

# Broward County Board of Rules and Appeals Meeting Minutes

November 14, 2024

Time: 7:00 PM

Zoom Meeting Information:

<https://broward-org.zoomgov.com/j/1605893669>

Meeting ID: 160 589 3669

## I. CALL MEETING TO ORDER

Chairman D'Attile called a published virtual meeting of the Broward County Board of Rules and Appeals to order at 7:00 PM.

## II. ROLL CALL

Gregg D'Attile  
Ron Burr  
Eduard Badiu  
Peter Deveaugh  
John Famularo  
Jeff Falkanger  
Shalanda Giles-Nelson  
R. Art Kamm  
Daniel Lavrich  
Daniel Rourke  
Robert Taylor  
Dennis Ulmer  
Lynn Wolfson

## III. APPROVAL OF AGENDA

Mr. Lavrich made a motion, and Mr. Famularo seconded the motion to approve the agenda as posted. The motion was carried out through a unanimous vote of 13-0.

## IV. APPROVAL OF MINUTES – September 12, 2024, Board Meeting

Mr. Lavrich made a motion, and Ms. Wolfson seconded the motion to approve the September 12, 2024, minutes as submitted. The motion was carried out through a unanimous vote of 13-0.

## V. PUBLIC COMMENT (Except public hearing items on this agenda) - none

Public comments are limited to 3 minutes.

Mr. Rinor Krasniqi referred to Section 454.2.16 (Electrical, Swimming Pools) and asked that the stricken language underwater luminaires operating at voltages greater than the low voltage contact limits be removed. Chairman D'Attile indicated such a request would need to be submitted to the Board.

Mr. Marcelo Almas, Chief Structural Inspector, City of Coconut Creek, commended Dr. Barbosa for her attendance at the building association meeting and overall commitment to help. He expressed support in Agenda Item 2 that would allow inspectors to utilize their license for work outside of Broward County. With respect to Agenda Item 3, he expressed support in an amendment to give new hire individuals an additional year to complete all the required examinations for inspector and plans examiner.

Mr. John Travers, City of Fort Lauderdale, wanted permission to work with staff concerning Section 104.12.3.1.4 for the electrical discipline and echoed for both plumbing and mechanical disciplines

that requires seven years of construction experience in the discipline and possess a certificate of competency as a journeyman in the discipline. It is problematic for individuals who would like to seek a master's license. A change to possess a certificate of competency as a journeyman/master in the discipline would be helpful.

Mr. Simo Mansor, Building Official, Towns of Lauderdale-By-The-Sea and Southwest Ranches, commended Dr. Barbosa for her energy and interest in working with the building officials. The entire staff has been helpful. He expressed support in Agenda Item 2 that would allow inspectors to utilize their license for work outside of Broward County.

Mr. Robert Davalos expressed support for Agenda Item 2, which would allow inspectors to utilize their licenses for work outside of Broward County. He felt it would enhance the knowledge base in the disciplines.

Mr. Mario Ducas, Electrical Inspector, City of Plantation, indicated that many areas have allowed inspectors to operate a business outside of the jurisdiction where they are employed. The City of Boca Raton allows inspectors to do so anywhere outside of their city boundaries. He urged the Board to make this change so that Broward inspectors could earn extra income.

Peter Karttunen, Flood Plain Manager, City of Pompano Beach, expressed support in Agenda Item 2 for allowing inspectors to use their license to maintain a business outside of Broward County.

Mr. Mohamed Sulaman, Chief Plumbing Inspector, City of Plantation, indicated that BORA staff is very helpful in answering questions. He expressed support for Agenda Item 2, which would allow inspectors to utilize their licenses for work outside of Broward County. There are not enough qualified people to meet the demands that exist.

There was no one else wishing to speak.

## **VI. CONSENT AGENDA**

### **1. Certifications – Staff Recommended**

#### **CITY OF CORAL SPRINGS**

Porter, Michael, Structural Inspector-Limited (Temporary 120-Days)

#### **CITY OF DEERFIELD BEACH**

Gionfriddo, Richard C., Structural Inspector (Temporary 120-Days)

#### **CITY OF FORT LAUDERDALE**

Hernandez, Luis, Jr., Building Official

#### **CITY OF HOLLYWOOD**

Mangin, Andrew, Fire Plans Examiner  
McGuinness, James, Assistant Building Official  
Bruhn, Norman, Assistant Building Official

#### **CITY OF LIGHTHOUSE POINT**

Albanese, Sabrina, Fire Inspector

#### **CITY OF MIRAMAR**

Barcenas, Misael, Electrical Inspector (Temporary 120-Days)  
Saunders, Silver, Fire Inspector

#### **CITY OF NORTH LAUDERDALE**

Fair, Arthur, Assistant Fire Marshal  
Nerenberg, Eric Todd, Chief Plumbing Inspector

#### **CITY OF PLANTATION**

Bunting, Stephen M., II, Fire Plans Examiner

**CITY OF POMPANO BEACH**

Cuadra, Ricardo, Chief Electrical Inspector  
Herrmann, Werner, Structural Inspector (Temporary 120-Days)

**CITY OF SUNRISE**

Castillo, Alejandro, Fire Plans Examiner  
Gonzalez, Ivan, Fire Inspector

**CITY OF TAMARAC**

Jiovenetta, Giovanni, Fire Inspector  
Penevolpe, Anthony, Chief Mechanical Inspector

**COUNTYWIDE**

Bruhn, Norman, Structural Inspector  
Bruhn, Norman, Structural Plans Examiner  
Hendricks, Matthew, Structural Inspector  
Sloane, Quinton Trice, Plumbing Inspector  
Young, Tresselar, Sr., Plumbing Plans Examiner  
Zambrana, Kevin, Structural Plans Examiner

Mr. Lavrich made a motion, and Mr. Falkanger seconded it, to approve the certifications as recommended. The motion was carried out by a unanimous vote of 13-0.

**VII. REGULAR AGENDA**

**1. Appeal 24-01 My Amelia, DBA My Amelia, Inspected.com vs. City of Hollywood**

All individuals wishing to speak on this item were sworn in. Ms. Chandra Doucette, representing the Appellant, noted that My Amelia, Inspected.com has retained a court reporter to prepare a verbatim transcript of this proceeding.

a. Staff Report

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, advised that My Amelia, Appellant, is a private provider that works for the property owner, the contractor or developer, not for the municipality. The Appellant is appealing a decision by the City of Hollywood Building Official rejecting a virtual inspection of an AC replacement. He went on to review his memorandum to the Administrative Director, dated November 14, 2024, provided to the Board, including the staff analysis.

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Ms. Chandra Doucette, representing My Amelia, did not think it is accurate to say that virtual inspections are not part of the Florida Building Code. The Florida Building Code is incorporated in the State statutes. The reason for this appeal is that the statutes changed after the provisions to Section 110.3.13 (Chapter 1, Broward County Administrative Amendments) to specifically preclude any local municipality continuing to enforce any more restrictive requirements than already set forth FS553.791. She noted that My Amelia did go through the registration and is qualified to do business in Broward County. After the statute was adopted, My Amelia was told that based on BORA's (Board of Rules and Appeals) interpretation of the administrative procedures under Section 110.3.13 it could not conduct virtual inspections because it was prohibited. It was originally approved by the City of Hollywood and the Building Official was instructed in 2022 by BORA to reject the application. Ultimately the client went through the municipality even though it is their right to choose private providers and work with the municipality. The sections and amendments restricting the four conditions in 110.3.13 in which virtual inspections can occur was not approved until March of 2021. Moreover, the statute was superseded in 2022. In summary, the statute deemed that the local municipality could no longer enforce more restrictions than those in place. The reason that the public is given a choice is because municipalities are short-staffed and virtual is just one part of this. When a private provider conducts an inspection, it is taken out of the local building official's hands. Private providers indemnify the County against any liability. My Amelia, Inspected.com has been doing virtual inspections successfully in several states. The International Code Council (ICC) has

guidelines in place and the State has provisions for monitoring by virtue of an audit. This is not about structural, but rather single trades like HVAC, solar panels, roofing. When Mr. Long turned down the inspection it was not about the work, only that the inspection was done virtually. Local changes and technical amendments only remain in effect until the next issuance of the Florida Building Code. The 7<sup>th</sup> edition was approved in December of 2020 and the 8<sup>th</sup> edition was effective in December of 2023. In that gap BORA is continuing to enforce a policy that happened between those two editions but before the 2022 statute change that local municipalities cannot enforce any stricter provisions, specifically Section 553.791(16)(a). Because an additional section was added in 2024, it is now 553.791(17)(a). Even if you had the ability to restrict the types of inspections for safety purposes, it is not the issue because safety is being ensured, monitored and indemnified against any potential liability. She questioned why virtual inspections are included in Chapter 1 definitions if they are not mentioned anywhere else. Section 553.791(8) indicates that inspections may be performed virtually or in-person. It does not qualify the types of inspections.

Mr. Lavrich referred to the ICC recommended practices for virtual inspections and noted it provides that determination of whether an inspection will be conducted remotely is at the sole discretion of the authority having jurisdiction. Ms. Doucette indicated that the ICC is attempting to establish protocols. The Florida Legislature looks to these guidelines when adopting new codes. It is a slightly different process in other states. If there was sufficient staffing in the local building departments, this would not be a business.

Ms. Doucette explained that when the State rules that something can or cannot be done, Section 553.791 provides they cannot adopt or continue to enforce on a local level. This did not exist when BORA adopted this administrative procedure in March of 2021, restricting virtual to the four disciplines. She continued to elaborate on the fact that there is precedent that statutory preemption. It is more stringent when it comes to adopting changes under 553.791(17).

In response to Mr. Kramer as to whether Ms. Doucette considers this a technical amendment, Ms. Doucette noted it is in the Broward Administrative Code, but she did not believe it could continue to be enforced even if adopted appropriately in 2021 because of the express language.

Mr. Lavrich commented that all of Chapter 1 is administrative. From a safety perspective, Ms. Doucette pointed out that there is the ability to make sure procedures are followed, inspections can be audited and there are certified professional engineers, contractors and licensees who are approved to do business in Broward. Yet they are being held to a different standard. Mr. Lavrich pointed out that the State has given the option to local jurisdictions to amend the Administrative Code provided they are more stringent, and BORA has gone further. Ms. Doucette noted that Mr. Soto's memorandum speaks about restrictions as opposed to stringency.

Ms. Doucette advised that My Amelia's position is that everything can be inspected virtually. She added that it is being done in multiple municipalities. During COVID, virtual inspections were being conducted in Broward.

b. Board Questions

In response to Mr. Burr, Ms. Doucette indicated that there is no prohibition of virtual inspections of any kind. Mr. Kramer indicated in 553.791(6) provides that state or local government agencies may perform virtual inspections at the discretion of the enforcement agency. However, they may not perform virtual inspections for the structural discipline on a threshold building. Ms. Doucette accepted the correction and said that she agrees with a threshold situation. There is nothing to prevent the building official from coming on-site to make sure inspections are being done properly. She believed that BORA is trying to make the discussion about whether it is a safer practice and questioned why these four disciplines are trouble spots. She felt that 553.791(6) conflicts with (17)(a) that prohibits enforcing anything that is more restrictive. Mr. Kramer pointed out another provision in the statute that says that local amendments must be more stringent.

Ms. Doucette concluded that this may be an issue for Tallahassee, however, it is their duty to come to BORA first.

Mr. Kramer summarized the appeal application content relating to Broward County Administrative Amendments, Chapter 1, Section 110.3 in direct conflict with Florida Statute 553.791(17) and 468. He felt the Appellant's position is in error as the statute adopts and embraces applicable local code as part of the inspection process which would mean 110.3. There is no occasion to resort to rules of statutory interpretation in construction. Statutes should be given their plain and obvious meaning. The Appellant should not be allowed to cherry-pick from statute provisions which was never intended or in conflict with other legislation. The Florida Building Code, Broward County Edition (Chapter 1) is recognized by the Florida Building Commission under authority of the Florida statutes as the applicable code. Private providers performing inspections shall do so as required by the applicable code. Florida Statute 553.791(16)(a) provides that a local agency may not adopt anything more stringent. Section 553.73.4(a) provides that any local amendment must be more stringent than what is set forth in 553.73.4(a). With Broward County being in a high-velocity hurricane zone, there is good reason for any local amendment to be more stringent. Also, the definitions in Section 553.791 say that applicable codes mean the Florida Building Code or any local technical amendment, but not administrative amendments. It has been pointed out that this is in the administrative part of the code. He went on to outline applicable case law. He noted that technical amendments do not pertain to the inspection processes. He believed that the appeal was misplaced, and he would recommend denial.

Mr. Burr pointed out information in the agenda backup says, "shall expressly authorize inspections in person or virtually without exception." Ms. Doucette indicated that her argument is in the backup documentation in that the application form has very limited space. The results desired is to stop enforcing 110.3. Furthermore, there was nothing illegal with the inspection performed by My Amelia, Inspected.com in November of 2022. They have not and do not intend to apply for any structural or threshold inspections. The four categories selected appear to be at random. She encouraged the Board to revisit this.

In answer to Chairman D'Attile, Ms. Doucette did not know if Hollywood Building physically conducted the inspection in 2022. She was not employed by My Amelia, Inspected.com at that time. Mr. Kramer clarified that BORA is the governing agency and the building departments enforce at the direction of BORA. Mr. Soto advised that Mr. Long, Building Official, City of Hollywood, simply relied on the information furnished by My Amelia, Inspected.com.

c. Board Action

Ms. Giles-Nelson emphasized that the Board's focus should be on the appeal summary and the desired results which is to immediately desist virtual inspections in Broward County by any licensed, qualified professional and to either repeal Section 110.3.13 of the Broward County Administrative Amendments or incorporate by reference the standards and practices for virtual inspections established by the International Code Council recommendations for remote virtual inspections.

Mr. Lavrich was concerned about the request to permit inspections virtually without restriction. The International Code Council's recommendations are limiting. It says the determination of whether they can be conducted remotely is at the sole discretion of the authority having jurisdiction. He felt BORA as well as the individual cities are the authorities having jurisdiction. BORA has adopted a modification to Chapter 1 of the Florida Building Code which governs the administration of the Code governing inspections. The modification is more restrictive. In summary, he was concerned about the wording.

Mr. Burr made a motion, and Mr. Lavrich seconded the motion to deny the appeal. The motion was carried out through a unanimous vote of 13-0.

Mr. Lavrich made a motion, and Vice Chair Burr seconded the motion, incorporating the comments of Mr. Kramer as to the appeal being overly broad and those of Vice Chair Burr and Ms. Giles-Nelson set forth above. The motion was carried out through a unanimous vote of 13-0.

**2. Update to Board Policy 14-02, Policy/Affidavit to ensure compliance with Chapter 71-575, Section 4(b), Laws of Florida**

a. Staff Report

Dr. Ana Barbosa, Administrative Director, reviewed her memorandum to the Board, dated November 14, 2024. She commented that she attends many of the building administrators' meetings and when she was hired, she met with all of the building officials and asked them what the Board was doing right and what they were doing wrong. Twenty-six of the twenty-eight meetings with building officials raised this topic. It is an issue with hiring and retaining staff. Several mayors have also contacted her to indicate that this was an issue in their organizations. The Board's jurisdiction is Broward County, yet this policy extends beyond the county limits. The ethical values that the building officials, plan reviewers and inspectors are held to now will remain unchanged.

b. Board Questions

Mr. Lavrich said that he has problems with the concept of someone working as a building inspector and having a job on the side operating a company, acting as a contractor. He did not think someone should be enforcing the code against someone else that may be their competitor. He did not think individuals should ever allow their Certificate of Competency to be used by another person or firm. In other words, it would be permissible provided it was not done in Broward County. He questioned if this thinking would extend to use of one's engineering or architectural licenses.

Mr. Burr pointed out that there are engineering firms that are approving plans and working in the same city.

Mr. Burr went on to say that if this is passed and an individual is found to be violating the policy in the county limits, that individual should "be gone".

Mr. Lavrich pointed out that it allows an individual's Certificate of Competency to be used by another which is different than being a qualifier for another company. Further discussion ensued on this point.

Mr. Deveaugh drew attention to plan review and commented that many jurisdictions are accepting submittal of plans digitally. This change could be very helpful with respect to workload. He felt there should be punitive measures should be added and "may" should be changed to "shall".

Ms. Giles-Nelson emphasized if this passes, cities will need to put in place measures to police their employees. This proposal will allow the technical staff to work in multiple cities and run private companies along with the previously approved change to limit the chiefs and building officials from being in multiple jurisdictions. She felt it is not a problem with the policy and may be in-house. She wanted to hear from the professional associations in the various disciplines. She pointed out the advantage that an individual would have securing a job if their business card indicated they were a plans examiner/inspector, for example. She felt more thought should be given.

Chairman D'Attile was uncomfortable with the proposal although he understood the staffing challenges of cities.

In response to Mr. Falkanger, Dr. Barbosa enumerated what is done in Palm Beach and Miami-Dade counties and unincorporated Miami-Dade County. Mr. Falkanger supported the recommendation. Mr. Deveaugh pointed out that inspectors who are BORA-certified are licensed by the state and can be inspectors anywhere in the state.

Mr. Kamm supported the recommendation but thought it would be useful for a committee to look further into the concept.

c. Board Action

Mr. Kamm made a motion, and Ms. Taylor seconded the motion, to refer this matter to committee for further evaluation. The motion was carried out by a vote of 12-1. Mr. Deveaugh voted no.

**3. Update to Board Policy 18-02, Design Professional and Contractor Requirements to become a Certified Inspector, as it relates to the closing out of open permits and ongoing projects in Broward County**

Dr. Barbosa advised that this is in conjunction with the previous item, Policy 14-02. The change would be simply to change the jurisdiction to Broward County.

Mr. Lavrich made a motion, and Mr. Falkanger seconded the motion, to refer this matter to the same committee that was authorized for Agenda Item 2. The motion was carried out by a unanimous vote of 13-0.

**4. First Reading of Amendments to Chapter 1, Section 104.16.3 Certification of the Structural Inspector and Section 104.15.3 Certification of the Roofing Inspector, Florida Building Code, 8<sup>th</sup> Edition (2023)**

a. Staff Report – Michael Guerasio

Mr. Michael Guerasio, Chief Structural Code Compliance Officer, advised that this item is a follow-up to the September 12<sup>th</sup> Board meeting when Mr. Bill Tracy, Building Official, City of Parkland, requested that the Board consider extending the timeline for inspectors to obtain their contractor's license from the current one year to two years. This would match the Department of Business and Professional Regulation's (DBPR) time frame. Structural and roofing inspectors. With this being an actual code change, it would require two readings.

b. Board Questions

Mr. Lavrich noted that the numerals were changed from one to two throughout, but not the text.

c. Board Action

Mr. Lavrich made a motion, and Mr. Falkanger seconded the motion, to approve on first reading amending Sections 104.16.3 and 104.15.3 of the Florida Building Code, 8<sup>th</sup> Edition as recommended. The motion was carried out by a unanimous vote of 13-0.

**5. Request to convene BORA's Certification Committee to review Chapter 1, Sections 104.12.3 Certification of the Electrical Inspector, 104.13.3 Certification of the Mechanical Inspector and 104.4.3 Certification of the Plumbing Inspector**

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, indicated that this is a request to convene the Certification Committee to consider amending these sections of Chapter 1 to align the mechanical, electrical and plumbing (MEP) disciplines with the change just approved in Agenda Item 4. The MEPs would have two years to obtain their contractor's license provided they have ten years of experience in the field.

In response to Chairman D'Attilio, Mr. Soto indicated that staff could prepare a code amendment proposal without the Certification Committee input if the Board preferred.

Mr. Lavrich made a motion, and Mr. Deveaugh seconded the motion, to convene the Certification Committee to review the recommended code changes. The motion was carried out by a unanimous vote of 13-0.

**6. Director's Report**

Dr. Barbosa advised that staff is putting together training to address Chapter 75-489, Laws of Florida, relating to allowing mechanical to do electrical when changing out air conditioners.

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

**8. Committee Reports - none**

**9. General Board Member Discussion**

**10. Adjournment**

The meeting adjourned at 9:21 PM.