

**MINUTES**  
**CONSTRUCTION BOARD OF ADJUSTMENTS AND APPEALS**  
**October 16, 2017**  
**6:30 p.m.**  
**Wellington City Hall**  
**12300 Forest Hill Blvd**  
**Wellington, FL 33414**

Pursuant to the foregoing notice, a meeting of the Construction Board of Adjustments and Appeals was held on Monday, October 16, 2017 commencing at 6:30 p.m. at the Wellington City Hall, 12300 Forest Hill Blvd., Wellington, FL 33414.

**I. CALL TO ORDER**

Mr. Tumin, Chair, called the meeting of the CBAA of October 16, 2017 to order at 6:30 pm.

**II. ROLL CALL**

The following board members were present: Bruce Tumin, Lee Kantor, Miguel Alonso, John Donaldson, Terrence Bailey, and John Strandberg,

Board members not in attendance Tripp Long.

**III. PLEDGE OF ALLEGIANCE**

The Board recited the Pledge of Allegiance.

**IV. ELECTION OF CHAIR AND VICE CHAIR**

Mr. Kantor nominated Bruce Tumin to serve as Chair. All board members supported the nomination for Mr. Tumin to serve as Chair.

Mr. Tumin nominated Mr. Lee Kantor to serve as Vice Chair. All board members support the nomination of Mr. Kantor to serve as Vice Chair.

**V. APPROVAL OF MINUTES**

**A. CB-109 APPROVAL OF THE MINUTES OF THE APRIL 3, 2017  
CONSTRUCTION BOARD OF ADJUSTMENTS 7 APEPALS MEETING**

The Board approved the Minutes of the April 3, 2017 with the following amendments: to correct the date of the Minutes on the Agenda and to strike the roll call on the minutes, as it was not formally called.

**VI. OLD BUSINESS - None**

**VII. NEW BUSINESS**

**A. CB-110 2017-02 PURSUANT TO SECTION 489.113 FLORIDA STATUTES;  
JACEK TOMASIK, CBO REFERRING J HOWEN INC. COMPLAINT OF  
WILLFUL CODE VIOLATIONS.**

Mr. Aaron Dunlap, Assistant Village Attorney, administered the Oath to all that would be giving testimony in these matters.

Mr. Dunlap asked the Board members to disclose any ex-parte communications they may have had in this matter.

Board members indicated that they had no ex-parte communications to disclose

Mr. Jacek Tomasik, Village of Wellington, Chief Building Official, thanked the Board for attending the hearing. He explained the general efforts made by the Building Department to reduce the amount of expired permits in the Village of Wellington. Mr. Tomasik explained that the Building Department have identified contractors that have more than the desired number of expired permits. He further explained that expired permits are not good for homeowners, contractors, the Building department or City. He noted that these permits are not completed and have not received a final inspection may be unsafe leaving the homeowners with the burden of having an open permit remaining on the property which may affect selling the property.

At this point, Mr. Tomasik presented the case of willful code violation referring J. Howen Inc. to the CBAA Board. The recommendation to the Board was to revoke J. Howen's ability to obtain new permits in Wellington and forward this to the other municipalities and State until all expired permits have been closed. He referred to the following Fl. Building Codes as adopted by the Village of Wellington, 105.4.1, 105.4.1.3 105.4.1.5 105.5.3.

Mr. Tomasik presented the timeline showing the failure to complete final inspections on 24 expired permits issued to J. Howen Inc. He explained the Building Department's inspection process to accommodate home owners. He further explained there is a 2 hour window time available the morning of the inspection, before and after hour inspections can be scheduled and Saturday inspections are available upon request.

Mr. Justin Howen, Respondent and qualifier for the company J. Howen Inc. acknowledged the expired permits, and stated that he has been working to close them. Mr. Howen explained he was ill in 2016. He expressed many times it is the homeowner who refuses to take time off of work to wait for inspection.

The board then asked questions of both Mr. Tomasik and Mr. Howen.

After deliberating, the Board made the following motion:

A motion was made by Mr. Bailey, seconded by Mr. Kantor, and passed by the Board (5-1) with Mr. Tumin dissenting, to find J. Howen Inc. guilty of a willful Building Code violation and that no new permits shall be issued to the contractor until such time those expired permits presented here today are closed. With respect to any uncooperative homeowners, the

contractor is to send a certified letter to the homeowner setting forth a job permit number, a reason for the inspection, phone and e-mail contact of the contractor, and time set forth in the letter to respond to the contractor for these items. As such time as the contractor cannot work with the homeowner, the contractor is to contact the Building Official. Furthermore staff will update the list of permits that are still expired as of December 31, 2017.

**B.      CB-111      2017-03 PURSUANT TO SECTION 489.113, FLORIDA STATUTES;  
JACEK TOMASIK, CBO REFERRING FLORIDA DELTA MECHANICAL  
COMPLAINT OF WILLFUL VIOLATION**

Mr. Dunlap asked the Board members to disclose any ex-parte communications they may have had in this matter.

Board members indicated that they had no ex-parte communications to disclose

Mr. Tomasik presented the case of willful code violation to the CBAA board. He then reviewed the timeline showing the failure to complete final inspections from 2004 to present, of the 23 expired permits issued to Florida Delta Mechanical. The recommendation to the Board was to revoke the company's ability to obtain new permits in Wellington until expired permits have been closed. Mr. Tomasik agreed to assist the contractor in calling homeowners who refused to allow inspections.

The Board then asked questions of Mr. Tomasik.

Ms. Michaela Watters, representative for Florida Delta Mechanical, stated she had a list of open and closed permits if the Board wanted to view them. Ms. Watters stated Florida Delta Mechanical is the home contractor for Home Depot and they pull many permits. She stated the homeowners are not cooperative in scheduling inspections. She explained that Florida Delta Mechanical contacts the homeowners via phone after installation of the water heater to schedule the inspection. If there is no response, a letter is then mailed to the homeowner and then several certified letters are mailed to them. Ms. Watters had documentation of the letters and certified letters sent to the homeowners and pictures of herself leaving notices on the homeowner's doors. Florida Delta Mechanical has also sent letters to the Village of Wellington Building Department notifying them of the uncooperative homeowners.

Board then asked questions of Ms. Watters.

After deliberating, a motion was made by Mr. Bailey, seconded by Mr. Donaldson, and passed (5-1) with Mr. Tumin dissenting, to find Florida Delta Mechanical guilty of a willful Building Code violation and that no new permits shall be issued to the contractor until such time those expired permits presented here today are closed. With respect to any uncooperative homeowners, the contractor is to send a certified letter to the homeowner setting forth a job permit number, a reason for the inspection, phone and e-mail contact of the contractor, and time set forth in the letter to respond to the contractor for these items. As such time as the contractor cannot work with the homeowner, the contractor is to contact the Building Official. Furthermore staff will update the list of permits that are still expired as of December 31, 2017. Comments from the Staff.

## **VII. COMMENTS FROM STAFF**

Mr. Tomasik addressed the Board expressing his appreciation to them for their contribution and participation in hearing these cases. He explained that because of this process, they have been making a lot of progress and have started closing a lot of permits. He believed this also sends a message to the contractors about the need to close their permits. Mr. Tomasik noted Wellington has the lowest number of expired permits among municipalities. He stated that every municipality has problems with expired permits which is why the new Building Code will be addressing denying permits to contractors who have an excessive number of expired permits.

Mr. Tomasik explained that the last meeting had been cancelled because the contractors had achieved compliance prior to the meeting.

## **VIII. COMMENTS FROM THE BOARD**

Mr. Donaldson made a comment regarding the 2004 permits. He stated that one problem he sees is when they start looking at a water heater or a/c permit from 2004, which may or may not need to be replaced in the next couple of years, and requiring to close it, is an exercise in futility, it may not happen.

In response to Mr. Donaldson's comment Mr. Kantor thought they may have solved one problem tonight, but opened up a new one.

He asked whose problem was it when the permit is not in compliance? In response, Mr. Tomasik explained that each equipment has a date of manufacture, so you can tell when it is replaced. Also, the new Building Code will allow the Building Official to administratively close permits where no violations have been established and permits have been aged for 10 or more years. The Building Official may close the permit administratively. He noted that they addressed expired permits that progressed from 2004 to 2017.

Mr. Bailey reminded the Board that the staff is not on trial but are here to help us. He asked them to be careful with their comments and tone when they reference the staff as the Board is looking for staff to help them make decisions.

Mr. Alonso thanked Mr. Tomasik and staff for going above and beyond to help contractors comply. He noted that it is not the responsibility of the Building Official or Building Department to close expired permits, but rather it is the responsibility of the contractor.

Mr. Tumin said that this board has the ability not only to address contractor's needs but the ability to amend the technical Building Code. He stated that hurricane shutters create fire traps not only for your family but also for our brave fire fighters. He said that the current Building Code now deviates from the National Standard NFPA 101, and ignores Homeland Security recommendations requiring two ways out of every room. Mr. Tumin noted that the Code only requires one way out of your house and requires hurricane shutters that block fire escapes and fire rescue openings. He requested that this issue be placed on the next meeting agenda. Mr. Tumin urged the CBAA members to talk to our elected officials the Village Council about this safety issue.

## **IX. ADJOURN**

There being no further business to come before the Board, Mr. Tumin adjourned the meeting at 9:25 p.m.

Minutes submitted by: \_\_\_\_\_  
Gloria Enea

Minutes approved by: \_\_\_\_\_  
Bruce Tumin, Chair