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CONTRACTORS SETTLE LAWSUIT AGAINST STATE SHEET METAL BOARD

BOSTON – A group of sheet metal contractors has settled its lawsuit against the Massachusetts Board of Examiners of Sheet Metal Workers regarding proposed regulations that would have increased construction costs without providing corresponding improvements in quality, and tilted the playing field to favor union contractors.

“When we began this effort, few people thought we would have much impact,” said Paul O’Loughlin, outgoing chair of the Coalition for Fair Licensing, one of the lawsuit’s lead plaintiffs. “Nearly two years later, we haven’t gotten everything we wanted, but open shop sheet metal contractors are getting their licenses and competing for work.”

Legislation passed in 2008 made sheet metal a licensed trade, like plumbing and electrical, and established a seven-person board to promulgate regulations. All five of Governor Patrick’s appointees to the board are affiliated with construction unions. Earlier drafts of the regulations would have put the open shop contractors who make up a strong majority of the industry at a distinct disadvantage.

The parties have agreed that the board will issue three clarifying policy statements:

- The regulations do not alter existing liability standards for craftspeople working on a job
- So-called ratios that sometimes require multiple experienced craftspeople for each apprentice on a job do not apply to residential dwellings of three stories or less, or to non-residential buildings in which the project size is 10,000 sq. ft. or less and the building is no larger than two stories
- The board will consider applicable education and experience and award credit on a case-by-case toward fulfilling the 750 hours of classroom instruction and five years of on-the-job training required to obtain an unrestricted journeyman license. The board will also place the topic of awarding credit for vocational-technical school programs on its agenda for an upcoming meeting.

The contractors’ challenge to the make-up of the Sheet Metal Board is outside the scope of the settlement. The law calls for two wage-earning journeyman sheet metal workers, two master sheet metal workers and one “representative of the public.” The plaintiffs contend that only one of the five members appointed by Gov. Patrick meets those requirements.

An earlier court decision held that the make-up of a board appointed by the Governor can only be contested by the Attorney General. The plaintiffs have asked Attorney General Martha Coakley to look into the matter.

Thanks to pressure from the Coalition for Fair Licensing and the plaintiffs, open shop sheet metal contractors are also getting their licenses as provided for by “grandfathering” provisions included in the legislation.

The Coalition for Fair Licensing supports licensing in the construction trades that promotes professionalism, safety, and protects consumers. The Coalition believes that all qualified contractors have the right to compete on a level playing field and opposes regulations that would give any industry sector an unfair competitive advantage based on labor affiliation or other characteristics.

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