



**PETITION FOR DECLARATORY STATEMENT  
BEFORE THE FLORIDA BUILDING COMMISSION**

Mo Madani  
Office of Codes and Standards  
Department of Business and Professional Regulation  
2601 Blair Stone Road  
Tallahassee, Florida 32399

**DS 2018-012**

**Petitioner:**  
Robert Czyszczon  
The Plaza Beach Motel, Inc.  
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**Petitioner's Attorney:**  
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**Re: Petition for Declaratory Statement to Florida Building Commission on Florida Statute § 553.73(10)(i) and Florida Building Code § 102.2(h)**

**Background:**

Petitioner owns a chickee in connection with its resort and hotel on St. Pete Beach. Petitioner constructed the chickee using the exemption from the Florida Building Code, which is found in Florida Statute § 553.73(10)(i) and Florida Building Code § 102.2(h). These provisions define a chickee, for purposes of the exemption, as follows:

Chickees constructed by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida. As used in this paragraph, the term "chickee" means an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features.

Petitioner's chickee (i) is built by the Miccosukee Tribe of Indians of Florida or the Seminole Tribe of Florida; (ii) is an open-sided wooden hut; (iii) has a thatched roof of palm or palmetto; (iv) and does not otherwise incorporate electrical, plumbing, or non-wood features into its structure. The chickee also currently has various wood tables and chairs underneath it. Petitioner uses these wood items in operating the chickee as a small bar for the resort and hotel, selling beer, wine, soda, pre-packaged ice cream, and t-shirts. Petitioner does not use or have any electrical or plumbing utilities or other similar features within or connected to the chickee.

Now, Petitioner would like to remove the wood items and place various non-wood items underneath the chickee. Specifically, Petitioner would like to place aluminum or plastic chairs and tables, and a tiled, counter-top height bar underneath the chickee. These items would merely sit underneath the chickee, and would not alter the wooden structure of the chickee in any way.

However, the statute and code are unclear (i) as to what it means to “incorporate” a nonwood feature into a chickee, and (ii) whether the intended use of the chickee is regulated for purposes of the exemption. Depending upon the construction and application of these statutory and code provisions, Petitioner may have to alter or change its plans to comply with the chickee exemption in the Florida Building Code.

As a result, uncertainties remain as to whether the issues described above could prevent Petitioner’s chickee from maintaining its exempt status under the Florida Building Code. Therefore, Petitioner seeks clarification of these issues relating to the chickee exemption under Florida Statute § 553.73(10)(i) and Florida Building Code § 102.2(h) as a “substantially affected person.” Petitioner submits the following questions in requesting a declaratory statement:

**Questions:**

- 1) To be exempt under the Florida Building Code, a chickee must not “incorporate any . . . nonwood features.” Would merely placing non-wood items underneath a chickee – including aluminum or plastic chairs and tables, a tiled countertop-height bar, and food/beverages – mean that Petitioner is incorporating nonwood features into its chickee so as to lose its exemption under Florida Statute § 553.73(10)(i) and Florida Building Code § 102.2(h)?
- 2) Does the Florida Building Commission consider the use of a chickee for purposes of determining whether a chickee may be exempt under Florida Statute § 553.73(10)(i) and Florida Building Code § 102.2(h)?

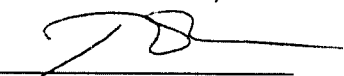
**Summary:**

Answer to Question 1: Petitioner respectfully believes that the answer to Question 1 is “No.” Incorporating nonwood features into a chickee only refers to the makeup of the chickee’s structure. Indeed, when describing the various exemptions to the Florida Building Code, the language refers to “the following buildings, structures, and facilities.” Nothing in the language of the statute or the Florida Building Code purports to regulate what may or may not be brought inside and placed underneath the chickee. Such items would not makeup or constitute part of the structure itself.

Answer to Question 2: Petitioner respectfully believes that the answer to Question 2 is “No.” Nothing in the language of the exemption purports to regulate the use of a chickee. The exemption only specifies how a chickee is to be built, i.e. a wooden hut with a thatched roof of palm or palmetto and no other nonwood features. Accordingly, Petitioner believes that issues relating to the use of a chickee is not a matter within the jurisdiction of the Florida Building Commission for purposes of the exemption.

Submitted this 28 day of February, 2018

The Plaza Beach Motel, Inc.

  
Robert Czyszczonek, as President/CEO