

**STATE OF OREGON
DEPARTMENT OF CONSUMER AND BUSINESS SERVICES
INSURANCE DIVISION**

In the Matter of **MorThan Homes, Inc.**) **FINAL ORDER**
) Case No. INS 03-03-009

The Director of the Oregon Department of Consumer and Business Services (director), commenced this administrative proceeding, pursuant to Oregon Revised Statutes (ORS) 731.318(3)(d) and 731.505(4), and Oregon Administrative Rules (OAR) 836-043-0101 *et seq.*, to review a workers' compensation insurance final premium audit billing (billing) issued by SAIF Corporation (insurer) to MorThan Homes, Inc. (employer).

History of the Proceeding

On March 3, 2003, the employer received from the insurer a billing dated February 26, 2003 for the audit period from October 15, 2001 to November 1, 2002.

On March 5, 2003, the director received from the employer a written request for a hearing. The director received the request within the 60-day time period required by ORS 731.318(3)(d) and 731.505(4), and Oregon Administrative Rules (OAR) 836-043-0170(1).

On March 6, 2003, the director mailed to the employer a petition form, pursuant to OAR 836-043-0170(2), for the employer to complete and return so that the director received it by May 5, 2003.

On March 28, 2003, the director received from the employer the petition. The director received the petition within the 60-day time period required by OAR 836-043-0170(9).

On April 1, 2003, the director referred the request to the Office of Administrative Hearings (OAH).

On April 15, 2003, OAH issued a notice scheduling a hearing to be held on July 22, 2003.

On April 24, 2003, OAH issued a notice rescheduling the hearing to be held on August 13, 2003.

On August 6, 2003, OAH issued a notice rescheduling the hearing to be held on December 2, 2003.

On December 2, 2003, OAH held a hearing. The hearing was conducted by Ella D. Johnson, an administrative law judge of OAH. The employer was not present or represented. The insurer was represented by David B. Hatton, an Assistant Attorney General. The insurer called Teresa Smith, a audit program analyst employed by the insurer, as its only witness. The insurer offered Exhibits A1 to A17 as documentary evidence. All of the insurer's exhibits were admitted into the record.

On December 10, 2003, OAH issued a proposed order pursuant to ORS 183.460 and OAR 137-003-0645. The proposed order essentially recommended that the director affirm the billing because the employer defaulted and the insurer presented a prima facie case. The proposed order informed the employer and insurer that they could file with the director written exceptions to the proposed order within 30 days after the proposed order was served on the employer and insurer, pursuant to OAR 137-003-0650. On the same date, OAH mailed a copy of the proposed order to the employer and insurer.

The director did not receive any exceptions from the employer or the insurer.

The director reviewed the record in this proceeding and found that it proves a prima facie case.

Therefore, the director now makes the following final decision in this proceeding pursuant to ORS 731.248 and 183.470, and OAR 137-003-0655 and 137-003-0665.

Findings of Fact, Conclusions of Law and Opinion

The director adopts, and incorporates herein by this reference, the proposed order as the director's final decision in this proceeding /, except as follows.

Order

The billing is affirmed.

Notice of Right to Judicial Review

Each party may have the right to appeal this final order to the Oregon Court of Appeals pursuant to ORS 183.480 and 183.482. If a party wants to appeal the order, the party must file a petition for judicial review with the Court of Appeals within 60 days from the date this order was served on the party. If the order was personally delivered to a party, then the date of service is the day the party received the order. If the order was mailed to a party, then the date of service is the day the order was mailed to the party, not the day the party received the order. If a party does not file a petition within the 60-day time period, then the party will lose the right to appeal this order. If a party appeals the order, the party should also send a copy of the petition to the Insurance Division by delivering it to Labor and Industries Building, 350 Winter Street NE, Room 440 (4th Floor), Salem, Oregon; or mailing it to PO Box 14480, Salem, OR 97309-0405, or faxing it to 503-378-4351; or e-mailing it to mitchel.d.curzon@state.or.us.

Dated February 26, 2004

/s/ Cory Streisinger
Cory Streisinger
Director
Department of Consumer and Business Services

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