

Pikes Peak Regional Building Department

2880 International Circle
Colorado Springs, Colorado 80910

BOARD OF REVIEW MINUTES

December 19, 2018

10:30 a.m.

MEMBERS PRESENT: Chairman Vince Colarelli, Citizen-at-Large
Jim Nakai, Architect
Tom McDonald, Building A or B Contractor
Darin Tiffany, Engineer

MEMBERS ABSENT: Edward Pine, Building A, B or C Contractor

RBD STAFF PRESENT: Roger Lovell, Regional Building Official
Virginia Koulchitzka, Regional Building Counsel
Jay Eenhuis, Deputy Building Official – Plans
John Welton, Deputy Building Official – Inspections
Dean Wemmer, Chief Electrical Inspector
Linda Gardner, Executive Administrative Assistant

PROCEEDINGS:

Chairman Vince Colarelli called the meeting to order at 10:31 a.m.

1. **CONSIDERATION OF THE NOVEMBER 19, 2018 BOARD OF REVIEW MINUTES**

A motion was made by Tom McDonald to **APPROVE** the November 19, 2018 Board of Review Minutes as written, seconded by Jim Nakai; the motion carried unanimously.

2. **CONSIDERATION OF TECHNICAL AND LICENSING COMMITTEES MINUTES**

a) Technical Committee Minutes of December 5, 2018.

A motion was made by Darin Tiffany to **APPROVE** the December 5, 2018 Technical Committee Minutes as written, seconded by Tom McDonald; the motion carried unanimously.

b) Licensing Committee Minutes of December 12, 2018.

A motion was made by Jim Nakai to **APPROVE** the December 12, 2018 Licensing Committee Minutes as written, seconded by Darin Tiffany; the motion carried unanimously.

3 DECISION APPEALS

- a) A Complaint was brought against Kevin Gray, Licensee for Empire Signs, Inc., by Regional Building for installing signs without pulling permits at: 4090 Austin Bluffs Parkway, 1612 South Nevada Avenue, 1604 South Nevada Avenue, and 602 West Colorado Avenue, all in Colorado Springs, Colorado, and progress in completing these permits, as well as eleven (11) administratively closed permits. *Kevin Gray appeared before the Licensing Committee on February 14, 2018, and the Committee determined that Mr. Gray could pull one permit for every four permits completed; he was required to send RBD staff documentation that he had insurance in place prior to pulling any permits; and a Two-Year Incident Report was placed in his contractor file. After completion of Mr. Gray's outstanding permits, he could work with RBD staff to have the restriction removed, and he was required to reappear before the Licensing Committee in 120 days to give the Committee a progress report. During the June 13, 2018 Licensing Committee Meeting, the complaint against Mr. Gray was extended for 60 days; Mr. Gray could pull one permit for every four permits completed; and upon completion of the outstanding permits, Mr. Gray could work with RBD staff to remove the restriction. During the September 12, 2018 Licensing Committee Meeting, the Committee revoked Mr. Gray's contractor license due to his 11 outstanding "A" Status permit, as well as lack of a permit for 602 West Colorado Avenue.*

Revised Appeal Procedure(s), as Implemented by this Board during its May 16, 2018 Board of Review Meeting: The Board of Review shall conduct a public hearing on the appeal. At the conclusion of the hearing, the Board of Review shall make appropriate findings and determine whether the Technical Committee's or Licensing Committee's decision, as applicable, shall stand, be overturned or modified. The Board of Review's decision shall be considered final agency action for all purposes under Colorado law.

Those aggrieved by the decision of the Technical Committee's or Licensing Committee's decision, as applicable, may appeal the decision provided that a notice of appeal, stating the grounds for appeal, is filed in accordance with RBC101.7. The Department, upon receiving a perfected appeal, shall forward the record of the Technical Committee or Licensing Committee to the Board of Review, and the matter shall be set for a public hearing at the next available Board of Review meeting. The Board of Review may hear the appeal de novo or may limit the hearing to the issues identified in the notice of appeal. At the conclusion of the public hearing, the Board of Review shall determine whether there is substantial evidence in the record to support the Technical Committee's or Licensing Committee's decision, as applicable, and if so, then the decision must be affirmed. If there is not substantial evidence in the record to support the Committee's decision, the Board of Review may overturn the decision or modify it.

Kevin Gray did not appear. Jina Koulchitzka read on the record the "Revised Appeal Procedure(s), as Implemented by this Board during the May 16, 2018 Board of Review Meeting." She stated RBD did receive a timely Notice of Appeal, as amended, from appellant. She stated the appellant was notified by email and regular mail that the appeal

would be heard today at this time. She stated in light of the new procedures implemented by the Board of Review, neither Technical nor Licensing Committee members would be able to testify during appeal hearings. She stated the meeting minutes, and supporting documents, which were all part of the Record of Appeal, would give the Board of Review members the details of the Licensing Committee meeting(s) and reasoning for the recommendation(s), which had taken place.

A motion was made by Darin Tiffany to **POSTPONE** this appeal until the end of the meeting, seconded by Tom McDonald; the motion carried 2:1. Jim Nakai opposed. John Welton stated this matter had been ongoing since February 14, 2018.

4. **UNFINISHED BUSINESS**

There was no Unfinished Business.

5. **NEW BUSINESS**

There was no New Business.

3. **DECISION APPEAL – Continuation of Appeal filed by Kevin Gray, Licensee for Empire Signs, Inc.**

Kevin Gray had not appeared. Ms. Koulchitzka stated the appellant requested the appeal; therefore, the Board of Review is able to dismiss the appeal for failure to appear today should it wish to do so.

John Welton was sworn in. Mr. Welton stated this complaint was first heard before the Licensing Committee on February 14, 2018, for work completed on four projects without a permit. He stated the Licensing Committee gave Mr. Gray the opportunity to permit and finalize those four projects, and also gave him the opportunity to clean up the pending and “A” Status permits by allowing Mr. Gray to pull one permit for every four permits completed. He stated Mr. Gray made some progress in completing the permits and appeared before the Licensing Committee again in June. Mr. Welton stated Mr. Gray made very little progress on completing his permits between June and September and he appeared before the Licensing Committee again in September, at which time the determination of the Licensing Committee was a revocation of Mr. Gray’s license because he had regressed in completing his outstanding permits; as he still had not permitted 602 West Colorado Avenue, had 11 “A” Status permits and 29 pending permits. He stated a great deal of time had been expended by both RBD staff and DRE staff in “policing of signs” for this contractor.

A motion was made by Darin Tiffany to **DISMISS** the appeal because the appellant failed to appear after being given timely notice on two occasions that the appeal would be heard today at this time, seconded by Tom McDonald; the motion carried unanimously.

A motion was made by Darin Tiffany to **UPHOLD** the decision of the September 12, 2018 Licensing Committee because very little progress was being accomplished by Kevin Gray in completing his outstanding permits, and he actually regressed in completing his outstanding permits, seconded by Tom McDonald; the motion carried unanimously.

Mr. Welton stated RBD staff would notify the property owners of outstanding permit(s) on their properties and let them know that they need to follow up with RBD with regard to the completion of their permits.

The meeting adjourned at 11:00 a.m.

Respectfully submitted,



Roger N. Lovell
Regional Building Official

RNL/llg