

5-25-05

STATE OF FLORIDA
CONSTRUCTION INDUSTRY LICENSING BOARD

05-SEP-26 AM 10:12
FILED
M. J. GUILLETTE

DEPARTMENT OF BUSINESS AND
PROFESSIONAL REGULATION,

-vs-
Petitioner,

DBPR CASE NO.: 2003-058787

AT

DOAH CASE NO.: 04-4040

ASC
closed

MICHAEL CRANE,
Respondent.

Final Order No. BPR-2005-05219 Date 9-23-05
FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

FINAL ORDER

By: Sarah Wachman

THIS MATTER came before the Construction Industry Licensing Board pursuant to Sections 120.569 and 120.57(1), Florida Statutes at the duly noticed meeting on July 13-15, 2005, in Coral Gables, Florida, for the purpose of considering the Administrative Law Judge's Recommended Order of May 25, 2005. (attached). Petitioner was represented by Patrick Creehan, Esquire, who was present at the hearing. The Respondent was represented by Daniel J. Webster, Esq., who, with his client, Mr. Crane, was present at the hearing. The Board was represented by Diane Guillemette. After considering the Recommended Order, the record, and the argument of counsel, the Board finds the following:

EXCEPTIONS

1. Respondent timely filed two exceptions to the Recommended Order on June 8, 2005
2. The Board considered the first exception "Multiple Liens."
3. The Board rejected the exception finding:

A. Upon review of the file, the conclusion of law contained Respondent's first exception is not more reasonable than that stated in the Recommended Order.

B. Upon review of the entire record, the Respondent has not shown that the findings of fact related to the first exception were not based on competent substantial evidence.

4. The Board considered Respondent's second exception "G&W lien not Proven Valid."

5. The Board rejected the exception finding:

A. Upon review of the file, the conclusion of law contained Respondent's second exception is not more reasonable than that stated in the Recommended Order.

B. Upon review of the entire record, the Respondent has not shown that the findings of fact related to the second exception were not based on competent substantial evidence.

FINDINGS OF FACT

6. The findings of fact set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

CONCLUSIONS OF LAW

7. The Board has jurisdiction over this matter pursuant to the provisions of Section 120.57 and Chapter 489, Florida Statutes.

8. The conclusions of law set forth in the Recommended Order are approved, adopted, and incorporated herein by reference.

WHEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that:

The remaining counts of the Administrative Complaint, for violation of Section 489.129(1)(g)1, F.S., mismanagement or misconduct, and Section 489.129(1)(m), F.S., incompetency or misconduct in the practice of contracting, are DISMISSED.

9. This Final Order shall take effect upon filing with the Clerk of the Department of Business and Professional Regulation.

DONE and ORDERED this 19 day of August, 2005.



JOAN M. BROWN, Chair
Construction Industry Licensing Board

NOTICE OF RIGHT TO APPEAL

THIS ORDER CONSTITUTES FINAL AGENCY ACTION AND MAY BE APPEALED BY ANY PARTY PURSUANT TO SECTION 120.68, FLORIDA STATUTES, AND RULES 9.110 AND 9.190, FLORIDA RULES OF APPELLATE PROCEDURE , BY FILING A NOTICE OF APPEAL CONFORMING TO THE REQUIREMENTS OF RULE 9.110(D), FLORIDA RULES OF APPELLATE PROCEDURE, BOTH WITH THE APPROPRIATE DISTRICT COURT OF APPEAL, ACCOMPANIED BY THE APPROPRIATE FILING FEE, AND WITH THE DEPARTMENT'S CLERK OF AGENCY PROCEEDINGS, WITHIN THIRTY (30) DAYS OF RENDITION OF THIS ORDER.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Final Order has been provided by Certified Mail to: Michael A. Crane, 8 Shawnee Trail, Ormond Beach, FL 32174-4318, and Daniel J. Webster, Esq., 149 S. Ridgewood Avenue, Ste. 500, Daytona Beach, FL 32114 and by hand/interoffice delivery to the Construction Industry Licensing Board, 1940 N. Monroe Street, Tallahassee, Florida 32399-1039; Patrick F. Creehan, Esq., Chief Construction Attorney, Office of the General Counsel, 1940 N. Monroe St., Ste. 60, Tallahassee, Florida 32399-2202, and Diane L. Guillemette, Assistant Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on or before 5:00 p.m., this 23rd day of September, 2005.

Yarah Wachman