

BOARD OF ELECTRICIANS AND PLUMBERS
Professional and Vocational Licensing Division
Department of Commerce and Consumer Affairs
State of Hawaii

MINUTES OF MEETING

Date: Tuesday, April 15, 2014

Time: 10:30 a.m.

Place: King Kalakaua Conference Room
King Kalakaua Building
335 Merchant Street, 1st Floor
Honolulu, HI 96813

Present: Lindsey Kimura, Public Member, Chairperson
Peter Akamu, Industry Member, Vice Chairperson
Matt Brady, Industry Member
Randal Hiraki, Industry Member
Morris Kaneshiro, Industry Member
Randall Kaya, Public Member
Vernon Ta'a, Public Member
Rodney J. Tam, Deputy Attorney General
Charlene L.K. Tamanaha, Executive Officer
Christine Rutkowski, Executive Officer
Christine Hironaka, Secretary

Excused: None

Guests: Jim Cahill – Solar City
Dustin Hoskins – Solar City
Al Itamoto – Electrical Contractors Association of Hawaii (“ECAH”)
Leslie Cole-Brooks – Hawaii Solar Energy Association (“HSEA”)
Gladys Marrone – BIA-Hawaii
Mark Matsumoto – Laborer’s Local 368
Troy Silva – Hawaii Electricians Market Enhancement Program
 (“HEMEP”)
Ryan Takahashi – HEMEP

Agenda: The agenda for this meeting was filed with the Office of the Lieutenant Governor, as required by section 92-7(b), Hawaii Revised Statutes (“HRS”).

Call to Order: There being a quorum present, Chairperson Kimura called the meeting to order at 11:46 a.m.

Additions/
Revisions to

the Agenda: It was moved by Vice Chairperson Akamu, seconded by Mr. Kaneshiro and unanimously carried to approve the following additions and deletions to the agenda:

6. Scope
 - a. Hawaii Electricians Market Enhancement Program letter regarding Photovoltaic Installations and Scope of Work for Journey Worker Specialty Electrician. (Deferred from the February 11, 2014 meeting)
 - (1) Response to the Board's draft general interpretation applying to all types of solar PV systems.
 - BIA-Hawaii
 - Laborer's International Union of North America Local 368
 - b. DELETE – Tritium 3 letter asking if a licensed electrician is required to perform maintenance and repairs on photovoltaic inverter systems.

7. Applications
 - a. Electricians
Journey Worker Electrician (EJ)
KROLL, Martin

Approval of the Minutes: It was moved by Vice Chairperson Akamu, seconded by Mr. Brady and unanimously carried to approve the minutes of the December 17, 2013 and February 11, 2014 Board and Executive Sessions.

Chairperson Kimura announced that he was taking the agenda out of order to address Scope topic a).

- Scope
- a. Hawaii Electricians Market Enhancement Program ("HEMEP") letter regarding Photovoltaic Installations and Scope of Work for Journey Worker Specialty Electrician. (Deferred from the February 11, 2014 meeting)
 - (1) The Board received responses to the Board's draft general interpretation applying to all types of solar PV systems from the following:
 - BIA-Hawaii
 - General Contractors Association of Hawaii

- Hawaii Solar Energy Association
- Laborer's International Union of North America Local 368
- Solar City
- The Pacific Resource Partnership

Chairperson Kimura asked if anyone wanted to present testimony on this Agenda item. After a few moments, no one came forward.

It was then moved by Chairperson Kimura, seconded by Mr. Brady and approved by Vice Chairperson Akamu, Mr. Hiraki, Mr. Kaneshiro and Mr. Ta'a, with Mr. Kaya recusing himself to adopt the following February 13, 2014 draft as the Board's informal interpretation in response to the July 29, 2013 letter from HEMEP:

"SOLAR PHOTOVOLTAIC SYSTEMS

This general interpretation would apply to all types of solar PV systems:

- "(a) For solar photovoltaic systems, a licensed journey worker electrician or supervising electrician shall be required to:
- (1) Perform all bonding and grounding work on such systems (including but not limited to WEEBs or "Washer, Electrical Equipment Bonding");
 - (2) Perform all electrical wiring on such systems that generates, transmits, transforms, or utilizes electrical energy within the scope and purpose of the National Electrical Code, as adopted by each county; and
 - (3) Make the electrical connection from the system to the electrical meter.
- (b) Notwithstanding the provisions in subsection (a), a licensed electrician shall not be required to:
- (1) Deliver and transport the panels or other photovoltaic materials onto the roof or other surfaces or facades;
 - (2) Install the footers or base (e.g., racks) that supports any rail mounting system on the roof or other surfaces or facades, unless the footers or base are part of the bonding or grounding mechanism for the solar photovoltaic system;
 - (3) Physically pierce, waterproof, or reinforce the roof or other surfaces or facades;
 - (4) Install and attach the rails to the footers or base on the roof or other surfaces or facades, unless the rails are the bonding or grounding mechanism for the solar photovoltaic system;
 - (5) Physically lay the panels on the rails;
 - (6) Install the roof, windows, skylights, facades, or other parts of a building or structure;
 - (7) Frame the building or structure; or
 - (8) Manufacture the solar photovoltaic systems and panels.
- (c) For purposes of this section, the term "solar photovoltaic systems" includes:
- (1) Rooftop solar photovoltaic systems mounted on rails; and
 - (2) All other types of solar photovoltaic systems attached or fastened to or made a part of other surfaces or facades of a building, structure, or premises (including but not limited to building integrated photovoltaics)."

The Board notes that, this informal interpretation clarifies the Board's prior August 2009 informal interpretation, and the Board intends to start the process to incorporate this informal interpretation into the Board's rules (i.e., the Board will start the rulemaking process to make these changes to its rules). The Board also notes that interested parties may file for declaratory relief if they are interested in obtaining a formal interpretation on the matter.

Executive Officer Tamanaha explained that this is just a clarification of the Board's August 2009 clarification and is not a new rule.

Mr. Hiraki stated that one of the comments received asserted that the Board's adoption of the clarification would cause a 30% increase to the cost of PV installation. Mr. Hiraki related that this statement is incorrect because there should be no increase in materials. If the installer has not been following the Board's August 2009 informal interpretation, the only increase may be the difference in the wages between the unlicensed person and the journey worker electrician, which is not 30%; the cost of the materials should be the same.

Executive Officer Tamanaha stated that Solar City's recommendation was the only correspondence that contained proposed language that will be taken into consideration during the rule making.

Vice Chairperson Akamu stated that the C-60 contractor question goes back to the 2009 interpretation that required trade workers to do the work.

Leslie Cole-Brooks disagreed that the Board should issue its information interpretation, or start the rulemaking process. Ms. Cole-Brooks believed that the Board did not comply with Subchapter 5, chapter 16-201, Hawaii Administrative Rules (HAR) because its response was not prompt and the request was not clear. Ms. Cole-Brooks further stated that the 2009 interpretation still applies and because of new technology, the Board should do formal rule making for that 2009 interpretation. She also said that the Board is failing to acknowledge the technology that makes the product safer.

DAG Tam replied that Board only addressed this issue because of the inquiry from HEMEP. Because of the significance of the issue and the fact that many parties were interested in the matter, the Board discussed the issue over several meetings. Also, some of the parties had asked that the matter be continued for further review and testimony by interested parties. The Board was thorough in its review of the matter, and came to its decision as

soon as it possibly could. Even if HEMEP's letter was not clear, the Board's active outreach to the stakeholders and its acceptance of written and verbal testimony and discussions allowed the Board to flesh out the specific questions and any uncertainty on the issue. Thus, the Board did comply with Subchapter 5 of chapter 16-201, HAR. DAG Tam reiterated that interested parties may file for a declaratory relief on the matter.

Mr. Cahill from Solar City stated that 50% to 60% of their cost is labor because of the technical material in the zap system that they install and what happened to the Board's concern for public safety?

Vice Chairperson Akamu responded that in 2009 the Board's interpretation put in the exception that if there is no bonding and grounding then no license is required and if contractors were in compliance from 2009, there should not be a 30% increase in labor.

DAG Tam added that where bonding and grounding occurs may depend on the system being used.

Ms. Cole-Brooks stated that there were procedural issues the Board failed to follow and the Board did not go through the proper rule making process when it approved the draft interpretation. She stated that there are too many unanswered questions.

DAG Tam responded that the Board issued an interpretation of a rule. The Board did not change the rule. DAG Tam gave a synopsis of the rulemaking process, which among other things requires input and review from different government agencies and public hearings for comment and review before a rule revision is approved.

Shannon Alivado asked if there was any disclaimer language, and can RICO rely on the 2009 and 2014 Board interpretations for enforcement and how will the interpretations be enforced?

Executive Officer Tamanaha responded that the counties have their own ordinances and do not enforce the Board's laws and rules. RICO can enforce based on today's decision and if there is no agreement, then the contractor can file for declaratory relief. Any Board interpretation or informal non-binding decision can be cited by RICO.

Vice Chairperson Akamu stated that the 2009 interpretation was not a rule change but a clarification of the Board's laws and rules relating to PV systems.

Chairperson Kimura added that changes in the NEC and industry guidelines are reasons for rulemaking.

Executive Officer Rutkowski stated that according to HAR 116-201, the Board has the authority to issue an informal interpretation to a requestor which the Board did in 2009, and again today.

Vice Chairperson Akamu added that the Board does not know what the RICO investigator will do but the interpretation is for the safety of the consumer.

Mr. Brady, Mr. Hiraki and Mr. Kaneshiro left the meeting at 12:25 p.m.

Chairperson Kimura stated that the Board will accept language input for the rulemaking process at the June 17, 2014 meeting.

- b. Electrical Contractors Association of Hawaii NECA Hawaii Chapter letter requesting clarification of the work that may be performed by a journey worker specialty electrician (EJS) on the installation of electrical conduits or electrical raceways for the systems listed in their scope of work.

The Board reviewed the Electrical Contractors Association of Hawaii NECA Hawaii Chapter letter submitted by its Executive Director, Al Itamoto.

Executive Officer Tamanaha stated that it was never a requirement for a C-13 to only hire specific trade licensees such as EJs. Because the scope of the C-13 encompasses all electrical work except high voltage (i.e., > 600V), a C-13 may hire employees with the EJS, EJI, EJ, maintenance, and supervising classifications.

Vice Chairperson Akamu stated that a C-15 cannot install conduits. Executive Officer Tamanaha responded in the affirmative. However, noted that a C-13 could have EJs to perform and install low voltage conduits.

Mr. Takahashi stated that a C-13 using an EJS to do conduit work is non-traditional. Mr. Itamoto added that it is a violation of the contractor's rule. Executive Officer Tamanaha stated that a C-13 can do all electrical work. Mr. Takahashi responded that inspectors require an EJ to do conduit work and they are not looking for an EJS. Executive Officer Tamanaha stated that while it may be a county policy, the language of statute and rule does not preclude a C-13 from hiring EJSs.

Vice Chairperson Akamu stated that the Board discussed adding the installation of conduits to the EJS exam.

Mr. Itamoto stated that the NEC does not distinguish different types of conduits.

It was moved by Vice Chairperson Akamu, seconded by Mr. Kaya and unanimously carried to defer the letter from the Electrical Contractors Association of Hawaii NECA Hawaii Chapter for further discussion.

Executive Officer's Report

Executive Officer Tamanaha informed the Board that Vice Chairperson Akamu and Mr. Kaneshiro reviewed the Prometric electrician's exam for continued competency and Prometric will commence administration.

Examinations:

- a. The Executive Officer distributed the following results of the Electricians' and Plumbers' examination:

Electricians' Exam (administered March 2014)

	<u>EJ</u>	<u>ES</u>	<u>EJI</u>	<u>ESI</u>	<u>EJS</u>	<u>ESS</u>	<u>EM</u>
Exams Administered	35	6	1	0	4	0	2
Successful	24	1	1	0	3	0	1
Unsuccessful	11	5	0	0	1	0	1

Plumber's Exam (administered March 2014)

	<u>PJ</u>	<u>PM</u>
Exams Administered	21	5
Successful	11	3
Unsuccessful	10	2

Applications:

It was moved by Mr. Kaya, seconded by Vice Chairperson Akamu, and unanimously carried to approve to **approve/defer** the following applications as noted.

- a. ELECTRICIANS

1. Journey Worker Electrician ("EJ") – Approved

ABELL, Michelle R.
BOWMAN, David J.
CHAR, Andrew L. B.
CHEN, Emily C.
GAVIN, David R.
HOKOM, Jason W.
IBARRA, Alejandro C.
IMHOFF, Vernon C.
JOYNER, Charles T.
KORTE, Ian W.
KROLL, Martin
LOTA, James K.

ROBINSON, Douglas L.
THOMAS, Robert A.

2. Supervising Electrician (“ES”) – Approved

COLLINS, James D.
UYEDA, Dennis N.
WOYTUS, Christopher C.

3. Journey Worker Industrial Electrician (“EJI”) - Approved

None

4. Supervising Industrial Electrician (“ESI”) - Approved

None

5. Journey Worker Specialty Electrician (“EJS”) - Approved

None

6. Supervising Specialty Electrician (“ESS”)

DOMINGO, Jonathan

7. Maintenance Electrician (“EM”)

ELWIR, Hamza

b. PLUMBERS

1. Journey Worker Plumber (“PJ”) – Approved

BUCAR, Adolf A.
CARICO, Jaysen M.
COBAR, Javier A.
FRAGA, Robert N.
HOLLINGWORTH, Peter J.
LAGUNTE SR., Kekoa A.
LEWIS, Aaron K. K.
LOUIS, Edward K. S.
NAGASAWA, Jeffrey K.
SALAUUSA, Matthew
VINCENT, Christopher A.

2. Master Plumber (“PM”) – Approved

None

- c. DEFERRED APPLICATIONS
ANDRADE, Byron K. (PJ)
BLAKE, Kenneth E. (ESI)
GRUMET, Erik G. (EJ)
RUZICKA, Cory D. (PJ)
SANPHY, Dustin E. (PJ)
YOON, Kwang Ho (PJ)
- d. DENIALS
None.
- e. RENEWALS
None
- f. RATIFICATION
None
- g. CONDITIONAL LICENSE REPORT
LEBOEUF, Roger O. (PJ)

Executive Session: It was moved by Vice Chairperson Akamu, seconded by Mr. Ta'a, and unanimously carried to enter into executive session pursuant to HRS sections 92-4 and 92-5, to consult with the Board's attorney on questions and issues pertaining to the Board's powers, duties, privileges, immunities and liabilities at 12:59 p.m.

EXECUTIVE SESSION

It was moved by Vice Chairperson Akamu, seconded by Mr. Kaya, and unanimously carried to reconvene to the Board's regular order of business at 1:02 p.m.

It was moved by Vice Chairperson Akamu, seconded by Mr. Kaya, and unanimously carried to remove the conditions on Mr. Leboeuf's license.

Unfinished Business: a. Proposed 2014 Legislation
None.

Act 35, SLH 2010
University of Hawaii
Honolulu Community
College Approvals: None.

Announcement: Executive Officer Tamanaha announced that the June 17, 2014 meeting will be the last meeting for Chairperson Kimura and Mr. Kaneshiro.

a. Next Applications Committee Meeting

Tuesday June 17, 2014
9:30 a.m.
King Kalakaua Conference Room
335 Merchant Street, 1st Floor
Honolulu, HI 96813

b. Next Board Meeting

Tuesday, June 17, 2014
10:30 a.m.
King Kalakaua Conference Room
335 Merchant Street, 1st Floor
Honolulu, HI 96813

Adjournment: There being no further business to discuss, the meeting was adjourned at 1:05 p.m.

Review and approved by:

Taken by:

/s/ Christine Rutkowski
Christine Rutkowski
Executive Officer

/s/ Christine Hironaka
Christine Hironaka
Secretary

CR:ch
5/15/14

[X] Minutes approved as is.
[] Minutes approved with changes; see minutes of _____.