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| Commonwealth of Virginia | | |
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| Andrew Kubincanek, Program Coordinator | | |
| Administrative Law Advisory Committee | | |

SUMMARY
Administrative Law Advisory Committee
September 2, 2015
11:00 a.m.
House Room 2
The Capitol, Richmond

MEMBERS PRESENT: Eric Page (work group chair), Tom Lisk (ALAC chair), Elizabeth Andrews, Roger Chaffe, Alex Skirpan

MEMBERS ABSENT: Jeff Gore, Kristi Wright

STAFF PRESENT: Andrew Kubincanek

Welcome and call to order: Eric Page called the meeting to order at 11:08 a.m.

Ex Parte Communications: Elizabeth Andrews asked if subsection A was redundant. The group reviewed the section and agreed that a word had been removed mistakenly. Roger Chaffe stated that the lettering needed readjustment. The group reorganized subsection C for clarity. Ms. Andrews suggested replacing the word testimony with evidence in subsection D and replacing the commas in the subsection E with semicolons and romanettes.

Reconsideration: Mr. Page asked if the supporting basis was clear enough, and the group agreed that it was. Ms. Andrews asked if subsections a and b could be combined, but added that the tolling provision should remain clear. Mr. Lisk stated that agencies might be fearful that this statute would open the flood gates for constant requests for reconsideration. Alex Skirpan replied that if an agency is worried about someone playing the system, all they need to do is deny the request.

Mark Courtney from the Department of Professional and Occupational Regulations stated that the Board of Real Estate had received an opinion from former Attorney General Mark Earley on a similar issue. The opinion, which was issued on May 13, 1998, stated that there was no statutory authority for the board to reconsider a decision, even though they wanted to.

Ms. Andrews stated that, based on the current language, if a board does not meet for several months, they could potentially delay a ruling on the request until the next regularly scheduled

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meeting. Mr. Page agreed that this could be adverse for a party that was denied a license or a permit. Mr. Page asked if a board could be required to delegate its authority on reconsideration decisions. Mr. Courtney suggested delegating the authority to the chair of a board. Mr. Page asked Ms. Andrews to draft language on how and when a board may delegate its authority to reconsider a decision.

Intervention: The group began by attempting to define multiple terms in the model language. Mr. Chaffe suggested that this statute would allow hearing officers to create standing for new parties, which could potentially hijack a case. Mr. Lisk added that even if a group is affected, they do not necessarily need to be a party to the case, and he suggested a broader conceptual discussion on whether or not a section on intervention would be well-received by the committee. The group agreed to present the language to the full committee for input before going forward with additional changes.

Public Comment and Adjournment: Mr. Page opened the floor for public comment. Hearing none, he adjourned the meeting at 12:05 p.m.

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