

Approved
AUTO COLLISION REPAIR LICENSING ADVISORY BOARD

MEETING MINUTES FOR DECEMBER 17, 2008

Members Present: Dave Reynolds, Auto Body Chairman
Richard Berstein, Executive Counsel, DBR
Charles Nystedt, MetLife Auto & Home
Dennis Gamba, Cranston Collision
Dan Coleman, Fournier & Coleman Auto Glass
Gerry Galleshaw, Represent the People

Others Present: Kim Precious, DBR
Larry Alan, Nationwide
Steve Zubiago, Nixon Peabody
Bruce Nash, ColorAll
Michael Jolin, DBR

Members Absent: Corporal Dave Doucet, RISP
Paul Kiernan, Pat Masse

MEETING CALLED TO ORDER AT 10:39 AM

DR: Did everybody look at the October and November minutes? Any questions?

CN: Is this a summary? Not a verbatim quotation.

RB: They are an outlined summary.

DR: Motion to approve both sets of minutes. RB: Seconded; All in favor.

The December 30th meeting has been cancelled.

COLOR-ALL

RB: This board is not here to vote ye or nay on the application itself. The Director is going to make his own independent decision but he has asked the board for a recommendation. He has asked this board to utilize its expertise in a specific area, and namely he wants this board to provide a recommendation as to whether or not the Color-All painting process is significantly similar to the processes a shop uses that would require the same types of protection or whether it is sufficiently different that no paint booths and other protections would be needed.

DR: If you were working in a dealer's parking lot, that dealer would accommodate you with space inside the building.

BN: Not in the building, when we go in the building then we start getting regulations from the fire department.

DR: That is what I was getting to.

RB: Mr. Chairman, could we ask them the critical question. Is their painting process, their repair process sufficiently similar or sufficiently different?

DR: What do technicians do in bad weather, ie; cold, snow, driving rain etc?

BN: We supply a Portable Inflatable Device, which meet the requirement of the fire department. Were we are working right now they provide us with their spray booth. Lots of dealerships have got spray-booths that they no longer use, but they still maintained their airflow. So they authorize us to work as their contractor.

SZ: Shouldn't we be talking about what we are going to be doing here?

RB: Steve and Mr. Nash. Is your painting and repairing a vehicle substantially similar in process, product, and usage or is it significantly different than a traditional auto body shop.

SZ: I think it is different.

BN: In the most recent EPA release, which has come out in the Federal Register, you are completely exempted from the rule if you stipulate that you use a three-ounce can or less capacity.

DR: If you use less than three ounces at a time; but if you fill that gun 10 times to complete the job how many ounces did you use?

BN: We have to deal with the rules, and the rule allows us.

RB: What are you putting in the gun, is it water based? Is it oil-based? Is it the same type of material that a shop in Rhode Island uses?

BN: The same thing. Yes.

DR: It is a solvent-based product. 7000 series. You have a van that stores 20 gallons of paint. In summer the temperature in Rhode Island is 90 degrees, if it is 90 degrees outside what is the temperature inside the van? 130-140 degrees and the flashpoint of this chemical is 100 degrees. He is going to park this van in a garage or in a parking lot outside of his house in a residential area with 20 gallons of flammables. You got a virtual bomb inside.

BN: In 20 years of operating we've never had a fire. We never had an incident.

SZ: If you think 20 gallons is too much, propose something else.

DR: I want to say that even in small increments, the accumulative affect is going to have the same chemical effect on the environment, the ground, and the water table if it is not contained. The environmental codes that we have to adhere by in land-based businesses can't be moved around. If we work in these clothes all day long we can't even go home with them, because the residue from the debris from what we sand in the course of a business day gets in our clothes. If my wife washes them in my washing machine it gets into the leaching system and gets into the septic system and contaminates the ground. The house is no longer even sellable. They want our clothes

put into a container taken out of the shop taken to a place where we have a manifest that states where our clothes go and come back from. There are no provisions in anything that you're doing to prohibit any of this from taking place.

SZ: I agree with a lot of what you said, but the EPA says he can do this.

RB: They are asking for an exception under the special use license and what the Director wants to know is if in their process, is the paint and the materials, sufficiently different that he should grant a special use license that would exempt them from the environmental and the fire protection requirements that a standing body shop has?

DC: If they are granted a special permit, what will stop all body shops from following the same procedure, and paint outside with a three ounce cup.

DR: What they have told the EPA is that they don't accumulate hazardous waste by telling them they clean the guns with the aqua 50. That's to clean the residue from the gun and you can use it over and over again and if you turn it over and open the can up it dries up and solidifies and becomes an inactive substance. However the 3 ounces paint you are spraying in the guns contain very hazardous chemicals that are on the carcinogenic list and are highly toxic on the central nervous system and the respiratory system. Those particles that get sprayed in the air or sanded off a car when you are getting ready to spray that fender accumulate in the ground and they become toxic substances.

SZ: We have gotten confirmation that the EPA has said we can do it and I am not going to speak for the EPA but I would think the rationale is because we are going to do it in different places so it is of a de minimus nature and not harmful.

DR: When you are dealing with urethane paints there is no such thing as a spot repair. Once urethane paint goes from a chemical reaction you can't just sand it and blend little spots. You can do it but eventually UV light breaks that down. The clear coat has to be completed, or it's a shoddy repair, it's going to peel. That's the standard in the industry. On your website it states, "Our objective is to repair and recondition small or medium damage on vehicles which should make the buyer feel that the car he is buying has not been abused". There are safety issues; the reinforcement bar and absorbers could be compromised. You are doing superficial repairs.

SZ: We said many times we don't do the internal stuff you guys get that work.

DG: Say you were fixing a dent in the fender. How would you fix that dent, that would be any different than how we would fix it. I would assume that you would straighten up the metal. You've got to fix the metal. You're going to grind it.

You are going to pull it out with a spread gun, you're going to prime that once you straighten the metal you are going to grind that area. So all that paint product that is there is going to be grinded down. Same as a body shop.

BN: Yes.

DG: You are now going to use polyesters and what not, spread some body filler, use a DA to do your finish work, so that is the same as a body shop.

BN: Yes, it's exactly the same.

DG: Do you use electric ones, because you don't have air? So you have an extension cord to some power somewhere. And if it was raining out you probably wouldn't do the process to begin with am I correct.

BN: Yes.

DG: So the bottom line is you do your finish sanding. Now you go in the truck to get your gun out and you prime it up. So far we are working with the same procedure as the body shop...Right?

BN: The only difference there is we'll be using an aerosol product.

DG: You sprayed it down and you have to wait for that to dry and now you have to finish sanding it. Get it ready, and mask it up. So basically we have established the fact that the director wants to know if the refinishing process is the same and the repairing process is the same.

RB: Based on the testimony. One part of the answer is that the applicant testified that it is substantially similar, the process to what an auto body shop does. The second part of the question is that they are seeking a waiver, a special use license, based upon the fact they are using 3oz. size paint.

DG: Just because our cup is 10 ounces, doesn't mean we fill it.

RB: But they are relying on the 3-ounce exemption from the EPA. So we are going to indicate to him based on the testimony it is substantially similar and now they have to tell the board since it is substantially similar why they should not be legally required to be regulated the same way as an auto body shop?

SZ: I've complied with the EPA, and DEM. You keep asking the same questions.

GG: In 1975 we had no rules. We had a huge environmental problem. We put in ventilation systems, spray booths, and holding tanks for the spray booths, and the waste to protect the workers. I have some major concerns: When you say we are complying with the rule, it's a bending of the rule. It's a major concern with the men who are sitting at this table who have spent thousands and thousands of dollars to comply with the guidelines and rules and all of a sudden we are going to give a special use license that is going to be contradictory to everything they've done.

SZ: We are not here to bend the rules. I feel very strongly that we are in compliance with these rules.

CN: Mr. Bernstein provided, a description of what the Director was interested in having this board do. We communicated that the repair process up to the primer stage was similar to what a full collision auto body shop is. Now, Are there any other circumstances that you can tell us that shows the painting process, you propose to follow with your special use license, if granted by the director, is sufficiently similar to or sufficiently different from what a full collision license shop otherwise does.

BN: It is very similar. I see the difference being the type of equipment itself. We don't use compressed air that way; we don't use the type of spray system you use. We use a turbine, which develops very low pressure at the tip of the gun. If you use a spray gauge or an air pressure gauge you're spouting out 2 or 3 ½ PSI that is a big difference to what you guys use it is probably 15-20 PSI. So the amount of over-spray is vastly different. Transfer efficiency as demonstrated documented is 97% on a flat surface, a lot more efficient than traditional spraying fluid. I see that as a big difference. But other than that actual process the repair process is fundamentally the same.

DR: Do you know the difference between transfer efficiency and emission of DOC's.

BN: Yes, I do. They are two different conversions. One is how much you are going to get on to the panel and the other 3 or 4 percent is going into the atmosphere.

DR: So transfer efficiency has nothing to do with the amount of DOC's that are emitted into the air. So whatever you have on the panel, that process that is taking place to make it one substrate is being emitted into the atmosphere because of the chemical processing that takes place. So if you look at a gallon of paint, the DOC emitted from one gallon is 4.4 lbs. That means there is 4.4 pounds of emissions in the atmosphere per gallon. It has nothing to do with transfer efficiency.

DG: As soon as you open that can there are DOC's. The transfer efficiency maybe 98% like you said. It's not spraying on dry. We call it flash. The bottom line is that paint is on that panel, it's flashing off. So it's giving off DOC.

BN: But because of the transfer efficiency, the significant difference is that we use much less paint than a body shop would.

RB: Mr. Chairman, unfortunately I have to leave. The next set of questions that we would like to ask is, if we make a recommendation, what restrictions and concessions can you make if you were granted a special use license, i.e. we will limit it to commercial vehicles of X number of tons, we will not do residential areas, etc.

BN: We never work in residential areas, and I would not want to see it restricted to a certain size of vehicle but I certainly would expect that there would be stipulations as to how much you could spray in a certain period of time. Southern California has limitations; you cannot spray more than 20 gallons in a year.

DR: In the application process you applied for one license and three vans. If you have three body shops in Rhode Island, you need separate licenses for each shop. Each one of those vans really constitutes a body shop. So I think its an unfair advantage to have three vans with one license.

BN: As an example, in Reno, Las Vegas each van has its own independent license.

DR: You said none of the towns or cities would give you zoning. All the body shops in this state have to get zoning prior to the Department giving the license. You are asking for special consideration from the Department to give you a license first and then go to the cities and towns to get zoning.

SZ: We physically went to the cities of Cranston and Warwick. We sat down and explained what we wanted. They said, "you need to tell us what your doing, where you are doing it exactly and then we act on it." I can't do that until I know what you are going to approve.

BN: To your point Mr. Reynolds the difference is that when you apply for a license, yourself or any other body shop out there. You know where you're going to be.

DR: That is why the statute specifies you have to have so many square feet. The statue specifically always refers to the location.

SZ: Then you should say that the special use license is contingent and can only be utilized in cities where you have zoning approval.

BN: I think this type of activity was never anticipated when the rules were made.

CN: Small point of order, we have someone that just joined our meeting and I think our minutes should reflect.

MJ: My name is Michael Jolin. I am the Deputy Chief of the Legal Services.

CN: You're here as Mr. Bernstein's replacement.

MJ: I am.

DR: In the statue it says you must have an EPA license number. It makes no exceptions.

SZ: I can't get one because EPA does not think we need one.

DR: Both applicants live in Florida. The BCI check came from Florida. They don't have a Rhode Island address. If you grant the license where does the license get mailed? Where would it get posted? It has to be posted for public display.

DR: I motion that we make a recommendation to the Director on Color-All. Board members will send a copy of their personal recommendation and thoughts on Color-All, to the chairman. I'll send back to everybody so they can recollect on it and infuse more or take whatever. We will agree on the letter that we send to the Director. I make a motion to vote right now, that their painting procedure is substantially similar to auto body shops.

CN: I'll second that motion.

COLEMAN: Yes.

NYSTEDT: I say substantially different.

GALLESBROW: I say substantially it's the same.

REYNOLDS: I believe it is the same.

GAMBA: Substantially the same.

DR: One more time around the table. The repair process, the process that repairs the dents and gets them ready for the painting process, Is it substantially similar or substantially different?

NYSTEDT: Substantially the same.

COLEMAN: Same.

GALLESAW: Same.

GAMBA: Same.

REYNOLDS: Same.

DR: Motion to adjourn: Seconded: CN, All in favor: Meeting adjourned 12:07 p.m.