

**BPB Appeal No. A1316**

**IN THE MATTER OF**

the Building Act 2004 (the Act)

**AND**

**IN THE MATTER OF**

an Appeal to the Building Practitioners Board under Section 330(1)(a) by **[the Appellant]** against a decision of the Registrar

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**DECISION OF THE BUILDING PRACTITIONERS BOARD**

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Date and location of hearing:	10 April 2019, in Christchurch
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Appeal heard by:	Chris Preston (Presiding) Mel Orange, Legal Member Robin Dunlop, Retired Professional Engineer Bob Monteith, LBP Carpentry and Site AOP 2
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Appearances by:	[the Appellant]
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## 1.0 Introduction

- 1.1 [The Appellant] of Christchurch applied for a Carpentry License and a Site License (Area of Practice (AOP) 2) under s287 of the Act and the Licensed Building Practitioners Rules 2007<sup>1</sup> (“the Rules”).
- 1.2 The Registrar of Licensed Building Practitioners (“the Registrar”) declined the Appellant’s application and notified his decision by letter dated 27 February 2019. Notification of the decision included a notice of the right to appeal the decision to the Building Practitioners Board (“the Board”).
- 1.3 On 22 March 2019 the Appellant lodged an appeal to the Board against the Registrar’s decision.

## 2.0 Licensing scheme

- 2.1 To become licensed, a person must satisfy the Registrar that they can meet all the applicable minimum standards for licensing.<sup>2</sup> The minimum standards are set out as “Competencies” in Schedule 1 of the Rules. In determining whether a person meets a Competency, regard must be given to the extent to which the person meets the Performance Indicators set out for that competency in Schedule 1<sup>3</sup>.
- 2.2 Where the Registrar declines an application the applicant has a right of appeal to the Board.<sup>4</sup>

## 3.0 Scope of the appeal

- 3.1 An appeal proceeds by way of rehearing<sup>5</sup>. However, the Board will not review matters outside the scope of the appeal<sup>6</sup>.
- 3.2 The appeal seeks the following relief:

*The grant of a Carpentry and a Site (AOP 2) License*

- 3.3 In light of s335(4) and the Registrar’s decision letter, the Board interprets its inquiry as being restricted to consideration of Competency 4 for a Carpentry License and Competencies 2 and 5 for a Site (AOP 2) License.

**Carpentry License Competency:**  
*Competency 4: Carry out Carpentry work.*

**Site (AOP 2) License Competencies:**  
*Competency 2: Apply technical knowledge of construction methods and Practice.*  
*Competency 5: Provide technical supervision.*

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<sup>1</sup>Incorporating amendments for 2008, 2009 and 2010.

<sup>2</sup>S286 of the Act and rule 4 of the Rules.

<sup>3</sup>Clause 4(2) of the Rules

<sup>4</sup>S330(1)(a) of the Act.

<sup>5</sup>S335(2) of the Act

<sup>6</sup>S335(4) of the Act

#### 4.0 Registrar's report

- 4.1 The Registrar's decision to grant or decline a licence is informed by an assessor's recommendation<sup>7</sup>. The Board's Appeals Procedures require the Registrar to provide a report which includes all evidence used to reach the decision, including the assessors' recommendation.
- 4.2 The Registrar's report notes, at paragraph 20 and 21, the following from the Assessor's recommendations:

"In making the recommendation that [the Appellant's] application for a Carpentry licence should be declined, the assessor noted the following:

- Neither referee could support the applicant for a Carpentry licence as he does not have practical building experience
- [The Appellant] claimed to the Assessor that he had built 2 town houses himself. The referees could not verify this, and doubted his ability to complete such work.

In making the recommendation that [the Appellant's] application for an Site (AOP 2) licence should be declined, the assessor noted the following:

- [The Appellant's] Referees both state that he is mainly office bound doing scheduling, pricing, quotes etc. He is on site at times in a supervisory role, however he has no practical building experience. Competency 2 & 5 not covered.
- [The Appellant] claimed to the Assessor that he had built 2 town houses himself. This could not be verified by the referees."

- 4.3 The Registrar concluded:

*"The basis for the Registrar's decision to decline the application*

- I have been delegated under S312 (1) to review the assessment report and make a decision about [the Appellant's] application.
- I reviewed the assessor's report and [the Appellant's] application.
- I based my decision on the assessor's recommendation, for the reasons set out above. I did not consider that there was sufficient reason or concern to overrule the assessor's recommendation."

#### 5.0 Appellant's Submissions

- 5.1 The Appellant included a large number of site investigation reports, that he had drafted, and photos with his appeal.
- 5.2 The Board asked questions of the Appellant to test his technical and practical knowledge and experience.

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<sup>7</sup> clause 10 and 11 of the Rules

## 6.0 Board's consideration

- 6.1 The Board noted that the Registrar was satisfied that the Appellant met the following Competencies for the Carpentry and Site 2 licences:

### Carpentry Licence Competencies:

- Competency 1: Demonstrate knowledge of the regulatory environment of the building construction industry.*
- Competency 2: Demonstrate knowledge of current building and trade practice.*
- Competency 3: Carry out planning and scheduling for carpentry work.*

### Site License Competencies:

- Competency 1: Demonstrate knowledge of the regulatory environment of the building construction industry.*
- Competency 3: Organise and manage building projects.*
- Competency 4: Manage personnel.*

- 6.2 The Board then considered Competency 4 for a Carpentry License and Competencies 2 and 5 for a Site (AOP 2) Licence. These Competencies can be demonstrated by meeting some or all of the performance indicators as listed in Schedule 1 of the Rules.
- 6.3 The LBP scheme is competency based, and it is up to the practitioner to demonstrate their competency.

### *Board's findings*

- 6.4 The Board concluded that the Appellant **provided** evidence to demonstrate that he met sufficient Performance Indicators to satisfy the requirements of Competencies 2 and 5 for a Site (AOP 1) Licence.
- 6.5 The Board concluded that the Appellant **failed to provide** evidence to demonstrate that he met sufficient Performance Indicators to satisfy the requirements of Competency 4 for a Carpentry Licence.
- 6.6 The Board also concluded that the Appellant **failed to provide** evidence to demonstrate that he met sufficient Performance Indicators to satisfy the requirements of Competencies 2 and 5 for a Site (AOP 2) Licence.
- 6.7 The Board was impressed with the level of the Appellants knowledge of building practices and methodologies but noted that he had limited practical experience carrying out building work. With regard to Site (AOP 2) the Board noted that the Appellant did not have qualifying experience with regard to category 3 buildings.
- 6.8 The Board encourages the Appellant to obtain further practical experience in both carpentry and in the oversight and coordination of category 2 and 3 buildings before reapplying to be licensed in Carpentry and Site (AOP 2).

## 7.0 Board's Decision

7.1 Pursuant to s335(3)(a) of the Act, the Board has resolved to confirm the Registrar's decision not to licence Mr [the Appellant] with a Carpentry Licence.

7.2 Pursuant to s335(3)(a) of the Act, the Board has resolved to confirm the Registrar's decision not to licence Mr [the Appellant] with a Site (AOP 2) Licence.

7.3 Pursuant to s335(3)(b) of the Act, the Board has resolved to grant Mr [the Appellant] a Site (AOP 1) Licence. The Board directs the Registrar to issue a Site (AOP 1) Licence to Mr [the Appellant] as soon as practicable.

## 8.0 Publication of Name

8.1 Pursuant to s339 of the Act, the Board may prohibit the publication of the Appellant's name and/or particulars.

8.2 The Board, having considered the circumstances of this appeal, directs that the name and the particulars of the Appellant **are not** to be made public.

Signed and dated this 16th day of April 2019



Chris Preston  
(Presiding Member)

## Advice Note (not part of Board's Decision)

Extracts from the Act:

### **“330 Right of Appeal**

(1) A person may appeal to the Board against any decision of the Registrar to—  
(a) decline to licence the person as a building practitioner;  
...

(2) A person may appeal to a District Court against any decision of the Board—  
(a) made by it on an appeal brought under subsection (1);  
...

### **331 Time in which appeal must be brought**

An appeal must be lodged—

(a) within 20 working days after notice of the decision or action is communicated to the appellant; or

- (b) *within any further time that the appeal authority allows on application made before or after the period expires.”*