

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

The Virginia Board for Asbestos, Lead, and Home Inspectors met on May 19, 2004 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:

Jack A. Geller, Vice Chairperson
Joseph W. Crockett
P. Bradley Nott, Jr.
John J. Gerow
Frederick Heppner
John C. Bouldin
Richard L. Honeycutt
Suzanne K. Lowman

Board Members Vickie Harlow and Pamela M. Mentz were unable to attend the meeting.

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

Louise Fontaine Ware, Director
Karen O'Neal, Deputy Director for RPD
Sharon Sweet, Examinations Director
David Dick, Executive Director
Joseph Kossan, Regulatory Boards Administrator
Thomas K. Perry, Regulatory Boards Administrator
Earlyne Perkins, Legal Assistant

Others who attended the meeting included:

Noel Zak, Examination Board of Professional Home Inspectors
David Jungers, Respondent
William Dozier, Attorney for Respondent
Victor Hernandez, Respondent
Nitarsh Wright, Respondent

Eric Gregory of the Office of the Attorney General was present.

Vice Chairperson Geller, finding a quorum of the Board present, **Call to Order**
called the meeting to order at 9:02 AM.

Mr. Heppner moved that the Board approve the agenda as **Adopt Agenda**
prepared by staff. Mr. Nott seconded the motion, which was
carried unanimously by eight aye votes (Messrs. Crockett, Geller,
Gerow, Nott, Heppner, Honeycutt, and Bouldin; and Ms.
Lowman). The agenda is attached.

Ms. Lowman moved that the Board approve the minutes of its **Approval of Board**
February 18, 2004 meeting and the Licensing IFF minutes of **Minutes**
February 5, 2004, February 19, 2004, March 4, 2004, and March
18, 2004. Mr. Crockett seconded the motion, which was carried
unanimously by eight aye votes (Messrs. Crockett, Geller, Gerow,
Nott, Heppner, Honeycutt, and Bouldin; and Ms. Lowman).

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

Mr. Crockett recused himself of any discussion regarding **Closed Session**
Macsons, Inc. **Circuit Court, City**
of Norfolk and
Macsons, Inc.

Mr. Heppner moved that the meeting be recessed and that the
Board immediately reconvene in closed meeting for the purpose
of consultation with legal counsel pertaining to legal matters
within the jurisdiction of the Board as permitted by § 2.2-
3711.A.7 of the Code of Virginia. The following non-members
will be in attendance to reasonably aid the consideration of the
topic: Eric Gregory, Karen O'Neal, and David Dick. This
motion is made with respect to the matter identified as agenda
item V.6a. Mr. Bouldin seconded the motion, which was carried
unanimously by seven aye votes (Messrs. Geller, Gerow, Bouldin,
Honeycutt, Nott, and Heppner; and Ms. Lowman).

Mr. Heppner moved that the closed meeting, as authorized by
Section 2.2-3711.A.7 of the Code of Virginia be adjourned and
that the Board immediately reconvene in open public meeting.
Mr. Bouldin seconded the motion, which was carried
unanimously by seven aye votes (Messrs. Geller, Gerow,
Bouldin, Honeycutt, and Heppner; and Ms. Lowman).

WHEREAS, the Board for Asbestos, Lead, and Home Inspectors has convened a closed meeting on this date pursuant to an affirmative recorded vote and in Accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, § 2.2-3712 of the *Code of Virginia* requires a certification by this Board for Asbestos, Lead, and Home Inspectors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED that the Board for Asbestos, Lead, and Home Inspectors hereby certifies that, to the best of each member's knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Board for Asbestos, Lead, and Home Inspectors.

ROLL CALL VOTE

AYES: Jack Geller, P. Bradley Nott, Jr., John Gerow, John Bouldin, Frederick Heppner, Suzanne Lowman, and Richard Honeycutt

NAYS: None

ABSENT DURING VOTE: Joseph Crockett

ABSENT DURING MEETING: Pamela Mentz and Vickie Harlow

In the matter of **File Number 2004-001605, Board v. Marcor Remediation, Inc.**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the Consent Order offered by and agreed to by Marcor Remediation, Inc. (Respondent), as well as a letter requesting the Board to reconvene the IFF to present additional information should the Board reject the Consent Order. William Dozier (Attorney for Respondent) and David Jungers (Respondent) **File Number 2004-01605**

addressed the Board.

Upon a motion by Mr. Heppner and seconded by Mr. Nott, the Board rejected the Consent Order. The motion passed. Members voting "YES" were Mr. Nott, Mr. Heppner, Mr. Gerow, Mr. Bouldin, and Ms. Lowman. Mr. Honeycutt voted "NO." Mr. Geller and Mr. Crockett "ABSTAINED" from voting. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Upon a motion by Mr. Gerow and seconded by Mr. Bouldin, the Board requested that the IFF be reconvened with the same presiding Board member so that Marcor Remediation could present additional information. The motion passed. Members voting "YES" were Mr. Nott, Mr. Heppner, Mr. Gerow, Mr. Bouldin, Ms. Lowman, Mr. Honeycutt, and Mr. Geller. Mr. Crockett "ABSTAINED" from voting. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-001610, Board v. Marcor Remediation, Inc.**, the Board reviewed the record, which consisted of the investigative file, transcript and exhibits from the IFF, and the Consent Order offered by and agreed to by Marcor Remediation, Inc. (Respondent), as well as a letter requesting the Board to reconvene the IFF to present additional information should the Board reject the Consent Order. William Dozier (Attorney for Respondent) and David Jungers (Respondent) addressed the Board. **File Number 2004-01610**

Upon a motion by Mr. Gerow and seconded by Mr. Heppner, the Board rejected the Consent Order. The motion passed. Members voting "YES" were Mr. Nott, Mr. Heppner, Mr. Gerow, Mr. Bouldin, and Ms. Lowman. Mr. Honeycutt voted "NO." Mr. Geller and Mr. Crockett "ABSTAINED" from voting. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

Upon a motion by Mr. Gerow and seconded by Mr. Bouldin, the Board requested that the IFF be reconvened with the same

presiding Board member so that Marcor Remediation could present additional information. The motion passed. Members voting "YES" were Mr. Nott, Mr. Heppner, Mr. Gerow, Mr. Bouldin, Ms. Lowman, Mr. Honeycutt, and Mr. Geller. Mr. Crockett "ABSTAINED" from voting. The presiding Board member, Ms. Mentz, was unable to attend the meeting and, therefore, did not participate in the discussion or vote.

In the matter of **File Number 2004-02157, Board v. Victor M. Hernandez**, the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF, and the presiding officer's summary, conclusion, and recommendation. Victor Hernandez (Respondent) was present and addressed the Board. Upon a motion by Mr. Crockett and seconded by Mr. Bouldin, the Board adopted the summary, conclusion, and recommendation, and approved the application for Asbestos Supervisor license for Victor M. Hernandez. The motion passed unanimously. Members voting "YES" were Mr. Crockett, Mr. Geller, Mr. Heppner, Mr. Gerow, Mr. Honeycutt, Mr. Nott, Mr. Bouldin, and Ms. Lowman.

File Number 2004-02157

The Board agreed without dissent to review File Numbers 2004-02318, 2004-02788, 2004-02789, 2004-02791, 2004-02792, and 2004-03204 together as a block.

File Numbers 2004-02318, 2004-02788, 2004-02789, 2004-02791, 2004-02792, and 2004-03204

In the matter of **File Number 2004-02318, Board v. Michael Butts, File Number 2004-02788, Board v. Denis Antonio Castro, File Number 2004-02789, Board v. Maria P. Reyes, File Number 2004-02791, Board v. Aguinaldo Castro, File Number 2004-02792, Board v. Omar Perea, and File Number 2004-03204, Board v. Nitarsha Jamella Wright**, the Board reviewed the records, which consisted of the application files, transcripts and exhibits from the IFFs, and the presiding officer's summaries, conclusions and recommendations. The Respondents were not present. Upon a motion by Mr. Crockett and seconded by Mr. Heppner, the Board adopted the summaries, conclusions, and recommendations, and approved the application for Asbestos Supervisor license for Michael Butts, the application for Asbestos Worker license for Denis Antonio Castro, the application for Asbestos Worker license for Maria P. Reyes, the application for Asbestos Worker license for Aguinaldo Castro, the application for Lead Worker license for Omar Perea, and the application for Lead

Worker license for Nitarsha Jamella Wright. The motion passed unanimously. Members voting "YES" were Mr. Crockett, Mr. Geller, Mr. Heppner, Mr. Gerow, Mr. Honeycutt, Mr. Nott, Mr. Bouldin, and Ms. Lowman.

In the matter of **File Number 2004-03203**, **Board v. David Allen Dupree**, the Board reviewed the record, which consisted of the application file, transcript and exhibits from the IFF, and the presiding officer's summary, conclusion and recommendation. David Dupree (Respondent) was not present. Upon a motion by Mr. Crockett and seconded by Mr. Honeycutt, the Board adopted the summary, but rejected the conclusion and recommendation, and approved the application for Asbestos Supervisor license for David Allen Dupree. The motion passed unanimously. Members voting "YES" were Mr. Crockett, Mr. Geller, Mr. Heppner, Mr. Gerow, Mr. Honeycutt, Mr. Nott, Mr. Bouldin, and Ms. Lowman.

File Number
2004-03203

Ms. Noel Zak, Executive Director of the Examination Board of Professional Home Inspectors, made a brief presentation on what's new with the National Home Inspectors Examination and was available to answer questions the Board member had regarding the examination.

Home Inspectors
Examination

Mr. Perry informed the Board that EPA's Final Rule regarding Notification Requirements for Lead-Based Paint Abatement Activities and Training that appeared in the April 8, 2004 Federal Register, became effective on May 10, 2004. The Board's Lead-Based Paint Activities Regulations must be as restrictive as EPA's regulations for Virginia to maintain its status as an EPA-Authorized State. However, the Code of Virginia requires Virginia's regulations to be no more stringent than EPA regulations. Mr. Perry reviewed suggested amendments to regulation sections 18 VAC 15-30-420 and 18 VAC 15-30-820 that would conform the Board's regulations dealing with training program notification and roster requirements with those of EPA. Staff believes that these amendments can be made via the Exempt procedures as provided for in the Administrative Process Act.

Regulatory Action

Mr. Crockett moved that the Board adopt the amendments to the Lead-Based Paint Activities Regulations drafted by staff and modified by the Board to conform with EPA's Final Rule regarding Notification Requirements for Lead-Based Paint

Abatement Activities and Training, and directed staff to file final regulations via the exempt procedure provided for in § 2.2-4006 A.4.c of the Code of Virginia. Mr. Heppner seconded the motion, which was carried unanimously by eight aye votes (Messrs. Crockett, Geller, Gerow, Nott, Heppner, Honeycutt, and Bouldin; and Ms. Lowman).

Mr. Dick updated the Board on the status of Notices of Intended Regulatory Action adopted by the Board at the February 18 meeting to review the current requirements for Asbestos Project Monitors and adopt ostensible ownership language for both the Asbestos Licensing Regulations and the Lead-Based Paint Activities Regulations. Both NOIRAs have been approved by the Department of Planning and Budget and await the approval of the Cabinet Secretary and Governor.

Mr. Kossan informed the Board that the Navy was exploring the possibility of obtaining approval for asbestos refresher training programs taught by live two-way video. The Navy believes that the training would meet the Board's training requirements since there would be live interaction between instructor and student, there would be an instructor and facilitator at both ends of the transmission, and there would be no hands-on training involved.

Other Business

The Board requested staff to inquire into EPA's reaction to this method of instruction and report back at the next scheduled meeting.

Mr. Dick gave a presentation on sex offenders to assist the Board in reviewing any enforcement cases which may come before the Board where an applicant/regulant has a sex offender conviction. The goal of the training was to assist Board member in ensuring that certain types of sex offenders are not given a license that would place them in situations where they could potentially harm the public, and to issue a license to those individuals in professions where particularly dangerous situations would not be likely to occur.

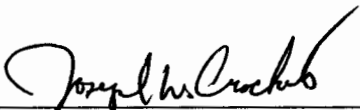
The following meeting dates have been scheduled.

Next Meeting Date

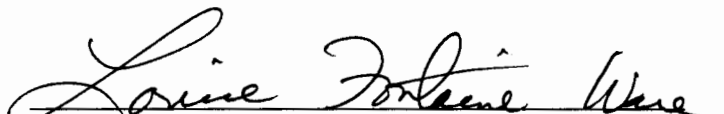
- August 19, 2004
- November 3, 2004

Vice Chairperson Geller asked the Board members to complete their conflict of interest forms and travel vouchers. **Conflict of Interest Forms and Travel Vouchers**

Vice Chairperson Geller, finding no further business to conduct, adjourned the meeting at 1:06 PM. **Adjournment**



Joseph W. Crockett, Acting Chairperson



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of the Records

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

TENTATIVE AGENDA

BOARD MEETING

WEDNESDAY, MAY 19, 2004

9:00 A.M., CONFERENCE ROOM 4 WEST

**DEPARTMENT OF PROFESSIONAL AND OCCUPATIONAL REGULATION
3600 WEST BROAD STREET
RICHMOND, VIRGINIA 23230**

I. CALL TO ORDER

II. APPROVAL OF AGENDA

1. Board Agenda, May 19, 2004

III. APPROVAL OF MINUTES

2. IFF Minutes-Licensing, February 5, 2004
3. Board Minutes, February 18, 2004
4. IFF Minutes-Licensing, February 19, 2004
5. IFF Minutes-Licensing, March 4, 2004
6. IFF Minutes-Licensing, March 18, 2004

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 or application files.

V. CLOSED SESSION - Circuit Court, City of Norfolk, Macsons, Inc.

- 6a. Court Order

VI. ENFORCEMENT CASES

7. File Number 2004-01605 – Marcor Remediation, Inc.
IFF by Mentz - Disciplinary

8. File Number 2004-01610 – Marcor Remediation, Inc.
IFF by Mentz - Disciplinary
9. File Number 2004-02157 – Victor M. Hernandez
IFF by Cooper - Licensing
10. File Number 2004-02318 – Michael Butts
IFF by Cooper - Licensing
11. File Number 2004-02788 – Denis Antonio Castro
IFF by Cooper - Licensing
12. File Number 2004-02789 – Maria P. Reyes
IFF by Cooper - Licensing
13. File Number 2004-02791 – Aguinaldo Castro
IFF by Cooper - Licensing
14. File Number 2004-02792 – Omar Perea
IFF by Cooper - Licensing
15. File Number 2004-03203 – David Allen Dupree
IFF by Cooper - Licensing
16. File Number 2004-03204 – Nitarsha Jamella Wright
IFF by Cooper - Licensing

VI. HOME INSPECTORS EXAMINATION

- Presentation by Noel Zak, Executive Director, Examination Board of Professional Home Inspectors

VII. REGULATORY ACTION

17. Final EPA Lead Regulations concerning Notification Requirements for Lead-Based Paint Abatement Activities and Training
 - Update on Asbestos NOIRA (Ostensible ownership of firms/Project Monitor requirements)
 - Update on Lead NOIRA (Ostensible ownership of firms)

VIII. OTHER BUSINESS

- Naval Video-Tele-Training
- Sex Offender Training

IX. CONFIRM 2004 MEETING DATES

- August 19, 2004
- November 3, 2004

X. COMPLETE CONFLICT OF INTEREST FORMS AND TRAVEL VOUCHERS

XI. ADJOURN

Persons desiring to participate in the meeting and requiring special accommodations or interpretative services should contact the Department at (804) 367-8595 at least ten days prior to the meeting so that suitable arrangements can be made for an appropriate accommodation. The Department fully complies with the American

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: Jack A. Geller
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

GEL, INC

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

ENV CONSULTANTS

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 5/14/01

Signature: 

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: Joseph W. Crockett
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: ASBESTOS
APPOINTMENT CONTRACTING
6. I declare that:
 - (a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: EMPLOYED BY WACO, INC
ASBESTOS CONTRACTOR
 - (b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 5-19-04

Signature: Joseph W. Crockett

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: P. Bradley Nott, Jr.
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated:

P. Bradley Nott, Jr.

Signature:

5/19/04

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: John J. Gerow
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____
NONE

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated:

5/19/04

Signature:

John J. Gerow

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: Frederick Heppner
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: Home Inspector

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: 5/19/04

Signature: Frederick Heppner

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: John C. Bouldin
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: VAREI, NAHI, ASHI, ICC,

VRCA, Vermont real estate license, ITA instructor, Protech's Home Inspections

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated:

5/19/04

Signature:

John Bouldin

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: Richard L. Honeycutt
2. Title: Board Member - Asbestos, Lead and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: _____

LCM Corp. - Asbestos & Lead Abatement

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Dated: _____

Signature: _____

5-19-04
Richard Honeycutt

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of
State Government**

1. Name: Suzanne K. Lowman
2. Title: Board Member - Asbestos, Lead, and Home Inspectors
3. Agency: Department of Professional and Occupational Regulation
4. Transaction: Board Meeting
5. Nature of Personal Interest Affected by Transaction: n/a.
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6. I declare that:

(a) I am a member of the following business, profession, occupation, or group, the members of which are affected by the transaction: Asbestos designer, project monitor, inspector/mt planner, lead pt

(b) I am able to participate in this transaction fairly, objectively, and in the public interest. designer + inspector

Dated:

5/19/04

Signature:

Suzanne K Lowman