

**Issue:** DS2016-063. The Petitioner, Innovative Construction Inspectors, Inc., seeks a Declaratory Statement on Section 553.791 and Section 468.603 of the Florida Statutes.

*Petitioner in DS2016-063 seeks clarification of the following questions:*

*Question 1: Based on Florida Statute 553.791(8) which states in part: "A private provider performing required inspections under this section shall inspect each phase of construction as required by the applicable codes", is an inspection performed by a private provider through the use of smartphone telecommunications as described in the background section above a complaint means of inspection required by applicable codes?*

*Question 2: Based on the Florida Statute 553.791(8) which states in part: "The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider's duly authorized representative", is it the intent of this Statute to allow for an on-site inspection by a private provider or a duly authorized representative since the phrase "shall be permitted" was used, rather than intend to require that an on-site inspection occur?*

**Based on Florida Statute 553.791(8) which states in part: "The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider's duly authorized representative", is the performance of inspections by use of an app and smart phone interactive technology acceptable in lieu of on-site inspections?**

*Question 3: Likewise, based on the same Florida Statute 553.791(8) which states in part: " The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider's duly authorized representative", is it acceptable to provide either a copy of a signed report and/or provide an electronic report along with an electronic signature of the private provider or duly authorized representative?*

*Question 4: Likewise, based on Florida Statute 553.791(10) which states in part: "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", is it an acceptable alternative means of meeting the intent of this statute to transmit to the on-site representative of the contractor who facilitated the inspection being performed, and interacted with the private provider during the inspection process through telecommunication means, an electronic version of*

*the inspection record for the purpose of the representative mobile printing and posting such notice at the site?*

Likewise, based on Florida Statute 553.791(10) which states in part: “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”, is it an acceptable means to transmit to the on-site representative of the contractor who facilitated the inspection being performed, and interacted with the private provider during the inspection process through telecommunication means, an electronic version of the inspection record for the purpose of the representative mobile printing and posting such notice at the site?

## **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 smartphone technology and proprietary software.** More specifically, a subscriber to the petitioner’s service will initiate the inspection using his/her own smartphone device, be placed in direct interactive communication with an employee inspector who holds a standard certificate under part XII of Chapter 468 [FS], and be instructed as to what the inspector must visibly observe in order to perform the inspection. Upon completion of the inspection, ICI will provide to the subscriber an electronic document to be printed and immediately posted at the site either confirming the acceptance of the inspection or listing the deficiencies found. A successful inspection will be followed with ICI producing the required results to the Authority Having Jurisdiction in a form acceptable to the Building Official, in the timeframe required by Statute. This innovation is allowing [would allow] current technology to be utilized by the building inspection community in the same manner that this paradigm has been applied to the way we conduct other aspects of our lives, from navigation to banking to shopping to entertainment to even the way we monitor our health and consult with our physician.

The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. It is their desire that the Florida Building Commission express, through the vehicle of a Declaratory Statement, that smartphone telecommunication innovation is

allowed and promoted to be utilized by the building inspection community in the same manner that this paradigm has been applied to the way they conduct other aspects of their lives.

## 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.

(8) A private provider performing required inspections under this section shall inspect each phase of construction as required by the applicable codes. The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider’s duly authorized representative. The duly authorized representative must be an employee of the private provider entitled to receive reemployment assistance benefits under chapter 443. The contractor’s contractual or legal obligations are not relieved by any action of the private provider.

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

**[A] 110.3 Required inspections.** The building official upon notification from the permit holder or his or her agent shall make the following inspections, and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.

### **61G20-2.005 Alternative Plans Review and Inspection Forms Adopted.**

The following forms are adopted for use in conjunction with utilization of a private provider to perform plan review and inspection and may be obtained on the internet at [http://www.dca.state.fl.us/fbc/forms/1\\_forms.htm](http://www.dca.state.fl.us/fbc/forms/1_forms.htm):

(1) Notice to Building Official of Use of Private Provider, Form Number 61G20-2.005-2002-01, effective January 20, 2003;

(2) Private Provider Plan Compliance Affidavit, Form Number 61G20-2.005-2002-02, effective January 20, 2003;

(3) Job Site Private Provider Identification Form, Form Number 61G20-2.005-2005-01, effective February 1, 2006.

*Rulemaking Authority 553.791(4), (5) FS. Law Implemented 553.791(4), (5) FS. History—New 1-20-03, Amended 7-21-08, Formerly 9B-3.053, 9N-2.005.*

## **Staff Analysis:**

### **Question #1:**

*Based on Florida Statute 553.791(8) which states in part: "A private provider performing required inspections under this section shall inspect each phase of construction as required by the applicable codes", is an inspection performed by a private provider through the use of smartphone telecommunications as described in the background section above a compliant means of inspection required by applicable codes?*

### **Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. It is their desire that the Florida Building Commission express, through the vehicle of a Declaratory Statement, that smartphone telecommunication innovation is allowed and promoted to be utilized by the building inspection community in the same manner that this paradigm has been applied to the way they conduct other aspects of their lives.

Option #2/Staff: "No", as per Section 553.791(8), Florida Statutes, site inspections for the projects in question must be performed by the provide provider.

### **Question #2:**

*Based on Florida Statute 553.791(8) which states in part: "The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider's duly authorized representative", is the performance of inspections by use of an app and smart phone interactive technology acceptable in lieu of on-site inspections?*

### **Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. It is their desire that the Florida Building Commission express, through the vehicle of a Declaratory Statement, that smartphone telecommunication innovation is allowed and promoted to be utilized by the building inspection community in the same manner that this paradigm has been applied to the way they conduct other aspects of their lives.

Option #2/Staff: "No", as per Section 553.791(8), Florida Statutes, site inspection by the private provider/duly authorized representative is required.

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**Question # 3:**

*Likewise, based on the same Florida Statute 553.791(8) which states in part: “ The private provider shall be permitted to send a duly authorized representative to the building site to perform the required inspections, provided all required reports are prepared by and bear the signature of the private provider or the private provider’s duly authorized representative”, is it acceptable to provide either a copy of a signed report and/or provide an electronic report along with an electronic signature of the private provider or duly authorized representative?*

**Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. It is their desire that the Florida Building Commission express, through the vehicle of a Declaratory Statement, that smartphone telecommunication innovation is allowed and promoted to be utilized by the building inspection community in the same manner that this paradigm has been applied to the way they conduct other aspects of their lives.

Option #2/Staff: “No”, as per Section 553.791(8), Florida Statutes, the private provider or the duly authorized representative must perform the required inspections and all required reports must be prepared by and bear the signature of the private provider or the provider’s authorized representative.

**Question # 4:**

*Likewise, based on Florida Statute 553.791(10) which states in part: “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”, is it an acceptable means to transmit to the on-site representative of the contractor who facilitated the inspection being performed, and interacted with the private provider during the inspection process through telecommunication means, an electronic version of the inspection record for the purpose of the representative mobile printing and posting such notice at the site?*

**Answer:**

Option #1/Petitioner: The petitioner, Rune Lero, Innovative Construction Inspections, Inc., believes that answer to all of the above questions is yes. It is their desire that the Florida Building Commission express, through the vehicle of a Declaratory Statement, that smartphone telecommunication innovation is allowed and promoted to be utilized by the building inspection community in the same manner that this paradigm has been applied to the way they conduct other aspects of their lives.

Option #2/Staff: “No”, as per Section 553.791(10), Florida Statutes, a site inspection must be performed by the private provider and a completed inspection report must be posted on the job site by the private provider before leaving the project site.

