

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, October 13, 2009, through Friday, October 16, 2009

Meeting Location: Homewood Suites
8745 International Drive
Orlando, Florida 32819

Attendees:

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

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

Joe Rebuck, Gold Coast School of Construction

Tim Moore, Building Inspection Division/Pasco County

Casey Landry, Electrical Council of Florida

Neil Burdick, Electrical Council of Florida

Jane Waddell, Contractor's Institute

Dianna Garcia, Court Reporter

Other Interested Parties

II. Major Issues/Actions

- The Application Review Committee approved 68 applications for licensure, denied 51 applications for licensure, and ratified an additional 27 applications for licensure.
- The board conducted informal hearings for licensure matters, upheld six previously denied applications, approved seven previously denied applications, and tabled one application until the December 2009 board meeting.

- The board conducted informal hearings for continuing education course denials and approved three courses, upheld two course denials, and tabled two courses until the December 2009 board meeting to allow the provider the opportunity to provide additional materials for the board's review.
- Vice Chair Nick Sasso read a list of all licensure applications denied by the Application Review Committee.
- The Examination and Continuing Education Committee approved 45 continuing education course applications and denied four continuing education course applications.
- Regarding Case No. 2008.061013 against Mr. Mathew S. McDonald, the board imposed the following penalties: costs of \$999.03, attendance (Thursday) at two board meetings within one year, and six additional hours of continuing education.
- Regarding case number 2008.0028878 against Mr. Perry T. Stites, the board agreed to impose the following penalties: fine of \$1,000 and costs of \$268.93.
- The board conducted a rule development workshop for discussion of Rule 61G19-6.0036, Florida Administrative Code – Application for Certification Review. The purpose of the workshop is to discuss the development of a rule to quantify the application review committee procedures. The board also suggests providing a list of applications which are normally included on a ratification list at each board meeting to be provided to board members once a month by email. The members will have the opportunity to review the list and request that a particular application come to the board for review. If there are no problems with the applications included on the emailed ratification list, the board members have ten days to inform board staff of their approval or the list will be considered approved by board members. Mr. Tim Dennis, Assistant Attorney General, will move forward with publication of this rule and provide rule language to the board at the December 2009 meeting. The board agreed that this rule will not have any small business impact.
- Ms. Duffy informed the board that as of September 21, 2009, there were 20 private building code cases and 12 public building code cases in the legal section.
- Vice Chair Sasso asked that the copies of disciplinary final orders from the immediately preceding meeting be included in the agenda after the Prosecuting Attorney's Report. The board did not support Vice Chair Sasso's request.
- The board asked that Deputy General Counsel April Skilling be invited to attend the December board meeting in Tallahassee to discuss criminal prosecutions and the State Attorney's Office.
- Ms. Duffy informed the board of some of the qualifications she looks for in potential expert witnesses. These qualifications include a broad-base of knowledge and experience, work experience, licenses currently held, writing and analysis skills, and testimony skills. Chair Bob McCormick indicated that the board has three great expert witnesses under contract, and he is comfortable with each of them. He added that the building code administrator expert witnesses should be familiar with the local government setting and that professional association and networking ability are important to expert witnesses.
- Mr. Doug Harvey, Executive Director of the Building Officials Association of Florida (BOAF), indicated that BOAF is working with the Department of Community Affairs (DCA) regarding the capturing of surcharges. He added that surcharge payments are not always calculated properly, and there is work underway on devising a better way to capture surcharges. Ms. Barineau asked that should any legislation come forward relating to this issue, that Mr. Harvey provide her with a copy of the proposal.

- The board agreed to discuss Rule 61G19-9.001, Florida Administrative Code – Continuing Education for Biennial Renewal, as there may be a need to include a reference to Chapter 455, Florida Statutes, in the laws and rules requirement section of the rule.
- Vice Chair Sasso mentioned that the two hour laws and rules requirement should be separate to require licensees to complete one hour of laws and one hour of rules. He will bring back a proposal for discussion at the next meeting.
- Chair McCormick mentioned that while he was recently in Tallahassee serving as a witness in a formal hearing, he met with Mr. Tim Vaccaro, Director of the Division of Professions; Mr. Jeff Kelly, Assistant General Counsel for the Construction Industry Licensing Board; Deputy General Counsel April Skilling; and Ms. Barineau regarding the board's concerns over the closure of construction cases where a Certificate of Occupancy (CO) had been issued, unless there was a substantial defect or imminent danger threatened. Chair McCormick indicated that Mr. Kelly assured him that construction complaints are not automatically closed when a CO is issued, but they must look for negligence or gross negligence in these cases.
- Mr. Fred Dudley asked if when action is taken against one of the board's licensees who holds another professional license, if the other board/council/commission is notified of the action. Ms. Barineau will check with Ms. Duffy and report back to the board.
- The board asked that Ms. Barineau invite Mr. G.W. Harrell, Executive Director of the Construction Industry Licensing Board; Ms. Juanita Chastain, Executive Director of the Electrical Contractors' Licensing Board; and Mr. Tony Spivey, Executive Director of the Board of Architecture and Interior Design to the December 2009 meeting in Tallahassee.
- Chair McCormick indicated that he recently attended one of the home inspector workshops in Jacksonville. He added that the major concerns of the attendees were grandfathering, examinations and background checks.
- Chair McCormick informed the board that he recently attended the Florida Association of Plumbing, Gas and Mechanical Inspectors (FAPGMI) conference in Orlando.
- The board proposed limiting provisional licenses to a single municipality. Mr. Dennis and Ms. Barineau will research this issue and provide their findings to the board.
- Mr. Harvey indicated that BOAF is moving forward with changing the length of a provisional license from the current three to five years to one to three years. He also indicated that BOAF does not support provisional building code administrator licenses.
- The board designated Chair McCormick as the board's representative in the Pappalardo licensure case mediation and gave him settlement authority as necessary.
- Ms. Barineau informed the board that as of June 30, 2009, the board's operating account balance was \$651,070, and the board's unlicensed activity account balance was \$209,687. 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.
- 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. She provided a memo from Division of Regulation Director Jerry Wilson regarding the complaint incident dates. The board asked Ms. Barineau to invite Mr. Wilson to the December 2009 board meeting in Tallahassee.

- Ms. Barineau reminded the board of the ability for them to review the exam item bank in conjunction with their December meeting in Tallahassee. She suggested that the review be conducted on Wednesday afternoon. She will coordinate with the Bureau of Education and Testing and send an email to all members.
- Chair McCormick asked all members to forward to Ms. Barineau their requests for committee appointments for his consideration.
- The board authorized Chair McCormick to prepare and send letters of appreciation for Ms. Barineau, Mr. Dennis, and Ms. Elise Rice.
- The next board meeting will be conducted in Tallahassee, Florida, from Tuesday, December 1, 2009, through Friday, December 4, 2009.

III. Legislation/Rule Promulgation

- Mr. Dennis will move forward with publication of Rule 61G19-6.0036, Florida Administrative Code – Application for Certification.
- Mr. Dennis will notice Rule 61G19-9.001, Florida Administrative Code – Continuing Education for Biennial Renewal – for discussion at the December 2009 meeting.

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. Barineau will invite Ms. Skilling to attend the December 2009 board meeting in Tallahassee to discuss criminal prosecutions and the State Attorney's Office.
- Mr. Harvey will forward a copy of any proposed legislation developed relating to the calculation of surcharges by building departments.
- Vice Chair Sasso will bring a proposal to the December 2009 board meeting to separate the laws and rules continuing education requirement.
- Ms. Barineau will inquire of Ms. Duffy as to whether or not other boards are notified when this board takes action against a licensee who holds a dual license.
- Mr. Barineau will invite Mr. Spivey, Ms. Chastain, and Mr. Harrell to the December 2009 meeting in Tallahassee.
- Mr. Dennis and Ms. Barineau will research limiting provisional licenses to a single municipality.
- Ms. Barineau will invite Mr. Wilson to attend the December 2009 board meeting in Tallahassee.
- Ms. Barineau will coordinate the exam item review with the Bureau of Education and Testing and provide an email to board members who may be interested in participating while attending the December 2009 meeting in Tallahassee.
- Board members will forward to Ms. Barineau their requests for committee appointments.

Robyn Barineau
Executive Director
October 21, 2009