

Memorandum



Date: March 2, 2010

To: Honorable Chairman Dennis C. Moss and
Members, Board of County Commissioners

From: George M. Burgess
County Manager

Subject: Sunset Review of County Boards for 2010 – Board of Rules and Appeals

Agenda Item No.
1(F)4

In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2010 Sunset Review of County Boards Report for the Board of Rules and Appeals. The Board approved the attached report at its meeting on December 17, 2009 and has recommended the continuation of its board.

A handwritten signature in black ink, appearing to read "Alex Muñoz". The signature is written in a cursive style and is positioned above a horizontal line.

Alex Muñoz
Assistant County Manager

cno17310

Date: December 17th, 2009
To: George M. Burgess
County Manager
From: William Derrer
Chairperson, Unsafe Structures Board
Subject: Sunset Review of County Boards for 2010 – Board of Rules and Appeals

Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2010 Sunset Review of County Boards Report for the Board of Rules and Appeals for transmittal to the Board of County Commissioners (BCC). The Board approved the attached report at its meeting of December 17th 2009.

It is recommended that 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.



William Derrer
Board Chairperson

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2008-09 SUNSET REVIEW
MIAMI DADE COUNTY
BOARD OF RULES AND APPEALS

JANUARY 2010

Submitted to:

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

**BI-ANNUAL SUNSET REVIEW
MIAMI-DADE COUNTY BOARDS
JANUARY 2010**

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, 2008 through December 31, 2009):

Twenty-(20) meetings were held during 2008 through December 31, 2009. Quorum was obtained for all the meetings held during 2008. One-(1) meeting cancelled in July and one-(1) meeting with no quorum for October of 2009.

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" 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 excellent attendance at the monthly meetings. (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 **2008** and the **2009**. (See Appendix "E")

- **1165** Certifications and Recertification's of Building Officials, Plans Examiners and Inspectors
- **118** Extensions - Temporary Certificate of Occupancy or Temporary Certificate of Completion
- **47** Building Official Appeals
- **5** Official Interpretations of the Building Code
- **206** Formal Hearings (**State Certified Contractors**)
- **232** 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 is one-(1) vacancy in the capacity of Building Trades Council on the Board.

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 2008 was \$30,986 and \$352,882 respectively and for Fiscal Year 2009 was \$20,947 and \$438,795 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. In addition, the Board has rendered determination on various appeals and building code matter.

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

APPOINTMENTS
DADE COUNTY BOARD OF RULES AND APPEALS

<u>Members</u>	<u>Category</u>	<u>Commissioner</u>	<u>Term Expiration</u>	<u>Appointment</u>
Barnes, J. Robert	Architect	Sorenson	11/30/2010	10/97
Dalla Rizza Juan	Electrical Engineer	Sosa	11/30/2010	11/08/06
Derrer, William	General Contractor	Heyman	11/30/2010	02/14/04
Diaz, Rolando	Developer	At-Large	4/8/2006	12/96
Espineira, Mario R.	Homeowner's Association	At Large	9/30/2010	9/4/2007
Fernandez-Fraga, Alfonso	Mechanical Engineer	Diaz	10/31/2006	11/16/02
Fernandez, Virgil	Fire Service	Martinez	11/30/2008	11/2000
Garcia, Carmen T.	Architect	Seijas	11/30/2008	1/2000
Gomez, Jesus M.	General Contractor	Souto	11/30/2010	5/17/97
Gopman, Herbert	Structural Engineer	Jordan	11/30/2008	2/22/07
Horton, Richard M.	Mechanical Master	Moss	11/30/2008	1/97
Kurzman, John	Dade League of Cities	At Large	04/22/2011	1/97
Pierce, Gregory	Roofing Contractor	Gimenez	11/30/2012	9/16/2008
Rosner, Myron	Dade League of Cities	At Large	9/12/2009	9/12/06
Salvador, Enrique	Plumbing Master	Barreiro	11/30/2008	3/97
Smith, Paul L.	Fire Service	Edmonson	11/30/2008	07/10/2008
Utterback, Thomas	Representative of Disabled Com	Heyman	11/30/2010	3/97
Woodward, Edward	Electrical Master	Rolle	10/31/2006	1/97

Vacancies

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>

2008 ATTENDANCE FOR THE BOARD OF RULES AND APPEALS

Board Members	Jan 08	Feb 08	Mar 08	Apr 08	May 08	Jun 08	Jul 08	Aug 08	Sep 08	Oct 08	Nov 08	Dec 08	TOTAL ATTENDANCE
Barnes, J. Robert	P	P	E	P	P	P	P		P	P	P	P	10
Derrer, William	P	P	P	E	P	P	E		P	P	P	P	9
Diaz, Rolando	P	P	P	P	P	P	P		P	P	A	P	10
Espineira, Mario R.	NM		NM	E	P	E	1						
Fernandez, Chief Virgil	P	P	A	E	P	P	A		P	P	P	E	7
Fernandez-Fraga, Alfonso	P	P	P	P	P	P	E		P	P	P	P	10
Garcia, Carmen	P	P	P	A	A	P	P		P	P	P	P	9
Gomez, Jesus M.	P	P	P	P	P	P	E		E	P	P	E	8
Gopman, Herbert	P	P	P	P	P	E	P		P	P	P	P	10
Horton, Richard	A	P	E	P	P	E	P		E	P	P	P	7
Kurzman, John	P	P	P	P	P	E	P		P	P	P	P	10
Pierce, Gregory	A	P	P	P	P	P	P		P	P	P	A	9
Rizza, Juan Dalla	P	P	P	P	P	P	P		P	P	P	E	10
Rosner, Myron	P	P	P	P	E	P	E		A	E	P	P	7
Salvador, Enrique	P	P	P	P	P	P	P		E	P	A	P	9
Smith, Chief Paul	NM		NM	P	E	E	1						
Utterback, Thomas	P	P	P	P	P	P	P		P	P	P	P	11
Woodward, Edward	P	P	P	E	E	P	E		P	P	P	P	8
Code:													
P= Present													
A= Absent													
E= Excused													
R= Resigned													
NM= Not a member													

2009 ATTENDANCE FOR THE BOARD OF RULES AND APPEALS

Board Members	Jan 09	Feb 09	Mar 09	Apr 09	May 09	Jun 09	Jul 09	Aug 09	Sep 09	Oct 09	Nov 09	Dec 09
Barnes, J. Robert	P	P	P	P	P	P	C		P	N	P	P
Dalla Rizza, Juan	P	P	E	P	P	P			P		P	P
Derrer, William	P	P	P	P	P	P	A		P	O	P	P
Diaz, Rolando	P	P	E	A	E	P			P		P	P
Espineira, Mario R.	E	P	A	P	P	A	N		P		P	E
Fernandez, Chief Virgil	P	P	P	P	P	P			P	Q	P	P
Fernandez-Fraga, Alfonso	P	P	E	P	P	P	C		P		P	P
Garcia, Carmen	P	E	P	E	P	E			P	U	P	P
Gomez, Jesus M.	P	E	P	P	P	P	E		P		P	P
Gopman, Herbert	P	P	P	P	E	P			P	O	P	P
Horton, Richard	P	P	P	P	P	E	L		P		E	E
Kurzman, John	P	P	P	P	P	P			P	R	P	P
Pierce, Gregory	P	P	E	E	P	P	L		P		P	P
Rosner, Myron	E	P	E	E	P	P			P	U	P	P
Salvador, Enrique	P	P	P	P	P	P	A		P		P	P
Smith, Chief Paul	P	P	P	E	P	P			P	M	E	P
Utterback, Thomas	P	P	P	P	P	P	T		P		P	P
Woodward, Edward	E	E	P	E	E	P			E		P	P
Code:							I					
P= Present												
A= Absent							O					
E= Excused												
R= Resigned							N					
NM= Not a member												

OFFICIAL FILE COPY
CLERK OF THE BOARD
COUNTY CLERK'S OFFICE



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
0891-73

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 SCC 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 B-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 Bada County~~
shall mean the "county commission."

~~Sec. 6-3 R-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. 6-4 R-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 Bode 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

Amended
Substitute
Agenda Item No. 2(h)
Page No. 20

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

MEMORANDUM

Agenda Item No. 7(D)

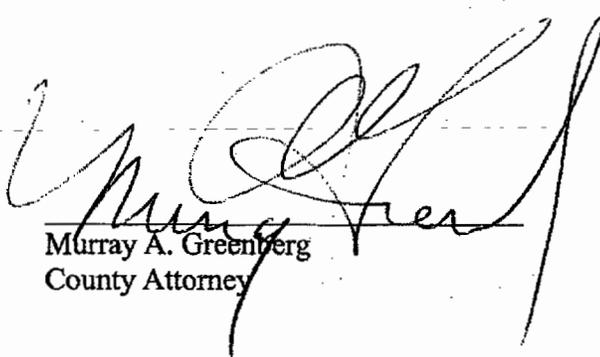
TO: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

DATE: February 7, 2006

FROM: Murray A. Greenberg
County Attorney

SUBJECT: Ordinance amending Section
8-4 of the Code; pertaining to
membership of the Board of
Rules and Appeals

The accompanying ordinance was prepared and placed on the agenda at the request of
Commissioner Jose "Pepe" Diaz.


Murray A. Greenberg
County Attorney

MAG/jls

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Memorandum



Date: February 7, 2006

To: Honorable Chairman Joe A. Martinez
and Members, Board of County Commissioners

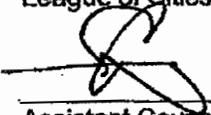
From: George M. Burge
County Manager

A handwritten signature in black ink, appearing to read "Burge", written over the printed name of the County Manager.

Subject: Ordinance pertaining to member of the Board of Rules and Appeals

This ordinance pertaining to membership of the Board of Rules and Appeals (BORA) will not have a fiscal impact to Miami-Dade County.

The implementation of this ordinance will result in one additional member to BORA bringing the total membership to twenty from nineteen and will permit one additional appointee by the Miami-Dade League of Cities which can include past elected officials.



Assistant County Manager

Fiscal01406

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Approved _____ Mayor
Veto _____
Override _____

Agenda Item No. 7(D)
2-7-06

ORDINANCE NO. _____

ORDINANCE PERTAINING TO MEMBERSHIP OF THE BOARD OF RULES AND APPEALS; AMENDING SECTION 8-4 OF THE CODE OF MIAMI-DADE COUNTY, FLORIDA; PROVIDING SEVERABILITY, INCLUSION IN THE CODE, AND AN EFFECTIVE DATE

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

Section 1. Section 8-4 of the Code of Miami-Dade County, Florida, is hereby amended to read as follows:¹

Sec. 8-4. Board of Rules and Appeals.

* * *

(b) *Membership.* Membership of the Board shall be as follows:

- (1) The Board shall contain 19 members, representing the following disciplines: 2 architects, 2 general contractors, each of whom shall be experienced in residential and commercial construction respectively, 1 roofing contractor, 1 structural engineer, 1 mechanical engineer, 1 electrical engineer, 1 mechanical master or mechanical contractor, 2 representatives of the fire services, 1 electrical master or electrical contractor, 1 plumbing master or plumbing contractor, and 6 non-professional persons. Non-professional persons shall include one representative of the disabled community, one representative of the South Florida Building Trades Council, ~~[[one]]~~ >>two<< person ~~>>s<<~~ nominated by the Miami-Dade County League of Cities, Inc., one developer and one representative of a homeowner association. The representative of the homeowner association shall be qualified by training or experience to pass on matters pertaining to construction and shall not be

¹ Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted. Words underscored and/or >>double arrowed<< constitute the amendment proposed. Remaining provisions are now in effect and remain unchanged.

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related directly or indirectly to the construction industry. With the exception of the representatives of the fire services and the elected official>>§<< of a municipality nominated by the Miami-Dade County League of Cities, Inc., no member of the Board shall be an officer, agent or employee of the County or any municipality governed by this Code. All members of the Board except the nominee of the Miami-Dade County League of Cities, Inc., shall have been active in their respective profession, trade, or occupation for not less than 10 years.

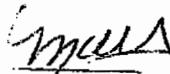
Section 2. If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance shall not be affected by such invalidity.

Section 3. It is the intention of the Board of County Commissioners, and it is hereby ordained that the provisions of this ordinance, including any sunset provision, shall become and be made a part of the Code of Miami-Dade County, Florida. 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 4. This ordinance shall become effective ten (10) days after the date of enactment unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

PASSED AND ADOPTED:

Approved by County Attorney as
to form and legal sufficiency:



Prepared by:



Maria Arista-Volsky

Sponsored by Commissioner Jose "Pepe" Diaz

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MINUTES OF THE BOARD OF RULES AND APPEALS
MEETING OF DECEMBER 17, 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
Jesus Gomez
Herbert Gopman
John Kurzman
Gregory Pierce
Myron Rosner
Enrique Salvador
Paul L. Smith
Edward Woodward

Members Excused: Mario Espineira, Jr.
Richard Horton, **Vice-Chairman**

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 November 19, 2009

Mr. Derrer requested a motion to **approve** the minutes of the **November 19, 2009** meeting. A motion was made by Gregory Pierce and seconded by Chief Virgilio Fernandez to accept the minutes as written.

The motion **carried unanimously**.

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

BOARD INFORMATION: Sunset Review Report for 2008-2009 Acknowledgement

The Chairman, William Derrer, directed the Board members to the Sunset Review Report. Kathy Charles addressed the Board on this report indicating that the informational questions remained the same as prior years, with the Board's recent activities updated.

A motion was made by Tom Utterback and seconded by Gregory Pierce to accept the report as written.

The motion **carried unanimously**.

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

**BOARD OF RULES AND APPEALS
2008 RECAP OF ACTIONS TAKEN**

	Jan 08	Feb 08	Mar 08	Apr 08	May 08	June 08	July 08	Aug 08	Sept 08	Oct 08	Nov 08	Dec 08
INTERPRETATIONS	0	0	0	0	0	0	0		0	0	0	2
BUILDING OFFICIAL APPEALS	1	3	2	2	5	4	1		0	2	3	5
WAIVER OF CODE HISTORICAL BUILDINGS	0	0	0	0	0	0	0		0	0	0	0
TCCO/TCC EXTENSIONS	3	2	4	1	1	3	5		2	5	2	0
FORMAL HEARINGS	7	12	11	4	10	6	10		25	10	21	12
PROBABLE CAUSE	9	7	2	11	10	17	19		8	17	9	3
	R E C E S S											

**BOARD OF RULES AND APPEALS
2009 RECAP OF ACTIONS TAKEN**

	Jan. 09	Feb. 09	Mar. 09	Apr. 09	May 09	June 09	July 09	Aug. 09	Sept 09	Oct. 09	Nov. 09	Dec 09
INTERPRETATIONS	0	0	1	1	0	0	M E E T I N G		1	N O	0	
BUILDING OFFICIAL APPEALS	2	3	1	2	3	0	C A N C E L L E D	R E C E S S	4	Q U O R U M	18	
WAIVER OF CODE HISTORICAL BUILDINGS	0	0	0	0	0	0			0		0	
TCO/TCC EXTENSIONS	0	5	21	1	0	25			3		18	
FORMAL HEARINGS	12	7	12	7	11	6	4		7	6	6	
PROBABLE CAUSE	12	12	14	4	11	16	9		15	9	18	