



THE COMMONWEALTH OF MASSACHUSETTS AUTO DAMAGE APPRAISER LICENSING BOARD

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CHARLES D. BAKER
GOVERNOR

MICHAEL DONOVAN
CHAIRMAN

KARYN E. POLITO
LIEUTENANT GOVERNOR

RICHARD STARBARD
WILLIAM E. JOHNSON
SAMANTHA L. TRACY
PETER SMITH

Minutes of Meeting of the Board held on March 26, 2020, Approved by the Board at the October 14, 2020, Board Meeting; Motion of Board Member Peter Smith and Seconded by Board Member Richard Starbard. The Motion Passed by a Vote of:4-0, with Chairman Michael D. Donovan Abstaining.

March 26, 2020, Minutes of Board Meeting

Held by Teleconference at 1000 Washington Street, Boston, Massachusetts in accordance with Governor Charles D. Baker's "ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G.L. c. 30A, § 20" issued on March 12, 2020.

Members Present by Teleconference:

Chairman Donovan
Samantha Tracy
William Johnson
Richard Starbard
Peter Smith

Attending to the Board:

Michael D. Powers, Counsel to the Board

Call to Order:

Chairman Donovan, who was in attendance at 1000 Washington Street Room 1E, Boston, Massachusetts called the meeting to order by stating he was located at 1000 Washington Street with Michael D. Powers, Counsel to the Board. Chairman Donovan called for a roll-call vote of the Members of the Board attending by teleconference and Board Members Samantha Tracy, William Johnson, Ricard Starbard, and Peter Smith acknowledged that they were present by teleconference. Chairman Donovan thereupon made the following statement:

In accordance with Massachusetts General Laws Chapter 30A, §§ 18-25 and Governor Charles D. Baker's ORDER SUSPENDING CERTAIN PROVISIONS OF THE OPEN MEETING LAW, G.L. c. 30A, § 20 issued on March 12, 2020, the Auto Damage Appraiser Licensing Board (ADALB or Board) will hold a meeting on Thursday, April 9, 2020, by teleconference at 11:00AM from 1000 Washington Street, Boston, Massachusetts. Because of an Order issued by Governor Charles D. Baker on March 16, 2020, gatherings of over 25 people are prohibited and, therefore, members of the general public will not be

allowed to attend in-person. The public is invited to join-in the teleconference meeting by dialing the “Participants” telephone number at: 1-877-820-7831 and entering the Passcode 623523#. The topics to be discussed during the meeting of the Auto Damage Appraiser Licensing Board will be the following:

Proposed Advisory Ruling 2020-1:

A proposed Advisory Ruling which was submitted by Board Member Peter Smith. Chairman Donovan requested that the Advisory Ruling be read and Counsel to the Board, Michael D. Powers read the following:

TO ALL CONCERNED PARTIES

Re: **Advisory Ruling 2020-01**

On March 10, 2020, Governor Charles D. Baker declared a “State of Emergency,” based on a public health emergency for the entire United States to aid the nation’s healthcare community in responding to the 2019 novel Coronavirus (“COVID-19”) and took critical steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of the people of the Commonwealth. Pursuant to the powers provided by Chapter 639 of the Acts of 1950, as amended, Sections 5, 6, 7, 8, and 8A and Section 2A of Chapter 17 of the General Laws and other provisions of law, the Governor is authorized from time to time issue recommendations, directives, and orders as the circumstances may require.

The Auto Damage Appraiser Licensing Board is authorized to issue licenses to all motor vehicle damage appraisers in the Commonwealth (licensed appraisers) 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. M.G.L. c. 26, § 8G provides in relevant part “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.”

Pursuant to its authority, the Auto Damage Appraiser Licensing Board voted by a majority vote at the Board’s meeting held on March ---, to adopt this Advisory Ruling.

ADVISORY RULING

The Auto Damage Appraiser Licensing Board (Board) has passed a motion agreeing that an appraisal conducted by a licensed appraiser via review of quality photographic, video or digital images with documentation meets the requirements of 212 CMR 2.04(1)(d) “The appraiser shall personally inspect the damaged motor vehicle and shall rely primarily on that personal inspection in making that appraisal....” In addition, the Board temporarily waives the requirement of “personal inspections” of motor vehicle damage where the amount of the loss, less any

applicable deductible is up to \$5000.00, as required by 212 CMR 2.04(1)(a) which provides in relevant part:

(1) Conduct of Appraisals.

(a) Assignment of an Appraiser. Upon receipt by an insurer or its agent of an oral or written claim for damage resulting from a motor vehicle accident, theft, or other incident for which an insurer may be liable, the insurer shall assign either a staff or an independent appraiser to appraise the damage... However, the insurer may exclude any claim for which the amount of loss, less any applicable deductible, is less than \$1,500.00.

The Board reminds licensed appraisers that any review of motor vehicle damage must be conducted in a manner in consideration of the safe operation of the motor vehicle and they have a duty to notify consumers when a motor vehicle is unsafe to operate. This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. The Advisory Ruling will terminate in accordance with Governor Baker's determination that the State of Emergency no longer exists or by the Board posting such notice on its public website, whichever event occurs earlier.

Failure to comply with this ruling could result in fines and penalties as provided for by law.

For the ADALB,

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

Chairman Donovan called for a discussion on the motion. Board Member Tracy asserted that she disagreed with the proposed Advisory Ruling and felt the Board should review the matter to determine whether the better way to proceed would be to amend the Board's regulation.

Board Member Johnson stated that because of the COVID-19 pandemic he understood the need to raise the amount from the current amount of \$1,500 and asserted that he could agree to increasing the amount to \$3,000.

Board Member Smith felt that the amount needed to be increased because of fears expressed by members of the general public of contracting the COVID-19 disease and unwillingness to expose themselves to strangers at this time.

Board Member Johnson offered to amend the item by inserting \$3,000 instead of \$5,000 and he made the motion to insert the \$3,000 into the proposed Advisory Ruling, the motion was seconded by Board Member Starbard. Chairman Donovan called for a roll-call vote and the motion passed by a vote of 4-1 with Board Member Tracy voting against: The amended Advisory Ruling reads as follows:

March 26, 2020

TO ALL CONCERNED PARTIES

Re: **Advisory Ruling 2020-01**

On March 10, 2020, Governor Charles D. Baker declared a “State of Emergency,” based on a public health emergency for the entire United States to aid the nation’s healthcare community in responding to the 2019 novel Coronavirus (“COVID-19”) and took critical steps to prepare for, respond to, and mitigate the spread of COVID-19 to protect the health and welfare of the people of the Commonwealth. Pursuant to the powers provided by Chapter 639 of the Acts of 1950, as amended, Sections 5, 6, 7, 8, and 8A and Section 2A of Chapter 17 of the General Laws and other provisions of law, the Governor is authorized from time to time issue recommendations, directives, and orders as the circumstances may require.

The Auto Damage Appraiser Licensing Board is authorized to issue licenses to all motor vehicle damage appraisers in the Commonwealth (licensed appraisers) 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. M.G.L. c. 26, § 8G provides in relevant part “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.”

Pursuant to its authority, the Auto Damage Appraiser Licensing Board voted by a majority vote at the Board’s meeting held on March 26, to adopt this Advisory Ruling.

ADVISORY RULING

The Auto Damage Appraiser Licensing Board (Board) has passed a motion, temporarily waiving the requirement of “personal inspections” of motor vehicle damage where the amount of the loss, less any applicable deductible is up to \$3000.00, as required by 212 CMR 2.04(1)(a) which provides in relevant part:

(1) Conduct of Appraisals.

(a) Assignment of an Appraiser. Upon receipt by an insurer or its agent of an oral or written claim for damage resulting from a motor vehicle accident, theft, or other incident for which an insurer may be liable, the insurer shall assign either a staff or an independent appraiser to appraise the damage... However, the insurer may exclude any claim for which the amount of loss, less any applicable deductible, is less than \$1,500.00.

The Board reminds licensed appraisers that any review of motor vehicle damage must be conducted in a manner in consideration of the safe operation of the motor vehicle and they have a duty to notify consumers when a motor vehicle is unsafe to operate. This Advisory Ruling shall be effective upon posting on the Auto Damage Appraiser Licensing Board public website. The Advisory Ruling will terminate in accordance with Governor Baker’s determination that the

State of Emergency no longer exists or by the Board posting such notice on its public website, whichever event occurs earlier.

Failure to comply with this ruling could result in fines and penalties as provided for by law.

For the ADALB,

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

Motion to adjourn:

Chairman Donovan called for a motion to adjourn the meeting and Board Member Peter Smith made the motion and the motion was seconded by Board Member Johnson and the Chairman called for a roll call vote with the motion passing by a vote of: 4-0 with Chairman Donovan abstaining.