

# **ELEVATOR, ESCALATOR, AND MOVING WALKWAY MECHANICS LICENSING BOARD**

## **1<sup>st</sup> BUSINESS MEETING August 20, 2014**

### **PUBLIC SESSION MINUTES**

#### **1. CALL TO ORDER**

The meeting of August 20, 2014 was called to order at 9:40 a.m. in the Hudson Conference Room on the 6<sup>th</sup> floor at 124 Halsey Street, Newark, NJ, by David Freed, Acting Executive Director. All requirements of the Open Public Meetings Act have been complied with in accordance with N.J.S.A 10:4-6. The notice of the meeting was mailed to the Newark Star Ledger, Camden Courier Post and the Trenton Times. The notice was also sent to the Secretary of State, Trenton, New Jersey.

*The Committee saluted the flag.*

*The following Board members were present:*

James Boydston  
Paulina Caploon  
Edmund DeFilippis  
Dennis O'Neill  
Scott Wallace Jr.

*The following Board member was not present:*

James Byrnes

*Also present were:*

Sandra Dick, Senior Deputy Attorney General, Division of Law  
Charles Manning, Regulatory Analyst  
David Freed, Acting Executive Director

Maryann Sheehan, Deputy Director, was present from 9:40 to 10:10 a.m.

#### **2. INTRODUCTION OF PARTICIPANTS**

Mr. Freed introduced himself as well as Ms. Sheehan, Ms. Dick and Mr. Manning.

Mr. Freed asked each Board member to introduce themselves and provide brief personal background information.

Mr. Boydston serves on the Board as Elevator/Escalator Architectural Design Representative. He stated he is the President of Handi-Lift, an elevator and lift contractor specializing in vertical transportation for people with mobility impairment. Handi-Lift has been cited for numerous awards and has completed projects in all manner of public buildings/spaces including schools, churches, libraries, hotels, etc. Mr. Boydston also serves on the Education Committee of the National

Association of Elevator Contractors (NAEC) .

Ms. Caploon serves on the Board as Executive Branch of State Government Representative. She stated she has spent the last 23 years with the NJ Department of Community Affairs as Construction Official in the Elevator Safety Unit. Among many qualifications, she is a licensed Elevator Inspector and Subcode Official. Her responsibilities include enforcement, interpretation and administration functions relating to applicable construction and safety codes, as well as conducting inspections as necessary and performing plan reviews, etc. A mechanical engineer, Ms. Caploon gained extensive experience working for consulting firms and elevator companies prior to assuming her current position.

Mr. DeFilippis serves on the Board as Elevator/Escalator Installation and Maintenance Representative. He stated he has 40 years of extensive experience in all aspects of the elevator industry including 30 years in many different management roles with various companies. He and two partners formed International Elevator Co. in 2004 where, as President and Principal, he helped grow the business to the point where it was sold to KONE Elevator, Inc., one of the largest elevator companies in the world. Mr. DeFilippis continues to work for KONE in a management capacity.

Mr. O'Neill serves on the Board as Labor Organization Representative. He stated he has worked in the elevator industry since 1969 and has served as the Day Secretary of the Local One division of the International Union of Elevator Constructors (IUEC) since 2007. He is responsible for maintaining records of all union members currently employed and referring certified union members for employment based on their qualifications and work experience. Mr. O'Neill is also a licensed Elevator Inspector and spent five years as a National Elevator Industry Educational Program (NEIEP) Instructor at Local One Apprenticeship School.

Mr. Wallace serves on the Board as Elevator/Escalator Manufacturing Representative. Mr. Wallace stated he is the owner and operator of AHE Manufacturing, Accredited Home Elevator of New Jersey, and Wallace & Sons Elevator Service Co. Included among Mr. Wallace's experience and accomplishments are product design and development, business development, project and operations management, elevator technician training, and strong knowledge of elevator code requirements. He is also a licensed Elevator Inspector.

### **3. Welcome and Overview**

Ms. Sheehan welcomed the Board members to their first business meeting and thanked them for their commitment to serve as Board members. She then provided an overview of the functions of the Division's approximately 46 Professional Boards and Committees including the creation of rules which provide a framework for Board activities, the processing of applications for license, and the disposition of complaints, etc.

### **4. Election of Officers - Discussion**

Mr. Freed addressed the Board regarding the selection of a Board Chairperson and Vice-Chairperson. The Board was given the option of formally nominating candidates and electing officers at this time or tabling nominations/elections until the Board's next meeting and requesting Mr. Freed to chair the balance of this inaugural meeting.

By unanimous voice vote the Board chose to table nominations and election of Board officers until next month's meeting.

## **5. Future Meeting Dates**

Mr. Freed discussed with the Board the customary establishment of a regular meeting schedule. Based on multiple factors including Division staff scheduling commitments, Board member availability and consistent meeting room availability it was proposed that, for the foreseeable future, the Board meet regularly on the fourth Monday of each month.

By unanimous voice vote the Board chose to adopt the fourth Monday of each month as its' regular meeting date.

Board meeting dates for the balance of 2014 were thereby established as September 22, October 27, November 24 and December 22.

## **6. Overview of Statute Establishing Board**

- P.L. 2012, c.71 (C.45:14H-1 to45:14H-12)

Senior Deputy Attorney General Sandra Dick explained her role as legal counsel to the Board. She then reviewed various elements of the statute and, in the process, led preliminary discussion on related topics which the Board may need to consider as it drafts regulations.

### **- C.45:14H-1 & 2**

Ms. Dick reviewed these sections which cite the need for public protection and work standards, provide the rationale for creation of the Board and detail the makeup of the positions which the Board members have been appointed to fill.

### **- C.45:14H-3 Additional Powers of Board**

Ms. Dick detailed all specifics of this section and highlighted adoption of rules and regulations as the Board's immediate task at hand. She spoke of the need for a majority of members to be present if any affirmative action is to be taken, the fact that fewer than a majority may suggest regulatory revisions during the process of drafting the final version, and that little in the way of affirmative action by the Board will be needed in the next few months.

Noting that licensing will not commence until regulations become effective Ms. Dick spoke to the widely varying length of time it has taken other new Boards to implement regulations. She advised that this process typically takes one to three years and that Boards which adopt simpler approaches when drafting regulations can shorten the period of time needed for completion of the process.

Among other particulars, this section also directs the Board to establish standards for continuing education, Mr. Wallace discussed offerings currently available for union members through NEIEP and for union and non-union workers alike through NAEC, Elevator World magazine and any number of other providers. Ms. Dick discussed potential direct Board approval of continuing education programs. Mr. Freed discussed numerous practical factors entailed in instituting and maintaining ongoing direct Board approval of C.E. programs and instructors should the Board so desire. He cited the need to develop a continuing education sponsorship application, the ongoing monthly review of proposed course content, review of instructor qualifications, the need to

establish a C.E. sub-committee to provide recommendations regarding C.E. applications, etc.

Further, this section of the act requires a minimum of eight hours of continuing education to be completed within one year immediately preceding any license renewal. Ms. Dick stated that the Board may establish a requirement of more than eight hours of C.E. for licensees during each biennial license cycle, however, a minimum of eight of those hours would have to be completed within one year of renewal regardless of any additional Board C.E. requirements. Mr. Manning added that no continuing education would be required of licensees during the biennial license cycle in which the license was initially issued.

**- C.45:14H-9 Issuance of License; Requirements**

As particulars included in C.45:45H-3 also relate to license issuance, and in as much as the “grandfathering” period of license issuance is addressed in C.45:45H-9, Ms. Dick next reviewed/discussed this section of the statute.

During what will be a 12-month grandfathering period applicants may be issued license by meeting either of two sets of criteria. In brief, C.45:45H-9(a) allows for license issuance upon receipt of proof of acceptable work experience and proof of successful passage of an examination for elevator mechanics offered by a nationally recognized training program for the industry. C.45:45H-9(b) allows for license issuance without examination upon receipt of proof of acceptable work experience without direct and immediate supervision within the State for at least three years.

Roundtable discussion was held regarding the requirement of “work experience without direct and immediate supervision” and the current industry supervisory practices relative to “apprentices”, “journeymen” and others.

**- C.45:14H-4 Application for licensure**

All those who wish to obtain an elevator, escalator, and moving walkways mechanics license must make application to the Board, pay all fees required in connection to the application and be examined as required by section 6 of this act. The license shall authorize the mechanic to install, construct, alter, maintain, service, repair or test elevators, escalators and moving walkways.

**- C.45:14H-5 Prohibited actions without license; application, requirements, fee**

Ms. Dick advised that, in relation to language contained in this section, the Board will establish the date when those who have not obtained license shall be deemed to be engaged in unlicensed practice.

As this section also details required qualifications for licensure, including having been “employed within the State in the capacity of at least one of the...trade businesses...for a period of three years next preceding the application...”, Ms. Dick advised the Board that the “within the State” provision may or may not be sustainable. Given this issue, and as C.45:14H-8 grants the Board discretion to issue license by reciprocity, Mr. Freed inquired as to which neighboring states do or do not issue similar licenses. Mr. Boydston advised that New York and Pennsylvania do not issue licenses while Connecticut, Delaware, Maryland and the District of Columbia do issue similar licenses.

**- C.45:14H-6 Licensing examination**

Among specifications detailed in this section of the act are, license examination shall be held at least four times a year, proof of passage of the NEIEP examination shall be sufficient to satisfy the examination requirement for licensure, and no person who has failed the examination shall be eligible to be reexamined for a period of six months from the date of exam failure.

In discussing these particulars, Mr. O'Neill stated that the NEIEP examination is open only to members of the International Union of Elevator Constructors (IUEC) and is given only once annually. Mr. Boydston discussed the NAEC examination as an option for non-union personnel and stated this exam is offered on a rolling enrollment basis. Both exams require a four-year minimum of related training/education to qualify for examination. Mr. Freed asked the Board members if the content of the two exams would be considered comparable and if passage of the NAEC exam might be deemed sufficient to satisfy the examination requirement. Responses reflected informal Board consensus that the two exams were roughly equivalent and that passage of the NAEC exam may be deemed sufficient.

**- C.45:14H-7 Biennial renewal**

This section addresses licenses being renewed in a timely manner without re-examination, while those licensees who allow their license to lapse may be required by the Board to be re-examined. Mr. Manning advised that the language in this section is superceded by recent changes applicable to all Boards and that the new language applicable to license renewal and reinstatement shall be included in the final regulatory draft.

**- C.45:14H-8 Granting of license without examination under certain circumstances**

Ms. Dick discussed the particulars of this section whereby the Board may, in its discretion, grant licenses without examination to applicants licensed in other states. To do so, equal reciprocity for New Jersey licensees must be available in the state in which the applicant holds license and the standards for licensure in that state must be equal to or comparable to those of New Jersey.

**- C.45:14H-10 Subcontractors, license required**

This section specifically refers to installation work and requires a contractor to subcontract this work unless the contractor holds an elevator, escalator, and moving walkway mechanic's license to install those devices.

For purposes of informing Division staff, roundtable discussion revolved around current industry practices and, although under the purview of the Department of Community Affairs, related permitting requirements.

**- C.45:14H-11 Grounds for suspension, revocation of license**

Ms. Dick explained content of this section and related processes in detail. She also stated that provisions of the Uniform Enforcement Act, specifically N.J.S.A. 45:1-21, are applicable in regard to license suspension, revocation, etc.

Significantly, in instances where a hearing is required relating to potential license revocation, suspension or issuance of a civil penalty, the Board would conduct the hearing and make a recommendation as to imposition of any desired sanction(s). Thereafter, the licensee may appeal the matter to the Office of Administrative Law (OAL) and the OAL could then affirm, reject or modify the recommendation of the Board. Ms. Dick explained that this is contrary to procedures governing most boards, whereby an Administrative Law Judge would normally make a

recommendation and the Board would then make the final determination regarding the imposition of disciplinary action.

The second of five specific grounds for potential action cited in this section is failure to notify the Board or the owner or lessee of an elevator of a condition not in compliance with the elevator subcode of the State Uniform Construction Code (UCC). Ms. Caploon expressed concern regarding this proviso as UCC violations range from very minor to severe. She added that currently in most instances the company involved would contact the State and that direct reporting of these issues would not currently be handled by the employee/future licensee.

#### **- C.45:14H-12 Bond requirements**

In part, this section states "...no elevator mechanic licensed under this act shall undertake to do any construction work in the State unless and until the mechanic shall have first entered into a bond in favor of the State...in a sum established by the Board..". Additionally, "The bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period".

Various Board members expressed concerns regarding this language as perhaps placing an undue burden on each individual licensee when many are simply employees performing services on behalf of employers who have procured or contracted for the work to be completed. Mr. Manning advised that this may be addressed in formulation of regulations by exempting individual licensees if employer/company furnishes the bond.

Mr. Manning further advised that the Board may establish the sum of the bond at any level it deems appropriate and cited other trade board bond requirements of \$1,000.00 (Electrical Contractors), \$3,000.00 (Master Plumbers) and \$10,000.00 (Fire Alarm, Burglar Alarm & Locksmiths). As regards enforcement of 12-month term of bond and renewal of same, Mr. Manning suggested this could be included as a question on the license renewal application.

## **7. Board Regulations Discussion**

### **- EEMW Rules - Rough Text**

Mr. Manning discussed with the Board the purpose and process of the formulation of Board regulations. He advised that the statute is overarching and that the specifics in the law may be "teased" in the regulations. Additionally, certain items may be added into the regulations for the public's benefit. He cited the example of advertising regulations if they were to be applicable. It was stressed that the regulations must be specific and unambiguous so that all who read them should be able to understand the meaning of each included element.

Mr. Manning further stated that over the next several meetings many questions will be asked/answered, resulting in revisions of the draft regulations, until such time as the Board is satisfied with the regulations as drawn and votes to propose the regulations. Once proposed, many levels of legal review will follow until such time as the proposal is published, a 60-day public comment period is completed, any comments received are addressed and the Board determines if any changes are needed, additional review follows and, finally, the regulations become effective and the licensing process will commence.

Mr. Manning then discussed Subchapter 1 of the draft regulations.

## **SUBCHAPTER 1. PURPOSE AND SCOPE, DEFINITIONS**

### **- 13:44m-1.1 Purpose and Scope**

Mr. Manning asked if “mechanic” is the appropriate title for licensees. Mr. O’Neill stated the IUEC refers to experienced employees as “journeymen” and Mr. Boydston and Mr. Wallace stated they refer to their employees as “technicians”. Following discussion it was agreed that “mechanic” would be the most universally understood and acceptable title.

### **- 13:44m-1.2 Definitions**

Various words and terms were discussed for possible inclusion in this section.

The act does not apply to work performed on a chair lift or stair lift device in a dwelling unit and these terms were discussed.

Board consensus is that chair lift and stair lift are interchangeable terms, both refer to the same device, and no differentiation should be made by definition. Wording of the definition to be determined.

Mr. Wallace expressed some concern that the licensing exemption regarding work on these devices was limited to dwelling units only, citing that identical work would need to be performed on these devices if installed, altered, repaired, etc., in a funeral home for example.

It was discussed that the act does apply to platform lift devices (inclined, vertical, folding or non-folding), often used to transport individuals in wheelchairs, as these devices are not specifically exempted as are chair lift and stair lift devices.

The definition of dwelling unit was discussed using language drawn from the New Jersey State Housing Code for reference. Roundtable discussion ensued regarding outside lifts, multi-family dwellings, etc.

Mr. Manning discussed the need for formal definition of “elevator” or “elevator device”, etc., and Ms. Dick advised that the Board could define “elevator” by regulation in a manner different from language used in the building code.

To assist with adding certain words or terms or to clarify certain definitions Ms. Caploon stated she would bring copies of related Department of Community Affairs codes to the Board’s next meeting. She added that there are differences in what does and does not require inspection and that this should be a consideration in forming definitions, or specifying additional devices for inclusion in the scope of work which will require license.

Additional terms discussed/defined included:

“ASME” means the American Society of Mechanical Engineers.

“NAEC” means the National Association of Elevator Contractors.

### **Off Agenda**

Mr. Wallace expressed concerns for employees and businesses which engage solely in platform lift work for example. He stated his belief that various sectors of related industries will now be required to have long-time employees gain license where, despite lengthy experience and expertise in specific job functions, these employees do not possess other experience or training

which would enable them to pass the required licensing examination.

Mr. Manning advised that some of these concerns could be addressed when forming regulations pertaining to supervision requirements.

**8. Adjournment**

Having no further business, with all Board members concurring, Mr. Freed adjourned the meeting at 1:00 p.m.

Respectfully Submitted,

David Freed  
Acting Executive Director