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TEXAS BOARD OF PROFESSIONAL ENGINEERS

February 26, 2010

Mr. Gary R. Maze
Duane Morris, LLC
3200 Southwest Freeway, Suite 3150
Houston, TX 77027-7540

Dear Mr. Maze:

RE: Policy Advisory Opinion request dated December 18, 2009

Thank you for your policy advisory request asking for the Board's position on whether a specific real estate inspection report (Fox Inspection Group's Property Inspection Report #090613) constitutes the act of erecting, constructing, enlarging, altering, or repairing a private dwelling (as specified in §1001.056 (a)(2)(A)), and more generally does the report constitute an (engineering) investigation, evaluation, or analysis.

The Policy Advisory Opinion Committee met in an open public meeting on February 25, 2010 and considered your request. After discussion, the Committee determined that the request is answered by current statute and rules that define the practice of engineering and exemptions from those statute and rules.

The statement/questions posed in the table in your email do not appear to describe situations that would be in violation of the Board's statute and rules. The opinions, observations, and appearances offered in the Fox Report do not appear to be engineering.

The Committee opines that Fox's Report does not meet the definition of engineering as outlined in §1001.004; and even if it did meet the definition of engineering, the individual performing any engineering associated with residences would be exempt from licensure by this Board. While a real estate inspection is not specifically listed in §1001.056 (a)(2)(A)), it would be anticipated that one would be a precursor to "erecting, constructing, enlarging, altering, or repairing a private dwelling...".

Please feel free to contact us with any questions.

Sincerely,

Lance Kinney, P.E.
Interim Executive Director

LK:CBP:dpt

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