

Date Issued: October 3, 2019

File: SSAB 9-2019

Indexed as: BCSSAB 9 (1) 2019

IN THE MATTER OF THE *HOMEOWNER PROTECTION ACT*, S.B.C. 1998 c. 31

AND IN THE MATTER OF

an Appeal to the British Columbia Safety Standards Appeal Board

BETWEEN:

A Property Development Corp.

APPELLANT

AND:

**British Columbia Housing Management Commission
Licensing and Consumer Services
("BC Housing")**

RESPONDENT

REASONS FOR DECISION

Chair:	Jeffrey Hand
On Behalf of the Appellant:	The Appellant
Counsel for BC Housing:	Kevin Boonstra

INTRODUCTION

[1] The Appellant appeals a decision of the Registrar of BC Housing dated April 3, 2019 (the Decision) which denied the Appellant's application for a Residential Builders License. ("RBL")

[2] The Appellant says he has the requisite experience and qualifications to be granted the RBL. The Respondent says the Appellant has not demonstrated experience that meets the criteria set out in the Homeowner protection Act and its regulations.

[3] The Appellant is asking that he be granted a RBL.

ISSUE

[4] The issue on this appeal is whether the Decision should be upheld, varied, or set aside.

FACTS

[5] On June 25, 2018 the Appellant applied for a RBL. The application identified renovation work done in 2016 on two units in Vancouver, as the appellant's past construction experience.

[6] On July 9, 2018 BC Housing requested additional information from the Appellant concerning his experience as a residential builder. The Appellant submitted invoices for the work he performed and/or supervised in 2016 at the property and a building permit for a new home constructed in 2007 at a property in Abbotsford. The building permit for that address indicates that the Appellant acted as an owner builder of a single family dwelling.

[7] The Appellant was advised that he was required to submit evidence of 24 months of work in the past 5 years on residential construction as well as training in seven core areas of competency, being:

- 1) Relevant enactments
- 2) Construction management
- 3) Construction technology
- 4) Customer service and warranty insurance
- 5) Financial planning, Management, administration
- 6) Legal issues
- 7) Business planning, management and administration

[8] The Appellant completed courses through the Canadian Home Builders Association and British Columbia Institute of Technology in the 7 core areas during the years 2016 and 2017.

[9] The Appellant identified the owner of the Vancouver Street property as a reference for the work he did at that property.

[10] He also submitted a letter of reference dated December 27, 2017 from a Building Centre in support of the appellant's application for membership in the Greater Vancouver Homebuilders Association. The letter does not describe the Appellant's construction experience.

[11] In October 2018 the appellant was advised by a licensing officer at BC Housing that he would need to submit additional proof of experience in managing or supervising new home construction, or an equivalency of experience in commercial construction, undertaken within the last five years.

[12] On December 6, 2018, the appellant advised the Licensing Officer that he felt he had sufficient experience in all areas of residential construction but he did not submit any evidence of that experience, beyond relying on the house that was built in 2007 as an owner/builder.

[13] On January 22, 2019, a licensing officer at BCH denied the license on the basis that the information submitted did not demonstrate experience of 24 months work supervising or managing substantial all of the construction of residential projects. ("the Initial Decision")

[14] On February 27, 2019 the Appellant requested a Registrar's review of the Initial Decision and submitted additional information for the Registrar to consider. This additional information consisted of various invoices for work done between 2013 and 2016. The work can best be described as smaller renovation and maintenance work on the interiors of homes. The work included flooring, drywall, and plumbing and finishing work related to kitchens and bathrooms.

[15] On April 3, 2019 the Registrar provided her decision rejecting the request for a RBL on the basis that the work examples submitted did not show consistent work over a 24 month period in the past 5 years, nor did it provide evidence of experience in all

aspects of residential construction such as foundations, exterior cladding, roofing, or structural framing.

[16] On May 3, 2019 the Appellant filed this appeal. The Board directed that the appeal proceed by way of written submissions and these were received in August 2019.

ANALYSIS

[17] The following legislation is applicable to this appeal.

Section 14(2)(a) (i) of the Homeowner Protection Act provides:

(2) On application to the registrar, a person may be issued with a license as a residential builder if

(a) the registrar is satisfied that the person

(i) meets the prescribed qualifications for licensing or has the experience, training or competence equivalent to the prescribed qualifications, and

(ii) meets the prescribed conditions for licensing

[18] The criteria for the license is set out in section 4.01(2) of the Regulation:

(2) The registrar may issue a residential builder license to an applicant described in section (1)(a) only if the applicant provides, in a form acceptable to the registrar, proof that the applicant has

(a) at least 24 months of experience managing or supervising residential construction, obtained within the last five years, and

(b) successfully demonstrated competency in accordance with schedule 6

(3) The Registrar may issue a residential builder license to an applicant described in section 1 only if the applicant provides, in a form acceptable to the registrar, proof that the applicant has met the requirements of subsection (2)

[19] There does not appear to be any controversy that the Appellant has completed training in the seven core competencies. The issue before the registrar, and this Board, is whether the Appellant satisfies the experience requirement of 24 months work in residential construction in the past 5 years.

[20] It is readily apparent that the work experience set out in the various invoices submitted by the appellant for work done between 2013 and 2017 is confined to smaller interior renovations and consisted of drywall, painting, trim work, flooring, cabinetry, and some plumbing and mechanical work associated with kitchen and bathroom renovations. In the Decision, the Registrar was concerned that the appellant had not demonstrated any experience with the exterior components of residential construction such as foundation work, structural framing, exterior cladding and roofing.

[21] The Appellant says he has been working in the construction industry for 15 years and has gained experience in many of the different aspects of construction that the Registrar found was missing. However, the Appellant failed to identify this work with any specificity and did not submit any evidence of this work.

[22] While it might be the case that the Appellant's efforts as an owner/builder in 2007 exposed him to some of these elements of residential construction, the specific details on this experience is lacking in the material filed. It is also noteworthy that the 2007 project falls well outside the 5-year window the Registrar is bound to consider.

[23] Moreover, a single project completed more than a decade ago is not sufficient in my view to satisfy the requirements of the legislation.

[24] The purpose of the Act is to strengthen consumer protection for the purchasers of new homes. The Registrar, in furtherance of that objective, is required to only issue an RBL to applicants that meet the criteria set out in the Act and Regulations. This is not to say the appellant has not gained some important skills with the work he has done or supervised, but only to say that his experience does not rise to a level that he should be held out to the public as a fully experienced residential builder when the vast majority of his experience is confined to interior renovation work.

[25] The Board is satisfied that the Registrar's decision was correct in concluding that the Appellant has not demonstrated experience in all facets of residential construction. Experience performing interior work alone is not sufficient.

[26] The Appellant raised other arguments in his submissions that should be addressed.

[27] He says that he was assured by BC Housing during the course of his initial inquires that he met the criteria for obtaining a RBL. The Board finds there is nothing in the correspondence submitted that supports this view. The appellant was advised on more than one occasion of the need to meet the 24-month experience requirement and the need to expand on the information that he had submitted.

[28] The Appellant also says he has secured warranty insurance while he was awaiting a decision on his RBL application. Such insurance is required for those holding a RBL but it is not evidence of qualifications or experience. It is not relevant to determining if he meets the criteria.

[29] Lastly, the appellant submits that the Board should order that he receive a temporary license while he gathers experience. I find there is nothing in the Act or Regulations that would permit a temporary license to be issued. On the contrary, the legislation only allows a RBL to be issued if the requisite criteria have been met. The Appellant does not meet those criteria.

CONCLUSION

[30] For the reasons set out above, the appeal is dismissed.

Signed;

A handwritten signature in black ink, appearing to be 'J. M. F.', written in a cursive style.