

**MINUTES
OF THE COLLIER COUNTY
CONTRACTORS' LICENSING BOARD**

December 19, 2018
Naples, Florida

LET IT BE REMEMBERED that the Collier County Contractors' Licensing Board, having conducted business herein, met on this date at 9:00 AM in **REGULAR SESSION** in Administrative Building "F," 3rd Floor, Collier County Government Complex, Naples, Florida, with the following Members present:

Chairman: Michael E. Boyd

Vice Chair: Kyle E. Lantz

Members: Terry Jerulle
Richard Joslin
Robert Meister
Matthew Nolton

Excused: Patrick White

ALSO PRESENT:

Everildo Ybaceta – Supervisor, Contractors' Licensing Office
Kevin Noell, Esq. – Assistant Collier County Attorney
Jed Schneck, Esq. – Attorney for the Contractors' Licensing Board
Jack Gumph – Contractors' Licensing Compliance Officer
Reggie Smith – Contractors' Licensing Compliance Officer

Any person who decides to appeal a decision of this Board will need a record of the proceedings and may need to ensure that a verbatim record of said proceedings is made, which record includes the testimony and evidence upon which any Appeal is to be made.

I. ROLL CALL:

Chairman Michael Boyd opened the meeting at 9:00 AM and read the procedures to be followed to appeal a decision of the Board.

Roll Call was taken; a quorum was established; **six (6) voting members** were present.

II. AGENDA- ADDITIONS, CHANGES, OR DELETIONS:

(None)

III. APPROVAL OF AGENDA:

Vice Chairman Kyle Lantz moved to approve the Agenda as submitted. Richard Joslin offered a Second in support of the motion. Carried unanimously, 6 – 0.

(It was noted that Mr. Jerulle’s name was misspelled in the County’s Agenda. Everildo Ybaceta, Supervisor – Contractors’ Licensing Office, stated the error would be corrected.)

IV. APPROVAL OF MINUTES: OCTOBER 17, 2018

Richard Joslin moved to approve the Minutes of the October 17, 2018 Meeting as submitted. Terry Jerulle offered a Second in support of the motion.

Carried unanimously, 6 – 0.

V. PUBLIC COMMENT:

(None)

VI. DISCUSSION:

A. Election of Chairman and Vice-Chair for 2019 Term

Chairman Michael Boyd opened the Floor for nominations.

Chairman Boyd nominated Kyle Lantz to serve as Chairman of the Contractors’ Licensing Board for 2019. Terry Jerulle offered a Second in support of the nomination. Mr. Lantz accepted the nomination.

Motion was carried unanimously, 5 – 0. Mr. Lantz abstained from voting.

Chairman Michael Boyd nominated Matthew Nolton to serve as Vice Chair of the Contractors’ Licensing Board for 2018. Terry Jerulle offered a Second in support of the motion. Mr. Nolton accepted the nomination.

Motion was carried unanimously, 5 – 0. Mr. Nolton abstained from voting.

Chairman Lantz and Vice Chairman Nolton will assume office on January 16, 2019.

VII. REPORTS:

A. Citations Issued for Unlicensed Contracting // Licenses Subsequently applied for and Granted to Contractors

B. Total - License Renewals: July 1, 2018 through December 5, 2018

C. Fees for Unlicensed Contracting

Chairman Boyd noted the difference between the paid and unpaid fees for Citations which had been issued, i.e., \$139,150 were paid while \$144,250 have not been paid. He asked what happened to the contractors who did not pay their fines.

Everildo Ybaceta stated if a fine remains unpaid, a lien is filed against the violator per the Ordinance and *Florida Statutes*.

Vice Chair Lantz: Is the “unpaid” amount just for that time period or did it include the entire year?

Everildo Ybaceta clarified the figures pertained only to the period from July 1, 2018 through December 5, 2018.

Chairman Boyd: How long does a contractor have to pay before the County takes action?

Everildo Ybaceta: It is undetermined in the Ordinance.

Matthew Nolton: I’m guessing that the County does not end up with a lot of that money?

Everildo Ybaceta: We have been looking at other means to collect the unpaid fines. It’s under discussion – it’s a continuing discussion that we are having – we have not yet determined a policy to put in place other than filing a lien against the contractor.

VIII. NEW BUSINESS:

A. Orders of the Board:

Richard Joslin moved to approve authorizing the Chairman to sign the Orders of the Board. Vice Chairman Lantz offered a Second in support of the motion. Carried unanimously, 6 – 0.

(Note: The individuals who testified in the following cases under Item VIII, “New Business,” were first sworn in by the Attorney for the Board.)

**B. Melvin Alfaro – Contesting Citation
(d/b/a “Oasis Builders of SWFL”)**

Chairman Boyd noted Mr. Alfaro was not present. He stated the Board would hear this case if Mr. Alfaro appeared later during the meeting.

**C. Octavio Calderon – Review of Experience
(d/b/a “All-in-1 Contractors, Inc.”)**

Chairman Boyd called the Octavio Calderon to the podium and noted the Board

was to review his experience. The Chairman asked if the County had questions concerning the Applicant's experience.

Everildo Ybaceta stated Mr. Calderon had appeared before the Board previously and the information was included in the packet that had been provided to the Board. At the prior hearing, the Board decided the Applicant needed more experience and his application for a General Contractor's License was denied.

Mr. Ybaceta explained he was not comfortable approving the second application for the same license with the same information as previously presented and referred the application to the Board.

Vice Chairman Lantz: He passed his tests on June 15, 2015. It is my understanding that the results are only good for three years. Am I wrong?

Everildo Ybaceta: If he never acted upon the application for the license when he passed the exam – it is still good. If he was licensed and allowed it to lapse, the scores are good for only three years.

Vice Chairman Lantz: He could apply for a license in ten years from now and the test results from 2015 would still be good?

Everildo Ybaceta: It is theoretically correct, yes.

Terry Jerulle: I don't understand -- that doesn't make sense.

Everildo Ybaceta: I understand that. I ran across this once before. I questioned Michael Ossorio about it and what actions to take. It was explained to me that if an Applicant did not apply for the license, then his test scores remained valid.

Terry Jerulle: But he did apply.

Vice Chairman Lantz: You said he applied, and he was denied.

Terry Jerulle: He was in front of us before – I kind of remember the case.

Everildo Ybaceta: You are correct in that.

Vice Chairman Lantz: I think we have other issues besides that, but that's one ...

Terry Jerulle: That's a major issue right there.

Richard Joslin: There's no doubt from when he took the test originally that the laws have changed and ...

Everildo Ybaceta: You are correct in that, yes.

Chairman Boyd: So, he took the test in 2015 – is that correct?

Everildo Ybaceta: Yes.

Terry Jerulle: And he came in front of us -- six months ago or ...?

Vice Chairman Lantz: No, it was two or three years ago, I think, if it was under Mike Ossorio.

Everildo Ybaceta: Correct.

Terry Jerulle: That's when he came in front of us?

Vice Chairman Lantz: Apparently.

Everildo Ybaceta: Correct.

Terry Jerulle: I kind of remember the case. I read ... it seems familiar. Evy, if you knew a couple of days ago, what you know now ... would he be in front of us?

Everildo Ybaceta: Well, the obvious answer to that is "no." You are both correct in that. But, again, I do have questions in my mind and I will have to go back to Michael Ossorio to find out what the procedures were at that point in time.

Vice Chairman Lantz: He came to our meeting on August 19, 2015 – over three years ago.

Matthew Nolton: I understand he took the test and passed the test back then, but he didn't have the experience. He came before the Board and the Board said, 'You need experience.' He went and got experience. The question is: Did he take action on the test or not? One could say, 'No, he didn't because he was never licensed. He did apply but he was never licensed.' One could say, 'Well, applying *was* the action' ... but we're splitting hairs. Does he have the experience?

Vice Chairman Lantz: I think that's another big question – I think he has the same experience that he had before ... stucco, drywall, and metal framing but not structural, General Contractor experience.

Richard Joslin: And we now have the same issue because, technically, he needs to take the test again.

Vice Chairman Lantz questioned the Applicant:

Q. When we go over your experience ... you have a lot of letters verifying your experience ... what kind of structural experience do you have? That's what we're ... to be a General Contractor, we want to see structural experience on buildings over three stories. So, what kind of structural experience do you have?

A. I have been as a subcontractor ... working with permits doing concrete, trusses ... you know, like being a helper.

Q. So, you've been a helper for concrete work?

A. I have.

Q. What kind of concrete work?

A. Slab for building.

Q. For what type of building?

A. For the small houses.

Q. And what about your truss work??

A. Can you repeat that again?

Q. The work that you were doing for trusses ... was that for small houses?

A. Yes, for small houses, too. You know, the reason why I want to get the license is because I don't want to be involved in the major construction ... I want to be able to pull the permit to do minor construction – to remodel kitchens, bathrooms. I don't want to do any of that, you know, without a license. I want to be able to pull the permit and do everything right.

Q. But you don't have ... concrete truss work on buildings over three stories -- correct?

A. No, I don't.

Q. None?

A. It's not something I want to do – I don't want to do major construction. I want to do minor construction – that I always do.

Q. But the license you're applying for allows you to build a three ...

A. I understand that, but I will get more experience, you know, compared to my working by contracting for work that I know. And do everything by the way it is supposed to be. I own my own business since 2013 and I know how everything is going. I know when I need to get permit ... when I don't need permit ... I know that.

Q. Do you plan on working on any three-story buildings or four-story buildings or ...

A. No...

Q. ... or do you plan on just single-family residences?

A. No, I plan to just to be able to do remodeling – like kitchens, bathrooms – that’s why I submit the license ... I pass the test to be a General ... but I’m okay to be a permit building Contractor license. Because that is what I want to do – be able to pull the permit.

Q. Let’s say you’re remodeling somebody’s kitchen in a high-rise which a Building Contractor’s License would allow you to do. The plan is to add a kitchen island. And for the kitchen island, you need to add plumbing for a drain as well as electric for the dishwasher, disposal, and outlets for small appliances. How would you do that?

A. When I apply for the permit, all that has to be in the form – the electric and the plumber – they will be on my form – they got to do that – that is something I cannot do.

Q. But how would you get plumbing or electric to the middle of a kitchen where there is no plumbing or electric?

A. Well, I got to get the plan and then the plumber, he got to get the permit, too, and the electrical.

Q. I don’t think you understand what I’m asking -- I’m not asking about the specifics of the electric. We understand that some type of wires must go from the wall to the island – right?

A. Yes.

Q. How are they going to get there? Is that your call or is that the plumber’s call or the electrician’s call?

A. The electrician ...

Q. ... is going to figure out how to get the wires across?

A. The electricians, you know, they do that job but they would be under my permit but that is something that I could not do, you know.

Q. So, the electrician would write on the permit how he’s going to get power to the island? And the plumber would write the plan or permit application how he would get the water pipe, supply, and drains from the common area to the island?

A. Yes.

Q. I’ve never seen that happen, personally.

Richard Joslin questioned the Applicant:

Q. I think what Mr. Lantz trying to say to you is that you seem to know what you want to, but you don’t know how to do it.

A. Well, I’ve never done electric and I’ve never done plumbing.

Q. Correct. That’s the point.

A. I’ve never done something like that. How can I say I know? The only thing I know is, I do remodeling. For electric and plumbing, the plumber will do – they are licensed contractors, you know. I can do my part – framing – what I am allowed to do.

Q. But the point of it is – that we’re allowing you to pull a permit that will say you know how to do that job. If the electrician is stymied for some reason, you should know how to get the electric over to the island and the plumbing – if the plumber

has a problem. If you don't know how to do it, then what's going to happen? Nothing is going to happen and that's why we're speaking about experience.

Matthew Nolton questioned the Applicant:

Q. To clarify a little further – they are not talking about the wires, the electrical, or the pipes and putting those in place. They are talking about access – how do they get them in there. In a house – if you're doing this – you would jackhammer through the slab. You put them in there and then you have to patch the slab. But we're talking about in a high-rise – how are you going to give the plumber and the electrician access to install the wires and the plumbing?

A. From the wall – we can add it from the ceiling ... through the framing ... or ...

Q. You could do that to supply plumbing – you could do that for electrical, but what are you going to do for the drain?

A. For the drain, I think they gotta use what they already got there. When we are in the building, there is no way to run it.

Vice Chairman Lantz: Personally, I think you have good intentions. I like the fact that you want to get a license to take on more projects, but I personally think that you need to get more experience on bigger projects. You have a lot of experience on what you do now – and I have no doubt that you're very good at drywall, stucco, metal framing – and that's what you're licensed to do. You probably learned some of the permitting aspects to it, but I'm apprehensive to give you a license to allow you to oversee a larger project in a multi-family building or in a commercial building – anything that has a structural aspect to it that I don't think you are familiar with and you can't rely on your subs to bail you out. You can rely on subs to help you out, but somebody has to drive the ship and say you can chip across that floor or you can cut across that floor or you can drill here, but if you want to drill here, we have to take these precautions beforehand. I think you need the experience to understand that part to do it. Our job isn't to allow you to learn on the fly or as you go. Our job is to make sure that you're competent to do it before you go.

Terry Jerulle: Mr. Calderon, you are here to get a license and the burden of proof – I hope you understand what I'm saying – is on you to convince us. This is your opportunity to convince us that you do have the experience. I'm going to let you speak instead of asking you questions. You can explain to us why you think you deserve or need a license.

Octavio Calderon: Well, first, I have been in business for six years already ...

Terry Jerulle: Owning a business is good but you need to explain to us the experience part of it.

Octavio Calderon: Yeah, I got my experience working in the construction side for twenty years already. I did not work in the major construction because I did not have that much opportunity to do any. But now, you know, if I get a license, I know everything I got to do to do everything right. I don't want you catching me doing something in the future without a license – that's why I'm here, you know, to try to get my license I know what I got to do and I'm going to do everything right. If I want to remodel something and I don't know what to do, I can go to your office and ask

or I can hire another General Contractor to be able to do it right. First, to do remodeling, to do everything I got to talk to a General Architect and I will be getting experience more every day.

Terry Jerulle: And I really appreciate that you want to do everything right and I really appreciate that you're here because I know a lot of people would just go ahead and do it without coming and getting a license. So, I really appreciate that. Again, it's incumbent upon you to convince us that when you're in that remodeling job – and my experience with remodeling is – you go to do one thing and people want another thing ... and then, maybe, they want another thing. So, you're doing more and more things. Sometimes when you go to remodel a kitchen, the windows come up ... as an example ... people want you to replace their window.

Octavio Calderon: I got to apply for the permit. I got to ask for the floor plan and the paperwork, so I submit the permit ...

Terry Jerulle: But replacing windows sometimes involves structural work, and that's why we're asking you what your structural experience is.

Octavio Calderon: Yeah. I realize I got to get a permit and ...

Terry Jerulle: Knowing that you have to get a permit and knowing you have to do it right is one step, but there are several steps after that – that you need to know – and that's why we're asking you to explain to us that you have some of that structural experience.

Octavio Calderon: You know ...

Terry Jerulle: The comment earlier was there are some slabs that you can chip to put conduit in and then there are some slabs that you cannot chip. I don't know that you know the difference.

Octavio Calderon: Yeah.

Terry Jerulle: There are some windows that you can replace with the same openings and there are other windows where you must increase the openings and do structural work to them.

Octavio Calderon: Then I got to get that floor plan and everything I need to be able to it before. You know you're not going to be able to rip up the floor and everything without approval for the plan.

Matthew Knowlton: What's the tallest building that you've worked in?

Octavio Calderon: Maybe 18 - 20 floors here in Naples.

Matthew Knowlton: Do you know what a fire wall is?

Octavio Calderon: Yes, sir.

Richard Joslin: I'm going to have to refer to the August 1, 2015 meeting when you were here the first time. It was the last time you came in -- Mr. Ossorio was handling the meeting and it was pretty much the same – the conclusion was that you needed to get more experience and good credit. It was forty-eight months of experience at that time. I don't think at this moment that you've shown us that time until today that you've gotten the extra forty-eight months of experience other than the jobs that you do now which I know you've said you do very well. But you don't have the other experience in construction what you're trying to do. Unless you can show us something else, I'm going to make a motion.

Terry Jerulle: But – before you do that – is there another license he can apply for that will allow him to just do the remodels of kitchens and bathrooms without being a General Contractor?

(A comment was made but not on the microphone.)

Terry Jerulle: And he's applying for a General Contractor's license and not a Residential?

Everildo Ybaceta: Right ... a Residential Contractor.

Chairman Boyd: All you want to do is single-family homes, is that correct?

Octavio Calderon: Yeah – I want to be able to remodel them ...

Chairman Boyd: Just single-family homes ... not in a high-rise ... not in ...?

Octavio Calderon: I have been working in many high-rises and I want to be able to remodel the apartment, sure, if they ask me.

Terry Jerulle: Yeah, but even I have a problem with that.

Chairman Boyd: So, there's not another ... is there a license just for residential remodeling?

Everildo Ybaceta: There is a Residential Contractor's license who can do work on residential single-family homes. It does not apply to condominiums because they are considered to be "commercial" or anything over three families or more which are considered "multi-family" and commercial. If he wishes to do cabinet work, there are licenses that he can that, and or kitchen remodels, there are certain licenses that are specialty licenses that do fall under that.

Vice Chairman Lantz: But he can't remodel a kitchen unless he's at least a Residential Contractor. There's no specialty license that will allow him to pull a permit.

Everildo Ybaceta: Not for ... no, it has to be a ... no.

Vice Chairman Lantz: The homeowner would have to pull a plumbing permit ... the homeowner would have to pull an electrical permit ...

Everildo Ybaceta: Right.

Vice Chairman Lantz: ... for him to do that. So, at a minimum, he would need to be a Residential Contractor to remodel a kitchen.

Terry Jerulle: And a lot of his clients live in condominiums.

Everildo Ybaceta: A Building Contractor's License will allow him to do that Scope of Work and it will allow him to go above three-stories if it is not structural. Jonathan Walsh who is the Building Official for Collier County is present and can attest to that if you wish to ask him. So long as he is not affecting the overall structure of a building, I believe that he can do that work.

Vice Chairman Lantz: I don't think he's qualified to be a Building Contractor. – I think we've determined that here. And, personally, I would still be leery qualifying him as a Residential Contractor. He still doesn't have the structural experience. In my experience, the structural experience on a residential building – sometimes, it's a lot more difficult because there are more load-bearing walls in the middle of the house and you need to be able to understand that. Typically, on a commercial building, you know its concrete and probably load-bearing. If its metal framed, then probably not. It's almost easier, in some respects, in commercial than in residential.

Everildo Ybaceta: Also, for clarification, to the previous question of his test scores – he would have to had applied and been issued a license for it to have gone into ... his previous application did not go any further than the application, so his tests are still active.

Richard Joslin moved to deny the application of Octavio Calderon to obtain a General Contractor’s License. Vice Chairman Lantz offered a Second in support of the motion.

Discussion:

- Richard Joslin directed his comments to Mr. Calderon, stating it could be difficult for him to obtain a General Contractor’s license due to the business that he was doing, i.e., remodeling.
- He suggested that Mr. Calderon work specifically for a General Contractor to obtain the experience he needed.

Chairman Boyd called for a vote on the motion. Carried unanimously, 6 – 0.

Everildo Ybaceta invited Mr. Calderon to come to the Contractors’ Licensing Office to explore other licensing options.

Terry Jerulle commended the Applicant for appearing before the Board – for trying to do things the right way. He stated he was sorry that the Board would not issue the license to him. He confirmed Mr. Calderon could apply again in the future but suggested he needed to first obtain structural construction experience.

Everildo Ybaceta informed the Board that he had been advised the previous case, Melvin Alfaro who had requested to contest Citation #11231, would not attend the Board’s meeting.

D. Hublar Lopez – Application to Qualify Second Entity

(Currently qualifies: ***“Blue Diamond Home Builders Corp.”***)

Proposed 2nd Entity: O&C Builders Group d/b/a ***“O&C Concrete Solutions”***)

Chairman Boyd asked Mr. Lopez to come to the podium to be sworn.

It was noted that Maria Gomez was appearing as a translator for Mr. Lopez.

Maria Gomez stated:

- She works with Mr. Lopez who owns Blue Diamond
- They are before the Board to obtain approval to qualify O&C.
- Blue Diamond builds homes and O&C’s work consists of concrete blocks and slabs.
- The companies are currently two separate entities
- Mr. Lopez opened O&C with a financial partner but only Mr. Lopez is experienced in concrete work

Vice Chairman Lantz questioned the Applicant:

Q. The company you currently qualify builds homes?

A. Blue Diamond – yes.

Q. The company you want to qualify is already licensed to do concrete work?

A. Only block and slab.

Q. But it is licensed to do that and has been licensed since for a while?

A. No – it's a new company – they want to be with Blue Diamond's license. The reason why they need another company is because they can work together. Blue Diamonds builds home and the new company has the equipment necessary to enable Blue Diamond to expand but as separate entities.

Richard Joslin questioned the Applicant:

Q. So, Blue Diamond will build homes?

A. Yes.

Q. And O&C will do the block and the slab work for the homes?

A. Yes ... yes.

Q. But O&C could contract to any builder and work separately?

A. Yes.

Q. I understand.

Vice Chairman Lantz:

Q. So, you'll be paying yourself? One of your companies will be paying the other one?

A. Okay. If say, another company wants us to do concrete blocking – we will use O&C. We will use them but we want to keep them separate – we do not want them put together. Blue Diamond already has its business and Mr. Lopez had a business that was under his license. Opening the new business will get more jobs done. The partner has the assets and we have the license. We want to expand O&C and make it bigger.

Q. As it stands right now, Blue Diamond hires O&C to do ...?

A. No, we cannot do that.

Terry Jerulle: There is no O&C right now. They want to license O&C.

A. O&C is the new one.

Q. I thought O&C already has a license to do block and slab?

A. That's the new entity.

Terry Jerulle: If you read the application, he currently qualifies Blue Diamond which he owns 50% of. He wants to start another company that he will own 100% of called O&C Concrete Solutions which will do the concrete work.

Vice Chairman Lantz: But O&C already has all the equipment – no?

Richard Joslin: Blue Diamond has.

Maria Gomez: We are going to merge the person who has the equipment with Blue Diamond.

Vice Chairman Lantz: Does this man work for you?

Maria Gomez: Yes.

Terry Jerulle: Let me ask another question – who owns Blue Diamond?

Maria Gomez pointed to Hublar Lopez.

Terry Jerulle: He owns 100%?

Maria Gomez and Hublar Lopez nodded yes.

Terry Jerulle: But your application says you own 50%.

Maria Gomez: 50% of the new one ... the new entity.

Terry Jerulle: That's not what it says here – right? Am I reading this wrong?

Matthew Nolton stated one of the County's statements seemed to be the opposite of what Mr. Lopez signed.

(Note: See Page 10 of the Application; Answers to Questions #13 and #14. The summary sheet of the information packet reversed the information.)

Terry Jerulle: You own 100% of Blue Diamond – okay. And who owns O&C?

Maria Gomez: That's the new one.

Terry Jerulle: Yes, I know it's the new one. But who will own it?

Maria Gomez: Eduardo Castro and Hublar Lopez will be the owners of the new company, O&C – each – 50%.

Richard Joslin: Okay – that makes sense.

Vice Chairman Lantz: Is Eduardo currently an employee of yours?

Maria Gomez: No – he works for B&G Builders.

Vice Chairman Lantz: And you want O&C to just do the concrete work?

Maria Gomez: Yes – only concrete block and slabs.

Vice Chairman Lantz: By qualifying it, it will be a building contractor so, technically, it will be able to build entire buildings.

Maria Gomez: Yes.

Vice Chairman Lantz: Even though O&C won't, it will be licensed.

Maria Gomez: After we get the license. He is a contractor, so he will cover O&C, the new company.

Richard Joslin: So, that means you will have two building companies? With the license that you want, O&C could build a house or Blue Diamond could build a house.

Maria Gomez: No, Blue Diamond Home Builders will build the entire house. The new entity will only do concrete block work and slabs.

Matthew Nolton: We understand that but the license you are applying for would make them both qualify to do the same thing.

Maria Gomez: I don't know that. Blue Diamond will cover the O&C, the new entity.

Richard Joslin: Right. And he is a licensed builder?

Maria Gomez: He is licensed.

Richard Joslin: If we allow you to do this secondary company, the license will allow O&C to do the same thing that Blue Diamond does ... not just the concrete block and slab work. But you don't want O&C to do the whole project?

Maria Gomez: Nope.

Richard Joslin: All you want the new entity to do is the concrete work? Okay, so we could give the license and restrict O&C to doing concrete work.

Terry Jerulle: Isn't the application incorrect in the sense that they should be applying for a specialty license?

Everildo Ybaceta: Yes, it should be for a Masonry License.

Terry Jerulle: Instead, they are applying for a Registered Building Contractor.

Everildo Ybaceta: Correct. It was explained to them when they first brought it to my attention and after lengthy discussion, at the end, he preferred to apply for a Building Contractor's license.

Terry Jerulle: Sir, if you understand – you are a Building Contractor and you should have applied for a Specialty Contractor's license. But what you have done is apply for another Building Contractor's license.

Maria Gomez: We don't want ...

Terry Jerulle: But that's what your application says.

Maria Gomez: Yes, the second entity we want restricted only to concrete block and slab. We already – if they tell us what to do, we went back and forth, and we've done the application many times. We tried to do the correct thing – but our goal is to get a second entity to keep separate from Blue Diamond Home Builders. And the new entity can be restricted only to concrete blocking and slab work. Our intention is ***not*** to create two home building companies – not to create another one to compete – you know, the same people.

Terry Jerulle: Then you should be applying for a Specialty Contractor's license, not a Residential Building Contractor's license. I don't feel comfortable giving you a Residential Building license and restricting it. I would feel comfortable giving you a Specialty license.

Maria Gomez: That would be fine. If we knew at the time of the application that ...

Terry Jerulle: I understand ... the communication ... and I understand and that's fine with me. But I think you have to withdraw your application. Evy?

Everildo Ybaceta: Yes, sir.

Terry Jerulle: And re-apply.

Vice Chairman Lantz: I have a question. How does Blue ... Blue Diamond is the true builder – right – you build structures? How do you get paid? How are your contracts? Are your contracts a fixed price or cost plus? When someone hires you build a building, do you say it's going to cost \$100,000 to build this building or do you say the concrete is this much, and the plumbing is this much, and this electric is this much, and then we're going to add five percent or whatever?

Maria Gomez: Well, you have to do your ... depending ... when you're building, you need to know what you're building. If they want a house that's 3,000 or 4,000 square feet, you have to calculate what you will need, and you have to disclose all your pricing before you give the price to the client.

Vice Chairman Lantz: So, when you give me a price and say that's the price – I don't care if we go over, this is the price ... period? Or are you going to give me a price and say, 'well, if the concrete comes in over budget, you must pay the overbudget? If the electric comes in, you have to pay?'

Maria Gomez: No, but it depends how ... if it's a custom home and if we have a delay in something ... like the permitting ... that's not our fault ... or whatever, and you see the increase in price is a little bit ... pretty much, we stick to our price. When we say it's 120 or ... whatever ... even if we pay more, we are stuck on our price because if you have a contract, you have to respect the contract and the price we have given.

Vice Chairman Lantz: So, all your contracts are what we would call "fixed" price?

Maria Gomez: Fixed price and it depends on how the contract is. If we have a client who wants a house and we give a price or \$110,000 – that will be the fixed. Okay? We have a client now and they want to do this, and they want to do that and, okay, we have a price for the square footage and we decide it's 25 but we end up and it's 27, then we adjust the price – you know? Always a good ending for both – we're working for both.

Vice Chairman Lantz: So, one of our concerns is having two people in the same business. I'm not saying you're going to do this – I'm not trying to give you ideas on how to do this – but it can happen very, very easily ... where you're the building contractor and you hire what happens to be your own company to do the concrete work. And then you say, 'well, the concrete price came up \$10,000 over budget so the price of your cost just went up by \$10,000.' If you hired Joe B. down the street, that might be acceptable but if you're hiring yourself, or your cousin, or your brother-in-law, or your nephew – that might not be acceptable. That's one of the issues that we have when people get the same license to do the same thing. We don't want that scenario to happen.

Maria Gomez: We don't want to compete with anybody regarding the prices and the concrete. What we are trying to do here – we do homes – we hire somebody – we pay tons of money to somebody. If we create this, we can get our business because we can spend and do that. Because sometimes you have to wait – right now the demand is so overwhelming that we have to wait so long. We have the equipment – if the new entity is approved, we are able to do so many things. We are not as concerned about price – you're talking about competing.

Vice Chairman Lantz: I am not talking about competing prices. I am talking about telling a homeowner that the concrete guy came over budget when ...

Maria Gomez: We don't do that. What we're doing right now is pretty much the fixed price. I don't think – it's probably rare that we build and come up with something – that is an issue where we have to wait like three to six months like we did for the City of Naples – the permitting – six or seven months. The increase on the contracted materials – we sit down and say, 'okay, this is the budget we are giving you of what it costs right now' and because of the model of home that they purchased, and the prices are a little bit different than in the County – so we sit down, and we get an agreement and an increase of 10% percent for the materials and that's okay. But, pretty much, our contracts are fixed price.

Terry Jerulle: This will be a discussion when they come back ... from what I assume ... right, Evy? We're not going to deny it – right – we're going to ask them to withdraw and re-apply for a Second Entity as a Specialty?

Everildo Ybaceta: Yes, I do agree with you. Yes, they can do that.

Richard Joslin: What license will they come back to apply for -- masonry?

Everildo Ybaceta: Yes, the masonry license.

Vice Chairman Lantz: And that would allow them to do slabs as well as block and tie beams?

Everildo Ybaceta: We could work with them – I believe so.

Richard Joslin: Since we're already heard, basically, what he wants to do – if he was to go and present another packet to you – is that something that could be approved without coming back before the Board?

Everildo Ybaceta: Yes, sir, I can do that. As I said, this was a discussion that we

had prior to the application was submitted. It's still open for them to come back to the office and we can discuss how to better tailor what he's trying to do and put it into the licensing that he needs to move forward with his new business.

Terry Jerulle: Do you understand that?

Maria Gomez: No – okay – can we ... we don't need to come back ... we need to apply for a masonry specialty license to open the new entity?

Everildo Ybaceta: The best thing for you to do is ... after this meeting ... come to my office at 2800 Horseshoe Drive and we will sit down to really clarify what you want to do, and then we can move forward with that. I believe we can probably do it without coming back before the Board.

Maria Gomez: Okay.

Matthew Nolton: Unless there is any further discussion, I will take a stab at a motion.

Matthew Nolton moved to deny the application of Hublar Lopez to Qualify a Second Entity as presented but approve an application to Qualify a Second Entity as a Specialty, i.e., Masonry License with Concrete and follows the application process with the County. Chairman Boyd offered a Second in support of the motion.

Richard Joslin: Why do we have to deny the application?

Everildo Ybaceta: If he applies to qualify the second company as a specialty, he may not need to come before the Board.

Assistant County Attorney Kevin Noell: The way the Board has handled these issues in the past, as Mr. Jerulle pointed out, is to ask the Applicant to withdraw the application. If that's the case, the matter is closed. They can meet with the Contractor Licensing Office Supervisor and go through the normal application for a license in which they probably qualify for without Board involvement.

Matthew Nolton: It's still a Second Entity that they're licensing -- they can do that without coming before the Board?

Assistant County Attorney Noell: Not in terms of equal licensing. They would be applying for a Specialty license.

Everildo Ybaceta: That's right – it would be a different license.

Vice Chairman Lantz: But then they'd have to take the test, or they would have to come before the Board to waive it.

Everildo Ybaceta: That's one of the requirements.

Matthew Nolton: Unless the County decides they have the experience.

Everildo Ybaceta: No, they would still take the test, yes. But if he has a Building Contractor's license – that's quite the experience right there by itself.

Matthew Nolton moved to withdraw his motion.

Vice Chairman Lantz: I don't see them getting a Second Entity – no matter what the license is – without coming before the Board. Either they are asking to waive the requirements for a test ... unless they take the masonry test.

Everildo Ybaceta: No, if it's a Second Entity, it doesn't ... unless it qualifies as

an equal – a like for like – then, yes, it will come before the Board.

Vice Chairman Lantz: But if he’s getting a masonry license without taking the masonry test -- using a different test -- the Board doesn’t have to approve that?

Everildo Ybaceta: He would have to take that test, yes.

Vice Chairman Lantz: But he could request a Waiver for the test?

Everildo Ybaceta: Yes, that is correct. There are a lot of options here that are on the table. I think the first step is to go to my office and figure out what you need to do first.

Maria Gomez: We are here because the County told us to come – we did it many times – we tried to do whatever you guys said had to be done to be able to get a Second Entity. We understand. We are a licensed Building Contractor. We are not looking for two entities to do the same job. We are looking for the Second Entity only to do block and slab. If it has to be only a Specialty license for that – it’s fine with us. That’s what we are looking for.

Richard Joslin: We understand that. To do that, you will need to submit another application to make it legal and to make your license valid.

Maria Gomez: That’s okay.

Richard Joslin: Go back to Collier County – to Mr. Ybaceta – and apply again. Now, the credentials that you have as a Building Contractor probably will apply because you have the experience. But a test may be required. We can’t say yes or no – we will let you decide. Since we can’t make a decision today, we are asking you if you are willing to withdraw this – it will go away for the moment – you can sort it out and then come back if ...

Maria Gomez: Alrighty – we can withdraw, and we will sit down with Collier County and will be able to move forward in that direction. Okay?

Richard Joslin: And you will get the license that I think you want.

Maria Gomez: Alrighty – okay.

Terry Jerulle: I’m sorry for the confusion. Good Luck and Merry Christmas!

Maria Gomez: Bye, bye ... Merry Christmas.

IX. OLD BUSINESS:

(Note: The individuals who testified in the following case under Item IX, “Old Business,” were first sworn in by the Attorney for the Board.)

A. Jeffrey Bumpus – Final Update: Expired Permits

(d/b/a “Northern Breeze Air Conditioning, Inc.”)

Reggie Smith, Contractors’ Licensing Compliance Officer, thanked the Board for its patience during the process and stated Joshua Lenio would provide a report of the latest information concerning the status of the expired permits.

Josh Lenio stated that as of December 19, 2018, technically, Mr. Bumpus had no expired or void permits. He clarified there were some permits that were in “issued status – inspections completed” and one that is “pending – under review.” Mr.

Bumpus has permits that are “open” which means he has not yet received a Certificate of Completion.” He is still actively pursuing these permits.

Vice Chairman Lantz: So, the even though the permits aren’t closed out – they are still active, and he is within the law?

Josh Lenio: Correct.

Vice Chairman Lantz: On every single permit that he has?

Josh Lenio: Correct. So, all the ones that he currently has open, he is technically within the requirement that he pursue a Certificate of Completion.

Jeffrey Bumpus: Don’t thank me. I went to his office and there is a lady in his office who really took care of me. She did. I was there this morning and submitted two sets of plans and everything is 100%.

Richard Joslin: Congratulations.

Jeffrey Bumpus: When I get done here, I’m going to get her a card and a gift certificate because she was exceptional.

Richard Joslin: And then you’re going to say to us that you will never let this happen again – right?

Jeffrey Bumpus: I certainly hope not. She gave me a list of 17 on Monday that were to have final inspections. My biggest problem now is that I have a couple of people who said to wait until after Christmas. Yesterday, we were like the police – knocking on doors – people were sleeping but they let us in because I said I was with the County and we had to inspect the a/c. Basically, I have two or three more who are after Christmas. The rest should be done on Monday. And \$800.00 later, I got renewed.

Richard Joslin: Is this something now that you’re comfortable with as far as the permits are concerned?

Josh Lenio: I don’t know if I would say “comfortable,” but technically he is actively pursuing them. The goal here is, obviously, to see that they are receive a final inspection. Some of them are still lingering, some of them haven’t been inspected but he still has the 180 days.

Everildo Ybaceta: For the record, County employees cannot accept gifts.

Jeffrey Bumpus: You can’t?

Everildo Ybaceta: A card would be nice ...

Jeffrey Bumpus: I get it.

Everildo Ybaceta: ... or a letter to the Board of County Commissioners saying that we were helpful would be great.

Jeffrey Bumpus: There was one girl who was very helpful to me five years ago and I brought her a giant cookie basket. I appreciate it. She summed it up in five minutes and made me a list that I could work with of what needed to be done. She told me one had failed inspection in 2012 but when I was there, the homeowners told me it had passed.

Everildo Ybaceta: At this point, I believe we are at the stage where we need to close this out.

Chairman Boyd: That would be nice. Just make sure that all of the other ones are inspected so you are not back again.

Jeffrey Bumpus: Okay.

Richard Joslin: What's the time span on the rest of them – I know some are “after Christmas” but ... ?

Jeffrey Bumpus: Yeah ... by the first of the year, everybody should be back from up north and I've got four or five that I'm calling on Friday. If I leave a note on the door, nobody calls. So, I'll just take a chance for \$75.00 and call in a re-inspection.

Assistant County Attorney Noell: To go back to the procedural history of this matter, my recollection is that he was found in violation. That decision was made and then the Board was waiting to see what actions he would take during this interim period before they discussed imposition of a penalty. From the County's perspective, I don't think the matter is resolved. There as a violation that was found, and he has taken steps to correct that. The steps that he has taken – even though he is in compliance by moving to close out the permits – that doesn't resolve the violations that were there. He has attempting to mitigate so when this Board does make a ruling on the penalty phase, he will be able to represent the actions that he has taken the past couple of months. He is pursuing closing them out, but they are not closed out at this juncture. So, unless the Board is going to rule now as far as a penalty and trust that over the next couple of months, he's not going to come back before under new violations for these permits – then, technically, it would be continuing this on until they are closed out if the Board wishes to hear that the mitigation has been fully resolved and completed. At this point, the fact that the things Mr. Bumpus has done to mitigate has been pulling the permits which are still open. Now if he does not close these out, it could be a new violation for him. I hope I'm making sense as far as the distinction here.

Jeb Schneck, Attorney for the Board: If I may add on to what Kevin said ... the Board in the September Order found the Respondent guilty of the violations and of misconduct. The Board also put a limit, or a restriction, on his permit pulling privileges. Right now, he cannot pull a permit unless it is associated with the outstanding permits. That restriction remains today and will remain so until the Board takes further action. The second part of the Board's Order as far as discipline and penalties is the recommendation to the State's Construction Industry Licensing Board (“CILB”). The Board has withheld sending any recommendation to this point – awaiting the results of the last thirty days and his addressing the outstanding issues. The Board can continue to follow this matter on a monthly basis obtaining status reports until all the permits are closed out. Then the Board can make another Finding and rescind its Order to remove the restriction on Mr. Bumpus' permit pulling privileges and make any type of recommendation to the CILB at that time. If there are additional violations, the Board can take the appropriate action.

Richard Joslin: I don't want to open a new can of worms but if, by some chance, he does not close them out – it probably would be better to continue this to the next meeting. He said he could get the permits closed out by Christmas ... it's Christmas. Do you think you will be able to close out all the permits?

Jeffrey Bumpus: Yes. I believe you said at the last meeting that as long as everything was 100% completed, that the Building Department could make the decision to put everything back into effect. If I get them all completed on Friday, the Building Department could put my license into “active” and I wouldn't need to come back before the Board. It doesn't matter – whatever you want to do.

Richard Joslin: Technically, the Order is still open – all we’ve done is modify it to allow you to finish out the permits that were void and open.

Jeffrey Bumpus: Correct.

Richard Joslin: That was the question then. There is still the penalty phase and we can pursue it.

Jeffrey Bumpus: Right.

Richard Joslin: Because of the time delays, it’s not quite over yet. It’s your job to finish the permits so we can make a decision and that’s up to the Board. At the moment, I would continue it.

Chairman Boyd asked the members for their opinions ... closing this out or continuing it.

Richard Joslin asked Staff for a recommendation.

Terry Jerulle: I believe at the last meeting, I recommended that we inform the State of the violations, but I was voted down – which is okay. If I understood Mr. Bumpus correctly – you were at the County last Friday?

Jeffrey Bumpus: Yes.

Terry Jerulle: And you didn’t do anything last month until last Friday?

Jeffrey Bumpus: Correct.

Terry Jerulle: You have proved my point. You only do things at the last minute – just to get by, instead of just finishing it. I’m still of the same opinion – we should just tell the State and by the time it gets to the State, it will give him the opportunity to finish this. You’re right – Christmas time is the hardest time of the year to do anything because people aren’t around. But that’s not my problem or the Board’s problem.

Richard Joslin moved to approve continuing Case #2018-04 for an additional thirty days or until the next Board meeting. If the remaining permits have not received a Certificate of Completion by the next meeting, the Board will send its recommendation to the State’s Construction Industry Licensing Board (“CILB”). The Board will also decide the penalty phase at its next meeting.

Terry Jerulle: We just keep moving along.

Richard Joslin: I know.

Terry Jerulle: And next month, we’ll still keep moving along.

Richard Joslin: I know – I’m caught between a rock and a hard place here as for as the motion goes. But I think for the residents of Collier County, I think this is the best decision.

Chairman Boyd called for a Second on the motion. (There was none.)
(The motion died.)

Vice Chairman Lantz pointed out Mr. Bumpus’ permit pulling privileges were still restricted until such time as all the permits were closed out.

Vice Chairman Lantz moved to:

- ***Continue the restrictions in effect on the permit pulling privileges of Jeffrey Bumpus until remaining permits are closed,***

- *Approve concluding the Board’s hearing of this case, and*
- *Approve sending a recommendation for further action to the State’s Construction Industry Licensing Board (“CILB”).*

Assistant County Attorney Noell: For the record, I think the same leverage will be on Mr. Bumpus because I am sure that when the State starts looking into the matter, the Regional Investigator will have questions concerning whether or not the permits are closed out. That may be a month or two down the road before the State contacts Mr. Bumpus -- if it decides to do so. It’s may be even stronger leverage for Mr. Bumpus to close the permits out.

Chairman Boyd asked for a Second on the motion.

Attorney Jeb Schneck: Just for clarification, Mr. Chairman, as far as the penalty recommended that the Board will send to the State along with the case, would you like a general statement to pursue all penalties under Chapter 49 or does the Board have a specific recommendation?

Richard Joslin: That’s one of the reasons why I didn’t go that route – because the penalty phase hasn’t come up yet.

Vice Chairman Lantz: We don’t have to ...

Attorney Jeb Schneck: The action you are taking now is, essentially, a follow-up letter to the State with the Order from last month’s meeting and having a specific recommendation that the State’s CILB take further action. You can identify certain actions, i.e., suspension of a license or permit restrictions or monetary penalties such as fines ... or you can make a broad statement to take any further action that is deemed to be appropriate.

Vice Chairman Lantz: Personally, I would like to see a general statement.

Chairman Boyd asked if the Vice Chair was willing to amend his motion and Mr. Lantz agreed.

Chairman Boyd again called for a Second on the motion.

Matthew Nolton: I’m not sure I fully understand the motion. I’d like to hear it again.

Vice Chairman Lantz moved to:

- *Continue the restrictions on the permit pulling privileges of Jeffrey Bumpus currently in effect in Collier County until the remaining permits are closed;*
- *Approve concluding the Board’s hearing of this case, and*
- *Approve sending a general recommendation to the State’s Construction Industry Licensing Board (“CILB”) for further action.*

Everildo Ybaceta: Mr. Bumpus, are you going to pursue your license or your business as far as pulling permits in the future. I believe previously you said you were just going to do maintenance work.

Jeffrey Bumpus: Yes, chances are I’m not going to use my license once I get all this done – it will probably be closed. I can’t be 100%, but I’m pretty close.

Matthew Nolton: I think that whatever motion you make has to have some penalty recommendation – whether it’s generic or general – something like “to the fullest extent possible.” I don’t know if we could contemplate making it more specific –

stating if the permits are not closed out within the next thirty days, we will recommend to the County that he is to be reported to the State with terms like a suspension of his license and a \$10,000 fine.

Vice Chairman Lantz: You are saying to recommend that if the permits are not closed out within the next thirty days, we request the maximum penalty possible?

Matthew Nolton: Something like that so that we're done with it and we haven't just left it to chance to someone else – we've put in a penalty to the options.

Vice Chairman Lantz: Is that a Second with the amendment?

Matthew Nolton: It would be.

Vice Chairman Lantz: I will modify my motion.

Vice Chairman Lantz moved to:

- *Continue the restrictions on the permit pulling privileges of Jeffrey Bumpus currently in effect in Collier County until the remaining permits are closed;*
- *Approve concluding the Board's hearing of this case, and*
- *Approve directing Collier County Staff to send a written recommendation to the State's Construction Industry Licensing Board ("CILB") requesting enforcement of the maximum penalties possible, i.e., suspension of Jeffrey Bumpus' license and imposing a fine of \$10,000 if the remaining permits are not closed out within thirty days.*

Matthew Nolton offered a Second in support of the motion.

Chairman Boyd called for a vote on the motion. Carried unanimously, 6 – 0.

Chairman Boyd stated the case was closed.

X. PUBLIC HEARING:

A. Case 2018-10: Board of County Commissioners, Plaintiff, vs. Stephen Bowles, d/b/a Jackson Pools, Respondent – Misconduct of a State-Certified Contractor

(Note: The individuals who testified in the following case under Item X, "Public Hearing," were first sworn in by the Attorney for the Board.)

Terry Jerulle: Mr. Chairman, my company has used Jackson Pools in the past. I don't believe I know Mr. Bowles. I don't know if you know me.

Stephen Bowles: No, sir.

Terry Jerulle: It's been ten years or longer since I've used them. I am disclosing this fact – I don't know that it would have any impact on my decisions or my thought process.

Richard Joslin pointed out there are two "Jackson Pools" in business. There was a Jackson Pool Construction and a Jackson Pool Service.

Stephen Bowles: We are Jackson Pool Service.

Terry Jerulle: Oh, then I take it back. My mistake. Thank you for pointing that out.

Chairman Boyd requested a motion to open the *Public Hearing* for **Case #2018-10: Board of County Commissioners, Plaintiff, vs. Stephen L. Bowles, d/b/a Jackson Pool Service, Misconduct of a State-Certified Contractor.**

Richard Joslin moved to approve opening the Public Hearing for Case #2018-10 as previously referenced. Matthew Nolton offered a Second in support of the motion. Carried unanimously, 6 – 0.

Chairman Boyd outlined the process for the Hearing:

1. This Hearing will be conducted pursuant to the procedures set forth in Collier County Ordinance #90-105, as amended, and *Florida Statutes* Chapter 49.
2. The Hearing is quasi-judicial in nature and the Formal Rules of Evidence will not apply.
3. Fundamental fairness and due process shall be observed and shall govern the proceeding.
4. Irrelevant, immaterial, or inconclusive evidence shall be excluded but all other evidence of the 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.
5. Hearsay evidence may be used for the purpose of supplementing or explaining any evidence but shall not be sufficient by itself to support a Finding unless such hearsay would be admissible or objected to in civil actions in court.
6. The Rules of Procedure shall be effective to the same extent that they would now be hereafter recognized in civil actions.
7. The general purpose of the proceeding is for the County to set out its *Opening Statement* which details its charges against the Respondent.
8. A Respondent may or may not make his/her Opening Statement setting out in general terms the defenses to the charges.
9. The County then presents its *Case in Chief*, calling witnesses and presenting evidence.
10. The Respondent may cross-examine these witnesses.

Chairman Boyd confirmed the Public Hearing was open.

Jack Gumph, Contractor Licensing Compliance Officer, presented the County's *Opening Statement*:

- The Respondent is a State-certified General Contractor and holder of License Number CPC1456438.
- He is also registered in Collier County (#LCC20120001055) as a Certified Pool/Spa Contractor.
- On December 29, 2016, Contractor Licensing Compliance Officer Rob Ganguli performed a site visit at 5391 Tamarind Ridge Drive, Naples, Florida 34119, in response to a complaint of unpermitted pool construction.
- Mr. Ganguli observed renovation work to an existing pool as well as construction of a new spa unit.

- No permit had been issued. After it was determined that a permit was required, Officer Ganguli posted a “Stop Work” Order at the site.
- The Contractor was Jackson Custom Pools, LLC d/b/a Jackson Pool Service and Stephen L. Bowles was the Qualifier.
- Jackson Pool Service was notified of the violation and the “Stop Work” Order.
- A Notice of Non-Compliance was personally presented to Stephen Bowles who signed the form on February 14, 2017 acknowledging he had been informed by Officer Ganguli of the permit violation against his license.
- In April 2017, a permit application was submitted. It was later rejected, and a Correction Letter was sent.
- In June 2017, the permit application was still in rejected status; corrections were submitted, and the permit was under review.
- In August 2017, the permit was still in rejected status; corrections were submitted, and a Corrections Letter was sent.
- In October 2017, Stephen Bowles was sent a letter requesting a resolution of the rejected status of the permit.
- In November 2017, Mr. Bowles indicated during a phone conversation that he was attempting to resolve the matter with the Building Department.
- In March 2018, the permit application had expired and a notice was sent to the license holder.
- In April 2018, the director of Jackson Pool Service stated the County had been supplied with engineering reports in an effort to resolve the correction request.
- On August 10, 2018, a Notice to Appear was sent via certified mail to the Qualifier. The hearing date was scheduled for October 17, 2018.
- On August 14, 2018, the mailing was “undeliverable” per the USPS.
- On August 15, 2018, a site visit to 5291 Tamarind Ridge Drive was conducted and the work to the pool had been completed. Later the homeowner called and stated the work has been completed by Jackson Pool Service because they had told the homeowner the issues with the Stop Work Order had been resolved.
- On August 20, 2018, the Notice to Appear was delivered and delivery was confirmed by USPS.
- On October 16, 2018, Stephen Bowles requested a copy of the information packet to review and the case was rescheduled to December 19, 2018.
- The permit remains in VOID status because corrections were never submitted.
- Stephen Bowles is in violation of Collier County Ordinance 2006-46, as amended, Section 4.2.2 which states “Willfully violating the applicable Building Codes or laws of the state, city, or Collier County.”

Chairman Boyd asked Stephen Bowles if he had a response.

Stephen Bowles stated:

- He has been a pool contractor in Florida since 1994.
- He has built approximately 8,000 to 10,000 pools – permitted.

- In 25 years, he has never been involved in “anything like this.”
- On July 12, 2016, he signed a contract with the homeowner to remodel an existing pool and spa that had been built in 1982.
- The spa was flush with the pool deck, but the homeowner wanted to raise the existing spa by eighteen inches.
- The spa was raised, the plumbing was extended, and new tile was installed on the deck. New lights, a new pump and filter were also installed.
- “It’s a cut and dry situation that has been done hundreds of time in this County.”
- He did not think a permit was required to remodel an existing pool.
- Other remodeling work was being done to the to the home at the same time.
- The inspector saw the pool and said a permit was required.
- He was contacted and told a permit was necessary. He did not understand why a permit was required to remodel an existing pool and spa. There was no new construction.
- He began the process to pull a permit.
- The work was completed so there was nothing to inspect but he tried to accommodate the Building Department. He supplied letters from an engineer and other documentation.
- He felt his attempts to come into compliance were being “stonewalled” by the County. He spent thousand of dollars and is “in the red on the project.” He hired engineers to supply letters and to inspect the site.
- He has had “zero” complaints made against his company.
- He has no idea what else he can do to satisfy the Building Department.

Richard Joslin questioned the Applicant:

Q. How did you change the bonding?

A. We didn’t change the bonding.

Q. You raised it?

A. No, sir.

Q. You said it was flush.

A. The spa was.

Q. The spa. How did you raise it?

A. We formed it and poured concrete around it?

Q. Did you put sealant around it?

A. Yes, sir.

Q. You said this was an existing pool with a flush spa?

A. Yes, sir.

Q. How did you change the plumbing?

A. We extended it up.

Q. You had to pre-plumb it to do that?

A. Right.

Q. How did you do the pressure test?

A. We pressure tested it.

Q. Who inspected it?

A. There was no inspection.

- Q.* My point. There was also a sun shelf added to it or was it already there?
A. Well, the pool was there. The sun shelf was put inside the pool. No, there was no sun shelf there. We added it there – it's all one big chunk with no sealing – it's just sitting inside the pool.
Q. So that was part of the pool at one point?
A. Right, but not a sun shelf.
Q. You raised up the spa? The beam?
A. Right, yes, sir.

Terry Jerulle: Excuse me, Mr. Joslin. Mr. Bowles, did you go to the County at the beginning of the project and ask if you needed a permit?

- A.* No, sir.
Q. It would seem to me – and I'm not an expert in pools – that you're not just remodeling the pool ... you're adding to the pool. By raising the beam of the spa, you're adding to the it.
A. Yes, sir.
Q. And in remodeling, it's incumbent upon us, as contractors, to know that we need permits.
A. Well, that's a grey area.
Q. You can argue that, okay. But to me, it's not so much of a grey area and if it was a grey area as you admitted – the first step is to go to the County and ask if a permit is needed.
A. Right -- you're absolutely right.
Q. It's black and white. Maybe you don't. But if it's a grey area, you go to the County and ask.
A. Based on my building pools and pulling permits since '94, this is done hundreds of times. Even here – it's probably being done right now as we're talking.
Q. And you know the Codes have changed in the last ...
A. Yes, sir.
Q. ... since you got your license, the Codes have changed several times.
A. Right.
Q. Okay? So, you can't say what you did ten or twenty years ago is the same thing that you can do today.

Richard Joslin:

- Q.* Also, on the permitting section of it – years ago you didn't have to have the hydraulic plumbing engineered and today you do.
A. Well, all the plumbing is under the ground. I cannot do – it's existing.
Q. Not all of it.
A. Just the spa – the spa – yes, you're right.
Q. I'm talking about an engineer coming in and telling you if the line sizes are right for the volume that is going to go through to the jets which would be part of the ... the engineer would do that when you apply for a permit. They would look at that. This is the reason why it's a grey area because things have changed since '94. And that's the reason why you're here. Like Terry said, I think it is up to you to take a little more responsibility – to go in there and get the permit ... or at least ask

the question – do I need a permit or is it just like any other renovation? There are a lot of people now who are draining pools and resurfacing. Some of them need a permit. That's the way I would treat any kind of ...

- A. And I did evaluate that like you said. But based on the criteria of today and I came to the conclusion there as no permit involved ... based on – not back then – but on what's going on today. And I'm paying the price for it because I comply. I comply. I'm not the guy out there who's not complying. And this one – obviously, I missed it – I slipped and I'm paying the cost for it. But I did not “willfully” do that. It was not intentional or willful. I did not try to defraud the permit – it's just not that situation. Now I'm trying to comply, but I don't know how to satisfy the Building Department unless I tear the pool to pieces and let them see the steel.

Jack Gumph requested to submit the information pack presented to the Board in Case #2018-10 into evidence as County's Exhibit “A.”

Vice Chairman Lantz moved to approve accepting the County's information packet in Case #2018-10 and entering it into evidence. Terry Jerulle offered a Second in support of the motion. Carried unanimously, 6 – 0.

Richard Joslin continued:

Q. Since you found out a long time ago -- months ago -- that you did need a permit, or you were asked to obtain a permit for this job to complete, but you didn't.

A. Yes, sir, I have.

Q. This has gone on ...

A. I have. If you would see the paper trail ... you would see that I have been trying to resolve this matter. And you're right ... the last permit application ... I got to a wall and they wanted ... I don't know what they want now ... if I can get clarification of exactly what is needed ... I'm here to comply ... I mean, there's no reason not to.

Terry Jerulle:

Q. When did the homeowner start the renovation – before you started the pool or after?

A. He started the renovations on his house about the same time ... a little before, I guess.

Q. So, that leaves me to believe that you, at that time, didn't willfully try to do anything wrong because you knew there would be inspectors there.

A. Yes, sir.

Q. That leaves me to believe that you thought you were doing the right thing at the time. But the problem is when the County did inform you that you did need a permit and you didn't follow through the steps to get it. To me, that's the problem.

A. I did.

Q. Before that, I don't think you “willfully” – in my opinion – didn't willfully try to cheat but what I think you didn't do is what the County has been asking you

to do after the fact. And another question is – if you had found out before you started that you needed to get a permit, would you not have charged the client more money?

A. Would I have charged the client more money ...

Q. Correct.

A. ... for a permit ... absolutely.

Q. So why wouldn't you go back to the client now and ask him for more money?

A. Because ...

Q. Because if it wasn't included – and I apologize –

A. We'd gotten to the point where ...

Q. ... but if it wasn't included in the price in your bid to begin with because you didn't know and now it is ... that may be enough ... and I'm saying that because you need to comply.

A. Yes, sir.

Q. You need to go through the steps and it's going to cost you more money and that may be one of the reasons why you gave up.

A. We've not sent him a bill for this – we're eating it – I would not do my client like that because it fell on me, not him.

Q. That's your business decision.

A. Right.

Q. But the point is that we have an outstanding permit that needs to be taken care of and you kind of gave up on it.

A. You're right – I did give up ...

Q. And you can't do that.

A. See, I gave up – not really gave up – I just got to a wall. I didn't know what else to submit.

Q. Well, they listed it for you and it was pretty clear.

A. I got it. I gave everything ... everything that they've wanted, I've complied with. And the last – to my recollection – the last correspondence with them was, 'we want to know how the inspector or engineer came to his conclusion.' I don't know if they want him to radar the steel or what – but that's where I'm at.

Vice Chairman Lantz:

Q. The pictures that you show here show the pool clearly under construction – right?

A. Yes, sir.

Jack Gump noted Jonathan Walsh, the Chief Building Official, was in attendance and could address the issue.

Chairman Boyd stated the Applicant was presenting his case and after the Board could hear from the County.

Q. We have pictures here of the pool under construction. This is about the point when you got the "Stop Work" Order – right? And they said you need to pull a permit to continue.

A. Yes, sir.

Q. How did we get here to pictures later showing a beautiful pool and beautiful

deck without getting a permit? How do we get from don't do any work until you get a permit to a completed pool and we still don't have a permit? How? That's my question.

A. The "Stop Work" Order was lifted once we applied for a permit.

Q. So, when you applied for a permit ...

A. Because I would never have kept going with that – it was lifted, or I would never ... so, the "Stop Work" was lifted once we applied for the permit. There are no more inspections left from that point until the final. Once we pulled the permit, we had to get an Engineer's letter to get to what you saw before it was finished. There's no more permit other than the final permit and the final plumbing. We went ahead and finished the pool because there were no more inspections until the end. All the other – the previous inspections that we didn't get were going to be in the Engineer's letter, so we went ahead and finished the customer's pool. I mean, it's a beautiful pool.

Q. This "Stop Work" Order says in Remarks, "Must obtain required permits prior to continuing any further work." It doesn't say, "Must apply for" – it says, "Must obtain." If you had to expose something, it would be pretty easy to do it when you were in – clearly, you wouldn't want to chip up any concrete, but it would be a lot less expensive to chip concrete before you had any product on top of it – right?

Richard Joslin:

Q. At that time, the actions should have stopped because you did not obtain the permit – you just applied for it.

A. Well, we did obtain a permit.

Q. The permit was applied for on April 28, 2017. Then it went into "rejected status." Did you bother to check to see if the permit – why was it rejected?

A. It was because we didn't get inspected before we raised the spa, and that was rejected – you're right. And then I was told we needed a letter from the Engineer saying the steel and plumbing were correct.

Q. There is something on June 26th – the permit was still in "rejected status" for corrections that were sent to you. Meanwhile, the pool was still continuing to be built.

A. Right.

Vice Chairman Lantz:

Q. You said the permit was issued?

A. It was issued. It's been two years ... I might be ... my memory. So, then that was another rejection because we didn't have a barrier ... a barrier affidavit with the pool. That don't exist – the pool was built in 1982. The Department found out that's in age [the term is "grandfathered"] ... we can't make them put up a cage or put a barrier up on a pool that was already built in 1982 – and the yard is fenced around. That went on for a couple of months.

Richard Joslin:

Q. But if you were going to re-permit or submit a permit for a brand-new

spa – basically that’s what happened and why you are here – the you would have to comply with today’s laws – not whatever happened to the pool in whatever year you’re talking about.

- A. I can’t say for sure on that – that’s what I was told – that’s why to this day there is no barrier, there is nothing ... the County dropped that. They said, ‘okay, we’re not going to push the barrier.’ It was out. I don’t know where I’m at or what I need to do. I mean, we can go back – the damage is done, like you said – I made a mistake. I want to correct it because I comply. I’m a pool guy and I have a passion for this. And when we don’t comply with each other – that’s what breaks the whole system down. I’m that guy who complies and thrives on that. And in 25 years – with this one, I got zapped – and there’s nobody to blame but me and I accept that. I want to make it right. We could go back and forth we “he said/she said” but I’m here at your mercy – I screwed up and that’s the bottom line. I should have done better – that falls on me. About my work, I know far as it comes to procedures here – I’ve built ten thousand pools and Collier County literally has more pools that are literally brand new that falling apart – cracking in half. This guy [indicating Richard Joslin] knows what I’m talking about. I have never seen nothing like it in my life. I’ve done ten thousand pools and none of them have cracked – none of them have fallen apart. I put twice the rebar – they don’t even put seven bars anymore with a wrap around them. They don’t put on six inches center – two feet down – that’s why all the pools crack from the top. When it comes to the structure and the rebar of this pool, it’s unsurpassed – that’s what I do. The weakest part of the pool is the top of the pool. And that’s where I’m at, guys – whatever you come up with. I just ask you to look at that. I’ve been a licensed pool builder here for 25 years and never had a complaint.

Chairman Boyd: Thank you, sir. Are there any questions for Mr. Bowles? [There were none.] Jack, any rebuttal?

Jack Gumph: I’d like to call Jonathan Walsh and Tim Riegler for the Board to question.

Jonathan Walsh, Chief Building Official, stated the case started from an inspection of the residence. The inspector noticed that the pool was being remodeled and I believe we asked Contractors’ Licensing to send an Investigator out to open the case and subsequently asked if a permit was required. A “Stop Work” Order was issued. As it stated, the permit was to be issued – not applied for. It has never been applied for. If anything, he would have been given an allowance to make the site safe while the permitting process was underway. He never should have moved forward without the permit being issued.

Chairman Boyd: So, a permit has never been issued?

Jonathan Walsh: Not for the pool.

Richard Joslin: As of today?

Jonathan Walsh: Today it is in “void” status.

Richard Joslin: Did the inspector for the home renovation know that pool was being renovated as well as the illegal spa?

Jonathan Walsh: To begin with, the spa would be a separate permit. It would not be included in the house permit.

Richard Joslin: If it was just a plan renovation, a permit would not have been necessary – correct?

Jonathan Walsh: A pool can be re-surfaced without a permit – that’s allowed. But they added steel and concrete – they affected the plumbing – all require a permit. My largest concern on this construction is the steel not being grounded – not being bonded. Since this pool is also an older pool – as you know – it probably doesn’t have the proper suction requirements which is also another concern. Regarding the barrier requirement, we did agree that the property’s fence provided a level of protection, the existing pool not being modified. We agreed there were no increases regarding life/safety concerns, so we allowed the barrier requirement not to be applied because it wasn’t a new pool – it was an existing pool.

Matthew Nolton: Why was the permit never issued – what was missing? What data was missing?

Jonathan Walsh: I didn’t do the review, so I’m going to let Tim answer that question.

Tim Riegle: I did the second review which was initially rejected because an affidavit was submitted and not an Engineer’s letter. I tried to be as clear as possible in the Corrections Letter concerning what was required to be included in the Engineer’s letter, i.e., the date and time when the Engineer performed the site inspection and how he performed the inspection to resolve the issues. It was a steel inspection and there are multiple methods of inspection that could be used. I spelled it out as specifically as I could. As you know, we haven’t received anything back after I send the second rejection.

Matthew Nolton: How would that prevent you from issuing a permit? That’s a missed inspection that would need some kind of investigation to do the inspection after-the-fact. Would that prevent you from issuing a permit?

Tim Riegle: In this case because it was an after-the-fact permit, we were asking for what inspection the Engineer’s letter was going to cover and if any additional inspections were going to be needed and added to the permit.

Matthew Nolton: So, you treated it as an after-the-fact process at that time?

Tim Riegle: Yes.

Matthew Nolton: And is that where it fell apart – when you didn’t get any additional information or data?

Tim Riegle: There was never a response to the second correction letter. At that point, the plans would sit in a folder waiting for a response from the contractor before it would be sent out for a second review.

Matthew Nolton: Mr. Bowles, what prevented you from responding or submitting additional information?

Stephen Bowles: To be honest with you, I really can’t recall. I went down there over and over, and I thought we were in compliance and then he sent this back. I don’t ... it got to be such a mess. I guess why I went ahead and finished the pool – to be honest with you – if I hadn’t, it would probably be sitting there with that [i.e., unfinished] today because I would have been waiting on the permit. That’s no excuse

but it slipped – I’m not going to make an excuse. I don’t know how I didn’t get ... I was at a stonewall ...

Matthew Nolton: Excuse me but that’s a separate issue – whether you continued to work when you should not have continued to work. What I’m trying to understand is – no, I don’t hear “stone wall” – I hear they said, ‘this is what you need to have,’ and then there was no further communication ... is what I hear.

Chairman Boyd: By the looks of it, you had it done. All you had to do was to go back to the Engineer and stamp the letter with the date he inspected it. Ray Allen Electric Service said it performed an electrical inspection. Atlas Design and Engineering did an inspection of the pool plumbing equipment and the rebar. But then the County asked them for the specific dates when it was done. So, it was all done – you just didn’t follow up on it.

Stephen Bowles: And then, again, I don’t know how that slipped right there. I’m not going to blame it on nobody but me. I don’t have an answer for you on why that last notice he sent – why I didn’t – I don’t have an answer. I won’t make up an excuse. For some reason – it must have been something because if it would have been that simple – what we just talked about – I would have done it. It makes no sense to me and like I said – it’s been two years. According to him, if I had just one more letter from the Engineer with the date, time, and how he did it – this would have all been over?

Chairman Boyd: Basically, yes.

Matthew Nolton: Is that correct?

Jonathan Walsh: It’s not that simple ...

Chairman Boyd: In the last corrections letter, all you asked for ... “*The Engineer’s letter must include (1) the Permit number and site address*” -- that’s no big deal. “*(2) Specific inspection performed with the corresponding Collier County Inspection number; (3) Date and time the inspection was performed; (4) Method of inspection to justify determination and resolution of the missed inspection.*”

Jonathan Walsh: This letter did not state ‘how.’

Chairman Boyd: If the Engineer did the inspection, he should know how he did it.

Jonathan Walsh: The way it’s written currently, this letter did not state that.

Chairman Boyd: I understand that.

Matthew Nolton: Let me ask the County – if Mr. Bowles would have followed up and if he would have done whatever he needed to, we wouldn’t be here right now.

Jonathan Walsh: The letter from the Engineer would have resolved – for practical purposes – the rough inspections and then we would have followed up with the finals.

Matthew Nolton: Right. As you know, I’m an Engineer and we’ve done inspections like this. We send photos, and we send when we did it, and we send biometric testing for continuity, and we send all that, so we can justify that it was built the way it was supposed to be built.

Vice Chairman Lantz: So, if he gets his Engineer to do a good inspection or a fixer inspection – whatever that is – and if he calls the Engineer and gets a letter that satisfies what you need, then what’s the process from there?

Jonathan Walsh: He would have to re-apply for the permit and pay whatever outstanding fees there are; the old permit would go into “cancelled” status; the new

permit application would still need to address the comments; the Engineer's inspection and, unfortunately, I'm not too sure how he would do a continuity test on something that is finished. But that's not my problem.

Vice Chairman Lantz: Let's just say the Engineer does all that – he pays the fees and re-applies. Then does the County go back out and perform a final inspection?

Jonathan Walsh: Yes, because the letter was only to cover the “rough” inspection.

Vice Chairman Lantz: He'll get the letter from the Engineer and he'll do whatever he has to do, then the permit will be issued, and he will call in for a final inspection.

Jonathan Walsh: Yes.

Vice Chairman Lantz: Mr. Bowles, do you understand that?

Stephen Bowles: Absolutely. Yes, sir.

Vice Chairman Lantz: I'm sure there's more than one Engineer in town who knows how to do that.

Stephen Bowles: We've got the Engineer's letter already, but it wasn't written with the date and time and so forth.

Vice Chairman Lantz: Theoretically you've already paid for it and you just have to ask him ...

Stephen Bowles: Yes, sir.

[Several comments were made concerning how the Engineer would conduct the different required tests – the speakers were talking over each other. The homeowner stated the only thing he wanted was a Code-compliant pool.]

Stephen Bowles: Can I just make one more statement now that calmness has prevailed. If this was as simple as we are sitting here saying and everybody is saying, I am looking you guys [Staff] in the eye and I am telling you, I would have done that. If this is why it came to this point – why I am at this hearing – because of some discrepancies on a letter? We're missing something. You can tell that I'm the type of guy that – man – I would have been all over that – if that's all it was. But I'm not going to get into a bunch of “stuff” that is not going to change anything. I am telling you guys – if that was as simple as it is now – when this was going on – it would have been a done deal. It's too easy – it's just too easy to be true, but if it is, I can have that done before the day is out.

Matthew Nolton: Mr. Bowles, it is true that we're here because the permit had not been taken care of and ...

Stephen Bowles: Right.

Matthew Nolton: ... communication with the County had stopped. The County had no way to move this forward other than by this methodology – this process – that we're going through right now. Is it a simple process? It is basically a simple process to do what is asked. You do not have to tear out the whole pool. You may have to jackhammer some stuff, you may have to expose or reinforce some steel. There are ways to do it and do the continuity testing. There are ways to do it but you stopped. You didn't pursue. What we're hearing is you didn't figure out how to do this because you don't remember it. The County says there was no communication from you.

Chairman Boyd: Sir, you are out of order. If you want to address the Board,

you can come up and be sworn in. Thank you. And you are? Come up and be sworn in, please. State your name, please.

Richard Hudec, General Manager, Jackson Pool Service: What Steve is trying to say is we were at the County. What we don't want to do is get into odds with the Permitting Department in a "he said/she said." I personally met with Rob Ganguli, I tried to see Jon probably three times – Jon would not come out of his office. I spoke to Fred, I spoke to the County Zoning Commissioner, but he [Jonathan Walsh] is impossible to talk to. Impossible. The guy will never, ever talk to you. I don't want to air dirty laundry – I just want to build pools and renovate pools and clean pools and fix pools. I have personally been down there no less than five times. Steve has been down there how many times? Ten times. If you want to get into it, then let's get into it. I saw Jack, I just called Andy – my County Commissioner ... you know Andy, right?

Terry Jerulle: Excuse me a second ... we not getting into it ... you're providing testimony to ...

Richard Hudec: I'm a contractor ...

Terry Jerulle: Now calm down and provide it. We have nothing to do with it ... [Mr. Hudec was visibly upset.]

Richard Hudec: All Jon had to do was call us ... there's a thing ...

Terry Jerulle: Calm down.

Richard Hudec: ... person called a gentleman be a gentleman – call us and say, 'all you need is this letter.' Do you guys really think ... we've built thousands of pools. Some of you guys sitting here are sophisticated guys ... do you really believe that we would be here over a letter from an Engineer that I could have had in twenty minutes? Here's the homeowner, Todd Jacobs. How many times have I ever not called you back, Todd?

Terry Jerulle: We can't take testimony ...

Richard Hudec: Here's the homeowner – we've talked to him several times and he's a contractor. His family has been in this town for fifty years. We've never not complied with one thing. I just had a situation with Jon Walsh – a family was moving into their home last Friday – weren't they, Jon? They needed a temporary C of O to move into their house and you said you were too busy to do it. So, I got Dick to do it and he did it in five seconds because you didn't want to come out of your office.

Terry Jerulle: That has nothing to do with this case.

Chairman Boyd: Enough, it has nothing to do with this case.

Richard Hudec: Do you want me to file a formal complaint with the County Commissioner when I leave here?

Terry Jerulle: That is separate and not testimony for this case.

Richard Hudec: That is my testimony. You guys should know as the Board how things are being handled in your County.

Chairman Boyd: Most of us are contractors.

Richard Hudec: Well – so you know. If you apply for a permit, it should be handled professionally.

Richard Joslin: I'm a pool contractor, sir.

Richard Hudec: I know who you are.

Richard Joslin: Thirty-five years – right here – there’s never been a time when you should not know and check your permits to see if they have been issued – that’s number one.

Richard Hudec: I know but when you make a mistake – no, we made a mistake

Richard Joslin: You can’t wait for Jon to come and tell you ...

Richard Hudec: ... and then we tried to fix it, but we couldn’t get it fixed after the fact. I admit to the mistake. I’m not blaming Jon for the mistake – we made the mistake without question. But we could not get it fixed. I went down there five times. I talked to the plumbing guy. I said, ‘okay – what exactly do you want?’ I could never get a straight answer. Then it was the barrier and we got the barrier waived. Jon was kind enough to waive that. But I’m telling you – whatever you want us to do, we’ll do it. Jack drove the packet to my office the other day. We don’t duck anybody – we’re not hiding from anybody. I spend \$20,000.00 a month in advertising. We don’t hide from anybody. But if we need to fix it, we’ll fix it.

Richard Joslin: We’re not trying to tell you how to run your business or how you do run your business – we’re only saying that the permit was not issued. Number one – that’s the priority. And as many pools as you’ve told us that you’ve built – and I’m not doubting that you have – they all had the same inspection cards – they all had the same things that are necessary for inspection – that’s what you missed. Those inspections were not done.

Richard Hudec: I understand that ...

Richard Joslin: You go after-the-fact and try to get them done. There is a way. You find a way to get them done. If you would have stopped as the “Stop Work” Order said, you could have followed through, went back in there and asked, ‘how do I get this done ... what does my Engineer need?’ It’s not up to him to call you. He gave you the scenario of why you needed it – you guys should have planned to get it done. And you did not.

Richard Hudec: But that’s not true – it’s not true.

Richard Joslin: It is, sir, otherwise you would have done it.

Steven Bowles: [He was not standing close enough to the microphone for his comments to be fully recorded.] ... what you see here looks deceiving. If that was really all it was – we wouldn’t be here – we would have done that. If you look at that, you will see that something is not right. You mean to tell me, guys, y’all spent thousands of dollars and y’all went through all of this and then you just stopped at that last letter? It don’t add up.

Terry Jerulle: Excuse me, sir. The only thing that we can think is what you present. What you are presenting

Assistant County Attorney Noell: Sir, sir, sir – if you can not speak over the Board members as they are addressing you. And if you can wait until the Board addresses you with a question so we can have proper decorum, okay? Thank you.

Terry Jerulle: The only thing that I have in front of me is the last letter from the County stating what you needed to do to complete the permit application. I have nothing else from you. If I had documentation from you or a letter from you, it could help you with your case. But I don’t have anything.

Richard Hudec: I’ll find some stuff – I didn’t look ... we didn’t think it was going to be a big deal ... all we need to do is get the letter from the Engineer and if Jon

says, ‘good luck with that’ ... like you said, it’s not hard to do.

Terry Jerulle: Certain parts of it aren’t hard, I understand the pressure ...

(**Mr. Hudec and Mr. Jerulle** are talking at the same time – difficult to separate the comments.)

Assistant County Attorney Noell: Sir, sir, sir – please, the same instruction for you as a witness. When you testify before this Board, you cannot speak over the Board member as he is addressing you. Wait until he is finished talking and if you have a comment or if he asks a question and you want to respond, then you may do so at that time. We’re making a record of this proceeding and for it to be clear, we can’t speak over each other. Okay?

Richard Hudec: Okay.

Assistant County Attorney Noell: Thank you.

Terry Jerulle: What I believe Mr. Nolton was referring to is the steel in the bottom and I think there’s still the pressure test that must be done – from my understanding.

Richard Hudec: That’s easy enough.

Stephen Bowles: (He was too far from the microphone – his comments were not recorded in full.) it should be cut and dry ... (his remaining comments were not captured.)

Terry Jerulle: From our point of view, sir, we have the history that you’ve agreed to – that you made a mistake. You needed to get a permit to remove the “Stop Work” Order which you didn’t get. Work proceeded – which was another mistake. That’s two mistakes. All we have is a letter saying what you must do to get the permit. I have no documentation that you have done anything after that. As I said earlier, it appears that you gave up. I’m not saying that you did or didn’t – I’m just saying from the information that was presented to us in this case, it appears that you had given up. It is incumbent upon you to provide testimony or evidence that you didn’t.

Stephen Bowles: (He was too far from the microphone – his comments were not recorded in full.) ... you guys are absolutely right ... you guys are seeing what you’re seeing ... I gave up, kinda/sorta because ... I’m not going to go there ... but anyway, we’re all on the record – no matter how this winds up today – we’re all on the record stating ...

Terry Jerulle: That record has been there for a while ... if you understand what I’m saying.

Stephen Bowles: (He was too far from the microphone – his comments were not recorded in full.) ... I don’t want to do that ... I don’t know if he accepts everything.

Chairman Boyd: Gentlemen, are you done presenting your case.

Jonathan Walsh: That’s all the County has.

Chairman Boyd: May I have a motion to close the Public Hearing?

Richard Joslin moved to approve closing the Public Hearing for Case #2018-10.

Matthew Nolton offered a Second in support of the motion.

Carried unanimously, 6 – 0.

Vice Chairman Lantz: (directed to the Respondent and the witness) Please have a seat. You can’t leave but you can sit.

Chairman Boyd: I guess we can start our deliberation on whether or not he's guilty. Case #2018-10: Stephen L. Bowles, Jackson Pool Service.

Matthew Nolton: Well, for me, personally, it's fairly simple if he's guilty or not. Yes, he did work without a permit and continued to do work without a permit. A permit still has not yet been issued. I don't know why we have to deliberate.

Terry Jerulle: The first stage is finding whether he is guilty or not guilty.

Vice Chairman Kyle Lantz moved to approve finding the Respondent, Stephen L. Bowles, guilty of the violation of County Ordinance 2006-46, as amended, Section 4.2.2, "Misconduct of a State-Certified Contractor," as stated in the Administrative Complaint for "Willfully violating the applicable Building Codes or laws of the state, city, or Collier County." Matthew Nolton offered a Second in support of the motion.

Chairman Boyd asked if any discussion was needed. With no response from the Board, he called for a vote on the motion.

Carried unanimously, 6 – 0.

Chairman Boyd deferred to the Board's Attorney.

Attorney Schneck: For the penalty phase for a State-certified contractor, as in the Bumpus case, the Board is limited to denying, suspending, or revoking his permit-pulling privileges in Collier County or limiting his ability to pull permits under specific conditions. The second part of the penalty phase is the recommendation that the Board can send to the State's Construction Industry Licensing Board ("CILB") for further action. When considering these penalties, the Board should also consider the testimony and all the evidence presented, as well as:

- The gravity of the violation;
- The impact of the violation on the public health/safety/welfare;
- Any actions taken by the violator to correct the violations;
- Any previous violations committed by the violator; and
- Any other evidence presented at the Hearing relevant to the Sanctions which are appropriate to the case, given the nature of the violation.

Terry Jerulle: Mr. Bowles, do you want to complete the permit application?

Stephen Bowles: Yes, sir.

Terry Jerulle: And if you complete the permit application, do you think you can comply with the terms written on the permit?

Stephen Bowles: Yes, sir.

Terry Jerulle: How long do you think it will take you to complete it?

Stephen Bowles: Thirty days – by the end of January.

Terry Jerulle: Thirty days and by the end of January are two different time frames. I do know that Christmas is coming. I'm asking you.

Stephen Bowles: By January 31st.

Terry Jerulle: Thank you.

Stephen Bowles: And I want to comply – I don't want this hanging – I like

my license to be clean. There's a stain on it and I want to clean it up.

Matthew Nolton: Mr. Bowles, I assume you are still active in business. Do you have active permits for pools that you are currently building or renovating?

Stephen Bowles: Yes, sir.

Vice Chairman Lantz: How many permits would you say you have out there? I don't need an exact number – 5 – 10 – 100?

Stephen Bowles: Probably ten ... eight to ten.

Terry Jerulle: And in the future – in any grey areas, you are going to do what?

Stephen Bowles: I will take my paperwork to the Building Department and ask to talk about it because I've never been through this and I don't want to go through this again. Hindsight is 20/20 – these are self-inflicted wounds. But I comply – I'm a guy who, like I told you, I have a passion for my industry and that's what it's about ... to comply.

Terry Jerulle: Thank you, sir.

Vice Chairman Lantz: Personally, when I break down the five criteria: First, the gravity of the situation – the gravity of the situation is it didn't fall apart -- it's an issue but not a huge one, so I'd put that on the low side. The impact of it – he didn't get a permit and should not have continued with the pool, but he did. Theoretically, I don't think any public health/safety/welfare was in danger, so I'd put that very low. Actions taken after – actions that were taken -- I'd put that about as high as you can get as far as what he did wrong. He just gave up. He had plenty of opportunities to make it right and he didn't – he continued working on the pool before the permit was issued. I'd say that's very high. As far as previous violations, he doesn't have any so that's very low. And other evidence ... there's no change. So, overall, on a scale of one to ten: Gravity – 1 or 2; Impact – 1 or 2; Actions – 10 or 12 if I could go that high; Previous violations – 0; and Evidence – 0. Averaging it out on a scale of 1 to 10, it's a 2 or 3 ... maybe. We've definitely seen a lot worse going on – it's the fact that it happened. I don't think it's a super-bad crime but it's something that needs to be resolved.

Richard Joslin: I disagree with you as far as the public health/safety/welfare goes only because the spa was built up without any bottom steel and without an inspection. It's one of the first inspections that's done because of the electrical factor. How it's going to be resolved is if there was steel tied to the top beam that he poured and if it was grounded. It will be a challenge to an Engineer to find out and get it done. That's an important factor and inspection.

Terry Jerulle: Does the County have an opinion?

Everildo Ybaceta: The County will defer to the Board's decision.

Matthew Nolton: He will have to re-apply for the permit and there's the opportunity to pay penalty of "x" times the permit fee in that process?

Everildo Ybaceta: Yes. The cost is four times the original permit fee because the permit wasn't issued, because it is an active case, and because the contractor of record was involved. It is to be done from issuance through completion.

Vice Chairman Lantz: I have a question for Jonathan Walsh. Mr. Bowles said he could have everything done by January 31st. My definition of "done" is a final permit. Knowing the workload of the County and what need to be done between

now and getting finished product – in your opinion, what is the latest date to get the Engineer’s letter to you?

Jonathan Walsh: We’re starting from scratch. He must apply for a new permit.

Vice Chairman Lantz: So, if he comes in with a new permit application and the new letter on January 15th, is it possible the permit could be issued by January 31st or no?

Jonathan Walsh: Not knowing the current load of the Planning Reviews, we could probably facilitate a quicker turn-around. If you’re looking for a date, I would probably say five to ten days, give or take.

Vice Chairman Lantz: Business days?

Jonathan Walsh: Yes. We’re currently 30 to 45 days for permit reviews. We could probably facilitate turning this one around a little bit quicker. If the letter that’s in lieu of County inspections is acceptable, then the only requirement would be three inspections – final plumbing, final electric, and final pool.

Vice Chairman Lantz: Those inspections could be done in a day.

Jonathan Walsh: Theoretically, they could be done in one day once the permit is issued.

Vice Chairman Lantz: Realistically, Mr. Bowles needs a good letter from an Engineer as well as a new permit application package. Are you still saying you can be done by January 31st -- because it’s not just getting the letter – it’s getting the whole process done.

Stephen Bowles: The permitting process might throw it back a little bit – maybe February 15th? I don’t want to say something and then we’re still ...

Vice Chairman Lantz: That’s exactly the point. I want to make sure you understand its not just obtaining a letter from an Engineer – there’s more ...

Stephen Bowles: Yeah, we’ve got to get – start over, basically, and push everything through.

Matthew Nolton: Mr. Walsh, I’m a little confused. Would this be a permit by affidavit process or would this be that he is to submit plans and submit Engineer’s letters for the missed inspections?

Jonathan Walsh: We treated the rough on this permit knowing the history of it and we will try to facilitate turning the permit around by getting the Engineer’s letters in case there are any concerns, they can be fixed before it is finished. But his permit will still be considered a partial after-the-fact. For the inspections that I cannot perform, they must be done by an Engineer with supporting documentation and the Engineer must document how he came to his conclusions.

Matthew Nolton: The packet would be the full site plan with the elevation ...

Jonathan Walsh: All the piping requirements, all the reinforcing steel ...

Matthew Nolton: ... all the bond connections – you’d have all that and the equipment ... it would have all that, just as if you were going to start this job from scratch. You’d need to get a permit and a packet with all the documents which I am sure you are aware of since you do this all the time. You would need that plus the Engineer’s letters to cover the inspections that were missed.

Stephen Bowles: Yes, sir. I don’t know if January 31st might be pushing it. I know I can get the letters but, like he said, I don’t really know about the plumbing review ...

Jonathan Walsh: Our plumbing plan reviewer is ... if we're informed that the permit is in ... we will do our best to facilitate a quicker turn-around, but I don't want to ...

Matthew Nolton: I understand ... with the holidays and with ... it's not as simple as you think with the Engineer's letters. I happen to know that firm was sold, so whoever was involved is even there. I think you will probably need two months – sixty days – to get this done.

Stephen Bowles: That sounds more reasonable. But it will get done. And I have started over before – first it was the barrier, and the pool has been there since 1982. I just want to submit everything so it goes through without something that I have no control over.

Matthew Nolton: I understand. Thank you. Back to our deliberations.

Vice Chairman Lantz: What I'm proposing – I'm ready to make a motion but I want to hear how everyone feels – we give him until the February meeting ... provided that the permit is final before then, we will take no more action. However, if the permit is not final by then, we will cancel his permit-pulling privileges until it is final. It's giving you a lot of leeway but if you fail, there will be a lot of repercussions.

Stephen Bowles: I understand, yes, sir.

Chairman Boyd: In essence, you are going to continue it until the February meeting?

Vice Chairman Lantz: No.

Matthew Nolton: No – I would like the motion to be right now – we're in the penalty, so we're recommending to the County that they pull his – the company's permit pulling privileges and inspection privileges at that point in time unless the permit has been closed out properly.

Vice Chairman Lantz: If he closes it out by the February meeting, he will go on his way. If he doesn't, he will have a world of problems for his business.

Matthew Nolton: And this way, he would not have to come back before the Board.

Vice Chairman Lantz: Does anybody have any – does this sound reasonable?

Terry Jerulle: Mr. Bowles?

Stephen Bowles: It sounds reasonable.

Terry Jerulle: And that may – I think the homeowner is here – you may have to ... in the worst-case scenario, you may have to drain the pool and chip the bonding on the spa to get verification. I don't know – I'm not a pool contractor.

Stephen Bowles: Verification of the bonding?

Richard Joslin: One of the engineers may have an ex-ray machine.

Matthew Nolton: It won't show the bonding. There will have to be continuity testing. And you're going to need to be able to contact the steel in two places – the original beam on the pool and on the spa – you have to do continuity testing.

Stephen Bowles: Was the original beam on the pool in 1982? It didn't require that.

Matthew Nolton: Code may not have required it but, to build the spa, you would have had to connect to that steel. And you would have had to ground it, so ...

Stephen Bowles: I bonded the whole pool and I bonded the spa, so whether it shows up on radar ... but that's the most important thing that you can do. Forget everything else – bond that baby.

Richard Joslin: Lots of things happen if you don't.

Stephen Bowles: Bond that baby – your handrails, your lights ... so, the pool is bonded and grounded. How we're going to get to making sure they know that ... like you said ...

Terry Jerulle: As I said, think worst-case scenario in that sixty-day time frame.

Stephen Bowles: Yes, sir.

Terry Jerulle: And you can do that in the worst-case scenario.

Stephen Bowles: I think so – I think so.

Richard Joslin: Weren't permit pulling privileges part of the motion?

Vice Chairman Lantz: Well, I didn't make the motion yet ... but my suggestion is permit pulling privileges are good now but if he fails to meet the deadline, they're gone.

Richard Joslin: Okay.

Terry Jerulle: Any recommendation to the state?

Vice Chairman Lantz: No.

Terry Jerulle: If he doesn't complete this pool, he will not have any permit pulling privileges. So, what happens with the state?

Vice Chairman Lantz: Then there's a recommendation to the state.

Vice Chairman Kyle Lantz moved to approve granting a period of sixty days to Stephen Bowles to final out the permit during which time the permit is to be issued in final status and the job completed with a C of O. If the sixty-day deadline is missed, his permit pulling privileges and inspection pulling privileges in Collier County will be immediately cancelled except for this specific permit, and the County will be authorized to send a letter to the State's Construction Industry Licensing Board ("CILB") recommending imposition of the maximum penalties. Richard Joslin offered a Second in support of the motion.

Assistant County Attorney Noell: The Board's February meeting is scheduled for February 20th which is four days later than your deadline. If the Board is considering taking away the Respondent's permit and inspection pulling privileges, I would be more comfortable if the deadline was February 20th. If it is complied with and closed out, the matter is done. If not, then he is to come before the Board.

Vice Chairman Lantz: That is against my motion. And the reason is that I don't want to have another Jeffrey Bumpus here every month. 'Here's the line and we're not crossing it.'

Assistant County Attorney Noell: I understand. From my perspective with possible due process considerations, etc., my fear is if the Board makes – and whatever the Board does, respectfully, the Board does, and I understand that, but I am telling you the County's position. If the Board makes his suspension pending on a future event and that automatically happens, the Respondent will have the ability to appeal that in Circuit Court, I don't necessarily want to go through all those hoops when we're talking about just four days. If he's not in compliance and it's the automatic suspension, he would have the right to be heard before that is finally taken – if that makes sense.

Terry Jerulle: It does to me now. If there's a flood in the County and nobody can pull permits for two weeks, that puts him in jeopardy.

Vice Chairman Lantz agreed to amend his motion to extend the deadline to February 20th and Richard Joslin agreed to amend his Second.

*Chairman Boyd called for a vote on the amended motion.
Carried unanimously, 6 – 0.*

Terry Jerulle: And just for my record – I know you guys were upset but Jonathan Walsh didn't create the problem. In my experience with Jonathan Walsh, he helps solve problems. But he is extremely busy with thousands and tens of thousands of permits and inspections, and even I can't get ahold of him ... a lot of people ... it's not just you, singularly, that can't get an answer from him – nobody can

Chairman Boyd stated:

- This cause came for a Public Hearing before the Contractors' Licensing Board on December 19, 2018 for consideration of the Administrative Complaint filed against Stephen L. Bowles, d/b/a *Jackson Pool Service*.
- Service of the complaint was made by certified mail, personal delivery, or publication in accordance with Collier County Ordinance #90-105, as amended.
- The Board having heard testimony under oath, received evidence, and heard arguments respective to all pertinent matters hereupon issues its Findings of Facts, Conclusions of Law and Order of the Board as follows:

Conclusions of Law, Findings of Fact, and Orders of the Board:

- Stephen L. Bowles, d/b/a *Jackson Pool Service*, is the holder of record of a Collier County Certificate of Competency, License Number LCC20120001055.
- Mr. Bowles is also a State-certified Pool/Spa Contractor and holder of License Number CPC1456458.
- The Collier County Board of County Commissioners is the Petitioner in this matter and Stephen L. Bowles is the Respondent.
- Mr. Bowles was present at the December 19, 2018 Public Hearing and was not represented by counsel.
- All notices required by Collier County Ordinance #90-105, as amended, have been properly issued or personally delivered.
- The Respondent acted in a matter that is in violation of Collier County Ordinance and is the one who committed the act.
- The allegation set forth in the Administrative Complaint as to Collier County Ordinance #2006-46, as amended, Section 4.2.2 – Misconduct of State Certified Contractor states: "*Willfully violating the applicable Building Codes or law of the State, City, or Collier County.*"
- The allegation was supported by the evidence presented at the Hearing.

Conclusions of Law:

- The allegations set forth in the Administrative Complaint as to Count One is approved, adopted, and incorporated herein, to wit:

- The Respondent violated Ordinance #2006-46, as amended, Section 4.2.2 in Count One in the performance of his contracting business in Collier County by acting in violation of the Section set out in the Administrative Complaint with particularity.

Orders of the Board:

- Based upon the foregoing Findings of Fact and Conclusions of Law, and pursuant to the authority granted in Florida Statutes, Chapter 49, and Collier County Ordinance #90-105, as amended, by a vote of six (6) in favor and zero (0) opposed, a majority vote of the Board members present, the related Sanctions and following Order are hereby imposed upon the holder of Certificate of Competency #LCC20120001055:
 - The deadline for the Respondent, Stephen L. Bowles, to final out the permit is February 20, 2019, during which time, the permit is to be issued in final status and the job completed with a C of O.
 - If the deadline is missed, the Respondent's permit pulling and inspection pulling privileges in Collier County will be automatically cancelled except for this specific permit.
 - If the deadline is missed, the County will be authorized to send a letter to the State's Construction Industry Licensing Board ("CILB") recommending position of the maximum penalties.

Chairman Boyd: The hearing is concluded.

Matthew Nolton: The case that we didn't hear [Melvin Alfaro, d/b/a "*Oasis Builders of SWFL*" – Contesting Citation]– can we do something and not have that guy come back?

Everildo Ybaceta: He's not coming back. His time has been allotted.

Matthew Nolton: So, we don't need to take action on it? One question to Mr. Schneck ... is the Citation being tabled or ...?

Everildo Ybaceta: No, he had ten days to contest the Citation. He requested a Hearing to contest the Citation and he didn't show for the hearing.

Matthew Nolton: So, he can't contest it.

Attorney Jeb Schneck: I would recommend that the Board hold a hearing, have the Contractors' Licensing Compliance Officer enter documentary evidence into the record as well as a brief summary of the case just to establish a substantial evidentiary standard.

Everildo Ybaceta: The Officer is no longer here but I can make a brief statement if you wish.

Attorney Jeb Schneck: It's an Administrative Hearing process, in the sense that you have witnesses and take testimony, deliberate and make a finding.

Everildo Ybaceta: We don't – well, no.

Attorney Jeb Schneck: The process for contesting a Citation is: the alleged violator receives a Citation and has ten days to notify the County in writing that he/she wants to contest the Citation at hearing before this Board. He has notified the County and there is correspondence verifying the date of the hearing. That takes care of the notification

issue. You are in compliance with *Florida Statutes* and the County's Code.

Vice Chairman Lantz: But without the Investigator here, are you prepared to answer?

Everildo Ybaceta: I can answer some of the questions.

Vice Chairman Lantz: Some of them or all of them?

Everildo Ybaceta: It all depends but at a minimum, I can give you a narrative of what happened and why we gave him a Citation.

Matthew Nolton: I question why we need to do that. You gave him a Citation, he requested a hearing to contest it and didn't show for it. We can make a motion to deny his contesting the Citation. Then he has a Citation to pay.

Everildo Ybaceta: Right.

Attorney Schneck: That's okay. I would just enter the packet that you have into evidence.

Richard Joslin: Are we talking about Melvin Alfaro?

Everildo Ybaceta: Right.

Richard Joslin: This is a case – right. We're talking about contesting a Citation.

Everildo Ybaceta: It's not an open case anymore. It's open in that he's contesting the Citation, but it was an open-and-close situation.

Richard Joslin: If he was issued a Citation, something was wrong. There are a lot of question for this case. Is he coming back? Are we going to hear it again?

Everildo Ybaceta: No.

Richard Joslin: We're not.

Everildo Ybaceta: No.

Matthew Nolton: It isn't a Public Hearing. It's a Citation. All we were going to vote on is whether we waived his Citation or not. It's simple and straight forward. After that, he has a Citation to pay. If he doesn't do that, then he'll be back before the Board ... possibly for a hearing.

Chairman Boyd: I make a motion that he is guilty.

Richard Joslin: Second.

Chairman Boyd: All those in favor. The vote is unanimous.

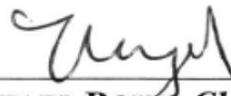
NEXT MEETING DATE:

WEDNESDAY, JANUARY 16, 2019

BCC Chambers, 3rd Floor – Administrative Building “F”,
Government Complex, 3301 E. Tamiami Trail, Naples, FL

There being no further business for the good of the County, the meeting was adjourned by order of the Chairman at 12:30 PM.

**COLLIER COUNTY CONTRACTORS'
LICENSING BOARD**



MICHAEL BOYD, Chairman

December 19, 2018

The Minutes were approved by the Chairman or Vice Chairman of the Contractors' Licensing Board on January 16, 2019, "*as submitted*" [] - OR - "*as amended*" []