

STATE OF FLORIDA
DIVISION OF ADMINISTRATIVE HEARINGS

NICHOLAS SASSO,)
)
 Petitioner,)
)
 vs.) Case No. 04-1642
)
 BOARD OF BUILDING CODE)
 ADMINISTRATORS AND INSPECTORS,)
)
 Respondent.)
 _____)

RECOMMENDED ORDER

Administrative Law Judge (ALJ) Daniel Manry conducted the administrative hearing in this proceeding on behalf of the Division of Administrative Hearings (DOAH) on June 17, 2004, in Tampa, Florida.

APPEARANCES

For Petitioner: Nicholas Sasso, pro se
Post Office Box 233
Port Richey, Florida 34673

For Respondent: Jeffrey D. Jones, Esquire
Department of Legal Affairs
The Capitol, Plaza Level 01
Tallahassee, Florida 32399-1050

STATEMENT OF THE ISSUE

The issue is whether Respondent should grant Petitioner's application for licensure as a building inspector.

PRELIMINARY STATEMENT

On March 17, 2004, Respondent notified Petitioner of the proposed denial of Petitioner's application for licensure as a building inspector. Petitioner timely requested an administrative hearing.

At the hearing, Petitioner testified and submitted three exhibits for admission into evidence. Respondent called no witnesses and submitted four exhibits. The identity of the witnesses and exhibits, and the rulings regarding each, are reported in the Transcript of the hearing filed with DOAH on August 11, 2004.

By letter dated July 16, 2004, Petitioner complained that Respondent had not filed the transcript that Respondent requested to be filed at the conclusion of the hearing. By Order dated August 11, 2004, the ALJ ordered the parties to file their respective proposed recommended orders (PROs) no later than September 20, 2004. However, the Order and Transcript crossed in the mail, and the Transcript was filed on August 11, 2004. Petitioner timely filed a PRO on August 16, 2004. Respondent timely filed a PRO on September 10, 2004.

FINDINGS OF FACT

1. By Notice of Intent to Deny dated March 17, 2004 (Intent to Deny), Respondent notified Petitioner that it intended to deny Petitioner's application for licensure as a

building inspector. Respondent alleges that Petitioner does not have five years of combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to building inspection; and that Petitioner did not provide an affidavit for each separate period of work experience from an architect, engineer, contractor, or building code administrator who has knowledge of Petitioner's duties and responsibilities.

2. Petitioner satisfies the requirements stated in the Intent to Deny as the grounds for denying Petitioner's application. Petitioner's testimony at the hearing was credible and persuasive.

4. The affidavits admitted into evidence at the hearing, without objection, supplement Petitioner's testimony and show that Petitioner has the required five years' combined experience in building construction or a related field and that the experience specifically corresponds to building inspection.

5. Respondent has previously licensed Petitioner as a Provisional Building Inspector, One and Two Family Dwelling Inspector, Coastal Construction Inspector, and Building Code Administrator. In order to obtain a Coastal Construction Inspector License, Petitioner must have five years' experience in the construction field or a related field.

CONCLUSIONS OF LAW

6. DOAH has jurisdiction over the parties and subject matter of this proceeding. §§ 120.569 and 120.57(1), Fla. Stat. (2003). DOAH provided the parties with adequate notice of the administrative hearing.

7. Petitioner bears the ultimate burden of proving entitlement to a license. Florida Department of Transportation v. J.W.C. Co., Inc., 396 So. 2d 778 (Fla. 1st DCA 1981).

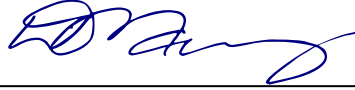
Petitioner has shown by a preponderance of the evidence that he satisfies the criteria for the license that are stated in the Intent to Deny as grounds for the denial. Respondent cannot deny Petitioner's license application on grounds not stated in the Intent to Deny. Respondent previously licensed Petitioner in a category with requirements substantially similar to those at issue in this proceeding.

RECOMMENDATION

Based on the foregoing, it is

RECOMMENDED that the Respondent enter a final order granting Petitioner license application.

DONE AND ENTERED this 24th day of September, 2004, in
Tallahassee, Leon County, Florida.



DANIEL MANRY
Administrative Law Judge
Division of Administrative Hearings
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Filed with the Clerk of the
Division of Administrative Hearings
this 24th day of September, 2004.

COPIES FURNISHED:

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NOTICE OF RIGHT TO SUBMIT EXCEPTIONS

All parties have the right to submit written exceptions within 15 days from the date of this Recommended Order. Any exceptions to this Recommended Order should be filed with the agency that will issue the Final Order in this case.