

September 23, 2010
Texas Department of Insurance
Meeting of the Appointment Working Group
9:00 A.M. H1 Room 370
333 Guadalupe,
Austin, TX

I. Introduction of Working Group Members and Staff.

The meeting was called to order by Alexis Dick-Paqlik. All were welcomed and introduced.

Member of the working group in attendance were:

Charles Durivage, P.E.
David Franklin, P.E.
Ted Harp, P.E.
Charles Schibi, P.E.
Ken Sherman, P.E.
Charlie Pennington, P.E.

TDI Staff in attendance were:

Alexis Dick-Paqlik
Chris Harrigan
Paul Bove
Sam Nelson
Welch Watt

Others in attendance were :

Justin Hudman from Rep. Todd Hunter's Office
Donna Franklin

a. Antitrust statement.

Mrs. Dick-Paqlik asked the group to read the Antitrust statement.

b. Elect Chairperson of Working Group

Mrs. Dick-Paqlik gave a brief history of and reason for the existence of the working groups. There are two other working groups focusing on Oversights and Forensics. This working group will try to focus on the Appointment Process. She then asked for volunteers or nominations for a chairman for the working group. Ted Harp suggested that David Franklin serve as chairman. It was seconded and approved by the other members.

David took over the chairmanship and said that the key to this meeting was to get consensus from the working group on making changes to the appointment process. The process has been problematic for several years. Consumers are having difficulty finding an actively participating appointed inspector because the list is filled with appointees who do not actually work in the program. There are also many appointees who have not kept their contact information current and therefore are not accessible. Contractors and consumers are most often “fee driven” and therefore are not looking for qualified appointees. They assume if they are appointed, then they must be qualified. This is not an issue unless the appointee is audited and cannot produce the required data.

Ken Sherman mentioned that this is truly an ethics problem that needs to be brought under control. He felt that training, education, screening, and orientation were the elements that would need to be honed into a better appointment process.

II. Develop Recommendations for the Appointment and Renewal of Engineers as Qualified Inspectors.

a. Establish minimum qualifications for appointment and renewal.

All members of the group agreed that being a Texas Licensed Professional Engineer in good standing was the minimum requirement. There was also a discussion about the importance of the appointed inspectors being qualified and how to determine that. David Franklin also stated that the TSPE Rules states that an engineer should not work outside of his area of competence. Charlie Pennington confirmed that this is an issue.

b. Discuss possible appointment requirements

i. Education & experience. It was agreed that the appointee does not have to be a civil or structural engineer to be appointed. But they should be able to demonstrate knowledge of high wind design by listing on the application projects that they have done in that arena.

ii. Examination. There was quite a bit of discussion and some concern over the examination and the view of the TSPE on testing P.E.s. Charlie Pennington, representative for TSPE said that the testing would be acceptable to TSPE. He also stated that it is the right of an employer (in this case, TDI) to ensure that the employees (in this case, appointed engineers) are qualified to do the job. There was a consensus that there should be an examination and it should cover the basics of the Windstorm program, codes, and be open book.

iii. Mandatory orientation class. There was a consensus that the orientation class be mandatory and that it be required to attend before the application is submitted. The orientation class should cover the basics of the Windstorm Program such as forms and processing, history of Windstorm and purpose, codes, inspections requirements, product evaluations, documentation, liability, oversights, and legal issues.

iv. Application fees. There was a lot of discussion of the application fees. Suggestions varied from \$100 to \$1000. It seems that most felt that a larger value would discourage applicants who only wanted to put the appointment on their resume. If the fee is too high, it might leave out people who are really qualified but don't have the \$1000 fee. A consensus was reached that there should be an application fee. The amount was not determined and will be part of our e-mail discussion before the next meeting. The Application Form was reviewed and determined by the group to be adequate except for Section C which does not require enough details and perhaps needs to include work history of high wind projects.

v. Maintenance of appointment. It was agreed that the P.E. must maintain his Texas license and keep contact information current. It was discussed that the P.E. might need to have continuing education in the high wind field. It was also discussed that a P.E. who has not submitted a WPI-2 in 2 years should be taken off the active list.

vi. Disciplinary actions. It was discussed that disciplinary action is necessary to ensure the quality of the program. Not all engineers will self-discipline and consequently all must be monitored at random or audited by complaint.

c. Discuss possible renewal requirements.

i. Renewal time period. Discussed were 1 year to 2 years. Most agreed that it was needed but the time period was not decided. This will be part of our e-mail discussion.

ii. Renewal fees. It was discussed and agreed that a renewal fee was in order. The amounts suggested ranged from \$100 to \$500. This will be part of our e-mail discussion.

iii. Continued education (CEU). It was discussed and agreed that requiring CEU's was a good idea. The number of hours was not decided and will be part of our e-mail discussion.

iv. Disciplinary actions. The group felt that keeping contact information up to date was very important and should be a disciplinary action when necessary. Also disciplinary actions that are not disclosed in the application or renewal process should be grounds for action. Misrepresentation of their personal or professional information or qualifications should be grounds for action. P.E.'s who lose their appointment for legal cause should not be eligible to reenter the program for some period of time and they must re-enter as a new applicant. The period of time was discussed, but not decided. This will be discussed further in discussion.

III. Discuss Responsibilities of Appointed Engineers.

a. Maintain Texas P.E. This is mandatory.

b. Preparation of plans and calculations. There was some discussion about the necessity of plans on all jobs, and the type of plans that should be provided. But it was agreed that jobs that require framing should have a windstorm plan. Reference was made to the Informal Draft “Title 28 Insurance Part 1. Texas Department of Insurance Chapter 5. Property and Casualty Code.” On page 23 – 25 there are 16 proposed requirements for plans and calculations which were reviewed. Ms. Dick-Paclik asked if this was too stringent or lax. She requested input from the Working Group on this section. She asked that comments be sent to David Franklin or TDI.

c. Building code compliance of building products. Product Evaluations are typically used but when other products are used they must have test reports and certificates to document acceptability.

d. Inspection requirements included delegation of inspections. It was agreed that inspections could be performed by using persons under the direct supervision of the engineer. There was some discussion, but no consensus, of requiring the engineer to inspect at least one time in a job that requires framing. It will be discussed further in our e-mails.

e. Inspection report and documentation for files. There was some discussion of using a standardized inspection report form. Each engineer uses their own method, but for ease of auditing, TDI would appreciate standardization. It was discussed that the files should contain calculations, specs, plans, e-mails, letters, forms, inspection reports, product information, photos, etc. There was also talk of the length of time to keep records. Charlie Pennington advised that TSPE has no mandatory requirements for file retentions. TDI also has no requirement. Chris Harrigan said that the statute of limitations is 5 years. But most of the engineers felt that their liability would extend beyond that and perhaps it would be better to keep them longer. It will be discussed further in our e-mails.

f. Communication of findings to building owners and contractors. A question was asked about the procedure for notifying owners when the contractor is the client. Charlie Pennington advised that it is mandatory to notify an owner of any safety issues. But other issues should be worked out with the contractor if possible.

g. Documentation required to complete certification of structure. This was discussed in III.e. above.

h. Completion of Inspection Verification form. Sam Nelson mentioned that there had been cases when the WPI-2 had been submitted and the job was not completed. This topic was not discussed in detail.

IV. Discuss Working Group Assignments.

It was agreed that all Working Group members would communicate by e-mail on the topics that still need some discussion. David Franklin will send to all members a

questionnaire for comment. This should help narrow down the focus of further discussions either by e-mail or possibly another meeting of the working group.

NON-AGENDA ITEM:

Ms. Dick-Paolik presented information regarding the Alternative Certification Program. She explained the process they were proposing for those who did not enter the Waiver program but whose homes were built prior to 6/19/09. These homes would be eligible to enter the AC program with a 15% surcharge which is not capped and they must update a critical component of the home before the expiration date of 8/31/2011. If they don't update their critical component, they will be dropped as of 8/31/2011. The critical components proposed are roof, windows, doors, garage doors and skylights, windborne debris protection. Currently those in the Waiver Program (which closed on 8/31/09 are capped at 15% surcharge. They do not need the AC and are in the program forever as long as they maintain their eligibility (ie. don't lapse or cancel policy, get WPI-8 on improvements.) Mrs. Dick-Paolik asked that the working group consider any other components which could be considered for the AC.

V. Adjournment. Meeting was adjourned at 1:01P.M.