



BROWARD COUNTY

Board of Rules & Appeals

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BOARD OF RULES AND APPEALS

May 10, 2012

Meeting Minutes

Call to order:

Chair Abbas Zackria called a published meeting of the Broward County Board of Rules and Appeals to order at 7:00 p.m.

Roll Call

Ron Burr
Gary Elzweig
John Famularo
Bill Flett
Shalanda Giles Nelson
Allan Kozich
Dan Lavrich
Jeff Lucas
Jay Shechter
Richard Smith
Hank Zibman
Abbas Zackria – Chair

The presence of a quorum was established.

Approval of Minutes

Mr. Kozich made a motion to approve the minutes as amended:

Item #5. Amendments to the 2010 Florida Building Code and Plumbing Appendix F - Mr. Lavrich made a Motion to approve the Glitches set forth by Mr. Dipietro. Mr. Flett seconded the Motion. The Motion passed unanimously.

Mr. Lavrich seconded the motion and the amended minutes were approved for the March 15, 2012 board meeting.

Special Recognition

Mr. DiPietro noted that Tarry Baker is a 20 year employee with the Board of Rules and Appeals. He requested that the Board grant Mr. Baker one day with pay, above and beyond any recognition that Broward County provides. By unanimous vote the Board approved of same.

1. Certifications – Staff Recommended

MR. KOZICH MADE A MOTION TO APPROVE, AND MRS. GILES NELSON SECONDED THE MOTION. Mr. Lucas recused himself from voting due to a conflict.
THE MOTION PASSED WITH A VOTE OF 11 – 0.

REGULAR AGENDA

2. Appeal #12-01 – 1-A Sundial Circle, Margate – Re-hearing

The Chair called the meeting to order and individuals wishing to speak were sworn in.

The first issue discussed was whether BORA had jurisdiction to hear the appeal. There was considerable discussion by Rusty Carroll, Chief Structural Code Compliance Officer. In staff and legal opinion there is a threshold issue that must be addressed prior to hearing the Appeal. Is the Appellant an aggrieved party? The Building Official stated in his response that in his opinion the Appellant is not an aggrieved party because he does not own Lot 475. It was noted that this appeal was heard at the March 15, 2012 meeting. A request was made to the Board to rehear the Appeal and said request was granted.

Mitchell Ceasar, attorney for the Appellant addressed the Board. He stated that the city and the enterprise are on the same page, and are trying to make this work. Mr. Ceasar noted that whatever flexibility the Board allowed would be appreciated.

There was discussion among the Board members, with questions and answers to the Appellant and staff. Board Chair Zackria clarified that jurisdictional issues would be addressed first as to whether the petitioner has standing to file the appeal.

Chris Cotler, the Interim Building Official for the City Margate addressed the Board. Mr. Cotler said that the rehearing is being sponsored by Aztec RV Resort Condo Association, Inc.

- 1) ALLAN KOZICH MADE A MOTION “BASED ON LOT 475 THE ASSOCIATION HAS STANDING TO RE-HEAR THE APPEAL AND IT IS NOT LIMITED IN SCOPE TO LOT 475. HANK ZIBMAN SECONDED. THE MOTION PASSED, 8 – 4 (DISSENTING VOTES – BILL FLETT, SHALANDA GILES NELSON, DICK SMITH & JEFF LUCAS).**

Once it was established that the Appellant had standing, and the Board has jurisdiction, the Board moved to consider the substance of the appeal. Mr. Cotler noted that Lot 475 was only one of many that have violations.

The attorney for the RV Park, Mr. St. Lauren said, “We are appealing the portion that once a chickee hut is built without a permit other items cannot be inserted, it would be contrary to every other county in Florida.”

Mr. Lavrich felt it was important to note that the construction of the chickee huts is not a problem, as long as the chickee hut complies with the Florida Building Code. If you want to take advantage of the exemption, then you cannot install any electrical or plumbing (non-wood) items. If you pull a permit to install the chickee, you can then install items such as plumbing and electric.

Chris Cotler further commented that the city is not holding up the issuance of any permits.

2) **HANK ZIBMAN MOVED TO TABLE THE APPEAL AND GARY ELZWEIG SECONDED THE MOTION. THE MOTION PASSED 10 – 2. DISSENTING VOTES WERE ALLAN KOZICH AND DICK SMITH.**

3. **Multi Year Budget Planning, Request for Fee Adjustments and Ending of Furlough Program**

The Chairman called on the Director to give his report. Three recommendations were offered as follows:

It was recommended that the Board of Rules and Appeals adopt a proposal to the Broward County Commission to increase our 60¢ per \$1,000 of construction value fee to 65¢ (8.33% increase), and establish a BORA minimum permit charge of \$2.00 (projected 1.98% increase in revenue). Mr. DiPietro stated that this is the first such change since October 2009 and the second from October 1987 when the fee was 35¢ and 60¢ per thousand respectively. These proposed changes would become effective October 1, 2012.

Secondly, it was proposed that the furlough program end in Fiscal Year 2012 with eleven (11) days per employee, rather than the eighteen (18) originally anticipated. This would result in a two year total (FY11 and FY12) of 30 unpaid furlough days per employee. The replacement for the Chief Plumbing Code Compliance is scheduled for August 13, 2012.

Finally, the staff of the Board of Rules and Appeals and the budget office have worked together to develop a line item budget for fiscal year 2013. The approval of same was requested.

The reasons for these recommendations include ending two fiscal years of severe budgeting cuts, necessitated by the largest economic recession since the Great Depression, now that our reserves have been nearly exhausted. Expenses have been reduced from \$1,806,650 in fiscal year 2008 to a core budget of \$1,449,940 in fiscal year 2013. The rate increases from 1987 to 2012 are less than the official U.S. Government cost of living figures. Staff field reviews will

increase and approach normal levels as employee work hours resume, the rate proposed has been developed in cooperation with the County budget office and we are both comfortable with the justifications for the increase and the amount recommended.

Mr. DiPietro proceeded to discuss revenues in detail as to the difference that a 65¢ fee increase or a 68¢ fee increase would generate both with a \$2 minimum charge. Also included is 2% for economic growth.

<p>Existing Base 60 cents per <u>\$1,000 of Construction</u></p> <p>\$1,374,000 (\$114,500 per month)</p>	<p>At 65cents (8.33% Increase) with \$2 minimum (1.98% Increase) Plus Large Projects/Economic Growth (2.0%) = 12.31% new revenue</p> <p>\$1,543,140 (\$128,595/month)</p>	<p>At 68 cents (13.33% Increase) with \$2 Minimum (1.98% Increase) Plus Large Projects / Economic Growth (2% Increase) = 17.31% New Revenue</p> <p>\$1,611,840 (\$134,320 per month)</p>
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Gary Elzweig asked Mr. DiPietro to indicate if expenditures will be adequate for the budget starting October 1, 2012. The Director responded affirmatively. While the line item funding is not perfect, it is much better than what we have had for the last two (2) fiscal years.

A number of Board members then discussed the merits of a 65¢ rate increase versus a 68¢ rate increase.

During the course of the discussion, Bill Flett asked when the Furlough Program would end. Mr. DiPietro responded “this evening, immediately.”

MR. ELZWEIG MADE A MOTION TO APPROVE THE 68¢ RATE INCREASE AND THE \$2.00 PERMIT FEE INCREASE, AND MRS. GILES NELSON SECONDED.

THE MOTION PASSED 11 – 1.

4. Adjustment in Fire Inspection Exam Fee, from \$35 to \$45 for Each Test Administered

Mr. DiPietro introduced the item, and Chief Fire Code Compliance Officer, Bryan Parks addressed the Board as follows:

In February of this year the Broward Fire Marshals requested an increase in the testing for potential new inspectors that have made requests to interview for employment. After discussions with the Director it was suggested that we have a test period to establish if the proposal related to increasing the tests was warranted and the modification of the code was needed.

The Board will offer five (5) fire exams per year. The May and November test dates will remain mandatory and only require one individual desiring to take the test. Mr. Fontan is in agreement.

As for the other test dates the number of individuals (present requirement is six) will be reduced to three (3) to hold an exam. Mr. Elzweig inquired as to why this is a test period. Mr. Parks responded that staff believes that the numbers taking the exam will not support the modification and the code should be the same.

Mr. Parks explained that in 2011 the Board tested 23 individuals with only four test dates. Mr. Parks went on to explain that with this action of increasing the number of exam dates, it is staff's recommendation that Mr. Fontan's rate for preparing the exams, administering the exams, and grading the exams, and taking his travel to a central location to hold the exam into consideration, indicates an increase in the exam fee from \$35 dollars to \$45 dollars per exam. This fee is paid directly to Mr. Fontan for his services.

MR. ZIBMAN MOVED TO APPROVE THE INCREASE, AND MR. LUCAS SECONDED THE MOTION. THE MOTION PASSED UNANIMOUSLY.

5. Glitch Changes to 40 Year Building Safety Inspection Program – Policy #05-05 to Reflect Updates to 2010 Florida Building Code

Director DiPietro recommended that the Board of Rules and Appeals approve glitch updates to our 40 Year Building Safety Inspection Program, Board Policy #05-05. He stated that on March 15, 2012, the "2010 Florida Building Code" went into effect. This resulted in some numbering changes to Chapter One as compared to the 2007 Edition of the Florida Building Code. We have a BORA policy that supports the 40 Year Building Safety Inspection Program and some sectional references have been changed to reflect our new Chapter One.

In addition, building officials normally start notifying affected property owners no sooner than February of each year if their building is due for a safety inspection. Under the revised guidelines BORA will contact Cities no later than October concerning the following year's list, giving the building departments the option (not a mandate) of starting the program earlier to allow more time for compliance, and for associations to address revenue issues. We are in a new phase of this program, as the catch up list of older buildings is now complete. Mr. DiPietro noted that a resident, Mr. Bob Turner, had requested to address the Board on the idea of early notifications, and that the Chairman had agreed to this courtesy.

Mr. Turner is a resident and on the board of a condominium association in the City of Pompano Beach. Mr. Turner spoke about the 40 Year Building Safety Inspection Program, and remarked that that is the guideline that supports the basic code, the basic law that is in Chapter One.

Mr. Turner conveyed to the Board the terrible issues in our condos since Hurricane Wilma. Building liens, foreclosures, evictions, and law suits affect more than 10% of our residents. It took twenty-two (22) months to put our association back in some semblance of order. We are looking at hundreds of thousands of dollars in unpaid assessments that unit owners are being held responsible for. Elevator maintenance repair is one example. Unit owners are in real trouble. We need as much lead time as possible to financially prepare for major repairs. I have had to force my association after 27 years, to take part in a preventative maintenance program. I have been on this Board for ten years. Give us some time as we do with the October proposal to budget for bad debt expense. The buildings are getting older, although ours are well maintained; I have recommended that we bring in an engineer to inspect our building. The building manager recommended that we look at this Safety Program outline 2 or 3 years ahead of time.

The Chair thanked Mr. Turner for his remarks.

6. Director's Report – "High Velocity Hurricane Zone"

The Director told the board that both Bill Dumbaugh and Rusty Carroll have been working on HVHZ code provisions. Bill Dumbaugh explained to the Board members that State of Florida legislation had mandated that all HVHZ codes that were not related to wind be removed from the code. Bill explained that he and Rusty were working with Miami-Dade Board of Rules and Appeals to identify which sections should be removed. He stated that most of the sections had been identified and now the staff's from the two boards must start working on integrating the codes (High Velocity and Non High Velocity) together.

Having no further business, the meeting adjourned at 8:39 p.m.