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Request for Declaration
On Florida State Statute 553.504-514

This is a request for a Declaration that clarifies ss553.513, ENFORCEMENT.-It SHALL be the responsibility of each local government and each code enforcement agency established pursuant to ss553.80 to enforce the provisions of this part. This act expressly preempts the establishment of handicapped accessibility standards to the state and supersedes any county or municipal ordinance on the subject.

The petitioner request Florida Building Commission to correct the erroneous assertion set forth in the Florida Building Codes 101.2, 201, 202.3.3 and other codes relating to **Barrier removal**, removing that it is the responsibility of the Department of Justice to enforce rather than local government entities. The US Justice Department enforces the Americans with Disabilities Act. The EXCEPTIONS to the ADA Standards for Accessible Design in the State of Florida are **enforced** per **ss553.513** titled **ENFORCEMENT**.

ss553.503 Adoption of federal standards.-**Subject to MODIFICATIONS** under this part, the federal Americans with Disabilities Act Standards for Accessible Design, and related regulations provided in 28C.F.R. parts 35 and 36 and 49C.F.R. part 37, are hereby adopted and incorporated by reference as the law of this state and shall be incorporated into the Florida Accessibility Code for Building Construction and adopted by the Florida Building Commission in accordance with chapter 120.

Please note the word MODIFICATIONS under this part, modified the ADA standards to INCLUDE certain state requirements. The most recent Florida Statutes from 2016 indicate that Chapter 553 remains unchanged from the 1997 ss553.

Title XXXIII, Chapter 553.504 EXCEPTIONS to applicability of the federal standards.-notwithstanding the adoption of the Americans with Disabilities Act Standards of Design pursuant to ss553.503, all buildings, structures, and facilities in this state MUST MEET the following additional REQUIREMENTS if such REQUIREMENTS provide INCREASED ACCESSIBILITY .

- (1) All new or altered public buildings and facilities, private buildings and facilities, places of public accommodation, and commercial facilities, as those terms are defined by the standards, subject to this part, must comply with this part.

- (6) ***Barriers at common or emergency entrances and exits of business establishments conducting business with the general public that are EXISTING, (comma) under construction, (comma) or under contract for construction which would prevent a person from using such entrances or exits MUST BE REMOVED.***

These are TWO totally different statements in the Statute. Paragraph (1), indicates all new or altered buildings must comply with this part and ***paragraph (6) indicates all barriers at common entrances and exits which would prevent a person from using such entrances or exits MUST BE REMOVED.***

The key here is INCREASED ACCESSIBILITY

Statute construction requires that each statute be written with “plain meaning”. In everyday language a comma gives meaning, it defines each of the listed types of buildings or facilities that must remove barriers to entrances and exits.

It is not “***existing under construction,***” or “under contract for construction” as in Para (1). It clearly is a clarifying statement, ***EXISTING,*** under construction, or under contract for construction. It is a listing of the three building types included in the paragraph requiring BARRIER REMOVAL.

Para (1) clearly indicates “all new or altered public buildings and facilities not listing EXISTING.

Whereas: Para (6) clearly discusses barrier removal of business establishments conducting business with the general public “that are EXISTING, under

construction, or under contract for construction which would PREVENT a person from using such entrances and exits MUST BE REMOVED.

It includes EXISTING buildings into the exception or modification, and rightly so. My example is a person in a wheelchair is out shopping with friends in a neighborhood of older homes that have been turned into shops, none of them accessible to wheelchairs; a railroad car with poisonous gases overturns and leaks; everyone is warned to get indoors to protect yourself from the poisonous fumes, everyone on that street can get indoors but the disabled in wheelchairs cannot. That would be because the building entrances were not accessible. What if there is a mass murderer out with a rifle with 50 or 60 bullets not unknown today: everyone is warned to get indoors and stay indoors, you just leave the disabled individual in a wheelchair outside the buildings to die or suffer extensive damage from a gun wound. Barrier removal in existing buildings is addressed in Statute and is a life safety issue.

That in itself is *discriminatory*. This is a protected class of people with whom the statute directly addresses. It is a public safety issue of significant relevance. The Florida Building Commission erred in their interpretation of the Florida Statute 553.504 (6), the codes have the effect of denying people with disabilities protection against discrimination by forcing them to go to the US Justice department or federal courts to enforce what is simply Florida Law. The Florida Building Commission has by its erroneous interpretation of the clear meaning of this law designed to ensure people with disabilities access to local government protection.

Thank you to the Florida Building Commission for assigning this to the correct Committee for review and correction. I look forward to having this issue set for a hearing.

Kathleen A. Wilks

