

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE MINNESOTA DEPARTMENT OF COMMERCE

In the Matter of Steven R. Seidl, d/b/a
Beartown Builders & Developers,
Residential Building Contractor License
No. 6398

FINDINGS OF FACT,
CONCLUSIONS AND
RECOMMENDATION

The above-entitled matter came on for hearing before Administrative Law Judge George A. Beck commencing at 9:30 a.m. on Friday, May 5, 1995, at the offices of the Minnesota Department of Commerce, 133 East Seventh Street, in the city of St. Paul, Minnesota.

Maya K. Howlett, Assistant Attorney General, 1200 NCL Tower, 445 Minnesota Street, St. Paul, Minnesota 55101, appeared on behalf of the Minnesota Department of Commerce (Department). The Respondent did not appear at the hearing. The record closed on May 5, 1995, upon the Respondent's default.

This Report is a recommendation, not a final decision. The Commissioner of the Minnesota Department of Commerce will make the final decision after a review of the record which may adopt, reject or modify the Findings of Fact, Conclusions and Recommendations contained herein. Pursuant to Minn. Stat. § 14.61, the final decision of the Commissioner shall not be made until this Report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this Report to file exceptions and present argument to the Commissioner. Parties should contact Jim Ulland, Commissioner, Minnesota Department of Commerce, 133 E. 7th Street, St. Paul, Minnesota 55101, telephone (612) 297-3238, to ascertain the procedure for filing exceptions or presenting argument.

STATEMENT OF ISSUE

The issue in this case is whether or not the Respondent's residential building contractor license should be suspended or revoked in accord with Minn. Stat. § 326.91, subd. 1, or whether civil penalties should be imposed under Minn. Stat. § 45.027, subds. 6 and 7.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. On April 4, 1995, the Notice of and Order for Hearing and Order to Show Cause in this matter was mailed to the Respondent, via certified mail, at his last known address, 1846 Park Street, White Bear Lake, Minnesota 55110. It was received on April 10, 1995.

2. The Order to Show Cause, Notice of and Order for Hearing mailed to the Respondent contained the following statement:

If Respondent fails to attend or otherwise appear at the hearing in this matter after having been served with a copy of this Order, it shall be deemed in default and the allegations or issues set forth herein may be deemed proved and Respondent's residential building contractor's license may be revoked or suspended and/or civil penalties may be imposed against Respondent without further proceedings.

3. By a letter dated April 19, 1995, sent by certified mail, the Department advised the Respondent that if he intended to appear at the May 5 hearing he had to file a Notice of Appearance by April 25, 1995. The letter was received on April 21, 1995.

4. The Respondent did not appear at the May 5 hearing, he made no prehearing request for a continuance, nor did he file a Notice of Appearance.

5. That the allegations of the Order to Show Cause and Notice of and Order for Hearing are deemed proved and incorporated into these Findings by reference.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS

1. That the Minnesota Commissioner of Commerce and the Administrative Law Judge have subject matter jurisdiction herein pursuant to Minn. Stat. §§ 45.027, 326.91 and 14.50.

2. That the Respondent was given timely and proper notice of the hearing in this matter.

3. That the Department has complied with all relevant substantive and procedural requirements of statute and rule.

4. That under Minn. Rule 1400.6000, the Respondent is in default as a result of its failure to appear at the scheduled hearing.

5. That under Minn. Rule 1400.6000, the allegations and the issues set out in the Notice of and Order for Hearing may be taken as true or deemed proved when a party defaults.

6. That based upon the facts set out in the Notice of and Order for Hearing, Order to Show Cause and Statement of Charges, the Respondent has violated Minn. Stat. §§ 45.027, 326.84, 326.875, 326.91 and 326.94.

7. An order is in the public interest.

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that disciplinary action be taken against Respondent's Residential Building Contractors License No. 6398 and that the Commissioner consider civil penalties.

Dated this 10th of May, 1995

/s/

GEORGE A. BECK

Administrative Law Judge

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the agency is required to serve its final decision upon each party and the Administrative Law Judge by first class mail.

Reported: Default.