

**South Carolina Residential Builders Commission  
Board Meeting Minutes, Wednesday, February 9, 2005 – 10:00 am  
Synergy Business Park, Kingstree Building, Suite 108  
Columbia, South Carolina**

**MEMBERS PRESENT**

**John Curl  
Al Bailey  
Gale Crawford  
Caleb Davis  
Oscar Molin  
Derrick Williams**

**OTHERS PRESENT**

**Rick Wilson, Dep. General Counsel  
Kent Lesesne, Office of Gen. Counsel  
Charles McAlister, Administrator  
Christine Driver, Staff  
Stacey Johnson, Staff  
Amy Alston, Staff  
Faye Grainger, Court Reporter  
Tim Holt, T.S. Holt Company**

**MEMBERS ABSENT**

**Public Notice of this meeting was properly posted at the Residential Builders Commission Office, Synergy Business Park, Kingstree Building, Columbia, South Carolina, 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 December 8, 2004 meeting. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

**Approval of Recommendations of Investigative Review Committee**

**Motion:** Mr. Williams moved to approve the recommendations of the Investigative Review Committee. Mr. Molin seconded the motion, and with all members present voting favorably, the motion carried.

**Approval of Recommendations of Administrative Hearing Officer/Bond Hearing**

**Motion:** Ms. Crawford moved to approve the recommendations of the Administrative Hearing Officer for Bond Hearing. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

**Request for Owner/Builder Exemption**

Malane Pike – Ms. Pike is requesting a waiver for the owner/builder disclosure statement. Ms. Pike owns a beach home in North Myrtle Beach, S.C., which she rents out approximately six weeks each summer. Ms. Pike stated that she recently applied for a building permit in her name to construct a third bath and remodel the master bath in this residence. She and her husband are doing all of the work themselves. The building official asked her to sign a disclosure statement, which states that she could not rent or sell her home for two years from the date of final inspection. Therefore she is requesting approval from the Commission as provided in Section 40-59-260 to rent her home immediately following final inspection of this construction project. If forced to wait the two years, this will create a financial hardship on her.

Ms. Pike thinks this law is unconstitutional for two reasons. First, it is a taking her property for two years. Second, it is a violation of equal protection in that she must meet the same building codes that a licensed residential homebuilder must meet. Therefore, her use of the property becomes restricted because she does not have the required license. Ms. Pike feels that there is no rational basis for this distinction since the building requirements are the same for both.

Ms. Pike pointed out that the disclosure statement under an exemption states that you may build or improve a one-family or two-family residence. The building must be for your own use and occupancy. It may not be built for sale or rent. If you sell or rent a building you have built yourself within two years after the construction is complete, the law will presume that you built it for sale or rent, which is a violation of this exemption. In Section 40-59-260 (E) states if a residential building or structure has been constructed by an owner under the exemption provided for in this section, the owner of the residential building or structure must promptly file as a matter of public record a notice with the register of deeds.

Ms. Pike wants to know if this provision applies to her because she is not constructing a building the building was already there. All they have done is reallocated the space inside of the house to allow for a larger master bath and another bathroom.

Mr. Curl stated that the intent of the law was not to keep homeowners from remodeling their homes. It is the local building official that is enforcing the two years for rental property. In Section 40-59-260 (B) gives the Commission authority to approve or grant a waiver in certain situations.

**Motion:** Mr. Bailey made a motion to grant approval to waive the owner/builder disclosure statement on behalf of Ms. Pike. Mr. Molin seconded the motion, and with all members present voting favorably, the motion carried.

**Request for Reinstatement of License**

James R. Westbury – Mr. McAlister informed the Commission that Mr. Westbury has appeared before the Commission numerous times requesting reinstatement of his license. The Commission informed Mr. Westbury that his license would not be reinstated until he makes restitution to the bonding company. Mr. Westbury stated that he is working with the bonding company to set up a payment plan for reimbursement of funds paid to Mr. Bowen.

**Motion:** Mr. Davis made a motion to reinstate Mr. Westbury's license based upon reimbursement to the bonding company. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

**New Business**

Mr. Rick Wilson presented to the Commission for approval an updated bond form. This new revised bond form sets a specific license term and can be renewed by a continuation certificate, which must be on file with the Commission. Regardless of the number of years the bond remains in force, the liability of the surety shall not be cumulative and the aggregate liability of the surety shall not exceed the sum of the bond for any license year. Claims may be initiated only through the Commission, which must validate the claim and determine the amount of loss or damage. No complaint may be maintained to enforce any liability on the bond unless brought within ten (10) years after the event.

Mr. Tim Holt, T.S. Holt Company, informed the Commission that the current bond form that we are using for residential builders, specialty contractors, and HVAC contractors says regardless of the number of years this bond may remain in force, the liability of the surety shall not be cumulative, which means that it cannot be stacked, and the aggregate liability of the surety for any and all claims, suits or action under the bond shall not exceed the sum of the bond. Right now the builder cannot have a claim against his bond for Fifteen Thousand in one year and then the next year and the next year for the bond form. The new bond form will allow the aggregate liability per licensing year. This is a major benefit for consumer protection. The bond form specifies that this is for consumer protection that is determined by this Commission as the obligee to determine who gets paid, how much, and when. Putting a specific term on the bond will ensure that the license will not be renewed unless staff has written verification in hand that the builder has met all qualifications for licensing.

**Motion:** Ms. Crawford made a motion to approve the revised bond form as written. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Mr. McAlister presented to the Commission the revised bond claim hearings policy/procedures for approval.

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**Motion:** Mr. Mungo made the motion to approve the revised bond claim hearings policy/procedures as written. Mr. Davis seconded the motion, and with all members present voting favorably, the motion carried.

Mr. McAlister presented to the Commission the new applications for Residential Electrical License and Residential Plumbing License for approval. Mr. McAlister stated that all applicants who meet the requirements for licensing would be grandfather in from July 1, 2005 through December 31, 2005. On July 1, 2005 we will begin testing all applicants applying for an electrical and plumbing license.

**Motion:** Ms. Crawford made a motion to approve the application for Residential Electrical License and Residential Plumbing License. Mr. Williams seconded the motion, and with all members present voting favorably, the motion carried.

Mr. McAlister presented to the Commission a copy of the Final Regulations, which were published January 28, 2005.

There was a preliminary discussion on the status of the remaining specialty contractor classifications. After some discussion it was suggested that staff do further research to determine which specialty classifications should be considered for licensing.

Mr. McAlister presented to the Commissioners a copy of the Statement of Economic Interest Form, which must be filled out and returned to the Ethics Commission before April 1, 2005.

**Unfinished Business**

None

**Adjournment**

There being no further business, the business meeting for December 8, 2004, concluded at 11:50 a.m.

The next scheduled commission meeting will be held on March 9, 2005, at 10:00 a.m. Synergy Business Park, Kingstree Building, Room 108. (Note: Subject to Change)

**Hearings**

Mr. John Curl called the hearings to order. Mr. Kent Lesesne represented the State.

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<u>Builder</u>	<u>Homeowner</u>	<u>Case #</u>	<u>Order</u>
Bradley M. Hoffman	John E. Strickland	969613	Public Reprimand Suspended for 6 months One year probation

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