

BOARD MEMBERS PRESENT:

Lewis Caswell, Chairman
Frank Walker
Kim Lineberger, Vice Chairman
Bill Neely
Daniel Lehman
Wendi Nance

BOARD AND STAFF PRESENT:

Sheridon Spoon, Esq., Deputy General Counsel
Sharon Dantzler, Esq., Deputy General Counsel
Michael Anderson, Administrator
Christa Bell, Esq., Assistant General Counsel
Joyce Thurber, Program Coordinator
Jamie Saxon, Hearing Counsel

OTHERS PRESENT:

John Curl	Elizabeth Rose Carter
John Hilliard, Esq.	Sonja E. White
Howard Wayne Charpia, Charpia General Contractors	Stuart Hampton Jones, City of W. Columbia
Charles Mark Bell, Atlantic Heating & AC	Joseph Martin, LLR Investigator
Larry Yates, L.A. Yates & Associates	Christian Wesley White
James Johnson	
Michael E. Hawes, Hawes Construction Co.	
Daniel Steele, Steele Construction	
Ralph L. Gleaton, Esq.	
Mark Steinmetz	

NOTE: 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 1976 South Carolina Code of Laws, as amended, relating to the Freedom of Information Act.

Call to Order:

On Thursday, January 17, 2008, Chairman Lewis Caswell called the Contractor's Licensing Board meeting to order at approximately 10:00 a.m.

Approval of Agenda

Chairman Caswell called for the approval of the agenda as previously noticed. Mr. Anderson commented that application hearings requested by John Casbarro and Jeffrey Henson were postponed at the request of the Respondents and will be rescheduled.

Motion: Ms. Lineberger made a motion, seconded by Mr. Lehman, to approve the agenda as written. The motion was unanimously carried.

Approval of Members Absence

Chairman Caswell informed the Board that Mark Plyler was not able to attend the meeting, due illness. **Motion: Ms. Nance made a motion, seconded by Ms. Lineberger, to excuse Mr. Plyler's absence. The motion was unanimously carried.**

Chairman Caswell informed the Board that Mr. Greer could not attend due to the ice and snow in Greenville that morning. **Motion: Mr. Neely make a motion, seconded by Ms. Nance to excuse Mr. Greer's absence due to the inclement weather. The motion was unanimously carried.**

Election of Officers for 2008

Chairman Caswell asked not to be nominated for re-election because of some personal issues at this time. He opened the floor for nominations for chairman. Mr. Walker nominated Daniel Lehman for chairman. There being no further nominations, the nominations were closed and a vote taken on the

motion. Ms. Lineberger seconded the motion. The motion was approved unanimously. Mr. Lehman will begin presiding at the April 17, 2008 Quarterly Board Meeting.

Nominations were opened for Vice Chairman. A motion was made to re-elect Kim Lineberger as Vice Chairman by Frank Walker. There being no further nominations, the nominations were closed and a vote taken on the motion. Mr. Lehman seconded the motion. The motion was approved unanimously.

Chairman's Remarks

Mr. Caswell has enjoyed his tenure as chairman and thanked the board members for their support. He stated that he is stepping down as chairman at this time for personal reasons.

Approval of Minutes

Chairman Caswell called for the review and approval of the October 18, 2007, board meeting minutes. After review, Ms. Lineberger made a motion, seconded by Ms. Nance, to approve the minutes as printed. The motion was unanimously approved.

Administrator's Remarks

- 1) The Department is looking into streaming live video of the board meetings along with other hearings and meetings;
- 2) The NASCLA mid-year meeting will be held in Santa Barbara, California March 12 – 14, 2008. Mr. Anderson stated that he will be attending with Stan Bowen, Administrator of the Residential Builders Commission;
- 3) The Board staff is looking into the capability of sending all board meeting exhibits to a Board folder with a password on the Board web site instead of sending the material by e-mail to each individual. A notice would be sent to the members when the material was available to download.
- 4) Mr. Anderson and Gary Wiggins are attending legislative meetings and monitoring proposed fire sprinkler legislation requiring putting fire sprinklers in all commercial buildings – new and old.

New Business

- 1) Approval as Hearing Officer:

John Curl was introduced as the former, long-time board chairman of the S.C. Residential Builders Commission and has been an unlimited General Contractor with a Building classification since 1992. He was interested in becoming a hearing officer for the Contractors' Board administrative hearings.

Motion: Mr. Walker made a motion to approve John C. Curl as a hearing officer for the Board. The motion was seconded by Ms. Lineberger and unanimously passed.

The board welcomed Mr. Curl as a hearing officer and will look forward to working with him.

- 2) Approval of the Investigative Review Committee (IRC) Recommendations:

November 1, 2007, IRC Recommendations:

Chairman Caswell called for the approval of the November 1, 2007, IRC Recommendations. After review and discussion, **Mr. Walker made a motion, seconded by Mr. Neely, and was passed, to approve the November 1, 2007, IRC Recommendations.**

December 6, 2007, IRC Recommendations:

Chairman Caswell called for the approval of the December 6, 2007, IRC Recommendations. After review and discussion, **Mr. Lehman moved to pass the Recommendations as printed, and Ms. Lineberger seconded the motion. The motion was passed unanimously.**

3) Board Advice needed as to requiring licensing for parking lot painting and seal coating:

Mr. Anderson explained that an inquiry came to him when a contractor lost a bid to put black coating and repair stripes on an old parking lot. He asked for Board advice whether painting, seal coating and stripping requires a general contractors' license in asphalt paving?

Sheridon Spoon, the Board Advice Counsel, gave his legal opinion that "seal coating" would require a license under the asphalt paving classification. Ms. Lineberger, the Board paving member, stated that "seal coating" is an emulsion, not a paint, and would require a license. Painting and stripping would not require a license for parking lots. Mr. Anderson was asked to draft language for a Board Policy to be approved at the April 17, 2008 meeting.

4) Approval of experience of Ed Dempster requested:

Mr. Dempster had submitted an application with only residential experience to meet the licensing requirement for experience to obtain his general contractor building license. The staff could not approve his experience at staff level. Therefore, Mr. Dempster requested that the Board approve his residential experience as meeting the experience requirement toward obtaining his General Contractor, Building license.

Mr. Anderson stated that the Contractors' Board is primarily a commercial Board and quoted from the statute in Section 40-11-230 (B)(2) 'submit an affidavit verifying employment from former or current employers for whom the applicant was employed full-time for at least two years within the previous five years in the license classification or subclassification for which application is made or submit additional proof of employment experience as approved by the board'. Following a discussion, a motion was made.

Motion: Mr. Neely moved to deny the request of Ed Dempster to be a qualifying party and disallow residential only experience to qualify for the unlimited General Contractor's license with a building classification. Mr. Walker seconded the motion and it was passed.

Mr. Dempster asked how he could gain the commercial experience needed. Mr. Neely advised that he would have to work under a licensed general contractor builder for two years.

OLD BUSINESS: None

APPLICATION REVIEW HEARINGS:

(1) James B. Prosser, Waccamaw Heating & Cooling – review of SLED record for approval of his application as a Mechanical Contractor in Air Conditioning:

Mr. Prosser and his legal counsel, John M. Hilliard, Esquire, were present. Mr. Anderson stated that Mr. Prosser's renewal application as a Mechanical Contractor and qualifying party could not be approved at staff level because in February, 2007, he plead guilty to a lewd act on a fourteen year old minor for an incident which occurred in his home during a drug and alcohol induced blackout.

Mr. Hilliard stated that Mr. Prosser is on Probation and has gone through a counseling treatment program for sex offenders, a twelve-step drug and alcohol program, and submits to random drug tests. Several recommendations were also presented from his probation officer, treatment counselor and clients. Mr. Hilliard stated that Mr. Prosser has been licensed since 1995 in his family business, has a good pay

history, and has not had any issues with his work. He asked the Board to allow him to continue his livelihood as a mechanical contractor.

Mr. Prosser was sworn in and testified on his own behalf. He stated that he was embarrassed to have to appear before the Board and is truly sorry for his mistakes. He now enforces a drug free workplace within his business with monthly random drug screens for his employees. He stated he has pushed for building codes in his county jurisdiction, and takes great pride in his work. He asked the Board to allow him to continue his livelihood as a licensed mechanical contractor.

Ms. Nance moved to go into Executive Session to receive legal advice. The motion was seconded by Mr. Neely and passed. Out of Executive Session by motion of Ms. Nance and seconded by Mr. Lehman and passed, another motion was made.

Motion: Mr. Walker moved to approve Mr. Prosser's renewal application as a Mechanical Contractor with a Packaged Equipment (PK) classification and Group 4 project limitation. The motion was seconded by Mr. Lehman and was passed.

The hearing was adjourned.

(2) Charles M. Bell, Qualifying Party for Atlantic Heating & AC -- Judgment:

Administrator Mike Anderson presented the charges. In December 2003 a judgment was issued to Mr. Bell that is still outstanding. He did not acknowledge that he had a judgment on his 2005-2007 Renewal Application by signing the statement that read, 'I hereby state that since the last renewal or my initial application, I have not had any lawsuits, judgments, liens or claims filed against me or my business; been arrested, charged indicted or convicted of violating any federal, state or local law; or had a similar license in this state or any other state revoked, suspended or otherwise disciplined. (If you have, please attach an explanation on a separate page.) All statements and information contained herein are true and correct to the best of my knowledge.....'

Mr. Bell was present and was sworn in to testify on his own behalf. He explained that he had hired American Pipe, Inc. out of Hanahan, South Carolina, to run gas lines on a certain project. They began the work, but did not complete the work and what they had done failed inspection. He paid them what he felt he owed them for the portion of work completed. They sued him for the remainder of the contract amount. Mr. Bell said that he appealed the decision, but didn't follow through on the appeal and didn't bring a copy with him. He stated that he has now paid the judgment of \$3,741.00 on January 15, 2008, even though he felt he did not owe the money. The matter is resolved. Following questions from board members, Ms. Nance moved to go into Executive Session to receive legal counsel. Mr. Lehman seconded the motion and it passed. Out of Executive Session by motion of Ms. Nance, seconded by Mr. Walker and passed, another motion was made.

Motion: Mr. Lehman moved to approve the 2007-2009 Renewal Application upon payment of a \$500.00 civil penalty and will be placed on a one-year probation. Ms. Lineberger seconded the motion and it passed.

The hearing was adjourned.

(3) Howard Wayne Charpia, Qualifying Party for Charpia General Contractor CLG 106210

Mr. Anderson stated that Mr. Charpia was asking for reconsideration of the January 18, 2007 Final Order denying the renewal of his license due to unresolved issues and fine and Revocation of his Builder's license with the S.C. Residential Builders Commission.

Mr. Charpia appeared and was sworn. He stated that he had appeared before the Residential Builders Commission on March 17, 2007 to resolve the Complaint issues regarding the revocation of his Builder's license RBB #07888. He paid the \$2,000.00 fine on March 21, 2007 and was issued a reinstatement of his Builder's license #07888 expiring June 30, 2008. He requested that the Board reinstate his General Contractor license CLG #106210 in the Building classification.

Ms. Nance moved to go into Executive Session to receive legal advice. The motion was seconded by Ms. Lineberger and passed. Out of Executive Session by motion of Mr. Neely, seconded by Mr. Lehman and passed, another motion was made.

Motion: Ms. Lineberger moved that the request to renew Mr. Charpia's license, CLG 106210, be granted. Mr. Lehman seconded the motion, and it passed.

The hearing was adjourned.

Sheridon Spoon, Esq., legal counsel for the Board was excused and Sharon Dantzer, Esq. substituted for him for the other hearings to be held.

(4) Larry Yates, Qualifying Party for L. A. Yates and Associates, CLM #3436 and CLG 15086

Chairman Louis Caswell and Member Frank Walker recused themselves from the hearing. Four members were in attendance to vote and Mr. Yates approved only four members voting. Vice Chair, Kim Lineberger conducted the hearing.

Mr. Anderson stated that the staff was unable to approve Mr. Yates' renewal application at staff level for the Mechanical Contractor's license for the period 2007-2009. Under the provision 40-11-130 (B)A license or certificate may be denied to an applicant (2) who is presently under suspension by a professional licensing entity in this or any other state or jurisdiction and (3) who has unresolved complaints or charges pending against him before this or any other professional licensing board in this or any other state. Mr. Yates had been issued an Order from the Real Estate Commission suspending his license as LRM Realty, LLC, for six months and fining him \$2500.00. Mr. Yates filed an appeal to the Administrative Law Court, but it is still pending regarding that sanction by the Real Estate Commission.

Mr. Yates was sworn and testified that he thought it unjust for the licensing board to withhold his license while the case with the Real Estate Commission was under appeal with the Administrative Law Court. He stated his qualifications and commented that he has held a General Contractor's license in WL3, WP3, AP3, CP3 and GD3 since 1993 and a Mechanical Contractor's license in classifications AC3, HT3, PB3 and EL3 since 1993. Following a discussion, a motion was made. Ms. Nance moved to go into Executive Session to receive legal advice. The motion was seconded by Mr. Neely and passed. Out of Executive Session by motion of Mr. Neely, seconded by Mr. Lehman and passed, another motion was made.

Motion: Ms. Nance made a motion to renew the license with a specific finding that by renewing it, the board has not expressed any finding concerning any issues that may be presented to the Board as a result of the February 28, 2008 Administrative Hearing. The motion was seconded by Mr. Neely and passed by the four members present.

The hearing was adjourned.

(4) Jeffrey Henson, Qualifying Party for Restoration Heating & Air - Judgment

Mr. Henson called regarding the inclement weather (ice) in Greenville and could not appear. The application hearing will be rescheduled at the next Board meeting April 17, 2008.

(5) John Casbarro, CLG 94849 – Outstanding Judgments

Mr. Casbarro called to request postponement of his application hearing and did not appear.

FINAL ORDER HEARINGS:

Vote on Administrative Hearing Officer Recommendations.

(1) OIE Case # 2005-184 Columbus Construction, LLC and Dave B. Sanders, CLG 105996 vs. CLB

The hearing was called to order by Chairman Caswell. Christa Bell, Esq., Assistant General Counsel, represented the State and presented the Hearing Officer's Report and Recommendations from the August 29, 2007 Administrative Hearing with Bill Neely presiding as Hearing Officer. Mr. Neely recused himself from the hearing. The Respondent did not appear and did not contact the Board. The allegations were for substandard work on a residence in Spartanburg completed in late 2004. The Respondent was non-responsive to the Complainants and the Board. The mailing address of record was also no longer in effect. However, the Respondent was properly served at his home address, and a signed green card for the Certified Mail was received on 10/27/07.

Mrs. Bell asked that the Hearing Officer's Report and Recommendation be accepted as written. The Recommendation levied a fine of Four Thousand Dollars (\$4,000.00) for the Respondent. The license shall be suspended pending payment of the fine. The qualifier is prohibited from acting as a qualifying party for any entity until the fine is paid.

Motion: Ms. Lineberger made a motion to approve the Hearing Officer's Report and Recommendation as written. The motion was seconded by Mr. Lehman and passed unanimously

The hearing was adjourned.

(2) OIE Case # 2005-134 Johnson Construction Co. and Raymond Johnson, Qualifying Party vs. CLB

Chairman Caswell called the hearing to order. Mr. Johnson was present and was sworn to testify on his own behalf. Christa Bell, Esq., Assistant General Counsel, represented the State and presented the Hearing Officer's Recommendation from the Administrative Hearing held September 18, 2007 before Hearing Officer James T. Tharp. Mr. Tharp was the Hearing Officer and was not present to recuse himself.

The Respondent entered into a verbal agreement in July 2003 to install a metal roof on a residence under construction in Loris, South Carolina. In early 2004 the Complainants notice water leaking into the house which they believed came from the roof. The Respondent responded and had some corrections made which did not correct the leaking problem. In November 2005, the Complainants hired a home inspector to inspect the roof system. He found several problems attributable to the Respondent's work on the roofing system.

Upon receiving all the evidence, the Hearing Officer recommended the following:

- (1) The Respondents' license shall be suspended indefinitely. The suspension shall be stayed and reinstated to a probationary status upon payment of a fine of One Thousand Dollars (\$1,000.00).
- (2) The Respondent's license shall remain in a probationary status for an indefinite period of time until the following terms and conditions of probation are met: Within one year of the date of this order, the Respondent must attend and successfully complete, at his own expense, a roofing course approved in

advance by the Board. He must file written proof of compliance with the Board within fifteen days of completing this requirement.

3) Failure by the Respondent to abide by the conditions of probation may result in the immediate imposition of the aforementioned indefinite suspension of his license pending a hearing and further order of the Board.

Mr. Johnson testified on his own behalf and did not contest the Recommendation. He commented that he was not notified of the problems until almost two years after the owners moved into the residence. He also thought that there were some discrepancies with some dates in the transcript record of September 18, 2007. After a discussion, it appeared that the dates did not affect the facts in the case. Ms. Bell stated that the transcript dates were accurate.

Mr. Johnson asked for assistance from the Board in finding an acceptable roofing course to take. Chairman Caswell asked building member, Bill Neely, to assist Mr. Johnson in finding a course. Mr. Neely agreed to assist the Respondent in finding a proper course to take.

Motion: A motion was made by Ms. Nance to accept the Hearing Report and Recommendation as written. The motion was seconded by Ms. Lineberger and passed unanimously.

The hearing was adjourned.

(3) OIE Case # 2005-176 Michael E. Hawes d/b/a Hawes Construction Co. vs CLB

Chairman Caswell called the hearing to order. Mr. Caswell pointed out a scrivener's error in paragraph 1 of the Recommendation in that the matter was heard before an administrative hearing officer, not before the Contractors' Licensing Board. The error was noted and corrected.

Mr. Hawes was present and sworn to testify on his own behalf. Christa Bell, Esq., Assistant General Counsel, was the prosecuting attorney and presented the Hearing Officer's Recommendations from the evidentiary hearing held August 15, 2007 before Administrative Hearing Officer, Frank Walker. Mr. Walker recused himself from the hearing.

Mr. Hawes was charged with (1) abandoning a contract or refusing to perform after submitting a bid on work without a legal excuse for the abandonment or refusal, S.C. Code Ann. Section 40-11-110 (A)(3); (2) failing to obtain a building permit for the project, S. C. Code Ann. Section 40-11-110 (A) (13); (3) contracting or offering to contract for construction work outside of the classification of the Respondent's license, S.C. Code Ann. Section 40-11-110 (21). Life and safety issues were also involved.

The project involved performing renovations to an existing home of a person bound to a wheelchair, to widen doors, change cabinets and perform electrical work. The Complainant lived outside of the State and was to move into the home after renovations were complete. The Respondent was paid \$3,000.00 in advance on an estimated \$7,390.00 project. Ultimately a total sum of \$8,551.35 was paid to the Respondent. The Respondent only had a mechanical contractor's grandfather license in plumbing (PB1) and electrical (EL1) issued on 6/17/2002. Ms. Bell explained that the majority of the work should have been performed by at least a Residential Specialty contractor in carpentry, which the Respondent did not have. Mrs. Bell stated that she and Investigator Joe Martin had both tried to work out a consent agreement with the Respondent, but he was not responsive to their calls. Mrs. Bell asked that the Hearing Officer's Report and Recommendation be accepted.

Mr. Hawes admitted that the work was done outside his classifications and that he shouldn't have done the job. He stated that he had underbid the job and ran out of money to finish the work. He testified that he did not attend the administrative hearing because he thought he would have to pay a \$1,000 fine and did not have the money. He said that he had not done any further construction work and apologized for not responding to the board investigator. He asked the board not to take his license.

By motion of Ms. Nance and seconded by Mr. Lehman, the Board went into Executive Session to seek legal advice. Out of Executive Session by motion of Ms. Nance and seconded by Mr. Lehman and passed, another motion was made.

Motion: Ms. Lineberger moved to modify the Hearing Officer's Recommendation as stated below:
(1) The Respondent should pay a fine of \$5,000.00 , and his mechanical contractor's license shall be indefinitely suspended;

(2) The suspension shall be stayed and his license reinstated after he takes and passes examinations in the plumbing and electrical classifications, at his own expense. He must advise the Board of any changes in address, practice, or compliance with this final order. The motion was seconded by Mr. Lehman and it was passed unanimously.

An order will be issued. The hearing was adjourned.

Following a lunch recess, the Board reconvened at 1:15 PM.

(4) OIE Case # 2006-287 Steele Construction, Inc. and Daniel Steele, Qualifying Party vs CLB

The hearing was called to order by Chairman Caswell. Christa Bell, Esq., Assistant General Counsel, was the prosecuting attorney representing the State. The Respondent was present and was represented by legal counsel, Ralph L. Gleaton, Esquire.

The evidentiary hearing was conducted on November 27, 2007 by administrative hearing officer, Douglas Greer. Mr. Greer was not present to recuse himself. Mrs. Bell presented the Hearing Officer's Report and Recommendation and explained the charges. Mr. Steel was charged with violations of the S.C. Code Ann. 40-11-110(A)(21), Exceeding his license group limitation, and, S.C. Code Ann. 40-11-300, ... dividing work into portions so as to avoid the financial or other requirements of this chapter.The total cost of construction must be used to determine the appropriate license group for a project.

The Respondent entered into a contract on or about February 3, 2006 with the Carolina Housing Alliance, DCD, to construct 43 one bedroom, single family units at a cost of \$27,000.00 per unit. The project consisted of nine buildings with 4-6 units per building. Because the project consisted of townhomes, the County considered each unit to be an individual residential home and required separate building permits for each unit and assigned separate tax map numbers for each of the units. This requirement showed support for his contention that each unit represented a separate contract. The State's contention is that the project was bid as a package with an aggregate value of \$1,161,000.00, plus other consideration in the agreement, and is the cost of the project. Mrs. Bell stated that this amount far exceeds the Respondents' license group limitation of \$350,000.00 per project.

Mr. Gleaton argued that the law is not clear as to what constitutes a "project". He suggested that any individual unit with its own tax map and permit is a "project" and asked the Board to adopt that definition. Mr. Steinmetz, the Complainant, Mr. Steele and a Greenville County Building Inspector all were of the opinion that the Respondent was properly licensed to perform the work on the project.

Mr. Steele testified that the 43 units were included in the one agreement to avoid the necessity of the parties having to sign forty-three individual contracts. At the time the contract was executed, he believed that he was in compliance as did the Greenville County Building Inspector.

The Complainant, Mark Steinmetz, requested to speak, but was denied.

After receiving the evidence, a motion was made to enter into Executive Session to receive legal advice by Mr. Walker, seconded by Ms. Nance and passed. Rising out of Executive Session by motion of Ms. Nance and seconded by Mr. Neely, and passed, another motion was made.

Motion: Mr. Walker moved that the Hearing Officer's Report and Recommendation be rejected, for reasons that will be spelled out in the Final Order. This is not to be considered an endorsement of what occurred in this case, but is based upon specific facts indicated before the Board that pertain to this case. The motion was seconded by Mr. Lehman and passed.

The hearing was adjourned.

Public Comments : None

Mr. Lehman, newly elected chairman of the Board, reiterated the appreciation of the board members for Louis Caswell's service as chairman and his staying on the Board.

The next regularly scheduled quarterly meeting will be held on April 17, 2008 at 10:00 A.M. in Room 108 of the Kingstree Building, 110 Centerview Drive, Columbia, S.C.

There being no further business, the meeting was adjourned at 2:25 P.M.

Respectively submitted,

Micheal Anderson, Administrator