



January 16, 2020

RE: Building Official's Response to Petition for Binding Interpretation #179

My letters to the petitioner that were included in the submittal documentation are authentic. The petitioner has identified four specific questions to which I offer the following as my official response/position. The current occupancy classification of the property is R-2 and no change of use or occupancy is required if utilized for non-transient rentals.

- 1) Does utilizing one unit within a thirteen unit existing condominium building currently classified as R-2 per the certificate of occupancy (attached) as a vacation rental by owner, either transient or non-transient per the FBC, as outlined in Florida Statute Chapter 509 change the use of the unit to "Boarding house(s) transient with 10 or fewer occupants" pursuant to the Florida Building Code Section 310.5, 6th edition?

Response:

Per sections (1001.2.1 and 1001.2.2.1 FBC Existing Building Code), a change of use or partial change of occupancy is triggered if the utilization of one unit in a 13-unit apartment building (R-2), is changed to accommodate a *transient* occupancy. Regarding determining the appropriate use and occupancy classifications (section 301.2 FBC, 6th Edition) states "Where a structure is proposed for a purpose that is not specifically provided in this code, *such structure shall be classified in the group that the occupancy most nearly resembles*, according to the fire safety and relative hazard involved." I do not find this to be a Vacation Timeshare Property (per FBC 310.4). The proposed change to a transient occupancy most nearly resembles a "Boarding houses (transient) with 10 or fewer occupants", (per section 310.5 FBC 6th Edition). The change also triggers the requirements stated in Section 1012 of the FBC Existing Building Code addressing: fire separations, installation of sprinkler systems, and means of egress.

- 2) Does utilizing one unit within a thirteen unit existing condominium building currently classified as R-2 per the certificate of occupancy (attached) as a vacation rental by owner, either transient or non-transient per the FBC, as outlined in Florida Statute Chapter 509 trigger the requirement to legally change the use and occupancy classification of this dwelling unit from R-2 to R-3 Use and Occupancy Classification per the Florida Building Code, 6th edition?

Response:

As stated in the answer to question one, the change of use is triggered in chapter 10 of the FBC Existing Building Code and the new Use or Occupancy classification is specified in chapter 3 of the Florida Building Code.

- 3) Does utilizing one unit within a thirteen unit existing condominium building currently classified as R-2 per the certificate of occupancy (attached) as a vacation rental by owner, either transient or non-transient per the FBC, as outlined in Florida Statute Chapter 509 trigger the requirement to legally change the use and occupancy classification of this dwelling unit from R-2 to R-3 Use and Occupancy Classification per the Florida Building Code - Existing Building Code, 6th edition?

Response:

Per section (1001.2.2.1 FBC Existing Building Code), this change would be considered a "Partial change of occupancy," thus triggering the requirements of section (1012 of the FBC Existing Building Code).

- 4) Does the Florida Building Code stipulate the use and occupancy of a thirteen (13) R-2 with less than fifty (50%) of the units utilized as Vacation Rental by Owner (transient or non-transient) change to R-3?

Response:

I do not understand the question and thus am unable to attempt a response.

On page two of the petitioner's submittal under the sub-heading "Response to Building Conditions Dispute," an erroneous statement was made regarding the elimination of the local appeals board. This statement is incorrect, since the establishment or elimination of all municipal boards is at the sole discretion of the City Commission and I vehemently deny making this statement.

Regards,



LePauleon H. Thomas, CBO, CFM
Building Code Administrator

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