

In The Matter Of:
Elevator Safety Review
Board Meeting

February 14, 2013

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Original File rh2-14-13 Corr.txt

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ELEVATOR SAFETY REVIEW BOARD MEETING

FEBRUARY 14th, 2013

8:30 a.m.

The Report of Proceedings had in the meeting of the above-entitled cause, taken before Robin R. Hejnar, a Certified Shorthand Reporter and Registered Professional Reporter and Notary Public in and for the County of Cook and State of Illinois, at 9511 West Harrison Street, Des Plaines, Illinois, on February 14th, 2013, at the hour of approximately 8:30 a.m.

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PRESENT:

ELEVATOR SAFETY REVIEW BOARD

MR. DAN BAUMANN, Chairman

MR. GERALD GROSS, Member

MR. BRIAN WILSON, Member

MR. JOHN FINCHAM, Member

MR. MARK HERTSBERG, Member

MR. K. DOUGLAS JONES, Member

MR. GERALD WOLIN, Member

MR. THOMAS GANIERE, Member

MR. CRAIG GRANT, Member

MR. KELLY WELLER, Member

MR. WILLIAM BOGDAN, Member

MR. ANTHONY OTTEN, Member

MS. ANGELA STINSON-MARTI, Attorney

MR. ED CHRISTENSEN, Member

MR. RICHARD GREGORY, Consultant

MR. AARON ADAMS, Fire Service Committee Rep

ELEVATOR SAFETY REVIEW BOARD MEMBERS NOT PRESENT

MR. DAVID DATTILO, Member

MR. TOM JIRIK, Member

MR. BRIAN WILSON, Member

MR. ROBERT CAPUANI, Director

OFFICE OF THE STATE FIRE MARSHAL-ELEVATOR SAFETY STAFF

MR. JAMES AUBIN, Elevator Inspector

MS. CELENA JEFFRIES, Licensing OSFM

Mr. TOM LEE, Elevator Inspector

1 MR. WELLER: I'd like to start with the
2 pledge of allegiance.

3 (Whereupon, the Pledge of Allegiance was
4 recited.)

5 MR. WELLER: What I'd like to do is maybe --
6 and, Tom, can you give me some guidance here, we need to
7 go into a recess. Do you want to do roll call first,
8 and then go to recess, or --

9 MR. GREGORY: You need to do a call to order
10 first.

11 MR. GANIERE: Call to order, and then you
12 can take action on the minutes if you want to.

13 MR. WELLER: I'd rather wait just a few
14 minutes. So let's call the meeting to order. I don't
15 need a vote --

16 MR. GREGORY: Nope.

17 MR. WELLER: -- for that?

18 I'd just like to ask for a motion to recess.

19 MR. WOLIN: I make a motion to recess.

20 MR. WELLER: First by Gerald. Second?

21 MR. FINCHAM: I'll second then.

22 MR. WELLER: All in favor?

23 (Wherein, a chorus of ayes.)

24 (Off the record.)

1 MR. BAUMANN: I call the meeting back to
2 order. My name's Dan Baumann. I was appointed by the
3 governor's office to replace Frank Christensen as
4 Chairman. Follow along with the agenda as done. We
5 already said the pledge of allegiance.

6 Oh, Angela will be our counsel for the State
7 Fire Marshal's Office.

8 MR. AUBIN: She's been appointed as the new
9 counsel. We'd like to welcome Angela.

10 MS. STINSON-MARTI: Thank you.

11 MR. OTTEN: You ought to do introductions of
12 everybody.

13 MR. BAUMANN: We can do that. Since we got
14 a big crowd here, we'll do introductions for everybody
15 on the Board. Start it, Kelly.

16 MR. WELLER: Kelly Weller, representing the
17 Fire Service.

18 MR. GREGORY: Dick Gregory, consultant to
19 the Board.

20 MR. GANIERE: Tom Ganiere, representing the
21 Fire Service.

22 MS. STINSON-MARTI: Angela Stinson-Marti,
23 representing the State Fire Marshal.

24 MR. AUBIN: Jim Aubin, State Fire Marshals

1 Office.

2 MR. WOLIN: Gerry Wolin, representing senior
3 citizens.

4 MR. CHRISTENSEN: Ed Christensen,
5 representing Cook County of Labor.

6 MR. GRANT: Craig Grant, representing higher
7 education.

8 MR. FINCHAM: John Fincham, representing
9 municipalities 25,000 to 50,000.

10 MR. GROSS: Gerald Gross, representing the
11 Architectural Profession.

12 MR. JONES: Doug Jones, representing
13 municipalities with populations 50- to 500,000.

14 MR. OTTEN: Tony Otten, representing
15 Elevator Manufacturing.

16 MR. HERTSBERG: Mark Hertsberg, representing
17 the building Full Noose [phonetic].

18 MR. ADAMS: Aaron Adams, representing Fire
19 Service.

20 MR. BOGDAN: And I'm Bill Bogdan
21 representing people with disabilities.

22 MR. BAUMANN: With that being said, has
23 everybody read the minutes from the last meeting? Can
24 we have a motion to accept?

1 MR. GANIERE: Ganiere, I'll move to accept
2 the minutes.

3 MR. FINCHAM: I'll second then.

4 MR. BAUMANN: Been moved and seconded.
5 Accept the minutes from the last meeting, all those in
6 favor say, Aye.

7 (Wherein, a chorus of ayes.)

8 MR. BAUMANN: All those opposed? The ayes
9 got it.

10 Any old business? A report from Jim Aubin.

11 MR. AUBIN: The report for this month is
12 going to be put on hold due to the fact that we have a
13 lot of work to do today, so we're going to forego that
14 report.

15 MR. BAUMANN: All right. We have --
16 according to 4B, we have a report on the CET from the
17 subcommittee.

18 MR. WELLER: We do. Would you like me to
19 read it?

20 MR. BAUMANN: I would.

21 MR. GREGORY: Do you have copies to pass
22 out?

23 MR. WELLER: I do not have copies to pass
24 out. I have one copy to read, and we can go from there.

1 MR. GRANT: I'd like to ask that we make
2 sure the Board gets copies of the report so we can look
3 at it before any action is taken, rather than a
4 recollection of a verbal description of that.

5 MR. WELLER: That's --

6 MR. BAUMANN: That's appropriate. So we
7 can -- do you want to read it, and then we can --

8 MR. WELLER: Go from there.

9 MR. BAUMANN: -- go from there?

10 MR. WELLER: Subcommittee was appointed by
11 Chairman Christensen. We met on December 19th. The
12 purpose of the meeting was to provide a motion to either
13 clarify the language and content of the vote taken on
14 November 3rd, 2011, regarding the CET/NAEC Program, make
15 a recommendation to rescind the vote or make no
16 recommendation at all.

17 So the referenced motion that Chairman
18 Christensen asked us to rule on -- is there a motion to
19 accept or not accept the NAEC Program, or if you want to
20 call it the CET, is there a motion? Mr. Gross made the
21 motion that we accept the program, and Mr. Wilson
22 seconded. Motion passed.

23 The initial subcommittee report that was
24 passed, the language said, "The request from the NAEC,

1 the State Board is to consider the CET Program as
2 included in the national elevator guidelines -- in their
3 national guidelines, be considered the equivalent of the
4 content of the national elevator industry and
5 educational program for the purposes of establishing,
6 eventually, apprenticeship programs in the State of
7 Illinois as required by Title 41, Chapter 2, Part 1000
8 -- Section 1080 for appropriate certification." So that
9 was the motion that we were asked to clarify.

10 So this is the report from December 19th.

11 "The Certified Elevator Technician CET
12 Education Program is sponsored and administered by the
13 National Association of Elevator Contractors, NAEC. The
14 CET Education Program is the recognized training program
15 included in NAEC's national guidelines for
16 apprenticeship standards, C2011-03, approved by the U.S.
17 Department of Labor, Office of Apprenticeship.

18 The purpose of the NAEC's guidelines for
19 apprenticeship standards, national guideline standards,
20 is to provide policy and guidance to local contractors,
21 sponsors to developing standards for apprenticeships for
22 local approval of registration. Title 29, Code of
23 Federal Regulation, CFR Part 29, outlines the
24 requirements for registration of acceptable

1 apprenticeship programs for federal purposes, and set
2 forth labor standards that safeguard the welfare of
3 apprentices and the public. Such registration by the
4 U.S. Department of Labor, Office of Apprenticeship, or
5 by a state apprenticeship agency recognized by the
6 Office of Apprenticeship as the appropriate body in the
7 state for approval of local apprenticeship programs for
8 federal purposes.

9 The subcommittee reviewed the powers and
10 committees of the Board, and the power of administrator
11 granted by 225 ILCS 312, and cannot ascertain the
12 authority to approve or disapprove training and/or
13 apprenticeship programs. However, we can recommend to
14 the administrator that the CET Education Program be
15 recognized as an acceptable elevator mechanic training
16 program that may be included in NAEC's national
17 guideline for apprenticeship standards, C2011-3, in
18 developing standards for apprenticeship for approval and
19 registration within Illinois, and further recommend that
20 a certificate of completion of an elevator mechanic
21 apprenticeship training program utilizing the CET
22 Education Program, and registered with the bureau of
23 apprenticeship and training, U.S. Department of Labor,
24 or a state apprenticeship council as acceptable in

1 meeting the licensure requirements of the Illinois
2 Administrative Code, Title 41, Chapter 11, Section
3 1080A, Section 1B3.

4 In reviewing the standards and testimony on
5 the interpretation of a nationally recognized training
6 program for the elevator industry, the subcommittee felt
7 further guidance to the administrator was warranted.
8 Testimony from all state holders identify the need to
9 identify, and in some cases differentiate a training
10 program from an apprenticeship program.

11 It seems clear from the minutes that several
12 current apprenticeship programs were training programs
13 in a subsequent time. It also seems apparent that any
14 program that certifies new elevator mechanics entering
15 the craft and trade within the State of Illinois, or
16 elsewhere, would need to complete an apprenticeship
17 training program vended and approved by an appropriate
18 regulator. In this case, the U.S. Department of Labor,
19 Office of Apprenticeship, and the Illinois Department of
20 Employment Security, through the Illinois Department of
21 Labor.

22 As such, the subcommittee further recommends
23 to the Board for approval the administrator be requested
24 to take a narrow view in interpreting the licensure

1 requirements of Title 41, Chapter 2, Section 1080A1, B2
2 and B4 to only include training programs that are or
3 were subsequently and specifically approved by the U.S.
4 Department of Labor or state apprenticeship council as
5 acceptable in meeting licensure requirements for the
6 State of Illinois. The subcommittee unanimously
7 recommends the following motion taken in context with
8 the notes entered into the official record be approved
9 by the Elevator Safety Board.

10 The Board recommends to the administrator of
11 jurisdiction that the CET Education Program be
12 recognized as an acceptable elevator mechanic training
13 program that may be included in NAEC's guidelines for
14 apprenticeship standard C2011-3 in developing standards
15 for apprenticeship for approval and registration within
16 Illinois, and further recommends that a certificate of
17 completion of an elevator mechanic apprenticeship
18 program utilizing the CET Education Program, and
19 registered within the bureau of apprenticeship training,
20 U.S. Department of Labor, or a state apprenticeship
21 council, be acceptable in meeting of licensure
22 requirements of Title 41, Chapter 2000.81B3.

23 The Board further recommends that the
24 administrator, OFSM, Office of State Fire Marshal, take

1 a narrow view in interpreting the licensing requirements
2 of Title 41, Chapter 2, Section 1000.81B2 and 4 to
3 include only training programs that are or were
4 subsequently and specifically approved by the U.S.
5 Department of Labor or a state apprenticeship council as
6 acceptable in meeting the licensure requirements for
7 Illinois."

8 I would ask that the subcommittee report be
9 approved and the motions accordingly be made.

10 MR. GREGORY: You can make the motion.

11 MR. BAUMANN: Is there a motion to be
12 approved? We already discussed that we weren't going
13 to --

14 MR. GRANT: Mr. Chair, my concern is that
15 looking at some of the language and recommendations made
16 from the subcommittee, references a number of sections
17 of the Act and the law that have an impact on how that
18 is applied, and I'd like to be able to see the specific
19 recommendation in that same context. I believe it's an
20 important relationship. I'm sure the committee pointed
21 that out, or the subcommittee pointed that out on
22 purpose, it's intended to show how those two mesh. I
23 don't know that I can recall what that language says in
24 the Act from my memory, and that puts me at a

1 disadvantage to vote and inform -- make an informed
2 position in voting on that.

3 MR. BAUMANN: Would you like to make a
4 motion to table it until the next meeting, until the
5 Board has an opportunity to read the --

6 MR. GRANT: I think that is something that
7 would be possible. I wondered, is there any other
8 solution available to us today that might address that
9 concern I have, that you can think of?

10 MR. WELLER: I have a copy that I can pass
11 around, my apologies for not. There was some changes in
12 the Leadership Board which --

13 MR. BAUMANN: That's why I think it would be
14 appropriate if we did do a -- tabled it until -- we can
15 still have the discussion. We understand there's a lot
16 of people here to discuss this, but to table the motion,
17 to accept or deny, whatever, or to accept the
18 subcommittee's report until the whole committee has an
19 opportunity to read it, and actually research it.

20 Is there a motion?

21 MR. JONES: I would like to motion we table
22 it so that we can have --

23 MR. GREGORY: That's a non-debatable --

24 MR. JONES: -- motion --

1 MR. BAUMANN: Motion's been made.

2 MR. JONES: Until we've had sufficient time
3 to -- it sounds like it's been very well researched, but
4 I think the Board members would take some time to look
5 at the language carefully, so whatever decision you
6 make, it will be in the best interest of the State of
7 Illinois.

8 MR. GANIERE: Point of information -- or,
9 actually, point of order, Mr. Chairman, the motion
10 should be to table agenda items 4B and C, because we
11 don't have a motion on the -- second on the report yet.

12 MR. BAUMANN: Correct. Motion will be
13 tabled, 4B and C.

14 MR. JONES: That motion can be adjusted. I
15 would go along with that.

16 MR. BAUMANN: Motion's been amended. Is
17 there a second for the motion?

18 MR. GROSS: Second.

19 MR. BAUMANN: Motioned and second. All in
20 favor?

21 (Wherein, a chorus of ayes.)

22 MR. BAUMANN: All opposed? The ayes have
23 it, tabled until the next meeting.

24 MR. GANIERE: Another point of information,

1 Mr. Chairman, that does not prevent us from having
2 discussion from anybody here in the public that wish to
3 address this issue today. Obviously, looking around,
4 there's been people that have traveled some quite
5 distance to come to talk about this issue today, and I
6 think they should be allowed to speak on it also.

7 MR. BAUMANN: Absolutely. That's what I
8 just said earlier.

9 Okay. Moving on to new business. You hold
10 off on that. Open up to public comment. Is there an
11 Amanda Smith?

12 MS. SMITH: I would like to defer to our
13 legal council, but maintain the right to speak. Thank
14 you.

15 MR. BAUMANN: Where is your legal counsel?

16 MR. KENNEDY: Chairman, my name is John
17 Kennedy for the National Association of Elevator
18 Contractors. I'm also here with co-counsel, John
19 Amarilio.

20 MR. BAUMANN: What was his name?

21 MR. KENNEDY: My name is John Kennedy, from
22 the Law Firm of Shefsky & Froelich.

23 MR. BAUMANN: And Jonathan?

24 MR. KENNEDY: Jonathan and Amarilio, and

1 Barton O'Brien is also here, and we're also here with
2 several members of the National Association of Elevator
3 Contractors who are very interested in agenda items 4B
4 and C.

5 MR. BAUMANN: Proceed.

6 MR. KENNEDY: Thank you. I appreciate it,
7 and I also, just for point of order, I advised counsel
8 for the Board that we've also brought our own court
9 reporter for today's proceedings as well.

10 MR. BAUMANN: Very well.

11 MR. KENNEDY: We would ask for a copy of the
12 subcommittee's report and the identity of all the
13 members of the subcommittee as part of the open record
14 in furtherance of this issue, because we will be
15 tracking this as it goes through the process so our
16 membership would also have benefit of that analysis and
17 recommendations.

18 MR. BAUMANN: I believe -- wouldn't the
19 subcommittee be reported on the next month's meeting
20 that were going to be -- or next month's minutes that
21 are going to be reported on the website?

22 MR. GREGORY: But you have to get them out
23 to the Board so they can read them before --

24 MR. BAUMANN: We just accepted the minutes.

1 MR. WELLER: The last minutes.

2 MR. BAUMANN: Right, but the subcommittee
3 was appointed.

4 MR. WELLER: The report was written to be
5 entered into the record, or however the Chair would and
6 counsel would like it to be distributed. It's to be
7 open and viewed accordingly.

8 MR. GRANT: Excuse me.

9 MR. BAUMANN: Go right ahead.

10 MR. GRANT: Are the members' names of the
11 committee on that report?

12 MR. WELLER: The report is thorough, and
13 includes where we met, when we met, who met.

14 MR. GRANT: Does that perhaps provide you
15 the information you would be looking for?

16 MR. KENNEDY: If we have a copy of the
17 report that certifies those issues, that would be great.

18 MR. GREGORY: Dan, you want to make sure
19 that this whole Board has a copy of the report.

20 MR. BAUMANN: The subcommittee report?

21 MR. GREGORY: Yeah.

22 MR. WELLER: I'm going to hand it officially
23 to legal counsel of the Board, and then from what -- it
24 can be distributed from counsel accordingly.

1 MR. BAUMANN: Okay.

2 MS. STINSON-MARTI: We just discussed we
3 would get a copy of the report, scan it, and make it
4 available to all the Board members. We can do it as
5 early as the end of this week, I think.

6 MR. KENNEDY: Thank you, Mr. Chairman. May
7 I step out here?

8 MR. BAUMANN: Absolutely.

9 MR. KENNEDY: For the record, my name is
10 John Kennedy, and I'm here on behalf of the National
11 Association of Elevator Contractors -- for those of you
12 who don't know what NAEC is, it is a National
13 Association of Elevator Contractors that has over 650
14 members, including shops and union shops, and it
15 represents the entire industry, and it is well
16 represented across the country.

17 The issue that's raised by the
18 subcommittee's report, in our view, is improperly
19 brought. The position of the NAEC is that there's no
20 basis to, quote, clarify anything in this record, and,
21 in fact, the procedural posture of the issues before the
22 Board is not in the context of clarification. The
23 record will show that a motion to rescind a prior Board
24 approval of any EC's -- CET Program was on the table and

1 approved by the prior Board action. Not a motion to
2 clarify. And that's a very important issue, because it
3 is a little bit of a two-step to recast what's on the
4 table for a motion to rescind, to a motion to clarify,
5 and the reason it's a bit of a two-step is no
6 clarification is necessary.

7 On November 3, 2011, this Board approved the
8 NAEC/CET Program under Section C3 of the Illinois
9 Statute. That's what was approved on November 3, 2011.
10 A motion was then brought ten months later, in August,
11 to rescind that prior approval without any basis and
12 fact, and in violation of constitutional law, and NAEC
13 is here to let the Board know that it made the right
14 decision in November of 2011, and it ought not attempt
15 to unwind that decision now.

16 We've prepared legal papers, and we'll share
17 those with the Board, and ask they be submitted into the
18 record as well, but let me summarize those papers, and a
19 dually qualified vote with a quorum, and a majority, the
20 Board passed the CET and enacted -- and approved the CET
21 Program as the equivalent of the NEIEP Program; and it
22 did so under Section C3 of the Statute.

23 That hasn't changed, and nothing since then
24 has changed. The NAEC/CET Program is just as equivalent

1 today as it was equivalent then, and there's no basis,
2 in fact, to change that. No notice has been given to
3 our folks that something has changed, no evidence has
4 been brought forward to suggest that the CET Program is
5 anything less than equivalent, no witnesses have come
6 forward, no due process rights have been protected, and
7 yet, NAEC, and all its members went through this motion
8 to clarify, via by divested of protectable interest
9 under the law, taken away, if I understand the
10 subcommittee's oral representations today, taken away,
11 and substituted with something entirely different.

12 But there is an interesting point of
13 clarification. For those of you who are familiar with
14 the enabling statutes that you all operate under, and
15 the CET qualifications, a fair argument can be made, if
16 I understand the subcommittee's report, that if you
17 approve apprenticeship, you automatically approve the
18 educational program, and the right to sit for the
19 examination; and by approving the apprenticeship program
20 under C4, which is the basis for the motion to clarify
21 that's before you today, you automatically granted C3
22 equivalency underneath, and for those of you who want to
23 study this report, and counsel for the Fire Marshal, I
24 urge you to take a look at that, because it seems to me,

1 a fair reading of the statute would be, C4, approval of
2 the entire apprenticeship program, which includes the
3 educational curriculum that's embodied in C3, and a
4 certification of the examination, which is embodied in
5 C3. By approving C4, our apprenticeship program, you've
6 now granted both C3 approval and C4 approval.

7 We haven't asked for approval of our
8 apprenticeship program. We've asked for -- and the
9 Board has approved our educational and examination
10 certification program under C3. The attempt to try and
11 divest NAEC of that prior certification, and deviant
12 determination of equivalence underneath, may have
13 backfired if there's an attempt to substitute C3 with
14 now C4.

15 So why are we here? NAEC's here with full
16 force, with all of its members, because it's important
17 for this organization to have its educational and
18 examination certification program dually recognized in
19 Illinois, as it has been for the last year-and-a-half.
20 And when you go through the record, and we've got the
21 record attached to our papers, when we're talking about
22 the CET Program, we're not talking about something that
23 somebody just made up, and said, let's try this, we're
24 talking about a curriculum and an examination protocol

1 that has been recognized by the United States Department
2 of Labor and all of its standards, and that
3 accreditation has not changed. We've been recognized
4 either explicitly by a statute or through hearings like
5 this, with sister agencies like yourselves, in 16
6 states. We're also recognized in Puerto Rico and
7 Washington DC.

8 So this program stresses safety and
9 competence in all areas of elevator mechanics and
10 contractor reconstruction. And you folks are the pros
11 at this. You know this industry better than anyone, and
12 you know that the quality of this program -- because
13 it's already been determined by this Board. The quality
14 of this program is right on, and it is, in fact, in law,
15 the equivalent of NEIEP.

16 So when we're talking about this program,
17 we're talking about a program with a solid foundation,
18 with the Department of Labor. It has been recognized by
19 states across this entire country, and it works, and it
20 works because experience shows that it works.

21 So when you look at the record, and you'll
22 see in the record -- and I'm quoting now from page --
23 from the report of proceedings from November 3, 2011, a
24 meeting chaired by Mr. Christensen -- Mr. Smartd made a

1 statement -- S-m-a-r-t-d -- prayed for the issue before
2 the Board, that was the predicate for the vote, which
3 was approved, and he said, and Mr. Smartd is here, and
4 he said, "We're asking for the individuals that have
5 gone through the entire program, with all the testing,
6 the skill sets, working underneath the mechanic
7 verification, the final exam and certifying an exam, and
8 everything, we want you to recognize those." Couldn't
9 be more clear. Couldn't be more clear.

10 Chairman Jones then said, of the
11 subcommittee, page 46, "Our purpose of our subcommittee
12 is to determine reasonable equivalency," and I think
13 that that's been demonstrated, here are some of the
14 reasons why.

15 "In an effort to consider the recognition of
16 this program, we're looking at the fact that the United
17 States Department of Labor, Office of Apprenticeship has
18 approved the program, both CET and NEIEP are listed with
19 the Bureau of Labor Statistics, in their handbook the
20 program is accredited by the American National Standards
21 Institute; so from what I can determine, and what our
22 subcommittee determines, there's nothing in our research
23 that would indicate that their program should be
24 denied."

1 So that's our viewpoint. That was the
2 report from the chair of the subcommittee as it was
3 constituted back in November. And at the end of that
4 session a vote was taken by a member of the meeting with
5 a quorum, and it was passed with a majority vote
6 pursuant to the Board's bylaws.

7 So that's the procedural context. There's
8 no clarification required here. But if it goes further,
9 what's the consequences of it? Consequences for the
10 industry is that you have a bona fide educational
11 program tested, tried and true, approved by the Federal
12 Government of the United States Department of Labor to
13 train folks who want access to this industry. Why
14 wouldn't you, as a matter of policy, encourage an
15 equivalent program like this one?

16 What are the legal ramifications? If the
17 result of a motion to clarify is not to expand NAEC's
18 programming, as I've suggested it may, but is actually
19 to try and bar NAEC from educating folks here, and
20 sitting for the examination here, and becoming licensed
21 here, if that's the result -- this is an administrative
22 agency of the executive branch of the State of Illinois,
23 subject to the Administrative Review Act, and the
24 Administrative Review Act includes all the limitations

1 of powers imposed on a Board like this, and counsel will
2 talk to you about that, I'm sure, in executive session
3 if it goes that far.

4 The United States Constitution and the
5 Illinois Constitution provide some protections for
6 individuals like all of us, and for companies, and
7 agencies, and national associations. Think about it
8 like a liquor license, or a permit to do business. Once
9 the government confers a benefit, and grants a right,
10 you have a right to do this, and people rely on that
11 now, the government cannot pull that right back in an
12 arbitrary way. The lawyers call it substantive due
13 process. The government can't in an arbitrary and
14 capricious way impose regulations or enact orders or
15 grant motion as to clarify that takes away a protectable
16 interest under the law.

17 How do we know this is arbitrary if that's
18 the result we're looking at, because there is no facts,
19 no basis to unwind what was done a
20 year-and-almost-a-half ago. And there's no notice.
21 What has NAEC's CET Program, how has that changed since
22 this Board approved it 16 months ago? There's nothing
23 in this record, nothing certainly in the subcommittee
24 report that it's changed.

1 So what we're asking this Board to do is
2 affirm -- deny the motion to clarify, deny the motion to
3 rescind if that's what it's going to be recast as, and
4 allow the CET Program to continue as its been operating
5 under Section C3 of the Illinois Statute to allow the
6 affirmation that the CET Program is the reasonable
7 equivalent of the NEIEP Program.

8 I have a brief and opposition to the motion.
9 We've cast it as a motion to rescind -- an opposition to
10 the motion to rescind, because that's what the record
11 suggested. We would like the opportunity, if necessary,
12 to supplement our legal papers so that the Board is
13 fully informed of all the consequences of this
14 deliberation. This is a very important issue, and I
15 appreciate a motion to table this subcommittee report so
16 everybody can take a look at it and think this thing
17 through.

18 Because when you look at who's unfairly
19 prejudiced, who's unfairly prejudiced if you bar the CET
20 Program? The industry is unfairly prejudiced, and those
21 folks who want to take the examination through the CET
22 Program are unfairly prejudiced. There are no winners.
23 When you talk about the quality of the curriculum, when
24 you talk about the quality of the educational program

1 and the examination, and that's what I'm talking about,
2 there's only losers if you rescind.

3 So, with that, Chairman, and I know -- I
4 appreciate your time. If I could make -- submit a
5 report, a brief into the public record, I'll call it
6 NAEC's Exhibit 1, opposition to motion to rescind.

7 MR. BAUMANN: I don't think that's a
8 problem.

9 MR. KENNEDY: Should I provide that to
10 counsel?

11 MR. BAUMANN: That'd be fine.

12 MR. KENNEDY: And I believe we have copies
13 for everyone.

14 MR. BAUMANN: That'd be fine.

15 MR. WELLER: Can I ask a couple questions?

16 MR. BAUMANN: I was going to say, are you
17 completed with your report right now?

18 MR. KENNEDY: I am, with a right to come
19 back.

20 MR. WELLER: First off, based on what you
21 just said, it's a very nice argument, but did you not
22 hear the subcommittee's report?

23 MR. KENNEDY: I heard it once.

24 MR. WELLER: Basically, we said everything

1 that you just said.

2 MR. KENNEDY: That would be great, Member
3 Weller. What I'd like to do is make sure that the
4 results of the subcommittee report reflects what we
5 think we've already obtained a year-and-a-quarter ago,
6 and that is the opportunity to do business under C3, to
7 provide our educational and certification programs under
8 C3 of the Statute.

9 What I thought I heard was that we were
10 being knocked out of the C3 authorization and being
11 given C4 authorization, which is an entirely -- has
12 entirely different ramifications.

13 MR. WELLER: No, no. So what would C3 apply
14 to? Whom would come under C3 jurisdiction?

15 MR. KENNEDY: Well, I will defer to some of
16 our folks here. Mr. Smartd can certainly talk to that
17 as well.

18 MR. WELLER: So C3 is specific to a certain
19 group of people, whom?

20 MR. SMARTD: People who have an existing --
21 my name's David Smartd. C3 would be the existing -- say
22 somebody who had -- we'll use -- we'll go to NEIEP,
23 because a lot of people understand NEIEP. Prior to,
24 say, they had their NEIEP IN 1978, prior to an

1 apprenticeship program; they've taken the NEIEP test,
2 that qualifies them for a license within the state.

3 Those prior to being able to get into the --
4 I guess it would be 2005, or when NAEC developed their
5 apprenticeship program, prior to that, it had gotten
6 attested to get their license as well, just like the
7 NEIEP.

8 MR. WELLER: No issues with that. The only
9 issue is that program needed to go on and subsequently
10 become an approved apprenticeship program.

11 MR. SMARTD: We haven't applied for that at
12 this time.

13 MR. WELLER: Then, when you do, you will be
14 recognized. That's --

15 MR. SMARTD: And continue on the way we are
16 now?

17 MR. WELLER: It was not the Board's decision
18 to look and to say, okay, is this an approved
19 apprenticeship program or not. That's not our -- I
20 don't have any skill set in determining that. What I do
21 have is, A, I want to clarify, your first argument was
22 that the motion technically was out of order because we
23 can't make a motion to rescind; is that your argument?

24 MR. KENNEDY: No.

1 MR. WELLER: Okay. So we can modify the
2 motion.

3 MR. KENNEDY: No, I'm not conceding that
4 point at all. All I'm saying is that procedural posture
5 of this issue was casted in the context of a motion to
6 rescind. First, somebody raised the question, I want to
7 move to consider, and counsel said, under Roberts Rules,
8 you can't reconsider unless you're from the
9 majority that actually approved --

10 MR. WELLER: Let's put that aside. Do we
11 have the ability to clarify a motion that we made as a
12 Board, as a public board?

13 MR. KENNEDY: I'll defer to your counsel.
14 My point is this, there's nothing to clarify.

15 MR. WELLER: Well, that's an opinion, and we
16 have an opinion that we felt, after three meetings, that
17 we needed to clarify, and I think there was a lot of due
18 process from trying to find out from this vague vote
19 that we made, and you've read it just like I have,
20 right? That we needed to understand what that meant,
21 and we took it very seriously, went back, and said, all
22 right, what do you want us to do, Mr. Chairman? And he
23 said, here's the three things that I want you to
24 consider: Either make it clarify so that -- which is

1 why we went to a level of the detail that we went to, so
2 that all of us understand what this means, either bring
3 it back and say, strike it down or affirm it. So those
4 are the three choices we were given as a subcommittee.
5 Now, is that inappropriate?

6 MR. KENNEDY: The process?

7 MR. WELLER: Because your first argument was
8 that we did something we couldn't do because we -- we're
9 taking some past right away.

10 MR. KENNEDY: It is entirely inappropriate.

11 MR. WELLER: Okay. So let's stop there.

12 MR. BAUMANN: One at a time.

13 MR. KENNEDY: Let me finish my thought. It
14 is entirely inappropriate to divest NAEC of the rights
15 that were granted on November 3, 2011.

16 MR. WELLER: So we can't modify the motion?

17 MR. KENNEDY: You cannot divest protectable
18 rights. So the answer to your question is, in our view,
19 you cannot divest us of that right.

20 MR. WELLER: All right. So let's go back,
21 and what it says in -- that was voted on, was the
22 request -- the NAEC State Board is to consider the CET
23 Program as included in their national guidelines, be
24 considered the equivalent of the content of the national

1 elevator industry and educational purposes for
2 establishing and eventually S-I-C -- they didn't get the
3 wording quite right -- apprenticeship programs in the
4 State of Illinois, right? Which give -- gave them the
5 ability under Chapter 2, Part 1000, Section 1080 for
6 appropriate certification. So that's what the motion
7 was, and I believe the subcommittee came back and
8 essentially said the same thing.

9 I mean, you know, it's a wonderful debate,
10 but when we're talking about what the original motion
11 was, and what we came back and said, I don't think that
12 there is any disagreement that any of us looked at the
13 training program, and if it's included in the
14 apprenticeship program, it is what it is.

15 MR. KENNEDY: Well, then we might not have
16 any problem at all. If this Board determines that NAEC
17 is qualified under C3 and C4, we don't have an issue.

18 MR. WELLER: But we can't determine whether
19 you're qualified or not. All we can do is say,
20 listen --

21 MR. KENNEDY: A finding of equivalency.

22 MR. WELLER: -- based on these criteria that
23 you've given us, right? So here's the four ways you can
24 get licensure in the State of Illinois, and by the way,

1 I do think we do have authority in some respects,
2 because it says no license shall be granted to any
3 person who has not proven his or her ability. So, even
4 though we've got some specifics in here, this broad
5 general statement tells us that we can determine what is
6 equivalent or what is appropriate level of training.

7 MR. KENNEDY: For individual applicants?

8 MR. WELLER: That's what the statute and the
9 appellant grants.

10 MR. KENNEDY: I'm talking about C3.

11 MR. WELLER: This is the header for Section
12 C3.

13 MR. KENNEDY: And we're talking about an
14 organizations reasonable equivalency?

15 MR. WELLER: Right, but this is the header
16 for C3, so all of these items fall underneath the
17 header, which is B, which gives us the authority, no
18 license shall be granted to any person who has not
19 proven his or her abilities, qualifications and ability.

20 So they've given us this header, and said,
21 here's your context to work in, here are the things that
22 we want you to look at, this is the legislature, here
23 are the things, right? Now we're recognizing that
24 you've got this grandfather clause, and you've got these

1 other ways to get into your licensure, so that was
2 necessary, we saw that; we saw that the legislature
3 clearly -- because when the statute was passed, it was
4 after the switching through apprenticeship programs, but
5 there's still quite a few people in the pipeline that
6 had training programs that, as you've mentioned, were
7 not apprenticeship programs, so the legislature had to
8 look at that and say, all right, so here's this retro
9 fix that we've got to make, because you've got all these
10 people out there who we want to have a smooth
11 transition, and a smooth business environment, so we
12 don't want to eliminate these people, because they
13 didn't have an apprenticeship program. From my
14 understanding, we didn't have apprenticeship programs
15 until early 2000. So you had all of these people who
16 fall into this.

17 So, legislature put this in here, and they
18 made the statement that says, as long as the training
19 program is equivalent to an actual elevator education
20 program, or its equivalent, all right? So, you know,
21 we're not trying to read too much into it. What does
22 that mean? Well, that means something equivalent.

23 Well, the only equivalency that we can gauge
24 on is what the Department of Labor, Bureau of

1 Apprenticeship Program has said is an appropriate
2 training program, okay? So that's not my call, that's
3 what the federal government comes in and does, or the
4 Illinois Department of Employment Security via Illinois
5 Department of Labor. So if they say it's an appropriate
6 apprenticeship program, it's an appropriate
7 apprenticeship program.

8 So if you've got that -- so if I went to --
9 and here's the ones in Kentucky, because it's an
10 interesting debate, you know, you can go right on
11 Pathways of Success, anybody, and you can find exactly
12 who the approved apprenticeship programs are, and NAEC
13 has several of them, but if you go to Kentucky, and I'm
14 just going to guess, I don't know this, but DC Elevator,
15 my guess would not be an NA -- a union -- and I always
16 get the acronyms wrong, but it wouldn't be a union --
17 apprenticeship program, but DC Elevator has one in
18 Kentucky, okay?

19 I don't know whether that's a good program
20 or not, I don't think the Board can determine whether
21 that's a good program. But if the Department of Labor
22 certifies them as an apprenticeship program, I don't
23 know that we have any other option but to recognize that
24 as an approved training program, an apprenticeship

1 program. I can't see how we debate that.

2 Now, if it's someone who has not gone
3 through the status of coming up with an apprenticeship
4 program, and having certified with the Department of
5 Labor, and meeting all of the requirements that veterans
6 preference, disability preference, male and
7 female preference, if you're not going to do all of
8 that, then we're not going to buy into that.

9 But if you're going to go through the
10 process, and you're going to make it legitimate, you're
11 going to register your apprenticeship program, it is
12 what it is. It's a nonunion issue. It's training, it's
13 appropriate, it's determined by an outside adjudicator,
14 and we've made the recommendation that that training is
15 done, and the apprenticeship program is approved, that
16 that licensure be recognized. I'm waiting for the
17 debate.

18 MR. KENNEDY: I'm prepared to answer. I
19 didn't know if you were done yet. Can I have a moment?

20 MR. BAUMANN: Go right ahead.

21 MR. KENNEDY: As to the first point, with
22 respect to whether the Board can or the license can be
23 withheld to a particular applicant, what the statute
24 provides, and which is the predicate for the Board's

1 authority, the statute provides, applicants for elevator
2 mechanics licenses must demonstrate one of the following
3 qualifications, and then it proceeds to the five
4 options, almost a menu. C4 is going through an
5 apprenticeship program, which includes the four-year
6 educational program, examination, and certification.

7 Now, for someone with 15 years of
8 experience, and thousands and thousands and thousands of
9 hours on the job, who's at the top of their game, to
10 force them to go through a four-year apprenticeship
11 program makes no sense.

12 MR. WELLER: They don't have to.

13 MR. KENNEDY: Bear with me. Bear with me,
14 and I'm glad to hear you say that, because I don't know
15 if we're really arguing anymore, Mr. Member Weller,
16 because under C3, if what you're telling us is that
17 NAEC'S CET program --

18 MR. WELLER: It has nothing to do with C3.
19 You already have the ability under C1 -- under B1.

20 MR. KENNEDY: Here's my point, and if we're
21 in agreement --

22 MR. WELLER: You're trying to make something
23 that's not there, there.

24 MR. KENNEDY: I disagree with you.

1 MR. WELLER: Okay. Let's go through with
2 it.

3 MR. KENNEDY: I respectfully disagree with
4 you, and I don't want to repeat the record. Our point
5 is this. We believe that the November 3rd, 2011, vote
6 granted reasonable equivalency between NEIEP and a CET
7 educational program as it's sponsored through NAEC, and
8 it is a pale substitute to say no to that, but we'll
9 give you apprenticeship recognition unless the
10 apprenticeship recognition subsumes C3, so that we have
11 both.

12 MR. WELLER: But that's right from your
13 website. Your own NAEC website says that the guidelines
14 are part of a training program that is an apprenticeship
15 program.

16 MR. KENNEDY: And if that's the case, if
17 we're not in dispute, then what I would invite, and I
18 think I'd probably need the approval of everybody on the
19 Board, is that I work with your legal counsel to craft
20 an order that reflects precisely that.

21 MR. WELLER: I don't think we need any -- we
22 have a subcommittee report, we're going to table it, you
23 have the ability to come in and make a recommendation.
24 I don't think it's an appropriate -- I mean, that's just

1 me, but I want to get back and walk through your comment
2 that you said, if your guy's highly trained, he's coming
3 in, so you've got to give me some background here. Is
4 he from another state?

5 MR. KENNEDY: He's from another state.

6 MR. WELLER: He's from another state, highly
7 trained. So he wants to come to Illinois and work.
8 What's his option?

9 MR. KENNEDY: You tell me.

10 MR. WELLER: Well, I can read all four of
11 them, all right? So he can show three years of work
12 experience, which he obviously can, and he can sit for
13 the test. So you take the test, you pass it, you got
14 the work experience, go right to work. I don't see an
15 issue there, all right?

16 Two, a certification of a complete -- of the
17 mechanics examination nationally recognized -- so we
18 just had this debate. So if it's a training program
19 that has subsequently been approved by the Department of
20 Labor, apprenticeship council, right? And you did it in
21 1979, in 1988, it was approved, I think we've talked
22 about this with a couple of members, how do we determine
23 that's good or not good? That's the Department of
24 Labor's call. So, okay, that's good.

1 Now, you go through an apprenticeship
2 program, whether it's in the State of Illinois or not,
3 if it's an approved apprenticeship program, whether it's
4 DC Elevator or the Internation Union of Elevator
5 Instructors, they're both on the list, and this is a
6 list that's published; it's right off the website. So
7 now you come into four, and you go, all right, you have
8 a valid license from a state having substantial -- equal
9 to the state.

10 So what state did he come from? I'm going
11 to leave it up to the department of -- or the regulator,
12 because they are actually making that call to say
13 whether it's equivalent or not, but we take -- giving us
14 a guidance, and say, is it the state, and the state was
15 a state that had an approved apprenticeship program, or
16 training program that subsequently became an
17 apprenticeship program, that should give you clarity to
18 make the ruling.

19 So those are your four ways. So I don't see
20 how your guy is disadvantaged.

21 MR. KENNEDY: Can I ask you a question?

22 MR. WELLER: Yeah.

23 MR. KENNEDY: Can they sit -- can they take
24 our educational program, our four-year educational

1 program without an apprenticeship, take the examination
2 and get their license under C3, under this Board's
3 authority? Can they do that through NAEC?

4 MR. WELLER: What training program did they
5 go through? Was it one of the -- was it DC Elevators?

6 MR. KENNEDY: It's the training program --
7 it's the educational program that this Board previously
8 approved on November 3, 2011.

9 MR. WELLER: No, what the Board approved --

10 MR. KENNEDY: Let me finish my --

11 MR. BAUMANN: Guys, guys.

12 MR. WELLER: -- that can be applied in an
13 apprenticeship program. It did not approve the training
14 program.

15 MR. KENNEDY: Sir, I did not interrupt you.
16 I ask for the same courtesy. The NAEC educational
17 curriculum examination and certification protocol has
18 been tested and approved. To your question, or your
19 option of what can somebody do to get licensed, my
20 question, and it really frames the issue, can they go
21 through the NAEC CET Program, four-year educational
22 program, sit for the exam and get their license without
23 having to go through an apprenticeship program? Because
24 that's what C3, in my opinion, provides. That's not

1 what you answered, and that, respectfully, Mr. Chairman,
2 is why I'm here.

3 MR. BAUMANN: Just to let you know, too, in
4 open meetings, you keep it within ten minutes, and
5 you're well beyond that.

6 MR. KENNEDY: I appreciate the courtesy, and
7 if you're asking me to sit down, I'll just leave it at
8 that.

9 MR. BAUMANN: Are you completed with your --
10 I mean, like you said --

11 MR. KENNEDY: I hope so.

12 MR. BAUMANN: Within ten minutes.

13 MR. KENNEDY: Yes.

14 MR. BAUMANN: All right. David Smartd
15 already -- do you want to continue?

16 MR. SMARTD: If anybody has any questions or
17 whatever, I'll answer them, but I'll stand down and let
18 you move to something else.

19 MR. BAUMANN: Faye Powell?

20 MS. POWELL: I'll defer.

21 MR. BAUMANN: Mark Urban?

22 MR. URBAN: No comment.

23 MR. BAUMANN: Philip Reid?

24 MR. REID: I will defer at this time.

1 MR. BAUMANN: John Curzon?

2 MR. CURZON: Deferred to the NAEC counsel.

3 MR. BAUMANN: Karen Kennedy?

4 MS. KENNEDY: I'll defer at this time.

5 MR. BAUMANN: Alison Allgaier.

6 MS. ALLGAIER: Allgaier.

7 MR. BAUMANN: Allgaier.

8 MS. ALLGAIER: I would like to make a
9 statement. My name is Allison Allgaier, and I am the
10 president and owner of Phoenix Modular Elevator. We are
11 a licensed elevator contractor in Mount Vernon in
12 Southern Illinois. We manufacture modular elevators
13 that are shipped throughout north America, and we also
14 run a local service and repair company.

15 Elevator owners in Southern Illinois
16 historically have had to contract with companies in St.
17 Louis, Missouri or Evansville, Indiana for their
18 elevator maintenance. While these out-of-state
19 companies do have a few local reps that cover routine
20 maintenance when service and repair is needed,
21 mechanics are typically deployed from the home state to
22 do this work, increasing cost for the Illinois
23 businesses due to charges for travel time and mileage.
24 And the money is all sent out of state to their parent

1 companies. Similarly, individuals or companies that
2 want to install new elevators or conveyances to improve
3 access for their families, customers or employees, must
4 go to these out-of-state companies, which cost more
5 because of the traveling expenses they must fund. This
6 additional cost would be a deterrent to improving
7 accessibility.

8 Seeing that this market was underserved, and
9 that there were no licensed elevator contractors based
10 in Southern Illinois, we started up a maintenance
11 department two-and-half years ago to provide more
12 cost-effective elevator services to the region. We have
13 had to recruit mechanics from upstate or out-of-state,
14 and we have found that there are not many qualified
15 mechanics eager to relocate to Southern Illinois. Thus,
16 our strategy to grow and to be able to serve a larger
17 portion of the market is to train our own employees,
18 some of whom have been constructing modular elevators
19 for over ten years, and have worked as helpers in the
20 field to our mechanics, and are thus good candidates for
21 this additional education and training.

22 The CET is our chosen vehicle to do this.
23 We plan, in the next year, to have a mechanic licensed
24 as a CET-S, and to begin the educational classes and

1 field training for our employees. Allowing the CET to
2 continue as a vehicle to mechanics licensure will enable
3 us to further develop the workforce in Southern
4 Illinois, creating better-paying jobs. And in these
5 times of tight budgets for everyone, it will ensure that
6 we can continue to provide cost-effective, locally based
7 elevator services to the businesses, schools, churches,
8 and government entities in our region.

9 MR. BAUMANN: Any questions? None. Thank
10 you.

11 Steven Carndall?

12 MR. CARNDALL: I'll defer at this time.

13 MR. BAUMANN: Elizabeth Carndall?

14 MS. CARNDALL: No comment.

15 MR. BAUMANN: Tami Carlsen?

16 MS. CARLSEN: No comment.

17 MR. BAUMANN: Ron Carlsen?

18 MR. CARLSEN: No comment.

19 MR. BAUMANN: Patrick Edwards?

20 MR. EDWARDS: Defer at this time.

21 MR. BAUMANN: Terry Shanklin.

22 MR. SHANKLIN: Morning. My name's Terry
23 Shanklin. I'd like to start out by thanking the
24 subcommittee for all the hard work they do, and I think

1 it was a pretty good thing to do.

2 I disagree with Mr. Kennedy in -- regarding
3 about the CET. There was information material that was
4 rendered through this Board regarding the actions of the
5 CET, not -- there was no complaint from me, myself, as
6 far as the material, but it was the administration and
7 the proctoring in the program that was problematic.

8 With the past history, I think it's a good
9 time -- anybody here would say that in today's world the
10 four-lane highway is better than a two-lane highway. So
11 I would welcome, it's good for the entire industry to
12 have another avenue to do it as long as the standards
13 that they set are adhered to. Herein lies the problem
14 that I see with the program.

15 If I was administrating a program, I would
16 welcome a third party, an unbiased third party, such as
17 the Department of Labor. When they come in and they
18 register, they register -- whoever uses the CET,
19 registers in the apprenticeship program, and goes
20 through the training and education and uses that, I
21 don't have a problem with it. If somebody comes in as a
22 transient, and they come and they show documentation, a
23 certificate of completion of a program, I have
24 absolutely no problem with it.

1 The thing is, there has to be some oversight
2 as to how the program is administered. I have here 1281
3 questions with answers, right, for people who can
4 grandfather in. Bought it online for \$35, all right?
5 I'm not going to argue with this being a training tool,
6 right? Could be a great training tool, depending how
7 it's used. If I proctor a test for an individual, and I
8 say, here, take that, make sure you miss a couple, I'll
9 be back in an hour, all right, that's not what I call
10 proctoring a test, right? It's not good for anybody,
11 all right? It's how the material is used, and I think
12 it's been misused in the past. In different instances I
13 think it will in the future, unless there's a third
14 party to oversee how the program is administered, and
15 how those tests are proctored, and they have to adhere
16 to the standards.

17 I'd like to thank you guys for your hard
18 work. That would be fine. I would have no problem with
19 that.

20 MR. BAUMANN: Are you done? Any questions
21 for him?

22 MR. GRANT: I just wanted to ask for
23 clarification. The materials that were distributed at
24 the prior meeting that Mr. Shanklin's referring to, are

1 they in any way, shape or form incorporated with the
2 minutes from that hearing? Are they available to the
3 people who wish to see what information has been
4 presented to the Board on a topic like this, and it
5 would seem relevant to the discussion at hand to have
6 that information that was presented at that prior Board
7 meeting by Mr. Shanklin, with the State of Delaware
8 Department of Labor, Division of Industrial Affairs, as
9 well as those other documents from the law offices. Is
10 any of that out there?

11 MR. SHANKLIN: I would recommend this. On
12 my thoughts, that's the past. The way I look at it,
13 that was done in the past. Erase the board and start
14 anew. That -- what happened with Delaware Elevator in
15 Delaware with the Department of Labor and those
16 individuals, that shouldn't reflect on an individual who
17 wants to come into Illinois, start an apprenticeship
18 program and use the CET Program. I think the CET
19 Program could be a very good educational program, right,
20 if it's administered properly. But just to have
21 somebody able to do what they will, what they want to do
22 unarbitrarily, with no -- just do whatever they want to
23 do with the program, that's not right.

24 So if they register with the Department of

1 Labor, and they are overseeing, and they adhere to their
2 standards, I have absolutely no problem, and I don't
3 think NEIEP nor the elevator industry in general will
4 have a problem with it, if they adhere to their
5 standards.

6 MR. GANIERE: Mr. Shanklin, can I see that
7 book for a second?

8 MR. SHANKLIN: There's a couple of them out
9 there. This is for the grandfather. But there's 1281
10 questions. And the teaching questions and teaching
11 answers, because I have taught in the program in NEIEP,
12 and that's a good method to do it, but there's a
13 procedure that has to be followed to ascertain a lot of
14 those answers to those questions. So just having the
15 answer is not really the answer. You can hold that.

16 MR. GANIERE: No, that's all right. I
17 see --

18 MR. SHANKLIN: The answers are in the back.

19 MR. GANIERE: It's kind of dated, October 1,
20 2002 to December 31st, 2004. Do you know if there's
21 anything that's been published to update this?

22 MR. SHANKLIN: I haven't -- you know, I
23 don't have to work with those to do that, I just get on
24 the --

1 MR. GANIERE: Okay. Thank you.

2 MR. BAUMANN: Any other questions?

3 MR. SMARTD: Can I just ask, just a point of
4 clarification. That was a book that was not even
5 utilized anymore, they don't make it anymore. That
6 isn't -- any of those questions on there aren't even on
7 the certifying test, hasn't been for years. It was a
8 tool they used back when it first started to give people
9 an educational means, and guides of ideas and thoughts
10 of something that might be studied. It is not on the
11 test currently, has not been for years. None of those
12 questions are.

13 MR. BAUMANN: Okay.

14 MR. SMARTD: And nobody ever gives a book,
15 and says, here, just miss a few. I've never known that
16 to happen.

17 MR. BAUMANN: I already asked if they wanted
18 to talk. They said they deferred.

19 MR. KENNEDY: Chairman Baumann?

20 MR. BAUMANN: I'll go through the list, and
21 I'll be more than happy to -- Patty Young?

22 MS. YOUNG: I have no comment for this topic
23 at this time, however, I reserve the right to comment on
24 anything that continues on in this meeting.

1 MR. BAUMANN: David? You deferred --

2 MR. SMARTD: I'll defer.

3 MR. BAUMANN: Thank you. I'll give a little
4 leniency to talk.

5 MR. KENNEDY: Two minutes. I want to just
6 respond to Member Weller's comments about the authority
7 of the Board, and it's an important question, a
8 suggestion that the Board doesn't have the authority to
9 determine equivalency. In fact, the Board does have
10 that authority to determine equivalency, and it's
11 already done so. Section 35A states of the enabling
12 Statute 225 ILCS 312, Section 35A, a pochester part,
13 "The Board shall consult with engineering authorities
14 and organizations and adopt rules consistent with the
15 provisions of this Act for the administration and
16 enforcement of this Act." And included, then, within
17 the Act, you get to the section dealing with C1, 2, 3
18 and 4, that we talked about a lot earlier, and it then
19 says there, "as part of the Board's authority,"
20 following the first sentence of the statute.

21 "Applicant's for an elevator mechanics
22 license must demonstrate one of the following
23 qualifications," then you go to C3, "a certificate of
24 successful completion of a mechanic examination of a

1 nationally recognized program, training program for the
2 elevator industry, such as the national elevator
3 industry educational program or its equivalent."

4 The point I'm just simply making is the
5 Board does have the authority, and has exercised the
6 authority to determine that the NAEC CET Program was
7 that equivalent, and it ought not unwind that.

8 With respect to the past comments that were
9 made, just a couple objections for the record. One, the
10 suggestion -- it's almost like, when's the last time you
11 beat your wife criticisms that you just heard. The
12 suggestion by innuendo is NAEC does not proctor this
13 examination properly or administer the examination
14 properly.

15 There's nothing in the records to establish
16 that at all, and it's offensive. These examinations are
17 subject to proctoring protocols, including notaries, and
18 many cases, third party administration, so the
19 suggestion that somehow somebody is gaming the system
20 through the CET Program is just dumbfounded. Thank you.

21 MR. WELLER: Mr. Chair, just as a comment, I
22 absolutely agree. We, as a subcommittee, we did not
23 look at any of that information. We didn't -- that
24 didn't weigh in any way, shape or form into the outcome

1 or the discussion that we had. It was strictly about
2 what the regulation said, what the motion -- what
3 testimony was, trying to formulate what the original
4 subcommittee's thought process was, and then coming back
5 out. So I agree, we did not use any of that, nor do I
6 think it -- I think that's all anecdotal. It didn't
7 really factor into the decision.

8 MR. BAUMANN: Last one is Jim Chapman.

9 MR. CHAPMAN: Thank you for giving me the
10 opportunity to speak. My name's Jim Chapman with the
11 International Union of Elevator Instructors.

12 MR. BAUMANN: Spell your name.

13 MR. CHAPMAN: C-h-a-p-m-a-n. I had the
14 opportunity to address this Board at the last meeting.
15 One of the things that I think was a point that I tried
16 to make was, the curriculum that the CET provides is
17 good curriculum. It's not about the curriculum. It's
18 about the implementation of the program.

19 Mr. Kennedy has talked about the curriculum,
20 and the approval, and it's been approved by the DOL.
21 It's great. It's good material. But the problem is, is
22 the implementation of the program. I do believe, under
23 the state law, this Board and subcommittee has
24 investigated training programs, apprenticeship programs,

1 and under the term of equivalency, has made the
2 appropriate decision. I think the fact that two
3 programs of gaining license in the State of Illinois,
4 whether you're a union contractor or a union member or a
5 non signatory contractor, a nonunion member, the path is
6 there.

7 I think it's evident that the NAEC has
8 brought attorneys and a lot of folks here today to try
9 to avoid actually having a program that will certify
10 that all four years of the program is completed. If you
11 go to their website, you go to the NAEC, there are three
12 things they offered, three different ways you can buy
13 the program, either an educational certification or an
14 apprenticeship. And to my knowledge, and I'm not going
15 to speak as an expert on their exact curriculum on each
16 one, but they are very similar.

17 The issue is equivalency. Are these two
18 programs equivalent? They would be if they are both
19 registered in apprenticeship programs. They would be if
20 they document that all four years of the program is
21 completed. Now, as one of the issues, it's been brought
22 up, and I've -- keep hearing is, the certification of
23 the test. And we've got folks here today, and maybe they
24 can answer the question, and I would ask the Board to

1 inquire or ask the question, how many certified elevator
2 technicians have been certified through the NAEC
3 Program, and how many of those have completed all four
4 years of the program?

5 Now, just as it was earlier stated that all
6 -- both programs, whether it's the NEIEP program or the
7 CET Program, there's been an evolution. I mean, from
8 the 1970s to 2013, our program has changed considerably,
9 as well as theirs. But I can tell you, we don't test
10 out of our program. We complete our apprenticeship
11 program. We go through the program as it's laid out.
12 That's something that we do. And I would encourage this
13 Board to ask that question, how many people have
14 completed all four years of this program? Because I
15 think that's the intent of why they don't want to
16 register the program. They advertise it, they promote
17 it, but when it comes to the implementation, they tend
18 to not want to do that. And I would encourage it.

19 And I think there was a comment made that
20 was made by Mr Smartd about the completion of the
21 program. I agree with him. If a guy goes through the
22 whole program, does it the way it's laid out, if I was
23 on the Board, and I was certified, and he completed all
24 four years of the program, completed the mechanics exam,

1 I'm in favor of giving him the license. He earned it.

2 Again, the idea that the DOL or Department
3 of Labor has approved this, they've approved the
4 program, but the implementation is only governed when
5 they've registered, and I think that's a true, true,
6 important part of this, that this Board recognizes, that
7 if somebody comes before you with a CET certificate, I
8 would hope that this Board would ask for the
9 documentation that supports that they've completed the
10 program. I don't think that's out of line to ask. This
11 things been around since 2001. I don't think that's
12 something that's out of line. I don't think it's
13 dishonest or invading somebody's privacy.

14 I would love to show -- I could go right now
15 and pull up all the curriculum that I completed in my
16 program. Again, the language in the Administrative Code
17 talks about equivalency. They show that they've got
18 equivalency ideas similar to NEIEP. I just ask this
19 Board to require that they provide that information.

20 One of the things that I think is important
21 with this is Mr. Shanklin had showed you the book, the
22 CET, and it was the grandparenting test, and you made a
23 point, and Mr. Smartd commented that that no longer
24 exists. That's a true statement. They just changed the

1 name to "Special Circumstances Test". And that's the
2 other issue that I see with the implementation of the
3 program, where not all four years of the program is
4 being completed. The majority of the people are getting
5 these certificates now are taking the special
6 circumstances test, and there is no oversight. The only
7 oversight would be the employer vouching for a
8 particular number of hours in the industry.

9 So that is a concern. I think it should be
10 a concern for the State of Illinois and this Board, that
11 a contractor can come into this state, somebody can say,
12 you worked 10,000 hours for me, they send in the letter,
13 they take the test, and guess what, they are not meeting
14 your three year requirement for your test here in
15 Illinois. Now, I know I'm throwing out a scenario and a
16 circumstance, but I think it's a valid scenario and
17 circumstance, and I would encourage this Board that,
18 depending on the decisions of this Board, that when a
19 CET applies to the State of Illinois, that this Board
20 asks for documentation that they have indeed completed
21 that program in its entirety, and not taken a test that
22 somebody could have sat in front of a computer with the
23 answers or books or the availability of technology that
24 we have now to take that test.

1 Again, I would like to try to rep -- wrap
2 this up and conclude, that I, myself, am not against the
3 CET Program in its entirety, and it's important that
4 this Board recognize that the curriculum and the
5 implementation of this program is completed in its
6 entirety. And as I asked before, if you guys -- we've
7 got people here, and I've been to this meeting several
8 times, and I'm not sure about the rebuttal piece. It
9 seems that the rebuttal piece is starting to become more
10 prevalent, and if I have an opportunity, that I would
11 like to have that opportunity to rebut anybody that
12 comes in behind me as well.

13 MR. WELLER: Can I ask you a question? If
14 you go through this training program, and I concur,
15 everything that tells me this is a wonderful curriculum,
16 I haven't taken it, if you go through that curriculum,
17 and you do everything that you are told to do, how
18 difficult would it be to pass the test under one,
19 Section 2, which is the satisfactory completion of the
20 exam administered by the Elevator Safety Board? How
21 difficult would that be? How much time? A day to take
22 the exam?

23 MR. CHAPMAN: To take the exam? Oh, yeah.
24 I mean, I'm not sure on the CET. I can tell you the

1 NEIEP exam is 150 questions. I think they give you
2 three or four hours to complete it.

3 MR. WELLER: So my question is, if you go
4 through this training program, you do everything - so
5 I'm working for the previous speaker from Southern
6 Illinois, who wants to bring on somebody, have them work
7 under a licensed mechanic, have them learn the craft and
8 trade, document that they've got three years of work
9 experience, come up to Springfield and take the test,
10 would that program give you the skill set to pass it?

11 MR. CHAPMAN: Yes.

12 MR. WELLER: Then what is the debate about?

13 MR. CHAPMAN: I really don't know, Mr.
14 Weller, and I think that that's the thing that I'm
15 trying to express to this Board, is that they advertise
16 this program, they advertise the apprenticeship program,
17 they advertise all these programs, but then they want to
18 get up and debate how it's implemented, and I think
19 that's the crux of my argument, is that the
20 implementation of the CET problem -- or is a problem.

21 If it's done the right way, it's not a
22 problem, it's a good program. But every time I go
23 before a state board or municipality on this issue, it's
24 about, just accept my certificate, just accept my card,

1 because it's been approved by the DOL. Well, the
2 reality is the curriculum has been approved by the DOL.
3 That's it. The program implementation is the issue.

4 MR. WELLER: So, just to continue. So from
5 a prospective -- I really want to understand this from a
6 prospective and retrospective issue, because we have two
7 different things going on here. So from a prospective
8 issue, I want to make sure that her employees have a
9 path to being licensed. I think that's incumbent on us
10 to provide something.

11 MR. CHAPMAN: Correct.

12 MR. WELLER: How many times -- Jim, how many
13 times can I take the written examination with the OSFN?

14 MR. AUBIN: I believe it's once every six
15 months. I'm not sure.

16 MR. WELLER: So if I go through the training
17 program, or I go through whatever they have, and this
18 employer wants to utilize that, put it in place, they
19 work for three years, and they come up here to pass the
20 written exam, what obstacle is impeding that?

21 MR. CHAPMAN: I'm not sure. I don't think
22 there is.

23 MR. WELLER: Can I ask the young lady --

24 MR. CHAPMAN: I have no problem with that.

1 MR. WELLER: -- or the business owner from
2 Southern Illinois?

3 MR. CHAPMAN: Not at all.

4 MR. WELLER: Do you see an obstacle that's
5 impeding that from happening?

6 MS. ALLGAIER: Educating my employees under
7 the CET and having them take the test?

8 MR. WELLER: Right.

9 MS. ALLGAIER: Instead of doing a CET formal
10 certification?

11 MR. WELLER: Well --

12 MR. BAUMANN: Kelly, we've already done
13 this. She had an opportunity to spoke [sic], and we're
14 not going to have an open quorum and let everybody
15 speak.

16 MR. Weller: I apologize for stepping in.

17 MR. CHAPMAN: Again, I think that it's the
18 idea of the implementation of this program, and one --
19 the important points to this is just that fact, that
20 equivalency is important, implementation is even more
21 important, and I would urge this Board to protect that
22 integrity of equivalency, protect the integrity of the
23 implementation of a program, and the true fact that it
24 is an issue, and as an industry, we have these debates,

1 and public forums, and it all makes this a better
2 industry. I think we all want to raise the bar, and
3 that's my intent here with the CET Program. I don't
4 have no problem with the program. I do have a problem
5 with people just take a singular test, and then they
6 want to take that certificate and go to the website, and
7 say, I've completed these four years, I've got the
8 certificate, see, I have the card, when you really
9 haven't done the curriculum, because it is good
10 curriculum.

11 So that's all I've got. Thank you for
12 giving me the opportunity to speak.

13 MR. BAUMANN: Any questions?

14 MR. GANIERE: Mr. Chairman, if I can ask a
15 question.

16 MR. BAUMANN: Go right ahead.

17 MR. GANIERE: We have an issue before -- not
18 of you, I'm sorry, just in general. We have an issue
19 before us right now that's very important. Obviously,
20 they have their counsel here for a very good reason,
21 that if we don't make the decision they like, they are
22 going to file suit against the Board and the State of
23 Illinois for this issue. I think it's incumbent upon us
24 to hear all the information that we can. So I'm asking

1 that we be a little more liberal in our public speaking
2 rules today. That's all I'm asking.

3 MR. BAUMANN: I'll accept it.

4 MR. KENNEDY: Mr. Chairman, can I respond to
5 Mr. Chapman's comments?

6 MR. BAUMANN: Since everybody else has
7 already spoken, then I will leave the floor open then.

8 MR. ADAMS: I have a quick question for the
9 Board, before Mr. Kennedy starts. Is this appropriate
10 to ask our counsel?

11 MR. BAUMANN: Absolutely.

12 MR. ADAMS: Where do we stand? There's an
13 argument on the floor that we're working outside of the
14 guides of our constitutional authority at this point.
15 What is your opinion as counsel with regards to that?

16 MS. STINSON-MARTI: Well, what I understood,
17 and just based on -- I read the minutes from the August
18 minutes, where there was a motion to rescind, is what I
19 thought is what was on the floor. Is that correct? A
20 motion to rescind? And according to Roberts Rules, what
21 I'm reading, that's proper, but, you know, what he's
22 presenting is something new, so I'm going -- I mean, I
23 haven't heard any of this before, so I'm going to have
24 to actually, you know, read the minutes and try to

1 understand, you know, exactly what his argument is, and
2 get back to you, but I think what we're going to do, is
3 what we've already decided to do, is we're going to
4 table it, so we're not going to make a decision on it
5 anyway.

6 MR. ADAMS: Sounds good.

7 MS. STINSON-MARTI: So we're not going to
8 run a file of anything today.

9 MR. ADAMS: Excellent. One more follow-up
10 question, and, Mr. Chairman, with your approval, open to
11 the floor, does anybody know at this point, has anybody
12 been granted licensure in the State of Illinois since
13 November 3rd, 2011, until the convening of this meeting
14 today under the CET Program?

15 MR. AUBIN: No.

16 MR. CHRISTENSEN: I have to take exception.
17 I'm sorry, I don't know your name over there, but, you
18 know, Thomas -- Ed Christensen. I take exception. You
19 know, there's an allowable -- in the meeting forum,
20 there's a certain amount of time allowed, and for the
21 fear of being sued, we should give someone more time. I
22 have a little difficulty swallowing that one.

23 MR. GANIERE: Mr. Christensen, it's not
24 necessarily just the fear of being sued, it's the want

1 of having all the information to make an informed
2 decision.

3 MR. CHRISTENSEN: I think everybody's had
4 the opportunity here to speak today.

5 MR. AMARILIO: Mr. Chairman, if I may, I
6 filled out one of those forms, and my name was not
7 called, so, technically, we still have a --

8 MR. BAUMANN: Can you hold on so you can
9 tell me what your name is?

10 MR. AMARILIO: Sorry, I apologize. My name
11 is Jonathan Amarilio, I'm with Shefsky & Froelich. I
12 handed in one of those sheets to this young lady right
13 here.

14 MS. JEFFRIES: I submitted all the sheets
15 that were submitted to me.

16 MR. AMARILIO: There should be two extra
17 sheets, one for myself, and one for Mr. Barton.

18 MR. BAUMANN: Can you hold on for a second?
19 Jonathan?

20 MR. AMARILIO: Yes.

21 MR. BAUMANN: Your name was called right
22 after --

23 MR. AMARILIO: I don't believe it was,
24 Chairman.

1 MR. BAUMANN: I believe I said it. It was
2 called. You deferred.

3 MR. KENNEDY: Mr. Chair, I just ask leave to
4 speak. If the record's closed, that's fine too, but
5 there are a couple points --

6 MR. BAUMANN: You know, you have spoken
7 three times now.

8 MR. KENNEDY: I have.

9 MR. BAUMANN: I believe.

10 MR. KENNEDY: But here's my point though --

11 MR. BAUMANN: I'm not going to be going back
12 and forth between everybody in the field.

13 MR. KENNEDY: I do wish to raise,
14 respectfully, with the last speaker that was not even on
15 the agenda about the implementation of this program, and
16 that's been the drive, and now it's the most recent
17 objection to allowing NAEC --

18 MR. BAUMANN: That issue has been raised a
19 couple times here tonight -- today.

20 MR. KENNEDY: Not in this context, Mr.
21 Chairman, respectfully.

22 MR. BAUMANN: Dick?

23 MR. GREGORY: Dick Gregory, consultant to
24 the Board. I'm on the Board of Ethics of EIWPF, and I'm

1 also on the Board of certification of NAESA, N-A-E-S-A.
2 If you think you're having a debate now, wait until you
3 see what's going to happen for certified inspectors as
4 these organizations become approved by ANSI, and all the
5 testing is going to change; every bit of it is going to
6 be really different.

7 So all you guys who are inspectors or
8 certified inspectors, I'm just giving you warning,
9 January 1st of next year, there's going to be a big,
10 great deal of fun. While everybody was thinking, I
11 thought I'd pass that on.

12 MR. BAUMANN: I'll open it up for motion to
13 allow more further discussion or debate to the members.

14 MR. GANIERE: I'll make a motion to allow
15 further public comment on this issue.

16 MR. WELLER: I'll second, Weller.

17 MR. BAUMANN: It's been moved and seconded.

18 MR. KENNEDY: May I speak, Mr. Chairman?

19 MR. WELLER: We need a vote.

20 MR. BAUMANN: Oh, sorry. All those in
21 favor?

22 (Wherein, a chorus of ayes.)

23 MR. BAUMANN: All those opposed?

24 MR. KENNEDY: Thank you, Mr. Chairman, and

1 I'll keep my comments brief. I won't repeat myself.

2 The importance of the certification in
3 mechanics prior is critical, as you all know, and to Mr.
4 Gregory's point about the changing landscape that's
5 coming down, the 7th Circuit recently issued an
6 opinion -- it's not recently, actually 2002, which
7 emphasized the importance of a mechanics card, in the
8 case of NORB versus River City Elevator Company, where
9 mechanics were essentially given out to induce certain
10 votes on a collective bargaining issue, and the 7th
11 Circuit said, that's foul, we're not going to allow that
12 sort of thing.

13 And the questions within limitation, I'm not
14 quite sure if there's any daylight between where NAEC
15 stand and what Mr. Chapman's comments are. He's
16 affirmed our curriculum, he's raised questions about
17 implementation. NAEC does not want to be, in what may
18 be an adversarial position with several members of the
19 Board. It's an awkward position to come to the Safety
20 Review Board and be in that adversarial position. We
21 are on the same page. We are hopefully working in the
22 same direction. Safety and competence are the key to
23 our educational program. And I don't think there's any
24 question, that if there's a question from the Board,

1 what is your implementation protocol? You know, what is
2 your testing protocol? How do we know that you are
3 administrating these tests properly? That's a separate
4 issue than affirming our authority under Rule C3, that
5 our educational program is the equivalent of NEIEP. But
6 we had no problem, of course, sharing with you the
7 integrity of the implementation testing protocols to
8 demonstrate that nobody's gaming our system. And if
9 that's what you need for comfort, we can certainly
10 provide that to the Board as a supplement to the record.
11 Thank you.

12 MR. BAUMANN: Mr. Edwards, right?

13 MR. EDWARDS: Yes. Thank you.

14 MR. BAUMANN: Can you spell your name for
15 the record.

16 MR. EDWARDS: Patrick Edwards with Integrity
17 Elevators. Despite my promise to some of my peers, I'm
18 going to just testify a little bit, but I think this has
19 been a very constructive meeting. And after the last
20 meeting, I had a lengthy conversation with Mr. Weller
21 and with Mr. Chapman, and also in the break with Mr.
22 Shanklin, and I really do feel that we're very close
23 together. But I'm just going to tell you from my
24 perspective, what I was really concerned about is,

1 because I had this question myself, and that is, why not
2 just take the test after three years of experience, and
3 I feel that's a good option. But my concern was somehow
4 or another that ability could disappear down the road.
5 I'll just be honest, that that part of the rule would be
6 legislated out, and, so, again, this is -- not talking
7 for anybody else except myself, I really had that fear
8 that the opportunity to take a test after three years of
9 experience would somehow disappear, and, so, by
10 supporting the CET Program, not -- again, this is
11 speaking for myself, not as an apprenticeship program,
12 but as a certification program, is -- that would be a
13 legitimate way to come to the Board and say, I've
14 completed this program, and, Mr. Chapman, I'm talking
15 about completed the program, not being grandfathered,
16 not -- from completed the program, that that would be
17 grounds to apply for a license. That's really what I'm
18 looking for.

19 Now, I think it's an irony that, at the last
20 meeting, and it's in the minutes, I asked Bob Benoni
21 [phonetic] about what questions are on this test that
22 you take after three years. Guess what, there were
23 questions in that book that Mr. Shanklin showed you,
24 because I asked him, are those the questions -- right?

1 So those are the general questions, and the fact that --
2 I mean, I had to take that book and study from it --
3 actually, I took the CAT one; that was a study guide,
4 just like you do the SAT, and all those other tests for
5 college, whatever, there's study guides, a lot of them
6 have questions, and they are not -- when you actually do
7 the test, they are not actually, you know, A, B, C, D,
8 but the same information. You can only have so many
9 questions about our industry.

10 And, so, I think that's not a really good
11 argument, that, you know, somehow or another, that
12 somebody like me that grandfathered into their CAT or
13 CET is not qualified, because -- and then with this --
14 what's it called? -- the exception, Mr. Chapman, you
15 referred to it? The special circumstances.

16 MR. BAUMANN: To the Board, please.

17 MR. EDWARDS: I was having him help me. The
18 special circumstances, how many hours is required for
19 that? 10,000 hours?

20 MS. KENNEDY: Prior to 2007.

21 MR. EDWARDS: Prior to 2007. All that is
22 for -- I just want to clarify this, because it's just a
23 little bit of misinformation, the only purpose of that
24 was that there were so many people in our industry that,

1 in 2007 or after, didn't know about CET. They didn't
2 know about that certification, and, so, they were coming
3 to NAEC, and saying, we didn't know this existed. We
4 had to do this by 2007, what can we do? So, now, the
5 NAEC looks at their record, how many hours that they
6 had, and they have to prove that they were actually
7 working, and had had their 10,000 hours, and then they
8 are given the permission to take that test. Right,
9 yeah, I agree, Mr. Weller.

10 MR. WELLER: And my question is, what
11 difference would it make whether you take the State of
12 Illinois tests, which is arguably proctored and
13 administrated and part of the procedure for licensure,
14 already documented into the code, why not just do that,
15 and --

16 MR. EDWARDS: And, again, for me personally,
17 for my company, I'm afraid for the ability to take that
18 test would go away, that's all I could tell you.

19 MR. WELLER: Well, those are absolutely
20 legitimate concerns, but that's a legislative issue, and
21 then you're going to have these great attorneys coming
22 in and argue, wait a second, you're taking away a due
23 process that's been granted to me, and you can't do
24 that. So I would argue that if somebody's already

1 probably started the program, they would have to -- I'm
2 not writing legislation, I'm not debating legislation,
3 but I'm saying that's probably more of an abstract fear
4 than it is a practical fear.

5 So you gave me some thought processes around
6 how we can help, and I've read this a thousand different
7 ways, and say, every vehicle is there, right? Just
8 follow what it says to do. Now, what some people want
9 us to do, is say, if you've trained in another state,
10 and you've got a license, you can come in here and not
11 take our test and be in. And I'm okay with that as long
12 as there's some validation around that training program,
13 right? It's an arbitrary standard, I'll give you that,
14 but to me the validation is the subsequent approval by
15 the Department of Labor, that gives me some confidence
16 that it's a fair gig.

17 So, to me, I want to make sure that you've
18 got the available tools to get your people through the
19 program, to be a craftsman in the trade to protect the
20 public. You're taking the same test. I'm still
21 mystified what this is all about.

22 MR. EDWARDS: Thank you.

23 MR. BAUMANN: Thank you. Any questions for
24 Mr. Edwards? Thanks. Anybody else?

1 MR. SHANKLIN: Terry Shanklin. In fear of
2 being redundant, all right, there was testimony -- sworn
3 testimony that was rendered that there were abuses in
4 the administration of this program. And the Department
5 of Labor went on the job and found 21 violations.
6 That's not fabricated material. All that I would like
7 to see is, as a concerned citizen of Illinois and an
8 elevator inspector, I would like to see that those
9 abuses are done away with in overseeing through the
10 registration with the Department of Labor when an
11 employer wants to use the apprentice or give the
12 apprentice. That's all they want. I think that's the
13 only right thing to do. The program itself, again, the
14 educational program, is a good program. It's how it's
15 administrated.

16 MR. SMARTD: I got a response. Delaware --

17 MR. BAUMANN: Hold on a second.

18 MS. KENNEDY: My name is Karen Kennedy. I'm
19 with MECAA, Merit Elevator Contractors Association of
20 America, which is umbrellaed under the associated
21 building contractors. I was not present at the last
22 meeting, so I apologize if I'm speaking out of turn or
23 if I did not understand anything correctly.

24 What I've been listening to today, and what

1 my understanding is, an apprenticeship, and the NAEC CET
2 Program have been merged, when we're speaking about it.
3 An apprenticeship is sponsored by the individual
4 contractor. The NAEC does have the approval, and they
5 have no violations under the NAEC. Individual
6 contractors can have violations, but that does not
7 degrade the program itself. It's against the
8 contractor, and the sponsor of the program.

9 My question is, is that, Mr. Grant, I think
10 it was -- sorry to call you out -- on the November 3rd,
11 2011, meeting, you gave a report, correct, from the
12 original subcommittee?

13 MR. GRANT: It was part of that original
14 subcommittee, yes.

15 MS. KENNEDY: I'm sorry to single you out,
16 but I'm trying to remember correctly, you were to report
17 if the CET Program was the equivalent of NEIEP under
18 item C3, correct?

19 MR. GRANT: Again, I should refresh my
20 memory by looking at the minutes, but I believe that's
21 correct. I believe that's essentially the section we
22 looked at, and made that comment, and I believe that the
23 minutes reflect that; they accurately reflect that
24 statement.

1 MS. KENNEDY: And then a vote was taking on
2 that recommendation?

3 MR. GRANT: Yes.

4 MS. KENNEDY: So what we're talking about is
5 item C3, the educational program, not the apprenticeship
6 program. I'm trying to find out where it said,
7 contingent on the fact that it was approved in the State
8 of Illinois.

9 MR. WELLER: All right. Go to -- you've got
10 your minutes open?

11 MS. KENNEDY: I do.

12 MR. WELLER: Go to Mr. Jones' report, he was
13 the chairman of the committee.

14 MS. KENNEDY: Do you have a page number?

15 MR. WELLER: Page 46 of the November 11th,
16 2011, minutes. This is the report that was submitted as
17 part of the motion, at the top of the page, right there,
18 once you -- line four. So it's talking about the
19 equivalent. So, and I'll read it, just as I read it
20 before, but as we have -- and this is Mr. Jones
21 speaking, and I'm going right off the record. But as I
22 understand it, there is a subcommittee. The request
23 from the subcommittee, the NAEC, the state Board, is to
24 consider that the CET Program, as included in the

1 national guidelines, be considered the equivalent of the
2 content of the National Elevator Industry Educational
3 Program for the purposes of establishing eventually
4 apprenticeship programs in the State of Illinois.

5 MS. KENNEDY: And that's what the vote was?

6 MR. WELLER: That was the subcommittee
7 report that was submitted with the motion.

8 MS. KENNEDY: Okay.

9 MR. WELLER: So where is the vagary there?

10 MS. KENNEDY: Well, as a subcommittee, our
11 task is not to determine apprenticeship programs and
12 value of them, but the answer -- he answered, I've seen
13 apprenticeship programs that NEIEP has -- so he did ask
14 a question, and he answered it.

15 MR. WELLER: Right. So what point did they
16 say that we're voting on the approval or the -- they
17 didn't. They basically said, we are not going to vote
18 on apprenticeship programs; that's not what we're going
19 to do, that's what they didn't do.

20 MS. KENNEDY: Mr. Grant, maybe you can
21 clarify.

22 MR. JONES: What we have been tasked with by
23 you was to look at the curriculum, not anything beyond
24 that, and that's what we, as a subcommittee, had

1 determined was the curriculum; that we give indication
2 with the curriculum, would be nothing less than
3 equivalent to what was authorized in the end.

4 MS. KENNEDY: In NEIEP? Was it equivalent
5 to the NEIEP Program?

6 MR. JONES: Equivalent to -- I'm not sure
7 exactly how it's said, Kelly, but there's an equivalency
8 in the Act of the programs already approved.

9 MR. WELLER: I think you were -- in --
10 substantively, yes.

11 MR. GRANT: We listed that as -- the only --

12 MR. BAUMANN: Speak up so they can hear you.

13 MR. GRANT: Mr. Grant. My recollection is
14 that, because there was no other identified program
15 other than the NEIEP Program, it said that, in order to
16 do that, a program had to be considered equivalent to
17 that program in order to be utilized under that section,
18 and that is what that subcommittee's recommendation was,
19 was to find that the CET Program, as reviewed by us, and
20 certified by the Department of Labor, met that criteria.
21 That's what that subcommittee moved to the Board for
22 consideration, is my recollection.

23 MS. KENNEDY: That's all I needed
24 clarification on. Thank you.

1 MR. BAUMANN: Any other questions?

2 MR. SMARTD: I just want to clarify, it will
3 take me less than a minute. We had a DOL approved
4 program in the State of Delaware, and it was caught, and
5 we did make a violation. It was the same violation 21
6 times. The construction manager made a mistake and
7 thought that an experienced helper getting ready to
8 graduate, could run a car on a job site. It violated
9 the apprenticeship standards of 1 to 1 when he did that.
10 He thought he could use him as a casual laborer. It was
11 a mistake. We paid the differences. We paid our
12 violations. We made a mistake. Everybody makes
13 mistakes. We corrected it. We did the right thing.
14 That was found in an audit under our program that was
15 run. It worked. The system worked. We made major
16 corrections with all our managers, our superintendents
17 to make sure they understood the rules of
18 apprenticeship, and they just can't discriminantly put a
19 person to run a platform, even though they're not using
20 tools or anything, it's a big argument, said you can't
21 do it, you're not registered, you can't do it.

22 With that said, that was something that
23 happened in another state with another company, it has
24 nothing to do with the State of Illinois, and should

1 have no relevance here. If a company here was doing
2 that, you guys would have caught them as well.

3 MR. WELLER: Thank you. I've got to knife
4 this. Again, one -- just to really make it clear.
5 Let's go back to the July 14th, 2011, minutes.

6 MS. KENNEDY: I don't have those minutes.

7 MR. WELLER: I'll read them to you. This is
8 Mr. Chair, Mr. Christensen, "the ayes have it."

9 Okay. Now, we have this line 22, page 58 of
10 the minutes. We have the NAEC apprenticeship
11 presentation to the Board for approval by Patty Bonner.
12 Now, this is what the meeting that precipitated the
13 subcommittee.

14 So, "Mrs. Bonner?"

15 "Yes."

16 "Mr. Christensen: I'm sorry, Mrs. Bonner,
17 do you have the packages? Basically, they are copies of
18 what was said to you in an email."

19 "My name is Patty Bonner, I'm the
20 educational manager for the National Association for
21 Elevator Contractors. We are an association entering
22 the 67th year of service to the elevator industry. We
23 have developed a CET Education Program. It's a
24 four-year program that we have submitted to the Federal

1 DOL for approval for apprenticeship, and our national
2 guidelines have been approved in February 2011."

3 On page 60, she goes on to say, line 14,
4 "Our NAEC members can take these national guidelines to
5 get their apprenticeship programs approved through the
6 State of Illinois, right?" That's what were asked to
7 rule on. That's what the subcommittee was formed.

8 MR. BAUMANN: Okay.

9 MR. KENNEDY: May I have a moment?

10 MR. BAUMANN: Any other people who want to
11 speak? Do you have anybody else who want to speak? Mr.
12 Chapman.

13 MR. CHAPMAN: I'll be brief, I promise.

14 You know, to the point of apprenticeship,
15 and to what Mr. Weller just spoke about, and about the
16 intent or their restriction on employers, I was given
17 this in 2012, I believe, maybe late 2011, but this is
18 the standards of apprenticeship for NAEC. And if you
19 look at the standards, I mean -- and I believe it's on
20 their website, you can just put -- insert employer's
21 name right here. They've done all the work to register
22 the apprenticeship program. It's here. It's been done.
23 And all they have to do as an employer is to insert the
24 name if they choose to do an apprenticeship program in

1 the State of Illinois as proposed by the subcommittee.
2 It's already done for them. They don't even have to
3 develop the standards, the standards have already been
4 adopted.

5 And as I stated earlier, it was reinforced
6 by the minutes, is, they come to a Board, and they ask
7 for an apprenticeship program, and then when they get
8 it, they want to argue that we don't want it, it's
9 prohibited, it's this, it's that. And this is a good
10 program if it's monitored and implemented correctly, and
11 Mr. Smartd just addressed the Board and said, there was
12 a problem, and it works. If there's a problem, and
13 somebody's monitoring it, violations will occur, and it
14 raises the standard of the industry. That's why this
15 Board exists. I would encourage this Board to accept
16 the subcommittee's recommendation, and it is not
17 prohibited if a contractor in the State of Illinois
18 choose to register as an apprenticeship program, I also
19 believe with Mr. Edwards concerns or comments, if
20 somebody works three years in the State of Illinois,
21 they want to take the test, it's available to them. I'm
22 not sure why we're beating this horse to death. If I
23 was presenting a program such as NEIEP, I would present
24 it and be proud, and I would take it in the full

1 implementation, not trying to muddy the waters by giving
2 an education program, a certification program, and an
3 apprenticeship program. To me it's -- the reason they
4 are doing that is to be able to put cards in peoples
5 hands that really don't complete a program --

6 MR. KENNEDY: Mr. Baumann, I object.

7 MR. CHAPMAN: -- rather -- I did not
8 interrupt you. This is the second time I've been
9 interrupted by this group, and I'm not going to allow it
10 to happen again. I have the floor.

11 MR. BAUMANN: Guys. This isn't a court of
12 law, and he's speaking. It's a public comment. I've
13 pretty much given the leniency, very lenient with the
14 whole Board here with the whole public comments.

15 MR. CHAPMAN: I've been respectful to this
16 Board, and in two occasions I've been interrupted by our
17 counterparts over here, and I would encourage this Board
18 to honor the recommendations of the subcommittee and
19 move forward and put this thing to rest. Thank you.

20 MR. BAUMANN: First off. Do I have another
21 motion to keep continuing the debate, discussion?

22 MR. WELLER: Mr. Chair, I will make the
23 motion, but let's -- I want to --

24 MR. BAUMANN: Motion to end debate.

1 MR. WELLER: I want to hear some factual
2 content.

3 MR. BAUMANN: We're going back and forth.

4 MR. WELLER: I know. There's no facts.

5 MR. BAUMANN: What I'm asking for, is there
6 a motion to end the debate?

7 MR. WELLER: I don't want to make that
8 motion.

9 MR. GANIERE: Mr. Chairman, I want to thank
10 Mr. Weller for pointing out what I think we were
11 originally asked to do, and I think this Board was
12 originally asked to approve the CET Program for use in
13 an apprenticeship program based back on those July
14 minutes. And I think that's what both subcommittees
15 pointed out, and I think that's what we've done. But I
16 think that's what we're asked to do, and I think that's
17 what we did.

18 MR. BAUMANN: And I agree, and I agree with
19 -- we are beating a dead horse. It's been over and over
20 again, and I'm asking the Board if they want to have
21 a -- continue the debate, or is there a motion to end
22 debate?

23 MR. ADAMS: I'll make the motion to end
24 debate based on testimony we've heard. We've got that

1 matter tabled pending further review of the committee's
2 recommendation.

3 MR. BAUMANN: There's been a motion on the
4 Board.

5 MR. OTTEN: Second it.

6 MR. BAUMANN: All those in favor say aye.
7 (Wherein, a chorus of ayes.)

8 MR. BAUMANN: All those opposed? The ayes
9 have it. Debate's ended.

10 MR. GANIERE: Mr. Chairman, I think there's
11 been an indication from, I think, several people that
12 they would like to submit additional documentation prior
13 to our next Board meeting. I would suggest that we put
14 a timeline on that so it's received at the Fire Marshals
15 Office with plenty of time to distribute to the Board
16 members for their review prior to our next meeting. So
17 I would move that any additional documentation that
18 would like to be submitted to the Board on this issue be
19 submitted to the Fire Marshal's Office 30 days in
20 advance of our next meeting, and then the Board -- and
21 then the Fire Marshal Offices distribute -- and provide
22 it electronically.

23 MR. GRANT: Can I get clarification on the
24 motion? Would that permit us to accept any documents

1 that were brought here in paper copy today to be
2 distributed --

3 MR. GANIERE: They certainly can submit
4 their paper copy for anything they have today. I think
5 that's permissible, but --

6 MR. BAUMANN: Your motion is to have all the
7 information here by 30 days before the next meeting?

8 MR. GANIERE: Well, there's no second to
9 that motion yet.

10 MR. BAUMANN: That's what I'm saying. Your
11 motion is --

12 MR. WOLIN: I'll second the motion.

13 MR. BAUMANN: Okay. The motion is to have
14 any information -- any party wants to give to us within
15 30 days?

16 MR. GANIERE: Mr. Chairman --

17 MR. BAUMANN: Hold on a second.

18 MR. GANIERE: -- if the seconder is
19 preventable, I'm going to withdraw my motion and make a
20 new motion.

21 I make a motion then to have the materials
22 submitted 30 days from today.

23 MR. BAUMANN: 30 days from today. Okay.
24 Motion has been amended to 30 days from today. It's

1 been --

2 MR. WOLIN: Seconded.

3 MR. BAUMANN: -- seconded by Gary. All those
4 in favor of the motion that was made?

5 (Wherein, a chorus of ayes.)

6 MR. BAUMANN: All those opposed?

7 MR. KENNEDY: May I --

8 MR. BAUMANN: The ayes have it. Any
9 questions?

10 MR. KENNEDY: May I ask a question? After
11 the 30-day period, to the extent folks submit papers, we
12 have leave to respond within 14 days to whatever's
13 submitted so that the record's complete?

14 MR. BAUMANN: This has been raised --
15 getting information to the people inquiring. We're
16 going to send it out electronically to the Board
17 members, and then we're going to allow it to be -- since
18 it's public record -- how long -- like I said, it will
19 be open for discussion on the Board, and will be
20 provided to the -- to those who requested the
21 information. It's not going to just be sent out to us,
22 it's going to be requested.

23 MS. STINSON-MARTI: I was just raising the
24 issue that, if we're going to get everything from -- and

1 everyone's going to submit from -- 30 days from today,
2 we get that in our office, we have to send that out to
3 make that material available to the Board members, then,
4 at that point we can make it available to whomever is
5 requesting it, or you can make a request from the office
6 to get it, but then I guess the concern is, if you're
7 going to respond, if the Board members are okay with
8 getting that information in enough time before the next
9 meeting. I think that was --

10 MR. GRANT: We have three months before the
11 next meeting; is that correct?

12 MR. GREGORY: May 23rd.

13 MS. STINSON-MARTI: So if 14 days from, I
14 guess --

15 MR. WELLER: Mr. Chairman, we're not -- this
16 is a lay Board, we're not attorneys.

17 MR. BAUMANN: Exactly.

18 MR. WELLER: You're asking us to view these
19 things as an attorney would view them. I think this is
20 an open forum. You put the stuff out there, 30 days,
21 we'll get a chance to look at it, somebody wants to
22 rebut it at the next meeting, they can ask the issue be
23 tabled. If the Board so chooses to continue to table
24 it, we can table it as long as we need to make a good

1 decision. But sending me stuff that I don't understand
2 out of context is not going to help, so...

3 MS. STINSON-MARTI: And then, it was just
4 brought to my attention by Celena Jeffries, she's
5 absolutely right, that you would need to FOIA that
6 information, so you'd have to send a request for public
7 records to our office.

8 MR. BAUMANN: This information is going to
9 be available within 30 days after today, and you'd have
10 to do the FOIA to request it, and we're going to speak
11 on it at the next meeting; is that correct?

12 MS. STINSON-MARTI: Huh-hm.

13 MR. BAUMANN: That's it.

14 MR. KENNEDY: Thank you, Mr. Chairman.

15 MR. BAUMANN: And we'll end the public
16 debate. And we're going to move on to variances. Do we
17 have any variances?

18 MR. AUBIN: No.

19 MR. BAUMANN: No variances. Motion to
20 adjourn?

21 MR. FINCHAM: So moved.

22 MR. GROSS: Second.

23 MR. BAUMANN: It's been moved and seconded.
24 I'd like to rise and have a moment of silence for our

1 veterans.

2 (Wherein, a moment of silence was had.)

3 MR. BAUMANN: Thank you for coming out.

4 (WHICH WERE ALL THE PROCEEDINGS HAD.)

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