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Department of Business and Professional Regulation	
Senior Deputy Agency Clerk	
CLERK	Brandon Nichols
Date	7/1/2019
File #	

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

DS 2019-043

Petitioner: Robert R. Sheppard
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Code section(s) on which Declaratory Statement is sought: 2017 Florida Building Code, Residential Chapter 1 R101.2 & Chapter 3 R311.1.
Chapter 2 Definitions: Yard, Court and Public Way.

The Petitioner is a licensed municipal Plans Examiner employed by the City of Marathon, Monroe County, Florida. The Petitioner is charged with determining compliance with minimum means of egress travel requirements in accordance with the 2017 Florida Building Code, Residential. The Petitioner is currently performing a plan review for new 2-Family Dwellings that is designed under the 2017 Florida Building Code, Residential.

Each dwelling unit is provided with a single hinged egress door, there are no other doors provided. The egress doors open to a shared non-separated wood "deck" that has 4 sides and is elevated 9' above the surrounding yard. The shared deck is attached at one side to the wall

of the building that contains both egress doors. The remaining three sides of the deck are provided with the required guardrail barrier.

The shared deck has an outside dimension of 10' by 13' and is provided with a 2 X 6 guardrail cap that reduces the interior dimension according to the nominal width of the cap. At a portion of one side of the deck is a 4' wide opening providing access to a 4' wide stairway that is shared by the dwelling units.

Stairway construction includes an integral 8' long by 4' wide landing located midway between the elevated deck and grade level. The landing changes the stairway direction of travel 180 degrees. The grade level exit discharge from the shared stairway exits to a "yard" that opens to a "public way".

The following code citations are provided for reference to minimum means of egress requirements for dwellings designed and constructed using the 2017 Florida Building Code, Residential (underlining is the Petitioner's):

R101.2 Scope.

The provisions of the Florida Building Code, Residential shall apply to the construction, alteration, movement, enlargement, replacement, repair, equipment, use and occupancy, location, removal and demolition of detached one- and two-family dwellings and townhouses not more than three stories above grade plane in height with a separate means of egress and their accessory structures not more than three stories above grade plane in height.

Exceptions:

1. Live/work units located in townhouses and complying with the requirements of Section 419 of the Florida Building Code, Building shall be permitted to be constructed in accordance with the Florida Building Code, Residential. Fire suppression required by Section 419.5 of the Florida Building Code, Building where constructed under the Florida Building Code, Residential shall conform to Section P2904
2. Owner-occupied lodging houses with five or fewer guestrooms shall be permitted to be constructed in accordance with the Florida Building Code, Residential where equipped with a fire sprinkler system in accordance with Section P2904.
3. Existing buildings undergoing repair, alteration, additions or change of occupancy shall comply with the Florida Building Code, Existing Building.

R311.1 Means of egress.

Dwellings shall be provided with a means of egress in accordance with this section. The means of egress shall provide a continuous and unobstructed path of vertical and horizontal egress travel from all portions of the dwelling to the required egress door without requiring travel through a garage. The required egress door shall open directly into a public way or to a yard or court that opens to a public way.

YARD. An open space, other than a court, unobstructed from the ground to the sky, except where specifically provided by this code, on the lot on which a building is situated.

COURT. A space, open and unobstructed to the sky, located at or above grade level on a lot and bounded on three or more sides by walls or a building.

PUBLIC WAY. Any street, alley or other parcel of land open to the outside air leading to a public street, that has been deeded, dedicated or otherwise permanently appropriated to the public for public use and that has a clear width and height of not less than 10 feet (3048 mm).

The Petitioner notes that the shared deck does not open to a “public way” as required under R311.1. Also, the deck does not have walls, or a building, located at “three or more sides” as the definition of “court” requires. Instead, the deck accesses a shared 4’ wide stairway that leads

down to a grade level area that meets the definition of a “yard” which in turn opens to a “public way”.

The Petitioner reads section **R101.2 Scope** as requiring all 2-Family dwellings designed and constructed under the 2017 Florida Building Code, Residential to provide “separate means of egress” for each dwelling unit. The term “means of egress” within R101.2 is not denoted in italics and therefore no definition is provided within chapter 2 of the 2017 Florida Building Code, Residential.

(Note: The 2017 Florida Building Code, Building does define the term “means of egress” and permits shared means of egress travel from dwellings units when they are designed and constructed using the “Building” volume. The Building volume also contains much stricter requirements for fire-resistant construction, height, story, area, means of egress sizing and travel distance and requires an active fire suppression system in all Group R Occupancies)

Section **R311.1 Mean of Egress** is provided under chapter 3 of the 2017 Florida Building Code, Residential and requires that the “egress doors” open directly into a “public way”. When egress doors do not open directly into a “public way”, they must open to a “yard” or “court” that opens to a public way to comply with all minimum “mean of egress” requirements under this section.

A “yard” is provided for the 2-Family dwelling in question but is located beyond the shared path of egress travel which converges directly outside

of the egress doors, exit discharge to the yard then requires continued shared means of egress from the deck down the shared stairway.

The Petitioner asks the following question specific to the 2017 Florida Building Code, Residential with regards to the requirement for separate means of egress for 2-Family Dwellings:

When the aforementioned 2-Family Dwellings are designed and constructed as described, are the requirements for "separate means of egress" satisfied by the shared deck and single staircase with point of exit discharge at the "yard"?

Respectfully submitted by: *Robert R Sheppard* 7/01/2019

Robert R. Sheppard