

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, April 17, 2007, through Friday, April 20, 2007

Meeting Location: Hilton Garden Inn
12 Via De Luna Drive
Pensacola Beach, Florida 32561

Attendees:

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

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

Elise Rice, Government Analyst, Department of Business and Professional Regulation

Jessica Leigh, Assistant General Counsel, Office of the General Counsel, Department of Business and Professional Regulation

Jeffrey Jones, Assistant Attorney General, Department of Legal Affairs

Don Fuchs, Building Officials Association of Florida

Doug Harvey, Building Officials Association of Florida

Bill Dumbaugh, South Florida Building Officials Association

Suzanne Van Wyk, Attorney for Malcolm R. Falls, Jr., Respondent

Rob von Kampen, International Code Council

Dee Dee Boykin, Court Reporter

Other Interested Parties

II. Major Issues/Actions

- The Application Review Committee consisting of Chair Kymalainen, Vice Chair Bob McCormick, and Mr. Nick Sasso conducted an informal application

educational session at the beginning of the Application Review Committee meeting. There were over 20 individuals in attendance at the training session. 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 educational session and indicated that they received helpful information relating to the application process.

- The Application Review Committee reviewed 296 applications for licensure and the board ratified an additional 94 applications. The Examination and Continuing Education Committee approved 68 continuing education course applications and denied 8 continuing education course applications.
- Ms. Jessica Leigh, Assistant General Counsel, asked that the case against Mr. Samuel Carson Acosta be continued. Ms. Leigh presented the case against Mr. Malcolm R. Falls, Jr., who was represented by his attorney, Ms. Suzanne Van Wyk. The parties agreed to a Settlement Stipulation calling for payment of costs in the amount of \$479.80, one year probation, and 14 additional hours of continuing education. After discussion, the board moved to accept the Settlement Stipulation.
- Ms. Leigh reviewed the Prosecuting Attorney's Status Report included in the agenda materials and reported that as of April 2, 2007, there were 30 building code cases in the Legal Section. Mr. Sasso thanked Ms. Leigh for incorporating the case closure information in her report that he previously requested.
- The board approved a proposed rule amendment, suggested by Ms. Robyn Barineau, Executive Director, to clarify Rule 61G19-9.0045, Florida Administrative Code, as follows:
"61G19-9.0045 Approval of ~~Proctored Telecourses and~~ Interactive Distance Learning Courses.
(1) Registration for Course Providers is required May 31 of every odd year. All providers are required to register with the Board, before providing continuing education courses, on Board-approved registration form DBPR/BCAI/10-Rev-04/04 4253. The instructions and form, entitled Provider Approval Application Continuing Education Course and Provider Approval Application, which is hereby incorporated by reference and ~~will be effective June 5, 2004~~, may be obtained from the ~~Board office~~ department.
(9) Course providers shall comply with Section 455.2178, Florida Statutes, with regard to electronic filing of attendance rosters to the department."
- The board approved a proposed rule amendment, suggested by Mr. Sasso, to clarify Rule 61G19-6.012, Florida Administrative Code, as follows:
"61G19-6.012 Provisional Certificates.
(1) The Board shall issue a provisional certificate to any newly employed or newly promoted building code administrator, plans examiner, or building code inspector subject to the provisions of Section 468.609, F.S., and the provisions of this rule.

- (2) Provisional certificates are not renewable, and are valid for the following terms:
- (a) Three years for inspectors.
 - (b) Three years for plans examiners.
 - (c) Three years for building code administrators or building officials.“
- The board approved a proposed rule amendment, suggested by Mr. Sasso, to clarify Rule 61G19-6.016(6)(c), Florida Administrative Code, as follows:
“61G19-6.012 Provisional Certificates.
(6) Following the submission of a complete application for provisional certification as either an inspector or plans examiner, the applicant shall be eligible to perform duties in the category for which the application has been submitted for up to a maximum of ninety (90) days from the date the application is submitted, and subject to the following conditions:
(c) Prior to beginning the performance of duties under this exception, all applicants for plans examiner and inspector shall provide the building code administrator for the agency which employs them a copy of the completed application for provisional certification submitted to the Board by the applicant.”
 - As a follow up from the last meeting regarding streamlining the application process for building code licensees, Mr. Jeffrey Jones, Assistant Attorney General, will research the history of the board's rules to determine when the experience requirement for provisional licenses changed from three years to five years. Mr. Jones will provide his findings at the next board meeting for further discussion by the board.
 - Mr. Rob Nagin indicated there have already been numerous bills filed relating to building code for consideration during the 2007 legislative session. He gave a brief overview of all the bills included on his Legislative Report which impact the building code industry. He will give a more detailed report of the passage of any bills at the next meeting.
 - The board agreed that should SB404 relating to the building code training academy become law, a workshop to develop rules to implement this legislation will be conducted in conjunction with the August 2007 board meeting. Representatives from the Building Officials Association of Florida in attendance at the board meeting indicated that the August 2007 board meeting would be the optimum time to develop the training academy rules.
 - Ms. Leigh informed the board that in cases where complaints are filed against individuals other than building code licensees who violate Section 468.629(1)(f), Florida Statutes, relating to coercing or threatening any certificateholder, the department will investigate the complaint and forward their findings to the State Attorney's Office for proper handling.
 - The board agreed that Mr. Jones should draft a response to the letter of February 15, 2007, from Mr. Mark A. Knight, Director of Planning and Building for the City of St. Augustine, relating to minimum qualifications for building code licensees, suggesting that Mr. Knight should apply for a declaratory statement to address his questions.

- The board discussed the declaratory statement submitted by Mr. Bill Dumbaugh relating to the delegation of inspections by architects and engineers to their representatives who are not licensed architects, engineers or building inspectors. Mr. Jones will draft a response based on the board's agreement that only architects, engineers, or building code licensees can perform code compliance inspections.
- Mr. Chuck Sheridan informed the board that the Building Code Education and Outreach Council will conduct a telephone conference call on April 24, 2007. He informed the board that there is current legislation to abolish the council. He will report on the council meeting and the legislation at the next board meeting.
- Mr. Jones informed the board that an oral argument has been scheduled for May 15, 2007, in the Brown licensure appeal. Mr. Jones will keep the board advised of the progress of this case.
- Based on the recent decision in Harden vs. Department of Business and Professional Regulation, Construction Industry Licensing Board, the board discussed the necessity to develop a rule to codify the application review committee structure. Mr. Jones suggested the board hold off on the development of such a rule pending the outcome of the Harden case.
- Ms. Barineau reminded the board of the continuing education compliance initiative which will impact licensees who have not completed their continuing education for the current biennium and who attempt to renew their licenses on or before November 30, 2007. She added that whenever an individual submits payment for their renewal but the department has not been provided with proof of completion of their continuing education, the licensee will be mailed a letter in-lieu-of license which will acknowledge their payment but will indicate that their renewed license cannot be issued until proof of required continuing education is received. Ms. Barineau also mentioned that the department will mail a mid-cycle letter to licensees advising them of continuing education deficiencies.
- Mr. Nagin asked if the board will be given an opportunity to comment on the development of an unlicensed activity plan. Ms. Barineau will contact the Division of Regulation on this request and report her findings at the June board meeting.
- Ms. Barineau will continue to work with the Division of Regulation on the development of an educational pamphlet to send to all building departments for their customers informing them about different building code issues and the roles and responsibilities of building code inspectors, plans examiners and building code administrators.
- Ms. Barineau mentioned that she met with the Executive Directors of the Construction Industry Licensing Board, the Electrical Contractor's Licensing Board, and the Board of Architecture and Interior Design, representatives from the Division of Service Operations, and other departmental staff and discussed the development of the master continuing education provider and course application. She will keep the board informed of the progress of this initiative.

- Ms. Barineau advised the board that the department continues 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.
- Dr. Rob von Kampen, International Code Council, informed the board that more and more building code applicants are taking technical examinations via computer-based testing. He added that he has been given the final approval to proceed with the finalization of the roofing technical examinations. He awaits approval to move forward on updating the modular technical examinations.
- The board agreed to extend the expiration dates for the Provisional Building Inspector, Provisional Plumbing Inspector, Provisional Building Plans Examiner, Provisional Modular Inspector, and Provisional 1&2 Family Dwelling Inspector licenses of Mr. Jerry Wooten for an additional 90 days.
- Mr. Sasso asked that his discussion of privatization of discipline be pulled from this agenda and rescheduled for the August 2007 board meeting.
- The board agreed to the following meeting dates and locations:
 - February 19-22, 2008 – St. Augustine or Jacksonville
 - April 22-25, 2008 – Ft. Lauderdale or Coral Gables
 - June 10-13, 2008 – Naples
- The board elected Mr. Bob McCormick, Chair of the Building Code Administrators and Inspectors Board and Mr. Nick Sasso, Vice-Chair of the Building Code Administrators and Inspectors Board.

III. Legislation/Rule Promulgation

- Mr. Jones will move forward with rulemaking for Rule 61G19-9.0045, Florida Administrative Code.
- Mr. Jones will move forward with rulemaking for Rule 61G19-6.012, Florida Administrative Code.
- Mr. Jones will move forward with rulemaking for Rule 61G19-6.012(6)(c), Florida Administrative Code.

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.
- Mr. Jones will research and be prepared to discuss the former three-year experience requirement for provisional licenses being utilized for the current five-year experience requirement for standard licenses at the next meeting.

- Should SB404 become law, a Rule Development Workshop to flesh out the rules to implement this legislation will be conducted in conjunction with the August 2007 board meeting.
- Mr. Jones will send Mr. Knight a letter informing him to apply for a declaratory statement in order to answer his questions relating to minimum qualifications for building code licensees.
- Mr. Jones will draft a response to Mr. Dumbaugh's request for a declaratory statement relating to code compliance inspections being performed by representatives of architects and engineers. If necessary, Mr. Jones will bring his draft response to the board for their review at the June board meeting.
- Mr. Sheridan will report on the April 24 meeting of the Building Code Education and Outreach Council at the next board meeting. He will also inform the board of any legislation relating to the council at the June board meeting.
- Ms. Barineau will contact the Division of Regulation on the development of an unlicensed activity plan and inquire if the boards will be given an opportunity to comment on the development of the plan. She will report her findings at the June board meeting.
- Ms. Barineau will continue to work with the Division of Regulation on the development of an educational pamphlet to send to all building departments for their customers informing them about different building code issues and the roles and responsibilities of building code inspectors, plans examiners and building code administrators.
- Ms. Barineau will keep the board informed of the progress on the development of a universal continuing education application.
- Mr. Jones will keep the board informed of the progress of the appeal of the Harden case.
- Privatization of discipline will be discussed at the August 2007 board meeting.

Robyn Barineau
Executive Director
April 26, 2007