



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

FLORIDA CONSTRUCTION INDUSTRY LICENSING BOARD



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GENERAL SESSION MINUTES

MARCH 12, 2004

Jeb Bush
Governor

Diane Carr
Secretary

Division of
Professions and Regulation

Construction Industry
Licensing Board

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BOARD MEMBERS PRESENT

Edward Weller, Chair
Michelle Kane, Vice-Chair
Michael Blankenship
Joan Brown
John J. Cox, III
Lee-En Chung
Paul Del Vecchio
Carl Engelmeier
Barry Kalmanson
Elizabeth Karcher
Robert Lang
Mark Pietanza
John Smith
Jacqueline Watts

BOARD MEMBERS ABSENT

Raymond Holloway

OTHERS PRESENT

Diane Guillemette, Board Counsel
Patrick Creehan, Chief Construction Attorney
Tim Vaccaro, Executive Director
Adrienne Rodgers, CIRF Attorney
Stacey Merchant, Government Analyst II
Ruthanne Christie, Government Analyst I
Valerie Singleton, Regulatory Supervisor/Consultant

The meeting was called to order by Edward Weller, Chair, at approximately 8:06 a.m. Mr. Smith gave the Invocation and Mr. Pietanza led the Pledge of Allegiance.

REVIEW OF MINUTES

- **February 12, 2004**
- **September 12, 2003**
- **October 10, 2003**

The Board voted unanimously to approve these minutes.

EXECUTIVE DIRECTOR'S REPORT

Mr. Vaccaro informed the board that Staff had revised the Initial Certified Contractor application to include a page where the applicant has to list his experience by project telling the length of time spent and type of work performed.

Mr. Vaccaro stated that the Department will be releasing two public service announcements concerning unlicensed activity and one specific to the construction industry. These PSA's should start running in May or June.

Mr. Vaccaro also gave a summary of the CILB financial accounts ending December 31, 2003.

CHAIRMAN'S REPORT

The Board voted unanimously to excuse Mr. Holloway's absence from this meeting.

Mr. Weller stated that he appreciated the members for their patience while working through the committee changes.

Mr. Weller also asked Staff to schedule 30 minutes for the Nominating Committee to meet at the April meeting. The Committee should be made up of Mr. Weller, Mr. Lang, Ms. Kane and Mr. Blankenship.

PROSECUTING ATTORNEY'S REPORT

Mr. Creehan presented a motion to vacate erroneous order for Thomas Clyde Hills, case #BPR 2003-02061, which was filed July 14, 2003. Through departmental error, two final orders were filed. Mr. Creehan recommended that the second order, #BPR-2003-02800, be vacated.

For the month of January, there were 662 cases. Of these cases, 279 cases to be reviewed, 62 cases set for probable cause and 53 cases have had probable cause found/administrative complaints found. 58 cases were ready for default, 38 cases have had stipulations executed/informal hearings requested, and 109 cases have requested formal hearings. There were 15 cases referred to DOAH, 68 cases awaiting final orders and 7 cases in settlement negotiations. There were also 7 cases under appeal, 1 case was re-opened and 91 cases were closed.

ATTORNEY GENERAL'S REPORT

Ms. Guillemette gave a brief review of the Sunshine Law, stating that any conversations by two or more board members about anything that could come before the board must be in the open at a publicly noticed meeting. Ms. Guillemette stated that board members could talk to the Attorneys and Staff, but not to each other.

The board discussed an offer of settlement of a DOAH petition to challenge Rule 61G4-15.005, F.A.C., and proposed amendments to the rule. The proposed amendments would increase the net-worth requirements for general and building contractors, and for all Division II contractors except glass and glazing. The petitioners, Gold Coast School of Construction, Inc. and Douglas Gamester, argue that both the proposed amendments and existing rule are an invalid delegation of Legislative authority upon the board. The petitioners offered to withdraw the challenge to the existing rule if the board would agree to withdraw its proposed amendments pending future consideration of alternative net-worth requirements. The board declined the offer of settlement and voted to go forward with the hearing.

RECOVERY FUND ATTORNEY'S REPORT

Brian and Barbara Tremblay v. Joseph M. Carrington, License # CGC043272 & CGCA43272, Claim No. 00-C0034 – Informal Hearing

Ms. Rodgers presented this case stating that she is recommending payment for \$25,000 to the claimants.

Recovery Fund application was timely filed on February 22, 2000. The contract was dated January 12, 1998, in the amount of \$335,256.

The construction loan mortgage account paid \$292,218.59 to the construction company and \$20,344.86 was paid by the claimants before the job was abandoned in January 1999. The company, Europremier Development Corp., failed to pay subcontractors and liens were filed. Claims were settled in the amount of \$45,655.83. The cost to complete construction was \$71,843.46. Claimants received a Final judgment on November 1, 1999, from the Circuit Court of the Twentieth Judicial Circuit for Collier County in the amount of \$150,129.53. Claimants have satisfied all requirements for payment from the Recovery Fund.

Jane Murphy and Marc Sorenson v. Neal J. Blust, License # CRC027153, Claim No. 98-C0140 – Informal Hearing

Ms. Rodgers presented this case stating that she is recommending that the Board reverse order dated September 12, 2003, and approve claim in the amount of \$13,744.63.

Recovery Fund application was timely filed on JUNE 29, 1998. The contract was dated June 24, 1995, in the amount of \$62,900 for land and construction. Construction breakout was \$50,900. Property was deemed abandoned on April 23, 1996. Claimant submitted a copy of a cancelled check for \$1,887 and a statement that the mortgage company had paid \$3,203, totaling \$5,090 paid to contractor.

Claim is not for reimbursement of subcontractor payments. Funds were paid to contractor and no work was performed. Claimants then hired out work for completion. The lien information in the file relates to contractors hired after Blust abandoned the project and are not included in the amount claimed.

The CILB ordered restitution in the amount of \$13,744.63 was entered on July 19, 2000. Restitution appears to include on the mortgage loan, costs to extend construction period and other items that may be eligible for CIRF award as these types of damages are considered compensatory damages.

The board voted unanimously to accept the recommendation to reverse the order dated September 12, 2003, and award \$13,744.63.

Dianne Little v. Jack Rillinson, License # RR0024843, Claim No. 03-C0007 – Informal Hearing

Ms. Rodgers presented this case stating that she was recommending approval.

On January 22, 2003, an application was timely filed. Contract was dated August 25, 1997, in the amount of \$19,884. The application should have been filed by December 1999.

Claimant was awarded restitution by the CILB on June 23, 2003, based on a Final Order approving Recommended Order of Disciplinary Action by Local Enforcement Body. Contractor was paid \$15,000. Contractor filed for protection under Chapter 7 of the bankruptcy code and listed claimant as an unsecured creditor. Claimant has satisfied all requirements for payment from the Recovery Fund. Damages need to be established.

The board voted unanimously to continue this case and return it to the Recovery Fund Committee for proper determination of the amount.

COMMITTEE REPORTS

APPLICATION REVIEW COMMITTEE

Ms. Watts gave the following report:

Applications denied

Ayers, James – not present – unable to waive time or answer questions.
Ball, Larry – not present – application has been incomplete for two years.
Cohill, Jon – lack of Civil Rights.
Kelly, Mack – lack of Civil Rights.
Lorenzi, Steven – lack of Civil Rights.
Martinez, Ernesto – lack of Civil Rights.
Setchell, Mark – lack of Civil Rights.

Applications approved

Becker, Joseph
Brown, Robert
Miles, William – with 2 years of probation.
Murray, Omari
Tillman, William

Applications continued

Joupperi, LonRoy – 60 days – needs proof of payment plan.
Loftus, Patrick -
Vinas, Robert – 6 months – to clear local complaints.

The Board voted unanimously to accept the recommendations of this Committee.

PROBATIONS COMMITTEE

Mr. Del Vecchio gave the following report:

David Bailey (CGC1506040), Condition of Licensure - Satisfactory
Thomas Becker, Jr. (CAC22401), Condition of Licensure - Satisfactory
Gary Bissonette (CGC038335), Case # 2002-00288 – Stay Lifted
Louis Heit (CGC005264), Case # 2001-09101- Unsatisfactory
Richard Lehman (CRC1326852), Condition Of Licensure - Satisfactory
Allen Fader, (CGC007504), Case # 98-04236 & 98-10927 - Continued
Rock Miller (CPC056698), Case # 99-09905, 2000-00574, 2000-01208, 2000-02069, 2000-02711 & 2000-09516 - Satisfactory
Dennis Reynolds (CGC025932), Case # 89-08288, 89-09192 & 89-08731 - Satisfactory
Lemuel Sellers (CAC1813732), Condition of Licensure - Satisfactory
Joseph Sloboda (CGC1506043), Condition of Licensure - Satisfactory
Ricky Smith (RC67100), Condition of Licensure - Satisfactory
Lawrence Vandivier (CPC57239), Condition of Licensure - Satisfactory
Kenneth Whyrick (CBC1251231), Condition of Licensure - Satisfactory
Robert Williams (RBC29003214), Condition of Licensure - Satisfactory
Brad Iden (CGC1506038), Condition of Licensure - Tolled
Santiago Fuertes (CGC1506135), Condition of Licensure - Tolled
Alberto A. Hernandez (CGC013664), Case # 93-20190 & 94-03591 – Tolled
Richard Thomas (CBC019954), Case #95-17468 – Tolled

The Board voted unanimously to accept the recommendations of this Committee.

ADDITIONAL ENTITY COMMITTEE

Ms. Karcher gave the following report:

Applications approved

Brody, William S.
Burnes, Laurence C.
Curry, Dorman
Knauss, Derek R. (Primary Qualifier)
McLeod, Judson M. (Secondary Qualifier)
Larsson, Erik L.
Parker, Richard T.

Applications withdrawn

Medina, Diego

Applications denied

Arner, Scott

The Board voted unanimously to accept the recommendations of this Committee.

EXECUTIVE COMMITTEE

Mr. Weller gave the following report:

The Committee considered a request from Andy Bryant, regarding the licensure requirements for the installation of playground equipment, playground surfacing (loose fill & unitary), outdoor

bleachers, prefabricated gazebos & shelters, basketball, football & soccer goals, baseball backstops & foul poles, benches & picnic tables, trash receptacles and pedestal charcoal grills. The Committee directed Ms. Guillemette to draft a letter stating that a Division I license would be required for installing any type of anchored gazebo or picnic shelter similar to the projects presented and to check with the local licensing departments for the rest.

The Committee also considered a request from Jay Deuschle, regarding the liability insurance issue for general contractor/property owner. The Committee directed Ms. Guillemette to draft a letter stating that Florida Statutes require a contractor to maintain liability insurance when he/she is performing work on warehouses that he/she owns but leases to third parties.

The Board voted unanimously to accept the recommendations of this Committee.

RULES REVIEW COMMITTEE

Ms. Chung gave the following report:

Ms. Guillemette gave the following report:

61G4-15.001 Qualification for Certification – Noticed for Public Hearing on April 16, 2004 in Orlando.

61G4-15.005 Requirements for Certification and Registration - Noticed for Public Hearing on April 16, 2004 in Orlando. Rule Challenge, set for Hearing – April 5, 2004 (Automatic tolling) – JAPC letter.

61G4- 15.015 Certification for Specialty Structure Contractors – (45 days from notice of change).

61G4-15.0021 Certification and Registration of Business Organizations – (Tolled – JAPC comments)

The committee discussed an offer of settlement of a DOAH petition to challenge Rule 61G4-15.005, F.A.C., and proposed amendments to the rule. The proposed amendments would increase the net-worth requirements for general and building contractors, and for all Division II contractors except glass and glazing. The petitioners, Gold Coast School of Construction, Inc. and Douglas Gamester, argue that both the proposed amendments and existing rule are an invalid delegation of Legislative authority upon the board. The petitioners offered to withdraw the challenge to the existing rule if the board would agree to withdraw its proposed amendments pending future consideration of alternative net-worth requirements. The committee voted to decline the settlement offer and to go forward with the hearing.

The Board voted unanimously to accept the recommendations of this Committee.

EXAMS/CE/PUBLIC AWARENESS COMMITTEE

Ms. Chung gave the following report:

The following courses and providers were approved:

FEDERATED MUTUAL INSURANCE COMPANY (0001107)

1st Course: Workplace Safety: Heads Up! (#0001858, Expired 10/12/03)

2nd Course: Workers' Compensation: What You Need to Know (#0001859, Expired 10/12/03)

UNITED SERVICE TRAINING CORP. (0001013)

1st Course: Backflow Device Maintenance & Safety (#0001271, Expired 02/01/04)

2nd Course: Florida Sales Tax (#0001273, Expired 01/10/04)

FLORIDA CONCRETE & PRODUCTS ASSOCIATION (0000973)

Course: Concrete Parking Lot Design Seminar (#0006821, Expired 02/15/04)

PHOENIX INTEGRATED TECHNOLOGIES, INC. (0001204)

Course: Indoor Air Quality (NAME CHANGE) (#0006194, Expired 08/09/03)

HILLSBOROUGH ASSOCIATION OF PLUMBING, HEATING, COOLING CONTRACTORS, INC. (0000911)

1st Course: Introduction to Safety (#0000060, Expired 11/16/03)

2nd Course: Workers Compensation I (#0000061, Expired 11/16/03)

3rd Course: Wage & Hour (#0000062, Expired 11/16/03)

4th Course: New AIA Changes (#0000063, Expired 5/11/01)

5th Course: Permitting and Licensing (#0000064, Expired 5/11/01)

6th Course: Alternative Dispute Resolution (#0000065, Expired 5/11/01)

7th Course: Getting Paid (#0000066, Expired 5/11/01)

8th Course: Construction Lien Law (#0000067, Expired 5/11/01)

9th Course: Service Plumbing – Modern Equipment Technology & Application (#0005563, Expired 4/13/03)

UNDERGROUND UTILITY CONTRACTORS OF FLORIDA (0000982)

Course: A Review of the Construction Contracting Laws of Florida (Chapter 489, Part I) (#0000488, Expired 04/14/02)

ASSOCIATED BUILDERS AND CONTRACTORS OF FLORIDA, INC. (0000898)

1st Course: Construction Lien Law (#0000424, Expires 04/11/04)

2nd Course: Heartsaver CPR: Cardiopulmonary Resuscitation (#0000428, Expires 04/11/04)

3rd Course: Confined Space Entry Awareness (#0000436, Expired 04/14/02)

4th Course: Workers' Compensation (#0000438, Expired 04/14/02)

FLORIDA AGC COUNCIL, INC. (0000913)

1st Course: Construction Safety & Risk Management (#0000077, Expired 11/16/02)

2nd Course: Contractors Basic Guide to Insurance (#0000082, EXPIRED 11/16/03)

3rd Course: Safety & Workers' Compensation (#0000087, EXPIRED 5/12/02)

4th Course: Planners, Schedulers, Progressors & Damned Schedulers (NEW)

FLORIDA HOME BUILDERS ASSOCIATION (0000916)

2nd Course: Design / Build (NEW)

CONTRACTORS INSTITUTE (0001189)

*Course: Designing to Comply with Wind Resistance Provisions for One and Two-Family Dwellings (SPECIALIZED COURSE)

*This course was approved for Div. I contractors to certify drawings & specifications for wind resistance compliance on residential plans.

PALM BEACH NOTICES, INC. (0000875)

1st Course: Construction Lien Law and More Seminar "A" (FOR 6 HOURS)

2nd Course: Construction Lien Law and More Seminar "B" (FOR 5 HOURS)

FRSA EDUCATIONAL AND RESEARCH FOUNDATION (0000910)

Course: Workers' Compensation Reform

LORMAN BUSINESS CENTER, INC. (0000837)

Course: Project Documentation / Claims Avoidance

B. T. BUILDERS, INC. (0000958)

1st Course: Paint Your Way to Profit

OMAR SCHOOL OF CONSTRUCTION (0001143)

Course: Construction Management 2

ASSOCIATED GENERAL CONTRACTORS, GEORGIA BRANCH (0001352)

Course: 10-Hour Construction Safety Outreach

OCCUPATIONAL SAFETY TRAINING, INC. (0001746)

1st Course: OSHA Compliance for the Construction Industry

2nd Course: The Safety Accountability Process

3rd Course: Safety Pays

4th Course: Developing a Safety & Health Program

CONTRACTOR'S EXAM TUTORING SERVICES, INC. (0002473)

1st Course: Starting and Managing a Construction Business

2nd Course: Construction Safety

CAROLINAS ASSOCIATED GENERAL CONTRACTORS, INC. (0001347)

1st Course: Contractor Business Academy – Day Two

2nd Course: Contractor Business Academy – Day Three

TOM PRPICH CONSULTANT (0001025)

1st Course: Workplace Safety – OSHA, Workers' Compensation and Business Practices

2nd Course: Profits in Construction – Today and Tomorrow (FOR 5 HOURS)

GOLD COAST SCHOOL OF CONSTRUCTION, INC. (0000983)

1st Course: Advanced Energy – Internet Version

2nd Course: The Principles & the Practices of Florida Law

BUILDING OFFICIALS ASSOCIATION OF FLORIDA (BOAF) (0001001)

1st Course: Fair Housing and ADA Requirements

2nd Course: Basics of the Florida Existing Building Code

3rd Course: Mechanical, Plumbing & Gas Glitch Amendments to the FBC

4th Course: FBC Requirements for Swimming Pools and Bathing Places

5th Course: Fundamental Changes to the Building Volume of the FBC

6th Course: Florida Residential Building Code

7th Course: FBC Chapter 4, Special Occupancy

8th Course: BOAF Advanced Code Interpretations and Requests

9th Course: Voluntary Standards for Building Department Accrediation

10th Course: Construction Licensing in Florida

11th Course: Mutual Aid and Disaster Preparedness

12th Course: Internet for the Construction Professional

13th Course: Florida Product Approval

14th Course: Electrical Code Changes

15th Course: Florida Construction Laws and Rules: Review of Workers Compensation and Business Practice

BUILDING OFFICIALS & INSPECTORS ASSOCIATION OF BROWARD COUNTY (BOIA)

- 1st Course: Fair Housing and ADA Regulations
- 2nd Course: Introduction to New Technology, Products and Processes
- 3rd Course: Florida Product Approval
- 4th Course: Electrical Code Violations
- 5th Course: Florida Plumbing Code for Swimming Pools
- 6th Course: Fire Protection Solutions
- 7th Course: Workers Compensation and OSHA Regulations
- 8th Course: Inspectors Liability and Sound Inspection Practices
- 9th Course: Fundamentals of Firestopping
- 10th Course: Electrical Inspections for Signs and Outdoor Lighting
- 11th Course: L. P. Gas Regulations
- 12th Course: Commercial Kitchen Hoods – Testing and Balancing
- 13th Course: Structural Inspectors Checklist
- 14th Course: Electrical Inspections for Marinas and Boatyards
- 15th Course: Florida Plumbing Code Amendments and Updates
- 16th Course: Restaurant Fire Suppression Systems

The following courses and providers have been denied:

FLORIDA HOME BUILDERS ASSOCIATION (0000916)

- 1st Course: IRM I – Understanding Housing Markets & Consumers (#0005835, Expired 5/10/03)
- 3rd Course: Certified New Home Sales Professional (NEW)
- 4th Course: Negotiating Skills for the Master Builder & Remodeler (NEW)

B. T. BUILDERS, INC. (0000958)

- 2nd Course: Design Parameters for Industrial Lead Paint Removal Projects

The Exams/Continuing Education/Public Awareness Committee requested that a representative of the Bureau of Education Testing (BET) appear before the committee in April to provide a presentation on the continuing-education applications process. The Chair recently reassigned committees, and most of the CE committee members have not previously served on that committee. The committee requested that the BET representative pay special attention to the issue of CE Provider verification of attendance and attendee time spent per class hour for distance learning courses. The committee requested that board counsel and legal staff discuss what action might be taken against providers who do not remit the attendance information to the department.

The Board voted unanimously to accept the recommendations of this Committee.

RECOVERY FUND/FINANCE COMMITTEE

Ms. Kane gave the following report:

- Doherty v. Hillers; Claim No. 01-C0091 - DWP
- Conrad v. Hunt; Claim No. 01-C0134 - AWARDED - \$5,939.07
- Ganderton v. Garmendia; Claim No. 02-C0098 - AWARDED - \$3,830.00
- Bryant v. Hatcher; Claim No. 02-C0119 - AWARDED - \$4,518.50
- Chelala v. Garmendia; Claim No. 02-C0134 - AWARDED - \$23,889.75
- Alayon v. Benitez; Claim No. 02-C0163 - AWARDED - \$3,575.00
- Sears v. Salley; Claim No. 02-C0222- DWP
- Buzzell v. Nichols; Claim No. 03-C0012 - AWARDED - \$9,778.50

Adams v. Murray; Claim No. 03-C0023 - AWARDED - \$1,344.00
 Kirner v. Cafiero; Claim No. 03-C0035 - AWARDED - \$1,950.00
 Goodier v. Galletta; Claim No. 03-C0051- AWARDED - \$9,071.72
 Ballew v. Sutton; Claim No. 03-C0060 - CONTINUED
 LaMalfa v. Hammond; Claim No. 03-C0122 - AWARDED - \$4,300.00
 Bevilacqua v. Harwood; Claim No. 03-C0153 - DWP
 Fairweather v. Hills; Claim No. 03-C0154 - AWARDED - \$11,735.50
 Crytzer v. Nichols; Claim No. 03-C0187 - AWARDED - \$25,000
 DeRiso v. Nichols; Claim No. 03-C0188 - AWARDED - \$7,124.97
 Gross v. Nichols; Claim No. 03-C0189 - AWARDED - \$1,950.00
 Hernandez v. Nichols; Claim No. 03-C0190 AWARDED - \$25,000
 Izon v. Nichols; Claim No. 03-C0193 AWARDED - \$25,000.00
 Kocol v. Thompson; Claim No. 03-C0195 - AWARDED - \$25,000.00
 McGovern v. Thompson; Claim No. 03-C0196 - AWARDED - \$15,390.63
 Parker v. Nichols; Claim No. 03-C0201 - AWARDED - \$24,158.91
 Thomas v. Thompson; Claim No. 03-C0205 - AWARDED - \$25,000
 Piloto v. Benitez; Claim No. 02-C0140 - AWARDED - \$19,164.73

LIST OF DENIALS

Claim No.	Claimant	Contractor	Reason
98-C0193	Joseph and Elizabeth Laciofano	Northridge	No award of restitution against Northridge - DW
99-C0177	Richard Adragna	Kevin Johnston	No evidence of final judgment or award of restitution - DW
00-C0188	Joseph and Joan Hatrick	Robert E. Spencer	No award of restitution - DW
02-C0121	David A. Poole	David Day	Claimant fired the contractor for not performing the work within 4 weeks of contract date; the project may be presumed abandoned after 90 days if contractor terminates the project with just cause. The time lapsed was less than the required number of days. - DW
02-C0205	Loretta and Albert Smith	William Owen Johnson	Application was not timely submitted - DW
03-C0004	Reinaldo Figueroa	David A. Broder	Appeal time has expired to challenge the award - DW
03-C0070	Shawn Sturm	George Neuner	Contractor did not hold a valid and current license at the time of contract - CONTINUED
03-C0128	William A. Stanley		At time of the contract,

			BBG was not a qualified business and did not have a qualifying agent - DW
03-C0185	Leonard and Karen Chandler		At time of the contract, BBG was not a qualified business and did not have a qualifying agent - DW
03-C0186	Edward L. Coyle		At time of the contract, BBG was not a qualified business and did not have a qualifying agent - DW
03-C0197	Domenic Minerva		At time of the contract, BBG was not a qualified business and did not have a qualifying agent - DW
03-C0199	Edward Neary		At time of the contract, BBG was not a qualified business and did not have a qualifying agent - DW
03-C0204	Cameron Sumner	William Gerald Nichols	CONTINUED

OLD BUSINESS

Charles Barner, Professional Testing, Inc. (PTI) inquired as to whether the RFP for the contractor-licensing examination would be released in time to award a new vendor contract prior to the expiration of PTI's contract in June, to assure uninterrupted testing. Mr. Vaccaro stated that he would consult with BET and report back to the board in April.

With no further business, the meeting was adjourned at 9:50 a.m.