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Speaker



KENNETH J. PLANTE
COORDINATOR
Room 680, Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400
Telephone (850) 488-9110
Fax (850) 922-6934
www.japc.state.fl.us
joint.admin.procedures@leg.state.fl.us

THE FLORIDA LEGISLATURE
**JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE**

March 14, 2014

Jim Richmond
Executive Director
Florida Building Commission
19407 North Monroe Street
Tallahassee, Florida 32399

Re: Section 11, Chapter 2013-213, Laws of Florida

Dear Mr. Richmond:

Enclosed please find a copy of the explanation provided by the Monroe County Growth Management Division (the "Division") in response to my inquiry regarding the Division's interpretation of s. 11, Chapter 2013-213, Laws of Florida. It would be appreciated if you would review the letter and advise the Committee whether the Division's interpretation of the provisions of s. 11, Chapter 2013-1213, Laws of Florida, is consistent with that of the Florida Building Commission and, if not, please advise the Committee of the Commission's understanding of the applicability of the law and how it intends to reconcile any differences of opinion.

Please feel free to call me if you care to discuss the matter. I look forward to your response.

Sincerely,

A handwritten signature in blue ink that reads "Kenneth J. Plante".

Kenneth J. Plante

KJP:tbm/encl.

County of Monroe
Growth Management Division

Office of the Director
2798 Overseas Highway
Suite #400
Marathon, FL 33050
Voice: (305) 289-2517
Fax: (305) 289-2854



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We strive to be caring, professional, and fair.

April 4, 2014

Kenneth J. Plante
Coordinator
Joint Administrative Procedures Committee
680 Pepper Building
111 W. Madison Street
Tallahassee, Florida 32399-1400

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JOINT ADMINISTRATIVE
PROCEDURES COMMITTEE

Dear Mr. Plante:

I have conferred with Monroe County Building Official, Jerome Smith and Assistant County Attorney, Steve Williams to develop this response letter. As you know, the Building Official is the interpreter of the Building Code. We have reviewed your letter and do not believe Monroe County's interpretation of the law is inconsistent with Section 11, Chapter 2013-213, Laws of Florida. Monroe County must also comply with the Florida Building Code, pursuant to §553.73, Florida Statutes. The county must comply with the extension and the Building Code, specifically Section 105.4.1.1. I will attempt to answer each of your questions, although the responses to your first two inquiries do answer subsequent questions as well.

Question 1: "Please explain under what statutory authority the Division can delay the effective date of the permit extension as it applies to any individual permit."

Response: The law provides explicitly that the permit is extended and renewed for a period of three years after its previously scheduled expiration date." (emphasis added) The "trigger" for the extension of the permit is the existing expiration date. The "trigger" is nowhere stated to be July 1, 2013. The law that passed specifically made permits whose expiration dates fall between 1/1/12 through 1/1/16 eligible.

Question 2: "Please explain the statutory authority under which the division can terminate a permit prior to the extension date granted by the Legislature if there is no continuous construction."

Response: Section 105.4.1.1 of the Florida Building Code, as adopted by Section 553.73, Florida Statutes, states: "If work has commenced and the permit is revoked,

becomes null and void, or expires because of lack of progress or abandonment, a new permit covering the proposed construction shall be obtained before proceeding with the work.”

Your third and fourth queries call for responses that are identical to the first and second queries, respectively. In the briefest of summaries, the County proposed the Section 11, Chapter 2013-213 language through our State Representative Holly Raschein to provide assistance to those homeowners whose permits would expire shortly before the arrival of the upcoming central sewer system. Nothing in the new extension intended to pre-empt or contravene existing building codes or permit requirements.

In addition, Monroe County can see no basis for treating the most recent extension that is the basis of your query any differently than we have been treating past extensions. In the past we have, after an extension has been applied for, started the 180 day inspection clock upon an applicant re-activating the permit. Some these permits may have expired as a result of re-activation of these permits with no passed inspections within the 180 day window. By adopting your somewhat literal reading of the new extension, without consideration to the Building Code, Monroe County would be treating the recipients of these two extensions differently. This potentially causes due process if the County were to face such scrutiny. We merely seek to treat those receiving this extension in the same manner as those who have received prior extensions.

Sincerely,



Christine Hurley, AICP
Division Director

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