

May 17, 2023

MINUTES
OF THE COLLIER COUNTY
CONTRACTORS' LICENSING BOARD MEETING

May 17, 2023

Naples, Florida

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

Chairman:	Todd Allen
Vice Chairman:	Stephen Jaron
	Elle Hunt
	Terry Jerulle
	Richard E. Joslin
	Kyle Lantz
	Robert Meister III
	Matthew Nolton
	Patrick G. White (resigned)

ALSO PRESENT:

Kevin Noell, Esq., Contractors' Licensing Board Attorney
Timothy Crotts, Contractor Licensing Supervisor
Colleen Kerins, Assistant Collier County Attorney
Timothy Broughton, Collier County Licensing Investigator
Michael Bogert, Collier County Licensing Investigator
Mike Rivera, Collier County Licensing Investigator
Sandra Delgado, Operations Supervisor, Licensing

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.

1. ROLL CALL:

Chairman Allen opened the meeting at 9 a.m.

Roll call was taken; eight members were present in the BCC Chambers. A quorum was present.

2. ADDITIONS OR DELETIONS:

(None)

3. APPROVAL OF AGENDA:

Board Member Joslin moved to approve the agenda. Second by Board Member Lantz. The motion passed unanimously, 8-0.

4. APPROVAL OF MINUTES:

A. April 19, 2023

Board Member Lantz moved to approve the April 19, 2023, meeting minutes. Second by Board Member Joslin. The motion passed unanimously, 8-0.

5. PUBLIC COMMENTS:

None

6. DISCUSSION:

(None)

7. REPORTS:

(None)

8. NEW BUSINESS:

A. Orders of the Board [7 items]

Board Member Lantz made a motion to authorize the Chairman to sign the Orders of the Board. Second by Board Member Allen. The motion passed unanimously, 8-0. The Orders of the Board were approved.

B. Osmel Sanz – Review of Application – AC Journeyman

The applicant did not show up.

**C. Eric W. Harris All Phase Renovation & Construction LLC
General Contractor - Registered – Review of Experience**

[Mr. Harris was sworn in.]

Supervisor Crotts reported that Mr. Harris has submitted an application for the issuance of a Collier County local General Contractors' License, which requires 48 months' experience. As part of the application process, Mr. Harris was required to submit documentation showing his experience and he submitted three Verifications of Experience for construction. A review of these documents showed the following:

- *Siravo & Guerrieri Inc., 1987-1988. The company was dissolved in 1988. Several messages were left with the company and no return calls were received.*
- *D&B Masonry, January 1987 to June 1988. This company was dissolved in 1988 and none of the experience could be verified.*
- *A partial work history was submitted by Mr. Harris and is included in your packet.*
- *Other information received on experience was from a nail salon owner and a property management company, all non-licensed contractors.*

Based upon the information received, it is staff's opinion that Mr. Harris does not meet the minimum requirements as set forth in Ordinance 2006-46, as it relates to the experience under Section 1.6.1.1, as a General Contractor. Because Mr. Harris does not meet the qualifications needed for the issuance of a General Contractors' License, Mr. Harris was referred to the Board under Section 2.5.2, Referral of the Application to the Contractors' Licensing Board for a Decision. Mr. Harris is here today to answer your questions.

Chairman Allen asked him to confirm that he was recently arrested on two charges of impersonating a contractor and fraud.

Mr. Harris said that was him.

Chairman Allen said OK, now's your opportunity to explain to us why we should approve your application.

Mr. Harris presented his opening statement and testified that:

- About the arrest, a client he's done remodels for who lives in Canada buys apartments. He's not rich, but after the hurricane he got a message from him that somebody was trying to charge him \$10,090 just to do a dry out in an 800-square-foot thimble apartment, so he called the DBPR.
- He has a \$2 million liability policy that he's maintained for many years.
- He incorporated in Naples originally as Harris Custom Marble & Tile, and then within a year opened his granite shop, so it's now Harris Custom Marble & Granite.
- He has all the construction experience since he left school at 16 years old. Before that, he built his house with his father, who was super brilliant.
- He has the technical ability and knowledge and experience in Naples. It actually boggled the people he did his very first job here with.
- He's not a scammer. He went to his client's home for the sole purpose of protecting him and others from the gougers who come here to do evil and are greedy. He wasn't trying to make money.
- He lost his ass and got hurt.
- He went to Orlando and passed the state-certification courses for mold assessment and mold remediation.

- He's not a fly-by-nighter trying to hurt people. He is going to trial for that and pleaded not guilty because he's not guilty.
- What occurred was that a problem tenant where his client, Vince, lives in a different building was the president of the HOA there and put all kinds of crazy stuff in the news about him that made him popular, but that's OK. The truth is the truth.
- He's not here to hurt anyone. He incorporated in Naples in 1998 and built his business and raised his family here.
- He had no claims against him because he's not a fly-by-nighter. He's very talented.
- He's got videos showing work from the ground to the roof.
- He's experienced, not a criminal and not an insurance fraud. Those are lies and that will be established.

Chairman Allen advised him that it would probably be more prudent for him to withdraw his application until his criminal case is adjudicated because anything you say here today could be used against you in the prosecution of that case. He doesn't want to create a situation where you're digging your hole deeper. It might be prudent to hold off until that's cleared up.

Mr. Harris said he appreciates him telling him that. But he has nothing at all to hide. He needs his license. He's out of gas and needs his license to work and support himself and his loved one. He really needs it and deserves it. He's not a liar or cheat and not afraid of the court. The Board can ask him anything from the ground to the roof because he knows that. The very first job he did when he came to Naples in 1993 with the Local 272 Iron Workers Union out of Miami, when he was an apprentice worker, he was a sub building houses.

Chairman Allen said that has nothing to do with the application that's before us.

Mr. Harris said it's work he did here as a subcontractor.

Board Member Jerulle noted that on his application, he checked no on the box that says, "Have you been charged with or convicted of acting as a contractor without a license?"

Mr. Harris said he had never been charged with that when he filled that out and provided it, he hadn't been charged.

Board Member Jaron asked when he was charged.

Chairman Allen said he was charged on May 8.

Chairman Allen made a motion to deny the application pending the outcome of the prosecution.

Board Member Jerulle seconded it.

Chairman Allen asked if there was any discussion.

Mr. Harris asked if they'd rather that he withdrew his application.

[A discussion ensued.]

Chairman Allen said it's up to him. He'd recommend it.

Mr. Harris asked if he'd resubmit it with the same information he's already submitted as soon as he beats his case.

Chairman Allen said he needs to supplement his application with some more experience

for us to review, but it's probably in your best interest to withdraw this application until this is cleared up.

Mr. Harris said OK, but the problem that he had before was getting contractors that are gone and dead to prove all the wonderful things he's done. But you can look at La Ciel (Park Tower) to see his work here. It's amazing.

Chairman Allen said he's aware of the requirements and the restrictions improving as he proves his experience. It's something you're going to overcome.

Mr. Harris said OK.

Board Member Nolton suggested that adding to his documentation would provide them with specifics. If you worked on La Ciel, when that was and what he did. We've all been here and worked on a lot of these buildings. He hasn't gone through his whole list yet, so if it's in there, great. We understand businesses go out of business and you may not be able to get in touch. Our duty is to make sure you have that responsibility, as you may have seen with other applicants.

Mr. Harris said he's eager to answer their questions and show his experience and knowledge because he really does know very thoroughly from the ground to the roof and high-rise work. He passed the fire-stopping course with the Fire Marshal to do high-rise work on Marco Island and has worked on a bunch of high-rises here, including the south half of La Ciel. You'll see it's all flat glass. You know why? Eric Harris. It's the first time he ever touched a high-rise and did aluminum work or any kind of metal work like that. He just has a high IQ. It's a radius and an inverted radius and all of his elevations are within a half-inch of perfectly plumb and it was three stories.

Chairman Allen said now's not the time. Are you withdrawing your application?

Mr. Harris said yes sir.

Chairman Allen said OK.

Board Member Lantz wished him luck.

Mr. Harris thanked him.

D. Kevin G. Murphy – K & B Murphy Residential Building Solutions Inc.

Building Contractor-Registered – Review of Credit and Experience

[Mr. Murphy was sworn in.]

Supervisor Crofts reported that Mr. Murphy submitted an application for the issuance of a Collier County local Building Contractors' License, which requires 48 months' experience and a minimum credit score of 660. Under Collier County Ordinance 2006-46, Section 2.3.9, Mr. Murphy was required to submit a personal and business credit report. His personal credit report was reviewed and appears not to meet the financial responsibility as set forth in Section 2.5.1 (d), "The applicant or qualifier meets the requirement for financial responsibility as set forth in Rule 61G4-15.006 of the State of Florida.

A review of his personal credit report shows the following areas of concern:

- *The minimum credit score required is 660; Mr. Murphy's credit score is 622.*

- *A \$5,184 charge-off from Amex Citibank, March 2023.*
- *\$3,739 to Capital One, March 2023.*
- *\$3,220 from CE Nexus Credit card, April 2023.*
- ***Total: \$12,143***

Under County Ordinance 2006-46, Section 1.8.1, for the issuance of a Building Contractors' License, Mr. Murphy was required to submit documentation showing his experience. He appeared before the Board on June 20, 2018, and was granted a Residential Contractors' License after a review of his experience. A copy of the Board order and minutes are included in your packet for review.

Mr. Murphy was required to submit Verifications of Experience from his current or former employers outlining his experience. However, the only documentation received by staff was from past clients outlining work performed as part of interior remodels and residential homes. Mr. Murphy has not submitted any documentation outlining the experience in the commercial building of multi-dwelling residences exceeding three stories or the construction of commercial buildings.

Based upon the information received, it is staff's opinion that Mr. Murphy does not meet the minimum requirements as set forth in Ordinance 2006-46, as it relates to financial responsibility, and experience under Section 1.6.1.2, as it relates to a Building Contractor. Because Mr. Murphy does not meet the required minimum required credit score and qualifications needed for the issuance of a Building Contractors' License, Mr. Murphy is being referred to the Board under Section 2.5.2, Referral of the Application to the Contractors' Licensing Board for a decision. Mr. Murphy is here today to answer your questions.

Chairman Allen told Mr. Murphy it was his turn to explain.

Mr. Murphy told the CLB:

- The items in question on my credit report were all charged off in a bankruptcy in 2016. Do you have that report? It shows that it was written off.
- In the last year, he's had four hits on his account.
- He's had to change his bank account twice.
- He had to change his debit card four times because he keeps getting scammed and it's just been a heck of a ride for the last six months to a year.
- He believes it's all related to the same issue.

A discussion ensued and the following points were made:

- Supervisor Crotts didn't receive a bankruptcy discharge in the application.
- Mr. Murphy said it shows up at the bottom of his credit report and was sometime in 2015 or 2016.
- A credit report received in August 2022 and submitted to the county does show the bankruptcy discharge.
- Under the state, if you have a Residential Contractors License for a certain number of years, it qualifies you for experience for a Building Contractor or a General

Contractor.

- The county does not have that rule.
- Mr. Murphy has a Residential Contractors' License.

Mr. Murphy testified:

- He's not looking to do commercial work.
- He wants to work in condos.
- Many customers call him.
- He does kitchen and bathroom remodels.
- He doesn't want to do more than that at his age.
- If somebody calls him from a condominium and wants a bathroom or a kitchen remodel, he's licensed and capable of going in and doing the work.
- He knows he's capable.
- For some reason, his license doesn't allow work in condos and he's had to turn down a lot of work.

Mr. Jerulle said there's a reason your license doesn't carry you into a condominium. Do you know what those reasons are?

Mr. Murphy said it has a lot to do with the fire code because you want to make sure you don't disturb any of the fire codes and you want to make sure of the sound barriers between the units. He has over 45 years in this industry, with the last five years in Collier County. He worked up north before and the codes are basically the same here. You've just got to make sure that you know you're not going into another tenant's area or disturbing their residence. You have to make sure the fire codes stay intact and everything is closed in.

During questioning by the Board, Mr. Murphy testified:

- If he were doing a bathroom or kitchen remodel, the fire codes would involve cement block between the units.
- Up north, you'd run into 1- and 2-inch sheetrock and can't puncture those holes.
- Here, you've got five-eighths against the cement block wall, so you don't want to break through that or disturb that cement block wall because that's part of the fire codes.
- If someone needs to remodel a kitchen and he has to move cabinets, including receptacle switches on/in a firewall, an electrician would do it. He's not an electrician.
- If he were doing a bathroom and somebody wanted to convert a tub to a shower and it's on a post-tension slab, he'd make sure the plumber doesn't disturb the unit below it.
- He doesn't know how, but that's the plumber's job. It's drain work that he's not licensed for.
- A post-tension slab is a solid slab between the two units.
- Mr. Nolton said that wasn't exactly right. There are different kinds of concrete slabs between vertical units. It's in commercial buildings and you need that knowledge.
- The post-tension slab usually is adjustable so you can move them so they don't sag. You want to make sure you don't get involved in any of that. That work is usually

done by an engineer. He's never been involved in the post-tension work, but has watched them work on it.

- Mr. Jerulle pointed out it's critical to know about that when remodeling in a condominium and he admits he doesn't have that experience.
- He admitted he hasn't done structural work in a building.
- That knowledge is needed if he's going to remodel a bathroom, a kitchen and move sinks or toilets.
- If he's done that work, he said it may have been under a different name.

Board Member Lantz said he appreciates his intent, but relying on the electrician for the fire code is not going to happen. If we say, we're going to change the drains and we have to chip up the slab to change the drain underneath and rely on the plumber to do it correctly, that's not going to happen. We're relying on people who need supervision of someone who understands structural and fire codes to do the work and you don't have that experience. Someone needs to be in charge. He needs experience in multi-family work, which you don't run into every day, but you need to know that when you run into it before you make a mistake. That's what that experience is all about.

Mr. Nolton said you're going to have a plumber and electrician, and you can have them do that work for you as subs, but they're not going to take care of those other items. They're going to do purely the electrical or the plumbing. They may have some ideas about the other codes that we're talking about and they may tell you, but most of them aren't experts in it and don't know that because that's not part of what they typically deal with.

Board Member Meister said if a plumber came in and didn't know it was post-tension and you didn't, and they did a core cut and hit one of the post-tension wires, he'd be dead. It would cut him in half.

Mr. Murphy said right. He's never done one, but has seen them laid out and poured and know what you're talking about, the core tensions or steel rods that go across through the concrete, but he hasn't personally done one. He knows it's all done with tension.

Board Member Nolton said that's general knowledge. It's not a piece of reinforcing seal. It's a stranded cable. It's under a lot of tension.

Mr. Murphy said he understood.

Board Member Nolton said they sweep through the building up and down so they get closer to one surface of the deck versus the other surface. As a General Contractor, you should have that knowledge.

Mr. Murphy said right. He knows he worked with it, but never put it together himself. He's seen them up north. We use them in garages a lot with storage underneath.

Board Member Nolton pointed out this is the time to tell them about his experience, but he hasn't been able to answer their questions about that knowledge. But when they give him knowledge, you say you already know that. You haven't impressed upon them that he already knows that information.

Chairman Allen asked if there's anything else he'd like them to know.
Mr. Murphy said no.

[They noted that he still has a Residential Contractors' License.]

Board Member Lantz made a motion to deny Kevin Murphy's application for a Registered Building Contractor's License. Second by Board Member Jerulle. The motion passed unanimously, 8-0.

Board Member Lantz advised him to work with a Building Contractor or General Contractor to get experience in condos. There are plenty of ways to get that experience. We just want you to get the experience and be aware of it.

Mr. Murphy said he understood.

Board Member Nolton said they don't want him or an owner to get into trouble. He's an engineer and fixes those problems all the time.

Mr. Murphy said he understood and appreciated their time.

**E. Enrique R. Sierra – Sierra Empire LLC
Residential Contractor – Registered – Review of Experience**

[Mr. Sierra was sworn in.]

Supervisor Crotts reported that Mr. Sierra has submitted an application for the issuance of a local license for residential contractor, which requires 48 months' experience. Mr. Sierra was required to submit documentation showing his experience. As part of the staff-review process, Mr. Sierra submitted one Verification of Experience for construction that showed:

- *Marco Island Renovations & Home Builders LLC. The owner said Mr. Sierra was employed from December 2018 to March 2022, 39 months, and was a full-time employee. His construction experience was that of building deck extensions, screen cages, interior remodeling and some addition work. Mr. Sierra has not done any home building from the ground up while employed with this company.*
- *During a phone interview with Mr. Sierra, he stated that he had not built any new homes. His experience is in remodeling and renovations only. He has no plans to build any new homes.*

Based on the information received, it is staff's opinion that Mr. Sierra does not meet the minimum requirements that set forth in Ordinance 2006-46, as it relates to experience in Section 1.6.1.3, as it relates to a Residential Contractor. Because Mr. Sierra does not meet the qualifications needed for the issuance of a residential license, he is being referred to the Board under Section 2.5.2, Referral of the Application to the Contractors' Licensing Board for a Decision. Mr. Sierra is here today to answer your questions.

Board Member Jerulle asked if he understands that the county says you do not have the requisite experience, so you're here to try to convince us that you do. We don't work for the county.

Mr. Sierra said he knew that.

Mr. Sierra testified that:

- Not being able to build a home is probably what is stopping him, but he has knowledge about building homes because he's been doing construction here since 2000.
- He's been a plumber since 2000 and works for many plumbing companies.
- He's been working on local renovations for the last four or five years and has seen enough to know what it takes to build a home from scratch.
- He's a plumber, so he's in the trenches. He's there when the forms are out, when the rebar guys come and he's helped build buildings on Marco Island, such as the Marriott.
- He knows post-tension cables are. They have to go northwest and southeast and must be designed especially to hold the structure of the building. You can't cut those wires. You have to have that floor scanned before you do anything.
- He has knowledge of firewalls, smoke walls, etc.
- He's been on construction sites in Miami and built schools with companies like BNI
- He's been in the trade for many years and in construction all his life, ever since he was a kid.
- His stepfather and pastor always remodeled buildings in New York City.
- At the age of 12 and 13, he was demoing and painting apartments, so he knows what it takes to remodel bathrooms and kitchens and that's all he really wants to do.
- He doesn't want to build homes. He wants to be able to remodel a bathroom, tear the tile apart, reconfigure the valves, put new tile up, move cabinets, etc.
- He doesn't want to go over two floors or do multi-family homes, just residential homes.
- Whenever he sees an old home, he can recommend how they can remodel to add more.
- He wants to provide for his family.
- He's very confident he knows what needs to be done to turn walls up and figuring out what needs to be replaced if there's rotted wood or mold. If there's mold, he'd get a mold-remediation company to make sure that when we cover those walls back up, there's no danger to the house or anybody living there.
- He does things the right way.
- If he has a set of blueprints, he can read them. We have to follow the blueprints or whatever the engineer recommends for the design of the new home, new construction, remodel or renovation.

Board Member Jerulle said he's applying for and that gives you the ability to build a new home, which you have never done.

Mr. Sierra confirmed that he's never done built a home from the ground up.

Board Member Jerulle said he can see the Board's predicament.

Mr. Sierra told the CLB:

- He knows, but was hoping maybe that because he's been doing plumbing for so long and has seen houses and new construction from the ground up.

- He's always been in love with the way that it starts and finishes.
- He has a plumbing company now and isn't taking on big projects like schools and hospitals or new-construction homes.
- His plumbing company is a service and is clean. His clients are Target and NCH.
- When they call for an emergency, he gets his equipment and clears the drain. He just does basic stuff on the side, not big things.
- Just because he applied for a Residential Contractors' License doesn't mean he's going to build homes. He wants to keep it simple.

Board Member Jerulle said but that's what it allows you to do.

Mr. Sierra said he understood, but will leave it up to the Board to decide if he needs to build a few more homes with somebody or if they'd give him an opportunity to start off small with a small company.

Board Member Lantz asked about the homes he was working on with the home builder.

Mr. Sierra testified that he remodels bathrooms, kitchens, etc., and does pool decks and screen cages, nothing major.

During questioning, Mr. Sierra told the CLB:

- He likes to be conservative and small.
- He's seen big and crazy things get out of hand and there are a lot of liabilities and things that can come and bite you. He wants to avoid that.
- He's working with a financing company that can help his customers finance their projects.
- We do what's recommended and get out of there. Customers are happy.
- He just wants to turn over kitchens and bathrooms in a better state.
- When he works on kitchens, he uses a CAD program, AutoDesk, and wants to get certified so he can work in Revit, AutoDesk and Navis, so when he presents a kitchen remodel to a customer, he'll have a virtual display of it.
- He's done no wall framing.
- He was there supervising, watching guys cut walls and concrete. If he sees something out of order, such as someone not wearing a respirator or that they can't cut something, such as bearing walls and structural walls, he tells them to wait until he makes a phone call to get approval.
- He ensures safety and structural protocols are followed.
- He works as a project manager to schedule work and everything is done in-house.
- He's never driven pilings.
- He's never set trusses. The roofers usually do that; Board Member Lantz pointed out that a roofer isn't licensed to do that. He needs to have that knowledge.
- He understands structural drawings.

Board Member Nolton said this may be a limited-type opportunity for us.

Chairman Allen asked if anyone wanted to make a motion.

Board Member Jerulle asked Mr. Crotts if there was another license that would allow him

to do what he wants, other than a residential?

Supervisor Crotts said the only other license that would apply would be carpentry, but based upon his testimony today, he wouldn't qualify for a Carpentry License.

Board Member Lantz noted that a Carpentry Contractor can't be a prime contractor for a kitchen remodel and they can't sub out to a plumber and must have knowledge about trusses, etc.

Supervisor Crotts said that was correct and he would not qualify for that license.

Mr. Sierra asked what he needed to do. He has to get this license.

Board Member Jerulle said he needs to build a couple of homes.

Chairman Allen said he needs to work with somebody who has that experience.

Board Member Jerulle said that's how you get experience, so they'd have to deny this.

Mr. Sierra said that was his fear. At least he's trying to get there.

Vice Chairman Jaron said they appreciate that.

Chairman Allen said he could withdraw his application, or they could vote on it.

Mr. Sierra asked what the difference was.

[A discussion ensued and he said he'd try and apply again.]

Board Member Lantz recommended that he get a job with someone who builds houses, even if it's only part-time. Just get a little more experience on the structural portions. You probably have basic knowledge on concrete because you've been around running pipes and footers, etc. But get a little more experience on the steel layout and whole house and he'll do great.

Mr. Sierra said that sounds good to him and he withdrew his application.

Supervisor Crotts said it would be marked withdrawn.

[The application was withdrawn by the applicant.]

**F. James R. Hinds Jr. – Jr. Construction Pros LLC
Residential Contractor – Registered – Review of Experience**

[Mr. Hinds was sworn in.]

Supervisor Crotts reported that Mr. Hinds submitted an application for the issuance of a Collier County Local Residential Contractor's License, which requires 48 months' experience. Mr. Hinds was required to submit documentation showing his experience and he submitted letters from homeowners as part of his scope of work. Reviewing these letters from homeowners, it appears that the work completed by Mr. Hinds was that of remodeling and not new construction.

Mr. Hinds holds a Home-Improvement Contractors' License in the state of Pennsylvania. Research shows that the Commonwealth of Pennsylvania Home Contractors' registration

allows the holder to repair, remodel and demo, but not construct new homes. A copy of this definition has been included in your packet. Mr. Hinds said his scope of work has remodeling. He has not built any new homes.

Based upon the information received, it is staff's opinion that Mr. Hinds does not meet the minimum requirements set forth in Ordinance 2006-46, as it relates to experience under Section 1.6.1.3, as a Residential Contractor because Mr. Hinds does not meet the qualifications needed for the issuance of a Residential Contractors' License. Mr. Hinds is being referred to the Board under Section 2.5.2, Referral of the Application to the Contractors' Licensing Board for a Decision. Mr. Hinds is here to answer your questions.

Chairman Allen said the Board will turn it over to you to convince us that you have the necessary experience.

Mr. Hinds testified that:

- He's a GC. It's a limited GC in Pennsylvania.
- He specializes in remodeling work.
- He's had a Collier County painting license for a few years.
- He's a handyman and has been trying to speak with Mr. Crotts over the past few years on how to get his remodeling license to stay compliant with the county.
- He'd like to see if there's an opportunity to get a limited Residential Contractors' License, where it would not allow him to build or pull building permits.
- He wants to continue his Pennsylvania business here, which would be remodeling kitchens, bathrooms, etc.

Chairman Allen asked Mr. Crotts if there was anything they could do.

Supervisor Crotts said the Board could consider doing a restricted license. However, it's something that is difficult to monitor because once he's given the license, if he shows that he has a Residential Contractors' License, it would not stop him from telling a homeowner that he could build a home or exceed what your restrictions are.

During questioning by the Board, the following points were made:

- He has moderate structural experience.
- He hasn't done concrete, but has done structural framing, siding shingles, etc., up north.
- He's never done trusses.
- He's never done concrete foundations.
- He'd like a license with a limitation so he couldn't pour concrete or build trusses, but could pull permits for kitchens, bathrooms, etc.
- He'd like to pull a roofing permit, but that would be denied on his license.
- To determine whether a wall is load-bearing or not, he'd ask a structural engineer to come in and tell the homeowner that his license is limited and he'd have to get an engineer to sign off on that.
- He'd then leave it up to the county to approve that work after the engineer confirmed it wasn't a load-bearing wall.

- The county doesn't have a license for that limited scope of work.
- He would follow their limitations and only wants to do bathrooms and kitchens, his specialty.

Board Member Hunt said if they approve it today and you go to get a permit on Marco Island, they're not going to research the license to see if there are any restrictions on it. They don't have the time. They're going to see that your license is active and they'll give you a permit, so there's nobody to watch you unless we get somebody filing a complaint. Only after a complaint would we see that you're beyond the scope of the restriction. That's a huge liability, considering that there are so many areas that it would be restricted, including things like foundation and roofing, a lot of restrictions – just so you can do kitchens and baths. Although it's a very popular request, we have no way of doing that yet still protecting both the sanctity of the license and county consumers.

Board Member Joslin asked if he was required to have a license in Pennsylvania.

Mr. Hinds said he was, a general contractors' license, which they call a home-improvement license. It allowed him to do everything except for things like building a two-story building. He did full flips top to bottom and would fix everything and everything was covered by that license, but he was unable to build because that's from Pittsburgh. In Allegheny County, you need a special license to build, so he did everything and that's what the license covered.

Board Member Joslin asked if he needed to get permits for all the work on those houses.

Mr. Hinds said if they were in Allegheny County, we would have to get permits to complete the work. He did the electrical, plumbing, cabinets and drywall. It was him and two helpers and that's how he's always run his companies.

Board Member Jerulle asked what he was currently doing.

Mr. Hinds said he's working painting and as a handyman.

Board Member Jerulle asked if he'd consider working for a contractor for a few years.

Mr. Hinds said he has been working for a few contractors.

Board Member Jerulle said he's referring to home builders.

Mr. Hinds said he has been working with a few and one signed his references. It was a company that remodeled the Ritz. He worked for the contractors, Scott O'Connor. He's a commercial GC. He helps him out on side projects, but he doesn't do any concrete work or trusses.

Board Member Jerulle said that's what he's getting at. If you work with a contractor, then you can put that down as your experience.

Mr. Hinds said he understood.

Chairman Allen asked if there were any questions or a motion.

Board Member Lantz made a motion that we deny the request.

Board Member Joslin said he'd have to second it, unfortunately.

Chairman Allen asked if he wanted to withdraw this before we vote, or does he want them to proceed with the vote.

Board Member Joslin said it's better to withdraw.

Mr. Hinds said he'd withdraw.

Chairman Allen said, as Mr. Jerulle said, get experience with a contractor who does this kind of work and come back to us. We might be able to do a little bit more than we can today.

Mr. Hinds thanked them.

[The application was withdrawn by Mr. Hinds.]

**G. Oscar Ruiz Alvarez – R-Trees Landscaping Inc.
Tree Removal & Trimming Contractor – Review of Credit**

Supervisor Crofts said Mr. Alvarez has submitted an application for the issuance of a local Landscaping Contractors' License, which requires a minimum credit score of 660. Under County Ordinance 2006-46, Section 2.3.9, Mr. Alvarez was required to submit a personal credit report. His credit report was reviewed and appears not to meet the financial responsibility as set forth in Section 2.5.1(d), "The applicant or qualifier meets the requirement for financial responsibility as set forth in Rule 61G4-15.006 of the state of Florida. The credit report shows a credit score of 539 and was dated March 9, 2023. The minimum credit score required by rule is 660. The following areas were of concern:

\$2,458 in collections from Bank of America, February 2023.

Mr. Alvarez had submitted a statement saying that his Social Security number was incorrect, but when contacted by Licensing and Operations Supervisor Sandra Delgado, Mr. Alvarez confirmed that the Bank of America debt was his.

Because Mr. Alvarez does not meet the minimum required credit score by ordinance, he is being referred to the Board under Section 2.5.2, Referral of the Application to the Contractors' Licensing Board for a Decision. Mr. Alvarez is here today to answer your questions regarding his credit.

During questioning by the Board, the following points were made:

- The \$2,458 Bank of America collections matter was closed after he paid for it two or three weeks ago.
- Bank of American was going to send him a letter, but gave him another credit card for \$1000.
- He hired someone to teach him how to get better credit and has a letter from that company with him.
- He can provide the documentation.

[He provided the CLB with documentation, a letter from Consumer Credit Repair Now.]

Chairman Allen said this is a letter from Beatrice Vega, of Consumer Credit Repair Now.

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He wonders if your credit score would have gone up. Your credit report is dated March 9, 2023, and he assumes it would go up if he paid it off.

Board Member Lantz noted that this was a classic case of no credit, not bad credit and said there was only one card on his report.

Board Member Lantz said he doesn't necessarily see that as a detriment, having a small credit report. Do you pay for everything in cash when the bill comes due?

Mr. Alvarez said that for now, he has debit cards and he applied for a credit card.

Board Member Lantz asked if he doesn't use a credit card or have loans.

Mr. Alvarez said he'd had problems years ago, when we didn't make payments. He didn't have any driver's license, so he has that now and is waiting for his Social Security card, so he's working for a company. He's in the process and wants to do everything right.

Chairman Allen noted this doesn't involve experience, just credit.

Supervisor Crotts said that's correct.

[A discussion ensued.]

Supervisor Crotts said he's applying to get a landscape license.

Board Member Jerulle said he's been fined twice for not having a license.

Chairman Allen asked Supervisor Crotts for his recommendation.

Supervisor Crotts said staff recommends that the license be granted with a 12-month probationary period and Mr. Alvarez must submit a new credit report at the end of six months that shows an improved credit score, no additional credit issues, and payments made on time. If the credit score is 660 at the end of six months, then staff may remove the probation with no further action required by Board. If the credit is not at 660, the probation will continue for those 12 months. After 12 months, Mr. Alvarez must submit a credit report showing an improved credit score and no additional credit issues. If the credit score is at 660, then the 12-month probation will be removed. But if it hasn't reached 660 and there are additional credit issues, Mr. Alvarez will be required to appear back in front of the Board for an explanation.

Board Member Lantz asked if the license would be going away on July 1.

Supervisor Crotts said it would go away, but due to new legislation that's pending it most likely will be pushed to July 1, 2024.

Board Member Lantz said he'd adopt that recommendation.

Board Member Jerulle said he'd second it.

Board Member Lantz said he'd adopt the county recommendation and grant a 12-month probationary license for Oscar Ruiz Alvarez, who must submit a new credit report after six months that shows an improved credit score, no additional credit issues, and timely payments. If the credit score is 660 after six months, staff may remove the probation with no further Board action. If the credit is not at 660, the probation will continue for those

12 months. After 12 months, Mr. Alvarez must submit a credit report showing an improved credit score and no additional credit issues. If the credit score is 660, the 12-month probation will be removed, but if it hasn't reached 660 and there are additional credit issues, Mr. Alvarez will be required to appear back in front of the Board for an explanation. Second by Board Member Jerulle. The motion passed unanimously, 8-0.

Chairman Allen told him the county would assist him and show him what's required if he stopped by their office this afternoon

Mr. Alvarez thanked him.

9. **OLD BUSINESS:**

**A. Humberto M. Sanchez – Creative Design General Contractors Inc.
Underground Utility & Excavation Contractor – Probation Review (Credit)**

[Mr. Sanchez was sworn in.]

Supervisor Crofts reported that Mr. Sanchez appeared before the Contractors' Licensing Board on March 16, 2022, due to a review of his creditworthiness. After the review, the Board ordered that Mr. Sanchez be placed on a 12-month probationary period and to provide staff with a new credit report showing an improvement to his credit score and evidence of repayment of his outstanding debts. A copy of the March 16th Board order and minutes are included in your packet.

A new credit report dated January 2023 was received from Mr. Sanchez and shows a credit score of 635, which is five points higher than the original credit score of 630 dated December 2021. With regard to debt payments, a letter submitted on April 5, 2023, shows that Suncoast Credit Union's balance of \$6,907.42 had been settled and paid in full.

A Suncoast Credit Union letter dated April 5, 2023, states that the balance of \$645.91 has been settled and paid in full.

\$1,413 is past due on a Verizon account and the amount from 2022 now shows as a collection in the January 1, 2023, credit report. Mr. Sanchez is here to answer your questions regarding his review.

Chairman Allen asked if he could explain what was going on with his credit.

Mr. Sanchez testified that:

- He's come a long way in paying his debts and the experience on the General Contractor License.
- They told him to withdraw his application the last time and to apply as residential.
- But he was working with Collier County for the underground utilities for the water and left in 2020, so he got behind in paying debts.
- He's still in the process of working to get GC experience and working on his credit.
- The largest debt was a car repo and he paid it in full.

Chairman Allen said the concern is that Verizon has now gone into collections when it previously wasn't.

Mr. Sanchez said he's going to settle that in the next couple of months but it's been a big journey. People have let him borrow money, so he's just trying to get everyone paid off.

Chairman Allen asked what the staff recommendation was.

Supervisor Crotts said staff recommends that Mr. Sanchez's license remain on probation for the initial 12 months and at the end of six months, Mr. Sanchez shall provide an updated credit report showing a payment plan or that the Verizon account was settled and paid in full, that there are no other credit issues and an improvement to his credit score. At the end of 12 months, Mr. Sanchez shall provide an updated credit report showing a payment or settled plan on the Verizon account, and there are no other credit issues and a credit score of 660 or better. At any time during the 12-month probationary period, if Mr. Sanchez can show staff that the Verizon debt has been paid in full, there are no other credit issues and that his credit score has reached 660, the probation will be removed by staff and no other action will be required by the Board.

Board Member Joslin asked about page 334, the credit report. Did you say that the \$6,693 bill was paid?

Supervisor Crotts said it was paid in full.

Board Member Joslin said that's what he thought.

Chairman Allen asked if anyone wanted to make a motion.

Board Member Hunt said since we've already given him 12 months, we should give him six more months. She's not comfortable giving him 12 more without showing some movement forward. If he doesn't have the money, she'd like to see payment plans, that you contact creditors and make arrangement with them to show movement forward. It doesn't have to be paid off. We just have to see something you've done to take care of these debts because we gave you 12 months and now one has gone into just being past due, into collections. We can't go another 12 months and find out that the credit has gotten worse.

Mr. Sanchez said he was in a lot of debt, but has been paying everything.

Board Member Hunt said he has paid off some.

Mr. Sanchez said he paid a lot and is working on it.

Board Member Hunt said that's a great step forward.

Board Member Hunt made a motion to continue Humberto M. Sanchez's probation for six months, and within 90 days, he needs to provide the county with documentation showing he has contacted and come to an agreement with all creditors that either show a past due or a collection account, that you are doing something in furtherance of that and by six months, if the credit has not gotten worse and has gotten better and if it's at 660, the probation will be lifted from his license. If after six months that hasn't been done, then he must come in front of the Board.

Board Member Lantz pointed out that the only debt is Verizon.

Board Member Hunt noted that he'd only gone up five points in 12 months.

[A discussion ensued.]

Board Member Lantz said he did pay off \$6,000, but really it was mostly recently.

Mr. Sanchez said it was nearly \$7,000, about \$6,900 something.

Board Member Lantz said that recent payment won't affect the credit score today. It's going to take a while.

Board Member Hunt told the CLB:

- He had 12 months to do that and did it at the last minute, so she wants to see a bit more proactive effort.
- Six months may not be enough, but if the county sees that in 90 days that he is moving forward, that will show them that hopefully in six months we see some movement.
- If in six months, it's at 655 and you're in front of us, but we see in 90 days that you've put together a plan 90 days into it and are moving forward, we're going to be a lot more open to letting the license continue.
- She just doesn't want to see him in 12 months and find out that he paid something off within the last 30 days. That's not the behavior they want to incentivize.

Mr. Sanchez said he understood, but that wasn't just paid in in the last 30 days. It's been a year that he's been paying it off every month and finished. He totally understands what they're saying, so he's fine with whatever they agree on.

Board Member Lantz asked how long it will take to pay off Verizon.

Mr. Sanchez said two or three weeks.

Chairman Allen asked if he could meet her time frame and her motion.

A discussion ensued and Mr. Sanchez said he could make a payment in two or three weeks and then provide documentation.

Board Member Lantz asked for clarification, that if he pays off Verizon he doesn't need to come back. He would second it then if the motion stipulates that he provides proof that he paid it off so he doesn't have to come back before them.

A discussion ensued and they decided he could show proof that he paid off Verizon, but still must get his credit score up to 660.

Supervisor Crotts said he'd recommend that anytime during that six months, if he can show that he's paid off Verizon and that his credit score has reached 660, the probation would be automatically removed. No further action required.

Board Member Hunt said she'd amend her motion.

Board Member Hunt made a motion to continue Humberto M. Sanchez's probation for

six months. The probationary term shall automatically be lifted if, at any time prior to the six (6) month period, the Applicant provides to the Contractor Licensing Supervisor, or his designee, sufficient documentation demonstrating that the debt to Verizon has been paid in full and his credit score is 660 or greater. If the Applicant fails to provide the required information within the six (6) month period, the Applicant shall be brought back before the Board for the Board to take any further lawful action as deemed necessary by this Board. Second by Board Member Lantz. The motion passed unanimously, 8-0.

[The Board took a break from 10:09 a.m. to 10:20 a.m.]

10. PUBLIC HEARINGS:

A. 2023-10 – Dusty L. Loewen dba Supreme Services & More LLC (CEMIS20230002391)

Mr. Loewen, his employee, Janice, and Investigator Bogert were sworn in.

Board Member Joslin made a motion to open the public hearing for 2023-10, Dusty L. Loewen, dba Supreme Services & More LLC. Second by Board Member Hunt. The motion passed unanimously, 8-0. The public hearing was opened.

Board Member Joslin said he wanted the Board to know he knows Mr. Loewen personally but has never had any construction or business dealings with him.

Attorney Noell asked if he had any business dealings that would affect his vote or personal or business finances.

Board Member Joslin said he had none.

Investigator Bogert said a copy of the hearing preamble was given to and read by the respondent, Dusty Loewen, who signed and dated it. He asked to enter the preamble and case packet for Case No. 2023-10 into evidence.

Board Member Nolton made a motion to accept the Preamble and Case Packet for Case No. 2023-10 into evidence. Second by Board Member Jerulle. The motion passed unanimously, 8-0. The Preamble and Case Packet were entered into evidence.

Investigator Bogert presented his opening statement:

The respondent, Dusty Loewen, a county-licensed Aluminum with Concrete Contractor with Issuance No. 202100002960 is the qualifier for and owner of Supreme Services & More LLC. Mr. Loewen contracted for, received payment and performed the scope of work for a stormwater culvert replacement at 71810 Third Ave. N.

Mr. Loewen is in violation of the Collier County Code of Laws and Ordinances, Section 22-201(2), which states, in pertinent part, that it is misconduct for a holder of a Collier Certificate of Competency to contract to do any work outside the scope of his or her competency as listed on his her competency card and as defined in this ordinance or as restricted by the Contractors' Licensing Board.

Chairman Allen asked Mr. Loewen if he had any opening remarks.

Mr. Loewen presented his opening statement:

- They initially did not know their course on working with concrete and doing the culvert, so we went to the county and asked questions about whether his license would cover doing this job, or if it was out of the scope. The county said no.
- The name of that county employee was Mr. McKenna.
- He said yes, you can absolutely do this in the scope of your work.
- We inquired before to make sure because he didn't want any stains on his license.
- Mr. McKenna told him he could move forward, so we moved forward and we pulled the permit.
- Then he learned there was a stop order saying it was outside the scope of his license.
- He's a concrete contractor and knows you cannot do concrete unless aluminum is put on top of it and he was under the impression that he could do a little concrete, a 24-inch driveway piece in there, remove the aluminum culvert and replace it.
- But he was told that was out of the scope of his work, which he understands now.
- After the stop-order, we acquired a CBC to do it legally and he's aware of the situation.
- He has all the equipment and everything for this work and we proceeded forward on the culvert repair.
- He's been a GC in California for 18 years and has done hundreds of culverts before.
- We did have location services of everything there and he hand dug everything with a shovel because he doesn't trust wires and irrigation.
- He brought his own equipment to remove the concrete. It's a 24-inch strip for the culvert we replaced.
- While he did that, Investigator Bogert shut us down and issued a stop-work order.
- He told Investigator Bogert he was working under a CBC, but the investigator said he couldn't do that because he's not a W2 employee.
- He was unaware of that. It just put us in a situation and we didn't know what direction to go in, so they hired another CBC to do the job and he should have the job finished by Friday.

Chairman Allen asked if he was not disputing that the work was done without a license.

Mr. Loewen said he didn't understand what he means.

Chairman Allen said he's asking him to say he's not disputing that he did this work without the necessary license to perform that work.

Mr. Loewen said he's not disputing that he removed the sod with a shovel, dug a hole with a shovel and not with an excavator. He only brought that to remove the heavy concrete. He hand dug all the way down and when he got to the end, Investigator Bogert showed up and said to bury it, that he was beyond the scope of his license. So he buried it and tried to comply with everything to get this little job done.

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Chairman Allen said he's asking because you're telling us sort of goes to the mitigation of what the potential penalty could be. If there's no dispute that he did the work without the required license, then we can get to these mitigating factors that you're telling us about.

Board Member Hunt said she thought he got a permit pulled prior to doing any work.

Board Member Joslin asked how would that happen?

Board Member Hunt asked how the county gave a permit to somebody who wasn't licensed to do the work.

Investigator Bogert said sometimes permits can get issued in error based on the license. When it is discovered, obviously they reach out to the contractors to educate them and let them know that their license doesn't cover that. That's part of what this case was about. He was doing routine patrols in North Naples, saw some disturbed culvert work, saw culverts laying out, saw no permit posted, so he researched CityView and found Aluminum with Concrete Contractor on the permit and that's why we're here today.

Vice Chairman Jaron said he was working in a right-of-way and had a right-of-way permit, so he cut the driveway, two feet of a 2-foot section, right?

Mr. Loewen said the driveway was previously cut.

Vice Chairman Jaron asked whether he was going to replace an existing pipe there.

Mr. Loewen said there was an existing aluminum culvert.

Vice Chairman Jaron said, OK, an aluminum pipe, corrugated aluminum, corrugated steel.

Mr. Loewen said correct.

Vice Chairman Jaron said so you were going to put the mitered ends on, is that right?

[Mr. Loewen said he was.] OK, he was a little uncertain about what was happening.

Janice, his employee, said this was actually a code case because of the damaged culvert, so that needed to be removed. That's how this all came about. The homeowners got a code violation because of the damaged culvert, so that needed to be removed.

[A discussion ensued.]

Board Member Hunt said she can't believe this was done with a permit.

Board Member Lantz asked if they could find the county guilty for that.

Investigator Bogert said Director Jaime Cook can come up to explain the process.

Board Member Joslin said he'd like to hear that.

Ms. Cook said rights-of-way, permitting and inspections is under her purview within the Development Review Division. These permits can be pulled by anyone, including an owner builder. If she's an owner and doesn't know what to do, she can still get a permit.

Board Member Joslin said if he wants to build, he can get a permit for almost anything as an owner. If I'm talking about as a contractor who has a license that's not licensed to do the work ...

Ms. Cook said we issue about 60,000 permits a year. As Ms. Hunt said earlier, we don't have time to look at every single permit and look at every single person who's pulled it and whether they're licensed to do the work or not.

Board Member Lantz said he's spent a lot of money on plan review fees and now you're telling me you don't have time to look at my plan review?

Board Member Joslin said really?

Ms. Cook said we review your plans, but we don't necessarily have the time to look and see who is applying for that permit.

Board Member Joslin said they have to have a license number to know.

Board Member Lantz asked why they have licensing if someone is not checking the license. He's had permits denied plenty of times because his license was inactive.

Board Member Joslin said he also has as a pool contractor.

Board Member Lantz said we understand mistakes happen, we get that. But to say we don't do our job to me is not an excuse. We could say, "Gee, we screwed up," but to say, "Gee, we don't do that and we don't do it ever. We don't have time to do it." Are you kidding me? Isn't that your job? Isn't that why we pay as contractors. Why do we pay if you're not doing it?

Board Member Joslin said there must be a review of some sort.

Board Member Jerulle asked Supervisor Crotts to clarify. If he's a general contractor, in order for him to pull a permit to build a house, you're going to verify that a general contractor or CBC or a builder has a correct license, correct?

Supervisor Crotts said what happens with that is when you submit your application it goes into application intake and that division would verify the scope of work is being done and check to make sure that the license falls under that scope of work.

Board Member Jerulle asked if a right-of-way permit works that way. He thought he heard her say you don't have to be licensed to pull a right-of-way permit. Is that correct or incorrect?

Ms. Cook said an owner-builder can pull the permit.

Board Member Jerulle said that's not his question.

Ms. Cook said as Mr. Crotts was saying, and this may address some of your concerns, all of these permits when they come in go through an intake division, then they come back to her team, so they should be reviewed at intake, but they're not being reviewed again by staff when they get back to her team.

Board Member Lantz said what you're saying is intake screwed up, not you?

Ms. Cook said she doesn't like to place the blame on anyone, so she will take the blame for this, that it wasn't done correctly.

Board Member Lantz said you have to be pretty brave, because from his perspective, intake and applying for permits is the biggest hassle we have as contractors and we pay a ton of money and we get stuff shot back all the time for the most stupid things you can

imagine, so this is our one shot to say, “You know what? Screw you, the man, because it’s our fight back.”

Ms. Cook said she knows we’re not infallible. We will take this back as lesson learned and improve our intake process. But ultimately, the contractor should be aware of what they are and are not licensed to be doing.

Board Member Joslin said he doesn’t agree.

Board Member Lantz said Mr. Loewen spoke to someone in the county and was told to move forward.

Ms. Cook said the person he spoke to is the manager of inspections. He has no affiliation with Contactor Licensing.

Chairman Allen said he shouldn’t be giving direction then if he doesn’t have that knowledge.

Ms. Cook said to her knowledge, she doesn’t know if that’s true. Apparently, this was a phone call. She hasn’t seen anything in writing to state this, so that’s what he said. That’s a he said, she-said situation.

Board Member Nolton asked for clarification. He understands that a homeowner or builder could do this, but any contractor can apply for a right-of-way permit and get one?

Board Member Joslin said sure.

Ms. Cook said she’s not entirely sure how the intake process works. That’s not under her purview. She would think not, but it’s supposed to be vetted at intake.

A discussion ensued and the following points were made:

- If you’re a plumber, you can’t pull the electrical permit.
- A plumber would know that he couldn’t do that work.
- But if the county messes up and gives you that permit, you still should know that you can’t do that work?
- Two wrongs don’t make a right.
- When someone applies for a permit, their license number is on the application.
- The county also made a mistake.
- Board Member Lantz said he can see Mr. Loewen’s argument that he has a license to do flat work on a driveway. It wasn’t corrugated aluminum pipe and they told him it has to be aluminum work and concrete has to be incidental to the aluminum work. If he’s replacing an aluminum pipe, he gets that the pipe would have an aluminum enclosure.
- The county supplies the engineering diagram in the right-of-way permit.
- Mr. Loewen said we submitted our drawings for the project and the county came back with what they recommended in their drawings.
- The county recommended the plastic pipe in the ground.

Supervisor Crotts said he has information about the Concrete with Aluminum Contractor License. As far as the cement work is done, it says these contractors may form place, on grade enforcing steel, miscellaneous steel, pour place and finish any non-structural concrete on-grade only, incidental to the aluminum structure or screen enclosure. In order for this particular license to do concrete work, it also has to be incidental to the aluminum structure

or screen enclosure.

Board Member Joslin said that makes sense. You pour concrete, you put aluminum on it, period.

Chairman Allen asked if there was a motion of guilt or innocence.

Board Member Lantz made a motion to find Mr. Loewen not guilty.

Board Member Joslin said he'd second it.

Attorney Noell asked if they'd already closed the public hearing. They need to do that first.

Board Member Lantz asked if anyone presented their whole case. We asked a lot of questions.

Attorney Noell said he thought there was an admission of a violation that he did the work and there would be mitigation testimony. Do you have any other testimony that you'd like to provide to the Board?

Janice said he didn't do the whole job. Another contractor took over the job, so it's still in process.

Attorney Noell asked if there was any other information before they closed the public hearing portion. If there's anything else you want the Board to know, now would be the time.

Supervisor Crotts said he did submit a rebuttal. Did you want the Board to see the rebuttal?

[A discussion ensued over the rebuttal and Janice said they should see it.]

Supervisor Crotts said the respondent brought in the rebuttal this morning. This is the first time that staff would see it and it would be the first time that the Board would see it.

Chairman Allen asked for a motion to admit it into evidence.

Chairman Allen moved to admit Dusty Loewen's rebuttal into evidence. Board Member Joslin seconded the motion. The motion passed unanimously, 8-0.

Janice said that pretty much sums it up. It just explains the unfortunate circumstances, that there were mistakes made on both sides and that there was a disgruntled neighbor that got involved.

Investigator Bogert presented his closing argument:

- *The date of their contract/quote was July 2022.*
- *The alleged phone call for the licensure approval or review was not until August 2022, so he quoted for the job outside of his scope prior to knowing if he could do the work.*
- *Some of the work that contractor would have to know involved compacted subgrades, lime rock, rebar specs, size, layout, how much, how to tie it, metered*

ends and regrading swales.

- *An Aluminum with Concrete License doesn't encompass much of that, if any of it.*
- *He contracted before he found out he could do the work, even though he wasn't allowed to, and it's not encompassed in that license.*
- *The county rests.*

Mr. Loewen said he had no closing arguments.

Chairman Allen made a motion to close the public hearing. Second by Board Member Lantz. The motion passed unanimously, 8-0. The public hearing was closed.

Board Member Lantz made a motion to find Dusty Loewen not guilty.

Board Member Joslin said he'd second it.

Chairman Allen asked if there was any discussion.

Board Member Jerulle said that by his own admittance, he performed work outside of the scope. How do you find him not guilty?

Board Member Lantz said the county issued him a permit, so he did it and it was wrong, but he doesn't need to be punished for it. It's still a ding on his record and it's still a punishment, being found guilty. Whether he has a punishment or not, so from his perspective it's an honest mistake, but it was just as honest a mistake as it was from the county and two wrongs don't make a right, but two wrongs don't necessarily mean that this guy needs to be punished. If we're going to punish him, then let's punish whoever is in intake and fire him.

Board Member Joslin said they were both guilty.

[A discussion ensued over the county being just as guilty for the mistake.]

Board Member Hunt said she'd vote for him being not guilty because it sounds like when he took on the job, he did enough due diligence to determine whether this was in the scope of his license by contracting the county, asking these questions, applying for the permit, so until he got the stop-work notice, he was under the impression that he was working within the scope of his license and not doing unlicensed work.

Supervisor Crotts said that regarding the permit, anytime that we have a complaint about a contractor working outside the scope, it would involve also not being able to pull the permit. Normally, we would have the respondent in front of the Board for working outside the scope and for not pulling the permit. We didn't do that in this case because a permit was issued. Even though it was in error, the respondent made the effort to pull the permit, so we didn't charge him with failure to pull a permit. The charge today is working outside the scope of the license, so disregard anything with the permit because we understood it was issued, he understood that and it was done in error, which has since been rectified. It's working outside the scope of his license. Any concrete work has to be done in conjunction with an aluminum structure or screen cage.

During questioning by Board Member Nolton, the following points were made:

- He worked as a state GC for 18 years in California.
- He's been working Collier County and Florida since 2013 or 2014, about 10 years.
- He hasn't done rights-of-way in this county or Florida before.
- He did it this time because he's done hundreds in California in subdivisions, putting in deep boxes, channel drains, culverts. He's very familiar with all that and miters are a bit different in California, but it's all the same basic principle.
- He mostly does concrete and aluminum, along with excavations. He does slabs and footers for the concrete for the aluminum structures he puts up.
- He did this work because the property manager contacted him and asked him to help some out-of-state owners.
- It's an existing property manager that he does work for.

Board Member Lantz made a motion to find Dusty Loewen not guilty. Second by Board Member Joslin. The motion passed unanimously, 5-3, with Chairman Allen and Board Members Nolton and Jerulle voting nay.

Chairman Allen wished him the best of luck.

Board Member Joslin warned him not to do it again.

Chairman Allen moved to the findings of fact:

Upon consideration of all testimony received under oath, evidence received and arguments presented by the parties during the public hearing, the Board issues the following findings and conclusions:

- Service of the Administrative Complaint and notice was legal, sufficiently provided and in compliance with the applicable law.
- The respondent is the holder of the license as set forth in the Administrative Complaint.
- The respondent was present at the hearing and was not represented by counsel.
- The Board has jurisdiction over the Respondent and subject matter raised in the Administrative Complaint.
- The respondent was found not guilty of count 1 in the Administrative Complaint.

Therefore, by a vote of 5-3, the respondent is found not guilty of the violations set forth in the Administrative Complaint, 2023-10. This proceeding is now concluded.

Board Member Joslin said intake should now be brought up to date about what's required so they provide the right information.

Board Member Lantz said it was just a mistake.

Chairman Allen said they probably got that information today from Mr. Lantz.

**B. 2023-11– Christopher R. Flanders, dba West Coast Restoration LLC
(CEMIS20231581)**

[Mr. Flanders and Investigator Broughton were sworn in.]

Chairman Allen made a motion to open the public hearing for Case No. 2023-11, Christopher R. Flanders, dba West Coast Restoration LLC. Second by Board Member

Hunt. The motion passed unanimously, 8-0. The public hearing was opened.

Investigator Broughton said a copy of the Preamble and Case Packet was presented, signed, initialed and dated by the respondent. He asked to submit the Preamble and Case Packet for Case No. 2023-11 into evidence.

Board Member Lantz made a motion to accept the Preamble and Case Packet for Case No. 2023-11. Second by Board Member Joslin. The motion passed unanimously, 8-0. The Case Packet was accepted into evidence.

Investigator Broughton presented his opening statement:

The respondent, Christopher Flanders, a Collier County licensed Painting Contractor with Issuance No. 201700000335 is the qualifier for and owner of West Coast Restoration LLC. Mr. Flanders contracted for and received payment from the property owner for the installation of new drywall throughout, four feet up from the floor, and the entire home, new vinyl floors in both bedrooms, new cabinets, kitchen and bathrooms, new exterior door to garage, new molding, interior doors and trim work throughout the home and new toilets at 11 Crooked Lane, Naples. Also, the drywall installation and the exterior door installation commenced without a permit, for which one was required.

Mr. Flanders is in violation of Collier County's Code of Laws and Ordinances, Section 22-201(2), which states, in pertinent part, that is a misconduct for the holder of a Collier County Certificate of Competency to contract to do work outside the scope of their competency, as listed on their competency card and defined in the ordinance or as restricted by the Contractors' Licensing Board.

The respondent also is in violation of Collier County Code of Laws and Ordinances, Section 22-201(18), which states, in pertinent part, that is a misconduct for the holder of a Collier County Certificate of Competency to proceed on any job without obtaining applicable permits or inspections from the City Building & Zoning Division or the County Building Review & Permitting Department.

Mr. Flanders presented his opening statement:

- He admits full guilt. He did the sheetrock, but did not finish the cabinetry work.
- He stepped into it and the homeowner asked him to do a bit more and he agreed.
- He originally was contracted just for painting and drywall repair, but then the homeowner asked him to do more. He didn't know he needed a permit for drywall.
- Drywall removal was changed from 18 inches to the 4-foot mark so he unknowingly did that and the garage door because he's not a general contractor, just a painter.
- He didn't know he needed a permit to do that door and he did all the work.

Chairman Allen asked if he was admitting guilt on both counts.

Mr. Flanders said he was.

During questioning by the Board, Mr. Flanders testified:

- This was flooding work.
- It was torn out prior to his arrival by a handyman.
- When he showed up, the residents asked if he could do some sheetrock work and repaint, and then asked for electrical work.
- He told them he doesn't do electrical or plumbing.
- The resident asked if he'd set the toilets and he did it, not thinking anything of it.
- The resident was in Michigan at the time and said he'd have flooring and cabinets delivered. He asked him to put them in place.
- The resident said he'd have another company set the countertops and do other work.
- His company is called West Coast Restoration and he primarily does sandblasting and restoration of older things, so he does mobile sandblasting, custom epoxy floors, painting interior and exterior, custom concrete staining and sealers.
- He didn't want to be just a painter because he likes to restore things and not throw them out.
- He bought sandblasting and painting equipment to do restoration the right way.

Board Member Jerulle made a motion to close the public hearing. Second by Board Member Hunt. The motion passed unanimously, 8-0. The public hearing was closed.

Board Member Joslin made a motion to find Christopher R. Flanders guilty of both counts. Second by Board Member Lantz. The motion passed unanimously, 8-0.

Attorney Noell noted that available penalties are in the packet on page 432, which sets forth the range of disciplinary sanctions. In considering what sanctions to impose, the Board can consider the gravity of the violation, the impact of the violation on public health and safety, any actions taken by the violator to correct the violation, any previous violations committed by the violator, and any other evidence that's appropriate given the case and the nature of the violation.

Board Member Jerulle asked what the status of the home is now.

Investigator Broughton said the put back was done by Mr. Flanders and the owner has pulled an Owner-Builder Permit for the property, and inspections are commencing at this point.

Chairman Allen asked if the county has a recommendation for sanctions.

Supervisor Crotts said they do. There is no restitution to be paid to the homeowner. This is Mr. Flanders' first time appearing before the Contractors' Licensing Board, so we would ask for a \$1,000 fine to be paid within 60 days on Count 1 and \$1,000 on Count 2, and to place Mr. Flanders on 12 months of probation to run concurrently. Failure to pay the fine within 60 days will result in the respondent's license being automatically suspended until such time as the fine is paid and a reinstatement application has been submitted to staff.

Board Member Lantz asked if the license will still be here after July 1.

Supervisor Crotts said if it goes away, it will not be until July 1, 2024, under the new House bill that's being considered.

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Board Member Lantz made a motion to fine Mr. Flanders \$1,000 on Counts 1 and 2, to be paid within 60 days, and to place him on 12 months of probation on each count, to run concurrently. Failure to pay the fine within 60 days will result in his license being automatically suspended until the fine is paid and a reinstatement application is submitted to staff. Second by Board Member Joslin. The motion passed unanimously, 8-0.

Chairman Allen moved to the findings of fact:

Upon consideration of all testimony received under oath, evidence received, and arguments presented by the parties during the public hearing, the Board issues the following findings and conclusions:

- Service of the Administrative Complaint and notice was legal, sufficiently provided and in compliance with the applicable law.
- The respondent is the holder of the license as set forth in the Administrative Complaint.
- The respondent was present at the hearing and was not represented by counsel.
- The Board has jurisdiction over the Respondent and subject matter raised in the Administrative Complaint.
- The respondent committed the violations set forth in Count 1 and Count 2 of the Administrative Complaint.

Therefore, by a vote of 8-0, the respondent is found guilty of the violations set forth in Count 1 and Count 2 of the Administrative Complaint, 2023-11, and the Board imposes the following sanctions against the respondent:

- A \$1,000 fine on Count 1, to be paid within 60 days.
- A \$1,000 fine on Count 2, to be paid within 60 days.
- If the fines aren't paid within 60 days, the license will be automatically suspended.
- 12 months of probation on each count, to be served concurrently.

This proceeding is now concluded.

**C. 2023-12 – Duane O. Thomas, dba Duane Thomas Marine Construction LLC
(CEMIS20230003116)**

Mr. Thomas was sworn in.

Chairman Allen made a motion to open the public hearing for Duane O. Thomas, dba Duane Thomas Marine Construction LLC, 2023-12. Second by Board Member Joslin. The motion passed unanimously, 8-0. The public hearing was opened.

Investigator Broughton said a copy of the Preamble and Case Packet was presented, signed, initialed and dated by the respondent. He asked to submit the Preamble and Case Packet for 2023-12 into evidence.

Board Member Joslin made a motion to accept the Preamble and Case Packet for Case No. 2023-12. Second by Board Member Lantz. The motion passed unanimously, 8-0. The Case Packet was accepted into evidence.

Investigator Broughton gave an opening statement:

- The respondent, Duane Thomas, Collier County Licensed Marine Contractor, with issuance No. 24326 is the qualifier for and owner of Duane Thomas Marine Construction LLC.
- He was staging his barge at 834 Elm Court, Marco Island. The staging commenced prior to an issued permit for which one was required.
- Mr. Thomas is in violation of Collier County Code of laws and Ordinances, Section 22-201(8), which states, in pertinent part, that is misconduct for the holder of a Collier County Certificate of Competency to proceed on any job without obtaining applicable permits or inspections from the City Building & Zoning Division or the County Building Review & Permitting Department.
- The Marco Island Chief Building Official, Raul Perez, and other members from the City of Marco Island government are here to present the facts of the case, if needed.

Mr. Thomas presented his opening statement:

- He's been in business about 30 years, loves his work and plans on working until he dies.
- We have a real issue with staging lots all over the county, as you know, and in this case, he was going from one job, from point A to point B.
- There was no construction activity or staging work at the lot where he stopped.
- There was no permit required for the lot because he wasn't doing any work there. He was *en route* from point A to point B and it was close to lunch time. The weather was kicking up and the wind started blowing a little bit higher.
- The destination where he was going was in the canal, where there's been an illegally parked vessel for months. He made a complaint about this vessel to Code Enforcement and it was still there.
- We stopped at the vacant lot to load more crew members because the wind was blowing and there was an illegal vessel parking in a navigable channel so he couldn't get by. He was there about three weeks earlier and couldn't get through and that's why he called Code Enforcement.
- His crew met at the vacant lot and were taking a bathroom break for the barge. It was close to lunch time, wind was picking up and we were going to continue on to our destination, which is what we did.
- He's since been before the magistrate, who found him not guilty of the illegal staging and took into consideration the fact that there was a vessel blocking the channel where he was headed.
- The magistrate fined him \$50 and said the barge hearing was after his and if he returned, she'd dismiss the thing and the \$50 fine.
- He had to defend himself. He wasn't staging or doing anything. These are his rights of navigation. He's going from point A to point B. This was brought up many years ago in Collier County.
- The rights of navigation and where he goes with his barge is not something the city or county have jurisdiction over.
- Those are his navigational rights. It has nothing to do with building. But if the

Board truly thinks that this is a licensing issue for Duane Thomas Marine Construction, he respectfully asks to have time to seek counsel because he doesn't feel that way.

- This is nothing more than a navigational situation and he's exercising his rights of navigation. This has nothing to do with his building license.

Supervisor Crotts said Raul Perez, the Chief Building Official for the City of Marco Island, could explain to the Board the ordinance that requires the staging permit.

Mr. Perez said he's there with their administrative inspector, James Reynolds. He wants to clarify that we do have a finding of fact from the magistrate, who found he was in violation. He has a copy for them to see.

[It was provided to Investigator Broughton, who handed it to the Board.]

Chairman Allen asked him to explain the definition of staging without a permit in their ordinance.

Mr. Perez said staging is any time that a vacant lot is used to either manufacture, deploy or to bring materials on or off of a barge. That's considered staging. If he's navigating and crossing through the canal, that's not. It's in violation of the staging anytime he's taking anything on and off that barge from a vacant lot.

Board Member Lantz asked if it involves only property or were people included.

Mr. Perez said he wasn't certain, but their director of Community Affairs, Dan Smith, could explain. A Code Enforcement officer and Inspector James Reynolds were there and they spoke with the crew who were out in the field. As you can see, there was debris on the barge. There was a dump truck parked at the lot. They spoke with the operator who was out there, who said that they were there to move the post to the pilings onto the dump truck.

Board Member Lantz asked if there is intent to stage and is that illegal.

Mr. Smith said staging is any marine activity that's going to be off-site that allows them to do any activity onsite. The reason why we have a staging permit is because we have endangered species. We have to make sure the property is controlled and any kind of debris that may go in the water could cause a water-quality issue. Any debris that would go into neighboring properties has to be cleaned up after the staging permit. This is more an observation, making sure everything is done on this property, so we can do a pre-inspection for an endangered species before the person pulling the permit disrupts any kind of Gopher tortoise or burrowing owls.

A discussion ensued and Mr. Smith said even if they're shifting crews, that's staging.

Marco Island Code Enforcement Officer Ira Warder testified that:

- On the 24th at about 12:30 p.m. at 834 Elm Court, he observed staging, what he believed to be staging.
- He observed a barge and a vessel from Duane Thomas Marine Construction in

the canal at this lot.

- The barge was attached to the sea wall with a wooden plank.
- He observed a large box truck, Florida Tag PO866D, with a white male inside, who identified himself as Aaron Jones.
- Another white male was initially outside the truck talking with Aaron and walked away upon his arrival.
- The side of the truck had a logo from Riggs Road Ranch & Nursery. Before he even asked him anything, the driver, Aaron, immediately stated that he didn't know if there's a staging permit for this location.
- He informed him that there was not because he checked.
- Aaron confirmed that he was there to pick up the dock pilings that were on the barge, which are in the photo.
- A second person who was there, Carlos, was in a second vehicle. That tag was run to get his identity.
- He said he was also there to pick up pilings from the barge and put them onto the truck, which is active staging.
- This is more than just moving people from one place to another.
- This is a private lot that needed to be permitted to make sure that there are no protected species at risk there.
- He observed this and the statements were made to him, and overheard by Inspector James Reynolds.

A discussion ensued and the following points were made:

- They witnessed them moving stuff from the barge to the truck.
- That's not shown in the photo.
- If someone was at Publix, plotting to rob the store, but his friend talked him out of it, is he guilty of robbing the store?
- Officer Ward declined to answer that but said the two people who work for Duane Thomas provided a statement saying they were there to pick up the pilings. The truck was empty. The truck was in a position on the lot, which it shouldn't have been, so based on his observations of the pilings in the barge, coupled with the plank and the statement and the lack of a staging permit, it led him to issue a notice of violation and a stop-work order.
- If he hadn't done that, he believes they would have staged on the property.
- Mr. Thomas pointed out that his truck was legally parked on the swale.
- Officer Ward saw the boat blocking the channel but didn't issue a citation; a citation was issued previously.
- Mr. Perez and Mr. Smith were not on the site.
- It's legal to park in the swale, but the city wants to protect vegetation and endangered species.
- The truck driver was waiting to pick up logs.
- It's not illegal to park the truck there, but the city had the testimony of Mr. Thomas' two employees and there was a plank leading to the barge.
- Inspector Reynolds testified that he heard Aaron Jones speaking to Officer Ward.
- Administrative inspectors do a lot of work with permits to ensure the licenses are

correct.

- Investigator Broughton testified that the weather was clear that day and there were no storms. The violation existed.

Chairman Allen told Mr. Thomas it was his opportunity to provide evidence.

Mr. Thomas provided the magistrate's order and testified:

- The magistrate said if there was a finding that the boat was blocking the waterway, she'd change the order and give him his fine back.
- He sent her a letter after the owner of that boat was found guilty.
- His vehicle was a big roll-off truck and we were going to unload pilings, but not at that location.
- Aaron Jones, the crew member who arrived at 824 Elm Court, was driving a big roll-off truck. He was going there to get on the bikes and we were going to another destination, where we were going to unload those pilings, but not at that destination.
- The wind did pick up his barge, which is 65-feet-long and 50-feet tall and weighs about 300,000 lbs. If there's 10 miles an hour of wind the wrong way in a canal, and he's trying to get down to a canal that's normally only 50 feet wide, he's trying to get between a boat but only has 30 feet of room.
- He was putting more crew members on hand because when he was there four weeks earlier, which is in the police report he filed, he called the police because a man wouldn't move his boat. He couldn't get down to the channel to do his job.
- That's why they were there.
- It has nothing to do with Collier County licensing. This is a navigation case. This wasn't working or staging and he wasn't pulling any permits because they weren't working at that lot.
- He stopped his barge to load a crew.
- If the Board thinks this is a licensing case, he respectfully asks to get an attorney involved because he doesn't think it is a licensing case.

During questioning by the Board, the following points were made:

- Mr. Thomas had five jobs in that neighborhood.
- He needed two men with him so he could stop the barge and have visual assistance for safety reasons.
- He's not asking for a continuance because this isn't a CLB issue, it's his livelihood.
- Mr. Perez said it was not attached to the seawall, but there was a dump truck there, debris material and two complaints from neighbors.
- Officer Ward did not witness items being moved from the barge to the truck.
- He was sent there by his supervisor, who is not at the hearing, but a complaint was filed.
- It's not a code violation for a vehicle to park in a swale, but based on the testimony of two employees, coupled with a barge attached to a seawall with a plank, it indicates there's going to be some movement from the barge and that

led to this case.

- Mr. Thomas had a demo job two streets over, tearing a house down, and was going to put the debris in a Dumpster, as well as the pilings that were on there.
- He needed to put more crews on the barge.

After a discussion, Mr. Thomas said he was waiving his right to a continuance but not waiving his right to appeal.

A discussion ensued and the following points were made:

- He was on his way to 834 Magnolia Court and couldn't get where he planned to go and that was the closest vacant lot for him to stop.
- He parks his barges every night on a vacant lot with a walk. You don't leave them behind houses.
- He doesn't need a staging permit to park because he's on navigable waters.
- He has several building permits. He's demolishing and building.
- He has a staging permit for Magnolia Court, where he was heading.
- He was coming from Ryan Court.
- A walk board is not staging, it's not attached.
- His crane was hanging onto one spud pole, the one he was going to use, so he sets it slightly at an angle and the spud bolt holds it in place. He doesn't use an anchor, just two spud poles.
- He sent an order to his employees that he needed more crew.
- He knew this lot was vacant because he knows the island.

During questioning by Inspector Reynolds, the following points were made:

- He's very prolific on the island and has a lot of permits.
- He didn't answer how many violations he had and requested a continuance, but was told he had that opportunity and he waived that right.
- How many violations he's had won't help with the determination about what a staging lot is.
- A walk board on a concrete seawall is not staging or a violation.
- The magistrate found that the violation was abated but did find him in violation.
- However, she lowered the fine to \$50 and said to bring the statement back and she would lift the \$50 fine.
- In his defense packet, which only included half his testimony in reference to answering the City of Marco Island summonses, he told the magistrate, "This is the price of doing business." (Mr. Thomas didn't know if he said that.)
- Aaron Jones drove the medium transport vehicle that said Riggs Road Ranch.

A discussion ensued over whether he wanted a continuance, but he didn't.

Chairman Allen asked Mr. Thomas when he received the notice of today's hearing.

Mr. Thomas testified he received the notice about 30 days ago, but he's been in communication with Timothy Crotts, who thought this was not going to come in front of the Board. We've had many discussions back and forth and he provided him with

paperwork.

Chairman Allen asked if Mr. Crotts ever told him this hearing would not occur today.

Mr. Thomas said he did not.

Chairman Allen said from the time he received the notice until today, was there anything that precluded him from retaining counsel to appear here with you today?

Mr. Thomas said no.

Chairman Allen made a motion to deny his request for a continuance. Second by Board Member Jerulle. The motion passed unanimously, 6-2, with Board Members Hunt and Joslin voting nay.

A discussion ensued and the following points were made:

- He didn't get permission from the landowner to park there.
- Officer Ward said that's considered trespassing.
- It was too windy for him to get his barge through the channel.
- Officer Ward said the wind was about 8-10 mph and it was clear and breezy.
- The boat blocked the channel and created a navigation issue.
- Carlos has a U.S. Coast Guard license and was his captain. He didn't want to get into an accident.
- Mr. Thomas was going from point A to point B and couldn't get to point B because there was a boat in between.

A discussion ensued over the logistics, where he was navigating and what the photos illustrated.

During questioning by Supervisor Crotts, the following points were made:

- The two employees in the truck have been working for him for 15 years and 10 years.
- They received their instructions from Mr. Thomas.
- They were told they were needed to unload the pilings from the barge onto the truck, but it was not at that location.
- One employee may have been misunderstood because he has no teeth, doesn't speak good English and always wears a mask; city officials denied he was hard to understand.

Further discussions ensued over that day's activities on the lot.

Supervisor Crotts presented his closing argument:

- We've heard testimony today from the City of Marco on the ordinance that is required and why the staging permit is required.
- We see evidence from the Code Enforcement officer that the barge was there, that there were employees there.
- The employees have no reason to be untruthful to the Code Enforcement officer about the reason they were there and their statement was very clear.

- They were there to offload pilings onto the truck for the removal.
- It doesn't really come into play that he couldn't do it.
- It's the fact that his employees were there to do that through their own admission and there was no staging permit issued for that.
- Even the employees knew that as soon as the Code Enforcement officers arrived.
- It was very clear that the violation exists.
- We ask for a finding of guilty.

Mr. Thomas said he respected his argument, but this is not in your jurisdiction. This is a navigable waterway situation and has nothing to do with licensing, but he'll respect whatever decision they make.

Board Member Lantz made a motion to close the public hearing for Case No. 2023-12. Second by Board Member Joslin. The motion passed unanimously, 8-0. The public hearing was closed.

Attorney Noell said at this juncture, the Board is going to deliberate on whether they believe that the respondent is guilty of the violation or not guilty. Any decision made by the Board needs to be based on competent, substantial evidence and the standard of proof is clear and convincing. The evidence has to be clear and convincing and of a competent, substantial nature. Once that's done, if the Board does find guilt as set forth in the Administrative Complaint on that violation, the penalties are on page 477 of the packet, if the board gets to that juncture.

Board Member Jerulle asked if he could still ask questions.

Attorney Noell noted that the hearing was closed, but if the respondent had anything more to say and he had questions, he could reopen the hearing.

Board Member Jerulle made a motion to reopen the public hearing for Case No. 2023-12. Second by Board Member Lantz. The motion passed unanimously, 8-0. The public hearing was reopened.

Board Member Jerulle asked Supervisor Crotts if he's on probation.

Supervisor Crotts said he's on probation for building permits only. That was one of the stipulations that we made when we issued the disciplinary action against him the last time – that his probation would be just for building permits, not staging permits.

Board Member Jerulle asked if Mr. Thomas asked to exclude that.

Supervisor Crotts said they're two different permits in nature, so they removed the staging as part of the probation. He's on probation for 12 months. He came before the Board on (January 18, 2023; date corrected later in the hearing.)

Board Member Jerulle noted that the Code Enforcement officer asked Mr. Thomas a question that he refused to answer about the number of violations he had.

Inspector Reynolds said he had 47 violations, nine of which went to the magistrate. There were 47 staging violations and 97 total violations, including building without a permit,

endangered species for owls and tortoises and fences, but we're only concerned right now with staging.

Board Member Nolton asked what the time frame was for the violations.

Inspector Reynolds said it was since 2011.

Mr. Thomas testified that:

- There are no staging lots on Marco.
- There are a hundred lots and he gets 300-400 building permits a year.
- There's only one of him and there are five or six other contractors like him.
- Staging lots are tough to get and non-existent on Marco Island.
- City Council's answer to it was that we'll figure out a way to solve our own problem. They don't have any intention of giving us any staging lots, but they keep issuing building permits for new sea walls and new docks.
- We have no place to have materials delivered; there are no public staging lots.
- If you want to have material delivered, if you can't put it in your subject property, you can try to find a lot for staging.
- Most homeowners or landowners won't allow it due to liabilities.
- It's turned into hide and seek on Marco Island. If you get caught, you get caught and sometimes you do and sometimes you don't.
- But on this day, he was not staging or unloading.
- He has been found guilty of staging before.
- He is on probation.
- He wants the Board to ask the city how many other staging lot violations they have. It isn't just him. They're in the thousands and they fine everybody \$500. There are about 20 every week. It's the cost of doing business. It's just the way it is. That's not the right way to do it.
- The right way to do it is have a real staging lot like the City of Naples has. You can rent it for \$300 for a half-day in the morning or \$500 for the whole day.
- No one provides anything at the county level or on Marco Island, but they still keep issuing permits with no place for us to stage.

Supervisor Crotts said he just wanted to clarify the answer to Mr. Jerulle about the hearing date when probation was imposed. [Information moved to that answer above.]

Board Member Nolton asked Inspector Reynolds how many staging violations they have and whether all contractors there do staging.

Inspector Reynolds said there are other staging-permit violations, but nothing of that magnitude.

Board Member Nolton asked if there was anyone else with continual violations. Several of them have their own yards now to work out of.

Inspector Reynolds said we don't have issues with Blue Marlin or Collier Seawall & Dock. They seem to have figured out a solution, but he doesn't know what it is. And he doesn't have any statistics about the other staging permit violations, other than Mr. Thomas'

violations.

Chairman Allen made a motion to close the public hearing. Second by Board Member Jerulle. The motion passed unanimously, 8-0. The public hearing was closed.

Attorney Noell noted that any past violations and things of that nature wouldn't be germane to the discussion on guilt or innocence in this case. It may come into play if the Board did find him guilty and went into the penalty phase. What would be germane to whether he committed the violation is set forth in the Administrative complaint.

Board Member Lantz told the CLB:

- As a business owner with multiple employees, he could easily see himself needing five employees at one job site and saying, "Hey, we're going to move these pilings or whatever is on the barge and dispose of them. That's what our plan is today. I need you guys."
- He'd tell them to meet him at the lot and doesn't necessarily tell them steps one through 20. He just tells them to meet him there.
- It seems like the county and Marco Island are relying on the evidence that they heard from the guy who was driving the truck, but that guy might not know the whole plan.
- He doesn't tell his own employees his plan, just what pertains to them.
- It doesn't look like they did any staging.
- He doesn't care if there was intent to do staging, they didn't do any staging.
- Maybe the Code Enforcement people are so great that they stopped a big crime before it happened, and that's what the intent is, but that doesn't mean he was guilty because he didn't commit the crime yet.

Board Member Jerulle said that's his view. He sees the testimony as he was going to walk across that site and his understanding from the City of Marco was that's considered staging.

Board Member Lantz said that's trespassing, not staging.

A discussion ensued over what staging was and wasn't and whether they have proof.

Board Member Nolton told the CLB:

- There are many questions and we don't have personnel here to ask directly.
- He tried to look up the ordinance for the City of Marco Island about staging to see it involves trafficking across a lot but not moving debris.
- He didn't see anything in that ordinance that says walking across it or using it for access is considered staging.
- There's no evidence that defines whether that is considered staging in the ordinance.
- With barges, you have to park them somewhere and you have to access them somewhere. You either have a skiff or you're not going to hook the tugboat and you've got to get away from the barge and go back to land somewhere for lunch, for break or whatever.
- The crane couldn't possibly reach the truck, which would have to move to be able to do that.
- He understands both sides of the argument, but doesn't see overwhelming evidence

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that he was actually going to stage off this lot. He doesn't doubt he might have, but he doesn't see the evidence.

Chairman Allen told him to look at page 496. This is the code and paragraph three means marine staging activities, seawall and boat dock replacement, repair supplies, demolition spoils and construction equipment may be permitted on a vacant lot and shall only be performed up to 100 consecutive days while an associated permit is active. For us to determine that a violation occurred, there has to be repair supplies, demolition spoils or construction equipment on a vacant lot.

Board Member Lantz said and there's not.

Chairman Allen said he doesn't like how this is going because he believes his business practice is to do this until he gets caught.

Board Member Hunt said she doesn't like the business practice but appreciates the conundrum.

Board Member Hunt said we can't weigh that in furtherance of staging.

Board Member Joslin agreed.

Board Member Lantz said he'd make a motion to find him not guilty.

Board Member Joslin said it's tough, but he has to second the motion only because of the fact that we don't have conclusive evidence.

Board Member Jerulle said you have testimony.

A discussion ensued over whether it was a violation.

Chairman Allen said you have got to fix this code because there are ways you can rewrite this to address this.

Board Member Nolton said he's lived here almost 50 years and lived on Marco Island when it was many empty lots. It's changed through the years and it's always been a problem. He's seen everything that occurred on the island and it's always been a progressive problem and the city decided to take a hard stance now. Our hands are kind of tied because he doesn't see the evidence that he was actually violating the ordinance, but has no doubt he would if given the chance.

Another discussion ensued.

Board Member Lantz made a motion to find Mr. Thomas not guilty. Second by Board Member Joslin. The motion passed 5-3, with Chairman Allen, and Board members Jerulle and Jaron voting nay.

Chairman Allen moved to the findings of fact:

Upon consideration of all testimony received under oath, evidence received, and arguments presented by the parties during the public hearing, the Board issues the following findings and conclusions:

- Service of the Administrative Complaint and notice was legal, sufficiently provided and in compliance with the applicable law.

May 17, 2023

- The respondent is the holder of the license as set forth in the Administrative Complaint.
- The respondent was present at the hearing and was not represented by counsel.
- The Board has jurisdiction over the respondent and subject matter raised in the Administrative Complaint.
- The respondent has not committed the violations set forth in Count 1 of the Administrative Complaint.

Therefore, by a vote of 5-3, the respondent was found not guilty of the violations.

This proceeding is now concluded.

Board Member Hunt said as a resident of Marco Island, she'd appreciate it if he followed procedure because of the endangered species. She's seen trucks pull up on lots where there are burrowing owls and gopher tortoises.

Mr. Thomas said he is 100% on her side. He's all about our owls. He has a dozen of them living beside his house on Marco Island. We really need help on the Collier County level, not just the City of Marco Island level. We have no staging areas.

Chairman Allen said he needs to figure out this business. There are other people who do it and do it well.

10. NEXT MEETING DATE: Wednesday, June 21, 2023

Commissioners' Chambers, Third Floor,
Administrative Building F, Collier County Gov't Center,
3299 E. Tamiami Trail, Naples, FL

Board Member Jerulle made a motion to adjourn. Second by Chairman Allen. The motion passed unanimously, 8-0.

There being no further business for the good of the County, the meeting was adjourned at 12:19 p.m.

Collier County Contractors' Licensing Board



Todd Allen, Board Chairman

These minutes were approved by the Chairman of the Contractors' Licensing Board on June 21, 2023, (check one) as submitted or as amended .