

Petition # 207

Submitted By Jeff Remas

Date Submitted 05/19/2021

Comment Regardless of who initially revoked the permit, the fact remains that the permit was issued in error and should not have been issued as a building permit since the zoning review was not completed as required by city ordinance. This information was conveyed by 2 separate building officials who placed it back into plan review (issued in error) to the applicant asking for compliance. I believe that on two fronts, first the fact that the permit was issued in error (then reversed) and the applicant was notified and secondly the lack of response within the 180 days shows an abandoned permit. On another front, a permit should be a zoning issue unless it is around a pool or exceeds the maximum height in chapter 1 of the city's code. I believe the applicant is trying to utilize the fact that it was illegally revoked as the sole defense when in-fact that is not an issue since it was lawfully placed back into plan review until the zoning department approved or denied the application.

Submitted By Jeff Remas

Date Submitted 05/19/2021

Comment Regardless of who initially revoked the permit, the fact remains that the permit was issued in error and should not have been issued as a building permit since the zoning review was not completed as required by city ordinance. This information was conveyed by 2 separate building officials who placed it back into plan review (issued in error) to the applicant asking for compliance. I believe that on two fronts, first the fact that the permit was issued in error (then reversed) and the applicant was notified and secondly the lack of response within the 180 days shows an abandoned permit. On another front, a permit should be a zoning issue

unless it is around a pool or exceeds the maximum height in chapter 1 of the city's code. I believe the applicant is trying to utilize the fact that it was illegally revoked as the sole defense when in-fact that is not an issue since it was lawfully placed back into plan review until the zoning department approved or denied the application.

Submitted By Michael Peter

Date Submitted 05/21/2021

Comment Fences are not accessory structures; therefore, they are not regulated by the Florida Residential Code, additionally the Florida Building Code; Building only regulate fences that are more than 6 feet in height under utility occupancy. There is no Building Permit required for fences 6 feet or less in height unless the municipality wishes to issue a zoning only permit to regulate such installation. Finally, the local municipality can't withhold the issuance of a building permit, certificate of occupancy, or certificate of completion for any non-building code violations such as zoning otherwise they are in violation of F.S 553.73(13).

Submitted By Ladi Goldwire

Date Submitted 05/25/2021

Comment Public Comment to Petition #207 (1 of 3) Having read the interpretation from sitting Building Official (Michael Grimm to whom I have much respect for as a seasoned professional) and his explanation as to why the fence permit issued to Mr. Fane Lozman in April of 2019 was revoked or placed back into review, I felt compelled to respond. My name is Ladi March-Goldwire and I was the Building Official at the time this permit was issued. Contrary to the position the fence permit had been issued in error or absent zoning review, I would like to provide context to why I moved to grant a fence permit in favor of Fane Lozman. While employed with the City of Riviera Beach I had

observed several attempts made by Mr. Lozman to secure nonstructural permits in addition to a property address. In all cases without explanation our office had been instructed by administration not to speak with Mr. Lozman or accept application for service without first directing all of his inquiries to the City's legal department. This approach struck me as odd as this was outside of the normal protocol for persons wishing to obtain building permits. Previously, Mr. Lozman had been denied a property address for the parcel. He had also been told that he would not be allowed a permit for irrigation (to maintain the property) nor would he be granted a permit for temporary lighting (he had requested it to support his desire for surveillance).

Submitted By Ladi Goldwire

Date Submitted 05/25/2021

Comment Petition #207 - cont'd (2 of 4) Mr. Lozman, principal owner of HALO Development LLC, had expressed concerns regarding trespassers onto his property. He indicated that property had been stolen from the parcel and was dogged in his expression for concern with being unable to protect himself from liability should anyone go onto the property and injure themselves. Based on his communication, I advised him to submit a permit to the building department for review. As an official, I had the ministerial duty to accept his submission. When the application came into the department it was routed first to Zoning. The application along with two others made by Mr. Lozman sat unaddressed in that department absent any review for quite some time. Mr. Lozman indicated his disdain and as the Building Official I ordered a query of fence permits approved and issued along Pine Point Rd where his property is located and having a shared residential zoning designation of RM-5. It had been determined there were

several fence permits and two dock permits that had been issued absent formal zoning review. The Building Official's Peter Ringle and Gil Vetter had during their time as BO's approved them under their authority. The conditions of those approvals required a limitation of 4 feet height along the front of the properties and up to 6 feet on the sides. Further review pointed to the reliance of city ordinance that adopted the current building code and supplemented it with its own position as to how walls and fences were to be evaluated.

Submitted By Christopher Richardson

Date Submitted 05/25/2021

Comment Why is the City of Riviera Beach trying to enact revenge again on this one homeowner? Didn't you waste a couple million dollars of our tax money already fighting and losing against him? And this is just over a stupid fence permit that he already had approved? Was this really worth firing Ms. Goldwater just for approving this permit legally, as was her job? How much of our money are you going to waste this time fighting this in court and losing? Stop wasting your time, and exposing us all to unnecessary expenses just to fight your corrupt war against a rightful citizen. You should be ashamed of yourselves.

Submitted By Ladi Goldwire

Date Submitted 05/25/2021

Comment Petition #207 (3 of 4) The city ordinance reads as follows and was in effect at the time I opted to issue the permit: 104 PERMITS 104.1.1 When required. Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation

of which is regulated by the technical codes, or to cause any such work to be done, shall first make application to the building official and obtain the required permit for the work. Permit applicants shall be properly qualified under the laws regulating the certification and licensing of contractors, or be exempt therefrom. A permit shall be required for, but not limited to, the following as determined by the building official(to include wall and fences)

Submitted By Ladi Goldwire

Date Submitted 05/25/2021

Comment Petition #207 (4 of 4) I would also like to point out then Acting Director, Jeff Gagnon's communication as to why he chose to revoke the permit after refusing to perform a review when they had been submitted for analysis. He had an opportunity to conduct a review and noted reasons limited to the contractor not being properly licensed through the State of Florida and conveyed the implication of another permit having not been closed from years prior. If there were additional reasons to deny the permit he was compelled to advise of the shortcomings; affording the applicant the opportunity to cure. He did not. At the time the permit had been applied for and issued there were statutory restrictions in place disallowing municipalities to refuse to issue permits because of open permits elsewhere. I would also note that in Palm Beach County a U-license for fence contractors is sufficient and is reciprocal; accepted throughout the county. Martin Fence Co.- the contractor of record for this permit has erected thousands of fences within Palm Beach and Broward Counties. HIS license was absolutely in good standing at the time the unauthorized revocation was issued. The honest and transparent truth to this matter is that Mr. Lozman had been a thorn in the side of the municipality for well over a decade. The relationship between both he and

the city was nothing less than tumultuous. He had prevailed in several litigations to include his petition to force the city to issue a property address. As a result, I was being mandated by my administration to disregard his right as a property owner to safeguard his parcel from trespass, vandalism, and theft. My primary concern was the placement of this parcel in a residential area and the very large body of water nestled along it. The body of water adjacent to the submerged lands is and remains a breeding ground for curious small children in the residential area.

| | |
|----------------|--|
| Submitted By | Ladi Goldwire |
| Date Submitted | 05/25/2021 |
| Comment | <p>Petition #207- Closing Statement (1 of 2) There was no real ability for Mr. Lozman to mark and demonstrate ownership physically short of him installing a fence. All of his neighbors had been allowed to install their fences absent interference. There had not been a single fence application denied along the Pine Point corridor. There had not been a single permit issued for a fence prior that zoning weighed in on. Ultimately, I was terminated based on my stance and position which supports the theory that all property owners are entitled to a fence. There may be restrictions on height, type, and placement-However, I am unaware of any one property owner who has even been denied a fence altogether. Also, while the argument from seasoned officials remains that fences less than eight feet are not typically regulated by the building code it is common practice for building inspectors to weigh in on fence type, fence configuration, and fence mounting to ensure they can withstand high velocity winds and that they are secured when installed. The Building Commission has also gone to great lengths to ensure children are protected against unforeseen accidents as they may present near or around bodies of</p> |

water (pools and ponds) to include fence barriers etc. Having a keen understanding of the dreadful possibilities of not allowing Mr. Lozman to install a minimally invasive fence for no other reason than to avoid a tragedy was the appropriate call under the guise of life safety.

Submitted By Ladi Goldwire
Date Submitted 05/25/2021
Comment Petition #207 - Closing Statements-(2of 2) In closing, as Building Officials we are obligated to lead with and govern with the intention of preserving the life safety and general welfare of the public at all costs. Providing Mr. Lozman with the reassurance of his ability to enjoy his property absent trespassers and absent the worry of someone being injured while illegally accessing his property was why I issued the permit. Our jobs as Building Officials are such that at no time should we ever be influenced by political will. There is room in the code to allow for sound judgment and discretion to be rendered based on the interpretation of the Building Official. While I believe in the importance of compromise and leading with "yes" wherever possible- we should never compromise the code and the intent behind it.

Submitted By Robert Fine
Date Submitted 05/26/2021
Comment This comment is submitted by counsel to the Petitioner. As part of my work representing Petitioner, I have been following the submitted public comments. The comments of the first commenter, Jeff Remas, came across to me as being more closely tied to the details of this matter than the comments of other commenters (such as Mr. Peter), with the exception of Ms. Goldwire, the building official who immediately predated the earliest building official whose decisions are a part of this

appeal. Mr. Remas is currently the building official of the Town of Highland Beach, Florida (see <https://highlandbeach.us/departments/building-department/> last visited May 26, 2021). The Town of Highland Beach is listed on the website of CAP Government, Inc. ("CAP") as one of CAP's clients (see <http://capfla.com/municipal/> last visited May 26, 2021). Although CAP provides building code administrators to various municipalities to serve as their building official, its website does not indicate whether that includes CAP providing a building official to Highland Beach. Indeed, if CAP is providing the building official to Highland Beach, that would mean Mr. Remas is a current employee of CAP. Why bring up Mr. Remas' employment history and relationship with CAP? The building official whose decisions are featured most prominently and appealed in the Petition is Judson D. Dulany. Mr. Dulany is featured as Municipal Manager on CAP's website on the "Our Team" page (see <http://capfla.com/our-team/> last visited May 26, 2021). Considering the substantive nature of the comment submitted to the panel by Mr. Remas, it seems appropriate that the panel should be aware of the relationship of Mr. Remas to this matter; that he is at the very least, a recent former employee, and possibly still an employee of CAP, the employer of Judson Dulany, the building official who is prominently featured in the appeal of the decisions of the building official and local enforcement agency filed by Petitioner.