



MECKLENBURG COUNTY
Land Use and Environmental Services Agency
Code Enforcement

Memo

Date: February 26, 2004

To: All customers

From: Jim Bartl, A.I.A., Director

Cc: Bob Dulin, Gene Morton, Gerald Harvell, Phil Edwards, Tim Taylor

Re: Department policy regarding case referral on contractor or professional licenses

Introduction

This memo shall serve as the Department Policy regarding the uniform process we follow in referring either contractors or A/E's to their respective licensing boards. This communication was initiated in response to a recent customer issue, however, it probably is appropriate to chisel in stone the approach which all of us have followed over the last few years.

License referral to the governing board is not a very popular part of our work. On the one hand, we are under pressure from all NC State Licensing Boards to refer cases of board rule violations (including poor performance) by license holders to the individual boards for action. On the other hand, the professional and construction community would prefer no referrals at all. Everyone agrees that license holders who blatantly disregard their board rules or the code merit referral, just so it's not them. Because this is fertile ground for charges of selective punitive action, this policy seeks to confirm the common criteria, which I believe we have all used, thereby assuring all customers they are treated fairly

All professionals especially are concerned when professional conduct or performance violates Board rules, as it reflects poorly on the both the individual in question, as well as the profession at large. The Department has a public duty to uphold the NC General Statutes (including NC Licensing Board Rules) when it becomes aware of such violations. While we do not actively pursue such cases on an ongoing basis, where they are so flagrant as to come to our attention, we have a responsibility to take action.

Policy

The Department policy on regarding contractor or professional license referral will be as follows.

A. Legal Basis

- GS 87-14 states "...it shall be unlawful for such building inspector or other authority to issue or allow the issuance of such building permit unless and until the applicant has furnished evidence that he is either exempt from the provisions of this Article or is duly licensed.....".
- GS160A-412 identifies Inspection Department responsibilities to include "...any other actions that may be required in order to adequately enforce those (State and local) laws...".
- GS 87-14 specifically notes that violations by the building inspector are considered a misdemeanor, so CEO's who ignore this section would place both their Code Officials Certificate and continued employment by the County at risk.

B. Contractor referral procedure

- The Department will, in all disciplines, monitor the performance of contractors.
- In the event we observe work, which we believe indicates a disregard for board rules, including the failure to perform that particular discipline's work in a code compliant manner, we will give the contractor a verbal notice that we have noted same, that they are on "thin ice", and a recurrence will merit referral to the appropriate licensing board
- If we observe another instance, which we believe indicates a disregard for board rules, including the failure to perform that particular discipline's work in a code compliant manner, we will file a complaint with the appropriate board against the license holder. No further warnings will be given to the license holder in advance of this filing.

C. Architect/Engineer referral procedure

- The Department will, in all disciplines, monitor the performance of licensed professionals.
- In the event we observe work by a professional, which we believe indicates a disregard for board rules, including the failure to submit completed drawings for plan review, or drawings which indicate a disregard for code compliant design, the Department will contact the professional in writing, requesting an explanation.
- If the explanation provided is considered insufficient by the Department (that is the Director and the Chief of Commercial Plan Review), the Department will file a complaint with the appropriate licensing board. Explanations shall be deemed "insufficient" if, in the opinion of the Director:
 - They indicate careless preparation of permit application drawings.
 - They indicate a disregard for NC Code or local ordinance requirements.
 - Or, in general, if such explanations do not justify deviation from professional responsibility under the relevant board rules.
- Note, there is no "first time warning" for licensed Architects and Engineers; we simply ask for an explanation and if it is insufficient, we file the complaint with the board.

Questions regarding this policy should be referred to the appropriate discipline CPM or to the Director.

- Building Inspections: Gene Morton @ 336-3503
- Electrical Inspections: Gerald Harvell @ 336-3523
- Mechanical/Plumbing Inspections: Phil Edwards @ 336-3555
- Residential Technical Services: Tim Taylor @ 336-3835
- Commercial Plan Review: Bob Dulin @ 336-4363
- James N. Bartl, A.I.A., Director @ 336-3827