

**STATE LICENSING BOARD FOR
RESIDENTIAL AND GENERAL CONTRACTORS
Conference Call
February 3, 2010**

A meeting of the State Licensing Board for Residential and General Contractors was held via conference call on Wednesday, February 3, 2010, at the Professional Licensing Boards Division, 237 Coliseum Drive, Macon, Georgia.

The following Board members were present:

Bob Barnard, Board Chairperson
David Cyr, Board Vice-Chairperson
Timothy Ansley
Steve Cash
Andy Cooper
Mark Herbert (departed at 10:24 a.m.)
Roger Huggins
David Moody
Allen Richardson
Edward Strain (departed at 11:00 a.m.)
Morgan Wheeler

Others present:

Tanja Battle, Executive Director
Brandi Howell, Board Support Specialist
Scarlett Shell, Assistant Attorney General
Anne Marie Castigliola, Intern, Attorney General's Office
Bobby Conway, Investigations
Bobby Martin, Investigations
Denise Williams, Investigations
Deron Hicks, Home Builders Association of Georgia (HBAG)
Kevin Veler, Legal Counsel for Business and Construction

At 9:02 a.m. Chairperson Barnard established that a quorum was present and called the meeting to order.

Approval of Minutes

Chairperson Barnard called for a motion to approve the minutes of the January 6, 2010 full Board meeting. Mr. Cyr stated that a correction needed to be made on page 11 in regards to the line of credit issue. The sentence needs to state, "Mr. Cyr suggested that the \$50,000 line of credit be suspended for General Contractors". Mr. Huggins stated that on the same page under the next paragraph it should state "line of credit" instead of "letter of credit".

A motion was made by Mark Herbert, seconded by Timothy Ansley, and the Board voted unanimously to approve the minutes of the January 6, 2010 full Board meeting as presented with the changes noted.

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Old/New Business

Reciprocity Comparison List: Mr. Huggins stated that this issue was discussed by the General Division at the January 6, 2010 meeting. He further stated that the Division voted to request advice from the Attorney General's office as to whether or not the law would allow Georgia to reciprocate with other states' licensees who have not taken an exam in their state but were instead licensed by examination exemption or "grandfathering." Ms. Shell stated that she is still working on this request and will report back to the Board.

NASCLA-Test Specifications and Exam Brochure: As an update, Ms. Battle stated that she has contacted PSI regarding the possible implementation of the NASCLA accredited exam. In talking with PSI, they indicated that a transition to that exam could happen seamlessly in approximately 90 days. Further research conducted by our legal department found that a state does not have to be a member of NASCLA to utilize the exam. A motion was made by Roger Huggins, seconded by Morgan Wheeler, and the Board voted unanimously to adopt the national exam for the technical portion exam for General Contractor candidates.

Executive Director's Report

Qualifying Agent Affidavit Issue: Ms. Battle stated that an applicant had a question about modifying the Qualifying Agent Affidavit. Specifically, the applicant has stricken the wording on the form which reads, "*I further attest that the individual applicant has final approval authority for all construction work performed by the business organization or entity within the State of Georgia and that the individual applicant has final approval authority on all business matters, including contracts and contract performance and financial affairs of the business organization or entity.*" Ms. Battle further stated that this is what they want to submit for the Qualifying Agent Affidavit. They have also sent a certification stating that the potential qualifying agent has been elected as Assistant Vice President of the Corporation and, "*shall have the authority to (i) sign and obtain licenses, including, without limitation, contractor and engineering licenses, (ii) act as qualifier on behalf of the Corporation in connection with its licenses, and (iii) in general to perform all acts and duties on behalf of the Corporation necessary and proper to maintain and fulfill its obligations under any license for which he or she is the qualifier.*" Ms. Battle asked the Board if this was acceptable. Mr. Cyr said it is not acceptable. He suggested that this company may have the wrong person applying to be its qualifying agent. Chairperson Barnard stated he has a problem with them changing the form. Discussion ensued.

A motion was made by Morgan Wheeler, seconded by David Cyr, to not accept the modifications made to the Qualifying Agent Form as submitted. Discussion was held. Mr. Huggins stated that he recently saw an email from Mark Woodall, Associated General Contractors of Georgia, concerning recommendations to changes in the law. Ms. Battle responded by stating that she has spoken with Mr. Woodall who stated that there was a window of opportunity to make that change. Ms. Battle stated that Mr. Woodall is still working on the final draft. With there being no further discussion, the Board voted unanimously to approve the motion.

Renewals: Ms. Battle reported that she is currently working on the set up for renewals. She is hoping to make the online renewal process, along with the paper renewal process, available 120 days

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in advance of the June 30, 2010 expiration date. Ms. Battle further stated that she has been working with IT staff to ensure that the company license linked to a renewing qualifying agent automatically renews upon completion of the qualifying agent renewal. Discussion ensued.

Committee Reports

Specialty Contractor Committee: Mr. Barnard, Chairman of the Specialty Contractor Committee, had a question concerning greenhouses. He stated that there is a situation where a family owns a huge farm on which they have built three or four greenhouses. 90% of the business is growing flowers and selling to nurseries. All of the work done in the greenhouses is done by their employees. They want to build more greenhouses, but the local building official is saying they cannot without a license because they would be used by the general public. Chairperson Barnard asked if this a correct assessment. He stated that the buildings are 10,000 to 15,000 square feet. Ms. Shell stated there is an exception in the law regarding structures for agricultural purposes; however, in this situation it might not apply. Ms. Battle stated that O.C.G.A. § 43-41-17(k) reads, "*Nothing in this chapter shall apply to the construction, alteration, or repair of buildings classified as an agricultural occupancy or that are used for agricultural storage or agricultural purposes.*" Mr. Huggins stated that on the Specialty Limited Services list, Greenhouses are limited to pre-manufactured structures, grading, plumbing. Mr. Wheeler stated in his county they would be required to have a license.

CE & Renewal Committee (Residential Division): Ms. Battle stated that proposed Rule 553-12-.03 Programs Which Qualify never received statutory authority. She asked if the Board would like to post the original. Chairperson Barnard stated to send the proposed rule to the Board to review and this topic would be discussed at the March 3, 2010 meeting.

CE, Renewal & Reciprocity Committee (General Division): Mr. Huggins, Chairman of the CE, Renewal & Reciprocity Committee, stated that the issue of continuing education was discussed by the General Contractor Division at its meeting on January 6, 2010. The Division has decided to not proceed with continuing education at this point.

Board Orders

A motion was made by Steve Cash, seconded by Allen Richardson, and the Board voted unanimously to ratify the acceptance of the following Voluntary Cease and Desist Orders:

Taylor, Stephen (Georgetown)
Sullivan, Michael dba Sullivan Home Repair (Peachtree City)

A motion was made by Timothy Ansley, seconded by Allen Richardson, and the Board voted unanimously to ratify the acceptance of the following consent order, which allows the applicant to be licensed under probationary terms:

Mallard, Michael Joseph (Basic Individual)

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Written Requests

Clifford Merritt: The Board reviewed correspondence from Mr. Merritt requesting to have his name removed from the C&D section of the Secretary of State website. Discussion was held. The Board wants to revisit the specifics of the case before rendering a decision.

Executive Session

A motion was made by Allen Richardson, seconded by Roger Huggins, and the Board members present: Timothy Ansley, Bob Barnard, Steve Cash, Andy Cooper, David Cyr, Mark Herbert, Roger Huggins, David Moody, Allen Richardson, Edward Strain and Morgan Wheeler voted unanimously to enter into Executive Session in accordance with O.C.G.A. 43-1-2(k) and 43-1-19(h) to receive the Attorney General's and Cognizant's Reports and for application discussion.

Vote on Discussions from Executive Session

Open Session was declared.

A motion was made by Morgan Wheeler, seconded by David Moody, and the Board voted to accept the recommendations made by the Board during Executive Session.

The recommendations made during Executive Session are as follows:

The Board voted unanimously to send complaint #RGC38531 back to the Cognizant for further review.

The Board heard a report on the following cases:

RGC37220: The Board voted unanimously to request an investigative interview with the homeowner and the respondent and to refer the case back to OIG.

RGC37216: The Board voted unanimously to refer the case back to OIG.

RGC39276: The Board voted unanimously to table the case.

RGC39258: The Board voted unanimously to close this case and open a new complaint on the new owner of the company.

RGC37626: The Board voted unanimously to request an investigative interview with respondent #2 and also requested a C&D Hearing for respondent #1.

The Board voted unanimously to accept the recommendations regarding the following cases:

RGC36592: Close with no action

RGC100134: Close with no action

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The Board voted unanimously to accept the following consent order for reactivation, which allows the applicant to be licensed under probationary terms:

Daniels, Ralph Larry (Basic Qualifying Agent)

The Board voted unanimously to deny a request for release of confidential information submitted by J.M. Culpepper, CIE Corp regarding J.L.B. and J.T.C.

The Board voted unanimously to deny a request for release of confidential information submitted by John. W. MacKay regarding R.C.E.

The Board voted unanimously to deny a request for release of confidential information submitted by Karen Dove Barr, Attorney At Law, regarding L.A.L.

The Board voted unanimously to deny a request for release of confidential information submitted by Donald G. Brown, Esq., Alston & Byrd, LLP, regarding B.G.C.H.

The Board voted unanimously to accept the Cognizants' recommendations regarding the following complaints:

- RGC36592:** Close with no action
- RGC36921:** Close with no action
- RGC36922:** Close with no action
- RGC36927:** Close with no action
- RGC36929:** Close with no action
- RGC36956:** Close with no action
- RGC37036:** Close with no action
- RGC37070:** Close with no action
- RGC37077:** Close with no action
- RGC37095:** Refer to OIG for Cease & Desist Order
- RGC37096:** Close with no action
- RGC38365:** Close with no action as Complainant did not respond with additional information to proceed as requested.
- RGC38368:** Request response from Complainant
- RGC38841:** Close with no action
- RGC38938:** Send a letter to the county in question and the Respondent. Refer to OIG if necessary.
- RGC39580:** Close with no action
- RGC39653:** Request response from Complainant
- RGC39826:** Close with no action
- RGC090006:** Close with no action
- RGC090026:** Request response from the Complainant; refer to OIG for Cease & Desist Order
- RGC090027:** Close with no action
- RGC090029:** Request response from Respondent.
- RGC090038:** Close with no action

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RGC090042: Close with no action
RGC090058: Close with no action
RGC090059: Request response from the Respondent
RGC090061: Refer to OIG for Cease & Desist Order
RGC090069: Refer to OIG for Cease & Desist Order
RGC090075: Refer to OIG for Cease & Desist Order
RGC090079: Close with a Letter of Concern
RGC090081: Close with a Letter of Concern; advise Complainant to seek legal representation.
RGC100003: Refer to OIG for Cease & Desist Order
RGC100005: Close with no action
RGC100007: Close with Letter of Concern
RGC100019: Request response from the Complainant and Respondent
RGC100037: Close with a Letter of Concern
RGC100050: Hold for Board Review
RGC100055: Request response from the Respondent
RGC100062: Close with no action
RGC100086: Close with no action
RGC100094: Close with no action
RGC100097: Request a response from the Respondent
RGC100104: Close with a Letter of Concern
RGC100127: Refer to OIG for Cease & Desist Order
RGC100133: Request response from Complainant and Respondent
RGC100139: Request response from Complainant and Respondent
RGC100145: Close with Letter of Concern
RGC100147: Refer to OIG for Cease & Desist Order
RGC100148: Refer to OIG for Cease & Desist Order
RGC100149: Refer to OIG for Cease & Desist Order
RGC100156: Refer to OIG for Cease & Desist Order

The Board voted unanimously to deny licensure by examination of the following:

Atkins, Debra J. Fennell (General Contractor Limited Tier Individual)

The Board voted unanimously to approve the following for further review:

Applicant #1213843

The Board voted unanimously to suggest the following applicant submit a Petition for Rule Waiver or Variance:

Applicant #1222554

The members of the General Contractor Division were dismissed from the Conference Call.

Business was resumed before a committee of the Residential Division.

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Items reviewed by the Residential Division will be voted on via conference call on February 5, 2010.

With no other business for the Board to discuss, the meeting was adjourned at 11:36 a.m.

Minutes recorded by:

Brandi Howell, Board Support Specialist

Minutes Edited/Reviewed by:

Tanja D. Battle, Executive Director