

Issue: DS2016-092. The Petitioner, Universal Engineering Sciences, Inc.

Petitioner in DS2016-092 seeks clarification of the following question:

Question: Can a building department or building official require a Special Inspector's Duly Authorized Representative, to be licensed or certified under Part XII of Chapter 468 which is in excess of the requirements of the Duly Authorized Representative as described in Section 553.79(5).

Background:

Situation:

Petitioner's firm, Universal Engineering Sciences, Inc., provides among other services, threshold inspections under F.S. 553.79(5). This statute stipulates the Special Inspector shall be licensed by the State of Florida under chapter 471 (*Engineer*)* or 481 (*Architect*)*. Statute 553.79(5) also states the requirements of the Special Inspector's duly authorized representative. Universal Engineering Sciences has provided these services since the inception of the statute in the 1980's for approximately 10,000 structures in approximately 90% of the state's municipalities.

** Italics added by staff.*

Recently some building offices have required that the duly authorized representative of the Special Inspector be qualified as a building inspector or a Special Inspector under Part XII of chapter 468, Florida Statutes or be certified as a Special Inspector.

Petitioner feels the building departments are miss-reading Section 110.8.6 of the Florida Building Code as below:

FBC-Building

Section 110.8.6: The building department may allow a special inspector to conduct the minimum structural inspection of threshold buildings required by this code, Section 553.73, Florida Statutes, without duplicative inspection by the building department. The building official is responsible for ensuring that any person conducting inspections is qualified as a building inspector under Part XII of Chapter 468, Florida Statutes, or certified as a special inspector under Chapter 471 or 481, Florida Statutes. Inspections of threshold buildings required by Section 553.79(5), Florida Statutes are in addition to the minimum inspections required by this code.

Petitioner feels the intent of this paragraph is for the occasion where the Building Department does not wish to or cannot perform their required structural inspections and in that instance ***if*** the Special Inspector's Duly Authorized representative is also qualified as a building inspector under Part XII of Chapter 468, then the building department does not have to provide the duplicative inspection.

Petitioner provided the requirements for the Special Inspector's Duly Authorized representative as follows:

Chapter 61G15-35.004(2) F.A.C. Special Inspectors utilizing Authorized Representatives shall ensure the Authorized Representative is qualified by education, licensure, or training to perform the duties assigned by the Special Inspector. Effective July 1, 2016, those qualifications shall include:

(e) Four years of Threshold Building Inspection training on non-Threshold Buildings performed under the supervision of a Special Inspector who was in responsible charge of the trainee's work.

Note, the Special Inspector's Duly Authorized Representative is **NOT REQUIRED** (emphasis by petitioner) to be qualified as a Building Inspector.

Petitioner does not believe that the department can require the Special Inspector's Duly Authorized Representative to have certification above and beyond that which is required under Section 553.79(5).

Petitioner's firm has recently provided a proposal for threshold inspections services for a 22-story residential building. The Special Inspection Plan prepared by the engineer of record requires the Special Inspector and His Duly Authorized Representative to meet the requirement of Section 553.79(5).

Petitioner feel that these excessive requirements are placing an undue burden on their company, staff and clients.

Florida Statutes

553.79 Permits; applications; issuance; inspections.—

(5)(a) The enforcing agency shall require a special inspector to perform structural inspections on a threshold building pursuant to a structural inspection plan prepared by the engineer or architect of record. The structural inspection plan must be submitted to and approved by the enforcing agency before the issuance of a building permit for the construction of a threshold building. The purpose of the structural inspection plan is to provide specific inspection procedures and schedules so that the building can be adequately inspected for compliance with the permitted documents. The special inspector may not serve as a surrogate in carrying out the responsibilities of the building official, the architect, or the engineer of record. The contractor's contractual or statutory obligations are not relieved by any action of the special inspector. The special inspector shall determine that a professional engineer who specializes in shoring design has inspected the shoring and reshoring for conformance with the shoring and reshoring plans submitted to the enforcing agency. A fee simple title owner of a building, which does not meet the minimum size, height, occupancy, occupancy classification, or number-of-stories criteria which would result in classification as a threshold building

under s. 553.71(12), may designate such building as a threshold building, subject to more than the minimum number of inspections required by the Florida Building Code.

(b) The fee owner of a threshold building shall select and pay all costs of employing a special inspector, but the special inspector shall be responsible to the enforcement agency. The inspector shall be a person certified, licensed, or registered under chapter 471 as an engineer or under chapter 481 as an architect.

(c) The architect or engineer of record may act as the special inspector provided she or he is on the Board of Professional Engineers' or the Board of Architecture and Interior Design's list of persons qualified to be special inspectors. School boards may utilize employees as special inspectors provided such employees are on one of the professional licensing board's list of persons qualified to be special inspectors.

(d) The licensed architect or registered engineer serving as the special inspector shall be permitted to send her or his duly authorized representative to the job site to perform the necessary inspections provided all required written reports are prepared by and bear the seal of the special inspector and are submitted to the enforcement agency.

Staff Analysis: Based on the above facts and circumstances, staff provides the following answers to proponent's questions:

Question:

Can a building department or building official require a Special Inspector's Duly Authorized Representative, to be licensed or certified under Part XII of Chapter 468 which is in excess of the requirements of the Duly Authorized Representative as described in Section 553.79(5).

Answer: Since the proposed level of work is limited to those inspections that are required by Section 553.79(5) Florida Statutes and does not include the inspection of the minimum structural requirements of the FBC, the provisions of Section 110.8.6 of the 5th Edition (2014) Florida Building Code, Building do not apply to the project in question.