



ARIZONA LICENSED CONTRACTOR NEWSLETTER

PROMOTING QUALITY CONSTRUCTION IN ARIZONA

Winter 1999

State of Arizona

Jane Dee Hull, Governor
Michael Goldwater, Director

Inside:

- ◆ Jury decides for ex-inspector
- ◆ New Glendale Regional Office
- ◆ Pre-Treatments – ABSPC

Arizona Registrar of Contractors

This newsletter, an official publication of the Arizona Registrar of Contractors, provides Arizona contractors information on better business practices and the laws and policies that pertain to their activity.

Arizona Registrar of Contractors
800 W Washington, 6th Floor
Phoenix, AZ 85007
Phone: 602-542-1525
Fax: 602-542-1599
24-hour automated contractor inquiry is available.

Mission: To promote quality construction by Arizona contractors through a licensing and regulatory system designed to protect the health, safety, and welfare of the public.

TOLL-FREE PHONE NUMBER

If you are calling the Registrar of Contractors from within Arizona, but outside Maricopa County, dial 1-888-271-9286. Our Customer Service Representatives are here to assist you. Within Maricopa County call: 602-542-1525.

Notes from the Director

UNLICENSED CONTRACTORS

The reprint from THE ARIZONA REPUBLIC article on page 3 of this newsletter emphasizes the importance of counties and cities proactively ensuring that contractors are licensed before the issuance of a building permit. Municipalities should know that under Arizona Revised Statute §32-1169 they are required by law to enforce this provision.

Our agency is dedicated to the protection of the general public and only through the cooperation of all government entities, in the enforcement of this statute, can we be successful in combating illegal and often dangerous unlicensed building activity.

IMAGING

In April, 1996, the agency installed an imaging and document management system in the License Department. All applications received by the agency are electronically scanned, stored, reviewed, approved and issued through this on-line system. Application processing has greatly improved since the installation of this system. We are now installing the same system in the Recovery Fund and Legal Departments. The processing of cases in these departments will also flow through the document management system.

WEBSITE IMPROVEMENTS

Currently, some states have the capability, on their websites, to perform an interactive search of the status of individual contractor licenses with the results immediately displayed to the person making the inquiry.

At this time, we do not have that capability since there are technical problems to be addressed. Initial design of the ROC database did not include an Internet option, because when our system was developed, the internet did not exist!

We are now working to provide the online capability to look up a contractor's license status on our website, although there are a number of major enhancement projects that must be completed first to provide the framework needed to accommodate the internet.

Due to the dynamic and fluid nature of these enhancement projects, we do not have an exact timeline to project when the online lookup will be available but we are hoping to have it running by the summer of year 2000.

Michael Goldwater, Director
E-mail rocex1@roc1.rc.state.az.us
602-542-1525 ext. 7105

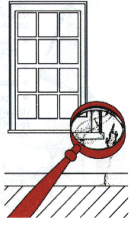
Contact Us!

If you have any suggestions for our newsletter please let us know by:
Fax – 602-542-1599
E-Mail – webmaster@roc1.rc.state.az.us
Letter – 800 W. Washington, 6th Floor
Phoenix, AZ 85007-2940

WEBSITE ADDRESS

The Registrar of Contractors' website address is:
www.rc.state.az.us

New E.P.A. Lead Paint Requirements



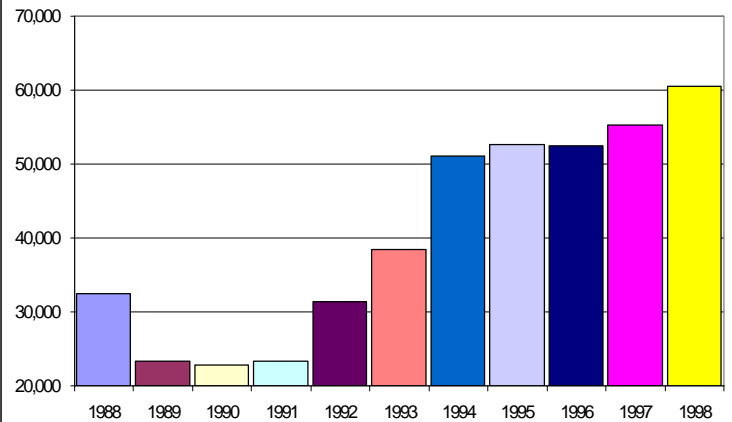
The Arizona Department of Health Services has announced the termination of its efforts to develop a lead-based paint training and accreditation program for lead professionals due to funding difficulties. The U.S. Environmental Protection Agency will now carry out the lead-based paint training and accreditation program in Arizona. The E.P.A. is setting up a course to provide a training base to meet the March 1, 2000, deadline when all individuals must be certified by E.P.A. to do lead abatement activities. Lead abatement contractors are subject to this certification. If you have questions about training and accreditation in Arizona, please call Shea Jones at **(415) 744-1088**.

The E.P.A. also has issued a new regulation effective June 1, 1999. Renovation activities that disturb more than two (2) square feet of paint are covered by this rule. Sanding, scraping, and other surface preparation activities that disturb paint and generate dust are the key sources of lead hazards during renovation. The rule requires renovators who work for compensation on structures built prior to **1978** to distribute a lead hazard information pamphlet to owners and occupants prior to commencing any renovation activity and to obtain their signature acknowledging receipt. All documents must be retained for three (3) years following the completion of renovation activities. The pamphlet is entitled, **Protect Your Family From Lead in Your Home**, and discusses ways in which individuals can protect themselves and their families from lead-based paint hazards.

Single copies of the pamphlet are available in both English and Spanish from the National Lead Information Center (NLIC) by calling **1-800-424-5323**. Reproducible copies and a handbook explaining the rule are available from the E.P.A. in San Francisco by calling **415-744-1124**

During the first year following the effective date of the rule, E.P.A. will focus on compliance assistance to ensure that the regulated community is aware of these new requirements. E.P.A. Region 9 at **415-744-1126** will investigate any tips and complaints and take appropriate enforcement actions.

ARIZONA RESIDENTIAL CONSTRUCTION BUILDING PERMITS



Source: The University of Arizona, Eller Graduate School of Management

New Glendale Regional Office

The Registrar of Contractors has opened a new regional office in Glendale, Arizona. The Glendale office is located at:

Arrowhead Executive Center
17235 N. 75th Ave
Bldg. E, Suite 175
Glendale, Arizona 85308-2940
602-542-1525

The Glendale office serves portions of the north and west valley and offers a full range of services including inspections of construction defects, the investigation of unlicensed activity, licensing and renewal services and consumer and contractor information. Our new office is located in a building that provides ample parking and convenient access.

We hope to be of service to you.

AUTOMATED SYSTEM ALLOWS 24-HOUR ACCESS TO INFORMATION ON CONTRACTORS

The Arizona Registrar of Contractors is dedicated to improving the availability of information to the public. One of our first steps toward increasing availability of information was to install an automated information retrieval system.

The interactive voice response (IVR) telephone system provides callers with the following information if they have a touch-tone telephone and the contractor's license number:

1. The status of the contractors license
2. The name of the contractor
3. The type of business entity (i.e. Sole proprietorship, partnership, corporation, trusteeship, limited liability company, limited liability partnership)
4. Renewed through date
5. Class of license
6. Number of complaints on file for the last two calendar years

The system can be accessed 24-hours a day by calling the main number for the Registrar's office, (602) 542-1525 or toll-free 1-888-271-9286. The caller can enter the contractor's license number, after which, the automated system confirms the number and checks the match by spelling the company name. The system will then provide information about the contractor's license.



This editorial by Keven Ann Willey, Editor, is reprinted with permission of THE ARIZONA REPUBLIC and appeared on August 3, 1999.

JURORS MEET, EXCEED CODE IN DECIDING FOR EX-INSPECTOR

Members of a jury in the booming northern Arizona community of Prescott asked each other last month which was more important - cooperation and fellowship or adherence to the rules. By a vote of 740,000 to none, they chose the latter, and their judgment may prove the better for us all.

A seven-member jury July 22 awarded former city of Prescott building inspector William Dain \$740,000 - \$100,000 more than he'd requested in a wrongful-termination suit against his former employer. The decision may have reverberating effects on the relationship between municipal building inspectors throughout the state and the contractors whose work they examine.

What is best for Arizona's future homeowners? An on-job atmosphere of fellowship that may wink at requirements that a contractor be licensed to perform certain jobs? Or a strict interpretation of the code that, according to some inspectors, may drive builders into hiding serious flaws?

On the job less than five months, Dain had gone over his bosses' heads to the state Registrar of Contractors complaining about building contractors he suspected were not licensed to do the work they were performing. He was fired in August 1996, and his immediate supervisor admitted telling other inspectors that Dain's complaints to the registrar's office were the reason he was let go.

City attorneys argued during the case that Dain was released not for his whistle-blowing, but for his cantankerous, uncooperative attitude on the job. Prescott inspectors, department chief David Fizzell said, value friendliness and cooperation.

"The bottom line is safety," Fizzell told the Prescott Courier last week. "I've found that if you really start hammering the contractors about what's in the book, they're going to start hiding things from you, and they have the ability to do that."

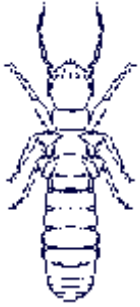
But as important as it may be for city officials to be understanding and reasonable when they inspect the quality of home building in Prescott, the jurors decided it was more important for the people who ultimately would live in the new homes that the builders be qualified to do the job.

In weighing the Dain case, they saw an inspection department too willing to allow certain favored contractors to perform work they were not licensed to perform. They saw the department as overly concerned with maintaining relationships, and not concerned enough with asserting the terms of the Uniform Building Codes, the industry bible set forth by the International Conference of Building Officials.

It's ridiculous having people publishing these manuals, and then saying, "Well, we can change it if we wish", Dain said.

Home building is not a precise science. It requires a certain flexibility. But that flexibility doesn't extend to letting plumbers perform the work of electricians just because the inspectors happen to like them.

PRE-TREATMENTS by Dave Broadstreet The Arizona Structural Pest Control Commission



In recent years, there have been many changes in pre-construction treatments for control of subterranean termites (pretreatments). Generally, these changes relate to the treatment methods available and increased industry regulation. As Arizona grows, more and more homes are being built on reclaimed desert land instead of reclaimed agricultural land. The amount of subterranean termite colonies in these areas is much higher and the opportunity to attract an infestation much greater.

A pretreatment is the creation of a chemical barrier between the soil and the cellulose material in a structure. Done properly, the barrier should prevent subterranean termites from entering the structure. Most chemicals used in pretreatments are designed to repel termites; not kill them. A pretreatment is not a guarantee of everlasting termite control. A structure may still develop a termite infestation following the best of treatments.

In almost all cases, pretreatments must be performed by a licensed pest control company. The termiticide must be applied in a manner consistent with the label of the product being used and with the rules and regulations of the Structural Pest Control Commission.

Any modification that requires breaking or cutting into the concrete slab or disturbing the soil that touches the foundation needs to be reported to the pest control company that originally performed the pretreatment. The disturbed area should be retreated in order to maintain the integrity of the chemical barrier. Any additions or alterations to the structure, such as patio or room additions, should be treated as well. Failure to do so could void the pretreatment warranty.

Other modifications that may void the warranty are:

- Landscaping that is installed within 16 inches of the foundation.
- Irrigation installed too close to the structure.
- Fence posts, trellises or other wooden décor that contacts the soil and the structure.
- Changing the grade level of the soil to allow drainage towards the structure.
- Patio or pool decking that abuts the foundation.

A home is usually the biggest investment that people make in their lifetime. When a homeowner has a chronic problem with termites, they usually wonder how it started in the first place. Termites require two things to survive; food and water. The cellulose material in the structure provides the food. There are often moisture sources in the structure that supply the necessary water for the termites to survive. A common misconception is that subterranean termites must return to the soil. With an adequate food and moisture source, the termites can remain in the structure without returning to the soil.

What are the essential components of a successful termite treatment? A treatment should include:

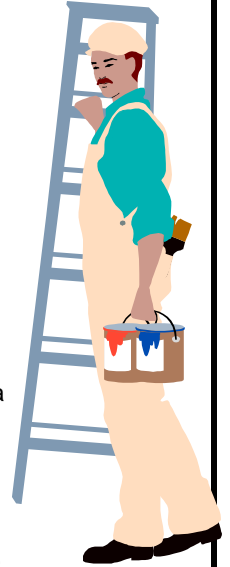
- A thorough inspection of the entire structure.
- Identification of conditions conducive to termite infestation such as wood-to-earth contact, excessive moisture, faulty grade, excessive cellulose debris and insufficient ventilation.
- Proper treatment methods. If chemical treatment is chosen, the termiticide must be applied in a manner consistent with the label of the product being used and within State and Federal guidelines.

Unfortunately, subterranean termites are a fact of life in most of Arizona. Termites can be controlled, but often it takes some time for control to occur. When contracting for termite treatment, the Commission recommends at least three written proposals be obtained with complete comprehension with the pest control company of exactly what the treatment will entail along with the terms of the guarantee, if any. Remember, the lowest price is not always the best price.

The Structural Pest Control Commission is the State agency that licenses and regulates the commercial pest control industry in Arizona. The Commission does not regulate pesticides used under the authority of the Department of Agriculture. Additional information regarding licensing and pesticide regulation may be obtained by telephoning the Commission at 602-255-3664 or visiting the Commission website at www.sb.state.az.us/

PRACTICAL CONSIDERATIONS FOR CONTRACTORS REGARDING OWNER COMPLAINTS

1. Insure that your accounting system is set up to cover the cost of call-backs and complaints. These are a part of your overhead costs and should receive due consideration in your budget just as any other overhead expense.
2. Do not chide an owner who notifies you of a complaint about your work. Treat each owner with dignity and respect and explain, in an educational manner, the reason why you believe the work is within industry standards. Produce supporting material, if at all possible, and try to resolve the problem early and quickly.
3. Do not escalate a complaint simply because it's "the principle of the thing." Look at each complaint as a business decision. In reality, that's all it is. Weigh the cost to defend yourself in terms of your legal expenses, time away from your duties, the stress factor to you and your employees and the possible damage to your reputation and public image. Have plenty of options, make good faith offers and document those offers.
4. Keep the lines of communication open throughout the complaint process and remain open for opportunities to reach a settlement with the owner. In some cases, it may be to your mutual advantage to consider a monetary settlement.
5. Be quick to acknowledge and repair faulty work (unless legal considerations compel otherwise) preferably before a complaint is filed. Evidence of faulty work at a jobsite inspection may result in a Corrective Work Order being issued by our office.
6. Insure that you have a responsible person present at all jobsite inspections. If appropriate, invite the subcontractor or general contractor to the jobsite meeting. If the complaint has been filed against only you, you are the responsible party regardless of what another contractor may or may not agree to do. You may want to consider filing a complaint against other responsible contractors. Only when a formal complaint has been filed against the other contractor, can we order corrective action by them. Provide the inspector with complete documentation and explanations in a calm and factual manner. Be professional at all times.
7. We support a contractor's right to attempt repairs and only in limited cases do we require complete replacement. Usually, you may attempt a repair but if it does not correct the problem complete replacement may be required.
8. While most structural elements of a home are covered, some are exposed. It must be recognized that exposed items, whether they are structural elements or not, should be aesthetically pleasing and suitable for their intended purpose.



We believe the principles set forth in this article represent good business principles to assist you and your customer in reaching a mutually acceptable solution. It is possible that some complaints cannot be satisfied without a formal complaint being filed or the need for an administrative hearing.

**NEW INVESTIGATOR
IN SHOW LOW**

Due to increased construction activity in the east central area of our state, we are in the process of hiring an investigator who will be responsible for that geographical area.

Any unlicensed construction activity should be reported to our Show Low office at **520-537-8842**.

**THINGS TO REMEMBER WHEN YOU
ADVERTISE**

- DO** remember to check out the **ROC** website on advertising at : www.rc.state.az.us/license/ad_guide.htm
- DO** include your contractors license number in anything that might be considered advertising.
- DO** include your correct licensed company name in your advertisement.
- DO** contact the nearest **ROC** office if you see any ad by an unlicensed contractor.
- DO** remember that commercial and residential contracting are regulated separately and require the appropriate license for each activity.
- DON'T** use false or misleading advertising.
- DON'T** advertise a price that you don't intend to honor.
- DON'T** advertise to do work you're not licensed to perform.

MODELS AND SPEC HOMES, MOVE-IN DATE AND DISCLAIMERS

A

practical aspect of home construction is building model homes to compliment a new subdivision and provide customers with an opportunity to view the homes offered. It is important, however, to understand that model homes should be built to the same standards used on production homes. These models are "samples" of your work and may be used as evidence in legal proceedings to prove a deviation in the construction of production homes even if plans and specifications are available. Clearly identify, in your model homes and on any printed sales literature, those items which are standard equipment and features and those which are optional. Remove any product or feature in the model home that is no longer available or that you no longer offer and be sure to document when such changes are made.



Most subdivisions consist of several different styles of homes based upon a builder's models and it could be very costly to correct if the production homes deviated from the "standards" established by the models. To illustrate, a few years ago, a large Arizona contractor installed four-ton air conditioning units on their models but after recalculating air conditioning load factors installed three and one half-ton units on their production homes. A complaint was filed and after appeals to the civil courts, the contractor was ultimately required to replace the three and one-half ton units in the subdivision with four-ton units.

Speculation homes and models are often unoccupied for months or even years before being sold. Contractors and developers should realize that this passage of time does not alter their responsibility to a bona fide purchaser regarding workmanship and warranty issues. Under Arizona law, a homeowner may file a complaint with the Registrar of Contractors within two years from the date of occupancy or from the discovery of the defect, whichever event occurred first. This right is also available to any subsequent purchaser within the original two-year period established by the first bona fide purchaser. In the past, the courts have found that contractors are accountable for an implied warranty of workmanship and habitability long after the Registrar of Contractors' jurisdictional two-year period has passed. However, owners who purchase a home and lease it back to the seller to be used as a model, introduces special issues which must be evaluated in order to determine a purchaser's right to file a complaint with the Registrar of Contractors. Leaseback agreements may significantly impact the rights of both buyer and seller and such agreements must be carefully considered.

There are times when a contractor may wish to sell a model or speculative home "as is" or "at a discount" due to normal wear, deterioration or some known condition of construction. Such an offer may be coupled with some form of compensatory consideration. A contractor would be prudent, at a bare minimum, to provide a detailed written notice to the purchaser specifically identifying all known defects or adverse conditions affecting the home prior to or at the time the contract is executed. The notice should include information about potential problems or damage resulting from the defects or conditions. The contractor should require a written acknowledgment from the purchaser stating they understand the notice and knowingly waive any and all rights they may have concerning the identified defects or conditions. The general purpose of this notice is to elevate the knowledge of the purchaser to the level of the seller and allow the purchaser to make an informed decision and receive the full benefit of the purchase.

Generally, preprinted disclaimers are of little value as a defense when substandard construction has been identified.

These are general principles that apply in most situations. Individual facts or circumstances may modify or alter the conclusions represented in this article.

Self-Help Program to Assist Needy Water and Wastewater Systems



Throughout Arizona there are many rural communities with small water and wastewater systems. Many of these have problems but little or no money available to correct them. The Arizona Department of Commerce has a program called AzSTEP (Arizona Small Towns Environment Program) to assist these communities. STEP was developed 20 years ago by the Rensselaerville Institute and has proven successful in 17 states across the nation. It is a self-help program that encourages a community to use its local resources to reduce costs. Resources can include the use of volunteers and borrowed local equipment – much like an old-fashioned barn raising. Because of the time and commitment required to complete a self-help project, it is most often the last resort. AzSTEP helps small communities solve water and wastewater problems that they might not otherwise be able to address.

There are no shortcuts in an AzSTEP Project. An engineer is hired for design and to oversee the project. All safety (OSHA) requirements must be adhered to. Permitting and inspections are required as in any construction project and insurance is provided for volunteers. The cost savings comes through buying materials off season at a lower cost, using volunteers and donated equipment when possible, soliciting donations or holding bake sales to raise necessary cash, and working with the engineer to keep the solution reasonable in proportion to the problem.

If you have questions, suggestions, comments or would like to volunteer your expertise for a few hours, call Paula Scott at the Arizona Department of Commerce at (602) 280-1361.

**Arizona Job Analysis Workshops
Help Wanted**

Subject Matter Experts

Experior Assessments is proud to announce the renewal of our contract to develop and administer contractor licensure examinations in the state of Arizona. Valid and defensible examinations are the goal and prime requirement for licensure examinations for any jurisdiction. Experior will hold six task analysis workshops over the next year to validate the highest volume exams. Working with representatives of the state of Arizona, Experior is seeking prospective participants for these workshops. We need your assistance to locate individuals who will actively participate in a procedure that can make substantive improvements to the existing licensure examinations so they are contemporary in matter and universal in coverage of the detailed information provided in the existing license description.

Schedule of Job Analysis Workshops

<u>Test Name</u>	<u>Workshop Date</u>
A-21/C-21/K-21 Landscaping and Irrigation Systems	03/03/00
C-39R/L-39/K-39 Air Conditioning and Refrigeration	03/03/00
L-37 Commercial Plumbing Contractor	03/03/00
C-31/L-31/K-31 Masonry	05/10/00
C-34/L-34/K-34 Painting and Wall Covering	05/11/00
C-48/L-48/K-48 Ceramic, Plastic, and Metal Tile	05/12/00

If you need any information concerning the workshops, call John Moll at the Registrar of Contractors at 602-542-1525 ext. 7150, or e-mail: john.moll@roc1.rc.state.az.us

NASCLA National Association of State Contractors Licensing Agencies

IF YOU NEED INFORMATION ON CONTRACTOR'S LICENSING IN OTHER STATES - YOU NEED A COPY OF THE CONTRACTORS STATE LICENSING INFORMATION DIRECTORY.

The 1999 Edition identifies over 150 state agencies that regulate the construction industry. The directory summarizes the prequalification, licensing, examination and bonding requirements. Information regarding reciprocity, license classifications, incorporating and fees is also included. 190 pages.

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(602) 542-1525
Or Toll Free Within Arizona
(888) 271-9286

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Flagstaff, AZ 86004-1829
(520) 526-2325

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Glendale, AZ 85308-8692
(602) 542-1525

KINGMAN OFFICE

519 E. Beale St., Ste. 140
Kingman, AZ 86401-5918
(520) 753-4220

LAKE HAVASU CITY OFFICE

1845 Mc Culloch Blvd., Ste. B-5
Lake Havasu City, AZ 86403-5722
(520) 855-2144

MESA OFFICE

2222 S. Dobson Rd., Ste. 101
Mesa, AZ 85202-6483
(602) 542-1525

PRESCOTT OFFICE

240 S. Montezuma St., Ste. 202B
Prescott, AZ 86303-3028
(520) 445-5710

SHOW LOW OFFICE

581 E. Old Linden Rd., Ste. C
Show Low, AZ 85901-4819
(520) 537-8842

SIERRA VISTA OFFICE

333 W. Willcox, Ste. 106B
Sierra Vista, AZ 85635-1756
(520) 459-5119

TUCSON OFFICE

400 W. Congress, Ste. 212
Tucson, AZ 85701-1311
(520) 628-6345

YUMA OFFICE

250 W. 24th St., Ste. Q
Yuma, AZ 85364-8506
(520) 783-8188

PART-TIME OFFICES: **CALL FOR HOURS**

BULLHEAD CITY OFFICE

3900 Frontage Rd., Ste. 4
Bullhead City, AZ 86430-9376
(888) 271-9286
Mailing Address:
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Kingman, AZ 86401-5918

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