

DS 2024-010 Elite Permits

Summary of Issue:

Petitioner is a private provider of building code inspection services, and asserts that Collier County's Growth Management Department has adopted a policy refusing to issue permits for projects with deferred submittals, where the owner has chosen to utilize a private provider. Petitioner asserts that this is in violation of section 553.791(16)(a), F.S., which prohibits local enforcement agencies from adopting or enforcing any laws, rules, procedures, qualifications, or standards more stringent than those prescribed by section 553.791, F.S.

Petitioner has submitted a copy of the local policy with her petition.

Relevant Provisions:

Rule 28-105.001, Florida Administrative Code, states that “[a] petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner’s particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person.”

Petitioner’s Question:

Petitioner presents the following question:

Is the intent of the Florida Building Code section 107.3.4.1 to allow submittal of items within a specified period of time, whether reviewed and/or inspected by the local building department or reviewed and/or inspected by private providers? In other words, the same process shall be followed to process deferred submittal items within each jurisdiction regardless if the permit application or permit involves a private provider. For example, if permits not involving private providers are allowed to submit deferred submittal items after permit issuance, then permits involving private providers shall also be allowed to submit deferral submittal items after permit issuance.

I kindly request the Florida Building Commission to issue a declaratory statement on this matter, providing guidance on the correct interpretation and application of Florida Building Code 8th Edition Section 107.3.4.1 in conjunction with Florida Statutes 553.791 Section 16(a) in cases involving deferred submittals by Private Providers.

Staff’s Suggested Answer:

Petitioner’s question essentially is whether the Collier County Growth Management Department may refuse to allow the deferred submittal of construction documents for projects that utilize a private provider, or whether its doing so would violate section 553.791(16)(a), F.S.

Pursuant to Rule 28-105.001, F.A.C., “[a] declaratory statement is not the appropriate means for determining the conduct of another person.”

Because Petitioner seeks a statement which would determine the conduct of other persons, the Commission declines to answer.