

Staff Analysis for Declaratory Statement Request DS2016-082

Issue: The Petitioners [Glover of Palmwood Construction, Inc., Hernando County Building Division and Florida Home Builders Association (FHBA)] seek clarification regarding the application of the 5th Edition (2014) Florida Building Code, Residential to an R-4 construction. Specifically, the Petitioners seek an interpretation that residential community homes of six or fewer residents licensed under Chapter 419 Florida Statute while an R-4 occupancy class may be constructed as a single-family unit under the Florida Building Code – Residential, 5th Edition (2014) in concert with the intent of Chapter 419 Florida Statute. The construction will include the installation of a fire sprinkler system complying with Florida Building Code-Building Section 903.2.8.1.

Question: With the understanding the project will be protected by a fire sprinkler system per Florida Building Code-Building, 5th Edition (2014), §903.2.8.1, do the provisions of Chapter 419 Florida Statute which classifies the project as a single-family non-commercial unit supersede or prevail over the provisions of the Florida Building Code, 5th Edition (2014) permitting construction under the Florida Building Code-Residential because Florida Statute already defines the facility as a single-family non-commercial unit?

Background:

Project description:

- The project in question is a community residential home with six or fewer residents licensed under Chapter 419 Florida Statute.
- The project address is Arc Nature Coast House IV 5259 Neff Lake Road, Brooksville, Florida 34601.
- This project is a new construction six-bedroom single-family residence of a single story used as a community residential home built for the non-profit organization The Arc Nature Coast. The funds to construct this home were primarily provided through a grant from the state administered by Florida Housing Finance Corporation.
- Hernando County Permit Number – 1327646

5th Edition (2014) Florida Building Code, Building

[A] **101.2 Scope.** The provisions of this code shall apply to the construction, *alteration*, relocation, enlargement, replacement, *repair*, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures.

Exceptions:

1. Detached one- and two-family dwellings and multiple single-family *dwellings* (town houses) not more than three stories above *grade plane* in height with a separate *means of egress* and their accessory structures shall comply with the *Florida Building Code, Residential*.

2. Existing buildings undergoing repair, alterations or additions or change of occupancy shall comply with Chapter 34 of this code.

310.6 Residential Group R-4. This occupancy shall include buildings, structures or portions thereof for more than five but not more than 16 persons, excluding staff, who reside on a 24-hour basis in a supervised residential environment and receive custodial care. The persons receiving care are capable of self-preservation. This group shall include, but not be limited to, the following:

- Alcohol and drug centers
- Assisted living facilities
- Congregate care facilities
- Convalescent facilities
- Group homes
- Halfway houses
- Residential board and custodial care facilities
- Social rehabilitation facilities

Group R-4 occupancies shall meet the requirements for **construction as defined for Group R-3, except as otherwise provided for in this code.**

SECTION 420 GROUPS I-1, R-1, R-2, R-3

420.1 General. Occupancies in Groups I-1, R-1, R-2 and R-3 shall comply with the provisions of Sections 420.1 through 420.5 and other applicable provisions of this code.

420.2 Separation walls. Walls separating dwelling units in the same building, walls separating sleeping units in the same building and walls separating dwelling or sleeping units from other occupancies contiguous to them in the same building shall be constructed as fire partitions in accordance with Section 708.

420.3 Horizontal separation. Floor assemblies separating dwelling units in the same buildings, floor assemblies separating sleeping units in the same building and floor assemblies separating dwelling or sleeping units from other occupancies contiguous to them in the same building shall be constructed as horizontal assemblies in accordance with Section 711.

[F] 420.4 Automatic sprinkler system. Group R occupancies shall be equipped throughout with an automatic sprinkler system in accordance with Section 903.2.8. Group I-1 occupancies shall be equipped throughout with an automatic sprinkler system in accordance with Section 903.2.6. Quick-response or residential automatic sprinklers shall be installed in accordance with Section 903.3.2.

[F] 420.5 Smoke detection and fire alarm systems. Fire alarm systems and smoke alarms shall be provided in Group I-1, R-1 and R-2 occupancies in accordance with Sections

907.2.6, 907.2.8 and 907.2.9, respectively. Single-or multiple-station smoke alarms shall be in accordance with Section 907.2.11.

SECTION 903 AUTOMATIC SPRINKLER SYSTEMS

[F] 903.1 General. *Automatic sprinkler systems* shall comply with this section.

[F] 903.2.8 Group R. An automatic sprinkler system installed in accordance with Section 903.3 shall be provided throughout all buildings with a Group R fire area.

[F] 903.2.8.1 Group R-3 or R-4 congregate residences. An automatic sprinkler system installed in accordance with Section 903.3.1.3 shall be permitted in Group R-3 or R-4 congregate residences with 16 or fewer residents.

Section 202 Definitions

DWELLING. A building that contains one or two *dwelling units* used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes.

DWELLING UNIT. A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Florida Statutes:

Florida Statute 419.001

(1) For the purposes of this section, the term:

(a) “Community residential home” means a dwelling unit licensed to serve residents who are clients of the Department of Elderly Affairs, the Agency for Persons with Disabilities, the Department of Juvenile Justice, or the Department of Children and Families or licensed by the Agency for Health Care Administration which provides a living environment for 7 to 14 unrelated residents who operate as the functional equivalent of a family, including such supervision and care by supportive staff as may be necessary to meet the physical, emotional, and social needs of the residents.

(2) Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be deemed a single-family unit and a noncommercial, residential use for the purpose of local laws and ordinances. Homes of six or fewer residents which otherwise meet the definition of a community residential home shall be allowed in single-family or multifamily zoning without approval by the local government, provided that such homes are not located within a radius of 1,000 feet of another existing such home with six or fewer residents or within a radius of 1,200 feet of another existing community residential home. Such homes with six or fewer residents are not required to comply with the notification provisions of this section; provided that, before licensure, the sponsoring agency provides the local government with the most

recently published data compiled from the licensing entities that identifies all community residential homes within the jurisdictional limits of the local government in which the proposed site is to be located in order to show that there is not a home of six or fewer residents which otherwise meets the definition of a community residential home within a radius of 1,000 feet and not a community residential home within a radius of 1,200 feet of the proposed home. At the time of home occupancy, the sponsoring agency must notify the local government that the home is licensed by the licensing entity. For purposes of local land use and zoning determinations, this subsection does not affect the legal nonconforming use status of any community residential home lawfully permitted and operating as of July 1, 2016.

(8) A dwelling unit housing a community residential home established pursuant to this section shall be subject to the same local laws and ordinances applicable to other noncommercial, residential family units in the area in which it is established.

5th Edition (2014) Florida Building Code, Residential

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*.

Exceptions:

1. Live/work units complying with the requirements of Section 419 of the *Florida Building Code, Building* shall be permitted to be built as one- and two-family *dwellings* or townhouses. Fire suppression required by Section 419.5 of the *Florida Building Code, Building* when 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* when equipped with a fire sprinkler system in accordance with Section P2904.
3. Existing buildings undergoing repair, alteration, addition or change of occupancy shall comply with the *Florida Building Code, Existing Building*.

2010 Florida Building Code, Building

SECTION 310 RESIDENTIAL GROUP R

R-4.

Residential occupancies shall include buildings arranged for occupancy as residential care/assisted living facilities including more than five but not more than 16 occupants, excluding staff.

Group R-4 occupancies shall meet the requirements for construction as defined for Group R-3, except as otherwise provided for in this code or shall comply with the Florida Building Code, Residential provided the building is protected by an automatic sprinkler system installed in accordance with Section 903.2.8.

Staff Analysis:

Question: With the understanding the project will be protected by a fire sprinkler system per Florida Building Code-Building, 5th Edition (2014), §903.2.8.1, do the provisions of Chapter 419 Florida Statute which classifies the project as a single-family non-commercial unit supersede or prevail over the provisions of the Florida Building Code, 5th Edition (2014) permitting construction under the Florida Building Code-Residential because Florida Statute already defines the facility as a single-family non-commercial unit?

Answer:

Option #1/Petitioner: The Petitioners seek an interpretation that residential community homes of six or fewer residents licensed under Chapter 419 Florida Statute while an R-4 occupancy class may be constructed as a single-family unit under the Florida Building Code – Residential, 5th Edition (2014) in concert with the intent of Chapter 419 Florida Statute. The construction will include the installation of a fire sprinkler system complying with Florida Building Code-Building Section 903.2.8.1.

Option #2/Staff: Considering the facts that the project in question is a community residential home “R-4 occupancy” with six or fewer residents licensed under 419 Florida Statutes and that the said project will be protected by a fire sprinkler system as per Section 903.2.8.1 of the 5th Edition (2014) Florida Building Code, Building, the answer is that the project in question may be permitted for construction under the 5th Edition (2014) Florida Building Code, Residential.