

**Issue:** DS2016-064. The Petitioner, Innovative Construction Inspectors, Inc., seeks a Declaratory Statement on Section 553.791, Florida Statutes.

*Petitioner in DS2016-064 seeks clarification of the following questions:*

Question 1: Based on the definition of Private Provider as found in F.S. 553.791(1)(i) which states: “*Private provider*” means a person licensed as an engineer under chapter 471 or as an architect under chapter 481. For purposes of performing Inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468”, is an individual who holds the appropriate standard certification as a building inspector under part XII of chapter 468 allowed to be a private provider when performing inspections on residential maintenance work including but not limited to residential air conditioning condenser replacement, residential air conditioner air handler replacement, residential air conditioning ductwork replacement, residential main garage door replacement in existing openings, residential water heater replacement, and residential electrical service changes without requiring the accompanying assistance, participation or signature of an individual licensed as an engineer under chapter 471 or as an architect under chapter 481?

Question 2: Based on the definition of Private Provider as found in F.S. 553.791(1)(i) which states:” “*Private provider*” means a person licensed as an engineer under chapter 471 or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468”, is an individual who holds the appropriate standard certification as a building inspector under part XII of chapter 468 allowed to be a private provider when performing inspections on residential maintenance work including but not limited to residential air conditioning condenser replacement, residential air conditioner air handler replacement, residential air conditioning ductwork replacement, residential main garage door replacement, residential garage service door replacement, residential window and/or door replacement in existing openings, residential water heater replacement, and residential electrical service changes on any residential structure as these noted inspections are not inspections on ”additions or alterations of 1,000 square foot or less to residential buildings”?

Question 3: Based on F.S. 553.791(10) which states: “*Upon completing the required inspections at each applicable phase of construction, the private provider shall record such inspections on a form acceptable to the local building official. The form must be signed by the provider or the provider’s duly authorized representative. These inspection records shall reflect those inspections required by the applicable codes of each phase of construction for which permitting by a local enforcement agency is required. The private*

*provider, before leaving the project site, shall post each completed inspection record, indicating pass or fail, at the site and provide the record to the local building official within 2 business days. The local building official may waive the requirement to provide a record of each inspection within 2 business days if the record is posted at the project side and all such inspection records are submitted with the certificate of compliance”, is the building official acting as the Authority Having Jurisdiction required to accept inspection results on the appropriate form directly from an individual who holds the appropriate standard certification as a building inspector under part XII of chapter 468 acting as a private provider in accordance with the appropriate sections of F.S. 553.791, without requiring the accompanying signature of a person licensed as an engineer under chapter 471 or as an architect under chapter 481?*

Question 4: Likewise, based on F.S. 553.791(11) which states: “*Upon completion of all required inspections, the private provider shall prepare a certificate of compliance, on a form acceptable to the local building official, summarizing the inspections performed and including a written representation, under oath, that the stated inspections have been performed and that, to the best of the private provider’s knowledge and belief, the building construction inspected complies with the approved plans and applicable codes”, is the Building Official acting as the Authority Having Jurisdiction required to accept a certificate of compliance on the appropriate form directly from an individual who holds the appropriate standard certification as a building inspector under part XII of chapter 468 acting as a private provider in accordance with the appropriate sections of F.S. 553.791, without requiring the accompanying signature of a person licensed as an engineer under chapter 471 or as an architect under chapter 481?*

## **Background:**

### Situation:

Petitioner is a recently formed Florida corporation which wishes to engage in the practice of Private Provider, as defined in Florida Statute 553.791. More specifically, Petitioner wishes to engage in the inspection of work performed as related to residential ancillary maintenance including but not limited to residential air conditioning condenser replacement, residential air conditioner air handler replacement, residential air conditioning ductwork replacement, residential main garage door replacement, residential garage service door replacement, residential window and/or door replacement in existing openings, residential roofing replacement, residential roof over existing roofing, residential water heater replacement, and residential electrical service changes. Petitioner wishes to perform these functions using the services of employee building inspectors properly certified in their respective trades as defined by FS. 468.603 Part XII. Petitioner wishes to perform the above noted inspections without the assistance or participation of a person licensed as an engineer under chapter 471 or as an architect under chapter 481.

The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. The noted Florida Statutes indicate that a properly certified

building inspector can act as a private provider when not performing inspections on additions or renovations greater than 1,000 square feet, and reports associated with these inspections should be accepted by Authority Having Jurisdiction.

## **Florida Statutes**

553.791 Alternative plans review and inspection.—

(1) As used in this section, the term

(a) “Applicable codes” means the Florida Building Code and any local technical amendments to the Florida Building Code but does not include the applicable minimum fire prevention and firesafety codes adopted pursuant to chapter 633.

(c) “Building” means any construction, erection, alteration, demolition, or improvement of, or addition to, any structure for which permitting by a local enforcement agency is required.

e) “Duly authorized representative” means an agent of the private provider identified in the permit application who reviews plans or performs inspections as provided by this section and who is licensed as an engineer under chapter 471 or as an architect under chapter 481 or who holds a standard certificate under part XII of chapter 468.

(i) “Private provider” means a person licensed as an engineer under chapter 471 or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468.

5<sup>th</sup> Edition (2014) Florida Building Code, Existing Building

## **5<sup>th</sup> Edition (2014) Florida Building Code, Existing Building**

**ALTERATION.** Any construction or renovation to an existing structure other than a *repair* or *addition*. Alterations are classified as Level 1, Level 2 and Level 3.

**WORK AREA.** That portion or portions of a building consisting of all reconfigured spaces as indicated on the construction documents. Work area excludes other portions of the building where incidental work entailed by the intended work must be performed and portions of the building where work not initially intended by the owner is specifically required by this code.

## **SECTION 503**

### **ALTERATION—LEVEL 1**

**503.1 Scope.** Level 1 alterations include the removal and replacement or the covering of existing materials, elements, equipment, or fixtures using new materials, elements, equipment, or fixtures that serve the same purpose.

## **SECTION 504**

### **ALTERATION—LEVEL 2**

**504.1 Scope.** Level 2 *alterations* include the reconfiguration of space, the addition or elimination of any door or window, the reconfiguration or extension of any system, or the installation of any additional equipment.

## **SECTION 505 ALTERATION—LEVEL 3**

**505.1 Scope.** Level 3 *alterations* apply where the *work area* exceeds 50 percent of the aggregate area of the building.

### **Staff Analysis:**

#### **Question #1:**

Based on the definition of Private Provider as found in F.S. 553.791(1)(i) which states:  
“*Private provider*” means a person licensed as an engineer under chapter 471 or as an architect under chapter 481. *For purposes of performing Inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468*”, is an individual who holds the appropriate standard certification as a building inspector under part XII of chapter 468 allowed to be a private provider when performing inspections on residential maintenance work including but not limited to residential air conditioning condenser replacement, residential air conditioner air handler replacement, residential air conditioning ductwork replacement, residential main garage door replacement in existing openings, residential water heater replacement, and residential electrical service changes without requiring the accompanying assistance, participation or signature of an individual licensed as an engineer under chapter 471 or as an architect under chapter 481?

#### **Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. The noted Florida Statutes indicate that a properly certified building inspector can act as a private provider when not performing inspections on additions or renovations greater than 1,000 square feet, and reports associated with these inspections should be accepted by Authority Having Jurisdiction.

Option #.2/Staff: “Yes”, as long as the area of level of work for the projects in question (only for the projects listed above) does not exceed 1,000 square feet (see Section 553.791 (1) (i), Florida Statutes) and that the inspections for the projects in questions are performed by individuals licensed under Chapter 468, Florida Statutes subject to the limitations of the licensed they hold..

Option #.3/Staff: “Yes”, as long as the level of alteration for the projects in question (only for the projects listed above) falls within the scope of Level 1 Alteration as defined by Section 503 of the 5<sup>th</sup> Edition (2014) Florida Building Code, Existing Building) and that the inspections for the projects in questions are performed by individuals licensed under Chapter 468, Florida Statutes subject to the limitations of the licensed they hold.

### **Question #2:**

*Based on the definition of Private Provider as found in F.S. 553.791(1) (i) which states:”  
“”Private provider” means a person licensed as an engineer under chapter 471 or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term “private provider” also includes a person who holds a standard certificate under part XII of chapter 468”, is an individual who holds the appropriate standard certification as a building inspector under part Xii of chapter 468 allowed to be a private provider when performing inspections on residential maintenance work including but not limited to residential air conditioning condenser replacement, residential air conditioner air handler replacement, residential air conditioning ductwork replacement, residential main garage door replacement, residential garage service door replacement, residential window and/or door replacement in existing openings, residential water heater replacement, and residential electrical service changes on any residential structure **as these noted inspections are not inspections on ”additions or alterations of 1,000 square foot or less to residential buildings”?***

### **Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. The noted Florida Statutes indicate that a properly certified building inspector can act as a private provider when not performing inspections on additions or renovations greater than 1,000 square feet, and reports associated with these inspections should be accepted by Authority Having Jurisdiction.

Option #2/Staff: “No”, as per Section 553.791(1) (i), Florida Statutes, the area of level of work for the projects in question must not exceed 1,000 square feet.

Option #3/Staff: “Yes”, as long as the level of alteration for the projects in question (only for the projects listed above) falls within the scope of Level 1 Alteration as defined by Section 503 of the 5<sup>th</sup> Edition (2014) Florida Building Code, Existing Building) and that the inspections for the projects in questions are performed by individuals licensed under Chapter 468, Florida Statutes subject to the limitations of the licensed they hold..

### **Question # 3:**

Based on F.S. 553.791(10) which states: “*Upon completing the required inspections at each applicable phase of construction, the private provider shall record such inspections on a form acceptable to the local building official. The form must be signed by the provider or the provider’s duly authorized representative. These inspection records shall reflect those*

*inspections required by the applicable codes of each phase of construction for which permitting by a local enforcement agency is required. The private provider, before leaving the project site, shall post each completed inspection record, indicating pass or fail, at the site and provide the record to the local building official within 2 business days. The local building official may waive the requirement to provide a record of each inspection within 2 business days if the record is posted at the project side and all such inspection records are submitted with the certificate of compliance”, is the building official acting as the Authority Having Jurisdiction required to accept inspection results on the appropriate form directly from an individual who holds the appropriate standard certification as a building inspector under part XII of chapter 468 acting as a private provider in accordance with the appropriate sections of F.S. 553.791, without requiring the accompanying signature of a person licensed as an engineer under chapter 471 or as an architect under chapter 481?*

**Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. The noted Florida Statutes indicate that a properly certified building inspector can act as a private provider when not performing inspections on additions or renovations greater than 1,000 square feet, and reports associated with these inspections should be accepted by Authority Having Jurisdiction.

Option #2/Staff: “Yes”, as long as the said inspection report is provided in a format acceptable to the local building official (see Section 553.791(10), Florida Statutes.) However, inspections results are subject to review and approval by the local authority having jurisdiction.

**Question # 4:**

*Likewise, based on F.S. 553.791(11) which states: “Upon completion of all required inspections, the private provider shall prepare a certificate of compliance, on a form acceptable to the local building official, summarizing the inspections performed and including a written representation, under oath, that the stated inspections have been performed and that, to the best of the private provider’s knowledge and belief, the building construction inspected complies with the approved plans and applicable codes”, is the Building Official acting as the Authority Having Jurisdiction required to accept a certificate of compliance on the appropriate form directly from an individual who holds the appropriate standard certification as a building inspector under part XII of chapter 468 acting as a private provider in accordance with the appropriate sections of F.S. 553.791, without requiring the accompanying signature of a person licensed as an engineer under chapter 471 or as an architect under chapter 481?*

**Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. The noted Florida Statutes indicate that a properly certified building inspector can act as a private provider when not performing

inspections on additions or renovations greater than 1,000 square feet, and reports associated with these inspections should be accepted by Authority Having Jurisdiction.

Option #2/Staff: “Yes”, as long as the certificate of compliance is provided in a format acceptable to the local building official (see Section 553.791(11), Florida Statutes.) However, the certificate of compliance is subject to review and approval by the local authority having jurisdiction.