

3/9/09

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

NOVA Engineering and
Environmental, LLC,

Case #: DCA08-DEC-337

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Roger W. Sanders, CBO, and J. Doug Coffey, Jr., both of the NOVA Engineering and Environmental LLC, which was received on November 10, 2008. Based on the statements in the petition, the material subsequently submitted and the subsequent request by the Petitioner, it is hereby ORDERED:

Findings of Fact

1. The petition is filed pursuant to, and must conform to the requirements of Rule 28-105.002, Florida Administrative Code.
2. Petitioner performs building code inspection services in the State of Florida pursuant to Section 553.791, Florida Statutes (2007).
3. Petitioner has been requested to perform inspections as a private provider for projects where the entirety of the work to be performed is an air conditioner change-out.
4. The Petitioner inquires whether the statute authorizes private provider services for that purpose or whether those services are only authorized projects subject to multi-phased permits and multiple inspections?

Conclusions of Law

1. The Florida Building Commission has the authority to interpret the provisions of Part IV, Chapter 553, Florida Statutes, by entering a declaratory statement.

2. Section 553.791(2), Florida Statutes (2007), states in pertinent part:

Notwithstanding any other law or local government ordinance or local policy, the fee owner of a building or structure, or the fee owner's contractor upon written authorization from the fee owner, may choose to use a private provider to provide building code inspection services with regard to such building or structure and may make payment directly to the private provider for the provision of such services. All such services shall be the subject of a written contract between the private provider, or the private provider's firm, and the fee owner or the fee owner's contractor, upon written authorization of the fee owner.

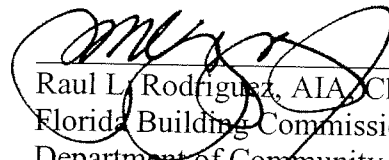
3. Section 553.791(1), Florida Statutes (2007), defines building as “any construction, erection, alteration, demolition, or improvement of, or addition to, any structure for which permitting by a local enforcement agency is required.”

4. The plain language of the statute does not limit private provider services for inspections to only a general building permit for an entire building. The private provider services may include inspections required for alterations, including an air-conditioner change-out and to any structure for which a stand-alone permit is issued.

Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, Clerk of the Commission, Sadowski Building,

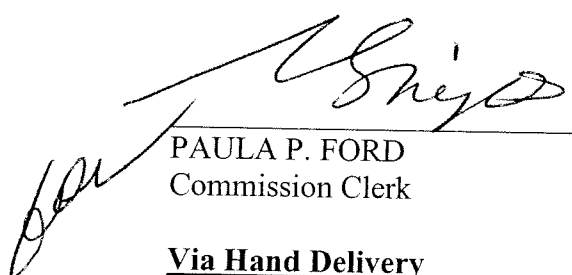
2555 Shumard Oak Boulevard, Tallahassee, FL 32399-2100, and with the appropriate District Court of Appeal no later than thirty days after this Order is filed with the Clerk of the Commission. A Notice of Appeal filed with the District Court of Appeal shall be accompanied by the filing fee specified by section 35.22(3), Florida Statutes.

DONE AND ORDERED this 5th of March, 2009, in Coral Gables, Miami-Dade County, State of Florida.


Raul L. Rodriguez, AIA, Chair
Florida Building Commission
Department of Community Affairs
Sadowski Building
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing was sent to the following by the method indicated on this 9th day of Mar, 2009.


PAULA P. FORD
Commission Clerk

Via U.S. Mail

Roger W. Sanders, CBO
J. Doug Coffey, Jr.
NOVA Engineering and Environmental
508-D Breckinridge Parkway
Tampa, Florida 33610

Via Hand Delivery

Mo Madani, C.B.O. Manager
Codes and Standards Section
Department of Community Affairs
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100