

**PETITION FOR DECLARATORY STATEMENT
BEFORE THE FLORIDA BUILDING COMMISSION**

FILED	
Department of Business and Professional Regulation	
Deputy Agency Clerk	
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File #	

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DS 2017-033

Statute(s), Agency Rule(s), Agency Order(s) and/or Code Section(s) on which the Declaratory Statement is sought:

2014 Florida Plumbing Code (FPC)
Section 403.1.3 Potty parity

Background:

Elite Consulting of SWFL is a private provider company as defined in the Florida Statutes 553.79. We provide plan review, inspections, and consulting services for building projects in the South West Florida area. We currently have a commercial project, which we are providing plan review and inspections services for. This project consists of the replacement of an existing clubhouse within a private golf club community. The new private membership clubhouse contains a dining room area, locker room area, reading area, and other amenities within the building. The building is classified as A3 with an occupant load of 450 occupants. Based in this occupant load the design professional determined that the required number of water closet/urinals is 2 male fixtures and 4 female fixtures per the Florida Plumbing Code section 403.1. This calculation also satisfies the ratio of 3:2 female to male number of WC/Urinals fixtures as required on section 403.1.3 of the Florida Plumbing Code.

To provide convenience for the club members, the design professional would like to provide additional WC/Urinals for both male and female. The proposed building is to have (8) fixtures for male and (6) fixtures for female. The club members that use the facility on a daily basis are majority male, and use the building while they play golf in the surrounding areas. There are also social events, such as holiday parties held at this facility where members can have additional guests.

In previous projects, the local building department has required us to maintain the ratio of section 403.1.3. for fixtures above the minimum required by the code. In working with the design professional, the question has risen about providing the minimum required by the code and what the criteria is for providing fixtures beyond the minimum requirements.

Also, during our study of the project another question came up with regards to “restrooms open to the public” since this is a qualifying statement for the applicability of section 403.1.3. Our client maintain that this is a private membership facility for the residents and guests of the subdivision that the clubhouse serves.

For the above mentioned reasons, Elite Consulting of SWFL, seeks clarification of these requirements as “substantially affected person” under the procedures set forth in F.S. 553.775.

Per the 2014 Florida Building Code, Building section 201.4 Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Definition of Clubhouse per Merriam-Webster (1) a house occupied by a club or used for club activities, (2) locker rooms used by an athletic team, (3) a building at a golf course typically housing a locker room, pro shop, and restaurant.

Per 5th Edition of the Florida Plumbing Code

Section 403.1.3 Potty Parity.

In assembly occupancies, restrooms which are open to the public must have a ratio of 3:2 water closets provided for women as the combined total of water closets and urinals provided for men, unless these are two or fewer such fixtures for men, in accordance with Section 553.86, Florida Statutes.

Exception: This section does not apply to establishments licensed under Chapter 509, Florida Statutes, if the establishment does not provide meeting or banquet rooms which accommodate more than 150 people, and the establishment has at least the same number of water closets for women as the combined total of water closets and urinals for men.

Per Florida Statutes 2016

F.S. 553.86 Public restrooms; ratio of facilities for men and women; application; incorporation into the Florida Building Code.—The Florida Building Commission shall incorporate into the Florida Building Code, to be adopted by rule pursuant to s. 553.73(1), a ratio of public restroom facilities for men and women which must be provided in all buildings that are newly constructed after September 30, 1992, and that have restrooms open to the public. This section does not apply to establishments licensed under chapter 509 if the establishment does not provide meeting or banquet rooms which accommodate more than 150 persons and the establishment has at least the same number of water closets for women as the combined total of water closets and urinals for men.

The exception presented under **2014 Florida Plumbing Code Section 403.1.3** does not seem to apply to the use that we are seeking interpretation for. References to sections are included below:

The 2016 Florida Statutes, Chapter 509 – Lodging and Food Service Establishments; Membership Campgrounds

F.S. 509.013 (4)(a) “Public lodging establishment” includes a transient public lodging establishment as defined in subparagraph 1. and a nontransient public lodging establishment as defined in subparagraph 2.

1. “Transient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests more than three times in a calendar year for periods of less than 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests.
2. “Nontransient public lodging establishment” means any unit, group of units, dwelling, building, or group of buildings within a single complex of buildings which is rented to guests for periods of at least 30 days or 1 calendar month, whichever is less, or which is advertised or held out to the public as a place regularly rented to guests for periods of at least 30 days or 1 calendar month.

F.S. 509.013 (5)(a) “Public food service establishment” means any building, vehicle, place, or structure, or any room or division in a building, vehicle, place, or structure where food is prepared, served, or sold for immediate consumption on or in the vicinity of the premises; called for or taken out by customers; or prepared prior to being delivered to another location for consumption. The term includes a culinary education program, as defined in s. 381.0072(2), which offers, prepares, serves, or sells food to the general public, regardless of whether it is inspected by another state agency for compliance with sanitation standards.

F.S. 509.502 (3) “Campground” means any real property which is a part of a membership camping plan. This term does not include a mobile home, lodging, or recreational vehicle park or recreational camp as defined in chapter 513 so long as no membership camping plan is offered for sale, sold, or otherwise promoted with regard to such park.

Question

1. **Are bathroom facilities located within a private membership clubhouse considered to be open to the public? Specifically, the verbiage qualifying the applicability of section 403.1.3 applies to the facility that we have described?**
2. **For the project in question, once the minimum number of required plumbing fixture is provided in accordance with section 403.1 and section 403.1.3 of the 2014 Florida Plumbing Code based in the occupant load for the building, does the ratio established by potty parity have to be maintained for the additional fixtures provided in excess of the minimum requirements?**