

RHODE ISLAND DEPARTMENT OF LABOR & TRAINING

DIVISION OF PROFESSIONAL REGULATION

BOARD OF EXAMINERS OF HOISTING ENGINEERS

1511 Pontiac Avenue, Bldg 70, 2nd Floor Conference Room

Cranston, RI 02920

Wednesday, March 9, 2016

10:00am

In attendance:

James Grundy

John Shaw, Designee

James Woloohojian, Chair

James White

Edward Zambrano

Brian Iannuccillo was not in attendance.

Also in attendance were David Rodrigues, Chief Hoisting Engineer Investigator and Valentino Lombardi, DLT Senior Legal Counsel.

1. - Call to Order: The meeting was called to order at 10:05 am by James Woloohojian.

2. – Minutes of January 13, 2016: James White made a motion to approve the minutes to the meeting January 13, 2016 as presented; seconded by Edward Zamrano. All were in favor. Motion carries.

3. - Conflict of Interest: Valentino Lombardi, DLT Senior Legal Counsel, addressed the Board reminding board members that if they have any issues or conflicts with matters before the board and their obligation to disclose such conflicts and to recuse if necessary. Legal counsel is available for questions.

4. Election of Board Members

James Woloohojian opens the nominations for Chairman. James White makes a motion to re-elect James Woloohojian as Chairman of the Board. All were in favor. James Grundy makes a motion to re-elect James White as Secretary. All were in favor

5. - Violation Appeal Hearings: All parties participating in hearings were sworn in for testimony: David Rodrigues, Chief Hoisting Engineer Investigator; Glenn Reagan, Safety Director of G. Lopes Construction, John Zajac, counsel for G. Lopes Construction and John Mahoney.

G. Lopes Construction – Violation 5388 John Zajac, Esquire

represents G. Lopes Construction, Inc. and Glenn Reagan, Safety Director for G. Lopes Construction, Inc.

James Woloohojian reads Violation 5388 into the record.

LOCATION OF VIOLATION: Okonite Company, 5 Industrial Road, Cumberland, RI

VIOLATION:

On Wednesday, November 18, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Ricardo N. Correia, an employee of Hyde Paving Inc., 396 Berkley St., Taunton, MA 02780, operating a skid steer loader without a valid RI Hoisting Engineer's License at the above job location. G. Lopes Construction, Inc. subcontracted with Hyde Paving Inc., to perform said work. According to RIGL 28-26-12 "Investigation and Prosecution of Violations", this is one (1) violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".

David Rodrigues, Chief Hoisting Engineer Investigator, provides testimony and is questioned by the Board.

Three photographs, Notice of Violation 2241 from 2004 and DLT computer records have been entered into the record (10 Pages) as Exhibit A.

Mr. John Zajac and Mr. Glenn Reagan provide their testimony and are questioned by the Board.

Regarding Violation 5388, James White made a motion that a violation did occur; seconded by James Grundy and passed unanimously by the Board. Motion carries.

Regarding the fine for Violation 5388, James Grundy made a motion to uphold the fine of \$2,000.00 ; seconded by Edward Zambrano and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

John F. Mahoney – Violation 5410 John F. Mahoney was in attendance.

James Woloohojian reads Violation 5410 into the record.

LOCATION OF VIOLATION: Couillard Residence, 190 Old Plainfield Pike, Scituate, RI

VIOLATION:

On Friday, December 18, 2015, Chief Hoisting Engineer Investigator, David M. Rodrigues, received a complaint from a Mr. Craig Couillard.

Mr. Couillard stated he witnessed a Mr. John F. Mahoney on multiple days operating a hydraulic excavator at Mr. Couillard's residence, 190 Old Plainfield Pike, Scituate, RI, without a valid RI Hoisting Engineer license between December 1, 2014 and February 6, 2015. After reviewing the witness statement, documents, photographs submitted by Mr. Couillard, and further investigation of RI Department of Labor & Training files and database it was found that Mr. Mahoney did not possess a valid RI Hoisting Engineer license on the dates between December 1, 2014 and February 6, 2015. This is one (1) violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".

Additionally, Mr. Mahoney presently is not in possession of a valid RI Hoisting Engineer license since Mr. Mahoney's previously held RI Hoisting Engineer license with an excavating equipment endorsement expired in July of 2008.

James Woloohojian reads Violation 5388 into the record.

David Rodrigues, Chief Hoisting Engineer Investigator, having previously been sworn, provides testimony and is questioned by the Board. The following is entered as evidence:

State's Exhibit A: Trade Licensing Witness Statement; Email by John Mahoney to Craig Couillard; Registration Status Lookup from the Contractors' Registration and Licensing Board; Copy of Cancelled

Check and one (1) photograph of the site and equipment operated.

State's Exhibit B: DLT computer records of passing hoisting test in 2001, failure to renew license since 2008 and hoisting test failure in 2011.

State's Exhibit C: copy of Letter of Appeal Hearing date, certified mail receipt, USPS Tracking information, Notice of Translator, copy of Violation 5410

State's Exhibit D: Final Notice letter with copy of Violation 5410.

John F. Mahoney is questioned by the Board and provides testimony.

Regarding Violation 5410, James Grundy made a motion that a violation did occur. James White seconded that motion based on testimony given by the State and the witness and passed unanimously by the Board. Motion carries.

Regarding the fine for Violation 5410, James white upheld the fine in the amount of \$2,000.00; seconded by James Grundy and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

John F. Mahoney – Violation 5409 John F. Mahoney is in attendance.

James Woloohojian reads Violation 5409 into the record.

LOCATION OF VIOLATION: Residential home construction site, 300 Tunk Hill Rd.

Scituate, RI 02831

VIOLATION:

On Monday, December 21, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed John F. Mahoney DBA John Mahoney, 10 Mahoney Dr., Hope , RI 02831, operating a hydraulic excavator without a valid RI Hoisting Engineer's License at the above location. According to RIGL 28-26-12 "Investigation and Prosecution of Violation", this is (1) one violation of RIGL 28-26-5 "License Required for Operation of Hoisting Machinery".

NOTE:

Mr. John F. Mahoney previous held a R.I. Hoisting Engineer License with an excavating equipment endorsement which expired in 07/2008.

David Rodrigues, Chief Hoisting Engineer Investigator, having previously been sworn, provides testimony and is questioned by the Board. The following is entered as evidence:

State's Exhibit A: Two (2) photographs of the site and equipment operated and one (1) photograph of Rhode Island Driver's License.

John F. Mahoney questions Chief David Rodrigues. Chief Rodrigues provides testimony.

John F. Mahoney is questioned by the Board and provides testimony.

Regarding Violation 5409 James White made a motion that a violation did occur based on the testimony given by the witness and evidence by the State.; seconded by James Grundy and passed unanimously by the Board. Motion carries.

Regarding the penalty for Violation 5409, Edward Zambarano made a motion to uphold the fine of \$2,000.00; seconded by James White and passed unanimously by the Board. Motion carries.

The recommendation will be forwarded to the Department.

End of hearings.

6.) Public Comments: None

7.) Adjournment: Motion to adjourn made by James Grundy; seconded by James White. All were in favor. The meeting adjourned

at 11:15am.