

SOUTH CAROLINA RESIDENTIAL BUILDERS COMMISSION

Synergy Business Park, Kingstree Building
110 Centerview Drive, Kingstree Building, Room 108
Columbia, South Carolina 29210

Minutes

Wednesday, January 14, 2009

10:00 a.m.

Derrick Williams, Chairman announced that public notice of the meeting was properly posted on the bulletin boards at the main entrance of the Kingstree Building and by notice mailed to all requesting persons, organizations and news media in accordance with §30-4-80 of the South Carolina Freedom of Information Act.

WELCOME AND CALL TO ORDER:

Derrick Williams, Chairman, called the regular meeting of the Residential Builders Commission to order at 10:00 a.m. Other members present for the meeting included: Al Bailey, Frank Clark, Caleb Davis, Brian Dowd and Tim Roberts.

Staff members participating in the meeting included: Sheridon Spoon, Deputy General Counsel, Jamie Saxon, Hearing Advisor, Suzanne Hawkins, Staff Attorney, Stan Bowen, Administrator, Christine Driver, Administrative Assistant, Angela Scott, Administrative Assistant, Sandra Dickert, Administrative Assistant, Jerry Merritt, Investigation, Charlie Ido, Investigation and Fay Grainger, Court Reporter.

Others present participating in the meeting included: Eduardo K. Curry, Elton Rutledge, Charles Williams, Valerie Squirewell, Michael Squirewell, Blondelle Grant, James Belue, Bill Jordan, Jeffery Thompson, Mr. Marion Hair, Mr. Royce Carter, Paul T. Rawl, Jr., Doug Reid and Leah Reid.

Approval of Agenda:

Wednesday, January 14, 2009

Motion

Mr. Clark moved to approve the Wednesday, January 14, 2009 agenda as previously noticed. Mr. Roberts seconded the motion, which carried unanimously.

Approval of Minutes:

Wednesday, December 10, 2008

Motion

Mr. Clark moved to approve the Wednesday, December 10, 2008, meeting minutes. Mr. Roberts seconded the motion, which carried unanimously.

Election of Officers:

Chairman Williams called for nominations from the floor for the Office of Chairman. Mr. Clark moved to nominate Mr. Derrick Williams to serve as chairman. Mr. Roberts seconded the motion, which carried unanimously. There being no further nominations, the nominations were closed and Mr. Derrick Williams was elected by acclamation. Chairman Williams called for nominations for the Office of Vice-Chairman. Mr. Clark moved to nominate Mr. Al Bailey to serve as Vice-Chairman. Mr. Roberts seconded the motion. There being no further nominations, the nominations were closed and Mr. Al Bailey was elected by acclamation.

Excused Members:

NONE

Chairman's Remarks:

Derrick Williams

None

Administrator's Remarks:

Stan Bowen

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A. Bond Claim Procedures - Stan Bowen

Mr. Bowen presented the Commission with the proposed Bond Claims policy and procedures to be used against builders and specialty contractors whose license has lapsed and who has code violations.

Background:

Sections 40-59-220 (C) and (D) of the 1976 Code of Laws of South Carolina, as amended, require residential specialty contractors working on jobs valued at more than \$5,000.00 and residential builders, respectively, to obtain an executed surety bond along with the other requirements for registration and licensure. Therefore, a bond was in place at the time that the work was performed by the registered specialty contractor or licensed builder. In some situations, the specialty contractor or builder (both hereafter referred to as licensee) has let the license lapse. However, the department staff does identify code violations and violations of the South Carolina Residential Construction Standards that were committed during the time that the practice was authorized and the bond was in effect. These former licensees are not subject to normal discipline in the same way as current licensees. Recognizing that the homeowner may need the bond amount in order to make the corrections, the Commission believes that it is in the public interest to implement a procedure, as provided below, that will provide access to the bond. The process also should determine the amount from the bond to be paid to the homeowner.

Policy:

In processing bond claims against lapsed licensees, staff must provide adequate notice to the former licensee at his or her last known address, any attorney of record, and to the bonding company acting as surety on the obligation.

Procedure:

1. Staff receives the complaint file for the written bond claim.
2. Staff reviews the file and bond claim to determine whether inspection reports and licensing records satisfactorily identify (a) that the alleged violation(s) occurred during the time the license was active and (b) that the current status of the license is lapsed and no application is pending, and (c) that there is a bond which covers the period when the alleged violation(s) occurred.
3. If the alleged violation(s) and licensure status are confirmed, staff sends a letter to the homeowner with estimate forms and an affidavit to be completed and returned.
4. When the homeowner's affidavit and any completed estimates are received, staff prepares an authorization (**form**) for review and approval by the administrator.
5. The administrator reviews (**authorization form with**) the estimates (**received from properly licensed Residential Builders, Residential Specialty Contractors or General Contractor**) and, if satisfactory, approves the authorization in an amount reasonably sufficient to complete the work. If multiple claims against a bond are filed, the individual claims should be prorated for payment totaling not more than \$15,000.

Bond:

- a. At the Commission's next meeting, staff shall provide the report regarding the bond claim recommendation and request approval. The Commission's action should be reflected in the minutes.

Commission Review:

- a. The former licensee and bonding company shall be notified of the Commission's decision by personal service, affidavit of service by mail or certified mail, return receipt requested. Proof of service (affidavit of personal service, affidavit of service by mail or green card) should be retained in the appropriate file. A copy of the decision also should be sent to the homeowner by first class mail, with an affidavit of mailing retained in the file.

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6. If the Commission approves the administrator's recommendation, staff submits the bond claim authorization form for payment to the bond company with a copy of the bond, inspection report, and any other relevant information requested.
 7. Staff sends a letter to the homeowner advising that the bonding company has been contacted and to allow at least ninety (90) days for the claim to be processed by the bonding company.
 8. When payment from the bonding company is received, staff prepares and sends a release and cover letter to the homeowner.
 9. After the signed notarized release form is received from the homeowner, the administrator signs the check. Make sure the administrator's name is stamped under the signature.
 10. Staff sends a close out letter and a copy of the signed release form to the homeowner by certified mail, return receipt requested, with the check signed by the administrator. When the certified mail card is received, staff closes the file.
 11. Staff sends a copy of the close out letter and release form to the bonding company.

MOTION

Mr. Bailey made a motion to accept the proposed bond claims procedures. Mr. Roberts seconded the motion, which carried unanimously.

Advisory Opinions:

Sheridon Spoon

NONE

Legislative Update:

Robert Selman

Mr. Bowen informed the Commission that Mr. Selman was at the State House and did not have any legislation to report.

Office of Investigations and Enforcements

Charlie Ido

Charlie Ido, Chief of Investigations of Office of Investigations informed the Commission that Office of Investigations and Enforcement is responsible for investigating complaints involving a possible violation of a professional or occupational practice act. The Office also investigates Labor complaints for wage disputes and child labor. Any initial complaint received indicating a possible violation of a professional or occupational practice act will be screened by the appropriate chief investigator to determine if an investigation is warranted. The chief investigator will review the complaint, determine issues, assign case number and assign case to an investigator.

When an investigation is conducted, the investigator may inform the respondent in writing that a complaint has been filed, giving the substance of the allegation and asking for a written response to the allegation.

An investigator may draft subpoenas for records relevant to the investigation. The subpoena is approved and signed by the OIE deputy director or his/her designee.

The investigator will complete the investigative process and submit an investigative summary to the chief investigator. The chief investigator will review and approve investigative report. Mr. Ido stated that he has a total of 8 investigators, 7 full-time employees and one part-time.

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Old Business:

None

New Business:

Recommendation of Investigation Review Committee:

MOTION

Mr. Clark made a motion, to approve the recommendations of the Investigative Review Committee. Mr. Bailey seconded the motion, which carried unanimously.

Application Review:

Mr. Joseph L. Marsh

Mr. Marsh was scheduled to appear before the Commission because he answered “yes” on his Specialty Contractor’s Application there have been any judgments, liens or claims filed against his or his business entities that he has been associated with within the past five (5) years. Due to Mr. Marsh’s answer the application could not be processed in a routine manner.

Mr. Marsh was not present. No Action was taken.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Jeffrey S. Thompson

Mr. Thompson appeared before the Commission because he answered “no” on his Residential Builder’s Heating and Air Application that there have not been any judgments, liens or claims filed against his or his business entities that he has been associated with within the past five (5) years. Due to Mr. Thompson’s answer the application could not be processed in a routine manner. Mr. Thompson previously held a mechanical contractors license.

Mr. Thompson appeared before the Commission and offered the following testimony. Mr. Thompson testified that he was confused on the question had no intent on keeping any information from the Commission. He has been in the heating and air business for approximately 21 years. He testified that there were liens filed against him for payroll taxes in the amount of Twelve Thousand (\$12,000) Dollars.

MOTION

Mr. Dowd made a motion to approve Mr. Thompson to sit for the Residential Heating and Air Examination. Prior to Mr. Thompson getting a license he must furnish a letter from Department of Revenue stating he has made payment arrangements to rectify the liens filed against him. Mr. Roberts seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. James W. Belue

Mr. Belue appeared before the Commission because he answered “yes” on his Residential Plumbing Application that he has been convicted of pled guilty or nolo contendere to a criminal offense. Due to Mr. Belue’s answer the application could not be processed in a routine manner.

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Mr. Belue appeared before the Commission and offered the following testimony. Mr. Belue testified that he got into trouble when he was younger and has not been in any trouble since 1998.

MOTION

Mr. Bailey made a motion to approve Mr. Belue to sit for the Residential Plumbing Examination. The motion was seconded by Mr. Dowd, which carried unanimously.

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Mr. Charles Williams

Mr. Williams appeared before the Commission because he answered "yes" on his Residential Electrical Application that he was delinquent with his child support obligations. Also, he answered "no" has not been convicted.

Mr. Williams appeared before the Commission and offered the following testimony. Mr. Williams testified that his child support is current and he has receipts regarding that matter. He currently pays Three Hundred Twenty-Five Dollars (\$325.00) per month in child support. He testified that he had three fraudulent check charges in which he has cleared up. He has been in the business since 1967.

MOTION

Mr. Bailey made a motion to allow Mr. Williams to sit for the Residential Electrical Examination. The motion was seconded by Mr. Clark, which carried unanimously.

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Mr. Paul T. Rawl

Mr. Rawl was scheduled to appear before the Commission because he answered "yes" on his Residential Specialty Contractor's Application that he has been convicted of pled guilty or nolo contendere to a criminal offense. Due to Mr. Rawl answer the application could not be processed in a routine manner.

Mr. Rawl was not present. No action was taken.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Kelly M. Teseniar

Mr. Teseniar appeared before the Commission because he answered "yes" on his Specialty Contractor's Application that he has been convicted of pled guilty or nolo contendere to a criminal offense. Due to Mr. Teseniar answer the application could not be processed in a routine manner. Mr. Teseniar waived his right to counsel.

Mr. Teseniar appeared before the Commission and offered the following testimony. Mr. Teseniar testified he did not furnish a sled report when he turned in his application. He testified that he was convicted of simple possession of marijuana.

MOTION

Mr. Bailey made a motion to approve Mr. Teseniar's Residential Specialty Contractor's license. The motion was seconded by Mr. Dowd, which carried unanimously.

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Hearing Officer's Recommendations For Bond Claims:

Mr. Jamie Saxon, Hearing Advisor

Mrs. Christa Bell informed the Commission that Mr. Steven Greer presented this matter before the Hearing Officer and was not present. She asked that the Hearing Officer's Recommendations be adopted. Mr. Roberts asked to be recused.

Mr. Frederick Peters

Mr. Peters did not appear at this meeting.

MOTION

Mr. Clark made a motion, to approve the Hearing Officer's recommendations against Mr. Frederick Peters. Mr. Bailey seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Reinstatements:

Mr. Randy Holloway.

Mr. Holloway appeared before the Commission requested that his license be reinstated. Mrs. Christa Bell represented the state. Mr. Holloway was represented by Mr. Bill Jordan, Esquire.

Mr. Holloway appeared before the Commission and offered the following testimony. Mr. Holloway testified that he has been licensed since 1988. His license was suspended because of the complaint filed by Mr. and Mrs. Reid. He testified that he loves building homes and need his license to support himself and his family. He asked that the Commission reinstate his license.

Mr. Saxon advised that the respondent may present their information at this meeting; and request that the hearing be continued until such time as the investigator is present to give testimony or a report RLC Engineering stating the work is in compliance.

Mr. James and Leah Reid testified that they lost their home twice once in the fire and another with the contractor. As a result of Mr. Holloway's work they have been abandoned by the insurance. Their home is currently in foreclosure because they do not have the funds to repair the damages caused by Mr. Holloway. Their purpose is to make sure that other consumers do not have this problem.

Mr. Jordan stated that he would like to submit copies of the inspection report along with the report from RLC Engineering stating the work is in compliance at the next meeting.

Mr. Marion Hare testified that he has known Mr. Holloway since the early 1980's. Has worked with Mr. Holloway on several occasions and would hire him to do a project for him.

Mr. Royce J. Carter testified that he has known Mr. Holloway for approximately 30 years. He has worked with Mr. Holloway on several projects.

MOTION

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Mr. Bailey made a motion to enter into executive session to seek legal advice. Mr. Davis seconded the motion, which carried unanimously. Mr. Clark made a motion to come out of executive session. Mr. Davis seconded the motion, which carried unanimously.

Decision

The Commission decided that Mr. Holloway had sixty (60) days from January 14, 2009, to submit information from RLC Engineering and Greenville County Building Department that all issues in the RLC report are non-compliance or corrected.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Mr. Michael Squirewell

Mr. Squirewell appeared before the Commission requesting that his license be reinstated. Mr. Squirewell waived his right to counsel. Mr. Clark recused himself

Mr. Joe Connell represented the state. Mr. Connell requested a continuance because he had a previously scheduled hearing located in Lancaster, South Carolina.

MOTION

Mr. Dowd made a motion to grant a continuance. Mr. Bailey seconded the motion, which carried unanimously.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)

Hearing Officer's Recommendations:

Mr. Elton Rutledge, Se. Case # 2007-696

Mrs. Christa Bell represented the State. Mr. Rutledge was represented by Mr. Eduardo K. Curry, Esquire.

Mrs. Christa Bell asked that the state adopt and accept the hearing officer recommendation.

Mr. Curry requested that the hearing officer recommendation not be accepted. He stated that there are some problems with the contract and Mr. Rutledge not being allowed to enter the home. The reason why the complaint is not resolved is because the homeowner wouldn't allow access him access to the home. Mr. Rutledge is willing and ready to complete the project as soon as the Commission lifts the suspension. He has been license since 1983.

MOTION

Mr. Bailey made a motion to accept the hearing officer's recommendation with the following exceptions.

1. Mr. Rutledge must complete items 1 through 4 within a two year period.
2. Reduced the fine to One Thousand (\$1000) Dollars.
3. The vinyl siding on Item number 5 must be installed within 30 days and the remainder of the work on Item 5 within six (6) months.
4. Within six months

Mr. Dowd seconded the motion, which carried unanimously.

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Mr. Stan Harmon, Case #2004-600

Ms Suzanne represented the State. She asked that the hearing officer recommendation be accepted. Mr. Frank Clark recused himself because he was the Hearing Officer.

Mr. Harmon did not appear at this meeting.

MOTION

Mr. Bailey made a motion to accept the hearing officer's recommendations. Mr. Dowd seconded the motion, which carried unanimously.

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Mr. Don Wright, Case # 2007-447

Mrs. Christa Bell represented the state. She asked that the hearing officer recommendation be accepted. Mr. Frank Clark recused himself because he was the Hearing Officer.

Mr. Wright did not appear at this meeting.

MOTION

Mr. Bailey made a motion to accept the hearing officer's recommendations. Mr. Dowd seconded the motion, which carried unanimously.

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Public Comments:

NONE

Dates of Next Meeting – Wednesday, February 11, 2009

The next meeting of the Commission is scheduled for Wednesday, February 11, 2009, in conference room 108.

Adjournment

Mr. Bailey moved the meeting be adjourned. Mr. Roberts seconded the motion, which carried unanimously.

The January 14, 2009, meeting of the South Carolina Residential Builders Commission was adjourned at 2:30 p.m.