



## FLORIDA BUILDING CODE BINDING INTERPRETATION

Date: November 26, 2012

Report # 91

Petitioner: Beachlen Development Company, LLC

Year: 2007

Code: Building

Section: 3109

Question: In accordance with the 2007 Edition, Florida Building Code – Building, Section 3109, as it applies to a building that is being constructed forward of the Coastal Construction Control Line (CCCL), please answer the following questions:

1. Is the lowest horizontal structural member supporting the building, other than pilings, required to meet the minimum requirements of the Flood Insurance Rate Map (FIRM) as well as the elevation required by the Florida Department of Environmental Protection (DEP) Coastal Construction Control Line (CCCL) elevation, that requirement being the higher of the two, and each of the two agency elevation requirements are independent of each other?
2. Is the area below the lowest horizontal structural member permitted to be enclosed?
3. If the answer to #2 above is yes, may the area be used as habitable (living) space and/or enclosed by walls which include media rooms, bars, bathrooms and other areas potentially with chairs, couches, seats and equipment?

Answer: 1. Yes, Florida Building Code R323.2 refers to Section 3109 of Florida Building Code, Building for residential structures seaward of the Coastal Construction Control Line. This structure is within the CCCL, both the building department and the petitioner appear to agree on this, so the DEP requirements would be required to be enforced. It should be noted that buildings located seaward of the CCCL that are also located in special flood hazard areas shown on FIRMs are required to meet the more

restrictive requirements of Section 3109 and local floodplain management requirements. At the time the building in question was permitted, under the 2007 FBC, the floodplain management requirements were in the County's local regulation.

2. Yes, FBC Section 3109.3 requires habitable spaces as defined in 3109.2 to be elevated at or above an elevation which places the lowest horizontal structural member above the 100 year storm elevation as determined by Florida Department of Environmental Protection. The area below the lowest horizontal structural member is permitted per FBC 3109.4.2(9) to have break-away or frangible walls, which would not preclude enclosing this space with the same.

3. No, areas below the lowest horizontal structural member cannot be considered habitable spaces and are subject to storm surge from a 100 year storm event. FBC 3109.3 addresses habitable structures, the entire house is a habitable structure. The Florida building code, section 202 defines Habitable Space, this definition does not specifically address media rooms, media lounges or exercise rooms, it does address living space and the proposed rooms are considered living space because their uses are more closely related to living space than to any other use. Note in reference to 44CFR Section 60.3(e)(1) and (c)(5), these regulations, when applicable, require enclosed areas below the lowest floor (lowest horizontal member in V zones) to be limited to utilization solely for parking of vehicles, building access, or storage. No other uses are permitted. This restriction applies in all SFHAs.

Comment: The applicant is correct on page 3 of their filing, the Florida Building Code does not delineate or specify which portions of habitable structures may be used for what purpose, therefore the entire structure is considered habitable and the area below is a part of the structure, albeit, frangible. By definition, a Habitable Structure is designed primarily for human occupancy and all areas are potential locations for shelter from storms. Areas below the lowest horizontal structural member are not to be considered as habitable spaces and are subject to storm surge from a 100 year storm event. Therefore, this area cannot be designed primarily for human occupancy and is not a safe haven for shelter from storms. Further, FBC section 3109.4.2 states that no substantial walls or partitions shall be constructed below the level of first finished floor of habitable structures with limited exceptions to stairways for access, properly designed shearwalls, fiber or wire mesh sand screens, light open lattice, elevator shafts, small mechanical and electrical rooms and breakaway walls; all of which are either necessary for access to the structure and/or designed to break away without causing structural damage to the primary structure. Finished areas within break away walls that contain furniture, equipment,

toilet rooms and appliances are not consistent with the intent of the code which is to keep this area open and free of obstructions that could cause damage to the primary structure or other properties in a storm surge event.

Additional Comment: The previous DEC statement was based on historical interpretation of the CCCL program that allowed some development below the CCCL and above the BFE. In that particular area, there is a large Boardwalk on the beach and a lot of little shops that people have frequented for years. Regarding the building in question for that DEC statement, all furniture, counters, equipment etc. had to be on wheels or small enough to be portable. All permanent fixtures, kitchen etc. had to be elevated. The code commentary speaks to this same situation but is limited to large multifamily, commercial and public structures.