


Memorandum



Date: May 11, 2022

To: Honorable Chairman Jose “Pepe” Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor 

Subject: Transmission of Board of Rules and Appeals Recommended Modifications to the Draft Ordinance Relating to the Existing Building and Components Recertification Provisions under Chapter 8 Section 8-11(f) of the Miami-Dade County Code

As requested by a Miami-Dade Advisory Board, the Board of Rules and Appeals (BORA), I am transmitting the attached memorandum that recommends modifications to the pending draft ordinance on provisions for recertification of buildings and components. BORA adopted these recommendations at their public meeting on April 21, 2022. The Miami-Dade Board of Rules and Appeals is the local countywide construction regulatory board as defined and contemplated in Section 553, Florida Statutes and authorized in Chapter 8 of the Code of Miami-Dade County.

The draft ordinance was recommended after extensive public deliberation, and provides important building safety assurances that work to safeguard the public and provide a more robust building recertification process for our community.

I appreciate the recommendations of this Advisory Board but do not concur with the amendments referenced below. BORA’s latest recommendations center on two issues: (1) the lack of a structural engineer category at the state level; and (2) reliance on a professional engineer or architect’s assessment of the safety of buildings seeking recertification, which BORA views as placing an undue burden on these professionals. My administration has carefully reviewed these recommendations and suggested some important changes to ensure that the language in the proposed ordinance is as strong as possible in outlining a more rigorous recertification process.

BORA’s four amendments are summarized with my administration’s comments and recommendations below:

- 1. The first BORA recommendation is to delete language requiring additional proof by the engineer’s credentials because the State of Florida does not recognize a structural specialization.**

Although the State does not readily provide this information on their website, it can be obtained by the license holder for inclusion in the recertification submittal as required in the ordinance. Furthermore, during this legislative session, HB 375 created a recognition program for structural engineers, which was signed by the Governor on April 27, 2022. This new law will clearly define who is a structural engineer and further strengthen the recommendations contained in the County’s proposed ordinance. **We recommend keeping the language requiring proof of the engineer’s credentials.**

- 2. Second, BORA indicates that language in the ordinance unduly places the liability for the safety of the building while undergoing repairs on the architect or engineer who signs the report, and may not otherwise be involved in the repair work.**

There is an inherent liability in every design and decision undertaken by a professional engineer or architect. Education, training, and licensure qualify these professionals to be the appropriate individuals the building occupants rely upon to determine the state of the building. A professional engineer or architect having inspected a building understands how a building reacts to distress and should remain engaged while repairs are being performed by a contractor. **This professional engineer or architect is the suitable person to make sure the building remains sound during repairs and we recommend keeping the language as it is currently in the ordinance.**

- 3. Third, BORA states the architect or engineer only *recommends* recertification of the structure, while recertification is to be issued by the Building Official.**

This language is reflective of existing language in Section 8-11(f)(iv)(1) of the Miami-Dade County Code, which indicates the professional is to “certify that each building or structure is structurally and electrically safe for the specified use for continued occupancy.” The Building Official in each jurisdiction will continue to issue, as they do today, the formal recertification upon review of the documentation provided by the licensed professional evaluating the structure. **While the Building Official is the person that issues the “Recertification Letter,” it’s important to clarify that he or she issues it in reliance on the recertification report submitted by the professional engineer or architect.**

- 4. Lastly, BORA recommends removing the requirement that extension requests be made by the professional involved in recertification, and that such requests must state that the building may continue to be occupied while undergoing recertification. This requirement is claimed to place liability of the building’s safety on the architect or engineer issuing the report.**

This requirement is not considered to be an undue burden on the professional under the circumstances of a late recertification report. In fact, the County has successfully requested such statements under the authority of the Building Official since the tragedy at Surfside, and these assessments have played a key role in increasing oversight and ensuring the safety of residents of occupied structures faced with recertification delays. **We recommend maintaining the requirement that extension requests come from the engineer or architect and that these requests certify the building is safe for occupancy while undergoing recertification.**

I want to again thank Senator Rene Garcia for his sponsorship of the proposed ordinance and look forward to your favorable consideration at your Chairman’s Policy Council this week.

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and Members, Board of County Commissioners
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Please do not hesitate to contact me or Lourdes Gomez, Director, Department of Regulatory & Economic Resources (RER) should you have any questions.

Attachment

c: Geri Bonzon-Keenan, County Attorney
Gerald Sanchez, First Assistant County Attorney
Jess McCarty, Executive Assistant County Attorney
Office of the Mayor Senior Staff
Lourdes M. Gomez, Director, Department of Regulatory and Economic Resources
Yinka Majekodunmi, Commission Auditor
Jennifer Moon, Chief, Office of Policy and Budgetary Affairs
Basia Pruna, Director, Clerk of the Board
Eugene Love, Agenda Coordinator

Date: May 3, 2022

To: Honorable Chairman Jose "Pepe" Diaz
Board of County Commissioners

From: Chairperson William Derrer
and Members, Board of Rules and Appeals

Subject: Board of Rules and Appeals Recommended Modifications to Draft Ordinance
Relating to Existing Building and Components Recertification Provisions under
Chapter 8 Section 8-11(f) of the Miami Dade County Code

The Miami-Dade Board of Rules and Appeals (BORA) is the local countywide construction regulatory board as defined and contemplated in Florida Statute 553 and authorized in Chapter 8 of the Code of Miami Dade County. Comprised of members appointed by the Board of County Commissioners, BORA meets regularly to consider building code appeals, certify Building Officials, plans examiners and inspectors as well as to function to serve and safeguard the community through adequate uniform application of the Building Code. In the wake of the Champlain South Tower collapse, BORA conducted a series of public meetings and discussions with the Building Officials and industry to consider whether any enhancements to the existing building recertification process in Miami -Dade County were advisable. A memorandum of those recommendations was forwarded to you on October 21, 2021. Chapter 8 Section 8-11 (f), which is currently between first and second readings before the Board of County Commissioners (BCC), charges the Board of Rules and Appeals with the issuance of the minimum inspection procedural guidelines to be used in the building recertification inspection process.

RECOMMENDATIONS

At their April 21st, 2022 meeting, the Board of Rules and Appeals unanimously approved the recommendation to delete/modify the following proposed new language from the pending ordinance:

At bottom of page 14:

- (ii) If the building or structure is a Threshold Building, as defined above, then (a) the structural portion of such report must be prepared by a Professional Engineer registered in the State of Florida specializing in structural design and (b) the electrical portion of such written report must be prepared by a Professional Engineer registered in the State of Florida specializing in electrical design. A self-qualification letter shall be submitted as part of the structural report for threshold buildings, stating that the engineer is a practicing structural engineer

and has worked with buildings equivalent to the building being certified ~~and shall be accompanied by proof of the engineer's state Department of Business and Professional Regulation (DPBR) structural specialization.~~

This language should be deleted because at this time, the State of Florida does not recognize a structural specialization.

At top of page 16:

~~(G) — When any electrical or structural repairs or modifications are required, the responsible engineer or architect who has performed the recertification inspection shall provide the Building Official with a letter indicating whether the building or structure may continue to be safely occupied while the building or structure is undergoing repairs. Such letter shall be valid for no more than 180 days, and a new letter shall be issued if repairs or modifications remain ongoing.~~

This language should not be included since it places the liability for the safety for the building while undergoing repairs on the architect or engineer who signs the report or may not otherwise be involved in the repair work. The Board believes this to be an undue burden on the licensed professional.

~~(H) Once all applicable repairs, whether structural or electrical or both, are completed, the engineer(s) or architect(s) providing the initial recertification report must provide an amended report indicating that the building or structure has been recertified for continued use under the present occupancy recommending recertification.~~

This language should be modified since the architect or engineer only recommends recertification of the structure, and the recertification is by the Building Official based on the recommendation received.

~~(I) The Building Official may issue an extension of not more than 60 days to submit a recertification report or to obtain any necessary permits upon a written extension request from an engineer or architect. Such request must contain a signed and sealed statement~~

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~~from the engineer or architect that the building may
continue to be occupied while undergoing recertification.~~

This language should not be included since it places the liability for the safety of the building while undergoing recertification on the architect or engineer who will issue the report. The Board believes this to be an undue burden on the licensed professional.

The Board of Rules and Appeals, therefore, respectfully urges the Board of County Commissioners to consider the above changes to the ordinance being considered for modification of Miami Dade County Code, Chapter 8-11(f) *Recertification of Buildings and Components*. The proposed modifications by BORA are being presented in a continued effort to ensure that local building code regulations provide for the necessary safety and protection of all the residents of Miami-Dade County.



William Derrer
Board Chairperson
Board of Rules and Appeals

cc: Honorable Commissioner René Garcia, Board of County Commission
Lourdes Gomez, Director Miami-Dade County RER