

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on August 20, 2020, at the offices of the Department of Professional and Occupational Regulation (DPOR), Perimeter Center, 9960 Mayland Drive, 2nd Floor, Board Room 2, Richmond, Virginia 23233.

The following members of the Board were present:

Sandra Baynes
John E. Cranor
James E. Haltigan
Gene E. Magruder, Vice-Chair

David P. Rushton
Patrick Studley
Paul D. Thomas
Louis Walker

Board members Chadwick Bowman, Rick Holtz, Galappa Madhusudhan, and Peter Palmer were not present at the meeting.

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

Mary Broz-Vaughan, Director
Trisha L. Henshaw, Executive Director
Shannon Webster, Director of Examinations
Joseph C. Haughwout, Jr., Board and Regulatory Administrator
Tanya M. Pettus, Administrative Assistant

Joshua Laws from the Office of the Attorney General was present.

Mr. Magruder, finding a quorum of the Board present, called the meeting to order at 9:01a.m.

Call to Order

Ms. Henshaw advised the Board of the emergency evacuation procedures.

**Emergency
Evacuation
Procedures**

Ms. Henshaw advised the Board of safety measures currently in place due to COVID-19.

**COVID-19 Safety
Reminders**

Ms. Henshaw introduced staff member Brenda Hundley, who was present to assist in implementing safety protocols.

Ms. Henshaw introduced to the Board Paul Thomas, who was recently appointed to serve as the lab representative on the Board.

**Introduction of New
Board Member**

Mr. Rushton moved to approve the agenda as presented. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, Magruder, Rushton, Studley, Thomas, and Walker.

Approval of Agenda

Mr. Haltigan arrived to the meeting at 9:05 a.m.

Arrival of Board Member

Ms. Baynes moved to approve the minutes of the February 6, 2020, Board meeting as presented. Mr. Rushton seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Rushton, Studley, Thomas, and Walker.

Approval of Minutes

There were no members of the public present to address the Board.

Public Comment Period

Mr. Rushton recused himself from the meeting for discussion and deliberation of File Numbers 2020-00528 and 2020-00033.

Recusal of Board Member

In the matter of **File Number 2020-00528, Kenneth John Lamora**, the Board members reviewed the Consent Order which imposes (i) a monetary penalty of \$250.00 for violation of 18VAC 15-40-120.B as outlined in Count 1, and (ii) Board costs of \$150.00. Mr. Cranor moved to approve the Consent Order as presented. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Studley, Thomas, and Walker.

File Number 2020-00528, Kenneth John Lamora

In the matter of **File Number 2020-00033, Bradley Alan Gamlin**, the Board members reviewed the Consent Order which imposes (i) a monetary penalty of \$100.00 for two violations of 18VAC 15-40-120.A as outlined in Count 1, (ii) a monetary penalty of \$50.00 for violation of 18VAC 15-40-130.B as outlined in Count 2, (iii) a monetary penalty of \$100.00 for two violations of 18VAC 15-40-130.A as outlined in Count 3, (iv) a monetary penalty of \$200.00 for the violation of 18VAC 15-40-180.B as outlined in Count 4, and (v) Board costs of \$150.00. Mr. Cranor moved to approve the Consent Order as presented. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Studley, Thomas, and Walker.

File Number 2020-00033, Bradley Alan Gamlin

Mr. Rushton returned to the meeting.

Return of Board Member

In the matter of **File Number 2019-00772, Douglas George Ferguson, Sr.**, the Board members reviewed the Consent Order which imposes (i) a monetary penalty of \$250.00 for violation of 18VAC 15-40-130.B as outlined in Count 1, and (ii) Board costs of \$150.00. Ms. Baynes moved to approve the Consent Order as

File Number 2019-00772, Douglas George Ferguson, Sr.

presented. Mr. Rushton seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Rushton, Studley, Thomas, and Walker.

In the matter of **File Number 2020-02024, Jack Aaron Musgrove**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation.

File Number 2020-02024, Jack Aaron Musgrove

Mr. Haughwout read a written statement from Mr. Musgrove to the Board. Mr. Musgrove expressed his appreciation for the Board's time and consideration and stated he looks forward to contributing professionally to his region.

After discussion, Mr. Haltigan moved to accept the recommendation of the Presiding Officer and approve Mr. Musgrove's application for a home inspector license. Mr. Thomas seconded the motion. After further discussion, Board members Haltigan, Magruder, Thomas, and Walker voted in favor of the motion. Baynes, Cranor, Rushton, and Studley voted in opposition to the motion. The motion failed by tie vote.

Ms. Baynes then moved to reject the recommendation and deny Mr. Musgrove's application for a home inspector license. Mr. Cranor seconded the motion which was approved by: Baynes, Cranor, Rushton, and Studley. Haltigan, Magruder, Thomas, and Walker voted in opposition to the motion. The motion failed by tie vote.

After further discussion, Mr. Magruder moved to approve Mr. Musgrove's application for a home inspector license on the condition that Mr. Musgrove provide proof of completion of the required ride-along inspections within six months of the effective date of the conditional license. Mr. Thomas seconded the motion which was approved by: Magruder, Thomas, and Walker. Baynes, Cranor, Haltigan, Rushton, and Studley voted in opposition to the motion. The motion failed by majority vote.

After lengthy discussion, Mr. Haltigan moved reject the recommendation of the Presiding Officer and deny Mr. Musgrove's application for a home inspector license to be consistent with past case decisions with similar fact patterns. Ms. Baynes seconded the motion which was approved by: Baynes, Cranor, Haltigan, Magruder, Rushton, and Studley. Thomas and Walker voted in opposition to the motion. The motion passed by majority vote.

In the matter of **File Number 2020-01517, Jeffrey Lee Brigham**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Mr. Rushton moved to accept the recommendation of the Presiding Officer and approve Mr. Brigham's application for an asbestos supervisor license. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Rushton, Studley, Thomas, and Walker.

File Number 2020-01517, Jeffrey Lee Brigham

In the matter of **File Number 2020-02353, Tony Terrell Rhone**, the Board members reviewed the record which consisted of the application file, transcript and exhibits from the Informal Fact-Finding Conference, and the Presiding Officer's Summary and Recommendation. Ms. Baynes moved to accept the recommendation of the Presiding Officer and approve Mr. Rhone's application for an asbestos supervisor license. Mr. Haltigan seconded the motion. After discussion, the motion was approved by: Baynes, Cranor, Haltigan, Magruder, Studley, Thomas, and Walker. Mr. Rushton voted in opposition to the motion. The motion passed by majority vote.

File Number 2020-02353, Tony Terrell Rhone

Mr. Haughwout provided an update on the current status of the regulatory review processes for the Board's regulatory packages.

Regulatory Action Update

Final amendments to the Asbestos Licensing Regulations and Virginia Lead-Based Paint Regulations regarding trade or fictitious name requirements became effective on May 1, 2020.

The proposed Lead-Based Paint Renovation, Repair, and Painting Program regulations (Initial Promulgation) were approved by the Secretary of Commerce and Trade on October 28, 2019. The regulations are currently with the Governor's office for review.

Ms. Henshaw advised the Board that the general review of Home Inspector Regulations authorized by the Board at its meeting in February was postponed due to COVID-19.

Home Inspector Licensing Regulations General Review

Ms. Henshaw advised that Mr. Cranor, Mr. Rushton, and Mr. Studley previously agreed to serve on the general review committee, and asked the Board to consider other industry representatives to serve on the committee. After discussion, the Board agreed by consensus to form a committee of seven members,

to include representatives from the contractors industry as well as real estate. Ms. Baynes volunteered to serve as a citizen member. After discussion, Mr. Rushton moved to authorized staff to file a Notice of Intended Regulatory Action (NOIRA) for the general review of Home Inspector Regulations upon the forming of the committee. Ms. Baynes seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Rushton, Studley, Thomas, and Walker.

The Board agreed by consensus that Mr. Rushton will serve as Chair of the committee.

Ms. Pettus provided an update of home inspector CPE audits conducted on 25% of eligible certified home inspectors beginning on February 11, 2020.

**Update on Home
Inspector CPE Audit**

Ms. Henshaw advised the Board of temporary waivers of certain regulations pursuant to Executive Order 51 in response to COVID-19. During the current state of emergency, the validity of licenses, certifications, registrations, and other authorizations issued by the Board that would otherwise (i) expire during the state of emergency and (ii) be eligible for renewal or reinstatement during the state of emergency under applicable regulations, will be extended until the 30th day after the date by which the state of emergency is lifted. In addition, regulations that prohibit or limit online, electronic, or distance learning have also been waived until the 30th day after the date by which the state of emergency is lifted. Ms. Henshaw noted that the waivers do not apply to statutory requirements.

**DPOR Updates as it
Relates to COVID-19
Response**

Ms. Henshaw advised the Board that in order to comply with public health emergency recommendations, the agency remains closed to the public and staff scheduling adjustments have been made, including telework for those employees who are eligible.

Discussion was held on ways in which trainers and potential licensees can meet the hands-on training requirements for pre-license education in light of COVID-19 safety recommendations. Ms. Henshaw advised that the EPA has issued no guidance on the subject.

Ms. Henshaw advised the Board that lead exam sites have reopened at reduced capacity and with COVID-19 safety restrictions in place. PSI has added additional testing sites in order to alleviate its backlog. In addition, PSI has added a call center phone number dedicated specifically to Virginia exam candidates.

Ms. Henshaw advised that staff may acquire offsite meeting space for future Board meetings in order to have space large enough to continue compliance with social distancing guidelines.

Ms. Henshaw reminded the Board that §54.1-504 of the Code of Virginia exempts individuals performing installation, maintenance, repair, or removal of asbestos containing roofing, flooring, or siding material (RFS) from having an asbestos supervisor or worker license. However, the Board for Contractors definition of “asbestos contracting” does not provide for an exemption for licensure for the removal of RFS that may contain non-friable asbestos. This discrepancy has resulted in confusion as to what licenses are applicable to this scenario. Ms. Henshaw asked the Board to clarify its interpretation of the licensing exemption for the removal of RFS pursuant to the Board’s regulations. After discussion, the Board agreed by consensus that an asbestos worker or supervisor license is not required for the removal of RFS; however, the worker or supervisor must have satisfied all training requirements pursuant to §54.1-501 of the Code of Virginia.

Discussion of License Requirements for RFS Abatement

Ms. Henshaw advised the Board that staff is considering an amendment to the asbestos and lead contractor license renewal forms so that the licensee is required to provide the name and license number of the licensed asbestos or lead supervisor (qualified individual). Because asbestos and lead contractor licenses are automatically renewed upon payment, Board staff currently manually checks the license status of the qualified individual listed on the Board for Contractors’ license to ensure it is current. Amending the renewal forms will ensure that the contractors’ licenses are not renewed until the qualified individual license information is received by staff. After discussion, the Board agreed by consensus that verifying the status of the qualified individual’s license at the time of renewal would not be overly burdensome and is necessary to ensure that contractors performing abatement work have the appropriate license.

Discussion of Asbestos and Lead Contractor Renewals

Ms. Henshaw provided the Board with the most recent financial statements for review.

Board Financial Statements

Board members considered the following resolution for former staff member Paul Saunders:

Consideration of Resolution for Service

Joseph T. France

WHEREAS, **Joe France**, did faithfully and diligently serve the Virginia Board for Asbestos, Lead, and Home Inspectors from 2016 to 2020;

WHEREAS, **Joe France**, did devote generously of his time, talent and leadership to the Board;

WHEREAS, **Joe France**, did endeavor at all times to render decisions with fairness and good judgement in the best interest of the citizens of the Commonwealth and these professions; and

WHEREAS, the Virginia Board for Asbestos, Lead, and Home Inspectors wishes to acknowledge its gratitude for devoted service of a person who is held in high esteem by the members of the Board and the citizens of the Commonwealth;

NOW THEREFORE BE IT RESOLVED, by the Virginia Board for Asbestos, Lead, and Home Inspectors this twentieth day of August 2020, that **Joe France** be given all honors and respect due him for his outstanding service to the Commonwealth and its citizens; and

BE IT FURTHER RESOLVED, that this Resolution be presented to him and be made a part of the official minutes of the Board so that all may know of the high regard in which he is held by this Board.

Mr. Haltigan moved to adopt the resolution as presented. Mr. Cranor seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Rushton, Studley, Thomas, and Walker.

Ms. Henshaw updated the Board on recent and upcoming outreach opportunities. **Outreach Update**

Ms. Henshaw asked the Board to consider tentative Board meeting dates for 2021. Ms. Baynes moved to approve the following meeting dates: **Consider Future Meeting Dates**

- February 4, 2021
- May 13, 2021
- August 26, 2021
- November 4, 2021

Mr. Rushton seconded the motion which was unanimously approved by: Baynes, Cranor, Haltigan, Magruder, Rushton, Studley, Thomas, and Walker.

Ms. Henshaw advised of current vacancies on the Board and welcomed Board members to inform members of the public who may be interested in serving on the Board, as well as make

Other Business

recommendations for potential Board appointees.

The following meeting dates have been scheduled:

- November 5, 2020

Board members were reminded to complete their conflict of interest forms and travel vouchers.

**Future Meeting
Dates**

**Conflict of Interest
Forms and Travel
Vouchers**

There being no further business, the meeting adjourned at 10:47 a.m.

Adjourn

Peter D. Palmer, Chair

Mary Broz-Vaughan, Secretary