

EXECUTIVE SUMMARY

Construction Industry Licensing Board

General Information

Meeting type: General Board Meeting

Meeting dates: November 9-11, 2005, Hilton Cocoa Beach Oceanfront, Cocoa Beach, FL

Board members: Joan M. Brown, Chair, Paul DeVecchio, Vice Chair, Michelle B. Kane, Barry Kalmanson, Lee-En Chung, Thomas Thornton, Robert Stewart, Don Wilford, Michael

Blankenship, Carl E. Engelmeier, Jacqueline Watts, Raymond Holloway,

Doris O. "Peggy" Bailey, Jim Flaherty

Board members absent: Edward M. Weller, Mark Pietanza (Excused)

Board Counsel: Diane Guillemette

Department Staff: Tim Vaccaro, Stacey Merchant, Andrew Janecek, Patrick Creehan, Adrienne Rodgers, Susan Potrikus

Major Issues/Actions

- The board considered an amended petition for declaratory statement filed by Evap Tech regarding whether s. 489.105, F.S. requires licensure for the installation and repair of water cooling towers. In October, the board determined that Evap Tech did not provide sufficient information upon which the board could make a ruling. Therefore, it declined to render an opinion at that time. Upon consideration of the amended petition, the board determined that Evap Tech required an air-conditioning license to install water cooling towers.
- The board also considered a petition for declaratory statement filed by Dannie S. Johnson as to whether a swimming pool contractor may include construction of a screen enclosure as part of a pool construction contract and then subcontract the enclosure to the appropriate licensee. Mr. Johnson brought the issue before the board due to a recent Manatee County prohibition on such contract provisions. The board ruled in the affirmative, citing s. 489.113(9), F.S., which provides that a contractor may act as prime contractor on a project where the majority of work falls under the contractor's scope and then subcontract the remaining work to other licensees. The board also affirmed by its ruling that s. 489.113(9), F.S., applies to all Division II contractors.
- Although the board does not traditionally meet in December, it approved a department request to conduct Final Action by teleconference on December 15, to avoid lag time in taking action against hurricane offenders. Those board members and licensees who wish to attend in person will be present at the Division of Real Estate office. The Florida Homeowners' Construction Industry Recovery Fund Committee will also meet that day to avoid lag time in making recovery fund awards.
- At Final Action, board staff has traditionally brought information as to whether Respondents have complied with prior disciplinary cases, should such questions arise. The board requested that staff include that information on the cover sheet of each file. Board staff will comply with the request for all future meetings. Additionally, for Probation Committee appearances board staff will include a question in the probationer's packet as to whether the probationer has pending department complaints. Staff will also perform an enforcement check for each probationer prior to that committee's meeting.

Legislation/Rule Promulgation

- The Rules Committee continued its discussion regarding revisions to the disciplinary guidelines set forth in Rule 61G4-17.001, F.A.C., based upon the increased fine limits created by HB 113. The committee decided to postpone any decisions on the matter until January to allow each member additional time to review the rule and to make recommended changes at that time.

- The Rules Committee voted in October to amend Rule 61G4-12.008, F.A.C., to eliminate an indefinite tolling provision for licensees who leave the practice of contracting for more than 30 days. As amended the rule will only authorize tolling for those licensees who are suspended or elect inactive status. During the November meeting, the committee considered Board Counsel's final draft amendment and voted to issue a notice of rule promulgation in the *Florida Administrative Weekly*.
- The Rules Committee voted in October to amend Rule 61G4-15.001, F.A.C., to authorize Florida-registered contractors to verify the experience of applicants for initial certified licensure. The current rule provides for verification by Florida-certified contractors, and by architects, engineers, and building officials licensed in the U.S. During the November meeting, the committee considered Board Counsel's final draft amendment and voted to issue a notice of rule promulgation in the *Florida Administrative Weekly*.
- During 2005, the board approved rulemaking to adopt rules creating voluntary certification of various categories of swimming pool specialty contractors. Prior to adoption of the rule, the Joint Administrative Procedures Committee has requested that the board provide a rule that specifies the breakdown of subject matter percentages for the written contractor examination. The board approved proposed Rule 61G4-16.002, F.A.C., which provides the examination criteria. Board Council will notice the rule for development in the *Florida Administrative Weekly*.

Action Required

- Diane Guillemette, Board Counsel, will file the appropriate rule notices discussed above. Board staff will coordinate with Legal staff to arrange for the December 15 board teleconference and will provide requested information for future Final Action and Probations Committee meetings.