

The Virgin Islands Consortium

Non-Profits Denied Waiver Of Permit Fees, DPNR Acting Commissioner Says He's Following The Law

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For as far back as non-profit organizations operating in the territory could remember, their tax-exempt status have afforded them the benefit of having building, electrical and plumbing fees waived by the Department of Planning and Natural Resources (DPNR) when the organizations have applied for permits to perform work that falls within these categories.

Now those fees -- sometimes amounting to thousands of dollars -- are being assessed to non-profits, and all permit applicants, for that matter, with the arrival of the new DPNR Acting Commissioner, Jean-Pierre Oriol.

But Oriol says he's not out to be the bad guy; he's just following the law.

The *VI Consortium* was contacted by a local non-profit organization, which requested anonymity because of the sensitivity of the matter, and was informed that the organization's recent fee waiver request submitted to DPNR to construct a second floor to its existing facility had been denied.

"We applied for the permit and [DPNR workers] said it is important that we write a letter to the commissioner because there is a law that states that non-profit organizations are able to have permit fees waived or discounted," the non-profit representative explained.

The man said he received a call back when the permit was completed, informing him that "everything went through, but the waiver for the permit fees was denied."

He then called DPNR to inquire of the department's rejection of his organization's request.

"They finally said that they had a new commissioner," and that "there's no reason that this should be denied. They said that for the last few years, for as long as they have worked there, they know that all of the non-profit organizations have had these permit fees waived and that I should call the commissioner because there is no reason for him to be doing that," the man explained.

He said he proceeded to call Acting Commissioner Oriol's office and was told by one of the staffers there that the Acting Commissioner had reviewed the law and found that it was "unclear about how non-profit status works with regards to the permit fee waivers."

However, Acting Commissioner Oriol told *VI Consortium* in a telephone interview Tuesday he was clear on what Virgin Islands law states and confirmed that permit fees, across the board, would no longer be waived under his watch, citing [Title 29 Section 296 of the Virgin Islands Code](#).

"Title 29 of the Virgin Islands Code Section 296 is what provides the authority to the department to assess the fees for building, electrical and plumbing permits. And, in that, there is no provision that grants the commissioner authority to waive fees," Oriol explained.

He continued: "So, I would say that when persons were previously receiving waivers, I question what authority was granted to the commissioner to waive those fees. Until I see something different, I am just abiding by what the Code says."

With that, Oriol pointed out that local law does provide for fee waivers exclusively for the construction or demolition of low-income housing where only territorial funds are used. He referenced subsection (i) of Section 296, which states: "*The fees prescribed in this section and in the buildings codes adopted by reference in section 311 of this chapter do not apply to permits for construction or demolition of public housing under the jurisdiction of the Virgin Islands Housing Authority or Virgin Islands Housing Finance Authority or any successor agency where only territorial funds are used.*"

"Unfortunately, I understand these are difficult economic times. These are also difficult economic times for the Government of the Virgin Islands. If you say that some \$100,000

of permit fees now have been asked to be paid by these non-profit groups, that would be \$100,000 of fees necessary because there are actual people who have to review those plans, who have to do the inspection and that's revenue that the government would not be collecting in an economic time, in which I believed the governor outlined very carefully in his State of the Territory the crisis that we are in," Oriol said.

To date, Oriol said he has signed about 10-12 fee-waiver rejection letters. The contents of one of those letters can be found directly below (the recipient's name has been omitted in order to protect the identity of the organization. It is not the letter that was issued to the non-profit organization *VI Consortium* spoke with for this story):

Dear XXX:

The Department of Planning and Natural Resources is in receipt of your letter dated January 21, 2015.

The Department is required to assess fees for all development requiring building, electrical, and plumbing permits pursuant to 29 VIC 296. 29 VIC 296 does not grant any authority to the Commissioner to waive fees, in whole or in part. Therefore, your request for waiver of fees is denied.

I hope this determination does not deter you from development.

Sincerely,

Jean-Pierre L. Oriol

Acting Commissioner

Oriol further pointed out that an organization's tax-exempt status has nothing to do with fees required to obtain local building, electrical or plumbing permits.

"The way I would put it is that you're requesting something of the department, so if there is a request, you kind of have a fifty-fifty chance of it," he said. "If it were something that was mandated, then every [fee waiver request] letter would say, 'Dear Commissioner Oriol, pursuant to [the Virgin Islands Code], we are requesting a waiver of our building permit fees because we meet the criteria of that'."

The non-profit representative said his organization was assessed a \$2,600 fee. He pointed out that although he was advised by DPNR staffers -- who were also upset that the fees were being assessed -- not to pay it until he could speak directly with the commissioner, or "until something changes," his organization opted to pay the fee in mid-February.

"I didn't have that privilege because we needed to move forward with the work," he said. "We're passed it, we've paid it and we've moved on, but this is for the future for other non-profit organizations, maybe it could help them."

Oriol said whether or not he agreed with his predecessors' decisions to waive lawfully required permit fees "is neither here nor there," but he stressed that he is "abiding by what the Code says and I believe that the governor, especially through his State of the

Territory, indicated that everybody is going to have to play their part and do what is necessary in order for us to come out of these tough economic times."

As such, he said he doesn't believe "departments who are now getting very reduced budgets have the ability to let the revenues that are actually supposed to come into the department walk out the door." He says he suspects that his stance on collecting all applicable permit fees would bring in "tens of thousands of dollars" into DPNR's coffers.

The non-profit organization *VI Consortium* spoke with said the reason it shared its story with the media was simply to gain an understanding of the change in the permit waiver process and "to shed some light on it, and to help some other non-profits and possibly ourselves in the future."

Feature Image: DPNR Acting Commissioner Jean-Pierre Oriol

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