

**BPB Appeal No. A1326**

**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 [REDACTED] 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:	4 February 2020, in Christchurch
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Appeal heard by:	Chris Preston (Presiding) Mel Orange, Legal Member David Fabish, LBP, Carpentry and Site AOP 2 Faye Pearson-Green, LBP Design AOP 2
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Appearances by:	[REDACTED]
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## 1.0 Introduction

- 1.1 [REDACTED] (“the Appellant”) of Christchurch applied for a Bricklaying and Blocklaying (Veneer Area of Practice (“AOP”)) Licence 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 19 September 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 14 October 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 Bricklaying and Blocklaying (Veneer AOP) 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 Competencies 1-5 for a Bricklaying and Blocklaying (Veneer AOP) License.

### **Bricklaying and Blocklaying (Veneer AOP) License Competencies:**

- Competency 1: Demonstrate knowledge of the regulatory environment of the building construction industry.
- Competency 2: Demonstrate knowledge of current bricklaying and blocklaying trade practice.
- Competency 3: Carry out planning for masonry work.
- Competency 4: Work Safely

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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

- Competency 5: Carry out masonry work.

#### **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 **18** the following from the Assessor's recommendations:

- The two jobs [the Appellant] submitted were unsatisfactory and did not meet the criteria required to show experience in bricklaying. One project was a low brick garden wall, the other was a concrete masonry foundation.
- During a phone conversation with the applicant, he stated he had no house veneer jobs he could use in his application. [The Appellant] added that he had twenty five years' experience in the United Kingdom but nothing specific during these years that could be used as certified experience to obtain a license.

4.3 The Registrar concluded:

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 references and a number of photographs detailing his work from the United Kingdom with his appeal.

5.2 The Board asked questions of the Appellant covering the Competencies.

#### **6.0 Board's consideration**

6.1 The Board noted that the Registrar was not satisfied that the Appellant met any of the Competencies for the Bricklaying and Blocklaying (Veneer AOP) License.

6.2 The Board then considered Competencies 1 - 5 for a Bricklaying and Blocklaying (Veneer AOP) License. These Competencies can be demonstrated by meeting some or all of the performance indicators as listed in Schedule 1 of the Rules.

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<sup>7</sup> clause 10 and 11 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 1 - 5 for a Bricklaying and Blocklaying (Veneer AOP) License.
- 6.5 The Board noted that the Appellant had been granted a Carpentry Licence at the same time as his application for a Bricklaying and Blocklaying Licence had been declined. The Board considered that there was a high degree of commonality between many of the Competencies for a Carpentry Licence and those for a Bricklaying and Blocklaying License. The Board took this into consideration in its deliberations.
- 6.6 The Board emphasized that the Appellant should ensure he is fully aware of the various regulatory and standards documents that are available to assist him in complying with the Building Code.
- 6.7 The Appellant should note that under section 314B of the Building Act he is required to work within his personal competence. He is cautioned not to take on building work that may not be within his competence without first attaining the required knowledge and experience.

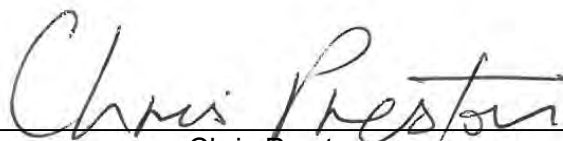
**7.0 Board's Decision**

- 7.1 Pursuant to s335(3) of the Act, the Board has resolved to reverse the Registrar's decision and licence [REDACTED] with a Bricklaying and Blocklaying (Veneer AOP) License.
- 7.2 The Board directs the Registrar to issue a Bricklaying and Blocklaying (Veneer AOP) License to [REDACTED] 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 7th day of February 2020



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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.”*