

# Memorandum



**Date:** May 1, 2012

Agenda Item No. 1F5

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

**From:** Carlos A. Gimenez  
Mayor

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

**Subject:** Sunset Review of County Boards for 2012 – Fire Prevention and Safety Appeals Board

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In accordance with the provisions of Section 2-11.40 of the Code of Miami-Dade County, I am transmitting the 2012 Sunset Review of County Boards Report for the Fire Prevention and Safety Appeals Board. The Board approved the attached report at its meeting of January 26, 2012 and has recommended the continuation of its board.

A large, stylized handwritten signature in black ink, likely belonging to the Deputy Mayor mentioned in the caption below.

Deputy Mayor

mayor06612

**Date:** January 26, 2012  
**To:** Carlos A. Gimenez  
Mayor  
**From:** Lawrence L. Cohan  
Chairperson, Fire Prevention and Safety Appeals Board  
**Subject:** Sunset Review of County Boards for 2012 - Fire Prevention and Safety Appeals Board

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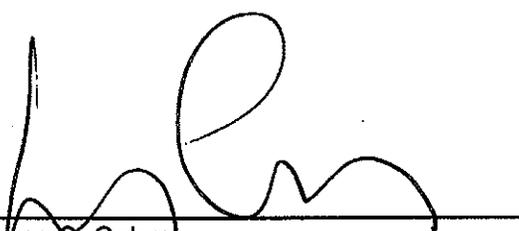
Pursuant to Section 2-11.40 of the Code of Miami-Dade County, I am submitting the 2012 Sunset Review of County Boards Report for the Fire Prevention and Safety Appeals Board for transmittal to the Board of County Commissioners (BCC). The Board approved the attached report at its meeting of January 26, 2012.

It is recommended that the BCC approve the continuation of the Fire Prevention and Safety Appeals Board.

#### **BACKGROUND**

The current configuration of the Fire Prevention and Safety Appeals Board was created and established in 1989 primarily as a means for the public to have a decisive voice in the decision-making process regarding the application of fire codes and standards by the various fire departments throughout Miami-Dade County. The Board rules on decisions of the fire marshals, resolves conflicts in fire code, rules on alternatives to fire codes, in both new and existing construction, and performs other duties as established in County code Section 14-46.

The Board fulfills the purpose for which it was established. That purpose continues to be a necessary and important element in the overall program of responsive governance in the county.



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Lawrence S. Cohan  
Board Chairperson

**SUNSET REVIEW QUESTIONNAIRE  
MIAMI-DADE COUNTY BOARDS  
2012**

**I. GENERAL INFORMATION**

1. Name of Board reporting:

Fire Prevention and Safety Appeals Board

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

Number of Board Members: Ten (10)

Terms of Office: Three (3) years

Number of Vacancies: Three (3)

3. Identify number of meetings and members' attendance (Attach records reflecting activity from **Jan. 1, 2010** through **December 31, 2011**:

Number of Meetings: Four (4)

Number of Meetings with a Quorum: Four (4)

Attendance Records: See Attachment 1 and 2

**2010**

January 28, 2010 – Regular meeting (8 of 10 attended)

March 25, 2010 – Cancelled regular meeting – No appeals to be heard

May 27, 2010 – Cancelled regular meeting – No appeals to be heard

July 29, 2010 – Cancelled regular meeting – No appeals to be heard

September 30, 2010 – Cancelled regular meeting – No appeals to be heard

November 18, 2010 – Cancelled regular meeting – No appeals to be heard

**2011**

January 27, 2011 – Regular meeting (8 of 10 attended)

March 31, 2011 – Regular meeting (9 of 10 attended)

May 26, 2011 - Cancelled regular meeting – No appeals to be heard

July 28, 2011 - Cancelled regular meeting – No appeals to be heard

October 6, 2011 - Cancelled regular meeting – No appeals to be heard

November 17, 2011 – Regular meeting (6 of 10 attended)

4. What is the source of your funding?

Funds come from the Miami-Dade County Fire Rescue / Fire Prevention Division budget.

There is a \$100.00 filing fee which provides a partial source of funding.

5. Date of Board Creation: December 15, 1987, in its current form.

6. Attach a copy of the ordinance creating the Board (Please include all subsequent amendments).

See Attachment 3

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

The Board hears and decides appeals of decisions of the Fire Marshals of all of the Fire Departments in Miami-Dade County.

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

None

9. Attach a copy of the Board's By-Laws, if any.

None

10. Attach a copy of the Board minutes approving the Sunset Review Questionnaire, including a vote of the membership.

See Attachment 4

## II. EVALUATION CRITERIA

1. Is the Board serving the purpose for which it was created? (Please provide detailed information)

Yes, the Board continues to function as a quasi-judicial Board as created in accordance with the Code of Miami-Dade County, Section 14-46. A copy of the Code is attached (Attachment 3).

2. Is the Board serving current community needs? (Please provide detailed information)

Yes, the Board is providing a vital service to the entire community and as defined by the Code of Miami-Dade County, Florida. The Board hears and decides appeals of decisions of the Fire Marshals of all of the Fire Departments in Miami-Dade County.

3. What are the Board's major accomplishments?

a. Last 24 months

The Board reviewed all scheduled appeals and rendered decisions on appeals regarding:

- Failure to provide proper stairs in commercial warehouses in Miami-Dade
- Failure to provide approved storage area over means of egress in commercial warehouses in Miami-Dade
- Failure to provide an approved fire alarm system in commercial office building in Miami-Dade County

b. Since established (in current form December 15, 1987)

The Board is composed of a group of professionals from diverse backgrounds with an exceptional level of expertise charged with and fulfilling the responsibility to interpret consistently the Florida Fire Prevention Code, including but not limited to the Life Safety Code and the Fire Prevention Code, for the entire Miami-Dade County community, including all the municipalities in the County.

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

No, the Fire Prevention and Safety Appeals Board has quasi-judicial responsibilities and duties specifically mandated by Florida statutes and County Code. County Code Chapter 14 prohibits any other board or body from ruling on issues within the jurisdiction of the Fire Prevention and Safety Appeals Board.

**SUNSET REVIEW QUESTIONNAIRE  
MIAMI-DADE COUNTY BOARDS  
2012**

5. Should the ordinance creating the Board be amended to better enable the Board to serve the purpose for which it was created? (If "Yes", attach proposed changes)

No

6. Should the Board's membership requirements be modified?

No

7. What is the operating cost of the Board, both direct and indirect? (Report on FY 2010 and FY 2011)

The direct operating cost of the Board was \$141.00 in 2009 and \$1,465.00 in 2011 for court reporting services.

Indirect operating cost was approximately \$3,838 per year to administer the board, for a total of \$5,838 for personnel costs over the period and incidental expenses, such as postage and office supplies.

8. Describe the Board's performance measures developed to determine its own effectiveness in achieving its stated goals.

The Fire Prevention Code is intended to provide minimum standards and performance measures with respect to fire prevention and life safety standards. The Board interprets the Code based on these standards. To date, no decision rendered by the Board has been reversed by the Appellate Division of the Eleventh Judicial Circuit.

## CLERK OF THE BOARD - BOARD ATTENDANCE RECORD

### Fire Prevention and Safety Appeals Board 2010

Commission District	Name	Date of Meetings										Attendance Percent
		1/28/2010	3/25/2010 Cancelled 3/12/10	5/27/2010 Cancelled 5/12/10	7/29/10 Cancelled 7/15/10	9/30/2010 Cancelled 9/29/10	11/18/2010 Cancelled 11/9/11	Special Meeting				
1	Ulyses S. Banks	P	-	-	-	-	-	-	-	-	-	100.00%
2	Bui Wei	P	-	-	-	-	-	-	-	-	-	100.00%
3	Fernando Fernandez	E	-	-	-	-	-	-	-	-	-	100.00%
4	Mel Cohen	P	-	-	-	-	-	-	-	-	-	100.00%
5	Armando Piedra	P	-	-	-	-	-	-	-	-	-	100.00%
6	Raymond McDonald	E	-	-	-	-	-	-	-	-	-	100.00%
7	Vacant	-	-	-	-	-	-	-	-	-	-	
8	Suzanne Gilmore Appointed 01/09	P	-	-	-	-	-	-	-	-	-	100.00%
9	Al Darring	P	-	-	-	-	-	-	-	-	-	100.00%
10	Vacant	-	-	-	-	-	-	-	-	-	-	
11	Lawrence Cohan	P	-	-	-	-	-	-	-	-	-	100.00%
12	Vacant	-	-	-	-	-	-	-	-	-	-	
13	Ricardo Gonzalez	P	-	-	-	-	-	-	-	-	-	100.00%

Legend

A	Absent
E	Excused
P	Present

## CLERK OF THE BOARD - BOARD ATTENDANCE RECORD

### Fire Prevention and Safety Appeals Board 2011

Commission District	Name	Date of Meetings							Attendance Percent
		1/27/2011	3/31/2011	5/26/2011 Cancelled	7/28/2011 Cancelled	10/6/2011 Cancelled	11/17/2011	Special Meeting	
1	Ulyses S. Banks	P	E				P		100.00%
2	Bui Wei	P	P				P		100.00%
3	Fernando Fernandez	E	P				E		100.00%
4	Mel Cohen	P	P				E		100.00%
5	Armando Piedra	P	P				P		100.00%
6	Raymond McDonald	A	P				P		66.00%
7	Vacant	-	-				-		
8	Suzanne Gilmore	P	P				E		100.00%
9	Al Darring	P	P				A		66.00%
10	Vacant	-	-				-		
11	Lawrence Cohan	P	P				P		100.00%
12	Vacant	-	-				-		
13	Ricardo Gonzalez	P	P				P		100.00%

Legend

A Absent  
E Excused  
P Present

Applicable Sections of Article III, Sect. 14, Code of Miami-Dade County

Sec. 14-43. Resolution of conflict of laws.

(A) In the event of a conflict between (i) the requirements of the South Florida Building Code, as same may be amended from time to time, and (ii) the requirements of the South Florida Fire Prevention Code and this article, as all of same may be amended from time to time, the conflict shall be resolved by agreement between the chief building code enforcement official of the jurisdiction, or his designee, and the chief fire code enforcement official of the jurisdiction, or his designee, in favor of the requirement of either the South Florida Building Code or the South Florida Fire Prevention Code or this article which provides the greatest degree of life safety or alternatives which would provide an equivalent degree of life safety and equivalent method of construction.

(B) Any decision made by the chief building code enforcement official of the jurisdiction, or his designee, and the chief fire code enforcement official of the jurisdiction, or his designee, may be appealed to the Dade County Fire Prevention and Safety Appeals Board.

(1) If the decision of the chief building code enforcement official of the jurisdiction, or his designee, and the chief fire code enforcement official of the jurisdiction, or his designee, is to apply the provisions of either the South Florida Building Code or the South Florida Fire Prevention Code or this article, the Dade County Fire Prevention and Safety Appeals Board may not alter the decision unless the Dade County Fire Prevention and Safety Appeals Board determines that the application of the South Florida Building Code or the South Florida Fire Prevention Code or this article is not reasonable.

(2) If the decision of the chief building code enforcement official of the jurisdiction, or his designee, and the chief fire code enforcement official of the jurisdiction, or his designee, is to adopt an alternative to the South Florida Building Code, South Florida Fire Prevention Code, and this article, the Dade County Fire Prevention and Safety Appeals Board shall give due regard to the decision rendered by the aforesaid officials and may modify that decision if the Dade County Fire Prevention and Safety Appeals Board adopts a better alternative, taking into consideration all relevant circumstances.

(3) In any case in which the Dade County Fire Prevention and Safety Appeals Board adopts alternatives to the decision of the chief building code enforcement official of the jurisdiction, or his designee, and the chief fire code enforcement official of the jurisdiction, or his designee, such alternatives shall provide a degree of life safety and method of construction equivalent to the degree of life safety and method of construction provided by the decision of the aforesaid building code and fire code enforcement officials.

(C) In the event that the chief building code enforcement official of the jurisdiction, or his designee, and the chief fire code enforcement official of the jurisdiction, or his designee, are unable to agree on a resolution of the conflict between the requirements of (i) the South Florida Building Code and (ii) the South Florida Fire Prevention Code and this article, the Dade County Fire Prevention and Safety Appeals Board shall resolve the conflict in favor of the requirement which provides the greatest degree of life safety or alternatives which would provide an equivalent degree of life safety and an equivalent method of construction.

(D) In the event of any conflict between a requirement of (i) this article or the South Florida Fire Prevention Code and (ii) a requirement of Chapter 633, Florida Statutes, as amended from time to time, or the rules promulgated by the State Fire Marshal pursuant to Chapter 633, Florida Statutes, as amended from time to time, or the rules promulgated by the State Fire Marshal pursuant to Chapter 633, Florida Statutes, as said rules may be amended from time to time, the provision which established the most stringent standard shall prevail.

(E) In the event of any conflict between a provision of (i) this article or the South Florida Fire Prevention Code and (ii) a provision of any other County or municipal ordinance, code or regulation, the provisions of subsections (A), (B) and (C) shall apply if the conflict is with a requirement of the South Florida Building Code, or, if the conflict is with a provision other than the South Florida Building Code, then the provision which establishes the most stringent standard shall prevail.

(Ord. No. 87-89, § 3, 12-15-87)

**Sec. 14-46. Dade County Fire Prevention and Safety Appeals Board.**

(A) *Established.* There is hereby created and established the Dade County Fire Prevention and Safety Appeals Board.

(B) *Membership.* This Board shall consist of thirteen (13) members appointed by the County Commission. In order to secure representative membership upon the Board, the Commission shall appoint one (1) architect, one (1) engineer, one (1) property manager, one (1) representative from the fuel industry, one (1) representative from the fire insurance industry, one (1) licensed general contractor possessing a current certificate of competency, two (2) persons who are serving different jurisdictions in the fire fighting service of such jurisdictions, the County Manager or his designee, one (1) representative of the Dade County League of Cities, Inc., one (1) safety engineer certified by a professional safety engineering society, one (1) city or county administrator, and one (1) educator who has expertise in the development of a fire science curriculum. Three (3) members shall be appointed for a term of one (1) year, three (3) members shall be appointed for a term of two (2) years, and three (3) members shall be appointed for a term of three (3) years. Thereafter, all members shall be appointed for a term of three (3) years.

(1) When the jurisdiction of the Dade County Fire Prevention and Safety Appeals Board is exercised pursuant to Section 14-46(D)(2) of the Code of Metropolitan Dade County, Florida, with respect to those duties and responsibilities of the local administrative Board specifically described in Section 553.73(8)(c), Florida Statutes, as amended from time to time, the membership of the Board shall consist of the eleven (11) members set forth in Section 14-46(B) above as well as the following eleven (11) members of the Dade County Board of Rules and Appeals who shall be designated by the Chairman of the Dade County Board of Rules and Appeals:

- (i) One (1) nonprofessional person;
- (ii) Two (2) representatives of the fire service;
- (iii) One (1) master plumber;
- (iv) One (1) mechanical engineer;
- (v) One (1) master electrician;
- (vi) One (1) structural engineer;

- (vii) One (1) developer;
- (viii) Two (2) general contractors;
- (ix) One (1) architect.

The aforesaid persons in (i) through (ix) shall be voting ex officio members of the Dade County Fire Prevention and Safety Appeals Board only when the jurisdiction of the Board is exercised as set forth hereinabove for those duties and responsibilities set forth in Section 553.73(8)(c), Florida Statutes, as amended from time to time. Service on the Dade County Fire Prevention and Safety Appeals Board by members of the Dade County Board of Rules and Appeals ex officio as set forth above shall not be deemed to be service on two (2) County Boards simultaneously for the purposes of Section 2-11.38 of the Code of Metropolitan Dade County, Florida.

(C) *Organization of the Board; quorum; Secretary.* The members of the Board shall elect a chairperson and such other officers as may be deemed necessary or desirable, all of whom shall serve at the will of the Board. A majority vote of the members present shall be necessary to take any action. Seven (7) members of the Board shall constitute a quorum necessary to hold a meeting and take any action. The Director of the Metropolitan Dade County Fire Department or his designee shall be Secretary of the Board and shall be responsible for the custody of all minutes and records of the Board. The Secretary of the Board shall not be entitled to vote on any matter before the Board by reason of holding the office of Secretary. The Chairperson or his designee may call meetings of the Board; seven (7) members may call a meeting upon signing a written notice; and the Board at any meeting may call meetings for any future dates. Minutes shall be kept of all meetings of the Board.

(1) When the jurisdiction of the Dade County Fire Prevention and Safety Appeals Board is exercised as set forth in (B)(1) above: A majority vote of the twenty-two (22) members present shall be necessary to take any action; the presence of twelve (12) of the twenty-two (22) members shall constitute a quorum necessary to hold a meeting and take any action; and twelve (12) members may call a meeting upon signing a written notice. In all other respects the organization of the Dade County Fire Prevention and Safety Appeals Board shall remain the same as set forth in (C) above.

[(2) Reserved.]

(D) *Duties and powers of the Dade County Fire Prevention and Safety Appeals Board.* The Dade County Fire Prevention and Safety Appeals Board shall have the following duties, functions, powers, and responsibilities:

(1) To exclusively hear and determine appeals by any person aggrieved by any action or decision of any fire official of any jurisdiction in Dade County, Florida, with respect to this article, the South Florida Fire Prevention Code, or any municipal ordinance, code, or regulation which regulates fire prevention or fire safety. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, except as provided for code enforcement by Chapter 162, Florida Statutes, or by Chapter 8CC of the Code of Metropolitan Dade County, Florida, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to affirm, modify, or reverse the action or decision which was appealed.

(2) To exclusively perform the duties and responsibilities of the local administrative Board described in Section 553.73(8)(b) and Section 553.73(8)(c), Florida Statutes, as all of same may be amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to adopt alternatives and resolve conflicts as provided by the aforesaid provisions of Florida law, as amended from time to time.

(3) To exclusively hear and determine appeals by any person aggrieved by the decisions or actions of the chief fire official, or his designee, of any jurisdiction in Dade County, Florida, with respect to existing buildings as provided by Section 633.025(8), Florida Statutes, as amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to affirm, modify, or reverse the action of decision which was appealed.

(4) To exclusively perform the duties of the local authority as set forth in Section 633.022(2)(b), Florida Statutes, as amended from time to time, by authorizing alternatives to the uniform fire safety standards as set forth in Section 633.022(2)(b), Florida Statutes, as amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to adopt alternatives as provided by the aforesaid provision of Florida law, as amended from time to time.

(5) To exclusively perform the duties of all jurisdictions with fire safety responsibilities in Dade County, Florida, as set forth in Section 633.025(5), Florida Statutes, as amended from time to time, by establishing alternative requirements to the requirements of this article, the South Florida Fire Prevention Code, or other more stringent fire safety standards adopted by a municipality, as set forth in Section 633.025(5), Florida Statutes, as same may be amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to adopt alternative requirements as provided by the aforesaid provision of Florida law, as amended from time to time.

(6) To exclusively hear and determine appeals by any person aggrieved by the actions or decisions of the South Florida Fire Prevention Code Enforcement Officer established by

this article, as amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to affirm, modify, or reverse the action or decision which was appealed.

(7) Upon the request of any chief fire official or his designee of any jurisdiction in Dade County, Florida, to render advice to the requesting party on any fire safety or fire prevention matters in Dade County, Florida.

(8) To exclusively hear and determine, after notice to municipality, whether or not fire safety standards adopted by a municipality are more stringent than the fire safety standards set forth in this article and the South Florida Fire Prevention Code, as all of same are amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear or determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to order the chief fire official, or his designee, of the municipality or the South Florida Fire Prevention Code Enforcement Officer, or both, to enforce the fire safety standards which are the most stringent.

(9) To exclusively hear and determine, after notice of the affected County department or County Board, whether or not a provision of the Code of Metropolitan Dade County, Florida, other than the South Florida Building Code, conflicts with the provisions of this article or the South Florida Fire Prevention Code, as all of same may be amended from time to time, and, if such conflict exists, to determine which provision established the most stringent standard. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance, or any other County ordinance, no other County or municipal officer, agent, employee or Board, may hear and determine any matter which the Dade County Fire Prevention and Safety Appeals Board has the power to hear and determine pursuant to this subsection. The Board shall have the power and authority to order the chief fire officials, or their designees, of all jurisdiction in Dade County, Florida, and the South Florida Fire Prevention Code Enforcement Officer, to enforce the fire safety standards which are the most stringent.

(10) Upon the request of the Board of County Commissioners, to render advice to the Board of County Commissioners or such other persons as the Board of County Commissioners may direct, on any fire prevention or fire safety matters in Dade County, Florida.

(11) To issue subpoenas to compel the presence of a witness or documents or other items at any proceeding of the Dade County Fire Prevention and Safety Appeals Board authorized under this article or the South Florida Fire Prevention Code, as all of same may be amended from time to time.

(12) To adopt, promulgate, amend and rescind such rules of procedure and evidence as may be necessary to exercise the Board's authority, provided, however, that no such rules

shall conflict with the provisions of this article or the South Florida Fire Prevention Code, as all of same may be amended from time to time.

(13) The powers enumerated in this section shall be in addition to and not a limitation of or in derogation of any other powers granted to the Dade County Fire Prevention and Safety Appeals Board by any other provision of this article, the South Florida Fire Prevention Code, or by State law, rule or regulation, as all of same may be amended from time to time. Notwithstanding any provision of the Code of Metropolitan Dade County, Florida, the South Florida Fire Prevention Code, any municipal ordinance or any other County ordinance, except as provided in subsection (1) herein, no other County or municipal officer, agent, employee or Board shall exercise any of the powers granted to the Dade County Fire Prevention and Safety Appeals Board by this article, the South Florida Fire Prevention Code or by State law, rule, or regulation, as all of same may be amended from time to time.

(14) To designate one (1) or more persons to be members of one (1) or more technical advisory panels to advise the Dade County Fire Prevention and Safety Appeals Board on technical matters related to fire prevention or fire safety. The members of such panels shall be persons technically skilled and qualified to render advice on particular matters of fire prevention or fire safety pending before the Board. The members shall serve at the will of the Board and shall furnish advice and information of a technical nature to the Board for so long a period of time as the Board may request it. All such advice and information given by the panel or any member thereof shall be in the form of testimony either in person or by deposition before the Board at a regularly scheduled meeting and subject to cross-examination at the deposition and meeting by any interested party. The members of the panels shall not be deemed County officers or employees. Members of the panels may be compensated by the County.

(15) To require and administer oaths or affirmations to witnesses in any proceeding of the Board.

(Ord. No. 87-89, § 3, 12-15-87; Ord. No. 94-7, § 1, 1-18-94)  
Annotation--CAO 76-39.

#### Sec. 14-48. Appeals from actions or decisions.

Any person aggrieved by any action or decision described in Section 14-46(D)(1), (2), (3), (4), (5), (6), (8), and (9) of this Code may appeal to the Dade County Fire Prevention and Safety Appeals Board by filing with the Secretary of said Board a written notice of appeal within fifteen (15) days after the date of the action or decision which is the subject of the appeal. Filing of a written notice of appeal shall not stay the effect of any such action or decision which is the subject to the appeal. The written notice of appeal shall set forth concisely the date and nature of the action or decision to be reviewed as well as the reasons or grounds for the appeal. The Secretary of the Board shall set each such appeal for hearing at the earliest practicable Board meeting date available and shall provide written or oral notice of the hearing to the appellant and to the person whose action or decision is the subject of the appeal. The Dade County Fire Prevention and Safety Appeals Board shall hear and consider all facts material and relevant to the appeal and shall render a decision as soon as reasonably practicable. Irrelevant, immaterial or unduly repetitious evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs shall be admissible, whether or not such evidence would be

admissible in a trial in the courts of Florida. Any part of the evidence may be received in written form, and all testimony of parties and witnesses shall be made under oath or affirmation. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence, but it shall not be sufficient in itself to support a decision of the Board unless it would be admissible over objection in civil actions. The Chairperson of the Board or the attorney of the Board or a Notary Public shall have the power to administer oaths or affirmations. Subpoenas may be issued by the Chairperson of the Board or another member of the Board designated by the Chairperson, upon the written request of any party or upon the Chairperson's or Board's own motion, to compel the presence of a witness or documents or other items at any proceeding of the Board authorized under this article or the South Florida Fire Prevention Code, as all of same may be amended from time to time. The Chairperson of the Board or another member of the Board designated by the Chairperson, may permit discovery, on the written request of any party or upon the Board's own motion, by any means available to the courts and in the manner provided in the Florida Rules of Civil Procedure, including the imposition of sanctions, except contempt. Any person subject to a subpoena may, before compliance and on timely petition, request the Board to invalidate the subpoena on the grounds that it was not lawfully issued, is unreasonably broad in scope, or requires the production of irrelevant material. Any party or the Board may seek enforcement of a subpoena, order directing discovery, or order imposing sanctions issued hereunder by filing a petition for enforcement in the Circuit Court of Dade County, Florida. A failure to comply with an order of the Court shall result in a finding of contempt. However, no person shall be in contempt while a subpoena is being challenged as provided herein. The Court may award to the prevailing party all or part of the costs and attorneys fees incurred in obtaining the Court order. A party shall have the opportunity to respond, to present evidence and argument on all issues involved, conduct cross-examination and submit rebuttal evidence. When appropriate, the general public may be given an opportunity to present evidence. If the Board intends to consider such evidence, then all parties shall be given an opportunity to cross-examine, challenge, and rebut the evidence. When official recognition is requested, the parties shall be notified and given an opportunity to examine and contest the matter requested to be officially recognized. All decisions of the Board, pursuant to Section 553.73, Florida Statutes, as amended from time to time, shall be in writing and be binding upon all persons but shall not limit the authority of the State Fire Marshal pursuant to Section 633.161, Florida Statutes, as amended from time to time. All decisions of the Board, pursuant to Section 553.73, Florida Statutes, as amended from time to time, of general application shall be indexed by the Secretary of the Board by building and fire code sections and shall be available for inspection and copying during normal business hours. Similarly, all decisions of the chief building code enforcement official of the jurisdiction, or his designee, and the chief fire code enforcement official of the jurisdiction, or his designee, pursuant to Section 553.73, Florida Statutes, as amended from time to time, shall be in writing and be binding upon all persons but shall not limit the authority of the State Fire Marshal pursuant to Section 633.161, Florida Statutes, as amended from time to time, and said decisions of general application shall be indexed by the Secretary of the Board by building and fire code section and shall be available for inspection and copying during normal business hours. All decisions of the Board shall be in writing, shall set forth the reasons for the decision, and shall be signed by the

Chairperson of the Board or other member of the Board designated by the Chairperson or in the absence of the Chairperson, a member of the Board designated by the Board. The decision of the Dade County Fire Prevention and Safety Appeals Board shall constitute final administrative review and no rehearing or reconsideration shall be considered. Any person aggrieved by any decision of the Dade County Fire Prevention and Safety Appeals Board on an appeal may seek judicial review in accordance with the Florida Rules of Appellate Procedure.

(Ord. No. 87-89, § 3, 12-15-87)



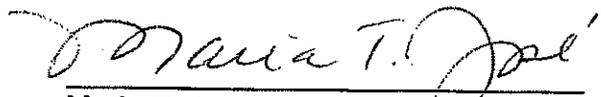
**New Business:**

None

**Emergency Appeal(s)**

None

There being no other business, the meeting was adjourned at 10:07 a.m.

  
\_\_\_\_\_  
Maria T. José, Secretary of the Board

  
\_\_\_\_\_  
Date