

**Subject:** Fw: APPEAL FINDINGS  
**From:** "Roy Cooke" <roycooke@sympatico.ca>  
**Date:** Sat, 12 Mar 2005 13:42:22 -0500  
**To:** "Raymond Wand" <raymond.wand@sympatico.ca>

----- Original Message -----

**From:** [Raymond Wand](#)  
**To:** [Canuckle](#)  
**Sent:** Sunday, September 19, 2004 10:13 AM  
**Subject:** APPEAL FINDINGS

August 13, 2003

Mr. George Webb, Secretary

Ontario Association of Home Inspectors

Box 38108, Castlewood R.P.O.

Toronto, Ontario

M5N 3A8

**Re. Roy Cooke Sr. Appeal**

Dear Mr. Webb,

As Chairman of the Appeals Committee, I wish to inform you that the Committee has reached a **unanimous** decision.

***Would you please advise Mr. Roy Cooke Sr. and the Board of Directors of the Ontario Association of Home Inspectors that Mr. Roy Cooke Sr.'s appeal has been upheld, and that the Appeals Committee recommended that Mr. Cooke's credentials be changed from "Applicant" to "Registered Home Inspector" effective July 14, 2003.***

**Background;**

On November 6, 2001 the members of the Provincial Association of Home Inspectors, (PACHI) and the members of the Ontario Association of Home Inspectors (OAH) agreed to merge the two organizations. This new group was to be called the Ontario Association of Home Inspectors. November 6, 2001 is defined as the "Merger Date."

As part of the merger process, it was necessary to review the credentials of all of the PACHI members and assign them new professional credentials consistent with those used by OAH.

In order to accomplish this task a committee chaired by Mr. David Hellyer RHI, was established, and he was given one year to complete the task. At its inception, the committee was fraught with problems. PACHI records were found to be incomplete and/or missing. Their accreditation process was eighteen months behind schedule, and the transfer of records to OAH I for review took six months to be completed. Needless to say, this put a great deal of pressure on Mr. Hellyer and the Review Committee.

In order to insure that the PACHI members were qualified to become Registered Home Inspectors under the OAH I bylaws and guide lines, the Review Committee decided that all PACHI members who had not achieved CHI accreditation within their own organization prior to the Merger Date, would be given one year to meet the OAH I requirements to become a RHI.

In addition to these problems, a distinction by PACHI was made for approximately one year between “CHI” accreditation and that of “Certified Home Inspector.” During this period, “CHI” meant the same as “Full Member” while “Certified Home Inspector” did not. This made matters confusing for the PACHI membership and the OAH I Review Committee.

*The Review Committee, faced with such a daunting task of completing the work within one year, decided to deviate from the approved accreditation process in order to “get the job done.”*

*From this point on, as stated by Mr. Hellyer himself, the Review Committee was operating in contravention of the OAH I bylaws.*

It is quite possible that the combination of a sense of urgency, the chaotic state of PACHI records, the delay in transferring these records, a misunderstandings among members as to the meaning of CHI and Certified Home Inspector, and the contravention of the Bylaws, led to the appeal made by Mr. Roy Cooke Sr. In his own words, Mr. Cooke claims that he or his application to become a Registered Home Inspector, “fell between the cracks”.

### **Nature of the Appeal**

The nature of the appeal is best described in a letter dated July 7, 2003 from Mr. Ron Segal, legal counsel for the Appeals Committee to Mr. Ron Tropea RHI, Chairman of the Appeals Committee. In that letter Mr. Segal made a number of points. They are:

1. The Hearing is being held pursuant to Mr. Cooke’s right to a hearing before the Appeals Committee under Article 15 of the OAH I bylaws. Mr. Cooke is appealing the decision of the Admissions Review Committee/Board of Examiners whereby his membership status in OAH I upon his admission to OAH I as a former member of the Provincial Association of Certified Home Inspectors (PACHI) under the merger Memberships of Agreement between OAH I and PACHI dated November 6, 2001 (The Merger Memberships Agreement), was classified as that of an “Applicant” member. Mr. Cooke was notified of this decision by OAH I’s letter to him dated November 22, 2002.
2. It is apparent from Mr. Cooke’s correspondence to OAH I that he is appealing the decision of the Admissions Review/Board of Examiners Committee granting him only “Applicant” membership status in OAH I and that he asserts that he ought to have been admitted to OAH I as an RHI member.
3. In particular, Mr. Cooke asserts that, pursuant to Article 33(2) of OAH I’s bylaws, OAH I is required to admit him to OAH I as a RHI member. Article 33(2) of OAH I’s bylaws provides as follows:

- i. 33(2) All members in good standing of PACHI as of the Merger Date who have, as of the Merger Date, met the requirements of a "Certified Home Inspector" pursuant to sub-article 22.5.2.9 of PACHI's bylaws may at any time within one year of the Merger Date apply for membership in the Association and, provided that such applicants remain members in good standing of PACHI as of the date of such application, shall be admitted as RHI members, together with all the privileges and subject to the obligations of an RHI Member as set out in the Association's bylaws.

We point out that the "Merger Date" is defined as November 6, 2001, the date that the merger of Memberships Agreement was executed by OAH and PACHI. Furthermore, we would point out that the definition of "Certified Home Inspector" that is referenced

In article 33 of OAH's By-laws is found at sub-article 22.5.2.9 of PACHI's By-laws (which were amended in connection with the merger) and which provides as follows:

22.5.2.9 Certified Home Inspector – a Full Member, who paid all related dues and fees; completed one hundred (100) home inspections, of which ten (10) have received a satisfactory audit under the Corporation's established procedures; passed a Defect Recognition Course recognized by the Corporation from time to time, passed the certification Assessment as prescribed in the Corporation's Membership Certification Procedure (Currency date; October 17,1997); and is recommended by the Chief Examiner/Director and approved by the Board of Officers /Directors.

4. Mr. Cooke asserts that he met the requirements of a "Certified Home Inspector" pursuant to sub-article 22.5.2.9 of PACHI's bylaws as at the Merger Date and that, accordingly, he ought to have been admitted as an RHI member pursuant to the bylaw provision. Mr. Cooke further asserts that, even if he did not meet the definition of a "Certified Home Inspector" under sub-article 22.5.2.9 of PACHI's bylaws as at the Merger Date, he should nevertheless have been granted RHI member status upon his admission to OAH for other reasons which presumably shall be outlined in greater detail at the Hearing.
5. We understand that Robin Green, RHI, shall be presenting OAH's position at the Hearing. We understand from Mr. Green that OAH's position on the Appeal is that the decision of the Admissions Review Committee/Board of Examiners with respect to Mr. Cooke's application for membership was correct. It is OAH's position that Mr. Cooke had not, as of the Merger Date, met the requirements

of a “Certified Home Inspector” pursuant to sub-article 22.5.2.9 of PACHI’s bylaws.

6. We understand that it is OAHI’s position that Mr. Cooke’s application for membership in OAHI was properly processed under one of the other sub-articles of Article 33 of OAHI’s bylaws which deal with the applications for membership in OAHI of former PACHI members who had not, as of the Merger Date, met the requirements of a “Certified Home Inspector” pursuant to sub-article 22.5.2.9 of PACHI’s bylaws.
7. We further understand that it is OAHI’s position that Mr. Cooke failed or refused to meet, before the end of one year transition period on November 8, 2002, the requirements established by the Admission Review Committee/Board of Examiners for him to be admitted to OAHI as an RHI member, and that accordingly, Mr. Cooke was granted “Applicant” membership in OAHI status based on his qualifications and experience as at the end of the transition period.

On July 14, 2003, at 9:00 a.m. the Appeal Committee consisting of Mrs. Laurel Harris RHI, Mr. Tim Purtill RHI, Mr. Andrew Bennett RHI, Mr. Roger Linton RHI, and Mr. Ron Tropea RHI and Appeal Committee Chairman, heard Mr. Roy Cooke’s appeal. The Hearing was held at the OAHI offices located at 1515 Matheson Boulevard East, Suite 207, in Mississauga ON.

Mr. Cooke represented himself. His witnesses were his wife, Mrs. Charlotte Cooke, and his son, Mr. Roy Cooke Jr., RHI.

Mr. Robin Green RHI represented the Ontario Association of Home Inspectors. His witnesses included Mr. Andrew Dixon, RHI, Mr. Trevor Welby- Solomon, RHI, Mr. Carl Inglis, RHI, and Mr. David Hellyer, RHI. (my notes, Mr. Green and TWS demonstrated animosities and name calling of Mr. Cooke at the BOD meeting in which I attended during the midst of Roys problems and before the Appeal, there were many witnesses in the room)

#### Decision Rationale:

Mr. Robin Green argued that Mr. Roy Cooke Sr. was not granted his RHI status because he had twice failed to pass some portions of a knowledge exam, and therefore was not eligible to have his credentials changed from “Certified Home Inspector” to “Registered Home Inspector” (RHI). Upon presenting the evidence of Mr. Cooke having failed twice, Mr. Green referred to copies of two score sheets that reflected Mr. Cooke’s test results. Mr. Cooke Sr. acknowledged that he had not passed all portions of the exams; while at the same time he challenged the results. In his opinion, the results he had achieved appeared to have been changed and/or altered. Mr. Inglis offered an explanation when he stated that the changes probably reflected the work of two different exam markers. The Appeals Committee accepted this explanation as being plausible.

The Appeals Committee believes that the testimony of Mr. Cooke Sr. and his witness Mrs. Cooke substantiated Mr. Cooke Sr.’s claim that in the fall of 2000, he had passed an oral examination of his technical knowledge after he had failed portions of the written exams. This was further substantiated by the fact that Mr. Cooke received a letter of congratulations from Mr. Francis Chan November 8, 2000. Robin Green argued that there was no written record of an oral exam on file, and that the Review Committee chaired by Mr. David Hellyer, was unaware of this exam or the outcome of such an exam when his Committee decided that Mr. Cooke should be designated an “Applicant” member of OAHI. When questioned, Mr. Hellyer confirmed that he and his Committee were unaware that Mr. Cooke had passed an

oral exam.

*The Appeals Committee believes that even though there was no written record on file, an oral exam conducted by Mr. Francis Chan took place in the fall of 2000, and that Mr. Cooke Sr. passed the exam.*

*Mr. Green argued that Mr. Cooke had not completed his 100 written inspection reports and that he had not submitted them for review, as had been requested. Mr. Cooke, with the testimony of his witness Mr. Roy Cooke Jr., and a memo from Mr. Wayne Bodden CHI, Chief Examiner for PACHI at that time, was able to substantiate the fact that he had met this requirement. According to the memo dated April 5, 2002, Mr. Bodden was scheduled to meet with Mr. Cooke on Tuesday April 16<sup>th</sup>, in the lobby of the Radisson Hotel, 55 Crown Place Toronto, for a brief review of his reports. Mr. Roy Cooke Jr. who attended the same meeting confirmed that the meeting had taken place and that the review of the reports went very well for Mr. Roy Cooke Sr.*

Mr. Green argued that regardless of whether the exam took place or not, and whether Mr. Cooke Sr. had passed or not, he did not do so by the established dead-line. Mr. Green argued that there was no record of the written reports being accepted and that the Review Committee was not aware of them. Mr. Green argued that it was too late for Mr. Cooke to be “grand-fathered in” as a Registered Home Inspector. *When questioned about the dead line, neither Mr. Green nor his witnesses, Mr. Hellyer, Mr. Dixon, Mr. Welby- Solomon, nor Mr. Inglis could provide a rationale for the dead-line, or explain why it could not have been extended. The Appeals Committee believes that under the circumstances, the dead-line was arbitrary and that it could have been extended. The committee also believes that even though there is a lack of documentation, Mr. Cooke passed the exams and passed the review of his written reports.*

*Mr. Green argued that Mr. Cooke Sr. was granted a pass in some of the exam subject areas on condition that he continues his studies in his weaker subject areas. Mr. Green also argued that since there was no record of Mr. Cooke Sr. completing any additional courses, his pass marks should have been revoked. Arguments presented by Mr. Cooke Sr. demonstrated that he was not obligated to take additional courses, as they were only “recommended”. The Appeals Committee concurred with Mr. Cooke’s argument and noted the fact that he had attended numerous educational seminars and two winter workshops as well as studied a major portion of the “Home Reference Book” produced by Carson Dunlop and Associates.*

The Appeals Committee learned from the testimony of Mr. Green and his witnesses, that there was a great deal of work to be carried out before all of the members of the Provincial Association of Home Inspectors (PACHI), who had applied to become Registered Home Inspectors in OAH.I, could have their credentials reviewed by November 6, 2002. *The Appeals Committee also learned that in order to meet this dead-line, steps were taken by the OAH.I. Review Committee to shorten the process, and that this was done without the expressed permission or knowledge by the OAH.I board of directors or the OAH.I membership. For example, a portion of the OAH.I exam was dropped.*

*The Appeals Committee believes that however well intended their actions were, the steps taken by the Review Committee to “shorten the process,” were in contravention of the existing OAH.I bylaws, and therefore, any decisions taken to the detriment of Mr. Roy Cooke Sr. are at best*

*irrelevant. In other words, the Review Committee did not have the right to refuse Mr. Roy Cooke Sr. his RHI status while operating outside the OAHl bylaws.*

*Furthermore, from the testimony of Mr. Inglis and Mr. Hellyer, the Appeals Committee learned of a spreadsheet that itemized the achievements or qualifications of all of the PACHI applicants who wished to join OAHl. The committee also learned that Mr. Cooke's achievements (i.e. the passing of the oral exam and the acceptance of ten written reports) were not all recorded on the spreadsheet. The Appeals Committee agreed with Mr. Cooke's argument that the results would have probably been different if the Review Committee had all the facts known.*

Recommendations:

The Appeals Committee respectfully submits the following recommendations:

1. Mr. Roy Cooke Sr. should be granted his request to become a Registered Home Inspector effective July 14, 2003.
2. Mr. Cooke should be advised to continue his studies and formal training, with some emphasis placed on Structural Defects and Report Writing.
3. ***The Board of Directors of the OAHl should implement steps to ensure that all Committee Chairmen operate within the confines of the bylaws established by the Board and approved by the Membership.***

Respectfully submitted and signed by:

Tim Purtill RHI .....

Andrew Bennett RHI .....

Roger Linton RHI .....

Laurel Harris RHI .....

Ron Tropea RHI, Appeals Committee Chair .....

From July 14 it took another several months for Roy to receive his Oahi Certificate, another delay in the due process borne out of animosities. Subsequent to these finding of a totally independant and objective review, two members of the Appeal panel were giving a dressing down by an individual on the Board. This was intimidation, bullying and influence, that resulted in two members resigning.

Raymond Wand

Alton, ON

