

## **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, December 12, 2006, through Friday, December 15, 2006

Meeting Location: Department of Business and Professional Regulation  
Board Room  
1940 North Monroe Street  
Tallahassee, Florida

#### Attendees:

Bob Kymalainen, Chair  
Bob McCormick, Vice Chair  
Linda Armstrong  
Dennis Franklin  
Rob Nagin  
Nick Sasso  
Chuck Sheridan

Dennis Yecke, Deputy Secretary of Professional Regulation, Department of Business and Professional Regulation (DBPR)  
Josefina Tamayo, General Counsel, DBPR  
Tim Vaccaro, Director, Division of Professions, DBPR  
Robyn Barineau, Executive Director, DBPR  
Elise Rice, Government Analyst, DBPR  
Jessica Leigh, Assistant General Counsel, Office of the General Counsel, DBPR  
Maria Mattheu, Administrative Assistant, Office of the General Counsel, DBPR  
George Ayrish, Sr. Management Analyst Supervisor, Bureau of Education and Testing (BET), DBPR  
Alexandra Auguste-Toussaint, Regulatory Consultant Supervisor, BET, DBPR  
Kasandra Broadnax, Operations Analyst II, BET, DBPR  
Jeffrey Jones, Assistant Attorney General, Department of Legal Affairs (DLA)

Don Fuchs, Building Officials Association of Florida (BOAF)  
Doug Harvey, BOAF  
John O'Connor, BOAF  
Ronnie Spooner, BOAF  
Rob von Kampen, International Code Council (ICC)  
Michael Ashworth, Department of Community Affairs  
Luther Council, City of Tallahassee and former BCAIB member  
Connie Butler, Court Reporter  
Other Interested Parties

## II. Major Issues/Actions

- Although Chair Bob Kymalainen was present at the board meeting, because of illness, Vice Chair Bob McCormick chaired the board meeting.
- Vice Chair McCormick excused Mr. Fred Dudley from the board meeting, and he welcomed Ms. Linda Armstrong as the newest member of the Building Code Administrators and Inspectors Board.
- The Application Review Committee consisting of Chair Kymalainen, Vice Chair Bob McCormick, and Mr. Nick Sasso conducted an informal application training session at the beginning of the Application Review Committee meeting. There were over 30 individuals in attendance at the training session. For training purposes, handouts of applications completed by actual applicants showing common mistakes were provided to the attendees as well as a blank application package. The attendees were given an opportunity to ask questions regarding the application process and qualifications for licensure. The attendees were grateful for the opportunity to participate in the training session and indicated that they received helpful information relating to the application process.
- Ms. Leigh indicated that as of December 12, 2006, there were 20 building code cases in the Legal Section.
- The board agreed that Rule 61G19-9.002, Florida Administrative Code (F.A.C.), does require that all continuing education courses, whether initial approval or renewal approval, must be reviewed and approved for credit by the Building Code Administrators and Inspectors Board.
- The board agreed to discuss Rule 61G19-9.004(11), F.A.C., at the next meeting as there was discussion that the original intent of this rule was to allow individuals licensed by the Building Code Administrators and Inspectors Board who are dually licensed by the Construction Industry Licensing Board (CILB), the Electrical Contractor's Licensing Board (ECLB) and the Board of Architecture and Interior Design (BOAID) to receive continuing education credit toward their building code licenses for courses taken for their CILB, ECLB and BOAID licenses. Currently, the rule does not require that Building Code Administrators and Inspectors Board licensees be dually licensed by the CILB, ECLB or the BOAID to receive continuing education credit for courses taken and approved by the CILB, ECLB or the BOAID.
- Mr. Sasso suggested amending Rule 61G19-5.002(2)(d), F.A.C., to increase the penalty for second time offenders having been convicted of a felony from \$4,000 to \$5,000. The board agreed to forego this proposal because they currently have the authority to amend the suggested penalty based on aggravating or mitigating circumstances.
- The board agreed to amend Rule 61G19-9.006(1), F.A.C., as follows: "Each course provider shall prepare a course syllabus for each course. The syllabus shall state the name of the course, the course number assigned by the Board, the name and address of the course provider, and a ~~description of~~ detailed outline with timeframes, of the contents of the course."
- The board agreed to delete the null and void form references listed in Rule 61G19-10.003, F.A.C., per comments from the Joint Administrative Procedures Committee (JAPC) that the forms were not available for review..
- Based on comments from the JAPC, Mr. Jones made the following suggested changes to Rule 61G19-5.007, F.A.C., which the board agreed upon: "In lieu of the disciplinary procedures contained in Sections 455.225 and 468.621, F.S., and as an alternative to investigation and prosecuting when a complaint is received, ~~the~~

Department shall provide a licensee with a notice of noncompliance on a first offense for the following minor violations. (1)(a) Engaging in building code administration, plans examination, or inspection with a certificate on inactive or delinquent status; and,..."

- The board agreed to withdraw the proposed amendments to Rule 61G19-9.004, F.A.C., based on the comments made by the JAPC as to whether or not the board had authority to audit previously approved continuing education courses.
- The board discussed the years of hands-on experience required for roofing inspectors prior to the applicant being able to sit for a roofing inspector examination. There will be additional discussion of this rule, Rule 61G19-6.016, F.A.C., at the February 2007 board meeting.
- Mr. Don Fuchs, BOAF Executive Director, and Mr. Ronnie Spooner, BOAF, provided the board with BOAF's proposed training program legislation, which was previously considered during the 2006 legislative session. The legislation outlined the minimum requirements for the training program, clarification that the building code bill of rights only applies to building code licensees, expansion of the current disciplinary proceedings language including violations for accepting services at a noncompetitive rate from any person whose work is under the enforcement authority of a building code official, requiring licensees to obtain three of the required 14 hours of continuing education in state laws, rules and ethics, requiring licensees to complete the core curriculum course within two years after initial licensure, and allowing limited licensees in small counties to provide building code services to another jurisdiction within a small county. Mr. Spooner indicated that BOAF has been working with Senator Baker on this initiative and that no House sponsor has been identified at this time. Ms. Robyn Barineau, Executive Director, asked that Mr. Fuchs and Mr. Spooner contact the department's Legislative Affairs Director, Mr. John McBride, and share the BOAF proposal with him. The board expressed concern with the limited license language. A suggestion was made to amend the language to allow limited licensees from a small county to provide building code services to another small county during a declared emergency or for a 30-day time period. Mr. Tim Vaccaro, Director, Division of Professions, informed the board that the department is not currently taking a position on any legislation or offering an endorsement of legislation until Governor-elect Crist is inaugurated and requested that the board refrain from taking a position until after the department could review the proposed language. Mr. Spooner agreed to contact Mr. McBride to discuss the BOAF legislative initiative.
- The board agreed to forego pursuing legislation to increase the amount of time a provisional applicant can work from the point at which they submit an application for certification. They also agreed to foregoing pursuing legislation to amend the timeframe for a provisional certificate to be valid.
- Per the board's request for research at the October 2006 board meeting, Assistant Attorney General Jeffrey Jones informed the board that an applicant cannot currently apply for all licenses in a single trade and automatically be approved for all licenses without legislative authority.
- Mr. Fuchs mentioned that the Florida Building Commission (FBC) has expressed an interest in placing the sole authority and responsibility for advanced course and core course training on the Florida Building Code under one entity whether it be the department or another entity. Vice Chair McCormick will provide board staff with the report generated by the FBC for inclusion in the February 2007 agenda.

- The board suggested relaying to the department that one of the applicant signature lines on the department form number DBPR 0030 – Attest Statement be stricken as it appears to be duplicative.
- Per the board’s request for research at the October 2006 board meeting, Mr. Jones informed the board that continuing education providers are afforded an opportunity, pursuant to Chapter 120, Florida Statutes, to request a hearing just as any applicant would when their application is denied by the board.
- The board agreed that when individuals apply for certification, whether they are from Florida or from out-of-state, an Architect, Engineer, Contractor or Building Code Administrator must attest to their work experience.
- The board agreed to pursue the modular inspector and plans examiner rules, Rule 61G19-6.016(4) and (5), F.A.C., as submitted by Mr. Michael Ashworth, Department of Community Affairs, and by Mr. Jones. The board had previously asked Mr. Ashworth and Mr. Jones to redraft the proposed rules in an underline and strikethrough format for review. The text of the rule will read as follows: “(4) Modular Inspector. This license is required for inspection of all modular buildings constructed to the Florida Building Code and administered under chapter 553, Part I, F.S., unless otherwise provided for in Florida Statutes.

(a) Modular Inspector means a person who is authorized to inspect any manufactured (modular) building and systems incorporated therein designed and built to comply with the Florida Building Code pursuant to Part 1, Chapter 553, Florida Statutes, and is qualified to inspect and determine that modular buildings and structures are constructed in accordance with the provisions of the governing building codes and state accessibility laws. A person shall be entitled to take the examination for certification as a modular inspector if the person has three (3) years experience as an inspector with local government and/or state government or three years experience as an inspector with an independent inspection/plans review agency under contract with a state agency or three (3) years experience as a registered or certified state general, building, or residential contractor or job superintendent, project manager or quality control manager, the latter as provided for in Chapter 9B-1, F.A.C., in a supervisory capacity that included operational control and direction of building, mechanical electrical and plumbing personnel or subcontractors on residential or commercial projects.

(b) Responsibilities: Verify the state approved plans are in the factory. Assure the buildings being manufactured comply with the approved plans and the applicable Florida Building Code building codes. Compare the approved plans to the modular building and identify any deviations. Determine the reason for the deviations and investigate repetitive deviations in other buildings. Discuss the deviations with the in-plant quality control supervisor and establish a procedure to resolve the deviations. Verify the appliances and equipment installed in the building are consistent with those identified in the quality control manual. Verify the data plates have all the information as required ~~for the data plate~~ in Chapter 9B-1, F.A.C. Assure the state insignia is affixed to the correct building. The modular inspector shall monitor quality control procedures to verify the in-plant quality control personnel are conducting quality control reviews at the proper times. The modular inspector shall notify the Department of Community Affairs contracted inspection agency of any problems with the in-plant quality control procedures. The inspector shall follow-up on quality control procedures to verify that the in-plant quality control inspector is making the inspection of the buildings at the proper time. Persons qualified as one and two family dwelling inspectors may also inspect one and two family modular residences

regulated under chapter 9B-1 F.A.C. Persons qualified as Standard Building Inspectors in all four disciplines of building, electrical, mechanical and plumbing may also inspect all modular buildings regulated under chapter 9B-1 F.A.C..

(5) Modular Plans Examiner. This license is required for plans reviews of all modular buildings constructed to the Florida Building Code and administered under chapter 553, Part I, F.S., unless otherwise provided for in F.S.

(a) Modular Plans Examiner means a person who is authorized to review plans for any manufactured (modular) building and systems incorporated therein designed and built to comply with the Florida Building Code pursuant to Part 1, Chapter 553, Florida Statutes, and has three (3) years experience as a plans examiner with local and/or state government. As an alternative, the applicant must have three (3) years experience as a plans examiner with an independent inspection/plans review agency under contract with a state department or three (3) years experience as a registered or certified state general, building, or residential contractor or job superintendent, project manager or quality control manager, the latter as provided for in Chapter 9B-1, F.A.C., in a supervisory capacity that included operational control and direction of building, mechanical electrical and plumbing personnel or subcontractors on residential or commercial projects.

(b) Responsibilities: Examine building construction plans for compliance with the applicable Florida Building Code building codes. Assure compliance with Florida's Manufactured Buildings Act, Chapter 553, Part IV I, F.S., along with Chapter 9B-1, F.A.C. Resolve code problems with the local personnel on behalf of the agency's clients. Research the code changes upon adoption of the current edition of the codes. Review the proposed amendments to Chapter 9B-1, F.A.C., and provide input accordingly. Persons qualified as a one and two family dwelling plans examiner may also review and approve plans for one and two family modular residences regulated under chapter 9B-1 F.A.C. Persons qualified as Standard Building Plans Examiners in all four disciplines of building, electrical, mechanical and plumbing may also review and approve plans for all modular buildings regulated under chapter 9B-1, F.A.C."

- Mr. Chuck Sheridan, the board's representative on the Building Code Education and Outreach Council, reported that the Council conducted a telephone conference call on October 31, 2006. The Council agreed to develop a universal continuing education application for distribution and comment to all building code related boards. They hope to have the application available for use by all building code related boards by October 2007. Mr. Nagin suggested that Mr. Sheridan relay to the Council that all building code courses should be reviewed by building code professionals to ensure that the course content is applicable and useful for licensees.
- Mr. Jones advised the board that he is currently aware of seven application denials which may be referred to the Division of Administrative Hearings for formal hearings, one application denial case is ready for board action based on the Administrative Law Judge's Recommended Order, and one application denial case is currently before the Fifth District Court of Appeal for review.
- Ms. Barineau reminded the board that Mr. Jones had previously advised that in cases where Affidavits of Work Experience already existed and were formerly approved for provisional certificate holders, these same affidavits could be utilized for standard license applications. Ms. Barineau also researched this initiative with the department's Bureau of Internal Audit, and she is currently working with the department on this initiative and will keep the board updated as the initiative progresses.

- Ms. Barineau reported that the board's operating account balance as of September 30, 2006, was \$2.4 million, and the balance in their unlicensed activity account as of September 30, 2006, was \$129,510.
- Ms. Barineau advised the board that the department is still attempting to address the board member vacancy situation. The department is seeking assistance from professional boards to locate qualified applicants to fill vacancies on all its boards and commissions. Ms. Barineau suggested that interested applicants contact the department or the Governor's Appointments Office for a Gubernatorial Appointments Questionnaire for completion and filing with the Governor's Appointments Office.
- Ms. Barineau provided the board with a copy of the letter that is sent to licensees once an additional modifier has been added to an existing license.
- Ms. Barineau informed the board of the resignation of Ms. Margaret Pass from the Building Code Administrators and Inspectors Board and referred them to her formal resignation email addressed to Governor Jeb Bush which was included in their supplemental materials. The board asked that a plaque be ordered for Ms. Pass and that she be invited to attend the board meeting in Palm Beach for a formal presentation of the plaque to her.
- The board agreed with the recommended changes proposed by staff to the board-specific pages contained in the board's licensure application package.
- Dr. Rob von Kampen, ICC, informed the board that he has been able to locate some additional individuals who are willing to serve as subject matter experts (SMEs) for the roofing inspector examination. He should be able to proceed with an Exam Development Committee for this examination in the near future and will keep the board apprised of their progress.
- Dr. von Kampen advised the board that more and more candidates are now taking their technical examinations by the computer-based testing method. He anticipates the computer-based testing method to outpace the pencil-and-paper examination method.
- Deputy Director Mark Reddinger gave a brief presentation on the department's unlicensed activity campaign. He added that an unlicensed activity DVD has been prepared and will be provided to all building departments for their permitting waiting rooms. Mr. Reddinger mentioned that unlicensed activity flyers have been provided to building departments for distribution to the public. The board will further discuss this topic at the next board meeting.
- Mr. Jones and Ms. Leigh assisted Ms. Barineau with board member training.
- The board will conduct a telephone conference call to review the Recommended Order in the Jan Varga application denial matter on Thursday, January 18, 2007, at 10 a.m., and will conduct its next in-person meeting in Ocala on February 20-23, 2007.

### **III. Legislation/Rule Promulgation**

- Mr. Jones will research Rule 61G19-9.004(11), F.A.C., and its history as well as the CILB rule granting reciprocity for continuing education courses approved by other boards for CILB licensees and report his findings at the next board meeting.
- Mr. Jones will proceed with rule development to amend Rule 61G19-9.006(1), F.A.C.
- Mr. Jones will proceed with removing the null and void form numbers referenced in Rule 61G19-10.003, F.A.C.

- Mr. Jones will proceed with filing the amendments to Rule 61G19-5.007, F.A.C., as approved by the board.
- Mr. Jones will proceed with the withdrawal of Rule 61G19-9.004, F.A.C., as approved by the board.
- Mr. Jones will proceed with filing the amendments to Rule 61G19-6.016, F.A.C., as approved by the board.

#### **IV. Action Required**

- Mr. Jones will prepare final orders and notices of intent to deny and forward to board staff for filing with the Agency Clerk.
- The board will further discuss the roofing inspector rule, Rule 61G19-6.016, F.A.C., at the next board meeting.
- Mr. Spooner will contact Mr. McBride regarding the 2007 BOAF legislation.
- Vice Chair McCormick will provide board staff with the report generated by the FBC for relating to course approval for inclusion in the February 2007 agenda.
- Mr. Sheridan will relay to the Building Code Education and Outreach Council the board's desire to ensure that building code related courses are reviewed by building code professionals to ensure that the course content is applicable and useful for licensees.
- Ms. Barineau will keep the board updated on the initiative to streamline the application process for provisional certificate holders who apply for a standard license in the same category.
- Board staff will order a plaque for Ms. Pass and ask her to attend the board meeting in Palm Beach for presentation of the plaque to her.
- Board staff will proceed with board-specific application changes agreed upon by the board.
- The board will discuss unlicensed activity brochure ideas at the next board meeting.

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Robyn Barineau  
Executive Director  
December 19, 2006