

Building Code Board of Appeals

Agenda

October 15th, 2020

6:30 PM

ELECTRONIC MEETING

This meeting will be held electronically. Residents interested in listening to the meeting or making public comments can join in one of two ways:

1) You can call in to +13462487799 OR +16699009128 Webinar ID # 88556030036.

2) You can log in via your computer. Please visit the City's website 15 minutes before the meeting begins. Go to <https://www.louisvilleco.gov/local-government/government/boards-commissions/building-code-board-of-appeals>

- I. Call to Order
- II. Roll Call
- III. Approval of Agenda
- IV. Approval of Minutes
 - August 17th, 2020
- V. Public Comments on Items Not on the Agenda

- VI. Regular Business
 - Severy Creek Order of Revoked Contractor's License
- VII. Discussion
 - By Laws-amending Bylaws to not require written minutes for hearings
- VIII. Update
- IX. Staff Comments
- X. Board Comments
 - Date of next meeting
 - Upon request

- XI. Discussion Items for Next Meeting
- XII. Adjourn

Building Code Board of Appeals

Meeting Minutes

August 17, 2020
City Hall, Conference Maple
749 Main Street
7:00 PM

Call to Order: Berry called the meeting to order at 7:01 PM.

Roll Call was taken and the following members were present:

Board Members Present: Matt Berry, Peter Geise, Steve Knapp, Mason Gatto

Board Members Absent: None

Staff Members Present: Chad Root, Chief Building Official
Julie Burgener, Building Permit Tech
Nick Cotton Baez, Board Attorney
Adam Gollin, Special Prosecutor

Approval of Agenda:

Geise moved and **Gatto** seconded a motion to approve the agenda as prepared by staff. Voice vote. Motion passed 4-0.

Approval of Minutes:

Geise moved and **Knapp** seconded a motion to approve the July 23, 2020 minutes as prepared by staff. Voice vote. Motion passed 4-0.

Public Comments on Items not on the Agenda:

None heard.

Regular Business:

CALL TO ORDER-Continuance of Show Cause Hearing for Severy Creek

Berry calls the hearing to order.

Berry, chairperson for BCOA, states this is a continuance from July 23, 2020 BCBOA Show Cause Hearing

OPENING COMMENTS OF CHAIRPERSON:

Berry stated that on July 23, 2020 he opened the Show Cause after receiving a request from Severy Creek, to continue the hearing. The extension was granted with the condition that Severy Creek not be allowed to pull any further permits until after the continued hearing date of 8/17/2020.

Berry stated-the purpose of the hearing is to receive evidence and testimony in order to enable the board to make findings and reach a conclusion as to whether there is sufficient evidence proving the licensee violated one or more of the laws and regulations specified in the order to show cause, and if so, whether revocation or suspension of the licensee's license is appropriate.

Berry continued, the board will not observe formal rules of evidence but may consider any matter, which, I as Chairperson, conclude as reasonably reliable and calculated to aid the Board in reaching an accurate determination of the issue involved. Board members may question any person addressing the Board at any time. The attorney for the Board, Nick Cotton Baez, is present at this hearing. Berry asks if there are any matters to be addressed before the procedures for the hearing are given.

Gollin, special prosecutor, stated he has no preliminary matters, but would tell the board there is a witness testifying through a phone call because he is in the Marines at Camp Pendleton. He is a CO attorney and JAG officer. There are no matters from Licensee. Baez, advises the board to ask Licensee if he objects to the phone in witness. Gollin states the witness is Craig Clark, attorney for Fordyce Auto and Mackey Holdings. Berry adds the evidence from Clark is in the secondary packet. Burgener states the secondary packet was sent to Severy through certified mail to two addresses, then was emailed. Severy states (inaudible). Burgener adds two certified return signatures came back. Severy does not object to phone in witness. Gollin asks that certified return signatures be added to the record. Burgener states she has the receipts. Berry confirms the receipts will be added to the record of matter.

PROCEDURES FOR HEARING:

Berry stated, the order of the hearing is as follows:

Opening statements by the City and the Licensee

Presentation of evidence by the City (including witnesses), followed by the Licensee's opportunity to ask questions to the city.

Presentation of evidence by the Licensee (including witnesses) followed by the City's opportunity to ask questions of the Licensee.

Additional rebuttal evidence of the city by Licensee, if any

Closing Statements by the City and the Licensee

Berry continues, this hearing is being recorded. Anyone wishing to address the Board must speak clearly into the microphone and identify themselves by name and address. All testimony will be given under oath. Exhibits will be first marked by then identified before offering them for admission. A record will be kept of exhibits admitted and rejected.

MEMBER DISCLOSURES:

Berry asks, are there being any board member disclosures. Hearing none the hearing commences.

COMMENCEMENT OF HEARING:

Gollin states the City is prepared to proceed. Steve Loudon, states he is the owner of Severy Creek Roofing and is ready to proceed. Loudon is representing himself.

Berry states, at this time, I will ask anyone who will be speaking at the hearing to take an oath. Berry states to those standing, Do you solemnly affirm the evidence you shall give in this matter shall be the truth, the whole truth, and nothing but the truth. All standing reply, I do.

Berry made part of the record of the hearing, The Written Statement by verified complaint and the Show Cause Order.

OPENING STATEMENTS:

City:

Gollin began the city believes, in the Ruppert matter, it will prove that Severy Creek Roofing (Steve Loudon) , abandoned the project. He pulled a reroof permit and it took nine months to complete in 2018. Also during that time, Severy was to repair deck and siding and no permits were issued. We believe you will not believe it was not done properly. The deck was taken apart and left for months. The violations are abandonment of the project, failure to pull permits, and the work by the sub-contractor was a public safety threat. During that time Mr. Loudon, asked the city for an extension on the reroof permit, because Ruppert want to delay the project, when, in truth, Mr. Ruppert did not ask for a reroof extension. Ruppert was told at time of signing contract it would take two days.

For the second claim, Fordyce Auto Center, the evidence is that Severy, signed the contract in 2018 summer, estimating repairs to the Fordyce Auto Center to cost

\$140,000 and \$240,000. In two years, no work was complete—just a tiny bit. Gollin states this shows abandonment. The hearing will show Severy Creek (Steve Loudon) made several misrepresentations to his customers. Gollin directs the board to the exhibits provided in the packet.

Severy:

Mr. Loudon states, Mr. Ruppert had a non-recoverable depreciation policy and he did the roof to code and beyond, with class IV IR roof, which gives him a lifetime discount. Loudon states he increased the pay out from \$22,900 to \$56,000. It was a bad policy with non-recoverable monies. Loudon continues, I pulled a permit for the roof and passed inspection. The siding was less than four pieces, less than one square needs no permit. It was damaged before 2018 storm. Severy did not authorize any one to start demo of the deck. Severy referred to last year's hearing where he was charged with items not true. There would be no way he would not pull a permit. Severy stated he added value and his goal is to use the insurance monies given and if they cannot cover the work, the customer pays out of pocket.

Loudon continues to second case, Fordyce Auto Center tried to get a new roof through lawyers and mediation. They awarded "X" amount of money, from that subtract attorney fees and Gordon received two checks from insurance and the net to Severy Creek. Severy wrote a cashier's check----inaudible. Severy states he printed his evidence for the board.

PRESENTATION OF EVIDENCE BY THE CITY:

Berry requests for the city to proceed with their evidence.

Ruppert Testimony

Gollin asked Mr. Ruppert and the board to look at Exhibit 2 from the packet, the timeline of Mr. Ruppert's project. Mr. Gollin calls witness, Mr. John Ruppert who states he has lived at 641 St. Andrews Lane, Louisville, CO for 18 years. Ruppert continued, he needed repairs after the June 2018 hailstorm, which included a reroof, siding, electrical landscape lights, and deck. Gollin asked after storm did he contact Mr. Loudon, Severy Creek Roofing? Ruppert met Loudon at his home. Loudon reviewed the claim and items insurance inspected. Severy proposed a contract. Gollin asked Mr. Ruppert and the board to look at Exhibit 3. Gollin asks if this an accurate contract Ruppert agreed to with Loudon. Gollin stated Oct. 8, 2018 is the signed date the contract was entered in to. Ruppert agrees. Gollin states the terms of the contract in the mid section; the scope is to reroof and replace the roof. Gollin asked when was the work completed. Ruppert states the final reroof inspection was on August 20, 2019. Gollin asked, it took nine months? Ruppert replies correct. Gollin asked, at signing did Loudon state how long it would it would take? Ruppert stated Loudon told him it would take two days: remove shingles day one, the next day add sheathing get an inspection, and add the shingle. Gollin asked, you were not happy with the results of the roof? Ruppert states correct. Gollin states, the contract

calls for gutters. Ruppert stated the gutters were installed but no downspouts. Ruppert stated that his insurer gave a detailed scope of what they were going to cover.

Gollin continued, on the second page of the contract under paragraph five, was this work Severy was going to do as part of the contract. Ruppert replied, yes, at first he wanted to make sure all was going to be covered. Ruppert made it clear he wanted a class IV roof. Ruppert continued, Severy was writing all down and running out of room then said, whatever is on the scope of claim, he would do. Gollin asked how many items are there on insurance claim. Ruppert stated 65 line items. Ruppert stated Loudon claimed he would cover all line items and that Mr. Ruppert would have zero out of pocket cost. Gollin asked what does that mean. Ruppert replied it means it would not cost him anything for all the repairs listed. Ruppert stated, it was his understanding that if you are going to do this and you cannot do it, don't come to the customer asking for money. Gollin restated, it was your understanding that all repairs were going to be made with no cost to you? Ruppert replied, that is correct.

Gollin asked, were the repairs made to the deck, were screens provided? Ruppert says, no. Was right side siding completed? Ruppert stated eventually, with 14 x12 boards. Ruppert stated, approximately 15 or 16 boards were used. Gollin ask if an emergency tarp was used. Ruppert said, he did put a long piece of shingle over the easement and several parts of the house. Gollin asked, was the electrical work done? Ruppert replied, no. Gollin asked, wiring for landscape? Ruppert replied, no. Gollin stated, as part of contract it says/ includes "supervisor is in constant and direct communication." Ruppert described, since he worked from home, he saw there were two men doing the roof. Gollin asked, was there a supervisor at any time? Ruppert- No. Gollin- did you try to communicate with Loudon. Ruppert -numerous times. Gollin- what was his response? Ruppert- very negative, it was a song and dance— promises not kept. Ruppert states Loudon did come out to look at the roof at one point. Ruppert continues, most of the time is was just Severy asking for money from Ruppert. Ruppert stated, Severy wanted the insurance money. Ruppert gave Severy the money initially. Gollin asked did you give Loudon an insurance check for \$8,956.86? Ruppert replies, yes.

Gollin asks Ruppert and the Board to look at Exhibit 4. Ruppert states this is the reroof permit, issued 10-31-2018. Gollin asked, the roof was completed 8-20-2019? Ruppert replied, correct. Gollin asked the board to look at Exhibit 5. Gollin asked, do you recognize this? Ruppert stated, it looks like a report from the city asking for an extension on the reroof permit. Gollin asked, why was an extension necessary? Ruppert said, it says "owner want to wait till spring/summer." Gollin, did you tell Loudon you wanted to wait? Ruppert stated, quite the opposite, Ruppert was bugging to get it done. Ruppert stated he found out about the extension because he thought the permit was expired, and he did not know about the extension request. Gollin asked, did you experience any problems? Ruppert replied, yes, we had rain coming into the house. Ruppert called Loudon. Loudon showed up. Ruppert asked for the roof to be completed instead of patching. Ruppert continued that Loudon told him he

did not have time. Gollin asked, throughout the fall/winter of 2018 and spring of 2019 no work was done on your roof? Ruppert replied, Correct. Gollin asked Mr. Ruppert to look at the timeline (Exhibit 2)--it appears on June 6th, 2019, eight months after the permit was issued, shingles started be removed—this was the beginning of the work.

Gollin asked, what happened after the shingles were removed? Ruppert states, it took several days to get the old shingles off. After shingles were off a paper was put on then nothing, until June 19th when midroof inspection was ordered. Gollin asked, were there any problems between June-August 2019? Ruppert stated, there was another hailstorm, less severe than 2018. Rupert called Severy multiple times to try and get his roof shingled. Ruppert stated he did not know if there was damage. Ruppert stated he learned that the reason for the order of installation is the paper is only good for one-14 days. Gollin asked, your roof, for 62 days, had no shingles? Ruppert replied, no shingles.

Gollin directed Ruppert to Exhibit 7, independent roof inspection. Ruppert told the board he got a third opinion from an expert, Boulder Home Inspector. Ruppert stated he paid for a whole evaluation of his roof. Gollin stated, Exhibit 7 is the entire report. Gollin referred to page ten of the report, which states--- “observation included damages and safety hazard.” Ruppert stated the safety hazard was roofing decking was damaged and could not support the shingles due to the shingles being loaded on to the roof in one area instead of being spread around. Gollin stated the report was done four months after the roof was completed. Ruppert agreed. Gollin asked, are there other concerns? Gollin pointed out that page 11 states exposed nails and contains several pictures. Gollin points to page 13. Ruppert explained there were unknown bumps in the surface. Gollin stated from the report there is an exposed area in the corner of the drip edge.

Gollin requested that Mr. Ruppert look at Exhibit 8A. Gollin stated, this hired inspector showed perceived problems with photos. Gollin referred Mr. Ruppert to Exhibit 9A and asked what the Exhibit shows. Ruppert states it is one side of his house that was attempted to be repaired. Ruppert asked another contractor to look at the work, who pointed out there was no window flashing, and that the boards were cut because the Severy sub-contractor could not fit the boards in his car. The sub-contractor did not use scaffolding. Ruppert stated he was young and did not know what he was doing; he worked in the dark and brought his wife and dog to the project. Ruppert continued that the young man stated the Louden had sent him to the house with measurements.

Gollin asked Ruppert, you gave Severy another insurance check for \$5,006.55 in November of 2019? Ruppert stated Louden talked him in to giving him the check to cover the siding and deck. Ruppert stated, he should not have done that, but is was an insurance check. Gollin asked, what happened to the work on the siding and deck? Ruppert reports Severy committed to starting the siding on November 16th, 2019. Gollin interrupted that the timeline stated the deck removal started on Nov. 14, 2020. Gollin---inaudible. Ruppert stated the subcontractor started the deck

demolition; the agreement was to repair decking and posts only. Ruppert continued when he got home, the railings were ripped off and thrown to the ground. Ruppert emailed Loudon.

Gollin asked about an invoice regarding the decking material. Ruppert stated Severy wanted Ruppert to sign for deck materials. Ruppert continued, that he called the deck supplier asking about quantity of materials and was told Loudon ordered 2x as much material than was needed. Ruppert stated that at this point things were going downhill.

Gollin referred to Severy's opening statement regarding waiting for the deck engineering, Ruppert replied, you do not need engineering to replace decking. Gollin asked, was a permit pulled for the deck or siding. Ruppert replied, no. Mr. Ruppert stated, he did not think he had any active permits.

Gollin asked, when your complaint was filed with the city, what was condition of the deck? Ruppert replied, half the deck was gone and steps were taken with sign painted, "Do Not Use." Gollin stated, the demo of the deck and siding was done by Loudon's subcontractor. Gollin referred Ruppert to Exhibit 9A. Ruppert stated, this is a picture of the siding that shows cut siding boards. Exhibit 9C showed extensive caulking and Exhibits 10A and 10B showed deck stairs without a railing, explained Ruppert. Gollin asked Ruppert, how long were the deck stairs in this state? Ruppert replied from December 2019 to May 2020, 5-6 months; the deck was unusable. Exhibit 10C is the "cruise ship" deck, very small, that was completely gone, said Mr. Ruppert about the photo. Exhibit 10D demonstrated how the deck was pulled apart and not unscrewed for reuse, Mr. Ruppert explained. Mr. Ruppert further explained that Exhibit 10E shows the railing loaded on a trailer for repair, and Exhibit 10F is another picture of screws ripped out.

Gollin asked if screens, outside lighting, or awning repairs were ever done. Ruppert replied no. Gollin asked Ruppert to address the board as to his overall experience with Severy Creek Roofing and Steve Loudon. Ruppert stated, he felt strong enough that he should stick up for others that have had similar problems. Ruppert wanted to speak out and stop this from happening in Louisville. Gollin completed his questions for Ruppert.

Gollin requested to enter Exhibits 2, 3, 4, 5, 7, 8(all), 9(all) and 10(all) into the record. Berry stated, as chairperson, he concluded the documents as reasonable and reliable to aid in the Board's decision. Exhibits will be marked as stated. Berry asked if there were objections to the exhibits. None heard. Exhibits admitted.

Cross-examination of Mr. Ruppert

Mr. Loudon asked Ruppert-- going back to the contract stating work to be paid for with insurance proceeds and delivered within 72 hours, was that adhered to? Ruppert stated, the first check was paid. Loudon stated he had won additional monies and he had to call for the money he had fought for. It was just the initial

check correct, Loudon asked. Ruppert replied, I do not know. Loudon stated he showed up for money owed to him. Loudon continued it lead in to the October contract that certain manufacturers want a certain temperature for installation and it is better for the installation.

Berry interrupted asked Loudon to stick to the Ruppert testimony.

Loudon stated he had no further questions regarding Ruppert's testimony.

Re-cross of Mr Ruppert

Gollin asked Ruppert to evaluate Loudon's statement there are several months that are a bad time to reroof. Ruppert replied he purposely checked the weather prior to the reroof and the weather was a favorable. Gollin stated, no further questions.

Questions from the Board to Ruppert

Berry asked Ruppert, Loudon looked at a leak on the new or old roof? Ruppert replied, it was the old roof. Ruppert could not state when that was, ball park a week to ten days of good weather.

Mr Ruppert was dismissed.

Craig Clark (Phone) Testimony Clark identifies himself as the Craig William Clark then is given the oath by Berry.

Gollin asked for Clark's background. Clark states he is owner of Pillow.com and Homeland.com. He is general counsel for both companies. He is also a JAG attorney in the Marine Reserves and is at Camp Pendleton now, before deploying to Kuwait.

Clark stated he has Exhibits 12-22 in front of him. Gollin asks who he represents. Clark states he is the attorney for a couple parties, the managing members of Mackey Holdings LLC, which owns 1655 Cannon Circle. and 1655 Courtesy Road in Louisville, and general counsel for Mackey Holdings. Mackey Holdings purchased the properties from Mr. Gordon Fordyce. Mackey Holdings purchased them from a trust created by Mr. Fordyce. As an attorney for the matter tonight to repair and replace the roof. Mr. Fordyce, Mr. Fordyce's Trust and Mackey Holdings entered into an agreement to have me represent and coordinate with outside counsel to ensure the work was completed. Gollin asked if both addresses are in Louisville, CO. Clark agrees that is correct.

Gollin states Clark sent a letter to the city of Louisville on 7-22-2020. This is Exhibit 12. Clark confirmed there were concerns with the contract between Severy Creek, Mr Fordyce, and Mackey Holdings. Gollin stated a contract was entered on 8-1-2018 between Severy Creek and Fordyce. This is Exhibit 13. Clark states it is a fair and accurate copy of the contract. Gollin asked Clark to address the board the concerns regarding this contract. Clark states on 8-1-2018 Fordyce contracted with Severy Creek to replace the roofs at both addresses, 1655 Courtesy Road and 1655 Cannon Circle. Compensation agreement was for Severy Creek to receive insurance proceeds less a small check Fordyce had already received. To date Severy Creek

has not replaced either roof or made any repairs. Clark continues, both roofs were in poor condition and need repaired before being occupied again--both buildings are being redeveloped. Clark summarizes the concern is, there is a breach of contract. Clark continues, roofs are not replaced and yet Severy Creek has received 100% of the insurance proceeds they were entitled to under the contract. Gollin asked, as to the contract, it reads, under scope of work stating-- type of architectural shingle, gutter replacement, paint color (all to be determined) plus inclusion of a supervisor at all times and direct communication. Clark agrees and restated none of that work has been done. Gollin asked if Severy Creek's contract has Mr. Louden's signature. Clark confirms it is Steve Louden's signature.

Gollin asked Clark the size of the roofs. Clark answered, they are approx. 3000 SF and 8000-9000 SF or about 15000 SF total. Gollin asked if there was discussion on the cost of the repairs. Clark replied there was. A couple insurance companies that specialize in roof replacement came to Fordyce, and were shared. Next Gen gave an estimate of \$141,000, and Licensee represented to Fordyce and to court the damages were in excess of \$200,000. An expectation was sent to Fordyce from Severy Creek that the collection of the insurance proceeds would be \$200,000 to the benefit of the building repairs. Gollin asked if there was an understood timeline in the matter. Clark replied, the understanding was the roof replacement would begin immediately upon signing of the contract. Clark continued, presumably, Severy Creek did not collect money from the insurance in a timely manner. Fordyce and Severy Creek had several discussions as to when the repairs would start. Clark continued, when he got involved Severy Creek would not respond to him, and would not respond to concerns about the litigation. Severy Creek would not reply to anybody. Gollin asked how long of a time span. Clark replied from April 2019 to present, more specifically to 7-17-2020—this is when, without authorization, Severy Creek tried to collect \$60,000 of insurance proceeds, then refused to do any work on the property. Gollin asked Clark, in his expert opinion, the contract, Exhibit 13, whose problem is it that the work was not done? Clark replied it is a bad situation and no matter what amount was collected, Severy Creek was obligated to complete the scope of what was on the contract. Whatever he collected did not change the scope of work that was required to complete. Gollin stated it was a Severy Creek problem that they did not collect right away. Clark agreed. Clark continued, it is a Severy Creek contract and they are to be held to it.

Gollin stated, the contract was signed on 8-1-2018, then four months later there is an Assignment of Right to Collect document —why was this necessary? Clark answered, he understood Severy Creek went to Fordyce saying, we have not started because we need you to sign this document. In good faith, Fordyce signed the document, which is in line with the contract, then Severy Creek is obliged to replace the roof. Craig continued, from his knowledge in Real Estate, Severy Creek had this document signed so they could directly negotiate with the insurance or commence legal action.

Gollin asked, who prepared the Assignment of Right. Clark stated it came from Severy Creek. Gollin referred to the agreement, paragraph A—for services performed by Severy Creek, meaning the services were performed so the proceeds go to Severy Creek, when in fact no work had been done. Gollin referred to part C in the Assignment of Right agreement—it says pursuing the insurance company is at the expense of Severy Creek. Clark agreed.

Gollin referred to Exhibit 15B. Gollin asked Clark to recall that the NexGen estimate was for \$141,000 dated 7-9-2018. NexGen is a competitor to Severy Creek. Gollin continued, in February of 2019, Compass submitted an estimate of \$102,000. Gollin asked Clark, Severy Creek sued the insurance company in order to get the insurance proceeds? Clark agreed. Gollin stated that information in the lawsuit was for hundreds of thousands dollar. Clark agreed.

Gollin referred to Exhibit 18, a message to Clark from Fordyce. Clark stated the March 2020 email stated that Severy Creek settled the lawsuit and had taken all the proceeds. Another email from Furtado Law, which represented Severy Creek, stated they were going to begin work on the property, leading Fordyce to believe Severy Creek was going to replace the roof. Clark continued, it is also implied, per the Agreement of Rights, the settlement is contingent on work getting started. Gollin stated that March 2020 is a year and half after the contract was signed. Clark agreed.

Gollin asked Clark to explain Exhibit 19. Clark stated, he spoke with Yvonne of Furtado Law on 4-27-2020 and Yvonne revealed to him that Severy Creek refused to release the documents signed by Fordyce so he could examine them for himself. As of 4-28-2020, Mackey Holdings owned the building. Clark stated, they notified the insurance company that the settlement was revoked due to Severy's breach of contract. Clark stated at this point he did not suspect fraud, but a definite breach of the agreement and the fact that calls were not returned. Clark continued, he had no knowledge of the case being settled or not.

Gollin referred to Exhibit 20. Clark described it was a final invoice, meaning a few days before this, the Mackey property manager, Tom, heard from Severy Creek. On 7-14-2020, a final invoice was sent to Fordyce. It turned out to be a document with accounting, showing the claim was settled. Gollin recited the invoice- Building #1, \$3,833.17 insurance paid to Gordon Fordyce. Clark determined that is the amount of the initial check paid to Fordyce for building #1, meaning in the contract it stated Severy receives all proceeds minus the initial check. Clark continued, Exhibits 20 and 21 were sent together as final accounting of the lawsuit. Clark continued, Severy Creek's attorney collected \$60,000 from the law suit which was liquidated--- \$36781.97 was paid toward legal, which does not favor Fordyce. An amount of \$12,000 was kept by Severy Overhead and Profit(O&P), which was not in the contract, and no services were ever performed-how do you collect O&P? Then there was another fee for termination when the property sold for \$9,000 for, which again was not in the contract. Clark stated, liquidating the settlement was a way to steal

money. There was a subtotal owed to Fordyce, which did not make sense and was fraud.

Gollin asked, there is nowhere in the contract stating Severy Creek gets \$12,000 for O&P? Clark replied, this case has nothing to do with O&P. It is simple, in exchange for getting insurance proceeds, they are to replace two roofs and that did not happen. The roof were not replaced. Gollin asked, there was nothing in the contract that states Severy Creek receives \$9,000 because the building sold? Clark replied that is correct; on 4-1-2020 the two buildings sold. Gollin stated that is 180 months after the roofing contract was signed.

Gollin asked for explanation of Exhibit 22, which is the settlement between Fordyce insurance and Severy Creek. Clark replied that Severy Creek refused to provide Exhibit 22, and that Fordyce's insurance provided the legal document. It was signed after the Authority to Settle was revoked and it stated Severy Creek has the authority to settle, when that was in doubt because they breached their contract. Clark stated this was Severy Creek's intent--to collect money from Fordyce without having to do any work. Clark asked the authority to permanently revoke Severy Creek's and Mr. Louden's license in this jurisdiction. Clark continued, he is unprofessional and there was a breach and then it is pure fraud. There is no legal pretense for O&P and a termination fee should not be collected. Clark continued, it is just simply Mr. Louden trying to keep as much money as possible without doing the work. Clark finalized, in his opinion, Mr Louden has preyed on a certain age of individual and targets them with these documents and then does not do the work.

Gollin stated, the authority may have questions, as well as Mr. Louden.

Berry asked Mr. Louden if he has questions.

Cross-Examination of Mr. Clark

Louden stated, Clark mentioned a contract with Fordyce (inaudible) something not mentioned (inaudible). Berry interrupted, that was not a question and Louden will have time to present his evidence. Louden stated he had no questions.

Berry asked if the board has questions.

Questions from the Board for Mr. Clark

Gotto asked to review the numbers-what monies did Severy Creek receive? Gotto asked, have the roofs been replaced? Clark confirmed, as of today, both roofs still need replacement. Clark continued, the money trail is more complicated because the accounting comes from Severy Creek; however, based on Exhibits 21 and 22, the total claim settled was for \$60,000 on 4-29-2020. Money paid early by Fordyce-\$3833.17 for building #1 (1655 Courtesy Road) and 5787.99 on the building #2 (Cannon Circle) totaling, a little less than \$10,000. Clark continued, on 7-14-2020, \$60,000 was paid to Furtado Law, then the money was liquidated. Furtado Law

received \$36781.97, Severy Creek received \$21,000, and Fordyce received \$2218.03.

The Board had no further questions.

Gollin requested a five-minute recess at 9:02 pm

Gollin moved to admit Exhibits 12, 13, 14, 15B, 16, 18, 19, 21, and 22.

Berry states the documents are reasonable and reliable in aiding the board to make a decision. Berry asked, there were no objections, and the exhibits were admitted.

Gollin called Gordon Fordyce as his next witness.

Gordon Fordyce Testimony

Fordyce stated his name, that he's the owner of Fordyce Auto Center, and resides at 550 Arbor Dr. in Lafayette, CO. Fordyce stated he owns the properties at 1655 Cannon Cir. and 1655 Courtesy Rd. Fordyce recalled extensive damage to his roofs and buildings from the hailstorm in June 2018. Gollin asked if he enter into a contract for roof replacement with Severy in August of 2018. Fordyce answered affirmatively. Gollin asked if Fordyce got an estimate of the roof prior to Severy looking at the roof. Fordyce replied, no. Gollin asked about Exhibit 16, an estimate from Nexgen Roofing. Fordyce stated he'd received the estimate on July 9th, 2018. Gollin asked, and then you two weeks later you signed a contract with Severy Creek. Fordyce agreed.

Gollin asked, how did you meet Louden? Fordyce replied, he just showed up, he showed up before NexGen. Gollin asked, what were the discussions with Louden? Fordyce said Louden told him there was \$200,000 worth of damage and he asked to look at the insurance policy.

Gollin stated, the contract itself, Exhibit 13, on the second page states "perform work, no out of pocket expense." Gollin asked, is that why you signed with Louden? Fordyce replied, one reason, yes. Gollin asked, you owned this business up to April 2020? Fordyce agreed. Gollin asked, from August 2018 to April 2020 was work done on the roofs? Fordyce said no other than a temporary repair and he did not see any permits and was at the business six days/week.

Gollin asked, up to the time it sold did the roof leak? Fordyce said the roof had several leaks especially during rainstorms. Gollin asked did you reach out to Louden? Fordyce said he had several communications and that was when he was informed he needed to pursue law suit to get money. Gollin asked, you understood that was Severy Creek's obligation? Fordyce agreed. Gollin asked, four month later Fordyce is asked to sign the Assignment of Rights? Fordyce agreed. Gollin asked what communication was like with Severy Creek throughout this time. Fordyce replied, he used email and did not get a quick responses; neither Severy Creek or the law firm were responsive. Gollin stated no further questions.

Louden had no questions for Fordyce.

The board had no questions for Fordyce.

Gollin calls Chad Root, CBO Louisville, CO.

Root Testimony:

He oversees permits and new construction projects, and also deals with problem with contractors vs. residents of the city.

Root stated he is familiar with the complaints and signed affidavits from complaining parties. Root stated he is familiar with Severy Creek.

Gollin referred to Exhibit 1, Severy Creek contractor license. Root described a class D license as for roof, decks, pergola—basic construction. Gollin asked Root if he is familiar with the IRC and IBC. Root replied, yes he is. Gollin asked, do you have to have a permit for siding? Root replied, yes, in the IRC it states you need a permit for siding, adding that there are some aspects for which you do not need a permit. Root stated, the Ruppert house needed a permit because it was siding, not general maintenance and the same is true for the deck. The deck was a dangerous hazard for the occupants. Root reaffirmed there was a public safety issue—the deck was torn apart, the stairs had no railing; there may be kids using the deck, the structure was compromised. Continuing, the permit process is to ensure the project is going to move forward in a timely and safe manner. Root stated, as far as a leaking roof, it falls under the Property Maintenance Code. The siding did not have flashing at the windows and the siding was not properly installed.

Gollin asked to look at Exhibit 4. Gollin asks, this is the permit for the reroof at 641 St Andrews Lane issued in October 31, 2018 and finished on 8-20, 2019? Root agreed. Gollin referred to Exhibit 5, an extension request on the reroof at 641 St. Andrews. Root confirmed this request was made a few days before the permit expired because the homeowner wanted to wait till the spring/summer. Gollin asked, the note on the extension request came in an email from Steve Louden, received by Jenny Lane. Gollin asked if this was a typical length to get a reroof completed. Root replied no. Root referred to the inspections of reroof- June 19th, 2019, midroof inspection done by Isaias Huizar and passed, seven months after the contract was signed. Root stated the roof passed finals 8-20-2019.

Gollin asked if a permit was pulled for siding or deck. Root replied no, never. Gollin asked, are contractors responsible for their sub-contractors? Root replied, they are. Gollin continued, it is a violation of the Louisville Municipal Code?

Gollin referred to Exhibit 15. Gollin stated this is a permit pulled by Severy Creek for Fordyce Auto. Root replied, yes it is. Gollin stated, it looks like it was issued 5-22-2019. Root replied, correct. Gollin stated that is 9 months after the contract was

signed. Gollin continued, it says the valuation was \$3500. Root stated the application was for two squares at 1655 Cannon Circle for \$3500, which does not compute---that is not what was happening at the property. If were no inspections done, then the permit expired. Gollin asked, was this permit abandoned? Root continued, work did not take place during the 180 days.

Gollin asked, what determines the cost of the permit? Root stated it depends of the valuation, which is labor + material. Gollin stated, (inaudible). Root replied, as far as we know there was no midroof or final inspection on this permit. Root continued, after 180 days the permit becomes abandoned under the code.

Gollin referred to the Amended Show Cause. Gollin also referred to violations to the Municipal Code, starting with 5.12.090; i.e., the contractor shall be responsible for all work in the contract performed either by contractor or sub-contractor. Root stated that Severy Creek violated that section of the code because there was no control of Mr. Louden's sub-contractors at 641 St Andrews and the work was not complete.

Gollin referred to Municipal Code 5.12.100; i.e., all contractor's must observe safety measures and protect the workers and the public. Root stated that the deck was unsafe. Gollin continued with Municipal Code 5.12.120; i.e., it is unlawful if you do not obtain permit and inspections when required. Root stated that is a violation as well, for the siding and the deck at 641 St Andrews Lane.

Gollin continued, Municipal Code 5.12.130; i.e., it is unlawful for a contractor to abandon a contractor's undertaking. Root replied, at 641 St. Andrews the felt paper on the house was good up to 14 days but was left on the roof for 60+ days. The deck was abandoned because the deck was torn apart and not completed.

Gollin asked, the city of Louisville has adopted the 2018 IRC? Root replied, correct. Gollin referred to IRC 105.1, permits required for roof, siding, deck, and IRC 109.1, requiring inspections. Gollin referred again to Municipal Code 5.12.130. Root stated the permit at Fordyce Auto Center was abandoned, plus there were no inspections and the permit was expired. No work had even begun—that is abandonment.

Gollin asked Root to tell the board why he also made the allegation of fraud and misrepresentation. Root stated, the misrepresentation came from the extension request on behalf of the homeowner of 641 St. Andrews. Root continued, at Fordyce Auto the valuation of the work that was reported plus what he saw and heard did not represent what damage was really done. Gollin asked Root, do you have a problem with Severy Creek profiting from the Fordyce Auto Center property? Root replied, I do. Gollin asked, what is the basis of the city's request to this board? Root replied, he has received many calls from Severy Creek's subcontractor's saying he has not paid them, and will put liens on Louisville residents' homes. Root continues, this is the second time Severy Creek has been in front of the board. Both times in front of the BCBOA, it has been with Severy Creek. Root continued, he had a list of nine Severy Creek permits that are expired/abandoned permits ranging from 2018- present.

There is one active permit. Severy Creek has created a dangerous environment, has misrepresented himself, which results in empty promises. Root requested a minimum of ten year revocation of Severy Creek's and Steve Louden's contractor license. Root continued, the residents deserve better than this, they do not deserve liens on their homes.

Gollin referred to Exhibit 11. Root commented, these were the minutes of the 5-2-2019 BCBOA Show Cause Hearing; these were the same issues back then that we are taking about tonight. Gollin moved to add Exhibits 1, 6, 11, 15, 15a, and 17 into evidence.

Berry questioned Exhibit 11, the minutes from previous hearing, 5-2-2019. Cotton-Baez commented, the board needs to decide whether the evidence presented tonight proves the alleged charges; you may hear what both parties have to say, but the Board could be issue precluded from considering testimony from the last hearing.

Gollin asked the board to refer to Bylaws Section 3, article 9, Rules of Evidence, the board can consider any matter which the chair considers reasonable an reliable to aid the board in determining an accurate decision. Gollin (inaudible). Gollin stated those minutes show Severy Creek business practices in terms of misrepresentation and fraud. Berry concluded that the documents were reasonably reliable, would aid the board, and were a matter of public record. Berry admitted Exhibits 1, 6, 11, 15, 15a, and 17. There were no objections.

Berry asked Mr. Louden if he had questions for Root. Louden asked, how would you know the value of Mr. Ruppert's roof without seeing the statement of loss from the insurance company? Root answered, as a CBO he sees several permits come through that are of Mr. Ruppert's caliber of roof; valuations come in a lot higher, especially if it is an Impact Resistance shingle. A smaller home in Louisville would be about \$12,000 in valuation. Root continued, when you spoke of \$21,000 of Ruppert's roof, this made sense because other permits that were pulled by you for like homes were at a higher valuation. Louden asked, did you see the first and second statement of loss for Mr. Ruppert so you could see the difference in what the insurance company did? Root replied, I looked at the valuation, you had \$12,582 for the entire reroof. Louden asked again, did you see the statements of loss--- that is how I got the valuation. Root, I did not. Louden had no further questions.

The board had no questions for Root.

The Board granted the City's request for redirect. Gollin referred to Exhibit 23. Root stated he was looking at a detailed claim from Acorn claims that has 60 line items for 641 St. Andrews Lane on it. Gollin asked, not all those repairs and amount of money are for the roof? Root stated they are not. Gollin moved to introduce Exhibit 23. Berry asked Louden, do you have a copy of Mr. Ruppert's statement of Loss from American National? Louden replied, there were only 11 items on the statement that were just for the roof. Berry asked, did you receive the 10-15-2019 statement? Berry

asked, would you like to look at this exhibit? Berry asked Louden, if you agree and are privy to this information, I will admit this into evidence. Louden stated, all these statements made are false. Berry and Louden discussed the many numbers on the statement. Louden(inaudible).

Gollin asked Root, does it matter to you how much an insurance company pays out for a roof versus the roofer repairing the roof? Root replied, no. Gollin asked, if the roofer is providing the contract to the resident, does it matter how much money insurance company is paying the roofer? Root replied, no. Gollin followed with, does it matter to you whether the roofer puts the roof on the residence? Root replied yes. Gollin stated no further questions.

Berry asked Louden if he had further questions. Louden replied, no. Berry stated, there being no other objections to Exhibit 23, it is admitted as evidence.

The board had no further questions for Root.

Gollin stated, the city is done with its presentation of evidence.

PRESENTATION OF EVIDENCE BY LICENSEE:

Louden stated the Ruppert case had a lot of non-recoverable depreciation, which means he is not going to receive his money; for example, if he has \$54,000 and non recoverable depreciation of 11-12,000, you only get \$42,000, if you do all the work. Louden stated, he let Ruppert know you can only get additional money to apply towards siding or deck if you do an appraisal, which we did and that is where I won \$34,000 for his property and plan. Louden continued, Ruppert received the money and was to pay Louden within 72 hours, according to the contract. Louden stated Ruppert did not pay him. Louden added this is because homeowners will just keep the money. Louden added, in a storm when you have a lot of costs for materials, subs, and vendors you need the money. Louden stated, Ruppert breached the contract. Louden stated, he called and called Ruppert. Louden continued, he did not authorize siding or deck repair. Louden claimed Ruppert told the subs to go ahead and do the siding and deck repair. Louden admitted to being the roof contractor, but that Ruppert had told the subs he would take over as the contractor himself. Louden repeated, he did not tell them to do it because Mr. Root wanted to revoke his license before because of the community reports----Louden stated he respects the community and has done things to add value to it. Louden added, Chris ----- a good friend of his knew John Ruppert. I got the deck from \$2,431 to \$16,500 and another \$6,600 for awning. Louden confirmed he got paid for demo repairs along with ice and water shield, plus synthetic felt. Louden stated gaps in time differs depending on manufactured specs. Louden stated Ruppert is going to benefit doing good for him. Louden continued he fixed a wave in the roof. Louden stated he had great gutters installed---all to add value. Louden stated he has not be paid for the work he has done. Louden stated this has all gone sideways and he cash flow can be a problem because all parties need their money—that is all for Ruppert.

Cotton-Baez told Loudon to continue with Fordyce Auto Center. Loudon stated he only had one contract with Gordon Fordyce. Loudon stated, Clark was inaccurate. Loudon continued, one of the buildings is ballasted, the rocks break the hail. Loudon stated, the Fordyce insurance was only covering for a couple repairs and that is what the permit was for, a couple repairs. Loudon stated, Fordyce kept the first two checks. Loudon continued, he was trying to get an entire reroof---- it took a long time because it was an auto commercial claim. Loudon let the roof permit expire purposely because no monies were awarded for a whole roof replacement. Loudon explained if you want to do additional work outside the claim, it is not going to be on the claim.

Berry asked if city would like to cross-examine the licensee.

Gollin asked Loudon, how long have you been in the roofing business? Loudon replied, about 14 years. Gollin asked, you would agree that both of these contracts we are discussing today are yours, correct? Loudon replied, oh yeah. Gollin asked, the terms of the contract, you have to abide by them too? Loudon replied, yes, the terms of the contract.

Gollin added, you said that under your contract with Ruppert, you did not do siding, or the deck. Loudon agreed, not the siding or the deck. Gollin continued, you are telling the board that for some reason, the subs show up and started doing the work when you did not tell them to begin, correct? Loudon replied, no I did not. Gollin continued, what you are telling the board is that for some reason these guys show up and start doing the work when you did not tell them to do it? Loudon replied, Mr. Ruppert told them to go ahead—I okayed 2-3 pieces of siding, less than one square, the rest I did not authorize. Gollin—they work for you right? Loudon, yes they do, but I did not authorize the deck. Gollin asked, you heard the testimony tonight, right? Loudon, yes I did. Gollin stated, Ruppert was aghast at the job that they did. Loudon replied, I did not hire them, I did not do it. Gollin continued, Mr. Ruppert testified that the workers told him you sent them to do the work. Loudon replied, not the deck. Gollin- you did not authorize the deck, or that much siding... Loudon interrupted, three pieces of siding because they painted as well. Gollin-(inaudible). Gollin stated, this thing from American National, Exhibit 23, dated 10-15-2019. Loudon acknowledged.

Gollin stated, the reroof contract was signed in October of 2018; the roof passed its final inspection August of 2019. Loudon agreed. Gollin stated, this is dated two months after the roof was complete. Loudon asked, what is the question? Gollin stated, the problem is you signed the contract, you said you'd do the work, and you did not do the work. Loudon stated, I only asked for payment of the work that I did. Gollin –your contract stated no out of pocket expense. Loudon agreed—from insurance proceeds. Gollin stated, you never did the deck or the screens. Loudon replied, it was not on the insurance scope. Loudon said, he knew that and he never charged for it. Gollin, but you said you would do it. Loudon, I didn't charge for it, I didn't do it. Loudon continued, Ruppert breached the contract in fall of 2019. Gollin

asked—Rupert breached the contract a year after you were supposed to get the job done? Louden-no. Gollin –yes, you signed the contract. Louden interrupted, it was October and there were temperature limitations for shingles roofs—every manufacture knows that. Gollin, (inaudible). Louden replied, to do the roof. Gollin,(inaudible). Louden mumbled.

Gollin asked about the permit extension. Louden stated, he talked to Rupert about it. Louden continued sometimes you cannot roof because of temperature and weather. Gollin asked, is it bad weather in March? Louden replied, it could be. Gollin-April, May, June? Louden agreed. Gollin asked, is there any good month of the year to do a roof? Louden replied, I do not know, why don't you answer that. Gollin replied, why don't you? Louden stated, why don't you, you know it all. Gollin stated, I don't know, you're the expert. Berry interrupted: let's stick to the questions and direct answers. Gollin has no further questions.

Berry asked Louden, how many reroofs in Louisville do you do in one year? Louden replied, in the state of Colorado, 80.

The board had no further questions.

FINAL CALL OF EVIDENCE:

Berry asked if the city had any other evidence. Gollin replied (inaudible). Gollin recalled Rupert. Gollin asked, did you hear Louden's testimony? Rupert replied, yes. Gollin continued, when the young people showed up to do the siding and deck, did you take over the project? Rupert replied, no. Gollin asked, did you tell them to start taking apart the deck? Rupert replied, quite the opposite, we asked them to stop when they were half way done with it because of the way they were doing it. Gollin asked, did you hijack the job? Rupert replied, I do not know construction. Gollin-(inaudible). Rupert replied, on the deck the subcontractor did the deck measurements, then Louden wanted me to sign off on the amount of materials from his employee's measurements. Rupert continued, this is when we discovered the numbers were incorrect. Gollin stated no further questions.

Berry asked Louden if he had any further questions for Rupert.

Louden asked, on 2-11-2020, did you get an email from me asking you to work with the Better Business Bureau to get this resolved? Rupert replied, yes I did—I have a certified letter per state law giving you a punch list of what needed to be completed or what you did not do. Rupert continued, I sent it to the address on your contract and to another address, you did not respond. Louden stated, he did not receive the list. Louden asked, did my attorney Craig Flanders contact you regarding the process of a (inaudible) in the state of CO? Rupert replied, August 11th he called me and in a round about way asked if I would give you a good review. Louden laughed, that is OK. Rupert stated it was a phone call, no emails.

Berry asked if there were other questions for Ruppert.

Gollin asked Ruppert, did you on March 12, 2020 send Severy a detailed list of problems with your house? Gollin continues –you sent it to 1320 Simms, #103 Lakewood and 357 S. McCaslin Ste. 200 Louisville and both came back undeliverable? Ruppert replied, yes. Gollin moved to introduce Exhibits 24 and 25, the letter from Mr. Ruppert to Severy. Gollin (inaudible).

Berry stated, the certified letter sent to two addresses from Mr. Ruppert, March 12, 2020 as Notice of Right to Correct were reliable and reasonable as evidence. There were no objections. Berry admitted Exhibits 24 and 25 into evidence.

Gotto asked Loudon, were those addresses your place of business? Loudon replied, those addresses were old addresses and he did not receive them. Loudon, continued I don't know why he didn't email me.

Berry dismissed Ruppert.

Berry asked Loudon for additional evidence. Loudon stated he did not get a reply from Ruppert regarding the Better Business Bureau. Loudon stated he did bring packets for the board members. Berry asked Loudon, what were these emails? Loudon answered, they were emails showing I tried to work it out through the Better Business Bureau. Berry stated, the better Business emails are not relevant, but the 2-2020 to Mr. Ruppert communicating with Mr Ruppert, I can accept as Exhibit 26. Berry admitted Exhibit 26 as reliable and reasonable. There were no objections.

There were no other questions from the board.

CLOSING STATEMENTS:

City of Louisville

Gollin began by referring to the statement from Root: the residents of Louisville deserve better than this type of contractor. Gollin stated, Mr. Ruppert and Mr. Fordyce just know they need their roof fixed. They do not know how to fix a roof. Gollin continued, Loudon has been in the business for 14-15 years, he is the expert—they're his contracts. He is responsible for the terms of the contract. In Ruppert's case, his testimony was that he was told the reroof would take two days. You would think within a couple weeks, even though we live in Colorado, it is hard to believe it took 9 months to complete. Gollin continued, in addition he asked for an extension without doing any work based on Mr. Ruppert wanting to wait till spring. No homeowner is going to let you delay and delay. Gollin stated no permit was issued for the siding or the deck. It does not make sense that Loudon testified that two workers just showed up without him telling them to start demo. How would a sub know to go to Ruppert house and why would Ruppert let him cut the siding and just demo a deck and leave it? Ruppert testified that he told the workers to stop work because it was so messed up. You have to decide whom to believe, but that is not

the issue because you can see from the evidence: an extension was requested and the job was never done—improper siding and no completion of the deck. This is what Loudon promised to do. All the letters etc, are from March of 2020, when the contract was signed in October of 2018.

As far as Fordyce, if you say I am going to reroof and get you the insurance proceeds, then you don't do the roof, but get a permit for \$3500 for a valuation \$120,000, that is misrepresentation to the city. It was abandoned. The city's belief is it's also(became inaudible).

Gollin continued, if we get back to the complaints-- the city believes that the violations presented by Root are, no permits were pulled when required, contractor is responsible for the sub contractors, you have to do the work in a timely fashion or it is considered abandoned. The city proves this. Gollin continued, Root and Ruppert expressed safety concerns about the deck and damage caused by the long exposure. Gollin summed, we have proven abandonment, misrepresentation, and lack of proper permits as to both Mr. Ruppert and Mr. Fordyce. The burden of proof is by the preponderance of evidence, which the city has proved.

Severy Creek, Steve Loudon

Loudon stated Mr. Ruppert had a bad policy; 7-1-2019 he signed an appraisal so we could get him more money---the ball kept rolling so he did not have to come out of pocket. Then he told the guys to keep working. Loudon continued, then the thing about the roof being loaded—that is how the whole industry does it. Loudon- then you remove shingles, put on felt, which is synthetic and last longer. Loudon stated he wanted to add value to his projects and not be negative. Loudon commented, when it comes to Mr Fordyce, his SOL,-Auto Owners- you want to talk about fraudulent they are fraudulent. Ruppert's insurance is one of the worst insurance companies in the state, sometimes you get the money and sometimes you don't. Loudon ended with, it is way too late and thank you to all.

Berry asked, are there further matters to be considered.

No matters were presented.

Berry closed the hearing.

Deliberations

Berry began by stating the board will consider what had been presented and discuss what applies to the Bylaws.

Gotto began by stating that under the Bylaws of the board, criteria for revocation of a contractor's license, there are eight criteria met for revocation. Berry replied, we will go over the criteria and tie them to the evidence.

Berry began and the board discussed-

A. Fraud or Misrepresentation

i. Fraud or false statement in application of license-NO

- ii. Fraud or misrepresentation in conducting business-YES
No discussion or comment

B. Failure to keep records/make necessary payment to the city

- i. Failure to make timely payment of fees, charges or penalties imposed pursuant to Louisville Municipal Code; and/or--NO
- ii. Failure to make timely and full payment of taxes due under title Louisville Municipal Code; and/or--NO
- iii. Failure to keep and maintain permanent records that, in accordance and accepted accounting practices as determined by the City Finance Director are necessary for establishing the licensee's tax liability.—NO

Berry asked for discussion. Geise stated he leaned yes towards iii. going back to permit fees. Berry asked, which permit. Geise stated, both. Berry continued, the Fordyce permit was the main one based on valuation given. Geise stated, on the Ruppert case the valuations were incorrect, exhibit 23.

Cotton-Baez stated to Berry, B.iii pertains to the licensee's tax liability specifically, so I am not sure if that's the right---some of the deliberations might may be applicable to the other prongs.

Geise commented, licensee pays liability tax off that permit based off % of project—taxes are associated with that permit—there are taxes associated with that permit—the higher the valuation the higher the taxes paid. Berry recapped and agreed. Knapp commented on B.i. Berry stated that is fees directly to the city, when Loudon got the permit he paid the fees. Knapp commented, he did not do this and the city would agree but there is more to discuss.

C. Misconduct of the business

- i. The licensee conducts the business in manner contrary to the conditions of the license; and/or YES
- ii. The licensee conducts the business in such a manner as to create a public nuisance as defined by the ordinance or by statute or in a manner as to constitute danger to the public health safety or welfare; and/or --YES
- iii. The conduct of the licensee's business consistently creates excessive need for city services and causes City to expend public funds beyond normal requirements to protect public health, welfare and safety; and/or --YES
- iv. The licensee conducts the business in a manner that would have justified denial of the original application for a license. NO

No discussion or comment

- D. Repeated violations of one or more ordinances in the Louisville Municipal Code at the licensee's place of business by the licensee or patrons of the business. YES

Berry commented, in broad terms that for a contractor the place of business is the jobs site and they are responsible for it.

- E. The business is of such nature, or is operated in such a manner, that it is frequented by individuals who consistently disrupt the normal and reasonable peace and tranquility of the neighborhood, or who by intimidation, threat, harassment or other hostile conduct seriously disrupt any other business in the immediate neighborhood of the licensee, thereby causing such business unreasonable economic loss. NO

No discussion or comment

- F. Conviction of any violation of federal, state or municipal law related to the operation of the licensed business. NO
No discussion or comment

- G. Conducting work in the City with a suspended license, pursuant to Subsection B of section 7 of these Bylaws. NO
Berry commented, as of now Severy Creek has a valid license.

- H. Upon other grounds provided by ordinance or statute.
Cotton-Baez stated this criteria is a reference to the Notice to Show Cause, so this might be an appropriate time to go through those to determine if there have been ordinance violations.

Berry referred the board to the Amended Notice to Hearing and License Suspension in the packet. Berry continued, they refer to Louisville Municipal Code.

- A. Louisville Municipal Code (LMC)5.12.090 "The contractor shall be responsible for all work included in its contract whether of such work is done by the contractor directly or the by the subcontractor. A contractor shall be responsible for all funds or property received by it for prosecution, for completion of a specific contract, or for a specific purpose."

Berry commented, the Severy contract scope was for the deck, siding, gutters, plus electrical, and the fact that a subcontractor was doing this work. That the whole point of being a licensed contractor. There were no objections to this being met.

- B. LMC § 5.12.100 which reads as follows: "All provisions of this Code, other city ordinances, and state and federal laws addressing measures for the

safety of workers and the public shall be observed by contractors and registrants within the city, in addition to any requirements contained within this chapter...It shall be unlawful for a contractor to be careless or negligent in obtaining minimum safety measures, including appliances, apparatus, and equipment, to protect workers and the public.”

Berry referred to the photos in the packet, Exhibits 8, 9, and 10: there is a section of rail that was screwed to the sliding door—but no measures taken on the lower deck. Plus the length of time it was left unsafe. No objections.

- C. LMC § 5.12.120 which reads as follows: “It shall be unlawful for a contractor to fail to obtain inspection services when required, or to fail to obtain a permit when it is required.”

Berry stated in the evidence the permit were expired. Geise added, not all permits were obtained. Berry agreed. No objections.

- D. LMC § 5.12.130 which reads as follows: “It shall be unlawful for any contractor licensed or registered under this chapter to without good cause abandon any contract or undertaking, or to make material departure from the city-approved plans and specifications for any contract or undertaking.”
Berry stated, this was met with the timelines taking so long. Berry added, Severy has abandoned certain roofs. No objections.

- E. LMC § 5.12.150.A which reads as follows: “It shall be unlawful for any contractor licensed or registered under the provisions of this chapter to violate any provision of this chapter; or to refuse to obey any order issued, or neglect to pay any fee assessed, under authority of this chapter.”

Geise stated, Severy paid all fees required.
Cotton-Baez commented this is a catchall provision.
Berry asked, the first section to the semi colon is an entity to itself.
Cotton-Baez replied, yes.

- F. IRC § R105.1 which reads as follows: “Any owner or owner’s authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.”

- C. Berry stated, this item addressed the electrical work that was to be done on Ruppert’s house. The work was on the contract, but not done. No objections.

G. IRC § R109.1 which reads as follows: “For on-site construction, from time to time the *building official*, upon notification from the *permit* holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the *permit* holder or his or her agent wherein the same fails to comply with this code.”

Knapp commented there were many references to this. Berry added, this is saying the permit holder has to make necessary inspections—in Ruppert’s case there was a midroof. Geise added, there was also a final, but on the other there was no inspections or work performed. Berry asked Root, were there failed inspections for Ruppert’s inspections. Root replied no.

Root continued, the IRC items concern are work being done without a permit. If there is work being done without a permit, there needs to be a permit so we can do inspections. Root added Ruppert needed a permit for his deck and siding.

Cotton-Baez interjected, the more relevant allegation is failure to get a permit. It uses permit holder but you can’t be a permit holder if you don’t have a permit. Berry asked for comments on G, H or I.

Berry stated item G will not apply. No objections.

H. IRC § R109.1.5 which reads as follows: “In addition to inspections in Sections R109.1.1 through R109.1.4, the *building official* shall have the authority to make or require any other inspections to ascertain compliance with this code and other laws enforced by the *building official*.”

Berry stated because you see a reroof and then a deck as well, the CBO has the authority to ask the deck to be permitted.

Cotton-Baez stated, if the CBO has ordered inspections and the licensee fails to comply, then that would be a violation.

Berry asked Root, was the Ruppert project ever red tagged? Root replied, yes, a Stop Work Order, for the deck and siding.

Cotton-Baes suggested referring to the licensee.

Berry asked Loudon if he knew there was a Stop Work Ordered posted.

Loudon replied, he did not.

Berry asked, how is a SWO documented?

Root replied, place on a residence. If it's issued because of going beyond a scope of work the contractor is called and the SWO is placed on site. When we don't know who is doing the work, we just post the project.

Berry stated item H will not apply. No objections.

- I. IRC § R109.3 which reads as follows: "It shall be the duty of the *permit* holder or their agent to notify the *building official* that such work is ready for inspection. It shall be the duty of the person requesting any inspections required by this code to provide access to and means for inspection of such work."

Berry stated the property was made ready for the inspection.

II. Unterwagner Complaint:

- A. LMC § 5.12.130 which reads as follows: "It shall be unlawful for any contractor licensed or registered under this chapter to without good cause abandon any contract or undertaking, or to make material departure from the city-approved plans and specifications for any contract or undertaking."

Berry stated the evidence tonight showed work not being done and leaks is a valid complaint. No objections.

- B. IBC § 105.5 which reads as follows: "Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated."

Berry stated the evidenced presented tonight showed abandonment and the permit was not extended. No objections.

- C. Section 5(A)(ii) of the Board's Bylaws (incorporated through LMC § 15.56.010(C) & (G)) which reads as follows: "Unless otherwise limited by state law, a license may be revoked on any of the following grounds...Fraud or misrepresentation in the course of conducting the business."

Berry stated, the evidence presented tonight with criteria discussed we did find fraud and misrepresentation. No objections.

Berry summarized, from the Ruppert complaint we find evidence for all but G, H, and I and for Fordyce we find evidence in all—A, B, and C.

Berry asked for additional evidence that required deliberation.

None heard.

Berry moved that sufficient evidence had been presented to support the following charges in the show cause order. For the Ruppert complaint, item A, B, C, D, E, and F and for Unterwagner/Fordyce complaint item A, B, and C. Berry continued after reviewing these violations we can compare this to the criteria for revocation which are Fraud or Representation- Aii has been met; items Bi, Bii, and Biii, Failure to Keep Records/Make Necessary Payments to the City, are not met; items Ci, Cii, Ciii, Misconduct of the business, have all been met; item D, Repeated Violations of One or More Ordinances in the LMC at the licensee's place of business (job site) by the licensee or patrons of the business, was met. There is no evidence for item E, F, and G. Item H, other LMC that were presented with the complaint. Berry reiterated there is sufficient evidence for one item in category A, three in B, one in D and one in H ---- it exceeds the amount for criteria of suspension, Berry moved for the license to be revoked. Geise seconded.

Cotton-Baez interjected, Root recommended a ten year revocation, but there is no second offense of the licensed contractor. Since there were no prior violations, if you agree, then the revocation cannot be for more than five years. Berry replied, I am not agreeing with that interpretation that there were no violations, but the board chose not to suspend. That being said, Berry stated, a five year revocation is appropriate.

Berry amended the motioned, for a five year revocation.

Berry asked for further discussion.

Gotto commented, if we cannot revoke for more than five years OK, but would rather recommend a ten-year revocation, if possible.

Geise questioned the exhibit of the minutes from last year. Geise asked were there violations. Berry stated there were violations and testimony but that is not a prior offense.

The motion was voted. Passed, 4-0.

Berry directed Cotton-Baez to prepare a draft of the final findings and order for consideration to be presented at the next BCBOA meeting.

Cotton-Baez stated the revocation can be effective immediately according to the Bylaws. The written order would be something to benefit the City and licensee.

Berry stated, the findings and order are effective immediately and Severy permits need to be closed out, plus no projects can be abandoned.

Berry asked Loudon if he had questions of the ruling of the board. Loudon replied, no questions.

D. Berry closed the hearing.

Adjourn:

Geise moved and Gotto seconded a motion to adjourn the meeting. Motion passed unanimously by voice vote. The meeting was adjourned at 11:41 PM.

**BEFORE THE BUILDING CODE BOARD OF APPEALS, CITY OF LOUISVILLE,
COUNTY OF BOULDER, STATE OF COLORADO**

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION AND ORDER

IN THE MATTER OF:

Severy Creek Roofing, Inc., Steve Loudon, Licensee
102 S. Tejon St #1100
Colorado Springs, CO 80903

License No. LSVL-001704-2018

I. Introduction.

A. Mr. Steve Loudon and Severy Creek Roofing, Inc., License No. LSVL-001704-2018, hereinafter referred to collectively as “Licensee,” holds a City of Louisville contractor’s license as required pursuant to Chapter 5.12 of the LMC to engage in construction, alteration, remodeling, repairing or equipping of buildings or other structures in Louisville.

B. The City of Louisville Building Department (“Building Department”) received a Complaint and Sworn Affidavit from Mr. John Ruppert, dated February 27, 2020 (“Ruppert Complaint”), alleging that Licensee committed one or more acts prohibited by the City’s building code and requesting that the Building Department make a motion to the Building Code Board of Appeals of the City of Louisville (“Board”) to schedule a hearing to consider an administrative remedy of temporary suspension or permanent revocation of the license.

C. The Chief Building Official of the City of Louisville (“Building Official”) verified the Ruppert Complaint in the form of a Written Statement, after determining that the Complaint alleged sufficient facts and grounds to require Licensee to appear before the Board.

D. On June 26, 2020, at 11:59 a.m., the Building Department served Licensee, by certified mail, with a Notice of Hearing on License Suspension or Revocation (“Notice of Hearing”) ordering Licensee to appear at a hearing on July 23, 2020, to show cause as to why the Licensee’s contractor license should not be suspended or revoked. Included in the mailing was the Written Statement and all of the evidence the Building Department planned to introduce at the hearing.

E. Licensee thus received notice of the hearing on June 26, 2020 at approximately

11:59 a.m.

F. Licensee contacted the Louisville Building Department less than a week before the hearing scheduled for July 23, 2020 seeking a postponement of the hearing, stating that he would be in South Dakota and unavailable to attend the hearing on the scheduled date.

G. After the Licensee stated that he would be represented by an attorney in the matter, the Board's attorney, Nick Cotton-Baez, requested the Licensee's attorney's name and contact information for future communications regarding the matter. The Licensee failed to provide the Licensee's attorney's name and contact information.

H. A quorum of the Board opened the hearing on July 23, 2020, at approximately 7:00 p.m. The Licensee was not present at the hearing.

I. The Building Official testified that the Building Department had received a Complaint and Sworn Affidavit from another complainant, Mr. Tom Unterwagner, earlier that day; i.e., July 23, 2020 ("Unterwagner Complaint"), and that the Building Department would amend the Notice of Hearing and Written Statement to include the violations alleged in the Unterwagner Complaint if the Building Official were able to verify the Complaint in accordance with the Board's bylaws.

J. The City's special prosecutor, Adam Gollin, recommended that the Board continue the hearing to allow the Licensee's attendance, and to allow the Building Department to amend the Notice of Hearing and Written Statement to include the violations alleged in the Unterwagner Complaint.

K. After discussion and deliberation, the Board determined that the continuance should be granted on the condition that the Licensee may not obtain new permits from the Building Department until the continued hearing date, at which it will be determined whether the Licensee has committed violations warranting suspension or revocation of the license.

L. The Board then moved to continue the hearing until August 17, 2020, at 7:00 p.m., with the above-referenced condition, and directed the Board's attorney to prepare a written order regarding the same.

M. Following the granted continuance, the Building Official of the City of Louisville ("Building Official") verified the Unterwagner Complaint in the form of an Amended Written Statement, after determining that the Unterwagner Complaint alleged sufficient facts and grounds to require Licensee to appear before the Board.

N. On August 5, 2020, at 10:00 [a.m./p.m.], the Building Department served Licensee, by certified mail, with an Amended Notice of Hearing on License Suspension or Revocation ("Amended Notice of Hearing") ordering Licensee to appear at a hearing on August 17, 2020, to show cause as to why the Licensee's contractor license should not be suspended or revoked.

Included in the mailing were the Amended Written Statement and all of the evidence the Building Department planned to introduce at the hearing.

O. On August 17, 2020, a quorum of the Board opened the hearing to determine whether the Licensee has committed violations warranting suspension or revocation of the license

P. Present at the hearing were the Licensee (without counsel), the Building Official represented by special prosecutor, Adam Gollin, all current members of the Board (four), and the Board’s attorney, Nick Cotton-Baez.

Q. During the hearing, the Board took testimony and received evidence to determine whether there existed good cause to suspend or revoke Licensee’s contractor license based on the allegations in the Amended Written Statement.

II. Admitted Exhibits Table:

City’s Exhibit 2	Timeline of Events
City’s Exhibit 3	Ruppert Contract
City’s Exhibit 4	Reroof Permit at 641 St. Andrews Lane
City’s Exhibit 5	Reroof Extension Request
City’s Exhibit 7	Independent Inspection Report (641 St. Andrews Lane)
City’s Exhibits 8A and 8B	Photos of Reroof (641 St. Andrews Lane)
City’s Exhibits 9A–C	Photos of Siding (641 St. Andrews Lane)
City’s Exhibits 10A–10G	Photos of Deck (641 St. Andrews Lane)
City’s Exhibit 12	Letter from Craig Clark
City’s Exhibit 13	Fordyce Contract
City’s Exhibit 14	Assignment of Right to Collect Insurance Proceeds
City’s Exhibit 15	Reroof Permit Fordyce Auto Center
City’s Exhibit 16	NexGen Reroof Cost Estimate
City’s Exhibit 18	Email to Gordon Fordyce from Yvonne Sell
City’s Exhibit 19	Email from Craig Clark to Yvonne Sell
City’s Exhibit 20	Final Invoice from Licensee to Fordyce
City’s Exhibit 21	Final Accounting from Licensee to Fordyce
City’s Exhibit 22	Settlement Agreement and Release of all Claims
City’s Exhibit 24	Letter from Ruppert to Licensee (1320 Simms St., Lakewood)
City’s Exhibit 25	Letter from Ruppert to Licensee (357 S. McCaslin St., Louisville)
Licensee’s Exhibit 26	Email from Licensee to Ruppert

III. Factual Background and Findings.

A. 641 St. Andrews Lane:

1. Mr. Ruppert has resided at 641 St. Andrews Lane in Louisville, Colorado for eighteen years. Ruppert Testimony.
2. After a damaging hail storm occurring in 2018, Mr. Ruppert submitted an insurance claim for hail damage to his roof on June 18, 2018. Ruppert Testimony; Exhibit 3.
3. Thereafter, Mr. Ruppert contacted Licensee to review the insurance claim and the items inspected by Mr. Ruppert’s insurer. Ruppert testimony.
4. On October 8, 2018, Mr. Ruppert executed a contract with Licensee and paid Licensee the first insurance check of \$8,986.86 to perform the work set forth in the contract scope of work. Exhibit 3; Ruppert Testimony.
5. Pursuant to the contract scope of work, Licensee was to perform the following work on Mr. Ruppert’s residence (the “project”):

SCOPE OF WORK:

Roofs replacement:

- Roof- Remove and Replace architectural shingles. Color.. WATER WOOD
- Gutter Color; STEEL - SAME COLOR
- Paint color; _____
- Restoration of property, Insurance scope of damage plus supplements.
- Includes -supervisor at all time and direct communication.



SPECIFIC EXCLUSIONS:

1. Concealed Conditions or structural defects not covered by insurance.
2. Upgrades to code unless specifically stated in scope of work.
3. Permits plan review fees, use tax or any other tax/fee for sales except for sales tax paid by Contractor for materials specified for this project.

4. Repair of any and all pre-existing damage to surrounding areas to windows, screens, building exterior, etc.
5. Any and all repairs not specified or listed above. All additional work not listed within the scope of work will be billed on a time and materials basis at \$75 per man-hour plus materials + O & P.

Cost Detail: ROOF - MINOR REPAIR / ZERO out of pocket!
GLASS 4
DECK
SCREENS
ROOF SIDE SHEATHING
2 SIDES REPAIRED
EMERGENCY TARP \$1400
ELECTRICAL
WIRED LANDSCAPE LIGHTS

Exhibit 3; Ruppert Testimony.

6. Licensee had represented to Mr. Ruppert that, as part of the contract, the Licensee would repair all items listed as part of the 65 line items on the insurance claim, and that Mr. Ruppert would have zero “out-of-pocket” cost, which Mr. Ruppert understood meant it would cost Mr. Ruppert nothing for all the repairs listed in the insurance claim. Ruppert Testimony.

7. Licensee obtained a reroof permit from the Building Department on October 31, 2018, for Mr. Ruppert’s home at 641 St Andrews, Louisville, CO 80027. Exhibit 4.

8. Licensee had represented that the reroof work under the contract would take two days to complete: one day to remove the shingles, and one day to add sheathing, obtain an inspection, and add the shingles. Ruppert Testimony.

9. Licensee requested and was granted a permit extension for 180 days for Mr. Ruppert’s reroof permit on April 26, 2019 since the permit was getting ready to expire. Exhibit 5; Ruppert Testimony.

10. As grounds for the permit extension, Licensee stated “homeowner wants to wait until spring/summer.” Exhibit 5. Mr. Ruppert had no knowledge of the request to extend the permit at the time, and that, conversely, he had urged Licensee to complete the work on the roof. Ruppert Testimony.

11. Mr. Ruppert found out about the extension by calling the Building Department because he thought the permit was expired. Ruppert Testimony.

12. After Mr. Ruppert experienced rain coming into the house, he called the Licensee who thereafter showed up at Mr. Ruppert’s residence. Mr. Ruppert asked Licensee to complete the reroof rather than patching the roof, to which request Licensee replied that he did not have time. Ruppert Testimony.

13. Licensee first began work on the project on June 6, 2019, when Licensee began to remove shingles from Mr. Ruppert's roof; it took Licensee several days to remove the shingles. Ruppert Testimony.

14. No further work was completed on the roof was completed on the project until the City ordered midroof inspection; the roof passed midroof inspection on June 19, 2019. Ruppert Testimony; Exhibit 6.

15. Between June and August, while the roof was still exposed to the weather, Mr. Ruppert experienced a second hail storm with only felt paper on his roof. Mr. Ruppert did not know whether there was resulting damage. Ruppert Testimony.

16. Mr. Ruppert called Licensee multiple times to shingle the roof. Ruppert Testimony. After 62 days of only felt paper and no shingles on his roof, Licensee began to shingle the roof on August 11, 2019. Ruppert Testimony. Mr. Ruppert had come to understand that felt paper is only effective for fourteen days. Ruppert Testimony.

17. Final inspection of the roof was made on August 20, 2019, nine months after the contract was executed with Licensee. Ruppert Testimony; Exhibit 7.

18. After finding the completed work to be unacceptable, Mr. Ruppert hired a private roof inspector, Boulder Home Inspector, who generated an independent report, dated January 7, 2020. The report evaluated the entirety of work performed on Ruppert's residence. Ruppert Testimony; Exhibit 7.

19. The report states "observation included damages and safety hazard." Exhibit 7. Mr. Ruppert understood this to mean the roof decking was damaged and could not support the shingles due to the shingles being loaded on to the roof in one area instead of being spread around. Ruppert Testimony. Licensee refutes Mr. Ruppert's assertion, stating that loading shingles on one area of a roof is the industry standard. Licensee Testimony.

20. The report also states "exposed nails" and contains several photographs. Exhibit 7. Mr. Ruppert explained that a photo on page 13 of the report shows unknown bumps on the surface of the roof. Ruppert Testimony. Mr. Ruppert confirmed that one of the photos in the report shows an exposed area in the corner of the drip edge. Ruppert Testimony.

21. Mr. Ruppert paid Licensee another insurance check for \$5,006.55 in November of 2019, which Licensee had represented would cover the deck and siding work. Ruppert Testimony.

22. On November 14, 2019, Licensee's subcontractor began to remove deck planks, rails and stairs from Mr. Ruppert's home. Ruppert Testimony.

23. Licensee committed that he would start siding the house on November 16, 2019. Ruppert Testimony.

24. On November 21, 2019, Licensee emailed a deck material order for review and Mr. Ruppert's signature. Ruppert Testimony. Mr. Ruppert noticed that the quantities were grossly inaccurate contacted the supplier, and verified that the material was two times more than what was needed. Ruppert Testimony. Mr. Ruppert did not sign the order. Ruppert Testimony.

25. According to Mr. Ruppert, he had agreed with Licensee that the railing and posts for the deck were to be reused and the damaged ones removed. Ruppert Testimony. Ruppert explained that the photographs admitted as Exhibits 10D and 10F demonstrate that the deck was pulled apart and not unscrewed for reuse.

26. From December 29 to 31, 2019, the debris from the deck, including the materials that were to be reused, was removed. Ruppert Testimony; Exhibits 2 and 10E.

27. As of the date of Mr. Ruppert's complaint, the deck was half way dismantled and a safety hazard, and the steps were painted with the message "Do Not Use." Ruppert Testimony; Exhibits 10A and 10B. The deck was unusable from December 2019 to May 2020. Ruppert Testimony.

28. Licensee's hired subcontractor performed work on the siding on December 21, 22, and 23, 2019, in the cold and the dark. Ruppert Testimony; Exhibit 2. The subcontractor cut the siding boards, Exhibit 9A, which Mr. Ruppert explained was done so that the boards could fit in the subcontractor's car, Ruppert Testimony. The subcontractor also used excessive caulking to install the siding. Exhibit 9C. The subcontractor did not use scaffolding to install the siding, and Licensee had sent him to the house with measurements. Ruppert Testimony.

29. Licensee disputes that Licensee directed the subcontractor to perform the work on the deck and siding, and asserts, conversely, that Mr. Ruppert took over as general contractor on the project by hiring the subcontractor independently. Licensee Testimony. Licensee's assertion, however, does not comport with Mr. Ruppert's testimony that Licensee had emailed a deck material order for review and Mr. Ruppert's signature. *See* Ruppert Testimony. The Board finds Mr. Ruppert's testimony on the matter to be credible.

30. Licensee did not obtain a permit for the deck or siding work. Ruppert Testimony; Root Testimony.

31. Even though required under the contract, screens were never provided or installed, the electrical work and awning repairs were never performed, and Licensee never provided a representative to supervise the work of the subcontractor, each as required under the contract between Mr. Ruppert and Licensee. Ruppert Testimony.

B. 1655 Cannon Circle and 1655 Courtesy Road:

1. As of the date of the hearing, Mackey Holdings LLC is the owner of the properties located at 1655 Cannon Circle and 1655 Courtesy Road (the “Properties”). Exhibit 12; Clark Testimony; Fordyce Testimony.

2. Mr. Gordon Fordyce owned the Properties together with The Fordyce Auto Charitable Remainder Trust Dated March 11, 2020, and the Gordon Fordyce Charitable Remainder Trust, until he and the referenced trusts sold the Properties to Mackey Holdings LLC on April 1, 2020. Exhibit 12; Clark Testimony.

3. On August 1, 2018, Mr. Fordyce entered into a contract with Licensee to perform roof replacements that included:

SCOPE OF WORK:

Roofs replacement:

- Roof- Remove and Replace architectural shingles. Color.. TBD
- Gutter Color; TBD
- Paint color; TBD
- Restoration of property, Insurance scope of damage plus supplements.
- Includes -supervisor at all time and direct communication.

Exhibits 12 and 13.

4. As consideration for performing the services in the contract, Licensee was to receive “Ins Proceeds – Less First Checks” and the contract noted that there would be “NO OUT OF POCKET EXPENSE.” Exhibits 12 and 13; Clark Testimony.

5. On December 3, 2018, Mr. Fordyce entered into that certain Assignment of Right to Collect Insurance Proceeds (“Assignment”) with Licensee. Exhibits 12 and 14; Clark Testimony.

6. The consideration for the Assignment was “for the services performed by Severy” and that Licensee would have the right to pursue legal action at “its sole discretion and expense.” Exhibits 12 and 14; Clark Testimony.

7. Throughout the over two years since the damage occurred to Mr. Fordyce’s buildings, Licensee made numerous promises to replace Mr. Fordyce’s roofs and repair the damage to the Properties, including a promise that Mr. Fordyce would receive over \$200,000 in work on his Properties. Exhibit 12; Fordyce Testimony; Clark Testimony.

8. Eventually, Licensee involved Mr. Fordyce in litigation to include having him deposed. Clark Testimony; Fordyce Testimony; Exhibit 12. Throughout the litigation Licensee communicated poorly with Mr. Fordyce and despite Mr. Fordyce’s numerous requests Licensee never did any work whatsoever on the Properties. Fordyce Testimony; Clark Testimony. As of the

date of the hearing, Licensee has not done any work on the Properties. Exhibits 12 and 18; Clark Testimony.

9. Nexgen Construction LLC (“Nexgen”) visited the Properties and prepared an estimate to repair the roof dated July 9, 2018. Exhibit 16. Licensee made it clear to Mr. Fordyce in inducing him to sign the Assignment that all the repairs in the Nexgen estimate would be made with no money out of pocket for Mr. Fordyce. Clark Testimony; Exhibits 12 and 16.

10. During the nearly nine-month sales process preceding the sale of the Properties on April 1, 2020, the Licensee would not return the calls or emails of Mr. Fordyce or Mackey Holdings LLC. Exhibit 12; Clark Testimony.

11. After discovering that Licensee had sued the insurance company in an attempt to recover insurance proceeds, Mr. Fordyce attempted to contact Licensee. From April 1, 2020 through July 14, 2020, Mr. Fordyce and Mackey Holdings LLC made numerous attempts to contact Licensee to find out the status of the case and repairs on the Properties. Exhibit 12; Clark Testimony; Fordyce Testimony.

12. After Licensee refused to release copies of the Assignment to Mr. Fordyce so he could examine the document he signed, Mackey Holdings LLC, by and through its attorney, Craig Clark, specifically revoked the authority to settle the case, receive any insurance payout, and participate in litigation. Exhibits 12 and 19; Clark Testimony.

13. On July 17, 2020, Licensee emailed Mr. Fordyce telling him they had settled the claim. Exhibit 12; Clark Testimony. Included with the email was a “Final Invoice,” Exhibit 20, and “Accounting,” Exhibit 21. Exhibit 12; Clark Testimony.

14. Mr. Fordyce was able to get a copy of the “Settlement,” Exhibit 22, from his insurance agent. Exhibit 12; Clark Testimony.

15. Despite having their authority revoked to settle any claim due to non-performance of their Contract and Assignment, Licensee settled the claim and was paid \$60,000. Exhibit 22; Clark Testimony.

16. Licensee kept \$36,781.97 for “Legal” despite the Assignment provision that legal fees were at the expense of Licensee. Exhibits 12, 14 and 21; Clark Testimony. Additionally, Licensee kept \$12,000 for “O and Profit” despite doing no work on the Properties. Exhibits 12 and 21. Finally, Licensee kept \$9,000 for “Termination property sold” despite having no legal justification for keeping that sum. Exhibits 12 and 21. Mr. Fordyce was paid the remainder of the insurance proceeds totaling \$2,218.03. Exhibits 20 and 21.

17. Licensee did obtain a reroof permit from the City of Louisville on May 22, 2019. Exhibit 17. The permit expired due to lack of activity for six months. Exhibit 17.

18. As part of Licensee’s application for the reroof permit, Licensee entered a project valuation of \$3,500. Exhibit 17. The valuation is used to determine fees and taxes paid for the permit and is calculated by adding the cost of labor plus materials. Exhibit 17; Root Testimony.

19. The valuation Licensee entered on the permit differs greatly from the Nexgen estimate of \$141,857.02 showing the repairs needed to the Properties that Licensee had agreed to perform. Exhibits 13 and 16; Root Testimony. A reroof on a small house would receive a valuation of around \$12,000. Root Testimony.

20. When no work is performed on a property for 180 days, a project is considered abandoned by the Louisville Building Department pursuant to the Louisville Municipal Code. Root Testimony.

IV. Applicable Law.

A. Suspension and Revocation: Pursuant to LMC § 5.12.140(A), “The building code board of appeals shall have the power to temporarily suspend or permanently revoke a license or registration if the holder thereof, after a hearing, is found to have committed one or more acts prohibited in [Chapter 5.12 of the Louisville Municipal Code].”

B. Burden of Proof: Pursuant to Article XI, Section 8(B) of the Bylaws, for temporary suspension or permanent revocation of a license or registration, the City shall have the burden to show, by a preponderance of evidence, that the licensee committed one or more acts prohibited by the building code. The City may be represented by the Building Official or his or her designee.

C. Laws Applicable to 641 St. Andrews Lane:

1. LMC § 5.12.090 which reads as follows: “The contractor shall be responsible for all work included in its contract whether or not such work is done by the contractor directly or by a subcontractor. A contractor shall be responsible for all funds or property received by it for prosecution, for completion of a specific contract, or for a specific purpose.”

2. LMC § 5.12.100 which reads as follows: “All provisions of this Code, other city ordinances, and state and federal laws addressing measures for the safety of workers and the public shall be observed by contractors and registrants within the city, in addition to any requirements contained within this chapter...It shall be unlawful for a contractor to be careless or negligent in obtaining minimum safety measures, including appliances, apparatus, and equipment, to protect workers and the public.”

3. LMC § 5.12.120 which reads as follows: “It shall be unlawful for a contractor to fail to obtain inspection services when required, or to fail to obtain a permit when it is required.”

4. LMC § 5.12.130 which reads as follows: “It shall be unlawful for any contractor licensed or registered under this chapter to without good cause abandon any contract or

undertaking, or to make material departure from the city-approved plans and specifications for any contract or undertaking.”

5. LMC § 5.12.150.A which reads as follows: “It shall be unlawful for any contractor licensed or registered under the provisions of this chapter to violate any provision of this chapter; or to refuse to obey any order issued, or neglect to pay any fee assessed, under authority of this chapter.”

6. IRC § R105.1 which reads as follows: “Any owner or owner’s authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be performed, shall first make application to the building official and obtain the required permit.”

7. IRC § R109.1 which reads as follows: “For on-site construction, from time to time the *building official*, upon notification from the *permit* holder or his agent, shall make or cause to be made any necessary inspections and shall either approve that portion of the construction as completed or shall notify the *permit* holder or his or her agent wherein the same fails to comply with this code.”

8. IRC § R109.1.5 which reads as follows: “In addition to inspections in Sections R109.1.1 through R109.1.4, the *building official* shall have the authority to make or require any other inspections to ascertain compliance with this code and other laws enforced by the *building official*.”

9. IRC § R109.3 which reads as follows: “It shall be the duty of the *permit* holder or their agent to notify the *building official* that such work is ready for inspection. It shall be the duty of the person requesting any inspections required by this code to provide access to and means for inspection of such work.”

D. Laws Applicable to 1655 Cannon Circle and 1655 Courtesy Road:

1. LMC § 5.12.130 which reads as follows: “It shall be unlawful for any contractor licensed or registered under this chapter to without good cause abandon any contract or undertaking, or to make material departure from the city-approved plans and specifications for any contract or undertaking.”

2. IBC § 105.5 which reads as follows: “Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time the work is commenced. The building official is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.”

3. Section 5(A)(ii) of the Board’s Bylaws (incorporated through LMC § 15.56.010(C) & (G)) which reads as follows: “Unless otherwise limited by state law, a license may be revoked on any of the following grounds...Fraud or misrepresentation in the course of conducting the business.”

E. Bylaw Criteria for Revocation: Unless otherwise limited by state law, a license may be revoked on any of the following grounds:

1. Fraud or false statements in the application for the license. Bylaws Art. VIII, Sec. 5(A)(i);

2. Fraud or misrepresentation in the course of conducting the business. Bylaws Art. VIII, Sec. 5(A)(ii);

3. Failure to make timely payment of any fees, charges or penalties imposed pursuant to the Louisville Municipal Code. Bylaws Art. VIII, Sec. 5(B)(i);

4. Failure to make timely and full payment of taxes due under Title III, Louisville Municipal Code. Bylaws Art. VIII, Sec. 5(B)(ii);

5. Failure to keep and maintain permanent records that, in accordance with accepted accounting practices as determined by the City Finance Director, are necessary for establishing the licensee's tax liability. Bylaws Art. VIII, Sec. 5(B)(iii);

6. The licensee conducts the business in a manner contrary to the conditions of the license. Bylaws Art. VIII, Sec. 5(C)(i);

7. The licensee conducts the business in such a manner as to create a public nuisance as defined by ordinance or by statute or in a manner as to constitute a danger to the public health, safety or welfare. Bylaws Art. VIII, Sec. 5(C)(ii);

8. The conduct of the licensee's business consistently creates excessive need for City services and causes the City to expend public funds beyond normal requirements to protect the public health, welfare and safety. Bylaws Art. VIII, Sec. 5(C)(iii);

9. The licensee conducts the business in a manner that would have justified denial of the original application for a license. Bylaws Art. VIII, Sec. 5(C)(iv);

10. Conviction of any violation of federal, state or municipal law related to operation of the licensed business. Bylaws Art. VIII, Sec. 5(D);

11. Conducting work in the City with a suspended license, pursuant to Subsection B. of Section 7 of these Bylaws. Bylaws Art. VIII, Sec. 5(E);

12. Failing to comply with any conditions placed on a license in lieu of suspension, ordered pursuant to Article VIII, Section 8 of these Bylaws. Bylaws Art. VIII, Sec. 5(F);

13. Upon other grounds provided by ordinance or statute. Bylaws Art. VIII, Sec. 5(G).

V. Violations Established at the Hearing.

A. 641 St. Andrews Lane:

1. The Board finds, by a preponderance of the evidence, that Licensee violated LMC § 5.12.090 by failing to complete work listed in the scope of work executed with Mr. Ruppert, (“scope of work”) and specifically by failing to complete the electrical work, work on the deck and siding, and other work required under the contract.

2. The Board finds, by a preponderance of the evidence, and specifically by the photos admitted into evidence as Exhibits 8, 9, and 10, that Licensee violated LMC § 5.12.100 by leaving the lower deck of Mr. Ruppert’s home in an unsafe condition from the time the deck was disassembled to the date of the hearing when the deck work remained unfinished, with no safety measures taken to ensure the disassembled deck was not used.

3. The Board finds, by a preponderance of the evidence, that Licensee violated LMC § 5.12.120 when he failed to obtain a permit for work performed by his subcontractor on Mr. Ruppert’s deck and the siding (which work was never completed).

4. The Board finds, by a preponderance of the evidence, that Licensee violated LMC § 5.12.130 when License allowed the permit obtained for work on Mr. Ruppert’s home to expire without having completed the work in the scope of work.

5. The Board finds, by a preponderance of the evidence, that Licensee violated LMC § 5.12.150(A) by violating four provisions of Chapter 5.12 of the LMC, and specifically LMC §§ 5.12.090, -100, -120, and -130.

6. The Board finds, by a preponderance of the evidence, that Licensee violated IRC § R105 by failing to perform electrical work on Mr. Ruppert’s home that formed part of the scope of work.

B. 1655 Cannon Circle and 1655 Courtesy Road:

1. The Board finds, by a preponderance of the evidence, that Licensee violated LMC § 5.12.130 by failing to even commence contracted work on the commercial buildings located at 1655 Cannon Circle and 1655 Courtesy Road as of the date of the hearing, and by letting the permit obtained for such work to expire.

2. The Board finds, by a preponderance of the evidence, that Licensee violated IBC § 105.5 by failing to even commence contracted work on the commercial buildings located at 1655

Cannon Circle and 1655 Courtesy Road as of the date of the hearing, and by failing to obtain an extension on the permit obtained for such work, thus causing the permit to expire.

3. The Board finds, by a preponderance of the evidence, that Licensee violated Section 5(A)(ii) of the Board's Bylaws (incorporated through LMC § 15.56.010(C) & (G)) by inducing Mr. Fordyce to enter into an Assignment of Insurance Proceeds, and by collecting such insurance proceeds without performing any contracted work on the commercial buildings located at 1655 Cannon Circle and 1655 Courtesy Road as of the date of the hearing.

VI. Grounds for Revocation of the License Established at the Hearing.

A. Bylaws Art. VIII, Sec. 5(A)(ii): Licensee committed fraud or misrepresentation in the course of conducting the business when Licensee induced Mr. Fordyce to enter into an Assignment of Insurance Proceeds, and collected such insurance proceeds without performing any contracted work on the commercial buildings located at 1655 Cannon Circle and 1655 Courtesy Road as of the date of the hearing, at which time the permit for such work was expired.

Licensee further committed fraud or misrepresentation in the course of conducting the business when he submitted a permit application listing a valuation for the commercial buildings located at 1655 Cannon Circle and 1655 Courtesy Road that did not reflect the proper cost of labor and materials needed for the contracted project.

B. Bylaws Art. VIII, Sec. 5(C)(i): Licensee conducted the business in a manner contrary to the conditions of the license by violating several provisions of the Louisville Municipal Code when performing work on the home located at 641 St. Andrews Lane and the commercial buildings located at 1655 Cannon Circle and 1655 Courtesy Road.

C. Bylaws Art. VIII, Sec. 5(C)(ii): Licensee conducted the business in such a manner as to create a public nuisance as defined by ordinance or by statute or in a manner as to constitute a danger to the public health, safety or welfare by leaving the lower deck of Mr. Ruppert's home in an unsafe condition from the time the deck was disassembled to the date of the hearing when the deck work remained unfinished, with no safety measures taken to ensure the disassembled deck was not used.

D. Bylaws Art. VIII, Sec. 5(C)(iii): The conduct of Licensee's business consistently creates excessive need for City services and causes the City to expend public funds beyond normal requirements to protect the public health, welfare and safety.

E. Bylaws Art. VIII, Sec. 5(G): LMC § 5.12.140(A) provides for revocation of a contractor's license for violations of Chapter 5.12 of the Louisville Municipal Code. Licensee has been found to have violated LMC §§ 5.12.090, -100, -120, -130 (two counts), and -150(A).

VII. Order.

A. At the conclusion of the hearing, upon motion made, seconded and duly adopted, the Board found the Licensee violated the laws, adopted code provisions, and ordinances listed in Section V above, and that there are sufficient grounds for revocation of Licensee's contractor's license as listed in Section VI above.

B. Based on the findings of fact and conclusions of law as set forth herein, **IT IS HEREBY ORDERED THAT** the Licensee's contractor license be revoked for a period of five (5) years from the **ADOPTED DATE** set forth below; provided that, the Licensee shall complete all unfinished work of permits issued by the City of Louisville Building Department, whether or not such permits have expired. Licensee shall obtain new permits for such unfinished work.

C. **IT IS HEREBY FURTHER ORDERED THAT**, as of the **ADOPTED DATE**, the Licensee's contractor license is **NULL AND VOID**, along with all privileges associated, except as **ORDERED** by the Board in Section VII.B, above. During the period of revocation, the Licensee not be entitled to obtain the same or any similar license, either in the Licensee's own name, as a principal in Severy Creek Roofing, Inc., or as a principal in another business that applies for a license.

ADOPTED DATE: August 17, 2020
MAILED DATE: _____, 2020

CITY OF LOUISVILLE, COLORADO
BUILDING CODE BOARD OF APPEALS

By: _____
Matt Berry, Chair

ATTEST:

By: _____
Meredyth Muth, City Clerk

CERTIFICATE OF MAILING

I hereby certify that true copies of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL DECISION AND ORDER were placed in the U.S. mail, first class postage prepaid, this ____ day of _____, 2020 addressed to:

Severy Creek Roofing, Inc.
Attn: Mr. Steve Louden, Owner
102 S. Tejon St #1100
Colorado Springs, CO 80903

Severy Creek Roofing, Inc.
Attn: Mr. Steve Louden, Owner, or
Ms. Julie Weaver, Administrator
1320 Simms Street
Lakewood, CO 80401

Registered Agent:
Business Filings Incorporated
7700 E Arapahoe Rd Ste 220, Centennial, CO 80112-1268, United States

Meredyth Muth, City Clerk