IN THE IOWA DISTRICT COURT FOR POLK COUNTY

IOWA LAND TITLE ASSOCIATION, **Petitioner,** **vs.** **IOWA TITLE GUARANTY DIVISION,** **Respondent,** **And also Concerning** **CHARLES W. HENDRICKS** **Applicant.**	**Case No. CV 6748** **RULING ON PETITION FOR JUDICIAL REVIEW**

This Petition for Judicial Review was before the court for oral argument and final submission on November 1, 2007. Attorney James H. Gilliam represented the petitioner, Iowa Land Title Association ("ILTA"). Assistant Iowa Attorney General Grant K. Dugdale represented the respondent, Iowa Title Guaranty Division (the "division" or the "agency"). Applicant and attorney Charles W. Hendricks represented himself. After reviewing the agency record and considering the arguments of counsel, the court makes the following ruling.

Nature of the Case

Against ILTA's objections, the agency granted Hendricks' application for a waiver of the requirements of Iowa Code § 16.91(5) that abstractor participants in the Iowa real property title guaranty program own or lease an "abstract title plant" with tract indices and with entries beginning at least forty years before the commencement of the abstractor's

participation in the program. ILTA now asks the court to reverse the agency's decision, arguing that the agency erred in granting Hendricks' request.

Background Facts and Proceedings

Iowa Code §§ 16.91 through 16.93 establish the agency as a division of the Iowa finance authority. The division is charged with the responsibility for "[initiating] and [operating] a program ... which ... offer[s] guaranties of real property titles" in Iowa. The division has the authority to promulgate rules regarding the participation of abstractors and attorneys in the guaranty program. Additionally, § 16.91(5) imposes specific requirements on participating abstractors but authorizes the division to grant waivers from those requirements under certain circumstances.

In the spring of 2007 West Des Moines attorney Charles W. Hendricks applied to participate in the guaranty program as an abstractor in Union County and asked the division to waive the requirement that he own or lease a forty-year "title plant" as required under §16.93(5). Later, Hendricks amended his request to include abstracting in all ninety-nine of Iowa's counties. Hendricks asserted that he was qualified for the waiver because it would be a hardship for him to meet the requirements and that it was in the public interest that the waiver be granted. ILTA filed a petition to intervene in the matter. The agency record contains no specific ruling on that petition. ILTA subsequently filed with the division a brief and argument against Hendricks' application and it submitted numerous letters from attorneys and abstractors around the state opposing the requested waiver.

The division's board of directors considered Hendricks' waiver application at its June 5, 2007 meeting and voted three to one with one member absent, to approve the application. The division followed up its vote with a written ruling issued July 31, 2007. ILTA filed its

petition for judicial review on the following day, challenging the grant of Hendricks' request for waiver.

Further facts will be set forth in the course of the discussion which follows to the extent necessary to explain the court's ruling.

Standard of Review

On judicial review of agency action, the court functions in an appellate capacity to apply the standards of Iowa Code Section 17A.19(10) (2007). *Iowa Planners Network v. Iowa State Commerce Commission*, 373 N.W.2d 106, 108 (Iowa 1985). A district court acts in an appellate capacity to correct errors of law on the part of the agency. *Holland Bros. Constr. v. Board of Tax Review*, 611 N.W.2d 495, 499 (Iowa 2000).

There are fourteen separate grounds for reversing agency action set forth in §17A.19(10). ILTA cites several of the specific grounds but its argument is essentially threefold: (1) the agency's action was based on an erroneous interpretation of law; and (2) the agency's action is unsupported by substantial evidence in the record[1]; and (3) the agency's decision is arbitrary, capricious and unreasonable and constitutes and abuse of the agency's discretion.

---

[1] The parties agree that the type of agency action at issue here is "other agency action", which is the residuum category of agency action when the agency is not conducting rule making or a contested case hearing. *Sindlinger v. State Board of Regents*, 503 N.W.2d 387, 389 (Iowa 1993). Before it was amended to be effective in 1999, chapter 17A limited the specific "substantial evidence in the record" ground for review of agency action to contested case proceedings. *See* Iowa Code §17A.19(8)(f) (1997). Thus, there is much authority to the effect that the review of "other agency action" should not involve an analysis of whether there is substantial evidence in the record to support the action. *Id.* at 390. Instead, "other agency action" was reviewed to determine if it was based on errors of law or was unreasonable, arbitrary, or capricious. *Id.* In 1999 the legislature amended §17A.19 and the "substantial evidence in the record" ground for review of agency action is no longer specifically limited to contested case proceedings. *See* 1998 Iowa Acts 1202 §46; Iowa Code § 17A.19(10)(f) (2007). To the court's knowledge, our Supreme Court has not had occasion to address the significance of this change. However, even prior to the amendment, review of the factual basis for "other agency action" sometimes occurred in the context of a claim that the action was arbitrary, capricious or unreasonable. *Greenwood Manor v. Iowa Dept. of Public Health, State Health Facilities Council*, 641 N.W.2d 823, 831 (Iowa 2002). Additionally, the evidentiary support for "other agency action" is indirectly subject to review when the statute guiding the particular agency decision specifically establishes evidentiary standards. *Sheet Metal Contractors of Iowa v. Commissioner of Insurance of the State of Iowa*, 427 N.W.2d 859, 867-68 (Iowa 1988).

The standard for a court's review of an agency's interpretation of law varies depending on whether interpretation of the law is vested by statute in the agency's discretion or not. In the former case, the court may reverse the agency's interpretation only if it is "irrational, illogical, or wholly unjustifiable." *Birchansky Real Estate, L.C. v. Iowa Dep't of Pub. Health, State Health Facilities Council*, 737 N.W.2d 134, 138 (Iowa 2007) (quoting Iowa Code § 17A.19(10)(*c*), (*l*)). In the latter case, the court reviews for errors of law. *Id.* While the agency asserts that interpretation of the statutes at issue in this case is vested in its discretion it does not seriously argue that point and seeks review by the errors of law standard. The court, therefore, reviews the agency's legal interpretations for errors of law.

As it relates to claims that agency action lacks evidentiary support, "substantial evidence" is evidence "that would be deemed sufficient by a neutral, detached, and reasonable person, to establish the fact at issue when the consequences resulting from the establishment of that fact are understood to be serious and of great importance." Iowa Code §17A.19 (10) (f) (2007); *See also IBP, Inc. v. Harpole, et al.*, 621 N.W.2d 410, 417 (Iowa 2001). In determining whether a conclusion is supported by substantial evidence, the court must view the record as a whole. *Id.* The agency is entitled to considerable latitude in making fact-based decisions and an agency's decision is not unsupported by substantial evidence merely because inconsistent conclusions can reasonably be drawn from the same evidence. *Id.*

Finally, an agency's action is "arbitrary" or "capricious" when it is made "without regard to the law or facts of the case." *Dico, Inc. v. Iowa Employment Appeal Bd.*, 576 N.W.2d 352, 355 (Iowa 1998) (citation omitted). An "unreasonable" agency action is one which "is clearly against reason and evidence." *Id.* Unreasonableness has also been defined "as action in the face of evidence as to which there is no room for difference of opinion among

reasonable minds, or not based on substantial evidence." *Stephenson v. Furnas Electric Co.*, 522 N.W.2d 828, 831 (Iowa 1994). "Abuse of discretion" means the agency action is unreasonable, untenable, or lacks rationality. *Dico*, 576 N.W.2d at 355.

Discussion, Analysis and Conclusions of Law

I. Standing. The division first argues that ILTA lacks standing to challenge its grant of Hendricks' waiver application. In order to have standing to challenge agency action the person launching the challenge must affirmatively demonstrate: (1) a "specific, personal, legal interest in the subject matter as distinguished from the general interest shared by and common to all members of the community"; and (2) "a specific injury to this interest" by the contested agency action. *Northbrook Residents Association v. Iowa Department of Health Office for Health Planning and Development,* 298 N.W.2d 330, 332 (Iowa 1980). A party's specific interest needs only to be distinguishable from a general interest shared by the entire community. *Iowa Power and Light Company v. Iowa State Commerce Commission,* 410 N.W.2d 236, 239 (Iowa 1987). As to the injury aspect of the test "[o]nly a likelihood or possibility of injury need be shown." *Iowa Bankers Association v. Iowa Credit Union Department,* 335 N.W.2d 439, 445 (Iowa 1983). In the case just mentioned the Court recognized standing to challenge agency action on the part of an association of business entities who individually could have been harmed by the action. *Id.*

Applying these principles to this case, the court concludes that ILTA has standing to challenge the waiver granted to Hendricks. None of the letters submitted on behalf of ILTA's opposition to the waiver actually state that the person or entity submitting the letter is a member of ILTA. However, that fact is implicit. The letters show that ILTA members have an interest in this matter that goes beyond that of the public at large. The letters also demonstrate that there is a risk that ILTA's members, or at least some of them, will lose

business as the result of the grant of the waiver. These facts, in the court's view, afford ILTA standing to challenge the grant of Hendricks' request.

II. The merits. As noted, ILTA challenges the division's grant of Hendricks' request on several grounds. The court addresses them in turn.

A. Erroneous interpretation of law.

Iowa Code §§ 16.91 through 16.93 create the Title Guaranty Program. The legislature gave the division authority to promulgate rules establishing requirements for abstractor and attorney participation in the program but also set the following specific standards for abstractor participation:

> Additionally, each participating abstractor is required to own or lease, and maintain and use in the preparation of abstracts, an up-to-date abstract title plant including tract indices for real estate for each county in which abstracts are prepared for real property titles guaranteed by the division. The tract indices shall contain a reference to all instruments affecting the real estate which are recorded in the office of the county recorder, and shall commence not less than forty years prior to the date the abstractor commences participation in the title guaranty program. However, a participating attorney providing abstract services continuously from November 12, 1986, to the date of application, either personally or through persons under the attorney's supervision and control is exempt from the requirements of this paragraph.
>
> The division may waive the requirements of this subsection pursuant to an application of an attorney or abstractor which shows that the requirements impose a hardship to the attorney or abstractor and that the waiver clearly is in the public interest or is absolutely necessary to ensure availability of title guaranties throughout the state.

Iowa Code §16.91(5) (2007)

It is the immediately foregoing waiver provision that is at issue in this case and, particularly, the meanings of the word "hardship" and of the phrase "public interest." But the issue isn't really what the literal meaning of the word "hardship" is or of the phrase "public interest" but rather whether in the context of the entire statute the legislature

intended the word "hardship" and the phrase "public interest" to require the showing of a particular type or degree of hardship or a particular type or degree of public interest.

Our Supreme Court has outlined the principles guiding statutory interpretation as follows:

> In interpreting and applying ... statutory provisions, we 'attempt to give effect to the general assembly's intent in enacting the law. Generally, this intent is gleaned from the language of the statute.' *Griffin Pipe Prods. Co. v. Guarino,* 663 N.W.2d 862, 864 (Iowa 2003) (citations omitted). We give words their ordinary meaning, keeping in mind the context of the provision at issue. *Id.; William C. Mitchell, Ltd. v. Brown,* 576 N.W.2d 342, 347 (Iowa 1998). In addition, we strive to interpret each provision of a statute 'in a manner consistent with the statute as an integrated whole.' *Griffin Pipe Prods. Co.,* 663 N.W.2d at 864.

Nash Finch Co. v. City Council of City of Cedar Rapids, 672 N.W.2d 822, 826 (Iowa 2003)

Additionally, when a statute's language is clear, the court should not search for other meaning. *Wesley Retirement Services v. Hansen Lind Meyer, Inc.*, 594 N.W.2d 22, 25 (Iowa 1999). The court will "'look beyond the ordinary meaning of the statutory language when a statute's literal terms are in conflict with its general purpose.'" *Id.* at 26 quoting from *State v. Hopkins,* 465 N.W.2d 894, 896 (Iowa 1991). Where that is the case the court must give the statute a meaning that best effectuates its purpose rather than one that defeats it. *Id.* Additionally, statutes are interpreted to avoid absurd results. *Id.*

With these guiding principles, the court addresses each contested term separately.

1. <u>Hardship</u>. As to the meaning of "hardship", the competing arguments are straightforward. The division concluded that the word hardship is not qualified and that the cost of leasing or owning the required abstract title plant (hereinafter called the "forty year title plant") could be a financial hardship supporting a waiver. ILTA argues that the cost of, and therefore the financial hardship of obtaining, such a plant is the same for everyone, a fact the legislature must have recognized. The legislature could therefore not have intended,

ILTA argues, that the financial sacrifice of obtaining the forty year title plant could be regarded as a hardship because such a rule would result in the waiver provision swallowing the forty year plant requirement. In support of its argument, ILTA points to the legislative findings set forth in §16.3(15) evidencing the importance the legislature placed on the historical abstract and attorney title opinion system of preserving the integrity of Iowa land titles.

The word "hardship" means "suffering, privation." *Webster's New Collegiate Dictionary* (1973) at 518. Some synonyms of the word are "adversity, adverse circumstances, difficulties ...." *Roget's International Thesaurus, Fourth Edition* (1977). There is nothing in the language of the statute at issue specifically limiting the type of suffering, deprivation, adversity or difficulty which must be shown to justify a waiver. Thus, clearly, a financial hardship could satisfy that requirement. In fact, it is difficult to imagine what other kinds of hardship the legislature may have had in mind. Likewise, there is nothing in the statute requiring some heightened degree of hardship. There is no question, as ILTA argues, that the legislature regarded the forty year title plant requirement as important. That is evidenced not only by the legislative findings set forth in §16.3(15) but by the very fact that the legislature made it a specific requirement for participation in the title guaranty program while leaving other requirements largely to the determination of the division. ILTA's argument, however, merely begs the question. It ignores the language that is at issue which itself demonstrates a legislative determination that the use of a forty year title plant is not indispensable to protecting the integrity of land titles. In fact, it is the definition of the circumstances warranting waiver of the requirement which precisely defines the legislature's view of the importance of that requirement. The legislature could have said the forty year title plant requirement can never be waived or it could have said the requirement could be waived only

upon a showing of extreme or undue hardship. As the division points out, that is exactly what the legislature did in Iowa Code § 17A.9A in defining the standard for waiving the requirements of an administrative rule. Thus, the words used by the legislature in defining the circumstances under which waivers may be granted should not be given any different meaning than they have on their face simply because as a general matter the legislature regarded the forty year title plant requirement as important.

This does not mean, as ILTA argues, that literally any suffering or deprivation would constitute a hardship. The concept of hardship is relative. It cannot be given precise meaning in the abstract, as the division recognized by indicating that the cost of a forty year title plant could qualify as a hardship under "certain circumstances." The court agrees. While it might be a financial hardship for Hendricks as a sole practitioner to own or lease a forty year title plant in every county, it may not be a hardship for a large corporation. This discussion by the Oregon court of appeals is instructive in this regard:

> Taken together, however, we think it is fair to say that the ordinary meaning of the term 'undue hardship' tells us this: The term is relative in nature and not absolute. Some hardship – that is, some suffering or privation may be undue – that is, may be excessive, immoderate or unwarranted under the circumstances. But some also may be due. Said another way, some suffering or privation may be appropriate or warranted under the circumstances. In either case there is some suffering or privation. It is the degree of that suffering or privation that must be evaluated in the light of the circumstances. In that light, OSAA's and the board's conclusion that 'undue hardship' refers to anything more than *de minimus* cost fairly can be viewed as unlikely, for it makes no allowances for hardship that is appropriate or warranted under the circumstances.

Nakashima v. Board of Education, 131 P.3d 749, 758 (Or. App. 2006)

Following this reasoning, this court believes that not only does the term "undue hardship" entail something more than *de minimus* suffering or privation but the commonly understood concept of hardship itself entails something more than that. The *Nakashima* court cites Black's Law Dictionary for the definition of *de minimus* as "trifling", "minimal" or "so

insignificant that a court may overlook [them] in deciding an issue or case." *Id., fn 6.* In common parlance no one would consider a "trifling", "minimal" or "insignificant" burden as a hardship. The court therefore concludes that the term hardship as used in this statute means a cost or obstacle to complying with the forty year title plant requirement that is more than minimal under all the circumstances.

The argument that this interpretation of the statute trivializes the forty year title plant requirement is understandable as is ILTA's argument that the legislature could not have really meant "any hardship." It is tempting to define the word "hardship" as a burden that is "unusual" or "unreasonable" or "extraordinary" under the circumstances. However, in the court's view, to do so would cross the line from interpreting the statute to legislating. The legislature knows the definition of hardship. The legislature also knows how to qualify that word. Moreover, this interpretation does not lead to an absurd result or one that is clearly in conflict with the statute as a whole. It must be remembered that hardship is not the only requirement the legislature imposed to justify a waiver.

For all of the reasons just discussed the court concludes that the division did not err in determining the meaning of the word "hardship" as used in § 16.91(5). Although the division did not set forth an exact definition of hardship it clearly required a showing of something more than a minimal burden, as is more fully discussed below.

2. <u>Public interest</u>. ILTA does not argue about the literal meaning of the phrase "public interest". Rather, it criticizes the division for identifying improper public interests.

The division concluded that granting Hendricks' waiver request would promote the following public interests:

a. Increasing competition among abstractors

b. Encouraging the use of title guaranty throughout Iowa

c. Making title guaranties more competitive and out-of-state title insurance less so.

d. Improving the quality of land titles.

e. Protecting consumers.

ILTA argues that when the entire title guaranty statute is taken into consideration the only proper public interest to be considered is protecting the integrity of Iowa land titles. In making this argument ILTA relies heavily on the legislative findings supporting the title guarantee program which are as follows:

> 15. The abstract-attorney's title opinion system promotes land title stability for determining the marketability of land titles and is a public purpose. A public service will be served by providing, as an adjunct to the abstract-attorney's title opinion system, a low cost mechanism to provide for additional guaranties of real property titles in Iowa. The title guaranties will facilitate mortgage lender's participation in the secondary market and add to the integrity of the land-title transfer system in the state.

Again, the legislature obviously views the integrity of land titles as an important public interest. But, as ILTA itself points out, it is that interest which underlies the forty year title plant requirement. So it does not make sense that the legislature intended title integrity to be the only public interest to be considered when determining when to *waive* that requirement. Moreover, the statute does not expressly limit the division to considering only the protection of the integrity of land titles in assessing whether a waiver is in the public interest. ILTA does not argue that it is not in the public's interest to increase competition among abstractors, increase the use of title guaranty throughout Iowa and make title guaranties more competitive with out of state title insurance. Also, there are explicit indications that the legislature had in mind public interests other than protecting the integrity of land titles when it created the title guaranty program. The statute quoted immediately above refers to the title guaranty program as an "adjunct" to the abstract-attorney's title opinion system. The legislature envisioned that the program would be a "low cost

mechanism to provide additional guaranties" of land titles and that it would "facilitate mortgage lender's participation in the secondary market." Certainly, making title guaranties attractive from a cost perspective was an important public interest underlying the title guaranty program. And it could not be seriously argued that bolstering the title guaranty program itself is not a proper public interest for the division's consideration. The title guaranty program itself being in the public interest, anything that bolsters it would also be in the public interest.

The court concludes that all of the interests identified by the division in granting Hendricks' waiver request are proper public interests to be considered under the waiver provision of the pertinent statute.

B. Substantial evidence in the record. ILTA's second principal argument is that there is a lack of substantial evidence in the record to support the division's conclusions that: (1) Hendricks would suffer a hardship if the waiver is not granted; (2) that granting the waiver is clearly in the public interest; and (3) that granting the waiver is absolutely necessary to insure the availability of title guaranty throughout the state.

The first step is to determine what evidence the division may properly consider in judging waiver requests. As noted before, the granting of a waiver request under §16.91(5) is "other agency action" which has traditionally not been subject to attack on a "lack of substantial evidence" basis. *See* fn. 1. Additionally, unless prescribed by statute, "no particular evidentiary record" was required to support "other agency action." *Sheet Metal Contractors of Iowa v. Commissioner of Insurance of the State of Iowa,* 427 N.W.2d 859, 867-68 (Iowa 1988). Even though it now appears that under §17A.19(10)(f) "other agency action" is subject to attack on the lack of substantial evidence ground (*see* fn. 1), there is nothing in either chapter 16 or chapter 17A mandating the nature, source or form of evidence an

agency may properly consider in taking "other agency action." In this case, the evidentiary record before the division consisted of the facts asserted in Hendricks' application, the facts asserted in the letters supporting and opposing the application and of the collective knowledge of the individual members of the division's board. The court concludes that because there is no statute prescribing otherwise, all three sources of facts were properly considered by the division in evaluating Hendricks' waiver request.

The court now addresses the evidentiary support for each of the division's conclusions.

1. Hardship. ILTA argues that Hendricks' claim of financial hardship is not supported by substantial evidence because he did not submit a business plan supporting his assertions regarding the prohibitive cost of owning or leasing a forty year title plant in all 99 counties. The court rejects this contention. As just discussed, no particular form of evidence is required. The statements in Hendricks' application and the division board members' knowledge in this area constitute sufficient evidence establishing that compliance with the statute would be prohibitively costly to Hendricks' doing what he intends to do. There is no contrary evidence on this issue. Given the court's determination of the meaning of "hardship", the evidence there was ample evidence to support the division's conclusion that under the circumstances it would be a financial hardship for Hendricks to comply with the forty year title plant requirement.

2. Public interest. ILTA argues that there is a lack of substantial evidence in the record supporting the division's conclusion that granting Hendricks' waiver would further the public interests it identified. In this respect, the statute does provide a specific evidentiary standard that must be met in order for a waiver to be granted. The grant of a waiver must be "clearly" in the public interest.

At pages 10-15 of its written ruling the board engages in a thorough discussion of the reasons it concluded that granting the waiver would serve the public interests it identified. The division relied to a very large degree on its own experience. The court must give "appropriate deference" to agency decisions that have been "vested by law in the discretion of the agency." Iowa Code §17A.19(11)(c). Although the division has not been given complete discretion to determine when waivers should be granted, it has been given substantial discretion because determining whether something is a hardship or is clearly in the public interest is inherently relative and imprecise. Importantly, the division very specifically addressed the contention that granting the waiver would erode the quality of Iowa land titles.

It would not serve any useful purpose for the court to restate the division's reasoning and fact conclusions. Put simply, the division's conclusions regarding the effect of the requested waiver are well reasoned and supported factually.

3. **Absolutely necessary.** An alternative basis upon which a waiver may be granted is where, in addition to the existence of a hardship, granting the waiver is "absolutely necessary to ensure availability of title guaranties throughout the state." Iowa Code §16.91(5). The division found that Hendricks' request satisfied this ground. The court concludes otherwise.

In support of its conclusion the division stated:

> As noted above, the lack of title plants in some counties and changing dynamics in the marketplace have put Title Guaranty at a distinct disadvantage versus out-of-state title insurance, particularly in some parts of the state. In some areas, many lenders simply will not use Title Guaranty due to these issues. As a result, Title Guaranty is effectively not available, or is becoming unavailable, in these counties.

This is a powerful restatement of why it is in the public interest that Hendricks' waiver be granted. However, given the ordinary meaning of "absolutely", it falls short on its

face of supporting a conclusion that granting the waiver is "absolutely" necessary to ensure the availability of title guaranty. The statement that title guaranty is "effectively" unavailable or "becoming unavailable" in some areas means that title guaranty is currently available in these areas. That fact means that it cannot be absolutely necessary to grant Hendricks' waiver to ensure title guaranty in these areas. The court therefore concludes that the record does not support the division's conclusion in this respect.

C. Arbitrary, unreasonable, abuse of discretion. Because the court has concluded that the division's grant of Hendricks' waiver request was supported factually and legally, that decision cannot be arbitrary, unreasonable or capricious.

D. Inconsistent with prior practice. Agency action is reversible where it is "inconsistent with the agency's prior practice or precedents, unless the agency has justified that inconsistency by stating credible reasons sufficient to indicate a fair and rational basis for the inconsistency." In the conclusion to its brief ILTA asserts this ground as a basis for overturning the division's decision. ILTA points out in its recitation of the facts that prior waivers granted to attorney abstractors have been based on the location of their practices and the fact that each was mentored by an attorney who was not subject to the forty year title plant requirement because of the "grandfather" exception to the statute. ILTA also points out that the division has not made written rulings on prior waiver requests stating findings of fact and conclusions of law. Accepting the truth of these assertions, ILTA has failed to demonstrate how the prior decisions are inconsistent with the decision on Hendricks' application. Certainly, nothing in the statute limits waivers to the location of the request or to being mentored by a "grandfathered" attorney.

Conclusion

For all of the reasons set forth above the court **AFFIRMS** the decision of the division granting Hendricks' request for waiver of the forty year title plant requirement. The petition for judicial review is dismissed. The costs of this action are assessed to the petitioner.

IT IS SO ORDERED December 28, 2007.

DOUGLAS F. STASKAL
Judge of the Fifth Judicial District of Iowa

Mailed 12/28/07

For Clerk:
C U X J

Copies mailed to:

James H. Gilliam
Attorney at Law
600 Grand Avenue, Suite 2000
Des Moines, IA 50309-2510
Attorney for Petitioner

Grant K. Dugdale
Assistant Attorney General
Hoover State Office Building, Second Floor
Des Moines, IA 50319
Attorney for Respondent

Charles W. Hendricks
Attorney at Law
1701 48th Street, Suite 290
West Des Moines, IA 50266
Applicant