

**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF BUSINESS REGULATION
DIVISION OF DESIGN PROFESSIONALS
1511 PONTIAC AVENUE, BLDG. 68-1
CRANSTON, RI 02920
(401) 462-9592 Fax: (401) 462-9532 www.bdp.state.ri.us**

MINUTES OF THE MEETING OF THE BOARD

DATE: 17 March 2010

**PLACE: Department of Business Regulation
1511 Pontiac Avenue, Building 68, Conference Room
68-1 Cranston, RI 02920**

TIME: 12:00 PM

**MEMBERS PRESENT: Chairman L. Robert Smith, PE, Secretary
Richard A. Bernardo, Messer. Robert W. Fairbanks, Jr., PE and
Christopher Duhamel, PE PLS Board Members**

MEMBER ABSENT: Wayne D. Moore, PE

**OTHERS PRESENT: Richard W. Berstein, Esq.
Brian Riggs, Department Budget Administrator
Lois Marshall, Administrative Assistant**

Kevin Blais

Richard St. Jean, PE

Paul B. Aldinger, PE

Michael W. Desmond, PE

Joseph J. Giordano, PE

Ron Daignault, PE

Peter Alviti, Jr., PE

Richard L. Pastore, PE

Kenneth DeCosta, PE

Larry Riggs, PE

Brian M. Moore, PE

Ron Blanchard, PE

CALLED TO ORDER: Chairman Smith called the meeting to order at 12:02 PM to commence Board business.

(1) NEW BUSINESS:

Secretary Bernardo made a motion to accept the minutes of the 20 January 2010 Board meeting. Mr. Fairbanks, Jr. seconded the motion. The motion passed unanimously, four in favors one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel Board Members. Absent was Mr. Moore Board member. Secretary Bernardo made a motion to approve and seal the minutes of the Executive Session of 20 January 2010. Mr. Fairbanks, Jr. seconded the motion. The motions passed unanimously; four in favor one absent. Voting in favor were

Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel Board Members. Absent was Mr. Moore Board member.

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EXECUTIVE SESSION

Secretary Bernardo made a motion to convene into executive session at 12:03 PM pursuant to RI General Laws, Section §42-46(5)(a)(2) for sessions or work sessions pertaining to collective bargaining or litigation and §42-46-(5)(a)(4) for investigative proceedings regarding allegations of civil or criminal misconduct. Mr. Fairbanks, Jr. seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel Board Members. Absent was Mr. Moore Board member.

Mr. Fairbanks, Jr. moved to adjourn from executive session and to reconvene to open meeting at 12:32 PM pursuant to R.I.G.L. §42-46-4. Mr. Duhamel seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel Board Members. Absent was Mr. Moore Board member. Secretary Bernardo stated for the record that he recused himself from two matters in executive session.

Mr. Fairbanks, Jr. moved to seal the executive session and to record that no votes were taken in executive session pursuant to R.I.G.L. §42-46-4 and §42-46-45. Mr. Duhamel seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel Board Members. Absent was Mr. Moore Board member. Secretary Bernardo stated for the record that he recused himself from two matters in executive session.

Mr. Fairbanks, Jr. moved pursuant to RI General Law §42-46-4 that the Board defer disclosure of all votes in executive session until such time as such disclosure would not jeopardize any strategy, negotiation, or investigation undertaken concerning RI General Law §42-46-45(a). Mr. Duhamel seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel Board Members. Absent was Mr. Moore Board member.

(3) Discussion of the Task List

Public Attendees present to discuss the Task List were as follows:

Rick St. Jean

Paul B. Aldinger, PE

Michael W. Desmond, PE

Joseph J. Giordano, PE

Ron Daignault, PE

Peter Alviti, Jr., PE

Richard L. Pastore, PE

Kenneth DeCosta, PE

Larry Riggs, PE

Brian M. Moore, PE

Ron Blanchard, PE

Statement of Record from Chairman Smith:

Chairman Smith's stated that the Board had been advised by previous and current attorneys that the Task List was never properly promulgated and has no weight whatsoever and that both the PE and the PLS Board had been advised of that fact by at least two different board lawyers. He stated that based on advice of their Legal Counsel, the Surveyors Board had sent correspondence to various building officials, planning boards, City and town Councils, stating that only Registered Surveyors were allowed to do surveying. Chairman Smith expressed concerns that the current Civil Engineering graduates of the local Engineering Schools are not currently required to take any land surveying courses as in the past. The question has been raised as to what survey background do these recent graduates have that would qualify them to practice surveying, as incidental to their practice. Chairman Smith corrected a statement by Board member Fairbanks, Jr. that the CVE Advisory Board has recommended that these courses be reinstated in the engineering curriculum.

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The CVE Advisory Board has always lobbied the URI Civil engineering department to maintain the teaching of surveying. Mr.

Smith stated that the current Land Surveyors' Board was willing to negotiate and that was the purpose of trying to generate a proposed task list. Once initial concurrence on a proposal is agreed upon, public hearings will be held to obtain input before the task list would be properly adopted. Chairman Smith, Secretary Bernardo, past Vice Chairman Capezza, Jr. and Mr. Duhamel, who for the record, holds a dual registration as both an engineer and a land surveyor, have meet on numerous occasions with members of the Land Surveyor Board to negotiate a new Task List. Chairman Smith stated that he had asked Mr. Fairbanks, Jr. for many months to meet with the Land Surveyor Board and that Mr. Fairbanks had failed to do so. Mr. Smith stated that the term 'land survey'" had a specific meaning and would not be covered by the term "engineering surveys" as used in our law.

Statement for the Record from Mr. Fairbanks, Jr.:

Mr. Fairbanks, Jr. stated that he had made several calls to the chair of the Land Surveyor Board and had never received a return call. Mr. Fairbanks, Jr. also stated that this was the first time that he had heard that the Task List that was generated in 1990, basically had no power even though both Boards had agreed to it in 1990. Mr. Fairbanks, Jr. submitted a Task List Petition, which he had prepared and circulated, as well as letters from Gordon R. Archibald, Inc., Paul B. Aldinger & Associates, Inc., Bryant Associates, Pare Corporation and Thomas R. Cabana, PE and Secretary of Rhode Island Consulting Engineers (RICE) voicing their opposition to potential changes to the existing Task List. Mr. Fairbanks, Jr. stated that he had spoken to Professor

Wright of URI regarding the elimination of surveying course in the curriculum and said he had been told it was because of a recommendation of a committee on which Chairman Smith also sits.

Statement for the Record from Attorney Berstein:

Attorney Berstein addressed the issue of the present Task List in place by stating that it has no legal standing. It was not validly promulgated and as it is defining and enlarging the meaning of a statute, should as a minimum be adopted into the rules and regulations of both boards. It was not the subject of regulations for which a public hearing was ever held. It was not even properly issued as a bulletin or an informational bulletin. Attorney Berstein legal proposal is to have both the Engineering and Land Surveyor Boards get together and forge a compromise and create a joint informational bulletin that would help clarify the situation at municipal agencies, until such time as a proper public hearing could be held, so that regulations would be duly promulgated and published

Statement for the Record from Mr. Duhamel, PE:

Mr. Duhamel informed those present that he did meet with members of the Land Surveyor's Board and that one of their concerns is that procedural technical standards for land surveying were not being followed by engineers and could affect the health, safety and welfare of the public. The authority to do surveying as defined by Rhode Island General Law is now specific to Professional Land Surveyors

and they feel that they have the authority to bring our members of the engineering community in front of their Board and create lawsuits against our professional engineering members. Mr. Duhamel feels that revising the Task List and coming to an agreement is in the best interest of our professional engineering members. It was noted that after the current petition that had been circulated came to the attention of the land surveyors board, that they started to activate cases they had been holding, against engineers for the illegal practice of land surveying.

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Statement for the Record from Mr. Alviti, PE

Mr. Peter Alviti, PE addressed the Board stating that what separates engineering as a profession from other occupations can be summed up in one paragraph in the engineers Code of Ethics “Section 3.2 Registrants shall not affix their signatures or seals to any drawings or documents dealing with subject matter in which they lack competence, nor to any such drawing or document not prepared under their direct control and personal supervision..”

Mr. Alviti's recommendation to the Board was that whatever decision the Board makes forgetting about the monetary, social and economic impact on companies is very important but what is paramount is that the Board make decisions that will maintain the professionalism of the registrants that they represent.

Statement for the Record from Mr. Giordano, PE

Mr. Joseph Giordano, PE, President of Gordon R. Archibald, Inc. informed the Board that he had sent a letter on behalf of Gordon R. Archibald, Inc. and a second letters was sent by Patrick J. Quinlan, Esquire, and Executive Director of the Rhode Island Consulting Engineers (RICE) regarding changes to the 1990 "Task List". Mr. Giordano stated that the common thread in these two letters is to provide adequate opportunity for public input and at a minimum that any changes being considered by the Board should receive a high-profiled distribution for comment among registered Professional Engineers (PE) and Engineering firms and that hearings should be held providing ample opportunities for the PE community to offer comments. Chairman Smith assured Mr. Giordano that the Board would prepare an informational bulletin stating what the Board is preparing to promulgate.

Statement for the Record from Mr. Aldinger, PE

Mr. Paul Aldinger, PE stated that he has no problem with trying to

negotiating with the Land Surveyor Board however, he feels that the Engineers Board needs to have a come back to the logic of why the Land Surveyors are limiting engineers on topographic surveys.

Statement for the Record from Mr. Pastore, PE

Mr. Richard Pastore, PE stated that as a Professional Engineer he knows what surveying work he is qualified to perform incidental to his engineering project. If the Board goes into negotiation with the Land Surveyor Board on the Task List there will have to be give and taken on both ends.

Statement for the Record from Mr. St. Jean, PE

Mr. Richard St. Jean, PE addressed the Board stating that engineers must continually improve their skills throughout their practice, in order to design safe, cost efficient and reliable projects. Although it is sometimes appropriate to subcontract a portion of the work to other professions the responsibility for the project generally falls squarely on the shoulders of the Engineer of Record. A number of other states and other design professions recognize that there exists some overlap in their respective practices. Unfortunately, we find ourselves in the same position as we were 20 years ago when the task list was first proposed. He stated he believed the current arguments about the Task List is more about taking work from one profession and giving it to another, than it is about performing the work safely and competently. The fact that the Task List has been around for 20 years with no dire consequences, further reinforces the

fact that engineers are competent to engage in the activities listed. Mr. St. Jean asked that the Board move forward in changing there enabling law to allow engineers to perform survey activities relating to engineering projects.

Statement for the Record from Ron Daignault, PE

Mr. Ron Daignault, PE and President of the Rhode Island Society of Professional Engineers (RISPE) requested to speak as a representative of RISPE.

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He stated that they would like to insure from their prospective that the Board proceeds with a public hearing and keeps all its members involved. First and foremost is the fact that the first communication regarding changes to the Task List was received from Mr. Fairbanks, Jr. Secondly, Mr. Daignault appreciates the fact that Mr. Duhamel is also a land surveyor and that the Board has his input however, Mr. Daignault hopes that Mr. Duhamel looks after the best interest of the members of the Professional Engineering Board as this matter moves forward. For the record Mr. Daignault mentioned he saw a draft position letter from the RISPE. This draft was not to be made public. RISPE is preparing a position letter and it be presented to the Board as soon as it has been agreed upon by the Executive Board. Mr. Daignault agreed with Messer. Alviti and St. Jean that the Board should be a self regulating body and those people who have had

surveying courses still must work under a PE. The General consensus was that the engineering law needs to be changed.

To response to Mr. Daignault comment Attorney Bernstein stated that the best way to change the law would be to do it generally relating to all of the four Boards. For example the language would read nothing in the laws regulating Design Professionals shall preclude any registrant from performing other incidental design professional work without being registered so long as such work is performed competently and is necessary for the completion of his or her project.

Attorney Bernstein stated that the Engineering Board had a very productive meeting with input from the engineering community at large and the Engineering Board has decided to revisit the issue in collaboration with the Land Surveyor's Board. He feels that the Land Surveyor Board will put actions against engineering registrants on hold until the Task List is resolved.

Statement for the record by Larry Riggs, PE

Mr. Riggs brought a copy of the NCEES Model Law which is more liberal as to what surveying an engineer was allowed to do. Chairman Smith told Mr. Riggs that unfortunately that was not what was in the RI Law.

(4) Meeting with Tom Viall, General Manager of RI.gov

Mr. Viall did not attend. He did send screen shots for the Board's review and comments. The Board reviewed the post card that will be sent to registrants instead of a paper renewal application. Certificate of Authorizations (COA) can be renewed online as well as by paper. Attorney Bernstein's recommendation was that the Board approves the impletion of the COA electronic renewal urging RI.gov to complete the work in progress relating to responsible charge. Mr. Fairbanks, Jr. made a motion to go forward. Mr. Duhamel seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel Board Members. Absent was Mr. Moore Board member.

(5) NCEES Examinee Management System

This matter was continued to the 21 April 2010 Board meeting.

(6) NCEES renames FE exam module

This matter was continued to the 21 April 2010 Board meeting.

(7) Proposed Amendment to NCEES Bylaws

This matter was continued to the 21 April 2010 Board meeting.

(8) CAVU Discussion

Chairman Smith asked that the Board have a conference call at their next scheduled meeting with representatives of CAVU. Chairman Smith questioned what time savings would be achieved as the applications came as a package from NCEES.

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(9) Elections of Officers

Vice Chairman Capezza, Jr. term expired therefore the Board needed to hold an election of officers. Secretary Bernardo made a motion to have L. Robert Smith remain as Chairman; Secretary Bernardo will take the sit vacated by Vice Chairman Capezza, Jr. and he nominated Mr. Duhamel as Secretary. Mr. Fairbanks, Jr. seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

APPLICATIONS:

(7) Brian S. Moores

The Board reviewed correspondence received from Mr. Moores. Secretary Bernardo made a motion that the Board's decision to deny Mr. Moores registration in Rhode Island remains unchanged. Mr. Fairbanks, Jr. seconded the motion. The motions passed unanimously, four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

(8) Richard A. Carlone

The Board reviewed Mr. Carlone application for a second time. A

motion was made by Mr. Fairbanks, Jr. that Mr. Carlone must update his professional experience before he can sit for the October 2010 PE exam. Secretary Bernardo seconded the motion. The motions passed unanimously, four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

(9) Stephen A. Bray

The Board reviewed Mr. Bray's correspondence. Secretary Bernardo made a motion to again deny Mr. Bray's request for registration in Rhode Island due to the fact that the Board does not accept the Group II exams, outside of Fire Protection. Mr. Fairbanks, Jr. seconded the motion. The motions passed unanimously, four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

(10) Paul M. Wehner

Mr. Wehner had been registered in the civil discipline since 3 November 1997. He has since passed the Structural I and II exams in Illinois. Secretary Bernardo made a motion to approved Mr. Wehner in the Structural Discipline. Mr. Fairbanks, Jr. seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

P.E. COMITY:

Mr. Fairbanks, Jr. made a motion to grant comity to the following individuals in the disciplines specified. Secretary Bernardo seconded the motion. The motions passed unanimously, four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

**Adams, Jason C. AR Electrical Miller, Dennis L. CT Civil
Addison, John D. FL Electrical Miniutti, Glenn D, MA Electrial
Alston, Joshua J. MA Civil Mulkey, Vern H. MO Electrial
Althen, Howard D. SC Structural Olah, Robert W. CT Civil
Armour, William WA Civil Orlando, Christopher KS Structural
Blood, Daren L. NH Civil Pang, Alfred NY Mechanical
Chapman, John C. NY Civil Rafferty, Robert J. VT Civil**

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**Ekstrom, William E. MA Electrical Readinger, Thomas
C. PA Mechanical**

**Ferdelman, Joseph S. OH Mech. Ross, Robert A. TX Civil
Gomez, Robert S. FL Civil Rusnak, Rodney A. OH Electrical
Gopal, Jagdeesh CT Structural Schumacher, Loran L. CO Civil
Gupta, Manish K. CT Structural Schwartze, Charles B. MO Electrical
Holmes, Nicole MA Civil Seinuk, Ysrael A. NY Civil**

Irving, John T. LA Civil Seternus, James M. PA Civil
Kendrick, Thomas CT Civil Sharpless, Samuel L. SC Electrical
Konikoff, Martin S. NY Civil Skidgel, David C. ME Civil
Kucharewicz, Jacek L. AR Structural Skillman, Marc A. IL Civil
Lenox, Richard P. MA Structural Tian, Peter MO Civil
Lloyd, Virgil J. CT Civil Vura, Scott A. OH Civil
Manglass, Ralph J. ME Mechanical Watson, James R. MO Civil
McCall, Michael MA Structural Wensus, Timothy W. NH Fire
Protection
Meier, Stephen W. IL Civil

PE. COMITY DENIED:

Mr. Fairbanks, Jr. made a motion to deny comity to Mr. Ireland, III who took a Group II examination which the Board does not recognize, Mr. Jaber who has a Non-ABET degree and did not take FE examination. Mr. Tshudy was also denied due to the fact that in accordance with the guidelines established by the Board's law, rules and regulations, he does not have the equivalent of a four-year EAC/ABET engineering degree and Mr. Wall was denied due to the fact that in accordance with the guidelines established by the Board's law, rules and regulations Mr. Wall failed the PE exam more than four times. Secretary Bernardo seconded the motion. The motions passed unanimously, four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

Ireland, III, William

Jaber, Ammar A.

Tshudy, Gary W.

Wall, Dave R.

REINSTATEMENT:

Mr. Fairbanks, Jr. made a motion to reinstated Mr. Price in the Civil discipline pending payment of all back fees and penalties. Secretary Bernardo seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

David A. Price

E.I.T. NON-ABET 2-YEAR EXPERIENCE:

Mr. Fairbanks, Jr. made a motion to accept Mr. DaSilva's additional 2-year experience and issue his E.I.T. certificate. Secretary Bernardo seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

DaSilva, Sandro

C.O.A. APPLICATIONS;

Mr. Fairbanks, Jr. made a motion to approve the applications for Certificates of Authorization listed on the 17 March 2010 lists for Corporations, COA'S renewing, and Soles as noted in the specific

disciplines mentioned with the exception of (0), which was denied. Secretary Bernardo. seconded the motion. The motion passed unanimously; four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

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ADJOURNED:

Chairman Smith informed the Board that the next Board meeting would be scheduled for 21 April 2010 at 12:00 noon. Mr. Fairbanks, Jr. made a motion to adjourn the meeting at 3:20 PM. Secretary Bernardo seconded the motion. The motions passed unanimously, four in favor one absent. Voting in favor were Chairman Smith, Secretary Bernardo, and Messer. Fairbanks, Jr. and Duhamel, Board Members. Absent was Mr. Moore Board member.

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C. O. A. APPLICATIONS

BOARD MEETING OF 17 MARCH 2010

SOLES PAID COMMENTS

JUNADIE BUDIMAN, PE 0 OK CIVIL

JONAH M. ISRAELIT, PE 0 OK MECHANICAL

MATTHEW D. LOMAS 0 OK CIVIL

LIMITED LIABILITY CORPORATIONS

CITY POINT PARTNERS, LLC \$150 OK CIVIL

**INDUSTRY AND ENERGY ASSOC., LLC \$150 OK CIVIL &
MECHANICAL**

LEBEAU ENGINEERS & CONSULTANTS \$150 OK CIVIL

CHRISTOPHER F. RAY 0 OK STRUCTURAL

STRUCTURAL COMPONENTS, LLC \$150 OK STRUCTURAL

WORKING BUILDINGS, LLC \$150 OK MECHANICAL

CORPORATIONS

BOSTON BUILDING CONSULTANTS \$150 OK STRUCTURAL

ERM CONSULTING & ENGINEERING, INC. \$150 OK CIVIL

MARTEL ENGINEERING, INC. \$150 OK STRUCTURAL

ROSS BRYAN ASSOCIATES, INC. \$150 OK STRUCTURAL

VINEGARD ENG. & ENVIR. SERVICES INC. \$150 OK CIVIL

COA 5293 JACOBS ENG. GROUP, INC. 0 OK

ADD KEITH BOULDS IN RESP. CHARGE.

COA 5313 GARCIA GALUSKA DESOUSA 0 OK

**REMOVE KEITH BOULDS ADD DOMINICK B. PUNIELLO IN RESP.
CHARGE**

**BSI ENGINEERING, INC. APPLIED FOR COA 12 SEPTEMBER 2008
NEVER RESPONDED TO REQUEST FOR GOOD STANDING.
RE-APPLIED JANUARY 12, 2010 APPLICATION NOT SIGNED CHECK
NOT DATED. MOTION TO RETURN APPLICATION**

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Posted on, April 22, 2010 (as a) electronically on Secretary of State's Office website. Pursuant to the Open Meetings Law, R.I. Gen. Laws Sec. 42-46-6(b), business not included in this notice may be considered with the consent of the majority of the members, and/or may convene into Executive (closed) Session pursuant to R.I. Gen. Laws Sec. 42-46-5.