

MINUTES OF MEETING  
OF THE INDUSTRIAL COMMISSION OF ARIZONA  
Held at 800 West Washington Street  
Conference Room 308  
Phoenix, Arizona 85007  
Thursday, March 6, 2014 – 1:00 p.m.

Present:	David M. Parker	Chairman (video conference)
	Susan Strickler	Vice Chair
	Kathleen Oster	Member
	Michael G. Sanders	Member
	Joseph M. Hennelly, Jr.	Member
	Laura McGrory	Director
	Andrew Wade	Chief Counsel
	Karen Axsom	Director, Labor Dept.
	Renee Pastor	Manager, Self Insurance
	William Warren	Director, ADOSH
	Ron Harnsberger	Compliance Officer
	Melinda Poppe	Chief Administrative Law Judge
	Michael Hawthorne	Chief Financial Officer
	Teresa Hilton	Commission Secretary

Chairman Parker convened the Commission meeting at 1:00 p.m. noting a quorum present. Also in attendance were Scot Butler, Commission lobbyist; Matthew D. Saxe, PLC; Mark Staudohar; and Andrea Lewis of Snell and Wilmer.

Approval of Minutes of February 27, 2014

The Commission unanimously approved the Minutes of February 27, 2014 on motion of Mr. Sanders, second of Ms. Oster.

Consent Agenda:

All items following under this agenda item are consent matters and will be considered by a single motion with no discussion unless a Commissioner asks to remove an item on the consent agenda to be discussed and voted on separately. The Commission may move into Executive Session under A.R.S. § 38-431.03(A)(2) to discuss records exempt by law from public inspection. Legal action involving a final vote or decision shall not be taken in Executive Session. If such action is required, then it will be taken in General Session.

a. Approval of Proposed Civil Penalties Against Uninsured Employers

1. 2C13/14-0392 B K Sterling, LLC
2. 2C13/14-1107 Carmen A. Ruan, a single woman, dba Magic Touch Cleaning Services
3. 2C13/14-0709 Mitchel Jones, a single man, dba Strong Promise Cleaning
4. 2C12/13-2302 TAK Development, Inc.

b. Approval of Requests for Renewal of Self-Insurance Authority

1. Glendale Elementary School District #40
2. City of Chandler

Chairman Parker asked if any agenda items needed to be removed from the Consent Agenda. Hearing none, the Commission unanimously approved the items on the consent agenda on motion of Ms. Strickler, second of Mr. Hennelly.

Discussion & Action regarding Appointment of Employment Advisory Council Member pursuant to A.R.S. § 23-522(B)

Karen Axsom advised that she is recommending the appointment of Mark Staudohar to fill a vacancy on the Employment Advisory Council and that he is with her today to answer any questions from the Commission. She has provided a review sheet and resume for Mr. Staudohar and stated that she thought he would be an excellent fit on the Council. Chairman Parker stated that Mr. Staudohar has extensive experience and extensive community service and thanked him for his willingness to serve on the Council. The Commission unanimously appointed Mark Staudohar to the Employment Advisory Council on motion of Mr. Sanders, second of Ms. Strickler.

Discussion &/or Action regarding Legislation

Scot Butler presented a summary of proposed legislation of interest to the Commission including House Bills 2094, 2221, 2361, 2394, 2455, 2487, and 2648 and Senate Bills 1075, 1181, 1307, and 1441 and responded to questions from the Commissioners. Mr. Butler stated that staff is working on a draft amendment to SB 1181 and recommended that Director McGrory convene a stakeholders meeting on behalf of the Commission. Regarding SB 1307, he is not recommending that the Commission take any official position. The Commission further discussed SB 1441 and the concerns to preserve the integrity and validity of the state plan.

Discussion & Action regarding Review of Self-Insurance of Bashas', Inc.

Renee Pastor stated that on September 11, 2013 the Commission approved renewal of self-insurance for Bashas' and requested an update in six months. She advised that a consultant has been hired to review Bashas' claim reserving methodology, and that review should be completed in early April. She stated that Bashas' renewal date is May 1<sup>st</sup> and that staff would supply the Commissioners with the results from the review.

Discussion & Action of OSHA Proposed Citations & Penalties

America Roofing LLC  
P.O. Box 6546  
Phoenix, AZ 85009

Complaint  
Yrs/Business – 15  
Empl. Cov. by Insp. – 2

Site Location: 4440 W. Goldmine Mountain Dr., Queen Creek, AZ 85142  
Inspection #: T9350-317588002  
Insp. Date: 1/21/2014

SERIOUS – Citation 1 - Item 1 – (Lot 65): Two 8” x 14” vent holes in the roof were not guarded by either a standard railing or floor hole covers. (A.R.S. § 23-492.03(H)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 2 – Two employees conducted roofing work on a residential structure roof with the eave edge at a height greater than 15’ and a pitch of 4:12 without being protected by the use of any combination of personal fall protection system, catch platforms, scaffold platforms, eave barriers, roof jack systems, safety monitoring systems or parapets at least twenty-four inches high. (A.R.S. § 23-492.05(A)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

SERIOUS – Citation 1 - Item 3 – (Lot 65): Two employees were working at heights above 15 feet and a fall protection plan had not been implemented which reduced or eliminated fall hazards for employees engaged in residential construction. (A.R.S. § 23-492.07(A)).

Div. Proposal - \$1,500.00

Formula Amt. - \$1,500.00

TOTAL PENALTY - \$4,500.00

TOTAL FORMULA AMT. - \$4,500.00

Bill Warren summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. The Commission tabled consideration of the citations and referred the file to the Legal Department for further review.

Gentry Estates, LLC  
7907 E. Portobello Ave.  
Mesa, AZ 85212

Planned  
Yrs/Business – 8  
Empl. Cov. by Insp. – 11

Site Location: 2821 S. Skyline, Mesa, AZ 85212  
Inspection #: N4762-317449577  
Insp. Date: 1/27/2014

SERIOUS – Citation 1 - Item 1 –

- a) Garage roof of northwest building: Six employees were using a yellow 8-foot fiberglass A-Frame step ladder, manufacturer, model and serial number unknown, that was leaning against the 2<sup>nd</sup> story roof’s eave, which did not extend 3’ above the landing surface of the 2<sup>nd</sup> story roof and was not secured at its top to a rigid support, and did not have a grasping device to assist employees mounting and dismounting the ladder. (1926.1053(b)(1)).
- b) Garage roof of northwest building: Six employees had used a yellow 8-foot fiberglass A-Frame step ladder, manufacturer, model and serial number unknown, that was leaning against the 2<sup>nd</sup> story roof’s eave, to gain access to the 2<sup>nd</sup> story roof. (1926.1053(b)(4)).
- c) Garage roof of northwest building: Six employees had used the top and/or top step of a yellow 8’ fiberglass A-Frame step ladder, manufacturer, model and serial number unknown, to gain access to the 2<sup>nd</sup> story roof. (1926.1053(b)(13)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 2 – Garage roof of northwest building: The employer did not provide ladder training in the recognition and avoidance of unsafe conditions associated with the use of portable ladders. (1926.1060(a)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 3 – An employer with six employees engaged in residential construction activities that were laying sheathing for the 3:12 pitch roof of a multi-unit townhome structure at a height greater than 6' above the lower level had not prepared and implemented a written fall protection plan that contained all of the required elements as outlined in subparagraphs 1-10 and which reduced or eliminated fall hazards for employees engaged in residential construction. (A.R.S. § 23-492.07(A)).

Div. Proposal - \$750.00

Formula Amt. - \$750.00

SERIOUS – Citation 1 - Item 4 – Six employees engaged in residential construction activities that were laying sheathing for the 3:12 pitch roof of a multi-unit townhome structure at a height greater than 6' above the lower levels were not trained in accordance with the requirements of 29 CFR 1926.503. (A.R.S. § 23-492.09).

Div. Proposal - \$ 750.00

Formula Amt. - \$ 750.00

TOTAL PENALTY - \$3,000.00

TOTAL FORMULA AMT. - \$3,000.00

Bill Warren and Ron Harnsberger summarized the citations and proposed penalty as listed and responded to questions from the Commissioners. Following discussion, the Commission unanimously approved issuing the citations and assessed the recommended penalty of \$3,000.00 on motion of Mr. Sanders, second of Ms. Oster.

Discussion & Action regarding the Selection of Candidates for Interviews for Administrative Law Judge Positions. The Commission may move into Executive Session under A.R.S. §§ 38-431.03(A)(1) and (A)(3) to Discuss Selection of Candidates

Ms. McGrory stated that this is the first step in the revised process for hiring Administrative Law Judges and that the Commissioners have been provided with the hiring list and resumes. The Commissioners will select the candidates for Chief ALJ Poppe to interview. Following those interviews, Ms. Poppe will present her recommendations and the Commissioners will then determine who they wish to interview.

The Commission unanimously voted to go into Executive Session on motion of Ms. Strickler, second of Ms. Oster. Executive Session Minutes are kept separately.

Upon return to General Session, Mr. Sanders made a motion to have Ms. Poppe interview candidates #1 through 7 and there was no second. The Commission unanimously agreed to have Ms. Poppe interview candidates #1 through 8 on motion of Mr. Hennelly, second of Ms. Strickler.

#### Announcements and Scheduling of Future Meetings

Ms. McGrory stated that the staff recommendations for the Fee Schedule update is completed and confirmed that the public hearing would be held on Thursday, April 17, 2014 at 1:00 p.m. She advised that the staff document and Notice of hearing would be placed on the Commission's website.

Chairman Parker congratulated Joe Hennelly on his Senate confirmation.

Mr. Parker confirmed that the dates already scheduled still worked for the Commissioners. He stated that the April 3, 2014 meeting will consist of interviews for Administrative Law Judge applicants and interviews could also be held on April 4 if necessary. Ms. Hilton stated that the next meeting is scheduled for Wednesday, March 19, 2014.

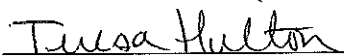
There being no further business to come before the Commission and no public comment, the meeting was adjourned at 2:22 p.m.

THE INDUSTRIAL COMMISSION OF ARIZONA

By

  
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Laura McGrory, Director

ATTEST:

  
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Teresa Hilton, Commission Secretary