



BROWARD COUNTY

Board of Rules & Appeals

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<http://www.broward.org/codeappeals.htm>

BOARD OF RULES AND APPEALS

APRIL 9, 2015

MEETING MINUTES

Call to order:

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

Roll Call

Gregg D'Attile
John Famularo
Steve Feller
Shalanda Giles Nelson
Allan Kozich
Dan Lavrich
Jeff Lucas
Dave Rice
John Sims
Ken Wynn
Abbas Zackria
Ron Burr - Chair

After the roll call, the presence of a Quorum was announced by Chair Ron Burr.

Approval of Minutes

Mr. Kozich made a motion to approve the February 12, 2015 meeting minutes. The motion was seconded, and the minutes were approved as submitted.

CONSENT AGENDA

1. Certifications – Staff Recommended

Broward County – Julio Briceno – Building Official
Coconut Creek – Larry Gene Fullwood – Fire Inspector
Coconut Creek – Michael Beck – Chief Mechanical Inspector
Coral Springs – Albert Bostwick – Chief Electrical Inspector
Deerfield Beach – Robert Bissonnette – Chief Plumbing Inspector
Fort Lauderdale – Richard Scott Brown – Fire Plans Examiner
Hollywood – Philip Sauer – Chief Structural Inspector
Lauderhill – Reiner Alvarez – Chief Mechanical Inspector
Lighthouse Point – Robert Bissonnette – Chief Plumbing Inspector
Miramar – Joe Barrabi – Chief Mechanical Inspector
Oakland Park – Christopher French – Fire Inspector

Oakland Park – John Morell – Chief Structural Inspector
Parkland – Wyatt Haygood – Chief Structural Inspector
Pembroke Pines – Edward Adach – Assistant Building Official
Southwest Ranches – Jack Fisher – Building Official & Chief Electrical Inspector
Sunrise – Edward Wanamaker – Chief Electrical Inspector
Weston – Jack Fisher – Assistant Building Official

Countywide:

Robert Bissonnette – Plumbing Plan Examiner
Lavoy Cogdill – Structural Plans Examiner/Inspector
Jeisson Moreta – Electrical Inspector
Jose Porta, Jr. – Structural Inspector
Steven Thode – Structural Plans Examiner
Mileyne Trejo – Structural Inspector
Andres Vera – Provisional Mechanical Inspector

A MOTION WAS MADE BY MR. KOZICH TO APPROVE THE CERTIFICATIONS, AND WAS SECONDED BY MR. D'ATTILE.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 12 – 0.

REGULAR AGENDA

2. **Appeal #15-02– 2 Oakland Boulevard, Suite 190, Hollywood, FL**
 - a. Staff Report
 - b. Appellant Request
 - c. City response
 - d. Board Action

Cris Fardelmann, Chief Structural Code Compliance Officer addressed the Board.

In this case the appellant is challenging the determination by the City of Hollywood Building Official, to designate hallways on this project as corridors. The project consists of an area of approximately 9600 hundred square feet of B occupancy, in building of type 2-B construction, with an occupant load of approximately 96. It is being referred to as a salon and is made up of 50+ enclosed work stations or suites. Mr. Fardelmann referred to the floor plan on page 8, I have larger plans if you are having trouble with that, and offered to display on an easel. Board members all agreed they understood the conception and were directed to page 8 in their agenda packet, With the parameters I just mentioned as to size, occupancy, etc., if the hallways are corridors, then Florida Building Code Section 1018 would apply and Florida Building Code Table 1018 would require corridors to be either one hour fire resistance or that building be equipped with automatic fire sprinklers. Mr. Fardelmann stated that staff is agreeing with the City of Hollywood's determination and is recommending that the Board deny the appeal for the following reasons:

First, by the Florida Building Code definitions in FBC Section 1002.1, and that is on page 22 of your packet, these hallways are both an exit access, which is “a portion of a means of egress leading to an exit” (that’s not the entire statement, but it is the most important part). And, it is a corridor, which is “an enclosed exit access component.”

Secondly, since the meaning of the word enclosed is an important part of the question at hand, and the definition is not found in the building code, we have used Webster’s Third New International

Dictionary, which is the dictionary prescribed by Florida Building Code 201.4 as the official source for a definition when it is not found in one of the building codes. That definition uses terms to describe an enclosed condition with words such as surrounds, fenced in, penned, walled, etc.

Third, the hallways are enclosed by walls varying in height from 9 feet, 6 inches, to 10 foot, 6 inches in height, even though, this hallway doesn't have a ceiling. The conclusion from the definition, is that by definition, the corridor is enclosed. Just as significant to the definition of the corridor is the intent of the code. The most recent Florida Building Code Commentary available makes it clear that the purpose of a corridor is to provide a protective path to an exit. It is also important that the protection be provided when the occupants' ability to detect a fire is inhibited. The height of the walls enclosing this exit access does inhibit or diminish the occupant's ability to see the source or the location of fire and thus the halls become a corridor, not just an exit access.

One further note, although not directly involved in this appeal, the Chief Fire Code Compliance Officer (Bryan Parks), on page 26 of the agenda packet offered his opinion which echoes many of the previously mentioned opinions including that of staff. So once again, the staff is agreeing with the applicability or ability of code 1018 and 1018.1 in this case, recommending that the appeal be denied.

Several members of the Board contributed to the discussion as follows:

Dan Lavrich asked Cris Fardelmann that "you say that these structures, whatever they are, are enclosed?" Cris answered that "by definition, it does not need a ceiling to be enclosed. That's what my interpretation is." Cris continued that "they used the example such as "a town is enclosed by mountains", "a field is enclosed by a fence", it doesn't have to have something above it to be enclosed. The reason I am calling it enclosed is because due to the height, because it is way above visual height, you can't see over it, therefore the hallway is enclosed.

Mr. Lavrich asked whether these are office suites. In this case, we are dealing with safe exit access. There was discussion among the Board members as to definition. Mr. Fardelmann directed Mr. Lavrich to 1018.1 on page 19 in the agenda packet. Mr. Fardelmann stressed that "my opinion is it is enclosed once you can't see over it – that is the intent of the code."

Board member, Mr. D'Attilio "These walls don't go up to the ceiling? Mr. Fardelmann answered, that as proposed now they don't, but he would let Hollywood answer that question.

As there were no further questions from the Board, all parties wishing to speak were sworn in. Mr. Kuo from Consolidated Development Services (CDS) addressed the Board. Mr. Kuo informed the board that he was representing the small business owner and proceeded to explain their circumstances. Mr. Kuo informed the Board that they are based out of Texas, and he wished to make a couple of clarifications before going on to the definition of "enclosed." We always intended not to put in a sprinkler system. Our due diligence in speaking with the City clearly did not communicate this. The reason why there was a miscommunication on our intent to put a sprinkler system in was that there was an executed lease, and we needed to get under construction. We understood we would be able to appeal. Initially we had an appeal to the State. There were miscommunications on our part. Our design expert, Mr. Marc Wills, can clarify that our design had always had ceilings, besides the specific salon

rooms. It's open in some parts to allow air to flow in between the common space which is between an 18 and a 22 foot wall.

There are forty-five (45) locations nationwide at this point. Of those 45 built locations, twelve (12) of those do not have sprinkler systems. The other thirty-three (33) had sprinkler systems when we went in, so of those locations that do not have sprinkler systems, this has literally never come up. We have never been asked to install sprinkler systems. These locations are all exactly the same, down to the paint color, trim profile, and flooring. Including the location that we just opened here about four (4) weeks ago in Pembroke Pines, that is a similar size, a little bit smaller, exact same construction, exact same design, exact same finishes, exact same business model. It does not have sprinkler systems.

I want make that clarification. I want to let Marc Wills, our architect, talk a little bit about the definition of enclosed, but our appeal is based on the fact we don't have any ceilings in the hallways. Our hallways are open, even though our walls are typically between 9 feet 6 inches. We have wider hallways, but our deck type, it's all open to deck inside, so we disagree with the fact that it is blocking the sensory to be able to see a fire and exit out of the building. I think what we are arguing here is the interpretation of the word "enclosed."

Marc Wills, architect for the project, addressed the Board. Mr. Wills noted that the basically the whole thing comes down to the definition of the exit access. We typically consider all the hallways and pathways to be "versus" a corridor, so it is all one volume of space; the entire 9,600 square feet. It's all one volume as far as air volume. The space of the suites is divided up, but again, nothing goes to deck in the space, and it is all one volume. When I first spoke with the State of Florida Board, I was talking with them when I first got started. They actually gave me the definition, and it doesn't make any sense why these would be called a corridor. All the walls that do go to deck, each suite, has either a glass door and/or most of them have a four (4) foot wide window. Visually, if there was a fire in the suite the person would see it. Also, there are transfer grills, there is not a duct for return, and therefore the smoke would come out and would not be confined to the suite if there was a fire. I don't believe there would be any impediment as far as persons in the exit space to get out, whether this was a corridor or a fire sprinkler. I don't feel the definition of corridor matters. The codes they use are codes they use from the dictionary, and I would also disagree that a fence does not define enclosure, and by way of codebooks, the exit access versus corridor, to me, it is pretty clear that the corridor is a protected space for a person to get through. That enclosed definition is enclosed in an hour rating. We are basically taking that and turning the exit access into a corridor.

The meeting was opened up to questions from the Board.

Board member, Mr. Lavrich inquired as to how this tenant operates. Mr. Wills answered that it is one tenant, a franchisee, leasing the whole space, so it is all one occupancy. Mr. Lavrich "What does the tenant do? Mr. Wills answered "I don't know if they sub-lease it exactly, they sub-lease the little spaces, the suites, to a stylist or a massage or a nail person, or facials. And they rent those spaces to the individual stylists, separately."

Mr. Lavrich – "so all these space are sub-let to individual owners? It's really not one big operation – it's a whole bunch of operations." Mr. Wills answered that the lease is essentially leased to one person, "I don't know if it is a legal lease, and those spaces are separately operated."

Mr. Lavrich asked whether Mr. Wills believed that that that effects the occupancy situation. Mr. Wills responded, “All of these spaces have been one occupancy, business class, it’s still one occupancy. It would not be like an A type occupancy versus a B type occupancy or a mercantile, so it is all the same business occupancy.”

Board member, Mr. Zackria was recognized and said that typically if you have an open plan, you could do what you are suggesting, “I think you would be OK. But the difference is you’ve got walls that are significantly higher – you also have no ceiling in the corridors. The intent of the code is for protection of people, so if there is a fire, that’s why there is a limit of thirty (30) people. Once you get to thirty (30) people, they want you to either have fire sprinklers or they want to have rated corridors. So if there is an accident or a problem, they have a safe means of egress. In this case you have neither. You don’t have fire sprinklers and you don’t have corridors that are rated, so I see a serious issue, because it’s not an open space plan. It’s not occupied by a single tenant. I don’t know how many suites you have in here, they are all individually leased out, so I think there are some serious issues as far as what you are trying to do versus the Code’s intention.”

Board member, Mr. D’Attile asked whether there is a fire sprinkler system in that building already. Mr. Wills answered “No, I believe there is a stand pipe in the back of the building, and I believe there is already a tap off the main, since whenever the shell building was done, but there is no main in the building, and none of the other locations have fire sprinklers.”

Board member, Mr. Kozich added “I have built several of these projects before. The last one was in Deerfield Beach, and we were required fire rated corridors and fire rated doors. Everything had to be fire rated within the building if it was going to be utilized.”

Mr. Wills said that he appreciated that comment and that his response is that that may be a similar type project, but we have an identical project in Pembroke Pines where a city official has determined that it is not an enclosure and not a corridor. All the way down to occupancy, the paint color is identical.

Board member, Mr. D’Attile wanted to ensure that we are talking about a one hour fire rated wall and not separations and asked “what is the construction now with those walls?” Mr. Wills answered, “they are non-combustible walls, and they have windows in them.” Mr. D’Attile continued “so to bring it up to the one hour rating – what would that entail? Mr. Wills, “It has to go up to the deck. From an arch standpoint, the way it is supposed to look, kind of exterior, crown molding at the top.”

Mr. Burr commented that he understood that when it was permitted it was with sprinklers, correct? Mr. Wills, “No sir, the original, again the building is not sprinklered, so we just submitted that all of the projects are the same. It is not required for the occupancy or the unit, as far as we were concerned, it was not a requirement. The comment came back during plan review that it needed to have sprinklers. My first response was, I often get a comment about plenum rating, there was a comment about that, too, because we don’t have ducted returns, they have to rate everything as a plenum space. As that does come up a lot, I responded there is not a plenum in this space, the walls don’t go to deck. We thought that would solve the problem, but it didn’t. The plenum issue went away, but we were told we would have to rate it because of the corridor issue. At that time I responded that we would sprinkler the building in order to move the process along, but I was also at the same time looking at what could we do to not sprinkler the building? Again, the building itself is not sprinklered, but I believe there is a stand pipe at the other end, and we would have to tie into that. I’m not sure how old

that is or what condition it's in. Once we got the appeal going, then we sent back in a set of plans with our original intent not sprinkler the building. Originally our design was that we were not going to put in a sprinkler system.”

The Chair thanked Mr. Wills for his presentation and asked if there were any more questions from the Board.

Mr. Kozich said he realized that the original plans were submitted with the sprinklers, in 2014, and it was submitted again in December without the sprinklers “I know this is the responsibility of the general contractor or the owner, why was it never reviewed again by the fire department?” Mr. Wills said he believed it was reviewed by the fire department and denied.

Mr. Kuo added that “It’s his call; he’s the Building Official, so there was no other option for me at that time. We cannot take out all the windows and doors, conceptionally, then the whole project would not work, that’s the way we re-submitted, without the fire sprinklers.”

Board member, Mrs. Giles Nelson asked if they received a permit. Mr. Kuo answered, “Yes”. Mrs. Gils Nelson, “When you submitted your revision, without the sprinkler system, did you get a fire review? Mr. Kuo, “we really didn’t understand that we had to have a denial to appeal. We thought we could appeal a determination regardless of whether it was approved or not. If the building department is going to require it, then I have to have site plan drawings showing lines, and flow tests. We submitted it, and sprinkler and alarm drawings are in the first submittal, we are deferring it to a sub-contractor, but holding off until we could get a determination here, whether or not we would have to go through that expense. This is a local small business owner, I don’t want anyone here to think or to be misled that these forty-five (45) locations are owned by one person, there are thirty-eight (38) franchisees.” “There is an additional cost to bring in a fire line – which a local business owner is trying to drive, a revenue drive and increase jobs that they really can’t afford – that’s why we’ve come out here on our dime, at no cost to this owner, to support it.”

Board member, Mr. Rice asked “Where are you on construction, have you finished construction?” “You’re in the middle of construction, knowing that you needed the sprinklers, you took no action to put them in?” Mr. Wills, “we had a contingency, it is set up so the contractor knows that he may have to come back in.” “We felt that we needed to come here and present this to you, so that was a risk assessment that the owner, and we all made. We quantified it with the owner.”

The Chair asked for a response from the City of Hollywood.

Mr. Phil Sauer, Chief Building Inspector for the City of Hollywood addressed the Board. Mr. Sauer told the Board that the Appellant was denied because of the problems with hallways and the way it looked for the egress. Mr. Sauder continued, “When first in plan review, we had to look at the project and how it is, and how it is laid out, and what the intent is, and what are they trying to do. One of the things that is in the code section on their exit access, section 1014.1, described and actually covers the rest of the chapters there. I never called it a corridor, we didn’t come to that point yet. When we realized we had a defined area enclosed, I know the definition is hard, in fact, ICC has a definition that says there is no definition for enclosed. We followed it through because it was defined there was a path of six feet wide, seven feet wide, whatever, down the alleyways. The intent is to be able to see and smell if there is some activity going on that would incur someone trying to get out that building. On the basis of that, and section 1018, we said OK, with all these parameters, you need to

have corridors. I never called them corridors before, they were a hallway, if you are not going to sprinkler the building. Even though they had submitted the ICC Commentary, it basically said that the end of the chapter, on our page 6 “the code does not specifically state what it considers enclosed quarters, but not fire resisted rated. When an egress passes down by partial high walls, such as a work station person’s office, it would be if the walls provided a defined path of travel and limited fire recognition in adjacent places by restricting sight, hearing and smell, which is what we basically try to follow. “That’s why we are all here.” Mr. Sauer asked for questions from the Board.

Mr. Rice had a question about the individual rooms, i.e. four walls and a ceiling. “I assume that’s true for the restrooms, cafeteria, they are all enclosed?” Mr. Sauer, “Yes, they are all bound by here and by some other areas also.” Mr. Rice, “How many floors is the building?” Mr. Sauer, “18 to 20 feet, it is only a one story building.”

Mr. Zackria asked Mr. Sauer if, in his opinion, it matters that these individual spaces are sublet versus being all one tenant. Mr. Sauer answered that he was not privy to that knowledge until just now, which might actually play a part but he would have to look into it. Mr. Kozich commented that he thinks it will play a big part.

Mr. Zackria, “You have no idea of what is going on in the overall space – so I think that is a big issue with the space.”

A MOTION WAS MADE BY MR. KOZICH TO DENY THE APPEAL, AND WAS SECONDED BY MR. D’ATTILE.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 12 – 0.

3. **Payment to the Fire Inspector Association of Broward County relating to the 2015 Spring Seminar in the amount of One Thousand Five Hundred Dollars (1,500)**
 - a. Staff Report
 - b. Request of Fire Inspectors Association of Broward County
 - c. Public Comment
 - d. If desired, motion authorizing the expenditure of \$1,500 for the 2015 Spring Seminar

Bryan Parks, Chief Fire Code Compliance Officer – I come before you to address a proposal that has been carried on from year to year, and that the Board of Rules and Appeals has always supported. The Fire Inspectors Association of Broward County, the Board, by providing funds to pay for lodging for speakers, printed materials, and books. We use that money every year for this purpose. We also have building people attending, Board member, Mr. Kozich recently attended our yearly seminar. The Director has asked that you look at this and approve \$1,500 for the purpose of helping the Inspectors Association.

A MOTION WAS MADE BY MR. D’ATTILE TO APPROVE AND WAS SECONDED BY MR. FELLER.

THE MOTION PASSED UNANIMOUSLY WITH A VOTE OF 12 – 0.

4. **Director’s Report**
5. **Attorney’s Report**
6. **Committee Report**

There were comments regarding the success and interest that the swimming pool brochures have generated.

7. General Board Discussion

8. Public Comment

Mr. Jack Bennings, Director from Workforce Development, from CareerSource of Broward addressed the Board. We are representing the permitting action fee; I serve on the team with Mason Jackson, who is president and CEO of Workforce Development, and I am here to ask for your continued support. We appreciate what BORA does for the building activity within Broward County. Our main focus is trying to streamline the permitting process. It is all about jobs and economic development. We strive to make Broward County business friendly. We represent all thirty-one (31) municipalities, and we have the support and the leadership of the Broward League of Cities; they have been very supportive of what we are trying to do to streamline our permitting process. We continue to make Broward County an economic engine, and we've got a lot of momentum going as I have mentioned to Mr. DiPietro when we asked to make this presentation. We ask that you continue to keep your rules business friendly. South Florida is where we want to locate our headquarters. We are here to support BORA and the Building Officials of Broward County. We will be working with Dean Decker, President of the Building Officials, and with a number of different organizations.

Mr. Bennings concluded by telling the Board, that he and his partner, Mason Jackson will both appear at the May 14, 2015 meeting to further discuss the issue.

9. Adjournment

Having no further business to go before the Board, the meeting adjourned at 7:55 p.m.

A handwritten signature in black ink, appearing to read "Ron Burr". The signature is stylized with a large, looping initial "R" and a long, sweeping horizontal stroke at the end.

Ron Burr – Chair