

STIPULATED FACTS

Appeal of Notice of Intent, Violation #V-6876

1. Respondent Robert Brierley holds two contractor registrations: GC-36808, associated with Calyx Retrofit LLC, and GC-15485, associated with Calyx Homes, Ltd.
2. On or about November 30, 2023, the Board received complaint number 23-463, alleging that on or about November 14, 2022, Respondents Robert Brierley and Calyx Homes, Ltd. agreed to perform contractor services for a consumer in Barrington, Rhode Island.
3. An investigation into C-23-463 conducted by an inspector for the Board confirmed that Respondents Robert Brierley and Calyx Homes, Ltd. hired unregistered subcontractors to perform work on the project for the complainant, failed to provide a contractor registration number in the contract documents, and performed improper work.
4. On or about February 28, 2024, Respondent Robert Brierley was provided a with Notice of Intent to Assess Civil Penalty and Opportunity for Hearing – Proposed Order Disciplinary Action – Violation # V-6876 (“Notice of Intent”), notifying the Respondent that the Board intended to assess a \$500 administrative penalty for two violations; hiring of a non-registered contractor and performance of improper work.
5. On or about March 1, 2024, the Board received a Request for Appeal form completed by Respondent Robert Brierley, appealing the violations outlined in the Notice of Intent.
6. According to Respondent’s request for appeal, Respondent Robert Brierley does not deny the violations contained and documented in the Notice of Intent for hiring of a non-registered contractor, but Respondent disputed that he performed improper work.

7. Prior to the Board providing Respondent Brierley with a hearing to address his request for an appeal, the Parties agreed to resolve the appeal by agreement without the need for hearing.

Complaint #24-258, Violation of § 5-65-10(a)(3)

8. On or about August 1, 2024, the Board received complaint number 24-258 alleging that in or around October 2023, Respondent Robert Brierley hired a registered subcontractor to perform contractor services to install a wood floor for a construction project in Smithfield, Rhode Island, and after the services were provided, Respondent Robert Brierley failed to pay the subcontractor as agreed.
9. An investigation into C-24-258 conducted by an inspector for the Board confirmed that in October 2023, Respondent Robert Brierley did hire a registered subcontractor to perform work for a project in Smithfield, Rhode Island for the agreed price of \$14,410, and subsequently failed to pay the subcontractor for services rendered and materials provided.
10. It is the Board's position that Respondent's failure to pay the subcontractor for services rendered and materials as agreed, and which could subject the property owner to a mechanic's lien being filed on their property constitutes dishonest conduct that is injurious to the welfare of the public in violation of R.I. Gen. Laws § 5-65-10(a)(3).

PC-2024-05438 Civil Judgment, Violation of § 5-65-10(a)(3)

11. On or about October 7, 2024, Respondent Calyx Homes, Ltd. was sued for civil damages in Eastland Electric, Inc. v. Calyx Homes, Ltd., PC-2024-05438 (R.I. Super. Ct), for damages resulting from Respondent's failure to pay for services from the plaintiff who served as a subcontractor for Respondent on a construction project in Seekonk, Massachusetts.

12. According to the complaint filed in PC-2024-05438, Respondent Calyx Homes, Ltd. hired Eastland Electric¹ of Lincoln, Rhode Island, to perform electrical services related to a new construction project at 18 Cross Street Seekonk, Massachusetts 02771, for the total sum of \$11,220.
13. According to the Rhode Island Judiciary Portal, Respondent Calyx Homes, Ltd. did not file any answer or defenses to the claims contained in the complaint filed by Eastland Electric, Inc.
14. According to a default judgment entered in PC-2024-05438, on November 18, 2024 (the “PC-2024-05438 Civil Judgment”), “[i]t ordered that the Plaintiff does have and recover from the Defendant, Calyx Homes, LTD., the sum of 11,220.00 dollars with interest thereon from the date hereof, till paid, together with the Plaintiff’s cost.”
15. It is the Board’s position that Respondent’s failure to pay the subcontractor for services rendered as agreed, as evidenced by the PC-2024-05438 Civil Judgment, constitutes dishonest conduct that is injurious to the welfare of the public in violation of R.I. Gen. Laws § 5-65-10(a)(3).
16. It is the Board’s position that had a hearing been held in this matter, it would have demonstrated by a preponderance of the evidence that Respondent violated R.I. Gen. Laws § 5-65-1 *et seq.*, by hiring unregistered subcontractors, performing improper work, failing to provide a registration number in contract documents (V-6876), by failing to pay a subcontractor for services rendered and materials provided (C-24-258), and by failing to pay a subcontractor resulting in entry of a civil judgment for breach of contract and other damages in PC-2024-05438 Eastland Electric v. Calyx Homes, Ltd.

¹ According to the Business Search Portal, Eastland Electric, Inc. is a domestic (Rhode Island) profit corporation with a principal location of 35 Moshassuck Road Lincoln, RI 02865.

RELEVANT LAW

17. According to R.I. Gen. Laws § 5-65-1(7)(i), a “Contractor” is someone who, in the pursuit of an independent business, undertakes or offers to undertake or submits a bid, or for compensation and with or without the intent to sell the structure constructs, alters, repairs, improves, moves over public highways, roads, or streets, or demolishes a structure or to perform any work in connection with the construction, alteration, repair, improvement, moving over public highways, roads, or streets, or demolition of a structure, and the appurtenances thereto. For the purposes of this chapter, “appurtenances” includes, but is not limited to, the installation, alteration, or repair of wells connected to a structure consistent with chapter 13.2 of title 46, garage, carport, porch, patio, decks, docks, sheds, tents, gazebos, walkways, fencing, driveways, retaining walls, swimming pools, sidewalks, stone/masonry walls, and parking lots.
18. Pursuant to R.I. Gen. Laws § 5-65-10(c), subject to providing notice and an opportunity for a hearing, if a contractor violates any provision of R.I. Gen. Laws §§ 5-65-3 or 5-65-10, or the regulations promulgated thereunder, the Department’s State Building Office (“Office” or “SBO”), which includes the Board, may impose a fine of up to \$5,000, for a first violation and a fine of up to \$10,000, for each subsequent violation.
19. Pursuant to R.I. Gen. Laws §§ 5-65-10(a)(1), (3), (11), and (14), the Board or Office may revoke, suspend, or refuse to issue, reinstate, or reissue a registration if the board or office determines, after notice and opportunity for a hearing, that any of the following occurred:
- a. That the registrant violated § 5-65-3 or any other provision of Chapter 5-65,
 - b. That the registrant engaged in a conduct as a contractor that is dishonest or fraudulent that the board and or office finds injurious to the welfare of the public,
 - c. That the registrant breached a contract, and
 - d. That the registrant has failed to complete a project(s) for construction or willfully failed to comply with the terms of a contract or written warranty.

20. According to R.I. Gen. Laws § 5-65-22, “All contractors subject to the provisions of this chapter must include their certificate of registration number on all advertising proposals, contracts, and invoices displayed in a conspicuous manner.”
21. R.I. Gen. Laws § 5-65-5(b) provides, “[a] person may be prohibited from registering or renewing a registration as a contractor under the provisions of this chapter or his or her registration may be revoked or suspended if he or she has any unsatisfied or outstanding judgments from arbitration, bankruptcy, courts, or administrative agency against him or her relating to his or her work as a contractor , and provided, further, that a statement shall be provided to the board attesting to the information herein.”

TERMS OF SETTLEMENT

22. While the Respondent neither admits or denies committing the violations alleged herein, in order to amicably resolve this matter without an administrative hearing the Board and the Respondent enter in this Stipulated Consent Agreement solely for the purpose of avoiding the burdens and expenses of litigation. The Respondent and the Board agree to resolve this matter based upon the following:
- a. Respondent agrees to pay an administrative fine of \$500.00, made payable to the R.I. General Treasurer, and deliver said payment upon signing this Stipulated Consent Agreement.
 - b. Concurrently with his execution of this Agreement, Respondent will provide a copy of a payment schedule outlining the scheduled payments to be made to Troy Hewes d/b/a Ace Flooring, to pay a total of \$ 14,410.²

² On or about December 18, 2024, counsel for the Department confirmed with the complainant that the parties had agreed to a twelve (12) month repayment plan.

- c. Concurrently with his execution of this Agreement, Respondent will provide a copy of a payment schedule outlining the scheduled payments to be made to Eastland Electric, to pay a total of \$11,220.³
- d. Every year until both subcontractors are paid in full, Respondent shall submit with each of his annual renewal applications for GC-36808 (May) and GC-15485 (November) a written statement outlining and certifying to the Board that all payments were made in the preceding six (6) months to each of the subcontractor parties referenced herein (Ace Flooring and Eastland Electric) consistent with the payment schedules referenced in subparagraphs 22(b) and 22(c) of this Stipulated Consent Agreement, and the Respondent further agrees that the Board may verify said payments with Troy Hewes and attorney for Eastland Electric at the time of Respondent's renewal applications.
- e. Upon the Board's receipt of payment from Respondent Robert Brierley, in the amount of \$500 as outlined in subparagraph 22(a) of this Stipulated Consent Agreement, the Board shall consider violation number 6876 resolved.
- f. As to the obligation in subparagraph 22(d), Respondent acknowledges and agrees that if the above terms are not satisfied accordingly, then Respondent will be in violation hereof and the Board may move to schedule a hearing in this matter and may pursue administrative fines and penalties for the asserted violations associated with Complaint Number 24-258 and the PC-2024-05438 Civil Judgment.

³ On or about December 5, 2024, attorney for Eastland Electric confirmed via email to the Department's counsel that Respondent Robert Brierley had entered into an acceptable repayment plan and had already made a first payment for November 2024.

- g. Respondent Robert Brierley agrees and acknowledges that this Stipulated Consent Agreement shall serve as the final resolution for Respondent's request for appeal of V-6876, and he hereby agrees to waive any right to receive an administrative hearing before a board hearing officer on his request for appeal of V-6876.
 - h. Upon confirmation of Respondent's full payments of \$14,410 to Troy Hewes and \$11,220 to Eastland Electric, as described above, the Board shall consider this matter resolved.
23. Respondent agrees that, in addition to the above, he shall abide by all other statutory and regulatory requirements as set forth in the laws governing contractors in the State of Rhode Island, R.I. Gen. Laws Chapter 5-65, as well as the CRLB's General Rules and Regulations for Applications, Registration, Licensing, Claims, Violations, and Administrative Hearings, 440-RICR-10-1-1, and the Rules and Regulations for Contractors, 440-RICR-10-00-2.
24. *Completeness.* The Board and the Respondent agree that the terms and conditions of this Stipulation and Consent Order represents the final determination of this matter.
25. *Waiver of Hearing and Appeal.* By agreeing to enter into this Stipulation and Consent Order, the Respondent knowingly and voluntarily waives any right to an administrative hearing and waives any right to any further appeals to the CRLB and the Superior Court under Chapter 5-65 and the Rhode Island Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35.
26. *Opportunity to Obtain Counsel.* Respondent agrees that he has had an opportunity to retain legal counsel to represent him/her in connection with this matter, and that he/she fully understands and acknowledges all the terms contained within this Stipulation and Consent

Order, and that he/she has signed this Stipulation and Consent Order knowingly and voluntarily.

27. *Public Record.* Once executed, this Stipulation and Consent Order shall be a public record under the Access to Public Records Act, R.I. Gen. Laws Chapter 38-2, and § 1.5(C) of 440-RICR-10-00-1 and shall be posted to the Board's website under "Enforcement Actions."

28. *Compliance.* Compliance with the terms of this Stipulation and Consent Order does not relieve the Respondent of any obligations to comply with other applicable laws or regulations administered by or through the CRLB, the Department or any other governmental agency.

29. *Effective Date.* The effective date of this Stipulation and Consent Order shall be the date it was approved and signed by the Board and the Hearing Officer.

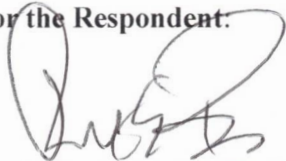
For the CRLB:



Print Name: James P. Cambio
Title: Building Commissioner

12/27/2024
Date

For the Respondent:



Print Name:
Robert Barron Pustay

12/27/24
Date

NOTARIAL CERTIFICATE

STATE OF Rhode Island

COUNTY OF Providence

On this 26 day of December, 2024, before me the undersigned notary public, personally appeared Robert E Brierley, and proved to me through satisfactory evidence of identification to be the person whose name is signed above, and acknowledged that they signed it voluntarily for its stated purpose.

Norma Hie

NORMA HIE 769739

Print Name and ID Number
Notary Public

My Commission Expires: 12/1/2026

NORMA HIE
Notary Public, State of Rhode Island
My Commission Expires DEC. 01, 2026
Commission # 769739

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CERTIFICATION OF SERVICE

In accordance with R.I. Gen. Laws § 5-65-6, I hereby certify that on this 27th day of December 2024, a true copy of the within Notice of Hearing was sent by first class mail and certified mail, return receipt requested to:

<p>Calyx Retrofit, LLC. ATTN: Robert Brierley 111 Middle St. Lincoln, RI 02865</p>	<p>Calyx Homes, Ltd. ATTN: Robert Brierley 111 Middle St. Lincoln, RI 02865</p>	<p>Robert Brierley 21 Spring Green Rd. Lincoln, RI 02865</p>
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And by email to:

1. Catherine Warren, Esq., Hearing Officer (catherine.warren@doa.ri.gov);
2. Joshua W. Nault, Esq., DBR Legal Counsel (joshua.nault@dbr.ri.gov);
3. James P. Cambio, Building Commissioner (james.cambio@dbr.ri.gov);
4. Matthew Lambert, CRLB Inspector (matthew.lambert@dbr.ri.gov); and
5. Respondent, Robert Brierley (bob@calyxbuilds.com).

Meredith Cotta

Print Name: Meredith Cotta