

**TELEPHONE MEETING
OF THE
FLORIDA BUILDING COMMISSION**

August 4, 2003

PENDING APPROVAL

The teleconference meeting was called to order 10:10 a.m. on Monday August 4, 2003.
A transcript of this meeting may be obtained from the Department of Community Affairs.

COMMISSIONERS PRESENT:

Hamid Bahadori
Christ Sanidas
Chris Schulte
Dale Greiner
Randy Vann
George Wiggins
Herminio Gonzalez
Suzanne Marshal
Steve Corn
Steve Bassett
Ed Carson
Mike McCombs
John Calpini

COMMISSIONERS ABSENT:

Raul L. Rodriguez
Craig Parrino
Diana Richardson
Jeff Gross
Nick D'Andrea
Karl Thorne
Leonard Lipka
Dick Browdy
Paul Kidwell
Do Kim

OTHERS PRESENT:

Rick Dixon, Executive Director
Jim Richmond, Legal Advisor
Jeff Blair, FCRC

WELCOME

Rick Dixon welcomed members on behalf of Chairman Rodriguez who was unavailable due to a funeral. Mr. Dixon indicated the purpose of the meeting was to consider a draft final order regarding the appeal of Broward County amendments to the Florida Building Code. He reminded members this meeting was authorized at the Commission's July meeting in order to provide respondents the required time to provide written response to the hearing officer's recommended final order. He then asked all parties to the call to identify themselves for the record and turned the meeting over to Mr. Blair, the facilitator, to lead the meeting.

REVIEW AND APPROVAL OF THE AGENDA

Mr. Blair briefly explained the agenda and asked for comments.

Commissioner Vann moved approval of the agenda. Commissioner Griener seconded the motion. Vote to approve the motion was unanimous. Motion carried.

REVIEW AND DISCUSSION OF THE DRAFT FINAL ORDER

Mr. Blair handed the meeting over to Mr. Richmond to review his recommended draft final order including his recommendations regarding the exceptions to the hearing officer's recommended final order filed by attorneys for the plaintiffs, TRG-Aquazul, LTD. And Alfonso Fernandez-Fraga, and the Broward County Board of Rules and Appeals (BORA).

Commissioners Bassett and Corn inquired whether their membership on BORA committees would be a conflict of interest. Mr. Richmond indicated he did not consider the situations they described a being a conflict of interest.

Mr. Richmond began with stating the rules by which the Commission can alter a hearing officer's recommended order. He then reviewed each of the exceptions filed by respondents and his recommended dispositions. He presented his primary recommendation (to concur with the hearing officer's recommendation) and an option regarding the hearing officer's recommendation that the Broward Board of Rules and Appeals could serve as the statute required countywide compliance review board. He also presented his recommendation to alter the recommended order to allow that local historical practice could be a local condition justifying local amendments but not to change the conclusion that such information had not been considered at the time the amendment was passed and therefore the amendments failed to comply with requirements of statute and are invalid.

Commissioner Bassett explained he had been on the BORA committee which developed the Broward amendment on smoke control and asked if that may be considered a conflict.

Mr. Richmond replied that he was concerned that Commissioner Bassett may have been privy to information not available to other commissioners and felt it safest to consider such participation as a potential conflict.

Commissioner Bassett recused himself and “hung up” exiting the meeting.

Mr. Richmond recommended additional changes to the draft final order sent to Commissioners that would add standard language regarding finding changes to the recommended order to be more reasonable and certain other technical editing such as apostrophes.

Commissioner Griener expressed that he believed the alternative to the hearing officer’s recommended finding on the requirement for a compliance review board separate from BORA was more in line with the intent of statute.

Commissioner Wiggins and Sanidas expressed they concurred with the hearing officer’s finding.

Commissioner Wiggins moved to approve Mr. Richmond’s draft final order with his recommended changes, including those editorial changes added at the meeting, to the hearing officer’s recommended order and explicitly not to adopt the alternative regarding the countywide compliance review board. Commissioner Vann seconded the motion. Vote to approve the motion was unanimous. Motion carried.

Commissioner Corn moved to adjourn. Commissioner Griener seconded the motion. Motion carried and the meeting was adjourned.