SUPPLEMENTAL SUBMITTAL

Enter statement of the interpretation given to provisions of the Florida Building Code by the local building official and the manner in which the interpretation was rendered*

Please note that the statement(s) of interpretation given to provisions of the Florida Building Code in this matter and the manner in which the interpretation(s) was/were rendered were not, in every case rendered by the building official, but in some case, by the local enforcement agency itself.[1] [2] *This Supplemental Submittal supplements the submittal with the same name file on February 23, 2021.*

After Petitioner applied for a building permit to erect a fence and a Permit was issued by the duly appointed building official at the time, the City's Interim Director of Development Services, Jeff Gagnon, not a building code administrator and someone who was not the building official's duly authorized representative, took action to revoke the building permit. Response Exhibit 2. When the building official complained of the Mr. Gagnon's improper actions in acting in the role of the building official to the Interim City Manager, Dierdre Jacobs, Ms. Jacobs immediately (without notice or process) terminated the building official's employment. Supplement Exhibits A and B. **Accordingly, the local enforcement agency interpreted the Florida Building Code (the "FBC") with Sections 103.4.1 and 103.4.2 of the City of Riviera Beach, Florida (the "City") Local Administrative Amendments to the FBC (the "Local Amendments") in such a manner as to mean the persons other than the building official or her duly authorized representative can lawfully revoke a building permit that was issued by the duly appointed building official.**

After the purported revocation of the Permit took place, Mr. Gagnon insisted the permit was void while the assistant building official took the position it was valid. The successor building official did not for some time indicate whether the Permit was valid or void, and as of shortly after the filing of the Petition, the current building official took the position that the Permit had been appropriately revoked. See Response of the Building Official to the Petition (the "Response"). Accordingly, there are varying interpretations of the FBC and Local Amendments (over time and by personnel) within the local enforcement agency regarding the question: **if a building permit issued by the duly appointed building official is purportedly revoked by a person who is not named (by way of title, position and licensure) in the FBC or Local Amendments as having the authority to revoke building permits, does the Permit remain active and in good standing or is it void? The local enforcement agency at various times has taken the positions of both yes and no. *See* Response, *see also* Response Exhibit 5.**

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[1] The Florida Building Code authorizing statutes, Chapter 553 Part IV, Florida Statutes uses the term "local enforcing agency" interchangeably with the term "local enforcement agency" that is defined in Section 553.71, Florida Statutes.

[2] The binding interpretation provisions contained in the Florida Building Code statutes pertain to not only interpretations by building officials but to the interpretations of local enforcement agencies as well. §§ 553.775(1)-(3), Fla. Stat.

Finally, after the purported revocation of the Permit, the assistant building official told the contractor he thought the Permit remained valid and told him it was okay to proceed with the work under the Permit and so the work commenced. (Note that the current building official has put in writing that he is not of that opinion). The work was completed and a final inspection called for. The building official at the time, Judson Dulany, performed the inspection. Later in the day of the final inspection Mr. Dulany told the contractor that the fence appeared to meet all applicable requirements. Supplement Exhibit C ¶¶ 9-10. However, the building official never entered an approval and at the same time did not provide to the contractor the items he observed that were in violation of the FBC that caused the denial including the FBC chapters and sections of those items as required by Section 553.79(1)(a) of the Florida Statutes which is incorporated into the FBC pursuant to Section 553.73(1)(a), Florida Statutes. *Id.* ¶¶ 10-11. On or about 207 days later, the building official wrote a letter to the contractor saying that the FBC requires work to be in continuous progress as evidenced by attaining an approved inspection every 180 days or sooner and threatening expiration of the Permit (the letter did include providing a 90 day extension). Response Exhibit 5. **Accordingly, the building official and local enforcement agency have interpreted the FBC with the Local Amendments to mean that notwithstanding the provisions of Section 110.3 of the FBC, Section 105.6 of the Local Amendments and Section 553.79(1)(a), Florida Statutes as incorporated into the FBC pursuant to Section 553.73(1)(a), Fla. Statutes, when the building official performs an inspection required under the FBC, <u>the act of not granting and entering an approval of the inspection does not constitute a denial requiring the building official to identify what issues were observed in violation of the FBC that caused the inspection not to be approved including the Chapters and Sections for each such item and provide them to the contractor</u> or else be subject to having disciplinary action brought against his or her license.** In addition, as demonstrated by the actions of the local enforcement agency, **it is the further interpretation of the FBC by the local enforcement agency that it is an acceptable practice to take action to designate a permit as expired for failure to attain an approved inspection every 180 days even when a final inspection was timely called for, the inspection was performed by the building official, the building official verbally told by the contractor the fence he inspected under the Permit appeared to meet all applicable requirements; however but the building official then refused to enter the inspection as approved or return the signed permit card to the contractor while refusing to give any reason for not doing so.**