

# OPEN AND EXPIRED PERMITS

Lee A. Weintraub, Esq.  
Becker

One East Broward Boulevard  
Suite 1800

Fort Lauderdale, FL 33301

Telephone: (954) 985-4147

Facsimile: (954) 985-4176

Email: [lweintraub@beckerlawyers.com](mailto:lweintraub@beckerlawyers.com)



# THE CURRENT SITUATION

- Applies to open or expired permits for which final inspections may not have been passed or other permit conditions satisfied
- In many cases, contractor is nowhere to be found
- Not title defect, but creates potential exposure to buyer
- Difficulty in finding replacement contractor willing to close permit



# THE OPEN AND EXPIRED PERMIT BILL

- Section 553.79, Fla. Stats., has new subsections 15 and 16
- Either original or subsequent property owner may close permit by retaining original contractor or hiring appropriately licensed replacement contractor to satisfy permit conditions and obtain missing inspections
- Replacement contractor is not liable for defects in work performed by original contractor



# THE OPEN AND EXPIRED PERMIT BILL

- Property owner may close permit by assuming role of owner-builder
- Need not occupy property for at least one year after completion of project before selling it



# THE OPEN AND EXPIRED PERMIT BILL

- If work performed under expired permit has been substantially completed, permit may be closed without new permit and work may be done pursuant to building code in effect when building department received permit application



# THE OPEN AND EXPIRED PERMIT BILL

- If work has not been substantially completed, new permit is necessary, requiring compliance with current building code
- Contractor and building department may agree on alternative material, design or method of construction



# THE OPEN AND EXPIRED PERMIT BILL

- Building department may close building permit six years after permit was issued, even in absence of final inspection, if building department determines no apparent safety hazards exist



# THE OPEN AND EXPIRED PERMIT BILL

- Building department may not penalize arm's-length bona fide purchaser merely because permit was not closed
- Building department will retain all rights against original property owner and contractor
- Not able to deny building permit to contractor solely because contractor is listed on other permits that were not closed





# THE OPEN AND EXPIRED PERMIT BILL

- Building department is authorized to send written notice of permit expiration, by email or U.S. Mail, to property owner and contractor at least thirty days before permit is set to expire



# THE OPEN AND EXPIRED PERMIT BILL

- Building department may only charge single search fee, in amount commensurate with research and time costs, for identifying building permits for each unit or subunit assigned to particular tax parcel identification number



# THE OPEN AND EXPIRED PERMIT BILL

- Chapter 558 tolls the statute of limitations while parties comply with various procedures
- Procedures do not toll statute of repose period

