

**VIRGINIA BOARD FOR  
ASBESTOS, LEAD, AND HOME INSPECTORS  
MEETING MINUTES**

The Virginia Board for Asbestos, Lead, and Home Inspectors met on February 7, 2013, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2<sup>nd</sup> Floor, Board Room 4, Richmond, Virginia 23233.

The following members of the Board were present:

Keith Cronan  
Dolores Daniels  
Phillip Fincher  
Rick Holtz  
D. Bowen Hyatt  
Brian Koepf

Reginald Marston, III  
Kenneth Nash  
Walter C. Nixon  
Peter Palmer  
D. Todd Vander Pol

Board members Bonnie Atwood, Colleen Becker, and Suzanne Blevins were not present at the meeting.

The following staff members were present for part or all of the meeting:

Gordon Dixon, Director  
Mark N. Courtney, Senior Director for Regulatory and Public Affairs  
Trisha L. Henshaw, Executive Director  
Jill Hrynciw, Board Administrator  
Thomas K. Perry, Board Administrator  
Candace Howard, Legal Analyst  
Betty C. Jones, Administrative Assistant

Elizabeth Peay from the Office of the Attorney General was present.

Mr. Cronan, finding a quorum of the Board present, called the meeting to order at 9:05 a.m. **Call to Order**

Ms. Henshaw advised the Board of the emergency evacuation procedures. **Emergency Evacuation Procedures**

Ms. Henshaw indicated there have been some changes in staff responsibilities within the section. Tom Perry will be the Board Administrator for the ALHI Board and Jill Hrynciw will be the Board Administrator for the Common Interest Community Board. These changes are a result of efforts within the Agency to foster new ideas and perspectives in order to improve and streamline **Introduction of Staff**

processes. Ms. Hrynciw and Mr. Perry will be working closely together during the transition.

Mr. Nixon moved to approve the agenda. Mr. Vander Pol seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to lead-based paint renovation, repair, and painting (RRP) until the effective date of the regulations.

**Approval of Agenda**

Mr. Cronan opened the floor for public comment. No members of the public present requested to speak.

**Public Comment  
Period**

Mr. Cronan transferred the Chair to Mr. Hyatt and recused himself from the meeting.

**Transfer of Chair**

Regarding **File Number 2013-01184, Junior M. Horna-Pozo**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Horna-Pozo was present and addressed the Board. He indicated that he is now a legal resident of the United States and asked the Board to grant him a license. Ms. Howard asked that it be noted in the minutes that the Summary heading which reads Board for Asbestos, Lead, Mold and Home Inspectors should read Board for Asbestos, Lead, and Home Inspectors. Mr. Marston moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Horna-Pozo's asbestos supervisor application. Mr. Koepf seconded the motion which was unanimously approved by: Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. Mr. Cronan recused himself from the meeting and was not present during the discussion or vote as Mr. Horna-Pozo is an employee of his company.

**File Number 2013-  
01184, Junior M.  
Horna-Pozo**

Mr. Marston disclosed that he is familiar with Mr. Marsengill professionally but indicated he can be fair and impartial in consideration of this matter. Mr. Koepf disclosed that he also knows Mr. Marsengill professionally but indicated he can be fair

**File Number  
2012-02812 – Gary  
William Marsengill**

and impartial in consideration of this matter.

Regarding **File Number 2012-02812, Gary William Marsengill**, the Board members reviewed the Consent Order as seen and agreed to by Mr. Marsengill. Mr. Marsengill was not present. Ms. Howard asked that it be noted in the minutes that the Consent Order heading which reads Virginia Board for Asbestos, Lead, Mold and Home Inspectors should read Virginia Board for Asbestos, Lead, and Home Inspectors. Mr. Vander Pol moved to accept the Consent Order which cites the following violations of the Board's regulations: 18 VAC 15-40-130.A (Count 1); 18 VAC 15-40-190.6 (Count 2); 18 VAC 15-40-180 (Count 3). For these violations, Mr. Marsengill agrees to pay the following monetary penalties: \$50.00 for the violation contained in Count 1; \$200.00 for the violation contained in Count 2; \$250.00 for the violation contained in Count 3; and \$150.00 in Board costs, for a total monetary penalty of \$650.00.

In addition, for violation of Counts 1 through 3, Marsengill agrees to reimburse the \$395.00 inspection fee to Daniel Frank and provide the Board with proof of the payment within sixty (60) days of the effective date of this Order. If Marsengill fails to comply with this condition, then license suspension will be automatically imposed until compliance is obtained.

Mr. Fincher seconded the motion which was unanimously approved by: Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to (RRP) until the effective date of the regulations. As the reviewing Board member, Mr. Cronan was not present during the discussion or vote.

Mr. Cronan returned to the meeting and resumed the position of

**Transfer of Chair**

Regarding **File Number 2013-00942, Rodney L. Bowers**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Bowers was not present. Mr. Vander Pol moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Bowers' asbestos worker

**File Number 2013-00942, Rodney L. Bowers**

application. Mr. Palmer seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. Mr. Hyatt recused himself from the meeting and was not present during the discussion or vote due to his professional relationship with Mr. Bowers.

Regarding **File Number 2013-00943, Earl L. Gay, Jr.**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Gay was not present. Mr. Vander Pol moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Gay's asbestos worker application. Mr. Marston seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. Mr. Hyatt recused himself from the meeting and was not present during the discussion or vote due to his professional relationship with Mr. Gay.

**File Number 2013-00943, Earl L. Gay, Jr.**

Mr. Hyatt returned to the meeting.

**Board Member Returned to Meeting**

Regarding **File Number 2013-01376, William J. Culpeper**, the Board members reviewed the application file, which consisted of the exhibits, transcript, and the Presiding Officer's Summary and Recommendation. Mr. Culpeper was not present. Mr. Hyatt moved to accept the summary and recommendation of the Presiding Officer and approve Mr. Culpeper's asbestos supervisor application. Mr. Palmer seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

**File Number 2013-01376, William J. Culpeper**

Ms. Henshaw provided an overview of legislation that has been proposed to date for consideration during the 2013 Virginia General Assembly session as it pertains to the Board's programs. Ms. Henshaw explained that all Board and industry-related legislation is monitored by the Board and Department staff. While staff may provide technical information, data, and statistics regarding legislative proposals, Ms. Henshaw reminded the Board members that neither staff nor the Board has a position on a particular bill until such time as the Governor issues a position. Currently, staff is following Senate Bill 871 and House Bill 1851 (companion bill) and monitoring two agency bills: House Bill 1641 and Senate Bill 1179.

**Legislative Update**

Ms. Henshaw gave an update on the current status of the regulatory review processes for several of the Board's regulatory packages. The fee adjustment changes in the Asbestos Licensing Regulations, Lead-Based Paint Activities Regulations, and the Certified Home Inspector Regulations are currently undergoing review by the Governor's office.

**Update on  
Regulatory Activity**

Ms. Henshaw discussed the Governor's Regulatory Reform Initiative to conduct a comprehensive review of all DPOR regulations currently in place and repeal regulations that are unnecessary or no longer in use, reduce unnecessary regulatory burdens on individuals, businesses, and other regulated groups, and identify statutes that require unnecessary or overly burdensome regulations.

**Discussion of  
Governor's  
Regulatory  
Reform Initiative**

A public comment period was held from November to early December to receive comments on regulations that could be eliminated or amended to reduce regulatory burdens. Simultaneously, staff conducted a review of the regulations to identify areas that can be reduced or eliminated. Two public comments were received: one regarding the Asbestos Licensing Regulations and one regarding the Certified Home Inspector Regulations.

Ms. Henshaw advised the Board that staff conducted a review of the regulations and based upon this review and the public comments received indicated that a review of the regulations was warranted. The Board discussed the following potential amendments: renewal procedures in 18 VAC 15-20-70 and the

**Consider  
Authorization of  
NOIRA**

number of instructors required for a training program in 18 VAC 15-20-520 of the Asbestos Licensing Regulations; late renewal procedures in 18 VAC 15-30-167 of the Lead-Based Paint Activities Regulations; Continuing Professional Education (CPE) requirements in 18 VAC 15-40-72; and reinstatement in 18 VAC 15-40-90 of the Certified Home Inspector Regulations. Ms. Henshaw advised that a Notice of Intended Regulatory Action (NOIRA) for the Board for Asbestos, Lead, and Home Inspectors Regulations must be authorized by the Board if it wishes to initiate the regulatory review process pursuant to the Governor's Regulatory Reform Initiative. A motion was made by Mr. Hyatt to authorize staff to file a Notice of Intended Regulatory Action for the Asbestos Licensing Regulations, Lead-Based Paint Activities Regulations, and Certified Home Inspector Regulations to proceed with consideration of amendments as discussed as well as any other amendments that may be identified that achieve the objectives of the Governor's Regulatory Reform Initiative. Mr. Palmer seconded the motion which was approved by: Cronan, Daniels, Fincher, Hyatt, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations. Member voting in opposition to the motion was Mr. Koepf.

The Board recessed for a break at 10:48 a.m. and reconvened at 11:09 a.m.

**Break**

Mr. Vander Pol moved that the Board approve the minutes of the following meetings:

**Approval of Minutes**

Board Meeting Minutes – November 8, 2012  
Informal Fact-Finding Meeting Minutes – December 4, 2012  
Informal Fact-Finding Meeting Minutes – December 6, 2012  
Informal Fact-Finding Meeting Minutes – December 19, 2012

Mr. Marston seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

The Board was provided with a memorandum from Ms. Hrynciw

**Memo on Lead-**

requesting Board guidance on the lead-based paint training grace period for lead license renewals. After discussion, Mr. Hyatt made a motion to adopt a guidance document to provide that the Board allow refresher training taken within three months of the 36 month period allowed by regulation be considered in compliance with the regulations, provided that all other requirements are met. Mr. Vander Pol seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

**Based Paint  
Training  
Grace Period**

The Board was provided with a memorandum from Ms. Hrynciw requesting Board guidance on home inspector general liability insurance for home inspectors. After discussion, Mr. Hyatt made a motion to adopt a guidance document to provide that the Board allow a business liability insurance policy or a commercial general liability insurance policy with minimum limits of \$250,000 to be considered to meet the entry requirement found at 18 VAC 15-40-30.9. Further, it is acceptable for the applicant to be listed as an additional insured on a company general liability insurance policy, business liability insurance policy, or commercial general liability insurance policy instead of the policy being in the applicant's name so long as the minimum requirements of 18 VAC 15-40-30.9 are met. If for any reason Board staff cannot reasonably ensure that the applicant is sufficiently covered by the company's policy in accordance with 18 VAC 15-40-30.9, Board staff may require that requisite coverage be obtained in the name of the individual applicant. Mr. Fincher seconded the motion which was unanimously approved by: Cronan, Daniels, Fincher, Hyatt, Koepf, Marston, Nixon, Palmer, and Vander Pol. Board members Holtz and Nash were present but did not vote because, by statute, they are ineligible to vote on matters unrelated to RRP until the effective date of the regulations.

**Memo on Home  
Inspector General  
Liability Insurance**

The following meeting dates have been scheduled:

- § May 2, 2013
- § August 15, 2013
- § November 14, 2013

**Future Meeting  
Dates**

Mr. Cronan requested that the Board members complete their conflict of interest forms and travel vouchers.

**Conflict of Interest  
Forms and Travel**

**Vouchers**

There being no further business, the meeting adjourned at 11:24 **Adjourn**  
a.m.

---

Keith F. Cronan, Chair

---

Gordon Dixon, Secretary

DRAFT