

## **Construction Claims Task Force Phase I Motions and Proposal Schedule October 25, 2006**

### **Background:**

During Phase I of the Task Force's inquiry into construction claims, the Task Force received testimony and recommendations from panelists. Approximately sixty-five recommendations were brought forward. The Task Force went through a prioritization exercise on February 15, 2006, reducing the list of recommendations to twenty. After comparing Task Force recommendations, staff consolidated similar recommendations to put forward ten concept papers on April 11, 2006 meeting. The ten concept papers contained sub-themes that carried over into the current list (below). On May 24, 2006 the Task Force voted on further actions to be taken on the concepts. During the September 19, 2006 meeting, the Task Force discussed and amended recommendations within three proposals. Below is a list of proposals approved for inclusion in the draft legislative report, proposals not yet discussed, proposals under further consideration, and items no longer under consideration.

### *Proposals Approved for Inclusion in the Draft Legislative Report:*

#### **CCB Licensing & Enforcement Changes Proposal**

- Expand CCB's enforcement authority by adding an expedited emergency suspension process outside the Administrative Procedures Act to deal with problem contractor licenses.
- Licensees or responsible managing individuals subject to sanction by the CCB must not serve as owners, officers, directors, or managers of another construction firm.
- Require officers, directors, owners and entities to disclose, from the last five years, financial matters that evidence past financial malfeasance – unsatisfied court judgments, insolvencies, fraud, misrepresentation, conversion of funds, and other acts that may unfavorably affect future construction contracts. Allow the CCB to actively investigate an applicant's past financial dealings extending back five years.
- Require officers, directors, and owners to disclose criminal activity bearing on the ability to contract from the last five years. Allow the CCB to conduct active criminal checks, including using state and federal biometric databases. Allow the CCB to acquire criminal records in the course of investigating applicants.
- Expand prohibited acts by contractors that can be prosecuted by the government as crimes, and expand the range of penalty options to include restitution, enhanced fines and limited incarceration based on the monetary value of the contract, the nature of the offense and whether a person is a repeat offender.
- Confer on CCB authority to issue criminal citations.

#### **Building Code Amendment Proposal**

- Prohibit components within a cavity from exceeding 19% at the time of covering.
  - For mechanical ventilation systems in bathrooms, laundry rooms and similar facilities, require a minimum flow rate of 80 cubic feet per minute (cfm).
  - In bathrooms, require humidity sensors or other acceptable methods of automation to activate ventilation systems.
  - Restrict the noise level of active bathroom ventilation to less than 2.5 sone levels (approximately 40 decibels).
  - Locate bathroom fans as close as is practicable to the shower or tub area.
  - In kitchens, prohibit the use of recirculating range hoods or provide for other approved forms of active ventilation.
  - Noise produced by active kitchen ventilation should not exceed 4.0 sone levels (approximately 48 decibels).
-

- Require appropriate, horizontal flashing over all plant-on trims, such as 'z' metal flashing configurations. [May need rework as performance standard]

### **Recovery Fund Proposal**

- Establish a recovery fund for residential construction only.
- Require only those contractors whose work is directly connected to residential construction to participate in the recovery fund.
- Allow current CCB dispute resolution services to directly pay out of the recovery fund at the conclusion of dispute resolution proceedings, or payouts based on civil litigation.
- Confer administrative authority for the recovery fund in the Construction Contractors Board.
- Assess residential-only contractors a reasonable fee (\$20 to \$50), offset with civil penalty funds and other funding sources.
- Retain investment income made off recovery fund money for additional resources.
- Restrict the use of the recovery fund to pay construction defect claims.
- Set aside a flexible percentage of recovery fund money for administrative expenditures.
- Allow the Construction Contractors Board to pursue subrogation claims to replenish the recovery fund.
- Allow the Construction Contractors Board to condition, suspend or revoke a license to secure payment from the recovery fund.
- Cap payouts to \$20,000 per claimant.
- Cap aggregate liabilities against a contractor to \$100,000.
- Limit damage reimbursement to actual damages.
- Create mechanisms for prorated and proportional share payments from recovery fund.
- Provide limited ability to Construction Contractors Board to modify orders to protect the integrity of the recovery fund.

### *Proposals Not Yet Discussed:*

#### **Consumer Information Proposal**

- Require contractors to provide information on consumer protection at the time of bid in order to maintain their lien rights. [See Proposal #4, Consumer Information Proposal]
- Consider a time period for the consumer to fully review consumer information and the contract prior to signing. [See Proposal #4, Consumer Information Proposal]
- Revise "Information Notice to Owner" to direct consumers to information on the web or inform consumers how to contact CCB to obtain information. [See Proposal #4, Consumer Information Proposal]

#### **Residential Permits Proposal**

- Require the party responsible for constructing a building to obtain any necessary permits for the work. Require the person that obtains any necessary permits for construction work to designate on the permit the party that is actually responsible for the work. [See Proposal #5, Residential Permits]

#### **Building Envelope Certification Proposal**

- Require contractors to take continuing education for building envelope design standards. [See Proposal #6, Building Envelope Certification]
  - Require training and continuing education for contractors involved in envelope construction. [See Proposal #6, Building Envelope Certification]
  - Train and certify individuals employed by contractors to properly install elements of a building envelope. [See Proposal #6, Building Envelope Certification]
  - Require all contractors obtain continuing education on building code changes. [See Proposal #6, Building Envelope Certification]
-

*Items Under Further Consideration:***Building Envelope Professionals Proposal**

- Require designers to provide specific building envelope designs for resisting water intrusion. [See Proposal #7, *Envelope Design Details*]
- Require RMI to verify that work conforms to code and to the design. [See Proposal #6, *Building Envelope Certification*]
- Require certificate of occupancy to verify compliance with residential building requirements. [See Proposal #5, *Residential Permits*]
- Require designers or other supervisors provide onsite assurances of satisfactory construction work.
- Develop and make available to contractors and designers best practice guidelines related to building envelope construction.

**Maintenance Information Proposal**

- Before completion of the transaction the contractor shall provide the consumer with a maintenance checklist for the specific product.
- Before completing the real estate transaction, provide a consumer with a standardized maintenance checklist developed by the state.
- Before completing the real estate transaction, supply a consumer with an owner-made manual that details the maintenance requirements of a particular dwelling.
- Before completing the sale of a new home, require the contract to include default contractual terms that require a consumer to receive maintenance information.

**Third-Party Envelope Inspector Proposal**

- Require third-party inspectors to inspect building envelope installations.

**Contractor Bonding Proposal**

- Increase the bond amount a contractor must pay to be licensed.

*Items No Longer Under Consideration:***Additional Information Proposal**

- Provide consumer protection information at time that permit is taken out.
- Ask financial institutions to provide consumer information.
- Require financial institutions to provide consumer information.

**Training Proposal**

- Provide voluntary training opportunities to contractors on best practice guidelines.
  - Provide voluntary training opportunities to designers.
-

Based on the votes taken during the May 24, 2006 meeting, staff has compiled a preliminary schedule for the drafting and presentation of proposals. The list is as follows:

June 28, 2006
CCB Enforcement Powers Proposal Building Code Changes Proposal
July 26, 2006
Recovery Fund Proposal Consumer Information Proposal
August 23, 2006
Residential Permits Proposal Building Envelope Professionals Proposal
September 19, 2006
Envelope Design Details