

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on March 25, 2003 in Conference Room 4 West at the offices of the Department of Professional and Occupational Regulation, 3600 West Broad Street, Richmond, Virginia.

The following members of the Board were present

Pamela M Mentz, Chairperson
Jack A Geller, Vice Chairman
Joseph W Crockett
P Bradley Nott, Jr.
John C Bouldin
Frederick Heppner
John J Gerow
Richard L Honeycutt
Vickie Harlow

The following members of DPOR staff were present during some or all of the meeting

Sandra Whitley Ryals, Chief Deputy Director
Karen O'Neal, Deputy Director for RPD
David E Dick, Assistant Director
Joseph Kossan, Regulatory Boards Administrator
Thomas K Perry, Regulatory Boards Administrator
Earlyne Perkins, Legal Assistant

Others who attended the meeting included.

William Diamond, Board Counsel (via telephone)
Ronald Lushbaugh, BPOR Liaison
John Hart, Industrial Training Company
Thomas B Kelly, Bowman Green & Kelly PLLC
Fred Simmermon, HomePro
Sandra Simmermon, HomePro

Chairperson Mentz, finding a quorum of the Board present, called **Call to Order** the meeting to order at 9 09 AM

Mr Dick introduced Ronald Lushbaugh, the Board liaison from the Board for Professional and Occupational Regulation

Mr Crockett moved that the Board approve the agenda as prepared and amended by staff Mr Heppner seconded the motion, which was carried unanimously by eight aye votes (Messrs Crockett, Geller, Bouldin, Heppner, Honeycutt, and Gerow, and Mses Harlow and Mentz) The agenda was as follows **Adopt Agenda**

I CALL TO ORDER

II APPROVAL OF AGENDA

- 1 Board Agenda, March 25, 2003

III APPROVAL OF MINUTES

- 2 Board Minutes, December 17, 2002
- 3 Board Minutes, January 16, 2003
4. IFF Minutes, February 10, 2003

IV PUBLIC COMMENT PERIOD - Five minute public comment, per person, on those items not included on the agenda with the exception of any open disciplinary files

V ENFORCEMENT CASES

- 5 File Number 2002-01385 - Thomas Lee Smith
Reconvened IFF by Crockett - Disciplinary
Continued from last Board meeting
- 6 File Number 2002-00883 - Melvin W Edwards
Reconvened IFF by Crockett - Disciplinary
Continued from last Board meeting
- 7 File Number 2002-01353 - Jeffrey T Lipps
Reconvened IFF by Crockett - Disciplinary
Continued from last Board meeting
- 8 File Number 2002-01360 - Kelvin Jerome Mackey
Reconvened IFF by Crockett - Disciplinary
Continued from last Board meeting
- 9 File Number 2002-01388 - Eric T Smith

Reconvened IFF by Crockett - Disciplinary
Continued from last Board meeting

10 File Number 2002-01321 - Avram Gold
Consent Order

11 File Number 2003-01648 - Leon Omar Pinel Ochoa
IFF by Crockett - Licensing

VI LEAD EXAMINATION RFP EVALUATION PANEL
APPOINTMENT

VII ASBESTOS TRAINING PROGRAM NOTIFICATION AND
ROSTER REQUIREMENTS

VIII UPDATE ON FINAL LEAD-BASED PAINT
REGULATION AMENDMENTS

IX UPDATE ON FINAL CERTIFIED HOME INSPECTORS
REGULATIONS

12 Implementation of Home Inspector Regulations

X STAFF UPDATES

XI BOARD MEMBER ORIENTATION - KAREN O'NEAL

- Board Meetings
- Regulation Review

XII SET NEXT MEETING DATE

- June 4, 2003

XIII COMPLETE CONFLICT OF INTEREST FORMS AND
TRAVEL VOUCHERS

XIV ADJOURN

Mr Geller moved that the Board approve the minutes of its **Approval of Board**
December 17, 2002 meeting, its January 16, 2003 emergency **Minutes**
telephone conference meeting, and the February 10, 2003 IFF
collectively as prepared by staff. Mr Heppner seconded the
motion, which was carried unanimously by eight aye votes

(Messrs Crockett, Geller, Bouldin, Heppner, Honeycutt, and Gerow, and Mses Harlow and Mentz)

Chairperson Mentz opened the floor for public comment. No member of the public present expressed a desire to address the Board. **Public Comment Period**

In the matter of **File Number 2002-01385, Board v. Thomas Lee Smith**, the Board reviewed the record, which consisted of the investigation file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation. **File Number 2002-01385**
Thomas Lee Smith (Respondent) was not present. Upon a motion by Mr Heppner and seconded by Mr Bouldin, the Board adopted the summary and recommendation, and revoked Thomas Lee Smith's Asbestos Worker license and imposed a monetary penalty of \$250.00. The motion passed unanimously. Members voting "YES" were Mr Gerow; Mr. Honeycutt, Ms Harlow; Ms. Mentz, and Mr Geller. The presiding Board member, Mr. Crockett, left the room and did not participate in the discussion or vote. Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003.

Mr Nott arrived at 9:31 AM

In the matter of **File Number 2002-00883, Board v. Melvin W. Edwards**, the Board reviewed the record, which consisted of the investigation file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation. **File Number 2002-00883**
Melvin W Edwards (Respondent) was not present, but was represented by his attorney, Thomas B Kelly. Upon a motion by Mr. Heppner and seconded by Ms Harlow, the Board adopted the facts contained in summary. The motion passed. Members voting "YES" were Mr Honeycutt, Mr Nott; Ms Harlow; Ms Mentz, and Mr Geller. Mr Gerow voted "NO". The presiding Board member, Mr Crockett, left the room and did not participate in the discussion or vote. Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003.

Upon a motion by Mr Gerow and seconded by Mr Heppner, the Board rejected the recommendation and accepted the consent order offer made by Mr Kelly to suspend Mr Edwards' Asbestos

Worker license pending receipt to the Board of evidence of completion of a new 32-hour worker initial worker training course
The motion passed Members voting "YES" were Mr Honeycutt, Mr. Nott, Ms Mentz, and Mr Gerow. Ms Harlow, and Mr Geller voted "NO " The presiding Board member, Mr Crockett, left the room and did not participate in the discussion or vote Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003.

In the matter of **File Number 2002-01388, Board v. Eric T. Smith**, the Board reviewed the record, which consisted of the investigation file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation Eric T Smith (Respondent) was not present, but was represented by his attorney, Thomas B Kelly Upon a motion by Mr Heppner and seconded by Mr Geller, the Board adopted the facts contained in summary The motion passed unanimously Members voting "YES" were Mr. Honeycutt; Mr Nott, Ms. Harlow; Mr Gerow, Ms Mentz, and Mr Geller The presiding Board member, Mr Crockett, left the room and did not participate in the discussion or vote Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

**File Number
2002-01388**

Upon a motion by Mr Gerow and seconded by Mr Heppner, the Board rejected the recommendation and accepted the consent order offer made by Mr Kelly to suspend Mr. Smith's Asbestos Worker license pending receipt to the Board of evidence of completion of a new 32-hour worker initial worker training course The motion passed Members voting "YES" were Mr Honeycutt, Mr Nott, Ms Mentz, and Mr Gerow Ms Harlow, and Mr Geller voted "NO " The presiding Board member, Mr Crockett, left the room and did not participate in the discussion or vote Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

In the matter of **File Number 2002-01353, Board v. Jeffrey T. Lipps**, the Board reviewed the record, which consisted of the investigation file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation Jeffrey T Lipps (Respondent) was not present, but was represented by his

**File Number
2002-01353**

attorney, Thomas B Kelly Upon a motion by Mr Heppner and seconded by Mr Geller, the Board adopted the facts contained in summary The motion passed unanimously Members voting "YES" were Mr Honeycutt, Mr Nott, Ms Harlow, Mr Gerow, Ms Mentz, and Mr Geller. The presiding Board member, Mr Crockett, left the room and did not participate in the discussion or vote Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

Upon a motion by Mr Heppner and seconded by Mr Geller, the Board rejected the recommendation and accepted the consent order offer made by Mr Kelly to suspend Mr Lipps' Asbestos Supervisor license pending receipt by the Board of evidence of completion of a new 40-hour initial supervisor training course and to impose a monetary penalty of \$250.00 The motion passed unanimously Members voting "YES" were Mr Honeycutt, Mr Nott, Mr Gerow, Ms Harlow, Ms Mentz, and Mr Geller. The presiding Board member, Mr. Crockett, left the room and did not participate in the discussion or vote. Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

In the matter of **File Number 2002-01360, Board v. Kelvin Jerome Mackey**, the Board reviewed the record, which consisted of the investigation file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation Kelvin Jerome Mackey (Respondent) was not present, but was represented by his attorney, Thomas B Kelly Upon a motion by Mr Heppner and seconded by Mr Geller, the Board adopted the facts contained in summary The motion passed unanimously Members voting "YES" were Mr Honeycutt, Mr Nott, Ms Harlow, Mr Gerow, Ms Mentz, and Mr Geller The presiding Board member, Mr Crockett, left the room and did not participate in the discussion or vote Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

**File Number
2002-01360**

Upon a motion by Mr Heppner and seconded by Mr Geller, the Board rejected the recommendation and accepted the consent order offer made by Mr. Kelly to suspend Mr. Mackey's Asbestos Supervisor license pending receipt by the Board of evidence of

completion of a new 40-hour initial supervisor training course and to impose a monetary penalty of \$250 00 The motion passed unanimously. Members voting "YES" were Mr. Honeycutt, Mr Nott, Mr Gerow, Ms Harlow, Ms Mentz, and Mr. Geller The presiding Board member, Mr Crockett, left the room and did not participate in the discussion or vote Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

The Board recessed from 10 12 AM until 10 20 AM

In the matter of **File Number 2002-01321, Board v. Avram Gold,** the Board reviewed Consent Order Number 2003-0065, which was offered to and signed by Avram Gold (Respondent) Upon a motion by Mr Crockett and seconded by Ms Harlow, the Board accepted the consent order to revoke Avram Gold's licenses for Asbestos Supervisor, Asbestos Inspector, Asbestos Management Planner, and Asbestos Project Designer and impose a monetary penalty of \$1,500 per license, totaling \$6,000. The motion passed unanimously Members voting "YES" were Mr Crockett, Mr. Gerow, Mr Honeycutt, Mr Nott, Ms Harlow, Mr Geller, and Ms Mentz Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

**File Number
2002-01321**

In the matter of **File Number 2003-01648, Board v. Leon Omar Pinel Ochoa,** the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF, and the presiding Board member's summary and recommendation Leon Omar Pinel Ochoa (Respondent) was not present Upon a motion by Mr Bouldin and seconded by Mr Heppner, the Board adopted the summary and recommendation, and approved the application for Asbestos Worker license for Leon Omar Pinel Ochoa. The motion passed unanimously Members voting "YES" were Mr Gerow; Mr Honeycutt, Mr Nott, Ms Harlow, Ms Mentz, and Mr Geller The presiding Board member, Mr. Crockett, left the room and did not participate in the discussion or vote Mr. Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

**File Number
2003-01648**

Mr Nott moved that the Board appoint Mr. Gerow to serve on the **Lead Exam RFP**

Lead Exam RFP Evaluation Panel and to act on their behalf Mr Heppner seconded the motion, which was carried unanimously by seven aye votes (Messrs Crockett, Geller, Bouldin, Honeycutt, and Gerow, and Meses Harlow and Mentz) Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

Ms Harlow and Mr Gerow left the room and did not participate in the discussion or vote since both were asbestos training providers

**Asbestos
Notifications and
Rosters**

Mr Dick updated the Board on the requirements of Asbestos Regulation 18 VAC 15-20-470 concerning training course notifications and rosters

Mr Crockett moved to approve training for all individuals upon receipt of rosters verifying completion of the training provided that no information alleging that the Accredited Asbestos Training Provider failed to provide the full and complete training required by the Board's regulations is received Mr Heppner seconded the motion, which was carried unanimously by five aye votes (Messrs Crockett, Geller, Nott, Honeycutt, and Ms Mentz) Mr Bouldin and Mr Heppner were present, but did not vote since by statute they are ineligible to vote on matters unrelated to home inspectors until July 1, 2003

Mr Perry informed the Board that Ellen Coates, Board Counsel, had completed her review of the Lead regulations and issued a Letter of Assurance on February 13 and that the regulations were approved on March 7 by the Department of Planning and Budget (DPB). To obtain approval, references to a specific field of study for a bachelor's or associate's degree were removed from the qualifications for Risk Assessor DPB felt that by requiring specific fields of study for applicable degrees, the regulations were more stringent than EPA

**Update on Lead
Regulations**

Mr Perry informed the Board that Ellen Coates, Board Counsel, had completed her review of the Lead regulations and issued a Letter of Assurance on January 22 and that the regulations were approved on February 20 by the Department of Planning and Budget (DPB)

**Update on Home
Inspectors
Regulations**

Mr Perry reviewed the certification requirements and discussed

with the Board the practical implementation of those requirements

Mr. Nott moved that the Board accept staff's recommended implementation procedures of the Home Inspectors regulations. Mr. Crockett seconded the motion, which was carried by eight aye votes (Messrs Nott, Crockett, Geller, Bouldin, Honeycutt, and Gerow, and Mses Harlow and Mentz). Mr Heppner voted "NO "

Mr Nott moved that the Board accept both the "old" ASHI examination and the NAHI CRI examination as being equivalent to the Board-approved examination, contingent upon verification of equivalency. Mr Crockett seconded the motion, which was carried unanimously by nine aye votes (Messrs Nott, Crockett, Geller, Bouldin, Honeycutt, Heppner, and Gerow, and Mses Harlow and Mentz)

David Dick informed the Board that on-line renewals will be available beginning July 1 for August renewals. Any required paperwork, such as certificates of completion, will still be needed to complete any such license renewals.

Staff Updates

Tom Perry informed the Board that he conducted audits of the Lead Inspector and Lead Risk Assessor training courses offered by Michael Baker Jr Inc in Virginia Beach on January 27-31, and that he plans to conduct an audit a the Lead Risk Assessor Refresher training course offered by Connor Environmental Services on April 11 in Baltimore, Maryland

At its March 17 meeting, the Building Code Commission decided not to add a lead-based paint inspection section to the Uniform Statewide Building Code (USBC)

A lead examination review workshop was conducted by Experior on March 19 with Mr Perry and Mr Honeycutt serving as subject matter experts

Mr Perry said that an EPA Region III meeting will be held in Philadelphia on April 10 and that a National Lead Conference will be held in San Antonio on June 9-12.

Joe Kossan informed the Board that the 2003 MAREC meeting, which will be hosted by Virginia, was postponed until the

October/November timeframe because the EPA Grant was approved too late to hold the meeting in March as previously planned

Mr Kossan said that there have been no changes in either the Virginia National Emission Standards for Hazardous Air Pollutants (NESHAP) Program or EPA's Model Accreditation Plan He also said that the Building Code Commission made no changes to the asbestos inspection section of the USBC at its March 17 meeting because there would need to be a change in the statute to accommodate any changes

The Board recessed for lunch from 11.48 AM until 12:02 PM.

Karen O'Neal presented a Board member orientation on Board Meetings and Regulation Review

Board Member Orientation

Mr Crockett, the presiding Board member for the Charles R Sledge, Jr enforcement cases, left the room and did not participate in the any discussion or vote

Telephone Conference with Board Counsel

Via telephone conference call, William Diamond, Board Counsel, addressed the Board concerning the Charles R Sledge, Jr enforcement cases

Mr. Honeycutt left the room at 12 38 PM and returned at 12 42 PM

After much discussion, the Board took no action on the Sledge enforcement cases.

The Board established its next meeting date to be June 4, 2003 at 9.00 AM in conference room 4W at DPOR

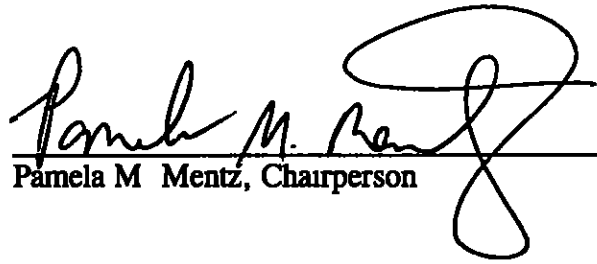
Next Meeting Date

Chairperson Mentz asked the Board members to complete their conflict of interest forms and travel vouchers

Conflict of Interest Forms and Travel Vouchers

Chairperson Mentz, finding no further business to conduct, adjourned the meeting at 1 46 PM

Adjournment



Pamela M Mentz, Chairperson



Louise Fontaine Ware, Secretary

COPY TESTE

Custodian of the Records