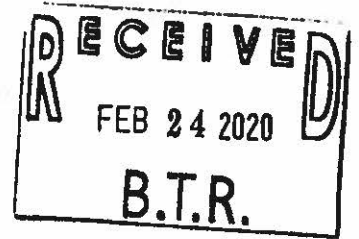


1
2
3
4
5
6
7
8
9
10
11

**BEFORE THE ARIZONA STATE
BOARD OF TECHNICAL REGISTRATION**



<p>In the Matter of:</p> <p>Matthew Maxwell Certified Home Inspector Registration No. 60042</p> <p style="text-align: center;">Respondent</p>	<p style="text-align: center;">Case No. HI20-001</p> <p style="text-align: center;">CONSENT AGREEMENT and ORDER OF DISCIPLINE</p>
--	---

12
13
14
15
16
17
18

In the interest of a prompt and judicious resolution of the above-captioned matter before the Arizona State Board of Technical Registration ("Board") and consistent with the public interest, statutory requirements, and the responsibilities of the Board, and pursuant to A.R.S. § 32-101 et seq. and A.A.C. R4-30-120(G), the undersigned party, Matthew Maxwell ("Respondent"), holder of Registration No. 60042, and the Board enter into the following Recitals, Findings of Fact, Conclusions of Law and Order ("Consent Agreement") as a final disposition of this matter.

19

RECITALS

- 20
21
22
23
24
25
26
27
28
1. Respondent has read and understands this Consent Agreement and has had the opportunity to discuss this Consent Agreement with an attorney, or has waived the opportunity to discuss this Consent Agreement with an attorney.
 2. Respondent understands that he has a right to a public administrative hearing concerning this case. He further acknowledges that at such formal hearing he could present evidence and cross-examine witnesses. By entering into this Consent Agreement, Respondent knowingly, voluntarily, and irrevocably waives his right to such an administrative hearing, as well as rights of rehearing, review, reconsideration, appeal, judicial review or any other administrative and/or judicial action concerning the matters set forth herein.

1 3. Respondent affirmatively agrees that this Consent Agreement shall be irrevocable.

2 4. Respondent understands that this Consent Agreement or any part of the agreement
3 may be considered in any future disciplinary action by the Board against him.

4 5. The Consent Agreement, any record prepared in this matter, all investigative
5 materials prepared or received by the Board and all related exhibits and materials, are public
6 records (as defined in A.R.S. § 41-158.18) upon acceptance by the Board of this Consent
7 Agreement and may be retained in the Board's files pertaining to this matter.

8 6. Respondent understands this Consent Agreement deals with Board case number
9 HI20-001 involving allegations that Respondent engaged in conduct that would subject him to
10 discipline under the Board's statutes and rules. The investigation into these allegations against
11 Respondent shall be concluded upon the Board's adoption of this Consent Agreement.

12 7. Respondent understands that this Consent Agreement does not constitute a
13 dismissal or resolution of any other matters currently pending before the Board, if any, and does
14 not constitute any waiver, express or implied, of the Board's statutory authority or jurisdiction
15 regarding any other pending or future investigation, action or proceeding.

16 8. Respondent also understands that acceptance of this Consent Agreement does not
17 preclude any other agency, subdivision, or officer of this State from instituting any other civil or
18 criminal proceedings with respect to the conduct that is the subject of this Consent Agreement.

19 9. Respondent acknowledges and agrees that, upon signing this Consent Agreement
20 and returning this document to the Board's Executive Director, he may not revoke his acceptance
21 of the Consent Agreement or make any modifications to the document regardless of whether the
22 Consent Agreement has been signed on behalf of the Board. Any modification to this original
23 document is ineffective and void unless mutually agreed by the parties in writing.

24 10. This Consent Agreement is subject to the approval of the Board and is effective
25 only when accepted by the Board and signed on behalf of the Board. If the Board does not accept
26 this Consent Agreement, the Board retains its authority to hold a formal administrative hearing
27 pursuant to A.R.S. § 32-128(E). In the event that the Board does not approve this Consent
28 Agreement, it is withdrawn and shall be of no evidentiary value and shall not be relied upon nor

1 introduced in any action by any party, except that the parties agree that should the Board reject
2 this Consent Agreement and this case proceeds to hearing, Respondent shall assert no claim that
3 the Board was prejudiced by its review and discussion of this document or any records relating
4 thereto.

5 11. If a court of competent jurisdiction rules that any part of this Consent Agreement is
6 void or otherwise unenforceable, the remainder of the Consent Agreement shall remain in full
7 force and effect.

8 12. Respondent understands that any violation of this Consent Agreement may result in
9 disciplinary action, including suspension or revocation of the registration under A.R.S. § 32-150.

10 13. Respondent agrees that the Board will adopt the following Findings of Fact,
11 Conclusions of Law and Order.

12 **FINDINGS OF FACT**

13 1. The Board is the duly constituted authority for the regulation and control of the
14 practice of Home Inspectors in the State of Arizona.

15 2. Respondent is the holder of Arizona Certified Home Inspector, Registration No.
16 60042..

17 3. On or about August 23, 2018, Respondent conducted a home inspection at 706
18 Black Dr in Prescott, AZ.

19 4. On July 3, 2019, the Board received a complaint related to the Black Dr inspection,
20 alleging Respondent failed to report on major issues with the home to include numerous cut floor
21 joists, inadequate beams, columns and posts, improperly installed waste lines and an uncapped gas
22 line in the crawl space.

23 5. On October 23, 2019, the Board's Enforcement Advisory committee ("EAC")
24 convened to review the Black Dr. complaint against Respondent. After reviewing the evidence,
25 the committee determined Respondent failed to conduct a home inspection in accordance with the
26 Standards of Professional Practice for Arizona Home Inspectors ("S.O.P.P.") and found that:

27 A. Inspection fee is not contained in the Inspection agreement (S.O.P.P. #2.2).
28

1 B. Name and Registration number of the inspector is not contained in the agreement
2 (S.O.P.P. #2.2).

3 C. Firm address is not contained in the agreement (S.O.P.P. #2.2).

4 D. Proper reference, that the inspection is being conducted in accordance with the Arizona
5 Standards of Professional Practice (S.O.P.P. #2.2).

6 E. Failed to observe and report on the type and condition of the exterior wall structure
7 (S.O.P.P. #4.2).

8 F. Failed to describe the type and condition of roof and ceiling structure (S.O.P.P. #4.2).

9 G. Failed to describe the methods used to inspect the attic and crawl space (S.O.P.P. #4.2).

10 H. Failed to list observation method used to examine crawl space (S.O.P.P. #4.2)

11 I. Failed to describe the condition of the plumbing supply and waste line supports (S.O.P.P.
12 #7.1)

13 J. Failed to observe and report on the condition of all fixtures and faucets (S.O.P.P. #7.1)

14 K. Failed to describe the condition of supply system functional flow (S.O.P.P. #7.1)

15 L. Failed to describe the condition of the plumbing waste system functional drainage
16 (S.O.P.P. #7.1).

17 M. Failed to describe the presence and condition of the water heater automatic safety controls
18 (S.O.P.P. #7.1).

19 N. Failed to describe the condition of the water heater flues and vents (S.O.P.P. #12.1).

20 O. Failed to describe the condition of the fuel distribution piping and supports (S.O.P.P.
21 #9.1).

22 P. Report fails to describe the condition of the electrical system overcurrent protection
23 devices (S.O.P.P. #8.1)

24 Q. Failed to describe the condition of the heating & cooling system operating controls
25 (S.O.P.P. #9.1).

26 R. Failed to describe the condition of the heating and cooling system automatic safety
27 controls (S.O.P.P. #9.1).

1 S. Failed to describe the condition of the heating system chimneys, flues and vents (S.O.P.P.
2 #9.1)

3 T. Failed to describe the condition of the heating & cooling system distribution system
4 (ductwork / registers) (S.O.P.P. #9.1).

5 U. Failed to describe the presence of a heating and cooling source provided in each room
6 (S.O.P.P. #10.1).

7 V. Failed to describe the type of energy source for the cooling system (S.O.P.P. #10.2).

8 W. Failed to report on type and condition of vapor retarder (S.O.P.P. #12.2).

9 X. Failed to report on crawl space ventilation (S.O.P.P. #12.1).

10 **CONCLUSIONS OF LAW**

11 1. The Board has jurisdiction in this matter pursuant to A.R.S. § 32-101, et seq.

12 2. The conduct alleged in the Findings of Fact constitutes grounds for discipline
13 pursuant to A.R.S. § 32-128(C)(4) as it relates to A.A.C. R4-30-301.0.1, in that Respondent
14 failed to conduct a home inspection in accordance with the Standards of Professional Practice for
15 Arizona Home Inspectors while conducting a home inspection at 706 Black Dr. in Prescott,
16 Arizona.

17 **ORDER**

18 Based on the foregoing Findings of Fact and Conclusions of Law, the Board issues the following
19 Order:

20 1. **LETTER OF REPRIMAND.** Respondent is hereby issued a Letter of Reprimand.

21 2. **STAYED SUSPENSION AND PROBATION.** Respondent's registration as a
22 Certified Home Inspector, No. 60042, shall be suspended for Six (6) months; however, the
23 suspension is stayed for as long as Respondent remains in compliance with this Order. During
24 the stay of suspension, Respondent's registration as a Certified Home Inspector is placed on
25 probation for Six (6) months. If Respondent is non-compliant with any terms of this Order
26 during the Six (6) month stayed suspension and probation period, the stay of the suspension shall
27 be lifted and Respondent's registration as a Certified Home Inspector shall be automatically
28 suspended without a formal hearing, and remain suspended until Respondent is compliant with all

1 terms of this Order.

2 3. PEER REVIEW. Within Fourteen (14) days of the effective date of this Consent
3 Agreement, and before Respondent conducts any fee paid home inspections, Respondent shall
4 accompany a supervising Certified Home Inspector ("Peer Reviewer") for one Home Inspection,
5 and perform the inspection at the same time and location as the Peer Reviewer. Respondent shall
6 write a home inspection report and submit a written report to the peer Reviewer for review. The
7 Respondent may select his Peer Reviewer, who shall be in good standing with the Board and shall
8 not have received any disciplinary action from the Board within the last 3-years. The Peer
9 Reviewer shall have been continuously certified by the Board as a Home Inspector for at least
10 Five (5) years and shall have conducted at least two hundred and fifty (250) home inspections in
11 the State of Arizona.

12 The Respondent shall cause the Peer Reviewer to sign an Affidavit and Agreement to
13 Conduct Peer Review with the Board affirming that the Peer Reviewer has met the Peer Review
14 selection criteria prior to conducting any Peer Reviews.

15 At the conclusion of each peer reviewed home inspection, Respondent will submit his
16 work product, specifically a Home Inspection Report, to the Peer Reviewer who will review and
17 make all corrections to the Respondent's Home Inspection Report necessary for the report to meet
18 the Standards of Professional Practice for Arizona Home Inspectors. Respondent shall not
19 perform any home inspections or provide any client with a Home Inspection Report for a fee,
20 until all Peer Reviews are completed. Respondent shall ensure that the Peer Reviewer provides a
21 written report to the Board after each peer reviewed home inspection, detailing any deficiencies
22 in the Respondent's practice, and certifying that the deficiencies have been explained and
23 corrected, in so far as the peer reviewed home inspection is concerned. Respondent shall retain
24 the peer Reviewer at his own expense.

25 4. ADMINISTRATIVE PENALTY. Within six (6) months from the effective
26 date of this Consent Agreement, Respondent shall pay an administrative penalty of One
27 Thousand Five Hundred Dollars (\$1,500.00) by certified check or money order made payable to
28 the State of Arizona Board of Technical Registration.

1 Consent Agreement and Order, No. HI20-001 accepted this 24 day of Feb., 2020

2
3 

4 Matthew Maxwell, Respondent

5 **ORIGINAL** filed this 27 day of

6 FEBRUARY, 2019, with:

7
8 Arizona State Board of Technical Registration
9 1110 W. Washington, Suite 240
10 Phoenix, AZ 85007

11
12
13 **COPY** of the foregoing mailed via Certified Mail

14 No. 9214 8701 9434 4600 0673 91 and

15 First Class mail this 27 day of FEBRUARY, 2019, to:

16 Matthew Maxwell
17 Silver Hammer Inspections
18 2522 Shadow Valley Ranch Rd
19 Prescott, AZ 86305

20 By: 
21 _____