

**MINUTES**  
**HOME INSPECTOR EXAMINERS COMMITTEE**

**March 1, 2011**

**COMMITTEE MEMBERS PRESENT:** Denver Talley, Jim Gendill, Darrell Covington and Johnny Cullison.

**PRESENT FROM THE CONSTRUCTION INDUSTRIES BOARD:** Richard Hager, Rick Denny, Joanne Bohn.

**OTHERS PRESENT:** R. Bartles, M. McCray, R. Fambrough, P. Graham, F. Ayers, B. Kendrick.

**CALL TO ORDER:**

Mr. Denver Talley, Chairman, called the Special Meeting of the Home Inspectors Committee to order at 10:00a.m. At 2401 NW 23<sup>rd</sup> Street, Suite 5, Shepherd Mall, Oklahoma City, OK 73107.

**STATEMENT OF COMPLIANCE WITH THE OPEN MEETING ACT:**

This regular meeting of the Committee of Home Inspectors Examiners, scheduled to begin at 10:00 a.m. on this first day of March 2011, has been convened in accordance with the Oklahoma Open Meeting Act, Title 25, and Sections 301 through 314. Further, an advance public notice that was sent to the Secretary of State electronically November 1, 2010 prior to this time today, specifying the time and place of the meeting here convened, preceded this meeting. Notice of this meeting was given at least twenty-four (24) hours prior here to and no one has filed a written request of notice of meetings of this public body to date.

Read aloud by Joanne Bohn this first day of March, 2011.

Meeting was reconvened at the Fire Marshall Department due to room scheduling conflict at 10:10am

Rusty Hartsell and Dan LaBrake are both present now.

**ACTION ITEMS:**

**APPROVAL OF THE December 7, 2010 MEETING MINUTES.**

A MOTION WAS MADE BY DAN LABRAKE WITH A SECOND BY JIM GENDILL TO APPROVE DECEMBER 7, 2010 MEETING MINUTES.

MOTION PASSED

Voting Aye: Denver Talley  
Dan LaBrake

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John Jones Abstained  
Jim Gendill  
Johnny Cullison  
Darrell Covington  
Rusty Hartsell

**APPROVAL OF EDUCATION/TRAINING COURSES**

Johnny Cullison made a motion to recommend that both classes and both instructors, be approved. Dan LaBrake seconded it. MOTION PASSED

Voting Aye: Denver Talley  
Dan LaBrake  
John Jones  
Jim Gendill  
Johnny Cullison  
Darrell Covington  
Rusty Hartsell

**ENERGY AUDITS**

Mr. Denny informed the Board that he did not have a working draft, at this time.

**COMPLAINT WALKER/WISE**

Mr. Hager recommended that this complaint be assigned for hearing.

A motion was made by Dan LaBrake, and seconded by Jim Gendill to hear this complaint at the next Board meeting. MOTION PASSED

Voting Aye: Denver Talley  
Dan LaBrake  
John Jones  
Jim Gendill  
Johnny Cullison  
Darrell Covington  
Rusty Hartsell

**EQUIVALENCY JOHNSON**

After some discussion a motion was made by Dan LaBrake and seconded by Darrell Covington to approve Mr. Johnson's request for equivalency. MOTION PASSED

Voting Aye: Denver Talley  
Dan LaBrake  
John Jones  
Jim Gendill  
Johnny Cullison

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Darrell Covington  
Rusty Hartsell

**EQUIVALENCY ROWLAND**

After some discussion from the board, a motion was made by Rusty Hartsell and seconded by John Jones to accept Mr. Rowland's request for equivalency. MOTION PASSED

Voting Aye: Denver Talley  
Dan LaBrake  
John Jones  
Johnny Cullison  
Darrell Covington  
Rusty Hartsell

Voting Nay: Jim Gendill

**FELONY MCCRAY**

Mr. McCray explained the situation for the reason he was charge with a felony and that he served 20 years probation. Mr. Gendill recommended that Mr. McCray shadow another licensed Home Inspector to get some experience. Mr. Denny pointed out that what Mr. Gendill suggested is not a legal requirement, pointing out that Mr. McCray is over 18, and has passed an approved school course.

Mr. LaBrake feels that the questions being asked of applicants with felonies are way off the mark. The Board needs to stick to the facts only.

A motion was made by Rusty Hartsell and seconded by Dan LaBrake to approve Mr. McCray's request for application. MOTION PASSED

Voting Aye: Denver Talley  
Dan LaBrake  
John Jones  
Jim Gendill  
Johnny Cullison  
Darrell Covington  
Rusty Hartsell

**EXPIRED LICENSE BARTLES**

Mr. Bartles explained to the board that he was relocated to Boston, and then subsequently to Texas and now he is back in Oklahoma. He admitted letting his license lapse, last renewing in 2008. Mr. Bartles asked the board to allow him to only make up the difference of 40 hours, to get his license back to active status. Mr. LaBrake explained that the law states that a person must reapply if their license lapses for more then one year. Mr. Denny stated that as the Board's counsel, he would not be able to recommend the board not following the rules. The board's discussion was that Mr. Bartles needs to reapply, take an approved 90 hour class and retest.

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A motion was made by John Jones and seconded by Jim Gendill to deny Mr. Bartle's request to have his license reinstated. MOTION PASSED

Voting Aye: Denver Talley  
Dan LaBrake  
John Jones  
Jim Gendill  
Johnny Cullison  
Darrell Covington  
Rusty Hartsell

## **EMP INSPECTIONS**

Mr. Talley opened up the discussion by addressing Mr. Gendill's concern about EMP's (Electrical, Mechanical & Plumbing). Mr. Talley explained that the Board has discussed this topic before he was on the Board.

Mr. LaBrake shared that not everyone on the Board was privy to the article Mr. Gendill wrote about EMP's, so he asked that Mr. Gendill explain his concerns.

Mr. Gendill explained that his main concern is that there is a group of inspectors in the Tulsa area that are not performing Home Inspections in accordance with the law, and the attitude is "We don't want to mess with it", he feels that the Mission Statement of the CIB is not being met by those inspectors. Mr. Gendill feels that those clients are not getting what they are paying for, nor do they realize that they are only getting a partial Home Inspection. Mr. Gendill wants the client to be told in writing that they are not getting a full inspection.

Mr. LaBrake discussed that the EMP's are taking place in his area, and no one is more against it than him, stating that these are his direct competitor's who are performing these inspections. Mr. LaBrake shared that last year there was a rule added to the statute to address this issue. That being that if the client doesn't know what they're getting, then the inspector is failing to comply with the rules. The rules have always stated that an inspector can choose not to inspect items, but that it must be in the inspection why it was not inspected. Mr. LaBrake also explained that there were language changes made in the rules, however he does not know if people are adhering to that new language. Mr. LaBrake does not want EMP's to be allowed, but also stated that the rules say it can be done.

Mr. Covington talked about any complaints being sent in, and that each case should be dealt with separately, to include penalties.

Mr. Denny shared that the statute definition of a Home Inspection means a "visual inspection of any or all", *not* "any and all" or not just "all". Which implies that something less than the enumerated, any collection of that less than the complete enumerated list could

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be a Home Inspection. Adding that the rule that applies to these standards of practice are not intended to limit inspectors from excluding systems and components from the inspection, if requested by the client in writing. Mr. Denny went on to say that if the Board wants to change the rules and explore this issue, his only concern is that now these inspections have been going on and have been legal, and now you want to change the rules without changing the statute, which appears to authorize something less a full inspection. Mr. Denny said that it may be wise to change the statute and the rule, to avoid any type of legal complications along the way. A different type of inspection forms, whether or not the Board should write one, was discussed.

Mr. Jones spoke on behalf of being a realtor, stating that EMP's have been going on long before Home Inspection came about. The realtors feel that they get a better inspection by having an EMP done separately, having a home inspector doing it because of the difference in experiences of home inspector's.

Mr. LaBrake explained that most EMP's are done by Home Inspector's and then a structural evaluation from an engineer. More discussion followed.

Mr. Powell explained that in each one of these cases, it comes down to a question of fact, as to whether or not these inspections were a deceptive practice, did the home owner know and understand what he was signing or checking off? The law says that you can do a partial inspection and as long as it is adequately disclosed, and there is no evidence of deception, then that really limits what the CIB can do.

More discussion followed.

Mr. Denny asked the Board if perhaps the Board would consider not necessarily adopting the inspection form presented by Mr. LaBrake, but at the next meeting have a resolution in the pipeline that states some of the concerns that were talked about today. That the committee strongly feels that the spirit of that particular rule, that there is a requirement there, that the client be aware of those rights or situation, and you can possibly adopt a form showing that the client is aware of what they are getting and possibly put the licensee on notice that the committee has made this determination as to what the spirit and intent of that rule is, and that you are strongly encouraged to use this form, if you perform something less than a full inspection or be expected to undergo discipline by the Board if you're brought before the Board in any investigation.

Mr. Powell added that within the process of moving forward with trying to deal with this issue, we've said that you have to disclose, and that's where we sit right now. Now, the next question is what constitutes adequacy of the level of that disclosure. Mr. Powell thinks that from Mr. Denny's standpoint and perhaps in the context of rule making, what we might do is say that in order for a disclosure to be adequate, that disclosure has to enumerate the items that are in a comprehensive home inspection and those come right straight out of the law, and they must give the customer the opportunity to select among those items.

Discussion followed and agreed that this issue needs to be discussed further and move forward. Mr. Talley summed up that the concern is that the client knows what they are

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getting, and not getting. Mr. Denny said that he and Mr. Powell will work on drafting language and extended to anyone to participate in this process.

**PUBLIC COMMENTS**

Mr. Ayers updated the Board with regards to his presentation to the Real Estate Commission regarding the item in the rules that says, no person shall reveal the results of an inspection without the written approval of the client. Mr. Ayers said that the commission challenged it when he presented it. Mr. Ayers requested that they not pass on the results of the inspection to another client when the deal falls through, that extends his liability. The commissioners stated that it is public documents. Mr. Jones added that he is obligated to disclose any defects he has knowledge of on any property. Mr. Ayer's concern is that the disclosure is being represented that a home inspection has already been done and you don't have to do another one.

**NEW BUSINESS**

None.

**ADJOURNMENT**

A MOTION WAS MADE DAN LABRAKE AND SECONDED BY JOHNNY CULLISON TO ADJOURN.

MOTION PASSED

Voting Aye:

Denver Talley  
Jim Gendill  
Dan LaBrake  
Rusty Hartsell  
Johnny Cullison  
Darrell Covington  
John Jones

Minutes approved in regular Session on the 5<sup>th</sup> day of April, 2011.

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Denver Talley, Chairman

PREPARED BY:

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Joanne Bohn, Secretary