

EXECUTIVE SUMMARY

Florida Building Code Administrators and Inspectors Board

I. General Information

Meeting Type: Application Committee, Examination and Continuing Education Committee, Rules and Legislation Committee, Executive Committee, and General Business Meeting

Meeting Date: Wednesday, December 1, 2010, through Friday, December 3, 2010

Meeting Location: The Florida Hotel and Conference Center
1500 Sand Lake Road
Orlando, Florida

Attendees:

Bob McCormick, Chair
Richard Gathright, Vice Chair
Art Barthlow
Dennis Carpenter
Gerry Demers
Fred Dudley
Bob Kymalainen
Orlando Lamas
Nick Sasso

Robyn Barineau, Executive Director, Department of Business and Professional Regulation (DBPR)

Elise Rice, Government Analyst, DBPR

Khai Patterson, Assistant Attorney General, Office of the Attorney General

Libby Duffy, Assistant General Counsel, Office of the General Counsel, DBPR

Doug Harvey, Building Officials Association of Florida (BOAF)

Bill Dumbaugh, Broward County Rules and Appeals

Robert von Kampen, International Code Council (ICC)

Myranda Walters, ICC

Heather Howard, Court Reporter

Other Interested Parties

II. Major Issues/Actions

- The board excused Mr. Sasso's absence from the Application Review Committee on Wednesday, December 1, 2010.
- Chair Bob McCormick introduced Ms. Khai Patterson, Assistant Attorney General, who was serving as board counsel in Mr. Tim Dennis's absence.
- The Application Review Committee approved 29 applications for licensure and denied seven licensure applications. The board approved the ratification list included in the agenda. Mr. Nick Sasso read a list of all licensure applications denied by the

Application Review Committee. The board approved the action of the Application Review Committee.

- The board conducted informal hearings for licensure matters, approved six previously denied applications, and upheld the denial of one previously denied application.
- The board approved 24 continuing education courses and denied two continuing education courses.
- In case number 2005.034904 against Mr. Robin Brinkley, the board agreed to the following disciplinary action: impose costs of \$536.84, issue an oral reprimand, place Mr. Brinkley's building code administrator's license on six months probation, and require Mr. Brinkley's appearance at the meeting when the case is presented for consideration by the board.
- In case number 2008.029189 against Mr. Daryl Dempsey, the board agreed to the following disciplinary action: impose costs of \$508.45, issue an oral reprimand, place Mr. Dempsey's building inspector's license on six months probation, and require Mr. Dempsey's appearance at the meeting when the case is presented for consideration by the board.
- In case number 2009.051577 against Mr. Stephen Kirker, the board agreed to the following disciplinary action: impose a fine of \$1,500, costs of \$1,011.75, and require Mr. Kirker's appearance at the meeting when the case is presented for consideration by the board.
- In case number 2008.029192 against Mr. Evan Spaak, the board agreed to the following disciplinary action: impose costs of \$456.79, issue a reprimand, place Mr. Spaak's building inspector's license on six months probation, and require Mr. Spaak's appearance at the meeting when the case is presented for consideration by the board.
- In case number 2010.000714 against Mr. Robert Fought, the board agreed to the following disciplinary action: impose a fine of \$1,500, costs of \$292.83, and revoke Mr. Fought's building inspector's license.
- In case number 2010.008231 against Mr. Timothy Harbuck, the board agreed to the following disciplinary action: impose a fine of \$1,500, costs of \$1,167.22, and revocation of Mr. Harbuck's building code administrator's license.
- In case number 2010.001377 against Mr. Roosevelt Morris, the board agreed to the following disciplinary action: impose a fine of \$1,500, and costs of \$107.09.
- In case number 2008.029188 against Mr. Henry Stobaugh, the board agreed to the following disciplinary action: impose costs of \$611.77, issue a written reprimand, and place Mr. Stobaugh's building inspector's license on six months probation.
- In case number 2008.020415 against Mr. Andres Villareal, the board agreed to the following disciplinary action: impose a fine of \$1,500, costs of \$249.34, and revocation of Mr. Villareal's building inspector's license.
- Ms. Libby Duffy, Assistant General Counsel, reported that as of November 30, 2010, there were 16 public building code cases and 14 private building code cases in the Office of the General Counsel.
- The board discussed expanding the experience definition included in Rule 61G19-1.009, Florida Administrative Code – Definitions. Mr. Doug Harvey, BOAF, indicated that he is often contacted by applicants regarding their confusion with what, specifically, is required in an experience affidavit. He suggested that the Building Code Administrators and Inspectors Board consider developing a list of experience guidelines for use by potential applicants. Mr. Harvey agreed to contact his

- Mr. Fred Dudley indicated that by joint resolution, HB 1565 became law on November 17, 2010. He added that this law will dramatically impact agencies' abilities to conduct rulemaking. Mr. Dudley informed the board that all rules will be required to have a Statement of Estimated Regulatory Cost and an economic analysis.
- Dr. Robert von Kampen, ICC, introduced Ms. Myranda Walters from ICC. He informed the board that computer-based testing continues to work well with Florida candidates. He gave a quick overview of item terminology. The board asked that he provide the latest pass/fail rates on technical examinations.
- Mr. Nick Sasso informed the board that he feels that the differing fees for publicly employed applicants versus privately employed applicants is discriminatory and should be changed. He believes that all applicants should pay the same fees. Mr. Gerry Demers indicated that he believes there will be opposition to such a change from the Florida League of Cities and the Florida Association of Counties. Mr. Dudley indicated that he would be very surprised to see a bill increasing fees. He added that, in the alternative, the fees would have to be brought down to the current payment by public employees of \$5, and he is uncomfortable with such a reduction. The board will discuss this item in June 2011 for potential submission to the department as a legislative suggestion.
- Chair Bob McCormick mentioned the opinion Mr. Tim Dennis, Assistant Attorney General, provided regarding when an architect or engineer can perform plan review or inspection services for a building department. Chair McCormick previously suggested that this memo be placed on the board's Hot Topics section, and that he would include this information in his board newsletter article. After thinking further about the opinion, he suggested that it not be placed on the board's Hot Topics section, and he did not include this information in his recent newsletter article. Mr. Sasso disagreed with Mr. Dennis's opinion. Chair McCormick suggested that Mr. Dennis expand on his opinion.
- Ms. Robyn Barineau, Executive Director, mentioned that there will be two workshops conducted in conjunction with the February 2011 meeting. One workshop topic will be the elimination of provisional building code administrator licenses and the other workshop topic will be continuing education reciprocity with the Division of State Fire Marshal. The February meeting will be conducted in Fernandina Beach from February 15, 2011, through February 18, 2011.
- Ms. Barineau indicated that the Board of Architecture and Interior Design (BOAID) requested a joint meeting with the Building Code Administrators and Inspectors Board in February 2011. As soon as she receives a letter from the BOAID Chair outlining his concerns and reasons for the joint meeting, she will forward the letter to all members.
- Ms. Barineau informed the board that the balance in their operating account as of September 30, 2010, was over \$811k, and the balance in their unlicensed activity account as of September 30, 2010, was over \$260k. Ms. Barineau advised the board that she will be looking closely at their board's financial reports for the next several quarters to see how the new methodology for surcharge calculations impacts the board's financial situation.
- Ms. Barineau informed the board that an application ratification list was emailed to all board members on or about November 15, 2010, for their review. Of the three

names included on the list, one was pulled for review by the committee at the December meeting.

- The board asked Ms. Duffy and Mr. Dennis to discuss how disciplinary cases are charged, whether it is unlicensed activity or practicing outside the scope of a professional's license. The board asked that this topic be placed on the February agenda.
- Ms. Barineau provided the board with tentative future meeting dates as follows:
 - February 15-18, 2011 – Fernandina Beach
 - April 6-8, 2011 – Tampa
 - June 8-10, 2011 - Orlando

III. Legislation/Rule Promulgations

- There was no legislation or rule promulgation.

IV. Action Required

- Mr. Dennis will prepare final orders and notices of intent to deny and forward them to board staff for filing with the Agency Clerk.
- Mr. Sasso asked that additional cases be opened against Mr. Robert Fought for his not disclosing previous criminal history on licensure applications. He also asked that an Emergency Suspension Order be considered in these matters.
- At the February meeting, Ms. Barineau will confirm whether or not the board wants to pursue collections after a fine and/or costs are not paid pursuant to a final order or whether they want to open another complaint for failure to comply with a previous final order.
- At the February meeting, Mr. Dennis will inform the board whether or not there is statutory authority to include language in future disciplinary final orders calling for the suspension of a respondent's license should they not pay the fine and costs within 30 days from the date of the final order.
- At the February meeting, Mr. Harvey will provide the Building Code Administrators and Inspectors Board will a list of possible experience guidelines for use by potential applicants.
- At the February meeting, Ms. Barineau will explain the differences in Form DBPR BCAI 4253 – Continuing Education Course & Provider Approval Application and Form DBPR BCAI 4256 – Course and Program Approval.
- Dr. von Kampen will provide the department with the most recent pass/fail statistics for the technical examination for distribution to the board.
- The board will discuss amending their statute to change the fee structure to allow fees to be equal for publicly employed and privately employed applicants at their June 2011 meeting.
- Chair McCormick suggested that Mr. Dennis expand on his recent opinion regarding when Architects and Engineers can work in building department's without obtaining a license from the Building Code Administrators and Inspectors Board.
- As soon as Ms. Barineau receives a letter from the BOAID Chair outlining his concerns and reasons for the joint meeting, she will forward the letter to all members.

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Robyn Barineau
Executive Director
December 6, 2010