

**South Carolina Residential Builders Commission
Board Meeting Minutes, Wednesday, October 11, 2006 – 10:00 am
Synergy Business Park, Kingstree Building
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
Louis Rosen, Hearing Advisor
Kent Lesesne, Staff Attorney
Charles McAlister, Administrator
Charles Ido, Chief of Investigations, OIE
Christine Driver, Administrative Assistant
Patrice Deas, Administrative Assistant
Faye Grainger, 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. Bailey moved to approve the minutes of the September 13, 2006 meeting. Ms. Crawford seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of Investigative Review Committee

Motion: Mr. Davis moved to approve the recommendations of the Investigative Review Committee, dated September 6, 2006 and October 3, 2006. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Approval of Recommendations of the Administrative Hearing Officer, Doug Green, for Citation Appeals

Motion: Ms. Crawford moved to approve the recommendations of the Administrative Hearing Officer, Doug Green, for Citation Appeals on behalf of Keith Krohn, Donnie Lee, Marcus Outlaw, Richard A. Wooden, Jr., Gabriel T. Oprea, Gabriel T. Oprea, and Gabriel T. Oprea. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Approve Recommendations of Administrator, Charles McAlister, for Bond Claim

Motion: Mr. Williams moved to approve the recommendations of the Administrator, Charles McAlister, for Bond Claim on behalf of Joseph W. Baker. Mr. Roberts seconded the motion, and with all members present voting favorably, the motion carried.

Appeal of Administrative Hearing Officer, David Bennett, Recommendation for Bond Hearing

In the Matter of Robert Perrineau

Mr. Kent Lesesne informed the Commission that this matter comes as a result of a bond claim appeal. A bond claim hearing was held before Administrative Hearing Officer, David Bennett, on June 21, 2006, to consider whether or not there should be a claim against Mr. Perrineau's bond for some work he had previously done for Ms. Merelyn Rivers. The work comes about as a result of extensive fire damage on three adjoining apartments. This was a renovation of those three apartments and a complaint was filed and Alvin Messervy, Investigator for LLR, performed an inspection and found three items that were insufficient. Insulation in the attic, plumbing venting, and shingles which did not have the proper overhang. Prior to the bond hearing, on June 21, 2006, Mr. Perrineau did address the insulation in the attic and did pay someone to correct this matter, and after hearing testimony the Hearing Officer, David Bennett, made a recommendation that the remaining two items were the responsibility of Mr. Perrineau and recommended approval of the bond claim on behalf of Ms. Rivers.

Mr. Perrineau was represented by, Jonathan Krell, Esquire who presented argument in objection to the Hearing Officers Report and Recommendation. A transcript of this hearing may be obtained from Faye Grainger, Grainger Reporting Service.

In Executive Session: Mr. Bailey made a motion to go into Executive Session for receipt of legal advice. Ms. Crawford sectioned the motion, and with all members present voting favorably, the motion carried.

Out Executive Session: Mr. Bailey made a motion to go out of Executive Session. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Motion: Ms. Crawford moved to affirm the Hearings Officer's Report and Recommendation of David Bennett for the bond claim. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

In the Matter of John D. Weaver

Mr. Lesesne stated that at the time the bond hearing was held the notice was sent to an old address of Mr. Weaver by mistake. When Mr. Weaver learned of the recommendation he promptly informed staff he was not notified and would have appeared. Staff had the correct address on file but subsequently everything was mailed to an old address on file. Mr. Weaver has requested this matter be reheard because he did not receive any notices of the bond hearing. Mr. Weaver retained counsel and requested that this matter be heard before the full Commission. Mr. Weaver's counsel has requested that this matter be continued until he can have all the proper parties notified. Mr. Lesesne joined in the request that this case be remanded back to the Administrative Hearing Officer to rehear this matter.

Motion: Mr. Bailey moved to remand this matter back to the Administrative Hearing Officer for a bond hearing. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Appeal of Recommendation of Administrative Hearing Officer, Doug Green, for Citation

Gabriel T. Oprea – Mr. McAlister informed the Commission that Mr. Oprea was issued a Citation for \$500.00 for unlicensed practice. Mr. Oprea called the office and requested that this matter be continued. Mr. Oprea was told to send the request in writing, but staff has not received a written request at this time. Mr. Oprea pulled an owner/builder permit and listed the house with a realtor and then signed a contract to sell the home.

Motion: Mr. Williams moved to approve the recommendation of the Administrative Hearing Officer, Doug Green, for the citation in the amount of \$500.00 on behalf of Gabriel T. Oprea. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Request for Reinstatement of License

Arthur Lindsey, Sr. – Although the record shows that he was properly notified of this appearance he did not appear at the appointed time and no action was taken.

Bob Shirkey – Mr. McAlister informed the Commission that he spoke with Mr. Shirkey's attorney, Adam Fisher, Jr., prior to the hearing. Mr. McAlister stated that staff was unable to substantiate the outstanding complaint on file for Mr. Shirkey. Mr. Shirkey has been unlicensed for three (3) year. Mr. McAlister informed Mr. Fisher that if Mr. Shirkey would submit a new application, a surety bond, and retake the exam that he would process his application for a residential builder's license, which was acceptable to Mr. Shirkey. Therefore, this matter is being withdrawn.

William Spaulding – Mr. Lesesne informed the Commission that this matter is before them as a result of Mr. Spaulding requesting reinstatement of his license that was suspended pursuant to a Consent Agreement dated June 20, 2006. Mr. Spaulding agreed to make some corrections to the house of Mr. and Mrs.

Wilson who had filed a complaint against him for a home that was built that had some deficiencies. The items were listed in the Consent Agreement he agreed to make repairs within the time frame of thirty (30) days. At the end of the thirty (30) days, Mike Doles, Investigator for LLR, made a re-inspection and found that the items were not corrected as agreed. Therefore, Mr. Spaulding's license was suspended in accordance with the Consent Agreement on September 11, 2006. Since the suspension of Mr. Spaulding's license he and the Wilson have reached a Settlement Agreement. Mr. Lesesne stated that the state will affirm that they have resolved the complaint which resulted in the suspension of Mr. Spaulding's license. The Wilson wish to withdraw their complaint based on the Settlement Agreement.

Motion: Mr. Bailey moved to lift the suspension and reinstate Mr. Spaulding's license. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Application Reviews

Wade R. Periminter - Although the record shows that he was properly notified of this appearance he did not appear at the appointed time. Mr. McAlister informed the Commission that Mr. Periminter has submitted an application for a residential builder's license; however, he filed bankruptcy in 2003. Mr. McAlister stated that a lot of the people who were hurt in the bankruptcy were in the construction industry. The Commission is requesting an appearance from Mr. Periminter before making any decisions in this matter.

Mark G. McLaurin – Mr. McAlister informed the Commission that Mr. McLaurin is registered as a residential specialty contractor in carpentry, masonry, and roofing, and failed to indicate on his renewal form an outstanding judgment in the amount of \$4,292.00. Therefore, Mr. McLaurin's registration as a residential specialty contractor was suspended on July 26, 2006.

Mr. McLaurin stated that he specializes in foundations, structural, and roof systems. He advised that he was not aware that he had a judgment filed against him when he submitted his renewal for his registration, and when his registration was suspended he responded immediately.

Motion: Mr. Bailey moved to lift the suspension of Mr. McLaurin's registration and prior to next renewal period he must show proof that the judgment has been dismissed or satisfied. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

New Business

None

Unfinished Business

None

Adjournment

There being no further business, the business meeting for October 11, 2006 concluded at 12:45 p.m.

The next scheduled board meeting will be held on November 8, 2006, at 10:00 a.m. Synergy Business Park, Kingstree Building, Room 201-03. (Note: Subject to Change)

Hearings

Mr. Williams called the hearings to order. Mr. Louis Rosen was the hearing advisor.

Approve Recommendations of Administrative Hearing Officers, John Curl for Administrative Hearings

Judy Harrelson-Burns - This matter was heard before John Curl, Administrative Hearing Officer, on July 18, 2006. Mr. Curl's recommendation was as follows:

1. The Respondent pays 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-licensed.
2. As the Respondent is not currently licensed by the Commission, the Commission cannot impose a sanction upon the Respondent's license. However, the Commission directs that this matter be noted in the Respondent's records in the event that she should reapply for licensure. If the Respondent reapplies in the future for licensure, she must appear before the Commission, and answer to the Commission for her 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 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, or impose such additional terms and conditions upon the Respondent's license as it may deem appropriate.
3. The original complainant (homeowner) is granted permission to file a claim against the Respondent's surety bond.
4. 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.
5. This Order is to take effect upon service of the Order upon the Respondent.

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

Motion: Ms. Crawford moved to approve John Curl, Administrative Hearing Officer's Recommendation

for Judy Harrelson-Burns. Mr. Bailey seconded the motion, and with all members present voting favorably, the motion carried.

Transcripts of these hearings may be obtained from Faye Grainger, Grainger Reporting Services.