



COUNCIL ITEM 9E
DATE 2/13/12

*APPEAL FOR 2 CASES
AT 1-12-2012 MEETING*

Attn: Karen Phillips

January 25, 2012

To whom it may concern,

I, Arthur West, would like to formally appeal the decision made by the Contractor's Examining Board on January 12 2012. This is due to the fact that on November 10th 2011 I was told by the Board if I was in compliance with all violations held against my license there would be no disciplinary action and I was not required to attend the January 12 2012 meeting. All violations were brought to compliance as of the 17th of November 2011. The only exception would be 559 SE Ocean Spray. I explained to both the Contractor's Examining Board and the City of Port St. Lucie Building Department in person and over the phone that this was not our customer.

Thank you for your consideration in this matter,

Arthur West

4541-8 St. Augustine Road
Jacksonville, FL 32207
(904) 240-1574

1743 Huntington Ln., Ste. 101
Rockledge, FL 32955
(321) 631-8990

545 Mercantile Pl., Ste. #115
Port St. Lucie, FL 34986
(772) 344-0237

Karen Phillips

#1

From: Carol Heintz
Sent: Wednesday, January 25, 2012 2:41 PM
To: Karen Phillips
Subject: Minutes from 1/12/12 Contractors Mtg. on Arthur West

- FIRST CASE

City of Port St. Lucie, Kevin Pierce, versus Arthur West, Florida Solar East

Violation of: FBC 1054 and PSL City Code 150.105.4, Conditions of Permits

Mr. Reisinger stated, "This complaint was originally heard on November 10, 2011, and tabled to this meeting in order for the contractor to obtain compliance. The complaint was filed by the City of Port St. Lucie Licensing Investigator Kevin Pierce against the license of Arthur West, Certified Solar Contractor, doing business as Florida Solar East. The contractor is charged with violating the FBC 105.4 and PSL City Code Section 150.105.4, Conditions of a Permit." Mr. Pierce stated, "The contractor was given time to come into compliance with respect to four addresses. As of 8:30 a.m., no replacement permit has been obtained for the work at 559 Ocean Spray or 116 SW Wind Court. The contractor has not complied. Permit #1111568 was obtained to replace the expired permit at 1149 SE Marisol, and Permit #1104561 was obtained to replace the expired permit at 5960 SW Baylor. The contractor has complied at these addresses. Compliance on a voided or expired permit requires not only obtaining a replacement permit, but getting a passed inspection. The complaints against the contractor at the Ocean Spray and Wind Court addresses remain. He has not complied." (Clerk's Note: Mr. West was not present).

Chair Flaxman asked, "Have you heard from Mr. West?" Mr. Pierce replied in the negative. Vice Chair Zientz asked, "How long did it take him to come in compliance with Marisol and Baylor after the last meeting?" Chair Flaxman noted, "I think we can take care of these. Two months is enough time to take care of these." Mr. Pierce commented, "On multiple occasions where we have had need to meet with Mr. West or discuss issues with Mr. West, I have met Mr. West once. Every other conversation that I've had with regard to any violations by Florida Solar East or Mr. West has been had with other individuals representing him." Ms. Noto said, "To answer your question, the two addresses that he is in compliance with, those were on the day of the hearing. Either they had just picked them up that morning, or they had picked them up right after the meeting, and then got the inspections within a month. I had left a message for Mr. West at the end of December regarding Wind Court and a permit that he had pulled on that property, which I thought was to replace the expired one, but it was for pool solar. The one that was expired was water heater. I called to let him know he's not in compliance, and he never returned my call."

Ms. Brown said, "Based on the testimony heard today and the evidence produced by the parties of this case, I **move** to find that the following facts did occur, and the Conclusions of Law are as follows: On September 12, 2011, a complaint was filed by the City of Port St. Lucie against the license of Arthur West pursuant to Port St. Lucie City Code 150.520.2. Notice was achieved by certified mail. The contractor has been charged with and did violate FBC 150.4 and Port St. Lucie City Code 150.105.4." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote. Ms. Brown asked, "Are there any prior disciplinary actions in the contractor's file?" Chair Flaxman replied, "On 2/12/2009, no permit, letter of reprimand, and on 5/14/08, no permit citation, \$500." Ms. Brown stated, "Based on the Findings of Fact and Conclusions of Law, I **move** to order the following disciplinary action: Suspension of permitting privileges for 180 days, and pay the administrative fee of \$205." Vice Chair Zientz **seconded** the motion, which **passed unanimously** by voice vote. Mr. Oldakowski asked, "Is he going to pull permits?" Ms. Noto replied, "He can obtain permits for the violations and get them in compliance, but not for 180 days on any new work." Ms. Brown noted, "I **move** to recommend to the CILB suspension of certification or registration for 180 days." Mr. Cseak **seconded** the motion, which **passed unanimously** by voice vote.

Carol M. Heintz, CMC
Deputy Clerk Supervisor

#2

Karen Phillips

From: Carol Heintz
Sent: Tuesday, February 07, 2012 12:13 PM
To: Karen Phillips
Subject: Second Case - Mr. West - MINUTES FROM 1/12/12 CONTRACTORS' BRD. MEETING

City of Port St. Lucie, Mark Brockway versus Arthur West, Florida Solar East

Violation of: FBC 105.1 and Port St. Lucie City Code Section 150.105.1, Required Permits

Mr. Reisinger said, "This complaint was originally scheduled for November 10, 2011, and was tabled at the request of the contractor." Ms. Noto stated, "That's the wrong one. That was the previous Arthur West, and this is a new Arthur West." Mr. Reisinger noted, "This complaint was filed by the City of Port St. Lucie Licensing Investigator Mark Brockway against the license of Arthur West, a certified solar contractor doing business as Florida Solar East. Since staff has had verbal contact with the contractor and his or her representative on several occasions regarding the violation and how to comply, we can assume that he's aware of the law. The formal complaint was sent to the violator October 11, 2011. The contractor was charged with violating the FBC Section 105.1 and Port St. Lucie Building Code 150.105.1, required permits. The contractor's response to the charges is on Page 7 of 19 in your packet." Mr. Brockway stated, "On September 29, 2011, the Lake Charles Homeowners Association called the Contractor Licensing Department to verify that a permit was obtained to install the solar pool heater at 735 SW St. Croix Cove, because the work was in progress and there was no permit visible."

Mr. Brockway continued, "Staff determined that a permit was not issued. I visited the site and found two workers from Florida Solar East installing the solar panel. Since a permit had not even been applied for, I required them to secure the job, make things safe, and told them to return upon the permit being issued to perform the work. About a month later, a permit was applied for. It was issued October 26, 2011, and it has passed inspection. That permit is now complete. I can't help but notice in the contractor's response to the formal complaint that it was his understanding that the homeowner had HOA approval and obtained an owner/builder permit. Once the crew found out otherwise, they were securing, making safe, and leaving before Mr. Brockway arrived. When I got there, there were two workers on the roof, tools and materials everywhere. There was no indication that anyone was packing up. I did speak to the homeowner who knew absolutely nothing about permitting issues. I took photos. The other thing I found somewhat interesting was that when I was taking down the names of the employees that were there, one of them expressed to me that he had been an employee for 20 years. I told him that he should be fully aware that it's his responsibility to make sure that a permit is posted on the jobsite before he starts the work."

Chair Flaxman asked, "Does this happen a lot?" Mr. Brockway replied, "We've had several cases of non-compliance that we've issued. In 2010, I counted seven after-the-fact permits. In 2011, prior to this job, I had another crew on a jobsite at Kimberly with the same thing, which was about five months prior to this. The crew was on the roof installing solar panels, and there was no permit even applied for. I told them to pack their things up and leave. From September 2009 to October 2010, we have documentation of seven after-the-fact permits. There are multiple non-compliance issues that have been sent over the years from 2007/2008." Mr. Reisinger stated, "We're giving the contractors three times, and then you will come before the Board whether you come into compliance or not. This way you can explain to the Board why you're doing this continually." Chair Flaxman noted, "I feel it's done intentionally now." Mr. Brockway commented, "I would like to give the Lake Charles Homeowners' Association credit for noticing this type of activity, and being diligent enough to call us. We need more cooperation like that."

Mr. Cseak said, "Based on the testimony heard today and the evidence produced by the parties of this case, I **move** to find that the following facts did occur, and the Conclusions of Law are as follows: On October 11, 2011, a complaint was filed by the City of Port St. Lucie against the license of Arthur West, pursuant to Port St. Lucie City Code 150.520.2. Notice was achieved by certified mail. The contractor has been charged with and did violate FBC 150.1 and Port St. Lucie City Code 150.105.1." Ms. Brown **seconded** the motion, which **passed unanimously** by voice vote. Chair Flaxman requested to see the contractor's file. Mr. Cseak asked, "How long has he been a contractor in this area?" Ms. Noto

replied, "Since 2002. He has over 100 total after-the-fact permits, and those are the ones we know about. I think what happened is that we had an issue with him in the past, and we brought him into the office to discuss the work without a permit. I think they went back through their records and pulled a number of permits. Before we even found them, he came in and pulled a number of permits." Mr. Cseak asked, "Is this one of those licenses where we really started being more diligent? If this one of the ones that after the storms we started. . . ?" Ms. Noto replied, "He has been a state certified solar contractor for many years. He was one the first state solar contractors." Chair Flaxman commented, "He has two violations in his record. In 2009, no permit, and letter of reprimand was put in his file. On May 14, 2008, no permit, citation \$500." Mr. Reisinger pointed out, "He had another one today. You revoked his permitting privileges for 180 days." "Mr. Cseak stated, "Based on the Findings of Fact and Conclusions of Law, I **move** to order the following disciplinary action: Suspension of permitting privileges for 365 days." The City Attorney asked, "May I ask for a clarification as to whether it's concurrent or consecutive?" Mr. Cseak replied, "Concurrent." The City Attorney asked, "So the 180 will run at the same time as your 365?" Mr. Cseak replied, "No. I want the 365 after that, and pay an administrative fee of \$205." The City Attorney asked, "So you want it consecutive?" Mr. Cseak replied in the affirmative. Vice Chair Zientz **seconded** the motion, which **passed unanimously** by voice vote. Mr. Cseak said, "I **move** to recommend to the CILB a Suspension of Certificate of Registration for 365 days." Mr. Oldakowski **seconded** the motion, which **passed unanimously** by voice vote.

Carol M. Heintz, CMC
Deputy Clerk Supervisor
City of Port St. Lucie



CITY OF PORT ST LUCIE

BUILDING DEPARTMENT
Contractor Licensing Division

.....
A CITY FOR ALL AGES

Kevin Pierce, Licensing Investigator
City Of Port St. Lucie
121 SW Port St Lucie Blvd
Port St Lucie FL 34984

Petitioner,
vs.

Arthur West
Florida Solar East
1743 Huntington Lane Suite 101
Rockledge FL 32955

Respondent

Contractor License Number **cwc027561**

ADMINISTRATIVE COMPLAINT

This matter came before the Port St. Lucie Contractors Examining Board on November 10, 2011 for consideration of the complaint against Arthur West, Florida Solar East, who was not present, and tabled until January 12, 2012 to allow for contractor to comply. Pursuant to Port St. Lucie City Code section 150.520.3. The Board having reviewed the evidence and sworn statement of the complaint presented by City Of Port St. Lucie Licensing Investigator, Kevin Pierce, deeming itself fully advised in these premises, enter the following findings of fact and conclusions of law based upon motions duly made, seconded and adopted:

The Petitioner Kevin Pierce, Licensing Investigator was present.
The Respondent Arthur West was NOT present.

FINDINGS OF FACT

1. On September 12, 2011 the Petitioner, Licensing Investigator, Kevin Pierce, filed a complaint against Arthur West, pursuant to section 150.520.2 of the Port St. Lucie City Code.

Final Order DBPR.doc

121 S.W. Port St Lucie Boulevard • Port St Lucie, FL 34984-5099 • 772-871-5132 • Fax 772-871-5229

2. In the complaint, Arthur West, is charged with violating;

Florida Building Code 105.4 and Port St Lucie Code Section 150.105.4
"Conditions of Permits".

ADDRESSES OF VIOLATION(S):

Left/Turgeon → not ours
Trull 11/14
Shum 11/14
Brinkley 11-14

559 SE Ocean Spray, 1449 SE Marisol,
5960 NW Baylor, 116 SW Wind

3. A copy of the complaint was sent regular mail to the respondent.

4. That on September 12, 2011 Arthur West, Florida Solar East, has been charged with a formal complaint regarding, 559 SE Ocean Spray, 1449 SE Marisol, 5960 NW Baylor, 116 SW Wind, located in The City of Port St Lucie. The charging allegation of violating item(s) **Florida Building Code 105.4 and Port St Lucie Code Section 150.105.4** supported by the signed and sworn complaint.

5. Pursuant to 150.520.2 (h), a determination of guilt has been made based upon the sworn complaint.

CONCLUSION OF LAW

That by a vote of six to zero the Contractors Examining Board based upon the findings of fact concludes that the Respondent is guilty of the above violations.

That pursuant to Port St. Lucie City Code, section 150.520.3, a finding of guilt constitutes grounds for disciplinary action.

BOARD ORDER

Upon these findings, by a vote of the Board of **six in favor to zero opposed**, therefore it is ordered **"suspension of permitting privileges for one hundred and eighty days (180) to commence January 13, 2012 and payment of \$205 in Administrative Costs"**.

Furthermore recommendation by a vote of the Board of **six in favor to zero opposed** is made to CILB for **"Suspension of certification for one hundred and eighty days (180)"**.

The respondent is hereby notified that upon the timely filing of a Notice of Appeal with the City Clerk within fifteen (15) days of the date of the Boards decision, the decision of the Contractors Examining Board may be appealed.

In accordance with Florida Statutes, Chapter 489.131 (7) (d) and (e), the department, the disciplined contractor, the complainant, may challenge the local jurisdiction enforcement bodies recommended penalty for board action to the Construction Industry Licensing Board. A challenge shall be filed within sixty (60) days of the issuance of the recommended penalty to the board. If challenged, there is a presumptive finding of probable cause and the case may proceed without the need for a probable cause hearing.

Failure of the department, the disciplined contractor, or the complainant to challenge the local jurisdictions recommended penalty within the time period set forth in this subsection shall constitute a waiver of the right to a hearing before the board. A waiver of the right to a hearing before the board shall be deemed an admission of the violation, and the penalty recommended shall become a final order according to procedures developed by the board rule without further board action. The disciplined contractor may appeal this board action to the district court.

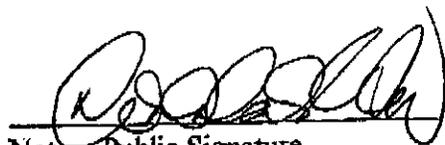
Ordered by the Contractors Examining Board effective 13th Day of January, 2012.



Technical Services Manager

State of Florida
County of St. Lucie

The foregoing instrument was acknowledged before me this 19 day of January, 2012, by Jack Reisinger, who personally known to me and who did not take an oath.



Notary Public Signature





CITY OF PORT ST LUCIE

BUILDING DEPARTMENT
Contractor Licensing Division

.....
A CITY FOR ALL AGES

Mark Brockway, Licensing Investigator
City Of Port St. Lucie
121 SW Port St Lucie Blvd
Port St Lucie FL 34984

Petitioner,

vs.

Arthur West
Florida Solar East
1743 Huntington Lane Suite 101
Rockledge FL 32955

Respondent

Contractor License Number cwc027561

ADMINISTRATIVE COMPLAINT

This matter came before the Port St. Lucie Contractors Examining Board on January 12, 2012 for consideration of the complaint against Arthur West, Florida Solar East. Pursuant to Port St. Lucie City Code section 150.520.3. The Board having reviewed the evidence and sworn statement of the complaint presented by City Of Port St. Lucie Licensing Investigator, Mark Brockway, deeming itself fully advised in these premises, enter the following findings of fact and conclusions of law based upon motions duly made, seconded and adopted:

The Petitioner Mark Brockway, Licensing Investigator was present.
The Respondent Arthur West was NOT present.

FINDINGS OF FACT

1. On October 11, 2011 the Petitioner, Licensing Investigator, Mark Brockway, filed a complaint against Arthur West, pursuant to section 150.520.2 of the Port St. Lucie City Code.

Final Order DBPR.doc

121 S.W. Port St Lucie Boulevard • Port St Lucie, FL 34984-5099 • 772-871-5132 • Fax 772-871-5229

2. In the complaint, Arthur West, is charged with violating;

Florida Building Code 105.1 and Port St Lucie Code Section 150.105.1
"Required Permits".

ADDRESSES OF VIOLATION(S): 735 SW St. Croix Cove

good

11/17

3. A copy of the complaint was sent regular mail to the respondent.
4. That on October 11, 2011 Arthur West, Florida Solar East, has been charged with a formal complaint regarding, 735 SW St Croix Cove, located in The City of Port St Lucie. The charging allegation of violating item(s) **Florida Building Code 105.1 and Port St Lucie Code Section 150.105.1** supported by the signed and sworn complaint.
5. Pursuant to 150.520.2 (h), a determination of guilt has been made based upon the sworn complaint.

CONCLUSION OF LAW

That by a vote of six to zero the Contractors Examining Board based upon the findings of fact concludes that the Respondent is guilty of the above violations.

That pursuant to Port St. Lucie City Code, section 150.520.3, a finding of guilt constitutes grounds for disciplinary action.

BOARD ORDER

Upon these findings, by a vote of the Board of **six in favor to zero opposed**, therefore it is ordered *"suspension of permitting privileges for three hundred sixty five days (365) to run consecutive with previous order, to commence July 13, 2012 and payment of \$205 in Administrative Costs"*.

Furthermore recommendation by a vote of the Board of **six in favor to zero opposed** is made to CILB for *"Suspension of certification for three hundred sixty five days (365) to run consecutive with previous order"*.

The respondent is hereby notified that upon the timely filing of a Notice of Appeal with the City Clerk within fifteen (15) days of the date of the Boards decision, the decision of the Contractors Examining Board may be appealed.

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Ordered by the Contractors Examining Board effective 13th Day of January, 2012.


Technical Services Manager

State of Florida
County of St. Lucie

The foregoing instrument was acknowledged before me this 19 day of January, 2012, by John Reisinger, who personally known to me and who did not take an oath.


Notary Public Signature





(866) 44-SOLAR

CWC027561 - CPC032536

www.MyFloridaSolar.com

Attn: Karen Phillips

January 25, 2012

To whom it may concern,

I, Arthur West, would like to formally appeal the decision made by the Contractor's Examining Board on January 12 2012. This is due to the fact that on November 10th 2011 I was told by the Board if I was in compliance with all violations held against my license there would be no disciplinary action and I was not required to attend the January 12 2012 meeting. All violations were brought to compliance as of the 17th of November 2011. The only exception would be 559 SE Ocean Spray. I explained to both the Contractor's Examining Board and the City of Port St. Lucie Building Department in person and over the phone that this was not our customer.

Thank you for your consideration in this matter,

Arthur West

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(772) 344-0237

Florida Solar Engineering
1743 Huntington Lane, Suite 101
Rockledge, FL 32955
Voice - (321) 631-8990
Fax - (321) 631-9332

facsimile transmittal

To: Carol Fax 772-344-4094

From: Arthur West Date: 1/30/12

Re: _____ Pages: 2 including cover

CC: _____

Urgent For Review Please Comment Please Reply Please Recycle