

**RHODE ISLAND DEPARTMENT OF LABOR & TRAINING
DIVISION OF PROFESSIONAL REGULATION
BOARD OF SAFETY AWARENESS**

Thursday, March 15, 2012

8:30 A.M.

In attendance: Eric Anderson

Wayne Coulombe

Nicholas Giardino

James Jackson

Bernard Trembl

Also in attendance: Joseph R. Degnan; Assistant Director, Mark Ryan; Prevailing Wage Investigator, and Benjamin Copple; Legal Counsel

Not in attendance: Timothy Byrne, Robin Coia, Edgar Ladouceur and Joseph Sabitoni, Chair

Meeting was called to order at 8:37am by Bernard Trembl. A quorum was present.

Minutes:

Regarding the minutes of the January 19, 2012 meeting; Nicholas

Giardino made a motion to accept the minutes with amendments to the January Decisions correcting the typographical error of the Board name; seconded by James Jackson and passed unanimously by the Board.

A roll was taken. Eric Anderson, Wayne Coulombe, Nicholas Giardino, James Jackson and Bernard Trembl are present.

Hearings:

1.) MP Masonry – Violation # 4172: Kieth Comerford, Officer with MP Masonry, and Mark Ryan, Investigator, are sworn in for testimony.

Mark Ryan presents the violation:

On November 1, 2011, Mark T. Ryan, Prevailing Wage Investigator, visited the Rhode Island College Recreation Building rehabilitation project and interviewed Adriano Ronaldo, Ademirto Nascimento, Veslei Paula and Jucemar Batista of MP Masonry, Inc. These individuals were working on the project without OSHA-10 Hour certification. This is a violation of RIGL37-23-1 “Safety Awareness Program Required”. Therefore Violation 4172 in the amount of \$2,000.00 was issued to MP Masonry.

Kieth Comerford, MP Masonry, provides testimony. The Board questions Mr. Comerford.

Wayne Coulombe made a motion based on testimony that the individuals were working without OSHA 10-Hour certification and was

aware that his own state has this rule and aware that this state has the rule and the Violation 4172 did occur; seconded by James Jackson and passed unanimously by the Board. A motion was made by James Jackson to uphold the penalty of \$2,000.00; seconded by Eric Anderson and passed unanimously by the Board.

2.) KBE Building Corporation – Violation # 4178: There was no one present from KBE Building Corporation. Mark Ryan, Investigator, is sworn in for testimony. Mark Ryan read the violation:

On November 1, 2011, Mark T. Ryan, Prevailing Wage Investigator, visited the Rhode Island College Recreation Building rehabilitation project job site and interviewed Adriano Ronaldo, Ademirto Nascimento, Veslei Paula and Jucemar Batista of MP Masonry, Inc. These individuals were working on the project without OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 “Safety Awareness Program Required”. Therefore violation 4178 in the amount of \$2,000.00 was issued to KBE Building Corporation.

Nicholas Giardino made a motion that violation 4178 did occur; seconded by Wayne Coulombe. Mark Ryan confirmed that notice was sent to KBE Building Corporation to 30 Batterson Park Rd, Farmington, CT by both Certified Mail and regular mail and neither were returned. A vote on the motion was then taken and passed unanimously by the Board. James Jackson made a motion to uphold the fine of \$2,000.00; seconded by Eric Anderson and passed unanimously by the Board.

Wayne Coulombe made a motion based on Mark Ryan's testimony that KBE was noticed of the hearing by both certified and regular mail; seconded by James Jackson and passed unanimously by the Board. The tracking document from the US Postal Service for the hearing notice sent to KBE Building Corporation (Certified Mail # 7010 2780 0001 2128 5811) is submitted as Exhibit A.

The recommendations of the board will be forwarded to the Director.

End of hearings.

Adjournment:

A motion to adjourn was made by Nicholas Giardino, seconded by Wayne Coulombe and passed unanimously by the Board. The meeting adjourned at approximately 8:54am.

The meeting reconvened at 9:05am. Benjamin Copple, Legal Counsel, addressed the Board: The Safety Awareness Board met at 8:30am. KBE Building Corporation was on the agenda for a violation hearing and there was no one present. The Board found that a violation did occur and upheld the penalty. The meeting then adjourned and one member, Nicholas Giardino, did leave. At 9:00am a representative from KBE Building Corporation arrived. It is the recommendation of the Department that since the hearing notice to KBE that stated that hearing would be at 9:00am instead of 8:30am

that the violation against KBE and the penalty should be vacated and the Board should rehear the KBE violation. One member of the Board, Nicholas Giardino, did leave. However the Assistant Director, Joseph Degnan, has been designated by the Director as “ex officio” member of the Board which gives the Board a quorum.

A roll call was taken and the following members were present: Wayne Coulombe, Erick Anderson, James Jackson, Bernard Trembl and Joseph Degnan.

Wayne Coulombe made a motion to vacate the finding against KBE that a violation did occur, to vacate the penalty and to proceed with a new hearing; seconded by James Jackson. There was not opposition.

KBE Building Corporation – Violation # 4178: Adam Peters, KBE Building Corporation Safety Director and Mark Ryan, Prevailing Wage Investigator, are sworn in for testimony. Mark Ryan read the violation:

On November 1, 2011, Mark T. Ryan, Prevailing Wage Investigator, visited the Rhode Island College Recreation Building rehabilitation project job site and interviewed Adriano Ronaldo, Ademirto Nascimento, Veslei Paula and Jucemar Batista of MP Masonry, Inc. These individuals were working on the project without OSHA-10 Hour certification. This is a violation of RIGL 37-23-1 “Safety Awareness Program Required”. Therefore violation 4178 in the amount of

\$2,000.00 was issued to KBE Building Corporation.

Adam Peters, KBE Building Corporation - Safety Director, provides testimony. The Board questions Mr. Peters and Mr. Ryan.

James Jackson made a motion that the violation did in fact occur and seconded by Wayne Coulombe. There was no opposition. James Jackson made a motion to uphold the penalty of \$2,000.00 and seconded by Eric Anderson. There was no opposition. The recommendation will be forwarded to the Director.

Adjournment:

Eric Anderson made a motion to adjourn and seconded by James Jackson. There was no opposition. The meeting adjourned at 9:20am.

The next meeting is scheduled for Thursday, April 19, 2012 at 8:30 am.