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# News Release

## Building Trades Board suspends Faithful Plumbers for 30 days

*Rosales allowed to continue current work, but cannot pull any new permits*

ARKANSAS CITY, Kan. (November 22, 2016) — The Arkansas City Building Trades Advisory Board voted 8-0 on Nov. 17 to suspend Faithful Plumbers' license for 30 days after several complaints.

The suspension applies only to new permits. The company will be allowed to continue current work.

The board members made the decision after a pair of executive sessions totaling 22 minutes. The punishment was based on several findings of code violations, negligence and poor workmanship.

The two complainants present at Thursday's meeting in the commission room at City Hall were Deann Alvarado, owner of 1416 N. Fifth St., and Renee Luder, owner of 212 W. Palmetto Ave.

Neighborhood Services Superintendent Richard Brown, the City of Arkansas City's code enforcement official, also related a recent incident at La Fiesta Mexican Restaurant, 2123 N. Summit St.

Faithful Plumbers owner Faybien Rosales was present to refute the accusations. He previously faced a citizen complaint in February, which the board dismissed after complainants Daren and Kechia Reese did not attend that meeting. But members cited it as part of a pattern that's "becoming habitual."

Testimony also was provided by James Bogner, an employee of Bowman Plumbing Heating & Air, which had been called by Alvarado to fix the problems she alleged Rosales helped to cause. He testified that he found a major natural gas leak in her crawlspace that could have been present for up to a year.

"I believe Mrs. Alvarado must do a lot of praying, because for some reason her house didn't blow up," Bogner said, explaining that the materials used were of good quality, but had been installed improperly. Rosales denied responsibility for some of the work and said all of the materials were provided by general contractor **Fuentes Construction**, which oversaw reconstruction of Alvarado's house.

Bowman Plumbing owner Carl Bowman, who is chairman of the board, was not present Nov. 17.

**For immediate release**

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Newly appointed vice chairman Brian Lawrence asked Alvarado what sort of relief she was seeking.

"If somebody's going to be in this city performing work and it's done like this ... they should have their license revoked," she said. "They should not be able to do work in the city. My life has been on the line."

Board member Dave Billings asked how these problems had fallen through the cracks of the City's inspection system. Brown said his predecessor signed off on the work, but he couldn't speak to why.

"The inspector (was) not doing his job, obviously, because (the gas leak) should have been caught," said board member Chris Rains. "I'm kind of baffled over that," Billings said.

Also at issue were at least nine telephone calls Alvarado said she made to Rosales that were not returned or did not result in his coming to the house to address issues. He said that did not fully reflect the total number of interactions he had with her, but board member Leonard Mumford still objected.

"Why couldn't you make at least one of these ... dates that you were contacted?" Mumford asked Rosales. "We all do business up here. Customer service is what we do. We sell ourselves. Return a phone call. Tell them, 'Can't be there that day.'"

"Am I being judged by the board for 10 calls and 10 no-shows, or for the work that I did?" Rosales asked. Several board members said he was not being judged for it, but it reflected on his workmanship.

"All of us — (Luder), me, all of us are out a lot of money," Alvarado concluded. "We have houses damaged. And if you don't hold that man accountable, and every other contractor accountable, just as every single one of you are — every single one of you seem to be able to make good on it, except him.

"I'll never get the money back. These guys have tried to hold everyone's foot to the fire, but he's not being held accountable. But all I've heard is a lot of excuses and lies from the man. This needs to be fixed. I shouldn't have to put up with this, nor should any other resident of the City of Arkansas City."

### **Renee Luder's complaint**

Luder said Rosales had done plumbing work on her rental home on Palmetto Avenue, in exchange for working off his bill at her business, Woods Lumber. After the renters reported a strong sewer smell, she called 1st Pick Plumbing LLC, of Winfield, to look into the matter. What they found distressed her.

Luder showed pictures of where new PVC pipe was tied into existing cast-iron pipe that had holes in it. She said every other plumber she'd ever worked with would replace all existing cast-iron fixtures, but when she asked Rosales if he was going to, he said the pipe was fine and it would cost her too much.

Luder showed an estimate for \$4,500 that Rosales had written that promised “New Plumbing for Master bathroom and existing bathroom,” and argued that should have included replacing all cast-iron fixtures under the house, especially if pieces were falling out during or shortly after installation.

Board members determined the estimate was very vague, and while Luder probably should have asked for one with far more detail, it still was a reasonable expectation for the cast-iron to be replaced.

“That’s not new plumbing,” Billings observed of the work he saw in Luder’s photos. “I would think that they understood I was putting in new plumbing for both bathrooms. That’s the way I would read that.”

Luder also complained that Rosales had left employees alone at her house unsupervised, in defiance of multiple requests from her not to do so. He admitted that his helpers were not permitted, but denied allowing them to work on plumbing or leaving them alone for more than short periods of time.

However, board member Mark Bartlett, who worked on the house’s electrical system, later said that Luder’s accusation was true, which caused several board members to seek Rosales’ suspension.

“I’m out a lot of money,” she said when Lawrence asked her what she wanted from the board.

The board told her it could not award her compensation, which would require a civil action against Faithful Plumbers, but City staff can confiscate Rosales’ bond in order to reimburse some of her costs.

### **La Fiesta problems**

Before the board recessed to executive session, Brown brought up several recent issues in connection with the recent renovation of La Fiesta Mexican Restaurant.

He said he and Mike Bellis, the City’s combination inspector, were called out in October to inspect plumbing work in the restaurant’s bathrooms. Much of the work was not permitted and had to be stopped by the City until qualified contractors could be hired to finish the remodeling, Bellis testified.

The men’s bathroom was completed prior to Oct. 17 and the women’s restroom was coming up, he said. But the plumbing already was done in the women’s bathroom and tiled over. Bellis said he called Rosales and asked why an inspection had not been requested first, before the work was covered up.

Rosales said he thought that was going to be taken care of, but the owners started pouring the cement anyway, Bellis recalled him saying. Bellis required the owners to break up the cement and tile in order to expose the plumbing, which was inspected Oct. 20. He found the venting was done improperly.

Bellis said he again called Rosales, who promised to fix the problems, and also confirmed to Bellis that he and his helpers had done the plumbing in the women's restroom. Although he explained to Rosales how to correct the issue, Bellis said Rosales called Brown and asked for the same information.

Bellis returned to the restaurant on Oct. 24, only to find the work still had not been corrected appropriately. This was addressed prior to Oct. 25, when Bellis inspected the bathroom for the final time and approved the plumbing. But, he said, Rosales told Brown he had let the contractor do the plumbing.

Rosales told the board that he subcontracted the work out to the contractor, but asked to inspect it before it was covered up. He said they never called him and the first he heard of it was from Bellis.

In addition to contradicting his earlier statement to Bellis, Rosales' admission also proved problematic when Bellis said the person Rosales thought was the contractor actually was a co-owner who wasn't licensed to do the plumbing Rosales had allowed him to do under Faithful Plumbers' license.

Bellis said Rosales admitted he should not have allowed this to happen and apologized to him for it.

"I don't see how you could have figured on subcontracting out the owners to do the plumbing under your license," Billings said. "He wasn't qualified to do it in the first place, so that still comes back on you," said board member Ken Miller, pointing at Rosales. "Nobody was licensed to do the plumbing," Bellis said.

"I didn't know the contractor was part owner," Rosales admitted. "That doesn't matter," Billings replied. "You were signing your license off for unlicensed people to be doing work in a commercial building. That's wrong. If you want to find a fault (with Rosales' work), that is a fault."

"I was wrong," Rosales said.

## **Board deliberations**

After all the testimony was heard, the board recessed into executive session to deliberate the cases.

Three punitive actions were discussed as options — probation, suspension or revocation of license.

Many board members were interested in establishing a probation period, during which any further violations by Faithful Plumbers would result in suspension or revocation, but there is no provision in existing Municipal Code for how to do that. Arkansas City Municipal Code Section 14-195(d) states:

"The building trades board, upon information received or upon request of the code enforcement officer, shall have the power and is directed to suspend for a definite time or to revoke at their discretion any certificate granted pursuant to this article, if after notice and opportunity to be heard, the person

holding such certificate is found guilty by the board of violating the terms and conditions of this article or this Code, provided such aggrieved person may have ten days before having the certificate revoked, to appeal to the board of city commissioners for a review of the facts, conditions and circumstances prompting the board to revoke such license.”

Additionally, the board is directed to enforce Municipal Code Section 14-197, which states:

“It is unlawful for any person, firm or corporation to: (1) Enter into any agreement to subterfuge the licensing, bonding or insurance requirements as set forth in this code; (2) Enter into a contract with another so as to bring himself or itself within the classification of an electrical, mechanical, general, building, residential, limited or plumbing contractor, or to perform work as a contractor without first having been appropriately licensed in accordance with this code ...”

Brown said the board had no say over financial matters, but its purview included overseeing workmanship and dealing with the selling of one’s license.

The board made the following findings to support its determination of the need for a suspension:

- The reconstruction of 1416 N. Fifth St. exhibited signs of poor workmanship on the part of all involved — not just Rosales — but specifically involved the following code violations attributable to Faithful Plumbers: improper cutting of flash guarding on a gas line, leading to the leak; not having an appropriate drain on a tankless water heater; usage of improper type of gas line; and not hanging a line appropriately within a 3-foot crawlspace.
- The plumbing of 212 W. Palmetto Ave. evidenced poor workmanship and rightfully should have included the replacement of all cast-iron pipes visible while the walls were opened up.
- The improperly installed plumbing at the La Fiesta was a direct result of Rosales selling his master plumbing license to an unlicensed person to do the work, in violation of Municipal Code.
- Based on Bartlett’s testimony, the board determined Rosales likely had left his employees to do unsupervised work for a period of time at 212 W. Palmetto Ave., against Luder’s wishes.

Based on these findings, the board voted 8-0 on a roll call vote to find Rosales guilty of violating Municipal Code Section 14-197 and suspend his license from any new permits for a period of 30 days.

### **In other business Nov. 17, the board:**

- Unanimously approved the minutes of the March 28 special meeting.

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- Voted unanimously to reappoint Bowman as chair and appoint Lawrence as vice chair.
- Discussed implementing tree-trimming registration and voted 8-0 to instruct Brown to bring a proposal to the next meeting. This would be less stringent than licensing because it does not require testing, but insurance and bonding still could be required to protect property owners.
- Voted unanimously to meet at least every other month in 2017, starting in January. The meetings will continue to be held at 5:15 p.m. on the third Thursday of odd-numbered months.
- Heard Billings object to a prior proposal to eliminate bond requirements in lieu of insurance because some insurance companies will not include a bond unless a contractor asks for it.
- Heard from Public Information Officer Andrew Lawson that the new 2015 International Code Cycle and 2014 National Electrical Code will be considered by the City Commission at its two meetings in December. The new codes likely will be in effect by Jan. 1, 2017, Lawson said.
- Voted unanimously to adjourn the two-hour meeting at 7:15 p.m.

### **About the Building Trades Advisory Board**

The Building Trades Board was established for the purpose of establishing criteria for licensing and regulating persons, firms or corporations desiring to engage in any of the defined building trades.

It also serves as a review board to which decisions of the code enforcement official may be appealed by citizens. If the board rules against them, they can appeal its decisions in district court.

The board has specific membership requirements to ensure representative cross-sections of trades:

- Two members must be electricians, and one of them must be a master electrician. The current electrical members are Bartlett, of Bartlett Electric, and Brian Mayfield, of Mayfield Electric.
- Two members must be plumbers, and one of them must be a master plumber. The current plumbing representatives are Billings, of Billings Plumbing, and Bowman, of Bowman's Plumbing, Heating & Air, who has served as chairman of the board for several years.
- Two members must be general contractors doing business in Arkansas City. Those members are Mumford, of Mumford Contracting, and Randy Smith, of Randy Smith Construction.

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- Two members must represent heating, air-conditioning or refrigeration contractors. The current HVAC members are Lawrence, of Ark City Service, and Miller, of Tickel Refrigeration.
- One member must be a citizen or layman familiar with the requirements of the Arkansas City building code. This position currently is held by Rains, of Ace Construction.

All nine terms are for two years each. The Arkansas City fire-EMS chief and code enforcement official both serve as ex officio members of the board without voting privileges.