all lien claimants and the party with whom you contracted UTAH CODE ANN. § 38-1-11 (6) (e)

Written Contract:

Did you enter into a written contract? Check one

Yes. Attach a copy of the contract to this application

No. Explain: _____

Required documentation of licensure or exemption from licensure:

Check which section best describes your situation & attach the supporting documentation:

Contracted with a licensed contractor:

① Attach evidence your contractor was licensed The contract we entered into indicated that Chris Jensen is a licensed contractor (license # 7898005-5501).

Contracted with an exempt contractor:

① Attach evidence your contractor was exempt from licensure

Contracted with a real estate developer:

- ① Attach evidence the developer had ownership interest in the property
- ② Attach evidence the developer offered the residence for sale to the public
- ③ Attach a copy of the contract between the developer and a licensed contractor

Contracted with a contractor real estate developer:

- ① Attach evidence the contractor developer had ownership interest in the property
- ② Attach evidence the contractor developer offered the residence for sale to the public
- ③ Attach evidence the contractor developer was a licensed contractor

Payment in Full:

Did you pay your original contractor in full according to the terms of the written contract and any modifications to that contract?

Yes. Attach documents demonstrating payment (See explanation below)

No. Explain: _____

Explanation regarding payment: The terms of the contract were: "50% at signing then 25% then the final upon completion." We paid 50% (\$16,500) on September 17, 2014. We subsequently paid an additional 25% (\$8,250) on November 13, 2014. The work has not been completed yet, so we have not paid the final 25%.

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF

Thomas Hardman
(Homeowners' Name)

LOCATED AT

(Address, City, and State of the property)

776 E. Kamber Cove

Draper, Utah 84020

AFFIDAVIT OF COMPLIANCE,
CERTIFICATION, AND RELEASE OF
INFORMATION

STATE OF UTAH)
 :SS.
COUNTY OF Salt Lake)

I, Thomas Hardman, being first duly sworn state as follows:
(Name of person completing application)

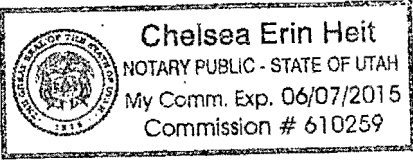
1. I am authorized to sign this affidavit for the homeowner described and identified in this application.
2. The information contained in this application and the supporting documents are free from fraud, misrepresentation, or omission of material fact.
3. I will ensure that any information subsequently submitted to DOPL in conjunction with this application and/or its supporting documents will meet the same standard set forth above.
4. I understand that homeowners and/or their representatives who report false information, withhold information, or present false or misleading documentation pertinent to an application in order to receive a Certificate of Compliance from the Lien Recovery Fund to which they are not entitled will be disqualified from receiving said Certificate and may be subject to both criminal prosecution and civil penalties.
5. I understand that this application will be classified as a public record and will be available for inspection by the public except with regard to the release of information which is classified as controlled, private, or protected under the Government Records Access and Management Act or restricted by other law.

6. Type of Residence: *(check the appropriate box)*
 Detached single family dwelling
 Duplex (single building with two separate living units)
 More than two living units in building
7. Date construction of the project was complete: *(check one box & fill in date)* The project is not yet complete.
 Certificate of Occupancy Date ___/___/___
 Final Inspection Date ___/___/___
 No substantial work left to complete Date ___/___/___
 Original contractor was terminated Date ___/___/___
8. Date the residence was/will be occupied: *(check one box & fill in date)*
 Do not intend to occupy
 Have occupied the residence since Date 4 / 28 / 2015
 Will occupy the residence on Date ___/___/___
9. How the residence is/will be used: *(check the appropriate box)*
 Owner's primary residence
 Owner's secondary residence
 Tenant or Lessee's primary residence
 Tenant or Lessee's secondary residence
 Other (explain) _____

I hereby authorize all persons, institutions, governmental agencies, employers, or any others not specifically included in the preceding characterization, which are set forth directly or by reference in this application, to release to the Division of Occupational and Professional Licensing, State of Utah or the Residence Lien Recovery Fund Advisory Board, any files, records or information of any type reasonably required for the Division of Occupational and Professional Licensing or the Board to properly evaluate my application.

Thomas Hardman 2 / 24 / 15
 Signature of Affiant *(sign here)* Date

Subscribed and sworn to before me this 24th day of February, 2015

(SEAL)  Chelsea Erin Heit
 Signature of Notary Public

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF

Julie Hardman

(Homeowners' Name)

AFFIDAVIT OF COMPLIANCE,
CERTIFICATION, AND RELEASE OF
INFORMATION

LOCATED AT

(Address, City, and State of the property)

776 E. Kamber Cove

Draper, Utah 84020

STATE OF UTAH)
 :SS.
COUNTY OF Salt Lake)

I, Julie Hardman, being first duly sworn state as follows:
(Name of person completing application)

1. I am authorized to sign this affidavit for the homeowner described and identified in this application.
2. The information contained in this application and the supporting documents are free from fraud, misrepresentation, or omission of material fact.
3. I will ensure that any information subsequently submitted to DOPL in conjunction with this application and/or its supporting documents will meet the same standard set forth above.
4. I understand that homeowners and/or their representatives who report false information, withhold information, or present false or misleading documentation pertinent to an application in order to receive a Certificate of Compliance from the Lien Recovery Fund to which they are not entitled will be disqualified from receiving said Certificate and may be subject to both criminal prosecution and civil penalties.
5. I understand that this application will be classified as a public record and will be available for inspection by the public except with regard to the release of information which is classified as controlled, private, or protected under the Government Records Access and Management Act or restricted by other law.

6. Type of Residence: (check the appropriate box)
- Detached single family dwelling
 - Duplex (single building with two separate living units)
 - More than two living units in building
7. Date construction of the project was complete: (check one box & fill in date) The project is not yet complete.
- Certificate of Occupancy Date ___/___/___
 - Final Inspection Date ___/___/___
 - No substantial work left to complete Date ___/___/___
 - Original contractor was terminated Date ___/___/___
8. Date the residence was/will be occupied: (check one box & fill in date)
- Do not intend to occupy
 - Have occupied the residence since Date 4 / 28 / 2014
 - Will occupy the residence on Date ___/___/___
9. How the residence is/will be used: (check the appropriate box)
- Owner's primary residence
 - Owner's secondary residence
 - Tenant or Lessee's primary residence
 - Tenant or Lessee's secondary residence
 - Other (explain) _____

I hereby authorize all persons, institutions, governmental agencies, employers, or any others not specifically included in the preceding characterization, which are set forth directly or by reference in this application, to release to the Division of Occupational and Professional Licensing, State of Utah or the Residence Lien Recovery Fund Advisory Board, any files, records or information of any type reasonably required for the Division of Occupational and Professional Licensing or the Board to properly evaluate my application.

Julie Hardman 02/24/2015
 Signature of Affiant (sign here) Date

Subscribed and sworn to before me this 24th day of February, 2015

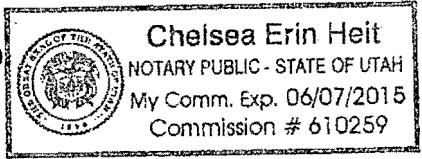
(SEAL)  Chelsea Erin Heit
 Signature of Notary Public

Exhibit B

Prolonged granted letter

From: [Tracy Naff](#)
To: [Tom Hardman](#)
Subject: Re: Request for Prolonged Status
Date: Wednesday, March 25, 2015 7:26:43 AM

Dear Tom & Julie

This letter is to acknowledge your request to have your application for a Certificate of Compliance placed on prolonged status. The request has been reviewed and granted.

Application is Inactive for One Year: Our rules provide “a claim granted prolonged status shall be inactive for a period of one year or until reactivated by the claimant, whichever comes first.” Therefore, we will do no further work on your application until such time as you request, in writing, that the application be reactivated or the one-year period expires. We require that at the time you request reactivation all documentation necessary to complete and update the application be provided—no additional processing fees are required.

Expiration of One-Year Prolonged Period: At the end of the one-year period, you are required to complete your application, withdraw your application, or demonstrate reasonable cause for prolonged status to be renewed for another one-year period.

If you do not reactivate your application within one year of the date of this letter, you will receive final notice from the Division that your application must be completed, withdrawn, granted an additional prolonged status, or denied.

Additional Prolonged Periods Not Available: An application may only be prolonged once unless very narrowly defined criteria are met. Therefore, we strongly encourage you to ensure your application is complete at the time of reactivation.

If you have any questions or need additional information, please call.

On Tue, Mar 24, 2015 at 9:49 AM, Tom Hardman <hardman@austin-rapp.com> wrote:

Tracy,

Thank you for talking with us on the phone this morning. That was really helpful.

We would like to request to place our application on prolonged status, in order to give our contractor additional time to complete the project.

Exhibit C

Updated application

Note: This is a request to reactivate an application that was filed last year and then placed on prolonged status. Please refer to the attached copy of an email from Tracy Naff.

APPLICATION FOR CERTIFICATE OF COMPLIANCE

Applicant:

Name: Julie and Thomas Hardman

Address of Property against which Lien was filed: 776 E. Kamber Cove

City: Draper State: Utah Zip: 84020

Telephone: (801) 947-7643 Email: hardman@austin-rapp.com

Is the address listed above the same as your mailing address? Yes No

If "no," please provide your complete mailing address: _____

Tax Parcel Number (found on your annual property tax notice): 28-32-353-021-0000

Legal Description or Lot Number (found on the Notice of Lien): _____

Lot 754, Bellevue PH 7B 10226-6859, Salt Lake County, State of Utah

Applicant's Attorney or Other Representative (if applicable):

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____ Email: _____

RECEIVED

MAR 14 2015

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING 2

Original Contractor/Factory Built Housing Retailer/Real Estate Developer:

Company Name: Chris Jensen Landscaping

Address: 2425 W. Victorian Way

City: Riverton State: Utah Zip: 84065

Telephone: (801) 718-5001 Email: chrisjensenlandscaping1@gmail.com

**Original Contractor/Factory Built Housing Retailer/Real Estate Developer's Attorney
(if applicable):**

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____ Email: _____

Mechanics' Lien Holders: Attach a copy of all notice of liens filed on your property. List all companies or individuals who have filed a mechanics' lien on your residence.

Company or Individual Name: Mountain States Supply, LLC

Company or Individual Name: _____

Company or Individual Name: _____

Company or Individual Name: _____

Company or Individual Name: _____

***Note you are required to send a copy of this application and all attachments by certified mail, return receipt requested, to all lien claimants and the party with whom you contracted UTAH CODE ANN. § 38-1-11 (6) (e)**

State of Utah
DIVISION OF OCCUPATIONAL & PROFESSIONAL LICENSING

160 East 300 South, P.O. Box 146741
Salt Lake City, Utah 84114-6741
Telephone (801) 530-6628
www.dopl.utah.gov

Affidavit of Compliance

Name: Julie and Tom Hardman

Address of Property against which Lien was filed: 776 E. Kamber Cove

City: Draper State: Utah Zip: 84020

Telephone: (801) 947-7643 Email: hardman@austin-rapp.com

Is the address listed above the same as your mailing address? Yes No

If "no," please provide your complete mailing address: _____

Tax Parcel Number (*found on your annual property tax notice*): 28-32-353-021-0000

Checklist

- \$30 non-refundable application fee (*previously submitted*)
- Original Affidavit of Compliance
- Attach a list of all known subcontractors and suppliers
- A copy of this checklist

Submit the above items to one of the following:

By U.S. Mail	DOPL / LRF PO Box 146741 Salt Lake City, Utah 84114-6741
In Person or Express Mail	160 East 300 South 1st Floor Salt Lake City, Utah 84111

For Questions or Other Information

Direct: (801) 530-6628 • Toll-free: (866) 275-3675 (*Utah only*) • e-mail: lrf@utah.gov

Additional Requirement

- Send a copy of this application and all attachments by certified mail, return receipt requested, to all lien claimants and the party with whom you contracted

Written Contract:

Did you enter into a written contract? Check one

Yes. Attach a copy of the contract to this application

No. Explain: _____

Required documentation of licensure or exemption from licensure:

Check which section best describes your situation & attach the supporting documentation:

Contracted with a licensed contractor:

① Attach evidence your contractor was licensed The contract we entered into indicated that Chris Jensen is a licensed contractor (license #7898005-5501).

Contracted with an exempt contractor:

① Attach evidence your contractor was exempt from licensure

Contracted with a real estate developer:

- ① Attach evidence the developer had ownership interest in the property
- ② Attach evidence the developer offered the residence for sale to the public
- ③ Attach a copy of the contract between the developer and a licensed contractor

Contracted with a contractor real estate developer:

- ① Attach evidence the contractor developer had ownership interest in the property
- ② Attach evidence the contractor developer offered the residence for sale to the public
- ③ Attach evidence the contractor developer was a licensed contractor

Payment in Full:

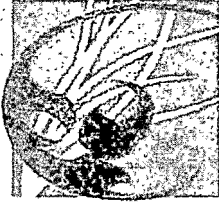
Did you pay your original contractor in full according to the terms of the written contract and any modifications to that contract?

Yes. Attach documents demonstrating payment See attached document titled "Explanation Regarding Payment."

No. Explain: _____

Exhibit D

Original Contract



CHRIS JENSEN LANDSCAPING

801-718-5001 www.CJLUTAH.com

LANDSCAPE-Hardscapes-Snow removal-Water features-

PROPOSAL with labor

Hardman

1 year warranty on everything and 2 years for sprinklers

Bid includes;

Cement-\$5125

- * Front walkway-gray, about 4' wide x 45=160sqft x \$5.00=\$900
- * Back patio-600sqft x \$5=\$3000
- * Garbage can area to the front driveway-35' x 7'=245sqft x \$5=\$1225
- * Road base, compaction, forms for set up and sealed with high gloss-Inc

Window well, Slide and deck steps-\$1680

- * Window well installed for the steps to make room-\$180
- * Steps moved to the east side of the existing deck-\$500
- * Slide not a tube with brackets-about \$1000

Landscaping-\$5600

- * Excavation of the yard to make flatter-\$350
- * Drain/French 4' x 4' with fabric and gravel in the back by the playground-\$500
- * Fabric in the new flowerbeds, 4.1 oz. 20 year-1500sqft x \$.50=\$750
- * Mulch, chocolate brown shredded bark- 20 yards x \$65-\$1300
- * Cement curbing 4" -About 400lnft x \$3.00=\$1200
- * Playground area 35' x 30'-140 linear ft. 6" x 6" cement curbing and fabric with it dug out for the swing area-\$1000-Option concrete price unknown.
- * Veggie garden area-just a drip on a separate valve-\$500

Sprinklers, drains, soil, grading and sod for the front-\$10095

- * Irrigation system rain bird, 5 valve of rotary and rotors nozzles on a 1" main x \$700=\$3500
- * Irrigation system for the Flower beds with drips-1 valve x \$1000
- * Drains off of the house/down spouts 100' x \$4.00=\$400
- * Topsoil screened mix rough grade and spread-2 loads x \$350=\$700
- * Sand mixed with the soil 2 load-\$300=\$600
- * Rough grade, Final grade and hand float rake for a smooth finish for the grass and flowerbed areas-7000 sq. ft. x \$.20-\$1400
- * Sod-from builder we install 2000sqft x \$.26=\$520
- * Sod that I buy and install-about 3500 x \$.55=\$1925
- * Rain, freeze sensor for the sprinklers-\$50

B2160-LED

- Low voltage lighting, LED with wire and transformer-\$3000
- * Path 2' tall with a hat-10 path bronze iron x \$150=\$1500
- * Accent up lights-10 x \$150=\$1500

.50 per foot = 200
for wire
12-2

-Plants front and back-\$2740

- * Shrubs-50-5 gallon x \$35-\$1750
- * Perennials and grasses-50-1 gallon-\$15-\$750

Tree root starter-\$4 x 60 packets of PHC-\$240

- Tree list; Total-14-\$4005
- + 1, 10' Karl's fuch cedar x \$50=\$500
- + 3, 8' cork bark firs x \$45'=\$1080
- 2, 1.5" Ornamental trees, Japanese maples, beech, serpentine ect-\$250=\$500
- 2, 6' weeping deciduous x \$150=\$300
- + 1, 10' Karl's fuch-\$500
- 5, 1.5" deciduous x \$185=\$925 Spring Snow Crab apple
- Delivery-\$150
- Tree root starter-\$4 x 10 packets of PHC-\$40

Misc-Fuel, repairs, tools shop supplies \$500

Proposed estimate for items above; \$32, 745

Address 776. E. Kamber Cove

-Deposit is required for this project of 50% at signing then 25% then the final upon completion

-Contractor's license # 7898005-5501

-Date given September 17, 2014

X 

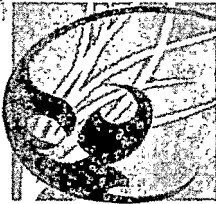
Check # 1374
Sept. 17, 2014

X Julie Hardman

Next week - concrete

Exhibit E

Revised Contract



CHRIS JENSEN LANDSCAPING

801-718-5001 www.CJLUTAH.com

LANDSCAPE-Hardscapes-Snow removal-Water features-

PROPOSAL with labor

Hardman-Revised up to date Remain

1 year warranty on everything and 2 years for sprinklers

Bid includes;

Cement-\$5125

- * Front walkway-gray, about 4' wide x 45=160sqft x \$5.00=\$900*
- * Back patio-600sqft x \$5=\$3000*
- * Garbage can area to the front driveway-35' x 7'=245sqft x \$5=\$1225*
- * Road base, compaction, forms for set up and sealed with high gloss-inc*

Window well, Slide and deck steps-\$1680

- * Window well installed for the steps to make room-\$180*
- * Steps moved to the east side of the existing deck-\$500*
- * Slide not a tube with brackets-about \$1000*

Landscaping-\$5600

- * Excavation of the yard to make flatter-\$350
- * Drain/French 4' x 4' with fabric and gravel in the back by the playground-\$500
- * Fabric in the new flowerbeds, 4.1 oz. 20 year-1500sqft x \$.50=\$750
- * Mulch, chocolate brown shredded bark- 20 yards x \$65-\$1300
- * Cement curbing 4" -About 400lnft x \$3.00=\$1200
- * Playground area 35' x 30'-140 linear ft. 6" x 6" cement curbing and fabric with it dug out for the swing area-\$1000-Option concrete price unknown.
- * Veggie garden area-just a drip on a separate valve-\$500

Sprinklers, drains, soil, grading and sod for the front-\$10095

- * Irrigation system rain bird, 5 valve of rotary and rotors nozzles on a 1" main x \$700=\$3500
- * Irrigation system for the Flower beds with drips-1 valve x \$1000
- * Drains off of the house/down spouts 100' x \$4.00=\$400
- * Topsoil screened mix rough grade and spread-2 loads x \$350=\$700
- * Sand mixed with the soil 2 load-\$300=\$600
- * Rough grade, Final grade and hand float rake for a smooth finish for the grass and flowerbed areas-7000 sq. ft. x \$.20-\$1400
- * Sod-from builder we install 2000sqft x \$.26=\$520
- * Sod that I buy and install-about 3500 x \$.55=\$1925
- * Rain, freeze sensor for the sprinklers-\$50

-Low voltage lighting, LED with wire and transformer-\$3000

- * Path 2' tall with a hat-10 path bronze iron x \$150=\$1500
- * Accent up lights-10 x \$150=\$1500

-Plants front and back-\$2740

- * Shrubs-50-5 gallon x \$35-\$1750
 - * Perennials and grasses-50-1 gallon-\$15-\$750
- Tree root starter-\$4 x 60 packets of PHC-\$240

-Tree list; Total-14-\$4005

1, 10' Karl's fuch cedar x \$50=\$500

3, 8' cork bark firs x \$45'=\$1080

2, 1.5" Ornamental trees, Japanese maples, beech, serpentine ect-\$250=\$500

2, 6' weeping deciduous x \$150=\$300

1, 10' Karl's fuch-\$500

5, 1.5' deciduous x \$185=\$925

Delivery-\$150

Tree root starter-\$4 x 10 packets of PHC-\$40

Misc-Fuel, repairs, tools shop supplies \$500

Proposed estimate for items above; \$32, 745

-Bid amount-\$32745

-Deposits-\$24750

#1 \$16, 500

#2 8250

-Total bid-\$32745

-Deposits-\$24750

Equals=\$7995

-Minus not doing-\$5155

-Extra items that Julie wanted that installed-\$3900

Equals-\$9055

-So as to date I owe you \$1415 so minus

-Plus you paid mountain states supply-\$915.41 so minus

Equals=\$6724.59

-Julies adds but still need to do-\$2150

Equals=\$8874.59

-Still need to install-\$10723

Equal=\$19597.59

-Minus the plants that you pay Todd directly-\$2810.16

-Minus items because there in the need to install list--\$9745

-Total money Remain-\$7042.43

Plants from glover-hourly

Deposit-\$5000 to get the mulch, fabric, lights, parts we will be done.

--Minus-Not doing--\$5155

- Playground area 35' x 30' -140 linear ft. 6" x 6" cement curbing and fabric with it dug out for the swing area-\$1000
- Window well installed for the steps to make room-\$180
- Steps moved to the east side of the existing deck-\$500
- Slide not a tube with brackets-about \$1000
- Sod that I buy and install-about 3500 x \$.55=\$1925
- Drain/French 4' x 4' with fabric and gravel in the back by the playground-\$500
- Rain, freeze sensor for the sprinklers-\$50

--Extra items that Julie wanted that installed-\$3900

- Concrete, front patio and the back-240sqft x \$5=\$1200
- Dig trenches for the 12-2, half of the trenches were open-\$400
- Stone steps-5 x 125=\$625
- Cross over pipe to the house-\$125
- Sod-we installed 5000sqft of sod x \$0.26=\$1300
- Added flower beds and changed some of the sprinkler heads-\$250

--Julies adds but still need to do-\$2150

- Cement sealed with "high gloss-Inc"
- Replace uneven cement section in back patio
- Place gravel in the tomato growing bed with fabric and hose spigot-About \$350
- Switch system installed-About \$800
- Missing sod (at least 400 sq ft is missing in the backyard)-about\$700
- Electric wires hooked up-about-\$300

- Need to install from the bid and changes=\$10723
- Path 2' tall with a hat-10 path bronze iron x \$150=\$1500
- Accent up lights-10 x \$150=\$1500
- Fabric in the new flowerbeds, 4.1 oz. 20 year-1500sqft x \$.50=\$750
- Mulch, chocolate brown shredded bark- 20 yards x \$65-\$1300
- Shrubs-52-5 gallon x \$35-\$1820
- No ninebark
- 1, 5 gallon elder berry-\$40
- 5, 5 gallon fine line-\$45=\$225
- Perennials and grasses-32-1 gallon-\$15-\$480
- Tree root starter-\$4 x 80 packets of PHC-\$320-1 per shrub, 1/2 for perennial
- 1, 6' hoopsii=\$360
- 3, 1.5" Swedish aspen-\$200=\$600
- 1, 6' juniper x \$200=\$300
- 1, 1.5" prairie fire x \$200=
- 1, tree form globe spruce-\$190
- 1, 1.75" tulip-\$300
- 2, 1.5" Armstrong-\$400
- 1, 1.5" columnar tulip-\$200
- Delivery-\$150
- Tree root starter-\$4 x 22 packets of PHC-\$88

- Minus items because there in the need to install list--\$9745
- Low voltage lighting, LED with wire and transformer-\$3000
- * Path 2' tall with a hat-10 path bronze iron x \$150=\$1500
- * Accent up lights-10 x \$150=\$1500
- Plants front and back-\$2740
- * Shrubs-50-5 gallon x \$35-\$1750
- * Perennials and grasses-50-1 gallon-\$15-\$750
- Tree root starter-\$4 x 60 packets of PHC-\$240
- Tree list; Total-14-\$4005
- 1, 10' Karl's fuch cedar x \$50=\$500
- 3, 8' cork bark firs x \$45=\$1080

2, 1.5" Ornamental trees, Japanese maples, beech, serpentine ect-\$250=\$500

2, 6' weeping deciduous x \$150=\$300

1, 10' Karl's fuch-\$500

5, 1.5" deciduous x \$185=\$925

Delivery-\$150

Tree root starter-\$4 x 10 packets of PHC-\$40

Exhibit F

August 4, 2015 email

Subject: Revised

From: Chris Jensen Landscaping 8017185001 (chrisjensenlandscaping1@gmail.com)

To: hardman_hjh@yahoo.com;

Date: Tuesday, August 4, 2015 6:10 PM

----- Forwarded message -----

From: "Chris Jensen" <chris@cjlutah.com>
Date: Aug 4, 2015 6:09 PM
Subject:
To: <chrisjensenlandscaping1@gmail.com>
Cc:

Attachments

- Hardman-Revised up to date Remain.doc (131.00KB)

Exhibit G

Acceptance

THOMAS M. HARDMAN

20-1418/740

1494

JULIE H. HARDMAN

776 E KAMBER COVE PH 801-947-7643
DRAPER, UT 84020

DATE Aug 5, 2015

DEFUSE OR LURE COMBINATION
FINE LINE HIGH SECURITY



PAY TO THE
ORDER OF

Chris Jensen

\$ 5000.⁶⁰/₁₀₀

Five thousand and ⁰⁰/₁₀₀

DOLLARS

Heat
Reactive
Ink

FIRST
INTERNET BANK

MEMO

3rd deposit - for bank, fabric, lights

Julie Hardman

MP

⑆074014187⑆ 114753204⑆ 01494

LOOK FOR FRAUD DETERRING FEATURES INCLUDING THE SECURITY SQUARE AND HEAT REACTIVE INK DETAILS ON BACK

Exhibit H

Text messages

Chris Jensen L...
8017185001

So we are fine with this.
Thanks, Julie
4:51 PM



Well none of this is in the contract anyways that's why I spelled it all out. Can I come now and get the 5000 so it will be clear for me for Friday? Then the remaining upon completion
4:55 PM

Yep, that is fine.
4:57 PM

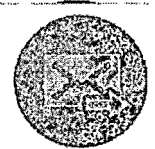


Thanks
4:59 PM

Thu, 08/06/2015



Enter message



Chris Jensen L...
8017185001



I just need to get that little deposit so then the funds will be available Friday. Can I come get that today?
4:21 PM



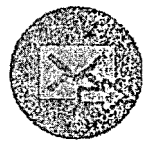
I was thinking I will install all the plants from Glover that you got for free because it has taking forever for us to get there
4:22 PM



Sorry, for the delay. I was talking to Tom because it wasn't written in the contract this way. It said, the final 25% amount (or remaining amount) would be due upon completion.



Enter message



Chris Jensen L...
8017185001

4:22 PM

Sorry, for the delay. I was talking to Tom because it wasn't written in the contract this way. It said, the final 25% amount (or remaining amount) would be due upon completion. We have said that we are fine paying for the material since we know your cash flow is tight. (That is why we paid Todd and Glover's directly.) The \$5000 covers the bark, fabric, and lights correct? So we are fine with this. Thanks, Julie



4:51 PM



Well none of this is in the



Enter message



Exhibit I

Canceled checks

THOMAS M. HARDMAN

28-1418/740

1374

JULIE H. HARDMAN

776 E. KAMBER COVE PH. 801-947-7643
DRAPER, UT 84020

DATE Sept. 17, 2014

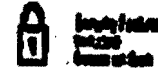
PAY TO THE
ORDER OF

Chris Jensen Landscaping

\$ \$16,500

Sixteen thousand five hundred and 1/100

DOLLARS



FIRST
INTERNET BANK

*w/c no
stops per
policy*

MEMO

Thomas Hardman

MP

⑆074014187⑆ 114753204⑆ 01374

PRINT

FEDERAL RESERVE BOARD OF GOVERNORS

00462870009300

462870009300 11-14-2015

>124301025<

Bank of American Fork
American Fork UT

DO NOT WRITE IN THESE SPACES

Chris Jensen
cashier

ENDORSE HERE

THOMAS M. HARDMAN

20-1418/740

1397

JULIE H. HARDMAN

776 E. KAMBER COVE PH. 801-947-7643

DRAPER, UT 84020

DATE November 13, 2014

PAY TO THE ORDER OF

Chris Jensen Landscaping

\$ 8,250.00

Eight thousand two hundred fifty and 1/100

DOLLARS



FIRST
INTERNET BANK

MEMO

Thomas Hardman

RP

⑆074014187⑆ 114753204⑆ 01397

FOR LOC

FEDERAL RESERVE BANK OF NEW YORK
 NEW YORK, NY 10045
 BRANCH OFFICE
 1101722

00462020007200

462020007200 09-18-2014

>124301025<

Bank of American Fork
American Fork UT

FOR DEPOSIT ONLY
 DEPOSIT ONLY
 DEPOSIT ONLY

1101722
 Ellis General Company
 Ellis General Company

Exhibit J

**Applicant's "Explanation
Regarding Payment"**

Explanation Regarding Payment

On September 17, 2014, we signed a contract with Chris Jensen Landscaping (CJL). A copy of the signed contract is attached.

On September 2, 2015, CJL emailed us a revised contract. A copy of the revised contract is also attached. Under the terms of the revised contract, the total contract amount is \$32,707.84¹. We arrived at this amount by adding the total deposits (\$24,750.00), the "total money remain[ing]" (\$7,042.43), and the amount that CJL mistakenly thought we had paid to Mountain States Supply (\$915.41), as shown below:

→ -Bid amount-\$32745
-Deposits-\$24750
#1 \$16,500
#2 8250

-Total bid-\$32745
-Deposits-\$24750
Equals=\$7995
-Minus not doing-\$5155
-Extra items that Julie wanted that installed-\$3900
Equals-\$9055
-So as to date I owe you \$1415 so minus

→ -Plus you paid mountain states supply-\$915.41 so minus
Equals=\$6724.59
-Julies adds but still need to do-\$2150
Equals=\$8874.59
-Still need to install-\$10723
Equal=\$19597.59
-Minus the plants that you pay Todd directly-\$2810.16
-Minus items because there in the need to install list--\$9745

→ -Total money Remain-\$7042.43
Plants from glover-hourly
Deposit-\$5000 to get the mulch, fabric, lights, parts we will be done.

This is taken from page 3 of the revised contract.

¹ We believe that CJL made a calculation error of \$2,315 in his favor in arriving at the value of \$7,042.43. So we believe that the actual contract price should be \$30,392.84 instead of \$32,707.84. However, for the sake of clarity, we will assume that CJL's calculations are correct. In other words, even assuming all disputed facts in CJL's favor, we have still paid the contract in full.

We have paid CJL a total of \$29,750.00. Copies of the cashed checks are attached.

CJL did not finish the project. On February 21, 2016, we officially terminated CJL.

The difference between the total contract price (\$32,707.84) and the total amount paid (\$29,750.00) is \$2,957.84.

The total value of the items in the revised contract that CJL never completed is *at least* \$3,000². These items are highlighted below (they are taken from page 5 of the revised contract).

not completed --Need to install from the bid and changes=\$10725
 -Path 2: tall with a hat-10 path bronze iron x \$150=\$1500
 -Accent up lights-10 x \$150=\$1500

The adjusted contract price (taking out the items that were not completed) is \$29,707.84. We have paid CJL \$29,750.00. Accordingly, we have paid CJL in full according to the terms of the contract.

² There are several other items that were *partially* completed by CJL. With those items, it is difficult to estimate the value of the work that has been completed. For the sake of clarity, we have only identified the items that were not completed *at all*.



Tracy Naff <tnaff@utah.gov>

RE: Request to Reactivate Application for Certificate of Compliance

Tracy Naff <tnaff@utah.gov>

Wed, Apr 20, 2016 at 1:24 PM

Draft To: Tom Hardman <hardman@austin-rapp.com>

On Tue, Apr 19, 2016 at 10:57 AM, Tom Hardman <hardman@austin-rapp.com> wrote:

Tracy,

No, there isn't a second revised version. It appears that the date of September 2, 2015 was a mistake. The "Explanation Regarding Payment" should have said that the email was received from Chris Jensen on August 4, 2015, not September 2, 2015.

I believe that I (Tom) got the date of September 2, 2015 from an email that Julie sent to me (see attached). She had added "9-2" to the filename to distinguish it from the original, and I mistakenly assumed that the email from Chris had been received on September 2nd.

I've also attached Chris's August 4th email. If you compare the two documents, you'll see that there are no differences between them.

We apologize for any confusion this caused.

Best regards,

—Julie and Tom

From: Tracy Naff [mailto:tnaff@utah.gov]

Sent: Tuesday, April 19, 2016 9:23 AM

To: Tom Hardman <hardman@austin-rapp.com>

Subject: Re: Request to Reactivate Application for Certificate of Compliance

quick question -

in your "explanation regarding payment" on page 2, you state the revised version was emailed

4/20/2016

State of Utah Mail - RE: Request to Reactivate Application for Certificate of Compliance

to you on September 2, 2015 however the most recent email you sent to me, contained an email from Chris with an attachment "hardman revised up to date remain.doc" but this email is dated August 4, 2015. is there a second revised version?

Application Report

Homeowner Application

Property ID: CONNUT001

April 20, 2016

Application Examined by: Dane/Tracy

Homeowner: Steve Nuttall

Original Contractor: Construction Pros LLC

License Number: 5933599

Type: Contractor

License Issue Date: 06/27/2005

License End Date: 11/30/2009

Homeowner's Attorney: Donald Dalton

Abstract and Recommendation

Division's Recommendation: Deny

The Applicant has failed to meet the requirements of 38-11-204 (a)(i) and 38-11-204 (4)(b), and has not responded to an "Expiration of Prolonged Status Conditional Denial" letter.

Factual Review and Analysis

On January 15, 2009 The Division received an application for Certificate of Compliance submitted by Steve Nuttall. (Exhibit A).

On March 12, 2009 an incomplete letter was sent outlining deficiencies in the application and allowing until April 13, 2009 to respond. (Exhibit B).

On April 6, 2009 and April 15, 2009 the Division received a response. (Exhibit C).

On April 21, 2009 a notice of Incomplete or Insufficient Application, Conditional Denial of Application letter was mailed to the homeowner allowing until May 21, 2009 to respond. (Exhibit D).

On May 20, 2009 Applicant's counsel requested prolonged status based on the pendency of a civil action between the parties. On May 27, 2009 prolonged status was granted (Exhibit E).

To clarify the time period allowed to homeowners to correct the application's deficiencies UTAH ADMIN. CODE § R156-38a-105b (b) and (d) provide "An application granted prolonged status shall be inactive for a period of one year or until reactivated by the applicant, whichever comes first." Furthermore, "Upon expiration of the one year prolonged status of an application, the division shall issue to the applicant an updated notice of incomplete application."

On June 14, 2010 Applicant was notified prolonged status had expired.

On July 12, 2010 prolonged status was granted based on the pendency of a civil action.

On July 14, 2011 Applicant was notified prolonged status had expired.

On August 16, 2011 prolonged status was granted based on the pendency of a civil action.

On September 4, 2012 Applicant was notified prolonged status had expired.

On October 11, 2012 prolonged status was granted based on the pendency of a civil action.

On November 26, 2013 Applicant was notified prolonged status had expired.

On December 30, 2013 prolonged status was granted based on the pendency of a civil action.

On December 31, 2014 Applicant was notified prolonged status had expired.

On February 10, 2015 prolonged status was granted based on the pendency of a civil action.

On March 15, 2016 Applicant was notified prolonged status had expired.

On February 10, 2015 the homeowner's request for prolonged status was granted.

On March 15, 2016, the Applicant, and Applicant's legal counsel were notified the application's period of prolonged status had expired (**Exhibit F**). The notice provided the Applicant until April 15, 2016 to respond. However, as of April 19, 2016 the Division has not received a response from the Applicant. Therefore, the Applicant has not corrected the deficiencies in the application within the time period specified on the notice. Wherefore, the Division recommends the application be denied.

Exhibit A

Application

Date: 01/15/2009
Receipt Number: 2727744
Amount Paid: \$30.00

APPLICATION FOR CERTIFICATE OF COMPLIANCE

INFORMATION AND DOCUMENTATION

CONNUT 001

Homeowner Applicant:

Name: STEVE NUTTALL

Address of Property against which Lien was Filed: 352 SOUTH 1400 EAST

City: PLEASANT GROVE State: UT Zip: 84062 -- *MAN*

Telephone: (801) 796-1793 Email: SVNUTTALL@MSN.COM

Is the address listed above the same as your mailing address? YES

If "no," please provide your complete mailing address: _____

Tax Parcel Number (*found on your annual property tax notice*): 52:018:0013

Legal Description or Lot Number: PART LOT 5, PLAT A, SEGO LILY HILL
SUBDIVISION, DESCRIBED AS FOLLOWS: COM N 0 DEG 15'50"E 1525.05 FT &
S 89 DEG 44'10" E 1999.87 FT FR W ¼ COR.SEC.27 T5S, R2E, SLB&M; S 89 DEG
34'0"E 164.63 FT; S 0 DEG 10'0"W 80 FT; S 89 DEG 34'0" W 190.1 FT; S 89 DEG
34'0" W 2.29 FT; N 18 DEG 42'0" E 87.32 FT TO BEG. AREA 0.333 AC.

Homeowner's Attorney:

Name: DONALD L. DALTON

Firm: DALTON & KELLEY, PLC

Address: POST OFFICE BOX 58084

City: SALT LAKE CITY State: UT Zip: 84062

Telephone: (801) 583-2510 Email: DALTONANDKELLEY@MSN.COM

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

JAN 15 2009

RECEIVED

Original Contractor:

Company Name: CONSTRUCTION PROS, L.L.C.

Address: 770 E. 800 N.

City: PLEASANT GROVE State: UT Zip: 84062

Contractor License Number: 5933599-5501

Telephone: (801) 367-6326

Original Contractor's Attorney:

Name: UNKNOWN

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____

Construction Project Type:

- Construction of a completely new residence
- Remodel
- Construction of garage, pool, concrete surface, or other structures not used for business purposes and permanently affixed to the property or lot
- Other – describe: _____

Residence Type:

Please mark the type of residence you own:

- Detached, single-family dwelling
- Duplex residence
- Other, describe: _____

Date your original contractor completed or will complete construction on your residence: UNKNOWN (NOT FINISHED).

Date you began or will begin occupying your residence: FEBRUARY, 2000.

Are you or your tenant or lessee occupying the residence as a primary or secondary residence?

YES No, explain: _____

Did you purchase the residence from a previous owner within 180 days from the date construction was completed? Check one.

NO Yes, explain: _____

Did you enter into a written contract with your original contractor?

YES. ORIGINAL CONTRACT (ATTACHED) WAS \$56,256.85, INCREASED TO \$80,000.00 BY MUTUAL AGREEMENT, WHICH IS EVIDENCED BY AFFIDAVIT OF RANDY J. HARRISON (ATTACHED). ORIGINAL CONTRACTOR ACKNOWLEDGED PAYMENT IN FULL BY SIGNED WRITING (ATTACHED).

No. Explain: _____

Was your contractor licensed?

YES, the contractor was **licensed**.

No, the contractor was **exempt from licensure**; attach documents demonstrating why the contractor was exempt. (*See detailed instructions.*)

No, the contractor was a **real estate developer**; attach documents demonstrating that all the elements of a real estate developer were met. (*See detailed instructions.*)

No, the contractor was a **factory built housing retailer**. (*See detailed instructions.*)

No, the contractor was not licensed.

No, I am a subsequent owner and never hired a contractor.

Did you pay your original contractor **in full** according to the terms of the written contract and any modifications to that contract?

YES (SEE ABOVE)

No. Explain: _____

Mechanics' Lien Holders: Submit a copy of all notice of liens filed on your property.

Please list all companies or individuals who have filed a mechanics' lien on your residence.

Company or Individual Name: PRECISION BUILDING & CONSTRUCTION, LLC

(attached); KENNETH P. CONDER dba "Construction Pros" (filed November 13, 2008, as Entry No. 121831; 2008).

Construction Pros LLC

770 East 800 North
PlesantGrove, UT 84062

Estimate

Date	Estimate #
11/2/2007	668

Name / Address
Steve Nuttal P.G Remodel

			Project
Description	Qty	Rate	Total
Misc. Concrete and Framing Demolition		4,500.00	4,500.00
Excavation for footing and foundation. And backfill		1,550.00	1,550.00
Footings and foundation w/ pump truck	40	57.00	2,280.00
Flatwork w/ pump truck	450	4.25	1,912.50
Rough framing includes labor and materials. also 2- doors and 8- window openings		12,900.00	12,900.00
ELECTRIC Rough / FINISH est. only		2,500.00	2,500.00
* Roofing labor and materials . 125.00 a square		1,425.00	1,425.00
Insulation in ext. walls		750.00	750.00
Hang and tape Drywall	2,124	1.25	2,655.00
stucco	975	3.50	3,412.50
framing in new decks and prep. for solid surface(Approx. 370 sq. ft.) Stairs seperate		4,784.00	4,784.00
Applying water proof decking surface W/ stamped look	470	15.00	7,050.00
aluminum soffit under deck	470	3.00	1,410.00
Int. Finish work To include Base and Door casing (Paint grade)		1,400.00	1,400.00
Soffit and fascia on addition	60	6.50	390.00
Builders overhead and profit	48,919	0.15	7,337.85
Estimate does not include the following-			
engineering /survey or permit cost or fees			
Power company needs to move overhead power and re-install			
<p>Can Lights #75⁰⁰ Each.</p> <p>Bellid Rod Iron 36' ft Installed.</p>			
Total			\$56,256.85

60,000 Budget House Stucco D Pot Belly
AWNING over Deck Railing

Jan 07 09 12:30p

Jan 02 2009 11:31AM Dalton & Kelley, PLC

(801) 583-2519

p. 1
p. 1

DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Steve Nuttall
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

IN THE FOURTH JUDICIAL DISTRICT COURT

UTAH COUNTY, STATE OF UTAH

**PRECISION BUILDING & CONSTRUCTION,
L.L.C., a Utah limited liability company,**

Plaintiff,

Vs.

**KENNETH P. CONDER, an individual doing
business as "Construction Pros," and STEVE
NUTTALL, an individual,**

Defendants.

**AFFIDAVIT OF RANDY J.
HARRISON**

Case No. 080403211

Honorable Darold McDade

STATE OF UTAH)
 :
 : ss.
COUNTY OF UTAH)

RANDY J. HARRISON, being first duly sworn, deposes and states as follows:

1. I am a licensed electrician in the State of Utah.
2. I was hired as a subcontractor on the remodeling job at 352 South 1400 East, Pleasant Grove UT.
3. I was engaged, directly by Defendant Kenneth P. Conder doing business as "Construction Pros."

Jan 07 09 12:30p

p.2

Jan 02 2009 11:31AM Dalton & Kelley, PLC

(801) 593-2519

p.2

- 4. I heard Mr. Conder tell the owner of the home, Defendant Nuttall, that the entire job (one side of the home) would only cost \$80,000.00.
- 5. I also heard Mr. Conder tell Mr. Nuttall that he would finish both sides of the home for \$120,000.00.
- 6. I have had trouble getting paid by Mr. Conder on the last three (3) jobs he had me do.

Randy J. Harrison

 RANDY J. HARRISON

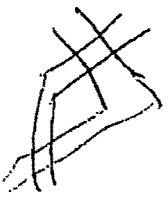
SUBSCRIBED AND SWORN TO, before me, this 6th day of January, 2009.

*State of - Utah
 County of - Utah*

Kathie A. Fowers

 Notary Signature and Certificate





MARKES \$80,000

8/12/08

3023

My Bank

My Bank

\$13,000

Account -

Put \$1,000 extra in SPJ R. Ndx

Put \$1,000



on 8/3/08

\$12,000 Cash

Game Key Center

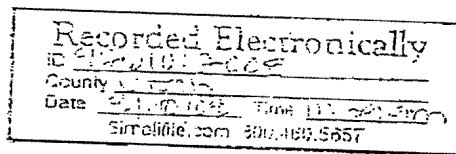
Dec 27 08 12:00p

P. 12

When Recorded Return To:

Brian R. Barnhill
OSBORNE & BARNHILL, P.C.
11576 S. State Street, Blég 204
Draper, Utah 84020

Parcel No. 52:018:0013



NOTICE OF MECHANIC'S LIEN

Notice is hereby given that Precision Building & Construction, LLC., (hereinafter referred to as "Claimant") of Springville Utah, hereby claims a lien pursuant to Section 38-1-1 et seq. Utah Code Annotated 1953, as amended, upon the property described hereinafter. Claimant's lien is based upon the following:

1. The Claimant provided labor, materials and/or equipment upon and in connection with the improvement of certain realty in Utah County, State of Utah, located at 352 S. 1400 E., Pleasant Grove, Utah being more particularly described as follows:

PART LOT 5, PLAT A, SEGO LILY HILL SUB DESCRIBED AS FOLLOWS: COM N 0 DEG 15'50"E 1525.05 FT & S 89 DEG 44'10"E 1999.87 FT FR W 1/4 COR. SEC. 27, T5S, R2E, SLB&M.; S 89 DEG 34'0"E 164.63 FT; S 0 DEG 10'0"W 80 FT; S 89 DEG 34'0"W 190.1 FT; S 89 DEG 34'0"W 2.29 FT; N 18 DEG 42'0"E 87.52 FT TO BEG. AREA 0.553 AC.

2. To the best of Claimant's knowledge, Steve Nuttall is the reputed or record owner of the property described above.

3. The labor, materials, and/or equipment for which demand and claim is made were provided to or at the request of Construction Pros, LLC., 770 E. 800 N., Pleasant Grove, UT 84062.

4. The Claimant furnished the first labor, materials and/or equipment on July 9, 2008 and furnished the last labor, materials and/or equipment on July 14, 2008. There remains due and owing to the Claimant for labor, materials and/or equipment provided during this time period the amount of \$2,925.00, plus attorneys fees, costs and interest, which principal amount could change, should additional credits or charges be discovered.

5. PROTECTION AGAINST LIENS AND CIVIL ACTION. Notice is hereby provided in accordance with §33-11-108 of the Utah Code that under Utah law an "owner" may be protected against liens being maintained against an "owner-occupied residence" and from other civil action being maintained to recover monies owed for "qualified services" performed or provided by suppliers and subcontractors as a part of this contract, if and only if the following conditions are satisfied: 1) the owner entered into a written contract with an original contractor, a factory built housing retailer, or a real estate developer; 2) the original contractor was properly licensed or exempt from licensure under Title 33, Chapter 10, Utah Construction Trades Licensing Act at the time the contract was executed; and 3) the owner

Dec 27 08 12:00p

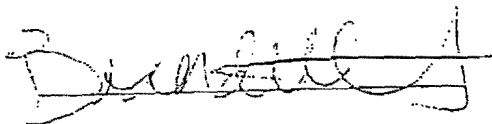
p. 13

CERTIFICATE OF MAILING

I hereby certify that on the 20 day of August, 2008, I caused a true and correct copy of the foregoing document to be served upon the following parties by placing the same in the United States mail to be sent certified mail, return receipt requested, postage prepaid, addressed as follows:

Construction Pros. LLC
Kenneth Conder
770 E. 800 N.
Pleasant Grove, UT 84062

Steve Nuttall
352 S. 1400 E.
Pleasant Grove, UT 84062

A handwritten signature in black ink, appearing to read "Steve Nuttall", is written over a horizontal line.

**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL
LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF STEVE
NUTTALL

AFFIDAVIT OF COMPLIANCE,
CERTIFICATION, AND RELEASE OF
INFORMATION

LOCATED AT 352 S. 1400 E., PLEASANT
GROVE UT 84062

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

I, STEVE NUTTALL, being first duly sworn state as follows:

1. I am authorized to sign this affidavit for the homeowner described and identified in this application.
2. To the best of my knowledge, the information contained in this application and the supporting documents is free from fraud, misrepresentation, or omission of material fact.
3. I will ensure that any information subsequently submitted to DOPL in conjunction with this application and/or its supporting documents will meet the same standard set forth above.
4. I understand that homeowners and/or their representatives who report false information, withhold information, or present false or misleading documentation pertinent to an application in order to receive a Certificate of Compliance from the Lien Recovery Fund to which they are not entitled will be disqualified from receiving said Certificate and may be subject to both criminal prosecution and civil penalties.
5. I understand that this application will be classified as a public record and will be available for inspection by the public except with regard to the release of information which is classified as controlled, private, or protected under the Government Records Access and Management Act or restricted by other law.

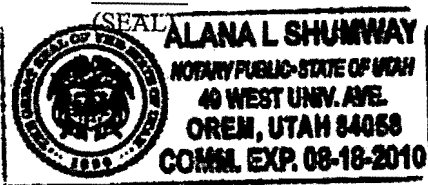
6. The homeowner is the owner of a detached single family residence duplex other type of residence located at: 352 S. 1400 E., PLEASANT GROVE UT 84062.
7. Construction on this residence was or will be completed on: UNKNOWN (NOT FINISHED).
8. The homeowner is will be is not will not be occupying this property as a primary or secondary residence.
9. The homeowner began or will begin occupying this property as a primary or secondary residence on: FEBRUARY, 2000.
10. The homeowner is is not renting or leasing this property as a primary or secondary residence to: N/A.
11. The homeowner's tenant or lessee began or will begin occupying this property on: N/A.
12. I hereby authorize all persons, institutions, governmental agencies, employers, or any others not specifically included in the preceding characterization, which are set forth directly or by reference in this application, to release to the Division of Occupational and Professional Licensing, State of Utah or the Residence Lien Recovery Fund Advisory Board, any files, records or information of any type reasonably required for the Division of Occupational and Professional Licensing or the Board to properly evaluate my application.

Signature of Affiant (sign here)

1, 13, 09
Date

Subscribed and sworn to before me this 13 day of January, 2009

Signature of Notary Public



DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Applicant
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

**BEFORE THE DIVISION OF
OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE, STATE OF UTAH**

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE ON
THE RESIDENCE OF STEVE NUTTALL,

LOCATED AT 352 S. 1400 E., PLEASANT
GROVE UT 84062

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of January, 2009, I served a copy of the Homeowner's "Application for Certificate of Compliance," for the above-referenced residence, along with this Certificate of Service, on the following by depositing a copy in the U.S. certified mail, return receipt requested, postage pre-paid, addressed to:

Kenneth P. Conder dba "Construction Pros"
C/o Construction Pros, L.L.C.
770 East 800 North
Pleasant Grove UT 84062

Certified mail receipt no.: 7005 3110 0004 5986 2359

Precision Building & Construction, LLC
220 N. Main Street
Springville UT 84663

Certificate mail receipt no.: 7005 3110 0004 5987 2662

DATED this 15th day of January, 2009.

DALTON & KELLEY, PLC

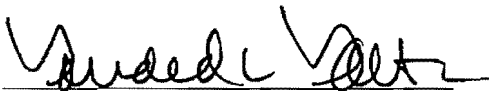
By 
Donald L. Dalton
Attorneys for Applicant

Exhibit B

March 12, 2009 incomplete letter



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

JON M. HUNTSMAN, JR.
Governor

FRANCINE A. GIANI
Executive Director

F. DAVID STANLEY
Division Director

March 12, 2009

STEVE NUTTALL
352 S 1400 E
PLEASANT GROVE UT 84062-3243

**Subject: Application for Certificate of Compliance
Notice of Incomplete or Insufficient Application
Conditional Denial of Application
Lien Recovery Fund Property ID: CONNUT001
Homeowner: Steve Nuttall
Original Contractor: Construction Pros LLC**

RESPONSE DUE DATE: April 13, 2009

Dear Homeowner:

We have reviewed your application for a Certificate of Compliance. Based upon that review, we find the application documents are incomplete and do not demonstrate that you meet all the requirements for issuance of a Certificate. Therefore, we are writing to inform you of the additional information we need.

Payment in Full— You can show that you paid your contractor in full by submitting one or more of the following:

- (1) An affidavit of full payment from the original contractor, factory built housing retailer, or real estate developer. The affidavit must be from the original contractor, factory built housing retailer, or real estate developer and must affirm that you paid the contract in full.
[Utah Admin. Code § R156-38a-204a(3)(a)]
- (2) Other documentation showing you paid your original contractor, factory built housing retailer, or real estate developer in full. [Utah Admin. Code § R156-38a-204a(3)(b)]DOPL has commonly accepted the following:

- (a) Canceled checks totaling the face amount of the contract and all change orders.
- (b) Complete, meaning both columns are filled in, HUD-1 Settlement Statements showing the final contract price and settlement of funds with the title company. The statement must be signed by the buyer, the seller, and the title agent.
- (c) Any other documents that positively identify the final contract amount

Written Contract – Missing: To qualify for protection from mechanics' liens, a homeowner must enter into a written contract with the original contractor. For the purpose of administering the Residence Lien Recovery Fund, Utah Admin. Code R156-38a-102 (11) offers the following as a definition of a written contract:

"Written contract", as used in Subsection 38-11-204(4)(a)(i), means one or more documents for the same construction project which collectively contain all of the following:

- (a) an offer or agreement conveyed for qualified services that will be performed in the future;
- (b) an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and
- (c) identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

and the total amount you paid.

Response Procedure: Please submit the required documentation and a copy of this letter to my attention at:

DOPL - LRF
PO BOX 146741
SALT LAKE CITY UT 84114-6741

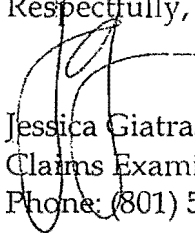
Documents may also be hand-delivered to the Division of Occupational and Professional Licensing on the 1st floor of the Heber M. Wells Building – 160 East 300 South, Salt Lake City, Utah. Office hours are from 7:00 a.m. to 6:00 p.m. Monday through Thursday.

Application Will Be Denied Unless Completed: We are required advise you that your application is incomplete and will be denied unless we *receive* the information needed to complete it on or before the Response Due Date shown above.

Property ID: CONNUT001
March 12, 2009
Page 3

Additional Requests for Information: Please be aware providing the documents requested above does not guarantee the application will be completed. If the requested documents are incomplete or create additional questions, you may be contacted for further information.

Respectfully,



Jessica Giatras
Claims Examiner
Phone: (801) 530-6104

Exhibit C

Homeowner Counsel Responses

DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Applicant
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

RECEIVED

APR 06 2009

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

IN THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

STATE OF UTAH, DEPARTMENT OF COMMERCE

STEVE NUTTALL,

Homeowner,

Vs.

CONSTRUCTION PROS, L.L.C.,

Contractor.

**RESPONSE TO NOTICE OF
INCOMPLETE OR
INSUFFICIENT APPLICATION,
CONDITIONAL DENIAL OF
APPLICATION**

The homeowner, Steve Nuttall, by and through his attorneys, respectfully responds to the Division's Notice of Incomplete or Insufficient Application, Conditional Denial of Application (March 12, 2009):

I. **Payment in Full**

To support his Application, the homeowner furnished a one (1) page document, signed by the contractor's representative (Kenneth P. Conder), stating that it had received the sum of \$80,000.00 from the homeowner (Exhibit A hereto). To show that \$80,000.00 was the contract price, the homeowner furnished the Affidavit of Randy J. Harrison (Exhibit B hereto), one of the subcontractors on the job. Reference is to his sworn

statement in ¶4: “I heard Mr. Conder tell the owner of the home, Defendant Nuttall, that the entire job (one side of the home) would only cost \$80,000.00.” In his Application, the homeowner affied that the contractor had been paid in full, and Exhibits A and B were his evidence. The homeowner believes that Exhibits A and B constitute “other documents that positively identify the final contract amount,” as stated in the Section 1 of the Notice of Incomplete or Insufficient Application, and are sufficient to make out the requirement of payment in full of the contract price.

However, to make his case even stronger, the homeowner has furnished a one (1) page document (Exhibit C hereto) showing payments to the contractor totaling \$90,574.06, which is more than the contract amount and explains the conflict between the homeowner and contractor. This conflict is the subject of the homeowner’s Cross-Claim against the contractor (Exhibit D hereto) in the State court case: *Precision Building & Construction, L.L.C. v. Conder, et al.*, Case No. 080403211, Fourth Judicial District Court, Utah County, State of Utah. As shown by the attached Proof of Service (Exhibit E hereto), the contractor was personally served on February 11, 2009, but failed to answer within the time required (20 days), and a certificate of Default has been submitted. Under Utah law,¹ the contractor has admitted the allegation in ¶4 of the Cross-Claim: “Nuttall paid in full all amounts required by the contract, including those alleged to be due (a) Plaintiff in this action, (b) any and all of the other subcontractors on the project

¹ Utah R. Civ. Proc. 8(d).

and (c) [the contractor] himself.” The foregoing should more than satisfy the requirement of payment in full of the contract price.


II. Written Contract

The homeowner attached to his Application a one (1) page document, titled: “Estimate.” (Exhibit F hereto) This was for the original sum of \$56,256.85, raised to \$60,000.00 per the handwritten inscription on the bottom. As appears above (Exhibits A and B hereto), the contract price was subsequently raised to \$80,000.00. However, Exhibit F satisfies two of the requirements of Utah Admin. Code R156-38a-102 (11), namely: One, an offer or agreement conveyed for qualified services that will be performed in the future; and two, identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified that will be performed. The rest of the requirements are satisfied by Exhibits A and C hereto, namely: One, an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and two, the total amount paid by the homeowner.

It is obvious that the parties conducted themselves with a high degree of informality in this case, but all of the requirements of Utah law for protection of the homeowner have been established. For the foregoing additional reasons, the homeowner’s Application for Certificate of Compliance should be ACCEPTED.

DATED this 1st day of April, 2009.

DALTON & KELLEY, PLC

By 
Donald L. Dalton
Attorneys for Applicant

DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Applicant
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

IN THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
STATE OF UTAH, DEPARTMENT OF COMMERCE

<p>STEVE NUTTALL, Homeowner, Vs. CONSTRUCTION PROS, L.L.C., Contractor.</p>	<p>SUPPLEMENTAL RESPONSE TO NOTICE OF INCOMPLETE OR INSUFFICIENT APPLICATION, CONDITIONAL DENIAL OF APPLICATION</p>
---	--

The homeowner, Steve Nuttall, by and through his attorneys, respectfully submits the following Supplemental Response to Notice of Incomplete or Insufficient Application, Conditional Denial of Application:

In his previous response, the homeowner stated that the contractor had been served with a Cross-Claim in the civil action between the parties, *Precision Building & Construction, L.L.C. v. Conder, et al.*, Case No. 080403211, Fourth Judicial District Court, Utah County, State of Utah (Exhibit D thereto). The homeowner also stated that the contractor had failed to respond within the time required (twenty (20) days) and that his default had been requested (Exhibit E thereto).

RECEIVED

APR 15 2009

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

As luck would have it, the contractor's default was entered the same day as the homeowner's previous response (April 1, 2009). Attached hereto as Exhibit A, is the online docket of the above case. The Claims Examiner can see that the homeowner's Default Certificate, filed on March 12, 2009, was entered by the Court on April 1, 2009. Therefore, the provisions of Utah R. Civ. Proc. 8(d) are final, and the contractor has admitted all the salient allegations of the homeowner's application in this matter.

It is only a matter of time before Default Judgment is entered against the contractor. Therefore, there is no basis on which to deny the homeowner's application in this matter. For the foregoing additional reasons, the homeowner's Application for Certificate of Compliance should be ACCEPTED.

DATED this 14th day of April, 2009.

DALTON & KELLEY, PLC

By 
Donald L. Dalton
Attorneys for Applicant

EXHIBIT A

4TH DISTRICT COURT - PROVO
 UTAH COUNTY, STATE OF UTAH

PRECISION BUILDING & CONSTRUCT vs. KENNETH P CONDER

CASE NUMBER 080403211 Lien/Mortgage Fcls

CURRENT ASSIGNED JUDGE

FRED D HOWARD
 Division 5

PARTIES

Plaintiff - PRECISION BUILDING & CONSTRUCT
 Represented by: BRIAN R BARNHILL

Respondent - KENNETH P CONDER

Doing Business As - CONSTRUCTION PROS

Defendant - STEVE NUTTALL
 Represented by: DONALD L DALTON

ACCOUNT SUMMARY

TOTAL REVENUE	Amount Due:	305.00
	Amount Paid:	305.00
	Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: COMPLAINT 2K-10K		
	Amount Due:	95.00
	Amount Paid:	95.00
	Amount Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: COUNTER 10K-MORE		
	Amount Due:	105.00
	Amount Paid:	105.00
	Amount Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: CROSSCLAIM 10K-MORE		
	Amount Due:	105.00
	Amount Paid:	105.00
	Amount Credit:	0.00
	Balance:	0.00

CASE NOTE

Printed: 04/14/09 11:32:09

Page 1

CASE NUMBER 080403211 Lien/Mortgage Fcls

PROCEEDINGS

09-25-08 Filed: Complaint

09-25-08 Filed: Complaint

10-03-08 Judge DAROLD MCDADE assigned.

10-03-08 Fee Account created Total Due: 95.00

10-03-08 COMPLAINT 2K-10K Payment Received: 95.00

Note: Code Description: COMPLAINT 2K-10K, Mail Payment;

10-09-08 Filed return: Summons

Party Served: Steve Nuttall

Service Type: Personal

Service Date: October 01, 2008

10-09-08 Filed return: Summons

Party Served: CONDER, KENNETH P

Service Type: Personal

Service Date: September 30, 2008

10-30-08 Filed: Affidavit of Attorneys Fees and Costs

10-30-08 Filed: Military Service Affidavit (Steve Nuttall)

10-30-08 Filed: Military Service Affidavit (Kenneth P. Conder)

11-04-08 Filed order: Military Service Order

Judge DAROLD MCDADE

Signed November 04, 2008

11-04-08 Notice - NOTICE for Case 080403211 ID 11698946

We are unable to enter the default judgment/certificate in this case for the following reasons:

Court not correctly identified Rule 4(c) U.R.C.P.

Notes: The address of the Court listed in each Summons is incorrect (listed as 8080 South Redwood Road, West Jordan, Utah 84088)

Date: _____

District Court Clerk

11-24-08 Filed return: Summons

Party Served: CONDER, KENNETH P

Service Type: Personal

Service Date: November 17, 2008

12-22-08 Filed return: Summons (Steve Nuttall)

Party Served: NUTTALL, STEVE

Service Type: Personal

Service Date: December 16, 2008

01-07-09 Filed: Answer to Complaint Counterclaim and Crossclaim (came

Printed: 04/14/09 11:32:09

Page 2

CASE NUMBER 080403211 Lien/Mortgage Fcls

without fee/being held at mail desk for fee)
STEVE NUTTALL

01-08-09 Note: Left message on machine for Don Dalton at 801-583-2510
that filing fee for counter and crossclaim is \$210.

01-09-09 Filed: Answer to Counterclaim
PRECISION BUILDING & CONSTRUCT

01-09-09 Filed: Military Service Affidavit

01-09-09 Filed: Affidavit of Attorneys Fees and Costs

01-12-09 Filed: Counter 10K-MORE

01-12-09 Filed: Crossclaim 10K-MORE

01-12-09 Fee Account created Total Due: 105.00

01-12-09 Fee Account created Total Due: 105.00

01-12-09 COUNTER 10K-MORE Payment Received: 105.00

Note: Code Description: COUNTER 10K-MORE, CROSSCLAIM
10K-MORE

01-12-09 CROSSCLAIM 10K-MORE Payment Received: 105.00

01-20-09 Filed: Affidavit of Randy J. Harrison

02-19-09 Notice - NOTICE for Case 080403211 ID 11931266

We are unable to enter the default judgment/certificate in this
case for the following reasons:

Notes: An answer and counterclaim were filed by the defendants.

Date: _____

District Court Clerk

02-23-09 Filed return: Summons

Party Served: CONDER, KENNETH P

Service Type: Personal

Service Date: February 11, 2009

03-12-09 Filed: Default Certificate (Kenneth P Conder dba Construction
Pros, LLC)

03-27-09 Filed: Declaration of Donald L. Dalton

03-30-09 Filed: Attorney Planning Conference Report and Stipulation

04-01-09 Filed: Default (Kenneth P Conder on Counter-claim and
Cross-Claim)

04-01-09 Minute Entry - RECUSAL

Judge: DAROLD MCDADE

The Court, on its own motion, does hereby recuse itself from this
case. This motion is made on the grounds that Judge Darold J.
McDade recuses from this case because he knows the defendant(s)
listed in this case. It is hereby ordered that this case is
reassigned to Division 5, Judge Fred D. Howard and all further

CASE NUMBER 080403211 Lien/Mortgage Fcls

pleadings filed should this change. The documents pending before the court have been forwarded to Judge Howard.

Judge DAROLD MCDADE

04-01-09 Judge FRED D HOWARD assigned.

04-06-09 Filed: Certificate of Service (Defendant's Initial Disclosures)

Exhibit D

April 21, 2009 Incomplete Letter



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

JON M. HUNTSMAN, JR.
Governor

FRANCINE A. GIANI
Executive Director

F. DAVID STANLEY
Division Director

April 21, 2009

STEVE NUTTALL
352 S 1400 E
PLEASANT GROVE UT 84062-3243

**Subject: Application for Certificate of Compliance
Notice of Incomplete or Insufficient Application
Conditional Denial of Application
Lien Recovery Fund Property ID: CONNUT001
Homeowner: Steve Nuttall
Original Contractor: Construction Pros LLC**

RESPONSE DUE DATE: May 21, 2009

Dear Homeowner:

We have reviewed your application for a Certificate of Compliance. Based upon that review, we find the application documents are incomplete and do not demonstrate that you meet all the requirements for issuance of a Certificate. Therefore, we are writing to inform you of the additional information we need.

Written Contract—Missing: To qualify for protection from mechanics' liens, a homeowner must enter into a written contract with the original contractor. For the purpose of administering the Residence Lien Recovery Fund, Utah Admin. Code R156-38a-102 (11) offers the following as a definition of a written contract:

"Written contract", as used in Subsection 38-11-204(4)(a)(i), means one or more documents for the same construction project which collectively contain all of the following:

- (a) an offer or agreement conveyed for qualified services that will be performed in the future;
- (b) an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and
- (c) identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

Exhibit E

Request for Prolonged Status

DALTON & KELLEY

A PROFESSIONAL LAW CORPORATION

Post Office Box 58084

Salt Lake City, Utah 84158

DONALD L. DALTON
ATTORNEY AT LAWTelephone (801) 583-2510
Facsimile (801) 583-2519
Email daltonandkelley@msn.com**UTAH**
SALT LAKE CITY**CALIFORNIA**
LOS ANGELES

May 20, 2009

BY FAX (801) 530-6511Dane Ishihara
Lien Recovery Fund Manager
DOPL – LRF
P.O. Box 146741
Salt Lake City UT 84114-6741Re: Application for Certificate of Compliance
Notice of Incomplete or Insufficient Application
Conditional Denial of Application
Lien Recovery Fund Property ID: CONNUT001
Homeowner: Steve Nuttall
Original Contractor: Construction Pros LLC

Dear Mr. Ishihara:

This will confirm our telephone conversation today, and my client's request for "prolonged status" of the above case. As I understand it, this is based on the pendency of the civil action between the parties: *Precision Building & Construction, LLC v. Conder, et al.*, Case No. 080403211, Fourth Judicial District Court, Utah County, State of Utah. And this is despite the fact that the civil action may not resolve all of the issues concerning my client's application. As I explained today, my client's decision to make this request is based partly on the bankruptcy of the original contractor, Kenneth Paul Conder dba "Construction Pros LLC."¹

As I understand it, the prolonged status may be unilaterally revoked at any time and relieves my client of his obligation to provide further response to

¹ Case No. 09-24305, United States Bankruptcy Court, District of Utah.

Dane Ishihara
May 20, 2009
Page two

the above Notice of Incomplete or Insufficient Application/Conditional Denial of Application (May 21, 2009). If I am wrong about this, please let me know because there is additional information my client can provide, which would satisfy the first stated concern: "Written Contract – Missing." You should also please let me know if you have any questions about the matter. Otherwise, thank you for your attention to this matter.

Very truly yours,

A handwritten signature in black ink, appearing to be 'D. Dalton', with a horizontal line extending to the right.

Donald L. Dalton

Exhibit F

**March 15, 2016 prolonged expired
letter**



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

FRANCINE A. GIANI
Executive Director

MARK B. STEINAGEL
Division Director

March 15, 2016

STEVE NUTTALL
352 S 1400 E
PLEASANT GROVE UT 84062

**Subject: Application for Certificate of Compliance
Expiration of Prolonged Status
Updated Notice of Incomplete or Insufficient Application
Updated Conditional Denial of Application
Opportunity to Request Renewal of Prolonged Status
Property ID: CONNUT001
Homeowner: Steve Nutall
Original Contractor: Construction Pros LLC**

RESPONSE DUE DATE: April 15, 2016

Dear Claimant:

On February 10, 2015 the Division placed your application for a Certificate of Compliance on prolonged status. Our rules provide an application may remain on prolonged status for one year. Therefore, your application's period of prolonged status has expired.

Updated Conditional Denial of Claim: Upon expiration of the one-year prolonged status of an application, we are required to issue you an updated notice as to why your application is incomplete. As of today, the following issues must be resolved to complete the application:

Please see your conditional denial letter dated April 29, 2009. If you need a copy, I will be happy to provide that to you.

Response Procedure: Please submit the required documentation and a copy of this letter to my attention at:

DOPL - LRF
PO BOX 146741
SALT LAKE CITY UT 84114-6741

Documents may also be hand-delivered to the Division of Occupational and Professional Licensing on the 1st floor of the Heber M. Wells Building—160 East 300 South, Salt Lake City, Utah. Office hours are from 8:00 a.m. to 5:00 p.m. Monday through Friday.

Presumption a Response is Complete: We will again review your application upon receiving your written response. Please note, we treat any response received as the your complete and final response. Therefore, once we receive your response the application will be reviewed and a decision rendered.

To avoid confusion, you are advised to submit a single, complete response; DO NOT submit your response in a piece meal manner.

Application Will Be Denied Unless Completed: We are required to advise you that your application is incomplete and will be denied unless we *receive* the information needed to complete it on or before the Response Due Date shown above.

Additional Requests for Information: Please be aware that providing the documents requested above does not guarantee the application will be completed. If the requested documents are incomplete or create additional questions, you may be contacted for further information.

Questions, Assistance, and Extensions: If you have any questions, need assistance, or wish to request an extension of time to respond, please call. Please note, our rules limit applicants to a single 30-day extension of time to respond to this notice. If you anticipate you will be unable to complete the application within 30 days from the Response Deadline given above, we recommend you request the application be prolonged. However, you should consider that an application may only be prolonged once unless certain narrowly defined criteria are met.

Respectfully,


Tracy Naff
Fund Manager
801-530-6104
tnaff@utah.gov

Property ID: «Property_ID»
March 15, 2016
Page 3

On March, 15, 2016 Mailed to:

DONALD DALTON
ATTNY AT LAW
PO BOX 58084
SALT LAKE CITY UT 84158

**Declaration of Intent
Regarding Prolonged Application for Certificate of Compliance**

Read all instructions before completing this form

Part A. Statement of Intent. Check the appropriate box

Regarding the application for a Certificate of Compliance on the property identified as «Property_ID» on Division records, «HO_First_Names» «HO_Last_Name»

- Requests the application be reactivated and processed.
- Withdraws the application.
- Requests the application be granted another one-year prolonged status for the reason given in Part B.

Part B. Reason for Renewing Prolonged Status. Check the appropriate box and attach documentation as explained in the instructions.

- Ongoing litigation
- Ongoing bankruptcy
- Other

I certify that I have reviewed the information provided on this form and that the answers marked represent the desires of «HO_First_Names» «HO_Last_Name» with respect to property «Property_ID».

Signature of applicationant or applicationant's agent

Date

Printed name of signator

Title of signator

**Instructions for Declaration of Intent
Regarding Prolonged Application for Certificate of Compliance**

1. **Part A.** Check the box indicating how you want the application processed at this point. Your choices are:
 - a. **Reactivate the Application.** Selecting this option notifies the Division you want the application processed based upon the current application documents—supplemented by whatever documentation you attach with this form. If you select this option you must submit all documentation necessary to complete the application.
 - b. **Withdraw the Application.** If you select this option your application will be dismissed by the Division and the matter will closed without a Certificate being issued.
 - c. **Request Renewal of Prolonged Status.** Selecting this option notifies the Division you are requesting the application be granted another one-year prolonged status. If you select this option you must complete Part B and provide the documentation requested therein.
2. **Part B.** If you are requesting renewal of prolonged status you must select one of the following reasons and provide the required documentation:
 - a. **Ongoing Litigation.** Utah Admin. Code § R156-38-105a(9) provides an application will be prolonged during the pendency of an appeal—judicial or administrative—if the outcome of the appeal directly affects adjudication of the application. If you select this option you must attach a written explanation of why the appeal directly relates to adjudication of the application and a copy of the court docket or similar administrative calendar showing the current status of the appeal.
 - b. **Ongoing Bankruptcy.** Bankruptcy by any application party that precludes completion of the application is adequate grounds for renewal of prolonged status. If you select this option you must attach a written explanation of why the bankruptcy is preventing completion of the application and a copy of the bankruptcy court docket.
 - c. **Other Reasons.** Other reasons may exist for renewing prolonged status. Utah Admin. Code § R156-38-105b(3)(c)(iv) provides that the presiding officer over the application may granted renewed prolonged status for other reasonable causes. If you wish to have the application prolonged for some reason other than a or b above select this option and provide a written explanation of the reason. The explanation must include a statement as to why it would be unreasonable for the Division to reactivate the application considering the applicant has had a full year to complete the application. The explanation must also include all supporting documents necessary to validate the applicant's reason for requesting prolonged status be renewed.
3. **We must *receive* this form on or before the Response Due Date given in the attached Notice or the application will be processed based on the existing file.**

Application Report
Property ID: KODDAV001
Application Examined by: Tracy

Homeowner Application
April 25, 2016

Homeowner: Darron & Jana Davis
Original Contractor: Kodiak America LLC
License Number: 5612378
License Issue Date: 03/31/2004
Original Contractor's Attorney: N/A

Type: Contractor
License End Date: 11/30/2017

Abstract and Recommendation

Division's Recommendation: Approve

The Division finds the applicants have satisfied the Certificate of Compliance requirements and recommends the application be approved. However, payment in full requires explanation.

Factual Review and Analysis

On March 9, 2016 the Division received an application for Certificate of Compliance from Darron & Jana Davis (**Exhibit A**).

The applicants entered into a cost plus contract with Kodiak America LLC (**Exhibit B**). Page six of the contract provides an estimated price of \$1,591,731.00 with a Contractor's fee "which shall be ten (8%) [Sic] of the total cost of work..."

PAYMENT IN FULL:

UTAH CODE ANN. § 38-11-204 (4) (b): To qualify for protection from mechanics' liens "...the owner has paid in full the original contractor...with whom the owner has a written contract in accordance with the contract and any amendments to the contract"

As Payment in Full evidence, the homeowner has provided a "Waiver of Lien and Release of Claims" document signed by Steve Luczak, President of Kodiak America LLC, dated August 19, 2015 (**Exhibit C**). This document states that "...all labor and material used by the undersigned in the construction of said improvements have been fully paid for.."

A follow up phone conversation between LRF manager, Tracy Naff and Steve Luczack confirmed the document. Mr Luczack stated to the LRF manager that he has been paid in full for all labor, materials and fees associated with this homeowner contract.

Based on the evidence submitted, the Division finds the applicants have satisfied the requirements of payment in full. Therefore, the Division recommends the application be approved.

Exhibit A

Homeowner Application

Date: 03/09/2016
Receipt Number: 6359080
Amount Paid: \$30.00

APPLICATION FOR CERTIFICATE OF COMPLIANCE

Applicant:

Name: Darren & Jana Davis (Husband & wife)

Address of Property against which Lien was filed: 1962 Bella Vista Drive

City: Farmington State: UT Zip: 84025

Telephone: (801) 462-1303 Email: Darren@archwayakus.com
Jodavis35@gmail.com

Is the address listed above the same as your mailing address? Yes No

If "no," please provide your complete mailing address: _____

Tax Parcel Number (found on your annual property tax notice): 08-234-0105

Legal Description or Lot Number (found on the Notice of Lien): _____

All of Lot 33, Sheperd Heights, Cont. 1.81 Acres
Parcel No. 08-234-0105

Applicant's Attorney or Other Representative (if applicable):

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: () _____ Email: _____

RECEIVED
MAR 09 2016

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

Original Contractor/Factory Built Housing Retailer/Real Estate Developer:

Company Name: Kodiak America LLC

Address: 2185 East 3380 South

City: Salt Lake City State: UT Zip: 84109

Telephone: (801) 971-4066 Email: _____

**Original Contractor/Factory Built Housing Retailer/Real Estate Developer's Attorney
(if applicable):**

Name: _____

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) Email: _____

Mechanics' Lien Holders: Attach a copy of all notice of liens filed on your property. List all companies or individuals who have filed a mechanics' lien on your residence.

Company or Individual Name: The Bishop Group, Inc. dba Bishop Woodcraft

Company or Individual Name: Tri City Nursery, LLC.

Company or Individual Name: John Deere Landscapes

Company or Individual Name: Bar-tile Roofs, Inc. dba Pro Tech Roofing

Company or Individual Name: Lawn Butler, LLC.

: Lemco Flooring Designs, Inc.

*Note you are required to send a copy of this application and all attachments by certified mail, return receipt requested, to all lien claimants and the party with whom you contracted UTAH

CODE ANN. § 38-1-11 (6) (e)

Written Contract:

Did you enter into a written contract? Check one

Yes. Attach a copy of the contract to this application

No. Explain: _____

Required documentation of licensure or exemption from licensure:

Check which section best describes your situation & attach the supporting documentation:

Contracted with a licensed contractor:

① Attach evidence your contractor was licensed

Contracted with an exempt contractor:

① Attach evidence your contractor was exempt from licensure

Contracted with a real estate developer:

① Attach evidence the developer had ownership interest in the property

② Attach evidence the developer offered the residence for sale to the public

③ Attach a copy of the contract between the developer and a licensed contractor

Contracted with a contractor real estate developer:

① Attach evidence the contractor developer had ownership interest in the property

② Attach evidence the contractor developer offered the residence for sale to the public

③ Attach evidence the contractor developer was a licensed contractor

Payment in Full:

Did you pay your original contractor in full according to the terms of the written contract and any modifications to that contract?

Yes. Attach documents demonstrating payment

No. Explain: _____

BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF

Darren Davis & Jana Davis
(Homeowners' Name)

AFFIDAVIT OF COMPLIANCE,
CERTIFICATION, AND RELEASE OF
INFORMATION

LOCATED AT

(Address, City, and State of the property)
1962 Bella Vista Drive
Farmington, UT 84025

STATE OF UTAH)

COUNTY OF Salt Lake :ss.

I, Darren Davis, being first duly sworn state as follows:
(Name of person completing application)

1. I am authorized to sign this affidavit for the homeowner described and identified in this application.
2. The information contained in this application and the supporting documents are free from fraud, misrepresentation, or omission of material fact.
3. I will ensure that any information subsequently submitted to DOPL in conjunction with this application and/or its supporting documents will meet the same standard set forth above.
4. I understand that homeowners and/or their representatives who report false information, withhold information, or present false or misleading documentation pertinent to an application in order to receive a Certificate of Compliance from the Lien Recovery Fund to which they are not entitled will be disqualified from receiving said Certificate and may be subject to both criminal prosecution and civil penalties.
5. I understand that this application will be classified as a public record and will be available for inspection by the public except with regard to the release of information which is classified as controlled, private, or protected under the Government Records Access and Management Act or restricted by other law.

6. Type of Residence: *(check the appropriate box)*
- Detached single family dwelling
 - Duplex (single building with two separate living units)
 - More than two living units in building
7. Date construction of the project was complete: *(check one box & fill in date)*
- Certificate of Occupancy Date 7/7/2015
 - Final Inspection Date / /
 - No substantial work left to complete Date / /
 - Original contractor was terminated Date / /
8. Date the residence was/will be occupied: *(check one box & fill in date)*
- Do not intend to occupy
 - Have occupied the residence since Date 7/7/2015
 - Will occupy the residence on Date / /
9. How the residence is/will be used: *(check the appropriate box)*
- Owner's primary residence
 - Owner's secondary residence
 - Tenant or Lessee's primary residence
 - Tenant or Lessee's secondary residence
 - Other (explain) _____

I hereby authorize all persons, institutions, governmental agencies, employers, or any others not specifically included in the preceding characterization, which are set forth directly or by reference in this application, to release to the Division of Occupational and Professional Licensing, State of Utah or the Residence Lien Recovery Fund Advisory Board, any files, records or information of any type reasonably required for the Division of Occupational and Professional Licensing or the Board to properly evaluate my application.

[Signature]
 Signature of Affiant *(sign here)*

2/24/16
 Date

Subscribed and sworn to before me this 24 day of February, 2016

[Signature]
 Signature of Notary Public

(SEAL)



Exhibit B

Contract

KODIAK AMERICA LLC.
2185 E 3380 S
Salt Lake City, Utah 84109
Telephone: (801) 466-0645 Office
Fax (801) 466-0632
Mobile: (801) 971-4066

CONSTRUCTION CONTRACT
Cost Plus Fee

This Construction Contract - Cost Plus Fee ("Contract") is made by and between **Darren and Jana Davis** ("Owners"), whose address for notices is **1649 Harvey Rd Farmington Utah** and Kodiak America LLC. ("Contractor"), whose address is **2185 E. 3380 S. Salt Lake City UT 84109**. The Architect is **Randall Lewis RML Design** ("Architect"). Contractor shall construct for Owner a project consisting of New Home The project is located at **1962 Bella Vista Drive Farmington, UT Lot 33 Shepard Heights**

1. **Scope of the Work:** Contractor, pursuant to the billing method set forth herein, shall furnish all labor, equipment, tools, materials, contract administration, transportation, communication, scaffolding, hoisting, supervision, coordination, building permits, sales taxes, shop drawings, and samples to complete in a Workmanlike manner the following Work ("Work"):

a. See attached "General Specifications for Estimate"

The Categories of "General Specifications Work Estimate" is attached solely for the purpose of describing the category of work taken from the architectural plans dated **12/12/2013**. The pricing on the Categories of General Specifications for Estimate

shall have no bearing on the cost of the Work. Owner has full and complete discretion as to approval of all costs before the Work commences and is deemed to have approved all expenditures and obligations incurred by Contractor through the date of the execution of this Contract.

2. **Investigation by Contractor:** Contractor has preliminary investigated the jobsite and all contract documents, as well as the building codes, laws and regulations that apply to the Work.

3. **Contract Documents:** The following documents, construed together and in a complementary manner with each other and with this document, form this Contract:

Any work called for in the drawings and not mentioned in the specifications, or vice versa, shall be performed as though set forth in both. If Contractor finds an error, omission, or conflict in the contract documents, Contractor shall promptly notify the Architect or Engineer as the case may demand, orally or in writing. Architect or Engineer shall promptly resolve conflicts, errors, and omissions by issuing written instructions, which Contractor will thereafter follow.

4. **Relationship of Trust:** This Contract is based on a relationship of trust and confidence between Contractor and Owner. Contractor shall use its skills and experience to promptly provide a complete, operational project at the cost that is consistent with trade practice and the quality standards established by the contract documents.

5. **Contractor's License:** Contractor is properly licensed to perform the Work called for by the contract documents and shall remain so during performance of the Work.

6. **Estimated Time for Completion:** Contractor shall begin Work within ten (10) days after execution of this Contract, and, subject to excusable delays, estimates that it will achieve substantial completion in Two Hundred Seventy five (275) calendar days once Foundation is in Place. Contractor shall pursue the Work diligently to completion subject to weather delays, availability of goods and materials and changes in the Scope of the Work.

7. **Cost Estimate Specification Schedule:** Within seven (7) days after execution of this Contract, Contractor shall submit a "General Specifications for Estimate" for Owner's review and approval. Contractor shall revise that Schedule from time to time to reflect changes of the job conditions and costs, as well as, updates to the "Scope of the Work." Such revisions are subject to Owner's approval, which approval shall not be unreasonably withheld.

8. **Time is of the Essence:** Time is of the essence of this Contract and failure to comply with this provision in a timely manner, including payment provision set forth herein, shall be deemed a material breach of this Contract. Unless otherwise expressly stated, all references in this Contract to days mean calendar days.

9. **Cost of the Work:** Owner shall pay Contractor for the Cost of the Work, which is defined as all costs reasonably and properly incurred in performing the Work, including but not limited to, wages billed at \$20 Laborer , \$27.50 Technician and \$35.00 Supervisor per hour. Employer contributions applicable to Contractor's payroll, payroll taxes, contributions for unemployment; social security, automobile insurance, and all benefits, and similar payments and assessments, and salaries of clerical, supervisory and other personnel at the jobsite or in the field or at Contractor's principal or other places of business (excluding worker's compensation insurance, disability and liability insurance,) including materials, supplies, and equipment incorporated or consumed in the Work, costs of materials in excess of that actually installed for reasonable waste and spoilage (unused or excess materials, if any, shall become the Owner's property at the completion of the Work or at the option of the Owner, either before or at the completion of the Work, as the Owner directs, disposed of by the Contractor) the cost of subcontracts, temporary facilities, hand and power tools consumed in the Work, reasonable equipment rental charges whether the equipment is owned by or rented by Contractor, power, utility, and telephone charges, permit fees, sales and use taxes incurred about the Work, clean-up costs, outside bookkeeping services expenses, outside payroll service expenses, professional fees of consultants, engineers, designers, attorneys or schedulers employed by Contractor to facilitate or expedite the Work, costs, including transportation and storage, installation, maintenance, dismantling and or removal of materials, supplies, temporary facilities, machinery, equipment, costs of removal of debris from the site, costs of document reproductions, facsimile transmissions and long-distance and mobile telephone charges, postage and parcel delivery charges, telephone service at the site, costs of off-site storage of materials or

equipment, sales, use or similar taxes imposed by governmental authority that are related to the Work, fees and assessments for building permits and other permits, licenses and inspections which the Contractor is required to pay, fees for laboratory tests, data processing costs related to the Work, deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility to the Owner, legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between Owner and Contractor, reasonably incurred by the Contractor in the performance of the Work and with the Owner's prior written approval, which approval shall not be unreasonably withheld, expenses incurred for relocation and temporary living allowances for personnel required for the Work, if approved in advance by the Owner, other costs incurred in the performance of Work, costs due to emergencies incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property, costs to repair or correct damage resultant from nonconforming Work executed by the Contractor, subcontractors or suppliers, provided that such damage for nonconforming Work was not caused by negligence or failure to fulfill a specific responsibility of the Contractor, and only to the extent that the cost to repair or correct is not recoverable by the Contractor from insurance, sureties, subcontractors or suppliers; and all other costs properly and reasonably incurred in the performance of the Work. At the conclusion of the construction of the Project, Contractor shall leave the Project in a broom-swept condition. All cleaning expenses in addition to broom sweeping (i.e. cleaning of doors, windows and mirrors), shall be done by a professional, bonded cleaning service at the expense of Owner.

10. **Contractor's Fee:** Owner shall pay a Contractor's fee, which shall be Ten percent (8%) of the total Cost of Work. Estimated Price \$1,591,731.00

11. **Bookkeeping Services:** Contractor is authorized to engage an outside bookkeeping service on the Project, in the event that Contractor engages an outside bookkeeping service on the Project, the expenses associated therewith shall be paid by the Owner.

12. **Change Orders:** Contractor's compensation for change orders will be its percentage fee as defined in this Contract based on the Cost of the Work as defined in this Contract.

RETAINER FEE DEPOSIT:

13. **Request for Payment:** Periodically, Contractor shall present to Owner either verbally or in writing, an Invoice, showing, the Cost of the Work for the preceding period. The Invoice shall itemize the various divisions of the Work and shall include Contractor's estimated percentage of completion of each division of the Work. The Application for Payment shall include a computation of Contractor's fee. Owner shall review the Application for Payment and shall remit payment in the amount stated within three (3) days of Owner's receipt of the Invoice from Contractor.

15. **Audit:** Owner may, during reasonable business hours, review and audit Contractor's cost accounting records, books, accounts, audits, inspections, test reports, and any other materials maintained by Contractor on the Work. Contractor shall supply Owner with reasonable facilities for such audits. Owner agrees to pay all clerical

expenses incurred by Contractor associated with any such audit. Owner also agrees to pay clerical staff of contractor who assist in compiling, gathering, coping and/or providing records, files or documents associated with any such audit shall be paid by Owner at the rate of \$65/hour. Contractor shall preserve all job records for at least three (3) years after completion of the project.

16. **Indemnity**: Contractor and subcontractors will indemnify and hold Owner harmless from all claims, liability, loss, and expense, including attorney fees, asserted or incurred as a result of the fault, negligence, or wrongdoing of Contractor, its agents, employees, subcontractors, or persons acting under them. Contractor and subcontractors shall provide indemnity if Owner is partly at fault but shall not indemnify claims, liability, loss, or expense caused wholly by Owner or by Owner's sole negligence. Any attorney employed by Contractor or by a subcontractor to defend Owner under such indemnity agreement shall have no conflict of interest with Owner and shall be subject to Owner's approval, such approval not to be unreasonably withheld.

17. **Attorney Fees**: If litigation occurs between the parties to this Contract, the court will award reasonable attorney fees and costs to the prevailing party.

18. **Default**: If Contractor unreasonably fails to keep the job on schedule; installs substandard Work, materials, or appliances; proceeds in an unsafe manner; allows a claim, lien, or stop notice to be recorded or filed without causing the same to be released as provided by this Contract; fails to meet the insurance requirements of this

Contract; or otherwise fails to perform under this Contract, Owner may give Contractor Ten (10) days' written notice of default and, if Contractor fails to cure the default within Seven (7) days, may terminate Contractor's performance and eject Contractor from the project.

Each subcontract executed by Contractor for part of the Work is assigned by Contractor to Owner on termination of this Contract for cause by Owner and is subject to the prior right of any surety supplying performance of payment bonds on the Work. Assignment of any subcontract, however, is conditioned on Owner's written notification to the subcontractor within ten (10) days after termination of this Contract that Owner accepts assignment of the subcontract.

If Owner fails to make the jobsite available to Contractor or fails, without excuse, to make a payment to Contractor when it is due, Contractor may give seven (7) days' written notice to Owner to cure the default, and if Owner fails to do so, Contractor may stop work.

19. **Delay:** Contractor shall be excused for delay caused by inclement weather, labor disputes, acts of public agencies, acts of Owner or Architect, or other events beyond Contractor's reasonable expectation and control.

20. **Unanticipated Concealed Conditions:** If Contractor encounters adverse concealed conditions that could not reasonably have been anticipated, the cost of dealing with such conditions will become a Cost of the Work.

21. **Contractor's and Subcontractor's Insurance:** Contractor and its subcontractors of every tier shall provide Owner with the following insurance and with Certificates of Insurance and Endorsements issued by insurance companies authorized to do business in Utah:

(a) **Liability Insurance:** Commercial general liability insurance, in broad form, including coverage for completed operations, liability assumed by contract, underground hazard, collapse hazard, and explosion. The policy limits shall be at least One Million Dollars (\$1,000,000) for each occurrence and in the aggregate for bodily injury and One Million Dollars (\$1,000,000) for each occurrence and in the aggregate for property damage. The Certificates of Insurance shall designate Owner as an additional insured and shall state that the insurance is primary and noncontributory. The Certificate shall provide that the policy may not be canceled or modified without thirty (30) days' prior written notice to Owner. Each policy shall be endorsed to designate Owner as an additional insured and to provide that the insurance afforded to Owner is primary and noncontributory. The certificates and endorsements shall be delivered to Owner before Contractor or any subcontractor begins Work on the project.

(b) **Automobile Liability:** Automobile liability in comprehensive form, including insurance for owned, non-owned, and hired automobiles, trucks, and other licensed motor vehicles used by Contractor in connection with the Work. The policy limits will be at least One Hundred Thousand Dollars (\$100,000) per person and Three Hundred Thousand Dollars (\$300,000) per occurrence for bodily injury and Fifty

Thousand Dollars (\$50,000) for property damage. The Certificate of Insurance shall provide that the insurance may not be canceled or modified without thirty (30) days' prior written notice to Owner.

(c) **Workers' Compensation Insurance:** Expenses for workers' compensation insurance are part of the Costs for Work as defined herein and are as such the obligation of Owner. Workers' Compensation Insurance shall be in statutory form. The Certificates of Insurance shall provide that the insurance may not be canceled without thirty (30) days' prior written notice to Owner.

22. **Owner's Insurance:** Promptly after execution of this Contract, Owner, at his own cost and expense, shall obtain and maintain during the term of this Contract, a policy of fire insurance issued by an insurance company authorized to do business in the State of Utah, an "all risk" form policy of fire insurance, including but not limited to, course of construction, vandalism and maliciousness clauses attached, which shall insure the project, and all materials and tools at the site of the project for their full insurable value with loss thereunder payable to the owner of said materials and/or tools. If substantial damage occurs to the project by fire, flood, earthquake, or such other risk, whether insured or not, Contractor shall be excused from further performance under this Contract, and shall be paid the pro rata value of the Work performed within thirty-five (35) days after recording a Notice of Cessation of Work. As used in this paragraph, "repair" includes both repairs to the Work done by Contractor and repairs to other portions of the jobsite that are necessary to enable Contractor to complete the project. If the damage is substantial, Owner shall process its claims with its insurance carrier

and Owner and Contractor shall negotiate in good faith for a change order. If for any **reason funds are not available to pay for rebuilding, then Contractor shall not be obliged** to continue the Work.

23. **Cleanup:** Contractor shall keep the job in a neat and clean condition at all times and shall leave the project in a broom-clean condition.

24. **Successors and Assigns:** This Contract, or the proceeds of this Contract, shall not be assigned by either party without the other party's written consent. This Contract is binding on the parent, any subsidiary, and successor companies to Owner and Contractor, and on the surviving corporation in the event of a merger or acquisition.

25. **Subcontracts:** Subcontractors shall be subject to Owner's approval, which Owner shall not unreasonably withhold. No subcontract will be awarded on a "cost-plus" basis unless Owner has approved, in writing, all terms and conditions of the subcontract. The subcontract to be used by Contractor is subject to Owner's reasonable approval. Form of the Subcontracts shall incorporate the terms of this Contract.

26. **No Other Agreement:** This Contract, with all contract documents incorporated into it, is the entire agreement between the parties. No oral or written communications or negotiations that occurred before execution of this Contract are considered to be a part of this Contract. This Contract can be modified only by a written document signed by both parties, or by a Change Order issued by Owner.

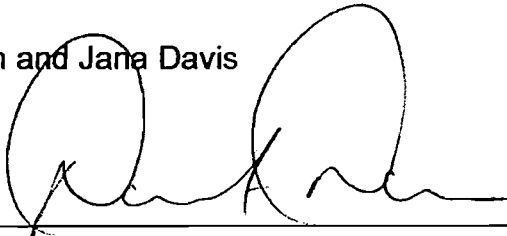
considered to be a part of this Contract. This Contract can be modified only by a written document signed by both parties, or by a Change Order issued by Owner.

27. **Contractor's License Notice:** Contractors are required by law to be licensed and regulated by the Contractors' State License Board, which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four (4) years after the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within ten (10) years after the alleged violation. Any questions about a contractor may be referred to the Registrar, Contractors' State License Board, Post Office Box 146741 Salt Lake City, Utah 84114-6741

OWNERS: Darren and Jana Davis

Dated: _____

1/16/17



CONTRACTOR:

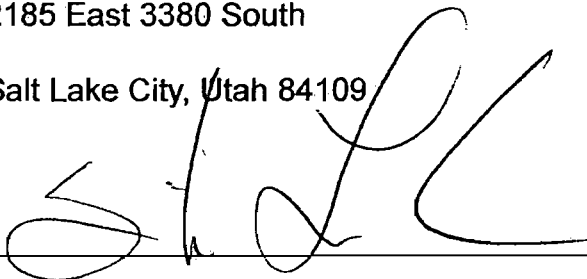
Kodiak America LLC.

2185 East 3380 South

Salt Lake City, Utah 84109

Dated: 1/8/2014

By: _____



KeyBank Mortgage
562 S. Main
Bountiful, UT 84010
Fax: 216-370-9457
bj_gardner@keybank.com

BJ

"Please note that we will not be able to honor any rate requests left on voicemail or email. Please make sure you speak directly with me to lock an interest rate. Rates are subject to change without notice and should not be considered as locked until confirmed".

"The only constant is change..." (someone famous) "Embrace it!" (BJ)

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 **Builder Package - KeyBank.pdf**
92K

Exhibit C

**“Waiver of Lien and Release of
Claims”**

Kodiak America L.L.C.

2185 E. 3380 S. S.L.C., UT 84109

Phone: 801-971-4066

Waiver of Lien and Release of Claims

Project Title: K2121

Project No: Davis Residence

Interim: _____

Final: 1,989,583⁷²

County of: Davis

State of: Utah

Know all men by these presents: That the undersigned

General Contractor
(Subcontractor/Supplier)

Builder
(Describe work and/or materials)

Do hereby waive and release any and all liens or claims or right to lien on the building and premises as described above: on account of labor performed and/or materials furnished before the construction of any improvements thereon; and swear that all labor and material used by the undersigned in the construction of said improvements have been fully paid for and discharged, to the extent represented.

For the consideration of the payment on our agreement in the amount tabulated below.

Total Amount Paid To Date: 1,989,583⁷² Date: Aug 19th 2015

Kodiak America
(Company Name)

Steve Luczak
(Signed By, Print or Type)

President
(Title)

[Signature]
(Signature)

Application Report

Property ID: CONNUT001

Application Examined by: Dane/Tracy

Homeowner Application

April 20, 2016

Homeowner: Steve Nuttall

Original Contractor: Construction Pros LLC

License Number: 5933599

License Issue Date: 06/27/2005

Type: Contractor

License End Date: 11/30/2009

Homeowner's Attorney: Donald Dalton

Abstract and Recommendation

Division's Recommendation: Deny

The Applicant has failed to meet the requirements of 38-11-204 (a)(i) and 38-11-204 (4)(b), and has not responded to an "Expiration of Prolonged Status Conditional Denial" letter.

Factual Review and Analysis

On January 15, 2009 The Division received an application for Certificate of Compliance submitted by Steve Nuttall. **(Exhibit A).**

On March 12, 2009 an incomplete letter was sent outlining deficiencies in the application and allowing until April 13, 2009 to respond. **(Exhibit B).**

On April 6, 2009 and April 15, 2009 the Division received a response. **(Exhibit C).**

On April 21, 2009 a notice of Incomplete or Insufficient Application, Conditional Denial of Application letter was mailed to the homeowner allowing until May 21, 2009 to respond. **(Exhibit D).**

On May 20, 2009 Applicant's counsel requested prolonged status based on the pendency of a civil action between the parties. On May 27, 2009 prolonged status was granted **(Exhibit E).**

To clarify the time period allowed to homeowners to correct the application's deficiencies UTAH ADMIN. CODE § R156-38a-105b (b) and (d) provide "An application granted prolonged status shall be inactive for a period of one year or until reactivated by the applicant, whichever comes first." Furthermore, "Upon expiration of the one year prolonged status of an application, the division shall issue to the applicant an updated notice of incomplete application."

On June 14, 2010 Applicant was notified prolonged status had expired.

On July 12, 2010 prolonged status was granted based on the pendency of a civil action.

On July 14, 2011 Applicant was notified prolonged status had expired.

On August 16, 2011 prolonged status was granted based on the pendency of a civil action.

On September 4, 2012 Applicant was notified prolonged status had expired.

On October 11, 2012 prolonged status was granted based on the pendency of a civil action.

On November 26, 2013 Applicant was notified prolonged status had expired.

On December 30, 2013 prolonged status was granted based on the pendency of a civil action.

On December 31, 2014 Applicant was notified prolonged status had expired.

On February 10, 2015 prolonged status was granted based on the pendency of a civil action.

On March 15, 2016 Applicant was notified prolonged status had expired.

On February 10, 2015 the homeowner's request for prolonged status was granted.

On March 15, 2016, the Applicant, and Applicant's legal counsel were notified the application's period of prolonged status had expired (**Exhibit F**). The notice provided the Applicant until April 15, 2016 to respond. However, as of April 19, 2016 the Division has not received a response from the Applicant. Therefore, the Applicant has not corrected the deficiencies in the application within the time period specified on the notice. Wherefore, the Division recommends the application be denied.

Exhibit A

Application

Date: 01/15/2009
Receipt Number: 2727744
Amount Paid: \$30.00

APPLICATION FOR CERTIFICATE OF COMPLIANCE

INFORMATION AND DOCUMENTATION

CONNUT 001

Homeowner Applicant:

Name: STEVE NUTTALL

Address of Property against which Lien was Filed: 352 SOUTH 1400 EAST

City: PLEASANT GROVE State: UT Zip: 84062 -- *MAN*

Telephone: (801) 796-1793 Email: SVNUTTALL@MSN.COM

Is the address listed above the same as your mailing address? YES

If "no," please provide your complete mailing address: _____

Tax Parcel Number (*found on your annual property tax notice*): 52:018:0013

Legal Description or Lot Number: PART LOT 5, PLAT A, SEGO LILY HILL
SUBDIVISION, DESCRIBED AS FOLLOWS: COM N 0 DEG 15'50"E 1525.05 FT &
S 89 DEG 44'10" E 1999.87 FT FR W ¼ COR.SEC.27 T5S, R2E, SLB&M; S 89 DEG
34'0"E 164.63 FT; S 0 DEG 10'0"W 80 FT; S 89 DEG 34'0" W 190.1 FT; S 89 DEG
34'0" W 2.29 FT; N 18 DEG 42'0" E 87.32 FT TO BEG. AREA 0.333 AC.

Homeowner's Attorney:

Name: DONALD L. DALTON

Firm: DALTON & KELLEY, PLC

Address: POST OFFICE BOX 58084

City: SALT LAKE CITY State: UT Zip: 84062

Telephone: (801) 583-2510 Email: DALTONANDKELLEY@MSN.COM

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

JAN 15 2009

RECEIVED

Original Contractor:

Company Name: CONSTRUCTION PROS, L.L.C.

Address: 770 E. 800 N.

City: PLEASANT GROVE State: UT Zip: 84062

Contractor License Number: 5933599-5501

Telephone: (801) 367-6326

Original Contractor's Attorney:

Name: UNKNOWN

Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: (_____) _____

Construction Project Type:

- Construction of a completely new residence
- Remodel
- Construction of garage, pool, concrete surface, or other structures not used for business purposes and permanently affixed to the property or lot
- Other – describe: _____

Residence Type:

Please mark the type of residence you own:

- Detached, single-family dwelling
- Duplex residence
- Other, describe: _____

Date your original contractor completed or will complete construction on your residence: UNKNOWN (NOT FINISHED).

Date you began or will begin occupying your residence: FEBRUARY, 2000.

Are you or your tenant or lessee occupying the residence as a primary or secondary residence?

YES No, explain: _____

Did you purchase the residence from a previous owner within 180 days from the date construction was completed? Check one.

NO Yes, explain: _____

Did you enter into a written contract with your original contractor?

YES. ORIGINAL CONTRACT (ATTACHED) WAS \$56,256.85, INCREASED TO \$80,000.00 BY MUTUAL AGREEMENT, WHICH IS EVIDENCED BY AFFIDAVIT OF RANDY J. HARRISON (ATTACHED). ORIGINAL CONTRACTOR ACKNOWLEDGED PAYMENT IN FULL BY SIGNED WRITING (ATTACHED).

No. Explain: _____

Was your contractor licensed?

YES, the contractor was **licensed**.

No, the contractor was **exempt from licensure**; attach documents demonstrating why the contractor was exempt. (*See detailed instructions.*)

No, the contractor was a **real estate developer**; attach documents demonstrating that all the elements of a real estate developer were met. (*See detailed instructions.*)

No, the contractor was a **factory built housing retailer**. (*See detailed instructions.*)

No, the contractor was not licensed.

No, I am a subsequent owner and never hired a contractor.

Did you pay your original contractor **in full** according to the terms of the written contract and any modifications to that contract?

YES (SEE ABOVE)

No. Explain: _____

Mechanics' Lien Holders: Submit a copy of all notice of liens filed on your property.

Please list all companies or individuals who have filed a mechanics' lien on your residence.

Company or Individual Name: PRECISION BUILDING & CONSTRUCTION, LLC

(attached); KENNETH P. CONDER dba "Construction Pros" (filed November 13, 2008, as Entry No. 121831; 2008).

Construction Pros LLC

770 East 800 North
 PleasantGrove, UT 84062

Estimate

Date	Estimate #
11/2/2007	668

Name / Address
Steve Nuttal P.G Remodel

			Project
Description	Qty	Rate	Total
Misc. Concrete and Framing Demolition		4,500.00	4,500.00
Excavation for footing and foundation. And backfill		1,550.00	1,550.00
Footings and foundation w/ pump truck	40	57.00	2,280.00
Flatwork w/ pump truck	450	4.25	1,912.50
Rough framing includes labor and materials. also 2- doors and 8- window openings		12,900.00	12,900.00
ELECTRIC Rough / FINISH est. only		2,500.00	2,500.00
* Roofing labor and materials . 125.00 a square		1,425.00	1,425.00
Insulation in ext. walls		750.00	750.00
Hang and tape Drywall	2,124	1.25	2,655.00
stucco	975	3.50	3,412.50
framing in new decks and prep. for solid surface(Approx. 370 sq. ft.) Stairs separate		4,784.00	4,784.00
Applying water proof decking surface W/ stamped look	470	15.00	7,050.00
aluminum soffit under deck	470	3.00	1,410.00
Int. Finish work To include Base and Door casing (Paint grade)		1,400.00	1,400.00
Soffit and fascia on addition	60	6.50	390.00
Builders overhead and profit	48,919	0.15	7,337.85
Estimate does not include the following- engineering /survey or permit cost or fees Power company needs to move overhead power and re-install Can Lights #75 ⁰⁰ each. Bellrid Red Iron 36' ft Installed.			
Total			\$56,256.85

60,000 Budget House Stucco
 AWNING over Deck Pot Belly
 Railing

Jan 07 09 12:30p

Jan 02 2009 11:31AM Dalton & Kelley, PLC

(801) 583-2519

p. 1
p. 1

DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Steve Nuttall
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

IN THE FOURTH JUDICIAL DISTRICT COURT

UTAH COUNTY, STATE OF UTAH

PRECISION BUILDING & CONSTRUCTION,
L.L.C., a Utah limited liability company,

Plaintiff,

Vs.

KENNETH P. CONDER, an individual doing
business as "Construction Pros," and STEVE
NUTTALL, an individual,

Defendants.

**AFFIDAVIT OF RANDY J.
HARRISON**

Case No. 080403211

Honorable Darold McDade

STATE OF UTAH)
 : ss.
COUNTY OF UTAH)

RANDY J. HARRISON, being first duly sworn, deposes and states as follows:

1. I am a licensed electrician in the State of Utah.
2. I was hired as a subcontractor on the remodeling job at 352 South 1400 East, Pleasant Grove UT.
3. I was engaged, directly by Defendant Kenneth P. Conder doing business as "Construction Pros."

Jan 07 09 12:30p

p. 2

Jan 02 2009 11:31AM Dalton & Kelley, PLC

(801) 583-2519

p. 2

- 4. I heard Mr. Conder tell the owner of the home, Defendant Nuttall, that the entire job (one side of the home) would only cost \$80,000.00.
- 5. I also heard Mr. Conder tell Mr. Nuttall that he would finish both sides of the home for \$120,000.00.
- 6. I have had trouble getting paid by Mr. Conder on the last three (3) jobs he had me do.

Randy J. Harrison

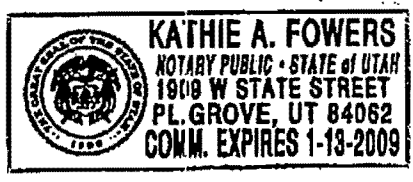
 RANDY J. HARRISON

SUBSCRIBED AND SWORN TO, before me, this 6th day of January, 2009.

*State of - Utah
 County of - Utah*

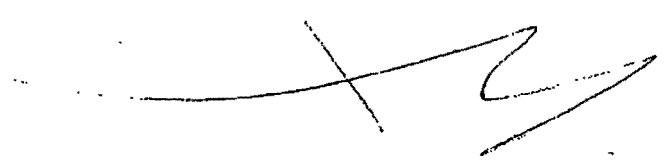
Kathie A. Fowers

 Notary Signature and Certificate



Gene Ken Corder
\$12,000
Cash

on 8/3/08



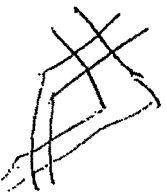
Put \$1,000 extra in SRS bonds
account -

\$13,000

Gene Ken Corder

3D2300 8/12/08 MATRES \$50,000

Gene Ken Corder



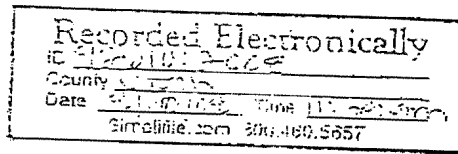
Dec 27 08 12:00p

p. 12

When Recorded Return To:

Brian R. Barnhill
OSBORNE & BARNHILL, P.C.
11576 S. State Street, Bldg 204
Draper, Utah 84020

Parcel No. 52:018:0013



NOTICE OF MECHANIC'S LIEN

Notice is hereby given that Precision Building & Construction, LLC, hereinafter referred to as "Claimant") of Springville Utah, hereby claims a lien pursuant to Section 38-1-1 et seq, Utah Code Annotated 1953, as amended, upon the property described hereinafter. Claimant's lien is based upon the following:

1. The Claimant provided labor, materials and/or equipment upon and in connection with the improvement of certain realty in Utah County, State of Utah, located at 352 S. 1400 E., Pleasant Grove, Utah being more particularly described as follows:

PART LOT 5, PLAT A, SEGO LILY HILL SUB DESCRIBED AS FOLLOWS: COM N 0 DEG 15'50"E 1525.05 FT & S 89 DEG 44'10"E 1999.87 FT FR W 1/4 COR. SEC. 27, T5S, R2E, SLB&M: S 89 DEG 34'0"E 164.63 FT; S 0 DEG 10'0"W 80 FT; S 89 DEG 34'0"W 190.1 FT; S 89 DEG 34'0"W 2.29 FT; N 18 DEG 42'0"E 87.32 FT TO BEG. AREA 0.333 AC.

2. To the best of Claimant's knowledge, Steve Nuttall is the reputed or record owner of the property described above.

3. The labor, materials, and/or equipment for which demand and claim is made were provided to or at the request of Construction Pros, LLC, 770 E. 800 N., Pleasant Grove, UT 84062.

4. The Claimant furnished the first labor, materials and/or equipment on July 9, 2008 and furnished the last labor, materials and/or equipment on July 14, 2008. There remains due and owing to the Claimant for labor, materials and/or equipment provided during this time period the amount of \$2,925.00, plus attorneys fees, costs and interest, which principal amount could change, should additional credits or charges be discovered.

5. PROTECTION AGAINST LIENS AND CIVIL ACTION. Notice is hereby provided in accordance with §38-11-108 of the Utah Code that under Utah law an "owner" may be protected against liens being maintained against an "owner-occupied residence" and from other civil action being maintained to recover monies owed for "qualified services" performed or provided by suppliers and subcontractors as a part of this contract, if and only if the following conditions are satisfied: 1) the owner entered into a written contract with an original contractor, a factory built housing retailer, or a real estate developer; 2) the original contractor was properly licensed or exempt from licensure under Title 33, Chapter 53, Utah Construction Trades Licensing Act at the time the contract was executed; and 3) the owner

Dec 27 08 12:00p

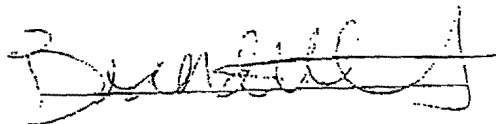
p. 13

CERTIFICATE OF MAILING

I hereby certify that on the 20 day of August, 2008, I caused a true and correct copy of the foregoing document to be served upon the following parties by placing the same in the United States mail to be sent certified mail, return receipt requested, postage prepaid, addressed as follows:

Construction Pros. LLC
Kenneth Conder
770 E. 800 N.
Pleasant Grove, UT 84062

Steve Nuttall
352 S. 1400 E.
Pleasant Grove, UT 84062



**BEFORE THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL
LICENSING
OF THE DEPARTMENT OF COMMERCE
OF THE STATE OF UTAH**

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE
ON THE RESIDENCE OF STEVE
NUTTALL

AFFIDAVIT OF COMPLIANCE,
CERTIFICATION, AND RELEASE OF
INFORMATION

LOCATED AT 352 S. 1400 E., PLEASANT
GROVE UT 84062

STATE OF UTAH)
 :SS.
COUNTY OF UTAH)

I, STEVE NUTTALL, being first duly sworn state as follows:

1. I am authorized to sign this affidavit for the homeowner described and identified in this application.
2. To the best of my knowledge, the information contained in this application and the supporting documents is free from fraud, misrepresentation, or omission of material fact.
3. I will ensure that any information subsequently submitted to DOPL in conjunction with this application and/or its supporting documents will meet the same standard set forth above.
4. I understand that homeowners and/or their representatives who report false information, withhold information, or present false or misleading documentation pertinent to an application in order to receive a Certificate of Compliance from the Lien Recovery Fund to which they are not entitled will be disqualified from receiving said Certificate and may be subject to both criminal prosecution and civil penalties.
5. I understand that this application will be classified as a public record and will be available for inspection by the public except with regard to the release of information which is classified as controlled, private, or protected under the Government Records Access and Management Act or restricted by other law.

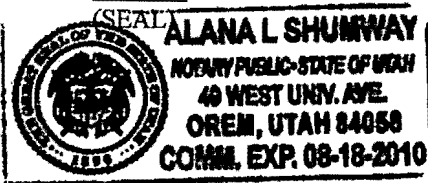
6. The homeowner is the owner of a detached single family residence duplex other type of residence located at: 352 S. 1400 E., PLEASANT GROVE UT 84062.
7. Construction on this residence was or will be completed on: UNKNOWN (NOT FINISHED).
8. The homeowner is will be is not will not be occupying this property as a primary or secondary residence.
9. The homeowner began or will begin occupying this property as a primary or secondary residence on: FEBRUARY, 2000.
10. The homeowner is is not renting or leasing this property as a primary or secondary residence to: N/A.
11. The homeowner's tenant or lessee began or will begin occupying this property on: N/A.
12. I hereby authorize all persons, institutions, governmental agencies, employers, or any others not specifically included in the preceding characterization, which are set forth directly or by reference in this application, to release to the Division of Occupational and Professional Licensing, State of Utah or the Residence Lien Recovery Fund Advisory Board, any files, records or information of any type reasonably required for the Division of Occupational and Professional Licensing or the Board to properly evaluate my application.

Signature of Affiant (*sign here*)

1, 13, 09
Date

Subscribed and sworn to before me this 13 day of January, 2009

Signature of Notary Public



DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Applicant
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

**BEFORE THE DIVISION OF
OCCUPATIONAL AND PROFESSIONAL LICENSING
DEPARTMENT OF COMMERCE, STATE OF UTAH**

IN THE MATTER OF THE APPLICATION
FOR A CERTIFICATE OF COMPLIANCE ON
THE RESIDENCE OF STEVE NUTTALL,

LOCATED AT 352 S. 1400 E., PLEASANT
GROVE UT 84062

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 15th day of January, 2009, I served a copy of the Homeowner's "Application for Certificate of Compliance," for the above-referenced residence, along with this Certificate of Service, on the following by depositing a copy in the U.S. certified mail, return receipt requested, postage pre-paid, addressed to:

Kenneth P. Conder dba "Construction Pros"
C/o Construction Pros, L.L.C.
770 East 800 North
Pleasant Grove UT 84062

Certified mail receipt no.: 7005 3110 0004 5986 2359

Precision Building & Construction, LLC
220 N. Main Street
Springville UT 84663

Certificate mail receipt no.: 7005 3110 0004 5987 2662

DATED this 15th day of January, 2009.

DALTON & KELLEY, PLC

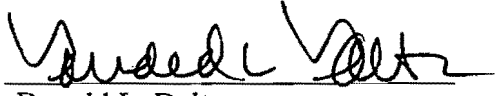
By 
Donald L. Dalton
Attorneys for Applicant

Exhibit B

March 12, 2009 incomplete letter



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

JON M. HUNTSMAN, JR.
Governor

FRANCINE A. GIANI
Executive Director

F. DAVID STANLEY
Division Director

March 12, 2009

STEVE NUTTALL
352 S 1400 E
PLEASANT GROVE UT 84062-3243

**Subject: Application for Certificate of Compliance
Notice of Incomplete or Insufficient Application
Conditional Denial of Application
Lien Recovery Fund Property ID: CONNUT001
Homeowner: Steve Nuttall
Original Contractor: Construction Pros LLC**

RESPONSE DUE DATE: April 13, 2009

Dear Homeowner:

We have reviewed your application for a Certificate of Compliance. Based upon that review, we find the application documents are incomplete and do not demonstrate that you meet all the requirements for issuance of a Certificate. Therefore, we are writing to inform you of the additional information we need.

Payment in Full— You can show that you paid your contractor in full by submitting one or more of the following:

(1) An affidavit of full payment from the original contractor, factory built housing retailer, or real estate developer. The affidavit must be from the original contractor, factory built housing retailer, or real estate developer and must affirm that you paid the contract in full.

[Utah Admin. Code § R156-38a-204a(3)(a)]

(2) Other documentation showing you paid your original contractor, factory built housing retailer, or real estate developer in full. [Utah Admin. Code § R156-38a-204a(3)(b)] DOPL has commonly accepted the following:

- (a) Canceled checks totaling the face amount of the contract and all change orders.
- (b) Complete, meaning both columns are filled in, HUD-1 Settlement Statements showing the final contract price and settlement of funds with the title company. The statement must be signed by the buyer, the seller, and the title agent.
- (c) Any other documents that positively identify the final contract amount

Written Contract—Missing: To qualify for protection from mechanics' liens, a homeowner must enter into a written contract with the original contractor. For the purpose of administering the Residence Lien Recovery Fund, Utah Admin. Code R156-38a-102 (11) offers the following as a definition of a written contract:

"Written contract", as used in Subsection 38-11-204(4)(a)(i), means one or more documents for the same construction project which collectively contain all of the following:

- (a) an offer or agreement conveyed for qualified services that will be performed in the future;
- (b) an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and
- (c) identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

and the total amount you paid.

Response Procedure: Please submit the required documentation and a copy of this letter to my attention at:

DOPL - LRF
PO BOX 146741
SALT LAKE CITY UT 84114-6741

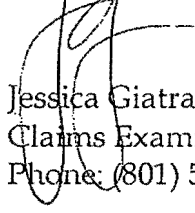
Documents may also be hand-delivered to the Division of Occupational and Professional Licensing on the 1st floor of the Heber M. Wells Building—160 East 300 South, Salt Lake City, Utah. Office hours are from 7:00 a.m. to 6:00 p.m. Monday through Thursday.

Application Will Be Denied Unless Completed: We are required advise you that your application is incomplete and will be denied unless we *receive* the information needed to complete it on or before the Response Due Date shown above.

Property ID: CONNUT001
March 12, 2009
Page 3

Additional Requests for Information: Please be aware providing the documents requested above does not guarantee the application will be completed. If the requested documents are incomplete or create additional questions, you may be contacted for further information.

Respectfully,



Jessica Giatras
Claims Examiner
Phone: (801) 530-6104

Exhibit C

Homeowner Counsel Responses

DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Applicant
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

RECEIVED

APR 06 2009

DIVISION OF OCCUPATIONAL
& PROFESSIONAL LICENSING

IN THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING

STATE OF UTAH, DEPARTMENT OF COMMERCE

STEVE NUTTALL,

Homeowner,

Vs.

CONSTRUCTION PROS, L.L.C.,

Contractor.

**RESPONSE TO NOTICE OF
INCOMPLETE OR
INSUFFICIENT APPLICATION,
CONDITIONAL DENIAL OF
APPLICATION**

The homeowner, Steve Nuttall, by and through his attorneys, respectfully responds to the Division's Notice of Incomplete or Insufficient Application, Conditional Denial of Application (March 12, 2009):

I. Payment in Full

To support his Application, the homeowner furnished a one (1) page document, signed by the contractor's representative (Kenneth P. Conder), stating that it had received the sum of \$80,000.00 from the homeowner (Exhibit A hereto). To show that \$80,000.00 was the contract price, the homeowner furnished the Affidavit of Randy J. Harrison (Exhibit B hereto), one of the subcontractors on the job. Reference is to his sworn

statement in ¶4: “I heard Mr. Conder tell the owner of the home, Defendant Nuttall, that the entire job (one side of the home) would only cost \$80,000.00.” In his Application, the homeowner affied that the contractor had been paid in full, and Exhibits A and B were his evidence. The homeowner believes that Exhibits A and B constitute “other documents that positively identify the final contract amount,” as stated in the Section 1 of the Notice of Incomplete or Insufficient Application, and are sufficient to make out the requirement of payment in full of the contract price.

However, to make his case even stronger, the homeowner has furnished a one (1) page document (Exhibit C hereto) showing payments to the contractor totaling \$90,574.06, which is more than the contract amount and explains the conflict between the homeowner and contractor. This conflict is the subject of the homeowner’s Cross-Claim against the contractor (Exhibit D hereto) in the State court case: *Precision Building & Construction, L.L.C. v. Conder, et al.*, Case No. 080403211, Fourth Judicial District Court, Utah County, State of Utah. As shown by the attached Proof of Service (Exhibit E hereto), the contractor was personally served on February 11, 2009, but failed to answer within the time required (20 days), and a certificate of Default has been submitted. Under Utah law,¹ the contractor has admitted the allegation in ¶4 of the Cross-Claim: “Nuttall paid in full all amounts required by the contract, including those alleged to be due (a) Plaintiff in this action, (b) any and all of the other subcontractors on the project

¹ Utah R. Civ. Proc. 8(d).

and (c) [the contractor] himself.” The foregoing should more than satisfy the requirement of payment in full of the contract price.

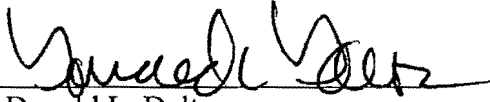
II. Written Contract

The homeowner attached to his Application a one (1) page document, titled: “Estimate.” (Exhibit F hereto) This was for the original sum of \$56,256.85, raised to \$60,000.00 per the handwritten inscription on the bottom. As appears above (Exhibits A and B hereto), the contract price was subsequently raised to \$80,000.00. However, Exhibit F satisfies two of the requirements of Utah Admin. Code R156-38a-102 (11), namely: One, an offer or agreement conveyed for qualified services that will be performed in the future; and two, identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified that will be performed. The rest of the requirements are satisfied by Exhibits A and C hereto, namely: One, an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and two, the total amount paid by the homeowner.

It is obvious that the parties conducted themselves with a high degree of informality in this case, but all of the requirements of Utah law for protection of the homeowner have been established. For the foregoing additional reasons, the homeowner’s Application for Certificate of Compliance should be ACCEPTED.

DATED this 1st day of April, 2009.

DALTON & KELLEY, PLC

By 
Donald L. Dalton
Attorneys for Applicant

DONALD L. DALTON - 4305
DALTON & KELLEY
Attorneys for Applicant
Post Office Box 58084
Salt Lake City, Utah 84158
Telephone: (801) 583-2510

IN THE DIVISION OF OCCUPATIONAL AND PROFESSIONAL LICENSING
STATE OF UTAH, DEPARTMENT OF COMMERCE

STEVE NUTTALL,

Homeowner,

Vs.

CONSTRUCTION PROS, L.L.C.,

Contractor.

**SUPPLEMENTAL RESPONSE
TO NOTICE OF INCOMPLETE
OR INSUFFICIENT
APPLICATION, CONDITIONAL
DENIAL OF APPLICATION**

The homeowner, Steve Nuttall, by and through his attorneys, respectfully submits the following Supplemental Response to Notice of Incomplete or Insufficient Application, Conditional Denial of Application:

In his previous response, the homeowner stated that the contractor had been served with a Cross-Claim in the civil action between the parties, *Precision Building & Construction, L.L.C. v. Conder, et al.*, Case No. 080403211, Fourth Judicial District Court, Utah County, State of Utah (Exhibit D thereto). The homeowner also stated that the contractor had failed to respond within the time required (twenty (20) days) and that his default had been requested (Exhibit E thereto).

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& PROFESSIONAL LICENSING

As luck would have it, the contractor's default was entered the same day as the homeowner's previous response (April 1, 2009). Attached hereto as Exhibit A, is the online docket of the above case. The Claims Examiner can see that the homeowner's Default Certificate, filed on March 12, 2009, was entered by the Court on April 1, 2009. Therefore, the provisions of Utah R. Civ. Proc. 8(d) are final, and the contractor has admitted all the salient allegations of the homeowner's application in this matter.

It is only a matter of time before Default Judgment is entered against the contractor. Therefore, there is no basis on which to deny the homeowner's application in this matter. For the foregoing additional reasons, the homeowner's Application for Certificate of Compliance should be ACCEPTED.

DATED this 14th day of April, 2009.

DALTON & KELLEY, PLC

By 
Donald L. Dalton
Attorneys for Applicant

EXHIBIT A

4TH DISTRICT COURT - PROVO
 UTAH COUNTY, STATE OF UTAH

PRECISION BUILDING & CONSTRUCT vs. KENNETH P CONDER

CASE NUMBER 080403211 Lien/Mortgage Fcls

CURRENT ASSIGNED JUDGE
 FRED D HOWARD
 Division 5

PARTIES

Plaintiff - PRECISION BUILDING & CONSTRUCT
 Represented by: BRIAN R BARNHILL

Respondent - KENNETH P CONDER

Doing Business As - CONSTRUCTION PROS

Defendant - STEVE NUTTALL
 Represented by: DONALD L DALTON

ACCOUNT SUMMARY

TOTAL REVENUE	Amount Due:	305.00
	Amount Paid:	305.00
	Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: COMPLAINT 2K-10K		
	Amount Due:	95.00
	Amount Paid:	95.00
	Amount Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: COUNTER 10K-MORE		
	Amount Due:	105.00
	Amount Paid:	105.00
	Amount Credit:	0.00
	Balance:	0.00

REVENUE DETAIL - TYPE: CROSSCLAIM 10K-MORE		
	Amount Due:	105.00
	Amount Paid:	105.00
	Amount Credit:	0.00
	Balance:	0.00

CASE NOTE

Printed: 04/14/09 11:32:09

Page 1

CASE NUMBER 080403211 Lien/Mortgage Fcls

PROCEEDINGS

09-25-08 Filed: Complaint

09-25-08 Filed: Complaint

10-03-08 Judge DAROLD MCDADE assigned.

10-03-08 Fee Account created Total Due: 95.00

10-03-08 COMPLAINT 2K-10K Payment Received: 95.00

Note: Code Description: COMPLAINT 2K-10K, Mail Payment;

10-09-08 Filed return: Summons

Party Served: Steve Nuttall

Service Type: Personal

Service Date: October 01, 2008

10-09-08 Filed return: Summons

Party Served: CONDER, KENNETH P

Service Type: Personal

Service Date: September 30, 2008

10-30-08 Filed: Affidavit of Attorneys Fees and Costs

10-30-08 Filed: Military Service Affidavit (Steve Nuttall)

10-30-08 Filed: Military Service Affidavit (Kenneth P. Conder)

11-04-08 Filed order: Military Service Order

Judge DAROLD MCDADE

Signed November 04, 2008

11-04-08 Notice - NOTICE for Case 080403211 ID 11698946

We are unable to enter the default judgment/certificate in this case for the following reasons:

Court not correctly identified Rule 4(c) U.R.C.P.

Notes: The address of the Court listed in each Summons is incorrect (listed as 8080 South Redwood Road, West Jordan, Utah 84088)

Date: _____

District Court Clerk

11-24-08 Filed return: Summons

Party Served: CONDER, KENNETH P

Service Type: Personal

Service Date: November 17, 2008

12-22-08 Filed return: Summons (Steve Nuttall)

Party Served: NUTTALL, STEVE

Service Type: Personal

Service Date: December 16, 2008

01-07-09 Filed: Answer to Complaint Counterclaim and Crossclaim (came

Printed: 04/14/09 11:32:09

Page 2

CASE NUMBER 080403211 Lien/Mortgage Fcls

without fee/being held at mail desk for fee)
STEVE NUTTALL

01-08-09 Note: Left message on machine for Don Dalton at 801-583-2510
that filing fee for counter and crossclaim is \$210.

01-09-09 Filed: Answer to Counterclaim
PRECISION BUILDING & CONSTRUCT

01-09-09 Filed: Military Service Affidavit
01-09-09 Filed: Affidavit of Attorneys Fees and Costs

01-12-09 Filed: Counter 10K-MORE

01-12-09 Filed: Crossclaim 10K-MORE

01-12-09 Fee Account created Total Due: 105.00

01-12-09 Fee Account created Total Due: 105.00

01-12-09 COUNTER 10K-MORE Payment Received: 105.00

Note: Code Description: COUNTER 10K-MORE, CROSSCLAIM
10K-MORE

01-12-09 CROSSCLAIM 10K-MORE Payment Received: 105.00

01-20-09 Filed: Affidavit of Randy J. Harrison

02-19-09 Notice - NOTICE for Case 080403211 ID 11931266

We are unable to enter the default judgment/certificate in this
case for the following reasons:

Notes: An answer and counterclaim were filed by the defendants.

Date: _____

District Court Clerk

02-23-09 Filed return: Summons

Party Served: CONDER, KENNETH P

Service Type: Personal

Service Date: February 11, 2009

03-12-09 Filed: Default Certificate (Kenneth P Conder dba Construction
Pros, LLC)

03-27-09 Filed: Declaration of Donald L. Dalton

03-30-09 Filed: Attorney Planning Conference Report and Stipulation

04-01-09 Filed: Default (Kenneth P Conder on Counter-claim and
Cross-Claim)

04-01-09 Minute Entry - RECUSAL

Judge: DAROLD MCDADE

The Court, on its own motion, does hereby recuse itself from this
case. This motion is made on the grounds that Judge Darold J.
McDade recuses from this case because he knows the defendant(s)
listed in this case. It is hereby ordered that this case is
reassigned to Division 5, Judge Fred D. Howard and all further

CASE NUMBER 080403211 Lien/Mortgage Fcls

pleadings filed should this change. The documents pending before the court have been forwarded to Judge Howard.

Judge DAROLD MCDADE

04-01-09 Judge FRED D HOWARD assigned.

04-06-09 Filed: Certificate of Service (Defendant's Initial Disclosures)

Exhibit D

April 21, 2009 Incomplete Letter



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

JON M. HUNTSMAN, JR.
Governor

FRANCINE A. GIANI
Executive Director

F. DAVID STANLEY
Division Director

April 21, 2009

STEVE NUTTALL
352 S 1400 E
PLEASANT GROVE UT 84062-3243

**Subject: Application for Certificate of Compliance
Notice of Incomplete or Insufficient Application
Conditional Denial of Application
Lien Recovery Fund Property ID: CONNUT001
Homeowner: Steve Nuttall
Original Contractor: Construction Pros LLC**

RESPONSE DUE DATE: May 21, 2009

Dear Homeowner:

We have reviewed your application for a Certificate of Compliance. Based upon that review, we find the application documents are incomplete and do not demonstrate that you meet all the requirements for issuance of a Certificate. Therefore, we are writing to inform you of the additional information we need.

Written Contract—Missing: To qualify for protection from mechanics' liens, a homeowner must enter into a written contract with the original contractor. For the purpose of administering the Residence Lien Recovery Fund, Utah Admin. Code R156-38a-102 (11) offers the following as a definition of a written contract:

"Written contract", as used in Subsection 38-11-204(4)(a)(i), means one or more documents for the same construction project which collectively contain all of the following:

- (a) an offer or agreement conveyed for qualified services that will be performed in the future;
- (b) an acceptance of the offer or agreement conveyed prior to the commencement of any qualified services; and
- (c) identification of the residence, the parties to the agreement, the qualified services that are to be performed, and an amount to be paid for the qualified services that will be performed.

Exhibit E

Request for Prolonged Status

DALTON & KELLEY

A PROFESSIONAL LAW CORPORATION

Post Office Box 58084

Salt Lake City, Utah 84158

DONALD L. DALTON
ATTORNEY AT LAWTelephone (801) 583-2510
Facsimile (801) 583-2519
Email daltonandkelley@msn.com**UTAH**
SALT LAKE CITY**CALIFORNIA**
LOS ANGELES

May 20, 2009

BY FAX (801) 530-6511Dane Ishihara
Lien Recovery Fund Manager
DOPL – LRF
P.O. Box 146741
Salt Lake City UT 84114-6741Re: Application for Certificate of Compliance
Notice of Incomplete or Insufficient Application
Conditional Denial of Application
Lien Recovery Fund Property ID: CONNUT001
Homeowner: Steve Nuttall
Original Contractor: Construction Pros LLC

Dear Mr. Ishihara:

This will confirm our telephone conversation today, and my client's request for "prolonged status" of the above case. As I understand it, this is based on the pendency of the civil action between the parties: *Precision Building & Construction, LLC v. Conder, et al.*, Case No. 080403211, Fourth Judicial District Court, Utah County, State of Utah. And this is despite the fact that the civil action may not resolve all of the issues concerning my client's application. As I explained today, my client's decision to make this request is based partly on the bankruptcy of the original contractor, Kenneth Paul Conder dba "Construction Pros LLC."¹

As I understand it, the prolonged status may be unilaterally revoked at any time and relieves my client of his obligation to provide further response to

¹ Case No. 09-24305, United States Bankruptcy Court, District of Utah.

Dane Ishihara

May 20, 2009

Page two

the above Notice of Incomplete or Insufficient Application/Conditional Denial of Application (May 21, 2009). If I am wrong about this, please let me know because there is additional information my client can provide, which would satisfy the first stated concern: "Written Contract – Missing." You should also please let me know if you have any questions about the matter. Otherwise, thank you for your attention to this matter.

Very truly yours,



Donald L. Dalton

Exhibit F

**March 15, 2016 prolonged expired
letter**



State of Utah
Department of Commerce

Division of Occupational and Professional Licensing

GARY R. HERBERT
Governor

SPENCER J. COX
Lieutenant Governor

FRANCINE A. GIANI
Executive Director

MARK B. STEINAGEL
Division Director

March 15, 2016

STEVE NUTTALL
352 S 1400 E
PLEASANT GROVE UT 84062

Subject: Application for Certificate of Compliance
Expiration of Prolonged Status
Updated Notice of Incomplete or Insufficient Application
Updated Conditional Denial of Application
Opportunity to Request Renewal of Prolonged Status
Property ID: CONNUT001
Homeowner: Steve Nutall
Original Contractor: Construction Pros LLC

RESPONSE DUE DATE: April 15, 2016

Dear Claimant:

On February 10, 2015 the Division placed your application for a Certificate of Compliance on prolonged status. Our rules provide an application may remain on prolonged status for one year. Therefore, your application's period of prolonged status has expired.

Updated Conditional Denial of Claim: Upon expiration of the one-year prolonged status of an application, we are required to issue you an updated notice as to why your application is incomplete. As of today, the following issues must be resolved to complete the application:

Please see your conditional denial letter dated April 29, 2009. If you need a copy, I will be happy to provide that to you.

Response Procedure: Please submit the required documentation and a copy of this letter to my attention at:

DOPL - LRF
PO BOX 146741
SALT LAKE CITY UT 84114-6741

Documents may also be hand-delivered to the Division of Occupational and Professional Licensing on the 1st floor of the Heber M. Wells Building – 160 East 300 South, Salt Lake City, Utah. Office hours are from 8:00 a.m. to 5:00 p.m. Monday through Friday.

Presumption a Response is Complete: We will again review your application upon receiving your written response. Please note, we treat any response received as the your complete and final response. Therefore, once we receive your response the application will be reviewed and a decision rendered.

To avoid confusion, you are advised to submit a single, complete response; **DO NOT** submit your response in a piece meal manner.

Application Will Be Denied Unless Completed: We are required to advise you that your application is incomplete and will be denied unless we *receive* the information needed to complete it on or before the Response Due Date shown above.

Additional Requests for Information: Please be aware that providing the documents requested above does not guarantee the application will be completed. If the requested documents are incomplete or create additional questions, you may be contacted for further information.

Questions, Assistance, and Extensions: If you have any questions, need assistance, or wish to request an extension of time to respond, please call. Please note, our rules limit applicants to a single 30-day extension of time to respond to this notice. If you anticipate you will be unable to complete the application within 30 days from the Response Deadline given above, we recommend you request the application be prolonged. However, you should consider that an application may only be prolonged once unless certain narrowly defined criteria are met.

Respectfully,


Tracy Naff
Fund Manager
801-530-6104
tnaff@utah.gov

Property ID: «Property_ID»
March 15, 2016
Page 3

On March, 15, 2016 Mailed to:

DONALD DALTON
ATTNY AT LAW
PO BOX 58084
SALT LAKE CITY UT 84158

**Declaration of Intent
Regarding Prolonged Application for Certificate of Compliance**

Read all instructions before completing this form

Part A. Statement of Intent. Check the appropriate box

Regarding the application for a Certificate of Compliance on the property identified as «Property_ID» on Division records, «HO_First_Names» «HO_Last_Name»

- Requests the application be reactivated and processed.
- Withdraws the application.
- Requests the application be granted another one-year prolonged status for the reason given in Part B.

Part B. Reason for Renewing Prolonged Status. Check the appropriate box and attach documentation as explained in the instructions.

- Ongoing litigation
- Ongoing bankruptcy
- Other

I certify that I have reviewed the information provided on this form and that the answers marked represent the desires of «HO_First_Names» «HO_Last_Name» with respect to property «Property_ID».

Signature of applicant or applicant's agent

Date

Printed name of signator

Title of signator

**Instructions for Declaration of Intent
Regarding Prolonged Application for Certificate of Compliance**

1. **Part A.** Check the box indicating how you want the application processed at this point. Your choices are:
 - a. **Reactivate the Application.** Selecting this option notifies the Division you want the application processed based upon the current application documents – supplemented by whatever documentation you attach with this form. If you select this option you must submit all documentation necessary to complete the application.
 - b. **Withdraw the Application.** If you select this option your application will be dismissed by the Division and the matter will closed without a Certificate being issued.
 - c. **Request Renewal of Prolonged Status.** Selecting this option notifies the Division you are requesting the application be granted another one-year prolonged status. If you select this option you must complete Part B and provide the documentation requested therein.
2. **Part B.** If you are requesting renewal of prolonged status you must select one of the following reasons and provide the required documentation:
 - a. **Ongoing Litigation.** Utah Admin. Code § R156-38-105a(9) provides an application will be prolonged during the pendency of an appeal – judicial or administrative – if the outcome of the appeal directly affects adjudication of the application. If you select this option you must attach a written explanation of why the appeal directly relates to adjudication of the application and a copy of the court docket or similar administrative calendar showing the current status of the appeal.
 - b. **Ongoing Bankruptcy.** Bankruptcy by any application party that precludes completion of the application is adequate grounds for renewal of prolonged status. If you select this option you must attach a written explanation of why the bankruptcy is preventing completion of the application and a copy of the bankruptcy court docket.
 - c. **Other Reasons.** Other reasons may exist for renewing prolonged status. Utah Admin. Code § R156-38-105b(3)(c)(iv) provides that the presiding officer over the application may granted renewed prolonged status for other reasonable causes. If you wish to have the application prolonged for some reason other than a or b above select this option and provide a written explanation of the reason. The explanation must include a statement as to why it would be unreasonable for the Division to reactivate the application considering the applicant has had a full year to complete the application. The explanation must also include all supporting documents necessary to validate the applicant's reason for requesting prolonged status be renewed.
3. We must *receive* this form on or before the Response Due Date given in the attached Notice or the application will be processed based on the existing file.

APPLICATION FOR PAYMENT

RECOMMENDED FOR APPROVAL

- NO EXPLANATION REQUIRED-

Claim Report

Informal Claim

Claim Number LRF-2016-0321-01

April 25, 2016

Claim Examined by: New

Claimant: Staker & Parson Companies dba Western Rock Products

LRF Registration #:	Registration Date:	Expiration Date:
Contractor License #: 4910822	Issue Date: 7/19/2002	Expiration Date: 11/30/2017

Claimant Classification: Supplier

Claimant's Attorney: Terry Wade

Nonpaying Party: Alpha Crete Inc

Contractor License # 6100141	NPP Classification: Specialty Contractor
------------------------------	--

Original Contractor: Ark Builders, Inc

Type: Licensed Contractor	Contractor License #: 377259-5501
License Issuance Date: 11/09/1999	License End Date: 11/30/2017

Homeowner(s) Richard Gray, Trustee

Abstract and Recommendation

Division's recommended disposition: Approve Full Payment

Claimant application is recommended for approval

Detailed Analysis and Findings of Facts

Date Claimant Recorded Lien 5/26/2015

Evidence in support of date: Lien

Date Claimant file civil action or NPP filed bankruptcy: 11/12/2015

Evidence in support of date: Complaint

Number of days difference: 169

Did Claimant obtain judgment against NPP? Yes

Date Claimant obtained judgment or NPP filed for bankruptcy 2/5/2016

Evidence in support of date: Judgment

Is Claimant a qualified beneficiary? Yes

Did Homeowner enter into a written contract with Original Contractor for the performance of qualified services? Yes

Evidence of a written contract: Certificate of Compliance

Was Original Contractor Licensed on contract date? Yes

Did Homeowner pay Original Contractor in full? Yes

Evidence of full payment: Certificate of Compliance

Does residence qualify as "owner-occupied"? Yes

Evidence of Owner Occupancy: Certificate of Compliance

Did Claimant provide qualified services? Yes

Evidence of qualified services: Invoice

Was NPP Licensed? Yes

Did NPP pay Claimant for qualified services? No

Evidence of nonpayment: Judgment

Did Claimant exhaust collection remedies? Yes

Payment Checklist

	<u>Claimed</u>	<u>Approved</u>	<u>Difference*</u>
Qualified Services: \$	3,292.13 \$	3,292.13 \$	0.00
Pre-judgment Atty Fees:	493.82	493.81	-0.01
Pre-judgment Costs:	320.00	320.00	0.00
Post-judgment Atty Fees:	0.00	0.00	0.00
Post-judgment Costs:	0.00	0.00	0.00
Interest:	107.00	138.91	31.91
Totals \$	4,212.95 \$	4,244.85 \$	31.90

* Positive differences denote amounts approved in excess of amounts claimed; negative differences denote amounts denied.

Evidence of qualified services amount: Invoice

Evidence of pre-judgment attorney fee amount: Judgment

Attorney fees limit per Utah Code Ann. § 38-11-203(3)(f) \$493.82

Evidence of pre-judgment costs: Judgment

Evidence of post-judgment attorney fees: NA

Explanation of post-judgment costs:

None claimed

Explanation of interest:

Interest calculated per Utah Code Ann. § 38-11-203(3)(c) in effect on date claim was filed. See attached schedule for details of interest calculations.

Schedule of Interest
All Payments Due in Same Calendar Year
LRF-2016-0321-01

Terms of Sale: N30
 Claim Filing Date: 3/21/2016
 Payment Due Date: 8/25/2015
 Interest Rate per UCA 38-11-203(3)(c) 3.500%
 Daily Interest Rate 0.0096%

Total Interest Allowed per UCA 38-11-203(3)(c) \$ 138.91

<u>Event Date</u>	<u>Stop Interest?</u>	<u>Event Description</u>	<u>Changes to Qualified Service Balance</u>	<u>Qualified Service Balance</u>	<u>Number of Days Since Last Event</u>	<u>Interest Accrued Since Last Event</u>
2/26/2015	N	Payment Due	\$ 3,292.13	3,292.13	0	\$ -
5/26/2015	N	Claimant filed lien		3,292.13	89	28.10
11/12/2015	N	Claimant filed complaint against NPP		3,292.13	170	53.67
2/5/2016	N	Claimant received judgment against NPP		3,292.13	85	26.83
3/21/2016	N	Claimant filed application for payment		3,292.13	45	14.21
5/11/2016	N	Division Director approves payment		3,292.13	51	16.10