

KENNY C. GUINN
Governor

STATE OF NEVADA

REPLY TO:

MEMBERS

KIM W. GREGORY
Chairman
DOUG CARSON
DENNIS K. JOHNSON
JOHN LINDELL
DENNIS F. NELSON
DEBORAH WINNINGHAM SHELTRA
MICHAEL ZECH



STATE CONTRACTORS' BOARD

RENO
9670 Gateway Drive, Suite 100
Reno, Nevada 89511
(775) 688-1141
Fax (775) 688-1271
Investigations (775) 688-1150

LAS VEGAS
4220 So. Maryland Parkway
Building D, Suite 800
Las Vegas, Nevada 89119
(702) 486-1100
Fax (702) 486-1190
Investigations (702) 486-1110

MINUTES OF THE MEETING
JULY 13, 1999

The meeting of the State Contractors' Board was called to order by Vice-Chairman Dennis Johnson at 8:44 a.m., Tuesday, July 13, 1999, State Contractors' Board, Reno, Nevada. Exhibit A is the Meeting Agenda and Exhibit B is the Sign In Log.

BOARD MEMBERS PRESENT:

Mr. Dennis Johnson – Vice Chairman
Mr. Doug Carson
Mr. John Lindell
Mr. Dennis Nelson
Ms. Deborah Sheltra

BOARD MEMBERS ABSENT:

Mr. Kim Gregory
Mr. Michael Zech

STAFF MEMBERS PRESENT:

Ms. Margi Grein, Executive Officer
Mr. Dennis Haney, Legal Counsel (Haney, Woloson & Mullins)
Mr. David Reese, Legal Counsel (Cooke, Roberts & Reese)
Ms. Nancy Mathias, Licensing Administrator
Mr. Bill Rizzo, Director of Investigations
Ms. Kathy Stewart, Licensing Supervisor
Mr. Jack Edstrom, Investigator
Mr. Bob Kennedy, Investigator
Mr. Gary Leonard, Investigator
Ms. Betty Willis, Recording Secretary

OTHERS PRESENT:

Erik Nelson, Court Reporter, Sierra Nevada Reporters; Kenneth Dargert, Owner, Granite Tile & Marble; Sitemani Peaua, Owner, Peaua Brothers Construction; Steven Xavier, President, Xavier Layne Construction Inc; David Chesser, Owner, Chesser Construction; Jeff Stebbins, Cuningham Group Construction Services LLC; Joe Gosner, Owner, New Creation Masonry; Mark Zamparelli, President, Parelli A/C and Refrigeration; Troy Daniels, Secretary/Treasurer; Parelli A/C and Refrigeration; Alex Davis, Owner, Sierra Fire Systems; Pat Sheldon, General Manager, State Insulation and Drywall; Pat Morasca, President, Creative Air Consultants Inc; Gary Brown, Greisen Construction Inc; Peter Felder, Owner, Lone Wolf Hearing, Air Conditioning & Sheet Metal; Ken Cronin, Complainant; Ron McKim, President, McKim Homes LLC; Complainants: Jerry Newcomer, Lee Husted, Melvin and Patricia Gross; Ron Wise, Senior Building Inspector, City of Reno Building Department; Jeff Ingram, McKim Homes; Steve Overhoff, McKim Homes; Mark Gunderson, Legal Counsel, McKim Homes, Alan McKissick, Legal Counsel for Mr. Newcomer; Charles Helton, Owner, Palomino Valley Construction; David and Candace Brinkso, Complainants; Dan Helton; Brian Parton; and Eric Stovall, Legal Counsel, Palomino Valley Construction.
Ms. Grein stated that Ron Carney, Investigator, had posted the agenda in

compliance with the open meeting law on July 7, 1999, at the Washoe County Court House, Washoe County Library, and Reno City Hall. In addition, it had been posted in both offices of the Board, Las Vegas and Reno, and on the Internet.

It was learned there were 48 items on the amended agenda, each item of an emergency nature. Additionally, Palomino Construction, on the regularly scheduled agenda, was moved to 2:30 p.m.

MR. NELSON MOVED TO HEAR THE AMENDED AGENDA.

MS. SHELTRA SECONDED THE MOTION

THE MOTION CARRIED.

Mr. Johnson called for a motion to approve the minutes of June 22 and June 23, 1999.

MR. CARSON MOVED TO APPROVE THE MINUTES OF JUNE 22 AND JUNE 23, 1999.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

The following motion closed the meeting to the public.

MR. CARSON MOVED TO CLOSE THE MEETING TO THE PUBLIC.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

The meeting was then closed to the public pursuant to NRS 241.030 to discuss financial and other data, which is confidential under NRS 624.110 (2).

APPLICATIONS

GRANITE TILE & MARBLE (C20 - Tiling) NEW APPLICATION, RECONSIDERATION, BOARD DECISION

Kenneth Dargert, Owner, was present. Ms. Stewart stated the new information consisted of the verification of entering into a payment agreement and partial payment. Mr. Dargert said he had faxed the rest of the payment information to the board this a.m. It was now paid in full. Mr. Dargert was asked what type of work he was intending to do. He answered he was going to perform residential tile, marble and granite in the neighborhood of \$50,000, including material and labor. Mr. Dargert was asked if he could get started with a license limit of \$3,000. He agreed. The indemnification process was then explained to Mr. Dargert.

MR. NELSON MOVED TO TABLE THE LICENSE APPLICATION TO THE NEXT BOARD MEETING FOR PERSONAL INDEMNIFICATION OR NEW FINANCIAL INFORMATION.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

PEAUA BROTHERS CONSTRUCTION (B2 - Residential & Small Commercial) NEW APPLICATION, BOARD DECISION

Sitelmani Peaua, Owner, was present. Sitelmani Tavake Peaua was the owner's son and the management qualifier. Much of the financial information provided by the credit reporting agency pertained to Mr. Peaua's Son and some items on the credit

report seemed to be intermixed between Mr. Peaua and his son due to the name similarity. The financial statement pertained to Mr. Peaua, alone.

MR. NELSON MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$100,000, A \$20,000 BOND, FS REVIEW IN 6 MONTHS, AND A BID LETTER.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

SECURITY PACIFIC DEVELOPMENT (B – General Building) ONE TIME RAISE IN LIMIT, BOARD DECISION

Jack Giacomazzi, was present and informed the one time raise in limit had been approved for \$14,500,000, payment and performance bonds if required.

XAVIER LAYNE CONSTRUCTION INC (B2 – Residential & Small Commercial) NEW APPLICATION, RECONSIDERATION, BOARD DECISION

Steven Xavier, President, was present and asked to detail his past financial history. He indicated most of the items had been taken care of. They had started with a divorce wherein his former wife was ordered to pay certain bills, but did not. He said the main thing he intended to do was metal buildings. He did not intend to do any residential work, although he was qualified. He said a lot of the work he performed was bonded to the general contractor. But the work he was currently doing did not need to be bonded.

MR. LINDELL MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$200,000 AND A \$25,000 BOND FOR A PROBATIONARY PERIOD OF 6 MONTHS WITH A FINANCIAL REVIEW AT THAT TIME.

MS. SHELTRA SECONDED THE MOTION

Ms. Sheltra asked what was the approximate size of each job. Mr. Xavier answered it was anywhere from \$200,000 to \$5 million.

THE MOTION CARRIED.

CHESSER CONSTRUCTION (B2 – Residential & Small Commercial) NEW APPLICATION

David Chesser, Owner, was present and informed the board he intended to perform small residential and remodels. He occasionally built new homes but not often. He was going to do renovation work to start. His average project size would be \$30,000 to \$50,000. He said a \$50,000 license limit would be good for him.

MR. LINDELL MOVED TO APPROVE THE LICENSE LIMIT FOR \$100,000 AND A \$20,000 BOND FOR A PROBATIONARY PERIOD OF 6 MONTHS, FS IN 6 MONTHS.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED.

CUNNINGHAM GROUP CONSTRUCTION SERVICES LLC (B – General Building) RAISE IN LIMIT

Jeff Stebbins was present and informed the raise in limit had been approved for \$10 million and a \$50,000 bond. After notification, Mr. Stebbins asked to address the Board. He requested an additional \$10,000,000 if the company provided a payment and performance bond for the project. He said there was no specific project at this point but the last one time raise in limit had been approved for \$16,000,000. It was suggested that the company continue to use the one

time raise in limit process and that the application, itself, should reference the fact that payment and performance bonds would be provided.

NEW CREATION MASONRY (C18 – Masonry) RAISE IN LIMIT

Joe Gonser, Owner, was present and informed the raise in limit had been approved for \$700,000, the bond to remain at \$5,000. Mr. Gonser thereafter asked to speak to the Board. He told the Board he had asked for a \$1 million limit because most of the jobs in Las Vegas ranged between \$750,000 and \$1 million. He believed he had the qualifications to meet his request, stating he had a substantial business in Phoenix, Arizona, and that a \$1 million limit presented no problem to him. He said he did not have a personal line of credit. He did everything with cash.

MR. CARSON MOVED TO APPROVE THE RAISE IN LIMIT FOR \$1,000,000 WITH A \$30,000 BOND.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

PARELLI A/C AND REFRIGERATION (C21 – Refrigeration & Air Conditioning) NEW APPLICATION, BOARD DECISION

Mark Zamparelli, President, and Troy Daniels, Secretary/Treasurer were present. Mr. Zamparelli said he had not been aware he had any outstanding debt on his credit report. Since learning about the items, he had paid some, some were being worked out now, and one was being disputed. The financial statement, which had been provided, was a corporate one. Mr. Daniels said he owned 50% of the corporation. The principals were asked if their personal financial statements could improve the corporate statement. Mr. Daniels replied that it was possible. Mr. Zamparelli stated that they intended to perform residential A/C in the range of \$2,000 to 5,000. He then explained the circumstances behind his forged check charge, for which he said he had not been convicted. The case had been adjudicated. Mr. Daniels had been convicted for disorderly conduct.

MR. NELSON MOVED TO TABLE THE APPLICATION TO THE NEXT LAS VEGAS OR RENO MEETING FOR PERSONAL INDEMNIFICATION.

MR. LINDELL SECONDED THE MOTION.

Mr. Zamparelli made a personal statement regarding their attempt at licensure. He said no one would tell them what was needed. Mr. Reese then explained the indemnification process.

THE MOTION CARRIED.

SIERRA FIRE SYSTEMS (C2C – Fire Detection) NEW APPLICATION

Alex Davis, Owner, was present and notified the license application had been approved with a limit of \$50,000 and a \$5,000 bond.

STATE INSULATION AND DRYWALL #40491 (C3D – Insulation) 90-DAY EXTENSION

STATE INSULATION AND DRYWALL #40492 (C4 – Painting & Decorating) 90-DAY EXTENSION

Pat Sheldon, General Manager, was present. He identified Janice Thomey as the new President. He said he had provided the officer change information to Mr. Lyford, who was investigating the license suspension. The previous president, Mr. Marigold had gone on vacation in December and never returned. Mr. Sheldon had replaced him on January 4. Mr. Sheldon said he began making inquiries of the

Board on January 14th when he asked about the process to change the qualifier. He picked up papers on January 21. He said he had documents to indicated the qualifiers had signed the applications as early as March. The bonds were still in place and due to expire in August.

MR. LINDELL MOVED TO EXTEND THE LICENSE APPLICATION FOR A FINAL 60-DAY EXTENSION.

MR. NELSON SECONDED.

THE MOTION CARRIED.

When asked if he intended to qualify the B2 license that the company held, Mr. Sheldon said he did not believe the company intended to keep the license.

CREATIVE AIR CONSULTANTS INC #37567 (C21 – Refrigeration & Air Conditioning)
ONE TIME RAISE IN LIMIT, BOARD DECISION

Pat Morasca, President, was present. She said she had received the wrong application for the one time raise in limit she desired to obtain. The permanent raise in limit information had then been received in the Reno office on June 23, 1999. The bid date for the project was June 24. Ms. Sheltra pointed out that the application, regardless of being a one time or permanent raise in limit, had not been received in a timely manner as set forth in the regulations. Ms. Morasca stated her company was the only one bidding the job. If the application were not approved, the bid process, possibly, would have to be redone because her company had been the only bidder. Ms. Morasca said she did not realize the application had to be submitted 2 days in advance because that information was not stated on the permanent raise in limit application she had received. Mr. Lindell referenced the law book and commented it was clearly stated there.

MR. LINDELL MOVED TO DENY THE ONE TIME RAISE IN LIMIT DUE TO NOT BEING RECEIVED 2 DAYS PRIOR TO THE BID.

MS. SHELTRA SECONDED THE MOTION.

THE MOTION CARRIED.

GREISEN CONSTRUCTION INC #35737 (B2 – Residential & Small Commercial)
RENEWAL OF EXPIRED LICENSE

Gary Brown, who was present to represent the company, was notified that the renewal application had been approved.

MR. NELSON MOVED TO REOPEN THE MEETING TO THE PUBLIC.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED

ADVISORY OPINION

CITY OF WINNEMUCCA – SKATEBOARD PARK

Ms. Mathias told the Board the City of Winnemucca was requesting an opinion regarding the appropriate classification to construct a skateboard park. The work consisted of site work, primarily concrete work, some structural steel, and a small portion of the work would include temporary fencing. The Board opined the appropriate license classification was an A, AB, B, B2 and C5.

Conversation ensued regarding the B and B2 classification as being an appropriate license to perform the work. For the record, Ms. Sheltra asked to be quoted

as she read: "upon which he is the prime contractor and where the construction or the remodeling of a building is the primary purpose." She added: "Those two tests have to be met. One of the tests is not met here if there is not a structure." Ultimately, the Board adopted the broader view of the regulation indicating that the five license classifications stated earlier were appropriate. Mr. Nelson pointed out that the permitting entities had the right to enforce a more stringent requirement.

MR. CARSON MOVED THAT THE APPROPRIATE LICENSE CLASSIFICATION WAS A FULL A, AB, B, B2, AND C5.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED. (MR. LINDELL AND MS. SHELTRA WERE OPPOSED)

The Board then asked that a regulation be drafted to correct the irregularity in the statute pertaining to the B and B2 classification.

INTERVIEW

HIGH SIERRA ELEVATOR SPECIALISTS (C7 - Elevation & Conveyance) - INTERVIEW

James B. Underwood, President, was present. Ms. Stewart indicated that on June 22, 1999, the application had been tabled to meet with the Board to discuss Mr. Underwood's financial condition. When asked, Mr. Underwood said he did not need the limit he had requested. He was willing to accept a lower one.

MR. LINDELL MOVED TO APPROVE THE LICENSE APPLICATION WITH A LIMIT OF \$500,000 AND A \$15,000 BOND BASED UPON RECEIPT OF A NEW FINANCIAL STATEMENT REFLECTING A CAPITAL CONTRIBUTION FOR STOCK TO THE COMPANY.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED.

RENEWAL HEARING

LONE WOLF HEATING, AIR CONDITIONING & SHEET METAL #39243 - RENEWAL HEARING

Peter Jacob Felder, Owner, and Kathy Stewart were sworn in. The notice of hearing was entered into the record as EXHIBIT 1 and the stipulation was signed.

Ms. Stewart stated the application had been denied in May 1995 for financial responsibility based, in part, upon a \$24,000 obligation to the IRS. At the hearing held in July 1995, a conditional license was granted to Mr. Felder, who was required to submit a financial statement every 6 months, along with information pertaining to the IRS obligation. In the first financial review, Mr. Felder did not provide any additional information regarding the IRS debt. He indicated that an offer and compromise had been made in February 1995 but it had been returned for additional information and Mr. Felder had failed to follow through. The licensee was then scheduled for a financial review in July 1996. At that time no financial information had been provided. In September, 1996 a new financial statement had been received but it appeared that the second offer in compromise had not been followed through with as well. The application for renewal had been denied and the matter had been set for a hearing. On March 11, 1998 a financial responsibility hearing had been held. A conditional renewal had been granted upon the basis that a financial review would occur at the time of renewal in August 1998. Again, an incomplete application for renewal had been submitted. Mr. Felder failed to provide a current financial statement. The application had been submitted with what appeared to be an informational letter

dated March 28, 1998, regarding the filing of offers in compromise. The Licensee failed to provide any specific information regarding his obligation to the IRS. On September 11, 1998 the application for renewal had been returned to Mr. Felder, along with notice that a current financial statement was required along with information pertaining to the current status of his IRS obligation. On January 29, 1999 Mr. Felder had resubmitted his application for renewal along with a financial statement dated July, 1999 and the same informational letter regarding the filing of offers in compromise. No specific information pertaining to the IRS obligation had been provided. On April 13, 1999 the application for renewal had been denied. At that time, staff had contacted Mr. Felder's CPA in an effort to obtain information pertaining to Mr. Felder's IRS obligation. The accountant declined to answer specific questions since Mr. Felder had not paid the bill for the preparation of the July, 1998 financial statement. As of July 12, 1999, the licensee had not satisfied his obligation to his CPA. The accountant indicated that the last payment he received from Mr. Felder was on April 6, 1999 for \$100. \$180 was still outstanding. The notice of hearing requested Mr. Felder to furnish a current financial statement prior to July 7, 1999. A current statement had not been provided.

When asked if bankruptcy court had been contacted, Ms. Stewart replied yes, but they had found no record of a bankruptcy for Mr. Felder.

Mr. Felder stated he was only trying to keep going. While operating as a contractor, he had not been a bad one. He said he did small work, which did not require a lot of working capital. He had all the tools that he needed to perform the type of work that he did. He had had a bad time keeping things rolling and had stuck his neck out with his marketing strategy. When the renewal process became due, his CPA's computer crashed and the CPA had been unable to provide him with a financial statement. He did not receive it until the third week in September and realized he had a child support responsibility to uphold. Arrangements were then made to pay the arrearage but the IRS obligation had not yet been addressed. He said was he working for another contractor. He was unable to bid new work but wanted to keep his license. He intended to continue working for another contractor and if he were granted a license renewal, he would use it only on weekends.

MR. LINDELL MOVED TO RENEW THE LICENSE WITH A LICENSE LIMIT OF \$1,000, A \$1,000 BOND, AN FS UPON RENEWAL IN THE YEAR 2000, AND A BID LETTER.

MR. NELSON SECONDED THE MOTION.

It was learned there were no complaints on the license, but Mr. Carson expressed concern and Ms. Sheltra was opposed.

THE MOTION CARRIED. (MR. CARSON AND MS. SHELTRA WERE OPPOSED)

RECONSIDERATION OF MOTION FOR FINAL ORDER ON DEFAULT

HARRISON DEVELOPMENT CORP. #42348 - RECONSIDERATION OF MOTION FOR FINAL ORDER ON DEFAULT

Ms. Grein asked the Board to reconsider their motion of the last meeting because homeowners had been harmed. Discussion occurred regarding if it was the licensee who had requested the reconsideration, if the licensee had been noticed, or if the decision and order had been sent to the licensee.

It was learned the license had been summarily suspended in April, 1999. The motion, as set forth in the last hearing, appeared to allow the license to be reactivated if the imposed fines were paid. After some discussion, it was confirmed that if the fines were paid, the license would return to a suspended status, not an active one, and the licensee would be required to appear before the board to

reactivate the license. The Board did not act to reconsider the matter.

TAHOE SHEET METAL #34882 – RECONSIDERATION OF MOTION FOR FINAL ORDER ON DEFAULT

Similar circumstances that applied to Harrison Development Corp. surrounded Tahoe Sheet Metal. In this matter, the license had been suspended for no bond. Again, it was confirmed that if the fines were not paid, the matter would return to the board for further action. The Board then asked to be notified if a new bond was submitted by the licensee. The Board did not act to reconsider the matter.

It was next decided, that in cases similar to Tahoe Sheet Metal, it would be necessary to summarily suspend a license and the Board would stipulate that the matter had to return to them before a license could be reactivated.

FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

GREENWEST INC #45520 - FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

MR. CARSON MOVED TO ACCEPT THE FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

MR. CARSON MOVED TO REVOKE LICENSE #45520, GREENWEST INC., AND TO RECOVER THE INVESTIGATIVE COSTS SHOULD THE LICENSEE EVER APPLY FOR A LICENSE IN THE STATE OF NEVADA.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

The following motion closed the meeting to the public in order to return to the application review.

MR. LINDELL MOVED TO CLOSE THE MEETING TO THE PUBLIC.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

The meeting was then closed to the public pursuant to NRS 241.030 to discuss financial and other data, which is confidential under NRS 624.110 (2).

The remainder of the applications on the agenda were reviewed throughout the morning as time permitted and discussion occurred on the following: Nos. 4-5, 7, 10, 16, 19-20, 22, 24-25, 28-29, 40, 42, 45-47, 49, 51, 53-56, 58-70, 73, 75, 80, 83-85, 87, 89, 90, 94, 97-98, 101, 103, 105, 111-112, 120, 124, and 126. The amended agenda: Nos. 3, 5, 10-11, 14, 17, 19-22, 24, 32, 34, 41, 44, and 47-48.

MR. NELSON MOVED TO REOPEN THE MEETING TO THE PUBLIC.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

MR. LINDELL MOVED TO APPROVE ALL APPLICATIONS NOT DISCUSSED IN CLOSED SESSION PER STAFF RECOMMENDATION.

MR. CARSON SECONDED THE MOTION.

THE MOTION CARRIED.

DISCIPLINARY HEARING

O L JACK COBB & SONS #15478 - DISCIPLINARY HEARING

Orien Leroy Cobb, Owner, was not present. Gary Leonard, Investigator, and homeowner, Ken Cronin, were sworn in.

The notice of hearing had been sent certified mail on June 10, 1999. It had been returned, unclaimed, on July 1, 1999. Mr. Leonard had attempted personal service on July 6 but had been unsuccessful. Thereafter the notice had been sent regular mail on that same day. The hearing was for possible violation of NRS 624.301 (1) (2), abandonment without legal excuse and failure in a material respect to complete a project for the price stated; NRS 624.3017 (1), substandard workmanship; and NRS 624.3013 (5), as set forth in NAC 624.700, (3) (A), failure in any material respect to comply with the law or regulations of the board, complaints against licensees. The hearing notice was entered into the record as EXHIBIT 1 and the stipulation was signed.

Mr. Cronin verified he had entered into a contract with O L Jack Cobb to complete a construction project, as evidenced in the notice of hearing, at his residence. Several items had not been completed and others, which had been completed, did not meet code. Mr. Cronin had been unable to get a Certificate of Occupancy because of those items and he had been unable to get Mr. Cobb to return.

Mr. Leonard validated the items referenced in Mr. Cronin's complaint and said he had determined they were below the standards of the trade or did not meet building codes.

In further questioning, Mr. Cronin answered he paid the contract as the project was completed although the amount exceeded the bid. In fact, it was almost double the bid. But the Cronins had wanted to get the job completed even though it was bid incorrectly. There were no liens on the home. Mr. Cronin then detailed how he had acquired the contractor. He said he had wanted to build a garage so he had plans drawn up. Because there was some excavating work that needed to be done, when that person came to do the work, he had asked Mr. Cronin if he could perform the garage build. Mr. Cobb had not been seen around town. The last time he had been seen was when Mr. Leonard met with both of them.

Mr. Leonard confirmed he too had not seen the licensee.

Mr. Haney explained Mr. Cobb had not renewed his license last year and he had filed bankruptcy in April, 1999. It appeared the licensee did not want to retain his license.

Mr. Cronin made a personal statement reflecting his sentiments.

Mr. Haney pointed out that it was only recently that complaints had surfaced against the licensee.

The evidentiary was closed.

MR. NELSON MOVED TO FIND LICENSE #15478, O L JACK COBB & SONS, IN VIOLATION OF ALL 4 CHARGES AND TO ACCEPT THE FILE AS THE FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

MR. NELSON MOVED TO REVOKE LICENSE #15478, O L JACK COBB & SONS, TO IMPOSE A \$2,000 FINE FOR EACH VIOLATION, AND TO RECOVER THE INVESTIGATIVE FEES.

MR. LINDELL SECONDED THE MOTION.

THE MOTION CARRIED.

EXECUTIVE SESSION

APPOINTMENT OF COMMITTEES

Ms. Grein informed the Board the following three categories had been identified for the purpose of establishing regulations: licensing, enforcement and administration. She said she had met with the Department of Transportation the previous day to discuss bidder's preference and had found her first volunteer for the committee, Garth Frehner. Additionally, there was an attorney Mr. Frehner knew, who had been working in bidder's preference, who also volunteered to work with the Board as well. Respective associations and organizations would be contacted next for volunteers. Ms. Grein said the committees could be comprised of anyone from the industry, another agency, or anyone from the general public. There was no reimbursement policy. Basic procedures would be established detailing how to present recommendations. There would be a board member on each committee. Ms. Grein said she wanted to first address the issues that needed to be in place by October 1. One was the applications for the inactive status, another was the recovery fund.

DISCIPLINARY HEARINGS

MCKIM HOMES OF NEVADA INC. #40920 - DISCIPLINARY HEARING

Ron McKim, President; Complainants: Jerry Newcomer, Lee Hustead, Melvin and Patricia Gross; Ron Wise, Senior Building Inspector, City of Reno Building Department; Jeff Ingram, McKim Homes; Steve Overhoff, McKim Homes; Bob Kennedy, Investigator; and Jack Edstrom, Investigator, were sworn in. Attorney Mark Gunderson, was identified as representing McKim Homes, and later in Mr. Newcomer's testimony, Alan McKissick, counsel for Mr. Newcomer, was also identified.

The hearing was for possible violation of NRS 624.301 (4), willful failure to comply with terms of contract or written warranty; NRS 624.3017 (1), substandard workmanship; and NRS 624.3013 (5), as set forth in NAC 624.700, (3) (A), failure in any material respect to comply with the law or regulations of the board. The hearing notice was entered into the record as EXHIBIT 1. The stipulation was not signed.

Jerry Newcomer stated he had purchased his home from McKim Homes or McKim Homes LLC on 12/28/95. Prior to taking occupancy of the home, the items that needed to be corrected had been put into writing. Those items were identified as pages 40-41 of the hearing notice.

Mr. Newcomer reviewed the list and found all items had been completed. He said there was a point in time when McKim Homes had been making repairs, but then stopped. It was not until March, 1999 that the work resumed and the items were completed. He added that the items had been completed on a previous complaint but not on a second one.

Jack Edstrom stated he had been involved in the notice to correct. He had viewed the property prior to 3/99 and had validated some of the complaints but not all. After the notice to correct had been sent, the repairs were performed. All items

on the list had been repaired.

Lee Husted indicated he had acquired his property in November, 1997. He detailed a problem he had with a water shut off valve. He said he had requested to have it shut off and learned he did not have one. He had made repeated attempts to have several items fixed. Then a letter to participate in a complaint was presented to him and he signed it. He said he had explained the reason why to Mr. McKim. He then verified that the items evidenced on pages 85-87 of the hearing notice, and prepared by Jack Edstrom, was the list of items that needed correction. He said he had fixed some of the items himself but not all items had been found to be valid. After the letter to correct had been sent, all items had been corrected although the spindles had not been corrected until last week. Mr. Gunderson asked Mr. Husted if he was the original owner. He answered no. When asked who had been the original board investigator assigned to the case, Mr. Husted stated it had been Bob Kennedy.

Mr. Edstrom validated the items on pages 85-87, identifying himself as the original author of the list. He said he had examined the house and had validated all of the items. The stairway spindles had been the only item not corrected until recently. When asked if any other investigator had been involved in the investigation, Mr. Edstrom identified Bob Kennedy. Referencing Mr. Kennedy's notes, Mr. Edstrom said Mr. Kennedy had tried many times to contact Mr. Husted.

Mr. Gross stated he had purchased his home from either McKim Homes or the LLC on December 31, 1995 and had occupied the home in June 1996. A list of the items needing repair had been made before and after occupancy. All repairs had been made originally but, thereafter, none were made until this year. His main complaint dealt with a sloping issue. The item had been repaired but not until after March 1999. Mr. Gross confirmed Mr. McKim had not been asked to repair the item until after the complaint had been filed on April 27, 1998.

Bob Kennedy said he had been assigned to review the Gross property. He had found valid complaints and had notified the builder. Repairs had been started on the 8th of April and the contractor had been working on the items when the complaint was filed. It was on 4/27/99 when Mr. Gross signed off on all the items. Mr. Gunderson asked if McKim homes had worked diligently to repair the items. Mr. Kennedy replied he would say so. He said there was no deliberate reason for non-repair. Ms. Sheltra asked if it was acceptable for items to take 1 or 2 years to correct. The sign off list was then entered into the record as EXHIBIT 2.

Ron Wise told the Board he was familiar with the three homes. More so with Mr. Newcomer's and Mr. Husted's. He had found code violations on both that have since been repaired. One problem was inadequate ventilation or cross ventilation in the garage.

Mr. Haney next pointed out that the documents referenced a different license number than McKim Homes LLC. He questioned whose license was being used. He added that a current financial statement had been requested but he cautioned the Board about discussing the financial statement in an open meeting. He said that problems had existed as of March, 1999, but they did not get resolved until they reached the NSCB.

Mr. Gunderson asked Mr. McKim to explain the facts and circumstances surrounding the license number on the contract by Ron McKim Construction because McKim Homes had a different number.

Mr. McKim explained that he originally had a license, a sole proprietorship. He then changed to an LLC. But in the process, he had assumed he would keep the same license number. He did not realize that a new license number would be issued. It was an oversight on his part. He had been duly licensed as Ron McKim Construction but the homes in evidence were completed under McKim Homes, LLC.

Mr. Gunderson then asked that a packet of information he had provided be entered into the record as EXHIBIT 3. Mr. Reese questioned if the exhibit contained confidential material. Thereafter, that material was removed.

Jeff Ingram, Project Manager, testified he held many varied positions with McKim Homes. One was overseeing warranty issues. Mr. Gross's home, to a lesser degree, but along with the other two, involved performance. Each home had a typical one-year new home warranty. Each had several items, which needed to be repaired during the warranty period. The process provided that each item be placed into the normal routine for repair. There had been no substantial delay by McKim Homes in addressing those items. If there were any delays, they were due only to whether the items were to industry standard. The ultimate response, of course, was to respond to the order to correct. After Jack Edstrom had made the appointment, Mr. Husted's home had been dealt with. There had never been any hesitation to repair Mr. Husted's or Mr. Newcomer's home. He then explained what he meant by a typical one-year warranty; that he could not say if he had known about Mr. Newcomer's sloping problem; what he had done to repair Mr. Newcomer's foundation crawl space; that he was not in the Reno area, he was in the Rocklin office; and that he had not been involved with the water-shut off valve.

Mr. Haney summarized that NRS 624.300 provided that if the Board found that the licensee was engaged in repeated acts, it was cause for disciplinary action. He indicated that these matters took far too long to correct and required board intervention.

It was learned that approximately 100 homes had been built. In the University Ridge subdivision, the number was close to 50. Mr. McKim said they relied on the subcontractor to correct the work if it was a subcontractor related item or they did touch up paintwork in-house. Some of the subcontractors had refused to come back and, in some instances, McKim Homes had to pay other subcontractors to come back and do the work that had not been done properly by the first subcontractors. Complaints had been filed against those subcontractors. Mr. McKim said he had been to both Mr. Gross's and Mr. Newcomer's home although he had met with Mr. Newcomer early in the process. Mr. Haney presented Mr. McKim with photographs and asked if he had ever seen them. The photographs had been provided by Mr. Newcomer and had been taken at various stages of construction. All items shown in the photographs, validated by the board investigator had been corrected. The photographs were then entered into the record as EXHIBIT 4.

Mr. Gunderson asked Mr. McKim if McKim Homes had experienced any delays or difficulties with scheduling the work with the homeowners. Mr. McKim said he could not say that they had with Mr. Husted but they had to a greater degree with Mr. Newcomer. There had been numerous occasions when they would stop by Mr. Newcomer's house and get no response. They would then leave a note. He had spoken with Mr. Newcomer by phone on September 25, 1997. He had spoken to him prior to sending him a letter. Mr. Newcomer had expressed some concerns that he was having with not having warranty work performed. Mr. McKim told him he would talk to staff and see to it that the warranty work was performed in a timely manner, and he asked Mr. Newcomer to call him personally if he experienced any problems. A short time later, signs were placed in his yard. Mr. McKim then called him and left messages on his recorder asking Mr. Newcomer to return his calls. They went unanswered. Mr. McKim sent staff by Mr. Newcomer's house and left messages for Mr. Newcomer to please contact McKim Homes, to no avail. Mr. McKim said he finally sent Mr. Newcomer a registered letter dated September 25, 1997 requesting Mr. Newcomer to respond. The letter had been returned because it had not been picked up at the post office. He said Mr. Kennedy had experienced a similar circumstance with Mr. Newcomer.

The evidentiary was closed.

MS. SHELTRA MOVED TO REFER THE MATTER TO FINDINGS OF FACT, CONCLUSIONS OF LAW.

MR. NELSON SECONDED THE MOTION.

THE MOTION CARRIED.

PALOMINO VALLEY CONSTRUCTION #37975 - DISCIPLINARY HEARING

Charles Helton, Owner; David and Candace Brinkso, Complainants; Jack Edstrom, Investigator; Dan Helton; and Brian Parton were sworn in. Eric Stovall, Legal Counsel, Palomino Valley Construction, was identified.

The hearing was for possible violation of NRS 624.3017 (1), substandard workmanship; and NRS 624.3013 (5), as set forth in NAC 624.700, (3) (A), failure in any material respect to comply with the law or regulations of the board, and complaints against licensees; NRS 624.3011 (1) (A), willful and prejudicial departure from or disregard of plans or specifications; and NRS 624.301 (3) (4), willful failure or refusal without legal excuse on the part of a licensee to complete or prosecute diligently project for construction or comply with terms of contract or written warranty. The hearing notice was entered into the record as EXHIBIT 1. The stipulation was not signed.

Mr. Helton said the concrete contractor was not present. Mr. Stovall stated several people were not present. He then named them. He said they had requested a continuance because Mr. Helton had only recently contacted him. Mr. Helton had tried to have representation but had been put off by several attorneys. By the time Mr. Stovall had received the case, there had been no time to get subpoenas out. Discussion then occurred regarding the direction that could or should be taken in the matter.

MR. NELSON MOVED TO CONTINUE THE HEARING FOR 30 DAYS. STAFF WAS INSTRUCTED TO SUBPOENA ALL THE WITNESSES.

MR. LINDELL SECONDED THE MOTION.

In further discussion, staff was directed to schedule the matter in the late afternoon at the next Reno meeting on August 10, which turned out to be in conflict with a hunting trip Mr. Brinkso had planned. Mr. Stovall suggested that if there were any items that the parties could agree to, Mr. Helton would make the corrections. Some items were disputed. Mr. Haney then suggested that Mr. Brinkso work with Mr. Stovall, Mr. Edstrom, Mr. Rizzo, and Mr. Reese after the hearing to possibly resolve the matter.

THE MOTION CARRIED.

PUBLIC COMMENT

Mr. Husted said he wanted to comment regarding "adequate attic ventilation," which he believed was critical. Many of his neighbors had the same problem but were not aware of it. Mr. Johnson pointed out that it was the building department that was responsible for picking up those items, not the board. He said it was the building inspectors who inspected for code compliance and life safety issues. Mr. Husted agreed but said he believed there was something the board could do. If autos were recalled, then he believed it should be the same with houses. Ms. Sheltra suggested that Mr. Husted pursue another avenue, the Reno City Counsel. They alone had the ability to direct the building inspectors.

Pat Gross identified herself and said it was very important to her to have a place to go to talk about the problems seniors had with their homes. She told the Board that seniors needed them to be their advocate as well as did the contractors. She then thanked the Board.

Ms. Grein pointed out that Mr. Gross and Mr. Newcomer had helped in obtaining the new regulations.

Mr. Newcomer thanked the Board and said it did a fine job. He believed it was necessary to get rid of the no complaint, no fix policy in the next Legislature.

Frank Gross thanked Margi Grein for the fine job she did in the Legislature. He told the Board that he received mail from all over the country inviting him, as a senior, to come live in a particular community. Senior citizens were a big business. If this was going to be a good industry for Nevada, then decent homes had to be built. If not, he said people would go somewhere else.

There being no further business to come before the Board, the meeting was adjourned by Vice-Chairman Johnson at 3:42 p.m.

Respectfully Submitted,

Betty Wilts, Recording Secretary

APPROVED:

Margi Grein, Executive Officer

Dennis Johnson, Vice-Chairman