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Mahoning County District Board of Health

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November 5, 2014

Sebastian Rucci
Hotel California
5455 Clarkins Drive
Austintown, Ohio 44515

ACCEPTED BY: 
Date: 11/5/14

HAND DELIVERED

RE: Hotel California
Notice of Violations
Illegal Installation of Plumbing

FILE COPY

Dear Mr. Rucci:

On October 24, 2014, representatives of the Mahoning County District Board of Health (hereafter referred to as Board of Health) met with you to discuss renovations at Hotel California that included plumbing fixtures throughout the structure. Those present included: John LuBonovic (Plumbing Inspector), Tim Tusek, (Assistant County Prosecutor) and the undersigned. During the meeting you indicated that:

- the five million dollar renovation included remodeling the hotel from 122 rooms down to 102 single rooms and/or suites;
- plumbing fixtures that included at a minimum, the sinks, commodes and shower/tubs in approximately 102 rooms on four floors of the hotel were replaced by Leon Geddings with some discussion with a local plumber;
- the fixtures were purchased from Trumbull Industries and another Youngstown supply company;
- plumbing construction has stopped and you have requested Thornton & Sons to obtain plumbing permits for the remaining sinks and commodes on the fourth floor; and
- no plumbing or installation connected to the Jacuzzis has occurred although plans were submitted to the Ohio Department of Health.

Ohio Administrative Code (OAC) 4101:1-1-01 and the Ohio Building Code (OBC) Chapter 1 Section 102 defines work exempt from approval and states,

"The provisions of the "Ohio Building Code", the "Ohio Mechanical Code", and the "Ohio Plumbing Code" shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures. As provided in division (B) of section 3791.04 of the Revised Code, no plans or specifications shall be approved or inspection approval given unless the building represented by those plans or specifications would, if constructed, repaired, erected, or equipped according to those plans or specifications, comply with Chapters 3781. and 3791. of the Revised Code and any rules adopted by the board. An owner may exceed the requirements of the "Ohio Building Code" in compliance with section 102.9."



Sebastian Rucci
RE: Hotel California
November 5, 2014
Page Two of Seven

Exceptions:

"approval shall not be required for the following....the clearance of stoppages or the repair of leaks in pipes, valves or fixtures, and the removal and reinstallation of water closets, provided such repairs do not involve or require the replacement or rearrangement of valves, pipes or fixtures."

Please be aware that based on information you provided, it was determined that the plumbing fixtures were replaced and therefore were subject to approval, permitting and inspection. In addition, the Board of Health has determined the plumbing was illegally installed and covered with pipe being inspected or tested. At a minimum, the following violations have been identified and categorized by type.

PLAN APPROVAL REQUIREMENTS

In accordance with OAC 4101:1-1-01 Ohio Building Code Section 107 Plan Approval Process, construction drawings should be submitted to meet the review and permitting requirements and should include all sections as it pertains to the changes, modifications and alterations of the plumbing at this location. The owner/operator failed to submit plans for review and approval for the plumbing. At this point in time, at a minimum, the following violations to this section include:

OAC 4101:1-1-01 Section 107 Plan Approval Process

107.1 Plan Review Required

"Where the rules of the board are applicable under section 101.2, before a building or addition to a building is constructed or erected, and before a building is altered or relocated, or building equipment is installed, or there is a change of occupancy, or a resubmission of construction documents is required or received, construction documents relating to the work and equipment under consideration shall be prepared in conformity with section 106 and be submitted to the building department for examination and approval."

INSPECTION PROCESS

In accordance with OAC 4101:1-1-01 Ohio Building Code Section 108 Inspection Process, after the construction drawings were approved the plumbing construction work was subject to inspection. The owner/operator failed to notify the Board of Health when work was ready for inspection and failed to provide access for the inspections as required by the code. At this point in time, at a minimum, the following violations to this section include:

OAC 4101:1-1-01 Section 108 Inspection Process

108.1 General.

After construction documents have been approved, construction or work may proceed in accordance with the approved documents. Construction or work for which an approval is required shall be subject to inspection. It shall be the duty of

Sebastian Rucci
RE: Hotel California
November 5, 2014
Page Three of Seven

the owner or the owner's duly authorized representative to notify the building department when work is ready for inspection. Access to and means for inspection of such work shall be provided for any inspections that are required by this code. It shall be the duty of the owner or the owner's authorized representative to cause the work to remain accessible and exposed for inspection purposes. Such construction or work shall remain accessible and exposed for inspection purposes until the work has been inspected to verify compliance with the approved construction documents.

TESTING REQUIREMENTS

In accordance with OAC 4101:3-3-01 Ohio Plumbing Code Section 312 Testing Requirements, all revisions, alterations, modifications to the plumbing at this facility are subject to the complete requirements for testing and inspections. The owner/operator failed to cause applicable test and inspections to be conducted and/or to submit documentation to determine compliance with the plumbing revisions. At this point in time, at a minimum, the following violations to this section include:

OAC 4101:3-3-01 General Regulations Section 312 Tests and Inspections.

312.1 Required Tests

The owner or owner's representative shall cause the applicable tests prescribed in Sections 312.2 through 312.11 to be made to determine compliance with the provisions of this code. Reasonable advance notice shall be given to the building official when the plumbing work is ready for tests. The owner or owner's representative shall keep records of the tests and shall submit such records to the building official upon request.

312.10 Backflow Prevention

Inspection and testing shall comply with Sections 312.10.1 and 312.10.2.

312.10.1 Inspections.

Annual inspections shall be made of all backflow prevention assemblies and air gaps to determine whether they are operable.

312.10.2 Testing.

Reduced pressure principle backflow preventer assemblies, double check-valve assemblies, pressure vacuum breaker assemblies, reduced pressure detector fire protection backflow prevention assemblies, double check detector fire protection backflow prevention assemblies, hose connection backflow preventers, and spill proof vacuum breakers shall be tested at the time of installation, immediately after repairs or relocation and at least annually. The testing procedure shall be performed in accordance with one of the following standards: ASSE 5013, ASSE 5015, ASSE 5020, ASSE 5047, ASSE 5048, ASSE 5052, ASSE 5056, CSA B64.10 or CSA B64.10.1.

Sebastian Rucci
RE: Hotel California
November 5, 2014
Page Four of Seven

312.11 Tests and Inspections

No part of any plumbing or drainage system shall be covered until it has been inspected, tested, and approved, except as provided in this section.

**OAC 4101:3-7-01 Sanitary Drainage
Section 703.4 Existing Building and Sewer**

703.4 Existing building sewers and drains.

Existing building sewers and drains shall connect with new building sewer and drainage systems only where found by examination and test to conform to the new system in quality of material. The code official shall notify the owner to make the changes necessary to conform to this code.

PERMITTING & APPLICATION REQUIREMENTS

Ohio Revised Code (ORC) 3703.07 speaks to the requirements for plumbing and includes at a minimum the rules governing plumbing installation, applications and fees. Specifically, no work shall be performed until an application is made, plans are approved and a permit issued. The owner/operator failed to make application, submit plans for review or obtain a permit. At a minimum the following violations to this section include, in part:

ORC 3703.07 Application for plumbing work permit - fee

OCR 3703.07 states in part, that no plumbing work shall be done in any building or place... except in cases of repairs or leaks in existing plumbing, until a permit has been issued ... before granting such permit, an application shall be made by the owner of the property or by the person, firm, or corporation which is to do the work... the application shall be made on a form prepared ... for the purpose, and each application shall be accompanied by a fee ... also shall be accompanied by a plan approval fee.

LICENSED PLUMBER REQUIREMENTS

ORC 3781 speaks to the requirements to have a licensed, registered plumber, as defined in ORC 4740, perform all work in this instance as it relates to plumbing. Specifically, the owner operator failed to comply with the licensing and registration requirements as stated below:

ORC 3781.102 Extending building department certifications

A board may impose a fee for registration of a specialty contractor who holds a valid and unexpired license issued pursuant to Chapter 4740. of the Revised Code before that specialty contractor may engage in the type of contracting for which the license is held ... provided that the fee is the same for all specialty contractors who wish to engage in that type of contracting. If a board imposes such a fee, the board immediately shall permit a specialty contractor who presents proof of holding a valid and unexpired license and pays the required fee to engage in the type of contracting for which the license is held within the unincorporated areas of the

Sebastian Rucci
RE: Hotel California
November 5, 2014
Page Five of Seven

county. Furthermore, as used in this section, "specialty contractor" means a plumbing contractor as those contractors are described in Chapter 4740. of the Revised Code.

PUBLIC HEALTH NUISANCE

ORC 3781 requires that construction and repair of buildings shall conform to the requirements of this chapter. Failure to comply has resulted in the facility being considered a public health nuisance and determined to be unsafe and unsanitary as detailed in the sections listed below:

ORC 3781 Building Standards – General Provisions

ORC 3781.11 Rules of board of building standards – public nuisance

ORC 3781.11(C) states, in part, that the construction, alteration, erection, and repair of buildings including industrialized units, and the materials and devices of any kind used in connection with them... and the plumbing shall conform to the statutes of this state or the rules adopted and promulgated by the board... Any building, structure, or part thereof, constructed, erected, altered, manufactured, or repaired not in accordance with the statutes of this state or with the rules of the board, and any building, structure, or part thereof in which there is installed, altered, or repaired any fixture, device, and material, or plumbing, not in accordance with such statutes or rules is a public nuisance.

3781.06 Public buildings to be safe and sanitary - definitions.

3781.06(A)(1) states, Any building that may be used as a place of resort, assembly, education, entertainment, lodging, dwelling, trade, manufacture, repair, storage, traffic, or occupancy by the public, any residential building, and all other buildings or parts and appurtenances of those buildings erected within this state, shall be so constructed, erected, equipped, and maintained that they shall be safe and sanitary for their intended use and occupancy.

"Safe," with respect to a building, means it is free from danger or hazard to the life, safety, health, or welfare of persons occupying or frequenting it... and

"Sanitary," with respect to a building, means it is free from danger or hazard to the health of persons occupying or frequenting it or to that of the public, if such danger arises from the method or materials of its construction or from any equipment installed therein, for the purpose of plumbing.

ORC 3791 Building Standards

ORC 3791 requires that all construction shall comply with the requirements of Chapters 3781. and 3791 and regulations pursuant thereto. The owner/operator failed to meet the requirements of these chapters and is in violation, at a minimum, as detailed below:

Sebastian Rucci
RE: Hotel California
November 5, 2014
Page Six of Seven

ORC 3791.01 Prohibited Acts Generally

No owners ... or other person shall construct, erect, build, or equip a ...building used for the assemblage or betterment of people in anytownship in this state, or make any addition thereto or alteration thereof, except in case of repairs for maintenance without affecting the construction, sanitation, safety, or other vital feature of said building or structure, without complying with Chapters 3781. and 3791. of the Revised Code or rules or regulations adopted pursuant thereto.

No architect, builder, engineer, plumber, carpenter, mason, contractor, subcontractor, foreman, or employee shall violate or assist in violating such chapters

ORC 3791.04 Submission of plan – approvals – prohibited – fine

ORC 3791.04(B) No owner shall proceed with the construction, erection, alteration, or equipment of any building until the plans or drawings, specifications, and data have been approved as this section requires... No plans or specifications shall be approved or inspection approval given unless the building represented would, if constructed, repaired, erected, or equipped, comply with Chapters 3781. and 3791. of the Revised Code and any rule made under those chapters.

ORC 3791.04(I) No owner or persons having control as an officer, or as a member of a board or committee, or otherwise, of a building to which section 3781.06 of the Revised Code is applicable, and no architect, designer, engineer, builder, contractor, subcontractor, or any officer or employee of a municipal, township, or county building department shall violate this section.

ADDITIONAL DETERMINATIONS REQUIRED

Please be aware as this investigation continues that additional violations may be identified. Also, additional information is needed to determine compliance with:

- Section 605.2 - lead content in the piping,
- Section 701.6 - sanitary drainage system testing, and
- Section 901.5 - vent testing.

Compliance with the requirements outlined in this letter shall not relieve the owner/operator of its obligation to comply with other legal obligations, including but limited to Chapter 3703., 3781., 3791., of the Revised Code or other sections of the Ohio Board of Building Standards regulations.

Sebastian Rucci
RE: Hotel California
November 5, 2014
Page Seven of Seven

RESOLUTION

Per discussion between yourself and Assistant Prosecutor Tim Tusek the Board of Health agrees to allow you until November 21, 2014 to correct the above referenced violations and bring the building into compliance with law. Failure to comply will result in the issuance of an adjudication order to stop work at this property.

Respectfully,



Mary Helen Smith, MPH, RS
Director of Environmental Health

MHS:lcz

cc: Mike Dockry, Austintown Township Administrator
Jeff Uroseva, Mahoning County Chief Building Official
Linette Stratford, Chief Mahoning County Assistant Prosecutor
Tim Tusek, Mahoning County Assistant Prosecutor
Carol Ross, Ohio Construction Industry Licensing Board
Jack Soma, Ohio Department of Commerce Chief Plumbing Supervisor
Jeff Eaton, Board of Building Standards Chief Building Official
File

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