

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

DEPARTMENT OF BUSINESS AND)
PROFESSIONAL REGULATION,)
)
Petitioner,)
)
vs.) Case No. 09-1017
)
ABRAHAM COWRIE AND SUNSHINE)
HOMES,)
)
Respondents.)
_____)

RECOMMENDED ORDER

Administrative Law Judge (ALJ) Daniel Manry conducted the formal hearing of this case for the Division of Administrative Hearings (DOAH) telephonically on April 27 and September 28, 2009.

APPEARANCES

For Petitioner: Sorin Ardelean, Esquire
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399-2202

For Respondents: Abraham Cowrie, pro se
4660 10th Avenue North,
Lake Worth, Florida 33463

STATEMENT OF THE ISSUES

The issues in this case are whether the respondents practiced contracting without a license in violation of Subsections 489.105(3) and (6), 489.113(2), and 489.127(1)(f),

Florida Statutes (2004),¹ and, if so, what penalty, if any, should be imposed pursuant to Chapters 455 and 489, as alleged in the Administrative Complaint.

PRELIMINARY STATEMENT

On January 14, 2008, Petitioner filed an Administrative Complaint against the respondents. The respondents requested an administrative hearing. Petitioner referred the request to DOAH to conduct the hearing.

At the hearing, Petitioner presented the testimony of two witnesses and submitted 14 exhibits for admission into evidence. Abraham Cowrie did not testify. The respondents did not call any witnesses and did not submit any exhibits.

The identity of the witnesses and exhibits and the rulings regarding each are reported in the two-volume Transcript of the hearing filed on May 18 and October 12, 2009. Petitioner timely filed its Proposed Recommended Order (PRO) on October 22, 2009. The respondents did not file a PRO.

FINDINGS OF FACT

1. Petitioner is the state agency authorized to regulate the construction industry in Florida pursuant to Chapter 489. Abraham Cowrie is the sole shareholder and president of Sunshine Homes & Apartments, Inc. (Sunshine Homes). Neither Mr. Cowrie nor Sunshine Homes has ever been licensed as a contractor in Florida.

2. From December 23, 2004, through November 30, 2006, Mr. Cowrie and Sunshine Homes practiced contracting, within the meaning of Subsections 489.105(3) and (6), 489.113(2), and 489.127(1)(f), by contracting with Boboy Ramnanan to build a home at Mr. Ramnanan's property in Palm Bay, Florida; completing part of the work; and accepting \$227,020.00 in payment. Mr. Cowrie and Sunshine Homes did not complete the job and did not refund any of the construction costs. The homeowner incurred additional costs to contract with a licensed contractor to complete the job.

3. On or about December 23, 2004, Mr. Cowrie and Sunshine Homes contracted with Mr. Ramnanan to build a home at the homeowner's property in Palm Bay, Florida. A certified general contractor, identified in the record as Sharma Baboolal and the qualifier of Terra Mar Construction, Inc. (Terra Mar), obtained the necessary permits for the construction.

4. Mr. Baboolal and the homeowner never met in person. The homeowner never executed a contract with Mr. Baboolal or Terr Mar.

5. The homeowner paid Mr. Cowrie and Sunshine Homes approximately \$227,020.00 through wire transfers and checks from January 25, 2005, through November 30, 2006. Neither Mr. Cowrie nor Sunshine Homes was employed by Mr. Baboolal or Terra Mar.

6. Mr. Cowrie and Sunshine Homes did not finish the construction work. Mr. Cowrie and Sunshine Homes did not refund any of the money received from the homeowner. The money that the homeowner paid to Mr. Cowrie and Sunshine Homes was intended as full payment for a completed project. The costs of Petitioner's investigation total \$55.17, excluding legal and prosecuting costs.

CONCLUSIONS OF LAW

7. DOAH has jurisdiction over the subject matter of and parties to this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2009). DOAH provided the parties with adequate notice of the formal hearing.

8. Petitioner has the burden of proof in this proceeding. Petitioner must show by clear and convincing evidence that each licensee committed the acts alleged in the Administrative Complaint and the reasonableness of the proposed penalty. Ferris v. Turlington, 510 So. 2d 292 (Fla. 1987).

9. Petitioner satisfied its burden of proof. Petitioner showed by clear and convincing evidence that Mr. Cowrie and Sunshine Homes practiced contracting without a license in violation of Subsections 489.105(3) and (6), 489.113(2), and 489.127(1)(f).

10. In Petitioner's PRO, Petitioner seeks a penalty of \$5,000.00 authorized in Subsection 455.228(1). The ALJ finds

the proposed penalty to be reasonable under the facts and circumstances in this case. Petitioner also satisfied its burden of proving entitlement to the recovery of investigative costs in the amount of \$55.17.

RECOMMENDATION

Based upon the foregoing Findings of Fact and Conclusions of Law, it is

RECOMMENDED that Petitioner enter a final order finding Mr. Cowrie and Sunshine Homes guilty of committing the violations alleged in the Administrative Complaint and imposing an aggregate administrative fine of \$5,000.00 against both of the respondents.

DONE AND ENTERED this 28th day of October, 2009, in Tallahassee, Leon County, Florida.



DANIEL MANRY
Administrative Law Judge
Division of Administrative Hearings
The DeSoto Building
1230 Apalachee Parkway
Tallahassee, Florida 32399-3060
(850) 488-9675
Fax Filing (850) 921-6847
www.doah.state.fl.us

Filed with the Clerk of the
Division of Administrative Hearings
this 28th day of October, 2009.

ENDNOTE

1/ All statutory references are to Florida Statutes (2004) unless otherwise stated.

COPIES FURNISHED:

Abraham Cowrie
4660 10th Avenue North
Lake Worth, Florida 33463

Sorin Ardelean, Esquire
Department of Business and
Professional Regulation
1940 North Monroe Street
Tallahassee, Florida 32399

Nancy S. Terrel, Hearing Officer
Office of the General Counsel
Department of Business and
Professional Regulation
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-0792

Reginald Dixon, General Counsel
Department of Business and
Professional Regulation
Northwood Centre
1940 North Monroe Street
Tallahassee, Florida 32399-0792

NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.