

AGENDA

Contractor Licensing Board

September 27, 2018

2:00 p.m.

City Commission Chambers

First Floor of City Hall

6 East 6th Street, Lawrence, Kansas

1. Call to Order
2. Minutes
 - a. Approve minutes of May 3, 2018 CLB Meeting
3. New Business
 - a. Consider approval of a Class L Limited contractor license application for Star Fence Deck & Patio. The contractor requests approval of a license to contract work for repair and construction of uncovered decks, patios, fences and landscaping.
 - b. Conduct a contractor license hearing to review a Complaint by the City of Lawrence against DFC Company of Lawrence, L.C., including its principals, affiliates, and subsidiaries, Thomas Fritzel, Casey Stewart, Wesley Lynch, Tucker Fritzel, Eagle 1968, L.C., including its principals, affiliates, and subsidiaries, and R&R Supply Company, L.C., including its principals, affiliates, and subsidiaries, with violation of City of Lawrence, Kan., § 5-1510(A) and (E) (Jan. 1, 2018), as amended, and to consider disciplinary action. Upon completion of the hearing, vote on disposition of the Complaint.
4. Adjourn

AGENDA

Contractor Licensing Board

September 10, 2018

3:00 p.m.

City Commission Chambers

First Floor of City Hall

6 East 6th Street, Lawrence, Kansas

1. Call to Order
2. Minutes
 - a. Approve minutes of May 3, 2018 CLB Meeting
3. New Business
 - a. Conduct a contractor license hearing to review a Complaint by the City of Lawrence against DFC Company of Lawrence, L.C., including its principals, affiliates, and subsidiaries, Thomas Fritzel, Casey Stewart, Wesley Lynch, Tucker Fritzel, Eagle 1968, L.C., including its principals, affiliates, and subsidiaries, and R&R Supply Company, L.C., including its principals, affiliates, and subsidiaries, with violation of City of Lawrence, Kan., § 5-1510(A) and (E) (Jan. 1, 2018), as amended, and to consider disciplinary action. Upon completion of the hearing, vote on disposition of the Complaint.
4. Adjourn

**City of Lawrence, KS
Contractor Licensing Board Meeting
May 3, 2018 Minutes (Development Services Conference Room)**

CONTRACTOR LICENSING BOARD MEMBERS PRESENT: Chris Burger, Seth Martin (by teleconference), Verlon Myers, Daniel Poull, Barry Walthall

MEMBERS ABSENT: Wayne Duncan, Katie Nichols, Greg Rau

STAFF PRESENT: Barry Walthall, Building Official

PUBLIC PRESENT: Chad Aldridge, Director of Personnel and Construction, Tri-State Tower; Kevin Kelley, Executive Director, Peaslee Tech

1. Call to Order

Vice-Chairman Myers called the Contractor Licensing Board meeting to order at 11:10 a.m., May 3, 2018.

2. Review minutes from meeting of February 22, 2017

Burger inquired about how long meeting recordings were retained. Walthall responded that recordings are kept indefinitely. Burger moved that the February 22, 2017 minutes be approved, subject to actual recordings being retained for meeting details. Motion was seconded by Poull.

The Motion to approve minutes was unanimously approved.

3. New Business

- A. The Board received an application for Class L Limited Contractor license for Tri-State Tower. Walthall made a brief presentation of the license application and staff research regarding the company's history. The purpose of the license is to allow the contractor to obtain building permits to make modifications or alterations to existing cell towers. Tri-State Tower representative Chad Aldridge addressed the Board and provided information about the company's background and work practices. In response to Member's questions, Aldridge supplied information that the company employed approximately 44-50 employees; owns approximately \$3.5 Million worth of construction equipment; runs 10 fully equipped crews; has no existing claims against it from owners or adjoining property owners. Aldridge also responded to a question about claims against the company's insurance policy/s, stating that the company had had a fatality in February of 2016, the company's first ever fatality. Aldridge stated the fatality was result of an accident during a "free climb", and that the company was found to not be at fault. Burger commented that the purpose of the questions was to

establish the company's wherewithal and history of performance. Myers inquired about whether the company's Wisconsin and Nebraska branches were required to obtain licenses. Aldridge stated that he did not know if licenses are required, but the company is licensed in those States.

The Board then discussed the scope of the license and types of services that would be allowed to be performed under the Class L license. The consensus was that the license request entails work to equipment mounted to or on towers, including structural improvements to equipment mounted on towers, but does not extend to structural repairs or modifications to a tower structure.

Motion made by Poull to approve a Class L license for Tri-State Tower that would allow the company to perform modifications or alterations to cell tower equipment that would include the structural integrity of equipment mounted to a tower. Motion seconded by Burger. Burger made a statement that that the City or Board was not making any statement or recognition of the applicant's ability or qualifications, but that the literature provided appears to show that the company is experienced and has sufficient assets in the event of something unfortunate occurring, and that under the framework of the licensing requirements laid out by the City Code that the license application be approved.

The Motion to approve a Class L license for Tri-State Tower allowing the company to perform modifications or alterations to cell tower equipment that would include the structural integrity of equipment mounted to a tower was unanimously approved.

- B. Motion made by Walthall to change the meeting agenda order to move the request for a new licensing category for residential plumbers in front of the review of the draft ordinance establishing licensing categories for roofing and swimming pool contractors. Motion seconded by Burger.

The Motion to alter the order of the agenda was unanimously approved.

Walthall provided an overview of the request by Peaslee Tech to establish a licensing category for residential plumbers. Walthall noted that the licensing regulations already include residential licenses for electricians and heating, ventilation and air conditioning technicians. The residential plumbing license would be added as an option within the framework of the existing residential level license classification.

Kevin Kelly provided information about a new program being offered by Peaslee Tech to train residential plumbers. Mr. Kelly described the parameters of the program and criteria for successful completion, including 2,000 classroom hours on instruction, one year of employment as a plumbing laborer to gain work experience (concurrent with the Peaslee Tech residential plumbing program), and successful completion of a nationally recognized residential plumbing certification exam.

The Board had extensive discussion of the licensing program, with focus on distinction between licensing requirements for plumbing, electrical and mechanical contractors found in Chapter V Article 15; and licenses for individual plumbers, electricians and mechanical trade workers ("trade workers") found in Chapter V Article 17. Trade workers must be present on construction projects when plumbing, electrical, or mechanical work is being performed. One journeyman or master licensed trade worker may supervise up to two unlicensed trade workers. It was also discussed that the residential license classification already exists for the electrical and mechanical trades. A residential plumbing license would allow license holders to work on residential projects (projects constructed under the International Residential Code as adopted by the City of Lawrence) as journeyman licensed plumbers. The license would authorize holders to work on residential projects without supervision, and to directly supervise up to two non-licensed plumbers on such projects. License holders would also be permitted to work on any other construction project as a non-licensed worker under the supervision of a licensed journeyman or master plumber. Burger made a motion that the Board approve the concept that a license be

Burger made a motion to create a license for residential journeyman plumber for one-and two-family dwellings. Poull seconded the motion with a friendly amendment to create the license for a residential journeyman plumber within the framework of the existing residential classifications for electricians and mechanics.

The motion was unanimously approved.

The Board also expressed appreciation for the new Peaslee Tech program.

- C. The Board reviewed a draft ordinance modifying Chapter V, Article 15 of the City of Lawrence Code that would: 1) establish new license categories for roofing contractors and swimming pool contractors, 2) modify the approval process for Class L license applications, and 3) update regulations for examination of qualifying individuals. Walthall explained a new license classification had been added for swimming pool contractors since the last report to the Board about upcoming proposed changes to implement licensing requirements for roofing contractors. Walthall also explained current and past practices for licensing swimming pool contractors. It was discussed that creating a swimming pool license category would provide opportunity for a consistent method of licensure that would be based on nationally recognized certification exams. Member Burger expressed concern that there is already a State system in place for roofing contractors, and both the roofing and swimming pool contractor licenses would be a barrier of entry into our local market.

Poull made a motion to recommend the draft ordinance for adoption as presented, with appropriate editing and formatting by the City legal staff. The motion was seconded by Vice-Chairman Myers.

The Motion was approved 4-1 with Burger dissenting.

4. Unfinished Business

Walthall provided an update on the status of consolidation efforts for the Building Code Board of Appeals, Contractor Licensing Board, Electrical Code Board of Appeals, Fire Code Board of Appeals, Mechanical Code Board of Appeals and Plumbing Code Board of Appeals into a consolidated Board. Staff is drafting proposed regulations and bylaws for consideration. Staff intent is to present draft regulations at a combined meeting of all the current Boards sometime in September or October of 2018.

Poull mad a Motion to adjourn the meeting. Burger seconded the motion.

The meeting was adjourned at 12:20 p.m.

Attendance Summary			
Member	2/22/2017	12/29/17	5/3/18
Greg Rau, Chair	Present	Present	
Verlon Myers, Vice Chair	Present	Present	Present
Chris Burger	Present	Present	Present
Wayne Duncan	Present	Present	
Seth Martin			Present
Katie Nichols		Present	
Daniel Poull	Present	Present	Present
Barry Walthall	Present	Present	Present



Complete Separate Application for each License
(Class A, B, C, D, E, and L)

LICENSE APPLYING FOR:

- Class A General Contractor** (Requires 6 years' Class A building experience). Shall entitle the holder to construct, remodel, repair, demolish any structure and perform work described as Class D, Building Specialties.
- Class B Building Contractor** (Requires 4 years' Class B building experience). Shall entitle the holder to construct, remodel, repair, demolish all structures not exceeding three stories in height, perform work described as Class D, Building Specialties, and perform non-structural remodeling, tenant-finish, and repairs of all structures.
- Class C Residential Contractor** (Requires 2 years' Class C building experience). Shall entitle the holder to construct, remodel, repair, and demolish single-family or duplex residences, buildings accessory thereto, and perform work described as Class D, Building Specialties.
- Class D Framing Contractor** (Requires 2 years' experience). Shall entitle the holder to construct, remodel, and repair framing work of a structure.
- Class D Concrete Contractor** (Requires 2 years' experience). Shall entitle the holder to do general concrete work.
- Class E Electrical Contractor** (Requires 4 years' experience). Shall entitle the holder to construct, remodel, and repair electrical work of a structure.
- Class E Fireplace Contractor** (Requires 4 years' experience.) Shall entitle the holder to construct, remodel, and repair fireplace work of a structure.
- Class E Mechanical Contractor** (Requires 4 years' experience.) Shall entitle the holder to construct, remodel, and repair mechanical work of a structure.
- Class E Plumbing Contractor** (Requires 4 years' experience.) Shall entitle the holder to construct, remodel, and repair plumbing work of a structure.
- Class L Limited Contractor** – Shall entitle the holder to perform work limited in scope as approved by the Contractor Licensing Board.

Fees

- \$130.00 initial license fee (\$65.00 Application Fee + \$65.00 License Fee)
- Change of Qualifying Party (application fee only)
- Additional Qualifying Party (application fee only)

Company Name: <u>Star Fence Deck & Patio</u>		
Mailing Address: <u>3004 W. 27th St.</u>		
City: <u>Lawrence</u>	State: <u>KS</u>	Zip Code: <u>66047</u>
Phone Number: <u>785-550-2026</u>	Email: <u>davidstarlingks@gmail.com</u>	
Owner or Authorized Individual Signature: <u>David Starling</u>		
Owner or Authorized Individual Printed Name: <u>David Starling</u>		



QUALIFYING INDIVIDUAL

(Complete separate work experience affidavit for each Qualifying Individual)

Qualifying Individual – MUST BE SIGNED BY QUALIFYING INDIVIDUAL

The contractor-applicant (Qualifying Individual) shall disclose any current or previous contractor license(s) held in Kansas or any other state and any disciplinary actions taken against such contractor-applicant or company. Attach documentation.

Print Full Name: David M. Starling
 Qualifying Individual Signature: David M. Starling Date: 9-20-18
 Qualifications: Exam Degree

QUALIFYING INDIVIDUAL WORK EXPERIENCE AFFIDAVIT

From: Spring 2013 to: Present Total Years: 6 Months: _____
 Employer: self: Star fence Deck & Patio
 Verify by calling: David Starling
 Phone Number: 785-550-2026
 Duties: Building Decks, patios fences landscaping
Repairing & staining decks

From: spring 2012 to: winter 2012 Total Years: _____ Months: 10
 Employer: Richard Odds
 Verify by calling: Richard Odds
 Phone Number: 913-634-0027
 Duties: Training to Build Decks with a master
builder

From: _____ To: _____ Total Years: _____ Months: _____
 Employer: _____
 Verify by calling: _____
 Phone Number: _____
 Duties: _____

From: _____ To: _____ Total Years: _____ Months: _____
 Employer: _____
 Verify by calling: _____
 Phone Number: _____
 Duties: _____



INSURANCE VERIFICATION REQUIREMENTS

The contractor shall be required to maintain and carry in force for the duration of the contract, insurance coverage of the types and minimum liability as set forth below.

All Class A, B, C, D, or E contractors shall submit an original certificate of insurance. The certificate holder on the Certificate of Insurance shall be as follows:

City of Lawrence, Kansas
Planning and Development Services Department
1 Riverfront Plaza, Suite 110
Lawrence, KS 66044

A. General Liability Class A, B, and C contractors shall maintain general liability coverage in the amount of not less than \$1,000,000 per occurrence single limit for bodily injury and property damage. Class D and E contractors shall maintain general liability coverage in an amount not less than \$500,000 per occurrence single limit for bodily injury and property damage. Class L Limited contractors shall maintain general liability coverage as required for Class A, B, and C contractors, or for Class D and E contractors, as deemed appropriate by the Contractor Licensing Board.

B. Worker's Compensation and Employer's Liability

1. Worker's Compensation as required by State Statutes. If the contractor is exempt from the Worker's Compensation requirement, the contractor must submit a letter stating the exemption.
2. Employer's Liability \$100,000 each occurrence. (Include all states endorsements)

Before a license will be issued, the contractor shall furnish to the City of Lawrence, Planning and Development Services Department with a Certificate of Insurance verifying such coverage.

Name of Insurance Carrier (Liability):	Security National Insurance Co
Agent's Name:	Marvin Mensah
Agent's Phone:	646-844-9933
Name of Insurance Carrier (Workmen's Comp):	NA
Agent's Name:	NA
Agent's Phone:	NA

David Starling's Credentials for constructing Decks, Fences, Patios and other Landscape work

Decks and Fences: When I initially meet with a potential customer to take measurements and talk to them about their specific needs in a new deck or fence, I usually like to show them my portfolio of completed jobs. This indicates to them that I have actually done the type of work they're also interested in having done. It also gives some ideas on what type of deck or fence they are considering and hopefully give them a better perspective into the craftsmanship that goes into building a quality deck or fence.

I then like to give them an overview of the steps we take and basically what all is involved in the process—what we will be doing, what they need to do, approximately how long the job will take—weather permitting, etc. Most customers like to be involved in the building process on a daily basis and we encourage their input because there's always countless questions arising and we want to make certain the job is done to their satisfaction.

So in this initial meeting it's important for me to establish some degree of credibility with them so they will have confidence in our ability to complete a quality job. We discuss the terms of payment—they all seem to like that we don't charge anything up front—no deposits, no down payments. Once we have delivered the materials for their job we ask for the materials portion of the job—normally about half of the overall cost. Then, they make no further payments until the job is completed to their satisfaction.

When I've completed their job quote I'll call to ask if they would like me to Email it to them or drop it by and go over the quote with them. We get about 95% of the jobs we bid—unusually high but most of our customers are referrals from their friends or co-workers who have seen our work firsthand and want us to build their deck or fence. Period. So that's a confidence builder from the start and often makes for a great working relationship, which is so important. There's nothing that good communication can't solve!

Once we've secured the job it's off to the races, so to speak.

Regarding my work- related credentials, my background history in the realm of deck and fence construction, I referenced in my Brief History And Resume that over the past six years, from 2013 through 2018, so far I've built or done major repair on 42 decks—we usually demolish the old deck as well—if they had one. That's a lot of work for a small operation like ours, but that's the way I want to operate—hands on!

I also mentioned that in the past six years we've built or done major repair on 54 fences of various sizes and 5 pergolas.

For all this work I've done building decks and fences the past six years, I have my friend Dick Oddo to thank for taking me under his talented construction wings and teaching me the right way to construct decks and fences. The 10 months we spent working together were invaluable and taught me so many things about construction.

PATIOS AND OTHER LANDSCAPE WORK:

Ever since my teens, in the late 60's, I've enjoyed working outdoors whenever possible. My dad was my first customer and I spent countless hours working

on landscaping our backyard and the area around the two-hole golf course I built in 1964 with real bent grass greens and sand traps. The neighborhood kids and myself had a blast staging our own golf tournaments. That same year I got to meet Arnold Palmer. I was so excited. And as I got older I still had the passion to build beautifully landscaped areas. My specialty was building brick and flagstone patios and walkways, which I still design and construct today—50 years later! Again, referencing my Brief History and Resume, I noted that over the past 6 years we've built 38 brick and flagstone patios. We also do a lot of flagstone walkways, with and without the "Gator Dust" grout. We recently designed and built a 75 ft. flagstone walkway down a rocky hillside (see testimonial and photo from Mark and Alea LaFond). Portions of it were a solid walkway—with gator dust grout and other parts were large stepping stones.

So, these are my Credentials: Superb on-the-job training in deck and fence construction, many years of research and observation and most importantly, years of in-the-field experience constructing decks, fences, patios and a host of other landscape jobs.

David M. Starling

BRIEF HISTORY AND RESUME

Born January 1, 1950, Kansas City, MO

Graduated Shawnee Mission North H.S., 1968

Graduated with a Bachelor of Arts degree in history & philosophy from
Mid-America Nazarene University with a 3.9 GPA, 1972

Took Graduate studies in history at KU and UMKC, 1972-73

Taught briefly at UMKC, 1973-74

Published a book, "A Listener's Guide To Classical Music", 1974-75

In the summer of 1975 an investment firm took interest in some unique horticultural products that I had been researching over the past year, namely a somewhat rare caudex-type succulent found among the sandy hills of Northern Mexico, in the state of Nuevo Leon. I formed a Missouri corporation, Starling Enterprises, Inc. to market this fascinating plant. The "Livingboulder," scientifically known to collectors as *Jatropha berlandieri*, became an overnight success once it hit the Wal-Mart, A & P Grocers, TG&Y and Safeway stores nationwide. From 1976-77, we sold over 100,000 Livingboulders as well as a wide variety of other unique cacti and succulents. We employed 18 part-time college students to clean and box up the 3 sizes of boulders in a 3,000 sq. ft. warehouse in K.C., KS and 3—100 ft. greenhouses in Shawnee, KS. Unfortunately, by the Spring of 1978, our primary source of supply,--Mexican citizens legally bringing the plants across the border and selling them to us by the 5 ton truckload, had all but dried up—literally, due to the drought-stricken areas of Northern Mexico at that time.

Not to be denied by nature, I came up with an even more grandiose plant-plan;

“The Rare & Exotic Plant Club of America”. We advertised in nationally-known Magazines like “Better Homes and Gardens”. For \$15 new members received my Recently published catalogue offering over 2,000 rare plants and one of our prized Livingboulders. Orders poured in from around the country. By the Fall of 1980 we had over 3,000 members. And a high percentage of them were from Small town USA where they had no access to rare plants. Our plant suppliers primarily came from Florida, Texas, Mexico, Arizona and Southern California where we purchased cacti, succulents, orchids and bromeliads. And we offered a catalog of Botanical Literature offering many out-of-print books on rare plants. Soon the three greenhouses were full of plants and we were not able to keep up with the unexpected demand for our plants. The best decision I’ve ever made was to sell the business to one of my suppliers in Florida who had the ability to handle a large quantity of mail order plants.

For the next five years, 1982-86, I maintained a wholesale and retail tropical business out of the three greenhouses in Shawnee, KS. It prospered, but not like the Rare & Exotic Plant Club.

My greenhouse lease expired the first of 1987 so I began researching to find another viable business. I did. Market Dynamics, Inc, worked with large multi-location resorts in destination areas. “Travel Agents Choice” was a direct mail piece that was sent out quarterly to all 25,000 travel agencies in the U.S. and 5,000 in Canada. They were quite popular during this time period. They were referred to as Direct Response Card Decks. As a business to business connection medium, resorts loved it because the travel agents would send in the postage-paid cards and the resorts would send them a quantity of brochures to promote their resort. This format was so popular that I developed another card deck called “Business & Franchise Opportunities”. This business to individual format

involved large franchises offering to sell their business to individual franchises.

The 50,000 quarterly mailing was very popular but soon we had competition offering the same program which drastically cut into the profits. So by the summer of 1994 I decided to dissolve the B & F O mailing and sell the Travel Agents Choice deck to our largest competitor, Gralla Publications.

I then dissolved Market Dynamics, Inc.

I knew what I wanted to do next. Get back in the publishing business. Since 1981 I had put out annual golf directories in such city markets as Kansas City, St. Louis and Wichita. The magazine format was quite popular with golfers, especially since it was distributed free at all the area courses. I experimented with various formats and did test markets in Texas and Oklahoma cities throughout the 80's and early 90's. What I found out through my research was that a book format would be much more marketable and even sellable if it contained a quantity of "free golf". So that's what we gave the golfers—a 6x9 softbound book featuring detailed info. on every golf course in the state. We still published a few city books. The selling point of the books was the large quantity of free golf—between \$2-5,000 just for buying the \$25 book. The idea was a big hit! My first 6x9 book came out during the Thanksgiving holidays of 1994. The 1995 Kansas City Golf Directory sold out at the Dec. K.C. Golf Show. From there I went back to St. Louis and put out a 1996 Missouri Golf book, debuting at the winter St. Louis Golf Show in the Edward Jones domed stadium. With about \$3,000 of free golf. It sold like hotcakes for \$25. Plus, each directory contained \$10-20,000 of advertising. At that show I met three golf addicts—like myself. After a few weeks of negotiating, I decided to sell 49% of Golf Directories, Inc. to these three. I agreed to re-locate the home office to suburban St. Louis. One of the new partners already had an office so we set up shop there. Telemarketers were hired to gather golf course information and solicit the free golf, known as the Preferred Players Golf Card. I went on the road

selling advertising (one of my specialties), taking golf course photos for the books and golf calendars, meeting the golf pros, playing some golf at many of the premier courses in the country and enjoying it all.

By the summer of 1997 we had six golf books in publication. By the summer of 1998 we had doubled that number to 12, including choice states like Georgia, Illinois, Tennessee, Minnesota, Kentucky and the largest, Ohio.

Also by this time I was growing weary of all the travel and lack of free time.

So, I decided to sell the other 51% of the corp. to my three partners.

For the next two years I traveled, played golf and painted—another long-time passion (See my art website at davidstarlingart.com). My paintings have been in numerous galleries in the Metro Kansas City area, including the Kemper Museum of Contemporary Art.

After two years of having too much fun, I decided to get serious about working again. Since publishing and photography always get me excited, I researched the upscale residential construction industry. I decided I could produce high quality marketing literature for these builders of half-a-million to over five million dollar homes so they could distribute them to their potential homebuyers and realtors. And the builders didn't have to pay a dime for these services. The builders' loyal subcontractors paid for the entire brochure production, including my medium format photography.

Over the next ten years, from 2001 to 2010, I produced over 200 marketing brochures, working with a like quantity of quality custom home builders in the Greater Midwest and Colorado. This is when I became particularly interested in DECKS AND FENCES. Some of the contractors built decks and fences on their own, but most of them subbed out the work. During my ten years I talked to many deck

and fence builders. I photographed countless decks and fences and patios and pergolas. I often chatted with the builders about how they construct their exquisite decks, especially in the multi-million dollar homes. So I learned a lot from talking to these professional builders of decks and even unique fences. It peaked my interest so much that a year and a half later, after the new housing construction industry had already crashed and burned, I decided I needed a new challenge.

Fortunately, my best friend, Dick Oddo, (see his testimonial), a master builder in the commercial construction business with his father, A.V. Oddo for over 30 years, was in between jobs. His bride-to-be lived in Lawrence so it gave him good reason to come to Lawrence to work. From just driving around town we knew there were tons of 20-25 year old decks that needed replacing.

So for the next 10 months, I was basically tutored by Dick in Deck Construction 101. We built many beautiful decks together. He is definitely a master craftsman and carpenter. And he learned his trade from the best I've ever worked for, his genius father, Andy (A,V,) Oddo who built countless schools, churches, Lenexa City Hall and hundreds more in his 50 year career.

Dick was offered a commercial superintendent position in 2013 so I was on my own. I was confident with what I had learned from Dick and the many deck builders in the ten years prior, that I could construct high quality decks, as well as fences, pergolas, brick and flagstone patios.

Over the past six years, from 2013 through 2018, I've built or done major repair work on 42 decks. I've also constructed 54 fences of various sizes, 5 pergolas and 38 cement brick and flagstone patios(with gator dust). I've also stained or painted over 80 decks and fences.

Our little business usually has more work than myself and my part-time Independent contractor helper can handle---thanks to the many referrals we get from satisfied customers. Our top priorities are to build a strong and safe deck, constructed in the best possible and professional manner and to always be polite and courteous to our customers and to make certain they are satisfied with our work. If not, we will make it right. Our customers pay nothing up front. Once the lumber and materials for their job is delivered to their job site, we ask for one-half the total job cost. The balance is not due until the job is fully completed TO THEIR SATISFACTION.

It is now Sept. 25, 2018 and we have several large fence and patio jobs to complete by the end of the year, so hopefully the weather will cooperate this Fall so we can add to our growing list of happy customers!

SINCERELY,

DAVID STARLING,

STAR FENCE, DECK & PATIO

Memorandum

City of Lawrence

Planning & Development Services

TO: City of Lawrence Contractor Licensing Board

FROM: Planning & Development Services Staff

DATE: August 27, 2018

RE: September 10, 2018 Contractor License Complaint Hearing - DFC Company of Lawrence, LC

COMPLAINT

PURPOSE

The primary purpose of the Contractor Licensing Regulations is to protect the life, safety, health, property, and welfare of the community through the licensing and regulation of the contracting industry. Before a person may obtain a contracting license from the City, he, she, or it must exhibit that he, she, or it has the requisite skill, craftsmanship, and experience to perform construction projects in the City, for the protection of the community, in compliance with local, state, and federal laws. To those ends, the Governing Body established the Contractor Licensing Board (CLB) to review contractor licenses to ensure that all contractors working in the City maintain a high standard of integrity, skill, and practice. And, pursuant to City of Lawrence, Kan., Code §§ 5-1610, 5-1612, and 5-1520 (Jan. 1, 2018), as amended, the CLB has the authority to hear complaints and, as necessary, to admonish, to reprimand, or to take appropriate disciplinary action against a contractor, including the suspension or revocation of the contractor's license.

COMPLAINT

By this Complaint, as set forth in more detail in the sections that follow, the City of Lawrence, Kansas, hereby charges **DFC COMPANY OF LAWRENCE, LC**, a Kansas corporation, including its principals, affiliates, and subsidiaries, **THOMAS FRITZEL, CASEY STEWART, WESLEY LYNCH, TUCKER FRITZEL, EAGLE 1968, L.C.**, including its principals, affiliates, and subsidiaries, and **R&R SUPPLY COMPANY, L.C.**, including its principals, affiliates, and subsidiaries, (hereinafter referred to individually or collectively as the "CHARGED ENTITIES") with violations of City of Lawrence, Kan., § 5-1510(A) and (E) (Jan. 1, 2018), as amended. Specifically, the CLB may discipline any licensed contractor for the following:

- (A) A serious or repeated violation of the provisions of the Contractor Licensing Regulations, any applicable code, or the failure to comply within a reasonable time to any lawful written order of a building code official. . . .
- (E) A failure to exercise regular, routine control and supervision over an on-going project for which the contractor has obtained a building permit.

Id. For those alleged violations, the details of which are, as noted above, set forth in the sections that follows, the City asks the CLB to SUSPEND FOR A PERIOD OF ONE YEAR, commencing on the date of the CLB's decision, the contractor's license(s) of the foregoing CHARGED ENTITIES, including their principals, affiliates, and subsidiaries and to prohibit, during that time, the CHARGED ENTITIES from acting as a qualified individual or from participating, as an owner, principal, or other affiliate, of any entity holding a City of Lawrence contractor's license.

FACTUAL BACKGROUND

Asbestos

On June 27, 2018, the United States of America indicted the CHARGED ENTITIES for various violations of the Clean Air Act of 1970, codified as amended by the Clean Air Act of 1990, at 42 U.S.C. § 7401 *et seq.* Specifically, the indictment alleges that, commencing in 2016, the CHARGED ENTITIES conspired to violate and violated the Clean Air Act by improperly removing and disposing of regulated asbestos-containing materials (RACM) in the course of renovating the former Alvamar Country Club clubhouse. The alleged conspiracy and overt actions in furtherance thereof occurred while the CHARGED ENTITIES had a valid Building Permit, issued by the City, for the renovation of the former Alvamar Country Club clubhouse. (A report issued by the Kansas Department of Health and Environment (KDHE), Bureau of Air (detailing the alleged violations) is affixed hereto as Exhibit A; a copy of the Indictment, dated June 27, 2018, is affixed hereto as Exhibit B; both documents are incorporated herein as if set forth in full).

By way of background, asbestos is a mineral fiber that occurs in rock and soil.¹ Because of its fiber strength and heat resistance, asbestos historically has been used in a variety of building construction materials as insulation and as a fire retardant. Asbestos has also been used in a wide range of manufactured goods, such as other building materials (roofing shingles, ceiling and floor tiles, paper products, and asbestos cement products), friction products (automobile clutch, brake, and transmission parts), heat-resistant fabrics, packaging, gaskets, and coatings.

Exposure to friable asbestos increases the risk of developing lung disease, including lung cancer, mesothelioma (a form of cancer that is found in the thin lining of the lung, chest, abdomen and heart), and asbestosis (a serious progressive, long-term, non-cancer disease of the lungs). In general, exposure may occur only when the asbestos-containing material is friable, *i.e.*, disturbed or damaged in some way to release particles and fibers into the air.

¹ Information about asbestos and health hazards associated with asbestos containing materials was obtained from the Environmental Protection Agency webpage at www.epa.gov/asbestos.

To safeguard the health and safety of construction workers, building occupants, and the general public, the EPA has created safe work regulations that are implemented by the various states. In Kansas,² asbestos abatement activities are regulated by the KDHE, Bureau of Air. Abatement activities include removal and encapsulation during the dismantling or demolition of structures containing RACM. Abatement activities must be performed by licensed businesses, employing certified workers, and must comply with specific and detailed EPA and KDHE work practices that include proper use of personal protective equipment, abatement techniques, disposal, and documentation. Abatement projects for commercial buildings and multi-family dwellings containing four or more dwelling units must be reported to and approved by KDHE prior to the commencement of the abatement work.

The KDHE report suggests and the indictment alleges that, during the removal of RACM during the renovation of the Alvamar Country Club clubhouse, the CHARGED ENTITIES intentionally disregarded state and federal regulations for asbestos abatement activities and then attempted to conceal their unlawful activities.

The Kansas Asbestos Control Act of 1985, codified as amended at K.S.A. 65-5301 *et seq.*, requires that, in addition to compliance with its other provisions, any business engaging in asbestos projects must: (1) hold a license issued by the secretary of KDHE; (2) ensure that its employees are properly accredited and capable of complying with all applicable work practices of the United States Environmental Protection Agency (EPA); and, (3) maintain adequate records of asbestos abatement projects.

The EPA's National Emission Standards for Hazardous Air Pollutants (NESHAP) regulations, promulgated under the Clean Air Act, specify work practices that must be followed during demolitions and renovations of all structures, installations and buildings (excluding residential buildings that have four or fewer dwelling units) that involve RACM. NESHAP includes requirements for notification of state agencies responsible for enforcement of federal clean air regulations, use of proper personal protection equipment by asbestos workers, use of proper work techniques to limit the emission of asbestos fibers (including wetting of materials), and proper disposal of asbestos containing materials in leak-proof containers at appropriate and approved disposal sites.

Summary of Allegations

The KDHE Report, affixed hereto as Exhibit A, and the Indictment, affixed hereto as Exhibit B, may be summarized as follows:

- The Alvamar Country Club clubhouse was constructed in the 1980's by Gene Fritzel Construction Company. (City permit records confirm that construction of the clubhouse was commenced in 1982.) Gene Fritzel is the father of **THOMAS FRITZEL** and Gene Fritzel Construction Company is a principal of **DFC COMPANY OF LAWRENCE, L.C.** During a hail storm in 2008, the roof of the Alvamar Country

² Information about asbestos abatement activities regulations was obtained from the Kansas Department of Health and Environment webpage at www.kdheks.gov/asbestos.

Club clubhouse was significantly damaged. The Alvamar Country Club Board of Directors approached Jay Patterson, then a contractor, to oversee building a new roof for the clubhouse. Patterson obtained a sample from the clubhouse roof and submitted it to ACT labs, which tested it and found that it contained 75% chrysotile, which is a RACM (regulated asbestos containing material). Due to the cost of abating the asbestos, the Board elected not to replace the roof.

- **THOMAS FRITZEL** purchased Alvamar Country Club in January 2016 and began demolition/renovations thereof (Jayhawk Project). In March 2016 an employee of Alvamar Country Club notified **THOMAS FRITZEL, DFC COMPANY OF LAWRENCE, L.C.**, and other CHARGED ENTITIES that the roof of the clubhouse contained asbestos. The employee sent a second email the next day, again notifying the CHARGED ENTITIES of the presence of asbestos. After the second email, the employee was allegedly warned by **WESLEY LYNCH**, the general manager of the Jayhawk Club, to never send an email with that type of content again. **THOMAS FRITZEL, DFC COMPANY OF LAWRENCE, L.C.**, and other CHARGED ENTITIES were again notified in the Fall of 2016 that the former Alvamar Country Club clubhouse roof contained asbestos, this time by Jay Patterson, the contractor that had done the roof evaluation following the 2008 hailstorm. Mr. Patterson later visited the construction site and informed an employee of **DFC COMPANY OF LAWRENCE, L.C.** that work needed to stop because the roof contained asbestos, and also provided the employee with a copy of the 2008 asbestos report.
 - It should be noted that **DFC COMPANY OF LAWRENCE, L.C.**, obtained building permits for "demolition of all non-structural items in existing clubhouse" for the Alvamar Country Club clubhouse at 1809 Crossgate Drive on March 17, 2016, and for a building addition to and complete renovation of the clubhouse on May 5, 2016. Work to the roof would have been associated with both building permits. Both building permits were closed and the City issued a certificate of occupancy issued for the clubhouse on June 16, 2017, with no knowledge of KDHE's work on this asbestos matter as outlined below.
- In June 2016, **TUCKER FRITZEL**, at the direction of his father, **THOMAS FRITZEL**, delivered samples of demolition materials -- ostensibly from the Alvamar Country Club clubhouse -- to generate a report of a bulk sample testing of debris that would show that no asbestos was contained in the sample. The Indictment alleges that **TUCKER FRITZEL AND THOMAS FRITZEL** did so knowing that the sample taken would not contain asbestos, and did so for the purpose of misleading the authorities so that **DFC COMPANY OF LAWRENCE, L.C.**, could proceed with the demolition of the Alvamar Country Club clubhouse roof without complying with the regulations regarding the removal and disposal of regulated asbestos-containing materials (RAMC) and avoiding the expense thereof. The indictment also alleges that **DFC COMPANY OF LAWRENCE, L.C.**, and **THOMAS FRITZEL** provided that falsified report to KDHE in October 2016.

- In October 2016, KDHE received complaints of work proceeding at the Jayhawk Project in violation of state asbestos control regulations.
 - October 13, 2016 – KDHE inspectors visited the site of the Jayhawk Project and observed suspect materials and took samples and pictures. A manager on site, **WESLEY LYNCH**, was notified that debris piles and dumpsters were not to be disturbed or removed pending results of testing of samples.
 - October 17, 2016 – A KDHE inspector notified **THOMAS FRITZEL** by telephone of potential asbestos and work practice violations and stated that all debris and dumpsters were to remain in place and not be disturbed.
 - October 18, 2016 – A KDHE inspector sent an email to **THOMAS FRITZEL** advising that an “asbestos inspection is required on renovations prior to disturbing asbestos material, this inspection needs to be conducted by an accredited inspector (and) (a)ll demo work should be on hold until this situation gets sorted out.”
 - October 18, 2016 – Testing of the samples taken by KDHE disclosed that they contained 75% chrysotile, a regulated asbestos-containing material (RACM), and consistent with the 2008 testing.
 - October 19, 2016 – KDHE met with **THOMAS FRITZEL**. **THOMAS FRITZEL** was advised that regulated asbestos-containing materials (RACM) were present in the debris, and that debris piles and dumpsters were required to be supervised and removed by a licensed asbestos contractor.
 - October 25, 2016 – KDHE inspected the Jayhawk Project site and determined that the asbestos debris, in derogation of the October 19, 2016, admonition, had been removed by **DFC COMPANY OF LAWRENCE, L.C.**, **THOMAS FRITZEL**, and other CHARGED ENTITIES and hauled to Hamm Landfill in Perry, Kansas, and disposed of at a site which is not approved for regulated asbestos-containing materials (RACM).
- Based on those allegations, the Indictment charges **DFC COMPANY OF LAWRENCE, LC, THOMAS FRITZEL, CASEY STEWART, WESLEY LYNCH, TUCKER FRITZEL, EAGLE 1968, L.C.**, and **R&R SUPPLY COMPANY, L.C.**, with the following federal crimes, all in violation of the Clean Air Act: (1) knowingly and willfully conspiring to avoid the extensive costs associated with proper and legal asbestos abatement and removal procedures; (2) knowingly failing to notify the authorities prior to removing asbestos material; (3) knowingly failing to wet friable asbestos before removing it from the demolition/construction site; and (4) knowingly failing to comply with asbestos waste disposal standards by not disposing in leak-tight containers. Again, all violations are alleged to be contrary to the Clean Air Act and regulations related to the removal of RACM, as promulgated by the EPA.

Contractor History

While the following history may not be relevant to the present Complaint, it does provide a backdrop of previous violations of **DFC COMPANY OF LAWRENCE, L.C., THOMAS FRITZEL**, and, as noted, other CHARGED ENTITIES, upon which the present allegations may be viewed in proper perspective:

1. May 5, 2005 – City Staff assessed penalty fees for work commencing without first obtaining a building permit for renovations at 701 Massachusetts Street, permit #05-00100105.
2. April 7, 2006 – City Staff discovered that plumbing work was being performed at 413 N. Olivia Avenue by plumbers working directly for **DFC COMPANY OF LAWRENCE, L.C.**, rather than by the licensed plumbing contractor listed on the permit application. The permit was for construction of a new duplex that was part of the Hutton Farms West Phase I project, a planned residential development. Work was stopped on all duplexes then under construction in Hutton Farms West Phase I project until the originally listed licensed plumbing contractor (Daniel Poull of Watersphere Plumbing) agreed to commence active supervision of the projects. The qualifying individual for the contractor's license for **DFC COMPANY OF LAWRENCE, L.C.**, at that time, Robert Schulte, was issued a Citation and Notice to Appear in Municipal Court for violation of Section 5-602.2 of the City Code, specifically for the unlawful acts of: (1) performing or causing to be performed plumbing work which requires a permit without securing the services of a duly authorized and licensed plumbing contractor; and (2) for any person to conduct, carry on or engage in the business of plumbing contacting without having first obtained a valid, current contractor's license from the City of Lawrence. Municipal Court granted Schulte a diversion in the case and ordered him to pay \$142.00 in court costs and fees.
3. March 3, 2010 – City Staff assessed penalty fees for work commencing without first obtaining a building permit, including deviations from approved plans, at 1200 Oread Avenue, permit #10-00100172. Work had commenced on a storage area in a basement area in derogation of approved plans.
4. May 27, 2010 – City Staff assessed penalty fees for work commencing without first obtaining a building permit for a renovation project at 123 West 8th Street, permit #10-00100587.
5. March 31, 2011 – City Staff advised the contractor that inspectors had observed artificial turf being installed at the Frontier Apartments project located at 542 Frontier Road. The installation of artificial turf was in derogation of the approved site plan, which showed all turf areas to be seeded with grass. The contractor ultimately pursued and obtained a text amendment to the City Code that permits artificial turf in certain, limited circumstances.

6. December 12, 2011 – City Staff issued a Citation and Notice to Appear in Municipal Court to **CASEY STEWART**, an employee of **DFC COMPANY OF LAWRENCE, L.C.**, for violation of Section 5-1.234(C) of the City Code for failure to obtain a timely certificate of occupancy or required final inspection for a completed structure. City Staff also requested that **DFC COMPANY OF LAWRENCE, L.C.**, be charged with the same offense. Final inspections were requested on December 5, 2011, for work associated with permit #11-00101230 for a tenant renovation at 1025 North 3rd Street. Final inspections were not approved on December 5, 2011, and were rescheduled for December 6, 2011. The tenant commenced unauthorized occupancy of the structure on December 6, 2011. However, work had still not been completed as of December 12, 2011, at which time the Citation and Notice to Appear was issued. Final inspections were ultimately approved and a certificate of occupancy was issued on December 13, 2011. **CASEY STEWART** was granted a diversion in the case and was ordered to pay \$260 in court costs and fees and to obtain the certificate of occupancy.
7. October 23, 2012 – After City Staff observed re-construction of the historic Varsity House project, located at 1043 Indiana Street, in violation of the approved plan, City Staff submitted the issue to the Governing Body for review. The Governing Body, after conducting a public hearing, found that, because the structure had been completely dismantled, the project was not in compliance with the conditions of approval (which required preservation of as much of the structure as possible), directed staff to monitor the progress from that point forward, and insisted that the applicant use as much of the original structure as could be salvaged, especially on the exterior, as construction continued, in order to bring the structure into compliance with the intent of the conditions of approval. The Governing Body also determined that the project had not met the conditions of approval and could not meet the conditions, given the actions of **DFC COMPANY OF LAWRENCE, L.C.**, and **THOMAS FRITZEL**, and directed staff to negotiate a settlement with the owner with the intention of furthering the historic preservation efforts in the community. The result of that was that **DFC COMPANY OF LAWRENCE, L.C.**, and **THOMAS FRITZEL** paid the sum of \$50,000.00 to the City to be held in trust for historic preservation purposes.
8. April 25, 2013 – City Staff wrote a letter addressed to **DFC COMPANY OF LAWRENCE, L.C.**, attention **THOMAS FRITZEL**, concerning the issuance of certificates of occupancy (CO) and temporary certificates of occupancy (TCO). This was in response to the discovery that a leasing office had been opened in the Varsity House apartment project that was under construction at 1043 Indiana Street prior to issuance of a certificate of occupancy. The letter described the intent of a TCO to allow reasonable use or occupancy of a building or portion of a building for which construction is substantially complete and for which inspections have been completed and approved. Buildings or portions of buildings that have not received a CO or TCO are considered to be under construction and not to be used or occupied for non-construction purposes.

9. March 2017 – The City charged **CASEY STEWART**, an employee of **DFC COMPANY OF LAWRENCE, L.C.**, with removing the backflow preventer from a City hydrant during construction of portions of the Jayhawk Club project. Approximately 900,000 gallons of water were used to fill a pond on the project. The backflow device prevents water from flowing backward, in this case from the pond, and contaminating the City water supply. DFC had rented the hydrant meter attachment from the City for other purposes, but filling a pond was not an approved use of the City hydrant, according to that rental agreement. It must be noted that **DFC COMPANY OF LAWRENCE, L.C.**, paid to the City hydrant water rates for 889,100 gallons of water, which amounted to around \$5,150 for the water used, taxes, and fees. **CASEY STEWART** ultimately was granted a diversion in the case and was ordered to pay approximately \$950 in fees and restitution.

10. May 22, 2017 – City Staff stopped work on projects at 1820 and 1830 Birdie Way (Jayhawk Project), which projects included the construction of a “lap pool building,” outdoor swimming pool, and a cabana building associated with the outdoor swimming pool. The reasons for work stoppage were that work exceeded the scope of approved building permits and did not conform to approved plans, and that the applicant failed to submit revised plans for approval, specifically:
 - (a) An outdoor grill and concessions building was being constructed in place of the “lap pool building” (building significantly deviated from approved plans, including elevation and floor plans, as well as building use). The lap pool was, without approval, relocated to another building on the property (the “wellness building” at 1840 Birdie Way).
 - (b) A water slide, not shown on the originally approved plans, was being constructed at the outdoor pool.
 - (c) Construction of the cabana did not conform to the approved building elevation and floor plans.

11. June 13, 2017 – City Staff stopped work on the Jayhawk Project construction of the “wellness center” at 1840 Birdie Way because the most recently submitted floor plans for the Wellness Building contained medical office uses, whereas the property was not legally zoned to support such uses. Work was stopped on all tenant finish work on the third floor of the building until the use issue was eventually resolved.

12. October 11, 2017 – City Staff stopped work on the Jayhawk Project construction of the “wellness center” at 1840 Birdie Way because: (1) work exceeded the scope of the approved building permit; (2) work was not being performed in accordance with approved plans; and (3) the contractor failed to provide amended plans for review and approval before commencing that work.

13. April 23, 2018 – City Staff stopped work on the Jayhawk Project construction of a multi-purpose accessory structure at 1809 Crossgate Drive because: (1) work was not being performed in accordance with the approved Final Development Plan (FDP) and approved building plans; (2) work requiring a building permit was commenced without first obtaining a building permit or amending the existing building permit; and (3) work requiring inspections was completed and concealed without first obtaining inspections.
14. May 2, 2018 – City Staff issued a letter to Matthew Viets, the qualifying individual for the contractor’s license of **DFC COMPANY OF LAWRENCE, L.C.**, concerning incidents of April 23, 2018, at 1809 Crossgate Drive. The letter notified Mr. Viets and **DFC COMPANY OF LAWRENCE, L.C.**, of the provisions of City Code Sections 5-1520 and 5-1521, pertaining to actions or inactions for which contractors may be disciplined following a hearing before the CLB, and notification that the letter was included in the **DFC COMPANY OF LAWRENCE, L.C.** contractor license file. The letter also noted that the City will pursue discipline if future violations are observed.
15. June 27, 2018 – The CHARGED ENTITIES were indicted by the United State of America for violation of the Clean Air Act and federal regulations related to the removal and disposal of RACM during the Jayhawk Project. City Staff determined that, in light of that indictment as well as other irregularities at the Jayhawk Project, it would bring the present complaint to the CLB.

While the foregoing incidents are included for perspective only, it must be noted that the City did not bring those complaints before the CLB, previously, because **DFC COMPANY OF LAWRENCE, L.C.**, or other CHARGED ENTITY, was held accountable through other means, including written warnings, assessment of penalties, issuance of Citations and Notices to Appear in Municipal Court, and stop work orders. While City Staff will continue to implement those more traditional measures to retain contractor accountability, it has become apparent, by recent increased frequency and severity of violations, that those efforts alone are not a deterrent for **DFC COMPANY OF LAWRENCE, L.C., THOMAS FRITZEL**, and other CHARGED ENTITIES. It must be noted that this history of violations has -- although accountability was often attained -- strained City resources, requiring extraordinary expenditures of time to pursue compliance with the City Code for projects involving the contractor’s license(s) of the CHARGED ENTITIES.

Conclusion

In the opinion of City Staff, based on the foregoing summaries and allegations of fact, the CHARGED ENTITIES have established a pattern of construction practices that are: (1) inimical to public health, safety and welfare of the community; (2) contrary to the purpose and intent of the Contractor Licensing Regulations; and (3) in violation of (or at least inconsistent with) federal, state, and local laws. The CHARGED ENTITIES should not be permitted to continue to operate with disregard to proper construction practices, the laws of this country, to their benefit and to the detriment of the health, safety, and welfare of the community.

Additionally, the CHARGED ENTITIES' failure to comply with federal, state, and local laws regarding the removal and disposal of RACM put construction workers, any general public in the vicinity of the construction site, travel route, and place of disposal, including KDHE and City staff that may have been onsite in performance of duties, at significant physical risk by exposure to friable asbestos (RACM).

Additionally, the CHARGED ENTITIES' failure to comply with the standards for safe removal and disposal of asbestos containing materials (RACM) violate the federal Clean Air Act, 42 U.S.C. § 7401 *et seq.*, EPA NESHAP regulations, the Kansas Asbestos Control Act of 1985, K.S.A. 65-5301 *et seq.*, as well as Sections § 5-1610(A) and (E) of the City Code.

CLB AUTHORITY TO TAKE DISCIPLINARY ACTION

In the event that it finds that a contractor has violated federal, state, or local law, the CLB has the authority to admonish, to reprimand or take other appropriate disciplinary action against such contractor, including but not limited to:

- (A) Suspension of the contractor's license for a fixed period not to exceed ninety (90) days.
- (B) Suspension of the contractor's license for a fixed period exceeding ninety (90) days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the CLB at the expiration of the first ninety (90) days and every ninety (90) days thereafter to determine if just cause exists to modify or terminate the suspension. Such reconsideration may, at the Board's option, include a hearing.
- (C) Revocation of the contractor's license for a period not less than twelve (12) months from the date of revocation. A contractor's license shall be revoked if the contractor has been suspended two (2) times during any thirty-six (36) month period.

City of Lawrence, Kan., Code § 5-1521 and § 5-1612 (Jan. 1, 2018).

STAFF RECOMMENDATION

It must be noted that City Staff has not conducted an independent investigation of the charges outlined in the KDHE report or the Indictment. However, those allegations are of such a grave nature that the CHARGED ENTITIES should not be permitted, while those charges are pending, to act as contractors within the City and that the contractor license(s) of the CHARGED ENTITIES should be suspended for a period of one year, commencing the date of the opinion of the CLB. If the allegations are proved true and convictions are obtained, then it will have been proved that the CHARGED ENTITIES violated federal, state, and local law with utter disregard to the health, safety, and welfare of the community. In that case, City Staff will return to the CLB and will seek a permanent revocation of the contractor license(s) of the CHARGED ENTITIES. In the case that the allegations are not proved true and acquittals are obtained, then City Staff will return to the CLB and ask that the contractor license(s) of the CHARGED ENTITIES be reinstated, potentially conditioned upon a plan to eliminate the future occurrences of noncompliance by the CHARGED

ENTITIES. Additionally, if no resolution of the criminal charges are achieved within that one year period, then City Staff will bring this matter back to the CLB either to continue the suspensions for additional time, to seek revocation, or to seek reinstatement of those license(s).

Accordingly, City Staff recommends that the Contractor Licensing Board take the following actions against **DFC COMPANY OF LAWRENCE, LC**, a Kansas corporation, including its principals, affiliates, and subsidiaries, **THOMAS FRITZEL, CASEY STEWART, WESLEY LYNCH, TUCKER FRITZEL, EAGLE 1968, L.C.**, including its principals, affiliates, and subsidiaries, and **R&R SUPPLY COMPANY, L.C.**, including its principals, affiliates, and subsidiaries:

- (1) Suspend the contractor license(s) of the CHARGED ENTITIES for a period of one year from the date of its order, with City Staff to return upon any conviction to seek revocation, upon any acquittal to seek reinstatement with conditions, or, in the event that the pending criminal charges are not resolved within one year, to seek a continuance of the suspension, a revocation, or a reinstatement;
- (2) Prohibit, during the term of the suspension, any of the CHARGED ENTITIES from acting as a qualifying individual for any City-issued contractor license; and,
- (3) Prohibit, during the term of the suspension, any of the CHARGED ENTITIES from being included in the ownership or management of any City-licensed contractor performing work on any project for which a building permit is required or for which a building permit has been issued within the City.

Attachments: Exhibit A, KDHE Report
Exhibit B, Indictment
May 2, 2018 letter to DFC Company of Lawrence, L.C.

Kansas Asbestos Complaint/Consultation Report

Number

CI6002

Bldg Name

Alvamar Country Club

Date

10/13/2016

Address

1809 Crossgate Drive

City

Lawrence

Notif ID (If Issued)

State

KS

Zip Code

66047

Owner

Gene Fritzel Construction Co., LLC

Contractor 1

Gene Fritzel Construction Co., LLC

Contractor 2

Consultant

NESHAP

Consultation

Complaint

Other

Description

Renovation

Enclosure

Demolition

Glovebag

Removal

Outdoor

Dismantle

Encapsulation

Other

Description

Inspector 1

PJS

Inspector 2

TKG

Comment

On Thursday, October 13th, 2016 around 1:00 PM, Phil Schlaman and I (Tina Gustafson) arrived onsite to the Alvamar Country Club construction location in response to complaints that potential asbestos containing material was being improperly removed from roofing components of the main country club building. We observed a section of the roof that appeared to have been sawed off in a manner that would render suspect asbestos-containing material friable, as well as loose material in piles near the roof. We found suspect material on the back of roofing shingles that seemed to have fibrous components. Phil donned his PPE and obtained a sample from the white backing that was located in a debris pile near the roof.

We documented the site with photo and video evidence, including video of Phil collecting the suspect sample. There may be more violations noted as video and pictures are reviewed.

We spoke with a contractor onsite, Wes Lynch, who was working on the golf course remodel, and he indicated that the Fritzel associates were out of town and that he was not aware of any demolition or inspection notification. Mr. Lynch indicated that he could pass a message to Fritzel and associates. Mr. Lynch was informed of a possible asbestos violation and that all debris piles and dumpsters were to remain in place and not to be disturbed pending the results of a suspect sample obtained from one of the debris piles. Phil contacted the Fritzel office on Friday, leaving a message asking to be called back as soon as possible. He then called again on Monday, October 17, 2016 without speaking to a supervisor. He followed-up a few hours later, again with no response. Thomas Fritzel later called back and Phil explained there may be potential violations with work practices, as well as suspect material present. Phil instructed him to leave the suspect material in place and undisturbed, pending lab results.

On Tuesday, October 18th close to 9:30 AM, Adam Irvin and I delivered the suspect sample to Asbestos Consulting and Testing firm in Lenexa, KS for testing. We received the results late on the afternoon of the 18th, indicating that the sample was comprised of 75 percent chrysotile asbestos.

On Wednesday, October 19th at about 11:30 AM, Thomas Fritzel and Casey Stuart (foreman of the project) met with Phil Schlaman, Javier Ahumada, Adam Irvin, and me to discuss an acceptable way to move forward. Thomas said that

his employees had previously taken a section sample of a tar-like roofing shingle, and sent it to a lab in Kansas City to be analyzed. Results came back negative, so they began construction about one month prior to our inspection of the site. They indicated the entire East side of the clubhouse roof had been removed and disposed of at Hamm's landfill near Lawrence, KS without permitting or proper disposal of potential asbestos containing materials.

Phil informed Thomas and Casey that a certified asbestos inspector was required to take all samples prior to any sort of renovation or demolition, and advised the Fritzel Company to do so before moving forward. Phil also advised them of the necessity to hire a licensed asbestos contractor to supervise and remove the preexisting debris piles and dumpsters located on site. Thomas agreed to the terms and indicated he would provide information on the inspection reports and comply with all requirements moving forward. Mr. Fritzel was handed a copy of the Kansas Asbestos Statutes, as well as a copy of penalties involved in the unauthorized removal of friable asbestos material.

On October 28, 2016, Phil and Tina returned to the site to inspect. We saw the main pile of debris had been moved from where our original asbestos sample was taken on October 13. All of the dumpsters had also been moved from prior locations, and the waste in these dumpsters had been relocated. Wooden paneling had been added to the wall covering the section of roofing that was sawed off, creating the friable sample we had recovered during our last inspection.

Inspector Signature: _____ **Date:** _____

Reviewer Signature: _____ **Date:** _____

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS
(Topeka Docket)**

UNITED STATES OF AMERICA

Plaintiff,

v.

**THOMAS FRITZEL,
CASEY STEWART,
WESLEY LYNCH,
TUCKER FRITZEL,
DFC COMPANY OF LAWRENCE, L.C.,
EAGLE 1968, L.C., and
R&R SUPPLY COMPANY, L.C.,**

Defendants.

Case No.

INDICTMENT

The Grand Jury charges:

Introduction:

GENERAL ALLEGATIONS

At all times material to this Indictment, unless otherwise specified:

THE VARIOUS DEFENDANTS

1. The defendant, **Thomas Fritzel**, was a businessman and developer in Lawrence, Kansas. **Fritzel** conducts business through various entities, including, but not limited to, co-defendants **DFC Company of Lawrence, L.C., Eagle 1968, L.C. and R&R Supply Company, L.C.**

2. Defendant, **Casey Stewart**, acted as **Fritzel's** site manager on various projects, including the development of the former Alvamar County Club into the Jayhawk Club, an exclusive private club and golf course located on Birdie Way, Lawrence, Kansas. The Jayhawk Club is owned by defendant **Eagle 1968, L.C.**

3. Defendant, **Wesley Lynch**, is General Manager of The Jayhawk Club.

4. In or about March 2016, a permit application for remodel was submitted to the City of Lawrence. The application listed defendant **Eagle 1968, L.C.** as the owner of the Jayhawk Club, and defendant **DFC Company of Lawrence, L.C.**, as the builder.

5. Defendant, **R&R SUPPLY COMPANY, L.C.**, is partly owned by defendant **Thomas Fritzel**, who was also the registered agent for **R&R**. The dumpsters on-site, into which regulated asbestos-containing material (RACM) was deposited for removal to an unauthorized dump site, were labeled "**R & R Supply Company.**"

RELEVANT REGULATIONS

6. As noted above RACM is an acronym for regulated asbestos-containing material, which is regulated for handling, removal and disposition in accordance with 40 C.F.R. Part 61.140, et seq..

7. The Clean Air Act was enacted by Congress to protect and enhance the quality of the Nation's resources so as to promote the public health and welfare. 42 U.S.C. §§ 7401, et seq.

NESHAP

8. The Clean Air Act authorizes the United States Environmental Protection Agency (EPA) to identify hazardous air pollutants and to establish standards to prevent or

limit the emission of hazardous air pollutants into the atmosphere. In accordance with Section 112(d) of the Clean Air Act, the Administrator of the EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP), at 40 C.F.R. Part 63, 42 U.S.C. § 7412.

9. Pursuant to the Clean Air Act, asbestos has been designated as a hazardous air pollutant since 1971. 42 United States Code, §§ 7412(a)(6) and (b); 40 C.F.R. § 61.01(a).

10. Where it is not feasible to prescribe and enforce emission standards for hazardous air pollutants, in lieu of such emission standards, EPA may publish work practice standards which require that certain procedures be followed when dealing with hazardous air pollutants. These NESHAP work practice standards have the effect of emission standards. Title 42, United States Code, §§ 7412(d)(2)(D) and (h). NESHAP work practice standards have been published for demolition and renovation of certain facilities containing asbestos and for the handling of asbestos-containing materials. 40 C.F.R. §§ 61.145, 61.150.

11. NESHAP work practice standards require that certain procedures be followed in handling friable asbestos materials to prevent the discharge of asbestos particles into the ambient air. 40 C.F.R. § 61.140 et seq.

12. “Friable asbestos material” means any material containing more than 1 percent asbestos as determined using the method specified in Section 1 of Appendix E, Subpart E, 40 C.F.R. part 763, Polarized Light Microscopy (PLM), that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by PLM, the asbestos content shall be verified by point counting using PLM. 40 C.F.R. § 61.141.

13. “Regulated asbestos-containing material” (RACM) means (a) Friable asbestos material; (b) Category I nonfriable ACM that has become friable; (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading; or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of regulated demolition or renovation operations. 40 C.F.R. § 61.141.

14. Asbestos work practice standards apply to any owner or operator of a facility who conducts a renovation operation, when the combined amount of RACM stripped, removed, dislodged, cut, drilled, or similarly disturbed is at least 260 linear feet on pipes, 160 square feet on other facility components, or 35 cubic feet off facility components where the length or area of the RACM could not be previously measured. 40 C.F.R. § 61.145(a)(4).

15. “Renovation” means altering a facility or one or more facility components in any way, including the stripping or removal of RACM from facility components. The term “facility component” means any part of a facility, including equipment. 40 C.F.R. § 61.141.

16. “Facility” means any institutional, commercial, public, industrial or residential structure, installation or building. 40 C.F.R. § 61.141.

17. The term “facility component” means any part of a facility, including equipment. 40 C.F.R. § 61.141.

18. The asbestos work practice standards define the appropriate procedures for the

safe handling and removal of RACM during renovations so as to prevent emissions of particulate asbestos materials into the air. These work practice standards require, in pertinent part:

a. that at least 10 working days prior to beginning asbestos stripping or removal work, or any other activity such as site preparation that would break up, dislodge, or similarly disturb asbestos material, the owner or operator of the facility provide written notice to the EPA. The notice must describe and identify the facility; include the name, address and telephone number of the facility owner and operator as well as the asbestos removal contractor; list the scheduled starting and completion dates of the renovation; describe the planned renovation and the methods to be used; describe the procedure employed to detect the presence of RACM; estimate the amount of RACM that will be removed; and list the waste disposal site at which the asbestos waste will be deposited, 40 C.F.R. § 61.145(b);

b. that when any facility component (such as a boiler, pipe, or tank) which is covered or coated with RACM is taken from the facility, as a unit or in sections, the owner or operator adequately wet any RACM exposed during cutting or disjuncting operations and carefully lower the components to the ground, without damaging or disturbing the RACM, 40 C.F.R. § 61.145(c)(2);

c. that, when any facility component is stripped of RACM while it remains in place in the facility, the owner or operator adequately wet the RACM, 40 C.F.R. § 61.145(c)(3); and,

d. that, for all RACM, including material that has been removed or stripped, the owners and operators adequately wet the material and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with applicable regulations. 40 C.F.R. § 61.145(c)(6).

19. The asbestos work practice standards also require that during the collection, processing, or packaging of asbestos-containing waste material, the owner and operator shall either discharge no visible emissions to the outside air, or:

a. shall adequately wet and properly package the material for disposal in leak-tight containers or wrapping and label the packages in accordance with Occupational Safety and Health Standards of the Department of Labor, Occupational Safety and Health Administration (OSHA), or

b. process asbestos-containing waste material into non-friable forms specified by applicable regulations. 40 C.F.R. § 61.150(a).

20. The waste generator must also dispose of all asbestos-containing waste material as soon as is practical at a proper waste disposal site, as specified by work practice standards, and must assure that vehicles used to transport asbestos-containing waste material to the disposal site are properly marked. 40 C.F.R. § 61.150(b) and (c).

21. Section 113(c)(1) of the Clean Air Act, 42, United States Code, Section 7413(c)(1), makes it a criminal offense to violate any of the above described work practice standards set by EPA pursuant to Section 112 of the Clean Air Act, Title 42, United States Code, § 7412.

OBJECT OF THE CONSPIRACY

22. The object of the conspiracy was to confer the maximum value upon the co-defendant companies, and avoid the extensive costs associated with proper and legal asbestos abatement and removal procedures.

23. In the 1980s Gene Fritzel (Father of defendant **Thomas Fritzel**) and member of defendant **DFC Company of Lawrence, L.C.**, built the Alvamar Clubhouse in Lawrence, Douglas County, Kansas. In 2008, the Alvamar Country Club was in need of a new roof due to hail damage. The Board of Directors for Alvamar, approached Jay Patterson, then contractor and carpenter to oversee building a new roof on the Alvamar Country Club. Patterson was a member of Alvamar Country Club, and a resident of the area. During the bidding process, Patterson took a sample from the country club roof and submitted it to ACT labs in Lenexa, Kansas, which tested and found 75% chrysotile; that is, (RACM). The Board of the Alvamar Country Club decided not to replace the roof due to the cost to abate the asbestos.

24. In January 2016, **Thomas Fritzel** purchased Alvamar Country Club and began demolition/renovations.

25. In the fall of 2016, **Fritzel's** project manager, **Casey Stewart**, instructed workmen to tear down part of the country club roof with an excavator and dump the remains in a dumpster. It was estimated that 2,250 square feet of roofing containing (RACM) was torn down and placed in dumpsters. While the workmen were tearing down the roof, Jay Patterson, a former Alvamar member and neighbor to Alvamar, came onto the site and informed a **Fritzel** employee that they needed to stop work because the roof contained asbestos. The neighbor provided the **Fritzel** employee a copy of the sample results from 2008.

26. On March 4, 2016, Richard Herries, Golf Course Superintendent, sent an email to defendants **Thomas Fritzel** and **Wesley Lynch**, notifying them of the presence of asbestos: “The roof of the C.C. Clubhouse has asbestos.”

OVERT ACTS

26. On March 5, 2016, Richard Herries, again notified defendant **Thomas Fritzel**, about the presence of asbestos in the roof of the Alvamar clubhouse. Defendant **Wesley Lynch** approached Herries that same day and told him to never send an email with that type of content again.

27. In June of 2016, the defendant, **Thomas Fritzel**, caused defendant **Tucker Fritzel** to deliver to ACT (Asbestos Consulting and Testing) in Lenexa, Kansas, a sample of demolition material, that was ostensibly from the Alvamar project, to generate a report of a bulk sample testing of debris that showed no asbestos was contained in the sample. The defendants, **Thomas Fritzel and Tucker Fritzel**, did so, knowing that the sample taken, would not contain

asbestos, and did so for the purpose of justifying the demolition of the clubhouse of the Alvamar County Club without having to go through the expensive, but regulatory required, asbestos removal process. On October 17, 2016, defendant **Thomas Fritzel** sent this ACT report, showing no asbestos contained in the sample that Fritzel had caused to be gathered and provided, it to the Kansas Department of Health and Environment (KDHE).

28. On October 13, 2016, KDHE inspectors arrived at the Alvamar Clubhouse demolition site in response to complaints about asbestos containing materials being improperly removed from the clubhouse. They observed suspect material, took samples, took pictures, and informed a site manager that debris piles and dumpsters were not to be disturbed or removed pending results of the testing of samples. KDHE inspectors told defendant **Wesley Lynch** that due to possible asbestos violations, all debris and dumpsters were to remain in place and not be disturbed.

29. On October 17, 2016, a KDHE inspector spoke with defendant **Thomas Fritzel** and informed him of the same thing, possible asbestos and work practice violations, and stated that all debris and dumpsters were to remain in place and not be disturbed.

30. On October 18, 2016, a KDHE inspector sent an email to defendant **Thomas Fritzel** advising that an “asbestos inspection is required on renovations prior to disturbing asbestos material, this inspection needs to be conducted by an accredited inspector (and) (a)ll demo work should be on hold until this situation gets sorted out.”

31. Later on October 18, 2016, a KDHE inspector received the lab results on the sample taken during the inspection on October 13, 2016, with the results showing the sample was composed of 75% chrysotile asbestos.

32. On October 19, 2016, defendants **Fritzel** and **Stewart** met with KDHE representatives to discuss an acceptable way to move forward and who instructed them to get a licensed asbestos contractor to supervise and remove preexisting debris piles and dumpsters. However, on October 25, 2016, KDHE inspected the site and determined that the asbestos debris had been removed and hauled to Hamm Landfill in Perry, Kansas, and disposed of in a site which is not approved for RACM.

33. In October of 2016, defendants **Fritzel** and **Stewart**, caused defendant **R&R SUPPLY COMPANY, L.C.**, to deliver numerous loads of RACM to Ham Landfill, knowing that the loads contained RACM.

THE CONSPIRACY
COUNT 1

34. Paragraphs 1 through 33 are incorporated herein as though fully set forth.

35. From on or about January 2016, and continuing thereafter until the return of this indictment, in the District of Kansas, the defendants,

THOMAS FRITZEL,
CASEY STEWART,
WESLEY LYNCH and
TUCKER FRITZEL,

knowingly and willfully conspired and agreed together and with each other, to commit crimes against the United States as set forth hereinafter. The object of the conspiracy was to confer the maximum value upon the co-defendant companies, and avoid the extensive costs associated with proper and legal asbestos abatement and removal procedures. In furtherance of this conspiracy and to effect the objects of the conspiracy, the defendants committed overt acts, including but not

limited to paragraphs 24, 26, 27 and 32, as well as the substantive crimes set forth hereinafter; all in violation of Title 18, United States Code, Section 371.

**KNOWINGLY FAILED TO NOTIFY THE AUTHORITIES PRIOR TO
REMOVING ASBESTOS MATERIAL**
42 U.S.C. § 7413 (c)(2)(B)
COUNT 2

36. Paragraphs 1 through 35 are incorporated herein as though fully set forth.

37. In or about October, 2016, in the District of Kansas, the defendants,

**THOMAS FRITZEL,
CASEY STEWART,
WESLEY LYNCH,
TUCKER FRITZEL,
DFC COMPANY OF LAWRENCE, L.C.,
EAGLE 1968, L.C., and
R&R SUPPLY COMPANY, L.C.,**

who were the owners/operators of a demolition/renovation activity, knowingly violated and caused to be violated the asbestos work practice standards by failing to provide written notification to the Environmental Protection Agency and the State of Kansas, prior to removing asbestos material from the demolition/renovation site; in violation of Title 42, United States Code, section 7413(c)(2)(B) and Title 18, United States Code, section 2.

**KNOWINGLY FAILED TO WET FRIABLE ASBESTOS BEFORE REMOVING
IT FROM DEMOLITION/CONSTRUCTION SITE**
42 U.S.C. § 7413(c)(1)
COUNT 3

38. Paragraphs 1 through 37 are incorporated herein as though fully set forth.

39. In or about October, 2016, in the District of Kansas, the defendants,

**THOMAS FRITZEL,
CASEY STEWART,
WESLEY LYNCH,
TUCKER FRITZEL**

**DFC COMPANY OF LAWRENCE, L.C.,
EAGLE 1968, L.C., and
R&R SUPPLY COMPANY, L.C.,**

who were owners/operators of a demolition/renovation activity, knowingly removed and knowingly caused to be removed asbestos and asbestos containing materials in violation of a NESHAP work practice standard for asbestos, by failing to adequately wet friable asbestos and ensure that it remained wet until collected and contained or treated in preparation for disposal in accordance with applicable regulations; in violation of Title 42 United States Code, section 7413(c)(1) and Title 18, United States Code, section 2.

**KNOWINGLY FAILED TO COMPLY WITH ASBESTOS WASTE DISPOSAL
STANDARDS BY NOT DISPOSING IN LEAK-TIGHT CONTAINERS**

42 U.S.C. § 7413(c)(1)

COUNT 4

- 40. Paragraphs 1 through 39 are incorporated herein as though fully set forth.
- 41. In or about October, 2016, in the District of Kansas, the defendants

**THOMAS FRITZEL,
CASEY STEWART,
WESLEY LYNCH,
TUCKER FRITZEL,
DFC COMPANY OF LAWRENCE, L.C.,
EAGLE 1968, L.C., and
R&R SUPPLY COMPANY, L.C.,**

who were owners/operators of a demolition/renovation activity, knowingly disposed and knowingly caused to be disposed of asbestos and asbestos-containing materials in violation of a NESHAP work practice standards for asbestos, by not disposing of asbestos in non-leak-tight containers; in violation of Title 42, United States Code, section 7413(c)(1) and Title 18, United States Code, section 2.

A TRUE BILL.

Dated: June 27, 2018

s/Foreperson _____
FOREPERSON

s/Richard L. Hathaway for _____
Thomas Beall, Attorney for the United States
Acting Under Authority Conferred by 28 U.S.C. § 515
District of Kansas
444 SE Quincy, Suite 290
Topeka, KS 66683
(785) 295-2850
(785) 295-2953 (fax)

(It is requested that trial of the above captioned case be held in Topeka, Kansas.)



City of Lawrence

PLANNING & DEVELOPMENT SERVICES

1 Riverfront Plaza, Suite 110
P.O. Box 708
Lawrence, KS 66044

www.lawrenceneighres.org

Phone 785-832-7700
Tdd 785-832-3205
Fax 785-832-3110

May 2, 2018

DFC Company of Lawrence LC
Attn: Matthew Viets
PO Box 721
Lawrence, KS 66044

RE: WORK NOT IN CONFORMANCE WITH APPROVED PLANS, PERMIT #1-17-00412, MULTI-PURPOSE ACCESSORY STRUCTURE AT 1809 CROSSGATE DRIVE

Dear Mr. Viets,

On November 16, 2017, the referenced building permit was issued for construction of a new multi-purpose accessory building at 1809 Crossgate Drive. Prior to issuance of the building permit, the project underwent a review process to verify design conformance with relevant provisions of the City's Land Development and Building Codes, including but not limited to allowable use, density and dimensional standards, occupancy classification, type of construction, accessibility, and exiting and fire protection systems.

On April 23, 2018, work was stopped on the referenced project because: (1) work was not being performed in accordance with the approved Final Development Plan (FDP) and approved building plans; (2) work requiring a building permit was commenced without first obtaining a permit or amending the referenced permit; and (3) work requiring inspections was completed and concealed without first obtaining inspections. Work commencing without a permit includes: (1) construction of an outdoor patio area not shown on the approved FDP; (2) construction of retaining walls, exterior columns, exterior underground electrical conduits and footings not included in the scope of work for the referenced permit or shown on the FDP; and (3) construction of the building not conforming with the approved building plans, including construction of a storage or equipment space above the storage amenities at the north end of the building, exterior openings, and changes to the floor plan.

Conformance with approved plans is critical for several reasons, including: (1) to ensure that projects are constructed in compliance with all relevant codes; and (2) to fulfil the contractor's obligations to provide a Code-compliant finished project. Alterations to approved plans are common in construction, but significant alterations require approval prior to construction. A significant alteration is any alteration that could affect whether the project complies with relevant codes and standards.



City of Lawrence, Kan., Code § 5-168 (Jan. 1, 2018) requires that all work be performed and installed in accordance with approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents.

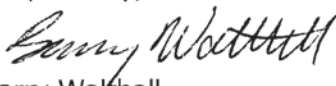
City of Lawrence, Kan., Code § 5-182 (Jan. 1, 2018) requires that construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved. It is the duty of the permit applicant to cause the work to remain accessible and exposed for inspection purposes.

Failure to perform in accordance with approved plans, to obtain approval for alterations, to obtain required inspections of an ongoing project as required by any applicable code or to obtain a building permit may also result in violation of the City of Lawrence contractor license regulations, particularly if the result of the failure is a violation of a relevant code or standard. City of Lawrence, Kan., Code §§ 5-1520 and 5-1521 (Jan. 1, 2018) set forth the Contractor Licensing Board's authority to discipline contractors for the specific actions or inactions listed. Among those actions or inactions is a serious or repeated violation of the provisions of the licensing regulations, any applicable code, or failure to comply within a reasonable time to any lawful written order of a building code official. The City Code contains the licensing regulations in their entirety and is available online at https://lawrenceks.org/attorney/city_code/.

This letter serves as notification of this incident, notification of the provisions of City of Lawrence, Kan., Code §§ 5-1520 and 5-1521 (Jan. 1, 2018) pertaining to actions or inactions for which contractors may be disciplined following a hearing before the Contractor Licensing Board, and notification that this letter will be included in the DFC Company of Lawrence LC contractor license file. No action on the contractor license is being pursued at this time with this notice; however, the city will pursue discipline if future incidents of building in ways that are inconsistent with approved plans are observed.

You may contact me by phone at (785) 832-3101 or by email at bwalthall@lawrenceks.org with any questions regarding this matter. If you wish, you may file a written response to this letter for inclusion in the DFC Company of Lawrence LC license file.

Respectfully,



Barry Walthall
Building Code Official

C: Scott McCullough, Planning & Developments Services Director
Kurt Schroeder, Asst Director PDS
DFC of Lawrence LC license file
Thomas Fritzel
Casey Stewart

Memorandum

City of Lawrence

Planning & Development Services

TO: Greg Rau, CLB Chairperson

FROM: Barry Walthall, Building Official, CLB Secretary

CC: Verlon Myers, CLB Vice-Chairperson
Scott McCullough, Planning & Development Services Director
Kurt Schroeder, Planning & Development Services Asst. Director

Date: September 6, 2018

RE: Recommended CLB Hearing Procedures

The City of Lawrence is submitting a complaint against DFC Co. of Lawrence LC for failure to comply with the City of Lawrence contractor licensing regulations. Staff has notified, or is in the process of notifying, the qualifying individual for the company of the City's complaint, and of the hearing before the Contractor Licensing Board (CLB). DFC Co. of Lawrence LC is entitled to notice not less than ten days prior to a hearing before the CLB.

A hearing is scheduled for the CLB to hear the City's complaints at 2:00 p.m. on Thursday, September 27, 2018. The meeting will be in the City Commission Chambers at City Hall, 6 E. 6th Street. The hearing must be conducted in accordance with the CLB rules and regulations as set forth by Chapter V, Article 16 of the City of Lawrence Code, which are generally summarized as follows:

- Consumer complaints relating to quality of materials, workmanship, untimely construction, contract disputes, and similar matters are not within the purview of complaints contained within City of Lawrence Code §5-1610 and are beyond the jurisdiction of the CLB. No complaint shall be considered by the CLB unless the alleged violator is a licensed contractor who is alleged to have violated a provision of Chapter V of the City Code.
- A hearing shall be held before the CLB after not less than ten days' notice to the contractor and complainant setting forth the hearing date, time, and place stating in general terms the nature of the complaint.
- The written complaint, including any supporting material or documents, shall be provided to the contractor prior to or at the hearing.
- The Chairperson or the Chairperson's designate shall preside over the hearing.
- All actions by the CLB shall be by a majority vote of those present except for any amendment to the Rules and Regulations which shall be by not less than a two-thirds vote of the entire board.

- The Chairperson shall not cast a vote unless the vote is a tie in which event the Chairperson shall cast the deciding vote.
- Proxy voting shall not be allowed.
- Hearings shall be informal.
- Witnesses shall testify under oath.
- The burden of proof shall be on the complainant to show that the allegations set forth in the complaint are true.
- If the complainant, or a representative of the complainant, fails to appear at the hearing, the CLB may proceed with the hearing.
- For good cause shown, the CLB may grant a continuance, hold a hearing open, and allow additions to the record after the hearing has concluded, or take other action in the interest of justice.
- A written decision shall be rendered by the CLB setting forth the relevant findings and conclusions for any action taken by the CLB.
- The written decision of the CLB shall be mailed to the contractor.
- A contractor whose license is the subject of a CLB action may appeal any decision to the City Commission within thirty days of the decision. The appeal period shall commence three days after the date the decision is mailed to the contractor as evidenced by a certificate of mailing which shall be included with the CLB decision. The CLB secretary shall forward the CLB decision and appeal to the City Commission together with the CLB record. Appeals to the City Commission are *de novo* and no action shall be taken by the CLB during a pending appeal.

Staff recommends the following procedures, which are in accordance with the CLB rules and regulations, for hearing complaints:

1. The Chairperson opens the hearing.
2. The Chairperson reminds CLB members that a member must not participate in a complaint hearing in which that member has a personal, professional or financial interest, and requests any members to disclose such interest at this time.
3. The Chairperson requests the disclosure of ex-parte communications.
4. The Chairperson notes the number of members present. In the event there are less than five members present to open the meeting, the CLB hearing will be postponed until a quorum of five members can be established.
5. The Chairperson explains that the hearing is informal, but witnesses are required to testify under oath. The Chairperson reviews the hearing format (items a through h below):
 - a. The Chairperson will request that staff swear in individuals who will testify. Individuals will be sworn in as a group.
 - b. The Chairperson will request that staff provide the license history for DFC Co. of Lawrence LC.
 - c. The Chairperson will call for the City of Lawrence to present the complaint/s against DFC Co. of Lawrence LC.
 - d. The Chairperson will call for DFC Co. of Lawrence LC to respond to the complaint/s.
 - e. The Chairperson will call for public comment.

- f. The Chairperson will call for questions from CLB members for the City of Lawrence or DFC Co. of Lawrence LC.
- g. The Chairperson will call for CLB discussion regarding the complaints.
- h. The Chairperson will call for a motion from the CLB on disposition of the complaints. After a motion is made and seconded the Chairperson will call for a vote. In the event of a tie the Chairperson will cast the deciding vote.
- i. When the CLB has concluded disposition of the complaints the Chairperson will close the hearing and the regular CLB meeting will resume.

ARTICLE 15. CONTRACTOR LICENSING REGULATIONS

5-1501 PURPOSE.

The purpose of this Article is to ensure that all persons desiring to perform contracting work in this city be duly licensed to ensure capable and skilled craftsmanship utilized in construction projects, both public and private, through uniform compliance with the laws of this city, and protection of the public from unsafe construction practices. It is further the intent that owner-occupants of single-family residential structures be permitted, without first obtaining a contractor's license, to perform minor work on such homeowner's residences. It is not the intent of this Article to require any person, firm, corporation or other organization performing demolition services for a project or job but providing no other building, construction, alteration, remodeling or repair services on the project or job to obtain a contractor's license pursuant to this Article.

5-1502 DEFINITIONS.

Agent is an individual that has the authority to act on behalf of another.

Building Official is the officer or other authority designated by the City Manager charged with the administration and enforcement of this code, or the building official's duly authorized representative.

Building is any structure used or intended for supporting or sheltering any use or occupancy.

Contractor, within the meaning of this Article is any person, which also means and includes a firm, co-partnership, corporation, association, or other organization, or any combination thereof, who: (1) Undertakes, with or for another within the city, to build, construct, alter, remodel, repair, or demolish any building or structure, or any portion thereof, for which a permit from the city is required, and which work is to be done for a fixed sum price, fee percentage, or other compensation; (2) Builds, constructs, alters, or adds to another building or structure either upon his or her own or another's property; to include every 3) general contractor, building contractor, residential contractor, concrete contractor and framing contractor. Unless provided otherwise by this Article, only a contractor licensed under the provisions of this Article may obtain a building permit.

Contractor, Specialty is a contractor whose operations as such are the performance of construction work requiring special skill and whose principal contracting business involves the use of specialized building trades or crafts.

Contractor Licensing Board (CLB) is a board, established pursuant to Chapter V, Article 16 of the Code of the City of Lawrence, Kansas, 2006 Edition, and amendments thereto the function of which is to hear all contested matters pertaining to the suspension, revocation, and reinstatement of licenses under this article.

Co-partner is a joint partner, as in a business enterprise; an associate.

Designated Representative is an individual that may obtain a license on behalf of a firm and will be the qualifying party of the firm if the individual meets the minimum requirements defined herein.

Experience is awarded to individuals that have worked within the specific license category for the requisite time period. Individuals must be experienced workers fully qualified and able to perform the trade without supervision. All experience claims must be verifiable by a qualified and responsible person, such as a contractor, a building official, an architect or an engineer.

Qualifying Party is the individual who meets the experience and examination requirements for a license. Every license must have a qualifying party.

Structure is that which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

5-1503 **LICENSE REQUIRED.**

No building permit shall be issued to any contractor who has not first obtained a license or who is delinquent in payment of his annual license fee, or whose license has been suspended or revoked by action of the Contractor Licensing Board. It is further unlawful for any person to enter into a contract with another so as to bring himself under the classification of a contractor as defined in this Article, or to perform any work as a contractor, or any work under a contract, without having first obtained a contractor's license. It is unlawful for any person issued a license as required by this Article to contract for any work other than specified by such license.

5-1504 **EXCLUSIONS.**

It is the intent of this Article that the contractor that obtains a building permit shall be responsible, within the scope of such permit, for the completion of the construction, alteration, repair, or demolition in accordance with all applicable building codes. However, the following persons are not "contractors" within the meaning of this Article

- (A) An employee or agent working for and under the supervision of a contractor licensed under this Article for the type of construction, alteration, repair or demolition being undertaken; and
- (B) A homeowner who personally occupies or will occupy and undertakes the construction, alteration, repair, or maintenance of such homeowner's single-family residence or an accessory structure thereto. Notwithstanding the foregoing, for purposes of this section, any homeowner who undertakes the construction of a new residence for such homeowner's personal occupancy more than two times in any five year period shall be deemed to be a "contractor" under this Article.

5-1505 **CONTRACTOR RESPONSIBLE FOR ALL WORK.**

Upon issuance of a building permit to a contractor, such contractor shall be responsible for all work undertaken pursuant to such building permit, including work done by the contractor's employees, agents, and subcontractors.

5-1506 **CONTRACTOR INSURANCE.**

Every contractor except a contractor who has an "inactive license" shall keep in force a policy of general liability insurance including completed operations coverage.

Class A, B, and C contractors. Every building contractor shall keep in force a policy of commercial general liability insurance including completed operations/products coverage. Such insurance policy shall be written with an insurance company licensed as an admitted insurance company in the State of Kansas. The contractor shall maintain general liability coverage in an amount not less than one million dollars (\$1,000,000) per occurrence single limit for bodily injury and property damage. At the time of licensing, the contractor shall provide the City of Lawrence, Kansas Planning and Development Services Department with an original certificate of insurance verifying the insurance coverage required under this section. The City of Lawrence, Kansas shall be added as a "Certificate Holder" to the insurance policy by the insurance company issuing the certificate of insurance, requiring the insurance company to notify the City of Lawrence, Kansas Planning and Development Services Department in writing of any change in coverage or cancellation of such policy at least ten (10) days prior to such changes. In addition, every contractor shall procure and maintain workers' compensation insurance, as required by law.

Class D and E contractors. Every contractor shall keep in force a policy of commercial general liability insurance including completed operations/products coverage. Such insurance policy shall be written with an insurance company licensed as an admitted insurance company in the State of Kansas. The contractor shall maintain general liability coverage in an amount not less than five hundred thousand dollars (\$500,000) per occurrence single limit for bodily injury and property damage. At the time of licensing, the contractor shall provide the City of Lawrence, Kansas Planning and Development Services Department with an original certificate of insurance verifying the insurance coverage required under this section. The City of Lawrence, Kansas shall be added as a "Certificate Holder" to the insurance policy by the insurance company issuing the certificate of insurance, requiring the insurance company to notify the City of Lawrence, Kansas Planning and Development Services Department in writing of any changes in coverage or canceling of such policy at least ten (10) days prior to such changes. In addition, every contractor shall procure and maintain workers' compensation insurance, as required by law. (Ord. 8557)

5-1507 **CONTRACTOR LICENSES AUTHORIZED.**

There shall be five (5) separate classes of licenses authorized for contractors as provided in this Article.

5-1508 **CLASS A, GENERAL CONTRACTOR.**

A Class A License shall entitle the holder thereof to construct, remodel, repair, demolish any structure and perform work described as Class D, Building Specialties. The annual Class A License fee shall be sixty-five dollars (\$65). A Class A License requires a minimum six (6) years of qualifying experience within the industry. (Ord. 8557)

5-1509 **CLASS B, BUILDING CONTRACTOR.**

A Class B License shall entitle the holder thereof to construct, remodel, repair, and demolish all structures not exceeding three stories in height and perform work described as Class D, Building Specialties. A Class B License shall also entitle the license holder to perform non-structural remodeling, tenant-finish, and repairs of all structures. The annual Class B License fee shall be sixty-five dollars (\$65). A Class B License requires a minimum four (4) years of qualifying experience within the industry. (Ord. 8557)

5-1510 **CLASS C, RESIDENTIAL CONTRACTOR.**

A Class C License shall entitle the holder thereof to construct, remodel, repair, and demolish single family or duplex residences, buildings accessory thereto and perform work described as Class D, Building Specialties. The annual Class C License fee shall be sixty-five dollars (\$65). A Class C License requires a minimum two (2) years of qualifying experience within the industry. (Ord. 8557)

5-1511 **CLASS D, BUILDING SPECIALTY CONTRACTOR. FRAMING AND CONCRETE.**

(Ord. 8557, Ord. 8921)

The annual Class D License fee shall be sixty-five dollars (\$65). A Class D License shall entitle the holder thereof to perform services as described below:

FRAMING CONTRACTOR. A Class D License shall entitle the holder thereof to perform such work for the framing of a structure or building, including bearing and non-bearing walls, and including any repair to any of the above. A Class D Framing License requires a minimum two (2) years of qualifying experience within the industry.

CONCRETE CONTRACTOR. A Class D License shall entitle the holder thereof to perform general concrete work to include the placing and erecting of steel or bars for the reinforcing of mass, pavement, flat and other concrete work. A Class D Concrete License requires a minimum two (2) years of qualifying experience within the industry.

5-1512 **CLASS E, TRADE SPECIALTY CONTRACTOR, MECHANICAL, PLUMBING, ELECTRICAL.**

(Ord. 8557)

The annual Class E License fee shall be sixty-five dollars (\$65). A Class A-D License shall not entitle the license holder to perform HVAC services, plumbing services, electrical services, or fireplace contracting services.

MECHANICAL CONTRACTOR. A Class E Mechanical Contractor shall be a certified master mechanic or have as his or her employee a licensed master mechanic on a full-time employment basis. A Class E Mechanical Contractor License shall entitle the holder thereof to perform HVAC services such as the installation or servicing of mechanical systems. A Class E Mechanical license requires four (4) years of field experience within the mechanical trade or two (2) years as a certified journeyman within the mechanical trade.

PLUMBING CONTRACTOR. A Class E Plumbing Contractor shall be a certified master plumber or have as his or her employee a licensed master plumber on a full-time employment basis. A Class E Plumbing Contractor License shall entitle the holder thereof to perform services such as the installation and servicing of plumbing systems. A Class E Plumbing license requires four (4) years of field experience within the plumbing trade or two (2) years as a certified journeyman within the plumbing trade.

ELECTRICAL CONTRACTOR. A Class E Electrical Contractor shall be a certified master electrician or have as his or her employee a licensed master electrician on a full-time employment basis. A Class E Electrical Contractor License shall entitle the holder thereof to perform electrical services such as the installation and servicing of electrical systems. A Class E Electrical License requires two (2) years as a certified journeyman within the electrical trade.

FIREPLACE CONTRACTOR. A Class E Mechanical Fireplace Contractor shall be a certified master or have as his or her employee a licensed mechanical fireplace master on a full-time employment basis. A Class E Mechanical Fireplace Contractor License shall entitle the holder thereof to perform work such as installation, service, and maintenance of factory-built fireplace systems. Mechanical fireplace contractor work shall be limited to contracting, installation, service, and maintenance of factory-built fireplace systems. A Class E Mechanical Fireplace License requires four (4) years of field experience within the mechanical or mechanical fireplace trade or two (2) years experience as a certified journeyman within the mechanical or mechanical fireplace trade.

5-1512.1 **CLASS L LIMITED SPECIALTY CONTRACTOR**

A Class L License shall entitle the holder thereof to perform work limited in scope as approved by the Contractor Licensing Board in accordance with Section 5-1515(G). The annual Class L License fee shall be sixty-five dollars (\$65). (Ord. 8921)

5-1513 **APPLICATION FORM.**

(Ord. 8557)

(A) **APPLICATION FOR LICENSURE**

The City of Lawrence, Kansas Development Services Division shall receive and process contractor license applications. In addition to the license fee, an application fee of \$65 shall accompany each original application. License fees shall be paid without proration. No contractor license may be transferred or assigned.

(B) **APPLICATION FOR EXAMINATION AND CERTIFICATION**

1. **Examination.**

a. **General.** Any person seeking to make application for examination and certification pursuant to this Article shall apply at the Planning and

Development Services Department. The application fee for examination and certification shall be \$50.

- b. **Eligibility.** To be eligible, to make application for examination and certification, an applicant shall have the practical experience prescribed in this Section.
- i. **Class A Contractor.** Applicants with a least six (6) years of Class A experience or who hold a Class B, Building Contractor license and have at least ten (10) years of experience working as a Building Contractor shall be eligible for examination for certification as a Class A, General Contractor.
 - ii. **Class B Contractor.** Applicants with at least four (4) years of Class B experience or who hold a Class C, Residential Contractor license and have at least six (6) years of experience working as a Residential Contractor shall be eligible for examination for certification as a Class B, Building Contractor.
 - iii. **Class C Contractor.** Applicants with at least two (2) years of Class C experience or who hold a Class D, Building Specialty Contractor license and have at least four (4) years of experience working as a Building Specialty Contractor shall be eligible for examination for certification as a Class C, Residential Contractor.
 - iv. **Class D, Concrete.** Two (2) years experience within the concrete industry.
 - v. **Class D, Framing.** Two (2) years experience within the framing industry.
 - vi. **Class E, Mechanical, Electrical, Plumbing, Fireplace.** See Section 5-1705 of Chapter 5, Article 17, Trade Licensing, and amendments thereto.
 - vi. **Education.** A degree in engineering conferred by an accredited college or university may be substituted for two and one-half (2.5) years of practical experience. Also, graduation from an accredited vocation-technical school or other formal training within the field of endeavor may be substituted for one (1) year of practical experience.
- c. **Application.** A person who seeks certification in the categories established in this Article shall submit written application on forms provided by the Planning and Development Services Department. Practical experience shall be verified through the submission of copies of trade licenses; union cards; W-4 tax receipts; or statements from present and past employers verifying the practical experience that are written on company letterhead stationery and attested by a public notary. The evidence of practical experience shall accompany the application form. The Planning and Development Services Department may reject an applicant's application form if the information is illegible, incomplete or falsified. The Planning and Development Services Department shall provide notice to the applicant that his or her license

has been accepted or rejected not more than thirty-one (31) days after receipt of the completed application form. Applicants who receive rejection notices may again make written application upon satisfactorily meeting the criteria set forth by the Planning and Development Services Department. Applicants who receive notices advising that they have been accepted may register with the examination preparer on forms provided by the Planning and Development Services Department.

- d. **Registration Forms.** The Planning and Development Services Department shall issue registration forms for examination, as provided by the exam preparers, in the categories established by this Article. The Planning and Development Services Department shall make every attempt to provide an exam candidate with the necessary information and registration forms in a reasonable time. The Planning and Development Services Department shall not be held responsible for a candidate's failure to make the necessary deadlines, actions or contracts involving the examination preparers and the candidate, examination content, examination preparer notification and review policies, the scheduling of exam dates and locations, the proctoring and grading of exams, exam fees and other items relating to the examination preparers.
 - e. **Passing Grade.** The passing grade for all certification categories shall be seventy-five percent (75%) or better.
 - f. **Re-examination.** Candidates who do not pass a certification examination may make written application for re-examination to the Planning and Development Services Department involving the administration of examinations. Each application for re-examination shall require an application fee.
2. **Certificate of Competency.** A candidate who passes a certification examination shall be issued a certificate of competency as provided by the Kansas Statutes Annotated and amendments thereto.

5-1514

RENEWAL OR REINSTATEMENT OF LICENSE.

- (A) Every contractor license shall be issued on a calendar year basis to expire on December 31st of each year. A contractor shall be entitled to renew such contractor's license upon satisfaction of the requirements of this Article. A license renewal application may be submitted to the City of Lawrence, Kansas Codes Development Services Division beginning on December first through and including the last day of January without a late fee. Thereafter, a seventy five dollar (\$75.00) late fee shall be collected to offset administrative costs incurred as a result of such later renewal. Unless an expired license is renewed within one year of its expiration, the contractor shall be required to make a new application and satisfy all the then-existing contractor licensing requirements. License renewal applications shall be mailed by the City of Lawrence, Kansas Codes Development Services Division no later than November first of each year to every licensed contractor at the address provided by the contractor. The failure to receive an application shall not excuse untimely license renewal. (Ord. 8557)
- (B) During the annual renewal period, a licensed contractor that has completed the annual requirement for continuing education may, have the contractor's license declared inactive. No building permit shall be issued to a contractor with an inactive license. The holder of an inactive license may annually renew the inactive license upon the completion of all continuing education requirements and the payment of the annual renewal fee. The

holder of an inactive license may obtain an active contractor's license at any time upon the payment of the required license fee. (Ord. 8557)

- (C) Any contractor whose license is suspended for any Code-related violation must provide satisfactory evidence to the Contractor Licensing Board ("CLB") that the violation has been corrected in accordance with the applicable Code. Failure to provide such evidence may result in the revocation of the contractor's license.
- (D) When a contractor's license is revoked, a new license shall not be granted until the contractor has first passed an examination as required by Chapter V, Article 15, and has provided the CLB with satisfactory evidence that a new license should be issued. If the contractor's license was revoked as the result of a Code-related violation, such contractor may not be re-licensed unless the CLB determines that the violation has been corrected.
- (E) Any contractor with delinquent fees shall make full payment to the City of Lawrence, Kansas prior to the issuance or renewal of a contractor license.

5-1515

EXAMINATIONS, LICENSE APPROVAL, AND ISSUANCE.

Contractor applicants shall be licensed by satisfying one or more of the following provisions: (Ord. 8557, Ord. 8921)

- (A) Obtain a certificate of competence from a nationally-recognized testing institution as contemplated by K.S.A. 12-1508, and amendments thereto (plumbing contractors), K.S.A. 12-1525, and amendments thereto (electrical contractors), K.S.A. 12-1541 and amendments thereto (Heating, Ventilation and Air Conditioning contractors), and K.S.A. 12-1556 and amendments thereto (building and residential contractors); or
- (B) Until December 31, 2006 provide verifiable evidence that the applicant or a firm's designated representative has the required number of years of full-time experience in the building construction industry for that license:
 - (1) Class A License – fifteen (15) years or more experience
 - (2) Class B License – ten (10) years or more experience;
 - (3) Class C License – five (5) years or more experience;
 - (4) Class D License – five (5) years or more experience; or
- (C) Hold a bachelor's degree in engineering, architecture, or construction science from an accredited college or university; or
- (D) Hold a provisional license (General, Building and Residential contractor only) and complete not less than thirty two (32) hours of codes-related education prior to the expiration of such provisional license.
- (E) Reciprocity. To the extent that other jurisdictions or states which provide for the licensing of general contractors provide for similar action, the Building Official may grant licenses of the same or equivalent classification to general contractors licensed by other municipalities or states, without written examination, upon satisfactory proof furnished to the Building Official that the qualifications of such applicants are equal to the qualifications of holders of similar licenses in the City of Lawrence, Kansas and upon payment of the required fee.
- (F) The contractor-applicant shall disclose, at the time of application, any current or previous contractor license held in Kansas or any other state and any disciplinary actions taken against such contractor-applicant. If the contractor-applicant is employed by or a principal of a firm, the application shall disclose whether the firm or the firm's employees or

principals have had any contractor-related disciplinary action taken against them in Kansas or any other state. No license shall be issued to any contractor-applicant who has had a license suspended or revoked for disciplinary reasons, or who has surrendered a license during any disciplinary proceeding or investigation, within the immediately preceding five years. Any contractor-applicant denied a license under the provisions of this section may appeal such denial to the CLB.

- (G) A Class L Limited Contractor License may be issued to a contractor-applicant for work requiring building permits that are specialized in scope and do not fall within Class A, B, C, D, or E License categories. Applications for Class L Licenses shall be made to the Contractor Licensing Board, and the Board shall approve or reject the license and application based on credentials furnished to the Board in support of the license application that would demonstrate knowledge and ability to perform the specialized work for which the license is requested. The contractor-applicant shall keep in force a policy of general liability insurance in accordance with Section 5-1506 "Class A, B, and C Contractors," or "Class D and E Contractors," as deemed appropriate by the Board.

5-1516

PROVISIONAL LICENSE.

Until July 1, 2006, any person or firm that has obtained a building permit during 2004 may obtain a provisional contractor's license if all of the following conditions are met: (Ord. 7870)

- (A) At the time of the license application, the applicant, if an individual, or the designated representative, if a firm, is working full-time in the construction industry for the license Class requested; and
- (B) The applicant for a Class A license shall have not less than seven (7) years of full-time experience in planning, supervising, and undertaking Class A type construction;
- (C) The applicant for a Class B license shall have not less than five (5) years of full-time experience in planning, supervising, and undertaking Class B type construction;
- (D) The applicant for a Class C license shall have not less than three (3) years of full-time experience in planning, supervising, and undertaking Class C type construction;
- (E) The applicant provides evidence of insurance coverage as required by Chapter 5, Article 15, Section 1506; and
- (F) All application and license fees are paid.
- (G) For purposes of this section, twenty four (24) credit hours of post-secondary education in the courses of engineering, architecture, or building trades shall be deemed equivalent to one year of full-time experience. "Full-time" means a minimum of thirty (30) hours a week carrying out the work of a contractor.

5-1517

RENEWAL OF PROVISIONAL LICENSE.

The holder of a provisional license may renew the provisional license for an additional 365 days following its expiration. Upon the expiration of a provisional license, a contractor licensed under the provisional licensing provisions of this Article shall be required to satisfy the licensing requirements of Section 5-1515, Examinations, license approval, and issuance. (Ord. 7870)

5-1518

FIRMS/QUALIFYING PARTY.

Under this Article, a firm may obtain, in the firm's name, a contractor's license provided that such firm has at least one full-time employee who is designated by the firm as its qualifying party. The qualifying party must spend a minimum of thirty (30) hours a week carrying out the work of the firm. Whenever a building permit is issued in the name of a firm, the firm shall be subject to

these regulations and the jurisdiction of the CLB. The qualifying party shall be the legal representative for the contractor relative to the provisions of this Article. The designated qualifying party shall satisfy the requirements this Article. A designated qualifying party shall not be a qualifying party for more than one company, unless the companies have a common owner. When the qualifying party terminates employment with the licensee, the Development Services Division shall be notified in writing within thirty (30) days of the disassociation and another qualifying party must qualify within sixty (60) days. The qualifying party or parties are:

- (A) Any individual contractor or copartner.
- (B) Any employee of the contractor, applicant so long as said employee spends a minimum of thirty (30) hours a week carrying out the work of the firm.
- (C) Any stockholder of a corporation who was an original incorporator or original stockholder as shown in the articles of incorporation.

A contractor, including firms, may appoint, on forms provided by the City of Lawrence Development Services Division, one or more individuals who shall be authorized to obtain building permits on behalf of the contractor. Such individuals are not required to be a licensed contractor.

5-1519 **CONTINUING EDUCATION.**

The Planning and Development Services Department may establish continuing education requirements, rules, and regulations for contractors licensed under this Article. Every qualifying party shall complete at least eight (8) hours of continuing education each calendar year. The Planning and Development Services Department shall identify courses and education programs provided by governmental entities, trade associations, contractor education providers, and others on the codes adopted by the City of Lawrence, Kansas which satisfy the continuing education requirements of this Section. (Ord. 8557)

5-1520 **CONTRACTOR DISCIPLINE.**

The CLB shall have the authority to admonish, reprimand, and otherwise discipline any contractor subject to the requirements of this Article including the suspension or revocation of the contractor's license issued under the provisions of this Article in accordance with the procedures set forth in Chapter V, Article 16. The CLB may suspend or revoke a contractor's license if the CLB concludes, following a hearing, that the contractor's action or inaction is:

- (A) A serious or repeated violation of the provisions of this Article, any applicable Code, or the failure to comply within a reasonable time to any lawful written order of a building code official;
- (B) A knowing and intentional misrepresentation of a material fact made in connection with obtaining a contractor's license or a building permit;
- (C) A fraudulent or deceitful use of a contractor's license to obtain a building permit;
- (D) A failure to obtain a building permit or to obtain a required inspection of an ongoing project as required by any applicable Code;
- (E) A failure to exercise regular, routine control and supervision over an on-going project for which the contractor has obtained a building permit;
- (F) A failure to timely obtain a certificate of occupancy or Required Final Inspection for a completed structure as required by the applicable code;

- (G) A failure to hire a licensed Building Specialty, electrical, plumbing, or HVAC contractor to supervise any electrical, plumbing, HVAC or specialty work on the job site for which the contractor obtained a building permit;
- (H) A failure to pay any required application or licensing fees for a building permit, contractor license, or inspection fee; or
- (I) A violation of any one or more of the above items.

5-1521

BOARD ACTION.

Upon finding by a majority of the members present at the hearing that a contractor has violated one or more of the provisions of Chapter V, Article 15, Section 1520 the CLB may admonish, reprimand, or take other appropriate disciplinary action against such contractor including, but not limited to:

- (A) Suspension of the contractor's license for a fixed period not to exceed ninety (90) days.
- (B) Suspension of the contractor's license for a fixed period exceeding ninety (90) days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the CLB at the expiration of the first ninety (90) days and every ninety (90) days thereafter to determine if just cause exists to modify or terminate the suspension.
- (C) Such reconsideration may, at the Board's option, include a hearing.
- (D) Revocation of the contractor's license for a period not less than twelve (12) months from the date of revocation. A contractor's license shall be revoked if the contractor has been suspended two times during any thirty-six (36) month period.

Any decision of the CLB shall be made in writing and mailed to the contractor. A contractor whose license is the subject of a CLB action may appeal any decision of the CLB to the Lawrence City Commission by filing a notice of appeal with the CLB within thirty (30) days following the third day after the Contractor Licensing Board's written decision was mailed to the contractor as evidenced by a certificate of mailing which shall be included with the decision. When an appeal is filed, the secretary of the CLB shall forward the appeal and the CLB decision to the Lawrence City Commission together with the CLB record. Appeals to the City Commission shall be *de novo* and no action shall be taken by the CLB during a pending appeal.

5-1522

SAFE HARBOR PROVISIONS.

A contractor shall not be found in violation of this Article, nor disciplined by the CLB for a violation of an applicable building safety code provision if the contractor performs the work in accordance with and reliance upon duly certified plans and specifications prepared or approved by an architect or engineer licensed in Kansas without knowledge by the contractor that such plans and specifications, or pertinent parts thereof, are in violation of applicable codes.

5-1523

HEARINGS.

All contested matters pertaining to the suspension or revocation of licenses shall be heard by the CLB.

5-1524

RULES AND REGULATIONS.

The CLB may adopt rules, regulations, and procedures consistent with the provisions of this Article and Chapter V, Article 16 and amendments thereto.

5-1525

CONTRACTOR LICENSING REGULATIONS.

This Article may be referred to as the "Contractor Licensing Regulations."

5-1526

SEVERABILITY.

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

ARTICLE 16. CONTRACTOR LICENSING BOARD

5-1601 **CONTRACTOR LICENSING BOARD ESTABLISHED.**

In order to establish and maintain a high standard of integrity, skill, and practice in the various construction fields, and to safeguard the life, health, property, and welfare of the public, the Lawrence City Commission hereby creates a Contractor Licensing Board ("CLB") to consist of nine (9) members, eight (8) of which shall be appointed by the Mayor. The member who is a certified code official of the City of Lawrence shall be designated by the Planning and Development Services Director. Prior to the initial appointment or subsequent expiration of any term of a CLB member, any person, professional society, or association interested in the construction industries to be regulated by Chapter V, Article 15 of the City Code, and amendments thereto, the City's contractor licensing regulations, may submit a list of names or persons of recognized ability who have the qualifications prescribed for CLB members. The Mayor shall give consideration to the list of names submitted.

5-1602 **QUALIFICATIONS OF CLB MEMBERS.**

The CLB shall, to the extent qualified individuals are willing to serve, consist of the following members:

- (A) One (1) member shall be a certified building code official of the City of Lawrence.
- (B) One (1) member shall be licensed by the state of Kansas as an architect, civil or professional engineer.
- (C) One (1) member shall be a licensed general contractor or an employee of such contractor.
- (D) One (1) member shall be a licensed building contractor or an employee of such contractor.
- (E) One (1) member shall be a licensed residential contractor or an employee of such contractor.
- (F) One (1) member shall be from the general public of Lawrence.
- (G) One (1) member shall be a licensed electrical contractor or an employee of such contractor and shall at the time of appointment to the CLB be a member in good standing of the City's Board of Electrical Appeals.
- (H) One (1) member shall be a licensed plumbing contractor or an employee of such contractor and shall at the time of appointment to the CLB be a member in good standing of the City's Board of Plumbing and Gas Fitter Appeals.
- (I) One (1) member shall be a licensed mechanical contractor or an employee of such contractor and shall at the time of appointment to the CLB be a member in good standing of the City's Board of Mechanical Appeals.

Every member, except the member from the general public, shall, at the time of the appointment, be active in the appointee's profession or trade and have had at least five (5) years experience in such appointee's profession or trade.

5-1603 **TERM.**

The term of office for CLB members shall be four (4) years. At the time that this ordinance is passed, the members of the existing contractor licensing board shall continue to serve their unexpired terms.

The City of Lawrence certified building code official's term shall be at the discretion of the Planning and Development Services Department Director. Vacancies occurring before the expiration of a term shall be filled in the manner of the original appointment for the remainder of the unexpired term. CLB members shall serve no more than two (2) full terms with the exception of the Neighborhood Resources Department staff member, who shall serve at the discretion of the Planning and Development Services Department Director.

- (A) The members of the CLB shall serve without compensation.
- (B) The members of the CLB shall, by majority vote, elect a member as chairperson, who shall be a licensed contractor or an employee of a licensed contractor, and a vice-chairperson. The Chairperson and Vice-Chairperson shall hold their respective offices for one (1) year and may be re-elected for successive terms. The Chairperson, or acting Chairperson, shall not vote on matters before the CLB except in the case of a tie vote.
- (C) The CLB may, in addition to the *Contractor Licensing Board Rules and Regulations*, adopt rules and regulations consistent with this Article to carry into effect the provisions hereof, and such rules and regulations shall be furnished to any person upon request.
- (D) The CLB may conduct disciplinary hearings relating to the limitation, suspension, or revocation of any license. All hearings conducted by the CLB shall be in accordance with this Article and Sections [5-1520](#) and [5-1521](#) of the City Code, and amendments thereto.

5-1604 **REGULAR MEETINGS AND HEARINGS.**

The CLB shall meet at such place and time as may be determined by the CLB. The CLB shall conduct its meetings in accordance with the Kansas Open Meetings Act.

5-1605 **SPECIAL MEETINGS AND HEARINGS.**

Special meetings and matters that require a hearing may be called by the CLB Chairperson, the Vice-Chairperson, or a majority of the CLB members present and voting.

5-1606 **QUORUM.**

Five (5) members of the CLB shall constitute a quorum for the transaction of CLB business, including hearings. Attendance at any meeting may be in person or by conference telephone.

5-1607 **VOTING.**

All actions by the CLB shall be by a majority vote of those present except for any amendment to these Rules and Regulations which shall be by not less than a two-thirds (2/3) vote of the entire board. The Chairperson shall not cast a vote unless the vote is a tie in which event the Chairperson shall cast the deciding vote. Proxy voting shall not be allowed.

5-1608 **OFFICERS.**

The CLB shall elect from its members a Chairperson and a Vice-Chairperson. The Chairperson shall be licensed contractor or a full-time employee of a licensed contractor. The Chairperson shall call and preside at all meetings and hearings of the CLB. The Chairperson shall be responsible for the preparation of the agenda of all CLB meetings. The Certified Building Code Official shall be a member and act as Secretary to the Board. In the absence of the Chairperson, the Vice-Chairperson shall act as Chairperson. In the absence of both the Chairperson and Vice-Chairperson, the members present shall, by majority vote, appoint a Chairperson Pro-Tem who shall preside over the meeting or hearing.

5-1609 **COMMITTEES.**

The Chairperson, by a majority of the CLB, may designate one (1) or more committees, standing or ad hoc, each of which shall consist of three (3) or more individuals who may or may not be a member of the CLB. Each committee shall include a building official.

5-1610

COMPLAINTS.

Any person may file a written complaint with the CLB on forms provided for that purpose. A complaint shall include any written material or documents then available to the complaining party. Every complaint shall set forth with particularity one (1) or more of the following violations:

- (A) A serious or repeated violation of the provisions of the Contractor Licensing Regulations, any applicable code, or the failure to comply within a reasonable time to any lawful written order of a building code official;
- (B) A knowing and intentional misrepresentation of a material fact made in connection with obtaining a contractor's license or a building permit;
- (C) A fraudulent or deceitful use of a contractor's license to obtain a building permit;
- (D) A failure to obtain a building permit or to obtain a required inspection of an on-going project as required by any applicable Code;
- (E) A failure to exercise regular, routine control and supervision over an on-going project for which the contractor has obtained a building permit;
- (F) A failure to timely obtain a certificate of occupancy or Required Final Inspection for a completed structure as required by the applicable code;
- (G) A failure to hire a licensed Building Specialty, electrical, plumbing, or HVAC contractor to supervise any electrical, plumbing, HVAC or specialty work on the job site for which the contractor obtained a building permit;
- (H) A failure to pay any required application or licensing fees for a building permit, contractor license, or inspection fee; or
- (I) A violation of any one (1) or more of the above items.

5-1611

CONSUMER COMPLAINTS.

Consumer complaints relating to the quality of materials, workmanship, untimely construction, contract disputes, and similar matters are not within the purview of (a) through (h) above and are beyond the jurisdiction of the CLB. No complaint shall be considered by the CLB unless the alleged violator is a licensed contractor who is alleged to have violated a provision of Chapter V of the City Code.

5-1612

BOARD ACTION.

Upon a finding by a majority of the members present at the hearing that a contractor has violated one (1) or more of the provisions of the Contractor Licensing Regulations, the CLB may admonish, reprimand, or take other appropriate disciplinary action against such contractor, including but not limited to:

- (A) Suspension of the contractor's license for a fixed period not to exceed ninety (90) days.
- (B) Suspension of the contractor's license for a fixed period exceeding ninety (90) days, provided, however, the contractor shall have the right to have the suspension and the terms thereof reconsidered by the CLB at the expiration of the first ninety (90) days and every ninety (90) days thereafter to determine if just cause exists to modify or terminate the suspension. Such reconsideration may, at the Board's option, include a hearing.

- (C) Revocation of the contractor's license for a period not less than twelve (12) months from the date of revocation. A contractor's license shall be revoked if the contractor has been suspended two (2) times during any thirty-six (36) month period.

5-1613 **HEARINGS.**

All contested matters pertaining to the suspension, revocation, and reinstatement of licenses, including examinations, shall be heard by the CLB. The hearing shall be informal but witnesses shall testify under oath and a written decision shall be rendered by the CLB setting forth the relevant findings and conclusions for any action taken by the CLB. The written decision of the CLB shall be mailed to the contractor. The Chairperson or the Chairperson's designate shall preside over the hearing.

5-1614 **HEARING PROCEDURE.**

A hearing shall be held before the CLB after not less than ten (10) days notice to the contractor and to the complainant setting forth the hearing date, time, and place and stating in general terms the nature of the complaint. The written complaint, including any supporting material or documents, shall be provided to the contractor prior to or at the hearing. The burden of proof shall be on the complainant to show, by a preponderance of the evidence presented, that the allegations set forth in the complaint are true. If the complainant, or a representative of the complainant, fails to appear at the scheduled hearing date, the CLB may nonetheless proceed with the hearing. For good cause shown, the CLB may grant a continuance, hold a hearing open, allow additions to the record after the hearing has concluded, or take other action in the interest of justice.

5-1615 **APPEAL.**

A contractor whose license is the subject of a CLB action may appeal any decision of the CLB to the City Commission by filing a notice of appeal with the CLB within thirty (30) days of the decision. The thirty (30) day appeal period shall commence three (3) days after the date the decision is mailed to the contractor as evidenced by a certificate of mailing which shall be included with the CLB decision. The CLB secretary shall forward the CLB decision and appeal to the City Commission together with the CLB record. Appeals to the City Commission shall be *de novo* and no action shall be taken by the CLB during a pending appeal.

5-1616 **SEVERABILITY.**

If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of this ordinance.

DFC CO LLC

<u>Issued/Renewed</u>	<u>License #</u>	<u>Classification</u>	<u>Fees</u>	<u>Qualifying Individual</u>
Issued 6/27/2005	05-00020038	Class B Building Contractor	\$200.00	Robert Schulte
Renewed 1/11/2007	07-00020038	Class B Building Contractor	\$200.00	Matt Viets
Renewed 1/8/2008	08-00020038	Class B Building Contractor	\$65.00	Matt Viets
Renewed 1/22/2009	09-00020038	Class B Building Contractor	\$65.00	Matt Viets
Renewed 1/19/2010	10-00020038	Class B Building Contractor	\$65.00	Matt Viets
Renewed 11/23/2010	11-00020038	Class B Building Contractor	\$65.00	Matt Viets
Issued/Renewed 12/30/2011	12-00020038	Class A General Contractor	\$65.00	Matt Viets

DFC CO OF LAWRENCE

<u>Issued/Renewed</u>	<u>License #</u>	<u>Classification</u>	<u>Fees</u>	<u>Qualifying Individual</u>
Renewed 12/3/2012 for 2013	BC-21871	Class A General Contractor	\$65.00	Matthew Viets
Renewed 12/26/2013 for 2014	"	"	\$65.00	Matthew Viets
Renewed 01/12/2015 for 2015	"	"	\$65.00	Matthew Viets
Renewed 12/01/2015 for 2016	"	"	\$65.00	Matthew Viets
Renewed 01/06/2017 for 2017	"	"	\$65.00	Matthew Viets
Renewed 12/21/2017 for 2018	"	"	\$65.00	Matthew Viets

DFC Company of Lawrence LC
PO Box 721
Lawrence, KS 66044

CITY OF LAWRENCE, KANSAS

License Number: **BC-21871**

This certifies that **Viets, Matthew**

dba **DFC Company of Lawrence LC**

has been registered, and is hereby granted permission to
engage in the occupation of a

CLASS A GENERAL CONTRACTOR

subject to all requirements as provided by the Ordinances.

Dated: 12/03/2012 Exp: 12/31/2018

Building Official:

Barry L. Waldlund

Card to be carried while engaged in the above occupation.

Barry Walthall

From: Chris Burger <manyburgers@hotmail.com>
Sent: Monday, September 3, 2018 9:49 AM
To: Barry Walthall
Subject: Re: Sept. 10, 2018 CLB meeting

Oh, also, if the other matters that were identified are being relied upon for the requested action, please provide the complete file for each matter and the outcomes if either the matter was not resolved or had an express requirement for future performance.

thanks!

From: Chris Burger <manyburgers@hotmail.com>
Sent: Monday, September 3, 2018 9:46 AM
To: Barry Walthall
Subject: Re: Sept. 10, 2018 CLB meeting

Hi Barry,

Would you ask Staff to add the following to the packet for everyone? Thanks

1. Copies of the licenses at issue;
2. The licenses' recent approvals or renewals;
3. Any prior suspensions for the licenses;
4. The designated representatives and qualifying parties for each;
5. Fee payment history for each license;
6. Copy of the City Ordinance Articles giving the power to the Board, and regarding licenses;
7. Any independent investigations by the City;
8. Any responses from the license holders or other persons of interest.

Thank you
Chris

From: Barry Walthall <bwalthall@lawrenceks.org>
Sent: Tuesday, August 28, 2018 2:01 PM
To: BuildingInspections
Cc: Kurt Schroeder
Subject: RE: Sept. 10, 2018 CLB meeting

CLB members,

The September 10 meeting date and time are confirmed. The meeting agenda will be posted this afternoon at <https://lawrenceks.org/boards/contractor-licensing-board/>.

Contractor Licensing Board | City of Lawrence, Kansas

lawrenceks.org

Established by Code of the City of Lawrence, Kansas, Chapter V, 5-1601 on July 1 st, 2017, the purpose of the Contractor Licensing Board is to: To hear all contested matters pertaining to the suspension, revocation, and reinstatement of licenses under the Contractor Licensing Regulations.

Please make note that the meeting will be in the City Commission Chambers at City Hall, 6 East 6th Street, at 3:00 p.m.

Thank you.

Barry Walthall, Building Official
Planning and Development Services – www.lawrenceks.org Development Services, 1 Riverfront Plaza,
Lawrence, KS 66044-0708 office (785) 832-3101

"Your opinion counts! Customer feedback helps us serve you better. Please tell us how we're doing by completing this short online Customer Satisfaction Survey: <http://lawrenceks.org/pds/survey/satisfaction>."

From: Barry Walthall
Sent: Monday, August 20, 2018 9:00 AM
To: Barry Walthall <bwalthall@lawrenceks.org>
Cc: BuildingInspections <buildinginspections@lawrenceks.org>
Subject: Sept. 10, 2018 CLB meeting

CLB members,

A meeting of the Contractor Licensing Board is tentatively scheduled for Monday, September 10, 2018 at 3:00 p.m. in the City Commission room at City Hall regarding a complaint against a licensed contractor.

Please let me know your availability so this meeting date and time can be confirmed with the contractor.

A meeting agenda will be made available at least one week in advance of the meeting.

Thank you.

Barry Walthall, Building Official bwalthall@lawrenceks.org
Planning & Development Services | www.lawrenceks.org/pds
Development Services Division, 1 Riverfront Plaza, Suite 110
P.O. Box 708, Lawrence, KS 66044
office (785) 832-3101 | fax (785) 832-3110

Your opinion counts! Customer feedback helps us serve you better. Please tell us how we're doing by completing this short online Customer Satisfaction Survey: <http://lawrenceks.org/pds/survey/satisfaction>.



Graves Garrett LLC

Kathleen A. Fisher
kfisher@gravesgarrett.com
Direct Dial: (816) 285-3058

September 4, 2018

Via Federal Express

Phil Schlaman
Tina Gustafson
Kansas Department of Health and Environment
Curtis State Office Building
1000 SW Jackson
Topeka, KS 66612

Re: Kansas Asbestos Complaint at Alvamar Country Club

Dear Mr. Schlaman and Ms. Gustafson,

I am an attorney for Gene Fritzel Construction Co., Inc. It has come to our attention that you conducted an inspection at the Alvamar Country Club on October 13, 2016 in response to complaints that asbestos containing materials were being improperly handled. Following that inspection, you completed the enclosed Kansas Asbestos Complaint/Consultation Report, which mistakenly identified "Gene Fritzel Construction Co., LLC" as the building owner and contractor.

The purpose of this correspondence is to correct the record. The owner of the building was Eagle 1968, LC and the contractor was DFC Company of Lawrence, LC ("DFC"). Given the pending federal indictment of these entities, as well as the City of Lawrence licensing complaint related to this asbestos inspection, we feel it is important to clarify that Gene Fritzel Construction Co., Inc. was not the owner or contractor on this project. Given that the City of Lawrence referred to your report, the relevant city officials have been copied on this correspondence. Should you have questions regarding this matter or any need to discuss further, please do not hesitate to contact me.

Regards,

Kathleen A. Fisher

cc: Barry Walthall, City of Lawrence

Kansas Asbestos Complaint/Consultation Report

Number

C16002

Date

10/13/2016

Notif ID (If Issued)**NESHAP** **Consultation** **Complaint** **Other** **Description****Bldg Name**

Alvamar Country Club

Address

1809 Crossgate Drive

City

Lawrence

State

KS

Zip Code

66047

Owner

Gene Fritzel Construction Co., LLC

Contractor 1

Gene Fritzel Construction Co., LLC

Contractor 2**Consultant****Renovation** **Enclosure** **Demolition** **Glovebag** **Removal** **Outdoor** **Dismantle** **Encapsulation** **Other** **Description****Inspector 1**

PJS

Inspector 2

TKG

Comment

On Thursday, October 13th, 2016 around 1:00 PM, Phil Schlaman and I (Tina Gustafson) arrived onsite to the Alvamar Country Club construction location in response to complaints that potential asbestos containing material was being improperly removed from roofing components of the main country club building. We observed a section of the roof that appeared to have been sawed off in a manner that would render suspect asbestos-containing material friable, as well as loose material in piles near the roof. We found suspect material on the back of roofing shingles that seemed to have fibrous components. Phil donned his PPE and obtained a sample from the white backing that was located in a debris pile near the roof.

We documented the site with photo and video evidence, including video of Phil collecting the suspect sample. There may be more violations noted as video and pictures are reviewed.

We spoke with a contractor onsite, Wes Lynch, who was working on the golf course remodel, and he indicated that the Fritzel associates were out of town and that he was not aware of any demolition or inspection notification. Mr. Lynch indicated that he could pass a message to Fritzel and associates. Mr. Lynch was informed of a possible asbestos violation and that all debris piles and dumpsters were to remain in place and not to be disturbed pending the results of a suspect sample obtained from one of the debris piles. Phil contacted the Fritzel office on Friday, leaving a message asking to be called back as soon as possible. He then called again on Monday, October 17, 2016 without speaking to a supervisor. He followed-up a few hours later, again with no response. Thomas Fritzel later called back and Phil explained there may be potential violations with work practices, as well as suspect material present. Phil instructed him to leave the suspect material in place and undisturbed, pending lab results.

On Tuesday, October 18th close to 9:30 AM, Adam Irvin and I delivered the suspect sample to Asbestos Consulting and Testing firm in Lenexa, KS for testing. We received the results late on the afternoon of the 18th, indicating that the sample was comprised of 75 percent chrysotile asbestos.

On Wednesday, October 19th at about 11:30 AM, Thomas Fritzel and Casey Stuart (foreman of the project) met with Phil Schlaman, Javier Ahumada, Adam Irvin, and me to discuss an acceptable way to move forward. Thomas said that

his employees had previously taken a section sample of a tar-like roofing shingle, and sent it to a lab in Kansas City to be analyzed. Results came back negative, so they began construction about one month prior to our inspection of the site. They indicated the entire East side of the clubhouse roof had been removed and disposed of at Hamm's landfill near Lawrence, KS without permitting or proper disposal of potential asbestos containing materials.

Phil informed Thomas and Casey that a certified asbestos inspector was required to take all samples prior to any sort of renovation or demolition, and advised the Fritzel Company to do so before moving forward. Phil also advised them of the necessity to hire a licensed asbestos contractor to supervise and remove the preexisting debris piles and dumpsters located on site. Thomas agreed to the terms and indicated he would provide information on the inspection reports and comply with all requirements moving forward. Mr. Fritzel was handed a copy of the Kansas Asbestos Statutes, as well as a copy of penalties involved in the unauthorized removal of friable asbestos material.

On October 28, 2016, Phil and Tina returned to the site to inspect. We saw the main pile of debris had been moved from where our original asbestos sample was taken on October 13. All of the dumpsters had also been moved from prior locations, and the waste in these dumpsters had been relocated. Wooden paneling had been added to the wall covering the section of roofing that was sawed off, creating the friable sample we had recovered during our last inspection.

Inspector Signature: _____ **Date:** _____

Reviewer Signature: _____ **Date:** _____