

ORDINANCE 94 - 5

AN ORDINANCE ESTABLISHING THE BOARD OF COUNTY COMMISSIONERS AS THE CONTRACTORS REGULATORY BOARD; PROHIBITING CERTAIN ACTS RELATING TO THE CONSTRUCTION INDUSTRY; PROVIDING ENFORCEMENT BY THE CODE ENFORCEMENT OFFICERS; ESTABLISHING PROCEDURES FOR HEARINGS; PROVIDING PENALTIES; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has adopted a general amendment to Florida Statutes Chapter 489 relative to the construction industry, and

WHEREAS, the general amendments require local government to regulate the construction industry, and

WHEREAS, the Board of County Commissioners has found it necessary to become the Contractors' Regulatory Board.

NOW, THEREFORE, BE IT ORDAINED this 8th day of November, 1993, by the Board of County Commissioners of Nassau County, Florida, as follows:

SECTION I. TITLE

This Ordinance shall be known as the "Contractors Regulatory Ordinance".

SECTION II. PURPOSE

The purpose of this Ordinance is to grant authority to the Board of County Commissioners to enforce the provisions of Florida Statutes, Chapter 489, and to constitute the Board of County Commissioners as a review Board pursuant to the same statutory provision.

SECTION III. DEFINITIONS

1. The definitions set forth in Florida Statutes, Section 489.105 (1), (2), (3 through 18) are hereby adopted.

2. "Board" shall mean the Board of County Commissioners.

SECTION IV. PROVISIONS OF FLORIDA STATUTES, CHAPTER 489

All provisions of Florida Statutes, Chapter 489. shall be applicable, except as specifically contradicted in this Ordinance.

SECTION V. DISCIPLINARY AND OVERSIGHT CONTROL

1. The Board shall exercise disciplinary and oversight control as to contractors pursuant to the provisions of Florida Statutes, Chapter 489, and the provisions set forth herein.

2. The Board shall provide licensure and disciplinary information on locally licensed individuals to the State Board.

SECTION VI. PROHIBITION

1. No person shall:

(a) Falsely hold himself or a business organization out as a licensee, certificateholder, or registrant;

(b) Falsely impersonate a certificateholder or registrant;

(c) Present as his own the certificate or registration of another;

(d) Give false or forged evidence to the Building Inspector or a member of his office thereof for the purpose of obtaining a certificate or registration;

(e) Use or attempt to use a certificate or registration which has been suspended or revoked;

(f) Engage in the business or act in the capacity of a contractor or advertise himself or a business organization as

available to engage in the business or act in the capacity of a contractor without being duly registered or certified;

(g) Operate a business organization engaged in contracting after sixty (60) days following the termination of its only qualifying agent without designating another primary qualifying agent;

(h) Commence or perform work for which a building permit is required pursuant to an adopted state minimum building code without such building permit being in effect; or

(i) Willfully or deliberately disregard or violate county ordinance 86-1 and amendments thereto.

2. No uncertified or unregistered person associated with a contracting firm qualified by the licensee under this Ordinance shall:

(a) Conceal or cause to be concealed, or assist in concealing, from the primary qualifying agent, any material activities or information about the contracting firm;

(b) Exclude or facilitate the exclusion of any aspect of the contracting firm's financial or other business activities from the primary qualifying agent;

(c) Knowingly cause any part of the contracting firm's activities, financial or otherwise, to be conducted without the primary qualifying agent's supervision; or

(d) Assist or participate with any certificateholder or registrant in the violation of any provision of this Ordinance or Florida Statutes Chapter 489.

SECTION VII. ENFORCEMENT OFFICERS AND CITATIONS

1. The Board shall, by Resolution, designate Code Enforcement personnel to enforce the provisions of Section VI, Paragraphs 1 and 2.

2. The designated Code Enforcement personnel may issue citations for any violation of Section VI, Paragraphs 1 and 2, whenever, based upon personal investigation, a code enforcement officer has reasonable and probable grounds to believe that such a violation has occurred.

3. A citation issued by a code enforcement officer shall be in a form prescribed by the Board and shall state:

(a) The time and date of issuance.

(b) The name and address of the person to whom the citation is issued.

(c) The time and date of the violation.

(d) A brief description of the violation and the facts constituting reasonable cause.

(e) The name of the code enforcement officer.

(f) The procedure for the person to follow in order to pay the civil penalty or to contest the citation.

(g) The applicable civil penalty if the person elects not to contest the citation.

4. The act for which the citation is issued shall be ceased upon receipt of the citation; and the person charged with the violation shall elect either to correct the violation and pay the civil penalty in the manner indicated on the citation or, within

ten (10) days of receipt of the citation, exclusive of weekends and legal holidays, request a hearing before the Board to appeal the issuance of the citation by the code enforcement officer.

5. Failure of a violator to appeal the decision by the Code Enforcement Officer within the time period set forth shall constitute a waiver of the right to a hearing. A waiver of the right to a hearing shall be deemed an admission of the violation and penalties may be imposed.

SECTION IIX - PENALTIES

1. The penalties assessed by the Code Enforcement Officer for a violation of the provisions of Section VI, Paragraphs 1 and 2, shall not exceed five hundred dollars (\$500.00), and are established as follows:

- (i) For a first offense: \$100.00
- (ii) For a second offense: \$250.00
- (iii) For a third offense: \$500.00
- (iv) For a fourth offense \$500.00 - plus revocation of certificate of competency.

2. If a hearing is held and the Board finds that a violation exists, the fine may be levied in excess of those set forth in Section IIX but not more than \$1,000 per day.

3. Monies collected pursuant to this Ordinance shall be retained by the Board and set aside in a specific fund to support future enforcement activities; including costs associated therewith, pursuant to this Ordinance.

SECTION IX - HEARINGS: NOTIFICATIONS AND APPEALS

1. Hearings shall be held before the Board as established by F.S. §162.03(2) and such hearings shall be conducted pursuant to the requirements of F.S. §§162.07 and 162.08.

2. If the person issued the citation, or his designated representative, shows that the citation is invalid or that the violation has been corrected prior to appearing before the Board, the Board may dismiss the citation unless the violation is irreparable or irreversible.

3. If the Board finds that a violation exists, the Board may order the violator to pay a civil penalty of not less than the amount set forth on the citation but not more than \$1,000 per day for each violation and impose a suspension or revocation of the certificate of competency. In determining the amount of the penalty, the Board shall consider the following factors:

(i) The gravity of the violation.

(ii) Any actions taken by the violator to correct the violation.

(iii) Any previous violations committed by the violator.

4. A person cited for a violation pursuant to this subsection is deemed to be charged with a noncriminal infraction.

5. Upon written notification by the Code Enforcement Officer that a violator had not contested the citation or paid the civil penalty within the timeframe allowed on the citation, or if a violation has not been corrected within the timeframe set forth on the notice of violation, the Board shall enter an order ordering the violator to pay the civil penalty set forth on the citation or

notice of violation, and a hearing shall not be necessary for the issuance of such order.

6. Each day a willful, knowing violation continues shall constitute a separate offense under the provisions of this subsection.

7. A certified copy of an order imposing a civil penalty against an uncertified contractor may be recorded in the public records and thereafter shall constitute a lien against any real or personal property owned by the violator. Upon petition to the circuit court, such order may be enforced in the same manner as a court judgment by the sheriffs of this state, including a levy against personal property; however, such order shall not be deemed to be a court judgment except for enforcement purposes. A civil penalty imposed pursuant to this part shall continue to accrue until the violator comes into compliance or until judgment is rendered in a suit to foreclose on alien filed pursuant to this section, whichever occurs first. After 3 months from the filing of any such lien which remains unpaid, the board may authorize the local governing body's attorney to foreclose on the lien. No lien created pursuant to the provisions of this part may be foreclosed on real property which is a homestead under S. 4, Art. X of the State Constitution.

8. An aggrieved party, may appeal a final administrative order of the Board to the circuit court. Such an appeal shall not be a hearing de novo but shall be limited to appellate review of

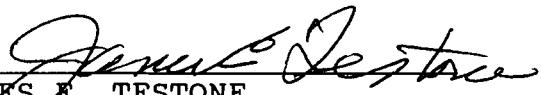
the record created before the Board. An appeal shall be filed within 30 days of the execution of the order to be appealed.

9. All notices required by this section shall be provided to the alleged violator by certified mail, return receipt requested; by hand delivery by the sheriff or other law enforcement officer or code enforcement officer; by leaving the notice at the violator's usual place of residence with some person of his family above 15 years of age and informing such person of the contents of the notice; or by including a hearing date within the citation.

SECTION X - EFFECTIVE DATE


This Ordinance shall become effective upon notification that it has been filed with the Office of the Secretary of State.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



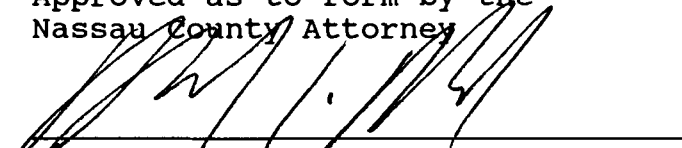
JAMES E. TESTONE
Its: Chairman

ATTEST:



T. J. GREESON
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



MICHAEL S. MULLIN