

**Minutes of Meeting
BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS
INFORMAL FACT-FINDING CONFERENCES
OCTOBER 14, 2004 (9:00 a.m.)**

The Department of Professional and Occupational Regulation convened Informal Fact-Finding Conferences in Richmond, Virginia.

Marion Cooper, Presiding Officer, presided. No Board members were present.

Amy C. Chappell appeared for the Department of Professional and Occupational Regulation.

The conferences were recorded by Inge Snead & Associates, LTD. and the Summaries or Consent Orders are attached unless no decision was made.

Lic=Licensing Application

A=Applicant
W=Witness
Atty=Attorney

Participants

1. Robert Holmes
File Number 2005-01417 (Lic)
No decision made

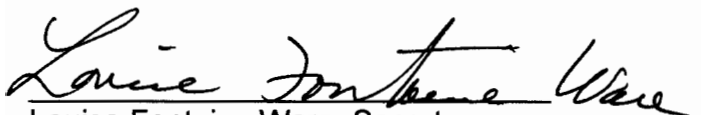
Robert Holmes – A

The meeting adjourned at 10:30 a.m.

BOARD FOR ASBESTOS, LEAD, AND HOME INSPECTORS



Frederick Heppner, Chairperson



Louise Fontaine Ware, Secretary

COPY TESTE:

Custodian of Records

**IN THE
COMMONWEALTH OF VIRGINIA**

BOARD FOR ASBESTOS, LEAD AND HOME INSPECTORS

Re: Robert T. Holmes
Application

File Number: 2005-01417

SUMMARY OF THE INFORMAL FACT-FINDING CONFERENCE

On September 30, 2004, the Notice of Informal Fact-Finding Conference ("Notice") was mailed, via certified mail, to Robert T. Holmes. The Notice included the Informal Fact-Finding Conference Referral Memorandum, which contained the facts regarding the application.

On October 14, 2004, an Informal Fact-Finding Conference ("IFF") was convened at the Department of Professional and Occupational Regulation.

The following individuals participated at the IFF: Robert T. Holmes, Applicant; Amy Chappell, Staff Member; and Marion S. Cooper, Presiding Officer.

PRIOR CRIMINAL CONVICTIONS

§ 54.1-204 of the Code of Virginia. Prior convictions not to abridge rights.

- B. In determining whether a criminal conviction directly relates to an occupation or profession, the regulatory board shall consider the following criteria:
1. The nature and seriousness of the crime;

Holmes was convicted of felony aggravated assault; felony controlled dangerous substances on school property; and felony manufacture/distribution of controlled dangerous substances in New Jersey Superior Court on or about August 19, 1985, January 3, 1995, and August 9, 1999, respectively.

Holmes explained the 1985 conviction arose from an incident at a party wherein he and two others engaged in a fight with other persons at the party. Holmes stated that he and his friends believed that the other persons had attacked a girl at the party and "things got wild." He stated that he and his friends were arrested and Holmes was incarcerated therefor for six years.

Holmes stated that his 1995 conviction resulted from selling cocaine in the area of a school. Because such school was within 1000 feet of his activity, he was

charged with the dealing of drugs "on school property" in accordance with the governing criminal statute. Holmes stated that he was incarcerated for this crime for 18 months. Holmes stated that the 1999 conviction was also for selling cocaine.

2. The relationship of the crime to the purpose for requiring a license to engage in the occupation;

The purpose of licensure is to protect the health, safety, and welfare of the public. Due to the age and circumstances of the first conviction and Holmes' rehabilitative efforts since 1999, it does not appear that Holmes is a danger to the public.

3. The extent to which the occupation or profession might offer an opportunity to engage in further criminal activity of the same type as that in which the person had been involved;

Based on the above information, it does not appear that granting Holmes a license will encourage any criminal activity.

4. The relationship of the crime to the ability, capacity or fitness required to perform the duties and discharge the responsibilities of the occupation or profession;

In light of Holmes' actions since the time of his last criminal activity, I do not see a significant relationship between the crimes and his fitness to engage in licensed activity.

5. The extent and nature of the person's past criminal activity;

Holmes was convicted of three felonies between 1985-1999.

6. The age of the person at the time of the commission of the crime;

Holmes was 17 years of age at the time of the first crime and in his late 20's at the time of the latter crimes.

7. The amount of time that has elapsed since the person's last involvement in the commission of a crime;

The last offense occurred on or about November 3, 1998.

8. The conduct and work activity of the person prior to and following the criminal activity; and

After his release from incarceration for his first felony, Holmes drove trucks for an insulation company. Holmes stated that in 1993, he trained in asbestos and lead work through the Private Industrial Council. Holmes stated that he is licensed in such work in New Jersey and has worked in such field since 1993.

9. Evidence of the person's rehabilitation or rehabilitative effort while incarcerated or following release.

Holmes stated that, during his incarcerations, he took college courses and participated in a counseling program. He stated that he and his family moved to Virginia in 2002 and that he is currently attending the National College of Business Technology where he plans to obtain an associates degree in computer technology. Holmes stated that his drug history is behind him and that he is trying to better himself.

Holmes submitted a letter of recommendation from his employer in New Jersey who writes that Holmes is licensed in New Jersey as a licensed asbestos work supervisor. Holmes also submitted a letter from the Director of Academics of the National College of Business and Technology who writes that Holmes is pleasant and easy to work with.

RECOMMENDATION

Based on the evidence and the IFF, including the information obtained from the Central Criminal Records Exchange, and in consideration of the criteria outlined in § 54.1-204.B, the following is recommended regarding the application as outlined in the IFF Conference Referral Memorandum:

In consideration of Holmes' rehabilitation since his convictions, it is my opinion that he is capable of conducting licensed activity.

Accordingly, I recommend that Holmes' application be approved.

By: _____
Marion S. Cooper
Presiding Officer

BOARD FOR ASBESTOS, LEAD AND HOME INSPECTORS

Date: _____



REGULATORY PROGRAMS DIVISION
APPLICATION REVIEW
INFORMAL FACT FINDING CONFERENCE REFERRAL MEMORANDUM

To: Adjudication Section, Enforcement Division Date: Sept. 27, 2004

From: Adrienne Mayo, Board: Asbestos, Lead, and Home Inspectors

Re: Applicant Name: Robert Holmes

Applied For: License / Certification / Registration Class: A / B /C

Type Applied For: Asbestos Supervisor (as marked on application)

Reviewed By: Vickie Harlow, Board Member

Adrienne Mayo, Staff Member

IFF Requested by Whom: Robert Holmes

When: September 22, 2004
(date)

How: Letter
(letter, telephone, etc.)

COMMENTS: _ IN ACCORDANCE WITH SECTION 54.1-204 OF THE CODE OF VIRGINIA, AND SECTION 18 VAC 15-20-450 (A)(6) OF THE BOARD'S REGULATIONS. THE BOARD SHALL HAVE THE AUTHORITY TO DENY APPLICATION FOR ANY LICENSE TO ROBERT HOLMES IF IT FINDS THAT THE APPLICANT'S CRIMINAL CONVICTIONS MAKE THEM UNFIT OR UNSUITED TO ENGAGE IN THE LEAD PROFESSION..

NOTE: REFERENCE RECORD 3302-008283P
CURRENT ADDRESS: 24 THIRTEEN ST., LAKEWOOD, NJ 08701

BASIS UPON WHICH APPLICANT MAY NOT MEET BOARD REGULATORY REQUIREMENTS:

- ENTRY REQUIREMENT DEFICIT(S)**

Pursuant to VA Code or Board Regulation AND THE CODE OF VIRGINIA:

54.1-204

18 VAC 15-20-450 (A)(6) (Effective January 2, 2002)

FACTS: (Include information that specifically addresses why the applicant does not satisfy the Section of the Code or Regulation cited above.)

NEW JERSEY SUPERIOR COURT:

8/19/1985	CONVICTED FOR AGGRAVATED ASSAULT – FELONY
1/3/1995	CONVICTED FOR CONTROLLED DANGEROUS SUBSTANCES ON SCHOOL PROPERTY - FELONY
8/9/1999	CONVICTED FOR MANUFACTURE/DISTRIBUTE OF CONTROLLED DANGEROUS SUBSTANCES – FELONY

**STATE AND LOCAL GOVERNMENT
CONFLICT OF INTEREST ACT**

**TRANSACTIONAL DISCLOSURE STATEMENT
for Officers and Employees of State Government**

1. Name: Marion Cooper
2. Title: Presiding Officer
3. Agency: Board for Asbestos, Lead and Home Inspectors
4. Transaction: Informal Fact-Finding Conferences on October 14, 2004
5. Nature of Personal Interest Affected by Transaction: _____

6. I declare that:

(a) I am a member of the following business, profession, occupation or group, the members of which are affected by the transaction:

(b) I am able to participate in this transaction fairly, objectively, and in the public interest.

Signature

Date

10-14-04