

**South Carolina Residential Builders Commission
Board Meeting Minutes, Wednesday, May 9, 2007
Columbia, South Carolina**

MEMBERS PRESENT

**John Curl
Al Bailey
Frank Clark
Gale Crawford
Caleb Davis
Timothy Roberts
Derrick Williams**

OTHERS PRESENT

**Rick Wilson, Deputy General Counsel
Jamie Saxon, Hearing Advisor
Christa Bell, Staff Attorney
Charles McAlister, Administrator
Charles Ido, Chief of Investigations, OIE
Patrice Deas, Administrative Assistant
Lisa Huffman, Court Reporter**

MEMBERS ABSENT

Public Notice of this meeting was properly posted at the Board office and provided to any requesting persons, organizations, or news media in compliance with Section 30-4-80 of the S. C. Freedom of Information Act. A quorum was present at all times.

Call to Order

Mr. John Curl, Chairman, called the meeting to order.

Approval of Minutes

Motion: Mr. Clark moved to approve the minutes of April 11, 2007 meeting. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Approve Recommendations of the Investigative Review Committee

Motion: Mr. Bailey moved to approve the recommendations of the Investigative Review Committee for April 3, 2007. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of the Administrative Hearing Officer, Beau Tiller, for Bond Claims

Motion: Mr. Williams moved to approve the recommendations of the Administrative Hearing Officer, Beau Tiller, for bond claims on behalf of Rick Wilhelmi, William K. Anderson, and Archer M. Hitt. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion

carried.

Approval of Recommendation of Administrator, Charles McAlister, for Bond Claims

Motion: Mr. Williams moved to approve the recommendations of the Administrator, Charles McAlister, for bond claims on behalf of Rick Wilhelmi, Williams K. Anderson, and Archer M. Hitt. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Request for Reinstatement of License

James D. Black – Mr. McAlister informed the Commission that Mr. Black was issued a Do Not Renew Order against his residential builder's license on March 14, 2007. Mr. Black was licensed at the time the work was performed and allowed his license to lapse; therefore, a Do Not Renew Order was issued against his license residential builder's license.

Mr. Black informed the Commission that he was having some personal problems and was unable to finish the work, and allowed his license to expire.

Motion: Ms. Crawford moved to reinstated Mr. Black's residential builder's license. Mr. Clark seconded the motion, and with all members present voting favorably, the motion carried.

Application Review

Thomas Alston – Mr. McAlister informed the Commission that Mr. Alston is currently under probation for receiving stolen property, and was committed to the State Department of Corrections for a term of three years, which was suspended with probation for one year.

Mr. Alston informed the Commission that he was not aware that the floor sander was stolen until the pawn show notified him of the stolen property, and he is currently serving probation.

Motion: Mr. Bailey moved to renew Mr. Alston's residential specialty contractor's registration on a probationary status for one year; provided he submits a surety bond in the amount of \$10,000.00. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Ms. Crawford opposed the motion.

Susan E. Berberogula - Mr. McAlister informed the Commission that Ms. Berberogula was issued a residential electrical license on December 28, 2006. Ms. Berberogula was allowed to stand examination based on a letter, dated May 16, 2006, signed by a C. Douglas Moore. On, January 28, 2007, Mr. Moore informed staff that he did not sign the experience letter for Ms. Berberogula. Mr.

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McAlister notified Ms. Berberogula, on April 6, 2007, that her residential electrical license is suspended pending a hearing before the full Commission.

Ms. Berberogula stated that Mr. Moore and her husband were 50/50 partners in DC Electric of SC LLC. Ms. Berberogula informed the Commission that she had permission from Mr. Moore to sign documents for DC Electric of SC LLC from August 2005 through December 2006. Ms. Berberogula stated that her duties varied from writing letters to handling of all OSHA paperwork to being in the field tying in receptacles, putting together ceiling fans and helping to label and mark panels. Ms. Berberogula stated that she called Mr. Moore and requested permission to sign his name to a letter verifying her work history and describing her duties. Mr. Berberogula stated that she signed Mr. Moore's name to the letter.

Mr. Moore stated that he never gave Ms. Berberogula permission to sign any paperwork for DC Electric except for a Nextel bill changing the address. Mr. Moore further stated that Ms. Berberogula was an office manager and that he had never seen her with a tool belt on doing any electrical work.

Motion: Ms. Crawford moved to lift the suspension and reinstate Ms. Berberogula residential electrical license. Mr. Clark seconded the motion, and with all members voting favorably, the motion carried.

Mr. Bailey and Mr. Davis opposed the motion.

New Business

None

Unfinished Business

None

Adjournment

There being no further business, the business meeting for May 9, 2007 concluded at 11.20 a.m.

The next scheduled board meeting will be held on June 13, 2007, at 10:00 a.m. Synergy Business Park, Kingstree Building, Room 111. (Note: Subject to Change)

Bond Hearing Appeals

Ms. Bell is requesting additional time to prepare for these hearings. There may be some argument as to the Commission authority to proceed on bond claims.

Mr. Hastie informed the Commission that Mr. Carey, Mr. Alls and Mr. Kuykendall are principles under bonds with the Massachusetts Bay Insurance Company. In the matter of Mr. Alls and Mr. Carey there was a hearing before an Administrative Hearing Officer and it was agreed that they would be heard by the full Commission, therefore, there is no recommendation at this point from an Administrative Hearing Officer. Mr. Hastie informed the Commission that the Carey matter will not be appealed and staff can proceed with the bond claim process. In the matter of Lavern Alls there is noting to appeal until it is presented before an Administrative Hearing Officer and an Order issued. In the matter Gregory Kuykendall this is held in abeyance until the matter of Bobby Williams is heard by the Administrative Law Judge. In the Kuykendall matter there were two bonds covering the same matter and the Massachusetts Bay Insurance Company's bond was cancelled prior to the alleged infractions of code violations.

Motion: Ms. Crawford moved to accept the recommendation of Charles McAlister, Administrator, for the bond claim on behalf of James Carey, Jr. in the amount of \$ 4,700.00. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Mr. Curl informed staff to send the Lavern Alls matter back to the Administrative Hearing Officer for an official Order to be presented to the full Commission. The Gregory Kuykendall matter will be held in abeyance until the outcome of the Bobby Williams case before the Administrative Law Judge.

Mr. Curl informed the Commission that Rick Wilson, Deputy General Counsel, will be retiring on May 31, 2007. Mr. Curl expressed his gratitude and appreciation on all the hard work Mr. Wilson has provided to the Commission. Mr. Wilson stated that he has been working with this Commission since 1995, and he appreciated the willingness of the Commission to accept change.

Hearings

Mr. Williams called the hearings to order. Mr. Jamie Saxon was the hearing advisor.

Approve Recommendations of Administrative Hearing Officers, John Curl and Frank Clark for Administrative Hearing

Tommy Wilson – This matter was heard before John Curl, Administrative Hearing Officer, on January 16, 2006. Mr. Curl's recommendation was as follows:

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1. The Respondent's license shall be suspended for a period of thirty (30) days, and the Respondent shall be assessed a fine in the amount of One Thousand and No/100 (\$1000.00) Dollars. Said suspension may be stayed and the fine may be reduced to \$500.00, provided that within thirty (30) DAYS OF THE DATE THE Commission issues a final order, the Respondent shall have remedied the code and/or construction standards violations identified in the inspection report, this shall include repairing the cracks in the stone veneer of the exterior fireplace chase.
2. If the Respondent does not remedy the deficiencies within the allowed 30 day period, the Respondent's license shall be immediately suspended for a period of 30 days, and the Respondent shall be required to pay the \$1,000.00 fine prior to the license being reinstated, and the Harts shall be authorized to call upon the Respondent's bond to cover the costs of repairing the deficiencies.
3. The Respondent will need access to the property to make the repairs and if he is denied access, upon providing proof that the homeowners have refused to allow him onto the property for purposes of making the repairs, the Respondent will be entitled to a \$500.00 reduction in the fine, however, the 30 day suspension will be stayed.
4. It will be the responsibility of the Respondent to initiate contact with the Harts to arrange accessing the home to make the repairs. The Respondent is also responsible for notifying the Commission when the repairs are completed and ready for a follow-up inspection.
5. This order is to take effect immediately upon service of the order upon the Respondent or Respondent's counsel.

Mr. Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Mr. Bailey moved to approve the Administrative Hearing Officer's Recommendation for Tommy Wilson. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Peter Spano – This matter was heard before John Curl, Administrative Hearing Officer, on January 30, 2007. Mr. Curl's recommendation was as follows:

1. The Respondent pay a fine of Ten Thousand (\$10,000.00) Dollars. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine shall prevent the Respondent from being re-registered or licensed.
2. The Respondent's registration as a residential specialty contractor in all categories be, and it hereby is, revoked. The Respondent is directed to return his pocket card to the Commission's offices within seven (7) days of the service of

- this order upon him.
3. If the Respondent reapplies in the future for licensure, he must appear before the Commission, and answer to the Commission for his incompetence and misconduct in this matter. At that time, the Respondent shall appear before the Commission and present, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondent's fitness and qualifications to be registered as a residential specialty contractor in this state. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms and conditions upon the Respondent's registration as it may deem appropriate.
 4. A Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C.Code Ann. 40-59-10, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
 5. This order is to take effect immediately.

Mr. Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Mr. Bailey moved to approve the Administrative Hearing Officer's Recommendation for Peter Spano. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Leroy C. Grainger - This matter came before John Curl, Administrative Hearing Officer, on January 30, 2007. Mr. Curl's recommendation was as follows:

1. The Respondent shall be given Thirty (30) days from the service of this order upon him to conform the items specified in the three inspection reports mentioned above, and applicable building codes and standards of workmanship, as verified and deemed satisfactory in the discretion of a representative of the Commission. Any agreed modifications, qualifications, or additions to these items must be noted in writing and initialed by the Respondent and the homeowner in the inspection report(s). The Respondent must verify the timely completion of all work with the Commission. Compliance with this order shall not be deemed complete until receipt of verification by the Commission. The homeowner shall provide reasonable access to the home during normal working hours and at other mutually convenient times as may be necessary for the purpose of timely completing all work. If the homeowner fails to allow the Respondent and his designee's reasonable access to the home, the complaint may be dismissed in the Commission's discretion. The Respondent must notify the Commission if the homeowner fails to allow reasonable access to the home.

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2. If the items referenced above are not brought into compliance with the applicable building codes and standards of workmanship with Thirty (3) days from the service of this order upon the Respondent, the Respondent's license to engage in the practice of residential home building shall be automatically and immediately suspended, except that the Respondent may complete all work concerning the items identified in the inspection reports and, if any, those projects already in progress, as specifically identified by the Respondent in writing to the Commission within 24 hours of notice of this order. The Respondent shall not be eligible to petition the Commission for reinstatement or apply for licensure or registration, until such time, if ever, as all work concerning the items identified in the inspection reports has been satisfactorily completed and verified by the Commission. At that time, the Respondent shall appear before the Commission and present, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondent's fitness and qualifications to be licensed as a residential builder in this state. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, and impose such additional terms and conditions upon the Respondent's license as it may deem appropriate.
3. A Cease and Desist Order will be issued to the Respondent, pursuant to S.C. Code Ann. 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting, if he should fail to complete the work required within the time specified.
4. This order is to take effect upon service of the order on the Respondent.

Mr. Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Ms. Crawford moved to approve the Administrative Hearing Officers' Recommendation for Leroy Grainger. Mr. Davis seconded the motion, and with all members voting favorably, the motion carried.

Frederick Peters – This matter was heard before Frank Clark, Administrative Hearing Officer, on February 28, 2007. Mr. Clark's recommendation was as follows:

1. The Respondent shall pay a fine of Four Thousand (\$4,000.00) Dollars within 60 days of the service of the final order upon him. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine within the time allowed shall result in the immediate suspension of the Respondent's license until such time as the fine is paid.

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2. If the Respondent fails to pay the fine within the time allowed, a Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann. 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting for the period of his suspension.
3. This order shall take effect upon the service of the final order on the Respondent.

Mr. Clark recused himself from participating because he was the hearing officer in this matter.

Motion: Ms. Crawford moved to approve the Administrative Hearing Officer's Recommendation for Frederick Peters. Mr. Davis seconded the motion, and with all members voting favorably, the motion carried.

Richard Edwards -- This matter was heard before Frank Clark, Administrative Hearing Officer, on February 28, 2007. Mr. Clark's recommendation was as follows:

1. The Respondent, through the use of a qualified subcontractor(s) shall be given Sixty (60) days from the service of this order upon him to conform to the items specified in the inspector's report, and mentioned above, to applicable building codes and standards of workmanship, as verified and deemed satisfactory in the discretion of a representative of the Commission. Any agreed modifications, qualifications, or additions to these items must be noted in writing and initialed by the Respondent and the homeowner in the inspection report. The Respondent must verify the timely completion of all work with the Commission. Compliance with this order shall not be deemed complete until receipt of verification by the Commission. The homeowner shall provide reasonable access to the home during normal working hours and at other mutually convenient times as may be necessary for the purpose of timely completing all work. If the homeowner fails to allow the Respondent and his designee's reasonable access to the home, then the complaint may be dismissed in the Commission's discretion. The Respondent must notify the Commission if the homeowner fails to allow reasonable access to the home.
2. If the items referenced above are not brought into compliance with the applicable building codes and standards of workmanship within Sixty (60) days from the service of this order upon the Respondent, the Respondent's license to engage in the practice of residential home building shall be automatically and immediately suspended for a period of Ninety (90) days.
3. If the Respondent fails to comply with the correction of the items within the time specified, the original complainant (homeowner) is granted permission to file a claim against the Respondent's surety bond.

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4. If the Respondent fails to comply with the correction of the items within the time specified, a Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Annn40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting for the period of his suspension.
5. This order is to take effect upon the service of the final order on the Respondent.

Mr. Clark recused himself from participating because he was the hearing officer in this matter.

Motion: Ms. Crawford moved to approve the Administrative Hearing Officer's Recommendation for Richard Edwards. Mr. Davis seconded the motion, and with all members voting favorably, the motion carried.

Floy Truelock – This matter was heard before John Curl, Administrative Hearing Officer, on March 15, 2007. Mr. Curl's recommendation was as follows:

1. The Respondent shall pay a fine of One Thousand (\$1,000.00) Dollars. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine shall prevent the Respondent from being re-registered or licensed.
2. The Respondent's registration as a residential specialty contractor be, and it hereby is, suspended indefinitely.
3. If the Respondent reapplies in the future for licensure, he must appear before the Commission, and answer to the Commission for his incompetence and misconduct in this matter. At that time, the Respondent shall appear before the Commission and present, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondents fitness and qualifications to be registered as a residential specialty contractor in this state. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms and conditions upon the Respondents registration as it may deem appropriate.
4. A Cease and Deist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann. 40-59-100 requiring the Respondent to Cease and desist from entering in the practice of residential home building and residential specialty contracting.
5. This order is to take effect immediately.

Mr. Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Ms. Crawford moved to approve the Administrative Hearing Officer's Recommendation for Floy Truelock. Mr. Davis seconded the motion, and with all members voting favorably, the motion carried.

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Shelwood China – This matter was heard before John Curl, Administrative Hearing Officer, on March 22, 2007. Mr. Curl's recommendation was as follows:

1. The Respondent pay a fine of Five Hundred (\$500.00) Dollars. This fine shall not be deemed paid until received by the Commission.

Mr. Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Ms. Crawford moved to approve the Administrative Hearing Officer's Recommendation for Shelwood China. Mr. Davis seconded the motion, and with all members voting favorably, the motion carried.

Ms. Bell asked the Commission to reopen and reconsider the Administrative Hearing Officer's Recommendation for Peter Spano, Richard Edwards, Frederick Peters, and Shelwood China for additional information.

Motion: Mr. Davis moved to reopen and reconsider the Administrative Hearing Officer's Recommendation for Peter Spano, Richard Edwards, Frederick Peters and Shelwood Chins for additional information. Ms. Crawford seconded the motion, and with all members voting favorably, the motion carried.

Peter Spano - This matter was heard before John Curl, Administrative Hearing Officer, on January 30, 2007. Ms. Bell stated that she has received a request for continuance in this matter, due to the fact, that Mr. Spano's attorney, Chris Castro, is on active military duty in Ohio.

Motion: Ms. Crawford moved to continue this matter until June 13, 2007. Mr. Bailey seconded motion, and with all members present voting favorably, the motion carried.

This matter was continued upon request of Respondent's attorney, Chris Castro. Therefore, no action was taken.

Richard Edwards - This matter was heard before Frank Clark, Administrative Hearing Officer, on February 28, 2007.

Ms. Bell informed the Commission that the Hearing Officers Recommendation in this matter was that the Respondent be given Sixty (60) days from the date of this order to conform to the items specified in the inspector's report to applicable building codes and standards of workmanship. Ms. Bell stated that this is not working well with the homeowner and the respondent. Ms. Bell is asking the Commission to adopt the Administrative Hearing Officer's Recommendation as far as finding that there was a violation of the practice act and impose a different sanction.

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Mr. Clark recused himself from participating because he was the hearing officer in this matter.

Motion: Ms. Crawford moved to revoke the license of Richard Edwards, impose a fine of \$2,500.00, and allow the homeowner to call on the bond. Mr. Davis seconded the motion, with the following amendments, and with all members present voting favorably, the motion carried.

After further testimony from Benjamin Page, LLR Investigator, the motion was amended as follows:

1. The Respondent shall pay a fine of Two Thousand Five Hundred (\$2,500.00) Dollars within 30 days of the service of the final order upon him. This fine shall not be deemed paid until received by the Commission. Failure to pay the fine within the time allowed shall result in the immediate suspension of the Respondents license until such time as the fine is paid.
2. The Respondent, through the use of a qualified subcontractor(s) shall be given Thirty (30) days from the date of this order upon him to conform the items specified in the inspector's report to applicable building codes and standards of workmanship, as verified and deemed satisfactory in the discretion of a representative of the Commission. Any agreed modifications, qualifications, or additions to these items must be noted in writing and initialed by the Respondent and the homeowner in the inspection report. The Respondent must verify the timely completion of all work with the Commission. Compliance with this order shall not be deemed complete until receipt of verification by the Commission. The homeowner shall provide reasonable access to the home during normal working hours and at other mutually convenient times as may be necessary for the purpose of timely completing all work. If the homeowner fails to allow the Respondent and his designees reasonable access to the home, then the complaint may be dismissed in the Commissions discretion. The Respondent must notify the commission if the homeowner fails to allow reasonable access to the home.
3. If the items referenced above are not brought into compliance with the applicable building codes and standards of workmanship with Thirty (30) days from the date of this order, the Respondents license to engage in the practice of residential home building shall be automatically and immediately revoked.
4. If the Respondent's license is revoked, and he reapplies in the future for licensure, he must appear before the Commission, and answer to the Commission for his incompetence in this matter. At that time, the Respondent shall appear before the Commission and present, among other matters, evidence satisfactory to the Commission, in its discretion, regarding the Respondents fitness and qualifications to be registered as a residential specialty contractor in this state. At that time, the Commission, in its discretion, may deny licensure, require passage of an examination, among other requirements, or impose such additional terms

- and conditions upon the Respondents registration as it may deem appropriate.
5. If the Respondent fails to comply with the correction of the items within the time specified, the original complainant (homeowner) is granted permission to file a claim against the Respondents surety bond.
 6. If the Respondent fails to comply with the correction of the items within the time specified, a Cease and Desist Order is hereby issued to the Respondent, pursuant to S.C. Code Ann 40-59-100, requiring the Respondent to cease and desist from engaging in the practice of residential home building and residential specialty contracting.
 7. This order is to take effect immediately.

Frederick Peters - This matter was heard before Frank Clark, Administrative Hearing Officer, on February 28, 2007. Mr. Peters is requesting that the Commission reduce the fine imposed of Four Thousand (\$4,000.00) Dollars to be paid within Sixty (60) days to Two Thousand (\$2,000.00) Dollars to be paid with Four (4) months.

Mr. Clark recused himself from participating because he was the hearing officer in this matter.

Motion: Mr. Davis moved to allow Mr. Peters eight months to pay the imposed fine of Four Thousand (\$4,000.00) Dollars. Failure to pay the fine within the time allowed shall result in the immediate suspension of the Respondent's license until fine is paid. Ms. Crawford seconded the motion, and with all members voting favorably, the motion carried.

Shelwood China - This matter was heard before John Curl, Administrative Hearing Officer, on March 22, 2007. Ms. Bell informed the Commission that the Respondent engaged in the business of residential building regarding the replacement or repair of roofs at the residences managed by the Complainant Bill Brown, located at 2894 Dalzell Street, and 2985 Shawside Drive, in Dalzell, South Carolina. The Complainant was dissatisfied with the Respondent's work, and refused to pay him until he corrected deficiencies in the roofs' workmanship. The Respondent did not take correction action to address the substandard work. An inspection of the residences was conducted by Sharon Cook, an inspector with LLR, who testified at the hearing and provided an inspection report dated July 21, 2006, which described building code and performance-standard violations attributed to the Respondent's work. A copy of this report was provided to the Respondent, but the work was not brought into code compliance. The respondent failed to obtain required permits from the local jurisdiction and a Five Hundred (\$500.00) Dollar fine was imposed. A thorough review of the evidence indicates the Respondent's work was satisfactory.

Mr. Brown informed the Commission that the LLR inspector, Ms. Cook, never climbed on the roofs to make a proper inspection. The shingles were not installed properly and there was no drip edge which is a violation of code. Therefore, there is no warranty on the roofs. Mr. Brown stated that he

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is being asked to pay the price when he did not get a proper inspection on the roofs. Mr. Brown asked the Commission to send another inspector out to the property to make a proper inspection.

Mr. McAlister informed the Commission that our standards will not allow an inspector to go on roofs and if another inspector is sent to the property they will not go on the roof. Ms. Crawford advised Mr. Brown to hire a private home inspector to inspect the roofs.

Mr. Curl recused himself from participating because he was the hearing officer in this matter.

Motion: Mr. Bailey moved to uphold the Administrative Hearings Officer's Recommendation in this matter. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Transcripts of these hearings may be obtained from Lisa Huffman, Certified Court Reporter, and Garber Reporting Services.