

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

**RE: MARTIN AQUATIC PETITION CONCERNING APPROPRIATE NUMBER
OF SANITARY FACILITIES NECESSARY TO SERVE AN ARTIFICIAL
LAGOON UNDER THE FLORIDA BUILDING CODE.**

DS 2025-021

PETITION FOR DECLARATORY STATEMENT

The undersigned counsel hereby submits this Petition for Declaratory Statement pursuant to Section 120.565, Florida Statutes, and Rule 28-105, Florida Administrative Code.

I. Petitioner's Information.

Petitioner, Martin Aquatic, is located at 189 South Orange Avenue, Suite 1220, Orlando, Florida 32801. For the purposes of this Petition, Petitioner may be contacted through the counsel, Leonard Collins, Gray Robinson P.A., 301 South Bronough Street, Tallahassee, Florida 32301, (850) 577-9090.

II. Statement of the Code Provisions at Issue.

This petition seeks the Commission's interpretation of the following provisions of the Florida Building Code: Sections 454.1.11.2, 454.1.12.2, 454.1.6.1.1 and Plumbing – Section 403.6.

III. Description of the Situation and Facts Causing uncertainty.

Martin Aquatic seeks a declaratory statement from the Florida Building Commission regarding the number of sanitary facilities that are necessary to serve an artificial lagoon facility under Sections 454.1.11.2, 454.1.12.2, 454.1.6.1.1 and 403.6 (Plumbing) of the Florida Building Code. It is the position of Martin Aquatic that the specific language of Sections 454.1.11.2, 454.1.12.2, of the Florida Building Code (which

exempts sanitary facilities serving patrons of an artificial lagoon) should control over the general provisions of Section 403.6 when applied to artificial lagoon sanitary facilities.

IV. Background and Facts.

Petitioner is involved in the planning and development of an artificial lagoon facility intended for recreational use in Florida. Sections 454.1.11.2 and 454.1.12.2 of the Florida Building Code provide that:

Sanitary facilities serving patrons of an artificial lagoon shall meet the Florida Building Code, Plumbing criteria and are exempt from the fixture count requirements in Section 454.1.6.1.1.

The rules surrounding 454.1.11.1-9 make sense as there the rules take the nature of an artificial lagoon into account when considering the size of such lagoons versus other types of pools and adjust accordingly. However, Section 403.6 of the Florida Building Code, Plumbing, contains the same fixture count table and requirements as Section 454.1.6.1.1. If the full scope of Section 403.6 applies to artificial lagoons, the exemption described in 454.1.11.2 and 454.1.12.2 has no meaningful effect.

V. Reason for Requesting a Declaratory Statement and Requested Relief.

The differences between Section 403.6 (Plumbing) and Sections 454.1.11.2 and 454.1.12.2 creates an ambiguity that could lead to inconsistent interpretation and confusion in terms of how to plan such facilities.

From the perspective of Martin Aquatic, the more specific provisions of Sections 454.1.11.2 and 454.1.12.2 should control over the general provisions of Section 403.6 when applied to artificial lagoon sanitary facilities. It appears that this was the intent of the drafters of this rule and that the failure to account for these differences is an error in drafting. But, for the purposes of preparing plans, it is important that Martin Aquatic be fully informed as to the position of the Florida Building Department so that it may plan

accordingly and to ensure that construction and design plans will meet the appropriate criteria.

To clarify this and give effect to the intended waiver, the Petitioner proposes the following interpretive correction: “Sanitary facilities serving patrons of an artificial lagoon shall meet the Florida Building Code, Plumbing criteria and are exempt from the fixture count requirements in Section 454.1.6.1.1 and Section 403.6 in the Florida Building Code, Plumbing.”

VI. Specific Question(s) Presented.

1. Does the exemption stated in Sections 454.1.11.2 and 454.1.12.2 apply not only to Section 454.1.6.1.1, but also to Section 403.6 of the Florida Building Code, Plumbing, which otherwise replicates the same fixture count requirements?

Martin Aquatic believes that the Commission should confirm that the exemptions stated in Sections 454.1.11.2 and 454.1.12.2 also applies to Section 403.6 (Plumbing) of the Florida Building Code.

2. Should the more specific language in Sections 454.1.11.2 and 454.1.12.2 be interpreted to supersede the general fixture count requirement in Section 403.6 for sanitary facilities serving patrons of an artificial lagoon?

Martin Aquatic believes that the Commission should interpret the Florida Building Code to supersede the general fixture count requirement in Section 403.6 when determining the appropriate number of sanitary facilities for the construction of an artificial lagoon.

3. Would the Commission confirm that the correct interpretation is that both Section 454.1.6.1.1 and Section 403.6 do not apply to artificial lagoons with regard to fixture counts?

Martin Aquatic believes that the Commission should issue a declaratory statement to provide certainty as to the different possible reasonable interpretations of applicable rules in light of the glitch that exists between the specific and general rule.

VII. Conclusion and Request for Relief.

WHEREFORE, Petitioner respectfully requests that the Florida Building Commission issue a declaratory statement confirming that: 1.) The fixture count exemption in Sections 454.1.11.2 and 454.1.12.2 applies both to Section 454.1.6.1.1 and to Section 403.6 of the Plumbing Code; 2.) The specific language of 454.1.11.2 and 454.1.12.2 supersedes conflicting general provisions in Section 403.6 with respect to artificial lagoons; 3.) The fixture count requirements in both sections do not apply to sanitary facilities serving patrons of artificial lagoons.

Respectfully submitted this 14th day of May 2025.

/s/ Leonard M. Collins

Leonard M. Collins (FBN: 423210)

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Attorneys for Martin Aquatic

CERTIFICATE OF SERVICE

I certify that, on May 14, 2025, this notice was sent via electronic mail to Mo Madani, Office of Codes and Standards, Department of Business and Professional Regulation, 2601 Blair Stone Road, Tallahassee, Florida 32399, Mo.Madani@myfloridalicense.com.

/s/ Leonard M. Collins

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June 27, 2025

VIA EMAIL ONLY

Mo Madani
Florida Building Commission
2601 Blair Stone Road
Tallahassee, Florida 32399

RE: Martin Aquatic Petition for Declaratory Statement

Dear Mr. Madani:

On May 14, 2025, our office filed a Petition for Declaratory Statement on behalf of Martin Aquatics with the Florida Building Commission. The petition was filed pursuant to Section 120.565, Florida Statutes, and Rule 28-105.001 et seq., Florida Administrative Code. The petition is attached to this letter as Exhibit 1. The petition requests a formal interpretation of regarding the number of sanitary facilities that are necessary to serve an artificial lagoon facility under Sections 454.1.11.2, 454.1.12.2, 454.1.6.1.1 and 403.6 (Plumbing) of the Florida Building Code. It is the position of Martin Aquatic that the specific language of Sections 454.1.11.2, 454.1.12.2, of the Florida Building Code (which exempts sanitary facilities serving patrons of an artificial lagoon) should control over the general provisions of Section 403.6 when applied to artificial lagoon sanitary facilities.

To date, we have not received confirmation that the petition has been docketed or scheduled for consideration at an upcoming Commission meeting. We are following up formally to request an update on the status of the petition and to confirm whether any supplemental information is needed to move the matter forward.

Pursuant to Rule 28-105.0024, Florida Administrative Code, the agency must either respond to the petition for declaratory statement or notify the petitioner if the request is not being acted upon. If the petition is incomplete or facially insufficient in any way, please identify the deficiency so we may promptly correct it.

Given the importance of this issue to the Petitioner's planning and compliance obligations, we respectfully request that the petition be placed on the agenda for the Commission's next scheduled meeting. Please confirm docketing and provide a projected timeline for review.

We appreciate your attention to this matter and look forward to your response.

Sincerely,

/s/ Leonard M. Collins

Leonard M. Collins

Enclosure