

**Florida Building Commission
Legal Report
April 17, 2014
THE GAYLORD PALMS
6000 WEST OSCEOLA PARKWAY
KISSIMMEE, FLORIDA**

PA POC/Structural TAC

DS 2014 - 023 by Glenn T. Williams, Esq., B.C.S. of Williams Law Firm

Interpretation No.1

- A. Does the Storm Stoppers product as described fall within the scope of the Florida Building Code, Existing Building?

Answer: Answer is not possible. No specific project/level of work was provided, and there are no specific facts and circumstances provided.

- B. If the answer is yes, then what are the specific Code provisions from the 2010 Florida Building Code, Existing Building, that apply?

Answer: See answer to question A.

Interpretation No.2

- A. What are the specific statutes, Code provisions and laws that give the Florida Building Commission jurisdiction or legal authority to regulate or approve any product for use on an Existing Building AFTER the building has been constructed and received a certificate of occupancy, when such product is not used or incorporated into the permanent structure, nor attached with permanent anchors that penetrate into the structure of the building's frame?

Answer: Answer is not possible. Question is too general.

- B. Are wood structural panels (i.e. plywood) as-described in the Florida Building Code, Residential, exempt from having to comply with Florida Statutes Section 553.842(5)?

Answer: Answer is not possible. This question does not apply to the Petitioner's product.

- C. If, in the opinion of the Florida Building Commission, wood structural panels (i.e. plywood) are exempt from Florida Statutes Section 553.842 (5), then would Storm Stoppers be entitled to receive the same exempt treatment as wood structural panels assuming the Storm Stopper product is equal to if not better than wood structural panels, for the temporary or emergency protection of window or doors from wind and rain?

Answer: Answer is not possible. This question does not apply to the Petitioner's product; and there are no specific facts and circumstances provided.

- D. What is the Florida product approval number for wood structural panels (i.e. plywood) showing that product was approved by the Florida Building Commission?

Answer: Answer is not possible. This question does not apply to the Petitioner's product.

- E. Since the Storm Stoppers product is equal to if not better than wood structural panels Identified in Section 1609.1.2 of the Florida Building Code, Residential, is Storm Stoppers entitled to receive the same treatment as wood structural panels and not apply for a product approval number?

Answer: Answer is not possible. This question does not apply to the Petitioner's product.

- F. Is Keddo Enterprises and Florida Building Commission recognized groups like the IHPA, FLASH, FEMA and the IBHS permitted to advertise or market wood structural panels (i.e. plywood) for "Wind-borne Debris

Protection, " as a "Shutter" and for "Hurricane Protection" in Florida (even though plywood does not have a Florida product approval number)?

Answer: Answer is not possible. This question does not apply to the Petitioner's product.

- G. Is the Florida Building Commission violating Section 553.842(5) in their promotion of Table 1609.1.2 in the Florida Building Code, Residential, by advertising wood structural panels (i.e. plywood) as "*Wind-Borne Debris Protection*" (at a time when plywood does not have a Florida product approval number and has not been shown to pass the ASTM Large Missile Impact Test and the Cyclic Pressure Differential Tests)?

Answer: Answer is not possible. This question does not apply to the Petitioner's product.

- H. Can Keddo Enterprises, including home improvement stores, advertise, sell, offer, market or distribute plywood for wind-borne debris protection or hurricane protection, since plywood is actually sold by home improvement stores throughout Florida for that purpose both long before and during an approaching hurricane?

Answer: Answer is not possible. This question does not apply to the Petitioner's product, and it is not allowed to comment on the conduct of another in a declaratory statement petition.

- I. Additionally, major home improvement stores advertise or sell plywood in Florida as a Shutter, hurricane protection or as protection from wind-borne debris both long before and as a hurricane is approaching. For example, the home improvement chain Lowe's has a YouTube video showing how to board up windows with plywood (which consumers can purchase from Lowe's). See video here: <http://www.youtube.com/watch?v=0jCUrYY3IEk&feature=share&list=PLA3F904701785FEB8>

Can Keddo Enterprises create a similar video advertising or marketing plywood as a "shutter," "hurricane protection" or as "protection from wind-borne debris", without violating Florida Statutes Section 553.842(5)?

Answer: Answer is not possible. This question does not apply to the Petitioner's product, and it is not allowed to comment on the conduct of another in a declaratory statement petition.

Interpretation 3:

Does the Storm Stoppers product fall outside the scope of Rule 61G20-3.001, State Product Approval Program?

Answer: The answer is "Yes". The product in question is a proposed alternative to the Wood Structural Panels (prescriptive specification method for protection of opening) as specified in Section R 301.2.1.2, Exception, of the Florida Building Code "FBC", Residential. As per Section 104.11 of the Florida Building Code, Building, an alternative method of construction to that prescribed in the FBC is subject to review and approval by the local building official, when such alternative is substantiated to be equivalent of that prescribed in the FBC in quality, strength, effectiveness, durability and safety. Therefore, the Florida Building Commission has no authority to approve said alternate as part of the State Product Approval Program.

Revised answer for further clarification:

Answer: The answer is "Yes". The product in question is a structural protection system (product) which is proposed to be used as an alternative to the Wood Structural Panels (prescriptive specification method for protection of opening) as specified in Section R 301.2.1.2, Exception, of the Florida Building Code "FBC", Residential. As per Section 104.11 of the Florida Building Code, Building, an alternative method of construction to that prescribed in the FBC is subject to review and approval by the local building official, when such alternative is substantiated to be equivalent of that prescribed in the FBC in quality, strength, effectiveness, durability and safety. For the product in question, local approval must be in accordance with Section 553.8425, Local Product Approval, Florida Statutes. Therefore, the Florida Building Commission has no authority to approve said alternate as part of the State Product Approval Program.

PA POCDS 2014 – 024 by Warren W. Schaefer, P.E. of W.W. Schaefer Engineering & Consulting, P.A**Question #1:**

To the question #1: *Situation 1:* I am the engineer that prepared, signed and sealed the window drawings NO. 1518, 1519 & 1520 that exist as part of Dade County NOA's 13-0829.18, .19 & .17 & Florida approvals FL10015, 10022 & 10026 respectively. The manufacturer of these products is in process of applying for 1A state approvals using the referenced NOA's, listing Dade as the QA & certification entity. The manufacturer desires to list me as the validator. I have no financial interest in any of the parties involved (manufacturer, Dade, test lab), I will not be listed on the applications as any entity in the application, and I am listed with the state as a validator. Can I validate these approvals?

Answer: No, as per Rule 61G20-3.009 (4), the work in question is considered to be an evaluation as defined in Rule 61G20-3.002 and therefore a validator/Engineer cannot validate his/her own evaluation. This is because, in this case, the Petitioner would receive financial compensation by performing the said validation.

Question #2:

To the question #2: *Situation 2:* I am the engineer that has prepared, signed and sealed installation instructions for products being issued to the State of Florida for product approval under method 1A (Entity certification) & Florida approval FL16258. WDMA will be the certification and QA entity for these products. In the product listing, the manufacturer will be uploading my certified installation instructions. The manufacturer desires that I be the validator. I have no financial interest in any of the parties involved (manufacturer, WDMA, test lab), I will not be listed on the applications as an entity in the application, and I am listed with the state as a validator. Can I validate the approvals?

Answer: No, as per Rule 61G20-3.009 (4), the work in question is considered to be an evaluation as defined in Rule 61G20-3.002 and therefore a validator/Engineer cannot validate his/her own evaluation. This is because, in this case, the Petitioner would receive financial compensation by performing the said validation.

Swimming Pool TACDS 2014 - 032 by Ryan Holland of Evolution Pools & Construction Services Inc.**Question #1:**

To the question #1: Is a baptismal special use pool considered to be a commercial pool? If

Answer: No. The project in question "baptismal pool – not for use for bathing or swimming" falls outside the scope of the definition for "Public Swimming Pools" as defined in Section 424.1 of the 2010 Florida Building Code (FBC), Building and therefore it is not subject to the provisions of Section 424, Swimming Pools and Bathing Places (Public and Private) of the FBC, Building.

Question #2:

To the question #2: Does this special use pool require a 48-inch high fence?

If the answer to question 1 is that this is not a commercial pool then this would have to be classified as a residential pool. The code is very clear that an approved ASTM F 1346 cover can be used on a residential pool to comply with 42.2.17 through 424.17.3.

Answer: No. The project in question "baptismal pool – not for use for bathing or swimming" falls outside the scope of the definition for "Private Swimming Pool/Residential" as defined in Section

424.2.2 of the 2010 Florida Building Code (FBC), Building and therefore it is not subject to the provisions of Section 424.2, Private Swimming Pools, of the FBC, Building.

Special Occupancy TAC/Structural TAC

DS 2014-035 by Scott E. Rudacille, Esq. of Blalock Walters. P.A.

Question 1: *Does a voluntary alteration project to a pre-FIRM single-family residential structure involving removal of more than 30% of the truss system in order to create a tray or vaulted ceiling constitute Substantial Structural Damage pursuant to FBC Existing Building Section 202, or is it reviewed as a structural alteration under FBC Existing Building Section 807.4?*

Answer: The project would not be classified as “Substantial Structural Damage” and would be reviewed under 807.4.

Question 2: If an alteration project is deemed to be Substantial Structural Damage under FBC Existing Building Section 202, is it automatically deemed to also be Substantial Damage for flood design requirements, regardless of whether the project meets the definitions of Substantial Damage and Substantial Improvement in FBC Section 1612.2 (ie. The “50% Rule”)?

Answer: The answer is no. Regardless of the impact to the roof system, flood design requirements for new construction are only triggered if the project exceeds the “50% Rule”, as described in the definition of Substantial Damage and Substantial Improvement in FBC Section 1612.2.

Special Occupancy TAC/Structural TAC (Note: action need to be resolved for Question #4)

Special Occupancy TAC:

DS2014-037 by Wayne R. Thorne, Building Official of Longboat Key Building Department

Question 1:

To the question” *As it relates to noncompliant flood elevation buildings, is it the intent of the Florida Building Code, Building Section 3109.1.1 exception to prevent any repairs and require the building to become compliant by elevating them on new foundations, relocating the building, or rebuild the buildings at the minimum required elevation?*”, the answer is not possible. This question is general and falls outside the scope of the declaratory statement process.

Question 2:

To the question” *As it relates to the definitions of repair, would sealing of fractures and fissures be considered a repair or modification?*”, the answer is repair. The work in question is considered patching/restoration of building elements for the purpose of maintaining such elements in good condition and thus falls within the scope of “Repair” as defined in Section 202 of the Florida Building Code, Existing Building.

Question 3:

To the question” *As it relates to the definitions of repair, would cleaning of corroded reinforcements and applying concrete patching or filling the spalled areas be considered a repair or modification?*”, the answer is repair. The work in question is considered patching/restoration of building elements for the purpose of maintaining such elements in good condition and thus falls within the scope of “Repair” as defined in Section 202 of the Florida Building Code, Existing Building.

Question 4:

To the question” *As it relates to the definitions of repair, would replacement of reinforcements or ties, or realignment of sprung reinforcements, be considered repair or modification?*”, the answer is alteration/modification. As per Section 403.1 of the 2010 Florida Building Code, Existing Building, the work in question falls within the scope of Level 1 Alteration and thus is considered alteration /modification.

Question 5:

Would Florida Building Code, Building Section 3109.1.1 exception have the same requirements if the building was built as compliant with a pile foundation and for the flood elevation? ”, Answer is not possible. This question falls outside the scope of the project in question.

Structural TAC:**DS2014-037 by Wayne R. Thorne, Building Official of Longboat Key Building Department****Question 1:**

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