

# ABOVE BOARD

LANDSCAPE CONTRACTORS BOARD (LCB)

APRIL, 2008, Issue 54



UNDERGROUND

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## OWNER/MANAGING EMPLOYEE EXAM

Effective January 1, 2008 any new landscape contracting business that is owned by an individual who **is not** a licensed landscape construction professional will need to do one of three things before the business license is renewed in 2009:

1. The owner will be required to take a 16 hour course covering the business practices and the laws and rules related to a landscape contracting business and pass an examination administered by the LCB on these subjects; **or**
2. Designate a full time employed managing employee who is authorized to exercise operational or managerial control over the business activities of the business to take a 16 hour course covering the business practices and the laws and rules related to a landscape contracting business and pass an examination administered by the LCB on these subjects; **or**
3. An owner of the business will need to obtain the individual landscape construction professional license.

A designated managing employee can be the managing employee of only one landscape contracting business at a time (OAR 808-002-0625).

A study manual has been developed for this examination and the exam is written. The examination will replace the Laws and Rules section of the current LCP examination on or before January 1, 2009 for those sitting for the LCP examination so the LCP can operate in this capacity if desired.

The application fee for the owner/managing employee examination is \$50 and the examination fee is \$25.00. Approved course providers are being determined as they become available.

The manual will be available on line for free but there will be a cost associated with a printed version or a CD of the material.

## BOARD MEMBERS

Matt Triplett, Portland, CHAIR

Martin Gascoyne, Eugene, VICE CHAIR

Steve Carper, Beaverton

Richard Hollenbeck, Estacada

Joe Lymp, Sunriver

Lisa Sedlacek, Florence

Larry Thomas, Astoria

### Trivia Question:

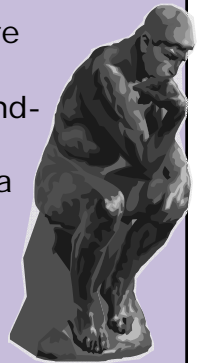
When a licensee changes an address how long does the licensee (business and individual) have to notify the board of the change of address in order to avoid a civil penalty?

See page 5 for the answer

# POINTS TO PONDER

## IS IT TIME FOR A CHANGE??

By Michael A. Snyder, CLP; Administrator



During the last two years the board has been examining the licensing structure that is in place to regulate the landscape construction industry in Oregon. As you know, the current system requires two licenses for the performance of landscape construction work in Oregon; the first being the individual landscape construction professional license (1) who then either owns or is employed by a licensed landscape contracting business (2).

What is apparent to the board is the manner in which the industry operates does not seem to be congruent with the intent of the laws that were written for this industry many years ago. The formative years of 1972-1977 was a time where the number of landscape businesses in Oregon was small and most of the businesses were sole proprietorships. The business owner and licensee was the person who worked on the project, along side the employee with the intent to train and mentor others who desired to gain experience in this industry. Those who desired to go out on their own were required to work for a period of at least two years under the instruction of a landscape construction professional (LCP) and the LCP was to teach this individual to be a good business person in order to foster good competition rather than ignorant competition. Initially the license system was a "one license" system, originally a licensed "landscaper".

It wasn't long until different business structures came into play and a thoughtful solution was to create a second license for the business. The requirement that a licensed individual would continue to play the role as trainer and mentor was implemented and the business was then designated as the entity to carry the bond, insurance and workers compensation for consumer protection.

Over time this type of mentoring and training was seen as "training the competition" and the licensed individual, especially in larger companies, became less and less involved in the technical aspects of the business and more involved in being a manager and astute business person. The direct contact of the LCP with the unlicensed employee became more and more infrequent and many unlicensed individuals started businesses by employing licensed individuals which created many confusing and interesting legal situations around employment and supervision.

The license model of those years has become obsolete and in the board's opinion, in need of revamping.

By now most of you will have received a letter from the board proposing two licensing models for discussion with the board. The board Chair and board Administrator have been traveling throughout the state holding stakeholder meetings to gain your input and comments on these models. If you were unable to attend, please send in your comments through the mail or send a quick email to the board using [lcb.info@state.or.us](mailto:lcb.info@state.or.us). This is an important formative time and hopefully a time for the laws and the industry to come into congruence.

Please become an active participant in these discussions that may have a far reaching affect on you and your business.

## *TELEPHONE AUTO ATTENDANT NOW IN USE!*

**We finally had to do it!** We have gone to an "auto attendant" for the answering of our many, many phone calls that we receive daily which will guide you to the correct person to speak with. We have always prided our selves in the fact that when you called the LCB you would more than likely get a "live" person to answer but we have had to move forward into the automated world like many busy offices.



When calling our office listen carefully to your choices. If you are calling with *any* questions regarding licensing, be it your renewal, a new application, the status of a license or if you are in the exam process and need to make an appointment or for our front office person, Shannon Gilkison, dial extension 221.

If you are calling regarding an enforcement payment by phone, questions about a claim that may have been filed against your business or the suspension of your business, a letter you've received regarding cancellation of your insurance or bond or for Cindy Clark, dial extension 222.

If you are calling in regards to a notice of a civil penalty for a violation that you have received or to discuss the status of a claim or for Kim Gladwill-Rowley, dial extension 223.

If you have questions about the new Continuing Education requirements or the administrator, Michael Snyder, dial extension 224.

If you are calling to report suspected illegal landscape construction activity or to speak to an investigator, dial extension 225.

If none of these are what you are looking for you can always dial "0" which will take you to Shannon and she can direct the call. Hopefully this will be more expedient for everyone!

## *ADDRESS CHANGE NOTIFICATION*

Having a current and correct address for all licensees is a vital issue for the board. Not only does it enable the licensee to maintain an active license by receiving a timely renewal, but it also enables the board to remain in contact with the licensee in providing notices of hearings for board meetings and rule changes; processing claims which includes notices of claims filed and on-site meeting notification; and many other correspondence such as stake holder meetings and newsletter distribution.

The legislature found it so important that a statute is in place that requires a licensee to notify the board of the address change within ten (10) days after the address change [ORS 671.603 (1)].

Recently the board implemented a "return address request" on correspondence that we send to licensees since there appeared to be a lot of correspondence being returned to the agency "undeliverable". This practice allows the post office to send us address changes if one has occurred when the address of record is not correct. If a change of address comes back to staff, that indicates the licensee has not notified us of their address change and if within ten days of the post office's notice to us, the board will assess the "failure to notify the board of address change" civil penalty of \$200.

This penalty is easily avoidable by sending the board an address change at the same time you make that change with the Post Office. Please take time in the "busy-ness" of moving to notify the LCB of any change in address.

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## ENFORCEMENT ACTIONS JANUARY 1, 2008 THROUGH MARCH 31, 2008

**THESE ACTIONS ARE FOR FINAL ACTIONS ONLY AND ARE NOT THE TOTAL NUMBER OF ACTIONS TAKEN DURING THE PERIOD, SINCE SOME ARE STILL UNDER INVESTIGATION. THIS IS SUMMARY INFORMATION ONLY.**

Name	City	Violation Type	Final Action
Harley Higgins & Sun Nursery Inc	Aurora	Bond Cancelled	Suspended Business License
Hugo Castellanos	Beaverton	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, remove advertising
Jerry Rood	Bend	Bond Cancelled	Suspended Business License
Eric Spott	Bend	Operating w/o License	\$2000 civil penalty
Tim Krueger	Bend	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, remove ad
Alfredo Cortes	Bingen	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, amend advertisement
Bernard Fitzpatrick	Brookings	Operating w/o License-2nd offense	\$2000 civil penalty
Richard E Pascoe Cynthia Jane Lester	Central Point	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, promise not to advertise
Bob Fellows (Registered Agent) Bob Fellows Construction LLC	Central Point	Operating w/o License	\$1000 civil penalty; settlement agreement - \$750 suspended, obtain business license
Ritchie Maes	Clackamas	Operating w/o License	\$1000 civil penalty; settlement agreement - \$750 suspended, obtain business license
Jon C & Callie Deen Calhoun	Cove	Operating w/o License	Dismissed
Carl Crabtree	Dallas	Operating w/o License & Claim Filed	\$2000 civil penalty; settlement agreement - \$1250 suspended, settle claim, promise not to landscape
Carl Crabtree	Dallas	Operating w/o License & Claim Filed	\$2000 civil penalty
Stephen A Riley	Eugene	Failure to Register with the Corporation Division	Refused to Issue
Mike Bibbee	Eugene	Operating w/o License	\$1000 civil penalty; settlement agreement - \$250 suspended, promise not to landscape
Sally Johnson	Eugene	Advertising w/o License	\$600 civil penalty
Matthew J Ochoa	Forest Grove	Bond Cancelled	Suspended Business License
Peter Babich (Registered Agent) Classy Homes LLC	Gladstone	Operating w/o License	\$1000 civil penalty
Leroy Lund	Grants Pass	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct brochure
Michael A Rogina	Grants Pass	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct business card
Gregory Johnson	Grants Pass	Failure to Employ Licensed Contractor	Suspended Business License
Robert J Loomis	Gresham	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct advertising
Daniel L Shult	Hermiston	Operating w/o License	\$1000 civil penalty; settlement agreement - \$750 suspended, obtain business license
Stoltenburg Landscape Maintenance & More Inc	Hillsboro	Performed work w/o proper bond/contract stds	\$1500 civil penalty; settlement agreement - \$1300 suspended, upgrade license, increase bond
Bryant Pipe & Supply Inc	Hood River	Failure to Employ Licensed Contractor	Suspended Business License
Tracey Berkey	Hubbard	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, remove advertising
Richard Berry	Jacksonville	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct name and card
Corbet Wayne Baker	Jefferson	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, submit corrected advertising
Daniel R Alexander	Kalmath Falls	Operating & Advertising w/o License & Claim Filed	\$2000 civil penalty
Jesus Sierra	Keizer	Working outside scope of License	\$2000 civil penalty
Daniel R Alexander	Klamath Falls	Operating & Advertising w/o License & Claim Filed	\$2600 civil penalty
Daniel R Alexander	Klamath Falls	Operating w/o License	\$2000 civil penalty
The Mielke Way Landscaping Inc	Lake Oswego	Failure to obtain a permit for Backflow Install	\$500 civil penalty
Teodoro Macias	Medford	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct card and name
Deverne A Carson	Medford	Operating w/o License & Claim Filed	\$2000 civil penalty
Marvin Lane	Medford	Operating w/o License	\$2000 civil penalty

Hi-Tech Landscape and Design Inc	Medford	Operating w/o License	\$1000 civil penalty
Epic Landscaping Corp	North Plains	Failure to Employ Licensed Contractor	Suspended Business License
Jeremy William Lord, Registered Agent Gunz Construction Company, LLC	Oregon City	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct adv
Brian Harrington	Portland	Operating w/o License	\$1000 civil penalty
Jimmie R Schlaht	Portland	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct advertising
Rain Man Irrigation and Lighting Inc	Portland	Advertising Outside Scope of License	\$500 civil penalty; settlement agreement - \$300 suspended - amend advertising
Aztec Enterprises LLC	Portland	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, remove ad
James C Boyd Jr	Portland	Owes a Landscaping Debt	Suspended Individual License
Reed Ristvedt	Portland	Operating w/o License	\$1000 civil penalty; settlement agreement - \$750 suspended, obtain business license
Roger L Phillips (Registered Agent) RLP Construction Inc	Redmond	Operating w/o License-2nd offense	\$2,000 civil penalty; settlement agreement - \$1500 suspended, obtain license
Todd K Crume	Rogue River	Operating w/o License	\$1000 civil penalty; settlement agreement - \$750 suspended, reinstate business license
Burke Darrow Inc	Roseburg	Failure to Employ Licensed Contractor	Suspended Business License
David Refugio (Registered Agent) Jacob's Landscape LLC	Salem	Advertising w/o License	\$600 civil penalty
Richard Addison Nichols Jr	Salem	Performed Work without Proper Bond Amount	\$1500 civil penalty; settlement agreement - \$1000 suspended, increase bond, cover claims if any
Douglas Beall	Salem	Working outside scope of License and Proper Bond	\$2000 civil penalty; settlement agreement - \$1900 suspended, increase bond amt
Costco Wholesale Corporation	Salem	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct advertising
Ambrocio Luna Maza	Salem	Operating w/o License	\$1000 civil penalty
Sheldon Sullivan	Salem	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct advertisement
Juan D Valdez (Registered Agent) Wulf Landscaping Maintenance LLC	Salem	Operating w/o License	\$1000 civil penalty; settlement agreement - \$250 suspended, promise not to landscape
Bernabe Costanon Robles	Salem	Operating w/o License	\$1000 civil penalty; settlement agreement - \$750 suspended, 400 hours w/license business
Javad & Leah Trew	Springfield	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, correct advertising
Marlan Lopez	Springfield	Operating w/o License	\$1000 civil penalty
Elida Roy & Leann Svarverud Eden Designs	Springfield	Operating w/o License	\$1000 civil penalty
Dick Franklin	Tigard	Advertising Outside Scope of License	\$700 civil penalty
Ray McCracken	Troutdale	Failure to obtain a permit for Backflow Install	\$500 civil penalty; settlement agreement - \$300 suspended, pull permit
Chris Burnett	Tualatin	Operating & Advertising w/o License	\$1600 civil penalty; settlement agreement - \$1400 suspended, promise not to landscape or advertise
Jason Steelhammer	Vancouver	Advertising w/o License	\$600 civil penalty
Jeffrey Gephart	Vancouver	Advertising w/o License	\$600 civil penalty; settlement agreement - \$475 suspended, remove ad
Kenneth McCormick	Veneta	Operating & Advertising w/o License & Claim Filed	\$1000 civil penalty
Kenneth McCormick	Veneta	Operating w/o License & Claim Filed	\$2000 civil penalty
Anne Marie Fieweger	West Linn	Advertising w/o License	\$600 civil penalty
Todd Hankwitz	White City	Operating w/o License & Claim Filed	\$2000 civil penalty
Jose Orozco	White City	Working outside scope of License and no Contract	\$700 civil penalty; settlement agreement - \$300 suspended, upgrade business license
Corey Herber	Willamina	Advertising w/o License	\$600 civil penalty





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**MISSION STATEMENT**  
 Promoting Consumer Protection, Contractor Competency and Fair  
 Competition in Oregon's Landscape Construction Industry

## MEET YOUR BOARD

Steve Carper, Beaverton, Public Member (2008-2011)



Steve Carper is the Conservation Technician for Tualatin Valley Water District (TVWD). His focus is developing TVWD's B.I.G. conservation program for Business, Industry, Government and Multi-Family Housing facilities within the district. An Oregon native, Steve graduated from the University of Oregon with majors in Geography and Environmental Studies and a minor in Landscape Architecture. His professional background includes 15 years in the Willamette Valley landscape industry with experience in construction, irrigation and maintenance. In his free time Steve enjoys whitewater rafting, skiing/snowboarding and running.

In addition to supporting the mission of the Landscape Contractors Board he sees his role on the board as being a strong advocate for promoting public awareness and professional development for landscape construction professionals by partnering with industry organizations, associations and other state agencies. More specifically, in Oregon landscape irrigation professionals in effect manage 25-50% of the states potable water resources through irrigation practices. Therefore he is committed to creating opportunities to increase awareness and accountability for the public and landscape construction professionals to efficiently manage one of our states most precious resources; our water.

*The board Welcomes Steve and appreciates his willingness to support and volunteer! Thanks Steve!*