

MINUTES
ARIZONA STATE BOARD OF TECHNICAL REGISTRATION
1110 West Washington, Conference Room #240 Phoenix, AZ 85007

Tuesday, July 24 2018

9:00a.m.

OPEN SESSION

1. **CALL TO ORDER** – 9:02am
2. **ROLL CALL Present:** Stephen Noel, Jason Foose, Eugene Montgomery, Jason Madison, Jack Gilmore, Edward Marley, Andrew Everroad, Neal Jones
Not Present: Dr. Alejandro Angel
Staff: Melissa Cornelius, Robert Stam, Douglas Parlin, Kurt Winter

3. **CALL TO THE PUBLIC**

No one appeared before the Board.

4. **ADOPTION OF MINUTES**

Review, Consideration, and Possible Action on the following:

- A. Approve, modify and/or reject, June 26, 2018 Board meeting minutes.

Mr. Noel moved and Mr. Marley seconded to approve the minutes: motion carried. Mr. Everroad and Mr. Jones abstained.

B.

1. Approve, modify and/or reject, June 26, 2018 the 1st Executive Session Board meeting minutes.

Mr. Noel moved and Mr. Marley seconded to approve the minutes; motion carried. Mr. Everroad and Mr. Jones abstained.

2. Approve, modify and/or reject, June 26, 2018 the 2nd Executive Session Board meeting minutes.

Mr. Noel moved and Mr. Marley seconded to approve the minutes; motion carried. Mr. Everroad and Mr. Jones abstained.

5. **CONSIDERATION OF CASES REFERRED FOR FORMAL HEARING**

Formal Hearings or Related Proceedings will begin at 9:30 a.m.

Nothing to Consider

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P18-062, Glen Ludwig, P.E. (Civil) #06237

Mr. Foose recused himself. Mr. Gilmore acted as chairman for this matter.

Mr. Madison moved and Mr. Jones seconded to dismiss the case: motion carried.

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI18-023, Christopher Benfield, C.H.I. #38542

Respondent appeared before the Board.

Mr. Marley moved and Mr. Madison seconded to issue a Letter of Concern; motion carried.

2. HI18-009, Gonzalo Marquez, C.H.I. #54583

Mr. Madison moved and Mr. Jones seconded to issue a Letter of Concern; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. HI18-021, Theodore Gossard, Non-Registrant and Fine Tooth Home Inspections, LLC, Non-Registrant Firm

Mr. Madison moved and Mr. Marley seconded to offer Consent Agreement; motion carried.

2. P18-053, Jose Alba, Non-Registrant, and JVAC Design, LLC, Non-Registrant Firm

Respondent appeared before the Board.

Respondent stated that in order to complete the drafting project in this matter the city of Glendale required him to have his drafted plans. He further stated that his mistake was using his own title block. Mr. Marely asked if Respondent paid the registrant, Mr. Moore, to stamp his plans. Respondent answered 'yes'. Mr. Marley asked how Respondent advertised online. Investigator Thacker answered that Respondent advertised on Craigslist; the ad included an image of stamped plans and keywords such as 'architect'. Mr. Marley stated that he had issue with Respondent's ad, but was more concerned that Mr. Moore stamped the plans. Mr. Madison and Mr. Jones agreed but believed that the civil penalty was too high.

Mr. Marley moved and Mr. Montgomery seconded to offer Consent Agreement encompassing the following: Assurance of discontinuance, Civil Penalty in the amount of \$500 and Cost of Investigation in the amount of \$522 to be paid within 60 days, and if not signed within 30 days move to hearing; motion carried.

The Board requested that staff open an investigation against Mr. Moore.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P17-071, Efren Espino, Non-Registrant and Desert View Contractors LLC, Non-Registrant Firm

Alleger, Clair Adams, appeared before the Board. Respondent did not appear before the Board.

Mr. Adams stated that Respondent forged previous reports he had drafted on earlier projects to save on construction costs. Mr. Foose asked how this affected public health and safety. Mr. Adams answered that there could be potential damage to the structure. Mr. Montgomery asked what happened with the construction using the plans in this matter. Mr. Adams did not know.

Mr. Marley moved and Mr. Madison seconded to reject the signed Consent Agreement and offer a new Consent Agreement encompassing the following: Assurance of Discontinuance, Civil Penalty of \$4000, Cost of Investigation and if not signed within 30 days go to hearing; motion carried.

The Board requested staff forward this matter to the AGs office and Register of Contractors.

2. HI18-016, Christopher Koceja, C.H.I. #52358 and Home Advantage Inspection, LLC, Firm #15902

Respondent appeared before the Board.

Respondent indicated that due to mailing issue, he did not receive his renewal and asked for leniency.

Mr. Noel moved and Mr. Marley seconded to accept the signed Consent Agreement; motion carried.

E. Complaints Requiring Board Guidance:

1. P17-064, Stacy Henson, P.E. (Mechanical) #54472 and Interplan, LLC, Firm #11478

Respondent appeared before the Board. Principal of respondent firm, David Boyce, appeared before the Board.

Respondent stated that the firm changed its policies regarding preliminary plans and was now in compliance with the Board's rules and statutes. Mr. Boyce stated that clients usually receive plans for consideration prior to construction and he was unsure how Alleger received the preliminary plans. Investigator Hunt informed the Board that the issue at hand was whether the Board would consider exempting the use of the expression "owner review" under the Board's Practice Act. Mr. Marley stated that the language adequately met the intent of the Practice Act and he did not see a violation in this matter.

Mr. Marley moved and Mr. Gilmore seconded to dismiss the case; motion carried.

F. Complaints for Consideration of Summary Suspension or Consent Agreement:

1. HI18-033, Steven Bartolomei, C.H.I. #39977

Respondent appeared before the Board.

Respondent apologized for looking through the homeowner's dresser and lying to staff when staff initially confronted him about this matter. Respondent asked the Board not to suspend or revoke his license and asked for leniency.

Mr. Marley moved and Mr. Foose seconded to enter executive session at 10:12am with the case investigator present to review the video of Respondent looking through the homeowner's dresser; motion carried. The Board reentered open session at 10:36am.

Mr. Noel stated that he was undecided about what to do with this complaint since it appeared to be an isolated event yet he recognized its seriousness and the need to protect the public. Mr. Madison believed that an administrative law judge should determine this matter. Mr. Montgomery stated that Respondent lied to staff, both verbally and in writing, which raised the degree of violation in his mind. Mr. Jones stated that the Board should consider possible future victims when making its decision. Mr. Gilmore agreed with Mr. Montgomery and appealed to the Board to take immediate action. Mr. Foose stated that the public's trust and the Board's trust was broken. Mr. Noel inquired about whether the Board could require Respondent to conduct home inspections with someone present. Mr. Donald answered only within a specified timeframe and that the Respondent would have to agree to the requirement. Mr. Everroad agreed with fellow Board members that the violation in this matter was egregious but wished to find a solution without revoking Respondent. Board members discussed the feasibility of having another person present with Respondent during home inspections. Mr. Montgomery stated that he was concerned about the implications that the public may perceive from the Board's decision. The Board determined not to summarily suspend Respondent's license but instead to give him a second chance.

Mr. Everroad moved and Mr. Gilmore seconded to offer Respondent a Consent Agreement encompassing the following: a stayed revocation with probation for five

years with the following terms: a 30 day suspension, \$4,000 penalty fee to be paid within 90 day, minimum of three hours of ethics class to be preapproved by staff and to be completed within 90 days, Investigative costs to be paid within 90 days, and, during the 5 year period a 3rd party reasonably related to the industry and regulated by a State agency and unrelated to or employed by Respondent must be present and sign off on all inspections performed by Respondent; motion carried. Mr. Foose voted nay.

Break at 11:35am. Board returned at 11:50am.

7. LICENSING MATTERS

Whether to Grant or Deny Registration after Full Board Review

A. Jenkins, Wyatt -Home Inspector Application #181465

Applicant appeared before the Board.

Applicant explained that due to past personal hardships he made poor decisions but has since turned his life around. Mr. Stam indicated that Applicant had been pro-active and forthcoming in this application process. Mr. Marley asked if Applicant ever committed a crime in someone's home. Applicant answered 'no', and explained he stole from retail stores and that his arrest for forgery was for the alteration of a retail receipt. Applicant also indicated that he was a registered home inspector in Oregon. Mr. Foose asked if the Oregon Board scrutinized his past during their application process. Applicant answered that the Oregon agency only looked for felonies, and he had none. Applicant indicated that he had court documentation with him that was not available before the meeting. Since the members of the Board did not review the documents, the Board did not consider them in this matter, though Mr. Stam did attest to their authenticity.

Mr. Noel moved and Mr. Marley seconded to grant registration; motion carried.

8. LICENSING CONSENT AGENDA

A. Review, Consideration, and Action on Staff Recommendations for the following:

1. Cancellation of registrations and certifications that have been expired for one full renewal period;

Mr. Marley moved and Mr. Gilmore seconded to cancel registrations and certifications that had been expired for one full renewal period; motion carried.

2. Review of the List of registrations and certifications granted by the Executive Director pursuant to A.R.S. § 32-122.05, 32-122.06, and A.R.S. § 32-123.

List available for public review upon request.

9. **POLICY MATTERS**

Review, Consideration, and Possible Action on the following:

- A. Possible Amendments to A.R.S. § 32-126, and Update on Possible Bill for Licensure by Endorsement.

Ms. Cornelius presented the updated Possible Bill for Licensure by Endorsement. Board members briefly discussed the updates.

Mr. Gilmore moved and Mr. Marley seconded to accept the amendments and updates on Possible Bill for Licensure by Endorsement; motion carried.

10. **DIRECTOR'S REPORT**

- A. Statistics Review

Ms. Cornelius reported on the Board's budget; that the numbers in the statistics were in line with previous years; that the data cleanup was coming along; that Mr. Winter and Ms. Johnson were being made supervisors; and, that a temporary worker was hired to assist the front desk.

- B. Executive Director's raise

Ms. Cornelius reported that Dr. Angel drafted and presented a letter to the Governors' office regarding the Board's vote to approve rewarding her a 5% raise based upon measurable successes over the past 5 years; however, the Department of Administration denied authorizing the raise.

11. **BOARD CHAIR'S REPORT**

Nothing to consider

12. **STANDING COMMITTEE REPORTS**

- A. Legislation and Rules Committee - Nothing to consider
- B. Home Inspector Rules and Standards Committee - Nothing to consider

13. BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES

- A. ASBOG – Monterrey meeting in October
- B. CLARB – Toronto meeting in September
- C. NCARB – Ms. Cornelius, Ms. Pritzl, Mr. Stam, Mr. Marley and Mr. Jones attended the Detroit meeting in July. At the meeting, WCARB member voted Mr. Marley in as the new regional chair.
- D. NCEES – Scottsdale meeting in August. Ms. Cornelius, Ms. Pritzl, Mr. Stam, Mr. Winter, Ms. Loera, Dr. Angel, Mr. Montgomery, Mr. Foose would be attending.

14. FUTURE BOARD MEETINGS – August 28, 2018

15. SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.

16. MEETING ADJOURNMENT – 12:38pm

Dr. Alejandro Angel, Board Chairman



Melissa Cornelius, Executive Director

