



Senators Jerry Hill and Loni Hancock SB 465 – Settlement Disclosures Factsheet

IN BRIEF

- Beginning January 1, 2017 requires the Department of Industrial Relations and the Division of Occupational Safety & Health to transmit information relating to actions against licensees to the Contractors State License Board.
- Authorizes CSLB to enter into interagency agreements with other state and local agencies to receive information regarding actions against licensees.
- Beginning January 1, 2017 requires licensees to report to the CSLB within 90 days if they are convicted of any felony or any other crime that is substantially related to the qualifications, functions, and duties of a licensed contractor.
- By January 1, 2018 CSLB shall report to the Legislature the results of a study to determine if the board's ability to protect the public would be enhanced by regulations requiring licensees to report judgments, arbitration awards against them, or settlement payments of claims for construction defects they have made in excess of a certain amount to be determined by the board.
- By January 1, 2018, the working group formed by the California Building Standards Commission to study recent exterior elevated element failures in California shall submit a report to the appropriate policy committees of the Legislature containing any findings and possible recommendations for statutory changes or changes to the California Building Standards Code.

THE PROBLEM

Currently, state law does not require contractors to report defect settlement cases to the CSLB. Such disclosure requirements are routine for such professionals as doctors, architects, and engineers.

The firm that constructed the Berkeley apartment complex, Segue Construction Company, had a history of questionable work and in previous years had paid out \$26.5 million dollars in construction defect settlements.

The state's construction watchdog, the Contractors State License Board, didn't have a mechanism to flag and investigate contractors with a history of defect settlements since they don't collect this information like other licensing boards.

The CSLB's chief of enforcement stated that:

"Had we known about the suits and the underlying reasons for them, we would have absolutely taken action."

BACKGROUND

On June 16, 2015, a balcony at Library Gardens Apartments in Berkeley, CA collapsed, killing six students and injuring seven others. The company that constructed the apartment complex, Segue Construction Company, had a history of questionable work. Notably, over the past three years, the company paid out \$26.5 million dollars in construction defect settlements. State law, however, does not require contractors to report defect settlements to the Contractors State License Board (CSLB).

In relation to other trade professions, licensees such as architects and engineers are required to report settlements and judgements to their appropriate regulator. While the Board for Professional Engineers, Land Surveyors, and Geologists receives roughly 60 settlement reports per year, the California Architects Board receives 29 settlement reports per year. Both boards underscore that there are minor, absorbable costs associated with this enforcement measure and underline that they conduct their own independent analysis of the settlement reports.

In response to this incident, the City of Berkeley tightened and approved new building standards. The City Council voted to require that new balconies be made of corrosion-resistant material and be ventilated to prevent a buildup of moisture. The council also mandated that all balconies be inspected within the next six months and every three years after that.

On April 8, 2016, The Contractors State License Board found that "poor workmanship" in the waterproofing of the balcony resulted in water damage that caused it to rot and eventually collapse.

“They didn't do the work (on the balcony) to trade standards," said Dave Fogt, the board's chief of enforcement.

The collapse was caused "definitely by water incursion that caused dry rot."

Five contractors who worked on the downtown apartment building could lose their state licenses for failing to follow construction guidelines: Segue Construction of Pleasanton, the main contractor; The Energy Store of California of Sacramento; Etter and Sons Construction of Dana Point; R. Brothers Waterproofing of San Jose; and North State Plastering of Fairfield.

The contracting board will now forward the results of its long investigation to the state Justice Department for prosecution in state Administrative Court. Penalties range from a license suspension to outright revocation.

Details of the state investigation will not be released until charges are formally filed.

On April 19, 2016, the California Building Standards Commission formally voted to assemble an ad hoc committee to examine the facts of the case and determine whether the Building Standards Code needs to be updated. In July 2015, the Berkeley City Council sent a letter to the California Building Standards Commission urging the commission to revise California Building Standards Code to require steel reinforcements on all new balcony designs, after experts determined dry rot was the cause of the balcony collapse.

SUPPORT

California Newspaper Publishers Association
Center for Public Interest Law
Center for California Homeowner Association Law
City of Berkeley, Office of the Mayor
The Miller Law Firm

EDITORIAL SUPPORT

Sacramento Bee
San Francisco Chronicle

FOR MORE INFORMATION

Nate Solov – 916-651-4238 – nate.solov@sen.ca.gov