

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: Tuesday, August 4, 2009, through Friday, August 7, 2009
Meeting Location: Hilton Fort Lauderdale Beach Resort
505 North Fort Lauderdale Beach Boulevard
Fort Lauderdale, Florida 33304

Attendees:

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

Maureen Olson, Deputy Secretary of Professions and Regulation, Department of Business and Professional Regulation (DBPR)
April Skilling, Deputy General Counsel, DBPR
Robyn Barineau, Executive Director, DBPR
Elise Rice, Government Analyst, DBPR
Tim Dennis, Assistant Attorney General, Office of the Attorney General
Libby Duffy, Assistant General Counsel, DBPR
Doug Harvey, Building Officials Association of Florida (BOAF)
Robert von Kampen, International Code Council (ICC)
John Faranelli, ICC
Joe Rebuck, Gold Coast School of Construction
Barbara Kaplan, Court Reporter
Other Interested Parties

II. Major Issues/Actions

- Chair Bob McCormick introduced and welcomed Deputy Secretary Maureen Olson and Deputy General Counsel April Skilling to the meeting.
- Deputy Secretary Olson thanked the board for the opportunity to join them for their meeting. She mentioned two of Secretary Drago's recent initiatives, On the Road to Better Business and Quality on the Line. Deputy Secretary Olson informed the board that the department prepares a building code newsletter which is published on the internet two times annually, and there are currently 2,019 subscribers to the on-line newsletter. She added that inserts will be included in the upcoming renewal notices informing licenses of information available to them on the department Web

- site, and letters to over 350 building departments were recently mailed informing them of the same information. Deputy Secretary Olson thanked Vice Chair Nick Sasso for his assistance with an improper link on the Web site. She informed the board that random calls made to several licensees indicated that these licensees frequently use the department Web site. She added that the Customer Contact Center has reduced the hold time for callers from approximately 14-15 minutes down to less than one minute, and that applications are being processed in under ten days. Mr. Fred Dudley complimented the department on the reduction in the application processing time. Deputy Secretary Olson also mentioned the recent EZApply initiative and solicited the board's suggestions to improve the EZApply process. Vice Chair Sasso suggested that the date the application was received by the department needs to be visible on the portal. He also indicated that disciplinary actions should be included in newsletters. Chair McCormick added that it is not difficult to obtain disciplinary information from board meeting minutes. The board thanked Deputy Secretary Olson for keeping them informed.
- Deputy General Counsel Skilling also thanked the board for the opportunity to join them for their meeting. She informed the board that cases involving criminal activity must be forwarded to the State Attorney's Office for prosecution. She added that the department can make recommendations when sentencing takes place against a licensee. Deputy General Counsel Skilling advised the board that as of October 1, 2009, all licensees must report to the department within 30 days of being found guilty or having plead nolo contendere to a crime. She informed the board that when a complaint is filed by a board member, they must be listed as the complainant, and they should recuse themselves from the deliberations of the case at a board meeting. Deputy General Counsel Skilling mentioned that there were 85 building code cases filed during fiscal year 2008-2009, which is a decline from previous fiscal years. She added that when the board votes to obtain records from the department, there will be no charge to the board; however, should an individual member make such a request, reasonable costs for the records is expected. Deputy General Counsel Skilling informed the board that all requests for disciplinary information should go to Ms. Robyn Barineau, Executive Director, for appropriate distribution. Deputy General Counsel Skilling gave a presentation on Emergency Restriction Orders and Emergency Suspension Orders.
 - Chair McCormick welcomed new members, Mr. Gerry Demers and Mr. Orlando Lamas.
 - Chair McCormick excused the absence of Mr. Dennis Franklin from the meeting.
 - The Application Review Committee approved 48 applications for licensure, denied 52 applications for licensure, and ratified an additional 16 applications for licensure. The board conducted informal hearings for licensure matters, upheld one previously denied application, and approved one previously denied application.
 - Vice Chair Sasso read a list of all licensure applications denied by the Application Review Committee.
 - The Examination and Continuing Education Committee approved 31 continuing education course applications and denied nine continuing education course applications.
 - Regarding DOAH case number 09.1335, Mr. Sprague Owings being the Petitioner in this matter, the board accepted the Recommended Order submitted by the Administrative Law Judge, which denied Mr. Owings' application for certification as a roofing inspector.

- Regarding DOAH case number 09.0526, Mr. James S. Pappalardo being the Petitioner in this matter, the board accepted the Recommended Order submitted by the Administrative Law Judge, which denied Mr. Pappalardo's applications for certification as a provisional plumbing inspector and a provisional mechanical inspector.
- Ms. Libby Duffy, Assistant Attorney General, asked that case number 2008.061013 be tabled until the October meeting.
- Regarding case number 2008.025261 against Mr. Dennis Grim, the board agreed to impose the following penalties: revocation of his standard inspector certification, revocation of his standard plans examiner certification, revocation of his building code administrator's certification, and costs of \$326.31.
- Regarding case number 2008.020415 against Mr. Andres Villarreal, the board agreed to delay imposition of any disciplinary action until the criminal case involving Mr. Villarreal has been concluded.
- Regarding case number 2008.030304 against Mr. Anthony Doggett, the board agreed to impose the following penalties: revocation of his provisional one and two family dwelling certification, a fine of \$1,000, and costs of \$537.30.
- Regarding case number 2008.062266 against Mr. Ernest Tanner, the board agreed to impose the following penalties: revocation of his limited building code administrator's license (never to apply for any licenses of this board in the future), a fine of \$5,000, and costs of \$462.75.
- Ms. Duffy informed the board that as of August 4, 2009, there were 38 private building code cases and 12 public building code cases in Legal.
- Ms. Duffy advised the board that she has recently recruited two new expert witnesses for building code cases, Mr. Rob Nagin and Mr. Michael Gustafson. Vice Chair Sasso asked that the curriculum vitae for Mr. Gustafson be forwarded to the board members.
- Chair McCormick mentioned his telephone conversation with Ms. Barineau and Mr. G.W. Harrell, Executive Director of the Construction Industry Licensing Board. He added that Mr. Harrell confirmed that in cases where a Certificate of Occupancy (CO) has been issued, unless there was a substantial defect or imminent danger threatened, the cases were closed. Chair McCormick indicated that he would continue his discussion with Mr. Harrell and other department staff, and keep the board informed on this issue.
- The board discussed the development of a rule relating to the application review process. Mr. Tim Dennis, Assistant Attorney General, proposed the following language:
61G19-6.003 – Application For Certification Review Procedure
(1) Applications which are determined to be complete will first be reviewed by the Department. If the application clearly demonstrates qualification for the certification sought, the Department shall approve the application. Applications will be referred to the Board if the Department determines that the applicant has not clearly demonstrated qualification for the certification sought.
(2) Applications referred to the Board will first be reviewed by the Application Review Committee. The Application Review Committee shall consist of a minimum of three
(3) Board members who are licensed building code administrators, inspectors, or plans examiners, appointed by the Chair. The Chair may be a member of the Application Review Committee.

(3) The Application Review Committee shall review all applications for certification not otherwise approved and shall determine by majority vote whether to recommend approval or denial of each such application to the Board.

(4) The Application Review Committee's recommendations shall be provided to the Board, who shall then act on the Application Review Committee's recommendations at the next Board meeting. Any Board member may request that any application for certification be pulled for discussion and/or individual determination by the Board.

Mr. Dennis will move forward with notice of rule development and a notice to workshop this rule proposal.

- Mr. Dennis reported that he has filed the amendment to Rule 61G19-5.002, Florida Administrative Code – Disciplinary Guidelines, changing the proposed penalty of up to \$5,000 on first offenses to up to \$2,500 on first offenses.
- Ms. Barineau mentioned the letter from Secretary Drago addressed to Chair McCormick regarding 2010 Accelerate Florida legislative initiatives. She asked the board for their input as soon as possible. Mr. Dudley asked Ms. Barineau to relay to the department the board's action to streamline the application review process already being utilized.
- The board agreed that they would like to see the statute changed regarding the life of a provisional certificate. They asked Ms. Barineau to relay to the department their desire to amend Section 468.609(7)(a), Florida Statutes, as follows:
“The board may provide for the issuance of provisional certificates valid for such period, not less than ~~three~~ one years nor more than five years, as specified by board rule, to any newly employed or promoted building code inspector or plans examiner who meets the eligibility requirements described in subsection (2) and any newly employed or promoted building code administrator who meets the eligibility requirements described in subsection (3).”
- Mr. Dudley asked Ms. Barineau to research the current process of approving applications listed on the ratification list and suggest any improvements for speeding up the approval process.
- Chair McCormick informed the board that he appointed himself to the Probable Cause Panel.
- Mr. Dennis informed the board that he had been contacted by Vice Chair Sasso asking him to explain the difference in the disciplinary guidelines between Rules 61G19-5.002(2)(b), 61G19-5.002(2)(h), and 61G19-5.002(2)(j), Florida Administrative Code. Vice Chair Sasso also suggested that each of these sections be combined into one guideline entitled, “Material False Statements.” Mr. Dennis explained that each has a unique purpose. After discussion, Chair McCormick and Mr. Dudley agreed that the current rule should remain as it is currently written. Mr. Dennis volunteered to contact Ms. Duffy to determine if there are problems with this rule, and report his findings at the next meeting.
- Ms. Barineau reported that a statutory change would be necessary to require applicants and licensees to provide employment information to the department on a continual basis other than at application.
- Ms. Barineau informed the board that as of March 31, 2009, the board's operating account balance was \$787,822, and the board's unlicensed activity account balance was \$207,077. She added that department projections indicate that the board may slip into a deficit in 2011, but she will closely watch their operating account, and keep the board informed.
- The board received an invitation from Mr. Donald Pittman, President of the Florida Association of Plumbing, Gas and Mechanical Inspectors (FAPGMI), to attend their

conference in Orlando. The board agreed to send Chair McCormick to this one day event.

- Ms. Barineau informed the board that the Division of Regulation has started including the incident date in the licensing database, which is visible on the licensing portal. Vice Chair Sasso asked Ms. Barineau to contact the Division of Regulation and ask them how they determine the incident date for complaints. She will report her findings at the next meeting.
- Ms. Barineau informed the board that they are welcome to review the exam item bank in conjunction with their December meeting in Tallahassee. She will coordinate this review with the Bureau of Education and Testing.
- Dr. Robert von Kampen, ICC, informed the board that the demand for technical examinations by paper-and-pencil administrations continues to decrease while the demand for computer-based testing for technical examinations constantly increases. He added that they are working with the department to offer all technical examinations by computer-based testing only effective January 1, 2010, with the exception of the low volume exams (modular and roofing).
- The next board meeting will be conducted in Orlando, Florida, from Tuesday, October 13, 2009, through Friday, October 16, 2009.
- Mr. Bob McCormick and Mr. Nick Sasso were elected Chair and Vice Chair, respectively, of the Building Code Administrators and Inspectors Board.

III. Legislation/Rule Promulgation

- Mr. Dennis will move forward with development and workshopping of Rule 61G19-6.003, Florida Administrative Code – Application for Certification Review Procedure.
- The board asked that Section 468.709(7)(a), Florida Statutes, be amended to reduce the life of a provisional certificate from the current three to five years to one to five years.

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.
- Ms. Duffy will forward Mr. Gustafson's curriculum vitae to all board members.
- Chair McCormick indicated that he would continue his discussion with Mr. Harrell and other department staff regarding the closing of CILB cases when a CO has been issued, and keep the board informed on this issue.
- Ms. Barineau will relay to the department the board's action to streamline the application review process already being utilized.
- Ms. Barineau will relay to the department the board's desires to amend Section 468.709(7)(a), Florida Statutes, to reduce the life of a provisional certificate from the current three to five years to one to five years.
- Ms. Barineau will research the ratification list process and make suggestions for improvement.
- Mr. Dennis will contact Ms. Duffy to determine if there are problems with Rules 61G19-5.002(2)(b), 61G19-5.002(2)(h), and 61G19-5.002(2)(j), Florida Administrative Code, and report his findings at the next meeting.
- Chair McCormick will represent the board at the upcoming FAPGMI conference in Orlando.

- Ms. Barineau will contact the Division of Regulation and ask them how they determine the incident date for complaints. She will report her findings at the next meeting.

Robyn Barineau
Executive Director
August 17, 2009