Minutes of the
North Carolina Home Inspector Licensure Board
February 26, 2016

The meeting of the North Carolina Home Inspector Licensure Board (HILB) was held at 9:00 am, Friday, February 26, 2016 in Winston Salem, North Carolina.

The following members of the North Carolina Licensure Board were present:

Fred Herndon    Arthur Hall    Chris Noles
Waverly Sawyer    Joe Ramsey    Harold Upton

Board members Marion Peeples and Tony Jarrett were absent. Department of Insurance staff member Mike Hejduk was in attendance. Staff members Jennifer Hollyfield, Phil Joyner, and Terri Tart were absent. Board Attorney Denise Stanford was in attendance.

Chairman Herndon thanked the North Carolina Licensed Home Inspector Association (NCLHIA) for inviting the Board to attend their conference.

Agenda
Chairman Herndon presided over the meeting. After welcoming the visitors in attendance he turned the meeting over to Secretary Chris Noles. Noles reminded all Board members of the State Government Ethics Act provisions to avoid conflicts of interest, the appearance of conflicts of interest, and the potential for conflicts of interest. Noles reminded members of the Board who are licensed home inspectors that they have the potential for a conflict of interest because they serve on the Board that licenses them. Herndon asked the members if anyone needed to recuse themselves. None did so.

Approval of October 9, 2015 Minutes
Joseph Ramsey made a motion to approve the minutes as written. Harold Upton seconded the motion. The minutes were approved by voice vote unanimously.

Auditors Report
Chairman Herndon turned the meeting over to Jim Lovell a partner with LBA Haynes Strand, PLLC. Lovell’s firm was engaged to conduct an independent audit of the Board for five prior years. Lovell submitted copies of the draft report years ending June 30, 2011 through 2015, to all Board members. Lovell asked Board members to look at the statement of financial position of the boards funds. The financial statement of the Board has remained consistent over the five years that it has been audited. Lovell reported that the major asset is cash ranging from a high of $615,000.00 to a low of $540,000.00. Lovell stated that very little change has happened. There are very little assets of the Board except for cash and cash equivalents. The cash itself is being held by the state of North Carolina. Lovell reported the changes in net assets activity are consistent between the years. Revenues remain consistent between a high of $315,000.00 last year and a low of $260,000.00 in the year 2012. Expenses themselves have decreased over five years but have remained consistent between the years. The largest expense has been salaries and
benefits which is what you would expect for a Board like this. The accounts are very consistent. Lovell stated that the entirety of North Carolina Home Inspector Licensure Board’s cash is held by the state government of North Carolina and is co-mingled with other state funds. As a result, Lovell was unable to obtain sufficient appropriate audit evidence regarding the completeness of the cash balances of December 31, 2011, 2012, 2013, 2014 and 2015. Lovell thanked Mike Hejduk for his cooperation in performing the company’s procedures. Chairman Herndon asked the members of the Board if they had any questions for Lovell. None being said, Herndon stated that the report was straight forward and thanked Mr. Lovell for his work.

**Staff Reports - Director**

Director Hejduk addressed the Board and NCLHIA members stating that for the home inspectors who do not normally attend Board meetings it is nice to have a venue like the hotel for the NCLHIA Annual Conference in Winston-Salem, NC. He reported that the Board sets goals each year in order to get activities accomplished. For the current fiscal year 2015-2016 one priority is the Board-developed Update Course 2016/2017. Hejduk reported that staff is working on making the State Exam available in a computer based format because the scanner machine staff has used for the last fifteen years to score answer sheets was programmed to operator with a computer running Windows XP. Microsoft® no longer supports Windows XP and if connected to an internet network could be compromised. Purchasing and programming a replacement scanner was estimated to cost several thousand dollars. The Board plans to move to the next generation of testing where many other licensing boards already have their exams available through a third party test administrator in multiple locations within a state as well as across the country. In our case, NCDOI staff would administer the NCHILB exam through NCDOI regional offices in Asheville, Charlotte and New Bern and in the Board office in Raleigh, NC. Applicants would have the option and convenience of taking the exam at times and locations other than those administered in Raleigh, NC six times per year. Currently the rooms are full for the morning and afternoon sessions. We have anywhere between fifty to sixty people taking the exam every other month.

Hejduk reported on Performance Management goals. On the Action Item List the Board must review its rules per SL 2013-413, HB 74. This will need to be done by November 2017. Hejduk stated that we got a lot of feedback from licensees on the surveys. The link is still on the Board’s website. Hejduk reported that the annual budget preparation and execution process allows the Board to determine what funds are available and what may be spent. Some of the cash that the Board has goes to contracts. The Board has three areas that it normally contracts out. The annual audit will be a recurring contract item. The Board also has a field inspector that helps out with complaint investigations in the western part of the state and the majority of board-developed update courses have been created under contract. Hejduk stated that going forward the Board will be issuing an invitation for bid on the update course instead of a personnel services contract.

Director Hejduk reported for Terri Tart, License Administrator. Hejduk reported in the quarter from October 1, 2015 to December 31, 2015 the Board has 44 new licensees. Hejduk stated there are currently 1,158 active home inspectors. Hejduk stated there were 59 applications approved. Hejduk reported year-to-date the Board has issued 145 new licenses and has approved 241 applications. Not everybody that puts in an application gets approved to take the exam. Hejduk reported that all active licensees can be found on the Board’s web-site. If they are not on the web site they are not actively licensed.
Director Hejduk reported for Jennifer Hollyfield, Education Coordinator. Hejduk reported that the Board has 36 active sponsors and 26 active instructors. Hejduk stated that the Board has 49 active elective courses and that some of those are offered online. Our 2015 licensee survey shows that at least 30% were interested in online courses. Hejduk reported that as of October 1, 2016 staff had 12 courses submitted for review. Five of the courses were approved and none were denied. There are 16 courses scheduled currently and 6 course rosters were submitted. Board rules require that courses be offered in all geographical areas. Hejduk reported that 275 inspectors responded to the survey. The average number of inspections performed in 2015 was 203 per inspector. The total number of inspections reported was 55,887. Based on partial data from the North Carolina Association of REALTORS® 30% of the existing homes sold in 2015 had a home inspection performed.

Director Hejduk reported for Phil Joyner, Investigator. Hejduk stated that the complaints are steadily coming in. With about 60,000 inspections reported we have had only 30 formal complaints submitted. Two to four complaints come in per month.

Director Hejduk stated that the next Board meetings will be held April 8, July 15 and October 7, 2016. Chairman Herndon and Joseph Ramsey were reappointed to four year terms. Hejduk stated that Marion Peeples’ term expires in July. Hejduk explained that all Board members are required to take training by the Ethics Commission and training required by NC General Statute 93B as follows:

3. Article 33C of Chapter 143, The Open Meetings Act.
4. Articles 31 and 31A of Chapter 143, The State Tort Claims Act and The Defense of State Employees Law.
6. Chapter 120C, Lobbying.

Committee Reports

Application Committee
Waverly Sawyer reported the committee met on three separate occasions by teleconference. Eight applications were reviewed and all eight were approved.

Examination Committee
Chris Noles reported the committee did not meet. Noles stated that staff was working on Computer Based Testing (CBT). CBT could be administered in the NCDOI regional offices in New Bern, Asheville and Charlotte. Chairman Herndon asked Noles if the committee could meet this quarter and start looking over the exam questions.

Finance Committee
Joseph Ramsey gave a brief review on the budget year and the basis for the budget numbers for those licensees who are not able to attend our Board meetings on a regular basis. The Fiscal Year runs July 1st thru June 30th. The Board based the budget for the current fiscal year on 1,100 licensees and 12 C.E. hours revenue. The increase in the
number of licensees and the reduction of C.E. hour’s revenue will generate slightly less revenue than the prior year. C.E. hours were reduced from 16 to 12. Some of this revenue reduction will be offset by a slight surplus from the prior year. Some adjustments in salary and benefits received by sharing of personnel between two departments are helping to close the gap.

Ramsey reported as of January 31, 2016 expenditures have been $114,114 against revenues of $257,565. Expenditures are about $16,306 per month and carried out to the end of the year would be about $200,000. We are likely to have expenses for a C.E. Update Course at a cost of $6,000 +/- and paying off the auditor’s bill to review the books which will be about $7,500 +/- . The Board will have to seek another RFP (Request for Proposal) to have the books audited for the next 3 years. This is a requirement under NCGA 93B-4(b), state law.

Ramsey stated that the Board continues to gain a few new licensees each month or two and this helps offset the licensees who do not renew or leave the business. As of February 1st we had 1,133 active inspectors. The Board and Director continue to work toward “on line” education/exam system (Moodle) for applicants and licensees. This will help applicants take the test closer to their home and save the expense of traveling to Raleigh. It will also allow for some “on line” courses. Ramsey reported that the committee believes that the Board is on solid footing as we move through the last half of the fiscal year and will end the year with a slight surplus. The Board will continue to monitor both the revenue and expenses with the assistance of the Director.

Chairman Herndon asked Chris Noles if he knew of any unplanned future expenses. Noles stated that there is nothing specific to home inspectors that he is aware of but that OSFM does have plans to relocate from the Chapanoke address to the Albemarle building downtown which may involve some expense.

**Legislative Committee**

Tony Jarrett was absent. Chris Noles reported that the next legislative session is in April. The only issue Noles is aware of is the ongoing effect of the Program Evaluation Division (PED) study recommendations on occupational licensing boards. To date, there has been no discussion about the NCHILB. Noles will keep the Board updated if something develops.

**Education Committee**

Marion Peeples was absent. Herndon asked Upton how the committee was doing on the 2016-2017 Update Course. Upton reported that the main subject from the online survey was on moisture. Herndon stated that the course will be on moisture. Director Hejduk stated that the staff will be working on an Information for Bid (IFB). Upton stated that the surveys the Board sends out are an opportunity for the inspectors to respond to the questions so the Board will know what subject areas need to be taught by the update course.

**Investigation Review Committee**
Marion Peeples was absent. Upton stated the Investigation Review Committee (IRC) had met. The IRC made the following recommendations to the Board for final determination and disposition of the complaints.

Hearing to be scheduled
620 Harmon #502 (Almeida)
620 Jones #A-859 (Almeida) – Expired 10/1/13

Butch Upton made a motion to schedule a hearing for 620 Harmon. The motion was seconded by Arthur Hall. Herndon stated that the next Board meeting was in April. Committee meetings will need to be conducted. Herndon asked counsel when the hearing could be scheduled. Director Hejduk stated that the July Board meeting was scheduled in July. The hearing would need to be scheduled on Wednesday, July 13, 2016.

Arthur Hall made individual motions to approve the consent agreements already signed by licensees listed below. Upton seconded each motion. All motions were approved by voice vote unanimously.

Consent Agreement
606 Lundy #949 (Crouch)
625 Watkins #2619 (Wilson)
634 Sullivan #1937 (Brandon)
610 Holmes #3081 (Dowd)

Dismiss with a Letter of Caution
Upton made individual motions to dismiss with a letter of caution the complaints listed below stating that the complaints lacked sufficient evidence to move forward with the investigations. Waverly Sawyer seconded each motion. All motions were approved by voice vote unanimously.

593 Arn #428 (Andrist)
633 Makseyn #2464 (Cottle)

Dismiss
618 Johnson #2262 (Allen)
Arthur Hall made a motion to dismiss. Seconded by Joseph Ramsey. The motion passed unanimously.

621 Hilton #1069 (Mickens)
Waverly Sawyer made a motion to dismiss. Seconded by Arthur Hall. The motion passed unanimously.

622 Rauland #1093 (Jackson)
Waverly Sawyer made a motion to dismiss. Seconded by Arthur Hall. The motion passed unanimously.
623 Buffaloe #3035 (Shanks)
Arthur Hall made a motion to dismiss. Seconded by Chris Noles. The motion passed unanimously.

626 Suchy #715 (Rigo)
Joseph Ramsey made a motion to dismiss. Seconded by Chris Noles. The motion passed unanimously.

627 Coates #722 (Coats)
Arthur Hall made a motion to dismiss. Seconded by Harold Upton. The motion passed unanimously.

630 Blue #3156 (Cook)
Waverly Sawyer made a motion to dismiss. Seconded by Joseph Ramsey. The motion passed unanimously.

Chris Noles made a motion to hold a special teleconference to discuss two additional consent agreements. Upton seconded the motion and the motion passed unanimously.

**Standards of Practice / Rules & Interpretations Committee**
Butch Upton stated that if any inspector had input on the rules or interpretations please let him know.

**Personnel Committee**
Chairman Herndon stated he had no report at this time.

**Advisory Committee / New Licensee Report Reviews**
Chairman Herndon stated that the Board may need to contract to perform review of reports submitted by new licensees. Joseph Ramsey stated that there were some funds available for such a contract. Arthur Hall made a motion to contract audits for the review of reports. Seconded by Upton. Chris Noles requested clarification on the scope of effort being considered (i.e. number of reports and costs). Mike Hejduk stated that the State Controller’s Office has cautioned about excessive use of Personnel Service Agreements (Contracts) and has urged alternate contract vehicles such as Invitation for Bid (IFB) to promote greater competition and cost savings. The motion passed unanimously.

**Public Comments**
John Gainey of Secure Home Inspections of Sunset Beach, NC spoke. He is with the South East chapter of the North Carolina Licensed Home Inspector Association (NCLHIA). Gainey has been inspecting stone veneer homes. Builders have been complaining about how Gainey reports on stone veneer in his inspection report. Gainey stated that the Board approved language is perfect. Gainey wants better communication with the Real Estate industry. Gainey asked why C.E. is required for home inspectors but not general contractors. Chris Noles stated that he is appointed to the Home Inspector Licensure Board and the Code Officials Qualification Board. Noles stated that licensees from both boards effectively become educators for others. Noles stated that anyone can request an interpretation. The Licensing Board for General Contractors is a different Board and that we have no authority over general contractors’ continuing education.
Scott Hinson from the Charlotte area thanked the Board for all that they do for the industry. Scott stated stone veneer is his biggest problem in the home inspections process. Scott asked if funds the Board has could be used for a construction liaison rather than used for other government programs. Chairman Hendon stated the Board has to have a two year reserve. Chris Noles indicated that a prior governor, Easley, did appropriate some of the Board’s receipt based funds which was an impetus for a fee “holiday.” Unfortunately, the recession further reduced revenues. The NCHILB is receipt funded and pays for the staff salaries.

Floyd Gibbs stated that he is licensed in Virginia and North Carolina and a Class A builder. He said when he sees problems in the field he takes pictures and puts together a newsletter and submits it to the Directors of local inspection offices in various municipalities where he works. Gibbs thanked the Board for all they do for the general public.

Chairman Herndon thanked all visitors for their comments and concerns.

**Unfinished Business**
Chairman Herndon asked the Board members if there were any items of unfinished business.

Chris Noles asked if there were any more concerns about coastal deck inspections. Fred Herndon stated that Jeff Vaughn, a prior Board Chairman sent an email to Mike Hejduk requesting Board consideration. Noles stated that neither building inspectors nor fire inspectors have jurisdiction over single-family homes after the CO. Fred Herndon stated that the Board initially felt this was an issue better left to inspector associations. Herndon asked Hejduk to add deck inspections to the April agenda.

Chairman Herndon recognized Jim Kellogg who asked if he could comment on deck inspections. Kellogg stated that coastal communities have passed ordinances for deck inspections. Kellogg asked, “What standards do you inspect to?” Upton asked Kellogg about the question being asked. Upton stated that inspections must include DDID. The purpose of ”Implication” is still not being reported properly. Herndon stated that is why we need new inspectors inspection reports reviewed.

Noles asked if there would be any more Board meetings on the road. Herndon responded other meetings out of Raleigh would only be warranted if a sizeable number of attendees could be anticipated.

**New Business**
Fred Herndon stated that sellers are videoing and recording the inspections without consent of the parties to the inspection. Herndon said that it was illegal to record a conversation without at least one of the participant’s knowledge. Denise Stanford, Board legal counsel agreed with Herndon and stated if they are not recording sound but images, it should be disclosed to the parties. Herndon stated that this would be discussed at the next Standards of Practice committee meeting. Mike Hejduk stated that we have a prior advisory opinion on a home inspector videotaping their inspections. Chris Noles asked if this was a potential rule change or an interpretation and whether public comment might be appropriate. Hejduk noted that the majority of inspections are performed pursuant an NC Association of REALTORS® / NC Bar
Association Offer to Purchase and Contract and that the Due Diligence provisions of these contracts could be a place to start. Stanford agreed that the Due Diligence clause could provide an opportunity to address this.

Herndon asked, “What is the use of home inspection reports by other parties?” Stanford stated that suggested language should be developed for use within the contract. The inspector has lost control once the report has been sent to a third party. Stanford read some suggested language to add to the contract and perhaps even to the end of the report to make it clear a third party is not entitled to rely on it. The report is for the benefit of the client only and this language would include the inspection report provided to the client is being prepared per the client request and benefit of the client only. The language could include the following provisions:

- Third parties are not entitled to use or rely upon the inspection report or the terms of this contract.
- The client recognizes that this report is solely for the benefit of the client and that any person designated by the client to receive information in this report shall be subject to the terms and conditions contained herein. Such designation shall be provided in writing to the inspector.
- The inspection report shall be the confidential property of the inspector and the client and neither shall disclose or permit use by third parties without the other’s written permission.

Herndon stated that the language could be put on the Board’s website. Herndon requested to add this item to the agenda of the next Standards of Practice committee meeting.

Adjournment
Chris Noles made a motion to adjourn the meeting. The motion was seconded by Harold Upton motion was passed.

Respectfully submitted,

Christian Noles, P.E.
Secretary

Note: This meeting has been recorded on CD. Anyone desiring copies should contact the NC Department of Insurance, Engineering Division, Qualification Assurance Section, for reproduction costs. [G:\Public Folder\RPD File Exchange\NCHILB]