

Madani, Mo

From: Ascunce, Sergio (RER) <Sergio.Ascunce@miamidade.gov>
Sent: Friday, September 5, 2025 8:11 AM
To: Madani, Mo; Vogel, William
Cc: Rojas, Edward A. (RER)
Subject: DS 2025-030
Attachments: Marion County Private Provider Challenge.pdf

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Good morning Mr. Madani and Mr. Vogel,

I would like to submit this email as part of the record on our opposition with petition DS 2025-030 to the Florida Building Commission.

We do not agree that a private provider can assume the duties or role of a building official when acting as a private provider. Having a Building Code Administrator's certification which qualifies an individual to become a private provider does not make them a building official in any jurisdiction.

Private providers are hired to perform plan reviews and/or required inspections according to the Florida Building Code. They do not interpret the code, issue certificates of occupancy or notices of violation, condemn an unsafe building, order the connection of power, or anything else delegated to the building official by the codes and statutes.

Furthermore, we are in total agreement with the letter from the Marion County Assistant County Attorney and support her analysis on the matter.

We don't feel that the Florida Building Commission should here this petition, but if it does we hope that it takes into consideration our objection to the petition.

Regards,

Sergio T. Ascunce, **Deputy Building Official**
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Marion County Board of County Commissioners

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LRM OUTCOME MEMORANDUM

TO: Micheal Savage, Director
FROM: Linda Blackburn, Assistant County Attorney
DATE: August 19, 2025
SUBJECT: LRM 2025-719 (Received August 1, 2025, at 12:02 pm)

You have requested I review the Building Safety Department's policy that a private provider as defined in section 553.791(1)(n), Florida Statutes, is not permitted to release service utilities based on section 112.1, Florida Building Code (Connection of Service Utilities), which requires the services be released by a building official. You requested this review as a result of two different private providers seeking your approval to allow them to be permitted to release utility services because of their stated belief that ***everything in chapter one of the Florida Building Code where it states "building official," would be covered by a "private provider." These specific private providers believe they are the authority charged with the administration and enforcement of the code per the definition of "building official," while in their role as a private provider.***

Based on my review of the applicable Florida Statutes, Florida Building Code, Marion County Code of Ordinances and House Bill 695 (which died in committee), **a private provider is not a building official** and does not have the authority to issue permits, certificates of completion, certificates of occupancy, or provide a release to make connections from a utility, source of energy, fuel or power to any building or system for which a permit is required in Marion County.

It would appear that the private providers who are making the assertion to Marion County's Building Official that they have the same authority as he possesses, have intertwined their interpretations of the definitions and applications of separate Florida Statutes and then combined it with the Florida Building Code, to arrive at the terrifically incorrect interpretation that a private provider has the same power and authority as Marion County's Building Official. This is not an accurate interpretation of definitions, scope or application of Florida Statutes §§ 468.601, et seq., 553.791, and Florida Building Code §§ 105.1, 112.1 – 112.3, 202, all of which remain unchanged through the 2025 legislative session. Moreover, the private providers are failing to appreciate that Marion County's Building Official is an employee of Marion County, a creature of Marion County Code of Ordinances, §§ 5.5-31 – 5.5-40, and entrusted with interpretation and enforcement of the Florida Building Code in Marion County, Florida.



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Beginning with section 553.791, Florida Statutes, Florida law provides the ability for a fee owner or the fee owner's contractor to separately contract with a private provider to conduct plans review and/or inspection services of their permitted work, instead of obtaining these same services from Marion County's Building Safety Department. Section 553.791(1)(k), Florida Statutes, provides the following definition of a "local building official":

"Local building official" means the individual within the governing jurisdiction responsible for direct regulatory administration or supervision of plans review, enforcement, and inspection of any construction, erection, alteration, demolition, or substantial improvement of, or addition to, any structure for which permitting is required to indicate compliance with applicable codes and includes any duly authorized designee of such person.

It then provides the following definition of a "private provider" at section 553.791(1)(n) as follows:

"Private provider" means a person licensed as a building code administrator under part XII of chapter 468, as an engineer under chapter 471, or as an architect under chapter 481. For purposes of performing inspections under this section for additions and alterations that are limited to 1,000 square feet or less to residential buildings, the term "private provider" also includes a person who holds a standard certificate under part XII of chapter 468.

Neither the definition of a "local building official," nor the definition of a "private provider," state therein what jobs or responsibilities each have under this statute. It only defines the individual and the requirements to be designated as that individual. For instance, the definition of private provider states that a person must be licensed as a building code administrator under XII of chapter 468 (or an engineer or an architect) in order to be a private provider. However, the scope of the private provider's duties, obligations and responsibilities under this section is not discussed within the definition. Thus, a private provider must hold that license, or an equivalent, but under this statute, he is not acting as a building administrator or building official, but instead, he or she is acting as a private provider.

The remainder of section 553.791, Florida Statutes, following the definition section, lays out the duties specific to the private provider and the local building official, separately. In essence, a fee owner or the fee owner's contractor can only contract with a private provider for the purposes of **plans review** or **building inspection services**, or both. But, nothing more. The local building official, on the other hand, has other duties under section 553.791, Florida Statutes, like being responsible for confirming compliance with the Florida Building Code and is charged with the oversight of the private provider's

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conformity with permit requirements and application, confirmation of proper review and inspections provided, submission of proper documentation and recording, auditing the private provider, issuance of permits, certificates of compliance, certificates of occupancy and any other official act following the private providers plans review or inspection services.

Of note, section 553.791, Florida Statutes, is the only section in all of Part IV of Chapter 553, Florida Statutes, which discusses the role and responsibilities of alternative plans review and inspection services by a private provider. In fact, private provider is not defined anywhere else in the Florida Statutes, the Florida Building Code or the Marion County Code of Ordinances. A building official, however, is defined throughout all these laws, rules and codes. Moreover, and as indicated previously, section 553.791, Florida Statutes, references Part XII of Chapter 468, when discussing the qualifications of who may be a private provider. Section 553.791, Florida Statutes, does not, however, incorporate any of the definitions of or even allude to any of the responsibilities of a “building code administrator” as defined in section 468.603. This is likely where the interpretation by certain private providers is becoming muddled and is causing distortion to their understanding of their role as a private provider and not a building official.

Section 468.603 provides the following definition of a “building code administrator”:

(2) “Building code administrator” or “building official” means **any of those employees of municipal or county governments, or any person contracted,** with building construction regulation responsibilities who are charged with the responsibility for direct regulatory administration or supervision of plan review, enforcement, or inspection of building construction, erection, repair, addition, remodeling, demolition, or alteration projects that require permitting indicating compliance with building, plumbing, mechanical, electrical, gas, fire prevention, energy, accessibility, and other construction codes as required by state law or municipal or county ordinance. **This term is synonymous with “building official” as used in the Florida Building Code. One person employed or contracted by each municipal or county government as a building code administrator or building official** and who is so certified under this part may be authorized to perform any plan review or inspection for which certification is required by this part, including performing any plan review or inspection as a currently designated standard certified building official under an interagency service agreement with a jurisdiction having a population of 50,000 or less.

[Emphasis added.]



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Breaking down this definition – a building code administrator or building official are employees of a municipality or county government – not private providers. Likewise, the contracting parties envisioned by this definition are persons (and their employees) who contract with a municipality or county government to provide such building administrative or officiating services. In Marion County, our building official is established by our Code of Ordinances, as an employee of the County, and not as a result of a private contract. Section 5.5-32 provides the following:

(a) *(FBC 103.1) [F.S. 468.604]* There is hereby established a department to be called the building safety department and the person in charge shall be known as the building official. The Marion County Building Official is responsible for interpreting and enforcing the Florida Building Code and this article. An officer or employee of the department shall not be financially interested in the furnishing of labor, material, or appliances for the construction, alteration, or maintenance of a building, structure, service, system, or in the making of plans or of specifications thereof, unless he is the owner of such. Such officer or employee shall not engage in any other work which is inconsistent with his duties or conflict with the interest of the department.

(b) *(FBC 103.2) [F.S. 468.609]* ***Employee qualifications.***

(1) **Building official qualifications. The building official shall be licensed as a building code administrator by the State of Florida.**

(2) Employee qualifications. A person shall not be appointed or hired as an inspector or plans examiner unless that person meets the qualifications for licensure as an inspector or plans examiner, in the appropriate trade as established by the State of Florida.

[Emphasis added.]

Relevant to the above-cited provisions, section 202 of the Florida Building Code, defines “building official” as follows: “BUILDING OFFICIAL. The officer or other designated authority charged with the administration and enforcement of this code, or a duly authorized representative.” That definition, however, is incomplete. The Florida Building Code is an administrative rule. See Rule 61G-20-1.001, Florida Administrative Code (2020). As such, it cannot be interpreted as inconsistent with related statutory provisions. Therefore, the definition of “building official” in the Florida Building Code must incorporate the applicable provisions of Sections 468.601 et seq., Florida Statutes. See § 553.73(1)(a), Fla. Stat. Furthermore, an argument that the Florida Building Code’s definition of “building official” should incorporate the applicable provisions of Chapter 468, Florida Statutes, but ignore section 553.791, Florida Statutes, as well as the Marion County Code of Ordinances, is simply unavailing to private providers attempting to shoehorn the licensure requirements for a private provider required in section 553.791,

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Florida Statutes, as a vehicle to attempt to usurp Marion County's Building Official's appointment, qualifications or authority.

Finally, there has been no recent changes in any of the foregoing statutes, codes or ordinances following the most recent legislative session. On February 18, 2025, House Bill 695 was filed in the Florida House of Representative which proposed much more autonomy to private providers, through broad amendments to section 468 and 553.791. The Bill sought to revise membership of Florida Building Code Administrators & Inspectors Board & Florida Building Commission to include private providers; it proposed to revise provisions relating to building code inspection services provided by private provider & private provider firms, including agreement requirements, permit fees, administrative fees, responsibilities of private providers, permitting & inspection documents & reports, timeframes for issuing permits, authority of local building official, notices of incomplete forms, duly authorized representatives, authority of private providers acting as local building official, emergency inspection services, creation of certain forms, systems of registration, audits, immunity, civil causes of action, posting of permits on specified websites, & adoption of a uniformed permitting system.

In May 2025, House Bill 695 was first withdrawn and in June 2025, it died in the Industries & Professional Activities subcommittee, meaning the additional scope of a private provider's services (plan's review & inspection) that the Bill sought to expand, remained unchanged, and section 553.791, Florida Statute, concerning private providers, remains untouched.

In sum, when analyzed separately but in conjunction with one another, neither Florida Statutes, the Florida Building Code, nor the Marion County Code of Ordinances diminishes the Marion County Building Official's authority nor expands a private provider's limited scope of plans review and inspection services for permitted work. Thus, a private provider does not have the authority, in Marion County, to release utility services, as that authority is ascribed to only the Marion County Building Official pursuant to section 112.1, Florida Building Code and Marion County Code of Ordinances.

I hope this addresses your concern and provides the clarification you are seeking, but if any additional questions arise, please feel free to let me know how I can be of further assistance.