

Ohio Revised Code 107.56 (C)(1)(b) allows a person who is affected by an action taken by a board or commission or is likely to be affected by an action proposed by a board or commission

The scope of review is limited to those matters enumerated in 107.56(B)(1). The submission requests several matters for review:

1. The Requestor alleges that the proposed board action Fixes Prices or limits price competition.
 - a. The allegation is that proposed rule 1301:1-17-17 (T) requires, in part, a home inspector to perform electrical inspections even though this is contrary to law.

However, it is important to note that Home Inspection is defined in 4764.01(C)

(C) "Home inspection" means the process by which a home inspector **conducts a visual examination of the readily accessible components** of a residential building for a client. "Home inspection" does not include pest inspections; environmental testing; inspection of any property or structure conducted by an employee or representative of an insurer licensed to transact business in this state under Title XXXIX of the Revised Code for purposes related to the business of insurance; or determination of compliance with applicable statutes, rules, resolutions, or ordinances, including, without limitation, building, zoning, or historic codes. [emphasis added]

Furthermore, the comments/suggestions from the Ohio Department of Commerce board of Building Standards (BBS) were considered by the board when reviewing proposed rule 1301:7-1-16 and reflect that the Home Inspector shall not represent a determination of compliance with mechanical, plumbing or electrical codes.

Because the home inspector SHALL NOT represent a determination of code compliance, it is unclear how anyone certified under RC 3783 is prevented, practically or otherwise, from marketing their services. In fact, the proposed rule limits what the home inspector can do and allows for referrals to certified individuals.

For the reasons stated above, it is difficult to fathom that a proposed rule that states that a home inspector SHALL NOT represent a determination of code compliance and allows for referral limits competition.

2. Prohibiting offering a particular quality-level of a product or service.
 - a. The specific allegation states that the proposed rule "prohibits the public from receiving the service of Electrical Safety Inspector"
 - i. However, there is no evidence to support this contention, the proposed rule allows for referral to a certified or licensed individual (mechanical, plumbing or electrical).
 - ii. The proposed rule prohibits a licensed home inspector from holding his inspection out as a code compliant inspection.
 - iii. Additionally, this specific allegation in this paragraph is not specifically enumerated in 107.56 (B)(1)
3. Restricts Advertising or makes it more expensive or less effective
 - a. This allegation is speculative. Requestor fails to consider advertising could be ineffective with real estate agents and consumers because of a multitude of factors, such as

- property age/condition or consumer tolerance. Myriad possible outside factors were not taken into consideration by the Requestor when making his sweeping allegation.
- b. Substantially reduces the number of firms or providers that can serve a particular set of customers
 - i. The statements by the Requestor to support this allegation are baseless. The Requestor states that all advertising for certified electrical inspections is fruitless.
 - ii. The proposed rules allow for home inspector licensee referral to certified electrical inspectors.
 - iii. There is nothing preventing the Requestor from advertising that he is both a licensed home inspector and certified by the BBS to perform electrical inspections. The Division was notified that the requestor has already begun that type of advertising; holding himself out as the “only home inspector with the State of Ohio’s permission to perform certain inspections.”
 4. The board does not have the authority to take the proposed action.
 - a. The board’s proposed rules do not mandate a home inspector to perform BBS inspections. This specific proposed rule is required by 4764 to establish a standards of practice rule for home inspectors. A review of numerous standards of practice show that a visual inspection of electrical components was commonplace. (see InterNACHI & ASHI SOP’s, other state SOP rules)
 - b. OHIB not fully seated when rules were reviewed and approved by the board.
 - i. A quorum of members, as required by state law, reviewed and approved the proposed rules.
 - c. The SOP is nothing more than an ASHI document
 - i. The board, with public input from multiple stakeholders over multiple days, including the Requestor, examined numerous other states and organizations standards.
 - ii. Despite the contention of the Requestor, other organizations outside of ASHI have electrical inspection requirements. For example, InterNACHI, another home inspector organization, has an electrical standard of practice requirement. AHIT, a home inspector education provider, has a course manual to examine electrical systems. The National Home Inspector Exam on their website includes electrical systems as a topic for exam questions for home inspectors.
 - d. ASHI members made up the majority of the public comments at the meetings.
 - i. The meetings were open to the public and properly noticed. Who decides to attend the meetings is outside the control of the board or the agency.
 - e. Requestor states that he has been financially harmed since April 5, 2019 when HB become effective.
 - i. Licensure of home inspectors was not required on April 5, 2019 and is still not required due to the pending nature of the board’s rules.
 - ii. The proposed rules are not in effect and therefore not required.
 - iii. Requestor fails to consider other outside factors affecting his business income including, but not limited to, the declared health emergency and low inventory of homes on the market.

- f. Real Estate agents and the public believe that home inspectors can perform what I am certified to do.
 - i. The estimates of income loss are speculative.
 - ii. Requestor's assertion of what others believe is unsupported and presumptive.
 - iii. The proposed rule debunks the very assertion because the proposed rule specifically prohibits the inspector from stating inspections are up to code and refers work to those qualified individuals.
 - g. Home Inspectors have and are currently representing that they may and are qualified to perform an inspection of the inside of an electrical panel.
 - i. Home inspectors and other licensed professionals must coexist as they have for many years. Now that Home Inspectors are to be licensed, the board has taken careful consideration of the other professions and prohibits assertions that inspections are up to code.
 - h. The assertion that the Requestor could not address the board at the October 28, 2019 meeting is misleading.
 - i. The moment the Requestor sought to address the board about this very specific matter was not even included on the October 28th agenda thereby depriving other interested parties from hearing and contributing to the discussion. The board was cautioned by counsel to consider the scope of their discussion and it was suggested this matter could be addressed at a future public meeting.
5. As an aside, the Requestor's comments and copies of his advertising in the last few months received by the Division suggest the Requestor is making claims that appear to suggest he is the **ONLY OHIO INSPECTOR** who may perform such services.