



Palm Beach County
CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS (CBAA)
SITTING AS THE
LOCAL CONSTRUCTION REGULATION BOARD (LCRB)
NOVEMBER 14, 2019 MEETING

MINUTES

VI. ADJOURN AS CBAA/RECONVENE AS THE LOCAL CONSTRUCTION REGULATION BOARD

Ron Dixon, Chair, adjourned the CBAA meeting and reconvened as the LCRB at approximately 2:36 pm. The meeting was conducted in Room 1W-47, Palm Beach County Planning, Zoning and Building Department, 2300 N Jog Road, West Palm Beach, FL.

★ Attendance:

Members Present

Ron Dixon, *Engineer, Chair*

Bart Rasper, *Plumbing Contractor*

Manuel Oyola, *Roofing Contractor*

Rex Kirby, *Division 1 Contractor, Vice Chair*

Steven Markel, *HVAC Contractor*

Members Absent

Fred K. Kutscher, *Electrical Contractor*

Margie Walden, *Public At-Large*

Jessica Dornblaser, *Architect*

Justin McIntosh, *Alternate Public At-Large*

Others Present

Doug Wise, *Building Official (PBC)*

Tammy Nevin, *Contractors Certification Field Investigator (PBC)*

Dean Wells, *Construction Services Coordinator (PBC)*

Anne Helfant, *Assistant County Attorney*

Jacquelyn Anderson, *Recording Secretary*

Trevor Wallace, *Contractor*

Arlene Strauss, *Property Owner*

Chris Steers, *Contractor*

Spencer Golden, *Attorney*

Jamie Illicete, *Contractors Certification Field Investigator (PBC)*

Jason Griffith, *Contract Manager (PBC)*

Nicole Davis, *Administrative Assistant (PBC)*

Shannon Fox, *Assistant County Attorney*

Robert Meyer, *Contractor*

Ken Zerkowski, *Property Owner*

Michael Pereira, *Contractor*

John K. Vittie, *Contractor*

John Humpage, *Contractor (via telephone)*

A. Approval of Minutes

- ★ Mr. Oyola made a motion to approve the September 12, 2019 meeting minutes. Mr. Kirby and Mr. Markel both seconded the motion. The motion carried unanimously.

VII. OLD BUSINESS

A. 2016-0013/2018-19957 – Michael Pereira [CGC-1512017 & CGC-1525732] – PALM HOME IMPROVEMENT, INC.

Mr. Wise stated the Administrative Complaint involves Michael Pereira and a project in an elderly retirement community in Palm Beach County. Mr. Wise stated that Staff would attempt to demonstrate that a number of violations of the law have occurred.

Mr. Wise stated he Administrative Complaint contains five counts:

- Willful code violation for work performed without a permit;
- Willful code violation for failure to close a permit;
- Willful code violation for electrical work performed without a permit;
- Willful code violation for concealing an AC duct; and
- Fraud by representing to the customers that he would obtain the necessary permits for the work performed despite knowing that he did not intend to pull permits or comply with the Code and ordinances, causing detriment to the

customer.

Ms. Fox directed the Board's attention to the approved LCRB Rules of Procedures adopted in 2015 that provide the procedures for the conduct of the hearing. Ms. Fox explained to the Board that determinations in this type of case is based upon clear and convincing evidence, and she explained what that entails. Ms. Fox explained the authority of the Board.

Mr. Golden introduced himself as counsel for the Respondent. Mr. Golden stated the Respondent retained his services one week prior to the hearing. Mr. Golden requested an extension of time to gather the necessary evidence and prepare a response to the complaint.

Discussion ensued.

- ✦ Mr. Markel made a motion to proceed and deny the Respondent's request for an extension of time. Mr. Kirby seconded the motion. The motion carried unanimously.

Mr. Pereira stated that there was no intent to take advantage of Mrs. Strauss. Mr. Pereira stated he pulled a permit, but he did not have the opportunity to get the final inspection because the client filed a Change of Contractor, preventing him from finishing the work.

Mr. Golden stated he had no objection to the admission of the Administrative Complaint and all exhibits into evidence.

County Staff and Respondent called witnesses to present testimony in the matter.

Mr. Wise and Mr. Golden and Ms. Fox questioned the witnesses and discussion ensued.

Mr. Wise asserted as to the various counts in the Administrative Complaint:

- As to Count 1, that the testimony and evidence showed that Mr. Pereira only applied for and received one permit for a window wall permit, but work was done in the kitchen without a permit. As a licensed general contractor, he knew or should have known that permits were required for the work.
- As to Count 2, that Mr. Pereira failed to close the permit or take remedial action until six months after receiving notification and a phone call that the permit was expiring.
- As to Count 3, that the testimony and evidence showed someone performed electrical work in the kitchen other than the two electricians who testified.
- As to Count 4, that the testimony indicated that someone put a cabinet and crown molding over the air diffuser.
- As to Count 5, that testimony and evidence showed the contract with the homeowner was bogus; he did not pull permits; and he did not inform his electrical sub-contractor as to the true scope of work.

Mr. Wise stated that he believed Staff and testimony sufficiently established the allegations in the Administrative Complaint as to all the counts and requested Board uphold the findings as to the five counts. He stated Staff is requesting a revocation of the Respondent's permit-pulling privileges in Palm Beach County for a period of one year.

Mr. Pereira asserted the various counts in the Administrative Complaint:

- As to Count 1, he attempted to do everything the right way. This has never happened to him before.
- As to Count 2, Mrs. Strauss removed him and he was not able to resolve the permit.
- As to Count 3, he hired an electrical contractor and they did all of the electrical work at Mrs. Strauss's home and no one else.
- As to Count 4, it is not uncommon to put up a cabinet and then remove it. It is uncommon to be removed from the job before finishing the work. That has never happened to him.
- As to Count 5, there was never any fraud intended. He asserted that the fraud was not being allowed to complete the job. Mr. Pereira offered to finish the air diffuser and pull permits at no additional charge to Mrs. Strauss.

Ms. Fox provided general instruction to the Board regarding the procedure involved in making findings as to the Counts in the Administrative Complaint.

- ✦ Mr. Rasper made a motion to find the Respondent guilty of all four counts of willful code violations. Mr. Oyola seconded the motion. The motion carried unanimously.
- ✦ Mr. Rasper made a motion to find the Respondent guilty of one count of fraud. Mr. Markel seconded the motion. Discussion ensued. The motion carried unanimously.

Ms. Fox provided general instruction to the Board regarding the procedure involved in imposing penalty.

Mr. Wise stated that historically the Board has postponed the penalty phase to allow the Respondent an opportunity to resolve the dispute, and requested that the Board afford the same opportunity to the Respondent.

Discussion ensued.

- ✦ Mr. Oyola made a motion to postpone the penalty phase and wait 60 days to give the contractor an opportunity to remedy the situation. Discussion ensued. Mr. Kirby seconded the motion. The motion carried unanimously.

VIII. BOARD MEMBER COMMENTS

None.

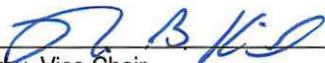
IX. STAFF COMMENTS

- A. Next meeting will be January 2020.

X. ADJOURN AS LOCAL CONSTRUCTION REGULATION BOARD (LCRB)

Chair Ron Dixon adjourned the meeting as the LCRB at approximately 5:54 PM.

Signed for the Board by,



Rex Kirby, Vice Chair

Respectfully submitted by
Jacquelyn Anderson
Recording Secretary