

BOARD OF RULES AND APPEALS

MARCH 9, 2017

MEETING MINUTES

Call to order:

Chair Jeffrey Lucas called a published meeting of the Broward County Board of Rules and Appeals to order at 7 p.m. The roll was called and the following members were present:

Present:

Jeffrey Lucas, FM, CFI, CFEI, Chair
Kenneth Wynn, Vice Chair
Ron Burr
Gregg D'Attile
Jeff Falkanger
Robert A. Kamm, P.E.
Daniel Lavrich, P.E.
David Rice, P.E.
John Simms
Daniel Rourke
James Terry

After the roll call, the presence of a quorum was announced by Chair Lucas.

Approval of Minutes

MR. LAVRICH MADE A MOTION AND MR. TERRY SECONDED THE MOTION TO APPROVE THE JANUARY 12, 2017 MEETING MINUTES AS SUBMITTED. THE MOTION CARRIED BY UNANIMOUS VOTE OF 11-0.

CONSENT AGENDA

1. Certifications – Staff Recommended

MR. LAVRICH MADE A MOTION AND MR. FALKANGER SECONDED THE MOTION TO APPROVE ALL SUBMITTED CERTIFICATIONS. THE MOTION PASSED BY UNANIMOUS VOTE OF 11-0.

1.a. Request of Mr. Graham Gerald's to be certified as a Plans Examiner with the Town of Southwest Ranches.

Everyone wishing to testify was sworn in.

a. Staff Report

Mr. Cris Fardelmann, BORA Chief Structural Code Compliance Officer, noted that staff

has denied this application because he does not have the required two years of experience as a structural inspector. The Building Official requested he be allowed to address the Board. Mr. Gerald's is two months short.

b. Mr. Gerald's Request

Mr. Jack Fisher, Southwest Ranches Building Official, explained Mr. Gerald's was hired two years ago and it took two months before his application was presented to the Board. During that two months, he was in training with other inspectors. A copy of his timesheet has been provided showing he was working for the town as of March 9, 2015. He is an architect and has worked in Broward County for over thirty years. He is sorely needed on staff.

c. Board Action

MR. D'ATTILE MADE A MOTION AND MR. FALKANGER SECONDED THE MOTION TO APPROVE CERTIFICATION OF GRAHAM GERALD'S AS PLANS EXAMINER/INSPECTOR.

During discussion of the motion, Mr. Lavrich asked what is the specific requirement that is not being met, that is, two years of experience in what capacity. Mr. James DiPietro, Administrative Director, advised that the record shows he is 2 months shy in experience as an inspector. In further response, Mr. DiPietro indicated it is within the Board's judgment and discretion to grant the request, taking into consideration his architectural experience unlike the staff that has to go by the letter of the law. Mr. Charles Kraemer, Board Attorney, advised that the Board is authorized to approve an application on an emergency basis, which was indicated by the applicant's representative. He is well qualified. Granting this request would be based on equivalency and an emergency. Mr. DiPietro agreed it is based on equivalency. The code is not being changed by taking such an action.

MR. D'ATTILE AMENDED HIS MOTION AND MR. FALKANGER SECONDED THE AMENDED MOTION TO APPROVE CERTIFICATION OF GRAHAM GERALD'S AS PLANS EXAMINER/INSPECTOR BASED ON EQUIVALENCY OF 30 YEARS EXPERIENCE AS A PRACTICING ARCHITECT IN BROWARD COUNTY AND THE EMERGENCY NEED OF THE CITY TO RETAIN A PLANS EXAMINER. THE MOTION PASSED BY UNANIMOUS VOTE OF 11-0.

2. Proposed changes to Broward County Chapter One Administrative Provisions to the 5th Edition (2014) Florida Building Code – Section 118.2.1.(8).

a. Recommendation of the Ad Hoc Committee to address uniform procedures for installation of Bi-Directional Amplifiers (BDA)

Mr. Rice described bi-directional amplifiers, their purpose and the related history. The Board of Rules and Appeals was asked to strengthen the permitting process to prevent potential deficiencies in the future. The Committee studied the problem and added some

implementation rules during the permitting process. He elaborated on the steps taken by the Committee. Their recommendation, as presented in this item, is to add signage to the BDA enclosure.

b. Public Hearing

Chairman Lucas opened the floor for public comment but there was no one wishing to speak.

c. Board Action

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. TERRY TO APPROVE THE CODE CHANGES AS SUBMITTED. THE MOTION PASSED BY UNANIMOUS VOTE OF 11-0.

3. Proposed changes to Broward County Chapter One Administrative Provisions to the 5th Edition (2014) Florida Building Code – Sections 104.12.3.3 (Electrical Inspector), 104.13.3.3 (Mechanical Inspector), 104.14.3.3 (Plumbing Inspector), 104.15.3.4 (Roofing Inspector), 104.16.3.4 (Structural Inspector).

*scrivener correction

a. Staff Report

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, explained that this is an attempt to open inspector ranks to individuals outside of South Florida. This amendment would allow an individual to secure his contractor license while working as an inspector. Currently, one has to be a contractor or an active engineer for any position. Something similar has already been done for a journeyman. However, there is no exception for high-velocity requirements in the structural discipline. The individual would be required to have experience in the high-velocity zone or pass the high-velocity test.

b. Public Hearing

Chairman Lucas opened the public hearing.

Mr. Peter Beaudoin*, City of Lighthouse Point Building Official, asked if there would be any limitations as to a particular city or would it be county-wide. Mr. Soto advised that it would be countywide. He clarified that the individual would need to be qualified to take the contractor exam. The procedure established for a journeyman was reviewed by the Certification Committee. Mr. DiPietro indicated once certified in Broward an individual may function in any city within the county which is different than Miami-Dade County. Mr. Beaudoin* asked what happens if the individual does not pass the exam. In such case, Mr. Soto indicated the individual would be de-certified.

Ms. Sheila Oliver, City of Deerfield Beach Building Official, did not think that lowering the certification requirements would have a meaningful impact on attracting people to the inspection profession. She felt part of the problem is the lack of an outreach program. There is a lack of understanding and knowledge of the importance of this function. She advocated for an inspector internship instead of lowering certification requirements.

Mr. Norman Bruhn, Calvin, Giordano & Associates, pointed out that the revision does not indicate a minimum two years of high-velocity, which would be added. Mr. DiPietro, clarified that it may appear a little bit confusing but if you read the exception, it is only as indicated for the contractor's license.

Mr. Bruhn wanted to make sure nothing is done unintentionally. He expressed concern about reducing the requirements to become an inspector. He felt a good job has been done in Broward County in creating a good group of professionals. It is easier to hire people in Broward than in other Florida counties. He emphasized the professionalism of the people in Broward compared to when one steps outside of Broward County and that includes Dade County. The requirements are not the problem with hiring people. The problem with is it is impossible to compete financially. Today somebody can come out of college and get a job for \$80,000 a year. Why would they become a building inspector for \$60,000. The reason people are coming to this job is that they see it as a career. It is not a blue collar position like it is in the rest of the state. It is a profession in both Dade and Broward County and it is something to be proud of. He was proud of what Broward is and what has been built here and he did not want to do something that could be regretted in the future. This Board of Rules and Appeals and Dade County and the building officials here in these two counties have led the way to stronger codes throughout the state of Florida. He felt it would be a shame to step back now and stop fighting for that. He believed that the contractors in Broward County agree with what has been done. Although it is difficult at times to get permits, they are proud of the work in Broward County.

Mr. Steve Pizzillo, past president of the South Florida and the Broward County Building Officials Association, said that for the past eighteen months, Broward County building officials have worked with the Fort Lauderdale Alliance on exactly problems like this in building departments where it was perception or reality of shortage of inspectors. They found that perception was not really the reality. Yes there is a shortage and the severe shortage is actually limited to very specific cities. It does not have to do with the qualifications, the certifications or the application; it has to do with very specific things that those cities are doing or not doing. Together with the Alliance, the committee now working on a program for the next generation of inspectors. People are given two years of courses whereby they can be a full-fledged inspector. Broward County will then have some of the best trained inspectors in the world, let alone the state of Florida. Miami-Dade County also looked at the shortage and found pretty much the same answer that the shortage is not here in South Florida. It is possible to hire in this area today, but there is a severe shortage of inspectors in the rest of the state. He elaborated upon challenges that BCAIB (Building Code Administrators and Inspectors Board) has in areas where there is no BORA in the county and applications go directly from the building official to the Board. Applicants have no experience in construction. He concluded by urging the Board to seriously consider this proposal because the perception is not the reality.

Mr. Lavrich was not certain everyone understands that the only changes proposed relate to the issue of possessing a license. Mr. James DiPietro, Administrative Director, explained that up-state a contractor's license is not required to be an inspector which Miami-Dade and Broward counties have required since the 1970's. This is trying to open

the door for an individual from up-state with five or ten years of experience as an inspector. However, the individual would still have to secure a contractor license. The individual would be given two years to do so. He agreed with the previous speakers that there is a danger. Some people fear it could lead to further weakening of the standards, which is certainly a legitimate point of view. Mr. Soto pointed out that this amendment only addresses the requirement to be a contractor, journeyman, engineer or architect before becoming an inspector. It only refers to one category already in the code of individuals with five years of construction experience and five years as an inspector. Today the individual must also have a contractor's license. This proposal would provide the individual two years to secure the license. The proposal confronts the impression that Broward BORA is a closed shop. BORA held meetings with building officials last week and at that time the opposite opinion was expressed.

Mr. Claudio Grande, City of Tamarac Building Official, indicated that he attended the building official meeting mentioned by Mr. Soto. One comment was that the requirements of the Board in filling out an inspector application are very difficult, not the requirements in the code. There is no issue with hiring new inspectors in Broward County that are licensed contractors. He believed the Board has approved over forty new inspectors in the past year. By hiring people that are not licensed would be doing a disservice to professionals in Broward County in this business. Lessening the requirements would eventually be a big problem. He recommended tabling this matter and referring it to the certification committee to come up with other ideas.

Mr. Peter Beaudoin* favored the proposal provided it is required that the individual progress ahead.

Chairman Lucas closed the public hearing as there was no one else wishing to speak.

c. Board Action

Mr. D'Attile asked about the reasoning for the recommendation. Mr. DiPietro indicated that a couple years ago a city manager remarked to him that he felt the system was closed. Also, there is the reputation held that Broward County is a closed shop. Recently at a charter review board subcommittee meeting it was clear that someone had questioned the certification standards to the chair. The chair later referred to the number of vacancies which was refuted because of the Business Alliance survey. It is a battle of perceptions. Although he does not think it is unfair to recruit people from up-state, but that does not mean it cannot be done better. He wanted to make sure the Board considers flexing the system. He elaborated upon the history of standards in the state. Unless the Board has a series of certification issues to give to the committee, he would prefer to withdraw the item. It has nothing to do with certification standards in that there are shortages all over the state and they have minimum standards. On the other side of the argument, he questioned the home affordability, for example, of an individual relocating from up-state to Broward County. This may have something more to do with it than the certification standards. There are plenty of arguments in support of either direction. Mr. Burr pointed out if the individual does not secure their contractor's license in the two-year period, he or she would have been inspecting for that two years and does not ultimately qualify. He would have an issue with that.

Mr. DiPietro withdrew the item. There was no objection.

Mr. Lavrich felt there is a significant difference between possessing a contractor's license and operating as a contractor. Mr. Kamm indicated that the mechanical, electrical and plumbing fields are more detailed in their licensing than a general contractor. He would be concerned about inspections by an individual who has not learned all of the details required to be a contractor. Mr. Terry questioned whether the municipalities are doing their due diligence in their job searches. Chairman Lucas pointed out that many cities removed a pension benefit and therefore individuals are more inclined to migrate to the private sector. He believed it is a benefit and pay issue.

4. Proposed updates to certification forms for Building Officials, Chiefs, Plans Examiners and Inspectors.

a. Staff Report

Mr. James DiPietro reviewed the history of changes to the certification forms contained in the agenda material provided to the Board. There is some thinking that there is more friction on the paperwork side of the process than the certification standards themselves. The W-2 standard was decided upon as a uniform way of making people prove their experience. Miami-Dade County does not require W-2's. The Board has this option which was followed in the early 1990's although staff is recommending a middle of the road approach.

Mr. Otto Vinas, Chief Plumbing Code Compliance Officer, referred to the application checklist and advised that Item 3, "A copy of State Certification, State Provisional License or letter from employing official verifying applicant's submittal to State for each certification..." was combined with Item 4, "Copies of appropriate license with original date of issuance." Item 5, relating to W-2 forms, was revised for more flexibility. Previously, any notarized statements would have had to be approved by the Board. Staff will now be authorized. On the application, contracted staff has been added so that it reads, "Effective date of hire/promotion/contracted staff". The certification language for the building official, chief executive officer, human resources director or other duly authorized representative was then consequently revised to delete that the applicant was hired/promoted into the position (could now also be contracted). Item 7 was also removed, "Individuals with an active license shall submit a written statement listing any open and/or expired permits." It was considered redundant because applicants must complete the policy affidavit to show compliance for Special Act 71-575. Another redundant note at the bottom of the checklist, "Note: The Broward County Board of Rules & Appeals has the authority to request additional information if necessary." was removed. He concluded by saying that the changes will make it easier for building officials to provide the necessary paperwork to verify employment.

b. Public Hearing

Mr. Steve Pizzillo commented that it may be difficult for an individual to produce IRS forms for their work as a contractor if, for example, the individual used a payroll service and the

contracting name is not on those forms. However, as long as the individual can prove their work history, he had no objection to the proposed changes.

Mr. Norman Bruhn, Calvin, Giordano & Associates, felt part of the problem is the scrutiny. For example, he worked as an assistant building official and chief structural inspector for Cooper City; moved to the position of building official in Miami-Dade County and then became building official for Pembroke Pines and had to submit W-2's. It becomes cumbersome. A good amount of his work experience was under an individual who is deceased. There has to be some authority given to the BORA staff member to accept that knowledge and make a judgment call. The staff member who requested the W-2's also had signed his first certification. It may not always be necessary to have a paper trail.

Mr. Soto questioned how staff could make such judgment calls without the potential of being accused of favoritism.

Mr. Bill Tracy, City of Parkland Building Official, commented that he became an inspector with a state license and county certification about four years ago. When he recently applied for a building official position, he was still required to provide all of the information again. The process could be revised to address such cases. If an individual has been working in a position and is in the system, he or she should not be required to produce the same information each time he or she moves to a different position in the county. The individual would only be required to produce any additional requirements for a new position.

Mr. Vinas advised that for cases of an individual moving up from inspector to plans examiner, BORA staff use any applicable existing documentation in their file for the new application. New W-2 forms are not requested.

Mr. Bruhn emphasized that staff works very hard to facilitate an applicant. He urged the Board to give staff more authority.

Chairman Lucas closed the public hearing as there was no one else wishing to speak.

c. Board Action

Mr. James DiPietro, Administrative Director, advised that the theme of this evening's agenda items is to make the system more user-friendly and take down unnecessary barriers. Forms will be placed online next week. These steps will help the building officials and not force issues to come to the Board. He pointed to new language, "verifiable evidence of employment, such as IRS forms, tax returns, W-2 forms or notarized written statements (affidavit) including contact information attesting to employment from former employers, partners or design professionals knowledgeable of the applicant professional or trade experience." Previously, if an individual could not provide W-2's, their application would be presented to the Board. Now, applications can be processed more readily.

In response to Mr. Terry, Chairman Lucas said that he felt the issue is with people having to produce W-2's. He felt there should be more reliance on staff. Mr. Terry felt W-2's are

best. Chairman Lucas noted that it is staff's responsibility to request W-2's if they feel it is necessary, and the Board can always request for that proof as well.

Mr. Falkanger asked if there was an egregious situation that occurred in the past or whether this is a solution in search of a problem. Mr. DiPietro explained that essentially the criticism has been delay in the system. Perhaps someone thought that staff was unreasonable in requesting W-2's.

A MOTION WAS MADE BY MR. D'ATILLE AND SECONDED BY MR. FALKANGER TO ADOPT TO CERTIFICATION APPLICATION FORMS AS SUBMITTED. THE MOTION PASSED BY UNANIMOUS VOTE OF 11-0.

5. **Requested authority to establish a 10-year retention schedule for certification applications to be submitted to the Florida Division of Library and Information Services for review and approval.**

a. Staff Report

Mr. James DiPietro, Administrative Director, indicated this is a housekeeping matter. The request is to establish a 10-year retention schedule for certification applications relating to people who are no longer in the system and in some cases are deceased or are no longer in the area. The Miami-Dade County standard is about five years. There are plenty of checks and balances. It will be processed through the Florida Division of Library and Information Services. Staff will also follow the County's procedures. Essentially these records would be destroyed after ten years out of the system. In response to D'Atille, Mr. DiPietro advised that there is currently no system in place, however some records were destroyed when the office was moved from the Federal Highway location to North University Drive. Anything up to 2006 would be subject to disposal.

b. Board Action

A MOTION WAS MADE BY MR. TERRY AND SECONDED BY MR. SIMMS TO APPROVE ESTABLISHMENT OF A 10-YEAR RETENTION SCHEDULE FOR CERTIFICATION APPLICATIONS AS SUBMITTED. THE MOTION PASSED BY UNANIMOUS VOTE OF 11-0.

6. **Director's Report**

City of Hollywood Plan Review Issue – Anthony Noah - Mr. James DiPietro, Administrative Director, indicated that there is a disciplinary matter that is recommended to be closed. Mr. Cris Fardelmann, Chief Structural Code Compliance Officer, reviewed the history around a City of Hollywood plan review issue outlined in his memorandum to the Board of January 26, 2017. Mr. Anthony Noah had retired in 2015 and not gone through recertification. However, he was subsequently hired in April by Calvin Giordano & Associates (CGA) and started doing plan review work. He described action taken by CGA when discovered. All of the plans in question were reviewed by the Chief Structural Inspector and no issues were found. There was no indication that this oversight was

intentional on anyone's part. Upon discovery, immediate action was taken. Mr. Noah voluntarily did re-reviews to remove any appearance of impropriety. It is staff's opinion that no further disciplinary action is warranted. Most of the plan reviews in question were simple ones. Mr. Noah was re-certified on June 23, 2016.

Mr. DiPietro advised if the Board agrees with staff, it is requested a motion be adopted acknowledging receipt of the report which would close the matter. In the alternative, staff could be directed to place it on the next agenda.

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. TERRY TO ACCEPT THE REPORT (MEMORANDUM DATED JANUARY 26, 2017) AS SUBMITTED. THE MOTION PASSED BY UNANIMOUS VOTE OF 11-0.

Senate Bill 7000 – Amending Section 553.73, Florida Statutes – Mr. DiPietro wanted to know if there is any strong views for or against this concept. The Florida Building Code has a three-year cycle. This bill deletes a provision that specifies how long amendments or modifications to the foundation would remain. It would basically be a six-year code cycle, but the local amendments would be kept which now expire every three years. The International Code Council (ICC) strongly opposes the bill.

7. **Attorney's Report** - none

8. **Committee Report**

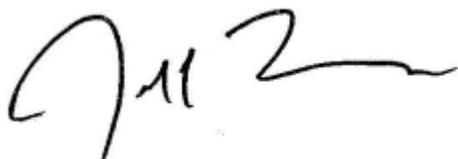
Electrical Committee - Mr. Rice advised that he serves on the Electrical Committee as well as the Electrical Technical Advisory Committee (TAC) for the Florida Building Commission. On January 24th, the TAC met, discussed the latest National Electrical Code (2017) and voted 13-0 to bring it forward to the Florida Building Commission which occurred on February 7th. He elaborated upon the presentation and comments made to the Commission by members of TAC and others. The motion did not pass. It was noted that it would add a year to adoption of the building code. Staff recommended the glitch process be used to pursue this effort further. His concern is that the Florida Building Commission will be adopting an obsolete code, the 2014 National Electric Code. He wanted the most current codes to be available and planned to pursue the matter through the glitch process. Mr. Lavrich commented that it seems the problem is coordination in code development between the International Code Council (ICC), the Florida Building Code and all the other standards being produced throughout the country that have to be included in the code which are all on varying schedules. At some point, all of them need to be synced into the same schedule. He believed there are certain financial aspects hindering the adoption of other standards and codes before they are adopted by the ICC.

9. **General Board Members Discussion** - none

10. **Public Comment (3 minute limit per person) and written communication** – none

11. **Adjournment**

Having no further business to go before the Board, the meeting adjourned at 8:27 p.m.

A handwritten signature in black ink, appearing to read "J. Lucas", written in a cursive style.

Jeffrey Lucas, FM, CFI, CFEI – Chair

