



T R A S K
D A I G N E A U L T
— LLP —
A T T O R N E Y S

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MEMORANDUM

DATE: August 25, 2016

TO: Mayor Chris Alahouzos
Vice Mayor Townsend Tarapani
Commissioner David Banther
Commissioner Rea Sieber
Commissioner Susan Slattery

CC: Mark LeCouris, City Manager
Robert Kochen, Chief of Police

FROM: Jay Daigneault, Esq.

RE: *Department of Business and Professional Regulation v. Anthony Mastracchio,*
Case No. 2016-003920

Dear Mayor, Vice Mayor, and Commissioners:

As I advised you on July 25 that it would do, the Florida Building Code Administrators and Inspectors Board held an informal hearing today in Fernandina Beach, Florida to consider discipline upon Anthony Mastracchio relative to this proceeding. I have just returned from that hearing, and am pleased to report that the Board imposed six months of non-reporting probation, two hours of continuing education, and administrative costs of \$261.60. This discipline is a downward departure from the guidelines contained in the applicable regulations, and is less severe than the discipline recommended by the prosecuting attorney from DBPR. In sum, the Board carefully considered the facts and recognized the unique circumstances applicable to this case. The Board's ruling will shortly be reduced to writing and formalized, and that will end my efforts on the matter. The case behind him, Anthony will now turn his attention to testing for licensure as a Standard Building Code Administrator.

As you know, there has been significant media coverage of this matter. I wish to re-emphasize to you that the City at all times has had qualified, licensed personnel, both on staff and contracted, to review building permits both during Anthony's absence and during the pendency of this proceeding. The purpose of licensing persons involved in building code administration and inspection is to prevent physical and economic injury to the citizens of Florida. Please be assured

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that the City has in the past and will continue to be faithful to these goals in its administration of the building code and its management of those charged with enforcing it.

Further, I have received multiple inquiries from the press regarding the reason that the City has provided legal representation to Anthony throughout this proceeding. Please be advised that Section 468.619, Florida Statutes, sets forth the "Building code enforcement officials' bill of rights," which conveys certain rights to those charged with enforcing the building code. Relative to this case, subsection (5) of the statute requires an employing governmental entity to provide an employee a defense in any action brought by the DBPR or the Florida Building Code Administrators and Inspectors Board so long as the employee is acting within the scope of his or her employment. In other words, the City was legally obligated to provide Anthony with a legal defense in this case.

I trust that this correspondence brings you up to date. As always, please do not hesitate to contact me with any questions you have regarding this matter.

/s/ Jay Daigneault, Esq.
City Attorney