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Mr. Phil Edwards

Mecklenburg County Building Inspection Dept.

PO Box 31097

Charlotte, NC 28231

Re: Licensing Requirements
Installation of Backflow Prevention Devices
Irrigation Systems on Private Property

Dear Phil:

As counsel to the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors, I have been asked to clarify the license requirements for installation of backflow devices secondary to installation of irrigation systems on private property. I understand the question has taken on renewed interest because of a state requirement that new irrigation systems be separately metered.

Plumbing License Required

The first question in determining who is qualified to install the backflow prevention device is which license is required. Under G.S. 87-21, the installation of plumbing on private property or in a building requires license as a plumbing contractor issued by the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors. In this discussion, it would not matter whether the irrigation system is connected to piping within a structure or to a separate meter on private property.

G.S. 87-21(a)(1) defines plumbing to include a system of pipes, fixtures and appurtenances installed “upon the premises, or in a building, to supply water thereto...” This statement, and not the Building Code or local ordinances, determines whether or not license as a plumbing contractor is required. This same statute requires plumbing to be carried out by plumbing contractors.

Limited Scope of Work By Irrigation Contractors

An irrigation contractor may not install backflow prevention devices. The definition of an irrigation system is explicit in excluding any work upstream of the backflow prevention assembly. G.S. 89G-1(4), effective January 1, 2009, provides as follows:

(4) Irrigation system. – All piping, fittings, sprinklers, drip tubing, valves, control wiring of 30 volts or less, and associated components installed for the delivery and application of water for the purpose of irrigation that are downstream of a well, pond or other surface water, potable water or groundwater source, or grey water source and downstream of a backflow prevention assembly. Surface water, potable water or groundwater sources, water taps, utility piping, water service lines, water meters, backflow prevention assemblies, stormwater systems that service only the interior of a structure, and sanitary drainage systems are not part of an irrigation system. (emphasis added)

Permitting and Inspection Questions Are Separate From Licensure Requirements

Licensing requirements for plumbing systems are controlled by the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors while permit and inspection requirements are handled or overseen by the Department of Insurance. There is one exception. In order to assure an appropriate level of competence and public safety, the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors has adopted a rule which requires that licensees of the Board obtain a permit from the local permitting authority for any work for which a license is required. A failure to obtain the appropriate permit is evidence of incompetence or misconduct in the event such a person comes before the Board. The rule in question is 21 NCAC 50.0404(a) which provide in pertinent part as follows:

“A licensed contractor shall assure that a permit is obtained from the local code enforcement official before commencing any work for which a license is required by the Board...”

It is not for this Board to determine which department of city government should issue and inspect the work; nevertheless, the Board will require that the contractor have the permit such that the work receives a second look for the protection of the public.

I have been provided information indicating that Charlotte-Mecklenburg inspections may have received erroneous or outdated information with regard to the licensure requirements set out above. Please understand that the State Board of Examiners of Plumbing, Heating and Fire

Sprinkler Contractors is the only reliable and definitive source of information as to the application of license requirements for plumbing work on the premises or in a building or the installation of the backflow prevention assembly. Information contrary to the Statutes set out above, whether obtained from the Department of Insurance, from the Irrigation Contractor's Licensing Board or otherwise is both mistaken and unreliable.

Enforcement

It is the longstanding practice of the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors to obtain injunctive relief and to place persons in contempt of court in situations where work requiring license is performed by persons who do not have the required license.

We hope that your office will take steps to make certain that unlicensed plumbers or irrigation contractors are not misled by unreliable information leading them to contract work without license and risk court action. Likewise, it would be unfortunate if plumbing contractors are led to believe that permit is not required for a backflow prevention assembly because the obtaining of permit is part of the minimum standard of competence and conduct required of licensees of the State Board of Examiners of Plumbing, Heating and Fire Sprinkler Contractors.

Please advise if you have any questions.

Sincerely yours,

YOUNG MOORE AND HENDERSON, P.A.

By


John N. Fountain

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