

MINUTES
CONNECTICUT HOME INSPECTION LICENSING BOARD
165 CAPITOL AVENUE
HARTFORD, CONNECTICUT 06106

SEPTEMBER 25, 2008

The Connecticut Home Inspection Licensing Board met on Thursday, September 25, 2008 at 9:37 A.M. in Room 117 of the State Office Building, 165 Capitol Avenue, Hartford, CT 06106.

Board Members Present: Susan A. Connors, Esq., Chairperson (*Public Member*)
Richard J. Kobylenski (*Home Inspector*)
James J. O'Neill (*Public Member*)
Bruce D. Schaefer (*Home Inspector*)
David B. Sherwood (*Home Inspector*)
William Stanley, Jr. (*Home Inspector*)
Lawrence R. Willette (*Home Inspector*)

Board Members
Not Present: Eric Curtis (*Public Member*)

Board Member Vacancies: None

Board Counsel: Not present, as requested.

DCP Staff Present: Robert M. Kuzmich, License and Applications
Specialist
Vicky Bullock, Administrative Hearings Attorney
Richard M. Hurlburt, Director
Occupational & Professional Licensing Division
Gary W. Berner, Legislative Program Manager

Others Present: None

Note: The administrative functions of this Board are carried out by the Department of Consumer Protection, Occupational and Professional Licensing Division. For information, call Richard M. Hurlburt, Director, at (860) 713-6135.

1. Call to order by Chairperson Susan Connors.

Ms. Connors called the meeting to order at 9:37 AM.

2. Review of minutes of the May 1, 2008 meeting of the Board. It was noted that Mr. O'Neill spells his last name with two L's. After a thorough review, *the Board voted, unanimously, to accept the minutes as amended herein. (O'Neill/Kobylenski)*

3. Review of Final Decisions and Orders.

Chairperson Susan Connors acknowledged that there are none before the Board today.

4. Applications for review.

A. Application of Mr. Jose A. Mercado for a Home Inspector's License.

Mr. Kuzmich noted that Mr. Mercado had requested to come before the Board today and is not here at present. This application was first addressed in 2004 by the Department. Mr. Kuzmich explained that this applicant is applying directly for the Home Inspector's license.

In response to Ms. Bullock, Mr. Kuzmich noted that he informed the applicant and his nephew who served as interpreter for his Uncle in-person of the change in today's meeting date. Ms. Bullock will send a certified letter to the applicant informing him of the next Board meeting date scheduled for November 6, 2008. Mr. Hurlburt noted that the applicant needs to pay a new application fee since application fees are only valid for one year according to Department policy.

The Board decided to table this matter until their November 6, 2008 meeting.

5. Applicants appearing before the Board.

A. Mr. Jose Mercado in reference to his application before the Board today for a Home Inspector's License. This item is addressed under Agenda Item 4(A) above.

6. Formal Hearings to be held.

Chairperson Susan Connors noted that there are no Formal Hearings scheduled for today's meeting.

7. Old Business

A. Home Inspection Course Application for Pre-Licensing;

Course: National Online Home Inspection Course

School: Kaplan Professional Schools Inspection Training Associates
1050 Los Vallecitos Boulevard Suite 109
San Marcos, California 92069

Mr. Kuzmich stated both Mr. Schaefer and Mr. Stanley have been reviewing this course and were missing the Instructor/Lecture Guideline and quizzes, exams, and answer keys. Mr. Kuzmich now has this material and gave Mr. Schaefer and Mr. Stanley a copy for their review.

B. Report from Subcommittee concerning proposed Statutory changes for the 2009 Legislative Session.

Ms. Connors briefly explained the Board's proposed statutory changes and their reasons for their amendments to Mr. Berner. Board member James O'Neill submitted to the Board two (2) drafts addressing concerns regarding the homeowner consulting issue in the form of proposed statutory and regulatory changes. The proposed statutory changes were presented in the form of two options.

Option (1) adds new language to Subsection (6) of Section 20-490 and reads as follows:

"NOTHING IN THIS CHAPTER SHALL PREVENT A HOME INSPECTOR OR OTHER PERSON SANCTIONED BY THE DEPARTMENT OF CONSUMER PROTECTION FROM PROVIDING CONSULTING SERVICES REGARDING HEATING, COOLING, PLUMBING, AND ELECTRICAL SYSTEMS, STRUCTURAL COMPONENTS, FOUNDATION, ROOF, MASONRY, STRUCTURE, EXTERIOR AND INTERIOR

COMPONENTS AND ANY OTHER RELATED RESIDENTIAL HOUSING COMPONENTS TO A HOME OWNER.”

Option (2) also modifies Subsection (6) of Section 20-490 as follows:

“(6) “Home inspection” means an examination **[and] OR** written evaluation of two or more of the following components of a residential building: Heating, cooling, . . .”.

The Board entered into a significant discussion concerning the services a home inspector can provide a consumer that may differ from a home inspection by definition. Mr. Stanco illustrated examples of this scenario for clarification. Essentially, he noted that this Board is attempting to change the statutes to accommodate Home Inspectors being able to providing consulting services and to also address home energy audits. Mr. Stanley cautioned the Board regarding the area of Home Energy Audits noting that perhaps this area should be addressed by others and not by this Board. He also cautioned that their proposed revisions should be drafted to not inadvertently give an authorization to Home Energy Auditors and other related professions under the Home Inspection law.

Mr. Stanley summarized that given the narrow definition of “home inspection” in the statute, home inspectors are somewhat limited in what services they can provide that do not rise to the level of a full home inspection (e.g. examination of two or more systems and a written evaluation . . .”). Some inspectors were concerned that doing partial inspections or consulting services for home owners could potentially get them in trouble since the report that they provided would not be a full home inspection report. This topic had been discussed over the past few meetings.

The Board hopes to amend the Statutes and approve a change to the statutory definition of “*home inspection*” to exempt “*consulting services*” performed by licensed home inspectors. This change would give home inspectors leeway to do partial evaluations for homeowners without running the home inspection statutes.

After a very lengthy and thorough discussion by all members of the Board and Department Staff, it was decided to circulate a draft of the proposed statutory changes, combining both Mr. O’Neill’s and Mr. Hurlburt’s suggested language, by e-mail to all Board members for their final vote. This method was decided upon due to the legislative time constraints facing the Board to get these changes on the General Assembly’s 2009 calendar. For the record, *subsequent*

to this e-mail review by all Board members, the Board voted, unanimously, to propose the following amendments to Chapter 400f – Home Inspectors; Section 20-490 of the General Statutes of Connecticut. (Schaefer/Kobylenski):

“Under: Sec. 20-490. Definitions. “ADD NEW” “Consulting service”

This will be a new paragraph definition under: 20-490 this will create definition # (10)

“Consulting service” means an evaluation, by a licensed Home Inspector, of any components of a residential building and any other ancillary items, as set forth in regulations adopted within this chapter, for the sole purpose of providing consulting services to a home owner, lessee or tenant of such residential building. Such Home Inspector providing the consulting service shall disclose that any opinion, written or verbal, prepared in connection with the consulting service does not constitute a “Home Inspection” as defined in Sec. 20-490(6) of this Chapter.”

The Board also discussed, in detail, the **Code of Ethics**; specifically subsection (h) – *“inspection work shall not be used as a vehicle for the inspector to **deliberately** obtain work in another field.”*

Discussion of this issue came up because a number of inspection companies are now offering other services (e.g. termite treatment, radon mitigation, mold testing, etc.) and the meaning of the word *“deliberately”* was questioned. The general consensus from this discussion appeared to be that if prior to the inspection, the inspector sells additional services to the client, and bills them separately, there should be no concern. The problem arises when during the inspection; an inspector sees something that leads him/her to recommend additional service(s) to the client. At this point, it could be perceived as a conflict of interest for the inspector to try and sell that additional service to the client. (e.g. – client does not order a termite inspection as part of the home inspection. During the inspection the inspector sees a tube and tells client that he ought to have a termite inspection.) If the home inspector tries to sell the client this service, it could be perceived as a conflict of interest on the inspector’s part. If his/her client bought a termite inspection from him/her before the inspection and then termites were found, it was considered not to be a problem to also provide a quote for treatment, if they offer that service.

It was determined that there is no way to effectively amend the regulation language to further clarify this matter and that it comes down to the individual Home Inspector’s sense of ethics and professional judgment at the time.

Mr. Willette raised concern regarding Regulation Section 20-491-13 (12) that, at present, includes radon and other environmental services as being part of a Home Inspection. After a suggestion by Mr. O'Neill and more general discussion by all the Board, Sub-section (d) (12) shall be amended as follows:

“(12) the presence of any environmental hazards, including, but not limited to, toxins, carcinogens, noise, mold, and contaminants in soil, water, [and] air, [with the exception of] radon, asbestos, lead paint, or lead solder;”

C. Continuation of discussion regarding correspondence, dated May 1, 2008, from Mr. Bernard Caliendo, Mr. Neil Scott, and Mr. Warren Tomek concerning PSI Examination Services.

Ms. Bullock that she obtained from the Department of Administrative Services website pertinent sections of PSI's contract with the State pertaining to their responsibilities and roles for the administration of continuing education documentation.

Effective March 1, 2008 PSI currently requires continuing education providers to provide them with an electronic file for each of their students at the completion of all “approved” continuing education courses. There is a charge of 50 cents per name uploaded. The upload includes the student's name, license number, credits earned, etc. so that they can be centrally compiled by PSI.

The Board noted that the uploading for each school can potentially be a substantial amount and can add up to a significant sum in filing fees over the course of a year. Department Director Richard Hurlburt, who acts as liaison to PSI for his Division stated that he will ask PSI to agree to an annual (or biennial) upload which should reduce costs and time spent by providers significantly. This means that each school can establish a data base and accrue credits during the year for all of the registered students and then just upload them to PSI once near the end of the license renewal cycle. This should also reduce the compliance burden as well as cost significantly.

8. New Business

A. Update from Consumer Protection Legal Division regarding any Home Inspection issues. Ms. Bullock reported had no items for discussion at the present time.

9. Other Business

A. Any correspondence and/or business received in the interim.

1. Mr. Gary Berner was introduced to the Board as the Department's Legislative Program Manager and acts as liaison from the Department to the Legislature on behalf of the agency and its Boards and Commissions. He explained that historically, most changes that Boards require fall under regulatory changes as opposed to statutory changes. Regulation changes can be made year round.

The meeting adjourned at 11:34 AM. (Stanley/Sherwood)

Note: the next regular meeting of the Board is scheduled for November 6, 2008 at 9:30 AM in Room No. 117 of the State Office Building, 165 Capitol Avenue, Hartford, Connecticut.

Respectfully submitted,

Robert M. Kuzmich, R.A.
License and Applications Specialist