



BOARD OF BARBERING AND COSMETOLOGY
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BOARD OF BARBERING AND COSMETOLOGY
BOARD TELECONFERENCE MEETING MINUTES

Southern California Location:

Riverside Community College
 Digital Library, Room 121
 4800 Magnolia Avenue
 Riverside, CA 92504

Northern California Location:

Department of Consumer Affairs
 400 R Street
 Hearing Room, Suite 1030
 Sacramento, CA 95814

Additional Location:

Comfort Inn
 1872 Edwin Miller Blvd.
 Martinsburn, West Virginia 25401

September 15, 2003

BOARD MEMBERS PRESENT:

Dr. Della M. Condon, President
 Joe Gonzalez, Vice President
 Mercedes Barcelona, Professional Member
 Kim P. McInnes, Professional Member
 Richard Hedges, Public Member
 Bonnie G. LaChappa, Public Member
 Tamara Raspberry, Public Member

BOARD MEMBERS ABSENT:

None

STAFF MEMBERS PRESENT:

Cindy Walton, Interim Executive Officer
 Albert Balingit, Staff Counsel
 Jaime Masuda, Staff Services Analyst
 Brandy Wobschall, Office Technician
 Marion Welch, Supervising Examiner
 Hallie Fisher, Licensing and Policy Manager
 Jim Jacobs, Supervising Inspector

AUDIENCE:

The sign-in sheet is attached.

▪ **CALL TO ORDER**

President Condon called the meeting to order at 10:10 a.m. and welcomed the Board's newest member Tamara Raspberry. Dr. Condon then called the meeting to order at 10:XX a.m. to discuss the Lease Facility for the Board's examination site proposed to be located in Glendale, California. Dr. Condon referred to Cindy Walton, Interim Executive Officer to begin her presentation.

▪ **GROUND RULES**

Before Ms. Walton began her presentation, she first referred the Board to its two Legal Counsels, Albert Balingit and Anita Scuri to provide the Ground Rules for this meeting.

Board President Dr. Condon asked that anyone who comes on the line to speak to first identify themselves by name.

Mr. Balingit introduced himself as the Board's staff attorney. He reviewed some of the sections of the Open Meeting Act with the Board and particularly for the Board's newest member. He stated that rule number one is all meetings are public and we are limited in terms of our discussion to the particular item that was noticed in the notice of this teleconference meeting. Consequently, no other item can be added unless it meets the emergency criteria. Another ground rule is that the Board should take into consideration is that public comment must be allowed on the agenda items before or either during discussion of the items. Another rule is that no secret ballots or votes can be taken, and there can be no proxy votes on this and/or meetings by teleconference. He added that whenever we vote on an item, there has to be roll call where you site your name and indicate how you vote on a particular item. If we don't reach any kind of votes on this matter, that no seriatim meetings can be held, this is, one particular Board member calling all the other Board members or Ms. Walton calling all the other Board members to vote on an item. That would constitute a violation of the Open Meeting Act.

Mr. Balingit asked the Board if they had any questions before the Board proceeded? With no questions asked, Ms. Walton proceeded with her presentation.

▪ **LEASE FACILITY FOR BOARD'S EXAMINATION SITE LOCATED IN GLENDALE, CALIFORNIA**

Ms. Walton gave a presentation to the Board regarding the lease facility for the Board's examination site located in Glendale, California. She noted that representatives from the Department of General Services (DGS) are present to answer questions as well.

Ms. Walton stated that the relocation of the Board's Los Angeles exam facility has been an on-going project for the last 10 years. She has worked on the project for the last two years. The Board has occupied and leased the current examination site since April 1988. The lease for this facility expired in August 2002 but was extended to August 2004. It is a soft lease, meaning the lease can be terminated at any time. With the expiration of the Board's current lease in 2002, it was imperative that the Board secure another facility; consequently, the search for another facility continued. In addition, Ms. Walton pointed out that the Board has outgrown its current facility from 7,660 square feet to a need of 12,527 square feet. The current building is not designed or appropriate for the needs of the Board's clients and staff.

Ms. Walton stated that she has been meeting with representatives from DGS since December 2001 and that DGS has conducted five building site searches and that she, Board and DGS staff have toured many buildings. In a majority of the building that were toured with DGS the building owners did not want the Board as tenants because of the tenant improvement cost and the high traffic use. Ms. Walton stated that an exam facility must allow for easy access to freeways, public transportation, airports, hotels/motels, parking and restaurants, and again, a building owner willing to assume the high traffic use and the expense involved in tenant improvements.

Ms. Walton advised that the then Bureau of Barbering and Cosmetology conducted a demographic survey to determine where students come from and their mode of transportation. The survey was conducted from June 4, 2001 to July 13, 2001. Ms. Walton pointed out that the survey indicated that the majority of students come from Los Angeles, but also from other distant locations and drive to the exam facility; however, other modes of transportation are used. The survey was used to determine the best possible location for the exam facility. Consequently, DGS surveyed the Los Angeles area and based on the survey and the criteria, brought back prospects that appeared to meet the Board's needs.

Ms. Walton stated that in May 2003, DGS informed her about the location on 710 South Central in Glendale. She stated that after inspecting and talking with the landlord at this building, it was decided that this site was suitable; consequently, on June 17, 2003, Ms. Walton advised DGS that a suitable building was found and to start the paperwork to execute a lease. On August 4, 2003, the lessor signed the lease. Ms. Walton stated that it was her understanding that the landlord wanted to execute the lease as soon as possible, and was moving quickly to secure the

Board as tenants. On August 5, 2003, Ms. Walton gave her approval to DGS to execute the lease, and on August 11, 2003, DGS approved it. The lease is a ten-year firm term with five additional years optional.

Ms. Walton provided a description of the new lease facility. She stated that it is a four-story building, approximately 15 minutes from the Burbank Airport. The site has many amenities in the near vicinity such as eating establishments, hotels and motels, a bus line that is right outside the building, metro rail, and access to major freeways (2, 134 and 5). She stated that the building provides 80 parking spaces for the Board's staff and candidates. The parking is free. In addition, it was her understanding that the building owner agreed to provide valet parking services at his expense.

Ms. Walton stated that the move to a new site addressed the Board's continuing backlog of candidates waiting to take their licensing exam and that the new site is the second element in trying to address backlogs. The first was implementation of computer-based testing and the second was finding a larger exam site. Ms. Walton stated further that of the Board's two exam sites, the Southern California site tests the majority of Barbering and Cosmetology candidates. The Board's current facility on Wilshire Boulevard can test up to 1,600 candidates a month. The new facility would allow 1,920 candidates to be tested a month which is an increase of 3,840 candidates a year.

Ms. Walton also wanted to clarify any questions regarding statutory language in the Budget Act of 2002. Specifically, Senate Bill 1261 contained language that required the Bureau of Barbering and Cosmetology to work with the Advisory Board in determining the location of the site of the licensing facility in Southern California. Ms. Walton advised that the language was not placed in the final chaptered Budget Act of 2002, which was provided to the Board. However, she stated that the then Bureau honored the recommendation of an elected official and met with and advised the then Technical Advisory Committee of the project and a location that was to her understanding, Burbank. The Committee was provided with the same maps and demographic survey provided to the Board.

Finally, Ms. Walton referred the Board to the August 21, 2003 memo from DGS. She reviewed the memo with the Board and pointed out various elements in the memo including the need to relocate to a larger space as the program has experienced a 70% increase in growth. She also noted that the memo indicated that an elected official suggested that the Board relocate East of the 605 freeway to be closer to cosmetology schools; consequently, a second and third site search was done East of the 605 freeway, but no acceptable buildings met the state's leasing requirements. DGS prepared maps based on the information that the then Bureau provided to them that indicated that candidates came from all sectors of the greater Los Angeles area. Ms. Walton also stated that the DGS memo indicated that the criteria in the site search was items such as access to freeways, hotels, and other amenities and availability of parking. The DGS memo indicated that finding an acceptable site and a willing building owner that accepted a high traffic use took considerable time. However, DGS conducted a fourth and fifth site search and found the building on 710 South Central Avenue in Glendale.

Ms. Walton stated that DGS prepared a notice that is required to be sent to the Chiefs of the Legislative Budget Committees, which requires a 30-day approval process. The state will make a lump sum payment in the amount of \$830,000 for tenant improvements that are expected to be high due to our program requirements such as plumbing, air circulation and electrical needs.

Ms. Walton then moved from the DGS memo to the completion of her presentation. She stated that she would like the Board to know and members in the audience that Board staff and herself, and the Department of General Services have worked diligently for the past two years trying to find an acceptable site. She noted that there were occasions where she thought a site was found, but unfortunately, the owner or lessor did not want the Board as tenants, nor the excessive tenant improvements. Ms. Walton finished her presentation by stating that as the Board's Interim Executive Officer and Chief Administrative Officer for the Board, she carried out her duties to secure a new exam facility for the Board. She believed that she did so in the best interest of the State of California and the students that the Board serves. Ms. Walton further stated that she thought the Board would be pleased with the new facility as well as the barbering and cosmetology schools and students as this project had been in the making for the last 10 years.

With the completion of her presentation, Ms. Walton indicated that she and DGS representatives were available to answer their questions.

▪ **QUESTIONS AND DISCUSSION FROM THE BOARD REGARDING THE LEASE FACILITY IN GLENDALE**

President Condon asked the members if they had any questions of the Interim Director. There was no response from the members. President Condon responded that if no one had any questions, she would like to yield the gavel for a few minutes to Vice President Joe Gonzalez to make some comments or ask questions on this issue.

President Condon asked Ms. Walton the following: “One question that I have Cindy is that we had talked fully a month before our first Board meeting and at no time during those discussions did you mention that such an important decision as the location of the examination site for possibly the next fifteen years was even contemplated. Can you share with me why you did not share that with even one member of the in-coming Board?”

Ms. Walton responded that every time a site was found, work started with the lessor to try and negotiate to lease those facilities, it always fell through, and could never count on a sure site. That’s why she indicated that she never said anything to President Condon or any other Board member. Finally when a lessor was found that wanted to work with us, he was moving fairly quickly, and he wanted to rent these facilities to us, DGS went into negotiations with him and they moved fairly quickly.

President Condon indicated that the Board members were talking to Ms. Walton on a daily basis when the owner of the building signed the lease on August 4th. President Condon asked why wouldn’t that have been an appropriate time to advise the new Board that she was contemplating such a serious decision?

Ms. Walton responded that the lessor had signed the lease, but she knew the lease still had to be signed by the Department of General Services, and did not assume that the Board had a confirmed lease at that time.

President Condon indicated that on the day of the first Board meeting, at the end of that meeting, Ms. Walton advised her that a lease had been signed on the previous Friday, when indeed it had been signed on that very day that she was sitting with the Board. Why was the Board not told earlier in the meeting?

Ms. Walton responded that the time that she had advised the Board, she had just heard that the Board had a lease and she wanted to find an opportunity when she could mention to the Board that a lessor had been found.

President Condon said that over 800,000 dollars has been set aside to renovate this facility. She stated that she was not a real estate expert, but she knew that it was a lot of money. She went out one Saturday and looked at buildings just to see what was east of the 605 and found landlords that met all of the items that were talked about. President Condon stated that she found one building for 40 cents a square foot and the landlord was willing to do all of the required refurbishing, understanding what kind of a facility it was. President Condon further stated that she went to the Glendale site and found next door a parking lot with a guard whose sole purpose was to tow cars from people who were doing business in the building. She indicated that this was the building that the Board was considering as its leased facility. She stated that she was advised that cars were towed away on a daily basis. She indicated that she also spoke with the Fire Marshal who indicated that they would not allow cars to be valet parked. In addition, the parking area is underneath an inhabited building and to double the amount of cars that should be there is not going to something that is allowed. President Condon stated that she understood that the Board had been making a real effort to get students tested at our current site and that we had up to 120 candidates a day that had been tested. She indicated that amount of parking at the proposed site wouldn’t cover that many people. She further stated that the lease says there are 60 essential first come, first serve spots and there are 20 that are exclusive for the use of the Board, so there are only 20 spaces that the Board can rely upon and would be available for staff.

President Condon expressed her concern about the students who are going to be coming to the site and not able to find parking. She stated that street parking signs state that it is for residential parking only and there are red curbs everywhere. She emphasized that not only was this lease entered into haste, but without any consultation with the Board, and the site is inadequate to handle what the Board has now and is not serving the future. President Condon stated that she knows people who have put in an entire beauty school for 80,000 dollars and this 800,000-dollar price tag disturbs her greatly. As a taxpayer of California, in this time of budget crisis, she stated that we all need to do our part. She didn't think that spending 800,000 dollars on an old building that is inadequate is and that if she were to stand up and support that, she would not be doing her part as a citizen of the State of California. President Condon said that this was a bad decision whatever good intent went into it, and with that President Condon said she would take back the gavel and pass it on to whomever wished to comment.

Vice-President Joe Gonzalez indicated that he wished to comment. He stated that he wanted to make a motion to the Board.

Albert Balingit, staff counsel to the Board asked Vice-President Gonzalez if the motion was to not enter into the lease?

Vice-President Gonzalez responded that he would make this motion and then a decision would be made. Mr. Balingit responded to go ahead and make the motion.

- **First Motion**

Vice-President Gonzalez made the following motion: Due to the unsuitability of the space identified and the current lease agreement and the importance of fiscal responsibility at the time of budget crisis, we direct the Interim Director of the Barbering and Cosmetology Board to contact the State Department of General Services to find an appropriate facility for Barbering and Cosmetology testing East of the 605.

President Condon asked if there was a second to the motion?

Mr. Balingit asked the board that before a second on the motion is made, he would like to advise the Board of the consequences.

President Condon responded that there is a motion on the floor and that we are waiting for the second. After the motion, the Board would entertain Mr. Balingit's comments.

President Condon provided the second the motion introduced by Vice-President Joe Gonzalez.

Following the approval of the motion, Mr. Balingit provided his comments. He advised the Board that they should hear from David Garcia who was the Department of General Services staff person who worked on this project. However, he also stated that he wanted to advise the Board of the legal consequences if this lease was broken. Mr. Balingit stated that in his examination of the lease, he determined that it was a valid lease, signed by the State of California on behalf of the Board of Barbering and Cosmetology and signed by the lessor. He stated that it is a 3.6 million-dollar lease and if the Board were to break this lease in bad faith, there are some consequences that the Board would suffer. He added that in law, if you breach a contract you are liable for damages or what the contractor or lessor would have received if the lease was fully executed. The amount of the damages is 3.6 million dollars. Mr. Balingit further stated that Board members have a duty to act in good faith and that if they break this duty, the Board members may be personally liable for the breach of this lease. He stated that once the lessor is informed that the Board intends to breach this lease, the lessor is under an obligation for what is called litigation of damages, meaning he must find somebody right away to execute this lease. Mr. Balingit questioned where the lessor could find another tenant right away. He added that the payments on the lease is about \$26,000 a month.

Mr. Balingit also questioned whether the Board has the authority to request the Department to terminate this lease.

Vice-President Gonzalez asked Mr. Balingit if the decision was made to sign this lease and that he questioned that it was on behalf of the Board.

Mr. Balingit responded that yes, it was on behalf of the Board. He suggested that the Board have Mr. Garcia provide a better insight of all the sites that were looked at.

Vice-President Gonzales responded that the Board had all the information in front of them and what was read to them, so if there's additional information that Mr. Garcia has that the Board doesn't have that is the basis of the motion then let him speak.

President Condon asked if there were any other additional Board members who would like to speak for the motion?

Board member Richard Hedges responded that he read the material that was sent to him and would like to know who from the Board went to the site, and who actually viewed the site and spoke with the landlord. He indicated that if it was Ms. Walton, he wanted to hear from her, if not then he wanted to hear from the other individuals who have viewed the site.

President Condon asked Ms. Walton for her response.

Ms. Walton responded that she went to the building with DGS and with staff. They went inside the building and met with the lessor. She added that the lessor is very willing to work with the State of California and very willing to meet the Board's tenant improvements. She further stated that there is parking there and it is available and that is what she wanted to add to this discussion in addition to what was read into the record, unless DGS would like to add to that or any other Board member.

Mr. Hedges responded that he would like to know if there are only 20 spaces dedicated at this site. He stated that after the Board Presidents viewed the exam site, she informed the Board Members that there are only 20 spaces available.

President Condon stated that it is also stipulated in the lease. She thanked Mr. Balingit for this analysis, but stated that the Board is not suggesting that the State break this lease. She said do what you do with that space is up to you. The Board is directing that a suitable place be found for the Board of Barbering and Cosmetology and that's the way the motion is worded. She stated that a lease was signed on behalf of the Bureau and did not consult with the Board in any way. So, the Board did not participate in that lease and she stated that she had questions about its legality, so the motion is something very different than what Mr. Albert addressed.

Staff Counsel Anita Scurri addressed the Board. She introduced herself as the Senior Staff Attorney for the Department of Consumer Affairs and was there with Mr. Balingit to help provide the Board with advice. She stated that as Mr. Balingit mentioned, a form of the motion may be a problem. The Board believes that by passing this motion would be directing your Executive Officer to contact DGS to find an appropriate lease east of the 605, however the funds for this lease that was already entered would come out of the Board's budget. Your Executive Officer has the authority to make this kind of decision, and would hope that you would take that into consideration when you are discussing and voting on your motion. She stated that the Board has the authority to request the Department to rescind the lease, however the motion would create other legal problems and would not save the funds to be used for a new lease. The funds would still be allocated to that lease.

President Condon asked if there was further comment from the Board members.

Joe Gonzalez questioned the \$830,000 required and how was the Board President (Dr. Della Condon) able to find locations that could save that money.

Mr. Balingit announced the presence of David Garcia from DGS and that he was an expert the Board should rely on. He requests the Board hear from Mr. Garcia to hear about the work that he's gone through in searching for an

appropriate site for the Board. Mr. Balingit acknowledges that Dr. Condon found different sites, however the State has requirements for leases- ie. building standards, ADA accessibility.

Richard Hedges asks to hear from Mr. Garcia.

Mr. Balingit introduces Mr. Garcia as well as the Chief Council of the Department of General Services, Mr. Sy Richards.

Mr. David Garcia indicates to the Board that he is not an expert at what he does and goes into the process of the site search. He indicated that information is given to his agency with the boundaries and square footage requested. He then advertises for space over the Internet. If a building is found it has to meet ADA, seismic, and other state requirements. In this particular site search, Mr. Garcia looked at over 100 buildings for this, including east of the 605 per the request of former Senator Polanco. Mr. Garcia looked at 12 buildings and non-met the criteria for DCA. In addition, many lessors turned down the Board's use because it's too expensive. Because the Board has such unique requirements for the site, the \$830,000 would be spent on a new building and/or an old building in that area. There is an excessive amount of plumbing and electrical needed in any site the Board chose. Mr. Garcia indicated that it would be over \$100 a square foot wherever the Board went.

Mr. Balingit asked how many sites were looked at east of the 605.

Mr. Garcia indicated there was a total of 12, and that the first two sites found in Glendale were no longer available after the initial search for the area around the 605. After that search, DGS did a demographic survey based on where the students were coming from, amenities, hotels, places to eat, public transportation, and public eateries. As a result of the survey, DCA decided that Burbank/Glendale was the area that met the requirements. DGS then did a 3rd, 4th, and 5th site search and found a lessor that was willing and ended up being the most economical deal as well. We found the site, negotiated a deal, and executed the lease. DGS went through all the State requirements, and that's how they ended up with 710 S. Central Avenue in Glendale. He indicated that parking was another issue and that they signed a lease with 60 non-exclusive parking spaces and 20 exclusive. Before the lease was executed, DGS received DCA's authorization the execution of the lease. In addition, the lessor is willing to do valet parking at his expense and that is unique and unheard of.

President Condon thanked Mr. Garcia for his comments and asked if there are members of the public in Sacramento who wish to comment. She indicated that they would hear two from Sacramento and then two from Riverside who wish to speak.

Richard Hedges interrupts and had one more question of Mr. Garcia. He wanted to know if Mr. Garcia or anyone present at the meeting visited the site.

Mr. Garcia indicated that every site searched for by DGS is visited. As a Real Estate officer he is required to visit the site to make sure it meets the codes. He added that there is a very high amount of parking needed for this project, and there is not one lessor willing to offer or meet that requirement. On top of this agreement the Board is receiving free parking, and that is unheard of.

President Condon added that in looking around at sites, one landlord offered 150 parking spaces and could give the Board an additional 100 if needed. This building, noted on the paperwork provided to the Board by your agency, was driven by but not entered. There are many buildings east of the 605 and there was not a diligent search of this area. She again asked if there were members of the public in Sacramento who wish to speak before the board.

Tamara Rasberry asked President Condon which site number on the DGS memo she visited.

President Condon indicated that she visited numerous sites on that day. Some were supermarkets that had been empty for several years, and the city was anxious to find a use for them and the parking in front of the supermarkets was free and available. My curiosity on one Saturday afternoon proved that more spaces should have been looked at.

David Garcia mentioned that there are several state requirements that are needed, so there may be buildings that meet the parking requirements but may not have met other requirements. He also indicated that the demographic survey showed that most of the students came from west of the 605.

President Condon indicated that she spoke with numerous schools both public and private and asked them to survey their students who take their exam during that period, and not one student reported being asked or being surveyed. She was concerned about the survey that serves a particular interest or purpose. She continues by inviting members of the public to speak.

- **Public Comment**

Mr. John Williams, a school owner, asks if the lease had been signed on August 4th.

Ms. Cindy Walton indicted that the lessor signed it on August 4th.

Mr. Williams asked if it was executed on August 5th.

Ms. Walton indicated the approval was given to sign the lease on the 5th and DGS approved it on August 11th.

Mr. Williams is concerned with state of affairs California is currently in and that students are still waiting for examination dates. There are over 6,000 applicants that are waiting for the Board to make up their minds where to send students to be examined. It doesn't make any difference to him if it is east or west of the 605, just that it is a speedy process.

Ms. Carol Wand from Fullerton College is also concerned about getting the students to the testing process, but has a problem with the word "good faith". She feels that they have not shown good faith in this action and the Board was not seated and not directed to act. She thinks this is illegal and they acted poorly on their behalf regarding the written examination. Students were receiving notification that they were taking the written test on a different date prior to her school being notified. She feels that the Board should have been allowed to address this issue and make the decision, not just Cindy Walton. In here opinion, Cindy has not been looking out for the best interest of the students.

President Condon asked if someone from the public in Sacramento would like to address this issue. No one wished to speak and she continued with reading a letter received by Senator Polanco. Mr. Polanco want to clarify legislature intent with regard to the signing of the new lease testing facility. He served as Chairman in the Business and Professions Committee and the Chairman of Budgets Sub-Committee that was responsible in appropriating and establishing budgets for the Bureau of Barbering and Cosmetology. One of the major issues before the Budget sub-committee was the need to establish a new testing facility for Barbering and Cosmetology. The Bureau under the direction of Mr. Goldstene, wanted the facility to se sited in the city of Burbank or Glendale. As Chairman he heard a great deal of the Bureau's proposed sites. A hearing was put together to gather facts from both sides during the 2002 budget deliberation meetings. The former executive officer gave testimony that they wanted somewhere close to the airport and hotels, and that student's safety is a real concern for the need to move. No evidence was given such as police reports to support his decision. The committee was provided documentation on how far students were traveling and where they were coming from in order to test. A color-coded map was proved with dots representing students. The evidence documented to locate the site east of the 605 freeway and not in Glendale or Burbank. As a result, it was determined that the Bureau was to establish a new testing site east of the 605. The Bureau did not follow the intent of the legislature. He is troubled by the behavior displayed by staff members of the Bureau, they defied the intent of the legislature and undermined the authority of the new Board. This transaction goes beyond financial consideration, it is also a transaction of trust. The Board now has the voice and the authority to act on the justices dealt with in the past. He urges the Board to take action that will honor the intent of the legislature. President Condon finishes the letter and announces the next speaker.

Mr. Sy Richard from the Department of General Services interrupts by asking if the Board wants to direct anymore questions to Mr. Garcia.

Ms. Tamara Rasberry asks what would be the proposed completion date of the 710 S. Central Avenue site after all the improvements have been made.

David Garcia answers that rent will begin January 1st, so the space will need to be completed before that date. If the State delays that process the rent will still begin January 1st.

President Condon announces the next speaker.

Mr. Marcus Moreno, co-owner of a kit company for fifteen years, was voted as Chairman of the Barbering and Cosmetology Legislative Alliance in 1996 whose mission was to reinstate the Board of Barbering and Cosmetology, which was sunsetted. The battle to achieve this took six years, in which he served on the Advisory Committee with two directors, Pamela Ramsey and James Goldstene. Each director made sure that the committee new they were there to simply advise and had no authority, as a result most issues were ignored. The industry in April 2002 advised Mr. Goldstene that the testing site would need to be east of the 605 due to traffic. Not only did he ignore the Advisory consult, ignore the industry, the Bureaucrats, and the language in the budget hearing form a senate committee. The location should be east of the 605. He asked if Ms. Walton or Mr. Garcia went down to the parking structure because he did and he only counted 40 available spots, and they would have to double and triple stack cars to meet the parking needs. He was appalled at the list of locations visited by DGS and DCA indicating that candidate may experience difficulty in locating building, freeway noise is very bad at another location, and graffiti in the elevator. He is concerned that the lack of action is very similar to the ending same day licensing and going to computer based testing. He wants to know why there is such a commitment to the 710 S. Central location. Also, with \$830,000 on one space, where is the Board going to find money to finance the examiners. At that expense, 10 examiners can be hired with the pay scale of \$40,000 a year. He wants to know where to apply. He thinks the Board needs to look at this and ask why.

Mr. Peter Westbrook who represents the National Cosmetology Association of 30,000 licensees and members spoke about the hearing when Senator Polanco made his request to locate the testing facility east of the 605. He wants to remind the Board that this request did not come from Senator Polanco, it came from the constituents, clientele, and from overwhelming complaints about the location of where they were searching. The Board of Barbering and Cosmetology needs to be reminded where the request generated.

President Condon asks is anyone from the public in Sacramento would like to speak.

Ms. Cynthia (last name not available) a student and resident of Glendale speaks about an unpleasant experience at the Social Security Office located next to 710 S. Central Avenue. She indicates that to add this element of chaos and confusion does not help the students. There was no parking, and she doesn't feel it is a suitable location.

President Condon asks if she was able to park in the parking lot adjacent to the building.

Ms. Cynthia indicated that there were no spots available, so she had to be dropped of while her husband circled the building. She indicates that it was a hostile environment, people were screaming.

Ms. Gabriella (last name not available) a student of the International Academy of Cosmetology wanted to express her concerns with the delays in testing and the additional day added. She wants it to go back to same day licensing because it is better for everyone and would be more beneficial for the students to get out in the workforce to use their skills and talents taught in school.

(Inaudible name) is a school owner who recently opened a school with 5100 square feet and wit ha budget of \$80,000. He indicated that with \$830,000 he would be able to build and own a 20,000 square foot building with about 300 parking spaces, elevators, brand new equipment and a lease payment of much less that what the Board is

going to pay. He stresses that \$830,000 could buy a beautiful building almost anywhere in California and it is upsetting to see this money going toward this project.

President Condon asks if there is anyone from the public in Sacramento who wishes to speak.

Mr. Jessie Johnson asks if the testing there will effect the testing in Sacramento.

President Condon indicates that it won't effect the testing in Sacramento. She indicates that it will less the amount of income that is available to service our Board and/or the activities of the Board. She announces the next speaker in Riverside.

(Inaudible) owns a salon and is a student at Riverside Community College as an Instructor trainee. She wants to know the legality of signing the lease. She wants to know if there was a daily average taken at the existing testing facility on the amount of parking needed. She indicates that if the lessor cannot guarantee the parking needs, that the lease cannot executed and the Board members held legally responsible.

(Inaudible) currently is opening a school in the area. Wants to know if a formal investigation can be performed and how was there such a quick decision.

President Condon indicates that this meeting is was set up for the Board members to understand the process and hear about how it happened.

Mr. Ken Williams a school director expresses that there are too many unanswered questions and too many reasons not to go forward with a deal that seems bad for students. He feels that the facility should have been expanded in other ways.

Mr. Jones an owner of a Beauty school feels that the \$830,000 is out of line and doesn't feel the Board should be held liable for a contract they didn't have a say so on.

Ms. Patricia a teacher at El Camino Community College expresses sadness for students who are working hard to go out and get a job. She feels that it is just another disappointment.

Mr. Jerry Hanson expresses concern with the use of money today and that the students need to get to work and that the testing facility must be speedier.

President Condon asks if Mr. Garcia has anything more to add.

Mr. Sy Richards from DGS indicates that Mr. Garcia would be more than happy to respond to the Board, however not as a member of the public.

Mr. Garcia from DGS comments on items that were mentioned from individuals who spoke. He emphasizes that the amount of parking needed is significant and there weren't many buildings that were available to meet this requirement. Twenty exclusive and 60 non-exclusive parking spaces is a good deal. These are all free parking and they have to meet all the state requirements of the fire and safety code. It may cost a lot less money to build a school, but there may not be the unique requirements that the State has, from ADA, seismic, asbestos, etc. It becomes very expensive. He indicates that \$830,000 cut down the costs of what it would have been and he believes it is \$2.00 a square foot. It would have been over \$3.00 a square foot if the initial money was not put down for tenant improvement allowance.

Ms. Tamara Rasberry asks Mr. Garcia if the money appropriated for the improvements was already appropriated by the budget back in 2002 and has the money already been appropriated and can only go to the use of the improvements.

Mr. Garcia responds with yes, it was done by DCA.

Mr. Joe Gonzalez asks Mr. Garcia if he noticed the Social Security Office and if they had security.

Mr. Garcia answered yes. He wasn't sure if everyone who visited the site saw each level of parking and that there are eight parking spaces that are available for this use, and there is public parking in the nearby vicinity. In addition, the lessor was going to do whatever it took to make sure there are eighty parking spaces that meet our requirements of the lease.

Mr. Joe Gonzalez asked Mr. Garcia why the parking shouldn't be within the facility and not adjacent to it.

Mr. Garcia indicated that he was not required to by DCA.

President Condon adds that 60 non-exclusive spaces means first come first get there. She works at a college and knows what first serve means.

Mr. Garcia indicates that per the requirements of DCA, it was agreed upon and approved by them. DCA signed off.

President Condon lets Mr. Garcia know that she is aware that he was acting under the instructions of DCA.

Mr. Sy Richards points out that in the description in the standard lease form, it indicates 20 exclusive and 60 non-exclusive unobstructed parking spaces, and unlimited use of the building common facilities.

Mr. Marcus Moreno asks that if the clients from the Social Security Administration are going to have access to those spots, and if the SSA previously occupy the 4th floor of the building. He wants to know if the Board is again picking up after another state agency.

President Condon reads a letter from Jerry Tyler, Carlton International. Feels that DCA wants to move to a facility with inadequate parking and is going to create more hurdles to examinees and their models with no plans to increase testing or make up for the lack of staff. In a time of fiscal crisis competitive rent with much more square footage is available in the are at ¼ of the cost. If you add the tenant improvement costs paid for by tax dollars, it is not only fiscally irresponsible but the consideration for the new Board and the industry representatives was not even considered. This behind the scenes deals seems to be how the DCA does business without industry consultation. President Condon adds asks if there are anymore comments by members of the Board and would they like to have a re-reading of the motion.

Ms. Tamara Rasberry asks to the staff attorneys if any part of the lease the lessor cannot guarantee is the lease valid.

Mr. Balingit says there is a provision in the lease that if the tenant improvements are not completed by March of 2004, then we could invalidate the lease. There are no other provisions in this lease to allow us to terminate this contract. All parties on behalf of the Board of Barbering and Cosmetology have signed it.

President Condon asks if there are further comments or questions by the Board members and asks Joe Gonzalez to re-read the motion.

- **Motion**

Joe Gonzalez states that due to the unsuitability of the space identified under current lease agreement and the importance of fiscal responsibility during a time of budget crisis we direct the Interim Director of the Board of Barbering and Cosmetology to contact the State Department of General Services Office to find an appropriate facility for the purpose of barbering and cosmetology testing east of the 605.

President Condon adds that at the beginning of the meeting they were told because this is a audio conference, she will call the individual board members when they vote.

Mr. Balingit adds another point of order the consequences of breaching the lease. He sympathizes with the Board in its feelings that somehow this lease was not enacted or pursued with their authority. He indicates that there is a legally valid lease and if violated or broken can have some major financial consequences for the Board.

Mr. Gonzalez called for a question.

President Condon indicated that a question has been called for to vote on the issue.

Mr. Balingit interrupts.....

President Condon lets Mr. Balingit know that she hears him, however the question has been called for a vote on the issue.

Ms. Doreathea Johnson, Chief Council for the Department of Consumer Affairs interrupts by stating that when the attorney is making a point of order that he cannot be interrupted. He has to continue his point until it's complete, thereafter you can do the call for motion.

President Condon tells Mr. Balingit to continue.

Mr. Balingit thanks Ms. Johnson and lets the Board know that this is a major contract that carries a payment of approximately \$350,000 per year with 3% increase per year. It's a contract for \$3.6 million. If somehow we are parties to inducing either a breach in this lease or beaching this lease itself, the Board is liable for \$3.6 million. The second point is that how this lease was entered into was following a process that has been in place in State government for quite a long time. It was fair and impartial process by which this contract was entered into, we had the experts come in a recognize a site so if the Board somehow interferes with this contract, not only will the Board be liable but question as to whether the Board members are personally liable on this \$3.6 million lease. Your personal liability is the issue.

President Condon wanted to make it very clear that the lease was signed without the consent and without the discussion of Board members and that she isn't suggesting they break the lease. She wants DCA to do what it wishes with the lease and find a suitable space for the testing facility for Barbering and Cosmetology east of the 605. The question has been called for.

Mr. Balingit adds another point of order. The statutes require you to request the Department not to enter to ask General Services. The Board does not have the authority to contact DGS or to request DGS to enter into another lease or to find another suitable facility.

President Condon thanks Mr. Balingit and the question has been called for.

Mr. Balingit says that she will need to restate the motion if the Board wants the Executive Office to direct this request to DCA to contact DGS to look for a suitable site. It's procedural matter.

President Condon asks if a member of the Board would like to accept that as a friendly amendment to the motion.

Mr. Gonzalez accepts the amendment to the motion.

President Condon repeats that the amendment to the motion has been accepted. How do the Board members vote, yea or nay?

Mr. Joe Gonzalez- yea
Ms. Bonnie LaChappa- yea
Mr. Richard Hedges- yea
Ms. Tamara Rasberry- nay
Ms. Kim McInnes- yea
Ms. Mercedes Barcelona- yea

President Condon asked the motion be carried and she voted yea on the motion. She thanks everyone and asks Cindy if she had anything to share.

Ms. Walton indicated no.

President Condon thanked the public that came to the meeting.

Ms. Walton adjourned.