

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

Tuesday August 28, 2018
9:00 a.m.
OPEN SESSION

1. **CALL TO ORDER** – 9:03am
2. **ROLL CALL** - Dr. Alejandro Angel, Stephen Noel, Jason Foose, Jason Madison, Jack Gilmore, Edward Marley (appeared at 10:30am) , Andrew Everroad, Neal Jones
Not Present: Eugene Montgomery
Staff: Melissa Cornelius, Patrice Pritzl, 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, July 24, 2018 Board meeting minutes.

Mr. Noel moved and Mr. Gilmore seconded to approve the minutes: motion carried.

- B. Approve, modify and/or reject, July 24, 2018 Board Executive minutes.

Mr. Noel moved and Mr. Gilmore seconded to approve the minutes: motion carried.

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

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

- A. Review, Discuss and Take Possible Action on Signed Consent Agreement in Lieu of Hearing

1. P17-050, Craig L. Parkinson, Geologist #30843

Scott Donald, AAG, representing the State, asked that the Board forgo the hearing and act upon the Respondent's signed Consent Agreement.

Mr. Noel moved and Mr. Everroad seconded to accept the Signed Consent Agreement; motion carried.

2. P17-087 / P18-031, Thomas Romeo, non-registrant and Landmark Environmental, LLC, non-registrant firm

Scott Donald, AAG, representing the State, asked that the Board forgo the hearing and act upon the Respondent's signed Consent Agreement.

Mr. Madison asked if staff/the Board had submitted this matter to the AG's office for prosecution. Mr. Donald answered 'yes'.

Mr. Foose moved and Mr. Gilmore seconded to accept the Signed Consent Agreement; motion carried.

6. ENFORCEMENT MATTERS

Review, Consideration and Possible Vote on the following:

A. Complaints Proposed for Resolution by Dismissal or Closure:

1. P18-072, Timothy Robbins, P.E. (Civil) #28179 and Red Butte Engineering, LLC Firm #17638

Mr. Foose moved and Mr. Everroad seconded to dismiss the case; motion carried.

2. HI18-036, Richard Anderson, Non-Registrant

Dr. Angel commented that there appeared to be more than one non-registrant in this matter. Investigator Will informed the Board that the other non-registrant would appear before the Board the following month.

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

B. Complaints Proposed for Resolution by Letters of Concern:

1. HI18-005, Steve Haldeman, C.H.I. #41253

Mr. Foose moved and Mr. Gilmore seconded to issue a Letter of Concern; motion carried.

C. Complaints Proposed to Offer Consent Agreement:

1. AL18-006, Lewis Ward, Alarm Agent #61329 (expired)

Mr. Foose moved and Mr. Jones seconded to offer the proposed Consent Agreement and, if not signed within 30 days, proceed to formal hearing; motion carried.

2. P18-042, Mardonio Talavera, P.E. (Civil) #27398

Respondent's counsel, Shanks Leonhardt, appeared before the Board. Respondent did not appear before the Board.

Mr. Leonhardt presented Respondent's counter Consent Agreement.

Mr. Jones indicated that the project was old and there were conflicting EAC member opinions regarding the matter. Mr. Madison stated he was unsure whether the Board could hold Respondent responsible for all the issues found in the project and he opined that restricting Respondent's practice was too severe since he did not believe public safety was a concern in this matter. Mr. Madison asked if Respondent had corrected his website. Mr. Leonhardt indicated that Respondent corrected his website and that he registered his firm.

Mr. Madison moved and Mr. Everroad seconded to offer a proposed Consent Agreement encompassing the following: modify the Findings of Fact and Conclusions of Law to reflect the Board's discussion that Respondent was not a danger to the public, Administrative Penalty of \$250 to be paid within 30 days, cost of investigation to be paid within 30 days, obey all laws and, if not signed within 30 days, proceed to formal hearing; motion carried.

3. P18-041, David Escalante, Non-Registrant

Investigator Hunt explained that this case came to the Board's attention immediately before the Board discussed similar matters involving Respondent at the March 2018 Board Meeting and that Respondent had signed the Proposed Consent Agreement in that matter prior to today's meeting. Mr. Madison asked if Staff or the Board had sent this matter to the AG's office for prosecution. Staff answered 'yes'.

Mr. Everroad moved and Mr. Jones seconded to accept the signed Consent Agreement; motion carried.

4. HI19-003, Theodore Gossard, Non-Registrant and Fine Tooth Home Inspections, Inc., Non-Registrant Firm

Respondent appeared telephonically.

Respondent stated he performed the home inspections in this matter to get through a difficult economic period and to take care of his family.

Mr. Madison moved and Mr. Everroad seconded to offer the proposed Consent Agreement; motion carried. Mr. Jones voted Nay.

5. P19-002, Richard Moore, R.A. #22679

Respondent appeared before the Board.

Respondent explained that he contracted out his CAD work but acknowledged that he was ultimately responsible for the plans he sealed. Dr. Angel asked who contracted with the client in this matter. Respondent explained that the drafters were contracted with the client and the drafters sub-contracted him. Dr. Angel explained that Respondent was in violation of the Board's Practice Act because the drafters were not Respondent's bona-fide employees.

Mr. Foose moved and Mr. Gilmore seconded to offer the proposed Consent Agreement and if not signed within 30 days move to hearing; motion carried.

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

Respondent's counsel, Stewart Gross, appeared before the Board. Respondent appeared before the Board.

Mr. Gross asked the Board if it would amend the proposed Consent Agreement. The Board discussed possible alternatives. Mr. Donald suggested the Board require that Respondent give notice to home sellers of this matter and have them either supervise the inspection or waive that right. Mr. Gross explained that home inspectors generally communicate with the buyer, not the owner. Mr. Foose stated he was comfortable with the original proposed agreement. Mr. Gross asked if the Board could revisit this matter in the future to reduce Respondent's probation period. Dr. Angel answered that it was possible. Mr. Donald suggested that the Board give Respondent until September 25, 2018 to sign the proposed Consent Agreement so the Board could act upon the matter at its next Board Meeting.

Mr. Everroad moved and Dr. Angel seconded to modify the proposed Consent Agreement with the following: Respondent shall have until September 25, 2018 to sign the agreement or the matter would move to formal hearing, add language to section D that Respondent has the option to provide notice to the seller or seller's agent of this matter and to observe the inspection or waive that right; motion carried. Mr. Foose voted Nay.

D. Complaints Proposed for Resolution with Signed Consent Agreements:

1. P18-063, Lloyd Rogers, P.E. (Civil) #17927

Mr. Gilmore moved and Mr. Everroad seconded to consolidate agenda items 6d1, 2, 3 and 4.

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

2. P18-046, Charles Andrews, P.E. (Civil) #39473

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

3. AL18-008, Kent Griffith, Alarm Controlling Person #55017 and NorthStar Alarm Services, LLC, Alarm Business #18061

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

4. AL18-007, Jason Taylor, Alarm Agent #63034 (expired)

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

E. Complaints Requiring Board Guidance:

1. P18-066, Ronnie Dorsey, R.L.S. #38862 (*P18-066, P18-067, P18-068 and P18-069 are related*)

Alleger, Jim Folkers, appeared before the Board. Respondents, Mr. Abell, Mr. Crume and Mr. Fondren, appeared before the Board.

Mr. Folkers argued that land surveyors employed by or contracted through ADOT were failing to record their surveys through the county recorder, thereby making it difficult or even impossible for the public to access the surveys, and, therefore, these actions were in violation of Arizona Statutes. Respondents argued that Arizona Statutes allowed ADOT employed and contracted surveyors to record surveys with ADOT and that all surveys recorded at ADOT were readily available to the public.

Mr. Foose indicated that his interpretation of ADOT's and the County Engineer's rules led him to believe that the County Recorder acts as a catch-all for recorded surveys and that there was no failure of public notice if a survey was recorded with either ADOT or the County Engineer. Dr. Angel stated that he wished that land surveyors recorded all surveys at the counties, but he agreed with Mr. Foose. Ms. Cornelius suggested the Board forward this matter to staff to draft a substantive policy statement for consideration at the next L&R committee meeting.

Mr. Foose moved and Mr. Madison seconded to dismiss the case and forward to staff to draft a substantive policy statement for consideration at the next L&R meeting; motion carried.

2. P18-067, Jimmie Crume, R.L.S. #19817

See 6E1

3. P18-068, Michael Fondren, R.L.S. #35113

See 6E1

4. P18-069, Frank Abell, R.L.S. #18211

See 6E1

5. P18-001, John Willett, P.E. (Civil) #26658 (*P18-001, P18-002 and P18-012 are related*)

Mr. Gilmore and Mr. Everroad recused themselves.

Respondent appeared before the Board with counsel, Douglas Folk.

Mr. Folk asked the Board for direction in this matter since there appeared to be difficulties findings assessors to review the matter's materials. Investigator Thacker stated that it was true that there were difficulties in finding someone to assess the material in this matter. Ms. Cornelius stated she was under the impression that the difficulty in finding assessors was due to conflict of interest. Mr. Thacker stated that conflict of interest was a factor.

Dr. Angel opined that it was the city's responsibility regarding whether to accept or deny the permit, not the Board, and he stated that he did not see a violation. Other Board members concurred.

Mr. Madison moved and Mr. Foose seconded to dismiss the case; motion carried.

6. P18-002, Joseph F. Spadafino, P.E. (Civil) #16255

Mr. Gilmore recused himself.

Mr. Foose moved and Mr. Marley seconded to consent and dismiss P18-002 and P18-012; motion carried.

7. P18-012, Dawn Cartier, P.E. (Civil) #35879

See item 6e6

10 minute break at 11:28am.

F. Complaints for Consideration of Counter Proposal from Respondent:

1. AL18-003, Dave Roman Non-Registrant and Security Systems, Inc, DBA Safeguard America, DBA Safe Home Security, Non-Registrant Alarm Business

Respondent and counsel, Joseph Lipari, appeared telephonically.

Mr. Lipari explained the proposed changes in Respondent's counter proposed Consent Agreement, which included changes to the Findings of Fact. Dr. Angel stated that he did not agree with Respondent's proposed changes and opined that the Board's original proposed agreement was lenient enough. Mr. Foose agreed. Mr. Lipari asked the Board if there was any room for changes to the Board's proposed agreement. Dr. Angel responded that he personally believed that there was no room for changes. Mr. Madison stated he believed Respondent's proposed changes would nullify the agreement. Mr. Lipari asked if the Board would consider altering the language regarding the Board's ability to consider this agreement during any future disciplinary matters. Dr. Angel stated he did not understand why they would do that.

Mr. Everroad moved and Mr. Marley seconded to extend the time the Respondent had to sign the Board's proposed consent agreement to September 25, 2018 and, if not signed, move to formal hearing; motion carried.

After the vote, Respondent asked how the hearing process proceeded. Mr. Donald obliged.

7. **LICENSING MATTERS**

Discussion, Consideration and Vote on the following:

Whether to Grant or Deny Registration after Full Board Review

- A. Guru, Chalicheemala- Electrical Engineer Application for Registration #173001

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

- B. Enriquez, Jose - Electrical Engineer Application for Registration #181465

Applicant appeared before the Board.

Applicant argued that he had the qualifying experience and had passed his exams, and therefore had demonstrated that he was qualified for registration.

Dr. Angel opined that the only issue against granting was Applicant's lack of experience under the supervision of an engineer, but stated that the Board should grant registration to Applicant.

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

Whether to allow Applicant's inspection log to replace the 30 parallel requirement

C. Stone, David - Home Inspector Application #181822

Applicant appeared before the Board.

Mr. Madison indicated that if Applicant performed 100 home inspections in Arizona, he would have committed 100 violations of state law since he was not registered as a home inspector. Dr. Angel stated that the former language in the rule allowing for 100 inspections was supposed to help grandfather home inspectors who were practicing prior to 2002 or those registered in another state. Applicant stated he was qualified to be a home inspector and that the parallel requirement was burdensome for those living in rural communities, such as himself.

Mr. Madison moved and Mr. Jones seconded to enter Executive session at 10:30am to seek legal advice. The Board reentered public session at 10:38am.

Mr. Foose expressed his dismay that the home inspector community was reluctant to participate in helping applicants complete their parallel requirements. Dr. Angel stated that it would be difficult to determine whether the list of inspections Applicant provided met the Board's home inspection standards because Applicant conducted them as a contractor not as a certified home inspector. Applicant stated that the Statute indicated the Board was to provide a form for the 100 inspections, but no such form existed and he therefore provided the list in its current form. Dr. Angel stated that the form was not the issue, and that he wanted to see the inspection reports. Mr. Madison stated that the law was explicit in that the 100 inspections could only be considered in lieu of the required 30 parallel inspections if they were lawfully performed. Applicant's 100 inspections were not lawfully performed since Applicant was not a certified home inspector in any jurisdiction. Mr. Madison was concerned that Applicant's 100 inspections could be violations.

Mr. Madison moved and Mr. Jones seconded to extend the applicant's application time frame for one year from the date of his initial application in order for him to fulfill the 30 parallel requirement; 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. Foose 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. Newest Edition of the AZBTR Newsletter

Staff presented the newsletter to Board members. Board members made comments and wished for Staff to publish the Newsletter after one final revision.

B. FY2020 Budget/Abbreviated Strategic Plan/IT Plan

Ms. Cornelius presented the FY2020 Budget/Abbreviated Strategic Plan/IT Plan to the Board members. Ms. Pritzl explained the budget request process. Board members asked questions and staff responded.

C. Definition of “day” for Board member compensation: What does the Board consider a “day” for compensation when completing application reviews?

Ms. Cornelius explained that the Board needed to create a policy to define what a “day” for compensation when completing application reviews. The Board determined that four hours of work completing application reviews was equivalent to half a day.

10. DIRECTOR’S REPORT

A. Budget Update -

a. Budget and Strategic Planning

Nothing reported.

B. Previous Meeting Follow-Up

a. Updates regarding Computer System

Ms. Cornelius reported that staff was working with the vendor regularly to clean up computer data.

b. Status of Breach Complaint

Ms. Cornelius reported that both Mr. Donald and she have spoken with the AGs office about this matter.

- c. Legislation Update
 - i. Home Inspector Fingerprint Clearance Cards

Nothing reported.

- ii. Licensure by Endorsement

Ms. Cornelius reported that Senator Kavanagh would sponsor the Board's Licensure by Endorsement bill.

- d. Board Member Appointments

Ms. Cornelius reported that the Governor's Office reappointed Mr. Foose and newly appointed Carmen Wyckoff, that Mr. Madison was officially the longest serving Board member in the AZBTR's history, and, she presented medals to Mr. Madison, Dr. Angel, and Mr. Marley for the service to the Board and completing their terms.

C. Director's Meetings

- a. Meeting with senator Kavanagh regarding Licensure by Endorsement

Ms. Cornelius reported that she had met with Mr. Kavanagh and he agreed to sponsor the Board's Licensure by Endorsement bill.

D. Statistics Review

Nothing reported

11. **BOARD CHAIR'S REPORT** - Nothing to report

12. **STANDING COMMITTEE REPORTS**

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

13. **BOARD MEMBER REPORTS ON OUTSIDE ACTIVITIES**

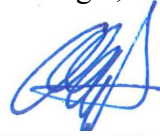
- A. ASBOG - October Meeting in Monterrey
- B. CLARB - September Meeting in Toronto
- C. NCARB - Special accommodations to sit for the ARE
- D. NCEES - Annual Meeting in Scottsdale in August

14. **FUTURE BOARD MEETINGS** – September 25, 2018

15. **SUGGESTED TOPICS FOR FUTURE MEETING AGENDAS.**

16. **MEETING ADJOURNMENT** – 1:19pm

Dr. Alejandro Angel, Board Chairman



Melissa Cornelius, Executive Director

