

Summary of Issue:

Petitioner represents that he is the fee owner and/or permit holder of an unspecified number of single-family residential construction projects, and states that there are (or were) active permits for these projects, for which construction has already commenced. He states that during construction additional features were added that were not part of the originally approved construction documents, and that the local building official issued stop work orders once these unapproved features were discovered. Petitioner states that he prepared revised construction documents that accounted for the added features, but that the local building official would not accept the revised documents.

Petitioner states that he then retained a private provider to review the revised plans, that the private provider determined they complied with the applicable codes and provided an affidavit to that effect to the local building official, but that this was rejected. Petitioner states that he requested that the building official meet with the private provider to address the alleged disagreement, but that this meeting did not occur. Petitioner asserts that he agreed to remove the additional features at issue, but that the stop work orders remain in effect.

Petitioner's Questions:

Petitioner presents the following questions:

1. Under section 553.791(15), when a qualified Private Provider determines that revised construction documents comply with the applicable codes while the local Building Official maintains that they do not and the projects remain subject to Stop Work Orders, is that type of unresolved disagreement a dispute subject to the procedure established by section 553.791(15)?
2. When such a dispute remains unresolved and the fee owner seeks to invoke section 553.791(15)(a), does that subsection require the local Building Official to be available to meet with the Private Provider within two business days for the purpose of attempting to resolve the dispute?
3. If a dispute subject to section 553.791(15) cannot be resolved between the local Building Official and Private Provider, what procedure does section 553.791(15)(b) provide for Petitioner to pursue resolution so that Petitioner may determine how to proceed with the projects?

Relevant Provisions:

553.791(17), Florida Statutes (2026), provides the following: "If the local building official determines that the building construction or plans do not comply with the applicable codes, the official may deny the permit or request for a certificate of occupancy or certificate of completion, as appropriate, or may issue a stop-work order for the project or any portion thereof as provided by law, if the official determines that the noncompliance poses an immediate threat to public safety and welfare, subject to the following:

(a) The local building official shall be available to meet with the private provider within 2 business days to resolve any dispute after issuing a stop-work order or providing notice to the applicant denying a permit or request for a certificate of occupancy or certificate of completion.

(b) If the local building official and private provider are unable to resolve the dispute, the matter shall be referred to the local enforcement agency's board of appeals, if one exists, which shall consider the matter at its next scheduled meeting or sooner. Any decisions by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter.

(c) Notwithstanding any provision of this section, any decisions regarding the issuance of a building permit, certificate of occupancy, or certificate of completion may be reviewed by the local enforcement agency's board of appeals, if one exists. Any decision by the local enforcement agency's board of appeals, or local building official if there is no board of appeals, may be appealed to the commission as provided by this chapter, which shall consider the matter at the commission's next scheduled meeting."

Rule 28-105.001, Florida Administrative Code, states that "[a] petition for declaratory statement may be used to resolve questions or doubts as to how the statutes, rules, or orders may apply to the petitioner's particular circumstances. A declaratory statement is not the appropriate means for determining the conduct of another person." (underlining provided)

Staff's Suggested Answers:

In response to Petitioner's first and third questions, the only provision in chapter 553, Florida Statutes (2026), which provides for the appeal of a local building official to the Commission is section 553.775(3)(c), Florida Statutes (2026), which states that "[t]he commission shall review decisions of local building officials and local enforcement agencies regarding interpretations of the Florida Building Code or the Florida Accessibility Code for Building Construction after the local board of appeals has considered the decision, if such board exists, and if such appeals process is concluded within 25 business days."¹ (underlining provided). This is the process that would be implicated by section 553.791(17), Florida Statutes (2026).

In response to Petitioner's second question, it pertains to the conduct of other individuals, and so is not the appropriate subject of a declaratory statement.

¹ Section 553.73(11), Florida Statutes (2026), provides an avenue to appeal local decisions pertaining to conflicts between the Florida Building Code and the Florida Fire Prevention Code, but those decisions are subject to review by a joint committee comprised of members of the Florida Building Commission and the Fire Code Advisory Council, not the Commission itself. *See* section 553.73(11)(d), Florida Statutes (2026).