

MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF JANUARY 15, 2009

Members Present: William Derrer, **Chairman**
Richard Horton, **Vice-Chairman**
Thomas Utterback, **Sergeant at Arms**

J. Robert Barnes
Juan Dalla Rizza, P.E.
Rolando Diaz, P.E.
Chief Virgilio Fernandez
Alfonso Fernandez-Fraga, P.E.
Carmen Garcia
Jesus Gomez
Herbert Gopman
John Kurzman
Gregory Pierce
Enrique Salvador
Paul L. Smith

Members Excused: Mario Espineira, Jr.
Myron Rosner
Edward Woodward

Staff Present: Eduardo Gonzalez, Assistant County Attorney
Michael Goolsby, Acting Secretary of the Board
Nelly Nieves, Board Recording Secretary

Court Reporter: Tanya Settel, Official Reporting Services, LLC

The meeting commenced at 1:10 P.M.

MINUTES of DECEMBER 18, 2008

Mr. Derrer requested a motion to **approve** the minutes of the **December 18, 2008** meeting. Mr. Kurzman moved to accept the minutes and the motion was seconded.

The motion **carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

REGULAR AGENDA:

APPEAL # 1: APPEAL OF BUILDING OFFICIAL: City of Miami; Icon Brickell Hotel Condominium; 495 Brickell Avenue; Permit No. 06-5011042; Garage Ventilation Fans; 2004 FBC Sections 404.1; 403.15; 406.4.2; 909.11; 2702.2.2; Steven Feller.

Ferardo Guerrero, City of Miami Mechanical Inspector and Plans Reviewer with the City of Miami, along with the Building Official Mariano Fernandez, informed the Board that the building under appeal is the Icon Brickell Hotel Condominium, which consist of 3 towers built on top of a pedestal that is 11 levels of enclosed shared parking garage. Mr. Guerrero indicated that the building is designed for mechanical ventilation in the garage as well as smoke control to the towers. Mr. Guerrero stated that, during the last inspection done for generator test and smoke evacuation, it was realized that the ventilation fans were not connected to the emergency power generator system.

Building Official Mariano Fernandez commented that the garage is not a stand-alone structure. He indicated that the building is a high-rise exceeding 75 feet in height. He stated that since the building exceeds this height, as a life safety issue and based on the requirements of the FBC, it requires smoke control as well as emergency generator backup.

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APPEAL # 1: APPEAL OF BUILDING OFFICIAL: City of Miami; Icon Brickell Hotel Condominium; 495 Brickell Avenue; Permit No. 06-5011042; Garage Ventilation Fans; 2004 FBC Sections 404.1; 403.15; 406.4.2; 909.11; 2702.2.2; Steven Feller.

Steven Feller, the engineer on this project, addressed the Board stating the garage has been provided with natural ventilation. Further, Mr. Feller advised that the ventilation fans have carbon monoxide sensors and are not required to run continuously nor are they intended for smoke control.

Pete Quintela, Mechanical Code Compliance Specialist, addressed the Board stating there are two issues for discussion on this appeal; what is the applicable code for the parking garage 2001 or 2004; and is a smoke control system required for the enclosed parking garage and, if so, must it be connected to the secondary power? Mr. Quintela presented his opinion illustrating his position using both the 2001 code and the 2004 code.

There was much discussion as to which was the applicable code because there was the issuance of a structure foundation permit followed by a master permit at a later date.

After further discussion, Eduardo Gonzalez, Assistant County Attorney, advised that in his reading of staff's opinion if the Board determines the 2001 code applies, the code sections used for rejection by the Building Official would not be applicable to this project. Further, Mr. Gonzalez added if the Board determines the 2004 code applies, staff's opinion is that the appellant is in compliance.

After much discussion and deliberation, a motion was made by Alfonso Fernandez-Fraga to grant the appeal based on the application of the 2001 code. The motion was seconded by John Kurzman.

The motion **carried by a vote of 13-2** with Chief Virgil Fernandez and Enrique Salvador opposing.
(For a verbatim version of the aforementioned item, refer to the transcript.)

APPEAL # 2: APPEAL OF BUILDING OFFICIAL: Unincorporated Dade County; 11701 SW 248th Street # 1; Farm Nursery Exemption; Chapter 8 Sections 8-4(d); 8-5; 8-11(f); 8-11 (g)(1); FBC and Florida Statutes 553.73(9)(c); Robert Fine.

Mr. Derrer advised that Robert Fine, Esq., AIA, with Greenberg Traurig, P.A., representing 11701 SW 248th Street #1, requested a deferment of this appeal to the February meeting.

EMERGENCY AGENDA: DISCUSSION
Stephen Pizzillo; City of North Miami Beach; Plans Examination and Inspections

Stanley Price, Attorney representing Stephen Pizzillo, addressed the Board and informed the members that he recently attended a meeting with the Director of the Building Code Compliance Office who advised his client that his employment with the County is terminated. Mr. Price commented that he was not before the Board to try a personnel case, as there are other jurisdictions for that. He stated there was something he wanted to bring to the attention of the Board that perhaps sets a dangerous precedent. Mr. Price indicated that at the last meeting of the Board, the Building Official for the City of North Miami Beach, Philip Azan appeared before them and apparently made some statements which ultimately may have impacted his client. Mr. Price stated that his client was neither informed of this meeting nor had the ability to be here for that meeting or have legal representation at that meeting. Further, Mr. Price stated it is dangerous to have testimony relating to an individual without affording them the opportunity to at least appear in front of the Board and be able to address the allegations. He cautioned a person's fundamental due process rights may be jeopardized. Mr. Price said he would ask the Board not to permit those types of testimony until those that are accused of some type of wrong doing have the ability to represent themselves before this Board. Mr. Price added, to this date, no one has taken the time to explain to him the specific reason for the discharge. Mr. Price thanked the Board for their time and welcomed any questions.

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EMERGENCY AGENDA: DISCUSSION
Stephen Pizzillo; City of North Miami Beach; Plans Examination and Inspections

(No questions were asked or action taken by the Board.)

The Chairman stated that Mr. Price was given the opportunity to be heard and make his statements before the Board.
(For a verbatim version of the aforementioned item, refer to the transcript.)

REPORTS:

#1 REPORT: Philip Azan, Building Official, City of North Miami Beach, Re-Validation Inspection Status.

Philip Azan, Building Official of the City of North Miami Beach, addressed the Board reminding them that at last month's Board meeting he had informed them that they were working with the City Manager to obtain a private firm for consulting services and to establish a method to proceed with the re-inspections. In this regard, Mr. Azan introduced John Pistorino of Pistorino & Alam Consulting Engineers Inc. A draft of a "Plan and Outline for Quality of Construction Verification" was distributed to all Board members for their information.

Mr. Pistorino stated they take this task very seriously and went over some of the preliminary decided approach of the re-inspection plan.

John Kurzman stated there were two things that needed to be addressed in this review which were not included in the proposed plan: What if the Permit Contractor is no longer around? Who will bear the expense if re-inspection reveals a defect?

Mr. Azan responded that any issue with workmanship they will go back to the Contractor. He indicated that if the Contractor is no longer in business, the City will have created a pool of Contractors that the property owner can draw from.

Richard Horton inquired about who will pay costs for the construction verification.

Mr. Azan stated the plan was only a draft and those matters were not finalized yet.

Rolando Diaz commented that the financial issues should not be part of this Board's concern in his opinion. The Board's responsibility and focus is compliance to the Building Code.

Robert Barnes asked how will the review take into consideration life-time use.

Mr. Azan stated these inspections are from November of 2007, and so construction projects are not very old.

The Chairman, Mr. Derrer, indicated that the Board consideration will be dictated by the circumstances found in these re-inspections.

(For a verbatim version of the aforementioned item, refer to the transcript.)

#2 REPORT:

Certification Subcommittee Report for January 2009

Enrique Salvador directed the members to the **Re-Certification 2009 Annual Report** (Attached hereto) for **Building Official, Plans Examiners and Inspectors.**

A motion was made by Enrique Salvador to accept the 2009 Re-Certification Annual Report. The motion was seconded by Chief Virgilio Fernandez.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

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#2 REPORT:

Certification Subcommittee Report for January 2009

Additionally, Mr. Salvador stated the following listed individuals are being recommended for **approval** for **New Certification** for 2009.

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Agbenohevi, Emmanuel K.	City of Miami Gardens	Building Inspector (Structural) Roofing Inspector (Residential)
Arronte, Ramon L.	City of Miami Gardens	Building Official

Certification Subcommittee

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Ashraf, Syed M.	City of North Miami Beach	Plans Examiner Structural
Fraley Jr., Richard K.	City of Miami Gardens	Roofing Inspector (Commercial) Roofing Inspector (Residential)
Rosenkoff, Gilbert	City of North Miami Beach	Chief Building Inspector
Ruiz, Robert J.	City of North Bay Village	Electrical Inspector Plans Examiner Electrical
Uman, Stephen D.	Town of Surfside	Roofing Inspector (Commercial) Roofing Inspector (Residential)
Watkins, Kim R.	City of Miami Beach	Electrical Inspector
Xirinachs, Edgar	City of North Miami Beach	Chief Plumbing Inspector

A motion was made by Chief Virgilio Fernandez to accept those listed for New Certification. The motion was seconded by Rolando Diaz.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

The following individual is being recommended for **Rejection** for **New Certification** for **2009**.

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Agbenohevi, Emmanuel K.	City of Miami Gardens	Roofing Inspector (Commercial)

(Applicant does not meet the Commercial Roofing Inspector licensing requirements of the Miami-Dade County Code, Chapter 8-21.2)

A motion was made by Chief Virgilio Fernandez and seconded by Chief Paul Smith to reject Mr. Agbenohevi for New Certification.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

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Certification Subcommittee

The following individuals are being recommended for **Rejection** for **Re-Certification** for **2009**.

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Abia, Esin D. ("Failure to comply with Continuing Education Requirements")	City of Opa Locka	Building Official
Ensenat, Carlos ("Failure to comply with Continuing Education Requirements")	Village of Virginia Gardens	Building Inspector (Structural)
Martinez, Enrique "Henry" G. ("Failure to comply with Continuing Education Requirements")	Village of Virginia Gardens	Building Inspector (Structural) Chief Building Inspector Roofing Inspector (Commercial) Roofing Inspector (Residential)
<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Medina, Erick ("Failure to comply with Continuing Education Requirements")	City of Opa Locka	Building Inspector (Structural) Roofing Inspector (Commercial) Roofing Inspector (Residential)
Perez-Vichot, Manuel ("Failure to comply with Continuing Education Requirements")	Village of Virginia Gardens	Building Inspector (Structural) Plans Examiner Building
Pessoa, Donovan H. ("Failure to comply with Continuing Education Requirements")	City of Opa Locka	Building Inspector (Structural) Plans Examiner Building
Pinna, Sean C. ("Failure to comply with Continuing Education Requirements")	City of Doral	Mechanical Inspector Plans Examiner Mechanical
Stein, Edward H. ("Failure to comply with Continuing Education Requirements")	Indian Creek Village City of North Bay Village	Chief Mechanical Inspector Mechanical Inspector Plans Examiner Mechanical Chief Mechanical Inspector Plans Examiner Mechanical
Viqar, Arshad ("Failure to comply with Continuing Education Requirements")	City of Opa Locka	Building Inspector (Structural) Chief Building Inspector Roofing Inspector (Commercial) Roofing Inspector (Residential) Plans Examiner Building Plans Examiner Structural

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REPORT: Certification Subcommittee Report for January 2009

Mr. Esin Abia, Building Official for the City of Opa Locka, informed the Board that he initially was short 8 hours of Continuing Education, but was able to find 4 hours which he has submitted to staff. Additionally, Mr. Abia stated that he has earned some hours for his attendance at this Board meeting in its entirety.

Jorge Gamoneda, Code Compliance Specialist, advised the Board that Mr. Abia earned 2 hours for his attendance and now owes only 2 hours.

A motion was made by Enrique Salvador to accept Mr. Abia's recent continuing education submittal of 2 hours for his Board of Rules and Appeals attendance and recommended that the 2 hours remaining be on Chapter 8. The motion was seconded by Chief Virgil Fernandez.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

A motion was made by Enrique Salvador and seconded by Rolando Diaz to reject those others listed as **Rejection** for **Re-certification**.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

There being no further business, the meeting was adjourned at 2:38 P.M.

MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF FEBRUARY 19, 2009

Members Present: William Derrer, **Chairman**
Richard Horton, **Vice-Chairman**
Thomas Utterback, **Sergeant at Arms**

J. Robert Barnes
Juan Dalla Rizza, P.E.
Rolando Diaz, P.E.
Mario Espineira, Jr.
Chief Virgilio Fernandez
Alfonso Fernandez-Fraga, P.E.
Herbert Gopman
John Kurzman
Gregory Pierce
Myron Rosner
Enrique Salvador
Paul L. Smith

Members Excused: Carmen Garcia
Jesus Gomez
Edward Woodward

Staff Present: Eduardo Gonzalez, Assistant County Attorney
Michael Goolsby, Acting Secretary of the Board
Nelly Nieves, Board Recording Secretary

Court Reporter: Tanya Settel, Official Reporting Services, LLC

The meeting commenced at 1:15 P.M.

MINUTES of JANUARY 15, 2009

Mr. Derrer requested a motion to **approve** the minutes of the **January 15, 2009** meeting. Mr. Kurzman moved to accept the minutes and the motion was seconded.

The motion **carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

REGULAR AGENDA:

APPEAL # 1: APPEAL OF BUILDING OFFICIAL: Unincorporated Dade County; 11701 SW 248th Street # 1; Farm/Nursery Exemption; Chapter 8 Sec 8-4(d); 8-11(f)(g)(1) FBC and Florida Statutes 553.73(9)(c); Robert S. Fine.

Appellant withdrew his appeal.

APPEARANCE APPEAL # 1: Edward Stein; Inspector Certification; Chief Mechanical Inspector; Mechanical Plans Examiner; City of North Bay Village.

Edward Stein was present and was asked by the Chairman to come forward and explain his situation. Mr. Stein stated he was asked to attend the meeting.

Michael Goolsby, Chief of Code Compliance Division, explained to the members that in the re-certification process Mr. Stein has not met the requirement of 16 hours of continuing education.

After some discussion, the Board recommended the applicant's fulfillment of the required hours by attending Miami Dade College and registering for the March 21st classes as suggested by Mr. Goolsby.

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APPEARANCE APPEAL # 1: Edward Stein; Inspector Certification; Chief Mechanical Inspector; Mechanical Plans Examiner; City of North Bay Village.

Mr. Stein had exited the meeting room before hearing the solution to his denied re-certification.

Board member Rolando Diaz opposed the recommendation on the record for Mr. Edward Stein.

(Board member Richard Horton left the meeting @ 1:30 PM)

APPEARANCE APPEAL # 2: Erick Medina; Inspector Certification; Building (Structural); Roofing (Commercial); and Roofing (Residential); City of Opa Locka.

Erick Medina was present and addressed the Board on his denial for re-certification due to the lack of 12 hours of continuing education hours administered by the Building Code Compliance Office. Mr. Medina indicated he was unaware that 12 hours of the required 16 hours had to be from the department. However, Mr. Medina stated he did acquire 16 hours from another provider of continuing education and presented those Certificates of Completion.

Jorge Gamoneda, Code Compliance Specialist informed the Board that the applicants are well informed of the particulars of the continuing education requirement. Additionally, Mr. Gamoneda stated Mr. Medina is not new to this process and has been in the system since 2002.

After discussion, a motion was made by Enrique Salvador and seconded for recommendation to attend the Miami Dade College classes in March in order for Mr. Medina to seek his re-certification.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

NON-AGENDA ITEM

APPEARANCE APPEAL: Arshad Vigar: Inspector Certification: Building Inspector (Structural); Chief Building Inspector; Roofing Inspector (Commercial); Roofing Inspector (Residential); Plans Examiner Building; Plans Examiner Structural; City of Opa Locka.

Esin Abia, Building Official for the City of Opa Locka, addressed the Board regarding Arshad Vigar. Mr. Abia indicated they were appealing the denial of Mr. Vigar's re-certification for failure to comply with continuing education requirements, which took place during last month's meeting of January 15, 2009. Mr. Abia expressed adamantly that this employee is needed, is a State licensed Professional Engineer, and proceeded to show a copy of a letter dated October 21, 2008 signed by Herminio Gonzalez and prepared by Michael Goolsby granting Mr. Vigar a temporary new certification. Mr. Abia claimed, based on the date of this letter, that the continuing education requirement for re-certification in 2009 does not apply.

Michael Goolsby, Chief of Code Compliance Division, provided an overview of the certification process. Therefore, he indicated to Mr. Abia that the certification which is referenced in October 21st is not in dispute. However, at that time it was for Roofing Inspector Commercial and Residential only and subsequently, Mr. Vigar has applied for additional qualifications.

Alfonso Fernandez-Fraga stated Mr. Abia is out of order and made a motion to not hear this non-agenda item and defer to next month's Agenda. The motion was seconded by Herbert Gopman.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

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TCO/TCC APPEALS

#1 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2002108242; Juan A. Gonzalez.

John Thompson was present representing the Miami-Dade Aviation Department.

A motion was made by Rolando Diaz and seconded by Gregroy Pierce to grant a 90-day TCO Extension.
The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#2 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2002109071; Juan A. Gonzalez.

John Thompson was present representing the Miami-Dade Aviation Department.

A motion was made by Enrique Salvador and seconded by Fire Chief Vigilio Fernandez to grant a 90-day TCO Extension.
The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#3 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2003009007; Juan A. Gonzalez.

John Thompson was present representing the Miami-Dade Aviation Department.

A motion was made by Fire Chief Virgilio Fernandez and seconded by Tom Utterback to grant a 90-day TCO Extension.
The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#4 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2002109076; Juan A. Gonzalez.

John Thompson was present representing the Miami-Dade Aviation Department.

A motion was made by Fire Chief Virgilio Fernandez and seconded by Gregroy Pierce to grant a 90-day TCO Extension.
The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#5 TCO EXTENSION, City of Miami; Espirito Santo Plaza;1395 Brickell Avneue; Permit Nos. 01-5010199; 02-5016046; N. Patrick Range II.

Patrick Range of Greenberg Traurig, P.A. was present and informed the Board that this would be the last request for extension on referenced permits.

A motion was made by Fire Chief Virgilio Fernandez and seconded by Fire Chief Paul Smith to grant a 90-day TCO Extension.
The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

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REPORTS: Continues...

#1 REPORT: Philip Azan, Building Official, City of North Miami Beach, Re-Validation Inspection Status

Philip Azan, Building Official of the City of North Miami Beach, presented to the Board members a Final Draft of the City's Plan for Quality of Construction Verification. Mr. Azan reported that 20 inspections have been performed out of 511. Mr. Azan stated there were no problems with those inspections.

The Chairman asked Mr. Azan how the property owners will get reimbursed for any cost incurred.

Mr. Azan stated that once all inspections have been completed, the City, on a case by case basis, will assist in the recovery cost.

Additionally, Chairman Derrer inquired about the procedure if there is a problem with an inspection.

Mr. Azan responded they would hold the person who performed the work responsible. Mr. Azan indicated the City is creating a pool of contractors to use in the event the original contractor is no longer available. Further, Mr. Derrer asked Mr. Azan how long will the re-inspection process take. Mr. Azan stated he anticipates throughout the remainder of the year.

Mr. Azan requested that he be allowed to report back to the Board only when the City encounters a problem with a re-inspection.

A motion was made by John Kurzman and seconded by Gregory Pierce to accept Mr. Azan request to report to the Board only when a re-inspection fails and/or a problem arises.

The motion carried by a vote of 14-1 with Herbert Gopman opposing.
(For a verbatim version of the aforementioned item, refer to the transcript.)

#2 REPORT:

Certification Subcommittee Report for February 2009

Enrique Salvador stated that the following individuals are being recommended for **approval** for **Re-Certification** for 2009.

INSPECTOR:

Abia, Esin D.
Ferrer, Manuel

Gigler, Richard
Guasp, Jorge

Piñon, Raul A.

Vecin, Frank A.

REPRESENTING:

City of Opa Locka
City of Aventura

Village of El Portal

Town of Cutler Bay

Town of Surfside
City of Sweetwater

Village of Pinecrest

County at Large

DISCIPLINES:

Building Official
Mechanical Inspector
Plans Examiner Mechanical
Plans Examiner Plumbing
Plumbing Inspector
Chief Mechanical Inspector
Chief Plumbing Inspector
Mechanical Inspector
Plans Examiner Mechanical
Plans Examiner Plumbing
Plumbing Inspector
Plans Examiner Plumbing
Chief Electrical Inspector
Plans Examiner Electrical
Building Inspector (Structural)
Plans Examiner Building
Roofing Inspector (Commercial)
Roofing Inspector (Residential)
Building Inspector

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#2 REPORT:

Certification Subcommittee Report for February 2009

A motion was made by Enrique Salvador and seconded by Fire Chief Fernandez to accept the aforementioned individuals for **re-certification and add the name Sean Pinna to the list** as a Mechanical Inspector and Plans Examiner for the City of Doral.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

Enrique Salvador stated the following individuals are being recommended for **approval for New Certification** for 2009:

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Acosta, Fred Ashraf, Syed M.	City of Miami City of North Miami Beach	Plans Examiner Plumbing (Res.) Building Inspector (Structural) Plans Examiner Building
Castillo, Orestes	City of Aventura Village of El Portal	Electrical Inspector Plans Examiner Electrical Electrical Inspector Plans Examiner Electrical
De Young, Darrell G. Ferrer, Manuel	Town of Bay Harbor Islands own of Cutler Bay Village of Palmetto Bay	Chief Electrical Inspector Chief Mechanical Inspector Chief Mechanical Inspector Plans Examiner Mechanical
González, Andres	City of Aventura	Electrical Inspector Plans Examiner Electrical
Kramen, Alan R. Lanza, Carlos Naumann, Carlos A. Perez, Jan Pierre	Bal Harbour Village City of Sweetwater Village of Virginia Gardens Indian Creek Village City of North Bay Village	Electrical Inspector Chief Building Inspector Plans Examiner Structural Chief Mechanical Inspector Chief Mechanical Inspector
Raymond, Paul	City of North Miami Beach	Chief Mechanical Inspector Mechanical Inspector Plans Examiner Mechanical
Rodriguez, Jorge M.	Town of Surfside	Roofing Inspector (Commercial) Roofing Inspector (Residential)

A motion was made by Enrique Salvador and seconded by the Fire Chief Fernandez to accept those listed for **new certification.**

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

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NON-AGENDA ITEM

APPEARANCE APPEAL: Arshad Viqar: Inspector Certification: Building Inspector (Structural); Chief Building Inspector; Roofing Inspector (Commercial); Roofing Inspector (Residential); Plans Examiner Building; Plans Examiner Structural; City of Opa Locka.

A motion was made by Fire Chief Fernandez to give the Building Official of the City of Opa Locka Mr. Abia another opportunity to speak. The motion was seconded.

The motion carried by a vote of 9-5 with Alfonso Fernandez-Fraga, Herbert Gopman, John Kurzman, Tom Utterback and Juan Dalla Rizza opposing.

(For a verbatim version of the aforementioned item, refer to the transcript.)

Mr. Abia thanked the Board for the opportunity for reconsideration and stated the City of Opa Locka is under great hardship. Mr. Abia, therefore, asked the Board if they would allow Mr. Viqar to perform for the City with the condition that he signs up for the Miami Dade College classes commencing in March.

Arshar Viqar addressed the Board commenting he thought he had enough hours and until next year to comply with the total continuing education hours due. Mr. Viqar stated he was attempting to earn continuing education hours by his attendance at this meeting.

Jorge Gamoneda informed the Board that Mr. Viqar has 8 hours and needs an additional 8 to obtain compliance.

Mr. Viqar presented an additional certificate for 2 hours bringing the pending balance to 6 hours.

Rolando Diaz suggested that the Building Official have Mr. Viqar enroll for the Miami Dade College classes for the remaining hours and hire the Building Code Compliance Office (BCCO) to cover in the meantime.

Mr. Abia advised the Board that this suggestion was a lengthy process, as it required the City Manager to contact the County Manager to request his assistance.

Pete Quintela, Code Compliance Specialist, offered a suggestion for consideration to fulfill the remaining continuing education hours by BCCO staff providing direct assistance for the amount of hours due to Mr. Viqar in his performance to the City.

A motion was made by Fire Chief Fernandez and seconded by Fire Chief Smith to accept staff's recommendation to have the BCCO Structural Engineer assist.

Michael Goolsby commented that he was not sure the Board had the authority to provide this directive.

Assistant County Attorney Eduardo Gonzalez stated it was not advisable to direct BCCO to act in such manner, but the Board may consider re-certification with condition.

Mr. Kurzman indicated that he would abstain from voting based on the information from the Assistant County Attorney.

After much discussion and deliberation, the Chairman called a motion on the floor to a vote.

The motion failed by a vote of 9-4

(For a verbatim version of the aforementioned item, refer to the transcript.)

There being no further business, the meeting was adjourned at 2:55 P.M.

MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF MARCH 19, 2009

Members Present: William Derrer, **Chairman**
Richard Horton, **Vice-Chairman**
Thomas Utterback, **Sergeant at Arms**
J. Robert Barnes
Chief Virgilio Fernandez
Carmen Garcia
Jesus Gomez
Herbert Gopman
John Kurzman
Enrique Salvador
Paul L. Smith
Edward Woodward

Members Excused: Juan Dalla Rizza, P.E.
Rolando Diaz, P.E.
Alfonso Fernandez-Fraga, P.E.
Gregory Pierce
Myron Rosner

Members Absent: Mario Espineira, Jr.

Staff Present: Eduardo Gonzalez, Assistant County Attorney
Michael Goolsby, Acting Secretary of the Board
Nelly Nieves, Board Recording Secretary

Court Reporter: Tina Settel, Official Reporting Services, LLC

The meeting commenced at 1:15 P.M.

MINUTES of FEBRUARY 19, 2009

Mr. Derrer requested a motion to **approve** the minutes of the **February 19, 2009** meeting. Mr. Gopman moved to accept the minutes and the motion was seconded by Chief Fernandez.

The motion **carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

REGULAR AGENDA:

APPEAL # 1: APPEAL OF BUILDING OFFICIAL: Unincorporated Dade County; 2233 SW 153rd Path; FBC R101.2 Playground Equipment; Victor Ortega.

Attorney Edward Tapanes of Tapanes & Associates appeared alongside the appellant Victor Ortega and addressed the Board stating initially Mr. Ortega had gone to the Building Department to apply for a permit to build a playground in his backyard for his daughter and was informed he did not need a permit. Mr. Tapanes stated that, subsequently, Mr. Ortega received a Notice of Violation from the Building Department as a result of an anonymous complaint regarding the playground requiring him to obtain a permit.

Mr. Ortega stated to the Board that he had gone to the Zoning Department regarding the playground at his residence and was informed he did not need a permit. Thereafter, Mr. Ortega stated he sought help by going to his District Commissioner who then referred him to the Board of Rules and Appeals. He informed the Board that his engineer Richard Garcia was present and submitted to all the Board members a letter from his engineer that contained a photograph of the playground, the engineer's professional opinion and inspection calculations. Mr. Ortega stated that the Florida Building Code does not regulate playground equipment. Mr. Ortega commented to the Board that he is a Developer/Builder. He stated first that, upon his visit to the Building Department following the Notice of Violation, Flavio Gomez requested an Architect's letter certifying that the playhouse was truly a children's playground and not a permanent structure. Mr. Ortega informed the Board that he immediately submitted the Architect's letter but it was rejected by the Building Department with a follow-up letter from the Building Official, Charles Danger, expressing his concern regarding the safety issues in the event of a storm.

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Continues...

APPEAL # 1: APPEAL OF BUILDING OFFICIAL: Unincorporated Dade County; 2233 SW 153rd Path; FBC R101.2 Playground Equipment; Victor Ortega.

Flavio Gomez, Building Division Director of the Building Department, informed the Board of the department's safety concerns regarding this two story (20 feet above ground) structure. Mr. Gomez referenced Section R101.2 of the Florida Building Code stating that, although playground equipment is listed under permit exemption, this is not a normal playground and is being considered by the Building Department as a two-story structure. Mr. Gomez informed that Board that the Building Official's primary concern is the danger the structure could impose on the neighbors during a storm. Mr. Gomez stated, as a compromise, the Building Official offered to apply the requirements of a utility shed to the structure asking the property owner to obtain a shed permit that would be adequate to keep the structure in place.

Eduardo Fernandez, Code Compliance Specialist, addressed the Board on Staff's opinion stating, although staff did not necessarily like the results of the research and review, it is clear that playground equipment is exempt from the Florida Building Code. Further, Mr. Fernandez submitted and cited to the members a case on playground equipment that went before the State of Florida Building Commission. Mr. Fernandez indicated that the ruling on that case was that playground equipment is not required to be permitted under the Florida Building Code. Mr. Fernandez also commented that the purpose and/or intended use of this installation needs to be considered and whether we want to set a precedence on other installations by this company.

(Board member Richard Horton left the meeting @ 2:10 PM)

Board member John Kurzman stated, although the exemption is clear, why not have the property owner tie-down the equipment.

Assistant County Attorney Eduardo Gonzalez informed the Board of an interpretation by the Board of Rules and Appeals back in 2000 to all the Building Officials regarding playground equipment. Mr. Gonzalez read the interpretation "no building permit is required by the Code for the installation of playground equipment".

After much discussion and deliberation, a motion was made by Chief Virgilio Fernandez and seconded by Enrique Salvador to grant the appeal.

The **motion carried by a vote of 7-4** with Robert Barnes, Jesus Gomez, Herbert Gopman and Tom Utterback opposing.

(For a verbatim version of the aforementioned item, refer to the transcript.)

TCO/TCC APPEALS

#1 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, North Terminal Development; MDAD Project No. 737E, 737G; Permit No. 2001111801; Juan Carlos Arteaga.

John Thompson was present representing the Miami-Dade Aviation Department.

A motion was made by Enrique Salvador and seconded by Chief Virgilio Fernandez to grant a 90-day TCO Extension.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#2 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, North Terminal Development; MDAD Project No. 739A; Permit No. 2003053471; Juan Carlos Arteaga.

John Thompson was present representing the Miami-Dade Aviation Department.

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TCO/TCC APPEALS continues...

A motion was made by Enrique Salvador and seconded by Chief Virgilio Fernandez to grant a 90-day TCO Extension.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#3 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, North Terminal Program; MDAD Project No. 739H; Permit No. 2003026424; Juan Carlos Arteaga.

John Thompson was present representing the Miami-Dade Aviation Department.

A motion was made by Enrique Salvador and seconded by Chief Virgilio Fernandez to grant a 90-day TCO Extension.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#4 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, C-D Infill Ramp Interior Finish; Permit No. 2003017623; Juan Carlos Arteaga.

John Thompson was present representing the Miami-Dade Aviation Department.

A motion was made by Fire Chief Virgilio Fernandez and seconded by Chief Paul Smith to grant a 90-day TCO Extension.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

#5 TCO EXTENSION, City of Miami Beach; Setai; 2001 and 2009 Collins Avneue; Monika Entin.

Attorneys Monika Entin and Harold Rosen from the law firm Rosen, Switkes & Entin, P.L. were present on this appeal. John Duggan, Construction Manager for the Setai Condo/Hotel was also present. The Chairman William Derrer stated he was advised the Board could group all seventeen (17) requests for extension.

A motion was made by Chief Virgilio Fernandez and seconded by Chief Paul Smith to grant a 90-day TCO Extension for all seventeen (17) request for extension as follows:

Process No. (Certificate/Permit)

BC004069/B0002523

Shell; Parking Garage; Lobby

BC004111/B0103868

Condo – 28th Floor

BC004112/B0103868

Shell for PHA and PHB

BC004076/B0103868

Tower Units – Floors 17-27

BC004177/B0103868

Condo Units 3901-03; 3906; 3909

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TCO/TCC APPEALS continues...

BC004200/B0103868

29th Floor

BC004201/B0103868

Units 1908; 2008; 2108; 2408; 2508; 2608; 2708

BC004212/B0103868

Condo Floors 30-32

BC004244/B0103868

Condo – Floors 33rd-35th

BC004276/B0103868

Condo – Floors 36th – 38th

BC004281/B0302728

TH 1501;1503;1504;1505;1506

BC005115/B0302731

Outside Area – “B” Promenade

BC005250/B0302733

Bldg Shell for Hotel – Floors 1-7th

BC006069/B0302733

Unit 211 – Setai Hotel

BC005296/B0302733

Restaurant – Setai Hotel

BC005087/B0302728

Bar Pool

BC005080/B0302730

Spa Building

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

INTERPRETATION

Miami-Dade County Code – Chapter 8, Section 8-6 Expedited Permit Program for Green Buildings.

Michael Goolsby, Chief Code Compliance Division, indicated there is some lack of clarity regarding the intent of Section 8-6 of the Code of Miami-Dade County with regard to its applicability to renewable energy systems. Mr. Goolsby stated the issue presented for interpretation is: “Does the incentive provided in Section 8-6 apply to building integrated systems utilizing solar, wind and other forms of renewable energy?”

A motion was made by Tom Utterback to interpret Section 8-6 as being applicable to building integrated systems utilizing solar, wind and other forms of renewable energy. The motion was seconded by Jesus Gomez.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

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REPORT:

Certification Subcommittee Report for March 2009

Enrique Salvador stated that the following individuals are being recommended for **approval** for **New Certification** for 2009.

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Ashraf, Syed M.	City of North Miami	Building Inspector (Structural) Plans Examiner Building
Dalmau, Juan R.	Miami-Dade County	Mechanical Inspector
Gioia, Paul A.	City of Opa Locka	Building Official
Lindgren, Clifford J.	Indian Creek Village	Mechanical Inspector Plans Examiner Mechanical Plans Examiner Plumbing Plumbing Inspector
Ramos, Aurelio J.	City of Aventura Village of El Portal	Building Inspector (Structural) Plans Examiner Building Roofing Inspector (Commercial) Roofing Inspector (Residential) Building Inspector (Structural) Plans Examiner Building Roofing Inspector (Commercial) Roofing Inspector (Residential)
Yocum, David B.	City of Miami Springs	Electrical Inspector Plans Examiner Electrical

A motion was made by Enrique Salvador and seconded by Chief Virgilio Fernandez to accept the individuals listed for **new certification**.

The **motion carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

Enrique Salvador stated the following individual is being recommended for **De-Certification** for 2009.

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Valdes-Linares, Manuel	City of Miami	Building Inspector (Structural) Plans Examiner Building Plans Examiner Structural Roofing Inspector (Commercial) Roofing Inspector (Residential)

(The State of Florida Board of Engineers has suspended Mr. Valdes-Linares' Engineer's License)

Jorge Gamoneda, Code Compliance Specialist, asked the Board to disregard the recommendation for De-Certification on aforementioned individual on disciplines: Building Inspector (Structural); Plans Examiner Building; Roofing Inspector (Commercial; and Roofing Inspector (Residential). Mr. Gamoneda stated only the Plans Examiner Structural is recommended for De-Certification as Manuel Valdes-Linares holds an Engineering license from Miami-Dade County which supports those other disciplines.

Mr. Valdes-Linares was present.

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A motion was made by Enrique Salvador to **De-Certify** Mr. Valdes-Linares only as to the **Plans Examiner Structural** discipline. The motion was seconded by Chief Virgilio Fernandez.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

BOARD INFORMATION (NON-AGENDA)

Chairman Derrer reported on the status of the Ordinance regarding the Board using its discretion based on applicant's experience for certification purposes. Mr. Derrer indicated to the Board that the Office will pass item through the legislative pipeline for the Board of County Commissioners consideration.

There being no further business, the meeting was adjourned at 2:27 P.M.

MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF APRIL 23, 2009

Members Present: William Derrer, **Chairman**
Richard Horton, **Vice-Chairman**
Thomas Utterback, **Sergeant at Arms**
J. Robert Barnes
Juan Dalla Rizza, P.E.
Mario Espineira, Jr.
Chief Virgilio Fernandez
Alfonso Fernandez-Fraga, P.E.
Carmen Garcia
Jesus Gomez
Herbert Gopman
John Kurzman
Enrique Salvador

Members Excused: Gregory Pierce
Myron Rosner
Paul L. Smith
Edward Woodward

Members Absent: Rolando Diaz, P.E.

Staff Present: Eduardo Gonzalez, Assistant County Attorney
Michael Goolsby, Acting Secretary of the Board
Nelly Nieves, Board Recording Secretary

Court Reporter: Tanya Settel, Official Reporting Services, LLC

The meeting commenced at 1:12 P.M.

MINUTES of MARCH 19, 2009

Mr. Derrer requested a motion to **approve** the minutes of the **March 19, 2009** meeting. A motion was made, seconded and carried to accept the minutes as written.

The motion **carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

The Chairman informed the panel that, while waiting the arrival of the Eduardo Gonzalez, Assistant County Attorney, he will address the emergency agenda.

TCO/TCC APPEALS - EMERGENCY AGENDA

#1 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, MDAD Project No. 745B; Permit No. 2002079227; Juan Carlos Arteaga.

John Thompson was present representing Miami-Dade Aviation Department.

A motion was made by Enrique Salvador and seconded by Chief Virgilio Fernandez to grant a 90-day TCO Extension.

The motion **carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

INTERPRETATION – REGULAR AGENDA

FBCB 1522.3 and FBCR R4402.11.3 – Solar Thermal and Solar Electric

Michael Goolsby, Chief Code Compliance Division, stated to the Board members that during the Solar Energy Subcommittee meeting a discussion took place regarding roof top clearances, as it relates to Solar Thermal and Solar Electric installations. Mr. Goolsby asked the panel whether they see Solar Thermal and Solar Electric equipment as being machinery or equipment, which during a major roof repair or re-roofing needs to comply with roof top clearances. Mr. Goolsby commented that these systems are installed on a back-up and there is no loss of service.

After some discussion, a motion was made by Tom Utterback and seconded by Robert Barnes to interpret that Solar Thermal and Solar Electric were not contemplated by those sections of the Code.

The motion **carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

REGULAR AGENDA:

NOA APPEAL # 1: Notice of Acceptance Revision – NOA # 08-0617.01 – Hybrid Green Roof System

Daniel Arguelles, appellant and owner of Artezanos Incorporated along with Alex H. Caicedo, indicated that he had a video demonstrating the application of sustainable hybrid system retro-fit over existing asphalt shingle roof tile. Mr. Arguelles began by first referencing a handout outlining his verbal presentation. Mr. Arguelles indicated he is appealing Product Control Division's findings that Chapter 15, Section 1521.19 prohibits the use of tile hybrid components over existing roof systems in the High Velocity Hurricane Zone. Mr. Arguelles explained that Chapter 15, Section 1518.9.3 provides that metal shingles may be applied as a recover over a single layer of asphaltic shingles or smooth surface roofing. Mr. Arguelles stated that since the metal half of the hybrid system retro-fit that comes into contact with asphalt shingles qualifies as metal shingles under Section 1518.9.3 and because this system is the first of its kind and currently outside of what is currently recognized, it was his contention this hybrid system could never have been contemplated by Section 1521.19 of the Florida Building Code. Further, Mr. Arguelles stated Section 1512.2.2 provides that "innovative products and/or systems outside those currently recognized under this Chapter may have a Product Control Approval based on performance testing". Mr. Arguelles commented that what he is merely asking for, based on his system qualifying as an innovative system, is to be allowed a performance test and consequently a product control revision for a retro-fit based on positive test results.

Mark Zehnal, Roofing Building Code Specialist, addressed the Board stating staff supports the Product Control Division's decision to deny the proposed revision to the current NOA. Mr. Zehnal cited FBC Chapter 15, Section 1521.19 stating roof coverings or roofing components shall not be applied over an existing roofing system. Mr. Zehnal explained that is not sealed system and expressed his concern regarding water penetration.

Jaime Gascon, Chief Product Control Division, informed the Board that their basis for denial was due to not having clarity as to what defines a "tile" in Section 1521.19. Mr. Gascon stated there was uncertainty as to whether this is a tile or metal system.

Chairman William Derrer asked the appellant Mr. Arguelles if he would put this system on a roof older than 2001.

Mr. Arguelles indicated he would not put this on an older roof.

Mr. Derrer also asked Mr. Gascon whether there was a performance test available.

Mr. Gascon stated there is a test in combination for quality control on exposure or aging and a set standard must be met.

Alex Tigera, Roofing Product Control Examiner, stated the original NOA was granted and this revision is not a traditional application.

Tom Utterback stated that Section 1512.2.2 appeared to be clear in allowing the use of innovative products.

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NOA APPEAL # 1: Notice of Acceptance Revision – NOA # 08-0617.01 – Hybrid Green Roof System

Eduardo Gonzalez, Assistant County Attorney, advised that the Board should read the referenced section provisions in harmony; in other words, if system does not apply to 1521.19 then you can consider 1512.2.2.

After much discussion and deliberation, a motion was made by Tom Utterback and seconded by Herbert Gopman to allow performance testing based on Section 1512.2.2 of the FBC as an innovative product.

The motion **carried by a vote of 10-2 with Enrique Salvador and Juan Dalla Rizza opposing.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

EMERGENCY AGENDA

APPEAL # 1 – John Cramer – All Pro Gas – Town of Miami Lakes; Underground Gas Tank; Permit No. B2009-0047; NFPA-58 2004 LPG and NFPA-58 2008 LPG; FBC HVHZ Chap 16; Sec 1618.2; 1618.2.1.

Bruce Gilliard, appellant and owner of All Gas Pros, was present along with John Cramer, project manager. Mr. Gilliard addressed the Board stating he had submitted a permit application and was denied for the installation of an underground gas tank. He indicated that the Building Official required engineer drawing and calculations and the tank was being treated as a structure. Mr. Gilliard stated that nowhere in Code was an underground tank referenced as a structure or concrete pad referenced; only that the tank should be secured.

Richard Horton commented that his personal experience has been that you need a slab that has enough weight to withstand uplift forces that may pop that tank up in a high water/flood situation.

Building Official Eliezer Palacio of Town of Miami Lakes was present and distributed a handout along with a copy of the January 2006 Bureau of Liquefied Petroleum Gas Inspection Manuel from the Division of Standards and Department of Agriculture and Consumer Services protocol governing the transportation, storage, sale, use and handling of Liquefied Petroleum Gases for the State of Florida. Attorney Carla Barrow was also present on behalf of the Town of Miami Lakes. Additionally, Jim Ficklin, LP Gas Inspector from the State of Florida Bureau of LP Gas Inspection, was also present.

Ms. Barrow addressed the Board stating that the Florida Administrative Code sets the standard and classified the Town of Miami Lakes as a flood zone and she read 2004 LPG Code Handbook Chapter 6 Section 6.6.1.6. Ms. Barrow informed members that this is necessary to prevent floatation. She indicated that Mr. Gilliard is not being told specifically how to tie down the tank but tie down is required because as a safety precaution and possibility of combustion and/or floatation of the underground gas tank.

Assistant County Attorney Eduardo Gonzalez cautioned the Board as to their jurisdiction of interpreting the FBC and Chapter 8 only.

Jorge Gamonedá, Code Compliance Plumbing Specialist, stated NFPA-LP-Gas Code Handbook adopted by reference clearly states “Anchorage usually consists of strapping or bolting the container to concrete pads or foundations. The design and anchorage is a civil engineering matter...”.

A motion was made by Alfonso Fernandez-Fraga and seconded by John Kurzman to deny the appeal finding that calculations for gas tank installation is required.

The motion **carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

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REPORT:

Certification Subcommittee Report for April 2009

Enrique Salvador stated that the following individuals are being recommended for **approval** for **Re-Certification** for 2009.

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Medina, Erick	City of Opa Locka	Building Inspector (Structural) Roofing Inspector (Commercial) Roofing Inspector (Residential)
Viqar, Arshad	City of Opa Locka	Chief Building Inspector Building inspector (Structural) Plans Examiner Building Plans Examiner Structural Roofing Inspector (Commercial) Roofing Inspector (Residential)

Additionally, the following individuals are being recommended for **approval** for **New Certification** for 2009.

<u>INSPECTOR:</u>	<u>REPRESENTING:</u>	<u>DISCIPLINES:</u>
Brown, Larry E.	Miami-Dade County	Building Inspector (Structural)
Del Castillo, Raul E.	Town of Miami Lakes	Plans Examiner Plumbing Plumbing Inspector
Fernández, Daniel R.	City of South Miami	Electrical Inspector Plans Examiner Electrical
Fernández, Ulises A.	City of Hialeah	Plans Examiner Building
Gigler, Richard R.	Town of Surfside	Chief Plumbing Inspector
González, Robert J.	Town of Surfside	Chief Mechanical Inspector
Menéndez, Tomas F.	Town of Medley	Electrical Inspector Plans Examiner Electrical
Moreno, Gerardo A.	City of Coral Gables	Plans Examiner Electrical
Naumann, Carlos A.	City of North Bay Village	Plans Examiner Structural
Perdigon, Gerardo A.	City of South Miami	Building Inspector (Structural) Roofing Inspector (Commercial) Roofing Inspector (Residential)
Reboiro, Manuel A.	Village of Palmetto Bay	Mechanical Inspector
Rojas, Edward A.	City of Doral	Plans Examiner Building
Travers, John T.	Town of Miami Lakes	Electrical Inspector Plans Examiner Electrical

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INSPECTOR:

Valderrama, Freddy

Wagoner, Peter R.

REPRESENTING:

Village of Pinecrest

City of North Miami Beach

DISCIPLINES:

Building Inspector (Structural)
Plans Examiner Building

Building Inspector (Structural)
Plans Examiner Building
Roofing Inspector (Commercial)
Roofing Inspector (Residential)

The Board acknowledged the recommendations and accepted the listed individuals as presented in this report.

There being no further business, the meeting was adjourned at 2:25 P.M.

MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF MAY 21, 2009

Members Present: William Derrer, **Chairman**
Richard Horton, **Vice-Chairman**
Thomas Utterback, **Sergeant at Arms**
J. Robert Barnes
Juan Dalla Rizza, P.E.
Mario Espineira, Jr.
Chief Virgilio Fernandez
Alfonso Fernandez-Fraga, P.E.
Carmen Garcia
Jesus Gomez
John Kurzman
Gregory Pierce
Myron Rosner
Enrique Salvador
Paul L. Smith

Members Excused: Rolando Diaz, P.E.
Herbert Gopman
Edward Woodward

Staff Present: Eduardo Gonzalez, Assistant County Attorney
Michael Goolsby, Acting Secretary of the Board
Nelly Nieves, Board Recording Secretary

Court Reporter: Tanya Settel, Official Reporting Services, LLC

The meeting commenced at 1:15 P.M.

MINUTES of APRIL 23, 2009

Mr. Derrer requested a motion to **approve** the minutes of the **April 23, 2009** meeting. A motion was made, by Gregory Pierce and seconded by Tom Utterback to accept the minutes as written. The motion **carried unanimously**.
(For a verbatim version of the aforementioned item, refer to the transcript.)

REGULAR AGENDA:

APPEAL # 1: APPEAL OF BUILDING OFFICIAL: City of Miami Beach; Prime 112 @ 112 Ocean Drive; Notice of Violation; Certificate of Occupancy and Minor Repairs.

The Chairman informed the panel that this item has been withdrawn by Appellant.
(For a verbatim version of the aforementioned item, refer to the transcript.)

APPEAL # 2: APPEAL OF BUILDING OFFICIAL; City of Miami Gardens; Disco Curls Beauty Supply; 17560 NW 27th Avenue # 114-117; 2004 FBC Plumbing Sec 403.1 and 410.1; Drinking Fountain.

The appellant Sayed Eltahir stated that a drinking fountain would cause hair contamination to the stocked hair products in the store. Further, Mr. Eltahir indicated he has never seen this requirement in other stores and requested a waiver of this requirement.

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APPEAL # 2: APPEAL OF BUILDING OFFICIAL; City of Miami Gardens; Disco Curls Beauty Supply; 17560 NW 27th Avenue # 114-117; 2004 FBC Plumbing Sec 403.1 and 410.1; Drinking Fountain.

Ramon Arronte, Building Official for the City of Miami Gardens, addressed the Board and stated that he cannot waive a Code requirement.

Jorge Gamoneda, Code Compliance Plumbing Specialist, stated the FBC Plumbing Section 403.1 is clear on this requirement. Mr. Gamoneda indicated that Section 410.1 allows bottled water dispensers permitted as an alternative.

A motion was made by Enrique Salvador to deny the appeal. The motion was seconded by Alfonso Fernandez-Fraga.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

NOA APPEAL # 1: Notice of Product Removal; American Slate; NOA # 07-0928.04.

Steven Smith, appellant and Technical Manager for American Slate, did not appear although notified. The Chairman asked staff from the Product Control Division to brief the Board on what has taken place with this product.

Alex Tigera, Roofing Product Control Examiner, addressed the Board on this matter. Mr. Tigera advised the Board that, as a result of a complaint received and consequently an investigation, the Product Control Division issued a Notice of Proposed Action to remove Notice of Acceptance (NOA) No. 07-0928.04 to American Slate. Mr. Tigera stated that the investigation revealed several manufacturing locations for the slate product as well as varying nail hole locations which contradicts the NOA. Further, Mr. Tigera indicated that the Product Control Division discussed the findings with American Slate and issued them a letter dated February 24, 2009 outlining audit findings and explaining what was required to salvage their NOA. Mr. Tigera stated that American Slate was given a deadline of March 19, 2009, to submit a revision to their NOA. Mr. Tigera stated the requested revision to correct the NOA was just received this week.

After some discussion, a motion was made by Enrique Salvador to deny the appeal. The motion was seconded by Mario Espineira.

The motion carried unanimously.

(For a verbatim version of the aforementioned item, refer to the transcript.)

Subsequently, David Weston addressed the Board stating he was speaking on behalf of his client, the complainant Anthony Wilson of Anthony B. Wilson Roofing Inc. and referred to his submittal of a field evaluation report on American Slate illustrating non-compliance with the NOA. Additionally, Mr. Weston referenced this product as used at the Anna Gary home in Indian Creek Village, Miami-Dade County. In this regard, he directed the Board to the roofing system inspection done by Innovative Building and Architecture Consultants at the residence of Anna Gary. Mr. Weston stated their findings indicate that the installed slate does not comply with the Notice of Acceptance submitted for permitting and does not comply with the Florida Building Code.

Anthony Wilson also addressed the Board stating he "felt a false sense of confidence in the Building Code Compliance Office" and questioned why there is no contract between the NOA holder and the office to assure that the product which received the NOA is the product that is delivered.

John Kurzman commented that the buyer, in this case, a roofing contractor with his expertise should take on some degree of responsibility for the product he is installing.

Gregory Pierce stated if product purchased is mislabeled then have a civil litigation.

The Chairman, William Derrer, commented if a product does not have an NOA it cannot be used.

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Continues...

NOA APPEAL # 1: Notice of Product Removal; American Slate; NOA # 07-0928.04.

Anthony Wilson stated that American Slate has committed fraud with this department.

Mr. Derrer stated the Board has denied the appeal based on the identified differences between what was originally approved and what is now being produced. Mr. Derrer informed that, therefore, the Board has upheld the department's Notice of Proposed Action to revoke American Slate's NOA.

BOARD DISCUSSION
SOLAR THERMAL/SOLAR ELECTRIC SUBCOMMITTEE REPORT/RECOMMENDATIONS.

Michael Goolsby, Chief Code Compliance Division, referenced the Board of Rules and Appeals' Subcommittee Report on Solar Thermal and Solar Electric installations. Mr. Goolsby stated this report consists of two(2) documents; one document represents Uniform Permit Submittal Guidelines for Solar Thermal and Solar Electric installations and the other document list instructions and recommendations resulting from discussions on Solar Thermal and Solar Electric installations. Mr. Goolsby indicated that the Subcommittee met three(3) times in a joint effort with members of the Broward County Board of Rules and Appeals in order to establish uniformity in the permitting process as well as address the issues regarding these installations. Mr. Goolsby informed the Board that these two documents were approved and adopted by Broward County Board of Rules and Appeals at their meeting.

A motion was made by Richard Horton and seconded by John Kurzman to accept the report and its recommendations as written.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

REPORT:

Certification Subcommittee Report for May 2009

Enrique Salvador presented the following report listing the names of individuals which are being recommended for **approval** for Certification for 2009.

INSPECTOR:

REPRESENTING:

DISCIPLINES:

Bacchus, Lancelot N.

City of Miami Beach

Roofing Inspector (Commercial)

Blanco, Luis A.

City of Miami Beach

Chief Mechanical Inspector

Cankat, Mustafa

Village of Palmetto Bay

Plans Examiner Structural

Fernandez, Daniel R.

Village of Palmetto Bay

Electrical Inspector
Plans Examiner Electrical

Flingos Jr., Thomas P.

Village of Palmetto Bay

Chief Electrical Inspector
Electrical Inspector
Plans Examiner Electrical

Gonzalez, Carlos A.

City of Miami Beach

Mechanical Inspector

Hernandez, Rafael

Village of Palmetto Bay

Chief Plumbing Inspector

Licitra, Salvatore T.

Town of Surfside

Chief Electrical Inspector

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REPORT:

Certification Subcommittee Report for May 2009

Regula, Ronald

Village of Palmetto Bay

Chief Mechanical Inspector
Mechanical Inspector
Plans Examiner Mechanical

Urrutia, Jorge

City of Miami Beach

Building Inspector (Structural)
Plans Examiner Building

A motion was made by Chief Virgil Fernandez to accepted the report. The motion was seconded.
The **motion carried unanimously.**
(For a verbatim version of the aforementioned item, refer to the transcript.)

There being no further business, the meeting was adjourned at 2:08 P.M.

MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF JUNE 18, 2009

Members Present: William Derrer, **Chairman**
Thomas Utterback, **Sergeant at Arms**
J. Robert Barnes
Juan Dalla Rizza, P.E.
Rolando Diaz, P.E.
Chief Virgilio Fernandez
Alfonso Fernandez-Fraga, P.E.
Carmen Garcia
Herbert Gopman
John Kurzman
Gregory Pierce
Myron Rosner
Enrique Salvador
Paul L. Smith
Edward Woodward

Members Excused: Jesus Gomez
Richard Horton, **Vice-Chairman**

Members Absent: Mario Espineira, Jr.

Staff Present: Eduardo Gonzalez, Assistant County Attorney
Michael Goolsby, Acting Secretary of the Board
Nelly Nieves, Board Recording Secretary

Court Reporter: Tanya Settel, Official Reporting Services, LLC

The meeting commenced at 1:03 P.M.

MINUTES of MAY 21, 2009

Mr. Derrer requested a motion to **approve** the minutes of the **May 21, 2009** meeting. A motion was made, by Edward Woodward and seconded by Enrique Salvador to accept the minutes as written.

The motion **carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

TCO/TCC APPEALS

#1 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2002109071; Juan A. Gonzalez.

Donovan Hall was present representing the Miami-Dade Aviation Department.

A motion was made by Tom Utterback and seconded by Enrique Salvador to grant a 90-day TCO Extension.

The **motion carried unanimously**.

(For a verbatim version of the aforementioned item, refer to the transcript.)

#2 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2002109076; Juan A. Gonzalez.

Donovan Hall was present representing the Miami-Dade Aviation Department.

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TCO/TCC APPEALS

A motion was made by Gregory Pierce and seconded by Edward Woodward to grant a 90-day TCO Extension. The **motion carried unanimously.**
(For a verbatim version of the aforementioned item, refer to the transcript.)

#3 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2002108242; Juan A. Gonzalez.

Donovan Hall was present representing the Miami-Dade Aviation Department.

A motion was made by Paul Smith and seconded by John Kurzman to grant a 90-day TCO Extension. The **motion carried unanimously.**
(For a verbatim version of the aforementioned item, refer to the transcript.)

#4 TCO EXTENSION, Unincorporated Dade County; Miami International Airport, South Terminal Program; Permit No. 2003009007; Juan A. Gonzalez.

Donovan Hall was present representing the Miami-Dade Aviation Department.

A motion was made by Gary Pierce and seconded by Tom Utterback to grant a 90-day TCO Extension. The **motion carried unanimously.**
(For a verbatim version of the aforementioned item, refer to the transcript.)

#5 TCO EXTENSION, City of Miami Beach; Setai; 2001 and 2009 Collins Avneue; Monika Entin.

John Duggan, Construction Manager for the Setai Condo/Hotel was present.

The Chairman William Derrer stated the Building Official recommended 180 days extension, however, the Board would only consider 90 days maximum. The Chairman asked for a motion on all 17 requests for extension.

A motion was made by Rolando Diaz to grant a 90-day TCO Extension for all seventeen(17) requests for TCO Extension. The motion was seconded by Enrique Salvador. The **motion carried unanimously.**
(For a verbatim version of the aforementioned item, refer to the transcript.)

BOARD DISCUSSION

CONSIDER SCHEDULING THE BORA PANEL FOR PROBABLE CAUSE CASES/FORMAL HEARINGS MEETING ON THE SAME MEETING DATE AS THE REGULAR BORA MEETING

Kathy Charles, Director, BCCO Policy, Operations and Board Administration, addressed the Board on this matter stating there are certain scenarios to consider specific to scheduling. Ms. Charles indicated that scenario combining meeting days may save Board member time as well as create other efficiencies. However, she stated that, if the Board decided to combine these two meetings, then a determination must be made as to which business would go first: BORA Regular Appeals or BORA Probable Cause Cases and Formal Hearings. Additionally, Ms. Charles informed the members that a time certain is required for the BORA Probable Cause Cases and Formal Hearings to allow for notification requirements.

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BOARD DISCUSSION

Rolando Diaz commented that he liked the idea of coming in only one day a month rather than twice. Further, he stated that those not on the BORA panel for Probable Cause Cases and Formal Hearings would not need to stay for that portion of the meeting.

Enrique Salvador expressed opposition to joining these two meeting functions indicating that the timing would be difficult to control and homeowners, Building Officials and inspectors may sit for a while or possibly have to return another day.

Alfonso Fernandez-Fraga commented that the focus should not be on accommodating appellants and respondents in terms of deciding on the timing. Mr. Fernandez-Fraga stated in other administrative or court settings, venues time is managed by the Board.

Roland Diaz stated the order of business on an Agenda can be changed at the Chairman's discretion. He suggested to try for 2-3 months and see how it works out.

Chairman William Derrer stated that the BORA panel for Probable Cause Cases and Formal Hearings begins a half hour earlier than the scheduled meeting time to give staff an opportunity to resolve some cases with respondents and report to the Board a settlement and/or resolution.

John Kurzman stated the question before the Board is whether to combine the meetings and staff can workout the scheduling.

After much discussion and deliberation, a motion was made by Rolando Diaz and seconded by Alfonso Fernandez-Fraga to schedule BORA Probable Cause Cases/Formal Hearings meeting on the same meeting date as the regular BORA Appeals meeting commencing with the BORA Appeals at 1:00 P.M. and going into the BORA Probable Cause Cases and Formal Hearings at 2:00 P.M.

The **motion carried by a vote of 11-4**, with Chief Virgil Fernandez, Chief Paul Smith, Enrique Salvador and Edward Woodward opposing.

(For a verbatim version of the aforementioned item, refer to the transcript.)

REPORT:

Certification Subcommittee Report for June 2009

Enrique Salvador stated the following individuals are being recommended for **approval for New Certification** for 2009.

INSPECTOR:

REPRESENTING:

DISCIPLINE:

Ferrer, Manuel

City of Coral Gables

Mechanical Inspector
Plans Examiner Mechanical
Plans Examiner Plumbing
Plumbing Inspector

Gonzalez, Andres

City of Coral Gables

Electrical Inspector
Plans Examiner Electrical

Guerrero, Gerardo

City of Miami

Chief Mechanical Inspector

Ibacache, Jorge H.

City of Coral Gables

Building Inspector (Structural)

Ramos, Aurelio J.

City of Coral Gables

Plans Examiner Building

Reboiro, Manuel A.

City of Miami Beach

Mechanical Inspector

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REPORT:

The section for this area is in the way of the other Certification Subcommittee Report for June 2009

INSPECTOR:

Rivas, Angel R.

REPRESENTING:

City of Coral Gables

DISCIPLINE:

Building Inspector (Structural)
Roofing Inspector (Commercial)
Roofing Inspector (Residential)

Weldon, Alexander J.

Town of Surfside

Electrical Inspector
Plans Examiner Electrical

A motion was made by Enrique Salvador to accept those listed for New Certification for 2009. The motion was seconded by Chief Virgil Fernandez .

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

Enrique Salvador stated the following individual is being recommended for **Rejection for New Certification** for 2009.

INSPECTOR:

Watkins, Kim R.

REPRESENTING:

City of Florida City

DISCIPLINE:

Plans Examiner Electrical

APPOINTMENT OF ELECTRICAL PLANS EXAMINERS

(bb) A State Certified Electrical Contractor having held a certification issued by the Florida Electrical Contractor's Licensing Board for a period of at least five years and having five years of field experience under that certification. (License date 04/08/2005.)

A motion was made by Enrique Salvador and seconded by Chief Paul Smith to deny the certification of Kim Watkins.

The **motion carried unanimously.**

(For a verbatim version of the aforementioned item, refer to the transcript.)

There being no further business, the meeting adjourned at 1:34 P.M.