



BROWARD COUNTY

Board of Rules & Appeals

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BOARD OF RULES AND APPEALS

MAY 11, 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, AIA
Daniel Lavrich, P.E.
David Rice, P.E.
Shalanda Giles-Nelson
Stephen E. Bailey, P.E.
John Famularo
Robert Taylor
Daniel Rourke
James Terry

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

Approval of Minutes – March 9, 2017

Chair Lucas drew attention to a revision on page 7 that was provided to the Board.

MR. LAVRICH MADE A MOTION AND MS. GILES-NELSON SECONDED THE MOTION TO APPROVE THE JANUARY 12, 2017 MEETING MINUTES AS REVISED. THE MOTION CARRIED BY UNANIMOUS VOTE OF 13-0.

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 13-0.

2. **The question of whether a Broward County issued “restricted” Contractor License is in compliance with the FBC Broward County Administrative Provisions Section 104.16.3.4 which requires “applicants shall possess a current Certificate of Competency as a General Contractor (Unlimited)” in order to become a Structural Inspector.**

a. Staff Report

Mr. Cris Fardelmann, Chief Structural Code Compliance Officer, explained in a recent application staff noticed that a copy of the contractor license in the file stated “BC Employment only”. Upon inquiry, according to the chair of the County Licensing Board (Malcolm MacInnes), an individual with such a license would have to secure approval from the contractor licensing board to take an exam and then pass that exam before an unrestricted contractor license would be issued. Restricted licenses are issued by waiving the exam requirement. It is staff’s opinion that restricted licenses are not equivalent to those required for certification by Section 104 of Chapter One (Florida Building Code, Broward County Administrative Provisions) and should not be accepted. Staff also believes this would significantly weaken the certification requirements.

Mr. Charles Kramer, Board Attorney, referred to his advisory opinion provided to the Board. In reviewing the Florida Building Code and Broward County Charter, he determined that a Broward County employee certification only is not the same as a certified general contractor. It is issued by the Central Examining Board which means it applies to only Broward County and does not comply with State requirements. There are two restrictions in other words.

Mr. James DiPietro, Administrative Director, indicated the question is whether licenses for use in Broward County only comply with Section 104.10.1.6, B., Broward County Central Examining Board of Building Construction Trades (as Class “A” Unlimited General Contractor) and would not allow one to secure a permit in Parkland or Fort Lauderdale, for example.

Depending upon the Board’s ruling on this matter, Mr. DiPietro indicated he would inquire to the County as to how many County employees would be in this situation. Mr. Rourke questioned whether the intent was to be an inspector and not a contractor. Mr. Fardelmann indicated advised that from the research it appeared it was to allow County employees to expand into different employment, basically code enforcement. It was not intended to become a licensed, certified building inspector. Somewhere along the way, some tried to use this license to get certified as a building inspector. There are known two cases; one was denied pending the outcome of this matter, and the other was certified four or five years ago, but he did not think staff recognized the nature of the restriction. Mr. Fardelmann explained for Mr. Lavrich the licensing board procedure that includes verbal examination. Restrictions are placed on the license, making it for employment only. The process was originally established to help County employees move from one position to another. He did not think it was ever intended for the individual to get certified as a building inspector. Mr. Kramer pointed out that even an oral test can be waived by the Broward County Central Examining Board but the licenses issued by this board cannot be used anywhere but Broward County even if they are unlimited.

Practice has been to issue these for Broward County employees. They are limited to an inspector function. More detail is in the legal opinion provided to the Board. These licenses do not meet the requirements under 104.16.3.4.B., "Broward County Central Examining Board of Building Construction Trades (as Class "A" Unlimited General Contractor). They are not qualified to do any contracting work. Mr. DiPietro added that it applies to Broward County internal government such as code enforcement, not county-wide which is the issue. Specifically, it cannot be used in Broward County municipalities. Mr. Kramer pointed out that the license specifies Broward County employment only. Exception language is included. The issue is whether a restricted license is acceptable for contracting and the answer is that it is not. Mr. D'Attilio questioned whether the individual could work in a Broward County municipality as an inspector. Mr. Fardelmann advised that these individuals cannot be certified as an inspector because they do not meet the requirements. Mr. DiPietro believed there is a terminology problem. These people are doing something for the County, whether it be code enforcement officer or something else, but not in any way a government inspector (i.e. plumbing, mechanical, electrical). He believed the language has probably been on the books since the 1990's when the State began contractor licensing.

Mr. Lavrich felt that each of the four options under 104.16.3.4 should hold the same weight. If one is restricted, it is then on a different level and does not hold the same weight. This restricted one does not meet the Board of Rules and Appeals' requirements. He agreed with the opinions of staff and legal. Mr. Terry pointed out that the first sentence of 104.16.3.4 speaks of the applicants possessing a current Certificate of Competency as a General Contractor (Unlimited) which is not the case and therefore A, B, C and D are irrelevant.

b. Board Action

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MS. GILES-NELSON TO UPHOLD THE OPINIONS OF STAFF AND THE BOARD ATTORNEY. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

3. Request of Mr. Richard Al-Imam to be certified as a Structural Plans Examiner with Broward County.

a. Report of Administrative Director

Mr. James DiPietro, Administrative Director, advised that while this is related to the previous item, it is different. When Mr. Al-Imam became a structural inspector, certification was recommended. He had a similar license for Broward County employment only. What is different is that he was certified at the time. It is through no fault on the part of Mr. Al-Imam that a policy has now been decided upon, that is, Broward County employment only does not comply with the particular section of the code (discussed in item 2). He recommended Mr. Al-Imam's request be denied. However he felt it is only fair to give Mr. Al-Imam an extended period of time, 18 months, in his present job to secure an Unrestricted Class A designation. He has been an inspector for the past four years.

b. Mr. Al-Imam Request

Everyone wishing to testify was sworn in.

Mr. Richard Al-Imam indicated that his circumstances are totally different than the previously discussed individual. He said that he has been continuously licensed as a building inspector for 21 years originally with his State general contractor license. Unfortunately he left that license lapse. He returned to Broward County employment in 2011 and was certified at that time by the Board of Rules and Appeals. He was approved by the licensing board with the exam being waived due to previous general contractor license. His license does not specify for Broward County only, but it does specify inactive, not for contracting. He referred to Broward County Ordinance, Section 9-5, and read "an individual who has met the standards and requirements for certification who is otherwise qualified to receive a certificate of competency who does not propose to do business as a contractor and who does not propose to qualify a business organization shall be issued a certificate in the certificate holder's own name with the words, not for contracting, conspicuously marked thereon" Further, it says "An examination may be written, oral or based upon demonstrated ability, experience and training of an applicant. Objective written examinations shall be used whenever possible however the board may, by a majority vote of the full board, elect to waive written examination based upon experience in the particular trade." He believed this was his situation. He added that he was recertified three times, most recently last year.

In response to Mr. Lavrich, Mr. Al-Imam indicated the licensing board just approved his request. He must submit a new application and take the business portion of their examination. He would then be issued an "unlimited" license with no asterisk (restriction), however, it will specify inactive and not for contracting. He was hired by Broward County to work as a plan reviewer and just received his plan review card from the State. He requested approval of a 120-day temporary certification which is typical with new hires.

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MS. GILES-NELSON TO ACCEPT RECOMMENDATION NO. 2 IN THE ADMINISTRATIVE DIRECTOR'S MEMORANDUM OF MAY 11, 2017, THAT WITH APPROVAL OF THE BOARD ATTORNEY, MR. AL-IMAM'S CERTIFICATION AS BUILDING INSPECTOR REMAIN IN FULL FORCE AND THE EFFECT THAT THE BOARD VOTE A TIME PERIOD OF 18 MONTHS, UNTIL NOVEMBER 12, 2018 AT THE CLOSE OF BUSINESS FOR MR. AL-IMAM TO OBTAIN A VALID CLASS "A" UNLIMITED GENERAL CONTRACTOR LICENSE. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

Mr. Kramer, Board Attorney, did not feel it is proper to arbitrarily designate Mr. Al-Imam as a plans examiner now. He has 18 months to obtain the necessary licensing. Mr. DiPietro, Administrative Director, noted he has experience; it is just a matter of compliance with that section of the code that the Board just voted on. Staff could provide a temporary approval at that time.

In answer to Mr. D'Attile, Mr. Al-Imam advised that his general contractor license

expired in 2004; his continuing education of at least 14 hours every two years is complete and he holds a current plans examiner license from the State. He is requesting a 120-day temporary designation just as would be done for any inspector. Mr. Fardelmann explained it is generally for inspectors and its purpose is to give the individual time to secure their provisional from the State. He did not believe there is any authorization in the code for a 120-day with respect to plans examiners. Mr. DiPietro indicated once he receives his unrestricted general contractor license, he could secure the plans examiner certification.

c. Board Action

Chair Lucas explained to Mr. Al-Imam that he must first obtain his general contractor license (unrestricted) and apply for a plans examiner certification.

4. Formal Interpretations proposed:

a. Florida Building Code 5th Edition (2014), Plumbing Appendix F – Permit Requirements for Irrigation

Mr. Otto Vinas, Chief Plumbing Code Compliance Officer, advised that staff is requesting clarification on whether permits should be required for golf courses. He referred to the Building Code 5th Edition (2014), Plumbing Appendix F Part 1, B.1, Permits, and noted that this section does not specify that golf courses are exempt from permits. Section 105.3.1.4 specifies that permits including plan review are required for lawn sprinklers. In Broward and Miami-Dade counties, he found that half require and half do not require permits. Clarification on requiring a permit is requested.

Mr. Kramer, Board Attorney, advised that it is his opinion that a permit would not be required based on Part 1, A.3, Scope, where it says that “These construction codes do not apply to irrigation systems for golf courses, nurseries, greenhouses, or agricultural production systems. Part 1, B.1, Permits, does not apply because golf courses was already precluded in the Scope provision. Section 105.3.1.4.4 speaks of lawn sprinklers, not golf courses.

Chair Lucas opened the floor for public comment.

Mr. Claudio Grande, City of Tamarac Building Official, advised that he requested staff bring this forward to the Board. The irrigation code speaks to golf course irrigation designs which are engineering designs not by this particular code. He interpreted the design reference is for other types of irrigation, but not for a golf course which is bigger and typically an engineered design.

Mr. Lavrich felt the Scope provision is what should be relied upon.

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. FAMULARO THAT ACCORDING TO FLORIDA BUILDING CODE 5TH EDITION (2014) PART 1, A. 3., THESE CODES DO NOT APPLY TO IRRIGATION SYSTEMS FOR GOLF COURSES, AND AS A RESULT A PERMIT IS NOT REQUIRED FOR INSTALLATION OF GOLF COURSE IRRIGATION SYSTEMS. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

During discussion of the above motion, Mr. D'Attile asked about connection to potable water. Discussion ensued about a permit being required associated with a backflow preventer. Mr. Vinas advised that any connection to the City system and the meter up to the backflow would require a permit. Mr. D'Attile was concerned that this is not recognized in the motion. Mr. Terry commented a technical committee could be convened at a later time to clarify the language.

b. Florida Building Code 5th Edition (2014), Smoke Control System testing in existing buildings undergoing Level 2 alterations

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, noted that the Fire Code and Mechanical and Smoke Control Committees met on March 22nd and recommended the interpretation that in existing buildings undergoing Level 2 alterations, including tenant improvements, the engineer of record shall state if testing of the existing smoke control system is required and the type of test to be performed. In other words there are cases where alterations are minor and the smoke control system is not affected.

A MOTION WAS MADE BY MR. D'ATTILE AND SECONDED BY MR. LAVRICH TO ACCEPT SUBMITTED FORMAL INTERPRETATION NO. 18. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

c. Florida Building Code 5th Edition (2014), Acceptable Testing Methods for Smoke Control Systems.

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, explained that many inspectors use smoke bombs. This interpretation indicates that the engineer of record shall be able to specify any measurable and certifiable method of generating smoke, including smoke generating machines.

A MOTION WAS MADE BY MR. D'ATTILE AND SECONDED BY MR. TERRY TO ACCEPT SUBMITTED FORMAL INTERPRETATION NO. 19. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

d. Florida Building Code 5th Edition (2014), Duct Sizing Calculations.

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, explained that if the design documents show duct sizes and those design documents are signed and sealed by the engineer of record or by the mechanical or air conditioned contractor, duct size calculations would not have to be submitted with the plans.

A MOTION WAS MADE BY MR. D'ATTILE AND SECONDED BY MR. LAVRICH TO ACCEPT SUBMITTED FORMAL INTERPRETATION NO. 20. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

e. Florida Building Code 5th Edition (2014), Acceptable documents for the attachment of mechanical equipment during replacement.

Mr. Rolando Soto, Chief Mechanical Code Compliance Officer, explained this has to do with the type of documentation that can be accepted by the building official or plans examiner for replacement or installation of mechanical equipment. The following

documentation option was added for residential replacements: equipment manufacturer's anchoring details, showing compliance with the wind speeds as provided by FBC 1620 for Broward County. No change was made for documentation sources for commercial replacements.

A MOTION WAS MADE BY MR. D'ATILE AND SECONDED BY MR. TERRY TO ACCEPT THE SUBMITTED FORMAL INTERPRETATION NO. 21. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

5. Recommendation to Approve the Fiscal Year 2018 Recommended Budget Request (October 1, 2017 – September 30, 2018).

a. Report of Administrative Director

Mr. James DiPietro, Administrative Director, noted that just five years ago, there was a zero surplus as well as furlough days. It is now at \$4.7 million. It has been 4-5 years since a rate increase. He discussed the historical information pertaining to the surcharge in his memorandum to the Board and how the economy fluctuations impact it. He also commented on the potential need for instituting special projects or a rate decrease in October of 2018. The situation will need to be carefully monitored. Overall the numbers are almost identical to last year. He reviewed the surplus projections and noted in fiscal year 2022 there may be no surplus.

b. Public Comment (3 minute time limit)

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

c. If desired, motion approving fiscal year 2018 recommended budget request

A MOTION WAS MADE BY MR. LAVRICH AND SECONDED BY MR. D'ATILE TO APPROVE THE BUDGET AS SUBMITTED. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

6. Board of Rules and Appeals policy authorizing payment for the first attempt of an individual seeking to pass the "Building Official Applicant High Velocity Hurricane Zone Exam" and/or the "Chief Structural Inspector Applicant or Structural Plans Examiner Applicant High Velocity Hurricane Zone Exam".

a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, explained if an individual, perhaps an inspector up-state, lacks enough experience in South Florida, he or she could take advantage of this program. It makes it a little easier to become an inspector in Broward County. He noted that the policy that supports this item can be found under Agenda Item 7. It is Policy No. 17-02. When these tests were instituted in 2006, the minutes indicated there would be no restrictions as to the number of times an individual could take the test. He added this stipulation into the policy.

In response to Mr. Taylor, Mr. DiPietro indicated there are only a couple testing times a year which equates to under \$1,000 annually.

b. Board Action

A MOTION WAS MADE BY MR. TERRY AND SECONDED BY MR. D'ATILLE TO APPROVE THE POLICY AS SUBMITTED. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

7. Board of Rules and Appeals' policy establishing a complimentary Book Loan Program for persons authorized by the City or County Building Official to Take Department of Business and Professional Regulations commercial inspector's examinations and general plans examiner examinations (for any number of nine possible exams).

a. Recommendation of Administrative Director

Mr. James DiPietro, Administrative Director, indicated this is also aimed at facilitating an individual to become an inspector. The proposed cost is about \$6,000 this year and \$10,000 next year. He described the logistics of the program that would begin sponsorship by a building official of an individual wants to prepare to take the State exam. The policy that supports this item can be found under Agenda Item 6. It is Policy No. 17-03. He suggested authorization be subject to available funds and suggested the following language: "The above program is subject to there being sufficient monies available in the annual budget as determined by the Administrative Director."

In response to Mr. D'Attille and Mr. Falkanger, Mr. DiPietro indicated if more books are needed in a particular category, he would procure them. However, when the funding limit is approached, he would bring the matter back to the Board. He felt there should be at least one in every category to start and make adjustment as time goes by. Mr. Falkanger preferred that the books be purchased as needed. Mr. Lavrich was confident in Mr. DiPietro's judgment.

b. Board Action

A MOTION WAS MADE BY MR LAVRICH AND SECONDED BY MR. D'ATILLE TO APPROVE THE POLICY AS SUBMITTED. THE MOTION PASSED BY UNANIMOUS VOTE OF 13-0.

Mr. DiPietro indicated he will phase in the program.

8. Director's Report

Mr. James DiPietro, Administrative Director, indicated he has nothing to report at this time. He encouraged Board members to bring forward any ideas to improve the system.

9. Attorney's Report

Mr. Charles Kramer, Board Attorney, drew attention to a status report provided to the Board concerning a disciplinary action against former Fort Lauderdale employee, John Madden. He outlined the history on the matter. There is one more deposition to take before bringing the matter before the Board, that being of Mr. Madden. An offer has been made to Mr. Madden to address and resolve all of the issues, but he has not heard anything back. He explained that his comments must be limited in order not to disclose litigation strategy.

10. **Committee Report - none**

11. **General Board Member Discussion**

Mr. Gus Carbonell indicated an ad hoc committee including the Better Business Bureau and some city stakeholders has serious concerns about the lack of employees that can process plans in a timely matter. It is a serious countywide problem that has been getting worse by the week. Qualifications are so stringent in Broward County that it is almost impossible to find individuals that can become building officials, inspectors and plan reviewers. He suggested some type of outreach, perhaps an educational program.

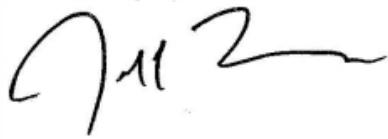
Mr. Peter Beaudoin, City of Lighthouse Point Building Official, indicated that many people just do not want to invest the time required. He commended the Administrative Director for bringing forward a book loan program.

Mr. Bill Tracy, City of Parkland Building Official, indicated that since he came on-board in the past three months he has hired three people. His staff of about fourteen, nine are plans examiners. He is trying to get all of the staff elevated to plans examiner. In that way when the inspection work level diminishes, more plan review can be done. He went on to say that the lending library is an excellent idea as it will help attract people to the profession. In some cases, the books could be shared amongst individuals.

12. **Public Comment (3 minute limit per person) and written communications**

13. **Adjournment**

Having no further business to go before the Board, the meeting adjourned at 8:33 p.m.



Jeffrey Lucas, FM, CFI, CFEI – Chair