

STATE OF FLORIDA  
BUILDING COMMISSION

In the Matter of

COLLIER COUNTY BUILDING  
REVIEW AND PERMITTING  
DEPARTMENT

Case #: DCA09-DEC-121

Petitioner.

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**DECLARATORY STATEMENT**

The foregoing proceeding came before the Florida Building Commission (the Commission) by a Petition from Robert Dunn of the Collier County Building Review and Permitting Department, which was received on April 23, 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 is an agency of Collier County and enforces the Florida Building Code in Collier County, Florida.
3. The Petitioner has received inquiries whether it must issue a permit related to replacement of gas and electric water heaters. Collier County has no ordinances or rules restricting application of the Code related to water heaters.
4. The Petitioner inquires whether replacement of a gas or electric water heater requires a building permit under the requirements of the Florida Building Code?

### 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 105.1, Florida Building Code, Building Volume (2007), requires that:

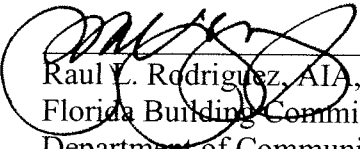
Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any required impact-resistant coverings, electrical, gas, mechanical or plumbing system, the installation of which is regulated by this code, or to cause any such work to be done, shall first make application to the building official and obtain the required permit.

3. Section 105.2, Florida Building Code, Building Volume (2007), identifies work for which a permit is not required. That list does not include water heaters.

4. Therefore, based on the foregoing, and in the absence of an exemption applicable with the jurisdiction pursuant to Section 553.80(3), Florida Statutes (2007), the Code requires a permit for the replacement of a gas or electric water heater.

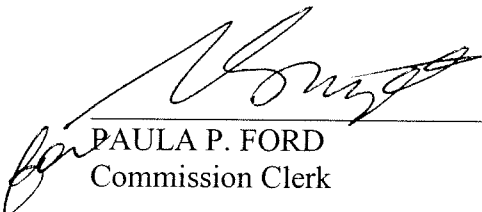
Petitioner and all other interested parties are hereby advised of their right to seek judicial review of this Order in accordance with Section 120.68(2)(a), Florida Statutes, and with Fla. R. App. 9.030(b)(1)(C) and 9.110(a). To initiate an appeal, a Notice of Appeal must be filed with Paula P. Ford, 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 3rd of September, 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 September, 2009.

  
PAULA P. FORD  
Commission Clerk

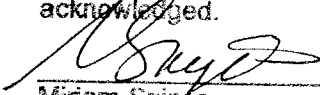
**Via U.S. Mail**

Robert Dunn  
Building Director  
Collier County Building  
Review and Permitting Department  
2800 North Horseshoe Drive  
Naples, Florida 34104

**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

FILING AND ACKNOWLEDGEMENT  
FILED, on this date, with the designated  
Agency Clerk, receipt of which is hereby  
acknowledged.

  
Miriam Snipes  
Deputy Agency Clerk

9/9/09  
Date