

Memorandum



Date: May 6, 2008

To: Honorable Chairman Bruno Barriero and
Members, Board of County Commissioners

From: George M. Burgess
County Manager

A handwritten signature in black ink, appearing to read "Burgess".

Agenda Item No. 1(D)3

Subject: Sunset Review of County Boards for 2008 – Board of Rules and Appeals

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2008 Sunset Review of County Boards Report for the Board of Rules and Appeals. The Board approved the attached report at its meeting on February 21, 2008 and has recommended the continuation of its board.

A handwritten signature in black ink, appearing to read "Alex Muñoz".

Alex Muñoz
Assistant County Manager

cmo11408

Memorandum



Date: February 22nd, 2008

To: George M. Burgess
County Manager

From: William R. Derrer
Chairperson, Board of Rules and Appeals

Subject: Sunset Review of County Boards for 2008
Board of Rules and Appeals

Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2008 Sunset Review of County Boards Report of the Board of Rules and Appeals, for transmittal to the Board of County Commissioner (BCC). The Board approved the attached report at its meeting of February 21st, 2008.

It is recommended the BCC approve the continuation of the Board of Rules and Appeals.

BACKGROUND

The Board of Rules and Appeals was established in 1957 through the enactment of the South Florida Building Code and then restructured in 1991 through Ordinance No. 91-73. The Board ensures a fair and effective code appeal process for all aggrieved parties with the full participation of the public, the building industry, and building officials. Since its creation, the Board has heard thousands of administrative appeals and has addressed many building code issues. The Board of Rules and Appeals should continue to function to serve and safeguard the community through the review of appeals and the uniform application of the Building Code.

A handwritten signature in black ink that reads "Will R Derrer". The signature is written in a cursive, slightly slanted style.

William R. Derrer, Chairperson
Board of Rules and Appeals

2006-07 SUNSET REVIEW
MIAMI DADE COUNTY
BOARD OF RULES AND APPEALS

JANUARY 2008

Submitted to:

Mr. George M. Burgess
County Manager
Miami-Dade County

**BI-ANNUAL SUNSET REVIEW
MIAMI-DADE COUNTY BOARDS
JANUARY 2008**

I. GENERAL INFORMATION

1. Board Reporting:

BOARD OF RULES AND APPEALS

2. Indicate number of Board members, terms of office, and number of vacancies:

The Board of Rules and Appeals consists of nineteen (19) members and thirteen (13) subcommittees and meets every month except for the month of August.

For terms of office and number of vacancies, Refer to Appendix "A".

3. Identify number of meetings and member's attendance (Activity from January 1, 2006 through December 31, 2007):

Twenty-two (22) meetings were held during 2006 through December 31, 2007. Quorum was obtained for all the meetings held during 2006 through 2007.

Refer to Appendix "B" for the Committee attendance report.

4. What is the source of your funding?

The source of the funding is the Building Code Compliance Office surcharge.

5. Date of Board Creation:

The Board of Rules and Appeals was established in 1957 through the enactment of the South Florida Building Code and then restructured in 1991 through Ordinance No. 91-73.

6. Attach a copy of the ordinance creating the Board.

Refer to Appendix "C" for Ordinance No. 91-73 and most recent Ordinance No. 06-19.

7. **Include the Board's Mission Statement or state its purpose.**

Facilitate a fair and effective code appeal process for all aggrieved parties with the full participation of the public, the building industry, and building officials and ensure that the community is safeguarded through the uniform application of the Building Code.

8. **Attach the Board's standard operating procedures, if any.**

The Board of Rules and Appeals shall be governed by “**Roberts Rules of Order Revised**” in all instances and cases to which they are applicable.

9. **Attach a copy of the Board's by-laws, if any.**

The Board of Rules and Appeals is governed by the authority of Chapter 8 of the Code of Miami Dade County.

10. **Attach a copy of the Board minutes approving the Sunset Review.**

Refer to Appendix “D” for the minutes approving the Sunset Review report.

II. **EVALUATION CRITERIA**

1. **Is the Board serving the purpose for which it was created?**

The Board of Rules and Appeals (BORA) meets once a month, with the exception of the month of August.

The Board, through its full board meetings and at subcommittee level, has met the criteria and functional duties outlined in Chapter 8 of the Code of Miami-Dade County. (See Appendix “C” for an outline of the authority.) BORA has responded to all appeals both on a regularly scheduled meeting basis and through emergency hearings and has addressed every agenda item presented for resolution. In addition, the Board has had a quorum of attendance at every meeting. (See Appendix “B”). Based on BORA's performance in this regard, the requirements for the Board as outlined in Chapter 8 continue to be fulfilled.

2. **Is the board serving current community needs?**

The meetings of the Board of Rules and Appeals are performed with the full participation of the public, the building industry, building officials and their staff as well as all aggrieved parties and/or concerned individuals.

BORA has successfully brought non-complying building(s) and communities into compliance with the Building Code with the help of the Building Code Compliance Office and in so doing, has provided a safer place to live for the residents of Miami-Dade County.

The Board, through its open discussion process, has afforded the community a place to be "heard" and to be allowed to seek a resolution to their building code concerns. As a Board of professionals, standards are fairly applied without sacrificing safety and compliance with the Building Code.

BORA, through its Certification Subcommittee and the staff of the Building Code Compliance Office, has insured that the integrity, qualifications and educational standards for building officials, plans examiners and inspectors in Miami-Dade County are of the highest caliber.

In accordance with court rulings, the Board continued to actively conduct disciplinary hearings of State Certified Contractors for fraud and/or willful violations of the Building Code.

3. **What are the Boards' major accomplishments?**

The following is a condensed description of accomplishments in **2006** and **2007**. (See Appendix "E")

- **928** Certifications and Recertification's of Building Officials, Plans Examiners and Inspectors
- **92** Extensions - Temporary Certificate of Occupancy or Temporary Certificate of Completion
- **42** Building Official Appeals
- **9** Official Interpretations of the Building Code
- **142** Formal Hearings (**State Certified Contractors**)
- **162** Probable Cause hearings (**State Certified Contractors**)

4. **Is there any other board, either public or private which would better serve the function of the board?**

There is no other board serving the functions of the Board of Rules and Appeals.

5. **Should the ordinance creating the Board be amended to better enable the board to serve the purpose for which it was created?**

A review of the cross sectional make-up of disciplines within these boards shows that BORA has a broad category scope of membership to address all aspects of the Code, not just limited to the technical aspects.

With the implementation of the Florida Building Code (FBC) in 2002, the functions of BORA have continued increase. The Board has successfully handled new FBC appeals as well remaining South Florida Building Code issues.

Additionally, the Board has requested modification to Chapter 8 to allow for consideration of experience when certifying code personnel.

6. **Should the board's membership requirements be modified?**

The board's membership requirements are properly balanced for its present duties.

Currently, there are two-(2) vacancies on the Board: Fire Service, and Building Trades Council.

7. **What is the operating cost of the board, both direct and indirect?**

All of the members of the BORA are volunteers and as such receive no compensation for their services. The Building Code Compliance Office, as Secretary to the BORA, keeps the fiscal records on administrative costs.

Direct and indirect cost for the Board for Fiscal Year 2006 was \$4,307 and \$502,184 respectively and for Fiscal Year 2007 was \$ 16,928 and \$530,565 respectively.

(8) **Describe the board's performance measures developed to determine its own effectiveness in achieving its stated goals.**

The Board of Rules and Appeals does not have any stated goals, but rather is operating under meeting the guidelines set forth in Chapter 8 of the Code of Miami-Dade County. The Board's overall goal is to facilitate the review process in a fair and effective manner and to complete each meeting's agenda items. To this end, all monthly meeting agendas have been completed with full quorum of members present and the Board has rendered determination on various appeals and building code matter.

(See Appendix "B" for attendance and Appendix "E" for recap of actions).

APPENDIX A

APPOINTMENTS
DADE COUNTY BOARD OF RULES AND APPEALS

<u>Members</u>	<u>Category</u>	<u>Commissioner</u>	<u>Term Expiration</u>	<u>Initial Appointment</u>
Barnes, J. Robert	Architect	Sorenson	11/30/10	10/97
Dalla Rizza Juan	Electrical Engineer	Sosa	11/30/10	11/08/06
Derrer, William	General Contractor	Heyman	11/30/10	02/14/04
*Diaz, Rolando	Developer	At-Large	4/8/06	12/96
Espineira, Mario R.	Homeowner's Association	At-Large	9/30/2010	9/4/2007
*Fernandez-Fraga, Alfonso	Mechanical Engineer	Diaz	10/31/06	11/16/02
Fernandez, Virgil	Fire Service	Martinez	11/30/08	11/2000
Garcia, Carmen T.	Architect	Seijas	11/30/08	1/2000
*Gomez, Jesus M.	General Contractor	Souto	11/30/2010	5/17/97
Gopman, Herbert	Structural Engineer	Jordan	11/30/08	2/22/07
Horton, Richard M.	Mechanical Master	Moss	11/30/08	1/97
*Kurzman, John	Dade League of Cities	Dade County League of Cities	11/3/03	1/97
*Pierce, Gregory	Roofing Contractor	Morales	10/31/04	12/96
Rosner, Myron	Dade League of Cities	Dade County League of Cities	9/12/09	9/12/06
*Salvador, Enrique	Plumbing Master	Barreiro	10/31/04	3/97
Utterback, Thomas	Representative of Disabled Com	At Large	11/30/10	3/97
*Woodward, Edward	Electrical Master	Rolle	10/31/06	1/97

Vacancies:

Vacant	Fire Service	Edmondson	William Strachan	<i>Resigned Letter dated May 18, 2006</i>
Vacant	Non-Professional	At-Large (District 1)	Justin Manuel	<i>Removed with creation of Ord 06-19</i>
Vacant	Building Trades Council	At-Large	William Riley	<i>Resigned e-mail dated 10-6-2006</i>

APPENDIX B

2006 ATTENDANCE FOR THE BOARD OF RULES AND APPEALS

Board Members	Jan 06	Feb 06	Mar 06	Apr 06	May 06	Jun 06	Jul 06	Aug 06	Sep 06	Oct 06	Nov 06	Dec 06	TOTAL ATTENDANCE
Barnes, J. Robert	P	P	P	P	P	P	P	R	E	P	P	P	10
Derrer, William	P	P	P	E	P	P	P		P	E	P	P	9
Diaz, Rolando	P	E	P	P	P	P	P		P	P	P	P	10
Fernandez, Chief Virgil	P	P	E	P	P	P	P	E	P	P	P	E	9
Fernandez-Fraga, Alfonso	P	P	P	P	P	P	P		P	P	P	P	11
Garcia, Carmen	P	P	E	P	E	P	P		P	P	E	P	8
Gomez, Jesus M.	P	P	P	P	P	P	E	C	E	P	P	P	9
Horton, Richard	E	E	P	P	P	P	P		P	P	P	P	9
Kurzman, John	E	P	P	P	P	P	P		P	P	P	P	10
Manual, Justin	E	E	E	E	P	E	E	E	E	E	REMOVED		1
Pierce, Gregory	P	E	E	P	E	E	E		E	E	E	E	2
Riley, William	E	P	P	P	E	P	P		P	E	RESIGNED		6
Salvador, Enrique	E	P	E	P	P	P	P	S	P	P	P	P	9
Strachan, William	P	P	E	P				RESIGNED					3
Utterback, Thomas	P	P	P	P	E	P	P		P	P	P	P	10
Velazquez, Arnold M.	P	P	E	E	E	E	E	S	E	E	RESIGNED		2
Woodward, Edward	P	P	P	P	E	E	E		P	P	P	P	8
Code:													
P = Present													
A = Absent													
E = Excused													
R = Resigned													
NM = Not a Member													

2007 ATTENDANCE FOR THE BOARD OF RULES AND APPEALS

Board Members	Jan 07	Feb 07	Mar 07	Apr 07	May 07	Jun 07	Jul 07	Aug 07	Sep 07	Oct 07	Nov 07	Dec 07	TOTAL ATTENDANCE
Barnes, J. Robert	E	P	P	P	E	P	P	R	P	E	P	P	8
Derrer, William	P	P	P	P	P	P	P		P	P	P	P	11
Diaz, Rolando	E	P	E	P	E	E	P		E	A	P	P	5
Espineira, Mario R.	NM		NM	P	E	E	1						
Fernandez, Chief Virgil	P	E	P	P	P	E	P	E	E	P	P	P	8
Fernandez-Fraga, Alfonso	P	P	P	P	P	P	E		P	P	P	P	10
Garcia, Carmen	P	E	P	P	P	E	P		P	P	E	P	8
Gomez, Jesus M.	P	P	P	P	P	P	P	C	P	P	P	P	11
Gopman, Herbert	P	P	P	P	P	E	P		E	E	P	P	8
Horton, Richard	E	P	P	P	P	E	P		P	P	P	P	9
Kurzman, John	P	P	P	E	P	P	P	E	P	E	P	P	9
Pierce, Gregory	E	E	E	P	P	P	P		P	P	P	P	8
Rizza, Juan Dalla	P	P	P	P	P	E	P		P	P	P	P	10
Rosner, Myron	P	P	P	P	P	E	E	S	P	P	E	P	8
Salvador, Enrique	P	P	P	P	P	P	P		P	P	P	P	11
Utterback, Thomas	P	P	P	P	P	P	P		P	P	P	P	11
Woodward, Edward	P	P	P	P	P	P	P	S	P	P	P	P	11
Code:													
P= Present													
A= Absent													
E= Excused													
R= Resigned													
NM= Not a member													

APPENDIX C



MEMORANDUM

Amended
Substitute
Agenda Item No. 2(h)

TO: Honorable Mayor and Members
Board of County Commissioners

DATE: July 9, 1991

FROM: *Josquin G. Avino*
Josquin G. Avino, P.E., P.L.S.
County Manager

SUBJECT: Proposed Substitute
Ordinance Amending Chapter 8
of the Metro-Dade Code
and Chapter 2 of the
South Florida Building Code
0191-73

RECOMMENDATION

It is recommended that the proposed substitute ordinance appended hereto amending Chapter 8 of the Metro-Dade Code and Chapter 2 of the South Florida Building Code be adopted by the Board of County Commissioners.

BACKGROUND

The attached ordinance was developed as a result of a combined report of the Dade County Board of Rules & Appeals and the Audit and Management Services Department. Both groups independently studied the May 15, 1990 report of the Dade County Grand Jury as it related to the Board of Rules & Appeals and its support staff. The ordinance provides for the separation of the Building Code Compliance Office, formerly known as the Code Enforcement Office, from Dade County Building & Zoning Department. This separation was recommended by the Grand Jury and endorsed by both the Board of Rules & Appeals and Audit and Management Services.

The ordinance amends Chapter 8 of the Metro-Code and Chapter 2 of the South Florida Building Code to accomplish the separation and to have the Chief Building Code Compliance Officer serve as Secretary of the Board of Rules & Appeals. The Chief Building Code Compliance Officer will serve at the will of the County Manager and report to the County Manager's Office, but will receive technical direction from the Board. This ordinance also re-establishes reporting requirements for the Board and its staff.

The Board of Rules & Appeals staff is currently funded by Building and Zoning Department Revenue. The ordinance enables establishment of a code compliance fee to be collected by each building jurisdiction and transmitted to a special fund held by Dade County to fund the Building Code Compliance Office. This compliance fee will be determined based on the value of construction and added to the permit fee. The ordinance also provides for the establishment of a fee schedule for the sale of the South Florida Building Code, certification of building officials and other services provided by the office.

The substitute differs from the version approved on first reading in two respects: The name of the Code Enforcement Office has been changed to Building Code Compliance Office in order to more accurately describe the function it serves in interpreting the South Florida Building Code and providing assistance to municipalities in ensuring compliance with the Code. The alternate also modifies the qualifications for the Chief Building Code Compliance Officer to allow consideration of registered architects.

Attachment

Amended
Substitute
Agenda Item No. 2(h)
7-9-91

ORDINANCE NO. 91-73

ORDINANCE AMENDING CHAPTER 8 OF THE CODE OF METROPOLITAN DADE COUNTY AND CHAPTER 2 OF THE SOUTH FLORIDA BUILDING CODE, RELATING TO BOARD OF RULES AND APPEALS AND TO ENFORCEMENT OF SOUTH FLORIDA BUILDING CODE; PROVIDING FOR INDEPENDENCE OF THE BOARD OF RULES AND APPEALS AND FOR INDEPENDENT COUNTY-WIDE BUILDING CODE ENFORCEMENT FROM THE DADE COUNTY BUILDING AND ZONING DEPARTMENT, PROVIDING FOR A SECRETARY TO THE BOARD, PROVIDING FOR A FUNDING SOURCE; PROVIDING INCLUSION IN THE CODE, SEVERABILITY AND AN EFFECTIVE DATE

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF DADE COUNTY, FLORIDA:

Section 1. Chapter 8 Code of Metropolitan Dade County, Florida, is amended as follows: 1/

Sec. 8-1. Adoption of South Florida Building Code.

The "South Florida Building Code" 1957 Edition ~~is as adopted by Dade County Ordinance 57-22 and amended by this Board of County Commissioners shall be~~ as the building code for both the incorporated and unincorporated areas of the county as a uniform building code.

1/ Words struck through shall be deleted. Underscored words constitute the amendments proposed. Remaining provisions are now in effect and shall remain unchanged.

Sec. 8-2. Board of Rules and Appeals and
Building Code Compliance Office.

(a) Established. The Building Code
Compliance Office is hereby established
to insure that the South Florida
Building Code is uniformly enforced
throughout the incorporated and
unincorporated areas of the County. The
chief building code compliance officer
shall be appointed by and shall serve at
the will of the County Manager and shall
also serve as Secretary to the Board of
Rules and Appeals. The chief building
code compliance officer shall be chosen
by the manager on the basis of his
qualifications and experience in the
fields of building construction and the
development and enforcement of
construction regulations. Such
individual shall be a professional
engineer licensed to practice in the
State of Florida under the provisions of
Chapter 471, Florida Statutes; or an
architect registered under the
provisions of Chapter 481, Florida

Statutes. The chief building code compliance officer shall be responsible for the implementation of the directives of the Board of Rules and Appeals relating to the South Florida Building Code. The organization and operating procedures of this Office shall be described in administrative orders and regulations of the County Manager. The Manager shall appoint such employees and other personnel, including technical staff in each of the building trades, and sufficient administrative and clerical support to implement the directives of the Board. The salaries and compensation of all personnel, except employees within the classified service, shall be fixed by the County Commission upon recommendation of the Manager. The chief building code compliance officer shall be exempt from the classified service.

(b) Powers and duties: membership. The Board shall have the powers and duties set forth in this chapter and in the South Florida Building Code. Membership

of the Board shall be as set forth in the South Florida Building Code.

(c) Funding. All applications for building permits and premise permits issued pursuant to the South Florida Building Code shall be on a form approved by the Board of Rules and Appeals and, in addition to any other fees charged by any county or municipal building official, shall include a building code compliance fee to be determined, assessed and collected in the manner contemplated in this section. The compliance fees paid by permit applicants shall be deposited in a separate County fund and shall be used exclusively for the Building Code Compliance Office to pay for the costs of the following services and regulation activities related to uniform interpretation and enforcement of the South Florida Building Code within the incorporated and unincorporated areas of the county:

(1) administrative and legal support for the Board of Rules and Appeals:

- (2) studies and investigations requested by the Board of Rules and Appeals to enable it to recommend appropriate revisions to the South Florida Building Code to keep abreast of new developments in building design, construction, and standards:
- (3) codification and dissemination of interpretations and rulings made by the Board of Rules and Appeals:
- (4) certification, recertification and decertification of construction trade inspectors, processors and chiefs:
- (5) codification and writing of the South Florida Building Code:
- (6) providing guidance in the resolution of citizen complaints regarding building code violations:
- (7) investigation, preparation and prosecution of enforcement activities pursuant to the South Florida Building Code, or actions pursuant to Chapter 8CC of this Code which are governed by the South Florida Building Code:

(8) prevention of any imminent
threat of any violation of the
South Florida Building Code;

(9) training and testing of
building inspectors, plans
processors and code compliance
officers; and

(10) administrative quasi-judicial
appeals heard by Board of Rules and
Appeals to affirm, modify or
reverse any action taken by a
building official.

No part of said fund shall be used for
purposes other than those set forth in
this section.

Sec. 8-2 8-3 References to
officials in building code.

Any reference in the building code to
the "building official" in its
application to the unincorporated areas
of Dade County shall mean the "director
of the building and zoning department"
or his designee. And any reference in
the building code to "appointing
authority" or "legislative authority" or
"elected official" in its application to

~~the unincorporated areas of Dade County~~
shall mean the "county commission."

Sec. ~~8-3~~ 8-4. Prosecution of violations
of building code; appeals from
decisions of the Board of Rules and
Appeals.

(a) All violations of the South Florida
Building Code shall be prosecuted in the
metropolitan county court.

(b) All appeals from decisions of the
Board of Rules and Appeals shall be
filed in the circuit court in accordance
with the Florida Rules of Appellate
Procedure.

Sec. ~~8-4~~ 8-5. Application of building
code; enforcement; issuance of building
permits; chief building code enforcement
compliance officer.

The South Florida Building Code is
applicable in both the incorporated and
unincorporated areas of the county.

(a) In the unincorporated areas of the
county, the director of the building and
zoning department shall have the powers
and duties of the building official and
he, through county personnel acting
under his control and supervision, shall
enforce the code, perform the

inspections required by the code and collect the fees therein prescribed. In the unincorporated area of the county, the director of the public works department, through county personnel acting under his control and supervision, shall enforce the code, perform the inspections required by the code and collect the fees therein prescribed, on all paving and drainage on public right-of-way and private property.

(b) In the incorporated areas of the county, the building official appointed by the governing body of each municipality or other lawfully delegated authority on behalf of the municipality, shall issue building permits and conduct the necessary inspections in accordance with the code and may charge fees therefor, and such building official shall enforce the provisions of the code within the municipality he serves.

~~(c) To insure that the code is adequately and uniformly enforced throughout the county, a code~~

~~enforcement team under the direct supervision of a code enforcement officer is hereby established. The code enforcement officer shall act under the direction of and be responsible to the Dade County Board of Rules and Appeals. Subject to appropriation of funds and approval of salaries by the county commission, the county manager shall employ all personnel required and the board of rules and appeals may recommend the appointment of specific persons. The code enforcement officer shall be exempt from the classified service and shall serve at the will of the county manager. The board of rules and appeals may recommend the replacement of this officer.~~

(d) (c) The chief building code compliance enforcement officer or any member of the code enforcement team his staff so authorized in writing by him is empowered within each municipality and the unincorporated area of Dade County to enter upon any property to inspect or reinspect construction, to order a

contractor or other person to stop work being done in violation of the code, to order that work be redone in conformance with the code, and to perform any act delegated to the building official of the jurisdiction concerned which is not, in his judgement, adequately or uniformly enforcing the provisions of the code. Such orders shall supersede and nullify the orders or actions of the building official of the jurisdiction concerned; provided, however, that the chief building code enforcement compliance officer shall advise the local building official of the jurisdiction concerned before any inspection or reinspection takes place, and he shall afford the local building official an opportunity to obtain compliance. If code compliance is not thus obtained, he shall proceed to enforce the code as herein above authorized. The chief building code enforcement compliance officer shall give prompt written notice to the local building official and the governing body

of, the jurisdiction concerned of any such action.

(e) (d) Any order of the chief building code enforcement compliance officer may be appealed in accordance with the provisions of Section 203 of the South Florida Building Code by any interested party, including the building official, to the Board of Rules and Appeals, which Board shall affirm, reverse or modify the order after an administrative hearing. The filing of a notice of appeal shall not supersede any stop work order but shall supersede during the pendency of the appeals any order requiring affirmative action.

(f) (e) The chief building code enforcement compliance officer shall make a monthly report to the Board of Rules and Appeals of all action taken, and The Board of Rules and Appeals shall make a monthly an annual report to the county commission on the operation of the South Florida Building Code, its enforcement, its effect on building trends and other results.

Sec. 8-6. Building permits; additions or corrections to approved plans.

No building official, plans examiner, or other county or municipal employee may require, as a condition of obtaining a certificate of occupancy, additions or corrections to approved plans upon which a building permit has been issued, unless such additions or corrections are specifically mandated by the South Florida Building Code, the South Florida Fire Prevention Code, or other applicable code, law, rule or regulation, or unless such additions or corrections are essential to the public health, safety, or welfare. If a permit holder appeals, to an appropriate administrative board, the imposition of any additions or corrections which are not mandated by applicable code, law, rule, or regulation, the official or other person imposing the additions or corrections shall have the burden of establishing that the additions or corrections are essential to the public health, safety, or welfare.

Sec. 8-5 ~~8-7~~. Unsafe structures and housing appeals board; ~~board of rules and appeals~~; powers; jurisdiction; secretary.

The unsafe structures and housing appeals board ~~and the board of rules and appeals~~ shall exercise county-wide the powers respectively granted to them by the South Florida Building Code and shall have exclusive jurisdiction in both the incorporated and unincorporated areas of Dade County in respect to their respective powers, duties and functions prescribed in the said code, and that the director of the building and zoning department of the county shall be the secretary of said board.

Section 2. Chapter 2 of the South Florida Building Code, is amended as follows:

203.1 MEMBERSHIP:

(a) (1) Membership of the Board of Rules and appeals shall consist of 2 architects, 4 general contractors, 2 structural engineers, 2 mechanical

engineers, 2 master electricians, 2 master plumbers, 4 representatives of the fire services, 1 developer, 1 environmentalist, and 6 non-professional persons. ~~2 persons nominated by the Bada County League of Cities, Inc. acceptable to the Appointing Authority,~~ and 6 non-professional persons. All members of the Board except the 6 non-professional representatives shall have been active in their respective profession, trade, or occupation for not less than 10 years.

* * *

203.3 MEETINGS:

(a) Meetings of the Board of Rules and Appeals shall be held at the call of the Chairman ~~and/or Building Official and at such other times as the Board may determine.~~ and not less frequently than once per quarter.

(b) The Board shall select one of its members to serve as chairman and one to serve as vice chairman, to act in the absence of the chairman. ~~The Building Official shall serve as Secretary to the Board.~~

A detailed record of all proceedings shall be kept on file in the office of the ~~Building Official~~ Secretary to the Board. The Board shall establish rules and regulations for its own procedure.

(c) (1) All hearings shall be open to the public, and any given person whose interest may be affected by the matter on appeal shall be given an opportunity to be heard.

(2) The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper the admission of such evidence over objection in civil actions.

(3) Witnesses may be sworn and subpoenaed by the Board in a like manner as they are by the court or courts in the county in which the Code is adopted.

(4) Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions.

(5) The rules of privilege shall be effective to the same extent that they are now, or hereafter may be, recognized in civil actions; and irrelevant and unduly repetitious evidence shall be excluded.

(d) No member of the Board shall sit as a voting member in any hearing involving any question in which he has personal or financial interest.

(e) A simple majority of the appointed Four members of the Board shall constitute a quorum. Decisions of the board shall be made by the vote of a majority of members present who constitute a quorum. ~~at least four favorable votes.~~ The Board shall reach decisions without unreasonable or unnecessary delay.

(f) Written notice of Board decisions shall be signed by the Secretary to the Board and shall be filed with the Secretary and furnished to the appellant within ten days of the Board's action and to other persons appearing before the Board upon request. when requested.

(g) The Building Official: All affected parties shall take immediate action in accordance with decisions of the Board.

203.4 DUTIES:

(a) **APPEAL FROM DECISION OF BUILDING OFFICIAL:** The Board shall hear all appeals from the decisions of the Building Official wherein such decision is on matters regulated by this Code from any person aggrieved thereby, and specifically as set forth in Section 204, "Alternate Materials and Types of Construction." Application for appeal shall be in writing and addressed to the Secretary of the Board.

(b) **INTERPRET CODE AT REQUEST OF BUILDING OFFICIAL:** The Board shall pass on all matters pertaining to this Code and referred to the Board by the

Secretary to the Board or any Building
Official for interpretation or
clarification.

203.6 RECIPROCITY:

(c) From the effective date of this
Code, and unless and until an ordinance
or other regulatory law to the contrary
is adopted, the authority of the Board
of Rules and Appeals is retained by the
governing body legislative authority of
the jurisdiction.

203.7 COURT COMPLIANCE: Any person
aggrieved by a decision of the Board of
Rules and Appeals, whether or not a
previous party to the decision, may
apply to the appropriate court to
correct errors of law of such decisions.
Any order, requirement, decision or
determination of the Board of Rules and
Appeals shall be reviewed by the filing
of a notice of appeal in the Circuit
Court of the Eleventh Judicial Circuit
in and for Dade County, Florida, in
accordance with the procedure and within
the time provided by the Florida Rules
of Appellate Procedure for the review of

the rulings of any commission or board;
and such time shall commence to run from
the date that the Board's order,
requirement, decision or determination
sought to be reviewed is transmitted
~~rendered to the Director of the~~
~~Building and Zoning Department. The~~
~~Director, or his duly authorized~~
~~representative, shall affix to each~~
~~order, requirement, decision or~~
~~determination of the Board the date said~~
~~order, requirement, decision or~~
~~determination is transmitted. The~~
Director Secretary to the Board or his
designee may be designated as the clerk
of the Board and shall comply with all
requirements of the Florida Rules of
Appellate Procedure.

Section 3. If any section, subsection, sentence,
clause or provision of this ordinance is held invalid, the
remainder of this ordinance shall not be affected by such
invalidity.

Section 4. It is the intention of the Board of County
Commissioners, and is hereby ordained that the provisions of
Section 1 shall become and be made a part of the Code of
Metropolitan Dade County, Florida, and that the provisions

of Section 2 shall become and be made a part of the South Florida Building Code. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

Section 5. The masculine gender is used for convenience of reference only and shall be understood to be gender neutral.

Section 6. This ordinance shall become effective October 1, 1991.

PASSED AND ADOPTED: JUL 09 1991

Approved by County Attorney as
to form and legal sufficiency: 

Prepared by: 

STATE OF FLORIDA)
DADE COUNTY) SS:

I, HARVEY RUVIN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above foregoing is a true and correct

COPY OF ORDINANCE 91-73 PASSED AND ADOPTED JULY 9, 1991

_____ as appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on
this 30TH day of JUNE A.D. 1999.

HARVEY RUVIN, Clerk
Board of County Commissioners
Dade County, Florida

By *[Signature]*
Deputy Clerk



SEAL

Board of County Commissioners
Dade County, Florida

STATE OF FLORIDA)
) SS:
COUNTY OF DADE)

I, HARVEY RUVIN, Clerk of the Circuit Court in and for Dade County, Florida, and Ex-Officio Clerk of the Board of County Commissioners of said County, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Ordinance 91-73, adopted on July 9, 1991, by The Board of County Commissioners.

_____ as appears of record.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on this 20th day of June, A.D. 2003.

HARVEY RUVIN, Clerk
Board of County Commissioners
Dade County, Florida



SEAL

By *Felicia Nunez*
Deputy Clerk

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Board of County Commissioners
Dade County, Florida

APPENDIX D

MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF FEBRUARY 21, 2008

Members Present: William Derrer, Chairman
Thomas Utterback, Sergeant at Arms

J. Robert Barnes
Juan Dalla Rizza, P.E.
Chief Virgil Fernandez
Alfonso Fernandez-Fraga, P.E.
Carmen Garcia
Jesus Gomez

Richard Horton, Vice-Chairman

Herbert Gopman, P.E.
John Kurzman
Gregory Pierce
Myron Rosner
Enrique Salvador
Edward Woodward

Members Absent: Rolando Diaz, P.E.
Mario R. Espineira, Jr.

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

Court Reporter: Tanya Settel, Official Reporting Services, LLC

The meeting commenced at 1:05 P.M.

MINUTES OF JANUARY 17, 2008

Chairman William Derrer requested a motion to approve the minutes of the January 17, 2008 meeting. A motion was made, seconded and carried to accept the minutes.

The motion carried unanimously.

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

REPORT

2008 Sunset Review Report

Kathy Charles, Director of the Building Code Compliance Office Policy, Operations and Board Administration, addressed the Board on this report stating that the Sunset Review has moved to a Bi-Annual Report. She indicated that this report covers calendar year 2006 and 2007 with questions remaining primarily the same from previous submissions. However, Ms. Charles stated that, because it is the Board's report to the Board of County Commissioners on the Board's activity, it is presented to the Board in order to allow for changes that the Board feels are appropriate. The Chairman, William Derrer asked for an addition to item # 5: "Should the ordinance creating the Board be amended to better enable the Board to serve the purpose for which it was created?". Mr. Derrer incorporated that the following language be "Additionally, the Board has requested modification to Chapter 8 to allow consideration of experience in certifying Code personnel" which is a proposed ordinance by Commissioner Barreiro. A motion was made by Thomas Utterback to accept the report as modified. The motion was seconded by Chief Virgilio Fernandez.

The motion carried unanimously.

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

APPENDIX E

**BOARD OF RULES AND APPEALS
2006 RECAP OF ACTIONS TAKEN**

	Jan 06	Feb 06	Mar 06	Apr 06	May 06	June 06	July 06	Aug 06	Sept 06	Oct 06	Nov 06	Dec 06	
INTERPRETATIONS	0	0	2	0	0	0	0		0	0	0	0	
BUILDING OFFICIAL APPEALS	1	3	0	2	1	2	4		3	1	0	1	
WAIVER OF CODE HISTORICAL BUILDINGS	0	0	0	0	0	0	0		0	0	0	0	
TCO/TCC EXTENSIONS	11	8	5	7	7	6	5		5	3	2	6	
FORMAL HEARINGS	2	7	26	1	4	12	10		7	1	5	7	
PROBABLE CAUSE	6	5	7	8	8	0	1		4	13	0	4	
								R E C E S S					

**BOARD OF RULES AND APPEALS
2007 RECAP OF ACTIONS TAKEN**

	Jan 07	Feb 07	Mar 07	Apr 07	May 07	June 07	July 07	Aug 07	Sept 07	Oct 07	Nov 07	Dec 07
INTERPRETATIONS	0	0	0	1	1	0	0	R E C E S S	1	1	2	1
BUILDING OFFICIAL APPEALS	2	7	1	1	4	1	3		2	0	1	2
WAIVER OF CODE HISTORICAL BUILDINGS	0	0	0	0	0	0	0		0	0	0	0
TCO/TCC EXTENSIONS	0	1	4	3	2	1	3		5	3	3	2
FORMAL HEARINGS	0	6	8	6	3	3	10		20	9	6	9
PROBABLE CAUSE	10	1	1	6	7	22	4		6	16	1	12