

BEFORE THE FLORIDA BUILDING COMMISSION

PETITION FOR DECLARATORY STATEMENT

Private Provider Plan Review - Replication and Audit

Petitioner, pursuant to sections 120.565 and 553.775, Florida Statutes, and Chapter 28-105, Florida Administrative Code, petitions the Florida Building Commission for a declaratory statement concerning the application of section 553.791, Florida Statutes, to Petitioner's particular circumstances.

I. PETITIONER

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DS 2026-062

Petitioner is the fee owner and/or permit holder of single-family residential construction projects located in Santa Rosa County, Florida, that are presently subject to Stop Work Orders and an unresolved dispute concerning revised construction documents and Private Provider plan-review services.

II. STATUTORY PROVISIONS AT ISSUE

Petitioner requests a declaratory statement concerning the application of the version of section 553.791, Florida Statutes, in effect when the Private Provider services described below were performed, including section 553.791(1)(b), concerning replication of plan review or inspection being performed by a Private Provider; section 553.791(1)(d), defining "building code inspection services" to include review of building plans for compliance with applicable codes; and section 553.791(20), concerning audits of Private Provider building-code inspection services.

Petitioner also requests application of any other provision of section 553.791 necessary to determine the permissible scope of local review of Private Provider-reviewed plans under Petitioner's present unresolved circumstances.

III. PARTICULAR CIRCUMSTANCES

Petitioner had active building permits for single-family residential projects for which construction had commenced pursuant to construction documents previously reviewed and approved by the local enforcement agency.

During construction, certain additional features were added that were not depicted on the originally approved construction documents. The local Building Official subsequently issued Stop Work Orders based upon those added features and concerns regarding the configuration of the projects.

Petitioner prepared revised construction documents depicting the added features and initially submitted those revised documents to the local Building Official for review. Petitioner repeatedly requested identification of the specific Florida Building Code provisions under which the added features or revised plans were considered noncompliant.

After those requests did not result in identification of specific Code sections establishing the alleged noncompliance, Petitioner retained a qualified Private Provider to independently review the revised construction documents for compliance with the applicable codes.

The Private Provider completed the plan review, determined that the revised plans complied with the applicable codes, and provided the required Plan Compliance Affidavit.

The local Building Official thereafter questioned the Private Provider's Code-compliance determination and undertook or sought to undertake an independent evaluation of whether the Private Provider-reviewed plans complied with the applicable codes.

Before these events, Petitioner had raised directly with the local Building Official, in written correspondence, the statutory requirements concerning audits of Private Provider services and questioned whether the local enforcement agency had established the audit procedures required by section 553.791. Petitioner subsequently received written confirmation from the County that it did not have an established Private Provider audit procedure.

Petitioner thereafter agreed to remove the added features and return the projects to conformity with the originally approved plans in an effort to resolve the Stop Work Orders, resume construction, and mitigate continuing financial losses. The Stop Work Orders nevertheless remain in effect.

Petitioner therefore remains substantially affected by uncertainty regarding the legal effect of the completed Private Provider plan review and the scope of local review that may be applied to that plan review as Petitioner determines what steps may lawfully be taken to obtain approval to resume construction.

IV. QUESTIONS PRESENTED

1. Under the version of section 553.791 applicable to Petitioner's circumstances, where a qualified Private Provider has completed plan review, determined that revised construction documents comply with the applicable codes, and provided the required Plan Compliance Affidavit, may Petitioner rely upon that completed Private Provider plan review in determining how to proceed with the projects if the local enforcement agency independently conducts or proposes to conduct a technical Code-compliance review of those same plans for the purpose of determining whether the Private Provider's Code-compliance determination is correct?
2. For purposes of determining Petitioner's rights and obligations in proceeding under section 553.791, does an independent technical examination by the local enforcement agency of plans already reviewed for Code compliance by Petitioner's Private Provider constitute replication of the Private Provider's plan review within the meaning of section 553.791(1)(b)?
3. In light of section 553.791(1)(d), which included review of building plans within "building code inspection services," do the audit requirements of section 553.791(20) apply when a local enforcement agency audits Private Provider plan-review services?
4. If section 553.791(20) applies to Private Provider plan-review services, may Petitioner's Private Provider plan review be subjected to an audit or technical re-review by a local building-code enforcement agency that has not established the standard operating Private Provider audit procedures required by that subsection?
5. If section 553.791 otherwise authorizes the local enforcement agency to identify an alleged deficiency in Private Provider-reviewed plans as Petitioner seeks authorization to proceed, what written identification of the specific deficiency and applicable Code provisions is required under Petitioner's circumstances?

V. MANNER IN WHICH THE STATUTE SUBSTANTIALLY AFFECTS PETITIONER

The requested interpretation substantially affects Petitioner because the projects remain subject to Stop Work Orders, construction has not been permitted to resume, and Petitioner continues to incur financial consequences from the work stoppage.

Petitioner must determine the legal effect of the Private Provider plan review already performed and the permissible scope of local review of that plan review in order to determine what steps Petitioner may lawfully take now to obtain authorization to proceed with the projects.

The requested interpretation is necessary to determine Petitioner's present rights, obligations, and future course of conduct under section 553.791 with respect to unresolved projects. Petitioner does not request a determination imposing liability or discipline upon the local Building Official or any other person.

VI. DECLARATION REQUESTED

Petitioner respectfully requests that the Florida Building Commission issue a declaratory statement determining the application of the foregoing provisions of section 553.791, Florida Statutes, to Petitioner's present unresolved circumstances and the course of conduct available to Petitioner in proceeding with the projects.

Respectfully submitted,

Michael Price

Michael Price
Date: 08/26/2026