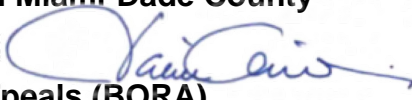




MEMO

TO: All Building Officials in Miami-Dade County

FROM: Secretary of the Board  for Board of Rules and Appeals (BORA)

DATE: June 22, 2021

SUBJECT: BORA Formal Interpretation – Missed Inspections
 2020 FBC 7th Edition – Building Sections 110.1, 110.3, 110.5 and 110.6

At their meeting of June 17, 2021, the Miami-Dade County Board of Rules and Appeals (BORA) discussed a request for formal interpretation of FBC-Building sections 110.1, 110.3, 110.5 and 110.6, and how they apply to concealed work without required inspections by the Building Official; more specifically “as-Built certifications” for work concealed subject to the Florida Building Code per Florida Statute 553.72, 553.72(2), 553.73 and section 8-2 of the Miami Dade County Code. The request specified excluding work under a private provider per F.S. 553.791, FBC 2020 7th edition 1512.4.3.2, and any addition or repair built without proper permits in which the work performed commenced prior to March 1, 2002, or permits obtained under the South Florida Building Code which expired without Certificates of Completion or Occupancy having been issued per Miami Dade County Code Sec. 8-11 (existing building). The Board adopted the following responses to the questions presented for interpretation.

The following sections are provided for reference.

Florida Building Code/ Building 7th Edition 2020.
Chapter 1 Section 110.

[A] 110.1 General. *Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain exposed and provided with access for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the owner or the owner’s authorized agent to cause the work to remain exposed and provided with access for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.*

[A] 110.3 Required inspections. *The building official upon notification from the permit holder or his or her agent shall make the following inspections, and shall either release that portion of the construction or shall notify the permit holder or his or her agent of any violations which must be corrected in order to comply with the technical codes. The building official shall determine the timing and sequencing of when inspections occur and what elements are inspected at each inspection.*

[A] 110.5 Inspection requests. *It shall be the duty of the holder of the building permit or their duly authorized agent to notify the building official when work is ready for inspection. It shall be the duty of the permit holder to provide access to and means for inspections of such work that are required by this code.*

[A] 110.6 Approval required. *Work shall not be done beyond the point indicated in each successive inspection without first obtaining the approval of the building official. The building official, upon notification, shall make the requested inspections and shall either indicate the portion of the construction that is satisfactory as completed, or notify the permit holder or his or her agent wherein the same fails to comply with this code. Any portions that do not comply shall be corrected and such portion shall not be covered or concealed until authorized by the building official.*

1. Is a Building Official **required** to accept an “as-built certificate” for concealed work when the contractor/owner or the owner’s authorized agent fails to cause the work to remain exposed and provide with access for inspection purposes? **FBC 7th Edition 2020 section 110.1, 110.3,110.5,110.6,** F.S 553.72 (2). (not including work under a private provider as per F.S. 553.791).

Answer: No, a Building Official is not required to accept an “as built certificate” as substitute to required inspections outlined in section 110 of the FBC-Building. There is no requirement mandating that a Building Official accept such certification letters as a substitute for the mandatory inspections required by the Building Code nor a requirement for the use of an “as-Built Certificate” to qualify concealed work or used as a method to circumvent compliance with the Building Code.

F.S. 553, 468.604 and the Florida Building Code empowers the Building Official the authority to administrate and enforce the Florida Building Code. Consequently, compliance with the building code for any code violation should be reviewed and inspected to the satisfaction and sole discretion of the Building Official.

Notwithstanding the allowance of permits and inspections by affidavit found in sections 105.14 and 107.6, their acceptance and approval is at the sole discretion of the Building Official prior to commencing the work.

This response excludes work under a private provider per F.S. 553.791.

2. **May** a Building Official accept an “as-built certificate” for concealed work when the owner or the contractor/ owner or the owner’s authorized agent fails to cause the work to remain exposed and provide with access for inspection purposes? FBC 7th Edition 2020 section 110.1, 110.3,110.5,110.6, F.S 553.72 (2). (not including work under a private provider as per F.S. 553.791).

Answer: Yes. Based on the authority and responsibility charged to the Building Official by the Florida Building Code to interpret, administer and enforce the Building Code, an “as Built Certificate” or inspection report for concealed work can be accepted at the sole discretion of the Building Official. The Florida Building Code lacks to mandate that a Building Official must accept certification letters as a substitute for the mandatory inspections required by code or the use of an “as- Built Certificate” to qualify and approve concealed work as an alternative to required inspections by a code official.

Under MDCC 8-11(g)(1) Existing Buildings, the intent is to give the Building Official the ability to perform the required mandatory inspections on concealed **work done prior to March 1, 2002.**

3. If the answer to questions 1 and/or 2 is “yes”, **what should at a minimum be included in an “as-built certificate”**? For example: evidence of inspection, methodology, the owner’s claim that the work was “done to code”, a picture, a phone call, etc.... FBC 7th Edition 2020 section 110.1, 110.3,110.5,110.6. (not including work under a private provider as per F.S. 553.791).

Answer: The content of the as-built certificate shall satisfy and comply with the requirements of the building code. The Building Official must strive for the compliance of the Building Code on every issued permit and inspection performed.

BORA does not sponsor alternative inspection methods for the mandatory inspections required by the building code. However, in the event of missed inspections, a Building Official could require the permit holder to follow, as a minimum procedure, the Missing Inspection Report concept delineated in the Code of Miami Dade County chapter 8 Section 8-11(g).

The methodology and description contained in a Missing Inspection Report must be clear enough to allow the Building Official to match the inspection report to the approved permit documents and the Building Code.

Additionally, the methodology used by the engineer or architect for a Missing Inspections Report must be provided to substantiate the conclusions reached in the “as-Built Certificate”.

4. If the answer to questions 1 and/or 2 is “yes”, who may sign an “as-built certificate” for a Florida Building Code Required inspection? For example: professionals licensed under F.S. 471,481, 468, 489. FBC 7th Edition 2020 section 110.1, 110.3,110.5,110.6. (not including work under a private provider as per F.S. 553.791).

Answer: If using the Missing Inspection Report pursuant to MDCC Chapter 8 section 8-11(g)(2)(b), a Florida registered architect or engineer can issue and sign the “as-Built Certificate”.

Chapter 8 Section 8-11(g)(2)(b) The owner shall furnish an as-built certificate satisfactory to the Building Official issued by a Florida registered engineer or architect...

5. If the answer to questions 1 and/or 2 is “yes”, should the individuals conducting the inspection and providing/signing the “as-built certificate” be certified by the Miami Dade County Board of Rules and Appeals under the applicable Categories (electrical, plumbing, building (structural), mechanical) for the inspection performed giving the fact they are conducting a Florida Building Code required inspection? MDCC sec 8-21 (not including work under a private provider as per F.S. 553.791).

Answer: All mandatory inspections stipulated by the building code are to be performed by a Miami Dade County Board Rules and Appeals certified individual, as required in the Code of Miami Dade County Chapter 8 – Section 8-21 and must work under the supervision and responsibility of the Building Official. Missed Inspection Report or as-Built Certification must be done solely by Florida registered architects or engineers, and only at the discretion of the Building Official.

6. If the answer to questions 1 and/or 2 is “yes”, should the inspector/plans reviewer reviewing the “as-built certificate” also be certified by the Miami Dade County Board of Rules and Appeals under the applicable Categories (electrical, plumbing, structural, mechanical)? Or is the review/ approval of the Building Official sufficient? MDCC sec 8-21 (not including work under a private provider as per F.S. 553.791).

Answer: All mandatory inspections and plan reviews stipulated by the building code are to be performed by Miami Dade County Board Rules and Appeals certified individuals, as required in the Code of Miami Dade County Chapter 8 – Section 8-21, and work under the supervision and responsibility of the Building Official.

Building Officials have the responsibility to strive for full compliance of the Florida Building Code and the Code of Miami Dade County Chapter 8.

7. What is the intent of section 8-21.1 (e) of Ch 8 MDC Code? How does it relate to FBC 2020 section 110.1? section 8-21.1 (e) is being interpreted by many contractors and property owners as a weakening of the FBC 2020 sec 110.1 which requires 100% of the work to be exposed when concealed without the required inspection by the Building Official and 8-21.1 (e) mentions that the Building Official may only order a “portion” of the concealed work to be exposed. See F.S. 553 (4) (b) local technical amendment.

Answer:

What is the intent of section 8-21.1(e) of Ch 8 MDC Code?

*8-21.1(e) **CONCEALED WORK:** The Building Official may order portions of the structural frame of a building and/or structure to be exposed for inspection when, in his opinion, there are good reasons to believe that a building or portion thereof is in an unsafe or dangerous condition or that there is willful or negligent concealment of a violation of this Chapter.*

The intent is to list the power and duties of the Building Official as it relates to concealed work that was not inspected by the building department.

How does it relate to FBC 2020 section 110.1?

***[A] 110.1 General.** Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain exposed and provided with access for inspection purposes until approved. Approval as a result of an inspection shall not be construed to be an approval of a violation of the provisions of this code or of other ordinances of the jurisdiction. Inspections presuming to give authority to*

violate or cancel the provisions of this code or of other ordinances of the jurisdiction shall not be valid. It shall be the duty of the owner or the owner's authorized agent to cause the work to remain exposed and provided with access for inspection purposes. Neither the building official nor the jurisdiction shall be liable for expense entailed in the removal or replacement of any material required to allow inspection.

Inspections are necessary to verify that the construction conforms to the code requirements and the permit documents. The permit holder is responsible to request all mandatory inspections and the work must remain exposed and accessible for inspection by the Building Official or representative (BORA certified Inspector). Once the inspection receives an approval by the Building Official the work may continue to the next mandatory inspection. Failure to follow this building code directive constitutes a direct violation of the Building Code. The Building Official may use section 8-21.1(e) of Ch 8 MDC Code as guidance in addressing missed inspections.

In summary, the Building Officials are not obligated to accept an as-built certificate outside the limits established by the Code of Miami Dade County Chapter 8 Section 8-11.

The Building Official may choose to use an alternative practice to resolve missing mandatory inspections. The use of an inspection report shall be prepared, signed and sealed by a Florida Professional Licensed Engineer or a Registered Architect. Such report must be in conformance with the parameters contained in the Miami Dade County Code Chapter 8 Section 8-11(g). The methodology used and description contained in the Missing Inspection Report must also be clear enough to allow the Building Official the ability to match the inspection report to the approved permit documents and the Building Code. This will allow the BORA Certified inspector to confirm and record the inspections as required by Code.

Should you have any questions, please contact Eduardo Fernandez, Senior Code Officer, Building at (786) 315-2556.