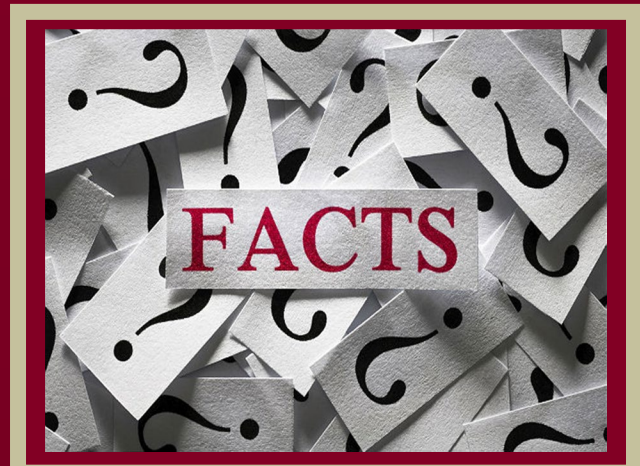




**DIVISION OF INSPECTOR GENERAL**  
Ken Burke, CPA  
Clerk of the Circuit Court and Comptroller  
Pinellas County, Florida



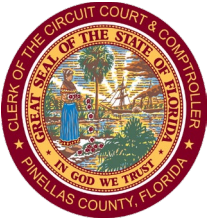
# INVESTIGATION OF CERTIFICATE OF OCCUPANCY ISSUANCE



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REPORT NO. 2024-11  
AUGUST 7, 2024



## Ken Burke, CPA

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PINELLAS COUNTY, FLORIDA

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Recorder of Deeds  
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August 7, 2024

Barry Burton, County Administrator

The Division of Inspector General's Public Integrity Unit has completed an investigation of the following allegation:

- The Respondent violated policies and procedures by directing staff to issue a certificate of occupancy prior to correcting outstanding deficiencies. **Unfounded.**

To determine whether the allegation was substantiated, we reviewed policies, procedures, and appropriate records. We also interviewed staff and other parties, as needed. Our investigation was performed according to 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 Division of Inspector General uses the following terminology for the conclusion of fact/finding(s):

- **Substantiated** – An allegation is substantiated when there is sufficient evidence to justify a reasonable conclusion that the allegation is true.
- **Unsubstantiated** – An allegation is unsubstantiated when there is insufficient evidence to either prove or disprove the allegation.
- **Unfounded** – An allegation is unfounded when it is proved to be false or there is no credible evidence to support it.

The recommendations presented in this report may not be all-inclusive of areas where improvement may be needed; however, we believe implementation of the recommendations will strengthen the current internal controls.



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Inspector General

Barry Burton, County Administrator  
August 7, 2024

We appreciate the cooperation shown by the staff of County Administration during the course of this investigation.

Respectfully Submitted,



Melissa Dondero  
Inspector General/Chief Audit Executive

cc: The Honorable Chair and Members of the Board of County Commissioners  
Ken Burke, CPA, Clerk of the Circuit Court and Comptroller

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# INTRODUCTION

## *Abbreviations*

<b>Accela</b>	Accela Civic Platform
<b>ADA</b>	Americans with Disabilities Act
<b>BDRS</b>	Building & Development Review Services Department
<b>CO</b>	Certificate of Occupancy
<b>COC</b>	Certificate of Completion
<b>County</b>	Pinellas County
<b>DRS</b>	Development Review Services
<b>FBC</b>	Florida Building Code
<b>F.S.</b>	Florida Statutes
<b>GC</b>	General Contractor
<b>IG</b>	Division of Inspector General
<b>LDC</b>	Land Development Code
<b>PM</b>	Project Manager
<b>PW</b>	Public Works Department
<b>ROW</b>	Right-of-Way
<b>RUP</b>	Right-of-Way Utilization Permit
<b>TCO</b>	Temporary Certificate of Occupancy

## Background

The Pinellas County (County) Building & Development Review Services Department (BDRS) provides building permits, building inspections, and code references for unincorporated Pinellas County and several other municipalities through interlocal agreements. The department also reviews land development applications in accordance with the County's Land Development Code (LDC).

BDRS is organized into two divisions: Building and Development Review Services (DRS). Building staff is responsible for reviewing plans, issuing associated building permits, performing inspections, issuing certificates of completion (COC), and issuing certificates of occupancy (CO), among other responsibilities. DRS is responsible for applying the County's LDC to applications for land development activities and ensuring relevant requirements are met related to site development, zoning, right-of-way (ROW), platting, flood plain management, stormwater management, and environmental and natural resource protection.

When a commercial project is initiated, Florida Statutes (F.S.) require commercial plans to be reviewed for electrical, plumbing, and mechanical code compliance. Building staff reviews the plans for each applicable trade and, once approved, issues the building permit. During the construction project, multiple inspections are required at various intervals.

DRS issues permits for site plans, ROW, and habitat (tree removal). Within DRS, the functional areas (zoning, environmental, and engineering) review permit applications in their area. When construction projects are completed, DRS inspectors perform site inspections, which must be completed before a COC or CO can be issued.

Customers may choose to use private providers for building inspections, but DRS inspectors must be utilized for DRS trades. When inspectors perform final inspections, if any deficiencies are present, they provide the customer a punch list, which lists all items requiring correction. After all final inspections are completed and passed, BDRS staff issues a COC (for remodels, renovations, and shell buildings) or CO (for new construction or change of use).

## Allegations

The Division of Inspector General (IG) received a complaint alleging the Respondent violated policies and procedures by directing staff to issue a CO prior to correcting outstanding deficiencies identified by County inspectors. The complaint included a recently completed project that had outstanding deficiencies. Per the complaint:

*"The following corrections to the site have been identified, documented and provided to the contractor and owner, however, the business has been permitted a certificate of occupancy, allowing the business to open to the public and increasing vehicular traffic, prior to the necessary corrections being made.*

*Circumstances that could threaten the health and safety of the public include, but are not limited to the following:*

- 1. Stop signs, as constructed do not meet standard engineering practice for height as detailed by the Florida Department of Transportation and the Manual of Uniform Traffic Control Devices (MUTCD).*
- 2. The stop signs and stop bars do not meet standard engineering practice of 4' setback from the back of sidewalk, as depicted on the plans. The human nature of pulling out beyond the stop bar, combined with the two drinking establishments on site, there is a higher potential of vehicle conflicts with pedestrians and/or bicycles.*
- 3. Detectable warning pads, a standard for the Americans with Disabilities Act (ADA), the Florida Building Code and standard engineering practice for low-sight or no-sight individuals to warn them of possible traffic crossing their path, are not provided on both sides of driveways.”*

Due to the concerns regarding public safety, the IG immediately notified the County Administrator of the complaint. The County Administrator provided a response from BDRS that indicated the following:

- “A Certificate of Occupancy (CO) was issued on June 14, 2023 conditioned upon certain ‘punchlist’ items being completed within 14-days.*
- BDRS has the ability to issue CO’s with a defined time provided to address any outstanding items. A timeframe of 14-days was provided... to address the punchlist items. CO’s with conditions are issued to an applicant on a case by case basis to provide additional flexibility. In this case the ability to open a business.*
- The representation that the punchlist items, stop sign mounting height and stop bars, threaten the health and safety of the public is a misrepresentation.*
- These referenced punchlist items... are not of this significant magnitude. If they were, a CO would not have been issued.”*

During the IG's preliminary assessment of the complaint, the IG performed site visits to ascertain if the outstanding deficiencies were present.



*Figure 1 - Stop sign height does not meet requirements (seven feet)*



*Figure 2 - Stop bar setback (original stop bar covered and moved further back)*



*Figure 3 - Detectable warning pad present in one of four required locations*



*Figure 4 - Detectable warning pads not present in one of four required locations*



The IG took measurements of the stop signs and stop bars. Two of the five stop signs were lower than the seven-foot height requirement, as illustrated in Figure 1 above. We observed that the old stop bar was removed, and a new one was added, as illustrated in Figure 2 above. We did not measure the distance. There was only one visible warning pad on site (four total required), as shown in Figure 3 and Figure 4 above.

## ***Investigative Activity***

During the course of the investigation, we performed the following to obtain evidence to conclude on the allegations:

- Reviewed F.S., Florida Building Code (FBC), the LDC, permit data, and emails
- Interviewed County management, County staff, customers, and a contractor
- Performed site visits to determine the status of outstanding deficiencies

# INVESTIGATIVE CONCLUSIONS

The Division of Inspector General uses the following terminology for the conclusion of fact/findings:

- **Substantiated** – An allegation is substantiated when there is sufficient evidence to justify a reasonable conclusion that the allegation is true.
- **Unsubstantiated** – An allegation is unsubstantiated when there is insufficient evidence to either prove or disprove the allegation.
- **Unfounded** – An allegation is unfounded when it is proved to be false or there is no credible evidence to support it.

**1. The Respondent violated policies and procedures by directing staff to issue a certificate of occupancy prior to correcting outstanding deficiencies.**

The following table represents the timeline events related to the CO issuance:

Date	Activity
July 7, 2022	BDRS approved the Site Plan.
July 14, 2022	BDRS issued the Habitat Permit.
July 28, 2022	BDRS issued the Building Combination Permit.
November 29, 2022	BDRS issued the Right-of-Way Utilization Permit (RUP).
April 25, 2023	BDRS uploaded the inspection log to the Accela Civic Platform (Accela). The log contained various building inspections conducted by a private provider throughout the building process from August 31, 2022, to April 21, 2023.
May 10, 2023	The property owner called the Respondent, and the Respondent asked the County's Project Manager (PM) to call the customer for a resolution.
June 5, 2023	The Respondent discussed outstanding property concerns with the PM and asked the PM to assist the customer to resolve them.
June 8, 2023	The customer submitted a private provider final inspection report for the Building trades; all Building inspections passed.
June 12, 2023	DRS Engineering conducted an inspection for site plan compliance with three issues identified.
	DRS Environmental conducted an inspection for site plan compliance with four issues identified.
	Public Works (PW) received a call to conduct a final inspection for the RUP. The PW inspector was unaware of the project prior to this date.
June 13, 2023	The BDRS Director emailed the customer indicating there were outstanding DRS Engineering and DRS Environmental items that needed to be addressed in the next 14 days.

Date	Activity
	PW conducted the requested RUP inspection and informed the customer that they could not sign off on the final inspection due to outstanding deficiencies. DRS informed PW that the property needed to be signed off for a final inspection, and they would be issued a Temporary Certificate of Occupancy (TCO). PW signed off for the final inspection as instructed despite the outstanding DRS deficiencies, with the understanding a TCO would be issued.
June 14, 2023	The customer emailed the BDRS Director, confirming they would fulfill the punch list items within two weeks, if possible.
	BDRS issued a Certificate of Occupancy (CO). Accela stated in the Inspection Detail Tab: *Approved per BRDS Director *Unresolved ENG items sent as of 6/13 *Unresolved ENV items not sent as of 6/13 *Unresolved PW items not sent as of 6/13
June 15, 2023	The PM emailed the customer the punch lists of outstanding deficiencies for DRS Engineering and DRS Environmental.
	The IG received the complaint regarding the outstanding site deficiencies.
June 16, 2023, and June 22, 2023	IG staff conducted site visits to assess the validity of the complaint.
June 22, 2023	The IG sent a memo to the County Administrator due to possible public health and safety concerns.
June 22, 2023	The BDRS Director conducted an informal site visit to assess the health and safety concerns noted in the IG memo and conduct an informal inspection of outstanding deficiencies.
June 23, 2023	The County Administrator provided a response to the IG memo. The response was issued from the BDRS Director, who stated a CO was issued on June 14, 2023, conditioned upon certain punch list items being completed within 14 days, which BDRS had the ability to do. The response stated the outstanding deficiencies were not a threat to the health and safety of the public.
June 25, 2023	PW received a request for the formal final inspection.
June 26, 2023	PW prepared an inspection report for the RUP with three issues identified. The PW inspector attempted to give the customer a copy of the outstanding deficiencies. The customer refused to accept the list from the inspector and told the inspector the County had already issued a report of outstanding deficiencies to them.

Table 1 - Timeline

As noted above in the timeline, in June 2023, a CO was issued for a property with outstanding deficiency items. BDRS management indicated that typically when there are outstanding items to address that do not affect life safety, a TCO can be issued or a CO with conditions, but these

instances are rare. When a TCO or CO with conditions is issued, there is documentation regarding the outstanding items and a specific timeline to correct the remaining items.

We reviewed the permit documentation for the project referenced above and noted the CO issued on June 14, 2023, did not list any conditions, and it did not have an expiration date. We determined a final CO was issued. BDRS management indicated they thought a CO with conditions was issued; however, the CO was not processed according to management's description of the TCO process noted above. BDRS management used the terms TCO and CO with conditions interchangeably and explained that there was no difference and that the same procedures should be followed.

During the investigation, we could not find any documentation in Accela showing the outstanding items were corrected. When we interviewed BDRS management and staff, they indicated the customer is responsible for requesting a reinspection after correcting the outstanding items, and that had not yet occurred as of February 14, 2024.

In February 2024, when we interviewed the BDRS Director and notified him that there had been no activity on the CO in Accela since June 14, 2023, the BDRS Director indicated the CO should have had conditions and been treated like a TCO. After the interview, the email between the BDRS Director and the customer from June 13, 2023, as noted above in the timeline, was added to Accela. The BDRS Director also advised BDRS staff that additional work was needed for the CO and directed staff to create a formal TCO procedure.

On April 5, 2024, the IG conducted a site visit of the property to visually verify if the missing truncated domes noted on the PW RUP inspection report had been installed; they had not. During the visit, the IG did not inspect the punch list items for DRS Environmental and DRS Engineering, as they require technical expertise.

During an interview with the Respondent, the Respondent confirmed they directed the BDRS Director to issue the CO. The Respondent's supervisor confirmed the Respondent is responsible for addressing customer concerns and assigning the concerns to the appropriate department within the County for resolution.

Although the Respondent directed staff to issue a CO prior to correcting outstanding deficiencies, there was a mechanism in place to issue a TCO, which would have been an appropriate course of action given the circumstances, as long as the punch list items did not affect public safety. The Respondent believed that staff would handle the CO correctly once directed to issue it.

The issues identified can be rectified through the implementation of policies and procedures, as well as the associated training for staff and the Respondent. It is within the Respondent's authority to assign tasks to the BDRS Director. The BDRS Director was responsible for determining the type of CO which was allowable given the circumstances (final, conditional, or TCO.) The IG reviewed documentation provided by the BDRS Director to the customer on June 13, 2024, and determined that while they may have intended to issue a CO with conditions, the lack of follow-up and an expiration date make the CO indistinguishable from a final CO. The IG

determined a final CO was issued. There is no evidence to suggest the Respondent directed staff to disregard any policies or procedures. Since the Respondent did not violate policies or procedures, we determined the allegation was unfounded.

We determined that the CO being issued instead of a TCO and the CO not being monitored for at least eight months resulted in several risks to the County, as detailed in Finding #1 below.

# INVESTIGATIVE FINDINGS

## ***1. A Certificate Of Occupancy Was Issued Prior To Correction Of Site Deficiencies.***

As noted above in the timeline, in June 2023, a CO was issued for a property with outstanding deficiency items. BDRS management indicated that typically, when there are outstanding items to address that do not affect life safety, a TCO can be issued, or a CO with conditions, but that these instances are rare. When a TCO or CO with conditions is issued, there is documentation regarding the outstanding items and a specific timeline to correct the remaining items.

We reviewed the permit documentation for the project referenced above and noted a final CO was issued. BDRS management indicated they thought a CO with conditions was issued; however, the CO was not processed according to management's description of the TCO process noted above.

When DRS Engineering and DRS Environmental staff performed the final inspections of the site, each issued a punch list to the customer. PW was called to perform a final inspection but had not been aware of the RUP prior to that date, which is not the normal process. Typically, DRS would include PW whenever the project affects the public ROW. This project did affect the public ROW, but DRS issued the RUP and never notified PW.

When PW received the final inspection request, DRS directed PW to perform the inspection and stated a TCO would be issued to the customer. When the PW inspector finished their inspection, the inspector attempted to provide the customer a punch list with deficiencies, and the customer refused the list. As a result, the PW punch list items were not provided to the customer as of the date of this report.

Meanwhile, the County issued the CO and there were no conditions or timeframes for completion listed. A CO with no timeframe or conditions is assumed to be final. When a final CO is issued, the County may be liable for lawsuits initiated in the event an injury occurs on the property.

According to permit documentation in Accela, BDRS management mandated the CO be issued, and staff noted that outstanding items remained for DRS Engineering, DRS Environmental, and PW. Between June 15, 2023, and February 18, 2024, there was no documentation in Accela of any additional inspections or work performed. As of the date of this report, there had been no request for reinspection made to any of the functional areas.

In February 2024, we interviewed the customer and their general contractor (GC), and they were not aware any outstanding items remained. The customer thought the GC handled them and the GC stated the CO was issued on June 14, 2023, and no outstanding items remained. As noted above, the owner was emailed the list of deficiencies. However, when we interviewed the owner, they believed they were all resolved. In February 2024, we interviewed the BDRS Director, and

he was unaware of why this project had not been followed up and acknowledged the need for a formalized TCO process.

We noted that subsequent to our interview with the BDRS Director, an email was uploaded into Accela between the BDRS Director and the customer. In the email dated June 13, 2023, the BDRS Director stated the outstanding items needed to be corrected in 14 days, and on June 14, 2023, the customer replied that they would attempt to correct the items in 14 days.

We performed a site visit on April 5, 2024, and noted the warning pads were not installed:



*Figure 5 - Detectable warning pads not present in two of four required locations*

We did not attempt to verify the other outstanding deficiencies. As noted above, BDRS management was unaware that outstanding items were not addressed months after the CO was issued. BDRS staff was not communicating with the customer, and as a result, the outstanding items had not been reinspected as of the date of this report.

There are several requirements the County must follow when issuing COs or TCOs, as outlined below.

#### Florida Building Code

The Florida Building Code (FBC) Section 111 Certificate of Occupancy, includes requirements for issuing COs. Section 111.2 Certificate issued, states the following:

*“After the building official inspects the building or structure and does not find violations of the provisions of this code or other laws that are enforced by the*

*department of building safety, the building official shall issue a certificate of occupancy.”*

Section 111.2 includes a list of information that must be on the CO, which includes the following:

- A description of the portion of the structure for which the certificate is issued.
- A statement that the described portion of the structure has been inspected for compliance with the requirements of this code for the occupancy and division of occupancy and the use for which the proposed occupancy is classified.
- Any special stipulations and conditions of the building permit.

Section 111.3 Temporary occupancy, states the following:

*“The building official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid.”*

#### County Land Development Code

The County’s Code of Ordinances Part III contains the LDC. Chapter 154 of the LDC includes requirements related to site development, ROW improvements, subdivisions, and platting. Section 154-3. – Enforcement and inspection, states the following:

*“(b) No certificate of occupancy will be issued for any structures within the parameter of the approved site plan and/or construction plan (including single-family homes) unless all conditions of the plan, including any county issued right-of-way utilization permits associated therewith, have been addressed and satisfied.”*

#### County Procedures

Although there are no written procedures for CO issuance, the staff member responsible for ensuring documentation is complete before issuance uses a checklist to ensure the following:

- All inspections have been finalized, including building, fire, and DRS trades. DRS works with PW to ensure all requirements are met.
- Any outstanding issues or flags noted in Accela are resolved.
- Fees have been paid.
- Flood zone documentation has been received, if applicable.

Since the department does not have formalized documented procedures for issuing TCOs, we interviewed management and staff to determine the appropriate procedures.

BDRS management indicated that the County does not typically issue TCOs but has issued some in the past few years when there has been a specific need due to a planned event such as a grand opening or other extenuating circumstances. In each of these instances, the specific outstanding conditions were identified and documented, and a timeframe for completion was



established. We reviewed the permit files and verified that the County's informal internal procedures were followed in past instances. Although the TCO process is not formally defined or documented, staff was knowledgeable of the requirements.

County management noted that customers may use private providers to perform building inspections, and the County will issue COs based on those inspections. As stated above, the County does not have a written policy regarding TCOs, but as a standard practice, the County does not issue a TCO when the customer has used a private provider for inspections. The customer for this project used a private provider for the building inspections.

When a CO is issued, the County is certifying that the property meets the requirements of the FBC. Failure to ensure applicable requirements are satisfied can result in varying levels of liability. Failure to ensure that the life safety codes are met may result in a public health risk and potential lawsuits against the County.

There are conflicting opinions on the outstanding deficiencies for this project being life safety issues. The documentation in the complaint indicates that DRS Engineering staff felt the issues were a matter of public safety and felt obligated to inform management. PW staff indicated that the truncated domes were a life safety issue and that the Department of Justice (DOJ) could potentially get involved due to a non-compliance issue with the Americans with Disabilities Act (ADA) if they were not installed. The BDRS Director did not agree that these items would affect life safety.

When we interviewed PW staff in April 2024, they indicated the bond on this project was never released. Management further stated an RUP can require the customer to obtain a performance bond before commencing work. The bond must be equal to 110% of the estimated total cost of work related to the RUP. Once the project is completed, the performance bond is converted into an 18-month maintenance bond, which must be a minimum of 20% of the performance bond amount, with the owner/developer as Principal. The performance bond for this project was never converted. Because this bond was paid in cash, there is no risk to the County concerning the expiration date of the bond. If this bond were issued through a surety company, it would have expired, and the County would not have been able to draw against the bond, if necessary. Although there was no effect to the County for this permit since the bond was cash, it could be an issue in the future if a surety bond is not converted and the County needs to access it.

We also noted during interviews with staff that staff was very uncomfortable processing this CO given the circumstances. Staff felt compelled to document in Accela that they were directed to do so. The impact on employee morale is not quantifiable but will have lasting impacts on the department if it is not resolved. Low employee morale may lead to high employee turnover and reduced efficiency and effectiveness for the County.

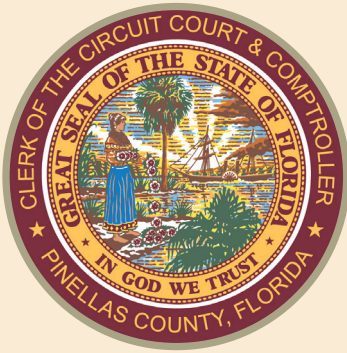
***We Recommend Management:***

- A. Implement a formal policy and procedures for TCOs, including properly documenting the permit information in Accela.
- B. Ensure PW is notified of projects, as required, and document notification.

- C. Ensure bonds are monitored and processed appropriately.
- D. Develop, implement, and document training to ensure all appropriate staff are educated on the policy/procedures related to TCOs.

***Management Response:***

- A. **Management Concurs.** A TCO/TCC Policy and Procedures has been finalized by BDRS with an effective date of July 10, 2024. DRS has also finalized an SOP associated with construction phase documentation in Accela.
- B. **Management Concurs.** Under our current process, PW participates in the review of all RUPs including a “recommendation of approval” prior to DRS issuing the permit. Every step is documented in Accela. There was a period of time, including this permit record, that PW did not review all RUPs in an effort to eliminate redundant reviews with DRS.
- C. **Management Concurs.** Regulatory Services within BDRS has an SOP for all bonded RUPs inclusive of monitoring of projects.
- D. **Management Concurs.** The TCO/TCC Policy and Procedures have been distributed to all BDRS managers and supervisors as of this date, and review/training is scheduled for our next BDRS Management Meeting on July 17, 2024.



# DIVISION OF INSPECTOR GENERAL

KEN BURKE, CPA  
CLERK OF THE CIRCUIT COURT  
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