



Florida Building Code Binding Interpretation

Report Number 207

Date: June 2, 2021

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Code Edition: 7th Edition (2017) Florida Building Code

Florida Building Code (FBC) – Building - Sections 105.3.1, 105.6, 107.3 and 110.3.

Riviera Beach Local Amendment (RBLA) – Sections 103.4.1 and 103.4.2

Text of code provisions:

[A] 105.3.1 Action on application. The *building official* shall examine or cause to be examined applications for *permits* and amendments thereto within a reasonable time after filing. If the application or the *construction documents* do not conform to the requirements of pertinent laws, the *building official* shall reject such application in writing, stating the reasons therefor. If the *building official* is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the *building official* shall issue a *permit* therefor as soon as practicable. When authorized through contractual agreement with a school board, in acting on applications for permits, the building official shall give first priority to any applications for the construction of, or addition or renovation to, any school or educational facility.

[A] 105.6 Denial or revocation. Whenever a permit required under this section is denied or revoked because the plan, or the construction, erection, alteration, modification, repair, or demolition of a building, is found by the local enforcing agency to be not in compliance with the *Florida Building Code*, the local enforcing agency shall identify the specific plan or project features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the permit applicant. If the local building code administrator or inspector finds that the plans are not in compliance with the *Florida Building Code*, the local building code administrator or inspector shall identify the specific plan features that do not comply with the applicable codes, identify the specific code chapters and sections upon which the finding is based, and provide this information to the local enforcing agency.

The local enforcing agency shall provide this information to the permit applicant. Pursuant to Section 553.79(16), Florida Statutes, a local enforcement agency may not deny issuance of a building permit to; issue a notice of violation to; or fine, penalize, sanction or assess fees against an arm's-length purchaser of a property for value solely because a building permit applied for by a previous owner of the property was not closed. The local enforcement agency shall maintain all rights and remedies against the property owner and contractor listed on the permit. Pursuant to Section 553.79(16), Florida Statutes, a local enforcement agency may not deny issuance of a building permit to a contractor solely because the contractor is listed on other building permits that were not closed.

[A] 107.3 Examination of documents. The *building official* shall examine or cause to be examined the accompanying submittal documents and shall ascertain by such examinations whether the construction indicated and described is in accordance with the requirements of this code and other pertinent laws or ordinances.

[A] 110.3 Required inspections. The building official upon notification from the permit holder or his or her agent shall make the following inspections, and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.

§ 103.4.1 FBC-RBLA. (emphasis added). The building official may revoke a permit upon determination by the building official that the construction, erection, alteration, repair, moving, demolition, installation, or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this code.

§103.4.2 FBC-RBLA. The language of the Local Amendments could not be more clear— the building official has the authority to revoke building permits. However, this begs the question: in the jurisdiction that is subject to the Local Amendments, does anyone else (in addition to the building official) have the authority to lawfully revoke building permits? Petitioner suggests that under Florida law, the answer is NO— no one besides the building official (and in deference to the FBC, possibly his or her duly authorized representative as well) may revoke building permits.

Appeal question(s) requesting a response:

Can a local Planning and Zoning Official void a permit issued by the Building Official due to lack of Zoning approval prior and due failing to comply with a locally adopted amendment to the Florida Building Code relating to issuance of the building permit for a fence?

Comment from petitioner:

This is not the usual petition where the petitioner is challenging a determination/interpretation of the Building Official. This petition challenges the interpretation and determination of a member of City staff who is not a licensed building official or building code administrator under Florida Statutes Section 460.600 et seq. but who purports to be acting in the place of the Building Official. To be clear, this petition seeks a binding interpretation of provisions of the Florida Building Code and involves a building permit for a fence that was properly issued in compliance with the Florida Building Code in the view of the (licensed) building official who issued the subject permit. The interpretation in question arises from the actions of a local enforcement agency and therefore this petition satisfies the jurisdictional requirements of Section 553.775(3)(c), Florida Statutes. This petition is being submitted directly to this panel because there is no local board of appeals having jurisdiction.

Answer:

The Panel, by a vote of 6-1, decided to dismiss this request due to lack of jurisdiction concerning a licensing matter and due to lack of authority to make a determination concerning locally adopted amendments to the Florida Building Code.

NOTICE:

The Building Officials Association of Florida, in cooperation with the Florida Building Commission, and the Florida Department of Business & Professional Regulation, provides this interpretation of the Florida Building Code in the interest of consistency and application of the Building Code statewide. This interpretation is binding and not subject to acceptance and approval by the local building official.