

CAUSE NOS. 08-19, 08-20, 08-21, 08-22, and 08-23

NAME: LEO MARK ZELLER, L.M. ZELLER, L. M. ZELLER, LOUIS M. ZELLER

AND ANDREW M. BOEGLIN

ADMINISTRATIVE LAW JUDGE: WILLIAM K. TEEGUARDEN

DATE: AUGUST 19, 2008

COMMISSION ACTION: AFFIRMED

FINDINGS OF FACT

1. The Agency is an agency within the meaning of IC 4-21.5.
2. IC 4-21.5 and IC 22-15-5 apply to these proceedings.
3. The Commission is the ultimate authority within the meaning of IC 4-21.5 with respect to orders and licensing decisions of the Elevator Section of the Agency.
4. The Agency is responsible for the regulation of matters involving elevator installation and repair in Indiana including the issuance and the renewals of mechanic licenses.
5. At all times relevant to this decision, Zeller Elevator Company was involved in installation, repair, and inspection of elevators in Southwestern Indiana, and all Petitioners worked for Zeller Elevator.
6. The current Indiana law on elevator mechanic licenses took effect in May of 2003. See IC 22-15-5-12.
7. Prior mechanics were, in general, grandfathered for their initial license under this law.
8. Under IC 22-15-5-12, such licenses automatically expire on December 31 of the second year after issuance.
9. To renew after that time, an applicant for renewal must fill out the form, pay the renewal fee, and submit proof of continuing education required by IC 22-15-5-15.
10. The issue in this particular case involves proof of continuing education required by IC 22-15-5-15.
11. In short, this statute section (statute, not administrative code and thus not waivable by variance) requires at least 8 hours of continuing education (“CE”) where the provider, instructor and curriculum have been approved by the Agency.
12. In 2005, the first time grandfathered license holders came up for renewal, apparently IVY Tech put on a pre-approved course in November or December and the smaller companies like Zeller obtained their education requirements by attending.
13. IVY Tech did not do this in 2007.
14. The applications for renewal from the Petitioners did not have any reference to CE approved by the Agency; they only referred to in-house education with no curriculum or proof of attendance. 1

1 The renewals were all filed after January 1, 2008. One was filed in early February. The Agency did not use this as a basis for denial and the parties did not dwell on the subject at hearing so timeliness of renewal applications is not being considered as relevant to this case and this case only.

15. Zeller submitted both in May, 2008, and at the hearing information about his in-house training plus occasional training from manufacturers he and his employees received.
16. It is possible that some of Zeller's in-house training could meet the requirements for CE, however unless it was properly submitted to the Agency as a course in advance, it cannot count.
17. Likewise, quite likely the training obtained by the employees at the Elevator Equipment Company in Richmond would qualify if the appropriate paperwork about curriculum and instructors or trainers were submitted prior to taking the training.
18. Zeller is, quite understandably, concerned about the effect of having no licensed mechanics on his payroll.
19. Contrary to his assertion that the Agency is putting him out of business, he has a way to solve the problem very quickly.
20. Nothing prohibits the individuals involved from seeking a new mechanics license.
21. Because the renewal applications of the Petitioners did not comply with the Indiana statute on CE, the decision of the Agency to deny the renewals should be affirmed.

NONFINAL ORDER

The decision of the Indiana Department of Homeland Security to deny the renewal applications for elevator mechanic licenses to Leo Mark Zeller, L. M. Zeller, L.M. Zeller, Louis M. Zeller, and Andrew Boeglin is hereby affirmed.