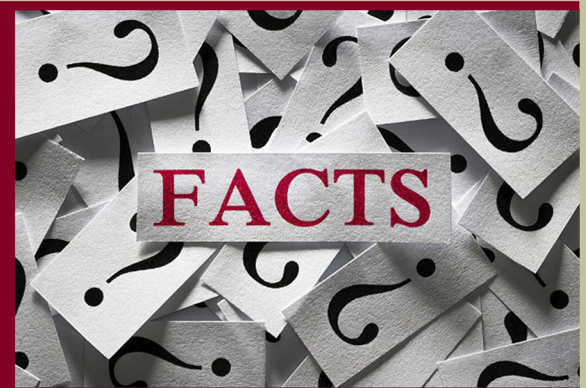




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Clerk of the Circuit Court and Comptroller  
Pinellas County, Florida



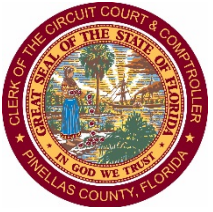
# **FOLLOW-UP INVESTIGATION OF HOUSING FINANCE AUTHORITY BOARD APPLICATION PROCESS**



**Melissa Dondero, CPA, CIA, CIG, CIGA, CIGI, CITP, CRMA, CFS, CECFE, CGI**  
Inspector General/Chief Audit Executive

**Investigation Team**  
Ava Sadowska, MS, CIA, CFE, CIG, CIGA, CIGI, CCA, CECFE, CFS, CGI – Assistant Inspector General  
Allan Weistock, CPA, CIGA, CGI – Inspector General I

**REPORT NO. 2020-25**  
**DECEMBER 23, 2020**



## Ken Burke, CPA

CLERK OF THE CIRCUIT COURT AND COMPTROLLER  
PINELLAS COUNTY, FLORIDA

Clerk of the County Court  
Recorder of Deeds  
Clerk and Accountant of the Board of County Commissioners  
Custodian of County Funds  
County Auditor

## Division of Inspector General

510 Bay Avenue  
Clearwater, FL 33756  
Telephone: (727) 464-8371  
Fax: (727) 464-8386  
Fraud Hotline: (727) 45FRAUD (453-7283)  
Clerk's website: [www.mypinellasclerk.org](http://www.mypinellasclerk.org)

December 23, 2020

The Honorable Chairman and Members of the Board of County Commissioners

The Division of Inspector General has conducted a Follow-Up Investigation of the Housing Finance Authority Board Application Process. The objective of our review was to determine the implementation status of our previous recommendations. We obtained the investigative purpose, background information, findings, and recommendations from the original investigative report. We added the status of recommendation implementation to this follow-up investigative report.

Of the seven recommendations contained in the original investigative report, we determined six have not been implemented and one is no longer applicable. The status of each recommendation is presented in this follow-up report.

We appreciate the cooperation of the County Administrator during the course of this review.

Respectfully Submitted,

Melissa Dondero  
Inspector General/Chief Audit Executive

cc: The Honorable Chairman and Members of the Board of County Commissioners  
Barry Burton, County Administrator  
Kevin Knutson, Assistant County Administrator  
Kathryn Driver, Executive Director, Housing Finance Authority  
Ken Burke, CPA, Clerk of the Circuit Court and Comptroller



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# INTRODUCTION

## *Scope and Methodology*

We conducted an investigative follow-up of the Housing Finance Authority Board Application Process. The purpose of our follow-up review was to determine the status of previous recommendations for improvement.

The purpose of the original investigation was to determine if:

1. The Respondent was a certified contractor subject to the regulation of Pinellas County.
2. The Respondent received violations for building permit issues.
3. The Respondent was convicted of a financial felony.
4. The Respondent was arrested, charged, or indicted for violation of federal, state, County, or municipal law, regulation, or ordinance.
5. The Respondent engaged in misconduct by falsifying an engineer certification on a technical drawing.

To determine the current status of our previous recommendations, we surveyed and/or interviewed management to determine the actual actions taken to implement recommendations for improvement.

Our investigative follow-up was conducted in accordance with the *Principles and Standards for Offices of Inspector General* and *The Florida Inspectors General Standards Manual* from The Commission for Florida Law Enforcement Accreditation. The original investigative period was January 2018, through July 2019.

## *Overall Conclusion*

Of the seven recommendations in the original report, we determined six were not implemented and one was no longer applicable. We encourage management to implement the remaining six recommendations.

## Implementation Status Table

FIC NO.	PREVIOUS RECOMMENDATION	IMPLEMENTATION STATUS				
		Implemented	Acceptable Alternative	Partially Implemented	Not Implemented	No Longer Applicable
1	<b><i>The County's Board Application Process Is Insufficient.</i></b>					
A	Implement a procedure for conducting a criminal background verification for each applicant, including having the applicant sign a background verification disclosure and/or authorization.				✓	
B	Ensure all applicants sign a Standards of Conduct or Code of Conduct form.				✓	
C	Leverage the County's records by identifying if applicants have any current or prior trade violations, such as permit violations for contractors.				✓	
D	Assess if additional applicant vetting procedures are warranted.				✓	
2	<b><i>A Housing Finance Authority Board Member Engaged In Misconduct.</i></b>					
A	Per County Ordinance 82-32, consider initiating the process to vote on the removal of the Respondent from the HFA Board.					✓
3	<b><i>The Housing Finance Authority Board Attorney Counseled The Respondent On A Personal Matter.</i></b>					
A	Assess if the HFA Board attorney's actions represented a conflict of interest to the HFA Board.				✓	
B	Determine if remedial action is warranted based on the assessment in Recommendation 3A.				✓	

## ***Background***

The Housing Finance Authority (HFA) of Pinellas County is a Special District established by the Board of County Commissioners (BCC), which helps families and individuals purchase their first home. The HFA issues multi-family bonds to provide financing for multi-family projects within Pinellas County (County). The HFA also issues single-family bonds to provide funds for first time homebuyer mortgages in the County and, by interlocal agreements, in Pasco and Polk Counties. The HFA provides funds for down payment and closing cost assistance as companion second mortgages. The HFA has also provided funding for the development of affordable multi-family housing for residents who desire rental opportunities.

The HFA's mission is to assure that financing for affordable housing remains available to the residents of the County. The HFA Board is composed of five members appointed by the BCC. The Respondent in this investigation is a member of the HFA Board. As the HFA Board, its main function is to oversee the HFA. The HFA Board has the power to borrow in order to purchase property, make loans, and facilitate lending institutions to help persons or families who otherwise cannot borrow for affordable housing.

The IG initiated an investigation upon receiving allegations related to the Respondent's HFA Board application. Specifically, the Complainant alleged that, to obtain an HFA Board position, the Respondent did not disclose the following on his Board application:

- Allegation #1 – The Respondent is a certified contractor subject to the regulation of Pinellas County.
- Allegation #2 – The Respondent received violations for building permit issues.
- Allegation #3 – The Respondent was convicted of a financial felony.
- Allegation #4 – The Respondent was arrested, charged, or indicted for violation of federal, state, County, or municipal law, regulation, or ordinance.

During investigative activities, the IG uncovered information, which led to the following additional allegation:

- Allegation #5 – The Respondent engaged in misconduct by falsifying an engineer certification on a technical drawing.

As part of our investigation, we reviewed Florida Statutes, Florida Administrative Code, Florida Building Code, County Ordinance 82-32, County Board procedures, HFA Board applications, and case records from various County and state agencies. We also conducted interviews with County staff, citizens with knowledge of the facts of the case, and the Respondent.

The IG determined that the Respondent is a certified contractor subject to regulation by the County's Building and Development Review Services Department (BDRS), as BDRS regulates and enforces compliance with the Florida Building Code, and by the Pinellas County Construction Licensing Board through its Special Act. Although the Respondent's response to a

question on the application indicated the County did not regulate him, the Respondent did disclose that he was a contractor in another section on the application. The IG concluded the Respondent was not attempting to conceal this relationship. The application did not include a question related to permit violations. Therefore, the Respondent was not required to disclose any. In addition, the Respondent has not been convicted of a financial felony. Therefore, Allegations #1, #2, and #3 are unfounded.

The IG concluded that the Respondent was arrested for a violation of state law. Therefore, the IG substantiated Allegation #4. In addition, the Respondent, as a general contractor, falsely represented an engineer's certification on a drawing he prepared and provided to a client. The IG reviewed evidence and testimony that resulted in substantiating Allegation #5. Based on information gathered during the investigation, applicable recommendations are presented below.

# STATUS OF RECOMMENDATIONS

This section reports our investigative follow-up on actions taken by management on the recommendations for improvement in our original investigative report of the Housing Finance Authority Board Application Process. The recommendations contained herein are those of the original investigative report, followed by the current status of the recommendations.

## ***1. The County's Board Application Process Is Insufficient.***

The County uses a standard appointment application for all County boards, which applicants who wish to serve must complete. The Respondent applied for appointment to the HFA Board, and the BCC appointed him to a four-year term in 2014.

Allegation #2 stated the Respondent failed to disclose permit violations on his HFA Board application. This allegation was unfounded, as the application did not include a question to elicit this information. However, we requested information from BDRS, and found the Respondent received two permit violations in the past. During a review of one of the permit violations, for a project at a private residence, we noted an accompanying complaint from the homeowner. This complaint led to Allegation #5, detailed in investigative finding #2 below. Additional screening of the applicant would have identified the permit violations and homeowner complaint to assist the BCC in its appointment decision.

Allegation #4 stated the Respondent did not disclose criminal charges on his HFA Board application. The application contains a question to confirm if the applicant has been arrested, charged, or indicted for violation of any federal, state, County, or municipal law, regulation, or ordinance. Although the question indicates traffic violations of \$150 or less may be excluded, the Respondent answered "yes," with an explanation that he received traffic citations. During investigative activities, we found that the Respondent submitted an application for reappointment to the HFA Board in 2018. In this new application, the Respondent answered "yes" again to the question, and included a comment regarding making a poor decision in the past. However, he did not provide any additional details.

We reviewed County criminal court records and noted the Respondent was arrested on June 1, 2006, and although adjudication was withheld, the Respondent was charged with a scheme to defraud, a third-degree felony. Although the Respondent answered the question truthfully on both applications, neither explanation included the details of the felony charge. Therefore, we substantiated Allegation #4, as the Respondent was not forthcoming with the criminal charge.

An application process should elicit all relevant information about the applicant, including criminal history, to allow the appointing authority to make an informed decision. Screening and vetting candidates is an important and necessary step in the application process; it allows



selecting a candidate with skills and experience relevant to the position, and reduces the risk of appointing an unfit candidate.

The Hillsborough County Board of County Commissioners requires all board applicants to submit the following documents:

- Application Questionnaire for County Appointments
- Standards of Conduct Form
- Background Investigation Disclosure and Authorization Form (for certain boards)
- Financial Disclosure Form 1 (for certain boards)

Using a similar process may better assist the BCC in assessing each candidate's qualifications to serve.

The current application process does not include verifying an individual's background or the information provided on his or her application. While having a standard application helps to streamline the application process, standardization can result in missing pertinent information about an applicant. Supplementing the application with additional review can help identify relevant information specific to each vacancy. In this case, the Respondent had prior permit violations, which if reviewed, would have alerted the BCC to other potentially unethical behavior. Since the application process did not produce this information, the Board appointed a member who engaged in misconduct, as documented below in investigative finding #2.

***We Recommended Management:***

- A. Implement a procedure for conducting a criminal background verification for each applicant, including having the applicant sign a background verification disclosure and/or authorization.
- B. Ensure all applicants sign a Standards of Conduct or Code of Conduct form.
- C. Leverage the County's records by identifying if applicants have any current or prior trade violations, such as permit violations for contractors.
- D. Assess if additional applicant vetting procedures are warranted.

***Status:***

- A. – D. **Not Implemented.** Management advised that the County Attorney's Office began reviewing the recommendations in early 2020, but the efforts were put on hold due to the changing priorities presented by the 2019-nCoV (COVID-19) pandemic. It is anticipated the review will resume in early 2021. However, the review will be limited to recommendations B and D, which the County concurred with in the original report.

We continue to encourage management to implement all our recommendations. Considering the importance of preserving public trust, we believe board applicants that desire to serve our citizens should be thoroughly screened. The County's due diligence is well worth the effort involved to ensure that only the best qualified citizens are appointed to important roles within the County.

## ***2. A Housing Finance Authority Board Member Engaged In Misconduct.***

During a review of one of the permit violations noted in the preceding finding, which occurred on a residential project, we reviewed an accompanying complaint from the homeowner. The homeowner alleged the Respondent created a technical drawing for the homeowner for proposed construction plans. Within the drawing, the homeowner alleged the Respondent transposed a third-party engineer's contact and qualification information from another project onto the drawing, thereby creating the appearance that an engineer generated and approved the drawing. This information resulted in Allegation #5, that the Respondent engaged in misconduct by falsifying an engineer certification on a technical drawing.

We interviewed the homeowner to obtain additional information about the complaint. Per the homeowner, the Respondent agreed to remove a load-bearing wall on the second floor in the homeowner's residence and install proper support on both the second and first floors. The homeowner said the Respondent indicated he would have an engineer review the project plans and would charge the homeowner only for the engineer's costs, excluding profit.

The Respondent provided the homeowner a technical drawing of the work to be performed (see Figure 1), which included two title blocks: one for a drafting and design services company (Designer) and one for an engineering company (Engineer). The Engineer's title block contained a signature and a raised seal implying the Engineer had signed and sealed the drawing provided to the homeowner. The Respondent invoiced the homeowner \$1,100 for the drawing, which was part of the written agreement between the Respondent and the homeowner.

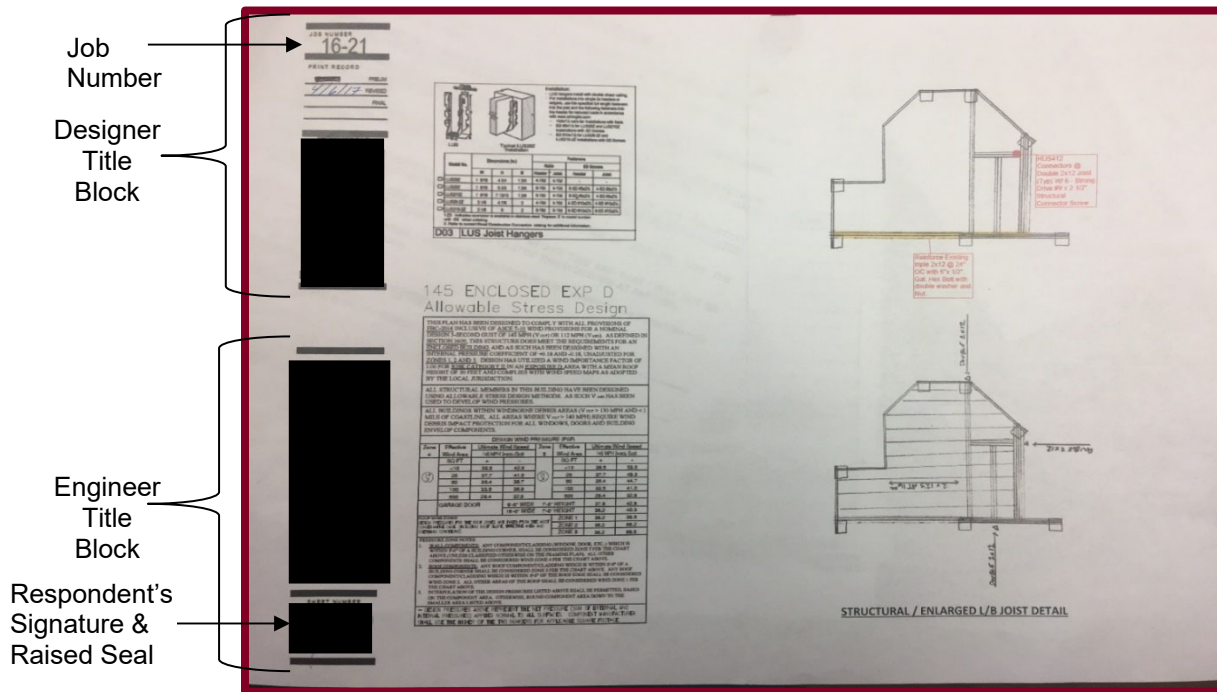


Figure 1 – Respondent's Technical Drawing Provided to Homeowner

According to the homeowner, during construction, the Respondent said the Engineer indicated the home did not need additional structural support after removing the load-bearing wall. After the Respondent finished work, the homeowner contacted the Engineer listed on the drawing in an attempt to understand why structural support was not needed. The Engineer told the homeowner that he was not aware of the project, did not review or sign the drawing, and had never worked with the Respondent on a project. The Engineer reviewed the drawing and noted the signature on the Engineer's title block was not his signature, and he considered it a forgery.

The Engineer noted the Designer listed on the drawing is one of the Designers the Engineer often works with. The Engineer and Designer have an agreement, which allows the Designer to use the Engineer's title block when providing drawings to clients. If the client wishes to proceed with a project, the Designer submits the drawings to the Engineer for review, and the Engineer will sign and seal the drawings. The Engineer reviewed their files to see what documentation was associated with the job number listed on the Designer's title block. The Engineer noted the job was a residential remodel of the Respondent's home.

The Engineer inquired with the Designer and learned the Respondent was the Designer's client. The Designer had previously provided drawings to the Respondent for his home (see Figure 2 on the following page). The Engineer had not yet reviewed those drawings, and therefore, the Engineer had not signed and sealed his title block on the drawings. The Engineer concluded the Respondent fraudulently lifted the Engineer's title block from the drawings the Designer provided to the Respondent, and placed them on drawings the Respondent created for the homeowner.

The IG interviewed the Engineer, who verified the information the homeowner previously provided. The Engineer believed the Respondent copied the title blocks from his personal residence project drawings and fraudulently applied them to the drawing provided to the homeowner, implying both the Designer and the Engineer created and/or reviewed the drawing.

The Respondent and the homeowner became engaged in a civil lawsuit related to their contract, and the IG obtained and reviewed transcripts of the Respondent's deposition for the case. During the deposition, the Respondent admitted to removing a wall, which the Respondent thought could be load-bearing, but he indicated the work performed was not structural in nature. The Respondent also indicated the Engineer did not create the drawing provided to the homeowner, but the Engineer did verbally advise the Respondent on the job.

The Respondent further explained that the Designer's and Engineer's title blocks were on the drawing because the Respondent recycles drawing templates, and leaves the title blocks affixed from one drawing to another. The Respondent placed his signature and corporate seal on the drawing, but the Respondent admitted he did not inform the homeowner that it was his signature on the Engineer's title block because he did not believe it was relevant to the homeowner.

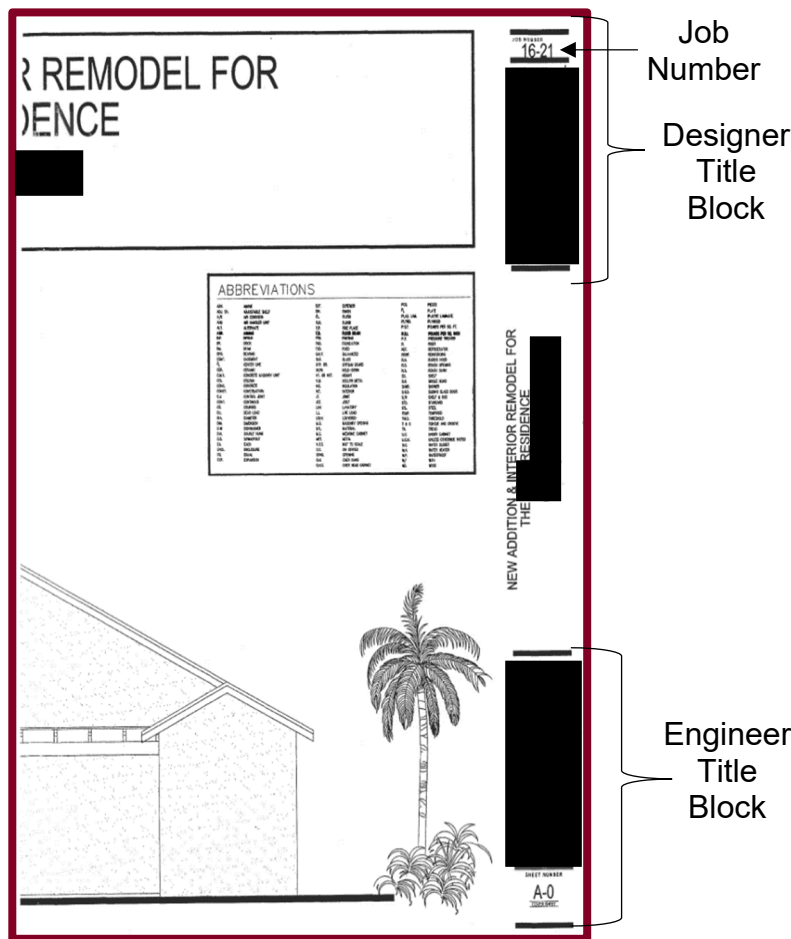


Figure 2 – Designer's Cover Page for Respondent's Home Remodel

After the deposition, during an interview with the IG, the Respondent indicated he only performed drywall work for the homeowner, which did not require a permit. However, when the IG informed the Respondent that it reviewed the deposition transcripts from the civil case, which included the Respondent admitting to removing a potentially load-bearing wall, the Respondent confirmed he removed the wall, but indicated it was not load-bearing.

The Respondent stated to the IG that he has a relationship with the Engineer, and as such, has the Engineer's title block in his files. The Respondent indicated it is customary in the construction industry to maintain project files together and reuse drawing templates, maintaining title blocks from one drawing to the next, even if the individual listed on the title block did not review the subsequent drawings. The Respondent also stated he includes his personal residence project files together with his business files, which is how the title blocks from his personal residence project became part of the drawing the Respondent provided to the homeowner.

The IG asked the Respondent if either the Designer or the Engineer ever provided express consent for the Respondent to use their title blocks, and the Respondent said he would not comment on the question due to pending litigation. The IG asked the Respondent how a client would know if an engineer reviewed and/or certified his drawings, given the Respondent's practice of utilizing title blocks, and the Respondent stated the client could call the engineer to confirm.

The Respondent stated the drawing he provided to the homeowner in this case was not an official blueprint drawing and was simply information for the homeowner. Therefore, any title blocks on the document held no significance. The Respondent referred to the drawings as "as-built," which is also how they are referenced in the written agreement with the homeowner. The Respondent confirmed it was his signature and seal on the Engineer's title block, but he stated it was not part of the title block, and instead part of the page numbering system just below the title block. Ultimately, the Respondent's position was that the signed and sealed engineering drawings were not required for the work performed, and since the drawing provided to the homeowner was not an official document, the Respondent's practice was sound.

The raised seal on the drawing the Respondent provided the homeowner had the following words visible: "Corporate Seal 2010 Florida." See Figure 3. Therefore, the seal provided no means of identifying its owner. We redacted the Respondent's signature in Figure 3, which also hides the visibility of the raised seal; however, the seal was not very clear, even in plain sight. In a subsequent interview, the Respondent provided the IG with his embosser, which creates a raised seal when pressed onto paper. The Respondent's embosser included the Respondent's company name, which the Respondent believed illustrated his intent was not deceptive when placing the seal on the Engineer's title block. However, the Respondent's company name was not visible on the raised seal affixed to the drawing.

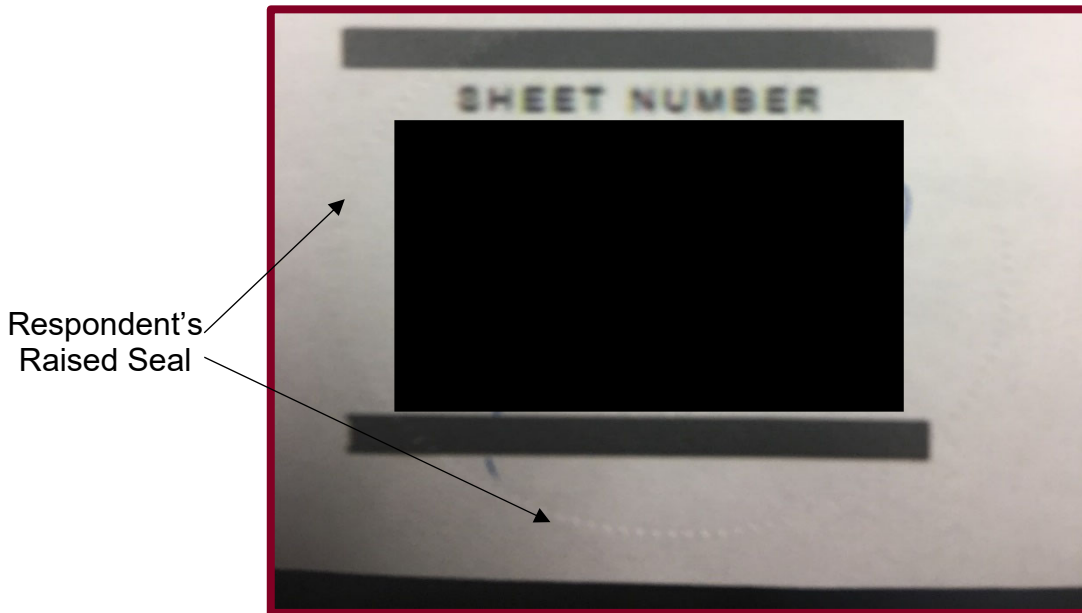


Figure 3 – Respondent's Raised Seal - Enlarged

Further, the Respondent was unable to make his company's name appear on paper when using the embosser in the IG's presence. The Respondent had to take apart the embosser to show the company name was part of the seal (redacted in Figure 4).



Figure 4 – Respondent's Embosser

When discussing the practice of placing his signature and seal on the title block of an Engineer, the Respondent eventually agreed that utilizing this practice results in misleading his clients. The Respondent indicated he has since stopped the practice and provided the IG a copy of the new template utilized by his company, which has no other companies' information on the template.

Based on the Respondent's statements that utilizing title blocks in a haphazard manner is standard in the industry, the IG interviewed a County Plans Examiner in order to gain an understanding of standard industry practice. The IG provided the Plans Examiner the drawing the Respondent gave the homeowner and asked for interpretation absent any other information. The Plans Examiner indicated the title blocks illustrate the drawing had been reviewed, signed, and sealed, although the wording on the seal was not clearly visible. The Plans Examiner also observed the drawing indicated structural work and a permit would be required to execute the work.

The IG asked the Plans Examiner to explain how title blocks are used and what they signify when placed on a drawing. The Plans Examiner indicated that if the title blocks are on a drawing, the implication is the associated individuals reviewed the drawing. It is not standard practice to include title blocks on drawings when the individuals indicated on the title blocks have not reviewed them. The Plans Examiner also indicated signing and sealing a title block that is not one's own is misleading and potentially fraudulent, in violation of Florida Statutes, as well as Florida Administrative Code.

Based on the evidence obtained during the investigation, the IG substantiated Allegation #5. Due to information obtained during the investigation, the IG will notify the Pinellas County Construction Licensing Board and the Florida Board of Professional Engineers regarding the facts of this allegation.

The County promulgates the following commitment to public health, safety, and welfare in its strategic plan:

*"In order to secure protection to the citizens of the county against abuses and encroachments, the county shall use its powers, whenever appropriate, to provide by ordinance or to seek remedy by civil or criminal action for the following:*

*... (f) Protection of consumer rights. The county shall establish provisions for the protection of consumers."*

Members serving on County boards should model the County's commitment to serving its citizens responsibly. The Respondent engaged in unethical behavior, which did not align with the County's mission to consumers.

County Ordinance 82-32, Section 7. Removal of Members identifies the criteria for removing a member of the Housing Finance Authority:

*"A member of the Housing Finance Authority may be removed without cause by a majority vote of the Board of County Commissioners, or for neglect of duty or misconduct in office by a majority vote of the Board of County Commissioners. A member may be removed only after that member has been given a copy of the charges at least ten days prior to the hearing thereon and has had an opportunity to be heard in person or by counsel. If a member is removed, a record of the proceedings, together with the charges and findings thereon, shall be filed with the Clerk of the Circuit Court of Pinellas County."*

The Respondent's actions not only misled a consumer, but they also unnecessarily compromised an engineer's professional certification.

***We Recommended Management:***

Per County Ordinance 82-32, consider initiating the process to vote on the removal of the Respondent from the HFA Board.

***Status:***

**No Longer Applicable.** The Respondent resigned from the HFA Board.

### ***3. The Housing Finance Authority Board Attorney Counseled The Respondent On A Personal Matter.***

During an interview with the Respondent, the HFA Board attorney accompanied and represented the Respondent in his capacity as an HFA Board member. However, during the interview, when the IG addressed a civil case the Respondent was a party to in relation to Allegation #5, the attorney advised the Respondent several times. The attorney advised the Respondent he could not answer questions about the civil case since it was pending litigation.

Chapter 4. Rules of Professional Conduct of the Florida Bar Rules include the following within Rule 4-1.7 Conflict of Interest; Current Clients:

*"...a lawyer may not represent multiple parties to a negotiation whose interests are fundamentally antagonistic to each other..."*

The attorney indicated he was representing the Respondent only in the Respondent's capacity as an HFA Board member. Therefore, it is unclear why the attorney advised the Respondent regarding a personal matter. By advising the Respondent not to answer questions regarding the civil case, the IG was unable to gather certain facts related to the allegations. This may have presented a conflict of interest for the attorney with regard to HFA Board representation.

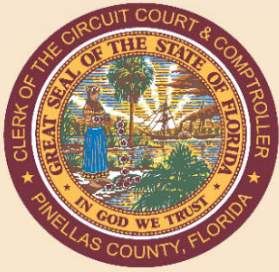


***We Recommended Management:***

- A. Assess if the HFA Board attorney's actions represented a conflict of interest to the HFA Board.
- B. Determine if remedial action is warranted based on the assessment in Recommendation 3A.

***Status:***

- A. and B. **Not Implemented.** Management did not agree with our recommendations and did not implement them. We continue to encourage management to implement our recommendations to remediate any potential conflict of interest.



# DIVISION OF INSPECTOR GENERAL

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**Write:**

Division of Inspector General

510 Bay Avenue

Clearwater, FL 33756