June 25, 2020

Dear Florida Building Commission

On April 30, 2020, a permit application for a new Two-Family dwelling to be located in Panama City Beach was submitted to the Bay County Building Department as an Owner/Builder application. The proposed building is comprised of a 3-story dwelling unit and adjacent 4-story dwelling unit. The 4-story side of the building was over 50’ in height. The construction documents submitted with the original permit application labeled the uppermost story as the “fourth floor” on sheets A 08, A 09, A10, E007, E008 and S007.

The 4th floor, over 1,700sf enclosed conditioned space, also provided access to the adjacent 3-story dwelling units’ roof which is designed to function as a “balcony” with a shade structure (covered area), wood guard railing and hot tub. All of which is depicted within the submitted construction documents. Access to the 4th floor was provided via elevator and stairway, the 3-story dwelling unit did not have access to the balcony area.

The plans examiner concluded, by both the number of stories and height, that the building met the definition of a Threshold Building and notified the applicant on May 14, 2020.

Over the next few weeks the applicant and the plans examiner traded emails on how to proceed with compliance as a Threshold Building. The applicant, not wishing to comply with the requirements of a Threshold Building, offered to lower the roof structure slope to meet the less than 50’ requirement. The applicant then offered to remove the interior walls only on the 4th floor which made up a bedroom, bathroom and closet.

The elevator and stairway access was not removed from the 4th floor. Also still indicated on the drawings is an opening from the 4th floor to the adjacent dwelling units’ roof (balcony). The 4th story area had been relabeled “attic space / storage”. The buildings structural framework remains largely the same with roof framing changes to lower the slope for height and infill framing for the floor joists where the stairway leading to the 4th floor was removed at a later revision.
The 4th floor beams do not support, and are not connected to, the 4th floor ceiling-roof assembly. Each system is independent of the other and separated by exterior insulated concrete form (I.C.F.) vertical wall construction. The exterior I.C.F. walls extend upwards from the 4th floor beams 9', the 4th floor ceiling-roof structure is supported at the top of the walls.

The construction documents were reviewed by the Building Official, Deputy Building Official, Senior Plans Examiner, and Building Plans Examiner. All concurred that the structure, as submitted, is a 4-story building. The Building Official also provided for an independent plan review (exhibit 1) of the submitted construction documents by American Building Safety Associates, Inc. (John O'Connor) that concurred with the original plan review performed by the Bay County Building Department, that the structure in question is a 4-story Threshold Building.

The following are depicted within the final set of submitted construction documents (exhibit 2) dated 06/08/2020:

Sheet S 100 shows the concrete foundation floor structure at the 1st story.
Sheet S 101 shows the 1st story wall construction.
Sheet S 102 shows the ceiling-floor subfloor structure at the 2nd story.
Sheet S 103 shows the 2nd story wall construction
Sheet S 104 shows the ceiling-floor subfloor structure at the 3rd story.
Sheet S 105 shows the 3rd story wall construction.
Sheet S 106 shows the ceiling-floor subfloor structure at the 4th story.
Sheet S 107 shows the 4th story wall construction
Sheet S 108 shows the ceiling-roof structure (attic) above the 4th story.
Sheet S 106 shows an opening for the elevator to access at the 4th floor ceiling-floor subfloor structure.
Sheet V 100 shows the elevator accessing all 4 stories of the dwelling unit.
Sheets S 107 & S 108 show an access opening to the adjacent unit's roof (balcony) at the 4th story.
Sheet S 106 provides structural details for supporting a "hot tub area" at the adjacent balcony to the 4th story.
Sheet S 106 gives structural framing details for "floor joists" at the 4th story.

On June 19, 2020, the applicant was notified by the Senior Plans Examiner that the revised construction documents did not change the determination of the number of stories and that the required information requested in the original plan review had still not been met. Also, that
the revised construction documents were not signed/sealed as required.

On June 23, 2020, the Building Official received notice that the applicant had submitted for a Declaratory Statement to the Florida Building Commission seeking a binding interpretation on definitions from the Residential volume of the Florida Building Code.

The applicant's original argument was that the 4th story area met the Residential volume definition of “Attic, Habitable” and therefore was “not considered a story”:

**ATTIC, HABITABLE.** A finished or unfinished area, not considered a story, complying with all of the following requirements:

1. The occupiable floor area is not less than 70 square feet (6.5 m²), in accordance with Section R304.

2. The occupiable floor area has a ceiling height in accordance with Section R305.

3. The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

If the Residential volume of the definition “attic, habitable” is to be considered, the space in question is required to be “enclosed by the roof assembly”. The 4th floor does not meet this requirement as the space is not enclosed by the roof assembly. The 4th floor is enclosed at the sides by the exterior load-bearing walls that support a roof assembly.

Also, the space in question cannot qualify as meeting the Residential definition of “attic” as it is not located “between the ceiling assembly and the roof assembly”. The 4th floor area, as has already been shown, is enclosed by 9’ high exterior walls that support the roof assembly above.

**ATTIC.** The unfinished space between the ceiling assembly and the roof assembly.

**CONCLUSION**

At no point has the applicant been prohibited from building the home as originally designed. The applicant has merely been instructed that the building is required to comply with specific life safety and construction requirements as a 4-story building and that the building is outside of the
scope of the Residential volume of the Florida Building Code as designed.

In initial conversations between permit applicant and Senior Plans Examiner, the applicant agreed that the building was designed as a 4-story structure. It was only after the applicant was informed of the requirement to hire a Contractor and meet specific structural and life safety requirements that the applicant took issue with the determination.

The Building Official has yet to receive a complete set of construction documents from the applicant, the final set submitted dated June 8, 2020 are not certified for the structural portion and have yet to be classified by occupancy. The applicant has made multiple revisions and changes to the construction documents in an attempt to reclassify the structure as a 3-story dwelling unit, although the structure itself remains largely the same and still references 4 story elements and structural components.

Sincerely,

Rex Holmes, CBO
Building Official
Bay County Builders Services

Enclosures: Exhibit 1. Independent plan review
Exhibit2. Construction documents submitted by permit applicant