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Florida Building Commission
Florida Dept. of community Affairs
Building Codes and Standards
2555 Shumard Oak Blvd.
Tallahassee, FL 32399-2100

Attn. Mr. Mo Madani
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Mr. Madani

Per our recent discussion, this letter is to request a declaratory statement from the Florida Building Commission. This request further relates to previous DCA09-DEC-347 and asks for further clarification.


I am a Florida licensed architect and frequently design single family homes on the gulf coast barrier islands that are in the area seaward of the FDEP/FBC coastal construction control line. My request relates to two scenarios for two future projects in the CCCL zone.

The first case consists of a single story single family dwelling and proposed renovations to such, including a vertical second story addition; wherein all the existing roof and walls will be removed to the foundation level, but the foundation itself will remain unmodified. All proposed renovations including the construction of new walls and second story floor and roof, will be within the footprint/perimeter of the existing foundation and the existing foundation has been investigated and proven by engineering calculations to be adequate to support the proposed renovations per the requirements of the FBC for Existing Buildings (i.e. gravity and wind loads) without modifying or adding to the original existing foundation in any way. The market value of the existing building is \$200k and the proposed renovation will cost \$500k. Therefore, the cost of the proposed renovations will exceed 50% of the market value of the existing building. (Note: The existing as well as proposed construction fully meets all FEMA requirements referred to in FBC chpt. 3110. It should also be noted that the existing building is not elevated or pile supported to meet FDEP/FBC chpt. 3109 non-exempt standards, but the proposed work appears to be exempt from these standards, even though it would be considered a substantial improvement if the foundation were to be modified.) This is the essence of this request for clarification. (See attached isometric drawing.)

The second case is identical to the first case, except the proposed renovations also include a small horizontal addition outside the perimeter of the existing foundation. The horizontal addition is single story and extends on the landward and lateral sides of the existing building, but no farther seaward than the existing structure. The addition will cost \$75k. Therefore, the cost of the addition will not exceed 50% of the market value of the existing building. (See attached isometric drawing.)

DCA10-DEC-045

FILING AND ACKNOWLEDGEMENT
FILED, on 03/04/2010, at Tallahassee, Florida, designated
Agency Clerk, to which is hereby
acknowledged.


Miriam Sipes
Deputy Agency Clerk

Date 3/5/10

Question Preface:

Prior to March 1, 2002, the Florida Department of Environmental Protection (FDEP), Bureau of beaches and Coastal Systems, enforced and interpreted the standards for construction seaward of the CCCL pursuant to the provisions of Florida Statutes Chapter 161 and the rules it established in Chapter 62B-33.

FS Chapter 161.053(12) contains an exemption to the design and construction standards it otherwise imposes on construction seaward of the CCCL, for “any modification, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure.”

The historic interpretation of this exemption language by the FDEP, Bureau of Beaches and Coastal Systems, has allowed modification, maintenance or repair to existing structures seaward of the CCCL with no limit on the cost or extent of the modification work provided the work stayed within the limits of the existing foundation and did not modify that foundation.

Similarly, the FDEP, Bureau of Beaches and Coastal Systems has provided for another exemption to the elevation and piling foundation standards it otherwise imposes on construction seaward of the CCCL in Chapter 62B-33.007(4) (c), in which it states , “the Department shall authorize the construction of additions, repairs, or modifications to existing nonconforming habitable structures that do not meet the elevation or foundation standards of this paragraph, provided that the addition, repair, or modification does not advance the seaward limits of the habitable construction at the site, does not constitute rebuilding of the existing structure, or does not otherwise comply with the requirements of this rule chapter.”

The historic interpretation of this exemption language by the FDEP, Bureau of Beaches and Coastal Systems has been that if the work on an existing habitable structure involves a horizontal addition outside the existing foundation and/or a repair or modification to the existing foundation the work is still exempt from the otherwise imposed standards unless such work constitutes a “substantial improvement” to the existing structure as defined by FS 161.54(12).

For confirmation of the above see FDEP letter dated January 27,2003 signed by Tony McNeil, Administrator (attached).

After March 1, 2002, the enforcement and interpretation of the standards for construction seaward of the CCCL was transferred to local governments. The applicable standards are still those prescribed in FS Ch. 161 and Ch 62B-33, but also include the standards in FBC Ch 3109.

It is our understanding that the provisions of FBC Ch 3109 are consistent with those in FS Ch 161.

FBC Ch 3109.1.1 contains an exception to the design and construction standards it otherwise imposes on construction seaward of the CCCL, for “any modification, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure.”

This is identical to the exemption from construction standards provided in FS Ch 161.053(12)

Similarly, FBC Ch 3109.3 and FBC Ch 3109.4 contain exceptions to elevation and pile foundation requirements, respectively, for “additions, repairs, or modifications to existing nonconforming habitable structures that do not advance the seaward limits of the existing structure and do not constitute rebuilding of the existing structure.”

This is identical to the exemption from construction standards provided in FDEP Ch 62B-33.007(4)(c).

Questions for Declaratory Action:

First Case:

1. Is the application of the exception in FBC Ch 3109.1.1 for construction within the limits of the existing foundation the same as the FDEP historical application and interpretation of the exemption in FS Ch 161.053(12)(a) - i.e. The design standards for buildings seaward of the CCCL do not apply to any modifications, maintenance, or repair to any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure, regardless of building height, number of floors or costs involved, and provided all construction meets the requirements of the Florida Building Code for Existing Buildings?

Yes or No?

In other words, work that would otherwise be non-exempt, due to being classified per F.S. Ch 161.54(12) as a substantial improvement or rebuilding, is exempt from CCCL design standards if built over and within the limits of an existing foundation that remains unmodified?

Yes or No?

Second Case:

2. Is the application and interpretation of the exceptions in FBC Ch 3109.3 and 3109.4 for additions outside the limits of the existing foundation, or for repairs and modifications to the existing foundation, the same as the FDEP historical application and interpretation of the exemption in F.A.C. Ch 62B-33.007(4)(c) - i.e. The CCCL design standards apply only to all proposed habitable major structures and all proposed non-exempt improvements to existing habitable structures, except improvements to an existing structure which do not advance farther seaward than the existing building and improvements which do not constitute rebuilding of the structure, defined as a substantial improvement to the building per F.S. 161.54(12).

Yes or No?

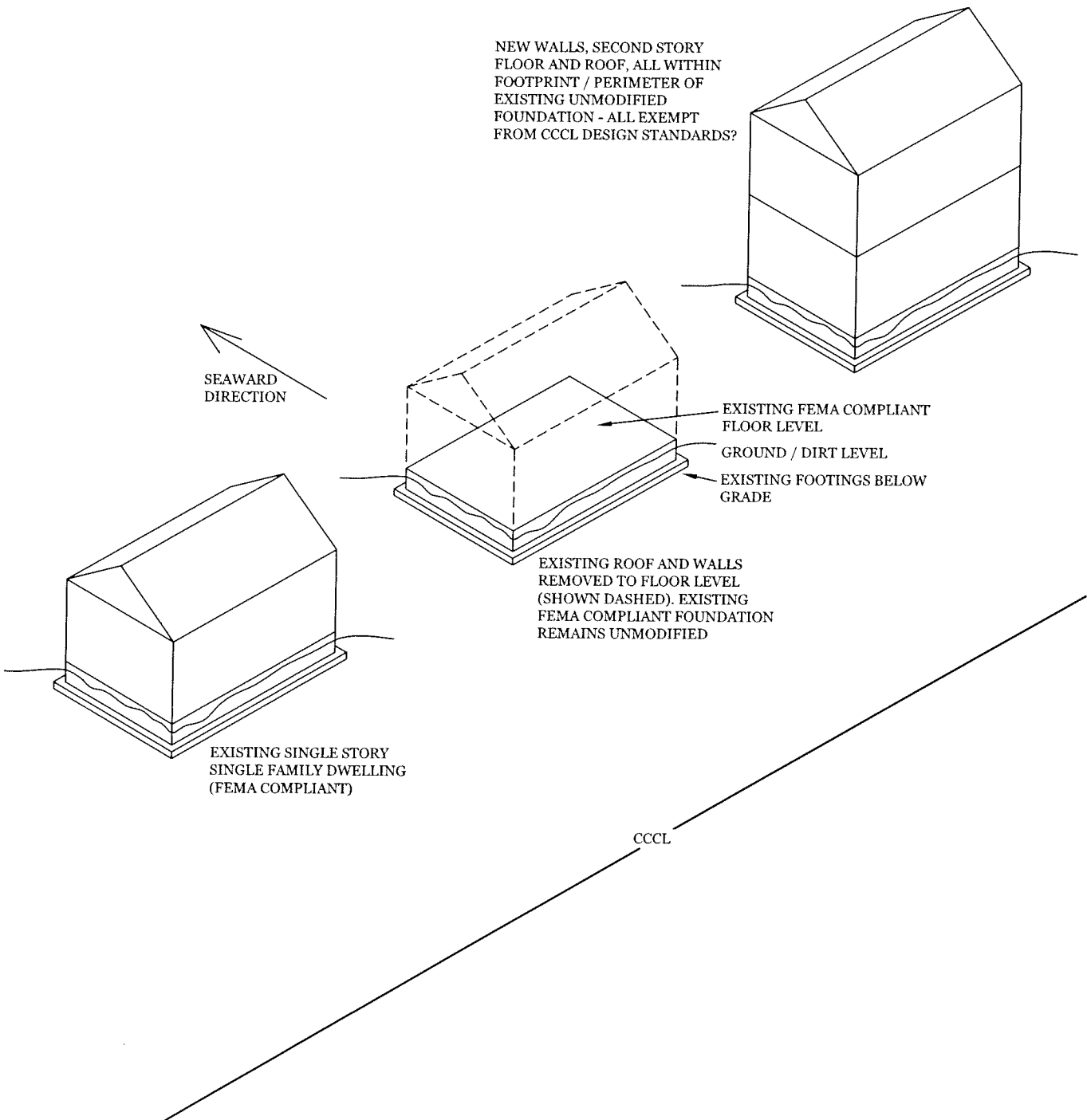
In other words, horizontal additions outside the limits of an existing foundation are exempt from CCCL design standards if the extent of the addition doesn't advance farther than the seaward limits of the existing building and if the addition does not constitute a substantial improvement to the existing structure (i.e. the horizontal addition cannot cost more than 50% of the market value of the existing structure)?

Yes or No?

Sincerely,

George Merlin
President

CASE #1



CASE #2

