

LLR - SOUTH CAROLINA BUILDING CODES COMMITTEE MEETING

**Synergy Business Park, Kingtree Building
110 Centerview Drive, Kingtree Building, Room 108
Columbia, South Carolina 29210
Teleconference
Minutes**

Tuesday, December 27, 2012

10:00 a.m.

Public Notice of this meeting was properly posted at the Building Codes Council office, Synergy Business Park, Kingtree Building, and provided to all requesting persons, organizations, and news media in compliance with §30-4-80 of the South Carolina Freedom of Information Act.

WELCOME AND CALL TO ORDER:

Mr. Darbis Briggman, Committee Chair, called the special Committee meeting of the South Carolina Building Codes Council to order at 10:03 a.m. Chairman Briggman greeted everyone in attendance. Other committee members present for the teleconference included: John White, and Melissa Hopkins.

Staff members participating in the teleconference included: Lil Ann Gary, Advise Council; Gary Wiggins, Administrator; Jennie Mead, Program Coordinator; Crystal George, Project Assistant; Shane Ray, Chief Fire Inspector, and Reba C. Hayes, Court Reporter.

Others present participating in the meeting included: John Humphries

Chairman Briggman stated that the Committee was meeting to discuss the issues of Cease and Desist orders and Letters of Cautions for recommendations for the Building Codes Council meeting on February 27, 2013.

Cease and Desist Orders:

Gary Wiggins

Mr. Wiggins directed Chairman Briggman to Exhibit 1 - Cease and Desist Orders (C&D) and the Letter of Caution (LOC).

Mr. Wiggins explained that the C&D Order is used as a tool to stop individuals from practicing without a license which is termed "Unlicensed Practice". Initially this is addressed at the Council level. Mr. Wiggins stated that his comment to the Council was to allow the Chairman the ability to sign C&D Orders so that they can be moved from the staff level as quickly as possible.

Mr. Wiggins stated that by the second Committee meeting there were four C&D Orders that needed to go out. The orders went about four or five weeks before they were issued. Due to this delay Council gave the authority to the Gregory Parsons, Council Chairman, to sign C&D Orders.

Mr. Wiggins went on to say that when looking at it from an administrative standpoint there is not a whole lot we can do with a C&D Orders. Mr. Wiggins turned the floor over to Lil Ann Gray to further explain the C&D Orders.

Lil Ann Gray

Ms. Gray stated that the Cease and Desist Order basically says that we have information that indicates you may be practicing without a license. It allows us to draw a line in the sand as to when we have given the individual notice that their activities may constitute unlicensed practice. It also lets them know that what they are doing may constitute unlicensed practice.

Ms. Gray also stated that C&D Orders are public orders that allow the public to be aware that an individual may be doing activity that constitutes unlicensed practice. This is not a disciplinary action, and it does not bring penalties in and of itself, but it is a very important tool that begins the process.

Chairman Briggman pointed out that there is nothing going out to the supervisor of the individual so that the continued practice of an inspector that is still doing inspections, but has received a C&D Order.

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Mr. Wiggins responded by saying the inspector that is functioning without a registration, is something that we deal with as unlicensed practice, but that is an individual that holds or held a registration, and our actual action is with the license-holder, so consequently the supervisor is not included in the notification. In the case of inspectors, the individual could start functioning as a free lance special inspector. That person would have no one that we can actually contact other than himself or herself. The only time that we would have any opportunity to bring a supervisor in is in the case of the code enforcement officers that are already employed by a local jurisdiction.

Ms. Gray added that one of the important things of getting C&D Orders out quickly is that if we receive additional information that indicates the C&D Orders is being ignored, this then allows us to move forward with a violation of the Council's order and in the appropriate instances, bring that person to the Administrative Law Court for further action.

Mr. White and Ms. Hopkins concurred with the comments made by Mr. Wiggins.

It was agreed upon that action be taken for the C&D Orders and the Letter of Caution at the same time once both issues are heard.

Letter of Caution:

Lil Ann Gray

Ms. Gray explained that the Letter of Caution, (LOC), is something that comes after an initial complaint has been filed. The initial complaint is investigated by the Office of Investigation and Enforcement, and the findings are presented to the Investigative Review Committee which then takes those findings and makes a recommendation. The LOC comes into play when there is not a violation of the Practice Act. While there may not be information or facts to constitute a violation of the Practice Act, the committee feels that the licensee needs to be reminded of certain things.

Ms. Gray stated that the LOC would be presented to the full Council during the IRC report with a recommendation that the matter be dismissed. Certain language in the LOC will also be recommended by the IRC for the Council's consideration. The Council will then votes on the IRC report, so that the LOC is the result of the Council voting on the IRC recommendations. The letter would be prepared with the language that has been approved by Council, and then submitted to the Council Chairman for signature and mailed without having to go back in front of the Council at the next scheduled meeting.

Mr. Wiggins differentiated the time difference between the C&D and LOC. The C&D has to get out immediately while the LOC will be several months in the entire process, and could actually go as far as seven months. Mr. Wiggins also stated that the LOC comes into play when there where we may have allegations, however the facts do not support the allegation and the IRC would want to remind the licensee to be mindful that the Practice Act requires certain things.

Chairman Briggman reiterated what was discussed in the meeting and went on to say that moving forward to the next meeting, that a draft should be put together in regards of giving the Council Chairman the approval to go ahead and sign those at any times and not just at Council meetings, but as soon as LLR notifies the Chairman it needs to be done, but at the same time follow up with a response to some information out on the C&D Orders on the license holder's supervisor.

Chairman Briggman concurred with the recommendation that was voted on two meetings ago, allowing the C&D Orders and giving notice to the supervisor of the C&D to go forward as discussed in this meeting.

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Mr. Wiggins suggested to Chairman Briggman, that he could poll the members that are not on the Committee and make sure that they agree with what was discussed and get a vote from them, making sure they agree on the issue of the supervisors, and then it would be a matter of going before the Council and giving a report based on the fact that the Committee recommends that the C&D Orders be signed by the Council Chairman, and that in all cases where there is a code enforcement officer or a special inspector involved that has a supervisor – that the supervisor be notified.

Mr. Wiggins stated the Letter of Caution does not need anything more than what we already have.

Ms. Gray brought more clarity to Mr. Humphries regarding the C&D stating that this is not a disciplinary order so there is nothing really to be rescinded. If further information to show continued violation or ignoring the C&*D, then that brings in further action in front of the Administrative Law Court.

Ms. Gray continued by saying it is crucial to get these C&D Orders out and served immediately upon receipt of the information because if a second complaint comes in afterwards and the activity occurred after the service of the C&D then that is another violation.

Comment:

Mr. Humphries stated that he is in full support of the action of the committee.

Conclusion:

Chairman Briggman concluded that we move forward on going back before the Council at the next meeting and bringing them up to date that we already voted on approval for the Council Chairman to go ahead and sign the C&D Orders, and there is no action needed to be taken dealing with the Letter of Caution.

Mr. Wiggins suggested that we poll the rest of the Committee members to make sure they are in agreement with the letter to the supervisor.

Adjournment

The teleconference adjourned at 10:50 a.m.

(This proceeding was recorded by a court reporter in order to produce a verbatim transcript if requested in accordance with the law.)