

STATE OF FLORIDA
BUILDING COMMISSION

In the Matter of

Alan C. Plante

Case #: DCA09-DEC-309

Petitioner.

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DECLARATORY STATEMENT

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Alan C. Plante, which was received, as amended, on November 16, 2009. 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. The Petitioner enforces the Florida Building Code as a building official with Orange County Division of Building Safety.
3. Petitioner had a permit application submitted for an alteration/renovation to an existing swimming pool at 846 River Boat Circle, Orlando, Florida. The application sought approval to refinish an existing pool and deck and replace the pump and filter.
4. The Petitioner inquires whether the Florida Building Code, Existing Building Volume (2007) applies to the renovation of the existing swimming pool?

Conclusions of Law

1. The Florida Building Commission has the specific statutory authority to interpret the provisions of the Florida Building Code by entering a declaratory statement.

2. Section 3401.1, Florida Building Code, Building Volume (2007), states that “[a]lteration, repair, addition, relocation and change of occupancy of existing structures and buildings shall comply with the provisions of the Florida Building Code, Existing Building.”

3. Section 202, Florida Building Code, Building Volume (2007), defines structure as “[t]hat which is built or constructed.”

4. Section 101.2, Florida Building Code, Building Volume (2007), provides:

The provisions of this code shall apply to the construction, alteration, movement, 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:

. . .

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

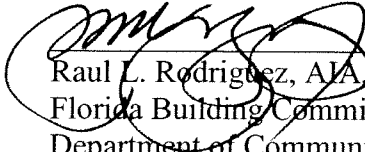
5. The Code’s definition of structure includes swimming pools.

6. Although common application of the term “building” as used in Section 101.2 may could create confusion about whether existing pools are subject to the Building Volume or the Existing Building Volume, the explicit reference to “structures” clearly identifies the scope of the Existing Building Volume as including existing swimming pools.

7. On the basis of the foregoing, the existing pool proposed in the permit application identified by the Petitioner should be reviewed and evaluated in accordance with the Florida Building Code, Existing Buildings Volume (2007).

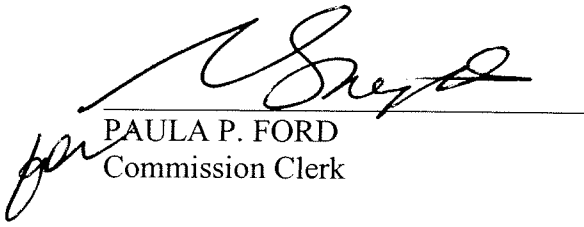
Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, 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 11 of March, 2010, 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 12th day of March, 2010.



PAULA P. FORD
Commission Clerk

Via U.S. Mail

Alan C. Plante
Building Official
Orange County Administration Center
201 S. Rosalind Avenue, 1st Floor
Orlando, FL 32801

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