

STATE OF FLORIDA
BOARD OF BUILDING CODE ADMINISTRATORS AND INSPECTORS

JAN VARGA

Petitioner,

vs.

BOARD OF BUILDING CODE
ADMINISTRATORS AND INSPECTORS,

Respondent.

DOAH Case No. 06-1597

Final Order No. BPR-2007-01543

Date: 2-26-07

FILED

Department of Business and Professional Regulation
AGENCY CLERK

Sarah Wachman, Agency Clerk

By: Brandon M. Nichol

FINAL ORDER

THIS MATTER came before the Board of Building Code Administrators and Inspectors (hereinafter "the Board") for final action pursuant to Section 120.57(1)(1), Florida Statutes, at a duly-noticed public meeting held telephonically on January 18, 2007, for the purpose of considering the Recommended Order issued by the Administrative Law Judge in the above-styled case. The Petitioner did not participate in the Board meeting and no exceptions were filed in the above referenced matter.

After a review of the complete record in this matter, including consideration of the Administrative Law Judge's Recommended Order of which a copy is attached hereto as Exhibit A, the Board makes the following findings and conclusions:

FINDINGS OF FACT

1. Paragraphs 1 through 6a and paragraphs 7 through 11 of the findings of fact as set forth in the Recommended Order are hereby approved, adopted and incorporated herein.

2. The Board rejects paragraphs 6b and 6c of the findings of fact. Paragraphs 6b and 6c read as follows:

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"6b. Petitioner has more than five years of combined experience in the field of construction and plans review; and
6c. Petitioner's application provided an affidavit for each separate period of work experience from a building code administrator who has knowledge of Petitioner's duties and responsibilities."

3. The Administrative Law Judge's above mentioned findings contained in paragraphs 6b and 6c are not based on competent substantial evidence.

4. Petitioner's application was not supported by an affidavit describing in detail each separate period of work experience listed in the application form, which was signed by a licensed architect, engineer, contractor, or building code administrator who has knowledge of the applicant's duties and responsibilities during the period indicated. The record indicates submission of an affidavit which did not describe in detail each separate period of work experience. Page 14 of 16 of Petitioner's Composite Exhibit #6.

CONCLUSIONS OF LAW

5. The Board has jurisdiction over this matter pursuant to the provisions of Sections 120.569 and 120.57(1) and Chapters 468 and 455, Florida Statutes.

6. Paragraphs 12 through 16 and paragraphs 18 through 26 of the conclusions of law as set forth in the Recommended Order are hereby approved, adopted and incorporated herein.

7. The Board rejects paragraph 17 of the conclusions of law as set forth in the Recommended Order. Paragraph 17 reads as follows:

"17. Petitioner is more than 18 years of age and is of good moral character and meets the requirement for certification as an inspector or plans examiner with five years of combined experience in the field of construction or a related field, building code inspection, or plans review corresponding to the certification category sought, as set forth in Section 468.609, Florida Statutes.

8. The Administrative Law Judge's above mentioned findings contained in paragraph 17 is not based on competent substantial evidence.

9. Administrative Rule 61G19-6.0035, Florida Administrative Code, reads as follows:

61G19-6.0035 Application for Provisional and/or Standard Certification.

(1) Each individual who wishes to obtain a provisional and/or standard certificate in any certificate category shall submit the following to the Board:

(a) A completed application form for the category in which certification is sought. The form that shall be used for this purpose shall be provided by the Department and available on the Department's website.

(b) An affidavit describing in detail each separate period of work experience listed in the application form, signed by a licensed architect, engineer, contractor, or building code administrator who has knowledge of the applicant's duties and responsibilities during the period indicated. The form that shall be used for this purpose shall be provided by the Department and available on the Department's website. Each affidavit must include the name and address of the applicant's employer during the work experience period, the dates of employment, and a description of the applicant's duties and responsibilities during the employment including any supervisory responsibilities, in sufficient detail to enable the Board to determine whether or not the applicant has the experience required for certification.

(c) Each applicant for certification as an inspector or plans examiner shall demonstrate that he or she has at least one (1) year of hands-on experience in the category of certification sought.

(d) Each applicant seeking to qualify for certification through a combination of postsecondary education and work

experience shall submit an official copy of all college or university transcripts which document the applicant's education in addition to all required affidavits of work experience.

(e) Each applicant who is not employed by a local government agency having responsibility for building code inspection, building construction regulation, and enforcement of building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes at the time of the application shall submit payment of all applicable application, examination and certification fees as specified in Chapter 61G19-10, F.A.C.

(2) In addition to all other required items, each applicant for an inspector or plans examiner certificate shall submit with the application a statement from the applicant's current employer which shall indicate the applicant's present status with the employer. Each applicant employed by a local government agency having responsibility for building code inspection, building construction regulation, and enforcement of building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes at the time the application is submitted must include on the statement the signature and license number of the building code administrator or building official for the applicant's employing agency.

(3) In addition to all other required items, each applicant for a building code administrator certificate shall submit with the application a statement from the applicant's current employer which shall indicate the applicant's present status with the employer. (Emphasis Added).

10. Petitioner's application was not supported by an affidavit describing in detail each separate period of work experience listed in the application form, which was signed by a licensed architect, engineer, contractor, or building code administrator who has knowledge of the applicant's duties and responsibilities during the period indicated.

11. There is competent substantial evidence to support the Board's findings and conclusions and the Board's substituted conclusion of law and interpretation of the administrative rule is as or more reasonable than that which was rejected or modified.

RECOMMENDATION

IT IS THEREFORE ORDERED AND ADJUDGED:

The recommendation by the Administrative Law Judge is rejected as follows:

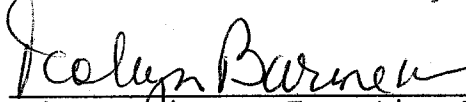
1. The Board rejected the Administrative Law Judge's recommendation of granting Petitioner's request to complete the requirements for future standard licensing as a mechanical plans examiner based upon the rejection of paragraphs 6b, 6c and 17 of the Administrative Law Judge's Recommended Order. Based on the foregoing, the Board found that certification as a mechanical plans examiner was not justified and, thus, should be denied:

The application of Jan Varga, Petitioner, for standard certification as a mechanical plans examiner is denied.

This Final Order shall become effective upon filing with the clerk of the Department of Business and Professional Regulation.

DONE AND ORDERED this 19th day of February, 2007.

**BUILDING CODE ADMINISTRATORS AND
INSPECTORS BOARD**


Robyn Bayineau, Executive Director
For Chairperson, Building Code
Administrators and Inspectors Board

NOTICE OF RIGHT TO JUDICIAL REVIEW UNLESS WAIVED

Pursuant to Section 120.569, Florida Statutes, any substantially affected person is hereby notified that they may appeal this Final Order by filing one copy of a Notice of Appeal with the clerk of the Department of Business and Professional Regulation and by filing the filing fee and one copy of the Notice of Appeal with the District Court

of Appeal within 30 days of the date this Final Order is filed.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Jan Varga, 400 Jonquil Lane, Melbourne, Florida 32901, and Daniel M. Kilbride, Administrative Law Judge, Division of Administrative Hearings, 1230 Apalachee Parkway, Tallahassee, Florida 32399-1550 and by inter-office mail to Robyn Barineau, Executive Director, 1940 North Monroe Street, Tallahassee, Florida 32399-2202; and Jeffrey D. Jones, Senior Assistant Attorney General, Office of the Attorney General, PL-01, The Capitol, Tallahassee, Florida 32399-1050, on this 26th day of February, 2007.

Yvonne Wachman

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