

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

MEMBERS

KIM W. GREGORY
Chairman
DOUG CARSON
DENNIS K. JOHNSON
JOHN LINDELL
DENNIS F. NELSON
DEBORAH WINNINGHAM SHELTRA
MICHAEL ZECH



STATE CONTRACTORS' BOARD

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MINUTES OF THE MEETING
JUNE 23, 1999

The meeting of the State Contractors' Board was called to order by Vice-Chairman Dennis Johnson at 8:38 a.m., Wednesday, June 23, 1999, State Contractors' Board, Las Vegas, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Dennis Johnson – Vice-Chairman
Mr. Doug Carson
Mr. John Lindell
Mr. Dennis Nelson
Mr. Michael Zech

BOARD MEMBERS ABSENT:

Mr. Kim Gregory
Ms. Deborah Sheltra

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. Robert Griffy, Legal Counsel (Haney, Woloson & Mullins)
Mr. Dennis Haney, Legal Counsel (Haney, Woloson & Mullins)
Ms. Pat Potter, Licensing Supervisor
Mr. Rick Bertuzzi, Director of Investigations
Mr. George Lyford, Director of SIU
Mr. Linc Dante, Investigator
Mr. Bob Macke, Senior Investigator
Mr. Carmen Caruso, Senior Investigator
Ms. Betty Willis, Recording Secretary

OTHERS PRESENT:

Cari Inkenbrandt, Court Reporter, CSR Associates of Nevada; Mark Thomas, President; Janice Nobliski, Complainant; Donald Martin, Department of General Services, Clark County; Don Purdue, Director of Warranty Services, Rhodes Homes; Dennis Linder, Complainant; Michael Mushkin, Legal Counsel for Mr. Linder; and Jeff Silver and Joseph S. Kistler, Legal Counsel, Nigro & Associates.

Ms. Grein stated the agenda had been posted in compliance with the open meeting law on June 17, 1999, by Express Messenger, at the Sawyer State Building, Clark County Library, and Las Vegas City Hall. Additionally, it had been posted in each office of the Board, Las Vegas and Reno, and on the Internet.

The regular agenda was amended to continue the discussion of the Attorney General's opinion letter regarding the Labor Broker issue, previously discussed on 12/15/98 and 5/13/99. There was no objection to the request for continuance.

Disciplinary Hearing

THOMAS PLUMBING, SEWER & DRAIN #37901 – DISCIPLINARY HEARING (Continued from April 27, 1999 and May 25, 1999)

RE: JANICE NOBLISKI

Mark Thomas, President, Janice Nobliski, Complainant, and Bob Macke, Senior Investigator, were present.

Ms. Grein told the Board that in its last meeting the Board had requested that this item be removed from the agenda if the work was completed. That had not happened. The case had originally been investigated by Clark Thomas but it had now been reassigned to Bob Macke.

Mr. Macke stated he had taken over the case the previous day although he had received a phone call from Thomas Plumbing 2 days ago when he had been informed that 2 of the 3 sewers had been replaced but the third sewer had not been completed.

Mr. Thomas then testified that his top two plumbers had been ill the previous month, his father had taken ill with kidney stones, and another worker had diabetic problems. He said the job was a 10-day job for two men and he wasn't able to physically complete it during the time frame provided. His father was still recovering and he was catching up with the overload of emergency calls this month. He said this problem had existed for 20 to 30 years, another two weeks wasn't going to harm anything until he was able to finish the job.

Ms. Nobliski said she had contracted with Mr. Thomas to do this job over a year ago. It had been 60 days since she had paid the connection fees that she had been required to pay in order for Mr. Thomas to complete the work. That had been, supposedly, the only reason why Mr. Thomas had not resolved the problem earlier. She then pointed out this was indicative of the kind of work Mr. Thomas performed. The company never completed the work it was contracted to do.

The evidentiary was closed.

MR. CARSON MOVED TO HAVE THE ISSUE RESOLVED BY THE NEXT LAS VEGAS BOARD MEETING OR THE LICENSE WOULD BE SUSPENDED.

MR. NELSON SECONDED THE MOTION.

In further discussion of the motion, Mr. Zech said he would move to suspend the license until the work was done. Mr. Lindell agreed with Mr. Zech, adding THAT this was the third time a circumstance had manifested itself to prevent Mr. Thomas from performing the corrective action ordered by the Board. For the record, Mr. Zech pointed out that when the Board gave direction to someone to get something fixed, probably, there was no greater emergency than that.

THE MOTION CARRIED. (MR. LINDELL WAS OPPOSED)

ADVISORY OPINIONS

1. DEPARTMENT OF GENERAL SERVICES, Clark County, Licensing for Bid #4443-99

Donald Martin, Department of General Services, Clark County, was present for the advisory opinion and wanted to know if a B2/B3 license holder was properly licensed to construct a 48 space parking lot...on Desert Lane, to be constructed of 2" asphalt on 8" substrate, site lighting, landscaping, including irrigation.

The board opined that an A, AB or A12 license holder was the proper class to perform the work.

2. MCCARRAN INTERNATIONAL AIRPORT, Clark County Dept. of Aviation, Bid #2099

No one was present for the opinion. The work consisted of remodeling existing C-Gates and concourse areas including approximately 5000 SF of new Type One construction, procurement and installation of new gate counters, divider railings, illuminated boarding displays, flight information display systems (FIDS), and all associated architectural, mechanical, electrical and plumbing work. Other work includes remodeling the existing restrooms in the Terminal One Rotunda as well as one restroom at C-Gates and the construction of a new restroom at C-Gates. The Board opined that a full A, A1, AB, B, and a B2, provided no structure over three stories was involved, was the proper license to perform the work as stated.

3. ALLTECH, INC. Reconsideration of Advisory Opinion of April 13, 1999

No one was present for the reconsideration. All Tech Inc. had been reviewed at the April 13, 1999 meeting. They wanted to perform work in the General Services Administration at the Federal Agency which is the Foley Federal Building on Las Vegas Blvd. They were going to do some remodeling. A copy of the deed had been provided. The property, owned by the Clark County School District, had been deeded over to the US Foley center. The Board opined the project met the exemption as a federal project. Discussion then focused on permits whereupon the Board upheld its original opinion of April 13, 1999. All interested parties were to be notified there may be more stringent requirements by the city and county, which may require a contractor's license.

STAFF REPORTRHODES HOMES #28530 – STAFF STATUS REPORT

Don Purdue, Director of Warranty Services, Rhodes Homes, was present for the staff report. Rick Bertuzzi, Director of Investigations, provided the Board with a spreadsheet containing the status of the complaints, to date. He said the board had opened six new complaints since the last board meeting on June 8, 1999. A discussion regarding the data followed. When asked if Rhodes Homes was taking proactive action, Mr. Purdue replied yes, and then explained in detail what had been implemented. One item was they had hired Pro Home Incorporated, a third party warranty service, to handle the warranty service for Rhodes Homes. This allowed Rhodes Homes to focus on the past problems and work on getting them corrected. A second item was that Rhodes Homes was now contacting new homeowners on the 10th day, 30th day, and the 11th month. Mr. Bertuzzi was then asked for another status report at the next Reno board meeting.

FINDINGS OF FACT, CONCLUSION OF LAW AND DECISIONSTAHOE SHEET METAL #34882 - FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

Doyle Dewayne Ford, Owner, was not present and no one appeared on his behalf.

MR. NELSON MOVED TO ACCEPT THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND TO FIND LICENSE #34882, TAHOE SHEET METAL, IN VIOLATION OF ALL THREE CHARGES.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

Penalty Phase

MR. NELSON MOVED THAT TAHOE SHEET METAL, LICENSE #34882, BE FINED \$2,000 PER EACH OF THE THREE CHARGES PLUS THE COST OF THE INVESTIGATIONS, TO BE PAID WITHIN 60 DAYS. IF NOT PAID, THE MATTER WAS TO RETURN TO THE BOARD FOR FURTHER ACTION.

HARRISON DEVELOPMENT CORP #42348 - FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION

Zelik Fridman, President, was not present.

MR. CARSON MOVED TO ACCEPT THE FINDINGS OF FACT, CONCLUSIONS OF LAW AND TO FIND LICENSE #42348, HARRISON DEVELOPMENT, IN VIOLATION OF ALL CHARGES.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED.

Penalty Phase

MR. CARSON MOVED THAT HARRISON DEVELOPMENT, LICENSE #42348, BE FINED \$1,000 PER VIOLATION PLUS THE COST OF THE INVESTIGATION, TO BE PAID WITHIN 60 DAYS OR THE LICENSE WAS TO BE REVOKED.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED.

HEARINGSNIGRO & ASSOCIATES #23302 - DISCIPLINARY HEARING (Continued from May 25, 1999)

Dennis Linder, Complainant, Michael Mushkin, Legal Counsel for Mr. Linder, Jeff Silver and Joseph S. Kistler, Legal Counsel for Nigro & Associates, were present.

Mr. Haney stated that the licensee had made an offer in a letter dated June 11, 1999 to repair the items that had been set forth in the list of the October 27, 1998 board notice to correct, without the homeowner waiving any rights to make any other claims, damages or otherwise. Mr. Haney said he believed the offer was reasonable and it would eliminate the necessity of the board reviewing the rest of the evidence.

Mr. Kistler indicated that he and Mr. Mushkin had briefly discussed the offer that morning. With one caveat, he believed the two parties had an acceptable agreement. The caveat was that any claim for damages would be arbitrated, probably, in front of ex-Judge Carl Christianson.

Mr. Haney pointed out that the satisfaction of the repairs would be to the standard of the trade in general and verified by the board's investigator.

For the record, Mr. Mushkin said that what his client, Mr. Linder, had asked him to do was to read his statement into the record. Rather than do that, he said that what had happened was Mr. Kistler had prepared a document indicating they would make the repairs ordered by the Contractor's Board. They had specifically asked for assistance from the board to create an appropriate scope of work. Mr. Mushkin said he thought that was a fair request, not only from the licensee's standpoint but also the complainants. That would provide a clear understanding of exactly what needed to be done. It had been indicated the work could be accomplished in 7 days. That was of particular import to the Linders because in July of 1998 Nigro and Associates had 5 days to make the corrections and had been in the home on 58 occasions. It was his client's hope that this would be the final attempt to correct. If they didn't pass inspection this time, the Linders did not want Nigro and Associates back in the home again. Mr. Mushkin stated that if the offer was acceptable to the Linders and to the Board, then the issue could be resolved this way. Arrangements would be made to provide 7 days for the corrections. The Linders would make arrangements to vacate the home for those 7 days.

Mr. Kistler said Nigro & Associates had agreed to go above and beyond what they believed was necessary to perform the repairs. This agreement was viewed as a compromise settlement with arbitration damages if that was necessary later.

Mr. Haney indicated the scope of work could be referred to staff and a schedule coordinated with all parties. Mr. Kistler said it could take 7 days or less to make the repairs, given the scope of work.

Mr. Silver added the understanding would be that if the repairs are done satisfactorily, then the complaint would be discharged without further process. Mr. Carson clarified if it was acceptable to the board's investigator. Mr. Silver replied in the affirmative. Mr. Carson then pointed out he was not sure the board could make that determination right now.

MR. ZECH MOVED TO CONTINUE THE HEARING TO THE NEXT JULY MEETING IN LAS VEGAS.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED.

EXECUTIVE SESSION

INVESTIGATIONS REPORT

Mr. Bertuzzi presented the Board with a spreadsheet containing the status of open complaints. Mr. Johnson opined that there were a lot of cases where the contractors had disappeared. Those cases could be put together and brought to the Board. He suggested it be made a priority. Mr. Haney pointed out that the contractors could be sited 60 days in advance and, if a continuance was granted or a settlement occurred, the board could fill the time slot with another item. Mr. Carson recommended exploring the use of "expert witnesses" when necessary and Mr. Haney stressed the importance of training staff. Mr. Zech stated that,

in cases where a contractor did not accept the decision of the board's investigator, he would like to see a senior investigator substantiate that decision.

STRATEGIC PLANNING SESSION

Mr. Carson suggested setting aside one day for a strategic planning session. He believed service goals needed to be set up in addition to establishing the new regulations. Ms. Grein said she would coordinate one day with the board members in August or September. Mr. Nelson asked if it could be done in September because he believed it was critical for Mr. Gregory to be present.

LEGAL SERVICES

Discussion centered on in-house counsel and the use of a major accounting firm to review financial statements. Mr. Haney was asked if there was enough work for in-house counsel. He said yes, but added outside counsel was still needed. All agreed. Ms. Grein was asked to pursue the matter.

PUBLIC COMMENT

No one from the general public was present to speak for or against any items on the agenda.

There being no further business to come before the Board, the meeting was adjourned by Vice-Chairman Johnson at 10:55 a.m.

Respectfully Submitted,

Betty Wilts, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Dennis Johnson, Vice-Chairman