



THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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CHARLES D. BAKER
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LIEUTENANT GOVERNOR

MICHAEL DONOVAN
CHAIRMAN

RICHARD STARBARD
WILLIAM E. JOHNSON
SAMANTHA L. TRACY
PETER SMITH

Minutes of Meeting of the Board held on October 14, 2020, Approved by the Board at the November 18, 2020, Board Meeting; Motion of Board William Johnson and Seconded by Board Member Peter Smith. The Motion Passed by a Vote of: 4-0, with Chairman Michael D. Donovan Abstaining.

October 14, 2020, Minutes of Board Meeting

Held by Teleconference at 1000 Washington Street, Boston, Massachusetts in accordance with Governor Charles D. Baker's "ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G.L. c. 30A, § 20" issued on March 12, 2020.

Members Present by Teleconference:

Chairman Donovan
Samantha Tracy
William Johnson
Richard Starbard
Peter Smith

Attending to the Board:

Michael D. Powers, Counsel to the Board

Call to Order:

Chairman Donovan, who was located at 1000 Washington Street, Boston, Massachusetts called the meeting to order by stating he was at 1000 Washington Street with Michael D. Powers, Counsel to the Board, and called for a roll call of the Board Members attending by teleconference. Board Members Samantha Tracy, William Johnson, Richard Starbard, and Peter Smith all acknowledged that they were present by teleconference. Chairman Donovan thereupon made the following statement:

In accordance with Massachusetts General Laws Chapter 30A, §§ 18-25 and Governor Charles D. Baker's "ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G.L. c. 30A, § 20" issued on March 12, 2020, the Auto Damage Appraiser Licensing Board (ADALB or Board) is holding this meeting by teleconference today, October 14, 2020 at 11:00AM from 1000 Washington Street, Boston, Massachusetts. Because of an Order issued by Governor Charles D. Baker on March 16, 2020, gatherings of over 25 people are prohibited and, therefore, members of the general public will not be allowed to attend in-person. The public has been invited to join-in the

teleconference meeting by dialing the “Participants” telephone number at: 1-877-820-7831 and entering the Passcode 623523#.

For approval, the Board minutes for the Board meeting held on November 26, 2019, January 21, 2020, March 26, 2020, and April 9, 2020:

Chairman Donovan read the first item on the Board’s agenda and called for a separate motion for approval of each set of Board minutes as listed on the agenda. Board Member Peter Smith made a motion to approve the Board minutes of the November 26, 2019, Board meeting and the motion was seconded by Board Member Richard Starbard. The motion passed by a vote of: 4-0 with Chairman Donovan abstaining.

Chairman Donovan called for a motion to approve the Board minutes for the January 21, 2020, Board meeting, Board Member Peter Smith made a motion to approve the Board minutes of the January 21, 2020 Board meeting, and the motion was seconded by Board Member Richard Starbard. The motion passed by a vote of: 4-0 with Chairman Donovan abstaining.

Chairman Donovan called for a motion to approve the Board minutes for the March 26, 2020, Board meeting, Board Member Peter Smith made a motion to approve the Board minutes of the March 26, 2020 Board meeting, and the motion was seconded by Board Member Richard Starbard. The motion passed by a vote of: 4-0 with Chairman Donovan abstaining.

Chairman Donovan called for a motion to approve the Board minutes for the April 9, 2020, Board meeting, Board Member Peter Smith made a motion to approve the Board minutes of the April 9, 2020 Board meeting, and the motion was seconded by Board Member Richard Starbard. The motion passed by a vote of: 4-0 with Chairman Donovan abstaining.

Report by Board Member Peter Smith on the Part-II examination for motor vehicle damage appraiser scheduled for October 24, 2020, at the Progressive Insurance Service Center in Westwood, Massachusetts:

Board Member Peter Smith informed the Board that the Part-II examination was on schedule at the Progressive Insurance Service Center in Westwood, Massachusetts for Saturday, October 24, 2020. Because of the COVID-19 pandemic, Board Member Smith, Eric Landry, and Stephen Guphill of Progressive Insurance Company, who collaborated in creating guidelines for conducting the Part-II examination to comport with Governor Baker’s Emergency COVID-19 Orders and the United States Center for Disease Control guidelines. There were 70 applicants scheduled to take the examination and it was determined to conduct the test in three different sessions throughout the day. The first session for the test would begin at 8:30AM and conclude at 11:00AM, the second session would begin at 11:30AM and conclude at 2:00PM, and the third session would begin at 2:30PM and conclude at 5:00PM.

Chairman Donovan asked Board Member Peter Smith what the procedures would be for conducting the examination and Board Member Smith described the procedures as the

following: (1) the test will be completed at the Progressive Westwood location, outside in the parking lot and under the awning; (2) test takers will not leave their vehicles, and tables and chairs would not be provided as all test takers will remain in their vehicles; (3) the use of masks and social distancing will be enforced; (4) hand sanitizer and masks will be available for all; (5) there will be no restroom facilities at the testing location as the building will remain locked; (6) any person, including board members helping administer the test will be required to wear a face covering along with any other required PPE equipment as deemed necessary by local, state, and federal guidelines; (7) Progressive's Real Estate department will assist with proper design and signage for the test takers to follow and will be COVID-19 compliant; (8) the applicants will drive up at the prescribed time noted in their test invitation and an exam administrator will greet each applicant in a socially distant manner; (9) applicants will be required to wear masks in their vehicles while speaking with anyone who is administering the exam and Social distancing will be maintained by the exam administrator; (10) the exam administrators will then check in each applicant, provide a prepared test packet with estimate exam sheets, crash guide, and Estimating Procedures guide (P-Pages), the administrator will go over the test vehicle with an applicant while the applicant stays in his/her vehicle, the applicant can take notes about the damages and will then proceed to a parking space to hand write the exam, the applicant will be instructed that he/she cannot leave the vehicle during the test process and cannot use cell phones or any other electronic estimating database during the test; and (11) when the applicant has completed the exam, he/she will drive his/her vehicle back to the test administrator and drop the packet with the completed exam into a box monitored by an administrator, leave, and be notified later of the result of the exam.

Board Member Smith reported that Board Member Richard Starbard could not assist at the examination because he had to attend a previously scheduled Lynn City Council meeting. Chairman Donovan thanked Board Member Smith for his excellent work in coordinating the Part-II examination and ensuring that it is in compliance with local, state, and federal COVID-19 guidelines.

For discussion by the Board, a motion for the Legal Counsel to the Board to prepare an Order to Show Cause based on the pleas entered on September 21, 2020, in the United States District Court for Massachusetts before Judge Timothy S. Hillman, by licensed motor vehicle damage appraiser Adam Haddad to three counts of: Aiding Preparation of False Tax Returns (26 U.S.C. § 7206(2)):

Board Legal Counsel, Michael D. Powers, reported that licensed motor vehicle damage appraiser Adam Haddad plead guilty in the United States District Court to three counts of Aiding Preparation of False Tax Returns in violation of 26 United States Code § 7206(2). He informed the Board that he would prepare an Order to Show Cause and place it on the agenda at the next Board meeting for the Board's review and approval.

Discussion about the manner of conducting teleconference, videoconference, or paper reviews of complaints filed against motor vehicle damage appraisers:

Legal Counsel to the Board, Michael D. Powers, informed the Board that he would be drafting amendments to the Board's Guidelines for Complaint Procedures to allow for a review of complaints filed against licensed motor vehicle damage appraisers by teleconference, video conference, or by a paper review. He informed the Board that the

IT Department for the Commonwealth recently upgraded his computer for use of the Microsoft Team Works software, which the Commonwealth of Massachusetts uses for videoconferencing.

Board Member Richard Starbard pointed out that the “Zoom” video conferencing platform allows for meetings by committees to place non-member participants in “break-out” rooms which allows the Board Members to conduct meetings without interference by non-members and at the same time allow non-members to participate in an orderly fashion.

Other business – reserved for matters the Chair did not reasonably anticipate at the time of the posting of the meeting and agenda:

Board Member Johnson inquired as to the status of the replacement for former Board executive secretary Steven Zavackis. Board Counsel Powers responded that because Mr. Zavackis had recently left his position with the Division of Insurance and the COVID-19 pandemic’s restrictions limiting access to 1000 Washington Street, the process of replacing Mr. Zavackis was hampered and the Division would ultimately seek a replacement for his position. Board Member Johnson made a motion that Chairman Donovan send a letter to the Division of Insurance requesting that the Division fill the vacancy created by the resignation of Steven Zavackis, the motion was seconded by Board Member Starbard, and the motion passed by a vote of 4-0.

Board Member Johnson stated that Advisory Ruling 2020-1 needed to be rescinded, because the COVID-19 pandemic had abated which was established by the fact that Governor Baker moved to Phase-III of his Emergency COVID-19 Orders, which allows businesses to expand their public operations and, therefore, the Board should return to conducting appraisals of motor vehicle damage based on the minimum threshold requirement contained in the Code of Massachusetts regulations (212 CMR 2.04(1)(a)) of \$1,500 less the insured’s deductible in the insurance policy. Board Member Johnson made a motion to rescind Advisory Ruling 2020-1 and the motion was seconded by Board Member Starbard. Board Member Smith stated he understood the concern that Board Member Johnson had for returning to the original threshold amount from the current amount of \$3,000, but felt that recent developments with the increase in the rates of infection for the COVID-19 disease in various communities was cause for further concern by consumers to be reluctant to personally engage with a motor vehicle damage appraiser. Board Member Starbard asserted that, every auto body shop has procedures in place for sanitizing motor vehicles and he would like to hear from consumers, insurance companies, and auto body shops to weigh-in in writing. Chairman Donovan called for a vote and the vote failed by a vote of 2 in favor, Board Member Johnson and Board Member Starbard, 1 against, Board Member Smith, and 1 abstaining, Board Member Tracy; in order for the motion to pass it needed a majority vote of the quorum present, or 3 affirmative votes.

Motion to adjourn:

Chairman Donovan asked for dates for the next scheduled meeting and the consensus was to schedule the next meeting on November 18, 2020 at 11:00AM. Chairman Donovan called for a motion to adjourn the meeting, Board Member Peter Smith made the motion, and the motion was seconded by Board Member Samantha Tracy and the Chairman called

for a roll call vote with the motion passing by a vote of: 4-0 with Chairman Donovan abstaining.

Whereupon the Board's business was concluded.

The form of these minutes comports with the requirements of M.G.L. c. 30A, §22(a)