

MANUFACTURED BUILDINGS PROGRAM, POC AGENDA ITEM, 03/20/06

Issue: The Petitioner is requesting clarification regarding ch 633 and ch 553, Part I, FS and Rule 9B-1 and Rule 69A-60, FAC, firesafety plan review for manufactured buildings.

Question: Can an approved manufacturer under the Manufactured Buildings Program, (as provided for in ch 553, Part I and Rule 9B-1 FAC), use a ch. 633 qualified firesafety plan reviewer to avoid subsequent review by the local Fire Marshall, as provided for in s. 69A-60.006 FAC?

Background:

- (1) Currently, the Manufactured Buildings Program provides for a state approval process for plan review by an approved Third Party Agency for all portions of the construction plans of a manufactured building built to the FBC, except for the firesafety portion, which is deferred to the local government.
- (2) The below email from Commissioner Jim Goodloe, State Fire Marshall, forms the basis of (1):

Staff Recommendation:

Given the intent of the language in Rule 69A-60.006 FAC, (below), and the fact that those similar provisions remain), it is staff recommendation that Third Party Agencies only [not manufacturers] be allowed to hire a ch. 633 qualified firesafety inspector for the plan review of this portion of a manufactured building's plans review. However, if the State Fire Marshall chooses to change their rule to parallel the language in ch 633 FS, then the firesafety plan review should appropriately continue as is, i.e., in the hands of the local government.



"Jim Goodloe"
<GoodloeJ@doi.state.f
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09/16/200208:03 AM

To: <Michael.Ashworth@dca.state.fl.us>
cc: <Ila.Jones@dca.state.fl.us>, "Gabe Mazzeo"
<MazzeoG@doi.state.fl.us>
Subject: RE: Question on Firesafety plans review

-----Original Message-----

From: Michael.Ashworth@dca.state.fl.us
[mailto:Michael.Ashworth@dca.state.fl.us]
Sent: Friday, September 13, 2002 9:10 AM
To: Jim Goodloe
Cc: Ila.Jones@dca.state.fl.us
Subject: Question on Firesafety plans review

Jim,

I hope we're not being a pest with our seemingly endless line of questions, but neither Ila nor I can find where [in chapter 633 FS] does the municipal firesafety inspector have the authority to do plans review, i.e., we can see the authority for state owned buildings, but not local government buildings.

Thanks,
Michael

Michael, I am glad to have the opportunity to share our position on this issue. After review of this position, please let me know if you would like to discuss further.

The requirement for plans review by "the appropriate fire inspector certified pursuant to s. 633.081" is listed in your chapter 553.79(2). There is a distinct connection between this chapter and chapter 633. Significant excerpts from both are listed below.

The 553.79 language list two criteria: appropriate firesafety inspector AND certified pursuant to s. 633.081

S. 553.79 Permits; Applications; Issuance; Inspections.

(1)

(2) reads in part In addition, an enforcing agency may not issue any permit for construction, erection, alteration, modification, repair, or demolition of any building until the appropriate firesafety inspector certified pursuant to s. 633.081 has reviewed the plans and specifications required by the Florida Building Code, or local amendment thereto, for such proposal and found that the plans comply with the Florida Fire Prevention Code and the Life Safety Code.

Section 633.081, Florida Statutes, states: "(1) Each county, municipality, and special district that has fire safety enforcement responsibilities shall employ or contract with a firesafety inspector. The firesafety inspector must conduct all firesafety inspections that are required_ by law. The governing "body of a county municipality, or special district that has fire safety enforcement responsibilities may provide a schedule of fees to pay only the costs of inspections conducted pursuant to this subsection and related administrative expenses. Two or more counties, municipalities, or special districts that have firesafety enforcement responsibilities may jointly employ or contract with a firesafety inspector. (2) Every firesafety inspection conducted pursuant to state or local firesafety requirements shall be by a person certified as having met the inspection training requirements set by the State Fire Marshal."

Section 633.121, Florida Statutes, states:

633.121 Persons authorized to enforce laws and rules of State Fire Marshal.--The chiefs of county, municipal, and special-district fire departments; other fire department personnel designated by their respective chiefs; and personnel designated by local governments having no organized fire departments are authorized to enforce this law and all rules prescribed by the State Fire Marshal within their respective jurisdictions. Such personnel acting under the authority of this section shall be deemed to be agents of their respective jurisdictions, not agents of the State Fire Marshal.

First, I will address the appropriate fire safety inspector.

Section 633.081, Florida Statutes, requires that every firesafety inspection must be conducted by a firesafety inspector certified under Section 633.081, Florida Statutes. When read in conjunction with Section 553.79(2), Florida Statutes, it becomes clear that the "appropriate firesafety inspector" means the firesafety inspector certified under Section 633.081, Florida Statutes, and employed by or under contract with the appropriate county, municipality, or special district having firesafety responsibilities.

Since the responsibilities are clear under Section 553.79(2), Florida Statutes, there was no need to reiterate them in Chapter 633, Florida Statutes. Chapter 553, Florida Statutes, also addresses other areas of firesafety, such as the procedures in the event of a conflict between the firesafety code and the building code.

In addition, our chapter in 633.121, establishes who has the authority to enforce chapter 633 and the rules of the State Fire Marshal. The Florida Fire Prevention Code is a rule of the SFM. This section states who can enforce the SFM laws and rules with an inference that there exist within the jurisdiction "fire safety responsibilities" or a fire department (chief's of county, municipal and special districts). The section then goes on to state that when there is no fire department, that persons designated by local government shall have the authority to enforce this law and its associated rules.

The intent of those sections is to grant enforcement authority to the fire departments of local governments and when there is no fire department to persons designated by the local government. In either regard, the enforcement is at the local county or municipal level.

In conclusion, Section 553.79 clearly requires a plans review by the appropriate fire safety inspector while Sections 633.081 and 633.121 clearly provide authority for enforcement to the local government. Therefore, the appropriate fire safety inspector is that one who is employed by or under contract by the local government.

69A-60.006 Manufactured and Prototype Buildings.

(1) Definitions. For purposes of this section, the following definitions apply:

(a) "Manufacture" means the process of making, modifying, fabricating, constructing, forming or assembling or reassembling '...../ a product from raw, unfinished, semi finished, or finished materials.

(b) "Manufactured building" means a closed structure, building, assembly, or system of subassemblies, which may include structural, electrical, plumbing, heating, ventilating, or other service systems manufactured for installation or erection, with or without other specified components, as a finished building or as part of a finished building, which shall include but not be limited to residential, commercial, institutional, storage, and industrial structures. For purposes of this section, "manufactured building" includes "prototype building" as defined in this subsection.

(c) "Manufacturer" means any person who, or entity which, has been certified by the Department of Community Affairs to produce, modify, or produce and modify, a manufactured building for placement in, or which has been ultimately placed in, the State of Florida.

(d) "Prototype building" means a building constructed in accordance with architectural or engineering plans intended for replication on various sites and which will be updated to comply with the Florida Building Code and applicable laws relating to firesafety, health and sanitation, casualty safety, and requirements for persons with disabilities which are in effect at the time a construction contract is to be awarded.

(2) With respect to inspections of manufactured buildings, each manufacturer of manufactured buildings is permitted to, at its option:

(a) Contract with any person currently certified as a firesafety inspector under Section 633.081, F.S., from a list to be provided by the Department; or

(b) Provide for one or more of its employees to become certified under Chapter 69A-39, F.A.C.

(3) Each manufacturer shall notify the Department of the option that it has chosen prior to having any firesafety inspection performed on a manufactured building.

(4)(a) The Manufacturer's Modular Data Plate shall state that the manufactured building is, or is not, in compliance with Chapter 633, F.S., and the rules of the Department.

(b) If the Manufacturer's Modular Data Plate indicates that the building is in compliance with Chapter 633, F.S., and the rules of the Department, the local fire official shall recognize and approve such manufactured building. Nothing in this section prevents or prohibits a fire official from conducting performance tests of life safety systems.

END OF REPORT