

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

Tuesday, July 14, 2015

10:00am

In attendance:

Joseph Graziano

Brian Iannuccillo

John Shaw, Designee

James White

James Woloohojian, Chair

Ellery Wood, Jr.

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

1. - Call to Order:

The meeting was called to order at 10:04 am by James Woloohojian.

2. – Minutes of February 10, 2015 Meeting:

James White made a motion to accept the minutes to the meeting February 10, 2015 as presented; seconded by Ellery Wood Jr. There was no opposition. Motion carries.

3. - Conflict of Interest:

Valentino Lombardi, 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. - Violation Appeal Hearings:

Larry McCarthy, J.H. Lynch & Sons, Inc. General Counsel and Vice President J.H. Lynch & Sons, Inc.; Armand L. Borges, J.H. Lynch & Sons, Inc.; and David M. Rodrigues, Chief Hoisting Investigator are sworn in for testimony.

Board member, Brian Iannuccillo, recused himself from the matters regarding J.H. Lynch & Sons, Inc (Violations 5205, 5207 and 5211).

Larry McCarthy, J.H. Lynch & Sons, Inc., states their argument is the same for all three matters. Therefore, testimony is consolidated for evidence submission purposes for all three matters.

Chair Woolojojian reads each violation into the record.

J.H. Lynch & Sons, Inc. – Violation 5205:

6/16/2015; Violation 5205; J.H. Lynch & Sons, Inc., 50 Lynch Place, Cumberland, RI 02864

LOCATION OF VIOLATION: Westerly town wide roadway pavement improvements and sidewalk repairs, Crandall Ave. Westerly, RI

VIOLATION: On Thursday, June 11, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Justin M. Izzi, co-owner of A&J Landscaping, LLC, 217 Providence-New London Turnpike, North Stonington, CT 06359, operating a skid steer loader without a valid RI Hoisting Engineer's License at the above job location. J.H. Lynch & Sons, Inc., subcontracted with A&J Landscaping, LLC, 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".

J.H. Lynch & Sons, Inc. – Violation 5207:

6/16/2015; Violation 5207; J.H. Lynch & Sons, Inc., 50 Lynch Place, Cumberland, RI 02864

LOCATION OF VIOLATION: Westerly town wide roadway pavement

improvements and sidewalk repairs, Crandall Ave., Westerly, RI

VIOLATION: On Thursday, June 11, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Adam J. Marsiglio, co-owner of A&J Landscaping, LLC, 217 Providence-New London Turnpike, North Stonington, CT 06359, operating a hydraulic excavator without a valid RI Hoisting Engineer's License at the above job location. J.H. Lynch & Sons, Inc., subcontracted with A&J Landscaping, LLC, 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".

J.H. Lynch & Sons, Inc. – Violation 5211:

6/17/2015; Violation 5211; J.H. Lynch & Sons, Inc., 50 Lynch Place, Cumberland, RI 02864

LOCATION OF VIOLATION: Westerly town wide roadway pavement improvements and sidewalk repairs, Crandall Ave., Westerly, RI

VIOLATION: On Thursday, June 11, 2015, Mr. David M. Rodrigues, Chief Hoisting Engineer Investigator, witnessed Kevin Almeida, an employee of MTK Construction Services, Inc., P.O. Box 610, Pembroke, MA 02359, operating a hydraulic excavator without a valid RI Hoisting Engineer's License at the above job location. J.H. Lynch

& Sons, Inc., subcontracted with MTK Construction Services, 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 regarding the violations and is questioned by the board. Larry McCarthy did not cross examine.

Larry McCarthy presents arguments. Armand Borges provides testimony. The Board questions Mr. Borges.

The Board again questions Mr. Rodrigues and Mr. McCarthy.

Brian Iannuccillo recused from all voting.

Regarding Violations 5205, 5207 and 5211, Ellery Wood, Jr. made a motion that the violations did occur; seconded by James White. There was no opposition. Motion carried.

Regarding the penalty for Violation 5205, James White made a motion to uphold the fine of \$600.00; seconded by Joseph Graziano. There was no opposition. Motion carried.

Regarding the penalty for Violation 5207, James White made a motion to uphold the fine of \$600.00; seconded by Joseph Graziano. There

was no opposition. Motion carried.

Regarding the penalty for Violation 5211, Ellery Wood, Jr. made a motion to uphold the fine of \$600.00; seconded by Joseph Graziano. There was no opposition. Motion carried.

The recommendation will be forwarded to the Director's office.

5.) Update on passage of the bill S-0271 Sub A into law:

David Rodrigues provides board members with the status report and update on House Bill 5132 and Senate Bill 271. The bills were signed by the Governor on June 17, 2015. Passage of the bill now increases fines for violations to a minimum of \$1,500.00 with a maximum of \$2,000.00. There is also an exemption regarding individuals using personal equipment performing volunteer work on land trusts.

James White addressed the Board regarding the process to passage.

David Rodrigues addressed the Board that appeals will increase with the increase in fines.

There is general discussion regarding the filling of vacancies on the board expressing concerns of quorum with the possibility of increased hearings. John Shaw will speak with Assistant Director, Joseph Degan regarding the matter.

6.) - Adjournment:

Ellery Wood, Jr. made a motion to adjourn; seconded by James White. There being no objection, the meeting adjourned at 10:37am.