

EXECUTIVE SUMMARY

Florida Building Code Administrators and Inspectors Board

I. General Information

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

Meeting Date: Wednesday, October 27, 2010, through Friday, October 29, 2010

Meeting Location: Hampton Inn & Suites Gainesville – Downtown
101 S.E. 1st Avenue
Gainesville, Florida 32601

Attendees:

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

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, Office of the General Counsel, DBPR

Jim Patton, Regional Program Administrator, Division of Regulation, Bureau of Investigative Services (BIS), Gainesville Office

Sharon Philman, Investigator, Division of Regulation, BIS, Gainesville Office

Dan Dickans, Investigator, Division of Regulation, BIS, Gainesville Office

Bill Dumbaugh, Broward County Rules and Appeals

Linda Patrick, City of Gainesville Building Department

Joe Rebeck, Gold Coast School of Construction, Inc.

Steve LeBlanc, Court Reporter

Other Interested Parties

II. Major Issues/Actions

- Chair Bob McCormick excused the absences of Mr. Dennis Carpenter and Mr. Orlando Lamas from the meeting.
- The Application Review Committee approved 58 applications for licensure and denied 47 licensure applications. The board approved the ratification list included in the agenda. Vice Chair 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, tabled the hearing of two previously denied applications until the December 2010 meeting, approved nine previously denied applications, and upheld the denial of 11 previously denied applications.
- The board approved 23 continuing education courses and denied five continuing education courses.
- In case number 2005.034904 against Mr. Robin Brinkley, the board agreed to table this matter until the December 2010 meeting, because Mr. Brinkley was ill.
- In case number 2009.051577 against Mr. Steven Kirker, the matter was tabled until the December 2010 meeting because of a lack of a quorum. Because Mr. Kirker was present, the board accepted testimony from Mr. Kirker at the meeting and agreed to include his testimony in the December 2010 agenda for consideration. The board informed Mr. Kirker that he was not required to attend the December 2010 meeting. The board asked Ms. Libby Duffy, Assistant General Counsel, to amend the Administrative Complaint and the Settlement Stipulation to reflect that Mr. Kirker holds a building inspector's license and not a limited administrator's license.
- In case number 2008.020415 against Mr. Andres Villareal, the matter was tabled until the December 2010 meeting because of a lack of a quorum.
- Ms. Duffy reported that as of October 25, 2010, there were 13 public building code cases and 15 private building code cases in the Office of the General Counsel.
- The board discussed amending its rule to eliminate provisional building code administrator licenses. The board previously expressed a public safety concern with provisional building code administrators (heads of the building department) being allowed to run a building department for three years and not being required to take an examination while maintaining this license. Ms. Robyn Barineau, Executive Director, informed the board that the department conducted some research on provisional building code administrator licenses. Ms. Barineau informed the board that as of October 19, 2010, there were 33 provisional building code administrator licenses and 1,034 standard building code administrator licenses. She added that only 35 complaints had been filed against provisional building code administrators since 1996. Since 1996, only 15 cases against provisional building code administrators had been sent to the board's Probable Cause Panel for consideration, and discipline was imposed against three provisional building code administrators since 1996. Ms. Barineau added that on average, it takes provisional building code administrators 14 months to obtain a standard building code administrator license. She added that because of the current economic times, the department does not support the elimination of provisional building code administrator licenses, and that the research does not suggest that these individuals are violating the law or are not following up with licensure as standard building code administrators. Mr. Fred Dudley suggested that all provisional licenses should be eliminated. He also suggested that the board conduct a workshop to see if the public objects to the elimination of provisional building code administrator licenses. Mr. Bob Kymalainen indicated that provisional licenses were originally created to assist with a need in building department's to obtain qualified licenses, but the need is no longer present as there is no longer a shortage of individuals holding standard licenses. Mr. Gerry Demers suggested that smaller jurisdictions still need provisionally licensed individuals, but that the board should place limitations on those licenses. Mr. Richard Gathright agreed that provisional licenses are still necessary, but they should be carefully supervised. Vice Chair Nick Sasso indicated that he did not believe there would be much resistance to the elimination of provisional building

code administrator licenses. The board agreed to conduct a rule development workshop on this issue at the December 2010 meeting. The board asked Ms. Barineau to contact the Florida League of Cities, the Florida Association of Counties, and the Building Officials Association of Florida to let them know about this public workshop.

- The board discussed amending Rule 61G19-11.001, Florida Administrative Code – Probable Cause Panel, to invite Respondents in disciplinary cases to future Probable Cause Panel meetings when their cases are being considered. No action was taken.
- The board asked that the prosecuting attorney bring a recommendation to the Probable Cause Panel regarding action to be taken in all cases, pursuant to Section 455.225(2), Florida Statutes.
- The board tabled the discussion of expanding the experience definition included in Rule 61G19-1.009, Florida Administrative Code – Definitions, pursuant to the request of Mr. Doug Harvey, Executive Director of the Building Officials Association of Florida, since he was unable to attend the board meeting.
- Mr. Tim Dennis, Assistant Attorney General, referred to a memo he created regarding when an architect or engineer can perform plan review or inspection services for a building department. Mr. Dennis researched this issue and determined that architects and engineers can perform plan review or inspection services for a building department under their respective professional licenses without holding a plans examiner or inspector license issued by the Building Code Administrators and Inspectors Board. Mr. Dennis indicated that in order for architects or engineers to perform duties of a building code administrator, these individuals must be licensed as a building code administrator by the Building Code Administrators and Inspectors Board. Chair McCormick suggested this memo be placed on the board's Hot Topics section, and he will include information in his article in the upcoming board newsletter.
- Ms. Barineau informed the board that she continues to work with the department's Bureau of Education and Testing, the department's Division of Information Technology, and the Division of State Fire Marshal (DSFM) on the implementation of HB 663 relating to building safety. The board raised concern over the issue of blanket approval of all DSFM continuing education courses for licensees of the Building Code Administrators and Inspectors Board. Ms. Barineau reminded the board that it had discussed this provision on multiple agendas prior to its passage, and that the language was included in several bills during the 2010 Legislative Session. The board asked Mr. Dennis to determine if course approval can be limited with the language as it is currently written. The board asked that a workshop be scheduled for the next board meeting to discuss this matter. The board asked Ms. Barineau to defer additional efforts in this regard until further notice.
- Mr. Fred Dudley suggested that the board develop training modules and written standards for department investigators handling building code disciplinary cases. Chair McCormick added that he has previously participated in investigator training conducted by the Division of Regulation and that this training is very comprehensive for department investigators.
- Ms. Barineau informed the board that a ratification list was emailed to all board members on September 15, 2011, for their review. Of the 11 names included on the list, four were pulled for review by the committee at the October meeting.

- Ms. Barineau reported that as of June 30, 2010, the board's operating account balance was over \$544k, and the board's unlicensed activity account balance was over \$259k.
- Ms. Barineau provided the board with tentative future meeting dates as follows:
 - December 1-3, 2010 – Orlando
 - February 16-18, 2011 – Fernandina Beach
 - April 6-8, 2011 – Panama City
 - June 8-10, 2011 - Orlando
- The board elected Mr. Bob McCormick, Chair, and Mr. Richard Gathright, Vice Chair, of the Building Code Administrators and Inspectors Board.

III. Legislation/Rule Promulgations

- Mr. Dennis will notice Rule 61G19-6.012, Florida Administrative Code – Provisional Certificates, for workshop at the December 2010 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 notify the Florida League of Cities, the Florida Association of Counties, and the Building Officials Association of Florida to let them know about the public workshop relating to the elimination of provisional building code administrator licenses.
- The board will discuss expanding the experience definition included in Rule 61G19-1.009, Florida Administrative Code – Definitions, at their December meeting.
- A copy of the memo from Mr. Dennis regarding architects and engineers will be placed under the Hot Topics section of the board's web page.
- Chair McCormick will mention the licensure issue with architects and engineers in the upcoming newsletter.
- The board will conduct a workshop to discuss limiting continuing education courses approved by the DSFM for credit toward renewal of this board's licenses.

Robyn Barineau
 Executive Director
 November 8, 2010