

DRAFT Minutes of the North Carolina Home Inspector Licensure Board

March 22, 2023

A special meeting of the North Carolina Home Inspector Licensing Board (“Board”) was held at 9:00 am Wednesday, March 22, 2023, by video teleconference via WebEx.

The following members of the Board were present remotely:

Connie Corey	Arthur Hall	Derrick Johnson	
David Dye	Rob Roegner	Joseph Ramsey	David Price

Board member William “Bill” Morris was absent.

Gina Cleary, Board legal counsel from the North Carolina Department of Justice (NCDOJ), Attorney General’s Office was present remotely.

Erin Gibbs, North Carolina Department of Insurance (NCDI), Assistant General Counsel, was present remotely.

The following NCDI, Engineering Division staff members were present remotely:

Mike Hejduk	Jennifer Hollyfield	Rodney Daughtry
Sam Whittington	Sarah Barcenas	

There were no public visitors.

Introduction

Chair Connie Corey called the meeting to order at 9:00 AM. Mike Hejduk, Executive Director called the roll, and a quorum was established.

Vice-Chair David Dye read the Ethics Awareness and Conflict of Interest reminder.

Gina Cleary stated the meeting was to discuss policy only and no Board discussion of any particular companies or licensees that may have offered warranties in the past or that may be currently offering warranties, and the focus of the meeting was to discuss the legal opinion contained in the letter dated February 20, 2023, that had been circulated prior to the meeting authored by the office of the general counsel of the Department of Insurance generically, and for the Board to provide direction to NCHILB’s Investigative Review Committee and NCHILB’s staff on how best to handle these issues moving forward.

Home Inspection Warranty Program

David Dye asked if the Board had jurisdiction in this matter or the NCDI. Cleary stated that the Board has jurisdiction if a Home Inspector is engaged in conduct that could result in harm or injury to the public or engaged in conduct that violates any provision of the Home Inspection Act or any Rule issued by the Board. Rule 11 NCAC 08 .1105(c) states that Home Inspectors shall not offer or perform any act or service contrary to law. Home Inspectors who offer warranty programs could potentially be in violation if they offer warranty programs but fail to satisfy the statutory and

insurance requirements or fit into any exceptions, as stated in the February 20th legal opinion. Dye stated that it is the responsibility of NCDOI to enforce insurance laws.

Mike Hejduk explained that Board statutes and rules include insurance requirements, such as General Liability, Surety Bonds, or Errors and Omissions and that the general public may be confused about warranty programs offered by licensees. Hejduk stated that the Code of Ethics prohibits licensees from misleading advertising or misrepresenting matters to the public. Hejduk stated that Board guidance was needed regarding the notification of licensees about the NCDOI legal opinion.

Dye questioned why the warranty program legal opinion required a specific Board policy position since general insurance matters would apply to any occupational board whereas the “Walk and Talk” legal advisory was specific to home inspectors.

Erin Gibbs described that the scope of potential warranty programs run the gamut, including “buy back” programs for entire houses not just select equipment.

Chair Corey also asked how this was a Board issue versus NCDOI?

Gibbs responded by saying it was an issue for both and that both had powers to investigate and enforce and that either NCDOI market regulation and/or agent services may become involved with compliance determinations.

Dye stated that the existing Board process would refer such complaints for investigation by NCDOI first and then the response would be evaluated by the Investigation Review Committee.

Rob Roegner recommended that the Board should get some guidance as to whether a Home Inspector is in violation from the Department of Insurance, who is better suited to deal with determining whether a violation occurred. Roegner wanted to decide what to do with such cases in advance.

Gibbs stated that the Board would likely be the first step in a complaint process against a licensee wherever it originated and could include complaints about competitors.

Chair Corey asked for legal guidance for the Board regarding insurance products versus the responsibilities of the Board.

Gibbs stated the legal opinion had been provided by the general counsel’s office of NCDOI. Cleary suggested that one way to bring awareness to the licensees would be to send a news alert about the legal opinion. Dye did not want the Board to have additional responsibility. Cleary requested the Board determine how they wanted to handle these types of issues and to provide policy or guidance to staff.

Dye made a motion to table the matter until further information and clarification was provided by Board legal counsel and the general counsel’s office of the Department of Insurance. Joe Ramsey seconded the motion. Discussion ensued. Chair Corey called the vote and Hejduk read a roll call vote 6 Aye, 1 Nay. The motion carried.

Board counsel and Gibbs stated that they were unclear as to what additional information and clarification the Board was looking for. Rob Roegner explained his nay vote stating he would be in favor of a different motion such as referring such matters to NCDOI market regulation.

Chair Corey requested direction from both legal counsels present.

Dye suggested it would be selective enforcement and, as a policy, should not be handled different than any other enforcement issues or complaints received.

Hejduk explained the Investigation Review Committee (IRC) process whereby potential violations of other agency licensing requirements, such as Structural Pest Control Licensure (wood destroying insects/termites) are referred to the appropriate agency and further action by the IRC is tabled pending the agency response or determination in the matter. Once a determination is received, the IRC proceeds with its disposition determination and makes recommendations to the Board as to whether disciplinary action is needed.

After further discussion, Chair Corey asked, if another motion was made, what would happen to the first one? Counsel provided guidance. Derrick Johnson asked what the historical precedents were, and Cleary responded.

Dye made a motion to direct the IRC to forward complaints to the appropriate agency. Derrick Johnson seconded the motion. There was no discussion. Chair Corey called for a roll call vote read by Hejduk. The motion passed unanimously.

Adjournment

Chair Corey made a motion to adjourn by acclamation.

Respectfully submitted,



Rob Roegner
Secretary, N.C. Home Inspector Licensure Board