



THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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LYLE M. PARE

Minutes of Meeting of the Board held on February 27, 2018, Approved by the Board at the May 9, 2018, Board Meeting; Motion of Board Member William Johnson and Seconded by Board Member Richard Starbard. The Motion Passed by a Vote of: 4-0, Chairman Cox Abstained.

February 27, 2018, Minutes of Board Meeting
Held at 1000 Washington Street, Boston, Massachusetts.

Members Present:

Chairman Cox
Joseph Coyne
William Johnson
Richard Starbard
Lyle Pare

Attending to the Board:

Michael D. Powers, Counsel to the Board
Steven Zavackis, Executive Secretary

Proceedings recorded by:

Peter D'Agostino of the Alliance of Automotive Service Providers of Massachusetts (AASP) (Audio/Video). Chris Gervais of MAPFRE (Audio/Video). Evangelos Papageorg of EXP Consulting (Audio/Video). Joel Gausten of GRECO Publishing (Audio/Photo). Jim Steere, Hanover Insurance Company (Audio).

Call to Order:

Chairman Cox called the meeting to order.

Review of minutes:

The Board reviewed minutes of the Board meeting held on January 17, 2018. Chairman Cox called for a motion to approve the minutes and Board Member Richard Starbard made the motion which was seconded by Board Member William Johnson. The motion passed by a vote of: 3-0 with Chairman Cox abstaining and Board Member Lyle Pare abstaining, he did not appear at the Board meeting held on January 17, 2018, because of the inclement weather conditions and the consequent commitments required by his job.

The Board tabled the approval of the December 6, 2017, minutes at the January meeting because Board Members did not have sufficient time to review them prior to the January meeting. A motion was made by Board Member Joseph Coyne to approve the minutes of the Board meeting held on December 6, 2017, and the motion was seconded by Board Member Richard Starbard. The motion passed by a vote of: 4-0 with Chairman Cox abstaining.

Report on the next Part-II examination for motor vehicle damage appraiser:

Board Member Richard Starbard reported the Motor Vehicle Damage Appraiser Part II examination was held on January 24, 2018, at Progressive Insurance Company's facility in Westwood. Board Member Starbard recounted, there were 43 people who took the examination, 12 people failed, 6 people were marked as pending a telephone call to the examiners, and the 6 people subsequently contacted the examiners and clarified answers that they had provided on the examination to the satisfaction of the examiners. The end result was that 6 people failed out of the 43 people taking the examination. Board Member Starbard thanked Pete Smith, Bill Roberts, and Eric Landry for their great assistance with conducting the Part-II examination.

Board Member Starbard announced that the Progressive facility in Westwood, Massachusetts that has been used for the Part-II examinations in the past will be relocated in the near future. Consequently, Board Member Starbard is searching for a new location where the Part-II examinations can be conducted. Mr. Starbard predicted that the next Part-II examination would be held sometime in April of 2018. Several people who failed the Part-II examination in August of 2017, were allowed to take the test in January of 2018, because six months passed since they failed the test as required by the ADALB's enabling act G.L. c. 26, § 8G. Board Member Starbard observed, the number of test-takers diminished compared to the average number of people taking the test during prior examinations.

Executive Secretary to the Board Steven Zavackis added that, 12 people who failed the test in August of 2017 were allowed to take the January 2018, examination. First time test-takers amounted to 31 people out of a total of 43 individuals who took the test. However, there is a maximum capacity of 50 people for taking the Part-II examination at the Progressive facility. This number indicates that the ADALB has caught up on any back-log of examinees wishing to take the test.

Board Member Johnson interjected that, Springfield Technical Community College (STCC) was still in session and he was awaiting availability for their facility to schedule a Part-II examination at STCC. Board Member Johnson asserted, after the class session was completed he would arrange to have a Part-II examination at the STCC campus.

Chairman Cox thanked Board Member Starbard for his diligent efforts overseeing the Part-II examination. Chairman Cox opined, because of the preparation that is undertaken for the Part-II examination and the manner in which the examination is conducted by Board Member Starbard and the others who have provided assistance, Massachusetts has a better qualified group of motor vehicle damage appraisers than other states.

Revision to the Auto Damage Appraiser Licensing Board's Complaint Application:

Board Legal Counsel Michael D. Powers submitted revised language to the Auto Damage Appraiser Licensing Board's "Application for Complaint" recommending changing the current language from, "I attest that the information provided is true, correct and complete to the best of my knowledge" by adding the following bolded language:

I affirm and verify under the pains and penalties of perjury that the information provided is true, correct, and complete to the best of my knowledge. I am aware that a penalty of perjury may be imposed as provided for under M.G.L. Chapter 268, §1A when a statement or declaration signed under the penalties of perjury is willfully false in a material matter.

Board Member Joseph Coyne made a motion to adopt the recommended change in the current language of the Auto Damage Appraiser Licensing Board's "Application for Complaint" as submitted by Board Counsel Powers, and Board Member William Johnson seconded the motion. The motion passed by a vote of: 4-0 with Chairman Cox abstaining.

Vote by the Board to send a letter to insurance companies writing property and casualty motor vehicle insurance in Massachusetts requesting their input on the proposed Advisory Ruling submitted by Board Member William Johnson requiring Manufacturers recommended repair procedures must be followed when a structural part of a motor vehicle has sustained damage affecting the safe operation of the motor vehicle:

Chairman Cox read the proposed Advisory Ruling submitted by Board Member Johnson which is the following:

TO ALL CONCERNED PARTIES

Re: Advisory Ruling 2018-XXXX

The Auto Damage Appraiser Licensing Board (ADALB or Board) is authorized to oversee all motor vehicle damage appraisers in the Commonwealth of Massachusetts pursuant to M.G.L. c. 26, § 8G and 212 CMR 2.00 et seq. titled, "The Appraisal and Repair of Damaged Motor Vehicles" as promulgated by the ADALB. In relevant part M.G.L. c. 26, § 8G provides, "The board shall after notice and hearing in the manner provided in chapter thirty A adopt rules and regulations governing licenses under this section in order to promote the public welfare and safety." In addition 212 CMR 2.01(1) provides, "Purpose and Applicability. The purpose of 212 CMR 2.00 is to promote the public welfare and safety by improving the quality and economy of the appraisal and repair of damaged motor vehicles... ." Furthermore, 212 CMR 2.04(1)(e) in pertinent part reads, "If, while in the performance of his or her duties as a licensed auto damage appraiser, an appraiser recognizes that a damaged repairable vehicle has incurred damage that would impair the operational safety of the vehicle, the appraiser shall immediately notify the owner of said vehicle that the vehicle may be unsafe to drive. The licensed auto damage appraiser shall also comply with the requirements of M.G.L. c. 26, § 8G the paragraph that pertains to the removal of a vehicle's safety inspection sticker in certain situations." Under its authority the ADALB is, *inter alia*, authorized to: issue licenses to all motor vehicle damage appraisers in the Commonwealth (licensed appraisers or appraiser) 212 CMR 2.02, regulate the conduct of motor vehicle damage appraisers in the Commonwealth

212 CMR 2.02, regulate the manner of conducting motor vehicle damage appraisals 212 CMR 2.04, and to issue Advisory Rulings pursuant to 212 CMR 2.01(3) and M.G.L. c. 30A, § 8. It is the intention of the ADALB to issue an Advisory Ruling consistent with 212 CMR 2.00 et seq. and M.G.L. c. 26, § 8G to be followed by licensed appraisers.

Pursuant to its authority, the ADALB voted by a majority vote at the Board's meeting held on December 6, 2017, to adopt this Advisory Ruling.

ADVISORY RULING

212 CMR 2.04(1)(e) states in relevant part “[T]he appraisers representing the insurance company and the registered repair shop selected by the insured to do the repair shall attempt to agree on the estimated cost for such repairs. The registered repair shop must prepare an appraisal for the purpose of negotiation. No appraiser shall modify any published manual (*i.e.*, Motors, Mitchell or any automated appraisal system) without prior negotiation between the parties. Manufacturer warranty repair procedures, I-Car, Tec Cor and paint manufacturer procedures may also apply... .”

The Auto Damage Appraiser Licensing Board has passed a motion declaring that for the purposes of reducing traffic accidents and safeguarding users of motor vehicles against unreasonable risks of accident, injury, or death, when structural damage is caused to the structural/frame component of a motor vehicle (the main structure of the vehicle and/or any component designed to provide structural integrity of the vehicle), and if the repair of a damaged part will impair the operational safety of the motor vehicle requiring the replacement of the part,¹ to ensure the safe and proper repair of a damaged motor vehicle the Manufacturer warranty repair procedures shall be followed. Components that are bolted onto a motor vehicle are not considered part of its structure or frame.

This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. Failure to comply with this ruling could result in fines and penalties as provided by law.

For the ADALB,

Michael D. Powers, Esq.
Legal Counsel to the Board

At the conclusion of Chairman Cox reading the above-language, Board Member Johnson reported there was a lot of discussion at prior Board meetings about the proposed Advisory Ruling and AASP reached out to members of the automobile insurance industry for their input, but they refused to discuss the matter. After speaking with Legal Counsel Powers Board Member Johnson

¹ This requirement is also contained in the Automobile Insurers Bureau of Massachusetts 2016 Massachusetts Automobile Insurance Policy, Part-7 (Collision) and Part-8 (Comprehensive).

was informed that the Division of Insurance has contact information it uses for soliciting comments from the insurance industry and, therefore, that source could be used for a letter directed at the auto insurance industry inviting comments and input.

Board Member Richard Starbard suggested that a working-group could be formed with the auto body industry to discuss the issues raised by the proposed Advisory Ruling. Board Member Starbard elaborated that the technology has evolved from the time in the past when only printed manuals were used for consultation in the repair of damaged motor vehicles to the development and universal use of computer based technology and internet accessed technology. Board Member Starbard provided various examples of this new technology.

Board Member Coyne queried: Can the Board tell auto body shops how to repair the damage to a motor vehicle? Board Member Coyne asserted that auto body shops are regulated by a different state agency than the Auto Damage Appraiser Licensing Board and that state agency, the Massachusetts Division of Standards, would have jurisdiction over the way auto body shops run their business. He asked Legal Counsel Powers if the Board had the authority to order auto body shops to repair damaged motor vehicles in a specific manner. Mr. Powers responded, the motion on the floor was to form a working-group and the question was not an issue within the motion. He suggested the Board focus on discussing the motion that was made and pending on the floor. Mr. Powers opined the Board could form working-groups to look at various issues covered by the ADALB's regulation.

Board Member Pare suggested if an amendment was made to the proposed Advisory Ruling he would consider an Advisory Ruling, as long as the proper amendment was made to it.

Board Member Johnson responded that he would have no problem with entertaining amendments to the Proposed Advisory Ruling that changed the language he crafted.

Board Member Starbard opined that, the Board was not ordering auto body shops to repair damaged motor vehicles in a specific manner, and that licensed motor vehicle damage appraisers are required to obtain certifications for various damage repair procedures that involve a motor vehicle's structure. The structure comprises a small part of the motor vehicle damage repair industry, and mandating that these types of repair procedures are followed should not be problematic.

Board Member Johnson replied that he agreed with Mr. Starbard.

Chairman Cox observed that he did not have a second to the motion made by Board Member Starbard.

Board Member Pare reiterated, if there was an amendment to the proposed Advisory Ruling he would consider such an Advisory Ruling as amended.

Board Member Johnson declared that, he would not have a problem with changing the language to the proposed Advisory Ruling as he drafted it with amendments from the other members of the Board, and Board Member Johnson agreed with Board Member Coyne's opinion that it is over

and above the reach of the Board to order auto body shops to repair a damaged motor vehicle in a specific manner because the regulation requires negotiation between the appraisers.

Board Member Starbard asserted that he would like to go back to the proposed change to the regulation whereby the Board voted to change the current word “may” to the word “shall” before the following language contained in the regulation of, “Manufacturers warranty repair procedures ... may also apply.”

Board Member Coyne opined that the Board was not empowered to order auto body shops to use specific tools during a repair procedure such as specific rivets and, therefore, such an Advisory Ruling would be beyond then scope of the Board’s authority.

Chairman Cox suggested that Board Member Pare could make a motion to amend the proposed Advisory Ruling.

Board Member Johnson informed the Board that Board Member Pare sent him an amendment to his proposed Advisory Ruling and then read the following:

ADVISORY RULING

212 CMR 2.04(1)(e) states in relevant part "[T]he appraisers representing the insurance company and the registered repair shop selected by the insured to do the repair shall attempt to agree on the estimated cost for such repairs. The registered repair shop must prepare an appraisal for the purpose of negotiation. No appraiser shall modify any published manual (i.e., Motors, Mitchell or any automated appraisal system) without prior negotiation between the parties. Manufacturer warranty repair procedures, I-Car, Tec Cor and paint manufacturer procedures may also apply... ." The Insurance Institute for Highway Safety (IIHS) and the Highway Loss Data Institute (HLDI) or other similar recognized industry resource may also be utilized for negotiation purposes

The Auto Damage Appraiser Licensing Board has passed a motion declaring that for the purposes of reducing traffic accidents and safeguarding users of motor vehicles against unreasonable risks of accident, injury, or death, when structural damage is caused to the structural/frame component of a motor vehicle (the main structure of the vehicle and/or any component designed to provide structural integrity of the vehicle), and if the repair of a damaged part will impair the operational safety/integrity of the motor vehicle requiring the replacement of the part, to ensure the safe and proper repair of a damaged motor vehicle the Manufacturer warranty I-Car, Tec Cor (or similar recognized industry resource) repair procedures shall be followed. Components that are bolted onto a motor vehicle are not considered part of its structure or frame.

[The underlined language is the amendment offered by Board Member Pare].

Board Member Pare observed that, third party entities conduct independent tests of various repairs to damaged motor vehicles and, thereafter, make recommendations for the proper repair of specific damage and these recommendations are followed in the auto repair industry.

Board Member Johnson made a motion to table the item and he asserted that Board Member Pare would discuss with him an amendment to the proposed Advisory Ruling, have it placed on the agenda, and presented at the following Board meeting. The motion was seconded by Board Member Pare and the matter was tabled by a vote of: 4-0.

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

A member of the public Adam Haddad requested permission to speak and Chairman Cox granted permission. Mr. Haddad informed the Board that he attended a past Board meeting whereby the Board determined to send a letter to a person employed by Access General Insurance Company (Access) notifying Access that they must comply with the Board's regulation when appraising motor vehicle damage, specifically within the time required for the appraisals. Mr. Haddad informed the Board that he had a discussion with an employee from Access about the Board's letter and the employee was unaware that anyone employed by Access ever received the letter. Mr. Haddad asserted that Access, which is an out-of-state insurance company, continued to delay writing appraisals long beyond the deadline required by the ADALB's regulation.

Chairman Cox asked Board Legal Counsel Powers whether the letter was sent. Mr. Powers informed the Board that at a prior Board Member meeting the Board voted to send such a letter to a specific person at Access, Chairman Cox signed the letter, and the letter was sent. Mr. Powers asserted that the person the letter was sent to at Access must have received the letter because the letter was not returned to him.

Board Member Johnson suggested Mr. Haddad provide the name of the person from Access that he was in contact with to Legal Counsel Powers so that Mr. Powers could draft another letter to Access and send it to that person.

Mr. Haddad responded, there is a whole circle of people working for Access that has been passing the buck around and not completing appraisals.

Chairman Cox replied, it makes sense that Mr. Haddad provide the person's name so that the Board can send the letter and Mr. Haddad agreed to supply the name of the contact person to Legal Counsel Powers.

Board Member Starbard announced that he wanted to add an item for the Board's consideration, an Automotive Damage Appraisal Course that was submitted by Fernando De La Cruz. Board Member Starbard informed the Board that, the course instructor was known to him to be of good character, the course would be offered in Lynn, Massachusetts, and the course would involve sixty hours of instruction. Mr. Starbard distributed a summary of the course description to all of the Members of the Board. Board Member Coyne made a motion to approve the course and the motion was seconded by Board Member Pare. The motion passed by a vote of: 4-0 with Chairman Cox abstaining.

Mr. Haddad requested to speak to the Board again and Chairman approved the request. Mr. Haddad informed the Board he was aware that a company known as ALD appraisal was offering mobile self-service for appraising motor vehicle damage and that it was a national company working with Access.

Peter D'Agostino requested permission to speak to the Board and Chairman Cox granted permission. Mr. D'Agostino informed the Board that, there were several auto body shops partially refinishing damaged motor vehicle parts. Mr. D'Agostino displayed redacted copies of appraisals from various auto body shops purportedly confirming his statement. Mr. D'Agostino elaborated, many of these appraisals are for damage less than \$1,000, and, therefore, below the threshold of a minimum of \$1,500 of damage found in the ADALB's regulation which requires an appraisal by a licensed appraiser for damage in excess of \$1,500 after any deductible is applied [212 CMR 2.04(1)(a)]. Mr. D'Agostino declared, consumers are being short-changed by these types of repairs, and this type of conduct should be considered unfair and deceptive business practices. He urged the Board to accept his redacted appraisals, review them, and make a motion to refer the misconduct to the Office of the Attorney General.

Board Member Johnson responded that, historically the Board would review such an appraisal after a complaint was filed with the Board and after the Board review the complaint, it would invariably be dismissed because the appraisers were found to have negotiated the appraisal which meets the requirement of the ADALB's regulation.

Board Member Coyne replied, instead of referring this to the Office of the Attorney General the better procedure would be for Mr. D'Agostino to initiate a complaint with the Board. According to Mr. D'Agostino, in one case he offered for submission four panels of the motor vehicle were damaged and subsequently repaired by partial refinishing of each panel. In Board Member Coyne's opinion, such conduct would appear to be a violation of the ADALB's regulation, and a complaint should be filed against the appraiser and the appraiser brought before the Board. Board Member Coyne elaborated, as an independent appraisal company he has eighteen auto insurance companies that receive assignments from and none of them would negotiate partial refinishing of damaged parts in that manner.

Board Member Pare queried, should we have the appraiser brought before the Board?

Mr. Papageorg, a member of the public, requested permission to speak to the Board and Chairman Cox granted permission.

Mr. Papageorg declared, any of these appraisers who provided for partial refinishing of the damaged part would have failed the examination for a license to appraise motor vehicle damage.

Legal Counsel Powers observed that the Board did not have enough information currently placed before it that would justify a motion to refer a matter to the Office of the Attorney General. Mr. Powers opined, before the Board could vote to refer something to the Office of the Attorney General it would need all the information placed before it, time to review it, and then make a determination whether to notify the Attorney General that some type of violation occurred.

Chairman Cox responded to Mr. D'Agostino, I agree with Board Legal Counsel Powers, and if you want the Board to present something to the Attorney General we would need to know exactly what it is.

Board Member Johnson interjected, I have seen blatant violations of the ADALB's regulation, but because full payment was made for the appraised damage the case was dismissed by the Board.

Board Member Coyne concluded, the facts of one of the appraisals presented by Mr. D'Agostino appeared to be the subject matter of a complaint that should be filed with the Board.

A member of the audience Mr. Haddad asked: Who would file a complaint, the consumer?

Mr. D'Agostino replied, he could file complaints against the appraisers for all twenty appraisals that he had in his possession. He added, there are so many appraisers doing business like this who will never know that they are short-changing the customer. Mr. D'Agostino asserted he would file formal complaints with the Board under the ADALB's Complaint Procedure.

Board Member Lyle Pare asserted, we should review such matters as complaints brought before the Board.

Chairman Cox announced, we will declare this matter closed.

Date of Next Board Meeting:

The Board Members agreed to hold the next Board meeting on May 2, 2018, at 1000 Washington Street, Boston, Massachusetts.

Attorney Owen Gallagher requested permission to speak before the Board and permission was granted. Attorney Gallagher informed the Board that he was scheduled to appear on a matter listed on the agenda in the executive session and before the Board entered the executive session he would like to point out that there was a procedural flaw in the case. Attorney Gallagher asserted, in that case, Board Member Johnson made the motion to move the complaint forward to the next step in the complaint process and the Board voted to move the case to the next step. Previous to making the motion, Board Member Johnson participated as the mediator in the case and under the ADALB's Complaint Procedures when a Board Member participates as a mediator, thereafter, he must recuse himself from any action taken on the matter. Because Board Member Johnson participated as the mediator he could not make a motion or vote to move the case forward and, therefore, the Board's initial vote was invalid.

Motion to Enter the Executive Session:

Chairman Cox announced that the Board was about to enter the executive session and would conclude the Board meeting in the executive session without returning to the public session. Chairman Cox then read the following announcement:

Executive session to review and discuss the background of applicants for motor vehicle damage appraiser test who have disclosed a criminal conviction on the application. Review

and discussion of Complaints 2018-1, 2018-2, and 2016-5 filed against motor vehicle damage appraisers licensed by the Auto Damage Appraiser Licensing Board. Such discussions during the executive session are allowed under M.G.L. c. 30A, §21(a)(1) and in accordance with the Office of the Attorney General's Open Meeting Law (OML) decisions such as *Board of Registration in Pharmacy Matter*, OML 2013-58, *Department of Public Safety Board of Appeals Matter*, OML 2013-104, and *Auto Damage Appraisers Licensing Board Matter*, OML 2016-6. Section 21(a) states "A public body may meet in executive session only for the following purposes:

(1) To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
- ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
- iii. to speak on his own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

The licensed appraisers' attorneys have requested the matters be heard in the executive session.

Chairman Cox called for a motion to enter the executive session and the motion was made by Board Member Coyne and seconded by Board Member Johnson. A roll-call of the Board Members was taken by Chairman Cox with each one voting in the affirmative, and the motion passed by a vote of: 4-0 with Chairman Cox abstaining.

Executive Session:

Complaint 2016-5

Attorney Owen Gallagher appeared during the executive session with the licensed appraiser. Attorney Gallagher assented to Board Member Johnson remaining in the Board room while the complaint was discussed. Attorney Gallagher pointed out that Board Member Johnson was required to recuse himself from participating because he was the Board Member who was assigned as the mediator and the ADALB's Complaint Procedure requires a Board Member participating in the mediation of a complaint to, thereafter, recuse himself from future proceedings that involve the complaint.

Attorney Gallagher informed the Board that he reached out to the complainant and attempted to resolve the matter but the complainant's demand was irrational. Attorney Gallagher requested that the Board reconsider the matter at the following Board meeting and he would make a presentation on behalf of his client at that meeting.

Board Member Coyne made the motion for reconsideration of the Board's previous vote to hold an administrative hearing and the motion was seconded by Board Member Pare, the motion passed by a vote of: 3-0, with Chairman Cox abstaining. The complaint will be set-down for the Board's executive session for the May 2, 2018, at which time Attorney Gallagher will make a presentation.

Complaint 2018-1

Attorney Samantha Freedman, a specialist in insurance laws and other legal areas, appeared with the licensed appraiser. Board Member Richard Starbard disclosed that he served on a board with the licensed appraiser, and opined that serving as a board member on the other board with the licensed appraiser would not impact his ability to consider the complaint.

The substance of the complaint was that the licensed appraiser did not conduct the initial appraisal and supplementary appraisal within the time frames required by the ADALB. Attorney Freedman provided specific dates and times the licensed appraiser conducted the appraisal of the damage to the motor vehicle and they were within the time frames provided for in the ADALB's regulation. Attorney Freedman showed the Board documents that were created by the licensed appraiser, such as emails, at the time the appraisals were conducted which corroborated her assertions.

Board Member Johnson concluded that the licensed appraiser provided documentation that established he conducted the appraisals within the time frames required by the ADALB's regulation and, therefore, there was no violation of the ADALB's regulation established against the licensed appraiser, and he made a motion to dismiss. The motion was seconded by Board Member Coyne and the motion passed by a vote of: 3-0 with Chairman Cox abstaining and Board Member Starbard not voting.

Complaint 2018-2

Attorney Freedman appeared with the licensed appraiser and asserted that the appraiser conducted the appraisals within the time required by the ADALB's regulation. Attorney Freedman explained that when the licensed appraiser appeared at the auto body shop to conduct the initial appraisal, the auto body shop did not have the damaged motor vehicle prepared for the appraisal. The licensed appraiser informed the appraiser, at the auto body shop, that he would

return as soon as the motor vehicle was ready for the appraisal. Thereafter, the auto body shop contacted the licensed appraiser, he responded by timely conducting an initial appraisal, and completed the supplementary appraisal within the time frame required by the ADALB's regulation. Moreover, the insurance company provided for additional rental time for substitute transportation to the owner of the damaged motor vehicle over and above the time provided for in the consumer's standard private passenger automobile policy. Attorney Freedman concluded by stating it took the auto body shop fifty-five days to complete the work.

Board Member Johnson opined that the auto body was derelict in its duty in finishing the repairs and went well beyond the average turn-around time for repairing such straight forward damage to the motor vehicle. Board Member Johnson requested the licensed appraiser send copies of photographs which were taken of the damage for the complaint file, if they were still available. Board Member Johnson made a motion to dismiss, the motion was seconded by Board Member Starbard, and the motion passed by a vote of: 4-0 with Chairman Cox abstaining.

Motion to adjourn:

Board Member Coyne made a motion to adjourn which was seconded by Board Member Pare, and the motion passed by a vote of: 4-0, with Chairman Cox abstaining.

Whereupon, the Board's business was concluded.

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

List of Documents provided at the Board meeting:

- 1. Letter from Chairman Cox responding to Mr. Anthony Lombardozzi dated November 22, 2017, to the Board requesting answers to certain questions.**
- 2. Course description submitted by Fernando De La Cruz captioned "Automotive Damage Appraisal Course."**